



**CORONERS COURT
OF NEW SOUTH WALES**

Inquest:	Inquest into the deaths of TB and DP
Hearing dates:	3 and 4 September 2018
Date of findings:	28 September 2018
Place of findings:	State Coroner's Court, Glebe
Findings of:	State Coroner Les Mabbutt
Case numbers:	2016/266463 & 2016/266462
Catchwords	CORONIAL – Homicide and suicide. Domestic relationship.
Representation:	Counsel assisting the Coroner Mr C McGorey instructed by Mr E. Freeland, Crown Solicitors Office Mr B Haverfield for the Commissioner of Police instructed by A Wooldrige Office of General Counsel.
Non Publication Order	Pursuant to s75(2)(b) of the <i>Coroners Act</i> 2009 I direct that there be no publication of any matter that identifies TB or DP or any of their relatives.

Introduction

1. At 12.20pm on 4 September 2016 the bodies of TB (a female) and DP (a male) were located in premises at Smithfield by DP's nephew AS. The three year old child of TB and DP, A was also located in the house. A was physically unharmed.
2. TB was found on the floor in the bedroom with a thin rope around her face. DP was located in the bathroom hanging by the neck with a rope secured to the ceiling.

Why was an inquest held?

3. The role of the Coroner pursuant to s 81 of the *Coroners Act* 2009 is to make findings regarding:
 - The identity of the deceased

- The date and place of that person's death
 - The cause and manner of that person's death
4. Sect 27(1)(a) of the Act requires an inquest is held where it appears a person has died as a result of homicide
 5. Pursuant to s 82 of the Act, a Coroner has the power to make recommendations, including concerning any public health or safety issue arising out of the death in question.

Background

6. DP was born in Fiji in 1967. TB was born in Bangladesh in 1982. Both married other persons overseas and separately migrated to Australia.
7. DP had travelled to New Zealand in his younger years and became a New Zealand citizen but returned to Fiji and was married in 1995. DP and his wife migrated to New Zealand where they had two children. In 2008 the family migrated to Australia and settled in Adelaide.
8. TB was married in Bangladesh in 2007. In 2009 TB with her husband migrated to Australia also settling in Adelaide.
9. In 2009 TB and DP met at their workplace in Adelaide and commenced a relationship. DP's wife became aware of the relationship and in March 2010 DP moved out of the family home.
10. In August 2010 TB attended a police station in South Australia with DP and made a report she felt threatened by her husband. TB did not wish any action but only wished to report the incident. TB's partner returned to Bangladesh shortly after and subsequently divorced TB.
11. TB and DP moved to Sydney in December 2010. On 10 September 2012 in Sydney their child A was born. In 2013 they moved into a house in Smithfield. In 2016 TB and DP separated but remained living together in the house for financial reasons. In March 2016 Mr AS the nephew of DP, who had just migrated from Fiji moved in.

12. In May 2016 TB communicated on Facebook with a male person SH who was also from Bangladesh and they met in person. TB informed SH she and DP were separated but remained living together to share expenses and because of their daughter. Sometime after this TB and SH commenced an intimate relationship.
13. In July Mr MD, TB's cousin also moved in to the house with the other three adults and A.

27 July 2016

14. Following their separation but whilst still residing together at the house in Smithfield on the evening of 27 July an incident occurred. DP had been drinking kava with friends he had invited over. After the friends left the house TB and DP argued and DP produced a knife and threatened to harm himself stating "*if you leave, I will hurt myself*". No one was injured and TB and DP eventually went to sleep in the house together.

28 July 2016

15. The next day TB attended Fairfield Police Station with SH. The station was busy and TB only remained for a short period of time and left without speaking to a police officer.

Attendance at Fairfield Police Station on 29 July

16. TB returned to the Police Station the next day, this time with her cousin MD. TB spoke to Constable Parry who was on the counter. TB requested advice on leaving her husband. TB was taken to a private interview room. Constable Parry indicated police could not assist with divorce and TB would need to speak to a lawyer.
17. Constable Parry thought this was a little strange and asked TB if something had happened. TB replied "*No not really*"
Constable Parry "*Did he hit you or hurt you in any way?*"
TB said "*No not hit*".
18. TB told Constable Parry there was an argument about DP drinking too much. DP got upset obtained a knife and placed it near his left arm threatening to harm himself if she left. TB managed to calm DP down and they went to bed. Constable Parry confirmed A did not see the incident. Constable Parry then asked if DP had made any threats to her. TB answered in the negative.

19. Constable Parry discussed taking out an Apprehended Domestic Violence Order with TB. Constable Parry stated TB was not willing to make a statement, go to court and did not want Police to take any action. Constable Parry made a record of this in his notebook which TB signed. He stated TB was very calm and softly spoken but was very adamant she did not want an AVO. TB said she did not want this and it would make him upset and make matters worse. Constable Parry recalled TB telling him DP was controlling regarding finances and access to money.
20. Constable Parry then made inquiries of TB regarding A and was advised A was at Daycare and TB had requested DP collect her and she was not worried about this arrangement.
21. After speaking to TB and considering all the information provided Constable Parry made a decision that no offence had been committed and in the absence of a statement from TB or her willingness to attend Court, he did not consider taking out an AVO for TB's protection was necessary. TB stated she did not need an AVO and wasn't scared or afraid. Constable Parry provided TB with contact details and a white information card with contacts for external support agencies contacts and information. TB then left the station. At some stage Constable Parry did checks on DP as per standard procedures but found nothing adverse. (DP had no criminal record, adverse entries or warnings recorded on the police system)
22. After TB left Constable Parry completed a COPS entry and the Domestic Violence Safety Assessment Tool on the computer, for referral to external agencies. The COPS entry was classified as Domestic Violence-No Offence, which recorded TB's attendance, DP's details, a narrative and that TB did not wish any action taken by police.
23. Constable Parry then did a "handover" with Sergeant Gauci which was standard practice at Fairfield where a domestic incident had been reported but no charges or Domestic Violence Orders were contemplated by police. Constable Parry discussed TB's attendance. Sergeant Gauci said it would be best that a car crew undertook a follow up and speak with DP.
24. MD who had attended the police station with TB recalled TB telling him she was worried about DP losing his job and it would affect his "honour". Upon returning home from the police station TB told DP she wanted to move out. TB stated that

night but moved out to a house of a friend at Arncliffe with A and MD the next morning, 30 July.

Attendance by police to speak with DP on 30 July

25. Shortly after TB had left the premises that morning Senior Constable Chandra and Constable Flanagan attended the Smithfield address to follow up the report by TB and speak with DP. DP told police TB was staying with family. He indicated that was better so they could calm down and sort things out. Police informed DP that TB reported he had threatened to harm himself with a knife on 27 July. DP denied this took place and indicated TB was just angry about them having a fight. DP was asked about whether he had any thoughts of self harm prior or currently which he denied. Police did not consider anything in DP's appearance that indicated to them he was a mentally unwell.

Events leading up to the deaths of TB and DP

26. After leaving the Smithfield premises an informal arrangement was put in place that A was dropped off at Daycare by TB in the morning and collected by DP in the afternoon. TB would then collect A after work from DP's house. TB saw DP regularly on this basis.
27. DP's sister BP spoke to DP on the phone on 7 August. He told her TB had left him and taken A with her. He was really upset and crying and told her he felt betrayed and humiliated.
28. AS did some Facebook searches after being told by some work colleagues that TB had been seen holding hands with another male at Bankstown. DP told AS he had searched TB's phone and identified a person who TB had been calling a lot. AS searched this name, found a person and showed the photo of this person to his work colleagues who confirmed it was person they had seen. AS informed DP of this. DP did not respond.
29. AS moved out of the house in mid August. DP was now alone in the premises. AS last saw DP on 22 August, DP looked well and told him everything was well and TB was bringing A over to visit him.
30. TB rented a unit at Bankstown at the end of August. TB told DM him she was happy for DP to be part of A's life. On 2 September TB visited DP. DP later told his sister

BP that when TB left he followed her back to her unit in Bankstown. When he rang her she told him she was stuck in traffic. DP told BP he suspected she was having an affair with someone else.

3 September 2016

31. During the day DP attended a friend BV's house to borrow a ladder. BV later attended DP's house to watch football in the afternoon. DP told him that things were working out with TB and A and he got to see his daughter every day. As he left DP gave him his car keys and keycard to withdraw some money he owed BV. They arranged to meet at the RSL that evening.
32. In the afternoon AS rang DP and told him he had just seen TB and SH hugging at Hurstville. DP said "*OK no worries*" Later in the evening AS rang DP. DP told AS that he did not know what TB wanted from him, he said they were having a physical relationship and he was seeing his daughter and things were working out fine. AS told him to leave it alone and focus on A. DP ended the conversation with "*Why should I ruin my life over her, she's coming over tomorrow for father's day*".
33. Later in the evening DP rang AS and said "*she is too clever, I don't know what she wants from me, don't worry I will sort it out.*" AS responded "*Uncle be smart, leave it, just think about A*"
34. After 9pm BV and DP met at the RSL and both left about 10pm driving themselves home. Whilst at the Club DP rang his sister and told her TB had been seen with another man. He said he felt betrayed and humiliated. He indicated TB would make him think they were getting back together and at other times he thought she was having an affair. He said TB and A were coming over on Father's Day and being a father he should be allowed the full day, not 3 hours.

4 September

35. At 9.30am DP rang BV and wished him Happy Father's Day. When asked what he was doing DP said he wasn't sure.
36. TB and A left the Bankstown unit about 10.30am. CCTV footage showed TB's car about 1 kilometre from the house at 10.59am. Neighbours of DP saw TB and A arrive, DP came out of the house, gave A a kiss and all three persons went into the house.

37. At 11.32am DP rang BV and said there had been a big argument and requested he come over. BV was unable to attend. He called AS a few minutes later and asked him to check on DP. Around midday a neighbour saw A come out the back of the house crying and yelling "*mummy mummy mummy*". A went back into the house. AS drove to the house and waited outside for a short while as he did not wish to intervene in case they were working out things.
38. About 12.20pm AS got out of the car and walked to the back of the house. He noticed the sliding door was open, which was unusual. On entering he noticed A asleep on the couch. He went further into the house and noticed the bedroom door was open. He saw TB on the floor with a thin rope around her face. Her face was blue and purple and she was lukewarm to touch.
39. He then saw DP hanging from a rope from the bedroom ceiling next to a ladder. He called 000 (this call was logged at 12.28pm). He then tried to lift DP and cut the rope and commenced CPR. Ambulance attended shortly after. Both TB and DP were found to be deceased. Sergeant Kan and Constable Wong attended shortly after the ambulance officers. Rope of the same kind found next to TB was used by DP in the bathroom.

The note

40. Police found a note written by DP addressed to his sister. On the first page it would appear DP had initially intended on harming A writing "*A, I have to take her with us – sorry*". The second page contains his instructions to his sister about A maintaining contact with the grandparents. As a result of viewing this note police took A for urgent blood tests to confirm she had not been given any drugs or dangerous substances. The tests were negative.
41. The officer in charge, Detective Senior Constable Steven Murray of Fairfield Criminal Investigation Unit conducted an investigation into the deaths of TB and DP. An examination was conducted of the Crime Scene and a large number of witnesses were interviewed, including family members of TB and DP.

Cause of death of TB

42. A Post Mortem examination was conducted at the Department of Forensic Medicine Glebe on 6 September 2016 by Forensic Pathologist Dr Maistry. Dr Maistry found

the cause of death to be neck compression as a result of ligature strangulation. No drugs or alcohol were detected.

43. In addition Dr Maistry determined that TB had suffered blunt force trauma causing cuts and bruising to the facial area consistent with being struck several times prior to her death.

Cause of death of DP

44. A Post Mortem examination was conducted at the Department of Forensic Medicine Glebe on 6 September 2016 by Forensic Pathologist Dr Van Vuren. Dr Van Vuren determined the cause of death as hanging. Toxicology results were negative for alcohol or illicit drugs.

Were the actions and responses of members of the New South Wales Police Force appropriate on 29 and 30 July 2016.

45. It is of critical importance to the community that the actions and responses by police officers to reports of domestic violence are properly examined and considered in circumstances where a person who made a report to police about a domestic incident is subsequently killed by their partner. The prevalence of domestic violence in the community and the impact of domestic violence on families and individuals is of utmost concern.
46. Constable Parry at the time had been a police officer four years with experience in domestic violence matters. Constable Parry's assessment after considering the report made to him by TB was that no domestic violence offence against TB had occurred. That was based on his view no threat had been made to TB, she did not feel threatened or concerned and she declined to make a formal statement to him and indicated she would not attend court.
47. Inspector Sean McDermott the manager of the domestic and family violence team of the New South Wales police gave evidence regarding procedures to be followed in accordance with standard operating procedures in domestic violence matters. In addition police at Fairfield at the time utilised the domestic violence safety assessment tool (DVSAT). New South Wales police responses in general to reports of domestic violence are:

- The requirement to investigate whether a domestic violence offence has occurred and place an offender before the court after making a decision to prosecute
 - Investigate the matter with a view to determining whether an application for an apprehended domestic violence order is appropriate and required
 - Apply the DVSAT to ascertain any risk of future harm of domestic violence and refer the person to a specified specialist support service.
48. Constable Parry acted in accordance with standard operating procedures where a person reports a domestic incident at the counter of a police station. He took TB away from the counter area to a private room to speak with her. DP had no history of violence, no criminal convictions, no adverse reports on the police system. TB did not wish the police to take any formal proceedings. TB still envisaged that DP would spend time with A. She expressed her concern police action would make things worse.
49. Taking into account the information provided to Constable Parry had on 29 July and the unwillingness of TB to provide a statement or attend court, I find there was insufficient material or evidence for Constable Parry to conclude that DP could be charged with a domestic violence offence or an offence under s13 of the *Crimes (Domestic and Personal Violence) Act 2007*.
50. In addition to an assessment of whether a criminal offence has taken place Police have a positive obligation in certain circumstances in accordance with s 27 *Crimes (Domestic and Personal Violence) Act 2007* to apply for a provisional order for the protection of a person.
- “Section 27 (1) An application must be made for a provisional order if:*
- (1) a police officer investigating the incident concerned suspects or believes that:*
- (a) a domestic violence offence or an offence under section 13 has recently been is being committed, or is imminent, or is likely to be committed, against the person for whose protection an order would be made...”*
- Section 27(5) “However if the police officer investigating the incident believes there is good reason not to make the application, the police officer must make a written record of the reason.”*

51. Constable Parry's decision not to apply for an order requires careful scrutiny. Constable Parry took into account TB's wishes that she wanted no action taken. TB did not provide a statement, indicated she would not attend court and that she was not in fear of DP. The incident reported to him involved threats of DP to harm himself only. However, the behaviour of DP was controlling behaviour using threats of self harm in an attempt to make TB remain in the relationship. The record on the COPS entry for the reason for not applying for an ADVO, was "nil fears, nil offence". That entry complied with the requirements under s 27(5).
52. What Constable Parry was told and what he was aware of on 29 July is what must be examined. Constable Parry further consulted with his supervising sergeant on the basis he would be taking no action and made a record of his reasons as required under the legislation. The likelihood of a successful ADVO application in the absence of a statement from TB and her indication she had no fears was low.
53. Inspector McDermott also considered if police had proceeded with an ADVO against the wishes of TB, TB was unlikely to engage in the process or attend court. Police can apply for an order against the wishes of the complainant, for instance where the complainant has been a victim of violence or significant threats of violence.
54. Constable Parry appropriately applied and completed the DVSAT. TB's contact details were forwarded to the South West Sydney Women's Domestic Violence Court Advocacy Service. Attempts were made by that service to contact TB by telephone.

Attendance by police at DPs residence on 30 July.

55. Senior Constable Chandra and Constable Flanagan attended the house to speak with DP. DP denied using a knife and threatening himself. He said the argument was about his drinking and money. Police asked him about his mental state and he denied any self harm issues. DP had no mental health history or history of self harm.

Opinion of Dr Olav Nielssen Psychiatrist

56. Dr Nielssen's opinion is that based on the information available to the police as of 30 July 2016 he did not believe there was any information that indicated DP had a propensity to commit serious violence against TB or any other person. DP was 48

years of age and had not come to the attention of the police apart from three traffic tickets. TB did not report any kind of threat or being in fear of DP. DP did not appear to be depressed when spoken to by police and was able to offer them an assurance that he did not intend to harm himself. His presentation to the police did not warrant involuntary detention or assessment.

57. Dr Nielssen also opined the contact with police was 5 weeks before the incident and at that time based on the information available, DP had probably not seriously contemplated committing suicide let alone killing TB. At the time police spoke to DP on 30 July 2016 they did not have any information to indicate DP was at a significantly increased risk of serious violence towards himself or another person. Dr Neilssen considered police were diligent in following up TB's report and did not have any reason to take the matter further at the time.

Conclusion

58. I find on all the information that was available to Constable Parry at that time, the decision not to apply for an ADVO was reasonable in the circumstances.
59. The system in place at Fairfield police station of a supervisor reviewing any decision not to take action on a report of a domestic incident was appropriate. The decision by Sgt Gauci to action a car crew to check on DP I find was appropriate given the nature of the report provided by TB that related to DP's threat of self harm. The attendance by police at the premises to speak with DP was undertaken in a proper manner.
60. I find in the circumstances the police actions and responses on the 29 and 30 July 2016 were appropriate and followed proper protocols and legislative requirements.

Findings on the events of 3 September

61. TB decided, as she had every right to do, to end her relationship with DP and move out of the house.
62. The evidence supports a finding that DP's mental state deteriorated significantly in the weeks following TB leaving the house. During this period he recognised resuming a relationship with TB was less likely as time went on. Information received by DP that TB was seeing someone else compounded that issue.

63. The total lack of insight or acceptance by DP that TB could make her own choices in life, commence a relationship with whom she wished and participate fully in the community is deplorable. TB's actions to ensure A spent time with and had a meaningful relationship with her father ultimately and tragically placed TB in danger.
64. I find several factors motivated DP:
- The threat of self harm to try and keep TB in the relationship against her wishes did not succeed
 - His view TB had betrayed, humiliated and shamed him
 - Depressed mood following TB leaving the house
 - His jealousy and fixation over TB seeing another man and a lack of control over TB's life
 - Final recognition that TB was not prepared to recommence their previous relationship. There is no evidence to establish TB and DP had resumed an intimate relationship at this time.
65. DP presented himself to family and friends as a loving and devoted father to his child with no history of having been a violent person. The dreadful actions taken by DP highlights the difficulty in certain circumstances, of predicting horrific conduct of this kind.
66. With the benefit of hindsight the evidence discloses elements of premeditation regarding DP's actions:
- The preparation of the note
 - Obtaining the rope and cutting it into two parts
 - Paying back the money he owed BV the evening before
 - DP's comments to AS on 3 September.
67. I find TB and A attended the premises shortly after 11am on 4 September 2016. Once inside the house DP struck TB several times to the face. DP then intentionally strangled TB in the bedroom with a rope around her neck sometime between 11am and 11.32am. That DP did these deplorable acts in the presence of his three-year-old daughter is even more horrendous. It demonstrated his selfish inability to accept TB's basic right to live her life the way she wished. TB lost her life ensuring her daughter would see and spend time with DP on Father's Day.

68. Following the phone call to BV, DP then went to the bathroom used a ladder to secure a rope through an access cover in the ceiling and hanged himself by the neck with the intention of ending his life.
69. Exactly at what time DP made the decision to fatally harm TB is unclear and unable to be exactly determined. The lengthier more detailed front page of the note may be consistent with DP completing that part prior to TB's arrival given the time frames involved.
70. The back of the note is consistent with hurried writing that may have occurred after TB's death or he changed his mind about harming A prior to the arrival of TB and A. The evidence does not allow for an exact finding of when both parts of the note were written. Whatever thoughts DP may have had to physically harm A fortunately did not eventuate.

Should any recommendations under s 82 be made?

71. It is clear from the evidence that the subsequent actions of DP were not predictable at the time police had contact with TB and DP.
72. On the basis of the finding that police actions and responses were appropriate, I do not consider the making of any recommendations are necessary in the circumstances.
73. DP's brutal act of killing TB then taking his own life has inflicted deep and lasting grief on the families and friends of both persons. I wish to offer my sincere condolences to the families of TB and DP in recognising the shocking effects these deaths had and will continue to have on their families and the community generally.
74. I wish to thank Mr McGorey Counsel Assisting and Mr Freeland from the Crown Solicitor's Office for their assistance in this matter.

Findings pursuant to s 81 of the Coroners Act 2009

Identity

The person who died was TB

Place of death

Smithfield

Date of death

4 September 2016

Cause of death

Neck Compression from ligature strangulation

Manner of Death

DP deliberately strangled TB by use of a rope around the neck

Identity

The person who died was DP

Place of death

Smithfield

Date of death

4 September 2016

Cause of death

Hanging

Manner of Death

Intentionally self inflicted.

Les Mabbutt

State Coroner