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**JURISDICTION** : CORONER'S COURT OF WESTERN AUSTRALIA  
**ACT** : CORONERS ACT 1996  
**CORONER** : SARAH HELEN LINTON  
**HEARD** : 10-13 AUGUST 2020  
**DELIVERED** : 18 AUGUST 2020  
**FILE NO/S** : CORC 1555 of 2017  
**DECEASED** : JACKSON, JESSICA LESLEY

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**Catchwords:**

Nil

**Legislation:**

*Combat Sports Act 1987 (WA)*  
*Combat Sports Regulations 2004 (WA)*  
*Coroners Act 1996 (WA)*

**Counsel Appearing:**

Mr B Nelson assisting the Coroner.  
Mr G Cridland appeared on behalf of Darren Curovic.  
Ms D Underwood together with Mr M Olds (SSO) appeared on behalf of the Department of Local Government, Sport and Cultural Industries.

Coroners Act 1996

(Section 26(1))

## RECORD OF INVESTIGATION INTO DEATH

*I, Sarah Helen Linton, Coroner, having investigated the death of Jessica Lesley JACKSON with an inquest held at the Perth Coroners Court on 10 March 2020 to 13 March 2020, find that the identity of the deceased person was Jessica Lesley JACKSON and that death occurred on 14 November 2017 at Fiona Stanley Hospital from multi-organ failure due to the combined effects of environmental exposure (hyperthermia) and dehydration in the following circumstances:*

### TABLE OF CONTENTS

INTRODUCTION .....	3
BACKGROUND .....	5
FITNESS CERTIFICATE .....	17
THE LAST WEEK – WATER LOADING AND CUTTING.....	20
THE DAY OF THE WEIGH-IN .....	27
MEDICAL TREATMENT .....	32
CAUSE AND MANNER OF DEATH .....	33
KNOWN DANGERS OF WEIGHT CUTTING .....	34
Dr Golden.....	34
Curtin University Report.....	39
Sharron Lindsay.....	40
Darren Curovic.....	42
AMA .....	42
Anecdotal Experience .....	43
WEIGHT CUTTING FOR FEMALE FIGHTERS.....	44
COMBAT SPORTS COMMISSION'S ROLE .....	47
NEW CONTESTANT WEIGHT CUTTING STRATEGY.....	48
COMMENTS ON THE NEW STRATEGY AND ALTERNATIVES .....	55
Dr Golden.....	55
Sharron Lindsay.....	59
Darren Curovic.....	62
Jordan Godtfredsen .....	63
Caley Reece.....	65
Other issue.....	65
CONCLUSION .....	66
<b>Recommendation No. 1 .....</b>	<b>68</b>
<b>Recommendation No. 2 .....</b>	<b>70</b>

## INTRODUCTION

1. Jessica Jackson, known to her family as Jess,<sup>1</sup> was an 18 year old young woman who was training for an amateur Muay Thai contest in late 2017. In order to meet her chosen weight category for the fight, Jess had to lose a significant amount of weight in two months. She embarked on an intensive diet and training regime to achieve this.
2. Despite everything she had done in the lead-up, on the morning of her weigh-in (the day before the contest) Jess was still about 2 kg over the weight limit. She set out to try to lose the remaining weight before the weigh-in that afternoon, which would be achieved almost solely through dehydration. This process is known as weight cutting.
3. Jess did not drink any water that day, sat in a sauna and a hot car, had hot baths and trained at her gym. She was training inside the gym and sometimes outside the gym in the heat of the day. During this process she continued to weigh herself but each time she stepped on the scales she found she still had weight to lose. Despite her exhaustion, Jess kept going as she was determined to ‘make weight.’
4. At some stage Jess went outside to run again. She was dressed in a full body sweat suit and beanie, although it was around 30°C outside.<sup>2</sup> After running for a short time Jess collapsed and became unresponsive. She was rushed by ambulance to hospital but, despite treatment, she died from multi-organ failure due to the combined effects of hyperthermia (overheating) and dehydration.
5. Jess’ mother, Ms Sharron Lindsay,<sup>3</sup> wrote to the State Coroner on 21 December 2017, not long after Jess’ sudden death. While still in the early stages of grief over the sudden loss of her beloved daughter, Sharron was focussed on promoting change to the combat sports industry to prevent a similar death from occurring. She requested a full coronial inquiry be conducted into Jess’ death.
6. At the time of considering Sharron’s request the full details of the weight cutting regime that Jess underwent was unclear as many witnesses did not consent to provide a statement to the police who were conducting the coronial investigation. It was also unclear from the available information how much Jess understood about the dangers of the process she had

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<sup>1</sup> And at the request of her family, referred to as Jess during the inquest and in this finding- T 2.

<sup>2</sup> Exhibit 1, Tab 8.

<sup>3</sup> Who has indicated she would prefer to be referred to as Sharron in this finding.

embarked upon. Pursuant to s 22(2) of the *Coroners Act 1996* (WA) I determined that it was desirable to hold an inquest into Jess' death, to obtain more information. The inquest was held on 10 to 13 March 2020.

7. During the inquest I heard evidence from many of the people involved in Jess' Muay Thai training and/or had contact with her around that time. They gave evidence about what techniques Jess was using to try to lose weight for her fight. It is clear that Jess believed she was in control of the situation and did not appreciate she was in mortal danger, right up until the moment she collapsed and died.
8. Jess' death has highlighted the dangers of weight cutting by dehydration, which appear to be known but generally disregarded in the sport as the practice is so common. There are currently 850 Muay Thai participants registered with the Commission, out of approximately 1300 for all combat sports, so it is clear that it is a popular sport in this State.<sup>4</sup> Muay Thai has received provisional recognition as an Olympic sport, and may be included in the 2024 Olympics, so it is important that any dangerous practices associated with the sport are regulated and monitored as participation is likely to increase even more.
9. Further, weight cutting is a practice engaged in not only for Muay Thai fights, but also other combat sports and in horse racing, so it has wider implications for the Australian community if the dangers are not widely known and counselled against. It is no longer acceptable for people to turn a blind eye to these practices.
10. I received into evidence a lot of material about weight cutting in the sport of Muay Thai and how the issue is being addressed by the Combat Sports Commission, which is the body responsible for the safety and organisation of combat sports in this State. I also heard evidence from witnesses about suggestions for what further changes could be made to improve the safety of the sport in that area. Submissions were also received from some interested parties after the inquest to assist me further in understanding the issues involved and the arguments for and against certain options for preventing weight cutting by acute water loss.
11. I hope that this inquest has provided an opportunity to all of those involved in Muay Thai in Western Australia to reflect on their current practices and the need for change. I have listened to the evidence of the people in the industry as to how they think that change can be achieved, as it is important the people participating in the sport embrace the new practices

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<sup>4</sup> T 341.

rather than simply continue their usual practices in a less open way. It is particularly important that the owners of the Muay Thai gyms and their trainers agree together to work with those who regulate the industry, the Combat Sports Commission, to make real cultural change, as they are the people who will be guiding the next generation of young people who take up the sport.

12. I have also listened closely to Jess' family, as they understand best the terrible consequences that can flow from failing to protect and guide young people, who have such faith in their bodies that they often seem to believe they are invincible until it is too late.

### **BACKGROUND**

13. Jess was born in Queensland but moved to Western Australia when she was a baby. She was the older of two children. Her parents separated when Jess was about 12 years old and from that time she lived with her mother Sharron and younger sister Grace.
14. Jess had suffered Bell's palsy when she was younger but it had successfully been treated and she had no known medical conditions and was not prescribed any medications at the time of her death. Jess had been in a long-term relationship for over a year and was studying a Bachelor of Arts degree with a double-major in global politics and security, terrorism and counter-terrorism at Murdoch University. She was also working part-time at a sports store and wrote a fitness blog. Jess was described as very intelligent, hardworking and respectful of others.<sup>5</sup> Importantly in this inquest, Jess was also described by her mother as very determined, "very eager to please"<sup>6</sup> and someone who wanted to "be the best that she could be."<sup>7</sup>
15. Jess trained in Muay Thai kick boxing in her spare time and she had developed a passion for the sport. She had been participating in the sport for about three years and attended the Kao Sok Muay Thai Gym in Forrestdale. Jess put the same dedication and determination into her kick boxing as she did to the rest of her life. She was not known to have ever injured herself or collapsed in training prior to her death, but there is no doubt she pushed herself hard even though she was an amateur.

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<sup>5</sup> T 11.

<sup>6</sup> T 11.

<sup>7</sup> T 11.

16. Jess and her sister both trained as fighters at Kao Sok gym and her mother Sharron was also generally present at the gym for her own fitness training. Jess had competed in one prior fight in March 2016, which she won.<sup>8</sup> Another woman who had befriended Jess and Sharron at the gym, Natalie Cooke, trained with Jess in early 2016 as they both approached their first fights. Their training and weight loss regimes were supervised by Natalie's partner and Jess' regular trainer, Suphachok Tatong, who is generally known by the nickname 'Rhino'.<sup>9</sup>
17. Both Jess and Natalie were put on a diet and encouraged to eat a little less and cleaner, as well as to take up running. The technique of water loading was apparently used by some fighters in the gym at that time but Natalie and Jess did not undertake it for their fights in early 2016. They focussed more on a restricted diet and increased exercise. They also both used a sweatsuit in the last week of training.<sup>10</sup>
18. Natalie recalled that Jess took the week prior to her fight off university so she could focus on training. They both ate a restricted diet and limited their water intake that week, but still continued to drink water. Natalie recalls that Jess did well following the training and they supported each other to keep on track. During the last few days before weigh-in they reduced their water intake further but drank enough not to be dehydrated. On the last day prior to her weigh-in, Jess did not eat or drink and she put on her sweatsuit and walked around her neighbourhood. Jess reached her goal weight of about 61 kg, which Natalie believed was only a few kilograms less than her usual training weight of about 65kg to 66kg. Having successfully 'met weight', Jess participated in the contest and won her fight.<sup>11</sup> She was ecstatic after the fight and "had the winner's grin."
19. Jess' first experience of preparing for, and participating in, a fight was, therefore, challenging but rewarding. She appears to have had good support and supervision throughout the process and the evidence indicates she did not struggle too much to lose the desired weight, although it was, of course, still an arduous process.<sup>12</sup>
20. After April 2016, Jess began to date another fighter from the gym and she became more involved with a younger group of fighters. She no longer trained with Natalie Cooke and Rhino, who both left the Kao Sok gym in October 2016. This meant that when Jess began training for her second

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<sup>8</sup> Exhibit 1, Tab 9 and Tab 12.

<sup>9</sup> T 12 -13; Exhibit 1, Tab 38.

<sup>10</sup> Exhibit 1, Tab 38.

<sup>11</sup> Exhibit 1, Tab 38.

<sup>12</sup> T 37 – 42.

fight the following year, she did so with different people supporting her and perhaps people with a different mindset towards pre-fight training.<sup>13</sup>

21. Jess' mother Sharron certainly noticed that her weight cutting regime was very different the second time, as compared to the first time. Sharron noted that Jess was older by this time and more capable of having her own conversations and managing her own commitments, so she appears to have sought less support from others.<sup>14</sup>
22. On 12 August 2017 at an interclub sparring day, Darren Curovic, the owner of the Kao Sok gym, recalls that Sharron told him that Jess was interested in participating in another fight. Darren had not personally trained Jess but knew her as a fighter at the gym and said he considered her a friend.<sup>15</sup>
23. Mr Curovic explained that the gym owner/trainers generally ask the fighter or their parents what weight they want to fight at and when they want to fight. If everyone agrees with the chosen weight and time frame, then the gym owner/trainers will submit the fighter's name, age, fight experience and chosen weight for the fight to a promoter (who is also usually the match maker). The promoter/match maker will then look for a suitable opponent with the same weight and similar fight experience.<sup>16</sup>
24. Once a potential match is identified, this information is given to the gym owner/trainers with the conditions of the potential match (opponent's name, age, experience, training gym, weigh limit) and date of the promotion. This information is passed back on to the fighter and/or their parents and if all agree, then the promotor/match maker is notified and the fight is confirmed.<sup>17</sup>
25. On this occasion, Mr Curovic recalls that Sharron had asked if Jess could fight at their promotion 'Domination', which was to be held at the end of October. Mr Curovic said that he asked what weight Jess would want to fight at and Sharron indicated 63.5 kg. Mr Curovic gave evidence he countered with a suggestion that Jess fight at 66 to 68 kg, as he understood her weight was around 75 kg at the time. He knew this as that was the weight that Jess had been registered for the match that day and he believed would reflect her usual 'walk around weight' at that time. Mr Curovic said he also knew it would be Jess' first fight for some time and he thought she

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<sup>13</sup> Exhibit 1, Tab 38.

<sup>14</sup> T 13 - 14.

<sup>15</sup> T 146.

<sup>16</sup> Exhibit 1, Tab 12.

<sup>17</sup> Exhibit 1, Tab 12.

might want the higher weight category “to make it a bit easier on herself.”<sup>18</sup> However, he recalled Sharron said, “No, no, we want 63.5 because her first fight was 61 kilos and there’s plenty of time.”<sup>19</sup>

26. It may seem curious to make such a choice, but it was explained at the inquest that as well as potentially giving Jess an advantage if she could drop weight and then regain some of it, she may also have been concerned about fighting in a higher weight category as she may have ended up with a bigger, taller opponent as a result.<sup>20</sup>
27. Mr Curovic said he wasn’t concerned it would be unsafe or dangerous for Jess to choose the lighter weight category, he just knew that she would have to be more strict with her diet and training and he felt it would be a lot more onerous task for her. However, he still believed the amount she was choosing to lose was “quite easily done.”<sup>21</sup>
28. Mr Curovic gave evidence Jess had not found a match at the interclub sparring day and he was struggling to find a match for her for his upcoming promotion. However, around that time another promotor, Caley Reece, sent out a message advising she was organising an amateur show on 11 November 2017 and querying whether he had any fighters that might be interested in participating. Mr Curovic sent through a list of fighters from his gym, including Jess as he thought she would be keen given he was unable to find a match for her in his promotion.<sup>22</sup>
29. On 6 September 2017 Jess apparently signed herself up for an upcoming sparring day with a weight of 69 kg.<sup>23</sup> Mr Curovic sent his text message about Jess to Ms Reece two days later, on 8 September 2017, indicating Jess’ age and the fact she had been in one fight, which she won, and wished to fight at 63.5 kg.<sup>24</sup>
30. On 13 September 2017 Jess was offered a fight in Ms Reece’s promotion at 64 kg. Jess agreed to participate in the 64 kg sanctioned fight, which was scheduled for 11 November 2017.<sup>25</sup> Ms Reece, who is a former fighter and now co-owner of a gym, was both the matchmaker and promotor for the scheduled fight.<sup>26</sup> Ms Reece had matched Jess with a female fighter

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<sup>18</sup> T 116.

<sup>19</sup> T 115.

<sup>20</sup> T 177.

<sup>21</sup> T 119.

<sup>22</sup> T 117.

<sup>23</sup> T 143 – 144; Exhibit 1, Tab 12B.

<sup>24</sup> Exhibit 1, Tab 12C.

<sup>25</sup> T 120.

<sup>26</sup> Exhibit 1, Tab 6 and Tab 9 and Tab 12.

from her gym. Ms Reece explained the matching is done with the weights nominated by the gym trainers, together with the experience of the fighters, with the aim being to match them as evenly as possible. Ms Reece did not know Jess and was unaware of how much weight she might have to lose prior to the fight to reach the nominated weight.<sup>27</sup>

31. Based on her weight at that time, if it is assumed she was at least 69 kg, Jess still had a significant amount of weight to lose before the weigh-in to meet the 63.5 kg weight, in the order of at least 5 kg.<sup>28</sup> This must be considered in the context that she was already an active, athletic young woman, so it is reasonable to assume it was going to be a challenge to lose that kind of weight in two months. Further, other evidence suggests Jess weighed significantly more than 69 kg at that time, so her task was going to be that much harder.
32. One of Jess' friends, Lora Van den Berg, who trained at the same gym, described it as a "ridiculous amount of weight"<sup>29</sup> to have to lose. I note there was evidence from other witnesses that some male fighters can lose significantly more before a professional fight, but in this case Jess was an amateur, and a still developing young woman. Ms Van den Berg approached Jess' weight loss plan with the mindset of a mother and said she was genuinely concerned for Jess' wellbeing. Ms Van den Berg and some other mothers at the gym apparently told Jess it was unrealistic to lose that amount of weight in the short amount of time available and suggested to her it was not healthy and not worth it.<sup>30</sup> However, it seems Jess felt it was possible and worthwhile to attempt it. I note that she had previously fought at a slightly lower weight, and this might have been a factor in Jess' mindset that 63.5 kg was achievable.
33. Jess slowly went back into training. She initially trained three times a week, with each training session lasting about three hours. After a couple of weeks she increased her training to four to five times a week. The training consisted of running, skipping, bag work, pad work with a trainer, sparring and grappling kicks. Jess trained around her university and work commitments, often not finishing her training until 8.00 pm at night.<sup>31</sup> Jess trained on her own or in the group fighters' class. She did not have any one on one sessions with the gym trainers.<sup>32</sup> Unlike on the previous occasion she also does not appear to have had a close training partner or

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<sup>27</sup> T 226 - 227; Exhibit 1, Tab 15.

<sup>28</sup> Exhibit 1, Tab 9 [11].

<sup>29</sup> Exhibit 1, Tab 37 [13].

<sup>30</sup> Exhibit 1, Tab 37 [14].

<sup>31</sup> Exhibit 1, Tab 9.

<sup>32</sup> Exhibit 1, Tab 12.

close supervision by a trainer, so Jess was managing her training programme on her own.

34. As well as intensive physical training, Jess ate a strict diet. She cut out sugars and salts and initially ate proteins and rice, as well as green vegetables and nuts. She also bought a tin of protein powder but she didn't use much of it, and cut it out entirely in the last week of her training.<sup>33</sup> Sharron recalls that Jess's diet was much more restricted this time and she was very focussed on not deviating from it. Sharron believes Jess had received some advice from another fighter to only eat brown rice, chicken and broccoli and she followed that advice closely.<sup>34</sup>
35. After three weeks of this regime Jess became a bit frustrated and despondent as she began to think that she would not be able to lose the required weight in the time available. Around this time, Sharron's mother advised that Jess spoke to Jordan Godtfredsen, a professional fighter who trained at the same gym. Mr Godtfredsen spoke to Jess about water loading, which is a weight cutting technique that involves drinking a large amount of water initially in order to trick the body into flushing more water at the end.<sup>35</sup>
36. Mr Godtfredsen gave evidence at the inquest and confirmed he is a fighter registered with the Combat Sports Commission and he has been training at the Kao Sok gym for his entire fighting career, which spans more than 14 years. He started as a junior at around 13 years of age. Mr Godtfredsen gave evidence that he generally fought at his natural weight for the first few years when competing, and only began to weight cut for fights from the age of about 17 years.<sup>36</sup> Now, as a professional fighter, he would generally weight cut for most fights.<sup>37</sup>
37. Mr Godtfredsen gave evidence that once he is booked for a bout he will be very, very strict with his diet and train regularly. He will eat well, take vitamins and protein supplements and drink amino acids (BCAA's) in the lead-up, and then as the fight date gets closer he will eat leaner. After starting his preparation at about eight weeks out, then following this strict regime for four to six weeks, he will check his weight at the start of the last week to determine whether he needs to utilise other strategies such as

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<sup>33</sup> Exhibit 1, Tab 9.

<sup>34</sup> T 15 - 16.

<sup>35</sup> T 16; Exhibit 1, Tab 9 [23] – [24].

<sup>36</sup> T 150.

<sup>37</sup> T 150 – 151.

water-loading, as well as undertaking a bit of dehydration in the last couple of days to get the last couple of kilos off if necessary.<sup>38</sup>

38. In terms of the water-loading strategy or method, Mr Godtfredsen explained that he follows a five day programme that he learnt about from an online article by the UFC professional fighter Georges St-Pierre. He explained that the technique tricks the body into urinating more.<sup>39</sup> Mr Godtfredsen indicated that he will listen to his body and adjust the volumes he drinks rather than following set amounts slavishly. He will also still drink water on the last day and will still have breakfast on the weigh-in day.<sup>40</sup> Mr Godtfredsen agreed that the process of weight cutting, even using this method, was still difficult, but he gave evidence he had never fainted or collapsed or been hospitalised when weight cutting. When he was younger and less experienced in the weight cutting process, Mr Godtfredsen said he had not prepared his body as well and used a larger method of dehydration, which had been much harder on his body, but he had learnt over time to make sure he eats well and prepares himself over a longer period of time.<sup>41</sup> Mr Godtfredsen gave evidence he is a naturally skinny and light person and he has never failed to make weight for a fight.<sup>42</sup>
39. Mr Godtfredsen said he preferred to use this method of water loading and a small amount of dehydration in preference to other methods involving sauna suits and the like, although he did indicate he used saunas and hot water salt baths for relaxation and muscle recovery rather than weight loss.<sup>43</sup> Mr Godtfredsen indicated he found using a sauna suit uncomfortable, particularly if used outside in the hot sun. He gave evidence that the only person he had seen wearing such a suit to train, other than in the last week before a fight, was Jess, who he saw training in such a suit up to four to five weeks out.<sup>44</sup>
40. It was clear from his evidence that Mr Godtfredsen had put time into educating himself and researching weight loss methods. He indicated he had consulted a nutritionist and pharmacist and he had been sponsored for a time by a supplements store, whose staff also provided advice.<sup>45</sup> Mr Godtfredsen agreed that he had discussed the information he had

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<sup>38</sup> T 151 - 152.

<sup>39</sup> T 152 - 153.

<sup>40</sup> T 153.

<sup>41</sup> T 156 - 157.

<sup>42</sup> T 160 - 161.

<sup>43</sup> T 154 - 155.

<sup>44</sup> T 154 - 155.

<sup>45</sup> T 158 - 159.

obtained from the article about water loading, and his adapted methods following that, with other members of Kao Sok gym, including Jess.<sup>46</sup>

41. Mr Godtfredsen recalled that he spoke to Jess a number of times in the lead up to her planned fight in November, starting at about six weeks out from the fight. In their first conversation, which took place at the gym with Jess and her mother, Jess appeared to be excited about the upcoming fight and she told Mr Godtfredsen that the weight set for the fight was 63.5 kg. Mr Godtfredsen gave evidence that he didn't know exactly how much Jess weighed at the time but just by looking at her, he "definitely thought it was way too low."<sup>47</sup> Mr Godtfredsen said he made his opinion "very clear to her"<sup>48</sup> by talking to Jess and her mother about the death of Jordan Coe, which I discuss more below, and his view that "[w]eight cutting was very, very dangerous."<sup>49</sup> Mr Godtfredsen's evidence was that Jess was insistent. She noted she had fought at a lighter weight in the year before and she felt she still had a long time to lose the weight and would be fine. Mr Godtfredsen suggested to Jess that she should speak to Darren Curovic to see if she could get the weight up, noting it was only an amateur fight in pads and she should be aiming in her training to be the fittest she could be, rather than having to focus on getting down to a certain weight. In Mr Godtfredsen's words, at that level of fighting the aim should be "to compete and do a good job at it, do it safely, do it well, and to win, not to get to a weight."<sup>50</sup>
42. Mr Godtfredsen said that after this conversation, he did not think Jess was going to make weight, noting that he fights in exactly the same weight category and had a very good idea of where she needed to be to make it.<sup>51</sup> Mr Godtfredsen said he discussed his views with some of his fellow training partners at the gym and Komkit Chanawong, a trainer at the gym known as 'Jack', telling them he thought the weight category Jess was aiming for was too light and it was going to be too hard for her to do it and she wouldn't make it.<sup>52</sup>
43. Mr Godtfredsen gave evidence he spoke to Jess and her mother again about four weeks out from the fight. He asked her how she was looking and she said it was not going to be easy and joked about it. He again suggested she should talk to someone to try to get the weight limit

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<sup>46</sup> T 153.

<sup>47</sup> T 162.

<sup>48</sup> T 162.

<sup>49</sup> T 162.

<sup>50</sup> T 163.

<sup>51</sup> T 165.

<sup>52</sup> T 165.

increased.<sup>53</sup> By this time he had seen her in a sweatsuit for a couple of weeks and he had thought to himself that he would hate to be doing that. However, he hadn't discussed his view with Jess as she felt that she knew what she was doing and he didn't feel it was his place to comment. Mr Godtfredsen then noted Jess wasn't training at the gym and he assumed she was training somewhere else. He noticed Jess returned to the gym to train in the last couple of weeks before her fight and they trained together at times. Mr Godtfredsen felt her training was good and she looked strong but he was still concerned about her weight target.<sup>54</sup>

44. Mr Godtfredsen gave evidence he spoke some time later with Mr Curovic, approximately 10 days out from Jess' fight. Mr Godtfredsen told Mr Curovic he thought the weight Jess was trying to achieve was "too unachievable"<sup>55</sup> and suggested that he might want to have a chat to her about bringing the weight up. Mr Godtfredsen also told Mr Curovic he had mentioned this to Jess already.<sup>56</sup>
45. A week out from Jess' fight, she had another conversation with Mr Godtfredsen, during which they discussed the water-loading method. Jess had brought the topic up with Mr Godtfredsen at the suggestion of Mr Curovic.<sup>57</sup> Mr Godtfredsen recalled that Jess already had some information about the technique and she wanted to ask him what he thought about it and how he had previously done it. Jess confirmed at the time that she had asked for the weight limit to be increased, as he had suggested, but she still needed to attempt water-loading to get to the new weight.<sup>58</sup>
46. It is relevant to note at this stage that an experienced female fighter gave evidence at the inquest that she had attempted the water loading method in the past and not achieved the desired results.<sup>59</sup> I will come back to this issue later, but there was certainly evidence that female athletes' bodies might respond differently to such a training method. Sharron gave evidence that Jess "was aware that water loading is different for females as it is to males"<sup>60</sup> but it is unclear how much she knew about that difference. The evidence indicates the advice and programme Jess adopted came from a male fighter and there is nothing to suggest she altered it on

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<sup>53</sup> T 166.

<sup>54</sup> T 167 - 168.

<sup>55</sup> T 166.

<sup>56</sup> T 169.

<sup>57</sup> T 164 - 165.

<sup>58</sup> T 166.

<sup>59</sup> T 231.

<sup>60</sup> T 30.

the basis of her gender difference. Instead, Jess apparently felt confident after her conversation with Mr Godtfredsen that if she followed the program she would get the result she needed, as it had worked for him.<sup>61</sup>

47. Mr Godtfredsen and Jess also had a discussion about diet, and he said he suggested that she should try to eat lean meats and vegetables and gave her some alternatives to bread and things of that nature. He denied he suggested she eat brown rice, as it is not something he eats. He could not recall what Jess said she was eating at that time.<sup>62</sup> Mr Godtfredsen gave evidence that he didn't really see Jess in her final week of training, so he was unaware how her final week of weight loss went.<sup>63</sup>
48. Mr Curovic confirmed that Jess told him that she was going to do the water loading method to cut weight for the fight.<sup>64</sup> Mr Curovic indicated that this method of cutting weight is common practice in the combat sports industry and has been used by fighters around the world for many years. Mr Curovic suggested that members of Combat Sports Commissions, medical practitioners, gym owners and trainers are all aware of the practice and it is not uncommon for fighters in the combat sports industry to lose up to 15 kg or more in the few days leading up to the weigh-in. The fighters then put all the weight back on in the 24 hour period.<sup>65</sup>
49. Mr Curovic suggested that fighters predominantly use weight cutting in an attempt to gain a size advantage over their opponent or to match the opponent who may be using the same method, so that they are not the smaller or lighter of the two fighters in the fight. He indicated the smaller and lighter fighter is in a more dangerous position, so having a size advantage, or at least a matching size, is very important.<sup>66</sup> Mr Godtfredsen agreed that a kilogram or two can still be very noticeable in a fight, particularly when the fighters are grappling, and in his experience it can be "the difference between a win and a lose."<sup>67</sup> In his opinion, you want to be around the same weight as the opponent.
50. Mr Curovic indicated that the Kao Sok gym policy leading up to a fight is for the fighter to train four to five times a week and to rest on the other days. They also recommend fighters eat a balanced diet and cut out junk food and alcohol in the lead up to a fight.<sup>68</sup> The gym policy does not

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<sup>61</sup> T 16 - 17.

<sup>62</sup> T 168.

<sup>63</sup> T 168 - 169.

<sup>64</sup> T 121.

<sup>65</sup> Exhibit 1, Tab 12.

<sup>66</sup> Exhibit 1, Tab 12.

<sup>67</sup> T 174.

<sup>68</sup> Exhibit 1, Tab 12.

include water loading. Mr Curovic said that he suggested to Jess that she talk to Mr Godtfredsen if she was going to attempt it, which we know she then did.<sup>69</sup>

51. In terms of its safety as a practice, Mr Curovic acknowledged that there is “no safe practice in cutting weight”<sup>70</sup> but he gave evidence at the inquest that he thought water loading “was the safest way possible to lose weight.”<sup>71</sup> He explained that his understanding was that it was more dangerous to try to sweat out all the weight and being dehydrated and undernourished the whole week.<sup>72</sup> With water loading, Mr Curovic said, “[y]ou’re full of fluids all week, full of food. You’re nourished with food and water all the way through and even on the last day you’re still sipping ... or chewing ice and ... you lose most of it through urine not through sweat.”<sup>73</sup>
52. Mr Curovic also referred in his evidence to a recent seminar he had attended run by the Combat Sports Commission, where a fight dietitian purportedly referred to water loading as “the safest of unsafe methods.”<sup>74</sup> Mr Godtfredsen agreed with this description, and said he thought it was the safest thing for Jess to do, given she was still determined to try to lose the weight. He had understood that for her previous fight she had been told to eat five grapes a day and not drink water, although there is no other evidence to this effect. Nevertheless, with that belief in his mind, he felt water loading would be a safer option, knowing how hard it would be for her to lose the weight she needed.<sup>75</sup>
53. I note Mr Curovic’s description of the water loading process does not match the regime that Jess appears to have attempted. She did not seem well nourished with food and water, did not take in water at all on the last day, and she was certainly still very focussed on losing weight through sweat. Mr Curovic agreed that a person using the water loading method might still try to sweat after the urination part of the process had finished, if they still had more weight to lose.<sup>76</sup> He had never done it himself, so he was not certain of the finer details.<sup>77</sup>

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<sup>69</sup> Exhibit 1, Tab 12.

<sup>70</sup> T 123.

<sup>71</sup> T 121.

<sup>72</sup> T 123.

<sup>73</sup> T 122.

<sup>74</sup> T 124.

<sup>75</sup> T 173.

<sup>76</sup> T 123.

<sup>77</sup> T 127.

54. Mr Godtfredsen’s description of the process did include use of a sauna or a sauna suit or other methods of dehydration if he needed to lose the final bit of weight on the last day or two, after finishing the water loading. However, he indicated he would not have been training at the same time. Mr Godtfredsen gave evidence he didn’t like to exercise a lot in the last couple of days as he wanted to preserve his energy and not put his body and muscles under stress.<sup>78</sup> He also said if he had to put on a sauna suit, he would do it indoors only and not out in the hot sun.<sup>79</sup>
55. Mr Curovic acknowledged he was aware of a previous death in Thailand of Jordan Coe, a young male fighter who died earlier in 2017. Based on news reports, Mr Coe also appears to have died of heatstroke due to dehydration while training in a sauna suit outside in the heat in Thailand. Mr Curovic said it wasn’t reported whether Mr Coe was using water loading as part of his weight loss method,<sup>80</sup> but I note there is information available on the internet that suggests he had at least used it in the past.<sup>81</sup> Mr Godtfredsen recalled Mr Coe’s death was “a big thing at the time,”<sup>82</sup> so it would appear the risk of heatstroke while weight cutting was a topic of discussion in the sport in Western Australia in 2017.
56. Komkit (Jack) Chanawong was a trainer at the Kao Sok gym at the relevant time and he confirmed that none of the trainers at the gym provided advice on weight cutting or water loading. The general evidence indicated that Muay Thai fighters of Thai origin and trained in Thailand don’t usually use the water loading method. Jack advised that when he was preparing for a fight, he would cut about 5 kg to 6 kg over a month by increasing his running and being careful about what he ate, to make sure he felt good and strong. In his opinion, a small amount of weight cutting is safe over a period of time but amateurs should not do a big weight cut. For his own fights, Jack said he tried to lose weight gradually in small amounts over a period of time, eating small portions of chicken and rice. When he had tried to lose large amounts, like 10 kg, he had experienced cramps and vomited bile, but if he drank water and rested he would recover quickly. Jack did not ever undertake water loading in order to weight cut and indicated he did not really understand how the technique worked. He did, however, use sweat suits as a tool to cut weight, usually just before a fight, and he would even wear one in a sauna. Jack

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<sup>78</sup> T 154.

<sup>79</sup> T 155.

<sup>80</sup> T 122.

<sup>81</sup> <https://sumaleeboxinggym.com/jordan-deachkalek-nutrition-weight-cutting>.

<sup>82</sup> T 163.

commented that the weight cutting process is “horrible, like torture,”<sup>83</sup> which was a common description of the process.<sup>84</sup>

57. Jack emphasised that his role was to teach Muay Thai techniques and to hold the pads for fighters to work on their technique, not to advise on diet.<sup>85</sup> Jack stated that a trainer might ask a student how they were going with their preparation for a fight, but that was all. He recalled that when he asked Jess how her preparation was going, she always said she was “okay”<sup>86</sup> and she was feeling “good”<sup>87</sup> and he saw no obvious signs that she wasn’t. He didn’t know how much weight she needed to lose and they did not discuss her specific diet plan, although he did suggest to her to try to eat high protein food and avoid fats and high calorific foods.<sup>88</sup> I note at this stage that Thai is Jack’s native language and he speaks limited English, so his conversations with Jess were always going to be fairly restricted. Jack indicated that during training sessions he would communicate with Jess in English but also by gestures and through body language.<sup>89</sup>
58. Another trainer at the gym, Natthawit Koedklang, known generally as Mee, gave similar evidence about his experience of weight cutting and the limited role the trainers had in advising the fighters on the diet.<sup>90</sup>

### **FITNESS CERTIFICATE**

59. In the general descriptions of training for a fight, the last six to eight weeks was referred to as ‘fight camp’. In these weeks, weight loss would be achieved through calorie deficit and should be primarily fat loss. The evidence indicates Jess was still struggling to achieve her desired weight loss as the fight date approached and she moved into the last weeks of training.
60. In September 2017 Jess had a text message conversation with her boyfriend, Walter Lara Rivas, about some female ‘fat burner’ tablets she had found and was contemplating taking, but Walter warned her against

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<sup>83</sup> T 84.

<sup>84</sup> T 71 – 74, 80, 83; Exhibit 1, Tab 14.

<sup>85</sup> T 85.

<sup>86</sup> Exhibit 1, Tab 14.

<sup>87</sup> Exhibit 1, Tab 14.

<sup>88</sup> T 69 – 71.

<sup>89</sup> T 68.

<sup>90</sup> T 92 – 96.

using them. It would appear she followed this sound advice and did not try them.<sup>91</sup>

61. Jess sent a text to her sister on 30 October 2017 saying she couldn't eat as she still had 'heaps of weight to lose' and indicated she intended to buy some laxatives to "clear her stomach out."<sup>92</sup> On 31 October 2017 she texted her sister to say she was down to 73kg after running in a sweat suit, and her sister responded by encouraging her to rehydrate. Jess texted her sister later that day and asked her to buy the laxatives for her. It is unclear from the evidence whether Jess did, in fact, take any laxatives, but it is clear it was another option she was considering doing as part of trying to lose weight.<sup>93</sup>
62. On 3 November 2017 Jess attended an appointment with Dr Paddy Golden, to renew her fitness certificate.<sup>94</sup> It is apparent from her weight recorded on this day that her 'fight camp' training had not been successful in achieving significant weight loss.
63. Dr Golden is a Consultant Emergency Physician with a special interest in sports medicine. Dr Golden has been involved in combat sports for many years and has developed expertise in this field of medicine. Dr Golden estimates he has attended over 5000 fights in a professional capacity, doing the pre-fight medical and acting as the attending medical doctor or 'ringside doctor'. The sports include boxing, MMA and Muay Thai at both an amateur and professional level.<sup>95</sup>
64. In addition, Dr Golden regularly performs the annual certificate of fitness testing for combat sports participants. Dr Golden explained there is no regulation as to who can do them, other than the requirement to be a qualified medical practitioner. Dr Golden became aware that many fighters were being charged large amounts of money by general practitioners, which he felt was inappropriate, so he began doing them for a nominal fee. As a result, he now performs them often.<sup>96</sup>
65. I will return to Dr Golden's evidence later in this finding in relation to his general role as a doctor involved with the Sports Combat Commission and his expert opinion about weight cutting and what changes should be made

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<sup>91</sup> T 195 - 196.

<sup>92</sup> Exhibit 1, Tab 16, p. 182 of 4219.

<sup>93</sup> T 196; Exhibit 1, Tab 16, p. 182 - 183 of 4219.

<sup>94</sup> Exhibit 1, Tab 9.

<sup>95</sup> T 258; Exhibit 1, Tab 26.

<sup>96</sup> T 258 - 259.

to discourage it, but here I deal with his factual evidence in relation to his direct dealings with Jess for her fitness certificate.

66. The fitness certificate testing generally involves taking a medical history, including fight history, and physical examination. The physical examination includes checking blood pressure and some limited urinalysis as well as sighting the serology certificate.<sup>97</sup> The focus is on identifying any chronic injuries or illnesses that might preclude the person from fighting in the next year.<sup>98</sup>
67. Dr Golden recalled that Jess was a “normal, fit, healthy girl.”<sup>99</sup> Jess weighed 72.7kg at the time of the visit and was noted as having a medium frame.<sup>100</sup> Dr Golden said he may have weighed her to get that weight measurement, or Jess may have provided the information.<sup>101</sup> Based on that weight, at this point in time Jess still had around 9 kg to lose in a week in order to pass her weigh-in at the weight limit set at that time.
68. One might think this would cause Dr Golden concern, but he indicated her weight was not his concern at that time in that sense. The fact of the fitness certificate examination being so close to the date of the fight was not relevant to Dr Golden’s immediate task, as this was simply a medical for an annual fitness certificate, not a pre-fight medical. Dr Golden gave evidence that during this certificate of fitness review he would not normally talk to the fighter about any fights they might have coming up as he may also have assessed their opponent and he would not like to inadvertently give away information from one competitor to another, given their examinations are confidential.<sup>102</sup>
69. In Jess’ case, Dr Golden was aware she needed to get the certificate as she had a fight coming up but he did not discuss what weight she needed to lose for her upcoming fight and he had no recollection of Jess voluntarily raising the subject.<sup>103</sup>
70. In his evidence, Dr Golden was asked hypothetically what he might do if the topic came up anyway, and the person voluntarily disclosed they were intending to lose a dangerous amount of weight in a short period? Dr Golden indicated he would tell the person he was not happy to do their

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<sup>97</sup> Exhibit 1, Tab 27B, p. 4 and Tab 28.

<sup>98</sup> T 269.

<sup>99</sup> T 267.

<sup>100</sup> Exhibit 1, Tab 26 and Tab 28.

<sup>101</sup> T 271.

<sup>102</sup> T 268.

<sup>103</sup> T 269, 271.

annual fitness certificate and he would send the information he had obtained through to the Commission.

71. Dr Golden gave an example of a particular case where this had occurred in February 2019, after Jess' death. An MMA fighter voluntarily disclosed to Dr Golden during an annual fitness certificate review that in a week he intended to fight at a weight that required him to lose over 16 kg in that next week. Dr Golden informed the fighter it was not safe to fight at the weight he intended and passed the information he had received on to the Commission. Nevertheless, according to Dr Golden the fight was sanctioned and the fighter made the weight but got knocked out in the second round. He considered the outcome to be related to the drastic weight cutting the fighter had undertaken.<sup>104</sup>
72. However, in Jess's case Dr Golden gave evidence he was unaware that she was about to fight and needed to lose a significant amount of weight in the next week. It is a shame that this was not discussed as it is a missed opportunity where perhaps the following events could have been averted. Based on his assessment on 3 November 2017, Dr Golden certified Jess as fit to compete or participate in a combat sports contest in the next year as she was fit and well and had no illnesses or conditions that would exclude her from competing.<sup>105</sup>

### **THE LAST WEEK – WATER LOADING AND CUTTING**

73. In the week before the fight Jess took time off university and her part-time job so that she could concentrate on preparing for the fight.<sup>106</sup> Jess was getting help in this final week from her boyfriend, Walter, particularly in the last couple of days. Walter had been participating in Muay Thai since he was 14 years old and had participated in approximately 19 fights, most of which he had needed to cut weight for, so he knew about weight cutting and was helping Jess to reach her goal. Walter did not know Jess at the time of her first fight, so this was his first involvement in Jess' fight preparation.<sup>107</sup> They had only been in a relationship since about October 2016 and Walter did not train at Kao Sok gym.
74. Walter gave evidence about his own pre-fight preparation. He indicated he altered his diet and increased his training, and also used sweat suits, a sauna and hot water Epsom salt baths. He had also used water loading as

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<sup>104</sup> T 270.

<sup>105</sup> Exhibit 1, Tab 28.

<sup>106</sup> Exhibit 1, Tab 9 [25].

<sup>107</sup> T 183 – 189.

part of his weight loss regime for the majority of those fights. Walter had heard about water loading through the fight community and was aware famous fighters used it such as Georges St-Pierre, so he did his own research online and talked to other fighters at his gym about it before attempting it himself.<sup>108</sup>

75. Walter's evidence was that he did not know exactly how much Jess needed to lose at the outset of her fight preparation, nor how much she lost in the early weeks of the fight camp, but he did know that at the beginning of the last week before the fight that Jess still had about 8 kg to lose (suggesting she still weighed around 72 kg at that stage, consistent with her weight at the fitness test with Dr Golden).<sup>109</sup> Walter indicated he did not think she was going to be able to meet her weight target at this stage, but he did not express this opinion to Jess as he didn't want to appear unsupportive or to appear to be suggesting she was overweight. He formed the impression Jess still believed she was going to make the weight and so he tried to support her in her attempt.<sup>110</sup>
76. Jess mentioned to Walter that she was going to attempt water loading to help her lose the remaining weight and she intended to follow the regime described in an online article. Mr Godtfredsen had sent her the link to the article at her request. Walter agreed the regime described in the article was similar to what he had used, although the quantities were a little different.<sup>111</sup> Walter said he told Jess that the water loading technique had worked for him, although he also told her it "felt terrible"<sup>112</sup> at the time.
77. After she passed the fitness test, Jess started her water loading on 5 November 2017. Her water intake on the first and second day was 8 litres, and then over the following days it reduced by two litres daily to 6 litres, 4 litres and then 2 litres. On the sixth day it went down to 1 litre. The next day, being 10 November 2017, was the day of her weigh-in and Jess did not drink any water that day.<sup>113</sup>
78. At the same time as she was altering her water intake, Jess cut down her food portions and ate minimal carbohydrates and salt. She would also take hot saltwater baths with Epsom salts.<sup>114</sup> Jess continued to train, doing running as well as training in the ring, and she continued to wear a sweat

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<sup>108</sup> T 183 – 188.

<sup>109</sup> T 191 – 192.

<sup>110</sup> T 196 – 197.

<sup>111</sup> T 193 - 194.

<sup>112</sup> T 194.

<sup>113</sup> T 194; Exhibit 1, Tab 9 [27] – [30].

<sup>114</sup> T 17 – 18; Exhibit 1, Tab 9 [27] – [30].

suit in the last week. The suit completely encloses the body, with elasticated ends on the ankles and wrists, to increase sweating. Towards the end Jess also added a beanie and long socks as well at times, so that her body heat could not even escape from her head or feet.<sup>115</sup>

79. Early in the week, Mr Curovic contacted the promoter and matchmaker, Caley Reece, and asked if Jess could go into the fight weighing more than the set weight of 63.5 kg. Jess had told him she was going to attempt water loading and asked him to make the approach to the promotor as she had realised she was going to struggle to make weight even using this technique.<sup>116</sup>
80. Sharron’s mother suggested at the inquest that, looking back in hindsight, perhaps this should have been a flag to pause and consider whether Jess should stop altogether rather than just trying to increase the weight. However, at the time it was not as clear to her the level of stress Jess was under.<sup>117</sup> Sharron also indicated Jess had seen participants in the past who had failed to make weight and she believed the ‘fallout’ of not making weight “was definitely something that Jess was not prepared to tackle.”<sup>118</sup>
81. Sharron explained her belief that “first and foremost the pressure is on the contestant to not put shame on the gym and the trainer and the promotor.”<sup>119</sup> Sharron also indicated that Jess had sacrificed a lot in the preparation and she was “very aware that ... her opponent was also probably doing the same preparation,”<sup>120</sup> so she would not want to fail out of respect to her opponent. Sharron agreed in questioning at the inquest that prior to Jess’ death she and Jess had adopted the same mindset as others in the sport that fighters have, in effect, a responsibility to meet weight.<sup>121</sup> However, the ‘fallout’ Sharron referred to was what she described as “the shame and the ridicule that comes with a bully culture”<sup>122</sup> both from external sources on social media as well as from people within the gym. Sharron believes that Jess’ desire to avoid that kind of negative fallout was a strong motivator for Jess continuing to try to lose the weight at the end.

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<sup>115</sup> T 18 – 19.

<sup>116</sup> T 128 – 129.

<sup>117</sup> T 24 – 25.

<sup>118</sup> T 25.

<sup>119</sup> T 24.

<sup>120</sup> T 26.

<sup>121</sup> T 46.

<sup>122</sup> T 26.

82. Sharron also stated her belief that Jess would not have felt confident to approach Mr Curovic and ask to be withdrawn from the fight.<sup>123</sup> However, she was willing to ask him to try to increase the weight as a smaller step.
83. Mr Curovic agreed that there is a perception in the sport that failing to meet weight is disrespectful. Mr Curovic said he personally had failed to make weight in the past as a fighter and he had felt that it was disrespectful to his opponent. He agreed that some gym trainers and contestants will get quite upset about it, although others are more accepting of it. Mr Curovic noted that despite the strongly held view against it, failure to make weight is still “one of those things that happens quite a lot.”<sup>124</sup> He said that, while he felt a level of responsibility or ownership over his fighter meeting their weight target once they made a commitment, he did not get upset or take a punitive approach to the fighter when they failed.<sup>125</sup> However, Mr Curovic accepted that there are some gyms and trainers who “will go off their face” if a fighter fails to make weight and he agreed there are certainly some people in the Muay Thai community who will engage in bullying practices towards that fighter for their failure.<sup>126</sup>
84. In Jess’ case, Mr Curovic provided evidence that she had withdrawn from an interclub sparring day match in November 2016 and he had responded that he had no problem with her decision.<sup>127</sup> He believed Jess was comfortable to talk to him about such issues and he maintained he would not have felt any shame if she had withdrawn from the fight due to being unable to make weight.<sup>128</sup>
85. Mr Godtfredsen, who has never failed to make weight for a fight himself, agreed that a failure to make weight is seen as a “mark of disrespect” within the sport, and he agreed that he felt it was disrespectful to the opponent and their gym, as well as to the fighter themselves. For this reason, Mr Godtfredsen emphasised that “you have to be honest with yourself and also the other person that you’re going to be able to meet that weight”<sup>129</sup> as early as possible.
86. Ricardo Pisaneschi, another male fighter who trained at Kao Sok gym spoke about the general etiquette about making weight, noting that everyone struggles to make weight so if one fighter is putting themselves

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<sup>123</sup> T 34.

<sup>124</sup> T 128.

<sup>125</sup> T 128.

<sup>126</sup> T 132 – 133, 149.

<sup>127</sup> Exhibit 1, Tab 12A.

<sup>128</sup> T 146.

<sup>129</sup> T 161.

through the process to do it, they expect the other person to also make the same effort. In that sense, he believes most of the pressure comes from the fighter on themselves. Therefore, although he agreed that there is external pressure to make weight, he felt that at least for his own part, he considered himself to be a professional athlete and it was part of the job of being a professional to make weight.<sup>130</sup>

87. The fight promotor Caley Reece also understands the practice of weight cutting is common practice in the combat sports industry worldwide. Ms Reece knows Mr Curovic personally and stated that she had never seen him pressure anyone to cut weight or bully anyone who failed to make weight.<sup>131</sup> In this case, she recalled being asked by Mr Curovic whether she would agree to increase the weight limit for Jess' fight as she was struggling to make the weight.
88. Ms Reece spoke to her fighter, who was Jess' opponent. The fighter advised she was already underweight at 63 kg. Ms Reece was aware of the prevailing view that a weight advantage can disadvantage the other fighter and potentially put them in danger of being severely hurt. Accordingly, Ms Reece agreed Jess could fight with one extra kilogram, but no more, as she said she had to look after her own fighter.<sup>132</sup> Based on this arrangement, Ms Reece believed Jess could fight at 65 kg rather than 64 kg. Ms Reece's concession needs to be considered in a context where, as indicated above, the evidence suggests that where there are two lean athletes fighting even one kilogram can make a big difference.<sup>133</sup>
89. Ms Reece was asked whether this kind of request to increase the weight was unusual, and she gave evidence that it was not uncommon with juniors and newer fighters, but less common with professionals. Where such a request was made, she indicated that the promotor/matchmakers would generally "try and find that happy medium for everybody," which she felt she did in this case. After her agreement to allow the extra kilogram, Ms Reece did not discuss the matter with Mr Curovic again until the day of the weigh-in when he called her to let her know about Jess' collapse.<sup>134</sup>
90. Between 6 and 9 November 2017 Ms Van den Berg saw Jess at the gym each morning and became concerned as she noticed that Jess "appeared greyer as the week progressed and seemed to be struggling."<sup>135</sup> She spoke

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<sup>130</sup> T 253.

<sup>131</sup> T 240.

<sup>132</sup> T 229; Exhibit 1, Tab 15.

<sup>133</sup> T 131.

<sup>134</sup> T 230 – 231.

<sup>135</sup> Exhibit 1, Tab 37 [20].

to Jess and suggested that she was looking unwell, but Jess told her that she had to keep going as she had more weight to lose. Jess told Ms Van den Berg that she had been given information about water loading from other fighters to trick her body into losing water weight and she planned to drink nothing for the last two days prior to the weigh-in. Ms Van den Berg told Jess she thought it was bad for the body and felt that it sounded wrong but Jess commented that other fighters had done it and been successful. Ms Van den Berg stated that she tried to talk to Jess a few more times and advised her that it was not worth it to make herself ill.<sup>136</sup>

91. Ms Van den Berg saw Jess for the last time on the Thursday morning at the gym. She stated Jess “appeared very grey, sickly and just not all the way there.”<sup>137</sup> Ms Van den Berg thought Jess appeared severely unwell and was obviously struggling although she was still focussed on training. Ms Van den Berg approached Jess while she was outside training and said she asked Jess if she wanted a drink or to get out of the sun for a bit but Jess and the person Ms Van den Berg described as Jess’ trainer did not respond. She gained the impression they did not welcome her interference. Jess was still training and wearing a sweatsuit when Ms Van den Berg left the gym that morning, the day before her weigh-in.<sup>138</sup>
92. Jess also had interactions with her close friend, Zara Gray, during this week about the water loading. Ms Gray was aware through a group chat that Jess was on a water loading plan and trying to lose the last few kilograms before her fight. Ms Gray described Jess as “super determined”<sup>139</sup> to meet her goal. Ms Gray was studying nursing at the time and she expressed concern to Jess about the water loading, in relation to the large amounts of water that Jess was required to drink in the initial days. Ms Gray suggested that 7.5 litres was a lot more water than the body would normally contain and felt it could be dangerous for her. Ms Gray made an offer to Jess that if she started to feel unwell she would drive her to a hospital, but Jess suggested in her response that someone was supervising her through the process.<sup>140</sup> There was no evidence before me that any particular person was, in fact, supervising Jess through this process.

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<sup>136</sup> Exhibit 1, Tab 37.

<sup>137</sup> Exhibit 1, Tab 37 [31].

<sup>138</sup> Exhibit 1, Tab 37.

<sup>139</sup> Exhibit 1, Tab 34 [17].

<sup>140</sup> Exhibit 1, Tab 35, pp. 4 - 5 of Annexure.

93. Ms Gray had also suggested to Jess as early as 3 November 2017 that she might be suffering from dehydration and electrolyte imbalance and suggested she make sure she drank water when she could.<sup>141</sup> They had conversations about Jess having headaches as part of that concern.<sup>142</sup>
94. It appears from these conversations and others that Jess understood that the process she was undertaking carried health risks. Jess sent messages to Ms Gray and another friend that she “could end up in hospital with organ failure”<sup>143</sup> and that if she didn’t do it right her “kidneys could fail.”<sup>144</sup> However, Ms Gray gave evidence that she understood it was commonplace and encouraged within the gym to weight cut, and Jess was young and fit and healthy. So when Jess was talking about the dangers, Ms Gray understood Jess to essentially be saying that she was aware hypothetically it could happen, but that she had the attitude that “it won’t happen to me.”<sup>145</sup> Ms Gray also recalled that Jess had mentioned in the past the disappointment people felt when a contestant dropped out of a fight and she believed Jess would have felt both internal and external pressure to be ready to fight.<sup>146</sup>
95. On 8 November 2017 Jess saw Ms Gray for the last time. On this day, Jess had been to the gym and sauna and Ms Gray then gave Jess a lift to her boyfriend’s house. Ms Gray noticed that Jess looked pale and gaunt but didn’t think she looked terrible. In fact, Ms Gray commented to Jess that she thought Jess looked better than she had the last time she had dropped weight for a fight.
96. Another of Jess’ close friends, Georgia Brown, had also had some discussions with Jess about her weight cutting. Jess mentioned to Ms Brown that people had died from ‘water cutting’ and Georgia responded, “You better not die on me.”<sup>147</sup> Jess reassured her that she was “in the right hands”<sup>148</sup> and her trainers knew what they were doing, although she did not name the trainers responsible. Jess saw Ms Brown for the last time about a week before her death, at which time Jess looked

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<sup>141</sup> T 59 – 60; Exhibit 1, Tab 18 and Tab 34.

<sup>142</sup> T 59.

<sup>143</sup> Exhibit 1, Tab 35, p. 2 of Annexure.

<sup>144</sup> Exhibit 1, Tab 35, p. 3 of Annexure.

<sup>145</sup> T 61.

<sup>146</sup> T 57.

<sup>147</sup> Exhibit 1, Tab 36 [12].

<sup>148</sup> Exhibit 1, Tab 36 [13].

exhausted and mentioned she was always hungry, but she had not yet moved into the most gruelling stage of her weight cutting.<sup>149</sup>

### **THE DAY OF THE WEIGH-IN**

97. Jess spent the night before the weigh-in at her boyfriend Walter's house. She didn't eat any dinner but had drunk some water that day. She had a bath that night before going to bed. Walter recalled Jess said she was tired and felt a bit weak at this stage.<sup>150</sup>
98. On the morning of her weigh-in, Jess still had at least 2 kg to lose, or possibly even 3 kg according to a social media post she made that morning. She was determined to get down to the required weight before the weigh-in that afternoon. As part of her plan to lose the weight, Jess did not drink any water that day and she tried to sweat out water in her body through taking hot baths and going to a sauna in the morning.<sup>151</sup>
99. Walter recalls that at this stage Jess had a headache and was saying she felt weak and tired. As she had not eaten the night before or at all that day and had not drunk any water,<sup>152</sup> it is not surprising she felt weak and tired and had a headache.
100. Jess sent messages to her friend Ms Gray during the morning indicating that she was aware she would be extremely dehydrated but still had more weight to lose. At 10.42 am she sent a message to Ms Gray describing having Epsom salt baths with scalding water and said that she spent 20 minutes at a time in the bath and would "sob the entire time"<sup>153</sup> as it made her body tingle and triggered a panic attack. She would then get out of the bath and put on her vinyl sauna suit and "sit there for another 20 minutes and continue to sweat like a pig." Jess stated that when she was putting on the suit her hearing and eyesight were going fuzzy.<sup>154</sup> It is difficult to hear about the misery she was causing to herself in her last hours, all in the name of sport. Jess described it to Ms Gray as "honestly the worst experience of my life."<sup>155</sup>
101. Jess went to the Kao Sok gym with Walter at about midday so Jess could train and use the gym's scales. Walter recalls Jess said she was fatigued at

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<sup>149</sup> Exhibit 1, Tab 36 [16].

<sup>150</sup> T 182, 194, 201, 203.

<sup>151</sup> T 19; Exhibit 1, Tab 9 and Tab 11.

<sup>152</sup> T 204 - 205.

<sup>153</sup> Exhibit 1, Tab 18.

<sup>154</sup> Exhibit 1, Tab 18.

<sup>155</sup> Exhibit 1, Tab 34 [40].

that time and she looked tired to him but otherwise normal. Jess put on her sweat suit and started doing some cardio inside the gym to try to get a sweat going. Not long after they moved outside as it was hot and they felt she would be able to get more of a sweat going outside. Walter recalls it felt really hot outside when they began.<sup>156</sup>

102. Jess' mother Sharron and sister Grace met them at the gym a couple of hours later, around 2.30 pm to 3.00 pm. Sharron had not seen Jess for the previous two days as she had stayed at Walter's house. When Sharron saw Jess at the gym that day, she observed that Jess looked "dehydrated, tired, fatigued and had sunken eyes."<sup>157</sup> Jess was doing a lot of running and jogging but she wasn't sweating enough so her mother was asked to collect her sweat suit to wear. Jess then put the sweat suit on and off as she continued to train.<sup>158</sup>
103. Jess took short breaks from exercising to weigh herself and she became increasingly frustrated as she was not getting the results on the scales that she wanted.<sup>159</sup> Sharron noted Jess seemed very weak and tired and she knew Jess "just wanted it to be done"<sup>160</sup> but she wouldn't stop until she had reached her target weight.
104. The trainer Jack arrived at the gym at some stage and he became aware that Jess still needed to lose weight, so he suggested she keep running to lose the weight.<sup>161</sup> Jess was following the advice of Walter and the trainer Jack, but she made it clear she would keep going to "get the job done."<sup>162</sup> This was in keeping with the general mindset and commitment expected of a fighter. It also reflected the fact that Jess had worked very hard to get that far, and it just wasn't a consideration for her to stop when she was so close to reaching her goal.<sup>163</sup>
105. Jess had been posting about her weight loss and exercise in the preceding days. Her posts on 10 November 2017 read:

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<sup>156</sup> T 206 – 209.

<sup>157</sup> Exhibit 1, Tab 9 [33].

<sup>158</sup> T 20; Exhibit 1, Tab 11.

<sup>159</sup> Exhibit 1, Tab 9.

<sup>160</sup> T 21.

<sup>161</sup> T 75.

<sup>162</sup> T 22.

<sup>163</sup> T 22 – 23.

10.11	6.32 am: 3 kg to go
	9.18 am: no sweating
	9.44 am: 2.5 kg to go
	?25 did two baths and on way to sauna. Only 2 kg to go.
	Beanie on.

106. Sharron said that Mr Curovic responded to the post about no sweating at some stage and suggested that Jess ‘have an espresso’. Although he had no independent recollection of it, Mr Curovic accepted he may have spoken to Jess on the telephone about the post and suggested Jess drink a small black coffee as in his personal experience it can help to make the body defecate or urinate and lose some weight without stressing the body.<sup>164</sup> Sharron bought Jess an espresso but she vomited it straight back up after drinking it.<sup>165</sup> This should probably have raised alarm bells, but at that stage everyone’s focus seems to have been on reaching the weight loss goal rather than the danger signs.
107. The fact that Jess was struggling to sweat was also a serious sign of dehydration, but Sharron stated that she did not know this until later.<sup>166</sup> A professional fighter gave evidence that he would see an inability to sweat as a “red flag,”<sup>167</sup> but he was a lot more experienced than Jess.
108. There was evidence before me that cessation of sweating is a critical sign and should indicate a person must stop and rehydrate, as a very important way that a person loses heat during exercise is through sweating and the cooling effect of the sweat as it evaporates. This assists the body to maintain a normal, safe body temperature. When a person becomes vascularly depleted the body will no longer produce sweat, as to lose any more fluid will cause intravascular and cardiovascular collapse. The body, in effect, retains the water to protect the essential organs.<sup>168</sup> Therefore, when a person can no longer produce sweat, it is a sign the person is at imminent risk of heatstroke and cardiovascular collapse.<sup>169</sup> Dr Golden

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<sup>164</sup> T 126.

<sup>165</sup> T 29; Exhibit 1, Tab 9 [48] – [49].

<sup>166</sup> Exhibit 1, Tab 9 [50].

<sup>167</sup> T 171.

<sup>168</sup> T 275.

<sup>169</sup> Exhibit 1, Tab 27C, Safe Weight Cutting tip sheet, p. 2.

indicated it is “very, very dangerous”<sup>170</sup> to then continue to heat up the body without the very protective method of sweating to cool the body, and is likely to lead to multi-organ failure.

109. Sadly, as she did not have this critical knowledge, Jess continued to train despite the warning signs. There is no doubt she felt sick and tired and miserable, but she clearly did not appreciate that her body was beginning to shut down.
110. The trainer Mee gave evidence that when he arrived at the gym to conduct a personal training session, he saw Jess training with Walter. Jess was using a skipping rope and running in a sweat suit, and according to Mee she would take breaks and sit in a car with the windows up and a heater turned on, in what was apparently an attempt to create an improvised sauna to help Jess sweat more. Jess apparently looked comfortable in the car, listening to music and smiling, although it must have been uncomfortable. Mee estimated this occurred at around 3pm, which was just before, or around the time, Jess’ grandmother arrived.<sup>171</sup> Walter confirmed that Jess used Sharron’s car for this purpose.<sup>172</sup>
111. Jess’ grandmother, Keryn Lindsay, had arrived at the gym at about 3.00 pm so that she could provide her larger car for Jess and the others to attend the weigh-in at 5pm. When Ms Lindsay arrived at the gym she saw Jess with her sweat suit on outside. As Ms Lindsay got out of the car she saw Jess take off her sweat suit and noted Jess looked exhausted as she slid down the wall near the entrance to the gym. Ms Lindsay recalls Jess asked words to the effect, “is that it?”<sup>173</sup> and Ms Lindsay recalls Jack the trainer replied, “No, one more time.”<sup>174</sup> Jess then put the sweat suit back on and got up on the massage table where Jack massaged her. Jack agreed that he was concerned for Jess as she had lost so much weight by that time but he asked her if she was okay, and she said that she was okay.<sup>175</sup> Ms Lindsay recalls seeing that Jess’ eyes appeared milky white, like they had lost all colour, and she said to Jess, “That’s it, no more.”<sup>176</sup> Jess responded, “I’m nearly finished.”
112. Walter recalls that around this time Jess was asked by Jack if she could keep going and do one more and she responded that she wanted to keep

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<sup>170</sup> T 275.

<sup>171</sup> T 103 – 104, 106.

<sup>172</sup> T 209 - 210.

<sup>173</sup> Exhibit 2, Tab 1 [10].

<sup>174</sup> Exhibit 2, Tab 1 [10].

<sup>175</sup> T 70 - 71.

<sup>176</sup> Exhibit 2, Tab 1 [15].

going and felt she could do it.<sup>177</sup> He acknowledged that she was a person who “put a lot of pressure on herself in every aspect of her life” and he believed Jess was willing to push to the very last minute to try to lose the last bit of weight. Walter said he was trying to support her to achieve this goal.<sup>178</sup>

113. With this in mind, Jess went with Walter and sister Grace outside the gym and “shuffled off down the track again.”<sup>179</sup> She was wearing the sweat suit and a beanie. It was hot and Jess’ core body temperature would have been increasing due to her exposure to the external heat while wearing layers of clothes, as well as her inability to sweat and dissipate heat from her body.
114. Walter recalled that Jess was running up and down the road at the back of the gym. Walter didn’t think Jess was struggling to keep going at that stage as she was still running and talking. He acknowledged she seemed tired but noted that he had seen a lot of fighters when they were cutting weight and they were all “tired and grumpy.”<sup>180</sup> He did not have a sense that she was near collapse and looking back in hindsight he could recall nothing that made him think he had missed a red flag.<sup>181</sup> Sharron provided a photograph taken of Jess training outside not long before her collapse, and it is not obvious from looking at her that her body was getting close to shutting down.
115. Walter and Grace were not running with Jess but were standing waiting near the gym by this stage. As Jess ran back towards them, Walter noticed that Jess started to lose her balance and stagger sideways before she fell over on her side and collapsed. Jess did not say anything before she fell over. When they ran over to her, Jess was unresponsive and her eyes were unfocussed. Walter told Grace to go and get their mother.<sup>182</sup>
116. Jess’ collapse showed all the hallmarks of classic exertional heatstroke.<sup>183</sup> Walter confirmed that Jess had not eaten or drunk anything during that entire day and they had been at the gym training for a few hours before she collapsed.<sup>184</sup>

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<sup>177</sup> T 213, 219.

<sup>178</sup> T 213 - 214.

<sup>179</sup> Exhibit 2, Tab 1 [17] – [18].

<sup>180</sup> T 219.

<sup>181</sup> T 219.

<sup>182</sup> T 212 – 213; Exhibit 1, Tab 11.

<sup>183</sup> T 212 – 213; Exhibit 1, Tab 40 [3].

<sup>184</sup> T 212 – 213; Exhibit 1, Tab 11.

117. Walter stayed with Jess while Grace went to get help. Jess remained unresponsive with shallow breathing, so he took off her sweat suit and beanie in an attempt to cool her down. She was wearing a bikini underneath so he left her clothed just in the bikini. In the meantime, Grace ran up to her mother and told her that Jess had collapsed. Sharron got into her car with the trainer Jack and they drove to where Jess and Walter were in the carpark. Jess was unconscious when Sharron and Jack arrived.<sup>185</sup>
118. Together, they picked Jess up and put her in Sharron's car and drove her to the entrance of the gym. They then carried her into the front area of the gym and tried to get her to respond while Walter called for an ambulance to attend. Walter recalled someone tried to pour Gatorade, a sports drink, in Jess' mouth and she was then put in the recovery position.<sup>186</sup>

### MEDICAL TREATMENT

119. When Jess first collapsed, it was not entirely clear to her supporters what had occurred. Sharron gave evidence they thought she had just fainted and was going to come to, and Jack said he thought she'd collapsed because she'd lost too much weight.<sup>187</sup> Their thoughts seemed to be on getting her some water and taking off her layers of clothing, but there was no focus on trying to cool her body down in a focussed way, which would have been the most appropriate first aid in the circumstances. Sharron said that at the time no one knew what to do, including herself, while they waited for the ambulance to arrive. The trainers Jack and Mee agreed they also didn't know what to do to help Jess.<sup>188</sup> They were both shocked but tried to help as best they could.<sup>189</sup>
120. The ambulance was requested at 4.16 pm and arrived at 4.34 pm. Walter had gone down to stand at the front of the gym to help wave down the ambulance when it arrived.<sup>190</sup> When she was first assessed by the ambulance officers, Jess had a GCS of 3/15 and her pupils were non-reactive. She had a weak carotid pulse and a high body temperature. It was clear that Jess was critically unwell, so she was rushed to Fiona Stanley Hospital as a Priority 1 emergency.<sup>191</sup>

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<sup>185</sup> T 212 – 214; Exhibit 1, Tab 9.

<sup>186</sup> T 215.

<sup>187</sup> T 82.

<sup>188</sup> T 27 – 28, 82.

<sup>189</sup> T 81, 99.

<sup>190</sup> T 215.

<sup>191</sup> Exhibit 1, Tab 30.

121. Jess arrived at the Fiona Stanley Hospital Emergency Department at 5.00 pm. Immediate attempts were made to cool her body temperature and she was sedated. Jess was admitted from the ED to the Intensive Care Unit, where her condition deteriorated with worsening multi-organ failure. Her condition became unsupportable and after 72 hours in the ICU Jess died in the presence of her family at 5.25 am on 14 November 2017, less than two weeks before her 19<sup>th</sup> birthday.<sup>192</sup>

### **CAUSE AND MANNER OF DEATH**

122. A forensic pathologist, Dr Victoria Kueppers, performed a post mortem examination on 16 November 2017. Dr Kueppers found no evidence of underlying natural disease and the only injuries were occasional limb bruises. Overall the microscopic features were in keeping with multi-organ failure. Toxicological analysis of ante-mortem samples detected a small amount of codeine but was otherwise negative for alcohol or other common drugs.<sup>193</sup>
123. At the conclusion of all investigations Dr Kueppers formed the opinion the cause of death was multi-organ failure due to the combined effects of environmental exposure (hyperthermia) and dehydration.<sup>194</sup>
124. Professor Ian Rogers is a Professor of Emergency Medicine at St John of God Murdoch Hospital and the University of Notre Dame, with a special interest in heat-related illness and the medicine of endurance exercise. Professor Rogers has provided medical opinions on heat stroke in previous coronial investigations, as well as to Sports Medicine Australia and other bodies. Professor Rogers reviewed relevant materials in relation to Jess' death and provided a written expert opinion to the Court.<sup>195</sup>
125. Professor Rogers indicated his agreement with Dr Kueppers' finding as to the cause of death. Professor Rogers noted that Jess' death involved two separate but interrelated pathologies. He regarded the dehydration as a potentiating factor and the heatstroke as the cause of death. Professor Rogers explained further that the dehydration was the first pathology and had been present for some days. Its severity had caused an acute kidney injury, which would normally be expected to be reversible with rehydration, but put her substantially more at risk of heat stroke. This is because severe dehydration limits the body's ability to lose heat by

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<sup>192</sup> Exhibit 1, Tab 33.

<sup>193</sup> Exhibit 1, Tab 2 and Tab 3.

<sup>194</sup> Exhibit 1, Tab 2.

<sup>195</sup> Exhibit 1, Tab 39.

sweat evaporation, which is the main adaptive response to a heat thermal stress (such as the intensive exercise program Jess was undertaking at the time of her collapse).<sup>196</sup>

126. Put simply, the practices Jess had engaged in over the previous days to try to remove water from her body had caused her to become severely dehydrated, which made her body more vulnerable to heat stroke when she trained intensively in the heat as she was unable to sweat. In Professor Rogers' opinion, Jess' heatstroke developed over a short period of time (less than an hour), just before she collapsed.<sup>197</sup> If she had listened to the warning signs of her body and stopped training and drunk some water at an earlier stage in the day, it is entirely possible any harm Jess had done to her organs would have been reversible and she would have survived.
127. It is also important to note that the corner stones of heatstroke management are prevention, early recognition and rapid cooling, so there is a role for supporters to play in ensuring that warning signs are noted and, in a case where someone collapses like Jess, efforts are made to institute cooling strategies to give the person the best chance of survival.
128. Based upon the mechanism of death, which was due to Jess' weight cutting regime that she adopted knowing that there were dangers, I find that the manner of death was by way of misadventure.

### **KNOWN DANGERS OF WEIGHT CUTTING**

#### **Dr Golden**

129. Dr Golden gave evidence that owing to the safety measures in place, he believes combat sports are generally very safe sports. During his lengthy involvement in events in WA, they have not had any serious issues during a fight. Most of the injuries he has witnessed have not been life or limb threatening, although he conceded that has not been the case in other states, which he attributes to a less rigorous approach adopted by the ringside physicians.<sup>198</sup> Dr Golden expressed the opinion, having been immersed in combat sports in Western Australia at a fairly deep level for a long time, that "the most dangerous thing involving combat sports" in this State is weight cutting.<sup>199</sup>

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<sup>196</sup> Exhibit 1, Tab 39.

<sup>197</sup> Exhibit 1, Tab 39 [3].

<sup>198</sup> T 260.

<sup>199</sup> T 260.

130. Dr Golden provided information to the coronial investigation to show that in March 2015, long before Jess' death, he indicated to the Commission that he felt weight cutting was the "most significant health risk factor currently in combat sports"<sup>200</sup> at that time. He noted that competitors were frequently losing 8 to 10 kg for a weigh-in, with a resultant change in appearance. Dr Golden felt more should be done to find the best way to safely prevent drastic weight cuts. Same day weigh-ins were discussed as a potential way of avoiding this problem, but Dr Golden noted at the time that there was a risk that the contestants would not then be sufficiently rehydrated before competing. If they competed significantly dehydrated, it increased the risk of head injury.<sup>201</sup> The risk is due to the "existing neurological insult due to dehydration"<sup>202</sup> together with "decreased spinal fluid volume,"<sup>203</sup> which gives the brain less protection.
131. Dr Golden explained further at the inquest that the problem is that the cerebrospinal fluid (CSF) volume, which is the fluid that around the brain, acts as a layer of protection between the brain and the skull. When a person is dehydrated, the CSF fluid decreases, which for example is why people get headaches when they are dehydrated. Studies have shown that it takes 48 to 72 hours for that CSF volume to fully return to normal after it has been depleted, even though the headache might go away quickly. In that period before the CSF is replenished, the brain remains very vulnerable to injury, but there may be a false sense of security as the person already feels better.<sup>204</sup> Therefore, he believes any changes towards a same day weigh-in would need to be considered very carefully given this increased risk of brain injury.<sup>205</sup>
132. Dr Golden noted that a significant difference between other sports that use weight cutting, such as horse racing, and combat sports is that combat sports involve head strikes, and the risk of head injury from such a strike is significantly increased if a person is cerebrally dehydrated. This makes weight based combat sports unique.<sup>206</sup>
133. In 2015 Dr Golden expressed his opinion to the then Chair of the Commission that the education of trainers and contestants to fight close to their 'walk around' weight would take some time and suggested that random weight checks might be a safer solution to assess contestants

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<sup>200</sup> Exhibit 1, Tab 27A, p. 3.

<sup>201</sup> Exhibit 1, Tab 27A, p. 3.

<sup>202</sup> Exhibit 1, Tab 27B, p. 2.

<sup>203</sup> Exhibit 1, Tab 27B, p. 2.

<sup>204</sup> T 263 – 264.

<sup>205</sup> T 264.

<sup>206</sup> Submissions filed by Dr Golden dated 17 March 2020.

‘walk around’ weight and contestants could then only apply for a contest within 5% less than that weight.<sup>207</sup>

134. Prior to Jess’ death, the Commission began to develop a set of guidelines to address some of these issues, and released a Consultation paper in February 2017.<sup>208</sup>
135. In November 2017, shortly after Jess’ death, Dr Golden revisited the problem of weight cutting with the Commission in view of Jess’ death. Dr Golden suggested a number of possible strategies at that time to prevent the likelihood of another death, which he felt was otherwise “almost certain.”<sup>209</sup> These strategies were again around determining the contestant’s ‘walk around’ weight and then determining a safe amount to cut from the ‘walk around’ weight. Dr Golden noted all of the options for determining the ‘walk around’ weight had various pros and cons, and his list of options was not exhaustive.<sup>210</sup> Dr Golden suggested at the time that he did not consider dehydration testing to be accurate and was unlikely to be helpful. Dr Golden explained that all fighters are dehydrated, but assessment of how dehydrated they are subjectively, by purely clinical grounds, is highly inaccurate.<sup>211</sup> Research into objective testing techniques for testing dehydration, such as urine-specific gravity and sweat sodium concentrations, so far has not been shown to be sufficiently accurate.<sup>212</sup>
136. Dr Golden was also wary of same day weigh-ins, as anecdotal evidence from competitors suggested that they would still try to cut the same weight and then try to rehydrate rapidly, which was likely to lead to the risks noted above.<sup>213</sup>
137. In terms of the percentage of weight to be cut, Dr Golden suggested that 5% was an acceptable weight cut (e.g.: 70kg to 66.5kg, 50kg to 47.5kg, etc.) and as a margin he felt it might be reasonable to extend it to 6% but stated he would “be loathe to go too much over this”<sup>214</sup> as severe dehydration tends to be where the person is 7 - 10% dehydrated.<sup>215</sup> Dr Golden noted that in Jess’ case, she had tried to cut down from 72.7kg at the time she saw Dr Golden for her fitness assessment to a fight weight

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<sup>207</sup> Exhibit 1, Tab 27A, p. 3.

<sup>208</sup> T 336; Submissions filed on behalf of the Sports Combat Commission.

<sup>209</sup> Exhibit 1, Tab 27B, p. 2.

<sup>210</sup> Exhibit 1, Tab 27B, pp. 2 – 3.

<sup>211</sup> T 282.

<sup>212</sup> T 284 - 285.

<sup>213</sup> Exhibit 1, Tab 27B, p. 3.

<sup>214</sup> Exhibit 1, Tab 27B, p. 4.

<sup>215</sup> Exhibit 1, Tab 27C, p. 2.

of 63.5kg, which was a 12% weight loss. This was more than double what he recommended as safe, and well into the realm of severe dehydration.<sup>216</sup>

138. Further, Dr Golden suggested that there needed to be penalties imposed where acute water loss was detected, in the form of suspensions, elevation to a higher weight category, or other such consequences.<sup>217</sup> Dr Golden also advocated education, both in the form of online and printed material, as well as seminars, although during his evidence at the inquest he appeared to downplay the importance of education, at least as the major plank of reform.<sup>218</sup>
139. Dr Golden advocated to the Honourable Minister for Sport in March 2019 that these changes should all come from the Combat Sports Commission with the backing of the Minister.<sup>219</sup>
140. Dr Golden expanded upon these topics at the inquest, and suggested that the key issue is not the magnitude of the weight loss, but more the duration of time over which it is achieved. Dr Golden explained that his concern is not the gradual process that occurs over five or six weeks of low-calorie diet and high intensity training, which creates a calorie deficit that results in weight loss leading up to a fight. Rather, it is the acute weight loss during the last week before the fight, known as “fight week,” that is his focus of concern, as this weight loss is primarily a result of acute water loss.
141. Water forms 60% of a human’s body weight and thus is the easiest part of the body’s weight to manipulate.<sup>220</sup> Dr Golden noted that the four ways to get rid of water from the body, all of which are dangerous, are:<sup>221</sup>
  - i. Vomiting, which is achieved through emetics - rare in Australia and does not appear to have been an issue in this case;
  - ii. Diarrhoea, which is achieved through laxative abuse – rare in Australia and although mentioned by Jess in conversations, there is no evidence that she took them;
  - iii. Promotion of excessive urination (polyuria) via either taking diuretics or by anti-diuretic hormone depletion, which is done by water loading. The water loading causes a pathophysiological

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<sup>216</sup> Exhibit 1, Tab 27B, p. 4.

<sup>217</sup> Exhibit 1, Tab 27E.

<sup>218</sup> Exhibit 1, Tab 27E.

<sup>219</sup> Exhibit 1, Tab 27E.

<sup>220</sup> Exhibit 2, Tab 3.

<sup>221</sup> T 265; Submissions filed by Dr Golden dated 17 March 2020.

response in a similar way to taking a diuretic. Dr Golden advises diuretic use is rare but water loading has become more common in combat sports in Australia recently. Diuretics are banned by the World Anti-Doping Agency; and

- iv. Promotion of sweating, which can be achieved either by passive methods (elevation of external temperature through use of a sauna, sweat suit, hot salt bath, wrapping the hot body in towels etc.) or active methods (exercise) or more commonly a combination of both. Sweating is used because the body surface area is relatively big, so it can be a relatively rapid way to lose significant quantities of water. Dr Golden believes this technique is almost ubiquitous among competitors.<sup>222</sup>

142. The water loading technique, which is one form of the third way, avoids taking a pharmacological agent so potentially avoids the ban on diuretics, but Dr Golden noted it is still a form of blood doping as it changes the composition of the blood. He has observed this technique to become prominent in combat sports only in the last five years or so.<sup>223</sup> He has not experienced people suffering from water intoxication in such cases, and did not think that was a likely consequence of the practice, but did consider it masked serious dehydration. Dr Golden was asked about water loading's description as "the safest of unsafe options" and he responded, "I think unsafe options are unsafe options."<sup>224</sup> Dr Golden expressed the opinion that all methods of acute water loss are unsafe and he believes it would be "dangerous to state there is a 'safer' way to achieve acute water loss."<sup>225</sup>
143. Dr Golden was asked whether he had seen a change in attitude since Jess' death to these unsafe practices, and unfortunately he indicated he had not. In his experience, weight cutting is still seen by many as a rite of passage in the sport and a way of "joining the club." Further, it is very clear that there remains a belief amongst fighters, trainers and gym owners that everyone is doing it, so if they don't do it too, they will be disadvantaged. There also appears to be a belief that "[i]t hurts therefore it must be good"<sup>226</sup> However, the discomfort of weight cutting arises because the "body is trying to protect itself."<sup>227</sup> Therefore, Dr Golden's view remains

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<sup>222</sup> T 274, 277.

<sup>223</sup> T 277 – 278.

<sup>224</sup> T 278.

<sup>225</sup> Submissions filed by Dr Golden dated 17 March 2020.

<sup>226</sup> T 280.

<sup>227</sup> T 286.

that weight cutting needs to be addressed properly in the sport and without delay.<sup>228</sup>

144. Dr Golden stated that he believes “the focus 100 percent should be prevention”<sup>229</sup> as any focus on detection is too late, as Jess’ case sadly demonstrates. Dr Golden emphasised that the focus should be on discouraging the acute weight loss through water loss that puts lives at risk. He maintained his earlier suggestion that a loss of five to six percent body weight in a 48 hour period before a fight would be fairly reasonable. It is only when it starts to go beyond this level that the danger increases.<sup>230</sup>

### **Curtin University Report**

145. Following Jess’ death, a report was prepared for the Combat Sports Commission in 2018 by researchers from Curtin University in relation to weight cutting, with a specific focus on dehydration and how it can be monitored in combat sport athletes.<sup>231</sup>
146. The report noted that “the rapid loss of body mass by means of severe caloric and/or fluid restriction, in combination with thermal stress, is a common practice among combat sport athletes”<sup>232</sup> and is informally referred to as ‘weight-cutting’. Generally combat sports require athletes to ‘weigh-in’ pre-competition to pair the athlete with opponents based on their body mass, encouraging fair and even competition.<sup>233</sup> As explained by witnesses at the inquest, the strategy of weight-cutting is used by athletes to manipulate the weight category classification by qualifying for a lower weight class than their usual training weight. By manipulating their weight, an athlete may “gain a theoretical advantage by being one of the heaviest athletes in their category.”<sup>234</sup>
147. The downside to this practise is that it can leave the athlete severely dehydrated and energy depleted, which can have serious negative consequences for the athlete’s physiological and psychological well-being.<sup>235</sup> When this process is undertaken by professional and elite level athletes, it is typically implemented under the guidance of appropriately

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<sup>228</sup> T 279.

<sup>229</sup> T 280.

<sup>230</sup> T 281.

<sup>231</sup> Exhibit 1, Tab 23, Chesher, S., Ducker, K., Brade, C., Netto, K., and Tye, M. *Examining the validity, reliability and practicality of methods to monitor the hydration status of combat sport athletes: A review of the literature*, A report for the Combat Sports Commission of Western Australia. Curtin University Perth 2018.

<sup>232</sup> Exhibit 1, Tab 23, Executive Summary, p. iii.

<sup>233</sup> Exhibit 1, Tab 23, p. 1.

<sup>234</sup> Exhibit 1, Tab 23, Executive Summary, p. iii.

<sup>235</sup> Exhibit 1, Tab 23, Executive Summary, p. iii.

trained medical, sports science and sports dietetics staff. They are able to provide close monitoring (particularly of hydration levels) to ensure the safety and well-being of the athletes. However, when amateur athletes attempt the same plans without appropriate support, they are at extreme risk of serious health consequences.<sup>236</sup>

148. Some of the dangerous health impacts of weight cutting have been identified as:<sup>237</sup>

- decreased muscle strength and endurance;
- heat illness;
- electrolyte problems;
- mood swings and mental changes;
- decreased kidney function;
- decreased heart and cardiovascular function;
- reduced energy utilisation, nutrient exchange and acidosis;
- eye trouble;
- increased risk of brain injury; and
- loss of life.

149. Despite these well documented negative effects, combat sports athletes continue to follow longstanding patterns of weight cutting in order to make weight.<sup>238</sup>

### **Sharron Lindsay**

150. Jess did not get any professional medical advice in regards to how to lose the necessary weight for the fight. It appears she relied on advice from other gym users who had used the water loading technique before. While undergoing the process Jess monitored her own food and water intake, whereas for her previous fight her trainer had helped her and had been with her when she trained. Sharron believes those trainers did not know about the practice water loading so had not given Jess any advice on how to undertake it.<sup>239</sup>

151. Sharron's copy of Jess' posts of her weight loss and training relevantly record as follows:

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<sup>236</sup> Exhibit 1, Tab 23, Executive Summary, p. iii and p.1.

<sup>237</sup> Exhibit 1, Tab 22, p. 6.

<sup>238</sup> Exhibit 1, Tab 22, p. 23.

<sup>239</sup> Exhibit 1, Tab 9 [54] – [58].

31.10	73 kg after running in sweat suit
4.11	Before 72.2 kg
5.11	Start water loading
6.11	Weight 72.2 kg. Lighter than yesterday.
7.11	Lost 1.4 kg at training today.
9.11	3.7 kg to go (tired)
	3.2 kg
10.11	6.32 am: 3 kg to go
	9.18 am: no sweating
	9.44 am: 2.5 kg to go
	?25 did two baths and on way to sauna. Only 2 kg to go.
	Beanie on.

152. From Sharron’s experience, she believes many amateur fighters are oblivious to the dangers of losing weight through water loading and other extreme weight loss diets. This is particularly the case for young fighters and their parents.<sup>240</sup>
153. Sharron expressed concern to the Court that the reporting of well-known sports people’s weight cutting regimes prior to fights may influence children and young adults to follow similar practices. She pointed to an example of a newspaper article citing the “dramatic weight loss regimen” that professional boxer Jeff Horn would undergo in order to lose weight ahead of his weigh-in for his world welterweight title defence. It described him training in a sweat suit and not eating or drinking water then jumping into a bath of steaming hot water to sweat.<sup>241</sup> Ironically, the article about Mr Horn’s weight cutting regime was published in the same edition that carried an article about Jess’ death on the front page.

<sup>240</sup> Exhibit 1, Tab 9 [61].

<sup>241</sup> *The Sunday Times*, 10 December 2017 – <https://www.pressreader.com/australia/the-sunday-times-9029/20171210/282097752045069>.

154. Sharron pointed out that the difference between Mr Horn and other professional fighters and amateurs like Jess is that the professional fighters are more likely to have medical support and other professionals involved in monitoring their health while participating in aggressive weight loss practices. However amateurs, young adults and children may attempt to copy these practices with little or no knowledge of the harmful effects it can have on their bodies, including the risk of death.
155. Sharron also noted that there were no mandatory safe practices or guidelines provided by the Sports Combat Commission at the time of Jess' death and that remains the case today.

### **Darren Curovic**

156. Mr Curovic advised that following Jess' death a group of Western Australian promoters/matchmakers and gym makers, led by Dr Golden and including Mr Curovic, formed a committee and formulated an eight point code of conduct plan for all combat sports in WA. It was based on recommendations formulated by Dr Golden through his medical expertise and fight industry knowledge. It was hoped this would lead to change in the industry to ensure that another similar tragedy does not occur.<sup>242</sup>

### **AMA**

157. The Australian Medical Association (AMA) Position Statement released in 2015, prior to Jess' death, takes a strong stance against any form of combat sport, where the primary objective of participants is to strike, kick, hit, grapple with, throw or punch one or more participants. This would obviously include Muay Thai.
158. The primary AMA recommendation is that all combat sports be banned, but suggests some modifications in the interim. One recommendation, in order to reduce the morbidity and mortality rates associated with combat sport, is to "increase the time interval between the weigh-in and the bout to at least 72 hours, to allow the participants to rehydrate."<sup>243</sup> This position appears to accept that weight-cutting through water loss will occur, and encourages a longer period for rehydration to ensure that participants are not adversely affected by the dehydration that inevitably comes from that

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<sup>242</sup> Exhibit 1, Tab 12.

<sup>243</sup> Exhibit 1, Tab 25, p. 2.

weight-cutting process. The focus is on avoiding the danger of cerebral dehydration discussed by Dr Golden.

### **Anecdotal Experience**

159. Ricardo Pisaneschi was another male fighter who trained at Kao Sok gym while Jess was training there, but he left a few months prior to Jess's death so he did not witness her final training regime. Mr Pisaneschi gave general evidence about his weight cutting, which he did for all his fights that he participated in while at Kao Sok. He described his regime as initially starting with a strict diet to get the bulk of the weight off, then used water loading and dehydration in the final fight week. He believed he used water loading most, if not all of the time, as part of his weight cutting process, after researching it online from similar sources to those described by the other witnesses. In addition, Mr Pisaneschi utilised sodium loading, which involved putting excess salt into his water for two days, then cutting out all salt.<sup>244</sup> He would also use the common tools of sauna suits, hot baths and occasionally going to the sauna.<sup>245</sup> Other than researching online, Mr Pisaneschi believes he would have gained information about what techniques to use from talking to fellow fighters and, to a lesser extent, staff at the gym.<sup>246</sup>
160. Mr Pisaneschi noted that sometimes the weight would come off, and sometimes it wouldn't. When it didn't, he would have to try harder to lose the weight, which obviously made the process harder. He described feeling miserable and generally poor and depleted during the process but he had never collapsed or lost consciousness.<sup>247</sup> Mr Pisaneschi still took some sips of water, or diet Pepsi in his case, on the last day when he was feeling excessively dehydrated, but he generally tried to override his body's need for food or water at the end.
161. Mr Pisaneschi expressed the opinion that part of the overriding problem with weight cutting is that there's no exact science to it and often people are in uncharted territory when they attempt it, particularly at first. It is not a case of people listening to their bodies when they do it, as Mr Pisaneschi pointed out, "[i]f you listened to your body you wouldn't do weight cutting full stop. You wouldn't get to the point where you're starving, or where you're dehydrated and thirsty if you were properly

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<sup>244</sup> T 245 – 246.

<sup>245</sup> T 246.

<sup>246</sup> T 247.

<sup>247</sup> T 247 – 248.

listening to your body.”<sup>248</sup> Mr Pisaneschi said he never felt that he got to the extreme level where it was going to be life or death, and he thought that if he had he would have stopped and drank something, but he never actually got to that stage.<sup>249</sup>

162. He agreed that part of the problem is that weight cutting is so common across the sport that if you don’t do it, you are at a big disadvantage. He indicated that he had fought across two weight categories during his fight career and while there were only really two or three kilos difference in those weight categories, he felt the difference between the heavier fighters hitting him and the lighter weight.<sup>250</sup>

### **WEIGHT CUTTING FOR FEMALE FIGHTERS**

163. There was evidence before me that weight cutting for female fighters presented its own particular challenges, not all of which may have been obvious to Jess.
164. Caley Reece, who was the promotor/matchmaker for Jess’ ill-fated fight, had participated in approximately 60 fights before she retired from fighting.<sup>251</sup> Ms Reece gave evidence that she regularly cut weight for those fights but she did not use water loading, as she had found when she tried it for her early fights that as a female the technique did not really work for her. Ms Reece explained that her body would hang onto the fluid and she “got a little bit stuck towards the end.”<sup>252</sup> These were the times when she found the weight cutting the hardest so she decided water loading was not suitable for her as it was “too much.”<sup>253</sup> Ms Reece indicated that the other female fighters at her gym don’t do the huge water loading either.<sup>254</sup>
165. Instead, Ms Reece said she preferred to be very diligent with her nutrition and explained she “tried to get as lean as possible up until fight week” so that she was only 4 or 5 kg from her fight weight a week out from weigh-in. In the last week, she would then still drink about the same amount of water as usual on the first few days, then slowly start to bring the amount of water down and reduce her meals while also trying to sweat through the use of saunas and other such things. Ms Reece said she did not stop eating or drinking at any stage in that final week, but was eating only small

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<sup>248</sup> T 248.

<sup>249</sup> T 249.

<sup>250</sup> T 253.

<sup>251</sup> T 224.

<sup>252</sup> T 231.

<sup>253</sup> T 235.

<sup>254</sup> T 236.

amounts and sips of water or sucking on ice cubes or an icy pole at the end. Nevertheless, she was still putting small amounts of food and water back into her body at the same time as she was losing it.<sup>255</sup>

166. Ms Reece said that she had adopted this more measured practice as she had found early in her fight career that when she stopped eating and drinking water altogether, “everything else would stop.”<sup>256</sup> She explained her body would stop sweating as much and she would stop going to the toilet, whereas if she continued to take in small amounts of food and water, her body would still keep working and responding to the weight cut. Ms Reece said she would only drink distilled water at the end as it has no sodium in it, and only about 300 mls in total on the last day while sweating out more in the sauna etc., but there was still some fluids going back into her body even at the end and she would also eat lollies or have part of an icy pole to get some glucose into her body.<sup>257</sup>
167. Ms Reece also indicated in her evidence that she tried to maintain a consistent regime, not just for fight camp periods but all the time, so that her body was somewhat used to the regime. This included regular use of a sauna, so it was not something that was foreign to her body and mind.<sup>258</sup>
168. This consistency in her training practices was relevant to Ms Reece’s answer when questioned about the largest amount of weight she had been required to lose for a fight, which was around 7 kg due to an error by the promoter. Ms Reece described this as “a lot for me,”<sup>259</sup> but she made the attempt as it was a title fight, and she achieved it following the same protocol she usually used.
169. Ms Reece gave evidence that she had failed to make weight on one occasion by a small amount, which she attributed to the timing in her menstrual cycle. Ms Reece said that even though she was following her usual protocol, including using a sauna, her weight was going up due to hormonal changes. Ms Reece was able to reach a mutual agreement with the other fighter to allow her the small amount of extra weight, so she was still able to fight on the day.<sup>260</sup> Ms Reece explained that she learned from doing her own research to look at where she would be in her cycle at the time of fight as it affected her weight both mid-cycle and at the end of her

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<sup>255</sup> T 231 – 233.

<sup>256</sup> T 232.

<sup>257</sup> T 232, 235 - 236.

<sup>258</sup> T 233,

<sup>259</sup> T 233.

<sup>260</sup> T 233 – 234.

cycle.<sup>261</sup> Ms Reece agreed that many female fighters might be unaware of these sorts of issues with cutting weight when menstruating as it is not something that is commonly discussed or experienced in the general population.<sup>262</sup>

170. Ms Reece gave evidence that she had come up with the regime that worked for her through trial and error, as at the time she was fighting there were less female fighters so she had little guidance available from other women as to what worked for them and there was little science available on what worked for weight cutting for female bodies.<sup>263</sup> Ms Reece described herself as “almost like the trial” case. When she found water loading wasn’t good for her, she was able to pass that information on to others. As the owner of a gym now, together with her husband, Ms Reece indicated that she is aware that based on her advice a lot of the females at their gym now follow a similar regime to what she devised for herself.<sup>264</sup>
171. The trainer, Jack Chanawong, also acknowledged that in his experience, it is harder for a female fighter to lose weight than a male fighter, but it does not seem that he had come up with alternative suggestions.<sup>265</sup>
172. Dr Golden also agreed in his evidence that there are unique challenges faced by female fighters in relation to weight cutting, expressing the view that extra allowance should be made for female participants considering their weight can vary throughout a menstrual period, and the body will be more protective in the second cycle post-ovulation. He agreed the issues are possibly not well-known or understood in the sport. Dr Golden also accepted the female body might respond differently to water loading, although he did not know precisely why.<sup>266</sup>
173. As I noted earlier in this finding, Sharron provided evidence that she believed Jess had some idea that she might experience some differences due to her gender, but it is not clear that she had a good appreciation that water loading might not work for her, and indeed could have the opposite effect to what she desired.

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<sup>261</sup> T 234.

<sup>262</sup> T 234,

<sup>263</sup> T 232.

<sup>264</sup> T 240 - 241.

<sup>265</sup> T 79.

<sup>266</sup> T 273, 277.

**COMBAT SPORTS COMMISSION'S ROLE**

174. Cassandra Wright, the then Chair of the Combat Sports Commission WA, responded to a letter from the Court on 18 April 2019. Ms Wright advised that the Commission's powers extend to Muay Thai by virtue of the definition of 'combat sport' in the *Combat Sports Act 1987* (WA) (Combat Sports Act). The Commission's powers are currently limited to regulating Muay Thai contests, which are in effect contest or exhibitions either arranged for profit or for public entertainment. While the Combat Sports Act authorises the Commission to develop and approve standards and guidelines for the purpose of maintaining proper standards in combat sports and for the preparation or training of persons participating in contests, Ms Wright noted the Commission does not have the power to regulate gyms or other training venues.<sup>267</sup>
175. All Muay Thai contestants and industry participants are required by the Act to be registered with the Commission (with registration approval being considered against the Commission's 'Fit and Proper Person' policy) and all contestant applicants are required to submit a Certificate of Fitness and Serology report. They are not required to submit a statement of experience.<sup>268</sup>
176. Under s 48 of the Combat Sports Act, before a contest occurs, each person intending to participate must attend and submit to a weigh-in. The weigh-in must take place within 24 hours before the contest. A Commission representative and the permit holder are required to be present. Further, under s 49A of the same Act, a medical examination is conducted at the weigh-in of each contestant by a medical practitioner engaged for the contest and associated weigh-in.<sup>269</sup> Contestants are not permitted to compete in a contest without completing the weigh-in and medical examination.<sup>270</sup>
177. As well as forming an opinion as to whether the contestant should participate at the contest following the examination at the weigh-in, the medical practitioner can also tell a referee during the contest that they are of the opinion the contestant is unfit to continue to participate.

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<sup>267</sup> Exhibit 1, Tab 21.

<sup>268</sup> Exhibit 1, Tab 21.

<sup>269</sup> Exhibit 1, Tab 21.

<sup>270</sup> Exhibit 1, Tab 21.

178. All contestants must also undertake a post-contest medical examination by the medical practitioner<sup>271</sup> and there are rules about how long a contestant must stay out of competition after being knocked out.<sup>272</sup>
179. At the time of Jess' death, the Combat Sports Commission's role in relation to contestant's weight was focussed on ensuring the contestant came under the set weight for the fight. There does not appear to have been any attention by the Commission on how the contestant met that weight, or whether the weight set was appropriate. I note that under the Combat Sports Commission's *Guidelines and Conditions for Combat Sports Registrants* in place in 2017, a contestant could be declared unfit to compete at their pre-contest medical because of dehydration, as well as other specified factors, but it doesn't seem anecdotally that this commonly occurred.<sup>273</sup>
180. Since Jess' death, the Commission has turned its attention to the practice of weight cutting and what role the Commission can meaningfully play in discouraging and/or regulating its occurrence in combat sports to minimise the dangers to contestants. I will turn my attention to the strategy the Commission proposes to introduce later in this finding, but I will first address what was known by the Commission and others in the sport about weight cutting and its dangers at the time of Jess' death, and the general issues arising from it.

### **NEW CONTESTANT WEIGHT CUTTING STRATEGY**

181. Since Jess' death, the Commission has developed the *Contestant Safety Strategy to Address Rapid Weight Loss (Weight Cutting) by Dehydration*.
182. The initial draft strategy was opened to public comment in 2018.<sup>274</sup> The draft strategy identified that local consultation had found the culture in the industry was the driving force behind weight cutting, but there also appeared to be support amongst those in the industry for a change from the existing weight cutting culture and a willingness to be industry leaders in that area.<sup>275</sup> However, concern was also raised about the need to ensure that WA fighters were not disadvantaged against interstate and

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<sup>271</sup> Exhibit 1, Tab 21.

<sup>272</sup> Exhibit 1, Tab 21.

<sup>273</sup> Exhibit 1, Tab 24E, p. 6.

<sup>274</sup> Exhibit 1, Tab 22.

<sup>275</sup> Exhibit 1, Tab 22, p. 9.

international contestants, as international and interstate contestants are subject to different requirements.<sup>276</sup> Similar themes arose at the inquest.

183. As well as consultation with local industry members, medical professionals and sports scientists, the Commission indicated it also canvassed other combat sports jurisdictions to identify the measures that are being imposed around the globe to address weight cutting.<sup>277</sup> Most relevant to this case, the International Federation of Muaythai Amateur (IFMA), consisting of 130 member countries worldwide, updated its medical check procedure for all athletes in 2017/2018 with a focus on weight cutting and dehydration, emphasising that the Federation supports weight control by fat loss, NOT by water loss, and encouraging all athletes and their entourage and other stakeholders to take responsibility in this process for the health of the athletes.<sup>278</sup>
184. I also note the California State Athletic Commission/Association of Ringside Physicians (USA) was quoted as advising participants in strong terms not to use extreme methods for making weight such as excessive heat methods (rubberized suits, steam rooms, saunas), excessive intense bouts of exercise, vomiting, laxatives and diuretics, as well as not to use dehydration as a mainstay of making weight.<sup>279</sup>
185. Between 31 March 2017 and 24 September 2017 the Commission collected secondary weigh-in data from 426 contestants at 15 events in various combat sports, which was then statistically analysed. The results showed weight variation from less than 1% up to more than 10%, with more than half having a weight difference more than 5%. However, whether the weight gain led to a competitive advantage varied.<sup>280</sup>
186. A Curtin University study was also commissioned by the Combat Sports Commission. It involved a literature review that identified 11 methods of measuring hydration status in athletes, each with varying degrees of validity, reliability and practicality.<sup>281</sup> The review found that of the various methods available, those that are accepted as highly accurate are not often practical, and methods that offer more practicality are less accurate.<sup>282</sup>

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<sup>276</sup> Exhibit 1, Tab 22, pp. 55 – 56.

<sup>277</sup> Exhibit 1, Tab 22, p. 6.

<sup>278</sup> Exhibit 1, Tab 22, p. 39.

<sup>279</sup> Exhibit 1, Tab 22, p. 21.

<sup>280</sup> Exhibit 1, Tab 22, pp. 35 – 36.

<sup>281</sup> Exhibit 1, Tab 23, Executive Summary, p. iv.

<sup>282</sup> Exhibit 1, Tab 22, p. 6 and Tab 23, p. 20.

187. In the second stage of the process, a Consultation Paper was released in April 2019.<sup>283</sup> It was anticipated at that stage that full implementation of the strategy would then occur by 30 January 2020. In fact, the final strategy was only released at the end of February 2020, just prior to the inquest.
188. The major changes between the draft strategy and the April 2019 Consultation Paper were identified as:<sup>284</sup>
- the removal of the dehydration testing by urine specific gravity based on advice from medical practitioners that measurements were not sufficiently reliable to determine the fitness of a contestant to compete;
  - in replacement of urine specific gravity testing, the Commission proposed to require contestants to undertake a DEXA body scan to enable the Commission to determine a minimum weight at which the contestant can compete; and
  - removal of the prohibition of catch weights (agreed weight limits for a contest that are not aligned with any weight class).<sup>285</sup>
189. Another Consultation Paper was released in December 2019.<sup>286</sup> In this new paper, it was noted that the Commission had determined through the process of consultation that both dehydration testing through urine testing and setting minimum weights using DEXA body scanning data had proven to be unviable for inclusion in the strategy.
190. Dr Golden had advocated for the use of DEXA scans,<sup>287</sup> but the Honourable Robert “Bob” Kucera (the recently appointed Chair of the Commission) explained at the inquest that the DEXA scanning is not available to the Commission as the Radiological Council is of the view that it is only available for medical procedures and/or research purposes.<sup>288</sup> Many of the other tests were not practical, unreliable and also expensive and not claimable on Medicare or health insurance.<sup>289</sup> Ultimately, the Commission has not been able to identify a dehydration test that it can support the use of in combat sports at the present time.<sup>290</sup> Accordingly, the

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<sup>283</sup> Exhibit 1, Tab 24.

<sup>284</sup> Exhibit 1, Tab 24.

<sup>285</sup> Exhibit 1, Tab 22, p. 49 and Tab 24.

<sup>286</sup> Exhibit 1, Tab 24A.

<sup>287</sup> Exhibit 1, Tab 27F, p. 19.

<sup>288</sup> T 352.

<sup>289</sup> T 352.

<sup>290</sup> Submissions filed by Combat Sports Commission dated 30 April 2020.

Commission has instead adopted weight class conditions to address weight cutting.<sup>291</sup>

191. The new Weight Class Conditions would require an initial weigh-in within 24 hours of the contest and then a secondary weight check within a two-hour window from ‘doors open’ at each promotion. If the contestant is 10% to 15% above the upper limit of the agreed weight class, they would receive a warning on the first occasion and any subsequent occurrence would cause the Commission to seek to impose a condition on the contestant’s registration that they go up a weight class (which is what would immediately occur if a contestant is more than 15% above the upper limit).<sup>292</sup> The onus is on the contestant to produce evidence that it is safe to compete at their preferred weight class with an emphasis on using common sense to choose the weight class.<sup>293</sup>
192. As noted above, the Final Strategy was released at the end of February 2020, just prior to this inquest. Mr Kucera, appointed as the new Chair of the Commission on 1 February 2020, expressly acknowledged his predecessors at the inquest, noting the difficult task that the Commission has faced in getting this far with the Strategy, which he has obviously inherited as the new Chair.<sup>294</sup>
193. Mr Kucera endorsed the Strategy developed to address the dangerous practice of weight cutting and noted the Commission will continue to consult moving forward as the Strategy is trialled for a period of 12 months to assess the effectiveness of the Strategy in curbing dangerous weight cutting behaviours.<sup>295</sup> I agree with Mr Kucera’s comment in the foreword to the Strategy that the only way to “stop this dangerous practice is to create a culture where safety is paramount and everyone’s responsibility.”<sup>296</sup>
194. Mr Kucera commented that he had been on an “exponential learning curve”<sup>297</sup> in the time since he took on his new position, and I note that he willingly chose to sit through the entire inquest, rather than simply coming on the day he was scheduled to give evidence, demonstrating his willingness to continue to learn more about these issues rather than simply stop now that the Strategy has been released.

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<sup>291</sup> Exhibit 1, Tab 24A.

<sup>292</sup> Exhibit 1, Tab 24A.

<sup>293</sup> T 360; Exhibit 1, Tab 24A.

<sup>294</sup> T 338.

<sup>295</sup> Exhibit 1, Tab 41, Foreword.

<sup>296</sup> Exhibit 1, Tab 41, Foreword.

<sup>297</sup> T 339.

195. I note that while the Commission has only recently released the final Strategy, the Commission has had available for some time advice on “The Dangers of Cutting Weight and Dehydration,”<sup>298</sup> inspired by Jess’ legacy. The information is available on the Commission’s website and provides information about weight cutting and the specific health dangers of undertaking it, together with information about Jess’ tragic passing due to weight cutting in November 2017.<sup>299</sup>
196. The Commission’s Contestant Preparation Standards and Guidelines, as at 2017, also strongly advised that “contestants do not cut weight, or endeavour to make weight, through dehydration.”<sup>300</sup> The Standards and Guidelines emphasise the importance of adequate hydration along with the right diet to optimise a contestant’s energy levels and help their body recover more effectively, and advise that a contestant should not lose more than 4 to 5% of their body weight in the lead up to a contestant and this weight loss should be achieved through good nutrition and exercise, not by dehydration. The dangers of dehydration are set out in the document, including the fact that it can lead to hyperthermia and death. The risks of participating in combat sports with a dehydrated brain are also set out clearly, as well as the risks of water loading, including hyponatremia.<sup>301</sup>
197. In regard to the newly released Final Strategy, I note that the strategy to address weight cutting by way of dehydration is broken down into three pillars:<sup>302</sup>
- Weight Assessment;
  - Regulation; and
  - Education.
198. The Commission has indicated it is working towards full implementation of the strategy by late 2020 and the education component has already commenced.<sup>303</sup> However, the implementation of the other aspects of the Strategy have been affected by the COVID-19 pandemic, which has resulted in a halt on all contests since the early part of the year. The Commission has advised it remains committed to implementing the rest of the Strategy as soon as is practicable once contests recommence.<sup>304</sup>

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<sup>298</sup> Exhibit 1, Tab 24B.

<sup>299</sup> Exhibit 1, Tab 24B.

<sup>300</sup> Exhibit 1, Tab 24C, p. 5.

<sup>301</sup> Exhibit 1, Tab 24C, pp. 8 - 9.

<sup>302</sup> Exhibit 1, Tab 41.

<sup>303</sup> Exhibit 1, Tab 41.

<sup>304</sup> Submissions filed by Combat Sports Commission dated 30 April 2020.

199. In terms of the *Weight Assessment* component, the rules will now allow only a single weigh-in attempt to avoid encouraging contestants to lose more weight in a short period. There will be an initial weigh-in within the period of 24 hours prior to the fight and a secondary weight check within a two hour window from ‘doors open’ on the day of the fight, with warnings and possible sanctions to follow if the contestant is 10% to 15% or greater above the upper limit of the agreed weight class. Data from the secondary weigh-in will also give the Commission useful information to determine the degree to which the strategy has been effective in curbing weight cutting by dehydration.<sup>305</sup>
200. Further, amendments will be made to the Certificate of Fitness to include the contestant’s past contest weight, current weight and proposed contest weight, with the purpose being to ensure that contestants and medical practitioners can consider whether the intended weight can be safely achieved.<sup>306</sup> In that regard, the Commission recognises that weight loss is a natural consequence of training,<sup>307</sup> so the focus is on avoiding the need for extreme weight cutting to achieve the set weight, rather than planned, gradual weight loss.
201. The *Regulation* aspect of the Strategy involves changes to the Commission’s Code of Conduct to explicitly prohibit the use of sweat suits, saunas and other devices to artificially dehydrate the contestant.<sup>308</sup> Mr Kucera acknowledged that this prohibition might be difficult to enforce, particularly as the Commission does not have inspectors out in the field to police it. However, he explained that the intention is to provide a very clear message to gyms, trainers and participants that the Commission “frowns on it, and that they should frown on it”<sup>309</sup> too in order to change the culture of the sport. By explicitly prohibiting the conduct, it is hoped this message will be received. He described it as part of the “carrot and a stick approach,”<sup>310</sup> with education and possible penalties or consequences for non-compliance with the rules going hand in hand.<sup>311</sup> Mr Kucera indicated that, if it becomes apparent down the track that the prohibition is impractical, then the Commission will of course review its position.<sup>312</sup>

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<sup>305</sup> Exhibit 1, Tab 41.

<sup>306</sup> Exhibit 1, Tab 41.

<sup>307</sup> T 337

<sup>308</sup> Exhibit 1, Tab 41.

<sup>309</sup> T 338.

<sup>310</sup> T 338.

<sup>311</sup> T 344, 347.

<sup>312</sup> T 338.

202. As for *Education*, the Commission requires all registrants (and/or their parents or guardians) to undergo an online education assessment and to be provided with information about the dangers of weight cutting in various formats. A position paper will also be provided to international and interstate contestants as part of the permit conditions via a fight promoter.<sup>313</sup> In addition, there is now a video included as part of the mandatory online education package that registrants with the Commission must watch in which Jess' mother Sharron talks about what happened to Jess as a warning to others. All contestants must re-register with the Commission every three years, so it will eventually be viewed by all fighters, not just new registrants.<sup>314</sup> Mr Kucera's explained at the inquest that the Commission is hoping to highlight to contestants the dangers of using artificial methods of dehydration in the educational package.<sup>315</sup>
203. At the conclusion of the Strategy, the Commission has provided some information on why it has not included some of the options considered earlier, such as dehydration testing by urine specific gravity and setting minimum weights via body scanning.<sup>316</sup>
204. Professor Rogers was asked to provide his opinion on the consolidated strategy. Professor Rogers agreed with the general principle that aggressive weight cutting is dangerous and expressed the opinion that any weight cutting program that produces weight loss of greater than 5% over a short few days (a loss that will be largely due to dehydration and not starvation) should be considered above the level that can be safely recommended.<sup>317</sup> Professor Rogers expressed the opinion that the Commission has developed a strategy "that appears both practical and safety focussed."<sup>318</sup> He noted the strategy is largely based around athlete weight and athlete education, which has face validity, is readily implemented and can be 'athlete self-monitored' (rather than relying solely on external assessment).
205. Professor Rogers suggested that the only aspect of the strategy not adequately addressed in the material was what constitutes 'artificial means of dehydration', in the context that it is normal to have some variations in hydration to the level of +/-3%.<sup>319</sup>

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<sup>313</sup> Exhibit 1, Tab 41.

<sup>314</sup> T 334 – 335.

<sup>315</sup> T 337.

<sup>316</sup> Exhibit 1, Tab 41.

<sup>317</sup> Exhibit 1, Tab 39 [5].

<sup>318</sup> Exhibit 1, Tab 39 [6].

<sup>319</sup> Exhibit 1, Tab 39 [6].

206. Professor Rogers also suggested that the strategy could be further strengthened by updating the Contestant Guidelines, which is indeed proposed to be done in the February 2020 Final Strategy. In particular, Professor Rogers suggests that the issues that could be specifically addressed are:<sup>320</sup>
- a. Emphasising that any decrease in bodyweight from baseline of more than 5% in the few days or hours prior to a contest will certainly be detrimental to performance and lies well outside the normal day to day variation in hydration status of +/-3%; and
  - b. Removing the urine colour chart which has been included in an attempt to aid hydration assessment, as Professor Rogers indicated that many factors influence urine colour and body weight monitoring is a better measure of hydration status.
207. Whilst I understand Professor Rogers' reservations about the urine colour chart, in my view as a layperson, it is helpful to at least give contestants some general guide to whether they are sufficiently hydrated. Perhaps, however, a footnote could be added to reinforce that these are guidelines only, and explains that there can be other reasons for changes to urine colour.

### **COMMENTS ON THE NEW STRATEGY AND ALTERNATIVES**

#### **Dr Golden**

208. Dr Golden noted in his submissions filed after the inquest that both preceding and following the death of Jess he pushed for better regulation in combat sports of the use of weight cutting through acute water loss due to the known dangers. Since then, he submits there has been little real change implemented and he is aware anecdotally of further competitors having suffered potentially life threatening events. Dr Golden acknowledges the Commission's current attempts to deal with the issue through the newly released Strategy and has provided comment on specific aspects of the Strategy.<sup>321</sup>
209. Dr Golden supports the single weigh-in attempt and the concept of enforcing weight class conditions but considers there needs to be more defined conditions of enforcement by the Commission. Dr Golden also agrees that devices that artificially dehydrate contestants should be

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<sup>320</sup> Exhibit 1, Tab 39 [7].

<sup>321</sup> Submissions filed by Dr Golden dated 17 March 2020.

dissuaded but queries how this can be regulated or policed. Dr Golden suggested the techniques of weight cutting, such as use of saunas, hot baths etc., can be done anywhere so they are “completely un-governable, un-regulatable, un-detectable.”<sup>322</sup> Hence, he queries whether the prohibition will lead to any real change in practice given the pressures to ‘make weight’.<sup>323</sup>

210. As noted above, Dr Golden opposes the institution of a same day weigh-in due to the dangers of cerebral dehydration and emphasises that it is important that changes made to the current process do not increase the risk to competitors of other harm.<sup>324</sup>
211. Dr Golden’s concern about the second weigh-in is people simply won’t replenish the fluids.<sup>325</sup> He sees this as creating the same problem as the same day weigh-ins. He believes the real focus needs to be on preventing people from weight cutting in the first place, which is why he submits a plan that weights be taken six weeks before and one week and one day before, as detailed below. Dr Golden believes this plan would support prevention as the first priority.<sup>326</sup>
212. Dr Golden has also reviewed the current online education unit provided by the Commission and notes that only a small proportion of it relates to weight cutting, and in his view the information provided is unlikely to deter competitors from undertaking dangerous weight cutting practices given how ingrained it is in the sport. Dr Golden expresses the opinion that it “is clear that education will have a negligible effect on weight cutting culture,”<sup>327</sup> but does not provide any additional information to explain why he believes this is the case other than the fact that following Jess’ death he is aware competitors continued to engage in these practices and his belief that the Commission is not well respected within the industry.
213. Dr Golden suggests that a more “robust method”<sup>328</sup> needs to be adopted to prevent the need for significant weight loss during the final week of pre-competition training, when the acute water loss generally occurs. In preventing this weight loss in ‘fight week’, Dr Golden believes the dangerous methods used to achieve acute water loss would quickly

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<sup>322</sup> T 302.

<sup>323</sup> Submissions filed by Dr Golden dated 17 March 2020.

<sup>324</sup> Submissions filed by Dr Golden dated 17 March 2020.

<sup>325</sup> T 330.

<sup>326</sup> T 331.

<sup>327</sup> Submissions filed by Dr Golden dated 17 March 2020, p. 4.

<sup>328</sup> Submissions filed by Dr Golden dated 17 March 2020, p. 5.

become obsolete.<sup>329</sup> The cornerstone of such a method would have to include the knowledge and recording of a contestant's weight over a longer period of time. Instead, in the current system, the first time a competitor's weight is recorded is within 24 hrs of the competition, which allows acute water loss to substitute for gradual fat loss.<sup>330</sup>

214. From informal discussions with head trainers, Dr Golden believes that most trainers are cognisant of the approximate weights of their 'active fighters' (i.e. one who intends to compete in the calendar year) and check on them on a regular basis. Therefore, Dr Golden does not believe it would be a significant impost on trainers to provide that information to the Commission on a regular basis, with a suggestion of perhaps every three months being the goal. This would assist in establishing an 'active fighter's training weight.' He suggests that this would also give the trainers some "buy-in and some responsibility for their active fighters' weights."<sup>331</sup> Dr Golden suggested there "needs to be someone accountable for those weights"<sup>332</sup> and he suggested the head trainer at the gym was the appropriate person to be the accountable person.
215. By reporting it to the Commission the information would be centralised. Dr Golden notes the Commission would then need to have a compliance officer to review the data and trends, but suggests this should be manageable as the system would be likely to be computerised.<sup>333</sup>
216. Prior to a fight, Dr Golden submits the contestant should have a weight taken six weeks out from a contest, a week out, 24 hours out at a specific location that is not their gym.<sup>334</sup> He suggests if this was done in Jess' case, it would have been obvious from a weight taken a week out that she was going to have to use extreme measures to meet her designated category and the Commission could then indicate they would only sanction a bout at a higher weight.<sup>335</sup>
217. Dr Golden also suggests this information should be cross-checked with random spot checks of competitors at gyms by a Commission compliance officers to ensure that reported weights are accurate, with warnings given and ultimately penalties such as suspensions for gyms or trainers if it is found that there is deliberate false reporting.<sup>336</sup> I note the evidence from

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<sup>329</sup> Submissions filed by Dr Golden dated 17 March 2020, p. 4.

<sup>330</sup> Submissions filed by Dr Golden dated 17 March 2020, p. 5.

<sup>331</sup> T 287.

<sup>332</sup> T 299.

<sup>333</sup> Submissions filed by Dr Golden dated 17 March 2020.

<sup>334</sup> T 309.

<sup>335</sup> T 313.

<sup>336</sup> Submissions filed by Dr Golden dated 17 March 2020.

Mr Kucera that there is currently no power for the Commission to undertake such a role under the Act, so this would require legislative change.

218. Dr Golden suggests that the benefit of obtaining data on competitors' walk around weights is that the Commission would be able to give consideration to not sanctioning a fight where it is apparent from the known starting weight and target weight and time period available, that aggressive weight cutting would be required for a contestant to meet a registered weight. Dr Golden accepts that there would need to be greater tolerance for female competitors given hormonal changes during the menstrual cycle can cause significant body fluid compartment shifts. However, he still believes it would become apparent relatively rapidly where trainers are registering fighters for unsafe weight categories.
219. Dr Golden advised that he has been approached by a leading Muay Thai association in New Zealand seeking a way to combat the problem of weight cutting through acute water loss and notes that many other authorities both throughout Australia and the world are seeking a workable solution. If Western Australia should implement an achievable strategy, he believes it may well be implemented nation-wide and looked at internationally. In the interim, he would expect that an interstate or international competitor registering for a competition in WA would be expected to report to their local authority or a medical practitioner to get their weight checked at 6 weeks and 1 week from competition. The tolerances for these weights would be identical to Western Australian competitors so as not to confer an advantage either way.<sup>337</sup>
220. For fighters who register at a late stage, Dr Golden suggested that there should be a decreased tolerance for their divergence from the registered weight. For example, if there is a week's notice, the fighter should be found to weigh within 5% of their weigh-in weight. Competitors registering closer in time should be closer still to their registered weight, with exact tolerances to be agreed.<sup>338</sup>
221. Dr Golden acknowledged at the end of his very detailed submission that there are still many topics open for discussion, such as what tolerances should be deemed within natural variation, particularly for female

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<sup>337</sup> Submissions filed by Dr Golden dated 17 March 2020.

<sup>338</sup> Submissions filed by Dr Golden dated 17 March 2020.

competitors, and whether there should be different tolerances between amateur and professional athletes.<sup>339</sup>

### **Sharron Lindsay**

222. Jess' mother Sharron also provided a detailed submission at the conclusion of the inquest, which she designed to complement the Commission's current acting guidelines and the newly released Strategy. Sharron indicated that she has always strived to keep the focus on the big picture of bringing sustainable change to protect the future of the sport and its young people, and she has shown an admirable willingness to work with the Commission to create cultural change. Sharron's ultimate hope is for all contestants, amateur and professional, to have improved safety but her primary focus is to raise awareness with the families of amateur fighters so that they can protect their loved ones from a senseless death like her beloved daughter suffered.<sup>340</sup>
223. Sharron submits that we need to eliminate the culture of normality around weight cutting via dehydration and suggests that there needs to be an agreed test for hydration at weigh-ins, although I note that so far the Commission has been unable to identify a scientifically based method that it is able to support and implement, despite extensive research and consultation.<sup>341</sup>
224. Sharron also submitted that there is a need for legislative change to increase the powers of the Commission to monitor the weights of fighters periodically and specifically during the fight camp training period, with the fight book expanded and computerised so that all measurable data can be collected and record during the fight camp period. Sharron agreed with Dr Golden that a recorded weight six weeks out from the fight would be ideal to get a framework for the weight the contestant needs to lose for the contest, and she submitted that weights should then be taken regularly during the six week period, including the day before and the day of the fight. In that aspect, Sharron diverges from Dr Golden as she supports the introduction of a same day weigh-in. Sharron supports the Commission being afforded greater powers to then impose penalties on contestants, trainers and gym owners for not providing, or falsifying, weights.<sup>342</sup>

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<sup>339</sup> Submissions filed by Dr Golden dated 17 March 2020.

<sup>340</sup> Submissions filed by Ms Sharron Lindsay dated 20 April 2020.

<sup>341</sup> Submissions filed by Ms Sharron Lindsay dated 20 April 2020; Submissions filed by the Combat Sports Commission dated 30 April 2020.

<sup>342</sup> Submissions filed by Ms Sharron Lindsay dated 20 April 2020.

225. Sharron also submits the Commission needs to develop an official accreditation process to replace the basic registration process currently in place, as well as an accreditation system for gyms to ensure they provide essential services such as defibrillators and staff with first aid training on the premises.<sup>343</sup>
226. Mr Kucera acknowledged that the evidence he had heard at the inquest pointed to a need for greater regulation and accreditation of the gyms and training facilities that is not currently provided under the existing legislation.<sup>344</sup> Without the legislative power to enforce change, the Commission has focussed on encouraging voluntary change within the industry, but there is the potential to look further at what can be done.<sup>345</sup> In that regard, it is relevant to note that significant legislative change is a process of years, regulatory change potentially many months to years, whereas Codes of Conduct and Guidelines allow for much quicker changes to be implemented.<sup>346</sup>
227. I note at this stage that Mr Curovic gave evidence that Kao Sok gym now has a manager/receptionist during opening hours who can speak English fluently and is completing first aid qualifications. The gym has a first aid box on site but no defibrillator.<sup>347</sup> Further, two of his Thai trainers now speak good English and they also know basic first aid.<sup>348</sup>
228. Mr Kucera explained at the inquest that the Commission's current role is to administer the Act but not to administer the actual sport of Muay Thai or other combat sports, which in the case of Muay Thai causes some issues as there is no overarching body in Australia currently administering the sport.<sup>349</sup> The Commission has funding for four and a half full-time staff who deal with the bureaucratic side of the Commission. There is also an independent Chair (Mr Kucera currently) and nine members of the Commission who are all involved in the various codes and therefore are out in the field to some extent, but not in the form of policing compliance with the Codes of Conduct. One of the members is a lawyer and one of the members is a medical practitioner whose role is to advise the Commission on medical issues.<sup>350</sup>

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<sup>343</sup> Submissions filed by Ms Sharron Lindsay dated 20 April 2020.

<sup>344</sup> T 348 – 349.

<sup>345</sup> T 350.

<sup>346</sup> T 349 – 350.

<sup>347</sup> T 113.

<sup>348</sup> T 135.

<sup>349</sup> T 342.

<sup>350</sup> T 366 – 367.

229. Based upon the current staffing levels, there is no current capacity for Commission staff to do the sorts of weight ‘spot checks’ suggested by Dr Golden and monitor the fight camp training period as suggested by Sharron.<sup>351</sup> Also, Mr Kucera commented that it is the gymnasiums and training facilities where the Commission has the least amount of control over what is occurring as the Act does not give the Commission the power to inspect or regulate them.<sup>352</sup> Mr Kucera therefore suggested that if trainers were to voluntarily collect the relevant weight information and provide it to the Commission, which would be a much simpler and more immediate solution.<sup>353</sup>
230. The Commission intends to monitor and review the data from the secondary weigh-in to determine the degree to which the Strategy has been effective in curbing dangerous weight cutting behaviour. Mr Kucera explained that money has been set aside by the Commission for further research programs to do this analysis.<sup>354</sup> The Commission can then determine whether any additions or changes are required to improve the Strategy’s effectiveness.<sup>355</sup>
231. Sharron’s submits that the Commission should do more to develop guidelines for roles and responsibilities on the health and safety component, which no doubt would be informed by this research.
232. Sharron noted that in particular, the Commission needs to tailor its educational resources to remove some of the bias towards male participants, and instead give women involved in combat sports a better understanding of the potential differences they may experience because of their physiology. There appear to be relatively few women in the sport currently providing mentoring to upcoming female contestants, so often the information being provided comes from male fighters, which may be misleading. This became very apparent from the evidence at the inquest, and was acknowledged by Mr Kucera as an area that requires new focus by the Commission, as more women enter the sport. Mr Kucera noted that at a recent information session run by the Commission a lot of young female contestants attended, which demonstrates they are open to learning more if the information is made available to them.<sup>356</sup>

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<sup>351</sup> T 343.

<sup>352</sup> T 347.

<sup>353</sup> T 343.

<sup>354</sup> T 370.

<sup>355</sup> Submissions filed by Combat Sports Commission dated 30 April 2020.

<sup>356</sup> T 345 – 346, 371.

**Darren Curovic**

233. Mr Curovic commented on the new Commission guidelines during his evidence. He queried how a fighter could put on just under 10% of their body weight between weigh-in and the fight without undertaking some sort of weight cutting by dehydration, yet noted the Commission will still permit that change in weight ratio to occur. In his view, it creates a risk that some people are still going to use artificial devices to cut weight and this creates a risk that those who follow the regulations will be seriously disadvantaged unless it is properly regulated. Mr Curovic acknowledged that weight cutting is a dangerous practice in the sport, but his concern is that if every participant is not forced to play by the same rules, then it will be more unsafe during the fight as the fighters will be unequal.<sup>357</sup> In his words, he is “stuck between a rock and a hard place” as he can’t say to a fighter not to cut weight “because if they don’t and the other person does and they get seriously injured or kill then we’re back here again,”<sup>358</sup> meaning another inquest might follow.
234. Mr Curovic agreed with the weigh-in strategies proposed by the Commission<sup>359</sup> and agreed that if people followed the Commission’s strategy it would definitely make the sport of Muay Thai safer. However, he was sceptical about the strategy actually achieving its aim of stopping people from extreme weight cutting, maintaining that he believes “it’s never going to happen.”<sup>360</sup> Based on his past experience in the sport, Mr Curovic believes “99% of the time they will be doing it,” despite any rules to the contrary, as some people will do anything to get an advantage and the rest don’t want to then be disadvantaged.<sup>361</sup>
235. In that respect, Mr Curovic expressed concern that the Commission’s proposal relies on participant’s honesty and willingness to comply, which means people can ‘cheat’.<sup>362</sup>
236. I asked Mr Curovic whether he thought the publicity surrounding Jess’ death might change attitudes but he did not think so. Mr Curovic pointed out that only a few months after Jess passed away a fighter tried to lose 9.5 kg in one day for a fight against one of his fighters and ended up in hospital with liver damage. He does not believe this was an isolated

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<sup>357</sup> T 131.

<sup>358</sup> T 131.

<sup>359</sup> T 134.

<sup>360</sup> T 136.

<sup>361</sup> T 136, 139.

<sup>362</sup> T 132.

case.<sup>363</sup> As Mr Curovic expressed it, “it’s an extreme sport”<sup>364</sup> and if contestants were worried about damaging their organs or hurting themselves, “they wouldn’t even be doing it in the first place.”<sup>365</sup>

237. In terms of Dr Golden’s proposal that gyms and trainers should be involved in identifying a fighter’s ‘walk around weight’, Mr Curovic indicated that while it might involve a little bit more work, he didn’t see that it would be a problem to put that into practice. He noted that something similar is already in place in America for wrestling, due to similar deaths in that sport.<sup>366</sup> Mr Curovic did again raise a concern that it would still not stop such practices entirely, and would need to be done regularly to ensure fighters weren’t simply cutting weight for every time they were weighed.<sup>367</sup>
238. Mr Curovic was also wary of bringing in rules into Western Australia to restrict weight cutting before fights, as he believes it will affect interstate and international fighters wanting to come to Western Australia, which is bad for the WA economy.<sup>368</sup>
239. Mr Curovic gave evidence he will put up information in his gym about the Commission’s prohibition of sweat suits and saunas and other devices that artificially dehydrate contestants and actively discourage such practices within the gym, but noted that what people do outside the gym is beyond his control and it is uncommon for people to use these devices at the gym now.<sup>369</sup> Mr Curovic also indicated that he would try to discourage the behaviour but informing the Commission of any fighter not complying with those instructions would be his last resort.<sup>370</sup>

### **Jordan Godtfredsen**

240. Mr Godtfredsen, as a professional fighter, emphasised the importance of education, indicating that he believes this is a key factor moving forward.<sup>371</sup> Mr Godtfredsen suggested that there is more support available out there now if people wish to access it, such as ‘The Fight Dietitian’ group, who are a team of university qualified dietitians and nutritionists promoting the benefits of good nutrition and exercise to combat sports

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<sup>363</sup> T 139 – 140.

<sup>364</sup> T 140.

<sup>365</sup> T 140.

<sup>366</sup> T 134.

<sup>367</sup> T 134,

<sup>368</sup> T 136.

<sup>369</sup> T 133, 138.

<sup>370</sup> T 134.

<sup>371</sup> T 172.

participants as a tool for performance and not just weight loss.<sup>372</sup> One of the members of the group, Jordan Sullivan, recently assisted to deliver a seminar on behalf of the Commission to combat sport participants. Mr Kucera noted that the seminar was well attended by young women and young fighters generally, indicating an interest in young people finding out more about safe training methods and weight cutting in terms of its effect on performance.<sup>373</sup> I note The Fight Dietitian has also included information about ‘Considerations for the Female Combat Athlete’ on their website to provide information to trainers and female athletes about physiological differences that need to be considered when training.<sup>374</sup>

241. Mr Godtfredsen’s own evidence demonstrated his belief in better education, as he clearly has spent considerable time and energy educating himself about good nutrition to enhance his ability to compete as a professional. Mr Godtfredsen expressed his belief that there needs to be more education especially for amateurs and in his view, amateurs should not ever cut weight for a fight. He emphasised at that level the focus should be on learning the art of the sport and learning to compete, with an emphasis on diet and long-term exercise, and he does not believe amateurs should be trying to get an advantage by weight cutting through dehydration and water-loading. He accepted, however, that it will be very hard to regulate and the problem will be that the person trying to do the right thing and not weight cut will be at risk.<sup>375</sup>
242. Mr Godtfredsen explained that as a professional, the weight cutting process helps him to get quicker and sharper and more focussed and he believes it helps him to be in prime condition for a fight. However, he accepted that using significant dehydration methods probably doesn’t put a person in prime fighting condition, so it is very important to replace fluids and electrolytes and eat protein and carbohydrates to help the body recover.<sup>376</sup> He agreed that fighting is otherwise “very unsafe if you don’t refuel correctly.”<sup>377</sup>
243. For this reason, Mr Godtfredsen agreed with Dr Golden that same day weigh-ins, as proposed by the Commission, are more dangerous than those held the day before, as it does not allow the body to recover, replace fluids

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<sup>372</sup> T 169, 171.

<sup>373</sup> T 371.

<sup>374</sup> <https://thefightdietitian.com/considerations-for-the-female-combat-athlete-part-1/>.

<sup>375</sup> T 175.

<sup>376</sup> T 172 – 174.

<sup>377</sup> T 175.

and eat health food and get a good night's sleep. In his opinion, if "you're doing the same-day weigh-in, that's going to very dangerous."<sup>378</sup>

244. The obvious hope is that lessons will be learnt from Jess' death and it will lead to meaningful change. Mr Godtfredsen gave evidence it had led him to be more willing, as one of the older, senior members of the gym, to take a bigger stance in helping other fighters and keeping a closer eye on whether they are setting reasonable targets. He feels strongly that this should not be allowed to happen again and people need to be encouraged to listen to their body and do their research. He also supported more information being distributed about nutrition, hydration and recovery, as well as discouraging the most unsafe practices in the sport.<sup>379</sup>

### **Caley Reece**

245. Ms Reece suggested that the most important change would come from promoters being able to trust the trainers to give the weights of fighters closer to their walk around weights. However, she queried how that trust could be developed due to the great power advantage a heavier fighter can gain against a lighter opponent, which creates a strong incentive not to be truthful about the walk around weight. Further, even if that level of trust was achieved, Ms Reece noted the complicating factor of interstate and international fighters, who may not be willing to follow the same rules.<sup>380</sup>
246. Ms Reece gave evidence that in her experience, she was generally able to put back on the weight she had lost in the last week, and even gained probably more than she had lost in that time. She agreed that a same day weigh-in might avoid some of that opportunity, but noted that she had fought in Thailand where same day weigh-ins were used and in her experience people still cut weight and then put themselves at risk as they did not have time to properly rehydrate.<sup>381</sup>

### **Other issue**

247. One other area that arose for discussion during the inquest and in submissions was the possibility of creating a list of Commission approved doctors for completion of fitness certificates and performing the medical practitioner role at contests. While there is some attraction to this suggestion, it was noted by witnesses that given the AMA stance against combat sports, and the fact that the contests are often held on weekends

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<sup>378</sup> T 175.

<sup>379</sup> T 178.

<sup>380</sup> T 238.

<sup>381</sup> T 239.

and in regional areas, there is unlikely to be a large number of doctors nominating to be included on the list. In the circumstances, while I agree that it is a desirable goal for the Commission to work towards, I accept that in the short-term it is unlikely to be practical, so I don't take this matter further.

### CONCLUSION

248. I indicated at the commencement of the inquest that my hope was that I would learn more about who Jess was as a person, as well as more about how she came to die in such a sudden and tragic way, so that lessons could be learned from her death.
249. Jess' mother Sharron spoke at the inquest about how Jess had made her smile every day and the great joy she had brought to her family with her kindness and sense of humour. Jess was also bright and talented and determined, setting high standards for herself and working very hard to achieve them, so Sharron knew she was "destined for great things."<sup>382</sup> We will never know what Jess might have achieved, and what changes she might have brought to the world through her chosen field of study, if her life had not been suddenly cut short.
250. Sadly, some of Jess' strengths were also her downfall, as it was her strength of character and determination to achieve any goal she set herself that allowed her to push through the pain barrier and push her body beyond its limits. I am satisfied from the evidence before me that, although there were other people involved in Jess' training and weight cutting programme, it was ultimately Jess' decision to keep pushing herself to meet the weight she had agreed. She adhered to the general belief in the sport that it is disrespectful to an opponent to fail to make weight, so she did not consider failure to be an option and put a lot of pressure on herself to make the agreed weight.<sup>383</sup>
251. That is why it is so important to change the culture of the sport to remove the emphasis on extreme weight cutting as a normal part of the process. If fighters are encouraged to fight in a weight category more closely aligned to their 'walk around' weight, there is much less risk that they will set themselves an unrealistic goal and then have to engage in unsafe practices to meet their weigh-in weight. Instead, the focus should be on creating a culture that encourages fighters to safely manage their training and weight loss and work towards peak performance to take on their contestants,

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<sup>382</sup> T 11.

<sup>383</sup> T 176.

which would not involve depleting their strength and energy with weight cutting.<sup>384</sup> Dr Golden suggested that the standard of fights will improve, and there will be better contests for others to watch, as the contestants will not be depleted when they step into the ring and will have improved stamina.<sup>385</sup>

252. Sharron emphasised in her submission to the Court that the Commission needs to work with those in the sport to ensure that sustainable change is achieved.<sup>386</sup> The Commission accepts the need for it to play a role in driving cultural change, and believes this can best be achieved by educating industry participants on the physiological advantages on performance if they don't weight cut as against the physiological dangers if they do weight cut.<sup>387</sup>
253. It has been noted by my colleagues in other jurisdictions that cultural change is unlikely to be achieved through a single coronial finding. Nor is the responsibility for cultural change in the hands only of government, or of industry, or of any other body in Australian society. The bringing about of cultural change requires a concerted effort by all those involved, from a grassroots participant level all the way up to the governing bodies, in this case the Commission. Many of the witnesses engaged in Muay Thai were supportive of the idea of discouraging extreme weight-cutting by dehydration and encouraging people to fight at their walk around weight, but were sceptical about how it would be achieved. I urge all of them to embrace the idea and take their own steps to encourage it, as it will be through the efforts of the fighters, trainers, gym owners and promoters that any meaningful change will occur. Mr Kucera spoke of the need to get people to talk about it and think about it, and I agree that this is the first important step.
254. However, until cultural change is effected, there needs to be an effort made to detect people who engage in dangerous practices at an early stage, to deter them from that course before it is too late. The Commission's new Strategy is a positive step forward in that regard, but I note that there are limitations on how the Commission can regulate the gyms and trainers in particular. The Commission submitted that the issue of regulating weight cutting in combat sports, and the best ways for such regulation to occur, is complex and requires the balancing of many considerations.<sup>388</sup>

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<sup>384</sup> T 339.

<sup>385</sup> T 292.

<sup>386</sup> Submissions filed by Ms Sharron Lindsay dated 20 April 2020.

<sup>387</sup> Submissions filed by Combat Sports Commission dated 30 April 2020.

<sup>388</sup> Submissions filed by Combat Sports Commission dated 30 April 2020.

255. In my view, there is a need for consideration to be given to enacting legislative change to enable the Commission to take a greater role in regulating the trainers and gyms on an ongoing basis, not just in relation to contests. The members of the Commission are best placed to determine what exactly those powers should be, but I support the inclusion of powers that allow Commission members and staff to attend gyms to ensure that safe training practices are in place and to monitor weight checks. There will also be resourcing needs that will follow any additional regulatory changes, which should be appropriately funded.

**Recommendation No. 1**

**I recommend that the Honourable Minister for Sport and Recreation give consideration to amending the *Combat Sports Act 1987 (WA)* and *Combat Sports Regulations 2004 (WA)* to empower the Commission to undertake a greater role in regulating the trainers and gyms responsible for training combat sports contestants, outside of contests, to improve the safety of combat sports in Western Australia. Any additional resources required by the Commission to then carry out that regulatory role should be funded by the State Government.**

256. I note the Commission's Strategy remains a working document and the Commission will continue to consider suggestions to further strengthen the Strategy in the course of its trial and review period. I particularly encourage the Commission to focus further research on finding a reliable method of testing for dehydration testing that could be implemented as part of the pre-contest testing.
257. However, I also agree with Dr Golden that prevention should be a primary focus as by the time we reach the stage of detection, it may be too late, as it was in Jess' case. In that regard, I agree with the submissions of Dr Golden and Sharron that the pre-contest weight testing should be over a longer period. I support the suggestion that the pre-contest weights should be taken more regularly, preferably at least on an occasion one week and the day prior to the contest, to gauge the likelihood that the contestant will meet the weigh-in weight safely.
258. It is conceded by the Commission that more regular monitoring of contestants' weights could assist with curbing unsafe weight-cutting practices, but notes that the issue is of regulating weight cutting is complex and requires the balancing of many considerations. The difficulty is that the Commission is currently not sufficiently empowered under legislation

to require regular weights to be taken and is also not resourced to undertake that task themselves. The Commission has also raised concerns about the practicality of such a scheme, given contestants may register shortly before a contest and the difficulties associated with verification of contestant's weights due to reliance on the honesty of trainers and the use of uncalibrated scales at gyms.<sup>389</sup>

259. The Commission advised that the current *Combat Sports Regulations* in Western Australia allow contestants resident within Western Australia to register as little as five days prior to a contest and for contestants outside of Western Australia, as late as just prior to the pre-contest weigh-in, which must be within 24 hours of the contest.<sup>390</sup> The Commission has submitted that any change to this scheme would not only require legislative change, but may have the effect of discouraging participation in contests in Western Australia.<sup>391</sup> Dr Golden had acknowledged that there would need to be some variation of the scheme for people who register late, but he suggested that this should not prevent the standard practice being put in place for the bulk of contestants.
260. In my view, receiving more regular records on a fighter's weight is an important step towards regulating extreme weight cutting prior to a fight. I acknowledge the Commission's concerns about the practicality of taking earlier weights for contestants, given they are not required to register until well after six weeks has passed. It is an area that requires further thought as to how it could be done. However, I strongly encourage the Commission to give consideration to a practical way to receive a valid weight for a contestant, at least one week out from a contest and preferably also six weeks out from a contest.
261. The weight one week out would arguably be much easier to achieve if the rules were changed to require all contestants to register within at least 7 days of a contest. It could then be a requirement that they provide their weight at the date of registering and certify to the truth of that statement. Even allowing for some variation in scales, it would give the Commission a guide as to the type of weight loss the contestant is going to need to undertake to meet the weight category for which they have registered. If the Commission then discovered that the contestant had lied about their

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<sup>389</sup> Submissions in response to the proposed recommendations on behalf of the Combat Sports Commission dated 10 August 2020.

<sup>390</sup> *Combat Sports Regulations 2004* (WA), regulation 7(2)(a) – (b), read with *Combat Sports Act 2004* (WA), s 48(2)(b).

<sup>391</sup> Submissions in response to the proposed recommendations on behalf of the Combat Sports Commission dated 10 August 2020.

weight on registration, they could take steps to prevent the contestant from competing for a period of time.

262. I make these comments based upon my understanding of the processes, but I acknowledge that there may be barriers to this being done that are not immediately apparent. Therefore, I have couched my recommendation in general terms, to allow the Commission to explore this process, and focussed on a weight one week out only, while noting that more regular weights, provided over a longer period of time, would be the preferred option.

**Recommendation No. 2**

**I recommend that the Combat Sports Commission consider implementing a scheme that requires contestants to provide their weight at the time of registration (at least 7 days out from the contest) in addition to the present system of formal weigh-in on the day prior and the day of the contest. The Commission staff can then take that information into account at an early stage in determining whether a contest is safe to be sanctioned, prior to the formal weigh-in process commencing. This would likely require legislative amendment to the regulations, which would be an element to be considered in implementing Recommendation No. 1.**

263. I note that, to an extent, my recommendations are inter-related. Any requirement imposed on contestants to provide information in relation to their weights will obviously be improved, and strengthened (and more likely to lead to accurate, functional reporting) if the Commission is afforded a greater role in the regulation of trainers and gyms and therefore capable of taking action against industry participants who are non-compliant or providing inaccurate information.
264. As for the same day weigh-in, the Commission has acknowledged that there are risks involved that contestants will continue to engage in unsafe weight cutting practices and then not sufficiently rehydrate. However, as Mr Kucera indicated, it must be hoped that better education will help contestants to weigh up the risks and the likelihood of detection if their weight varies significantly will act as a deterrent to engaging in unsafe practices in the first place.

265. The Commission’s motto is “Prepare well. Perform better.”<sup>392</sup> The thrust of this message, reinforced by seminars put on by the Commission, is that preparation for the contest should start early to work towards achieving maximum performance, rather than a focus on simply losing weight in fight week. Mr Kucera commented that implementing change is not easy and indicated his hope that the community will “bear with us” as the Commission tries to get it right and fine tune the Strategy. If it becomes apparent that the same day additional weigh-in is having a negative effect and creating risks for the contestants, I have no doubt the Commission will act swiftly to review their Strategy in that regard.
266. I encourage all those involved in combat sports to engage with the Commission to continue to improve the safety of combat sports in Western Australia, with the hope that this State can be a leader in effecting cultural change to avoid another death occurring. That is the greatest wish of Jess’ family and the reason why they campaigned so long for this inquest to take place. I sincerely hope that they have found some solace in the process and that great change will flow from their efforts in honour of Jess’ memory.



S H Linton  
**Coroner**  
18 August 2020

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<sup>392</sup> T 372.