

Report to Parliament | June 2013

Operation Calyx

NSW Police Integrity Commission





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Dear Mr President and Madam Speaker

In accordance with section 96(3) of the *Police Integrity Commission Act 1996*, the Commission hereby furnishes to you a Report regarding Operation Calyx, being a Report in relation to a matter as to which the Commission has conducted a public hearing.

I draw your attention to section 103(2) of the *Police Integrity Commission Act 1996*, pursuant to which I recommend that this Report be made public forthwith.

Yours faithfully

The Hon Bruce James QC
Commissioner

June 2013

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EXECUTIVE SUMMARY

SUMMARY OF EVENTS OF 18 NOVEMBER 2009

On 18 November 2009 Adam Salter was shot by Sergeant Sherree Bissett, an officer of the New South Wales Police Force ("NSWPF"), at the home he had shared with his father Adrian Salter at 33 Wangee Road Lakemba.

Over a period of about 18 months leading up to 18 November 2009, Adam Salter had suffered from episodes of mental ill health. On 16 and 17 November 2009, his mental health worsened.

At about 8:30 am on 18 November 2009 in the kitchen of the house Adam Salter stabbed himself in the chest with a kitchen knife. Adrian Salter succeeded in calming his son and put the knife in the kitchen sink. Adrian Salter telephoned the emergency number 000.

Both ambulance officers and police officers came to 33 Wangee Road in response to the emergency call.

Two paramedics, Karl Johnstone and Belinda Clements, arrived at 33 Wangee Road at 8:51 am. They laid Adam Salter on the floor, cut off the shirt he was wearing, put a pressure bandage on his chest wound and then administered other treatment, including oxygen.

At 8:55 am two police officers from Campsie police station, Leading Senior Constable Leah Wilson and Probationary Constable Aaron Abela, arrived at 33 Wangee Road. They saw that Adam Salter was being treated by the ambulance officers. Wilson had a conversation with Adrian Salter about the location of the knife that Adam Salter had used to stab himself. She looked into the sink and saw the knife.

At 8:57 am two more police officers from Campsie police station, Sergeant Sherree Bissett and Senior Constable Emily Metcalfe, arrived at 33 Wangee Road. Bissett was equipped with her usual appointments and also had a Taser. As the senior police officer, she assumed control.

At 9:00 am two more paramedics, Meagan Coolahan and Cheri Lutz, arrived at 33 Wangee Road. As the senior paramedic, Coolahan took over the principal care of Adam Salter.

At some point it was decided by the police officers that Bissett, Metcalfe and Wilson should confer outside the house. Before they left to go outside, Bissett directed Abela to remain in the kitchen with Adam Salter and the ambulance officers and told Abela about the knife in the sink.

Bissett, Metcalfe and Wilson then went outside the front of the house. While they were outside, Adam Salter sat up, was restrained by the ambulance officers and lay back down. Shortly after, he got to his feet and moved towards the kitchen sink, pushing aside his father who attempted to restrain him. Coolahan called for police assistance.

In response to that call, Bissett, Wilson and Metcalfe, in that order, entered the house and ran along the hallway leading from the front door of the house to the kitchen. Bissett entered the kitchen, called out the word “*Taser*” three times and discharged, not the Taser, but her firearm at Adam Salter. The bullet fired by Bissett struck Adam Salter in the back of his right shoulder. It passed through both lungs and his heart and exited his body below the left nipple.

After the shooting Adam Salter was treated by the ambulance officers and transported by ambulance to Canterbury Hospital, where life was pronounced extinct at 9:19 am.

On the following day an autopsy was conducted. The direct cause of death was found to have been the gunshot wound. Other injuries which Adam Salter had inflicted upon himself with the knife were found not to have been fatal. Those injuries included five stab wounds to Adam Salter’s neck, which he had inflicted at some time after he got up from the floor, moved to the kitchen sink and retrieved the knife.

THE POLICE INVESTIGATION

After Adam Salter was shot, Metcalfe radioed for police assistance and a number of other police officers from Campsie police station attended 33 Wangee Road. Among them was Inspector Matthew Hanlon, who was the Duty Officer and acting Local Area Commander.

Later in the morning the shooting of Adam Salter was declared a “*critical incident*” and a police critical incident investigation into the shooting was commenced. That investigation was required by the NSWPF *Guidelines for the Management and Investigation of Critical Incidents* (“the Guidelines”).

A critical incident investigation team was established under the leadership of Detective Inspector Russell Oxford, a senior police officer from the Homicide Squad, who was appointed as the Senior Critical Incident Investigator. A senior police officer from the Professional Standards Command, Detective Inspector Stephen Tedder, was appointed as the Review Officer for the investigation.

On 18 November 2009 police prepared three Situation Reports for the investigation into the shooting of Adam Salter. An Assistant Commissioner of Police made a press statement about the shooting and the NSWPF Media Unit issued a media release about the shooting. A *P79A Report of Death* was sent by police to the Coroner.

On 18 November 2009 police interviewed Adrian Salter, Coolahan, Johnstone, Lutz, Abela, Bissett, Metcalfe and Wilson. Abela and Wilson, but not the other police officers, had made entries about the incident in their police notebooks.

On 19 November 2009 a recorded *walkthrough* interview was conducted by police with Adrian Salter. On 30 November 2009 recorded *walkthrough* interviews were conducted by Oxford with Abela and Bissett.

Oxford prepared a report of his critical incident investigation into the shooting of Adam Salter, which was dated 29 May 2011. Tedder prepared a report of his review of the investigation, which was dated 24 June 2011.

INQUEST INTO THE DEATH OF ADAM SALTER

Under the *Coroner's Act 2009* an inquest was required to be held into the death of Adam Salter, as he had died in the course of a “*police operation*”.

The inquest into his death was held in September 2011 before a Deputy State Coroner, Magistrate Scott Mitchell. Evidence was taken on 26-30 September 2011. Adrian Salter, Coolahan, Johnstone, Lutz, Abela, Wilson, Metcalfe, Oxford and Tedder gave evidence at the inquest. Bissett did not give evidence at the inquest. Oral submissions were made on 7 October 2011 and the Deputy State Coroner's findings were handed down on 14 October 2011.

The formal findings made by the Deputy State Coroner were that Adam Salter, who was born on 18 June 1973, died on 18 November 2009 at Canterbury Hospital of a gunshot wound having that day been shot in the back by police while at his home at 33 Wangee Road, Lakemba, New South Wales.

As to the shooting, the Deputy State Coroner made a tentative finding that Bissett had mistakenly drawn and fired her firearm, having intended to employ the Taser.

The Deputy State Coroner was not asked to exercise, and did not exercise, his power under s 78 of the *Coroner's Act 2009* to refer the death of Adam Salter to the Office of the Director of Public Prosecutions.

At the inquest there was a conflict in the evidence about the actions of Abela from the time when Adam Salter got to his feet and moved towards the kitchen sink to when Bissett entered the kitchen and discharged her firearm, and in particular, whether, as asserted by the police witnesses but disputed by other witnesses, Abela in attempting to restrain Adam Salter had brought himself into physical contact with Adam Salter, thereby placing himself at risk of being stabbed by Adam Salter.

The Deputy State Coroner found that there were a number of “*difficulties with the police version of events*” and made several criticisms of the “*police response*” to the shooting of Adam Salter. Those criticisms concerned the *P79A Report of Death*; the “*Situation Reports*” that had had been prepared on the day of the shooting; the *walkthrough* interview of Bissett that had been conducted by Oxford; the failure by Oxford to have conducted a *walkthrough* interview with any of the ambulance officers; the Critical Incident Investigation report that had been prepared by Oxford; and the review of the critical incident investigation that had been conducted by Tedder.

The Deputy State Coroner was asked to refer the conduct of police officers to this Commission but declined to do so, noting that Adam Salter's family would have his findings and might be advised to approach this Commission of their own accord.

THE COMMISSION'S INVOLVEMENT

On 18 October 2011 the Commission received a complaint from counsel who had appeared for Adam Salter's family at the inquest. The complaint was not about the shooting of Adam Salter but about the investigation of the shooting by police. Counsel complained that the investigation had not complied with the Guidelines and the

principle that police, when investigating a “critical incident”, should act and be seen to act with particular thoroughness and complete impartiality.

The Commission decided to investigate the complaint and the investigation was given the name “Operation Calyx”.

The original purpose of Operation Calyx was:

To investigate whether there was any police misconduct in the investigation by the New South Wales Police Force into the death of Adam Salter on 18 November 2009.

Several amendments were made to this statement. As ultimately stated, the purpose of the investigation was:

To investigate whether there was any police misconduct in the investigation by the NSW Police Force into the shooting of Adam Salter on 18 November 2009.

Without limiting the generality of the above, the scope and purpose includes an investigation into whether accounts given by police officers of the circumstances of the shooting of Adam Salter were accurate and truthful, an investigation into the Situation Reports and statements released to the media by the NSW Police Force in relation to the shooting of Adam Salter, an investigation into the critical incident investigation conducted by the NSW Police Force into the shooting of Adam Salter, an investigation into the review by the NSW Police Force of the critical incident investigation conducted by the NSW Police Force into the shooting of Adam Salter, and an investigation into the response of the NSW Police Force to the findings made at the inquest into the shooting of Adam Salter.

Under this final statement of the purpose of the investigation, the investigation had five limbs, namely:

1. an investigation into whether accounts given by police officers of the circumstances of the shooting of Adam Salter were accurate and truthful;
2. an investigation into the Situation Reports and statements released to the media by the NSW Police Force in relation to the shooting of Adam Salter;
3. an investigation into the critical incident investigation conducted by the NSW Police Force into the shooting of Adam Salter;
4. an investigation into the review by the NSW Police Force of the critical incident investigation conducted by the NSW Police Force into the shooting of Adam Salter; and
5. an investigation into the response of the NSW Police Force to the findings made at the inquest into the shooting of Adam Salter

The Commission determined pursuant to ss 33(3) and 33(3A) of the *Police Integrity Commission Act 1996* that hearings should be held in Operation Calyx and that most of the hearings should be held in public. An initial public hearing was held on 27 July 2012 for the purpose of hearing applications on behalf of persons seeking to be legally represented. Evidence was taken at a private hearing on 12 August 2012 and on nine public hearing dates (27-31 August 2012, 3-4 September 2012 and 6-7 September 2012).

At the conclusion of the public hearings directions were made for the exchange of written submissions. A large number of written submissions were received by the Commission. The lengthy submissions process affected the timing of this report.

WITNESSES

Of the person already mentioned, Adrian Salter, Coolahan, Johnstone, Lutz, Clements, Metcalfe, Wilson, Abela, Bissett, Hanlon, Oxford and Tedder gave evidence before the Commission.

The following persons also gave evidence before the Commission.

Peter Lennon

At the time of the incident Peter Lennon was a Superintendent of the NSW Police Force and was the Commander of the Campsie Local Area Command. On 18 November 2009 he prepared a Situation Report on the shooting of Adam Salter.

Virginia Gorman

At the time of the incident Virginia Gorman was a Detective Sergeant of the NSW Police Force and was the case officer in the critical incident investigation team.

Warren Brown

At the time of the incident Warren Brown was a Sergeant of the NSW Police Force. He was described as being a special operational safety trainer. He provided a report to the critical incident investigation and gave evidence at the inquest into the death of Adam Salter.

Paula Sinclair

At the time of the incident Paula Sinclair was a senior paramedic of the Ambulance Service of NSW and was working as the District Inspector for the Sydney South Sector. Following the shooting of Adam Salter she attended Canterbury Hospital where she held a debriefing session with Coolahan, Johnstone, Lutz and Clements. She subsequently prepared an Ambulance Service briefing record.

Paul Carey

At the time of the incident Paul Carey was an Assistant Commissioner of the NSW Police Force and was the Commander of the Professional Standards Command.

Dr Mark Reynolds

Dr Mark Reynolds was employed by Western Australia Police as a Forensic Science Consultant and Manager, Quality Assurance. He was an expert in the field of bloodstain pattern analysis. He provided the Commission with expert evidence about

the presence or absence of blood on the police clothing which was worn by Abela at the time of the shooting.

Stiven Atanasovski

At the time of the incident Stiven Atanasovski was a Senior Constable of the NSW Police Force and was stationed at the Campsie Local Area Command. He attended 33 Wangee Road soon after the incident and took a statement from Adrian Salter.

FIRST LIMB

The first limb of the Commission's investigation was *"an investigation into whether the accounts given by police officers of the circumstances of the shooting of Adam Salter were accurate and truthful."*

Four police officers, Bissett, Abela, Wilson and Metcalfe, claimed to have been witnesses to at least some of the circumstances of the shooting of Adam Salter. Each of these police officers gave more than one account of the circumstances of the shooting, prior to giving evidence before the Commission. These prior accounts were given in entries made in police notebooks or in answers given in police interviews or in police *walkthrough* interviews or in giving evidence at the inquest into the death of Adam Salter. Each of these police officers gave an account of the circumstances of the shooting in his or her evidence before the Commission.

Four civilians, Adrian Salter, Coolahan, Johnstone and Lutz, also claimed to have been witnesses to at least some of the circumstances of the shooting. Each of these persons also gave more than one account of the circumstances of the shooting, prior to giving evidence before the Commission. Each of these persons gave an account of the circumstances of the shooting in his or her evidence before the Commission.

There were differences in the accounts of the circumstances of the shooting given by different witnesses and by the same witness on different occasions. Notwithstanding these differences, the prior accounts and the evidence before the Commission of the police witnesses were broadly similar in asserting that Abela in attempting to restrain Adam Salter had brought himself into physical contact with Adam Salter, thereby placing himself at special risk of being stabbed by Adam Salter, and the prior accounts and the evidence before the Commission of the civilian witnesses were broadly similar in not supporting, or denying, that Abela had brought himself into physical contact with Adam Salter.

The issue of whether Abela in attempting to restrain Adam Salter had brought himself into physical contact with Adam Salter was the principal issue which the Commission had to determine in the first limb of its investigation.

As already observed, the Deputy State Coroner adverted to this issue in his findings of 14 October 2011.

Having assessed all the evidence, the Commission is of the opinion that Abela did not come into physical contact with Adam Salter before Adam Salter was shot.

The Commission considered that on the principal issue it should accept the prior accounts and evidence of the civilian witnesses and not the prior accounts and evidence of the police witnesses. The Commission reached this opinion after conducting an assessment of the reliability of each of the police witnesses and each of the civilian witnesses. The Commission considered that it was not prevented from reaching this opinion about the comparative reliability of the civilian witnesses and the police witnesses by any contents of a draft or final briefing note prepared by Sinclair after a debriefing session with the paramedics, including a note that a police officer had attempted to restrain Adam Salter.

The Commission also considered that it should accept expert evidence from Dr Reynolds that no blood was detected by him on the front of the shirt or on a glove Abela was wearing at the time of the incident and that the absence of blood on the front of the shirt and the glove was inconsistent with the accounts given by police officers of contact between Abela and Adam Salter.

The Commission also considered that its assessment that Adam Salter had retrieved the knife and had stabbed himself a number of times in the neck, just before he was shot, was inconsistent with Abela being in physical contact with Adam Salter just before Adam Salter was shot.

Having formed the opinion that Abela did not come into physical contact with Adam Salter before Adam Salter was shot, the Commission is further of the opinion that the accounts and evidence given by each of the police officers that Abela did come into physical contact with Adam Salter before Adam Salter was shot were false and knowingly false.

As to Wilson, the Commission is of the opinion that the prior accounts given by Wilson that Bissett had challenged Adam Salter to “drop” the knife and had allowed time for him to comply before she discharged her firearm were not accurate and truthful and were deliberately not accurate and truthful.

As to Metcalfe, the Commission is of the opinion that the prior account she gave on police radio that Adam Salter had got the knife and was “coming” at police was not accurate and truthful and was deliberately not accurate and truthful.

SECOND LIMB

The second limb of the Commission’s investigation was *“an investigation into the Situation Reports and statements released to the media by the NSW Police Force in relation to the shooting of Adam Salter”*.

On 18 November 2009 officers of the NSW Police Force brought into existence a number of documents about the shooting of Adam Salter, including three Situation Reports, a statement which was made to the media by an Assistant Commissioner of Police and a media release.

Each of the Situation Reports, the media statement and the media release contained a number of statements which were untrue and supplied senior police and the public with a seriously false version of the events which happened at 33 Wangee Road. As an example, the first Situation Report, which was prepared by Hanlon between 12:20 pm

and 1:00 pm on 18 November 2009, contained false statements, which were repeated in the second and third Situation Reports issued later on 18 November 2009, that “*The primary involved officer Sgt Sherree Bissett challenged the POI [Adam Salter] to drop the knife on several occasions. The POI did not comply and began to counter towards officers whilst armed with the knife.*” At the hearing before the Commission there was no evidence which would support these statements.

Hanlon did not make a record, or cause a record to be made, of who it was who had supplied him with the items of information he included in his Situation Report and, at the time of giving evidence before the Commission, had no recollection of who it was who had supplied him with the information. Consequently, except in cases where it can be inferred who would have supplied Hanlon with an item of information, no one can be identified as being responsible for supplying the false information.

While accepting that Hanlon in his dual capacity as Duty Officer and Acting Local Area Commander had a number of onerous responsibilities to perform on the morning of 18 November 2009, the Commission considers that he should have made a record of who had supplied him with the items of information he included in his Situation Report. That would not have been an unduly onerous requirement.

The Commission also considers that Hanlon failed to comply with certain specific requirements under the Guidelines.

The Commission considers that Situation Reports are important documents. As documents which provide the senior management of the NSW Police Force with information about an incident, it is essential for them to be correct. Given that they are sent to the police media unit, it is likely that they will also form the basis of police media releases to the public. Where they contain untrue statements, there is a real risk that the untrue statements will be repeated in releases to the media by the police media unit.

THIRD LIMB

The third limb of the Commission’s investigation was “*an investigation into the critical incident investigation conducted by the NSW Police Force into the shooting of Adam Salter*”.

In his critical incident investigation report Oxford concluded that Bissett had been reasonable in her belief that Abela had been at immediate risk of death or serious harm and that her decision to fire at Adam Salter was reasonable, necessary and justified.

It is apparent from a number of passages in the critical incident investigation report that Oxford based this conclusion on a finding that, immediately before the shooting, Abela had been in physical contact with Adam Salter and was thereby in a situation of danger that was unique to him.

This being a finding on which Oxford based his conclusion, Oxford, as a rigorous and impartial investigator, was required, before making the finding, to give proper consideration to all the evidence available to him on the issue of whether Abela had been in physical contact with Adam Salter and, in particular, the accounts of the four

civilian witnesses whose accounts were inconsistent with the making of a finding that Abela had been in physical contact with Adam Salter.

In summarising in his report the accounts of the four civilian witnesses Oxford omitted some parts of their accounts which were inconsistent with Abela having been in physical contact with Adam Salter.

In making the finding that Abela had been in physical contact with Adam Salter, Oxford disregarded the evidence of the civilian witnesses and accepted the evidence of the police witnesses and particularly Bissett, and made the patently untrue assertion in his report that the evidence of the police officers was supported by the evidence of the civilian witnesses.

On the first night of the investigation – without having sufficient material to properly form an opinion – Oxford decided that the shooting of Adam Salter had been justified, on the basis that Abela had brought himself into physical contact with Adam Salter and had thereby been at risk of being stabbed by Adam Salter.

Oxford made a number of other findings in his report for which there was no evidence or which were against the weight of the evidence.

In a case where the evidence of an expert in bloodstain pattern analysis was required to properly test the accounts of the police officers, Oxford did not obtain such evidence.

In conducting a *walkthrough* interview with Bissett, Oxford materially assisted Bissett by improperly asking leading questions.

Oxford did not conduct the critical incident investigation into the death of Adam Salter and did not prepare his report, with rigour and impartiality. His investigation did not fulfil the public interest expressed in the Guidelines that police investigating a critical incident should act and be seen to act with particular thoroughness and complete impartiality.

FOURTH LIMB

The fourth limb of the Commission's investigation was *"an investigation into the review by the NSW Police Force of the critical incident investigation conducted by the NSW Police Force into the shooting of Adam Salter."*

In his review report Tedder praised Oxford's investigation and report, describing Oxford's investigation as *"an outstanding and thorough investigation"* demonstrating *"a high degree of professionalism and diligence"*. The Commission considers that this assessment of Oxford's investigation and report was unjustified.

In his evidence before the Commission Tedder did not show any consistent understanding of the purpose of a review of a critical incident investigation and of the role of a Review Officer. At times his evidence was to the effect that it was his role that he was to make his own independent appraisal of all the evidence. At other times his evidence was to the effect that it was not part of his role to rectify any errors by Oxford, unless the errors were gross.

It is clear from Tedder's report that Tedder based his own investigative opinion that all police officers, including Bissett, had performed their duties in a highly commendable fashion, on Abela having been in physical contact with Adam Salter and thereby in danger of being stabbed.

Tedder's central obligation under the Guidelines as the Review Officer was *"to ensure that a high quality comprehensive investigation is conducted and to ensure that the investigation process has integrity and can withstand independent scrutiny."* The Commission considers that Tedder did not comply with this central obligation. He limited the scope of his investigation. He did not detect and report on deficiencies in Oxford's investigation and report. He did not recognise the conflict in the evidence available to him on what he himself regarded as the critical factual issue (whether Abela had been in physical contact with Adam Salter). He uncritically accepted the evidence of the police officers and disregarded the evidence of the civilian witnesses on the critical factual issue.

FIFTH LIMB

The fifth limb of the Commission's investigation was *"an investigation into the response of the NSW Police Force to the findings made at the inquest into the shooting of Adam Salter"*.

At a meeting of the Commissioner of Police's executive team on 18 October 2011, that is, only four days after the Deputy State Coroner handed down his findings, a resolution was passed that a Working Party be formed as a matter of priority to review issues arising from recent inquests, including the findings from the inquest into the death of Adam Salter, for the purpose of improving the practices of the NSW Police Force.

Pursuant to the resolution a Working Party called *"The Lessons Learnt Working Group"* was set up and a work plan of 23 *"issues"* was developed. The Lessons Learnt Working Group produced a report. The report stated that some of the issues identified for consideration by the Working Group had been addressed as part of a broader review of the Guidelines.

The Commission does not accept the assertion made by Assistant Commissioner Carey at the public hearing of the Commission that the Lessons Learnt Working Group *"responded to the criticisms of the Deputy State Coroner"*. As the final report of the Lessons Learnt Working Group made clear, *"although the review was prompted by the Salter inquest, it was not intended to be a review of that particular matter, nor has it sought to specifically respond to the coronial findings, or consider the appropriateness of the conduct of officers involved"*. The purpose of the review had been *"to identify issues arising from recent inquests, and consider the internal systems and procedures in place to respond to these issues so as to identify opportunities for improvement"*.

The principal question which arose at the Commission's hearing with reference to the fifth limb of the investigation was whether the NSW Police Force should have treated the Deputy State Coroner's findings as a complaint under Part 8A of the *Police Act 1990*.

The Commission accepts that the NSW Police Force was not required to treat the findings of the inquest as a complaint under Part 8A of the *Police Act 1990*. The

Commission accepts that the procedure for the making of a complaint set out in s 127 in Part 8A of the Act is mandatory and that, except as otherwise provided in the *Police Act 1990*, a complaint must be in writing and must be made to an investigating authority and that the only complaints which are required to be registered on the NSW Police Force's complaint management system are complaints which have been made in accordance with s 127 of the *Police Act 1990*.

In the present case the findings of the Deputy State Coroner were in writing but were not directed to any investigating authority.

However, the Commission notes that comments by judicial officers adverse to police officers routinely become registered by the NSW Police Force as complaints, without there having been a written complaint made by the judicial officer to an investigating authority. Section 127 of the *Police Act 1990* can be complied with by a NSWPF officer creating a written complaint containing or referring to the adverse comments, which is then made to the NSW Police Force as an investigating authority.

AFFECTED PERSONS

The Commission is of the opinion that the following persons are "*affected*" persons, being persons against whom, in the Commission's opinion, substantial allegations have been made in the course of the investigation: Sherree Bissett, Aaron Abela, Leah Wilson, Emily Metcalfe, Matthew Hanlon, Russell Oxford and Stephen Tedder.

SHERREE BISSETT

The Commission is of the opinion that Sherree Bissett engaged in police misconduct by giving knowingly false accounts of the circumstances of the shooting of Adam Salter and that she gave evidence before the Commission which to her knowledge was false in a material particular.

In a police interview on 18 November 2009 Sherree Bissett gave a knowingly false account to police investigators of the circumstances of the shooting of Adam Salter, by asserting that Aaron Abela had brought himself into physical contact with Adam Salter by holding on to Adam Salter's left arm.

In a police *walkthrough* interview on 30 November 2009 Sherree Bissett gave a knowingly false account to police investigators of the circumstances of the shooting of Adam Salter, by asserting that Aaron Abela had brought himself into close physical contact with Adam Salter.

In her evidence before the Commission on 30 August 2012, Sheeree Bissett gave evidence which to her knowledge was false in a material particular, by asserting that Aaron Abela was physically struggling with Adam Salter and was holding onto Adam Salter's left arm.

Accordingly, and in all of the circumstances, the Commission is of the opinion that consideration should be given to:

- the prosecution of Sherree Bissett for a criminal offence under s 107 of the *Police Integrity Commission Act 1996*; and
- the taking of action against Sherree Bissett under s 181D of the *Police Act 1990* or, alternatively, the taking of reviewable action against her under s 173 of the *Police Act 1990*.

AARON ABELA

The Commission is of the opinion that Aaron Abela engaged in police misconduct by giving knowingly false accounts of the circumstances of the shooting of Adam Salter and that he gave evidence before the Commission which to his knowledge was false in a material particular.

In a police interview on 18 November 2009 Aaron Abela gave a knowingly false account to police investigators of the circumstances of the shooting of Adam Salter, by asserting that he had brought himself into physical contact with Adam Salter, by trying to push Adam Salter down as he got up from the floor, by taking hold of Adam Salter's left arm and by trying to pull Adam Salter back as he made his way to the sink.

In a police *walkthrough* interview on 30 November 2009 Aaron Abela gave a knowingly false account to police investigators of the circumstances of the shooting of Adam Salter, by asserting that he had brought himself into physical contact with Adam Salter, by trying to push Adam Salter back, by taking hold of Adam Salter's left arm and by trying to pull Adam Salter back as he made his way to the sink.

In his evidence at the inquest into the death of Adam Salter on 28 and 29 September 2011 Aaron Abela gave evidence which to his knowledge was false in a material particular, by asserting that he had brought himself into physical contact with Adam Salter, by stretching out his right arm, by taking hold of Adam Salter's left arm, and by trying to pull Adam Salter back as he made his way to the sink.

At a private hearing of the Commission on 12 August 2012 Aaron Abela gave evidence which to his knowledge was false in a material particular, by asserting that he had placed his hands on Adam Salter's left arm and that his hands had slid on Adam Salter's left arm.

At a public hearing of the Commission on 29 and 30 August 2012 Aaron Abela gave evidence which to his knowledge was false in a material particular, by asserting that he had brought himself into physical contact with Adam Salter, by stretching out his right arm, by taking hold of Adam Salter's left arm, by attempting to pull Adam Salter back as he made his way to the sink, and by letting go of Adam Salter, taking a step back and turning his head to the right, at about the moment Sherree Bissett discharged her firearm at Adam Salter.

Accordingly, and in all of the circumstances, the Commission is of the opinion that consideration should be given to:

- the prosecution of Aaron Abela for a criminal offence under s 107 of the *Police Integrity Commission Act 1996*;
- the prosecution of Aaron Abela for a criminal offence under s 327 of the *Crimes Act 1900*, being an offence of perjury; and

- the taking of action against Aaron Abela under s 181D of the *Police Act 1990* or, alternatively, the taking of reviewable action against him under s 173 of the *Police Act 1990*.

LEAH WILSON

The Commission is of the opinion that Leah Wilson engaged in police misconduct by giving knowingly false accounts of the circumstances of the shooting of Adam Salter and that she gave evidence before the Commission which to her knowledge was false in a material particular.

In an entry made in her police notebook on 18 November 2009 Leah Wilson gave a knowingly false account of the circumstances of the shooting of Adam Salter, by asserting that Aaron Abela had tried to restrain Adam Salter's left shoulder.

In a police interview on 18 November 2009 Leah Wilson gave a knowingly false account to police investigators of the circumstances of the shooting of Adam Salter, by asserting that Aaron Abela had tried to hold Adam Salter's left shoulder.

In her evidence at the inquest into the death of Adam Salter on 29 September 2011 Leah Wilson gave evidence which to her knowledge was false in a material particular, by asserting that Aaron Abela was struggling with the left side of Adam Salter, and that Aaron Abela had his hands on Adam Salter's upper shoulder area and was trying to hold him.

In her evidence at a public hearing of the Commission on 29 August 2012 Leah Wilson gave evidence which to her knowledge was false in a material particular, by asserting that Aaron Abela had brought himself into physical contact with Adam Salter by taking hold of Adam Salter's upper left shoulder.

In an entry made in her police notebook on 18 November 2009 Leah Wilson gave a knowingly false account of the circumstances of the shooting of Adam Salter, by asserting that when Sherree Bissett drew her firearm she said "*Drop it. Drop it.*"

In the police interview on 18 November 2009 Leah Wilson gave a knowingly false account to police investigators of the circumstances of the shooting of Adam Salter, by asserting that Sherree Bissett had said "*Drop it. Drop it.*" before she discharged her firearm at Adam Salter.

In her evidence at the inquest into the death of Adam Salter on 29 September 2011 Leah Wilson gave evidence which to her knowledge was false in a material particular, by asserting that Sherree Bissett had yelled the words "*Drop it. Drop it.*" in a loud voice before she discharged her firearm at Adam Salter.

In her evidence at the public hearing of the Commission on 29 August 2012 Leah Wilson gave evidence which to her knowledge was false in a material particular, by asserting that she had not fabricated her prior accounts that Sherree Bissett had said "*Drop it. Drop it.*" before she discharged her firearm at Adam Salter.

Accordingly, and in all of the circumstances, the Commission is of the opinion that consideration should be given to:

- the prosecution of Leah Wilson for a criminal offence under s 107 of the *Police Integrity Commission Act 1996*;
- the prosecution of Leah Wilson for a criminal offence under s 327 of the *Crimes Act 1900*, being an offence of perjury;
- the taking of action against Leah Wilson under s 181D of the *Police Act 1990* or, alternatively, the taking of reviewable action against her under s 173 of the *Police Act 1990*.

EMILY METCALFE

The Commission is of the opinion that Emily Metcalfe engaged in police misconduct by giving knowingly false accounts of the circumstances of the shooting of Adam Salter and that she gave evidence before the Commission which to her knowledge was false in a material particular.

In a police interview on 18 November 2009 Emily Metcalfe gave a knowingly false account to police investigators of the circumstances of the shooting of Adam Salter, by asserting that Aaron Abela had brought himself into physical contact with Adam Salter by taking hold of Adam Salter.

In her evidence at the inquest into the death of Adam Salter on 29 and 30 September 2011 Emily Metcalfe gave evidence which to her knowledge was false in a material particular, by asserting that Aaron Abela had brought himself into physical contact with Adam Salter, by taking hold of Adam Salter's upper torso, with two hands holding him by the back, before Sherree Bissett discharged her firearm at Adam Salter.

In her evidence at the public hearing of the Commission on 29 August 2012 Emily Metcalfe gave evidence which to her knowledge was false in a material particular, by asserting that Aaron Abela had brought himself into physical contact with Adam Salter, by taking hold of the left-hand side of Adam Salter, with his right hand on the top of Adam Salter's shoulder and his left hand on the left arm above the elbow, before Sherree Bissett discharged her firearm at Adam Salter.

Accordingly, and in all of the circumstances, the Commission is of the opinion that consideration should be given to:

- the prosecution of Emily Metcalfe for a criminal offence under s 107 of the *Police Integrity Commission Act 1996*;
- the prosecution of Emily Metcalfe for a criminal offence under s 327 of the *Crimes Act 1900*, being an offence of perjury; and
- the taking of action against Emily Metcalfe under s 181D of the *Police Act 1990* or, alternatively, the taking of reviewable action against her under s 173 of the *Police Act 1990*.

MATTHEW HANLON

The Commission is of the opinion that Matthew Hanlon engaged in police misconduct by not making a record, or causing a record to be made, of who had supplied him with the items of information that he included in the Situation Report prepared by him and by not complying fully with the *Guidelines for the Management and Investigation of Critical Incidents*.

In all of the circumstances, the Commission is not of the opinion that consideration should be given to:

- the prosecution of Matthew Hanlon for a specified criminal offence; or
- the taking of action against Matthew Hanlon under s 181D of the *Police Act 1990*; or
- the taking of reviewable action against Mathew Hanlon under s 173 of the *Police Act 1990*.

However, the Commission is of the opinion that consideration should be given to the taking of non-reviewable action against Matthew Hanlon under s 173 of the *Police Act 1990*.

RUSSELL OXFORD

The Commission is of the opinion that Russell Oxford engaged in police misconduct.

Russell Oxford did not conduct the critical incident investigation into the death by shooting of Adam Salter and did not prepare his report of the investigation, with rigour and impartiality. He did not properly take into consideration the accounts of the civilian witnesses and incorrectly asserted that their accounts were consistent with the police accounts. He accepted the account of the shooting given by Sherree Bissett without properly assessing or testing it. On the first night of the investigation, without having sufficient materials to properly form an opinion, he prejudged the outcome of his investigation by deciding that the shooting of Adam Salter had been justified on the basis that Aaron Abela had brought himself into physical contact with Adam Salter. He made a number of other findings in his report for which there was no evidence or which were against the weight of the evidence. In a case where the evidence of an expert in bloodstain pattern analysis was required to properly test the accounts of the police officers, he did not obtain such evidence. In conducting a *walkthrough* interview with Bissett, he materially assisted Bissett by improperly asking leading questions.

In all of the circumstances, the Commission is not of the opinion that consideration should be given to:

- the prosecution of Russell Oxford for a specified criminal offence; or
- the taking of action against Russell Oxford under s 181D of the *Police Act 1990*.

However, the Commission is of the opinion that consideration should be given to the taking of reviewable action against Russell Oxford under s 173 of the *Police Act 1990*.

STEPHEN TEDDER

The Commission is of the opinion that Stephen Tedder engaged in police misconduct.

Stephen Tedder did not comply with his central obligation as a Review Officer under the *Guidelines for the Management and Investigation of Critical Incidents* “to ensure that a high quality comprehensive investigation is conducted and to ensure that the investigation process has integrity and can withstand independent scrutiny”, in limiting the scope of his investigation, in not detecting and reporting on deficiencies in Oxford’s investigation and report, in not recognising the conflict in the evidence available to him

on what he himself regarded as the critical factual issue, in uncritically accepting the evidence of the police officers and in disregarding the evidence of the civilian witnesses on the critical factual issue.

In all of the circumstances, the Commission is not of the opinion that consideration should be given to:

- the prosecution of Stephen Tedder for a specified criminal offence; or
- the taking of action against Stephen Tedder under s 181D of the *Police Act 1990*.

However, the Commission is of the opinion that consideration should be given to the taking of reviewable action against Stephen Tedder under s 173 of the *Police Act 1990*.

MATTERS ARISING

A small number of submissions were made to the Commission that the Commission should make certain recommendations of a general nature in its report. Having considered those submissions, the Commission recommends that all reports of investigations into critical incidents should be published on the website of the NSW Police Force and that the *Guidelines for the Management and Investigation of Critical Incidents* should be made publicly available on the website.

The Commission recommends that the NSW Police Force should, to the extent to which it has not already done so, conduct a thorough review of its media policy concerning critical incidents.

The Commission also recommends that a police officer who issues a media release or prepares a Situation Report should be required to make a record of the person or persons supplying the various items of information contained in the media report or Situation Report.

1. INTRODUCTION

THE EVENTS OF 18 NOVEMBER 2009

- 1.1 On 18 November 2009 Adam Salter was shot dead by NSW Police Force (“NSWPF”) Sergeant Sherree Bissett at the home he had shared with his father, Adrian Salter, at 33 Wangee Road, Lakemba, NSW.
- 1.2 The Salter residence at 33 Wangee Road was a two storey house. There was a front veranda and a hallway leading from the front door to a small kitchen and dining area. There was a room at the front of the house, described as an office, which opened on to the hallway. The kitchen and dining area was open plan. The kitchen was to the right at the end of the hallway and there was a sink on the right hand wall. There was a refrigerator on the right hand side of the kitchen from the point of view of a person facing the sink.
- 1.3 Adam Salter had suffered from mental health problems in the 18 months leading up to his death, which had emerged at about the time of the dissolution of his marriage. He had a psychotic episode in July 2008 and for a short time became a hospital in-patient. In December 2008 he was assessed by a psychiatrist as suffering from a schizophrenic disorder with depression.
- 1.4 On 16 November 2009 Adam Salter attended the surgery of Dr Quoc Khanh An, a general practitioner, and provided a history of anxiety over the previous week. On 17 November 2009 his mental health worsened and he was driven home from work by a colleague. When he got home his father observed that he was acting strangely. Having spoken to his father, Adam Salter agreed that he would see a specialist on the following day.
- 1.5 When Adrian Salter first met his son on the morning of 18 November 2009 Adam Salter seemed “*dazed*”.
- 1.6 At about 8:30 am Adrian Salter was making arrangements for his son to see a specialist. He went into the office at the front of the house to use the phone and, while he was doing so, heard “*a funny sort of cough, sort of a gargle, gurgling cough come from the kitchen*”. He went to investigate and saw his son bent forward, with blood down his front and a kitchen knife in his hand. Adam Salter had stabbed himself in the chest.
- 1.7 Adrian Salter succeeded with some difficulty in calming his son. He retrieved the knife from Adam Salter’s hand, threw the knife into the sink, and sat his son down on the floor of the kitchen. He then dialled 000 and spoke to the Ambulance Service. He was told to put pressure on Adam Salter’s wound and wait for the ambulance to arrive. As a result of the 000 call, a call for police assistance went out on the police radio (“VKG”) at 8:50 am.
- 1.8 Before the arrival of any ambulance officers or police officers, Adrian Salter left the kitchen and opened the front door. When he returned to the kitchen Adam Salter was standing up and was moving towards the sink where the

knife lay. Adrian Salter managed to calm him and once again sat him down on the floor.

- 1.9 At 8:51 am two ambulance officers arrived at 33 Wangee Road: Karl Johnstone ("Johnstone") and Belinda Clements ("Clements"). They laid Adam Salter on the floor, cut his shirt off and put a pressure bandage on his chest wound and then administered other treatment, including oxygen.
- 1.10 At some point Johnstone instructed Clements to call for "*backup*" assistance. Clements left the kitchen, made the call and then went to move the ambulance in which she and Johnstone had arrived. She was outside the house when subsequent events happened.
- 1.11 At 8:55 am two police officers from Campsie police station arrived at 33 Wangee Road: Leading Senior Constable Leah Wilson ("Wilson") and Probationary Constable Aaron Abela ("Abela"), as he was then. They saw that Adam Salter was being treated by the ambulance officers. Wilson had a conversation with Adrian Salter about the location of the knife that Adam Salter had used to stab himself. She looked into the sink and saw the knife.
- 1.12 At 8:57 am two more police officers from Campsie police station arrived: Sergeant Sherree Bissett ("Bissett") and Senior Constable Emily Metcalfe ("Metcalfe") as she was then. Bissett was equipped with her usual appointments and a Taser. As the senior police officer, she assumed control.
- 1.13 At about 9:00 am two more ambulance officers arrived at 33 Wangee Road in response to the call for backup: Meagan Coolahan ("Coolahan") and Cheri Lutz ("Lutz"). Johnstone handed over the care of Adam Salter to Coolahan.
- 1.14 At some point it was decided by the police officers that Bissett, Metcalfe and Wilson should confer outside the house. Before they left to go outside, Bissett directed Abela to remain in the kitchen and told Abela about the knife in the sink.
- 1.15 Bissett, Metcalfe and Wilson then went outside. While they were outside, Adam Salter sat up, was restrained by the ambulance officers and lay back down. Shortly after, he got to his feet and moved towards the kitchen sink, pushing aside his father who attempted to restrain him. Coolahan called for police assistance. In response to that call, Bissett, Wilson and Metcalfe, in that order, entered the house and ran along the hallway. Bissett entered the kitchen, called out the word "*Taser*" three times and discharged, not the Taser, but her firearm.
- 1.16 The bullet fired by Bissett struck Adam Salter in the back of his right shoulder. It passed through both lungs and his heart and exited his body below the left nipple.
- 1.17 After the shooting Adam Salter was treated by the ambulance officers and transported by ambulance to Canterbury Hospital where life was pronounced extinct at 9:19 am.

- 1.18 On the following day an autopsy was conducted. The direct cause of death was found to have been the gunshot wound. Other injuries which Adam Salter had inflicted upon himself were found not to have been fatal.

THE POLICE INVESTIGATION

- 1.19 Immediately after Adam Salter was shot Metcalfe radioed for police assistance. A number of police officers from Campsie police station, including the Duty Officer, Inspector Matthew Hanlon ("Hanlon"), then attended 33 Wangee Road.
- 1.20 Later in the morning the shooting of Adam Salter was declared a "*critical incident*" and a critical incident investigation into the shooting was commenced. That investigation was required by the NSWPF *Guidelines for the Management and Investigation of Critical Incidents* ("the Guidelines").
- 1.21 A critical incident investigation team was established under the leadership of Detective Inspector Russell Oxford ("Oxford"), a senior police officer from the Homicide Squad, who was appointed as the Senior Critical Incident Investigator. Another officer from the Homicide Squad, Inspector Virginia Gorman ("Gorman"), was the second in command. A senior police officer from the Professional Standards Command, Detective Inspector Stephen Tedder ("Tedder"), was appointed as the Review Officer for the investigation.
- 1.22 On 18 November 2009, a *P79A Report of Death* to the Coroner was completed by police and sent to the Coroner and three "*Situation Reports*" were prepared. Electronically recorded interviews were conducted by police with Adrian Salter, Abela, Coolahan, Johnstone and Lutz and typed interviews were conducted with Bissett, Metcalfe and Wilson.
- 1.23 On 19 November 2009 a recorded *walkthrough* interview was conducted by police with Adrian Salter. On 30 November 2009 recorded *walkthrough* interviews were conducted by Oxford with Abela and Bissett.
- 1.24 Oxford prepared a report on the investigation into the shooting of Adam Salter, which was dated 29 May 2011. Tedder prepared a report of his review of the investigation, which was dated 24 June 2011.

INQUEST INTO THE DEATH OF ADAM SALTER

- 1.25 It was necessary to conduct a coronial inquest into the death of Adam Salter as he had died in the course of a "*police operation*".¹
- 1.26 The inquest into his death was held in September 2011 before a Deputy State Coroner, Magistrate Scott Mitchell. The evidence was taken on 26-30 September 2011. Oral submissions were made on 7 October 2011 and the findings were handed down on 14 October 2011.

¹ *Coroner's Act 2009*, ss 23(c), 27(1)(b)

- 1.27 The following persons gave evidence: Adrian Salter; Dr Quoc Khanh An; NSWPF Sergeant Warren Brown (“Brown”); ambulance officers Coolahan, Johnstone and Lutz; and police officers Abela, Wilson, Metcalfe, Gorman, Oxford and Tedder. Bissett herself did not give evidence and was not required to give evidence by the Coroner.
- 1.28 A conflict in the evidence arose at the inquest as to the alleged actions of Abela from the time Adam Salter got to his feet, moved to the kitchen sink and retrieved the knife to when Bissett entered the kitchen and discharged her firearm.
- 1.29 The conflict concerned whether Abela had attempted to physically restrain Adam Salter before he was shot and had thereby placed himself at risk of being stabbed by Adam Salter.
- 1.30 The formal findings of the inquest were in respect of the identity of the deceased, the date and place of death and the cause of death.²
- 1.31 The findings were that Adam Salter who was born on 18 June 1973 died on 18 November 2009 at Canterbury Hospital of a gunshot wound having that day been shot in the back by police while at his home at 33 Wangee Road, Lakemba, NSW.³
- 1.32 As to the shooting, the Deputy State Coroner made the tentative finding that Bissett had mistakenly drawn and fired her firearm, having intended to employ the Taser.
- 1.33 The Deputy State Coroner found that there were a number of “*difficulties with the police version of events*” and made several criticisms of the “*police response*” to the shooting of Adam Salter. Those criticisms concerned the *P79A Report of Death*; the “*Situation Reports*” that had had been prepared on the day of the shooting; the *walkthrough* interview of Bissett that had been conducted by Oxford; the failure by Oxford to have conducted a *walkthrough* interview with any of the ambulance officers; the Critical Incident Investigation report that had been prepared by Oxford; and the review of the police investigation that had been conducted by Tedder.
- 1.34 The Deputy State Coroner was not asked to exercise, and did not exercise, his power under s 78 of the *Coroner’s Act 2009* to refer the death of Adam Salter to the Office of the Director of Public Prosecutions.
- 1.35 The Deputy State Coroner was, however, asked to refer the conduct of police officers to this Commission but declined to do so, noting that Adam Salter’s family would have his findings and might be advised to approach this Commission of their own accord.

² Coroner’s Act 2009, s 81

³ Exhibit 90, p. 40

THE COMMISSION'S INVOLVEMENT

1.36 The Commission became involved in the matter after it received a complaint on 18 October 2011 from Mr Stephen Rushton SC, who had been counsel for Adam Salter's family at the inquest. The complaint was not about the shooting of Adam Salter but about the investigation of the shooting by police. Mr Rushton complained that the investigation had not complied with the Guidelines and the principle that police, when investigating a "critical incident", should act and be seen to act with particular thoroughness and complete impartiality.

1.37 The Commission decided to investigate the complaint and the investigation was given the name "Operation Calyx".

1.38 The original declared purpose of Operation Calyx was:

To investigate whether there was any police misconduct in the investigation by the New South Wales Police Force into the death of Adam Salter on 18 November 2009.

1.39 Several amendments were made to this statement, expanding the scope of the investigation. As ultimately stated, the scope and purpose was:

To investigate whether there was any police misconduct in the investigation by the NSW Police Force into the shooting of Adam Salter on 18 November 2009.

Without limiting the generality of the above, the scope and purpose includes an investigation into whether accounts given by police officers of the circumstances of the shooting of Adam Salter were accurate and truthful, an investigation into the Situation Reports and statements released to the media by the NSW Police Force in relation to the shooting of Adam Salter, an investigation into the critical incident investigation conducted by the NSW Police Force into the shooting of Adam Salter, an investigation into the review by the NSW Police Force of the critical incident investigation conducted by the NSW Police Force into the shooting of Adam Salter, and an investigation into the response of the NSW Police Force to the findings made at the inquest into the shooting of Adam Salter.

1.40 Under this expanded statement of the scope and purpose of the investigation, the investigation had five limbs, namely:

1. an investigation into whether accounts given by police officers of the circumstances of the shooting of Adam Salter were accurate and truthful;
2. an investigation into the Situation Reports and statements released to the media by the NSWPF in relation to the shooting of Adam Salter;
3. an investigation into the critical incident investigation conducted by the NSWPF into the shooting of Adam Salter;
4. an investigation into the review by the NSWPF of the critical incident investigation conducted by the NSW Police Force into the shooting of Adam Salter; and
5. an investigation into the response of the NSWPF to the findings made at the inquest into the shooting of Adam Salter.

- 1.41 On 11 May 2012 the Commission determined pursuant to ss 33(3) and 33(3A) of the *Police Integrity Commission Act 1996* that hearings should be held in Operation Calyx and that most of the hearings should be held in public.
- 1.42 An initial public hearing was held on 27 July 2012 for the purpose of hearing applications on behalf of persons seeking to be legally represented.
- 1.43 Evidence was taken at a private hearing on 12 August 2012 and on nine public hearing dates (27-31 August 2012, 3-4 September 2012 and 6-7 September 2012).
- 1.44 At the conclusion of the public hearings directions were made for the exchange of written submissions.
- 1.45 The lengthy submissions process affected the timing of this report.

WITNESSES AND APPEARANCES

- 1.46 The full names and titles or ranks of the witnesses who gave evidence at the public hearings are as follows. No disrespect is intended where those persons are elsewhere in this report, for the sake for clarity and brevity, referred to by surname only.

- Mr Adrian Salter;
- Paramedic Meagan Coolahan
- Paramedic Karl Johnstone;
- Paramedic Cheri Lutz;
- Paramedic Belinda Clements;
- Sergeant Emily Metcalfe;
- Leading Senior Constable Leah Wilson;
- Constable Aaron Abela;
- Sergeant Sherree Bissett;
- Inspector Matthew Hanlon;
- Superintendent Peter Lennon;
- Detective Sergeant Virginia Gorman;
- Sergeant Warren Brown;
- Detective Inspector Russell Oxford;
- Detective Inspector Stephen Tedder;
- Paramedic Paula Sinclair;
- Assistant Commissioner Paul Carey;
- Dr Mark Reynolds;

- Senior Constable Stiven Atanasovski.

1.47 The following legal representatives were authorised to appear:

- Mr Geoffrey Watson of Senior Counsel was appointed to assist the Commission;
- Mr Rushton of Senior Counsel appeared for Adrian Salter;
- Mr Latham of Counsel, instructed by Mr Kerrigan of Emergency Medical Service Protection Association, appeared for Johnstone and Clements;
- Mr Harris of Andrew Harris & Associates appeared for Wilson;
- Mr Anderson of Counsel, instructed by Messrs Theodoropoulos and Konstantinidis of Konstan Lawyers, appeared for Abela;
- Mr Wilkinson of Counsel, instructed by Mr Ken Madden of Walter Madden Jenkins, appeared for Bissett;
- Mr McIlwaine of the Legal Representation Office appeared for Lennon, Metcalfe and Atanasovski;
- Mr Thangaraj of Senior Counsel, instructed by Mr Oates of Oates Legal, appeared for Oxford;
- Mr Lewis of the Legal Representation Office appeared for Carey;
- Mr Tosevic of T&A Legal appeared for Hanlon;
- Mr Taylor of Hughes & Taylor appeared for Gorman.

1.48 Mr Tedder was self-represented.

1.49 Brown, Coolahan, Lutz, Reynolds, and Sinclair did not seek authorisation to be legally represented.

REPORT UNDER THE *POLICE INTEGRITY COMMISSION ACT 1996*

1.50 This report is made under the *Police Integrity Commission Act 1996* (“the Act”). The relevant provisions under which it is made are as follows.

1.51 Part 8 of the Act is headed “*Reports to Parliament*”. Division 1 of Part 8 is headed “*Reports by Commission*”. Section 96(2) in Division 1 is headed “*Report where public hearing*” and provides that “*the Commission must prepare reports in relation to matters as to which the Commission has conducted a public hearing*”.

1.52 Section 97 in Division 1 of Part 8 is headed “*Contents of reports to Parliament*” and provides as follows:

(1) The Commission is authorised to include in a report under section 96:

(a) statements as to any of its assessments, opinions and recommendations, and

(b) statements as to the Commission’s reasons for any of its assessments, opinions and recommendations.

(2) The report must include, in respect of each “affected” person, a statement as to whether or not in all the circumstances the Commission is of the opinion that consideration should be given to the following:

(a) the prosecution of a person for a specified criminal offence,

(b) the taking of action against the person for a specified disciplinary offence,

(c) the taking of action (including the making of an order under section 181D of the Police Act 1990) against the person as a police officer on specified grounds, with a view to dismissing, dispensing with the services or otherwise terminating the services of the police officer,

(d) the taking of reviewable action within the meaning of section 173 of the Police Act 1990 against the person as a police officer.

(3) An “affected” person is a person against whom, in the Commission’s opinion, substantial allegations have been made in the course of or in connection with the investigation concerned.

(4) Subsection (2) does not limit the kind of statement that a report can contain concerning any such “affected” person and does not prevent a report from containing a statement described in that subsection in respect of any other person.

1.53 Part 3 of the Act is headed “*Functions of Commission*”. Division 1 of Part 3 is head “*Functions generally*”. Section 16 in Division 1 of Part 3 is headed “*Provisions regarding assessments, opinions and recommendations*” and provides as follows:

(1) The Commission may:

(a) make assessments and form opinions, on the basis of its investigations or those of the Police Royal Commission or of agencies of which it has management or oversight under this Act, as to whether police misconduct or other misconduct, misconduct of a Crime Commission officer or corrupt conduct of an administrative officer:

has or may have occurred, or

is or may be occurring, or

is or may be about to occur, or

is likely to occur, and

(b) make recommendations as to whether consideration should or should not be given to the prosecution of or the taking of action under Part 9 of the Police Act 1990 or other disciplinary action against particular persons, and

(c) make recommendations for the taking of other action that the Commission considers should be taken in relation to the subject-matter of its assessments or opinions or the results of any such investigations.

(2) However, the Commission may not:

(a) make a finding or form an opinion that a specified person is guilty of or has committed, is committing or is about to commit a criminal offence or disciplinary offence (whether or not a specified criminal offence or disciplinary offence), or

(b) make a recommendation that a specified person be, or an opinion that a specified person should be, prosecuted for a criminal offence or disciplinary offence (whether or not a specified criminal offence or disciplinary offence).

(3) An opinion that a person has engaged, is engaging or is about to engage:

(a) in police misconduct, misconduct of a Crime Commission officer or corrupt conduct of an administrative officer (whether or not specified conduct), or

(b) in specified conduct (being conduct that constitutes or involves or could constitute or involve police misconduct, misconduct of a Crime Commission officer or corrupt conduct of an administrative officer),

is not a finding or opinion that the person is guilty of or has committed, or is committing or is about to commit a criminal offence or disciplinary offence.

(4) Nothing in this section prevents or affects the exercise of any function by the Commissioner that it considers appropriate for the purposes of or in the context of Division 2 of Part 9 of the Police Act 1990 .

1.54 Part 1 of the Act is headed “*Preliminary*”. Section 5 of Part 1 is headed “*Police misconduct*”. Section 5(1) defines “*police misconduct*” as “*misconduct (by way of action or inaction or alleged action or inaction) of a police officer*”:

(a) whether or not it also involves non-police participants, and

(b) whether or not it occurs while the police officer is officially on duty, and

(c) whether or not it occurred before the commencement of this subsection, and

(d) whether or not it occurred outside the State or outside Australia.

1.55 A non-exclusive list of examples of “*police misconduct*” is given in s 5(2). Those examples are:

(a) police corruption,

(b) the commission of a criminal offence by a police officer,

(b1) misconduct in respect of which the Commissioner of Police may take action under Part 9 of the Police Act 1990,

(c) corrupt conduct within the meaning of the Independent Commission Against Corruption Act 1988 involving a police officer,

(d) any other matters about which a complaint can be made under the Police Act 1990 .

1.56 Part 13 of the Act is headed “*Miscellaneous*”. Section 137A in Part 13 is headed “*Persons to be heard*” and provides as follows:

(1) Before including in a report any comment about a person that the Commission or the Inspector considers is adverse, the Commission or Inspector must, so far as practicable:

(a) inform that person of the substance of the grounds of the adverse comment, and

(b) give the person an opportunity to make submissions.

(2) The Commission is taken to have complied with this section if it has held a hearing under section 32 at which the person who is the subject of the adverse comment concerned was informed of the substance of the grounds of the adverse comment and given an opportunity to make submissions.

(3) This section applies only to the following reports:

(a) a report by the Commission in relation to any matter that has been or is the subject of an investigation by the Commission,

(b) a report by the Inspector in relation to any complaint.

2. ACCOUNTS OF THE SHOOTING

- 2.1 The first limb of the Commission's investigation was *"an investigation into whether the accounts given by police officers of the circumstances of the shooting of Adam Salter were accurate and truthful."*
- 2.2 Four police officers claimed to have been witnesses to at least some of the circumstances of the shooting. These officers were Bissett, Abela, Wilson and Metcalfe. Each of these police officers gave more than one account, prior to giving evidence before the Commission.
- 2.3 Four civilians also claimed to have been witnesses to at least some of the circumstances of the shooting. These persons were Adrian Salter, Coolahan, Johnstone and Lutz. Each of these persons also gave more than one account, prior to giving evidence before the Commission.

PRIOR ACCOUNTS GIVEN BY THE POLICE WITNESSES

SHERREE BISSETT

- 2.4 Bissett gave an account of the circumstances in which Adam Salter was shot in her police interview on 18 November 2009 and in her *walkthrough* interview on 30 November 2009. She did not give evidence at the inquest into Adam Salter's death.

Account given by Bissett in her police interview

- 2.5 Bissett was working as the inside supervisor at Campsie police station on the day of the shooting. She heard *"a double beeper"* radio call over the police radio system that *"a male was inflicting self harm"*. She acknowledged the call and left the station with Metcalfe to attend 33 Wangee Road. She took with her a *"Taser"*.⁴
- 2.6 When she arrived at 33 Wangee Road she *"ran up to the house"* and met Wilson at the front steps. Wilson told her that Adam Salter had stabbed himself and that there was a lot of blood. Bissett went through the front door and down the short hallway to the kitchen. She saw Adam Salter lying on the floor on his back and an ambulance officer next to him. She observed that Adam Salter had a *"square gauze or patch"* on his chest over his wound.
- 2.7 Bissett asked Wilson if the weapon was secure. Wilson said, *"Yeah, the knife's in the kitchen sink with blood all over it"*. Wilson *"pointed to the sink"* and Bissett *"looked into the sink and saw the knife"*.⁵ Wilson then went to talk to Adrian Salter in the office at the front of the house.⁶

⁴ Exhibit 54, pp. 4-5

⁵ Exhibit 54, p. 7

⁶ Exhibit 54, p. 7

- 2.8 Bissett went and stood between Adam Salter and the sink. At that point, she observed that Adam Salter was *“lying on the ground”* and *“was covered in lots of blood”*.
- 2.9 Bissett then instructed Metcalfe and Abela to *“clear the rest of the house to make sure there was no one else in there”*. As they performed that task, Bissett observed that Wilson was talking to Adrian Salter in the office at the front of the house.
- 2.10 Bissett moved into the hallway so that she could see Wilson and watch Adam Salter. She received a report from Metcalfe and Abela that the *“house was clear”*.
- 2.11 Wilson then came out of the front room *“wanting to talk”*. Either Bissett herself or Wilson said, *“Let’s go out to the front porch”*. Before going outside, Bissett told Abela to stay in the kitchen and watch Adam Salter. She told him the knife was in the sink. She left Abela alone in the kitchen because she *“didn’t think that there was any threat to Abela or to the ambulance officers by leaving him”*.⁷
- 2.12 Bissett then went outside with Wilson. She gave the following account of what happened next:

*A. ... And that’s when I heard one of the ambos, I think it was one of the ambos, “Can someone come in and help us please”. Or something along those lines. So I ran in through the front door and I saw, as I was running in, I saw the male was standing up and moving towards the sink. Abela was on his left side and there was an ambo on his right. And then, I went and stood in the kitchen. He made it to the sink. He grabbed the knife with his right hand and Abela was holding onto his left arm, he was on his left side. I shouted “Taser, Taser, Taser” but Abela was too close to him and I’ve drawn my gun and he’s turned with his knife towards Abela. And so I shot him there, in his right shoulder blade area.*⁸

- 2.13 Later in her interview Bissett described what she meant when she said Abela was holding onto Adam Salter’s left arm. She said:

A. I saw that Abela was struggling with the male. The bloke is at the sink, facing it, and Abela was to his left and standing side on to him. I don’t remember where Abela’s left arm was but I saw that he was using his right hand to hold on to the male’s left upper arm. I think he was trying to pull him away from the sink. I saw the knife in the bloke’s right hand. The guy was moving like he was struggling with Abela. The male had picked up the knife with his right hand. He was holding the knife by the handle and he has moved towards Abela. His right side was coming around with the knife.

Q. At what height was the male holding the knife?

A. It was above waist height but below shoulder height.

⁷ Exhibit 54, p. 7

⁸ Exhibit 54, p. 4

Q Where was the blade pointing?

A. It was pointing in the direction of Abela.⁹

2.14 And again:

A. He had turned to his left with the knife towards Abela, and they were still moving, towards the corner of the room. When the male was facing the sink, I was facing his side but when he turned towards Abela, he had his back towards me.¹⁰

2.15 Bissett was asked why she said “Taser, Taser, Taser”. She said that those words are “*the initial command you give before you fire the Taser ... Its [sic] warning to give before using a Taser to other police will move out of the way*”.¹¹

2.16 Bissett did not draw her Taser or consider that its use would have been effective. She said:

A. On the way to this job, I thought that there was a possibility that I would have to use a Taser to stop the guy from committing self harm. I didn't use the Taser because I thought that the guy was going to stab Abela and I didn't think that the Taser would work. I used the gun because I thought that he was going to stab Abela, I thought he was going to kill him.

Q. When you say, you didn't think that the Taser would work, what do you mean?

A. Because of the space, the confined space, because Abela was on him. I have already Tasered someone and it didn't work. I don't think that the Taser is so accurate. For the Taser to work, both prongs have to go in, and if one prong misses, it's not effective. Plus if both prongs had gone in, depending on the movement, the wires are so thin, that they can break anyway. If they break it doesn't work, so he could still stab him and they were still moving. The guy and Abela weren't standing still. I drew my firearm, and I shot the guy on the right side. I shot him on the right side because Abela was to his left so I didn't want to hit Abela.¹²

2.17 Bissett did not consider using her capsicum spray, “*because there were too many people in the room*”, because “*it was too small an area*”, and because she did not “*think it would work anyway*”.¹³

2.18 Bissett made a conscious decision to use her firearm and did not mistakenly draw her firearm:

⁹ Exhibit 54, pp. 8-9

¹⁰ Exhibit 54, p. 9

¹¹ Exhibit 54, p. 9

¹² Exhibit 54, p. 9

¹³ Exhibit 54, p. 11

Q. Considering that you thought you might use the Taser, and you said, "Taser, Taser, Taser", did you intend to use the Taser but instead draw the firearm as it's on your right side?

A. No, because even though at the back of my mind prior to going there, I was thinking about using the Taser, it was instinctive because I thought that Abela was going to be stabbed and killed.¹⁴

- 2.19 Bissett gave the following account of what she saw from the moment she fired her firearm:

A. I saw the bullet go in and Abela moved away a bit, I still had the male covered and he turned around and he had the knife in his right hand still, it never left his right hand. He thrust the knife into his throat. I think it was his left side. I can't remember if he did it once or twice. He must have done it twice because you could see the hole in his throat. But then I was covering him, I think his Dad came and tried to grab the knife off him. I don't know where the father went because the next thing I know the male was on the ground, on his back.¹⁵

- 2.20 Elsewhere in her interview Bissett said that she did not know where Adrian Salter was throughout the incident. She said he might have been behind her and "*he came from my left side*" after she fired her pistol.¹⁶

- 2.21 Once she saw Adam Salter go down on the ground, Bissett thought that the threat had passed and re-holstered her pistol. She heard someone say that Adam Salter still had the knife. She walked over to Adam Salter, put her left foot on his forearm and took the knife out of his hand. She then moved away and said that the ambulance officers "*came running in from behind*".¹⁷

Account given by Bissett in her *walkthrough* interview

- 2.22 When Bissett first saw Adam Salter "*he was covered in blood*".¹⁸ She was brought back into the kitchen by hearing one of the ambulance officers "*screaming out, 'We need help in here'*".¹⁹ Of the three police officers who were outside, she was the "*first one in*".²⁰ She was aware that Adrian Salter was in the kitchen area at some point but could not recall where he was when she re-entered the kitchen in response to the call for help.²¹

- 2.23 As she came in through the front door she saw Abela and Adam Salter "*struggling*" and then saw them "*quickly move that way*", that is, to the right towards the sink. By the time she entered the kitchen she could see them

¹⁴ Exhibit 54, p. 12

¹⁵ Exhibit 54, p. 10

¹⁶ Exhibit 54, p. 11

¹⁷ Exhibit 54, p. 10

¹⁸ Exhibit 56, p. 7

¹⁹ Exhibit 56, p. 11

²⁰ Exhibit 56, p. 11

²¹ Exhibit 56, p. 11

“struggling” or “wrestling” at the sink. She gave the following account of what she saw at that moment:

A. Yep, like that. And Aaron is here [at the sink] wrestling him. Because when I, when I came through the front door, I could see Aaron struggling with him, ‘cause, he was making his way ...

...

A. I heard the ambo screaming out, We need some help in here. And then as I came through the front door, he [Adam Salter] was up wrestling and was at the sink.

Q. And whereabouts did he [Abela] have hold of him?

A. Yeah, pretty much on, round –

Q. On his left side ...

A. Yeah, on the left side.²²

- 2.24 During the interview Bissett positioned the police officers who were playing the parts of Abela and Adam Salter in close physical contact. In the demonstrations she directed, Abela was up against the left side of Adam Salter’s body and had hold of Adam Salter’s upper left arm in a hugging embrace.²³
- 2.25 Bissett gave a number of stage directions adjusting the position of the officer playing the part of Abela in the *walkthrough* interview. She put Abela and Adam Salter in increasingly close physical contact. During those adjustments, she said that Abela *“was closer”* and said to the officer playing Abela, *“You’re, you’re in closer, yep. Moving a bit in closer ... and Aaron was a bit more around, like, sort of like that. Bit in, like your body”*.²⁴ And again, *“maybe they were in a bit closer”*.²⁵
- 2.26 Bissett said that when she saw that Abela and Adam Salter were struggling, she thought that she would *“jump in”* and intervene but decided not to, as it was *“too dangerous, because he had the knife”*.²⁶ She said that it was too dangerous for her and for anyone present.
- 2.27 Bissett drew her firearm, called out *“Taser, Taser Taser”* and *“fired straight away”*.²⁷ When asked why she had called *“Taser”*, she said *“they were the*

²² Exhibit 56, p. 13

²³ Exhibit 55

²⁴ Exhibit 54, p 15

²⁵ Exhibit 54, p. 16

²⁶ Exhibit 56, p. 14

²⁷ Exhibit 56, p. 16

words that just came out of my mouth.”²⁸ She did not know why those words came out.²⁹

- 2.28 At several times in her interview Bissett agreed that she had made a conscious decision to use her firearm and had not drawn her firearm by mistake in place of her Taser.³⁰ She said, *“because I thought Abela was going to be stabbed and killed ... I just went straight for my gun”*.³¹
- 2.29 The reason she fired was that Abela *“couldn’t subdue”* Adam Salter and *“couldn’t get away”* from him. At that point she saw that Adam Salter had *“swung [the knife] around towards him [Abela]. So I thought he was gonna stab him and kill him”*.³²
- 2.30 Once she had shot Adam Salter she said that he was *“still struggling”* with Abela, *“and then he has stopped and Abela has, sort of, taken a couple of steps back”*.³³ Bissett then saw Adam Salter turn and face her and stab his neck. Adrian Salter then came in and grabbed Adam Salter’s *“arm and struggled with him and pulled the knife, like his arm away, so the knife came out of his throat”*. She said that Adrian Salter then disappeared.³⁴

AARON ABELA

- 2.31 Abela gave an account of the circumstances in which Adam Salter was shot in his police interview on 18 November 2009, in his *walkthrough* interview on 30 November 2009 and in his evidence at the inquest. He also made entries about the shooting in his police notebook on the day of the incident.

Account recorded by Abela in his police notebook

- 2.32 Abela’s notebook entries for 18 November 2009 consist of a series of points, which read as follows:

Crime scene 9:00 am

POI has stood gone for knife

Shots fired. Sgt Bissett

Had a distance of 1 m away from POI

POI kitchen floor

Reached for knife right hand

²⁸ Exhibit 56, p. 15

²⁹ Exhibit 56, p. 24

³⁰ Exhibit 56, p. 25

³¹ Exhibit 56, p. 25

³² Exhibit 56, p. 16

³³ Exhibit 56, p. 16

³⁴ Exhibit 56, p. 17

As male was raising [sic] went to assist ambos

Called for more police

At this stage POI has gone to the sink aggressively

Uncontrollable

Standing near right hand pillar on living room

Male was covered in blood on arrival

POI was stable on the floor with ambo

POI's father in front

Father stated that he did not see POI stab himself

Observed laceration to chest. Left-hand side was bandaged

I remained alone in room with POI

He stood up, laid back down, sudden burst of aggression

got up. Called for police

Began taking steps to the sink

Happened too quick

placed hand in the sink

grabbed an object

On arrival blood was observed on the ground.³⁵

Account given by Abela in his police interview

- 2.33 Soon after Abela arrived at 33 Wangee Road he had a conversation with Adrian Salter in the front office.³⁶ After Bissett arrived he was instructed to “*clear the area*”.³⁷ He was later instructed to remain in the kitchen while Bissett, Wilson and Metcalfe went outside. Before Bissett left to go outside,

³⁵ Exhibit 44

³⁶ Exhibit 46, p. 12 (Q&A 133)

³⁷ Exhibit 46, p. 15 (Q&A 172)

she told him that the knife was in the sink saying, *"The knife's in here. Can you stay in here? Just secure the area"*.³⁸

- 2.34 Abela said that within about *"ten seconds maybe"* of being left alone in the kitchen, Adam Salter *"lifted up his upper body all of a sudden"* and *"sat up suddenly"*.³⁹ At that point, he *"sort of started to approach"* Adam Salter but *"the ambulance [officers] started talking to him and he's gone back down"*.⁴⁰ Abela recalled that Adam Salter had *"a lot of blood around the groin area"* and observed that the shorts he was wearing *"were just covered in blood"*.⁴¹

- 2.35 Abela's answers to Q 284-286 in his interview were as follows:

284 A. *And yeah, the ambulance were still talking to him at this point. He became all right, he was calm, everything was fine. The ambulance was still treating him. All of a sudden he just got up again. But this time he got up to his feet suddenly.*

...

285 A. *He got up to his feet suddenly. And the ambulance at this point, I, I began to walk in that direction, I was actually going in a fast pace towards that direction where the male was.*

...

286 A. *And the ambulance staff all began screaming, "Police, police," for more assistance to come as well.*⁴²

- 2.36 His answers to Q 320 - 326 were as follows:

320 A. *When I initially approach[ed] I come from the front of him -*

..

321 A – *and trying to push him down so he wouldn't get up.*

..

322 A. *But he was just, he was so abrupt to get up, he, he, he got straight through me there.*

...

323 A. *At that point is where I'd ended up coming around him like that to grab his left arm –*

³⁸ Exhibit 46, p. 21 (Q&A 243)

³⁹ Exhibit 46, pp. 22-24 (Q&A 254-261, 277-79)

⁴⁰ Exhibit 46, p. 24 (Q&A 279-280)

⁴¹ Exhibit 46, p. 23 (Q&A 264-267)

⁴² Exhibit 46, p. 24 (Q&A 284-286)

...

324 A. – and pulling him, pulling him, pulling him back

...

325 A. He still kept, kept going and going.

...

326 A. At what [sic] what point he eventually made it to the sink. And I was still holding on while he was there at the sink.⁴³

- 2.37 In describing the actions he took, Abela said that as Adam Salter made his way to the sink *“I was just grabbing him with both hands on his left arm”* and *“I began just pulling him and pulling him.”* Abela said that Adam Salter was *“aggressively running towards the sink”* and was *“just too aggressive”*, and *“made it to the bench where the sink was”*.⁴⁴ By the term *“aggressive”*, Abela meant that Adam Salter *“just stood up suddenly and sort of made fast paces towards the sink, without any time to react or do anything ... he just got up all of a sudden”*.⁴⁵
- 2.38 Abela kept hold of Adam Salter and attempted to pull Adam Salter back as he made his way to the sink. He said that Adam Salter *“slipped away from my arm at one point”* and that he went to *“grab him again”*.⁴⁶ Abela was still holding on to Adam Salter when he was at the sink.⁴⁷
- 2.39 When they were at the sink Abela saw Adam Salter reach into the sink and lift *“up something”*. He presumed it was the knife, although he did not see it.⁴⁸ He said that he was still *“sort of holding”* onto Adam Salter at that point.⁴⁹ As Abela saw Adam Salter lift up his hand, Abela turned and saw Bissett and Wilson facing him.⁵⁰
- 2.40 Abela then said in his answers to Q302-303:

A. As soon as I seen his hand going in to grab something I've let go 'cause I thought if he has actually picked -

A. If that knife is coming out, you know, obviously I don't want to be in the line of where that knife is coming.⁵¹

⁴³ Exhibit 46, pp. 27-28 (Q&A 320-326)

⁴⁴ Exhibit 46, p. 25 (Q&A 291-296)

⁴⁵ Exhibit 46, p. 46 (Q&A 541)

⁴⁶ Exhibit 46, pp. 26-27 (Q&A 310-311)

⁴⁷ Exhibit 46, p. 28 (Q&A 326)

⁴⁸ Exhibit 46, p. 28 (Q&A 327-336)

⁴⁹ Exhibit 46, p. 34 (Q&A 404)

⁵⁰ Exhibit 46, p. 29 (Q&A 302-303)

⁵¹ Exhibit 46, pp. 25-26

- 2.41 While Abela said that he never saw the knife, he said that he took “precautions” when he saw Adam Salter lift what he presumed was the knife from the sink. Before he heard the discharge of Bissett’s firearm and as he saw Adam Salter’s right hand come up out of the sink, he let go of Adam Salter and took one and then two more steps back. He gave the following account in his answers to Q 342-348:

342 A. But I’ve see his hand come up, I didn’t see what was in it ‘cause I didn’t know.

...

343 A. At that point, I’ve let go, O.K. I’ve taken precautions.

...

344 A. If there is a knife well, you know, from what I’ve been told there is a knife there I’m not going to stand right here.

...

345 A. I’ve taken a step back at this point.

...

346 A. And sort of as I was letting go I think I’ve turned my head to the right and that’s when I’ve seen Sergeant Bissett and Senior Constable Wilson there.

...

347 A. And I’ve just turned around. I’ve see the firearm drawn by Sergeant Bissett.

...

348 A. I’ve continued to take two steps back I think and I’ve just heard the firearm discharge.⁵²

- 2.42 At several points in his interview Abela also said that once he saw Adam Salter retrieve what he thought was the knife from the sink, his priority was to “put distance” between himself and Adam Salter. He thought that that was “the safest thing to do” rather than use one of his appointments.⁵³ He thought that Adam Salter was “was going to ... turn around and stab me or stab one of the

⁵² Exhibit 46, p. 29 (Q&A 342-348)

⁵³ Exhibit 46, pp. 34-35, 38 (Q&A 414-425)

*officers there at the scene or stab even an ambulance officer”.*⁵⁴ He said he let go of Adam Salter *“to back off”*.⁵⁵

2.43 Abela gave the following account about those matters in his answers to Q410-425:

410 Q. I think you said that you let go to back off?

A 410. Yep

411 Q. What was going through your mind at that time?

411 A. He was going to, you know, turn around and stab me or stab one of the officers there at the scene or stab even an ambulance officer. Turn around on me. So at that point that’s what I was thinking ...

414 A. That’s the first thing I thought.

...

415 A. He’s going to obviously launch it at someone or –

...

417 Q. Bearing that in mind did you think about tactical options that you might have used or –

417 A. At that point I thought the safest thing to do was to put distance.

...

418 A. First thing to do is obviously gain my distance –

...

419 A. – before I’m, before I’m obviously going to start using any of my um, tactical options or using any of my appointments.

...

420 A. The first thing I thought is gain as much distance as possible for someone with a knife.

....

421 A. And then going using an appointment if necessary.

⁵⁴ Exhibit 46, p. 34 (Q&A 411)

⁵⁵ Exhibit 46, p. 36 (Q&A 410)

...

423 A. Yeah, it [using an appointment] *did cross my mind but –*

...

424 A. – *the first, my priority at that stage was gain my distance first from someone with a knife.*

...

425 A. *So, that's why I did that.*⁵⁶

- 2.44 Abela said that when he turned and saw Bissett she already had her gun drawn.⁵⁷ At the moment of the discharge he was at a distance of two arms lengths from Adam Salter.⁵⁸
- 2.45 After the shooting Abela was “*directed*” to leave the kitchen and “*walked straight out the front door*”.⁵⁹ He went back inside at some point to assist the ambulance officers in placing Adam Salter on a stretcher”.⁶⁰ He also assisted them in placing Adam Salter in the ambulance.⁶¹ He then stood at the front door with Wilson who was maintaining a crime scene log.⁶²
- 2.46 Abela and the other officers were taken to Campsie police station by one of the detectives at the scene. He said that the officers were separated once they got to the station.⁶³
- 2.47 Once back at the station Abela's uniform and appointment belt were seized from him and he changed his clothes.
- 2.48 He gave the following account in his answers to Q 445-446 about the condition of his clothes:

445 Q. ... *I think you'd agree with me that you've had the uniform that you were wearing during the incident*

445 A. *Yep*

445 Q. [sic] – *taken from you?*

445 A. [sic] *That's correct. As I said, well, my arm's covered in blood also.*

⁵⁶ Exhibit 46, pp. 34-35 (Q&A 410-425)

⁵⁷ Exhibit 46, p. 46 (Q&A 544)

⁵⁸ Exhibit 46, p. 31 (Q&A 368)

⁵⁹ Exhibit 46, p. 32 (Q&A 378-379)

⁶⁰ Exhibit 46, p. 33 (Q&A 387)

⁶¹ Exhibit 46, p. 36 (Q&A 431-433)

⁶² Exhibit 46, p. 36 (Q&A 437)

⁶³ Exhibit 46, p. 37 (Q&A 444)

446 Q. Yeah.

446 A. My uniform had blood on it too. My pants and boots also had blood on it.⁶⁴

- 2.49 At the end of his interview Abela read out his notebook entries and asked that the entries be adopted in the interview. When he read the entries he read the entry, “*standing near pillar of the living room entrance*”, as follows:

*He was ah, standing with right hand near the pillar of the living room entrance.*⁶⁵

Account given by Abela in his *walkthrough* interview

- 2.50 In his *walkthrough* interview Abela demonstrated that he was standing inside the entrance to the kitchen as Adam Salter was being treated by the ambulance officers. He was told by Bissett to stand in that position before she went outside.⁶⁶

- 2.51 Abela gave the following account about what happened next:

P. 3 OK. He's, he's lying there. He was, he was fine. He still hadn't moved a millimetre since we arrived. All of a sudden, he's slowly, gradually started to lift his upper body up, so he's slowly tilting forward and coming up, and the ambulance were, like, Come on, Adam, you know, just lie down, come on. They're trying to assist him, and he's gone straight back down. So he wasn't, nothing was erratic. He did everything very slowly and calmly, and it seemed, it seemed like he was struggling to get up, even doing that, and he's gone back down. And after that, he just suddenly, I would say only probably a couple of seconds later, he just, bang, he's just had this sudden burst of energy, and he stood up on his two feet and began to run towards the sink area. Once he's done that, I've obviously seen him come up, immediately I've ran towards him –

...

*P.3 -- and grabbed his left hand.*⁶⁷

- 2.52 As Adam Salter was getting up from the ground, Abela demonstrated that he quickly moved toward Adam Salter and tried to push him back, but failed. Abela then demonstrated that he took hold of Adam Salter's left arm from behind and began attempting to pull him back as he made his approach to the sink.⁶⁸ In respect of those actions, Abela said:

P. 3 ... I stood back here. All of a sudden, the next time he's got up very aggressively, very, very quickly. He started to run. I've gone to grab him, to

⁶⁴ Exhibit 46, p. 37 (Q&A 445-446)

⁶⁵ Exhibit 46, p. 50 (Q&A 594)

⁶⁶ Exhibit 48, p. 10

⁶⁷ Exhibit 48, p. 10

⁶⁸ Exhibit 47

*make sure he's not obviously, I knew that he was going to run for somewhere.*⁶⁹

...

P. 2 All right then. So just show me whereabouts, which part of the body did you grab onto?

P.3 I, as he got up –

...

P.3 – I've gone to grab him first, and sort of push him back.

...

*P.3 Then I've gone for his left, gone to get, get his left arm.*⁷⁰

...

P.3 So I've pulled him and he's, he was very aggressive. I couldn't, I couldn't pull him back. I was just –

...

*P. 3 – doing all I could. He's made it obviously with two steps towards that sink area.*⁷¹

- 2.53 As Abela attempted to pull Adam Salter back he said that his hands were sliding on blood that was on Adam Salter's left arm. He said:

P.3 No, I was concentrating on him, just using all my energy to--

...

P.3 --- to pull him back, and obviously my hands were also sliding, with the blood that was on his arms.

...

*P.3 Yeah, he had blood all, he had blood on his arm, everywhere ---*⁷²

- 2.54 Abela also said that there was "a lot of blood", "there was also a lot of blood in the groin region" and "he was covered [in blood]".⁷³

⁶⁹ Exhibit 48, p. 12

⁷⁰ Exhibit 48, p. 12

⁷¹ Exhibit 48, p. 13

⁷² Exhibit 48, p.13

- 2.55 When Adam Salter reached into the sink he lifted up what Abela presumed was the knife, Abela said:

P. 3 Yeah. I'm, I'm grabbing him. So at this point he's, all I've see is his hand sort of go in there, and I've seen his hand come up in an upward motion.

...

P. 3 So, yeah, sort of lifting up. I didn't see the knife. I still couldn't see, and at this point, I still can't see the knife at all.⁷⁴

- 2.56 Abela demonstrated that as he saw Adam Salter's hand "coming up" he "started to let go" of him. Abela said that he also turned his head and saw Bissett near the doorway and saw "the firearm drawn."⁷⁵ Abela said that he "started to let go, and then the shot was fired."⁷⁶ He said:

P.3 ... I've see his arm raised on an angle there, I've turned my head that way.

..

P.3 I've seen the firearm drawn, yeah. I've started to let go, and then the shot was fired and, yeah, that's, I mean, that's, that's the point when the shot was fired.⁷⁷

- 2.57 Although not reflected in the transcript of the *walkthrough* interview, Abela demonstrated as shown in the recording of the *walkthrough* interview, that, when Adam Salter was shot, he took a simultaneous step back as he turned towards Bissett and let go of Adam Salter.⁷⁸
- 2.58 Abela said, "I had blood on my shirt. I also had blood on my pants and my boots ... and I had blood all over my arms as well" from his contact with Adam Salter.⁷⁹
- 2.59 Abela did not hear Bissett or any other police officer say anything before the shot was fired.⁸⁰ Nor did he see Adam Salter do anything to himself with the knife before he was shot.⁸¹

⁷³ Exhibit 48, p.14

⁷⁴ Exhibit 48, p. 14

⁷⁵ Exhibit 48, p. 16

⁷⁶ Exhibit 48, p. 16

⁷⁷ Exhibit 48, p. 16

⁷⁸ Exhibit 47

⁷⁹ Exhibit 48, p. 22

⁸⁰ Exhibit 48, pp. 16-17

⁸¹ Exhibit 48, p. 19

Account given by Abela in his evidence at the inquest

- 2.60 In his evidence at the inquest Abela said that he did not wish to withdraw or change what he said to police in his interview.⁸²
- 2.61 The first part of the evidence he gave concerned his notebook entry, which he read onto the transcript.⁸³ He indicated that the entry he made was not contemporaneous but was made at a later time at Campsie police station.⁸⁴ In his evidence he agreed that he had not recorded his notes in any chronological order and said of his entries it was *“just an opportunity for me to write down what was coming to my head at the time and I just put it on – on paper”*.⁸⁵ He agreed that he had not recorded the fact that he had been grabbing Adam Salter with both hands on his left arm.⁸⁶ He denied that he had not recorded having pulled or taken hold of Adam Salter’s arm because those two events did not occur.⁸⁷ He said that the notes he took were *“obviously not too thorough”* as he knew that he would be interviewed later in the day.⁸⁸ He said, *“so I didn’t take down as much notes as I probably should have”*.⁸⁹ He also said, *“I guess there was a lot going through my mind at the time and just I didn’t write it in there”*.⁹⁰
- 2.62 In reference to the entry in his notebook, *“standing near right-hand pillar on living room”*, Abela said that he could not recall the meaning of the reference but denied that it was a reference to what he was doing and where he had been standing at the time of the shooting.⁹¹ It was put to him that the entry *“standing near right hand pillar on living room”* recorded where he was standing at the time of the incident. Abela said that what had been put to him was not correct. He was asked what he was endeavouring to convey by the entry and he replied: *“it’s a moment where obviously Sergeant Bissett and Senior Constable Wilson have walked in from”*. The Deputy Coroner asked Abela to repeat the answer and Abela said: *“it’s the positioning where Senior Constable Wilson and Sergeant Bissett have walked in from”*.⁹²
- 2.63 In reference to his use of the word *“uncontrollable”* he said that he used it to refer to Adam Salter’s *“actions on the day and [the] ... way he progressed to the sink”*.⁹³
- 2.64 In his evidence Abela said that after he arrived at 33 Wangee Road he met Adrian Salter who identified himself as Adam Salter’s father. At that point, Abela said that Adrian Salter was in the front office.⁹⁴

⁸² Exhibit 49, p. 2

⁸³ Exhibit 49, p. 3

⁸⁴ Exhibit 49, pp. 10-11

⁸⁵ Exhibit 49, p. 58

⁸⁶ Exhibit 49, p. 27

⁸⁷ Exhibit 49, pp. 29-30

⁸⁸ Exhibit 49, pp. 28, 51-52

⁸⁹ Exhibit 49, pp. 51-52

⁹⁰ Exhibit 49, p. 29

⁹¹ Exhibit 49, p. 55

⁹² Exhibit 49, p. 31

⁹³ Exhibit 49, p. 59

2.65 Abela said he was directed by Bissett to stand to the right of the entrance to the kitchen when he was left alone in the kitchen. He indicated that he was standing near the refrigerator but closer to the sink.⁹⁵

2.66 Abela said that he moved to the “*centre of the kitchen*” when Adam Salter first began to move.⁹⁶ As Adam Salter got to his feet, he said that he then moved closer to where Adam Salter had been lying on the floor.⁹⁷ He also gave the following account of the actions he took as Adam Salter got up from the floor:

Q. Okay. Thank you. It's been indicated by ambulance officers that you, at the point that Adam Salter got up off the floor, were noticed as not moving but rather were putting on gloves. What do you say to that?

A. I was moving. I was also putting on a glove.

Q. So you agree that you were--

A. Simultaneous. I was doing the - both tasks simultaneously.

Q. Yes. And you're saying you were moving at a fast pace towards that direction where the male was. Are you sure that occurred, that is to say you moved at a fast pace?

A. Yes, I did.

Q. You're certain?

A. Yes, I am.

Q. It's not the case that you simply remained stationary, essentially, in the position where Sergeant Bissett had left you?

*A. No.*⁹⁸

2.67 At several points in his evidence Abela reaffirmed that he was putting on his gloves as Adam Salter got up from the floor and that he only got his left glove on.⁹⁹

2.68 In his evidence Abela said that his grip on Adam Salter's left arm slipped as he attempted to pull him back because of the amount of blood on Adam Salter's arm.¹⁰⁰

⁹⁴ Exhibit 49, pp. 6-7

⁹⁵ Exhibit 49, pp. 12-13

⁹⁶ Exhibit 49, p. 121

⁹⁷ Exhibit 49, p. 14

⁹⁸ Exhibit 49, p. 122

⁹⁹ Exhibit 49, p. 30, 39, 64-65

¹⁰⁰ Exhibit 49, p.p. 41, 75

- 2.69 Abela also said that he was “aware” that Adam Salter was covered in blood and said he started putting on his gloves as a precautionary measure before he intervened. He gave the following evidence about that matter:

Q. You spoke about placing a glove on one of your hands. Do you recall giving evidence about that matter?

A. Yeah, I said, yeah, I've placed a glove on my left hand.

Q. Why were you doing that?

A. It was obviously a precautionary measure.

Q. What were you taking caution from at that stage?

A. Well, I was aware Adam was covered in blood, and as I seen him come up, it was the first instance I've decided to start putting my glove on.

Q. Do I take it at that stage you anticipated handling it or at least moving towards him?

*A. That's right.*¹⁰¹

- 2.70 As he moved forward and got to the centre of the kitchen, Abela said that he stretched out his right hand to prevent Adam Salter from getting to the sink, but that Adam Salter “got through” him. Abela said that he then took hold of Adam Salter by the left arm and attempted to stop his progress to the sink. The following evidence was given:

Q. When you got to the vicinity in that location [the centre of the kitchen], what happened?

A. It was at that time Adam Salter was continually progressing towards the location of the sink. I've attempted to prevent him from getting there by outstretching my right arm but he got through me. He was aggressive and strong. I've taken hold of his left arm--

...

*A. I've taken hold of his left arm and began pulling on it to prevent him from getting to the sink, but he's outstretched with his right arm into the sink area. I was behind him at that point on an angle and I've seen his hand come upwards from the sink.*¹⁰²

- 2.71 Once at the sink Abela said that he saw Adam Salter reach in and retrieve what he believed was the knife with his right hand. As he saw Adam Salter's right hand rise up, Abela said that he simultaneously turned towards Bissett, saw that her gun was drawn, and took a step back and started letting go of

¹⁰¹ Exhibit 49, p. 64

¹⁰² Exhibit 49, p. 16

Adam Salter's arm as the shot was fired. He gave the following evidence about those matters:

Q. Okay. What do you recall happening next after he raised his right arm?

A. When I see his right arm come up, I've slowly at that - simultaneously let go and I was taking a step back from Adam in that--

...

Q. Let go of his left arm?

A. Yes, when I've seen his arm come up.

...

A. I've taken a - started taking a step back, at the same time letting go of his left arm and I was - turned to the right of me where I saw Sergeant Bissett and Senior Constable Wilson in the room there. I'd seen Sergeant Bissett at this point with her service firearm out - obviously out of the holster and pointed towards the direction of Adam.¹⁰³

...

Q. What did you see the arm do? Did you see it do anything or can you remember what it did, if anything?

A. Because, as I've taken a step back, as I said, I've turned to the right. I've continued to take a step back and I didn't - I just didn't - I didn't see his arm do anything. I've - I've- I've heard the shot at that point and I've seen him starting to stumble backwards.¹⁰⁴

2.72 And again:

Q. But at the time, as you recall it, that he was shot dead, you'd let him go, correct?

A. When his hand was coming up from the sink, yes, of course I did because I thought there's immediate risk to my life.

Q. But at the time the shot was fired, you had moved away from him, had you not?

A. I'd taken a step simultaneously as I was letting go of him.¹⁰⁵

...

¹⁰³ Exhibit 49, p. 17

¹⁰⁴ Exhibit 49, p. 20

¹⁰⁵ Exhibit 49, p. 46

A. *It was – yeah, it was just taking a step back at the instant moment of letting go of his arm.*¹⁰⁶

- 2.73 In the moments before the shot was fired Abela said that he did not see Adrian Salter run into the kitchen or attempt to restrain his son.¹⁰⁷ Nor did he see Adam Salter stab himself in the neck.¹⁰⁸ Abela also said that he did not hear anyone say the words “Taser, Taser, Taser” or “Drop it. Drop it”.¹⁰⁹
- 2.74 After the shooting Abela was directed to leave the kitchen and went outside and spoke to Wilson. She was the first person he spoke to.¹¹⁰ He denied having spoken to Bissett.¹¹¹
- 2.75 Abela also said that he had Adam Salter’s blood on his right hand, including on his palm and “from the forearm down”, from his contact with Adam Salter.¹¹² He said that he had a conversation with a police officer at the scene, when he was outside, who told him to wash the blood off immediately, which he then did with a product called Hexifoam.¹¹³ He said that he washed his right hand and arm thoroughly at the scene and removed all traces of blood before his hands were photographed back at Campsie police station later in the day.¹¹⁴
- 2.76 As to the blood on his forearm, Abela said that he had blood on that part of his body “because that’s the point where I’ve outstretched my right arm to prevent Adam from reaching the sink”.¹¹⁵ However, he could give no explanation for why there was no blood on the front of his shirt from his contact with Adam Salter. Nor could he provide an explanation for why there was blood on the back of his shirt. The following evidence was given:

Q. *Officer, during the course of the walkthrough on 30 November, you made the observation that Adam Salter had blood on his arm everywhere. I think at some stage you expressed the view that you had difficulty holding onto him because there was so much blood.*

A. *That’s correct*

Q. *Later in that walkthrough, Detective Inspector Oxford asked you this, “Now, was any of your clothing – any blood on any of your clothing at all that you recall? ... You said, “Yes, I had blood on my shirt. I also had blood on my pants and my boots, and the police radio has blood on it too –*

...

¹⁰⁶ Exhibit 49, p. 66

¹⁰⁷ Exhibit 49, p. 17, 48

¹⁰⁸ Exhibit 49, p. 17

¹⁰⁹ Exhibit 49, p. 56, 66

¹¹⁰ Exhibit 49, p. 32

¹¹¹ Exhibit 49 p. 34

¹¹² Exhibit 49, p. 65

¹¹³ Exhibit 49, pp. 33, 65-66

¹¹⁴ Exhibit 49, p. 37, 38-39

¹¹⁵ Exhibit 49, p. 42

Q. Can I suggest to you that having examined your shirt, officer, that there is no blood on the front of your shirt? Have you got an explanation for that?

A. No, I don't.

...

Q. Having regard to the evidence you've given about the physical contact that you had with Adam Salter and the manner of that physical contact, you would expect, would you not, that if there was blood on your shirt, it would be on the front of your shirt?

A. Depending of the angle of approach, then obviously – so that that – that obviously depicts where the blood – where the blood's going to be.

Q. Have you got any explanation for the fact that there is blood on your shirt but it's on the back of your shirt?

A. Well, I don't have an explanation for it, no, I'm sorry, I don't have an explanation for that, no.

Q. Might the explanation be that what you say happened in terms of your physical contact with Adam Salter didn't occur?

*A. That's incorrect.*¹¹⁶

- 2.77 Abela was taken back to Campsie police 15 minutes after he had helped the ambulance officers place Adam Salter in the ambulance.¹¹⁷ At the station he was given instructions not to discuss the matter with the other involved officers.¹¹⁸

Account given by Abela in private

- 2.78 In his evidence to the Commission at a private hearing on 12 August 2012 Abela said that he, Wilson and Metcalf travelled back to Campsie police station in the same vehicle, when they were taken from 33 Wangee Road. He said that a conversation occurred in the vehicle but he could not recall what that conversation was about.¹¹⁹
- 2.79 Once back at Campsie police station, he was taken to the lock up area where he changed his clothes. Another police officer, Anthony Volpe ("Volpe"), seized his clothing at that time. Abela said that he had not done anything to alter the condition of his clothing before passing his clothes to Volpe. He did not wash or clean them. They were in the same condition as they were immediately after the shooting.¹²⁰

¹¹⁶ Exhibit 49, pp. 42-43

¹¹⁷ Exhibit 49 p. 33

¹¹⁸ Exhibit 49 p. 60

¹¹⁹ Exhibit 101, p. 6

¹²⁰ Exhibit 101, pp. 7-8

- 2.80 In his evidence Abela also said that when he placed his hands on Adam Salter's arm, Adam Salter's arm was covered in blood. He also said that both his hands slid on his arm, although he remembered it more with his right hand.¹²¹

LEAH WILSON

- 2.81 Wilson gave an account of the circumstances in which Adam Salter was shot in her police interview on 18 November 2009 and in her evidence at the inquest. She also made an entry in her police notebook shortly after the shooting.

Account recorded by Wilson in her police notebook

- 2.82 In her notebook Wilson recorded that when she first attended 33 Wangee Road she saw Adam Salter lying on the ground and observed that he had a bandage affixed to his upper left chest. She observed that his shorts were "*full of blood.*" She recorded having spoken to Adrian Salter in the front room and wrote an account of what he had said.¹²²
- 2.83 Wilson's notebook entry stated that when Bissett arrived Wilson "*pointed to the blood stained knife in the sink*". She recorded that she instructed Abela to remain at the kitchen doorway and that she then walked with Bissett to the front door. Wilson then recorded the following account of relevant events:

An ambulance officer with short coloured orange hair who was standing at the head of the accused said "We need help in here". I ran into the kitchen. I followed Sgt Bissett. I saw the POI move towards the sink. Cst Abela moved towards the POI. Two ambos tried to hold him back. The POI placed his right hand on the (L) hand side of the sink. He placed his (R) hand in the sink and I saw him pick up the knife. Cst Abela tried to restrain the POI's (L) shoulder. I heard Sgt Bissett yell "Taser, Taser, Taser". Cst Abela took two steps backwards in a northerly direction. The POI's right arm raised and the POI turned to his right slightly. I saw the knife clearly in the right hand. I went to draw my firearm and saw Sgt Bissett had hers drawn and she was standing between me and the POI (). I heard one or two shots fired. The POI, who was still holding the knife took two or three steps backwards and fell to the floor. As the POI had almost hit the floor The [sic] POI raised his right hand and placed the tip of the knife into his neck. I noticed he was still holding the knife with a clenched fist. All of a sudden I was pushed into the doorway of the southern side of the entry hall. The NOK [Adrian Salter] had pushed past me and dived on the POI. The NOK touched the POI's neck. Ambos pushed the NOK away. I saw an officer. I think it was Sgt Bissett removed the knife from the POI's hand. I looked at the POI's face. He went extremely pale, his eyes remained open. An ambulance officer said "no pulse, his [sic] coded."¹²³*

- 2.84 The asterisk (*) in the above quote appeared in Wilson's notebook entry and corresponded to the following notation at the end of the entry:

¹²¹ Exhibit 101, p. 9

¹²² Exhibit 38, pp. 55-56

¹²³ Exhibit 38, pp. 57-61

(*) *When Sgt Bissett drew her firearm she said “Drop it. Drop it”.*¹²⁴

- 2.85 Wilson’s notebook entry continued with an account of Adam’s Salter’s treatment by the paramedics. It also recorded the arrival of police.
- 2.86 Wilson recorded that she “*commenced a crime scene log*” and secured the front door after the shooting. Her entry indicated that she was relieved by another police officer “*sometime later*.”¹²⁵
- 2.87 A diagram depicting the position of persons in the premises had been drawn by Wilson at the end of the entry. It showed Abela standing to the left of Adam Salter facing the sink. It showed Wilson standing at the threshold of the entry to the kitchen and Metcalfe standing behind her in the hallway. Adrian Salter was shown standing inside the doorway of a room at the front of the house. Bissett was shown standing inside and to the right of the kitchen doorway. Three ambulance officers were shown in the kitchen and adjoining opening plan dining area.¹²⁶
- 2.88 Wilson adopted her notes at her interview.¹²⁷

Account given by Wilson in her police interview

- 2.89 Wilson and Abela were at Punchbowl when they responded to the call to attend 33 Wangee Road.¹²⁸ On arrival she saw a pool of blood inside the door. She saw Adrian Salter and “*could see blood all over his arms*”. She also saw Adam Salter lying on his back and two ambulance officers next to him. She observed he had a white bandage on his chest and that his shorts were “*completely blood soaked*”. Based on Adam Salter’s appearance, she radioed for Bissett and Metcalfe to attend as soon as possible.¹²⁹
- 2.90 Wilson had a conversation with Adrian Salter when she first arrived. She asked him about the location of the knife and was told that it was in the kitchen sink. Wilson said that she looked into the sink and saw the knife.¹³⁰
- 2.91 Wilson saw Abela enter the front room. After she had spoken to Adrian Salter she said that he went into that room and she heard Abela speak to him.¹³¹ Wilson then told Abela to go into the kitchen and she obtained a version of events from Adrian Salter. She then saw Bissett and Metcalfe walk in through the front door.¹³²
- 2.92 Wilson gave the following answer to Q 67 in her interview:

¹²⁴ Exhibit 38, p. 62-23

¹²⁵ Exhibit 38, p. 6

¹²⁶ Exhibit 38, p. 6

¹²⁷ Exhibit 39, p. 67

¹²⁸ Exhibit 39, p. 4 (Q&A 29-30)

¹²⁹ Exhibit 39, pp. 5-6 (Q&A 44-50)

¹³⁰ Exhibit 39, p. 5 (Q&A 53)

¹³¹ Exhibit 39, p. 6 (Q&A 53-54)

¹³² Exhibit 39, p.7 (Q&A 54-55)

A67. I pointed out the knife and the blood, not verbally, just pointing with my finger, to Sergeant Bissett. I then walked back into the hallway because we were obstructing the doorway and the Ambo's were getting a bit anxious. So we moved back into the small hallway, not abreast but single file. I believed it to be a female's voice has then said, 'We need some help in here' in a very panicked anxious voice. I turned to my left, cause I had moved back from one side of the corridor to the other, I saw the POI stand up and an Ambo behind his left shoulder try to hold him, an Ambo at the front of his chest try to hold him and him go out of my view towards the kitchen sink.¹³³

2.93 Wilson then gave the following account of what happened next:

A69. I moved to the [kitchen] doorway, bearing in mind I was only a metre away. I looked inside whilst standing in the doorway. Sergeant Bissett was to my right. The male was standing at the sink, and Constable Abela was on his left. I saw the man's hand left hand being placed down into the sink and I saw him reach in and pull a knife out with his right hand. Aaron tried to hold his left shoulder. Sergeant Bissett yelled, "Taser, Taser, Taser". Aaron let go of his shoulder and stepped back. The POI was holding the knife. He sort of twisted to his left, but then commenced turning back around to his right where Sergeant Bissett is. I saw her firearm come out. She said, "Drop it. Drop it". He was still coming down sort of on an angle. And I heard what I believed to be one discharged round. The POI after the round has hit him, whilst still holding the knife, he had taken maybe three steps backwards and commenced sort of going back, and with the knife and just gone 'bang' one time in his neck and fell back and his arm went to the side whilst still holding the knife. Dad's come from where ever he was standing. I'm assuming in the doorway, knocked me into the wall, run straight to his boy and I couldn't see where he touched, I believe it was around the head of somewhere. The Ambos have pushed dad back. And I could still see the POI holding the knife, and I believe it to be police as I saw the blue pants, someone has removed the knife from his hand and pulled it away. I believe that was either Emily or Sergeant Bissett.¹³⁴

2.94 Wilson said that she and the other police officers then stood back as the ambulance officers treated Adam Salter.¹³⁵

2.95 Wilson elaborated upon a number of matters in her interview.

2.96 In the immediate moments before Adam Salter was shot, Wilson said that Adam Salter had the knife raised over his shoulder and posed an immediate risk to both Bissett and Abela:

Q70. In your answer to question 69 at one point you said the POI was holding the knife. Can you describe to me exactly what you saw?

A70. He was holding the handle of knife in his hand, the blade was facing up. He sort of twitched to the left and then went back to the right.

¹³³ Exhibit 39, p.8 (Q&A 67)

¹³⁴ Exhibit 39, pp. 8-9

¹³⁵ Exhibit 39, p. 9

Q71. In answering that question you moved your arm with your right hand elevated above your right shoulder and when describing the twitching or twisting action of the POI you lowered your hand down behind your right shoulder. Did you believe that was a lunging action from the POI toward another person?

*A71. Yes I was concerned for Sergeant Bissett and Constable Abela. At that time Sergeant Bissett was about 1.5 metres from the POI. Constable Abela was probably only about one metre away. The length of the kitchen bench was only about 3 metres; it was a very small confined place.*¹³⁶

2.97 Wilson also gave the following account in her answers to Q 72-74:

Q72. You said that you heard Sergeant Bissett yell, 'Taser, Taser, Taser'. Did you see Sergeant Bissett with a Taser?

A72. No, her back was to me.

Q73. You said that you saw Sergeant Bissett's firearm come out. Can you describe that for me?

A73. When she yelled 'Taser, Taser, Taser', I placed my hand on my firearm ready to draw my firearm, however due to the confined space she was between my line of sight and the POI. I was not able to draw my firearm and I looked down to my OC Spray Canister, I reached for it then I looked up and I saw Sergeant Bissett drawing her firearm and pointing it at the POI. She yelled, 'Drop it. Drop it'.

Q74. To the best of your recollection, how soon after that command from Sergeant Bissett did you hear the shot fired?

*A74. Five to ten seconds. Probably more like five.*¹³⁷

2.98 After the shooting Wilson commenced a crime scene log. She and Abela stood at the front door and secured the scene. Bissett was on the opposite side of the road and Metcalfe was doing radio transmissions. Wilson said that she remained at the front door and maintained the log for about 20 minutes before she handed over the log to another police officer.¹³⁸

2.99 Wilson said that she then stood on the opposite side of the road. At that point she said that she and the other police officers were told not to speak to each other and were separated. She said that she told Abela to stand across the road and said that Metcalfe walked about ten metres north of her. After about ten minutes the three of them were then taken back together to Campsie police station in the same vehicle.¹³⁹

¹³⁶ Exhibit 39, p. 10 (Q&A 72-74)

¹³⁷ Exhibits 39, p. 11

¹³⁸ Exhibits 39, p. 11

¹³⁹ Exhibits 39, p. 11

Account given by Wilson in her evidence at the inquest

2.100 In her evidence at the inquest Wilson said that she was brought back into the kitchen upon hearing the call for police assistance. She said that she ran into the kitchen behind Bissett. She confirmed her earlier account that she saw Adam Salter move towards the sink and Abela move towards Adam Salter. She also confirmed that she saw two ambulance officers attempt to restrain Adam Salter. She said that one of the ambulance officers was standing in front of Adam Salter *"with his hands, I would say, in sort of a stop/prevent him from moving further type of stance"*. The other *"was standing behind"* Adam Salter and had her hands on him.¹⁴⁰ She also said that when she first saw Adam Salter he was standing on his feet.¹⁴¹

2.101 Wilson gave the following account of what she meant in her interview when she said she saw that Abela *"tried to restrain"* Adam Salter:

Q. When you say, "Constable Abela tried to restrain the POI's L" – meaning left - "shoulder," what did you see that caused you to recall that?

A. I stepped to the left of Sergeant Bissett so I had a clearer view of the sink, and I saw Probationary Constable Abela struggling with the left side, upper left side of probationary - of Mr Salter.

Q. Did you see the knife in the hand or hands of Adam Salter at this point in time?

*A. Yes.*¹⁴²

2.102 And again:

Q. ... Can you tell us again what you saw in terms of the physical contact between officer Abela and Adam Salter?

A. Constable Abela had his hands around the upper shoulder area

Q. What was he doing?

*Trying to hold him would be the best way to describe it.*¹⁴³

2.103 At the point where Abela was struggling with Adam Salter, Wilson said that Adam Salter twisted to his left and then to his right. She said:

*A. ... He's twisted to his left which was in the direction of Probationary Constable Abela. He's then pulled back towards his right, coming in a downward motion on an angle.*¹⁴⁴

¹⁴⁰ Exhibit 40, p. 10 [64]

¹⁴¹ Exhibit 40, p. 43 [97]

¹⁴² Exhibit 40, p. 7 [61]

¹⁴³ Exhibit 40, p. 41 [95]

- 2.104 Wilson said that she did not see Adam Salter stabbing the side of his neck.¹⁴⁵ She also said that she did not see Bissett draw her firearm in the sense that she did not see *“the drawing technique”*.¹⁴⁶ She said that she was standing behind Bissett and saw her in a shooting stance.
- 2.105 Wilson estimated that there was a three to five second pause from when she heard Bissett say *“Taser, Taser”, “Taser”* to when she saw Bissett with her firearm drawn.¹⁴⁷ Later in her evidence she said that she had used the *“incorrect”* words at her interview when she said she had seen *“Bissett drawing her firearm”*.¹⁴⁸
- 2.106 Wilson said that the atmosphere in the kitchen was *“noisy and chaotic”*. As she stood behind Bissett she saw five other people in front of her. However, she did not see Adrian Salter.¹⁴⁹ Before the shot was fired she said that she saw Adrian Salter in the doorway of the front room. At one point she contradicted that evidence and said that she saw him removed from the kitchen by one of the ambulance officers *“just before the shot”* was fired. She then said that she did not see that occur.¹⁵⁰
- 2.107 Wilson was taken to her notebook entry. She said that she had composed the narrative parts of the entry 45 minutes or *“a bit more”* after the incident at Campsie police station.¹⁵¹ Wilson was taken to the diagram she drew in her notebook. She said that the point in time depicted was *“when the shot was fired”*.¹⁵² She was also taken to other parts of her entry and agreed with the following proposition that was put to her:
- Q ... And can you agree with this too that at the time you were taking your notes – or you took your notes, you well appreciated that unless the investigation team concluded that at the time the shot was fired someone within the room, apart from Adam Salter, be it a police officer, ambulance officer or somebody else, was in immediate danger of being killed or seriously injured then Officer Bissett would likely be in very serious trouble?*¹⁵³
- 2.108 Wilson was questioned about her assertion that she heard Bissett say *“Drop it. Drop it”*. She agreed that Bissett had said those words in a *“very loud voice”* and was *“yelling”* them out at much the same voice level as when she said *“Taser, Taser, Taser”*.¹⁵⁴ She also agreed that her understanding of why Bissett said those words *“was to give Adam Salter the opportunity to do the*

¹⁴⁴ Exhibit 40, p. 8 [62]

¹⁴⁵ Exhibit 40, p. 8 [62]

¹⁴⁶ Exhibit 40, p. 10, 12 [64, 66]

¹⁴⁷ Exhibit 40, p. 12 [66]

¹⁴⁸ Exhibit 40, p. 36 [90]

¹⁴⁹ Exhibit 40, p. 16 [70]

¹⁵⁰ Exhibit 40, p. 32 [86]

¹⁵¹ Exhibit 40, p. 31 [85]

¹⁵² Exhibit 40, p. 16 [70]

¹⁵³ Exhibit 40, p. 21 [75]

¹⁵⁴ Exhibit 40, pp. 27, 30 [81, 84]

right thing and drop the knife".¹⁵⁵ In connection with the entry, she agreed with the following proposition that was put to her:

*Q. Surely, Officer, at the time of making those notes, you believed that the Critical Incident Investigation Team might well conclude that Officer Bissett's use of the words, "Drop it. Drop it.", before she shot Adam Salter demonstrated, to some extent, that she was acting responsibly and reasonably.*¹⁵⁶

2.109 Wilson also answered "yes" when asked the following question:

*Q. What you were endeavouring to convey, can I suggest, was that she had allowed reasonable time before she pulled the trigger?*¹⁵⁷

2.110 Wilson denied that the words "*Drop it. Drop it*" were never said.¹⁵⁸ However, she agreed with a suggestion that she may have been mistaken about who said the words.¹⁵⁹

2.111 Wilson said that after the shooting she did not have a conversation with any of the other involved police officers about what had occurred. However, she did tell Abela to "*stand in the carport*" and said that she "*screamed at him and told him put his vest on and his hat on and not to move*". She also recalled asking Metcalfe for "*my radio*" which she had used "*after the incident*".¹⁶⁰

EMILY METCALFE

2.112 Metcalfe gave an account of the circumstances in which Adam Salter was shot in her police interview on the day of the shooting and in her evidence at the inquest. She also made a radio call after Adam Salter was shot in which she gave a partial account of events. It appears that she also commenced a log while still at 33 Wangee Road. The NSWPF was not able to produce a copy of the entries which she made in that log. The copy of the log which was in evidence before the Commission began with entries which were made by the officer who took over the log at 9:47 am on 18 November 2009.¹⁶¹

Account given by Metcalfe in police radio call

2.113 NSWPF radio logs from 18 November 2009 indicate that Metcalfe made a series of calls to police after Adam Salter was shot.

2.114 Metcalfe had arrived at 33 Wangee Road in Campsie police vehicle CA14 and made the following calls about what had happened at about 9:03 to 9:04 am:

¹⁵⁵ Exhibit 40, p. 27 [81]

¹⁵⁶ Exhibit 40, p. 29 [83]

¹⁵⁷ Exhibit 40, p. 40 [94]

¹⁵⁸ Exhibit 40, p. 30 [84]

¹⁵⁹ Exhibit 40, p. 45 [99]

¹⁶⁰ Exhibit 40, p. 33-34 [87-88]

¹⁶¹ Exhibit 112

Radio: ... nine three and twenty seconds ...

CA14: A.S.A.P. Shot just been fired.

Radio: (two beeps) Just info for those other cars. We've had shots fired from Campsie fourteen. Shots fired. Just make your way a.s.a.p Campsie ten thanks. Nine three and forty seconds

Radio: Campsie fourteen, Campsie one four, just your situation whenever you can.

Nine four and zero seconds

Unkn: ... just the location again.

CA14: Radio.

Radio: Campsie fourteen only thanks. Campsie fourteen go.

CA14: Thanks radio. POI's been treated by the ambulance ... Nine four and twenty seconds ... at the moment. We do have ambulance on scene. Self inflicted stab wounds. Radio, he's come for the knife. He's been shot by police. He's on his way out now with ambulance. We just need fourteen ... sorry ten down here asap.

Radio: Okay copy that. I just want to confirm, POI tried to get the knife but was shot by police.

*CA: Got the knife, got the knife radio and was coming at us.*¹⁶²

Account given by Metcalfe in her police interview

- 2.115 Metcalfe said that she and Bissett were sitting in the team leaders' office at Campsie police station when the call to attend 33 Wangee Road came over the police radio. They acknowledged the call at 8:54 am and arrived on the scene at 8:57 am.¹⁶³
- 2.116 When they arrived Metcalfe and Bissett ran to the front of the house and met Wilson who was standing at the front door. Wilson told them that Adam Salter had *"lost a large amount of blood"*. Metcalfe and Bissett then entered the house and saw Abela talking to Adrian Salter in the front room. Metcalfe saw Adam Salter lying on the floor in the kitchen being treated by an ambulance officer.¹⁶⁴ She also saw a *"large pool of blood at the front door of the premises"*, blood smeared on the wall of the hallway, blood droplets leading from the door to where Adam Salter lay, and a large amount of blood where he lay.¹⁶⁵

¹⁶² Exhibit 34, pp. 3-4

¹⁶³ Exhibit 29, p. 4 (Q&A 27-28)

¹⁶⁴ Exhibit 29, p. 4 (Q&A 30)

¹⁶⁵ Exhibit 29, p. 8 (Q&A 59)

2.117 Metcalfe said that Bissett directed that she and Abela “*clear the house*”, which they did. Metcalfe then joined Bissett.¹⁶⁶

2.118 She said that Wilson then came out of the front room and said to Bissett and herself “*Can I talk to you two outside*”. She heard Bissett tell Abela to stay in the kitchen before the three officers went outside. She said that Abela was left standing inside the kitchen doorway.¹⁶⁷

2.119 Metcalfe gave the following account of what happened next:

A30 ... I heard one of the female Ambulance Officers from inside say, 'Can we get a bit of help in here please'? Immediately Sherree, then Leah, then myself ran in the front door. As I walked down towards the hallway I noticed that the POI was no longer laying on the ground, but this time I could not see him. Sherree went and stood in the right hand side, in the door way. Leah walked in the doorway and to her left. I was standing to Sherree's left but behind her. As I was standing behind Sherree to the left I could see that the POI was standing at the kitchen sink. I could see that Aaron had a hold of the POI and I heard Sherree yell, 'Taser, Taser, Taser'. I could not see if Sherree had her Taser out as I was standing behind her. I saw Aaron let go of the POI and take a step backwards. Then I could not see Aaron, he was out of my sight as I was still in the doorway but behind Sherree. I heard a bang. Then I saw the POI fall backwards and as he was falling backwards he had a knife in his right hand which I saw him stab himself into his right neck. The POI landed on the ground, the handle of the knife was protruding from his neck. I went outside with Sherree and I grabbed the radio of Leah's. I called for extra cars. I advised radio that shots had been fired and then I went to check on Sherree's welfare.¹⁶⁸

2.120 Metcalfe said that she could not see Abela at the time of the shooting. However, she said that she knew the dimensions of the kitchen and knew that Abela would have been less than a metre from Adam Salter “*even if he was right up against those cupboards*”, that is, at the right hand corner of the kitchen for someone looking towards the sink. She said:

A40. I could not physically see Aaron because my view was obstructed by Sherree and the wall, but from where the POI was standing to where Aaron was would be less than a metre. Although I could not see Aaron I knew that there were benches and cupboards and it would have been less than a metre even if he was right up against those cupboards. Sherree was probably estimated about no more than two metres from the POI. Leah and I were further than Sherree and the Ambulance Officers were probably two or three metres away from the POI as well.¹⁶⁹

2.121 Metcalfe made a number of radio transmissions for further assistance after the shooting. She then went out the front of the premises to check on Bissett. A short time later Adam Salter was taken from the premises by ambulance. Metcalfe said that she was asked by Bissett to accompany her across the road, which she did. She stayed with Bissett until Hanlon arrived. She said

¹⁶⁶ Exhibit 29, p. 5 (Q&A 30)

¹⁶⁷ Exhibit 29, p. 5 (Q&A

¹⁶⁸ Exhibit 29, p. 5 (Q&A 30)

¹⁶⁹ Exhibit 29, p. 6 (Q&A 40)

that she “*had a brief conversation with him about what happened*” and that arrangements were then made for Bissett to be brought back to Campsie police station. Metcalfe remained with Hanlon and “*commenced a log for him at his request while he briefed other attending police on what had occurred*”. She handed over the log to another police officer at about 9:40 am.¹⁷⁰

- 2.122 In her interview Metcalfe was asked to draw a “*mud map*” to indicate where people had been standing at the time of the shooting.¹⁷¹ The map she drew showed the position of Adam Salter “*on arrival*” and “*at time of shooting*”. Abela was shown as standing in the extreme right hand corner of the kitchen, to the right of Adam Salter as one faced the sink. Metcalfe placed herself at the threshold of the doorway leading into the kitchen. Bissett was placed ahead of her and to her right. Wilson was also placed ahead of Metcalfe and to her left. The ambulance officers were placed as standing further back as a group in the open plan area.

Account given by Metcalfe in her evidence at the inquest

- 2.123 Metcalfe said that she did not prepare a notebook entry of the events of 18 November 2009 as it was a “*highly traumatic and emotional experience*”. She also said that she knew that she would be making a statement later in the day and did not think it was necessary to make contemporaneous notes as well.¹⁷²
- 2.124 Metcalfe was asked to mark a plan showing the position of Abela at the point of time she left the kitchen and went outside with Bissett and Wilson. In that plan she positioned Abela beyond the doorway leading into the kitchen, that is, in the kitchen.¹⁷³ She said that she could see him standing in that position as she looked up the hall from the front veranda.¹⁷⁴
- 2.125 Whilst standing outside Metcalfe heard a loud yell for police assistance. Bissett, Wilson and then she herself re-entered the house and proceeded down the hallway in that order.¹⁷⁵
- 2.126 Metcalfe could not see if Bissett had her firearm drawn by the time Bissett entered the kitchen. Nor did she see Bissett draw her firearm or see her firearm drawn at any other point. She was standing behind Bissett and was looking at Abela and Adam Salter and was not looking at Bissett.¹⁷⁶
- 2.127 By the time Metcalfe got to the kitchen doorway she was standing behind and to the left of Bissett. She had an “*uninterrupted*” view of Abela at that time and could see that he was at the sink and that he “*had a hold of Adam Salter by the upper torso*”. She also saw Adam Salter with his arm held up, but could not see what was in his hand. She then heard Bissett call “*Taser, Taser,*

¹⁷⁰ Exhibit 29, p. 7 (Q&A 43)

¹⁷¹ Exhibit 29, p. 6 (Q&A 41)

¹⁷² Exhibit 30, p. 3 [105]

¹⁷³ Exhibit 32

¹⁷⁴ Exhibit 30, p. 7 [109]

¹⁷⁵ Exhibit 30, p. 8 [110]

¹⁷⁶ Exhibit 30, pp. 8-9 [110-111], 13 [115]

Taser".¹⁷⁷ She did not hear Bissett say or call anything else.¹⁷⁸ Within a couple of seconds of hearing the words "*Taser, Taser, Taser*", she heard the discharge of the firearm.¹⁷⁹

- 2.128 In describing the physical contact she saw between Abela and Adam Salter, she said that she saw Abela holding on to Adam Salter "*with two hands ... holding him by the back*". She was certain that they were in actual physical contact.¹⁸⁰ It appeared to her that Abela was attempting to pull Adam Salter backwards.¹⁸¹
- 2.129 At the moment Metcalfe heard Bissett call out "*Taser, Taser, Taser*", she said that she saw Abela "*step backwards and to the right*".¹⁸² Explaining that movement, she said that she saw Abela move across the line of fire, from his position to the left of Adam Salter at the sink to the right hand corner of the kitchen on the right hand side of Adam Salter.¹⁸³ In her evidence Metcalfe agreed that the movement she described meant Abela had jumped across in front of the gun. She agreed that that did not "*make a great deal of sense*".¹⁸⁴
- 2.130 Metcalfe did not see anything in Adam Salter's hand before she heard Bissett call out "*Taser, Taser, Taser*". Nor did she see the knife or any actions with his hands that may have indicated that he was stabbing himself.¹⁸⁵ She saw him stab himself in the neck after he was shot.¹⁸⁶
- 2.131 Metcalfe also said she did not see Adrian Salter in the kitchen when the shot was fired. She said that he came in from "*somewhere behind*" her when Adam Salter "*fell to the ground*" after the shot.¹⁸⁷
- 2.132 Metcalfe indicated that the "*mud map*" she drew at her interview had depicted the position of persons "*when the shot was fired*". She indicated with reference to the position of Abela that he was standing at the right hand corner of the kitchen. She herself was at the doorway. She said that she could not in fact see Abela as he was "*out of my sight*". She explained that she had placed him in that position as it represented the furthest position at which he would have been when the shot was fired.¹⁸⁸ She also said that Abela was not anywhere near the centre of the room when the shot was fired.¹⁸⁹

¹⁷⁷ Exhibit 30, pp. 10-11 [112-113]

¹⁷⁸ Exhibit 30, p. 13 [115]

¹⁷⁹ Exhibit 30, p. 13 [115]

¹⁸⁰ Exhibit 30, p. 12 [114]

¹⁸¹ Exhibit 30, p. 42 [15]

¹⁸² Exhibit 30, p. 42 [15]

¹⁸³ Exhibit 30, p. 44 [17], Exhibit 31

¹⁸⁴ Exhibit 30, p. 44 [17]

¹⁸⁵ Exhibit 30, p. 14 [116]

¹⁸⁶ Exhibit 30, p. 14 [116]

¹⁸⁷ Exhibit 30, p. 45[18]

¹⁸⁸ Exhibit 30, pp. 15-16 [117-118]

¹⁸⁹ Exhibit 30, p. 16 [118]

- 2.133 Metcalfe said that she left the kitchen a few seconds after the shot was fired and moved into the hallway. At that point, she said that Bissett was behind her.¹⁹⁰
- 2.134 Metcalfe then went outside and talked to Bissett. She said that she asked Bissett if she was okay and that Bissett replied that she was fine. Metcalfe said that she did not ask Bissett why she had called out “*Taser, Taser, Taser*” and discharged her firearm. She said that she only ever asked Bissett if she was okay.¹⁹¹
- 2.135 Metcalfe said that after she came outside, she walked across the road with Bissett. She could not remember if Wilson joined her across the road or if Wilson joined her on the front veranda when she first left the premises.¹⁹²
- 2.136 Metcalfe said she remained with Bissett until Hanlon arrived and arrangements were made for Bissett to be taken from the scene. She said that once those arrangements were made she was instructed by Hanlon to accompany him to the house, and that she took notes for him in his notebook. She said that the notes she took concerned “*who he rang, who he contacted, who he spoke to, his arrangements in getting other police to the scene*”.¹⁹³ Metcalfe also said that when Hanlon arrived, she told him what she had observed.¹⁹⁴
- 2.137 Metcalfe was asked about the radio calls she made on 18 November 2009, including the calls where she said “*he’s come for the knife*” and “*got the knife, got the knife ... and was coming at us*”. She said that she could not remember “*saying any of that*”. With reference to the words “*he’s come for the knife*”, she said that she got that information from what she saw, but later agreed that it was an assumption. With reference to the words “*got the knife, got the knife ... and was coming at us*”, she said that she could not remember getting that information from anyone. She provided the following explanation for why she might have said the words: “*So my only explanation is the emotional state that I was in at the time due to the traumatic incident that I’ve just witnessed.*” Metcalfe also said that she had never said anything similar in any of her other accounts.¹⁹⁵

PRIOR ACCOUNTS GIVEN BY THE CIVILIAN WITNESSES

ADRIAN SALTER

- 2.138 Adrian Salter gave an account to Senior Constable Stiven Atanasovski (“Atanasovski”) outside the front of 33 Wangee Road shortly after the incident. On the same day he gave an account in a police interview and on the next day in a recorded *walkthrough* interview. He also gave an account in his evidence at the inquest.

¹⁹⁰ Exhibit 30, pp. 16-17 [118-119]

¹⁹¹ Exhibit 30, pp. 18-19 [120-121]

¹⁹² Exhibit 30, p. 19 [121], 31 [4]

¹⁹³ Exhibit 30, p. 32 [5]

¹⁹⁴ Exhibit 30, p. 32 [5]

¹⁹⁵ Exhibit 30, pp.20-23 [122-125]

Account given by Adrian Salter to Stiven Atanasovski

- 2.139 The notebook in which Atanasovski made notes of Adrian Salter's account was thought to have been destroyed.¹⁹⁶ During the Commission's public hearings a copy was produced to the Commission through Atanasovski's legal representative.
- 2.140 The notes indicated that Atanasovski arrived at 33 Wangee Road at 9:15 am. They recorded that he spoke with Adrian Salter at the front of the premises and that Adrian Salter provided information about the domestic and psychiatric history of Adam Salter and described the events which had occurred before any ambulance officers or police officers arrived at the house. Atanasovski recorded Adrian Salter saying that he was able to keep his son calm while the ambulance officers were treating him.
- 2.141 The notes recorded the following account from Adrian Salter of what happened after police arrived:

A short time later police arrive. Father goes into front room. Father states he saw the POI suddenly jump up and run to the sink where the knife was. The POI grabbed the knife and started to stab himself to the neck area. The father heard someone yell out "Taser" and then heard a loud bang. Father saw POI fall to the ground and continue to try and stab himself in the neck.¹⁹⁷

Account given by Adrian Salter in his police interview

- 2.142 Adrian Salter gave a detailed account in his police interview of what happened from the time he got up on the morning of 18 November 2009. He said that he was making breakfast when Adam Salter came downstairs and spoke with him. He noticed that he was speaking very slowly. They had a short discussion before his son went back upstairs. When he came back downstairs his son seemed "dazed". That was at about 8:30 am.¹⁹⁸
- 2.143 Adrian Salter then went to make arrangements for his son to see a specialist. He went into his home office to use the phone and "heard a funny sort of a cough, sort of a gargle, gurgling cough from the kitchen". He went to investigate and saw his son bent forward and saw blood down his front and a "heavy kitchen knife" knife with a "very sharp point and a very sharp blade" in his hand. After struggling with his son he managed to retrieve the knife, which he threw into the sink, and sat his son down on the floor of the kitchen. He then dialled 000 and was instructed to place pressure on the wound, which he did with a pad, and to wait for the ambulance to arrive.¹⁹⁹
- 2.144 Before anyone arrived at 33 Wangee Road, Adrian Salter briefly left his son to go and open the front door. When he returned to the kitchen he saw Adam

¹⁹⁶ Exhibits 108, 109

¹⁹⁷ Exhibit 111

¹⁹⁸ Exhibit 4, pp. 6-9 (Q&A 54)

¹⁹⁹ Exhibit 4, pp. 6-9 (Q&A 54)

Salter standing up and moving towards the sink. Adrian Salter said that it took him a little while to get his son back down but that he eventually did.²⁰⁰

- 2.145 Adrian Salter said that after the ambulance arrived the ambulance officers cut away Adam Salter's shirt and began their treatment. Adrian Salter said that one of the ambulance officers looked at the knife in the sink and he thought the ambulance officer may have held it up and said, "*It's a wide blade*", but was not sure if the ambulance officer had in fact picked it up.²⁰¹
- 2.146 The police arrived about a minute later and a male officer told Adrian Salter to get out of the kitchen and stay in the office at the front of the house.²⁰² Adrian Salter said that he stood in the doorway to the office and watched. He then gave the following account of what happened next:

64A ... I was watching from, I, I wanted to, I didn't want to just go in the room but I was watching from the doorway of the, the office there but they wouldn't let me out. And um, Adam was on his back where he had oxygen on and the ambos were next to him doing something. Um, he suddenly jumped up, sprang up um, or, or tried. Well, he sort of was quite quick, he sat up and, and was standing up. Um, and I knew straightaway he was going to head for the sink. Well, I'm sure I don't know if it was straight, but 'cause the knife had been thrown there.

...

*65A. Um, and I rushed out and I grabbed him and said, "No, Adam, no, don't um, don't do this, it's hurting me, don't. And then he, but I mean, he, he sort of pushed me aside and rushed over to the sink and grabbed the knife and started stabbing himself with it again. And he's stabbing himself and I heard someone say, "Taser", um, and then I heard a bang and maybe there was a flash, I don't know, and then he was down, he was down on the ground on his back um, but he still had the knife in his throat and I grabbed, I've pulled the handle of the knife away from his throat and then people were everywhere, pushing me away and um, I'm not really sure what happened after that."*²⁰³

- 2.147 Immediately after the shooting the police took Adrian Salter outside the house and would not let him back into the premises. Soon after he spoke to police. He thought that "*three or four statements*" might have been taken from him by police. He was then taken to Bankstown hospital by ambulance.²⁰⁴
- 2.148 Adrian Salter provided further details about the events that had happened.

²⁰⁰ Exhibit 4, pp. 10-11 (Q&A 63-64)

²⁰¹ Exhibit 4, pp. 11, 54 (Q&A 64, 424-426)

²⁰² Exhibit 4, pp. 12, 54, 57 (Q&A 66, 427, 457)

²⁰³ Exhibit 4, p. 11 (Q&A 64-65)

²⁰⁴ Exhibit 4, p. 13 (Q&A 67)

2.149 While Adam Salter was being treated by the ambulance officers before he was shot, he was lying on his back and was oriented with his feet towards the kitchen sink.²⁰⁵

2.150 As Adrian Salter stood at the doorway to the office he had a “reasonably clear” view of his son. He could clearly see his torso but said that he could not be certain if he could see his legs. He could also see two ambulance officers near his head.²⁰⁶

2.151 When his son “jumped up” Adrian Salter ran out from the office and put his “arms around him”.²⁰⁷ He said that his son pushed him aside. He said that he fell and thought that he might have “tripped”. He got up and heard someone yell “Taser” and then heard a bang. He also saw his son grab the knife.²⁰⁸ Adrian Salter could not say “which of these events came first”. He said:

*474A. ... I've got no idea, but I, do know that I heard someone say “Taser”, before I heard the bang. Whether Adam had grabbed the knife before that, I don't know, but the next thing I saw was Adam going over backwards, stabbing at his throat with the knife.*²⁰⁹

2.152 Adrian Salter said that Adam Salter had the knife in his right hand. Adrian Salter knew that Adam Salter had stabbed himself as he “saw a wound” on the right side of Adam Salter’s neck. He also saw Adam Salter “stabbing at the left side” and stabbing himself before and after he fell.²¹⁰ He said:

483A. ... He was standing up there stabbing and then maybe he stabbed himself on one side when he was standing up and the there were, then bang and he fell to the floor and I thought, I thought good, he's been Tasered, he'll, you know, he, he, he, at least he'll stop, but then he kept stabbing, he, he stabbed the other side of his throat and I pulled his arm away. But why was it me? Why weren't the trained people doing something?

...

*A484. You know, why was it me who was trying, trying to stop my own son when the room's full of people who are trained? That's just, oh, that's, that, that um, it's starting to get to me. I'm not going to go to the media or anything but it just, that's what absolutely I can't get over.*²¹¹

2.153 Adrian Salter did not see what Adam Salter did with the knife for the entire time after he retrieved the knife from the sink. He said that there was a period after he was pushed away when he “lost sight of him”.²¹² He later clarified that statement, explaining that he did not “see all of him” in the sense that he had

²⁰⁵ Exhibit 4, p. 55 (Q&A 432)

²⁰⁶ Exhibit 4, p. 56 (Q&A 442-444)

²⁰⁷ Exhibit 4, p. 58 (Q&A 467-472)

²⁰⁸ Exhibit 4, p. 59 (Q&A 468-474)

²⁰⁹ Exhibit 4, p. 59 (Q&A 474)

²¹⁰ Exhibit 4, pp. 59-60 (Q&A 480-483)

²¹¹ Exhibit 4, p. 60 (Q&A 483-484)

²¹² Exhibit 4, p. 63 (Q&A 513-514)

not seen *“the whole of him”* and *“didn’t see ... both his hands”* when he picked up the knife. However, he *“saw his legs”* and *“his body”* and *“his movements”* at the sink.²¹³

- 2.154 As those events were unfolding Adrian Salter said that he did not see Adam Salter *“lunge towards any other person in the room”*. He also said that he *“was the closest person”* to Adam Salter and that he *“was the only person that was sort of within touching distance of him”*.²¹⁴ He also gave the following evidence about what police were doing:

531Q. O.K. What about the police, did you see where they were or what they were doing when Adam retrieved the knife?

531A. Well, they seemed to be in the same spot. ... in fact I'm quite sure, because I ran in front of them to grab Adam. ... they didn't seem to do anything ... except shoot him.²¹⁵

- 2.155 When Adam Salter was at the sink, Adrian Salter also said that police were standing *“a bit more than [an] arm’s length”* from his son.²¹⁶

Account given by Adrian Salter in his *walkthrough* interview

- 2.156 In his recorded *walkthrough* interview Adrian Salter indicated a male police officer was standing on the right next to the refrigerator when Adam Salter was first being treated.²¹⁷ He said that there always seemed to be a police officer standing in that location.²¹⁸
- 2.157 Adrian Salter also gave a further account of what he could see from the doorway to the front office.
- 2.158 After he was told to go into the front office he said that he wanted to see what was happening and was told *“a couple of times to get back in the room”*. He said that he *“had to lean around”* to see Adam Salter.²¹⁹ As he was watching he said that his view was obstructed by police but that he saw his son *“try and get up”*. He saw two ambulance officers, one on either side of Adam Salter’s shoulders, and said that they tried to stop him from getting up.²²⁰
- 2.159 After he *“fell over backwards”*, Adrian Salter started to get up. He *“might have been ... halfway up”* and, at that point, could see *“legs and people”* and *“heard the word Taser”*. He heard *“the bang”* about the time when he stood up.²²¹ He could see Adam Salter’s back before he heard the word *“Taser”*.²²² After the

²¹³ Exhibit 4, pp. 69-70 (Q&A 570-574)

²¹⁴ Exhibit 4, p. 63 (Q&A 516-518)

²¹⁵ Exhibit 4, p. 64-65 (Q&A 531-533)

²¹⁶ Exhibit 4, p. 68 (Q&A 561-562)

²¹⁷ Exhibit 5, Exhibit 6, p. 11

²¹⁸ Exhibit 5, Exhibit 6, p. 13, 15

²¹⁹ Exhibit 5, Exhibit 6, p. 12

²²⁰ Exhibit 5, Exhibit 6, p. 13

²²¹ Exhibit 5, Exhibit 6, p. 18

²²² Exhibit 5, Exhibit 6, pp. 14-15

bang he saw Adam Salter “go over backwards” and “saw he had a knife in his hand and he’d jabbed it in his throat”.²²³ He said Adam Salter “ended up in a similar position to where he was before”, on his back with his feet pointed towards the kitchen sink.²²⁴ As those events were unfolding Adrian Salter said “things are moving and Adam’s moving, everyone’s moving”.²²⁵

Amendments to the account given by Adrian Salter in his *walkthrough* interview

2.160 On 20 November 2009 Adrian Salter attended Glebe mortuary for the purpose of identifying his son’s body. At that time he told police that he wished to make amendments to his *walkthrough* interview, which were recorded as follows by police:

- (1) *He believes that when he saw Adam at the [sic] (after being treated by ambulance and just prior to being shot by police) he was more “hunched over” and “bent forwards” than the more upright position that he had previously described*
- (2) *He didn’t see the knife at this time as he had previously described.*
- (3) *He didn’t see Adam committing self harm with the knife at this time as previously described.*
- (4) *He heard a bang and saw Adam fall over, that is when he saw the knife and believes that is when he saw Adam “jabbing his neck with the knife” as he was falling.*
- (5) *Mr Salter also stated, “I would like to say that Adam was not waving the knife around, he was not displaying any aggression”.²²⁶*

Account given by Adrian Salter in his evidence at the inquest

2.161 In his evidence at the inquest Adrian Salter repeated the earlier accounts he had given that he was watching events unfold from the doorway to the office. He said that “most of Adam was in my sight” and he could “see his legs and chest”.²²⁷

2.162 As he had said in his earlier account, Adrian Salter rushed into the kitchen as Adam Salter got to his feet. He knew he was heading for the sink and he thought “he was going to try to hurt himself again”.²²⁸

2.163 Adrian Salter heard the word “Taser” as he was halfway “getting up from the ground”. At that stage, he saw a police officer standing in the right hand corner of the kitchen.²²⁹ He could see Adam Salter and saw that he was stabbing

²²³ Exhibit 5, Exhibit 6, pp. 14-15

²²⁴ Exhibit 5, Exhibit 6, p. 16

²²⁵ Exhibit 5, Exhibit 6, p. 14

²²⁶ Exhibit 7

²²⁷ Exhibit 8, 6 [48]

²²⁸ Exhibit 8, 6 [48]

²²⁹ Exhibit 8, 9 [51],

himself when he heard both the word “Taser” and the loud bang of the discharge.²³⁰ The period of time when he lost sight of Adam Salter was “very short”; he said it “*would have been before he got to the sink, but he was on his way to the sink*”.²³¹

- 2.164 In the seconds or moments before he heard the word “Taser” and up until the time he heard the bang, Adrian Salter did not think that there was any physical contact between Adam Salter and anyone else in the kitchen.²³² He then gave the following evidence as to whether Adam Salter was being held:

Q. You were asked, you were asked, do you recall that he was being held. Are you able to tell me whether he was being held or is it that you're not sure?

*A. I, I don't think he was being held, I'm, I'm sure he wasn't, because I, one of my, a source of as, surprise to me, was why he wasn't being held and why nobody was trying, why I had time to come in from another room down a little passage to where Adam was and hold him and it seemed to me that no-one was doing anything, it seemed to me that there was a room full of trained people that were not trying to stop him and it was me that came out and held him and it was me that held his wrist as he fell over and I thought at the time why is nobody doing anything.*²³³

- 2.165 Referring to his actions after Adam Salter was shot, Adrian Salter said that he did not take the knife out of his son's hand but “*pulled his hand away*”. Adam Salter had the knife “*in his own throat ... It was actually stuck in his throat and I pulled it out.*”²³⁴
- 2.166 Adrian Salter said that his son did not move towards anyone with the knife or “*bring out*” or “*swing*” his right arm or “*wave the knife out from his body at any time*”.²³⁵ He also said that in the processes of him getting up and going to the sink, he was “*flailing ... he certainly wasn't punching anyone*”.²³⁶ He also said that “*he wasn't grabbing people*” or “*lunging*” or “*punching*”.²³⁷ The only things he was grabbing at were the medical tubes that were attached to his body.²³⁸ Taken to his previous use of the word “*violent*” in describing the actions of his son, he said: “*It probably has different connotations to everyone, but when I use that word, I – I meant suddenly and rapidly and ... unexpectedly*”.²³⁹
- 2.167 He also said that the male police officer he saw in the right hand corner near the refrigerator “*wasn't doing much*”.²⁴⁰ In the course of examination by counsel for the police, he later gave the following detailed account of what he saw that officer do, as events unfolded:

²³⁰ Exhibit 8, 9 [51],

²³¹ Exhibit 8, p. 73 [31]

²³² Exhibit 8, 10 [52],

²³³ Exhibit 8, p. 10 [52]

²³⁴ Exhibit 8, pp. 79-80 [37-38]

²³⁵ Exhibit 8, p. 11, 69 [53, 27]

²³⁶ Exhibit 8, p. 55 [13]

²³⁷ Exhibit 8, p. 82 [40]

²³⁸ Exhibit 8, p. 82 [40]

²³⁹ Exhibit 8, p. 63-64 [21-22]

²⁴⁰ Exhibit 8, p. 10, 24 [52, 66]

Q. Where was that male police officer?

A. In front of the fridge.

...

Q. Right. This is at a point of course before Adam makes it to the sink, true?

A. Yes.

Q. He's on his way there?

...

Q. Does that officer move as it were across the kitchen so that he's moving to the side of Adam, could that have occurred?

A. Not, I would say no, because this was the whole point that I was saying well why didn't somebody do that, because what I, if someone had moved across in front of the sink, they would have been able to block Adam, to stop him.

Q. Okay, what I'm suggesting is--?

A. And it didn't happen.

Q. Okay. Not suggesting that they've gone across in front of Adam towards the sink and as he's made his way there, they've moved towards Adam's right and then as it were, moved across, still across the room, from-his right to left. Now could that have occurred?

A. No.

Q. No. Okay, that's all right. What I suggest happened was this, that that male police officer took hold of Adam in one way or another and I think with that you disagree?

A. Yes, I disagree.

Q. Yes. Are you prepared to concede that from your position on the ground, that the police officer, that's the male police officer may have had hold of Adam but because of your position, was not observed by you?

A. If that happened it was, it was so brief that I, because - no, I don't remember that happening. That's all I can say.

Q. That's okay. Your answer has two parts to it. One is no, that is you don't agree with the proposition I put and the other part was "I don't remember". Are you saying "No it did not happen" or "I do not recall that occurring"?

A. I don't, I don't recall that occurring.

Q. Okay?

A. I don't believe it happened.

Q. From that answer do I take it you leave open the possibility that that may have occurred and because of what was taking place within the room at that time, that went unobserved by you?

A. I have to say that would be pretty difficult.

...

A. Difficult, would be difficult for it to have happened unobserved by me.²⁴¹

- 2.168 At the moment Adrian Salter heard the shot fired he did not see a police officer in the vicinity of Adam Salter.²⁴² He said when he heard the word "Taser" and then the shot, his concentration was directed at the back of Adam Salter. He did not see the male police officer near Adam Salter and said he "wasn't there". He gave the following evidence:

Q. When you hear those words and then the shot, your concentration or your sight is directed at the back of Adam, yes?

A. Yes.

Q. You don't see the police officer, the male police officer?

A. Not near Adam, no.

Q. Right?

A. Not - no.

Q. At about the time, see what I'm suggesting is this, could this have occurred, at the time those words are uttered, "Taser, Taser, Taser" the male police officer moves quite suddenly away from Adam. Now you didn't see anything like that, did you?

A. Well I, I can't say but he wasn't there.

Q. He wasn't--?

A. I can't say whether he moved away, but he wasn't there.²⁴³

- 2.169 Adrian Salter also disputed the accounts given by each of the police witnesses. He disagreed with Metcalfe's version that she "could see that

²⁴¹ Exhibit 8, pp. 32-33 [74-75]

²⁴² Exhibit 8, pp. 26-27 [68-69]

²⁴³ Exhibit 8, p. 47-48 [5-6]

Aaron had a hold of the POI".²⁴⁴ He also disagreed with Wilson's version that "Aaron tried to hold" Adam Salter's left shoulder and "let go of his shoulder and stepped back".²⁴⁵

2.170 In respect of the *walkthrough* interviews of Bissett and Abela he also gave the following evidence:

Q. Was there anything arising from your viewing of those that you wish to raise at this time?

A. Well, I would like to say that those versions were not correct.

Q. In their totality as it were, as far as the--

A. In the events immediately surrounding the time Adam was shot.

Q. Can you be any more particular as to say Constable Abela's version, what you say was wrong, or incorrect in his version?

A. Well, Constable Abela was standing in front of the fridge and stayed there. But Adam got up and I came out, and all that, and Adam went to the sink and got the knife. There was no waving of a knife, I would have seen that. There was no grappling with Adam.

Q. Because you would have seen that, had it occurred?

A. I would have seen that. And I heard the words, "Taser, Taser, Taser" and a shot, and Adam fell down.

Q. So at all material times, having now viewed the walkthrough of Constable Abela, you affirm your position in that Constable Abela did not move from his position somewhere near the fridge?

A. That's right.

Q. Might you be wrong about that, that in fact, he moved from the fridge and wound up on the left hand side of Adam?

A. I doubt it.

...

*A. I guess you could say that when we were here yesterday, there were eagles flying around in the ceiling, but I didn't see them.*²⁴⁶

2.171 In disputing the account given by Abela, he also gave the following evidence about the presence of blood on Adam Salter's left arm:

²⁴⁴ Exhibit 8, p. 47 [7]

²⁴⁵ Exhibit 8, p. 47-48 [7-8]

²⁴⁶ Exhibit 8, p. 47

Q. During the course of that interview, he [Abela] made a suggestion that he had difficulty holding onto Adam's left arm because it was covered in blood.

A. Yes.

Q. Is that consistent with your recollection of Adam's condition at that point in time?

A. No.

Q. When you say no, would you mind--

A. Well, when I held Adam's wrist, I didn't have difficulty holding it to pull the knife away. I don't recollect it being slippery with blood or anything like that.

...

Q. On the left arm?

A. Well on - on - there may have been some blood, but there's not - not blood like to the extent that would be slippery.²⁴⁷

- 2.172 Adrian Salter was taken to the accounts given by the ambulance officers.
- 2.173 In respect of the version given by Lutz he said that he did not agree with her placement of the male officer "*near where the patient was*".²⁴⁸ He thought that the diagram made by Coolahan showing the position of persons in the kitchen was substantially accurate in terms of his own recollection. He said he would put his own position "*more to the right*" and would put Adam Salter's position "*more to the left*", but otherwise it was "*reasonably close*".²⁴⁹
- 2.174 Adrian Salter was asked about the amendments he made to his *walkthrough* interview.
- 2.175 In respect to item 2 of the amendments he said that what he was meaning to convey was that he could not see the knife because he could only see his son's back. He said he could see that Adam Salter was "*doing something*" with the knife.²⁵⁰ Later, he said that the movement he saw was "*as if*" Adam Salter was "*using the knife on himself*".²⁵¹
- 2.176 In respect to item 4, he confirmed that the first time he actually saw Adam Salter stab himself was after he had been shot. He said that he could not be

²⁴⁷ Exhibit 8, p. 59 [17]

²⁴⁸ Exhibit 8, p. 51 [9]

²⁴⁹ Exhibit 8, p. 67 [25]

²⁵⁰ Exhibit 8, p. 13 [55]

²⁵¹ Exhibit 8, p. 69 [27]

sure if he saw him stab himself before that time.²⁵² He said that he saw Adam Salter stab himself “while he was falling”.²⁵³

MEAGAN COOLAHAN

- 2.177 Coolahan gave an account of the circumstances in which Adam Salter was shot in her police interview on 18 November 2009 and in her evidence at the inquest. She also prepared a patient health care record shortly after the shooting in which she also recorded an account of what occurred.

Account recorded by Coolahan in *Patient Health Care Record J925572*

- 2.178 Coolahan prepared Patient Health Care Record J925572.

- 2.179 The document included a narrative of events. It recorded that on Coolahan’s arrival at 33 Wangee Road, police were on the scene. The patient, Adam Salter, had self-inflicted stab wounds to the left anterior chest and was pale and “diaphoretic”. He was on the floor in a supine position and had “greater than 100 mls of blood loss”. It then recorded the following account of events:

*Pt [Patient] suddenly became aggressive +++, jumped up pushing father to floor and lunging at kitchen sink where police left knife, grabbed knife and started stabbing himself in the neck. Police requested to come back into the room urgently, with one police officer yelling, ‘Taser. Taser. Taser’, but shooting patient in the back at close range. Patient dropped to the ground, went into cardiac arrest.*²⁵⁴

- 2.180 In her police interview, Coolahan explained the contents of the record. She explained that “diaphoretic” meant sweaty.²⁵⁵ She said, in reference to “greater than 100 mls of blood loss”, that there was a large amount of blood at the front door and through the kitchen.²⁵⁶ In reference to “pushing father to the floor and lunging at kitchen sink”, she said she meant that Adam Salter “didn’t walk over, he was fighting everyone and ... lunging forward to get to that sink. Like, I’m going to get there no matter what”.²⁵⁷

- 2.181 In her evidence at the inquest, Coolahan said that she composed the record in the ambulance bay at Canterbury hospital approximately “an hour after the job” and that she did not discuss the matter with anyone before she put pen to paper.²⁵⁸

²⁵² Exhibit 8, p. 29 [71]

²⁵³ Exhibit 8, p. 76 [34]

²⁵⁴ Exhibit 15

²⁵⁵ Exhibit 11, p. 26

²⁵⁶ Exhibit 11, 26

²⁵⁷ Exhibit 11, 28

²⁵⁸ Exhibit 13, p. 6 [8]

Account given by Coolahan in her police interview

- 2.182 When Coolahan arrived at 33 Wangee Road she went into the house and walked past four police officers at the front door. She entered the kitchen and saw Adam Salter on the floor. She observed his chest wound had already been dressed. She gave the following account of what happened next:

*31A. ...I turned around to open the drug kit. Um, and the patient who was hooked up to the cardiac monitors, oxygen, everything on him ah, jumped up um, very very aggressive, went straight to the sink where the knife was. Um grabbed the knife again. Ah, when he's grabbed the knife I've back-tracked in that room about five or six steps straight away. Um, he's then started stabbing himself several times in the neck. Ah, there was only one police officer in the room at that stage. Um, he and I believe responded slowly. He was trying to put his gloves on rather than apprehend the patient. Um, I have yelled for the police outside to, "Come in, come in", with a few more expletives than that. Um, ah, and then the police have raced in. I've seen the female officer, ah, with a weapon drawn, yelling, "Taser, Taser, Taser." Um, I've seen the other male police officer jump out of the way of the patient and then a loud bang and I saw the smoke. And I actually, at that stage, thought it was a gun and I had ducked for cover at that stage. Um, then we got up. Um, the patient basically went into cardiac arrest.*²⁵⁹

- 2.183 In her interview Coolahan was asked to draw a diagram of the kitchen and, with reference to that diagram, provide an account of what had happened.²⁶⁰
- 2.184 With reference to the diagram she had drawn she said when she first entered the kitchen she saw a male police officer standing near the kitchen doorway. She said he was "moving around" but "he was about here at the time", that is, near the kitchen doorway. She recalled that Adrian Salter was also in the kitchen at the time but could not remember exactly where he was in the room. There were about four police officers at the front door, including two females and one male. She could not recall the sex of the fourth officer.²⁶¹
- 2.185 She walked straight over to Adam Salter and was given a handover by Johnstone, who she said also picked up the knife out of the sink and showed it to her and put it back in the sink.²⁶²
- 2.186 Coolahan was "centimetres" away from Adam Salter when he "jumped up". At that point Adrian Salter "raced over from wherever he was in the room" and "tried to restrain" his son, but tripped over the monitor leads and landed on the floor.²⁶³
- 2.187 As Adam Salter jumped up, he was "wrestling with everyone trying to hold him down".²⁶⁴ He "shoved everybody off and was swinging punches".²⁶⁵ Apart from

²⁵⁹ Exhibit 11, p. 5 (Q&A 31)

²⁶⁰ Exhibit 11, p. 5 (Q&A 32)

²⁶¹ Exhibit 11, p. 8 (Q&A 61-71)

²⁶² Exhibit 11, pp. 29-30 (Q&A 306-315)

²⁶³ Exhibit 11, pp. 9-10 (Q&A 79-85)

²⁶⁴ Exhibit 11, p. 9 (Q&A 84)

²⁶⁵ Exhibit 11, p. 15 (Q&A 153)

coming into contact with Adrian Salter, he also came into contact with Johnstone, who *“tried”* to restrain him. Coolahan herself did not try and grab him and *“nobody else was involved at that stage”*.²⁶⁶

2.188 At one point in her interview Coolahan said: *“And the father I should have added has got up off the floor also and tried to restrain his son again and Cheri has also dragged the father out of the room at that point”*.²⁶⁷

2.189 Coolahan did not recall the male police officer who was in the room say or do anything. She said: *“I was yelling at the police officer to do something, to get the knife”*.²⁶⁸ At that stage she was aware that the other police officers were outside. She *“yelled for someone to come in and help”*.²⁶⁹

2.190 Coolahan was asked whether Adam Salter had said anything and she replied:

*113A. No. He’s only tried, he’s tried to punch off everyone who’s trying to restrain him and just a yell. He never said anything or did anything it was just like arr and went for the sink and you know, as I said, pushed the father over. The father tripped over our monitor leads, ended up on the floor. Um, this police officer here is then putting his black, trying to put his black gloves on to restrain the patient at the sink but he’s already got the knife. At that stage I took maybe four or five steps from where the patient was there when he’s grabbed the knife. And I was standing here, I’ve yelled um, for the police to get in here um, and help us out. They’ve come running through the door. Um, I’ve seen a female officer with dark hair sort of like in the corner here and the patient’s here.*²⁷⁰

2.191 Coolahan noticed Bissett as she rushed into the kitchen and saw *“she had the weapon drawn”*.²⁷¹ At different points in her interview, she also said she saw Bissett draw the weapon²⁷² and saw her *“come in with arms out”*.²⁷³

2.192 Coolahan then heard Bissett call *“Taser, Taser, Taser”*. At that moment, she saw Adam Salter turn his back to police.

2.193 Adam Salter was stabbing himself in the neck and was *“almost facing the police”* before the words *“Taser, Taser, Taser”* were called.²⁷⁴ Coolahan said he was facing the wall near the entry to the kitchen when police came in. She said that he turned his back in an *“anticlockwise”* movement and was facing *“towards the sink”*, after the words *“Taser, Taser, Taser”* were called.²⁷⁵

2.194 As she heard the words *“Taser, Taser, Taser”*, Coolahan saw the officer standing near the doorway jump out of the way. She said that he *“moved out*

²⁶⁶ Exhibit 11, p. 15 (Q&A 151-154)

²⁶⁷ Exhibit 11, p. 16 (Q&A 158)

²⁶⁸ Exhibit 11, p. 17 (Q&A 174)

²⁶⁹ Exhibit 11, p. 17 (Q&A 176)

²⁷⁰ Exhibit 11, p. 12 (Q&A 113)

²⁷¹ Exhibit 11, p.12 (Q&A 116)

²⁷² Exhibit 11, p. 13 (Q&A 121)

²⁷³ Exhibit 11, p. 45 (Q&A 482)

²⁷⁴ Exhibit 11, pp. 13-14 (Q&A 126-129)

²⁷⁵ Exhibit 11, pp. 13-14 (Q&A 131, 139-142)

of the way across the room", from right to left as one faces the sink.²⁷⁶ She also said that he almost dived *"out of the way, sort of jumped across the room"*.²⁷⁷

- 2.195 Coolahan then heard a *"large bang"* and saw smoke. She said that she *"ducked for cover"* and *"turned"* her back.²⁷⁸ At that point she was about three metres away from Bissett.²⁷⁹ She estimated that Bissett was about one metre from Adam Salter.²⁸⁰
- 2.196 She also saw Adam Salter stumble backwards and go down. She said, he had *"not fallen, he's assisted down"*.²⁸¹ She then saw the male officer stand on Adam Salter's hand and remove the knife.²⁸²
- 2.197 Coolahan estimated that between thirty seconds and a minute had elapsed from when Adam Salter jumped up to go to the sink to when Bissett called out *"Taser, Taser, Taser"*.²⁸³
- 2.198 Once Coolahan and the other ambulance officers had transported Adam Salter to Canterbury hospital, they were *"stood down from duty"* and *"spent the rest of the day debriefing and doing paperwork and whatnot"*.²⁸⁴

Account given by Coolahan in her police statement

- 2.199 In December 2010 Coolahan met with Emma Sullivan of the Crown Solicitor's Office and counsel assisting the coroner. She spoke with them regarding her recollection of the shooting during which they had her re-enact her part in the incident.
- 2.200 Coolahan subsequently made certain amendments to her police interview by way of a statement dated 15 February 2011.
- 2.201 In her statement Coolahan retracted seeing *"smoke"* from Bissett's firearm. She stated that she could not recollect seeing that occur.²⁸⁵
- 2.202 Coolahan had said in her interview that when she first saw Bissett re-enter the kitchen she saw that Bissett *"already had her firearm drawn"*. Referring to an answer in her interview where she used the words *"drew her weapon"*, she said that the phrase was not accurate, as she did not see Bissett take her

²⁷⁶ Exhibit 11, p. 16 (Q&A 157)

²⁷⁷ Exhibit 11, p. 17 (Q&A 168)

²⁷⁸ Exhibit 11, p. 12 (Q&A 116)

²⁷⁹ Exhibit 11, p. 16 (Q&A 164)

²⁸⁰ Exhibit 11, p. 30 (Q&A 321)

²⁸¹ Exhibit 11, p. 39 (Q&A 420)

²⁸² Exhibit 11, p. 40 (Q&A 422)

²⁸³ Exhibit 11, p. 18 (Q&A 179)

²⁸⁴ Exhibit 11, p. 22 (Q&A 222)

²⁸⁵ Exhibit 12, p. 1

weapon from her holster. When she first saw Bissett, Bissett already had her firearm drawn.²⁸⁶

- 2.203 Coolahan also clarified the position of Abela. She said that when police re-entered the kitchen she was standing to the left of the kitchen door and that Abela was *“almost directly in front”* of her. As Adam Salter went to the sink, she was facing the sink and Abela was slightly to her right and between Adam Salter and herself. When Bissett called out *“Taser, Taser, Taser”*, Abela *“leapt away”*. Coolahan also stated that *“he ducked down and moved away from his original position”*. In her opinion, had he not moved *“he was close enough to the patient to possibly have been shot”*.²⁸⁷

Account given by Coolahan in her evidence at the inquest

- 2.204 In her evidence at the inquest Coolahan said she had a clear view of the events in the kitchen.²⁸⁸
- 2.205 As Adam Salter jumped up she was *“initially ... trying to restrain him”*. Johnstone was to the front of Adam Salter and *“had his hands on his chest trying to get him to lay back down”*. She was *“behind”* Adam Salter’s *“right shoulder”* and was *“also trying to get him ... to come back down”*.²⁸⁹ She and Johnstone managed to get him down once and *“then he came up again and was thrashing his arms about ... trying to thrash everybody off him”*.²⁹⁰ Once he got to his feet and was at the sink Coolahan said that she took *“about five or six steps backwards”*.²⁹¹
- 2.206 She said that as Adam Salter jumped up and moved towards the sink Adrian Salter *“came in and tried to grab”* him by *“using his arms”*, but he *“was pushed off”* and *“fell to the ground”*.²⁹² She also said that Adam Salter *“wrestled him off”*²⁹³ and that Adrian Salter *“lost his balance”* and *“got tangled in the cardiac monitoring leads”*.²⁹⁴
- 2.207 She said that, immediately before Adam Salter was shot, Lutz was trying to remove Adrian Salter from the room and that she saw Lutz move him away from the centre of the room towards the hallway.²⁹⁵ As those actions were occurring, Adam Salter was already at the sink with the knife.²⁹⁶ She said that Adrian Salter was still in the kitchen when the shot was fired.²⁹⁷

²⁸⁶ Exhibit 12, p. 2

²⁸⁷ Exhibit 12, p. 2

²⁸⁸ Exhibit 13, p. 18 [20]

²⁸⁹ Exhibit 13, pp. 9, 35 [11, 37]

²⁹⁰ Exhibit 13, p. 37 [39]

²⁹¹ Exhibit 13, p. 9 [11]

²⁹² Exhibit 13, p. 17 [19]

²⁹³ Exhibit 13, p. 39 [41]

²⁹⁴ Exhibit 13, p. 40 [42]

²⁹⁵ Exhibit 13, p. 17, 46 [19, 48]

²⁹⁶ Exhibit 13, p. 45 [47]

²⁹⁷ Exhibit 13, p. 69 [71]

2.208 As these events were unfolding, Coolahan said that Abela remained standing to the right of Adam Salter with his back to the fridge. He was standing next to the kitchen doorway and was about a metre from Adam Salter.²⁹⁸

2.209 Coolahan gave the following account of what Abela did:

Q. Yes. Okay. And then did his position change at all while this activity is going on of the patient jumping up, going to the sink, getting the knife and stabbing himself?

A. No, only that I was watching him put his gloves on rather than help us.

Q. Now, you're absolutely certain you saw that, that is he was putting gloves on, at that point of time?

A. Yes. I looked at him directly and asked for help.

Q. Yes, but you say he was putting gloves on or in the process of that.

A. In the process of putting his black gloves on.

Q. Yeah, there's no doubt in your mind about that?

A. None whatsoever.

...

Q. What did you say to him in terms of asking for help?

A. "Can we get a hand?" or something along those lines.

Q. What did he do or say?

A. There was no conversation. I just witnessed him trying to put the gloves on.²⁹⁹

2.210 She also said that there was no physical contact between Abela and Adam Salter and gave the following evidence:

Q. At any stage prior to the noise coming from the gun taking place, the other police officer who was, at one stage, observed by you seeking to put gloves on, did you see that police officer and the patient involved in any physical contact in the form of a struggle?

A. Not once.

Q. When you say not once you're saying it didn't occur as opposed to you're not recalling it?

²⁹⁸ Exhibit 13, p. 62 [64]

²⁹⁹ Exhibit 13, p. 11 [13]

A. *It didn't occur.*³⁰⁰

- 2.211 She also gave evidence that Adam Salter was not in any *“physical contact with anyone”* when he was shot.³⁰¹
- 2.212 Coolahan said that she called out for police assistance three times and that Abela did not respond to any of those calls.³⁰² The first time was a direct request to Abela before Adam Salter got the knife. At that stage Abela was *“putting his gloves on”* while Coolahan and Johnstone were on the floor trying to restrain Adam Salter. The second call was louder, *“to try and get the other officers into the room”*. At that stage Adam Salter was getting up. The third and final call was made when Adam Salter was at the sink and had taken possession of the knife.³⁰³ Adam Salter was at the sink and was stabbing himself in the neck when police entered.³⁰⁴
- 2.213 Coolahan maintained her evidence that Abela remained standing in his position somewhere in front of the fridge to the right of Adam Salter, even though it was a *“fluid scene ... and he was moving around in that area”* and even though she could not fix his precise position as *“everyone was constantly moving”*.³⁰⁵ She estimated that he was standing about half a metre or a metre off the fridge.³⁰⁶ At the time she saw Bissett with her arms raised in a shooting position, Abela was in the direct line of fire. She believed that, had Abela not moved, there would have been a *“real chance”* that he would have been shot by Bissett.³⁰⁷ She said Abela *“dived across the room”* when Bissett called out *“Taser, Taser, Taser”*.³⁰⁸
- 2.214 Coolahan was subjected to prolonged examination during which she gave the following evidence on whether Abela could have moved from his position:

Q. ... *Could that constable have moved at any point between the time when Adam Salter commenced to get up off the ground up to this point where Mr Salter is stabbing himself? Could he have moved from that position near the fridge out more central to the room or to position centrally in the room?*

A. *Not that I recall.*

Q. *Could you be mistaken about it?*

A. *I don't recall seeing him move.*

Q. *Well, you understand, don't you, that there's a difference between not recalling something that has occurred and denying the fact?*

³⁰⁰ Exhibit 13, p. 18 [20]

³⁰¹ Exhibit 13, p. 23

³⁰² Exhibit 13, p. 26 [28]

³⁰³ Exhibit 13, pp. 15, 25-26 [17, 27-28]

³⁰⁴ Exhibit 13, p. 10

³⁰⁵ Exhibit 13, p. 60 [62]

³⁰⁶ Exhibit 13, p. 36 [38]

³⁰⁷ Exhibit 13, p. 64 [66]

³⁰⁸ Exhibit 13, pp. 10, 14, 66 [12, 16, 68]

A. Yes.

Q. What you say about it is you can't recall whether or not he did that?

A. I never saw him move into the middle of the room.

Q. Well, your first answer was, "I don't recall it," so I'm just seeking to establish whether it's simply a lack of recall or a denial on your part.

A. No, I never saw him move into the middle of the room.

Q. Okay, or more towards Mr Salter?

A. No.³⁰⁹

- 2.215 Coolahan saw Bissett enter the kitchen with her gun drawn. She saw Bissett come in through the kitchen door with her arms up.³¹⁰ Bissett was standing inside the entrance when she called out "*Taser, Taser, Taser*".³¹¹ After the shot was fired Coolahan saw Adam Salter drop the knife down by his side, stagger backwards and collapse to the ground.³¹²
- 2.216 Coolahan observed that Adam Salter was stabbing himself in the neck before Bissett came into the kitchen and called out "*Taser, Taser, Taser*". She was "*one hundred per cent*" certain of that fact.³¹³
- 2.217 Adam Salter had not threatened anyone in the room. However, Coolahan agreed that the situation had been dangerous and that that had been the reason she called for police assistance.³¹⁴ Initially she was "*worried*" about the safety of persons in the room, but "*as soon as he started stabbing himself in the neck*" she "*realised that he wasn't going to be a threat to us*".³¹⁵ She also said that Adam Salter "*never waved the knife*" and said that "*it was always [pointed] towards himself*".³¹⁶
- 2.218 Coolahan could not recall with any certainty which hand Adam Salter had used to stab himself. She thought it may have been his left hand, but recalled that the knife was removed by a police officer from his right hand.³¹⁷
- 2.219 In her evidence she rejected the proposition that Adam Salter was stabbing himself after he had been shot.³¹⁸

³⁰⁹ Exhibit 13, pp. 51-52 [53-54]

³¹⁰ Exhibit 13, pp. 12, 21, 55 [14, 23, 57]

³¹¹ Exhibit 13, p. 12 [14]

³¹² Exhibit 13, p. 16 [18]

³¹³ Exhibit 13, p. 17 [19]

³¹⁴ Exhibit 13, p. 22 [24]

³¹⁵ Exhibit 13, pp. 40-41 [42-43]

³¹⁶ Exhibit 13, p. 77 [75]

³¹⁷ Exhibit 13, p. 50 [52]

³¹⁸ Exhibit 13, p. 72 [74]

- 2.220 After Adam Salter was shot Coolahan asked one of the police officers in the room to take the knife off him and “*whoever it was*” trod on Adam Salter’s right arm and removed the knife.³¹⁹ She believed that that officer was male and said that it was not Bissett.³²⁰
- 2.221 Coolahan admitted that the ambulance officers spoke after the incident, before they were interviewed by police. They discussed their “*treatment*” and how they “*handled the job*” and discussed the actions of police, but “*not in terms of who was doing what*”. She said: “*We didn’t discuss specific police actions, but there was a general comment made that we thought it was poor management and it went no further than that*”.³²¹ She said that the ambulance officers thought the police “*handling and management*” of the incident had been “*poor*”. By that she meant “*the fact that it took three calls by me to have police come in here – come into the room, the fact that I asked the constable with us to assist us when it initially started to get out of control and nothing was done and it was allowed to become chaos*”.³²²
- 2.222 In her examination Coolahan was asked about some of the things she had said in her prior accounts. When asked whether Adrian Salter had sought to take hold of his son on a second occasion she replied “*no*”.³²³ At the time of giving evidence at the inquest she could not recall that Johnstone had removed the knife from the sink and had shown it to her and she said that she “*wouldn’t have expected him to pick it up*”.³²⁴ She agreed that she had not mentioned herself by name as being physically involved in attempting to restrain Adam Salter. She assumed that she would have been included when she told police “*we were trying to restrain him*”.³²⁵
- 2.223 Referring to the prior accounts she gave that Adam Salter was “*assisted*” or “*lowered*” to the ground, Coolahan said that she was not sure if that had occurred. In her evidence she said that he “*didn’t fall in a bundle. He sort of sat himself on the ground the[n] collapsed back*”.³²⁶ She also said that “*he didn’t just collapse in a heap*” and said she did not “*recall anyone touching him to help him to the ground*”.³²⁷ And again: “*I thought that – as I said before I wasn’t sure, because we were all around him, whether someone in there had lowered him to the ground or he’d just gone down to the ground*”.³²⁸

KARL JOHNSTONE

- 2.224 Johnstone gave an account of the circumstances in which Adam Salter was shot in his police interview on 18 November 2009 and in his evidence at the inquest.

³¹⁹ Exhibit 13, p. 16 [18]

³²⁰ Exhibit 13, p. 27 [29]

³²¹ Exhibit 13, pp. 2-4 [4-6]

³²² Exhibit 13, p. 3 [5]

³²³ Exhibit 13, pp. 67 [69]

³²⁴ Exhibit 13, pp. 29-32 [31-34]

³²⁵ Exhibit 13, p. 91 [93]

³²⁶ Exhibit 13, p. 24 [26]

³²⁷ Exhibit 13, p. 69 [71]

³²⁸ Exhibit 13, p. 71 [73]

Account given by Johnstone in his police interview

- 2.225 Johnstone had Adam Salter's patient health care record with him at his interview and was questioned on its contents. He said it was filled out by Coolahan and that it was read by each of the other ambulance officers.³²⁹ He said that his signature on the card confirmed that he had been the driver.³³⁰
- 2.226 When he arrived at 33 Wangee Road Johnstone proceeded into the house and observed that there was a "*fairly large pool of blood*" at the front door. Adam Salter was in the kitchen and was leaning against the kitchen cupboard. Adrian Salter was holding a towel over his chest.³³¹ Johnstone said that he got a brief history from Adrian Salter and an account of what happened.³³² He said that he then cut away Adam Salter's shirt and dressed his wound. He laid Adam Salter on his back and proceeded to treat him.³³³ At that stage Johnstone recalled that Adam Salter was "*very compliant*" and was not "*fighting ... pulling away ... pushing or anything like that.*"³³⁴
- 2.227 Johnstone and Clements were the first to arrive but were soon followed by police. Johnstone estimated that police arrived within thirty to forty seconds, and that a second ambulance arrived a short time later. Johnstone was unable to say how many police officers were in attendance at that time as he was "*concentrating on the patient.*"³³⁵
- 2.228 When Coolahan arrived, Johnstone gave her a handover. By that stage Johnstone had seen the knife. He had asked Adrian Salter where the knife was and was told that it was in the sink. Johnstone "*looked over and saw it there*" and observed that it had "*quite an amount of blood on it.*"³³⁶
- 2.229 Johnstone gave the following account of what happened after he gave the handover to Coolahan:

*90A ... Megan then um, leaned down to further her treatment and um, and that's when he's ah, sort of like, arched up, I supposed you could call it and ah, yeah, got very aggressive. Um, he, there was no yelling or anything from him, he's just, he's just gotten up. His ah, his father's come and tried to hold him down um, I've also started talking to him and I had my hands on him as well saying, "Adam, just calm down, just, you know, everything's going to be fine. We'll, we'll fix you up."*³³⁷

³²⁹ Exhibit 18, p. 23 (Q&A 211-216)

³³⁰ Exhibit 18, p. 27 (Q&A 249)

³³¹ Exhibit 18, p. 5 (Q&A 35)

³³² Exhibit 18, pp. 5-6 (Q&A 41)

³³³ Exhibit 18, p. 6 (Q&A 44-50)

³³⁴ Exhibit 18, p. 8 (Q&A 63)

³³⁵ Exhibit 18, p. 8 (Q&A 69)

³³⁶ Exhibit 18, p. 9 (Q&A 74-78)

³³⁷ Exhibit 18, pp. 10-11 (Q&A 90)

- 2.230 Johnstone said that he had his left hand on Adam Salter's right arm and his right arm on his chest. He said that he was *"trying to calm him"* and that he *"wasn't forcing him down"*.³³⁸
- 2.231 Johnstone said that Adam Salter continued to get up off the floor and *"pushed his father out of the road"*. Adam Salter was pulling the monitoring leads that were attached to his body and was *"getting very aggressive with us"*.³³⁹ He said that his arms were *"flailing around"* but that he was not *"trying to punch ... or push"* Johnstone away.³⁴⁰
- 2.232 As Adam Salter was getting up Johnstone heard Coolahan call for police assistance.³⁴¹ Johnstone recalled seeing *"at least one or two"* police officers in the room at that time. He said that they were near the doorway.³⁴² He could not be sure of the precise number as he was *"concentrating"* on Adam Salter.³⁴³
- 2.233 At the moment Coolahan called out for police assistance Johnstone said that he was standing with Adam Salter and trying to calm him down. He said it was then that Adrian Salter intervened and was pushed aside. He said Adrian Salter came in from behind both Coolahan and himself and between them.³⁴⁴ He saw Adrian Salter become entangled in the medical equipment that was on the ground and fall over.³⁴⁵
- 2.234 Johnstone said that Adam Salter then got to the sink. He estimated that he had travelled a distance of about *"two, two and a half metres maybe three metres"* from where he first stood up.³⁴⁶
- 2.235 Johnstone said that when police entered the kitchen Adam Salter was at the sink and *"had the knife in his hand already and ... proceeded to stab himself in the neck"*. He saw Adam Salter grab the knife out of the sink with his right hand, saw him take two or three steps back, and saw him stab himself *"four times or so"* in the neck. He also saw that Adam Salter had the blade of the knife facing towards himself.³⁴⁷ Johnstone said that he backed away from Adam Salter after he grabbed the knife.³⁴⁸
- 2.236 Johnstone heard Coolahan call out for *"more police to come in"* and then saw at least two officers enter the kitchen.³⁴⁹ He then heard one of the police officers yell out *"Taser"* three times and said that he backed away even further.³⁵⁰ He then heard a loud bang and saw Adam Salter fall to the floor. At

³³⁸ Exhibit 18, p. 31 (Q&A 279)

³³⁹ Exhibit 18, p. 11 (Q&A 98)

³⁴⁰ Exhibit 18, p. 31 (Q&A 281)

³⁴¹ Exhibit 18, p. 11 (Q&A 99)

³⁴² Exhibit 18, p. 11(Q&A 100)

³⁴³ Exhibit 18, p. 12 (Q&A 101)

³⁴⁴ Exhibit 18, p. 17 (Q&A 148)

³⁴⁵ Exhibit 18, p. 12 (Q&A 102)

³⁴⁶ Exhibit 18, p. 12 (Q&A103)

³⁴⁷ Exhibit 18, p. 12, 17 (Q&A 104-109, 152-154)

³⁴⁸ Exhibit 18, p. 13 (Q&A 111)

³⁴⁹ Exhibit 18, p. 19 (Q&A 173)

³⁵⁰ Exhibit 18, p. 13 (Q&A 111)

that stage Johnstone was standing just behind Bissett's left shoulder. Once Adam Salter fell to the floor Johnstone said that he and the other ambulance officers "*attended*" to his treatment.³⁵¹

- 2.237 At the time Johnstone heard the word "*Taser*" he said that Adam Salter was "*sort of facing us, a little bit skew-whiff*".³⁵²
- 2.238 Johnstone said that he "*wasn't scared or upset or anything like that ... or frightened*" when Adam Salter had the knife. He "*just assessed the danger ... saw that he had the knife and just backed ... from him*".³⁵³
- 2.239 Johnstone was asked to draw a diagram and mark the position of persons in the premises. With reference to that diagram he indicated that there were at least three police officers in the kitchen together with Coolahan, Lutz, Adrian Salter and himself.³⁵⁴
- 2.240 At the point at which Johnstone saw Adam Salter stab himself in the neck, he said that he could not be sure of the location of Lutz. However, he saw one police officer standing by the kitchen doorway "*less than two metres*" from where he was standing and said that that officer remained standing in that "*general vicinity*" as events unfolded.³⁵⁵ At the time of the shooting Bissett was at "*an arm's length*" from where he himself was standing³⁵⁶ and he thought that Adrian Salter was "*probably getting up from the floor*".³⁵⁷

Account given by Johnstone in his evidence at the inquest

- 2.241 In his evidence at the inquest Johnstone repeated the account he gave in his police interview. He said that Adam Salter started to get up off the floor after he completed the handover of care to Coolahan.³⁵⁸ Both he and Adrian Salter tried to calm Adam Salter, but Adam Salter got to his feet and brushed them aside.³⁵⁹ Johnstone then heard Coolahan yell out, "*Get the fucking police back in here*".³⁶⁰ Adam Salter got to the sink and grabbed the knife and on seeing him grab the knife, Johnstone perceived there was a danger and "*backed right away*".³⁶¹ The police then entered. By that time Adam Salter had the knife in his hand and was stabbing himself in the neck.³⁶² Johnstone said that he heard one of the officers yell out "*Taser*". He then heard a bang and saw Adam Salter fall to the ground.

³⁵¹ Exhibit 18, p.13 (Q&A 111-117)

³⁵² Exhibit 18, p. 13 (Q&A 119)

³⁵³ Exhibit 18, p. 14 (Q&A 122)

³⁵⁴ Exhibit 18, p. 21 (Q&A 189-191)

³⁵⁵ Exhibit 18, pp. 18-19 (Q&A 162-178)

³⁵⁶ Exhibit 18, p. 20 (Q&A 183)

³⁵⁷ Exhibit 18, p. 20 (Q&A 187)

³⁵⁸ Exhibit 19, p. 6 [50]

³⁵⁹ Exhibit 19, p. 7 [51]

³⁶⁰ Exhibit 19, p. 8 [52]

³⁶¹ Exhibit 19, p. 11 [55]

³⁶² Exhibit 19, p. 10 [54]

- 2.242 Johnstone said that Adam Salter's Patient Health Care Record was not his document but Coolahan's. Coolahan had prepared the document as the *"treating officer"*. He signed the document to indicate that he was the driver on the day and was not with Coolahan when she prepared the document.³⁶³ He said that he read the document and had not queried Coolahan about the accuracy of what she had recorded. He agreed that the document was factually correct.³⁶⁴
- 2.243 Johnstone said that he recalled seeing the knife after he arrived and bringing it to the attention of police when they arrived.³⁶⁵
- 2.244 While Adam Salter was still being treated and before he got up, Johnstone said that there was a male police officer in the kitchen standing *"in the corner ... near the sink"*. Taken to the diagram he drew in his police interview, Johnstone said that he did not know why he had placed a question mark after the letter *"M"* indicating that that officer was male.³⁶⁶
- 2.245 Johnstone was also taken to his use of the words *"he's got very aggressive"* in his police interview when he described the manner in which Adam Salter had got up from the floor. When asked why he had used that expression, he said that Adam Salter was *"pulling"* off the monitoring leads that were attached to his body and *"just moving his arms around"*. He did not see Adam Salter fight or punch anyone. He agreed that what he described as *"aggressive"* was the *"hurried"* manner in which Adam Salter had disentangled himself from the medical equipment and brushed aside *"anybody that came near him"*.³⁶⁷
- 2.246 Johnstone did not grab or have hold of Adam Salter as he made his way to the sink. He had put his hands on Adam Salter. He said that he put one hand on his shoulder and one on his chest and had tried to calm Adam Salter down but he was brushed aside.³⁶⁸
- 2.247 When Johnstone heard Coolahan call out for police assistance there was one police officer in the kitchen. He said that he was in the *"same position"* as shown in the diagram he had drawn. However, he did not take any notice of what he was doing. Johnstone noticed him standing in that general position *"close to the refrigerator"*.³⁶⁹
- 2.248 Once Adam Salter got to the sink he picked up the knife and took one or two steps back from the sink and remained within touching distance of the sink. Adam Salter had his back to the room *"sort of skew-whiff from the sink"*.³⁷⁰
- 2.249 At the moment Adam Salter had the knife in his hand and was stabbing himself at the sink, Adam Salter was *"sort of facing towards"* Abela. Johnstone

³⁶³ Exhibit 19, p. 4 [48]

³⁶⁴ Exhibit 19, pp. 3-4, 12-13 [47-48, 56-57]

³⁶⁵ Exhibit 19, p. 21 [65]

³⁶⁶ Exhibit 19, pp. 5-6 [49-50]

³⁶⁷ Exhibit 19, pp. 6-8 [50-52]

³⁶⁸ Exhibit 19, p. 23-24 [67-68]

³⁶⁹ Exhibit 19, p. 8-9 [52-53]

³⁷⁰ Exhibit 19, pp. 15-16 [59-60]

could not “recall what he [Abela] was doing” but said that he knew “he was there” and in close proximity to Adam Salter.³⁷¹ When asked whether at any point prior to hearing the word “Taser” there was any physical contact between Adam Salter and Abela, Johnstone replied “not that I recall”.³⁷² When asked whether he saw Adam Salter come into physical contact with Abela, he replied “I don’t think so”.³⁷³

2.250 Johnstone also said that Adam Salter did not appear to move or lunge towards anyone in the room and that he was not brandishing the knife.³⁷⁴ He said that Abela “could have” moved at least partially across the kitchen.³⁷⁵ He did not see him move suddenly away from Adam Salter, immediately prior to the shot being discharged.³⁷⁶ He also said that Abela was not in the line of fire between Bissett and Adam Salter.³⁷⁷

2.251 In examination by counsel for the NSWPF Johnstone gave the following evidence about the position of Abela and whether he was in contact with Adam Salter:

Q. Bearing in mind the swiftness with which things were taking place in the kitchen at that time and their unusual nature. Could the male constable have been very close to Adam Salter immediately prior to the discharge of the firearm, and moved away and went unobserved by yourself? Would that be the case?

A. Could be, yes.

Q. With that concession, it may be that he was in a position within arm's reach of Adam Salter at that time?

A. Again, could be.

Q. And similarly, in contact with Adam Salter at that time?

A. If he was, I didn't see it.

...

Q. What were you looking at?

A. Straight at the patient, yes.

Q. Could somebody have been in contact, in physical contact with the patient without you seeing it, given you were looking straight at the patient?

³⁷¹ Exhibit 19, p. 10, 13 [54, 57]

³⁷² Exhibit 19, p. 10

³⁷³ Exhibit 19, p. 13 [57]

³⁷⁴ Exhibit 19, p. 13 [57]

³⁷⁵ Exhibit 19, p. 24 [68]

³⁷⁶ Exhibit 19, p. 27 [71]

³⁷⁷ Exhibit 19, p. 30 [74]

A. I believe I would have seen it.

...

Q. If that's the case, if you believe and still believe that Adam Salter was, at all times, stationary at the time the shot was discharged, that fact might be simply a mistake on your part, true?

A. Possibly, yes.

Q. Bearing in mind, that is the focus of your attention at that time, possibly you may be mistaken about [the] constable being in the position to take hold of or be in contact with Adam Salter?

A. Possibly, yes.³⁷⁸

- 2.252 At the point he heard the word "Taser", Johnstone saw Bissett standing *"just inside the kitchen"*. He was standing *"at her left shoulder"* and was *"looking at the patient"* and saw Bissett out of the *"corner"* of his eye. He then gave the following evidence:

Q. At any time at or just prior to you hearing the word, "Taser" called out, was the patient in any physical contact with any other person in that room?

A. Not that I recall.

Q. As best as you can recall, what was he doing at the time of the call being made of "Taser" or just leading up to that?

A. He was stabbing himself in the neck.³⁷⁹

- 2.253 Johnstone was asked if he and the other ambulance officers had any discussions on the day concerning what had happened. He said they had and that those discussions had taken place at Canterbury Hospital and that they were all present. When asked whether the actions of police were the subject of any conversation between the ambulance officers, he said *"Not that I can recall, no"*. When asked whether any opinion had been expressed by any of the ambulance officers about the police, he said *"Not that I recall, no"*. When asked whether Coolahan gave her version of what she had seen, he replied *"Not that I recall"*. Johnstone also said that he did not hear anyone say anything about a significant lack of police presence. As far as he recalled, *"We were discussing the treatment of the patient"*.³⁸⁰

- 2.254 Elsewhere in his evidence Johnstone said that once the shot was fired Adam Salter fell backwards immediately.³⁸¹ He agreed that there had only been seconds from when he heard Coolahan call for police assistance to when

³⁷⁸ Exhibit 19, pp. 28-29 [72-73]

³⁷⁹ Exhibit 19, p. 11 [55]

³⁸⁰ Exhibit 19, p. 38-39 [82-83]

³⁸¹ Exhibit 19, p. 33 [77]

Adam Salter was shot.³⁸² He could not say if Adam Salter continued to stab himself after he was shot.³⁸³ He also did not recall seeing Adam Salter being assisted to the floor as he fell.³⁸⁴

CHERI LUTZ

- 2.255 Lutz gave an account of the circumstances in which Adam Salter was shot in her police interview on 18 November 2009 and in her evidence at the inquest.

Account given by Lutz in her police interview

- 2.256 Lutz and Coolahan entered the premises by the front door on their arrival. Lutz observed a number of police officers standing at the front veranda and noticed a large pool of blood inside the front door. Once they got to the kitchen they were given a handover. Lutz gave the following account of what occurred next *‘in a nut shell’*:

14A. ... Um, my partner, Meagan, was just about to start treating him and um, the man suddenly sat up, became quite um, um, agitated and aggressive. Um, was lunging around the room. Um, his, I think it was, there was a gentleman on scene who I assumed to be his father um, was attempting to try and restrain him, but the, the man um, managed to make his way to the sink um, where he grabbed um, quite a large knife that was in the sink. There was, I could see there was already blood on the knife, so I assumed it was the weapon that he used to inflict the stab wound in his chest prior to us getting there. Um, when we went, at that time I think, apart from the father that was in the room, or the older man, there was only I think, only maybe one or two other police officers in the room, I think perhaps one. So when he started to get out of control and grab for the knife, we didn't really have much in the way of resources to help us handle the situation. So we were kind of like, it's not our, I was a bit reluctant to kind of try and stop him from doing anything to hurt himself. So I mean, we didn't really have time anyway, but the, the man, older man was trying to restrain him. The patient grabbed the knife out of the sink and then had started stabbing himself in the throat, probably three or four times. Um, during all of this, we were yelling for the police to come in and help us from outside. So they came inside and um, to my right I heard someone yell, "Taser" in a loud voice. And then, shortly after that, there was a loud bang. I've never heard a gunshot go off in close range or a Taser, so I had nothing to assume. I just assumed it was a Taser. Um, the man dropped to the ground straightaway and um, pretty much um, what we call was in cardiac arrest. So at that point his heart had stopped beating, he was not breathing.³⁸⁵

- 2.257 Lutz and Coolahan were tasked to attend 33 Wangee Road because of the nature of the job and were more highly qualified than Johnstone and

³⁸² Exhibit 19, p. 20 [64]

³⁸³ Exhibit 19, p. 39 [83]

³⁸⁴ Exhibit 19, pp. 39-40 [83-84]

³⁸⁵ Exhibit 23, p. 3 (Q&A 14)

Clements.³⁸⁶ As between Coolahan and herself, Coolahan was in charge of caring for the patient and Lutz was the driver and in charge of logistics.³⁸⁷

2.258 Most of the police officers standing on the front veranda when Lutz arrived were female. She was not sure but thought that there might have been four or “a bit less”. She had to get past them to enter the premises.³⁸⁸ She noticed that the female officers had stripes on their uniforms and thought that one officer had one or two stripes on her uniform.³⁸⁹

2.259 Lutz gave the following account of what happened after Adam Salter sat up:

121A. ... He just sat up and I think they [Coolahan and Johnstone] sort of said, you know, “You need to lie down, lie down”. And he just got up and he started swinging his arms around and um, was slipping over on the floor and was grabbing at things, and just pushing people away, and just sort of um, pretty much out of control ... flinging his arms around and his, um, the other man there, the father, was trying to, trying to grab hold of him, maybe to subdue him or something like that, ‘cause he just started, just thrashing around, around the room, and he’s still connected to our ECG monitor. So he had leads sort of attached to him, attached to our monitor and oxygen tubing, and there was blood on the floor. So he’s sort of like slipping and grabbing and fighting and, I don’t know if he was intentionally making his way to the sink, but that’s where he sort of, he got to the sink and then grabbed the knife ... and then started stabbing himself in the throat.”³⁹⁰

2.260 At that stage there was one police officer in the room.³⁹¹ Lutz could not recall or remember what that officer did. When the situation became “chaotic” the ambulance officers were “just trying to get extra help ...so” she did not know what the officer in the room was doing. She thought that police officer was “sort of straight ahead” of where she was standing and that “he was sort of over more near where the patient was ... or slightly behind the patient somewhere”.³⁹²

2.261 Lutz said that once Adam Salter had the knife and before he was shot, he was stabbing himself in the neck. She recalled seeing him stab himself three or four times. She also said that it was “pretty intentional”, and that “it was quite clear that he ... wasn’t ... trying to scratch himself. He was really trying to stab himself in the throat”.³⁹³

2.262 Lutz was standing next to the doorway to the kitchen, with her back to the door. As Adam Salter was stabbing himself he was facing in her direction.³⁹⁴

2.263 While Adam Salter was at the sink and stabbing himself the only other persons in the room were herself, Coolahan, Johnstone, Adrian Salter and

³⁸⁶ Exhibit 23, p. 4 (Q&A 18-24)

³⁸⁷ Exhibit 23, p. 9 (Q&A 76-77)

³⁸⁸ Exhibit 23, p. 6 (Q&A 37-45)

³⁸⁹ Exhibit 23, p. 8 (Q&A 64)

³⁹⁰ Exhibit 23, pp. 12-13 (Q&A 121)

³⁹¹ Exhibit 23, p. 13 (Q&A 129)

³⁹² Exhibit 25, p. 1 [14] (Q&A 134-139)

³⁹³ Exhibit 25, p. 1 [15] (Q&A 146-155)

³⁹⁴ Exhibit 25, p. 3 [16] (Q&A 163-164)

Abela.³⁹⁵ As he was stabbing himself Coolahan called out “*very vocally*” for more police to come in.³⁹⁶ At that moment Lutz could not recall where, if anywhere, Abela, Johnstone or Coolahan had moved.³⁹⁷

2.264 Lutz noticed Bissett enter the room. She could not recall how many other police officers came in with her.³⁹⁸ After Bissett entered Lutz heard the word “*Taser*” and then a loud bang and saw Adam Salter immediately drop to the floor. She thought that he might also have fallen “*backwards*” but could not be certain.³⁹⁹ As those events occurred she did not look around and said that her “*focus was on the patient*”.⁴⁰⁰

2.265 Lutz also said that she did not see any of the police officers with their firearms out and did not recall seeing any kind of weapon at all. When she heard “*Taser*” called out, she turned away “*a bit*”.⁴⁰¹

2.266 Lutz did not feel as though it was a threatening situation and gave the following account about what she saw:

244A. I didn't feel it, I, like it was a threatening, dangerous situation.

245Q. Yeah.

245A. But I think, I think that, I don't, I think he was just intent on hurting himself.

246Q. Yep.

246A. I don't think that he was trying to hurt anyone else there. Um, like I didn't want to get anywhere near the guy –

247Q. Yeah.

*247A. – with a, a knife like that. But, I think, he was just more intent on getting that knife and just sinking it into himself, rather than actually hurting anyone. I wouldn't have liked to test it –*⁴⁰²

2.267 Lutz felt “*powerless*” once Adam Salter got the knife and was stabbing himself. She said: “*it was just frustrating that we just almost had to stand there and watch him do it ... the only thing we could do was just yell for help.*”⁴⁰³

³⁹⁵ Exhibit 25, p. 4 [17] (Q&A 172-174)

³⁹⁶ Exhibit 25, p. 4 [17] (Q&A 176-179)

³⁹⁷ Exhibit 23, p. 24 [32] (Q&A 335-341)

³⁹⁸ Exhibit 23, p. 25 [33] (Q&A 347-349)

³⁹⁹ Exhibit 25, p. 6 [19] (Q&A 196-208)

⁴⁰⁰ Exhibit 25, p. 7 [20] (Q&A 214)

⁴⁰¹ Exhibit 23, p. 14 [22] (Q&A 231)

⁴⁰² Exhibit 23, p. 15 [23] (Q&A 244-247)

⁴⁰³ Exhibit 23, p. 15 [23] (Q&A 250-253)

- 2.268 Lutz said that there was not much time between Adam Salter stabbing himself in the neck and the bang. She gave the following account in answers to Q 365-369:

365Q. ... What did you see between then, when he's stabbing his neck and to when you've heard "Taser"?

365A. Oh, there wasn't much time in between all of that. So I don't think, it was almost like stabbing, stabbing, then Taser and then bang. So there wasn't really anything to see other than just the stabbing and then hearing the, the shout of Taser and then the noise. ...

366Q. So his hand, was his hand still at his neck or –

...

366A. I would say he was sort of still in the process ... I mean he might have been waving the knife around a bit, a little bit maybe, but he was, it was almost like he was still stabbing himself. It was almost like the, it was the shot, whatever it was that actually stopped him. So I don't think, there was, if he stopped before he was shot, it wasn't a very long time. Like, it wasn't, like he sort of lunged at anyone or did anything like that. It was almost like he was stabbing, stabbing, bang and then down.

368Q. And how long did you think, between, "Taser" and the bang - - -

368A. Oh, seconds. Only a couple of seconds.

369Q. A couple of seconds?

369A. Yeah, not very long at all. It was almost like one thing and then the other. Pretty much straight after.⁴⁰⁴

- 2.269 Lutz could not recall who was closest to Adam Salter when he was shot. She gave the following account in answer to Q 370:

370A. ... I don't think there were a lot of people that were really that close. I mean, like I said, the room wasn't that big, so we were all quite, we were all within, you know, a metre or two away from him. Um, I don't remember who was the closest to him, who was the nearest to him. There may have been a police officer closer. I mean, certainly, we don't like to get too close, so if anything ambos are a bit chicken. We're going to stay as far away as possible. So, um, yeah, I, there may have been police officers closer. The father might have been quite close, but I couldn't really be a hundred per cent sure who was the closest to him at the time.⁴⁰⁵

- 2.270 After Adam Salter was shot Lutz “shoved” Adrian Salter into the office and told him “You need to get out of the way”.⁴⁰⁶

⁴⁰⁴ Exhibit 23, p. 27 [35] (Q&A 365-369)

⁴⁰⁵ Exhibit 23, p. 27 [35] (Q&A 370)

⁴⁰⁶ Exhibit 23, p. 22 [30] (Q&A 312)

- 2.271 A short time later Adam Salter was placed in an ambulance and taken to Canterbury hospital with all four ambulance officers on board.⁴⁰⁷
- 2.272 At the end of her interview Lutz said that *“there was a significant lack of police presence inside the property to secure it”*. She also said that there was *“an element ... of complacency”* on the part of police officers.⁴⁰⁸
- 2.273 During her interview Lutz was asked to draw a diagram of the interior of 33 Wangee Road and to indicate the positions of persons within the premises. In preparing the diagram Lutz warned the interviewing officers that she tended to *“get very tunnel visioned”* and not to see *“a lot of the detail”*. She also said that it was *“just very difficult”*.⁴⁰⁹
- 2.274 In the diagram she prepared she positioned herself as standing next to the doorway to the kitchen. A police officer was shown as standing adjacent to her position and to the right of the sink for someone looking at the sink. Two ambulance officers and another police officer were shown as being to the left of the sink.⁴¹⁰

Account given by Lutz in her evidence at the inquest

- 2.275 In her evidence at the inquest Lutz was asked to clarify the positions of persons in the diagram she had drawn in her police interview. She said that, although she *“couldn’t be 100 per cent sure”*, she was *“more inclined”* to say that Abela was positioned on the left hand side of the kitchen for someone looking at the sink.⁴¹¹
- 2.276 Lutz was asked to explain what she had meant in her police interview when she said that Adam Salter *“started to get out of control”*. She said:

*A. Initially the patient was lying supine on the floor of the kitchen. When he started to get up off the floor, attempts were made by Officer Coolahan and Officer Johnstone to sort of - to settle him down, but they were unable to sort of encourage him to stay on the floor. Sir as he got up, he just started ripping off ECG monitoring leads, oxygen tubing. So I think when I say he became out of control, that's what I'm talking about. We were unable to sort of encourage him to stop what he was doing.*⁴¹²

- 2.277 Lutz repeated her account that once Adam Salter took possession of the knife he started stabbing himself in the neck. She said that she was standing with her back to the *“front door”* and that Adam Salter was *“sort of virtually facing”* her and she *“could see him quite clearly”*. She explained that Adam Salter was *“on a slight angle from the kitchen sink”* and was facing in her *“general direction”*.⁴¹³ She also saw that Adam Salter had the blade of the knife facing

⁴⁰⁷ Exhibit 23, p. 18 [26] (Q&A 274-275)

⁴⁰⁸ Exhibit 23, p. 37 (Q&A 382-383)

⁴⁰⁹ Exhibit 23, p. 29 (Q&A 302-306)

⁴¹⁰ Exhibit 27

⁴¹¹ Exhibit 24, pp. 4-5

⁴¹² Exhibit 24, p. 6 [90]

⁴¹³ Exhibit 24, p. 7 [91]

towards himself. Adam Salter was waving it around *“a bit ... in the process of actually stabbing himself”* but was not waving it at anyone else.⁴¹⁴

- 2.278 When asked whether anyone was standing near to Adam Salter as he was stabbing himself, she replied *“Not that I recall, no”*.⁴¹⁵ As to Abela’s position at that time, she said he was *“further back in his original position”*.⁴¹⁶
- 2.279 At the point she heard Bissett yell *“Taser”*, Bissett *“was closer to the side of the kitchen where Adam Salter was”*. Lutz did not remember where Abela was but assumed he was on the other side of the room.⁴¹⁷
- 2.280 When Adam Salter got hold of the knife and was stabbing himself, Lutz recalled seeing Coolahan and Johnstone back away from Adam Salter.⁴¹⁸
- 2.281 Lutz had said in her interview that Coolahan, Johnstone and she were yelling out to police as Adam Salter grabbed the knife and stabbed himself. In her evidence at the inquest she said that she assumed that they were all *“making some sort of noise”* and that, at some vocal level, all three *“wanted the police to be in the room”*.⁴¹⁹
- 2.282 Lutz had her back to the front door when police entered. She noticed Bissett enter and heard her yell *“Taser”* once. She then heard a loud bang.⁴²⁰ She did not see Bissett draw her firearm. She did not *“look at her [Bissett] directly”*.⁴²¹
- 2.283 Lutz said that Adam Salter was not in physical contact with anyone else as those events unfolded and gave the following evidence:

Q. Up until the point of time, moments before you heard the loud bang, was the patient in any physical contact with anyone else in that room?

A. No.

Q. You're certain of that?

A. I'm very certain.

Q. And you say he was doing what immediately before you heard the word Taser, and then a loud bang? What was he doing?

A. He was stabbing himself in the throat with a knife.

⁴¹⁴ Exhibit 24, p. 21, 23, 25 [105, 107, 109]

⁴¹⁵ Exhibit 24, p. 7 [91]

⁴¹⁶ Exhibit 24, p. 7 [91]

⁴¹⁷ Exhibit 24, p. 14 [98]

⁴¹⁸ Exhibit 24, p. 26 [110]

⁴¹⁹ Exhibit 24, pp. 7-8 [91-92]

⁴²⁰ Exhibit 24, p. 8 [92]

⁴²¹ Exhibit 24, p. 17 [101]

Q. You tell his Honour on your oath that he was in no physical contact at all?

A. I am 100% certain.

Q. It's not that you don't recall, it's you're saying he wasn't, full stop?

*A. He wasn't.*⁴²²

2.284 And again:

Q. And immediately prior to being shot, I think I am covering this again, but let me just get it clear in my mind first. Immediately before you heard the bang, he was in no physical contact with any person in that room?

*A. No, he wasn't.*⁴²³

2.285 Lutz was taken to the answers she gave at her interview where she said that she recalled seeing Adam Salter stab himself three or four times and where she said she understood his actions were intentional and directed only at himself. She confirmed that that was her understanding and gave the following additional evidence:

Q. You would agree with that proposition that it was, generally speaking, a dangerous situation for all in the room?

A. Dangerous situation for everyone in the room?

Q. Yes.

A. I personally didn't feel to be in danger, I can't comment on everybody else.

Q. But that was how you felt?

A. Someone stabbing themselves in the throat with a knife isn't a non-dangerous situation, but personally I didn't feel threatened by him.

Q. As far as you can see, did he give any indication whatsoever of seeking to threaten anybody else?

*A. No.*⁴²⁴

2.286 Lutz said that she could not be certain if Adam Salter continued stabbing himself in the neck after he was shot. She remembered that he *"hit the ground*

⁴²² Exhibit 24, p. 8 [92]

⁴²³ Exhibit 24, p. 14 [98]

⁴²⁴ Exhibit 24, p. 12 [96]

very suddenly". She also said that there was "*absolutely no chance*" that he was assisted to the ground by another person after he was shot.⁴²⁵

- 2.287 Lutz was asked to elaborate on the answers she gave concerning the direction that Adam Salter was facing where she heard the word "*Taser*", and gave the following evidence:

Q. When you hear the word, "Taser", could you tell me where the patient was facing?

A. The patient was facing directly towards me.

Q. Towards you?

A. Yep. I was standing with my back to the entrance to the room, so where are [sic] marked me. The patient was in front of me, to my – to my right, where the – where the sink is, very close to the sink.

Q. So is he - is he side on to the sink or is he back onto the sink now, generally?

A. I think because of where we were standing, he would have been slightly skewed to the sink, with his back towards the sink. I could see very clearly him stabbing himself in the throat, and I was standing in the doorway and he was facing towards me, so his back would have been towards or turned away slightly, yes.

Q. But generally, more square to the sink than turned sideways, correct? That is the back more square to the sink?

*A. I think someone before said about 45 degrees. I'd be happy with 45 degrees.*⁴²⁶

...

Q. Do you have a recollection of seeing Mr Salter rotating or shift his position?

*A. I think in the split second, yes.*⁴²⁷

- 2.288 Lutz also gave evidence about what had occurred at the debriefing she and the other ambulance officers attended at Canterbury Hospital. She agreed that they discussed what they had seen occur but denied they had "*compared notes and then come up to a group conclusion*".⁴²⁸ She said "*the job was*

⁴²⁵ Exhibit 24, p. 36 [120]

⁴²⁶ Exhibit 24, p. 27 [111]

⁴²⁷ Exhibit 24, p. 28 [112]

⁴²⁸ Exhibit 24, p. 33 [117]

*certainly discussed, but it was discussed in the debriefing from the point of view of us dealing with what happened on the day.”*⁴²⁹

ACCOUNTS GIVEN BY THE POLICE WITNESSES AT THE COMMISSION HEARING

SHERREE BISSETT

- 2.289 In her evidence before the Commission Bissett stated that she had acted deliberately in shooting Adam Salter to stop him from stabbing Abela. She said that she did not intend to shoot him so that the bullet would pass through his lungs and heart but knew that the probable consequence would be that Adam Salter would die or at least be seriously injured.⁴³⁰
- 2.290 When Bissett arrived at 33 Wangee Road she looked into the sink, saw that the knife had blood on it and stood between the sink and Adam Salter to “*secure*” the knife.⁴³¹ As in her earlier accounts, she said that she went outside with Wilson and Metcalfe and told Abela to “*Stay in the kitchen. Watch Mr Adam Salter and the knife ... in the sink*”.⁴³²
- 2.291 Bissett left the knife in the kitchen sink *in situ* because it was part of her police training that an exhibit should be left *in situ*. She also said that she had left Abela alone in the kitchen because she thought that Adam Salter was “*unconscious*” and posed “*no threat*”.⁴³³
- 2.292 She gave the following account of what happened next:
- A. Then I heard a scream from inside. From – I think it was one of the ambos saying something along the lines of ‘We need a hand in here’, or ‘We need some help in here.’ And then I immediately knew that something was wrong, so then I have run straight up to the front door, and as I have hit the front door, I could see down the hallway Constable Abela was – Mr Adam Salter was up on his feet and Constable Abela and he were – were struggling with each other, and Mr Adam Salter was making his way across towards the sink.*⁴³⁴
- 2.293 By the time she reached the threshold of the kitchen Adam Salter had “*made it to the sink and had the knife in his right hand*” and “*Abela was holding on to his left arm on his left side*”. She could not see where Abela had his right hand and could only remember that his left hand was up towards Adam Salter’s “*left upper arm*”. When she came in Adam Salter had already acquired the knife and she saw Adam Salter and Abela “*struggling at the sink*”.⁴³⁵

⁴²⁹ Exhibit 24, p. 34 [118]

⁴³⁰ PIC Transcript, Sherree Bissett, 30 August 2012, pp. 364-364

⁴³¹ PIC Transcript, Sherree Bissett, 30 August 2012, p. 366

⁴³² PIC Transcript, Sherree Bissett, 30 August 2012, pp. 367-78

⁴³³ PIC Transcript, Sherree Bissett, 30 August 2012, p. 424

⁴³⁴ PIC Transcript, Sherree Bissett, 30 August 2012, pp. 367-78

⁴³⁵ PIC Transcript, Sherree Bissett, 30 August 2012, p. 369

2.294 Bissett then gave an account of her mental processes. Her immediate thought was to “go in” and assist Abela. She took a step forward but thought “it’s too dangerous” and took a step back. She then saw Adam Salter “move his arm towards the direction of ... Abela” in a “right hand arc”. The following question and answer then occurred in her evidence:

Q. So you are saying, just to make it clear, that, at your time of entry, you had sufficient time to do the following: to observe the scene, take a couple of steps towards breaking them up, recognise that that was not a preferred option, take a couple of steps back, draw your firearm, call “Taser, Taser”, “Taser”, and then fire?

*A. Yes, but I only took one step forward.*⁴³⁶

2.295 Bissett said she assessed each of her non-lethal options before she drew her firearm, including her baton and capsicum spray.⁴³⁷ She said she “couldn’t have” asked Adam Salter to put the knife down as she did not have time.⁴³⁸

2.296 Bissett said that there was “probably” a three and a half seconds to four seconds interval between the time she entered the room and called out “Taser, Taser, Taser”. She rejected evidence by at least one other witness that she entered the kitchen with her firearm drawn.⁴³⁹ She called out “Taser, Taser, Taser” and drew her gun simultaneously.⁴⁴⁰

2.297 Bissett said that she called out “Taser, Taser, Taser” because “I had to say something to let everyone know that I was about to use my gun”. She conceded that they were the “wrong words” but also said that “they were the words that came out”.⁴⁴¹

2.298 Bissett saw Adam Salter “lunge” at Abela with the knife and “point the knife towards” Abela. She saw him “brandishing the knife in a menacing fashion” and “swinging it around”.⁴⁴²

2.299 Bissett was taken to parts of her *walkthrough* interview where she had caused to be demonstrated how she said that Abela and Adam Salter were in bodily contact. She admitted that the contact she described was “wrong” and gave the following evidence:

A ... [T]hey were continually moving ...

...

⁴³⁶ PIC Transcript, Sherree Bissett, 30 August 2012, p. 370

⁴³⁷ PIC Transcript, Sherree Bissett, 30 August 2012, pp. 371-72

⁴³⁸ PIC Transcript, Sherree Bissett, 30 August 2012, pp. 372, 374

⁴³⁹ PIC Transcript, Sherree Bissett, 30 August 2012, pp. 370-71, 374

⁴⁴⁰ PIC Transcript, Sherree Bissett, 30 August 2012, p. 398

⁴⁴¹ PIC Transcript, Sherree Bissett, 30 August 2012, p. 373

⁴⁴² PIC Transcript, Sherree Bissett, 30 August 2012, pp. 374-75

A. Well, they were - he's pulling one way and he's pulling in the other way. So at one stage, they are coming together but then they are going apart again.

...

A. Well, no, I don't - no, I don't think his shirt was touching. He was pulling him away. I don't think he was giving him that big a bear hug.

...

A. He was out a bit – he was a bit further away – Constable Abela.

...

A. I don't know if his shirt was on his body.⁴⁴³

- 2.300 Bissett agreed that she had repeatedly directed a re-enactment in her *walkthrough* interview so that Abela's shirt would have been in contact with Adam Salter's body. She had thought that this portrayal was true at the time of the *walkthrough* interview. She said that she had only come to realise that the account was "inaccurate" at the Commission's public hearing.⁴⁴⁴ Later in her evidence she agreed that the explanation she had given for changing her evidence was itself "false", agreeing that she had been present at the inquest when Abela's shirt was produced to demonstrate that there was no blood on the front.⁴⁴⁵ In further evidence she said that she had changed her evidence because of evidence which she had now seen at the Commission's hearing which caused her to come to the view that her memory was not as accurate as she had thought.⁴⁴⁶
- 2.301 With reference to the contact she had originally described, Bissett said that she could not "explain" or "reconcile" her evidence with evidence that another person (Reynolds) had found no blood at all on the front of Abela's shirt,⁴⁴⁷ saying: "If he's got no blood on his shirt, they mustn't have been that close, touching".⁴⁴⁸
- 2.302 In explaining why she had given police inaccurate information in her *walkthrough* interview, Bissett suggested emotional reasons. She said: "It's 11 days after. It is three days after his funeral. I'm in a house I don't want to be in. There is a picture of him staring at me the whole time I'm there".⁴⁴⁹
- 2.303 Bissett was taken to that part of the *walkthrough* interview in which she had described Adam Salter as having turned to the right and then to the left with

⁴⁴³ PIC Transcript, Sherree Bissett, 30 August 2012, p. 380-81

⁴⁴⁴ PIC Transcript, Sherree Bissett, 30 August 2012, pp. 389-90, 392

⁴⁴⁵ PIC Transcript, Sherree Bissett, 30 August 2012, pp. 392-93

⁴⁴⁶ PIC Transcript, Sherree Bissett, 30 August 2012, p. 426

⁴⁴⁷ PIC Transcript, Sherree Bissett, 30 August 2012, pp. 383, 387

⁴⁴⁸ PIC Transcript, Sherree Bissett, 30 August 2012, p. 391

⁴⁴⁹ PIC Transcript, Sherree Bissett, 30 August 2012, p. 381

his right arm swinging to stab Abela. She agreed that no one else who was in the room agreed with her account but denied making it up.⁴⁵⁰

- 2.304 In examination by counsel for Oxford, Bissett agreed with the suggestion that she would have been justified in shooting Adam Salter, even if Abela had been standing in the right hand corner of the kitchen and had not moved. As Adam Salter had been armed with a knife and had been close to Abela, Abela would have been in serious danger in those circumstances.⁴⁵¹
- 2.305 Bissett was questioned about her police interview. She said she had been advised not to participate in an electronically recorded interview.⁴⁵² She did not write any notes before the interview, as she had been told that, once back at Campsie police station, she would be interviewed “*shortly*”. She did not envisage that “*shortly*” would mean four, five or six hours before the interview commenced.⁴⁵³
- 2.306 Bissett also gave some evidence about what had happened after the shooting. Metcalfe had given evidence that she had taken hold of a police radio after the shooting and had asked Bissett “*What do you want me to say?*” and that Bissett had not reacted to the question. Bissett said that that was consistent with her recollection.⁴⁵⁴ Bissett also said that Detective Eljarrar arrived very shortly afterwards and that she left the scene with Eljarrar a few minutes later.⁴⁵⁵

AARON ABELA

- 2.307 When Abela and Wilson first arrived at 33 Wangee Road Abela walked into the front room of the premises and had a conversation with Adrian Salter. A short time later, Bissett and Metcalfe arrived and he cleared the house with Metcalfe. He observed that Adam Salter was lying on the floor and was being treated by the ambulance officers. He was told by Bissett to stand in the kitchen and secure the area and said that he stood in the vicinity of the sink. Bissett told him that there was a knife in the sink; however, he said that he did not see the knife. Bissett and the other police officers then left the kitchen. Meanwhile, he observed that the ambulance officers continued to treat Adam Salter.⁴⁵⁶
- 2.308 As in his previous accounts, Abela said that Adam Salter then got up. Adam Salter first raised his body and went back down, and then suddenly got to his feet and headed quickly towards the sink.⁴⁵⁷
- 2.309 Abela did not see a male ambulance officer put his hands out in front of Adam Salter as though to stop him. He did not see where any of the ambulance

⁴⁵⁰ PIC Transcript, Sherree Bissett, 30 August 2012, p. 383-84

⁴⁵¹ PIC Transcript, Sherree Bissett, 30 August 2012, pp. 410-12

⁴⁵² PIC Transcript, Sherree Bissett, 30 August 2012, p. 415

⁴⁵³ PIC Transcript, Sherree Bissett, 30 August 2012, p. 425

⁴⁵⁴ PIC Transcript, Sherree Bissett, 30 August 2012, p. 416

⁴⁵⁵ PIC Transcript, Sherree Bissett, 30 August 2012, p. 417

⁴⁵⁶ PIC Transcript, Aaron Abela, 30 August 2012, pp. 307-11

⁴⁵⁷ PIC Transcript, Aaron Abela, 30 August 2012, p. 312

officers were at that time.⁴⁵⁸ However, when Adam Salter got up the second time he *“heard some screaming for police”*.⁴⁵⁹

2.310 Abela said that as Adam Salter went quickly towards the sink, he *“took a step forward”* and attempted to *“stop him from getting to the sink”* and in the process of doing that his *“right arm”* came into contact with the *“top part”* of Adam Salter’s body.⁴⁶⁰ Abela said: *“it was just an instantaneous action where my arm came out to try and stop him”*.⁴⁶¹

2.311 Adam Salter kept *“continuing, progressing to the sink”* and Abela *“ended up behind”* him to the left. Abela took hold of Adam Salter’s left arm with two hands. He demonstrated in the hearing room how he had held Adam Salter’s arm by having his right hand above Adam Salter’s elbow and his left hand below the elbow.⁴⁶²

2.312 Abela then gave the following evidence:

Q. Were you able to keep control of him?

A. Obviously not. Like, he - my arm started slipping.

Q. Why did your arm slip?

A. I believed it was due to the - he had blood on him, so I can't see any - just my arm was slipping, so - he was still moving forward and I'm trying to pull back. So my arm was slipping.

Q. When you say your arm, I suppose you are really meaning your hands?

A. That my hands are - yes, sorry, my hands are slipping on his arm.

Q. And so you weren't able to maintain a grip on Adam Salter's left arm?

A. I did keep a grip on it, but it was slipping.

Q. And was there a lot of blood?

A. To the best of my recollection, it was, you know, the most blood I'd ever seen. Being the most - you know, someone so junior and something, I'd never seen something like it before, so --

Q. There was blood, was there, all over his left arm?

⁴⁵⁸ PIC Transcript, Aaron Abela, 30 August 2012, p. 312

⁴⁵⁹ PIC Transcript, Aaron Abela, 30 August 2012, p. 346

⁴⁶⁰ PIC Transcript, Aaron Abela, 30 August 2012, p. 313, 318

⁴⁶¹ PIC Transcript, Aaron Abela, 30 August 2012, p. 313

⁴⁶² PIC Transcript, Aaron Abela, 30 August 2012, p. 314

*A. I believe there was blood, yes.*⁴⁶³

2.313 He then gave the following evidence on what happened next:

Q. So you were able to maintain a grip on his left arm. But did Adam Salter continue to go to the sink?

A. I see his right arm out stretched to the sink.

Q. Did you see what his right arm did?

A. Yes, he put it in the sink.

Q. At some point it would have - his right hand, that is - gone below the level at which you could see; is that right?

A. That's correct.

Q. Did you ever see him retrieve the knife?

A. No. I just saw his - saw his arm go into the sink.

Q. And then you saw it come out?

A. Coming in an upward motion, yes.

Q. And so, on what you saw, he removed his right hand and arm from the area of the sink?

A. Yes, his right arm was coming up from the sink.

Q. Well, what happened next in terms of the dynamics of your two bodies?

A. So he was - if he was here, so he was on the right side of me while I was to the left side of him. So it was a bit of an angle.

Q. And did you continue to maintain your grip on him?

A. No - well, once I've seen his arm coming up, I've slowly started to let go.

Q. It was a deliberate decision by you to let go?

A. Yes.

Q. And did you see what he did with his body? Did he twist his torso?

A. The only thing I saw is, as I have been pulling - as I was pulling him and I've started to let go, I've turned my head to the right and that's where I've

⁴⁶³ PIC Transcript, Aaron Abela, 30 August 2012, p. 314

seen Sergeant Bissett. When I have - as I have started to let go, I have turned my head to the right and the shot was fired.

Q. The first time you saw Bissett was after Adam Salter had removed his right hand and arm from the sink?

A. As his right arm was coming up from the sink, I've pulled - I was pulling, I've turned my head to the right and that's where I've seen Sergeant Bissett there.

Q. Was her weapon drawn?

A. Yes, it was drawn.

Q. And was it pointing at Salter?

A. Yes, it was.

Q. And did you hear something?

A. No.

Q. You didn't hear, as some people have described, a call of either "Taser", or a call of "Taser, Taser, Taser"? Did you hear that?

A. I didn't hear it.

Q. There would have been a commotion in the room at the time, I suppose?

A. Yes.

Q. Did you hear a bang?

A. I heard a bang, yes.

Q. And so how long after you saw Bissett, was it that you heard the bang - split second or seconds?

*A. It was in a second - it was a split second.*⁴⁶⁴

...

Q. I should have asked you this just to make it clear: at the time you heard the bang, the shot, did you still have a grip on Adam Salter?

A. It's a simultaneous action; I have let go.

Q. At the moment of the bang, you were also releasing your grip?

⁴⁶⁴ PIC Transcript, Aaron Abela, 30 August 2012, p. 314-16

A. Yes.⁴⁶⁵

2.314 Abela did not hear Bissett challenge Adam Salter to put down the knife.⁴⁶⁶ He did not see Adam Salter point or brandish the knife at police or swing the knife or lunge at police with the knife or confront police with the knife.⁴⁶⁷

2.315 In his evidence Abela was shown the recording of his *walkthrough* interview. He did not wish to alter the account he had given other than to say it was “*more my right arm*” and not his upper body which had come into contact with Adam Salter.⁴⁶⁸ In reference to the account he had given in his *walkthrough* interview, he said:

A. It is more my right arm, because it was an instant action by me to just - to be honest, it happened so quick, and can I tell you what I really thought through my mind?

...

*A. Well, what I want to say is that it happened so quick. I put my right arm out and, you know, when I saw him getting up, to be honest, I - I panicked. I thought - I was stressed out about it and I thought - to be honest, the words came to my mind was "Fuck", you know, "like this is bad", and my right arm just came out as an instant action to stop him.*⁴⁶⁹

2.316 Abela was also shown the recording of Bissett’s *walkthrough* interview and disputed her account that he and Adam Salter had been engaged in a “*close embrace*” such that their bodies were touching. He said that he was never that close to Adam Salter. He did not see Adam Salter swing his right arm toward Abela as she had described.⁴⁷⁰ He also said that he did not recall Adam Salter moving his shoulders rapidly to the right and left and twisting to the left; and said that he and Adam Salter were closer to the sink than where Bissett had placed them.⁴⁷¹

2.317 In his evidence Abela was taken to the evidence he had given at the inquest concerning his gloves. He agreed that he had given evidence at the inquest that he had put on a single glove, on his left hand, before he attempted to restrain Adam Salter and said that the evidence he had given was truthful and accurate.⁴⁷² He also agreed that a key part of his evidence had been that he had his left glove on and could not maintain a grip on Adam Salter’s arm because of the blood on the arm.⁴⁷³ He also agreed that he had given evidence at the private hearing that he had not altered the condition of the

⁴⁶⁵ PIC Transcript, Aaron Abela, 30 August 2012, p. 317

⁴⁶⁶ PIC Transcript, Aaron Abela, 30 August 2012, p. 316

⁴⁶⁷ PIC Transcript, Aaron Abela, 30 August 2012, p. 317

⁴⁶⁸ PIC Transcript, Aaron Abela, 30 August 2012, p. 319

⁴⁶⁹ PIC Transcript, Aaron Abela, 30 August 2012, p. 318

⁴⁷⁰ PIC Transcript, Aaron Abela, 30 August 2012, p. 322, 325

⁴⁷¹ PIC Transcript, Aaron Abela, 30 August 2012, p. 324-25

⁴⁷² PIC Transcript, Aaron Abela, 30 August 2012, p. 320-22

⁴⁷³ PIC Transcript, Aaron Abela, 30 August 2012, pp. 332-33

gloves or other parts of his uniform after the incident before he handed them to a police officer at Campsie police station⁴⁷⁴

- 2.318 In giving an explanation for why no blood had been detected on his left glove, Abela said that he might have “*made an error*” and that his “*recollection*” of having put on the left glove could have been “*wrong*”. Counsel Assisting had read to Abela evidence Abela had given on four occasions at the inquest that he had put the left glove on.⁴⁷⁵
- 2.319 In examination by Mr Tedder, Abela agreed with a suggestion that his grip on Adam Salter’s left arm might have slipped because Adam Salter’s left arm was sweaty (diaphoretic) and not because it was covered in blood.⁴⁷⁶ He also said he was not aware if there was any blood above Adam Salter’s chest but reiterated that he believed that there was blood on his arm.⁴⁷⁷
- 2.320 Abela was asked by Mr Tedder about the absence of blood on the front of his police shirt. He said that the absence of blood on the shirt was consistent with what he had said in his evidence before the Commission about it being his right arm, rather than the “*front*” of his body, which came into contact with Adam Salter. Abela denied that he had tailored his evidence before the Commission to accommodate the fact that no blood had been detected on his shirt. He denied that he did not come into contact with Adam Salter and that he remained frozen in the position that Coolahan had described.⁴⁷⁸ Elsewhere he also denied that his story about trying to restrain Adam Salter was nothing more than a lie that had been designed to excuse the shooting.⁴⁷⁹
- 2.321 Abela was asked questions about his notebook entries. He agreed that he had been taught to keep a notebook and to keep complete and accurate notes of critical events.⁴⁸⁰ In respect of the entries he prepared on 18 November 2009, he agreed that he made the entries less than 20 minutes after the incident and conceded that the entries did not include any reference to his “*actually physically laying his hands on Adam Salter*”. He agreed that it would have been a “*critical matter*”. He denied that the explanation for the absence of any note about his physically laying hands on Adam Salter was that he had never left his position near the refrigerator. He said his notes were “*rubbish*” and “*terrible*”, and that he had found it hard to make proper notes, and said he “*made an attempt and ... failed*”.⁴⁸¹
- 2.322 Later in his evidence, Abela said that he was in a state of shock after the incident and that he was not thinking clearly when he made his notes.⁴⁸² However, he also said that he added the words “*critical incident*” to his notes

⁴⁷⁴ PIC Transcript, Aaron Abela, 30 August 2012, p. 333

⁴⁷⁵ PIC Transcript, Aaron Abela, 30 August 2012, p. 334

⁴⁷⁶ PIC Transcript, Aaron Abela, 30 August 2012, pp. 344-45

⁴⁷⁷ PIC Transcript, Aaron Abela, 30 August 2012, p. 342, 344

⁴⁷⁸ PIC Transcript, Aaron Abela, 30 August 2012, p. 335

⁴⁷⁹ PIC Transcript, Aaron Abela, 30 August 2012, p. 336

⁴⁸⁰ PIC Transcript, Aaron Abela, 30 August 2012, p. 326-27

⁴⁸¹ PIC Transcript, Aaron Abela, 30 August 2012, p. 327-28

⁴⁸² PIC Transcript, Aaron Abela, 30 August 2012, pp. 350-51, 352

after his interview and checked the accuracy of his notes before he wrote those additional words.⁴⁸³

- 2.323 Elsewhere in his evidence Abela said that he did not see Adam Salter stab himself in the throat or see Adrian Salter move towards his son.⁴⁸⁴ With reference to his notebook, where he had written the word “*uncontrollable*”, he said “*I couldn’t control him*” (Adam Salter).⁴⁸⁵
- 2.324 Abela also gave some evidence about what had occurred after the shooting. He said that he, Wilson and Metcalfe were taken back to Campsie police station by car and were told not to talk by the detective who drove them.⁴⁸⁶

LEAH WILSON

- 2.325 When Wilson arrived at 33 Wangee Road she observed that Adam Salter was on the floor and was being treated by the ambulance officers. At the time she noted he was not wearing a shirt and was wearing shorts which were “*quite blood soaked*”. She also recalled that Johnstone showed her the knife that was in the sink.⁴⁸⁷
- 2.326 Soon after arriving Wilson made a call on her police radio asking for Campsie 14, that is, Bissett, to attend the premises. Once Bissett arrived, Bissett took command. A short time later, Wilson went outside with Bissett.⁴⁸⁸
- 2.327 Wilson was outside with Bissett and Metcalfe when she heard a call for help and ran into the premises behind Bissett in response to that call. She ran up the small hallway leading from the front door to the kitchen.⁴⁸⁹ She said that she had a clear and unimpeded view of Abela and Adam Salter.⁴⁹⁰
- 2.328 As Wilson came up the hall she said she saw two ambulance officers attempt to restrain Adam Salter. She said:

*I have seen - as I was walking down the hallway, I've seen Adam stand up. There was a male [ambulance] officer standing directly in front of him with his two hands, I would say, to his upper chest. There was a female ambulance [officer] standing behind him.*⁴⁹¹

- 2.329 Wilson assumed that the male ambulance officer was pushed aside but could not say more as she was focused on Adam Salter.⁴⁹² She recalled that the

⁴⁸³ PIC Transcript, Aaron Abela, 30 August 2012, p. 357-58

⁴⁸⁴ PIC Transcript, Aaron Abela, 30 August 2012, p. 339

⁴⁸⁵ PIC Transcript, Aaron Abela, 30 August 2012, p. 339

⁴⁸⁶ PIC Transcript, Aaron Abela, 30 August 2012, p. 351

⁴⁸⁷ PIC Transcript, Leah Wilson, 29 August 2012, pp. 250-51

⁴⁸⁸ PIC Transcript, Leah Wilson, 29 August 2012, p. 252

⁴⁸⁹ PIC Transcript, Leah Wilson, 29 August 2012, p. 253

⁴⁹⁰ PIC Transcript, Leah Wilson, 29 August 2012, p. 249, 257

⁴⁹¹ PIC Transcript, Leah Wilson, 29 August 2012, p. 257

⁴⁹² PIC Transcript, Leah Wilson, 29 August 2012, p. 258

female ambulance officer had her right arm on the back of Adam Salter's shoulder.⁴⁹³

2.330 Wilson then saw Adam Salter reach the sink and place his hand into the sink. She saw Abela approach Adam Salter on Adam Salter's left-hand side. She could not say from where Abela came but agreed that he would have come from an area near the refrigerator on the right-hand side of the kitchen.⁴⁹⁴

2.331 Wilson gave the following account of what she saw:

A. Constable Abela has gone towards Mr Salter's left-hand side, his upper shoulder. Mr Salter has put his hand in the sink. He's raised his hand back out of the sink. He's turned in an anti-clockwise direction and then turned back to the right. I have then heard the words "Taser, Taser, Taser".

...

A. Constable Abela has stepped back.

...

*A. I've heard a loud bang.*⁴⁹⁵

2.332 Wilson said that she did not see Bissett draw her weapon.⁴⁹⁶

2.333 Wilson saw Adam Salter rotate his torso anticlockwise when Abela had a hold of him. She then heard "*Taser, Taser, Taser*" and observed Adam Salter rotate his torso clockwise, when she heard the bang of the firearm. She agreed that Adam Salter was at that point moving the knife away from Abela and that the "*the risk to Abela was reducing*".⁴⁹⁷ She qualified those answers by saying that the knife was also moving in the direction of Bissett and that there was still a risk to persons within a metre of someone with a knife.⁴⁹⁸

2.334 When the shot was fired Wilson said that Adam Salter "*turned around*", took "*one or two steps backwards*", brought the knife up, placed it in his neck and fell down. She did not know where Abela was at that time.⁴⁹⁹

2.335 After the shot was fired Wilson said "*we all dived on Adam*". However, she did not see Abela or Metcalfe dive on him. She said that she saw a pair of black boots and pants and said "*we were all on the floor, including Adam's father*".⁵⁰⁰

⁴⁹³ PIC Transcript, Leah Wilson, 29 August 2012, p. 259

⁴⁹⁴ PIC Transcript, Leah Wilson, 29 August 2012, p. 259-60

⁴⁹⁵ PIC Transcript, Leah Wilson, 29 August 2012, p. 260

⁴⁹⁶ PIC Transcript, Leah Wilson, 29 August 2012, p. 253

⁴⁹⁷ PIC Transcript, Leah Wilson, 29 August 2012, p. 267-68, 294

⁴⁹⁸ PIC Transcript, Leah Wilson, 29 August 2012, p. 267

⁴⁹⁹ PIC Transcript, Leah Wilson, 29 August 2012, p. 262

⁵⁰⁰ PIC Transcript, Leah Wilson, 29 August 2012, p. 263

- 2.336 Wilson acknowledged that her prior accounts that Bissett had said *"Drop it. Drop it."* were untrue. She said that when she had made the statements she had believed they were true.⁵⁰¹ She denied having fabricated the words in her notebook entries as an afterthought, but agreed that a person reading the entries and seeing the words *"Drop it. Drop it."* might conclude that Bissett had acted responsibly and reasonably.⁵⁰²
- 2.337 Wilson was taken to the accounts given by Bissett and Abela in their *walkthrough* interviews. She agreed with Abela's account *"in that he held and let go"* of Adam Salter. In terms of the *"proximity"* of contact, Abela's account was closer to what she saw. She was looking at Abela's back and saw his right hand come into contact with Adam Salter's *"upper shoulder"* and could not see his left hand.⁵⁰³
- 2.338 Wilson said that Bissett's description of a close embrace was wrong.⁵⁰⁴ She also said Bissett's account that Adam Salter was moving the knife towards Abela was inconsistent with her account that Adam Salter was moving away at the time of the shot.⁵⁰⁵
- 2.339 Wilson also agreed that her own account was inconsistent with Abela's account. She agreed that Abela had positioned Adam Salter as pointed in the opposite direction at the time the shot was fired.⁵⁰⁶
- 2.340 Wilson did not see Adam Salter attempt to attack Abela. She did not see him lunge at police with the knife. She did not see him point the knife towards police or confront any of the police officers with the knife. She did not see him brandish the knife. However, she did see him swinging the knife. She said: *"When he's moved from side to side, the knife was moving, yes ... He wasn't swinging it directly at anyone, but when he moved to his left and then his right, I define that as a knife has been swung"*.⁵⁰⁷
- 2.341 Wilson denied that the account she gave about the location of Abela was false and a lie and that it had been worked out by her to try to excuse the shooting of Adam Salter.⁵⁰⁸
- 2.342 Wilson gave some evidence about what occurred after the shooting. While still at the scene she was instructed by a police officer to stand across the road and not talk to the other involved police officers. She was given those instructions when that officer arrived at the scene. This appears to have been

⁵⁰¹ PIC Transcript, Leah Wilson, 29 August 2012, p. 261

⁵⁰² PIC Transcript, Leah Wilson, 29 August 2012, p. 281-82

⁵⁰³ PIC Transcript, Leah Wilson, 29 August 2012, p. 263

⁵⁰⁴ PIC Transcript, Leah Wilson, 29 August 2012, p. 265

⁵⁰⁵ PIC Transcript, Leah Wilson, 29 August 2012, p. 271

⁵⁰⁶ PIC Transcript, Leah Wilson, 29 August 2012, p. 272

⁵⁰⁷ PIC Transcript, Leah Wilson, 29 August 2012, p. 264

⁵⁰⁸ PIC Transcript, Leah Wilson, 29 August 2012, p. 274

at about 9:45.⁵⁰⁹ She also said that she and the other involved police officers were separated once they got back to Campsie police station.⁵¹⁰

- 2.343 Wilson was asked about the diagram she drew in her police notebook. She said the scene it depicted *“was at the sound of the shot”*.⁵¹¹ With reference to where she had placed herself as standing she said that she had *“stepped further into the kitchen”*. She believed the short partition wall was next to her shoulder or that she was slightly forward from there. From that position she could see the sink.⁵¹² With reference to the position she had allocated to Metcalfe, which seemed to indicate that Metcalfe was almost half-way down the hall, Wilson said that Metcalfe was right behind her and explained that the diagram she drew was not to scale.⁵¹³ She later conceded that, if Metcalfe had been in the position as shown in her diagram, Metcalfe would not have been in a position to have seen Abela and Adam Salter.⁵¹⁴
- 2.344 As depicted in her diagram, Wilson maintained that Adrian Salter was located in the front room of the premises at the time of the shooting. She said that when she entered the house in response to the call for help she recalled *“an image”* on her *“left-hand side”*, which was *“greying”*, and assumed that image was Adrian Salter. She said that she continued to hold that belief three years after the event.⁵¹⁵

EMILY METCALFE

- 2.345 When Metcalfe arrived at 33 Wangee Road she observed that Adam Salter was lying on the floor and was being treated by the ambulance officers and had his shirt off. She did not remember how much blood she saw.⁵¹⁶ She did a search of the house with Abela and then went outside with Bissett and Wilson.⁵¹⁷ At that stage she was aware that a knife had been involved in the incident but was not aware where the knife was.⁵¹⁸
- 2.346 Metcalfe was outside when she heard a call for assistance from inside and entered the premises behind Bissett and Wilson in response to that call.⁵¹⁹ As she proceeded up the hall she did not have a clear line of sight into the kitchen, as Bissett and Wilson were in front of her.⁵²⁰
- 2.347 When Bissett got to the end of the hall, Bissett walked through the kitchen doorway and took a step or half a step to the right. Wilson also went through the kitchen doorway and took a step or half a step to the left. Metcalfe stood *“in the [kitchen] doorway”* and had a view of the scene from that position. She

⁵⁰⁹ PIC Transcript, Leah Wilson, 29 August 2012, p. 290-92

⁵¹⁰ PIC Transcript, Leah Wilson, 29 August 2012, p. 290

⁵¹¹ PIC Transcript, Leah Wilson, 29 August 2012, p. 254

⁵¹² PIC Transcript, Leah Wilson, 29 August 2012, p. 254

⁵¹³ PIC Transcript, Leah Wilson, 29 August 2012, p. 256

⁵¹⁴ PIC Transcript, Leah Wilson, 29 August 2012, p. 285

⁵¹⁵ PIC Transcript, Leah Wilson, 29 August 2012, p. 256

⁵¹⁶ PIC Transcript, Emily Metcalfe, 29 August 2012, p. 192

⁵¹⁷ PIC Transcript, Emily Metcalfe, 29 August 2012, p. 192

⁵¹⁸ PIC Transcript, Emily Metcalfe, 29 August 2012, p. 19, 237

⁵¹⁹ PIC Transcript, Emily Metcalfe, 29 August 2012, p. 193

⁵²⁰ PIC Transcript, Emily Metcalfe, 29 August 2012, p. 225

said she could not see the “*whole of the kitchen*” but she “*could see the sink*”.⁵²¹

- 2.348 From her position in the doorway Metcalfe said that she could see that “*Abela had hold of Adam Salter*” who was at the sink. He was holding Adam Salter “*on the left-hand side by the upper torso*” with his right hand on the top of Adam Salter’s shoulder and his left hand on the left arm above the elbow. Metcalfe said that Adam Salter was at that stage at an angle of about 20 or 30 degrees to the sink and that Abela was behind him.⁵²²
- 2.349 Metcalfe denied that her account that Abela and Adam Salter were in contact was a lie.⁵²³
- 2.350 Metcalfe then heard Bissett call out “*Taser, Taser, Taser*” and heard a bang. She recalled that she could smell gunshot powder.⁵²⁴ She said that there was not much of a pause between the last call of “*Taser*” and the bang, describing it as “*fairly instant*”. She said that the time between arriving in the kitchen and the shot being fired was “*only a few seconds ... if that*”.⁵²⁵
- 2.351 Metcalfe did not see Bissett draw her weapon.⁵²⁶ She also agreed that she could not have known whether Bissett had drawn her Taser, as she was standing behind her when she yelled “*Taser, Taser, Taser*”.⁵²⁷
- 2.352 At the point at which she heard the bang Metcalfe said that Adam Salter was standing at the sink and that she could see the right side of his body.⁵²⁸
- 2.353 Metcalfe did not see the knife in Adam Salter’s hand before he was shot. In her evidence she said that she only saw the knife in his hand after he was shot when she saw him attempt to stab himself in the neck in the process of falling to the floor.⁵²⁹
- 2.354 Before Adam Salter was shot he raised his arm parallel to the ground with a slight crook at the elbow. This was the only gesture Metcalfe saw. At that time, she said his arm was pointed away from Abela.⁵³⁰
- 2.355 In the moments leading up to the shooting Metcalfe said she did not hear anyone challenge Adam Salter to drop the knife. She did not see Adam Salter lunge at police with the knife. She did not see him confront police with the knife. She did not see him brandish the knife or swing the knife around.⁵³¹

⁵²¹ PIC Transcript, Emily Metcalfe, 29 August 2012, p. 194

⁵²² PIC Transcript, Emily Metcalfe, 29 August 2012, pp. 195-96

⁵²³ PIC Transcript, Emily Metcalfe, 29 August 2012, p. 213

⁵²⁴ PIC Transcript, Emily Metcalfe, 29 August 2012, p. 195, 236

⁵²⁵ PIC Transcript, Emily Metcalfe, 29 August 2012, p. 197

⁵²⁶ PIC Transcript, Emily Metcalfe, 29 August 2012, p. 195

⁵²⁷ PIC Transcript, Emily Metcalfe, 29 August 2012, p. 225

⁵²⁸ PIC Transcript, Emily Metcalfe, 29 August 2012, p. 197

⁵²⁹ PIC Transcript, Emily Metcalfe, 29 August 2012, p. 198

⁵³⁰ PIC Transcript, Emily Metcalfe, 29 August 2012, pp. 199-200, 207

⁵³¹ PIC Transcript, Emily Metcalfe, 29 August 2012, p. 201

- 2.356 Metcalfe was taken to the accounts given by Bissett and Abela in their recorded *walkthrough* interviews and excerpts were played for her to view. On viewing the excerpts she said she did not see the close contact that Bissett described, saying that there was a separation between Abela's body and Adam Salter's body. She never saw Abela "*that close, like, touching.*" She also said that Adam Salter was twisting his body to the right by half a turn or a quarter of a turn and was not twisting to the left as Bissett had described.⁵³²
- 2.357 Metcalfe later marked a series of diagrams in which she depicted the positions of Abela, Adam Salter and Bissett.⁵³³
- 2.358 Metcalfe said that Abela's account was "*probably more like what I saw.*"⁵³⁴ However, she did not recall Abela "*tugging*" on Adam Salter's left arm and did not see his hands slipping. She could not remember if Adam Salter had blood on his left arm.⁵³⁵
- 2.359 Metcalfe was asked about the radio transmissions she made after the shooting, which she agreed having made.⁵³⁶ She gave evidence that after the shooting she took the police radio from Wilson and looked at Bissett and asked her "*What do you want me to say.*" She said that Bissett made no response and was in shock.⁵³⁷
- 2.360 Metcalfe agreed that the reference in her transmissions to Adam Salter having "*got the knife ... and was coming at us*" was not accurate. She also said it was "*untrue*" when she said it and that it was correct that she had no proper basis for saying it.⁵³⁸ She denied that her transmissions were part of a deliberate "*cover up*" but also agreed that it "*portrayed police in a good light*" and that the ordinary and natural meaning was that Adam Salter had threatened police.⁵³⁹ In her evidence she said that her "*only explanation*" for saying those words (that Adam Salter had got the knife and was coming at the police officers) was that she "*assumed*" it to have been the case. She did not remember saying the words.⁵⁴⁰ Later in her examination she said her "*sole intention*" in contacting police was to obtain the assistance of senior police. She also said that no one had suggested or asked her to say that Adam Salter "*was coming at us*". She said that she would not have said those words "*but for the fact that the radio operator asked [her] for details about what had happened.*"⁵⁴¹
- 2.361 Metcalfe said that Bissett did not have time to ask Adam Salter to put the knife down. She also agreed that Bissett shot Adam Salter when the knife was pointed away from Abela and Abela was under no immediate threat.⁵⁴²

⁵³² PIC Transcript, Emily Metcalfe, 29 August 2012, p. 202-04

⁵³³ PIC Transcript, Emily Metcalfe, 29 August 2012, p. 202-04

⁵³⁴ PIC Transcript, Emily Metcalfe, 29 August 2012, p. 205

⁵³⁵ PIC Transcript, Emily Metcalfe, 29 August 2012, p. 206

⁵³⁶ PIC Transcript, Emily Metcalfe, 29 August 2012, p. 208

⁵³⁷ PIC Transcript, Emily Metcalfe, 29 August 2012, p. 239

⁵³⁸ PIC Transcript, Emily Metcalfe, 29 August 2012, p. 210-11, 215

⁵³⁹ PIC Transcript, Emily Metcalfe, 29 August 2012, p. 213, 215, 231

⁵⁴⁰ PIC Transcript, Emily Metcalfe, 29 August 2012, p. 231

⁵⁴¹ PIC Transcript, Emily Metcalfe, 29 August 2012, pp. 241, 243

⁵⁴² PIC Transcript, Emily Metcalfe, 29 August 2012, p. 214

2.362 In her evidence Metcalfe was also taken to the mud map she drew at her police interview which depicted Abela in the right hand corner of the room. She denied that that was where Abela was when the shooting took place.⁵⁴³ She said that where she had located Abela in the mud map, in the corner, was after the shooting. Notwithstanding that she had been asked at her interview to describe the location of persons “*at the time of the shooting*”, she said:

*A. My understanding of these questions, when I drew the mud map, is that where I have Aaron placed in that corner, right-hand corner, is where I have placed him after the shooting.*⁵⁴⁴

2.363 She went on to give the following evidence:

Q. Okay. So your account is that Aaron left holding Adam's left arm and walked around, right back to that corner?

A. Well, no. In - after all the evidence that has been put forward, both this proceedings and the coroner's proceedings, I can see that that's probably not where he went.

Q. That would be ridiculous, wouldn't it?

A. Yes.

Q. That would be false?

A. Correct.

...

Q. You see, don't you think it more likely you got it very right on the very day of the incident itself rather than getting it right for the first time today?

A. Most likely, yes.

...

Q. I'm going to put to you right now that where Aaron is shown in that mud map is exactly where Aaron was at the time of the shooting.

*28 A. No, that's not correct.*⁵⁴⁵

2.364 Metcalfe said she was unable to say where Abela was at the moment Adam Salter was shot.⁵⁴⁶ With reference to the position she had attributed to him in her mud map she said, that although she could not see him, she had placed him where Abela would have been if he had gone to the “*furthest point*” in the

⁵⁴³ PIC Transcript, Emily Metcalfe, 29 August 2012, pp. 219-220, 221

⁵⁴⁴ PIC Transcript, Emily Metcalfe, 29 August 2012, p. 221

⁵⁴⁵ PIC Transcript, Emily Metcalfe, 29 August 2012, pp. 221-22

⁵⁴⁶ PIC Transcript, Emily Metcalfe, 29 August 2012, p. 203

room. When asked whether Abela was in the corner near the refrigerator at the time of the shooting, she said *"That's where I say he was, but I can't physically see him"*.⁵⁴⁷

- 2.365 Metcalfe also gave evidence about what happened after the shooting. She said that she went back to Campsie police station with Wilson and Abela, and that, when they got there, the three officers were separated.⁵⁴⁸

ACCOUNTS GIVEN BY THE CIVILIAN WITNESSES AT THE COMMISSION HEARING

ADRIAN SALTER

- 2.366 At the public hearing Adrian Salter said that he stood by the statements which he had made to police and the evidence which he had given at the inquest.⁵⁴⁹
- 2.367 In the early part of his evidence he repeated the key parts of what had happened prior to the arrival of ambulance and police officers. Briefly, he said that while he was making arrangements for Adam Salter to attend hospital he heard a *"gurgling sound"* coming from the kitchen. He went to investigate and saw his son had stabbed himself with a knife and saw a lot of blood spilling down from his chest. He took the knife from his son and put it in the sink and called for emergency assistance. He went and opened the front door and then waited for help to arrive.⁵⁵⁰
- 2.368 Adrian Salter said that when the first ambulance officers arrived they took control of the situation and began treating his son. Two police officers arrived soon after. They were followed by two more ambulance officers and more police.⁵⁵¹
- 2.369 When the police came, Adrian Salter said that he was directed to leave the kitchen and was told to go into the office at the front of the house. He went to the office and said that he *"tried to stay near the door so that I could see what was happening with Adam"*. At that stage he could see that Adam Salter was lying on his back.⁵⁵²
- 2.370 Adrian Salter then saw that Adam Salter *"rose a little and then went back [down]"*. He then saw him *"rise up ... quite suddenly"*⁵⁵³ Adam Salter was *"half up"* and *"heading towards the kitchen sink"*. Adrian Salter came out of the office. He said: *"I couldn't stand by while that was happening"*.⁵⁵⁴

⁵⁴⁷ PIC Transcript, Emily Metcalfe, 29 August 2012, p. 224

⁵⁴⁸ PIC Transcript, Emily Metcalfe, 29 August 2012, p. 245

⁵⁴⁹ PIC Transcript, Adrian Salter, 27 August 2012, p. 22

⁵⁵⁰ PIC Transcript, Adrian Salter, 27 August 2012, p. 24-25

⁵⁵¹ PIC Transcript, Adrian Salter, 27 August 2012, p. 26

⁵⁵² PIC Transcript, Adrian Salter, 27 August 2012, pp. 26-27

⁵⁵³ PIC Transcript, Adrian Salter, 27 August 2012, p. 27

⁵⁵⁴ PIC Transcript, Adrian Salter, 27 August 2012, p. 28

- 2.371 Adrian Salter rushed in quickly because it seemed to him that *“the ambulance officers had stood back and nobody else was doing anything”*. He said: *“I felt I had to try and stop Adam”*.⁵⁵⁵ Adrian Salter said he was not aware of how many people were in the room at that stage. He was looking at Adam Salter and was not trying to focus *“on what other people were doing”*. He was certain that there was one police officer, and *“thought at the time”* that there may have been two police officers, standing near the entrance to the kitchen.⁵⁵⁶
- 2.372 Adrian Salter held his son but was unable to hold his grasp. He said that Adam Salter was *“flailing around”* with *“tubes and oxygen and stuff on him”* and that *“he pushed me aside”*.⁵⁵⁷ Adrian Salter would not say that Adam Salter’s movements were *“aggressive.”* He said that they were *“purposeful – sudden and quick”*.⁵⁵⁸
- 2.373 Adrian Salter *“fell over backward”* to his *“right side”* and *“got tangled up in some cords”* from the ambulance officers’ equipment.⁵⁵⁹ His son then *“went straight to the sink”*. He did not see him with the knife in his hand but *“saw movement at the sink”*. He said: *“I saw him sort of crouched over and doing something”*.⁵⁶⁰ At that stage, his son had his back to him.⁵⁶¹ He could see that his shoulder and arm were moving and believed that he had the knife in his hand.⁵⁶² He agreed that those movements might have related to the four or five stab wounds that he eventually saw in his son’s neck.⁵⁶³
- 2.374 Adrian Salter said that he had a clear view of Adam Salter from the time he re-entered the kitchen and before he fell. After he fell, he estimated that his head was *“six to nine”* feet from Adam Salter and said *“there was nothing between me and Adam”*.⁵⁶⁴ He said he *“might have lost sight”* of Adam Salter as he fell *“but ... very quickly looked back again”* and after he fell he had a clear view of Adam Salter.⁵⁶⁵
- 2.375 After he fell Adrian Salter heard someone shout *“Taser, Taser”* and then heard *“a loud bang”*. He saw Adam Salter *“fall over backwards”* and *“as he fell”* he *“saw that he was stabbing himself in the neck with the knife”*.⁵⁶⁶ After Adam Salter was shot, Adrian Salter said that he went and *“grabbed”* Adam Salter’s wrist. He said that *“the knife was in his throat”* and that he *“pulled his wrist and pulled the knife out”*. As he did, he saw blood well out of the stab wound.⁵⁶⁷ He could see that Adam Salter *“already had several stab wounds in his neck”* and said there were *“five or so stab wounds, and this was the last one ... when I*

⁵⁵⁵ PIC Transcript, Adrian Salter, 27 August 2012, p. 29

⁵⁵⁶ PIC Transcript, Adrian Salter, 27 August 2012, p. 29

⁵⁵⁷ PIC Transcript, Adrian Salter, 27 August 2012, pp. 29, 39

⁵⁵⁸ PIC Transcript, Adrian Salter, 27 August 2012, p. 39

⁵⁵⁹ PIC Transcript, Adrian Salter, 27 August 2012, p. 29

⁵⁶⁰ PIC Transcript, Adrian Salter, 27 August 2012, p. 30

⁵⁶¹ PIC Transcript, Adrian Salter, 27 August 2012, p. 31

⁵⁶² PIC Transcript, Adrian Salter, 27 August 2012, p. 55

⁵⁶³ PIC Transcript, Adrian Salter, 27 August 2012, p. 56

⁵⁶⁴ PIC Transcript, Adrian Salter, 27 August 2012, p. 30

⁵⁶⁵ PIC Transcript, Adrian Salter, 27 August 2012, p. 31

⁵⁶⁶ PIC Transcript, Adrian Salter, 27 August 2012, p. 30

⁵⁶⁷ PIC Transcript, Adrian Salter, 27 August 2012, p. 31

grabbed his wrist". It was obvious to him that Adam Salter had *"been doing it before"*, that is, using the knife to *"jab"* himself in the neck.⁵⁶⁸

- 2.376 Adrian Salter estimated that there were *"five or six seconds"* from when he first entered the kitchen to when the shooting occurred.⁵⁶⁹
- 2.377 Adrian Salter was taken to the accounts given by Bissett and Abela in their *walkthrough* interviews. He said that he did not see any police officer in physical contact with Adam Salter in the way shown by Bissett or see any police officer in physical contact restraining Adam Salter at any time. Nor did he see anything like a police officer *"grasping"* Adam Salter by the left arm *"trying to pull him away from the sink"*.⁵⁷⁰
- 2.378 Adrian Salter did not see Adam Salter lunge at police with the knife. He did not see him challenge police with the knife. He did not see him brandish the knife or swing the knife around. He did not see him point the knife towards a police officer. He said that there was no indication by Adam Salter of any violence against anybody apart from himself. He also said that Bissett did not challenge his son to put the knife down.⁵⁷¹
- 2.379 Adrian Salter said that when he came into the kitchen from the office there was a male police officer standing to his right. He said that the police officer was in that position when he came in and held his son. He also said that the officer was *"standing there for pretty much the whole time"*.⁵⁷² He gave the following evidence about the actions of that police officer:

Q. During the time that you were in there - that is, you enter, you become aware of the police officer, you fall to the ground and Adam is shot - did that police officer move from the position where you first saw him?

A. My impression is no, and I was pretty well watching. I would say no.

Q. You realise one of the key issues is now whether or not that police officer left his position and went and came into contact with Adam, attempted to either grapple with him or restrain him; you realise that that's the key issue?

A. Yes, I realise that.

Q. Did that happen?

*A. That didn't happen.*⁵⁷³

- 2.380 Later in his evidence Adrian Salter was asked about his *"impression"* regarding the movement of the male police officer. He conceded that he may

⁵⁶⁸ PIC Transcript, Adrian Salter, 27 August 2012, p. 42

⁵⁶⁹ PIC Transcript, Adrian Salter, 27 August 2012, p. 43

⁵⁷⁰ PIC Transcript, Adrian Salter, 27 August 2012, pp. 31-32

⁵⁷¹ PIC Transcript, Adrian Salter, 27 August 2012, p. 32

⁵⁷² PIC Transcript, Adrian Salter, 27 August 2012, p. 33

⁵⁷³ PIC Transcript, Adrian Salter, 27 August 2012, p. 34

have “*moved very slightly*” in the brief moment that he lost sight of his son when he fell over, but observed that there was “*a big difference between a slight movement and what I saw on the video, which was not right*”.⁵⁷⁴ He also said that he was in “*the same place he always was*” after the shooting.⁵⁷⁵ In the five or six seconds from when he first entered the kitchen to when Adam Salter was shot, Adrian Salter said that he did not see that officer put on his gloves or a glove. He “*wasn’t watching the officer*” and said that his “*focus was very much on Adam*”. He also said that he did not know what the officer was doing.⁵⁷⁶

- 2.381 In the period before Adam Salter got to the sink and was shot, Adrian Salter did not think there was a “*lot of blood*” on Adam Salter’s body. He said that Adam Salter had a bare torso and a white bandage around his top. He recalled that there was a lot of blood on his shorts and on the lower part of his body.⁵⁷⁷ He also said he “*wasn’t looking at his arms for blood, but there wasn’t much blood on his upper body throughout*”.⁵⁷⁸
- 2.382 Elsewhere in his evidence Adrian Salter said that Adam Salter did not turn towards Bissett after she fired the shot.⁵⁷⁹ He did not recall hearing any of the ambulance officers call for police assistance.⁵⁸⁰
- 2.383 At the hearing Adrian Salter marked a number of diagrams to show the positions of persons in the kitchen at the time of the shooting. In those diagrams he placed Abela on the right hand side of the room in front of the refrigerator.⁵⁸¹
- 2.384 An observation that Adrian Salter made was that the events that unfolded were not confined to the kitchen. He said:

*A. What I wanted to say was that the - this wasn't all confined just to the kitchen, because the ambulance officers and Adam were in - well, certainly half of Adam was back in the dining room, and the kitchen - there's also - when the kitchen ends, there's a section, I suppose, a metre wide, which is a walkway, and then there's the dining room, so it's bigger than just the kitchen, and this wasn't all happening just in the kitchen.*⁵⁸²

MEAGAN COOLAHAN

- 2.385 In her evidence before the Commission Coolahan said that when she and Lutz first arrived at 33 Wangee Road, Adam Salter was lying on the floor with his feet towards the sink. She was given a handover by Johnstone. At the time she observed that Adam Salter’s “*level of consciousness was decreased*” but

⁵⁷⁴ PIC Transcript, Adrian Salter, 27 August 2012, p. 40

⁵⁷⁵ PIC Transcript, Adrian Salter, 27 August 2012, p. 46

⁵⁷⁶ PIC Transcript, Adrian Salter, 27 August 2012, p. 44

⁵⁷⁷ PIC Transcript, Adrian Salter, 27 August 2012, p. 29

⁵⁷⁸ PIC Transcript, Adrian Salter, 27 August 2012, p. 52

⁵⁷⁹ PIC Transcript, Adrian Salter, 27 August 2012, p. 41

⁵⁸⁰ PIC Transcript, Adrian Salter, 27 August 2012, p. 43

⁵⁸¹ Exhibit 9

⁵⁸² PIC Transcript, Adrian Salter, 27 August 2012, p. 53-54

that he was *“not unconscious.”* He was being given oxygen and was attached to cardiac monitoring equipment.⁵⁸³

- 2.386 When Coolahan arrived, Coolahan observed that there was not much blood on Adam Salter’s torso. Later in her evidence she said that there was *“no blood on his shoulders”*.⁵⁸⁴
- 2.387 She became aware that there was a knife in the sink. She said that it had been shown to her by Johnstone when she came into the house. She said he *“picked it up and showed me ... and put it back in the sink”*.⁵⁸⁵
- 2.388 As she was *“crouching down”* to treat Adam Salter, he *“became agitated”* and *“sat up very quickly”*. She and Johnstone spoke to him *“trying to get him to lay back down”*, which he did.⁵⁸⁶ Then, in what she described as *“an instant”*, *“he sat up again. He started thrashing his arms about, got to his feet and progressed to the sink”*.⁵⁸⁷ By *“thrashing”* Coolahan meant that *“he was throwing his arms about, basically shoving us off him”*.⁵⁸⁸ Coolahan said that as these events were happening there was a male police officer in the kitchen.⁵⁸⁹
- 2.389 While still crouching or *“squatting”* down, Coolahan said that she had her hands on Adam Salter’s shoulders and was to the right of him.⁵⁹⁰ This was before he sat up. Asked if she had attempted to restrain him, she said that she *“couldn’t get a proper hold of him”, “slipped off him”* and lost her balance. She said that he was *“diaphoretic”* or sweaty and *“slippery to hold”*.⁵⁹¹ At about the same time she observed that Johnstone had *“his hands on the front of [Adam Salter]”* and saw him *“shoved off”* as Adam Salter thrashed his arms about.⁵⁹²
- 2.390 Coolahan then became aware of Adrian Salter. She said he came in from her right *“fairly quickly, and straight to Adam”* as Adam Salter was making his way towards the sink. She saw him come into contact with Adam Salter as Adam Salter was *“throwing his arms about”*. She said that in that process Adrian Salter was pushed and fell.⁵⁹³ Coolahan said that at about the same time she stepped back *“five or six paces”*. She continued to watch what was happening in the room and said that the room was *“small enough to be keeping an eye on most things”*.⁵⁹⁴
- 2.391 Coolahan then saw Adam Salter arrive at the sink, reach in, and retrieve the knife.⁵⁹⁵ She saw him bring the knife to his neck and said that he *“started*

⁵⁸³ PIC Transcript, Meagan Coolahan, 27 August 2012, p. 64

⁵⁸⁴ PIC Transcript, Meagan Coolahan, 27 August 2012, p. 69, 94

⁵⁸⁵ PIC Transcript, Meagan Coolahan, 27 August 2012, p. 85

⁵⁸⁶ PIC Transcript, Meagan Coolahan, 27 August 2012, p. 64

⁵⁸⁷ PIC Transcript, Meagan Coolahan, 27 August 2012, pp. 66-67

⁵⁸⁸ PIC Transcript, Meagan Coolahan, 27 August 2012, pp. 68

⁵⁸⁹ PIC Transcript, Meagan Coolahan, 27 August 2012, pp. 67

⁵⁹⁰ PIC Transcript, Meagan Coolahan, 27 August 2012, pp. 67-68

⁵⁹¹ PIC Transcript, Meagan Coolahan, 27 August 2012, p. 68

⁵⁹² PIC Transcript, Meagan Coolahan, 27 August 2012, p. 69

⁵⁹³ PIC Transcript, Meagan Coolahan, 27 August 2012, p. 69

⁵⁹⁴ PIC Transcript, Meagan Coolahan, 27 August 2012, p. 81

⁵⁹⁵ PIC Transcript, Meagan Coolahan, 27 August 2012, p. 69

stabbing himself.⁵⁹⁶ She was initially concerned for herself when he got to the sink, which was the reason she stepped back. Once he started stabbing himself she did not think that he would turn around and stab someone else.⁵⁹⁷ She saw him stab himself at least four times and said he was *“continuously in motion”*. She said that most of the wounds would have been inflicted by the time Bissett entered.⁵⁹⁸

- 2.392 Coolahan did not see Adam Salter stab himself after he was shot. She said that *“he may have been in the action of finishing the last [stab], but his hand dropped down to his side”*.⁵⁹⁹ At that point she said he *“staggered back a few steps, fell to the ground and was in cardiac arrest”*.⁶⁰⁰ Coolahan also said that it was not true to say that the knife remained lodged in Adam Salter’s neck after he was shot. She said that it was *“in his hand”* and that she *“told the male officer to take it off him”*. In that respect, she said that Adrian Salter’s evidence was wrong.⁶⁰¹ She believed that a male police officer did in fact take the knife from Adam Salter. She believed that the officer was male because *“they had short hair”*. She did not believe it was Bissett.⁶⁰²
- 2.393 Coolahan said that as he was stabbing himself Adam Salter was initially facing towards the sink and *“then he was rotating clockwise towards the fridge”*. She said *“he wasn’t directly square on with the sink”* and had his right shoulder turned towards the refrigerator. She was able to see his right hand and the stabbing.⁶⁰³
- 2.394 Coolahan said that while Adam Salter was stabbing himself she *“called twice”* for the police outside to come in. They entered in response to the second call. She saw Bissett *“come in with her weapon out, pointed towards the patient”*. She saw her *“coming through the kitchen entry”* and was *“confident”* that the weapon was *“already drawn”*.⁶⁰⁴ She said that Bissett *“was front on, tracking towards the patient with her arms out in front”* and parallel to the ground and at about shoulder level. She agreed that Bissett had adopted *“the classical TV shooting stance”*.⁶⁰⁵
- 2.395 Coolahan said that Bissett then yelled *“Taser, Taser, Taser”* and fired her gun. She said that there was no gap between the last call of *“Taser”* and the firing of the gun.⁶⁰⁶
- 2.396 Coolahan said that at the moment Bissett called *“Taser, Taser, Taser”* Adam Salter *“rotated back around anticlockwise towards the sink”*.⁶⁰⁷ Her

⁵⁹⁶ PIC Transcript, Meagan Coolahan, 27 August 2012, p. 69

⁵⁹⁷ PIC Transcript, Meagan Coolahan, 27 August 2012, p. 85, 91

⁵⁹⁸ PIC Transcript, Meagan Coolahan, 27 August 2012, p. 94

⁵⁹⁹ PIC Transcript, Meagan Coolahan, 27 August 2012, p. 78

⁶⁰⁰ PIC Transcript, Meagan Coolahan, 27 August 2012, p. 87

⁶⁰¹ PIC Transcript, Meagan Coolahan, 27 August 2012, p. 79

⁶⁰² PIC Transcript, Meagan Coolahan, 27 August 2012, p. 82

⁶⁰³ PIC Transcript, Meagan Coolahan, 27 August 2012, p. 72

⁶⁰⁴ PIC Transcript, Meagan Coolahan, 27 August 2012, p. 72

⁶⁰⁵ PIC Transcript, Meagan Coolahan, 27 August 2012, p. 73

⁶⁰⁶ PIC Transcript, Meagan Coolahan, 27 August 2012, p. 73

⁶⁰⁷ PIC Transcript, Meagan Coolahan, 27 August 2012, p. 73

"impression" was that that "he was bracing to take the Taser, so turned his back to take it".⁶⁰⁸

2.397 Coolahan said that at the point where Bissett called out *"Taser, Taser, Taser"* she saw Abela dive out of the way, *"across the room"* and *"towards the middle of the room."* In doing so, she said that he went *"across the line of sight"* and possibly into the path of the bullet.⁶⁰⁹

2.398 Coolahan gave the following evidence about what Abela did as events unfolded in the kitchen:

A. When the patient sat up, I requested help. I looked straight at him. He was putting his gloves on and was of no assistance at all.

...

Q. When you requested help, did you call out to that policeman?

A. This - the one in the room, I initially looked at him and asked him for help, and it was something along the lines of "Do you want to give us a hand?"

A. You mentioned something about him putting gloves on?

A. Yes

Q. What did you see?

A. Just him where he was fiddling around trying to put his gloves on.

Q. There was a refrigerator in the kitchen. Where was he in respect of the refrigerator?

A. By - close to it, yes.

Q. You saw him fiddling with gloves. Did he move an inch to attempt to restrain Adam Salter?

A. No.

Q. Did you have him in plain view?

A. Yes.

Q. This is a mental image that you're able to form of the policeman standing still except putting his gloves on?

⁶⁰⁸ PIC Transcript, Meagan Coolahan, 27 August 2012, p. 73

⁶⁰⁹ PIC Transcript, Meagan Coolahan, 27 August 2012, pp. 89-90

A. Yes.⁶¹⁰

2.399 And again:

Q. During this time and before the gun was fired, did you see the policeman near the refrigerator move from that position at all?

*A. He was moving around that area, but he didn't move towards the patient. He took no definitive action to restrain or disarm the patient.*⁶¹¹

2.400 Coolahan was taken to the accounts given by Bissett and Abela in their *walkthrough* interviews. She had been in the hearing room when excerpts from the recordings of the *walkthrough* interviews were shown. She did not see what Bissett had described and denied that events had happened in the manner Bissett described. She did not see Abela holding on to Adam Salter.⁶¹² She said that Abela “*was in the vicinity*” of Adam Salter and was “*moving around*” in the “*general area*” of the refrigerator “*like a step or two either way*”, but was not in contact with Adam Salter.⁶¹³ She gave the following evidence about Bissett’s account:

Q. ... did you see what Sergeant Bissett described - that is, the male policeman in a position apparently almost holding on to Adam Salter?

A. No.

Q. Did you see that Bissett described that?

A. Yes, I did.

Q. Is that what happened?

A. No.

Q. Are you confident of that?

*A. Yes.*⁶¹⁴

2.401 With respect to what Abela described and caused to be demonstrated in his *walkthrough* interview, Coolahan gave the following evidence:

Q. You would have seen on the DVD of an interview with the policeman himself, Constable Abela, his description of standing there and attempting to grasp Adam's left arm and pulling on it, as it were, restraining him from getting to the sink. Did that happen?

⁶¹⁰ PIC Transcript, Meagan Coolahan, 27 August 2012, p. 70

⁶¹¹ PIC Transcript, Meagan Coolahan, 27 August 2012, p. 74

⁶¹² PIC Transcript, Meagan Coolahan, 27 August 2012, p. 74

⁶¹³ PIC Transcript, Meagan Coolahan, 27 August 2012, p. 75

⁶¹⁴ PIC Transcript, Meagan Coolahan, 27 August 2012, pp. 74-75

A. No.

Q. Are you sure of that?

A. Yes.⁶¹⁵

2.402 Coolahan did not see Adam Salter lunge at police with the knife. She did not hear Bissett challenge Adam Salter to put down the knife. She did not see him brandish the knife or swing the knife around. She did not see him point the knife at a police officer. She also said that there was no sign of any intention by Adam Salter to inflict violence against anybody apart from himself.⁶¹⁶

2.403 Coolahan gave some evidence about what she did after the shooting. She attended a *“hot debrief”* at Canterbury hospital *“maybe two hours after”* the incident.⁶¹⁷ She gave the following evidence about the debriefing session:

Q. There's some suggestion in the hot debrief that somebody said to Paula Sinclair that a male officer - meaning male police officer - in the kitchen attempted to restrain the patient, meaning Adam Salter. Did you tell Paula Sinclair that?

A. Not that I recall.

Q. Did you see anything like that? Did you see the male police officer in the kitchen attempting to restrain Adam Salter?

*A. No.*⁶¹⁸

2.404 Coolahan said that the *“hot debrief”* was an *“informal debrief”* which was followed a week or so later by a *“formal debrief”*. She also said that the *“hot debrief”* was something *“we quite often do after jobs”*.⁶¹⁹

2.405 The participants at the *“hot debrief”* were the four ambulance officers, Paula Sinclair, a chaplain and a peer support officer.

2.406 Coolahan said that no one took any notes. She also said that the four ambulance officers did not openly discuss what had happened. She said:

A ... We just spoke about our treatment and how we were feeling after the job, pretty much.

...

A. We gave them a basic idea of what had happened, and then we discussed our treatment. They mostly spoke to us about what we could

⁶¹⁵ PIC Transcript, Meagan Coolahan, 27 August 2012, pp. 74-75

⁶¹⁶ PIC Transcript, Meagan Coolahan, 27 August 2012, p. 75-76

⁶¹⁷ PIC Transcript, Meagan Coolahan, 27 August 2012, p. 83-84

⁶¹⁸ PIC Transcript, Meagan Coolahan, 27 August 2012, p. 69

⁶¹⁹ PIC Transcript, Meagan Coolahan, 27 August 2012, p. 96

*expect to feel in the coming hours, days, and they gave us contact details for people to call, pretty much.*⁶²⁰

...

*A. We didn't go into any detail, significant detail, about the job, because we were told we were going to be giving our statements later that day.*⁶²¹

- 2.407 Coolahan was asked if she had seen Adrian Salter move towards his son after he had fallen and got up. She said that that account was in her original evidence but was *"not something that I remember now"*.⁶²² She also gave the following evidence about whether Adrian Salter had attempted to restrain his son a second time:

Q. And what's recorded here [in Coolahan's police interview on 18 November 2009] is that you, at least at that time, thought that Mr Salter Senior had attempted to restrain his son a second time?

A. Yes.

Q. So it's clear enough, is it not, that you saw somebody trying to restrain Adam Salter a second time?

A. Yes.

Q. And your recollection at that time was that the person attempting to restrain Adam Salter a second time was his father?

A. Yes.

Q. Would you accept from the evidence that you have heard today that it was not Adrian Salter who attempted to restrain his son a second time?

A. No.

...

Q. Do you accept that it's possible that that somebody else was Constable Abela?

A. No.

...

Q. But you saw someone trying to restrain him a second time?

⁶²⁰ PIC Transcript, Meagan Coolahan, 27 August 2012, p. 84

⁶²¹ PIC Transcript, Meagan Coolahan, 27 August 2012, p. 98

⁶²² PIC Transcript, Meagan Coolahan, 27 August 2012, p. 83

A. Yes. *The father. I've said it in my statement.*⁶²³

KARL JOHNSTONE

- 2.408 Johnstone said that Adam Salter was sitting on the kitchen floor leaning against the kitchen cupboards when he and Clements arrived at 33 Wangee Road. Adrian Salter was crouched down next to him with a towel covering Adam Salter's chest. Johnstone observed that there was *"an amount of blood"* on Adam Salter's body but could not recall how much there was and could not recall if he had blood around his neck and down each of his arms.⁶²⁴
- 2.409 Johnstone began treating Adam Salter. He attached Adam Salter to a cardiac monitor and administered oxygen.⁶²⁵
- 2.410 Johnstone did a handover to Coolahan when she arrived.⁶²⁶ At that time there was one police officer in the kitchen who was standing *"pretty much next to the refrigerator"*. Johnstone marked a diagram showing the position of that officer.⁶²⁷
- 2.411 After Johnstone did the handover to Coolahan, Adam Salter *"started to get up off the floor"*. He and Coolahan asked him to stay down and Adam Salter lay back down again. After a couple of seconds, Adam Salter started to get up again.⁶²⁸
- 2.412 Johnstone said that he had an open hand on Adam Salter's right shoulder and an open hand on his chest.⁶²⁹ Adam Salter's movements in getting up were *"very active"* and *"determined"*. Once Adam Salter was on his feet he started moving towards the sink.⁶³⁰ Johnstone said that he was looking at Adam Salter's torso as he moved towards the sink.⁶³¹
- 2.413 As Adam Salter moved towards the sink, Adrian Salter came in from behind to where Johnstone and Coolahan were positioned and attempted to calm his son.⁶³² Johnstone was backing away from Adam Salter at that time and had his eyes on Adam Salter.⁶³³ He could not recall if he saw Adrian Salter *"lay hands on Adam or try and restrain him physically"* but remembered that he was *"trying to calm him ... by talking to him"*.⁶³⁴ He recalled that Adam Salter was *"waving his arms"* and trying to extricate himself from the medical equipment and he saw Adrian Salter fall over.⁶³⁵ He could not recall whether

⁶²³ PIC Transcript, Meagan Coolahan, 27 August 2012, p. 88-89

⁶²⁴ PIC Transcript, Karl Johnstone, 28 August 2012, p. 108, 135

⁶²⁵ PIC Transcript, Karl Johnstone, 28 August 2012, p. 108, 135

⁶²⁶ PIC Transcript, Karl Johnstone, 28 August 2012, p. 109

⁶²⁷ PIC Transcript, Karl Johnstone, 28 August 2012, p. 109

⁶²⁸ PIC Transcript, Karl Johnstone, 28 August 2012, pp. 108-9, 111-12

⁶²⁹ PIC Transcript, Karl Johnstone, 28 August 2012, pp. 108-9, 111-12

⁶³⁰ PIC Transcript, Karl Johnstone, 28 August 2012, p. 112

⁶³¹ PIC Transcript, Karl Johnstone, 28 August 2012, p. 128

⁶³² PIC Transcript, Karl Johnstone, 28 August 2012, p. 113

⁶³³ PIC Transcript, Karl Johnstone, 28 August 2012, p. 123

⁶³⁴ PIC Transcript, Karl Johnstone, 28 August 2012, p. 113, 123

⁶³⁵ PIC Transcript, Karl Johnstone, 28 August 2012, p. 113

he was pushed by Adam Salter and could not recall seeing Adrian Salter get to his feet.⁶³⁶

- 2.414 Johnstone gave the following evidence about the actions of the police officer who was near the refrigerator, as those events were occurring:

Q. During all of this time, the policeman who was near the refrigerator - did you see what he was doing?

A. As far as I could see, he was still in that corner.

Q. Did he move to attempt to handle or touch Adam?

A. Not that I could see.

Q. Did Adam make it to the sink?

A. He did.

Q. By the time Adam made it to the sink, had the policeman near the refrigerator moved from his position?

*A. Maybe one or two steps. I can't be sure - maybe one or two.*⁶³⁷

- 2.415 Johnstone confirmed evidence he had given on earlier occasions that, when Adam Salter took hold of the knife, Johnstone did not want to be in close proximity to him and he backed away towards the dining room. He did so as he perceived that Adam Salter was a threat.⁶³⁸

- 2.416 However, Johnstone said that, once Adam Salter had retrieved the knife from the sink, he did not see him threaten anybody in the room, apart from himself. He did not see him lunge at police with the knife. He did not see him point the knife towards police. He did not see him confront police with the knife. He did not see him brandish the knife at police or swing it around. Johnstone did not hear Bissett challenge Adam Salter to put the knife down.⁶³⁹

- 2.417 Johnstone said that, once Adam Salter had retrieved the knife, "*he turned side-on to the sink slightly*", with his right shoulder pointing more or less towards the entry to the kitchen, and "*began stabbing himself in the throat*".⁶⁴⁰ Johnstone said that he was in a position to see "*the actual entry points of the knife*" and saw Adam Salter stab himself four times.⁶⁴¹

⁶³⁶ PIC Transcript, Karl Johnstone, 28 August 2012, pp. 123-24

⁶³⁷ PIC Transcript, Karl Johnstone, 28 August 2012, p. 113

⁶³⁸ PIC Transcript, Karl Johnstone, 28 August 2012, pp. 122-23, 133

⁶³⁹ PIC Transcript, Karl Johnstone, 28 August 2012, p. 116, 119

⁶⁴⁰ PIC Transcript, Karl Johnstone, 28 August 2012, pp. 113-14

⁶⁴¹ PIC Transcript, Karl Johnstone, 28 August 2012, p. 134

- 2.418 The police then entered. Johnstone heard a police officer call “Taser” once, heard a bang, and saw Adam Salter fall “*straight to the floor*”.⁶⁴² He said that he saw Bissett as she was coming past him. He could not say if she already had her weapon drawn or whether it was drawn after he first saw her.⁶⁴³
- 2.419 Johnstone could not recall if Adam Salter was still stabbing himself after he was shot.⁶⁴⁴ He did not recall seeing Adrian Salter move towards Adam Salter and grab his arm after Adam Salter had fallen to the floor.⁶⁴⁵
- 2.420 Johnstone could not recall if he was still backing away from Adam Salter when he heard the word “Taser”, but agreed that, if he had said it at the inquest, it would be true.⁶⁴⁶
- 2.421 Johnstone said that he did not see any police officer come into contact with Adam Salter in the moments from when he got up to when he was shot and gave the following evidence:

Q. Now, Mr Johnstone, during any of this time, from the time that you saw Adam get to his feet from the lying position to the time that he made his way to the sink to the time that the bullet was fired, did you see any police officer coming close to Adam, engage him, as it were, in a close embrace?

A. No.

Q. Did anything like that happen?

A. Not that I saw.

Q. Mr Johnstone, did you see a policeman grab Adam so that just before the shooting - grab Adam so that the police officer's hands were on Adam's left arm, sliding down to his forearm, and holding it away from Adam, as it were, pulling him back?

A. I didn't see that, no.

Q. Did that happen?

A. I didn't see that, no.

Q. Did you see that policeman near the refrigerator move from his position at all, apart from the couple of steps that you mentioned earlier?

*A. No.*⁶⁴⁷

⁶⁴² PIC Transcript, Karl Johnstone, 28 August 2012, p. 114, 124

⁶⁴³ PIC Transcript, Karl Johnstone, 28 August 2012, p. 143

⁶⁴⁴ PIC Transcript, Karl Johnstone, 28 August 2012, pp. 114-15

⁶⁴⁵ PIC Transcript, Karl Johnstone, 28 August 2012, p. 125

⁶⁴⁶ PIC Transcript, Karl Johnstone, 28 August 2012, p. 124

⁶⁴⁷ PIC Transcript, Karl Johnstone, 28 August 2012, p. 115

2.422 Johnstone agreed that the officer near the refrigerator was in close proximity to Adam Salter and estimated that he was at a distance of “a metre to a metre and a half”.⁶⁴⁸

2.423 Johnstone gave some evidence about what he did after the shooting. He participated in a “debrief ...within a couple of hours” of the shooting, which involved the four ambulance officers, a peer support officer, a chaplain and Paula Sinclair.⁶⁴⁹ He gave the following evidence about a record that was made by Sinclair after the “hot debrief”:

Q ... there is a record of that made by Paula Sinclair, which may suggest that someone amongst the four ambulance officers said that there was a male officer in the kitchen who attempted to restrain the patient. Now, if that is a reference to the police officer, did you see anything like that?

A. No.

Q. And did you say anything like that to Paula Sinclair?

A. No.⁶⁵⁰

2.424 Johnstone agreed that a “hot debrief” was a “standard procedure for ambulance officers after a traumatic event”. As to its purpose, he said: “It is just to discuss our clinical treatment of the patient ... for the management to see that we’re okay, that sort of thing”. He also agreed that “it is more about how the ambulance officers have responded to the actual injury rather than what caused the injury”.⁶⁵¹

2.425 With reference to the “hot debrief” that took place, he said that the ambulance officers “would have mentioned” the facts leading up to the shooting.⁶⁵² He said: “we all had our little say as to what happened, what we saw, what we did, our treatment of the patient”.⁶⁵³

2.426 He said that any knowledge Sinclair would already have had about the matter “would have been minimal”.⁶⁵⁴ She did ask questions but did not suggest things to the ambulance officers.⁶⁵⁵ He could not recall if any of the ambulance officers had mentioned “a male police officer approaching Adam Salter prior to him being shot”.⁶⁵⁶ He also said that he did not take any notes or see anybody else take any notes.⁶⁵⁷

⁶⁴⁸ PIC Transcript, Karl Johnstone, 28 August 2012, p. 132

⁶⁴⁹ PIC Transcript, Karl Johnstone, 28 August 2012, p. 120

⁶⁵⁰ PIC Transcript, Karl Johnstone, 28 August 2012, p. 120

⁶⁵¹ PIC Transcript, Karl Johnstone, 28 August 2012, p. 126

⁶⁵² PIC Transcript, Karl Johnstone, 28 August 2012, p. 126

⁶⁵³ PIC Transcript, Karl Johnstone, 28 August 2012, p. 135

⁶⁵⁴ PIC Transcript, Karl Johnstone, 28 August 2012, p. 126

⁶⁵⁵ PIC Transcript, Karl Johnstone, 28 August 2012, pp. 126-27

⁶⁵⁶ PIC Transcript, Karl Johnstone, 28 August 2012, pp. 126-27

⁶⁵⁷ PIC Transcript, Karl Johnstone, 28 August 2012, p. 125

- 2.427 Johnstone also gave some evidence concerning the Patient Health Care Record. He said it was created *“before the debrief”*.⁶⁵⁸ He also said that he had a copy of the Record when he gave his statement to police.⁶⁵⁹

CHERI LUTZ

- 2.428 Lutz arrived at 33 Wangee Road with Coolahan. As between Coolahan and herself, Lutz said that she was the driver on the day and that Coolahan was the treating officer.⁶⁶⁰
- 2.429 When Lutz first saw Adam Salter he had been bandaged securely over the wound on his chest. She *“wasn’t treating him”* and *“wasn’t paying a lot of attention to the blood that was on him at that time”*. There was *“some blood on him”* but she *“couldn’t comment on how much”*.⁶⁶¹
- 2.430 Lutz was in the kitchen when the handover was made to Coolahan. She agreed with the evidence already given by other witnesses that Adam Salter initially rose up, was pacified, lay back down, rose up for a second time and got to his feet. As he got to his feet he attempted to *“pull the [medical] equipment off”* that was attached to his body.⁶⁶² At that stage there was one police officer in the kitchen. Lutz could *“remember him being in front of me”*. She marked a diagram showing the position of that officer on the opposite side of the kitchen from the refrigerator.⁶⁶³ She remembered seeing Adrian Salter in the room at the time – *“but maybe not initially”*.⁶⁶⁴
- 2.431 Lutz said that it was *“awkward”* for Adam Salter to get up. She observed that he was attached to the medical equipment and that the floor was *“slippery”* from the *“blood on the floor around him”*.⁶⁶⁵
- 2.432 Once Adam Salter was on his feet, Lutz saw Adrian Salter attempt to stop him. She said he *“had his hands sort of on him ... trying to stop him”* and was pushed aside. She saw him fall to the floor while Adam Salter kept on his journey to the sink.⁶⁶⁶
- 2.433 Lutz said that she was watching Adam Salter as he was making his way to the sink. She did not recall seeing Johnstone or Coolahan *“moving away swiftly”*. She said that they *“may have taken a step or two back”*.⁶⁶⁷
- 2.434 As those events were occurring, Lutz did not see the police officer who was in the room at the time come into contact with Adam Salter. The following questions and answers occurred in her evidence:

⁶⁵⁸ PIC Transcript, Karl Johnstone, 28 August 2012, p. 137

⁶⁵⁹ PIC Transcript, Karl Johnstone, 28 August 2012, p. 140

⁶⁶⁰ PIC Transcript, Cheri Lutz, 28 August 2012, p. 147, 166

⁶⁶¹ PIC Transcript, Cheri Lutz, 28 August 2012, p. 166

⁶⁶² PIC Transcript, Cheri Lutz, 28 August 2012, p. 148

⁶⁶³ PIC Transcript, Cheri Lutz, 28 August 2012, p. 149, Exhibit 26

⁶⁶⁴ PIC Transcript, Cheri Lutz, 28 August 2012, p. 150

⁶⁶⁵ PIC Transcript, Cheri Lutz, 28 August 2012, p. 151

⁶⁶⁶ PIC Transcript, Cheri Lutz, 28 August 2012, p. 151

⁶⁶⁷ PIC Transcript, Cheri Lutz, 28 August 2012, p. 160

Q. At this time, did you see the policeman who had been in the room - did you see that policeman move at all?

A. No.

Q. Did you see that policeman go over and grapple with Adam, grab him in a close embrace?

A. No, I didn't.

Q. Or go over and take him by the arm?

A. No.

Q. By Adam's left arm and try and pull him away from the sink?

A. No, I didn't.

Q. In fact, did you see anybody make physical contact with Adam after Mr Salter Senior's touching of him?

*A. No, I didn't.*⁶⁶⁸

- 2.435 Lutz saw Adam Salter retrieve the knife with his right hand and then saw him start stabbing himself in the throat. She was “100 per cent” confident that he was not being in any way restrained by a police officer at that time:

Q. At this time, when the stabbing was going on ... was there any police officer in bodily contact trying to restrain or grappling with Adam?

A. No, there wasn't.

Q. Are you confident of that?

*A. 100 per cent.*⁶⁶⁹

- 2.436 As those events were occurring, Lutz heard that there were “shouts for police assistance” but could not remember exactly what was said.⁶⁷⁰

- 2.437 Lutz had her back to the front door and did not see the police officer who shot Adam Salter enter the kitchen. However, she heard “someone coming in from behind me”. She heard one of the officers call “Taser”, heard a “loud bang”, and saw Adam Salter “immediately” fall to the floor.⁶⁷¹ The person who shot

⁶⁶⁸ PIC Transcript, Cheri Lutz, 28 August 2012, p. 151

⁶⁶⁹ PIC Transcript, Cheri Lutz, 28 August 2012, p. 152

⁶⁷⁰ PIC Transcript, Cheri Lutz, 28 August 2012, p. 163

⁶⁷¹ PIC Transcript, Cheri Lutz, 28 August 2012, p. 152

Adam Salter was “*sort of behind me and to my right*”. Lutz could not see if that person entered the kitchen with a weapon drawn.⁶⁷²

- 2.438 Lutz did not recall seeing Adam Salter continue to stab himself after he was shot.⁶⁷³ She said that Adam Salter was “*facing directly towards*” where she was standing “*turned slightly away from the sink*” and was looking straight at her and was “*pretty much*” “*chest-on*” when he was looking at her.⁶⁷⁴ She saw each penetration or thrust as he stabbed himself.⁶⁷⁵ Lutz was standing about one or two meters away from Adam Salter and slightly further away from the police officer who was in the room at the time.⁶⁷⁶
- 2.439 Whilst Lutz was in the kitchen with Adam Salter she did not see Adam Salter do anything which suggested that he was trying to harm any person other than himself. She did not see him lunge at police with the knife. She did not see him point the knife at police. She did not see him confront police with the knife or come towards them with the knife. She did not see him brandish the knife or swing the knife around. She also did not hear Bissett challenge Adam Salter to put the knife down.⁶⁷⁷
- 2.440 Lutz gave some evidence about what she did after the shooting. She participated in the “*hot debrief*” with the other ambulance officers after the shooting. She had not seen a police officer attempt to step in and try to restrain Adam Salter and did not say at the debriefing that a male police officer had attempted to restrain Adam Salter and did not recall that being said by anyone else at the debriefing.⁶⁷⁸
- 2.441 Lutz suspected that Sinclair had a basic outline of what had happened before the debriefing started. Sinclair did not conduct “*a run-through*” with the ambulance officers. Lutz said: “*I wouldn’t say that was the case. I would say we were allowed to speak about what happened and how we felt about what happened and that’s what we discussed*”.⁶⁷⁹
- 2.442 Lutz agreed that sometimes witnesses do not notice things which other witnesses notice. She was taken to comments she had made in her police interview where she referred to an ambulance training exercise and had said that people remember things differently. She gave the following evidence:

A. ... [T]he training incident I’m referring to was an item that was hidden under a blanket, so it was very much tucked away and it was designed for us, in some respects, to realise what we don’t notice. It was very different to what happened at Lakemba.⁶⁸⁰

⁶⁷² PIC Transcript, Cheri Lutz, 28 August 2012, p. 153

⁶⁷³ PIC Transcript, Cheri Lutz, 28 August 2012, p. 153

⁶⁷⁴ PIC Transcript, Cheri Lutz, 28 August 2012, pp. 153-54

⁶⁷⁵ PIC Transcript, Cheri Lutz, 28 August 2012, p. 167

⁶⁷⁶ PIC Transcript, Cheri Lutz, 28 August 2012, pp. 153-54

⁶⁷⁷ PIC Transcript, Cheri Lutz, 28 August 2012, p. 154

⁶⁷⁸ PIC Transcript, Cheri Lutz, 28 August 2012, pp. 154-56, 163

⁶⁷⁹ PIC Transcript, Cheri Lutz, 28 August 2012, p. 163

⁶⁸⁰ PIC Transcript, Cheri Lutz, 28 August 2012, p. 157

- 2.443 Lutz was asked about the Patient Health Care Record. She said that Coolahan wrote the Patient Health Care Record, as it was her responsibility as the treating officer. Lutz concurred with the information that was recorded and said she signed the document *“almost as an additional treating officer”*. She said it was prepared before the *“hot debrief”*. Lutz estimated it would have been prepared 20 minutes to half an hour after Coolahan arrived at Canterbury Hospital. She explained: *“It’s a document we would prepare after we hand over the patient to the hospital”*. She did not recall the Patient Health Care Record being present at the *“hot debrief”*. She had been given a copy at Newtown police station and might have had it with her at her police interview.⁶⁸¹
- 2.444 Sinclair was present at Newtown police station when Lutz and the other ambulance officers arrived to give their statements. Sinclair had not accompanied the ambulance officers to the police station. Lutz had travelled with Coolahan and had not discussed the matter on the way. She said: *“I think by that stage we were just ready to sit quietly”*.⁶⁸²
- 2.445 Lutz also said that she and the other ambulance officers were made aware that the shooting was a significant incident and that they were told not to *“discuss it outside the immediate people that were involved”*.⁶⁸³

BELINDA CLEMENTS

- 2.446 Clements was not an eyewitness to the shooting.
- 2.447 Soon after she and Johnstone arrived at 33 Wangee Road, she was instructed by Johnstone to call for further ambulance assistance. She went outside and made a call and then went to move the ambulance in preparation for transporting Adam Salter to hospital.⁶⁸⁴
- 2.448 At the time of the shooting Clements said that she was standing on the front steps. She went back into the premises with a carry sheet after the shooting.⁶⁸⁵
- 2.449 Clements signed the Patient Health Care Record to indicate that she had been present and participated *“in the events that happened on the day”*. She recalled that Coolahan wrote the original when they were *“cleaning up the car”* after the incident. She did not recall the Patient Health Care Record being present at the *“hot debrief”*.⁶⁸⁶

⁶⁸¹ PIC Transcript, Cheri Lutz, 28 August 2012, p. 168, 170

⁶⁸² PIC Transcript, Cheri Lutz, 28 August 2012, p. 169

⁶⁸³ PIC Transcript, Cheri Lutz, 28 August 2012, p. 170

⁶⁸⁴ PIC Transcript, Belinda Clements, 28 August 2012, p. 176

⁶⁸⁵ PIC Transcript, Belinda Clements, 28 August 2012, p. 176

⁶⁸⁶ PIC Transcript, Belinda Clements, 28 August 2012, pp. 183-84

OTHER RELEVANT WITNESSES

PAULA SINCLAIR

- 2.450 Paul Sinclair was a paramedic with the Ambulance Service of NSW. On 18 November 2009 she was working as the District Inspector for the Sydney South Sector. Following the shooting at 33 Wangee Road she attended Canterbury Hospital where she held a debriefing session with Coolahan, Johnstone, Lutz and Clements.
- 2.451 Much of the evidence she gave at the public hearing concerned three documents, which were tendered and admitted as Exhibits 102, 103 and 104.
- 2.452 Exhibit 102 was an Ambulance Service “*File Note*”, dated 18 November 2009, which had been created within the “*Office of the Assistant Operations Managers*”. It stated as follows:

Incident 10317

Date 18/11/2009

8:44 SOC receive initial call to 33 Wangee Road Lakemba to pt ? stabbed/shot

8:47 car 620 responded officers Karl Johnstone P1 and Belinda Clements PAO

8:51 car 620 arrived on scene

8:53 crew request IC backup R1 and supervisor to attend, pt stabbed self in chest initially then started to stab himself in the throat. Police on scene trying to restrain pt.

09:00 958 officers Cheri Lutz ICP, Megan Coolahan ICP arrive on scene, per DM Sinclair all ambulance officers in side with patient and police.

Allegedly Police call out Taser, Taser, Taser and ? wrong gun pulled and pt shot in the back.

Patient code 2 with urgent transport to Canterbury Hospital.

D/M Sinclair arrived at Canterbury Hospital to take control.

Officers want to continue to clean up.

S/M Rutherford, Peer Support Officer call en route to Canterbury Hospital.

ADM Gilchrist and IPO Tonge aware of incident.

- 2.453 Exhibit 103 was an Ambulance Service “*Briefing*”, dated 19 November 2009, which had been authored by Sinclair. The stated purpose of the “*Briefing*” was to advise the Sydney Divisional Manager of the details and outcome of the incident at 33 Wangee Road on 18 November 2009. The most relevant parts of the document stated as follows:

Background

...

At 08:48 Car 958 was allocated with officers ICP Meagan Coolahan 150866 and ICP Cheri Lutz, scene time was 09:00. Upon assessing the patient he became agitated for unknown reason, standing upright, verbally groaning, grabbed a large carving knife from sink and starting violently stabbing himself in the neck inflicting large lacerations with the knife.

The only police officer in kitchen at the time being possibly junior attempted to restrain the patient. Paramedic's [sic] in the kitchen called for further police assistance that were outside of the kitchen. A female police officer entered the Kitchen called “Tazer, Tazer, Tazer”, and then a large bang was heard.

...

DM Paula Sinclair arrived at Canterbury at approx. 09:28. ... Hot debrief conducted in private room at Canterbury Hospital with DM Sinclair, all 4 officers, PCO and Chaplain.

Initial contact made by police Inspector Matt Hanlon from the incident scene regarding statement that will be required by the Paramedics on scene. Detectives Senior Constable Alex Veira and Peter Hogan of State Crime Command Squad made contact and requested all crews attend Newtown Police Station for statements and interviews from 14:00 and where completed at 18:00hrs ...

...

Analysis of issues

- *Weapon (knife) not secured by police when initially arrived on scene*
- *Junior Police Officer left in room alone with patient and Paramedics*
- *Incorrect weapon used as female Police Officer who “Tazer, Tazer, Tazer” [sic]*
- *Attending ambulance crew effected timely treatment and transport of the patient in traumatic circumstances. All treatment was administered*

⁶⁸⁷ Exhibit 102

*with the highest clinical standards as per the ASNSW protocols and pharmacology.*⁶⁸⁸

- 2.454 An “*appendix*” to Exhibit 103 also listed police contact numbers for Hanlon, Veira and Hogan.
- 2.455 Exhibit 104 was a draft version of Exhibit 103, which was also authored by Sinclair. The most relevant parts of the document stated as follows:

Background

...

At 08:48 Car 958 was allocated with officers ICP Meagan Coolahan 15086 and ICP Cheri Lutz. They arrived on scene at 09:00. Upon assessing the patient he became agitated for unknown reason, standing upright, verbally groaning, grabbed the knife from the sink and starting violently stabbing himself in the neck inflicting large lacerations with his knife. Patient began to haemorrhage significantly. Male police officer in kitchen attempted to restrain the patient. The father was knocked to the floor and taken to another room in the process, ICP Meagan Coolahan called out for further Police assistance as other Police Officers were in another room. A female police officer entered the Kitchen called Tazer, Tazer, Tazer, the male police officer next to the patient apparently dived out of the way and then a large bang was heard. The patient then fell to the ground officers realising he had been shot with a gun and now had a gunshot wound [sic] to his posterior right chest wall. This occurred at approx. 09:03-09:04. Kitchen area approx. 4m x 4m.

...

Contacted by Police Inspector Matt Hanlon XXXX XXX XXX from the incident scene requesting could statements be obtained by all the officers that were at the scene and requesting that the Paramedics stay at the hospital for the detectives to arrive. Advised that if we were to leave before their arrival I would contact him on the above number and advise him of our location as we would be having a debrief and the officers needed to get changed.

At approx. 10:30 after cleaning up a hot debrief was commenced at Canterbury Hospital with all four officers, PSO Jason Rutherford, Rev Glen Renton and DM Sinclair. All staff were offered the services of PSO, EAP and Chaplain Service and Canterbury Hospital EAP Officer also called in to offer support. The officers voiced their main concern at the job was that police seemed very laid back initially until the job escalated and that they were very disappointed that the weapon was not secured immediately by police. Debrief ended at approx. 11:30 ...

...

Analysis of issues

- *Weapon not secured by police when initially arriving on scene;*

⁶⁸⁸ Exhibit 103

- *First Car on scene 620 treated patient with high standard of care, and thorough assessment noted by IC car, along with initial arrangements for extrication and transport already in progress;*
- *Both crews in 620 and 958 remained calm and extremely professional in exceptional circumstances, providing a high level of treatment, communication, loaded and transport time was 7-8 mins from gunshot incident, with intubation, cannulation and drug/fluid treatment all commenced enroute.*
- *Canterbury Hospital ED staff all offered a high level of support and assistance to all Paramedics.*⁶⁸⁹

- 2.456 Sinclair was informed about the shooting by an Ambulance coordination centre and went to meet the four ambulance officers at Canterbury Hospital.⁶⁹⁰ When she arrived the ambulance officers had already offloaded the patient. She *“had no understanding of really what had occurred”* and *“started gathering information about what had occurred”*. She did so by speaking with the officers. She could not recall if, at that stage, she spoke with all the ambulance officers or only *“two or three”*.⁶⁹¹
- 2.457 Sinclair had never seen Exhibit 102 until two days before she gave evidence at the public hearing and did not know who had prepared the document.⁶⁹² She had never seen a file note in that particular format before. She interpreted the document as being *“possibly ... a running log”* of the conversations that her senior managers had with her throughout the day.⁶⁹³ She could also not say where the author of the document got the information that police at the scene were trying to restrain Adam Salter at 8:53, that is, before any police officer had arrived at 33 Wangee Road.⁶⁹⁴
- 2.458 Sinclair agreed that she had prepared both Exhibits 103 and 104.
- 2.459 Sinclair said that she had prepared the draft version, that is, Exhibit 104, from some handwritten notes, which she later discarded, and her recollection.⁶⁹⁵ When she prepared the draft version she had only had *“minimal experience”* in preparing briefing notes and explained that it was revised after she spoke to her superior.⁶⁹⁶ She prepared the draft document the day after the incident.⁶⁹⁷
- 2.460 Sinclair obtained the police contact phone numbers in Exhibit 103 from police with whom she was in contact *“throughout the day”*. She could not recall whether she had a discussion with Hanlon about any of the details of what had occurred. She recalled that she was contacted by him while she was at the Hospital and that he requested that the ambulance officers be available to

⁶⁸⁹ Exhibit 104

⁶⁹⁰ PIC Transcript, Paula Sinclair, 6 September 2012, pp. 851-53

⁶⁹¹ PIC Transcript, Paula Sinclair, 6 September 2012, p. 853

⁶⁹² PIC Transcript, Paula Sinclair, 6 September 2012, p. 853

⁶⁹³ PIC Transcript, Paula Sinclair, 6 September 2012, p. 859

⁶⁹⁴ PIC Transcript, Paula Sinclair, 6 September 2012, p. 859

⁶⁹⁵ PIC Transcript, Paula Sinclair, 6 September 2012, p. 856, 866

⁶⁹⁶ PIC Transcript, Paula Sinclair, 6 September 2012, p. 856.24-40

⁶⁹⁷ PIC Transcript, Paula Sinclair, 6 September 2012, p. 867

make statements.⁶⁹⁸ Elsewhere in her evidence she said that she was approached by two other police officers while she was at Canterbury Hospital and was spoken to by four detectives at Summer Hill ambulance station.⁶⁹⁹

- 2.461 Sinclair was unable to identify the source of the information in Exhibit 103 that a police officer had attempted to restrain Adam Salter. She had been unable to give the “debrief” her undivided attention. She said:

A. I don't recall exactly who told me that. When I spoke to the officers, it was – initially I was gathering information to work out clinically, had the correct thing been done to or for the patient and to what extent did welfare and everything need to be established. So when we did, like, a bit of a debrief where I had a peer support officer and the chaplain there, I was listening to the officers discuss the job. But at the same time, because I was the duty operations inspector for the day, I was receiving other phone calls, so I was going in and out of the room. So that paragraph is my interpretation of the information that I had been told throughout that day, but I can't actually recall – I believe it was a combination of what a few people had told me, not just a particular officer.

Q. When you say “a few people”, are you talking about only ambulance officers or could there be outsiders to them?

A. I honestly don't recall, but I can also say I don't honestly recall the police saying it either.⁷⁰⁰

- 2.462 Sinclair did not seek clarification from the ambulance officers at the debriefing because she did not want to “*encourage too much conversation given the fact that they had to give statements*”.⁷⁰¹

- 2.463 Sinclair agreed that the final briefing note she prepared narrated events in chronological order. She agreed that each of its five key paragraphs contained some information which could only have come from the ambulance officers.⁷⁰² She agreed with a suggestion made to her that the information that police attempted to restrain Adam Salter would “*most likely*” have been provided to her by one or more of the ambulance officers.⁷⁰³ The following question and answer occurred:

Q. If we just go back to the background, those five paragraphs describe from the first moment that your service was involved until back at the hospital. There is material in there which is exclusively within the possession of the ambulance officers, or the service. Isn't it, therefore, the most likely position - and I accept that you don't remember now, clearly - that what is in paragraph 3 was information provided to you by one or more of the ambulance officers?

⁶⁹⁸ PIC Transcript, Paula Sinclair, 6 September 2012, p. 855

⁶⁹⁹ PIC Transcript, Paula Sinclair, 6 September 2012, p. 875

⁷⁰⁰ PIC Transcript, Paula Sinclair, 6 September 2012, pp. 855-56

⁷⁰¹ PIC Transcript, Paula Sinclair, 6 September 2012, pp. 855-56

⁷⁰² PIC Transcript, Paula Sinclair, 6 September 2012, pp. 860-62

⁷⁰³ PIC Transcript, Paula Sinclair, 6 September 2012, pp. 860-62

A. *It is fair to say, yes.*⁷⁰⁴

2.464 She also agreed with a suggestion made to her that the first three items in the “*analysis of issues*” in Exhibit 103 represented the points of view of one or more of the ambulance officers.⁷⁰⁵ She also agreed that it was possible that, given her interest in police ranks, Lutz was the source of the information in Exhibit 103 that a “*possibly junior*” police officer attempted to restrain the patient.⁷⁰⁶

2.465 Sinclair said that the ambulance officers were “*upset about the job*” and gave the following evidence:

Q. *Did you get a sense, from what they were telling you, that they were angry or upset with the failings that they had understood that the police had made?*

A. *They were upset about the job.*

Q. *I accept that. I understand that. I'm talking about the police conduct.*

A. *Look they - I didn't go into any detail with them, because I knew that the police wanted statements from them. So all I could say was they were upset about the job.*⁷⁰⁷

2.466 And again:

Q. *Just one further matter. When you spoke to the officers at the Canterbury Hospital, and these issues were raised which led to you identifying these issues in your second briefing note, were they angry about the conduct of the police?*

A. *I wouldn't say angry. It was more that they were - they were upset about a lot of things about the job, the fact that they were in the room and that incident happened. There was a lot of mixed emotions there.*

...

Q. ... [F]rom your observation, were they upset about the conduct of the police?

A. *Yes, I – I guess you could say that, yes.*⁷⁰⁸

2.467 Sinclair could not recall what had caused her to make changes in the “*analysis of issues*” section in the two briefing notes.⁷⁰⁹

⁷⁰⁴ PIC Transcript, Paula Sinclair, 6 September 2012, pp. 860-62

⁷⁰⁵ PIC Transcript, Paula Sinclair, 6 September 2012, pp. 860-62

⁷⁰⁶ PIC Transcript, Paula Sinclair, 6 September 2012, pp. -87274

⁷⁰⁷ PIC Transcript, Paula Sinclair, 6 September 2012, p. 864

⁷⁰⁸ PIC Transcript, Paula Sinclair, 6 September 2012, p. 872

⁷⁰⁹ PIC Transcript, Paula Sinclair, 6 September 2012, p. 871-72

STIVEN ATANASOVSKI

- 2.468 On 18 November 2009 Atanasovski was a senior constable working at Campsie police station. He was among the first police officers to arrive at 33 Wangee Road after the shooting. According to a statement he made on 20 January 2010, he arrived at 33 Wangee Road at about 9:10 am with two other police officers from Campsie Local Area Command.⁷¹⁰ He left the scene at 11:10 am.
- 2.469 Soon after he arrived, Atanasovski had a “*detailed conversation*” with Adrian Salter “*about what happened*” and “*made some notes*”.⁷¹¹ He made these notes in a diary which was not his police notebook and which he later destroyed. Before he destroyed the diary and at about 2:15 pm on 18 November 2009 he transcribed the notes from the diary into his police notebook. Atanasovski, who had been transferred from Campsie Local Area Command, gained access to the notebook shortly before he gave evidence before the Commission.
- 2.470 In his notes Atanasovski summarised what he had been told by Adrian Salter about his son’s medical history and he summarised the account he was given by Adrian Salter of what had happened after police arrived at the house on the morning of 18 November 2009. This summary has been set out verbatim earlier in this report in the recital by the Commission of the account given by Adrian Salter to Atanasovski.
- 2.471 In his evidence before the Commission Atanasovski agreed that Adrian Salter made no suggestion in the version that was provided to him on 18 November 2009 that there had been any attempt by any police officer to restrain Adam Salter.⁷¹²

MARK REYNOLDS

- 2.472 Reynolds is employed by Western Australia Police as a Forensic Science Consultant and Manager, Quality Assurance. He is an expert in the field of Bloodstain Pattern Analysis (“BPA”). In Western Australia, he has state-wide responsibility for the provision of services pertaining to the analysis and interpretation of bloodstains and bloodstain patterns.⁷¹³ His expertise in the field of BPA was not disputed at the hearing before the Commission.

Letter of instructions

- 2.473 By a letter of instructions dated 6 July 2012, the Commission sought an expert report from Reynolds in respect of blood on the clothing worn by Abela at the time of the shooting

⁷¹⁰ Exhibit 108

⁷¹¹ Exhibit 108

⁷¹² PIC Transcript, Stiven Atanasovski, 7 September 2012, pp. 938-39

⁷¹³ Exhibit 100, p. 5

2.474 As part of his instructions, Reynolds was instructed to make a number of assumptions. He was also provided with several items of evidence, including:

- the shirt, pants and gloves worn by Abela on the day of the shooting;
- photographs and other imagery taken of the crime scene;
- the police interviews of Abela, Bissett, Coolahan, Lutz and Johnstone, including the recorded *walkthrough* interviews of Abela and Bissett; and
- the transcripts of the evidence given at the inquest by Abela, Coolahan, Lutz and Johnstone.

2.475 The letter of instructions then set out the “*The issue*” and “*Our question*” as follows:

The issue

There is an inconsistency between the accounts of the events which occurred immediately before the shooting. There are three different versions:

1. *First, the two ambulance officers and Adrian Salter say that before Adam Salter got to his feet, Aaron Abela was standing to the side of the kitchen near the refrigerator (the refrigerator can be clearly seen in video images and photographs which we have provided). None of these witnesses saw Aaron Abela move from his position near the refrigerator before the shooting.*
2. *Secondly, Aaron Abela describes Adam Salter rising to his feet, and says he left his position near the refrigerator and moved to the opposite side of Adam Salter and, while standing apart from Adam Salter, attempted to restrain him by grabbing his left arm. The position adopted by Aaron Abela is clearly depicted in a re-enactment contained in his “walkthrough interview”.*
3. *Thirdly, Sherree Bissett says that when she re-entered the kitchen she saw Aaron Abela in close physical contact with Adam Salter. Aaron Abela’s position in these circumstances is clearly depicted in a re-enactment in Sherree Bissett’s “walkthrough interview”.*

Our question

We seek a report from you, which would answer the following question:

Q. Given the condition of Aaron Abela’s clothes and gloves, and given the extent of the blood and location of any blood on those

*clothes and gloves, which of the three accounts set out above is more probably correct?*⁷¹⁴

Expert Report

- 2.476 Reynolds furnished his report to the Commission on 24 August 2012. In paragraph 3.1 of his report he correctly stated the question which he was asked to answer and the terms of versions 2 and 3 in accordance with the letter of instructions. However, he stated version 1 in the following terms, which differed from the terms of version 1 in the letter of instructions:

*First, ambulance officers and Salter (F) say that before Salter got to his feet, Abela was standing to the side of the kitchen near the refrigerator. None of these witnesses say Abela had close physical contact with Salter before the shooting.*⁷¹⁵

- 2.477 In paragraph 3.1 of his report Reynolds listed the materials on which he had relied in coming to his determinations. Apart from the materials with which he had been provided, he listed the “boots” worn by Abela at the time of the shooting; “ballistic case notes”; the “post mortem report”; and the “metal venetian blinds” from the “kitchen window” at the “incident location”.⁷¹⁶ These additional materials were provided to Reynolds by the Commission at his request. The venetian blinds were requested following his examination of the premises at 33 Wangee Road.
- 2.478 In paragraph 4.1 of his report Reynolds listed 19 assumptions he made in compiling his report. These assumptions included six of the seven assumptions that he had been asked to make in the letter of instructions, none of which would appear to be contentious, and the other assumptions made by Reynolds, which would also appear to be not contentious.⁷¹⁷ The report went on to list certain limitations to the report (paragraph 5.1).⁷¹⁸ The report then described the items that had been examined (paragraph 6.1) and the processes by which they had been examined (paragraph 7).⁷¹⁹
- 2.479 Commencing at page 15 of his report, Reynolds set out his “bloodstain pattern analysis findings”. The first part of this section of the report dealt with presumptive and confirmatory testing for blood. Abela’s shirt, pants and gloves had tested positive to “presumptive” testing but not to “confirmatory” testing. Reynolds noted that the presumptive tests were non-specific for human blood and were prone to providing false positive results.⁷²⁰
- 2.480 In paragraph 10 of his report Reynolds stated his findings about the gloves worn by Abela on 18 November 2009. He stated as follows with respect to the external surfaces of the left and right gloves:

⁷¹⁴ Exhibit 99

⁷¹⁵ Exhibit 100, p. 10

⁷¹⁶ Exhibit 100, p. 11

⁷¹⁷ Exhibit 100, pp. 12-13

⁷¹⁸ Exhibit 100, pp. 13-14

⁷¹⁹ Exhibit 100, pp. 14-15

⁷²⁰ Exhibit 100, pp. 15-16

External Surfaces

Left Glove

10.1 The external surfaces of the left glove were searched for the presence of blood using visual, bright white light [BWL] and microscopic methods. No obvious bloodstains were observed on the external surfaces of the left glove.

Right Glove

10.2 The external surfaces of the right glove were searched for the presence of blood using visual, BWL and microscopic methods. No obvious bloodstains were observed on the external surfaces of the right glove using the visual or visual and BWL methods.

10.3 With the assistance of magnification, dried fluid staining was observed on several areas of the external surfaces of the right gloves, specifically within the stitch lines of the wrist hem and the underside of the ring finger. Whilst displaying an appearance not immediately obvious of blood, the fluid residue had a reddish coloration and was adhering within the stitching in such a manner as to give this author the impression the deposit had been in liquid form at some stage whilst present on the glove.⁷²¹

- 2.481 In paragraph 11 of his report Reynolds stated his findings about the shirt worn by Abela on 18 November 2009. He stated:

Uniform Shirt (PPC Brand Cotton / Polyester Neck Size 38cm)

11.1 No obvious **bloodstains** were observed to the frontal aspects (2D or 3D examination process) of the uniform shirt (...).

11.2 Fluid staining was observed to the rear left (as worn) shoulder and sleeve area of the uniform shirt. Visually, the majority of this staining had the appearance of **blood** in that it was reddish brown in colour and had interacted with the shirt's fabric in such a way as to suggest the fluid was blood. The pattern was comprised of numerous (more than 30) essentially circular stains (...). The fluid stains ranged in size from 1.0mm in diameter to several approaching 10.0mm in diameter with the majority of the stains being less than 5.0mm in diameter. The size, shape and distribution of the stains within the pattern indicates that the stains were caused by blood that had travelled through the air in droplet form prior to contact with the surface of the shirt.

11.3 Distribution mechanisms that interact with blood such that it subsequently travels through the air in droplet form include **Impact, Cast Off, Expirated** and **Arterial**. In this instance, it is not possible to determine any one specific mechanism as being responsible for the deposition of the bloodstains observed, however contextually, Arterial can probably be excluded.

⁷²¹ Exhibit 100, pp. 17

11.4 Possible versus impossible flight path considerations also indicate that it is likely that the left arm was raised to some degree at the time of blood deposition. This determination is able to be made due to the fact that when the sleeve is in the "down" position (3D perspective) some of the staining is covered by the sleeve in such a manner that the sleeve would have prevented blood deposition at those locations irrespective of where the contributing blood source was positioned.⁷²²

...

Impact Pattern: A bloodstain pattern created when liquid blood is subjected to a force such as a blow resulting in the dispersion of blood through the air in the form of drops.

Cast-Off Pattern: Created when blood is released or thrown from a blood-bearing object in motion.

Expirated Pattern: Results from blood that is expelled from the nose, mouth or a wound as a result of air pressure and/or air flow.

Arterial: Bloodstain pattern resulting from blood exiting the body under pressure from a breached artery.⁷²³

- 2.482 In paragraph 11 Reynolds then set out his results in relation to the venetian blinds that were placed over the kitchen window above the sink at the incident location. He stated:

14.1 Numerous **bloodstains** were observed to the lower left corner of the metal "Venetian" blinds that were in place over the kitchen window above the sink (...). The bloodstains ranged in size from less than 1.0mm (length / diameter) to an excess of 5.0mm with more than 100 individual bloodstains observed. Many of the bloodstains displayed features of directionality.

...

14.3 The **bloodstains** displayed **directionality** indicators that allowed for an approximate positioning of the contributing blood source. When examined within a **laboratory setting** the bloodstain pattern was observed to display features of a focal nature in that the bloodstains radiated **out and away** from an area approximately 400.0 mm from the left edge and 150.00 mm from the bottom edge of the blinds.

14.4 Bloodstained material of a fibrous nature was also observed at several locations on the blinds (...) and on the window itself (...). Contextually, that fibrous material is most likely portions of **bandage**.

14.5 The size, shape and distribution of these bloodstains allowed for a mechanistic characterization of deposition to be made; namely a **Spatter**

⁷²² Exhibit 100, p. 21

⁷²³ Exhibit 100, p. 21

*pattern and more specifically most likely Forward spatter associated with the exit of the projectile from Salter.*⁷²⁴

2.483 A number of photographs of the scene were included by Reynolds in his report. One of these photographs showed a large transfer bloodstain on the vertical surface of the cupboard below the kitchen sink.⁷²⁵

2.484 Reynolds stated his “conclusions” in the final section of his report as follows:

Bloodstain Pattern Analysis

15.1 The bloodstains and bloodstain patterns observed on the right and left Kevlar Search Gloves do not support contact by those gloves with a source of liquid blood such as the left arm of Salter, in the manner described by Abela, unless post contact removal of blood from the gloves has occurred.

15.2 The bloodstains observed on the rear left shoulder and sleeve (as worn) of the Uniform Shirt are the result of blood that has travelled through the air in droplet form. Projected mechanisms such as Impact, Expirated, Cast-Off and / or Arterial can be responsible for the production of bloodstains such as these. In this instance, it is not possible to determine any one specific mechanism as being responsible for the deposition of the bloodstains observed, however contextually, Arterial can probably be excluded ...

...

15.4 The large transfer pattern observed on the vertical cupboard surface below the kitchen sink is most likely a result of contact between that surface and the bloodied frontal areas of Salter's shorts. The presence of this transfer pattern is complementary to Conclusion Point 15.5, however could be completely independent.

15.5 The spatter pattern observed on the lower left corner of the metal "Venetian" blinds is forward spatter distributed following the exit of the projectile from Salter's chest. The size, shape, distribution and focal nature of the pattern supports Salter standing in front of the kitchen sink, with his left side most likely angled towards the window when shot.

Explanatory Remarks regarding Answer to Commission Question

15.6 In this instance whilst it is not possible to use BPA to establish the positions of Abela at any particular moment during the bloodshed event, it is possible to compare and contrast versions of events with the bloodstains and bloodstain patterns observed within the scene and upon evidentiary items.

15.7 Based on the materials provided to me, it is my opinion that it is not possible to completely reconcile the bloodstains and bloodstain patterns observed on the uniform clothing of Abela with any of the three versions of events articulated at 3.1(1), 3.1(2) or 3.1(3);

⁷²⁴ Exhibit 100, pp. 28-29

⁷²⁵ Exhibit 100, p. 29

15.8 Based on the materials provided to me, it is my opinion that no bloodstains or bloodstain patterns were observed on the clothing items of Abela to support the close "upper body" interaction between Abela and Salter as described by Abela and Bissett.

Answer to Commission Question

15.9 It is my opinion that VERSION 1 (listed at 3.1(1)):

"the two (2) ambulance officers and Salter (F) say that before Adam Salter got to his feet, Abela was standing to the side of the kitchen near the refrigerator . None of these witnesses saw Abela move from his position near the refrigerator before the shooting"

*is, with a number of unaccounted for events, most probably the correct version.*⁷²⁶

Oral evidence

- 2.485 At the start of his oral evidence Reynolds gave a summary of the science of bloodstain pattern analysis ("BPA"). He said:

*A. In broad terms, it is through the examination of the size, shape, distribution of bloodstains and bloodstain patterns when considered in association with the underpinning sciences - maths, physics, chemistry and biology - it is possible to define the physical events that resulted in the deposition of those bloodstains. It essentially can provide a retrospective window to events that occurred at the time. As opposed to the more well-known disciplines such as fingerprints and DNA who tell us the "who", bloodstain pattern analysis can tell us the "how".*⁷²⁷

- 2.486 Reynolds stated that BPA was commonly used in Western Australia and that a full BPA would be done in Western Australia for *"every homicide or police-related shooting where blood is shed"*. The use of BPA in those cases would be the *"default position"*.⁷²⁸ He also said that ballistics officers would be deployed in Western Australia in an officer-involved shooting to *"conduct a trajectory reconstruction"* of the path of the bullet.⁷²⁹
- 2.487 Reynolds defined a number of technical terms in his oral evidence. He said that the term *"spatter ... referred to bloodstaining caused by blood drops that have travelled through the air. They are generated as a result of an application of force to a source of liquid blood"*. He said that the term *"transfer"* described *"contact between a bloodstained object and an otherwise unstained object"*.⁷³⁰
- 2.488 Reynolds said that there were several deficiencies in the NSWPF investigation of the shooting of Adam Salter, including that photographs were not taken of Abela wearing his clothing, which he said was a *"fundamental error"*. He also

⁷²⁶ Exhibit 100, pp. 32-33

⁷²⁷ PIC Transcript, Mark Reynolds, 6 September 2012, p. 766

⁷²⁸ PIC Transcript, Mark Reynolds, 6 September 2012, pp. 766-67

⁷²⁹ PIC Transcript, Mark Reynolds, 6 September 2012, p. 767

⁷³⁰ PIC Transcript, Mark Reynolds, 6 September 2012, p. 767

said that “a whole of scene” BPA had not been conducted, that the ballistics examination had been “fairly truncated” and that the “forensic investigation” had been “relatively brief” and “limited”.⁷³¹

2.489 Reynolds gave evidence that, while no obvious bloodstaining had been observed by him on the front of Abela’s shirt, he had found “one very small area of staining” on the front of the shirt on the left hand side below the area of the left nipple, which was not obviously a bloodstain but which provided a presumptive positive result for blood on one test.⁷³²

2.490 Reynolds gave the following evidence about the account given by Abela in his *walkthrough* interview:

A. At minute 13 in his interview, he's very specific about losing contact with the arm of the deceased due to his hands slipping on the blood. That presents me with two facts: one is that there is blood present on the arm and, second - well, according to Abela there is blood present on the arm - and that that blood is most likely in liquid form. From my examination of the gloves and due to their irregular textured surface, those two propositions don't fit.

...

Q. You looked, in this context, at all of the forensic evidence available; is that right?

A. All that was provided to me, yes.

Q. What do you say about the scenario described by Abela - that is, that he moved from his position and grabbed Adam Salter by the left arm? Is the forensic evidence consistent with that?

A. No.

Q. Is the forensic evidence inconsistent with that?

*A. Yes.*⁷³³

2.491 Reynolds gave the following evidence about the account given by Bissett in her *walkthrough* interview:

Q. What about the account given by Bissett that she saw Abela in close contact with Adam Salter; is the forensic evidence consistent with that?

A. No.

Q. And is the forensic evidence inconsistent with that?

⁷³¹ PIC Transcript, Mark Reynolds, 6 September 2012, p. 768-70

⁷³² PIC Transcript, Mark Reynolds, 6 September 2012, p. 771

⁷³³ PIC Transcript, Mark Reynolds, 6 September 2012, p. 776

A. Yes.⁷³⁴

2.492 Reynolds was asked about the three different versions referred to in the letter of instructions and his report. He said that, while version 1 was the “*most likely scenario*”, he could not “*reconcile [all] the bloodstain evidence with any of the scenarios*”.⁷³⁵

2.493 Reynolds said that, while there was “*a universe of possibilities*”, he was able to provide “*a reasonable scenario*” which could explain the appearance of blood on the rear of Abela’s shirt. He gave the following evidence:

*A. So my thoughts about potentially how it could have happened are, for example, Constable Abela standing with his back to the fridge, the deceased at the sink, and then as Bissett enters the kitchen with the firearm drawn and then utters the words “Taser, Taser, Taser”, Abela feels that - obviously I don’t know what is in his mind, this is just what I’m thinking - but if, for example, he shifted away defensively and the shot was fired, potentially, he now exposes that area of his shirt to the injury in the rear of the deceased.*⁷³⁶

2.494 Counsel Assisting sought to describe the physical movement Reynolds had demonstrated in giving this evidence:

Q. ... What you described was as though Abela was standing with his back more or less parallel to the refrigerator door?

A. Yes.

Q. That in that scenario, Bissett comes in on Abela’s left?

A. Correct.

Q. And that at some time, as you described, Abela twisted his body to the right

A. Yes.

Q. -- lifting his left arm in the process. You described it in a position so that it was almost to cover the head or face on its left side?

*A. Look, I don’t know what the thought process behind it was. Just, in my head, that’s a reasonable movement that exposes that area of the shirt.*⁷³⁷

2.495 Elsewhere in his evidence in chief, Reynolds said that the facts known to him would suggest that Adam Salter was standing front on to the sink and “*slightly angled*” toward the kitchen window when he was shot, with his left side

⁷³⁴ PIC Transcript, Mark Reynolds, 6 September 2012, p. 776

⁷³⁵ PIC Transcript, Mark Reynolds, 6 September 2012, p. 776

⁷³⁶ PIC Transcript, Mark Reynolds, 6 September 2012, p. 779

⁷³⁷ PIC Transcript, Mark Reynolds, 6 September 2012, p. 779

somewhat closer to the sink.⁷³⁸ He said that Adam Salter was not oriented, as Bissett had said, with his right shoulder pointing towards the kitchen window.⁷³⁹

- 2.496 Reynolds was asked about the qualification *“with a number of unaccounted for events”* which appeared in the statement of his opinion in paragraph 15.9 of his report that version 1 was most probably the correct version and about his oral evidence that he could not reconcile (all) the bloodstain evidence with any of the scenarios. He said:

A. I guess the two points that come immediately to mind are the fact that Abela is standing in front of the fridge, facing the deceased. I can't explain how there was bloodstains on the rear of his shirt and the right-hand - rear left of his shirt and the right-hand rear of his pants, unless there's been some movement.

Q. Movement by Abela?

*A. By Abela.*⁷⁴⁰

- 2.497 Reynolds was subjected to lengthy examination by Counsel for Oxford.

- 2.498 Reynolds agreed that what he had been asked by the Commission was to *“assess the relative strengths of versions 1, 2 and 3”*.⁷⁴¹ He said that he was not concerned to *“analyse the reliability or the recollection”* of any of the witnesses and he had not assumed that what any particular witness had said was correct.⁷⁴² He also said that it had not been material to his task to know which persons had given evidence supporting any one of the three versions he had been asked to assess. He said:

*A. As I said earlier in questioning from counsel, I don't care what people say. I look at the evidence, and then I compare and contrast with what people say. And in this instance, in my report, I say that I can't reconcile exactly the bloodstain evidence with any one version of events, but, as to which one is most likely to be right, by my examination of the forensic evidence, that's version 1.*⁷⁴³

- 2.499 Taken to version 1 as set out in the letter of instructions, Reynolds agreed that what he was being told was that the ambulance officers were *“saying the same thing”* as Adrian Salter.⁷⁴⁴ He agreed that he had not received any of the material that had been provided by Adrian Salter and said that he was *“asked to assume his version being the same as the ambulance officers”*.⁷⁴⁵ He said that, in considering version 1, he *“drew the point”* that, if Abela did not

⁷³⁸ PIC Transcript, Mark Reynolds, 6 September 2012, p. 780

⁷³⁹ PIC Transcript, Mark Reynolds, 6 September 2012, p. 781

⁷⁴⁰ PIC Transcript, Mark Reynolds, 6 September 2012, p. 778

⁷⁴¹ PIC Transcript, Mark Reynolds, 6 September 2012, p. 787

⁷⁴² PIC Transcript, Mark Reynolds, 6 September 2012, p. 792

⁷⁴³ PIC Transcript, Mark Reynolds, 6 September 2012, p. 796

⁷⁴⁴ PIC Transcript, Mark Reynolds, 6 September 2012, p. 783

⁷⁴⁵ PIC Transcript, Mark Reynolds, 6 September 2012, p. 789

move, then there was no physical contact between Adam Salter and Abela.⁷⁴⁶ He had assumed that the “two ambulance officers” referred to in version 1 included Coolahan. He recalled that one of the ambulance officers had said that there was no movement before the shooting and recalled that Coolahan had said that Abela had “jumped across the room” before the shooting.⁷⁴⁷ Reynolds agreed that, if Abela had dived as described by Coolahan, Abela could not have got blood on the rear of his shirt in the manner suggested by him earlier in his evidence.⁷⁴⁸

2.500 Reynolds was taken to his statement of version 1 in paragraph 3.1 of his report. He agreed that in paragraph 3.1 he had removed the final sentence of version 1 in that paragraph and had replaced it with a different sentence, so that the sentence read: “None of these witnesses say Abela had close physical contact with Salter before the shooting”. He also agreed that he had changed part of the first sentence from “two ambulance officers” to simply “ambulance officers”. He could not explain how that occurred and agreed that it was not appropriate for an expert to change the version in his instructions.⁷⁴⁹ He pointed out that he had correctly stated the terms of version 1 in his answer to the Commission’s question.⁷⁵⁰ While he could give no explanation for having changed the terms of version 1, Reynolds said that when he applied his “tests” and “standards”, he “looked at the original versions in the briefing instructions”.⁷⁵¹ He said that the change in the wording of version 1 in paragraph 3.1 of his report had not “changed the context” in which he had examined the case.⁷⁵²

2.501 Reynolds was also taken to the version of events that had been provided by Lutz, including the diagram she drew in which she positioned Abela as being on the side of the kitchen opposite to the refrigerator at the time of the shooting.⁷⁵³ Reynolds agreed that he had no evidence from Lutz saying that Abela was next to the refrigerator at that time.⁷⁵⁴

2.502 As to the absence of blood on the exterior surfaces of Abela’s left glove, Reynolds gave the following evidence:

Q. If there was no blood on the arm, on the relevant arm of Mr Adam Salter, but in fact it was sweaty, and that was the explanation for slipping off, then the absence of blood on the gloves would be irrelevant to your consideration, wouldn't it?

A. Sure.

Q. So in that scenario, one of the weaknesses in version 2 is removed?

⁷⁴⁶ PIC Transcript, Mark Reynolds, 6 September 2012, p. 793

⁷⁴⁷ PIC Transcript, Mark Reynolds, 6 September 2012, p. 795

⁷⁴⁸ PIC Transcript, Mark Reynolds, 6 September 2012, p. 799

⁷⁴⁹ PIC Transcript, Mark Reynolds, 6 September 2012, p. 799-802

⁷⁵⁰ PIC Transcript, Mark Reynolds, 6 September 2012, p. 801

⁷⁵¹ PIC Transcript, Mark Reynolds, 6 September 2012, p. 802

⁷⁵² PIC Transcript, Mark Reynolds, 6 September 2012, p. 803

⁷⁵³ PIC Transcript, Mark Reynolds, 6 September 2012, pp.804-05, 808

⁷⁵⁴ PIC Transcript, Mark Reynolds, 6 September 2012, p. 808

A. Other than Abela was very, very clear that his hands were slipping on the blood on his arm.

...

Q: So I'm asking you to assume that there wasn't blood on the arm, on that arm; I'm asking you to go to the science. Say there was no blood and it was only sweat, and that was causing the slipping, right? I just want you to assume that?

A. Yes.

Q. If that's correct, the absence of blood on the gloves is irrelevant?

A. Yes.⁷⁵⁵

2.503 As to Abela's shirt, Reynolds said his examination had revealed that *"there was nothing obvious on the shirt other than the staining on the rear left shoulder and sleeve"*.⁷⁵⁶ He also said that, given that the confirmatory test results for human blood on the shirt were negative, he could not, based on the science alone, conclude that the staining on the rear left shoulder and sleeve of the shirt was blood. However, he said that there was *"a strong inference from the science"* that the staining was blood and there were reasonable explanations why the confirmatory chemical tests had not worked.⁷⁵⁷

2.504 With reference to his conclusion, namely that there were no bloodstains to support the account of *"upper body interaction"* between Abela and Adam Salter, Reynolds gave the following evidence:

Q. What you are talking about there is literally touching or embracing, are you, between Mr Adam Salter and Abela?

A. With regards to Abela, at I think it's 12 minutes in his walkthrough interview, he talks about coming into contact with the right-hand side of the deceased and having some - I will use the term - wrestle-type interaction, and then that interaction carries on further to be the contact with the left-hand. He further goes on to say that there was blood everywhere over the upper body of the deceased. In the walkthrough interview and the transcript from Bissett, she essentially says that they were wrestling and having the close upper body contact. So they are the areas that I base that comment on.

Q. The respective walkthroughs reflect a different level of proximity, don't they - those two walkthroughs?

A. Both of them have upper body close contact.

Q. Well, let's start with Bissett. I don't think there is any dispute that the walkthrough suggests that.

⁷⁵⁵ PIC Transcript, Mark Reynolds, 6 September 2012, p. 812

⁷⁵⁶ PIC Transcript, Mark Reynolds, 6 September 2012, p. 813

⁷⁵⁷ PIC Transcript, Mark Reynolds, 6 September 2012, pp. 816-17

A. When you say "that", you mean the upper body contact?

Q. Physical upper body touching between the two.

A. Yes.

Q. Is that what you mean by "upper body interaction"?

A. That's my recollection, yes.⁷⁵⁸

2.505 Reynolds was also asked questions about the spatter that was caused by the shooting. He agreed that different types of bullets will cause different types of spatter, but also said that *"it doesn't change the fact that if a projectile exits, you can often see what we term spatter. If it was a 9 mm or a 40 cal or 7.62, the patterns might be slightly different, but they would all be forward spatter"*.⁷⁵⁹ He also gave evidence on the phenomenon of *"back spatter"* and said that it was possible that some spatter was caused at the point of entry.⁷⁶⁰

2.506 On the subject of back spatter, Reynolds was asked if the presence of blood on Abela's shirt (the rear left shoulder and sleeve) was consistent with Abela being on the side of the kitchen opposite to the refrigerator. He said it would not, as the *"projection of blood out of the entry wound"* would have been towards the *"centre of the room or closer to the entry hall"*, that is, the kitchen doorway.⁷⁶¹

2.507 With reference to the presence of blood on the rear of Abela's shirt, he said that the presence of blood indicated that Abela was in relatively *"close proximity"* to Adam Salter.⁷⁶²

2.508 Elsewhere in his examination Reynolds noted, with reference to a photograph showing bloodstaining to the cupboard beneath the sink, that the stains on the cupboard showed *"some lateral movement of the contacting surface"*.⁷⁶³

SUBMISSIONS

2.509 The Commission received written submissions from Counsel Assisting and from the legal representatives who had been authorised to appear at the hearing before the Commission and from Mr Tedder who was not himself legally represented.

SUBMISSIONS OF COUNSEL ASSISTING

2.510 The principal submissions made by Counsel Assisting can be concisely summarised as follows.

⁷⁵⁸ PIC Transcript, Mark Reynolds, 6 September 2012, pp. 816-17

⁷⁵⁹ PIC Transcript, Mark Reynolds, 6 September 2012, pp. 821

⁷⁶⁰ PIC Transcript, Mark Reynolds, 6 September 2012, pp. 822

⁷⁶¹ PIC Transcript, Mark Reynolds, 6 September 2012, p. 828

⁷⁶² PIC Transcript, Mark Reynolds, 6 September 2012, p. 828

⁷⁶³ PIC Transcript, Mark Reynolds, 6 September 2012, pp. 825

- 2.511 Counsel Assisting submitted that the Commission should assess that each of the involved police officers – Bissett, Abela, Metcalfe and Wilson – “*gave deliberately false evidence in respect of the circumstances of the shooting*”. Counsel Assisting submitted that the Commission should assess that “*Abela was not in contact with Adam Salter at any time before the shooting and, instead, that Abela had not moved from his position somewhere near the refrigerator*”. Counsel Assisting further submitted that “*the police officers were motivated to give false evidence as part of a misguided attempt to protect Bissett against a finding that the shooting of Adam Salter was unjustified*”.⁷⁶⁴
- 2.512 On the critical issue of whether there was contact between Adam Salter and Abela, Counsel Assisting submitted that the accounts given by the four police officers were contradicted by the accounts of each of the civilian eyewitnesses and by the forensic evidence of Reynolds. Counsel Assisting submitted that the accounts of the civilian witnesses should be accepted in preference to the accounts of the police officers and that the further evidence of Reynolds established that there was no blood on Abela’s left glove or on the front of Abela’s shirt.⁷⁶⁵
- 2.513 Counsel Assisting made submissions about the evidence of each of the principal witnesses.
- 2.514 Counsel Assisting submitted that Bissett was alone in her evidence, her account on the critical issue being contradicted not only by the accounts of each of the civilian witnesses but also by the accounts of Abela, Wilson and Metcalfe. It was submitted that, given what was contended was the accumulation of impossibilities in her evidence, her account should be assessed by the Commission to have been deliberately false.⁷⁶⁶
- 2.515 Counsel Assisting submitted that Abela’s account of events was not supported and was inconsistent with the entries made by Abela in his police notebook. Counsel Assisting further submitted that Abela’s credibility was adversely affected by his tendency to subsequently change evidence he had given on an earlier occasion.⁷⁶⁷
- 2.516 Counsel Assisting submitted that Wilson was an unreliable witness. A critical matter was her repeated insistence prior to giving evidence at the public hearing that Bissett had, before shooting Adam Salter, called on him to drop the knife and allowed him time in which to comply with her command. At the public hearing Wilson retracted this evidence. Another critical matter was her evidence, which the Commission should assess was untrue, that Adrian Salter was not in the kitchen at the time of the shooting.⁷⁶⁸
- 2.517 Counsel Assisting submitted that Metcalfe, in the radio call she had made soon after the shooting, had made a false statement portraying Adam Salter as having attacked police. He further submitted that the mud map Metcalfe drew in her police interview reflected what Metcalfe had really seen on 18

⁷⁶⁴ Submissions of Counsel Assisting, paragraph 2

⁷⁶⁵ Submissions of Counsel Assisting, *passim*

⁷⁶⁶ Submissions of Counsel Assisting, paragraphs 53-54

⁷⁶⁷ Submissions of Counsel Assisting, paragraphs 46-51

⁷⁶⁸ Submissions of Counsel Assisting, paragraphs 41-42

November 2009, namely, that Abela was standing on the side of the kitchen near the refrigerator at the time of the shooting.⁷⁶⁹

- 2.518 It was submitted that the evidence of Adrian Salter was generally reliable and that Adrian Salter manifested no signs of vengefulness. However, Counsel Assisting submitted that it was unlikely that Adrian Salter had removed the knife from Adam Salter's neck after he was shot.⁷⁷⁰
- 2.519 Counsel Assisting submitted that Coolahan and Johnstone were impressive witnesses and that both had a good recollection of the events and were disinterested in the outcome of the Commission's investigation. He submitted that Coolahan's evidence should in general be accepted as an accurate account of the events which had happened. He submitted that Lutz's evidence was also disinterested and generally sound, but was wrong about where she had located Abela within the kitchen.⁷⁷¹
- 2.520 Counsel Assisting made a number of submissions about the evidence given by Paula Sinclair, including the following. He said that she was a disinterested and honest witness, but was not an eyewitness and had only a limited or poor recollection of such events as were within her direct knowledge.
- 2.521 On 18 November 2009 Sinclair engaged in a debriefing with the ambulance officers, but the focus of the debriefing was to make certain that the ambulance officers were physically and psychologically protected and to review the clinical treatment of the patient (Adam Salter). It was not an investigation into the circumstances of the shooting. Sinclair was aware that the four ambulance officers were to be interviewed by police later in the day.
- 2.522 As to the statement in the two briefing notes to the effect that a police officer in the kitchen had attempted to restrain the patient, Counsel Assisting submitted that Sinclair could not identify the source of that information; that what appeared in the briefing notes was her "*interpretation*" of what she had been told by a number of persons; that she had had contact on 18 November 2009 with a number of police officers, including Hanlon who had been the author of an incorrect police report; and that she had been unable to give the briefing session her "*undivided*" attention.
- 2.523 Counsel Assisting referred to the evidence given by each of Coolahan, Johnstone and Lutz denying having said during the debriefing session that a police officer had attempted to restrain Adam Salter and to the fact that later on 18 November 2009 each of them, when interviewed by police, had given an account inconsistent with a police officer having attempted to restrain Adam Salter.

SUBMISSIONS ON BEHALF OF ADRIAN SALTER

- 2.524 In his written submissions Counsel for Adrian Salter said that his client agreed with and adopted the submissions of Counsel Assisting subject to two matters,

⁷⁶⁹ Submissions of Counsel Assisting, paragraphs 32-38

⁷⁷⁰ Submissions of Counsel Assisting, paragraphs 11-12

⁷⁷¹ Submissions of Counsel Assisting, paragraphs 4, 7, 9

to one of which it is unnecessary to refer.⁷⁷² The other matter was that Counsel Assisting had submitted that the Commission should assess that Adrian Salter did not remove the knife from Adam Salter's neck after he was shot. It was submitted on behalf of Adrian Salter that the Commission should accept his evidence that he had done so, this being *"his final act of intervention"* necessitated by the *"complete failure on the part of the police to secure the knife and to intervene when Adam got to his feet"*.⁷⁷³

SUBMISSIONS ON BEHALF OF SHERREE BISSETT

- 2.525 A submission was made by Counsel for Bissett that her positioning of Abela and Adam Salter in her *walkthrough* interview was confirmed by her in her evidence at the public hearing.⁷⁷⁴
- 2.526 It was submitted that, notwithstanding that there were some differences between Bissett's account and Abela's account, both accounts had in common that *"Abela was on the left side of Adam Salter, and struggling to restrain his movement, at the time Sergeant Bissett discharged her firearm"*.⁷⁷⁵ It was submitted that Metcalfe and Wilson *"corroborated"* the evidence of Bissett and Abela.⁷⁷⁶ It was also submitted that, in placing Abela on the side of the room opposite to the refrigerator, Lutz in her oral evidence and in diagrams she drew, had contradicted the evidence of Coolahan and Johnstone and corroborated the evidence of the police.⁷⁷⁷
- 2.527 It was submitted that the transfer of blood from Adam Salter to the kitchen cupboard beneath the sink was consistent with lateral movement by Adam Salter against the cupboard and was *"not inconsistent with the directional movement described by Abela in his attempts to restrain Adam Salter"*.⁷⁷⁸
- 2.528 A general submission was made that the events which unfolded in the kitchen on 18 November 2009 *"moved quickly and violently in a rapidly dynamic fluid environment"*. It was submitted that *"memory can be deceived by traumatic, chaotic and horrific events"* and that *"it is in the context of such recognition that the evidence of each Ambulance officer is to be assessed"*.⁷⁷⁹
- 2.529 It was submitted that Coolahan and Johnstone had been mistaken in saying that Adam Salter did not continue to stab himself after he was shot. It was submitted that the Commission should accept the evidence of Bissett and Adrian Salter that Adam Salter had continued to stab himself.⁷⁸⁰
- 2.530 It was submitted that Coolahan's account in her police interview about a second attempt having been made by Adrian Salter to restrain his son was not

⁷⁷² Submissions on behalf of Adrian Salter, paragraph 13

⁷⁷³ Submissions on behalf of Adrian Salter, paragraph 16

⁷⁷⁴ Submissions on behalf of Sherree Bissett, p. 1

⁷⁷⁵ Submissions on behalf of Sherree Bissett, p. 2

⁷⁷⁶ Submissions on behalf of Sherree Bissett, p. 2

⁷⁷⁷ Submissions on behalf of Sherree Bissett, p. 3

⁷⁷⁸ Submissions on behalf of Sherree Bissett, p. 5

⁷⁷⁹ Submissions on behalf of Sherree Bissett, p. 2

⁷⁸⁰ Submissions on behalf of Sherree Bissett, pp. 3-4

supported by Adrian Salter. It was contended that there had been a second attempt to restrain Adam Salter but that this attempt had been made by Abela and not by Adrian Salter.⁷⁸¹

- 2.531 It was submitted that the evidence of the ambulance officers had been contaminated by the discussions they had had after the incident. It was submitted that one or more of the ambulance officers had provided Sinclair with the information in her briefing notes that a “*possibly junior*” police officer had attempted to restrain Adam Salter. It was submitted that that information could not have been provided by a police officer, because a police officer would have been aware of the ranks of police officers.⁷⁸²

SUBMISSIONS ON BEHALF OF AARON ABELA

- 2.532 A general submission was made on behalf of Abela that at the time of the shooting he was an inexperienced police officer and that he had been exposed to an horrific incident.⁷⁸³ A further general submission was made that the Commission should exercise caution before concluding that police had lied and closed ranks.⁷⁸⁴
- 2.533 It was submitted that the central issue was whether Abela had been in contact with Adam Salter in the moments before Adam Salter was shot and whether Abela’s recollection of what happened was honest and truthful.⁷⁸⁵ It was submitted that Abela had given credible evidence and had not “*attempt[ed] to embellish or feign an inability to recollect relevant events and ... was prepared to concede he may not have a perfect recollection of events*”.⁷⁸⁶ Counsel for Abela submitted that Abela’s version of events had been consistently maintained by him in his police interview, in his *walkthrough* interview and in his evidence at the inquest and before the Commission.⁷⁸⁷
- 2.534 Counsel for Abela submitted that an allegation of joint concoction had not been put to Abela or raised in the submissions of Counsel Assisting. It was suggested that Counsel Assisting had only submitted that there had been an unconscious and uncoordinated attempt by the police officers to protect Bissett. It was submitted there was no evidence that it had ever been suggested to Abela that he should recall events in a particular manner and that it had not been put to Abela that he had known that he was going to have to lie to protect Bissett.⁷⁸⁸ It was submitted that, because of his inexperience, Abela did not have the capacity himself to fabricate a story on his own.⁷⁸⁹
- 2.535 Counsel for Abela submitted that Counsel Assisting had not criticised the manner in which the involved officers had been separated after the incident

⁷⁸¹ Submissions on behalf of Sherree Bissett, pp. 3-4

⁷⁸² Submissions on behalf of Sherree Bissett, pp. 4-5

⁷⁸³ Submissions on behalf of Aaron Abela, paragraph 1

⁷⁸⁴ Submissions on behalf of Aaron Abela, paragraph 3

⁷⁸⁵ Submissions on behalf of Aaron Abela, paragraph 5

⁷⁸⁶ Submissions on behalf of Aaron Abela, paragraph 12

⁷⁸⁷ Submissions on behalf of Aaron Abela, paragraphs 4, 8, 10-11

⁷⁸⁸ Submissions on behalf of Aaron Abela, paragraph 13

⁷⁸⁹ Submissions on behalf of Aaron Abela, paragraph 17

and prior to giving their accounts to police.⁷⁹⁰ The fact the versions that had been given by the police officers were not identical was relied on as showing that there had not been any joint concoction of their accounts.⁷⁹¹

- 2.536 It was submitted that the entries in Abela's notebook did refer to Abela attempting to prevent Adam Salter from getting to the sink. It was conceded that the notebook entries did not go into a great deal of detail. However, it was submitted that in assessing the notebook entries the Commission should have regard to Abela's inexperience and to the "*distressing nature of the incident*".⁷⁹²
- 2.537 As to the evidence of Adrian Salter, a submission was made that his memory was imperfect and that his evidence was no more definitive than that of any other witness. Counsel for Abela referred to the estimate given by Adrian Salter in his evidence that only 5 to 6 seconds elapsed from his entering the kitchen to the shooting. Counsel for Abela also referred to Adrian Salter's inability to remember how many ambulance officers and police officers were in the kitchen. A criticism was also made of the diagram Adrian Salter drew in his police interview in which "*he places himself in the centre of the kitchen*" in a position that was "*too far away*" for him to have "*tripped*" on the equipment of the ambulance officers.⁷⁹³
- 2.538 A general submission was that the ambulance officers had not been separated after the incident and that their evidence had become contaminated by their participation in the debriefing at Canterbury Hospital.⁷⁹⁴
- 2.539 It was accepted that the purpose of the debriefing was to discuss the treatment of Adam Salter and to assess the welfare of the Ambulance officers.⁷⁹⁵ However, it was submitted that the Ambulance Service had not treated the ambulance officers as witnesses and had shown no concern about the possible cross-contamination of their evidence.⁷⁹⁶
- 2.540 A number of submissions were made about Exhibits 102, 103, and 104, which were said to support the police officers' versions of events.⁷⁹⁷ It was noted that these documents had not been available to the Deputy State Coroner at the inquest.⁷⁹⁸ It was submitted that Exhibits 102, 103 and 104 were the only contemporaneous records and because they were consistent with police accounts, the Commission could not form any adverse opinions about the truthfulness of the police witnesses.⁷⁹⁹
- 2.541 Counsel for Abela submitted that the information in Exhibits 102, 103 and 104 could only have come from the ambulance officers. Sinclair had no knowledge

⁷⁹⁰ Submissions on behalf of Aaron Abela, paragraph 14

⁷⁹¹ Submissions on behalf of Aaron Abela, paragraphs 14-15

⁷⁹² Submissions on behalf of Aaron Abela, paragraph 18

⁷⁹³ Submissions on behalf of Aaron Abela, paragraphs 21-23

⁷⁹⁴ Submissions on behalf of Aaron Abela, paragraph 24

⁷⁹⁵ Submissions on behalf of Aaron Abela, paragraph 26

⁷⁹⁶ Submissions on behalf of Aaron Abela, paragraph 26

⁷⁹⁷ Submissions on behalf of Aaron Abela, paragraph 25, 33-34

⁷⁹⁸ Submissions on behalf of Aaron Abela, paragraph 25

⁷⁹⁹ Submissions on behalf of Aaron Abela, paragraph 38

of the incident before attending the debriefing.⁸⁰⁰ Sinclair could not recall the source of the information that was given to her that a male police officer was attempting to restrain Adam Salter and said that it was her “*interpretation*” of what she was being told by other persons.⁸⁰¹ It was noted that Sinclair had spoken to police officers, but did not recall discussing with police officers the details of what had happened.⁸⁰² Sinclair had said in her evidence that it was “*fair to say*” that the ambulance officers were the source of the information in Exhibit 104.⁸⁰³ It was submitted that it was “*pure speculation*” to suggest that the source of the information in exhibits 103 and 104 was a source outside of the four ambulance officers.⁸⁰⁴

- 2.542 As to Exhibit 102, a submission was made that, although the times shown in the document were inaccurate, the reference at 8:53 to “*police on scene tried to restrain PT [patient]*” should be taken as being a reference to the actions of Abela.⁸⁰⁵ It was also submitted that Exhibit 102 had been generated by someone in the Ambulance Service other than Sinclair as an independent record.⁸⁰⁶
- 2.543 Counsel for Abela submitted that, if the statement regarding an attempt by a police officer to restrain Adam Salter in Exhibits 103 and 104 had not come from one of the ambulance officers at the debriefing, it must have come from Exhibit 102.⁸⁰⁷
- 2.544 It was submitted that Lutz was the most likely source of the information in Exhibits 102, 103 and 104. Lutz had contacted the Ambulance Service and reported what had happened within three minutes of the shooting. The reference to a “*possibly junior*” police officer in Exhibit 103 was said to be consistent with the type of description that Lutz would have provided, given her interest in police ranks. Lutz was also the first person that Sinclair spoke to after the incident.⁸⁰⁸
- 2.545 A submission was made that Coolahan’s and Lutz’s “*demeanour*” at the public hearing “*was that of individuals with a particular agenda*” who were not impartial.⁸⁰⁹
- 2.546 Reference was made to Lutz’s police interview where, commenting on the accuracy of her recollection, she said that it would “*be interesting to actually see what actually did happen*”.⁸¹⁰ Reference was also made to the fact that at that police interview she could not recall where Abela had moved.⁸¹¹ It was submitted that Lutz’s recollection, rather than diminishing over time, had

⁸⁰⁰ Submissions on behalf of Aaron Abela, paragraph 27

⁸⁰¹ Submissions on behalf of Aaron Abela, paragraph 27

⁸⁰² Submissions on behalf of Aaron Abela, paragraph 30

⁸⁰³ Submissions on behalf of Aaron Abela, paragraph 30

⁸⁰⁴ Submissions on behalf of Aaron Abela, paragraph 31

⁸⁰⁵ Submissions on behalf of Aaron Abela, paragraph 32

⁸⁰⁶ Submissions on behalf of Aaron Abela, paragraph 31

⁸⁰⁷ Submissions on behalf of Aaron Abela, paragraph 37

⁸⁰⁸ Submissions on behalf of Aaron Abela, paragraph 35

⁸⁰⁹ Submissions on behalf of Aaron Abela, paragraph 39

⁸¹⁰ Submissions on behalf of Aaron Abela, paragraph 40

⁸¹¹ Submissions on behalf of Aaron Abela, paragraph 41

“improved”.⁸¹² In that regard, reference was made to Lutz’s unequivocal evidence at the inquest and before the Commission to the effect that Abela had not been in physical contact with Adam Salter prior to the shot being fired.⁸¹³

- 2.547 As to Coolahan, a submission was made that her evidence had not remained consistent. This submission was based on Coolahan having said that Abela’s position had not changed while he was attempting to put on his gloves but also having said that Abela dived out of the way as soon as the words *“Taser, Taser, Taser”* were called.⁸¹⁴
- 2.548 A submission was made about Coolahan’s assertion in her police interview that she saw Adrian Salter attempt to restrain his son for a second time. In her evidence before the Commission Coolahan did not remember that occurring and denied that Abela might have been the person who attempted to restrain Adam Salter a second time. It was submitted that her refusal to agree with the latter proposition *“is indicative of a witness who has an agenda”*.⁸¹⁵
- 2.549 A submission was made about Coolahan’s evidence that, whilst attempting to restrain Adam Salter, her hands *“slipped”* because Adam Salter was *“diaphoretic”* (sweaty). This was said to be an important piece of evidence because it provided an explanation for why Abela’s hands had slipped on Adam Salter’s left arm.⁸¹⁶
- 2.550 Counsel for Abela made a number of submissions about the evidence of Reynolds. With reference to Reynolds’ finding that there was no blood on the exterior surfaces of Abela’s left glove from any contact with Adam Salter, it was submitted that Abela could have been mistaken in believing that it was because of blood on Adam Salter’s arm that his hands slipped.⁸¹⁷ It was submitted that Abela’s hands could have slipped because of the presence of sweat. Counsel for Abela submitted that there was no evidence that Adam Salter had blood on his left arm, shoulders or his lower neck.⁸¹⁸ It was pointed out that Reynolds agreed in his evidence that, if there had been only sweat and no blood on Adam Salter’s left arm, the absence of blood on Abela’s glove would be irrelevant.⁸¹⁹ It was also submitted that there could have been no transfer of blood to Abela’s shirt or gloves, if there was no blood on the other parts of Adam Salter’s body with which Abela came into contact.⁸²⁰
- 2.551 As to the blood that was located on the rear of Abela’s shirt and under the left arm, the submission was made that the presence of this blood was consistent with Abela’s version. It was said to demonstrate his proximity to Adam Salter

⁸¹² Submissions on behalf of Aaron Abela, paragraph 32

⁸¹³ Submissions on behalf of Aaron Abela, paragraph 39

⁸¹⁴ Submissions on behalf of Aaron Abela, paragraphs 46-49

⁸¹⁵ Submissions on behalf of Aaron Abela, paragraphs 50-51

⁸¹⁶ Submissions on behalf of Aaron Abela, paragraph 53-54

⁸¹⁷ Submissions on behalf of Aaron Abela, paragraphs 54—55, 60-61

⁸¹⁸ Submissions on behalf of Aaron Abela, paragraph 56

⁸¹⁹ Submissions on behalf of Aaron Abela, paragraph 61

⁸²⁰ Submissions on behalf of Aaron Abela, paragraph 64

and “*the raising of Abela’s arm away from his body and towards Adam Salter*”.⁸²¹

- 2.552 Counsel for Abela submitted that Reynolds had been limited by his instructions to determining which of only three versions was most likely to be correct.⁸²²

SUBMISSIONS ON BEHALF OF LEAH WILSON

- 2.553 A submission was made on behalf of Wilson that there was no evidence of any collusion between police or of any opportunity for collusion between them. It was said that Wilson had been separated from the other police officers “*almost immediately after the shooting*”.⁸²³
- 2.554 With reference to Wilson’s assertion in her notebook, in her police interview and in the evidence she gave at the inquest that Bissett had said “*Drop it. Drop it.*”, it was submitted that Wilson had simply been mistaken and that she had honestly believed that the words were said.⁸²⁴ Her acknowledgement in her evidence before the Commission that she must have been mistaken was said to be an example of truthfulness on her part.⁸²⁵ It was submitted that her retraction of her earlier assertion was not an indication of general unreliability.⁸²⁶
- 2.555 Submissions were made in response to a suggestion that had been made by Counsel Assisting that Wilson might not have been in the kitchen at the time of the shooting. Counsel for Wilson referred to answers given by Wilson in her police interview that she had moved to the kitchen doorway and “*looked inside*” whilst standing in the doorway.⁸²⁷

SUBMISSIONS ON BEHALF OF EMILY METCALFE

- 2.556 It was submitted by Counsel for Metcalfe that submissions made by Counsel Assisting about Metcalfe were not based on evidence, had not been put to her at the hearing and ignored or dismissed contrary evidence.⁸²⁸
- 2.557 Counsel referred to the evidence given by Metcalfe that Adam Salter had continued to stab himself after he was shot. It was submitted that on this matter Adrian Salter’s evidence was consistent with Metcalfe’s evidence.⁸²⁹
- 2.558 The submission was made that Sinclair’s briefing notes contained an account of events that was consistent with that of Metcalfe and the other police

⁸²¹ Submissions on behalf of Aaron Abela, paragraph 65

⁸²² Submissions on behalf of Aaron Abela, paragraphs 63, 66

⁸²³ Submissions on behalf of Leah Wilson, paragraphs 3-4, 8

⁸²⁴ Submissions on behalf of Leah Wilson, paragraphs 6, 11

⁸²⁵ Submissions on behalf of Leah Wilson, paragraph 10

⁸²⁶ Submissions on behalf of Leah Wilson, paragraph 10

⁸²⁷ Submissions on behalf of Leah Wilson, paragraphs 15-16

⁸²⁸ Submissions on behalf of Emily Metcalfe, paragraphs 2-3

⁸²⁹ Submissions on behalf of Emily Metcalfe, paragraphs 13-20

witnesses. It was submitted that the source of the information in her briefing notes would have been one or more of the ambulance officers.⁸³⁰ It was further submitted that the likely source of the information about a “*possibly junior*” police officer was Lutz, given her “*special interest in the ranks of police officers*”.⁸³¹ It was also submitted that, if an ambulance officer had conveyed the information in the briefing notes to Sinclair, then one or more of the ambulance officers had subsequently varied their version of events.⁸³²

- 2.559 A submission was made that Exhibit 102, the file note, was inconsistent with the accounts given by the ambulance officers. It was submitted that the Commission should assess that the information contained in the file note was conveyed to the author of the file note by one or other of the ambulance officers. It was also said that Exhibit 102 was independent of Sinclair.⁸³³
- 2.560 It was submitted that the police officers had been separated after the incident and had not had an opportunity to concoct a joint false account, unlike the ambulance officers who had participated in the “*hot debrief*” prior to being interviewed. The account the ambulance officers had given had thereby become cross-contaminated.⁸³⁴
- 2.561 It was also submitted that the ambulance officers were upset with the conduct of the police.⁸³⁵
- 2.562 With reference to the radio calls made by Metcalfe, it was submitted that Metcalfe would not have used the words “*was coming at us*”, which she conceded were not correct, but for a specific request for further information by the VKG operator.⁸³⁶
- 2.563 Reference was made to the “*traumatic*” nature of the shooting and the possibility that this might have affected the recollection of all witnesses. Counsel for Metcalfe specifically referred to Coolahan’s evidence that Adam Salter had not continued to stab himself after he was shot. It was submitted that, in light of the evidence of Metcalfe and Adrian Salter, the Commission should find that this part of Coolahan’s evidence was incorrect.⁸³⁷
- 2.564 It was submitted that Metcalfe’s account was that there had only been limited contact between Abela and Adam Salter and that Metcalfe had denied that their bodies had been close together. She had also denied seeing any “*tugging*” action. It was submitted that, if Metcalfe had been minded to give false evidence to support Bissett, one would have expected her evidence to have been more supportive of Bissett’s version.⁸³⁸

⁸³⁰ Submissions on behalf of Emily Metcalfe, paragraphs 21-24

⁸³¹ Submissions on behalf of Emily Metcalfe, paragraph 25

⁸³² Submissions on behalf of Emily Metcalfe, paragraph 26

⁸³³ Submissions on behalf of Emily Metcalfe, paragraphs 27-29

⁸³⁴ Submissions on behalf of Emily Metcalfe, paragraph 30

⁸³⁵ Submissions on behalf of Emily Metcalfe, paragraph 30

⁸³⁶ Submissions on behalf of Emily Metcalfe, paragraph 35

⁸³⁷ Submissions on behalf of Emily Metcalfe, paragraphs 40-42

⁸³⁸ Submissions on behalf of Emily Metcalfe, paragraph 43

- 2.565 As to the mud map drawn by Metcalfe in her police interview, it was submitted that, whilst Counsel Assisting relied on the “*mud map*” as indicating the position of Abela at the time of the shooting, he made no reference to parts of Metcalfe’s interview which showed that the positions she had marked referred to two different occasions: one just before the shot was fired and one shortly afterwards. It was also submitted that, in the questions Metcalfe was asked just prior to being asked to draw the mud map, “*there is no reference to at the time of the shooting or to the position of any particular person*”.⁸³⁹

SUBMISSIONS ON BEHALF OF RUSSELL OXFORD

- 2.566 A number of submissions made on behalf of Oxford related to limbs of the Commission’s investigation other than the first limb. The principal submissions made in relation to the first limb can be summarised as follows.
- 2.567 A general submission was made that Abela and Bissett had been separated and had not had an opportunity to concoct a joint false account and that their accounts had not thereby become contaminated.⁸⁴⁰ Bissett was in shock after the shooting and had not been in a state to collude with anyone.⁸⁴¹ It was submitted that Abela and Bissett had also independently provided similar accounts in their *walkthrough* interviews.⁸⁴²
- 2.568 Several submissions were made about the evidence of Reynolds. Reynolds had made it clear that none of the versions presented in his letter of instructions was consistent with the forensic evidence. It was submitted that any problem with the version of events provided by Abela “*largely disappears if Adam did not have blood on his arms or Abela was not wearing gloves or Abela was not in actual contact with the torso of Adam Salter*”.⁸⁴³ It was submitted that Abela might have been mistaken as to the reason why his hands slipped on Adam Salter’s arm. The evidence from Coolahan showed that Adam Salter was sweaty.⁸⁴⁴ It was also said that, given Abela’s inexperience at the time, “*it is easy to understand why he thought there was blood everywhere*”. It was said that “*a more experienced officer may not have described the blood so.*”⁸⁴⁵
- 2.569 A criticism made of Reynolds concerned his failure to accurately repeat the terms of version 1 in his report. It was submitted that this failure was unacceptable. Reynolds agreed that it was not appropriate for an expert to unilaterally change a version given in his letter of instructions and could provide no explanation for the error.⁸⁴⁶
- 2.570 Reynolds’ opinion that the most likely scenario “*is as put by the ambulance officers*” was criticised on the basis that there was no one scenario as put by

⁸³⁹ Submissions on behalf of Emily Metcalfe, paragraphs 44-47

⁸⁴⁰ Submissions on behalf of Russell Oxford, paragraph 4

⁸⁴¹ Submissions on behalf of Russell Oxford, paragraph 75

⁸⁴² Submissions on behalf of Russell Oxford, paragraph 75

⁸⁴³ Submissions on behalf of Russell Oxford, paragraph 108

⁸⁴⁴ Submissions on behalf of Russell Oxford, paragraphs 115-116

⁸⁴⁵ Submissions on behalf of Russell Oxford, paragraph 145

⁸⁴⁶ Submissions on behalf of Russell Oxford, paragraph 129-130

the ambulance officers⁸⁴⁷ and that there were major discrepancies between them.⁸⁴⁸ It was said that where Lutz had placed Abela was “*consistent with the evidence of police*”.⁸⁴⁹ It was also said that Johnstone had given evidence that, while he did not see any contact between Abela and Adam Salter, he left the possibility of contact “*open*”.⁸⁵⁰

- 2.571 It was submitted that the accounts given by the ambulance officers were “*contaminated*” and had “*hardened over time*”.⁸⁵¹ The ambulance officers had spoken about the incident together and had discussed it with Sinclair. It was submitted that “*no doubt the most vocal opinion became the group opinion*”.⁸⁵² The ambulance officers had been “*upset with police*” and critical of their conduct. It was submitted that the ambulance officers would have ventilated their concerns about the police when they spoke.⁸⁵³
- 2.572 Counsel for Oxford submitted that the briefing notes prepared by Sinclair supported the accounts given by police. It was submitted that the information about Adam Salter being restrained by a police officer would have come from one of the ambulance officers.⁸⁵⁴ In particular, it was submitted that the reference to a “*possibly junior*” police officer must have come from an ambulance officer, as “*no police officer would have been unsure about Abela’s rank as a junior officer*”.⁸⁵⁵
- 2.573 Evidence that Sinclair had had only minimal experience when she prepared the notes was said to provide no explanation for why the notes contained the reference to a police officer attempting to restrain Adam Salter.⁸⁵⁶
- 2.574 Counsel for Oxford noted that the briefing notes were not before the inquest and would have been of assistance to the Deputy State Coroner, if they had been.⁸⁵⁷
- 2.575 Reference was made to the evidence Coolahan gave before the Commission that she “*did not recall*” telling Sinclair at the debriefing that a police officer had attempted to restrain Adam Salter. It was said that this was a “*stunning answer*”. It was submitted that, if the evidence she had given about Abela’s lack of action had been truthful, her answer would have been a resounding “*no*”.⁸⁵⁸ It was further submitted that her answer had been evasive, because she apprehended that, if she made a denial that she had told Sinclair, she

⁸⁴⁷ Submissions on behalf of Russell Oxford, paragraph 121

⁸⁴⁸ Submissions on behalf of Russell Oxford, paragraph 146

⁸⁴⁹ Submissions on behalf of Russell Oxford, paragraph 147

⁸⁵⁰ Submissions on behalf of Russell Oxford, paragraph 167

⁸⁵¹ Submissions on behalf of Russell Oxford, paragraphs 75, 143

⁸⁵² Submissions on behalf of Russell Oxford, paragraph 75

⁸⁵³ Submissions on behalf of Russell Oxford, paragraph 143

⁸⁵⁴ Submissions on behalf of Russell Oxford, paragraph 69

⁸⁵⁵ Submissions on behalf of Russell Oxford, paragraph 154-155

⁸⁵⁶ Submissions on behalf of Russell Oxford, paragraph 168

⁸⁵⁷ Submissions on behalf of Russell Oxford, paragraphs 14, 165

⁸⁵⁸ Submissions on behalf of Russell Oxford, paragraph 159

might have been contradicted by other evidence which proved that she in fact had been the source of the information.⁸⁵⁹

- 2.576 It was submitted that Coolahan had not wanted to admit that it was Abela, and not Adrian Salter, who she saw attempt to restrain Adam Salter a second time.⁸⁶⁰
- 2.577 It was submitted that Coolahan's answers to Q 31 and Q 113 in her police interview suggested that Abela did in fact respond, albeit slowly, and did attempt to "*restrain*" Adam Salter.⁸⁶¹
- 2.578 Counsel for Oxford also submitted that Coolahan's evidence was unreliable as "*the blame she attributes to the police has affected her evidence*".⁸⁶²
- 2.579 It was submitted that her evidence about Abela diving out of the way immediately before the shot was inconsistent with the hypothesis offered by Reynolds of how blood might have got on the back of Abela's shirt.⁸⁶³ Her evidence of not seeing Adam Salter stab himself after he was shot was also said to be inconsistent with the evidence of police and Adrian Salter and therefore unreliable.⁸⁶⁴
- 2.580 It was submitted that the ambulance officers did not see Adrian Salter remove the knife from Adam Salter. Particular reference was made to the evidence of Coolahan that she saw the knife being removed by a police officer and not by Adrian Salter.⁸⁶⁵
- 2.581 It was submitted that Adrian Salter was focused on his son and believed that police had not done enough for his son. This focus and this belief explained why he did not recall seeing the attempt by Abela to restrain his son.⁸⁶⁶

SUBMISSIONS ON BEHALF OF STEPHEN TEDDER

- 2.582 The submissions in Parts A and B of the submissions by Mr Tedder were relevant to the first limb of the Commission's investigation.
- 2.583 Part A of the submissions was headed "*Regarding the assertion that the police officers gave deliberately false evidence in respect to the circumstances of the shooting*". The submissions that were made in this part can be concisely summarised as follows.
- 2.584 A submission was made that the four officers were separated within a short time of the shooting so as to ensure that there was no cross-contamination of

⁸⁵⁹ Submissions on behalf of Russell Oxford, paragraph 163

⁸⁶⁰ Submissions on behalf of Russell Oxford, paragraph 162

⁸⁶¹ Submissions on behalf of Russell Oxford, paragraph 161

⁸⁶² Submissions on behalf of Russell Oxford, paragraph 166

⁸⁶³ Submissions on behalf of Russell Oxford, paragraph 150

⁸⁶⁴ Submissions on behalf of Russell Oxford, paragraph 151

⁸⁶⁵ Submissions on behalf of Russell Oxford, paragraph 141

⁸⁶⁶ Submissions on behalf of Russell Oxford, paragraph 140

their evidence.⁸⁶⁷ Particular reference was made to the evidence of Abela to the effect that Wilson, Metcalfe and Abela were told not to talk to each other about the incident, when they were driven from the scene.⁸⁶⁸ It was also submitted that there was no evidence of any of their accounts being communicated to any of the other police officers.⁸⁶⁹ It was noted that Bissett and Abela had been interviewed by separate interviewing teams and had given consistent accounts to the extent that both had indicated that Abela had put himself in *“harm’s way”* in an attempt to restrain Adam Salter.⁸⁷⁰

- 2.585 A general submission was made that the four involved officers had maintained their respective accounts.⁸⁷¹ It was said that Bissett and Abela had consistently maintained that Abela was holding onto Adam Salter’s left arm.⁸⁷² It was said that Wilson had consistently maintained that Abela had hold of Adam Salter’s left shoulder and that Metcalfe had consistently maintained that Abela had hold of Adam Salter.⁸⁷³ It was submitted that the police officers were to be contrasted with the ambulance officers who, it was submitted, had changed their evidence.⁸⁷⁴
- 2.586 As to Wilson’s accounts about hearing the words *“Drop it. Drop it.”*, it was accepted that the accounts were incorrect. However, it was submitted that Wilson had believed her accounts to be true at the time of giving them. It was also submitted that Wilson’s *“error”* should not have the effect of tainting the totality of her evidence.⁸⁷⁵
- 2.587 As to Metcalfe’s evidence she gave about the *“mud map”* she drew, it was submitted that her evidence was *“simply confused”*.⁸⁷⁶
- 2.588 Several submissions were made about Abela and what was termed by Mr Tedder as *“the blood/slipping issue”*.
- 2.589 It was submitted that an alternative reason for Abela’s hands slipping on Adam Salter’s arm (other than because of the presence of blood) was not explored at any time before the Commission’s hearing.⁸⁷⁷ Reference was made to the following evidence. Adrian Salter was not looking at his son’s arms *“for blood”* and said that there *“wasn’t much blood”* on his son’s upper body.⁸⁷⁸ Johnstone could not recall how much blood was on Adam Salter’s neck and arms.⁸⁷⁹ Lutz said that the wound on Adam Salter’s chest was tightly bandaged and, although there was some blood on Adam Salter, could not *“comment on how*

⁸⁶⁷ Submissions on behalf of Stephen Tedder, paragraph 3

⁸⁶⁸ Submissions on behalf of Stephen Tedder, paragraph 21

⁸⁶⁹ Submissions on behalf of Stephen Tedder, paragraph 4

⁸⁷⁰ Submissions on behalf of Stephen Tedder, paragraphs 6-10

⁸⁷¹ Submissions on behalf of Stephen Tedder, paragraphs 15-16, 20, 22

⁸⁷² Submissions on behalf of Stephen Tedder, paragraphs 15-16

⁸⁷³ Submissions on behalf of Stephen Tedder, paragraphs 20, 22

⁸⁷⁴ Submissions on behalf of Stephen Tedder, paragraphs 147

⁸⁷⁵ Submissions on behalf of Stephen Tedder, paragraph 23

⁸⁷⁶ Submissions on behalf of Stephen Tedder, paragraph 24

⁸⁷⁷ Submissions on behalf of Stephen Tedder, paragraph 25

⁸⁷⁸ Submissions on behalf of Stephen Tedder, paragraph 27

⁸⁷⁹ Submissions on behalf of Stephen Tedder, paragraph 28

much".⁸⁸⁰ Coolahan said that her hands slipped off Adam Salter's shoulders because he was "*diaphoretic*" and that "*there was no blood on his shoulders*".⁸⁸¹ Abela said that he could not recall if there was blood above Adam Salter's chest. Abela said that it was his belief that there was blood on Adam Salter's left arm.⁸⁸² Reference was then made to Abela agreeing with the suggestion that had been put to him by Mr Tedder that his hands might have slipped on Adam Salter's arm for a reason other than the presence of blood.⁸⁸³

- 2.590 It was submitted that Abela had been "*mistaken*" about the reason for his hands slipping on Adam Salter's left arm. It was submitted that, as had happened to Coolahan, his hands slipped because Adam Salter was diaphoretic. Mr Tedder further submitted that there had been no blood on Adam Salter's left arm or left shoulder at the time of any physical contact between Abela and Adam Salter, so that there could not have been any transfer of blood to his hands or his police clothing. It was submitted that in these circumstances the evidence given by Reynolds was irrelevant.⁸⁸⁴
- 2.591 A submission was made that Bissett had not used her firearm by mistake, intending to use her Taser. Bissett had always maintained that she intended to use her firearm and had not made a mistake in using her firearm. Mr Tedder then posed the question: What would have caused Bissett to use her firearm? Mr Tedder reasoned that it would make no sense for Bissett, an experienced police officer, to have used her firearm otherwise than with justification. The justification would have been that Abela was in physical contact with Adam Salter while he was in possession of the knife.⁸⁸⁵
- 2.592 It was submitted that, to the extent that there was a difference between the accounts given by Abela and Bissett, Abela's account should be preferred because it more closely accorded with the forensic evidence.⁸⁸⁶
- 2.593 Part B of Mr Tedder's submissions was headed "*Overall truthfulness of the ambulance officers' evidence*". The submissions that were made in this part can be concisely summarised as follows.
- 2.594 Mr Tedder summarised or quoted accounts given by the ambulance officers at three stages, namely, in their police interviews on 18 November 2009, in their evidence at the inquest and in their evidence at the hearing before the Commission, and sought to demonstrate that there had been changes in their accounts.
- 2.595 As to the accounts given in the police interviews, it was noted that Lutz had told interviewing police that she did not know where Abela went during the incident.⁸⁸⁷ Johnstone had said that Adam Salter had been aggressive and

⁸⁸⁰ Submissions on behalf of Stephen Tedder, paragraph 29

⁸⁸¹ Submissions on behalf of Stephen Tedder, paragraphs 30-31

⁸⁸² Submissions on behalf of Stephen Tedder, paragraphs 32

⁸⁸³ Submissions on behalf of Stephen Tedder, paragraphs 34

⁸⁸⁴ Submissions on behalf of Stephen Tedder, paragraphs 37-40

⁸⁸⁵ Submissions on behalf of Stephen Tedder, paragraphs 44-45

⁸⁸⁶ Submissions on behalf of Stephen Tedder, paragraphs 46-47

⁸⁸⁷ Submissions on behalf of Stephen Tedder, paragraph 51

lunging around the room.⁸⁸⁸ Coolahan said that Abela jumped out of the way before the shot was fired.⁸⁸⁹ Mr Tedder also referred to Coolahan's answer to Q 113 in which she said that Abela was *"trying to put his black gloves on to restrain the patient at the sink"*.⁸⁹⁰ Mr Tedder also referred to Coolahan's assertion that she had seen Adrian Salter get up off the floor and attempt to restrain his son a second time.⁸⁹¹

- 2.596 As to the accounts the ambulance officers gave at the inquest, Mr Tedder noted that Johnstone had agreed in examination by Counsel for NSWPF that Abela could have moved *"at least partially across the kitchen"* from a position *"opposite the fridge ... towards the sink area"*.⁸⁹² Johnstone had also agreed that Abela might have been *"within [an] arm's reach"* of Adam Salter and that he might have been mistaken about whether Abela was in a position to take hold of or be in contact with Adam Salter. Mr Tedder also submitted that Johnstone had said that he did not see Abela coming into contact with Adam Salter but that might have happened without him observing it.⁸⁹³
- 2.597 As to Lutz, Mr Tedder noted that Lutz had been unable to say what Abela did or where he moved.⁸⁹⁴
- 2.598 As to Coolahan, Mr Tedder noted that she had given evidence that Abela was not in contact with Adam Salter and that she had never seen him move into the middle of the room.⁸⁹⁵ It was submitted that this evidence by Coolahan was inconsistent with the answer she had given to Q 113 in her interview.⁸⁹⁶
- 2.599 As to the accounts given by the ambulance officers in their evidence before the Commission, Mr Tedder noted that Lutz had given evidence that she had not seen Abela *"grapple"* with Adam Salter, take hold of his arm or otherwise come into contact with Adam Salter.⁸⁹⁷ It was noted that Coolahan had said that Abela was *"putting on his gloves and was of no assistance at all"*, that *"he didn't move towards the patient"* and *"took no definitive action to restrain or disarm"* him.⁸⁹⁸ Reference was also made to the evidence Coolahan had given about a second attempt by Adrian Salter to restrain his son and her denial of the possibility that it might have been Abela she saw attempting to restrain Adam Salter.⁸⁹⁹
- 2.600 The following submissions were then made by Mr Tedder about what were submitted to have been changes in the accounts given by the ambulance officers.

⁸⁸⁸ Submissions on behalf of Stephen Tedder, paragraphs 53-54

⁸⁸⁹ Submissions on behalf of Stephen Tedder, paragraph 55

⁸⁹⁰ Submissions on behalf of Stephen Tedder, paragraph 56

⁸⁹¹ Submissions on behalf of Stephen Tedder, paragraph 57

⁸⁹² Submissions on behalf of Stephen Tedder, paragraph 59

⁸⁹³ Submissions on behalf of Stephen Tedder, paragraph 60-61

⁸⁹⁴ Submissions on behalf of Stephen Tedder, paragraph 62

⁸⁹⁵ Submissions on behalf of Stephen Tedder, paragraph 66

⁸⁹⁶ Submissions on behalf of Stephen Tedder, paragraph 66

⁸⁹⁷ Submissions on behalf of Stephen Tedder, paragraphs 73-74

⁸⁹⁸ Submissions on behalf of Stephen Tedder, paragraphs 75-77

⁸⁹⁹ Submissions on behalf of Stephen Tedder, paragraphs 77

- 2.601 As to Lutz, it was submitted that in her evidence at the inquest she could not say where Abela was or what he was doing, but in evidence before the Commission had been “100%” sure that Abela did not move, did not grapple with Adam Salter or pull him by the left arm. It was submitted that this was a “*dramatic shift from her original version.*”⁹⁰⁰ It was submitted that the Commission should prefer the evidence Lutz had given at the inquest.⁹⁰¹
- 2.602 As to Coolahan, it was submitted that in her answer to Q 113 in her police interview she had indicated that Abela was “*trying to put his black gloves on to restrain the patient at the sink.*” It was submitted that she had made no mention of that fact in her evidence at the inquest or before the Commission. It was contended that she had made the contrary assertion that Abela did not move towards Adam Salter and took no action to restrain or disarm him. It was submitted that this evidence was the “*polar*” opposite of her answer to Q 113.⁹⁰²
- 2.603 It was then submitted that the evidence of Sinclair and the briefing notes determined the issue.⁹⁰³
- 2.604 Mr Tedder made reference to the following relevant evidence. Sinclair had no understanding of what had happened before she spoke to the four ambulance officers.⁹⁰⁴ She could not identify the source of the information in Exhibit 103 that a police officer had attempted to restrain Adam Salter. She said that the information in the briefings note was her “*interpretation*” of information she had been told throughout the day; that it was a “*combination*” of what a “*few people*” had told her; and that she could not recall if the information was conveyed to her by a police officer or an ambulance officer.⁹⁰⁵ She said that the “*issues*” in Exhibit 103 were brought up at the debriefing by the ambulance officers and that the first five paragraphs of the background section of that document included material that was “*exclusively within the possession of the ambulance officers.*”⁹⁰⁶ She said the ambulance officers were concerned about certain matters and were upset about the conduct of police.⁹⁰⁷ She said that when she got to Canterbury Hospital she initially spoke to Lutz.⁹⁰⁸ With reference to the inclusion of the words “*possibly junior*” in Exhibit 103, she agreed, upon being shown relevant parts of Lutz’s record of interview, that it was possible that that information had come from her.⁹⁰⁹
- 2.605 It was submitted that the information contained in the briefing notes supported the accounts given by Abela and Bissett and was reliable and uncontaminated. It was submitted that the briefing notes confirmed that Abela did attempt to restrain Adam Salter.⁹¹⁰ It was also submitted that it was telling

⁹⁰⁰ Submissions on behalf of Stephen Tedder, paragraphs 79-81

⁹⁰¹ Submissions on behalf of Stephen Tedder, paragraph 105

⁹⁰² Submissions on behalf of Stephen Tedder, paragraphs 83-85

⁹⁰³ Submissions on behalf of Stephen Tedder, paragraph 86

⁹⁰⁴ Submissions on behalf of Stephen Tedder, paragraph 86

⁹⁰⁵ Submissions on behalf of Stephen Tedder, paragraph 88

⁹⁰⁶ Submissions on behalf of Stephen Tedder, paragraph 89-90

⁹⁰⁷ Submissions on behalf of Stephen Tedder, paragraph 91, 94

⁹⁰⁸ Submissions on behalf of Stephen Tedder, paragraph 92

⁹⁰⁹ Submissions on behalf of Stephen Tedder, paragraph 95

⁹¹⁰ Submissions on behalf of Stephen Tedder, paragraph 96-97, 101

that the briefing notes did not contain anything to the effect that Abela had not attempted to restrain Adam Salter. In that regard, it was said that the ambulance officers had not been averse to criticising the conduct of the police.⁹¹¹

- 2.606 It was also submitted that Coolahan's answer to Q 113 in her police interview was "*accurate and reliable*" and had been the source of the information in the original briefing note that a police officer had attempted to restrain Adam Salter.⁹¹²
- 2.607 It was submitted that the information contained in the briefing notes could only have come from the ambulance officers. The contrary was "*implausible*". It was also submitted that there was no evidence to suggest that the information was conveyed to Sinclair by any of the involved police officers or by any other police officer who might have had knowledge of what they had said in their interviews.⁹¹³
- 2.608 Mr Tedder could not say why the ambulance officers would have given untruthful or inaccurate accounts but offered the following suggestions.⁹¹⁴
- 2.609 Referring to parts of the evidence of Coolahan and Lutz, he noted that they held a belief that the police response had been highly flawed and that this belief had commenced almost immediately after the shooting.⁹¹⁵ Their displeasure with the police had been evident in their initial accounts. Reference was made to the statements made by Coolahan that Abela "*responded slowly*", that "*police left the knife*"; and to various statements made by Lutz, including her comment that "*there was a significant lack of police presence inside the property to secure it*".⁹¹⁶ Reference was also made to the opinions expressed by the ambulance officers at the debriefing and to the "*issues*" that were recorded in Exhibit 103.⁹¹⁷
- 2.610 It was also submitted that the accounts that the ambulance officers had given were affected by the discussions they had had and were thereby cross-contaminated. In support of that submission reference was made to the evidence of each of Johnstone, Lutz and Coolahan that the ambulance officers had discussed the incident. Particular reference was made to the evidence given by Johnstone at the inquest that he could not recall if the ambulance officers had discussed the actions of the police; the evidence of Lutz that the ambulance officers had not compared notes and come up with a group conclusion; and the evidence of Coolahan that a general comment had been made by the ambulance officers in their discussions that the management of the incident by police had been poor.⁹¹⁸ Reference was also

⁹¹¹ Submissions on behalf of Stephen Tedder, paragraph 100

⁹¹² Submissions on behalf of Stephen Tedder, paragraph 104

⁹¹³ Submissions on behalf of Stephen Tedder, paragraphs 106-112

⁹¹⁴ Submissions on behalf of Stephen Tedder, paragraphs 113-114

⁹¹⁵ Submissions on behalf of Stephen Tedder, paragraphs 115-119

⁹¹⁶ Submissions on behalf of Stephen Tedder, paragraph 120

⁹¹⁷ Submissions on behalf of Stephen Tedder, paragraph 121

⁹¹⁸ Submissions on behalf of Stephen Tedder, paragraphs 124-129

made to the fact that examination of the issue had been cut short at the inquest.⁹¹⁹

- 2.611 With respect to the evidence that the ambulance officers had given before the Commission, reference was made to the evidence of Coolahan that the Ambulance Service had no protocols about ambulance officers not talking to each other about an incident. Reference was made to her evidence that the ambulance officers had discussed their treatment of Adam Salter and how they were “*feeling after the job*”.⁹²⁰ Reference was made to the evidence of Johnstone that “*we all had our little say as to what happened, what we saw, what we did, our treatment of the patient*”⁹²¹ and to the evidence of Lutz that “*we were allowed to speak about what happened and how we felt about what happened and that’s what we discussed*”.⁹²²
- 2.612 It was submitted that, while Johnstone was “*open*” in his evidence before the Commission, Lutz and Coolahan had “*minimised*” the information which had been provided to Sinclair,⁹²³ and that the ambulance officers were generally “*evasive/accusatory and misleading*” in the evidence they gave about the debriefing.⁹²⁴ Seen in the light of the briefing notes, it was submitted that the evidence they had given was also untruthful.⁹²⁵

CONSIDERATION OF THE FIRST LIMB

- 2.613 In order to assess whether the accounts given by police officers of the circumstances of the shooting of Adam Salter were accurate and truthful it is necessary for the Commission to assess what were the circumstances of the shooting. In assessing what were the circumstances of the shooting the Commission is exercising its powers under s 16 of the *Police Integrity Commission Act 1996* to make assessments and form opinions on the basis of an investigation by the Commission as to whether police misconduct has occurred. In making its assessments the Commission applies the standard of proof described by Dixon J in *Briginshaw v Briginshaw* (1938) 60 CLR 336 at 362:

The seriousness of the allegation made, the inherent unlikelihood of an occurrence of a given description, or the gravity of the consequences flowing from a particular finding are considerations which must effect the answer whether the issue has been proved to the reasonable satisfaction of the Tribunal. In such matters “reasonable satisfaction” should not be produced by inexact proofs, indefinite testimony, or indirect inferences.

- 2.614 Accounts of the shooting were given by four police officers (Bissett, Abela, Wilson and Metcalfe) and by four other witnesses (Adrian Salter, Coolahan, Johnstone and Lutz). It will sometimes be convenient to refer to Adrian Salter

⁹¹⁹ Submissions on behalf of Stephen Tedder, paragraph 126

⁹²⁰ Submissions on behalf of Stephen Tedder, paragraphs 129-130

⁹²¹ Submissions on behalf of Stephen Tedder, paragraphs 131-132

⁹²² Submissions on behalf of Stephen Tedder, paragraphs 134-135

⁹²³ Submissions on behalf of Stephen Tedder, paragraphs 138-138

⁹²⁴ Submissions on behalf of Stephen Tedder, paragraphs 140

⁹²⁵ Submissions on behalf of Stephen Tedder, paragraphs 141

and the ambulance officers as *“the civilian witnesses”* and to the police officers as *“the police witnesses”*.

- 2.615 A number of the circumstances of the shooting of Adam Salter were clearly established by prior accounts given by the witnesses and evidence given at the Commission’s hearing. These circumstances included the following.
- 2.616 Before he was shot, Adam Salter was lying down and was being treated on the floor of the kitchen by two ambulance officers. There were four police officers at the premises. Bissett, Wilson and Metcalfe were outside on the front veranda. Abela had been left alone in the kitchen with Adam Salter and the three ambulance officers. Adrian Salter was at the doorway of the office at the front of the house.
- 2.617 In the moments before Adam Salter was shot he attempted to get up from the floor, went back down, and suddenly got to his feet and began to make his way towards the kitchen sink. His father, who had been watching what was happening in the kitchen, rushed into the kitchen and attempted to intervene but was pushed aside by Adam Salter and fell to the floor. Adam Salter got to the sink and retrieved the knife which had earlier been left in the sink.
- 2.618 At some point Coolahan called out for assistance from the police outside. The three police officers, Bissett, Wilson and Metcalfe, ran along the hallway towards the kitchen. Bissett entered the kitchen. She called out the word *“Taser”* three times and discharged her firearm. The bullet entered the back of Adam Salter’s right shoulder, passed through both lungs and his heart and exited his body. Adam Salter fell to the floor and suffered a cardiac arrest. He was taken by ambulance to Canterbury Hospital, where life was pronounced extinct at 9:19 am. A subsequent autopsy determined that he had died from the gunshot wound and not from the stab wounds he had inflicted on himself with the knife.
- 2.619 As to other circumstances of the shooting there is conflicting evidence in the prior accounts given by witnesses and in the evidence given by witnesses before the Commission. There are differences in the accounts given by different witnesses and differences in accounts given by the same witness on different occasions.
- 2.620 Notwithstanding these differences, the prior accounts and the evidence before the Commission of the police witnesses were broadly similar in asserting that Abela in attempting to restrain Adam Salter had brought himself into physical contact with Adam Salter, and the prior accounts and the evidence before the Commission of the civilian witnesses were broadly similar in not supporting, or denying, that Abela had brought himself into physical contact with Adam Salter. This issue, whether Abela in attempting to restrain Adam Salter had brought himself into physical contact with Adam Salter, is the principal outstanding issue which the Commission has to determine. This issue of fact is to be distinguished from the issue as to whether the shooting of Adam Salter by Bissett could be justified on some other basis, for example, on the basis that Bissett might have reasonably apprehended that everyone in the kitchen, including Abela, was at risk of death or serious injury through being struck with the knife by Adam Salter.

- 2.621 Earlier in this report the Commission has summarised the written submissions it received, including the submissions on behalf of the police officers. It is apparent that there is considerable overlap in the submissions for the various police officers, a number of the same, or substantially the same, submissions being made on behalf of a number of police officers, for example, in relation to the evidence of Sinclair or the evidence of Reynolds. Because of this overlap it will be convenient to consider the submissions on behalf of the police officers generally, rather than considering, separately and in turn, all the submissions for each police officer, a procedure which would necessarily involve much repetition and cross-referencing. It will also be convenient to use the expression “*a submission made on behalf of the police officers*” to denote a submission made on behalf of one or more of the police officers, without necessarily indicating the particular police officer or police officers on whose behalf the submission was made.
- 2.622 In assessing the prior accounts of all the witnesses it is necessary to take into account certain common factors. The kitchen in which the shooting occurred was very small; the events from Adam Salter getting up a second time to the shooting happened quickly; and during this short interval of time some persons within the kitchen altered their positions.
- 2.623 The Commission will now proceed to an assessment of the prior accounts and the evidence before the Commission of the police officers and of the civilian witnesses.

MATTERS RELEVANT TO THE POLICE WITNESSES GENERALLY

- 2.624 A submission made on behalf of the police officers was that the four officers, unlike the four ambulance officers, were separated after the shooting and thus did not have an opportunity to fabricate a joint false account.
- 2.625 It is not correct that the police officers were separated immediately after the shooting. The incident occurred almost precisely at 9:00 am. Several minutes elapsed before any further persons arrived at 33 Wangee Road. According to the entries in the crime scene log that was commenced after the shooting, Bissett did not leave 33 Wangee Road until 9:30 am. Abela, Metcalfe and Wilson left together at 10:00 am.⁹²⁶ Other evidence before the Commission establishes that they left together and were driven back to Campsie police station in the same vehicle.⁹²⁷
- 2.626 Atanasovski, Charbel Azzi (“Azzi”), Darine Eljarrar (“Eljarrar”) and Hanlon were among the first police officers to arrive at 33 Wangee Road after the shooting. In a statement made on 29 January 2010 Atanasovski said that, when he arrived, he saw Wilson standing in the doorway of the premises at 33 Wangee Road and saw Metcalfe standing on the stairwell.⁹²⁸ In a statement made on 4 January 2010 Azzi said that he saw Bissett and Metcalfe standing on the western footpath.⁹²⁹ In a statement made on 6 January 2010 Eljarrar also said that she saw Bissett and Metcalfe standing on the western footpath

⁹²⁶ Exhibit 41

⁹²⁷ Exhibit 101, p. 6

⁹²⁸ Exhibit 108

⁹²⁹ Exhibit 112

of Wangee Road.⁹³⁰ In a statement made on 7 February 2011 Hanlon said that he saw Wilson and Abela standing on the veranda and spoke with both of them.⁹³¹

- 2.627 There is also evidence that the officers were involved in joint activities at the scene. Wilson and Abela secured the crime scene and Wilson commenced a crime scene log.⁹³² Metcalfe commenced another log and accompanied Hanlon on his inspection of the premises.⁹³³
- 2.628 Hanlon also did not immediately separate the involved officers. It was only after he had inspected the premises with Metcalfe that he took steps to separate the officers.⁹³⁴
- 2.629 Although it is not true to say that the four police officers had no opportunity to concoct a joint false account, it is true to say that there was no direct evidence before the Commission that the police officers did concoct a joint false account.
- 2.630 Insofar as the accounts and evidence of the police officers about the circumstances of the shooting were similar, the principal similarity lay in placing Abela to the left of Adam Salter.
- 2.631 The Commission will now undertake an assessment of the prior accounts given by the individual police officers and the evidence of the individual police officers given before the Commission.

SHERREE BISSETT

- 2.632 The Commission accepts that Bissett was in a difficult situation when she re-entered the kitchen. She knew that only one police officer had been left inside the kitchen and that that police officer was inexperienced. She also knew that Adam Salter had previously stabbed himself with the knife and that the knife was in the sink in the kitchen. It can be inferred that the call by Coolahan for assistance to which Bissett responded would have conveyed alarm and urgency. By the time Bissett re-entered the kitchen, Adam Salter had reached the sink and had taken up the knife.
- 2.633 Bissett gave two previous accounts of the circumstances of the shooting of Adam Salter. The first account was in the typed interview on 18 November 2009. The second account was in the *walkthrough* interview in which she participated on 30 November 2009. She did not give evidence at the inquest.
- 2.634 Part of the account Bissett gave in the typed interview was that Abela was holding on to Adam Salter's left arm; that Adam Salter, having retrieved the knife, had turned the knife towards Abela; that she drew her gun and fired; and that Abela then moved away.

⁹³⁰ Exhibit 113

⁹³¹ Exhibit 74

⁹³² Exhibits 41, 44

⁹³³ Exhibit 112

⁹³⁴ Exhibit 74

- 2.635 It was submitted on behalf of the police officers that this account was similar to Abela's account in that it positioned Abela on the left hand side of Adam Salter. The Commission makes the comment that as Adam Salter was shot in the back in his right shoulder, it would be likely that Abela, if he had been in contact with Adam Salter, would have been on the left hand side of Adam Salter, away from the line of fire.
- 2.636 The Commission considers that the account given by Bissett was dissimilar to any account given by Abela in asserting that Adam Salter had turned the knife towards Abela. If Adam Salter had turned the knife towards Abela, when Adam Salter was in close proximity to Abela, Abela would surely have seen the knife. However, in all the accounts and evidence given by him, Abela maintained that he never saw the knife.
- 2.637 The account given by Bissett in the *walkthrough* interview by way of oral answers to questions she was asked and by way of demonstration using police officers to play the roles of Abela and Adam Salter was different from the account she had given in the typed interview. In the *walkthrough* interview she said that Adam Salter and Abela were "*wrestling*". The "*wrestling*" which she described and caused to be demonstrated was, appropriately, referred to as a "*close embrace*" at the inquest and at the Commission's hearing.
- 2.638 The account given by Bissett in the *walkthrough* interview was not supported by the evidence of any other witness. The account differed from the account given by Abela in that Abela maintained that the only physical contact between himself and Adam Salter just before the shooting was that he had placed his hands on Adam Salter's left arm.
- 2.639 When Abela was shown the recording of Bissett's *walkthrough* interview at the Commission's hearing he disagreed with a number of matters. He disagreed with Bissett's description of Adam Salter's shoulders as moving rapidly to the left and to the right. He disagreed that his body was touching Adam Salter's body or that he was in the specific position that Bissett described. He disagreed that Adam Salter had twisted to the left.
- 2.640 If Bissett's account given in the *walkthrough* interview of close physical contact between Abela and Adam Salter had been true, it would have been expected that blood from Adam Salter's torso would have stained the front of Abela's shirt. Reynolds examined Abela's shirt and found no blood on the front of the shirt. This matter will be further considered by the Commission when it deals with the evidence of Reynolds later in this report.
- 2.641 In her evidence before the Commission Bissett conceded that the account she had given in her *walkthrough* interview of close body contact between Abela and Adam Salter was wrong and that the directions she had given at the *walkthrough* interview to officers playing the parts of Abela and Adam Salter were similarly wrong.
- 2.642 In the account given in her evidence before the Commission Bissett said that Abela had taken hold of Adam Salter's left arm while he was at the sink and that Adam Salter had turned his right arm in the direction of Abela.

- 2.643 In her evidence before the Commission Bissett accepted that she had been present in the court room at the inquest when Abela's shirt was produced for the purpose of demonstrating the absence of blood on the front of the shirt. She said in her evidence that she had come to realise that, because there was no blood on the front of Abela's shirt, the bodies of Abela and Adam Salter could not have made contact in the manner that she had described in her *walkthrough* interview. In these circumstances she had changed her evidence.
- 2.644 There are other respects in which Bissett's account of events in the kitchen was not supported by any other evidence. She asserted in her evidence before the Commission that Adam Salter had pointed the knife at Abela; that Adam Salter had brandished the knife; and that she had seen Adam Salter lunging at police with the knife. No other witness had seen any of these events happen and the Commission considers that they did not happen.
- 2.645 In her evidence before the Commission Bissett denied that she had already drawn the firearm before she entered the kitchen. The Commission is satisfied that, if Bissett had not already drawn the firearm, she drew the firearm almost immediately upon entering the kitchen and discharged the firearm immediately afterwards. The Commission does not accept answers given by Bissett in her *walkthrough* interview (which were partly elicited by leading questions from Oxford) or her evidence given before the Commission, that she consciously considered all other options, including the use of her baton, capsicum spray and Taser, before deciding to use the firearm. The overwhelming evidence given by other witnesses was that there was no time in which Bissett could have consciously considered those options between entering the kitchen and shooting Adam Salter. (The questions asked by Oxford in the *walkthrough* interview and the answers given by Bissett will be set out later in this report when the Commission deals with the third limb of the investigation.)
- 2.646 Bissett insisted in her police interview and subsequently that she did not make a mistake in using her firearm and not her Taser. The Commission accepts Bissett's evidence on this matter. However, Bissett called out the word "*Taser*" three times before discharging her firearm and the only explanation she could give for saying these words, before leading questions were put to her by Oxford in the *walkthrough* interview, was that the words "*just came out*". Bissett's conduct in calling out the word "*Taser*" three times but using her firearm does suggest that Bissett's thought processes at and just before the time of the shooting were to some extent disrupted.
- 2.647 The Commission considers that the matters it has referred to damage Bissett's credibility as a witness.

AARON ABELA

- 2.648 The first account given by Abela was in the entries he made in his police notebook. These entries were set out in full earlier in this report. It was submitted by Counsel Assisting that the notebook entries were inconsistent with the accounts given by Abela on subsequent occasions.

- 2.649 Abela wrote the time 9:20 am in his notebook and in evidence before the Commission said he had made the entries about 20 minutes after the shooting. The notebook entries were thus made almost contemporaneously.
- 2.650 In his evidence before the Commission Abela spoke disparagingly of the entries he had made in his notebook. He described the entries as “*rubbish*”, “*terrible*” and “*garbage*” and said that the entries “*made no sense*”.
- 2.651 It can be accepted that as at 18 November 2009 Abela was inexperienced as a police officer and that he had just been exposed to a traumatic incident. It can also be accepted that on their face the entries are abbreviated, disjointed and not completely in chronological order. Nevertheless, the entries, having been made so soon after the incident, must be regarded as significant.
- 2.652 At the time of making the entries Abela knew that before the shooting he had been left as the sole police officer inside the kitchen, that the person who the ambulance officers had been treating had got to his feet, had made his way to the sink and had retrieved the knife, and that that person had then been shot by a police officer. In these circumstances one would have expected some reference in Abela’s notes to any action he had taken, even if unavailing, to prevent what had happened from coming to pass.
- 2.653 It was submitted on behalf of the police officers that there was an entry in Abela’s notebook to that effect in the part, “*as male was raising [sic] went to assist ambos*”. However, in evidence before the Commission Abela accepted that there was nothing in the notebook entries about him physically laying hands on Adam Salter. The reason he gave for the absence of such an entry in his notebook was that the notes he made were “*rubbish*”.
- 2.654 The Commission notes that there is no reference to any action taken by Abela in the concluding parts of the notebook entries, which read as follows:
- I remained alone in room with POI*
- He stood up, laid back down, sudden burst of aggression*
- got up. Called for police*
- Began taking steps to the sink*
- Happened too quick*
- placed hand in the sink*
- grabbed an object.*
- 2.655 The Commission considers that the absence of any reference in Abela’s notes to his physically laying hands on Adam Salter is a strong reason for concluding that he did not take any such action.

- 2.656 In the part of the notebook entries that has just been quoted the subject of the sentences *“began taking steps to the sink”, “placed hand in the sink”* and *“grabbed an object”* is not expressed but could only be Adam Salter.
- 2.657 In this part of the notebook entries an explanation is given for why what happened (Adam Salter taking steps to the sink, placing his hand in the sink, and grabbing an object) was not averted. The explanation given, is not that Abela’s grip on some part of Adam Salter’s body slipped – an explanation given by Abela on subsequent occasions – but that events *“happened too quick”*, that is to say, Adam Salter took these actions too quickly for Abela to be able to prevent them from happening.
- 2.658 This part of Abela’s notebook entries is consistent with Coolahan’s evidence in her police interview that the police officer in the kitchen (Abela) responded slowly and was trying to put his gloves on, rather than actually restraining Adam Salter. It is also consistent with evidence given by a number of witnesses about the very short interval of time between Adam Salter getting to his feet and reaching the sink and retrieving the knife.
- 2.659 In another part of his notebook entries Abela, having written that the *“POI [Adam Salter] has gone to the sink”*, wrote the words *“standing near right hand pillar on living room”*.
- 2.660 When Abela gave evidence at the inquest it was put to him that the entry *“standing near right hand pillar on living room”* recorded where he was standing at the time of the incident. Abela said that what had been put to him was not correct. He was asked what he was endeavouring to convey by the entry and he replied: *“it’s a moment where obviously Sergeant Bissett and Senior Constable Wilson have walked in from”*. The Deputy Coroner asked Abela to repeat the answer and Abela said: *“it’s the positioning where Senior Constable Wilson and Sergeant Bissett have walked in from”*.
- 2.661 The person who was *“standing near right hand pillar on living room”* could not have been Adam Salter. That would be inconsistent with the immediately preceding entry in the notebook that Adam Salter had *“gone to the sink”*. There is no evidence whatever that Adam Salter was ever standing near the pillar on the living room. The only evidence of what Adam Salter did while Abela was present is evidence that Adam Salter got up from a lying position on the floor, proceeded towards the sink, and stood near the sink. It is also improbable that either Bissett or Wilson, who are not otherwise referred to in the notes and who entered the kitchen hurriedly and not by walking in, could have been *“standing near right hand pillar on living room”*.
- 2.662 The Commission is of the opinion that in asserting that someone was *“standing near right hand pillar on living room”* Abela was referring to himself and that he has subsequently been reluctant to concede that he made an entry in his notebook describing himself as *“standing near right hand pillar on living room”* immediately after describing Adam Salter as having gone to the sink.
- 2.663 Contrary to a submission made on behalf of the police officers, there are other differences in the accounts given by Abela on different occasions. When he

was interviewed on 18 November 2009 he said that, when he saw Adam Salter raising his arm out of the sink, he was concerned to “distance” himself from Adam Salter and he took two steps backwards. On this account, Abela had taken two steps backwards from Adam Salter before Adam Salter was shot and the taking of these steps away from Adam Salter would have reduced any risk of Abela being stabbed by Adam Salter and thus have lessened any justification for shooting Adam Salter.

- 2.664 In later accounts given by Abela at the inquest and before the Commission he described himself as seeing Bissett in the kitchen, starting to let go of Adam Salter’s left arm, and starting to take a single step backwards as Adam Salter was shot, as having happened almost simultaneously. On this later account, Abela would have been closer to Adam Salter at the moment Bissett discharged the firearm and at greater risk of being stabbed by Adam Salter, increasing the justification for the shooting.
- 2.665 In the interview on 18 November 2009 Abela said that he had grabbed Adam Salter’s left arm but that Adam Salter had been too “aggressive”. The only reference in a very long interview to Abela’s grip on Adam Salter’s arm slipping was in his answer to Q310 in which he said “*I think he slipped away from my arm at one point*”. Abela proceeded to say in his answers to Q 326-28 that he was still holding on to Adam Salter while Adam Salter was at the sink, reaching into the sink, and lifting up something in his hand. In his answer to Q 324 he said that it was at this point, when he saw Adam Salter’s hand or arm coming up out of the sink, that “*I’ve let go*”.
- 2.666 However, in later accounts Abela stressed that his hands had slipped when he tried to restrain Adam Salter’s left arm. In his *walkthrough* interview Abela said that when he was trying to pull Adam Salter back “*my hands were also sliding, with the blood that was on his arms*”. He gave similar evidence at the inquest where he said that his hands were “*slipping*” on the blood that was on Adam Salter’s left arm.
- 2.667 Even allowing for the short duration of the incident and its traumatic nature, it is remarkable that Abela did not observe some things which other witnesses observed and which the Commission is satisfied happened.
- 2.668 In each of his accounts Abela maintained that he never saw the knife at any stage. The Commission considers that it is clearly established that Adam Salter, having reached the sink, picked up the knife out of the sink, used the knife to inflict a number of injuries to his neck, and had the knife in his hand when he was shot and still had some contact with the knife after he had fallen to the floor.
- 2.669 Abela maintained that he did not see Adrian Salter attempt to restrain Adam Salter. The Commission is satisfied on the basis of evidence from Adrian Salter and all of the ambulance officers that Adrian Salter did attempt to restrain his son before he was shot. This event would have happened directly in front of Abela.
- 2.670 The Commission considers that the entries made by Abela in his notebook in terms of what they contain and do not contain, the changes in Abela’s

accounts, and his asserted failure to have seen the knife or Adrian Salter's attempt to restrain his son, severely damage Abela's general credibility as a witness.

- 2.671 Later in this report the Commission will consider other parts of Abela's evidence which are relevant to assessing the significance of the evidence given by Reynolds.

LEAH WILSON

- 2.672 Wilson made entries in her police notebook about the incident. She gave evidence that she made the entries partly at the scene of the incident and partly at Campsie police station. The part of the entries she made at the scene was limited to the recording of names and the address.
- 2.673 The version given by Wilson in her notebook was to the effect that she had seen Abela try to restrain Adam Salter's left shoulder and had seen Abela take two steps backwards after Bissett yelled the word "*Taser*" three times.
- 2.674 Wilson placed an asterisk in the body of the entries and another asterisk at the conclusion of the entries, where she recorded: "*When Sgt Bissett drew her firearm she said 'Drop it. Drop it.'*"
- 2.675 When Wilson was interviewed by police on 18 November 2009 she asserted that Bissett had said "*Drop it. Drop it.*" and that there was a pause of "*five to ten seconds probably more like five*" between Bissett's command and the firing of the shot.
- 2.676 In her evidence at the inquest Wilson again asserted that Bissett had said the words "*Drop it. Drop it.*" before firing the shot. She said that Bissett had spoken those words at much the same level, that is, volume, as she had when she said the word "*Taser*" three times.
- 2.677 Wilson said in her evidence at the inquest that she could not say exactly how long it was between the command by Bissett and the firing of the shot. However, she agreed that, with reference to the pause she had mentioned in her interview, she had been endeavouring to convey that Bissett had allowed a reasonable time for Adam Salter to comply with the command before firing the shot. She said that she understood that, if her evidence about the pause between the command and the firing of the shot was accepted, it would assist Bissett by demonstrating that Bissett had acted responsibly.
- 2.678 There is no evidence before the Commission from any other source that Bissett or any other person said the words "*drop it*", even once. Bissett herself never asserted that she told Adam Salter to drop the knife. Apart from the evidence of Wilson, which has just been referred to, the evidence before the Commission is to the effect that the only word spoken by Bissett was "*Taser*", which she said three times, and that there was no pause or very little pause between Bissett saying the word "*Taser*" three times and the firing of the shot.

- 2.679 In her evidence before the Commission Wilson conceded that she might have been mistaken and said that it was untrue that Bissett had said the words *"Drop it. Drop it"*. However, at the time of making the entries in her notebook she had believed that it was true that Bissett had said *"Drop it. Drop it"*.
- 2.680 It was submitted on behalf of the police officers that the Commission should not form the view that Wilson had told a deliberate lie in asserting that Bissett had said *"Drop it. Drop it"*. It was submitted that the Commission should take into account that the events which had occurred in the kitchen had been sudden, rapid and traumatic.
- 2.681 The Commission is satisfied that the entries made by Wilson in her notebook, the answers given by her when she was interviewed, and the evidence given by her at the inquest that Bissett said *"Drop it. Drop it"* before discharging the firearm were deliberate lies told in an effort to assist Bissett. There was no foundation at all for the assertion that Bissett said *"Drop it. Drop it"*, and both in the interview and at the inquest Wilson purported to provide a number of details in support of the assertion that Bissett had said *"Drop it. Drop it"*. Those details included evidence about the level or volume at which Bissett had spoken the words and the length of the interval of time which had elapsed between the command and the firing of the shot.
- 2.682 It was submitted on behalf of the police officers that the making by Wilson of the untrue statement that Bissett had said *"Drop it. Drop it"* should not affect Wilson's general credibility as a witness. However, the Commission considers that the telling of this lie is sufficient of itself to severely damage her credibility as a witness.
- 2.683 The Situation Reports will be fully considered in the next part of this report when the Commission deals with the second limb of the Commission's investigation. However, the Commission now makes the following comments because of their relevance to Wilson.
- 2.684 The Situation Report that was prepared by Hanlon on 18 November 2009 contained assertions that Bissett had challenged Adam Salter to *"drop the knife on several occasions"* and that Adam Salter had not complied.
- 2.685 These assertions were untrue. It is unlikely that Hanlon himself invented them. Hanlon made no note of who had supplied him with the information and in his evidence before the Commission, which will be examined more fully in the next part of this report, said he could not recall who had supplied the information. However, he did say in his evidence that the information would have been supplied by a police officer at the scene of the incident.
- 2.686 The four police officers who had been witnesses to the shooting were present when Hanlon arrived at 33 Wangee Road. Hanlon said in his evidence that he had observed the emotional state of Bissett and had not asked her any questions about what had happened. He said that he had spoken to Abela but that the conversation he had with him had been brief. He said he had had several conversations with Metcalfe and that she had briefed him on what had happened. Hanlon said that he had had a conversation with Wilson but could not recall what she had told him, other than that she had told him that the

shooting incident had occurred in the kitchen of the house and that a police officer had discharged a firearm.

- 2.687 The assertions in the Situation Report that Bissett had on several occasions challenged Adam Salter to drop the knife and that Adam Salter had not complied were strikingly similar to the entries in Wilson's notebook, to answers given by her when interviewed by police and to evidence given by her at the inquest that Bissett had said "*Drop it. Drop it*". There is no evidence before the Commission of anyone else ever asserting that Bissett had said the words "*drop it*" or had otherwise challenged Adam Salter to drop the knife. In these circumstances the Commission considers that it can be inferred that it was Wilson who supplied Hanlon with the untruthful information contained in the Situation Report that Bissett had challenged Adam Salter "*to drop the knife on several occasions*" and that Adam Salter had not complied.
- 2.688 The Commission considers that Wilson's reliability is also adversely affected by evidence given by her about Adrian Salter, which the Commission is satisfied is untrue. In the accounts Wilson gave she said that she did not see Adrian Salter attempt to restrain his son before the shot was fired. In her accounts she said that Adrian Salter was in the home office at the front of the house when the shot was fired and that he passed her as he came into the kitchen after the shot was fired. The Commission is satisfied that Adrian Salter attempted to restrain his son in the kitchen and that he remained in the kitchen until after the shot was fired.

EMILY METCALFE

- 2.689 Metcalfe gave previous accounts of the circumstances of the shooting in her interview on 18 November 2009 and in her evidence at the inquest.
- 2.690 In her interview Metcalfe said that she had been able to see both Abela and Adam Salter in the kitchen, and could see that Abela "*had a hold of*" Adam Salter. She said she had seen Abela let go of Adam Salter and take a step backwards, with the consequence that Metcalfe could no longer see Abela.
- 2.691 At the inquest Metcalfe gave evidence that she saw Abela holding Adam Salter with both hands on the back of Adam Salter's upper torso. In her evidence before the Commission Metcalfe said that she saw Abela holding Adam Salter on the left-hand side by the upper torso.
- 2.692 The accounts given by Metcalfe about the nature of the physical contact between Abela and Adam Salter were similar to the accounts given by other police witnesses in that she asserted that there was contact with some part of the left hand side of Adam Salter's body, but differed with respect to what that part was.
- 2.693 The Commission considers it doubtful whether Metcalfe in fact saw even as much as she claimed to have seen. She was the last in line of the three officers who proceeded along the hallway towards the kitchen of the house. The diagram drawn by Wilson in her notebook put Metcalfe in a position such that she would not have been able to see anyone near the sink in the kitchen.

- 2.694 There is no dispute that very shortly after the shooting Metcalfe made a police radio transmission in which she said of Adam Salter *“got the knife ... and was coming at us”*. In her evidence before the Commission Metcalfe said that she did not recall saying those words but did not deny she had said them. The assertion was clearly untrue and was inconsistent with assertions later made by Metcalfe herself that the first time she had seen the knife was after Adam Salter had been shot.
- 2.695 The explanation offered by Metcalfe for having made this untrue assertion was that at the time of making it she was in a state of shock. In her evidence before the inquest she also said that she had not repeated the assertion in any of the accounts she had subsequently given.
- 2.696 It was submitted on Metcalfe’s behalf that she had made the assertion *“got the knife ... and was coming at us”*, after she had been asked a question by the radio operator she was communicating with, and that she would not have said the words but for a question by the operator in which the operator asked for details of the incident.
- 2.697 In assessing this submission it is necessary to consider the context in which Metcalfe made the assertion. The conversation between Metcalfe (CA14) and the radio operator (Radio) was as follows:
- CA14 [Vehicle attached to Campsie police station used by Bissett and Metcalfe]: *Thanks radio. POI’s been treated by the ambulance ... Nine four and twenty seconds ... at the moment. We do have ambulance on scene. Self inflicted stab wounds. Radio, he’s come for the knife. He’s been shot by police. He’s on his way out now with ambulance. We just need fourteen ... sorry ten down here asap.*
- Radio: *Okay copy that. I just want to confirm, POI tried to get the knife but was shot by police.*
- CA: *Got the knife, got the knife radio and was coming at us.*⁹³⁵
- 2.698 As can be seen from the transcript of the conversation, the radio operator was not asking for further details but was simply asking Metcalfe to confirm what Metcalfe had already said, namely, that the POI (Adam Salter) had tried to get the knife but had been shot by police.
- 2.699 The Commission is satisfied that the assertion Metcalfe made to the radio operator that Adam Salter, having got the knife, *“was coming at us”*, was known by Metcalfe to be untrue at the time she made it. On her own version, Metcalfe observed only a limited part of the incident and in what she claimed to have seen there was no foundation whatever for the assertion.
- 2.700 The making by Metcalfe of the deliberately untrue assertion that Adam Salter *“got the knife ... and was coming at us”* is sufficient of itself to seriously weaken her general credibility.

⁹³⁵ Exhibit 34, pp. 3-4

- 2.701 As stated in the assessment by the Commission of Wilson's evidence, the Situation Reports will be fully considered when the Commission deals with the second limb of its investigation. However, the Commission now makes the following comments because of their relevance to Metcalfe.
- 2.702 The Situation Report prepared by Hanlon included the assertion that Adam Salter *"began to counter towards officers whilst armed with the knife"*. This assertion was untrue. Hanlon did not make any note of who it was who had provided him with the information and he could not recollect who had supplied him with the information. However, as noted in the Commission's assessment of Wilson, Hanlon while he was at 33 Wangee Road had several conversations with Metcalfe.
- 2.703 The assertion in the Situation Report *"began to counter towards officers whilst armed with the knife"* was similar to the assertion made by Metcalfe in the radio transmissions *"got the knife ... and was coming at us"*.
- 2.704 There is nothing in the accounts of the incident given by Abela or Wilson in the entries they made in their notebooks to indicate that Adam Salter came towards police whilst armed with a knife.
- 2.705 In these circumstances, the Commission considers that it was Metcalfe who supplied the untruthful information to Hanlon contained in the Situation Report that Adam Salter began to *"counter"* towards police officers *"whilst armed with the knife."*
- 2.706 When she was interviewed by police Metcalfe was asked to draw what was described as a *"mud map"* of the rooms of the house and the positions in which various persons were standing.
- 2.707 The sequence of questions and answers in which she was asked to draw the *"mud map"* was as follows:

Q40. Can you describe how close the POI was to other Police and or to the Ambulance Officers at the time of the shooting?

A40. I could not physically see Aaron because my view was obstructed by Sherree and the wall, but from where the POI was standing to where Aaron was would be less than a metre. Although I could not see Aaron I knew that there were benches and cupboards and it would have been less than a metre even if he was right up against those cupboards. Sherree was probably estimated about no more than two metres from the POI. Leah and I were further than Sheree and the Ambulance Officers were probably two or three metres away from the POI as well.

Q41. Can you draw for me to the best of your recollection a basic mud map of the layout of the rooms and try to indicate where people were standing.

- 2.708 Metcalfe then proceeded to draw the *“mud map”*, as requested.
- 2.709 In the *“mud map”* Metcalfe showed Abela on the right hand side of the kitchen from the point of view of a person facing the sink, that is, on the same side of the kitchen as the refrigerator.
- 2.710 In her answer to Q40 of the interview Metcalfe said, with reference to the position of Abela in the *“mud map”*, that she could not actually see Abela at the time of the shooting. In her evidence at the inquest Metcalfe said, with reference to the position of Abela in the *“mud map”*, *“Aaron is actually out of my sight at the time the shot is fired and if he was at his furthest ... that’s why I’ve placed him there”*.
- 2.711 In her evidence at the inquest Metcalfe said that the position of Abela in the *“mud map”* was the position he was in, after he had let go of Adam Salter and had taken a step back before the shot was fired. She agreed that, if her version was accepted, it would mean that Abela had crossed the line of fire in the moments before the shot was fired and agreed that that *“did not make a great deal of sense”*.
- 2.712 In her evidence before the Commission Metcalfe said that the *“mud map”* did not depict the positions in which persons were standing at the time of the shooting. However, given the context in which she was asked to draw the *“mud map”* and in particular the inclusion in Q 40 of the words *“at the time of the shooting”*, the Commission considers that the mud map should be taken as intended to show the position of persons at the time of the shooting.
- 2.713 The reference by Metcalfe in her evidence at the inquest to Abela having *“stepped backwards”* after Bissett called out *“Taser, Taser, Taser”* cannot be reconciled with Metcalfe’s placement of Abela in the *“mud map”* as being on the right hand side of the kitchen. If Abela had stepped back, as Metcalfe asserted in her evidence at the inquest, he would have moved, not towards the right hand side of the kitchen, but towards the adjoining dining room area.

ADRIAN SALTER

- 2.714 Adrian Salter consistently gave accounts which can be summarised as follows.
- 2.715 Adrian Salter was watching events unfold in the kitchen from the doorway to the office at the front of the house. Upon seeing Adam Salter getting to his feet, he rushed into the kitchen. He made an attempt to restrain Adam Salter, but was pushed aside and fell over. In falling over he lost sight of Adam Salter but only momentarily. He did not see an intervention by Abela. He was ushered out of the kitchen by Lutz but only after the shooting.

⁹³⁶ Exhibit 29, p.6 (Q&A 40-41)

- 2.716 Accounts were given by Wilson and Metcalfe that they did not see Adrian Salter in the kitchen before the shooting and that Adrian Salter entered the kitchen, coming from behind them, only after the shooting.
- 2.717 The Commission considers that that evidence by Wilson and Metcalfe should be rejected. The Commission is satisfied on the basis of evidence given by Adrian Salter that he had been watching what was happening in the kitchen from the doorway to the office at the front of the house; and, on the basis of evidence given by Adrian Salter and all three ambulance officers who were in the kitchen, that after Adam Salter got up from the floor and before he reached the sink, Adrian Salter entered the kitchen and attempted to physically restrain his son.
- 2.718 All the accounts Adrian Salter gave, from the account he gave to Atanasovski on the morning of 18 November 2009 up to and including the evidence he gave before the Commission, are inconsistent with Abela having physically attempted to restrain Adam Salter.
- 2.719 When he was interviewed by police on 18 November 2009 Adrian Salter lamented that in a room containing a number of trained people it had been left to him to try to stop his son from getting the knife and stabbing himself, and that the police had done nothing except shoot his son.
- 2.720 It was submitted on behalf of the police officers that Adrian Salter had not seen Abela attempt to restrain Adam Salter because Adrian Salter was focused on observing his son. However, if Adrian Salter was focused on observing his son, he would surely have seen anyone physically interacting with his son.
- 2.721 It appears to the Commission that the only attacks that were made on Adrian Salter's credibility were minor. It was submitted that his estimate of the time that elapsed from when he entered the kitchen up to the shooting was wrong. Adrian Salter had estimated that only about five or six seconds elapsed between the two events. It may be that the time which elapsed between Adrian Salter entering the kitchen and the shooting was somewhat longer than Adrian Salter estimated. However, estimates of time even by otherwise trustworthy witnesses are notoriously unreliable and the time which elapsed between the two events would, in any event, have been very short – a matter of seconds rather than minutes.
- 2.722 A criticism was also made that Adrian Salter could not remember precisely how many ambulance officers and how many police officers had been in the kitchen. The Commission considers that this is only a very minor criticism.
- 2.723 Adrian Salter's drawing of the kitchen and dining room showing where persons were at about the time of the shooting was criticised on the basis that he had placed the ambulance officers in positions that were too far away from him for him to have tripped over their equipment. However, the drawing was clearly not drawn to scale and was no more than a rough sketch.
- 2.724 Later in this report the Commission will consider evidence by Adrian Salter about whether Adam Salter was stabbing himself with the knife at or just

before he was shot and about whether Adam Salter continued to stab himself after he was shot.

- 2.725 It is noteworthy that the accounts of Adrian Salter were quite independent of the accounts given by the ambulance officers. A submission made on behalf of the police officers that the ambulance officers had not been separated after the incident and that consequently their accounts of what happened had become cross-contaminated cannot apply to the accounts of Adrian Salter.

MEAGAN COOLAHAN

- 2.726 Coolahan's first account of the incident was in the Patient Health Care Record which she prepared.
- 2.727 The Patient Health Care Record was a record for the Ambulance Service prepared by Coolahan as a senior intensive care paramedic.
- 2.728 Coolahan gave evidence at the inquest that the Patient Health Care Record was prepared by her about an hour after the incident and that it was prepared before the debriefing session with the ambulance officers conducted by Paula Sinclair.
- 2.729 The account of events in the Patient Health Care Record was fairly brief, but recorded a number of events in what would appear to have been the chronological order. Part of the account in the Patient Healthcare Care Record was as follows:

Pt [Patient] suddenly became aggressive +++, jumped up pushing father to floor and lunging at kitchen sink where police left knife, grabbed knife and started stabbing himself in the neck. Police requested to come back into the room urgently, with one police officer yelling, 'Taser. Taser. Taser', but shooting patient in the back at close range. Patient Dropped to the ground, went into cardiac arrest.

- 2.730 In this account Coolahan referred to Adam Salter pushing his father to the floor but made no reference to any intervention by a police officer.
- 2.731 When she was interviewed by police on 18 November 2009 Coolahan in response to a general question about what had happened (Q 31) gave a long answer, part of which has been quoted earlier in this report. Because of the significance attached to this part of her answer in some submissions made on behalf of the police officers, this part of her answer to Q 31 will now be repeated. She said: "[T]here was only one police officer in the room at that stage. Um, he and I believe responded slowly. He was trying to put his gloves on rather than apprehend the patient. Um, I have yelled for the police outside to, 'come in, come in'..."
- 2.732 Part of Coolahan's answer to Q113 in the interview was quoted earlier in this report but will be repeated here, again because of the significance attached to it in some submissions made on behalf of the police officers. Coolahan said: "This police officer here is then putting his black, trying to put his black gloves

on to restrain the patient at the sink but he's already got the knife ... I've yelled um, for the police to get in here um, and help us out."

2.733 In her evidence at the inquest Coolahan said that Abela remained standing at his position in front of the refrigerator on the right hand side of the kitchen, as Adam Salter got to his feet, progressed to the sink, retrieved the knife and started stabbing himself in the neck. She said that she *"looked at him [Abela] directly and asked for help"* and observed that he was in the process of *"putting gloves on"*. She did not see Abela come into physical contact with Adam Salter before the shot was fired.

2.734 In her evidence before the Commission Coolahan said that she was looking at Abela and asking him for help but that Abela did not move so as to attempt to restrain Adam Salter and did nothing, except engage in putting his gloves on.

2.735 At the hearing before the Commission Coolahan was shown parts of the *walkthrough* interviews of Abela and Bissett and gave the following evidence:

Q. ... did you see what Sergeant Bissett described - that is, the male policeman in a position apparently almost holding on to Adam Salter?

A. No.

Q. Did you see that Bissett described that?

A. Yes, I did.

Q. Is that what happened?

A. No.

Q. Are you confident of that?

A. Yes.

...

Q. You would have seen on the DVD of an interview with the policeman himself, Constable Abela, his description of standing there and attempting to grasp Adam's left arm and pulling on it, as it were, restraining him from getting to the sink. Did that happen?

A. No.

Q. Are you sure of that?

A. Yes.

2.736 A number of submissions about Coolahan's evidence were made on behalf of the police officers.

- 2.737 A submission was made on behalf of the police officers that the parts which have been quoted of Coolahan's answers to Q 31 and Q 113 in her interview on 18 November 2009 supported the accounts of the police officers that Abela had responded, even if slowly, and had attempted to physically restrain Adam Salter.
- 2.738 The Commission does not consider that the words used by Coolahan in her answers to Q 31 and Q 113 in the interview are capable of bearing the interpretation urged on behalf of the police officers
- 2.739 As to Coolahan's answer to Q 31, Coolahan was clearly saying that the police officer (Abela) was trying to put his gloves on and was not apprehending Adam Salter and in those circumstances she yelled for the police outside to come in.
- 2.740 As to Coolahan's answer to Q 113, Coolahan was clearly saying that "*the police officer here*", who she contrasted with "*the patient at the sink*", was trying to put his gloves on, which Coolahan inferred was for the purpose of attempting to restrain Adam Salter, but that at this stage, while the police officer was trying to put his gloves on, Adam Salter was already at the sink and had already got the knife. The use by Coolahan of the verb "*try*" and of the continuous present tense, "*is ... trying*", clearly indicate that Abela was engaged in the process of putting his gloves on and had not got to the stage of attempting to physically take hold of Adam Salter.
- 2.741 Coolahan's account in her answers to both Q 31 and Q 113 of yelling for the police officers outside to return to the kitchen and render assistance is consistent with the police officer who had been left in the room failing to take action.
- 2.742 The evidence given by Abela at the inquest that he was trying to put his gloves on but only succeeded in putting on one of the gloves (his left glove) strongly corroborated this part of Coolahan's evidence and confirmed that she had been observing Abela.
- 2.743 A submission was made on behalf of the police officers that there was an inconsistency in Coolahan's evidence, in that she asserted that Abela did not move from his position but also asserted that just before the shot was fired Abela jumped out of the way or "*went almost diving across*" the kitchen.
- 2.744 The Commission considers that there is no real inconsistency in Coolahan's evidence. In asserting that Abela did not move, Coolahan was conveying that Abela did not move so as to physically interact with Adam Salter as Adam Salter got up from the floor, proceeded to the sink and retrieved the knife. The Commission considers that in making that assertion Coolahan was not adverting to any movement Abela might have made, not being a movement towards Adam Salter, just before the shot was fired.
- 2.745 The Commission accepts that it is unlikely that Abela dived across the kitchen because if he had done so he would have crossed Bissett's line of fire. Accordingly, this part of Coolahan's evidence should not be accepted. However, it is quite possible that Abela made some movement upon seeing

Bissett re-enter the kitchen and becoming aware that she was about to use her firearm.

- 2.746 In her interview by police Coolahan said that, after Adam Salter had been shot, he had been *“assisted down”* to the floor but that she did not recall who had assisted him down. In her evidence at the inquest Coolahan said that she was not sure if Adam Salter had been *“assisted down”*. She said that Adam Salter *“didn’t fall in a bundle”* after being shot and said that *“he sort of sat himself on the ground then collapsed”*.
- 2.747 Coolahan’s answer in her interview that Adam Salter had been *“assisted down”* to the floor is surprising. The answer is inconsistent with the entry she made in the Patient Health Care Record that Adam Salter *“dropped to the ground”* after the shot and is inconsistent with other answers given by her in the interview itself; for example, in answer to Q 124, where she said that Adam Salter *“fell to the ground”* upon being shot.
- 2.748 The Commission accepts that the answer given by Coolahan in the interview that Adam Salter was *“assisted down”* was incorrect.
- 2.749 A number of submissions were made on behalf of the police officers about evidence from Coolahan that Adam Salter’s father, Adrian Salter, had tried to restrain his son a second time. In her answer to Q158 in the interview, Coolahan said: *“And the father I should have added has got up off the floor and tried to restrain his son again and Cheri [Lutz] has also dragged the father out of the room at that point”*. In her evidence at the inquest Coolahan said that Adrian Salter had not sought to take hold of his son a second time before the shot was fired.
- 2.750 In her evidence before the Commission Coolahan accepted that at the time of the interview she had thought that Adrian Salter had attempted to restrain his son a second time. However, it was not something that she remembered at the time of the Commission’s hearing.
- 2.751 It was submitted on behalf of the police officers that the answer given by Coolahan to Q 158 in her interview that Adrian Salter had attempted to restrain Adam Salter a second time was not correct. In his evidence Adrian Salter denied that he had made a second attempt to restrain his son and there was no evidence from any other witness suggesting that Adrian Salter had made a second attempt. The Commission accepts that Coolahan’s answer to Q 158 in her interview that Adrian Salter made a second attempt to restrain his son was not correct.
- 2.752 A further submission was made on behalf of the police officers, and strongly pressed, that Coolahan’s answer to Q 158, while not correct in asserting that a second attempt to restrain Adam Salter had been made by Adrian Salter, was correct in asserting that a second attempt to restrain Adam Salter had been made by some person. It was submitted that the person who had made the second attempt was Abela.
- 2.753 It is unlikely, if there was a second attempt to restrain Adam Salter which Coolahan observed, that Coolahan could have innocently mistaken Abela for

Adrian Salter. Abela was a young, uniformed police officer, whereas Adrian Salter was an elderly, bearded man who was casually dressed.

- 2.754 A submission which was strongly pressed on behalf of the police officers was that Coolahan had witnessed an attempt by Abela to restrain Adam Salter and had, not innocently but mendaciously, asserted that the attempt had been made by Adrian Salter and not by Abela.
- 2.755 It was submitted on behalf of the police officers that Coolahan, as were the other ambulance officers, was upset with what she regarded as having been the poor performance by police of their duties and was motivated by this feeling to tell lies about the police.
- 2.756 The Commission accepts that the ambulance officers were upset by what they regarded as having been the poor performance by police of their duties. It is, however, difficult to accept that Coolahan, as an intensive care paramedic, would have been thereby induced to lie about the police, by falsely denying that a further attempt to restrain Adam Salter had been made by Abela.
- 2.757 The assertion by Coolahan in her answer to Q 158 in the interview is introduced by the words "*I should have added*". What she said in answer to Q 158 was not part of the main narrative she had given earlier in the interview. If, as suggested in the submissions made on behalf of the police officers, Coolahan had had an agenda to lie about the police it is likely that she would have included the lie in her main narrative.
- 2.758 If Coolahan had been determined to lie about an attempt by Abela to restrain Adam Salter, a far simpler course for her to have adopted would have been to say nothing about any second attempt to restrain Adam Salter or, if asked, to deny that there had been a second attempt to restrain Adam Salter, rather than to say that there had been a second attempt but that it was by Adrian Salter, when she would have known that it would be likely that Adrian Salter would deny that he had made a second attempt.
- 2.759 Coolahan made an error in saying in her answer to Q 158 in her interview that Adrian Salter had made a second attempt to restrain his son and that error is to be taken into account in assessing her general credibility. However, the Commission is of the opinion that the error has no further significance.
- 2.760 Coolahan's credibility was also attacked on the basis of evidence given by her about when Adam Salter inflicted stabbing injuries to his neck. This part of Coolahan's evidence will be returned to later in this report.
- 2.761 Coolahan's credibility was further attacked on the basis of evidence she gave about the debriefing session that took place with Paula Sinclair at Canterbury Hospital. This part of Coolahan's evidence will also be returned to later in this report.

KARL JOHNSTONE

- 2.762 In his account in his police interview Johnstone said that Adam Salter having got up off the floor, pushed his father out of the way, got to the sink, grabbed the knife out of the sink and stabbed himself a number of times in the neck. He heard Coolahan call for police assistance. At the time Coolahan called for assistance, he observed that there was one police officer (Abela) standing at the kitchen doorway. He saw other police officers enter the kitchen, heard one of those police officers yell “Taser” three times, and then heard the shot fired.
- 2.763 When he was interviewed by police Johnstone drew a diagram in which he showed the position of a police officer at the time of the shooting, standing near the doorway to the kitchen and to the right of someone facing the sink (that is, on the same side of the kitchen as the refrigerator).
- 2.764 In his evidence before the Commission Johnstone gave evidence that, as far as he could see, the police officer (Abela) was in the corner of the kitchen near the refrigerator. The police officer may have moved one or two steps after Adam Salter got up off the floor. However, Johnstone did not see any police officer come close to Adam Salter and engage him in a close embrace or see any police officer grab Adam Salter’s left arm. Later in his evidence he said that the police officer near the refrigerator did not move from that position at all, apart from (possibly) taking the couple of steps he had already mentioned.
- 2.765 Some of the submissions about Johnstone’s evidence which were made on behalf of the police officers were based on concessions made by Johnstone in his evidence at the inquest when he was examined by counsel appearing for the NSWPF.
- 2.766 The following questions and answers occurred in the examination:

Q. At the time you participated in the interview, you believed that the police officer who was standing near the fridge always remained in that position, true?

A. Yes.

Q. Bearing in mind that you're making observations in this short space of time, of the patient, could he have moved at least partially across the kitchen?

A. He could have, yes.

...

Q. And in doing so, moving from basically opposite the fridge, across the kitchen, but more towards the sink area. Would that be true?

A. He could have.

...

Q. Bearing in mind the swiftness with which things were taking place in the kitchen at that time and their unusual nature. Could the male constable have been very close to Adam Salter immediately prior to the discharge of the firearm, and moved away and went unobserved by yourself? Would that be the case?

A. Could be, yes.

Q. With that concession, it may be that he was in a position within arm's reach of Adam Salter at that time?

A. Again, could be.

2.767 It is apparent from the records of Johnstone's accounts that he had a general tendency to be a cautious witness. If a suggestion about what might have happened was put to him by counsel who was in effect cross-examining him, he would be prepared to admit the possibility of something having happened, rather than entirely denying any possibility of it having happened. Johnstone also had a tendency to deny that he had seen something, rather than to deny that the thing had happened.

2.768 In the parts of the examination just quoted, Johnstone conceded that Abela could have moved; that he could have moved in the direction of the sink; that he could have been very close to Adam Salter; and that he could have moved so that he was within an arm's reach of Adam Salter. The kitchen was a very small area and it is not in issue that Abela, if he had been standing near the refrigerator in the kitchen, would have been close to someone standing near the sink.

2.769 When examining counsel went further in his questioning, Johnstone declined to make any further concession. The following question and answer occurred:

Q. And similarly, in contact with Adam Salter at that time?

A. If he was, I didn't see it.

2.770 Submissions were also sought to be based on the following question and answer in Johnstone's examination at the inquest:

Q [P]ossibly you may be mistaken about the constable being in the position to take hold of or be in contact with Adam Salter?

A. Possibly, yes.

2.771 All that Johnstone was accepting by his answer "*Possibly, yes*" was that it was possible that Abela was "*in the position*" either to take hold of or be in contact with Adam Salter. His answer to the question he was asked fell short of accepting that it was possible that Abela did actually take hold of Adam Salter or did actually come into physical contact with Adam Salter.

2.772 Apart from the submissions directed at the evidence of the ambulance officers generally that their evidence had been cross-contaminated and was

contradicted by the evidence of Paula Sinclair and the Ambulance Service records (matters which the Commission will deal with later in this report), little other criticism was made of Johnstone's evidence.

CHERI LUTZ

- 2.773 When she was interviewed by police Lutz said that when Adam Salter got to the sink, grabbed the knife and started stabbing himself in the throat, there was one police officer in the kitchen and *"it became so chaotic so quickly"* that she could not recall what that police officer did.
- 2.774 Lutz described herself as feeling powerless while Adam Salter was stabbing himself with the knife at the sink. She wanted someone to step in and do something but there was no one there to do anything and the only thing the ambulance officers could do was to call for help. The clear implication of Lutz's account was that, although she could not recall what Abela had done, he had done nothing to prevent Adam Salter's actions.
- 2.775 When she was asked to draw a diagram of the kitchen showing the position of persons in the kitchen, Lutz said that she thought there was a police officer *"somewhere around this area"*; that is, on the left-hand side of the kitchen from the point of view of a person facing the sink. She did not know where the police officer went. She said that everyone in the kitchen had been within a metre or two of Adam Salter.
- 2.776 When Lutz gave evidence at the inquest she said she was *"100 % certain"* that, in the moments before she heard the discharge of the firearm, Adam Salter was not in physical contact with anyone.
- 2.777 When she gave evidence before the Commission Lutz said she had not seen the police officer who had been in the kitchen (Abela) move, grab Adam Salter in a close embrace or take hold of Adam Salter by the left arm. She had not seen anyone make physical contact with Adam Salter after his father had done so. She had not seen any police officer engage in any bodily contact with Adam Salter.
- 2.778 In her demeanour and in the way she expressed herself Lutz was not as impressive a witness as Coolahan.
- 2.779 When Lutz was interviewed by police she engaged in asides about the general fallibility of human observation and recollection. However, the Commission would not regard those asides, which as truisms could apply to the evidence of all witnesses, as detracting from Lutz's evidence.
- 2.780 It was submitted on behalf of the police officers, and must be accepted, that in her oral accounts when interviewed, in her evidence at the inquest and before the Commission and in the diagrams she drew Lutz consistently placed Abela, not on the side of the kitchen where the refrigerator was but on the opposite side of the kitchen, that is, on the left-hand side of the kitchen for someone facing the sink.

- 2.781 A part of Lutz's account which the Commission is satisfied is incorrect is the assertion made by her in giving evidence at the inquest that at the time Adam Salter was stabbing himself in the neck with the knife, Adam Salter was "*virtually facing*" her and that when Bissett called out "*Taser*" Adam Salter was "*facing directly towards me*".
- 2.782 It was submitted on behalf of the police officers that Lutz's evidence, to the effect that no police officer had made physical contact with Adam Salter in attempting to restrain him, had "*hardened*" over time, that is to say had become firmer, between her being interviewed and her giving evidence before the Commission. There is some force in that submission.
- 2.783 It was also submitted that there was an inconsistency between her answers when interviewed that she did not see where Abela went or what he was doing and her certainty in later accounts that there was no physical contact between Adam Salter and any police officer (including Abela). There is, however, no necessary inconsistency between a witness not knowing where another individual went or what he was doing and being quite certain that that individual was not in a particular position doing a particular thing.
- 2.784 Submissions that Lutz's accounts had become cross-contaminated and submissions based on the evidence of Paula Sinclair and the Ambulance Service records will be considered later in this report.

BELINDA CLEMENTS

- 2.785 Clements was not an eyewitness to the shooting. In her evidence before the Commission she said that she was "*standing on the front steps*" of the premises when the shooting occurred. It was generally accepted at the public hearing before the Commission that Clements could not give first hand evidence about the disputed circumstances of the shooting.

PAULA SINCLAIR

- 2.786 In August 2009 Sinclair was the District Inspector for the Sydney South Sector of the Ambulance Service of NSW.
- 2.787 Sinclair attended a debriefing session with the four ambulance officers at Canterbury Hospital. Sinclair arrived at the hospital at 9:28 am and it can be inferred that the debriefing session occurred the same morning. Sinclair made contemporaneous notes of the debriefing session but these notes were later destroyed by her.
- 2.788 Sinclair prepared two documents relating to the debriefing session. They were referred to at the hearing before the Commission as "*briefing notes*". Each briefing note stated as its purpose: To advise the Sydney Divisional Manager of the Ambulance Service of "*the details and outcome*" of the incident in which a male patient (Adam Salter) had been shot.
- 2.789 In her evidence before the Commission Sinclair explained why there were two briefing notes. In November 2009 she had had minimal experience in her

position. After preparing the first briefing note she consulted a more senior officer and on his advice prepared a second briefing note, which was a reduced version of the first briefing note.

- 2.790 Each briefing note under the heading “*background*” contained a narrative of events. The part of the “*background*” in the first briefing note to which submissions were principally directed was the part in which it was stated: “*male police officer in kitchen attempted to restrain the patient*”. The part of the “*background*” in the second briefing note to which submissions were principally directed was the part in which it was stated: “*The only police officer in kitchen at the time being possibly junior attempted to restrain the patient*”.
- 2.791 Sinclair gave evidence before the Commission that she was unable to say who had supplied her with information to the effect that a police officer in the kitchen had attempted to restrain the patient (Adam Salter).
- 2.792 It was submitted on behalf of the police officers that the Commission should find that one or more of the ambulance officers had been the source of the statement that a police officer had attempted to restrain the patient. It was submitted that the paragraphs appearing in the briefing notes under the heading “*background*” were in chronological order and contained much information which could only have been supplied to Sinclair by the ambulance officers. Reference was made to evidence from the ambulance officers that at the debriefing session they had talked about what had happened during the incident.
- 2.793 It was submitted that particular ambulance officers could be identified as having been the source of particular parts of the briefing notes. It was submitted that Coolahan had been the source of the statement in the first briefing note that “*the male police officer next to the patient apparently dived out of the way*”, because of the similarity between this part of the briefing note and parts of the account given by Coolahan when interviewed by police. It was submitted that Lutz had been the source of the remark in the second briefing note that the police officer was “*possibly junior*”, because Lutz had, when interviewed by police, demonstrated an interest in the ranks held by police officers. It was submitted that police officers could not have been the source of that information, as police officers would have known Abela’s precise rank and would not have said that the officer was “*possibly junior*”. It was also noted that Lutz radioed the Ambulance Service immediately after the incident and was the first of the four ambulance officers to speak to Sinclair about the incident.
- 2.794 It was then submitted that, if the ambulance officers had been the source of the statement in the briefing notes that a police officer in the kitchen had attempted to restrain the patient, that would corroborate the accounts of the police officers that Abela had attempted to restrain Adam Salter and would show that the accounts subsequently given by the ambulance officers denying that Abela had attempted to restrain Adam Salter were untruthful.
- 2.795 It was submitted that the giving of untrue evidence by the ambulance officers could be explained on the basis that they were “*upset about the job*”, that is, they were dissatisfied with what they regarded as having been the poor performance by police of their duties during the incident. It was submitted that

the ambulance officers were motivated by this feeling of dissatisfaction to give untruthful evidence in which they denied that any attempt had been made by a police officer to restrain Adam Salter.

- 2.796 A separate submission on behalf of the police officers was based on a part of Coolahan's evidence in which, having been asked whether she had said at the debriefing session that a police officer had attempted to restrain Adam Salter, she responded *"Not that I recall"*. It was submitted that, if Coolahan had in truth not said those words, her answer would have been a resounding *"No"* and not the weaker response that she did not recall.
- 2.797 It was also submitted that Coolahan's answer *"Not that I recall"* was artfully contrived by her. It was suggested that Coolahan gave her answer in terms of not recalling, because she wished to guard against the possibility that notes of the debriefing session might come to light which would contradict an outright denial by her that she had said the words.
- 2.798 These submissions on behalf of the police officers will now be considered by the Commission.
- 2.799 Sinclair had no direct knowledge of what had happened in the incident. Johnstone suggested in part of his evidence that Sinclair may have had some prior knowledge of the incident before the debriefing session. However, it is probable that Sinclair had little, if any, knowledge of the incident before the debriefing session took place.
- 2.800 Sinclair said she did not recall who had supplied her with the information that she had included under the heading *"Background"* and said that what appeared under the heading was *"my interpretation of the information that I had been told throughout the day ... I believe it was a combination of what a few people had told me"*.
- 2.801 The first briefing note was prepared by Sinclair on 19 November 2009, the day after the incident. By then Sinclair had spoken to a number of police officers, including Hanlon, detectives who spoke to her at Canterbury Hospital, and detectives who spoke to her at the Summer Hill Ambulance station. It is apparent from the first Situation Report prepared by Hanlon that Hanlon had been informed that a police officer had assisted in restraining Adam Salter but that Adam Salter had broken free.
- 2.802 However, Sinclair said in her evidence that *"it is fair to say"* that the information in the briefing notes had been provided to her by one or more of the ambulance officers and the Commission is of the opinion that it was probably something said by one or more of the ambulance officers which led to Sinclair including in her briefing notes that a police officer in the kitchen had attempted to restrain Adam Salter, as her interpretation of what she had been told.
- 2.803 In assessing the significance of this opinion it is necessary to have regard to a number of factors.

- 2.804 Sinclair gave evidence that it was not one of the main purposes of the debriefing session to investigate what had happened in the incident. Sinclair said that the main purposes of the debriefing session were to examine what had been the treatment of the Ambulance Service's patient (Adam Salter) and to safeguard the welfare of the ambulance officers who had been exposed to what had clearly been a traumatic incident. A peer support officer and a chaplain attended the debriefing session.
- 2.805 Sinclair said in her evidence that she had been unable to give the debriefing session her undivided attention as *"I was coming and going because I was still receiving phone calls about other incidents that were going on"*.
- 2.806 The information under the heading *"Background"* in each briefing note was clearly not a verbatim account of what had been said at the debriefing session. At the debriefing session Sinclair did not seek clarification from the ambulance officers because she knew that the ambulance officers were going to make statements to police. There was no suggestion that either briefing note was read or checked for accuracy by any of the ambulance officers.
- 2.807 In their evidence before the Commission each of the ambulance officers denied having said at the debriefing session that a police officer had attempted to restrain Adam Salter and reiterated that they had not seen a police officer attempt to restrain Adam Salter.
- 2.808 At the hearing before the Commission the following questions and answers occurred in Coolahan's evidence:
- Q. There's some suggestion in the hot debrief that somebody said to Paula Sinclair that a male officer - meaning male police officer - in the kitchen attempted to restrain the patient, meaning Adam Salter. Did you tell Paula Sinclair that?*
- A. Not that I recall.*
- Q. Did you see anything like that? Did you see the male police officer in the kitchen attempting to restrain Adam Salter?*
- A. No.*
- 2.809 Johnstone in his evidence before the Commission said that he had not seen a male police officer attempt to restrain Adam Salter and that he had not said anything to that effect to Sinclair.
- 2.810 Lutz in her evidence before the Commission said that she had not seen a police officer attempt to restrain Adam Salter and had not said at the debriefing session that a police officer had attempted to stop Adam Salter.
- 2.811 There is no reference to any attempt by a police officer to restrain Adam Salter in the entries made by Coolahan in the Patient Heath Card Record, which were made shortly before the debriefing session. The entries are admittedly brief but do include a reference to Adam Salter pushing his father to the floor.

- 2.812 When Coolahan was interviewed by police later on the same day she gave answers which the Commission considers amount to a denial by her that Abela had physically attempted to restrain Adam Salter.
- 2.813 Johnstone when interviewed by police referred to Adam Salter's father coming past Johnstone and trying to calm Adam Salter and Adam Salter pushing his father out of the way and then said *"the patient's then gone directly to the kitchen sink and grabbed the knife again"*.
- 2.814 When she was interviewed by police Lutz referred to Adrian Salter trying to restrain Adam Salter and did not say anything to the effect that a police officer had attempted to restrain Adam Salter.
- 2.815 It is significant that when Adrian Salter was interviewed on the same day he complained that the police had done nothing and that it had been left to him to attempt to restrain his son. There is no suggestion that there had been any communication between Adrian Salter and the ambulance officers before he gave that account.
- 2.816 The Commission has already referred to what it considers to be the unlikelihood of the ambulance officers being sufficiently motivated by any feeling of dissatisfaction with the police to falsely deny that a police officer had attempted to restrain Adam Salter.
- 2.817 Acceptance of the submissions made on behalf of the police officers about the possible motivation of the ambulance officers would involve accepting that the ambulance officers were not sufficiently motivated at the debriefing session to deny that a police officer had attempted to restrain Adam Salter but subsequently became sufficiently motivated to make such a denial.
- 2.818 As to the particular submission made about Coolahan's evidence before the Commission that she did not recall having said at the debriefing session that a police officer had attempted to restrain Adam Salter, it seems to the Commission that too much significance was sought to be attached to her initial answer, in isolation from what she subsequently said. It is to be borne in mind that Coolahan was being asked about whether she said something at a meeting that had taken place nearly three years before.
- 2.819 There is at least a possible explanation of how Sinclair might have misinterpreted something that was said to her by an ambulance officer at the debriefing session as being an assertion that a police officer had attempted to restrain Adam Salter.
- 2.820 The Commission has already referred to submissions made on behalf of the police officers (by Counsel for Oxford and Mr Tedder) that parts of Coolahan's answers to Q 31 and Q 113 in her interview amounted to a statement by Coolahan that Abela had attempted to restrain Adam Salter.
- 2.821 The Commission considers that it has clearly demonstrated that Coolahan's answers did not amount to such a statement and, on the contrary, amounted to a denial of such a statement. However, the making of such submissions by Counsel for Oxford and by Mr Tedder suggests at least the possibility that, if

Coolahan had said words at the debriefing session similar to the words she later used at the interview, her words might have been misinterpreted by Sinclair as an assertion that a police officer had attempted to restrain Adam Salter. Sinclair would have heard Coolahan say that a police officer in the kitchen started putting on his gloves for the purpose of restraining Adam Salter.

- 2.822 The Commission concludes that the statements in the briefing notes that a police officer attempted to restrain Adam Salter do not have the significance sought to be given to them in the submissions on behalf of the police officers.
- 2.823 Submissions were also made on behalf of the police officers concerning the contents of the Ambulance Service file note dated 18 November 2009 which contained the following relevant reference: *"8:53 crew request IC backup R1 and supervisor to attend, pt [patient] stabbed self in chest initially then started to stab himself in the throat. Police on scene trying to restrain pt [patient]"*.
- 2.824 It was submitted on behalf of the police officers that the file note was generated by some person within the Ambulance service other than Sinclair and that an ambulance officer had provided the information to the author of the file note independently of Sinclair.
- 2.825 In her evidence before the Commission Sinclair said that she had not seen the file note until two days before she attended the hearing and was not the author of the document. She said that she had never before seen a file note in the format in which it had been prepared.
- 2.826 The entry in the file note that police were *"trying to restrain pt [patient]"* is patently confused as it appears alongside the time *"8:53"*, which was before any police officers had arrived at 33 Wangee Road.
- 2.827 The Commission is not satisfied that the file note should be regarded as being independent of Sinclair or as having an independent probative value. At the foot of the file note Sinclair is identified as the *"contact"* person and in the body of the file note there is clear reference to information having been provided *"per DM Sinclair"*.

MARK REYNOLDS

- 2.828 Earlier in this report the Commission quoted or summarised parts of the letter of instructions from the Commission to Reynolds and what appeared to the Commission to be the most important parts of his report, his oral evidence before the Commission and the submissions made about his report and his oral evidence.
- 2.829 The Commission will now consider submissions critical of Reynolds' evidence which were made on behalf of the police officers.
- 2.830 It was submitted, correctly, that the question which Reynolds had been asked to answer in the letter of instructions was which of the three accounts or versions he had been given was *"most probably the correct version"*. He was

not asked to determine what in his opinion actually happened. However, the three versions he was given – namely, that Abela had not moved from his position near the refrigerator before the shooting (and hence had not come into physical contact with Adam Salter); that Abela, while standing apart from Adam Salter, attempted to restrain him by grabbing his left arm; that Abela was in close physical contact with Adam Salter – did state with substantial accuracy what were the only competing versions of what had happened for which there was support in the evidence.

2.831 It was pointed out on behalf of the police officers that in paragraph 3.1 of his report Reynolds had misstated the terms of version 1 in his letter of instructions.

2.832 In his letter of instructions Reynolds had been instructed that version 1 was as follows:

First, the two ambulance officers and Adrian Salter say that before Adam Salter got to his feet, Aaron Abela was standing to the side of the kitchen near the refrigerator (...) None of these witnesses saw Aaron Abela move from his position near the refrigerator before the shooting.

2.833 However, in paragraph 3.1 of his report Reynolds had stated the terms of version 1 as being:

*First, ambulance officers and SALTER (F) say that before SALTER got to his feet, ABELA was standing to the side of the kitchen near the **refrigerator**. None of these witnesses say ABELA had close physical contact with SALTER before the shooting.*

2.834 Accordingly in paragraph 3.1 of his report Reynolds omitted the words “*the two*”, which appeared before the words “*ambulance officers*” in the first sentence of version 1 in the letter of instructions and omitted the second sentence, substituting a different sentence in its place.

2.835 In his oral evidence Reynolds agreed that he had changed version 1 in his report. He said that he could not explain how the change had occurred and agreed that it was not appropriate for an expert to unilaterally change a version upon which he had been asked to report.

2.836 The Commission, while accepting that it was not appropriate for Reynolds to have changed the terms of version 1, does not regard this matter as detracting from Reynolds’ report.

2.837 Elsewhere in his report, and particularly in his answer to the Commission’s question in the final paragraph of his report, Reynolds accurately stated the terms of version 1.

2.838 Reynolds gave oral evidence, which the Commission accepts, that, in applying his tests and standards, he looked at the original terms of versions 1, 2 and 3 in his letter of instructions; and that the changes in the wording of version 1 in paragraph 3.1 of his report had not “*changed the context in which I examined this case*”.

- 2.839 Furthermore, the statement in version 1 in the letter of instructions that none of the witnesses mentioned saw Abela move from his position near the refrigerator before the shooting is equivalent to saying that none of the witnesses said that Abela had close physical contact with Adam Salter before the shooting. If Abela did not move from his position near the refrigerator, he could not have had close physical contact with Adam Salter. As Reynolds said in his evidence: *"If he [Abela] doesn't move, then there is no contact"*.
- 2.840 Version 1 in the letter of instructions referred to what *"the two ambulance officers and Adrian Salter say"*. Although Reynolds was provided with much other material, he was not provided with any materials from Adrian Salter.
- 2.841 It was put to Reynolds by Counsel for Oxford, and it would appear to be the case, that Lutz was not included in *"the two ambulance officers"* because in both the oral evidence she had given and in the diagrams she had drawn, she had placed Abela on the opposite side of the kitchen from the refrigerator.
- 2.842 It was put to Reynolds, and it was submitted on behalf of the police officers, that Coolahan could not be one of *"the two ambulance officers"* because she had given an account that just before the shooting Abela had *"dived"* across the kitchen, so that it would not be true to say that Coolahan did not see Abela move from his position near the refrigerator before the shooting.
- 2.843 The Commission accepts that it would not be literally true to say that Coolahan's account was that Abela did not move from his position near the refrigerator at any time before the shooting. However, the Commission considers that, while version 1 in the letter of instructions could have been better expressed, the substance of version 1, particularly when read in connection with the two other versions, was that Abela did not move before the shooting so as to attempt to restrain Adam Salter by grabbing his left arm or so as to enter into close physical contact with Adam Salter. That Abela, on Coolahan's account, made some movement just before the shooting which did not bring him into contact with Adam Salter was not material.
- 2.844 So far as the exercise of Reynolds' expertise was concerned it was, as Reynolds himself explained, immaterial which witness or witnesses supported each of the versions he was asked to consider.
- 2.845 It was put to Reynolds and Reynolds agreed, and it was subsequently put in submissions on behalf of the police officers, that, if there had not been any blood on Adam Salter's left arm, then the finding by Reynolds that there was no obvious bloodstaining on the external surface of Abela's left glove would cease to have any significance.
- 2.846 It was also put to Reynolds and Reynolds agreed, and it was subsequently put in submissions on behalf of the police officers, that, if Abela had not been wearing the glove on his left hand, then Reynolds' finding would also cease to have any significance.
- 2.847 It is to be accepted that Reynolds' finding that there was no obvious bloodstaining on the external surfaces of Abela's left glove would be significant only if, inter alia, the following conditions were satisfied: (1) Abela

put on his left glove and (2) there was blood on that part of Adam Salter's left arm on which Abela asserted he had placed his gloved left hand.

- 2.848 A submission that Abela might not have been wearing a glove on his left hand at the time he asserted he had attempted to restrain Adam Salter was not strongly pressed. As Counsel Assisting submitted, Abela had given evidence on a number of occasions at the inquest, which he confirmed at the hearing before the Commission, that he had put on one glove, his left glove, before he took hold of Adam Salter's left arm.
- 2.849 However, a submission that was strongly pressed was that there might not have been any blood on Adam Salter's left arm and that Abela's grip on Adam Salter's left arm might have slipped, not because, as he believed, Adam Salter had blood on his arm but because Adam Salter was "*diaphoretic*", that is, sweaty. Coolahan had noted that Adam Salter was "*diaphoretic*" in an entry in the Patient Health Care Record and she gave evidence before the Commission that Adam Salter was "*diaphoretic*".
- 2.850 It was submitted that, insofar as Abela had said in his accounts that Adam Salter was "*covered in blood*", he might, as an inexperienced police officer, have been innocently exaggerating the amount of blood that he saw on Adam Salter.
- 2.851 In support of these submissions reference was made to the evidence of other witnesses. In his evidence before the Commission Adrian Salter said: "*I've got to say I wasn't looking at his [Adam Salter's] arm for blood but there wasn't much on his upper body throughout*". Coolahan gave evidence that there was no blood on Adam Salter's shoulders and that, as she tried to take hold of Adam Salter's shoulder when he was getting up off the floor, her hands slipped because Adam Salter was "*diaphoretic*". Johnstone and Lutz also said in their evidence that they could not recall how much blood there was on Adam Salter's shoulders.
- 2.852 However, for the Commission to accept that there might not have been blood on Adam Salter's arm would involve disregarding and treating as untruthful a large volume of evidence from Abela himself. In the entries made in his notebook Abela recorded that Adam Salter was "*covered in blood*". When he was interviewed by police on 18 November 2009 Abela said that after the incident his own arm was covered in blood. He said that he was not injured during the incident but "*I was just covered in blood*". In his *walkthrough* interview on 30 November 2009 Abela said that his hands were sliding "*with the blood that was on his [Adam Salter's] arms ... he had blood on his arm, everywhere*"; "*I had blood on my pants and on my boots*"; and "*I had blood all over my arms as well*".
- 2.853 In his evidence before the inquest Abela said that, before attempting to restrain Adam Salter, he had decided to put his gloves on as a precautionary measure, because he was aware that Adam Salter was covered in blood and he anticipated handling Adam Salter. However, he said that he only had time to put on one glove, his left glove.

- 2.854 Abela gave further evidence at the inquest that after the incident he had blood on his un-gloved right hand. When asked whether there was blood on the palm or more than the palm of his hand he said: *"It was more than the palm, it was from ... the forearm down to the [palm]"*.
- 2.855 Abela also gave evidence at the inquest that, while he was still at the scene, a more senior police officer had told him to get the blood off his (right) hand immediately and that he had complied by washing his hand and arm with Hexifoam, a product issued to and used by police for the purpose of washing off blood.
- 2.856 In his evidence before the Commission Abela said that Adam Salter was covered in the most blood *"I'd ever seen"*.
- 2.857 The Commission concludes that there was blood on Adam Salter's left arm and that if, as Abela maintained, he had placed his gloved left hand on Adam Salter's left arm, bloodstaining would have been transferred from Adam Salter's left arm to Abela's left glove. No such bloodstaining was detected by Reynolds and this militates strongly against accepting Abela's account of what happened.
- 2.858 A submission was made on behalf of the police officers about the presence of bloodstaining on the cupboard beneath the sink. It was submitted that the staining could have been caused by lateral movement of Adam Salter and that such movement would not be inconsistent with Abela's account. The Commission accepts that the bloodstaining on the cupboard beneath the sink could have been caused by transfer and could indicate some movement against the cupboard by Adam Salter. However, the bloodstaining could have been caused by Adam Salter moving his body quite independently of any intervention by Abela.

CONSIDERATION OF SUBMISSIONS BASED ON THE TRAJECTORY OF THE BULLET

- 2.859 Although Counsel Assisting and other Counsel submitted that the path which the bullet travelled through Adam Salter's body, which was determined by the pathologist's report, and the further path of the bullet from Adam Salter's body to venetian blinds behind the sink in the kitchen, were inconsistent with the evidence of one or another witness about the positions that persons were occupying and the line of their shoulders at the time of the shooting, the Commission considers that it would not be possible to accept any of the submissions with any degree of confidence. The oral and diagrammatic evidence given by witnesses about the position and orientation of various persons bodies at some particular time necessarily lacked precision. It is also apparent that during the brief interval of time leading up to the shooting at least some persons inside the kitchen were changing their positions.

WHEN WERE THE SELF-INFLICTED STABBING INJURIES TO ADAM SALTER'S NECK INFLICTED?

- 2.860 Earlier in this report a number of references have been made to evidence about when the self-inflicted stabbing injuries to Adam Salter's neck were inflicted.
- 2.861 The pathologist who performed the post mortem examination of Adam Salter's body on 19 November 2009 found and recorded in her autopsy report that, apart from the gun shot injury and stab wounds to the chest, Adam Salter had sustained: a stab wound to the left anterior neck; a stab wound to the left lateral neck; a stab wound to the anterior neck; and two incised wounds, one to the left lateral neck and one to the right lateral neck.
- 2.862 In the Patient Health Care Record completed by Coolahan she recorded that after the shooting there were "*approx[imately] 4 lac[eration]s to neck – self-inflicted*".
- 2.863 It is clear that none of the injuries to the neck had yet been inflicted when, before the shooting, Adam Salter was lying on the floor of the kitchen being treated by the ambulance officers. All of the injuries to the neck were inflicted at some time after Adam Salter had got up from the floor, made his way to the sink and retrieved the knife which had been left in the sink.
- 2.864 There is, however, a conflict in the evidence as to when in relation to the shooting the injuries to the neck were inflicted.
- 2.865 Coolahan consistently gave accounts that Adam Salter was stabbing himself in the neck before he was shot and that he did not stab himself in the neck after he was shot, except perhaps for finishing the last action of stabbing.
- 2.866 In the Patient Health Care Record Coolahan wrote that Adam Salter "*grabbed the knife and started stabbing himself in the neck*", before she asked police to come back into the kitchen.
- 2.867 In her answer to Q 31 in her interview Coolahan said that Adam Salter, having gone to the sink and having grabbed the knife, "*then started stabbing himself several times in the neck*".
- 2.868 In her evidence before the Commission Coolahan was asked whether Adam Salter was still stabbing himself in the neck after he was shot and replied: "*Not after he was shot. He may have been in the action of finishing the last, but his hand dropped down to his side*".
- 2.869 In answers in his interview on 18 November 2009, Johnstone said that Adam Salter, having got the knife, proceeded to stab himself in the neck "*four times or so*" before he was shot.
- 2.870 In his evidence at the inquest Johnstone said that Adam Salter was "*stabbing himself in the neck*" before the word "*Taser*" was yelled. He could not say if

Adam Salter continued to stab himself after he was shot and was falling to the floor.

- 2.871 In his evidence before the Commission Johnstone said that Adam Salter, having retrieved the knife, *“began stabbing himself in the throat”* before he was shot. He could not recall whether Adam Salter was still stabbing himself after shot.
- 2.872 When she was interviewed by police Lutz said in part of her answer to Q 14 that the *“patient [Adam Salter] grabbed the knife out of the sink and then had started stabbing himself in the throat probably three or four times”*. She also said that, after Adam Salter was shot, he *“dropped to the ground straight away and ... pretty much ... what we call was in cardiac arrest”*.
- 2.873 In her evidence before the Commission Lutz said that Adam Salter, having retrieved the knife, started stabbing himself in the throat with the knife. When asked whether Adam Salter continued stabbing himself after the shot she said that she did not recall seeing that happening.
- 2.874 When Bissett was interviewed by police she said that after Adam Salter was shot, *“he thrust the knife into his throat ... I can’t remember if he did it once or twice. He must have done it twice because you could see the hole in his throat”*.
- 2.875 Abela consistently maintained that he never saw the knife at any stage and consequently did not see Adam Salter stab himself with the knife at any time.
- 2.876 When Metcalfe was interviewed by police she said in part of her answer to Q 30 that, after Adam Salter was shot and was falling backwards, *“he had a knife in his right hand which I saw him stab himself into his right neck. The POI landed on the ground, the handle of the knife was protruding from his neck”*.
- 2.877 In the entries made by Wilson in her notebook she said that, as Adam Salter had almost hit the floor after being shot, he raised his right hand and placed the tip of the knife into his neck.
- 2.878 Adrian Salter gave a number of varying accounts about when the injuries to Adam Salter’s neck were inflicted.
- 2.879 According to the entries made by Atanasovski in his notebook, Adrian Salter told Atanasovski that *“the POI [Adrian Salter] grabbed the knife and started to stab himself in the neck”* and that subsequently the shooting occurred. Atanasovski also recorded that he had been told by Adrian Salter that the *“POI [Adrian Salter] fell to the ground and continue[d] to try and stab himself in the neck”*.
- 2.880 When interviewed by police Adrian Salter said that, after Adam Salter was shot and falling backwards, he was *“stabbing at his throat with the knife”* and that he had seen Adam Salter stabbing himself in the neck whilst he was standing at the sink before he was shot.

- 2.881 In his *walkthrough* interview Adrian Salter said that, after the shot was fired, “*I saw Adam go over backwards and I saw he had a knife in his hand and he’d jabbed it in his throat*”. A little later in the *walkthrough* interview he said: “*Adam’s got the knife and he’s sticking it into himself and then the bang and he went over backwards*”.
- 2.882 On 20 November 2009 Adrian Salter told one of the police officers who had conducted the *walkthrough* interview that he wished to amend answers he had given in that interview and in particular said that he wished to say that he did not see the knife until after the shot was fired. He said that it was after the shot was fired and as Adam Salter was falling that he saw Adam Salter jabbing the knife into his neck.
- 2.883 In his evidence at the inquest Adrian Salter said that at the time Adam Salter was shot he was stabbing himself. He was questioned about why he had wished to make amendments to his *walkthrough* interview concerning when he saw the knife. He said that he had not seen the knife because “*Adam had his back to me*” and said that Adam Salter was “*facing the sink*” and “*hunched over*”. He said that he had seen Adam Salter “*from a back view, doing something ... some movement*”.
- 2.884 In his evidence before the Commission Adrian Salter said that he had not seen the knife before Adam Salter was shot but had seen movements of Adam Salter’s shoulder consistent with Adam Salter inflicting some of the stab wounds to his neck. He said that he had seen Adam Salter “*crouched over and doing something*” and that after the shot “*saw that he was stabbing himself in the neck with the knife*”.
- 2.885 The Commission considers that it is quite clearly established that at least a number of the stabbing injuries to Adam Salter’s neck were inflicted before Adam Salter was shot. This opinion is supported by the evidence of all the ambulance officers and is consistent with all of the accounts that had been given by Adrian Salter. It is not inconsistent with the accounts given by police officers, none of whom claim to have actually seen more than one act of stabbing by Adam Salter to his neck after he was shot.
- 2.886 The Commission’s assessment that just before he was shot Adam Salter was standing at the sink stabbing himself in the neck with the knife is inconsistent with the version of events given by Abela that he was holding on to Adam Salter’s left arm; that Adam Salter reached into the sink with his right arm; and that Abela upon seeing Adam Salter raising his right arm from the sink, turned and saw Bissett, started to let go of Adam Salter’s arm, and took a step back, all those events happening almost simultaneously with Bissett shooting.
- 2.887 The Commission is also of the opinion that the Commission’s assessment is inconsistent with the version of events given by Bissett that immediately before he was shot Adam Salter was pointing the knife at Abela and that Abela and Adam Salter were wrestling or struggling in a close embrace at the sink.
- 2.888 As to whether Adam Salter continued to stab himself in the neck after he was shot, the Commission considers that all of the stab wounds to Adam Salter’s

neck, except perhaps for the completion of the last wound, had been inflicted before Adam Salter was shot.

- 2.889 The Commission considers it likely that the ambulance officers were able to view Adam Salter's actions with a more clinical detachment than Adam Salter's father. It is true that Adam Salter was Adrian Salter's son and that Adrian Salter's attention would have been likely to have been focused on his son. However, Adam Salter was also the ambulance officer's patient and for that reason the ambulance officers' attention would also be likely to have been directed towards Adam Salter.
- 2.890 The Commission also takes into account the improbability of someone who had been shot in the right shoulder by a projectile which passed through both lungs and the heart being able to continue performing acts of stabbing in the neck with his right hand.
- 2.891 The Commission has found it unnecessary to resolve the conflicting evidence about whether the knife was lodged in Adam Salter's neck after he had fallen to the floor.

CONCLUSION

- 2.892 The Commission is of the opinion that Abela did not come into physical contact with Adam Salter before Adam Salter was shot. The Commission is of the further opinion that the prior accounts given by the police officers and the evidence given by the police officers before the Commission were not accurate and truthful, and were deliberately not accurate and truthful, in asserting that Abela had come into physical contact with Adam Salter before he was shot.
- 2.893 In forming its opinions the Commission has accepted the prior accounts given by Adrian Salter and the ambulance officers and the evidence given by Adrian Salter and the ambulance officers before the Commission that Abela had not come into physical contact with Adam Salter before Adam Salter was shot.
- 2.894 The Commission has accepted the forensic evidence given by Reynolds and considers that the Commission's assessment that Adam Salter was stabbing himself in the neck just before he was shot is inconsistent with Abela being in physical contact with Adam Salter just before Adam Salter was shot.
- 2.895 The Commission, having assessed the evidence of the police officers, has concluded that there are matters adversely affecting the credibility of each of the police officers.
- 2.896 As to Wilson, the Commission is of the opinion that the prior accounts given by Wilson that Bissett had challenged Adam Salter to "*drop*" the knife and allowed time for him to comply before she discharged her firearm, were not accurate and truthful and were deliberately not accurate and truthful.
- 2.897 As to Metcalfe, the Commission is of the opinion that the prior account she gave on police radio that Adam Salter had got the knife and was "*coming*" at

police was not accurate and truthful and was deliberately not accurate and truthful.

3. THE SITUATION REPORTS AND MEDIA STATEMENTS

- 3.1 The second limb of the Commission's investigation was *"an investigation into the Situation Reports and statements released to the media by the NSW Police Force in relation to the shooting of Adam Salter"*.

NSWPF REPORTS AND STATEMENTS

- 3.2 After the shooting at 33 Wangee Road persons within the NSWPF prepared a number of Situation Reports and made statements to the media about the shooting of Adam Salter. Certain other documents relating to the shooting were also prepared.
- 3.3 At 10:20 am on 18 November 2009 a NSWPF Provisional Briefing Note was issued by the office of the Deputy Commissioner (Field Operations). The Briefing Note stated that *"The information contained in this Briefing Note has been gathered from the CAD Radio log and initial information from investigators on scene."* Entries alongside the time 9:03 in the Briefing Note were as follows:

9:03 Information from Duty Officer Hanlon is that the male broke free from treating ambulance officers and attending police and managed to seize the knife (previously used to self inflict) from the nearby kitchen top.

Was challenged by police to stop, encroached on police space.

Sgt Sherree Bissett (RN 26832 – 21 years service) discharged one round from her Glock into the right upper shoulder blade of the male.

Male kept self-inflicting injuries to his own neck with the aforementioned knife. Male was disarmed by police, treated for all injuries, conveyed to Canterbury Hospital where he was later pronounced deceased.⁹³⁷

- 3.4 At about 12:00 pm on 18 November 2009 Assistant Commissioner Stuart Wilkins made a statement to the press from the scene.⁹³⁸ As presently relevant, he said:

Upon arrival with the ambulance, police located a male suffering stab wounds in the kitchen of the house.

...

Paramedics had attempted to assist that person. During this time the male, who has got up from a lying position, we believe he has grabbed a knife from the kitchen and confronted police. During that confrontation that male has been shot once by police.

⁹³⁷ Exhibit 69

⁹³⁸ Exhibit 73

...

*A further struggle has ensued. The male has committed self-harm to himself again. Police have wrestled the knife from that male person.*⁹³⁹

- 3.5 Between 12:20 pm and 1:00 pm 18 November 2009 Hanlon prepared the first Situation Report on the shooting of Adam Salter. It was marked for distribution to the Commissioner of Police, the Deputy Commissioner (Field Operations) and the Police Media Unit. The section of the document headed “*Background*” stated as follows:

Background

*Police arrived at the scene minutes after the initial call to discover four ambulance officers treating the POI for knife wounds to his upper body. Police assisted the ambulance officers in restraining the POI. However the POI was able to momentarily break free from their grasp and reach for the kitchen knife that had been secured on the kitchen bench. The primary involved officer Sgt Sheree Bissett challenged the POI to drop the knife on several occasions. The POI did not comply and began to counter towards officers whilst armed with the knife. The involved officer then discharged one round into the right upper shoulder of the POI who fell to the ground. The POI despite his gunshot wound, continued to stab the knife into his own neck despite his other injuries. Shortly after police and ambulance officers have been able to physically disarm him of the knife and he was conveyed by Ambulance in a critical condition to Canterbury Hospital.*⁹⁴⁰

- 3.6 At 4:00 pm on 18 November 2009 the NSWPF Media Unit issued a Media Release, “*Critical incident team investigates police shooting – Lakemba*”. Parts of the Media Release were as follows:

A police critical incident investigation team will investigate the circumstances surrounding the shooting of a man at Lakemba this morning.

About 8:50 am, police were called to a home in Wangee Road following reports a man was attempting self harm at the premises.

It is believed the man was being treated for self-inflicted stab wounds by paramedics when he obtained a knife from the kitchen.

*The 36-year-old man allegedly confronted the four police officers before a single shot was fired at him striking him in the right shoulder. He was disarmed and taken to Canterbury Hospital where he later died.*⁹⁴¹

- 3.7 Between 6:30 pm and 7:00 pm on 18 November 2009 a second Situation Report was prepared by Superintendent Peter Lennon, who was the Commander of the Campsie Local Area Command. It was marked for distribution to the Commander of the South West Metropolitan Region, the

⁹³⁹ Exhibit 68

⁹⁴⁰ Exhibit 73

⁹⁴¹ Exhibit 72

Deputy Commissioner (Field Operations), the Police Media Unit and the Commander of the Homicide Squad.

- 3.8 The section of the second Situation Report headed “*Background*” was identical to the statement of the “*Background*” in the first Situation Report prepared by Hanlon except for the inclusion of the words: “*Time of death determined to be 9:19 am*”.⁹⁴²
- 3.9 Between 10:00 pm and 10:45 pm on 18 November 2009 Oxford prepared a third Situation Report. It was marked for distribution to the Commander of the South West Metropolitan Region, the Deputy Commissioner (Field Operations), Campsie Local Area Command, the Commander of the Homicide Squad and the Commander Professional Standards Command (PSC). The section of the document headed “*Background*” was identical to the statement of the “*Background*” in the second Situation Report.
- 3.10 On 18 November 2009 a *P79A Report of Death to the Coroner* was prepared by police and sent to the Coroner. It appears to have been sent to the Coroner by 2:20 pm on 18 November 2009.⁹⁴³ Under the heading “*Narrative of the circumstances under which death took place*”, it stated:

About 8.50am on Wednesday 18th November 2009 Police received a call regarding a 36 year old male with self inflicted stab wounds to the chest. Police responded, arriving at the residence approximately five minutes later.

The deceased, Adam SALTER (18/06/1973) was located in the kitchen suffering self inflicted stab wounds. Ambulance Officers were attempting to provide medical assistance when the deceased broke free arming himself with a large kitchen knife.

*The deceased was challenged several times by Police to drop the knife, refusing to do so. The deceased lunged the knife at Police. Police discharged one round into the deceased's upper right shoulder. The deceased was momentarily disabled falling backwards, and continued to stab himself in the neck. He was subdued [sic] the deceased was treated by attending Ambulance Officers en route to Canterbury Hospital.*⁹⁴⁴

- 3.11 At 6:30 pm on 19 November 2009 Oxford prepared a fourth Situation Report. It was marked for distribution to the Commander of the South West Metropolitan Region, the Deputy Commissioner (Field Operations), Campsie Local Area Command, the Commander of the Homicide Squad, and the Commander of PSC. The section of the Situation report headed “*Background*” was as follows:

BACKGROUND:

Shortly after 9am on 18/11/09, Police were called to 33 Wangee Road, Lakemba where they saw Ambulance officers treating Adam Salter for a

⁹⁴² Exhibit 73

⁹⁴³ Exhibit 79, p. 2

⁹⁴⁴ Exhibit 62

*stab wound. During treatment Salter leapt to his feet and grabbed a knife that was in the kitchen sink. Fearing that he would stab one of the Police officers, Sgt Sherree Bissett challenged Salter and then discharged one shot from her pistol which entered his back just below the shoulder. Despite the gunshot wound Salter continually stabbed himself in the neck. He was subdued and disarmed and taken to Canterbury Hospital where he was pronounced dead on arrival.*⁹⁴⁵

- 3.12 Each of the Situation Reports referred to above contained a section headed “*Current Position*”. The information contained in that section of each Situation Report, while having some relevance to the second limb of the Commission’s investigation, is particularly relevant to the third limb of the investigation and will be examined as part of the Commission’s consideration of that limb later in this report.

MEDIA COVERAGE

- 3.13 The shooting of Adam Salter by police received wide media coverage. The statement made by Assistant Commissioner Wilkins on 18 November 2009 was broadcast by all major news networks later that day and received wide press coverage on the following day.⁹⁴⁶
- 3.14 Print media also ran several news stories on the shooting. On 19 November 2009 reports of the shooting appeared in the *Sydney Morning Herald*, *Daily Telegraph*, *Central Western Daily*, *Daily Liberal*, *Border Mail*, *Newcastle Herald* and *Illawarra Mercury*. The reports from the *Sydney Morning Herald* and *Daily Telegraph* are representative of those reports.
- 3.15 The *Sydney Morning Herald* report “*Death of Lakemba man reopens lethal force debate*” stated as follows:

Police said they responded to a call from a house in Lakemba and found Adam Salter, a 36-year-old web designer, wielding a knife and threatening self-harm. Mr Salter was being treated by paramedics on the kitchen floor for self-inflicted stab wounds when he got up and lunged at four officers in the room with the knife.

*A female sergeant with 21 years’ experience, and who was armed with a Taser and capsicum spray, shot the man once, allowing police to wrestle the knife off Mr Salter.*⁹⁴⁷

- 3.16 The *Daily Telegraph* report “*Adam’s death leaves many questions to be answered*” stated as follows:

As police and paramedics tried to help Adam in the small kitchen of his father’s Wangee Rd, Lakemba home he leapt to his feet, grabbed a knife and lunged at the four officers who had responded to the emergency call from his 65-year-old father. In a split second decision, a female sergeant with 21 years in the job shot Adam once in the shoulder.

⁹⁴⁵ Exhibit 73

⁹⁴⁶ Exhibit 68

⁹⁴⁷ Exhibit 68

*The shoulder wound may have stopped the attack on police but it did not deter the young man from his original aim - he started stabbing himself again.*⁹⁴⁸

- 3.17 The shooting of Adam Salter was also the subject of radio broadcasts. A broadcast that was played at the Commission's hearing contained references to Adam Salter having *"lunged the knife"* at police and to him after being shot still being able to attack police officers who were trying to subdue him.⁹⁴⁹

EVIDENCE GIVEN BY WITNESSES

MATTHEW HANLON

- 3.18 Hanlon was the Duty Officer at Campsie Local Area Command on the day of the shooting. He was also the acting Commander. He arrived at the scene of the shooting shortly after 9:00 am and left at about 10:46 am.⁹⁵⁰ He provided information contained in the Briefing Note issued at 10:20 am and was the author of the first Situation Report.
- 3.19 Hanlon said that he had several tasks to perform as the *"Duty Officer"*. He described those tasks as including: *"receiving communications, making communications via phone and radio, and also commencing the log"*.⁹⁵¹
- 3.20 Hanlon, of course, had no direct knowledge of the circumstances of the shooting. As already noted in the Commission's consideration of the first limb of its investigation, Hanlon did not make any notes and did not cause any one else to make notes about his attendance at 33 Wangee Road on 18 November 2009. Hanlon sought to explain his not having made any notes while he was at 33 Wangee Road on the basis that he was *"running the scene"* and preoccupied with performing his other duties as the Duty Officer or as the acting Commander of Campsie Local Area Command.⁹⁵²
- 3.21 Contrary to a submission by Counsel Assisting, Hanlon did direct during his attendance at 33 Wangee Road that a log be commenced. However, he said that it would be *"optimistic"* to suppose that any log would have included detailed information⁹⁵³ and the only logs produced to the Commission confirmed his lack of optimism.⁹⁵⁴
- 3.22 In the absence of any notes or any detailed entries in any logs, Hanlon in giving evidence about what had happened while he was at 33 Wangee Road and, in particular, in giving evidence about who had provided him with the

⁹⁴⁸ Exhibit 73

⁹⁴⁹ Exhibit 73

⁹⁵⁰ PIC Transcript, Mathew Hanlon, 31 August 2012, p. 476

⁹⁵¹ PIC Transcript, Mathew Hanlon, 31 August 2012, p. 444

⁹⁵² PIC Transcript, Mathew Hanlon, 31 August 2012, p. 467

⁹⁵³ PIC Transcript, Mathew Hanlon, 31 August 2012, p. 445

⁹⁵⁴ Exhibits 37, 112

information in his Situation Report had to rely on his memory, unaided by any document.⁹⁵⁵

- 3.23 Hanlon gave evidence of having spoken to a number of police officers at 33 Wangee Road.
- 3.24 Hanlon said he spoke to Metcalfe when he arrived at 33 Wangee Road.⁹⁵⁶ He said she supplied him with a *“briefing as to what had just occurred”*. He said that that conversation did not *“specifically”* address *“what she saw”*. He said: *“She just gave me a briefing as to what had occurred – more so in generic terms”*.⁹⁵⁷
- 3.25 Following that discussion, Hanlon said that he approached Bissett and *“made certain observations about her emotional state”*. He said he spoke to her in relation to her welfare and did not talk to her about the incident.⁹⁵⁸ He then spoke to another police officer, Eljarrar, who he said was next to Bissett. Hanlon said he had *“a vague recollection”* of being told something by Eljarrar.⁹⁵⁹
- 3.26 Hanlon said he also spoke to Wilson and to Abela. Regarding the conversation he had with Wilson, Hanlon said he could *“not recall the specifics”* but said he gained an *“appreciation from her”* as to what had happened. He said she gave him *“a very basic sequence of events”*, including the fact that Adam Salter was lying on the floor and had got up, and had been shot by police whilst armed with a knife.⁹⁶⁰ In contrast, he said his conversation with Abela had been brief.⁹⁶¹
- 3.27 Following those conversations Hanlon entered the premises with Metcalfe and made some observations.⁹⁶² He said that *“Metcalfe was next to me giving me commentary in relation to what had occurred”*.⁹⁶³ However, he could not recall the details of his conversation.⁹⁶⁴ He also said that Metcalfe remained with him after he left the premises and he recalled having further conversations with her outside.⁹⁶⁵
- 3.28 Ultimately in his evidence Hanlon named Metcalfe, Wilson, Abela and Eljarrar as being *“the four officers that would primarily be the source of my information”*.⁹⁶⁶ Hanlon accepted that the information that had been provided

⁹⁵⁵ PIC Transcript, Mathew Hanlon, 31 August 2012, p. 440

⁹⁵⁶ PIC Transcript, Mathew Hanlon, 31 August 2012, p. 441

⁹⁵⁷ PIC Transcript, Mathew Hanlon, 31 August 2012, p. 441

⁹⁵⁸ PIC Transcript, Mathew Hanlon, 31 August 2012, p. 441-42, 444

⁹⁵⁹ PIC Transcript, Mathew Hanlon, 31 August 2012, p. 442

⁹⁶⁰ PIC Transcript, Mathew Hanlon, 31 August 2012, p. 442, 444-45

⁹⁶¹ PIC Transcript, Mathew Hanlon, 31 August 2012, p. 443, 445

⁹⁶² PIC Transcript, Mathew Hanlon, 31 August 2012, p. 443

⁹⁶³ PIC Transcript, Mathew Hanlon, 31 August 2012, p. 443

⁹⁶⁴ PIC Transcript, Mathew Hanlon, 31 August 2012, p. 443

⁹⁶⁵ PIC Transcript, Mathew Hanlon, 31 August 2012, p. 446

⁹⁶⁶ PIC Transcript, Mathew Hanlon, 31 August 2012, p. 445

to him by Eljarrar would likely have been communicated to Eljarrar by Bissett, Wilson, Abela or Metcalfe or by some other officer at the scene.⁹⁶⁷

- 3.29 Hanlon could not say which individual police officer had provided him with any one of the items of information included by him in the statement of the *“Background”* in his Situation Report. He could not identify the source of the information that police had *“assisted”* the ambulance officers in *“restraining”* Adam Salter.⁹⁶⁸ He could not identify the source of the information that the knife had been *“secured.”*⁹⁶⁹ He could not identify the source of the information that Bissett *“challenged Adam Salter to drop the knife on several occasions.”*⁹⁷⁰ He could not identify the source of the information that Adam Salter *“did not comply [with the command to drop the knife] and began to counter towards officers whilst armed with the knife.”*⁹⁷¹
- 3.30 Hanlon was asked questions about Situation Reports. He agreed that Situation Reports are important documents and understood that they need to be as *“accurate”* as possible and not *“misleading.”*⁹⁷² He agreed that they would generally be provided to the NSWPF Police Media Unit and would form the basis of media briefings.⁹⁷³ He said that the purpose of the Situation Report he prepared on 18 November 2009 was to inform senior management within the NSWPF about what had taken place in the incident.⁹⁷⁴
- 3.31 Hanlon was asked about the performance of his duties as the Duty Officer on 18 November 2009. He said that he had set up a command post, informed the VKG, and *“set about managing the incident”*. He also said that he had activated relevant protocols under the *“critical incident policy”* in relation to drug and alcohol testing, firearm security, scene management, and the separation of involved officers.⁹⁷⁵
- 3.32 Hanlon agreed that he had not required any of the involved officers to make any notes. He said that the involved officers had not been in any state to make notes. However, he accepted that two of the officers had in fact made notes.⁹⁷⁶
- 3.33 Hanlon also agreed that he had not obtained, as was required by the *Guidelines for the Management and Investigation of Critical Incidents* (“the Guidelines”), a version of events from an independent witness, prior to speaking to the involved officers.⁹⁷⁷ He agreed that he had not obtained an account from any one of the ambulance officers, who he said were in the process of leaving when he arrived, or from Adrian Salter, who he believed had already left.⁹⁷⁸ Elsewhere in his evidence he accepted that Adrian Salter

⁹⁶⁷ PIC Transcript, Mathew Hanlon, 31 August 2012, p. 463

⁹⁶⁸ PIC Transcript, Mathew Hanlon, 31 August 2012, pp. 450-51

⁹⁶⁹ PIC Transcript, Mathew Hanlon, 31 August 2012, pp. 453

⁹⁷⁰ PIC Transcript, Mathew Hanlon, 31 August 2012, p. 455, 458

⁹⁷¹ PIC Transcript, Mathew Hanlon, 31 August 2012, p. 458

⁹⁷² PIC Transcript, Mathew Hanlon, 31 August 2012, pp. 447-48

⁹⁷³ PIC Transcript, Mathew Hanlon, 31 August 2012, p. 448

⁹⁷⁴ PIC Transcript, Mathew Hanlon, 31 August 2012, p. 448

⁹⁷⁵ PIC Transcript, Mathew Hanlon, 31 August 2012, p. 468

⁹⁷⁶ PIC Transcript, Mathew Hanlon, 31 August 2012, p. 471

⁹⁷⁷ PIC Transcript, Mathew Hanlon, 31 August 2012, p. 471

⁹⁷⁸ PIC Transcript, Mathew Hanlon, 31 August 2012, p. 473

had still been present while he was at the scene but said that it was his understanding that Adrian Salter had already left.⁹⁷⁹

PETER LENNON

- 3.34 Superintendent Lennon, the author of the second Situation Report, was the Commander at Campsie Local Area Command on the date of the incident but was not in Sydney when the incident took place. He was in Goulburn on the morning of 18 November 2009 and did not return to Campsie until 1:00 pm.
- 3.35 Superintendent Lennon said in his evidence that in preparing the second Situation Report he had depended on information from Hanlon.⁹⁸⁰ He agreed that it was important for Situation Reports to contain accurate information as *"a misconception can commence and then be repeated from document to document."*⁹⁸¹

RUSSELL OXFORD

- 3.36 Oxford said in his evidence that in preparing the third Situation Report he had effectively *"cut and pasted"* the statement of the *"Background"* of the second Situation Report prepared by Superintendent Lennon.⁹⁸²
- 3.37 Oxford pointed out that the Situation Reports had been marked *"Not for Media"*.⁹⁸³ However, he agreed that the Situation Report he prepared might be used to brief and update the Commissioner of Police on what had occurred at 33 Wangee Road.⁹⁸⁴
- 3.38 Parts of the evidence given by Oxford at the hearing about the Situation Reports, while having some relevance to the second limb of the Commission's investigation, were particularly relevant to the third limb of the Commission's investigation and will be examined later in this report when the Commission considers that limb.

SUBMISSIONS

SUBMISSIONS OF COUNSEL ASSISTING

- 3.39 The principal submissions made by Counsel Assisting about the Situation Reports and the media statements can be concisely summarised as follows. On the day of the shooting of Adam Salter and on the next day a number of false and misleading statements were made by the NSWPF, both internally and to the media. The cumulative effect of those false and misleading statements was to create the false impression that police officers had been in immediate danger and that Adam Salter had behaved aggressively towards

⁹⁷⁹ PIC Transcript, Mathew Hanlon, 31 August 2012, p. 473

⁹⁸⁰ PIC Transcript, Peter Lennon, 31 August 2012, p. 538

⁹⁸¹ PIC Transcript, Peter Lennon, 31 August 2012, p. 538

⁹⁸² PIC Transcript, Russell Oxford, 3 September 2012, p. 650-51

⁹⁸³ PIC Transcript, Russell Oxford, 3 September 2012, p. 708

⁹⁸⁴ PIC Transcript, Russell Oxford, 4 September 2012, p. 682

persons other than himself.⁹⁸⁵ The false and misleading statements had been made deliberately with a view to diminishing any police culpability in the shooting of Adam Salter.⁹⁸⁶

- 3.40 Counsel Assisting submitted that the false and misleading statements in the Situation Reports had serious consequences. For example, they seemed to have formed the basis of the *P79A Report*, which was sent to the Coroner and to the pathologist who conducted the autopsy, and had had the potential to mislead both the Coroner and the pathologist. Counsel Assisting noted advice from the pathologist that, had the information provided to her by police been different, she would have conducted different and further investigations.
- 3.41 Counsel Assisting submitted that Hanlon caused or permitted a false account to be published as a Situation Report. It was also submitted that he had failed to make any notes in his role as an investigator, including any notes of who it was who had provided him with the information which he had included in the Situation Report.⁹⁸⁷
- 3.42 Counsel Assisting submitted that Hanlon had not made any effort to check the facts which were stated in the Situation Report he prepared and failed to obtain an account from an independent witness. It was further submitted that Hanlon had failed to comply with his obligations under the Guidelines.⁹⁸⁸

SUBMISSIONS ON BEHALF OF THE POLICE OFFICERS

- 3.43 In none of the submissions made on behalf of the police officers was it disputed that the Situation Reports contained a number of untrue statements. Even Detective Inspector Tedder, who in general staunchly defended the actions of police in the incident and in the subsequent investigation, accepted that the Situation Reports were “*inaccurate*” and “*wrong*” and “*should not have been sent*”.
- 3.44 It was submitted on behalf of Hanlon that on 18 November 2009 he did not have the role of an investigator. It was submitted that in the Situation Report that was prepared by him, Hanlon was merely relaying information which others had provided to him and that, to the extent the Situation Report contained untrue information, Hanlon had been unaware at the time of preparing the Situation Report that the information was untrue.
- 3.45 Hanlon’s omission to make notes was sought to be excused on the basis of his need to devote himself fully to performing his duties as Duty Officer and acting Commander.
- 3.46 Most of the submissions made on behalf of Oxford will be considered later in this report when the Commission considers the third limb of its investigation. However, it is noted as being presently relevant that a submission was made on his behalf that he had not been aware that any of the information he

⁹⁸⁵ Submission of Counsel Assisting, paragraph 55

⁹⁸⁶ Submission of Counsel Assisting, paragraph 56

⁹⁸⁷ Submission of Counsel Assisting, paragraph 59

⁹⁸⁸ Submission of Counsel Assisting, paragraph 59

included in the Situation Reports he prepared had been untrue. It was also submitted that there was no obligation on his part to check the accuracy of, or correct, an earlier Situation Report.

- 3.47 Other submissions were made on behalf of the police officers that a Situation Report could be likened to a “*work in progress*” or a “*snapshot*”. It was also said that a Situation Report was an “*internal*” police document and would only be read by persons accustomed to reading police documents.
- 3.48 It was further submitted that the Situation Reports which had been prepared by both Hanlon and Oxford had specifically been marked as being “*not for media release*”. While they had been distributed to the Police Media Unit, it was said that distribution to the Media Unit was a “*compulsory*” and “*perfunctory*” aspect of the distribution of those reports.

CONSIDERATION OF THE SECOND LIMB

- 3.49 The Situation Reports and statements made by police to the media each contained a number of statements which the Commission is satisfied were untrue. These statements were not supported by any evidence or were contrary to the overwhelming preponderance of the evidence. Apart from statements which were untrue, the documents contained other statements which were misleading. The Commission will now list some of the untrue statements in each of the documents.
- 3.50 The NSWPF Provisional Briefing Note contained at least the following untrue statements:

[The male] was challenged by police to stop, encroached on police space.

...

*Male kept self-inflicting injuries to his own neck with the aforementioned knife [after being shot]. Male was disarmed by police ...*⁹⁸⁹

- 3.51 The statement made by Assistant Commissioner Stuart Wilkins contained the following statements parts of which were untrue:

... The male, who has got up from a lying position, we believe he has grabbed a knife from the kitchen and confronted police. During that confrontation that male has been shot once by police.

- 3.52 The statement made by Assistant Commissioner Stuart Wilkins also contained the following statements which were wholly untrue:

*A further struggle has ensued. The male has committed self-harm to himself again. Police have wrestled the knife from that male person.*⁹⁹⁰

⁹⁸⁹ Exhibit 69

⁹⁹⁰ Exhibit 68

- 3.53 The first Situation Report prepared by Hanlon contained at least the following untrue statements:

The primary involved officer Sgt Sheree Bissett challenged the POI to drop the knife on several occasions. The POI did not comply and began to counter towards officers whilst armed with the knife.

...

The POI despite his gunshot wound, continued to stab the knife into his own neck despite his other injuries. Shortly after police and ambulance officers have been able to physically disarm him of the knife ...⁹⁹¹

- 3.54 The NSWPF Media Release contained the following untrue statements:

The 36-year-old man allegedly confronted the four police officers before a single shot was fired at him He was disarmed ⁹⁹²

- 3.55 The P79A Report of Death to the Coroner contained the following untrue statements:

The deceased was challenged several times by Police to drop the knife, refusing to do so. The deceased lunged the knife at Police ... The deceased was momentarily disabled falling backwards, and continued to stab himself in the neck. He was subdued ...⁹⁹³

- 3.56 The fourth Situation Report prepared by Oxford contained the following untrue statements:

... Sgt Sherree Bissett challenged Salter ... Despite the gunshot wound Salter continually stabbed himself in the neck. He was subdued and disarmed ...

- 3.57 The police officers who had been the original sources of these untrue statements must have known that they were untrue or at least not supported by anything they had themselves observed. However, the Commission would accept that none of Hanlon, Lennon or Oxford knew, at the time of preparing their Situation Reports, that the untrue statements in the “Background” sections in their Situation Reports were untrue.

- 3.58 The Commission accepts that Hanlon attended 33 Wangee Road in the capacity of Duty Officer and not as an investigator and that in preparing his Situation Report he was transmitting information he had been given which he was not required to independently verify.

- 3.59 A consequence of Hanlon not himself having made any notes and not having directed the making of any notes is that, except in those cases where an inference can be drawn as to who it was who could have provided Hanlon with

⁹⁹¹ Exhibit 73

⁹⁹² Exhibit 72

⁹⁹³ Exhibit 62

an untrue item of information, it is not possible to identify who it was who provided Hanlon with the untrue information and hold that person or those persons accountable for having provided untrue information. However, as stated in the Commission's consideration of the first limb, the Commission considers that, notwithstanding the absence of any notes and notwithstanding the inability of Hanlon to specify which police officers had provided him with the information, it can be inferred that Wilson was the source of the information to the effect that Bissett had challenged Adam Salter to "*drop*" the knife on several occasions and that Adam Salter had not complied and that Metcalfe was the source of the information to the effect that Adam Salter "*countered*" towards police whilst armed with the knife.

- 3.60 The Commission accepts that Hanlon had a number of onerous duties on the day of the incident in his roles as the attending Duty Officer and acting Commander. However, the Commission considers that Hanlon should have made a note, or caused a note to be made, of who it was who had supplied him with the various items of information in his Situation Report. That would not have been an unduly burdensome requirement.
- 3.61 Hanlon's duties on the day as the Duty Officer are outlined in the Guidelines.⁹⁹⁴ Amongst other duties, he was required to obtain and record a version of events from an independent witness before speaking to involved officers and was required to request that the involved officers immediately and independently record observations in their notebooks.
- 3.62 The Commission considers that Hanlon failed to comply with these specific requirements. Hanlon did not obtain a version of events from Adrian Salter even though he was still at the scene while Hanlon was in attendance. The Commission considers that he ought to have made inquiries as to whether any witnesses were present at the scene from whom he might obtain an independent account. By his own admission, he also did not request that the involved officers record observations in their notebooks.
- 3.63 As previously noted, a number of submissions were made on behalf of the police officers that sought to downplay the significance of Situation Reports.
- 3.64 It is clearly apparent that Situation Reports are important documents. In the present case the Situation Reports were marked for distribution to senior officers within the NSWPF, including the Commissioner of Police. Hanlon gave evidence that Situation Reports serve the purpose of informing senior management within the NSWPF about what took place in an incident. It was also accepted by Oxford in his evidence that the Situation Report he prepared might in fact be used to brief and update the Commissioner of Police on what had occurred at 33 Wangee Road.
- 3.65 Even though the Situation Reports were marked "*Not for media*" they were sent to the Police Media Unit and it was likely that they would form the basis of media releases by the NSWPF Media Unit.

⁹⁹⁴ Exhibit 78, p. 17-19

- 3.66 As is shown by the contents of the Situation Reports that were prepared on 18 November 2009, there is a real likelihood that the contents of a Situation Report will be repeated in later Situation Reports and hence an untrue statement in one report is liable to be repeated in later reports.
- 3.67 Given the similarity in content between the Situation Reports and other police reports that were prepared in relation to the shooting, an inference can be drawn that the contents of those other reports were based on the contents of the Situation Reports.
- 3.68 As an example, the assertion in the *P79A Report* that “*The deceased was challenged several times by Police to drop the knife, refusing to do so*” was similar to the assertions in the Situation Reports that Adam Salter was “*challenged to drop the knife*” and “*did not comply*”. The assertion in the *P79A Report* that Adam Salter “*was subdued*” after he was shot was similar to the assertion in the Situation Reports that after being shot “*police and ambulance officers have been able to physical disarm him [Adam Salter] of the knife*”.
- 3.69 The need for police documents to contain accurate information was highlighted by the advice that the Commission received from Dr Rebecca Irvine, the pathologist who conducted the autopsy on Adam Salter’s body. She said that the *P79A Report* which had been provided to her had not mentioned “*restraint by police*”. She said that, had it done so, it “*would impart a quite different complexion to the case*” and might have indicated further forensic procedures.⁹⁹⁵

CONCLUSION

- 3.70 The Commission is of the opinion that the Situation Reports and public statements made by police to the media on 18 November 2009 contained a number of statements which were untrue. The statements provided senior police and the public with a false version of the events which happened at 33 Wangee Road on 18 November 2009. The police officers who had been the original sources for the untrue statements must have known that they were untrue. While the Commission has been unable to determine the sources of all the untrue statements, it considers that two of the statements that were contained in Hanlon’s Situation Report came from Wilson and Metcalfe, respectively.
- 3.71 As to Hanlon, the Commission accepts that he had a number of onerous duties on the day of the incident. However, it considers that he should have made, or caused a note to be made, of who it was who had supplied him with the items of information that he included in his Situation Report. That would not have been an unduly onerous requirement. The Commission also considers that Hanlon failed to comply with certain specific requirements under the *NSWPF Guidelines for the management and investigation of critical incidents*.
- 3.72 The Commission considers that Situation Reports are important documents. As documents which provide the senior management of the NSWPF with

⁹⁹⁵ Exhibit 77

information about an incident, it is essential for them to be correct. Given that they are sent to the Police Media Unit, it is likely that they will also form the basis of police media releases to the public. Where they contain untrue statements, there is a real risk that the untrue statements will be repeated in releases to the media by the Police Media Unit.

4. CRITICAL INCIDENT INVESTIGATION

- 4.1 The third limb of the Commission's investigation was *"an investigation into the critical incident investigation conducted by the NSW Police Force into the shooting of Adam Salter"*.
- 4.2 The investigation of the shooting of Adam Salter was conducted as a *"critical incident investigation"* by the NSWPF, as was required by the NSWPF *Guidelines for the Management and Investigation of Critical Incidents* ("the Guidelines").
- 4.3 The critical incident investigation was led by Oxford as the Senior Critical Incident Investigator who headed a team of detectives from the Homicide Squad of the State Crime Command and from the Marrickville and Burwood Local Area Commands.
- 4.4 Oxford prepared a report on the critical incident investigation, which was dated 29 May 2011. He gave evidence at the inquest into the death of Adam Salter and his report became an exhibit at the inquest. He also gave evidence before the Commission and his report became an exhibit before the Commission.
- 4.5 As noted earlier in this report, Oxford's investigation and report were criticised by the Deputy State Coroner in his findings at the inquest.

GUIDELINES FOR THE MANAGEMENT AND INVESTIGATION OF CRITICAL INCIDENTS

- 4.6 The Guidelines which were current at the time of the shooting became an exhibit before the Commission.
- 4.7 The stated purpose of the Guidelines was *"to provide guidance for police officers in relation to the timely and professional investigation and review of critical incidents"*.⁹⁹⁶
- 4.8 In the Guidelines a *"critical incident"* was defined broadly as *"an incident which by its nature or circumstances requires an independent investigation and review"*. A number of types of incidents were given, including *"death or injury from the discharge of a firearm by a police officer"*.⁹⁹⁷
- 4.9 Under the Guidelines the identification of an incident as a *"critical incident"* triggered an independent investigation by a Critical Incident Investigation Team which would be reviewed by a Review Officer.
- 4.10 The role of the Critical Incident Investigation Team (CIIT) was described as follows:

⁹⁹⁶ Exhibit 78, p. 2

⁹⁹⁷ Exhibit 78, p. 4

*The CIIT will conduct a full investigation of the incident including relevant events and activities leading to the incident. The team should examine the lawfulness of police action, the extent of police compliance with relevant guidelines, legislation and internal policy and procedures.*⁹⁹⁸

- 4.11 The Guidelines commented on the public interest in there being an independent investigation of critical incidents. The following was stated in the Introduction to the Guidelines:

*In relation to deaths and injuries occasioned to members of the public in circumstances involving a police officer, the public interest arises from the element of doubt that the ensuing investigation, involving as it will the actions of a fellow officer, may not be conducted with absolute impartiality.*⁹⁹⁹

....

Managing an incident as a 'critical' one should remove any doubts that might otherwise endure about the integrity of involved officers and provide reassurance that:

- any wrongful conduct on the part of any members of NSW Police is identified and dealt with*
- welfare implications associated with the incident have been considered and addressed*
- consideration is given to improvements in NSW Police policy or procedure to avoid recurrences in the future.*¹⁰⁰⁰

...

*These guidelines are a statement by NSW Police that the community can have full confidence that the facts and circumstances of these incidents will be thoroughly examined and reviewed by NSW Police. These guidelines impose accountability for the investigation of critical incidents at senior levels of NSW Police. In so doing, the community, members of NSW Police and their families can be assured that all critical incidents are handled professionally, with integrity and that the decisions made and processes used are appropriate and reasonable.*¹⁰⁰¹

- 4.12 The Guidelines set out the responsibilities and obligations of persons filling various roles in the investigation, including those of the Senior Critical Incident Investigator leading the investigation team.
- 4.13 The “*primary role*” of the Senior Critical Incident Investigator (SCII) was stated as being “*to ensure the critical incidents are rigorously and thoroughly*

⁹⁹⁸ Exhibit 78, p. 29

⁹⁹⁹ Exhibit 78, p. 1

¹⁰⁰⁰ Exhibit 78, p. 1

¹⁰⁰¹ Exhibit 78, p. 1

investigated".¹⁰⁰² It was also stated that the Senior Critical Incident Investigator was "responsible for ensuring that appropriate action is taken concerning the prosecution of any persons for any identified offence arising from the investigation" and was "responsible for reporting any management issues that need to be addressed concerning any police officer".¹⁰⁰³

4.14 The Guidelines provided a "Guide to required action" for the Senior Critical Incident Investigator and a long list of "other responsibilities", including:

- ensure that any complaint issues are identified and reported to the Region Commander in a timely manner to ensure that appropriate notifications to relevant agencies such as the Ombudsman and Police Integrity Commission are completed.

...

In cases involving a death, the SCII should also:

...

- arrange for the P79A form to be prepared and forwarded to the on duty State/Deputy State Coroner without delay

...

- ensure a copy of the Situation Report has been forwarded to the Commissioner's Inspectorate

...

At the conclusion of the investigation the SCII should:

- prepare an investigation report...¹⁰⁰⁴

SITUATION REPORTS PREPARED BY OXFORD

4.15 In considering the second limb of its investigation the Commission noted that two Situation Reports had been prepared by Oxford in his capacity as the Senior Critical Incident Investigator. In its consideration of the second limb of the investigation the Commission stated what appeared under the heading "Background" in the two Situation Reports that he prepared.

4.16 The Situation Reports also contained information under the heading "Current Position". The information under the heading "Current Position" in the first Situation Report prepared by Oxford between 10:00 and 10:45 pm on 18 November 2009 included as follows:

¹⁰⁰² Exhibit 78, p. 20

¹⁰⁰³ Exhibit 78, p. 20

¹⁰⁰⁴ Exhibit 78, pp. 20-25

POLICE INVOLVED:

Sergeant Sherree BISSETT (26832) was interviewed at the Campsie Police Station. She stated that she fired upon the deceased when she saw him arm himself with the large knife and swing toward Probationary Constable Abela. She feared that he would be stabbed. The use of the Taser was considered by Sergeant Bissett (in fact she yelled out "Taser, Taser, Taser") however the life threatening issue prompted her to use her firearm. Drug and alcohol tested with negative result. Seeking to conduct further interview at the scene in the coming days. Three other officers were also interviewed and provided versions consistent with Sergeant Bissett. Drug and alcohol tested (negative). All firearms seized for examination. Welfare issues addressed for all officers.

WITNESSES:

Adrian SALTER (father) interviewed at Bankstown Police Station. In essence he saw his son stab himself in the chest and he called the Ambulance. He was present when his son was treated and saw him leap to his feet and grab the knife from the kitchen sink. Heard someone say 'Taser' which was followed by a loud bang. Saw his son fall to the floor and continue to stab himself in the neck. His statement is consistent with Police versions as are the four Ambulance Officers who attended the scene.¹⁰⁰⁵

- 4.17 The information under the heading "*Current Position*" in the second Situation Report prepared by Oxford at 6:30 pm on 19 November included as follows:

Mr Salter (father) accompanied Police to the scene this afternoon and conducted a video walkthrough. His version is consistent with Police recollections. He does not raise any issues with what occurred apart from the obvious tragic circumstances.¹⁰⁰⁶

THE CRITICAL INCIDENT INVESTIGATION REPORT

- 4.18 The long title of Oxford's report was "*Critical Incident Investigation Report. Strike Force Heading. 'Fatal shooting of Adam Salter at Lakemba on 18th November 2009*". The report was a substantial document of 50 pages.
- 4.19 An "*Executive Summary*" appeared on page 5 of the report. It included a narrative of the events and a number of "*conclusions*". The narrative from the time Adam Salter got to his feet was as follows:

Suddenly, Adam SALTER sprang to his feet and rushed to the kitchen sink where he grabbed a large knife. Probationary Constable ABELA took hold of Adam SALTER's left arm and tried to pull him away from the sink. Sergeant BISSETT, after hearing the commotion, entered the kitchen. Upon seeing Adam SALTER brandishing the knife in a menacing fashion and believing that ABELA was in danger, drew her service pistol. She immediately shouted, "Taser, Taser, Taser" and then fired a single shot at SALTER, striking him in the upper right back. She saw SALTER turn toward her and stab himself in the neck, before falling to the floor. The

¹⁰⁰⁵ Exhibit 73

¹⁰⁰⁶ Exhibit 73

knife was removed from his grasp and Ambulance officers immediately provided aid.

4.20 The conclusions were as follows:

As a result of my investigation I make the following conclusions;

1. Adam SALTER died at Canterbury Hospital on 18th November 2009 as a result of a gunshot wound inflicted upon him by Sergeant Sherree BISSETT at 36 Wangee Road, Lakemba.

2. Sergeant BISSETT believed that Probationary Constable Aaron ABELA was in imminent danger of being harmed or killed therefore her decision to fire at Adam SALTER, was in all the circumstances, reasonable, justified and necessary.¹⁰⁰⁷

4.21 Six “key issues” were identified on page 6 of the report as follows:

1. Use of firearm by Police to fatally shoot the deceased in his home.

2. The justification for the use of lethal force.

3. The actions of Sergeant BISSETT in shouting a warning, "Taser, Taser, Taser" before using her firearm to fire the fatal shot.

4. Consideration of Police to use non lethal options in the circumstances (verbal challenge, baton, OC spray and Taser).

5. Police training in the use of all tactical options.

6. Mental Health training to Police (and whether it had any bearing on resolving this matter).¹⁰⁰⁸

4.22 An “Operational Summary” appeared on pages 8 and 9 of the report and included an account of events from when Adam Salter got to his feet, which was in similar but not identical terms to the account in the Executive Summary. It stated as follows:

The deceased suddenly leapt to his feet, breaking free from the Ambulance officers and moved quickly to the kitchen sink where he grabbed the knife in his right hand. Probationary Constable ABELA then grabbed hold of the left arm of the deceased and tried to pull him away from the sink. Sergeant BISSETT came back into the kitchen and seeing the deceased holding the knife in his hand and in her opinion in a menacing manner toward Probationary Constable ABELA, drew her service pistol in an instant and shouted “Taser, Taser, Taser”. She fired one shot from her pistol which struck the deceased near his right shoulder. Probationary Constable ABELA released his grip and the deceased turned and faced Sergeant BISSETT, thrusting the knife into his throat and neck. Sergeant BISSETT continued to aim her pistol at the deceased and he fell

¹⁰⁰⁷ Exhibit 88, p. 5

¹⁰⁰⁸ Exhibit 88, p. 6

*to the floor. She placed her foot on his right arm and removed the knife from his grasp.*¹⁰⁰⁹

- 4.23 The Report went on to provide “*background*” information on Adam Salter (at pages 10-12) and a summary of the accounts provided by each of the witnesses in their police interviews (Adrian Salter at pages 12-16, Bissett at pages 18-22, Abela at pages 23-24, Metcalfe at pages 25-26, Wilson at pages 26-28, Johnstone at pages 32-33, Clements at pages 33-34, Coolahan at pages 34-36 and Lutz at pages 36-37).¹⁰¹⁰
- 4.24 Reference was also made, in various parts of the report, to the undertaking of certain forensic procedures, including drug and alcohol testing of the involved officers, an examination of the crime scene, and the undertaking of forensic imaging and forensic ballistics procedures; and to the review of the medical evidence about Adam Salter, including his medical history and the results of the post mortem examination.¹⁰¹¹
- 4.25 The evidence of a police officer Sergeant Brown, who was described as a “*special operational safety trainer*”, was set out at pages 39-40 of the report. The report stated that Brown had expressed the opinion that “*the discharge of the firearm by Sergeant Bissett at Adam Salter was justified and a reasonable force option*”.¹⁰¹²
- 4.26 The following “*Investigative Opinion*” was set out on pages 46-47 of the report:

Police were called to the suburban home in the early hours of the morning of Wednesday 18th November 2009, in response to a man who had committed self harm by stabbing himself.

It was not evident at the time, nor was there any intelligence suggesting the occupant was suffering from any mental health issues (although the act of self harm could be considered a sign of related issues).

The Police arrived to see blood near the entrance to the house and found ambulance officers treating Adam SALTER on the kitchen floor. They spoke with the man's father, who briefly told them about what had happened. The house was searched and cleared of any danger. For all intents and purposes Adam SALTER would have been prepared for travel to the nearest hospital for treatment to his self inflicted wounds.

Suddenly, Adam SALTER leapt to his feet and rushed over to the kitchen sink, where he grabbed a large knife, this being the knife that he had used to harm himself. Probationary Constable Aaron ABELA immediately sought to grab SALTER by his arm, ultimately placing himself in some danger, given that SALTER could easily have swung the knife and inflicted serious wounds to him.

Sergeant Sherree BISSETT immediately saw the danger, that Adam SALTER had armed himself with a knife and was swinging it around. She

¹⁰⁰⁹ Exhibit 88, p. 9

¹⁰¹⁰ Exhibit 88, pp. 10-37

¹⁰¹¹ Exhibit 88, pp. 29-31, 37-39, 41-46

¹⁰¹² Exhibit 88, p. 40

had to consider all tactical options. Her first and only thought at the time was that SALTER was going to stab ABELA, who was in a position of grave imminent danger. ABELA was boxed into the corner of the small kitchen and had taken hold of Adam SALTER with both hands. Effectively he had no way to repel any stabbing threats.

Sergeant BISSETT immediately drew her service pistol and aimed it toward SALTER. She recounts yelling, "Taser, Taser, Taser" as a sign or warning to announce she intended to fire. This is a split second decision, made under extremely stressful conditions. It was a conscious decision to use the firearm as the only means to prevent, in her opinion, the serious harm or loss of life of a Police colleague. There is no confusion that Sergeant BISSETT deliberately chose to use her firearm. Her choice of words, which may give the impression that she has mistakenly drawn the wrong weapon, has in my opinion no bearing on the ultimately fatal outcome. She only fired one shot, which struck the deceased in the back near his shoulder. Simultaneously ABELA withdrew his grip and the deceased turned to face Sergeant BISSETT. She states the deceased then stabbed himself in the neck. Sergeant BISSETT chose not to fire a second shot, believing that the immediate threat and danger had now passed.

There is no doubt that the deceased, Adam SALTER, was a troubled man suffering from a mental illness. His contribution to this tragic event is high. His actions of self harm prior to the shooting, confirms the troubled state he was in, suggesting that he may have had a psychotic episode. Despite all the pleading from his father he appeared hell bent on harming or killing himself. This apparent death wish does not make the final outcome pleasant to the Police involved. His irrational actions in leaping to his feet, while he was being attended to by ambulance officers, suggests his thoughts never waned. Immediately reaching for the knife, there was no way of knowing what his next course of action was going to be. The unpredictable and violent behaviour of the deceased was escalating.

Sergeant BISSETT had to react in a split second. To process her options at the time must have been unbearable. Her decision to draw her weapon and fire upon the deceased is in my opinion justified. She truly believed her Police colleague was in mortal danger. The decision to use lethal force is not taken lightly, nor does the effect diminish on the unfortunate officer who ultimately takes another's life.

When reviewing the evidence gathered during this investigation, it is clear that this event unfolded explosively. No amount of training could have prepared Police (or ambulance officers) from predicting that the deceased would react in the way he did.

The Police, when interviewed, gave consistent evidence. This is supported by Mr [Adrian] SALTER and the ambulance officers who were present. Some minor confusion exists as to when the deceased stabbed himself, however; in any case it confirms the troubled state he was in.

Sergeant BISSETT's [sic], despite receiving legal advice, was frank in her interviews. Her answers, when spoken and demonstrated on video at the actual scene were compelling and provided sufficient impact to justify her actions in firing upon the deceased.

*This is a tragic event and my thoughts go out to the SALTER family.*¹⁰¹³

- 4.27 The “key issues” in the investigation that had been formulated earlier in the report were addressed on pages 48-49 of the report as follows:

1. Use of firearm by Police to fatally shoot the deceased in his home.

Sergeant Bissett is lawfully issued with a firearm in the course of her duties. She used the weapon to fire upon the deceased, in the execution of her duties, believing that a police officer (Probationary Constable Aaron ABELA) was in grave, imminent danger of being seriously harmed or killed.

2. The justification for the use of lethal force.

In accordance with guidelines as to the use of her firearm, Sergeant BISSETT was in my opinion justified to use the weapon. The deceased was armed with a knife and there was imminent danger to another police officer.

3. The actions of Sergeant BISSETT in shouting a warning, "Taser, Taser, Taser" before using her firearm to fire the fatal shot.

In a split second decision, made under extremely stressful circumstances, Sergeant BISSETT withdrew her firearm and inadvertently yelled out a warning, "Taser, Taser, Taser". It was a conscious and deliberate decision and act to use her firearm and not the Taser. The 'warning' had no bearing on the use of the firearm and the fatal outcome.

4. Consideration of Police to use non lethal options in the circumstances.' (verbal challenge, baton, OC spray and Taser).

In all the circumstances, Sergeant BISSETT used what she believed was the most appropriate and in her opinion, the only option (her firearm) to prevent the serious harm or death of another police officer. She outlined her decision making process in her video taped interview.

5. Police training in the use of all tactical options.

Sergeant BISSETT is an officer of 22 years service. At the time of the incident she was compliant with training in relation to all her appointments.

6. Mental Health training to Police (and whether it had any bearing on resolving this matter.

The mental health mandatory training lecture was completed by Sergeant Bissett on 15th January 2009.

Regardless of any mental health training, there was nothing that could have prompted Police to predict the sudden escalation. One moment the deceased is lying on the kitchen being treated by ambulance officers for self inflicted stab wounds and suddenly without provocation he leapt to his

¹⁰¹³ Exhibit 88, pp. 46-47

*feet and grabbed the large knife from the kitchen sink and brandished it around. Instinct saw the young officer, Probationary Constable ABELA, grab hold of the deceased and attempt to calm him (Abela was not aware that the deceased was holding the knife). Sergeant BISSETT saw the danger and reacted. This entire episode finished just as fast as it started.*¹⁰¹⁴
...

4.28 Oxford set out a conclusion on page 50 of his report in the following terms:

*I have considered all the evidence gathered in this critical incident investigation into the death of Adam SALTER. In my opinion, Sergeant BISSETT was reasonable in her belief that Constable ABELA was in immediate risk of death or serious harm. Her decision to fire her weapon at the deceased was reasonable, necessary and justified.*¹⁰¹⁵

SUMMARY OF EVIDENCE

RUSSELL OXFORD

4.29 Oxford gave lengthy evidence before the Commission.¹⁰¹⁶

4.30 Oxford is a highly experienced detective within the NSWPF. In the course of examination by his own Counsel he gave evidence of his long experience working in the Homicide Squad and of his involvement in high profile homicide investigations. He also gave evidence of honours and awards he had received, including that he was named in the 2006 Australia Day Honours List and that he has received the Australian Police Medal.¹⁰¹⁷

4.31 Oxford said that, after the shooting had been declared a “critical incident”, he was delegated by the Commander of the Homicide Squad to lead the investigation team.¹⁰¹⁸ He attended 33 Wangee Road at 11:42 am and said he was there “a couple of hours” before returning to Campsie police station. He disputed the accuracy of entries made in a log which appeared to show that he had been present at 33 Wangee Road for only 19 minutes.¹⁰¹⁹

4.32 Oxford completed his report of the investigation on 29 May 2011, eighteen months after the incident happened. He said that the delay in completing the report had been because of his “workload”. He denied that the delay was because he had accorded this investigation a low priority. However, the other investigations for which he was responsible “were equally as important” and had made demands on his time.¹⁰²⁰

¹⁰¹⁴ Exhibit 88, pp. 48-49

¹⁰¹⁵ Exhibit 88, p. 50

¹⁰¹⁶ The survey of the evidence that appears in this chapter is largely confined to matters on which submissions were made in respect of Oxford’s investigation and report. Later in this chapter, in the part headed “Consideration of the third limb”, reference will also be made to particular evidence that was elicited by Oxford from Bissett in the *walkthrough* interview he conducted with her on 30 November 2009 and to the evidence of other witnesses as relevant.

¹⁰¹⁷ PIC Transcript, Russell Oxford, 4 September 2012, pp. 705-07

¹⁰¹⁸ PIC Transcript, Russell Oxford, 4 September 2012, p. 579

¹⁰¹⁹ PIC Transcript, Russell Oxford, 4 September 2012, p. 685-88

¹⁰²⁰ PIC Transcript, Russell Oxford, 4 September 2012, pp. 580-82

- 4.33 Oxford gave conflicting evidence about what he considered to be the purpose of his investigation and report. In one part of his evidence he said that the report he prepared was not a *“tool for the coroner”*; it formed part of a process that was separate from the coronial inquest.¹⁰²¹ He said that the report was *“merely something to formalise the investigation and provide advice to the Police”*.¹⁰²² However, elsewhere in his evidence he said that the investigation was *“conducted for the coroner”* and that was the *“main game”* of his investigation.¹⁰²³
- 4.34 Oxford said that in his investigation he had not sought to obtain any independent forensic evidence.¹⁰²⁴ He said he had been *“satisfied with the forensic examinations that had been conducted”* by the NSWPF, but agreed that those examinations had not included any examination of Abela’s clothing for bloodstains.¹⁰²⁵ It had not occurred to him that he should obtain expert evidence about any blood on Abela’s clothing.¹⁰²⁶
- 4.35 Oxford was aware that Abela in his interview had said that he had blood on his shirt.¹⁰²⁷ However, Oxford had not examined Abela’s shirt for the presence of any blood. He said that the presence or absence of blood on Abela’s shirt was not relevant to his conclusions.¹⁰²⁸
- 4.36 When asked why he had not obtained expert forensic evidence, Oxford said: *“I suppose I’m relying more upon the eyewitnesses’ accounts and the evidence at the scene that supports it. Whether I needed to go to an independent blood splatter expert, ultimately it’s my responsibility ... I didn’t consider it”*.¹⁰²⁹
- 4.37 Oxford was questioned at length on his investigation report. Early in his evidence he was asked if there was anything about his report which he thought was wrong and he replied that he had used *“emotive language”* and had inserted *“some commentary”*.¹⁰³⁰ However, he considered that his report was *“balanced”* and he stood by the conclusion in his report.¹⁰³¹
- 4.38 Oxford was asked about the passage on page 5 of his report about Bissett: *“Upon seeing Adam Salter brandishing the knife in a menacing fashion ...”* Oxford said that this passage was an example of his use of emotive language. By the term *“brandishing”* he had meant that Adam Salter was *“showing the knife or moving it around”*. As to the words *“in a menacing fashion”*, he said *“it probably wasn’t the best term to use”*, but on Bissett’s account there had been some movement of the knife by Adam Salter.¹⁰³² He had not obtained either term from any witness, but denied *“making it [them] up”*. He said: *“I’m not*

¹⁰²¹ PIC Transcript, Russell Oxford, 4 September 2012, pp. 580-83

¹⁰²² PIC Transcript, Russell Oxford, 4 September 2012, p. 583

¹⁰²³ PIC Transcript, Russell Oxford, 4 September 2012, p. 583, 599

¹⁰²⁴ PIC Transcript, Russell Oxford, 4 September 2012, p. 584

¹⁰²⁵ PIC Transcript, Russell Oxford, 4 September 2012, p. 585

¹⁰²⁶ PIC Transcript, Russell Oxford, 4 September 2012, p. 585

¹⁰²⁷ PIC Transcript, Russell Oxford, 4 September 2012, pp. 585-86, 674

¹⁰²⁸ PIC Transcript, Russell Oxford, 4 September 2012, pp. 660-61

¹⁰²⁹ PIC Transcript, Russell Oxford, 4 September 2012, p. 586

¹⁰³⁰ PIC Transcript, Russell Oxford, 4 September 2012, pp. 594-95

¹⁰³¹ PIC Transcript, Russell Oxford, 4 September 2012, p. 613

¹⁰³² PIC Transcript, Russell Oxford, 4 September 2012, p. 619-20

making up the fact that a situation was that a man was at the sink moving the knife around. To me that's brandishing. It wasn't said by anybody that he was brandishing in a menacing fashion. They are my terms that I have used."¹⁰³³

- 4.39 Oxford was taken to the conclusion in his "Executive summary" on page 5 of his report that "Sergeant Bissett believed that Abela was in imminent danger". He said that he based that opinion on what Bissett had told him and he had believed what Bissett had told him.¹⁰³⁴ Elsewhere in his evidence he agreed that the key to his report was "the fact" that he "believed" Bissett.¹⁰³⁵
- 4.40 Oxford was asked about the assertion in the "Operational summary" on page 8 of his report that "Abela then grabbed hold of the left arm of the deceased and tried to pull him away from the sink". He was asked why he did not include a caveat to the effect that four eyewitnesses had not seen those actions occur. He replied that he had "accepted" the evidence of Bissett and Abela and that he had considered what those other witnesses had said and had included their accounts in his summaries of the evidence.¹⁰³⁶ He denied that he had made any "error" in not explicitly stating that four eyewitnesses had given evidence which did not support his assertion but conceded that his not doing so was "perhaps an oversight".¹⁰³⁷
- 4.41 Asked specifically why he had not referred to any conflicting accounts in the part of his report under the heading "Investigative opinion" where he had stated that "Abela immediately sought to grab Salter by his arm", Oxford said "I can't give you an answer. I just don't know".¹⁰³⁸
- 4.42 Oxford was asked about the statement in the "Investigative opinion" that Adam Salter had been "swinging" the knife around. He said that he obtained that evidence from Bissett's account. He said that he knew there was contrary evidence on the issue of whether Adam Salter had been "swinging" the knife, but had not referred to that contrary evidence because "I came to the opinion that that's what had happened".¹⁰³⁹
- 4.43 Oxford accepted that none of the civilian witnesses had said that Abela had been in physical contact with Adam Salter. He agreed that he had not in any part of his report said anything to the effect that there was a conflict in the evidence as between the police witnesses and the civilian witnesses on the issue of whether Abela had come into physical contact with Adam Salter.¹⁰⁴⁰ As to the account given by Coolahan, he said: "I haven't specifically pointed it out"¹⁰⁴¹ (that is, that there was a conflict between Coolahan and the police witnesses as to the position of Abela). It was noted that the summary of

¹⁰³³ PIC Transcript, Russell Oxford, 4 September 2012, p. 620

¹⁰³⁴ PIC Transcript, Russell Oxford, 4 September 2012, pp. 599-602

¹⁰³⁵ PIC Transcript, Russell Oxford, 4 September 2012, pp. 613-15

¹⁰³⁶ PIC Transcript, Russell Oxford, 4 September 2012, pp. 621-29

¹⁰³⁷ PIC Transcript, Russell Oxford, 4 September 2012, p. 627-28

¹⁰³⁸ PIC Transcript, Russell Oxford, 4 September 2012, pp. 629-630

¹⁰³⁹ PIC Transcript, Russell Oxford, 4 September 2012, pp. 635-36

¹⁰⁴⁰ PIC Transcript, Russell Oxford, 4 September 2012, pp. 627-35 *passim*

¹⁰⁴¹ PIC Transcript, Russell Oxford, 4 September 2012, pp. 631

Coolahan's account in his report did not include what she had said about Abela not moving from his position near the refrigerator.¹⁰⁴²

- 4.44 Oxford was asked about the assertion in his report that *"Abela was boxed into the corner of the small kitchen"*. When asked if anyone had said that, he said: *"I did"*. He denied *"making it up"* and said that it was his *"interpretation"* and his *"impression"* of what had happened.¹⁰⁴³
- 4.45 Oxford said in his evidence that he stood by the statements he had made in the *"Investigative opinion"* in his report that Bissett *"had to react in a split second"* and that for her *"to process her options at the time must have been unbearable"*.¹⁰⁴⁴
- 4.46 Oxford was asked about his statement on page 47 of his report in the *"Investigative opinion"* that *"The Police, when interviewed, gave consistent evidence"*. He replied that they had given *"generally consistent evidence"* and denied that the statement in his report was wrong.
- 4.47 With reference to the immediately following parts of his *"Investigative opinion"*, namely that *"This is supported by Mr [Adrian] Salter and the ambulance officers who were present"*, Oxford gave the following evidence:

Q. ... Are you saying that Mr Salter's evidence, on the relevant issue, was consistent with that of the police?

A. Well, the consistencies were that Aaron Abela was in close proximity to Mr Salter, close proximity as to be within a dangerous area.

Q. But not in contact?

A. It doesn't have to be in contact. There is danger there. A man's got a big knife ... Within metres ... The consistencies are certainly that young Abela is there, in my opinion, in a dangerous situation. Mr Salter has a large knife. That's consistent with everybody. Thirdly, Mr Salter displayed aggression and showed that he had used that weapon before - that knife. He had stabbed himself. He then attempted to use it again and was disarmed by his father. He pushed Mr Salter out of the way to get to the sink. He then stabbed himself again. So there is a clear intent that this man was to use this large knife. He was a big man. He was solid, and the other consistency is the issue of mental illness. So they are the general consistencies that I think are throughout all the statements.

...

Q. Have a look at page 47. I want to try to make this quick. In the third-last paragraph, you say:

The police gave consistent evidence and that was supported by Mr Salter

¹⁰⁴² PIC Transcript, Russell Oxford, 4 September 2012, pp. 632

¹⁰⁴³ PIC Transcript, Russell Oxford, 4 September 2012, pp. 636-38

¹⁰⁴⁴ PIC Transcript, Russell Oxford, 4 September 2012, p. 639-40

Q. You stand by that, do you?

A. In general terms, there are consistencies, yes.

Q. No, it is not even saying that; it is saying "supported by Mr Salter", as though his evidence supports them in a material fashion?

A. Generally supports it. It does.

Q. Right. I'm going to put to you that you are now just engaging - and you were engaging in the report – in deliberate fabrication?

A. No.

Q. And look on, according to you, not only was the police account supported by Mr Salter but it was also supported by the ambulance officers. That is just manifestly false, isn't it?

A. No, it is not.¹⁰⁴⁵

- 4.48 In the context of giving that evidence and elsewhere in his evidence Oxford was asked about what were the specific facts by reason of which Abela had been in danger and which had thereby justified the shooting. It was noted that in his report Oxford had referred specifically to the fact found by him that Abela had sought to grab Adam Salter by the arm and that that fact had placed Abela in danger.¹⁰⁴⁶ Oxford said that that was an "accurate" statement of what he had said in his report but added that there was "a danger to everybody in that room".¹⁰⁴⁷ He also gave the following evidence:

Q. [T]he danger you appear to me to be identifying is a danger particular to Aaron Abela that arose ultimately from Abela seeking to grab Salter by his arm.

A. Yes, I believe there is danger there, yes.

Q. But that's "the" danger - that's the danger to which Bissett, you found, responded?

A. Certainly not by the mere fact that he has grabbed his arm, there is danger, but then it gets worse. Once he starts to physically try to restrain him, there's always danger there. I don't know whether I can actually differentiate in milliseconds as to when the danger subsides or not. There's always danger there, by the mere action of Abela running into a man that's got a knife and grabbing him. I would submit, sir, that that is dangerous.¹⁰⁴⁸

- 4.49 Oxford was asked several times why he had accepted or preferred the evidence of the police witnesses. He gave answers that he had an

¹⁰⁴⁵ PIC Transcript, Russell Oxford, 4 September 2012, pp. 641-45

¹⁰⁴⁶ PIC Transcript, Russell Oxford, 4 September 2012, p. 643

¹⁰⁴⁷ PIC Transcript, Russell Oxford, 4 September 2012, pp. 643-44

¹⁰⁴⁸ PIC Transcript, Russell Oxford, 4 September 2012, p. 644

*“expectation” that the police officers would tell him the truth; that he was “a commissioned officer” and that the police officers had been “directed to tell me the truth”; and that the police officers were “obliged to be truthful and honest with me”.*¹⁰⁴⁹ He also said that he had found their accounts *“compelling”*.¹⁰⁵⁰

4.50 In his evidence Oxford said that he had believed Bissett’s account of physical contact between Abela and Adam Salter as demonstrated in Bissett’s *walkthrough* interview. He agreed that there were differences between her account and Abela’s account but said that he believed *“both”* Bissett and Abela.¹⁰⁵¹ When asked about the inconsistencies in the accounts, he said: *“The consistency is this man has got close contact with Adam Salter, who is armed with a knife, and there’s danger there”*.¹⁰⁵²

4.51 Oxford agreed that there were differences between the accounts given by the police officers and the accounts given by the ambulance officers on whether there had been physical contact between Abela and Adam Salter.¹⁰⁵³ As to why he had accepted the version of the police officers over that of the ambulance officers on that matter, he said:

*A. ... [E]ach witness gets to a certain point, and I can't explain why the ambulance - what they saw, what they didn't see. All of this may have occurred and the ambulance officers may not have seen it. All I'm saying is that I'm reacting to what the witnesses have to say, and making an assessment on what the witnesses have to say. And I found that what the police officers had to say in the circumstances, what I knew at the time, that a man had got to the sink and stabbed, and all the yelling and screaming and carrying on, that the actions that the officers portrayed to me, I believed were - I believed them, what they had to say.*¹⁰⁵⁴

4.52 Oxford was questioned about the *walkthrough* interviews which had been conducted in the investigation. He gave evidence that it had been his decision to conduct a *walkthrough* interview with only two of the police officers and Mr Adrian Salter. In making that decision he had considered that the other witnesses to the shooting had already given comprehensive accounts in their police interviews.¹⁰⁵⁵

4.53 Oxford was shown the recording of the *walkthrough* interview he had conducted with Bissett on 30 November 2009.

4.54 Oxford agreed with the general proposition that a *walkthrough* interview should record the evidence of the witness who is being interviewed and should not be coloured by the intervention of the interviewer.¹⁰⁵⁶ He also agreed that the *walkthrough* interview with Adrian Salter that had been conducted by

¹⁰⁴⁹ PIC Transcript, Russell Oxford, 4 September 2012, pp. 628, 666, 668

¹⁰⁵⁰ PIC Transcript, Russell Oxford, 4 September 2012, p. 667

¹⁰⁵¹ PIC Transcript, Russell Oxford, 4 September 2012, pp. 614-18, 669-70

¹⁰⁵² PIC Transcript, Russell Oxford, 4 September 2012, pp. 614-18

¹⁰⁵³ PIC Transcript, Russell Oxford, 4 September 2012, p. 672

¹⁰⁵⁴ PIC Transcript, Russell Oxford, 4 September 2012, p. 673

¹⁰⁵⁵ PIC Transcript, Russell Oxford, 4 September 2012, pp. 609-12, 681

¹⁰⁵⁶ PIC Transcript, Russell Oxford, 4 September 2012, pp. 658-59

another police officer had been a “good interview” in which there had been “no prompting beyond ‘What happened next?’”.¹⁰⁵⁷

- 4.55 With reference to the *walkthrough* interview he had conducted with Bissett, Oxford admitted that he had added “a bit of commentary”, had “asked some leading questions” and had “provided more commentary than perhaps I should have”. He accepted that in one part of the interview it had been he himself rather than Bissett who had been giving the evidence. However, he denied that he had seen the *walkthrough* interview as an opportunity to confirm a view that he had already formed.¹⁰⁵⁸
- 4.56 The evidence given by Oxford about the statement of the “Background” in the Situation Report he prepared on 18 November 2009 has already been considered in relation to the second limb of the Commission’s investigation.
- 4.57 With reference to what he had said under “Current Position” in the Situation Report he prepared on 18 November 2009, namely, “His [Adrian Salter’s] statement is consistent with police versions, as are the four ambulance officers who attended the scene”, Oxford agreed that not all the versions had been consistent, but said that they had been “generally consistent” and that in the Situation Report he had been endeavouring to “condense” the information he had received.¹⁰⁵⁹ He agreed that the “impression” that could be conveyed by what he had said in the Situation Report about the consistency of versions was that “all the witnesses ... were on the same page in respect of what had happened ... that everybody is singing on the same page of music”.¹⁰⁶⁰
- 4.58 Oxford agreed that by the time he prepared the Situation Report on the evening of 18 November he had concluded that the shooting of Adam Salter had been justified. He said that he had come to that view on the basis of the “information I was getting from everybody that had interviewed all the witnesses”.¹⁰⁶¹
- 4.59 Oxford had not himself participated in any of the interviews of witnesses on 18 November 2009. At the time of preparing his Situation Report on 18 November 2009 he had not received any transcript or any written record of the interviews of any of the witnesses that had been conducted. In the case of Metcalfe Oxford agreed that her interview had not finished until 11:04 pm, that is, after Oxford had completed the preparation of his Situation Report.¹⁰⁶²
- 4.60 Oxford said that, while he had not read any of the interviews of witnesses so as to be able himself to compare what the witnesses had said in the interviews, he had “spoken” to each of the interviewing teams which had conducted those interviews and had received from each of the teams an “update” about what had been said by the witness interviewed by them.¹⁰⁶³ In making the assertion in the Situation Report that the witnesses had given

¹⁰⁵⁷ PIC Transcript, Russell Oxford, 4 September 2012, p. 659

¹⁰⁵⁸ PIC Transcript, Russell Oxford, 4 September 2012, pp. 660-61

¹⁰⁵⁹ PIC Transcript, Russell Oxford, 4 September 2012, pp. 651-53

¹⁰⁶⁰ PIC Transcript, Russell Oxford, 4 September 2012, p. 684

¹⁰⁶¹ PIC Transcript, Russell Oxford, 4 September 2012, pp. 674-75

¹⁰⁶² PIC Transcript, Russell Oxford, 4 September 2012, pp. 691-92

¹⁰⁶³ PIC Transcript, Russell Oxford, 3 September 2012, pp. 692-93

“consistent” accounts, Oxford had made his own assessment based on what he had been told by the interviewing teams. He agreed that he had done so *“in circumstances where one of the involved officers was still being interviewed”*.¹⁰⁶⁴

- 4.61 Oxford was asked about the Situation Report he had prepared at 6:30 pm on 19 November 2009 where he had asserted as follows: *“Mr Salter (father) accompanied Police to the scene this afternoon and conducted a video walkthrough. His version is consistent with Police recollections. He does not raise any issues with what occurred apart from the obvious tragic circumstances”*.
- 4.62 Oxford had not been present at the *walkthrough* interview of Adrian Salter and had not seen a recording of the *walkthrough* interview. He had based the assertions he made in the Situation Report on what he had been told by the interviewing officers.¹⁰⁶⁵
- 4.63 Oxford also said he had not been told by any of the police officers who had conducted the police interview with Adrian Salter on the previous day that Adrian Salter had in fact raised issues with what had occurred. In that regard, he agreed that Adrian Slater in his answer to Q 483 in his police interview had in fact raised concerns about what had occurred.¹⁰⁶⁶ He also agreed that his assertion in the Situation Report that Adrian Salter had not raised any concerns was wrong.¹⁰⁶⁷

SUBMISSIONS OF COUNSEL ASSISTING

- 4.64 The principal submissions of Counsel Assisting about Oxford’s investigation and report were the following.
- 4.65 It was submitted that Oxford had pre-judged the result of the critical incident investigation and had already formed his views by the time he prepared his first Situation Report on the evening on 18 November 2009. It was submitted that he had failed to conduct basic investigations which would have been regarded as standard in a competent investigation and had accepted the account given by Bissett which forensic investigations would have revealed to have been incorrect. It was submitted that he had misconducted the *walkthrough* interview with Bissett; that in forming his views he had disregarded the accounts of Adrian Salter and the ambulance officers; and that he had misunderstood the purpose of his investigation and report.
- 4.66 It was also submitted that Oxford’s report was *“deeply flawed and grossly misleading”* and a deliberate attempt to *“whitewash”* police culpability and that his investigation was also *“deeply flawed”* and had not been carried out with the rigour that was required by the Guidelines.

¹⁰⁶⁴ PIC Transcript, Russell Oxford, 3 September 2012, p. 693

¹⁰⁶⁵ PIC Transcript, Russell Oxford, 3 September 2012, p. 696

¹⁰⁶⁶ PIC Transcript, Russell Oxford, 3 September 2012, p. 697-98

¹⁰⁶⁷ PIC Transcript, Russell Oxford, 3 September 2012, p. 698

SUBMISSIONS ON BEHALF OF OXFORD

- 4.67 The submissions made on behalf of Oxford were extensive. Many of the submissions were also relevant to other limbs of the investigation, particularly the first limb, and have already been considered by the Commission.
- 4.68 A number of parts of the submissions were devoted to responding to criticisms which the Deputy State Coroner had made of Oxford and to attacking the findings and reasoning of the Deputy State Coroner. The Commission has taken those parts of the submissions into account. However, the Commission does not consider that its functions include a function of reviewing the decisions or reasoning of the Deputy State Coroner. The Commission has conducted its own independent investigation into the critical incident investigation conducted by Oxford and his report and has not proceeded by way of adopting any of the findings or reasoning of the Deputy State Coroner.
- 4.69 The principal submission made on behalf of Oxford was that Oxford had had to determine whether the shooting of Adam Salter was justified and that he had been entitled to form the conclusion that the shooting was justified from evidence of the witnesses, which, it was submitted, was consistent on what were described as the “core issues”. These “cores issues” included: that the kitchen was a confined area; that Adam Salter was mentally ill; that Adam Salter was a large and strong man; that there were a number of people in or near the kitchen; and that Adam Salter had a knife in his hand which he had already used to inflict injuries on himself. It was submitted that these circumstances by themselves had permitted Oxford to conclude that the shooting was justified. It was submitted that by reason of these undisputed facts everyone in the kitchen, including Abela, was in danger and on this basis the shooting was justified.
- 4.70 It was submitted that it was not a necessary intermediate step in order for Oxford to reach the conclusion that the shooting was justified for Oxford to find that Abela had taken hold of Adam Salter arm. It was submitted that the Commission should nevertheless conclude that Abela was in physical contact with Adam Salter, on the basis of the evidence of the police officers and the evidence of Sinclair and the Ambulance Service records. The Commission has already considered this last submission in relation to the first limb of the investigation.
- 4.71 Other submissions made on behalf of Oxford included the following. It was submitted that Oxford was entitled to rely on the evidence of the police witnesses because as police officers they had an obligation to tell him the truth. It was submitted that Oxford was an experienced investigator whose decision about what steps should be taken and what methods of investigation should be availed of in an investigation should be respected. It was submitted that Oxford’s critical incident investigation report was not a tool for the Coroner and was “*not a report to satisfy public concerns*”, and that matters of public concern were to be dealt with by the Coroner. It was also submitted that the *walkthrough* interview with Bissett had not been improperly conducted by Oxford. So far from not considering the accounts of the civilian witnesses, as submitted by Counsel Assisting, Oxford had included summaries of their accounts in his report.

CONSIDERATION OF THE THIRD LIMB

HOW OXFORD APPROACHED HIS TASK

- 4.72 The Commission has already referred to submissions made on behalf of Oxford to the effect that Oxford was entitled to form the conclusion that the shooting of Adam Salter was justified on the basis of the “core issues”, which were undisputed, and that it was not a necessary intermediate step, in order for Oxford to reach the conclusion that the shooting was justified, for him to conclude that Abela had brought himself into physical contact with Adam Salter.
- 4.73 The Commission considers that those submissions do not reflect the actual process of reasoning used by Oxford as revealed in his report. It is clear from Oxford’s report that he reached his conclusion that the shooting was justified, not on the basis of the undisputed facts referred to by his Counsel, but on the basis that Abela had been in physical contact with Adam Salter and was thereby in a position of danger which was unique to him. In different parts of his report Oxford repeatedly referred to physical contact between Abela and Adam Salter producing danger to Abela, as being the basis of his conclusion that the shooting was justified, including in the following parts:

Executive Summary

...

Probationary Constable ABELA took hold of Adam SALTER's left arm and tried to pull him away from the sink. Sergeant BISSETT, after hearing the commotion, entered the kitchen. Upon seeing Adam SALTER brandishing the knife in a menacing fashion and believing that ABELA was in danger, drew her service pistol. She immediately shouted, "Taser, Taser, Taser" and then fired a single shot at SALTER, striking him in the upper right back.

...

Operational Summary

...

The deceased suddenly leapt to his feet, breaking free from the Ambulance officers and moved quickly to the kitchen sink where he grabbed the knife in his right hand. Probationary Constable ABELA then grabbed hold of the left arm of the deceased and tried to pull him away from the sink. Sergeant BISSETT came back into the kitchen and seeing the deceased holding the knife in his hand and in her opinion in a menacing manner toward Probationary Constable ABELA, drew her service pistol in an instant and shouted "Taser, Taser, Taser". She fired one shot from her pistol which struck the deceased near his right shoulder. Probationary Constable ABELA released his grip and the deceased turned and faced Sergeant BISSETT, thrusting the knife into his throat and neck.

...

Investigative Opinion

...

Suddenly, Adam SALTER leapt to his feet and rushed over to the kitchen sink, where he grabbed a large knife, this being the knife that he had used to harm himself. Probationary Constable Aaron ABELA immediately sought to grab SALTER by his arm, ultimately placing himself in some danger, given that SALTER could easily have swung the knife and inflicted serious wounds to him.

Sergeant Sherree BISSETT immediately saw the danger, that Adam SALTER had armed himself with a knife and was swinging it around ...

...

Key issues

...

1. She used the weapon to fire upon the deceased, in the execution of her duties, believing that a police officer (Probationary Constable Aaron ABELA) was in grave, imminent danger of being seriously harmed or killed.

...

6. Instinct saw the young officer, Probationary Constable ABELA, grab hold of the deceased and attempt to calm him (Abela was not aware that the deceased was holding the knife). Sergeant BISSETT saw the danger and reacted. This entire episode finished just as fast as it started.¹⁰⁶⁸

...

Conclusion

I have considered all the evidence gathered in this critical incident investigation into the death of Adam SALTER. In my opinion, Sergeant BISSETT was reasonable in her belief that Constable ABELA was in immediate risk of death or serious harm. Her decision to fire her weapon at the deceased was reasonable, necessary and justified.¹⁰⁶⁹

- 4.74 The Commission considers that Oxford's investigation and report have to be assessed in the light of the reasoning process actually adopted by Oxford in reaching his conclusion. In this reasoning process the making of a finding that Abela had brought himself into physical contact with Adam Salter was a necessary intermediate step to forming the conclusion that the shooting was justified.

¹⁰⁶⁸ Exhibit 88, pp. 48-49

¹⁰⁶⁹ Exhibit 88, p. 50

- 4.75 The Commission does not consider that it should enter upon a consideration of the broad question of whether on some other basis that was not considered by Oxford, for example, on the “*core issues*”, the shooting of Adam Salter was justified. That question does not fall within the statement of the scope and purpose of the Commission’s investigation and in fact fell within the jurisdiction of the Deputy State Coroner, who had to decide whether s 78 of the *Coroner’s Act 2009* should be applied. At the public hearing a question to Oxford from his counsel, whether on the “*the non-controversial facts ... even on the version of the paramedics and Adrian Salter, this was a justified shooting*” was objected to by Counsel Assisting and was not pressed by Counsel for Oxford.¹⁰⁷⁰
- 4.76 As the Commission is not seeking to determine the broad question of whether, on some basis or other, the shooting of Adam Salter was justified, the Commission will not seek to determine whether Oxford’s report could fairly be described as a “*whitewash*” or “*cover up*”, in the sense that, in a case where an investigator is aware that a shooting might not have been justified, a report by an investigator concealing or obscuring that the shooting might not have been justified, could be described as a “*whitewash*” or “*cover up*”. However, the Commission will be seeking to determine whether Oxford’s investigation was conducted with rigour and impartiality and whether in his report Oxford sought to obscure or conceal from the NSWPF matters which might reflect adversely on police officers involved in the incident.
- 4.77 Given that Oxford reached his conclusion that the shooting was justified on the basis that Abela had been in physical contact with Adam Salter and was thereby in a situation of danger that was unique to him, Oxford was required as a rigorous and impartial investigator to give proper consideration to all the evidence available to him on the issue of whether Abela had been in physical contact with Adam Salter. In particular, Oxford was required to give proper consideration to the accounts of the four civilian witnesses, whose accounts were inconsistent with a finding that Abela had been in physical contact with Adam Salter.

CONSIDERATION BY OXFORD OF THE ACCOUNTS OF THE CIVILIAN WITNESSES

- 4.78 In his report Oxford did summarise the accounts of the four civilian witnesses, as well as the accounts of the police officers. However, in summarising the accounts of the four civilian witnesses he omitted some significant parts of their accounts.
- 4.79 In part of her answer to Q31 in her police interview Coolahan had said, with reference to Abela, “*He was trying to put his gloves on rather than apprehend the patient. Um, I have yelled for the police outside to, ‘Come in, come in’ ...*” In her answer to Q174 in her police interview Coolahan had said: “*I was yelling at the police officer [Abela] to do something, to get the knife*”.
- 4.80 As the Commission considers it has demonstrated earlier in this report, the effect of this part of Coolahan’s answer to Q 31 in her interview was that Abela had not come into physical contact with Adam Salter and that, in those

¹⁰⁷⁰ PIC Transcript, Russell Oxford, 3 September 2012, p. 712

circumstances, Coolahan yelled for the police outside to come in. As to Coolahan's answer to Q 174 in her police interview, the clear implication in her answer was that Abela was not doing anything to restrain Adam Salter.

- 4.81 In his summary of Coolahan's account in his report, Oxford stated that *"Coolahan saw only one police officer in the room at this time. This officer was putting gloves on his hand"*, omitting any reference to the words *"rather than apprehend the patient"*. In his summary of Coolahan's evidence he did not make any reference to her answer to Q 174 in her interview.¹⁰⁷¹
- 4.82 In his summary of Adrian Salter's account in his report, Oxford made no reference to the complaints Adrian Salter had made in his police interview about the lack of action on the part of *"the trained people"*, which were inconsistent with Abela having been in physical contact with Adam Salter, attempting to restrain him.
- 4.83 The cumulative effect of these omissions was to obscure the conflict in the evidence as to the material fact on which Oxford based his conclusion. The Commission is of the opinion that the omissions were deliberately made to support the view that Oxford had expressed as early as 18 November 2009 that the accounts given by the witnesses were consistent. By the time he prepared his detailed summaries for his report, Oxford had read the transcripts of the interviews that had been conducted with Coolahan and Adrian Salter. On reading those transcripts he must have appreciated the significance of the parts of their evidence to which the Commission has referred.
- 4.84 Although Oxford in his report did summarise (even if incompletely) the accounts of the four civilian witnesses, the Commission considers that it clearly appears from the terms of Oxford's report and from evidence given by Oxford at the hearing before the Commission, that Oxford, in making his finding that Abela had been in physical contact with Adam Salter, disregarded the evidence of the civilian witnesses and simply accepted the evidence of the police officers and particularly Bissett. In his evidence before the Commission Oxford said that he had believed what Bissett had told him and that the key to his report was the fact that he had believed Bissett.

SITUATION REPORTS PREPARED BY OXFORD

- 4.85 Oxford did not merely disregard the evidence of the civilian witnesses which was inconsistent with Abela having been in physical contact with Adam Salter. He said in his *"Investigative Opinion"* on page 47 of his report that the evidence of the police officers was *"supported by Mr [Adrian] Salter and the ambulance officers"*. This assertion was patently untrue. Oxford accepted in his evidence before the Commission that there were inconsistencies between the accounts of the police officers and the accounts of Adrian Salter and the ambulance officers on the issue of whether Abela had come into physical contact with Adam Salter.
- 4.86 Oxford had first made the assertion that the accounts of the police officers and the accounts of the civilian witnesses were consistent in the first Situation

¹⁰⁷¹ Exhibit 88, pp. 12-16, 34-35

Report prepared by him, between 10:00 pm and 10:45 pm on 18 November 2009, where he said: *"His [Adrian Salter's] statement is consistent with police versions as are the four ambulance officers who attended the scene"*.

- 4.87 The police officers, the ambulance officers and Adrian Salter were interviewed by different interviewing teams on 18 November 2009. The last of the interviews was conducted with Metcalfe and did not finish until 11:04 pm, that is, after Oxford completed preparing his Situation Report.
- 4.88 Oxford had not himself participated in any of the interviews on 18 November 2009 and had not on 18 November 2009 seen a transcript or any other written record of the interviews which had been completed. He had to rely on what he was told by the many separate interviewing teams which had conducted the interviews.
- 4.89 On the basis of what he had been told by each of the interviewing teams Oxford himself made the assessment that the versions of the witnesses were consistent.
- 4.90 The information available to Oxford at the time of preparing his first Situation Report was clearly insufficient to justify the forming by him of an opinion that the accounts of Adrian Salter, the police officers and the ambulance officers were *"consistent"*. When asked by Counsel Assisting how he could justify making the assertion in his Situation Report that all the accounts were consistent, Oxford said *"I think there are consistencies"* and then said *"they are not diametrically opposed"*.
- 4.91 Oxford prepared a further Situation Report on 19 November 2009. In this Situation Report he changed the information under the heading *"Background"* from the information which had appeared under that heading in his first Situation Report, which he had copied from the earlier Situation reports. However, the information under the heading *"Background"* in the Situation Report of 19 November 2009 contained a number of untrue statements, including that Bissett had *"challenged"* Adam Salter, that after being shot Adam Salter had *"continually stabbed himself in the neck"* and that after being shot Adam Salter had to be *"subdued"*.
- 4.92 Under the heading *"Current Position"* in the Situation Report of 19 November 2009, Oxford referred to the *walkthrough* interview of Adrian Salter and continued: *"Mr Salter (father) accompanied Police to the scene this afternoon and conducted a video walkthrough. His version is consistent with Police recollections. He does not raise any issues with what occurred apart from the obvious tragic circumstances."* As in the case of the Situation Report prepared on 18 November 2009, the assertion that Adrian Salter's version was consistent with the recollections of the police officers was clearly without foundation and untrue. Furthermore, as Oxford himself conceded in his evidence before the Commission, the assertion that Adrian Salter had not raised any issues with what had occurred was also untrue. In his answer to Q 483 in his police interview, Adrian Salter had clearly expressed concerns about what had occurred.

- 4.93 The similarity of the conclusion expressed by Oxford in his Situation Report of 18 November 2009 to the findings made by Oxford in his report of 29 May 2011 indicate that Oxford had prejudged the result of his investigation and had concluded by the evening of 18 November 2009, before he had time properly to assess any of the evidence, that the shooting was justified on the basis that Bissett reasonably apprehended that Abela would be stabbed with the knife by Adam Salter.

FURTHER CRITICISMS OF OXFORD'S INVESTIGATION REPORT

- 4.94 It was submitted by Counsel Assisting that Oxford had given conflicting evidence about what he considered to be the purpose of his report and particularly whether it was a report for the Coroner or whether it was quite separate from the inquest. However, the Commission considers that, read as a whole, Oxford's evidence was predominantly to the effect that his report was not for the Coroner but for the NSWPF. It came before the inquest because the Crown Solicitor's Office, instructing Counsel Assisting the Coroner at the inquest, had subpoenaed the report.
- 4.95 A submission was made on behalf of Oxford that his report was "*not a report to satisfy public concerns*". However, there is a strong public interest in a report of a critical incident investigation being capable of satisfying the senior management of the NSWPF that the investigation has been conducted with rigour and impartiality in accordance with the Guidelines.
- 4.96 Oxford made several findings in his report for which there was no evidence or overwhelming evidence to the contrary. For example, he said that Adam Salter having armed himself with the knife was "*brandishing*" the knife and "*swinging it around*" and that Abela was "*boxed into the corner of the small kitchen*".
- 4.97 As to his use of the term "*brandishing*", Oxford said that it had been an example of his use of "*emotive language*" and "*probably wasn't the best term to use*". The Commission considers that the use of the word by Oxford was an inappropriate way to describe any action by Adam Salter with the knife, of which there was evidence.
- 4.98 As to the term "*swinging*", Oxford said that he had obtained the evidence of "*swinging*" from Bissett's account and knew there was contrary evidence on the issue of whether Adam Salter had been swinging the knife. The Commission considers that the description was untrue.
- 4.99 As to the description of Abela being "*boxed into the corner of the small kitchen*", Oxford said that it had been his interpretation of what had happened but agreed that no one had said anything to that effect. The Commission considers that the assertion was without foundation and untrue.
- 4.100 In stating his conclusion on the fourth issue that he had identified for the investigation, "*Consideration of Police to use non-lethal options in the circumstances*", Oxford found that Bissett had used what she believed was the most appropriate and, in her opinion, the only option. In that regard, he also said that Bissett had outlined her decision-making process in her *walkthrough* interview.

- 4.101 As demonstrated further below, many of the answers in this part of Bissett's *walkthrough* interview had been elicited by leading questions asked by Oxford himself.
- 4.102 As expressed earlier in this report, the Commission is satisfied that, even if Bissett had not already drawn her firearm before entering the kitchen, she fired it almost immediately upon entering the kitchen and, in view of that fact, the Commission does not accept that, before using her firearm, she consciously rehearsed all of her other options.

CRITICISMS OF THE INVESTIGATION

- 4.103 Several criticisms of Oxford's investigation were made by Counsel Assisting. It was submitted that he failed to obtain expert forensic evidence, including evidence relating to bloodstain patterns; and that he failed to obtain ballistics evidence, including evidence relating to the position and orientation of Adam Salter's body at the time of the shooting. In making those criticisms Counsel Assisting referred to evidence given by Reynolds about the practices of the Western Australia Police where such evidence was said by Reynolds to be routinely obtained by police in the investigation of police-related deaths.
- 4.104 The Commission considers that caution needs to be exercised in seeking to apply to NSW the practices of police in other jurisdictions.
- 4.105 Some ballistics evidence was obtained by Oxford in his investigation. The Commission is not of the opinion that Oxford should be criticised for not obtaining further ballistics evidence.
- 4.106 As to whether Oxford should have obtained the expert evidence of a bloodstain pattern analyst, there was evidence of blood on Adam Salter's body, evidence by police officers that Abela had come into physical contact with a part of Adam Salter's body, and evidence that Abela claimed to have had blood on himself from that physical contact. If the accounts of the police officers were to be tested by Oxford, rather than simply accepted, the evidence of an expert in bloodstain pattern analysis would have assisted. The Commission considers that Oxford should have obtained such evidence.

THE *WALKTHROUGH* INTERVIEW OF BISSETT

- 4.107 The *walkthrough* interview that Oxford conducted with Bissett on 30 November 2009 was shown to Oxford at the public hearing.
- 4.108 When questioned about the *walkthrough* interview Oxford admitted that he had "*asked some leading questions*" and had provided what he described as "*commentary*".
- 4.109 At Q 149-153, Q 208-213, and Q 238-245 of the *walkthrough* interview Oxford asked Bissett the following questions about why she had called out the word "*Taser*".

Q149. *Is there any reason why you, you yelled taser at the time?*

A. They, they were the words that just came out of my mouth.

Q150. Well, it's certainly not the case you pull out and go gun gun gun, do you?

A. No.

Q151. No, you simply, if you've got to –

A.. No

Q152. – produce your weapon, you just pull it out and either say stop police, or, or some police response if you have to –

A. Yeah

Q153. – produce your firearm.

...

Q208. OK. All right, let's talk about the taser. How long have you had the taser, how long have you, have you used the taser?

A. I've had it, I was trained in November last year.

...

Q213. ... [I]s there a warning that you must give if you've got it?

A.. yep, that's taser, taser, taser. But that's to let the other police know that you're using the taser.

...

Q238 So then you get to the gun, you said you drew your weapon.

A. Yep.

Q139. And you yelled taser taser taser.

A. Yeah.

Q240 Just explain to me what the reason behind that, the taser?

A. I don't know why those words came out, the only thing I can think of is that originally when the job came over, I thought, yep, this is a job where the taser could be useful. A self harm, I was expecting, I don't know what I was expecting but it would be, you know, somebody by themselves, everyone is away, they are self harming somehow. And to stop them, I could deploy the taser.

Q.241. Would it be the case that with a self harm you're looking at possibly some type of irrational behaviour on the part of the person, that if they're harming themselves they're not, they're acting quite irrationally, would that be something you'd think?

A. Yeah, yep.

...

Q242 OK, all right. All right, just to wrap this up. And the fact that you said taser taser taser is merely a warning to others –

A. Yeah.

Q143. – that you're intending to use a taser.

A. Yeah.

Q244. And as I said, when you produce your, your firearm, you don't yell out gun gun gun, do you?

A. No.

Q245. So could it be the case that by simply giving some, in the, in the, in the, I suppose in the, the timing of all this, it was very traumatic, a very emotionally charged type of incident, you're trying to give some warning to police officers here that you're about to take some action.

A. Yeah.

4.110 At Q 173-175 of the *walkthrough* interview Oxford asked the following questions about why Bissett had fired at Adam Salter:

Q173. Right, so the purpose of your initial shot is, in your mind, he had a knife and you believed that he was going to threaten, threaten to harm or-

A. Yep.

Q174. – injure and kill the other officer.

A. Abela, yeah.

Q175. That's the reason why you fired that shot?

A. Yep

4.111 Beginning at Q 189-191 of the *walkthrough* interview Oxford asked questions about Bissett's use of force options:

Q189. And your understanding of, of, of your baton and your capsicum spray and your taser and your gun, they're the, possibly the four things that you've options, four options you've got to use.

A. Yeah.

...

Q191. OK. Now, what I was going to ask you some questions about each of those options that you had, and, and try and, and get opinions from you as to whether they were any options to use during this incident here. If that makes any sense to you, so -

A. Yep.

4.112 At Q 192-199 of the *walkthrough* interview Oxford asked the following questions about whether Bissett could have used her baton:

Q192. – as far as a baton, had you considered using a baton on this occasion?

A. No.

Q193. And the reason why?

A. Well, I had the expandable baton, I just didn't consider it, I didn't think it would be effective.

Q194. Is it the case with a baton, you, we have to spring it, it still takes some time to actually get it out --

A. Yeah, you've got to take it out and then you've got to flick it open.

Q195. And again, a couple of seconds have elapsed.

A. Yeah.

Q196. And this thing was –

A. And anything could happen.

Q197 – going very quickly?

A. A Yep.

Q198. OK. In any case, the use of a baton here, would you say would have been difficult in this space here to try and, with a man, a police officer has got hold of him –

A. Yeah.

Q199. – and a use of a knife, a baton would have been the least of your options, do you think?

A. It would have been, yeah.

4.113 At Q 200-207 of the *walkthrough* interview Oxford asked the following questions about whether Bissett could have used her capsicum spray:

Q200. OK. All right, your spray, what about your capsicum spray?

A. No, I didn't think of using that because it's such a confined space, everyone would get secondary contamination.

Q201. Yeah.

A. But also, you've got to spray them in the face and because he had a knife and pretty much his, he wasn't facing me, like, he was struggling with Abela, so I'd have to get in close to try and come around to spray him in the face, so I didn't consider OC.

Q202. I suppose even, even today we've got the, the window open, there's a bit of breeze coming through here. Had you sprayed that, you could have effectively sprayed everyone within the room.

A. And, yep, and -

Q203. You could have sprayed yourself.

A. Yep.

Q204. And incapacitated yourself.

A. Yeah.

Q205. Would that be right?

A. Yes.

Q206. So even though it is an option to do, in a confined space and the fact that you've got a lot of people around that would have been exposed to the spray, that option certainly would have been something you, it was down on, on your list. In a split second, you've got to make a decision in a split second.

A. Yep.

Q207. That's certainly something that, that would have, may not have of, of stopped the situation, in fact it could have caused more harm to you and you could have been injured by it yourself.

A. Yes.

- 4.114 The Commission considers many of the questions asked by Oxford that the Commission has referred to were leading questions and that it was inappropriate for Oxford to have asked them.

CONCLUSION

- 4.115 In determining what he had himself identified as the critical issue of fact, Oxford did not include in the summaries of the accounts of the civilian witnesses in his report parts of their accounts which conflicted with the finding he made on the issue.
- 4.116 Apart from summarising (although incompletely) the accounts of the civilian witnesses, Oxford did not otherwise consider their accounts and incorrectly asserted that their accounts were consistent with the police accounts.
- 4.117 Oxford accepted the account given by Bissett without properly assessing or testing it.
- 4.118 On the first night of the investigation – without having sufficient material to properly form an opinion – Oxford decided that the shooting of Adam Salter had been justified, on the basis that Abela had brought himself into physical contact with Adam Salter and had thereby been at risk of being stabbed by Adam Salter.
- 4.119 Oxford made a number of other findings in his report for which there was no evidence or which were against the weight of the evidence.
- 4.120 In a case where the evidence of an expert in bloodstain pattern analysis was required to properly test the accounts of the police officers, Oxford did not obtain such evidence.
- 4.121 In conducting a *walkthrough* interview with Bissett, Oxford materially assisted Bissett by improperly asking leading questions.
- 4.122 Oxford did not conduct the critical incident investigation into the death of Adam Salter and did not prepare his report, with rigour and impartiality. His investigation did not fulfil the public interest expressed in the Guidelines that police investigating a critical incident should act and be seen to act with particular thoroughness and complete impartiality. His primary role was to ensure that the critical incident involving Adam Salter was “*rigorously and thoroughly investigated*”. The Commission considers that his investigation did not meet that standard. He was also responsible for reporting any management issues, including any complaint issues. The Commission considers that there were complaint issues which Oxford did not report.

5. REVIEW OF INVESTIGATION

- 5.1 The fourth limb of the Commission's investigation was *"an investigation into the review by the NSW Police Force of the critical incident investigation conducted by the NSW Police Force into the shooting of Adam Salter"*.
- 5.2 A review of the investigation was required by the NSWPF *Guidelines for the management and investigation of critical incidents* ("the Guidelines").
- 5.3 The review of the investigation was conducted by Detective Inspector Tedder of the Professional Standards Command (PSC) who prepared a report of the review dated 24 June 2011.
- 5.4 Tedder's report became an exhibit at the inquest into the death of Adam Salter and Tedder gave evidence at the inquest. Tedder also gave evidence before the Commission and his report became an exhibit before the Commission.
- 5.5 As was noted earlier in this report, the review of the critical incident investigation by Tedder and his report were criticised by the Deputy State Coroner in the findings made at the inquest.

ROLE OF THE REVIEW OFFICER UNDER THE GUIDELINES

- 5.6 Parts of the Guidelines which were then current were set out earlier in this report. The Commission will now refer to parts of the Guidelines which were relevant to the role of the review officer.
- 5.7 As noted earlier in this report, under the Guidelines the identification of an incident as a "critical incident" triggered an independent investigation *"and a review of that investigation by an independent review officer."*¹⁰⁷²
- 5.8 The role of the review officer was stated under Guidelines as being *"to ensure that a high quality comprehensive investigation is conducted and to ensure that the investigation process has integrity and can withstand independent scrutiny."*¹⁰⁷³
- 5.9 The specific responsibilities of the review officer were set out in the following terms:

Review officer

The review officer performs the function of risk manager for the investigation of the critical incident. The commander of the region where the incident occurred is required to nominate a suitably experienced officer to perform the review officer role. The review officer should, as a minimum, be of the same rank as the senior critical incident investigator (SCII). To

¹⁰⁷² Exhibit 78, p. 1

¹⁰⁷³ Exhibit 78, p. 8

ensure independence, the review officer should also come from a different command to the:

- *members of the critical incident investigation team (CIIT)*
- *command where the incident occurred*
- *involved officers.*

In incidents involving the death or serious injury arising from the use of any police appointments, including injury from the discharge of a firearm by police, or the homicide of a police officer, an officer from the Investigations Unit, PSC, will perform the review officer role.

The review officer will need to maintain a close working relationship with the SCII during the course of the investigation and discuss any areas of concerns that may arise. At the conclusion of the investigation, the reports of the investigator and the review officer are to be provided to the Region Commander ... The report should provide an overview of the investigation including comments on the quality, timeliness and probity of the investigation conducted by the CIIT. It should identify and report on any deficiencies of a systemic nature that must be addressed by NSW Police.

Summary of review officer functions

The review officer should:

- *attend the scene of the incident and advise the DOI [Duty Operations Inspector] on arrival*
- *obtain a briefing from the SCII regarding the action taken up to the time of arrival (e.g. immediate actions required of the SCII, Duty Officer). Advise SCII of any areas of concern and seek to have those concerns addressed*
- *maintain a close working relationship with the SCII during the investigation*
- *maintain a running sheet (separate to the investigation running sheet) documenting all action taken, advice given and create file notes of all relevant conversations*
- *ensure the Local Area Commander, where the incident occurred, is kept informed*
- *identify and advise the SCII and Region Commander of any matters that may constitute a complaint under Part 8A of the Police Act*
- *render such assistance and perform duties as required by the on duty State/Deputy State Coroner and counsel assisting the on duty State/Deputy State Coroner*
- *attend the inquest and give evidence as required*

- submit final report to the Commander of the Region where the incident occurred.¹⁰⁷⁴

REVIEW REPORT

5.10 Tedder's review report was fairly brief and will now be set out in full.

Issue

Professional Standards Command. Review of Critical Incident: Strike Force Heading: Police shooting of Adam Salter at Lakemba on the 18th November 2009.

Background

By 8:59 am on Wednesday the 18th November 2009 four Police officers arrived at the residential address of Adam Salter, 36 old, at 33 Wangee Road, Lakemba. They had been summonsed there as a result of a police radio report of an individual committing self harm.

Four Ambulance officers had arrived earlier at 8.51am, and they were treating Mr Adam Salter for serious self inflicted knife wounds. Upon entering the home the senior police officer, Sergeant Sherree Bissett immediately requested Senior Constable Leah Wilson and Probationary Constable Aaron Abela to check the house for other occupants or danger.

After those officers had satisfied themselves that there were no other injured occupants within the house they returned to the kitchen area, Sergeant Bissett then tasked Probationary Constable Abela to stand in the kitchen area whilst the Ambulance officers were treating Adam who was at that time laying on the floor. Sergeant Bissett told Probationary Constable that there was a knife in the kitchen sink. At that time Mr Salter appeared to be calm and was accepting the treatment being provided by the Ambulance officers.

The other three police were speaking to Mr Adam Salter's father, Adrian who had initially called the Ambulance and whom had witnessed the self harm incident a short time earlier. In short, they were obtaining a first hand witness account along with getting background information.

A short time later an Ambulance officer called out for additional help and Sergeant Bissett rushed into the room. She saw Mr Adam Salter now on his feet moving towards the kitchen sink. Probationary Constable Abela was attempting to stop/take hold of Mr Salter. She saw Mr Salter take hold of the knife from the kitchen sink and pointed it in the direction of Probationary Constable Abela. At this time she withdrew her service pistol fearing that he (Abela) would be stabbed. She called out "Taser, Taser, Taser" as a form of warning and fired a single shot. Notwithstanding, Mr Salter being shot, nay mortally wounded, he thrust the knife into his neck on two further occasions prior to falling to the floor.

¹⁰⁷⁴ Exhibit 78, pp. 26-27

Ambulance officers immediately commenced additional first aid, however, he was pronounced dead at the hospital. Critical Incident protocols were immediately invoked and are the subject of this review report.

Comment

The Critical Incident investigation was assigned to the Homicide Squad, State Crime Command as per the guidelines. Detective Inspector Russell Oxford led his team of six Homicide Squad personnel to conduct this shooting investigation. He was assisted by Detectives attached to Marrickville and Burwood Local Area Commands.

The four involved officers were subject of Drug and Alcohol testing which were negative on both counts. The CIIT were able to obtain records of interviews from all involved officers prior to them completing their duties on the 18th November 2009. This greatly assisted the CIIT and Professional Standards Review officers in making preliminary judgements as to the appropriateness of their actions.

On the 30th November 2009 Detective Inspector Oxford conducted a video 'walkthrough' of the crime scene with each of the officers; this was recorded on audio as well as video. Mr Ken Madden, Solicitor from the Police Association was present during this process. It greatly assisted in understanding the actions and decision making processes of each involved officers [sic].

In my opinion all involved officers performed their duties in a highly commendable fashion both at the time of the incident and over the following days when the critical incident team required their assistance in conducting important aspects of the investigation.

The voluminous Critical Incident Report (50 pages) plus attachments details an outstanding and thorough investigation. Detective Inspector Oxford and his team have demonstrated a high degree of professionalism and diligence in conducting this investigation.

All NSW Police Critical Incident Protocols were adhered to. The "involved officers" were correctly identified, service firearms and appointments seized, drug and alcohol testing completed and most importantly the welfare of the officers considered paramount from the time of the incident and throughout the investigation.

I fully concur with Detective Inspector Oxford's investigative opinion, as outlined in page 46 of his report relating to Sergeant Bissett calling out the words "Taser, Taser, Taser" prior to discharging her firearm. She had made the split second decision to draw and use/discharge her firearm to prevent in her opinion, the serious harm or death of a fellow police officer.

As there are no formal complaint issues raised in this investigation these papers can now be forwarded to the South West Metropolitan Region. This investigation has been electronically maintained in E@gle.i under the Operation name "Strike Force Heading" for future reference.

Recommendations

1. *That at the appropriate time/juncture all four involved officers receive formal recognition for their actions in the performance of their duties.*¹⁰⁷⁵

- 5.11 The report was marked for distribution to the Director, Investigations Complaint, Professional Standards Command; the Director, Operations, Professional Standards Command; and the Region Commander, South West Metropolitan Region.

SUMMARY OF EVIDENCE

- 5.12 It is unnecessary to refer to the evidence given by Tedder at the inquest.¹⁰⁷⁶ His evidence at the inquest was fairly brief and almost all of it was repeated in his evidence before the Commission.
- 5.13 Tedder gave lengthy evidence before the Commission. Much of his evidence was concerned with explaining and seeking to defend his review and his report. It will be convenient to confine the present summary of his evidence to a few parts only, reserving other references to Tedder's evidence to the Commission's consideration of this limb of its investigation.
- 5.14 Tedder gave evidence before the Commission that he had more than 30 years' experience as a criminal investigator and described himself as being "*one of the state's most experienced criminal investigators*" and "*probably*" the "*most experienced internal police investigator*" within the Professional Standards Command (PSC) of the NSWPF.¹⁰⁷⁷ As an officer from the PSC having the rank of Detective Inspector he was qualified under the Guidelines to act as the review officer in the critical incident investigation.
- 5.15 Tedder became involved in the investigation into the shooting of Adam Salter on the first day of the investigation, that is, on 18 November 2009. In that week he was on call to go to any critical incidents which might occur anywhere within the state.¹⁰⁷⁸
- 5.16 On 18 November 2009 Tedder went to the house at 33 Wangee Road, attended briefing sessions at Campsie police station and had a number of conversations with Oxford. He read the first Situation Report at some time after it had been sent and the second Situation Report before it was sent. As at 18 November 2009, he was unaware of any factual errors in the Situation Reports.¹⁰⁷⁹

¹⁰⁷⁵ Exhibit 96

¹⁰⁷⁶ Exhibit 97

¹⁰⁷⁷ PIC Transcript, Stephen Tedder, 6 September, p. 849

¹⁰⁷⁸ PIC Transcript, Stephen Tedder, 6 September, pp. 716-18

¹⁰⁷⁹ PIC Transcript, Stephen Tedder, 6 September, pp. 716-20

- 5.17 Tedder said that before preparing his own report he had read the “*basic materials*”, including the brief of evidence for the inquest and Oxford’s report.¹⁰⁸⁰

SUBMISSIONS OF COUNSEL ASSISTING

- 5.18 It was submitted by Counsel Assisting that Tedder in his evidence before the Commission had not shown any consistent understanding of what had been his role in conducting the review. It was also submitted that Tedder had not detected errors in Oxford’s investigation and report or brought those errors to the attention of the NSWPF; that his fulsome praise for Oxford’s investigation and report had been unwarranted; that he had not recognised, or had not sufficiently recognised, that there had been a conflict between the evidence of the police officers on the one hand and the evidence of Adrian Salter and the ambulance officers on the other hand, particularly as to whether Abela had brought himself into physical contact with Adam Salter; that he had uncritically accepted the evidence of the police officers on that issue on insufficient grounds and disregarded the evidence of Adrian Salter and the ambulance officers; and that he had erred in his approach to the assessment of Bissett’s evidence.

SUBMISSIONS BY TEDDER

- 5.19 Tedder was unrepresented at the public hearing and made submissions on his own behalf.
- 5.20 Tedder’s submissions were lengthy and in some parts complex. However, it appears to the Commission that the principal submissions were as follows.
- 5.21 Bissett had consistently maintained in her initial police interview, in her *walkthrough* interview and in her evidence before the Commission that, although she had called out the word “*Taser*” three times before she discharged her firearm, she had not, as the Deputy State Coroner had tentatively found, made a mistake in using her firearm and not the Taser. It was submitted that the Commission should accept Bissett’s consistent accounts that the use of her firearm was intentional.
- 5.22 It was submitted that in assessing Bissett’s action in using her firearm, it was necessary to apply what Tedder described as being “*a common sense test*”, namely: What would have made Bissett, an experienced officer, use her firearm?
- 5.23 Tedder submitted that Bissett and Abela had given accounts which, notwithstanding some inconsistencies, were broadly similar in that both had said that Abela had come into physical contact with Adam Salter by taking hold of his left arm. This was described by Tedder as a “*base point*”. Bissett had discharged her firearm because Abela had come into physical contact with Adam Salter and this provided the answer to the common sense test. The evidence of Bissett and Abela was also submitted to have been free from

¹⁰⁸⁰ PIC Transcript, Stephen Tedder, 6 September, pp. 725-26

cross-contamination because, as required by police guidelines, they had been separated soon after the incident.

- 5.24 It was submitted by Tedder that Reynolds' finding about an absence of blood on Abela's glove could be explained on the basis that there might not have been any blood on Adam Salter's arm and that Abela's grip on Adam Salter's arm might have slipped, not because of any blood on Adam Salter's arm, but because Adam Salter's arm was "*diaphoretic*" (sweaty).
- 5.25 It was submitted that, for a number of reasons, the evidence of the ambulance officers which was inconsistent with the evidence of Bissett and Abela should be rejected. Tedder surveyed the accounts given by each of the ambulance officers at the three stages, of being interviewed by police, giving evidence at the inquest and giving evidence before the Commission, and submitted that there were significant differences in the accounts each had given at the different stages. Tedder submitted that the evidence of the ambulance officers, unlike the evidence of the police officers, had become cross-contaminated because the ambulance officers had not been separated after the incident.
- 5.26 Tedder also made submissions about the source of the information in Sinclair's briefing notes and offered a possible motivation for the ambulance officers having given what he submitted was untruthful evidence.
- 5.27 Tedder submitted that he had complied with all of the requirements of a review officer in a critical incident investigation. Indeed, he believed that he had performed his role as a review officer very well, except perhaps for not having been perfect with his documentation.

CONSIDERATION OF THE FOURTH LIMB

- 5.28 The Commission has already fully considered many of the submissions made by Tedder in the context of considering the first limb of the investigation.
- 5.29 In support of his submission that Tedder in his evidence before the Commission did not show any consistent understanding of the purpose of the review and his role as review officer, Counsel Assisting referred to certain parts of Tedder's evidence, including the following.
- 5.30 When asked what he had seen as being the purpose of his review, Tedder gave the following long answer:

A. It has a - the review is to put independence to make sure that certain protocols under the critical incident guidelines are adhered to. It is not to be an additional interviewer or additional confidante in relation to the investigation itself. It is to ensure that certain aspects are covered within the protocols. Then, once a preliminary judgment is made - and I made preliminary judgments and in those judgments, I confirmed with my own decision-making skills that the shooting itself was justified and necessary - it is then my position to await and ensure that all of the information that comes through over the coming weeks or months is provided in the appropriate fashion for the coroner. And then, at some particular time

*when the final report of Mr Oxford is presented, it is for me to go through to ensure that it's complete, that it is factual, and that it is a true representation of all of the evidence that was going to be provided to the coroner, and then I make comment about that within this document.*¹⁰⁸¹

- 5.31 When asked whether he had *"lifted his report from Oxford's"* report, Tedder said:

*A. No. I don't believe I lifted too much from Mr Oxford's report. I read the report and then I created my own report.*¹⁰⁸²

- 5.32 In a part of his evidence not cited by Counsel Assisting, Tedder, having said that he had concurred with Oxford's opinion, also said: *"I made my own independent appraisal of it and I concurred with his investigative opinion"*.¹⁰⁸³

- 5.33 The evidence so far referred to is to be contrasted with other evidence by Tedder to which Counsel Assisting referred.

- 5.34 Tedder gave the following evidence on what his role was in conducting the review:

*A. I'm not here, in this type of report, to dissect the evidence. That's the role of the critical incident investigating officer and his team. My role is to be across what evidence has been obtained to make sure that the evidence has been obtained and is going to be put before and has been put before or sent to the coroner's office, and then I make comment to do with the police issues and the critical incident expectations and policies and adhering to policies and practices of the police. That's the purpose of my document.*¹⁰⁸⁴

- 5.35 When asked why he had not in his review report referred to Adrian Salter giving an account that Abela was not in contact with Adam Salter, Tedder said:

*A. Because that's not the purpose of this review document. ... [I]t is an internal document. It is not a coronial document, it is not a statement that is going to the coroner. It is not the final report of the investigation. This is my review document.*¹⁰⁸⁵

- 5.36 When Tedder was asked by Counsel Assisting, *"[I]f Oxford's report contained a gross error, you say it is not part of your review process to correct that error"*, he answered: *"I just don't believe that that's my position. If there was something grossly inadequate - but there was nothing inadequate ..."*¹⁰⁸⁶

- 5.37 The Commission considers that it can fairly be said that Tedder in his evidence did not show a consistent understanding of what the purpose of the

¹⁰⁸¹ PIC Transcript, Stephen Tedder, 6 September, p. 725

¹⁰⁸² PIC Transcript, Stephen Tedder, 6 September, p. 732

¹⁰⁸³ PIC Transcript, Stephen Tedder, 6 September, p. 736

¹⁰⁸⁴ PIC Transcript, Stephen Tedder, 6 September, p. 726-27

¹⁰⁸⁵ PIC Transcript, Stephen Tedder, 6 September, p. 724

¹⁰⁸⁶ PIC Transcript, Stephen Tedder, 6 September, p. 724-25

review and his role as review officer had been. At times his evidence was to the effect that it was his understanding of his role that he was to make his own independent appraisal of all the evidence and create his own report, against which Oxford's report could be assessed. At other times his evidence was to the effect that it was not his role to "*dissect*" the evidence or "*correct*" any errors by Oxford, unless the errors by Oxford were "*grossly*" incorrect.

- 5.38 Tedder was required by the Guidelines to ensure that a high quality, comprehensive investigation had been conducted by Oxford and that Oxford's investigation had integrity and could withstand independent scrutiny. It was submitted by Counsel Assisting that Tedder had not detected any of the errors which it was submitted were present in Oxford's investigation and report.
- 5.39 Tedder's report did not contain any criticisms of Oxford's investigation and report. On the contrary, Tedder said in his report that Oxford's report detailed "*an outstanding and thorough investigation*" and that Oxford and his team "*demonstrated a high degree of professionalism and diligence*" in conducting the investigation. There was no reference in Tedder's report to any of the serious defects which the Commission has itself identified in Oxford's investigation and report.
- 5.40 In his examination Tedder was asked about Oxford's use of the word "*brandishing*" on page 5 of Oxford's report where he had written that Adam Salter was "*brandishing the knife in a menacing fashion*".
- 5.41 Tedder said that he himself in his report had not used the word "*brandishing*" and sought to explain Oxford's use of the word as being "*his [Oxford's] terminology*". Tedder sought to similarly explain Oxford's use of the word "*swinging*", when Oxford described what Adam Salter had been doing with the knife on page 46 of his report, as being "*his [Oxford's] style of writing*".¹⁰⁸⁷
- 5.42 Tedder was also asked about Oxford's assertion on page 46 of his report that Abela was "*boxed into*" the corner of the kitchen. Tedder again said that it was "*his [Oxford's] terminology*", but also conceded that Abela's position would have had to have been different for Tedder himself to have used that expression.¹⁰⁸⁸
- 5.43 The Commission considers that Oxford's assertion in his report that Adam Salter was "*brandishing*" the knife and was "*swinging*" the knife and that Abela was "*boxed into*" a corner were unsupported by evidence and were untrue. These assertions could not be excused, as Tedder sought to do, on the basis that they merely reflected Oxford's personal style of writing. The making of these assertions in Oxford's report was a defect in Oxford's report, which was not mentioned by Tedder in his report.
- 5.44 Tedder was also asked questions about the assertions made by Oxford on page 47 of his report about the consistency of the evidence of different witnesses. As to Oxford's assertion that "*the police when interviewed gave consistent evidence*", Tedder said that he would have used the words

¹⁰⁸⁷ PIC Transcript, Stephen Tedder, 6 September, p. 749

¹⁰⁸⁸ PIC Transcript, Stephen Tedder, 6 September, pp. 749-50

“generally consistent” and accepted that there were inconsistencies in the evidence of the police officers.¹⁰⁸⁹

- 5.45 As to the assertion in Oxford’s report that the police evidence was *“supported by Mr [Adrian] Salter and the ambulance officers”*, Tedder said that he would have said that *“aspects”* of the police evidence were supported by Adrian Salter and the ambulance officers.¹⁰⁹⁰ He thereby acknowledged that in some respects the evidence of the police officers was not supported by the evidence of Adrian Salter and the ambulance officers. Tedder did not make any comment about this matter in his report.
- 5.46 In his report, under the heading *“Background”*, Tedder asserted that Bissett had seen that Abela *“was attempting to stop/take hold of Mr Salter”*; that Bissett had seen Adam Salter *“take hold of the knife from the kitchen sink”*; that Bissett had seen Adam Salter point the knife *“in the direction of Probationary Constable Abela”*; and that Bissett *“withdrew her service pistol fearing that he (Abela) would be stabbed.”*
- 5.47 Accordingly, it is clear from Tedder’s report that he based his own investigative opinion on Abela having been in physical contact with Adam Salter and thereby being in danger of being stabbed. Tedder did not base his opinion on the existence of any general danger to everyone in or near the kitchen of being stabbed by Adam Salter.
- 5.48 It is also clear from Tedder’s evidence before the Commission and his submissions that in applying his *“common sense test”*, what would have made Sergeant Bissett use her firearm, he regarded the *“base point”* as Abela having been in physical contact with Adam Salter when Adam Salter was in possession of the knife.
- 5.49 On the critical issue of whether Abela had come into contact with Adam Salter, there was clearly a division between the accounts of the police officers and the accounts of Adrian Salter and the ambulance officers.
- 5.50 In his report Oxford had summarised the evidence of Adrian Salter and the ambulance officers in the part of his report devoted to summarising the evidence of witnesses. However, he had not otherwise referred to the evidence of Adrian Salter and the ambulance officers and in his investigative opinion had made the quite untrue assertion that the evidence of the police officers was supported by the evidence of Adrian Salter and the evidence of the ambulance officers. Tedder in his own report did not make any comment about this serious misrepresentation of the evidence in Oxford’s report.
- 5.51 In his evidence before the Commission Tedder said that he accepted *“from very early on in the piece that there were some degree of variances, some conflict [with the evidence of the police officers] in respect to the evidence that was given by Mr [Adrian] Salter and the ambulance officers”*.¹⁰⁹¹

¹⁰⁸⁹ PIC Transcript, Stephen Tedder, 6 September, p. 754

¹⁰⁹⁰ PIC Transcript, Stephen Tedder, 6 September, p. 755-56

¹⁰⁹¹ PIC Transcript, Stephen Tedder, 6 September, p. 726

- 5.52 However, in his report Tedder gave no indication of such an acceptance. In his own report he did not refer to the evidence of Adrian Salter and the ambulance officers contradicting the evidence of Bissett and Abela on the “*base point*”.
- 5.53 The only references to the ambulance officers in Tedder’s report are to their arrival at 33 Wangee Road, their treating Adam Salter, the call for help from one of the ambulance officers, and the ambulance officers resuming treatment of Adam Salter after he was shot. On the other hand, Tedder made a number of references to the activities of the police officers and devoted a paragraph of his report to what he found had been the observations, actions and thought processes of Bissett.
- 5.54 In his evidence before the Commission and in his submissions, Tedder did not dispute that he had accepted the evidence of the police officers and particularly the evidence of Bissett. He referred to a number of matters which he said supported accepting the evidence of Bissett and Abela in preference to the evidence of the ambulance officers, including Ambulance Service records and the inconsistencies in the evidence given by the ambulance officer at the three stages, of being interviewed by police, giving evidence at the inquest and giving evidence before the Commission.
- 5.55 Many of the matters to which Tedder referred in his evidence before the Commission could not have been matters which Tedder himself took into account at the time of preparing his report, because they did not come into existence until after the date of the report. For example, at the time Tedder prepared his report, the inquest and the hearing before the Commission had not yet been held. Accordingly, Tedder could not in preparing his report have relied on the inconsistencies he has since alleged in the evidence given by the ambulance officers at the three stages of being interviewed by police, giving evidence at the inquest and giving evidence before the Commission.
- 5.56 Tedder gave the following evidence about how he had approached his investigative task:

A. I don't treat any police officer's information with any more weight than anyone else's. Just because you wear a uniform or you have sworn the oath does not put their evidence any higher than anyone else's. I go on the totality of the facts that - of the evidence that I see and I have done throughout the whole of my career - not just because you are a police officer. They can make mistakes, they can make omissions, no different to anyone else.

Q. But that's exactly what you have done here. You have given the police more weight than the non-police, haven't you?

A. Yes, I have, because of the facts surrounding this particular issue.

Q. Now, just tell me, what are those facts again?

A. Mr Watson, Sergeant Bissett discharged her firearm. She took a positive step in respect to the actions that day. She gives her clear version at the time she's interviewed of why she did that and why she removed her firearm and fired it into Mr Salter. As a result of that, that is the critical part

*of this whole investigation, and the second part that adds to that is where the position of all the individuals were, but mostly important, where was Probationary Constable Abela at the time that she discharged her firearm or just shortly beforehand. They are the two critical parts of this whole investigation. So I went with those as being the base points of what was important here, because, at the end of the day, it is what is operating in the mind of Sergeant Bissett when she discharged that firearm. That's the critical nucleus of my decision making of why did she discharge that firearm? What possibly was occurring in her mind to make her discharge her firearm? That was the critical incident.*¹⁰⁹²

- 5.57 The Commission makes the comments that the second fact or “critical part” relied on by Tedder as a reason for preferring the evidence of the police officers, namely “*where was Probationary Constable Abela at the time that she [Bissett] discharged her firearm or just shortly beforehand*”, was the very issue on which there was a conflict between the evidence of the police officers and the evidence of the civilian witnesses and could not be relied on as a reason for preferring the police officers’ accounts.
- 5.58 In his evidence before the Commission Tedder gave as his other reasons for preferring the evidence of the police witnesses that Bissett’s evidence was “clear”, that the evidence of the police officers was “*more critical and more relevant*”, and that the police officers were “*the most important people within this incident*”.¹⁰⁹³ The Commission regards these reasons for accepting the evidence of the police officers and for rejecting the evidence of Adrian Salter and the ambulance officers, and particularly for doing so without any discussion, as being insufficient.
- 5.59 It was submitted by Counsel Assisting that Tedder had erred in his approach to the assessment of Bissett’s evidence.
- 5.60 Although Tedder in one part of his evidence coupled Abela and Bissett as being “*the most important people within this incident*”, elsewhere in his evidence he singled out Bissett as being “*the most important person*”¹⁰⁹⁴ and said that what was critical was “*what was operating in the decision-making process of Sergeant Bissett when she discharged her firearm*”.¹⁰⁹⁵
- 5.61 The question which Tedder said he posed for himself in applying the “common sense test” was “*what possibly would have made Sergeant Bissett use her firearm?*”
- 5.62 This may have been an appropriate question to ask, particularly as the Commission accepts that Bissett did intend to use her firearm and not her Taser, but it is apparent from Tedder’s report and his evidence and his submissions that he limited the possible answers to the question to answers which would be consistent with Bissett having acted in a fully rational and considered way and in a manner which would have been legally justified. For example, in his submissions he said it would have made no sense for Bissett to have used her firearm if, as contended by Counsel Assisting, Abela had not

¹⁰⁹² PIC Transcript, Stephen Tedder, 6 September, p. 734

¹⁰⁹³ PIC Transcript, Stephen Tedder, 6 September, pp. 734, 754

¹⁰⁹⁴ PIC Transcript, Stephen Tedder, 6 September, p. 754

¹⁰⁹⁵ PIC Transcript, Stephen Tedder, 6 September, p. 754

moved from his position near the refrigerator and had not come into contact with Adam Salter when he was in possession of the knife.

- 5.63 There was evidence in the investigation which raised at least the possibility that Bissett had not acted in a fully rational and considered way. There was evidence that Bissett had been confronted with a serious emergency in which she had to make a rapid response. She knew that an inexperienced probationary constable (Abela) had been left alone in the kitchen, that Adam Salter was mentally disturbed and had already used a knife to injure himself, and that the knife had been left in the sink. Urgent calls for assistance had been made by an ambulance officer. In this emergency Bissett ran down the hallway to the kitchen, drew her firearm, called out the word “*Taser*” three times and then used, not the Taser, but her firearm. Until assisted by leading questions by Oxford in the *walkthrough* interview, Bissett could not give any explanation for saying the word “*Taser*” three times, except to say that “*the words just came out*”.
- 5.64 The evidence Bissett gave in the *walkthrough* interview that before using her firearm she had consciously considered, and rejected, all other options before using her firearm cannot be reconciled with evidence, which the Commission accepts, from a number of witnesses to the effect that the events of Bissett entering the kitchen, calling “*Taser*” three times and firing her firearm occurred within a few seconds. Much of the evidence that Bissett gave in the *walkthrough* interview about consciously considering her options had been elicited by leading questions by Oxford, a matter of which Tedder should have been aware from reading the transcript of the interview.
- 5.65 Whether or not the Deputy State Coroner was correct in making a tentative finding that Bissett made a mistake in using her firearm and not the Taser, the Commission is of the opinion that, because of the evidence the Commission has referred to, the possibility that Bissett might not have acted in a fully rational and considered way should have been considered by Tedder in determining what answer should be given to the question he had posed, of why Bissett had used her firearm.
- 5.66 In his report Tedder found that Bissett had called out the words “*Taser*” three times as a form of warning. In his evidence he justified that finding by saying, favourably to Bissett, that it was a deduction made by him and “*the only common-sense conclusion*”,¹⁰⁹⁶ even though Bissett herself could not articulate that as being her reason.
- 5.67 Tedder’s statement of the “*Background*” in his report contained a number of factual errors (some comparatively minor) relating to such matters as the time of arrival at the premises of the four police officers, the time of arrival of the four ambulance officers, the three police officers other than Abela speaking together to Adrian Salter, and Oxford conducting *walkthrough* interviews with “*each*” of the police officers.
- 5.68 Tedder’s report also contained a number of other factual assertions which the Commission has found were untrue, including that Abela attempted to take hold of Adam Salter, that Adam Salter “*pointed*” the knife in the direction of

¹⁰⁹⁶ PIC Transcript, Stephen Tedder, 6 September, p. 758

Abela, and that Adam Salter after being shot thrust the knife into his neck on two occasions before falling to the floor. The Commission accepts that there was evidence available to Tedder from Bissett supporting each of these assertions. However, Tedder paid no attention to contrary evidence from a number of witnesses of which he should have been aware from reading the transcripts of their interviews.

- 5.69 Tedder included in his report the recommendation: *“That at the appropriate time/juncture all four involved officers receive formal recognition for their actions in the performance of their duties.”*¹⁰⁹⁷
- 5.70 In his evidence before the Commission Tedder explained that he had made the recommendation on the basis that the four officers had been subjected to a traumatic incident; that the four officers had *“conducted themselves with great poise and determination in respect to adhering to all of the protocols to do with their obligations under the critical incident”*; and that the four officers had remained on duty on 18 November 2009 so that their interviews could be completed, notwithstanding the stress they were under. In that regard, he also said he believed in giving *“credit to people when they stick around in those circumstances”*.¹⁰⁹⁸ He said that he had never intended to suggest that the four police officers *“should be given a commendation or any other formal police award”*.¹⁰⁹⁹
- 5.71 In light of the evidence before the Commission and in light of the opinions of the Commission, the Commission considers that the recommendation made by Tedder in his report was unwarranted.
- 5.72 Tedder submitted that he had complied with the Guidelines as they applied to him as the review officer.
- 5.73 Among his specific responsibilities, Tedder was required to: *“maintain a running sheet (...) documenting all action taken, advice given and create file notes of all relevant conversations”*; and *“identify and advise the SCII and Region Commander of any matters that may constitute a complaint under Part 8A of the Police Act.”*¹¹⁰⁰
- 5.74 In his evidence before the Commission Tedder said that the entries he had made in his diary and notebook contained a kind of running sheet or log.¹¹⁰¹ However, he also accepted that he had not recorded the actions he had taken or the advice he had given, and that he had not made a record of the details of any conversations he had had.¹¹⁰² In not making any notes of the advice he had given, Tedder accepted that that had been *“an oversight by me”*.¹¹⁰³ He also said: *“perhaps I wasn’t perfect with some of my documentation to do with documenting my decisions”*. It is clear that the entries made by Tedder in his

¹⁰⁹⁷ Exhibit 96

¹⁰⁹⁸ PIC Transcript, Stephen Tedder, 6 September, pp. 722-24

¹⁰⁹⁹ PIC Transcript, Stephen Tedder, 6 September, pp. 722-24

¹¹⁰⁰ Exhibit 78, pp. 26-27

¹¹⁰¹ PIC Transcript, Stephen Tedder, 6 September, pp. 836-37

¹¹⁰² PIC Transcript, Stephen Tedder, 6 September, pp. 836-38

¹¹⁰³ PIC Transcript, Stephen Tedder, 6 September, p. 837

diary and notebook did not comply with the requirement of the Guidelines to maintain a running sheet.¹¹⁰⁴

- 5.75 In his report Tedder had said that “*no formal complaint issues*” had been raised in the investigation. In his submissions he also said that he “*saw*” no matters that would have constituted a complaint under Part 8A of the *Police Act 1990*. In that context, he said: “*It was and still is a justified police shooting*”.
- 5.76 In making that assertion Tedder limited the scope of his role. There was other conduct by police officers which could have constituted misconduct and therefore have formed the basis of a complaint under the *Police Act 1990*. There was a real possibility that Oxford had misconducted himself in the investigation and in particular in the manner in which he had conducted the *walkthrough* interview with Bissett. There was a real possibility that Oxford had misrepresented the truth in his report by his assertions that Adam Salter was “*brandishing*” and “*swinging*” the knife; that Abela was “*boxed into*” the corner of the kitchen; and that “*the police when interviewed gave consistent evidence*”, and that this was “*supported by Mr [Adrian] Salter and the ambulance officers*”.
- 5.77 The responsibility for identifying and advising on “*any matters that may constitute a complaint under Part 8A of the Police Act*”, which Tedder had under the Guidelines, was not confined to the mere formal identification of any complaint made in accordance with Part 8A of the *Police Act 1990*. It was a much larger responsibility, which Tedder acknowledged himself in his submissions when he said with reference to the responsibility: “*Clearly, I saw no such issues. It was and still is a justified police shooting*”.

CONCLUSION

- 5.78 Tedder’s central obligation under the Guidelines as the review officer was “*to ensure that a high quality comprehensive investigation is conducted and to ensure that the investigation process has integrity and can withstand independent scrutiny*.” The Commission considers that Tedder did not comply with this central obligation, in limiting the scope of his investigation, in not detecting and reporting on deficiencies in Oxford’s investigation and report, in not recognising the conflict in the evidence available to him on what he himself regarded as the critical factual issue, in uncritically accepting the evidence of the police officers and in disregarding the evidence of the civilian witnesses on the critical factual issue.

¹¹⁰⁴ PIC Transcript, Stephen Tedder, 6 September, p. 844

6. POLICE RESPONSE TO THE INQUEST

- 6.1 The fifth limb of the Commission's investigation was *"an investigation into the response of the NSW Police Force to the findings made at the inquest into the shooting of Adam Salter"*.
- 6.2 Earlier in this report the Commission referred to the inquest conducted by the Deputy State Coroner into the death of Adam Salter and noted that in his findings the Deputy State Coroner had made a number of criticisms of police.
- 6.3 Earlier in this report the Commission made it clear that it has conducted its own investigation and has not proceeded by way of adopting any of the findings made by the Deputy State Coroner. However, the fifth limb of the Commission's investigation requires by its terms some examination of the written findings made at the inquest.
- 6.4 Under the heading *"Difficulties with the police version of events"*, the Deputy State Coroner discussed a number of difficulties with the version of events given by police witnesses at the inquest, including the absence of blood on the front of Abela's shirt.¹¹⁰⁵
- 6.5 Under the heading *"Police response. The P79A"*, the Deputy State Coroner referred to untrue statements in the *P79A Report of Death* to the Coroner and described the report as *"a most unsatisfactory, not to say potentially misleading document"*.¹¹⁰⁶
- 6.6 Under the heading *"Police response. The SITREPS"*, the Deputy State Coroner referred to untrue assertions in the Situation Reports prepared on the day of the incident. He said that the description of events in the first Situation Report prepared by Hanlon (which had been repeated in the Situation Reports prepared by Lennon and the first Situation Report prepared by Oxford) was *"almost entirely wrong"* and *"nonsense"*.¹¹⁰⁷
- 6.7 Under the heading *"Police response. Ms Bissett's walkthrough"*, the Deputy State Coroner said that Oxford's *walkthrough* interview of Bissett had been *"deeply flawed"* and *"was a failure and a disgrace"*.¹¹⁰⁸ He said that in the interview Oxford had *"provide[d] much of the evidence himself"* and that Oxford had *"ignore[d] material which might suggest a view or views contrary to his apparently preconceived version of the circumstances surrounding the death of Adam Salter"*.¹¹⁰⁹
- 6.8 Under the heading *"Police response. The Critical Incident Investigation Report"*, the Deputy State Coroner made a number of criticisms of Oxford's investigation report, including that Oxford had disregarded evidence; that he

¹¹⁰⁵ Exhibit 90, pp. 19-25

¹¹⁰⁶ Exhibit 90, p. 26

¹¹⁰⁷ Exhibit 90, p. 27

¹¹⁰⁸ Exhibit 90, pp. 28, 33

¹¹⁰⁹ Exhibit 90, p. 33

had made findings for which there was no evidence; and that he had, by asserting in his report that *“the police when interviewed gave consistent evidence. This is supported by Mr [Adrian] Salter and the ambulance officers who were present”*, gravely misrepresented the truth.¹¹¹⁰

- 6.9 Under the heading *“Police response. Ignoring the Paramedics”*, the Deputy State Coroner criticised the failure to arrange a *walkthrough* interview with any of the ambulance officers.¹¹¹¹
- 6.10 Under the heading *“Police Response. The Review”*, the Deputy State Coroner said that, contrary to the opinions expressed by Tedder in his report, he had found that Oxford’s investigation was *“seriously flawed”*. He also considered that the Commissioner of Police should not accept the recommendation made by Tedder in his report that the four police officers be recognised for their actions in the performance of their duties.¹¹¹²
- 6.11 In the final part of his findings under the heading *“Summary”*, the Deputy State Coroner, for the reasons he gave, described the police intervention on 18 November 2009 as being an *“utter failure”*.¹¹¹³
- 6.12 Earlier in this report this Commission has independently considered and reached its own views on most of the matters referred to by the Deputy State Coroner in his findings.
- 6.13 There is no doubt, and it was not disputed at the hearing before the Commission, that a number of the matters criticised by the Deputy State Coroner would, if established, be capable of amounting to *“police misconduct”* within s 5 of the *Police Integrity Commission Act 1996*.

SUMMARY OF EVIDENCE

CHRONOLOGY OF EVENTS

- 6.14 To assist in the consideration of the fifth limb of the Commission’s investigation it is convenient to set out a chronology of some of the events clearly established by Assistant Commissioner Paul Carey’s evidence and the documents which were admitted into evidence.
- 6.15 On 5 October 2011, that is before the Deputy State Coroner handed down his findings, the Commission received an anonymous complaint based on a media report (*“the anonymous complaint of 5 October 2011”*).¹¹¹⁴
- 6.16 On 14 October 2011 the Deputy State Coroner handed down his findings.¹¹¹⁵

¹¹¹⁰ Exhibit 90, pp. 33-36

¹¹¹¹ Exhibit 90, pp. 36-37

¹¹¹² Exhibit 90, pp. 37-38

¹¹¹³ Exhibit 90, p. 38

¹¹¹⁴ Exhibit 14

¹¹¹⁵ Exhibit 90

- 6.17 A meeting of the Commissioner of Police's Executive Team ("the CET") was already scheduled for 18 October 2011. After the findings of the Deputy State Coroner were handed down, an item relating to the findings was added to the agenda for that meeting.¹¹¹⁶
- 6.18 At the meeting of the CET on 18 October 2011 the following resolutions were passed:
- a. *A Working Party is to be formed as a matter of priority to review issues arising from recent inquests at, and correspondence with, the Coroner's Court (including findings from the Inquest into the death of Adam Salter handed down on 14 October 2011) for the purposes of improving NSWPF future practices;*
 - b. *The Working Party is to be led by the Office of the General Counsel with assistance from appropriate representatives (including the provision of resources) from Field Operations, Specialist Operations and Corporate Services;*
 - c. *The Working Group [sic] is to develop a work program and timeframes for each component of that work for the approval of CET and is then to report to the CET on its progress against these timeframes.*¹¹¹⁷
- 6.19 On 21 October 2011 the Commission received a letter dated 18 October 2011 from Mr Stephen Rushton SC, who had appeared for the Salter family at the inquest. In the letter Mr Rushton on behalf of the Salter family complained about the conduct of the critical incident investigation. A copy of the findings of the inquest was attached to the letter.
- 6.20 On 24 October 2011 the anonymous complaint of 5 October 2011 was referred by this Commission to the Professional Standards Command of the NSWPF to be dealt with in accordance with Part 8A of the *Police Act*. The Commission's referral letter was received by Assistant Commissioner Carey on 25 October 2011. The anonymous complaint of 5 October 2011 was thereafter assessed by the NSWPF as being a complaint within the *Police Act* and was put on c@ts.i, the NSWPF's electronic database on which are recorded all complaints registered pursuant to Part 8A of the *Police Act* 1990.¹¹¹⁸
- 6.21 On 26 October 2011 Assistant Commissioner Carey had a regular meeting with the Deputy Ombudsman, who informed him that the Ombudsman had received a complaint in the Salter matter. However, that complaint was never forwarded by the Ombudsman to the NSWPF.¹¹¹⁹ The Commission notes for completeness that that complaint was forwarded by the Ombudsman to this Commission on 3 November 2011 and formed part of the Operation Calyx investigation.

¹¹¹⁶ PIC Transcript, Paul Carey, 6 September 2012, p. 888

¹¹¹⁷ Exhibit 107C

¹¹¹⁸ PIC Transcript, Paul Carey, 6 September 2012, p. 880

¹¹¹⁹ PIC Transcript, Paul Carey, 6 September 2012, pp. 905-06

- 6.22 By an internal police document dated 26 October 2011 from a Senior Solicitor in the NSWPF Office of General Counsel approval was sought from various high-ranking police officers to “progress” a “work plan” for the recently formed “Lessons Learnt Working Group”, which appears to be a reference to the Working Party set up pursuant to the resolutions passed at the CET meeting of 18 October 2011. A draft of the work plan was annexed to the document. The approval sought by the document was finally granted on 9 November 2011.¹¹²⁰ The “work plan” contained 23 “issues” including:

1. Directed Interviews

Is a direction to an officer to participate in an investigative procedure for a coronial investigation lawful? If so, what is the scope of any such direction?

...

3. Separating police witnesses at the scene

Review existing guidelines – do they need to be bolstered to re-enforce this? What measures should be taken to ensure witnesses can be separated but not isolated? Should there be a warning to officers about the use of their mobile phones when separated?

...

6. Sitreps

Should sitreps contain a caveat to the effect that all care is taken in compiling the information but it may contain inaccuracies? Should the sitreps be issued exclusively by the Homicide Squad?

...

9. Walkthroughs

Should this investigative practice be specifically addressed by the investigators Course or Detectives Course? (ie: that it is to be conducted like any other interview, without anything being said or done to lead or influence the witness)

10. Media

Does the policy provide adequate instruction about what should and should not be said to the media by police officers? Is our media training adequate?

...

18. The reviewing officer

¹¹²⁰ Exhibit 107C

What role should the reviewing officer play in the investigation? Should they have any involvement, or just review the finished product?

...

23. Critical Incident Report

*What is its purpose? What is it used for? Should it be done after the inquest?*¹¹²¹

- 6.23 On 1 November 2011 the Commission, having assessed the complaint it had received from Mr Rushton and the findings of the inquest, decided to conduct a full investigation into the matter. The anonymous complaint of 5 October 2011 sent to the NSWPF by the Commission on 24 October 2011 was much narrower in scope than the complaint received from Mr Rushton on 21 October 2011.
- 6.24 As a consequence of the decision on 1 November 2011 to investigate the complaint it had received from Mr Rushton, on 2 November 2011 the Commission by a letter to the Professional Standards Command took over the investigation of the anonymous complaint of 5 October 2011 concerning the critical incident investigation into the death of Adam Salter.¹¹²²
- 6.25 On 3 November 2011 the Commission wrote a letter to Assistant Commissioner Carey which was in the following terms:

RE: Deputy State Coroner's findings into death of Adam Salter

On 14 October 2011 the Deputy State Coroner Magistrate Scott Mitchell made findings into the death of Adam Quddus Salter, during which he expressed a number of concerns regarding the Critical Incident Investigation conducted by Detective Inspector Russell Oxford and its subsequent review.

The Commission notes that the findings made by the Coroner on 14 October 2011 constitute a complaint under Part 8A of the Police Act 1990.

Can you advise whether the allegations of misconduct outlined by the Coroner have been reported as a complaint within NSWPF as required by Part 2 Division 9 Clause 49 of Police Regulation 2008.

In addition, I note that this matter does not appear to have been registered on c@ts.i nor has it been provided to the NSW Ombudsman in accordance with the reporting obligations of the NSW Police Force under ss129 and 130 of the Police Act 1990.

In the event that the Coroner's findings have not been reported as a complaint within NSWPF, nor the complaint registered on c@ts.i, the

¹¹²¹ Exhibit 107C

¹¹²² Exhibit 114

Commission would appreciate your advice as to the basis for not doing so.¹¹²³

- 6.26 By an internal police document dated 24 January 2012 from a Senior Solicitor in the NSWPF Office of General Counsel, the senior management of the NSWPF was advised that the Working Party had met on 20 December 2011 and had “agreed that several of the issues [in the work plan that had been approved on 9 November 2011] could be suitably addressed by amending the Critical Incident Guidelines ...”¹¹²⁴
- 6.27 By letter dated 8 February 2012 Assistant Commissioner Carey provided the following reply to the Commission’s letter of 3 November 2011:

Re Deputy State Coroner’s findings into the death of Adam Salter

I refer to your letter dated 3 November in relation to the above mentioned matter. In your correspondence you state that the findings made by Deputy State Coroner Scott Mitchell constitute a complaint under Part 8A of the Police Act 1990.

An anonymous complaint received by the Police Integrity Commission (PIC) in relation to this matter was referred to the NSW Police Force on 25 October 2011. That complaint was assessed, registered in the NSW Police Force complaint management system and was to be allocated for investigation. On 2 November 2011 the PIC subsequently advised they had now decided to take back the matter as a PIC managed complaint investigation.

Separately, the Deputy Ombudsman in the week following media reports of the Coroner’s findings in the Salter matter, advised me that they had received an anonymous complaint in relation to this matter however no complaint has been forwarded to the Professional Standards Command or NSWPF.

In the week following the Coroner’s findings the NSWPF Office of General Counsel was tasked to review and assess the Coroner’s findings.

Deputy State Coroner Mitchell has to my knowledge not lodged a complaint in writing about the conduct of a NSW Police Force officer to an investigating authority, being the Commissioner of Police, the Police Integrity Commission (PIC) or the Ombudsman. In the absence of a complaint, Section 127 of the Police Act 1990 is not made out.

The findings made by the Deputy State Coroner to the NSW Police Force are not considered to amount to a complaint pursuant to Part 8A of the Police Act 1990. The Coroner, whilst concerned with certain aspects of the investigation and subsequent review, made it clear he was not referring the matter to either the Office of the Director of Public Prosecutions or the Police Integrity Commission, despite I understand a specific request from legal representatives of the Salter family. He reported that the making of any “complaint” was a matter for the Salter family.

¹¹²³ Exhibit 105

¹¹²⁴ Exhibit 106

*The obligations under Clause 49 of the Police Regulation do not apply.*¹¹²⁵

6.28 By an internal police document dated 20 August 2012 from a Senior Solicitor in the NSWPF Office of General Counsel, a report of the Lessons Learnt Working Group was tabled for consideration by members of the CET.¹¹²⁶

6.29 The report of the Lessons Learnt Working Group ran to 29 pages and was in several parts. In the “*Introduction*” the purpose of the review that was conducted by the Working Group was stated in the following terms:-

*Although the review [of the Working Group] was prompted by the Salter inquest, it was not intended to be a review of that particular matter, nor has it sought to specifically respond to the coronial findings, or consider the appropriateness of the conduct of the officers involved. Rather, the review sought to identify issues arising from recent inquests, and consider the internal systems and procedures in place to respond to these issues so as to identify opportunities for improvement.*¹¹²⁷

6.30 The report went on to state that many of the issues that had been identified for consideration by the Working Group had been addressed as part of a broader review of the Guidelines relating to critical incidents. A copy of the revised Guidelines was attached to the report and was recommended for endorsement by the CET.¹¹²⁸

6.31 On 29 November 2011, 12 December 2011 and 14 February 2012, correspondence passed between the NSWPF and the Coroner concerning the Salter matter and the matters being considered by the Lessons Learnt Working Group. The last item of correspondence from the NSWPF to the Coroner advised that issues which had been raised by the Coroner’s office had been addressed by revisions to the Guidelines.¹¹²⁹

6.32 From time to time correspondence also passed between this Commission and the NSWPF on the revisions to the Guidelines that had been drafted by the NSWPF.¹¹³⁰ That liaison occurred independently of the investigation the subject of this report.

ORAL EVIDENCE OF ASSISTANT COMMISSIONER CAREY

6.33 Assistant Commissioner Carey gave evidence about the documents which the Commission has referred to in its chronology of events. Some of the other evidence given by Assistant Commissioner Carey in his oral evidence was as follows.

6.34 Assistant Commissioner Carey gave evidence that the findings of the Deputy State Coroner were not registered as a complaint within Part 8A of the *Police*

¹¹²⁵ Exhibit 106

¹¹²⁶ Exhibit 107C

¹¹²⁷ Exhibit 107C

¹¹²⁸ Exhibit 107C

¹¹²⁹ Exhibit 107C

¹¹³⁰ Exhibit 107C

Act 1990, because they were not regarded as of themselves amounting to a complaint within that Part of the *Police Act 1990*. He said that no letter of complaint had been received by the NSWPF from the Deputy State Coroner.¹¹³¹

- 6.35 Elsewhere in his evidence, Assistant Commissioner Carey gave the following evidence on whether judicial findings had ever been registered as complaints by the NSWPF:

Q. Have other findings of judicial officers, apparently adverse on their face to police officers, been registered as a complaint?

A. If a judicial officer has written directly to the Commissioner of police, or, indeed, this Commission, then that has been registered as a complaint.

Q. So is there any instance where a judicial officer has made an adverse finding to a police officer which has led to the registration of a complaint in the absence of a written follow-up from the judicial officer?

...

*A. I don't know, Mr Watson. I don't know.*¹¹³²

- 6.36 Assistant Commissioner Carey gave evidence that the anonymous complaint of 5 October 2011 which he had received with the letter from this Commission of 24 October 2011 was registered by the NSWPF as a complaint under Part 8A of the *Police Act 1990* and had already been registered as a complaint by the time he received the Commission's further letter to him of 3 November 2011.¹¹³³

- 6.37 Assistant Commissioner Carey gave the following evidence about the practical effect of the Commission's letter of 2 November 2011 (by which time the Commission had taken back from the NSWPF the investigation of the anonymous complaint of 5 October 2011):

*I'm obliged to hand the complaint back to the Police Integrity Commission, caveat it on c@tsi so that, in effect, nobody can see that complaint on c@tsi, and hand any documents that we have over in relation to that complaint to the Commission.*¹¹³⁴

- 6.38 Assistant Commissioner Carey gave evidence that the Lessons Learnt Working Party reviewed issues arising from recent inquests, including the inquest into the death of Adam Salter, and that its purpose was to "*improve NSW Police Force practices in the future*".¹¹³⁵ Later in his evidence, he said that he "*believed*" that the NSWPF had by that review "*responded to the criticisms of the deputy state coroner*" and that the response had not been

¹¹³¹ PIC Transcript, Paul Carey, 6 September 2012, p. 882-887, 912

¹¹³² PIC Transcript, Paul Carey, 6 September 2012, pp. 920-21

¹¹³³ PIC Transcript, Paul Carey, 6 September 2012, pp. 894-96, 910

¹¹³⁴ PIC Transcript, Paul Carey, 6 September 2012, p. 908

¹¹³⁵ PIC Transcript, Paul Carey, 6 September 2012, p. 893

limited to, and had in fact been “*broad*er”, than the issues that had been raised by the Deputy State Coroner at the inquest.¹¹³⁶

- 6.39 Assistant Commissioner Carey disagreed with the assertion that had been made by Counsel Assisting in his opening remarks that “*had it not been for this Commission* [that is, the Police Integrity Commission] *it seems likely that the Police would have done nothing about the* [Salter] *matter*”.¹¹³⁷ At that point in the hearing Counsel Assisting put on record that when he had made that statement in his opening remarks he had been referring, as he said in his opening remarks, to the fact that no one within the NSWPF had seen the need to register the Deputy State Coroner’s findings as a complaint.

SUBMISSIONS OF COUNSEL ASSISTING

- 6.40 The principal submission by Counsel Assisting was that Assistant Commissioner Carey as the head of the Professional Standards Command should have registered, as a complaint within Part 8A of the *Police Act 1990*, the comments made by the Deputy State Coroner which were adverse to members of the NSWPF and which, it was conceded by counsel for the NSWPF, were capable of amounting to allegations of police misconduct.
- 6.41 It was submitted that the Deputy State Coroner’s findings should have been registered as a complaint, even though the *Police Act 1990* may not have required registration of the findings as a complaint.

SUBMISSIONS ON BEHALF OF THE NSWPF

- 6.42 The principal submissions made by Counsel for the NSWPF, supported so far as was relevant by Counsel for Assistant Commissioner Carey, were that an examination of the provisions of Part 8A of the *Police Act 1990* shows that the findings of a judicial officer do not of themselves amount to the making of a complaint within s 127 in Part 8A of the *Police Act 1990* and, if a matter does not amount to the making of a complaint within s 127 of the *Police Act 1990*, it should not be registered as a complaint on the basis that registration would be a proper, even if not obligatory, response.
- 6.43 It was also submitted that, leaving aside the question of whether the findings of the Deputy State Coroner should have been registered as a complaint, the evidence showed that the general response by the NSWPF to the findings made by the Deputy State Coroner had been appropriate.

CONSIDERATION OF THE FIFTH LIMB

- 6.44 To assess the foregoing submissions it is necessary to refer to certain provisions of the *Police Act 1990*.

¹¹³⁶ PIC Transcript, Paul Carey, 6 September 2012, p. 916

¹¹³⁷ PIC Transcript, Paul Carey, 6 September 2012, p. 917

- 6.45 Part 8A of the *Police Act 1990* is headed “*Complaints about the conduct of police officers*”. Division 1 of Part 8A is headed “*Preliminary*”. Section 122 in Division 1 provides that Part 8A applies to any complaint that alleges one or more of certain widely defined types of conduct by police officers.
- 6.46 Section 125 in Division 1 provides that Part 8A of the *Police Act 1990* is subject to the *Police Integrity Commission Act 1996*. Section 70(5) of the *Police Integrity Commission Act 1996* provides that a complaint, to the extent that it is investigated by the Commission, cannot be dealt with as a complaint under Part 8A of the *Police Act 1990*.
- 6.47 Division 2 of Part 8A of the *Police Act 1990* is headed “*Procedure for making complaints*”. Section 126 in Division 2 provides that any person may make a complaint. Section 127 in Division 2 provides in part as follows:

127 Making of complaints

(1) How made

A complaint must be made in writing to an investigating authority.

(2) It is made to the Commissioner if:

- (a) it is delivered to a police officer personally, or*
- (b) it is received by a member of the NSW Police Force by post, facsimile or electronic mail, or*
- (c) it is addressed to the Commissioner and lodged at the Local Court, or*
- (d) it is referred to the Commissioner by the Minister, by the Independent Commission Against Corruption or by the New South Wales Crime Commission.*

(3) It is made to the Police Integrity Commission if:

- (a) it is lodged or received at the office of the Commission, or*
- (b) it is received at the office of the Commission by post, facsimile or electronic mail, or*
- (c) it is addressed to the Commission and lodged at the Local Court, or*
- (d) it is referred to the Commission by the Minister, by the Independent Commission Against Corruption or by the New South Wales Crime Commission.*

(4) It is made to the Ombudsman if:

- (a) it is lodged or received at the office of the Ombudsman, or*

(b) it is received at the office of the Ombudsman by post, facsimile or electronic mail, or

(c) it is addressed to the Ombudsman and lodged at the Local Court, or

(d) it is referred to the Ombudsman by the Minister, by the Independent Commission Against Corruption or by the New South Wales Crime Commission.

(5) Exceptional circumstances where unwritten complaint acceptable.

The Police Integrity Commission or the Ombudsman:

(a) may, in exceptional circumstances, accept a complaint that is not in writing, and

(b) in that event, must reduce the complaint to writing as soon as practicable. ...

6.48 Division 3 of Part 8A of the *Police Act 1990* is headed “*Complaints information system*”. Section 128 in Division 3 provides that Regulations made under the *Police Act 1990* may make provision for or with respect to a system for recording information about complaints.

6.49 Section 129 in Division 3 also provides as follows:

129 Registration of complaints

(1) Information about all complaints received by members of the NSW Police Force, by the Police Integrity Commission or by the Ombudsman must be registered in the complaints information system.

(2) Despite subsection (1), the Police Integrity Commission may direct that information about a complaint or a specified class of complaints:

(a) is not to be entered in the complaints information system, or

(b) is to be removed from the complaints information system, or

(c) is to be entered or re-entered in the complaints information system.

(2A) Information about a complaint (or part of a complaint) received by the Police Integrity Commission or the Ombudsman that is not referred to the Commissioner is not required to be registered in the complaints information system, unless the Police Integrity Commission or Ombudsman directs that a complaint received by them be entered in the system.

(3) The PIC Commissioner, and such officers of the Police Integrity Commission as are authorised in that regard by the PIC Commissioner, are to have unrestricted access to all information in the complaints information system.

(4) The PIC Commissioner may place a caveat on particular information registered in the complaints information system and, in that event, access to that information by other agencies and other persons is to be restricted in accordance with the terms of the caveat.

(5) The Ombudsman, and such officers of the Ombudsman as are authorised in that regard by the Ombudsman, are to have unrestricted access to all information in the complaints information system, subject to the terms of any caveat under this section.

(6) The Ombudsman may place a caveat on particular information registered in the complaints information system and, in that event, access to that information by other agencies and other persons, other than:

(a) the PIC Commissioner, and

(b) such officers of the Police Integrity Commission as are authorised in that regard by the PIC Commissioner,

is to be restricted in accordance with the terms of the caveat.

- 6.50 In the light of these statutory provisions and especially s 127 of the *Police Act 1990*, the Commission accepts that the procedure for the making of complaints set out in s 127 is mandatory and that, except as otherwise expressly provided, a complaint must be in writing and must be made to an investigating authority. In *Commissioner of Police v Hughes [2009] NSWCA 306* (28 September 2009) Young JA with whose judgment the other members of the Court of Appeal agreed expressed the view at paragraph 113 of his judgment that s 127 of the *Police Act 1990* “as to the form of complaints appears to be mandatory”.
- 6.51 The Commission is further of the opinion that a consideration of the statutory provisions shows that the only complaints which are required to be registered in the complaints management system are complaints which have been made in accordance with s 127 of the *Police Act 1990*, that is complaints made in writing to an investigating authority.
- 6.52 In the present case the findings of the Deputy State Coroner were in writing but were not made to any investigating authority. Consequently, Assistant Commissioner Carey was justified in considering that registration of the findings of the Deputy State Coroner as a complaint was not required as a matter of law.
- 6.53 Assistant Commissioner Carey said in his evidence that he did not know if there had been any instance where a judicial officer had made a finding adverse to a police officer which had led to registration of a complaint, without there having been a written complaint made by the judicial officer to an investigating authority.
- 6.54 However, the Commission is aware that judicial comments adverse to a police officer are routinely registered by the NSWPF as complaints, in the absence of a direct written referral by the judicial officer who made them. The Commission

is familiar with a number of examples where the described procedure for the making of a complaint has been adopted by the NSWPF.

- 6.55 In complaints involving failed prosecutions, for example, the NSWPF appears to adopt the practice of making an internal report about the adverse judicial comments, leading to registration of the adverse comments as complaints. In the complaint bearing the reference number LMI1004566, adverse comments made by a Magistrate in relation to the credibility of a police witness were included in an internal NSWPF *“failed prosecutions form”* and thereafter were registered as a complaint in accordance with Part 8A of the *Police Act 1990*.
- 6.56 In LMI1201015 adverse comments made by a Magistrate in relation to the use of excessive force by a police officer were registered as a complaint. In LMI1201323 a Magistrate described the use of a Taser by a police officer as being improper and this was registered as a complaint. In P1004806 a chain of internal police emails served as the written complaint, after a Magistrate had adversely commented that a police officer had failed to concede certain matters in their evidence.
- 6.57 Reference was made at the hearing to clause 49 of the *Police Regulation 2008*.
- 6.58 Clause 49 provides as follows:

49 Police officer to report misconduct

(1) If:

(a) an allegation is made to a police officer that another police officer has engaged in conduct which, in the opinion of the officer to whom the allegation is made, constitutes a criminal offence or other misconduct, or

(b) a police officer sincerely believes that another police officer has engaged in any conduct of that kind,

the officer is required to report the conduct or alleged conduct by the other officer to a senior police officer (being a police officer who is more senior in rank than the officer making the report).

(2) This clause does not apply to conduct or alleged conduct:

(a) that has been made the subject of a complaint under Part 8A of the Act, or

(b) that has been the subject of evidence or other material given, or submissions made, in the course of criminal proceedings, or

(c) that has already been reported under this clause to a senior police officer.

(3) A senior police officer to whom conduct (or alleged conduct) by a police officer is reported is required to report it promptly to the Commissioner or a

police officer nominated by the Commissioner if the senior police officer believes that the conduct (or alleged conduct):

(a) constitutes (or would constitute) a criminal offence, or

(b) could provide sufficient grounds:

(i) for taking section 80 dismissal action, or

(ii) for making a reviewable section 173 order or a section 181D order.

- 6.59 The Commission notes that by virtue of clause 49(2)(c), the obligation under clause 49(1) to report to a more senior police officer conduct falling within paragraph (a) or paragraph (b) of clause 49(1) does not apply if the conduct has already been reported to a senior police officer.
- 6.60 In the present case the evidence shows that the findings of the Deputy State Coroner would have been reported to a senior police officer within the NSWPF no later than the time of the holding of the CET on 18 October 2011 when it was decided to form a Working Party to review issues arising from recent inquests.
- 6.61 Although Assistant Commissioner Carey gave evidence that the review that had been conducted by the Lessons Learnt Working Group *“responded to the criticisms of the Deputy State Coroner”*, this is not supported by the report of the Working Group. As the final report of the Lessons Learnt Working Group made clear, *“although the review was prompted by the Salter inquest, it was not intended to be a review of that particular matter, nor has it sought to specifically respond to the coronial findings, or consider the appropriateness of the conduct of officers involved”*. The purpose of the review had been *“to identify issues arising from recent inquests, and consider the internal systems and procedures in place to respond to these issues so as to identify opportunities for improvement”*. The Commission notes that the adverse comments made by the Deputy State Coroner related to the acts or omissions of individual police officers and not to any of the NSWPF’s systems and procedures.

CONCLUSION

- 6.62 The Commission accepts that the NSWPF was not required as matter of law to register the findings of the Deputy State Coroner as a complaint against particular officers within Part 8A of the *Police Act 1990*. However, as past examples when adverse judicial comments have been made would tend to show, it was not essential for the Deputy State Coroner to himself lodge a written complaint with an investigating authority in order for the NSWPF to register a complaint. The NSWPF could have brought into existence a document containing or referring to the adverse comments made by the Deputy State Coroner, which would serve as a written complaint made to an investigating authority within the terms of s 127 of the *Police Act 1990*. In future cases, the adoption of such a procedure would give credibility to the sentiments expressed in the Guidelines about the public being able to have

confidence in the ability of the NSWPF to ensure that critical incidents are investigated rigorously, thoroughly and with complete impartiality.

7. AFFECTED PERSONS

- 7.1 In the Introduction to this report the Commission set out the provisions of s 97 of the *Police Integrity Commission Act 1996* ("the Act") dealing with the contents of reports by the Commission to Parliament. It is convenient in the present part of the report to repeat the provisions of subsections (2), (3) and (4) of s 97:

(2) The report must include, in respect of each "affected" person, a statement as to whether or not in all the circumstances the Commission is of the opinion that consideration should be given to the following:

(a) the prosecution of a person for a specified criminal offence,

(b) the taking of action against the person for a specified disciplinary offence,

(c) the taking of action (including the making of an order under section 181D of the Police Act 1990) against the person as a police officer on specified grounds, with a view to dismissing, dispensing with the services or otherwise terminating the services of the police officer,

(d) the taking of reviewable action within the meaning of section 173 of the Police Act 1990 against the person as a police officer.

(3) An "affected" person is a person against whom, in the Commission's opinion, substantial allegations have been made in the course of or in connection with the investigation concerned.

(4) Subsection (2) does not limit the kind of statement that a report can contain concerning any such "affected" person and does not prevent a report from containing a statement described in that subsection in respect of any other person.

- 7.2 In deciding whether the Commission should form an opinion that consideration should be given to the prosecution of a person for a criminal offence or that consideration should be given to the taking of action against a police officer under s 181D or s 173 of the *Police Act 1990*, it is necessary for the Commission to take into account some other provisions of the Act.

- 7.3 The effect of ss 40(2), 40(3), 40(4) and 41 of the Act is that, if evidence is given by a witness at a hearing of the Commission after a declaration has been made by the Commissioner under s 41, the evidence given by the witness will not be admissible in evidence against the witness in any civil or criminal proceedings, but may be used by the Commissioner of Police in deciding whether to make an order under s 173 or s 181D of the *Police Act 1990* and may be used in proceedings for an offence against the Act. All of the police officers who gave evidence at a hearing of the Commission gave their evidence after a declaration under s 41 had been made in their favour.

7.4 Section 107 of the Act is headed “*False or misleading evidence*” and provides as follows:

(1) A person who, at a hearing before the Commission, gives evidence that is, to the knowledge of the person, false or misleading in a material particular is guilty of an indictable offence.

Maximum penalty: 200 penalty units or imprisonment for 5 years, or both.

(2) Sections 331 and 332 of the Crimes Act 1900 apply to proceedings for an offence under this section in the same way as they apply to proceedings for an offence under section 330 of that Act.

7.5 Section 181D of the *Police Act 1990* provides that the Commissioner of Police may, by order in writing, remove a police officer from the NSWPF if the Commissioner of Police does not have confidence in the police officer’s suitability to continue as a police officer, having regard to the police officer’s competence, integrity, performance or conduct. Section 173 of the *Police Act 1990* provides that the Commissioner of Police may take either “*non-reviewable action*” or “*reviewable action*” with respect to a police officer’s misconduct or unsatisfactory performance.

7.6 In deciding whether the Commission should form an opinion that consideration should be given to the taking of action against a police officer under s 181D or s 173 of the *Police Act 1990*, the Commission also has regard to the definition of police misconduct in s 5 of the Act.

7.7 In deciding in the present investigation whether it should form any opinion within s 97(2) of the Act, the Commission has regard to the assessments it has made and the opinions it has formed, as stated in earlier parts of this report.

7.8 After taking into account relevant matters, the Commission is of the opinion that the following persons are “*affected*” persons, being persons against whom, in the Commission’s opinion, substantial allegations have been made in the course of the investigation:

- Sherree Bissett;
- Aaron Abela;
- Leah Wilson
- Emily Metcalfe;
- Matthew Hanlon;
- Russell Oxford;
- Stephen Tedder.

SHERREE BISSETT

- 7.9 For the reasons set out earlier in this report, the Commission is of the opinion that Sherree Bissett engaged in police misconduct by giving knowingly false accounts of the circumstances of the shooting of Adam Salter and that she gave evidence before the Commission which to her knowledge was false in a material particular.
- 7.10 In a police interview on 18 November 2009 Sherree Bissett gave a knowingly false account to police investigators of the circumstances of the shooting of Adam Salter, by asserting that Aaron Abela had brought himself into physical contact with Adam Salter by holding on to Adam Salter's left arm.
- 7.11 In a police *walkthrough* interview on 30 November 2009 Sherree Bissett gave a knowingly false account to police investigators of the circumstances of the shooting of Adam Salter, by asserting that Aaron Abela had brought himself into close physical contact with Adam Salter.
- 7.12 In her evidence before the Commission on 30 August 2012, Sheeree Bissett gave evidence which to her knowledge was false in a material particular, by asserting that Aaron Abela was physically struggling with Adam Salter and was holding onto Adam Salter's left arm.
- 7.13 Accordingly, and in all of the circumstances, the Commission is of the opinion that consideration should be given to:
- the prosecution of Sherree Bissett for a criminal offence under s 107 of the Act; and
 - the taking of action against Sherree Bissett under s 181D of the *Police Act 1990* or, alternatively, the taking of reviewable action against her under s 173 of the *Police Act 1990*.

AARON ABELA

- 7.14 For the reasons set out earlier in this report, the Commission is of the opinion that Aaron Abela engaged in police misconduct by giving knowingly false accounts of the circumstances of the shooting of Adam Salter and that he gave evidence before the Commission which to his knowledge was false in a material particular.
- 7.15 In a police interview on 18 November 2009 Aaron Abela gave a knowingly false account to police investigators of the circumstances of the shooting of Adam Salter, by asserting that he had brought himself into physical contact with Adam Salter, by trying to push Adam Salter down as he got up from the floor, by taking hold of Adam Salter's left arm and by trying to pull Adam Salter back as he made his way to the sink.
- 7.16 In a police *walkthrough* interview on 30 November 2009 Aaron Abela gave a knowingly false account to police investigators of the circumstances of the

shooting of Adam Salter, by asserting that he had brought himself into physical contact with Adam Salter, by trying to push Adam Salter back, by taking hold of Adam Salter's left arm and by trying to pull Adam Salter back as he made his way to the sink.

- 7.17 In his evidence at the inquest into the death of Adam Salter on 28 and 29 September 2011 Aaron Abela gave evidence which to his knowledge was false in a material particular, by asserting that he had brought himself into physical contact with Adam Salter, by stretching out his right arm, by taking hold of Adam Salter's left arm, and by trying to pull Adam Salter back as he made his way to the sink.
- 7.18 At a private hearing of the Commission on 12 August 2012 Aaron Abela gave evidence which to his knowledge was false in a material particular, by asserting that he had placed his hands on Adam Salter's left arm and that his hands had slid on Adam Salter's left arm.
- 7.19 At a public hearing of the Commission on 29 and 30 August 2012 Aaron Abela gave evidence which to his knowledge was false in a material particular, by asserting that he had brought himself into physical contact with Adam Salter, by stretching out his right arm, by taking hold of Adam Salter's left arm, by attempting to pull Adam Salter back as he made his way to the sink, and by letting go of Adam Salter, taking a step back and turning his head to the right, at about the moment Sherree Bissett discharged her firearm at Adam Salter.
- 7.20 Accordingly, and in all of the circumstances, the Commission is of the opinion that consideration should be given to:
- the prosecution of Aaron Abela for a criminal offence under s 107 of the Act;
 - the prosecution of Aaron Abela for a criminal offence under s 327 of the *Crimes Act 1900*, being an offence of perjury; and
 - the taking of action against Aaron Abela under s 181D of the *Police Act 1990* or, alternatively, the taking of reviewable action against him under s 173 of the *Police Act 1990*.

LEAH WILSON

- 7.21 For the reasons set out earlier in this report, the Commission is of the opinion that Leah Wilson engaged in police misconduct by giving knowingly false accounts of the circumstances of the shooting of Adam Salter and that she gave evidence before the Commission which to her knowledge was false in a material particular.
- 7.22 In an entry made in her police notebook on 18 November 2009 Leah Wilson gave a knowingly false account of the circumstances of the shooting of Adam Salter, by asserting that Aaron Abela had tried to restrain Adam Salter's left shoulder.

- 7.23 In a police interview on 18 November 2009 Leah Wilson gave a knowingly false account to police investigators of the circumstances of the shooting of Adam Salter, by asserting that Aaron Abela had tried to hold Adam Salter's left shoulder.
- 7.24 In her evidence at the inquest into the death of Adam Salter on 29 September 2011 Leah Wilson gave evidence which to her knowledge was false in a material particular, by asserting that Aaron Abela was struggling with the left side of Adam Salter, and that Aaron Abela had his hands on Adam Salter's upper shoulder area and was trying to hold him.
- 7.25 In her evidence at a public hearing of the Commission on 29 August 2012 Leah Wilson gave evidence which to her knowledge was false in a material particular, by asserting that Aaron Abela had brought himself into physical contact with Adam Salter by taking hold of Adam Salter's upper left shoulder.
- 7.26 In an entry made in her police notebook on 18 November 2009 Leah Wilson gave a knowingly false account of the circumstances of the shooting of Adam Salter, by asserting that when Sherree Bissett drew her firearm she said "*Drop it. Drop it.*"
- 7.27 In the police interview on 18 November 2009 Leah Wilson gave a knowingly false account to police investigators of the circumstances of the shooting of Adam Salter, by asserting that Sherree Bissett had said "*Drop it. Drop it.*" before she discharged her firearm at Adam Salter.
- 7.28 In her evidence at the inquest into the death of Adam Salter on 29 September 2011 Leah Wilson gave evidence which to her knowledge was false in a material particular, by asserting that Sherree Bissett had yelled the words "*Drop it. Drop it.*" in a loud voice before she discharged her firearm at Adam Salter.
- 7.29 In her evidence at the public hearing of the Commission on 29 August 2012 Leah Wilson gave evidence which to her knowledge was false in a material particular, by asserting that she had not fabricated her prior accounts that Sherree Bissett had said "*Drop it. Drop it.*" before she discharged her firearm at Adam Salter.
- 7.30 Accordingly, and in all of the circumstances, the Commission is of the opinion that consideration should be given to:
- the prosecution of Leah Wilson for a criminal offence under s 107 of the Act;
 - the prosecution of Leah Wilson for a criminal offence under s 327 of the *Crimes Act 1900*, being an offence of perjury;
 - the taking of action against Leah Wilson under s 181D of the *Police Act 1990* or, alternatively, the taking of reviewable action against her under s 173 of the *Police Act 1990*.

EMILY METCALFE

- 7.31 For the reasons set out earlier in this report, the Commission is of the opinion that Emily Metcalfe engaged in police misconduct by giving knowingly false accounts of the circumstances of the shooting of Adam Salter and that she gave evidence before the Commission which to her knowledge was false in a material particular.
- 7.32 In a police interview on 18 November 2009 Emily Metcalfe gave a knowingly false account to police investigators of the circumstances of the shooting of Adam Salter, by asserting that Aaron Abela had brought himself into physical contact with Adam Salter by taking hold of Adam Salter.
- 7.33 In her evidence at the inquest into the death of Adam Salter on 29 and 30 September 2011 Emily Metcalfe gave evidence which to her knowledge was false in a material particular, by asserting that Aaron Abela had brought himself into physical contact with Adam Salter, by taking hold of Adam Salter's upper torso, with two hands holding him by the back, before Sherree Bissett discharged her firearm at Adam Salter.
- 7.34 In her evidence at the public hearing of the Commission on 29 August 2012 Emily Metcalfe gave evidence which to her knowledge was false in a material particular, by asserting that Aaron Abela had brought himself into physical contact with Adam Salter, by taking hold of the left-hand side of Adam Salter, with his right hand on the top of Adam Salter's shoulder and his left hand on the left arm above the elbow, before Sherree Bissett discharged her firearm at Adam Salter.
- 7.35 Accordingly, and in all of the circumstances, the Commission is of the opinion that consideration should be given to:
- the prosecution of Emily Metcalfe for a criminal offence under s 107 of the Act;
 - the prosecution of Emily Metcalfe for a criminal offence under s 327 of the *Crimes Act 1900*, being an offence of perjury; and
 - the taking of action against Emily Metcalfe under s 181D of the *Police Act 1990* or, alternatively, the taking of reviewable action against her under s 173 of the *Police Act 1990*.

MATTHEW HANLON

- 7.36 For the reasons set out earlier in this report, the Commission is of the opinion that Matthew Hanlon engaged in police misconduct by not making a record, or causing a record to be made, of who had supplied him with the items of information that he included in the Situation Report prepared by him and by not complying fully with the *Guidelines for the Management and Investigation of Critical Incidents*.

7.37 In all of the circumstances, the Commission is not of the opinion that consideration should be given to:

- the prosecution of Matthew Hanlon for a specified criminal offence; or
- the taking of action against Matthew Hanlon under s 181D of the *Police Act 1990*; or
- the taking of reviewable action against Mathew Hanlon under s 173 of the *Police Act 1990*.

7.38 However, the Commission is of the opinion that consideration should be given to the taking of non-reviewable action against Matthew Hanlon under s 173 of the *Police Act 1990*.

RUSSELL OXFORD

7.39 For the reasons set out earlier in this report, the Commission is of the opinion that Russell Oxford engaged in police misconduct.

7.40 Russell Oxford did not conduct the critical incident investigation into the death by shooting of Adam Salter and did not prepare his report of the investigation, with rigour and impartiality. He did not properly take into consideration the accounts of the civilian witnesses and incorrectly asserted that their accounts were consistent with the police accounts. He accepted the account of the shooting given by Sherree Bissett without properly assessing or testing it. On the first night of the investigation, without having sufficient materials to properly form an opinion, he prejudged the outcome of his investigation by deciding that the shooting of Adam Salter had been justified on the basis that Aaron Abela had brought himself into physical contact with Adam Salter. He made a number of other findings in his report for which there was no evidence or which were against the weight of the evidence. In a case where the evidence of an expert in bloodstain pattern analysis was required to properly test the accounts of the police officers, he did not obtain such evidence. In conducting a *walkthrough* interview with Bissett, he materially assisted Bissett by improperly asking leading questions.

7.41 In all of the circumstances, the Commission is not of the opinion that consideration should be given to:

- the prosecution of Russell Oxford for a specified criminal offence; or
- the taking of action against Russell Oxford under s 181D of the *Police Act 1990*.

7.42 However, the Commission is of the opinion that consideration should be given to the taking of reviewable action against Russell Oxford under s 173 of the *Police Act 1990*.

STEPHEN TEDDER

- 7.43 For the reasons set out earlier in this report, the Commission is of the opinion that Stephen Tedder engaged in police misconduct.
- 7.44 Stephen Tedder did not comply with his central obligation as a Review Officer under the *Guidelines for the Management and Investigation of Critical Incidents* “to ensure that a high quality comprehensive investigation is conducted and to ensure that the investigation process has integrity and can withstand independent scrutiny”, in limiting the scope of his investigation, in not detecting and reporting on deficiencies in Oxford’s investigation and report, in not recognising the conflict in the evidence available to him on what he himself regarded as the critical factual issue, in uncritically accepting the evidence of the police officers and in disregarding the evidence of the civilian witnesses on the critical factual issue.
- 7.45 In all of the circumstances, the Commission is not of the opinion that consideration should be given to:
- the prosecution of Stephen Tedder for a specified criminal offence; or
 - the taking of action against Stephen Tedder under s 181D of the *Police Act 1990*.
- 7.46 However, the Commission is of the opinion that consideration should be given to the taking of reviewable action against Stephen Tedder under s 173 of the *Police Act 1990*.

8. GENERAL MATTERS ARISING

8.1 Counsel Assisting the Commission, while making submissions that the Commission should make recommendations about individual police officers, did not make any submission that the Commission should make any recommendation of a general nature in its report.

8.2 However, counsel for Adrian Salter did submit that the Commission should make recommendations of a general nature in its report. Counsel submitted that the critical incident investigation into the shooting of Adam Salter had demonstrated that the public could not have any confidence that an investigation conducted by police officers into a critical incident would meet the standard required by the NSWPF's own *Guidelines for the Management and Investigation of Critical Incidents* ("the Guidelines"), that a critical incident investigation be conducted rigorously, thoroughly and with impartiality.

8.3 Counsel submitted that a solution would be for all critical incidents to be investigated by a body which was independent of the NSWPF. Counsel immediately added:

However, it is recognised that if the Commission included in its Report a recommendation that an independent body be established to investigate all critical incidents it might not find favour with government because of the significant resources which would be required. The same response might be given if the Commission included in its Report a recommendation that in the future the Commission investigate all critical incidents.

8.4 A recommendation which it was submitted the Commission should make would be a recommendation that the Commission be empowered to review all critical incident investigations and all critical incident investigation reports, where there has been death or injury to a member of the public. Counsel suggested that the practical effect of such a recommendation, if adopted, would be that the Commission would take over the role currently held by the Review Officer under the Guidelines.

8.5 Counsel accepted that for the Commission to perform such a role it would need to have resources to be able to send members of its staff to the scene of an incident as soon as an incident was declared a critical incident, so as to monitor the investigation of the incident from its inception, and, as required by the Guidelines, maintain a close working relationship with the Senior Critical Incident Investigator throughout the course of the investigation and discuss with the Senior Critical Incident Investigator any areas of concern that might arise.

8.6 Further submissions by counsel for Adrian Salter about recommendations the Commission should make in its report were that the Commission should recommend that all critical incident investigation reports be published on the website of the NSWPF, as soon as they are completed and before any inquest commences, and that the Guidelines should also be published. It was pointed out by counsel that in the present case Oxford's critical incident investigation report had not been prepared for the inquest and had only come before the

Deputy State Coroner and thus become publicly available, by reason of its having been subpoenaed.

- 8.7 It was submitted by counsel for Adrian Salter that the Commission should recommend that there be a thorough review of NSWPF media policy concerning critical incidents. Counsel submitted that the Commission should recommend that there be a complete embargo on public statements about critical incidents being made by police officers to the media, *“until such time as both the senior member of the Critical Incident Investigation Team and the Commission consider that it will not damage the investigation to say more”*.
- 8.8 The only other submissions the Commission received about recommendations of a general nature which the Commission might make in its report were in the submissions received from Mr Tedder. In his submissions Mr Tedder said that he did not agree with counsel for Adrian Salter that critical incidents should be investigated by an independent body or that the Commission should take over the role of Review Officer. However, he agreed with counsel for Adrian Salter that the Commission should recommend a review of NSWPF media policy concerning critical incidents and that the Commission should recommend that an embargo of the kind advocated by counsel for Adrian Salter should be placed on the making of any public statements by police officers about critical incidents.
- 8.9 Mr Tedder made a separate submission that the Commission should recommend that the Ambulance Service of NSW adopt similar protocols to those applying within the NSWPF, requiring witnesses to the same critical incident to be separated and to be directed not to discuss the incident with each other, until they have provided individual statements to an investigating authority.
- 8.10 The Commission will now consider the various submissions that the Commission should make recommendations of a general nature in its report.

The submission that the Commission should recommend that all critical incidents be investigated by a body independent of the NSWPF

- 8.11 There would be benefits if such a method of investigating critical incidents was adopted.
- 8.12 The Guidelines to which reference has been made in this report clearly recognise the risk that there will be a doubt in the minds of members of the public about whether investigations conducted by police officers into the actions of a fellow police officer will be conducted properly, that is, rigorously, thoroughly and with complete impartiality.
- 8.13 Furthermore, there will be cases where it happens that critical incident investigations by police officers into the actions of a fellow police officer are not in fact properly conducted. In the present case, the Commission has concluded that the critical incident investigation into the shooting of Adam Salter was not conducted rigorously, thoroughly and with complete impartiality. Among other things, the Commission has found that accounts of the incident given by police officers were uncritically accepted and that accounts given by civilian witnesses

were disregarded and described, quite incorrectly, as being consistent with the accounts given by the police officers.

- 8.14 If critical incidents were investigated by a body that was independent of the NSWPF, then there would be greater public confidence in the integrity of the investigations and less risk of the investigations failing to be properly conducted.
- 8.15 However, as counsel for Adrian Salter recognised in his submissions, significant resources would be required to set up and operate an independent body to investigate critical incidents or even only critical incidents involving death or serious injury to a member of the public.
- 8.16 A number of critical incidents occur in NSW each year. They can occur anywhere in the state and at any time of the day or night. It is desirable, if not essential, for the effective investigation of a critical incident, that within a short time of the incident happening, multiple officers of the investigating authority attend the scene of the incident, take control of the scene, preserve evidence, and immediately initiate an investigation. The Commission notes that, in the present case, a large number of police officers arrived at 33 Wangee Road on the morning of 18 November 2009, soon after the incident occurred.
- 8.17 The Commission considers that it is for the government to decide whether the very large allocation of resources required to set up and operate a new body to investigate critical incidents would be warranted.
- 8.18 It is true that the Commission itself is an existing body. However, the Commission would require very significant additional resources to equip it with the capacity to investigate critical incidents or even only critical incidents involving death or serious injury to a member of the public.

The submission that the Commission should become a Review Officer for all critical incident investigations and reports

- 8.19 The Commission considers that it would need a very substantial increase to its funding, even to perform this more limited role. As counsel for Adrian Salter stated in his submissions, the Commission would be required to have staff at its disposal, which it could send to the scene of a critical incident as soon as a critical incident was declared, and the Commission would be required to maintain a close working relationship with the Senior Critical Incident Investigator during the course of the investigation.
- 8.20 The Commission also considers that performing the role of a Review Officer for critical incident investigations would be inconsistent with the Commission's primary function of preventing, detecting and investigating misconduct by police officers.
- 8.21 If the Commission had the role of Review Officer in a critical incident investigation and any complaint was made about the conduct of the investigation, the Commission, by its own participation in the investigation, might be disqualified from being able to consider the complaint. More generally, the Commission considers that it would be inimical to the performance of the

Commission's primary functions that it should enter into a close working relationship with a particular NSWPF officer (the Senior Critical Incident Investigator).

The submission that the Commission should recommend that all critical incident investigation reports be published on the website of the NSWPF and that the Guidelines be made publicly available

- 8.22 A report of a critical incident investigation by police officers into the conduct of another police officer should not be regarded as an internal police document, in which only members of the NSWPF have an interest. On the contrary, there is a strong public interest in a report of such an investigation being made public and the Guidelines applying to such an investigation also being made public, so that the public may have some opportunity of determining whether the investigation was conducted with rigour, thoroughness and complete impartiality and in such a manner as to realise the other objectives and standards for such an investigation set by the NSWPF's own Guidelines.
- 8.23 Counsel for Adrian Salter submitted that all critical incident investigation reports should be published as soon as they are completed and before any inquest is held. However, the Commission considers that the publication of a critical incident investigation report before any inquest is held, or concluded, may, at least in certain circumstances, be inappropriate and the Commission does not include those parts of counsel's submission in its recommendation.
- 8.24 Accordingly, the recommendations the Commission makes are that all critical incident investigation reports be published on the website of the NSWPF after the completion of any inquest and that the Guidelines be made publicly available.

The submission that the Commission should recommend that there be a thorough review of NSWPF media policy concerning critical incidents and that there be an embargo on public statements about critical incidents being made to the media by a police officer, *"until such time as both the senior member of the Critical Incident Investigation Team and the Commission consider that it will not damage the investigation to say more"*

- 8.25 The Commission understands that a thorough review of NSWPF media policy was one of the matters addressed by the Lessons Learnt Working Group of the NSWPF. However, to the extent to which it has not already been undertaken, the Commission recommends that a thorough review of NSWPF media policy concerning critical incidents be conducted.
- 8.26 The Commission does not make any recommendation that there be an embargo on any public statements about a critical incident being made to the media by a police officer. The Commission accepts that there may be a strong public demand for information about a critical incident and a legitimate public interest in some information about a critical incident being supplied.
- 8.27 However, as the evidence in the present case shows, police should exercise care in the preparation of media releases and should avoid making a media

release, which prejudices the result of an investigation which has only just begun.

- 8.28 The Commission recommends that a police officer issuing a media release or a Situation Report be required to make a record of the person or persons supplying the various items of information contained in the media release or Situation Report, so that someone can be held accountable for any information contained in the media release or Situation Report which is later found to be untrue.

The submission by Mr Tedder concerning the Ambulance Service of NSW

- 8.29 The Commission does not consider that it should make the recommendation submitted for by Mr Tedder. The Ambulance Service of NSW did not appear at the hearing of the Commission in its corporate capacity and thus did not have the opportunity to make submissions on the matter. It may be that there are reasons why ambulance officers should not be separated, such as the welfare of a patient or a review of the care of the patient, which should be regarded as paramount.



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