



**CORONERS COURT
OF NEW SOUTH WALES**

Inquest:	Inquest into the death of David Browne
Hearing dates:	17 May to 26 May 2017
Date of findings:	22 June 2017
Place of findings:	State Coroner's Court, Glebe
Findings of:	Deputy State Coroner, Magistrate Teresa O'Sullivan
Catchwords:	CORONIAL LAW – Cause and manner of death Combat Sports Boxing
File number:	2015/271300
Representation:	Ms Kristina Stern SC, Mr Jake Harris, Counsel Assisting, instructed by Ms Johanna Geddes on behalf of the Crown Solicitor Mr Simon Kalfas SC, instructed by John Kamaras of Avant Law, for Dr Lawrence Noonan Ms Kirsten Edwards, instructed by Jonathan Greig for the Office of Sport and the Combat Sports Authority

Findings:	Identity of deceased: The deceased person was David Edward Browne born on 21 December 1986 Date of death: 15 September 2015 Place of death: Liverpool Hospital Manner and cause of death: David Browne suffered brain death due to a large right acute subdural haematoma, which he sustained as a result of the final blow he received during Round 12 of a professional boxing contest held on 11 September 2015.
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Recommendations:	<p>To the Minister for Sport, Office of Sport and Combat Sports Authority:</p> <p>I recommend that consideration is given to the following changes, relevant to the sport of boxing in NSW, after appropriate consultation with relevant sporting bodies and interest groups.</p> <p><u>To the Minister for Sport</u></p> <ol style="list-style-type: none">1. A transcript of this inquest be provided to the next review of the Combat Sports legislative scheme and consideration be given in that review to:<ol style="list-style-type: none">(a) Whether the legislative scheme should be amended to provide a comprehensive set of rules to govern the conduct of all boxing contests in NSW;(b) whether the obligations on an attending medical practitioner to stop a combat sports contest currently expressed in s. 63 of the <i>Combat Sports Act 2013</i> should be amended to better protect the health and safety of combat sport participants, in particular in circumstances where:<ol style="list-style-type: none">(i) in the opinion of the medical practitioner there is a serious impairment of the combatant/boxer's ability to defend him or herself; or(ii) there is a likelihood of serious injury to the combatant/boxer's health if the contest were to continue; or(iii) it is desirable to do so in the interests of the safety or welfare of the combatant. <p><u>To the Office of Sport</u></p> <ol style="list-style-type: none">2. (a) To continue to develop training for registered industry participants, attending medical practitioners and promoters, on the following topics:<ol style="list-style-type: none">(i) the rules applicable to combat sports contests in New South Wales;
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(ii) the roles of industry participants, attending medical practitioners and promoters in boxing contests;

(iii) when a contestant should be medically examined during a contest and when a contest should be stopped on account of the condition of the combatant.

(iv) the identification, significance and risks associated with serious head injuries including concussion; and

(b) investigate and implement mechanisms, including an accreditation process, which will best ensure that every relevant industry participant and attending medical practitioner complete training on those topics at least annually.

3. Amend the *Combat Sports Rules* to provide that:

(a) there be a clear pre-determined means, whether by bell, hammer, prescribed hand signal or another method, by which the attending medical practitioner can indicate the need for or desirability of a medical examination of a combatant during the contest;

(b) at the commencement of a combat sport contest the referee and the attending medical practitioner must confer to agree on a means by which the referee can indicate the need for or desirability of a medical examination of a combatant during the contest;

(c) the attending medical practitioner must examine a combatant during a combat sport contest on the occurrence of prescribed "trigger" events, which should include:

(i) knockdown caused by a blow to the head;

(ii) suspicion of concussion; or

(iii) a direction to that effect by the Combat Sports Inspector or referee.

(d) an examination must include a medical assessment to ascertain whether or not the combatant is suffering from a concussion having regard to the “pocket concussion guide” or another applicable guidance document;

(e) the attending medical practitioner may examine the combatant at any other stage during a combat sport contest, including during a round and during the break between rounds including to carry out medical assessment to ascertain whether or not the combatant is suffering from a concussion having regard to the “pocket concussion guide” or another applicable concussion tool;

(f) the round must be stopped to enable an examination as referred to in (c) to (e) to take place during a round, and if necessary the time between rounds must be extended to enable such examination to take place;

(g) the referee must confer with the attending medical practitioner about the need for a medical examination following any round in which a combatant receives a significant number of heavy blows to the head or appears to be suffering from signs and symptoms consistent with a concussion;

(h) there be a clear definition of a knockdown; and

(i) the attending medical practitioners must position themselves to allow effective communication with referees and to ensure as far as reasonably practicable that they have an unobstructed view of the combatants.

4. Ensure that the following medical equipment must be present ringside during a boxing contest:

(i) airway support;

(ii) an oxy-viva mask; and

(iii) oxygen.

5. Introduce a requirement that:

	<p>(a) the promoter must submit to the Combat Sports Authority an Evacuation Plan for the venue prior to holding a boxing contest. Such a plan must include:</p> <ul style="list-style-type: none">(i) the street address of the venue and the route by which paramedics can access the ring from the street with a stretcher and medical equipment and evacuate a patient safely;(ii) the identity of the person who will call emergency services in the event of an injury;(iii) the information about the patient which must be conveyed, including the state of consciousness, bleeding, breathing, and any apparent head injury;(iv) confirmation that the plan has been discussed with the attending medical practitioner prior to the contest; and(v) the location of the nearest hospital with neurosurgical facilities. <p>(b) The attending medical practitioner, the promoter, and all industry participants present at the contest must inspect the route for the execution of the evacuation plan at the venue before the commencement of a boxing contest.</p> <p>6. Investigate whether a paramedic should also be required to attend a combat sports contest in addition to the attending medical practitioner.</p> <p>7. Introduce automatic timing systems for all boxing contests.</p>
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Non-publications orders:	<p>There is to be no publication of footage of the video of the boxing contest from 1:12 of round 12.</p> <p>There is to be no publication of the footage from the CCTV footage (Ex.2) from 23:44:43.</p> <p><i>S.74(1)(b) Coroners Act 2009</i></p>
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The Coroners Act 2009 (NSW) in s. 81(1) requires that when an inquest is held, the coroner must record in writing his or her findings as to various aspects of the death.

These are the findings of an inquest into the death of David Browne.

Introduction

The death of David Browne (Davey) was the tragic outcome of his participation in a professional boxing contest, a sport to which he and his family were devoted. Boxing is an inherently dangerous activity and it exposes contestants to a risk of serious injury. Tragically, the evidence of this inquest has established that Davey's death was preventable. The seriousness of his condition at the end of round 11 was recognised by a number of witnesses present at the time, albeit with the benefit of hindsight. Action could have been taken to examine Davey and stop the fight prior to the point when it ended in the 12th round. The evidence clearly establishes that it was the blow in the 12th round that killed him.

While the focus of this inquest has been on the events of the boxing contest, it is important to recognise what a tremendous loss the death of Davey Browne has been, to his family and to the community. I would like to extend my condolences to his family and friends.

I have been greatly assisted by the extremely thorough submissions of Counsel Assisting, Ms Kristina Stern SC and solicitor, Mr Jake Harris of the Crown Solicitors Office.

The Inquest

Section 81 of the *Coroners Act 2009* (Coroners Act) requires a coroner presiding over an inquest to confirm that the death occurred and make findings as to:-

- the identity of the deceased;
- the date and place of the death; and
- the manner and cause of the death.

Under s. 82 of the Coroners Act a coroner may make such recommendations considered necessary or desirable in relation to any matter connected with the death, including in relation to public health and safety.

In this case, there is no doubt that David Browne died at Liverpool Hospital on 15 September 2015. The focus of this inquest has been upon the manner and cause of his death, and whether any recommendations should be made under s. 82.

Davey's family has expressed concerns that his fatal injury occurred in circumstances where the rules designed to protect boxers from undue risk were not adequately adhered to or enforced.

The issues list distributed by those assisting the inquest prior to its commencement identified the following matters as warranting attention: -

1. The cause of David Browne's death.

2. The point at which the injury which caused Mr Browne's death was sustained, and by what means it was sustained.

In relation to the boxing contest held on 11 September 2015:

- 2A. What rules, either alone or in combination, governed the conduct of the boxing contest?
- 2B. What was the understanding of the participants as to which rules applied?
3. Should the referee, Charlie Lucas, have taken any of the following steps during the contest, and if so when:
 - (a) applied a "standing 8-count" to Mr Browne;
 - (b) applied a "mandatory 8-count" to Mr Browne
 - (c) requested a medical examination of Mr Browne by the attending medical practitioner;
 - (d) conferred with the attending medical practitioner, combat sports inspectors or trainer regarding Mr Browne's fitness to continue; or
 - (e) stopped the contest.
4. Should the attending medical practitioner, Dr Lawrence Noonan, have taken any of the following steps during the contest, and if so when:
 - (a) medically examined Mr Browne;
 - (b) conferred with the referee regarding Mr Browne's fitness to continue; or
 - (c) directed the referee to stop the contest.
5. Should the combat sports inspectors, Paul Toweel and Darren Perkins, have taken any of the following steps during the contest, and if so when:
 - (a) conferred with the referee regarding Mr Browne's fitness to continue; or
 - (b) directed the referee to stop the contest.
6. Should the trainer, Todd Makelim, have taken any of the following steps during the contest, and if so when:
 - (a) conferred with the referee or the attending medical practitioner regarding Mr Browne's fitness to continue; or
 - (b) indicated to the referee that the fight should be stopped.
7. Would any of these steps have avoided or reduced the risk of Mr Browne's death?

8. Was appropriate and adequate care provided to Mr Browne after the conclusion of the contest and prior to the attendance of ambulance services?
9. Was appropriate medical equipment available at the boxing contest?

The regulation of boxing in NSW

Before turning to the events at issue, it is necessary to describe the system of regulation of boxing in New South Wales, and also some of the rules.

The Combat Sports Act 2013

In this State, combat sports are governed the *Combat Sports Act 2013* (NSW) (the Act) and the *Combat Sports Regulation 2014* (the Regulation). The object of the Act includes “to promote the health and safety of combat sport contestants”.¹ Boxing is a combat sport, which the Act defines to mean any sport, martial art or activity in which the primary objective of each contestant in a contest, display or exhibition of that sport is to strike, hit, grapple with, throw or punch one or more other contestant, other than certain excluded sports. The contest on 11 September 2015 met the definition of a professional combat sport contest under the Act.

The Act regulates the holding of and conduct of combat sport contests. A person who arranges or holds a contest is called a “promoter”. Promoters and other industry participants (that is, people such as referees, trainers and the combatants themselves) must be registered under the Act. Registration requirements must be met, which in the case of combatants includes annual medical exams and six monthly serology tests. There are penalties for carrying out certain activities without the appropriate registration and also for holding a contest without the necessary permit.

There is not, however, anything in the current legislation which provides that a ringside doctor must be registered under the Act (they are not within the definition of an industry participant in s. 6 of the Act), nor that the attending medical practitioner should have completed any designated training. Further, under the Regulation, the only equipment which is mandatory at a combat sport contest is a bed or plinth in each dressing room for the purpose of conducting a medical examination of a combatant.

Combat Sports Authority

The Act creates the Combat Sports Authority of NSW (CSA), which is a statutory corporation with functions that include supervising and regulating professional and amateur combat sport and promoting awareness of issues relating to combat sports. The CSA is a government agency and it is responsible to the Minister for Sport. For the purpose of performing functions under the Act the CSA may appoint combat sport inspectors, who among other things monitor compliance with the Act and attend combat sports contests. A boxing contest cannot be held unless an inspector is in attendance.

¹ Section 3 of the *Combat Sports Act 2013*.

One of the CSA's functions is to make rules for combat sport, not inconsistent with the Act, which are approved by the Minister. Rules can be made on a widely defined number of areas, including the regulation of combat sport contests, rest periods, protective clothing or equipment, the functions of medical officers in connection with combat sports contests, and codes of conduct for combatants. The CSA publishes these Combat Sports Rules via the NSW Government Gazette and they are available on its website.

Which rules apply?

The conduct of boxing in NSW is therefore principally governed by a combination of the Act, the Regulation and Combat Sports Rules. These documents were within the brief of evidence. However, these documents do not contain all rules necessary for the conduct of boxing contests. By way of example, a matter of significance in a boxing contest is the circumstances in which a boxer is considered to have been "knocked down". Those circumstances are not described in the Act, the Regulation or the Combat Sports Rules. Instead, it is understood that the practice in NSW has been that such matters are determined according to the rules of the sporting body holding the contest. This is in contrast to rules published by other jurisdictions, for example Western Australia and Victorian rules, which are more comprehensive in particular in relation to measures relating to occurrences during a boxing contest.

It was a striking feature of the evidence that many witnesses did not know which rules applied to this contest, and had a flawed understanding of the rules. Whilst the CSA indicated that the Australian National Boxing Federation (ANBF) rules applied to the extent not inconsistent with the Combat Sports Rules, the ANBF's own website clearly stated to the contrary. Mr Lucas, the referee, was the Secretary of the ANBF for many years. Yet he did not know the ANBF rules applied to the contest on 11 September 2015. He considered at the time that the rules, which he interpreted as the Combat Sports Rules alone, permitted him to give a "standing eight count." When he looked at the rules whilst giving oral evidence, he agreed that this was not in fact permitted. He considered that the true position, contrary to his understanding in 2015, was that he had no discretion on the night to apply a standing eight count. He did not understand the ANBF rules to apply despite the rules having specific provisions regarding the condition of the canvas and the tape on the glove. He did say such matters were within the role of the referee in any event. Mr Browne and Tommy Browne were unable to identify which rules applied to the contest, despite each having considerable experience in the sport. Mr Smith, Davey's cornerman, had "no idea" about which rules applied, and stated that if he needed to know something he would have asked the Browne family. Mr Makelim, Davey's trainer, said he had read the Combat Sports Rules once, five or six years ago, but had not read the Act or Regulation. He believed the Combat Sports Rules were the same as the ANBF Rules.

It became clear during the inquest that the rules applicable to boxing, like many other sports, are mostly learned by talking to others involved in the sport and watching how they are applied during a contest. However, there is nothing to suggest that mandatory training in relation to the rules would not be effective, nor that rules, if provided in an easy, accessible, and clear form to each participant at a boxing contest, would not be read or understood.

Each of the judges and inspectors showed a better understanding, and correctly identified that the ANBF rules applied. One judge, Mr Hogan, was not sure at the time of his statement whether or not an inspector could stop a fight. He corrected this in oral evidence.

The Regulation provides that the promoter must communicate to persons associated with the contest their responsibility to comply with the Act, Regulation and the rules. This is reiterated on the permit which the promoter, Mr Burrage, obtained. The evidence demonstrates that this is an inadequate method for ensuring that participants are aware of their responsibilities. This was compounded by the fact that the promoter, Mr Burrage, was not present at the contest. It is also apparent that notwithstanding that the promoter is entrusted with a number of important responsibilities, those responsibilities were not in fact carried out by Mr Burrage himself. It would appear that the promoter's role of communicating the responsibility to comply with rules and "applicable policies" as set out in the permit for this fight, was an inadequate means of ensuring either knowledge of the rules and policies by participants or of securing compliance with them.

The lack of clarity as regards the rules which applied to this fight is indicative of a need for there to be serious consideration given to ensuring that the applicable rules are sufficiently communicated to participants in boxing contests, that they are identified at each boxing contest, and that the rules and their operation are easily identified by all involved. It should not be left to those participating in a boxing contest to work out which rules apply and to determine which of the various rules are inconsistent with the Combat Sports Rules and in what way. Mr Lucas' uncertainty in relation to whether a standing eight count was available is an example of this. Mr Lucas' failure to call a mandatory eight count at the end of round 11 is indicative of the need for further communication and education and training. Dr Noonan's understanding of his role is also indicative of the need for further clarity in the rules, and for further education and training.

The relevant rules

I will highlight a few of the relevant boxing rules that applied to the contest at this point.

Scoring system

The Combat Sports Rules provide that scoring of each contest is to be according to what is called the "10 Points Must System", a system that is used in both professional and amateur boxing contests. Under this system, at the end of each round the combatants are marked out of 10 for their performance, with the winner being awarded 10 points and the loser awarded a score to indicate the margin of victory. The Combat Sports Rules provide that a draw is scored as 10 points each; a slight margin of victory is 10-9; a wide margin is 10-8; and an overwhelming margin is 10-7.

The ANBF Rules describe the system slightly differently, stating that a "one-sided" round is scored 10-7 and an overwhelming margin is scored 10-6. The ANBF Rules also describe how one arrives at these scores, stating that judges should consider the number of blows landed, clean hitting, the weight of blows, offence, defence, ring

generalship and sportsmanship. The ANBF Rules also specify that a one point deduction is mandatory for a knockdown.

The Combat Sports Rules provide that three judges will record their scores independently during the contest, and after each round their scorecards are provided to a Recorder who records the running total. These scorecards are retained by the CSA, and the cards relevant to the contest on 11 September 2015 were in evidence.

By convention (although it is not stated in any of the rules) the winner of the contest will be the combatant who has the highest score at the end of the contest according to a majority of judges. A combatant may also win by knocking out the opponent, or forcing a retirement, and the contest can also end by withdrawal or disqualification.

Knockdowns and 8-counts

As I have noted earlier, the Combat Sports Rules do not specify when a combatant has been knocked down. The ANBF Rules under the heading “Knockdown” give the following definition:

“Definition - A boxer shall be deemed down when:

- (a) any part of his body other than his feet is on the floor.
- (b) he is helpless on the ropes, or is being supported by the ropes.
- (c) he is rising from the down position and the referee has not given the command to ‘box’.”

This definition is broadly similar to the definition used by other boxing organisations. The IBF definition is somewhat narrower. In particular as regards the ropes, the contestant must be “hanging helplessly over the ropes as a result of a legal blow as ruled by the referee, who is the only person authorized to determine this”.

The ANBF Rules provide that if a boxer is legitimately knocked down the referee is required to impose what is called a “mandatory 8 count.” In practice, though it is not described in any of the rules, this means that the referee will send the opponent to the neutral corner of the ring, and will count at least 8 seconds. The timekeeper is required to count the elapsing seconds under the Combat Sports Rules and the ANBF rules until the referee takes up the count. This provides a mandatory period of 8 seconds where the referee will observe the injured fighter to see if he or she is fit to continue. The contest cannot commence before 8 seconds has elapsed. The fighter must be ready to continue fighting by the time 10 seconds pass, or he or she will lose by knockout.

The Combat Sports Rules, as they were in force at the time of the contest, provided that a boxer cannot be “saved by the bell” in any round except the last round. This means that the fact that the round’s usual duration of 3 minutes has elapsed will not prevent a mandatory 8-count continuing.

The rule is stated as follows:

“If a referee has commenced counting over a combatant (whether “down” or on his feet) and the round is due to end, a timekeeper must not sound the bell

until the combatant is counted out and the referee gives the order to “box/fight”. This shall apply in all rounds except the last round of any contest.”

A similar rule is also stated in the ANBF Rules. The application of this rule is of some significance as regards events at the end of round 11 of the fight, given that at that point Davey Browne was described by some of the witnesses as having been knocked down, but “saved by the bell”. The Combat Sports Rules were amended in November 2015 to remove the last sentence, so that now a boxer cannot be “saved by the bell” in any round.

Although it was not in force at the time of this contest, it is also necessary to describe what is called the “standing 8 count”. This rule provides that where a combatant is significantly affected but has not actually been knocked down, the referee may commence a count of at least 8. In distinction to the mandatory 8 count, which must be applied if a fighter is knocked down according to the rules, a standing 8 count may be used at the referee’s discretion. This provides the referee an opportunity to interrupt the contest and observe the fighter to consider whether the fighter is fit to continue. This rule was formerly applied by various boxing organisations but has been generally withdrawn from use, other than in Western Australia.

The decision to stop a contest

Under the Act, the primary duty to control a boxing contest, including stopping the contest, lies with the referee. In addition, the trainer, the inspector and the ringside doctor may also each have a role to play in stopping a fight. The roles of these officials will be considered in turn.

Referee’s duty to stop a contest

Section 66 of the Act imposes an obligation on a referee to stop a contest in the following circumstances:

- (1) The referee must stop a combat sport contest:
 - (a) if, in the referee’s opinion, a combatant is exhausted or injured to such an extent as to be unable to defend himself or herself or to continue the contest, or
 - (b) if a disruption occurs of such a kind as, in the referee’s opinion, warrants stopping the contest, or
 - (c) in circumstances of a kind specified by the rules or prescribed by the regulations for the purposes of this section.
- (2) The referee must stop a combat sport contest immediately after being directed under this Part to stop the contest by the attending medical practitioner or a combat sport inspector or police officer.

There is currently no guidance or training provided in NSW by the CSA to referees regarding their duty to stop a contest, although the CSA is in the process of developing training for referees and other ring officials. Some professional bodies, including the ANBF, do offer ad hoc training and seminars, in which aspects of refereeing including stopping a contest may be discussed, but attendance is

voluntary. It appears that the skill of determining when a fight should be stopped is therefore largely developed through experience in refereeing.

The Combat Sports Rules in force at the time of the contest did not provide any other relevant powers to the referee regarding stopping the contest. They were however amended on 20 November 2015, around 2 months after Davey's death, and now include a new rule regulating when a contest should be stopped. Under this rule (but not under the Rules at the time of Davey Browne's fight), there is a specific power in a referee (but not an obligation) "to stop a contest at any stage to consult with the ringside medical practitioner on the advisability of allowing the bout to continue". This new rule also sets out that the trainer can "throw in the towel" if "of the opinion that their combatant is exhausted or injured to such an extent that they are unable to continue in the contest". The implication being that if this happens the referee would stop the contest. A further new rule provides that the referee must stop a contest if the contest appears to be too one-sided.

Trainer's power to "throw in the towel"

By convention, a trainer can "throw in the towel" to indicate their fighter cannot continue. This will result in the defeat of the fighter and the end of the contest. The Combat Sports Rules in force at the time of the contest did not actually provide such power to the trainer. They have since been amended to provide this power. However, the ANBF Rules in force at that time did provide the following rule:

- "(2) Generally, when the chief second 'throws in the towel' the referee accedes to the corner's request to stop the fight. However, the referee at his discretion may ignore this request, especially if he is counting over a boxer."

Inspector's power to stop a fight

Inspectors are appointed by the CSA. There are currently approximately 25 inspectors in New South Wales, most of whom are employed on a casual basis. At least one inspector must attend a contest and sit ringside. Inspectors have a role in ensuring regulatory compliance, but also have power to stop the contest. Inspectors must direct a referee to stop the contest where a combatant is exhausted or injured to such an extent as to be unable to defend himself or herself or to continue the contest, and in those circumstances the referee must then stop the contest. As I have already noted, training on how to exercise this power is currently being developed by the CSA.

The CSA in a submission to this inquest has asserted that inspectors are not as well placed as referees to determine when a contest should stop, and they also lack the medical training of the doctor and the knowledge that a trainer would have of a fighter. Perhaps for this reason, it is rare for inspectors to stop contests.

The role of the ringside doctor

The attending medical practitioner or "ringside doctor" is usually a doctor experienced in attending boxing contests, but may not be. The only requirement currently is that the doctor is a qualified medical practitioner. There appear to be around 30 doctors who perform this role in NSW. A ringside doctor must attend the contest and must be present throughout.

The role of the ringside doctor is prescribed by the Act which includes, in Division 3, performing pre- and post-contest medical examinations.

There is nothing the Act which imposes a statutory obligation upon a medical practitioner to examine a combatant at any time during a combat sport contest, although it is the obligation of a promoter to ensure that a medical practitioner is present at and after the contest “for the purpose of exercising the functions of an attending medical practitioner”. One question which arose in this inquest was whether there should, in the legislation or regulations, be some clarity as regards the ambit of the medical practitioner’s functions during the conduct of a boxing contest. This is particularly so given that the doctor has an obligation to direct the referee to stop a combat sport contest in certain circumstances.

Section 63 of the Act provides that the doctor must direct the referee to stop a contest if he or she is of the opinion that the combatant is too exhausted or injured to defend himself or continue. In those circumstances the referee must stop the contest. The doctor therefore acts as a “safety net to minimize harm to the boxers.”

There is currently no training provided by the CSA to ringside doctors regarding how this power should be exercised, although as noted the CSA is developing training for all ring officials.

There is some guidance provided by the CSA to ringside doctors in the form of a leaflet called “the Role of the Medical Practitioner in Combat Sport in NSW”. Under the heading, “When to Stop a Fight”, it gives the examples, “Combatant health is at risk (e.g. too many hard hits to the head, loss of balance, unable to defend themselves); Exhaustion.” It also provides guidance on what to do in the event of a cut to the eye.

That document also states that, “Between rounds, the Medical Practitioner may observe a combatant from close quarters to assess the extent of an injury.”

By way of contrast to the position in NSW, in Victoria:

- a. *The ringside doctor is require to sit so as to “maximise effective communication with the referee” and to provide medical aid to any injured combatant at any time during about as is deemed necessary by the medical practitioner;*
- b. *The medical practitioner him or herself has the authority to stop a contest and must do so if of the opinion that “one or both of the contestants [has] suffered trauma to the extent that to continue will endanger the health of one or both contestants”.*
- c. *the applicable rules provide that “the referee or medical practitioner has the authority to stop a contest at any stage if they believe that either contestant is in such condition that to continue might subject the contestant to serious injury”; and*

- d. the referee “will call for a time out if a contestant’s ability to continue is in question as a result of apparent injuries. The medical practitioner will inspect the contestant and stop the match if the contestant is deemed unable to continue safely” and that a referee may, at their discretion, request the medical practitioner to examine a contestant during a bout.*

Also, the WA Rules provide, under the heading “When to Stop a Fight” as applicable to a medical practitioner: “Contestant health is at risk, eg too many hard hits to the head, loss of balance, unable to defend themselves”.

There are no requirements that doctors have any specialist medical training, for example, Advanced Life Support, although in practice most of them do. The CSA’s Medical Advisory Sub-Committee will be reviewing the role, obligations and training of ringside doctors later this year.

The requirements for medical equipment are also under review. Currently the only items of medical equipment required by the Act, Regulation or Combat Sports Rules are a bed or plinth in the dressing room and a stretcher, which must be located ringside. The leaflet to which I have referred also states that a doctor’s bag, stretcher, disposable gloves and gauze swabs are “required” equipment and that oxygen is “recommended”.

The Australian Medical Association issued a Position Statement on Combat Sport in 2015. The AMA opposes all forms of combat sport and recommends withdrawing boxing from the Olympic and Commonwealth games. However, until such time as combat sport is banned, the AMA makes a number of recommendations regarding the medical supervision of combat sport.

Relevantly, these include the following matters:

- 1. the medical practitioner should be adequately trained to perform ringside resuscitation, including endotracheal tube insertion;*
- 2. Combat sport jurisdictions should conduct on-going health education and first-aid training for all ringside personnel;*
- 3. No amateur or professional contest or exhibition be permitted unless:*
 - i. the contest or exhibition occurs where there are readily available adequate neurosurgical and resuscitative facilities for the emergency treatment of an injured patient;*
 - ii. current resuscitative equipment is available at the ringside; and*
 - iii. There is a comprehensive evacuation procedure for the removal of any injured participant to medical facilities. This procedure should be rehearsed prior to each event.*

The Evidence:

Social history

Davey's family describe him as being active and sporty from an early age. He developed an interest in boxing at the age of 9 or 10 and turned professional at 18. His boxing record demonstrates that he had a keen talent for the sport and he competed at a world class level. He held the WBC Eurasia Pacific Boxing Council super-featherweight title at the time of his death.

Davey is survived by his wife, Amy Lavelle, and two sons, Rocklyn and Flynn. Davey met Amy in 2010 and they became "inseparable". They were married in April 2013.

Davey's family and friends supported him throughout his boxing career, including his father David and mother Debra, his sister Rachel and brother Tommy. Davey's father said he was particularly close to his son, calling him "a really good kid, and my best friend."

Amy Lavelle, Davey's wider family and many of his friends were present at the boxing contest on 11 September 2015.

Preparation for the boxing contest

The event

The event on 11 September 2015 comprised 5 contests as identified on the "fight card" for the event. The minor contests or "undercard" included a contest for the NSW light-welterweight title and a fight between Davey's brother Tommy Browne and Alex Ah Tong. The main event was Davey's contest against Carlo Magali, which was to decide the IBF Pan Pacific junior lightweight (or super featherweight) title. At that stage the title was vacant, meaning there was no current champion. The IBF sanctioned the title fight under their procedures on 8 September 2015.

The promoter

The evidence suggests that it was Davey's father, David Browne senior, (Mr Browne) who organised the event, in that he provided the finance and took charge of the arrangements. After the event Mr Browne told police that he was the promoter, and he said the same to John Egan of the NSW Combat Sports Authority (CSA). However, Mr Browne told police that, prior to the event itself, he had become concerned about the financial cost of the event, because he had been let down by some people selling tickets, and he had considered calling it off. Mr Browne says his son Tommy took over organising the event, and it was therefore Tommy who organised Dr Lawrence Noonan, the ringside doctor to attend. Tommy also took a number of other steps in organising the night, and he told his friend Stuart Morn that he had "organised the whole event himself" including the entertainment for the evening.

On 12 August 2015, the CSA received an application for a permit to hold the contest, which named Ben Burrage as the promoter and matchmaker. Mr Burrage was not registered as a promoter under the Act, but he had applied to be a promoter prior to

31 January 2015 and was permitted to act as a promoter under transitional provisions. Mr Burrage appears to have had a limited practical role in the preparations for the event. For example, the CSA corresponded with Mr Burrage about the fight card. However, as noted, the arrangements were largely made by Mr Browne. In evidence, Mr Burrage confirmed he did not attend the boxing contest, although he had intended to do so.

While it was not the focus of this inquest to determine whether or not Mr Browne or Mr Burrage complied with their statutory duties, the role of the promoter is significant. The Act places a number of obligations on the promoter. It is the promoter who is required to arrange for insurance, to provide equipment including medical equipment and to arrange the attendance of the ringside doctor.

The permit and notification to police

On 11 August 2015 Mr Browne completed a Notice and request for services to NSW Police. On 14 August 2015, the CSA also notified police of the event, as they are required to do pursuant to s. 43 of the *Combat Sports Act 2013*. Senior Constable Leanne Heller of Macquarie Fields Police station performed a risk assessment to determine if the event posed a risk to public health and safety. On 19 August 2015 police advised the CSA that the proposed contest presented no known or apparent risk to public health and safety or substantial damage to property.

On 8 September 2015 a permit to hold the contest was issued to Mr Burrage. This was a day prior to Mr Magali receiving relevant medical clearance and serology tests, and prior to the CSA approving the fight card.

Organising the opponent

Mr Todd Makelim arranged Davey's opponent, Carlos Magali. Mr Makelim had developed a role in arranging for boxers to come from the Philippines to Australia to act as either sparring partners or opponents for Australian boxers. Mr Makelim sponsored the Filipino boxers for immigration purposes, and also gave them accommodation at his own house. He saw his role as offering opportunities to Filipino boxers.

Mr Magali travelled to Australia with his trainer Mr Sintig on 9 September 2015. The pair stayed at Mr Makelim's house at Eagle Vale. Mr Magali by this time had clearance from the Philippines Games and Amusement Board to compete in the event and he obtained medical clearance to compete and serology from Dr Noonan on 9 September.

The weigh-ins

The official weigh-in took place at 6.30pm on 10 September 2015 at the Court Hotel, Campbelltown. Davey was weighed in the presence of: his opponent and the trainers; Combat Sports Inspector Paul Toweel; IBF supervisor Tony Maretta; and referee Charlie Lucas. Davey passed the weigh-in at first attempt and his weight was recorded as 58.90kg.

On 11 September at approximately 8.00am there was a second weigh-in. This was required under the IBF Rules, despite the fact that they did not appear to apply to the contest itself, as I will explain later in these findings. IBF rules require that at this

second weigh-in a contestant must be no more than 10lbs (approximately 4.54 kg) over the contest weight, or less than about 63.5kg. There are no records available regarding this weigh-in, but Davey told his family he was within that weight.

The boxing contest

Davey appeared to be feeling well prior to the fight. His father and his wife believed he appeared normal. He told his friend Stuart Morn that he felt great and that his fitness was as good as it had ever been. Another friend, Glen Smith, took some video of Davey doing his warm up in the dressing room, which is within the brief. Other than feeling stiff, Davey did not raise any concerns with Mr Smith.

The event was scheduled to start at 7.30pm but the ringside doctor, Dr Noonan, was delayed and did not arrive until 7.30pm, which caused a delay to the event.

On his arrival, Dr Noonan examined each of the contestants, as he was required to do. The records of the examinations Dr Noonan performed on Davey and his opponent are within the brief. They were not been completed in full.

The first fight commenced at 8.05pm. Davey's brother Tommy was in the third fight of the evening. Following his participation in that fight, Tommy then acted as a cornerman for Davey. Tommy asked Glen Smith to also act as cornerman for Davey, and accordingly three people: Tommy, Glen Smith and Todd Makelim were present in Davey's corner. It is noteworthy that neither Glen Smith nor Tommy were registered with the CSA to act as a cornerman.

The ring officials present that evening took turns in judging and refereeing fights according to a schedule provided by the CSA. The schedule for Davey's fight had Charlie Lucas as referee, and Kevin Hogan, John Cauchi and Ray Wheatley as judges.

There were two Combat Sports Inspectors present that evening, Paul Toweel and Darren Perkins. While Mr Toweel, as the senior inspector, had been ringside for the other fights, he swapped with Mr Perkins, who sat ringside during Davey's fight.

Rounds 1 to 10

There are only two events prior to round 11 that need to be discussed in some detail. In round 6, Davey was well affected by a number of blows, although he was not knocked down. Dr Noonan, it would appear during the fight itself, recorded in the post-contest examination form that Davey had suffered a head injury with disorientation and loss of balance in the sixth round. Dr Noonan said in oral evidence that he was aware of the cumulative effect of head injuries. Despite this, he did not take any steps to examine Davey, explaining that he considered Davey had recovered sufficiently by round 7.

Dr Lewis, a highly experienced ringside doctor gave evidence as an expert witness in the inquest. He was of the opinion that Dr Noonan ought to have assessed Davey at the end of this round, although he does not think the fight ought to have been stopped. The advantage of an examination would have been to provide a reference point for later. However, Dr Noonan had already had two conversations with Davey prior to the fight, at the time of his pre-contest examination and then at a later stage,

and accordingly Dr Noonan already had some knowledge of Davey's baseline condition. In those circumstances, no criticism can be made of Dr Noonan for failing to examine Davey after round 6.

The other event is that Davey suffered an injury to his left hand during round 9. The evidence does not establish whether his hand was broken, although it was clearly swollen and bruised by the time Davey was assessed at Liverpool hospital, and had a very different appearance to his right hand. Davey told his corner about this injury at the end of round 9. Glen Smith told Mr Browne at the start of round 10, and Mr Browne relayed this information to Mr Wheatley.

None of the other officials learned about this injury until after the fight. Mr Toweel and Dr Noonan each state they would have ended the fight had they known of the injury.

While the injury might have had some impact on Davey's boxing, it does not appear to have caused significant difficulties. Mr Makelim and Mr Wheatley each stated it is possible for boxers to continue to fight with a broken hand, and neither could detect any difference in Davey's boxing after that point. The video shows Davey continued to throw punches with his left hand after round 9. In those circumstances, the evidence does not establish that the injury played a significant role in the events that followed.

Round 11

The focus of the inquest was the events from the final stages of round 11. Firstly, there was an issue about the timing of the round. The video shows that round 11 lasted approximately 3 minutes and 14 seconds between the two bells. At the end of the round, and immediately prior to Davey receiving the punches which caused the first knockdown, the timekeeper can be heard banging the table twice to indicate it was 10 seconds to go. Mr Lucas then applied the mandatory 8 count. Mr Toweel, Mr Lucas and Mr Vocale all confirmed that time should continue to run during an 8 count.

At the time of the contest the Combat Sports Rules appeared to provide that time would continue to run during an eight count.

As a result, although the timekeeper could not sound the bell during the count, he ought to have rung the bell when the referee gave the order to "box". In fact the bell was not rung until about 3 seconds later, by which time Davey had suffered a number of further blows.

It is undesirable that the timing of a professional boxing contest could leave room for human error (if that is what occurred) and accordingly I recommend that automatic timing systems be introduced.

The blows Davey received at the end of round 11 caused him to fall back onto the ropes before being directed back to his corner. He received assistance from his brother to return to the corner and the video shows he was unsteady and may have stumbled. Professor Brian Oowler, a Neurosurgeon who gave expert evidence to the inquest was of the opinion that, as a result of the combination of blows Davey had

sustained at that point, he was suffering from concussion. He based that opinion on observations he made on the video, with Davey returning to his corner unsteadily, with a lack of coordination and a “broad based” gait, which in the absence of other causes indicates that Davey was concussed. Professor Owler did not accept that any of Davey’s subsequent actions undermined that conclusion, including Davey briefly “jogging” back to the corner, responding to Mr Makelim who asked if he wanted to continue, or action including raising his gloves during round 12.

According to Professor Owler, concussion will resolve in varying amounts of time, from hours to days. Some, but not complete, improvement is possible in a matter of minutes. Concussion describes a range of injuries from the less severe to the debilitating. Where a boxer appears on that continuum is a question of degree. Professor Owler’s opinion was that after this event Davey was unlikely to be in a position to defend himself for the remainder of the fight. Importantly, he gave evidence that the boxer themselves will not be in a position to identify whether or not they are concussed, and asking whether they are okay is unlikely to form any reliable guide as to whether or not they are concussed.²

The weight of the evidence demonstrates that Davey was affected by his concussed state to such an extent that he was unable to adequately defend himself or continue in the contest beyond the end of round 11. This evidence includes:

- (i) The opinion of Professor Owler, who observes that Davey was in a “perilous state” at the end of round 11 and he remained that way at the start of round 12.³
- (ii) The witnesses who describe Davey’s lethargic, unresponsive state, including Amy Lavelle, Heather Lavelle and Debra Browne. They say that they had not seen him like that before. This before and after comparison was said by Dr Lewis to be an important guide when determining the seriousness of any injury sustained by a boxer.
- (iii) The obvious concern of the three men in Davey’s corner, who each stated they had never seen Davey affected in that way before and who took action to try to delay the start of the round.
- (iv) The video evidence, which demonstrates that Davey had very limited ability to effectively defend himself during round 12, having regard to his hands, his body posture, and his head movements.

On the basis of this evidence the finding can be made that, as a result of concussion and probably combined also with exhaustion, Davey was, at the end of round 11, “injured ... to such an extent as to be unable to defend himself ... or to continue the contest.” Therefore under each of ss. 63, 65 and 66 of the *Combat Sports Act 2013*, if this had been recognised by Dr Noonan, Mr Lucas, Mr Toweel or Mr Perkins such that they formed the requisite opinion, the fight should have been stopped.

² Evidence given at the inquest on 18/5/17

³ Exhibit 1, Vol 5, Tab 119

Mr Makelim, Mr Smith and Tommy Browne

During the break after round 11 there was “panic” in Davey’s corner as Mr Makelim, Mr Smith and Tommy Browne tried to get Davey ready for the final round. The level of their concern was evidenced by the stalling tactics they employed as round 12 started.

Despite their evident concern for Davey, neither Mr Makelim nor the others ever seriously turned their minds to whether or not he was fit to continue. Mr Makelim says he asked Davey twice if he wanted to stop, although his evidence was that he did this to “spur [Davey] on”. He stated he would have stopped the fight if Davey had not said the “right words” and it appears Davey responded to the effect that he wanted to continue.

Mr Makelim was aware he could have “thrown in the towel,” despite the rules not specifically providing for this at that time. Mr Makelim did not consider doing this at any stage. Instead, Mr Smith poured water on Davey and Tommy loosened the tape on his gloves. The intention was to buy more time, and to require the referee to stop the fight for a period while the problems were fixed. Mr Smith believed they would be looking for Davey to improve over that period or they would have “pulled the fight” although there was no discussion to that effect.

Mr Smith and Tommy Browne were expecting the referee to take some action; they called out to Mr Lucas that there was water on the canvas and the tape was loose, and were surprised and protested when Mr Lucas did not delay the start of round 12 to enable this to be sorted out. Mr Lucas’ evidence was that he did not hear these calls nor see the water on the canvas or the loose tape. Had he done so he would have got them to clean it up and to fix the tape. The first time that he noticed the tape was just prior to the final blow.

It has been suggested that the corner had a “duty of care” to stop the fight at this point. While they clearly would have been able to do so, a number of factors reveal why it would be inappropriate to rely on the trainer and cornermen to make such a decision, and why they cannot be relied upon as an effective safeguard to stop the fight for the welfare of the fighter.

- (i) A decision to throw in the towel may well have been taken against the boxer’s own wishes, as it would have been here. Davey wanted to continue, although he was evidently not in a good position to make that judgment. Going against a fighter’s wishes places the corner in a position of conflict.
- (ii) The corner, like the boxer, wants the boxer to win the fight. Their loyalty is unquestionably with the boxer. This puts them in a poor position to determine the question of stopping the fight. As Tommy Browne candidly said, maybe he was blinded by wanting to win.⁴ That is to be expected given the position he was in.
- (iii) The fighter’s position in the contest plays a significant role. It was apparent, at least to Mr Makelim and Mr Browne, that Davey was winning and he only

⁴ Evidence given at the inquest on 18/5/17

had to survive the final round to win the fight. This would have provided a compelling incentive to continue. Paradoxically, Davey's strong position in the fight also meant that Mr Magali would be trying to knock Davey out, as that was the only way he could win the contest.

These factors demonstrate why it is vital that the responsibility for stopping the fight be made by persons independent of the boxer and his corner.

Given the competing considerations I have described, I do not consider that any of the two cornermen nor Mr Makelim should be criticised for their failure to stop the fight.

Mr Perkins and Mr Toweel

Mr Toweel was designated the "lead" Combat Sports Inspector for the event. This suggested to Mr Egan of the CSA that he would take the lead role, including by sitting ringside during the fights. This was not, however, communicated to Mr Toweel at any time, nor was clarity as to the role of the lead Combat Sports Inspector given by anything in the Act, Regulation or rules. It is perhaps surprising that Mr Toweel would choose his less experienced colleague to preside over the main event. He did so in part due to the dispute he had with one of the other officials that evening. As a result, Mr Toweel spent the fight 10-15 metres from the ring, near the main door.

Both Mr Toweel and Mr Perkins had a duty to stop the fight. Mr Toweel accepted that his duty to stop the fight continued even while he was not ringside. Mr Toweel stated he had only ever stopped a fight once and it was because the doctor was not present. He had never seen an inspector stop a fight. Mr Perkins in contrast had stopped a fight due to a "mismatch", although that had been sometime after Davey's fight.

Mr Toweel said he continued to consider Davey's fitness throughout. However, it was clear from his evidence that he was largely relying on assumptions he made about the actions taken by the referee and corner, rather than making any independent assessment himself. When asked if he would have done anything differently, he said he asked himself the same question but honestly did not know.

Mr Perkins was confident of his ability to assess a fighter's fitness to continue. He identified a number of indicators of concussion, including being unresponsive, eyes not being as they should be, not holding hands up or defending and problems with balance. Mr Perkins stated that after the end of round 11 he was looking to the corner to see if Davey was okay and did not see anything of concern.

Mr Perkins' evidence as to Davey's fitness at that point is in marked contrast to the evidence of the other witnesses. Two aspects of his evidence are of concern. First, he appears to have relied on an assumption that Davey's corner were assessing Davey's fitness during the break, and he referred to seeing Davey responding to his corner as a positive sign, even though he could not hear what was said. Mr Perkins denied he was relying on the assessments of others, and stated he relied on his own observations in concluding that Davey was fit to continue. Based on the evidence, from his position, he would not have had any effective ability to assess Davey's condition during the break between rounds. Second, Mr Perkins referred in his

statement to the fact that the fight would not have been stopped because Davey was winning the fight on points. In evidence he resiled from these comments as being relevant to the decision to stop the contest, however, his explanation for having made the comments in the first place was unconvincing. Each of these matters would give rise for concern about the reliability of his evidence and I do not accept his evidence about Davey's fitness to continue the fight.

Despite Mr Perkins' confidence in his ability to judge when a fight should be stopped, the evidence of both inspectors suggests that further instruction and training as to the exercise of their important duty to stop a fight would be appropriate, to give inspectors confidence in fulfilling that aspect of their role. The CSA is in the process of developing more training for inspectors. If the inspector is to fulfil a meaningful role as an independent safeguard looking after the combatants' welfare, this training clearly should be provided as a matter of priority.

Dr Noonan

Dr Noonan understood his role to be a limited one. Despite his long experience as a ringside doctor, having performed the role for 23 years and attending over 2,000 bouts, his only training for this specific role (over and above his medical training) was "on the job". On a number of occasions during his evidence he defined his role as to perform pre- and post-contest examinations and to assess fighters when required to do so by the referee or after the fight had been stopped. His understanding was that the referee controls everything inside the ring and the inspectors controlled the external arrangements. That, in his view, left only a very limited role for the ringside doctor during the boxing contest itself. Whilst he did accept that he had to be vigilant, and had an independent duty to take action for the safety of a fighter, he was at pains to point out that he could not guarantee the health of any of the combatants during a contest and only accepted a responsibility to examine fighters during the rounds "within reason". Moreover, his understanding of this role, as already explained, suggested that he did not fully appreciate the important safeguard to be provided by having a ringside doctor considering the safety and welfare of the boxer during the contest. When asked to explain the reason for having a doctor ringside he stated it was "historical". Requiring the ringside doctor to assess the fitness of contestants to continue with a view to considering whether there was a risk of serious injury having regard to the boxer's condition would, in his view, fundamentally alter the nature of combat sports. He considered that his statutory duty under s. 63 only required him to stop a fight if he considered that the boxer was wholly unable to defend himself. He did not consider that the duty could apply where the boxer had an impaired or limited ability to defend himself.

It was in this context that Dr Noonan approached his tasks at the contest. His late attendance at the contest had the result that he conducted the pre-contest examination of all ten boxers over the space of around 35 minutes, spending an estimated 3 to five minutes with each. His completion of the pre-contest examination forms supports the fact that these examinations were brief; in Davey's case he did not undertake all the examinations included in the form and he took Davey's blood pressure only at a later stage in the evening, without recording the result. He said he did not have the blood pressure monitor with him at the time of the pre-contest examination of Davey.

In relation to the contest itself, he stated he did not believe Davey's condition was at any stage sufficient to warrant an examination, and he maintained that view even with the benefit of hindsight. Dr Noonan appreciated that Davey had suffered a major head injury at the end of round 11, and he later recorded in the post-match medical examination that the major head injury was sustained in rounds 11 and 12. He was also aware that this was the second head injury sustained during the bout. He did not approach Davey's corner to investigate or to assess Davey's condition. However, he acknowledged that the injury in round 11 increased the risk of further injury in the next round, and that in round 12 Mr Magali would be aiming to end the fight with a knockout, which further increased the risk.

Dr Noonan drew comfort from the fact that Davey was responding to his corner during the break prior to round 12 and later from the fact that Davey walked out to the ring and the contest was not stopped by the referee. Dr Noonan was relying on the referee to make an assessment about Davey's fitness, rather than taking any action to satisfy himself that Davey was fit to continue the contest. He did not accept he had any advantage over the referee by reason of his medical training. However, in my view the ringside doctor does have a significant advantage arising from his or her medical training which includes training in relation to the brain, the functioning thereof, and signs and symptoms of head injuries. By way of comparison, Mr Lucas stated he could recall no training on head injuries or concussion and he was unable to describe any of the signs or symptoms of concussion.

Dr Noonan said he had seen fighters in a worse condition than Davey at the commencement of round 12, however that is not the relevant test to apply. A number of witnesses (albeit with the benefit of hindsight) thought that Davey's condition was sufficient that Dr Noonan should have examined him following round 11, including David Browne, Mr Hogan, Mr Wheatley and Mr Makelim.

Dr Noonan's reliance on the fact that the referee had not stopped the fight, and on Davey's responses to his corner, were a manifestly inadequate method to assess whether Davey had sustained or recovered from concussion and whether he was fit to continue.

Dr Peter Lewis criticises Dr Noonan for failing to go to examine Davey during the break. I am of the view that this criticism is justified. According to Dr Lewis, it was the standard expected of a trained and competent ringside doctor in the circumstances. And there was nothing to stop him doing so. The CCTV footage shows he remained in his seat throughout the break, glancing over towards the corner a couple of times but otherwise looking around the ring and completing some paperwork. In his oral evidence Dr Noonan ultimately accepted that with the benefit of hindsight he should have gone to assess Davey at this point.

Dr Noonan's claim that from his ringside position Davey was "unsighted" for a crucial 20 seconds in the final round was undermined by the CCTV footage and video, which he had seen prior to giving evidence, and which shows that for only transient periods at the end of round 11 and immediately prior to the final blow either Tommy Browne or the referee were in his direct line of sight. However, he made no attempt at all to move from his seat, even though there was an open space to his right, as can be seen in the video. His evidence that it would take 5 to 10 seconds for him to

stand up, by which time the action would have moved on, was demonstrably wrong as he was observed to stand up far more quickly following the end of the contest. Moreover, given the condition of Davey Browne by the end of round 12, and that Dr Noonan had clearly seen the first few punches from Carlos Magali as Davey was against the ropes shortly before the fight ended, Dr Noonan should have taken every step he could to observe the interchange at the end of round 12. Whilst in many cases the movement in the ring may well lead to a line of sight being restored, here that was not the case and Davey Browne remained in the same position. That of itself should have alerted Dr Noonan to the need to observe Davey in the ring to see if he was in a position to safely continue the fight. The limited understanding of the role of the ringside doctor, especially the role to examine a boxer during a boxing contest calls for better clarity in the rules and training and provides a proper basis for recommendations.

After Davey had been rendered unconscious Dr Noonan did leave his seat and assisted in providing first aid. Heather Lavelle did not believe Dr Noonan was in control of the situation, a point he did not accept. There was some difficulty in inserting an airway, although this also troubled the paramedics when they arrived. It is noteworthy that Dr Noonan at that stage had no specific training in ringside resuscitation, or advanced life support. He had no oxygen with him, though he did have an oxy-viva. While none of these matters would have had any impact on the outcome, due to the severity of Davey's injury, the training of the ringside doctor, the medical equipment and the need for an evacuation plan are all matters connected with Davey's death that provide a proper basis for recommendations.

Mr Lucas

Mr Lucas is a highly experienced and highly regarded referee. The evidence, however, establishes that he made an error of judgement regarding the punches thrown as the bell rang at the end of round 11. Mr Lucas considered these punches were "legal" or in other words not thrown after the bell, and this decision was not criticised by either Dr Lewis or Mr Brad Vocale, an experienced referee who also gave evidence as an expert witness. Mr Lucas ultimately accepted that following these punches Davey should have been deemed to be knocked down under the rules because he was "supported by the ropes". In oral evidence he said that he would have called a knockdown if this had occurred earlier in the round (although he later appeared to resile somewhat from that conclusion). He further accepted (although again he somewhat resiled from that conclusion later in his oral evidence) that he was required in those circumstances to apply a mandatory 8 count.

Mr Lucas' reason for not doing so was that he had in mind the fact that it was at the very end of the round and Davey therefore would have a minute to recover, Davey appeared to bounce back from the ropes and he was able to walk back to his corner. In retrospect he conceded that he was therefore applying a rule that Davey was "saved by the bell", which he acknowledged did not apply at the time. Mr Vocale considered that this was a knockdown and an 8 count should have been given.

Mr Lucas made an error in failing to apply a mandatory 8 count at the end of round 11. However, as Mr Lucas noted several times in evidence, he had a split second to make a decision about what to do and his actions must of course be judged in that light. Whilst Mr Lucas gave evidence about his thoughts in relation to this

interchange, and about Davey's ability to return to the corner afterwards, that evidence was based not upon recollection but upon reconstruction from the video. Mr Lucas, some 4 days after the fight, made a note about the contest in a notebook. At that stage, he did not recall any blow to Davey after the earlier 8 count towards the end of the round. As would be expected, Mr Lucas' recollection was fallible even a matter of days after the event.

The significance of Mr Lucas's error in not applying a mandatory 8 count is not merely that the rules were not correctly applied. A mandatory 8 count acts as a vital safeguard for an injured boxer. It provides an opportunity for the referee to check the boxer's welfare. In the event that the boxer has not sufficiently recovered by the end of the count the fight will end by knockout. Mr Lucas therefore failed to take an opportunity to closely assess whether Davey was fit to continue. It is somewhat speculative to consider what the outcome of that assessment would have been.

After this point in the fight, Mr Lucas did not perform any meaningful check of Davey's fitness to continue, nor of the risks to him of doing so. He did not call in Dr Noonan, nor consult with him.

Mr Lucas maintained in evidence that he did assess Davey's fitness to continue at the start of round 12. He described in his evidence a number of signs he generally looks for to determine whether or not a fighter is "hurt". At the start of round 12, Mr Lucas's assessment amounted to a brief look at Davey, including at his eyes, and asking if he was okay. Whilst sometimes he asks the boxer where they are, he did not ask Davey any such questions. He did not notice the water on the canvas or the loose tape although he was aware that the corner were delaying getting Davey back on for the fight. He pushed Tommy out of the ring, and took Davey's hand to lead him to the centre of the ring to begin the round. Mr Lucas did not accept that his assessment of Davey at this point was inadequate, nor that the stalling tactics by the corner should have alerted him to the fact that something was wrong. He maintained his view that Davey was able to compete effectively in the final round and disputed that Davey was unable to defend himself.

Mr Lucas's evidence is against the weight of the other evidence, including the opinion of Professor Owler. As I have already stated, I find that Davey was "injured to such an extent as to be unable to defend himself ... or to continue the contest" prior to the commencement of round 12. Had Mr Lucas recognised this and formed that opinion, he should have stopped the fight.

Mr Lucas's failure to recognise the seriousness of Davey's condition serves to emphasise the need for an examination by a ringside doctor who is trained to detect concussion, to properly assess a fighter's fitness to continue.

Round 12 was short, but Mr Hogan and Mr Vocale observe that Mr Lucas appeared to be on the point of stopping the fight at one stage, and Mr Lucas accepted in evidence that this was the case. This suggests at least he had sufficient concerns for Davey's condition that he came close to stopping the fight.

The video footage of the fight, which was played during the inquest, shows that round 12 only lasted 35 seconds from the bell but only about 16 seconds from the

point when the fighters commenced to box. Davey was against the ropes receiving blows for a number of seconds. He appeared to look down towards his glove before Mr Magali landed the final punch which resulted in Davey falling to the floor. At that point Davey's guard was down and he was clearly not defending himself effectively.

Dr Lewis and Dr Noonan each express the view that the fight should have been stopped 10 seconds earlier. However, Mr Vocale, as a referee, considers that the fight "could" have been stopped prior to the point when it was. Due to the nature of the fast moving events, the timescale involved, and the considered opinion of Mr Vocale who does not criticise Mr Lucas' conduct in not stopping the fight earlier in round 12, I make no criticism of Mr Lucas for not stopping the fight earlier in round 12. As noted, the weight of evidence goes to the fact that the fight should have stopped before the 12th round even started.

The emergency response

Following Davey's collapse, there were many calls to 000, but there were difficulties in identifying the street address, and in accurately conveying information about Davey's condition. Dr Noonan said he looked for the inspectors to ask them to call 000, but not finding them called 000 himself. The first ambulance officers to arrive at the address were to some extent delayed seeking to establish a means of bringing the stretcher up to Davey's location. It is clear from the evidence that there was no pre-existing evacuation or emergency plan, nor any rehearsal of emergency procedures, such as were strongly suggested as required by Professor Owler.

For these reasons, recommendations in this regard, and as regards equipment which should be available at each boxing contest are necessary and desirable. Consideration should also be given to having a paramedic present to enable prompt and experienced resuscitation and emergency medical care to be provided by those with most experience as regards such matters.

The cause of death

Davey died as a result of brain death due to a large right acute subdural haematoma.⁵ The evidence is that this was suffered by reason of the final blow and that Davey's impaired condition diminished his ability to defend himself or to control his head movements. According to Professor Owler, in the final moments, his guard was down and he was not protecting his head; he was disoriented and apparently distracted by his glove tape, itself an extraordinary sign that he was badly affected by concussion; and his lack of coordination meant he was unable to control himself and avoid or deflect the effects of the final blow, which caused his head to move in a violent manner.

The relevance of Davey's diet

Debra Browne was concerned about Davey's health in the approach to the fight. Glen Smith, Tommy Browne and Todd Makelim each say they heard after Davey's death that he had been on the "water diet". Todd Makelim explained his understanding of this, namely that a person drinks large quantities of water in order to cause the body to pass urine in order to lose weight. That was consistent with

⁵ Exhibit 1, Vol 5, Tab 119, report of Professor Brian Owler

Amy Lavelle's account of Davey's diet when trying to make weight, although she describes him eating normally after the first weigh-in.

Professor Owler's oral evidence was that Davey's rapid weight loss and dehydration, even if established, would have had a relatively minor impact on the cause of his death.

The events following the withdrawal of life support

The family also raised a concern during the inquest about the fact that, despite Davey's severe brain injury, he continued to live for a number of hours after life support was withdrawn. Professor Owler confirmed in evidence that this course of events was not unexpected, in light of the fact that Davey was a very fit individual.

Recommendations

In accordance with the findings and evidence I have described above, I find it is necessary and desirable to make recommendations in relation to the following matters connected with Davey Browne's death.

To the Minister for Sport, Office of Sport and Combat Sports Authority:

I recommend that consideration is given to the following changes, relevant to the sport of boxing in NSW, after appropriate consultation with relevant sporting bodies and interest groups.

To the Minister for Sport

1. A transcript of this inquest be provided to the next review of the Combat Sports legislative scheme and consideration be given in that review to:
 - (a) Whether the legislative scheme should be amended to provide a comprehensive set of rules to govern the conduct of all boxing contests in NSW;
 - (b) whether the obligations on an attending medical practitioner to stop a combat sports contest currently expressed in s. 63 of the *Combat Sports Act 2013* should be amended to better protect the health and safety of combat sport participants, in particular in circumstances where:
 - i. in the opinion of the medical practitioner there is a serious impairment of the combatant/boxer's ability to defend him or herself; or
 - ii. there is a likelihood of serious injury to the combatant/boxer's health if the contest were to continue; or
 - iii. it is desirable to do so in the interests of the safety or welfare of the combatant.

To the Office of Sport

2. (a) To continue to develop training for registered industry participants, attending medical practitioners and promoters, on the following topics:
 - (i) the rules applicable to combat sports contests in New South Wales;
 - (ii) the roles of industry participants, attending medical practitioners and promoters in boxing contests;
 - (iii) when a contestant should be medically examined during a contest and when a contest should be stopped on account of the condition of the combatant.
 - (iv) the identification, significance and risks associated with serious head injuries including concussion; and
- (b) investigate and implement mechanisms, including an accreditation process, which will best ensure that every relevant industry participant and attending medical practitioner complete training on those topics at least annually.
3. Amend the *Combat Sports Rules* to provide that:
 - (a) there be a clear pre-determined means, whether by bell, hammer, prescribed hand signal or another method, by which the attending medical practitioner can indicate the need for or desirability of a medical examination of a combatant during the contest;
 - (b) at the commencement of a combat sport contest the referee and the attending medical practitioner must confer to agree on a means by which the referee can indicate the need for or desirability of a medical examination of a combatant during the contest;
 - (c) the attending medical practitioner must examine a combatant during a combat sport contest on the occurrence of prescribed “trigger” events, which should include:
 - (i) knockdown caused by a blow to the head;
 - (ii) suspicion of concussion; or
 - (iii) a direction to that effect by the Combat Sports Inspector or referee.
 - (d) an examination must include a medical assessment to ascertain whether or not the combatant is suffering from a concussion having regard to the “pocket concussion guide” or another applicable guidance document;

- (e) the attending medical practitioner may examine the combatant at any other stage during a combat sport contest, including during a round and during the break between rounds including to carry out medical assessment to ascertain whether or not the combatant is suffering from a concussion having regard to the “pocket concussion guide” or another applicable concussion tool;
 - (f) the round must be stopped to enable an examination as referred to in (c) to (e) to take place during a round, and if necessary the time between rounds must be extended to enable such examination to take place;
 - (g) the referee must confer with the attending medical practitioner about the need for a medical examination following any round in which a combatant receives a significant number of heavy blows to the head or appears to be suffering from signs and symptoms consistent with a concussion;
 - (h) there be a clear definition of a knockdown; and
 - (i) the attending medical practitioners must position themselves to allow effective communication with referees and to ensure as far as reasonably practicable that they have an unobstructed view of the combatants.
4. Ensure that the following medical equipment must be present ringside during a boxing contest:
- i. airway support;
 - ii. an oxy-viva mask; and
 - iii. oxygen.
5. Introduce a requirement that:
- (a) the promoter must submit to the Combat Sports Authority an Evacuation Plan for the venue prior to holding a boxing contest. Such a plan must include:
 - (i) the street address of the venue and the route by which paramedics can access the ring from the street with a stretcher and medical equipment and evacuate a patient safely;
 - (ii) the identity of the person who will call emergency services in the event of an injury;
 - (iii) the information about the patient which must be conveyed, including the state of consciousness, bleeding, breathing, and any apparent head injury;
 - (iv) confirmation that the plan has been discussed with the attending medical practitioner prior to the contest; and

- (v) the location of the nearest hospital with neurosurgical facilities.
 - (b) The attending medical practitioner, the promoter, and all industry participants present at the contest must inspect the route for the execution of the evacuation plan at the venue before the commencement of a boxing contest.
6. Investigate whether a paramedic should also be required to attend a combat sports contest in addition to the attending medical practitioner.
 7. Introduce automatic timing systems for all boxing contests.

Following the conclusion of the evidence, on 28 May 2017 those assisting me received a submission from John McDougall, the President of the ANBF, regarding the proposed recommendations. The ANBF supported the majority of the proposed recommendations, although Mr McDougall expressed concern about a knockdown as a “trigger” for medical assessment. I note that concern. I anticipate that the ANBF’s views will be taken into account by the Minister, Office of Sport and CSA as part of the appropriate consultation with relevant sporting bodies.

Findings required by s. 81(1)

As a result of considering all of the documentary evidence and the oral evidence heard at the inquest, I am able to confirm that the death occurred and make the following findings in relation to it.

The identity of the deceased

The deceased person was David Edward Browne, born on 21 December 1986

Date of death

15 September 2015

Place of death

Liverpool Hospital, Liverpool, NSW

Manner and cause of death

David Browne suffered brain death due to a large right acute subdural haematoma, which he sustained as a result of the final blow he received during Round 12 of a professional boxing contest held on 11 September 2015.

Conclusions

I would like to thank my Counsel Assisting, and her instructing solicitors from the Crown Solicitor’s Office, for their tireless efforts before, during and after this inquest.

I would like to thank the Officer in Charge of the investigation, Detective Senior Constable Richard Saunders, for his diligence in investigating Davey Browne's death and preparing a detailed brief of evidence.

The Office of Sport and Combat Sports Authority, through its counsel and solicitors, have been of great assistance during this inquest. The approach that was taken, seeing the inquest an opportunity to identify areas for change and to learn lessons from Davey Browne's death, is to be commended.

Finally, I would like to thank Davey's family for their contribution to this inquest and for their role in helping to make boxing a safer sport.

At the conclusion of the inquest, Amy Lavelle spoke eloquently about the death of her husband. She described a loyal, kind and generous man with a heart of gold, who was a great ambassador for the sport he loved. It is clear she has suffered an unbearable loss and is daunted by the prospect of raising their two children without him. Despite her grief, she acknowledged the efforts of those involved in the inquest and expressed a hope that any changes made as a result of this inquest will help to prevent a similar death occurring in the future. I thank her for her strength and courage, and I again offer my condolences for her loss.

I close this inquest.

Magistrate Teresa O'Sullivan
Deputy State Coroner
Date: 22 June 2017