



**CORONERS COURT
OF NEW SOUTH WALES**

Inquest:	Inquest into the death of JC
Hearing dates:	17 November 2016
Date of findings:	17 November 2016
Place of findings:	State Coroner's Court, Glebe
Findings of:	Deputy State Coroner T. O'Sullivan
Catchwords:	CORONIAL LAW – Cause and manner of death Death in police operation Self-inflicted gunshot wound Suicide Mandatory inquest
File number:	2015/363999
Representation:	Ms J. Murty, Counsel Assisting, instructed by Ms H. Sewell, Crown Solicitor's Office Mr S. Robinson for NSW Police Force
Non-publication orders:	Pursuant to section 75(5) of the Coroners Act 2009, I permit publication of the report of this matter however evidence identifying the deceased or any members of his family shall not be published in any report and the deceased shall be referred to by the pseudonym JC. Pursuant to section 74(1)(b) of the Coroners Act 2009, I order that there be no publication of any matter contained in the statement or documents annexed to the statement of Detective Inspector Ann Joy dated 3 November 2016.

Findings:	<p>Identity of deceased: The deceased person was JC.</p> <p>Date of death: JC died on 10 December 2015.</p> <p>Place of death: He died at [REDACTED] Tamworth.</p> <p>Manner of death: The death was caused by JC shooting himself in the head with a .22 calibre rifle with the intention of ending his life.</p> <p>Cause of death: The medical cause of the death was gunshot wound to head.</p>
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The Coroners Act 2009 (NSW) in s81 (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 JC.

Introduction:

This is an inquest into the death of JC. On 10 December 2015 JC contacted 000 stating that he intended to commit suicide. General Duty's police immediately drove to the scene which was his home while JC was still talking to the police operator. The phone call was timed at 8:39 PM and the police arrived at 8:47 PM to find JC sitting on a chair on the front veranda of his residence with the rifle between his legs in the barrel pointing towards his head. One police officer attempted to speak to JC, asking him to put the gun down and JC placed the barrel of the firearm in his mouth and pulled the trigger. Police rendered medical assistance and called an ambulance, however JC was unable to be revived.

The Inquest:

JC's death was a suspected suicide which occurred in the context of a police operation, as JC was on the telephone to an officer from New South Wales police force (NSWPF) just prior to apparently shooting himself. Officers from the New South Wales Police Force were present when JC pulled the trigger of the rifle that apparently caused his death.

As the death occurred during the course of a police operation, the holding of an inquest by a Deputy State Coroner is mandatory under sections 23 (c) and 27 of the Coroners Act 2009 (the Act).

The Evidence:

Background

JC was born on 4 March 1939 in Tamworth. On 27 August 1960, he married SB and in 1961, their son GC was born, followed by FC in 1964. The family moved to Armidale in around 1968.

Around 2005, JC was diagnosed with emphysema. In about 2012, he began using oxygen to assist in his breathing. Recently, he was on oxygen up to 16 hours per day.¹

In 2013, SB died after being diagnosed with gall bladder cancer.

¹ Statement of GC, Tab 27,[12].

Around about July 2015, JC had a number of conversations with his friend, Bruce Donnelly, about long term care and about what steps he would take to ensure that he had adequate care.²

On 19 August 2015, JC was admitted to Tamworth Base Hospital with pneumonia after he had suffered injuries including broken ribs following a fall in June 2015. On 19 August 2015, JC signed a “No Cardiopulmonary Resuscitation” order in the presence of his son FC.³

On 13 October 2015, JC was moved to the Manilla Hospital and on 16 October, he was discharged to the BUPA nursing home in Tamworth.⁴ On 11 November 2015, GC had his last conversation with his father.⁵ On 26 November 2015, JC discharged himself from the nursing home and moved back to [REDACTED] Tamworth with his friend and now live in carer, Matthew Redden.⁶

On 2 December 2015, following arguments about who would pay for household provisions and whether he could remain in the house after JC died, Matthew Redden ceased his carer duties and moved out of the house.⁷

When he left the house, Matthew Redden took bullets for a .22 calibre rifle with him because he thought JC was a bit cranky and because he thought it was the right thing to do.⁸

On 6 December 2015, JC spoke to his sister PW by telephone. JC reported that the carer hadn't worked out and that he wasn't feeling well. Otherwise, he seemed normal. PW said that she would visit soon and that he should call if he needed anything.⁹

The events of 10 December 2015

At about 3pm on 10 December 2015, FC visited his father at home. He noticed that JC had lost a substantial amount of weight. His father replied, “You get that when you're finished.”

JC asked if “tomorrow” was FC's day off and said he was going to call that night. FC observed that his father did not seem intoxicated during the visit, although he was drinking stubbies of Tooheys New and he seemed happy.

² Statement of Bruce Donnelly, Tab 25, [8].

³ No CPR Order, Tab 35.

⁴ Statement of GC, Tab 27, [16]; Statement of PW, Tab 28, [11].

⁵ Statement of GC, Tab 27, [22].

⁶ Statement of Matthew Redden, Tab 24, [11]-[12].

⁷ Statement of Matthew Redden, Tab 24, [13].

⁸ Statement of Matthew Redden, Tab 24, [14].

⁹ Statement of PW, Tab 28, [12].

As FC was on the way out the door, JC said, "You will get a call tonight."¹⁰ JC's friend, Dallas Croft, visited at about 7pm that night. Worried about his friend's health (his chest was heaving and he was trying to get air and he was having trouble talking), Dallas asked JC if he'd like him to call his doctor. Dallas Croft informed JC to call him at any time he needed him to come. According to Dallas, JC did not seem depressed.¹¹

When Dallas Croft was leaving JC shook his hand, something that he never did. JC said "Bye Dad" (a nickname for Dallas Croft) which Dallas Croft noted was strange for him to do.¹²

The 000 call

At 8.38pm, JC called 000 and announced his intention to commit suicide by shooting himself.¹³

At 8.39pm the job was broadcast over police radio.¹⁴ Senior Constable Kate Fletcher and Constable Michael Rainbow were the first to respond to the police radio broadcast at 8.40pm. They proceeded, Code Red with lights and sirens.

Their police vehicle, *Bendemeer 30*, stopped by the Powerhouse Hotel so that its occupants could put ballistic vests on. The CAD Incident Log mistakenly records Fletcher and Rainbow as arriving at the scene at 20.43. This was likely due to Constable Rainbow knocking a button when he reached to get the ballistic vests. It is likely they, in fact, arrived at about 8.47pm.¹⁵

Sergeant Timothy Ginman soon followed in *Tamworth 14*. He also proceeded, Code Red with lights and sirens, turning off the sirens when he turned onto JC's street.¹⁶

Senior Constable Garry Irvine and Constable Antoine Wolds responded in *Tamworth 17* Code Red with lights but not sirens. They left the sirens off so as not to alert JC to their arrival. About half-way to JC's property, they stopped their vehicle and put on ballistic vests, and then continued onwards.¹⁷

¹⁰ Statement of FC, Tab 26, [13].

¹¹ Statement of Dallas Croft, Tab 22, [8].

¹² Statement of Dallas Croft, Tab 22, [9].

¹³ Transcript of Triple Zero Call, Tab 37.

¹⁴ CAD Incident Log 575985 attached to Statement of Sergeant Leah Cunningham, Tab 14.

¹⁵ Transcript of Triple Zero Call, Tab 37; CAD Incident Log 575985 attached to Statement of Sergeant Leah Cunningham, Tab 14.

¹⁶ Transcript of ERISP of Sergeant Timothy Ginman, Tab 11, Q241.

¹⁷ Transcript of ERISP of Senior Constable Garry Irvine, Tab 8, Q100; Transcript of ERISP of Constable Antoine Wolds, Tab 12, Q45

Arrival at the scene

It appears all of the vehicles arrived at [REDACTED] Tamworth at about the same time, at 8.47pm. Sergeant Ginman put on his ballistic vest on arrival.

Their arrival and approach towards the house set off a sensor light on the property and JC cut off his triple 0 call, saying, “here comes the police now, bye.” This was at 8.47.45pm.

The police officers variously saw JC standing, moving towards a chair and sitting down. He held a firearm.

The police officers looked for cover: behind a tree in the case of Constable Rainbow and a telegraph pole in the case of Constable Wolds, Senior Constable (SC) Irvine attempted to speak to JC.

SC Irvine stated “put the gun down, it’s the police, we’re here to help you”. Sergeant Ginman said Irvine was really calm, didn’t yell but was loud and clear. Constable Wolds says there was nothing in Irvine’s voice that was threatening or confrontational. It was assertive, loud, and clear. Not a challenge. JC’s neighbour David Miles who overheard the exchange said he was “just talking in a normal voice”.¹⁸

JC didn’t appear to react at all and SC Irvine was concerned with what he was doing with the gun. He was concerned that JC might point the gun at the police so he too tried to find cover behind a telegraph pole on his right.

Within seconds of SC Irvine speaking, JC placed the barrel of the gun under his chin and pulled the trigger.¹⁹

Immediately following the shot being fired, the following happened:

- a) SC Irvine and Constable Rainbow both ran towards JC and noted that he was slumped forward in his chair with a gunshot wound to the head.²⁰
- b) Constable Rainbow removed the gun from JC’s legs and placed it on the ground. SC Irvine then took the gun, cleared the breach and turned it around so one spent cartridge fell to the ground.
- c) Using her police radio, SC Fletcher requested an ambulance.
- d) Sergeant Ginman requested a Duty Officer, Detective and Crime Scene Section.
- e) Constable Rainbow and SC Fletcher secured the property, front and back to ensure no other persons were present.

¹⁸ Statement of David Miles Tab 23[11]

¹⁹ Irvine 8[44][230]; Fletcher 9[209]; Rainbow 10[113]; Ginman 11[85]; Wolds 12[58][309]

²⁰ Irvine 8[44]; Rainbow 10[127]

f) Constable Wolds placed police tape around the house and commenced a crime log.

At 9.40pm, Inspectors French and O'Reilly arrived on the scene and at 10.05pm, Inspector French notified Constable Wolds, Sergeant Ginman, SC Irvine, Constable Rainbow and SC Fletcher not to discuss the matter with anyone. Those involved officers later travelled back to Tamworth Police Station with Inspector O'Reilly where they submitted to drug and alcohol testing and participated in recorded interviews.

At 10.08pm, the matter was declared to be a critical incident by Assistant Commissioner McKechnie.

Cause of death

An autopsy was conducted by Dr Vuletic on JC on 16 December 2015. Dr Vuletic came to the conclusion that the death was caused by a gunshot wound to the head.²¹

Manner of death

One of the functions of an inquest is to ensure that there are no hidden homicides. The evidence in this inquest makes it clear that JC shot himself in the head.

The issue is whether it was intentional or not. That question is live because there is a presumption against a finding of death by self-inflicted injury, or suicide.

The law provides that: "suicide is not to be presumed. It must affirmatively be proved to justify the finding."²² The standard of proof is not the criminal standard – beyond reasonable doubt – it may be the higher form of the civil standard; I must be comfortably satisfied that this is the correct conclusion.²³

In making a determination as to whether JC intended to end his life, I have taken into account the following material in the brief of evidence :

a) JC had previously indicated his preferred method of suicide on a number of occasions:

i. During a conversation with barrister and friend Bruce Donnelly earlier in the year, JC raised the idea of shooting himself because he did not want to waste away. When Mr Donnelly asked if JC had any firearms, JC said he had a couple of guns and that if things got difficult, he would just shoot himself. He said they were hidden where nobody would find them.²⁴

ii. Following his admission to Tamworth Base Hospital, JC had the following conversation with his son GC,

²¹ Post Mortem report of Forensic Pathologist, Dr Jane Velutic, Tab 18.

²² See Sellers J in Re Davis (deceased) [1967] 1 All ER 688.4

²³ Briginshaw v Briginshaw (1938) 60 CLR 336 at 361

²⁴ Statement of Bruce Donnelly

JC said, "I only need to be home for 3 minutes."

GC said, "Why?"

JC said, "Bang bang."²⁵

iii. On 10 December between 3 and 3.20pm while FC was visiting, JC said (in response to a comment that he had lost a substantial amount of weight) "You get that when you're finished." As FC was leaving, JC said, "You will get a call tonight."²⁶

i. When Dallas Croft was leaving JC's house, at about 7pm, JC shook his hand said "Bye Dad" (a nickname for Dallas Croft). Dallas Croft noted this was strange for him to do.²⁷

ii. Sometime, possibly on 10 December, JC wrote a number of messages to family and friends. In particular one note stated "To kids, Pat and Sue, family and friends. I am sorry for doing this, legal in Darwin should be in NSW. No more hospital or aged care for me. I am completely stuffed, can't breather (sic) or do anythink (sic) and I don't want to be handicapped for anyone. Sorry.."²⁸

iii. During the course of his triple 0 call, JC said the following things:

- "I'm just about to commit suicide...I've had it.... I'm too old." (Tab 36, p. 1)
- When the operator asked the deceased if he needed an ambulance he was responded "no I'll commit suicide before that". (Tab 36, p. 1)
- That he was planning on "Shooting myself" (Tab 36, p. 2)
- "Too late love.... I'm stuffed" (Tab 36, p. 3)
- " Never again will I go into a nursing home... Too late...The gun's cocked and ready." (Tab 36, p. 4)
- "Don't send my son out till youse arrive." (Tab 36, p. 5)
- He kept repeating "too late."

As he heard and later saw the police arriving, the operator pleaded with him to speak to the police and JC refused. (Tab 36, p. 8)

iv. SC Fletcher saw JC put the barrel under his chin.²⁹

Based on the evidence before me, I am satisfied in this case that JC intended to end his life when he pulled the trigger of the rifle.

The police investigation

A very important part of any coronial inquest is the investigation. I am of the view that a very thorough investigation has taken place in this case. The involved officers that is, those five officers who immediately responded to the incident, took part in a recorded interview. This evidence provides a great source of information regarding

²⁵ Statement of GC tab 27[14]

²⁶ Statement of FC tab 26[10]-[13]

²⁷ Statement of Dallas Croft tab 22[8]-[9]

²⁸ Statement of Detective Senior Constable Travis Murdock tab 13[28]

²⁹ ERISP of SC Fletcher tab 9[182], [184][211]; SC Irvine did not see. He had turned away to look for cover ERISP [192]

not only what those police officers did, but what was going through their minds when they made the decisions to act as they did.

Other police officers who responded after the incident have also provided statements.

In my view, there was nothing that the responding police could or should have done differently in the circumstances to prevent this sad outcome. JC had made up his mind about what actions he was going to take that night; he appeared to have been waiting for the police to arrive at his house. Once they were there, he shot himself. There simply wasn't time for those responding officers to do anything other than arrive, identify themselves and assess the situation.

I am satisfied that all officers responded immediately, urgently and appropriately and I commend them.

I also commend the 000 operator, Tegan Poulton, at Policelink Tuggerah for her professionalism and efforts to keep JC on the phone for as long as possible.

The officer in charge, Detective Inspector Joy is commended for her professionalism and her thorough investigation.

I would like to thank Counsel Assisting, Ms Jessica Murty and her instructing solicitor, Hannah Sewell, from the Crown Solicitor's Office, for their excellent work in assisting me.

Finally, I would like to offer my sincere condolences to JC's family and friends, in particular, his sons, GC and FC, for the very sad loss of their father. His death must have been a terrible shock to them. I hope this inquest has answered some of the questions they may have had and helped them even in a small way come to terms with the death of their father.

Findings required by s81(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 JC.

Date of death

10 December 2015.

Place of death

██████████, Tamworth.

Cause of death

The death was caused by a gunshot wound to the head.

Manner of death

The death was caused by JC shooting himself in the head with a .22 calibre rifle with the intention of ending his life.

I close this inquest.

Magistrate Teresa O’Sullivan
Deputy State Coroner

Date 17 November 2016