
JURISDICTION : CORONER'S COURT OF WESTERN AUSTRALIA
ACT : CORONERS ACT 1996
CORONER : SARAH HELEN LINTON, DEPUTY STATE CORONER
HEARD : 9-19 FEBRUARY 2021
DELIVERED : 9 SEPTEMBER 2021
FILE NO/S : CORC 700 of 2014
DECEASED : WENSLEY, AMY LEE

Catchwords:

Nil

Legislation:

Nil

Counsel Appearing:

Ms S Tyler assisted the Deputy State Coroner.
Mr P Ward and Mr R Wade (Ashurst Legal) appeared for the family.
Ms N Eagling and Ms A Western appeared for the WA Police.

Case(s) referred to in decision(s):

Nil

Coroners Act 1996
(Section 26(1))

RECORD OF INVESTIGATION INTO DEATH

I, Sarah Helen Linton, Deputy State Coroner, having investigated the death of Amy Lee Wensley with an inquest held at the Perth Coroner's Court, Court 51, CLC Building, 501 Hay Street, Perth on 9 to 19 February 2021, find that the identity of the deceased person was Amy Lee Wensley and that death occurred on 26 June 2014 at 2783 South Western Highway, Serpentine, from a shotgun injury to the head in the following circumstances:

TABLE OF CONTENTS

INTRODUCTION	4
AMY'S PERSONAL HISTORY	6
AMY AND DAVID'S RELATIONSHIP	8
EVIDENCE OF AMY'S STATE OF MIND	16
EARLY EVENTS ON 26 JUNE 2014	18
INITIAL POLICE ATTENDANCE.....	20
DETECTIVES' ATTENDANCE.....	26
Statements of David Simmons and Gareth Price	34
EVENTS AFTER PFA LIFTED	39
MAJOR CRIME DIVISION – OPERATION JUNDEE	41
Initial steps	41
Witness Accounts.....	42
Forensic Examination.....	52
Post Mortem Examination.....	55
Outcome of Operation Jundee Investigation.....	57
CORONIAL INVESTIGATION SQUAD	60
Blood Pattern Analysis.....	61
Gunshot Residue	63
BIOMECHANICAL EVIDENCE.....	67
Initial police testing	67
Professor Ackland's Evidence	70
Dr Gibson's Evidence	75
Summary of Expert Biomechanical Evidence	76
Comments on weight to be given to Biomechanical Evidence.....	77
FORENSIC PATHOLOGIST'S EVIDENCE.....	79
COLD CASE HOMICIDE REVIEW	82
INTERNAL AFFAIRS UNIT	86
IDDLES REPORT.....	89
MANNER OF DEATH	92
QUESTION OF REFERRAL.....	107
COMMENTS ON POLICE CONDUCT	108

CURRENT POLICE PROCEDURES 110
CONCLUSION 113

INTRODUCTION

1. Amy Wensley¹ died from a shotgun injury to the head on 26 June 2014 at her home in Serpentine. That much is certain. The question that so far has remained unanswered is how she came to suffer that injury -was it self-inflicted or was it due to the act of another person?
2. There have been a number of police investigations into the circumstances of Amy's death but the evidence obtained in those investigations has been of limited assistance in answering that question. That is in part because, regrettably, during the first investigation the responding detectives who were called to the house by the initial attending local police formed a preliminary view that Amy's death was a suicide and allowed the protected forensic area to be lifted. This decision then allowed Amy's body to be removed and the scene to be cleaned, destroying almost any hope of obtaining forensic evidence that might have shed light on the events leading to Amy's death.²
3. Although the WA Police revisited the initial pre-emptive conclusion of suicide the day after Amy's death, and investigated it as a suspicious death, the absence of forensic evidence limited the scope of this investigation. Based on the evidence that was available, the conclusion of the investigating officers at the end of that investigation was that there was no evidence of criminality and the circumstances of Amy's death were consistent with a suicide.
4. Amy's family have lobbied ceaselessly for further investigation into Amy's death as they firmly believe she would not have taken her own life. They are concerned that another person caused Amy's death, specifically her partner David Simmons. They base their belief on many things, including Amy's love for her daughters and family and the fact that, immediately prior to her death, Amy had fought with David and put her daughters in her car and packed her belongings in order to leave him and go to her mother's house.
5. As part of their quest for a more comprehensive investigation, Amy's family wrote to the Western Australian Coroner's Court to request an inquest be held into Amy's death. The State Coroner, on the recommendation of the then Deputy State Coroner, determined that an inquest was desirable to explore the circumstances of Amy's death. An inquest hearing was listed for 27 to 31 August 2018. However, prior to the inquest commencing, an expert biomechanical report was received. Based on the expert opinion contained in this report, the inquest hearing was adjourned and the matter was referred by Deputy State Coroner Vicker to the WA Director of Public Prosecutions, as the report contained information to suggest an indictable offence had been committed in connection with Amy's death.
6. The referral of this matter to the Director of Public Prosecutions resulted in the WA Police Cold Case Homicide Squad conducting a review of the earlier police investigations into Amy's death. Further investigative strategies were then employed

¹ At the request of her family, I will refer to her as Amy for the rest of this finding, as we did at the inquest hearing.

² Exhibit 1, Tab 17, Operation Jundee Forensic Report, Sergeant Nind, p. 4 - 5.

to determine whether any evidence could be obtained to establish criminality in relation to Amy's death. The review ultimately concluded that there was insufficient evidence to establish the involvement of another person in Amy's death. The Director of Public Prosecutions reviewed the materials and agreed with that determination. The matter was then referred back to the State Coroner to continue the coronial proceedings.

7. New dates were set for the inquest hearing in 2020 but due to the impact of the COVID-19 pandemic, those dates had to be vacated. New hearing dates were listed and finally, more than six years after Amy's death, I conducted an inquest into the circumstances of her death from 9 to 19 February 2021.
8. All of the materials from the various police investigations were before me. It was made clear at the commencement of the inquest that the focus of the inquest was to ascertain whether there was any additional evidence that could be obtained, through calling witnesses to speak to the materials already available in the coronial brief, that might assist me in determining how Amy came to suffer the shotgun injury that caused her death, or whether that question must remain unanswered.³ In the course of considering that issue, I also considered the quality and conduct of the police investigations that have brought us to this stage, which I comment on later in this finding.
9. I had the opportunity to see and hear evidence from a number of witnesses who were close to Amy, to help me understand more about her as a person and her relationship with David Simmons. This provided some context to the events that occurred on the day of her death. The final witness to be called was David Simmons, who gave evidence without requesting a certificate under s 47 of the Coroners Act and answered all questions that were put to him. He has consistently denied any involvement in Amy's death and remains adamant, as he told the police at the time of her death, that she committed suicide.
10. It is important at this stage to refer to the well-known tenets concerning the function of an inquest, noting that,⁴

"it should not be forgotten that an inquest is a fact finding exercise and not a method of apportioning guilt. ... In an inquest it should never be forgotten that there are no parties, there is no indictment, there is no prosecution, there is no defence, there is no trial, simply an attempt to establish facts."
11. Within the course of an inquest, and or within the related finding, I am permitted to make findings or comments that are adverse to the interests of an 'interested person', which includes a person who by act or omission may have caused or contributed to the death. Pursuant to s 44(2) of the *Coroners Act*, before I make any finding adverse to the interests of an interested person, that person must be given the opportunity to present submissions against the making of such a finding.

³ T 4.

⁴ *Annetts v McCann* (1990) 179 CLR 596 at 616, Toohey J.

12. After the inquest, submissions were provided to me on behalf of Amy's family and the WA Police. Amy's family urge me to find, on the evidence before me, that Amy's death occurred as a result of the act of another person.⁵
13. The police, on the other hand, submit that I should be satisfied that there is no evidence of criminality, and the evidence supports the conclusion to the requisite standard that Amy committed suicide.⁶
14. I have given due regard to these submissions in making my findings.
15. I indicated to Mr Simmons at the end of his evidence that I would provide him with an opportunity to make submissions to me if he wished.⁷ The Court did attempt to make some contact with Mr Simmons after the inquest, but those attempts were unsuccessful.

AMY'S PERSONAL HISTORY

16. In order to consider the question of whether or not Amy committed suicide or died in some other manner, it is relevant to consider the kind of person Amy was when she was alive.
17. Amy was born in Penrith in New South Wales on 11 February 1990. If she was still alive today, she would have turned 31 years old during the inquest. Amy had two younger sisters, Samantha and Kelly, and she was said to have loved caring for her younger sisters. Amy moved with her mother and sisters to Western Australia in about 2003. She attended Kelmscott Senior High School. She left school in Year 10 after securing an apprenticeship at a printing shop. She later changed her career path and started a hospitality course after obtaining a position in a café near her home.⁸
18. Just before her 18th birthday, Amy gave birth to her first daughter, Shanaya. Shanaya's father, Matthew Chapman, had begun a relationship with Amy when she was 16 years old and they were together for two or three years. Amy's relationship with Shanaya's father Matthew eventually ended, due to infidelity on his part that Amy discovered abruptly. She was said to have been devastated by the betrayal and ended the relationship immediately. When the relationship ended, Amy and Shanaya moved in with Amy's mother, Nancy Kirk.⁹
19. Amy moved on with her life and was making the best of it as a single mother with a daughter she loved. She was working a number of jobs to make ends meet and had the support of her family and friends. Amy was working at the Armadale Tavern in 2009 when she began a new relationship with David Simmons, who was a regular customer at the tavern. David would sometimes stay with Amy and her daughter at Nancy Kirk's house. She was living in Armadale at the time. Amy became pregnant

⁵ Closing Submissions Filed on Behalf of Amy's Family filed by email 1 April 2021.

⁶ Closing Submissions on Behalf of the Western Australia Police and Individual Officers the Subject of possible Adverse Findings or Comments filed 31 March 2021.

⁷ T 878.

⁸ Exhibit 1, Tab 8, Police Report CIU 2014/854, p. 10; Exhibit 2, Tab 2B, Anna Davey, 15.12.2018.

⁹ Exhibit 1, Tab 8, Police Report CIU 2014/854, p. 10; Exhibit 2, Tab 1A, Nancy Kirk, 3.7.2014.

to David in late 2009 and gave birth to her second daughter, Tahlia, on 28 June 2010.¹⁰

20. After Tahlia's birth, Amy stopped working and spent most of her time at home. Her mother Nancy recalled that Amy's "*world was her babies.*"¹¹
21. Amy and David moved into their own home in Armadale before moving to Pinjarra in 2011.¹² Amy's mother and her partner Rick later moved to Pinjarra to be closer to Amy and their granddaughters. Unfortunately, Amy then had to move from Pinjarra as the house they were renting was going to be sold.¹³
22. In about March or April 2014 Amy and David moved from Pinjarra into a small house on David's father, Robert Simmons', property at 2783 South Western Highway, Serpentine. At the time, they were struggling financially as David's working hours with his father had reduced and Amy wasn't working. Robert Simmons offered to let them live at the empty house on his property rent free, as he thought at the time this would help them get back on their feet financially.¹⁴ Mr Simmons gave evidence that later on, he realised this may have been a mistake, as it freed up money for David to buy drugs and alcohol.¹⁵
23. Amy's mother recalled that Amy was often unhappy living at the house in Serpentine and would tell her mother, "*I hate being up there.*"¹⁶ Nancy was not sure exactly why, but agreed it was probably in part due to being isolated from family and friends and also because she liked living in Pinjarra, where the house in Pinjarra had been in her name, which gave her stability. In comparison, David had control over who lived at the house in Serpentine since it was his father's house.¹⁷
24. Mr Simmons lived in a larger house on top of the hill and he said had limited contact with David and Amy as their house was quite separate to his own, including different driveways. Mr Simmons estimated the young family had been living in the small house on his property for about three months prior to Amy's death but he only saw Amy a couple of times and did not know her very well.¹⁸
25. David enjoyed pig hunting and shooting with his friends and owned a number of firearms, for which he was appropriately licensed. While living on the property in Serpentine, Amy also became involved in hunting and shooting for the first time and she eventually got her own firearms license for a pink .22 rifle. She was said to be a 'natural' with a firearm and a 'good shot'. Her mother confirmed Amy was right handed, so it was assumed she generally shot with her primary right hand.¹⁹

¹⁰ Exhibit 1, Tab 8, Police Report CIU 2014/854, p. 10.

¹¹ T 22.

¹² Exhibit 1, Tab 8, Police Report CIU 2014/854, p. 11.

¹³ T 25 - 26.

¹⁴ Exhibit 1, Tab 8, Police Report CIU 2014/854, p. 11.

¹⁵ T 553.

¹⁶ T 26.

¹⁷ T 26.

¹⁸ Exhibit 2, Tab 11A, Robert Simmons, 27.6.2014, [21].

¹⁹ T 32-33; Exhibit 1, Tab 8, Police Report CIU 2014/854, p. 11.

26. Amy adored her two daughters and spent a lot of her time and attention on them. She was described by her family as outgoing, caring and considerate with a strong mothering instinct. Although very young at the time she died, Amy's two daughters still remember how much they loved spending time with their mother having 'onesie' nights at home watching movies and eating popcorn and going camping and fishing together. They remember how the frangipani was her favourite flower and how she loved animals, as well as how much she loved both of them.²⁰
27. Shanaya and Tahlia now live with Nancy and her husband, and Nancy witnesses every day how much both girls miss their mother. Nancy describes them both as beautiful, loving girls, just like their mother, and she is doing her very best to keep them safe and well, both physically and mentally, although Nancy is still struggling with her own grief and trauma.²¹

AMY AND DAVID'S RELATIONSHIP

28. There were differing accounts of the nature of Amy and David's relationship. Those witnesses associated with Amy described a relationship characterised by coercive control and verbal abuse by David towards Amy, and suspicions of physical violence. Those people more closely associated with David Simmons, suggested the relationship was volatile, with poor behaviour on the part of both parties at times. Both sides agreed the problems were exacerbated by David's drinking and drug use. They had broken up a few times, either briefly or for a longer period, but always seemed to get back together. However, in more recent times, Amy's family and friends felt she had seemed to indicate she was starting to consider a permanent end to their relationship.
29. Nancy Kirk described David Simmons as very jealous, controlling and bad tempered and when he drank alcohol to excess his temper worsened.²² She gave evidence he was often abusive towards Amy in front of his friends when he had been drinking, putting her down and calling her names.²³ David's disrespect towards Amy in public had caused Nancy to reprimand David about his behaviour more than once.²⁴
30. Nancy understood Amy and David often fought when David had been drinking, as Amy had issues with David's drinking and drug abuse. Amy herself was not known by her family to take drugs and drank rarely,²⁵ although David and another witness gave evidence at the inquest that Amy had used drugs in the past.²⁶ Nevertheless, the friend agreed Amy had a problem with David's drinking and that David would use drugs regularly. He also indicated that David would become paranoid when using drugs, so he had suggested to him that he stick to alcohol.²⁷

²⁰ T 803 – 804.

²¹ T 804 – 805.

²² Exhibit 1, Tab 8, Police Report CIU 2014/854, p.10; Exhibit 2, Tab 1B, Nancy Kir, 21.11.2018.

²³ T 24.

²⁴ T 24; Exhibit 2, Tab 1B, Nancy Kirk, 21.11.2018.

²⁵ T 27.

²⁶ T 326, 851.

²⁷ T 310, 330.

31. Nancy had asked Amy whether David had hit her when they were arguing, as she had her suspicions, but Amy denied this and Nancy had never witnessed any physical violence between the couple. However, she did recall at least one time when Amy appeared scared of David.²⁸
32. Nancy Kirk believed the relationship between Amy and David deteriorated significantly when they moved to Serpentine. She felt Amy was more isolated on the property and fell more under David's control.²⁹ Although Amy and David often fought, and Amy would regularly go to Nancy's house with her daughters to stay after a fight, it was usually Amy's decision to leave. Nancy could only recall one occasion when David had told Amy to leave the house. He also locked the gate on her another time, so she couldn't drive in and had to leave. On all occasions, Amy and her daughters would stay with Nancy for a night or two and wait until things had calmed down then return home. Amy had not spoken to Nancy recently about any plans to leave David.³⁰
33. Amy's aunt, Anna Davey, provided other information to the police in May 2015 to assist the investigators to understand the nature of the relationship. Ms Davey had not witnessed any physical violence between Amy and David but, like Nancy, she disapproved of the disrespectful way David spoke to, and treated, Amy and she had been encouraging Amy to leave him before her death. Ms Davey understands from conversations with other people that Amy had indicated she might leave David after she received the money from her motor vehicle compensation claim, although Amy did not discuss this directly with her at any stage.³¹
34. The name of Amy's best friend, Erin Claybrook, had been provided to police by Amy's family. She was contacted by a police officer and indicated she was willing to provide a statement, but it seems nothing further occurred at the early stages after Amy's death. Amy's aunt, Ms Davey, therefore asked Erin Claybrook to write her own statement, which was provided to police, along with messages Amy and Erin exchanged. Erin later signed a formal statement prepared by the police as part of the Cold Case Homicide Review in 2018.³²
35. Erin and Amy had been close friends for many years and she recalled that she noticed a dramatic change in Amy's personality when she met David Simmons. Amy was usually bubbly and outgoing but after meeting David Amy became isolated from her friends and family. Erin described David's behaviour as very controlling and jealous of Amy and he would bully her and belittle her in front of other people. Erin recalled she witnessed countless times when David was verbally abusive towards Amy. David also apparently made inappropriate jokes in front of Erin about the means by which he would dispose of Amy's body if he killed her, which he appeared to find funny and Amy would brush off.³³

²⁸ T 24 - 25; Exhibit 2, Tab 1A, Nancy Kirk, 3.7.2014 and Tab 1B, Nancy Kirk, 21.11.2018.

²⁹ Exhibit 1, Tab 8, Police Report CIU 2014/854, p.11.

³⁰ T 35; Exhibit 2, Tab 1A, Nancy Kirk, 3.7.2014.

³¹ Exhibit 2, Tab 2B, Anna Davey, 15.12.2018.

³² Exhibit 2, Tab 2B, Annexures A and C, Erin Claybrook, 30.11.2014 and Tab 18, Erin Claybrook, 19.9.2018.

³³ T 701 – 703; Exhibit 2, Tab 2B, Annexures A and C, Erin Claybrook, 30.11.2014 and Tab 18, Erin Claybrook, 19.9.2018.

36. Although David would regularly make Amy delete her Facebook account due to his jealousy, Facebook messages between Amy and Erin were provided to the police spanning a number of years. As early as 8 July 2012, Amy told Erin that she had had an argument with David about his drug use and started punching him, and in response he had ‘manhandled her, choked her and chucked her around the room’.³⁴ She said at the time her adrenaline was pumping so she didn’t feel anything. Erin also recalled that prior to moving to Broome in late 2012, Amy sent her photographs of bruises to her neck, which she told Erin had been caused by David.³⁵
37. Erin indicated in her statement provided to police on 19 September 2018 that she had not personally witnessed any physical violence between Amy and David, but plenty of verbal abuse.³⁶ However, at the inquest Erin indicated that there was an occasion when she saw David overpower Amy when they were sitting on the couch and he held Amy’s head down between her knees. Amy apparently laughed it off to indicate that they were only playing around, but Erin felt Amy was uncomfortable and embarrassed.³⁷
38. Amy and Erin ceased communication for a period when Erin was in Broome, but they had resumed their friendship prior to Amy’s death. Erin was aware Amy was unhappy and had been diagnosed with anxiety and depression, which Erin attributed to David’s behaviour. Amy and David had taken breaks during their relationship, mainly due to David’s drinking, and he would then stop drinking to get her back, but after she returned he would go back to his old ways. Erin believed Amy at the end had a firm plan to leave him and get her own place, once she received compensation for the injuries she received in the car accident. Amy appeared excited about the plan prior to her death.³⁸
39. Erin indicated her firm belief that Amy, who was a loving mother, would not put her daughters in the car and go inside the house and commit suicide.³⁹ Erin referred to a Facebook post Amy had written, where she referred to the fact that she would be the one person her daughters could always depend upon no matter what, and said Amy would never have left them.⁴⁰
40. Another friend of Amy’s, Natasha Celcer, gave a statement to police on 28 June 2014, shortly after Amy’s death. Although the statement seems on its face to be quite comprehensive, Natasha gave evidence at the inquest that she felt “*fobbed off a bit*”⁴¹ when she tried to convey the extent of the family violence in the relationship and her strong belief that Amy would not have committed suicide.

³⁴ T 706; Exhibit 2, Tab 2B, Facebook message printed, 8.7.2012.

³⁵ Exhibit 2, Tab 18, Erin Claybrook, 19.9.2018 [72] – [75].

³⁶ Exhibit 2, Tab 18, Erin Claybrook, 19.9.2018 [117].

³⁷ T 707 – 708.

³⁸ Exhibit 2, Tab 18, Erin Claybrook, 19.9.2018.

³⁹ T 708; Exhibit 2, Tab 2B, Erin Claybrook, 30.11.2014.

⁴⁰ T 711.

⁴¹ T 729.

41. Natasha provided information that she had been close with Amy from the time of the birth of Amy's first daughter, Shanaya, for a number of years. Their friendship ended around January 2012 for a period. They reconnected at the start of 2013 through Facebook and text messages, although they did not see each other again face to face.⁴²
42. Natasha was aware Amy's relationship with Matthew Chapman had ended badly and left Amy feeling very hurt and traumatised. She stated that when Amy started dating David Simmons, it initially appeared to be a good relationship, but quickly changed due to David's drinking and jealousy. Natasha recalled the relationship was marked by constant fighting, particularly after Amy's second daughter was born and when David had been drinking. She recalled that both Amy and David were very passionate and stubborn and "*neither of them would back down from an argument.*"⁴³ Amy would often smash things or items around the house, which would stir David up and he would "*always get physical with her.*"⁴⁴ Natasha often tried to mediate between them when they fought. Natasha stated she did not see David strike or punch Amy, but did note she had many observable bruises.⁴⁵
43. On one occasion, when Amy was nine months' pregnant with Tahlia, Natasha recalled that David came home drunk and a fight started as Amy was unhappy with him for going out drinking at such a time. Amy began yelling at him and then they both had a grip on each other, pushing and shoving. David eventually pushed Amy into the kitchen and grabbed her around the neck, while she was still grabbing onto him, as "*she never backed down.*"⁴⁶
44. Similarly to Erin Claybrook, Natasha recalled David often made Amy deactivate her Facebook account due to his jealousy and controlling behaviour,⁴⁷ but described both Amy and David as being jealous and argumentative at times.⁴⁸ Amy worked hard on trying to improve David, encouraging him to stop drinking and using drugs so that they could be together as a strong family unit, as that was important to her, given she her own childhood was somewhat fractured.⁴⁹ However, their relationship was in a cycle that never got any better. They would break up often, but always got back together again as Amy loved him.⁵⁰
45. Amy and Natasha had spoken about suicide in 2009, when Natasha was experiencing her own relationship issues, and Natasha strongly recalled Amy telling her that, "*No man is ever worth killing yourself over.*"⁵¹ Natasha believed that Amy's view on that would never change, as she believed suicide was 'weak' and Natasha was also sure that Amy lived for her two daughters and would never have left them.⁵² When

⁴² Exhibit 2, Tab 2B, Erin Claybrook, 30.11.2014.

⁴³ Exhibit 2, Tab 16, Natasha Celcer, 28.6.2014 [19].

⁴⁴ Exhibit 2, Tab 16, Natasha Celcer, 28.6.2014 [21].

⁴⁵ Exhibit 2, Tab 16, Natasha Celcer, 28.6.2014 [44].

⁴⁶ Exhibit 2, Tab 16, Natasha Celcer, 28.6.2014 [28].

⁴⁷ Exhibit 2, Tab 16, Natasha Celcer, 28.6.2014.

⁴⁸ Exhibit 2, Tab 16, Natasha Celcer, 28.6.2014 [34].

⁴⁹ T 714, 719.

⁵⁰ T 719.

⁵¹ T 721.

⁵² T 723; Exhibit 2, Tab 16, Natasha Celcer, 28.6.2014.

Natasha and Amy and chatted through messages prior to her death, Amy did not seem to want to talk about her relationship with David, although Natasha sensed that Amy's attitude towards the relationship had changed and she might be ready to leave David for good.⁵³

46. However, I note on 30 May 2014 Amy had an online conversation with an old friend and referred to her relationship with David as having its ups and downs but said they were "tight" and although some people thought he was a jerk, in her eyes he was "flawless."⁵⁴
47. One of Amy's friends more recent friends, Shelley Standley, who was still in close contact with Amy before her death, also prepared a statement and gave evidence at the inquest.⁵⁵ Shelley met Amy in late 2012 and saw her for the last time about 12 days before her death at a barbecue. Ms Standley described Amy as a kind, thoughtful and insightful person who was mature beyond her years and an amazing mother. Shelley and her ex-partner used to regularly go camping with Amy and David and Shelley and Amy became close. Shelley became aware that things weren't going well between Amy and David and she understood Amy was saving money so she could leave him and move out with her daughters. Amy told Shelley she "*just wanted a peaceful, quiet house without all of the anger and aggression that came with David.*"⁵⁶
48. Amy had also told Shelley that she had been diagnosed with "*anxiety, quite bad, and depression, and that she was going onto antidepressants.*"⁵⁷ She did not, however, ever get the impression that Amy was feeling suicidal, especially since Amy was making plans for the future.⁵⁸ Shelley believed a lot of Amy's unhappiness came from dealing with David's binge drinking and drug use.⁵⁹ Shelley never witnessed David being violent towards Amy, and Amy never told her that David was violent towards her. However, Shelley gave evidence that she was in a violent relationship at the time and when she confided in Amy about what she was going through, she believed they had a shared experience.⁶⁰
49. The text messages that Amy and Shelley exchanged certainly indicate that Amy was very unhappy about David's drinking and felt he wasn't willing to put the effort in to save their relationship, so even though she wanted to keep her family together, in May 2014 she had been making plans to take her daughters and move out. It appears from the text exchange that David had actually encouraged her to find her own house as he said he needed his own space.⁶¹ Shelley agreed that the couple had separated and got back together many times, and Amy may have felt a sense of hopelessness about the relationship and the fact that she would never really be able to get away

⁵³ T 722, 725.

⁵⁴ Exhibit 2, Tab 2B, exchange between Amy and Justin Moiri, Friday, 30.5.2014.

⁵⁵ T 680; Exhibit 2, Tab 22A, Shelley Standley, 17.8.2018.

⁵⁶ T 681.

⁵⁷ T 682.

⁵⁸ T 681, 689 - 690.

⁵⁹ T 681 - 683.

⁶⁰ T 685 - 686.

⁶¹ Exhibit 1, Tab 22B, Text messages between Shelley Standley and Amy.

from David, as he would always draw her back in. However, she believed Amy knew she had places to go and take refuge, at least in the short term.⁶²

50. Amy also told Shelley that David was making her feel crazy and so much had been building up that when David had come home drunk on one occasion she had “*just exploded*,”⁶³ although Shelley’s memory of Amy was that she was usually calm.
51. Josh Bryden, a friend of David’s who was at the house the day Amy died described Amy and David’s relationship as very cheery and happy and a normal relationship. He confirmed at the inquest that he had met David Simmons and Amy through Gareth Price and had spent a bit of time with them before Amy’s death. He thought “*they were mostly pretty happy*.”⁶⁴ However, he did witness Amy and David arguing on the day Amy died.⁶⁵
52. Gareth Price was a very good friend of David’s and, together with his wife Rachael, spent a lot of time with the couple. Gareth and David would spend time together hunting, drinking, camping and shooting, while the two women and their children would also enjoy each other’s company.⁶⁶ Gareth’s wife Rachael, who was a good friend of Amy’s and was with Amy earlier on the day she died, indicated she was not aware there was any problem in Amy and David’s relationship.⁶⁷
53. Gareth, on the other hand, recalled that Amy and David would have verbal arguments on occasion. He recalled the arguments were often about David’s drinking. Gareth gave evidence that he was aware that Amy hated David drinking, whereas David appeared to take the position that he went out to work and made money and after work he was entitled to drink.⁶⁸ However, he also gave evidence he considered they were the kind of arguments that are common in a relationship and were mostly over “*stupid stuff*.”⁶⁹ Gareth considered Amy and David were “*both as bad as each other*”⁷⁰ in their arguing. He had never seen them be violent towards each other until the events on the day of Amy’s death.⁷¹
54. Robert Simmons, David’s father, provided evidence that he did not know Amy well but she appeared to be a good mother and was always polite and nice to him. Mr Simmons gave evidence that he believed generally at the time that Amy and David were happy as a family at the property, with the children enjoying the outdoor activities and Amy enjoying the peace and quiet.⁷²

⁶² T 689 – 690, 693.

⁶³ Exhibit 1, Tab 22B, Text message from Amy to Shelley, p. 9, message sent 9.31 am on unknown date (possibly 6.4.2014).

⁶⁴ T 249.

⁶⁵ T 251 – 256; Exhibit 1, Tab 8, Police Report CIU 2014/854, p. 18 – 19.

⁶⁶ T 298 – 299.

⁶⁷ Exhibit 1, Tab 8, Police Report CIU 2014/854, p. 21.

⁶⁸ T 310.

⁶⁹ T 299.

⁷⁰ T 299.

⁷¹ T 299.

⁷² T 551 – 552.

55. Mr Simmons indicated in terms of general behaviour, he had expressed some concern to David about his excessive drinking, as he was aware that David and his friend Gareth had been spending a lot of time drinking and pig shooting. One morning he had seen both Gareth and David start drinking beer at about 10.00 am, and Mr Simmons said he expressed concern to Amy and Gareth's wife at the time.⁷³ Mr Simmons was also aware that David sometimes took drugs, including cannabis and methylamphetamine.⁷⁴
56. Mr Simmons gave evidence at the inquest that, after Amy's death, he went to the house and was shocked at the state it was in, which he said had been "trashed".⁷⁵ Mr Simmons realised at that time that the drinking and drugs had got more out of hand than he had realised. He also saw about half a dozen little notes and letters written by Amy around the house, which Mr Simmons described as "heartbreaking"⁷⁶ and showed him "just how sad the situation was."⁷⁷ Nancy Kirk recalled that Robert said to her on one occasion, in reference to the letters, "*I didn't realise it was that bad.*"⁷⁸
57. Mr Simmons stated he was aware that the couple's relationship was volatile but he was not aware of any physical violence on David's part towards Amy and he had never personally heard them fighting. Mr Simmons gave evidence he had never known of David being violent towards a woman, but he related some information about hearing of Amy being physically violent towards David.⁷⁹
58. Mr Simmons gave evidence on one occasion he noted a mark on David's neck, when they were travelling in a car together. When he asked David what had happened, David told his father that Amy had struck him in the neck with a set of car keys. Mr Simmons commented at the time that this type of conduct wasn't acceptable. Mr Simmons also recalled some of David's friends referring to Amy going into a rage on another occasion, although he did not know any details of this incident. Given this information, Mr Simmons said that he had expressed some reservation to David when David had asked him for a letter in support of Amy getting a firearm of her own. Mr Simmons said he specifically asked David at the time, "*Are you sure ... if she has these rages every now and then, you're sure you want to give her a gun?*"⁸⁰ However, David assured him it was fine, so Mr Simmons provided the letter in support. He expressed regret at the inquest for supporting both David and Amy's applications for firearms, given what later occurred.⁸¹
59. The WA Police had no listed reports of domestic violence incidents involving Amy and David Simmons prior to her death, although it was generally accepted by the police officers who gave evidence that domestic violence is underreported and it is

⁷³ T 552 - 553; Exhibit 2, Tab 11A, Robert Simmons, 27.6.2014.

⁷⁴ T 553, 581.

⁷⁵ T 582.

⁷⁶ T 582.

⁷⁷ T 582.

⁷⁸ T 41.

⁷⁹ T 551, 565; Exhibit 2, Tab 11A, Robert Simmons, 27.6.2014.

⁸⁰ T 550.

⁸¹ T 549 - 550, 553.

not unknown for there to be a history of family and domestic violence that does not get reported to the authorities.⁸²

60. Based on all the information obtained, the WA Police concluded Amy and David's relationship had been tumultuous, and characterised by arguments, but there was no confirmed evidence of physical violence by David towards Amy.⁸³
61. Indeed, the only direct witness accounts of any physical violence between the pair came from the evidence of the two friends who were present on the day of Amy's death, Gareth and Josh, when they witnessed Amy assaulting David and David physically restraining Amy. Both of these witnesses described this incident as out of character for both Amy and David, and Amy as the aggressor.
62. It's clear from the evidence that, despite the difficulties in the relationship, Amy was committed to trying to make it work. Nancy gave evidence that Amy had never had a father figure in her life until Nancy married her husband Rick, and Nancy knew that Amy "*wanted to have a mum and a dad for her girls.*"⁸⁴ Friends gave similar evidence.
63. In my opinion, some of the most compelling evidence of Amy and David's relationship comes from reading their messages to each other that were downloaded from their phones. They were obviously private messages, so I won't repeat them in too much detail. However, there are messages on 26 May 2014 that indicate David and Amy were talking about getting married.⁸⁵ Their message exchanges are generally affectionate, although there is some obvious jealousy on both their parts.⁸⁶ On 29 May 2014 they had an argument and Amy offered to move out and complained about the fact it was David's father's property, so she wanted to get her own place. She also suggested she would leave both girls with David, at least temporarily, until she found a place of her own. However, this blew over quickly and the messages returned to normal.⁸⁷ These messages support the descriptions of the relationship being volatile and subject to jealousy and threats of separation, but also that they also appeared committed to each other. Although they had separated a couple of time times, particularly due to David's drinking, Amy had taken him back each time as he had promised he would change.
64. However, Nancy believes on the night Amy died things had changed and Amy had "*had enough. She wasn't going back.*"⁸⁸ David, on the other hand, gave evidence that he thought it was their usual kind of fight and she would leave, and then return, as usual.⁸⁹

⁸² T 178; Exhibit 1, Tab 8, Police Report CIU 2014/854, p. 26 and Tab 10, Incident Report.

⁸³ Exhibit 1, Tab 8, Police Report CIU 2014/854, p. 26.

⁸⁴ T 42.

⁸⁵ Exhibit 4, p.110.

⁸⁶ For example: Exhibit 4, pp.89, 94, 120, 126-127, 131.

⁸⁷ Exhibit 4, pp. 127 - 128.

⁸⁸ T 42.

⁸⁹ T 852.

EVIDENCE OF AMY'S STATE OF MIND

65. Medical records indicate that Amy was involved in a serious car accident on 20 January 2013. She was a passenger in a vehicle driven by David Simmons at the time. Amy suffered a fracture of the C2 vertebrae along with an injury to the C3/4 vertebrae and was treated at Royal Perth Hospital. Amy was required to wear a halo fixator during her recovery and then a neck brace. She hated wearing the halo and limited going out until it was removed. After her treatment, no physical/movement restrictions were noted, although Nancy recalls Amy was perhaps a little more cautious and had some understandable anxiety about going in cars.⁹⁰
66. Amy generally attended the Pinjarra Medical Centre for her ongoing health needs. It is clear from her appointments from March 2013 to January 2014 that the aftermath of the car accident had a significant effect on Amy's physical health, with ongoing neck issues, and required her to make difficult decisions about her future and generally affected her mental health.⁹¹ It is clear from some conversations with other people that Amy understandably felt anger towards David due to the fact he was the driver at the time of the crash, although she had worked hard to let go of that anger.⁹²
67. Amy's last two appointments prior to her death were with Dr Terezina Brooks and Dr Sammy Sharifeh.
68. At her appointment with Dr Brooks on 31 March 2014, Amy requested another prescription for the antidepressant Lexapro. She had been prescribed it first on 26 February 2014 after reporting several months of low mood and anxiety but with no thoughts of self harm. Amy told Dr Brooks she believed it had provided some relief of her symptoms. Amy indicated she did not want to be referred to a counsellor or psychologist at that time. Dr Brooks prescribed a prescription for Escitalopram with repeats, and an antibiotic for a possible UTI. Amy later filled prescriptions for Escitalopram on 31 March, 21 April and 7 June 2014.⁹³
69. On 15 April 2014 Amy saw Dr Sharifeh for a review. It was recorded that Amy reported "things are getting better."⁹⁴ She did not visit a doctor again.
70. David Simmons told police in an interview that he was aware Amy was taking medication for depression, although he didn't monitor when she took it. He said about a week before her death Amy had told him that she didn't think the medication was working, so he had suggested she go see a doctor and get it changed. She had never mentioned thoughts of self-harm, only feeling depressed.⁹⁵
71. Nancy was aware that Amy had been taking antidepressant medication as she had suggested Amy see a doctor because Amy had said she was feeling a bit down. Amy had told her that when she was taking the medication she would feel better and if she

⁹⁰ T 26; Exhibit 1, Tab 20A, Cold Case Homicide Report, 26.8.2019, p. 40 - 41.

⁹¹ Exhibit 1, Tab 20A, Cold Case Homicide Report, 26.8.2019, p. 41.

⁹² Exhibit 2, Tab 2B.

⁹³ Exhibit 1, Tab 20A, Cold Case Homicide Report, 26.8.2019, p. 42 and Tab 24.

⁹⁴ Exhibit 1, Tab 20A, Cold Case Homicide Report, 26.8.2019, p. 42 and Tab 24.

⁹⁵ Exhibit 2, Tab 20, David Simmons – Interview Transcript, 28.5.2014, pp.51, 54 - 57.

stopped she would feel down again. Nancy gave evidence she understood Amy was taking the medication more for her anxiety than depression, although she did acknowledge Amy sometimes felt depressed being stuck up at the house in Serpentine.⁹⁶

72. Nancy, however, did not notice any particular difference and felt Amy was always her usual happy self.⁹⁷ Nancy told police that as far as she was aware, Amy had never self-harmed and Amy gave her no reason to be concerned about her.⁹⁸
73. Amy's family and friends felt she was quite isolated at the property in Serpentine and away from her family and friends. However, David's father, Robert Simmons, recalled Amy saying she enjoyed living there and actually felt the location was helpful in being able to catch up with her friends who lived in Armadale.⁹⁹
74. There are certainly messages in the brief that indicate Amy would get bored and lonely when David was working away, but it is also clear she enjoyed living on a rural property and made the most of the opportunity for her daughters to enjoy the outdoors.
75. On Sunday, 22 June 2014, a few days before her death, Amy rang Nancy and told her that she "was feeling miserable up at the house in Serpentine."¹⁰⁰ Nancy invited Amy to come over with her daughters and stay the night. Amy agreed to come for lunch but declined to stay over. Amy appeared happy at her mother's house and was in a good mood when Nancy left to go to work at 12.30 pm. By the time Nancy finished work and returned home at about 4.00 pm, Amy and the girls had left to go back home.¹⁰¹
76. Nancy's husband, Rick Kirk, recalled a conversation with Amy on that Sunday before her death when she told him that she had been in an argument with David and David had held a knife to her throat. Rick recalled during that conversation that he spoke to Amy about how he had stopped taking his anti-depressant medication in the past, as he felt it did not agree with him, and he suggested that she might want to consider trying to address her issues rather than taking anti-depressant medication.¹⁰²
77. Nancy did not see Amy again in person, but she spoke to her every day on the phone, which was their usual practice. She did not recall any unusual conversations that week and believed Amy was her normal, happy self.¹⁰³

⁹⁶ T 27.

⁹⁷ Exhibit 2, Tab 1A, Nancy Kirk, 3.7.2014 and Tab 1B, Nancy Kirk, 21.11.2018.

⁹⁸ Exhibit 2, Tab 1B, Nancy Kirk, 21.11.2018, [47].

⁹⁹ T 552; Exhibit 1, Tab 8, Police Report CIU 2014/854, p. 11.

¹⁰⁰ Exhibit 2, Tab 1A, Nancy Kirk, 3.7.2014 [31].

¹⁰¹ Exhibit 2, Tab 1A, Nancy Kirk, 3.7.2014.

¹⁰² Exhibit 1, Tab 8, Police Report CIU 2014/854, p.11.

¹⁰³ T 28; Exhibit 2, Tab 1A, Nancy Kirk, 3.7.2014, [43].

EARLY EVENTS ON 26 JUNE 2014

78. Nancy spoke to Amy over the phone on the morning of 26 June 2014 and recalled there was nothing unusual about their conversation.¹⁰⁴
79. Amy spent the day of 26 June 2014 with Rachael Price, Gareth's wife, and their children. Rachael told police when spoken to in June 2014 that she considered herself a good friend of Amy. Amy had never confided in her that there was any problem in her relationship and she believed Amy and David were a happy couple. She told police initially that she did not notice anything untoward in Amy's behaviour that day. However, during his interview with police in 2019, and during his evidence at the inquest, Gareth mentioned a conversation with Rachael some months after Amy's death. In this conversation, Rachael told Gareth that she and Amy had a conversation the day Amy died about thoughts of suicide.¹⁰⁵
80. Gareth's evidence prompted the police to obtain another statement from Rachael. In this statement, Rachael¹⁰⁶ confirmed that on the day Amy died they spent the day together shopping with their daughters and arrived back home to Amy's house at 12.30 pm. They baked some treats and got ready for a planned barbecue that night. Amy seemed in a good state of mind but both women were slightly annoyed with Gareth, David and their friend Josh for still being out. Amy, Rachael and the girls were sitting in the lounge room that afternoon when Amy and Rachael had a conversation while the girls watched television. They were talking about Amy and David's wedding plans and Amy mentioned she wanted Shanaya to change her name to Simmons after the wedding so that she did not feel left out as the only family member with a different surname.
81. In the middle of this conversation, Amy said to Rachael, "*Have you ever thought about committing suicide?*"¹⁰⁷ Rachael didn't reply to this question and brushed it off as someone she knew had attempted suicide in the past and she did not feel comfortable talking about it. This was the only time Amy had ever mentioned anything about suicide to Rachael. Rachael was aware Amy was prescribed antidepressants from previous conversations but felt Amy was generally okay.¹⁰⁸
82. Rachael and Amy then continued to talk about Shanaya changing her surname. Rachael remained at Amy's house for about another half an hour after this conversation and Amy appeared to remain her normal self and still seemed to be "in a good way" when Rachael and her daughter then left the house. Rachael returned home, with a plan to go back to Amy's for the barbecue that night, but it then started raining so she decided to stay home instead. It seems she did not see or speak to Amy again.¹⁰⁹

¹⁰⁴ Exhibit 2, Tab 1A, Nancy Kirk, 3.7.2014.

¹⁰⁵ T 300; Exhibit 2, Tab 14, p. 66.

¹⁰⁶ Noting Rachael and Gareth are no longer married and Rachael's surname is now Makiri.

¹⁰⁷ Exhibit 2, Tab 15B, Rachael Makiri, 11.2.2021, [13].

¹⁰⁸ Exhibit 2, Tab 15B, Rachael Makiri, 11.2.2021.

¹⁰⁹ Exhibit 2, Tab 15B, Rachael Makiri, 11.2.2021.

83. Josh Bryden gave evidence that Amy had been really happy and cheerful in the morning, but she had become angry that afternoon as it seemed she thought David had been ignoring her during the day. Josh gave evidence he was surprised at the change, as Amy seemed “*a complete different person*” to the morning. David was “*trying to calm her down,*”¹¹⁰ but Amy remained angry, upset and aggressive.¹¹¹ Josh gave evidence he did not believe David was drunk and thought he appeared to control his temper throughout the incident. Josh confirmed that during the argument he heard David say, “*Have I ever hurt you? Have I ever hit you? I have never hurt you and I never will,*” and Amy agreed that he had not. Josh had never seen David hit Amy at any stage, but Amy, on the other hand did hit David a few times that day, which Josh had never seen her do before.¹¹²
84. Josh recalled at one stage Amy locked David out of the house while she prepared to go to her mother’s.¹¹³ He thought once Amy started to prepare to go to her mother’s house that things were a bit more under control, so Josh put his dogs in his car and left to go home to shower before returning to their house. He received a call from a friend as he was leaving, which showed as being received at 4.47 pm on his phone.¹¹⁴ Josh gave evidence he was surprised and upset to later hear that Amy had committed suicide. He had never had the impression that Amy might be suicidal and she had never spoken to him about being depressed, although he also said she did not generally confide in him about her relationship and he noted many people who are depressed don’t let others know they are suffering. Josh gave evidence he did not have a view on how Amy may have died, although he had not experienced any doubt at the time when he was told it was suicide.¹¹⁵
85. Nancy was the last person to speak to Amy, outside of David and Gareth. Nancy rang Amy at 5.00 pm after she got home from work. When Amy answering she was crying and very distressed. Nancy said she had never heard Amy cry like this before and described her as “*absolutely hysterical.*”¹¹⁶ When Nancy asked what was going on, Amy told her that she had a big fight with David. Amy said she had thrown a beer at him and punched him in the mouth. Amy said David then grabbed her by the throat and threw her on the ground.¹¹⁷ Nancy was very angry to hear this as Amy had only recently recovered from her neck injury following the car accident. Nancy told Amy to pack her things and come to her house to “*stay the night, for weeks or months, I don’t care.*”¹¹⁸ Amy agreed and Nancy offered to come and pick Amy and her daughters up. However, Amy declined and said that she was alright and would be there soon. Nancy asked if David was still there and Amy told her she thought he was but he was outside the house somewhere. Nancy told Amy she would see her soon and they ended the call. Amy seemed calm by the time they ended their conversation.¹¹⁹

¹¹⁰ T 257.

¹¹¹ T 262 – 263.

¹¹² T 269 – 271; Exhibit 2, Tab 17, Joshua Bryden, [115] – [116],

¹¹³ T 264.

¹¹⁴ T 259 – 265.

¹¹⁵ T 267 - 269.

¹¹⁶ Exhibit 2, Tab 1B, Nancy Kirk, 21.11.2018, [27].

¹¹⁷ T 29 - 30; Exhibit 2, Tab 1A, Nancy Kirk, 3.7.2014, [59]; Exhibit

¹¹⁸ Exhibit 2, Tab 1A, Nancy Kirk, 3.7.2014, [65].

¹¹⁹ T 29; Exhibit 2, Tab 1A, Nancy Kirk, 3.7.2014.

86. This was not the first time that Amy had come around to Nancy's house after an argument with David, but this time Nancy believed that Amy intended to leave him for good based on her tone of voice and the nature of their conversation.¹²⁰ It usually takes only 20 minutes to travel from Amy's house to Nancy's house, but Amy had not arrived by 5.30 pm. Nancy began to worry and started repeatedly calling Amy's phone but Amy did not answer.¹²¹ Nancy did not know it, but at that stage Amy had already died.

INITIAL POLICE ATTENDANCE

87. At 5.20 pm on Thursday, 26 June 2014, the Police Operations Centre received a notification that St John Ambulance had received a telephone call from David Simmons stating that his wife had shot herself. He provided their address at 2783 South Western Highway in Serpentine. A police CAD job was generated and three police officers from Mundijong Police Station were tasked to attend: Senior Constable Ian Roberts, First Class Constable Larry Blandford and Police Constable Philippa (Pip) Dixon.¹²²¹²³¹²⁴ The text of the job indicated a female had suffered a gunshot injury to the head although it seems the attending police were also told that someone had called SJA and said, "My girlfriend has shot herself."¹²⁵
88. In the meantime, SJA had notified David's father, Robert Simmons, that they had received a call to send an ambulance to his property from someone identified as David Simmons. Robert Simmons told the operator he didn't know of any incident but he would go down to the house below and check. He went down to the house and then called SJA back. He stated that he had found Amy dead and said, "*Someone shot her. I think it must have been my son. He's not here*" then continued, "*My son made the mistake, but she's been shot in the head and she's dead.*"¹²⁶
89. It is clear from his evidence at the inquest that Robert Simmons assumed David had shot Amy because of the position of the shotgun on the floor and the towel covering her head. Mr Simmons then went down to the front gate in order to direct emergency services in and found Gareth, who explained that Amy had shot herself and he had moved the gun and put the towel on Amy's head. Mr Simmons gave evidence he was relieved and from that time no longer believed David was responsible.¹²⁷
90. The police officers arrived at the address at about 5.40 pm and were met at the gate by Robert Simmons and Gareth Price. Robert Simmons identified himself as the property owner, explained who lived at the other house and said there had been a

¹²⁰ T 30; Exhibit 2, Tab 1A, Nancy Kirk, 3.7.2014.

¹²¹ Exhibit 2, Tab 1A, Nancy Kirk, 3.7.2014.

¹²² Police Constable Dixon has changed her surname to Moore, but I refer to her in this finding by the name she went by at the time of the incident.

¹²³ Exhibit 1, Tab 8, Police Report CIU 2014/854.

¹²⁴ For ease of reference I will shorten some of the police officers' ranks from now on, but it should be noted their correct ranks at the time were as noted in this paragraph. The same rule applies to other police officers I refer to later in this finding. I have also referred to them by the ranks they held at the time of this incident, rather than their current ranks or position, noting at least one officer has now left the WA Police.

¹²⁵ T 56; Exhibit 2, Tab 5B, Philippa Moore, 10.1.2019, [5].

¹²⁶ Exhibit 1, Tab 16, SJA Call transcript from Robert Simmons to SJA, 5.28 pm, 26.6.2014.

¹²⁷ Exhibit 2, Tab 12A, Gareth Price 26.6.2014, pp. 8 - 9.

shooting and a female, Amy Wensley, was dead in the house up the drive. Constable Blandford recalled Robert said, "*my daughter-in-law has shot herself with a shotgun*"¹²⁸ and suggested Gareth might be the best person to talk to about what happened.

91. None of the police officers had met Amy or Robert Simmons, but Constable Blandford knew Gareth from some previous inquiries. Constable Blandford recalls that he asked Gareth what happened and Gareth said, "*Amy is dead. She has committed suicide.*"¹²⁹ Constable Blandford thought his turn of phrase was unusual, as he knew Gareth to be illiterate and he has had to use his mother as an interpreter in the past, so he thought the word 'suicide' was not a word Gareth would use, rather than simply saying Amy shot herself.¹³⁰ Gareth also told the attending police that David had departed the scene to drop off the two children at their grandmother's house.¹³¹
92. Constable Blandford asked Gareth again what had happened, and Gareth told him that Amy came into the shed and spoke to David and asked him, "*Why are you drinking all the time, you have a family to look after.*" They argued and Amy picked up a pole and smashed the reptile aquarium before trying to hit David with the pole. David then told her to "*fuck off and get out of the house.*" Amy went inside and packed some clothes in a suitcase and then put the children and suitcase in her car. Amy then went back into the house and Gareth and David waited in the shed for her to leave, but then they heard a shot go off. Gareth then said that David left the house and he went into the house and found Amy with fatal head injuries, so he covered her head with a blue towel and moved the shotgun away from her body before leaving the house.¹³²
93. Robert Simmons offered to take the police up to the house but they declined. The police officers asked Gareth and Mr Simmons to remain at the front gate while they made their way to the house to view the scene.¹³³
94. When they reached the house they saw two cars parked outside, one with a .22 rifle lying across the front passenger seat. They were not initially sure where Amy was located, so the three officers first searched the shed, then Senior Constable Roberts continued to search the shed while Constable Blandford and Constable Dixon went into the house. It is a relatively small two-bedroom house, so it did not take long to search. Constable Dixon checked the smaller bedroom while Constable Blandford tried to gain access to the main bedroom.
95. Constable Blandford gave evidence the main bedroom door was fully closed. When he tried to open it, he could only push it open about six to eight inches.¹³⁴ Constable

¹²⁸ T 105.

¹²⁹ T 105.

¹³⁰ T 105.

¹³¹ Exhibit 2, Tab 3A, Larry Blandford, 11.7.2014 and Tab 4A, Ian Roberts, 4.7.2014.

¹³² Exhibit 1, Tab 8, Police Report CIU 2014/854, p. 4; Exhibit 2, Tab 3A, Larry Blandford, 11.7.2014.

¹³³ T 56.

¹³⁴ T 106 - 107.

Blandford noted the door “was being obstructed by something,”¹³⁵ but he did not at that time know what it was. He pushed on the door enough to allow him to put his head around and see the obstruction, which is when he saw Amy’s body behind the door. He called out to Constable Dixon that he had “found her,”¹³⁶ then squeezed sideways into the room.¹³⁷

96. Constable Blandford found Amy slumped in the corner behind the door with a blue towel over her head. Constable Blandford did not remove the towel or look underneath it and he did not touch the body at any point.¹³⁸ Amy was seated position with her left foot against the door, in a position he estimated to be in about the middle of the door.¹³⁹ She was sitting on her right hand and her left hand was visible on her lap. Constable Blandford gave evidence when the door opened Amy’s body moved but then appeared to go back into the same position.¹⁴⁰
97. Constable Blandford noted blood and brain matter on the wall and floor. There were two firearms visible, a shotgun on the floor with blood spattering the front of both barrels and a pink .22 rifle leaning against a wall. A live and spent shotgun cartridge were on a bedside table.¹⁴¹
98. Constable Dixon had also entered the bedroom briefly, following behind Constable Blandford, and she also inspected the scene without touching anything. She agreed Amy’s body was basically in the same position as photographed, although she was uncertain if the legs were exactly as depicted.¹⁴²
99. Constable Blandford gave evidence at the inquest that from his viewing of the scene, based on his experience as a trained police officer and a professional shooter, it would require two hands to shoot a shotgun like the one at the scene and he thought it would be very rare and unconventional for a person to shoot themselves with a weapon like that with one hand. Further, his impression was that the scene gave the appearance Amy had been forced into a corner and pushed into that position, onto her right hand. He did not maintain this was definitely what had occurred, but felt it was open on a viewing of the scene and required investigation.¹⁴³
100. Constable Dixon also gave evidence her immediate impression was that the location, and positioning, of Amy’s body was suspicious and she “*didn’t think that she had done it herself.*”¹⁴⁴

¹³⁵ Exhibit 2, Tab 3A, Larry Blandford, 11.7.2014, [31].

¹³⁶ T 148.

¹³⁷ T 107 – 108; Exhibit 2, Tab 3A, Larry Blandford, 11.7.2014, [36] – [37].

¹³⁸ Exhibit 1, Tab 8, Police Report CIU 2014/854, p. 4; Exhibit 2, Tab 3A, Larry Blandford, 11.7.2014, [32] – [34].

¹³⁹ T 108 – 109.

¹⁴⁰ T 109.

¹⁴¹ Exhibit 1, Tab 8, Police Report CIU 2014/854, p. 4; Exhibit 2, Tab 3A, Larry Blandford, 11.7.2014, [35] – [36] and Tab 4B, Ian Roberts, p. 1.

¹⁴² T 149.

¹⁴³ T 119 – 120.

¹⁴⁴ T 150.

101. Senior Constable Roberts was alerted to the discovery of a body and he also came and inspected the scene. He gave evidence that the main bedroom door was slightly ajar when he saw it and *“in order to gain entry you had to push the door because the legs of the deceased were behind the door stopping it from opening fully.”*¹⁴⁵ He recalled he had to push the door with some force and the door would only open enough so that he could *“basically squeeze through”*¹⁴⁶ by shuffling in sideways. Once he had entered the room, Amy’s legs then *“re-forced the door shut again.”*¹⁴⁷
102. Once inside the room, Senior Constable Roberts noted the weapon was about a metre away from Amy by the side of the bed and Amy was sitting upright behind the door *“with her legs crossed, her left hand over her stomach ... laying in her lap, her right hand squashed under her bum and with a blue towel over what remained”*¹⁴⁸ of her head. Senior Constable Roberts confirmed the shotgun was in exactly the same position as is depicted in the photograph he later took of it on the floor of the bedroom and Amy’s body was in the same position as he photographed her later.¹⁴⁹ He clarified that his description of her legs being crossed was not exact and seeing the photograph refreshed his memory that her legs were as depicted in the photograph.¹⁵⁰
103. Constable Blandford left the room while Senior Constable Roberts remained inside. He remembered seeing that Amy’s left leg *“kind of acted as a spring, if you will, and closed the door”*¹⁵¹ when Constable Blandford exited through the door. He didn’t notice any other movement of her body.¹⁵²
104. Shortly after the police arrived, two SJA paramedics arrived. Senior Constable Roberts asked them to touch as little as possible while ascertaining that Amy was deceased. The paramedics followed Constable Dixon into the house and she took them into the main bedroom.¹⁵³
105. One of the attending paramedics, Julie-Anne Barron, gave evidence at the inquest. Ms Barron was a very experienced paramedic at that time, having worked in that role for around 20 years. Although many years had passed, Ms Barron still had some independent memory of the callout. She remembered going into the bedroom and could recall that Amy was situated behind the bedroom door, which Ms Barron said, *“struck me as being a bit unusual.”*¹⁵⁴ She also remembered seeing the Amy’s body slumped in an upright position with a towel on her head, and there was a firearm *“on the other side of the doorway, in front of her”*¹⁵⁵ but towards the bed.¹⁵⁶ Ms Barron was shown a photograph of the firearm on the floor taken by police at the scene and

¹⁴⁵ T 56.

¹⁴⁶ T 56.

¹⁴⁷ T 58.

¹⁴⁸ T 58.

¹⁴⁹ T 58; Exhibit 1, Tab 13A, p. 4, Figure 1; Exhibit 5.2, Photograph.

¹⁵⁰ T 60.

¹⁵¹ T 61.

¹⁵² T 62.

¹⁵³ T 45 – 46; Exhibit 2, Tab 5B, Philippa Moore, 10.1.2019, [39] – [50].

¹⁵⁴ T 46.

¹⁵⁵ T 47.

¹⁵⁶ T 50.

agreed that matched with her recollection.¹⁵⁷ Ms Barron gave evidence that, based on her experience as a paramedic, she was struck at the time that it was strange that Amy was crouched behind a door when she died.¹⁵⁸

106. Ms Barron believes they followed the instructions to have minimal contact, but assumes her partner checked Amy for a pulse. Constable Dixon recalls the paramedics were generally careful to disturb Amy and the scene as little as possible, but one of the paramedics did remove the towel and check for signs of life.¹⁵⁹ Ms Barron also recalled there was blood and brain matter on the wall behind Amy, which made it clear she had quite a horrific injury that was incompatible with life. Ms Barron then certified Amy life extinct at 5.50 pm on the basis it was an obvious death.¹⁶⁰
107. The three uniformed police officers already considered Amy's death to be suspicious, given the nature of the report and the fact the person who had made the report of Amy's death, David Simmons, had left the scene. Senior Constable Roberts gave evidence their viewing of the scene only increased their level of suspicion, given:¹⁶¹
- the firearm that allegedly had been used by Amy to shoot herself was not with the body,
 - the firearm had also been unloaded and the cartridges placed on the bedside table (at this time they did not know this had been done by Robert Simmons),
 - Amy's small size made it difficult to see how she could have shot herself with that firearm, and
 - the blood spatter and the fact her right hand was under her bottom did not appear to fit a scenario where she had shot herself in that position.
108. After taking photographs, Senior Constable Roberts declared the scene a protected forensic area (PFA), called VKI to notify them of the PFA and requested that the 'crime car' on duty detectives be informed of the incident as he wanted them to attend.¹⁶² He was told they were monitoring the job but Senior Constable Roberts said he insisted the detectives attend as he stated that he "could not ascertain whether this was a suicide or someone had shot the deceased."¹⁶³ Senior Constable Roberts gave evidence that he also requested the District Forensic Field Incident Team attend as he believed it required a full forensic examination. He was unsure what happened with this request but assumed the request was overruled by someone else as no forensic officers attended at any stage that night.¹⁶⁴
109. Constable Dixon and Constable Blandford drove back to the front gate. At that time, Constable Dixon received a call from Detective Senior Constable Tom Weidmann,

¹⁵⁷ T 50 – 51; Exhibit 5.2, Photograph.

¹⁵⁸ T 51 - 52.

¹⁵⁹ T 150.

¹⁶⁰ Exhibit 1, Tab 2, Life Extinct Form; Exhibit 1, Tab 23B, SJA Patient Care Record.

¹⁶¹ T 62.

¹⁶² T61 – 63.

¹⁶³ Exhibit 2, Tab 4A, Ian Roberts, 4.7.2014, [19].

¹⁶⁴ T 64.

who was the designated District Crime Response vehicle. She briefed Detective Weidmann, who advised Constable Dixon to declare the scene a PFA and detectives would attend the scene to investigate the death. The house was formally declared a PFA at 6.05 pm,¹⁶⁵ although the uniformed officers had been treating it as a PFA already.

110. Constable Blandford had just begun speaking to Gareth Price again at the front gates when Nancy Kirk and David Simmons arrived in two separate cars. David got out of his car and hugged Gareth and they began to cry. Until this time, Constable Blandford had not observed Gareth or Roberts Simmons show any emotion.¹⁶⁶
111. Nancy was also very emotional and agitated when she got out of the car and asked if Amy was okay. Nancy asked if the ambulance was there then became hysterical and asked if Amy was dead, which the police confirmed. Nancy turned immediately to David Simmons and yelled words to the effect, "It is all your fault she is dead. You killed her you bastard."¹⁶⁷ Constable Dixon recalled Nancy specifically referred to David's drinking being the cause.¹⁶⁸
112. Constable Dixon restrained Nancy from approaching David and Gareth restrained David, who yelled back at Nancy, "I didn't shoot myself in the fucking head."¹⁶⁹ Constable Blandford took Nancy to her car and took her details while Constable Dixon approached David and Gareth. Constable Dixon noted that David Simmons smelt heavily of alcohol but he was not slurring his words or falling over. He was emotional, crying and yelling and pacing around and Gareth was trying to restrain him.¹⁷⁰ Constable Dixon asked David Simmons for his full details and his children's details. She then cautioned him, to which David responded, "Just lock me up I'd prefer to be in jail."¹⁷¹ He was very emotional and went on to say:¹⁷²

We just had an argument; she went inside and I heard the gun go off. I just didn't want the kids to be here, didn't want them to see the police cars.

113. The police officers and Gareth then removed a children's car seat from Amy's car, which was the car David was driving, and Nancy then left to return home to the children. Although Nancy was distressed, Constable Blandford was satisfied it was safe for her to drive home.
114. Another police car had arrived with uniformed officers from another station and Constable Blandford asked the two officers to take statements from Gareth and David and prevent anyone from entering the scene. He then returned with Constable Dixon to the house to rejoin Senior Constable Roberts. They secured some firearms

¹⁶⁵ Exhibit 2, Tab 5B, Philippa Moore, 10.1.2019, [56].

¹⁶⁶ T 114.

¹⁶⁷ T 115; Exhibit 1, Tab 8, Police Report CIU 2014/854, p. 4; Exhibit 2, Tab 3A, Larry Blandford, 11.7.2014, [54].

¹⁶⁸ Exhibit 2, Tab 5B, Philippa Moore, 10.1.2019, [69].

¹⁶⁹ T 154; Exhibit 2, Tab 5B, Philippa Moore, 10.1.2019, [73].

¹⁷⁰ T 154 – 155.

¹⁷¹ Exhibit 2, Tab 5B, Philippa Moore, 10.1.2019, [80].

¹⁷² Exhibit 2, Tab 5B, Philippa Moore, 10.1.2019, [83].

and ammunition from other parts of the premises while waiting for the detectives to arrive.¹⁷³

DETECTIVES' ATTENDANCE

115. The detectives gave evidence they had been monitoring the job since 5.45pm, when Detective Senior Constable Thomas (Tom) Weidmann¹⁷⁴ heard the VKI job regarding a firearm-related incident. He said that they would normally attend such an incident. Detective Weidmann indicated he had attempted to contact the attending officers but was unsuccessful, which was attributed to poor reception in the area. He then tried to go onto VKI to make contact, and eventually he got a call back from Constable Dixon at the scene.¹⁷⁵ When Detective Weidmann eventually spoke to Constable Dixon, she advised there was a deceased female in the house as a result of a gunshot wound and the partner was not at the address. He discussed it with Detective Sergeant Anthony (Tony) Kirkman and they arranged to attend.¹⁷⁶
116. Detective Sergeant Kirkman, Detective Senior Constable Weidmann, Police Constable Sharlene Coe, and Detective First Class Constable Jarrod Povah arrived at the front gate in two cars at about 6.55 pm. Detective Sergeant Kirkman was the most senior officer of that group.
117. Prior to their arrival, they had been informed that the deceased woman's partner (David Simmons) had returned to the address. The detectives spoke briefly to the police officers at the gate, who were already taking a statement from David Simmons. Detective Weidmann said in his statement that he did not speak to either David Simmons or Gareth Price at that time, although he clarified in his oral evidence that he did speak very briefly to Gareth at the gate and asked a uniformed officer to take Gareth's statement.¹⁷⁷ He understood Detective Kirkman spoke to both David and Robert Simmons.¹⁷⁸
118. Detective Kirkman did not speak to either men, but did note that both Gareth and David appeared visibly upset and stunned and were pale.¹⁷⁹ His impression was that they both appeared "more upset than scared."¹⁸⁰
119. The detectives then made their way to the house just after 7.00 pm. They spoke to the uniformed officers in the large shed near the house.
120. Detective Weidmann's Attendance Report indicates they were told by Constable Dixon that Amy and David had an altercation and Amy headbutted David and attempted to smash a mirror inside the house before she smashed a glass lizard tank in the outside shed. David and Gareth were in the process of cleaning up the glass

¹⁷³ T 114.

¹⁷⁴ Now Detective Sergeant Weidmann.

¹⁷⁵ T 152, 168 – 169.

¹⁷⁶ T 169.

¹⁷⁷ T 177, 185 – 187.

¹⁷⁸ T 177.

¹⁷⁹ T 219.

¹⁸⁰ Exhibit 2, Tab 7A, Tony Kirkman, 8.11.2018, [11].

when Amy loaded the kids and some belongings in the car with the intention of going to her mother's place. The car was started to keep the children warm. Amy then told David she needed to calm herself before driving and went back inside the house. Shortly after David and Gareth heard a 'pop' and went to investigate. David opened the door of the main bedroom and found Amy inside. It was clear a firearm was involved, and Constable Dixon advised the detectives the firearm had been moved away from Amy and had been cleared,¹⁸¹ although how it had been cleared was not necessarily explained. Detective Kirkman's recollection was similar as to the information that was provided to them at that early stage.¹⁸²

121. The attending police officers also advised that Senior Constable Roberts had taken photographs of Amy in situ and photographs had also been taken of the main bedroom and other parts of the home. Senior Constable Roberts recalled that Detective Kirkman looked at some of the photographs and said, "*Well, I don't really think I need to enter the scene because the photographs should suffice.*"¹⁸³ Senior Constable Roberts said he disagreed they could make a decision without going inside. He suggested the detectives should go into the scene and view it first-hand as they were the experienced investigators for these types of matters and there was relevant information that wouldn't be conveyed well in the photographs.¹⁸⁴
122. Constable Blandford also made a note that one of the detectives did not seem that interested and first suggested they could just look at the photos and not go inside. Constable Blandford overheard Detective Kirkman saying he had seen the photographs and that was sufficient, and then Senior Constable Roberts suggesting that they should still go inside. Constable Blandford then joined the conversation. His impression was that it was Detective Kirkman who did not want to enter, rather than Detective Weidmann. He saw Detective Weidmann go to the detectives' car to obtain forensic covers for their shoes and gloves to facilitate entering the scene, and when he returned Detective Kirkman agreed to enter the house.¹⁸⁵
123. Detective Weidmann gave evidence he was unaware of any reluctance to enter the house and it was his understanding they were always going to go inside. He said that Detective Kirkman told him to go and get the forensic 'gloves and booties' for that purpose. He did not recall any discussion about photographs being sufficient.¹⁸⁶
124. Detectives Kirkman also denied that he had expressed any reluctance to enter the house. He didn't recall specifically being shown photographs prior to entering the scene, but agreed it was highly likely. However, Detective Kirkman disagreed that based on seeing the photographs he had formed a view he did not need to go inside the house. He gave evidence he would only have done so if he had been sure, based on the photographs, that it was an obvious homicide, as he would have wanted to

¹⁸¹ Exhibit 2, Tab 6A, Attendance Report.

¹⁸² T 220.

¹⁸³ T 66.

¹⁸⁴ T 66, 80.

¹⁸⁵ T 118 - 119; Exhibit 1, Tab 8, Police Report CIU 2014/854, p. 5 – 6; Exhibit 2, Tab 3B, Blandford Notes, 3.7.2014.

¹⁸⁶ T 170.

preserve the scene for forensic examination. However, that was not the case here, and he indicated he always intended to enter the room and view the scene himself.¹⁸⁷

125. In any event, whether or not they were initially reluctant, the detectives did indeed go in and view the bedroom and Amy's body for themselves. Detective Kirkman and Detective Weidmann entered the house together at about 7.18 pm.¹⁸⁸ They assessed the inside of the house for any signs of a struggle or fight, noting an unbroken mirror on the ground, then walked along the corridor to the main bedroom. They could smell cordite, which was consistent with a firearm having been discharged.¹⁸⁹
126. Detective Kirkman recalled the main bedroom door was cracked open and slightly ajar.¹⁹⁰ Detective Weidmann recalled that the main bedroom door was either closed or slightly ajar, though he acknowledged Detective Kirkman was ahead of him and had a better view. The door was obstructed from opening fully by Amy's body. Detective Kirkman pushed his way in through the door and Detective Weidmann followed him. They did not open the door fully, but opened it enough for them to enter by moving sideways. The door then almost fully closed behind them, due to the pressure of Amy's foot on the door.¹⁹¹
127. Once inside, they observed Amy's body was sitting up with her back to the rear wall behind the door in the main bedroom. She had a towel over her head. They removed the towel from her head and observed a relatively neat entry hole on the right side of her head and significant damage to the left side of her head.
128. Detective Kirkman was a weapons specialist for 11 and a half years in submarines in the navy before joining WA Police, and has also been a police officer and detective for many years.¹⁹² Accordingly, he had significant personal knowledge of firearms at the time. He gave evidence he noted there were no obvious burn marks on the outside edge of the bullet hole, which told him that the firearm was placed hard up against her head when it fired. Detective Kirkman considered it unlikely a person would allow someone to place a firearm directly to their head, without trying to move away or prevent it. Therefore, he took the lack of a burn mark as evidence consistent with suicide.¹⁹³
129. Detective Kirkman noted the fingers of Amy's right hand were underneath her leg, where her buttock was. When asked what he made of this evidence, Detective Kirkman responded:¹⁹⁴

That was why we went in there in the first place. But it wasn't like she was sitting on her hand. It looked more like she'd either been ... the shock of being hit, it pushed her into the wall and as she settled back, she'd sat on it,

¹⁸⁷ T 221.

¹⁸⁸ Exhibit 2, Tab 6A, Attendance Report, 27.6.2014, p. 2.

¹⁸⁹ T 171, 222.

¹⁹⁰ T 222 - 223.

¹⁹¹ T 171 - 172, 223 - 224.

¹⁹² T 217, 222.

¹⁹³ T 224 - 225.

¹⁹⁴ T 225.

or simply through myself or somebody else coming that that door and having to push the door, it's pushed her leg which has pushed it under her hand.

130. However, Detective Kirkman agreed that the positioning of her hand did cause him some concerns as to whether Amy would have been physically able to fire the firearm herself.¹⁹⁵
131. There was blood spatter on the wall behind her head. It seemed to Detective Kirkman that the blood spatter indicated the trajectory of the projectile was “from low down to high up, rather than high up to low down, by the way it splatter up on the wall.”¹⁹⁶ However, he conceded he is not a blood spatter expert and agreed it would have been beneficial to call an expert to make that determination, given the expert bloodstain pattern analysis indicated the trajectory was horizontal.¹⁹⁷
132. They saw the .410 shotgun about 1.5 metres away from Amy’s body, with what appeared to be blood on the barrel. They could also see three other firearms in the room, one being Amy’s pink and black .22 rifle in the corner, as well as a double-barrel shotgun in the right hand corner and a high-powered rifle in the wardrobe. Ammunition was all over the room and two rounds of .410 ammunition, one spent and one live, were on the left bedside table.¹⁹⁸ Detective Kirkman did not recall seeing any other rounds of .410 ammunition in the bedroom.¹⁹⁹
133. The detectives gave evidence that they examined the bedroom for any signs of a fight and found none. Detective Weidmann noted it was not a messy room and there “*didn’t appear to be anything out of place or anything broken.*”²⁰⁰ Based on what they saw, they did not believe a fight had occurred inside the bedroom. They checked the window and doors and found no sign of any forced entry or damage, although I note the internal bedroom door had no handle on the inside,²⁰¹ so it is unlikely it would have to have been forced for someone to gain entry. Detective Weidmann gave evidence he didn’t notice the missing door handle at the time but Detective Kirkman gave evidence he did remember noting the door handle was missing and there was only a hole in the door, with both the handle and mechanism removed. However, Detective Kirkman’s recollection was that the door handle was missing in its entirety, from both sides of the door. He accepted when viewing the photographs of the scene that he was obviously wrong, as the door handle was clearly visible on the corridor side.²⁰²

¹⁹⁵ T 225.

¹⁹⁶ T 225; Exhibit 2, Tab 7A, Tony Kirkman, 8.11.2018, [44].

¹⁹⁷ T 225.

¹⁹⁸ Exhibit 1, Tab 8, Police Report CIU 2014/854, p. 6.

¹⁹⁹ T 226.

²⁰⁰ T 172.

²⁰¹ See Exhibit 1, Tab 13A, p. 4, Figure 1 – it is clear there is no internal door handle, only an external handle.

²⁰² T 172 – 173, 222 – 223 – note Robert Simmons gave evidence he was aware the door handle fell off sometimes, even when he lived there – T 563.

134. They also examined Amy's hands for signs of defensive injuries and found none.²⁰³ Detective Weidmann agreed that he was later told that the forensic pathologist found bruising to Amy's right wrist during the post mortem examination, but said they did not observe bruising at the time.²⁰⁴ It was also put to Detective Weidmann that he would have struggled to look properly at her right hand, given it was under her buttock, and noting she was wearing long sleeves. He indicated he had no independent recollection of how they checked the hands for injuries.²⁰⁵
135. Detective Kirkman also said he recalled looking at Amy's hands for defensive marks. He recalled he could see none on her left hand and he said he could see enough of her right hand, without moving her, to also see there were no marks on it.²⁰⁶ Similarly to Detective Weidmann, he did not recall seeing any bruising around the right wrist. He also did not recall seeing a small cut on her left hand and sooting around that injury.²⁰⁷
136. The detectives took further photographs of Amy and the scene and surrounding area. They also inspected the rest of the house, which they found to be messy, but nothing was out of place other than a mirror, which was on the ground. They noted there was unlikely to be information gained from neighbours, given the distance, and there was no CCTV available on the premises.²⁰⁸
137. Based upon what they saw at the scene, the detectives believed the evidence was consistent with a non-suspicious suicide. Some of the factors that influenced their decision were:²⁰⁹
- The position of Amy, against the door, and the location of the blood suggested she died where she was located and her body had not been moved after death,
 - The blood on the shotgun barrel indicated the firearm was close to her head when fired,
 - It did not appear a struggle had occurred in the surroundings of the body and, the body did not show any sign of violence except for the gunshot wound,
 - Amy's left leg/foot was propped against the door from the inside and the door was said to be closed when Amy was found,
 - It appeared the window was secure,
 - Gareth Price and David Simmons were both outside when they heard what appeared to be a gunshot, and
 - Amy was the holder of a firearms licence.
138. I note one of the factors above relies upon the accounts of Gareth Price and David Simmons being accepted as truthful.²¹⁰

²⁰³ T 174, 202 - 203.

²⁰⁴ T 174.

²⁰⁵ T 203 - 204.

²⁰⁶ T 227.

²⁰⁷ T 227 - 228.

²⁰⁸ T 172; Exhibit 1, Tab 8, Police Report CIU 2014/854, p. 6.

²⁰⁹ Exhibit 2, Tab 6A, Attendance Report, 27.6.2014, p. 4.

²¹⁰ Exhibit 2, Tab 6D and 7B, Assistant Commissioner Warning Notices.

139. In his oral evidence at the inquest, Detective Kirkman indicated he thought at the time the most likely scenario was that Amy used the floor as a prop to hold up the firearm. This was based on his view of the blood spatter. He observed the shotgun was about 2 feet in length from the tip of the barrel to the trigger guard and Amy was about 165 cm tall, which was a similar height to Detective Kirkman. He considered he could easily reach the trigger sitting down like that, with either the left or right hand, so deduced she could do the same. He clarified, however, that he believed she used her right hand.²¹¹ He agreed that if the blood spatter expert indicated the trajectory was horizontally left to right, and not from the ground up, then this theory was wrong.²¹² He said he made an assumption, and *“it was wrong of me to do that.”*²¹³
140. As to the position of her right hand being under her buttock, Detective Kirkman in his statement indicated he had formed the opinion Amy could have pulled the trigger with her right hand and then her right hand could have ended up under her buttock as a result of the force of the impact of the shot pushing her body into the wall and then her body settling back down onto her right hand. He also considered it possible the opening of the bedroom door, twitching after death or the people who had come to check on the deceased initially may have inadvertently pushed her hand under her buttock.²¹⁴ Detective Kirkman suggested in his oral evidence that Amy’s hand was not tucked closely under her body, it was just the tips of her fingers.²¹⁵ I note, however, this is not consistent with my viewing of the photographs, which he agreed were consistent with how Amy’s body was positioned when he first saw her.²¹⁶
141. Detective Weidmann was asked whether the fact Amy appeared to be sitting on her hand caused him any concern and he advised that he had a conversation with Detective Kirkman, who explained he believed it was consistent with Amy committing suicide. Detective Kirkman explained to Detective Weidmann at the time that he thought that when Amy shot herself, *“she got propelled against the wall, the arm fell down and she sat back on it.”*²¹⁷ Detective Weidmann gave evidence that this explanation made sense to him at the time, and they saw nothing else at the scene to indicate the death was a homicide.²¹⁸
142. After no more than 15 minutes examining the scene, they left the house and moved to the nearby shed, where they advised the three uniformed officers of their view that there was nothing to suggest the death was due to homicide. There is a divergence in the evidence as to the nature of this discussion.
143. Senior Constable Roberts recalled that Detective Kirkman said, *“I believe it to be a suicide.”*²¹⁹ Senior Constable Roberts also was firm in his recollection that Detective Kirkman stated he thought Amy had pulled the trigger using her left hand by

²¹¹ T 238.

²¹² T 227, 239.

²¹³ T 227.

²¹⁴ Exhibit 2, Tab 7A, Tony Kirkman, 8.11.2018, [42] – [43].

²¹⁵ T 228.

²¹⁶ T 224.

²¹⁷ T 173.

²¹⁸ T 173.

²¹⁹ T 66.

pressing the butt of the gun against the bed and leaning over with her left arm.²²⁰ Both he and Constable Blandford considered Amy using her left hand to pull the trigger as very unlikely, and indeed not even possible, and they put this to Detective Kirkman.²²¹ Senior Constable Roberts was sure that Detective Kirkman did not raise the possibility that Amy may have shot herself with her right hand on the trigger, but even if he had, Senior Constable Roberts said he would have been concerned with this scenario given the placement of Amy's right hand under "*firmly under her bottom.*"²²²

144. It is clear the three uniformed officers did not agree with the detectives' conclusion it was an obvious suicide. Senior Constable Roberts and Constable Blandford openly questioned the detectives about aspects of the scene they believed were inconsistent with suicide, based both on Amy using her left and her right hand to fire the shotgun. They recalled the detectives dismissed their concerns and Detective Kirkman was "*adamant that it was a suicide.*"²²³
145. Constables Blandford, Roberts and Dixon all described it as a "*heated*"²²⁴ discussion with a robust exchange of views. Constable Dixon, Constable Blandford and Senior Constable Roberts all said they made it very clear that they did not think the detectives were correct to rule the case a suicide at this early stage. Senior Constable Roberts tried to tell Detective Kirkman that it would be almost impossible for a slight girl of Amy's size to be able to reach over her body and pull the trigger with her left hand. He also pointed out her natural 'trigger' finger would have been her right hand, which was situated under her bottom so he believed it could not have been used.²²⁵ He believed he made his case quite clear.²²⁶
146. Constable Blandford also suggested it was impossible for a young lady to shoot herself in the side of her head with a double barrelled shotgun square on, and certainly not with her right hand trapped under her bottom.²²⁷ He recalled Detective Kirman suggested Amy had pulled the trigger with her left hand, or leant into the gun. He apparently then suggested she might have used her right hand, but Constable Blandford challenged that on the basis she was sitting on her right hand. He recalled Detective Kirkman suggested the recoil of her shotgun had caused her body to move and throw her hand up, which has then landed underneath her.²²⁸ Constable Blandford gave evidence he felt all of Detective Kirkman's "*scenarios were arse up*"²²⁹ and unconvincing.
147. Constable Dixon recalled that the detectives said the positioning of the body was what made them think it was suicide, whereas she thought the positioning of the

²²⁰ T 67; Exhibit 2, Tab 4A, Ian Roberts, 4.7.2014, [25].

²²¹ T 98.

²²² T 98 - 99.

²²³ T 67; Exhibit 1, Tab 8, Police Report CIU 2014/854, p. 22.

²²⁴ T 75, 156; Exhibit 2, Tab 5B, Pip Dixon, 10.1.2019, [104].

²²⁵ Exhibit 2, Tab 4A, Ian Roberts, 4.7.2014, [25].

²²⁶ T 78.

²²⁷ Exhibit 2, Tab 3C, Larry Blandford, 11.1.2019, [78] and Tab 4A, Ian Roberts, 4.7.2014, [27] – [28].

²²⁸ T 135.

²²⁹ T 131.

body made it very unlikely that the shot was self-inflicted.²³⁰ She gave evidence she still didn't really understand how it could be suicide, given Amy's positioning. She remembered Detective Kirkman suggested recoil may have played a role in moving the body, but she was unconvinced. In her view, Amy was "*properly sitting on her right hand.*"²³¹ Constable Dixon also gave evidence she had gained the impression Amy had packed her belongings, and her daughters, and then at the last minute had decided to go back in, which she found confusing and "*didn't sit well*"²³² with her.²³³

148. Senior Constable Roberts also raised concerns with the detective about the behaviour of other witnesses in moving the firearm and unloading it, and David leaving the scene, as suspicious.²³⁴
149. The detectives had a different recollection of the discussion outside the house. Detective Kirkman recalled that the uniformed officers disagreed with his determination that it was a suicide. He did not, however, agree it was a heated discussion. Detective Kirkman admitted that he can be quite abrasive, rude and blunt, and indicated he has been in many heated discussions as a result, but he did not recall this being one of them.²³⁵ It may be that Detective Kirkman's perception of a 'heated' discussion differs from the uniformed officers. What he did concede was that, even at the end of their discussion, he understood that the uniformed officers disagreed with his decision. However, he stated "*at the end of the day, the decision, as wrong as it was, was mine, and I made it.*"²³⁶
150. Detective Weidmann indicated that Detective Sergeant Kirkman did most of the talking, but he agreed he was part of the conversation. He could not recall the exact words used, given the lapse of time, but he recalled that Detective Kirkman explained his view. Detective Weidmann gave evidence he did not recall that some of the uniformed officers disagreed with that view and had no recollection of such a conversation. He said that if the uniformed officers had openly disagreed and said they thought the death was suspicious, he believed they would have reassessed.²³⁷ Detective Weidmann suggested if the 'heated' conversation occurred, it was perhaps only with Detective Kirkman.²³⁸ He indicated he went to the detectives' car at one stage and spoke to the other detectives, and thought it was possible the conversation occurred then, since he had no recollection of it.²³⁹
151. Detective Kirkman was asked in his evidence if he believed Detective Weidmann was present with him when the uniformed officers expressed their disagreement. He recalled that Detective Weidmann was with him the whole time, although he did not recall if Detective Weidmann actually said anything at all.²⁴⁰

²³⁰ T 157; Exhibit 2, Tab 5, Pip Dixon, [104].

²³¹ T 157, 159 - 160.

²³² T 164.

²³³ T 160.

²³⁴ T 67.

²³⁵ T 229.

²³⁶ T 229.

²³⁷ T 175 - 176.

²³⁸ T 183.

²³⁹ T 204 - 206.

²⁴⁰ T 238.

152. Constable Blandford said he suggested the detectives should read the statements of David Simmons and Gareth Price before they reached a decision. He had got the impression they had not initially been intending to read them before leaving, but the detectives then agreed they would go and read the statements before making a decision.²⁴¹
153. The two detectives gave evidence they were always going to review the statements before making a final decision.²⁴² The detectives left the house and went down to the front gate to read the statements. They had told Constable Dixon they would call to provide advice on their final determination and what further action was to be taken.²⁴³ All four detectives sat in the car together and Detective Kirkman read out loud the two statements and they discussed “*what matched up and what didn’t quite match up.*”²⁴⁴

Statements of David Simmons and Gareth Price

154. In the statement taken by uniformed police on the night, David stated that he was at home with two friends, Gareth Price and Joshua (Josh) Bryden when Amy came home with the two children from school. A verbal fight started between Amy and David about what David had been doing all day. They moved into the master bedroom and the fight progressed to the point that Amy knocked over a large mirror in David’s direction then began hitting him. David said he grabbed her to stop her hitting him and she head butted him, giving him a split lip. He then restrained her on the bedroom floor until she calmed down. After David released her, Amy walked out into a shed, where she was said to have smashed a glass tank containing some lizards, which upset the children. She left the shed and David, Gareth and Josh went out to the shed to clean up the mess. When David returned to the house Amy was packing her bags and she told him she was going to stay at her mother’s house. He assisted her to pack some items and then walked the two children to the car, which was parked at the front of the property.²⁴⁵
155. David said he put the two children in the car then left them with Gareth while he walked back into the house and spoke to Amy, who told him she just needed to calm down before driving to her mother’s house. He packed some more clothes for the children and took them back to the car. While waiting at the car he heard a thud. He went back into the house to the bedroom and said he knocked on the door and called out, but there was no answer. He opened the door slightly and could see Amy’s foot just inside the bedroom. He then saw Amy was lying on the floor in the bedroom with a shotgun next to her. In his statement, he said it was his shotgun, and it was “facing towards her down by her legs, about a metre away.”²⁴⁶ She was clearly

²⁴¹ T 121.

²⁴² T 176, 229.

²⁴³ Exhibit 1, Tab 8, Police Report CIU 2014/854, p. 21; Exhibit 2, Tab 3A, Larry Blandford, 11.7.2014, p. 9 – 10 and Tab 3B, Blandford Notes, 3.7.2014.

²⁴⁴ T 177, 230.

²⁴⁵ Exhibit 1, Tab 8, Police Report CIU 2014/854, p. 12 – 12; Exhibit 2, Tab 19, David Simmons 26.6.2014.

²⁴⁶ Exhibit 2, Tab 19, David Simmons 26.6.2014, [40].

deceased as he could see the back of her skull was missing. He said he walked back out to the car and told Gareth what he had seen.²⁴⁷

156. Gareth's account largely corroborated David's. He recalled that Amy arrived home shortly after them. He recalled Amy and David started arguing after Amy asked Josh for his phone and David told him not to give it to her. Amy then began swearing at David and called him a liar. There was then the incident with the mirror, which Gareth recalled occurred in the hallway. Gareth recalled Amy started punching David and David restrained Amy, followed by Amy headbutting David, hitting his lip. David then wrestled her to the floor. Shortly after, he released Amy and she walked out of the house. Gareth heard a smashing sound and one of the children came in crying and said Amy had flipped the lizard tank. Gareth and David went outside to clean up and then Gareth recalled Amy began loading up her car with her clothes. David helped her load the car and turned on the engine so the car would be warm for the children. All of this is largely consistent with David's account. He recalled being outside at the car with David when he heard a "loud crack,"²⁴⁸ which prompted him to say to David, "What's she breaking now?"²⁴⁹
157. Gareth's account differs from David's from there, in that Gareth said rather than staying by the car, he followed David back into the house. He saw David open the bedroom door, then David began screaming and swearing and ran past Gareth back out of the house. Gareth could smell gunpowder and when he walked into the bedroom, he saw Amy behind the door in the corner of the room with a shotgun resting on her leg. He could see she had a large wound to her head. Gareth stated he grabbed the shotgun with his right hand and flicked it away from the body and then put a towel over Amy's head. He then went outside the house and found David on the patio.²⁵⁰
158. Neither David nor Gareth had a working mobile telephone so they drove in the car with the children to a local service station where they used a phone to contact emergency services and report Amy's death. David then dropped Gareth back at the house while he drove the two girls to Amy's mother's house.²⁵¹
159. Detective Kirkman discussed the statements with the other detectives. He included in his statement a number of inconsistencies between Gareth Price and David Simmons' accounts that were apparent on the night, including:²⁵²

- David did not mention the demanding of the phone by Amy from Josh,
- David did not mention being called a liar by Amy,
- David put the physical fight with Amy and the mirror in the bedroom but Gareth identified it occurring in the hallway,
- David did not mention hearing the lizard tank smashing but Gareth did,

²⁴⁷ Exhibit 1, Tab 8, Police Report CIU 2014/854, p. 12 - 13; Exhibit 2, Tab 19, David Simmons 26.6.2014.

²⁴⁸ Exhibit 2, Tab 12A, Gareth Price 26.6.2014, p. 5.

²⁴⁹ Exhibit 2, Tab 12A, Gareth Price 26.6.2014, p. 5.

²⁵⁰ Exhibit 1, Tab 8, Police Report CIU 2014/854, p. 13 - 14.

²⁵¹ Exhibit 1, Tab 8, Police Report CIU 2014/854, p. 13 - 14; Exhibit 2, Tab 12A, Gareth Price 26.6.2014 and Tab 19, David Simmons 26.6.2014. .

²⁵² Exhibit 2, Tab 7A, Tony Kirkman, 8.11.2018, [54] - [63].

- Gareth mentioned David starting and turning off the car engine, but David did not,
 - Both men described hearing the shot but only Gareth mentioned saying, “What’s she smashing now?”
 - David said he went out and told Gareth what he saw in the bedroom but Gareth said he followed David into the room,
 - David stated the shotgun was about 1 metre away from Amy but Gareth said it was resting on her leg, and
 - The scene diagram David drew had Amy’s position reversed.
160. Detective Kirkman indicated he did not believe these inconsistencies indicated a pattern of untruths, but rather he attributed the differences to the witnesses’ different perceptions and recollections of a traumatic event.²⁵³ He gave evidence it did not give him the impression of someone trying to minimise their conduct, but simply reflected people’s different perception and what people think is important at the time.²⁵⁴
161. Detective Weidmann gave evidence he thought having some inconsistencies was “*not necessarily bad*”²⁵⁵ and he didn’t think there was anything in the statements that raised any flags. As he put it, the inconsistencies were “*explainable*.”²⁵⁶ The detectives formed the belief the statements were largely consistent and corroborated the scene, as they had assessed it.
162. Detective Kirkman agreed at the inquest that, in hindsight, there were probably enough inconsistencies to have tipped the scales to the extent that a formal interview with each man should have been undertaken to obtain clarification. Detective Kirkman also agreed he should, at least, have spoken to each man himself to form an assessment of their demeanour. However, that was not the view he formed on the night.²⁵⁷
163. They had made enquiries to confirm there was no history of violent offences or domestic violence related incidents on the police data system,²⁵⁸ although they did not make any enquiries with family and friends at that time. It is clear now that if they had spoken to Amy’s mother or other family and friends, a different picture might have quickly emerged.
164. Ultimately, Detective Kirkman made the decision that the death was not suspicious. He indicated in his statement that he considered the following factors in his decision making:²⁵⁹
- Both David and Gareth returned to the house after leaving for, what he considered to be, understandable reasons,

²⁵³ T 241; Exhibit 2, Tab 7A, Tony Kirkman, 8.11.2018, [64].

²⁵⁴ T 230 - 231.

²⁵⁵ T 176.

²⁵⁶ T 192.

²⁵⁷ T 231 - 232.

²⁵⁸ T 178.

²⁵⁹ Exhibit 2, Tab 7A, Tony Kirkman, 8.11.2018, [66] – [77].

- Both David and Gareth provided what he considered to be a willing and reasonable account in their statements and he took into account their demeanour,
- The lack of signs of a struggle in the bedroom,
- The location and positioning of Amy's body,
- The lack of defensive wounds on Amy's body,
- The location of the .410 shotgun and its size and the bodily matter at the end of the barrel,
- The choice of the .410 amongst all the firearms in the room. He considered it to be the most logical for Amy to use, as it was light, short and simple to use,
- The entry wound and subsequent blood and body matter pattern on the wall,
- The reported demeanour of Amy immediately prior to her death,
- The lack of reported or recorded violent history between Amy and David Simmons.

165. The detectives advised Constable Dixon that they had deemed there was no criminality in the death and that the Coronial Investigation Squad could take charge of the investigation. This was on the basis that the detectives had deemed Amy's death a non-suspicious suicide.²⁶⁰ Constable Dixon received the call from Detective Weidmann to this effect at about 8.00 pm and communicated the decision to Constable Blandford.

166. Constable Blandford gave evidence that at this stage they were unaware that Robert Simmons had unloaded the firearm (they were told this later) so this aspect of the evidence was still unexplained. He commented that "*it's half-baked, the whole thing,*"²⁶¹ which I took to mean that he felt the decision had been made prematurely.

167. However, ultimately it was the detectives' decision and the uniformed police were required to proceed accordingly. Constable Dixon called the Coronial Investigation Unit to advise them of the detectives' decision, as they would then be taking over the investigation. Shortly after, she left the scene to return to Mundijong Police Station to commence the relevant paperwork and lodge seized property.²⁶²

168. Senior Constable Roberts gave evidence that he still did not agree with the decision, but he felt they had been ordered to treat it as "non-suspicious" and he acknowledged that the detectives were the experts and Detective Sergeant Kirkman was a higher rank than him, so he felt obliged to follow their direction and treat the death as a non-suspicious sudden death.²⁶³

169. After Detectives Weidmann and Kirman determined the death was not suspicious, the area was no longer declared a PFA. This meant that the area could now be disturbed, even though a full forensic examination had not been conducted.

²⁶⁰ Exhibit 1, Tab 8, Police Report CIU 2014/854, p. 4.

²⁶¹ T 121.

²⁶² Exhibit 2, Tab 5B, Philippa Moore, 10.1.2019, [107] – [109].

²⁶³ T 68, 75 - 76.

170. Detective Weidmann acknowledged that the uniformed police had already requested the attendance of forensic officers before the detectives attended, but he indicated that the detectives did not see a need for forensics to attend on the night as they did not believe it was a homicide. Detective Weidmann expressed regret at the inquest for that decision not to call in the forensic officers to the scene at the time and not undertaking more investigation.²⁶⁴ However, looking at the body and the scene generally on the night, he believed there was nothing pointing to homicide. It is clear from his evidence that he was guided by the opinion of Detective Kirkman, who he respected as “*a good police officer*”²⁶⁵ with good investigating skills.²⁶⁶ Detective Weidmann said he believed if he had had grave concerns at the time, he felt Detective Kirkman would have listened to him, but he agreed with Detective Kirkman’s findings at the time, based on the information they had.²⁶⁷
171. Detective Kirkman also expressed regret that forensics were not requested to attend. When asked at the inquest why he did not call in a forensic team on the night, Detective Kirkman was forthcoming in conceding that the reason was:²⁶⁸
- Arrogance, overconfidence, feeling like I was the person that was responsible and I was the one that had to make the decision, and I made what I consider to be the wrong decision.
172. He apologised to the family during his evidence at the inquest for making the wrong decision.²⁶⁹
173. Detective Kirkman was asked whether he believed his arrogance and overconfidence precluded him from applying an open mind to the investigation? He agreed.²⁷⁰ However, he denied that he was rude to the uniformed officers or that he discounted what they had said.²⁷¹
174. It was very clear at the inquest he had reflected upon his conduct, including noting he was very aware of the import of the Assistant Commissioner’s Warning Notice he had received and accepted its contents.²⁷²
175. Detective Kirkman gave evidence that, in hindsight, there were two phone calls he should have made: “*one was to Homicide Squad to get ... their perspective, and the other one should have been to forensics.*”²⁷³ He also acknowledged that, given the known physical altercation on the day, it would have been of benefit to speak to Amy’s family and friends about any history of domestic violence in the relationship. Detective Kirkman also agreed that if he had known that Nancy had accused David

²⁶⁴ T 174.

²⁶⁵ T 174.

²⁶⁶ T 173 – 175.

²⁶⁷ T 182.

²⁶⁸ T 226.

²⁶⁹ T 237.

²⁷⁰ T 237.

²⁷¹ T 235, 237.

²⁷² T 216.

²⁷³ T 232 – 233.

of killing Amy or causing her death at the gate, that might have changed his view of the matter.²⁷⁴

EVENTS AFTER PFA LIFTED

176. Shortly after the detectives left, David and Gareth approached the house. David went to walk into the house and Constable Blandford stopped him. He asked him where he was going? David replied that he was going inside as he wanted his mobile phone. Constable Blandford pointed to a black phone on a table but David said that was not his phone. Constable Dixon asked him what colour the phone was, and David replied that it was pink. Constable Blandford thought it was unlikely that a man like David would own a pink phone, so he became suspicious. He told David he could not allow him to enter the house as Amy's body was still in the house. David and Gareth left a short time later in Gareth's car.²⁷⁵
177. Government contractors came to collect Amy's body and take it to the mortuary at about 9.00 pm. Before her body was removed the police searched her for personal effects. They searched her pockets and found a small amount of money and also a pink mobile phone tucked into Amy's left sock. Her jewellery was also removed. Constables Roberts and Blandford then assisted the contractors to take Amy from the house.²⁷⁶
178. Senior Constable Roberts and Blandford then seized the firearms and ammunition that were unsecured at the house. Five firearms were seized from the house on the day of Amy's death. They included the double barrelled shotgun believed to have been used to inflict the gunshot injury to Amy, as well as a pink rifle that belonged to Amy, and two other rifles. All were found in the bedroom where Amy was located and none were secured in a gun cabinet. Assorted ammunition of varying calibre was also seized from the bedroom. In addition, a magnum crossbow was seized from the shed. They were seized as evidence so that charges could be laid against the owner for not keeping them properly secured, with charges eventually laid against David Simmons in that regard. The firearms were eventually taken back to the Mundijong Police Station, tagged and placed in the firearms cupboard.²⁷⁷
179. When Senior Constable Roberts and Constable Blandford left the house at about 10.00 pm, they first went to Robert Simmons' house and gave him an interim property receipt for all the items they had seized. At that time, Robert Simmons told Constable Blandford he had entered the bedroom and unloaded the shotgun and placed the spent and live round on the bedside table before he saw Amy in the corner. Constable Blandford thought this was odd, given he and the contractors had been forced to turn sideways and push on the door to get inside the room due to how Amy's body was positioned. It is not in his statements, but Constable Blandford also

²⁷⁴ T 232 – 233.

²⁷⁵ T 124 – 125; Exhibit 2, Tab 3A, Larry Blandford, 11.7.2014, [74] – [80] and Tab 3C, Larry Blandford, 11.1.2019, [93].

²⁷⁶ T 69; Exhibit 2, Tab 3A, Larry Blandford, 7.11.2014 and Tab 4A, Ian Roberts, [36].

²⁷⁷ T 80, 90; Exhibit 1, Tab 8, Police Report CIU 2014/854, p. 6 – 7 and, Tab 10, Incident Report; Exhibit 2, Tab 4A, Ian Roberts, [35].

included in his notes that Robert Simmons said at the time that he had received a phone call from the service station about the incident.²⁷⁸

180. The contractors had provided Constable Blandford with a card for a trauma cleaning service and he provided this to Robert Simmons before they left. The provision of this kind of information is not unusual in a coroner's case.²⁷⁹ David and Gareth came past Robert's house afterwards and then left to go to Gareth's house.
181. Senior Constable Roberts and Constable Blandford then went to Nancy Kirk's house. They told Nancy Amy's death had been deemed a suicide. Senior Constable Roberts recalled Nancy appeared in a state of shock and bewilderment at the news. Nancy said to him, "She lived for her kids, she could not have done this, she had only just called me and said that she wanted to leave him, I told her to get her things and come here for the night."²⁸⁰
182. Nancy was handed Amy's pink Apple iPhone, money and her jewellery taken from her body, still covered in Amy's blood.²⁸¹
183. No clothing was seized from David Simmons or Gareth Price on the night.
184. Rachael Price was at home that night when Gareth returned with David and informed her that Amy had shot herself and was dead. Rachael stated she collapsed at the news and didn't speak to Gareth or David about it that night. The next day, she spoke to Gareth about what happened and he told her that there had been a scuffle between Amy and David. Amy put the girls in the car to go to her Mum's, but she then returned to the house to get some clothes and while David and Gareth were standing outside near the car they heard a gunshot. Gareth said he and David went inside the house and could smell gunpowder in the air. He said they tried to open the bedroom door but they couldn't. That was all he told her at that time. Rachael stated they had further conversations about the incident on other occasions, but Gareth told her "the same thing every time."²⁸²
185. The file was forwarded to the Coronial Investigation Squad (CIS) as an unnatural, but not suspicious, death. It is apparent the first three attending officers still considered the death suspicious at that time, but they followed the direction of the detectives as to how this matter should progress. As Constable Blandford put it, "*we tried our best to get someone to assist us*"²⁸³ but they didn't get the help they wanted and they felt they could not buck the system and defy the detectives. Constable Blandford gave evidence that he felt on the night "*it was pretty well self-explanatory to anybody with any common sense that ... this has to be investigated further,*" but their concerns were dismissed. Constable Blandford also gave evidence he felt

²⁷⁸ Exhibit 2, Tab 3A, Larry Blandford, 7.11.2014, [84] – [88] and Tab 3B, Blandford Notes, 3.7.2014 and Tab 3C, Larry Blandford, 11.1.2019, [104].

²⁷⁹ T 69 – 70; Exhibit 2, Tab 3C, Larry Blandford, 11.1.2019, [102].

²⁸⁰ Exhibit 2, Tab 4A, Ian Roberts, [37].

²⁸¹ T 37 – 38; Exhibit 1, Tab 8, Police Report CIU 2014/854, p. 20; Exhibit 2, Tab 1B, Nancy Kirk, 21.11.2018, [58].

²⁸² Exhibit 1, Tab 8, Police Report CIU 2014/854, p. 21; Exhibit 2, Tab 15B, Rachael Makiri, 11.2.2021, [35].

²⁸³ T 127.

unsupported by his officer in charge at the local station, after calling him the day after to let him know that he hadn't felt comfortable with the outcome the previous night as he felt the death was suspicious.²⁸⁴

186. Detective Weidmann was keen to emphasise in his evidence that he was aware that the death would continue to be investigated as a coronial inquiry, so there was always an opportunity for other evidence to alter the course of the investigation and render it a suspicious death inquiry again. However, he acknowledged that the lifting of the PFA meant there would be limited forensic evidence obtained in any follow-up investigation.²⁸⁵

MAJOR CRIME DIVISION – OPERATION JUNDEE

Initial steps

187. Child Protection and Family Services' staff visited Nancy the next morning, being 27 June 2014, to talk to and provide some support to her and to Amy's daughters. Nancy spoke to them about her conversation with Amy before her death and the fact Amy had packed her possessions into her car before she died. They did not convey their concerns to Nancy, but it appears the CPFS staff were disturbed by the information and decided to raise it with police.²⁸⁶
188. Early in the afternoon, police were advised by the CPFS staff that they had visited Amy's mother, Nancy Kirk, in order to provide support to her and to Amy's children. Mrs Kirk had told them that Amy had called her the night before alleging she had been physically assaulted by David Simmons (she reported he had put his hands around her throat and thrown her to the ground) and telling her mother that she had packed some belongings and was intending to come to Mrs Kirk's house with her children. There was also a suggestion Amy had told friends recently that she had planned to leave Mr Simmons. The police were told Mrs Kirk had a bag of belongings that Amy had reportedly packed before she died, and it contained some of Amy's shoes and clothes, as well as the children's property.²⁸⁷
189. Concerns had also been raised by officers at the CIS about the inconsistencies between the statements of David Simmons and Gareth Price, so the file was reallocated to Major Crime Division that afternoon, on the basis there was new evidence to suggest that there might be criminality associated with Amy's death.²⁸⁸ Officers from Rockingham Detectives spoke to Detective Sergeant Blaine at Major Crime Division about the concerns regarding the investigation and then a briefing with the rest of the Major Crime Division team was conducted. Detective Senior Sergeant Gregory McDonald was appointed the officer in charge of the investigation.²⁸⁹

²⁸⁴ T 128 – 129.

²⁸⁵ T 180.

²⁸⁶ T 38 – 39.

²⁸⁷ Exhibit 1, Tab 10, Running Sheet, Entry 27.6.2014, 13:37.

²⁸⁸ Exhibit 1, Tab 8, Police Report CIU 2014/854, p. 4; Tab 10, Running Sheet Entry 27.7.2014, 19:47.

²⁸⁹ T 483 – 486.

190. From an initial viewing of photographs of the scene, it appeared to Major Crime investigators that Amy was unable to self-inflict the wound. In particular, the shotgun was in a position that indicated it would not be possible for her to place the gun there if she shot herself with it. Major Crime Division officers later attended the post mortem examination and conducted other investigations and reached a different view, but that was the initial concern based on the photographs taken at the scene.²⁹⁰
191. Detective McDonald gave evidence that “*the situation was far from ideal given the information that was provided to us*”²⁹¹ and not what he would have expected in the circumstances, as he would have anticipated that Major Crime Division officers would have been called the previous night, given there was a gunshot injury to the head, there were indications some family violence had occurred and there were inconsistencies in the statements from the two men who had been present. Detective McDonald indicated that if Major Crime Division had become involved the previous night, the Major Case forensic team could then also have become involved. However, noting the delay, the Major Crime Division began an investigation and tried to gather the best evidence that was available to them at that time.²⁹²
192. Detective McDonald arranged for the alleged crime scene to be declared a protected forensic area again, which is a routine process, and then contacted forensics very shortly after that to do what forensic examination was still possible. By this stage, the scene had already been cleaned by trauma cleaners, so it was significantly contaminated and there was little forensic material left to examine, but what could be done, was done.²⁹³
193. As noted above, Amy’s and David’s mobile phones were retrieved from Nancy Kirk on the evening of 27 June 2014, but it does not appear that she was told that police now had suspicions about Amy’s death. Nancy did, however, recall a detective rang her and told her that if David rang or came to the house she should not answer and she should not allow him access to his daughters.²⁹⁴

Witness Accounts

194. At 9.30 pm on 27 June 2014, David Simmons was arrested on suspicion of murder pursuant to s 279 of the *Criminal Code* and Mr Price was arrested on suspicion of being an accessory after the fact to murder pursuant to s 562(1) of the *Code*.²⁹⁵ Forensic officers attended Rockingham Police Station and Detectives’ office and seized the clothes from David Simmons and Gareth Price for testing. No gun shot residue swabs were taken due to the extended time frame between the incident and the examination (>24 hours).²⁹⁶

²⁹⁰ Exhibit 1, Tab 9, Operation Jundee Report, 4.11.2014, pp. 2 - 3.

²⁹¹ T 487.

²⁹² T 487 - 488.

²⁹³ T 488 – 491.

²⁹⁴ T 39.

²⁹⁵ Exhibit 1, Tab 8, Police Report CIU 2014/854, p. 5.

²⁹⁶ Exhibit 1, Tab 17, Operation Jundee Forensic Report, Sergeant Nind, p. 5.

195. Both David and Gareth were significantly intoxicated when they were arrested, so they were allowed to sleep and were not interviewed until the following day, when they had sobered up.²⁹⁷
196. David Simmons participated in a formal electronic interview with Major Crime Division detectives just after 2.00 pm on 28 June 2014.²⁹⁸ Constable Dixon had returned to duty and she sat with David Simmons at Rockingham Police Station in the interview room before the interview was commenced. Constable Dixon noted that during this time David *“displayed a range of emotions in quick succession.”*²⁹⁹ She described him as being, at one moment, upset and insular, then he would become aggressive towards her and angry to the point that she had to tell him to sit down. He would then transition to calm and cooperative. Constable Dixon commented that at the time she found it *“very strange that he did not appear to want to be cooperative with police.”*³⁰⁰
197. David’s account in his interview was similar to that given to the attending police on the night of Amy’s death. He agreed he had been drinking alcohol that day but did not believe it impaired his judgment. He was aware that Amy had an issue with him going out hunting and drinking, and on this day he said Amy *“went psycho.”*³⁰¹ She tried to hit him with a mirror and punched and headbutted him, causing him to restrain her. He said for the first time that he told her to calm down or he would hit her back, although he also told police he only said this to *“scare her,”*³⁰² and would never have hit her. After wrestling Amy to the floor, she stood up and told him that she was moving out. He also agreed he may have told her to *“pack her bags and fuck off.”*³⁰³ He assumed she would go to her mother’s house for a night or so and then cool down and come back. David said they had a discussion about money and then Amy started packing her belongings, so he offered to help put them in the car. He put the children and some of the belongings in the car, then went inside to speak to her. He spoke to her through the bedroom door, as she blocked it from opening and he didn’t try to force his way in, then he went back outside and waited at the car to let Amy cool down. He disclosed that while he was waiting at the car with Gareth he retrieved his .22 firearm from the front seat of his Subaru and proceeded to shoot at a bird that was attempting to remove fish from the pond.³⁰⁴
198. David told police in the interview that when he heard the sound, it was a ‘thud’ and not a ‘crack’, and it did not sound like a gunshot. He recalled Gareth said something like, “What was that?” David said he thought Amy was breaking something, so he ran inside the house. He knocked on the bedroom door, turned the handle and opened the door, at which time he saw her feet. David said he looked around the door and didn’t go into the room. He started yelling and crying and dropped to the floor on the

²⁹⁷ T 492, 495.

²⁹⁸ Exhibit 1, Tab 10, Running Sheet, Entry 28.6.2014, 12:00; Exhibit 2, Tab 20, David Simmons – Interview Transcript, 28.6.2014.

²⁹⁹ Exhibit 2, Tab 5B, Philippa Moore, 10.1.2019, [118].

³⁰⁰ Exhibit 2, Tab 5B, Philippa Moore, 10.1.2019, [120].

³⁰¹ Exhibit 2, Tab 20, David Simmons – Interview Transcript, 28.6.2014, p. 13.

³⁰² Exhibit 2, Tab 20, David Simmons – Interview Transcript, 28.6.2014, p. 14.

³⁰³ Exhibit 2, Tab 20, David Simmons – Interview Transcript, 28.6.2014, p. 53.

³⁰⁴ Exhibit 1, Tab 8, Police Report CIU 2014/854, p. 13; Exhibit 2, Tab 20, David Simmons – Interview Transcript, 28.6.2014.

patio outside the house. He indicated that he thinks Gareth had followed him, so he yelled out to Gareth and said, “*She fucking shot herself.*”³⁰⁵ Gareth asked, “*Is she alive?*” before Gareth went inside. They then discussed calling someone and, after being unable to find a telephone, they drove for about five minutes to the roadhouse to call triple zero.³⁰⁶

199. Gareth Price also participated in a formal electronic interview with Major Crime Division detectives on 28 June 2014. In the interview, Gareth disclosed additional information that David had told Josh not to hand over the phone to Amy as he had lied about calling her, which triggered the fight.³⁰⁷ He also had heard David tell Amy to pack her bags and leave after their fight in the house³⁰⁸ and when they had been waiting at the car he had heard David call out to Amy to tell her to hurry up, to which she replied to “*give her a minute.*”³⁰⁹ When Gareth went inside he had initially been unable to walk into the bedroom as the door was stuck due to Amy being behind the door. After entering, he observed the shotgun was on Amy and pointed towards her head with the butt near her foot on the floor. He recognised the shotgun as being one that belonged to David Simmons as he had used it when hunting with David.³¹⁰
200. Gareth admitted to the police that he and David had discussed what had happened before the interview, which must affect the weight of some of the additional disclosures. Ideally, both men should have been separated immediately and interviewed, which would have occurred if Major Crime Division had become involved on the night Amy died.³¹¹ However, Detective McDonald, the senior investigating officer from Major Crime Division, thought at the time that Gareth still presented as truthful and honest in the interview and there was no evidence that they had colluded.³¹²
201. Gareth also provided another written statement to police on 5 August 2014, which included some additional information. He also added more details during his evidence at the inquest, which I address below.
202. At the inquest, Gareth gave evidence that he believed the fight between David and Amy on the day she died was over alcohol, and because she didn’t believe David about something, but he wasn’t sure what. After they had ended their physical fight, he gave evidence David told Amy to go to her mother’s house to calm down and cool off. He recalled Amy was crying while she collected her belongings and packed the car and she declined his offer of help. Gareth estimated she did about three trips to her car with belongings, and still appeared angry.³¹³

³⁰⁵ Exhibit 2, Tab 20, David Simmons – Interview Transcript, 28.6.2014, p. 36.

³⁰⁶ Exhibit 2, Tab 20, David Simmons – Interview Transcript, 28.6.2014, 36 - 49.

³⁰⁷ Exhibit 2, Tab 13, Gareth Price – Interview Transcript, 28.6.2014, pp. 32 – 33.

³⁰⁸ Exhibit 2, Tab 13, Gareth Price – Interview Transcript, 28.6.2014, p. 37.

³⁰⁹ Exhibit 1, Tab 8, Police Report CIU 2014/854, p. 15.

³¹⁰ Exhibit 1, Tab 8, Police Report CIU 2014/854, p. 15.

³¹¹ T 495; Exhibit 2, Tab 13, Gareth Price – Interview Transcript, 28.6.2014, p. 38 - 40.

³¹² T 492, 495 - 496.

³¹³ T 312 – 316.

203. He mentioned they went outside and David shot a parrot with a .22 rifle, though it is a little unclear about the timing of this event, although Gareth suggested it was while the children were waiting in the car.³¹⁴
204. In his last statement, Gareth stated the sound he heard from outside was “*a crack. Like a thud. It sounded like someone breaking something.*”³¹⁵ When he went inside the house after David ran out past him, he had to push the bedroom door open as it felt stuck because Amy was behind the door. He said he “*fully just opened it*”³¹⁶ and “*pushed it straight open,*”³¹⁷ before he realised Amy was behind it. When he left, he shut the door behind him.³¹⁸
205. Gareth said Amy was making some noises still at this stage, but as he left the room he was certain she was dead.³¹⁹ At the inquest, Gareth also mentioned seeing bubbles of blood on Amy’s face.³²⁰
206. Before he flung it away, Gareth said the gun was lying across Amy, “*with the barrel pointing toward her head and the butt near her foot on the floor.*”³²¹ Gareth drew a picture for police and another one at the inquest, but the drawings were simplistic and it was difficult to get an accurate picture of how the gun was placed.³²²
207. Gareth was asked at the inquest why he moved the gun, and he said he didn’t know.³²³ After moving the gun away, he got the towel and put it over her face.³²⁴
208. Gareth indicated in the 2014 statement he then suggested they go to David’s father’s house to use his phone, but David said that his Dad wasn’t home, so Gareth suggested they go to the roadhouse nearby to notify emergency services. Gareth said in his statement he believed David tried to call his father from the roadhouse, after calling triple zero, but was unable to get through to him.³²⁵ This is consistent with the other evidence. At the inquest, Gareth couldn’t recall the second call, but agreed it might have occurred, but he was pretty sure David didn’t speak to him.³²⁶
209. At the inquest, Gareth added that before they went to the roadhouse, he had gone back into the bedroom and patted Amy down looking for a telephone, but he didn’t find one³²⁷ (noting it was later found by police tucked into her boot).
210. Amy’s two children, Shanaya (6 years old) and Tahlia (4 years old), were interviewed at the Child Interview and Assessment Unit on 28 June 2014, and

³¹⁴ T 310 – 312, 322.

³¹⁵ Exhibit 2, Tab 12B, Gareth Price, 5.8.2014, [50].

³¹⁶ T 319.

³¹⁷ T 319.

³¹⁸ T 319.

³¹⁹ T 321.

³²⁰ T 304.

³²¹ Exhibit 2, Tab 12B, Gareth Price, 5.8.2014, [56].

³²² T 305 – 306; Exhibit 6.

³²³ T 304.

³²⁴ T 305.

³²⁵ Exhibit 2, Tab 12B, Gareth Price, 5.8.2014, [66], [78].

³²⁶ T 321.

³²⁷ T 303, 318.

Shanaya was interviewed a second time on 30 June 2014. Shanaya told the interviewers that she had seen her mother push the lizard tank over and Amy then told Shanaya she was going to stay at their Nan's house and packed her bag. Her mother put the suitcase in the car and David put both girls in the car. David then returned to the car and told them their Mum was in bed and was tired and he would drive them to their Nan's. Gareth Price was putting rubbish bins down the driveway and they picked him up and took him to their place before driving to their Nan's. In her second interview, Shanaya mentioned that David had shot at a tree with a gun while they were waiting for their mother. She said she then saw David return the firearm to the main bedroom and place it in a mirrored wardrobe.³²⁸ Tahlia provided less information, which was understandable given her young age, but it was generally consistent with Shanaya's recollection, although she did not mention the firearm.³²⁹

211. Gareth was asked at the inquest about the bins, and he said they did not stop at the bins when they were driving to the roadhouse.³³⁰
212. David's father, Robert Simmons, provided a statement to police on 27 June 2014. He advised he was at home alone when he received a call on his home landline from a SJA officer who advised that emergency services had received a call from David Simmons requesting an ambulance. Robert Simmons confirmed his son David lived on the property, but at a different house, and he was asked if he could go to the other house to check what was going on. Mr Simmons was concerned, so he immediately got in his car and drove down the driveway to David and Amy's house.³³¹
213. Mr Simmons gave evidence at the inquest that he had wondered at the time if Amy had had "*one of these meltdowns and shot David.*"³³²
214. When Mr Simmons arrived, he called out and got no answer. He looked in the shed then entered Amy and David's house, where he immediately smelt shotgun powder residue, which indicated to him that a shotgun had been fired in the house. He noticed the door to the bedroom was open.³³³
215. At the inquest, Mr Simmons said the open door was pushed hard around until it must have been hitting Amy. He looked through the open door and saw the shotgun lying on the bedroom floor. He walked into the room and could tell that the shotgun had been fired in the room, so he looked up at the ceiling for a bullet hole.³³⁴
216. In his statement, Mr Simmons said two guns on the floor near the bed, the other gun being Amy's pink .22 rifle.³³⁵

³²⁸ Exhibit 1, Tab 8, Police Report CIU 2014/854, pp. 24 – 25.

³²⁹ Exhibit 1, Tab 8, Police Report CIU 2014/854, p. 25.

³³⁰ T 322.

³³¹ Exhibit 1, Tab 11A, Robert Simmons, 27.6.2014.

³³² T 554.

³³³ Exhibit 1, Tab 8, Police Report CIU 2014/854, p. 16 – 17; Exhibit 1, Tab 11A, Robert Simmons, 27.6.2014.

³³⁴ T 555.

³³⁵ Exhibit 1, Tab 8, Police Report CIU 2014/854, p. 16 – 17; Exhibit 1, Tab 11A, Robert Simmons, 27.6.2014.

217. Mr Simmons picked up the shotgun and opened it to check for ammunition. He pulled out one spent cartridge, which he put on the bedside table, before pulling out another unspent cartridge. He then closed the gun and placed it back on the floor.³³⁶
218. As Robert Simmons placed the gun on the floor he saw a foot sticking out from behind the door, which he believed was her right foot. He then closed the door and saw a body with what he described as a jacket over her head. When he removed the jacket he recognised Amy and could see she had been shot in the head and there was blood spatter up the wall all the way to the ceiling. He replaced the jacket, ran outside and rang triple zero and told them he would meet emergency services staff at the highway. He then drove to the road, where he met Gareth at the front gate.³³⁷
219. Both Robert Simmons and Gareth gave similar evidence about their discussion at the gate. Mr Simmons said he asked Gareth what had happened and Gareth told him that Amy had shot herself. Gareth gave evidence at the inquest that Robert specifically asked him if David had shot Amy, and Gareth said, “*No. She done it to herself.*”³³⁸ Mr Simmons then asked him who moved the gun and who put the towel over Amy’s face, to which Gareth responded that he did both acts.³³⁹ Mr Simmons asked where David was, and Gareth told him that David had taken the children to Nancy’s house.³⁴⁰
220. Mr Simmons gave evidence that although it was still a tragic situation, he felt a sense of relief from what Gareth told him. When he had walked into the room and seen the gun in a position where it would have been impossible for Amy to shoot herself and with a towel on her head, and David was then nowhere to be found, he had made an assumption that David must have shot her. The information Gareth provided reassured him that there was an explanation for those things that concerned him. Mr Simmons indicated there was nothing about his knowledge of David, or David and Amy’s relationship, that otherwise made him think that David would have hurt Amy.³⁴¹
221. Police officers then arrived and Robert Simmons spoke briefly to police and tried to remove David’s dog from the house, before Robert returned to his own house on the instruction of the police. Mr Simmons gave evidence that, when he was back at his house, he mulled over what he had seen in the bedroom, and what Gareth had told him, and he believed their story that Amy had shot herself.³⁴²
222. A few hours later, at about 11.00 pm, police officers came to Robert’s house and told him they believed Amy had taken her own life. The police officers gave him a

³³⁶ T 555; Exhibit 1, Tab 8, Police Report CIU 2014/854, p. 16 – 17; Exhibit 1, Tab 11A, Robert Simmons, 27.6.2014.

³³⁷ T 555 – 556; Exhibit 1, Tab 8, Police Report CIU 2014/854, p. 16 – 17; Exhibit 1, Tab 11A, Robert Simmons, 27.6.2014.

³³⁸ T 303.

³³⁹ T 303.

³⁴⁰ T 322.

³⁴¹ T 556, 564 - 565.

³⁴² T 557.

receipt for the firearms they had seized and provided the number for trauma cleaners to assist in cleaning the scene.³⁴³

223. David and Gareth came up to his house either shortly before or shortly after the police. He thought they both looked traumatised and David was a bit teary. David told him he was going to stay at Gareth's house. Mr Simmons "*didn't feel it was the right time to grill David about what had happened*" so he just told them both not to go drinking.³⁴⁴
224. The next morning, Robert spoke briefly to David, who had been back to his own home to collect some clothes and other personal items for the children at Nancy's request. Robert spoke to the cleaners at about 8.30 am, and at 10.00 am on 27 June 2014 the trauma cleaners arrived and cleaned the scene.³⁴⁵
225. Mr Simmons later expressed regret that he got the cleaners in as quickly as he did. Mr Simmons had gone to Perth the day the cleaners came, and when he returned home officers from Major Crime Division were present at the property and they asked him who had given him permission to have the property cleaned. He explained he had been given the relevant information about the cleaners, and permission to get it cleaned, from police the night before. Mr Simmons accepted that it "*didn't do anybody any favours cleaning it up,*"³⁴⁶ but he was not to know at the time how important it would become.
226. Robert provided a supplementary statement three days later, on 30 June 2014, and stated he had heard the sound of two gunshots on 26 June 2014, which he recognised came from a .22 rifle. He later gave evidence he was quite clear they were not fired from the shotgun.³⁴⁷ He couldn't recall exactly what time, but believed it was approximately half an hour before he received the call from SJA. He wasn't concerned at the time he heard the shots as David, Amy and their friends often did target practice on the property. He only became worried after receiving the call from SJA.³⁴⁸
227. At the inquest, Mr Simmons commented on the many mistakes during the police investigation, including releasing the scene to him to be cleaned, but also emphasised his belief that the initial detectives made the right call, as he 100 per cent believes Amy committed suicide.³⁴⁹
228. Josh Bryden, who had been at the house in Serpentine immediately prior to Amy's death also provided a statement to police on 27 June 2014. He stated he went to the house in the morning and spent some time helping David cut firewood. At 2.15 pm he received a Facebook message from Amy requesting David give her a call. David attempted to call Amy using Josh's phone but the call didn't work due to poor

³⁴³ Exhibit 1, Tab 8, Police Report CIU 2014/854, p. 16 – 17.

³⁴⁴ Exhibit 1, Tab 11A, Robert Simmons, 27.6.2014 [81].

³⁴⁵ Exhibit 1, Tab 8, Police Report CIU 2014/854, p. 17.

³⁴⁶ T 557.

³⁴⁷ T 549.

³⁴⁸ Exhibit 1, Tab 8, Police Report CIU 2014/854, p. 17.

³⁴⁹ T 574.

reception. He returned to David and Amy's house with David and Gareth at about 4.00 pm. Amy wasn't home at the time and he lent David his phone so David could try to call Amy again. There is evidence a message was sent from Josh's phone asking Amy where she was, and she replied, "*Gone crazy.*"³⁵⁰

229. Amy then returned home with the children. Amy and David went into the bedroom and he could then hear Amy shouting. She appeared angry and began to throw things. Amy told David she was leaving and he told her to take what she wanted. Amy then left the house and Shanaya came inside a little later crying and saying Amy had broken the lizard tank. He went outside with David and Gareth to clean up the broken tank.³⁵¹
230. David went inside and spoke to Amy then returned and told the two children they were going to their grandmother's with Amy and David then placed both girls in the rear of the white commodore and remained with them. Josh left at this point and indicated he would return later to go pig hunting. When he returned at about 5.30 pm Gareth was sitting at the front fence. Gareth told Josh to leave but did not explain what had happened. He was eventually told by another person about Amy's death. He spoke to David about it but David did not really want to discuss it.³⁵²
231. Amy's mother, Nancy Kirk, gave a statement to police on 28 June 2014. She stated that Amy had rung her at 5.00 pm on 26 June 2014 in a distressed state. Amy was upset and crying and told her mother she had a big fight with David and she had thrown a beer and punched David. She said David then grabbed her around the throat and threw her to the ground. Nancy was very upset to hear this due to Amy's recent spinal fracture, which meant it would be very dangerous for her to have any further injury in this area. Nancy told Amy to pack her belongings and bring the children to her house. Nancy offered to pick them up, but Amy declined and said she would be there soon. When Amy had not arrived by 5.30 pm, Nancy began calling her. She rang Amy 8 times in 10 minutes before stopping at 5.40 pm as she thought Amy must be driving and that was why she was not answering the phone.³⁵³
232. Shortly after, David arrived at her house with the children. Nancy gave evidence he "*just walked up to the steps casually*"³⁵⁴ and he told her that Amy was dead. Nancy started yelling out to her husband and David told her to be quiet. Nancy pushed him down the stairs and went and got Tahlia out of the car and handed Tahlia to her husband. Shanaya had already got herself out of the car and gone inside the house.³⁵⁵
233. Nancy then confronted David, who was now on all fours and crying in the middle of the yard. She asked David if Amy was alive, and when he said she was not, Nancy kicked him in the stomach and told him to move his car. She then got in her car and

³⁵⁰ T 289; Exhibit 2, Tab 2, Annexure B.

³⁵¹ Exhibit 1, Tab 8, Police Report CIU 2014/854, p. 18 – 19.

³⁵² Exhibit 1, Tab 8, Police Report CIU 2014/854, p. 18 – 19.

³⁵³ Exhibit 1, Tab 8, Police Report CIU 2014/854, p. 19 - 20.

³⁵⁴ T 31.

³⁵⁵ T 31.

drove to Amy's house, where she found the police in attendance and was formally told of Amy's death.³⁵⁶

234. David arrived soon after at the scene and Nancy had to be prevented by police from physically confronting him. Nancy believes she said to him, "*it's all your fault. You did it.*"³⁵⁷ One of the police officers in attendance remembers Nancy saying something similar to this, but one of the other police officers who was present recalled Nancy said words to the effect, "*Your drinking caused this.*"³⁵⁸ Nancy did not recall saying this, but appeared to accept it was possible.³⁵⁹
235. Nancy was told by police later that night they had deemed Amy's death a suicide. She was handed Amy's pink Apple iPhone, some money and some jewellery that she had been wearing when she died. It was still covered in Amy's blood.³⁶⁰
236. When police officers spoke to Nancy the following day she handed Amy's iPhone to the police as well as a black Samsung mobile phone she believed belonged to David Simmons. She found it that day on her front lawn. She believed David had dropped it when he was on all fours on her lawn the night before. Amy's phone was later returned to Nancy Kirk by police without any apparent analysis of the phone having occurred.³⁶¹
237. Mr Robert Ibbotson is the owner of the Serpentine Falls Roadhouse, where David and Gareth drove to make the call to emergency services. Mr Ibbotson provided a statement and gave evidence at the inquest. Mr Ibbotson indicated he still had an independent recollection of events, even though many years had passed. He is a retired police officer, who obviously has training and experience in being observant, which probably has assisted him in that regard. It was also an unusual event, given what he overheard.³⁶²
238. Mr Ibbotson stated he did not know David Simmons or Gareth Price but recalled that he was present at the roadhouse when a white sedan pulled up at about 5.20 pm and two men got out. They came into the roadhouse in a hurry and one of them asked to use the phone to call triple zero, who I infer was David. Because he spoke with some urgency, Mr Ibbotson allowed David to use the roadhouse landline rather than directing him to the public phone box outside. Mr Ibbotson was standing nearby when David called triple zero and asked for an ambulance to an address on South Western Highway in Serpentine. Mr Ibbotson overheard David say that someone had shot themselves in the head and needed an ambulance. Mr Ibbotson described David in his statement as "*calm, just a little bit edgy and nervous but he wasn't crying.*" At the inquest, he expanded to indicate that neither David nor Gareth were crying or

³⁵⁶ T 31 - 32.

³⁵⁷ T 32.

³⁵⁸ T 153.

³⁵⁹ T 32.

³⁶⁰ Exhibit 1, Tab 8, Police Report CIU 2014/854, p. 20; Exhibit 2, Tab 1B, Nancy Kirk, 21.11.2018, [58].

³⁶¹ T 32; Exhibit 1, Tab 8, Police Report CIU 2014/854, p. 7 and Tab 10, Incident Report; Exhibit 2, Tab 1B, Nancy Kirk, 21.11.2018.

³⁶² T 293.

visibly really upset, nor “*a blubbering mess by any means*”³⁶³, although they did seem nervous and apprehensive.³⁶⁴

239. The ‘000’ call was recorded. David Simmons told the operator “Somebody shot himself in the head,”³⁶⁵ and then clarified, “*my wife has shot herself.*”³⁶⁶ He told the operator that she was dead and that he was taking his kids somewhere and that his mate would be standing at the highway to guide them to the address. After giving his name and details, David said, “*Why did she fuckin’ do that?*”³⁶⁷ before they ended the call.
240. David then asked if he could make another call and Mr Ibbotson agreed.³⁶⁸ David took the cordless phone outside the door and made another very brief call, which Mr Ibbotson could not hear as the door was closed. Mr Ibbotson indicated the conversation only lasted a minute or two at the longest. While both phone calls were taking place, Mr Ibbotson could hear the other male, who we know was Gareth, saying words to the effect of, “*You’re right mate. You’re right mate.*”³⁶⁹ David returned inside the roadhouse and returned the phone to Mr Ibbotson, He then left the roadhouse without another word, followed by Gareth. Mr Ibbotson received a phone call from an emergency services operator shortly after, checking to make sure it wasn’t a hoax call. Mr Ibbotson confirmed with the operator that it was a genuine call and said to the operator “*the bloke was very, very upset.*”³⁷⁰ Mr Ibbotson later provided CCTV footage of the two males entering the roadhouse to the police. He confirmed the time on the footage was a couple of minutes out from the correct time, but pretty close.³⁷¹
241. Evidence was tendered at the inquest of phone logs from Robert Simmons’ mobile telephone and landline, which indicate a call was made from the roadhouse to Roberts Simmons’ mobile telephone, shortly before Robert received the call from emergency services. The call from the roadhouse lasted 13 seconds.³⁷² Constable Blandford had suggested in his evidence that Mr Ibbotson had made the call to Robert Simmons. Mr Ibbotson indicated he did not know David Simmons or Roberts Simmons and confirmed he did not make any call personally to Robert Simmons from the roadhouse.
242. Robert Simmons gave evidence he did not receive a call from David or anyone else in relation to the matter, other than emergency services. He does not know Mr Ibbotson, so the call was not from him. Mr Simmons accepted it was possible David may have tried to call him but he confirmed he did not receive the call, possibly due to poor reception or some other reason.³⁷³

³⁶³ T 294.

³⁶⁴ T 294 - 295.

³⁶⁵ Exhibit 1, Tab 16. Transcript of ‘000’ call 5.18 pm, 26.6.2014, p. 1.

³⁶⁶ Exhibit 1, Tab 16, Transcript of ‘000’ call 5.18 pm, 26.6.2014, p. 1.

³⁶⁷ Exhibit 1, Tab 16, Transcript of ‘000’ call 5.18 pm, 26.6.2014, p. 2.

³⁶⁸ Exhibit 2, Tab 10, Robert Ibbotson.

³⁶⁹ Exhibit 2, Tab 10, Robert Ibbotson, [21].

³⁷⁰ Exhibit 1, Tab 16, Transcript of ‘000’ call 5.37 pm, 26.6.2014, p. 5.

³⁷¹ T 295 – 296; Exhibit 2, Tab 10, Robert Ibbotson.

³⁷² Exhibit 2, Tab 11C,

³⁷³ T 566 – 567.

243. The call Robert Simmons received from emergency services was on his landline at 5.23 pm. Mr Simmons did recall receiving from the '000' operator, which was five minutes after the call by David to emergency services. It seems Mr Simmons was speaking to someone else when he takes the call, as he says to someone called Lloyd that he has to go. The operator asked Mr Simmons something had happened that needed an ambulance response, and Mr Simmons said he didn't know but confirmed David lived at the property at another house and offered to go down the hill to the other house to find out.³⁷⁴
244. It appears from the phone logs that SJA unsuccessfully tried to call Mr Simmons on his mobile twice after that call ended.
245. After going to the house below, Mr Simmons then rang emergency services a few minutes later to advise that he had gone to the house and his son's partner was dead. Mr Simmons then said, "*Someone shot her. I think it must have been my son. He's not here.*"³⁷⁵ He went on to say, "*My son made the mistake, but she's been shot in the head and she's dead.*"³⁷⁶ Mr Simmons then told the operator he had not seen Amy behind the door until after he had walked in to the room. He said he had walked into the room and seen a gun on the floor and smelt gunpowder, so he picked up the gun and pulled out one dead and one live bullet. He also described how he had then found Amy behind the door with a jacket over her head, and advised he had taken the jacket off. The operator asked Mr Simmons to try not to touch anything, and he agreed he wouldn't touch anything more and advised he had left the room.³⁷⁷ It is apparent from the conversation that Mr Simmons was initially unaware of events, then shocked and worried about where his son was and whether his son might have been involved in Amy's death. However, he does not try to conceal his thoughts or actions from the operator.
246. As I have noted above, Mr Simmons then went down to the gate and spoke to Gareth, who explained that it was Gareth who had moved the gun and put the jacket over Amy's head, which reassured Mr Simmons that his son had not been involved.
247. David Simmons was interviewed by police again on 8 July 2014. He admitted he regularly kept two guns in his bedroom, claiming he was constantly plagued by foxes, and also had others in the room as he was going to clean them.³⁷⁸

Forensic Examination

248. At 4.30 pm on 27 June 2014, an officer from Major Crime Division contacted Senior Sergeant Benson at the WA Police Forensic Field Operations (FFO) and advised their office was making inquiries into a suspected homicide, which had initially been treated as a suicide by firearm. Sergeant Benson was told that as the incident was

³⁷⁴ Exhibit 1, Tab 16, Transcript of '000' call 5.23 pm, 26.6.2014, p. 3.

³⁷⁵ Exhibit 1, Tab 16, Transcript of '000' call 5.28 pm, 26.6.2014, p. 5.

³⁷⁶ Exhibit 1, Tab 16, Transcript of '000' call 5.28 pm, 26.6.2014, p. 5.

³⁷⁷ Exhibit 1, Tab 16, Transcript of '000' call 5.28 pm, 26.6.2014, p. 5 - 7.

³⁷⁸ Exhibit 1, Tab 10, Running Sheet, Entry 8.7.14, 16:56.

deemed suspicious, the body had been conveyed to the mortuary and the firearms seized and removed and the scene released back to the owner and professionally cleaned. Therefore, the probative value of forensic examinations was expected to be low, but it was still to be undertaken.³⁷⁹

249. At about 10.30 am on the morning of 28 June 2014, roughly 36 hours after Amy's death was reported to police, officers from the FFO section attended the house in Serpentine to undertake a forensic examination.³⁸⁰ The professional cleaners had already attended the house the day before and cleaned all areas within the vicinity of where Amy died, including removing a section of carpet and underlay in the doorway of the bedroom.³⁸¹ Given the time that had elapsed, and the disruption to the scene, the forensic officers "were unable to undertake their usual forensic process with respect to both scene examination and analysis of physical evidence."³⁸²
250. Sergeant Bradley Nind, who is now the Operations Manager for FFO, attended the scene in June 2014 and was nominated as the crime scene manager and case file manager. Sergeant Nind gave evidence that the scene contamination, which included removal of the body and firearm, as well as the removal of the carpet and underlay, cleaning of the blood evidence and full professional trauma cleaning of the whole room, "really negates what we're able to do at the scene in regard to objective evidence"³⁸³ and "made it impossible to do an objective crime scene examination."³⁸⁴ To put it bluntly, Sergeant Nind said that given the clean-up, "best evidence practices went out the window."³⁸⁵
251. Sergeant Nind gave evidence that if the scene had not been contaminated, the following forensic procedures would have been undertaken:³⁸⁶
- scene would have been secured;
 - communication with detectives about what had occurred;
 - evidence sequencing would have taken place;
 - blood pattern analysis discipline would have reviewed the scene;
 - crime scene photography and surveying would have occurred; and
 - examination by ballistics.
252. Sergeant Nind explained further at the inquest that this would have included seizing clothing from persons of interest for forensic analysis, examining any vehicles, and other broader forensic investigations, beyond simply examining the bedroom.³⁸⁷
253. Photographs were still taken by a forensic officer and a virtual reality scan was done of the premises the next night. Although there were already photographs taken by the

³⁷⁹ Exhibit 1, Tab 17, Operation Jundee Forensic Report, Sergeant Bradley Nind, pp. 3 - 4.

³⁸⁰ Exhibit 2, Tab 25, Sergeant Bradley Nind.

³⁸¹ Exhibit 1, Tab 8, Police Report CIU 2014/854, p. 7 and Tab 17, Operation Jundee Forensic Report, Sergeant Bradley Nind, p.5.

³⁸² Exhibit 2, Tab 25, Sergeant Bradley Nind [9].

³⁸³ T 375; Exhibit 2, Tab 25, Sergeant Bradley Nind [10].

³⁸⁴ T 377.

³⁸⁵ T 377.

³⁸⁶ Exhibit 2, Tab 25, Sergeant Bradley Nind [11].

³⁸⁷ T 378 - 379.

attending police on the night Amy died, Sergeant Nind explained that these photos, while they assist, are not to scale and do not replace an objective scene examination and technical forensic photographs, with scale, to allow technical comparisons.³⁸⁸

254. Senior Constable Rob Meeks from the Firearms Examination Unit also attended the scene and conducted an assessment.³⁸⁹ The shotgun and cartridges had been retrieved from the Mundijong Police Station by Senior Constable Rob Meeks and Senior Constable James Inskip the previous night, where they had been stored. The firearms had been stored muzzle down in a firearms cabinet with other firearms that were unrelated to this matter. It is notable the firearms and cartridges had not been seized for forensic purposes, but rather firearm prosecution, so they were not handled and stored in a way that optimised later forensic examination. If they had been considered forensic exhibits, they would have been packaged in suitable packaging and sealed and stored in a forensic storage unit.³⁹⁰
255. The ammunition had already been seized and packaged together, then apparently later separated out at a later date. Senior Constables Meeks and Inskip also took possession of the ammunition for potential forensic examination.³⁹¹
256. Forensic analysis was then conducted on the shotgun and cartridges immediately, but no evidence was identified that would indicate criminality. I will return to the ballistics evidence later.³⁹²
257. Gareth and David's clothing had also been seized when they were arrested and interviewed, based upon what they said they had worn that night and review of the CCTV from the roadhouse,³⁹³ and it was examined by forensic field officers. No bloodstaining was observed on any clothing items. No gunshot residue swabs were taken from David or Gareth, given the amount of time that had elapsed.³⁹⁴
258. Sergeant Nind gave evidence that in light of the contamination, every forensic opportunity that could be explored was done, but acknowledged the limitations given the delay and how the scene was presented to FFO.³⁹⁵
259. Sergeant Nind gave evidence at the inquest that although he has dealt with in excess of a hundred homicides, Amy's case has always troubled him as the forensic field officers didn't get the opportunity to examine the scene uncontaminated. He noted that forensics are "an insurance for investigators," noting they have a collection of experts within the forensic division of discipline managers, including ballistics, blood stain and physical evidence, who can be called upon to assist in obtaining and reviewing objective physical evidence, as well as acting as liaisons to their Inspector who is an ex-detective and can provide investigative direction. Together, they can

³⁸⁸ T 376.

³⁸⁹ Exhibit 1, Tab 8, Police Report CIU 2014/854, p. 7.

³⁹⁰ T434 - 435.

³⁹¹ T 435.

³⁹² Exhibit 1, Tab 9, Operation Jundee Report, 4.11.2014, p. 2.

³⁹³ T 501 – 502.

³⁹⁴ Exhibit 1, Tab 17, Operation Jundee Forensic Report, Sergeant Bradley Nind, pp.5, 9 - 10.

³⁹⁵ T 380 - 381.

come together to try to determine, “Did this occur the way that the scene presents?”³⁹⁶ This can then be balanced against subjective witness accounts.

260. In Amy’s case, Sergeant Nind remains troubled by the missed opportunity to investigate the case properly from a forensic point of view, “because we’ve taken out a big chunk from the beginning to the end; ... there’s a void.”³⁹⁷ Sergeant Nind is confident without the contamination, there was definitely more information that forensic officers could have obtained, which could potentially have assisted the investigation into Amy’s death.³⁹⁸
261. Senior Constable Inskip, a forensic firearms examiner, also gave evidence that going to the uncontaminated scene would have been advantageous to look at the evidence and document it, and to seize the firearm and cartridges as a forensic exhibit, which would potentially have created some forensic opportunities that were not available after they had been seized by general duties officers.³⁹⁹

Post Mortem Examination

262. On 1 and 2 July 2014 Forensic Pathologist Dr Amy Spark performed a post mortem examination on the body of Amy. Forensic field officers, including Sergeant Nind, were in attendance, as well as ballistics officers. Dr Spark noted there was a shotgun injury to the head with a burst skull injury. There were scattered soft tissue injuries, including bruising around the right wrist. There were mild chest and spinal deformities and air within the right chest cavity with aspirated blood and possible bruises within the lungs. Microscopic examination of the tissues confirmed the bruises within the lungs were fresh.⁴⁰⁰
263. Both of Amy’s hands had been covered with paper bags secured by masking tape before she was brought to the mortuary. They were removed and multiple spots of dried blood was noted over the back of the left hand and wrist and over the fingers of the left hand. Gun shot residue (GSR) samples were taken from the thumbs of both Amy’s hands, which were submitted to forensic biology.⁴⁰¹ There were scattered soft tissue injuries on her upper limbs and of particular note on examination was red discolouration/bruising around her right wrist.⁴⁰² A later police investigation felt the injuries around her wrist were consistent with reports of the fight between Amy and David Simmons prior to her death.⁴⁰³
264. Officers from ballistics, forensics and the Major Crime Division were involved in some testing and having measurements taken, with Dr Spark’s involvement, using a firearm in comparison to Amy. That testing suggested it was physically possible for

³⁹⁶ T 383.

³⁹⁷ T 384.

³⁹⁸ T 384.

³⁹⁹ T 467 – 468.

⁴⁰⁰ Exhibit 1, Tab 5, Post Mortem Report.

⁴⁰¹ Exhibit 1, Tab 5, Post Mortem Report.

⁴⁰² Exhibit 1, Tab 8, Police Report CIU 2014/854, p. 6.

⁴⁰³ Exhibit 1, Tab 20A, Cold Case Homicide Report, 26.8.2019, p. 48 - 49.

Amy to inflict the wound herself, in terms of being able to fire the weapon while holding it at her temple.⁴⁰⁴

265. Toxicology analysis reported the presence of the antidepressant drug citalopram and its metabolite within the blood and urine. No alcohol or other common drugs were detected.⁴⁰⁵
266. Neuropathological examination was performed on 16 July 2014 by Dr Spark and Neuropathologist Dr Fabian. They reported features in keeping with a gunshot wound (bihemispheric, transventricular disruption of the cerebral hemispheres and disruption of the brainstem associated with haemorrhage). It was noted the left cerebral hemisphere was more extensively injured. Shotgun pellets were collected from the brain and head during the post mortem and neuropathology examination.⁴⁰⁶ Some shotgun wadding was also found in Amy's hair by a mortuary technician following the post mortem.⁴⁰⁷
267. At the conclusion of all investigations, Dr Spark formed the opinion the cause of death was shotgun injury to the head.⁴⁰⁸
268. Sometimes in coronial matters the cause of death points quite clearly to the manner of death. That is not the case in relation to Amy's death. Although it is clear that Amy died from a gunshot injury, there was no evidence from the post mortem examination that could conclusively show how Amy sustained that injury. Suicide and homicide were both open on the evidence obtained from the post mortem examination.
269. However, there was evidence that showed her left hand was close to the end of the firearm at the time it was fired, which could be consistent with Amy holding the muzzle of the shotgun against the side of her head when it was fired. However, there were suggestions at the inquest at least, that it could also be consistent with her trying to fend a weapon away. There was also little evidence of other external injuries, such as defensive injuries, although given a firearm was involved, that is less significant than in other cases where foul play is suspected.
270. Therefore, while I accept and adopt the opinion of Dr Spark as to the cause of death, and it clearly eliminates some possibilities for how the death occurred (such as natural causes), it leaves open both the possibility that Amy shot herself (suicide) or that someone else shot her (homicide) or even that death might have occurred by accident in some unknown circumstance. Therefore, the evidence obtained in the police investigations, and at the inquest, are important to determine whether a manner of death can be determined.

⁴⁰⁴ Exhibit 1, Tab 9, Operation Jundee Report, 4.11.2014, 3.

⁴⁰⁵ Exhibit 1, Tab 5, Post Mortem Report and Tab 6, Toxicology Report.

⁴⁰⁶ Exhibit 1, Tab 5, Post Mortem Report and Tab 7, Neuropathology Report and Tab 10, Incident Report, p. 18.

⁴⁰⁷ Exhibit 1, Tab 15B, Forensic Field Operations Report – Examination 1230679, 1233482 & 1233848, 6.4.2016, p. 18.

⁴⁰⁸ Exhibit 1, Tab 5, Post Mortem Report.

Outcome of Operation Jundee Investigation

271. Detective Senior Sergeant McDonald concluded that there were small consistencies between David and Gareth's accounts, but he felt it was not surprising given they were two different people who have entered a room at two different times (on their accounts) and they were also people under stress and in circumstances that were unfamiliar. Therefore, it was not surprising they had slightly different views of the same event. It was considered there was no evidence of collusion between them.⁴⁰⁹
272. As part of their ongoing investigation, Major Crime officers obtained medical information and other evidence that suggested that Amy had mental health issues and had recently decided to stop taking her medication, which suggested to them it may have been a factor in her death. Four tablets were located during the searches of Amy's home that clearly had not been taken by Amy and supported the suggestion that she may have stopped taking her medication.⁴¹⁰ I note at this stage that a report dated 21 July 2014 of toxicology analysis conducted on samples taken at the post mortem examination detected Amy's antidepressant medication, and there is further expert evidence from an expert in toxicology in relation to this issue discussed below.⁴¹¹ Detective McDonald was asked if this information would have altered the outcome of his investigation, and he indicated he did not believe it would have done.⁴¹²
273. Detective McDonald also noted that although there was some information suggesting that there was a long history of domestic violence or family violence, and this was investigated to the best of their ability, but there was very little evidence found to substantiate that allegation.⁴¹³
274. One of the factors considered important by the investigators in Operation Jundee was the small window of time available between Amy's last conversation with her mother on the telephone and the time that Gareth and David were seen on the CCTV footage at the roadhouse. The window of time was between 12 and 13 minutes in total. It was felt by the police that there was "simply not enough time to have waited some time after the phone call, potentially shot Amy, formed a plan ... to hide what had occurred and then attend the service station to make a phone call."⁴¹⁴ Whilst Detective McDonald accepted it was not impossible that this could have occurred, he considered "the possibility of that occurring was extremely remote."⁴¹⁵
275. Detective McDonald also noted there was no obvious 'staging' of the scene, which would have raised suspicions. He indicated his belief that if there had been an attempt to stage the scene, and make it look like a suicide, he would have expected the person to make it very clear that the gun was in a position where there was no alternative to suicide, rather than the witnesses admitting to going in and moving

⁴⁰⁹ T 492, 496, 519 - 520.

⁴¹⁰ T 496.

⁴¹¹ Exhibit 1, Tab 6, Toxicology Report; Exhibit 8, Report of Professor David Joyce.

⁴¹² T 497.

⁴¹³ T 507.

⁴¹⁴ T 504.

⁴¹⁵ T 504.

things around to the point that it appeared initially that she could not have killed herself. Detective McDonald explained that staging is usually relatively easy to detect, and there was nothing here to raise that suspicion.⁴¹⁶

276. At the conclusion of the Major Crime investigation, an attendance report was prepared by Detective Sergeant Darryl Evans of the investigation that had been undertaken by Operation Jundee. The opinion of the Major Crime investigators at the conclusion of Operation Jundee was that there was no evidence to establish that any person had been involved in Amy's death and all evidence pointed to a suicide.⁴¹⁷ The factors that were considered as part of the critical decision making included:⁴¹⁸

- The cause of death was a single gunshot wound to the head,
- The available BPA evidence suggested Amy was shot to the right temple whilst seated on the floor in her bedroom, adjacent to the door,
- The shotgun was found in the scene adjacent to Amy on the floor. While its location was not consistent with suicide (ie, not within reaching distance), witness accounts explained how it had got to that location after her death,
- Amy was believed to have stopped taking her prescribed anti-depressant medication four days before her death (based on a calculation made by police) and it was known that stopping the medication suddenly could sometimes lead to an increased risk of depression and suicidal ideation,
- There was no indication of staging at the scene,
- David Simmons was interviewed and provided a full, frank and plausible account of his actions, which were corroborated in part by CCTV, telco information and witness accounts,
- Gareth Price participated in an interview and also provided a full, frank and plausible account of his movements, which corroborated David Simmons' account,
- The child interview with Shanaya corroborated David Simmons' account in part,
- A timeline constructed by investigators revealed that David and Gareth had a maximum of 12 minutes' time between the time Amy was shot and when they left the premises to notify emergency services. Investigators believed it was unlikely they would have attracted the attention of authorities to the death so quickly if either of them had been responsible for the death,
- A forensic examination of some items of clothing believed to be worn by David and Gareth at the time (but not seized until the following day) was absent any human blood (albeit it was unlikely to contain any due to the confined nature of the BPA at the scene),
- Amy had no defensive wounds, and
- The evidence of an argument between Amy and David suggested Amy was the aggressor in the argument and David had no motive to want to kill Amy.

⁴¹⁶ T 518 – 519, 533.

⁴¹⁷ Exhibit 1, Tab 8, Police Report CIU 2014/854, p. 5 and Tab 17D, Running Sheet for Operation Jundee, p. 12.

⁴¹⁸ Exhibit 1, Tab 8, Police Report CIU 2014/854, p. 5 and Tab 17D, Running Sheet for Operation Jundee, p. 12 - 13.

277. Detective McDonald gave evidence at the inquest that there was a problem with the investigation from the outset, as their primary source of evidence (being the bedroom) was contaminated. This severely affected the capacity of Operation Jundee officers to investigate as well as they would have liked to have done. However, they were required to base their decisions on the evidence that was available, which is set out above.⁴¹⁹ At the end of the investigation, Detective McDonald believed Amy's death was a suicide,⁴²⁰ and he continues to maintain that view.⁴²¹
278. Detective McDonald gave evidence at the inquest that he did not recall seeing any evidence in the photographs that suggested to him that Amy's death was clearly not a suicide.⁴²² He noted that the issue of her right hand being under her body was considered, but it was noted there was significant contamination of the scene before the photographs were taken and there were a number of explanations considered as to why her hand might have wound up in that position.⁴²³ Detective McDonald indicated that as an experienced investigator, he is often confronted with situations within a crime scene that can't be explained or attributed to a particular act, and this is not unusual.⁴²⁴ The forensic firearms experts suggested it was possible for Amy to have shot herself, and the investigators thought she used her right hand to pull the trigger while holding the muzzle with her left hand. There was no evidence gathered at the scene that was inconsistent with suicide, and further there was no evidence to suggest to the Major Crime Division officers that another person had been in the bedroom and fired the gun.⁴²⁵
279. However, the Major Crime Division report acknowledged there was no indication given by Amy that she might be suicidal, no one had suspected she might take her life and nothing was found that might be considered a suicide note.⁴²⁶
280. On 9 July 2014 the Major Crime murder investigation was closed, although the final report was not signed until 4 November 2014.
281. David Simmons was charged with failing to ensure safekeeping of a firearm/ammunition under the *Firearms Act*. He appeared in the Armadale Magistrates Court on 26 August 2014 and pleaded guilty to the charge and was fined.⁴²⁷
282. Carriage of the police investigation into Amy's death returned to the CIS on the basis there was no evidence of third party involvement and it should be treated as a suicide.⁴²⁸

⁴¹⁹ T 504.

⁴²⁰ T 506.

⁴²¹ T 507.

⁴²² T 498.

⁴²³ T 498.

⁴²⁴ T 498.

⁴²⁵ T 500.

⁴²⁶ Exhibit 1, Tab 9, Operation Jundee Report, 4.11.2014, 4.

⁴²⁷ Exhibit 1, Tab 8, Police Report CIU 2014/854, p. 5.

⁴²⁸ Exhibit 1, Tab 9, Operation Jundee Report, 4.11.2014, 4.

283. At the inquest, Detective McDonald again reiterated that the evidence he observed during Operation Jundee “did not support criminality, but it did support suicide.”⁴²⁹

CORONIAL INVESTIGATION SQUAD

284. Detective Senior Constable Ann Lehane was allocated the case at CIS to finalise and prepare a report for the coroner. Detective Lehane had first received the file the day after Amy’s death, she had reviewed the file with some other officers and been concerned about inconsistencies between David Simmons and Gareth Price’s statements, which had influenced the transfer of the file to Major Crime Division for further investigation.⁴³⁰
285. When the file was returned to Detective Lehane at the end of Operation Jundee, she was diligent in attempting to obtain additional information from Major Crime Division and others in order to complete the coronial investigation. As noted below, there were questions raised about a biomechanical report and other forensic investigations required completion, such as firearm analysis and blood pattern analysis.⁴³¹ Detective Lehane attributed some of that to the information not being available, and also because information was lost from the scene as a result of the premature decision to deem Amy’s death a suicide on the night she died.⁴³²
286. Although Detective Lehane finalised her report on 24 March 2015, she was transferred to another area of the WA Police before all the forensic examination reports were obtained. Detective Sergeant Gary Thwaites eventually took over the CIS investigation and signed the final report on 27 May 2016, although much of the report was prepared by Detective Lehane by 24 March 2015.⁴³³
287. Detective Lehane gave evidence at the inquest that she had “*concerns all the way through the investigation*”⁴³⁴ but she “*didn’t get any further information to actually suggest that someone else was involved.*”⁴³⁵ However, Detective Lehane was unsure whether that was because evidence was lost at the start of the investigation, rather than no such evidence having existed. While no obvious evidence of criminality was found, Detective Lehane was also not fully satisfied that all of the evidence pointed towards suicide. Having pursued every line of inquiry that she was able to identify, including any information provided by Amy’s family, Detective Lehane found “*there was insufficient evidence to make any form of determination*”⁴³⁶ as to how Amy died.⁴³⁷
288. In my opinion, Detective Lehane should be commended for her diligence and thoroughness in investigating this matter. She did not simply accept the conclusion of

⁴²⁹ T 515.

⁴³⁰ T 537, 542 - 543.

⁴³¹ T 538.

⁴³² T 541.

⁴³³ Exhibit 1, Tab 8, Police Report CIU 2014/854.

⁴³⁴ T 541.

⁴³⁵ T 541.

⁴³⁶ T 541.

⁴³⁷ T 544.

the Major Crime Division officers, but applied her own mind to the evidence and followed lines of inquiries that appeared to her to be outstanding or incomplete. She also dealt with Amy's family and their obvious concerns in a sensitive, considerate and respectful manner. Indeed, at the inquest counsel on behalf of the family conveyed their gratitude to Detective Lehane for the sensitive manner in which she dealt with the family throughout her involvement in the matter.⁴³⁸

Blood Pattern Analysis

289. Dr Mark Reynolds, a Forensic Science Consultant with the WA Police in the area of bloodstain pattern analysis (BPA), provided an early opinion in relation to bloodstain patterns associated with Amy's death. BPA is a crime event reconstruction tool that assists to provide information on the event or a sequence of events that resulted in the deposition of bloodstains. As noted in the BPA report, other forensic disciplines can provide information on 'who' was involved in an event, whereas BPA can provide information on 'how' an event occurred.⁴³⁹
290. Dr Reynolds' opinion was based upon the limited photographic record taken by attending police on the night of Amy's death. It showed her body in-situ in a seated position behind the main bedroom door with her back against the wall and her left foot against the door. One photo depicts Amy with the blue towel over her head and another with the towel removed, which showed some blood on Amy and also showed blood on the wall behind her.⁴⁴⁰
291. Based on these photographs, Dr Reynolds concluded that at the time of the injury infliction Amy's body and head were in or near the position and configuration as seen in the photograph.⁴⁴¹ Therefore, there was little or no movement of her body after she was shot. Dr Reynolds was unable to provide an opinion as to whether the injury was self-inflicted or not.⁴⁴²
292. A second BPA report was provided by Sergeant Brett McCance on 31 March 2019. In addition to the photographs considered by Mr Reynolds, a photograph was also taken of the bloodstains and bloodstain patterns by the cleaners after Amy's body was removed, which was included in Sergeant McCance's report. Sergeant McCance noted that no bloodstains were observed in any other room of the premises other than the main bedroom, where Amy's body was found. Sergeant McCance's conclusions were consistent with the conclusions of Mr Reynolds in relation to the injury being inflicted on Amy in the location where she was found and she was not moved afterwards. He added that she was in a sitting position and her head was approximately 70 cm above floor level and facing in the general direction of the door at the time of injury infliction.⁴⁴³ Sergeant McCance gave evidence at the inquest that the pattern of the primary stain, behind Amy's back, was in a "*fairly neutral*

⁴³⁸ T 545.

⁴³⁹ Exhibit 1, Tab 13A, Reynolds BPA Report, 18.5.16.

⁴⁴⁰ Exhibit 1, Tab 13A, Reynolds BPA Report, 18.5.16.

⁴⁴¹ Exhibit 1, Tab 13A, Reynolds BPA Report, 18.5.16.

⁴⁴² Exhibit 1, Tab 8, Police Report CIU 2014/854, p.8 and Tab 10, Running Sheet, 18.4.16, 11:47.

⁴⁴³ T Exhibit 1, Tab 13B, McCance BPA Report, 31.3.2019.

plane,⁴⁴⁴ suggesting the angle of the bullet was in line with her head in general terms, on a horizontal plane.⁴⁴⁵

293. Sergeant McCance gave evidence the flow pattern, on the right side of Amy's face, supported the conclusion Amy head has not moved post-injury infliction.⁴⁴⁶ Although he also considered her upper body was unlikely to have moved after death, and she was in the same general position as when the firearm discharged, he could not express an opinion about whether her legs had moved, in particular her right leg.⁴⁴⁷
294. Mr Reynolds did also note some blood staining on and in the barrels of the firearm believed to have caused the injury and Sergeant McCance confirmed there was transferred blood on the muzzle, top and underside of the shotgun, and in the breech face and barrel chamber. He explained that a transfer pattern isn't a result of blood travelling through the air in the form of droplets, but is a passive bloodstain where it is the contact of a bloodstained surface onto another surface. They were primarily located around the muzzle end. Sergeant McCance gave evidence that, looking at the bloodstains, there was nothing to suggest that that part of the firearm had been wiped.⁴⁴⁸ Sergeant McCance did give evidence that the bloodstains could have got in to between the chamber face and the barrel face, when the shotgun was closed, if an amount of blood had been wiped over the top. However, there was nothing on top of the firearm to suggest that. Therefore, Sergeant McCance formed the belief that the chamber must have been opened for the bloodstains to be deposited on there.⁴⁴⁹ This was consistent with Robert Simmons' account of opening the shotgun and removing the cartridges.
295. Sergeant McCance found that since the locking mechanism of the shotgun had been opened after Amy was shot with it, this affected any blood pattern analysis of the blood found in and on the barrels of the shotgun.⁴⁵⁰ Sergeant McCance also noted that when they received the firearm at FFO and removed it from the exhibit bag, there was wet blood inside the exhibit bag, indicating there was still wet blood moving around as the firearm was transported.⁴⁵¹ Sergeant McCance also observed that there were photographs taken by the initial attending police, which showed blood on the shotgun barrel, but the blood was no longer there when it got back to the forensic division, which showed that purely through transportation the bloodstains had been altered.⁴⁵²
296. At the inquest, Sergeant McCance gave evidence he had given more attention to the issue, and after disassembling the shotgun, he thought another possibility was that blood could have flowed down the firearm, even when it was closed, as there is a

⁴⁴⁴ T 413.

⁴⁴⁵ T 413 - 414.

⁴⁴⁶ T 414.

⁴⁴⁷ T 414, 430.

⁴⁴⁸ T 412 - 413.

⁴⁴⁹ T 414 - 415.

⁴⁵⁰ Exhibit 1, Tab 13B, McCance BPA Report, 31.3.2019.

⁴⁵¹ T 424.

⁴⁵² T 428.

perforated surface that might have permitted blood to enter.⁴⁵³ The firearm was later tested for DNA and the only matches were for Amy, including the blood inside the weapon.⁴⁵⁴

297. Sergeant McCance also conducted analysis of the bloodstains on Amy's clothing. He gave evidence the analysis was problematic because Amy was conveyed to the mortuary while wearing the clothing. Given the nature of her injuries, and the fact that she was transported in a body bag in the clothing, Sergeant McCance indicated that there was possible secondary transfer onto the clothing, which can inhibit bloodstain interpretation. However, he was able to comment on the black jeans Amy was wearing, noting that there were saturated bloodstains, voids and satellite stains. The voids occur where there are folds in the material, and the satellite stains appeared to have come from where Amy's blood dripped onto her shoulder, and then hit her leg. This would suggest that the left leg was in that position soon after injury infliction, and was consistent with her position in the photographs taken by police.⁴⁵⁵
298. Sergeant McCance could not comment on whether there was blood on Amy's hands, as he had not seen her hands in situ. From the photographs, he could not make any determination.⁴⁵⁶
299. Sergeant McCance gave evidence at the inquest that, based upon the blood pattern analysis and the blood on the firearm he was able to consider, he could not offer an opinion on the circumstances in which the gun was fired; that is, whether the injury was self-inflicted or inflicted by another person.⁴⁵⁷ Sergeant McCance gave evidence that there was a possibility that attendance at the scene might have provided further information from the bloodstains and bloodstain patterns, which could have assisted to determine whether the injury was self-inflicted or inflicted by another person. Not having blood pattern experts called to the uncontaminated scene, therefore limited the opportunity to look for things that might have assisted, one way or the other.⁴⁵⁸
300. Sergeant McCance was asked by counsel for the family about the possibility of a scenario where the gun was wiped down by someone, based on the bloodstain evidence, and Sergeant McCance indicated he could not offer any weight as to whether such a scenario was possible.⁴⁵⁹

Gunshot Residue

301. The process of firing a firearm creates an assortment of gaseous, liquid and particulate matter that originates from the primer components. The ejected material is referred to as gunshot residue (GSR). The GSR particles may be deposited on the hands, other skin surfaces, hair and clothing of the firer and on persons and surfaces near the immediate firing point. However, the nature of a firearm and its discharge may be such that significant particles are not deposited and GSR particles may also

⁴⁵³ T 415 – 416.

⁴⁵⁴ T 414, 426; Exhibit 1, Tab 22.

⁴⁵⁵ T 416 – 417.

⁴⁵⁶ T 417.

⁴⁵⁷ T 416, 420.

⁴⁵⁸ T 420, 422, 431.

⁴⁵⁹ T 427 - 428.

be lost from skin and other surfaces with time.⁴⁶⁰ There have been known cases of suicide involving a firearm, or cases of a known shooter, where no GSR has been found deposited on their hands. It is said to depend on a large number of factors that go into the creation of the GSR itself, where that GSR is deposited, how it is redistributed and also how long it persists or where it persists.⁴⁶¹

302. I also heard evidence that the probative value of the presence of GSR is negligible, in terms of definitively identifying a person as a shooter, because it is known that it can get there from other means, other than discharge of a firearm. So if GSR is found on a person, it indicates that the person has come into contact with a source of GSR, but not necessarily how it was deposited there, or when.⁴⁶² Secondary transfer from one person, or thing, to another can also occur, and handling a firearm that has previously been fired is sometimes enough to deposit GSR on a hand.⁴⁶³
303. Detective McDonald gave evidence that in this case, it was known that there was constant use of firearms by all those present on the night, so finding GSR on someone's hands in those circumstances was not necessarily considered of value to assist in determining what had actually occurred in the bedroom. Given it is fragile, it was also unlikely to have remained on David and Gareth so long after the incident (noting they were not arrested until the following night).⁴⁶⁴
304. However, some GSR testing was undertaken in relation to Amy at the post mortem examination, as described above. The samples were then sent for testing by Dr Kari Pitts at the ChemCentre WA.
305. Dr Pitts explained that with a positive GSR sample, they usually have between one and 20 particles. Even if only one characteristic particle is present, it will still be reported as being present as it still has probative value by showing an association with firearms in some way, shape or form. However, there can also be cases where there are abundant particles, and they stop counting at about 100 particles.⁴⁶⁵
306. However, in calling them GSR particles, Dr Pitts explained that GSR is not an absolute as other sources mimic GSR, such as brake pads, fireworks, and cartridge-operated tools. Therefore, GSR experts report particles as being characteristic of GSR, where they have a stronger association with more likely being GSR, or else report them as consistent with GSR. Those particles reported as consistent with GSR are more likely to be from an innocent source.
307. The samples taken from Amy's right and left thumb at the post mortem examination were received at the ChemCentre on 3 July 2014 and later examined by Dr Pitts for the presence of GSR particles. Dr Pitts confirmed at the inquest she did not receive

⁴⁶⁰ Exhibit 1, Tab 21A, GSR Report of Dr Pitts, 24.7.2018.

⁴⁶¹ T 472.

⁴⁶² T 442.

⁴⁶³ T 473 - 474.

⁴⁶⁴ T 502.

⁴⁶⁵ T 473.

any other samples from Amy's hands for testing, although she did later receive paper bags that were said to have been placed over Amy's hands.⁴⁶⁶

308. Dr Pitts indicated that no GSR particles, either characteristic or consistent, were detected on the sample collected from Amy's right thumb. On her left thumb sample, 22 particles consistent with GSR were detected but none were detected that were characteristic of GSR. The particles were consistent with shotgun ammunition.⁴⁶⁷
309. On the left hand mark, there were found characteristic GSR particles within the mark, but whether that was associated with the mark itself or on the hand before or after the deposition of the mark, Dr Pitts could not tell.⁴⁶⁸
310. Dr Pitts gave evidence that, in her experience, typically in the case of a suspected shooter, they will find GSR on the right hand, because people are predominantly right handed. However, it does depend upon the movement of the person and the type of firearm.⁴⁶⁹
311. Dr Pitts indicated that in this particular case, she would have expected to see GSR on both hands, if they were both in an open area, because of the settling effect as the GSR goes from a cloud and then is deposited down. Dr Pitts suggested that not finding it on the right hand could indicate that the right hand was in a void of some type, and was consistent with the hand being under her body.⁴⁷⁰
312. As for whether the GSR should have been present if the right hand was on the trigger, Dr Pitts observed that in the case of most shotguns and rifle, the majority of the GSR actually goes out the muzzle, and so she could not exclude that this particular shotgun may not have produced GSR towards the trigger end.⁴⁷¹
313. Therefore, Dr Pitts could not exclude the possibility that Amy pulled the trigger of the shotgun with her right hand and it then fell underneath her body before the GSR settled.⁴⁷² Dr Pitts agreed the particles consistent with GSR found on the left hand, and the particles characteristic of GSR found in the mark on the hand, could have occurred if the left hand was at the muzzle end of the shotgun when it was fired, as well as the fact the left hand was in an open area as the GSR settled.⁴⁷³
314. Additional items were provided to Dr Pitts for examination in late 2018 and early 2019. The results from examining these items were consistent with the earlier results, namely that there were no GSR particles detected on any items connected with Amy's right hand, but particles consistent with GSR were detected in association with Amy's left hand. The particles found on her left hand were consistent with the gunshot primer residue particles taken from the shotgun believed to have caused

⁴⁶⁶ T 472.

⁴⁶⁷ T 473 – 474; Exhibit 1, Tab 21A, GSR Report of Dr Pitts, 24.7.2018, p. 3.

⁴⁶⁸ T 474.

⁴⁶⁹ R 474,

⁴⁷⁰ T 474.

⁴⁷¹ T 474; Exhibit 1, Tab 21A, GSR Report of Dr Pitts, 24.7.2018, p. 5.

⁴⁷² T 475.

⁴⁷³ T 475.

Amy's injury.⁴⁷⁴ The paper bags that had covered Amy's hands did not show any GSR particles. Dr Pitts gave evidence that the mark on Amy's hand was consistent with it having been caused by impact with the polyethylene wadding from the shotgun when it was discharged; therefore, it was consistent with Amy's hand being at or near the muzzle of the shotgun when it was fired.⁴⁷⁵

315. Dr Pitts gave evidence that ideally, the GSR samples should have been taken at the scene, because there is less loss potential from movement. Therefore, there was potentially a lost forensic opportunity, given the samples were not taken until four days later, running the risk of loss of GSR and potential contamination.⁴⁷⁶

Fingerprints

316. In relation to a line of questioning about absence of fingerprints, Sergeant Nind gave evidence that sometimes it is known that people have touched an object, but no fingerprints will be found on examination. Therefore, the absence of evidence of fingerprints, despite evidence that a number of people had touched the shotgun, did not necessarily suggest that the shotgun had been wiped clean before being seized by police. Sergeant Nind also indicated that it did not surprise him to hear that not a single ridge detail was found on the shotgun when examined, given the amount of disturbance to the surface from the time it was seized and taken to the armoury at Mundijong Police Station, as additional contact can remove physical evidence. Sergeant Nind indicated that this would include handling of the firearm by ballistics officers wearing gloves.⁴⁷⁷
317. Therefore, while Sergeant Nind agreed during questioning that it was unusual that no fingerprints were located, given the amount of known handling of the shotgun. Accordingly the absence of finger prints could be consistent with the shotgun being wiped, but could also be consistent with other scenarios. Therefore, nothing further could be read into the absence of fingerprint evidence in this case. Sergeant Nind did concede that the absence of fingerprints in the circumstances of this case, would cause him concern, but as to why that was the case it would simply be speculation.⁴⁷⁸
318. Sergeant McCance was also asked about the lack of fingerprints. Although not a fingerprint expert, he has had some experience of fingerprint evidence during the course of his career and explained that "there are numerous factors that come into play when determining whether a fingerprint will be left on a surface."⁴⁷⁹ Given this is the case, Sergeant McCance gave evidence that it did not surprise him in this case that there were no fingerprints found.⁴⁸⁰
319. Detective Senior Sergeant McDonald, who was the officer in charge of Operation Jundee and is an experienced homicide investigator, also gave evidence that he would draw no conclusion from the absence of fingerprint evidence, noting "it's not

⁴⁷⁴ Exhibit 1, Tab 21B, GSR Report of Dr Pitts, 7.5.2019.

⁴⁷⁵ T 475 – 478.

⁴⁷⁶ T 477 – 478.

⁴⁷⁷ T 386 – 391.

⁴⁷⁸ T 396, 403.

⁴⁷⁹ T 429.

⁴⁸⁰ T 429 - 430.

like the movies where you get fingerprints and DNA on everything.”⁴⁸¹ In his experience, it is not unusual to be aware that an object has been handled and yet not be able to find fingerprints on it. So an absence of fingerprints is not conclusive in any way.⁴⁸²

BIOMECHANICAL EVIDENCE

Initial police testing

320. Apparently Major Crime officers told Amy’s family that part of the reasoning for concluding her death was a suicide was based on a biomechanics report. No such report was prepared at that time, although it does appear information was provided to Major Crime officers that Amy could have self-inflicted the injury, based upon some testing at the post mortem examination.⁴⁸³
321. On 20 August 2014, Detective Senior Constable Lehane, who was in the process of preparing the CIS Investigation report for the Coroner, emailed Detective Sergeant Cameron Blaine at Major Crime to ask for the Biomechanics report and any other forensic documentation relating to the investigation by Major Crime into Amy’s death. Detective Blaine responded shortly after to advise that to his knowledge, no report was ever generated by forensics officers regarding the biomechanics. Senior Constable Meeks and Senior Constable Inskip, both Forensic Firearm Examiners from the Forensic Firearm Unit, did attend the post mortem examination and performed the biomechanics part of the examination. They provided their opinion on-site that Amy was capable of inflicting the injury with the subject firearm herself.⁴⁸⁴
322. Detective Lehane spoke to Senior Constable Meeks and he advised that he and Senior Constable Inskip had attended the post mortem examination with a reference firearm of the same type, shape and size of the firearm used in the incident, with some relatively minor size differences between them. They conducted an analysis and deduced that Amy was capable of using the firearm with either hand and inflicting the wound sustained. No formal biomechanics report was prepared.⁴⁸⁵
323. After further discussions with the forensic firearm officers, Detective Lehane indicated in the running sheet that the forensic officers now indicated they were unable to make a definite determination that Amy was able to use either arm to utilise the firearm. The officers stated that they took a number of measurements and utilised a similar firearm to show that at the time of the post mortem both arms could be manoeuvred to utilise the firearm but this does not determine that at the time of the incident Amy was able to use either arm, as the body reacts differently prior to and post death. They suggested the measurements would have to be forwarded to a

⁴⁸¹ T 503.

⁴⁸² T 503.

⁴⁸³ Exhibit 1, Tab 10, Running Sheet, Entry 20.1.15, 7:49.

⁴⁸⁴ Exhibit 1, Tab 9, Operation Jundee Report, 4.11.2014, p. 3 and Tab 10, Running Sheet, Entry 20.8.2014, 08:12.

⁴⁸⁵ T 437; Exhibit 1, Tab 10, Running Sheet, Entry 20.8.2014, 11:46.

physiologist to make a qualified determination as to whether Amy could have used either arm to utilise the firearm.⁴⁸⁶

324. Following these discussions, two formal reports were prepared by Senior Constable Inskip and reviewed by Senior Constable Meeks in relation to the steps they had taken as part of conducting the post mortem reconstruction.
325. In the reports, it is confirmed that measurements were taken of the shotgun, as set out below.⁴⁸⁷



Figure 2. Showing exhibit shotgun F0541870-4 overlaid with its measured dimensions. Image JIP_2220 - (cropped and overlaid).

326. Prior to attending the post mortem Senior Constable Inskip had obtained a similar double barrelled shotgun from the WA Police Firearms Reference Library. The shotgun had similar dimensions and characteristics, although it was a couple of millimetres shorter in its dimensions from muzzle to front trigger and slightly longer in some of the other measurements.⁴⁸⁸



Figure 3. Showing profile of Firearms Reference Library shotgun, FRL ref 02313754, from left side (main picture) and barrel configuration from muzzle end (inset). Image JIP_6027 & 6033 - (cropped).

327. Senior Constable Inskip decided that the slight differences were within accepted tolerances for the purpose of a possible reconstruction scenario, so he took the reference firearm to the post mortem examination to use as a substitute for the shotgun found at Amy's house in the main bedroom, for the purpose of a post mortem reconstruction.⁴⁸⁹
328. Senior Constable Inskip described the shotgun as having a smaller barrel than a number of the double barrel .410 shotguns in the reference library, with the vast majority having a barrel at least six inches longer than this shotgun. As well as being

⁴⁸⁶ Exhibit 1, Tab 10, Running Sheet, Entry 20.3.2015, 12:19.

⁴⁸⁷ Exhibit 1, Tab 15A, Forensic Field Operations Report – Examination 1230498, 6.4.2016.

⁴⁸⁸ Exhibit 1, Tab 15A, Forensic Field Operations Report – Examination 1230498, 6.4.2016.

⁴⁸⁹ Exhibit 1, Tab 15A, Forensic Field Operations Report – Examination 1230498, 6.4.2016.

reduced in size, it also has reduced weight compared to common .410 shotguns, with the weight measured as 2.89 kg.⁴⁹⁰

329. Senior Constable Meeks and Senior Constable Inskip attended the State Mortuary on 2 July 2014 in order to assist with the post mortem examination, and later on 16 July 2014 attended the Neuropathology Department at Royal Perth Hospital to assist with the neuropathology examination.
330. Senior Constable Inskip explained at the inquest that there are certain characteristics of gunshot wounds that can perhaps tell certain distances that the muzzle of the firearm was from the actual target. Some of these characteristics are the deposition of soot. There can also be searing, where the muzzle is so close as to sear the flesh, and sometimes baking some of the soot as well. There are also characteristics of a muzzle imprint if it is in close proximity to the skin. Further, examiners look for unburnt propellant particles, which, again, can give an indication of distance.⁴⁹¹
331. In Amy's case, there did not appear to be noticeable deposition of soot. The gunshot wound to Amy's head had characteristics as having been caused by the single discharge of one barrel of the double barrelled shotgun seized, with discharge occurring at a time when the muzzle was either in contact or in incomplete contact with Amy's right temple. These characteristics included the muzzle imprint, especially the imprint of the second non-firing barrel on the skin, the absence of a great deal of soot and the lack of spread of the shot from the skull. The shotgun pellets entered at her right temple and took a path extending right to left across the head, although the examination was limited in regards to the exact trajectory due to the significant disruption to the head.⁴⁹²
332. Photographs were taken showing that the testing revealed it was possible for the deceased's body at the time of the post mortem to be put in a position where either hand could reach the shotgun trigger with the muzzle situated against her right temple, with the firearm held horizontally. However, Senior Constable Inskip clarified that "due to the variables associated with post mortem changes to a body and the limitations of the author's contemporary training, knowledge and experience in respect to human physiology"⁴⁹³ there were limitations on his opinion as to whether it was possible for Amy to discharge the shotgun and inflict the injury to herself. However, I note that Dr White was asked at the inquest if there would be any difference between the body in life or death in such testing (if rigor mortis is not present) and the testing should largely be the same.⁴⁹⁴
333. Senior Constable Inskip did note that there was an injury present on Amy's left hand on the palm side (but nearing the back of hand demarcation) adjacent to the index finger. The injury was described in the post mortem report as injury No. 25 –

⁴⁹⁰ T 463 – 464.

⁴⁹¹ T 437.

⁴⁹² T 437 - 438; Exhibit 1, Tab 15B, Forensic Field Operations Report – Examination 1230679, 1233482 & 1233848, 6.4.2016.

⁴⁹³ Exhibit 1, Tab 15B, Forensic Field Operations Report – Examination 1230679, 1233482 & 1233848, 6.4.2016, p. 13.

⁴⁹⁴ T 359.

*“Irregular laceration, thumb side of the front of the left index finger knuckle, approximately 9mm x 4mm, with surrounding black sooting.”*⁴⁹⁵ Senior Constable Inskip noted that in respect of contact wounds to the head from a shotgun, the author of a respected text suggests that *“soot may be visible on a hand used to support a firearm barrel close to the muzzle when the firearm is discharged. The author also identifies instances where the area between the thumb and index finger of the supporting hand sustains a graze type injury from the exiting pellets and was due to this area of skin slightly overlapping the lumen of the barrel at discharge.”*⁴⁹⁶ The injury on Amy’s left hand would appear to match that description.

334. At the end of his report, Senior Constable Inskip indicated that the forensic evidence supported the conclusion that Amy sustained a gunshot wound to her right temple from the discharge of one barrel of the shotgun, with the muzzle either in contact, or in in complete contact, with her right temple. It also was consistent with the shotgun being held in a perpendicular position to her temple when it was fired. The incomplete contact may have been due to a portion of the skin of Amy’s left hand being slightly over the muzzle of the firearm, noting the injury to her hand was consistent with this occurring, based upon relevant literature. Senior Constable Inskip could not say whether the hand being over the muzzle was more consistent with a scenario of suicide or homicide, as the injury could occur with someone grabbing the firearm over the end of the muzzle, as well as someone holding it there intentionally.⁴⁹⁷
335. A Forensic Firearm Examination by Senior Constable Milonas in April 2016 confirmed, within the limits of practical certainty, that the spent shotgun cartridge seized from the bedroom had been fired from the right chamber of the double barrelled shotgun also found in the main bedroom, and believed to have been the weapon that caused Amy’s fatal injury. A cartridge is discharged from the right chamber when the front trigger is pulled towards the rear of the gun.⁴⁹⁸

Professor Ackland’s Evidence

336. Given the forensic evidence could not assist with determining whether the shotgun was fired by Amy or another person, Detective Inspector George McIntosh from Major Crime attempted a different option of a biomechanical expert report in relation to the ability of Amy to have fired the firearm, in particular from the position she was found.⁴⁹⁹
337. Professor Timothy Ackland is a Professor of Applied Anatomy and Biomechanics based at the University of Western Australia’s School of Human Sciences. He has a doctorate in biomechanics, which is the study of the human body in motion, spanning

⁴⁹⁵ Exhibit 1, Tab 5, Post Mortem Report, p. 5.

⁴⁹⁶ Exhibit 1, Tab 15B, Forensic Field Operations Report – Examination 1230679, 1233482 & 1233848, 6.4.2016, p. 14, citing Di Maio (p. 229) as referenced at the end of the report.

⁴⁹⁷ T 439 – 440, 444; Exhibit 1, Tab 15B, Forensic Field Operations Report – Examination 1230679, 1233482 & 1233848, 6.4.2016, p. 21.

⁴⁹⁸ Exhibit 1, Tab 14, Firearm Reports of Senior Constable Milonas, 5.4.2016.

⁴⁹⁹ Exhibit 1, Tab 10, Running Sheet, Entry 15.4.2015, 10:18.

from gross human movement, as a result of internal and external forces acting upon the body, all the way down to the organ and tissue level. Professor Ackland indicated he has both a biomechanical background and a functional anatomy background, which means he is able to look at the mechanism of injury and whether that is plausible.⁵⁰⁰ Professor Ackland has given expert evidence in the District Court and Supreme Court of Western Australia on a number of occasions, in relation to civil matters. Since 2007 he has also occasionally provided technical reports to the WA Police Major Crime Division to assist in criminal investigations, although he has not given evidence in a criminal trial or a coronial inquiry before.⁵⁰¹

338. In this case, in November 2015 Professor Ackland was provided with scene images with the view to preparing a biomechanical report to assist the police investigation. After reviewing the images, Professor Ackland indicated to the police he was unable to determine whether Amy could have shot herself or not. He did not believe he could assist with providing an opinion in that regard as there was not enough information or evidence for him to make comment, and too many unknowns to make a formal determination.⁵⁰²
339. Professor Ackland was later asked by the Coroners Court to provide an expert report in regard to the circumstances surrounding Amy's death, to see if he could provide an opinion on certain pertinent points. Professor Ackland was satisfied at this time that, while there was some information still lacking to do with the specifics of the gun, he could provide an opinion based on the information provided. Professor Ackland provided the requested report on 14 August 2018.⁵⁰³
340. Professor Ackland later prepared an additional report, dated 19 November 2018, as part of the Cold Case Homicide Review conducted by Detective Sergeant Connor Magee on behalf of the WA Police. This report was prepared after Professor Ackland participated in some attempted reconstructions at the house where Amy died, and after the earlier missing information about the specifics of the gun had been provided.⁵⁰⁴
341. In the first report, Professor Ackland indicated that he had been given access to significant additional materials from the police investigations into Amy's death that were not made available to him at the time he was initially consulted by police. These included the post mortem report, forensic reports and various witness statements.⁵⁰⁵ Information was also provided by Amy's mother that Amy was right handed and would shoot her guns from her right hand position.⁵⁰⁶
342. Based on the information provided, Professor Ackland agreed with the opinion of other experts that the shotgun barrels were oriented near horizontally to, and in

⁵⁰⁰ T 626.

⁵⁰¹ T 600 – 601.

⁵⁰² T 540, 600; Exhibit 1, Tab 8, Police Report CIU 2014/854, p.7, Tab 10, Running Sheet, 4.11.2015.

⁵⁰³ Exhibit 1, Tab 18A, Report of Professor Ackland for the Coroner, 14.8.2018.

⁵⁰⁴ T 602 - 603; Exhibit 1, Tab 18B, Report of Professor Ackland for the WA Police, 19.11.2018.

⁵⁰⁵ Exhibit 1, Tab 18A, Report of Professor Ackland for the Coroner, 14.8.2018, p. 2, 17.

⁵⁰⁶ Exhibit 2, Tab 1A, Nancy Kirk, 3.7.2014, [175].

contact with (or very close to), Amy's right temple.⁵⁰⁷ Professor Ackland also expressed the opinion that the shotgun may have been slightly behind and maybe slightly raised, because of the trajectory, but he indicated he would defer to the evidence of the forensic pathologist in terms of the injuries and what can be read from them.⁵⁰⁸

343. Professor Ackland considered the possibility that Amy put the shotgun in this position and fired it with her left hand only. Although he found she would have been likely to have sufficient strength at the shoulder to support the weight of the shotgun, this did not mean that she would have had the ability to support, aim and then push the trigger with her left hand. He was also not convinced that a person would attempt such an awkward action with just the left hand, especially when the right hand could easily have been employed to support the gun or pull the trigger. Further, Professor Ackland noted the particles and transfer bloodstains detected on Amy's left hand suggested the left hand was located near the end of the barrel of the shotgun when it was discharged.⁵⁰⁹ This is consistent with Senior Constable Inskip's conclusion and is consistent with Amy not firing the weapon with her left hand, but rather having her left hand near the muzzle when it was fired.
344. The next question to consider was whether the evidence was consistent with Amy firing the shotgun with her right hand.
345. Professor Ackland noted in his report that, as with all projectile weapons, shotguns will recoil upon discharge. He notes that without the weight of a person's body supporting the shotgun, the recoil would have moved it away from Amy upon discharge.⁵¹⁰ He gave evidence that, if Amy had shot herself with a horizontally aligned shotgun, by Newton's third law, the shotgun would have gone in the opposite direction and the butt would not have landed near her feet, pointing upwards towards her head, as described by Gareth Price.⁵¹¹
346. Professor Ackland was asked whether this could change if Amy had her right thumb or fingers in the trigger, so that the force exerted by the right arm falling down might have altered the movement? Professor Ackland agreed that this might pull the gun down to some degree, but disputed the suggestion it would have fallen in the position described by Gareth. Rather, Professor Ackland expressed the opinion that, even with some force exerted by the falling hand, the shotgun would have ended up out to the side.⁵¹²
347. Professor Ackland also noted that, given the trauma Amy suffered, she would not have been able to make voluntary movements after the weapon discharged. It was put to Professor Ackland that the forensic pathologist gave evidence she may have made some involuntary body movements following death, and he indicated he had

⁵⁰⁷ Exhibit 1, Tab 18A, Report of Professor Ackland for the Coroner, 14.8.2018, p. 14.

⁵⁰⁸ T 604.

⁵⁰⁹ T 605; Exhibit 1, Tab 18A, Report of Professor Ackland for the Coroner, 14.8.2018, p. 14.

⁵¹⁰ Exhibit 1, Tab 18A, Report of Professor Ackland for the Coroner, 14.8.2018, p. 13

⁵¹¹ T 607.

⁵¹² T 608.

not considered this, and agreed any jerking might have pulled her hand back in “so that is certainly a possibility.”⁵¹³

348. Professor Ackland considered the position in which Amy was found (at least as photographed by police), with her right arm by her side and her right hand tucked under the right thigh, near to her buttock, was inconsistent with Amy having pulled the trigger with her right hand. Given the position in which she was photographed, in his opinion, this meant that either the hand was tucked under the right thigh at the time of weapon discharge or that the right thigh abducted (knee descending to the floor) to cover the right hand afterwards. Regardless of which of these scenarios occurred, Professor Ackland states it is impossible for Amy’s right hand to have moved (voluntarily or involuntarily) from some other orientation (i.e. Pulling or pushing the trigger) to this position after the shotgun discharged.⁵¹⁴
349. Professor Ackland had earlier indicated he did not believe the evidence was consistent with Amy pulling the trigger with her left hand, as it was consistent with her left hand being near the barrel. Added to this, was his opinion that the evidence was also inconsistent with Amy pulling the trigger with her right hand, while supporting the barrel near her temple with her left hand, given her right hand was located under her right thigh near the buttock, with no gunshot residue or transfer blood stain present. Based upon these conclusions, Professor Ackland expressed the opinion in this first report that Amy “*did not* (original emphasis) *shoot herself*”⁵¹⁵.
350. Professor Ackland expressed the opinion he considered the evidence was “*highly consistent* (original emphasis) *with the scenario that [Amy] was shot by another person who had held the shotgun near horizontally on her right side with the barrel close to her right temple.*”⁵¹⁶
351. Following receipt of Professor Ackland’s first report, former Deputy State Coroner Vicker exercised her power under s 27(5) of the *Coroners Act 1996* (WA) and referred the matter to the Office of the Director of Public Prosecutions as there was evidence to suggest a crime had been committed. In response, the Director of Public Prosecutions exercised her powers to request the WA Police to carry out further investigations into Amy’s death.⁵¹⁷ This prompted the Cold Case Homicide Review, discussed further below, and the second report being prepared.
352. In his second report, Professor Ackland referred to his attempts to reconstruct the events that led to Amy’s death in the bedroom at the house in Serpentine. He designed the experiment and police officers assisted under his direction. The reconstruction was filmed and photographed, so I have had the opportunity to view it as part of understanding Professor Ackland’s report and conclusions. A female police officer of similar height and weight to Amy participated in the reconstruction and took various positions under Professor Ackland’s direction to simulate seven

⁵¹³ T 606.

⁵¹⁴ Exhibit 1, Tab 18A, Report of Professor Ackland for the Coroner, 14.8.2018, p. 13.

⁵¹⁵ Exhibit 1, Tab 18A, Report of Professor Ackland for the Coroner, 14.8.2018, p. 15.

⁵¹⁶ Exhibit 1, Tab 18A, Report of Professor Ackland for the Coroner, 14.8.2018, p. 16.

⁵¹⁷ Exhibit 1, Tab 20A, p. 2.

possible scenarios to see if the position of Amy's body when it was photographed by police after her death could be recreated.⁵¹⁸

353. Professor Ackland gave evidence that the scenarios showed a model of similar size and build to Amy was physically capable of holding the shotgun with her left hand to her temple and firing it with her right hand, and the reverse.⁵¹⁹ However, his reconstructions did not find any such scenario was likely, as explained below.
354. The first scenario was to ascertain the likely final resting place of Amy's left and right hands if she had fired the weapon holding it against her temple with her left hand and pulling the trigger with her right hand. The second to fifth scenarios were performed to see whether Amy's right leg might have been pushed into a position whereby it covered Amy's right hand when various people opened the door after her death. Scenario 6 was done to determine if it might be possible for Amy to have held and fired the gun in the manner suggested by the attending detectives on the night she died, namely using her left hand on the trigger, and Scenario 7 involved trying to recreate the placement of the gun, as described by Gareth Price before he moved it away from Amy's body.⁵²⁰
355. Professor Ackland acknowledged there were limitations in preparing the scenarios, such as using a live model, not actually firing the shotgun and that the recreations involved assumptions being made about the position Amy came to rest after the shotgun discharged. At the inquest, Professor Ackland deferred to the opinion of the forensic pathologist, Dr White, that it would be very difficult to control for whether someone was alive or deceased in conducting these experiments.⁵²¹ However, Professor Ackland indicated that he tried to mitigate against any potential bias on behalf of the live model employed to represent Amy by not informing her about any of the evidence or purpose of the scenarios, and tried to put together the scenario as close to what was depicted in the photographs as possible.⁵²²
356. Acknowledging the obvious limitations, it is still significant that in none of the trials were they able to recreate a situation where the model's right hand came to rest firmly under the right buttock, as was seen with Amy in the photographs. In a minority of trials using Scenarios 4 and 5, the thigh did cover more of the fingers on the right hand, but never to the extent as shown with Amy's body in the photographs.⁵²³ Scenario 6, which was the scenario apparently initially suggested by the attending detectives with Amy pulling the trigger with her left hand, was witnessed to be extremely awkward to recreate.⁵²⁴ Professor Ackland concluded that this scenario was not consistent with the evidence.⁵²⁵
357. As for the position of the firearm, it was noted that the recoil of the shotgun after it was fired was estimated to have caused it to travel 21 cm away from Amy's head,

⁵¹⁸ R 609; Exhibit 1, Tab 18B, Report of Professor Ackland for the WA Police, 19.11.2018.

⁵¹⁹ T 613.

⁵²⁰ Exhibit 1, Tab 18B, Report of Professor Ackland for the WA Police, 19.11.2018, p. 3 - 4.

⁵²¹ T 632, 634, 636 - 637, 642.

⁵²² T 609 - 611; Exhibit 1, Tab 18B, Report of Professor Ackland for the WA Police, 19.11.2018, p. 5 - 11.

⁵²³ Exhibit 1, Tab 18B, Report of Professor Ackland for the WA Police, 19.11.2018, p. 5 - 11.

⁵²⁴ Exhibit 1, Tab 18B, Report of Professor Ackland for the WA Police, 19.11.2018, p. 10.

⁵²⁵ Exhibit 1, Tab 18B, Report of Professor Ackland for the WA Police, 19.11.2018, p. 14.

landing on the carpet with the barrel pointing towards her (according to Newton's 2nd and 3rd Laws).⁵²⁶ This is not the position described by Gareth Price. Putting the firearm in the position described by Gareth Price (Scenario 7), the gun was found to move when the door was opened.⁵²⁷ Professor Ackland expressed the opinion that if Gareth's Price's account of where he saw the gun located is truthful then his conclusion "remains that the gun was placed there by a person other than [Amy]."⁵²⁸

358. Ultimately, after conducting all of the reconstructions and simulations, Professor Ackland's opinion did not change from the opinion he expressed in his first report, that is, that Amy "*did not shoot herself*."⁵²⁹ Professor Ackland considers the evidence is "***highly consistent*** with the scenario that [Amy] was shot by another person who held the shotgun near horizontally on her right side with the barrel closer to her right temple."⁵³⁰ Following the simulations, Professor Ackland is also of the opinion that the evidence is "***not consistent*** with the possible scenario that [Amy] had held the shotgun horizontally on her right side and pushed the trigger using her *right hand*."⁵³¹
359. Professor Ackland confirmed at the inquest that, acknowledging the limitations in the testing, he still maintains the position that it is highly unlikely that Amy shot herself and the evidence is highly consistent with Amy being shot by another person.⁵³² Professor Ackland indicated that the primary reason he believes the evidence is highly inconsistent with Amy having shot herself is that he could not recreate the position of Amy's right hand tucked tightly under her buttock in any of the reconstructed scenarios.⁵³³

Dr Gibson's Evidence

360. Dr Thomas Gibson is a chartered professional engineer with over 30 years' experience in the area of the biomechanics of impact injury causation and mitigation. He is the Principal Engineer and Director of Human Impact Engineering based in New South Wales and has a doctorate in biomedical engineering, which is the application of engineering technology to medical concerns. He is involved in injury biomechanics in particular, which is the application of engineering to the causation of injury. He has previously given evidence in coronial inquiries, but not specifically in relation to coronial matters involving a firearm.⁵³⁴
361. Dr Gibson was asked by the Coroners Court to prepare a biomedical and mechanical engineering report in relation to Amy's death. Specifically, he was asked to answer, if possible, whether the gunshot wound was self-inflicted and deliberate, self-inflicted and accidental or inflicted by another person. Given his location, he was not in a position to inspect the scene or firearm, but Dr Gibson was provided with

⁵²⁶ Exhibit 1, Tab 18B, Report of Professor Ackland for the WA Police, 19.11.2018, p. 12.

⁵²⁷ Exhibit 1, Tab 18B, Report of Professor Ackland for the WA Police, 19.11.2018, p. 12.

⁵²⁸ Exhibit 1, Tab 18B, Report of Professor Ackland for the WA Police, 19.11.2018, p. 14.

⁵²⁹ Exhibit 1, Tab 15.

⁵³⁰ Exhibit 1, Tab 18B, Report of Professor Ackland for the WA Police, 19.11.2018, p. 15.

⁵³¹ Exhibit 1, Tab 18B, Report of Professor Ackland for the WA Police, 19.11.2018, p. 15.

⁵³² T 622 – 623.

⁵³³ T 624.

⁵³⁴ T 644.

relevant information from the brief of evidence in order to provide his opinion. The evidence included information from Professor Ackland's reconstructions and reports, however, he had not had an opportunity to view the videos of the reconstructions until the inquest, immediately prior to giving evidence.⁵³⁵

362. Dr Gibson noted that based on the available evidence Amy may have held the shotgun in two hands, left hand at the muzzle and right hand at the trigger and discharged the gun herself. However, as emphasised by Professor Ackland, this scenario does not adequately explain two features of the scene: the position of her right hand under her right thigh and the position of the shotgun after the shooting, as reported by witnesses. Therefore, based on those features, Dr Gibson concluded that "it is unlikely the gunshot wound was self-inflicted and deliberate"⁵³⁶ and "*even less likely that it was self-inflicted and accidental.*"⁵³⁷
363. Dr Gibson agreed with Professor Ackland that he could find no explanation for how Amy's right hand could have ended up in that position under her right buttock "*unless she was already sitting on it when she was in that place.*"⁵³⁸ Even acknowledging that certain assumptions had to be made about the evidence, Dr Gibson maintained that it would be very difficult for the right hand to accidentally end up in that position.⁵³⁹
364. Dr Gibson indicated that the available evidence did allow for an alternative scenario, which was that Amy had been seated upright behind the door to the bedroom and may have had the muzzle of the shotgun placed against her temple and been shot by another person. The GSR on her left hand would have arisen from Amy attempting to ward off the shotgun.⁵⁴⁰
365. Therefore, based on the available evidence, he believed it did appear that the gunshot was inflicted by someone shooting her.⁵⁴¹
366. Dr Gibson accepted that the use of a live model and the absence of the firearm recoil in the reconstructions, as well as the evidence of the door being opened repeatedly before the photographs were taken, removes some of the certainty from the actual situation. However, it did not change his opinion. Dr Gibson indicated that it still seemed that it would be very difficult for the right hand to end up in that position, given the circumstances.⁵⁴²

Summary of Expert Biomechanical Evidence

367. In summary, the two independent biomechanical experts who provided opinions at the request of the Court, concurred in their opinion that the available evidence supports the conclusion that Amy did not shoot herself. Rather, the biomechanical

⁵³⁵ T 645; Exhibit 1, Tab 19, Report of Dr Gibson for the Coroners Court, 13.4.2020.

⁵³⁶ T 646; Exhibit 1, Tab 19, Report of Dr Gibson for the Coroners Court, 13.4.2020, 2.

⁵³⁷ T 647.

⁵³⁸ T 646.

⁵³⁹ T 648.

⁵⁴⁰ Exhibit 1, Tab 19, Report of Dr Gibson for the Coroners Court, 13.4.2020, 2.

⁵⁴¹ T 647.

⁵⁴² T 647.

evidence, taken with the other available known evidence, is consistent with another person having shot Amy in the right temple with the shotgun, while she attempted to ward off the shotgun with her left hand.

Comments on weight to be given to Biomechanical Evidence

368. Senior Constable Inskip, one of the Forensic Firearm Examiners involved in this case, assisted Professor Ackland in running the scenarios at the house. Senior Constable Inskip was there in the capacity of firearm safety officer but he also assisted to facilitate the reconstructions experiments at the request of Professor Ackland. Having observed the reconstructions attempted, Senior Constable Inskip outlined what he believed were some limitations in respect of Professor Ackland's experiments, that he perceived might affect the end result. Senior Constable Inskip conceded his is not a biomechanical expert. However, he has considerable expertise as a police officer and forensic crime scene investigator, a Bachelor of Science degree in Human Physiology and qualifications in forensic science and as a forensic firearms examiner, and he made his comments within the framework of this field of expertise.⁵⁴³

369. In summary, Senior Constable Inskip's concerns were:⁵⁴⁴

- An assumption when Professor Ackland looked at the distance that the firearm would move from the body, due to the natural effect of its recoil, that there was no influence on the movement on the firearm of the body, in particular the hands if the fingers are within the trigger guard;
- Similarly, Professor Ackland did not consider the influence of the recoil on the arms, as the hands may have been in contact with the firearm after discharge if the fingers were within the trigger guard or a hand in contact with the stock;
- The degree to which the experiments were able to account for the extent to which a live reconstruction model could replicate the potential movement of a deceased person;
- The unknown impact of the change in floorings;
- The assumption that Senior Constable Inskip pushed the door open with the same degree of force in scenarios two to five, which he did ten times for each scenario. Although he tried his best, Senior Constable Inskip could not verify that the force he applied to the door was consistent each time;
- The scenarios did not appear to account for the possible cumulative effect of door movement upon the positioning of Amy's limbs, noting the door had been moved a minimum of four times before the photographs were taken that were attempting to be replicated, but the reconstruction only involved the door opening once; and
- There was no designated marked position for where the model placed her feet or hands, so there was a slight difference between each reconstruction attempt.

⁵⁴³ T 445; Exhibit 2, Tab 26B, Senior Constable James Inskip, 9.2.2021.

⁵⁴⁴ T 445 – 448, 461; Exhibit 2, Tab 26B, Senior Constable James Inskip, 9.2.2021.

370. Senior Constable Inskip conceded that one single factor, on its own, might only have a slight impact, but taken together they may have caused unreliability in the results.⁵⁴⁵
371. Senior Constable Inskip was asked whether he raised any of these concerns on the day when the reconstructions were being carried out. He gave evidence he did not as his instructions on the day were to take direction and not to interfere or make any comment.⁵⁴⁶
372. Professor Ackland indicated the main obstacle to any suggestion that Amy fired the shotgun herself, with her right hand pulling the trigger, was the location of her hand under her right buttock.⁵⁴⁷ The generally accepted evidence was that, based upon the blood spatter, Amy's head and upper part of her body must have been in much the same position before the shotgun discharged as she was seen in the photograph. However, Professor Ackland accepted in questioning at the inquest that there is no evidence about where Amy's legs would have been positioned at the time the trigger was pulled, so all he could do was work back from the photographs and test different scenarios.⁵⁴⁸
373. I note that of the scenarios he tested in reconstructions, the two that came closest to replicating that position were in a minority of trials using scenarios 4 and 5. These involved replicating events where her body may have moved due to the door opening. On some occasions, the thigh did cover more of the fingers on the right hand, but never to the extent as shown with Amy's body.⁵⁴⁹
374. Professor Ackland indicated that they were testing the effect of single and multiple door openings on whether the right thigh came to cover the right hand.⁵⁵⁰ However, in his evidence at the inquest, he confirmed that the most they tested was two openings of the door.⁵⁵¹ The evidence indicates six different people had gone in and out of the door, before the photographs were taken, and it is unknown the level of force they each used, so the full cumulative effect of the door being opened was not tested in these scenarios. Professor Ackland accepted that with multiple openings, the right thigh could have been pushed further onto her right hand, but he qualified that by indicating he doubted her hand would have landed in that position in the scenario in the first place.⁵⁵² In Professor Ackland's opinion, the right hand was under the right thigh at the time the shotgun was discharged, having been tucked under it by Amy in a conscious movement, and it did not reach that position from the thigh moving progressively further over it.⁵⁵³
375. I have some reservations about accepting Professor Ackland and Dr Gibson's opinion that the biomechanical evidence is highly consistent with the scenario that

⁵⁴⁵ T 447.

⁵⁴⁶ T 460.

⁵⁴⁷ T 613.

⁵⁴⁸ T 614.

⁵⁴⁹ Exhibit 1, Tab 18B, Report of Professor Ackland for the WA Police, 19.11.2018, p. 5 - 11.

⁵⁵⁰ T 614.

⁵⁵¹ T 617.

⁵⁵² T 620.

⁵⁵³ T 638 - 640.

Amy was shot by another person, and taking that as compelling evidence that another person was involved in Amy's death, given the many limitations that were inherent in the experiment. In saying that, I make no criticism of Professor Ackland, as he was placed in a difficult position, given there were so many unknowns. I accept he did his best, as a scientist, to eliminate those factors, but in my view the weight to be given to the conclusions must be reduced as a result. However, what Professor Ackland and Dr Gibson's evidence does do is add to the other evidence suggesting Amy did not commit suicide, sufficiently to create doubt about the police conclusion that the evidence that Amy died by suicide is compelling.

FORENSIC PATHOLOGIST'S EVIDENCE

376. Dr Spark was not available to give evidence at the inquest, so Dr Jodi White, a very experienced forensic pathologist, was called to give evidence instead. Dr White had reviewed the results of Dr Spark's post mortem examination and agreed with her opinion on the cause of death. Dr White was able to speak to the results and provide some clarification on particular matters.⁵⁵⁴
377. Dr Spark sampled, and then microscopically examined, the gunshot injury site, which showed heat effect to the tissues, consistent with a firearm.⁵⁵⁵ In terms of that gunshot injury itself, it was described as a burst skull injury, which Dr White explained is a term used in association with shotgun injuries. When the shot enters the skull, there is a large amount of gas, and the increased pressure inside the closed skull leads to the bursting of the skull into multiple pieces.⁵⁵⁶ The entrance wound was in the right temple, "just lateral to and slightly above the eye."⁵⁵⁷ Based upon Dr Spark's findings, and the neuropathological imaging, Dr White was able to definitely say that the gunshot entered the right-hand side of the temple, but was unable to say with any accuracy whether it was in a downward angle or an upward angle,⁵⁵⁸ although she did clarify later that she did not "think it was angled too much."⁵⁵⁹ Dr White clarified that although it is hard to know exactly, given the amount of damage, the injury was more consistent with being horizontal than angled back.⁵⁶⁰
378. Dr White also indicated the entry wound injury suggested it was a contact or near contact wound, noting she could see where the right barrel fired and a second imprint from the other barrel.⁵⁶¹ The other injuries around the head and neck were consistent with the shotgun injury, rather than another unknown source.⁵⁶²
379. An injury to Amy's left index finger, described as a laceration on the thumb side of the front left index finger, with surrounding sooting, was consistent with the left hand

⁵⁵⁴ T 349.

⁵⁵⁵ T 351.

⁵⁵⁶ T 350.

⁵⁵⁷ T 355.

⁵⁵⁸ T 356.

⁵⁵⁹ T 369.

⁵⁶⁰ T 369.

⁵⁶¹ T 362, 369.

⁵⁶² T 356 – 357.

being near the firing end of the weapon, and consistent with the left hand actually holding the end of the weapon. This is also consistent with the finding of gunshot residue on that hand.⁵⁶³ However Dr White agreed that it did not speak to whether the hand was holding the end of the shotgun to support a self-inflicted firing or an attempt to move a firearm away from her.⁵⁶⁴

380. There was no blood spatter or bloodstaining observed on the right hand, but there was a bruise to the wrist, a small bruise to the middle of the forearm and a small mark on the thumb.⁵⁶⁵ Dr White was asked whether a bruise can be aged. Dr White explained that ageing of bruises is quite difficult to do with the naked eye. A forensic pathologist can sample the bruise and look at it under the microscope, examining it for signs of fresh blood or acute inflammatory cells, or alternatively signs of healing, but it still won't give a definite time frame. In this case, Dr Spark sampled four injuries to the lower limbs, three of which showed fresh bruising, but it does not appear she sampled the bruising around the wrist.⁵⁶⁶
381. Dr White was asked at the inquest about her experience with other cases involving shotgun injuries. Dr White observed that, given the regulations around firearms, they are not common, but the State Mortuary does receive two or three cases of firearm-related deaths every few months, with most involving rifles or shotguns. Generally, they are people who live on rural properties who have access to firearms, and are older men, although they do see the occasional female.⁵⁶⁷
382. Dr White indicated that generally in the cases she has seen involving a shotgun, the person was seated, either with their back against a chair or resting up against something, leaning back. Dr White was asked if there would be any movement of the body, at the time of death, or after death, in those circumstances. Dr White gave evidence there would be "some jerking and backwards or sideways movement, depending on ... the direction of the firearm,"⁵⁶⁸ and afterwards, there would not be any purposeful or voluntary movement, but she would anticipate there might be some "jerking kind of movements,"⁵⁶⁹ as well as the effects of gravity possibly causing a body to slump or flop. The jerking movements would be confined to the period where the person is still dying.⁵⁷⁰
383. In Amy's specific case, Dr White confirmed that her injury was non-survivable, but there is a period in these cases where a person is still alive for a variable number of minutes afterwards. In Amy's case, Dr White expressed the opinion she would have expected Amy to remain alive for a period of only "minutes, as the brain stem was damaged." Dr White gave a maximum period of less than five minutes.⁵⁷¹ Therefore, the evidence of Gareth that there had been some bubbling blood and possibly a gurgling sound coming from Amy when he walked into the room shortly after

⁵⁶³ T 357.

⁵⁶⁴ T 357.

⁵⁶⁵ T 357.

⁵⁶⁶ T 350 – 351.

⁵⁶⁷ T 360.

⁵⁶⁸ T 361.

⁵⁶⁹ T 361.

⁵⁷⁰ T 363.

⁵⁷¹ T 366.

hearing the gunshot, was “probably “agonal bleeding and the blood”⁵⁷² and was consistent with Gareth coming across Amy’s body within minutes of the shotgun injury being inflicted. Dr White explained the gurgling sound was the passage of blood down her airway, and once she stopped breathing, there wouldn’t be any noise, as “you shouldn’t hear any gurgling noises once a person has died.”⁵⁷³

384. Dr White was asked about the limitations of the measurements taken of Amy’s arm, at the post mortem examination, to determine whether Amy could have fired the weapon. Dr White noted that the measurement would not be different if Amy was alive or deceased, other than when rigor mortis was present, but she did accept that there are a lot of factors that might come into whether someone would make the movement when alive. Therefore, the purpose of the measurement was simply to indicate that it was physically possible for Amy to pull the trigger and fire the shotgun into her head with either hand, not whether it was a natural movement.⁵⁷⁴ Dr White also indicated that, in her experience, she would expect to see GSR on the hand at the muzzle end, but not necessarily at the firing end.⁵⁷⁵
385. In terms of a body being able to be moved by external forces, Dr White indicated that rigor mortis develops between three and six hours after death, so in the period immediately after death a body could be moved by something such as a door opening against it.⁵⁷⁶
386. Dr White was asked about the use of a live model to replicate the actions of Amy, before and after death, and any movement from the door, for the purpose of the biomechanical reconstruction. Dr White said,⁵⁷⁷
- “I think it’s very difficult. There are so many factors that would come into play. Even though the model is instructed to act a certain way, they are alive and they’re not injured, so the way they move may not represent exactly what has truly happened ... so I think that they’re quite difficult to compare.” Dr White also agreed that there would be some impact from the lack of recoil from the firearm.⁵⁷⁸
387. Dr White accepted that she would defer to a biomechanics expert on the topic, but I give some weight to the reservations she has raised, noting her considerable experience as a forensic pathologist includes attending scenes of crime and assisting police officers to consider possible scenarios, within the limits of her role as the forensic pathologist.

⁵⁷² T 361 – 362.

⁵⁷³ T 362, 365.

⁵⁷⁴ T 359 – 360.

⁵⁷⁵ T 362.

⁵⁷⁶ T 361.

⁵⁷⁷ T 364.

⁵⁷⁸ T 364.

COLD CASE HOMICIDE REVIEW

388. As noted above, members of the WA Police Special Crimes Squad, were tasked with conducting a Cold Case Homicide Review into Amy's death following Professor Ackland's first report. This was named Operation Mix. The review led to the WA Police assisting Professor Ackland to conduct reconstruction attempts at the house in Serpentine in October 2018, which resulted to his second report discussed earlier.
389. Operation Mix commenced on 31 August 2018 with the purpose of conducting a full review of the circumstances of Amy's death and the subsequent police investigation around her death, to identify any new forensic or investigative inquiries and then reinvestigate Amy's death.⁵⁷⁹
390. The investigators specifically did not take into account the opinions expressed in previous investigations into this matter and did not speak to the officers involved in the previous investigations, so that they were not influenced by their opinions and came to the investigation with an open mind.⁵⁸⁰
391. The investigators conducted a number of investigative actions, including:⁵⁸¹
- Conducting a scene appreciation,
 - Identifying and interviewing witnesses,
 - Performing a number of scenario based experiments under the direction of Professor Ackland, as already discussed,
 - Forensically re-analysing physical material,
 - Obtaining an internal psychological review of the circumstances,
 - Implementing strategies around the two suspects to maximise evidence gathering ability, and
 - Conducting further interviews with the two suspects, David Simmons and Gareth Price.
392. A large number of witnesses were interviewed or reinterviewed during this review. It was noted that in the main, witnesses were found to be biased either towards Amy or David Simmons in regard to this matter.⁵⁸² There were few objective witnesses who had not taken a position as to whether Amy's death was a suicide or homicide.
393. Anna Davey, Amy's aunt, was the nominated point of contact for Amy's family and she provided a detailed statement to the Operation Mix investigators detailing Amy's family history and personality and her relationship with David, as well as information obtained from some of Amy's friends. Amy's mother, Nancy Kirk, also provided a further statement with additional information.⁵⁸³

⁵⁷⁹ T 659.

⁵⁸⁰ T 663.

⁵⁸¹ Exhibit 1, Tab 20A, Cold Case Homicide Report, 26.8.2019.

⁵⁸² T 666; Exhibit 1, Tab 20A, Cold Case Homicide Report, 26.8.2019.

⁵⁸³ Exhibit 1, Tab 20A, Cold Case Homicide Report, 26.8.2019, p. 9 – 11.

394. Nancy's husband, Rick Kirk, did not provide a statement, but did talk to police and indicate his recollection that David drank alcohol daily and became nasty, jealous and out of control when drunk. He also recalled Amy telling him that David had put a knife to her throat, but he didn't take her seriously at the time. He had witnessed them fighting but it had never been physical.⁵⁸⁴ A friend of David Simmons' also told police David was a big drinker at the time of Amy's death, and possibly a methylamphetamine user.⁵⁸⁵
395. Amy's family and friends are firmly of the belief she would not have committed suicide and they believe she was the victim of foul play. Amy's mother, Nancy, emphasised that Amy's daughters "were her life" and she and her extended family did not believe Amy would commit suicide and leave her daughters.⁵⁸⁶
396. Robert Simmons and Joshua Bryden were re-interviewed but they did not significantly alter their version of events or provide any information to suggest that Amy might have been the victim of foul play. That is despite the fact that Joshua Bryden indicated he remained friends with Gareth Price but no longer associated with David Simmons.⁵⁸⁷ No other associate of David Simmons came forward to suggest he may have been involved in her death, other than a relative who based her belief on 'dreams and visions' rather than any firsthand information.⁵⁸⁸
397. The original attending police officers were all interviewed as well.⁵⁸⁹
398. David Simmons was re-arrested on suspicion of murder on 8 January 2019 and he participated in an electronic record of interview with police. He provided an account of events that largely matched the statement and electrically recorded interview he gave during Operation Jundee. He was released later that day without charge.⁵⁹⁰
399. Gareth Price was re-arrested on suspicion of being an accessory after the fact to murder on 10 January 2019 and he also participated in an electronic record of interview, which was consistent with his earlier account of events given during Operation Jundee. He was released later that day without charge.⁵⁹¹
400. A covert operation was initiated for several months, wrapping around the re-interviewing of the two men, but the results did not progress the investigation in any way.⁵⁹²
401. Dr Kris Giesen, a Senior Sergeant in the WA Police who is a practising psychologist with a PhD in clinical psychology and a behavioural analyst at Major Crime, viewed the electronic recordings of Simmons and Price's interviews and provided a psychological opinion. Dr Giesen did not observe any seminal inconsistencies in

⁵⁸⁴ Exhibit 1, Tab 20A, Cold Case Homicide Report, 26.8.2019, p. 17 – 18.

⁵⁸⁵ Exhibit 1, Tab 20A, Cold Case Homicide Report, 26.8.2019, p. 19 – 21.

⁵⁸⁶ Exhibit 2, Tab 1B, Nancy Kirk, 21.11.2018, [48] and Tab 2B, Anna Davey, 15.12.2018.

⁵⁸⁷ T 271; Exhibit 1, Tab 20A, Cold Case Homicide Report, 26.8.2019, p. 12 – 14.

⁵⁸⁸ Exhibit 1, Tab 20A, Cold Case Homicide Report, 26.8.2019, p. 14 – 15.

⁵⁸⁹ T 664.

⁵⁹⁰ Exhibit 1, Tab 20A, Cold Case Homicide Report, 26.8.2019, p. 44.

⁵⁹¹ Exhibit 1, Tab 20A, Cold Case Homicide Report, 26.8.2019, p. 45 – 46, Tab 20B [23] – [24].

⁵⁹² T 666 – 667.

Simmons' account, even with the retelling of it in parts, and did not detect any obvious behaviour that suggesting he was censoring his disclosures or constructing a story. Reports of his actions and behaviour at the time of the event were also felt to be consistent with his account and Dr Giesen did not believe there was a sufficient time lag to allow for staging and colluding between David Simmons and Gareth Price. Accordingly, Dr Giesen was inclined to believe David Simmons' version of events and expressed the opinion that both David and Gareth were telling the truth in their interviews and statements.⁵⁹³

402. The detectives reinvestigating also did not find there was any deliberate action on the part of either witness to try and deceive them, and inconsistencies between their accounts were felt to be explainable.⁵⁹⁴
403. Dr Giesen also reviewed the evidence of Amy's mental state and the external factors preying upon her mind. Dr Giesen found that there were ongoing factors suggesting Amy was depressed at the time of her death, with the onset of depression appearing to coincide with the birth of her second child and then being exacerbated by her years in an unstable, controlling and abusive relationship with David Simmons, social isolation, financial stress and health issues. Dr Giesen noted that depression "is known to be the strongest predictor of suicide."⁵⁹⁵
404. While Amy did not appear suicidal in the week prior to her death, and made no such disclosures to friends or family, she did show risk factors such as impulsivity, aggression, helplessness and hopelessness. The immediate circumstances prior to her death involving the violent argument with David and the potential breakdown of their relationship made the possibility of a suicide attempt by Amy more likely. Dr Giesen also speculated that Amy's use of the antidepressant Citalopram could have been a factor.⁵⁹⁶
405. As part of the Cold Case Homicide Review, Amy's pink iPhone, that David Simmons had purportedly tried to retrieve from the house on the night of her death, was downloaded and analysed. Amy's family had attempted to access it previously, after it had been returned to Nancy Kirk by police, without success. The Cold Case Homicide investigators found the personal texts and photographs between Amy and David, along with messages Amy sent to other people, indicated their relationship was highly emotional and ranged between being harmonious to acrimonious and spiteful.⁵⁹⁷
406. In terms of additional physical evidence, further analysis of Amy's clothing found spots of blood on the outside of her right shoe, and right jeans cuff, that suggested that it was possible her right foot had originally been raised on the back of the door at the time she was shot (as recreated in some of Professor Ackland's reconstructions).

⁵⁹³ T 667; Exhibit 1, Tab 20A, Cold Case Homicide Report, 26.8.2019, p. 46 – 48; Exhibit 3, Tab 1, Dr Giesen's Report, 22.3.2019, p. 1.

⁵⁹⁴ T 668 – 669.

⁵⁹⁵ Exhibit 3, Tab 1, Dr Giesen's Report, 22.3.2019, p. 1.

⁵⁹⁶ Exhibit 1, Tab 20A, Cold Case Homicide Report, 26.8.2019, p. 46 – 48; Exhibit 3, Tab 1, Dr Giesen's Report, 22.3.2019.

⁵⁹⁷ Exhibit 1, Tab 20A, Cold Case Homicide Report, 26.8.2019, p. 38.

It was theorised that this could have been to prevent someone from coming in the door. However, it was also acknowledged the blood spots could have been contamination from the carpet or could have occurred inside the body bag.⁵⁹⁸

407. Significantly, the investigators also found on Amy's phone a photograph time stamped at the house in Serpentine at 4.48 pm on 26 June 2014 (so after her fight with David but 12 minutes before she spoke to her mother), which shows Amy in the clothes she was wearing when she died, in front of a mirror in the master bedroom with a firearm. She is observed sitting on the edge of the bed, holding the .410 shotgun that later caused the shotgun injury to her head, and her mobile telephone in the other hand. She is the only person visible in the photograph and appears to have taken a 'selfie' of herself holding the shotgun by the muzzle with the butt on the ground. The purpose of Amy doing so is unclear, but it is obviously significant given the timing, so soon before she died from a shotgun injury from that gun in that same room.⁵⁹⁹
408. It was explained at the inquest that this photograph was not previously available as in 2014 the WA Police technical crime team did not have the technology to download Amy's phone.⁶⁰⁰ However, by 2020 when the Cold Case Homicide Review was conducted, new technology was available which allowed the download to occur.⁶⁰¹ The police investigators felt the photograph was not determinative of any outcome, and so they moved on to try find other corroborative evidence.⁶⁰²
409. In the conclusion of the Cold Case Homicide Report, Detective Sergeant Giles, who was the appointed investigating officer from the Cold Case Homicide Squad, indicated that the available evidence left open three possibilities:⁶⁰³
- Amy died as a result of a self-inflicted shotgun injury to the head;
 - Amy was deliberately shot at close range by another person; or
 - Amy and another person both had hold of the shotgun when it was accidentally discharged.
410. Detective Senior Sergeant Aaron Capes, who was the Senior Investigating Officer for the Cold Case Homicide Review, concurred with the views of Detective Sergeant Giles that the three possibilities all remained open on the available evidence.⁶⁰⁴
411. Detective Capes indicated at the inquest that the only evidence that suggested that someone else had shot Amy came from the reports of Professor Ackland and Dr Gibson, and their opinions could not be corroborated by any other evidence. However, it remained open as a possibility based on their opinions, particularly as

⁵⁹⁸ T 662 - 663.

⁵⁹⁹ Exhibit 1, Tab 20A, Cold Case Homicide Report, 26.8.2019, p. 38-39 and Tab 25.

⁶⁰⁰ Exhibit 1, Tab 12.

⁶⁰¹ T 665.

⁶⁰² T 665 - 666.

⁶⁰³ Exhibit 1, Tab 20A, Cold Case Homicide Report, 26.8.2019, p. 55.

⁶⁰⁴ Tab 20B [29].

the position of the right hand had not been able to be recreated in any of the reconstructions.⁶⁰⁵

412. Detective Capes also indicated that the possibility of an accidental discharge during playing or wrestling was less likely, and he did not put a lot of weight behind it as the other physical evidence suggested Amy had to have been quite still when the gun went off. However, he left it open as it could not be ruled out entirely.⁶⁰⁶
413. At the end of the review, on 26 August 2019, it was concluded that there was insufficient evidence to substantiate the involvement of another person in Amy's death.⁶⁰⁷
414. Detective Senior Sergeant Capes gave evidence at the inquest that he did not identify any other steps that they could have taken to investigate Amy's death at that time, acknowledging that some of their investigative steps would have benefitted from being undertaken at an earlier stage, in the previous investigations.⁶⁰⁸

INTERNAL AFFAIRS UNIT

415. Around this time, the WA Police Internal Affairs Unit reviewed the actions and investigative decisions of the initial attending officers and "identified some opportunities that could have been explored at the time."⁶⁰⁹ The IAU investigators noted that two senior detectives at the scene, Detective Weidmann and Detective Kirkman were aware at the scene that there had been a violent domestic altercation between Amy and David Simmons and Amy had died as a result of a gunshot wound to her head in their bedroom. These two known circumstances were considered sufficient to have demanded the investigation be thorough and to the highest standard. The IAU investigation found those requirements were not met.⁶¹⁰
416. Based upon a brief personal inspection of the scene and a review of statements taken from David Simmons and Gareth Price by junior officers, they decided the death was non-suspicious and failed to take obvious further steps, including personally interviewing witnesses and considering forensic procedures be undertaken. As a result of the IAU review, Detective Weidmann and Detective Kirkman were considered to have neglected their duty by not adequately investigating the matter in the first instance. They were both referred to the Integrity Review Panel. The outcome of these proceedings was that both detectives were subject to sanctions in the form of an Assistant Commissioner's Warning Notice.⁶¹¹ The notices were issued in April 2019.

⁶⁰⁵ T 661, 663.

⁶⁰⁶ T 671.

⁶⁰⁷ Exhibit 1, Tab 20A, Cold Case Homicide Report, 26.8.2019, p. 55.

⁶⁰⁸ T 669 - 670.

⁶⁰⁹ Exhibit 1, Tab 26, IAU Report, p. 1 - 2.

⁶¹⁰ Exhibit 1, Tab 26, IAU Report.

⁶¹¹ Exhibit 1, Tab 26, IAU Report; Exhibit 2, Tab 6C, Assistant Commissioner Warning Notice 15.4.2020 and Tab 7B, Assistant Commissioner Warning Notice, 15.4.2020.

417. The Warning Notices indicate that the circumstances of this death demanded a thorough investigation and forensic examination. The two detectives did not independently corroborate the accounts of David Simmons and Gareth Price and simply assumed they were telling the truth. They also did not advise or consult with the Major Crime Division. This approach was inadequate and, in effect, the warning concludes the two detectives failed to properly investigate the matter. As a result, their conduct fell below the standard expected of police officers.⁶¹²
418. Detective Weidmann and Detective Kirkman both gave evidence at the inquest and acknowledged they had received the Assistance Commissioner's Warning Notice and accepted it. It was clear from his evidence that Detective Kirkman accepted that his decision-making on the night in question had been wanting.
419. It was queried at the inquest why the conduct of the two detectives had not been referred to Professional Standards at an earlier stage, given Operation Jundee commenced only days after Amy's death and identified failings in the detectives' conduct.
420. Detective Senior Sergeant McDonald, who was the senior investigating officer for Operation Jundee, was asked if he considered referring the conduct of those detectives for internal disciplinary proceedings. Detective McDonald indicated if he had considered there had been significant failures amounting to a major breach, he could have generated an internal conduct report, which would be investigated by the Internal Affairs Unit. However, he did not do that.⁶¹³
421. No clear answer was provided by any other witness as to why no referral was made internally, including after the matter was referred back for reinvestigation in late August 2018.
422. It was confirmed that the IAU investigation only commenced following correspondence from Counsel Assisting on behalf of Deputy State Coroner King to the Assistant Commissioner in charge of Professional Standards in November 2019.
423. Amy's family have raised again in their closing submissions the question why it took a referral from the Coroners Court to WA Police Professional Standards to initiate a review of the conduct of Detective Kirkman and Detective Weidmann. I do find it surprising, and regrettable, that no senior officer saw fit to have the conduct of these two officers reviewed before this time, given what was known about the standard of the initial investigation. As Detective Inspector Scantlebury acknowledged, if nothing else, it ran the risk that the two detectives would continue to make the same errors in other investigations. It also served to undermine Amy's family's confidence in the WA Police Force on the whole.
424. In my view, the senior officers involved in this matter following the commencement of Operation Jundee onwards, should reflect upon this matter and consider what more they should have done to prompt review of the conduct of the attending detectives. Detective Superintendent Scantlebury gave evidence he would have

⁶¹² Exhibit 2, Tab 6C and Tab 7B.

⁶¹³ T 509.

expected it to be investigated and addressed at the local district level at the first instance, in this case Rockingham Detective's Office where the two detectives were based. That clearly was not done, and indeed nothing more was done even though Amy's family were raising concerns.⁶¹⁴

425. As was pointed out at the inquest and in the submissions filed by Amy's family, the delay created the perception for Amy's family that the police were trying to cover-up a failure by one of their own.
426. Detective Superintendent Scantlebury indicated that the process of initiating a police conduct report is very simple and can be done by just an email or phone call,⁶¹⁵ so it is not the process that is complicated. Rather, it is creating a culture within the WA Police that encourages officers to take responsibility, not only for their own conduct, but also for the conduct of others. It is not simply about ensuring that misconduct or incompetence is addressed, but also that mistakes are identified and corrected and learned from at an early stage. Detective Superintendent Scantlebury acknowledged that it is about acknowledging that the standard that you walk past is the standard you accept, so the emphasis must be on training other officers to prioritise supervision and accountability.⁶¹⁶ I strongly encourage the WA Police as an agency to review its training on police conduct reports and accountability and consider this case to see what lessons can be learned.
427. In August 2018, after the investigation into Amy's death was re-opened by WA Police, the Commissioner of Police allocated Inspector Martin Voyez the role and responsibility of Family Liaison Officer, to ensure that Amy's family were dealt with henceforth in a constructive and reassuring manner, with due regard to their personal situation, rights and dignity. It was acknowledged that this had not occurred up until that time. I understand that Inspector Voyez has been an important support and conduit of information for the family since that time.
428. Hopefully, although both steps were belated, the outcome of the IAU review of the conduct of Detectives Kirkman and Weidmann and the allocation of Inspector Voyez as the FLO have helped Amy's family to regain some small bit of confidence in the WA Police Force. I understand from the family's submissions that the willingness of some of the police officers who attended the inquest to express their regret and condolences to them, has also gone a little way to re-instilling some of their faith in the WA Police Force.
429. However, Amy's family have indicated in their submissions that they are still waiting for a formal apology from the WA Police Force for the manner in which Amy's death was investigated. I understand there may be some intention on the part of the WA Police to formally express their regret for the fact that forensics were not called to the scene that night, as well as for the fact that the WA Police internal processes did not result in an IAU investigation at an earlier stage. I am not aware if that step has been taken, but if not, I encourage it as at least a small acknowledgement of the family's tireless efforts to see justice served for Amy and to ensure that no other

⁶¹⁴ T 741 – 742, 758 - 759.

⁶¹⁵ T 741.

⁶¹⁶ T 741.

family has to endure a similar situation. In my view, it was due to their efforts that the inadequacies in the investigation were properly brought to light.

IDDLES REPORT

430. Ronald Iddles is a retired Victorian Police Officer. A significant portion of Mr Iddles' career was spent as a Homicide investigator investigating suspicious deaths and he has given evidence on 250 occasions in criminal proceedings and countless times in coronial matters. He held the rank of Detective Senior Sergeant before his retirement. Mr Iddles reviewed materials in relation to Amy's death and provided a report at the request of Amy's family in relation to his opinion on the standard of the police investigation and other areas of investigation possibly open. A copy of his report was provided to this Court,⁶¹⁷ and Mr Iddles also sat through the evidence of Detective Superintendent Scantlebury and then gave his own evidence at the inquest. I understand that Mr Iddles provided his time and expertise to the family on a pro bono basis, which is a great credit to him and was clearly very much appreciated by Amy's family, and indeed this Court.⁶¹⁸
431. Mr Iddles indicated that in his time as a police officer he was involved in hundreds of homicide investigations and suicide cases, many of which involved a firearm. In his experience, when attending a suspicious death involving the use of a firearm, the attending police should work on the basis it is a homicide until proven differently. This ensures "no short cuts are taken" and the ultimate conclusion "is based on sound forensic evidence, witness accounts, victimology and other intelligence."⁶¹⁹
432. Of note, in the context of the 1000 or so suspicious deaths Mr Iddles has investigated, only a small number involved women and firearms, and of those, only a couple involved a female committing suicide. In those cases, the firearm used was a handgun, and he had never been involved in a case where a female person committed suicide with a shotgun.⁶²⁰ In terms of firearm deaths generally, Mr Iddles commented that the position in which Amy was found is not the position that you would normally find someone who used a firearm to harm themselves. In his experience, most of these cases either have the person seated in a chair with the barrel in their mouth, or lying on a bed. Therefore, in Mr Iddles' opinion, Amy's case is very unusual and warranted close investigation.⁶²¹
433. Mr Iddles made no particular criticism of the initial attending uniformed police, indicating his opinion that the uniformed officers acted appropriately by preserving the scene and calling in detectives when they had concerns.⁶²² Mr Iddles reserved his criticism for the attending detectives, Kirkman and Weidmann, for deeming the death non-suspicious without ensuring a proper forensic examination of the scene was carried out and before interviewing David Simmons and Gareth Price themselves. In addition, in Mr Iddles' opinion, Joshua Bryden, Robert Simmons, Nancy Kirk and

⁶¹⁷ Exhibit 3, Tab 2, Iddles Report.

⁶¹⁸ T 787.

⁶¹⁹ Exhibit 3, Tab 2, Iddles Report, [9].

⁶²⁰ T 787.

⁶²¹ T 787 – 788.

⁶²² T 781.

Rachael Price should have been interviewed, Amy's communications with others should have been considered as well as her movements that day, and aspects of domestic violence in the relationship should have been explored. Mr Iddles stated "he would expect these steps to have been taken as a minimum at the commencement of this type of investigation."⁶²³ In Mr Iddles' opinion, the responding detectives' response was "totally inadequate."⁶²⁴

434. Mr Iddles' comments are largely consistent with the findings of the IAU investigators in that regard, and Detective Superintendent Scantlebury. Mr Iddles was provided with a copy of the IAU review, and he agreed with the conclusions of the investigators that there were two factors known on the night that demanded the investigation be thorough and to the highest standard, namely the known domestic violence incident and the cause and location of Amy's death.⁶²⁵
435. Mr Iddles suggested that the best approach in this case would have been for forensics to commence an examination of the scene while the detectives took David and Gareth back to the station, cautioned them, then obtained a 'free narrative account' from them of what had occurred at the house. This would have provided a starting point for the investigation to then identify other avenues of inquiry.⁶²⁶ Detective Superintendent Scantlebury concurred with Mr Iddles in this regard.
436. Mr Iddles noted that once a crime scene is dismantled and cleaned it can never be recreated exactly, which meant that the failure to preserve the scene at the time "drastically undermined the further investigation"⁶²⁷ as future investigators had to work on assumptions.⁶²⁸
437. Mr Iddles considered the Major Crime Division investigation which commenced the day after Amy's death, Operation Jundee, was investigated to a reasonable standard⁶²⁹ but was concluded prematurely, given the final comments of the investigating officer were made before final written forensic reports were available in relation to such items as Gareth and David's clothing. Mr Iddles described the investigators as appearing to have "tunnel vision" in the sense that they appeared willing to come to a conclusion before they had all the available evidence.⁶³⁰ He also noted the investigation was impacted by the decisions of the Rockingham Detectives' premature closure of the case on the night Amy died.⁶³¹
438. Mr Iddles also had access to the Cold Case Homicide Review. He considered that this review was conducted to a high standard, and noted the investigators undertook appropriate strategies to maximise evidence gathering. Mr Iddles also acknowledged

⁶²³ Exhibit 3, Tab 2, Iddles Report, [18].

⁶²⁴ T 781.

⁶²⁵ Exhibit 3, Tab 3, Iddles Addendum Report.

⁶²⁶ T 781 - 782.

⁶²⁷ Exhibit 3, Tab 2, Iddles Report, [23].

⁶²⁸ T 782 - 783.

⁶²⁹ T 784.

⁶³⁰ T 784.

⁶³¹ T 783; Exhibit 3, Tab 2, Iddles Report, [24] - [32].

the report was candid about the inadequacies of some of the earlier investigations, and overall considered the conclusions in the report were sound.⁶³²

439. Other than the potential to further consider covert investigative opportunities, which Mr Iddles conceded might be limited by the relevant Western Australian legislation, Mr Iddles was unable to identify any further investigative strategies that might be pursued by the WA police in this matter in trying to determine what happened to Amy.⁶³³
440. After listening to Detective Superintendent Scantlebury's evidence about the recent changes that have been made within the WA Police in terms of potential homicides, particularly those involving firearms and allegations of family violence, Mr Iddles commented that he thinks Western Australia has "done a good job to move forward"⁶³⁴ and considered them to be positive steps that hopefully will ensure similar investigative failures won't occur again.
441. Although Mr Iddles did not have full access to the investigative materials, he based his opinion upon the information he did have an opportunity to review. He noted the cold case review left three options open, namely suicide, accident or homicide. Mr Iddles expressed the opinion that he did not think the evidence suggested the death occurred by accident, but considered the other two options were open on the evidence.⁶³⁵ In particular, Mr Iddles indicated his opinion that "you still can't rule out homicide"⁶³⁶ on the evidence that has been identified. Mr Iddles agreed with Detective Capes that one area of evidence that could point to homicide was the biomechanical evidence in relation to the position of her hand, but he also pointed to:⁶³⁷
- the positioning of where it happened, noting that women do normally use a shotgun to commit suicide, and if it did happen as a suicide, based on his own experience he would have expected it to be have occurred on the bed;
 - if the death occurred by suicide in the location where Amy was found, and the evidence of Gareth was accepted that the shotgun was first found on her legs, the scenario does not account for the recoil of the shotgun. Therefore, if it is the case that the butt of the gun was found between Amy's legs, Mr Iddles commented "then we've got an issue there that no one can explain;"⁶³⁸ and
 - the lack of blood spatter and GSR on Amy's right hand, on the balance of probabilities, suggested the hand was more likely to have been underneath Amy's thigh at the time of the shooting.
442. Ultimately, however, while Mr Iddles considers there are sufficient questions unanswered by the evidence to leave open suspicion as to the possibility of homicide, he agreed with the opinion of Detective Capes in the Cold Case Homicide Review

⁶³² T 786; Exhibit 3, Tab 2, Iddles Report, [39].

⁶³³ T 786.

⁶³⁴ T 786.

⁶³⁵ T 790.

⁶³⁶ T 786.

⁶³⁷ T 790 - 791.

⁶³⁸ T 790.

that there is insufficient evidence that would establish a prima facie case against any person in relation to Amy's death.⁶³⁹ As Mr Iddles expressed it.⁶⁴⁰

You can have suspicion, but you need more than that.

RECENT REVIEW BY DET SUPT SCANTLEBURY

443. Detective Superintendent Robert Scantlebury was the head of Homicide Squad at the time of the inquest. He has been a police officer for more than three decades and involved in investigating serious crime for the past 26 years. Detective Superintendent Scantlebury reviewed all of the police investigation materials and provided a statement to the Court dated 10 February 2021 expressing his opinion on the quality of the investigations and the outcomes. He also sat through the majority of the evidence at the inquest, despite the many demands on his time, in order to see firsthand what else could be learned from this case in terms of mistakes made and positive changes that can be implemented, as well as any new evidence that might be revealed that could alter the course of the investigation.⁶⁴¹
444. For example, Detective Superintendent Scantlebury acknowledged he had heard the evidence of the attending officers that they had never been spoken to about this matter, and the ongoing impact it has had on them. He indicated he had arranged to speak to them following the inquest to rectify this shortcoming.⁶⁴²
445. Similarly, Detective Superintendent Scantlebury heard Nancy's evidence about how she was given Amy's jewellery still covered in her blood, and will be exploring ways the police can do such things better in consultation with the Coroners Court.⁶⁴³
446. It was apparent that Detective Superintendent Scantlebury was genuine in his desire to ensure that lessons are learnt from this matter, which should hopefully provide some small comfort to Amy's family. He acknowledged that all of Amy's family and friends have been adversely affected by the way in which Amy's death was investigated in 2014. Detective Superintendent Scantlebury also acknowledged the dignity with which Amy's family have conducted themselves during this coronial process, by the respectful way they allowed each witness to give their evidence, and I add to that their willingness to acknowledge the expressions of remorse that have been given, which shows a real generosity of spirit.⁶⁴⁴ Detective Superintendent Scantlebury indicated at the end of the inquest he was willing to make himself available to Amy's family after the inquest, to talk to them if they wished, having earlier spoken to them.
447. As to his own review of the police investigations, Detective Superintendent Scantlebury provided an extract from the current section of the WA Police Manual that relates to firearm deaths, which was also in force at the time of Amy's death. In

⁶³⁹ T 791.

⁶⁴⁰ T 791.

⁶⁴¹ T 743, 761; Exhibit 3, Tab 7, Detective Superintendent Robert Scantlebury, 10.2.2021.

⁶⁴² T 743, 761.

⁶⁴³ T 762, 775 - 776.

⁶⁴⁴ T 743, 761; Exhibit 3, Tab 7, Detective Superintendent Robert Scantlebury, 10.2.2021.

his opinion, the responding detectives, Detectives Kirkmann and Weidmann, did not comply with the policy as they did not seek further advice or specialist assistance from Homicide Squad officers or forensic officers when it was required in order to confirm that the scene was consistent with the manner of death reported. Detective Superintendent Scantlebury considered that just the knowledge that the gun had been moved should have been enough to trigger a call to homicide officers in this case.⁶⁴⁵

448. Detective Superintendent Scantlebury confirmed earlier evidence that since that time, a change has been implemented in the WA Police so that on every occasion where a firearm is used in a death, homicide are to be consulted. If they consider it appropriate, homicide officers will then attend the scene with forensic field operations and they will conduct a joint investigation. Detective Superintendent Scantlebury indicated there is also a greater willingness on the part of homicide officers to attend the scene.⁶⁴⁶
449. If this had been done in Amy's case, it would have meant that forensics officers and experienced homicide investigators would have been able to attend the scene and determine if a full homicide investigation should be undertaken. The persons of interest would have been taken back to the police station and an attempt made to conduct an electronically recorded interview, rather than junior uniformed officers taking their statements at the scene.
450. In relation to the IAU report, Detective Scantlebury agreed with the majority of criticisms of Detectives Kirkmann and Weidmann, but he did take issue with a few of the points in the report, which are not of significance to my finding. Detective Superintendent Scantlebury had reviewed the experience of both detectives and considered their failings in this matter were likely attributable to inexperience in these matters, based upon their work history, coupled with ego and arrogance.⁶⁴⁷ This was acknowledged by Detective Sergeant Kirkmann in his evidence. Detective Superintendent Scantlebury also agreed that the failings in the initial police response should have been addressed at a much earlier stage and the responding detectives spoken to, in order to ensure that they were educated about their mistakes, so that they did not continue to repeat them in other investigations.⁶⁴⁸
451. Detective Superintendent Scantlebury identified a number of missed investigative opportunities, such as the forensic opportunities that have been discussed already. He noted that involving forensics at an early stage "would have answered a lot of questions."⁶⁴⁹ Maintaining an open mind as to the possibility of criminality would also have allowed for overt and covert methodologies to be used. However, once the reasonable suspicion of criminality is removed, the opportunities to use those avenues of investigation diminish.⁶⁵⁰

⁶⁴⁵ T 734 - 736.

⁶⁴⁶ T 735, 741.

⁶⁴⁷ T 773 - 774.

⁶⁴⁸ T 741 - 744.

⁶⁴⁹ T 745.

⁶⁵⁰ T 745.

452. Detective Superintendent Scantlebury had an opportunity to review Mr Iddles' report, and he accepted generally the criticisms made by Mr Iddles. He noted that if the original investigators had contacted Major Crime and brought in forensics, many of those criticisms would have been diminished, which points to the very early failing of the responding detectives as going to the heart of the matter.⁶⁵¹
453. As to the expert biomechanical evidence, Detective Superintendent Scantlebury raised some concerns about the limitations of those opinions, similarly to Senior Constable Inskip. Detective Superintendent Scantlebury noted that Professor Ackland has assisted with a number of homicide investigations, and he values Professor Ackland's expert assistance, but in his opinion Professor Ackland was given such limited information that it compromised his ability to conduct the reconstructions and provide a comprehensive opinion on this matter. Detective Superintendent Scantlebury suggested that in hindsight a full briefing to him of the investigation might have benefited the reconstructions.⁶⁵²
454. Although it is ultimately a conclusion for me to make, I take into account Detective Superintendent Scantlebury's opinion, having conducted a full review of all of the police investigative material from Operation Jundee, the coronial investigation and the Cold Case Homicide review and heard the majority of oral evidence at the inquest, he could still find no evidence to place another person in the room at the time of her death, so from the Homicide Squad perspective, the WA Police cannot establish any criminality in relation to Amy's death.⁶⁵³

EVIDENCE OF DAVID SIMMONS AT THE INQUEST

455. As I have outlined above, David Simmons has cooperated with police from the outset in providing his account of what occurred on the day Amy died. He provided a statement to police on the night of Amy's death, and then participated in two electronically recorded interviews, one a few days after Amy's death and another on 8 January 2019.
456. David was also summonsed to attend the inquest to give evidence in person under oath. There was a delay in getting him to appear, for reasons which were explained to me, and steps were then able to be put in place by the Court to ensure that David Simmons attended a courthouse and gave his evidence by video-link. It was important to Amy's family that this occurred, so that he could be questioned by their counsel on areas that were felt to have not been tested in his previous interviews. David gave his evidence on the last day of the inquest, after all the other evidence had been heard, so that there was also an opportunity to put anything new that had arisen.
457. David Simmons did not exercise his right to silence and he did not seek to have counsel appear on his behalf, although he had been informed of his right to do so as a person who might be subject to an adverse comment or finding. Although he did not

⁶⁵¹ T 746.

⁶⁵² T 748 – 749; Exhibit 3, Tab 7 [32] – [33].

⁶⁵³ T 763.

have a good recollection of the statement and interviews, he maintained he told the truth to the police at the relevant time and there was nothing he sought to change.⁶⁵⁴ David answered all questions that were put to him at the inquest, and gave an account largely consistent with his previous statement and interviews.

458. David gave evidence that he still had an independent memory of events on 26 June 2014, although his memory of some of the details had been affected by the passage of time and the trauma of the events. In summary, David recalled that he had left his phone in the rain on a bin at Gareth's house the day before so he didn't have a phone. He had been cutting firewood with Josh to make some money and Josh was sending messages to Amy on his behalf. He couldn't recall specifically if he had been drinking that day, but acknowledged he would *"usually have a couple."*⁶⁵⁵ David agreed that he drank most nights back then, but claimed he did not have a drinking problem. He also agreed that Amy put up some Post-it notes to help him stop drinking, but still maintained he had his drinking under control. He gave evidence he hadn't taken any drugs the day Amy died, but wasn't sure if he was drunk or not.⁶⁵⁶
459. On this day, when he got home from chopping firewood, and after collecting Gareth, it became apparent that Amy was unhappy with him and she started 'going off'. She was asking him where he had been all day and seemed angry that she hadn't been able to get hold of him on the phone. David said, *"The way she went off that day, I'm not sure how to describe it, but I've never seen her go like that ever before."*⁶⁵⁷
460. David recalled at the inquest that he said to her that he wanted to go back out in an hour or so as he had seen a big wild pig when he was cutting wood. Amy had never told him he *"wasn't allowed to go back out ever,"* but this time it seems she did and became very angry. David said, *"I didn't click that there was something majorly wrong and obviously I should have."*⁶⁵⁸ At the time, he just didn't know what to do.
461. David agreed that Amy punched him and he said Gareth and Josh were in the kitchen when Amy pulled a mirror off the wall and tried to throw the mirror at David in the hallway. He said he blocked it and hit it away with his arm, and he thought it smashed. He then grabbed her and asked her what was wrong.⁶⁵⁹ David admitted he held Amy down and she then said, *"I'm leaving you, I'm leaving you."*⁶⁶⁰ When asked if he put her in a headlock, David agreed he had to hold her and restrain her, but did not agree he put her in a headlock. He couldn't recall how they got on the floor, but when they were on the floor he held her hands/wrists and put all his weight on her to hold her there. He agreed that Amy could have got the bruises on her wrists seen at the post mortem from when he was holding her at this time.⁶⁶¹ When asked if he choked Amy in the course of the fight, David said, *"I can't remember."*⁶⁶²

⁶⁵⁴ T 823 – 824.

⁶⁵⁵ T 826.

⁶⁵⁶ T 852.

⁶⁵⁷ T 828.

⁶⁵⁸ T 830.

⁶⁵⁹ T 830.

⁶⁶⁰ T 831.

⁶⁶¹ T 832.

⁶⁶² T 832.

462. David said that when the fight ended, Amy calmed down a bit but was still pretty angry. David gave evidence he told her that she could leave but, given the state she was in, she should leave the children there and come back and see them the next day. She said, “*no, I’m taking the kids.*”⁶⁶³ He agreed and told Amy to pack her belonging and he would pack the car up and put the kids in there, on the basis she could then go when she had calmed down.⁶⁶⁴
463. David recalled that when he first told Amy she wasn’t driving anywhere, she went outside and smashed the lizard tank in the shed. He didn’t see her do it, but heard the sound of it smashing.⁶⁶⁵ Amy then went into the bedroom.⁶⁶⁶
464. David gave evidence Amy went into the bedroom in the house for around 20 to 30 minutes. He said he also went in and out of the house getting the kids’ stuff out of their bedroom, putting the kids in the car and putting everything else in the car for Amy. He said he knocked on the bedroom door three or four times and spoke to her through the door to ask what things to get for the children and to ask her if she was all right. She kept saying, “*No, not yet. Not ready.*”⁶⁶⁷
465. David gave evidence after he put the two children in the car he turned on the heater and the music. He agreed he had his .22 rifle out and shot at some parrots that were eating the olives in the olive tree while waiting at the car. He said he was still outside with the kids, standing at the driver’s side of the Commodore, and Gareth was near the boot, when he heard the noise, like a loud thud.⁶⁶⁸ He said in his evidence at the inquest that he thought the sound was a gunshot, although he had not said this before.⁶⁶⁹
466. After hearing the noise, David gave evidence he ran into the house and knocked on the bedroom door, then opened it when he received no answer. He said he pushed the door open slowly, about a hand’s length, and the door hit Amy’s leg. He then pushed the door open a bit further and looked around the door, but did not go inside. He saw Amy behind the door, leaning against the wall, facing the door, with the gun between her legs. He thought her legs were straight and the gun was possibly in the middle, lying across one leg, although he wasn’t sure. He described the stock of the gun being near Amy’s feet.⁶⁷⁰ He did not recall where her hands were positioned.⁶⁷¹ He could tell that she was beyond any medical help at that stage.
467. After seeing Amy behind the door, he said “*the life came out of me, and I just could believe what had happened. I ran outside bawling my eyes out, screaming, yelling ‘Why?’*”⁶⁷² David said he only looked inside the room from the doorway for a couple

⁶⁶³ T 831.

⁶⁶⁴ T 831.

⁶⁶⁵ T 838.

⁶⁶⁶ T 839.

⁶⁶⁷ T 838.

⁶⁶⁸ T 840 – 842.

⁶⁶⁹ T 842.

⁶⁷⁰ T 871, 876.

⁶⁷¹ T 843 - 844.

⁶⁷² T 841.

of seconds, did not touch the gun, and shut the door when he left.⁶⁷³ David gave evidence Gareth came around the corner and asked him what was going on, and David said, “*She shot herself. Don’t go in there.*”⁶⁷⁴ Despite what he said to Gareth, Gareth then went inside to look for himself. David said he wasn’t sure if he spoke to Gareth in the hallway or outside the house.

468. David recalled he was crying on the floor when Gareth came back outside. They spoke about needing a phone, as neither had one with them, and Gareth said he thought Amy had both David’s phone and her own. He didn’t recall Gareth going in to look for them, but did say he wasn’t prepared to go into the room again himself. They then decided to go to the Serpentine Roadhouse. David explained in his evidence that he didn’t first go to his Dad’s house, as he didn’t have a key and wasn’t sure if Robert Simmons would be home. He also indicated the roadhouse was not much further away. Accordingly, they drove to the roadhouse, where David made the call to emergency services.⁶⁷⁵
469. David was asked at the inquest whether he remembered making a second call from the roadhouse. He appeared uncertain, but agreed he vaguely recalled calling his Dad to see if he was home. He said he was pretty sure he spoke to his Dad, but had no recollection of what, if anything, they discussed.⁶⁷⁶ David explained that turned his “*whole memory, everything, off for the last so many years*”⁶⁷⁷ and had tried to forget it.
470. David did recall taking the two children to Nancy’s house, and Nancy assaulting him by kicking and punching him. She then left in her car and he followed her back to the property, where he found the police had blocked the gate and Nancy was there in an agitated state.⁶⁷⁸ David agreed he waited at the gate and gave a statement to police, before later going up to the house, where he could see the police had seized the firearms. He denied saying to any of the police at the house that he needed to get his phone and it was a pink phone. He agreed he then went to his father’s house, then went to Gareth’s.⁶⁷⁹
471. The evidence of Amy’s friends that David had been violent to Amy in the past was put to David at the inquest. He responded, “*No. I’ve never laid a hand on Amy in my life,*”⁶⁸⁰ although he himself had been hit by Amy multiple times. He also claimed, for the first time, that a couple of weeks before Amy died he had fallen asleep and woken to find Amy had tied up his hands and feet and taped his mouth shut, before she eventually untied him.⁶⁸¹
472. David did agree that there was one time in their relationship when he was violent towards Amy, although he didn’t hurt her. He couldn’t recall when it was, but said it

⁶⁷³ T 843 – 844.

⁶⁷⁴ T 841.

⁶⁷⁵ T 845 – 846.

⁶⁷⁶ T 846 – 847.

⁶⁷⁷ T 847.

⁶⁷⁸ T 848.

⁶⁷⁹ T 849 – 850.

⁶⁸⁰ T 833.

⁶⁸¹ T 833.

was a similar event to the last time, in that he restrained her again and said, “*Look, if you’re going to keep carrying on like that you’re best off leaving instead of trying to make me upset.*”⁶⁸² However, he was adamant he had never hit her.⁶⁸³

473. On this particular day, David said that Amy made it clear to him that she was leaving him, but he said that she had “*flown off the handle a few times before,*”⁶⁸⁴ so he thought she was just going to go and calm down and come back. She had gone to her mother’s in the past, so he thought that was what she would do again. However, he agreed she was much more angry on this occasion that he had ever seen her before, and he agreed that he was yelling at her too, because she was smashing the house up.⁶⁸⁵ He also agreed that he was embarrassed and sad that this was happening in front of his friends, but he couldn’t choose when she got angry.⁶⁸⁶
474. David also gave evidence that he had been diagnosed with depression and was taking medicine at the time, and he said he had encouraged Amy to do the same because she wasn’t feeling “*100 per cent in herself.*”⁶⁸⁷ He remembered talking to her at night, lying in bed, about her mood and it wasn’t as good as she would normally feel. He indicated he saw some change after she started taking medication, as she was “*a lot more cheery*”⁶⁸⁸ in the morning. David said he had never spoken to Amy about self-harm or suicidal thoughts, other than Amy telling him that one of her close family members had attempted suicide multiple times. She had never shown any sign of being suicidal during any past arguments.⁶⁸⁹ David gave evidence that he had not expected Amy to commit suicide and did not know why she would commit suicide. He indicated she had a bit of an erratic temper, but he said he never thought it would go that far.⁶⁹⁰
475. David was asked about the last message Amy sent to him on his phone, the day before she died, which read:⁶⁹¹

I want this to work this time and I mean it. I know I’ve said it so many times but this time it’s going to be my aim to do it right for you and my girls. I want my family to stay together. I mean that I’m going to give it my ALL and make it work. But it’s all just words, like you say. So it’s up to you, babe. I’m over being a no-hoper and I need change to save me and what I love which is my little family. I just want you to be happy. So I will stand by you with whatever decision you make. Love you...

476. David said he didn’t have his phone, so he never read the message, and there is certainly no response to the message from him and no further message exchanges

⁶⁸² T 835.

⁶⁸³ T 862.

⁶⁸⁴ T 836.

⁶⁸⁵ T 836, 851.

⁶⁸⁶ T 837.

⁶⁸⁷ T 850.

⁶⁸⁸ T 850.

⁶⁸⁹ T 868.

⁶⁹⁰ T 851 - 852.

⁶⁹¹ T 854; Exhibit 4, p. 143 – altered slightly to add in full words for abbreviations, full spelling and punctuation.

between their two phones. David was asked what Amy meant in her message about being a no-hoper and needing change to save her, and he was unable to assist other than wondering if Amy had been abusing drugs or prescription medication.⁶⁹² However, he also agreed in questioning that Amy had become quite anti-drugs by that time and he hadn't seen her take illicit drugs for many years.⁶⁹³

477. David confirmed at the inquest his evidence that he was not in the room when the gunshot was fired that ended Amy's life and he had nothing to do with the gun being discharged.⁶⁹⁴ He maintained that he has been truthful at all times with police.⁶⁹⁵
478. A scenario was put to him by counsel on behalf of Amy's family on the basis that he was angry that Amy was blocking the bedroom door, so he forced his way, trapping Amy behind the door, held the shotgun by his side with it pointed at her head and Amy grabbed the barrel with her left hand before the gun went off and he dropped the gun in her lap and ran out and then concocted a story with Gareth that Amy shot herself. David denied each and every element of that scenario. David firmly maintained his earlier evidence that he was outside the house when he heard the noise and went inside and found Amy dead.⁶⁹⁶ David said in questioning, "I'm not lying and I'm not holding anything back. I know I've lost the best person in my whole life and now I have to live with it and listen to people like you and whoever is trying to blame me for it."⁶⁹⁷ David ended his answers to this line of questioning with the statement, "I don't know how I'm supposed to answer your questions when you're trying to blame me for something I never done."⁶⁹⁸
479. When he was re-interviewed by the police in 2019, the police asked him if he knew why he was being interviewed and David responded that it was, "*Because youse didn't do your job properly.*"⁶⁹⁹ He maintains that position still, noting that he has done nothing wrong and it is the fault of the police for not investigating Amy's death properly at the start that has left the cloud of suspicion hanging over him.⁷⁰⁰ He said at the inquest that he just wanted it all to be over.⁷⁰¹

REPORT OF PROFESSOR JOYCE

480. Professor David Joyce, a physician and expert in clinical pharmacology and toxicology, reviewed Amy's toxicology results and medical records and prepared a report for the Court on 17 February 2021. Professor Joyce identified that the citalopram found in Amy's system on her death would have come from her prescribed Escitalopram medication. As to the amounts, Professor Joyce offered the opinion that, notwithstanding any effect of postmortem redistribution and some

⁶⁹² T 854 – 855.

⁶⁹³ T 866.

⁶⁹⁴ T 854.

⁶⁹⁵ T 854.

⁶⁹⁶ T 874 - 876.

⁶⁹⁷ T 875.

⁶⁹⁸ T 875.

⁶⁹⁹ T 853; Exhibit 2, Tab 21, p. 5.

⁷⁰⁰ T 853 – 854.

⁷⁰¹ T 855.

differences between measurements, her postmortem concentration of citalopram was safe from a toxicological perspective and, if anything, a little higher than would be expected based upon her daily dosage. It was also consistent with efficacious therapy with that drug. Professor Joyce noted, of course, that the presence of the drug at a therapeutic level does not, of course prove that her anxiety, low mood and other psychiatric symptoms had responded to it.⁷⁰² However, it does indicate that there is no evidence to support the original police investigation's suggestion that Amy was not taking her antidepressant medication at the time of her death, and this may have played a role in her death.

MANNER OF DEATH

481. As I indicated at the outset of this finding, there is no dispute that Amy died as a result of a gunshot injury on 26 June 2014. The real focus of this inquest has been considering the evidence to see if I can be satisfied as to the manner in which Amy sustained that gunshot injury.
482. Although some forensic evidence was missing, due to the premature releasing of the scene and removal of Amy's body, there was enough evidence available to determine conclusively that Amy was shot, and died, in the position in which her body was found by police, seated behind the door to the main bedroom. She was shot in the right temple, with both barrels of the shotgun placed close to, or completely, against her right temple and her left hand was holding the muzzle close to her temple. The trajectory of the shot was largely horizontal, indicating the shotgun was held in effectively a straight line against her temple. Due to the nature of her injuries, Amy would have died almost instantaneously, although there may have been some involuntary jerking for a brief period.
483. What is not known is the exact position of Amy's arms and legs at the time she was shot, and exactly where the shotgun came to rest. This is primarily due to the number of people who had entered the room by pushing open the door against the resistance of Amy's body, as well as some witnesses moving some items, before any photographs of the scene could be taken.
484. Six people had opened the door to the room before Senior Constable Roberts took the photographs that were later used in the investigation, including for the biomechanical testing. On their own accounts, David Simmons, Gareth Price and Robert Simmons had all separately entered and left the scene before police arrived, and both Gareth and Robert admitted to disturbing the scene (without any sinister intent) while they were in the bedroom, with Gareth putting a towel on Amy's head and moving the shotgun away from her body, and Robert clearing the shotgun and putting the cartridges on the bedside table before putting the shotgun down again. Robert also removed covering her from her head, saw that it was Amy and put the covering back down on her and left the room.⁷⁰³

⁷⁰² Exhibit 8.

⁷⁰³ T 555 – 556; Exhibit 2, Tab 11A, p. 4-5

485. David Simmons, who on the evidence was the first to enter the room, said he pushed the door a little due to the resistance of Amy's body, and poked his head around the corner, before shutting the door. He believed her legs were straight at the time. Gareth indicated he pushed the door open with considerable force before realising Amy was behind it. Robert recalled the door was open (as far it could be with Amy's body behind it), and he had to pull it closed to see her as only her right foot was exposed when he first entered the room. Robert was shown a photograph of the bedroom door, partially opened, and gave evidence he thought the door was more open than that before he entered the room, although he wasn't entirely sure as his focus was on seeing the gun on the ground.⁷⁰⁴ Robert believed that from the way Amy was positioned behind the door when he saw her that Gareth would have had to push her out of the way and move her body to get in.⁷⁰⁵
486. When shown the photograph of Amy, Mr Simmons indicated he was absolutely sure her body had moved again from when he saw her, as he was certain he had seen her foot sticking out and he thought her legs were in a different position when he saw them, and the photograph did not match his recollection.⁷⁰⁶
487. Constable Blandford, Constable Dixon and Senior Constable Roberts also each then entered the room, and Constable Blandford and Constable Dixon left the room again, before the photographs were taken by Senior Constable Roberts. All of the police officers said it took a degree of force to open the door each time.
488. Senior Constable Roberts accepted he didn't really know where Amy's right leg had been at the time of death and conceded it was possible Amy's right leg could also have been up against the door prior to the first person pushing open the door and had moved before he entered and took the photographs. All he could say was that her body was in the position in the photographs after he entered the room. He also accepted the location of the shotgun at the time of Amy's death was not depicted in the photographs he took, as it had definitely been moved and unloaded before he entered the scene. Therefore, it is clear there was definite contamination of the scene before any opportunity for forensic examination was available to the police.⁷⁰⁷
489. The knowledge that there had been an unknown amount of force exerted on Amy's body before the photographs were taken, and the evidence of at least two witnesses that she appeared to be in a different position to what they saw her in, does raise some doubt about whether Amy's body was in the position in which she was photographed, immediately after the shotgun discharged.
490. The biomechanical reconstructions conducted by Professor Ackland did try to account for this, by positioning the model's body in various poses, then exerting force against her to see if it moved her hands and lower body into different positions. However, I accept the concerns expressed by Dr White, Senior Constable Inskip and Detective Superintendent Scantlebury, about the unknown impact from the use of a live model, and the absence of recoil, in replicating these scenarios. Professor

⁷⁰⁴ T 558 – 560; Exhibit 5, Photograph 1.

⁷⁰⁵ T 558.

⁷⁰⁶ T 562 - 563.

⁷⁰⁷ T 93.

Ackland acknowledged in his evidence that these were limitations and he had been forced to work on certain assumptions about the position Amy came to rest. Nevertheless, acknowledging the limitations in the testing, Professor Ackland still maintained that it was highly unlikely that Amy shot herself and the evidence is highly consistent with Amy being shot by another person, due to the position of her right hand.⁷⁰⁸ The other biomechanical expert, Dr Gibson, effectively agreed with Professor Ackland's conclusion.

491. I have indicated above that I have some reservations about how much weight I can give to the biomechanical expert opinions, given the limitations in the testing. However, I have indicated that I am persuaded by those opinions that the position of Amy's right hand in the photographs taken by Senior Constable Reynolds raises doubt as to whether Amy committed suicide, given the results of the biomechanical testing and their general expert opinions as to the positioning of her hand in that manner.
492. Counsel for the family also pointed to the absence of gun shot residue on Amy's right hand, but I consider this evidence is even less compelling, given the limitations of this type of forensic evidence and the qualifications put on it by Dr Pitts. Dr Pitts could not exclude the possibility that Amy pulled the trigger of the shotgun with her right hand and it then fell underneath her body before the GSR settled.⁷⁰⁹
493. The absence of fingerprints on the shotgun, and the blood inside the breech face and barrel chamber, also did not advance the case, given the other explanations provided by the expert witnesses.
494. The other important piece of objective evidence is the 'selfie' photograph Amy took with the shotgun, approximately 30 minutes before her death was reported to emergency services. In submissions on behalf of the family, counsel submits the most likely answer why Amy took the photograph was as, "Evidence of the firearm with which she had been threatened."⁷¹⁰ With great respect, I am unsure how such an inference arises on the evidence. There were witnesses to the fight between Amy and David, and while there was physical tussling and the use of a mirror by Amy, there was absolutely no suggestion that a firearm was involved. Amy spoke to her mother after taking that photograph, and mentioned that David had grabbed her by the throat and thrown her to the ground, but at no stage mentioned being threatened with a firearm. I would have expected, if David had done so, that Amy would have mentioned this to her mother, given the escalation of danger this would involve, and given the other details she provided were quite specific.
495. In my view, the existence of this photograph adds weight to the possibility that Amy committed suicide, although it is not conclusive. It shows she had access to the shotgun when alone in the bedroom, only minutes before she died as a result of it discharging. As a coroner, I have seen many similar photographs in other cases, where a person has taken a photograph of themselves with an item that they then subsequently use to take their own life. Often, they will send the photograph to

⁷⁰⁸ T 622 – 623.

⁷⁰⁹ T 475.

⁷¹⁰ Closing Submission Filed on Behalf of Amy's Family [69].

family or friends beforehand, but not always. The photograph is not, by definition, a suicide note, but it is often a way of documenting their intention. I accept that there might be other reasons why Amy took the photograph, including perhaps with an intention to send it as a warning to David that she had a firearm and might be prepared to protect herself with it. There is no evidence she sent the photo to him, but there was evidence that the mobile coverage in that area was often poor, which could explain why she did not send it, either as an indication of her intention to commit suicide, or as a warning.

496. I move now to the witness evidence, and in particular, the general opinions of witnesses as to whether Amy committed suicide, which was the conclusion of the first two police investigations.
497. On the night of Amy's death, the attending uniformed police officers thought Amy's death appeared suspicious, and they continue to hold a suspicion about the involvement of another person in her death even at the inquest.
498. The detectives who attended considered there was no evidence to suggest there was another person involved in Amy's death at that time. They denied that they prematurely closed their minds to the possibilities on the night. Detective Weidmann acknowledged that there was a missed opportunity to conduct a full forensic investigation, which he described as his "biggest regret"⁷¹¹ in this case. He did not think it would have changed the outcome, but he feels it would have meant the outcome was better explained and clearer.⁷¹² He still believed that Amy killed herself that night, based on what he saw.⁷¹³ Detective Kirkman indicated he has thought constantly about the decisions he had made and he accepts he failed to investigate Amy's death properly. However, like Detective Weidmann, Detective Kirkman still believes, based on the information available to him, that Amy shot herself and was not murdered.⁷¹⁴
499. Gareth Price was called to give evidence at the inquest, and he was consistent with his previous accounts generally. Gareth denied playing any role in Amy's death and said he did not think David did either.⁷¹⁵ Gareth confirmed in questioning that there was no chance David could have gone back into the house and shot Amy without him observing David do so. He denied ever discussing with David a story to tell the authorities about Amy's death and maintained he had given a true version of events.⁷¹⁶
500. Gareth did give evidence that David shot a parrot with a .22 rifle, which was later found in the bedroom, and he conceded David may have put it away there,⁷¹⁷ but Gareth was clear in his evidence that David was near him outside at the time he heard the 'thud', and he then followed David to the house and opened the door for

⁷¹¹ T 180.

⁷¹² T 180.

⁷¹³ T 214.

⁷¹⁴ T 234 - 235.

⁷¹⁵ T 344.

⁷¹⁶ T 344.

⁷¹⁷ T 327, 334.

him to enter. Shortly after, David ran back outside in a distressed state and asked Gareth if Amy was dead. Gareth then entered the house, smelt gunpowder in the air and found Amy fatally injured in the bedroom, where he then moved the gun and put a towel on her head.⁷¹⁸

501. At the conclusion of his inquest, Gareth indicated that he honestly and truly believes that Amy shot herself that day. He agreed that it was surprising that Amy would do this as she loved her daughters, but he maintained that this was what occurred.⁷¹⁹ Detective Senior Sergeant McDonald, an experienced criminal investigator, gave evidence that in his experience, “it’s very difficult for people to maintain a lie, particularly if you have more than one person involved.”⁷²⁰ Gareth Price did not strike me as the kind of person who would be able to maintain a lie for any length of time, nor the kind of person you would enlist in a conspiracy to conceal a homicide.
502. David Simmons also gave evidence at the inquest, and his evidence was largely consistent with the information he had previously provided to police, although his memory was less clear on some matters by the time of the inquest. David Simmons denied having any involvement in Amy’s death and maintained his position that Amy committed suicide.⁷²¹ In my view, there were aspects of David’s evidence that minimised the difficulties in his relationship with Amy, and his controlling and aggressive behaviour towards her, but there was nothing in his demeanour to suggest he was lying about how Amy died.
503. Further, I give some weight to the limited opportunity the two men had to concoct a story, given the short timeframe between when Amy spoke to Nancy and their arrival at the Serpentine Roadhouse.
504. Robert Simmons, David’s Dad, who admitted he had initially feared his son had killed Amy when he entered the room and saw Amy had been shot and had a towel on her head and the gun not within her reach, gave evidence that once he was aware Gareth had moved these items, he was satisfied that Amy had committed suicide. He said that he took account of what he had seen, being the third person in that room, and his own knowledge of firearms, as well as what David and Gareth told him, and “completely believed their story.”⁷²² Mr Simmons suggested that this was “why the police made their decision so quickly because the evidence in that room was so obvious.”⁷²³
505. Mr Simmons was asked whether he now had any concerns his son, David, was the person who pulled the trigger to end Amy’s life, to which he responded, “I’m 100 per cent certain he didn’t.”⁷²⁴ When asked if would lie to protect his son, he responded, “Of course not”⁷²⁵ and pointed to the fact that he had told the ‘000’ operator of his

⁷¹⁸ T 338, 339.

⁷¹⁹ T 344.

⁷²⁰ T 533.

⁷²¹ T 854.

⁷²² T 557.

⁷²³ T 557.

⁷²⁴ T 572.

⁷²⁵ T 572.

first impression that David might have killed Amy, without trying to conceal his concerns. Mr Simmons denied moving any items in the room to minimise suspicion on David and denied wiping the gun of fingerprints.⁷²⁶ Mr Simmons was firm that everything he had said in his evidence at the inquest was absolutely the truth.⁷²⁷

506. I considered Robert Simmons to be an honest, forthright witness. He certainly had not tried to hide his concerns about what David might have done when he spoke to the emergency services operator after going to the house at their request. Mr Simmons also gave evidence that he said to David at a later time, “I’m going to ask you once”⁷²⁸ and then asked David to talk him through exactly what happened when Amy died and to tell him if he had any involvement in her death.
507. Mr Simmons gave evidence that David has never been the same since that day. At the time of the inquest, Mr Simmons gave evidence that David’s drug and alcohol problems have spiralled out of control and he is now homeless and his mental and physical health is compromised. Mr Simmons said he had tried to help him at various times, but ultimately for his own health, and to protect other family members, he has had to stay away from David.⁷²⁹
508. Amy’s family and friends have provided information to counter any suggestion Amy committed suicide. They particularly point to Amy’s close and loving relationship with her daughters, which makes them believe she would not have strapped them into the car and left them to return to the house. They also assert that Amy had packed in her belongings presents for her daughter’s upcoming birthday in two days’ time, suggesting she was in control of her thoughts and planning for the future. Further, Amy packed items such as her passport and jewellery, which are items suggestive of Amy planning to leave and not return.⁷³⁰
509. Amy’s mother Nancy, who spoke to her last on the telephone shortly before her death, was specifically asked at the inquest whether she believed Amy would ever commit suicide? Nancy gave evidence Amy had never spoken with her about any thoughts of suicide and Nancy maintained that it was “not an action she would ever take.”⁷³¹ She did not believe Amy would ever voluntarily leave her girls and felt this was especially so given it was her youngest daughter’s birthday two days after her death.⁷³²
510. Weighing against the evidence of Amy’s family is the evidence that Amy had been diagnosed with anxiety and depression, which has a known association with an increased risk of suicide, and was clearly in a tumultuous relationship that had made her deeply unhappy at times. She had separated from David a number of times, but they had always got back together, which may well have created some sense of futility in her mind as to her prospects of ever escaping the relationship. Some of her

⁷²⁶ T 589.

⁷²⁷ T 572.

⁷²⁸ T 570.

⁷²⁹ T 572 - 573.

⁷³⁰ Exhibit 2, Tab 2,

⁷³¹ T 31.

⁷³² T 31.

messages to friends, and even to David, indicate that she felt caught in a vicious cycle, where she loved him and wanted to keep her family unit together, but felt like David would never change. I accept that Amy loved her daughters unconditionally, but many people who love their family sadly do commit suicide in moments of despair, without thinking through the tragic consequences. There is also the evidence of Rachael Price that Amy spontaneously raised the topic of suicide that day, although they did not discuss it in detail, and various accounts that she was behaving out of character and hysterical that night. Nevertheless, I give some weight to the evidence of Amy's family and friends that they do not believe it was in her character to ever take her own life.

511. It became clear by the end of the inquest that very few of the witnesses were neutral in their position as to how Amy died. While acknowledging the importance of the evidence, and opinion, of all of the witnesses, there are several opinions that stand out to me as carrying particular weight:

- The evidence of the three uniformed officers who first attended the night Amy died, namely Senior Constable Ian Roberts, First Class Constable Larry Blandford and Police Constable Philippa (Pip) Dixon. All three officers felt a genuine sense of disquiet after witnessing the scene with Amy still in situ;
- Detective Senior Constable Lehane, who was conducting a coronial investigation on the premise that Amy committed suicide, but who continued to have concerns all the way through her investigation about that conclusion. However, despite conducting a thorough coronial investigation, and testing the evidence where she could, Detective Lehane found no evidence to actually suggest that another person was involved in Amy's death;⁷³³
- Detective Senior Sergeant Capes, who was the Senior Investigating Officer for the Cold Case Homicide Review, which was agreed by all witnesses to be a thorough investigation, to the extent that the evidence available allowed. Detective Capes concluded that there were two primary possibilities left open on the evidence (putting to one side the very remote possibility of an accidental discharge of the firearm), namely suicide and homicide;⁷³⁴ and
- Former Homicide Detective Mr Iddles, who was requested to review this case by Amy's family as an experienced homicide detective with a widely known reputation for excellence. Mr Iddles agreed that there was no evidence to establish a prima facie case of homicide against any person in relation to Amy's death, but expressed the opinion that "you still can't rule out homicide"⁷³⁵ on the evidence that has been identified.

512. What I take from these various opinion is that, while the available evidence points to Amy having made an impulsive and tragic decision to take her life, a number of experienced police investigators continue to have reservations about this case and retain some doubt about the conclusion that Amy committed suicide. While none of them have been able to identify evidence that would go any way towards proving

⁷³³ T 541.

⁷³⁴ Tab 20B [29].

⁷³⁵ T 786.

that another person was involved in her death, they are also not satisfied that it can be ruled out, based upon their training, experience and gut instincts.

513. I am also alert to the fact that, due to the fact that the protected forensic area was lifted prematurely, a full and thorough forensic examination was not able to be conducted. This has left unanswered questions, which raise doubts about the conclusions that can be drawn from the available evidence.
514. Further, from my own experience as a coroner and from evidence provided at the inquest, I acknowledge that it is statistically rare for a female to commit suicide with a self-inflicted gunshot injury. While I accept that Amy might be unusual, particularly in Australia, in that she was a woman who had access to, and a familiarity with, firearms, it is still so unusual as to raise some concern.⁷³⁶
515. Therefore, while I accept that there is evidence that points towards Amy having made an impulsive and tragic decision to commit suicide, I have sufficient doubt to feel unable to exclude to the requisite standard the possibility that another person was involved in her death in some way. Much of this doubt comes from the poor standard of the initial police investigation, which has left many questions unanswered.
516. Given the above, it is not possible for me to make a finding as to how Amy died. Accordingly, I make an open finding as to the manner of death.

QUESTION OF REFERRAL

517. I note the history of this matter, including a previous referral by a coroner to the Director of Public Prosecutions under s 27(5) of the Coroners Act, which included the first report of Professor Ackland. Under that section, I may also make a referral to the Director of Public Prosecutions if I believe an indictable offence has been committed in connection with Amy's death.
518. Although the required standard of proof in an inquest is lower than the criminal standard of proof, in making my findings I have applied the Briginshaw principle,⁷³⁷ which requires a consideration of the seriousness of the nature of the allegations when considering what standard of proof is necessary to support a judicial finding. In this case, the allegations of involvement in/concealment of a homicide are patently very serious and could have grave consequences for individuals, so I consider I require particularly strong or cogent evidence to prove the allegations to my satisfaction.
519. Given I have made an open finding in relation to the manner of death, in my view there is insufficient evidence for me to be satisfied that an indictable offence has been committed in connection with Amy's death. Therefore, I do not propose to refer this case to the Director of Public Prosecutions for further consideration.

⁷³⁶ T 465 – 466, 469 – 470; 733; Exhibit 3, Tab 7B, Firearm death statistics

⁷³⁷ *Briginshaw v Briginshaw* (1938) 60 CLR 336, at 361 – 361, Dixon J

UNIFORMED POLICE AND DETECTIVES RELATIONSHIP

520. Constable Blandford said “it was pretty well sort of self-explanatory to anybody with any common sense ... that this has to be investigated further.”⁷³⁸ Constable Blandford had left the WA Police by the time of the inquest, but he had remained a police officer for some time after Amy’s death, and is still resident in Western Australia. He noted that, even at the time of the inquest, he had never been spoken to by any of the officers investigating Amy’s death (following the night of her death), which he considers “disgusting”⁷³⁹ in the context of the many concerns raised about the investigation.⁷⁴⁰
521. It is apparent that this matter had weighed heavily on the three uniformed police officers who first attended, and whose suspicions were disregarded by the detectives. Constable Blandford gave evidence he has been “reliving this weekly or monthly for six years.”⁷⁴¹ Constable Dixon said she had found the way in which this case was investigated upsetting and she still reflected on the matter often.⁷⁴² All three police officers gave clear and forthright evidence about what they saw and thought on the night and what they attempted to convey to Detective Kirkman and Detective Weidmann. It is a great pity their opinions were not given more weight.
522. Senior Constable Roberts was asked his views about the relationship between uniformed officers and detectives at the time of Amy’s death. He gave evidence that in his experience, on the whole, detectives work well with uniformed officers, but acknowledged that he did know a few who thought they were ‘better than anybody else’ and they put up a wall between uniform and plain clothes police. He noted that he had known Detective Weidmann for quite a while and considered he had “always seemed to be a genuine, nice fellow.”⁷⁴³ No opinion was expressed by Senior Constable Roberts about Detective Kirkman.
523. Constable Blandford considered there was a divide between detectives and uniformed officers, which he believed to be systemic in the police force, although he agreed that it did not apply to all detectives. Interestingly, Constable Blandford also commented that he thought Detective Weidmann “was a victim of the arrogance of Kirkman.”⁷⁴⁴ In Constable Blandford’s opinion, he attributed the errors that arose in the initial investigation to the arrogance of Detective Kirkman,⁷⁴⁵ and his criticism of Detective Weidmann was that he did not stand up to Detective Kirkman at the time.⁷⁴⁶
524. It was put to Detective Weidmann by counsel for the family that detailed and accurate note taking of observations and impressions and objective facts is ‘investigation 101’, which he accepted. Detective Weidmann also accepted that his

⁷³⁸ T 120.

⁷³⁹ T 128.

⁷⁴⁰ T 120.

⁷⁴¹ T 104.

⁷⁴² T 165.

⁷⁴³ T 75.

⁷⁴⁴ T 131.

⁷⁴⁵ T 132.

⁷⁴⁶ T 134.

note taking in this case was very inadequate and he could not explain why he did not take more comprehensive notes. It was put to him that the entire 45 minutes to an hour was encapsulated in a total of two lines in his memorandum, to which he agreed.⁷⁴⁷

525. Detective Weidman acknowledged he should have made a record of their critical decisions, to justify why something was done or not done. He could not give a reason why this was not done by him but denied it was because he was not particularly interested in the investigation. Detective Weidmann accepted the responsibility lay with him to document his observations and thought processes appropriately, and did not try to pass the blame onto Detective Kirkman.⁷⁴⁸ He expressed regret for his failure to take appropriate notes in this case and indicated that his practice now is to take much more extensive notes. It was suggested to him that his attendance report constituted his notes, which he agreed, but he accepted overall his notetaking was inadequate.⁷⁴⁹
526. Detective Weidmann also agreed that the fact that Amy had put the children in the car then gone back into the house and apparently committed suicide was “not normal” and an unusual feature, but on that night it didn’t strike him as a feature that would weigh against suicide or render the death suspicious. He also agreed that it was an unusual feature of the case that David Simmons’ father had cleared the firearm before the arrival of police, although it is not clear if he was aware of this at the time. He was, however, aware that the firearm had been moved by Gareth.⁷⁵⁰
527. Detective Kirkman also did not take any notes at the scene, other than drawing a small scene map. He did not have any involvement in reviewing Detective Weidmann’s attendance report as he commenced seven weeks of long service leave at the end of his shift the night Amy died. However, he recalled he had telephone conversations with Detective Weidmann while he was preparing the attendance report.⁷⁵¹
528. Detective Kirkman made an admission early in his evidence that he had made the wrong decision on the night in question, which he attributed to arrogance and overconfidence. He finished his evidence with the concession that his failure to conduct a thorough investigation had, at least from Amy’s family’s perspective, left them feeling that there was a potential missed opportunity to find her killer. He was candid in stating, “I made a big error.”⁷⁵² He also gave a somewhat begrudging apology to the family for making that error.
529. I note the outcome of the IAU review, and Detective Kirman and Weidmann’s acceptance of the conclusions of that review.

⁷⁴⁷ T 197.

⁷⁴⁸ T 195 – 196.

⁷⁴⁹ T 197, 212.

⁷⁵⁰ T 201 – 202.

⁷⁵¹ T 216 - 217.

⁷⁵² T 226.

530. However, as identified in the submissions filed on behalf of Amy's family, the outcomes of that review do not really address the relationship between the uniformed police and the detectives, and whether the behaviour of the two detectives on the night is indicative of a systemic problem in the WA Police.
531. I note that both Detective Weidmann and Kirkman minimised in their evidence any suggestion of a 'heated' discussion with the uniformed officers about their decision to conclude the death was an obvious suicide. In that regard, I prefer the evidence of Senior Constable Reynolds, Constable Blandford and Police Constable Dixon. Those three officers were very clear about their concerns at the time and I have no doubt they conveyed them with appropriate force. The fact that they were not then consulted in the Operation Jundee investigation is surprising and concerning, given the conclusions of the two attending detectives had been brought into question. I note Detective Superintendent Scantlebury indicated at the inquest he was going to take steps to speak to them after the inquest, and I hope that conversation included asking them for suggestions on how they could be treated with more respect in the future.
532. I note that Detective Superintendent Scantlebury gave evidence about significant cultural change within the organisation since Amy's death, and he did refer to CIS officers attending scenes with Homicide Squad officers as part of that change. However, it was not clear if that cultural change also went towards fostering of better relationships and consultation between uniformed officers and detectives generally. However, I note the evidence of Senior Constable Reynolds below that, with the creation of the State Operation Command Centre (SOCC), if faced today with a similar disagreement with a more senior officer, he could call the SOCC. Further, he would be likely to go directly to those units as the first point of call, rather than call a crime car.⁷⁵³
533. This does not mean that the WA Police should not give due regard to the need to consider what occurred in this case and consider what more can be done to improve the relationships between uniformed police and detectives generally. However, it does give me some confidence that, in the event of a similar situation, the uniformed police now have a clear pathway in which to raise their concerns.

CURRENT POLICE PROCEDURES

534. Evidence was given that if a similar situation were to occur today, the matter would be dealt with very differently.
535. Detective Superintendent Scantlebury explained that in the last two years the creation of the SOCC has made a major change to how police officers attending a scene can obtain advice. In addition to the greater involvement of the homicide officers, the SOCC is staffed by senior officers 24/7, including a police inspector on every shift, a detective sergeant on each shift and experienced sergeants and senior sergeants. If officers going to incidents have any concerns, they can call these experienced officers at SOCC to get expert opinions and assistance. Within SOCC there is also an intelligence cell that monitors what jobs people are going to, so if an incident occurs

⁷⁵³ T 96 – 97.

that meets certain criteria, they can contact the relevant specialist teams, such as homicide. Therefore, there is a “lot more supervision and accountability.”⁷⁵⁴

536. This was consistent with the evidence of Senior Constable Roberts, who said if today he was faced with a similar disagreement with a more senior officer, like he had with Detective Sergeant Kirkman, he could call the District Operations and the SOCC, who could provide further advice and support. Further, he would be likely to go directly to those units as the first point of call, rather than call a crime car.⁷⁵⁵
537. Detective Weidmann gave evidence that, with hindsight and the benefit of the additional training, knowledge and experience he now has as a Detective Sergeant, in a similar situation he would get a uniformed officer to go into the scene with him and show him around the scene to provide their views, request forensics attend and call the Homicide team and run it past them. He noted that forensics will not always attend if it is not clear that the death is suspicious, but it would be something he would at least canvas with them.⁷⁵⁶
538. Detective Kirkman gave evidence that he does things “remarkably differently now, and so do [his] staff.”⁷⁵⁷ He noted that there is now a 24 hour, on call service to detectives at the Homicide Squad and there is also the SOCC available to contact. It is his experience they will always show up if they receive a call.⁷⁵⁸ Detective Kirkman gave evidence if he was faced with a similar scene to the one he saw on the night of Amy’s death, he would “100 per cent”⁷⁵⁹ call Homicide Squad, who he would expect to attend, and forensics would also attend, as that is the way it is done now. He agreed that it is important to take steps to ensure everything necessary is done at the first instance, as you “never get a second chance.”⁷⁶⁰
539. Sergeant Nind, who is now the Operations Manager for FFO, gave evidence that there have been a number of key structural and cultural changes to the Forensic Division since 2014. He indicated that, from his perspective, one of the biggest changes that has occurred with WA Police Forensics is a lowering of the threshold where investigators call in FFO. In effect, he indicated that they call forensic officers in a lot sooner, if there are any questions at all, and it is incumbent then on the forensic field officers to make the decision whether they “believe that there could be suspicion or not, based on a number of factors in regard to the death investigation.”⁷⁶¹
540. This has been made possible through the introduction of a dedicated Operations Desk with an Operations Manager (currently Sergeant Nind) who oversees the forensic response for WA Police. The desk is staffed by a Sergeant, and in the hours when it is not staffed the call is taken by a team supervisor who will ensure a scene is

⁷⁵⁴ T 750; Exhibit 3, Tab 7 [35] – [43].

⁷⁵⁵ T 96 – 97.

⁷⁵⁶ T 179 – 181.

⁷⁵⁷ T 234.

⁷⁵⁸ T 242.

⁷⁵⁹ T 243.

⁷⁶⁰ T 243.

⁷⁶¹ T 381.

preserved until the Operations Desk is available. The call may not result in the attendance of FFO at the scene, but it will mean that someone in the operations area, such as Sergeant Nind, will give their attention and expertise to the case. They are assisted by being able to view a live video feed from the incident scene. If they have concerns, the Sergeant can also contact the SOCC, to discuss the matter further. Sergeant Nind described it as a “constant flow of information”⁷⁶² now, with a more proactive approach on the part of forensics.⁷⁶³

541. If a situation like Amy’s death were to occur now, Sergeant Nind gave evidence that a Sergeant from the Operations Desk would be able to be contacted and make an assessment and determine if FFO officers should attend the scene, and more often than not they will go to the scene and determine if it is suspicious or not. The Sergeant at the Operations Desk would also be monitoring the CAD jobs, so might initiate contact with officers at the scene. Sergeant Nind was confident in a case like Amy’s, forensic field officers would be willing to attend, given how the scene presented, and it would be a multi-discipline scene.⁷⁶⁴ He also believes it is much less likely that a case like this could end up having a PFA lifted without some questioning by FFO.⁷⁶⁵
542. He believes without the contamination, there is definitely more information that forensic officers could have obtained, which could potentially have assisted the investigators.⁷⁶⁶
543. Detective Superintendent Scantlebury also provided current information about how the WA Police manages family violence, noting that there has been a lot of evidence in this inquest about coercive and controlling behaviours, verbal abuse and possible physical abuse. Prior to coming back to the Major Crime Division, Detective Superintendent Scantlebury was the superintendent of the State Family Violence Division, so he has a very current understanding of that area. During his time there, the officers in the unit delivered on an election promise in relation to face-to-face training for all police officers of senior sergeant level and below in relation to family violence, as well as commissioned officers who elect to do so. Detective Superintendent Scantlebury acknowledged that back in 2014, while some of these behaviours were understood, the more recent training is hoped to have improved the ability of all police officers to recognise coercive and controlling behaviours and other forms of family violence, beyond simply physical abuse, and there is also a code of conduct that has been prepared and is due to be endorsed.⁷⁶⁷
544. Detective Weidmann gave evidence that from his own experience, there is a lot more awareness now within the WA Police of the sometimes hidden nature of domestic violence, than at the time of Amy’s death.⁷⁶⁸ He agreed that in a similar investigation now, he would ensure that he spoke to family or friends to confer about the

⁷⁶² T 399.

⁷⁶³ T 398 – 399, 404.

⁷⁶⁴ T 382 – 383; Exhibit 2, Tab 25, Sergeant Bradley Nind.

⁷⁶⁵ T 406.

⁷⁶⁶ T 384, 404.

⁷⁶⁷ T 751 – 752, 777.

⁷⁶⁸ T 178.

relationship, rather than simply checking the police computer and database for any official reports.⁷⁶⁹ He also agreed that it would be important to talk to the partner directly, although he believes in this case Detective Kirkman did that.⁷⁷⁰

545. Finally, Detective Superintendent Scantlebury provided evidence about changes to the relationship between the Coronial Investigation Squad (CIS) and the Homicide Squad since 2014. He advised that a number of key changes to this relationship has improved the agency's overall response to sudden deaths. The changes include regular meetings between the senior officers in these squads, as well as the Drug and Firearm Squads, and an arrangement that Homicide Squad and CIS officers regularly co-respond to sudden, unexplained deaths to ensure there is good communication and appropriate transfer of knowledge and experience. The Homicide Squad will, however, now retain any investigations that it has initiated, and complete the report for the Coroner, rather than transferring it to a CIS officer, as was done when Operation Jundee concluded in this case.⁷⁷¹
546. I note Mr Iddles, who had sat through Detective Superintendent Scantlebury's evidence before giving evidence himself, considered the recent changes that have been made within the WA Police in terms of potential homicides, particularly those involving firearms and allegations of family violence, to be positive steps that hopefully will ensure similar investigative failures won't occur again.⁷⁷²

CONCLUSION

547. Amy was a young, vibrant mother of two daughters and a much loved daughter, sister, niece and friend. When she died suddenly on 26 June 2014 her death rocked her family to its core. She had only recently survived a serious injury from a car accident, so to then lose her in such violent circumstances seemed too great a tragedy.
548. As soon as she became aware of Amy's death, Amy's mother Nancy expressed her belief publicly that Amy's partner, David, was in some way responsible, based upon the volatile nature of their relationship and the hysterical phone call she had received from Amy only a short time before her death. However, the attending detectives did not speak to Nancy, or any other member of her family apart from David, on the night before determining that Amy's death was a suicide.
549. Amy's family did not then, and do not now, accept that Amy took her life. They have shown courage and commitment to seeking the truth and demanded that a full and proper investigation was conducted into Amy's death. It has taken many years, but I hope that Amy's family now feel that that a full investigation and inquiry has taken place. Unfortunately, due to some premature decisions by the attending detectives on the night Amy died, some aspects of the investigation will never be able to be

⁷⁶⁹ T 199.

⁷⁷⁰ T 199.

⁷⁷¹ Exhibit 3, Tab 7, [44] – [49].

⁷⁷² T 786.

completed, as the forensic opportunity was lost, but what could be done has now been done.

550. I have considered all of the available evidence that has been obtained in all of the police investigations, and obtained through the inquest process itself, and I have concluded that there is not enough evidence for me to make a formal finding as to how Amy died. I regret that I am unable to provide all of the answers that Amy's family are seeking, but I am required to base my findings on the evidence and there are too many unknowns in this case.
551. I extend my deepest condolence to Amy's family and friends, who have followed this matter all the way through and put their energy and efforts into seeking the truth. They have demonstrated, in their commitment to the process, their love for Amy and her daughters. I understand that this finding is unlikely to bring them closure, but I hope at least that they will take some satisfaction from having brought to the light the failings in the initial investigation and ensured that all proper measures were taken to investigate Amy's death in the way it should have been from the very start.

S H Linton
Coroner
9 September 2021