



CORONERS COURT NEW SOUTH WALES

NOTE: Non-publication orders made – see court file

Inquest:	Inquest into the death of unidentified baby, “Lily Grace”
Hearing dates:	10 February 2016
Date of findings:	10 February 2016
Place of findings:	State Coroner’s Court, Glebe
Findings of:	Deputy State Coroner HCB Dillon
Catchwords:	CORONERS – Whether child stillborn – Open findings in respect of identity, date and place of death, cause and manner of death – Recommendations: “baby boxes” – “safe haven” laws for protection of abandoned babies
File number:	2014/00353334

<p>Representation:</p>	<p>Sgt Bronwyn Lorenc, Advocate Assisting Coroner</p> <p>Also present representing the family of Lily Grace, Ms Filomena D’Alessandro and Sergeant Bill Green</p>
<p>Findings:</p>	<p>I find that the unidentified child, known as Lily Grace, died some time before 30 November 2014, and probably during that month, on a date and at a place that cannot be identified by the currently available evidence. The evidence does not enable me to identify her, nor to identify the cause or manner of her death.</p>
<p>Recommendations:</p>	<ol style="list-style-type: none"> 1. I recommend to the Ministers for Health, Justice and Family & Community Services (whoever is most appropriate) that consideration be given to installing “baby boxes” of the type used in Germany, Canada, the Czech Republic and other jurisdictions, and the associated practices and procedures, in hospitals or other suitable locations, for the protection of babies and mothers at risk. 2. I recommend to the Ministers for Health, Justice and Family & Community Services that consideration be given to introducing “safe haven” laws, together with the relevant practices and procedures, for the protection of babies and mothers at risk.

REASONS FOR DECISION

Introduction

1. This is an inquest into the death of an unidentified baby girl whose body was discovered by children at Maroubra Beach on Sunday 30 November 2014.
2. Despite a very thorough police investigation, the child's true identity has not been discovered. Following the necessary forensic procedures, she was informally named "Lily Grace" at the suggestion of two Good Samaritans, Filomena and her husband Sergeant Bill Green, who, in a sense, adopted Lily Grace. Among other things they organised her funeral and a memorial service to give her the dignity in death that she did not live to experience.
3. The death of Lily Grace is mysterious, distressing and, indeed, confronting. At present we can only speculate about the circumstances of her birth and death. All involved in this case hope that as a result of the publicity that this investigation and inquest have generated, someone who can answer the questions that the discovery of Lily Grace's body raises will come forward.

Was Lily alive at birth?

3. This court only has jurisdiction to investigate Lily Grace's death if she was alive at birth. To put it more accurately in legal terms, the threshold jurisdictional question is whether it is more likely than not that she was alive at birth. As defined by s 4 of the *Births, Deaths and Marriages Registration Act 1995 (NSW)*, a stillborn baby is:

A child that exhibits no signs of respiration of heartbeat or other sign of life, after birth that:

Is of at least 20 weeks' gestation, or

If it cannot be reliably established whether the period of gestation is more or less than 20 weeks, has a body mass of at least 400 grams at birth.

4. Although Dr Brouwer was unable to say definitively that Lily Grace was alive at the time of her birth, the physical evidence shows that she had a gestational age of about 38-40 weeks (that is, was a full term baby) but there were indications

that she had not been born in a hospital. The umbilical cord was not clamped, as it would have been in a hospital, but was severed.

5. Studies by the Australian Institute of Health and Welfare show that the rate of still births in Australia is one of the lowest in the world, approximately 0.5 per cent of all births of children whose birth weights are between 1.5 and 2.5 kilograms.¹ In simple terms, the higher the birth weight, the lower the risk of stillbirth tends to be.
6. Given that there is no positive evidence that Lily Grace was still born, and given that she was a full term baby, common sense suggests that it is more probable than not that she was born alive. This court therefore has jurisdiction.

The coroner's functions and the nature of the inquest

7. A coroner is obliged to make findings, if possible, as to the identity of the person who has died, the date and place of death, the cause of death and the manner or circumstances of death. In this case, a further question has arisen: was Lily Grace alive when she was born? Coroners do not exercise jurisdiction in respect of babies that are stillborn.
8. The questions that the discovery of Lily Grace's body raises are, in essence, as follows:
 - Was she alive at birth?
 - Who was she?
 - When and where did she die?
 - What was the physiological cause of her death?
 - What were the circumstances of her death, that is, how did her death come about? What was the manner of her death?
 - Are there any lessons that can be learned from her death and, if so, are there any recommendations that can be made to reduce the risk of such deaths occurring again in future?
9. I emphasise that the purpose of this inquest is not to attempt to shame anyone, especially the mother of Lily Grace. Although we do not know who she is, it takes little imagination to understand that to lose a baby and to seek to hide that baby's death in this way suggests that the mother was desperate. The fact that she has not come forward suggests that she is ashamed, vulnerable and scared. If

1

that is right, any decent person would immediately understand that she needs help and understanding rather than cheap and shallow criticism.

10. On the positive side, we are holding this inquest to show respect for the little girl who was our fellow citizen for the short period she lived. One of the fundamental reasons for the existence of a coronial system is to demonstrate our society's respect for human lives by seeking to understand what has happened when a life ends suddenly and unexpectedly as Lily Grace's obviously did.
11. I appeal to anyone who can provide information to get in touch with the police, anonymously if necessary, not so that someone can be caught and punished, but so that the mother can be helped and so that Lily Grace can be granted the dignity of true identity and allowed to rest in peace with her history and her true name.
12. I now turn to the known facts.

What do we know at present?

13. On Sunday 30 November 2014, the South Maroubra Surf Life Saving Club was conducting 'Nippers' training at the southern end of Maroubra Beach, around 400 metres from the club. At around 10am that morning, a group of Under - 7s Nippers started a 'flags' event in front of the raised sand dunes at the back of the beach. This event involves a sprint race in which the children dive to grab a 'flag' in the sand and a participant is eliminated after each heat.
14. On this day, three children who had been eliminated from the flags event began 'digging holes' in the sand dunes at the rear of the beach while they waited for the event to finish. Whilst digging in the sand, the children located the body of a deceased baby girl.
15. The little boys started to shout "Dead baby, dead baby", attracting the attention of nearby adults. The father of one of the boys came over to investigate what the children were doing and saw Lily Grace's body. He called the police on the Triple -0 line and a "crime scene" was established. Lily Grace's body had been buried in a shallow grave in the sand. As her body had decomposed considerably it appears that she had been there for some time but how long is not known to police.
16. Contrary to popular myth, forensic science does not enable pathologists and forensic police to determine the exact time of death. So many variables are at play, including the physical attributes of the person, the environment, the weather, and the degree to which the body is exposed to the elements, that estimation of a time or even date of death is a very speculative exercise.

17. Lily Grace was brought to the Department of Forensic Medicine at Glebe and her body was examined by Doctor Isabel Brouwer, a Senior Staff Specialist Forensic Pathologist. Dr Brouwer was unable to diagnose the cause of Lily's death. Indeed, the physical examination and the medical investigations are insufficient, by themselves, to allow us to say that Lily Grace was alive at birth or was stillborn.
18. A thorough police investigation was conducted by Detective Senior Constable Erin Cordina, the Officer in Charge, with assistance of other officers from the Eastern Beaches Local Area Command. The investigations included searches of the area surrounding Lily Grace's shallow grave, searches in the bushland close by, inquiries with hospitals, door-knocking houses, the collection of information from members of the public, assistance from interstate police, media releases, examination of CCTV footage, fingerprint and DNA testing, enquiries with government health and welfare agencies, dental examination to investigate whether Lily Grace was stillborn and reviews of Detective Cordina's investigation by other police.
19. Sadly, however, despite this massive and very professional effort, Lily Grace's identity remains unknown and her mother has not been located.

The open questions

20. The currently available evidence does not allow me to make findings of fact regarding the following questions:
 - Who was this baby?
 - When and where did she die?
 - What was the physiological cause of her death?
 - What were the circumstances of her death or manner of her death?

Are there lessons we can learn (or re-learn)?

21. Without a much more complete understanding of the circumstances of Lily Grace's death, it is difficult to draw any particular lessons from it. Nevertheless, it seems to me that we can draw some general conclusions.
22. Human experience and studies show that poverty is a very common factor, and is frequently the root cause, in cases of child abandonment. Lack of social and financial support is often a key factor. Such issues can be addressed through education, family planning, government support, and post-natal services and general support for parents, especially young, poor parents.

23. The social taboo against teen pregnancies in some cultures can also prompt the dumping of infants. In some cultures, male children are preferred to female children. Here the solutions, such as they are, are more complex because they go to questions of cultural identity and cultural norms concerning the roles, power and conduct of men and women in society. In Lily Grace's case, we do not know anything about her or her mother's ethnic or cultural background.
24. Mothers in all cultures care about their babies and do not lightly abandon them. With very few exceptions, the abandonment of a baby or a child is an act of extreme desperation. While it is understandable that other members of society are horrified by such behaviour, our tendency to revile the desperate mothers is harsh, unjust, uncaring and ultimately counter-productive. If the lesson we teach these women is that they are lepers in our midst, what incentive is there for them to seek help for their babies and themselves? A decent society's message to its most vulnerable and desperate members must be that the rest of us care and will help.
25. Indeed, the outpouring of emotion that accompanied the discovery of Lily Grace, the enormity of the effort that went into the investigation, the care and professionalism of Detective Cordina, and the generosity of spirit that was demonstrated publicly, led by Filomena D'Allessandro and Bill Green, and strongly supported by the Eastern Suburbs Memorial Park staff and trust, demonstrates this and shows our society at its best. If our media and politicians emphasised the strength and care of this community rather than bullied and shamed such people, this may encourage them to come forward rather than to hide fearfully in secret shame.
26. I emphasise (for those who need it spelled out) that this is not to condone abuse of babies and children. But the abandonment of children is a complex problem (or cluster of problems). Our tendency to adopt a one-size-fits-all- "name-and-shame" approach is ill-considered, wrong-headed and, if we care about these children and their parents, counter-productive. We can and should do better than that.

Can more be done?

27. The short answer, of course, is Yes. In some societies, such as the Czech Republic, Germany, Canada "baby boxes" have been installed to enable desperate parents driven to abandon their babies to do so safely. Parents can place their babies into a hatch which is built into the wall of a hospital. The operation of the hatch

sends an alert signal to nursing staff who then retrieve the baby.² (See Figure 1 below). This is a harm-minimisation policy, not an incentive to abandon babies.



28. Figure 1: Baby Box Písek Hospital, Písek District, Czech Republic. (Picture courtesy of Chee 2)³

29. “Safe haven” laws allow parents to hand over their babies without risk of prosecution by authorities. They enable desperate to come forward without fear of humiliation and prosecution to hand over their babies to someone who will safeguard them. Again, this is a harm minimisation policy, not an incentive to abandon babies. Safe haven laws are supported by the Australian Medical Association and have cross-party support among Australian parliamentarians. I have been informed that South Australia has legislation of this type that may be a model for other jurisdictions.

30. I therefore propose to recommend to the Ministers for Health, Justice and Family and Community Services that they consider installing “baby boxes” in hospitals or other suitable locations and that consideration be given to introducing ‘safe haven’ laws for the protection of babies and mothers at risk.

Findings s 81 Coroners Act 2009

31. I find that the unidentified child, known as Lily Grace, died some time before 30 November 2014, and probably during that month, on a date and at a place that cannot be identified by the currently available evidence. The evidence does not enable to me to identify her, nor to identify the cause or manner of her death.

² See Amy Stockwell “Why we urgently need safe drop-off centres for abandoned babies” <http://www.mamamia.com.au/baby-in-drain/> viewed 10 February 2016

³ See [https://en.wikipedia.org/wiki/Child_abandonment#/media/File:BabyBox_in_P%C3%ADsek_\(2\).JPG](https://en.wikipedia.org/wiki/Child_abandonment#/media/File:BabyBox_in_P%C3%ADsek_(2).JPG) viewed 10 February 2016.

Recommendations

32. I recommend to the Ministers for Health, Justice and Family & Community Services (whoever is most appropriate) that consideration be given to installing “baby boxes” of the type used in Germany, Canada, the Czech Republic and other jurisdictions, and the associated practices and procedures, in hospitals or other suitable locations, for the protection of babies and mothers at risk.
33. I recommend to the Ministers for Health, Justice and Family & Community Services that consideration be given to introducing “safe haven” laws, together with the relevant practices and procedures, for the protection of babies and mothers at risk.

Magistrate Hugh Dillon
Deputy State Coroner