



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

Inquest: Inquest into the death of Heidi Cox

Hearing dates: 10 & 11 April 2017

Date of findings: 19 April 2017

Place of findings: NSW State Coroner's Court, Glebe

Findings of: Magistrate Derek Lee, Deputy State Coroner

Catchwords: CORONIAL LAW – manner of death, subdural haemorrhage, haematoma, bruising, domestic violence

File number: 2015/23586

Representation: Mr S Kelly, Coronial Advocate Assisting
Ms M Bridgett (Karl Bingle)

Findings: I find that Heidi Cox died on 23 January 2015 at Prince of Wales Hospital, Randwick NSW. The cause of death was the consequences of an acute subdural haemorrhage. Heidi suffered the subdural haemorrhage during an incident of interpersonal violence. However the available evidence does not allow for a more precise finding to be made as to the circumstances of that incident, nor as to the manner in which the injury was occasioned.

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Introduction

1. Ms Heidi Cox died in hospital on 23 January 2015 from a fatal head injury. Exactly how she came to suffer the injury is not known. Indeed, very little is known about what occurred approximately 13 hours before Heidi's death when she was found lying on the floor of a unit where she sometimes stayed with her partner at the time, Mr Karl Bingle.

Why was an inquest held?

2. All sudden, unexpected and unnatural deaths are reportable to a Coroner. When a person's death is reported there is an obligation on the Coroner to investigate matters surrounding the death. This is done so that evidence may be gathered to allow a Coroner to answer questions about the identity of the person who died, when and where they died, and what was the cause and the manner of their death. The manner of a person's death means the circumstances in which that person died. If any of these questions cannot be answered then an inquest must be held.
3. In Heidi's case, there is ample evidence to establish her identity, where and when she died, and what the medical cause of her death was. However there was an unanswered question as to the manner of Heidi's death. An inquest was held in an attempt to answer this question. That is, how did she come to suffer the fatal injury which caused her death?

Heidi's life

4. Before going on to consider this important question, it is also important to say something briefly about Heidi's life. During the process of gathering evidence in preparation for an inquest it is often the case that large amounts of documents and photos are collected. Whilst this material is often relevant to the issues that an inquest considers, very little of it tells a Coroner about the person who died, what their life was like, and who they really were as a person. It is not possible to do this in a few paragraphs in these findings. However, it is possible to recognise the tremendous loss that Heidi's family and friends have suffered and how Heidi's death has tragically affected them.
5. Heidi was the second of three daughters to Bill Cox and Julie Wyer. She was very close to both her older sister, Lucinda, who she attended boarding school with, and her younger sister, Danielle.
6. After finishing school and working for a short time, Heidi left her job at the age of 18 to travel around Australia. Whilst in the northern rivers region of NSW she became involved in environmental activism, which led to further travel to different parts of Australia. Despite her wanderlust, Heidi regularly returned home to Sydney to visit, and spend time with, her family. Lucinda often took bike riding and camping trips with Heidi and fondly recalls an adventurous road trip that they once both took from Alice Springs to Adelaide.
7. Heidi continued travelling around Australia until about 1984 when she moved back to Sydney permanently, living predominantly in the eastern suburbs. In 1999 Lucinda moved to the north coast and, consequently, saw less of Heidi although they would periodically keep in touch when Lucinda returned to Sydney.

8. At the age of 22 Heidi was diagnosed with schizophrenia. Following this, Heidi's family noticed that it became more difficult to focus her attention and described her behaviour as tangential. It seems that over the next several years Heidi moved from place to place without having a permanent home, often staying in boarding houses within the inner city.
9. At some stage, whilst Heidi was living in a boarding house in Taylor Square, she met Gabriel Tunbridge and together they had a son, Jack, in 1993. Jack was later removed from his parents care at the age of 16 months by the Department of Community Services (as it then was) and placed in foster care.
10. As Jack's foster family later moved to Alice Springs, and then Adelaide, he only saw Heidi infrequently up until the age of 9 or 10. From that time on Jack did not see Heidi again until he was 16 years old and later arranged to spend alternate Christmases with her and the Cox family, first in 2010, then in 2012 (although Heidi was not present at the time) and again in 2014.
11. Within about five years of Jack being born Heidi met Karl Bingle in Paddington and they became involved in a relationship. This relationship continued in an on-and-off fashion over the next 15 years. According to Heidi's mother, Mr Bingle and Heidi lived together in a number of different boarding houses, often moving from one to another.
12. In October 2014 all of Jack's foster family travelled to Sydney and he and Heidi spent some time together. Jack describes forming a close bond with Heidi that had not been present before, and he and Heidi were able to share stories about themselves and gain an insight into each other's lives.
13. Lucinda described Heidi as an amazing person, someone who was always popular and well-loved. At the end of the inquest, the court was privileged to hear some heartfelt words spoken by Ms Wyer about how much Heidi is missed by her family and how much they cared for her. It is distressing to know that the close bond that Heidi had with her mother and her sisters makes her passing even more painful for them. It is also distressing to know that Heidi died at a time when she was only just beginning to re-form a close connection with her son, Jack. There is no doubt that all of Heidi's family feel the pain of her loss enormously but that they also remember her lovingly.

What happened on 22 and 23 January 2015?

14. Sometime in the last 12 months before her death, Heidi and Mr Bingle moved into a rental unit at 6/10 Edward Street, Botany. Due to the nature of their relationship, Mr Bingle lived permanently at the unit but Heidi only lived there intermittently. Heidi would sometimes leave the unit (often at the request of Mr Bingle) to stay elsewhere, and then subsequently return to the unit. The nature of their living relationship would follow this cyclical pattern but during January 2015 Heidi was living at the unit.
15. Unfortunately very little is known the events during the late evening of 22 January 2015 and the early hours of the morning of 23 January 2015. Most of the available evidence regarding what occurred during this period comes from one source: Mr Bingle.
16. At 2:47am on 23 January 2015 Mr Bingle called triple 0 and told the operator:

*“Umm, my partner’s lied [sic] down on the floor, I’ve fell asleep in bedroom [sic], umm, I came out and found her a couple of hours ago lying on the floor”.*¹

17. Mr Bingle told the operator that he had placed a pillow under Heidi’s head, that she was “making all sorts of noises”, that blood was coming out of her mouth, and that she was unconscious but still breathing, although it sounded like she was making a gurgling noise.²
18. Paramedics Anthony Hugo and Megan Mackay received a call at 2:47am to attend 6/10 Edward Street, Botany and arrived on the scene at 2:53am. They went to the second floor of the building where unit 6 was located and found that the front door was open. Upon entering the unit they saw Mr Bingle in the lounge room and asked where the patient was. Mr Bingle pointed to Heidi who was lying on the lounge room floor nearby.
19. Paramedic Hugo saw that Heidi had a blanket over her and a pillow under her head and that she was lying on her left side. After asking Mr Bingle what had happened and what time he found Heidi, Mr Bingle replied, “Around midnight. I put a pillow under her head and I went to bed. I woke up a couple of hours later and I found her on the floor with blood coming out of her mouth. I then called an ambulance”.³
20. The paramedics found that Heidi was unresponsive and that whilst her blood pressure was within normal parameters, her oxygen saturation level was low (72%). The paramedics administered oxygen to Heidi and Paramedic Hugo attempted to intubate Heidi but after she started to gag he immediately removed the intubation equipment. It appeared to Paramedic McKay that Heidi was responding to pain and an intensive care ambulance was called to assist with transporting Heidi to the ambulance and with managing her wellbeing.
21. As the paramedics continuously treated Heidi and monitored her vital signs they attempted to establish the cause of her condition by asking Mr Bingle a number of questions about what had happened before they arrived. Mr Bingle explained that he and Heidi had been drinking red wine during the previous evening and that Heidi had drunk about a litre of wine before midnight. It was unclear to the paramedics, and also unclear to me, whether Mr Bingle was explaining that Heidi had drink the litre of wine on her own or whether she had shared it with Mr Bingle.
22. Mr Bingle told the paramedics that Heidi drank alcohol every day and that it was normal for her to drink that amount.⁴ He also explained that Heidi had taken some of his Seroquel⁵ tablets (because she had ran out of her own prescription about a week prior⁶) but denied that she had taken any intravenous drugs. Paramedic Mackay asked Mr Bingle, “Has anything like this happened before?” to which Mr Bingle replied, “Yes, this happens all the time and I have to clean her up”.⁷ When Paramedic Mackay referred to “this” it is unclear whether she was referring to Heidi drinking the alcohol, or taking the Seroquel, or being found on the floor, or a combination of these various things. More relevantly, it is equally unclear what Mr Bingle meant when he said that “this” happened all the time. My interpretation of both the question and answer is that both

¹ Exhibit 2, page 38.

² Exhibit 2, pages 38-39.

³ Exhibit 2, page 282.

⁴ Exhibit 2, page 292.

⁵ Antipsychotic medication used to treat conditions such as schizophrenia and bipolar disorder. The evidence at the inquest indicated that, like Heidi, Mr Bingle also suffered from schizophrenia although there was no specific evidence adduced as to the nature of any mental health conditions, either at the time of Heidi’s death, or at the time of the inquest.

⁶ Exhibit 2, pages 277, 293.

⁷ Exhibit 2, page 282.

Paramedic Mackay and Mr Bingle were referring to “this” as meaning Heidi having been found collapsed on the floor.

23. Whilst treating Heidi, Paramedic Mackay also noticed that Heidi had numerous bruises on her right arm, across her abdomen and legs, and around her neck.⁸ Paramedic Hugo noticed that Heidi had numerous dark-coloured bruises mainly on her upper arms, and later noticed that she had a dark-coloured bruise on her neck.⁹ When he asked Mr Bingle the reason for the bruises, Mr Bingle replied with words to the effect of, “She falls over a lot”.¹⁰
24. The intensive care ambulance arrived a short time later, and the attending paramedics inserted a nasopharyngeal airway to help manage Heidi’s breathing. One of the intensive care paramedics, Nathan Williams, also noticed that Heidi had generalised bruising on the left side of her neck, ranging from the bottom of her jaw to the top of her clavicle and across the front of her throat.¹¹
25. The paramedics carried Heidi downstairs and placed her into an ambulance. Heidi was taken to the emergency department of Prince of Wales Hospital at about 3:50am and later admitted to the intensive care unit. At 5:22am a head CT scan was taken which showed that Heidi had fresh (acute) bleeding between two layers of tissue surrounding her brain (a subdural haemorrhage). Areas of brain tissue death (necrosis) were also seen, having been caused by the inadequate supply of blood and oxygen to the brain (infarction). As Heidi’s brain injury had decreased her level of consciousness this meant that her airway was not protected. This led to food and saliva being breathed into her lungs and airways, instead of being swallowed into the stomach, causing infection (aspiration pneumonia).
26. One of the intensive care physicians, Dr Patricia Figgis, saw what she described as “unusual”¹² bruising around Heidi’s left eye and on her neck, together with bruises to Heidi’s left upper arm and right thigh. Dr Figgis later formed the opinion that it was possible that Heidi’s injuries were the “result of an assault, even though there was no skull fracture or external wounds. That assault may have included partial strangulation accounting for the degree of cerebral ischaemia [insufficient blood flow to the brain]”¹³.
27. Due to Heidi’s grave condition and the fact that neurosurgeons at the hospital formed the view that the extent of her brain injury was irrecoverable and that surgery would not change her prognosis, Heidi’s family made the decision for palliative care only to be provided. At 1:15pm Heidi was extubated and later declared deceased at 1:20pm.
28. At about 11:00am on 23 January 2015 Mr Bingle took part in an interview at Mascot police station in the company of a registered nurse (Ms Lyndal Muscio) who was in attendance as a support person. When the interviewing police put to Mr Bingle that they were investigating an alleged assault of Heidi, Mr Bingle indicated that he did not wish to say anything.¹⁴ Moments later when the interviewing police gave Mr Bingle an opportunity to say anything in relation to the allegation, Mr Bingle replied, “There was no assault. There’s been no assault”.¹⁵

⁸ Exhibit 2, page 282.

⁹ Exhibit 2, page 278.

¹⁰ Exhibit 2, page 278.

¹¹ Exhibit 2, page 288.

¹² Exhibit 2, page 356.

¹³ Exhibit 2, page 356.

¹⁴ Exhibit 2, page 532.

¹⁵ Exhibit 2, page 533.

What did the autopsy reveal?

29. Heidi was later taken to the Department of Forensic Medicine at Glebe where Dr Isabel Brouwer performed the autopsy on 24 January 2015. Dr Michael Buckland, a neuropathologist, later examined Heidi's brain. Both Dr Brouwer and Dr Buckland prepared reports which were admitted into evidence during the inquest.¹⁶ The reports established the following:
- (a) Heidi had suffered a large acute left-sided subdural haemorrhage;
 - (b) The subdural haemorrhage caused raised intracranial pressure and the movement of brain tissue away from their usual position inside the skull (brain herniation);
 - (c) There were bruises of varying colour, mainly to Heidi's upper and lower limbs, which were indicative of blunt force trauma injuries and which appeared to be of different ages;
 - (d) Heidi had areas of bruising to her left cheek and on her left lower eyelid, with evidence of early acute inflammatory cells indicating that the cheek injury was subacute (between acute and chronic);
 - (e) Heidi had a large area of bruising to the left front and side of her neck with variations in colour, indicating that the bruising was subacute. Histological examination of the area of bruising showed acute haemorrhage in the layer of the skin (subcutis) and the muscle, without acute inflammatory response or a type of white blood cell (macrophages) that play an important anti-inflammatory role. There were no fractures in the bony structures of the neck;
 - (f) There was a localised area of bruising in the scalp on the left side of Heidi's head, but no skull vault or skull base fractures were present. Acute haemorrhage was seen in the section of skin taken from the area of bruising from the area to the top and back of Heidi's head on the left hand side (left parietal region and left occipital region).
 - (g) Toxicology analysis of an acute subdural blood sample revealed an alcohol concentration of 0.120 g/100mL which most likely reflected the blood alcohol concentration at the time of the subdural haemorrhage.
 - (h) There was also evidence of acute pancreatitis and fatty infiltration of the liver, both consistent with features of excessive alcohol use.
30. Dr Brouwer ultimately concluded that Heidi's death was caused by the consequences of the acute subdural haemorrhage which she suffered. That is, the bleeding in the tissue layers surrounding Heidi's brain elevated the pressure inside her skull causing swelling and movement, or squeezing, of the brain to a different position.
31. Although the autopsy established the cause of Heidi's death, it could not establish the mechanism which caused the subdural haemorrhage. That is, what were the circumstances in which Heidi came to suffer the subdural haemorrhage?

¹⁶ Exhibit 1.

Is there any evidence of domestic violence within Heidi's relationship?

32. The evidence gathered by the police during the investigation into Heidi's death indicated that the subdural haemorrhage may have been the result of an incident of domestic violence involving Mr Bingle. In order to attempt to identify the manner of Heidi's death it is first necessary to consider whether domestic violence played a role in it by ascertaining whether there was any domestic violence within the relationship between Heidi and Mr Bingle. There was evidence of possible domestic violence from three sources: documentary evidence, evidence from Mr Bingle's neighbours, and evidence from Heidi's family. I will consider each of these sources below.

(a) What is the documentary evidence?

33. Heidi's criminal record¹⁷ reveals she was convicted on 24 April 2014 of committing an offence of assault occasioning actual bodily against Mr Bingle on 7 January 2014. According to police records¹⁸ it appears that Heidi punched Mr Bingle a number of times in the face and caused injuries to him. As a result of this incident, a provisional apprehended violence order (AVO) was granted nominating Mr Bingle as the person in need of protection.

34. On 11 January 2014 Heidi called Mr Bingle and later went to 6/10 Edward Street, Botany (Heidi was not living there at the time). Both of these actions by Heidi breached conditions of the AVO.¹⁹ At some stage later that evening Mr Bingle asked Heidi to leave and when she refused to do so, Mr Bingle called the police who later attended.²⁰ Heidi was charged with contravening the conditions of her AVO and was later convicted and sentenced on 16 January 2014.²¹

35. In contrast it should be noted that whilst Mr Bingle's criminal history²² contains convictions for offences of violence, none of those convictions appear to be of a domestic violence nature and none appear to relate specifically to Heidi.

(b) What is the evidence from Mr Bingle's neighbours?

36. During the subsequent investigation following Heidi's death police officers spoke to several people who lived in the same unit block as Mr Bingle and who lived in the houses and other units surrounding the Mr Bingle's block. The purpose of this was to determine if anybody heard or saw anything during the evening of 22 January 2015.

37. Jane Hewson and Thomas Kirchner lived in a unit in the neighbouring unit block at 10A Edward Street. Mr Kirchner told police that on 23 January 2015 he was woken at 2:26am by an email notification sound on his phone when he received an email that he had been expecting. Mr Kirchner said that he got out of bed, and went to read the email on his iPad in the lounge room. Whilst reading the email between about 2:30am and 2:45am Mr Kirchner heard what he described as a very loud argumentative conversation between a male and a female. He described the conversation as sounding like "there was some angry to it" but that there "wasn't any fearful

¹⁷ Exhibit 2, pages 679-706.

¹⁸ Exhibit 2, page 743.

¹⁹ It should be noted that, although it contravened a condition of the AVO, Heidi entered, and stayed at, the unit with Mr Bingle's consent. It appears that that consent was only withdrawn shortly before Mr Bingle called the police. Regardless of Mr Bingle's consent, Heidi's actions were still in breach of the condition of the AVO.

²⁰ Exhibit 2, pages 737-739.

²¹ Exhibit 2, page 704.

²² Exhibit 2, pages 708-721.

screaming but just argumentative [sic]”.²³ Mr Kirchner said that the conversation went on and off for about 10 minutes and then he went back to sleep and did not hear anything else for the rest of the night. Ms Hewson did not hear this argument on this night but told police that about once per fortnight she heard Mr Bingle and Heidi arguing for between 10 to 30 minutes.²⁴

38. Justin Dugan lived in one of the units at 10 Edward Street, Botany. He told police that he heard Mr Bingle and Heidi arguing about five or six times over a six month period. He said that he could not hear what they were arguing about but that they were slurring their words and sounded drunk. Every time he heard the arguments Mr Dugan said that he only heard yelling and doors slamming, and that he “never heard anything that sounded like punches, kicks, or thuds like someone was being hurt”.²⁵
39. Mico Cindric lived in another unit in the same unit block. He told police that about once per week he heard male and female voices arguing and yelling in unit 6, and that the male voice was always much louder and more aggressive.²⁶
40. Niten Maharaj lived in unit directly opposite from unit 6. He told police that on 22 January 2015 he was on his computer for most of the night. At about 2:45am he heard loud footsteps coming up the stairs and what he described as the sound of someone dragging a metal object up the stairs. He assumed that Mr Bingle was making the noise, thought no more of it, and went to bed at about 3:00am.²⁷ He also told police that on occasion he had heard Mr Bingle and Heidi speaking loudly to each other but that he would see them the next day holding hands.
41. Gregory Heath lived in a house opposite the unit block. He told police that he would often hear Mr Bingle and Heidi arguing about twice per week. Mr Heath said that he could not hear what the arguments were about, but that he noticed that Mr Bingle was generally louder and more aggressive.²⁸ Mr Heath’s wife, Rea, told police that she regularly heard Mr Bingle and Heidi fighting, usually from inside their unit, and that this would happen about once per week. Mrs Heath said that she never saw any physical fighting and never saw Mr Bingle and Heidi strike each other.²⁹
42. Kaye White lived in a house next to the unit block. She told police that she regularly heard Mr Bingle and Heidi arguing loudly. One occasion, about one or two years before January 2015, Ms White states that the arguing became so aggressive that she asked her daughter to call the police. On 22 January 2015 Ms White returned home at about 9:30pm and went to bed at about 10:00pm. She did not hear anything throughout the night.³⁰
43. Ms White’s son-in-law, Mr Paul Cini, lived with Ms White. He told the police that he often heard Mr Bingle sitting on the balcony, yelling, but is unsure if Mr Bingle was yelling at anyone. Mr Cini said that he occasionally saw Mr Bingle and Heidi walking on the street together, but never saw them arguing or fighting with each other.³¹ Mr Cini said that he went to bed at about 10:30pm or 11:00pm on 22 January 2015 and did not hear anything throughout the night. Mr Cini’s wife,

²³ Exhibit 2, page 593.

²⁴ Exhibit 2, page 590.

²⁵ Exhibit 2, page 575.

²⁶ Exhibit 2, page 583.

²⁷ Exhibit 2, page 586.

²⁸ Exhibit 2, page 554.

²⁹ Exhibit 2, page 558.

³⁰ Exhibit 2, page 563.

³¹ Exhibit 2, page 568.

Michelle, told police that she heard Mr Bingle and Heidi arguing from inside their unit about once per fortnight. She described the arguments as being louder and more aggressive “than what a normal couple would have”³² and said that she would often contemplate calling the police if she could not hear Heidi’s voice after a period of time.

44. Margaret Grant lives at 11 Edward Street. She told police that every few weeks she heard loud yelling or arguing between Mr Bingle and Heidi but that she had not heard anything since Christmas 2014 up to 23 January 2015. On 22 January 2015, Ms Grant went to bed at about 11:30pm and did not hear any disturbance throughout the night.³³

(c) What is the evidence from Heidi’s family?

45. According to Heidi’s family, she had previously made vague references to incidences of domestic violence during her lengthy relationship with Mr Bingle. On each occasion that Heidi disclosed these anecdotal incidents she referred to Mr Bingle as being the aggressor. Some of these references were only general in nature, whilst other references were more specific. The relevant evidence is summarised below.
46. Ms Wyer told police that on occasions she would see Heidi and that Heidi would not look very well, having a broken tooth, split lip or some bruising. According to Ms Wyer, Heidi told her that she and Mr Bingle had had a fight and that Mr Bingle had hit her. Heidi told her mother on one occasion that “she had been scared of [Mr Bingle] because he had hit her but she would go back to him”.³⁴ Ms Wyer explained that she was unable to be precise as to when Heidi had told her these things and that over time her recollection of events had merged into one long memory. She did, however, describe the relationship between Heidi and Mr Bingle as being a very volatile one.³⁵
47. Heidi’s sister, Lucinda said that between 1993 and 1999 Heidi’s family “became aware that there was violence and volatility within Heidi and [Mr Bingle]’s relationship”.³⁶ Lucinda states that she often saw Heidi with bruising to her body and black eyes but that Heidi wanted her family to accept Mr Bingle, and that the incidents were never taken any further.
48. Lucinda said that in the last couple of years before Heidi’s death, Heidi became more open about the violence within her relationship and would stop defending Mr Bingle’s actions as much.³⁷ Lucinda also said that Heidi said things to her like, “[Mr Bingle]’s pretty mean to me, he hurts me, he hits me, he can be pretty violent”.³⁸
49. During a conversation between Jack and Heidi at the family gathering at Christmas in 2014, Heidi told Jack that on one occasion Mr Bingle had kicked her out of their home and thrown all her belongings onto the street. This made Heidi very upset and in his statement to the police Jack said that although he was aware that Heidi and Mr Bingle regularly argued, this occasion seemed more serious than any previous occasion.³⁹

³² Exhibit 2, page 572.

³³ Exhibit 2, page 603.

³⁴ Exhibit 2, page 614.

³⁵ Ibid.

³⁶ Exhibit 2, page 622.

³⁷ Exhibit 2, page 623.

³⁸ Ibid.

³⁹ Exhibit 2, page 628.

50. Whilst Heidi and Jack were speaking about the difficulties that Heidi had experienced in her relationship with Mr Bingle, Jack asked Heidi if Mr Bingle had ever been physically violent towards her. Heidi told Jack, "Yeah he has bricked me over the head before", which Jack took to mean that Mr Bingle had hit Heidi in the head with a brick during a previous argument.⁴⁰ Heidi did not say when this occurred and it did not appear to Jack that it had occurred recently as he did not see any visible injuries to Heidi. When Jack expressed his anger at hearing this, Heidi told him that she and Mr Bingle had been in a relationship for 16 years and it appeared to Jack that Mr Bingle's violence towards Heidi was "just a normal part of their relationship and nothing out of the ordinary".⁴¹
51. Heidi's younger sister, Danielle said in her statement to the police that during the 2014 Christmas family gathering she overheard a conversation between Heidi and Jack. During that conversation Heidi said, "[Mr Bingle] hits me sometimes and we fight a lot".⁴² Danielle told police that "it was just common assumption that [Mr Bingle] had [been] assaulting Heidi over the years" and that on occasion she saw Heidi would have some bruising and made the assumption that Mr Bingle had caused the injuries. Danielle recalls a specific conversation that she had with Heidi sometime in 2014 during which Heidi said that she was scared of Mr Bingle, which she had never said before. Danielle also recalled that Heidi "also said light heartedly something about [Mr Bingle] killing her or them killing each other".⁴³

(d) What conclusions can be reached?

52. On the basis of Heidi's criminal history alone it is clear that her relationship with Mr Bingle was marred by domestic violence. The documentary evidence establishes that on occasion Heidi was the instigator of this violence. However, the evidence from the neighbours who lived in the vicinity of Mr Bingle's unit and the evidence from Heidi's family indicates that Heidi was not the only instigator. It should be noted that none of the neighbours actually witnessed any arguments between Heidi and Mr Bingle, and no formal voice identification evidence was ever obtained. In their statements to the police some of the neighbours, who had never met Heidi and Mr Bingle and who did not know their names, simply referred to hearing a male voice and female voice. Given the fact that all the neighbours' accounts were consistent in the sense that they either saw Mr Bingle yelling from his balcony, or heard the arguments coming from within or in the direction of Mr Bingle's unit, or both, I have concluded that the male voice described by the neighbours belonged to Mr Bingle and the female voice belonged to Heidi.
53. In my view, the combined weight of the evidence of the neighbours and the evidence from Heidi's family establishes that Mr Bingle had been both verbally and physically abusive towards Heidi prior to her death. The evidence also establishes (discussed in more detail below) that Heidi suffered some injury as a direct result of some of these instances of abuse. However, it is not possible to establish the exact details of such incidents, the circumstances which gave rise to them, when they occurred, or the exact injuries which Heidi suffered.

⁴⁰ Ibid.

⁴¹ Ibid.

⁴² Exhibit 2, page 619.

⁴³ Exhibit 2, page 619.

What did the other medical evidence reveal?

54. As Dr Figgis raised the possibility that the injuries to Heidi which she saw on 23 January 2015 might have resulted from an assault, and because the evidence indicated that there was past domestic violence within Heidi's relationship with Mr Bingle, the police engaged Professor Johan Duflou, a consultant forensic pathologist, to provide an expert opinion in relation to Heidi's injuries. Professor Duflou prepared a report⁴⁴ in which he outlined his opinion and he also gave evidence at the inquest to further explain aspects of his report. Professor Duflou agreed with Dr Brouwer that the cause of Heidi's death was acute subdural haemorrhage and its consequences.
55. The available evidence indicated that the subdural haemorrhage suffered by Heidi could have been caused in one of three possible ways: it was the result of an accidental fall and Heidi coming into contact with a blunt surface, it was inflicted during an incident of interpersonal violence involving another person, or it occurred spontaneously.
56. In considering each of these three possibilities, it is necessary to keep in mind the mechanism by which subdural haemorrhages, in general, are formed. In evidence Dr Brouwer explained that a subdural haemorrhage develops following high speed acceleration or deceleration injuries involving a degree of rotation or angulation, and that they can occur with or without impact. These acceleration or deceleration forces cause blood vessels, often veins, between the surface of the brain and its outer covering (the dura) to tear and bleed. In his report Professor Duflou elaborated by saying that "the mechanism of such movement of the brain causing the tearing can reasonably include one or more blows during acts of interpersonal violence or falls to the ground, or the head striking an object, or a combination of these mechanisms. In this case, it is not possible to state which mechanism would be more likely".⁴⁵

(a) Was Heidi's head injury the result of spontaneous bleeding?

57. The evidence established that Heidi chronically abused alcohol and that her blood alcohol level at the time of death (0.120 g/100mL) was most likely her blood alcohol level at the time that the subdural haemorrhage began forming. Due to these two factors, there was a suggestion that Heidi might have been suffering from some liver disease or impairment which affected her body's ability to form blood clots. Unfortunately, because it is not possible to perform a liver function test postmortem, there is no direct evidence to establish whether Heidi did have some type of bleeding disorder. However, because the evidence suggested that this may have been a possibility a question arose as to whether the subdural haemorrhage suffered by Heidi might have occurred as a result of spontaneous bleeding.
58. In his evidence Professor Duflou explained that a person with advanced liver disease, or cirrhosis, can suffer from a bleeding disorder (coagulopathy) in which the blood's ability to coagulate, or form clots, is impaired. This condition can lead to excessive or prolonged bleeding, which can sometimes occur spontaneously. However, although Professor Duflou said that he could not entirely exclude the possibility that Heidi's subdural haemorrhage occurred spontaneously, he went on to explain that it did not appear that Heidi's liver disease was severe or advanced enough to allow for spontaneous bleeding.

⁴⁴ Exhibit 3.

⁴⁵ Exhibit 3, page 8.

59. In her evidence Dr Brouwer agreed that the autopsy revealed some abnormal liver findings (fatty changes to Heidi's liver) but found no evidence of any impaired clotting. Dr Brouwer rejected the possibility that Heidi's subdural haemorrhage was caused by the result of spontaneous bleeding. Dr Brouwer went on to explain that if Heidi had an underlying bleeding disorder then this may have made her more susceptible to suffering a subdural haemorrhage, but any disorder on its own was not responsible for the formation of it.
60. It could not be conclusively established from any postmortem investigation whether Heidi did in fact suffer from a bleeding disorder. However, this appears highly unlikely given that both Dr Brouwer and Professor Duflou agreed that whilst there was some evidence of liver disease, it was not significant or advanced enough to suggest that Heidi likely suffered from any bleeding disorder. From this I therefore conclude that the subdural haemorrhage was not the result of spontaneous bleeding.

(b) Was Heidi's head injury the result of an accidental fall?

61. Heidi's history of alcohol abuse also suggested that she may have been prone to experience difficulties with her balance and, therefore, susceptible to accidental falls. In evidence both Dr Brouwer and Professor Duflou agreed that subdural haemorrhages are more commonly seen in persons with alcohol problems due to both their propensity to fall (and strike their head on the ground or an object) and the possibility of liver impairment (as discussed above) associated with chronic alcohol abuse.
62. Indeed, when Professor Duflou was asked whether, in his experience, a person could suffer a subdural haemorrhage from a short fall, he explained that this scenario was not at all uncommon and that in elderly people or people with alcohol problems it was "surprisingly common". Professor Duflou was specifically asked whether such a scenario was possible in Heidi's case given that the lounge room where Heidi was found was carpeted and that if she had fallen and hit her head on the ground, the severity of the impact would have potentially been reduced by the carpet. Professor Duflou explained that such a scenario was indeed possible because if Heidi had fallen, her head could have impacted with a wall, a door, or a piece of furniture, all of which would have resulted in sufficient blunt force trauma to cause a subdural haemorrhage. In considering such a scenario, Professor Duflou described the possibilities as being "endless".
63. All of this means that it was quite possible for Heidi to have accidentally fallen and suffered some blunt force trauma which would have, in turn, caused the subdural haemorrhage. The real question is whether on the available evidence, and on the balance of probabilities, this did in fact occur?
64. This question can be answered by considering whether there is any actual evidence that Heidi was prone to accidental falls because of her alcohol use, or otherwise. The suggestion that Heidi was prone to falls comes two sources. Firstly, Mr Bingle told the paramedics on 23 January 2015 words to the effect that Heidi "falls over a lot".⁴⁶ No follow up question was asked and Mr Bingle did not provide any further detail as to the basis upon which he made this assertion, nor any further detail as to how often Heidi would fall over or the circumstances in which she is said to have done so. Secondly, when Ms Myer telephoned Mr Bingle after Heidi had been taken to hospital Mr Bingle said "[Heidi's] been falling over a lot lately and I went into the living room and

⁴⁶ Exhibit 2, page 278.

found her".⁴⁷ In my view placing any weight on such broad generalised statements of this kind needs to be done with a degree of caution, particularly in the absence of any supporting evidence.

65. Heidi's family were asked by the police whether they were aware if Heidi was prone to falls. Ms Wyer told the police that Heidi had never said that she had been experiencing falls or having trouble with her balance, and Ms Wyer did not see any evidence of this on 25 December 2014.⁴⁸ Indeed, Ms Wyer explained to police that on that day Heidi had walked 15 to 20 minutes from the train station to Ms Wyer's house in high heels without incident. Danielle also told the police that when she saw Heidi on that day it did not appear to her that Heidi had any difficulty walking or with her balance.⁴⁹
66. Apart from the observations of those who knew Heidi, there is also evidence relating to the possibility of falls to be found in medical records which were admitted into evidence during the inquest. On 23 August 2010 Heidi was taken by ambulance to Royal Prince Alfred Hospital (RPAH) emergency department. RPAH records⁵⁰ indicate that Heidi fell off the platform at Newtown station and landed on her knees on the railway tracks. It is unknown how Heidi came to fall from the platform although the records describe Heidi as being delusional, agitated and acting aggressively at the time of the fall. The records indicate that Heidi had a bruise over her right knee and right shin and a larger bruise (hematoma) on her left shin together with tenderness to her left kneecap.
67. Records from St Vincent's Hospital (SVH) indicate that during the evening of 22 October 2013 Heidi was taken by ambulance to SVH after she apparently called triple 0, concerned about an alleged fall she had at about 2:00am that day. According to ambulance records Heidi indicated that she was concerned that she might sleep walk and asked for help sleeping due to her insomnia. Once at hospital the records⁵¹ indicate that Heidi alleged that she had been pushed down some stairs and that she was complaining of a headache and pain to her left knee. Upon examination, there was no evidence of any injury or trauma. Heidi was given some Panadol for pain relief (after refusing any other medical intervention), indicated that she was happy to sleep overnight in the hospital waiting room, and after doing so, left the hospital the next morning.
68. Apart from the general possibility that Heidi might have been prone to accidentals because of her alcohol abuse, and Mr Bingle's broad assertions, there is no direct evidence that Heidi actually was susceptible to falls. The only documented fall on the available evidence is the 2010 incident which resulted in Heidi being taken to RPA; the 2013 incident concerning SVH was not, on Heidi's account, the result of a fall. However, as noted above, exactly how Heidi fell during that particular incident involving RPAH is unclear. Furthermore, having occurred almost 5 years prior to Heidi's death it is not sufficiently proximate to be considered relevant to the events of 22 and 23 January 2015. Evidence from Heidi's family, which is more proximate (and therefore more relevant) establishes that in December 2015 Heidi was not experiencing any difficulty with her balance and was not prone to falls.

⁴⁷ Exhibit 2, page 8.

⁴⁸ Exhibit 2, page 615.

⁴⁹ Exhibit 2, page 619.

⁵⁰ Exhibit 7.

⁵¹ Exhibit 5.

69. Therefore, although the possibility that the subdural haemorrhage being the result of an accidental fall cannot be entirely excluded, I conclude that it is more probable than not that this did not occur.

(c) What is the significance of the bruises which Heidi suffered?

70. The area of bruising to the back and left side of Heidi's scalp matched the area of the subdural haemorrhage. However, other than saying that the bruising was the result of blunt trauma to that particular area of the head, Dr Brouwer explained that she could not be more specific as to the mechanism by which that trauma was occasioned. Dr Brouwer specially stated that the subdural haemorrhage was not necessarily a consequence of trauma to this area of Heidi's head.

71. Professor Duflou explained this point further by providing the example that a person could be punch to the jaw and suffer a subdural haemorrhage. This is because the punch could cause sufficient acceleration forces and rotational movement of the head for a subdural haemorrhage to develop at a location that did not coincide with the point of impact. Indeed, generally speaking, it is possible for the location of a subdural haemorrhage to not match the site of any impact.

72. Many of the questions asked of Dr Brouwer and Professor Duflou during the inquest focused on the bruising to Heidi's neck. The questions sought to establish what caused the bruising and whether it was possible to determine the age of the bruises. In relation to the first issue, both Dr Brouwer and Professor Duflou were asked to consider whether the bruising was the result of neck compression. Professor Duflou explained that in cases of neck compression he would expect to see evidence of fractures or pinpoint (petechial) haemorrhage, neither of which was present in Heidi's case. Whilst the absence of both of these features can suggest that any neck compression was applied with less force and for a shorter period of time, Professor Duflou indicated that it was more likely that the bruising was the result of a blunt force impact. That is, the bruising was indicative of Heidi's neck impacting with a blunt surface (such as during a fall), or a blunt surface impacting with Heidi's neck (such as from a punch or a kick).

73. Dr Brouwer explained that the bruising was not due to neck compression in the form of ligature strangulation or manual strangulation because in either scenario she would have expected to see bruising to both sides of the neck, rather than to only one side. However, Dr Brouwer acknowledged that the bruising to only one side of the neck could possibly have been the result of an object being applied with force to that particular side. Dr Brouwer used the example of a foot being placed on the side of the neck, but explained this was unlikely in Heidi's case because she (Dr Brouwer) would have expected to see a mark from the sole of shoe on the skin, which was not present. Dr Brouwer went on to explain that the bruising was unlikely to have been the result of neck compression because there were no fractures to the bony structures of the neck and no evidence of airway obstruction, both of which she would have expected to see. Dr Brouwer explained that it was very difficult to say what caused Heidi's neck injury and described it as being atypical. Whilst Dr Brouwer explained that an uncontrolled fall, particularly in an intoxicated person, could result in bruising to the neck, she described such a fall as being unusual. Dr Brouwer also said that whilst the neck injury could have resulted from a fist blow, in her experience she had never seen such an injury caused in this way.

74. In relation to the question of when the neck injury was caused, both Dr Brouwer and Professor Duflou explained that, in general, bruises are notoriously difficult to age. However in the case of

the bruising to Heidi's neck this was particularly so. Professor Duflou said that whilst to the naked eye the yellow discolouration of the bruising indicated that the injury was of some age, under the microscope the injury appeared to be fresher. Both Professor Duflou and Dr Brouwer explained that this was because of the absence of any inflammatory response which would normally be apparent (within about 8 hours of the injury being sustained, according to Professor Duflou). There was also no microscopic evidence of iron deposits being present. Both Dr Brouwer and Professor Duflou explained that this occurs when hemosiderin (an iron storage complex) is produced after bleeding. It is typically seen microscopically together with an inflammatory response, but in Heidi's case it was absent. The absence of both of these features tended to indicate that the bruising was acute (as opposed to subacute, or chronic).

75. On the basis of the above evidence I conclude that the bruising to Heidi's neck was not the result of an accidental fall. In evidence Dr Brouwer was shown photos⁵² of the lounge room where Heidi was found and indicated that she could not see any object or feature in the photos which could have accounted for the neck injury. Professor Duflou was specifically asked whether Heidi's neck coming into contact with the curved edge of a couch (such as the one depicted in the photo of the lounge room) could have caused the injury. Whilst Dr Duflou indicated that this was possible he indicated that such an impact would not account for the abrasions that were also seen on Heidi's neck and that if the couch was a soft surface then it would have been less likely to cause bruising.
76. In my view, the totality of this evidence makes the likelihood of Heidi's neck injury being the result of an accidental fall less probable. This means that, having eliminated the possibility of accidental injury as the cause of the bruising, I conclude that the bruising was caused during an episode of interpersonal violence. Given the conclusions that I have reached above regarding domestic violence within the relationship between Heidi and Mr Bingle I also conclude that it is more probable than not that the episode of interpersonal violence during which the neck injury occurred involved Mr Bingle. However, the evidence does not establish precisely how the injury was occasioned, nor when it occurred.
77. When taking into account the evidence regarding the bruising to Heidi's neck it is important to remember two things: firstly, it is not possible to establish from the available evidence whether the neck injury occurred at the same time as when the subdural haemorrhage began to form; and, secondly, both Dr Brouwer and Professor Duflou explained that it was unlikely that the neck injury caused the subdural haemorrhage. Indeed, as to the second matter Dr Brouwer explained that she had never seen a subdural haemorrhage associated with the type of neck injury that Heidi had suffered.
78. Although I have concluded that, on balance, the bruising to Heidi's neck was the result of an incident of interpersonal violence involving Mr Bingle, this does not necessarily mean that the subdural haemorrhage was caused during the same incident.

(d) Was Heidi's head injury caused a short time before the arrival of the paramedics?

79. At this point it is necessary to return to the evidence of Mr Kirchner. His evidence of hearing a loud argument coming from within Mr Bingle's unit shortly before the arrival of the paramedics tends to suggest that Mr Bingle and Heidi were involved in an argument and that during, or as a

⁵² Exhibit 2, pages 122-123.

result of, it there was an incident of violence between them. The ultimate question for the purposes of the inquest is whether Heidi suffered the subdural haemorrhage at this time?

80. The medical evidence indicates that this is improbable. Professor Duflou explained that whilst he could not exclude Heidi's subdural haemorrhage forming sometime between 2:30am and 2:45am (which was the period during which Mr Kirchner said he heard the loud argument), this time period was not one that he favoured. Professor Duflou elaborated by explaining that it was more likely that the subdural haemorrhage was sustained earlier than 2:30am because of the way in which the effects of a subdural haemorrhage develop over time. Both Professor Duflou and Dr Brouwer explained that an acute subdural haemorrhage is a venous injury which results in, typically, slow bleeding over several hours where there is a latent period after the initial injury before the onset of symptoms indicating increased intracranial pressure. These symptoms (headache, nausea, vomiting) are followed by the person who suffered the subdural haemorrhage slowly lapsing into unconsciousness.
81. According to Professor Duflou, the fact that Heidi was already largely unresponsive by the time the paramedics arrived indicates that the subdural haemorrhage would have needed time (measured in hours, not minutes) to develop to the point where Heidi's level of consciousness would be severely compromised. Dr Brouwer also explained that as brain infarctions and herniation were already visible by the time of Heidi's admission to hospital, this suggested that the process following the accumulation of the subdural haemorrhage had evolved over several hours. Dr Brouwer went on to say that 142 grams of clotted subdural blood was present at autopsy. She described this as a "huge" amount and said that, in her experience, it would take several hours to accumulate such an amount of blood.
82. Both Professor Duflou and Dr Brouwer were also asked about the possibility that Heidi's subdural haemorrhage could have been caused by a single blow or a "king hit". If this had occurred then it may have left open the possibility that Heidi suffered the subdural haemorrhage a short time before the arrival of the paramedics which would in turn explain her level of unconsciousness developing in a short period of time. However, Dr Brouwer explained that people who suffer these types of single blow injuries do not suffer a subdural haemorrhage but instead sustain a basal subarachnoid haemorrhage. Professor Duflou explained that whilst he did not exclude the possibility that Heidi's subdural haemorrhage was caused by such a single blow incident it was not one that he favoured because it would have been unusual for the size of Heidi's haemorrhage to have developed so rapidly in such a short period of time.
83. The medical evidence regarding the timing of when Heidi suffered the subdural haemorrhage seems clear, at least in relation to the period of time shortly before the arrival of the paramedics. Given the typical process by which a person succumbs to the consequences of a subdural haemorrhage, and the time required for blood to accumulate to the extent seen at autopsy, I conclude that Heidi did not suffer the subdural haemorrhage between about 2:30am and 2:45am on 23 January 2015. I acknowledge that this conclusion is difficult to reconcile with the account of Mr Kirchner who provided a detailed statement to police and provided a clear basis as to the time he was awake and what he heard. However, it should be noted that Mr Kirchner did not give evidence during the inquest (because he was overseas) and no other neighbour heard any argument during the early hours of 23 January 2015. In particular, Mr Maharaj, who lived directly across from Mr Bingle's unit and who was awake for most of the night, made no mention in his statement of hearing any argument coming from within Mr Bingle's unit.

(e) Was Heidi's head injury the result of an incident of interpersonal violence?

84. Although I have concluded that Heidi did not suffer the subdural haemorrhage in the period between 2:30am and 2:45am this does not mean that it was not the result of an incident of interpersonal violence at a different time. In fact, having already eliminated the possibility that the subdural haemorrhage was the result of spontaneous bleeding and an accidental fall, the only possibility which remains reasonably open on the available evidence is that it was the result of an incident of interpersonal violence. For the same reasons which I have already expressed above regarding the injury to Heidi's neck I also conclude that Mr Bingle was involved in some way in this incident of violence. I have considered the gravity of this conclusion and am persuaded that the available evidence is sufficiently clear and cogent for such a conclusion to be reached.⁵³ I am reinforced in coming to this conclusion having regard to the opinions of both Professor Duflou and Dr Brouwer that injuries to the top of a person's head (described by Professor Duflou as being above the "hat brim line") are more commonly associated with inflicted violence because of the relative unlikelihood of the top of a person's head impacting with an object or surface during an accidental fall. Dr Brouwer indicated that this general theory is well accepted in forensic pathology academic literature.
85. However, having reached this conclusion the available evidence does not allow for a more precise finding to be made as to the circumstances in which Heidi suffered the subdural haemorrhage. For example, it is possible that the subdural haemorrhage was the result of a Heidi suffering a direct blow, such as a punch, or being struck with an object. It is also possible that Heidi may have been pushed or shoved, causing her to strike a surface or object which would have then caused the subdural haemorrhage. It is also possible that Heidi may have been struck by a blow (which did not if itself cause the subdural haemorrhage), become disoriented and then fallen and, in the process of doing so, impacted with a surface of object which caused the subdural haemorrhage. Regardless of the exact way in which the mechanism of injury leading to the formation of the subdural haemorrhage occurred, I conclude that it did occur during an episode of interpersonal violence.
86. Sections 78(1)(b) and 78(3)(b) of the *Coroners Act 2009* (the Act) provides that if at any time during an inquest a Coroner forms the opinion (having regard to all the evidence given up to that time) that the evidence is capable of satisfying a jury beyond reasonable doubt that a known person has committed an indictable offence, and there is a reasonable prospect that a jury would convict the known person of the indictable offence, and the indictable offence would raise the issue of whether the known person caused the death, then the Coroner must suspend the inquest. Section 78(4) provides that in such a situation the Coroner is required to forward to the Director of Public Prosecutions the depositions taken at inquest and a written statement signed by the Coroner that specifies the name of the known person and the particulars of the indictable offence concerned.
87. In this case, I am of the view that the provisions of section 78 have no application for a number of reasons. Firstly, as it is not possible on the available evidence to reach a conclusion about the way in which the subdural haemorrhage was occasioned, it is equally not possible to identify what indictable offence may have been committed. Secondly, although I have reached certain conclusions about the manner of Heidi's death, those conclusions have been reached applying a standard of proof (that is, on the balance of probabilities) which is different to the standard of

⁵³ *Briginshaw v Briginshaw* (1939) 60 CLR 336.

proof (that is, beyond reasonable doubt) which would apply in relation to any possible criminal proceedings. Thirdly, even if it were possible to particularise an indictable offence that may have been committed, the inability of both Professor Duflou and Dr Brouwer to exclude certain possibilities relating to the circumstances in which the subdural haemorrhage was occasioned means, in my view, that there is no reasonable prospect that a jury could convict a known person of an indictable offence. This is because, in my opinion, the combined weight of the medical evidence means that a reasonable hypothesis consistent with innocence (that is, that the subdural haemorrhage was the result of accidental injury, and not intentionally or recklessly inflicted injury) could not be excluded by a circumstantial prosecution case.

Findings

88. Before turning to the findings that I am required to make, I would like to acknowledge and thank Mr Stephen Kelly, Coronial Advocate for his assistance both before, and during, the inquest. I would also like to thank, and express my appreciation for the efforts of, the police officer-in-charge of the investigation, Detective Senior Constable Todd Douglas and the other police officers who were involved in the investigation.

89. The findings I make under section 81(1) of the Act are:

Identity

The person who died was Heidi Cox.

Date of death

Heidi died on 23 January 2015.

Place of death

Heidi died at Prince of Wales Hospital, Randwick NSW.

Cause of death

The cause of Heidi's death was the consequences of an acute subdural haemorrhage.

Manner of death

Heidi suffered the subdural haemorrhage during an incident of interpersonal violence. However the available evidence does not allow for a more precise finding to be made as to the circumstances of that incident, nor as to the manner in which the injury was occasioned.

Epilogue

90. On behalf of the coronial team I would like to offer my sincere and respectful condolences to Heidi's family, in particular her mother, Julie; her sisters, Lucinda and Danielle, and her son, Jack.

91. Despite the struggles and challenges which Heidi faced in her later years of life, she was always supported by the love her family had for her and the care which they provided to her. It is extremely sad to know that Heidi and Jack began to form a reconnection and bond only a short time before Heidi's death. No doubt the strength of even that brief connection will remain with Jack, and the lifelong connection that Heidi had with her mother and sisters will remain with them as well.

92. I close this inquest.

Magistrate Derek Lee
Deputy State Coroner
19 April 2017
NSW State Coroner's Court, Glebe