



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

Inquest: Inquest into the death of an unknown human male person whose torso was found on 27 January 2012 at Kyeemagh Beach at Botany Bay

Hearing dates: 19 May 2016

Date of findings: 19 May 2016

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

Findings of: Magistrate Derek Lee, Deputy State Coroner

Catchwords: CORONIAL LAW – cause and manner of death, unsolved homicide

File number: 2013/241072

Representation: Sergeant D Williamson, Advocate Assisting the Coroner

Non-publication order: Pursuant to section 74(1)(b) of the *Coroners Act 2009* I direct that there be no publication of the family name [REDACTED], or the name of any person referred to in the brief of evidence with that surname.

Findings: I find that the death of the unknown male person whose torso was found at Kyeemagh Beach at Botany Bay on 27 January 2012 was a result of homicide by a person, or persons, unknown. The death occurred sometime prior to 27 January 2012. However, the available evidence does not allow me to make any finding as to the identity of the person who died, or the place or precise manner of death.

Recommendations: I recommend that the death of the unknown male person found in the water off Kyeemagh Beach at Botany Bay on 27 January 2012 be referred to the Unsolved Homicide Unit of the NSW Homicide Squad for further investigation in accordance with the protocols and procedures of the Unit.

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Introduction

1. Shortly before 10:00am on 27 January 2012 an object wrapped in black material was seen floating in shallow water at Kyeemagh Beach, about three to four metres from the shoreline. It was retrieved by a group of people working nearby. The object appeared suspicious so they contacted police.
2. When the object was opened, a human torso was found inside with the head, neck and limbs amputated. Despite an extensive investigation conducted by the police the person who died could not be identified. An autopsy was unable to establish the cause of death. Essentially all that could be determined was that the torso was of a male person.
3. This inquest has examined the circumstances surrounding the location and examination of the deceased person whose torso was found and what the police investigation subsequently revealed about who the person was and how, when and where he died.

The function of a Coroner and the nature of the inquest

4. Section 81(1) of the *Coroners Act 2009* (the Act) requires that when an inquest is held the coroner must record his or her findings as to various aspects of the death. These are the findings of an inquest into the death of the unknown male person whose torso was found on 27 January 2012.
5. The role of a Coroner, as set out in section 81 of the Act, is to make findings as to:
 - (a) the identity of the person who died;
 - (b) the date and place of the person's death;
 - (c) the physical or medical cause of death; and
 - (d) the manner of death; in other words, the circumstances surrounding the death.
6. Section 82 of the Act allows a Coroner to make recommendations concerning any public health or safety issues arising out of the death in question.

What happened on 27 January 2012?

7. Christine Petitfils was an Intensive Corrections Order (ICO) field officer employed by Corrective Services NSW. On 27 January 2012 she took 12 people, who were supposed to perform unpaid work as part of their ICO, to Kyeemagh Beach at Botany Bay. The beach area forms part of Kyeemagh Reserve, with General Holmes Drive to the north. As Ms Petitfils and her group walked down to the beach she saw a black coloured object with some white markings in the shallow water near the shoreline.
8. Ms Petitfils walked closer to inspect it. She saw that it was an object, which appeared to be about the size of a large pillow, wrapped in black material with some white material showing. The object had chains wrapped around it. Mr Koray Yusuf, who was one of the people in the work group with Ms Petitfils, waded out into the water to retrieve the object.

Mr Yusuf grabbed the chains around the object in order to pull it back to shore and noticed that the object was quite heavy. He also saw that there was some white hessian material protruding from within the black material.

9. Once Mr Yusuf was able to drag the object on to the shore another worker, Mr Charles Noah, undid a D-shackle that was holding the chains around the object together. Mr Noah removed the chain and saw that the object was wrapped in a black bed sheet. He removed the sheet and found a white hessian sack inside, held together with tape. The sack had a red stain on it. Inside the sheet, Mr Noah also found a 50-pound round barbell weight.
10. Ms Petitfils became suspicious about the origin of the object and called her supervisor, and then the police. Local police and officers from the Sydney Crime Scene unit later arrived at the beach. A search of the surrounding area was conducted shortly afterwards. Police divers searched the water and beach area around where the object was found. No other items of interest were located. Police dogs were used to search the beach and bushland areas in the immediate vicinity. Again, nothing of interest was located.
11. The object was taken to the morgue at Glebe where it was examined by the duty pathologist, Dr Stephen Wills. After the object was fully unwrapped and opened, a male human torso was found inside. Dr Wills suspended his examination in order to conduct a full post mortem examination the following day.

What do we know about the material surrounding the torso?

12. The torso was found inside a white-coloured synthetic hessian sack. The tape was sealed with clear adhesive tape. A hair and some fibres were found stuck to parts of the tape.
13. The sack itself was inside two black garbage bags that had been gathered and tied at one end. The bags had clear adhesive tape around them. Blue material, which appeared to be paint, was found stuck to a portion of the tape.
14. A "Spotlight" brand black fitted bed sheet with white trim had been used to cover the hessian sack. It too, had been wrapped with clear adhesive tape and also black gaffer tape. Hair was also found stuck to the tape. Within the bed sheet was a 50-pound (22.6 kilograms) round barbell weight which was rusted and corroded. It was 355 millimetres in diameter and stamped with the brand name "Samson". Also within the bed sheet was a black "Nike" brand ankle sock.
15. A silver metal chain had been wrapped around the bed sheet. It was 3.5 metres in length and was in good condition without any signs of rust. The chain links were 60 millimetres long and 30 millimetres wide with a thickness of 10 millimetres. A red ribbon was tied around a link at one end of the chain. There was a D-shackle which had been used to secure the chain in place.

What was discovered during the post mortem?

16. Dr Wills examined the torso on 28 January 2012. The torso was found to be that of an apparently Caucasian male person of heavy build and indeterminate age, although later anthropological assessment suggested the deceased to be approximately between 23 to 57 years of age. No tattoos were present. The only potential identifying marks found were a scar in the right hip region, which appeared to be from a previous appendicectomy, and another scar in the inner left thigh.
17. The head and neck had been amputated around the level of the shoulders through the lower level of the 6th cervical vertebra. The surface appeared to be smoothly cut or sawn. The upper and lower limbs had been amputated just beyond the armpit area and groin creases, respectively. Again, the cut ends of the limb bones appeared to be smoothly cut or sawn, with fine striations or tool marks. The cut ends of the skin appeared to have been cleanly incised, as was the bulk of the muscle.
18. There was an incision from just above the line of the nipples extending to the pubic bone. This caused a partial incised wound in the lowermost section of the sternum which exposed the abdominal contents. Distended loops of the small bowel were protruding through this wound. Beneath the wound the front aspect of the stomach had been incised. There were no other penetrating wounds to the abdomen.
19. Dr Wills concluded that the amputation of the head, neck, and limbs, together with the incision to the chest and abdomen, appeared to have occurred post-mortem. Due to the obvious absence of these parts of the body, Dr Wills could not exclude the possibility of fatal injury to these areas.
20. Toxicological testing was also conducted. Cocaine and its metabolite, benzoylecgonine, were detected in the splenic fluid and a liver sample. Cocaine was also detected in the small bowel. The concentration of cocaine in the liver sample was within the wide range reported in previous cocaine-related fatalities.
21. Dr Wills opined that the toxicological findings raised the possibility of a cocaine-related death. Due to the incision to the abdominal wall and stomach, Dr Wills raised the possibility of cocaine having been internally concealed or smuggled. However, Dr Willis also noted that the small and large bowel contents appeared to be normal, and that the small and large intestines appeared intact.
22. Ultimately, Dr Wills was unable to determine a cause of death. The post mortem did not identify any ante mortem injury, or any other factor, that could have caused death. Internal examination of the organs revealed only relatively mild decompositional change and, again, no identifiable cause of death.

What was done to identify the deceased?

23. In the months following the location of the deceased, the police conducted extensive enquiries in an attempt to uncover more information about the deceased. A Strike Force

was established for this purpose. I have set out below a summary of the police investigation.

(a) Physical searches of the surrounding area

On 28 and 29 January 2012, police divers searched the waters at Kyeemagh Beach and the mouth of the Cooks River, which flows into Botany Bay nearby. On 29 January 2012 police conducted an extensive search of the surrounding local area, including speaking with local inhabitants. As a result of these enquiries police identified a witness who saw what was described as a “large oddly shaped object” floating in the Cooks River near St George Rowing Club between 2:15pm and 2:30pm on 26 January 2012. It has been assumed that this was the deceased.

Between February and May 2012 further extensive searches were conducted of the Cooks River, Alexandra Canal and surrounding areas, as well as ocean areas near where the deceased was found. None of these searches uncovered any information that could be used to identify the deceased or reveal what happened to him before his death.

(b) Search of police databases

A state-wide email containing all known information about the deceased and his discovery was sent to all NSW police officers in an attempt to elicit some possible further information about the deceased’s identity and background. A review was also conducted of the NSW Police “Phototrac system which is a photo database of all persons who have been charged with offences, to identify any male persons with scars similar to the deceased. Finally, the Police Computer Incident Despatch System was also reviewed for all entries made in January 2012 in the Local Area Commands surrounding where the deceased was found. Unfortunately none of these avenues of enquiry were able to advance the investigation into the deceased’s background and identity.

(c) DNA analysis and investigation

From available body tissue a DNA profile of the deceased was able to be extracted. This profile was compared against all available state and national databases but no match was found. The profile was also compared against the Interpol DNA Gateway database which also produced a negative result.

An overseas expert in forensic genetics conducted an ancestry analysis on the deceased’s DNA profile. The analysis revealed that it was most likely that the deceased was of European ancestry and that it was more than a billion times more likely that the deceased was of European ancestry than the next most likely ancestry which was East Asian. The deceased’s DNA profile did not have African, Native American or Oceanian ancestry.

Genealogical testing was also conducted. This involved short tandem repeat testing on the Y chromosome in an attempt to uncover information about the deceased’s paternal ancestry. When the deceased’s Y chromosome was compared against others on the DNA database, it produced a match to persons on the database with the surnames of Sivyver and Elliott.

Although the search results were not definitive, a subsequent search was conducted on all national police databases for persons known to police with these two surnames. Searches were also conducted with records kept by nationwide births, deaths and marriages registries. However, none of the searches produced any further information capable of being used to identify the deceased.

The hair samples found stuck to the adhesive tape on the materials that the deceased had been wrapped in were analysed. The DNA profile extracted from them matched the deceased.

(d) Missing persons enquiries

Between February to April 2012, police conducted checks on both NSW and interstate missing persons databases in an attempt to identify the deceased. However DNA comparison, and comparison of known identifying features, did not produce any matches. A further review of missing persons was conducted in June 2013, with a final review conducted in September 2015. Neither of these subsequent reviews produced any information as to the deceased's identity or background.

Checks were contacted with the local Riverwood and Bankstown offices of the Department of Housing to see if there were any clients who had not been seen for a period of time and whose details matched what was known about the deceased. No relevant information was uncovered from these enquiries.

(e) CCTV footage

Investigating police reviewed substantial hours of CCTV footage from local service stations, nearby rowing and boat clubs, Rockdale Council and Sydney Airport. None of the footage captured anything relevant to the investigation.

(f) Vehicles of interest

During the police investigation, several vehicles were identified as being suspicious with possible connections to the deceased. One such vehicle was a boat that was stolen at about 9:45pm on 22 January 2012 from Blakehurst marina. Subsequent investigation did not produce any evidence that the theft was connected in any way to the deceased.

A review was also conducted of all reports of abandoned vehicles in the area where the deceased was located. A 1993 Mazda 626 sedan was found abandoned on 9 February 2012 outside 25 Edgbaston Road, Beverly Hills. Subsequent enquiries to determine the registered owner and a forensic examination of the car did not uncover anything relevant to the investigation.

Finally, the investigation revealed that a Holden Rodeo utility was seen by a passer-by to well alight in Riverine Park at about 5:30am on 20 January 2012. After the fire was extinguished it was discovered that the vehicle identification number (VIN) had been deliberately removed and erased. Subsequent enquires by police revealed that the Rodeo

had been reported as stolen on 11 January 2012. Further investigation of the theft and the Rodeo itself did not produce any other information that could be used to identify the deceased.

(g) Tidal patterns

The location of the burnt out Holden Rodeo raised the possibility in the minds of police investigators that the deceased had been dumped by a person or persons unknown somewhere along the Cooks River or Alexandra Canal and had subsequently drifted into the ocean at Kyeemagh Beach. Forensic examination indicated that the deceased had been in the water for about 8 to 10 days prior to him being found. To this extent, police asked Dr Peter Tate, an expert in marine tidal drifts and movement patterns from Sydney Water, to consider possible entry points along the river and canal. Dr Tate concluded that that the deceased could have entered the water any point along the Cooks River within 2 kilometres of the St George Rowing Club, or any point along Alexandra Canal within 1 kilometre upstream from its confluence with the Cooks River.

With this information, police considered possible locations where the deceased may have been dumped into the river or canal. They identified two possible locations: a bridge between Airport Drive and Tempe Reserve, and a bridge along Bayview Avenue near Tempe station. The locations were within the distances parameters identified by Dr Tate and were considered to be possible entry points due to them being accessible, secluded, and with low lighting in order to conceal potential suspicious activity. The Bayview Avenue bridge was located only 2.7 km from where the burnt out Holden Rodeo had been found. Police divers subsequently conducted extensive searches of both locations but nothing of interest was found.

(h) Suspected criminal activity

Given the circumstances surrounding the location of the deceased, and the removal of his neck, head, and limbs, police strongly suspected that his death was the result of, or connected with, criminal activity. To this end, enquiries were conducted with known police sources to see if any information could be provided about any criminal activity associated with the deceased's death. Although several people with known criminal associations were nominated by police sources, and reported as missing, careful investigation by the police revealed that none of these persons was the deceased.

Due to the presence of cocaine from the toxicological results, the incision wound to the abdomen, and the surrounding suspicious circumstances, investigating police considered the possibility that the deceased's death was specifically associated with drug-related criminal activity. The investigation identified a family criminal syndicate that was known, according to police intelligence reports, to be based in the area where the deceased was found and to be involved in the importation and distribution of illicit drugs. In 2011, one of the family members had been convicted of possessing a commercial quantity of cocaine. Furthermore, another family member was identified from police records as having been an occupant in the burnt out Holden Rodeo in April 2011. Despite further investigation, no

other evidence was uncovered which was connected with the deceased or which could assist in identifying him.

(i) Examination of the items found with the deceased

Enquiries were conducted with the manufacturer of the barbell which was a company based in the United States. The company did not make any equipment similar to the barbell that was found with deceased and had never distributed any of their equipment in Australia. The company advised police that other companies manufactured products using their "Samson" brand name. Further police enquiries did not produce any other relevant information.

The chain wrapped around the bed sheet was also investigated extensively. Police considered engaging a metallurgist in an attempt to identify the manufacturer of the chain or from what batch it had been produced and sold. However, as the testing could not produce a definitive result, no further scientific enquiry was conducted. Instead, police examined transaction records from purchases of similar types of chains from local hardware stores proximate to the area where the deceased was found. This examination did not recover any information relevant to the deceased's identity.

Police discovered that the white hessian sack was similar in appearance to ones supplied by Sutherland Council for residents to remove rubbish, and also similar to one sold at Bunnings hardware stores. Transaction records for purchases in the local area were also obtained from Bunnings but further inquiries regarding this item did not produce any relevant evidence.

The bed sheet in which the hessian sack was wrapped was identified by product name and code from the Spotlight chain of stores. Transaction records were also obtained from Spotlight stores in the local area for the period around when the deceased was found. However, this avenue of enquiry also failed to produce any further useful information.

The two black garbage bags, Nike brand sock, and D shackle used to secure the chain were all generic items with no distinguishable features. As such police were unable to conduct any further investigation to determine their origin.

(j) Media coverage

The discovery of the deceased was featured in a short segment of the "Coast Watch" television series. There were also newspaper stories in the Daily Telegraph in July 2012 and in the Sydney Morning Herald in September 2013. Despite the media attention, no further information was forthcoming from the general public to assist the police investigation.

What do we know about the deceased and what happened to him?

24. Unfortunately the answer to this question is, in short, very little. Despite extensive investigation that has now spanned over four years, no further evidence has been

uncovered that sheds much light on the questions that a coroner must answer. Nothing is known about the deceased's identity other than he is male, heavily built, is of European ancestry and was likely between 23 and 57 years of age at the time of his death.

25. Even less is known about what happened to the deceased and what caused his death. The autopsy report recorded the cause of death as being unascertained. As noted by Dr Wills, as the deceased's neck, head and limbs have not been found, the possibility of fatal injury to these areas cannot be excluded. Furthermore the presence of cocaine in a reported fatal range raises the possibility of a drug-related death. Given the paucity of evidence I am unable to make any finding as to what caused the deceased's death.
26. The grisly circumstances in which the deceased was found immediately raises the possibility of homicide by a person, or persons, unknown as the manner of death. Of course, the possibility of a self-inflicted injury, accidental injury to a part of the deceased's body that has not been found, or accidental drug overdose all cannot be entirely excluded as possible ways in which the deceased might have died.
27. However, there are several pieces of evidence which point towards a finding of homicide:
 - (a) The amputation of the deceased's neck, head and limbs together with the incision to the abdomen raises the strong suggestion that his death was as a result of, or connected with, criminal activity. Based on the findings of Dr Wills, I conclude that the amputations and incision occurred post mortem.
 - (b) The surfaces at the points where the amputations were performed were smoothly sawn or cut which suggests that some care and skill was required by the person or persons who did this.
 - (c) As noted by both Dr Wills and the police officer-in-charge of the investigation, Detective Sergeant Justin Moynihan, the possibility of the deceased being involved in drug-related criminal activity is high. The detection of cocaine in the liver and bowel coupled with the incision wound to the abdomen tend to suggest that the deceased could have been concealing drugs internally for the purposes of illegal courtering.
 - (d) Significant efforts were made by a person, or persons, unknown in an attempt to conceal the deceased's torso and prevent him from being found. This is clear from the fact that it appears that the amputations were performed to remove any of the deceased's identifiable features, and that he was placed in the Cooks River, Alexandra Canal or ocean with a weight attached. Those responsible obviously hoped that the torso would not rise to the surface and be discovered.
 - (e) The Holden Rodeo was set alight 7 days before the deceased was found. It was also left at a location only a short distance from a site that is strongly believed to be where the deceased's torso was disposed of. If it is assumed that the vehicle was connected with the disposal of the torso then the timing of the vehicle being set alight is consistent with the estimated duration (8-10 days) that the deceased was in the water.

28. For all of these reasons, I conclude that the available evidence is sufficient for me to be satisfied on the balance of probabilities that the deceased died as a result of homicide by a person, or persons, unknown.
29. There is, however, insufficient evidence for me to make any finding as to when the deceased died other than it was, obviously, at some stage before he was found on 27 January 2012. It is possible that the deceased was murdered near the site where his torso was disposed of. Given the analysis conducted by Dr Tate, it is likely that this occurred at either of the two sites identified by police along the Cooks River and Alexandra Canal. However, it is equally possible that the deceased's death took place at an unknown location some distance from where his torso was deposited into the water. Both possibilities are equally plausible. As a result there is also insufficient evidence for me to make any finding about where the deceased died.
30. Before considering whether any recommendations should be made and making formal findings, I would like to thank and commend the efforts of Detective Sergeant Moynihan and all the police officers involved with the Strike Force that investigated the deceased's death. The investigation was an exhaustive and diligent one which was frustrated by the sinister and calculated actions of the person, or persons, responsible for disposing of the deceased's torso.

Should any recommendations be made?

31. Section 82 of the Act allows a coroner to make any recommendations that a coroner considers is necessary or desirable in relation to any matter connected with the death that the inquest is concerned with.
32. For the reasons set out above I have concluded that the deceased's death was a result of homicide. The person or persons responsible for the death were also likely to have been involved in the disposal of the deceased's torso (and other body parts). Or, at the very least, they were aware that it was going to take place. There is obviously public interest in having those responsible brought to justice. Given what little is known about the deceased's identity and background, there is also a general public interest in attempting to uncover further information about who the deceased was and how he died. Investigating police hope that developments and advancement in DNA testing will be able to produce further information in the future that will assist with uncovering who the deceased is and what happened to him before he died. If the deceased has any family members, they would obviously be left in a state of great uncertainty about what happened to him.
33. I therefore recommend that the death of the unknown male person found in the water off Kyeemagh Beach at Botany Bay on 27 January 2012 be referred to the Unsolved Homicide Unit of the NSW Homicide Squad for further investigation in accordance with the protocols and procedures of the Unit.

Findings

34. I now turn to the findings that I am required to make under section 81(1) of the Act:

Identity

The available evidence does not allow me to make any finding as to the identity of the person who died other than he was male.

Date of death

The unknown male person died some time before 27 January 2012. The available evidence does not allow me to make any more precise finding as to the date of his death.

Place of death

The available evidence does not allow me to make any finding as to where he died.

Cause of death

The available evidence does not allow me to make any finding as to what caused his death.

Manner of death

The deceased's death was as a result of homicide by a person, or persons, unknown. However, the available evidence does not allow me to make any more precise finding as to the circumstances of his death or how he died.

35. I close this inquest.

Magistrate Derek Lee
Deputy State Coroner
NSW State Coroners Court, Glebe
19 May 2016