

Coroners Court of Victoria

Coroners Regulations 2007

S.R No 28/2007

Form 1

Regulations 8 and 16

Case No: COR 2005 1553

RECORD OF INVESTIGATION INTO DEATH

I, *Richard Pithouse*, Coroner, having investigated the death of KEVIN CHUTER and having conducted a Coronial Inquest on Monday 6 April 2009, make following findings with respect to the following circumstances:

Background

Kevin CHUTER was born in Carlton on 4th of February 1938. From birth Mr. CHUTER suffered an intellectual disability and was non-verbal. He never had the ability of speech. Mr. CHUTER was the eldest of five children. Both parents are deceased.

During his childhood Mr. CHUTER lived on a property near Research Victoria with his family. Mr. CHUTER had a habit of wandering away from the property and becoming lost. Mr. CHUTER had been institutionalised in Government facilities since approximately eight years of age. His family have had very limited contact with him since.

Mr. CHUTER lived at 34 Verona Drive Taylors Lakes since it opened as a CRU (Community Residential Unit) approximately eight years ago. The residential unit is run through the Department of Human Services. The unit houses five males of varying ages, all with intellectual disabilities. CHUTER was the eldest of five males.

On Sunday the eighth of May 2005, two carers were on duty at the facility, Joanne PACE and Kenneth CONDUIT. PACE has been employed by DHS for 17 years and has worked at 34 Verona Drive for the past seven years. CONDUIT has been employed by DHS for the last 11 years and has worked at 42 Verona Drive for the past four years.

CONDUIT is the coach of the Sunbury Lions Women's Football Club. He has been the coach of this team for the past two years. PACE and CONDUIT had arranged to take all five residents to Melton, so that CONDUIT could coach the game being played between the Sunbury Lions Women's Football Club, and the Melton Women's Football Club at McPhearson park. It had become practice that on weekends when CONDUIT and PACE were on duty that they would go to the football so that CONDUIT could coach. This would leave PACE to manage five residents by herself. No supervisors of the Department of Human Services were aware of this and such behaviour is considered a serious breach of their duty of care.

The group left the house at approximately 10.00am. CONDUIT was driving the van which is supplied by DHS for the purpose of taking clients on outings. The group first attended at the

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Watergardens Shopping Centre where they purchased some items for one of the clients and some household goods. After leaving Watergardens CONDUIT drove everyone back to Verona Drive to leave the purchases they had made at the house.

At approximately 11.15am the group left the house for the second time and drove to McPherson's Park in Melton where the football match was being held.

They arrived at McPhearson's Park, Coburns Road Melton at approximately 12.00pm. The match was being held at Oval 2 and due to commence at 12.00pm. On arrival CONDUIT immediately attended at the coach's box to watch the team play and conduct coaching duties. PACE then drove the five residents to a shop in Melton, where she remained for approximately 15 minutes, before driving back to McPhearson's Park with the residents.

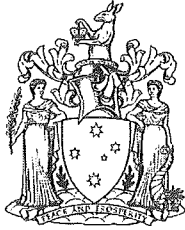
On arrival back to the park, PACE and the five residents got out of the vehicle and set up behind the coach's box to watch the game and have their lunch. There were on chairs provided for spectators at this oval, so the group sat on some wooden logs set up behind the coach's box.

At approximately 12.40pm, one of the clients Joe LUCI indicated to PACE that he needed to go to the toilet. As PACE was the only person looking after the five residents she took all five to the toilet located inside the team change rooms. PACE walked past the ramp leading to public toilets with disabled access, and instead took all the five residents to the club rooms and waited outside the toilet, standing on the disabled ramp. The five residents used the toilet in turn. It is not known in which order the five used the toilet. From her position standing on the disabled ramp, it was difficult for PACE to see the residents coming out of the toilet. Whilst Mr. CHUTER was in the toilet, PACE became distracted by another resident and walked away from her position on the ramp, leaving the CHUTER unattended.

As PACE was distracted with other clients and CONDUIT was performing coaching duties, when Mr. CHUTER finished up using the toilet, instead of exiting the pavilion he remained in the club rooms. There were no other persons present in the club rooms at this stage. Located on a bench in the club rooms was a 600ML plastic water bottle. Inside this bottle was a mixture of vegetable oil and liniment (Methyl Salicylate B.P). The football players rub this mixture into their muscles to help warm them prior to playing the game. The mixture was prepared by the team trainer Andrena DICKINS. She prepared it sometime during 2004. The bottle was approximately half full. The mixture was made up of approximately 10 parts vegetable oil and one part liniment.

Mr. CHUTER picked this bottle up from the table and proceeded to drink its contents. It is not known how much Mr. CHUTER swallowed. It appeared as though he may have spat some out onto the ground. However, it is to be assumed, without any contrary indication, that Mr. CHUTER ingested the contents of the bottle, as when it was located it was empty.

It is general knowledge of the staff at 34 Verona Drive that Mr. CHUTER had a habit of drinking rapidly. He doesn't take small sips of things and always gulps his drinks. Whilst he may have spat



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some of the liquid out, it can be concluded that he would have swallowed at least two mouthfuls before it registered that what he was drinking tasted terrible.

After he had consumed the liniment, Mr. CHUTER walked back outside where he re-joined the group. PACE observed oil around Mr. CHUTER'S mouth and chin and could smell a strong scent of liniment coming from him. She went over to the coach's box and tried to get CONDUIT's attention. CONDUIT was deeply involved in the game, and she was unable to attract his attention. DICKENS saw PACE and asked her if she could assist with anything.

PACE informed DICKENS that Mr. CHUTER had been in the club rooms and it appeared he had consumed some liniment. DICKENS entered the club rooms to see and located the empty bottle of liniment and also saw some of the contents on the floor.

DICKENS then went back outside to PACE and confirmed that it appeared the Mr. CHUTER had drunk the liniment. She informed PACE that liniment is poisonous. PACE responded by saying 'These guys have got cast iron stomach's, they'll drink anything.' She did not appear concerned for Mr. CHUTER'S welfare or make an attempt to find out for herself exactly what had been consumed. Although PACE felt that medical attention was appropriate at this stage, none was sought.

PACE returned to where Mr. CHUTER was sitting with the other residents. DICKENS gave Mr. CHUTER a bottle of water to drink. DICKENS was concerned that Mr. CHUTER may become ill, and that advice should be sought, but stated that due to PACE'S attitude towards the situation, DICKENS felt she may have been overreacting.

As PACE was having trouble controlling all five residents on her own, during the third quarter, PACE moved the van closer to the coach's box and sat the five men back in the van. She remained by the van with the residents until the game ended. Several times during the remainder of the match, DICKENS approached PACE enquiring into Mr. CHUTER'S welfare. Each time PACE replied saying he was fine and not to worry about him. CONDUIT remained in the coach's box. Due to his involvement in the game, he was not notified of what had occurred as PACE could not gain his attention.

During the fourth quarter of the match one of the players on the Melton side was seriously injured and an ambulance was called to the field. The ambulance parked behind where Mr. CHUTER was sitting in the group, next to the van used by CONDUIT. Although the paramedics remained at the oval for some time, they were not approached by anyone in relation to the incident involving Mr. CHUTER.

At the end of the game DICKENS approached CONDUIT and said to him to watch Mr. CHUTER as he had drunk liniment. CONDUIT did not respond to this choosing instead to get the version of events from PACE.



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CONDUIT returned to the van where PACE informed him about what had happened. CONDUIT questioned PACE in relation to the circumstances leading up to Mr. CHUTER consuming the liniment. During this conversation they concocted a story that excluded the fact that CONDUIT had been coaching the game. The scenario they chose was that both CONDUIT and PACE were with the residents at all times and that Paul CHUTE became aggressive at the same time that Mr. CHUTER needed to use the toilet, and that because of this aggression, PACE took Mr. CHUTER to the toilet, leaving CONDUIT with the other four residents. PACE told CONDUIT of the incident immediately after it happened, and that the trainer told them that he would probably have vomiting and diarrhoea as a result. CONDUIT reiterated to PACE that no one could know that he was coaching or else he would lose his job and his house.

The group left the oval approximately 15 minutes after the end of the game. According to CONDUIT and PACE, Mr. CHUTER appeared in good condition and was not showing any signs of distress. On the way back to Verona Drive, the group stopped back at Watergardens to exchange some of the purchases they had made earlier. They all got out of the bus, but then PACE and CONDUIT observed that Mr. CHUTER had wet his pants. Despite this, PACE went to Target on her own and CONDUIT remained at the van with the five residents. After leaving Watergardens they returned to 34 Verona Drive.

They arrived at the unit at approximately 3.15pm. PACE took Mr. CHUTER inside. Mr. CHUTER became agitated and had to use the toilet. He was taken there by both CONDUIT and PACE. While on the toilet Mr. CHUTER started having diarrhoea and began vomiting. PACE discussed the issue of medical attention however CONDUIT stated, 'Let's just wait a minute, just wait and see how he goes.'

Once he had stopped vomiting, Mr. CHUTER was showered and put into his pyjamas. Whilst in the shower he continued to dry retch. He was then put in a chair in the lounge room with a bucket next to him in case he became sick again. Still no medical attention was sought.

Whilst sitting down Mr. CHUTER suffered a seizure. It was approximately 4.05pm, at least 40 minutes after he started vomiting. This seizure lasted approximately one minute. Mr. CHUTER was not prone to having seizures. PACE called the Metropolitan Ambulance Service whilst Mr. CHUTER was still seizing. CONDUIT attempted to get in contact DICKENS to find out exactly what Mr. CHUTER had consumed. Whilst this was happening, another staff member Fiona RITCHIE arrived at work.

Paramedics received the call to the address at approximately 4.08pm. They arrived at the address at approximately 4.10pm. The paramedics asked CONDUIT if he had called Poisons Information. His response was, 'No, do you want me to?' They asked if he could call to find out the likely effects the liniment would have on him. Mr. CHUTER suffered another seizure in the presence of the paramedics. The second seizure was more severe than the first. CONDUIT spoke with Poisons Information and relayed to the paramedics that the advice given was to take Mr. CHUTER to the



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hospital. The ambulance left shortly afterwards.

After the ambulance had left, CONDUIT, PACE and RITCHIE discussed what had occurred. During this discussion, CONDUIT and PACE said to RITCHIE, 'Shit, we've got cover for you, you were supposed to be here at three.' They decided on a story that RITCHIE was already at the house and was cooking when they arrived back from the football at 3.15pm.

Mr. CHUTER was conveyed to the Sunshine Hospital on Furlong Road where he was treated by Dr. Tom REID. Mr. CHUTER was unconscious on arrival and suffered another seizure at the hospital. He was placed on a breathing machine and given anti-seizure medication. He required electrical defibrillation, and full advanced cardiac life support was commenced. He failed to respond to the life support. He did not regain consciousness whilst at the hospital and at approximately 5.37pm he died.

Dated at Sunshine

A handwritten signature in black ink, appearing to be 'R. Pithouse', written over a horizontal line.

Coroner Richard Pithouse
Coroner
16 October 2018