



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

Inquest:	Inquest into the death of Trevor John FOSTER
Hearing dates:	5 March and 17 July 2014
Date of findings:	18 July 2014
Place of findings:	State Coroner's Court, Glebe
Findings of:	Magistrate Michael Barnes, State Coroner
Catchwords:	CORONIAL LAW – violent and unnatural death; homeless victim; mental illness
File number:	2012/64938
Representation:	Assisting the Coroner: Sgt E Mulligan

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Findings required by s81(1)

As a result of considering all of the documentary evidence and the oral evidence given 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 is Trevor John Foster

Date of death

Mr Foster died on 26 or 27 February 2012

Place of death

He died in the Domain in Sydney, NSW

Cause of death

Mr Foster's death was caused by incised wounds to his neck.

Manner of death

How and by whom those wounds were inflicted has not been ascertained.

The Coroners Act in s81(1) requires a coroner to record in writing his or her inquest findings as to various aspects of the death. These are the findings of an inquest into the death of Trevor John Foster.

Introduction

Early in the afternoon of 27 February 2012, schoolboys playing football in the Domain found a man's body in a garden-bed. It was immediately apparent to the police and ambulance officers who attended that he had died a violent death. There were no identifying documents on his person or among the clothes and bedding found nearby.

A crime scene was established and a dedicated taskforce investigated a possible murder. It established that the dead man was Trevor Foster. He was 48 year old. It did not establish how the fatal injuries came to be inflicted.

This inquest has reviewed the evidence gathered by that investigation to confirm the deceased person's identity and to make findings as to the manner, cause, date and place of his death. It has also considered whether there is sufficient evidence to refer the conduct of any person to the DPP for consideration of a prosecution.

The evidence

Social history

Trevor Foster was born in Melbourne on 21 June 1963. He was the middle child of three children.

His early childhood seemed unremarkable. The family moved to the Gold Coast in Queensland in 1966. When Trevor was 9 years of age, his parents separated and he and his two siblings moved with their mother back to Melbourne.

When Trevor was about 10 he was sexually molested by a sports teacher at the school in Melbourne he was attending. The allegation was not reported to authorities at the time but when Trevor was in his twenties his complaint against the teacher was one of numerous matters that led to the teacher being jailed for child sex offences.

The children had little contact with their natural father after their parents separated.

Trevor left school after completing fifth form. Around that time he was using marijuana and drinking, but according to his brother, no more than many other young people of his peer group.

When he was at school, Trevor played many sports. He was particularly fond of and good at golf which he continued to play after he left school.

In his early twenties, he obtained employment as a grounds keeper on various golf courses in South East Queensland and later in Victoria.

He returned to the Gold Coast when he was in his early 20s and had sporadic contact with his father.

In the early 1980's Mr Foster was convicted of cultivating a small amount of marijuana and of drink driving.

His brother says that throughout his teen years and his early adulthood, Trevor had an erratic personality. He seemed to suffer from mood swings and would regularly change jobs.

In the late 1980's Mr Foster formed a relationship with a woman with whom he had a daughter in 1988. He and the mother of his daughter separated when the child was two. Mr Foster had little contact with his daughter initially after the parent's separated, although during her teenage years when both were living on the Gold Coast there was sporadic contact.

In the early 1990s, Mr Foster bought a house on the Gold Coast with his then partner and was in steady employment as a groundsman on a golf course. Their relationship broke down after a couple of years.

Although from time to time Mr Foster appeared to be unhealthy or even *down on his luck*, as far as his family were aware, he always had accommodation available to him and usually owned or had access to a motor vehicle.

At various times Mr. Foster worked in Darwin - again on golf courses or as a council ranger, and on Magnetic Island.

Throughout 2010 and 2011 Mr Foster lived at Southport, usually in hostels or cheap boarding-houses. During this period he had regular contact with his sister who had moved to Brisbane with her husband and children.

During this period he became involved with the Anglican Church and was baptised. He was well regarded by the clerics who managed the church he attended and they employed him as a gardener for two church properties. He also undertook work for other parishioners.

Mr Foster was, according to many who knew him, intelligent and literate. He had written two books that remained unpublished.

His siblings were aware that Mr Foster had sought treatment for bipolar disorder but not of any details of that treatment. He had from time to time threatened to kill himself and other people, but none of the family took these threats seriously-although they did treat him with some circumspection. At one stage he was diagnosed with schizophrenia but apparently had trouble complying with his medication.

The court obtained Mr Foster's records from the Gold Coast Community Mental Health Service (CMHS). Relevantly, the records show that in December 2010, Mr Foster was made the subject of an involuntary treatment order and treated as an in-patient for nine days. Throughout 2011, the CMHS had contact with Mr foster on at

least 10 occasions but the notes indicate he was reluctant to accept treatment or advice and was non compliant with medication. His last contact with the service was on 18 August after which he apparently refused to engage. Accordingly, on 27 September 2011 his case was closed.

Circumstances leading to the death

In December 2011, Mr Foster suddenly left the Gold Coast. He checked out of his studio apartment on the day after he had paid two months' rent in advance without advising anyone that he was leaving. He went to the business premises of a person who had lent him the money for a car, and gave to an employee of the business the keys to the car and the vehicle. He then made his way to Sydney.

In late December 2011, Trevor spoke to his sister by phone and told her he was in Sydney, that he had written a pilot for a new television show, and that he was waiting to see a television producer to whom he intended pitching the program. He was making irrational and grandiose claims about the plan.

His sister spoke to him a month or so later and he appeared to be suffering from some paranoid delusion. He was saying things like "*they are out to get me*". She says he was crying and cursing and the call was disconnected.

On 19 December 2011, Mr Foster attended the premises of a T.V production company in Artarmon. He told an employee there that he wished to speak to a director of the company who he had seen on television. Mr Foster apparently told the staff member that he had received a telepathic message from the director telling him to come in. As the director was not available, Mr Foster went away without seeing him.

He returned in January or February 2012 again enquiring about the same presenter/director. He was *fobbed off* as the staff there had concluded he was mentally ill.

On 27 December 2011 Mr Foster obtained accommodation in a shelter in Surry Hills. He paid for 13 nights' accommodation in advance. He did not stay there for all of that period, however: he came and went, apparently sleeping on the street or in parks on occasions.

On 25 February 2012, a Sydney Ferries employee working at the Taronga Zoo Wharf in Mosman had his attention drawn to a man acting strangely in a telephone box. The man, later identified as Mr Foster, was wearing nothing but a pair of underpants. He appeared to be talking to himself and was mumbling. Police were called. He was acting irrationally but not in a dangerous manner. He got dressed when requested to do so. He was given free passage to go on a ferry to Circular Quay on the understanding that he would more easily access shelters and other welfare services in the city. He told the officer he had lost his wallet at Central Station a few days earlier.

CCTV footage recorded at Circular Quay shows Mr Foster alighting from the ferry and meeting up with a middle-aged man at the eastern end of the Quay. It appears

they knew each other. Attempts to identify this man were unsuccessful. Mr Foster seems to take possession of some property. They then part company and Mr Foster walks in a southerly direction away from Circular Quay.

There is no evidence indicating where Mr Foster went or what he did on the next day, Sunday 26 February. Indeed, investigators were not able to locate anyone who saw him alive again after this time, other than the person of interest referred to below.

The death is discovered

At about 1.00pm on Monday 27 February 2012, a group of schoolboys were playing touch football on the Domain. They saw a person they assumed to be sleeping on the ground near the internal corner of two walls at the edge of the park. The person was lying on a garden bed on his back. His arms were up near his head in an awkward position and his shirt was pushed up exposing his stomach. He was wearing no shoes. He had a pair of shorts on. His mouth was open and there was blood on his face and hands. He had an obvious wound on this neck. His eyes and mouth were open. The boys realised with horror that the man was dead. One of the students recognised the body to be of a man who he had seen sitting in the park previously. They called a teacher and dialled triple 000.

Police and ambulance arrived. It was apparent the unidentified male had been deceased for some time.

Three or four metres away were a cooler bag and some clothes. Up against a nearby wall were two bundles of bedding, one of the covered in plastic and both with tree branches on them as if to stop them being blown away.

A Crime Scene was established.

The investigation

Crime scene

Police crime scene officers undertook a detailed examination of the area in which Mr Foster's body was found.

Although in an open park, the body was found in a garden bed that was adjacent to the external wall of a building that had another three metre high wall running off it at right angles. Adjacent to the corner where those structures meet is a large tree. As a result the area is not as exposed as might be expected.

The body was covered with patches of dirt. Dried blood was found on both sides of the face and on the left knee. There was a moderate collection of blood on the ground near the right side of the head. Blood was also found on the ground around the body and on various plants and the adjacent walls, on a piece of cardboard and on a discarded tissue.

Two large bundles of personal property were located nearby, up against the wall of the building referred to earlier. One was covered with plastic sheeting and a coreflute

parking sign on top of which bricks had been paced. The other was covered with a soiled doona and sticks. In the bundle later identified as belonging to another homeless man, Winston Lindsay, many items of property had blood smears on them. This blood was tested for DNA and found to match Mr Foster's.

A blue cooler bag was found secreted under some pants growing against the building. It contained clothing and other personal effects. Its owner has never been identified.

A number of empty bottles and some broken glass was found in the vicinity of the body. One broken bottle had blood on it. The blood had a DNA profile identical to that of Mr Foster. There was no other person's DNA on the glass and no fingerprints.

All this material was photographed in-situ, and then taken away for forensic examination.

Detective Senior Constable Juliette Ross undertook a detailed investigation in difficult circumstances. I am satisfied the investigation has been rigorous and comprehensive. I commend Detective Ross on her endeavors.

Autopsy

On 28 February, an autopsy was performed on Mr Foster's body by an experienced forensic pathologist.

She found several incisions on the neck extending into deeper stab wounds. Apart from one superficial injury to a small blood vessel there was no evidence of significant blood vessel or airway injury. One stab wound extended into the neck muscles on the right side and into the right thyroid cartilage. Although some of the stab wounds were quite deep, none penetrated the trachea. Six of the wounds were on the right side of the neck and one was on the left side.

The pathologist commented that the neck is very vascular and that the wounds could have penetrated smaller blood vessels which would explain the significant amount of blood found at the scene.

There were no signs of natural disease of significance. A metabolite of cannabis was found in the blood and alcohol in the vitreous humour.

The pathologist suggested the stab wounds to the neck caused the death. She thought they had been inflicted at least 12 hours before the body was found but was uncertain as to how old they could have been.

Fingerprint's taken from Mr Foster's body enabled him to be identified.

Eye witnesses and street intelligence

Police quickly and correctly assumed that Mr Foster had been living on the street. He had all of the appearances of a homeless person. Accordingly, they attended food vans that provided sustenance for that group of people and hostels where homeless men could be accommodated and showed people they came across, welfare

workers and recipients, pictures of Mr Foster They questioned homeless people as to whether they knew him.

They took possession of CCTV footage from those premises and surrounding streets.

Principal suspect

During this process an elderly homeless man, Winston Lindsay, was asked by police if he knew anything about the man who had been found dead in the Domain. He indicated he had seen someone in that location on the night in question and gave vague and inconsistent answers as to any interaction between himself and that person.

Mr Lindsay immediately spoke aggressively to the officers and began talking about irrelevant subjects. When they brought him back to the point, he told them he arrived in the relevant area at about 7.00 or 8.00pm on the Sunday night, *“but I just went straight to sleep”*. He also said, *“I saw someone laying just over there, but I assumed he was just sleeping”*. Mr Lindsay said he had never seen the person before and didn't know who he was. When asked if he could describe the person or what he was wearing, Mr Lindsay said *“He had a shirt sort of pulled up at the front”*.

He told officers that he woke up early the next morning, at about 2.00am, and saw this person in the same spot but claimed his body was positioned differently. Mr Lindsay was vague about his movements from that point on and said that he returned to the location about 8.00am. He claimed he then spoke to a ranger who was driving around the park and told him about the person because he thought he must be hurt. He said he came back about 1.00pm and the police and ambulance were there. The officers also say Mr Lindsay, without prompting, said, *“I just do my own thing. I never have trouble with anyone or police. Let the Coroner decide what happened to him. Stop pestering me.”*

This conversation was reported to one of the principal investigators, Detective Senior Constable ROSS, who later that day went looking for Mr Lindsay and found him in a hostel in Surry Hills. After some initial resistance, the officer persuaded him to return to the death scene to recount what he claimed he had seen.

During the walk-through Mr Lindsay initially said he arrived at the Domain with his trolley at about 8.00pm but later changed that to between 6.00 and 6.20pm on Sunday 26 February. When he got there he saw the male now known to be Mr Foster lying down and presumed he was asleep. This person was lying on his side.

Mr Lindsay said he went to sleep in the vicinity of this male and woke up at 2.40am. The other male was in the same location but Mr Lindsay thought he had changed position. Mr Lindsay packed his belongings and put them against a wall and then left the area.

He said he went to Matt Talbot Hostel in Woolloomooloo between 3.20 and 3.40am, where he remained until after breakfast, before leaving at about 7.00 am.

He said he wandered around the inner city and went to the church at Kings Cross where they hand out sandwiches at 11.00am. Mr Lindsay said he returned to the Domain about 1.00pm, rather than at 8.00am as he had told police in the first conversation about the case. He repeated his claim that he alerted a ranger to his concern that the man might be in need of assistance on account of his having been in the same place and apparently asleep for so long.

Police have attempted to re-interview Mr Lindsay to clarify his version however he refused to further cooperate. Accordingly he was subpoenaed to give evidence at this inquest.

Detectives seized and analysed data from all known cctv cameras in the area. In summary, so far as is relevant to assessing Mr Lindsay's reliability, the cameras show:-

- 26.02.12 – 5.20pm
Mr Lindsay is seen walking on St Mary's Road towards the Domain with a trolley and a bag.
- 26.02.12 – Between 7.42pm and 7.52pm
He is seen walking along St Mary's Road and he looks back toward where Mr Foster is later located while speaking to a male in a striped T-Shirt
- 27.02.12 – 2.40am
Mr Lindsay is seen walking down St Marys Rd away from the Domain towards Woolloomooloo.
- 27.02.12 – 7.56am
Mr Lindsay is seen walking from Cathedral St onto St Mary's Rd towards the Domain.

There are aspects of Mr Lindsay's accounts that are difficult to reconcile or corroborate.

- In neither version does Mr Lindsay mention leaving the Domain around 7.42pm and speaking with the unknown male in the striped shirt as can be seen on the CCTV data. When this was put to him at the inquest he claimed he could not remember why he left the Domain after going there to sleep or who the person he is seen talking to was.
- None of the park rangers recalls anyone reporting concerns about the male. In evidence Mr Lindsay repeated this claim and says the ranger he spoke to acted on his advice by telephoning somebody for assistance. The fact that Mr Foster's body was not reported to authorities until 1.00pm by the school staff member raises doubts about this claim.
- The Matthew Talbot Hostel has no record of Mr Lindsay attending for breakfast on the 27.2.12.

- Mr Lindsay can give no explanation as to how his belongings came to be covered in Mr Foster's blood, nor how a spot of Mr Foster's blood came to be on his trouser leg.
- Mr Lindsay's evidence in his various interviews and at the inquest is inconsistent in various aspects. However, he remained adamant that Mr Foster was already lying in the location where he was found dead the next day when Mr Lindsay first arrived at the park on the afternoon/evening of 26 February.

Conclusions

In late 2011, Mr Foster's mental health deteriorated. He discontinued contact with the Gold Coast community mental health team who had been trying to assist him and suddenly moved to Sydney. It is likely this deterioration was associated with his ceasing to take prescribed psychotropic medication.

In Sydney, this deterioration continued. For example, Mr Foster reported auditory hallucinations with ideas of reference when he approached a film production company claiming he had been told by a television program to do so. His sister also says he was delusional when he telephoned her.

It seems he did not obtain regular accommodation in Sydney and in the days before his death he lost his mobile phone and wallet. The last found CCTV recorded vision shows him at Circular Quay with some possessions but by the time his body was found two days later this was gone – he had nothing but the clothes he was wearing. The known facts are consistent with Mr Foster suffering from severe mental illness at about the time of his death.

It is beyond doubt that Mr Foster suffered a violent death: he had four slash wounds to his neck and other lacerations. It is also apparent that these wounds bled profusely and that while this was occurring he was moving around in the vicinity of the place in which he was found dead. He had no wounds to his hands of the type usually suffered by someone trying to defend himself from an attack. The wounds to his neck would not have prevented him from running away from an attacker.

No other person's DNA was found on Mr Foster's clothes or skin.

Because Mr Foster's blood was found on the clothing and the property of another homeless man, Winston Lindsay, a suspicion arose that he may have caused Mr Foster's death. Mr Lindsay denied any involvement in the death and said he only saw Mr Foster when he was prone in the location in which he was later found dead. He said Mr Foster was lying in this location when he came to the park on the evening of 26 February.

Mr Lindsay's evidence was internally inconsistent in parts and conflicted with some of the objective evidence. However, it is impossible to exclude the possibility that the blood found on his possessions and clothing was deposited there without his being involved in causing the death, either as a result of Mr Foster interfering with the

property after he was wounded but before Mr Lindsay arrived on the scene and/or as a result of the property and clothing coming into contact with blood on the ground and plants after the death. In those circumstances there is no basis on which Mr Lindsay could be charged with unlawfully killing Mr Foster.

It is impossible to exclude the possibility that Mr Foster caused the injuries to himself while delusional. Further it is possible, although much less likely, that another, unidentified third party caused the fatal wounds.

Sadly, absent more evidence being discovered, an open finding is inevitable.

Findings required by s81(1)

As a result of considering all of the documentary evidence and the oral evidence given 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 is Trevor John Foster

Date of death

Mr Foster died on 26 or 27 February 2012

Place of death

He died in the Domain in Sydney, NSW

Cause of death

Mr Foster's death was caused by incised wounds to his neck.

Manner of death

How and by whom those wounds were inflicted has not been ascertained.

I close this inquest.

M A Barnes

NSW State Coroner

Glebe

18 July 2014