IN THE CORONERS COURT
OF VICTORIA
AT MELBOURNE

Court Reference: COR 2012 4283

FINDING INTO DEATH WITH INQUEST

Form 37 Rule 60(1)
Section 67 of the Coroners Act 2008 (Vic)

Inquest into the Death of: DANIEL RAYMOND COWAN

Delivered On:	11 September 2014
Delivered At:	Coroners Court of Victoria 65 Kavanagh Street Southbank, VIC 3006
Hearing Dates:	17 July 2014 and 11 September 2014
Findings of:	JOHN OLLE, CORONER
Police Coronial Support Unit	Leading Senior Constable King Taylor

I, JOHN OLLE, Coroner,

having investigated the death of DANIEL RAYMOND COWAN

AND having held an inquest in relation to this death on 11 September 2014

at Melbourne

find that the identity of the deceased was DANIEL RAYMOND COWAN

born on 21 March 1997

and the death occurred on 10 October 2012

at Royal Children's Hospital, 50 Flemington Road, Parkville, VIC 3052

from:

1 (a) GLOBAL HYPOXIC CEREBRAL INJURY FOLLOWING MEDICAL INTERVENTION FOR HIGH VELOCITY MISSILE INJURY TO THE HEAD

in the following circumstances:

1. Daniel Cowan was born on 21 March 1997 and was 15 years old at the time of his death. He was a school student and resided with his family at Heathcote Junction.

2. A coronial brief was provided by Victoria Police to this Court, comprising statements obtained from witnesses, treating clinicians and investigating officers. It has fully addressed the circumstances surrounding Daniel's death. I have drawn on all of this material as to the factual matters in this finding.

SUMMARY INQUEST

3. At inquest, a summary was read into evidence by Leading Senior Constable Taylor. I am satisfied that the summary accurately reflects the evidence.

4. On 2 October 2012, at approximately 11.30am,[1] Mitchell Seeley attended at his friend Jack Leech's residence and invited him, Daniel Cowan and Daniel's twin brother Thomas, who were also present, to come over to his house to use a homemade air gun.[2] The air gun will hereafter be referred to as a 'firearm', as it was examined by ballistics at Victoria Police and is defined as a category A longarm, which comes under the definition of 'firearm' pursuant to section 3(1) of the *Firearms Act 1996* (Vic).[3] The boys were all friends and aged between 14 or 15 years at the time of the incident.

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[1] Record of Interview of Thomas Cowan, dated 21 November 2012, 5.

[2] Record of Interview of Mitchell Seeley, dated 31 October 2012, 22.

[3] Hereafter referred to as the *Firearms Act*.

5. At approximately 12.00pm the boys attended at Mitchell's house, situated at Heathcote Junction.[4] Using his father's keys, Mitchell retrieved the firearm from the locked garage, where it was standing upright on the floor against a wall.[5] He placed it in the backyard and ran an air compressor hose from the window of the garage to the firearm.[6] This was used to fill the compression chamber of the cylinder of the firearm so that it was pressurised to approximately 600kilo-pascals.[7] Mitchell initially fired the firearm up in the air approximately 'three or four times.'[8] Although Mitchell's mother Vicky Seeley was present in the house at the time, at no point were the boys supervised by an adult while using the firearm.

6. At approximately 1.00pm the boys went inside the house to have lunch and watch some television.[9] They then went outside into the backyard and Mitchell made a cardboard target, which he rested on a metal pipe stuck into the ground[10] near the east fence, 52 feet from the location where they fired the firearm.[11] Each of the boys took turns firing at least one shot.[12] Daniel fired the firearm which hit the fence, causing the projectile, a bike handle grip wrapped in electrical tape, to 'crack at the end' which put a 'bit of a hole' in the projectile.[13] Mitchell stated that they were no longer trying to hit the target, but were checking if the projectile still worked, which is why they 'weren't, probably, taking as much precaution' with the firearm.[14] Mitchell and Thomas were on the right side of the firearm, which was on the ground with the front 'sticking up in the air', with Jack on the left side. Mitchell stated that he thought Daniel, who was helping to load the firearm,[15] had stepped clear, so he pulled the lever.[16] The projectile lodged into Daniel's face at the inside corner of his right eye.

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[4] Record of Interview of Vicky Seeley, dated 31 October 2012, 6.

[5] Record of Interview of Mitchell Seeley, above n 2, 23-4.

[6] Ibid 24-5, 28.

[7] Record of Interview of Mitchell Seeley, above n 2, 11.

[8] Record of Interview of Thomas Cowan, above n 1, 9; Record of Interview of Mitchell Seeley, above n 2, 26.

[9] Record of Interview of Vicky Seeley, above n 4, 6.

[10] Record of Interview of Mitchell Seeley, above n 2, 25-6.

[11] Record of Interview of Jack Leech, dated 2 October 2012, 10.

[12] Ibid 26; Record of Interview of Thomas Cowan, above n 1, 13.

[13] Record of Interview of Mitchell Seeley, above n 2, 31.

[14] Ibid 31-2.

[15] Record of Interview of Thomas Cowan, above n 1, 22-3, 25.

[16] Record of Interview of Mitchell Seeley, above n 2, 32-3.

Mitchell rolled Daniel over and observed the projectile dislodge from his face.[17] Mitchell called out to his mother, who was inside the house and did not witness the incident.

7. Mrs Seeley rendered assistance to Daniel while Mitchell and his sister Haley contacted emergency services.[18] Paramedics attended the scene within half an hour of receiving the call-out, and attended to Daniel, who was conscious but distressed. He was transported to The Royal Children's Hospital Melbourne emergency department. The gunshot wound had inflicted a penetrating injury to Daniel's face and eyes and, upon arrival, his Glasgow Coma Scale was 9, which subsequently deteriorated to 8. He was noted to have had a vomiting episode before being intubated and ventilated.[19]

8. Daniel underwent a CT scan and carotid angiogram that revealed complex skull base fracture with pneumocephalus,[20] extensive intraparenchymal brain haemorrhagic contusions affecting both frontal lobes and the left temporal lobe, and a shallow subarachnoid haemorrhage over the parafalcine region. He was taken to the operating theatre and had fragments of bone removed from the facial region and subsequent packing of the same region. An intracranial monitor was also inserted.[21]

9. Medical management consisted of regular medical reviews and persistent intubation and artificial ventilation. A multidisciplinary approach was applied, with intense involvement of the Departments of Neurosurgery, Plastic surgery, Maxillo-facial surgery, Ophthamology and Intensive Care.[22] Daniel's intracranial pressures were monitored and remained below 15mmHg in the first four days. His left eye had been damaged from the direct injury and his right pupil was found to be 5mm and sluggishly reactive as of 3 October 2012. On 5 October 2012 Daniel underwent a maxillofacial/plastic procedure, with continued monitoring post-operation.[23]

10. On 6 October 2012 Daniel was weaned off sedation and extubated. He was weaned from the ventilator and an attempt to extubate him was made. Unfortunately, due to respiratory issues, Daniel was re-intubated because of poor tolerance of ventilation. He was sedated and

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[17] Ibid 50.

[18] Record of Interview of Vicky Seeley, above n 4, 18.

[19] Statement of Dr Patrick Lo, Neurosurgeon at The Royal Children's Hospital Melbourne, dated 16 November 2012, 1.

[20] Air in the skull.

[21] Statement of Dr Patrick Lo, above n 19, 1.

[22] Statement of Professor Trevor Duke, Deputy Director of ICU and Head of the General ICU at The Royal Children's Hospital Melbourne, dated 11 December 2012.

[23] Statement of Dr Patrick Lo, above n 19, 1.

artificially ventilated. On 8 October 2012 it was noted that Daniel was tachycardic and hypertensive, and had sluggish reaction of the right pupil. The left pupil remained mydriatic and unreactive.[24]

11. On 9 October 2012 Daniel's clinical state deteriorated. He underwent a brain scan that showed increase in swelling over the left frontal contusion area. Consequently, he was taken to the operating room for a decompressive craniectomy and reinsertion of the intracranial pressure monitor and a right frontal external ventricular drain. Cerebral spinal fluid (CSF) collection revealed that Daniel had an elevated white cell count, and subsequent culture of the CSF revealed staphylococcal infection.[25]

12. At the time of surgery on 9 October 2012 Daniel's left cerebral hemisphere was extremely swollen and firm. Upon reinserting the intracranial pressure (ICP) monitor, it was above 90mmHg. Despite extensive medical management intraoperatively, the ICP did not reduce and a decision was made to make cruciate durotomies along the course of the left cerebral hemispheric dura. Daniel was then transported back to the Intensive Care Unit. Over the subsequent 24 hours Daniel was artificially ventilated and received supportive therapy. Over the next 24 hours he did not recover and subsequent imaging with a ceretec scan showed no blood flow to the brain. Daniel was palliated and sadly passed away on 10 October 2012.[26]

INVESTIGATION

13. Police attended the scene and seized a number of items of property including, but not limited to an air compressor, air hoses, air hose fittings, a length of poly pipe, a firearm device and a cardboard target.[27]

14. Victoria Police Firearm and Toolmark Examiner, Leading Senior Constable Darren Watson, examined a compression chamber, PVC pipe, open-ended cylinder and a tyre valve fitting seized from the scene. He noted that the compression chamber consisted of a metal cylinder 88.8cm long and 6.8cm in diameter that had one end welded shut and the other end with a red handled tap-valve fitted with a PVC plastic fitting attached. A one-way valve was located on top of the cylinder along with a pressure gauge. A metal bar had also been welded to the top of the cylinder to form a handle. The PVC pipe was 143.6mm long and 42.5mm in diameter and a large diameter collar was fitted to one end, which fitted over the PVC attachment on

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[24] Ibid 1-2.

[25] Statement of Dr Patrick Lo, above n 19, 2.

[26] Ibid.

[27] Statement of Senior Constable Peter Fraser, dated 16 November 2012, 2.

the compression chamber. The cylinder, used as the projectile, was 11.4cm long and approximately 30mm in diameter. It was made from rubber and was wrapped in red and white electrical tape. It was open at one end and partially closed at the other. The closed end had a small hole in the middle with radial splits around the periphery.[28]

15. L/S/C Watson stated that when the PVC pipe was attached to the compression chamber the device had the appearance and attributes of a 'homemade' pipe gun, capable of discharging 30mm calibre projectiles. The compression chamber formed the action of the pipe gun and the PVC pipe formed the barrel. The pipe gun has been designed or adapted to discharge shot, bullet or other missile by the rapid expansion of compressed air stored in the device in the compression chamber. Therefore, L/S/C Watson determined that the exhibit pipe gun meets the definition of a firearm pursuant to section 3(1) of the *Firearms Act*. He further determined from a series of test firing that the average muzzle velocity of the exhibit cylinder from the homemade pipe gun was approximately 60 metres per second when the compression chamber was pressurised to approximately 600kilo-pascals.[29]

16. Mark Seeley, Mitchell's father, stated that he received the homemade pipe gun from a co-worker, John Chiswell, on approximately 25 September 2012. The pipe gun was incomplete, and consequently was not a firearm pursuant to the *Firearms Act*,[30] as it did not have a cock or a valve attached to it, which was required to release the compressed air, nor did it have a plastic pipe required for aiming the device.[31] After taking it home, Mr Seeley fitted a cock valve and plastic pipe to the device and used a bicycle handle grip as the projectile, with approximately 600kpa of air pressure.[32] At this point it became a firearm, within the meaning of the *Firearms Act*.

17. Mr Seeley and his son Mitchell had used the firearm the night before the incident. Mr Seeley stated that the firearm was fired up to ten times, with his son firing it 'once or twice'.[33] He stated that when he showed his son how to use the firearm they wore safety glasses and ear muffs and that he explained to his son that he wasn't to use the firearm without his supervision.[34]

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[28] Statement of Leading Senior Constable Darren Watson, dated 5 February 2013, 2.

[29] Ibid.

[30] Letter of Detective Sergeant Ashley Mason, Victoria Police, dated 27 November 2014, 2.

[31] Statement of Mark Seeley, dated 15 October 2012, 2; Statement of John Chiswell, dated 15 October 2012, 1-2.

[32] Statement of Mark Seeley, dated 15 October 2012, 2.

[33] Record of Interview of Mark Seeley, dated 10 October 2012, 12.

[34] Ibid 14.

18. The *Firearms Act* requires that a category A longarm firearm be stored in a steel or hard wood receptacle secured with a sturdy lock, and that if it weighs less than 150kg it must be attached to a wall or floor of the premises in such a manner that it is not easily removable.[35] The firearm involved in this incident was not stored consistently with these requirements.

19. Mr Seeley was not the holder of a Firearms Licence, pursuant to the *Firearms Act* and had no firearms registered to him in the state of Victoria.[36] Mitchell Seeley was also not the holder of a Firearms Licence, pursuant to the *Firearms Act* and had no firearms registered to him in the state of Victoria.[37]

20. On 13 February 2014 Mr Seeley pleaded guilty to one charge of a non-prohibited person possessing a category A longarm that is not registered, pursuant to section 6A(1) of the *Firearms Act*.[38] This was the only criminal charge laid in relation to this incident.[39]

POST-MORTEM EXAMINATION

21. A post-mortem examination was undertaken by Dr Yeliena Baber, Forensic Pathologist at the Victorian Institute of Forensic Medicine. Dr Baber reported that there was a granulating wound on the medial aspect of Daniel's right orbit. Internal examination revealed a left parietal craniectomy through which the brain was prominent. Multiple fractures were present around the cribiform plate and in the left anterior cranial fossa extending into the left middle cranial fossa, with associated lacerations of the dura and severed left optic nerve.

22. Neuropathological investigation showed generalised brain swelling with patchy cerebral ischemic injury and organising haemorrhagic necrosis of the inferior frontal lobes and left temporal cortex. There were also haemorrhages around the 3rd ventricle, midbrain, pons and medulla. Respirator brain changes were also present with herniation necrosis around the craniectomy site. There was no evidence of meningitis.

23. Toxicological analysis showed low levels of midazolam and metoclopramide, consistent with administration in a therapeutic setting.

24. Dr Baber determined that the cause of death is global hypoxic cerebral injury following medical intervention for high velocity missile injury to the head.

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[35] *Firearms Act 1996* (Vic) schedule 4 (1).

[36] Victoria Police statement under section 141 of the *Firearms Act 1996* (Vic) in relation to Mark Russell Seeley, dated 26 July 2013.

[37] Victoria Police statement under section 141 of the *Firearms Act 1996* (Vic) in relation to Mitchell John Seeley, dated 26 July 2013.

[38] Victoria Police LEAP Court Outcomes Report for Mark Russell Seeley.

[39] Office of Public Prosecutions Advice Regarding the Death of Daniel Cowan, dated 6 November 2013.

COMMENTS

Pursuant to section 67(3) of the *Coroners Act 2008* (Vic), I make the following comments connected with the death:

25. This case highlights the dangers of how young adolescents using homemade air guns for entertainment can lead to significant misadventure, which in this instance has resulted in the tragic loss of a young man. These homemade air guns, which are legally firearms, are evidently capable of being lethal weapons. This is why firearms laws are in force; to ensure that individuals using firearms hold a valid licence, which requires the licence holder to attend a mandatory firearms safety course.

FINDING

26. I am satisfied, having considered all of the evidence before me, that no further investigation is required.

27. The evidence satisfies me that the medical management and care provided by The Royal Children's Hospital Melbourne was reasonable and appropriate in the circumstances, having regard to the complexities involved.

28. I find that Daniel Raymond Cowan died on 10 October 2012 as a result of global hypoxic cerebral injury following medical intervention for a high velocity missile injury to the head.

I direct that a copy of this finding be provided to the following:

The family of Daniel Raymond Cowan;
Investigating Member, Victoria Police; and
Interested parties

Signature:

JOHN OLLE
CORONER
Date: 11 September 2014