



IN THE CORONERS COURT  
OF VICTORIA  
AT MELBOURNE

Court Reference: COR 2021 003329

**FINDING INTO DEATH WITH INQUEST**

*Form 37 Rule 63(1)*

*Section 67 of the Coroners Act 2008*

Deceased:	Gregory George PIPERIDIS
Delivered on:	6 November 2024
Delivered at:	Coroners Court of Victoria, 65 Kavanagh Street, Southbank
Hearing dates:	Directions Hearing dates: 28 February, 26 April & 14 August 2023 Inquest dates: 11, 12, 13, 14, 15, 18, 19 & 20 September 2023 Oral Submissions: 11 November 2023
Findings of:	Coroner Sarah Gebert
Counsel assisting the Coroner:	R. Ellyard instructed by Coroners Court of Victoria
Counsel for R. Hamilton:	J. Sutton instructed by M.P. Lanza Lawyers
Other Matters	<i>Homicide, Homicide of intruder</i>

## Family Impact Statement

*Greg was my youngest son of my two boys. He was always full of life. He had a beautiful smile and when he smiled, his eyes smiled as well.*

*I miss him, I miss so much his beautiful face. He had a heart of gold. He had a good heart. He tried to help everyone who needed help. I miss this so much about him. He was always there for me and for his family and friends. He cared for his nephew and nieces and he always remembered their birthdays and at Christmas.*

*He went to school up to Year 10 and after that he decided to do more with his hands. He became a solid plasterer. He had a talent for homes and decoration. He did so much of my house and every corner reminds me of his creative hands.*

*When the police came and told me that my Greg was no longer alive, I lost the earth under my feet. It was the most devastating day of my life and that devastation will follow me for all of my life. I don't know how I can continue my life without my son Greg. I have him in my heart and he will live there forever. Nothing though will fill up the hole that this loss has made.*

*I believe that people should take the responsibility for what they do and not take the law into their own hands. My son did not deserve to go that way. I wish I was there close to him to get his pain away and to give him my life to save him.*

*A lot of times I wanted to speak to him. I have a book, I write to him every now and then in which I tell him things I want him to know, or sometimes I stand in the doorway waiting for him to come home with his smile for me and for him to say, 'Hi Mum' and kiss me as he always did.*

*Whatever happens from this court today, it is not going to bring back my Greg. I feel his presence but I will never see him again.<sup>1</sup>*

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<sup>1</sup> Read by N. Piperidis, 'Your Honour, my Auntie Despina wrote this in Greek. She re-read it and we wrote it in English for her, so grammatically in Greek, syntactically in Greek it's perfect. In English it's her own words in English, so what I'm reading is her own words.'

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## INTRODUCTION

1. Gregory George Piperidis<sup>2</sup> was born on 15 July 1974 and was 46 years old at the time of his death. He was the youngest of two children to George and Despina Piperidis, with older brother Angelo. The family is of Greek heritage.
2. Greg was living with his parents at the time of his death. He usually worked as a plasterer but was injured in a motor vehicle incident in November 2018 which prevented him from lifting heavy things. He had also developed carpal tunnel syndrome in both hands.
3. Tragically, Greg passed away at the Alfred Hospital on 26 June 2021. He had been stabbed multiple times with two kitchen knives wielded by Robert Hamilton and Billy Hamilton<sup>3</sup> (father and son respectively) whilst they were in the basement of an apartment complex in Bentleigh East. Greg and his friend Bradley Cruse were in the process of stealing items from the basement when they were interrupted by Robert Hamilton and Billy Hamilton who lived in the apartment complex. Robert Hamilton and Billy Hamilton told police they acted in either self-defence or in defence of the other at the time the fatal injury was inflicted.

## THE CORONIAL INVESTIGATION

4. Greg's death was reported to the Coroners Court as it fell within the definition of a reportable death in the *Coroners Act 2008 (the Act)* which include deaths that appear to be unexpected, unnatural or violent or to have resulted from accident or injury.

## CAUSE OF DEATH

5. On 26 June 2021, Dr Joanna Glengarry, forensic pathologist at the Victorian Institute of Forensic Medicine (VIFM), conducted an autopsy and prepared a written report of her findings dated 5 August 2021.<sup>4</sup>
6. Multiple sharp force injuries (defined to include injuries inflicted by a bladed or sharp implement, such as a knife) were present on Greg's body, numbering fourteen in total. These comprised both stab wounds and incised wounds (cuts).

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<sup>2</sup> Referred to in my finding as 'Greg' unless more formality is required. Also referred to as 'Pip' by his friend Bradley Cruse.

<sup>3</sup> Given name is 'William'.

<sup>4</sup> Materials available to Dr Glengarry included (but were not limited to) post-mortem CT scan, medical records from Alfred Health, records from Ambulance Victoria, images of the weapons allegedly used to cause the injuries inflicted and selected interviews with Robert Hamilton and Billy Hamilton describing their version of events.

7. Greg's lethal injury was a stab wound to his right chest which was up to 18.0cm deep, with the wound track from his front to back in a slightly upwards angle. The wound was associated with injury to the chest wall muscles, transection and incision of the *ribs*, incision of the diaphragm and liver, and incision and penetration of the right lung with bleeding into the chest cavity. This injury was noted to be consistent with a stab wound by a knife, most likely with a single edged blade because it had a somewhat squared-off appearance at one end. This wound is referred to as the '**fatal wound**'.
8. Other significant but non-lethal injuries suffered by Greg included: a 1.5cm deep stab wound to the right forehead that perforated the frontal bone of the skull and the underlying brain but was not associated with critical brain injury (this wound is referred to as the '**frontal bone wound**'); a 9.0cm deep stab wound to the back of his head associated with muscle injury and transection of a part of the 4th cervical vertebrae in the neck but without spinal cord injury (this wound is referred to as the '**right occipital scalp wound**'); and an 8.0cm deep stab wound of the base of the back left neck/upper back that was directed forwards, injuring the muscles next to the spine and of the base of the neck but not the great vessels of the neck or other critical structures. This wound is referred to as the '**left posterior neck wound**'.
9. Dr Glengarry noted in her report that estimating the force required to inflict a wound is problematic as it is subjective and requires consideration of factors such as the protective effects of clothing and skin, the sharpness or taper of the blade and the relative kinetic energy of the blade.
10. She did however note that the stab wounds that caused injury to Greg's bone which occurred in three areas being - the right *frontal bone* (frontal bone wound), right anterior ribs (fatal wound), and *4th cervical vertebrae* (right occipital scalp wound), required severe force. The remaining injuries involved "soft" tissues only.
11. Dr Glengarry considered that the knives identified by police as those used by Robert Hamilton and Billy Hamilton could account for the injuries she observed. In addition, that the stab wound to the forehead which perforated the frontal bone of the skull could (possibly) account for the bent tip of the smaller knife given the hard nature of the skull and the similarity in size between that injury and the bend in the knife.
12. Dr Glengarry noted further stab wounds penetrating Greg's skin and underlying muscle to the right back deltoid, right back axillary line and left scapular region.

13. There were incised wounds that penetrated through the skin to the underlying muscle of the right thigh (x2).
14. There were incised wounds to the tip of his nose, right side of his neck, front of his right shoulder, back of his left shoulder and to his right index finger.
15. Greg also had multiple blunt force injuries including bruises, abrasions and lacerations around the face involving both eyes, the nose, left cheek, chin, and mouth, including tooth dislodgement. Dr Glengarry said the facial injuries could be consistent with punches to the face (blows to the areas) or a fall onto a hard surface (or a combination of these). There was also a bruise to Greg's right wrist.
16. Dr Glengarry was of the opinion that more than one impact would be required to cause all the blunt force injuries observed. She opined that the account initially provided by Robert Hamilton of two punches to the face<sup>5</sup> and a fall to the ground is a plausible explanation of the bruises, abrasions and lacerations to the face.
17. The autopsy demonstrated a total of fourteen sharp force injuries and six separately described blunt force injuries. Of the sharp force injuries, there were five incised wounds and two stab wounds (the fatal and frontal bone wounds) to the *front* of Greg's body<sup>6</sup>; five stab wounds and two incised wounds (including the wound to his index finger) were inflicted on the *back* of his body.
18. Toxicological analysis of Greg's blood detected amphetamine (~0.7mg/L)<sup>7</sup> and methylamphetamine (~2.5mg/L).
19. Dr Glengarry formulated the cause of death as *1(a) Stab wound of the chest and abdomen.*

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<sup>5</sup> This account was given via record of interview given on 26 June 2021.

<sup>6</sup> This included incised wounds (x2) of the right thigh as well as the incised wound to the right lateral neck.

<sup>7</sup> Amphetamines is a collective word to describe central nervous system (CNS) stimulants structurally related to dexamphetamine. One of these, methamphetamine, is often known as speed or ice. Methamphetamine is a strong stimulant drug that acts like the neurotransmitter noradrenaline and the hormone adrenaline. One of the main effects sought by amphetamine users is euphoria, the high experienced with the amphetamine rush in the body. This high is associated with an elevation of mood and increased alertness. Increased confidence and increased mental and physical strength become part of this effect. This high may last for several hours. Amphetamines stimulate the CNS causing persons to become hyperactive and more aroused. Blood pressure and heart rate are also increased. This stimulation lasts as long as the drug is present in a person's body, with larger effects more intense soon after administration. Usual doses of methamphetamine range from quite low (less than 20 mg) to quite high (up to 200 mg). At high doses the effects of methamphetamine are quite marked and would be expected to produce high heart rates and blood pressure, excessive hyperactivity and marked personality changes. Blood concentrations of methamphetamine are variable and depend on a number of factors. Peak concentrations of methamphetamine following 30-mg oral doses are known to peak at about 0.1 mg/L with a possible range of 0.05-0.3 mg/L. Higher concentrations are expected with higher doses. The form of the drug, i.e. crystal form or salt form will have little effect on the blood concentration provided the same dose is consumed.

## **IDENTITY OF THE DECEASED**

20. On 28 June 2021, Gregory George Piperidis born on 15 July 1974 was formally identified via fingerprint comparison.

## **OTHER INVESTIGATIONS**

### **Criminal Investigation**

21. Given the circumstances surrounding Greg's death, the investigation initially proceeded as a criminal investigation. During this time, the coronial investigation was suspended.
22. The criminal investigation was conducted by Detective Leading Senior Constable Leigh Smyth (**DLSC Smyth**) of the Homicide Squad who was also the Coronial Investigator.
23. The Office of Public Prosecutions (**OPP**) advised DLSC Smyth by letter dated 3 February 2022 that, having considered the evidence provided about the circumstances surrounding Greg's death, its opinion was that there were no reasonable prospects of conviction against either Robert Hamilton or Billy Hamilton on any identifiable charge.
24. I note that in contrast to the coronial jurisdiction (see paragraph 30), the criminal standard of proof is *beyond reasonable doubt*.
25. The correspondence from the OPP further noted that on 7 December 2021, Greg's brother Angelo wrote to the Director of Public Prosecutions about the case and expressed his concern that a decision not to prosecute would send a message to the community about knife-related crime.
26. A decision was ultimately made not to prosecute either Robert Hamilton or Billy Hamilton for any offence, following which the coronial investigation resumed under the Act.

### **The coronial role**

27. Coroners independently investigate reportable deaths to find, if possible, identity, cause of death and the surrounding circumstances of the death. Cause of death in this context is accepted to mean the medical cause or mechanism of death. Surrounding circumstances are limited to events which are sufficiently proximate and causally related to the death.

28. Under the Act, coroners have an additional role to reduce the number of preventable deaths and promote public health and safety by their findings and making comments and or recommendations about any matter connected to the death they are investigating.
29. When a coroner examines the circumstances in which a person died, it is to determine causal factors and identify any systemic failures with a view to preventing, if possible, deaths from occurring in similar circumstances in the future.
30. The standard of proof applicable to findings in the coronial jurisdiction is the balance of probabilities and the principles in *Briginshaw v Briginshaw* are considered particularly when making findings which imply criminal acts or negligence by professionals,

*Except upon criminal issues to be proved by the prosecution, it is enough that the affirmative of an allegation is made out to the reasonable satisfaction of the tribunal. But reasonable satisfaction is not a state of mind that is attained or established independently of the nature and consequences of the fact or facts to be proved. The seriousness of an allegation made, the inherent unlikelihood of an occurrence of a given description, or the gravity of the consequences flowing from a particular finding, are considerations which must affect the answer to the question whether the issues had been proved to the reasonable satisfaction of the tribunal. In such matters "reasonable satisfaction" should not be produced by inexact proofs, indefinite testimony, or indirect inferences.<sup>8</sup>*

### **Mandatory inquest**

31. An inquest into Greg's death was mandatory as the death appeared to be the result of *homicide*<sup>9</sup>, where homicide is given the ordinary meaning of being an act in which a person causes the death of another person.
32. The Act does provide for certain exceptions including where a person has been charged with an indictable offence in respect of the death being investigated by the coroner<sup>10</sup>, however this exception was not relevant given the OPP decision not to prosecute.

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<sup>8</sup> (1938) 60 CLR 336, 361-2.

<sup>9</sup> Section 52(2)(a) of the Act.

<sup>10</sup> Section 52(2) of the Act.



## **Criminal Liability**

33. It is important to note that the Act provides that a coroner must not include in a finding or comment any statement that a person is, or may be, guilty of an offence.<sup>11</sup> That is, the Act prohibits the express statement that a person may be guilty of an offence, or that the found facts were committed without lawful excuse.
34. A coroner must however determine the identity of any person who contributed to the death as part of the obligation to find the circumstances in which the death occurred. As noted in *Priest v West*,
- If, in the course of the investigation of a death it appears that a person may have caused the death, then the Coroner must undertake such investigations as may lead to the identification of that person. Otherwise the required investigation into the cause of the death and the circumstances in which it occurred will be incomplete; and the obligation to find, if possible, that cause and those circumstances will not have been discharged.*<sup>12</sup>
35. To resolve the potential conflict between these obligations, coroners focus on finding the relevant facts without making any statement about the legal effect of those facts (that is, legal conclusions or consequences).
36. A coroner can also comply with the prohibition on findings or comments that a person may be guilty of an offence by avoiding making any statement about the state of mind of the person who contributed to the death.

## **Sources of evidence**

37. As part of the coronial investigation, DLSC Smyth prepared a coronial brief. The brief comprises statements from witnesses including those present at the scene of the incident, the forensic pathologist who examined Greg, ambulance paramedics, investigating police officers, as well as other documentation such as maps, plans, photographs (including scene photos), phone records, Close Circuit Television (CCTV)<sup>13</sup>, Body Worn Camera (BWC)

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<sup>11</sup> Section 69 of the Act.

<sup>12</sup> [2012] 40 VR 521, p. 525 at para 9.

<sup>13</sup> This included from the Bentleigh East apartment complex where the fatal incident occurred, an apartment complex at Centre Road, the Boundary Hotel and the Ritchies IGA supermarket.

footage, audio recordings (Triple Zero calls) and video recordings (such as a scene video<sup>14</sup>, video-recorded police interviews).

38. The Court also engaged Justin Humphries, an expert in audio analysis, to enhance the Triple Zero call made by Robert Hamilton in the minutes after the fatal incident. He prepared a report for the investigation dated 27 April 2023.

### ***Scope of Mandatory Inquest***

39. The scope of the inquest was confined to the circumstances in which Gregory Piperidis died on 26 June 2021 and whether any prevention opportunities could be identified.

### ***Uncontroversial matters***

40. Neither the medical cause of death (paragraph 19) or the identity of the Deceased (paragraph 20) was in issue and therefore, no further investigation was required of these matters.

### ***The Inquest***

41. The inquest ran for 8 days and heard evidence from a range of witnesses including Dr Joanna Glengarry, Monique Max, Natalie Lake, Sandra Isaacs, Bradley Cruse<sup>15</sup>, Justin Humphries, Dr Sofia Nahavandi, Dr Laura Scott, Acting Sergeant Joel Robinson, Detective Sergeant Michael Sewell, Detective Senior Constable Adam Williamson, Leading Senior Constable Michael Hradek, Alexandra Salerno, DLSC Smyth, Robert Hamilton and Billy Hamilton.
42. Prior to the commencement of the inquest, an application was made on behalf of both Robert Hamilton<sup>16</sup> and Billy Hamilton<sup>17</sup>, that they be excused from giving evidence in exercise of their privilege with respect to self-incrimination. Both witnesses were however, after declining to give evidence under a certificate, compelled to give evidence under section 57(4) of the Act as I determined that it was in the interests of justice that they do so. The evidence they subsequently gave at the inquest is protected by certificates granted under section 57(6) of the Act.

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<sup>14</sup> As recorded by police.

<sup>15</sup> Bradley Cruse gave evidence on 11 September 2023, and was recalled at the request of Robert Hamilton following which he also gave evidence on 19 September 2023.

<sup>16</sup> Determination of 25 August 2023. Mr Robert Hamilton instructed by Galbally Parker Lawyers. Submissions dated 28 July 2023 and 7 August 2023, followed by oral submissions on 14 August 2023 were made.

<sup>17</sup> Determination of 25 August 2023. Billy Hamilton instructed by Galbally Parker Lawyers. Submissions dated 28 July 2023 and 7 August 2023.

43. During the course of the inquest, I attended a view of the area where the fatal incident occurred at the apartment complex in East Bentleigh.
44. After the conclusion of the Inquest, I received written submissions from Counsel Assisting<sup>18</sup> and Robert Hamilton<sup>19</sup>. Oral submissions were made on 23 November 2023.

### ***The Hearing Rule***

45. During oral submissions, counsel for Robert Hamilton submitted that,

*It's a procedural fairness type issue, and I can say from the Bar table from the instructions that I've had that certainly Robert Hamilton, my client, I think had some understanding of what the process might be, and as things progressed became concerned that in fact the matter was not proceeding in a way which was fair to his interests.*<sup>20</sup>

46. I note that within the coronial context there are several aspects of the hearing rule that are well established including, the duty to give interested parties the right to attend inquests and examine and cross examine witnesses; the duty to inform an interested party of the prospect of an adverse finding and give them an opportunity to make submissions on that issue; and the duty to provide a person who might be subject to an adverse finding with the material which may form the basis of such a finding at a time that allows them to properly respond.
47. In this case Robert Hamilton was provided with the coronial brief of evidence, advised of all hearing dates, represented by counsel for his section 57 application and hearing, represented by counsel at the Inquest on 18, 19 and 20 September 2023, given an opportunity to cross examine witnesses<sup>21</sup> and make submissions about the findings I should make. Similarly, I note that Billy Hamilton was provided with coronial evidence, advised of all hearing dates, represented by counsel for his section 57 application and hearing, given an opportunity to cross examine witnesses and make submissions about the findings I should make.
48. Counsel Assisting observed in response to the submission raised at paragraph 45,

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<sup>18</sup> Dated 23 October 2023.

<sup>19</sup> Dated 17 November 2023.

<sup>20</sup> T77 L6-12

<sup>21</sup> Counsel Assisting advised the Court at the commencement of the inquest that if any party who was not represented but had a relevant interest and an issue, wanted to raise any issues including questions of a witness, she would raise those questions where appropriate to do so. This occurred for all witnesses who were called at the inquest.

*Firstly, Mr Hamilton obviously apprehended the issues enough to be excused on the grounds of self-incrimination and to seek to not be compelled, so I think it's factually wrong to suggest that Mr Hamilton wasn't alert to the personal implications for him, he raised them as he was entitled to do and Your Honour dealt with. But secondly, I remind everyone although the transcript will reveal, this is what I said in opening. There's conflict on the evidence about the sequence of events, it is that conflict which this inquest will seek to resolve through hearing from all of the witnesses who are available.<sup>22</sup>*

49. I reject any notion that in this case the hearing rule was not complied with or that procedural fairness was not afforded to Robert Hamilton or Billy Hamilton.
50. This finding is based on the entirety of the investigation material comprising of the coronial brief of evidence including material obtained after the provision of the brief, the statements and testimony of those witnesses who gave evidence at the inquest and any documents tendered through them, any documents tendered through counsel (including Counsel Assisting), written and oral submissions of counsel and their replies following the conclusion of the inquest. All this material, together with the inquest transcript, will remain on the coronial file and comprises my investigation into Greg's death. I do not purport to summarise all the material and evidence in this finding but will refer to it only in such detail as is relevant to comply with my statutory obligations and necessary for narrative clarity.

## **BACKGROUND**

### ***Criminal offences***

51. Greg had a prior criminal history which included offences such as aggravated burglary, assault, dishonesty offences, driving offences, and drug trafficking and possession. He had served several periods of imprisonment. Greg last faced court in June 2019 for theft of bicycle, possess methylamphetamine and fail to answer bail for which he received a fine.<sup>23</sup>

### ***Events leading to the fatal incident***

52. Bradley Cruse (**Bradley**) had known Greg for a number of years and on the evening of Friday 25 June 2021, they made plans to steal bicycles or to steal from cars (anything of value), from an underground carpark or carparks. Whilst at Greg's home, Greg packed a

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<sup>22</sup> T80 L20-31

<sup>23</sup> LEAP – Victoria Police Criminal Records.

backpack with bolt cutters, tin snips, a centre punch tool and a torch. Bradley left his vehicle at Greg's home and Greg drove the pair to Bentleigh East in a vehicle belonging to Greg's mother.

53. After parking the vehicle, Greg and Bradley walked to the Boundary Hotel and entered the premises at 11.55pm. After spending about \$70, they left at 12.13am, Saturday 26 June 2021.<sup>24</sup>
54. CCTV obtained by police showed Greg wearing an 'Adidas' cap, dark trousers and a dark jumper under a black 'Kathmandu' puffer jacket. Bradley was wearing black tracksuit pants and a grey coloured hoodie under a St Kilda Football Club jacket. Bradley said that Greg was carrying the backpack and he was carrying a spring-loaded centre punch and torch.
55. The pair subsequently drove to Larman Street where they parked near an apartment in Centre Rd which had been identified as a location with an underground carpark for a potential burglary. They entered the car park ramp of the apartment at 1.51am but left at approximately 1.54am having been *spooked* by a noise.<sup>25</sup> CCTV footage shows Greg carrying the black backpack over his shoulder at the time.

## CIRCUMSTANCES OF DEATH

56. A short time before 1.55am Saturday 26 June 2021, Greg and Bradley returned to their vehicle on Larman Street but soon noticed a vehicle leaving 1 St Georges Road, Bentleigh East (**the apartment complex**). This vehicle, which exited at 1.55am<sup>26</sup>, was being driven by a resident Natalie Lake (**Ms Lake**) who was leaving to pick up her daughter from a party.
57. Approximately 30 seconds later CCTV footage from the apartment complex captures Bradley run down the driveway ramp where he remained in front of the gate sensor to prevent the gate from shutting and Greg was seen to follow 28 seconds later.
58. The apartment complex was built and owned by Robert Hamilton (**Rob**). It has three residential floors and a basement carpark. The three residential floors contain a total of 12 apartments with five on the ground and first floors, and two on the second floor. There is a single lift and a single stairwell facilitating access between the residential floors and the basement. One floor in the apartment complex comprised two flights of stairs.

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<sup>24</sup> CCTV from the Boundary Hotel.

<sup>25</sup> CCTV from Centre Road apartment.

<sup>26</sup> CCTV from the apartment complex.

59. Vehicle access to the basement is via a driveway ramp<sup>27</sup> secured by a steel gate that requires an electronic fob for entry and, to exit, an electronic fob or gate activation by vehicle weight or in front of a sensor on the basement's roof.
60. The lighting within the basement is motion activated and illumination occurs immediately upon entering the carpark from the driveway or lift foyer.
61. In addition to containing various parking spaces the basement includes three rooms each used for storage. Immediately to the right of the driveway ramp and directly accessible from the carpark, is a short corridor to a bicycle storage room, which in turn leads to a rubbish bin storage room. A storage room with cages for each apartment is accessible via the secure lift foyer.
62. The fatal incident occurred in the lift foyer. The lift foyer measures approximately 2.35metres square.
63. The lift foyer has a glass wall with a security door (**glass security door**) which separates the lift foyer from the basement. The glass security door requires an electronic fob to enable entry to the lift foyer from the basement and opens inwards from the lift foyer. The lift foyer has a door to the stairwell (which did not require a key), a door to the storage cage area (which required a key) and the lift entrance. The door to the stairwell opens outwards from the lift foyer.
64. The apartment complex has two recording security cameras. One was located at the ground level front door and one was located to cover the driveway ramp. There was no CCTV in the basement, nor in the lift foyer.
65. Apart from Rob's son, Billy Hamilton (**Billy**), other members of Rob's family lived in different units at the apartment complex. They included, Rob's mother Sandra Isaacs (**Sandra**), his former partner and Billy's mother, Wendy Downs (**Wendy**) who resided with their daughter, as well as his sister and her two children. Also present on 26 June 2021, but not a permanent resident, was Rob's girlfriend, Monique Max (**Monique**).
66. At around the same time Bradley and Greg made their way down to the basement, Billy heard a car leave from the basement carpark, followed by footsteps down the driveway ramp. At the time Billy was in his bedroom which overlooked the driveway ramp. He said he subsequently heard sounds from the bicycle storage room which was located directly beneath his bedroom. Billy later gave a different account saying that he saw rather than heard the intruders travelling down the driveway ramp.

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<sup>27</sup> Described as moderately steep incline 16 metres in length.

67. Immediately following this observation, Rob was woken by Billy who raised concern that intruders had entered the basement carpark on foot after a car had left. Rob and Monique had retired the previous evening at about 11.00 or 11.30pm. They had each consumed one or two glasses of wine. Rob said he was immediately concerned that anyone who entered the basement could potentially gain access to the floors of the building through the stairwell.
68. Rob said he decided not to call the police because they might have taken too long to prevent someone getting into the main building and also, if he called the police every time there was a noise in the basement, he would be forever calling them.<sup>28</sup> Rob said that for a couple of weeks to a month prior, there had been issues with the mechanism to the glass security door causing it to not close without it being actively pushed and he had made efforts to have it repaired. The glass security door was described as slow-moving once opened and was difficult to push shut. At inquest, DLSC Smyth said that you could push or pull on it to make it a little bit quicker, but you still had some resistance from the door mechanism. According to DLSC Smyth, at the time of his investigation, the glass security door appeared to be working appropriately.
69. Until that day there had been no reports of any intruders in the apartment complex and Rob had never found someone in the basement who ought not have been there.
70. After being woken by Billy, Rob and Billy quickly left their apartment to investigate the source of the noises. Billy took two knives from the knife block in the kitchen and handed one to his father as they left their apartment. Rob carried the knife with a slightly wider blade.
71. Neither Rob nor his son had armed themselves with knives in response to a suspected intruder in the apartment complex before. Nor had they ever previously armed themselves with a knife in any other circumstance.
72. At around the same time Billy heard sounds from the bicycle storage room, Greg and Bradley had chosen two bicycles hanging from a rack in the bicycle storage room to take. Greg cut the padlocked chain from each and the bicycles were removed and wheeled out into the carpark in preparation for their removal from the premises. By that time however, they realised that the security gate had closed. Bradley was unable to locate a release button to open the gate so they decided to look for a car which could be broken into to locate a remote control for the gate.
73. After leaving their apartment, Rob and Billy went down the stairs to the lift foyer.

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<sup>28</sup> PO Robinson gave evidence that police would have attended with urgent duty driving, lights and sirens if there had been a report of an attempted or suspected burglary but if there had been a report of sounds indicating that someone might be on scene, that in and of itself, would depend on how the job was categorised as to whether urgent duty driving was employed by police.

74. Rob said he was going to look from inside the lift foyer, and if someone was observed, to call the police without leaving the secured area. However, once in the lift foyer, he could not see anyone in the carpark but the carpark lights were on. Rob said he was worried that someone may have already entered and gained access to the residential part of the building. At that time, Rob found that the glass security door to the lift foyer was closed.
75. Rob left the lift foyer to check the carpark and observed his nephew's bicycle leaning against a wall and walked over to investigate. This required him to walk immediately left once he exited the glass security door, towards the driveway ramp. Billy said he also went through the glass security door into the carpark and noticed at least one bicycle out of place and leaning against a wall. Both Billy and Bradley say that Billy left the lift foyer area, with Bradley saying that he kept close to the entrance. Rob initially didn't think Billy left the lift foyer but at inquest agreed that it was a possibility.
76. It is apparent that at about this time the residents and intruders observed each other, with Bradley emerging from behind cars in the back right corner of the basement. Rob said that Greg came from the corridor to the bicycle storage room then made a quick *sort of run* around the back of Bradley to where his mother's car was parked, which was close to the lift foyer.
77. Rob and Billy were holding the knives they had brought from their apartment.
78. The evidence is that Rob had a 'Baccarat' single edged kitchen knife with the blade measuring approximately 20cm in length and 5cm in width and Billy had a 'Baccarat' single edged kitchen knife with the blade measuring approximately 20cm in length and 3cm in width. Bradley was able to accurately observe that the son's knife was slightly smaller than that held by his father. The investigation revealed that Rob is left handed and Billy is right handed.
79. At the time Rob was 45 years old, 180 cm tall and weighed about 85kg. Billy was 16 years old, 166cm tall (according to Billy<sup>29</sup> although his father thought he was between 145 and 150cm) and weighed about 53kg. Bradley was 37 years old, 190cm tall and weighed over 100kg. Greg was 173cm tall and weighed 73kg.
80. A verbal exchange occurred, where Rob asked Greg and Bradley what they were doing in the basement. They responded by saying that they had just been to the pub and were looking for a mate who was a resident of the apartment complex. They were unable to provide a name. It was apparent to Rob, who knew all the residents and had observed the bicycle leaning against a wall, that they were lying.

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<sup>29</sup> Page 249 of Coronial Brief (CB).



81. Rob said he observed that one of the men had a backpack and was concerned it may contain a weapon or weapons, although there were no weapons observed in the intruders' hands.
82. According to Bradley, Rob was swearing, demanding to know why they were there, using an aggressive tone and pointing the knife whereas he and Greg were trying to calm the situation down. They repeatedly said they were there to visit a mate, got locked in, and just wanted to leave. Rob disagreed that they were trying to calm the situation down. Billy said it looked like Greg was alcohol or drug affected. Bradley agreed that Greg looked like he was affected by something.
83. By this time, Bradley said that Greg was standing about 3-4 metres from Rob and he was about 5-7 metres away.
84. During this time Billy said that he travelled metres into the carpark and back to the lift foyer in an attempt to activate the roof sensor to open the gate, but neither Bradley nor Rob said this happened.
85. Rob told Billy to go upstairs to call police. Bradley said he saw Billy beep himself back into the lift foyer and run up the stairs. Billy initially said that his father let him back through the glass security door using the electronic fob, but was later unsure when giving evidence at the inquest. At inquest, Rob said that neither he nor Billy had a fob to enter the glass security door, but it was likely not snibbed closed (*with the latch resting on the electric strike*). This appears to be the most likely scenario.
86. There was no phone reception in the basement area, so a call could not be made from that location.
87. Billy said that he ran upstairs and retrieved his phone, calling out to Monique to wake her, prior to running back downstairs. He said the glass security door had shut behind him.
88. While Billy went upstairs to retrieve the phone, Rob said he felt like he was trapped in the basement, as he thought Greg was closer than him to the glass security door .
89. Bradley described Rob as standing near the doorway to the bike storage room, that he was now 3-4 metres from Rob, and Greg was *standing about 4m away from the dad because he was closer to the glass door*.
90. There is general agreement in the evidence about the positioning of Bradley, Rob and Greg at this time. That is, Bradley being the farthest from both Rob and the glass security door and nearer the carpark and sometimes the driveway ramp side of the basement; Rob being nearer the corridor to the bike storage room; and Greg being generally in alignment with the glass security door near the first parking space. Although the recollection of distances and angles differed.
91. Rob said that he pointed the knife at Greg and Bradley and told them to go and sit against the carpark wall and wait for the police. Rob said that Bradley essentially stayed still (moved around in the same

spot) but Greg was edging his way closer to him and the glass security door, despite the presence of the knife. Rob said he feared for his life and felt trapped. Both Rob and Billy described Greg as being the more aggressive of the pair.

92. Rob said that he was *frozen* so he didn't go for the roof sensor to get out.
93. Billy returned to the lift foyer a short time later, after around 20 seconds, and his father knew that it was too short a time for him to have called the police. Rob was calling out to him to go back upstairs and call the police.
94. Bradley said that during this time Greg repeatedly told the father that he just wanted to go and did not want to hurt anyone.
95. Both Rob and Bradley describe Billy holding his phone and the knife in an awkward manner when he returned to the lift foyer. Rob described Billy as *cradling* the knife while looking down at his phone. Billy said at inquest that the description of him resting the knife over his arm did accord with this memory - *I believe that's what happened*.
96. Billy initially thought he had left his phone on the stairs but at inquest agreed that he carried it back into the lift foyer. Billy said that when he returned from upstairs his father was in the same position but Greg and Bradley were closer.
97. Almost immediately upon his return, Billy opened the glass security door to allow his father access to the lift foyer as he was worried about him. Bradley said that Billy opened the door completely at this time. He said that he was within a metre and a half moving back and forward, and that Greg was closer to the glass security door than Rob. Billy said that he only opened the door a quarter to a third of the way, and he was behind it and only put his head out.
98. It is apparent that Greg moved quickly towards the open glass security door. According to Billy, Greg pushed the door inwards forcing him against a wall in the lift foyer. According to Bradley, Greg went through the door sideways (with his face towards the lift and away from Billy) without touching Billy. Both Billy and Rob describe Greg as travelling between 1 and 1.5 metres to get to the glass security door. When Greg entered the lift foyer, both the lift and stairwell doors were closed.
99. Bradley said their intention had been to wait for police but Greg *made a mistake*.
100. The likely motivation for Greg entering the lift foyer is discussed in detail later. Noting however that both Bradley and Billy's evidence was (at least Billy's first observations at the scene but his interpretation changed over time) that Greg did so to find an escape through the stairwell door which was unlocked (but closed). Rob thought that Greg saw the opened door as an opportunity to get the knife from his son and attack his son.

101. What happened in the lift foyer over a few minutes is where most of the contention around the circumstances in this case lies, and it is discussed in more detailed later, with particular reference to the physical evidence available.
102. In short however, Billy said that Greg grabbed for the knife he was holding, and a struggle occurred for the knife. He said that Greg was trying to force the knife back towards his stomach. At that time, Billy said that he was in fear for his life and feared for his father's safety. He later described a struggle for the knife in a higher position.
103. Rob said that after the glass door was pushed inwards by Greg, he saw Greg struggling with his son for the knife and was concerned for his son's safety and his life. Rob said he immediately ran into the lift foyer, where he said that he initially believed that he stabbed Greg once to the right of Greg's torso, and to the right side of his stomach.
104. Billy said he became aware that his father entered the lift foyer and may have stabbed Greg. He said he also regained control of the knife and stabbed Greg around the shoulder region, staying away from his neck because he did not want to kill him. In his record of interview, he said a 'few' times, maybe three (his evidence regarding the number of times he stabbed Greg changed over time and is discussed later). He further became aware that his father dropped his own knife and punched Greg a number of times to get Greg off him.
105. After he stabbed Greg, Rob said he saw that the knife that Billy had been holding, was now on the ground and was satisfied that Greg was not armed so he dropped the knife he was holding. In his record of interview, Rob said that he punched Greg twice to the face (eye and mouth) knocking him to the ground (in contrast, Rob's first and last accounts are of four punches).
106. Both knives were retrieved and Rob told his son to run. They both ran upstairs to their apartment. The knives were placed on the kitchen bench where they were later located by police.
107. Bradley gave a different version of events. He said that after entering the lift foyer, Greg was facing both Rob and Billy with his hands open in a non-aggressive manner. He said that he then saw the father stab Greg in the 'guts' while the son stabbed Greg in the back and neck area. Following this, the father stabbed Greg in the 'guts' again. Bradley says that he saw the father stab Greg two to three times and the son stab him one to two times and '*they just went sick with the knife*'.
108. Bradley said in his statement to the Court of the incident,

*Pip then made a quick walk toward the glass door which swung inwards. He got through the door. The dad then made a quick run for the door so he wouldn't be locked out as the son had the sensor to get into the building. Then the dad got in there. Pip faced them with his hands open not in any type of*

*fight stance or anything. The Dad stabbed him in the guts. I saw the dad stab him 2-3 times, the son 1-2 times. They just went sick with the knife, that's when it went haywire.*

....

*At the time we were standing in front of the father and son we never made any threat to either the father or the son. We just wanted to leave. We had no weapons with us. At the time the bolt cutters and tin snips were in Pip's bag. I am very shaken up as a result of this incident but did not receive any injuries as a result.* <sup>30</sup>

109. After being woken by Billy calling out for help, Monique said that she got up and when she went outside the unit, heard voices coming from downstairs. Monique said that whilst she travelled down the stairs, she saw blood and in particular a lot of blood on the stairs towards the bottom but was later unsure about this observation. Monique said she opened the stairwell door to the lift foyer for a few seconds, made some brief observations, and was told to call police. She then ran back upstairs. Neither Rob nor Billy could recall Monique having been there.
110. During the incident Greg received a total of fourteen sharp force injuries, with a lethal stab wound to the right side of the chest. There were six stab and incised injuries around the regions of the front of the right shoulder and back of the left and right shoulders. There was one incised wound to the right side of Greg's neck and one stab wound to the right occipital scalp where the back of the head and upper neck meet.
111. Greg also had multiple blunt force injuries including bruises, abrasions and lacerations around his eyes, cheeks and chin, including tooth dislodgement. There was also a bruise to his right wrist.
112. In contrast, Rob received no injuries other than to his left fist which he agreed was caused by punching Greg to the face. Billy received a small cut to his forearm. The cause of this injury is discussed in more detail later, as its origin is not clear.
113. Neither Rob nor Billy said that they thought Greg was armed with a weapon during the incident in the lift foyer, although maintained that Greg was grappling with Billy for his knife.
114. Bradley said that he ran into the bin storage room and placed his body against the door to prevent anyone following him. Whilst there he put his St Kilda jacket inside bin 1, placed a metal centre punch tool with blue tape around the handle in bin 8 and a cut bicycle cable lock with the locking mechanism intact in bin 7. He also replaced the two bicycles they had removed from their racks, and these were later noted to be the only bicycles not secured.

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<sup>30</sup> Statement of Bradley Cruse dated 26 June 2021.

115. At 2.05am (approximately 10 minutes after they left), Ms Lake and her daughter returned to the apartment complex's basement carpark. Soon after parking their vehicle, they came upon Greg's body in the lift foyer observing *blood splatter on the glass door and all around him on the ground*.
116. At 2.07am, Ms Lake and her daughter can be seen on CCTV footage running up the driveway ramp and then entering the complex through the ground floor front door. Rob was at the doorway of his apartment and they observed Billy with a cut on his arm and blood on his feet. Ms Lake observed blood tracked from the stairwell into the apartment. At the time she thought Billy's heels were cut.
117. Rob told Ms Lake, *that his son Billy had heard something. and they went down the carpark to investigate. I found a man down there and we asked him to leave and then he attacked Billy.*<sup>31</sup>
118. In the meantime, Bradley remained in the bin storage room until he heard voices outside and going up the driveway ramp which were apparently Ms Lake and her daughter. After checking that the exit was clear and finding that the security carpark gate was now open, approximately 30 seconds after Ms Lake and her daughter left, Bradley can be seen on CCTV footage running up the driveway ramp onto St Georges Avenue at 2.08am, without his St Kilda jacket.
119. Bradley was picked up by his brother at his request and said he went to Greg's home at some point but could not see any lights on.<sup>32</sup> He picked up his vehicle and drove to Larmar Street where Greg's mother's vehicle was parked, and used a claw hammer to retrieve personal items such as his wallet from the vehicle. He noticed at this time that St Georges Avenue had been blocked off by police.

### *The Triple Zero Call*

120. At approximately 2.02am, Billy made a call to Triple Zero on his phone and then handed the phone to his father, who related that a male had attacked his son, had been stabbed and required urgent medical attention.
121. DLSC Smyth confirmed that there was no evidence of an earlier Triple Zero call having been made.
122. There was approximately one minute of audio of the Triple Zero call which is indecipherable but two male voices can be heard talking loudly. At inquest, Mr Humphries said that the poor quality of the audio was unlikely due to an issue related to reception (meaning that the call was not made in the basement area), but more likely that the people talking were too far away from the phone for the audio to be properly captured.

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<sup>31</sup> Statement of Natalie Lake dated 26 June 2021.

<sup>32</sup> Analysis of Bradley's phone records indicate that: at 2.17am on 26 June 2021, he began messaging an associate; at 2.20am, he tried calling Greg; and at 2.28am, he commenced messaging and calling his brother Daniel.

123. Extracts from the Triple Zero call included the following conveyed by Rob (unless otherwise indicated)<sup>33</sup>,

.... *He's gunna die. He's gunna die. ....*

.... *Someone has been stabbed. Someone - there was a robbery and he's attacked my son, and I had to defend him and he's....*

.... *The guy's been stabbed, be attacked my son....*

.... *He's gunna die. He's gunna die and he's got - he's got bad injuries....*

....**Billy**: *He tried to stab me first...*

....**Operator**: *Whereabouts was he stabbed?*

*In the stomach...*

.... .... *They were trying to steal some bicycles.....*

..... **Operator** *So he was stabbed with –*

*A knife....*

....*It's a kitchen knife.....*

..... *I -I -I tried to -I had the knife and I said, "Get down. Lay down for me or I'm calling the police, and he attacked us.....*

.... **Unknown female** ..... *is he gunna be O.K.?*

*I don't know. I don't think he's gunna survive.....*

.... **Operator** *Who stabbed him?*

*I – I – it was – it was me....*

...**Billy** *He just attacked me....*

....*my son's bleeding....*

.... **Operator** *He's OK? ....*

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<sup>33</sup> Appendix C of the CB. Transcript of Triple Zero call on Saturday, 26 June 2021, 0202 and 54 seconds.

....Yeah, he's all right, yeah....

Call transferred by Triple Zero operator to Sergeant Martin

.....Oh. we had an intruder - ....

.... – who was in – he was in the basement, I told them to stay away, we're calling the police. And I had a couple of kitchen knives. He's charged at my .... year-old son and he's been stabbed. He's downstairs in the basement and we need an ambulance here really quick. I'm really worried....

....He's been – he's been injured bad.....

....He wouldn't be able to walk, I'm telling you now. And he's still down there and someone who just come home, there's -there's a man laying on the ground in the basement, near the lift.....

.....**Sergeant Martin** All right. So who actually -who had the knife at the time that he got stabbed? Was it you or the son?

Both of us, and we said, "Stay down, stay down ---" ...

....---or we're calling the police. They were trying to steal a bike, my -my nephew's bike. They had his bike out ---....

.... – and then they were trying to get out of the basement, and I said, "Stay here or I'm calling the police, and he's charged at my son....

..... We -we attacked the other offender when he hit -when he went for my son and we've -

and he's -and he's been stabbed and then we've come upstairs.....

.... **Sergeant Martin** So what's -how many times was he stabbed?

Two. I don't know, I don't know

**Sergeant Martin** So possibly stabbed more than once?

Well, I hit him. I -I -I think he's been stabbed once or twice and then I dropped the knife and he's - he was still going for my son and I've punched him in the face a few times and he's gone to the ground and then I've grabbed the knife and I've ran.

124. In response to a question by the Triple Zero call-taker about whether the intruders were drug or alcohol affected, Rob indicated that they had said they had been to the pub. At the end of the call, Rob went downstairs to check on Greg and agreed to meet the police and ambulance to facilitate access to the basement.

125. At approximately 2.13am two police officers, Acting Sergeant Joel Robinson (**A/Sgt Robinson**) and Constable George Katergaris, arrived at the apartment complex and were met by Rob who walked out of the main entrance of his address and said, *He's down here* pointing to the underground carpark of the apartment complex.
126. Police soon discovered a person, later identified as Greg, unconscious and not breathing, with a weak pulse and heavy blood loss in the lift foyer of the basement.
127. Responding police were unable to get phone or radio reception whilst in the basement, causing A/Sgt Robinson to have to run up to street level in order to communicate with other police when required.
128. A/Sgt Robinson had already activated his BWC which captured some of the activities and conversations which followed, during his attendance at the scene.
129. Whilst in the basement, A/Sgt Robinson handcuffed Rob, told him not to move, cautioned him and advised him of his rights. Rob gave the following version of the events on BWC<sup>34</sup>,

*Okay. So, I was asleep in bed. My son's bedroom -so I'm in the front unit. My son's bedroom, ....., looks onto the driveway. He heard a car. So my son stays up late -he's a teenage boy. He's He -.... a car left and then he saw two guys walk down into the basement looking suspicious with masks - masks on. He come into my bedroom and said dad there's two people in the basement -they look suspicious. I come down here and then I saw these two guys and I said stay back. We're calling the police. I said to Billy, you run upstairs -grab the phone -call the police.*

*I said, you stay here. What are you doing? You're stealing bikes. Call the police. My son's gone upstairs. And he's come down with a phone. And my son was in the lobby area there. And I said, have you called the police. And I said, you've got to go upstairs. You've got to go upstairs to call the police. And he's hit the button to open the door and the guy has charged in and tried to -and he started attacking him in that lobby area.*

....

*So he starts - he started attacking my son and that's when I ran in there and I stabbed him And then - once I think it was once think my son, may have stabbed him - I'm not sure. And then.*

**Joel Robinson** *So you think your son.*

*Possibly. I'm not sure. I think it's just - possibly just me. I'm not sure if I got him once. I'm not sure if I got him twice, it's all just a big blur, but then I've dropped the knife and then I punched him a few*

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<sup>34</sup> Appendix D, Conversations with Robert Hamilton BWC – Acting Sergeant Joel Robinson, Time 2.14am.



*times in the face just to, just to get him away. And then he's still come at us and then I've run. I said run and Billy and I both run upstairs and called the police, and the ambulance.*

130. Police observed Rob to have blood spatter on his face and feet, his left hand was covered in blood with white feather down stuck to it and the knuckles of his index and middle fingers were swollen. When asked by police whether he was injured, Rob said that only his fist was sore from punching Greg. He said he thought he had punched him *four* times in the face *until he went down*. He said that Greg was carrying a backpack on this back. He said that that they told them they were looking for a friend and had just been to the pub.
131. Ambulance Victoria paramedics were also on scene and attended to Greg at 2.17am, at which time he was found to be unconscious and not breathing. He was moved into the carpark to enable paramedics to treat him more easily. Greg was noted to have a large wound to his right chest. He continued to be unresponsive and was transported to the Alfred Hospital, arriving at 2.35am. Despite maximal treatment by the surgical trauma team, Greg was pronounced deceased at 3.05am.
132. Attending detectives also spoke to Rob before he was transported to the Moorabbin Police Station for interview at approximately 4.29am.
133. Billy remained in his apartment with various family members including his mother, grandmother, aunt and Monique.
134. A police officer was present in the apartment with Billy and BWC footage captured some of the discussions that took place. Billy was not cautioned or advised of his rights at this time. He was holding a tea towel against a wound on his arm which was or had been bleeding. The tea towel was later located by police in a laundry basket in the bathroom of his apartment.
135. At inquest Detective Sergeant Michael Sewell agreed that although Rob had mentioned the possibility of Billy having also stabbed Greg, the potential significance of this disclosure *didn't land*<sup>35</sup> or register because he was more focused on other matters meaning he didn't take any immediate steps to treat Billy as a potential offender. He also wasn't aware at that time how many stab wounds Greg had suffered.
136. Present on the kitchen bench in the apartment were two bloody kitchen knives, with several down feathers around them. The tip of the narrower blade was bent, consistent with the frontal bone wound later identified by the forensic pathologist who examined Greg. DLSC Smyth later observed that this knife could not be placed back into the knife block when he tried.
137. Billy's version of the incident, given in the apartment at around 2.30am, included the following,

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<sup>35</sup> As put by Counsel Assisting.

*.... like this guy tries to push me ... to get out cos you know how there's two doors there's the glass door and the basement door...*

*...I was holding the glass door slightly open cos I had to speak to dad and dad was telling me to call the police then the guy lunges he pushes the door I was holding the door and then we get into a big fight and his friend has run away that's pretty much what happened ...definitely one was on drugs ...*

*....should have just let them take the bikes...*

*....that guy was trying to kill me...*

*...I must have cut myself with the edge of the knife...*

138. Billy was not asked for an account of what happened under caution at the scene, which would have enabled him to tell his story before he'd heard other things and spoken about it with other people (that is, provide a free narrative). Although it is clear that he did not have any further contact with his father, who was directly involved in the incident, and his injury needed to be assessed by paramedics, before police formally obtained his account.
139. Later, Billy and his family members were asked to vacate his apartment so it could be secured as a secondary crime scene and processed by police examiners. They all moved to Billy's grandmother's apartment where the wound on his arm was assessed by ambulance paramedics at approximately 3.15am. A 2cm, deep, laceration on his left forearm was noted. When referring to the incident with paramedics, Billy can be heard on BWC footage to say - *that guy pushed me .... Because that guy pushed me against the wall....so the guy when he pushed the door he was like pushing me against the wall.*<sup>36</sup> Billy was given the option to be taken to hospital immediately or to attend later that day, although the first option was recommended.
140. Prior to Billy being transported to hospital by ambulance, he was advised that he was under arrest for assault and a police guard would accompany him. He was cautioned and advised of his rights in his mother's presence. He was subsequently transported to the Monash Medical Centre (MMC) for treatment.
141. Billy was attended by Dr Sofia Nahavandi at MMC who noted, *Left forearm linear wound (extensor surface), approximately 2cm length, subcutaneous tissue visible. Left upper limb was neurovascularly intact. Dried blood on feet but no injury. No other injuries identified.* Management was noted to have consisted of *Forearm wound was sutured by Emergency Department Registrar Dr Anton Musiienko without complication. A dressing was then applied.* The findings noted were

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<sup>36</sup> ~55.48 of Senior Constable Harris BWC footage.

consistent with: *An incised wound of approximately 2cm.*<sup>37</sup> At inquest, Dr Nahavandi confirmed that there was no indication that there was vascular or vessel damage and that no other wounds were identified or disclosed.

142. Billy and his mother were advised at the hospital that Greg had passed away.
143. Billy was transported to the Moorabbin Police Station for interview arriving at approximately 7.30am.
144. At 8.35am, police delivered the death message to Greg's parents at their home address.
145. At approximately 1.23pm on 26 June 2021 Billy was interviewed by members of the Homicide Squad.<sup>38</sup> At the time of the interview the autopsy had not been completed so police investigators did not know the extent of Greg's injuries.
146. The interview was video recorded.<sup>39</sup> Billy stated amongst other things,
  - a. That as the apartment complex is a new development, *People are moving in and out and sometimes they leave doors open so they can move their stuff in with these big orange concrete blocks.... So sometimes, the doors are open so people can go around the whole apartment complex. So I - I want to make sure.*
  - b. When they first see Greg and Bradley, he and his father were outside the lift foyer and they were locked out as *the glass door locks itself. We're locked with them so we know that they're trying to steal stuff and we don't know what they're going to do.*
  - c. Rob had the key or fob for the lift foyer area and let Billy back in.
  - d. Once Billy returned from upstairs, he opened the glass security door to bring his dad in and shut the door. Billy said it was hard for his father to hold the knife and try to open the door to the lift foyer area.
  - e. Once Billy opened the door,

*one of the people charges towards me. 'Cause I've got the glass door open a little bit, they charge towards me and push the glass door, which I'm holding, so I get pushed. And 'cause I've - I've still - I'm still holding a knife, he runs at me. He's pushing me. I'm against the wall, he's pushing me against the wall and he's trying to take the knife. And he kind of grabs my hand and pushes it. So he's, like, trying to push the knife towards my stomach and that's how I've got this*

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<sup>37</sup> Statement of Dr Sofia Nahavandi dated 25 October 2021.

<sup>38</sup> Also present was his mother. He had consulted with a lawyer before the interview took place.

<sup>39</sup> A transcript was also prepared for the Coronial Brief. Exhibit F.

*injury. 'Cause we're kind of wrestling for the knife and - ..... - the reason he was able to charge through the door is 'cause he was a - he was a little bit closer to the glass door than my dad. And he was -he had -he could get there faster 'cause he was facing the glass door, but my dad was sideways, trying to come closer but fend 'em off so they .... wouldn't attack him.*

....

*And, yeah, he charges towards me. We're wrestling, he tries to push the knife towards me and grab the knife. So my dad sees this, so he runs -he runs towards him and 'cause this guy's on me, I don't know what my dad does to him. I think he might have stabbed him, I'm not sure 'cause I don't know if this guy's gunna kill me 'cause he's got the -he's trying to grab the knife and push it towards me. So my dad helps me and then he's still -he's still on me. He's still grabbing me and, yeah, in, like, a fight. So I manage to get the knife 'cause my dad's helping me and then when I get it, he's still trying to attack. So then I, like, stabbed him 'cause he's like this....*

*Yeah. I didn't want to hit him in the neck, so I tried to go for more, like, his shoulder to get him off me. I was -I was pushing my left arm, trying to push him away and then just stabbed him, like, on the shoulder to try and get him away. And my dad's in a fight with him, so once my dad gets him off of me, my dad doesn't have his knife but he's trying to pull him off. And I think he's punching - my dad's punching the person 'cause he's still on top of me. Like, he's still holding me. And I think his friend runs off up the driveway. And so after the person is - after we, like, had a fight with that person, we come upstairs and my dad's girlfriend is calling an ambulance and the police to come. And I go upstairs and then put the knife on the kitchen bench. That's how it got there. Yeah. And my dad does the same, I think. And then we're just trying to call the police and my - and, yeah, that's about it.*

- f. The intruders had their hands in their pockets so he didn't know if they had a weapon.
- g. He and his dad didn't initially have phones in the basement, *Cause we just want to make sure that the glass door is locked and they can't get in. But we just - we want to find out if it's a resident or we don't know what's going on.*
- h. He said Greg *sprinted* through the door from about a metre and a half and slammed the door open. He said Greg was closer to the lift foyer door (*I would say*) and it was easier for Greg to get to the door as he was facing forward and his dad was *kind of on the side*.
- i. He said he was scared he was going to die and he was worried for his dad's safety.
- j. He may have got cut during the struggle.
- k. He said the intruders were wearing COVID masks.

- l. He said he was fearful as the males were approaching his dad and sometimes, they were being aggressive. *Greg was going - he was, like, going with his arms in the air, like, We're not doing anything wrong. Like, moving his arms and getting close to my dad.*
  - m. He said Greg was *pretty aggressive* whereas Bradley was *pretty calm*.
  - n. He was *pretty sure* Greg was drunk or on drugs.
  - o. *I still had [the knife] in my hands when I was pushed, but then he went to grab the knife. He was, like, pushing me with one hand, I think, and trying to grab the knife. I don't know if he had a weapon on him himself 'cause he just charged at me.... But I think -yeah. I had the knife, he was trying to push it into me, pretty sure.*
  - p. He didn't think his dad got hurt.
  - q. He said he was trying to push him back and then he was hitting Greg with the knife on the shoulder area but trying to avoid the neck because he didn't want to kill him. He stabbed him until he stopped trying to hurt him, maybe two or three times.
  - r. He said, *I've had - I've had no sleep, barely any sleep, a few hours. I'm still trying to get my head over all this.*
147. Following his interview, Billy was released without charge, pending further inquiries.
148. Rob was initially taken to the Moorabbin Police Station for questioning but prior to interview was taken to the Alfred Hospital for the injury to his left hand. His hand was scanned and examined, establishing that while there were no broken bones but there was swelling, soft tissue injury and a muscle strain. The hand was splinted for support and bandaged and Rob was provided with paracetamol for pain relief. His injury was relatively minor and was consistent with having punched Greg multiple times. He had no other injuries, other than Rob mentioning some shoulder pain.
149. At inquest, Dr Scott described that Rob's injuries were to the outer knuckles (metacarpals) consistent with a punching type action. Rob reported that he punched an intruder multiple times and had left hand pain and swelling but denied any other injury or assault to him. A degree of left shoulder discomfort was complained of which could be explained by a pulling rather than punching type injury (that is, you would not get such an injury from a simple punch). The injury was described as mild.

150. Rob later participated in a record of interview at the Moorabbin Police Station which commenced at 3.14pm and was video recorded.<sup>40</sup>
151. During the interview, Rob said that of all the residents in the apartment complex, he was one of only two adult males. He said it was common for a number of residents to leave their front doors unlocked so that children could move between various relatives units, even at night. In addition, he said that in recent times new residents who were moving in had been propping open the glass security door, or not closing it properly during the movement of furnishings and personal items. He was also concerned about the door not being closed and snibbed as there had been some history of it not latching properly.
152. Other matters related during the record of interview by Rob included,
- a. The knives were grabbed for protection *and in hindsight maybe wasn't -well, wasn't the best move but I don't know whether it was or it wasn't. Who knows what would've happened.*
  - b. In this instance he should have called police but if he called police every time someone thought someone was there, *you'd be out all the time.*
  - c. He saw the light on in the basement, couldn't see anyone from the lift foyer and wondered where they were, and worried they were already in the building.
  - d. He had walked over to where the bikes were leaning against the wall and that is when the men appeared. He said he was trapped and couldn't get out of there, when Greg *walked in front of the [glass security] door.* He said he was blocking his path to the door to get out.
  - e. He said Greg was closer to him and glass security door and was more the aggressor.
  - f. Holding up the knife was having no impact; *I was very frightened. it was very scary.* He felt blocked by Greg. Bradley stayed back.
  - g. He was scared out of his mind, didn't know if they had weapons and what they were up to.
  - h. When Billy arrived back down - *he's come back down and he's got his phone like this and he's got the knife sitting here.* That is, he's got the knife cradled across his arms with his head down to the phone.
  - i. He thought Greg saw an opportunity to grab the knife. He thought Greg was maybe 1 or 1.5 metres from the door before he entered. He said, *I thought, 'He's - he's going to stab my son.*

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<sup>40</sup> A transcript was also prepared for the Coronial Brief. Exhibit I. An interview had commenced at 5.05am but was suspended after approximately 2 minutes.

*He's going to get that knife and he's going to stab my son.* He said his reaction was just automatic, he was so frightened he just reacted as he thought he was going to kill his son.

- j. Greg goes for the knife when he goes through the glass security door. He said that Greg and Billy were wrestling for the knife.
- k. He was fearful for his son's and his own life and stabbed Greg. Once the knife was on the ground, *I didn't want to -I didn't want to, like, kill him. I didn't want to keep stabbing him. I thought at that point I've got -I-I've sized him up, I've got the situation under control. I dropped the knife and he was still coming at me and I've hit him twice to put him on the ground and then grabbed the knives and said to Billy, "Run."*
- l. In answer to, *When he's confronting Billy, what's his position to you?* He's got his side to me. He is front on to Billy. His hands were on Billy and the knife.
- m. He didn't know when he struck him the first time whether Greg had the knife in his hand.
- n. He knew Billy was cut when he was down there.
- o. He hit Greg twice with his left hand and a closed fist as he was coming for him – one in the eye and one in the mouth, after Rob dropped the knife.
- p. He said he stabbed him twice, one in the side and one in the front, both in the stomach area.
- q. It did not feel like he used a lot of force but he said, I knew the knife went in when he saw the blood but he did not feel resistance.
- r. He did not recall seeing Monique open the stairwell door.
- s. Apart from injuries to his left hand, he had a bit of shoulder swelling, but no cuts.
- t. He said,

*.... -I felt for my -my son's life and my life in that moment.*

*....*

*And I -I've never felt anything like that before, like that fear before and -and the stress, and that's - that's really -you know, I wish I hadn't -I -I- I wish that -I wish it never, like -I -I keep going back to the -back to that moment and just wish that I had have just called police and not even gone down there. You don't -I mean, yeah, anyway, look, that's -I -I -I -I didn't mean to kill that guy. I really didn't. I didn't want to. I -I was just protecting my son, that's it.*

153. DLSC Smyth confirmed that at the time of the interview with Rob he was not aware of the extent of Greg's injuries as the autopsy had not concluded.
154. Following his interview, Rob was released without charge, pending further inquiries.

### ***Ongoing investigations at the scene on 26 June 2021***

155. A number of police crime scene examiners attended the scene to commence their investigations which began upon the first officer's arrival following the report of the incident.
156. The lift foyer had numerous areas of blood spatter on the walls and floor, which were sampled by a forensic biologist.<sup>41</sup> There was blood spatter on the floor and walls of the stairwell as well as on the floor outside Rob's apartment. This was consistent with travel to and from the lift foyer and the apartment in circumstances where blood flowed from a wound or a person or a knife. Sandra said that shortly after the incident she cleaned up blood from the hall leading to Rob's apartment and probably some in the kitchen.
157. Located on the floor of the lift foyer was an Ambulance Victoria blanket, black 'Adidas' cap, small metal torch, a pair of black Nike slides (belonging to Rob), a picture frame containing emergency exit details for the building and a black backpack. The backpack contained bolt cutters, two pairs of pliers, a screwdriver, a tool bit, tool bit extender, a face mask and a roll of black tape.
158. The picture frame located face down on the floor was blood stained. DLSC Smyth observed that if the staining was caused during the incident while the frame was hanging on the wall, there should be corresponding blood stains on the wall where it had hung, but there was not. This meant that picture frame had fallen into blood and, as there were drops of blood on the back, something has at least dropped blood onto that surface after it landed in the blood.
159. The presence of the backpack suggests that Greg was carrying it at the time he entered the lift foyer. There is no evidence he was carrying the backpack in his hand but there is evidence of him carrying

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<sup>41</sup> I made inquiries through DLSC Smyth with VPFSC Biology regarding about the value of Blood Patter Analysis (BPA) and the limitations of any interpretations. I was advised as follows:

*BPA can possibly assist if there is a specific scenario with conflicting versions that is being contested. BPA can only provide limited information regarding possible mechanisms that could have created the stains but not the activities that led to the actions of the person/item creating the stain. For example, I cannot determine how, in relation to the Hamilton's, the deceased was positioned. I also can't say when the stains were created, it could have been during the event where he was stabbed or after he had been stabbed. I also cannot determine where the deceased was located before he was stabbed or when/where he was located when he was stabbed.*

*In terms of the samples from the stairwell, there was a lot of staining in the stairwell and I only took a few samples so if you are trying to show if someone has been bleeding in this area then I won't be able to say yes or no given that other unsampled stains could have been from either or both the persons who bled.... Also, I can't say whether the blood is from a person bleeding or from an item with the person's blood on it – such as carrying the knives back upstairs.*



a backpack over his shoulder earlier in the night.<sup>42</sup> There is also no evidence that the straps of the backpack were cut to enable it to be removed to facilitate paramedic treatment. BWC footage also shows Greg without the backpack on his back when he was found by police on the lift foyer floor. Given these matters, it is likely that Greg was carrying the backpack on one of his shoulders when he entered the lift foyer and it was subsequently dislodged during the incident.

160. Police scene examiners found down filling from Greg's damaged and blood stained Kathmandu jacket spread throughout the lift foyer. Greg's clothing was later examined (detailed below).
161. At approximately 7.20am Detective Acting Sergeant Justin Tippett of the Homicide Squad spoke with Bradley who had returned to the scene with his brother. Bradley identified himself as the other male who had been with Greg in the basement. A conversation took place which was partially captured on BWC, and is sometimes difficult to hear.
162. Bradley disclosed that that he and Greg were in the basement to steal having entered via the driveway ramp after a car left. They prepared to take two bikes but were confronted by two residents with knives and they were told to get on the ground. He said the son ran upstairs and got a phone and came back down. He said that when he returned the son was on the phone (holding to ear). He further related that Greg said, *I don't want to hurt youz*. In Bradley's words he said that *no violence was put towards them* and they just wanted to leave peacefully. He said that there was a break in the door with the son and *Greg just walked towards it, didn't push the kid at all*. He said they started to stab on the back and the stomach.
163. Bradley directed police to where he put the "popper" and his jacket (in two different bins). He further stated, *they fucken murdered him, that he freaked out and had never seen anything like it before*. He advised of the backpack and described the tools inside. He also admitted to entering another apartment complex to steal but leaving when they heard a noise. He told the detective that if there was CCTV footage it would confirm his version of events. He showed police Greg's mum's car which he had smashed to enter and also said, *fair enough we should have got on the ground and just lied there*. He disclosed at some point that he hadn't had his medication for days.
164. It is clear from the BWC footage that Bradley thought there was CCTV footage of the incident and he appeared relieved that this was the case.
165. Bradley was taken to the Moorabbin Police Station for questioning, and made a statement to which I have already referred.

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<sup>42</sup> CCTV from apartment complex in Centre Road, Bentleigh East.

166. Other contemporaneous evidence included that of Monique who, as noted above, was in the apartment with Billy and other members of his family at 2.30am. She is heard saying that when she opened the door to the lift foyer, she saw the *commotion*<sup>43</sup>.

167. Police notes of a discussion with Monique at the scene record the following<sup>44</sup>,

*I was half asleep and went outside the front door, I heard voices coming from downstairs*

*I ran down the stairs and saw the blood on the stairs*

*As I got towards the bottom I saw a lot of blood, opened up the door and saw Robbies face he looked at me in terror and panic. He said call the cops*

*The other man was standing to the right in front of the glass doors*

*I was down for only a few seconds*

168. In her statement also made on 26 June 2021 Monique said,

*I opened up the door and saw Robbie's face. he looked at me in terror and panic. He said call the cops.*

*The other man was standing to the right of me in front of the glass doors leading to the carpark.*

*There was blood all over the man's face so I couldn't describe what he looked like.*

*Before Robbie told me to call the Police, he was fighting off the other guy, I remember seeing feathers before Robbie had a chance to push him away. It all happened so quickly that's all I saw. I was down there for a few seconds.<sup>45</sup>*

169. In a statement he made a couple of months later,<sup>46</sup> Rob gave a similar version of events to that in his record of interview. He stated that Greg came out of the bike storage area and Bradley from behind a car. He confirmed that Billy was *looking down at his phone and had his knife cradled over his arm* and said that *Greg lunged at my son and tried to grab the knife. My son dropped his phone and was engaged in a wrestle for the knife.*

170. Rob stated,

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<sup>43</sup> Senior Constable Harris BWC footage.

<sup>44</sup> Notes of Detective Senior Constable Adam Williamson at pages 387- 388 of CB.

<sup>45</sup> Statement of Monique Max dated 26 June 2021.

<sup>46</sup> Dated 23 August 2021.

*For me it was an automatic reaction fearing for my son's life I've used my knife to stab [Greg]. I've then grabbed him. thrown him up against the other wall to get him away from my son not knowing if the knife was in his hands or my son's hands. I stabbed him again. At this point I've pushed him away, saw the other knife on the ground, and as he come back toward me, I've dropped my knife and punched him twice in the face at which point he went down and didn't get up. I've grabbed both knives off the ground and ran upstairs with my son.*

171. In terms of the relative positioning of people, Rob said that Greg's right side was facing him and that Greg was front-on to Billy, trying to get the knife.

### ***Examination of Greg's clothes***

172. Greg's clothes were examined by Forensic Officer (FO), Alexandra Salerno of the Biological Sciences Group<sup>47</sup> who detailed the following.<sup>48</sup>
173. Greg's singlet was extensively damaged and heavily stained with what appeared to be blood. The areas of damage included (excluding those which were likely the result of medical intervention): a stab cut<sup>49</sup> in the right chest region measuring approximately 4cm in length and in a vertical orientation; a stab cut on the back of the left shoulder strap, in close proximity to the neck band measuring approximately 2.5cm in length and in a diagonal orientation, and a stab cut in the left back region (approximately 3.5cm from the left arm hole) measuring approximately 2.5cm in length and in a diagonal orientation.
174. Greg's t-shirt was extensively damaged and heavily stained with what appeared to be blood. The areas of damage included (excluding those which were likely the result of medical intervention): a cut<sup>50</sup> in the front right shoulder region measuring approximately 0.5cm x 0.3cm in size; a stab cut in the right chest region, measuring approximately 4.5cm in length and in a vertical orientation; a stab cut in the upper back towards the left shoulder region measuring approximately 2.3cm in length and in a diagonal orientation; a stab cut in the left back region (approximately 4cm from the left sleeve seam) measuring approximately 1.8cm in length and in a diagonal orientation; a stab cut in the back left shoulder blade region measuring approximately 2.5cm in length and in a diagonal orientation; and two stab cuts in the back of the right sleeve one measuring approximately 2.5cm in a diagonal orientation and the other approximately 1.7cm in a vertical orientation.
175. Greg's jumper was extensively damaged and heavily stained with what appeared to be blood. Areas of damage included (excluded those which were likely the result of medical intervention): a small

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<sup>47</sup> Statement dated 4 May 2023.

<sup>48</sup> Case Results Summary prepared by Alex Salerno.

<sup>49</sup> A cut penetrating the fabric when an implement is used in a thrusting/stabbing action. Generally, not a long cut. The appearance of the damage may be indicative of features of the implement.

<sup>50</sup> A severance caused by a sharp-bladed implement.

hole in the right front shoulder region measuring approximately 0.5cm in diameter; a cut in the front, right lower chest region measuring approximately 8cm long in a vertical to slightly diagonal orientation; a stab cut to the upper back measuring approximately 2.2cm in length and in a diagonal orientation; a stab cut in the left shoulder blade region measuring approximately 1.5cm in length and in a diagonal orientation; a stab cut below the left shoulder blade region measuring approximately 2.5cm in length and in a diagonal orientation; a stab cut in the back of the upper right shoulder region measuring approximately 2.5cm in length and in a vertical orientation; a stab cut in the upper back of the right sleeve measuring approximately 2cm in length in a horizontal orientation; and a curved shaped cut in back of the lower right sleeve measuring approximately 6cm in length.

176. FO Salerno indicated that the damage to Greg's singlet, t-shirt and jumper appeared to overlap. Noting and assuming that the three garments were worn at the same time, the minimum number of cuts observed to the clothing could be explained by: one stab cut to the front right chest region (observed in all three garments); one cut to the upper front, right shoulder region (not observed in the singlet or jacket); three stab cuts to the back of the left shoulder region (one of these cuts was not observed in the singlet); two stab cuts to the back of the right shoulder/upper sleeve area (not observed in the singlet); and one cut to the back of the lower sleeve (observed in the jumper and jacket).
177. Similarly, the following damage was noted on Greg's puffer jacket: a cut in the right, lower chest of the jacket measuring approximately 6cm in length in a diagonal orientation (damage penetrated through the inner lining); a stab cut in the back of the left side of the collar measuring approximately 3.5cm in length (damage penetrated through the inner lining); a stab cut in the back of the left shoulder region measuring approximately 2.5cm in length in a horizontal to diagonal orientation (damage penetrated through the inner lining); a stab cut in the back of the left shoulder region measuring approximately 2.8cm in length and in a horizontal orientation (damage penetrated through the inner lining); a stab cut on the top of the right shoulder region measuring approximately 3cm in length and in a vertical orientation (damage penetrated through the inner lining); a stab cut in the back of the right sleeve measuring approximately 2.5cm in length and in a diagonal orientation (damage penetrated through the inner lining); a cut measuring approximately 14cm which has extended by way of a possible tear<sup>51</sup> for 3cm, in the back of the right sleeve in a curved shape (damage penetrated through the inner lining); a cut in the lower right sleeve region, in a curved shape and measuring approximately 12cm in length (cut penetrated through the inner lining); and cut in right sleeve, close to the cuff, measuring approximately 2cm long (cut did not penetrate through to the inner lining).

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<sup>51</sup> A severance caused by pulling with some force. Frequently this damage is associated with a manual pulling action.

178. FO Salerno noted that corresponding damage not observed in all layers of clothing could be explained by the movement of clothing during wear and the lack of fabric in particular garments (for example, there being no sleeves in the singlet).
179. DLSC Smyth prepared a document which sought to align the damage to Greg's clothing described by FO Salerno with sharp force injuries identified by Dr Glengarry at autopsy. The analysis highlighted three cuts on the back of the right sleeve of the puffer jacket (only one of which was replicated on the jumper worn beneath) which were potentially cuts from a knife that hadn't penetrated to Greg's skin.<sup>52</sup>

### ***Evidence of forensic pathologist at inquest***

180. At inquest, Dr Glengarry clarified a number of terms related to the injuries Greg sustained. She noted that sharp force injuries are those that are inflicted with a sharp weapon, classically a knife. They include stab wounds, where the depth of the injury in the body is greater than the size on the skin, and incised wounds, commonly known as cuts, where the injury to the skin is often longer than the wound penetrates the body.
181. Dr Glengarry described blunt force injuries as those where the body is impacted by or impacts a flat or blunt surface. These injuries include bruises, abrasions which are known as scrapes and lacerations, which are tears of the skin.
182. Dr Glengarry said that where injuries occur around the same time, it is generally not possible to identify with precision the order in which those injuries were inflicted.
183. With respect to the injuries on Greg's face which Dr Glengarry classified as blunt force injuries, it was also not possible to identify with any precision how many applications of blunt force caused them, as one impact may cause multiple injuries. Dr Glengarry said however that a minimum number can often be assigned.
184. In contrast, in relation to sharp force injuries, while the number of knife wounds is generally discernible, it may not be possible to determine the relative positions of the body and the person using the weapon at the time the injury is inflicted.
185. In providing any assessment of the degree of force required to cause an injury, Dr Glengarry referred to a *three-point scale*. She said that estimating the degree of force is incredibly problematic because it requires consideration of a number of factors, such as the sharpness of the knife (a sharper, pointier knife will require less force than a blunt or flat-ended knife), the protective layers of clothing that may or may not be present, the structures of the body that are injured, and the velocity of the knife

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<sup>52</sup> P. 384 of CB.

on impact with the body. A *three-point scale* of mild, moderate, severe force is therefore often used. She considered that injuries requiring *mild* force include injured skin, which might include the incised wound of Greg's nose or the cut on his finger. She considered *severe* force to include injuries to hard structures in the body such as bone, as injury to bone requires a severe degree of force. Dr Glengarry considered that *moderate* sits somewhere in between and includes injuries to soft structures, such as muscles and soft tissue and also perhaps cartilage. She noted that the degree of force does not indicate anything about the intent of the person who inflicted the wound, but is really just an indicator of how difficult it is to penetrate particular anatomical structures.

186. In relation to how Greg may have been affected by the various injuries inflicted, Dr Glengarry made a number of assessments.
187. With respect to the forehead wound (*frontal bone wound*) which penetrated the scalp, skull and relatively superficially the brain, was 1.6cm on the skin with a depth of 1.5cm, and was considered a non-critical injury, she said,

*There was no bleeding associated with that, so other than causing pain I wouldn't have expected it to have any life-threatening or no immediately life-threatening consequences and ... no impact on behaviour or anything at that point in time.*<sup>53</sup>

186. However, the force required to cause such an injury would be regarded as *significant* to get through the bone which is thick at that location. Dr Glengarry stated,

*I did note that the knife that was called the thinner blade had a bend at the tip of the knife and that closely approximated the size of the injury in the skull, and just given the thickness of the skull, ..., my opinion is that that's probably the most likely knife that has inflicted that injury because ... – the bend at the tip would fit with, ..., the skull and the difficulty of not just getting the knife in but getting the knife out.*<sup>54</sup>

188. In relation to the stab wound at the back of the neck (*left posterior neck wound*), Dr Glengarry described it as 3cm long on the skin towards the front of the neck and slightly downwards, with a wound depth of approximately 8cm. She said it would cause pain and possibly/perhaps some limitation of movement of the left shoulder, but nothing more than that.
189. Dr Glengarry described the stab wound to the back of the head (*right occipital scalp wound*) as somewhat S-shaped or curved, 3.5cm long on the skin with a wound depth of 9cm. She said it would probably have very little effect other than causing pain, bleeding, and perhaps limitation of the

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<sup>53</sup> T25 L23-27

<sup>54</sup> T26 L7-14

movement of the neck. It would however have required *severe* force according to the *three-point scale*.

190. In relation to how the *fatal wound* caused Greg's death, Dr Glengarry advised that there were two main ways. The first was through blood loss: the injury to the liver, a very vascular organ, was large; 11cm across and 6cm into the liver was a very broad area from which to bleed, which can be *catastrophic*. The second way is through bleeding from the lung, as well as abnormal leakage of air from the lung, which puts pressure on the lung and compromises the ability to breathe.
191. Commenting on the immediate impact of the fatal stab wound Dr Glengarry stated,
- ..., it's one of those injuries that's not necessarily immediately incapacitating. ..., it requires time for the blood loss to accumulate. The blood loss will be quite rapid, so I imagine it's something that quite rapidly he would begin to succumb to the effects of blood loss, as well as impairment of breathing, if the air is collecting around the chest. So I would anticipate that probably over some minutes he would start to show signs of being impaired, but that may be initially just dizziness or poor coordination before perhaps collapsing or losing consciousness.*<sup>55</sup>
192. Commenting on the effect of the stab wound to the left scapular region, Dr Glengarry said there would perhaps be limited movement of the left shoulder as well as pain but it is not a critical injury. This injury as well as the stab wound to the back of the right upper arm (posterior deltoid region – 4cm depth) and the stab wound below it on the right posterior axillary line (6cm depth) involved muscle injury only, which did not require as high a degree of force as other injuries.
193. Whilst described as two wounds, Dr Glengarry was of the view that the incised wound(s) to the right thigh were actually one wound, where the knife has gone into the skin and then come out again, with injury to the muscle beneath. She was unable to comment on the direction of the wound, noting that it's all one movement with the knife being somewhat parallel to the plane of the leg (rather than entering perpendicularly), and the leg being mobile.
194. As to the incised wound to Greg's right index finger, Dr Glengarry commented that these sorts of injuries may be seen when a knife is involved and hands are moving near it. Such an injury may also be consistent with Greg using his hands to protect himself against someone stabbing him; that is, it may be a defensive wound .
195. In relation to the blunt force injuries around Greg's left eye, Dr Glengarry said these were caused by a minimum of one application of force sufficient to split the skin. Similarly, the blunt force to Greg's right eye and mouth, would each require a minimum of one impact. Therefore, the minimum impacts

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<sup>55</sup> T31 L22-30, T32 L1-2

to cause Greg's facial injuries was three and the types of impact might include punches, kicks, head butts, blunt weapons as well as impacts with a wall or the ground.

196. Dr Glengarry said that these injuries were all consistent with having occurred at or around the time of death.
197. Dr Glengarry clarified that the injuries which required level 3 (severe) force on the three-point scale were the *frontal bone wound*, the *right occipital scalp wound* and the *fatal wound*.
198. When asked whether she could express an opinion on the cumulative effect of Greg's injuries in terms of how quickly he would have become incapacitated by one of more of the injuries taken together, Dr Glengarry stated,

*Again, it's that lethal injury that will be the one that will have the biggest role in incapacitating him. You could argue that the injuries to muscle, given that muscle does tend to bleed, that they could have contributed to blood loss, but I think the injury to the front of the chest is capable of such significant blood loss that it is capable of causing death in the absence of all of the other injuries. So the others, ..., they may have contributed, ..., but they're not necessary for him to have been incapacitated and passed away.<sup>56</sup>*

199. Dr Glengarry ultimately provided an opinion that, but for the fatal injury, Greg would most likely have survived the other injuries.

## **ANALYSIS OF CONTENTIOUS EVIDENCE**

200. The main contention in the evidence is what occurred in the lift foyer immediately before Greg's collapse on 26 June 2021.

### ***The witnesses and firsthand accounts***

201. There are three surviving witnesses to the events on 26 June 2021, Rob, Billy and Bradley. Additionally, Monique said she went down to the basement and lift foyer but only for a few seconds.
202. The accounts of these witnesses are available to the Court and comprise the following: Triple Zero call on 26 June 2021 (via audio, transcript and enhanced); Rob in the basement of the apartment complex on 26 June 2021 (via BWC under caution); Billy in his and his grandmother's apartment on 26 June 2021 (via BWC not under caution); Monique at the scene in Rob and Billy's apartment on 26 June 2021 (via BWC); notes taken by police at the scene from Monique on 26 June 2021 (police notes); statement of Monique taken at the scene on 26 June 2021 (statement); Bradley at the scene

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<sup>56</sup> T38 L4-14



outside the apartment complex on the morning on 26 June 2021 (via BWC); Record of Interview of Billy on 26 June 2021 (via audio video and transcribed); Record of Interview of Rob on 26 June 2021 (via audio video and transcribed); statement of Bradley on 26 June 2021 (statement); statement of Rob dated 23 August 2021 (statement); and evidence at the inquest given by Monique, Bradley, Rob and Billy in September 2023 (transcript).

### ***Variations in witness accounts and changes in accounts over time***

203. It is apparent that witness accounts of the events in the basement, but more relevantly the lift foyer, vary and accounts have changed over time. In this section I detail factors which may be relevant to this issue.
204. In general, changes in a witness account might be attributed to the context in which it is given and its purpose (for example, a Triple Zero call compared to a formal interview with police) as well as the extent of the questions being asked (if any) and the opportunity to respond. I note that Bradley made a formal statement but the critical events in the lift foyer are essentially contained in a single paragraph (detailed in paragraph 108) and it appears that it is not until the inquest that he is asked to recount in detail what occurred at this critical time.
205. Changes in a witness account might be attributed to various human factors such as the imperfect nature of a person's memory and their ability to accurately recall events.
206. Other considerations may include the conditions under which a memory is formed as well as the time elapsed since an incident occurred.
207. In this context, the events of 26 June 2021 were clearly shocking. They were confronting and frightening, and within minutes an horrific scene of violence had unfolded which resulted in a person's death. The situation was also dynamic and occurred over a number of minutes. Billy, who was a teenager at the time, and his father, both spoke of fearing for their lives and that their actions were triggered by the fear they experienced. In addition, they said they feared for the safety of the other. The significance of the relationship between them – being father and son - is also relevant in this setting. Bradley spoke of the horror and fear he felt at witnessing his close friend being stabbed multiple times. Monique spoke about the distressing nature of the events, even for those who had no involvement in the fatal incident itself.
208. The events took place in the early hours of the morning within a short time of Rob being woken from sleep. Both Billy and Rob had little to no sleep when they participated in their record of interview. Bradley admitted that he had consumed Ice some time before the fatal incident and had also been up all night when he gave his first accounts.

209. Over two years had passed between the incident and the inquest which is a significant amount of time to test a person's memory. It also provided much time for Rob and Billy to think about and discuss what occurred amongst themselves.
210. Also relevant to variations in witness accounts of the same incident is that a witness will perceive what happened through a lens unique to that individual. A witnesses' perception may be influenced by their personal biases, or preconceived ideas. This could affect how they interpret another person's actions or indeed what another person may be about to do. It was Rob's view that when Greg entered the lift foyer he wanted to get his son's knife and attack him. Bradley did not consider this at all likely.
211. It may also be that a witness – consciously or unconsciously – constructs a narrative to fit or make sense of events, at the time they occur or later.
212. Witnesses can also be influenced by other people's accounts of the same event or, by what other people may think of their actions, if they were to tell the truth. It would be understandable for a witness to put themselves in the most favourable light when recounting events.
213. It was apparent from the evidence at inquest that despite the passage of time since the incident it was not clear to those who knew Rob and Billy what actually happened in the lift foyer, even to those closest to them.
214. Witnesses may also perceive events differently based on where they were positioned, as demonstrated in this case, where Rob and Bradley had different viewpoints based in their position. As noted by Counsel Assisting, the witness' opportunity to observe relevant events, including whether their view was limited at times, may also affect their account. Bradley gave evidence that he was *looking through and seeing someone crouched over with two people in front of him, so I'm just seeing it from behind.*
215. For any or a combination of the factors I have described, a witness may earnestly consider their evidence to be accurate but they may be mistaken. A finding therefore which goes against one witness view or another, does not necessarily reflect on the integrity or the truthfulness of a witness.
216. As noted by Counsel Assisting,
- A decision to prefer the evidence of one witness over another on a particular point is not a decision that one witness is lying. It is a decision that, on the point in question, the evidence of one witness is*

[preferred]. *It does not require the rejection of all of a witness's evidence or the acceptance of all of another's. On different points, different witnesses may be regarded as giving the best evidence.*<sup>57</sup>

### ***It is not possible to determine the exact sequence of events***

217. With the variability of witness accounts and such a dynamic event it will never be possible to make findings about the exact sequence of events, particularly noting the short timeframes involved.
218. In this context I note that approximately 7 minutes transpired between Greg and Bradley arriving at the apartment complex at 1.55am and the Triple Zero call at 2.02am. Using rough estimates of about **2 minutes** for Greg and Bradley to travel down the driveway ramp to the basement, locate, cut down and remove two bicycles and then find themselves stuck in the basement and start searching for a vehicle with an exit device; about **2 to 3 minutes** for the confrontation between the residents and intruders including the conversations which took place and Billy going up to the apartment to call police and return to the lift foyer where he opened the glass security door for his father and Greg swiftly moved into the lift foyer; and about **1 minute** for Rob and Billy to leave the scene, travel upstairs and commence the call to Triple Zero. By that estimation, the altercation in the lift foyer, occurred over a period of about **1 to 2 minutes**.

### ***What remains contentious?***

219. Having said that it is not possible to determine the exact sequence of events, it is apparent that whilst some things may remain contentious, there is relative consistency in the evidence and most things are known as has already been outlined in my finding.
220. This consistency of evidence extends to who caused the knife and facial wounds Greg suffered. Rob and Billy each considered, by the time of the inquest, that Billy had likely caused most of the knife wounds, and Rob had caused at least one stab wound including the fatal injury and all the injuries to Greg's face. At inquest, Rob said he hit Greg four times which was consistent with the first version he gave at the scene. Rob said there were two punches whilst Greg was coming towards him and then two *to put him down*. This is consistent with the evidence of Dr Glengarry.
221. There are some matters which rely solely on a witnesses' perception such as who was more aggressive and who was trying to calm things down. These matters do not require a resolution, as they are largely based on perception, and preceded Greg's movement into the lift foyer so do not help advance beyond conjecture what took place in this area.
222. There are some peripheral circumstances which, having considered all the evidence, I have reached conclusions about on the balance of probabilities.

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<sup>57</sup> Counsel Assisting submissions dated 23 October 2023.

223. I accept Rob's evidence that he and Billy may not have had a fob with them in the basement, meaning that the glass security door was likely not latched when they first left the lift foyer. I note that they initially had no intention of leaving the lift foyer and had left their apartment quickly. The lack of a fob may in part explain why Rob did not exit via the lift foyer when Billy went upstairs (although he said that he was frozen with fear and Billy said it would have been awkward to open the glass security door with the fob whilst carrying a knife) and why Billy opened the lift foyer door for him when he returned after retrieving his phone.
224. It is also more likely that Billy initially left the lift foyer and followed his father as Bradley and Billy stated.
225. Whilst Billy is convinced he travelled into the carpark and back to the lift foyer area in an attempt to activate the roof sensor to open the gate (possibly in an arc), this would have placed him in a highly vulnerable position and no other witness including his father said this occurred. Billy may have been doing his best to be truthful on this point, but I consider that he is mistaken.
226. Monique's initial observations of the scene as reflected in both the police notes and statement taken just after the event of much blood in the stairwell and around the door to the lift foyer, is likely to be the most accurate evidence. These are near-contemporaneous records and her memory is likely to be better at that time than later, at the inquest, when she was unsure. This conclusion is further strengthened by the manner in which her statement was taken by police.<sup>58</sup>
227. As noted by Counsel Assisting,
- Sometimes contemporaneous documents can be a better record of events, and a more reliable source of information than statements prepared after a death or evidence given at inquest. This can be because of the deterioration of memory over time, or because hindsight has caused a witness to, consciously or unconsciously, revisit and revise their memories in the light of subsequent events.*
228. Monique's observation of blood in the stairwell initially represented an anomaly, as she followed Billy downstairs apparently before any blood was shed (although he could already have sustained the small injury to his arm but this is unlikely to have accounted for all the blood). The best and only explanation I could find to explain her statement was Billy's recollection at inquest that he returned somehow up the stairs and back down to get his phone that he had earlier dropped on the ground of the lift foyer.
229. Monique's observations of what happened in the lift foyer occurred over only a few seconds when she opened the door, clearly near the end of the incident. In those circumstances it is difficult to draw

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<sup>58</sup> DSC Adam Williamson described that he took notes, prepared a statement from those notes, read the draft statement with the witness paragraph by paragraph and then read through the statement with the witness at the end.

any conclusions about the main issues in contention – that is, those involving the incident in the lift foyer and the use of the knives. I note that BWC footage from the apartment captures Monique saying that she saw the *commotion*, that the police notes do not refer to Rob fighting or fighting off someone and that her statement made subsequently refers to Rob *fighting off the other guy*, ... or Rob *had a chance to push him away*.

230. Monique said at inquest that Rob and Greg were facing each other and she saw a lot of blood and feathers both in the air and on the ground. She said,

*...at this stage they just had their fists up so it was like a – it was a fist fight, both with hands up, ... He just – his face. He just looked very angry and it was like he was coming towards Robbie. That's what I saw.*

*I feel like – I feel like when I walked in Robbie may have pushed him away and that gave him the opportunity to look at me quickly and say, 'Call the cops'.*

231. Having considered the range of available evidence, in my view what remains contentious as evidenced by the starkly different eyewitness accounts is:

- a. the manner in which Greg travelled through the lift foyer door and his motivation for doing so;
- b. when and how some of the knife injuries Billy said he inflicted occurred; and
- c. whether Greg struggled for the knife.

232. I note that what Greg's motivation was for entering the lift foyer may flow in part from any conclusion reached about his behaviour once inside the lift foyer.

***What does the physical evidence suggest without reference to eyewitness accounts?***

233. In an effort to resolve the various eyewitness accounts, I considered the physical evidence objectively, that is, without regard to anyone's version of events or their subjective view of the evidence. A comparison could then be made for consistency of the physical evidence with any eyewitness account.

234. Firstly, turning to the scene itself and what it may reveal. The lift foyer is a small space which was heavily stained with blood, on each of the walls and on the floor. The framed emergency sign had been dislodged from the wall. Amongst the blood were feathers from Greg's puffer jacket. Greg's body was found lying virtually lifeless on the floor near the lift entrance and in this area there is evidence of significant blood loss/pooling. The evidence suggests that the blood in this area belonged to Greg. The lift foyer was clearly a location where physical force causing considerable blood loss had taken place.

235. There was significant damage to every layer of clothing worn by Greg, and each garment worn on his upper body was saturated by blood.
236. In contrast there was no damage to the clothing worn by either Rob or Billy and their clothing was not obviously or heavily bloodstained. Billy's singlet and shorts were very lightly stained by droplets of what appears to be blood.<sup>59</sup>
237. As has already been detailed, Greg received fourteen sharp force injuries, including the fatal wound to his chest during the incident as well as multiple blunt force facial injuries, which included tooth dislodgement. There was also a bruise to his right wrist.
238. Some of the knife injuries inflicted required severe force as they penetrated bone. In addition, some of the knife wounds were deep or very deep, involving wound depths of 8cm, 9cm, 11cm and 18cm.
239. In contrast, the injuries to Rob and Billy were minor. Rob disclosed that his only injury was to his left fist caused when he punched Greg multiple times. His shoulder injury was from a pulling motion rather than a punching motion.
240. It is unclear how the injury to Billy's arm was caused. During his first account captured on BWC, Billy suggested that he must have caused the injury to himself – rather than it being caused in the course of a struggle. Rob's observation that Billy's knife was resting against his own arm awkwardly (being cradled) just before the incident provides another potential explanation for the injury. At inquest Billy agreed that he was not sure precisely how he got the injury or when he got it.<sup>60</sup> Regardless, the injury was relatively minor. In addition, neither Rob nor Billy reported to any health care provider they saw after the incident, any other injuries arising from the incident including bruises, scrapes, cuts or grazes.
241. At inquest, the Coronial Investigator agreed that Rob and Billy did not suffer any injuries that might be associated with them stabbing each other by mistake and they did not suffer any injuries that might be associated with Greg inflicting injuries on them.
242. In my view, the magnitude of difference between the injuries suffered by Greg (and the associated damage to clothing) compared to that of Rob and Billy – or put another way, the lack of evidence of injuries to Rob and Billy (or damage to their clothing) – speaks volumes. The physical evidence, without reference to any eyewitness account, does not appear to support a scenario where Greg actively grappled with Billy for control of the knife in the lift foyer. The physical evidence is also inconsistent with a scenario where Greg was intent upon seizing the knife and/or causing harm to

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<sup>59</sup> Given the nature and location of the stains on Billy's clothes it seems likely that they were caused by blood from the cut on his forearm.

<sup>60</sup> T657 L17

Billy, as I consider if this were the case more harm to others (or at least some harm to Billy) would be evident. The physical evidence is also inconsistent with Rob's evidence at inquest that Greg was pushing as hard as he could, or that given by Billy, that Greg had his hands around his, with Greg pushing up and Billy pushing down as hard as he could (kind of going back and forth in a struggle). The physical evidence is, however, consistent with the evidence given by Bradley who said when asked whether there was a struggle with a knife – *Nothing like that at all* and his evidence that Greg did not fight back and was just *coping* it.

243. Bradley also commented in his evidence about how *stupid* it would be for Greg, who was unarmed, to take on two people both armed with knives, particularly a father who had already demonstrated concern about the safety of his son.
244. I further note that Greg and Bradley abandoned an earlier attempt to steal from the basement of another apartment building, when they were *spooked* by a noise, suggesting a desire to avoid contact (and likely conflict) with residents.
245. I consider Greg's criminal history does little to advance the notion that Greg was intent on attacking someone. It is accurate that he had been convicted of assaults in the past, but I am not convinced this has any predictive value for the events under scrutiny. I note that Greg's last criminal offences – theft of bicycle, possess methylamphetamine and fail to answer bail – were heard in June 2019 for which he received a fine. This offending was almost identical to that on 26 June 2021.
246. In addition, whilst it was found that Greg had methamphetamine in his system at the time of death, it's predictive value in relation to what Greg might have done or what his intentions were is again speculative.
247. In my view an examination of the physical evidence does not support a scenario where Greg struggled for the knife. I further note that the main source of physical attack from Greg complained of by both Rob and Billy was the struggle for the knife.

***The manner in which Greg travelled through the lift foyer door and his motivation for doing so***

248. Having formed the view that Greg did not struggle for the knife, I consider it more likely that he entered the lift foyer looking for a way out, having earlier seen Billy leave the lift lobby via the stairwell door, which was clearly accessible and unlocked. This was also Billy's first explanation of what occurred – he *tried to push past me to get out*.<sup>61</sup>

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<sup>61</sup> Harris BWC from 9:50 onwards

249. All witnesses agree that Greg went through the glass security door when it was being held open by Billy. Bradley said that Greg moved cautiously through the door, with his back to Billy, without needing to push Billy.
250. Billy said that he held the door a quarter to a third the way open and peered around and that Greg pushed the door causing him, in turn, to be pushed backwards against the storage room door.
251. Given the danger of the situation, I consider it more likely that Billy would have adopted a cautious approach and he would not have held the door open any wider than necessary given the circumstances.
252. I note that with Greg's backpack on one shoulder and the door not fully open, he likely had to push the door to pass through it and in doing so the door would have connected with Billy who was immediately behind it.
253. I am unable to determine the extent to which Billy was pushed, but the impact was not so forceful as to cause any injury to Billy, as the evidence later demonstrated. The only thing Billy related to ambulance paramedics about what happened whilst being assessed in his grandmother's apartment was that he was pushed by Greg. I note that Rob was able to get to and through the slow moving glass security door before it closed.

***What can be said about how the knife injuries occurred?***

254. The greatest number of knife injuries inflicted were to the back of Greg's body, particularly his upper back but also his neck and upper arm. Billy said he caused all of these wounds.
255. The witnesses describe Greg and Billy facing each other. Rob said that he was standing to the side of Greg when he first thrust the knife, which may or may not have connected with Greg's body, but if it did not, the second stab action did. Rob described two stabbing actions, with the second occurring while standing near or against the framed emergency sign. In terms of the relative positioning of people, Rob said that Greg's right side was facing him and that Greg was in front of Billy. This is generally consistent with the account given by Bradley in his statement.
256. At least some of the six wounds to Greg's back area could have been inflicted while Billy was positioned behind him, as it was common ground that Greg went through the glass security door facing away from Billy. At inquest, Bradley said that Billy stabbed Greg once in the back, when Greg first travelled through the glass security door, causing Greg to stumble forward. This would have placed Greg in a position consistent with Rob's account where he said he stabbed Greg to his right stomach area with the knife in his left hand. Bradley's account on this point is not inconsistent with the wounds identified by Dr Glengarry to Greg's upper back. Bradley's account of the stabbing



action to Greg's stomach area is also consistent with Rob's account of two stabbing actions to that area.

257. Both Rob and Billy however disagreed that Billy stabbed Greg in the back immediately after he travelled through the glass security door. It is unclear however given the angle Rob placed himself (prior to entering the lift foyer) whether he saw the commencement of the incident, although he was adamant that he did. I note Counsel Assisting's comment that if Rob's initial view was obscured and he genuinely believed that what he saw when he reached the lobby was Billy being attacked by Greg, rather than Greg responding to Billy's initial attack, this would be consistent with his early statement to Triple Zero and others that Greg had attacked his son.
258. Whilst Bradley's account is consistent with the available physical evidence and provides a good explanation of how the incident first commenced, I am concerned that it is not clearly articulated in Bradley's initial statement to the police which was taken closest to the incident, making such a finding difficult to make to the required standard. As already noted however, his statement is very brief on the activities that took place in the lift foyer and no reconstruction was undertaken.
259. Billy's account of what went on in the lift foyer is unclear, no doubt affected by the extreme nature of the events that took place. For example, he said in his record of interview with police that he stabbed Greg maybe three times but by the time of the inquest ten or more times. In addition, despite having likely caused the severe injury to Greg's forehead, which probably caused the bend in the tip of the knife, he had no memory of when or how the injury occurred. I note that Dr Glengarry referred to the difficulty of not just getting the knife in but *getting the knife out*. No explanation or reference was made to this knife wound by Billy in his record of interview.
260. Billy also described a struggle where the knife was raised up high which necessitated a change in grip, but he couldn't explain how this logically occurred.
261. Counsel Assisting said,

*....., Billy's evidence about the knife being up above his head and Greg's hands suddenly releasing him appeared to be in response to the evidence of Dr Glengarry about the deep, bone-penetrating wound to Greg's head. No such account was ever given by Billy before the inquest. To the contrary, in his ROI he told police that the struggle for the knife occurred near his stomach, with Greg allegedly trying to turn the knife around towards his stomach.*

*Nor did Robert Hamilton ever give, before the inquest, evidence that he saw Billy with his arms above his head against the storeroom door or wall.*

262. I also note that whilst Rob and Billy both said that they witnessed a struggle for Billy's knife, they also gave evidence that neither clearly saw the other stab Greg, which would include the multiple knife wounds caused by Billy.
263. As Counsel Assisting observed, Rob said he saw the whole interaction between Billy and Greg, but that he did not see Billy stab Greg. She submitted that these two statements cannot both be true.
264. On the other hand, Rob's counsel submitted that in *situations like that, people don't know, they ... focus - they have absolute tunnel vision when they feel as if they're under threat. This is a situation of absolute threat.*
265. It is however clear from the Triple Zero call made by Rob that he was aware that the injuries inflicted on Greg were grave and life-threatening even at that early stage, noting that he said in the minutes after the incident,
- He's gunna die....I don't think he's gunna survive....He wouldn't be able to walk, I'm telling you now.*
266. It's difficult to reconcile in these circumstances how Rob would have reached that conclusion without having seen at least some of the injuries Billy inflicted on Greg.
267. I agree with Counsel Assisting that, in circumstances where Rob claimed not to have seen any of his son's actions, and Billy has claimed not to have seen his father's actions this *apparent attempt to assist the other undermines* their credibility.
268. The Coronial Investigator gave evidence that,
- ... I would say from both the evidence of Mr Cruse and I think from Billy's account, that - that the first stab wounds would've been from Billy I think and that it's Robert who comes in. Because by the time Robert says that he stabs him which is ultimately the fatal stab wound, there's already the altercation going on between Billy and Greg.<sup>62</sup>*
269. I agree that the evidence supports the view that the first stab wounds were caused by Billy, although I am unable to say with any certainty what the positioning of Billy and Greg were at the time this occurred for the reason already stated. It is also not possible to know how many sharp force injuries had been inflicted on Greg by Billy, or their positions in the room or relative to each other at the time they were inflicted, before Rob entered the lift foyer.
270. In terms of the knife injuries to Greg's head and in particular the incised wound to the nose, on the basis that neither Rob or Billy suggest that they used a knife to the front of his face whilst he was upright, it may be that Greg was in the process of lowering or raising his head or bending forward at

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<sup>62</sup> T309 L22-27

the time that injury was inflicted, noting the dynamic nature of the incident. Regrettably, there is no available explanation of when the stab wound to the right forehead identified as a severe injury was likely inflicted by Billy.

271. In my view, most of the stab wounds to Greg's back are likely to have been inflicted when Greg was in a bended or lowered position. This is consistent with Greg having stumbled forward as Bradley suggested, at least in the beginning. It is consistent with knife wounds being inflicted on his back and neck whilst Billy was in front of him, if Greg was in a bended position. I do not accept that Billy could have reached over Greg's head from the front and inflicted the wounds on Greg's back, given the difference in their height, as he suggested. Greg may also have been protecting his facial area from the knife injuries, noting he was unarmed. Another reason for his lowered position might be that Greg was suffering the effects of the lethal wound to his chest as well as the multiple stab wounds to his back, as they accumulated.
272. This positioning is also consistent with Billy's evidence where he describes Greg as crouching, all over him and then when pressed at inquest said, *I don't know what he was doing, he was just - ..., just there.*

## CONCLUSION

273. Greg and Bradley entered the basement of the apartment complex on 26 June 2021 with the intention of taking expensive items, including bicycles. They brought tools for this purpose and appeared to have some familiarity with this type of offending, including what they were likely to find. They did not take weapons, and I suspect, given the time of day and the area of the building they entered, they did not expect to come into contact with residents.
274. Rob and Billy lived in the apartment complex, which Rob had built, with a number of other relatives. After hearing noises in the basement, Billy woke his father and they each carried a knife from the kitchen and went to investigate the source of the noise. They were concerned that the glass security door between the lift foyer and carpark may not have been properly latched allowing intruders access to the whole building. There was no phone reception in the basement of the apartment complex. The evidence is that Rob had the knife with a slightly wider blade but both knives were approximately 20cm in length. It was Billy's idea to take the knives and he gave one to his father.
275. Billy said of the knives, *I didn't fully think about it, I just grabbed it to be honest.* He had never armed himself with a knife before. Similarly, his father said he didn't give much thought to taking the knife which was handed to him by his son as he walked out the door, as he was intent on going to the basement without delay.
276. It is apparent from the evidence that after the four met in the basement, it was obvious that Greg and Bradley were in the process of stealing bicycles and did not know anyone in the apartment complex,

as they initially claimed. It is also apparent that Rob and Billy wanted the intruders to wait for police to attend so they could be apprehended and dealt with by the law.

277. To be clear, I do not condone the actions of Greg or Bradley that evening. Nor does Greg's family. Nor does Bradley, who candidly said that they should have stayed down when requested by Rob and waited for police. And further, he later described the action of Greg going through the glass security door to the lift foyer as a *mistake*.
278. In addition, it is without question that people are entitled to be safe in their own homes without the prospect of intruders coming into and violating their space.
279. The investigation demonstrated the differing perspectives on the events of that evening.
280. I have no doubt that Rob and Billy held a genuine belief that the circumstances were unpredictable, that Greg and Bradley may have had weapons, and their safety was at risk.
281. Rob said that the situation *went from zero to 100 real quick* and he was scared to move off where he was standing, as he thought the intruders may attack him. He said he feared for their lives in those moments, that he had never felt anything like that before, that he did not want to kill Greg, and he was just protecting his son. Billy described how he was young and acted as a result of fear, shock and *adrenaline*.
282. I also have no doubt that from Bradley's perspective, he and Greg were only present to steal from the basement, they had no intention or desire to come across any person, and just wanted to leave after being confronted.
283. The situation however went horribly wrong resulting in the death of a person in circumstances of extreme violence with devastating and long lasting consequences for many but in particular Greg's mother, father and brother.
284. I have formed the view, as already detailed, that Greg entered the lift foyer to try and find an escape and there is insufficient evidence to suggest that he struggled for the knife or indeed offered active resistance whilst the knives were being used to injure him. There is no evidence that at any stage Greg had the knife. In addition, Greg did not cause any injuries to either Billy or Rob. The cut on Billy's arm was most likely accidentally inflicted, as Billy himself said in his earliest description of events.
285. Greg was stabbed first by Billy and then by Rob. Between them they inflicted 14 knife injuries. The wound to the back of the neck and the wound to Greg's forehead were likely inflicted by Billy and the fatal wound more likely inflicted by Rob. Rob inflicted multiple blunt force injuries to Greg's face after the stab wounds were inflicted. And according to Rob, once the weapons were on the

ground, he punched Greg four times, including the final two punches *to put him down*. This was despite his representations to Triple Zero minutes later that Greg was *gunna die*.

286. The jurisdiction of the Coroners Court is directed at prevention. In general terms, a coroner looks for systemic issues in order to make recommendations to prevent future loss of life. This case does not deal with systemic issues however Greg's death was clearly preventable. Having said that, it is common ground that Greg and Bradley should not have been in the basement that night.
287. It is clear that the decision to carry large kitchen knives, in response to the possible presence of intruders, on their own evidence, was not well considered. Both Rob and Billy admitted that they gave little to no thought to carrying knives in such a situation. It is of great concern that it was not a considered decision, especially in circumstances where one of the knives caused Greg's death.
288. Other options – not involving arming themselves with knives – were available. One of those options was to call police. There is no evidence in this case that police would not have attended if they had been called on 26 June 2021. Nor is there evidence that Greg and Bradley planned to gain entry to the residential area of the apartment complex.
289. It is apparent from the evidence that there were no other weapons at the scene and all stab injuries were caused by the knives brought to the basement by Rob and Billy. It is also evident as submitted by Counsel Assisting that the presence of knives at the scene significantly increased the risk that someone would be injured or killed and that risk tragically eventuated for Greg.

## **FINDINGS**

290. Pursuant to section 67(1) of the Act I find as follows:
- (a) the identity of the deceased was Gregory George Piperidis born on 15 July 1974;
  - (b) Gregory George Piperidis died on 26 June 2021 at Alfred Hospital, 55 Commercial Road, Melbourne, Victoria, from *1(a) Stab Wound of the Chest and Abdomen*; and
  - (c) the death occurred in the circumstances described above.
291. I find that Robert Hamilton caused the death of Gregory Piperidis on 26 June 2021 by a stab wound to Greg's right chest. The injury was inflicted by a kitchen knife he took from his apartment.
292. I again convey my sincere condolences to Greg's family for their loss and acknowledge the traumatic circumstances in which his passing occurred.

## ORDERS

Pursuant to section 73(1B) of the Act, I order that this finding be published on the Coroners Court of Victoria website in accordance with the rules.

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

George & Despina Piperidis, Senior Next of Kin

Robert Hamilton

Billy Hamilton

M.P. Lanza Lawyers for Robert Hamilton

Detective Leading Senior Constable Leigh Smyth, Coroner's Investigator, Victoria Police

Signature:



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**SARAH GEBERT**

Date: 6 November 2024

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NOTE: Under section 83 of the *Coroners Act 2008* ('the Act'), a person with sufficient interest in an investigation may appeal to the Trial Division of the Supreme Court against the findings of a coroner in respect of a death after an investigation. An appeal must be made within 6 months after the day on which the determination is made, unless the Supreme Court grants leave to appeal out of time under section 86 of the Act.

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