



CRIMINAL JUSTICE
COMMISSION

A REPORT OF AN INVESTIGATION
INTO THE ARREST AND DEATH
OF DANIEL ALFRED YOCK

MARCH 1994

© Criminal Justice Commission, 1994

Apart from any fair dealing for the purpose of private study, research, criticism or review, as permitted under the COPYRIGHT ACT, no part may be reproduced by any process without permission. Inquiries should be made to the publisher Criminal Justice Commission (Queensland).

ISBN 0-7242-5787-X

Printed by Goprint, Brisbane.



CRIMINAL JUSTICE COMMISSION

Telephone: (07) 360 6060

Facsimile: (07) 360 6333

Your Ref.:

Our Ref.:

Contact Officer:

The Honourable D Wells MLA
Minister for Justice and Attorney-General
and Minister for the Arts
Parliament House
George Street
BRISBANE QLD 4000

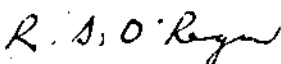
The Honourable J Fouras MLA
Speaker of the Legislative Assembly
Parliament House
George Street
BRISBANE QLD 4000

Mr K Davies MLA
Chairman
Parliamentary Criminal Justice Committee
Parliament House
George Street
BRISBANE QLD 4000

Dear Sirs

In accordance with Section 26 of the *Criminal Justice Act 1989*, the Commission hereby furnishes to each of you its Report on an inquiry conducted by Mr L F Wyvill QC into the arrest and death of Daniel Alfred Yock and related matters.

Yours faithfully


R S O'REGAN QC
Chairman



CRIMINAL JUSTICE COMMISSION

Telephone: (07) 360 6060
Facsimile: (07) 360 6333

Your Ref.:
Our Ref.:
Contact Officer:

23 March 1994

Mr P M Le Grand
Director
Official Misconduct Division
Criminal Justice Commission
557 Coronation Drive
TOOWONG 4066

Dear Mr Le Grand

I refer to a resolution of the Commission dated 12 November 1993 to undertake an investigation, presided over by me, into certain matters in relation to the arrest and death of DANIEL ALFRED YOCK on 7 November 1993.

I enclose my report of my investigation in order that, in the discharge of your responsibility under Section 33 of the *Criminal Justice Act 1989*, you may report to the Chairperson.

I have this day written to the Chairperson advising that I have given my report to you.

Yours sincerely

L F WYVILL QC
Commissioner

CONTENTS

	PAGE
EXECUTIVE SUMMARY	(vii)
BACKGROUND	(vii)
The Criminal Justice Commission's involvement in the matter	(vii)
General issues about taking evidence at the hearing ...	(viii)
The purpose of the report	(ix)
A brief outline of events	(x)
Chronology	(xii)
Paragraph (a) of the Terms of Reference	(xiv)
The cause of death	(xx)
The unreliability of aspects of Domrow's evidence	(xxi)
Allegations of the fabrication of evidence by Blair, Fisher, Archie Gray and Charles Riley	(xxii)
Paragraphs (b) and (c) of the Terms of Reference ...	(xxii)
Conclusion in relation to paragraphs (b) and (c) of the Terms of Reference	(xxiii)
Beat Policing of the West End Police Division	(xxiii)
Recommendations with respect to matters revealed by the evidence	(xxiv)
CHAPTER 1	1
INTRODUCTION	1
1.1 Background	1
1.2 The Criminal Justice Commission's involvement in the matter	2
1.3 Resolution of the Commission to conduct public hearings	2
1.4 The jurisdiction of the Criminal Justice Commission	3
1.5 The purpose of this report	5
1.6 The question of the sufficiency of evidence	5
CHAPTER 2	7
THE INVESTIGATION	7
2.1 Interviews with witnesses	7
2.2 The obtaining of expert evidence	8
2.3 Public hearing	8
2.3.1 Duration	8
2.3.2 Subject Matter	9

	PAGE
2.3.3 Transcript	9
2.3.4 Leave to Appear	9
2.3.5 The Taking of Evidence	10
CHAPTER 3	12
PARAGRAPH (A) OF THE TERMS OF REFERENCE	12
3.1 People involved	12
(A) The group comprising Daniel Alfred Yock and his companions	12
Daniel Alfred Yock	12
Joseph Norman Blair	13
Damien James Bond	13
Lindsay Samuel Charles Fisher	13
Archie James Gray	13
Glen Tony Gray	13
Charles Livingstone Riley	13
Edward Horton Riley	14
Daniel Matthew Weazel	14
(B) The police officers who became involved with Yock and members of his group between Musgrave Park and the Oxford Street Hostel	14
Gregory Ian Bishop	14
Michael Joseph Crowley	14
Gary David Crozier	14
Suzette Michelle Domrow	15
Scott Andrew Harris	15
Richard John Symes	15
3.2 A brief outline of events	15
3.3 Chronology	17
3.4 Categories of events	19
3.4.1 Events prior to Musgrave Park	19
3.4.2 Events in Musgrave Park	19
(A) The versions of Aboriginal witnesses	19
Joseph Norman Blair	19
Damien James Bond	20
Lindsay Samuel Charles Fisher	20
Archie James Gray	20
Glen Tony Gray	21

	Charles Livingstone Riley	21
	Edward Horton Riley	22
	Daniel Matthew Weazel	22
(B)	The versions of the police officers	22
	Suzette Michelle Domrow	22
	Scott Andrew Harris	23
(C)	The version of a civilian witness	23
	Hilton Daniel Purser	23
3.4.3	Events in Edmondstone Street	24
(A)	The versions of the Aboriginal witnesses	24
	Joseph Norman Blair	24
	Damien James Bond	24
	Lindsay Samuel Charles Fisher	25
	Archie James Gray	25
	Glen Tony Gray	25
	Charles Livingstone Riley	26
	Edward Horton Riley	26
	Daniel Matthew Weazel	27
(B)	Versions of the police officers	27
	Suzette Michelle Domrow	27
	Scott Andrew Harris	28
(C)	The version of a civilian witness	30
	Hilton Daniel Purser	30
3.4.4	Events at SEQEB Park and the arrest of Yock	30
(A)	The versions of the Aboriginal witnesses	30
	Joseph Norman Blair	30
	Damien James Bond	31
	Lindsay Samuel Charles Fisher	32
	Archie Gray	32
	Glen Gray	33
	Charles Livingstone Riley	33
(B)	The versions of the police officers	34
	Gregory Ian Bishop	34
	Michael Joseph Crowley	35
	Gary David Crozier	35
	Suzette Michelle Domrow	35

	Scott Andrew Harris	36
	Richard John Symes	37
3.4.5	Yock's condition whilst on the ground and on being placed in S255	39
(A)	The versions of the Aboriginal witnesses	39
	Archie Gray	39
	Glen Tony Gray	39
	Charles Livingstone Riley	40
(B)	The versions of the police officers	40
	Gary David Crozier	40
	Andrew Bernard Caris	41
	Suzette Michelle Domrow	41
	James Francis Leyendeckers	42
	David Rountree Parker	42
	Warren Lindsay Whittaker	43
(C)	The versions of civilian witnesses	43
(i)	Residents at 2 Brereton Street	43
	Vincent Antonio Costas	43
	Kenneth Robert McNamara	43
	Kenneth Norris Kent Martin	44
	Hermann Edgar Schraut	44
	Damien John Waters	44
(ii)	Resident at 6 Brereton Street	45
	Carolyn Jane Davies	45
(iii)	Residents at 8 Brereton Street	45
	Dorothy Elizabeth Williams	45
	Judith Pamela Williams	46
(iv)	Passers-by	46
	Julie Anne Cosgrove	46
	Dennis Michael Ryan	46
	Rhonda Lenore Ryan	47
3.5	Events at the hostel	47
3.6	Events between leaving the hostel and arrival at the watchhouse	48
(A)	The versions of the Aboriginal witnesses	49
	Joseph Norman Blair	49
	Archie James Gray	49

	PAGE
	49
(B) Glen Tony Gray	49
(B) The versions of the police officers	50
Gregory Ian Bishop	50
Andrew Bernard Caris	50
Gary David Crozier	50
Suzette Michelle Domrow	50
Scott Andrew Harris	51
James Francis Leyendeckers	51
Richard John Symes	51
(C) The versions of civilian witnesses	52
Vincent Antonio Costas	52
Mabel Ann Hopkins	52
Roy James Hopkins	52
Kenneth Robert McNamara	52
Hermann Schraut	53
Lyndall Fay Turbane	53
Damien John Waters	53
Judith Pamela Williams	53
Jonathan Wilson	54
3.7 Events at the watchhouse, in the ambulance and at the hospital	54
3.8 Medical evidence as to the cause of death	56
3.9 Issues	62
3.10 Conclusions	63
3.10.1 Were Yock and his friends acting in a disorderly manner on 7 November 1993?	63
3.10.2 Was excessive force used to arrest Yock?	74
3.10.3 Was the arrest of Yock lawful and, if so, appropriate?	77
3.10.4 Was Yock mistreated following arrest? . . .	78
(a) Alleged kicking by Domrow	78
(b) Alleged punching	80
(c) Alleged excessive tightness of handcuffs	80
3.10.5 What was Yock's medical condition when placed in S255 and was he in need of medical attention?	81

	PAGE
3.10.6 Did Yock's condition change whilst in S255 and, if so, how, and did this come to the notice of his custodians?	84
3.10.7 Did any failure to exercise care contribute to Yock's death?	88
3.10.8 Other allegations of official misconduct and/or misconduct against certain police officers	93
3.11 Conclusions with respect to paragraph (a) of the Terms of Reference	95
3.12 The unreliability of aspects of Domrow's evidence	96
3.13 Allegations of the fabrication of evidence by Blair, Fisher, Archie Gray and Charles Riley	97
 CHAPTER 4	 98
PARAGRAPHS (B) AND (C) OF THE TERMS OF REFERENCE	98
4.1 Introduction	98
4.1.1 Conclusion	98
4.2 Beat Policing of the West End Police District . . .	99
 CHAPTER 5	 101
RECOMMENDATIONS WITH RESPECT TO MATTERS REVEALED BY THE EVIDENCE	101
 APPENDICES	
1. Resolution by the Commission to undertake an investigation	
2. List of Exhibits	
3. List of Witnesses	
4. Report to the Commission concerning circumstances of the Death of Yock	
5. Letter from Queensland Health dated 9.11.93 re Yock	
6. Letter from Dr R Byron Collins dated 10.12.93	
7. Parts B and C - List of Submissions received	

EXECUTIVE SUMMARY

BACKGROUND

On 7 November 1993, Daniel Alfred Yock with eight of his companions attended the Southbank Parklands ("Southbank") and thereafter went to Musgrave Park, South Brisbane where they consumed a quantity of alcohol. At approximately 5.45pm, they left Musgrave Park and Yock and six of his companions proceeded down Edmondstone Street on their way to the Oxford Street Hostel situated at the corner of Brereton and Oxford Streets, West End. Police who had been patrolling the area followed them along Edmondstone Street, across Melbourne Street and up to Boundary Street where the group arrived at SEQEB Park, which is approximately 100 metres from the hostel. The group was intercepted by the police and Yock was arrested and placed in the rear of a police van with call sign S255. The van was then driven to the hostel in Oxford Street where a second person was arrested and placed in the rear of the police van with Yock.

The police van patrolled the area for approximately 17 minutes and then proceeded to the Brisbane City Watchhouse, arriving there at about 6.25pm. Upon arrival Yock was found not to be breathing and without a pulse; an ambulance was called and resuscitation attempts were undertaken. Yock was taken by ambulance to the Royal Brisbane Hospital and, despite further resuscitation attempts, he failed to respond and was pronounced dead.

THE CRIMINAL JUSTICE COMMISSION'S INVOLVEMENT IN THE MATTER

The Duty Inspector at the Police Communications Centre was notified of Yock's death at about 8.15pm on 7 November 1993 and the Criminal Justice Commission was advised. Detective Inspector Ross Dwyer attended the watchhouse to oversee the police investigation into the circumstances of the death.

On 8 November 1993, following discussions between the Director of the Commission's Official Misconduct Division and the Acting Deputy Commissioner of the Police Service, and pursuant to section 37(6) of the Criminal Justice Act 1989 as amended ["the Act"] (formerly section 2.28(6)), the Director, as a delegate

(viii)

of the Chairperson, directed in writing, that responsibility for the investigation be transferred to the Commission, together with any material and information in relation to the incident.

On the day following Yock's death, a violent brawl occurred involving members of the Aboriginal community and police officers in the vicinity of Police Headquarters in Brisbane. Widespread publicity was given by the media to allegations made by members of the Aboriginal community that Yock had been violently assaulted by the police involved in his arrest and that he had been kicked to death.

On 12 November 1993, the Commission resolved to hold a public hearing before the Acting Chairperson of the Commission, Mr L F Wyvill QC, into the allegations which had been made by members of the Aboriginal community. The Terms of Reference which the Commission resolved were as follows:

- (a) *Whether there is evidence of any criminal offence, official misconduct in any other form, misconduct including neglect or violation of duty by any member of the Queensland Police Service in relation to the death of Daniel Alfred Yock;*
- (b) *Whether the relationship between members of the Police Service and members of the Aboriginal community had a bearing on the circumstances of the apprehension of Daniel Alfred Yock; and if so,*
- (c) *Whether any changes are necessary to Police Service policies, procedures or operational instructions in relation to the apprehension and management of Aboriginal persons in similar circumstances.*

At the commencement of the hearing, on 17 November 1993, leave to appear was sought and granted to lawyers appearing on behalf of the following parties:

- (a) The Minister for Police in the State of Queensland;
- (b) The six police officers involved in the apprehension and arrest of Daniel Alfred Yock;
- (c) The Aboriginal Legal Service, each of the Aboriginal witnesses interviewed in relation to the investigation, and the family of the deceased.

GENERAL ISSUES ABOUT TAKING EVIDENCE AT THE HEARING

Counsel appearing on behalf of the Aboriginal Legal Service and the Aboriginal witnesses and the family of the deceased submitted that the taking of evidence

from those witnesses should not occur on the Commission's premises and relied on a report of Dr Diana Eades, a sociolinguist with expertise in the use of English by Aborigines.

Dr Eades concluded that, of the six of Yock companions whom she had interviewed, none were what she described as "*bi-culturally competent*" and, in her opinion, they would be disadvantaged by giving evidence in the usual manner. Dr Eades recommended that the disadvantage be addressed by the witnesses giving evidence in the form of a written statement rather than examination-in-chief and that their evidence be given in some "*Aboriginal space*".

This submission was not acceded to; however it was accepted that some change to the normal procedures could be made to accommodate the giving of evidence by the Aboriginal witnesses and this included the tendering of their statements as their evidence-in-chief and having somebody of their choice nearby while they were giving evidence.

Further, no uniformed police officers were allowed in the hearing room while the youths gave evidence.

In respect of other witnesses, with the exclusion of the police officers involved in the arrest of the deceased, evidence-in-chief was given by those witnesses by tendering their statements and having them read into the record. The police officers involved in the events surrounding the arrest chose to give their evidence in full. However, their statements were also tendered as exhibits.

Where witnesses were not required by any of the parties for cross-examination and counsel assisting determined that oral evidence was not required from them, their statements were tendered as exhibits.

THE PURPOSE OF THE REPORT

This report was made to the Director of the Official Misconduct Division so that he, in compliance with section 33 of the Act (formerly section 2.24), could make a report to the Chairperson with a view to a decision by him as to whether the evidence obtained as a result of the investigation warrants any one or more of the following courses -

- (a) a report to the Director of Prosecutions, or other appropriate prosecuting authority, with a view to the prosecution of such criminal charges as the Director of Prosecutions or other authority considers warranted;

(x)

- (b) a report to the Executive Director of the Commission with a view to proceedings before a Misconduct Tribunal in relation to a disciplinary charge or charges of official misconduct;
- (c) a report to the Commissioner of the Police Service with a view to disciplinary action against a police officer being taken in respect of the matter to which the report relates.

Section 33 of the Act thus requires that regard be had not only to the existence of evidence but also to its sufficiency for certain purposes. It would not be appropriate for a report to be made to any of the authorities mentioned above, if, whatever evidence there may be of the commission of a criminal offence or official misconduct or misconduct or other disciplinary breach, that evidence is, when considered in light of all of the evidence, insufficient to warrant a prosecution or other proceeding. The question of the sufficiency of evidence requires some assessment to be made of its weight and its reliability and in making that assessment it is essential that the standard of proof required to establish guilt in criminal proceedings and the standard of proof required to establish guilt in disciplinary proceedings be borne in mind.

A BRIEF OUTLINE OF EVENTS

On 7 November 1993 Daniel Yock together with Joseph Blair, Damien Bond, Lindsay Fisher, Archie Gray, Glen Gray, Charles Riley, Edward Riley and Daniel Weasel went to Southbank. After an altercation between Yock and an unknown person, the group left Southbank and travelled to Musgrave Park. Some alcohol was purchased at the Melbourne Hotel and consumed by the group in Musgrave Park.

Whilst the group was in Musgrave Park, Constables Domrow and Harris were patrolling the area surrounding the park in S255. The group came to their attention allegedly because they were abusive and one of them exposed himself.

After a period of time the group left the park. Shortly after leaving the park Weasel and Edward Riley left the group and proceeded along Russell Street to return to the Baynes Street Hostel whilst the balance of the group travelled down Edmondstone Street with a view to going to the Oxford Street Hostel. This group was followed by Domrow and Harris as they proceeded down Edmondstone Street, across Melbourne Street then up Edmondstone Street to its junction with Boundary Street then to a nearby area known as SEQEB Park on the corner of Boundary and Brereton Streets, West End. Before the group reached that location Harris made a number of calls on the police radio seeking assistance, firstly, from a Dutton Park car with call sign S591 and thereafter from any car in the vicinity. A Dutton Park

Crime Squad vehicle with call sign S592 containing Acting Sergeant Symes and Senior Constable Bishop responded to the general call for assistance.

The group entered SEQEB Park and Domrow and Harris waited at or near a stop sign near the junction of Boundary and Edmondstone Streets. As soon as Symes and Bishop arrived at that junction they and Domrow and Harris drove into Brereton Street where both vehicles stopped near SEQEB Park. The group dispersed; Yock ran but was intercepted and arrested by Symes. In the course of the arrest Yock went to the ground. Bishop and Harris then pursued members of the group towards the hostel leaving Symes and Domrow with Yock. Shortly after the arrest of Yock another Dutton Park vehicle (S210), containing Sergeant Crowley and Constable Crozier, arrived at the scene. Crowley handcuffed Yock's hands behind his back. Crowley and Symes then left Domrow and Crozier with Yock and drove down to the Oxford Street Hostel in which direction all bar one of Yock's companions had travelled followed by Bishop and Harris.

At the hostel there was an struggle between Bishop and a group of youths and Harris and another group of youths. After the arrival of Symes and Crowley these youths dispersed but were pursued into the hostel by police officers. One of the youths, Joseph Blair, was located in an upstairs flat and arrested by Harris.

After remaining on the ground for some time with Domrow, Crozier and another youth who was nearby and not under arrest, Yock was placed in S255 which was then driven to the hostel. Blair was then placed in S255 with Yock. By this time other police had arrived at the scene including Constable Caris, Constable Leyendeckers, Sergeant Whittaker and Senior Constable Parker.

After the incident at the hostel, during which time items of property were thrown in the direction of the police and their vehicles, S255 and S592 patrolled the area for at least 17 minutes looking for other alleged offenders. The two vehicles then travelled to the Brisbane City Watchhouse.

On Yock's arrival at the watchhouse his condition aroused immediate concern. An examination revealed he was not breathing and had no pulse. Members of the watchhouse staff together with ambulance officers called to the scene carried out resuscitation attempts and these attempts were continued during the journey to and at the Royal Brisbane Hospital. The resuscitation attempts were unsuccessful and at 7.13pm he was pronounced dead.

These events were witnessed by a number of people who gave evidence at the hearing.

CHRONOLOGY

The following is a chronology of relevant events compiled from the evidence of witnesses and the police radio communications records:

- 17.45: (approximately) Yock and his companions left Musgrave Park where they had been drinking for at least an hour. Shortly after leaving the park, they were followed by Domrow and Harris in S255.
- 17.50: S255 contacted S591 on Channel 27 seeking their assistance in relation to seven or eight Aborigines giving them "*a few problems*". S591 was involved in another matter and could not assist.
- 17.52: S255 asked, on Channel 45, if there was another unit in the Melbourne Street area and advised that there were eight or nine drunk persons causing a few problems and that they did not want to deal with it by themselves. S592 (Symes and Bishop) responded and asked for the location of S255. S255 responded advising that they were at the corner of Edmondstone and Melbourne Streets, and that some of the group might have to be arrested.
- 17.54: S592 and S210 (Crowley and Crozier) advised that they were going to assist. S255 advised that the group were outside SEQEB Park and walking to the hostel and requested a quick response from other units.
- 17.56: S592 advised that it was with S255 on Brereton and Boundary Streets.
This occurred at or near the time S592 arrived in Brereton Street. Between this call and the next, Symes alighted from S592, arrested Yock and held him until he was handcuffed by Crowley, re-entered S592 and drove some 100 metres to the hostel, leaving Domrow and Crozier with Yock.
- 17.58: S592 (at the hostel) called for all assistance to go to Oxford Street.
An altercation occurred at the hostel.
While this was going on, Yock was being placed in S255 which travelled to the hostel where Blair was arrested and placed in S255 with Yock.

(xiii)

- 18.04: S255 advised that the situation was under control and that there had been trouble at the hostel. S255 and S592 commenced patrolling the area.
- 18.08: (approximately) S255 referred to a search of a grassy area near the hostel. S255 and S592 continued patrolling the area.
- 18.17: S255 advised that they were looking for offenders.
- 18.21: S255 advised that they were proceeding to the watchhouse (S592 followed.)
- 18.25: S255 arrived at watchhouse (as did S592.)
- 18.27: S592 from watchhouse car park called for an ambulance.
- 18.28: VKR advised "*We've got an ambulance on the way.*"
- 18.29: Senior Constable Cage's recollection is that he looked at the clock in the watchhouse and noted the time (6.29pm) when he heard a call for the oxy-viva equipment and for an ambulance. He ran to where the oxy-viva equipment is kept and ran with it from the watchhouse to where Yock was lying in the car park. According to Cage, 30 seconds would have elapsed from when he first attended at Yock's side to the commencement of CPR.
- 18.30: Appears to be the time, within a few seconds, when CPR was commenced.
- 18.30: An ambulance was despatched to the watchhouse.
- 18.33: Ambulance arrived at watchhouse.
- 18.39: Ambulance advised that it was leaving watchhouse.
- 18.43: Ambulance advised of its arrival at Royal Brisbane Hospital.
- 19.13: Yock was pronounced dead.

PARAGRAPH (A) OF THE TERMS OF REFERENCE

Issues and Conclusions

As the evidence unfolded, certain issues were identified as requiring consideration in some detail. Those issues and the conclusions drawn from the evidence are:

- **Were Yock and his companions acting in a disorderly manner on 7 November 1993?**

Section 7(e) of the Vagrants Gaming and Other Offences Act 1931, as amended, provides, inter alia, that any person who, in any public place that any person might be therein, and whether any person is therein or not, could view or hear behaves in a disorderly manner commits an offence.

The conduct by Yock and his companions that is said to constitute disorderly conduct may be summarised as follows:

- (a) whilst in Musgrave Park the youths are alleged to have been abusive and to have sworn at police. One person is alleged to have exposed his penis in the direction of the police. However, reliance was not placed on the alleged behaviour in Musgrave Park to justify Yock's arrest.
- (b) whilst travelling down Edmondstone Street the youths are alleged to have been abusive, giving Domrow and Harris finger and arm gestures, shadow boxing and swearing at the police;
- (c) whilst in SEQEB Park some of the youths are alleged to have continued to be abusive and to have sworn at Domrow and Harris. The finger and arm gesturing continued and two people, one being Yock, are alleged to have pulled stakes out of the ground and waved them in the direction of police in a threatening manner. This stake waving is alleged to have been accompanied by threatening statements.

The evidence supports the following conclusions:

- (a) it is more probable than not that words of abuse were said by members of the group in the direction of Domrow and Harris when they were patrolling Musgrave Park;
- (b) it is unlikely that any of the group exposed himself as alleged by Domrow and Harris;

- (c) it is more probable than not that Yock did not have a free stake in his hand; and
- (d) Yock and his companions were behaving in a disorderly manner, not only along Edmondstone Street but also in the SEQEB Park area.

- **Was excessive force used to arrest Yock?**

Yock was arrested by Symes whilst running up the footpath adjacent to a vacant allotment in Brereton Street. He collided with Symes at speed and, it would appear, without being aware of his presence and therefore without having any opportunity to prepare for the collision or take evasive action. There are, however, differing versions as to the manner in which he was arrested and these versions are summarised in the report.

The evidence does not support a finding, even on the balance of probabilities, that the force used by Symes in Yock's arrest was excessive.

- **Was the arrest of Yock lawful and, if so, appropriate?**

There is sufficient evidence to show that Yock and his companions were behaving in a disorderly manner not only along Edmondstone Street but also in the SEQEB park area on 7 November 1993. That being so, the arrest of Yock was lawful.

As to whether Yock's arrest was appropriate, in hindsight it may have been more prudent for Domrow and Harris to first contact a superior officer for advice and direction as to the course of action for them to adopt. However it is accepted that officers have to make decisions on patrol and do not have the benefit of hindsight. In fact, if Domrow and Harris had contacted the officer in charge at West End, Senior Sergeant Stanley, he would have advised them to have contact with the group despite the obvious potential for conflict. In those circumstances, the conduct of Domrow and Harris should not be regarded as inappropriate.

The fact that the police response to the situation may be seen as correct in terms of a model of policing whose primary operational focus is to respond to particular incidents, calls or events but not to the deeper problems they represent, should not engender satisfaction with that model. Apart from the tragic death of a young Aboriginal dancer, the impact of the police confrontation with Yock and his companions on 7 November 1993 was felt in the demonstration and further confrontations between Aborigines and

police that followed in the streets near Police Headquarters on the day following Yock's death.

The Terms of Reference did not permit me to make an in-depth study of policing strategies suitable for areas such as West End. Nevertheless, I observe that while situations may continue to arise in which confrontations such as that which occurred between the police and Yock and his companions will occur, there is an all too obvious need for the development of strategies to reduce the circumstances that give rise to the development of such situations.

• **Was Yock mistreated following arrest?**

There were three particulars of alleged mistreatment of Yock following his arrest. These were:

- (a) alleged kicking by Domrow;
- (b) alleged punching;
- (c) excessive tightness of handcuffs.

Evidence was given by four of Yock's companions that he was kicked by Domrow.

In contrast, the evidence given by residents of Brereton Street and those passing by is that they did not observe any kicking but described the atmosphere of the scene as one of concern, not aggression.

Further, there is no support for this allegation by the findings at autopsy.

The allegation of punching arose as a result of the evidence given by one of the residents of Brereton Street who was the only witness who asserted that punching took place. He did however concede that it might have been an assumption on his part. Such events were not observed by any other of the residents and none of Yock's companions made this allegation.

Further, there is no support for this allegation by the findings at autopsy.

The allegation of the excessive tightness of handcuffs arose as a result of the evidence of Blair but at no time did he state the basis of his conclusion that the handcuffs were on too tight. Crowley, an experienced police officer, denied that they were too tight.

Again, there is no support for this allegation by the findings at autopsy.

In summary the evidence is not sufficient to support any of these allegations even on the balance of probabilities.

- **What was Yock's condition when placed in the police van and was he in need of medical attention?**

It is more probable than not that Yock was not unconscious on the ground and whilst being placed in S255 and that any observable change in Yock's condition at those times was as a result of intoxication and not of any condition requiring medical attention.

- **Did Yock's condition change whilst in the police van and, if so, how was this brought to the notice of his custodians?**

The evidence establishes that it is more probable than not that:

- (a) Yock's condition did change whilst in S255 but not until after S255 had left Boundary Street and was in transit to the watchhouse;
- (b) this change in Yock's condition was as a result of the Stokes-Adams attack (a temporary arrest of the heart as a complication of or interference with the conduction system of the heart); and
- (c) the change in Yock's condition did not come to the notice of the police and they were unaware of it until he was removed from S255 in the watchhouse car park.

- **Did any failure to exercise care contribute to the death of Yock?**

Section 285 of the Criminal Code provides that:

It is the duty of every person having charge of another who is unable by reason of age, sickness, unsoundness of mind, detention or any other cause, to withdraw himself from such charge, and who is unable to provide himself with the necessaries of life, whether the charge is undertaken under a contract, or is imposed by law, or arises by reason of any act, whether lawful or unlawful, of the person who has such charge, to provide for that other person the necessaries of life, and he is held to have caused any consequence to the life or health of the other person by reason of any omission to perform that duty.

In addition to that duty the Custody Manual (the Manual) introduced by the Queensland Police Service (the Police Service) specifies how

custodians are to discharge their duty of care to prisoners. The definition of custody in section 1.5 provides that police custody commences at the time a person comes under the control of a police officer by way of arrest or detention and finishes when that control lapses. When a person has been arrested or taken into custody the arresting officer has an obligation to immediately assess the prisoner and if the officer believes that the prisoner is apparently unconscious or in need of urgent or immediate medical treatment and to arrange for the prisoner to receive such treatment.

It was conceded that Domrow as Yock's custodian owed him a duty of care in the terms expressed in section 285 of the Criminal Code.

In order to constitute negligence sufficient to ground criminal liability there must be gross negligence. Mere negligence is insufficient. It must be conduct which is reckless either because of indifference to an obvious risk or, where there is an appreciation of such risk, a determination nevertheless to run the risk.

For an accused person to be criminally responsible for consequences resulting to another by reason of the accused person's omission to perform his/her duty the omission must be a substantial cause of those consequences.

It was submitted by Mr Jerrard QC that in not calling an ambulance for Yock, in the circumstances of which she was aware, Domrow was in breach of the duty of care she owed him and should be charged with manslaughter. Briefly, his submission was that if an ambulance had been called, Yock would have been in the care of ambulance officers or a hospital when he suffered the Stokes-Adams attack and would thus have had a better chance of survival.

The argument is flawed in a number of respects:

- (a) It overlooks evidence that supports the conclusion that it is more probable than not that Yock was not unconscious on the ground and whilst being placed in S255 and that any observable change in his condition whilst in those places was a result of intoxication and not of any condition requiring medical condition;
- (b) It has no regard for the requirement at law that there must be a causal connection between any alleged breach of duty and the alleged consequences. It is incumbent on the prosecution to prove that an accused person's omissions to perform his/her duty was a substantial cause of the death. Because Yock did not die from

intoxication, the alleged failure to obtain treatment for that condition, by for example calling an ambulance, cannot be said in any relevant sense to be a cause, let alone a substantial cause, of his death from the Stokes-Adams attack;

- (c) The evidence does not support a conclusion that if an ambulance had been called Yock would have been in the care of ambulance officer or a hospital at the time he suffered the fatal Stokes-Adams attack. The evidence is that his condition would have been assessed by the ambulance officers upon their arrival and it is a matter of speculation as to what might have happened following that assessment;
- (d) The submission also overlooks a fundamental principle of law that in order to establish criminal negligence: not only must the prosecution prove beyond reasonable doubt that the accused owed a duty of care to the deceased, but also that the accused's conduct was not merely inadvertent or negligent but showed such a reckless disregard for the life and safety of the deceased as to merit criminal punishment.

For the reasons stated, the submission by Mr Jerrard was rejected.

There is not sufficient evidence to support a prima facie case against any member of the Police Service on a charge of manslaughter.

Other allegations of official misconduct and/or misconduct against certain police officers

- (a) Mr Jerrard QC submitted that there is evidence of official misconduct by Domrow which *"consists of a breach of the trust placed in her as a police officer and a neglect of duty sufficient to warrant her dismissal, the particulars of which are her ignoring of the Custody Manual, police practice, common sense and warnings given to her, the condition of Mr Yock and her failure to call an ambulance"*.
- (b) Symes and Harris, according to Mr Jerrard *"demonstrated a total absence of interest in the welfare"* of Yock in that they made no inquiries about his welfare.
- (c) In another of his submissions, Mr Jerrard said that Domrow, Harris, Bishop and Symes *"exhibited a further form of misconduct"*

in that all "have exaggerated the number of Aborigines with whom they dealt".

There was not sufficient evidence to support proceedings for official misconduct or misconduct against any police officer in relation to any of these allegations.

THE CAUSE OF DEATH

Dr Williams, a Government Pathologist, performed an autopsy in the presence of Dr Inglis, an independent observer who attended at the request of the Aboriginal Legal Service, and formally certified that the cause of death was:

1. (a) Ischaemic heart disease (which implies impaired blood supply to the heart);
(b) Coronary artery stenosis (narrowing of the artery);
(c) Coronary artery atheroma (the diseased condition which produced the stenosis);
2. Drug intoxication.

A scientific examination of heart sections did not indicate any myocardial infarction or ischaemic scarring which are the signs of a conventional heart attack.

The Government Analyst reported that Yock's blood/alcohol level in percentage terms was .157; his urine/alcohol level was .195; and a positive result for cannabis metabolites was obtained; and caffeine and nicotine were detected.

Dr Collins, a consultant forensic pathologist who performed a second autopsy at the request of the family of the deceased, was present when Dr Williams gave evidence and agreed with Dr Williams' findings.

The Commission retained the services of Dr Graeme Neilson, an eminent cardiologist, who examined the reports of the pathologists and all records available in relation to Yock's past medical history. He also viewed a video of a boxing match on 11 August 1990 at Goondiwindi when Yock collapsed after suffering a fainting type attack (a syncopal episode).

His review of Yock's history indicated that Yock had suffered a number of syncopal episodes since 1990 from which he made spontaneous recoveries.

Dr Neilson's opinion is that the most likely explanation for these episodes was an interference with the conduction system of the heart and referred to a Stokes-

Adams condition in which a temporary arrest of the heart occurs as a complication of interference with the conduction system of the heart. These attacks occur suddenly and dramatically and each attack is potentially fatal, and the longer the period without spontaneous recovery the less chance there is of recovery.

In his opinion, death was due was due to coronary atheroma probably producing a reduced blood supply involving the conduction system which resulted in arrhythmia. At autopsy a significant coronary disease was discovered in the right coronary artery which supplies part of the conduction system of the heart. Dr Williams estimated that the disease in the right coronary artery represented a 60% reduction of blood flow through that artery.

Dr Neilson raised the possibility that Yock, during situations of stress, suffered a reduction in the blood supply to the conduction system of the heart which provoked a Stokes-Adams attack. Whilst there was not a direct relationship between stress and the onset of a Stokes-Adams attack, the existence of stress causes an increase in the circulation of adrenalin-like substances which increase the heart's work enormously and so increases the adverse effect that the reduction of blood supply brought about by the coronary atheroma might have on the conduction system of the heart and thus provokes a Stokes-Adams attack.

Dr Neilson was of the opinion Yock suffered a Stokes-Adams attack on 7 November 1993 close to five minutes before the commencement of resuscitation. The attack would therefore have occurred after the police van left Boundary Street to proceed to the watchhouse.

THE UNRELIABILITY OF ASPECTS OF DOMROW'S EVIDENCE

During the course of submissions by Counsel, attention was drawn to the obvious conflict between Domrow's evidence that she intended merely to monitor the conduct of Yock and his group as they proceeded along Edmondstone Street and did not ask for assistance until one of the group produced a stake in SEQEB Park and the evidence of Harris which was supported by the police radio communication records that the first call for assistance was made while the group was proceeding along Edmondstone Street and well before they arrived at SEQEB Park. Their evidence is detailed in section 3.4.3 of the report.

It was suggested that if it was considered that Domrow was being deliberately untruthful in this area of her evidence, the matter should be referred to the proper authorities for further action. Domrow's evidence on the matters mentioned was indeed unreliable. In giving her evidence she appeared at times too willing to give an answer when she was unsure and at other times appeared confused. However, in relation to her testimony and the manner in which she gave it, there is not

sufficient evidence of deliberate dishonesty or such a want of care as to warrant proceedings of any kind against her.

ALLEGATIONS OF THE FABRICATION OF EVIDENCE BY BLAIR, FISHER, ARCHIE GRAY AND CHARLES RILEY

It was submitted by Counsel for the police officers who were represented at the hearing that the consistency of the evidence of Blair, Fisher, Archie Gray and Charles Riley in relation to the alleged kicking of Yock by Domrow indicated collusion between the witnesses. An allegation of fabrication of evidence warranting further inquiry was made.

There is not sufficient evidence of deliberate untruthfulness on the part of those witnesses to warrant the institution of criminal proceedings against them.

That conclusion was reached after regard was had to their youth, the fact that they were emotionally upset by the events that occurred and the fact that, when they were together later in the evening, they discussed what had happened. In the course of that discussion, suggestions may have been made which filled gaps in their individual recollections and completed a picture of events which, unfortunately, was completely erroneous. It is not surprising, therefore, that a number of them gave similar accounts of Domrow's role in the restraint of Yock.

It is extremely unfortunate that the versions given by some of Yock's companions were used by some members of the Aboriginal community to make irresponsible assertions in the press in relation to Yock having been kicked to death. These assertions were made without any consideration of the facts as to his physical condition as found at autopsy and the views of Glen Gray who was one of the older youths and the person who stayed with Yock and who did not see any kicking whatsoever.

PARAGRAPHS (B) AND (C) OF THE TERMS OF REFERENCE

At the conclusion of the hearing of evidence and submissions in relation to paragraph (a) of the Terms of Reference, an invitation was issued to the parties who were represented at the hearing and to interested members of the public to make submissions on paragraphs (b) and (c) of the Terms of Reference and the desire was expressed that they be forwarded to the Commission before Friday 4 March 1994.

In response to this, 15 submissions were received from a cross-section of the community.

CONCLUSION IN RELATION TO PARAGRAPHS (B) AND (C) OF THE TERMS OF REFERENCE

The evidence of Yock's companions indicated that there was, at least, a perception on the part of most of them that they were being harassed on the day in question because of their Aboriginality. One of them, however, thought that they were being followed because they had been drinking and was hesitant in taking up the suggestion that it may have been because they were Aborigines. All of the police officers denied harassment and denied that the fact that Yock and his companions were Aborigines had anything to do with events on the day in question.

Whilst there was undoubtedly that perception on the part of most of Yock's companions, that is not sufficient to support a conclusion that the relationship between members of the Police Service and members of the Aboriginal community had any bearing on the circumstances of the arrest of Daniel Alfred Yock.

It appears from a consideration of the evidence that the reaction of Domrow and Harris which led to police intervention with the group was not motivated by the fact that members of the group were Aborigines but rather by a belief that, as members of the Police Service, it was their duty to respond by intervening with a view to the arrest and punishment of wrongdoers. The police response would have been the same whatever the racial or ethnic background of the group.

Accordingly, paragraph (b) of the Terms of Reference is answered in the negative.

In the light of this conclusion, it is unnecessary to consider paragraph (c) of the Terms of Reference.

BEAT POLICING OF THE WEST END POLICE DIVISION

A submission from the Police Service recognised the value in terms of crime prevention of improving relations between the Police Service and the community, which obviously includes Aboriginal members of the community. Its purpose was to draw attention to a proposal by the Police Service to implement Beat Policing throughout the West End Police Division and acknowledged that relationships between police and the Aboriginal community in the West End area "*had recently deteriorated*".

The purpose of the Beat Policing proposal which is summarised in the report is not only to reduce crime in the West End Police Division but to build on improving relationships between the Police Service and the community.

The submission that the strategy outlined in the Beat Policing proposal should go some way towards addressing many of the issues of concern in police/Aboriginal relations is accepted and the institution of the proposal is recommended.

RECOMMENDATIONS WITH RESPECT TO MATTERS REVEALED BY THE EVIDENCE

A consideration of the evidence raises a number of matters which are of concern and about which the following recommendations are made;

1. In part 3.10.7 of the report reference is made to the obligations that the Custody Manual imposes on police officers to make a careful assessment of the condition of prisoners in their custody and of Domrow's failure to make an assessment of Yock's condition in the terms stated in the Manual. The opinion is also expressed that the evidence was not sufficient to warrant proceedings against any police officer.

However, it is recommended that Domrow undergo further training in relation to the obligations imposed on any police officer who has a prisoner in his or her custody.

2. Appropriate training should be given to all officers to ensure that an assessment of a prisoner's condition is made, not only at the time of arrest, but also at appropriate intervals whilst the prisoner is in the custody of police officers prior to his or her arrival at the watchhouse or other place of detention.
3. Urgent consideration should be given to the establishment of a means of communication between the occupants of special purpose vehicles of the type involved in this case (S255) and those persons imprisoned in the secure area of those vehicles.
4. The handcuffing procedures laid down by the Police Service should be reviewed to ensure that officers have a discretion not only as to whether an offender is initially handcuffed but also as to whether the handcuffs remain on that person. The training material tendered before the hearing indicates that officers are instructed that "*wherever and whenever possible a prisoner should be handcuffed with his hands behind his back*" and handcuffs are not to be removed from a prisoner other than at a place of safety

(watchhouse, police station, prison etc). As a result of this material it was felt that the officers involved in the detention of Yock cannot be criticised for leaving him handcuffed with his hands behind his back for a period in the order of thirty minutes. However, these officers recognised that persons with their hands handcuffed behind their back are incapable of using their hands to control their position. That being so, it is difficult to place them in a position other than on the floor of the police van. Once a person is placed in the van they are in a secure area. If the person is subdued, there would seem to be no reason why the handcuffs should not be removed.

5. The Police Service should ensure that all serving officers have access to and do study the contents of the Custody Manual. Whilst there was tendered in evidence a Commissioner's Circular in relation to the Custody Manual, the evidence of Domrow and Harris indicates that they did not have sufficient, if any, knowledge of its contents. The evidence of Senior Sergeant Stanley, the officer-in-charge of the West End Police Station, also indicates that there was an inadequate system in place to ensure that all officers complied with the circulars and familiarised themselves with the contents of the Custody Manual.
6. The debriefing procedure laid down by the Police Service should be reviewed to have regard to the need for officers to give their own recollection of events as soon as possible after an incident such as the incident involving Yock. The debriefing session in this case, whilst conducted in accordance with the guidelines, occurred after an official investigation had commenced but before the officers had been interviewed by the investigators. The session involved all relevant police officers, as a group, discussing not only their feelings but also the events in question.

It is recommended that the guidelines be changed to ensure that in future no debriefing session occurs until after each officer has provided a record of his/her recollection of relevant events. This will prevent any allegation of their accounts of events having been affected or altered by the accounts given by other officers involved in the incident in the course of the debriefing session.

1.2 THE CRIMINAL JUSTICE COMMISSION'S INVOLVEMENT IN THE MATTER

When notification of Yock's death was conveyed to the Duty Inspector, Police Communications Centre, Police Headquarters, at about 8.15pm on 7 November 1993, the Criminal Justice Commission ("the Commission"), in accordance with standing orders, was advised and Detective Inspector Ross Dwyer who was the on-call Inspector attended at the watchhouse.

Dwyer there met up with Detective Inspector R Pickering, North Brisbane Crime Co-ordinator and Detective Inspector K Benjamin, South Brisbane Crime Co-ordinator, both of whom had been advised of Yock's death.

Dwyer's role was to oversee the police investigation into the circumstances of Yock's death. Pickering and Benjamin immediately commenced the investigation by viewing the body at the morgue, inspecting the police van, arranging for photographs and scientific tests to be conducted, and interviewing the other person who had been arrested shortly after Yock and the police involved about the circumstances surrounding Yock's arrest.

Before being interviewed by Pickering and Benjamin, the six police officers directly involved in the arrest and detention of Yock together attended a Critical Incident Stress debriefing session conducted by Dell Heaven, a human welfare officer. Sergeant O'Doherty of Dutton Park Station also attended as a peer support officer.

On the day following the death, the Director of the Commission's Official Misconduct Division discussed the matter with Acting Deputy Commissioner Early of the Police Service and the Commission determined to take over the investigation of the matter. Pursuant to section 37(6) of the Criminal Justice Act 1989, as amended, ("the Act") (formerly section 2.28(6)), the Director of the Official Misconduct Division as a delegate of the Chairperson directed in writing that responsibility for the investigation be transferred to the Commission and all material and information relating to the incident in question be delivered forthwith to the Commission.

1.3 RESOLUTION OF THE COMMISSION TO CONDUCT PUBLIC HEARINGS

Immediately following Yock's death widespread publicity was given by the media to allegations that police involved in his arrest had violently assaulted him. In

short, allegations were made by members of the Aboriginal Community that he had been kicked to death.

On the day following the death a violent street brawl involving members of the Aboriginal community and police officers took place in the place in the vicinity of Police Headquarters in Brisbane. The incident was referred to in some quarters as a riot and it gave rise to considerable public disquiet.

On 12 November 1993 the Commission resolved to conduct a public investigative hearing presided over by me in my capacity as Acting Chairperson, assisted by Mr David Boddice of Counsel, in respect of the following matters (hereinafter referred to as the "Terms of Reference"):

- (a) *Whether there is evidence of any criminal offence, official misconduct in any other form, misconduct including neglect or violation of duty by any member of the Queensland Police Service in relation to the death of Daniel Alfred Yock;*
- (b) *Whether the relationship between members of the Police Service and members of the Aboriginal community had a bearing on the circumstances of the apprehension of Daniel Alfred Yock; and, if so*
- (c) *Whether any changes are necessary to Police Service policies, procedures or operational instructions in relation to the apprehension and management of Aboriginal persons in similar circumstances.*

The full resolution of the Commission is set out in Appendix 1.

1.4 THE JURISDICTION OF THE CRIMINAL JUSTICE COMMISSION

One of the functions of the Official Misconduct Division, which is the investigative unit within the Commission, is to investigate allegations of misconduct and/or official misconduct by members of the Police Service that come to its notice from any source.¹

The Commission also has a responsibility to provide the Commissioner of the Police Service with policy directives, based on the Commission's research and

¹ *Criminal Justice Act 1989*, section 29(3)(d)(i) [formerly section 2.20(2)(d)(i)]

investigation, on topics including law enforcement priorities, education and training of police, revised methods of police operation and the optimum use of law enforcement resources.²

The general nature of "official misconduct", which is defined in section 32(1) of the Act, (formerly section 2.23(1)), includes -

"Conduct of a person while the person holds or held an appointment in a unit of public administration - that constitutes or involves the discharge of the person's functions or exercise of his or her powers or authority ... in a manner that is not honest or is not impartial; or that constitutes or involves a breach of trust ... and in any such case constitutes, or could constitute ... a criminal offence, or disciplinary breach that provides reasonable grounds for termination of the person's services in the unit of public administration ..."

A "unit of public administration" as defined in section 4(1) of the Act, [formerly section 1.4(1)] includes the Police Service.

"Misconduct" is defined in section 1.4(1) of the Police Service Administration Act 1990 as:

- (1) *"any disgraceful, improper or other conduct unbecoming an officer or that shows unfitness to be or to continue as an officer;*
- (2) *conduct that does not meet the standard of conduct reasonably expected by the community of a police officer."*

Sub-sections (1) and (2) of section 25 of the Act (formerly section 2.17) authorise the Commission to conduct a hearing in relation to any matter relevant to the discharge of its functions or responsibilities and provide that, when the Commission (other than a Misconduct Tribunal) is conducting a hearing for the purpose of discharging its functions or responsibilities allotted to the Official Misconduct Division, it may be constituted by the Chairperson alone. I commenced the conduct of the hearing in my capacity as Acting Chairperson. Upon the return of the Chairperson and, after an amendment of the Act enabling me to do so, I continued the conduct of the hearing in my capacity as a Commissioner who is a legal practitioner.

² *Criminal Justice Act 1989, section 23(h) [formerly section 2.15(h)]*

1.5 THE PURPOSE OF THIS REPORT

This investigation has been conducted in the discharge of a function of the Official Misconduct Division pursuant to section 29(3)(d)(i) of the Act (formerly section 2.20(2)(d)(i)), which requires the Division to investigate all cases of alleged or suspected misconduct by members of the Police Service. This report is made to the Director of the Division so that he, in compliance with section 33 of the Act (formerly section 2.24), may make a report to the Chairperson with a view to a decision by him as to whether the evidence revealed during the course of the investigation warrants any one or more of the following courses -

- (a) a report to the Director of Prosecutions, or other appropriate prosecuting authority, with a view to the prosecution of such criminal charges as the Director of Prosecutions or other authority considers warranted;
- (b) a report to the Executive Director of the Commission with a view to proceedings before a Misconduct Tribunal in relation to a disciplinary charge or charges of official misconduct;
- (c) a report to the Commissioner of the Police Service with a view to disciplinary action against a police officer being taken in respect of the matter to which the report relates.

1.6 THE QUESTION OF THE SUFFICIENCY OF EVIDENCE

Whilst the expression "*evidence*" is used in paragraph (a) of the terms of reference, the provisions of section 33 of the Act require regard to be had not merely to the existence of evidence but to its sufficiency for certain purposes. Thus where it is used in paragraph (a) of the Terms of Reference, evidence means sufficient evidence to show a prima facie case against a member of the Police Service in respect of whom a criminal charge or charges of official misconduct or misconduct or other disciplinary breach may be brought. It would not be appropriate for a report to be made to any of the abovementioned authorities if, whatever evidence there may be of the commission of a criminal offence or official misconduct or misconduct or other disciplinary breach, that evidence is, when considered in the light of all of the evidence, insufficient to support a prosecution or other proceeding. The question of the sufficiency of evidence requires me to make some assessment of its weight and reliability and in making that assessment it is essential that I bear in mind the standard of proof required to establish guilt in criminal proceedings and the standard of proof required to establish guilt in disciplinary proceedings.

In criminal proceedings the evidence must be capable of satisfying a tribunal of fact of the guilt of an accused person beyond reasonable doubt. In other proceedings guilt may be found if the tribunal is satisfied that it has been established on the balance of probabilities. That is commonly referred to as the civil standard of proof. That standard varies according to the gravity of the allegations made. In Briginshaw v Briginshaw (1938) CLR 336 at pp 361-362, Sir Owen Dixon in the High Court of Australia spoke of that standard in the following terms:

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

CHAPTER 2

THE INVESTIGATION

2.1 INTERVIEWS WITH WITNESSES

The Aborigines present at the scene of the arrest or nearby were, at the request of The Aboriginal and Torres Strait Islanders Corporation (QEA) for Legal Services ("the Aboriginal Legal Service"), approached via that organisation. Indeed the Aboriginal Legal Service provided the Commission with a list of the names of people who had witnessed material events. Staff of the Aboriginal Legal Service then arranged for those witnesses to attend at its offices to be interviewed by the Commission's investigators in the presence of a person with whom the witness felt comfortable. These interviews were tape recorded, transcribed and statements compiled by Commission staff. The statements were then taken back to enable them to be signed after the witnesses had been given an opportunity to discuss their contents with a member of the Aboriginal Legal Service.

Commission investigators door-knocked all premises along the route taken by Yock and his companions from Musgrave Park. Any persons who claimed to have witnessed material events were interviewed by investigators. Again these interviews were recorded and statements were compiled from the transcripts and signed by the witnesses.

Other witnesses who had heard of the Commission's investigation into the matter contacted it and arrangements were made to obtain statements from them.

The police officers principally involved in the arrest and detention of Yock were interviewed on the night of his death. They thereafter supplied statements through their solicitors.

In addition, the Commission obtained a variety of documentary material from the Police Service, including reports, records of police radio transmissions, activity logs and computer messages. The Commission also obtained the tapes of the interviews conducted with the police officers referred to in the preceding paragraph.

Other police officers involved in the incident were interviewed by the Commission's investigators and statements prepared and signed from those interviews.

A full list of exhibits tendered at the hearing is attached as Appendix 2. Those persons who gave evidence at the hearing are listed in Appendix 3.

2.2 THE OBTAINING OF EXPERT EVIDENCE

Various experts provided reports to assist the Commission's inquiries. These included the two pathologists who performed autopsies on the body of the deceased, Dr David Williams, the Government Pathologist and Dr Byron Collins, a pathologist in private practice who was selected by the Aboriginal Legal Service; and a cardiologist, Dr Graham Neilson.

A sociolinguist, Dr Diana Eades, also provided a report, through the Aboriginal Legal Service, regarding the ability of some of Yock's companions to effectively communicate in a hearing room situation.

A qualified draftsman from the Police Service prepared a scale plan of the area where Yock was arrested.

A senior ambulance officer provided a report relating to the anticipated response of the ambulance service had an ambulance been called to the scene of Yock's arrest.

The Mater Hospital also provided a report based on the hypothetical situation of Yock being brought to that hospital immediately after his arrest at about 6pm.

2.3 PUBLIC HEARING

2.3.1 Duration

The public hearing was first convened in the Number 1 Hearing Room at the Commission's offices in Toowong on 17 November 1993 and thereafter on fourteen days throughout November and December. The taking of the bulk of the evidence was concluded on 23 December 1993 and the hearing was then reconvened on 3 and 4 February 1994 for the hearing of further evidence and the making of submissions by the legal representatives of the parties who had been given leave to appear.

2.3.2 Subject Matter

The public hearing focussed primarily on whether there was evidence of criminal offences or misconduct on the part of any police officers in relation to the death of Yock; they are the issues referred to in paragraph (a) of the Terms of Reference.

However wherever appropriate, evidence touching on the issues referred to in paragraphs (b) and (c) of the Terms of Reference which deal with police/ Aboriginal relations and Police Service procedures respectively was received if a witness called in relation to paragraph (a) issues could conveniently give it.

2.3.3 Transcript

The evidence given at the proceedings was recorded and transcribed by Auscript and copies of the transcript were made available to each of the parties given leave to appear usually on the day following the giving of the evidence.

2.3.4 Leave to Appear

By its Resolution of 12 November 1993 (Appendix 1) the Commission resolved to appoint Mr David Boddice of Counsel to appear as counsel assisting throughout the hearing of the matter.

When the hearing first convened leave to appear was sought and granted to lawyers appearing on behalf of the following parties:

- The Minister for Police and the State of Queensland, for whom Mr Plunkett of Counsel appeared, instructed by the Crown Solicitor.
- The six police officers involved in the arrest and detention of Daniel Yock, for whom Mr Chesterman QC and Mr Perry of Counsel appeared, instructed by Gilshenan & Luton.
- The Aboriginal Legal Service; each of the Aboriginal witnesses interviewed in relation to the investigation; and the family of the deceased, for whom Mr Jerrard QC, and at times Mr Carberry (Solicitor) and Ms Shiel (Solicitor) appeared, instructed by the Aboriginal Legal Service.

Throughout the hearing those parties were at all times represented by counsel or solicitors.

2.3.5 The Taking of Evidence

Aboriginal Witnesses

Counsel appearing on behalf of the Aboriginal youths who had been with Yock on the occasion of his arrest submitted that the taking of evidence from those witnesses should not occur in the Commission's premises but should be moved to a location in which it was submitted the youths would be more comfortable, namely Musgrave Park or the Murri Murra Building in Musgrave Park, West End. The submission was based on a report of Dr Diana Eades, a sociolinguist with expertise in the use of English by Aborigines, which was supplied to the Commission by the Aboriginal Legal Services.

A copy of Dr Eades' report was tendered in evidence and supplied to all parties. Dr Eades had interviewed six of Yock's companions and concluded that none of those were what she described as "*biculturally competent*". In Dr Eades' view those youths would be disadvantaged were information to be sought from them by the usual interview or cross-examination procedure of a court or hearing. Dr Eades recommended that the disadvantage be addressed by the witnesses giving evidence in the form of a written statement rather than examination-in-chief and by their evidence being given in some "*Aboriginal space*".

I did not accede to this submission insofar as it called for a transfer of the hearing to another place. I did however accept that procedures should be adopted which would maximise the potential for effective communication with the witness. In particular I ruled that the following steps would be taken to minimise any disadvantage referred to by Dr Eades:

- Statements taken from the youths in the presence of a person of their choosing in whom they had confidence and trust would be admitted as evidence-in-chief in lieu of their being required to give oral evidence of the events therein.
- The witnesses would be invited to have someone of their choice sit near them whilst they were in the witness box.
- No uniformed police officers would be allowed in the hearing room whilst the youths were giving evidence.
- Counsel appearing would be directed to pay regard to Dr Eades' report and be conscious of the need to adopt a style of questioning which would achieve effective communication with the witnesses.

- When evaluating the testimony of each of the witnesses I would bear in mind the manner of questioning and the cultural condition or background of the witness and evaluate his response to the questions accordingly.
- Prior to the youths giving evidence their solicitor would indicate to them the name and role of each person involved in the hearing.

On the Saturday before they gave evidence the youths were invited to and did attend at the hearing room with their solicitors where they were allowed to move around the room, sit in the witness chair and generally make themselves familiar with the hearing room and its furniture. The hearing process was explained to them.

Other Witnesses

The evidence-in-chief of other witnesses was also given by having the statements they had previously given read into the record. This made the receiving of evidence-in-chief proceed more quickly.

The police officers involved in the arrest and detention of Yock chose to give their evidence in full. Their statements were also tendered as exhibits.

Those witnesses who were not required by any of the parties for cross-examination and whom counsel assisting judged to be not required to give oral evidence were not called. Rather their evidence was simply read into the record and the original of their signed statements tendered as exhibits.

CHAPTER 3

PARAGRAPH (A) OF THE TERMS OF REFERENCE

3.1 PEOPLE INVOLVED

Briefly set out below in two separate categories and in alphabetical order are some particulars gathered from information available to the Commission of the people who played relevant roles in the events that occurred between Musgrave Park and the Oxford Street Hostel on 7 November 1993.

(A) The group comprising Daniel Alfred Yock and his companions

Daniel Alfred Yock

Daniel Yock, or "Boonie" as he was known to his friends, was born in Cherbourg on 7 February 1975. At the time of his death he was residing at 196 Boundary Street West End (the Baynes Street Hostel). He was a dancer with the Wakka Wakka Dance Troupe.

It appears that he was raised in Cherbourg and moved to Brisbane in late 1991. One of his uncles, Warry John STANLEY, who is a Community Education Councillor at Murgon High School wrote of him:

The only thing I can say is about Danny is his character. As a young nephew he was a jovial sort of guy. He was a guy who loved the dancing. He came up through the ranks. Even though he boxed when there was a dance trip or going away he would forego the boxing to go on the dance trip, because he was culture minded. He wanted to, with that cultural aspect that he had in his life, he wanted to go and share that with other people and other cultures. He was a guy who loved to break down the barriers between the black and white. At school Danny was always there to help the white children to breach the gaps between the blacks and the whites.

Joseph Norman Blair

A seventeen year old dancer with the Wakka Wakka Dance Troupe; born and raised in Cherbourg but also educated at West End State School and then at Yeronga High School to Grade 9. On 7.11.93 was residing at the Baynes Street Hostel.

Damien James Bond

A sixteen year old dancer with the Wakka Wakka Dance Troupe; born in Cherbourg. Educated in State Schools in Brisbane and the Murgon High School. On 7.11.93 was residing at the Baynes Street Hostel.

Lindsay Samuel Charles Fisher

A seventeen year dancer with the Wakka Wakka Dance Troupe; born and raised in Cherbourg. Educated at Cherbourg State School and Murgon High School. On 7.11.93 was residing at the Baynes Street Hostel.

Archie James Gray

A sixteen year old dancer with the Wakka Wakka Dance Troupe; born in Brisbane; completed his education at Murgon High School. On 7.11.93 was residing at the Baynes Street Hostel.

Glen Tony Gray

A seventeen year old dancer with the Wakka Wakka Dance Troupe; born in Cherbourg; moved to Brisbane at age one or two; educated in Townsville for two years of primary school and one year of high school, also attended Redbank Plains High School and Bundamba High School. On 7.11.93 was residing at the Baynes Street Hostel.

Charles Livingstone Riley

A seventeen year old didgeridoo player with the Wakka Wakka Dance Troupe; born and raised in Cherbourg; attended Murgon High School and Yeronga High School. On 7.11.93 was residing at Carina.

Edward Horton Riley

A fifteen year old; born and raised in Cherbourg until twelve years of age when he moved to Brisbane; most of his education being received in Cherbourg. On 7.11.93 was residing at Carina.

Daniel Matthew Weazel

A sixteen year old; born and raised in Cherbourg; most of his education being received in Cherbourg but completed at Yeronga High School. On 7.11.93 was residing at Carina.

- (B) **The police officers who became involved with Yock and members of his group between Musgrave Park and the Oxford Street Hostel**

Gregory Ian Bishop

A thirty-two year old Senior Constable of Police, sworn in as a Constable on 3 July 1981 after eighteen months as a Cadet; served in stations in central Queensland and South Brisbane District and stationed at Dutton Park Police Station. On 7 November 1993 was on duty with Acting Sergeant Symes in an unmarked maroon Commodore sedan S592.

Michael Joseph Crowley

A thirty-five year old Sergeant of Police, sworn as a Constable on 14 October 1977; served in stations in western and central Queensland as well as metropolitan stations and the Criminal Justice Commission and stationed at Dutton Park Police Station. On 7 November 1993 was on duty with Constable Crozier in police car S210.

Gary David Crozier

A twenty year old Constable of Police, sworn in as a Constable on 25 January 1993; served in stations in the South Brisbane district and stationed at Dutton Park. On 7 November 1993 was on duty with Sergeant Crowley in police car S210.

Suzette Michelle Domrow

A twenty-six year old Constable of Police, sworn in as a Constable on 24 May 1991 after six months as a Probationary Constable; served in stations in Brisbane city and South Brisbane district and was stationed at West End. On 7 November 1993 was on duty with Constable Harris in a police car S255 (a Holden Rodeo twin-cab with a secure area on the rear tray.)

Scott Andrew Harris

A twenty year old Constable of Police, sworn in as a Constable on 12 December 1991 after almost a year as a recruit; served in stations in the South Brisbane district and stationed at West End. On 7 November 1993 was on duty with Constable Domrow in police van S255.

Richard John Symes

A thirty-five year old Acting Sergeant of Police, sworn in as a Constable on 9 May 1983 after a six month period as a Probationary; served in stations in southern Queensland, the Bureau of Criminal Intelligence, Mobile Patrols and Upper Mount Gravatt and was seconded to South Brisbane District Task Force. On 7 November 1993 was on duty with Senior Constable Bishop in an unmarked maroon Commodore sedan S592.

3.2 A BRIEF OUTLINE OF EVENTS

On 7 November 1993 Daniel Yock together with Joseph Blair, Damien Bond, Lindsay Fisher, Archie Gray, Glen Gray, Charles Riley, Edward Riley and Daniel Weasel went to Southbank. After an altercation between Yock and an unknown person, the group left Southbank and travelled to Musgrave Park. Some alcohol was purchased from the Melbourne Hotel and consumed by the group in Musgrave Park.

Whilst the group were in Musgrave Park, Domrow and Harris were patrolling the area surrounding the park in the police van, S255. The group came to their attention allegedly because they were abusive and one of them exposed himself.

After a period of time the group left the park. Shortly after leaving the park Weasel and Edward Riley left the group and proceeded along Russell Street to return to the Baynes Street Hostel whilst the remainder travelled along Edmondstone Street with a view to going to the Oxford Street Hostel. This group was followed by Domrow and Harris as they proceeded along Edmondstone Street, across Melbourne Street then along Edmondstone Street to its junction with

Boundary Street then to a nearby area known as SEQEB Park on the corner of Boundary and Brereton Streets West End. Before the group reached that location, Harris made a number of calls on the police radio seeking assistance, firstly, from a Dutton Park car with call sign S591 and thereafter from any car in the vicinity. A Dutton Park Crime Squad vehicle, S592, containing Symes and Bishop responded to the general call for assistance.

The group entered SEQEB Park and Domrow and Harris waited at or near a stop sign near the junction of Boundary and Edmondstone Streets. As soon as Symes and Bishop arrived, they and Domrow and Harris drove into Brereton Street where both vehicles stopped near the SEQEB Park. The group dispersed; Yock ran but was intercepted and arrested by Symes. Bishop and Harris then pursued members of the group towards the hostel leaving Symes and Domrow with Yock. Shortly after the arrest of Yock another Dutton Park vehicle, containing Crowley and Crozier, arrived at the scene. Crowley used his handcuffs to handcuff Yock's hands behind his back. Crowley and Symes then left Domrow and Crozier with Yock and travelled to the Oxford Street Hostel in which direction all bar one of Yock's companions had travelled followed by Bishop and Harris.

At the hostel there was an struggle between Bishop and a group of youths and Harris and another group of youths. After the arrival of Symes and Crowley these youths dispersed but were pursued into the hostel by the police officers. One of the youths, Joseph Blair, was located in an upstairs flat and arrested by Harris.

After remaining on the ground for some time with Domrow, Crozier and the other youth nearby, Yock was placed in S255, which was then driven to the hostel. Blair was then placed in S255 with Yock. By this time other police had arrived at the scene including Caris, Leyendeckers, Whittaker and Parker.

After the incident at the hostel, during which time items of property were thrown in the direction of the police and their vehicles, S255 and S592 patrolled the area for at least 15 minutes looking for other alleged offenders. Thereafter the vehicles travelled to the Brisbane City Watchhouse.

On his arrival at the watchhouse Yock's condition aroused immediate concern. An examination revealed he was not breathing and had no pulse. Members of the watchhouse staff together with ambulance officers called to the scene carried out resuscitation procedures which were continued during the journey to and at the Royal Brisbane Hospital. The resuscitation procedures were unsuccessful and at 7.13pm he was pronounced dead.

These events were witnessed by a number of people who gave evidence at the hearing.

3.3 CHRONOLOGY

The following is a chronology of relevant events compiled from the evidence of witnesses and the police radio communications records (Exhibits 94 and 95).

- 17.45: (approximately) Yock and his companions left Musgrave Park where they had been drinking for at least an hour. Shortly after leaving the park, they were followed by Domrow and Harris in S255.
- 17.50: S255 contacted S591 on Channel 27 seeking their assistance in relation to seven or eight Aborigines giving them a few problems. S591 was involved in another matter and could not assist.
- 17.52: S255 asked, on Channel 45, if there was another unit in the Melbourne Street area and advised that there were eight or nine drunk persons causing a few problems and that they did not want to deal with it by themselves. S592 (Symes and Bishop) responded and asked for the location of S255. S255 responded advising that they were at the corner of Edmondstone and Melbourne Streets, and that some of the group might have to be arrested.
- 17.54: S592 and S210 (Crowley and Crozier) advised that they were going to assist. S255 advised that the group were outside SEQEB Park and walking to the hostel and requested a quick response from other units.
- 17.56: S592 advised that they were with S255 on Brereton and Boundary Streets.
This occurred at or near the time S592 arrived in Brereton Street. Between this call and the next, Symes alighted from S592, apprehended Yock and held him until he was handcuffed by Crowley. He then re-entered S592 and drove some 100 metres to the hostel.
- 17.58: S592 (at the hostel) called for all assistance to go to Oxford Street.
An altercation occurred at the hostel.
While this was going on, Yock was being placed in S255, which travelled to the hostel where Blair was arrested and placed in S255 with Yock.

- 18.04: S255 advised that the situation was under control and that there had been trouble at the hostel. S255 and S592 commenced patrolling the area.
- 18.08: (approximately) S255 referred to a search of a grassy area near the hostel. S255 and S592 continued patrolling the area.
- 18.17: S255 advised that they were looking for offenders.
- 18.21: S255 advised that they were proceeding to the watchhouse (S592 followed.)
- 18.25: S255 arrived at watchhouse (as did S592.)
- 18.27: S592 from watchhouse car park called for an ambulance.
- 18.28: VKR advised *"We've got an ambulance on the way."*
- 18.29: Senior Constable Cage's recollection is that he looked at the clock in the watchhouse and noted the time (6.29pm) when he heard a call for the oxy-viva equipment and for an ambulance. He ran to where the oxy-viva equipment was kept and ran with it from the watchhouse to where Yock was lying in the car park. According to Cage, 30 seconds would have elapsed from when he first attended at Yock's side to the commencement of CPR.
- 18.30: Appears to be the time, within a few seconds, when CPR was commenced.
- 18.30: An ambulance was despatched to the watchhouse.
- 18.33: Ambulance arrived at watchhouse.
- 18.39: Ambulance advised that it was leaving watchhouse.
- 18.43: Ambulance advised of its arrival at Royal Brisbane Hospital.
- 19.13: Yock was pronounced dead.

3.4 CATEGORIES OF EVENTS

In considering the evidence of the various witnesses it has been of assistance to categorise the events of 7 November 1993 and to consider the evidence of each witness in relation to events falling within particular categories. A summary of the evidence under each of the categories follows. In some categories, having regard to the issues which require determination in this hearing, I have felt it necessary to summarise the evidence of each witness.

3.4.1 Events prior to Musgrave Park

Evidence from Yock's companions established that the group had gone to Southbank for a swim earlier in the day. In the early afternoon the group had left Southbank and travelled to Musgrave Park. According to some members of the group (Glen Gray 24565-6;³ Damien Bond 24610, 24638 and Lindsay Fisher 24753) the group left Southbank after Yock was involved in a physical altercation with another person. Archie Gray said that a security guard asked the group to move on but he did not know why they were asked to leave and said the boys were a bit angry that they had been moved on from Southbank (24334).

3.4.2 Events in Musgrave Park

(A) The versions of Aboriginal witnesses

Joseph Norman Blair

Blair gave evidence that after arriving at Musgrave Park someone from the group went to the Melbourne Hotel and purchased some alcohol and the group sat down under the trees and drank from a carton of large bottles of beer. He said that neither he nor Yock drank any rum and that both he and Yock were not drunk but were affected by liquor (24375). He denied that any person, including Yock, had smoked marijuana in Musgrave Park. He said that whilst in Musgrave Park he observed a police van come around the park several times and that the uniformed male and female officers in the van looked at the group each time.

³

Transcript page numbers. Throughout the report transcript page references are indicated in brackets.

Damien James Bond

Bond gave evidence that Glen Gray purchased a carton of beer from the Melbourne Hotel which the group drank whilst in the park. He did not drink any rum nor did Yock. He did not know of anyone in the group smoking marijuana. He said that Yock was drunk and staggering (24607).

Whilst in the park he twice observed police driving around and checking them out. On the first occasion the van was moving slowly and he could see that there was a man and a woman in the van. Nobody in the group said anything to the police or made hand gestures (24613) and he did not see anyone in the group expose his penis in the direction of the van (24614).

Lindsay Samuel Charles Fisher

Fisher gave evidence that after leaving South Bank for Musgrave Park he and Glen Gray went to the Melbourne Hotel and purchased a dozen large bottles of Fourex. Archie Gray had a small bottle of rum and some Coca-Cola. The beer was drunk in the park by passing one bottle around at a time and thereafter the rum and Coca-Cola was similarly passed around. All of the alcohol was consumed before the group left the park. He denied that anybody in the group smoked marijuana and said that the group were slightly drunk when they left the park.

Whilst in the park he observed a police van, with one male and one female uniformed officer, cruising around the park. He said that the van was slowly driving around the park but that nobody called out to the police or made any rude gestures with their hands or fingers towards the police (24755).

Archie James Gray

Gray gave evidence that the group left Southbank at about 4pm and went to Musgrave Park. Some of the boys then left to purchase some alcohol at the Melbourne Hotel. The alcohol consisted of a carton of twelve large bottles of full strength beer, two small bottles of rum and a square bottle of rum. He said that Yock drank a few beers and a square bottle of rum. All of the boys became drunk but he was "*not that drunk*" (24334) although he conceded he drank two small bottles of rum and "*just about a bottle*" of beer.

He observed a police van whilst in the park and said that the van drove around and around the block. He said that he did not see anybody in the

group gesture to the police and denied that anybody shouted abuse at the police as the van drove past (24336). He said that the only time he heard abuse shouted at the police was "*when they come to SEQEB*" (24336). Gray said that whilst in the park he did not see any of the boys urinating against a tree.

Glen Tony Gray

Gray gave evidence that the group left Southbank and travelled to Musgrave Park. He and Yock then went to the Melbourne Hotel to buy a carton of large bottles of beer. His brother Archie had two small bottles of rum and Eddie Riley purchased some Coca-Cola from the garage. Archie Gray drank rum and everybody else drank beer. Yock had a few sips of beer but did not look as if he had drunk much and was not intoxicated. They all smoked tailor made cigarettes.

Whilst in the park he observed a police van, with a policeman and a policewoman in it, driving around and around Musgrave Park. He estimated it drove around three times. The van slowed down but did not stop and the police did not say anything to the group (24569). He denied that any person in the group exposed his penis in the direction of the police. He conceded that they told the police "*to leave us alone*" (24569) although he said that the police "*couldn't hear us, you know, it was on long distance.*"

Charles Livingstone Riley

Riley gave evidence that the group left Southbank at about 4.30pm to 5pm and went to Musgrave Park. They purchased beer at the Melbourne Hotel and Archie Gray had a small bottle of rum. They were in the park for about an hour drinking and talking. After the big bottles of beer had been passed around and consumed the rum was also passed around. All of them had beer and some rum (24310); Yock was a "*bit tipsy*" (24311) but no-one was drunk.

Whilst in the park he observed the police van drive past. He explained that because they were sitting on the opposite side of the park from the toilets, the boys were too lazy to walk across to the toilet and would just urinate against a tree (24317). One of the group may have exposed his penis whilst urinating against a tree. However, he said that no-one in the group exposed his penis towards the police (24309).

Edward Horton Riley

Riley gave evidence that the group left South Bank at approximately 2pm and walked to Musgrave Park. Someone from the group, who he thought was Glen Gray, purchased a carton of Fourex full strength beer which was then passed around the group; there were no spirits. He did not see anybody with a rum bottle but Archie Gray had a bottle of Coca-Cola. Nobody was smoking marijuana.

Whilst in the park he observed the police drive past about six times starting at about 3pm. There were about three police in the van with the female officer being in the back seat. No person called out to the police or made any finger gestures. Nobody in the group exposed his penis to the police.

Daniel Matthew Weazel

Weasel gave evidence that the group left Southbank at approximately 2pm and walked to Musgrave Park. One of the group, who he thinks was Archie Gray, went to the Melbourne Hotel and purchased half a carton of large bottles of light beer which was then shared amongst the group. He thought Archie Gray had two small bottles of rum. No-one in the group became really drunk although all were affected by alcohol. He did not see Yock drink any rum or have any marijuana.

Whilst in the park he observed a police van go past four or five times with one male and one female officer in the van. He recognised the female officer as being from West End Police Station. The van was driven around and the police were looking at the group. He did not ever see anyone expose his penis in the park.

(B) The versions of the police officers

Suzette Michelle Domrow

Domrow gave evidence that she and Harris were patrolling in the police van (S255) when at approximately 5.45pm they noticed a group of Aboriginal youths in Musgrave Park near the corner of Russell and Edmondstone Streets. They were about 30-40 metres from the police vehicle when they were first observed. Her attention was drawn to the youths because they were being abusive calling out things such as "*get fucked coppers*" "*copper cunts*" and "*piss off*" (25597) and one exposed himself. The person who exposed himself had his penis in his hand

gesturing towards Harris and herself (25597); the gesture, in her view, was intended to be offensive.

Domrow decided not to arrest the person for wilful exposure because there were too many people there and the group looked as though they were heading off towards the pub or the hostel which "*was good enough for me if they were heading up there*" (25598). She said she decided to monitor the situation and keep the group under observation. Domrow said that there was an understanding among police that police were to use their discretion before entering Musgrave Park and that this was a factor in the decision not to arrest for wilful exposure (25851-2).

Scott Andrew Harris

Harris gave evidence that on 7 November 1993 he and Domrow were performing a general patrol of the area surrounding Musgrave Park. Yock and his companions were in the corner of Musgrave Park bounded by Edmondstone and Russell Streets approximately 15-20 metres from the Russell Street kerb. They came to his attention because they were behaving in a disorderly manner. They were "*swearing and abusing us ... using lewd finger gestures*" and one of the male persons had his penis out and was pointing it in their direction and laughing. Harris denied that the person exposing his penis was doing so in order to urinate saying "*he had his penis out of his pants and was looking in our direction laughing*" (25892). The group were "*all generally just acting in a disorderly manner, waving their arms around*" (25883). They were calling out "*Fuck off copper cunt, Piss off, Leave us alone*" or words to that effect (25885); some of them were shadow boxing (25886).

Domrow and he discussed arresting the person who exposed himself but decided not to do so at that stage. They continued patrolling the area and subsequently returned to Musgrave Park. He confirmed that the police generally do not enter Musgrave Park although it is a matter for the discretion of the particular officer if he or she sees offences occurring in Musgrave Park.

(C) The version of a civilian witness

Hilton Daniel Purser

Purser resides in a boarding house at the corner of Russell and Edmondstone Streets, South Brisbane. His room looks directly across to Musgrave Park. He gave evidence that on 7 November 1993 he was in his room when he saw a group of about five or six young Aboriginal males

drinking in the park. He said the youths were not doing anything which attracted his attention and were drinking beer from stubbies. He did not see the youths drinking rum.

While the youths were sitting in Musgrave Park, Purser observed a police van being driven around which he considered to be a fairly regular procedure for the area. He did not see anything to suggest that one of the youths was deliberately exposing his penis to any occupant of the police van.

When asked how long he had the group under observation, Purser said, "*I didn't pay any attention.*" "*I just looked out and seen them there and that was all.*"

3.4.3 Events in Edmondstone Street

(A) The versions of the Aboriginal witnesses

Joseph Norman Blair

Blair gave evidence that as the group was walking along Edmondstone Street from Musgrave Park he saw the female police officer, who was the driver of the van, using the radio. The police van was about fifty metres away and driving very slowly. The van also drove past the group a couple of times.

Damien James Bond

Bond gave evidence that the group left the park and walked on the right hand side of Edmondstone Street. At the intersection of Russell Street two of the group, Edward Riley and Daniel Weasel, went into Russell Street to return to the Baynes Street Hostel. At about that point Charles Riley walked over and told them "*that we'd meet them back at Baynes Street*". Charles Riley then ran back to rejoin the group (24614).

Whilst walking along Edmondstone Street the police van came past, turned around and drove past again (24615). The police were looking at the group and Bond says that members of the group were swearing at police "*telling them to leave us alone and all that.*"

Lindsay Samuel Charles Fisher

Fisher gave evidence that the group left the park and walked on the right hand side of Edmondstone Street with the police van following slowly behind. When the group neared a position adjacent to the Melbourne Hotel they stopped and swore at the occupants of the van telling them to leave them alone. At this point Fisher says he saw the male officer speak on the radio. The group continued to walk along Edmondstone Street with the van still following slowly behind them. Fisher did not know why the police were following them and denied that any of the group had made gestures to the police (24757).

Archie James Gray

Gray gave evidence that the group departed from Musgrave Park at about 5.30pm when the alcohol ran out. They walked in groups of two or three on the right hand side of Edmondstone Street toward Brereton Street. He did not see anyone leave the group and chase a couple walking in Russell Street.

As the group walked along Edmondstone Street the police van was following them "*back a bit*" (24330). When the group went into SEQEB Park the van stopped at the intersection of Boundary and Edmondstone Streets. At this point "*We told them to go, to leave us alone.*" "*We used words such as 'Piss off.'*" "*They kept following us, they kept nagging us ...*".

Glen Tony Gray

Gray gave evidence that the group left Musgrave Park around sundown and walked on the right hand side of Edmondstone Street towards Oxford Street. As the group walked along Edmondstone Street the police van came along Edmondstone Street towards the park. It slowed down but did not stop. The police had a good stare at the group and the group called out "*Leave us alone*". Gray could not see any reason why the police were looking at the group. The police van passed, turned around and followed the group remaining about 20 or 30 yards behind.

Gray conceded that the group used bad language whilst walking along Edmondstone Street including expressions such as "*Just fucking leave us alone, you mugs*" and "*We're sick of you harassing us all the time*". He did not hear anyone call the police "*Copper cunts*". He was calling out "*Leave us alone*" as he was walking along Edmondstone Street (24574).

In his statement he said that the group "*gave the cop car the finger every time it drove past*". The police van stopped at the stop sign adjacent to the intersection of Edmondstone and Boundary Streets when the group arrived in SEQEB Park.

Charles Livingstone Riley

Riley gave evidence that the group left Musgrave Park at about 5.30pm and commenced to walk along the right hand side of Edmondstone Street towards Oxford Street. As they did so, the police van drove past, turned around and then began to tail them all the way along Edmondstone Street, remaining about 20 metres behind. The occupants of the van did not say anything to the group and he could not recall anyone in the group saying anything to the occupants of the van. He did not think that the group were doing anything wrong.

When the group arrived in SEQEB Park the van stopped adjacent to the stop sign at the junction of Boundary and Edmondstone Streets. One of the group called out "*Can't you leave us alone, You see us every day*" and "*Why are you hassling us and following us*" (24291). The police did not respond. He did not see anybody in the group gesture with their fingers or hands (24309). He denied that any member of the group had chased a couple who were walking up Russell Street.

Edward Horton Riley

Riley gave evidence that the group left the park between 5.20pm and 5.30pm and that he and Weasel left the group at the back of the Melbourne Hotel and walked in the opposite direction along Edmondstone Street to Russell Street and along Russell Street with a view to going to the Baynes Street Hostel. That course would take them past the West End police station and through the West End shopping centre. The police van followed Weasel and himself for a short time and then followed the other boys. When he last saw Yock and the other youths they were crossing Melbourne Street. When Riley and Weasel reached the West End shopping centre Riley saw the police van with three police in it as well as a red Commodore with two detectives. The van and the Commodore sped off towards Oxford Street and shortly after two marked cars and a green unmarked car went in the same direction the youths had gone. He thought the police van had followed the group "*just to harass us ... probably because we'd been drinking*" (24525).

Daniel Matthew Weazel

Weasel gave evidence that he and Edward Riley separated from the group near the corner of Edmondstone and Russell Streets and travelled along Russell Street to its junction with Boundary Street and past the police station. They were going to the Baynes Street Hostel.

(B) Versions of the police officers

Suzette Michelle Domrow

Domrow gave evidence that, within a minute or two of the group being first observed by her, they left the park and proceeded on the right hand side of Edmondstone Street towards Melbourne Street. She estimated that the group amounted to ten to fifteen youths. She did not see any person in the group carrying any alcohol.

Whilst walking along Edmondstone Street the group were yelling out at the police, abusing them, gesturing towards them in an offensive manner and "*just basically acting in a very disorderly manner*" (25600). Expressions used by the youths included "*We're going to kill you, copper cunts,*" "*Leave us alone, piss off*". The hand gestures included two fingers, one finger and with the arm crossed and the hand in the crux of the elbow. Domrow and Harris continued to follow approximately 30 metres behind the group in order to keep an eye on them.

Near Squirrels Restaurant at the intersection of Edmondstone and Melbourne Streets the youths began waving aggressively towards motorists in Melbourne Street and to the police in general. Domrow said the group never used the words "*Leave us alone*" but used words that could be interpreted as leave us alone such as "*Piss off*" (25604). Domrow continued to observe them as they went towards Boundary Street and as they entered SEQEB Park.

Whilst in SEQEB Park Domrow agreed that the youths were making it plain that they did not wish to be followed and she said that they were not annoying any other members of the public, she and Harris being the only persons with whom they were communicating. She did not consider that her conduct aggravated or inflamed the situation (25693) and did not consider that stopping at the stop sign and observing the group in SEQEB Park would aggravate the situation. Whilst in SEQEB Park some of the youths turned to face the police and began calling out. Yock was one of the persons calling out. The youths were severely intoxicated and she described Yock as being "*extremely intoxicated*" (25606) and as one of the

more vocal members of the group. One of the group waved a stake in the direction of the police and she said Yock at first attempted to remove a stake from the ground and later succeeded and waved it in the direction of the police.

Domrow stated that, up until the point at which she says a stake was produced and waved in their direction, there was no intention to arrest anybody and she did not ask for any assistance until the production of the stake. She stated that the call for assistance was made after production of a stake in SEQEB Park and at a point when the police van was at the junction of Boundary and Edmondstone Streets (25689).

After listening to the tape recording of the police radio transmissions on Channels 27 (Exhibit 94) and 45 (Exhibit 95) which recorded calls made by Harris from S255 in her presence, Domrow conceded that the calls for assistance were made prior to any of the group reaching SEQEB Park (25699). She did not and could not recall the radio communication made by Harris to the occupants of S591 on Channel 27 nor did she recall the timing or contents of the other calls for assistance.

Scott Andrew Harris

Harris gave evidence that he observed Yock and his companions walking on the right hand side along Edmondstone Street after they had left Musgrave Park. They were being abusive and yelling out although he could not hear exactly what they were saying at that stage. The police van followed approximately 20-30 metres behind the group. Members of the group were using finger gestures, shadow boxing and yelling out whilst travelling along Edmondstone Street. Yock was swearing and making lewd finger gestures and may also have been shadow boxing (25890). Yock appeared to be staggering although the majority of the group appeared to walk alright.

Harris discussed the behaviour of the group with Domrow and said that *"We both believed that they would be arrested for disorderly behaviour or such"* (25890) although he was not sure whether they actually discussed specific offences or just their behaviour (25891). He said *"We were obviously going to wait for a further unit to attend ... I think we said we would follow them until the other unit came"* (25891). Harris said that they were intending to speak to the group *"with a view to any arrest because they were committing an offence of disorderly"* (25895) and that the conduct involved *"the whole thing, committing a disorderly offence both in the park, on the road"*. He agreed that when in Edmondstone

Street the youths were directing their gestures and words back to the police car and the occupants of the police car (25913).

Harris gave evidence that assistance was called for because the group continued to be abusive in Edmondstone Street. He was not at any time directed by Domrow to call for assistance although he considered that it was possible that there was a discussion with Domrow about assistance. Harris agreed that the call for assistance to S591 was made prior to the first call for general assistance. The transcript of the tape recording of police radio transmissions on Channel 27 shows that, in making that call, upon contacting S591, Harris said:

Scott Harris here. We're in Edmondstone Street at the moment. There's 7 or 8 Aboriginal persons fairly, sort of giving us a few problems ... (at that point an unknown voice can be heard calling out "Piss off") ... and calling us names. They're all F.O.P. We'd like some persons to come down and give us a hand if you want to come down.

When S591 advised that they were busy and could not come down Harris said:

Yeah. I'll just get another car. I just thought you might be around 'cause you love that type of stuff ... You would have loved it. No worries. Thank you.

He denied that there was anything unusual in the expressions used in that conversation saying that he thought the occupants of the vehicle, being members of the Public Safety Response Team, would enjoy coming to work and thought that "they'd enjoy to come down and take ... this type of role" (25900). He was uncertain as to whether the first call for general assistance was made near the intersection of Russell and Edmondstone Streets. The second call for general assistance occurred when both the group and the police van were in the vicinity of the intersection of Edmondstone and Melbourne Streets. He agreed that S255 remained at the stop sign at the junction of Edmondstone and Boundary Streets until the arrival of S592. Harris said that there was no indication from the group that they were intending to leave SEQEB Park and could not explain the last call for assistance, which was in the following terms:

(S255) They're outside SEQEB in Boundary Street. They're going to walk to the hostel so I would appreciate it if any other units can get down there pretty quick.

He agreed that at that point he had formed the opinion that some of the group would be arrested and he wanted to arrest them before they arrived

at the hostel (25912). Harris anticipated aggression and considered that it was inevitable that arrests would be made once the group was approached by the police (25966).

(C) The version of a civilian witness

Hilton Daniel Purser

Purser gave evidence that the youths left Musgrave Park at about 4.30pm and walked along Edmondstone Street past his residence. When they were adjacent to it and approximately some two metres from Purser, who was by now in the yard of his residence, he observed the police van proceeding in Edmondstone Street in the opposite direction to the group of youths and he heard one of the youths say "*There go the dogs again*". Purser heard the youths using obscene language whilst they were in Edmondstone Street. The youths did not appear to be staggering and were not making any gestures to the occupants of the police van at any stage.

After the police van had passed, Purser observed one of the youths break from the group and chase a couple in their twenties who were on the adjacent corner of Russell and Edmondstone Streets. When the youth approached the couple the male turned around and stared at the youth who desisted and returned to the group. Purser continued to observe the youths proceeding along Edmondstone Street towards SEQEB Park.

3.4.4 Events at SEQEB Park and the arrest of Yock

(A) The versions of the Aboriginal witnesses

Joseph Norman Blair

Blair gave evidence that when the police van was stationary adjacent to the stop sign at the junction of Boundary and Edmondstone Streets he was hiding around the corner of a white masonry type wall on the Brereton Street frontage of the SEQEB sub-station. He saw an unmarked police car come around the corner. Fisher picked up a stick from the SEQEB Park side of the road, ran across Brereton Street and was chased by a detective. When told by the detective to put the stick down Fisher put the stick down.

Yock also tried to run but had to run back down Brereton Street towards Boundary Street to get around the police car because it had pulled up beside him. Yock was chased by one of the police officers. Yock did not ever have a stick in his hand. A detective (Symes) tackled him side on

and Yock fell to the ground. Blair described the tackle as like a football tackle. The detective wrestled Yock on the ground and handcuffed him with the help of a male uniformed police officer.

In his statement Blair said that Yock was wrestling trying to push the police officer away but in evidence he said that he could not really say whether Yock was struggling because the detective was over the top of him (24367).

Later he said that Yock was lying face down on the ground and was struggling to get free but *"he couldn't struggle much because the lad was pinned down"* (24467).

Blair did not see any officer put his knee on Yock's neck. However, whilst he initially said he did not see the female officer (Domrow) standing with both feet on Yock's back, he later said that he did see this (24468).

Damien James Bond

Bond gave evidence that when the group arrived at SEQEB Park the police van was behind them near the corner of Boundary and Edmondstone Streets. Members of the group were swearing at the police officers and making finger gestures. He did not see any person in the group pick up a stake whilst in the SEQEB Park.

When the police cars came around the corner the group began to run. In his statement Bond said that as he was running he saw Yock fall over when he was tackled. *"The detective tackled him and the police woman kicked him ... I saw the police woman kick him about five times. I saw her moving her leg backwards and forwards but I didn't see where she was kicking him."*

Later when he gave evidence he said that he was running at the same time as Yock was running *"and he got tackled over here (indicating on a photograph) by the detective and the uniformed cop"*. Later he said that he did not really see the detective tackle Yock *"because I was sort of running the same time"*. Later again he affirmed that he did see Yock get tackled. He described the tackle as *"using your shoulder"* (24622). He said Yock was running and was being chased by the uniformed police officer when he came into contact with the detective and both he and the detective went to the ground. Later on he said that both of the policemen went to the ground with Yock. *"They sort of both fell down with him"* (24623). Whilst Yock was being held down by the detective and the uniformed officer the female police officer (Domrow) kicked Yock *"around near the*

head part" (24627). Bond said he could see the woman's leg going back and forth. He could not, however, see whether Yock was moving at all when this was happening.

Lindsay Samuel Charles Fisher

Fisher gave evidence that nobody in the group called out to the police when the group was in SEQEB Park and he did not see anybody pull any stakes out of the ground. As the unmarked police car came round the corner and stopped on the left side of Brereton Street, the group, except Yock, began to run. Yock only ran after Fisher called out for him to run.

As Yock reached the footpath he was tackled around the waist by a police officer and went face down with the police officer on top of him. Fisher stopped and saw the police officer handcuff Yock from behind. The officer was kneeling on Yock when the handcuffs were put on him. Yock was not struggling.

Fisher said he then saw the female police officer kick Yock "*real hard in the guts ... about five times*" (24764). At that point Fisher picked up a stick. He was then approached by two police officers and he dropped the stick and ran toward the hostel.

Archie Gray

Gray gave evidence that the unmarked police car (S592) and the police van (S255) drove into Brereton Street as the group was about to move off towards Oxford Street. Yock ran behind the police vehicles and across the road toward the vacant allotment on the corner of Brereton and Boundary Streets. He was chased by two detectives and the driver of the police van and was tackled by one of the detectives. Gray described the tackle as being from behind and around the waist and said that both Yock and the detective fell to the ground. After being tackled Yock tried to push the detective away and they wrestled for a couple of seconds before the detective put Yock on his belly and tried to grab his hands. At that point the male uniformed officer came over and put his knee on Yock's neck and the detective then handcuffed Yock.

Gray said that after being handcuffed Yock tried to get up but was kicked by the female officer (Domrow) who said "*Stay down, Stay down.*" She kicked him once in the head and two or three times in the side of the ribs. Whilst his statement was expressed so as to suggest that this occurred prior to the handcuffing he said, in evidence, that Yock tried to get up and run after he had been handcuffed and that was when the policewoman kicked

him in the head (24323). At this point Yock's head hit a rock and he started shaking. Gray went across to Yock and tried to help him but was pushed away by the other detective (24342).

Gray said Fisher pulled a stake from the ground and waved it like a club but dropped it after being told to do so by Riley. Fisher then ran down toward the hostel pursued by one detective.

Glen Gray

Gray gave evidence that the group had just passed through SEQEB Park when five police cars arrived at the scene. The group began to run although he could see no reason for them to be chased or arrested by the police. He denied that any person had pulled a stake out of the ground whilst in SEQEB Park although he said the stakes that had been near a tree depicted in one of the photos without any stakes must have been pulled out by the boys when the group was in SEQEB Park (24593). However he did not see any of these stakes being taken out of the ground (24600). Nobody waved a stake at the police when the van was stationary at the stop sign across Boundary Street from the SEQEB Park (24601).

Gray saw Fisher grab a wooden stake from a garden bed on the SEQEB side of Brereton Street and he grabbed part of another stake. Fisher was confronted by the police and dropped the stake and ran away. Gray threw his stake on the ground as he crossed the road. He said Yock did not have a stake.

After the group ran Gray saw Yock, who was the last to run, running and being pursued by two police officers. Yock ran behind the police cars and up the footpath. He was then tackled by a detective. It was like a football tackle and was very hard. The detective stopped to meet up with Yock and used his shoulders to stop Yock.

Yock went to the ground and as he did so Yock screamed and he heard a thump. The detective then jumped on him with his right knee on Yock's back. Yock was struggling and the detective grabbed hold of his hands. The policewoman then handcuffed him. After struggling initially Yock calmed down and was left lying face down in the dirt.

Charles Livingstone Riley

Riley gave evidence that as he approached the vacant allotment in Brereton Street opposite the SEQEB Park an unmarked police vehicle, a red

Commodore, came around the corner at speed and began to chase them. The police alighted and the youths began to run.

Riley said Yock hadn't actually started to run when he was tackled by two police officers. He described the tackle as *"just a kind of run over and kind of push down so they can put him down and put handcuffs on him"* (24293). Yock went to the ground as did both police officers. Yock was not struggling.

Riley called out to Glen Gray to go back and help Yock but the police officers pushed him and told him to get lost and tried to arrest him (24288). Riley saw Fisher pick up a stick; a police officer approached Fisher and Riley called out for him to drop the stick which Fisher did and then ran away. Two police officers, one in plain clothes and one in uniform, who were the same two men who had tackled Yock, chased Fisher down the road.

Riley then commenced to run in the same direction as Fisher but looked back for ten seconds and saw the female police officer (Domrow) kicking Yock. Yock was shaking. He did not know how many times she kicked him but saw her leg move four or five times. He only saw her legs in motion but she was putting her whole body into it. He couldn't verify where she was kicking but said that he had seen her leg in motion and that *"you wouldn't swing your leg for nothing"* (24297). The police woman appeared to be kicking Yock in the ribs but Riley did not see any of the kicks actually hitting Yock (24288).

(B) The versions of the police officers

Gregory Ian Bishop

Bishop gave evidence that the group was stationary in SEQEB Park when his vehicle, S592, was in the vicinity of the stop sign at the corner of Boundary and Edmondstone Streets. The group began to file out of the park and as S592 went into Boundary Street and then Brereton Street they began to run. He observed Yock initially trying to wiggle a stake out of the ground and shortly thereafter he saw Yock with a stake in his hand. The stake was held in two hands with a waving motion in the direction of the police (26141).

Bishop described the circumstances of Yock's arrest as *"Symes running across the road, in effect heading for the power pole, and Yock going up the street, ... like two trains colliding at an intersection."* It appeared that Symes was trying to cut Yock off as he was running up the street (26143).

He denied that Symes attempted to tackle Yock. He said both persons were moving up to the point of impact although Symes arrived at the spot slightly earlier than Yock and stopped momentarily and braced himself before impact (26143-4). He thought that Symes' shoulder area hit the front of Yock. Yock crumpled to the ground. He did not see Yock go completely to the ground because his attention was drawn to the activities of Aboriginal youths further down the street. Bishop then left the area and travelled towards the hostel.

Michael Joseph Crowley

Crowley gave evidence that when he first arrived on the scene Symes had Yock restrained but Yock was still struggling. Symes indicated that he required handcuffs and Crowley took them across and applied them to Yock. There was a second Aboriginal youth in the area who was saying "Please let him go." "He's done nothing wrong." "What are you blokes picking on him for?" "Let him go." (26359). Yock kept moving to achieve a better position. Shortly after arriving at the scene he and Symes left the area and went towards the hostel.

Gary David Crozier

Crozier gave evidence that when he first arrived at the scene with Crowley he observed Symes crouched down or kneeling over another person. There was a second Aboriginal youth in the area who kept wanting to go in the direction of the person on the ground. He kept this person away from Yock but saw no reason to arrest him.

Suzette Michelle Domrow

Domrow gave evidence that the group was in SEQEB Park when one of the group removed a stake from the ground and was waving it in the direction of the police. This person was calling out "*We're going to kill you copper cunts*" (25611) and was the same person as had exposed his penis whilst in Musgrave Park. Yock also tried to remove a stake from the ground but was unable to do so.

Whilst Domrow said she did not see Yock holding a stick that had come out of the ground (25720), she later said that Yock initially attempted unsuccessfully to remove a steel picket but thereafter succeeded in removing a wooden stake from the ground which he was waving around (25839-40). She described the stick waving as aggressive and as a spear movement (25852). Domrow did not go back at any time to find the stick (25858).

S592 arrived at the time the two persons were waving stakes. After a brief pause at the stop sign both vehicles moved into Brereton Street. By that time the youths had started to run. Yock was adjacent to Domrow's vehicle when it stopped in Brereton Street. He then ran behind the vehicle and along the footpath of Brereton Street adjacent to the vacant allotment pursued by Domrow and Harris. Symes positioned himself on the footpath area in front of Yock. Yock ran into his upper body and fell to the ground. Symes did not tackle Yock. Just prior to the collision Symes folded his arms in front of his chest to protect himself and held his ground. Domrow considered Symes' action was designed to stop Yock from running away from herself and Harris and was not an action of actively tackling him. Yock was face down on the footpath with Symes over the top of him. Symes had hold of his hands behind his back and Yock was moaning, "*As if you're struggling*" (25640), but Domrow could not understand what he was saying. Domrow said she then either held or sat on Yock's legs in order to prevent Yock from kicking Symes. Domrow denied ever having kicked or assaulted Yock in any way (25688).

Scott Andrew Harris

Harris gave evidence that the group's behaviour became violent and aggressive whilst in SEQEB Park. He described their conduct as follows:

... One of the male persons initially picked up a large stake or picket; he was waving that around in an abusive manner, and at times - in one hand, and was beckoning for us to come towards him. The other persons were shadow boxing. I observed that there was a railing, they were hitting the railing, they were yelling out. We were at a distance far enough away that we couldn't hear exactly what they were saying. They were being very abusive and aggressive. (25914)

Harris said the person waving the picket, which he thought was metal, was a different person from the person who exposed his penis in Musgrave Park (25916). Yock was not waving a picket although he did attempt unsuccessfully to remove a metal picket whilst in SEQEB Park (29516). Yock had been calling out and shadow boxing prior to trying to remove the picket. However he did not at any time have a stick in his hands which was free of the ground (25968-71).

Harris said that S592 arrived when the person was waving the picket and Yock was attempting to remove a picket (25917). The two vehicles then drove into Brereton Street at which time the group moved off. Yock was the last of the group and when Harris alighted from the vehicle Yock commenced to run behind the police van and along the street and was intercepted by Symes. He described the arrest as follows:

I pursued him around the rear of the vehicle. He was heading towards the footpath which is on the hostel side of Brereton Street. I got round to the other side of the vehicle and he was approaching the footpath. I then noticed that Sue, Domrow, had alighted from her side, her driver's door and had given chase as well. He was heading towards a position where Symes was and Symes was up near the ..., the power pole He was looking back at us as he was running, obviously in an attempt to get away, and he kept running towards Symes who was obviously there to stop - stop him from going away. He continually looked at us as he ran up there and I saw that Sergeant Symes turned his body sideways and he was facing the spare allotment and he then - he put his arm down to protect himself because Yock wasn't going to stop and Yock then collided with acting Sergeant Symes. (25921)

Symes dropped his shoulder in a defensive manner and Yock collided with him without any attempt to change direction prior to the collision (25923). Harris did not see whether Yock fell onto his front or back. Whilst he saw Symes go to the ground he did not see very much thereafter as his attention was drawn towards other persons. He then left the area on foot and ran towards the hostel.

Prior to leaving he had spoken to another Aboriginal youth who seemed to want to intervene and he had told that youth to "Stay out of it." He grabbed hold of this person with the intention of arresting him but at that point noticed Bishop go over the hill towards the hostel. He then left that youth and followed Bishop. He said this other Aboriginal male was the person who had exposed his penis in Musgrave Park (25982).

Richard John Symes

Symes gave evidence that when his vehicle, S592, first arrived in the vicinity of the stop sign at the corner of Boundary and Edmondstone Streets there was one person waving a stake and another person trying to remove a stake from the ground. All of the group were outside SEQEB Park with some being on the footpath and some on the roadway. There were raised voices and some swearing from the group.

Symes drove S592 to where the group of persons was standing on the roadway. At this stage the man who had been attempting to remove the stick had succeeded in doing so and both persons with sticks were waving them. Symes alighted from the vehicle and told the group to disperse. Several of the group started to run in a direction away from the police over the hill and towards the hostel.

Symes had determined to arrest the persons waving the sticks, who by this time had dropped the sticks. One of the two, Yock, began to run behind the police van and onto the footpath. He was being pursued by the two uniformed officers from the police van.

Symes described the arrest as follows:

... Yock is running directly in my direction, but he appears to be looking over his shoulder, I believed to see, maybe, the position of where the two uniformed officers were who were giving chase to him. As he has run to where I am standing, I realise that he wasn't going to stop. I originally thought Yock was going to turn his head and sight me, prop, and stop, but at no time did Yock turn his head to face me. He has run in my direction. When I realised that he wasn't going to stop, I braced myself and he collided with the side of me.

... As he ran towards me, I realised that he hadn't even seen me, his attention being drawn, I believe, to uniformed officers in chase. When I realised that he wasn't going to stop I turned from my front on position to a side on position to protect myself from the impact. (26045)

When Yock collided with him, Symes felt an impact on his shoulder, thigh and lower part of the leg. Symes did not at any time call out to Yock.

Yock did a half pirouette and landed on his rump adjacent to where Symes was standing on a small grassed area. Symes went backwards but did not fall to the ground. Symes then reached down to pull Yock forward into a prone position on the ground. At that point Yock was "*thrashing around .. his legs were moving, his upper torso was moving to some degree*" (26047). Symes did not at any stage look for the sticks nor did he ask any other officer to do so. He did not know where the sticks had ended up.

After he had arrested Yock, Symes asked Domrow for handcuffs but Domrow indicated that she did not have handcuffs with her. At this point the vehicle carrying Crowley and Crozier arrived on the scene. Symes indicated to Crowley that he needed a set of handcuffs and Crowley came across and placed the handcuffs on Yock. Yock seemed fairly subdued when the handcuffs were applied to him.

Symes was not assisted in the restraint of Yock apart from Crowley applying the handcuffs. Domrow did not at any time apply any restraint to Yock.

There was a second Aboriginal youth near Yock who was saying something like "*Leave him alone*" or "*Don't touch him*" and Crozier was

standing with his arm outstretched barring this Aboriginal person from interfering with the arrest. Shortly thereafter Symes and Crowley left the area and travelled towards the hostel.

3.4.5 Yock's condition whilst on the ground and on being placed in S255

(A) The versions of the Aboriginal witnesses

Archie Gray

Gray gave evidence that he remained with Yock whilst he was on the ground. He said that when Yock was kicked and told to stay down he hit his head on a rock and he started shaking and became unconscious. He said Yock "... was just lying there with his eyes open. I saw his eyes rolling back. I was saying 'help him. Just leave him alone'. There were several police there by this time. They were chasing and looking for the other boys." (24328) Gray told the police to undo the handcuffs because they were too tight.

Gray remained with Yock until he was placed in the police van, S255, and described that movement as follows:

When they got Boonie (Yock) to his feet he was all over the place. He was conscious but staggering around. A male uniform officer and the detective held him up. The lady copper opened the door of the paddy wagon and as they were putting Boonie into the paddy wagon I ran to the hostel. I did not actually see them put him in the van. (24329).

Yock was saying "Shit Shit" as he was being put into S255.

Glen Tony Gray

Gray gave evidence that he remained with Yock until he was placed in S255. Whilst initially kept away from Yock by one of the police officers, he pushed forward past the officer when he saw Yock's body and head shaking like he was choking. He asked the police to help him or let him help him but the police said nothing. Yock did not respond when Gray was talking to him and did not move apart from shaking.

Gray noticed that Yock was bringing up whitish foam (which he said did not smell of alcohol or spirits) and was shaking and choking like he couldn't breathe. Yock then urinated in his pants. He again asked the police to help him saying "Can't you see he's sick. Can't you see he's hurt here." Gray pulled Yock out of the dirt over towards the concrete

footpath. Gray denied that the male police officer had indicated for him to move Yock's head when Yock was coughing or sneezing.

After a time the policewoman grabbed Yock's legs and the policeman grabbed under his arms and carried him over towards the van. Yock did not appear to move and did not say anything. He was placed in the van face down and did not appear to move whilst in the van.

Gray participated in an interview that was televised on Channel 7's Real Life Program; a video tape of that interview is Exhibit 153A and the transcript is Exhibit 153B. In that interview, after discussing how Yock was placed in S255, the following exchange occurred:

Q. And was he still struggling?

A. Yes.

Q. And wrestling at the time?

A. Yes, he was still choking.

Charles Livingstone Riley

Riley gave evidence that after Yock was tackled he hit his head on the footpath and started shaking. He was shaking with his hands handcuffed behind his back and was face down. It looked like he was having some type of fit. While Yock was shaking the policewoman kicked him.

(B) The versions of the police officers

Gary David Crozier

Crozier gave evidence that after restraining the Aboriginal youth from moving towards Yock, he noticed that Yock's breathing was laboured as if he was trying to get his breath back after some sort of activity (26395). He did not recall Yock making any other noise but said Yock wriggled his torso as if to adjust his position. After some time Crozier noted that Yock's breathing had slowed down to what he considered was approaching normal although it was still elevated slightly (26398).

Yock's head was on the concrete but there was dirt and grass clippings in the vicinity of his head. The other Aboriginal youth moved Yock's head after Yock started to splutter. Yock stopped spluttering once he had been moved (26397). At one point the Aboriginal youth raised Yock to a sitting position and then placed him back down again. When the other Aborigine picked up Yock, Crozier noticed that Yock had urinated in his pants. It appeared Yock was urinating at the time as he noticed a developing wet

patch (26398-9). Crozier did not see Yock vomit but there was a white foamy sort of saliva that came out of his mouth when he was spluttering. Crozier did not think any of it left his mouth (26401). He denied that the other Aborigine said Yock was "taking a turn".

Yock partially walked to the van although he required some support (26390-1). They were not taking Yock's full weight when supporting Yock (26398). He was placed in a position face down in the van and remained in that position although he adjusted slightly to become more comfortable.

Andrew Bernard Caris

Caris gave evidence that when he first arrived in Brereton Street he saw two plain clothes police officers and two uniformed officers at their vehicles and saw an Aboriginal person lying on the footpath. He could not be sure of his position and could not recall anything else.

Suzette Michelle Domrow

Domrow gave evidence that Yock was making noises whilst on the ground. She described them as follows:

Well, when one's struggling ... just sort of, you know had a little bit of a run, I mean, they're partly out of breath and, you know, they - they - oh well - from my experience I found that, you know, people aren't able to yell out, you know, abuse and carry on when they've just had a short run and had a collision and about to be handcuffed. They sort of - the - it's more, I don't know, grunting and moaning which comes along with the struggling. I - I - I don't - that's how I can best describe it (25644).

The noises made by him were not one of pain but rather as if the wind had been taken out of him (25728).

Yock continued to wriggle after he had been restrained by the handcuffs as if to get more comfortable (25646). He was struggling, not shaking (25729). He was breathing heavily as if slightly out of breath. Domrow denied that his body and head were shaking as if choking and did not agree that white foam was coming from Yock's mouth. Yock did at one stage vomit some clear liquid smelling strongly of alcohol.

Domrow considered Yock's position was fine but said that the other Aborigine felt his head should be moved and no police officer interfered with the movement of Yock's head. There were twigs and dirt around Yock's head (25649). She could not recall the Aboriginal youth shaking

Yock's arm and attempting to speak to him nor could she recall being told "*He's taking a turn, please help*" or words to that effect. She denied that he sneezed or coughed and said that throughout the whole time he was on the ground he only struggled, wriggled, moaned and grunted. He did not say anything that could be understood (25650). She said that when he vomited the clear liquid smelling of alcohol his head was slightly off the ground and he did not need assistance.

Domrow noted that Yock had urinated into his pants but was not concerned as she had seen intoxicated people do it many times before. In her opinion there was nothing different in his condition from someone who is intoxicated (25866). She considered Yock to be extremely intoxicated.

Domrow described the placement of Yock in S255 as being "*with his aid*" and described it as being one motion. Yock walked to a certain degree but needed support (25651). He grunted and groaned when picked up but his breathing was normal (25652).

When placed in the van Yock was not convulsing, trembling or frothing at the mouth nor was his head lolling about (25849). There was some slight movement of his head but it basically remained where it was placed in S255 (25822). He was placed on his stomach because he was not capable of sitting up (25870). He was, in her opinion, "*alright to be placed in the van*" (25805).

James Francis Leyendeckers

Leyendeckers gave evidence that as he first entered Brereton Street he noticed a police van and an unmarked police car parked in Brereton Street. He saw a person face down on the ground being held down. He presumed that the person was being held down because he was face down on the ground (26573). He also saw a policeman and a policewoman near this person but could not recall who was holding the person down. He did not notice any movement from the person on the ground but had only a brief glimpse of him before proceeding to the hostel. Leyendeckers recollected someone immediately in the vicinity of the person lying on the ground.

David Rountree Parker

Parker gave evidence that when he first arrived in Brereton Street he saw an Aboriginal male partly sitting up on the footpath in Brereton Street opposite the SEQEB depot with a policeman and a policewoman standing nearby. The male police officer may have been holding the Aboriginal person but he was not sure. He could not recall whether this person was

handcuffed and saw nothing untoward. When Parker first looked at the scene the Aboriginal male seemed to be struggling but then settled down. He saw no other person near the Aboriginal male.

Warren Lindsay Whittaker

Whittaker gave evidence that when he first arrived in Brereton Street with Parker he observed S255 and two police officers. He did not see any other persons around and did not see any person on the ground.

(C) The versions of civilian witnesses

None of the residents in Brereton Street observed events leading up to Yock's arrest. However, many of the residents and some passers-by did witness events immediately following the arrest. The evidence is relevant to a consideration of Yock's condition whilst on the ground in Brereton Street.

(i) Residents at 2 Brereton Street

Vincent Antonio Costas

Costas gave evidence that he observed an Aboriginal youth on the ground with another Aborigine who was trying to get him up and had him by the arm shaking him. The Aborigine on the ground was not handcuffed when he first observed him and he did not at any time see handcuffs being applied to the youth.

Kenneth Robert McNamara

McNamara gave evidence that he was in his room when he heard a screech of tyres. On going to the front of his residence he observed two police officers and two Aborigines on the footpath. A policewoman was trying to handcuff an Aborigine on the ground and the other Aborigine, with whom the police were having a scuffle, was also involved although he could not tell whether he was helping or hindering the police.

In McNamara's opinion the Aborigine on the ground was unconscious and it took four or five minutes to handcuff him. At no time did he see any violence toward the Aborigine on the ground. A few minutes later McNamara observed an unmarked police van arrive and park in front of the police van.

McNamara did not observe Yock being placed in the back of the police van but estimates that the entire incident took approximately ten to fifteen minutes from the time when he first observed the youth to when he noticed that the youth had been placed in the van.

Kenneth Norris Kent Martin

Martin gave evidence that he initially observed an Aboriginal youth threatening police officers with a wooden picket. Upon being called to do so, the Aboriginal youth put the picket down. Martin then went into his house to obtain his glasses. On his return he noticed an Aboriginal youth lying on the road with a policeman and a policewoman and another Aboriginal youth nearby. He did not see any police officer use handcuffs and did not see the youth on the ground being placed in the paddy wagon. At no time did Martin see the youth on the ground move.

Hermann Edgar Schraut

Schraut gave evidence that he observed a person lying on the footpath on the other side of Brereton Street with another person kneeling on him making strong movements downward with his shoulders. The person on top appeared to be striking the person on the ground but he did not see any blows. He did however concede that it might have been an assumption on his part (24063). He saw only movement and could not see the person's fists. He saw him push down maybe five or six times and described it as like "*two drunks having a scuffle*".

Schraut said a police van arrived and two uniformed officers, a male and a female, went to the two persons on the ground. Schraut did not see handcuffs applied to the person lying on the footpath and did not see this person placed in the van.

Damien John Waters

Waters gave evidence that he observed an Aboriginal male lying on his side and half on his back on the pavement adjacent to the vacant allotment. He observed another Aboriginal youth kneeling down who appeared to be inspecting the upper half of the body of the Aboriginal youth lying on the ground. The youth on the ground was not moving and he could not hear any moaning coming from the youth.

Waters said a female police officer tried to have the youth stand up but he just slid back onto the ground. He described the motion as lifting his head halfway up and then letting him go and slide back onto the ground. The police officers then dragged the youth along the ground pulling him by his wrists. They did not carry him and his hands were stretched above his head at arms length. In his opinion the youth was incapable of standing up and his head seemed quite limp but he was not able to give any indication of consciousness.

The youth was dragged to the rear of the van and pushed into the van but he did not consider that there was any violent action on the part of the police officers in placing the youth in the van.

Waters recalled another Aboriginal youth removing a stake from the footpath area further up Brereton Street towards the hostel and making threatening gestures to a police officer. This youth then ran down towards the hostel pursued by the police officer. Waters was unable to recall whether the youth dropped the stake.

(ii) Resident at 6 Brereton Street

Carolyn Jane Davies

Davies gave evidence that she was returning to her residence on 7 November 1993 when she observed a young Aboriginal man lying on the pavement on the right hand side of Brereton Street with a policewoman standing next to him. The policewoman had her hand under his chest as if she was supporting him. She saw the person on the ground move his left arm in a very weak sort of gesture (23824). She also saw his head move as if to lift it or something like that (23839). She did not have the impression that the man on the ground was unconscious. She saw no signs of violence offered to the man on the footpath by the policewoman. She did not see Yock being put in the back of the police van.

(iii) Residents at 8 Brereton Street

Dorothy Elizabeth Williams

Williams gave evidence that she observed an Aboriginal youth pull a stake from near a tree adjacent to the vacant block of land in Brereton Street and wave it around momentarily before dropping it. She also observed an Aboriginal youth on the ground and saw him

being helped to his feet by another Aboriginal youth and a male police officer. He appeared to have his hands behind his back and whilst he was being strongly supported, his legs were functioning and he was supporting his own head (23899).

Judith Pamela Williams

Williams gave evidence that she observed an Aboriginal man lying on the ground. When she first saw him he was still and she thought he was unconscious. She observed a police officer and another Aboriginal male lift the youth who was then taken, with his arms over the shoulders of the police officer and an Aboriginal male, to a police van which was situated near the hostel. She had a clear recollection that the youth could walk with support to the van and she realised that he was not unconscious (23915). She did not see the youth placed in the van.

(iv) Passers-by

Julie Anne Cosgrove

Cosgrove was driving along Boundary Street approaching Brereton Street on 7 November 1993 when she observed two police vehicles near the SEQEB building in Brereton Street. She saw an Aboriginal person on the ground and another Aboriginal youth with what appeared to be a look of anguish on his face attempting to go towards the person on the ground but being restrained from doing so. Police officers were crouched or kneeling on the ground and appeared to be attending to the person on the ground who did not appear to be moving. Cosgrove continued driving along Boundary Street.

Dennis Michael Ryan

Ryan and his wife were travelling along Brereton Street towards Boundary Street on 7 November 1993. He gave evidence that he observed an Aboriginal youth trying to back away from a policewoman who was trying to place handcuffs on his wrist. The Aboriginal youth was not being aggressive but was swinging his hands back out of the way to avoid being handcuffed and was in the act of retreating. There was another Aborigine either in a crouched position or lying on the ground who was definitely not handcuffed (24020). At that point there were no vehicles in Brereton Street but shortly thereafter he observed a sedan and a

police van drive into Brereton Street. The occupants alighted and went towards the policewoman. Ryan continued on his journey.

Rhonda Lenore Ryan

Ryan was travelling with her husband on 7 November 1993 along Brereton Street. She gave evidence that she saw a young Aboriginal youth standing on the footpath of Brereton Street adjacent to the vacant allotment with a uniformed policewoman who was holding his hands but not aggressively. The Aboriginal youth was not handcuffed. Shortly thereafter she observed a police van come round the corner and pull up outside the SEQEB building in Brereton Street. Ryan turned back and observed the Aboriginal youth start fighting with the policewoman but said it was more like swinging his arms around without any direction rather than direct boxing action. The policewoman was trying to grab his hands. Ryan saw no handcuffs in the policewoman's hands and did not see any person lying on the ground.

I have in part 3.4.4. set out summaries of the evidence of the Aboriginal witnesses in relation to the arrest of Yock. I have included in those summaries any relevant observations in relation to events immediately following the arrest.

3.5 EVENTS AT THE HOSTEL

After Fisher dropped the wooden stake he ran along Brereton Street towards the hostel pursued by Bishop who was subsequently followed by Harris. The balance of the group of youths had also travelled to the hostel.

Fisher was intercepted by Bishop in Brereton Street adjacent to the gateway leading into the hostel. Harris arrived shortly thereafter to assist Bishop. They were surrounded by a number of Aborigines and a scuffle occurred wherein Bishop and Harris became separated and each was surrounded by a small group of Aborigines. Evidence was given that both officers were assaulted during this scuffle.

Shortly thereafter Symes and Crowley arrived in S592. As S592 pulled up Symes made an urgent call for assistance on Channel 45. The making of the call was recorded at the Police Communications Centre at 17.58. Upon their arrival the two groups of Aborigines dispersed into the hostel and a neighbouring yard. They were pursued by the police officers.

Shortly after Symes and Crowley arrived at the hostel, Whittaker and Parker arrived in Brereton Street and were directed to the hostel by Domrow. When Whittaker and Parker arrived at the hostel they did not observe any disturbance. They met Symes, Bishop and Harris outside the hostel and were told that a person had escaped and gone into the hostel.

Harris and Crowley proceeded upstairs in search of offenders. They located Blair in a cupboard in a flat at the rear of the hostel. By this time Caris and Leyendeckers had arrived at the hostel. Blair was taken downstairs and Caris placed him in S255 with Yock.

The police officers who attended at the hostel gave evidence of seeing or hearing articles being thrown from the hostel in their direction or in the direction of police vehicles and of hearing abuse from occupants of the hostel. Some of the residents in Brereton Street heard abuse and one of them, Clark, who resided opposite the hotel, saw projectiles being thrown. The Aboriginal witnesses, including one Lorraine Jean Turbane, who was visiting the hostel, denied in evidence hearing or seeing anything being thrown at the police, although she, in an interview with members of the Commission (Exhibit 48), said that she *"picked up a pot and went to smash the police car window but it missed."*

3.6 EVENTS BETWEEN LEAVING THE HOSTEL AND ARRIVAL AT THE WATCHHOUSE

Shortly after S255 left the hostel Domrow and Harris met Symes and Bishop. They were instructed by Symes to continue to patrol the area in search of further offenders. Symes gave evidence that this directive was given as S255 was the only special purposes vehicle at the scene. S255 continued to patrol the area for about seventeen minutes during which time a grassy area to the rear of the hostel was searched by Harris. S255 and S592 met at least once during the patrol. Shortly prior to 18.21, S255 and S592 again met on Boundary Street, West End. There was a brief discussion after which S255 proceeded to the watchhouse followed by S592.

The condition of Yock whilst in S255 prior to its arrival in the watchhouse is of considerable importance. I set out below a summary of the evidence given by the various witnesses in relation to this aspect of the investigation.

(A) The versions of the Aboriginal witnesses**Joseph Norman Blair**

Blair gave evidence that when he was first placed in S255 Yock was lying face down with his hands handcuffed behind his back. After S255 started driving around the block he began to think that Yock was not alright. He tried to wake him up and shook him. He picked his head up and saw there was vomit down the side near his mouth. Yock's eyes were open and he was staring at Blair. Blair checked to see if Yock was breathing and he was not. He tried to find a pulse, but *"couldn't really tell because of the handcuffs."*

When S255 stopped and Harris was searching the grassy area at the rear of the hostel, Blair called out to Domrow and Harris to check Yock and to take the handcuffs off because they were tight. He said *"This fellow here won't fucking wake up"* (24362). The police ignored him and Domrow lit a cigarette and grinned. He believed the police were close enough to hear him when he called out. When the police returned to S255 he called out *"Can you come and take his handcuffs off him"* but they hopped in the van and drove off. (24371) Blair said that he felt that the handcuffs were too tight.

Blair said he made many more attempts and kept singing out along the street but was ignored by the police. Blair did not at any time call out when S255 met up with S592 even though the vehicles were only a few feet apart. When asked why, he said he did not think that Yock was sick and thought he may have been asleep. He said *"I thought he was alright. I didn't think he was in a sick way or whatever, a bad way."*

Archie James Gray

Gray gave evidence that he saw Yock on three occasions after he was placed in S255. The first time he was asleep, the second time he was doubled up and the third time he was asleep (24329).

Glen Tony Gray

Gray gave evidence that he observed Yock once when S255 drove past. Yock was in the same position as when first placed in the van. He did not see Yock move at all (24591).

(B) The versions of the police officers**Gregory Ian Bishop**

Bishop gave evidence that he only ever saw one person in the rear of S255 and he did not know that there were two persons until arrival at the watchhouse.

Andrew Bernard Caris

Caris gave evidence that he observed another person in S255 when Blair was placed in the rear of the van. This person was handcuffed and lying in the back of the van. Caris did not pay any particular attention to that person and does not recall the person moving (26423). Caris' notes (Exhibit 119) record that when Blair was placed into S255 he commenced talking to the person on the floor of the van. Caris could not remember what Blair said and did not recall whether the person lying on the floor ever responded (26424).

Caris later saw the van and recollects that two people were sitting up in the van. He said:

The gentleman that I placed in the van was very vocal and it drew my attention to the van and the instance where a person came towards us to ask us our name also drew my attention to the van because he walked to the back of the van and he was speaking through the cage and, to the best of my knowledge, he was - I could see two people in the rear of the cage.

Caris could not say whether the second person was sitting on the floor of the van or sitting on the seat within the van.

Gary David Crozier

Crozier gave evidence that Blair had to step over Yock in order to enter S255. Crozier did not pay any attention to Yock's position and did not observe any movement from Yock. He did not see Yock again.

Suzette Michelle Domrow

Domrow gave evidence that when placed in S255 Yock looked fine, had a facial expression and gave no indication that anything was wrong (25666). When Blair was placed in the back of S255 he stepped over Yock who did

not appear to move. Yock was much in the same position as when placed in the van.

Domrow said that when Harris was searching the grassy area she went to an area some 10-15 metres away from S255. She did not hear any calling out from the back of S255 during this time. When walking back to the driver's door after searching the grassy area she looked into the back of the van. Yock appeared to be fine and was still in the same position as when placed in the van (25832-3). She was able to see his eyes and they were open and blinking (25834). Apart from having that quick look she did not specifically check Yock's condition whilst he was in S255.

Scott Andrew Harris

Harris gave evidence that as he entered S255 at the hostel he glanced and saw Yock on the floor. He did not look into the rear of the van at any other time until arrival at the watchhouse. He did not hear any person calling out from the rear of the van nor did he hear any sounds coming from the rear of the van except that he thought Blair whistled once when Harris went to search the grassy area at the rear of the hostel. He thought this was an attempt by Blair to warn the others. He did not ever see Blair bending over and/or shaking Yock.

James Francis Leyendeckers

Leyendeckers did not actually witness Blair being placed into the rear of S255. However he gave evidence that when he observed the van later he observed two persons in the rear of the van. Both persons appeared to be sitting down (26575).

Richard John Symes

Symes gave evidence that he did not ever see Yock in S255 until arrival at the watchhouse. He did not ever hear any noise from the rear of the van and Blair did not say anything to Symes. Whilst travelling to the watchhouse behind S255 he saw Blair who did not do anything to attract his attention or indicate that he or anyone else in the rear of the police van needed assistance.

(C) The versions of civilian witnesses**Vincent Antonio Costas**

Costas gave evidence that when S255 was being driven around on patrol he observed an Aboriginal youth sitting in the rear of the van. He did not hear any noises emanating from the van.

Mabel Ann Hopkins

Hopkins gave evidence that she observed Yock inside S255 on two occasions. On the first occasion S255 was parked in Brereton Street. Hopkins looked in through the driver's side window and saw Yock lying on his belly with his hands handcuffed behind his back. She did not see him move and did not hear him say anything. She did not speak to him and thought that he was asleep. Hopkins then returned to the hostel looking for Blair.

On the second occasion S255 was parked in Oxford Street and Blair had been placed into the rear of the van. Hopkins said she again looked in through the driver's side window and observed Yock still lying on the floor in the same position as the first time. He did not say anything and she thought he was still asleep. She did not see Blair do anything about Yock. On both occasions she said Yock looked like as though he was asleep. He did not look sick (24273).

Roy James Hopkins

Hopkins arrived at the hostel with Turbane. He gave evidence that he observed S255 drive into Oxford Street, turn around and drive back towards Brereton Street. As it did so he observed Blair in the rear of the van and also saw another person lying on the floor. Blair called out to his mother to meet him at the watchhouse.

Kenneth Robert McNamara

McNamara gave evidence that as S255 drove along Brereton Street he observed that there were two Aboriginal youths in the rear of the van. One of the youths seemed concerned about the welfare of the other youth who was lying on the floor and appeared to be trying to lift this youth from the floor. He assumed the youth was in distress because he was not moving and the other person in the rear of the van was shaking him and trying to get him up (23775).

McNamara observed the youths on a second occasion at which time the actions of the second Aboriginal youth in relation to the first appeared more intense. The youth was still on the floor of the van and in approximately the same position as when he observed him on the first occasion. At no time did he see the youth on the floor make any movement and he did not at any time hear any noise coming from the van either by someone calling out or by someone banging on the side of the van. On both occasions the van was travelling along Brereton Street towards Boundary Street at approximately 40kph.

Hermann Schraut

Schraut gave evidence that S255 drove around the area for at least twenty minutes. He observed a person through the bars of the cage but could see no activity. He realised that there was another person in S255 along with the first person who had originally been lying on the footpath.

Lyndall Fay Turbane

Turbane, the manager of the Oxford Street Hostel, received a phone call in relation to the incident at the hostel and travelled to the hostel. She gave evidence that as she arrived at the hostel she observed S255 travelling along Oxford Street and into Brereton Street. As it drove past she observed Blair in the rear of the van and heard him calling out to his mother. She only heard the words "*Mum Mum*" and did not hear any other conversation. She did not hear him call out that something was wrong with someone else in the van.

Damien John Waters

Waters gave evidence that he observed S255 proceed down to the hostel with one person in the rear of it. When he next observed the van coming back up Brereton Street it appeared that there were two people in the back. One person was sitting up and one was lying down in the rear of the van. He did not observe any interaction between the two. He did not hear anybody calling out from S255.

Judith Pamela Williams

Williams gave evidence that approximately ten to fifteen minutes after she observed Blair being put into the rear of S255 at the hostel it drove off. She could only see one person sitting in an upright position in the van.

Jonathan Wilson

Wilson gave evidence that when S255 was parked opposite his house he observed someone sitting upright in the rear of the van against one of the walls.

3.7 EVENTS AT THE WATCHHOUSE, IN THE AMBULANCE AND AT THE HOSPITAL

On arrival at the watchhouse Yock was found to be motionless and in the same position as when first placed in S255. Harris could not find any sign of breathing and Yock was removed from S255 and placed on the ground. Whilst on the ground Bishop sought to find a pulse.

Assistance was immediately sought from watchhouse staff and an ambulance was called. This call was noted in the police radio communications records as having been made at 18.27.

Senior Constable Cage, who is trained in the use of resuscitation equipment, was on duty in the watchhouse when he heard someone call for the oxy-viva equipment and the ambulance. His recollection is that he noticed that the time was 6.29pm (18.29). He immediately obtained the oxy-viva equipment, left the watchhouse and attended to Yock. After satisfying himself that there was no pulse and that Yock was not breathing, Cage commenced to administer 100% oxygen to Yock and Symes administered CPR. Cage released the handcuffs from one wrist before CPR was commenced. Cage estimates that 30 seconds would have elapsed from when he first attended beside Yock and the commencement of CPR. In my opinion the evidence indicates that the administration of CPR to Yock would have commenced no earlier than perhaps a few seconds before 18.30.

An ambulance was dispatched at 18.30 and arrived at 18.33. A cardiac monitor was immediately connected to read Yock's cardiac rhythm. The monitor revealed that Yock was asystole, a condition where the heart muscle is not contracting. Resuscitation attempts continued and Yock was placed on a stretcher and transferred to the ambulance.

The Royal Brisbane Hospital was notified at 18.39 that the ambulance was proceeding to hospital. As the ambulance left the watchhouse car park the cardiac monitor revealed a change in cardiac rhythm to ventricular fibrillation. Whilst the Queensland Ambulance Service Coronary Care Protocol (Exhibit 84) does not permit defibrillation of the heart when the patient is asystole, it does permit defibrillation when the patient is in ventricular fibrillation. Defibrillation is a means by which an electric shock is applied to the heart in an attempt to restore it

to a normal rhythm. The ambulance stopped at or near the entrance to the watchhouse car park and Yock, in accordance with the service's coronary care protocol, was defibrillated twice at 200 joules and once at 360 joules.

There was no change in Yock's condition and the ambulance proceeded to the Royal Brisbane Hospital. Yock vomited three times en route to the hospital. There was a smell of alcohol in the vomit. Symes and Cage, who went with Yock in the ambulance, continued to administer CPR and oxygen during the journey but were, at times, relieved by ambulance officers.

En route to the hospital Symes told one of the ambulance officers, Tatters, that Yock had been arrested and asked Tatters to check Yock for any signs of injury commenting that Yock had not been touched by the police. Tatters later did this at hospital and did not find any injuries. Yock's clothing was searched for identification.

On arrival at the hospital (which was noted as being 18.43) medical staff took over the care of Yock. Dr Scott, the Registrar in Emergency Medicine at the hospital, gave evidence that Yock had no pulse, was not breathing and was asystole.

Yock was defibrillated again by hospital staff but there was no change in his condition. Resuscitation attempts continued and drugs were administered to aid that process. Yock did not recover and resuscitation attempts ceased at 19.13 at which time Yock was pronounced dead.

Evidence was given that Yock had breathed spontaneously on two occasions. Dr Scott was of the opinion that such an occurrence is not unusual and was simply a consequence of effective CPR. Similarly the vomiting which was observed in the ambulance was, according to Dr Scott, a common result of the CPR process.

The events in the car park of the city watchhouse were witnessed by a number of police officers from various stations around the city, watchhouse staff and two civilians.

Senior Sergeant Melling was the watchhouse keeper and operational supervisor on duty that night. He and the Regional District Officer, Inspector Crone, attended the car park area and observed the resuscitation attempts undertaken by Symes, Cage and the ambulance officers. Melling instructed another officer, Aston, to obtain the names of all persons present within the car park. He also instructed Symes and Cage to go with the ambulance and instructed all other relevant police officers to remain within the watchhouse complex. Later that evening Melling and Crone interviewed Blair in order to identify Yock.

The female civilian gave evidence that she saw a person on the ground of the watchhouse car park and that initially there did not appear to be anyone doing anything to assist this person. After a time a policewoman commenced pushing harshly on the chest of the person on the ground. The female civilian agreed that others may have been involved in the process but she only remembered the policewoman because of the severe pressure she was applying to the person's chest. An ambulance then arrived and this civilian saw some "official looking" people arrive who were not in uniform but who were obviously police. They commenced shaking hands and laughing with persons in the watchhouse car park. This civilian considered these actions in poor taste given that Yock was lying on the ground obviously dead (in her opinion) and she was angry and upset by what she observed. The female civilian agreed that her evidence was one of perception having regard to how she would react in such a situation and how she would expect others to react.

It was not a perception shared by her husband who gave evidence that he saw the ambulance arrive in the car park at about the same as he arrived at the watchhouse. He observed Yock on the ground being attended to by various police officers. He considered the police officers were showing concern and were trying to assist him. He had no complaints in relation to the actions of police on that night and considered one of them to be doing good work with much care.

I do not accept that any police officer or other person in the watchhouse car park on 7 November 1993 showed other than compassion and concern for Yock. The weight of the evidence clearly indicates that everything that could be done for him was done by those persons present.

3.8 MEDICAL EVIDENCE AS TO THE CAUSE OF DEATH

As I stated earlier in this report, an initial autopsy was carried out by Dr Williams, a consultant pathologist employed by Queensland Health. That autopsy was carried out in the presence of Dr Jeremy Francis Inglis who attended as an independent observer at the request of the Aboriginal Legal Service. A second autopsy was carried out at the request of Yock's family by Dr Collins, a consultant forensic pathologist with Independent Forensic Services in Victoria. Both Dr Williams and Dr Collins provided reports in relation to these autopsies and gave evidence at the hearing.

Dr Neilson, a cardiologist, also gave evidence in relation to Yock's medical condition and the likely cause of death.

Yock had a history of fainting-type attacks (syncopal episodes in which one experiences a loss of consciousness due to a fall in blood pressure); the first such

medically recorded attack being during a boxing match held at Goondiwindi in August 1990. A video tape of that incident was tendered in evidence (Exhibit 124). The Commission also obtained medical records from various hospitals that had treated and/or investigated Yock's condition and these were also tendered in evidence.

I do not intend to summarise the evidence in relation to the previous attacks because it is sufficiently detailed in the report of Dr Neilson (Exhibit 149) which is Appendix 4 to this report. However, I shall briefly summarise the evidence of Doctors Williams, Collins and Neilson.

Dr David John Williams

Dr Williams' reports (Exhibits 38 and 39) are Appendix 5 to this report.

At autopsy Dr Williams noted the following:

- (a) three minor abrasions on Yock's body, the first being in front of the right ear, the second near the right eyebrow and the third on the right side of the chin. These abrasions appeared recent and did not have any underlying bruising. In Dr Williams' opinion they were consistent with a minor scuffle or fight as well as with a person falling to the ground or having contact with a rough surface or movement across a rough surface (26603). The abrasions on the eyebrow and the front of the right ear were on a similar plane and were consistent with being rubbed across a rough surface such as a concrete path or a hard grass surface (26635);
- (b) apart from these abrasions there was no other evidence of trauma and no evidence of a sustained physical assault;
- (c) atheroma in the right coronary artery;
- (d) evidence of chronic inflammatory cells scattered throughout the heart;
- (e) an abnormal nerve within the myocardium which may itself have disturbed the heart rhythm;
- (f) evidence of aspiration of gastric contents into the lungs (the most likely cause being, in Dr William's opinion, the administration of cardio-pulmonary resuscitation (CPR) during the resuscitation attempts).

In the form provided under the Coroner's Act 1958 as amended, Dr Williams certified the cause of death as follows:

1. (a) Ischaemic heart disease;
- (b) Coronary artery stenosis;
- (c) Coronary artery atheroma;
2. Drug intoxication.

A scientific examination of heart sections did not indicate any myocardial infarction or ischaemic scarring, which are the signs of a conventional heart attack.

Dr Williams gave evidence that ischaemic heart disease, which implies impaired blood supply to the heart, is usually caused by the deposition of fatty material within the coronary arteries. The disease has a number of risk factors, the principal one being smoking. Other factors were alcohol, caffeine and cannabis. Chemical analysis of Yock's blood revealed an alcohol reading of 157mg per 100ml and a positive result in relation to cannabis metabolites. Chemical analysis of the urine revealed an alcohol reading of 195mg per 100ml and a positive result for cannabis metabolites. Chemical findings also revealed the presence of nicotine and caffeine. Yock's deteriorating condition would, to some extent, be affected by his emotional state.

Dr Williams estimated that the atheroma present in the right coronary artery, representing a 60% reduction of blood flow through that artery, was a considerable impairment and was itself sufficient, in his opinion, to cause death (26626). The presence of cannabis, nicotine and caffeine would have further impaired the pumping of the heart and been detrimental to the heart function. The level of alcohol in Yock's blood at the time of his death would also have been significant in relation to his heart condition.

In Dr Williams' opinion the inflammatory cells scattered throughout the heart may themselves have caused arrhythmia (which he described as a disturbance in the heart rate causing the heart beat to become irregular).

Dr Williams was of the opinion that it is easy to confuse the symptoms of a heart attack with exhibited signs of intoxication (26632).

Dr Richard Byron Collins

Dr Collins' report (Exhibit 104) is Appendix 6 to this report.

Dr Collins was present in court when Dr Williams gave evidence. He did not have any strong disagreement with Dr Williams' basic opinions and comments other than to say:

- (a) that it was difficult to define the affects of cannabis on Yock because all that was found were the metabolites of the drug and the active constituents were not identified in any tests although he thought that the probabilities were that the active ingredients were present but not discovered (26639);
- (b) that whilst he agreed that the abrasions on the right side of the face were shallow, recent or fresh and were not accompanied by any bruising, they may have been caused by the application of force to the head if they had occurred in the agony phase (where somebody is dying and the blood pressure is low) or if the blow was a glancing blow rather than a direct application of force to the area. However, if the person experienced painful kicks and the person was not in the agony phase one would expect bruising (26641) and the lack of any underlying bruising made it more probable than not that the use of painful force or significant force had not occurred.

Dr Collins questioned the appropriateness of placing a person face down in the back of a police van and stated that a more appropriate position was lying on their side.

Dr Graeme Harrison Neilson

Dr Neilson was a founding director of the Cardiology Unit at the Prince Charles Hospital and remained as a director from 1960 to 1990 and now does work on a locum basis for that hospital. For in excess of twenty years he was the visiting cardiologist for a number of centres in Queensland and has treated numerous Aborigines and Torres Strait Islanders. He had a research interest in and has published many papers on cardio-vascular diseases in Aborigines and Torres Strait Islanders.

Dr Neilson's report (Exhibit 149) is Appendix 4 to this report.

Dr Neilson examined the reports of Drs Williams and Collins and all of the records available to the Commission in relation to Yock's past medical history as well as statements from doctors who had attended Yock and a copy of the video of the boxing match when Yock suffered a syncopal episode on 11 August 1990.

Dr Neilson's review of Yock's previous history indicated that Yock had had a number of recurrent syncopal episodes since 1990 from which, on each occasion, he had made a spontaneous recovery. He had undergone extensive investigations at the Royal Brisbane Hospital which had produced no sign of any abnormality.

In Dr Neilson's opinion the most likely explanation for these episodes was an interference with the conduction system of the heart. He referred to a Stokes-Adams condition in which a temporary arrest of the heart occurs as a complication of interference with the conduction system of the heart. Stokes-Adams attacks occur suddenly and dramatically and once a person has an attack they go from being upright to immediately losing consciousness, having no pulse and not breathing (27007). Each attack was potentially fatal and the longer the period without spontaneous recovery the less chance there was of recovery.

Dr Neilson did not consider it unusual that Yock's condition had not been detected despite extensive investigations at the Royal Brisbane Hospital because many arrhythmias are only possible to detect if the person is being monitored when the arrhythmia occurs.

In Dr Neilson's opinion Yock's death was due to coronary atheroma probably producing ischaemia (reduced blood supply) involving the conduction system which resulted in arrhythmia. He drew attention to the finding at autopsy of a significant coronary disease in the right coronary artery, which supplies part of the conduction system of the heart. As mentioned earlier Dr Williams estimated that this disease in the right coronary artery represented a 60% reduction of blood flow through that artery.

Dr Neilson raised the possibility (he emphasised that he raised it only as a possibility and could not be more definite about it) that Yock, during situations of stress, suffered a reduction in the blood supply to the conduction system of the heart which provoked a Stokes-Adams attack. Whilst there was not a direct relationship between stress and the onset of a Stokes-Adams attack, the existence of stress causes an increase in the circulation of adrenalin-like substances which increase myocardial work enormously and so increases the adverse effect that the reduction of blood supply brought about by the coronary atheroma might have on the conduction system of the heart, thus provoking a Stokes-Adams attack.

In his opinion Yock suffered a Stokes-Adams attack on 7 November 1993 which proved to be fatal. This diagnosis was supported by:

- (a) the findings at autopsy in that, although there was a finding of significant coronary artery disease in the artery which supplies part of the conduction system, the right coronary artery, there was no evidence at autopsy of a conventional heart attack in which a part of the heart muscle dies (a myocardial infarction);
- (b) the fact that Yock initially was asystole but went into ventricular fibrillation as the ambulance was leaving the watchhouse car park (27027).

Dr Neilson did not consider the findings at autopsy of inflammatory cells and an abnormal nerve were of significance. However, the presence of alcohol, nicotine and cannabis metabolites were significant in that:

- (a) they would tend to aggravate the propensity to bring on interference with the blood supply to the conduction system and would have increased the likelihood of an occurrence of a Stokes-Adams attack (27009);
- (b) their presence would have had a small effect on Yock's prospects of recovering from that attack because of the increased work which they would cause the heart to do;
- (c) their presence would militate against recovery (27031).

Whilst Dr Neilson did not consider that any blow to the chest as a result of the collision between Symes and Yock would have contributed to Yock having a Stokes-Adams attack, the shock to the system of running into somebody of whose presence you are unaware could aggravate the situation in that it created an emotional trauma (27010). However, if that fright did have an influence on Yock's potentiality to have a Stokes-Adams attack, one would have expected it to have been immediate.

Dr Neilson considered that if a person had had a fright and thereafter remained in a state which is emotionally upsetting such as having been arrested, placed in a van, handcuffed behind his back, that could constitute a continuing stress situation which could trigger a Stokes-Adams attack (27035). In Yock's case, a level of stress or emotion, which in a fit person would not be considered significant, could be lethal (27033).

Dr Neilson said that if there was not spontaneous recovery CPR was the only thing that could assist Yock but one could not be assured that it would do any good (27023). Whilst a person's prospects of recovery from asystole as a result of a

Stokes-Adams attack are much greater than in the case of asystole as a result of a conventional heart attack, Dr Neilson was unable to place a figure on the reasonableness of Yock's chance of recovery. Whilst the absence of immediately available CPR would have contributed significantly to Yock's death (27024) in that CPR was something that should have been tried because nothing else could save him (27032), Dr Neilson was not prepared to say whether it was more probable than not that Yock would have recovered. He simply said the chance should have been given.

The proximity in time between the recognition of the need for CPR and the actual application of it may make the chances of survival more remote than they would have been if it were applied immediately (27024). In short, the prospects of survival are diminished by any delay in instituting effective CPR (27026). CPR applied promptly enhances the prospects of spontaneous recovery.

Dr Neilson was of the opinion, having regard to the existence of idioventricular rhythm which was obtained at the Royal Brisbane Hospital, that the onset of Yock's fatal attack was between five and ten minutes before the commencement of resuscitation but closer to five minutes than ten minutes (27012; 27030).

Dr Neilson considered that any observations between 17.58 and 18.04 of Yock shaking, his eyes rolling, laboured breathing, vomiting and urinating were not related to the Stokes-Adams attack but were manifestations caused by something else (27027).

On the evidence before me, it seems that the most likely explanation for these symptoms, if they were manifested, is to be found in Yock's intoxication.

3.9 ISSUES

A review of all of the evidence reveals seven issues which require consideration in some detail:

- Were Yock and his companions acting in a disorderly manner on 7 November 1993?
- Was excessive force used to arrest Yock?
- Was the arrest of Yock lawful and, if so, appropriate?
- Was Yock mistreated following arrest?

- What was Yock's condition when placed in S255 and was he in need of medical attention?
- Did Yock's condition change whilst in S255 and, if so, how, and did such change come to the notice of his custodians?
- Did any failure to exercise care contribute to the death of Yock?

A determination of these issues leads to the determination of the question raised in paragraph (a) of the Terms of Reference.

3.10 CONCLUSIONS

3.10.1 Were Yock and his friends acting in a disorderly manner on 7 November 1993?

In order to determine this issue it is first necessary to consider the relevant statutory provisions.

Symes proposed to charge Yock with behaving in a disorderly manner under section 7(e) of The Vagrants Gaming and Other Offences Act 1931 as amended. Symes particularised Yock's behaviour as follows:

His general demeanour - his waving the stick, his yelling out, his threats, his waving the stick in a threatening manner. He was acting in a very disorderly - as in not expected behaviour (26049).

The conduct referred to by Symes when giving these particulars was conduct which occurred in Brereton Street. He had only just come to the scene and obviously had not observed any of the events in Musgrave Park or Edmondstone Street. Symes said that he had not been told anything about what had occurred prior to Brereton Street other than that contained in the radio messages (26039, 26091).

Section 7(e) provides, inter alia, that any person who, in any public place that any person might be therein, and whether any person is therein or not, could view or hear behaves in a disorderly manner commits an offence.

There is a dearth of authority in Queensland in relation to what constitutes behaving in a disorderly manner. However, authorities in other jurisdictions are of some assistance. In Police v Perrin (1932) 28 MCRNZ 57 it was held that conduct, in order to constitute disorderly behaviour, must be not only noisy, abusive or unruly but also disturbing to the public peace. In Melser v Police (1967) NZLR 437 disorderly conduct was defined as being conduct which "at least

is likely to cause a disturbance or annoyance to others" and which must be sufficiently serious to warrant the intervention of criminal law. In Olds v Police (1986) 1 NZLR 637 the court remarked that this criminal sanction should not apply to what is merely over-exuberant behaviour. See also Daire v Stone (1991) 56 SASR 90.

In order to determine whether Yock and his companions were acting in a disorderly manner it is necessary to first isolate the conduct which is said to constitute behaving in a disorderly manner. It may be summarised as follows:

- (a) whilst in Musgrave Park the youths are alleged to have been abusive and to have sworn at police. One person is alleged to have exposed his penis in the direction of the police. However, reliance was not placed on the alleged behaviour in Musgrave Park to justify Yock's arrest;
- (b) whilst travelling down Edmondstone Street the youths are alleged to have been abusive, giving Domrow and Harris finger and arm gestures, shadow boxing and swearing at the police;
- (c) whilst in SEQEB Park some of the youths are alleged to have continued to be abusive and to have sworn at Domrow and Harris. The finger and arm gesturing continued and two people, one being Yock, are alleged to have pulled stakes out of the ground and waved them in the direction of police in a threatening manner. This stake waving is alleged to have been accompanied by threatening statements.

I intend to deal with each in turn.

Musgrave Park

The evidence clearly establishes that Yock and his companions drank a carton of full strength large bottles of beer and some rum (the exact quantity being uncertain) prior to leaving Musgrave Park. Whilst cannabis metabolites were found in the blood and urine of Yock each of his companions denied that cannabis was consumed on that day. The scientific evidence tendered at the hearing (Exhibit 90) indicates that cannabis metabolites may remain in the blood for up to 24 hours after cannabis has been consumed. That being so, it is quite possible that cannabis was not consumed on 7 November 1993.

Yock's companions agreed that they had observed S255 on several occasions in Russell Street and/or Edmondstone Street. Glen Gray gave evidence that the group told the occupants of the van to "*Leave us alone*" (24569). Harris agreed that such words were used but says that other offensive expressions were also used (25885).

Other members of the group denied that anything was said or any gesturing occurred.

Having regard to the evidence given by Yock's companions as to their conduct after leaving Musgrave Park, the fact that they were intoxicated to some degree and the admission by Glen Gray, I am of the opinion that it is more probable than not that words of abuse were said by members of the group in the direction of Domrow and Harris when they were patrolling Musgrave Park.

The alleged wilful exposure is, however, a different matter. Domrow and Harris both gave evidence of observing one of the youths expose his penis, hold it in his hand and gesture with it in their direction. Each of Yock's companions denied that any such incident occurred in Musgrave Park. Whilst Riley gave evidence that a penis may have been exposed whilst one of the youths urinated against a tree (24317), such an event is not in accord with the versions given by Domrow and Harris. Domrow stated that it was definitely a gesture towards them which was intended to be offensive. She agreed that what she was describing was not of a person exposing himself so as to urinate (25598).

Nowhere in the radio messages or in the Activity Log prepared by Domrow (Exhibit 97) is there any mention of wilful exposure. Moreover, there is no mention of any conduct, disorderly or otherwise, by Yock and his companions in Musgrave Park. Domrow did not mention the exposure to Pickering when interviewed by him on the night of the incident. Likewise Harris did not mention it in his interview with Pickering.

Whilst there is a reference to a matter which indicated that something did happen which was different from the abuse referred to in that interview and Harris said that he was intending there to refer to the wilful exposure, Pickering, when he first asked Harris to explain what he knew of the circumstances surrounding the placing of Yock in police custody, invited Harris to "Start from the word go". Harris then said:

Okay. Well I was in Sierra 255 working between the hours of 3:00 pm and 11:00 pm on the 7th of the 11th, '93. Constable Domrow and myself were driving along Edmondstone Street in South Brisbane when we observed a large number of Aborigines, ah, behaving in a disorderly manner, ah, outside Musgrave Park. Um, these persons were, were shouting abuse at us. They appeared to have been drinking by the way they were walking and their indicia. They, um, were waving at us and, ah, as I said just being unruly. We, ah, followed these persons

The outline of events continued without any further reference being made to Yock and his companions being in Musgrave Park.

It is significant, in my view, that the interviews with Pickering and the completion of the Activity Log by Domrow took place after Harris, Domrow, Symes, Bishop, Crowley and Crozier had participated in a stress debriefing discussion in which it appears many, if not all, of the events leading up to the arrest of Yock, were discussed by the group. When asked about the discussion, Harris said (25943):

Well the human welfare officer attended at the watchhouse, and we got together with her and we discussed the whole situation and our parts and what we had to do with it.

In the course of her evidence about the discussion when they were together at the watchhouse, Domrow gave the following responses to questioning (25676):

- Q. And in the session, did you discuss - first of all, is the session conducted with all of you present at the one time?*
- A. Yes.*
- Q. Is that correct?*
- A. Yes.*
- Q. Do you as a group discuss what had happened?*
- A. Generally, yes. It was more feeling - feelings more than, you know, rather what happened as such.*
- Q. So you discuss how each of you feels?*
- A. Mm.*
- Q. In the course of that does that mean that you, of necessity, discuss some of what has occurred, various parts of what has occurred?*
- A. Mm.*

In those circumstances, bearing in mind the blatant nature of the alleged wilful exposure, it is significant that there is no mention of the alleged wilful exposure by either Domrow or Harris in their interviews with Pickering nor by Domrow in the Activity Log she prepared. Domrow and Harris agreed that the first time the wilful exposure was alleged was in the statements supplied to their solicitors. Having regard to all of these factors, it is, in my opinion, unlikely that such an incident did occur.

Edmondstone Street

Whilst the content of the abuse and the extent of any gesturing was in dispute, Yock's companions did not dispute that there was abuse and gesturing towards the occupants of S255 whilst travelling along Edmondstone Street (Fisher at 24757, 24771; Glen Gray at 24561, 24594-96; Bond at 24607, 24617). Whilst some members of the group said that the calling out and swearing was not that loud, others agreed it was done loudly. The abuse was, at one point at least, loud enough to be detected and discernible during the recording of the communication between S255 and S591 on Channel 27 wherein the words "Piss off" can be quite clearly heard. Having regard to the fact that Yock's companions and Domrow and

Harris all estimated that the youths were always in the vicinity of 20 to 30 metres in front of S255 and on the other side of the road, the abuse must have been, at least at that point, very loud.

Domrow gave evidence that the abuse included expressions such as "*We're going to kill you copper cunts*" (25600). Harris said the words included "*Fuck you copper cunts, come on copper cunts and get us.*" Whilst these expressions were not agreed to by Yock's companions they did agree that there was swearing. Fisher said he used the expressions "*Fuck off you dogs just leave us alone*" (24771). Glen Gray said he used the expression "*Fucking leave us alone you mugs*" (24594-96). Bond said "*We were yelling out telling them to fuck off and why are you picking on us blacks*" (24607). The fact that members of the group were swearing and being abusive is also supported by the contents of the radio communications made by Harris on channels 27 and 45 (Exhibits 94 and 95) and by Purser, a civilian residing across the road from Musgrave Park, who gave evidence that whilst he did not see the group doing anything unusual in the park he agreed that they were swearing and used the expression "*There go the dogs again*" whilst travelling along Edmondstone Street.

Obviously behaving in a disorderly manner must be judged by the circumstances, timing and place in which it occurs. What may be acceptable behaviour in a football match may be disorderly behaviour in a religious meeting. This conduct occurred on a Sunday afternoon at approximately 5.45pm in a street which had only two residential properties, both at the end nearest Musgrave Park. It was all directed to Domrow and Harris, the occupants of S255. Whilst those are no doubt relevant factors, the abuse was extremely loud, occurred on a public street and was offensive. In my view it could clearly be said to constitute behaving in a disorderly manner and the weight of the evidence is that all of the youths, including Yock, behaved in that manner.

Before leaving the events in Edmondstone Street it is necessary to mention one further piece of conduct which was alleged to have involved one of the group. Purser also gave evidence that he observed one of the group break from the group and run in the direction of a couple walking on the opposite side of Edmondstone Street. The male member of the couple turned and the youth desisted and returned to his group. Such an incident was denied by Yock's companions, was not seen either by Domrow or Harris and did not form the basis for later actions by police. That being so, whether or not it occurred has no relevance to the matters to be determined by me.

It was submitted by Counsel representing Yock's family, the other Aboriginal witnesses and the Aboriginal Legal Service that the abuse that was coming from members of the group merely amounted to the group expressing their displeasure at

being followed all the way along Edmondstone Street. It was submitted that they were entitled to resent the police action.

There is no dispute that the abuse was directed towards Domrow and Harris and was to the effect of wanting Domrow and Harris to leave them alone (Domrow 25604; Harris 25894). Whilst Yock and his companions may have resented being followed by the police, it is clear that they were swearing and being abusive in a public street. Domrow and Harris were entitled, in those circumstances, to keep them under observation. They did not approach them, call out to them or ask them their names (Glen Gray at 24569; Bond at 24613; Fisher at 24755). Yock and his companions may well have resented the intrusion of being watched but they were not entitled, in my opinion, to show their resentment in the manner in which they did.

SEQEB Park

Domrow, Harris, Symes and Bishop gave evidence that Yock and his companions used threatening and abusive language and gestured towards police. Two members of the group, one being Yock, pulled stakes from the ground and waved them in a threatening manner. Yock's companions conceded that the verbal abuse and some gesturing continued in SEQEB Park in a similar manner to that which had occurred in Edmondstone Street. It follows from what I have said above that such conduct also could be described as disorderly.

The alleged stake waving in SEQEB Park assumed considerable importance at the hearing and requires separate consideration. Domrow gave it as the reason why assistance was sought in the first place. It was, as I said earlier in this report, also one of the particulars given by Symes in relation to the disorderly behaviour.

Calls for assistance from S255

It is necessary to consider in some detail the evidence given by Domrow, Harris, Symes and Bishop in relation to this alleged stake waving. However, before doing so it is helpful to consider the calls for assistance made from S255.

Domrow gave evidence that assistance was called for after the stake waving in SEQEB Park (25609-10). This happened when S255 was at or near the stop sign at the intersection of Edmondstone and Boundary Streets. Prior to that incident whilst there had been disorderly behaviour there was no intention on her part to arrest anybody. She would have been content to monitor the situation, follow the group towards the hostel and then leave them alone (25857). Domrow said she specifically asked Harris to obtain assistance (25609). Domrow did not recall any earlier calls for assistance (25616-7) and said that nothing had happened prior to events in SEQEB Park which would have altered her intention to merely monitor

the situation. In short, there was no reason for assistance to be called prior to events in SEQEB Park.

Domrow's evidence in this regard was refuted by the records of the radio communications emanating from S255 on channels 27 and 45. These establish that the first call for assistance to S591 on Channel 27 was made well before the group arrived at SEQEB Park. Harris agreed that the first call for general assistance on channel 45 was made when the group was in the vicinity of the Melbourne Hotel and S255 was in Edmondstone Street between Russell Street and the Melbourne Hotel. He also agreed that the call to S591 occurred prior to this call for general assistance. That being so and having regard to the fact that S255 was always approximately 20 to 30 metres behind the group this call must have been made near the intersection of Russell Street and Edmondstone Street when the youths were travelling down Edmondstone Street. The second call for general assistance, having regard to the contents of that call, was made when either the youths or S255 were near the intersection of Edmondstone and Melbourne Streets. According to Constable Harris, it may well be that both were in that vicinity, the youths being on the other side of Melbourne Street from S255.

Domrow and Harris were sitting in the front compartment of S255. Harris was operating the radio. There were four calls made on the radio prior to the arrival of Symes and Bishop. One call involved a request for S591 to switch to Channel 27 and then involved a discussion in relation to Yock's group. The other calls also detailed, to some extent, the actions of the youths. In those circumstances I find it inconceivable that Domrow would not have been aware of the making of those calls let alone the contents of those calls. I do not accept Domrow's evidence as to her intentions and reasons for calling assistance. In my view it is more probable than not that Domrow and Harris formed an intention to move in and intercept the youths shortly after they left Musgrave Park.

Did Yock wave a stake at the police?

Domrow made conflicting statements and gave conflicting evidence in relation to whether Yock pulled a stake out of the ground and waved it in an aggressive manner towards the police.

She first spoke about the matter to Pickering when he interviewed her at the watchhouse in the early hours of 8 November 1993. Having given him an account of events leading up to the time when the group of youths was in SEQEB Park and the police van (S255) was stationary across Boundary Street in Edmondstone Street, she said that she asked Harris to call for some assistance and then the Crime Squad car (S592) came up behind them. She went on to say:

... at that stage there was ah I believe one or two Aboriginals that took a oh I don't know a sort of stake or something from the SEQEB ... It was a long piece of wood I know that anyway and they were sort of you know waving at ... basically in a you know quite aggressive manner ...

Later in the interview she no longer indicated uncertainty as to whether more than one person pulled out a stake and waved it aggressively and said:

Well ... when they took the stakes out of the ground and I mean they were waving them around, I knew they weren't our ... local people ...

At no time during her interview with Pickering did Domrow identify Yock as being one of those who had pulled a stake out of the ground or as one who had waved a stake in an aggressive manner.

The next occasion Domrow mentioned the matter was when she prepared the Activity Log (Exhibit 97). In that she wrote:

One aboriginal had a long wooden stick which was taken out of the ground and was waving it in an aggressive manner.

In the context in which she wrote, that incident occurred after assistance had been requested and before S592 arrived.

Domrow's next statement was to her solicitors. In that, having recounted events up to the time Yock and his companions were in SEQEB Park and S255 was stationary in Edmondstone Street back from the stop sign before Boundary Street, she stated that assistance was called for and went on:

At that stage when I was parked I observed two Aboriginals, Mr Yock being one of the two, who pulled a wooden stake out of the ground and motioned it towards Constable Harris and again yelled out, 'We're gonna to kill you copper cunts'.

It will be seen from this that she is now firm on these matters: two of the group pulled stakes out of the ground; one of these was Yock; the stakes were wooden stakes; Yock motioned his stake towards Harris and called out the words quoted; and the incident occurred after the call for assistance and before S592 arrived.

When Domrow gave evidence she recounted how she drove the police van towards SEQEB Park and saw one of the youths directly ahead. She identified him as "*The same one that was exposing himself*" and said (25606):

He took a stake out of the ground and started gesturing it towards myself and my partner.

A little later she said (25609) that the other youths in the group went off leaving two in the park apart from the man waving the stake; then one of them left leaving only two in the park. It was then she said that she requested Harris to call for assistance. The following passage of evidence then appears in the transcript (25610-11):

- Q. *What is it that has changed the position to make you move in and arrest them?*
- A. *Well I formed an opinion when someone has a stake waving at me and saying that they're going to kill me, I feel that I should feel pretty well threatened at that stage.*
- Q. *So it is the stake that really changes the position?*
- A. *Basically, yes.*
- Q. *And then your intention was to get the person with the stake only?*
- A. *Yes, that's right.*
- Q. *Thank you.*
- A. *Well, no one else was doing anything.*
- Q. *Right.*
- Q. *So you were not intending to arrest anybody else, just the person with the stake?*
- A. *That's right, yes.*
- Q. *Was there only ever one person waving a stake?*
- A. *No, no. Eventually - well, a very short time later someone else, you know, was wriggling a stake trying to get it out.*
- ...
- Q. *That is all he was doing, wriggling and trying to get it out?*
- A. *Well, it was - he seemed to have a bit of trouble, but he eventually got it out.*
- Q. *Now, who was this person?*
- A. *It was Daniel.*
- Q. *This was Mr Yock?*
- A. *That's right, Mr Yock.*
- ...
- Q. *Was Mr Yock saying anything when he was trying to get the stick out?*
- A. *As he was trying to get it out?*
- Q. *Was he calling anything out to you?*
- A. *Oh, no, he was concentrating on getting the stake out.*
- Q. *The man who was waving the stake, was he calling anything out?*
- A. *Yes.*
- Q. *And what was he calling out?*
- A. *Basically, 'We're going to kill you copper cunts'.*
- Q. *What do you do then? You have decided you are going to move in, and you speak to Scott?*
- A. *Oh, if we could get back up, yes.*

In later questioning on this matter, she responded as follows (25664):

- Q. You said that Mr. Yock was shaking the stake back at SEQEB Park.
 A. Yes.
 Q. Did he ever pull it out of the ground that you saw?
 A. Not that I, in fact, saw. I certainly know he was trying to get it, but I don't know if he, in fact, actually got it out because that is when the other boys rolled up.
 Q. Well certainly when he was running, he didn't have anything in his hand.
 A. No not that I - no, not that I saw.

Later, Domrow said that she did not ever see Yock actually physically holding a stick that had come out of the ground (25720) and that she "*did not personally see him take a stake out of the ground*" (25727). However, she gave the following evidence the next day (25839-40):

- Q. Now a couple of matters: I take it we can rest assured that we never saw Mr. Yock with a free stick in his hands?
 A. Yes, if I can clarify that thanks, because I didn't have a chance yesterday. The one that he was attempting to take out ... the one that he was, in fact, trying to take out was, I believe, a steel picket, because he wasn't able to get it out. He wasn't able to get that one out, but there was a - I assume that there was a wooden one or something similar to that one that was taken out though, which is easier to take out.
 Q. And you never saw Mr Yock with a wooden stake in his hands?
 A. Oh, he was waving a stake around. I don't deny that.
 Q. And when was Mr Yock waving a stake around?
 A. Sorry. Within the station thing itself - near the other fellow.
 Q. So you did see Mr Yock with a wooden stake in his hands?
 A. Oh, yes.
 Q. A free stake?
 A. Yes.

She went on to say that it wasn't the one he was trying to wiggle out: "*That was a steel picket.*" Domrow described Yock's action of waving the stick aggressively as a spearing movement (25857-8).

It is readily apparent that Domrow's versions of this matter contain a number of contradictory statements.

Harris' first statement about the matter was to Pickering, to whom he said:

... they got to the corner of Boundary Street and Brereton Street where we sat on the other side of the road waiting for a further unit to attend. Um, Sierra 592 it is with ah, Senior Constable, Senior Constable Bishop and Acting Sergeant Symes then arrived. Whereas we are, hopped out of the police vehicle. One of the male persons grabbed a star picket which was in the, in the ground and he started waving that around and the deceased person um, he was standing on, on the road next to our vehicle when we stopped. I got out of the car and asked him to come towards me. At this stage he ran behind the police vehicle

In the statement he made to his solicitors he said that after Domrow had positioned the police vehicle in Edmondstone Street about 40 metres from SEQEB Park he noticed that the group appeared to be led by a person whom he described; it was not Yock. He went on to say:

This apparent leader then picked up what I believe to be a picket. I noticed that this picket had come from the ground in the area in the vicinity of that park and I think there were pickets there and there. The picket I would describe as being I believe approximately one and a half metres in length. ... I then saw this person brandishing the picket holding it at one end and thrashing it around in an aggressive manner directed to us in the police car ... I then observed Mr Yock also attempting to pull a picket out of the ground ... We then stopped the police vehicle adjacent to the SEQEB Park. I saw that Mr Yock had then dropped the picket and then I saw all of these aboriginal persons cross over the road apart from Mr Yock.

A fair inference from this, one would think, is that Yock was successful in removing a picket which he later dropped. However Harris gave evidence that only one person was waving a picket (which he believed to be a metal picket) in SEQEB Park; that Yock was not waving a picket; that although he saw Yock trying to remove a picket he did not actually see him remove a picket from the ground (29516, 25919, 25968).

There was no mention in the radio communications of Yock having a stake or picket or of attempting to pull one out of the ground.

Harris said in evidence (25946) that he did not read the Activity Log that Domrow had prepared (Exhibit 97) in which reference is made to only one Aboriginal person waving a wooden stick which had been taken out of the ground.

Symes gave evidence of having seen two persons armed with stakes, one being Yock. After arriving in Brereton Street and telling the group to disperse he said that the two persons no longer had stakes (26044). In his interview with Pickering, Symes said that he had seen Yock "swinging a wooden picket" when Domrow and Harris were out of the police car and over with him and that, when Harris

attempted to grab Yock, Yock dropped the piece of wood and started running. When he gave evidence, Symes said that he no longer adhered to that version. (26092). Nowhere in Symes' statement to his solicitors is there a reference to seeing Yock with a stick which was free of the ground (26096).

Bishop gave evidence that when he and Symes came into Brereton Street he saw Yock trying to wiggle a stake out of the ground and later observed him with a stake in his hand waving it in the direction of police (26141; 26325). Bishop did not, in his statement to his solicitors, mention Yock as having a stake free of the ground. Nor did he in his interview with Pickering identify Yock as a person with a stake or as a person wiggling a stake from the ground (although he did say he saw a person attempting to wiggle a stake out of the ground).

Yock's companions denied that Yock had a stake. However, on the evidence, it is clear that at least two of Yock's companions did, at some stage, have stakes. Glen Gray gave evidence that Fisher picked up a stake before crossing Brereton Street, that is on the SEQEB Park side of Brereton Street, and that he, Glen Gray, also obtained a portion of a stake. Fisher dropped his stake on the footpath area adjacent to the vacant allotment after being told to do so by Riley and by a police officer (24767). Gray threw his away as he was crossing the road (24583). The fact that one of the Aborigines had a stake was also supported by a number of the residents in Brereton Street.

Glen Gray was asked about the absence of stakes from trees depicted in some of the photographs. He suggested that those stakes must have been removed by the others (24593). However, on reading his evidence it is clear that he did not see the stakes removed and it would appear that there was an assumption on his part that stakes had been around the trees at the time the group was in SEQEB Park. There is, however, no evidence that stakes had been around those particular trees at that time.

Having regard to the inconsistencies in the versions given by Domrow, Harris, Symes and Bishop, and the fact that no police officer at any time sought to locate the wooden stake allegedly held by Yock (which one would have expected to have been important evidence for the police case) I am of the opinion that it is more probable than not that Yock did not have a free stake in his hand at any time. However, it may well be that he attempted to obtain one by wiggling it about in the ground.

Whilst I think it is more probable than not that Yock did not have a free stake in his hand, I am also of the opinion that there is sufficient evidence to show that Yock and his companions were behaving in a disorderly manner, not only along Edmondstone Street but also in the SEQEB Park area.

3.10.2 Was excessive force used to arrest Yock?

In order to determine whether excessive force was used to effect Yock's arrest it is necessary to consider the evidence in relation to the manner in which Yock was arrested. This is because there was an allegation from a number of Yock's companions that Symes deliberately shoulder-charged Yock.

Yock was arrested by Symes whilst running on the footpath adjacent to the vacant allotment in Brereton Street. He collided with Symes at speed and, it would appear, without being aware of his presence and therefore without having any opportunity to prepare for the collision or take evasive action. There are, however, differing versions as to the manner in which he was arrested. These versions may be summarised as follows:

- Domrow gave evidence that Symes was standing his ground and Yock ran into him (25637). Yock bounced off and Symes remained standing (25639). Domrow denied that Symes tackled or shoulder-charged Yock (25728). She said that Symes covered himself with his arms crossed in front of his chest in order to protect himself (2568).
- Harris gave evidence that Symes was standing on the footpath in Yock's path and turned to one side and dropped his shoulder as if to defend himself with an arm folded across his chest (25923). Yock bounced off and fell to the ground (25924).
- Symes gave evidence that he was standing feet astride with arms outstretched when he realised that Yock had not seen him and there was going to be a collision. He then turned side on, braced himself by putting his arm across his stomach region and collided with Yock, who did "*perhaps a half pirouette*" and landed on his rump. Symes reached down and pulled Yock forward so as to lay him face down on the ground (26047). Symes denied ever shoulder-charging Yock (26102).
- Bishop described the detention as follows:

Symes (was) running across the road, in effect heading for the power pole, and Mr. Yock going up the street ... like two trains colliding at an intersection.

Bishop said it appeared that Symes was trying to cut Yock off as he was running up the street (26143). He denied that Symes attempted to tackle Yock. He described it as a situation where both persons were moving up to the moment of impact although Symes momentarily stopped and braced

himself prior to impact. He thought that Symes' shoulder area hit the front of Yock (26144).

- Riley gave evidence that Yock was just starting to run when he was grabbed from behind, pushed onto the ground and handcuffed. He described the motion as follows:

It was just a - just a kind of run over and kind of push down so they can put him down and put the handcuffs on him (24293).

- Archie Gray gave evidence that the police officer ran up behind Yock, grabbed him in the area underneath the ribs or around the waist and pulled him down (24332). The officer also fell down.
- Blair gave evidence that Yock was running when tackled and said that the tackle was from the side and like a shoulder-charge (24366).
- Bond gave evidence that Yock was running and was, in effect, cut off by the police officer who tackled him "*around the legs, around the waist bit here*" (24634). He described it as sort of like a football tackle "*using your shoulder*" (24622). However at 24635 Bond agreed that he did not really see the tackle nor see Yock go to the ground.
- Fisher gave evidence that the police officer came from behind and dived at Yock like a running tackle with hands around the waist area. Both Yock and the officer went to the ground.
- Glen Gray gave evidence that Yock was the last to run and was being chased by two officers when the plain clothes officer "*just jumped out ... and he ran across here to cut Danny off and he tackled him*" (24578). When asked whether the detective was running or standing still Gray said "*he ran a bit and he stopped, you know, because to meet up with him and tackled him from there*" (24579). The officer used his shoulders but only Yock went to ground (24579).

In any of these versions, Yock ran behind S255 and then onto the footpath in the direction of the hostel. Symes came from S592 which was parked somewhere in front of S255 and in the vicinity of the light pole near which Yock went to ground. If he had been tackled from behind one would expect that he would have hit the ground further up Brereton Street than it appears he did and it is difficult to imagine how Symes could have remained on his feet. Similarly if Yock had been cut off by a crash tackle or shoulder-charged from the side one would have expected both Yock and Symes to have finished on the ground in a position either

hard up against or over the brick wall on the boundary of the vacant allotment in Brereton Street, certainly well clear of the path along which Yock was running.

In my opinion, the versions given by Yock's companions, other than Glen Gray, are inconsistent with Yock's ultimate position. Similarly, Symes' version of his having positioned himself and awaited the arrival of Yock is inconsistent with other evidence.

Bishop and Glen Gray gave somewhat similar accounts of Yock's detention. They provide, in my view, the most likely account. Whilst Yock and Symes did collide, it is, in my opinion, more probable than not that such a collision occurred in the course of Symes' attempting to cut off Yock, who was running from Domrow and Harris. Symes arrived at the point of impact momentarily before Yock and was able to stop and brace himself for the impact. On impact, Symes' shoulder area came into contact with Yock. That blow, whilst forceful and unexpected, caused Yock to fall to the ground beside the path. It did not cause him any injury in the chest region or elsewhere.

In my opinion, the evidence does not support a finding, even on a balance of probabilities, that the force used by Symes in effecting the arrest of Yock was excessive.

3.10.3 Was the arrest of Yock lawful and, if so, appropriate?

Whilst I consider it more probable than not that Yock did not have a free stake in his hand, I have expressed the opinion that there is sufficient evidence to show that Yock and his companions were behaving in a disorderly manner not only along Edmondstone Street but also in the SEQEB park area on 7 November 1993. That being so, the arrest of Yock was lawful. Symes did not only rely on the alleged stake waving. Further it is clear that Domrow was intending to arrest Yock but Symes intercepted him first. Domrow intended to charge him with behaving in a disorderly manner, relying not only on events in SEQEB Park but also earlier events.

A question arose as to whether it was appropriate, in the circumstances, for police to move in having regard to the evidence that the abuse and gesturing was all directed towards the police officers who had followed the youths from the time they left Musgrave Park. Whilst police officers obviously have the power to arrest in circumstances where persons are behaving in a disorderly manner, individual police officers have a discretion as to whether to exercise that power in the particular circumstances. Domrow conceded the existence of this discretion (25706).

Whilst, in hindsight, it may have been more prudent for Domrow and Harris to have first contacted a superior officer for advice and direction as to the appropriate course of action for them, I accept that officers have to make decisions on patrol and do not have the benefit of hindsight. The evidence shows that, if Domrow and Harris had contacted the officer in charge at West End, Senior Sergeant Stanley, he would have advised them to have contact with the group despite the obvious potential for conflict (27999). In those circumstances the conduct of Domrow and Harris should not be regarded as inappropriate.

The fact that the police response to the situation may be seen as correct in terms of a model of policing whose primary operational focus is to respond to particular incidents, calls or events but not to the deeper problems they represent should not engender satisfaction with that model. Apart from the tragic death of a young Aboriginal dancer, the impact of the police confrontation with Yock and his companions on 7 November 1993 was felt in the demonstration and further confrontations between Aborigines and police that followed in the streets near Police Headquarters on the day following Yock's death.

The Terms of Reference did not permit me to make an in depth study of policing strategies suitable for areas such as West End. Nevertheless, I observe that while situations may continue to arise in which confrontations such as that which occurred between the police and Yock and his companions will occur, there is an all too obvious need for the development of strategies to reduce the circumstances that give rise to the development of such situations.

3.10.4 Was Yock mistreated following arrest?

There were three particulars of alleged mistreatment of Yock following his arrest. These were:

- (a) kicking by Domrow;
- (b) punching;
- (c) excessive tightness of handcuffs.

I intend to deal with each in turn.

(a) **Alleged kicking by Domrow**

Evidence of kicking was given by four of Yock's companions. This evidence may be summarised as follows:

Riley gave evidence that when he was running away he saw Domrow kicking Yock. However, he did not see any kicks landing and he assumed that Yock was being kicked from the motion of Domrow's leg (24315). He said:

Well like I said I looked back for ten seconds and seen it in motion, and like you wouldn't swing your leg for nothing (24297).

Archie Gray gave evidence that he saw Domrow kick Yock once in the head and two or three times in the side of the ribs and said Domrow was saying "stay down".

Bond gave evidence that Domrow started kicking Yock when the detectives were holding him down (24626). He could see her leg going back and forth but could not see where she was kicking other than it was somewhere near the head part or chest region (24627). He described it as follows:

I seen it with my own eyes seen her kicking him. I know when someone kicks someone. I seen her kicking him. Well she must have been kicking someone if she was - if he was lying on the ground or she was kicking a brick wall (24633).

Fisher gave evidence that he saw Domrow kicking Yock in the guts real hard about five times (24764). He said this occurred after Yock had been handcuffed and the kicks were in the rib section (24277-78).

Domrow denied ever having kicked Yock (25688). No kicking was seen by any other police officer or by any of the residents in Brereton Street. More significantly Glen Gray, who says he remained in the area with Yock throughout, did not allege having seen any kicking. At this point I note that both Glen and Archie Gray claim to have remained with Yock. However on all versions of events it is clear that only one Aborigine remained with Yock. Having regard to all of the evidence, and my own assessment of the reliability of the evidence of each of them, I am of the opinion that it is more probable than not that Glen Gray was the person who remained with Yock.

The evidence of the residents in Brereton Street is significant in that not only did they not observe any kicking but the scene described by them is one of concern not aggression. Whilst I accept that these residents were viewing both the incident involving Yock and the incident at the hostel and accordingly would not have had Yock under constant observation, the picture described by them is inconsistent with an allegation of Yock having been kicked whilst on the ground.

The allegation of kicking is also not supported by the findings at autopsy. The only signs of violence revealed at post mortem were three abrasions to the face region. These abrasions were not associated with any bruising and, according to Dr Williams, were inconsistent with kicking. Dr Collins, whilst stating that there was a possibility for there to be kicking with no bruising, conceded that the probabilities were that bruising would occur if there were forceful kicking. Whilst Dr Collins proffered the view that no bruising would occur if Yock's heart was not functioning at the time of the kicking, the evidence of Dr Neilson as to the timing of Yock's Stokes-Adams attack is such that there is no basis for asserting that Yock's heart would not have been functioning at the time of the alleged kicking.

Having regard to all of the above matters, I am of the opinion that there is insufficient evidence to support a finding, even on the balance of probabilities, that the kicking episode described by some of Yock's companions did occur.

(b) Alleged punching

The allegation of punching arose as a result of the evidence of Schraut who was on the verandah of the premises at No. 2 Brereton Street observing events as they unfolded. He described seeing activity by the person on top of the person on the ground. He did not see any movement from the person on the ground (24064). He considered the motion to be one of punching but accepted that it might have been an assumption on his part (24064). However, he did not believe that what he saw could correctly be described as the man on top trying to control the man on the bottom with the man on the bottom fighting back really strongly (24072). His evidence was that he was left with a strong image of activity and said that part of what he saw could be explained by the man on top trying to hold the hands of the man below but that did not explain all of what he saw because in his opinion the movement was *"more than just a holding"* (24077). Schraut said he saw shoulders moving but did not see any blow. He described the movement as *"a little bit stronger than just controlling somebody just with strength"* (24080).

Schraut was the only witness who asserted that punching took place. Neither Glen Gray nor any of Yock's other companions made such an allegation. Such events were not observed by any other resident in Brereton Street including, significantly, those persons who were standing next to or in the near vicinity of Schraut.

Further, there is no support for this allegation in the findings made at autopsy.

Standing as it does unsupported by any other evidence and, indeed, in conflict with a significant body of evidence, Schraut's evidence is not sufficient to support a finding, even on the balance of probabilities, that Yock was punched in the manner described by Schraut.

(c) Alleged excessive tightness of handcuffs

This allegation arose as a result of the evidence of Blair that he considered the handcuffs on Yock were too tight and called out on at least two occasions for them to be loosened. When giving evidence of his attempts to feel Yock's pulse when they were in the police van together, Blair said that he had a quick feel (for a wrist pulse) but "*couldn't really tell because of the handcuffs*". At no time did Blair state the basis of his conclusion that the handcuffs were on too tight. Crowley, who was an experienced police officer, denied that they were too tight.

Yock's wrist region was carefully examined at autopsy and no evidence was found to support an allegation that the handcuffs were too tight.

In my opinion there is not sufficient evidence to support a finding, even on a balance of probabilities, that the handcuffs on Yock were too tight.

3.10.5 What was Yock's medical condition when placed in S255 and was he in need of medical attention?

In order to determine Yock's likely medical condition when placed in S255 and whether he was in need of medical attention, it is necessary to consider the evidence of the witnesses as to their physical observations of Yock whilst on the ground and when placed in S255.

- Domrow gave evidence that after Yock went to ground he struggled and kicked initially (25641). He moaned and grunted throughout the handcuffing process (25643; 25646) and after handcuffing wriggled but did not struggle (25646). Whilst on the ground he vomited some clear liquid which Domrow said smelt strongly of alcohol (25733) and urinated in his

pants (25864). His breathing was initially laboured but had returned to normal prior to being placed in S255. He was assisted into the van but was not unconscious. Domrow did not consider that the change in Yock's appearance from a running shouting person to a subdued person who had urinated in his clothing and required assistance was significant and it did not concern her. In her opinion it was entirely consistent with that of an intoxicated person and she considered Yock to be extremely intoxicated.

- Crozier also described Yock's breathing as laboured initially as if trying to get his breath back after activity (26395). He gave evidence that Yock adjusted his position by way of a wriggling movement (26396). Crozier could not recall Yock making any noise including groaning or moaning but said that Yock's head was in the vicinity of grass and dirt clippings and that at one point Yock started to sneeze and cough whereupon the other Aborigine (Glen Gray) moved his head and Yock stopped spluttering. Crozier said by the time Yock was taken to the van his breathing had slowed down to what Crozier considered to be approaching normal (26398). Crozier confirmed that Yock had urinated in his pants prior to being placed in S255. However, he denied that Yock ever vomited although he said that at the time Yock was sneezing and coughing some white foamy saliva appeared around his mouth but Crozier did not think that it left his mouth (26401). Yock walked to S255 with support (26398) and adjusted his position to get comfortable once placed in the van (26391).
- Parker gave evidence that when he first arrived on the scene he noticed a male Aborigine (Yock) in a seated position with a police officer nearby. When he first noticed the male Aborigine he appeared to be struggling. The police officer had hold of him but Parker was unsure as to whether that was in order to support him or restrain him (26583).
- Glen Gray gave evidence that when Yock was being handcuffed he could see him *"like choking, choking because he was face down in the dirt"*. Gray said he said words to the effect *"Help him."* ... *"Let me help him"* and, whilst initially kept at bay by the police officer, Gray pushed forward and assisted Yock. He moved Yock over toward the concrete and said that at this point Yock was shaking, choking and bringing up whitish foam. Yock then urinated in his pants. Gray again asked the police to help but said the police did nothing. Apart from shaking Yock did not move at all and did not appear to move or say anything when he was grabbed by his hands and feet and taken towards S255. Yock did not appear to move whilst in S255.

Gray was one of the Aborigines who gave an interview to the Channel 7 Real Life program. It was submitted that his evidence at the hearing before me was inconsistent with what he said in that interview in that Gray said in that interview that Yock was struggling when placed in the van. I have listened to the tape recording of that interview. Whilst the transcript shows the following exchange,

- Q. *And was he struggling?*
 A. *Yes.*
 Q. *And wrestling at the time?*
 A. *Yes, he was still choking.*

those two questions were in effect one question, which was interrupted by Gray. In my view the only inconsistency between what Gray said in the Real Life program and what he said in evidence before me is that in evidence he did not suggest that Yock was still choking when placed in S255.

Some of the residents in Brereton Street also gave evidence as to observations they made of Yock whilst on the ground.

- McNamara gave evidence that Yock appeared to be unconscious, was not moving and the other Aborigine present (Glen Gray) appeared concerned for him.
- Dorothy Williams gave evidence that, when Yock was helped to his feet to go to S255, although strongly supported by those taking him to the van, "*his legs were acting*" and he was supporting his own head (23899).
- Judith Williams gave evidence that when Yock was lifted up and taken to the van (which she says was down near the hostel) he could walk but had to rely on support to assist him. Significantly she did not recall Yock being handcuffed and says that one arm was over the shoulders of each of the two persons assisting him.
- Davies gave evidence that she did not consider the man on the ground (Yock) to be unconscious but described the movement she observed as a weak sort of movement.
- Costas gave evidence of seeing one Aboriginal youth (Glen Gray) shaking the arm of an Aborigine on the ground (Yock). The Aborigine on the ground was not handcuffed and Costas did not ever see handcuffs applied. At some point the Aborigine on the ground was moved from the grassy area onto the concrete although Costas did not see the movement take place. Costas later saw a policewoman and a policeman dragging the

Aborigine to S255 by his arms and said the Aborigine's feet were not under his body. In his opinion the Aborigine did not appear conscious and there was no movement by him when being put in the van.

- Waters gave evidence of observing an Aboriginal youth (Glen Gray) inspecting the upper half of the body of another Aboriginal youth (Yock) lying on the ground. The youth on the ground was not moving. He observed the policewoman trying to lift the youth's head to "*get him to move, stand up; sort of lifted him halfway up and then sort of let him go and slide back to the ground.*" (23987). The police officers then dragged the youth along the ground by the wrists with his hands stretched above his head at arms length and with the lower half being dragged along the ground. Waters considered the youth incapable of standing up and his head seemed quite limp although Waters could not give any indication of consciousness.

The evidence given by Judith Williams, Waters and Costas is, in my view, unreliable in that none of them have Yock handcuffed and in fact give descriptions in terms of the positioning of his arms which are entirely inconsistent with Yock having been handcuffed.

As can be seen, the versions given by the witnesses as to Yock's condition whilst on the ground and when placed in the van have significant variations. In determining what was Yock's most likely medical condition, considerable weight should be given to the evidence of Dr Neilson in relation to the most likely time when Yock suffered the Stokes-Adams attack. On that evidence it might have been fifteen minutes after Yock was placed in S255 but more likely it was later than that. Dr Neilson was of the opinion that the changes exhibited on the roadside wherein Yock, in a relatively short period of time, went from a running, shouting and struggling person to a subdued moaning (as in sounds of exertion) person who vomited, urinated in his clothing and required assistance when being taken to S255, had nothing to do with the Stokes-Adams attack and had to be explained by something else. The most likely explanation for the change was intoxication. Yock had high blood and urine readings in relation to alcohol. Dr Williams was of the opinion that the signs exhibited by Yock were consistent with a person who was intoxicated. This was supported, to an extent, by the report received from the Mater Hospital (Exhibit 166).

The above factors, in my opinion, make it more probable than not that Yock was not unconscious on the ground and whilst being placed in S255. The evidence of Glen Gray of shaking and choking is consistent with the spluttering, sneezing and coughing referred to by Crozier especially having regard to the obvious concern that Glen Gray had for Yock, he being Yock's friend.

In my view it is more probable than not that any observable change in Yock's condition whilst on the ground and when placed in S255 was as a result of intoxication and not of any condition requiring medical attention.

Whilst Domrow had a basis for assuming that Yock was intoxicated (the basis being her observations of the group in Musgrave Park, whilst walking along Edmondstone Street, the smell of alcohol upon vomiting and his urinating in his pants), she conceded that she did not at any time ask any questions of Yock in order to assess whether he was orientated in time or place nor did she hear any other police officer ask him any such questions. It would appear that at no time from the time of his detention until the time he was taken from S255 at the watchhouse car park was Yock given other than a brief examination by any police officer to ascertain his condition. Having regard to the length of time Yock was in S255 this is a matter of some concern.

3.10.6 Did Yock's condition change whilst in S255 and, if so, how, and did this come to the notice of his custodians?

Blair gave evidence regarding his observations of Yock's condition whilst in S255 with him. There were also other witnesses who gave evidence of brief observations of Yock whilst he was in the police van.

- Blair gave evidence that when he was placed in S255 Yock was lying face down with his hands behind his back. He tried to wake him by shaking him and talking to him. When he looked at Yock's head region he saw a bit of "spew" down the side of his mouth and his eyes were staring. Whilst Blair said Yock was not breathing he later said he thought Yock was asleep and did not think that he was sick (24371). When asked if he thought there was anything wrong with Yock when he was in the police van, Blair said, *"Yes, I thought he was alright. I didn't think he was in a sick way or whatever, a bad way."*

Blair alleged that he made repeated attempts to tell Domrow and Harris that Yock was not alright. An examination of his evidence, his interview with Crone and Melling on 7 November 1993 and his comments when interviewed on Channel 7's Real Life program indicates three specific occasions on which Blair claims he attempted to inform Domrow and Harris:

when Harris was searching the grassy area behind the hostel and Domrow was approximately 15 metres from S255 (24370), Blair said he called out *"this fellow here won't fucking wake up"* (24476)

and to come over and check him and to take his handcuffs off because they were tight. Later he said he used the expression "*he's laying down and he's still never said nothing to me.*" (24480) Blair said Domrow lit a cigarette and grinned. He did not believe that the police were too far away to hear him (24369);

when the police returned to the van after searching the grassy area. Blair said to them "*can you come and take his cuffs off*" (24371); and

when the van was travelling around the streets on patrol.

On none of those occasions did Blair allege that he told the police that Yock was not breathing or that his eyes were staring. Blair did not call out when he first could not wake Yock (24367) and did not call out when S255 met up with S592 (24369). The occupants of S592 were but a few feet away from Blair. Blair did not at any time bang on the cage of S255.

The tape recording of Blair's interview with Crone and Melling (part of Exhibit 43) indicates that he alleged he said to the police, "*This fellow here won't fucking wake up, he's got handcuffs on him tight*"⁴ and "*Look what's wrong with youse, why don't youse take these handcuffs off this fellow, he's laying down and he's still never said nothing to me.*" Later in the interview he said, "*At first I was saying I just sung out to them this fellow here why don't you, cos the handcuffs were so tight around here, they were real tight and I could see his bones really scrunched up like that*" and "*can you get these handcuffs off him they're on real tight, and he still hasn't said nothing to me.*"

Blair did not allege in evidence that the police said anything in response. However, when interviewed on the Channel 7's Real Life program he said the police said "*shut up we're just going back to the watchhouse now.*"

- Domrow gave evidence that she did not hear any calling-out from the back of S255 and that when she returned from the search of the grassy area she looked into the rear of S255 and saw that Yock appeared to be fine, in the same position as when placed in the van and his eyes were "*open and blinking*" (25834).
- McNamara gave evidence that as S255 drove along Brereton Street he observed two Aboriginal youths in the rear of the van. He said one of the youths seemed concerned about the welfare of the other who he assumed

⁴ The words "handcuffs on him tight" have been recorded in the transcript of the tape recording as "head cuts on him . . .". I have listened to the tape and am satisfied that the transcript is not correct.

was in distress because he was not moving and the other person was shaking him and trying to get him up (23775).

- Waters gave evidence that when he observed two persons in S255 one was sitting up and one was lying down. He did not observe any interaction between the two and did not hear anybody calling out.

Whilst Blair has consistently stated that he called out to police, he did not at any time indicate to police that Yock was not breathing. There was a reference to his not waking up but the consistent call was for the removal of the handcuffs which he considered were too tight. Blair said that he did not think that Yock was sick. His appearance of not waking up would be consistent with intoxication.

The evidence of Dr Neilson in relation to the likely time at which Yock suffered the Stokes-Adams attack assumes particular significance in the assessment of the nature of any change to Yock's condition whilst he was in the police van and when it occurred. On Dr Neilson's evidence, the Stokes-Adams attack could not have occurred more than ten minutes prior to CPR being administered at the watchhouse. According to the police radio communications records, S255 left Boundary Street at about 18.21 and arrived at the watchhouse at 18.25. An ambulance was called at 18.28. CPR was commenced after the time the ambulance was called and, as I have indicated earlier in this report, probably not earlier than some seconds before 18.30. On that basis the attack could not have occurred any earlier than 18.20, which is around the time S255 and S592 met in Boundary Street prior to travelling to the watchhouse. However, Dr Neilson was of the opinion that it was more probable than not that the attack occurred closer to five minutes before the commencement of CPR, that is, closer to 18.25, which is around the time S255 arrived at the watchhouse. Even on Dr Neilson's estimate that the Stokes-Adams attack would not have occurred earlier than ten minutes before CPR was administered, the attack could not have occurred at the time the police were searching the grassy area behind the hostel. The earliest that the attack could have occurred is at or around the time S255 and S592 met in Boundary Street. Blair does not allege that he attempted at any time to warn the police when S255 and S592 were stationary together in Boundary Street or on the journey to the watchhouse.

Blair may well have been concerned about his friend Yock when in the van. However this concern was because of the handcuffs and his being asleep. The evidence does not support a finding that Yock had a medical condition at that time. The observations of McNamara are consistent with a concern that Yock was asleep. It is apparent from Dr Neilson's evidence that Yock's condition prior to the Stokes-Adams attack had to be caused by something other than the Stokes-Adams attack. On the evidence the most likely explanation is Yock's high level of intoxication.

One matter requiring consideration is the evidence of Caris and Leyendeckers that they observed Yock sitting up in the rear of S255. This evidence is completely contrary to the evidence of all other witnesses who, significantly in my opinion, for the whole time Yock is in the van, have Yock in substantially the same position he was in when first placed in S255. The consistency of this evidence is such as to render Caris' and Leyendeckers' evidence in this respect unreliable.

Having regard to the above matters I am of the opinion that the evidence establishes that it is more probable than not that:

- (a) Yock's condition did change whilst in S255 but not until after S255 had left Boundary Street and was in transit to the watchhouse;
- (b) this change in Yock's condition was as a result of the Stokes-Adams attack; and
- (c) the change in Yock's condition did not come to the notice of the police and they were unaware of it until he was removed from S255 in the watchhouse car park.

3.10.7 Did any failure to exercise care contribute to Yock's death?

Section 285 of the Criminal Code is in the following terms:

It is the duty of every person having charge of another who is unable by reason of age, sickness, unsoundness of mind, detention or any other cause, to withdraw himself from such charge, and who is unable to provide himself with the necessaries of life, whether the charge is undertaken under a contract, or is imposed by law, or arises by reason of any act, whether lawful or unlawful, of the person who has such charge, to provide for that other person the necessaries of life, and he is held to have caused any consequence to the life or health of the other person by reason of any omission to perform that duty.

Medical attention and remedies may be necessaries of life R v Macdonald and Macdonald [1904] St.R.Qd 151.

The section is broad enough to cover directly a negligent breach of duty: R v Young (1969) Qd.R. 417. If death results unintentionally as a consequence of a negligent failure to supply necessaries, such failure constitutes manslaughter under section 303 of the Code: R v Macdonald and Macdonald (supra).

In order to constitute criminal negligence sufficient to ground criminal liability there must be gross negligence. Mere negligence is insufficient. It must be

conduct which was reckless either because of indifference to an obvious risk or, where there is an appreciation of such risk, a determination nevertheless to run the risk: Andrews v DPP (1937) AC 575 where Lord Atkin at 582 cited with approval a passage from the judgment of Lord Chief Justice Hewitt in Bateman's case 19 Cr.App.R. 8 at 11 in which the following statement appears:

... in order to establish criminal liability the facts must be such that, in the opinion of the jury, the negligence of the accused went beyond a mere matter of compensation between subjects and showed such a disregard for the life and safety of others as to amount to a crime against the State and conduct deserving of punishment.

There is no doubt that section 285 applies to police officers and imposes on them a duty to exercise care in relation to persons in their custody. Yock was in the custody of Domrow and Harris. They were in charge of S255 and Yock was secured within that van.

In addition to that duty the Custody Manual (the Manual) introduced by the Police Service (Exhibit 64) specifies how custodians are to discharge their duty of care to prisoners. The definition of custody in section 1.5 provides that police custody commences at the time a person comes under the control of a police officer by way of arrest or detention and finishes when that control lapses. The Manual, in section 2.6, imposes an obligation upon an officer not to arrest a person who is unconscious or apparently unconscious or in need of or apparently in need of urgent or immediate medical treatment but to assist that person to receive medical treatment as soon as possible. When a person has been arrested or taken into custody the arresting officer has an obligation to immediately assess the prisoner and if the officer believes that the prisoner is apparently unconscious or in need of urgent or immediate medical treatment and to arrange for the prisoner to receive such treatment.

Whilst the Manual, on one view, may be framed to deal to a large extent with circumstances within a watchhouse, there is no doubt, having regard to the contents of the Manual as a whole, that it applies to any police officer who has a person in his or her custody. In fact section 3 of the Manual, which deals with the health of prisoners, imposes an obligation on all officers with the custody of another person to take reasonable care to provide for the health of that person and, if an officer is unsure about whether the person requires medical treatment, the officer is to obtain an assessment by a medical person (section 3.2). In undertaking that assessment, the officer should observe the prisoner's physical appearance and demeanour and seek information about the prisoner's health from the prisoner, police or other persons who have had contact with him in order to determine or cause to determine whether he or she is fit to be held in the watchhouse or should be transported for medical attention. An annexure to the Manual sets out the observations that ought to be made in the assessment of a prisoner's condition and

in determining whether medical treatment or advice ought to be sought. Domrow frankly conceded that she had care of Yock and had an obligation to render assistance if he was ill or in need of assistance.

Yock's condition of not breathing and having no pulse was, according to Dr Neilson, brought about as a result of his having suffered a Stokes-Adams attack up to five or possibly ten minutes prior to the commencement of CPR. Such an attack would occur suddenly and would have immediately rendered him helpless. Having regard to Dr Neilson's evidence as to the most likely time when the attack occurred, namely, closer to five minutes prior to the institution of CPR, it is more probable than not that the attack did not occur until S255 was in transit to the watchhouse.

Once Yock suffered the attack and did not recover spontaneously (as had occurred on previous occasions) his chances of recovery were dependent on the administration of CPR to maintain circulation and reduce the chance of brain damage in the hope that recovery might occur. Whilst Dr Neilson said there was a chance that CPR could have been successful because Yock's asystole was as a result of a Stokes-Adams attack rather than a normal heart attack, he was unable to say what the probability of success was and agreed that it would be dependent upon various factors including proximity of time between the realisation of a need for CPR and the commencement of effective CPR. In effect Dr Neilson said that CPR should have been tried as it was the only thing that could save Yock.

Further, Domrow concluded that Yock was drunk, on the basis of her own experience, having observed Yock and his companions drink alcohol, having observed Yock and his companions walking down Edmondstone Street, their conduct in Musgrave Park, Edmondstone Street, and SEQEB Park and the smell which emanated from the clear liquid Yock vomited on the footpath. These factors did give Domrow a basis for a conclusion of drunkenness. Further, having regard to Dr Neilson's evidence, his condition, until the onset of the Stokes-Adams attack, is explained by his being intoxicated.

In part 3.10.5 I have expressed the opinion that it is more probable than not that Yock was not unconscious while on the ground and whilst being placed in S255 and that any observable change in his condition whilst in those places was as a result of intoxication and not of any condition requiring medical attention.

Whilst Domrow, and to an extent Harris, can be criticised for their failure to assess Yock in the terms stated in the Manual and to check on his condition whilst in the van, if they had, it appears from the evidence that any condition observed by them would have been consistent with intoxication and would not have given them any reason to suspect that Yock had some heart condition whereby he was much more vulnerable than other young men to a Stokes-Adams or any other form of heart

attack. The Stokes-Adams attack occurred whilst S255 was in transit and once they had set out for the watchhouse it is not reasonable to expect that they should stop on such a short journey and check his condition. Certainly, according to Blair's evidence, during that part of the journey he did not attempt to indicate any concern in relation to Yock's condition.

Whilst Dr Neilson agreed that the failure to render CPR substantially contributed to Yock's death, he clarified this in evidence to mean that CPR was the only chance Yock had and accordingly was a chance that ought to have been given. He could not however give any indication as to the probability of success in that event.

It was submitted by Mr Jerrard QC that in not calling an ambulance for Yock, in the circumstances of which she was aware, Domrow was in breach of the duty of care she owed him and should be charged with manslaughter. It was irrelevant, he submitted, that Yock did not die of intoxication. Had an ambulance been called, Yock would have been in the care of ambulance officers or a hospital when he suffered the Stokes-Adams attack and would thus have had a better chance of survival.

This argument is defective in several respects. First, it overlooks the evidence that supports the conclusion that I have expressed in part 3.10.5 that it is more probable than not that Yock was not unconscious on the ground and whilst being placed in S255 and that any observable change in his condition whilst in those places was as a result of intoxication and not of any condition requiring medical attention.

Secondly, it has no regard for the requirement at law that there must be a causal connection between any alleged breach of duty and the alleged consequences. The law on the matter was and is not in dispute; for an accused person to be criminally responsible for consequences resulting to another by reason of the accused person's omission to perform his/her duty, the omission must be proved to be a substantial cause of those consequences: R v Hodgetts and Jackson (1990) 1 Qd.R. 456 at 463. Because Yock did not die from intoxication, the failure to obtain treatment for that condition, by for example calling an ambulance, cannot be said in any relevant sense to be a cause, let alone a substantial cause, of his death from the Stokes-Adams attack.

Further, the evidence does not support a conclusion that if an ambulance had been called Yock would have been in the care of ambulance officers or a hospital at the time he suffered the fatal attack. The evidence is that his condition would have been assessed by the ambulance officers upon their arrival and it is a matter of speculation as to what might have happened following that assessment.

Mr Jerrard's submission also overlooks some fundamental principles of the law relating to criminal negligence to which I have already made some reference and

which are illustrated in the reported cases dealing with the question of what constitutes criminal negligence to which Counsel referred. One such case is Elias Taktak (1988) 34 A.Crim.R. 334, a case in which the accused failed to call a doctor to render assistance to a girl who was very sick. The nature of the offence alleged against the accused and what was required to establish that charge was stated by Carruthers J. at 357 as follows:

The offence with which the appellant was charged may conveniently be referred to as manslaughter by criminal negligence. Thus it was incumbent upon the Crown to prove beyond reasonable doubt:

- (1) *That the appellant owed a duty of care in law to (the deceased);*
- (2) *That it was the omission of the appellant to obtain medical treatment which was the proximate cause of (the deceased's) death.*
- (3) *That such omission by the appellant was conscious and voluntary, without any intention of causing death but in circumstances which involved such a great falling short of the standard of care which a reasonable man would have exercised and which involved such a high risk that death would follow that the omission merited criminal punishment.*

In the same case, Yeldham J., with whom Loveday J. agreed, held that whilst a doctor should have been called and, assuming the girl was then alive, if she had been given appropriate treatment, she may well not have died, a finding that the appellant was criminally negligent could not be supported. His Honour referred to Stone (1977) QB 354; 1976 64 Cr.App.R. 186, a decision of the Court of Appeal in England, and at 355 cited the following passage from the judgment of that Court:

What the prosecution have to prove is a breach of that duty in such circumstances that the jury feel convinced that the defendant's conduct could properly be described as reckless, that is to say a reckless disregard of danger to the health and welfare of the infirm person. Mere inadvertence is not enough. The defendant must be proved to have been indifferent to an obvious risk of injury to health, or actually to have foreseen the risk but to have determined nevertheless to run it.

Later on the same page of his judgment His Honour said:

Reasonable care and common prudence demanded that he should have called medical help, notwithstanding the hour of the morning. But to hold that he was criminally negligent, and that such negligence caused or accelerated death, was in my opinion a verdict which was dangerous and unsatisfactory. There was no evidence that the appellant knew the extent of the ingestion by the deceased of any drug, and that if medical help was not obtained for her she would be likely to die. Nor is there any evidence that he was aware that death, if likely, might have been prevented by the administration of Narcan. Any finding against him on these issues involved at least some guesswork.

It is because the evidence concerning the existence of a duty the alleged criminal breach thereof, and the likely time of death was so unsatisfactory, that I conclude that the conviction should not be allowed to stand and should be quashed.

Domrow assessed Yock's condition as being drunk from certain observations she made. The evidence shows that had she made the further observations stated in the Manual there was nothing to indicate that her conclusion would or should have been different; on the contrary the evidence supports a conclusion that he was in fact drunk and not suffering from any medical condition.

Obviously every case depends on its own facts. Taktak's case and the other decisions referred to me provide examples of the gravity of the conduct that must be proved beyond reasonable doubt in order to establish criminal negligence.

The evidence is by no means sufficient to support a conclusion in the terms of the judgment of Carruthers J. (above) that there was such an omission by Domrow which, though without any intention of causing death, was conscious and voluntary and made in circumstances which involved such a great falling short of the standard of care which a reasonable person would have exercised and which involved such a high risk that death would follow that the omission merited criminal punishment. Nor does the evidence support a conclusion in the terms of the judgment of Yeldham J. that Domrow showed a reckless disregard of danger to the health and welfare of Yock and was indifferent to an obvious risk of injury to his health or actually foresaw the risk but determined nevertheless to run it.

For the above reasons I reject Mr Jerrard's submission that the evidence supports a prima facie case of manslaughter.

I am also of the opinion that the evidence is not sufficient to support a prima facie case against any other member of the Police Service in respect of a charge of manslaughter.

I do not intend to canvass the evidence again on those issues other than to say that in relation to Domrow's conduct, in considering whether or not in making her assessment of Yock's condition and in not calling for an ambulance she should be dealt with for a disciplinary breach of the requirements of the Manual, I have borne in mind that there is ample evidence to support the conclusion Domrow reached that Yock's condition was due to his intoxication even though in arriving at that conclusion she did not follow precisely the procedures laid down in the Manual. Further, as the evidence supports a conclusion that any observable change in Yock's condition whilst he was on the ground in Brereton Street and in S255 was as a result of intoxication and not of any condition requiring medical attention, I do not consider it appropriate that any form of proceedings be taken against her for not summoning an ambulance.

3.10.8 Other allegations of official misconduct and/or misconduct against certain police officers

The Terms of Reference also require me to consider whether there is sufficient evidence to support proceeding against any member of the Police Service for official misconduct, or misconduct including neglect or violation of duty.

Mr Jerrard QC submitted that there is evidence of official misconduct by Domrow which:

consists of a breach of the trust placed in her as a police officer and a neglect of duty sufficient to warrant her dismissal, the particulars of which are her ignoring of the Custody Manual, police practice, common sense and warnings given to her, the condition of Mr Yock and her failure to call an ambulance.

Elsewhere in this report I have dealt at some length with the evidence relating to Domrow's actions while Yock was in her custody, her assessment of his condition and the manner in which she made that assessment.

When Yock came into her custody, the Custody Manual imposed on Domrow an obligation that she make an assessment of his condition and, in the light of the fact that alcohol may mask many serious conditions, warned against assuming that he was "just drunk". If her assessment had led her to believe that Yock was "apparently unconscious" or "apparently in need of urgent or immediate medical treatment", it was then her obligation to arrange for him to receive medical treatment as soon as possible. The only criticism that can be made of Domrow is that in making her assessment of Yock's condition she did not follow the checklist in the annexure to the Manual. She relied on her own observations, having had him under observation for some time and her own experience in handling intoxicated people. The evidence offers no other explanation for Yock's condition than intoxication which was the conclusion that she reached.

In my opinion there is not sufficient evidence to support proceedings against Domrow for official misconduct arising out of her actions concerning Yock on 7 November 1993.

Mr Jerrard also submitted that all four police officers, Domrow, Harris, Bishop and Symes, by their conduct demonstrated "unfitness to be or continue to be" police officers and therefore should be dealt with for official misconduct or misconduct as defined in section 1.4 of The Police Service Administration Act 1990.

Symes and Harris, according to Mr Jerrard "demonstrated a total absence of interest in the welfare" of Yock in that they made no inquiries about his welfare.

The evidence does not support the allegation that Symes and Harris demonstrated a total absence of interest in Yock's welfare. The evidence shows that at all times after Yock's arrest, Symes and Harris were aware that Yock was in the custody of another police officer. Upon his arrest, Yock was left on the footpath of Brereton Street with Domrow and Crozier while Symes and Harris, with other police, attended to the events that were being played out at the hostel. Understandably, those events and the search of the streets in the vicinity of the hostel absorbed their attention. The evidence does not support a conclusion that, in attending to other duties which demanded their attention, Symes and Harris demonstrated any lack of interest in Yock's welfare.

In another of his submissions, Mr Jerrard said that Domrow, Harris, Bishop and Symes "*exhibited a further form of misconduct*" in that all "*have exaggerated the number of Aborigines with whom they dealt*".

Indeed, the estimates given by some of the police officers did vary and in some cases were inconsistent with other estimates made by them. Furthermore, some of the estimates were obviously wrong. However, the incident at the hostel involved many people only some of whom were closely involved with the police and the group was mobile; there was much movement in the area; people scattered into and around the hostel and there were many police involved. Although estimates were made of the numbers of young people with whom Bishop and Harris were at one moment involved, the number of people involved as participants (in varying degrees) and as spectators appears to have been quite large and was never estimated. It is understandable that estimates of numbers after the incident at the hostel might be different from estimates made earlier. With the advantage of the police radio communication records, some estimates can now be seen to be wrong. However, given the circumstances in which the events of the latter part of the day were played out, the evidence is not sufficient to support proceedings against any of the police officers mentioned for misconduct on the ground of exaggeration in their estimates of the number of Aboriginal people involved.

3.11 CONCLUSIONS WITH RESPECT TO PARAGRAPH (A) OF THE TERMS OF REFERENCE

In part 3.9 I identified seven issues which required consideration in some detail with a view to determination of the question raised in paragraph (a) of the Terms of Reference, and in part 3.10 I discussed each of those issues and certain allegations made against some police officers and stated my conclusions. I now bring those conclusions together in the following summary:

1. There is sufficient evidence to show that Yock and companions were acting in a disorderly manner along Edmondstone Street and in the SEQEB park area and, that being so, Yock's arrest was lawful.
2. The evidence does not support a finding, even on the balance of probabilities, that the force used by Symes in effecting Yock's arrest was excessive.
3. As to whether Yock's arrest was appropriate, in hindsight it may have been more prudent for Domrow and Harris to first contact a superior officer for advice and direction as to the course of action for them to adopt. However, it is accepted that officers have to make decisions on patrol and do not have the benefit of hindsight. In fact, if Domrow and Harris had contacted the officer in charge at West End, Senior Sergeant Stanley, he would have advised them to have contact with the group despite the obvious potential for conflict.

In those circumstances the conduct of Domrow and Harris should not be regarded as inappropriate.

4. The evidence is not sufficient to support allegations that Yock was mistreated following his arrest.
5. It is more probable than not that Yock was not unconscious while on the ground and whilst being placed in S255 and, further, it is more probable than not that any observable change in Yock's condition whilst on the ground and when placed in S255 was as a result of intoxication and not of any condition requiring medical attention.
6. The evidence establishes that it is more probable than not that -
 - (a) Yock's condition did change whilst in S255 but not until after S255 had left Boundary Street and was in transit to the watchhouse;
 - (b) This change in Yock's condition was as a result of the Stokes-Adams attack; and
 - (c) A change in Yock's condition did not come to the notice of the police and they were unaware of it until he was removed from S255 in the watchhouse car park.
7. There is not sufficient evidence to support a conclusion that there was any failure to exercise care for Yock while he was in police custody.

8. There is not sufficient evidence to support a prima facie case against any member of the Police Service on a charge of manslaughter or any other criminal offence nor is there sufficient evidence to support proceedings against any member of the Police Service for official misconduct or misconduct including neglect or violation of duty.

3.12 THE UNRELIABILITY OF ASPECTS OF DOMROW'S EVIDENCE

During the course of submissions by Counsel, attention was drawn to the obvious conflict between Domrow's evidence that she intended merely to monitor the conduct of Yock and his group as they proceeded along Edmondstone Street and did not ask for assistance until one of the group produced a stake in SEQEB Park and the evidence of Harris which was supported by the police radio communication records that the first call for assistance was made while the group was proceeding along Edmondstone Street and well before they arrived at SEQEB Park. Their evidence is detailed in part 3.4.3 of this report.

It was suggested that if I considered that Domrow was being deliberately untruthful in this area of her evidence, I should consider referring the matter to the proper authorities for further action. Domrow's evidence on the matters mentioned and in other respects identified in this report was indeed unreliable. In giving her evidence she appeared at times too willing to give an answer when she was unsure and at other times appeared confused. However, in relation to her testimony and the manner in which she gave it, I do not consider that there is evidence of deliberate dishonesty or such a want of care as to warrant proceedings of any kind against her.

I do not consider that any such proceedings are warranted in relation to any other witnesses.

3.13 ALLEGATIONS OF THE FABRICATION OF EVIDENCE BY BLAIR, FISHER, ARCHIE GRAY AND CHARLES RILEY

It was submitted by Counsel for the police officers who were represented at the hearing that the consistency of the evidence of Blair, Fisher, Archie Gray and Charles Riley in relation to the alleged kicking of Yock by Domrow, indicated collusion between the witnesses. An allegation of fabrication of evidence warranting further inquiry was made.

I have given careful consideration to Counsel's submissions but I am not persuaded that there is sufficient evidence of deliberate untruthfulness on the part of those witnesses to warrant the institution of criminal proceedings against them.

In so finding, I have had regard to their youth, the fact that they were emotionally upset by the events that occurred and the fact that, when they were together later in the evening, they discussed what had happened. In the course of that discussion, suggestions may have been made which filled gaps in their individual recollections and completed a picture of events which, unfortunately, was completely erroneous. It is not surprising, therefore, that a number of them gave similar accounts of Domrow's role in the restraint of Yock.

It is extremely unfortunate that the versions given by some of Yock's companions were used by some members of the Aboriginal community to make irresponsible assertions in the Press, in relation to Yock having been kicked to death, without any consideration for the facts as to his physical condition as found at autopsy, and the views of Glen Gray who was one of the older youths and the person who stayed with Yock and who did not see any kicking whatsoever.

CHAPTER 4

PARAGRAPHS (B) AND (C) OF THE TERMS OF REFERENCE

4.1 INTRODUCTION

In the terms of these paragraphs I was required to investigate:

- "(b) whether the relationship between members of the Police Service and members of the Aboriginal community had any bearing on the circumstances of the apprehension of Daniel Alfred Yock and, if so;
- (c) whether any changes are necessary to Police Service policies, procedures or operational instructions in relation to the apprehension and management of Aboriginal persons in similar circumstances."

At the conclusion of the hearing of evidence and submissions in relation to paragraph (a) of the Terms of Reference, I issued an invitation to the parties who were represented at the hearing and to interested members of the public to make submissions on paragraphs (b) and (c) of the Terms of Reference and expressed the desire that they be forwarded to the Commission before Friday 4 March 1994.

4.1.1 Conclusion

The evidence of Yock's companions indicated that there was, at least, a perception on the part of most of them that they were being harassed on the day in question because of their Aboriginality. Charles Riley, however, thought that they were being followed because they had been drinking and was hesitant in taking up the suggestion that it may have been because they were Aborigines. All of the police officers denied harassment and denied that the fact that Yock and his companions were Aborigines had anything to do with events on the day in question.

Whilst there was undoubtedly that perception on the part of most of Yock's companions, that is not, in my opinion, sufficient to indicate that the relationship

between members of the Police Service and members of the Aboriginal community had any bearing on the circumstances of the apprehension of Daniel Alfred Yock.

In my opinion the reaction of Domrow and Harris which led to police intervention with the group was not motivated by the fact that members of the group were Aborigines but rather by a belief that, as members of the Police Service, it was their duty to respond by intervening with a view to the arrest and punishment of wrongdoers. In my opinion the police response would have been the same whatever the racial or ethnic background of the group. Accordingly, I answer paragraph (b) of the Terms of Reference in the negative.

In the light of this conclusion, it is unnecessary to consider paragraph (c) of the Terms of Reference.

4.2 BEAT POLICING OF THE WEST END POLICE DISTRICT

One of the submissions made in relation to paragraphs (b) and (c) of the Terms of Reference recognised the value in terms of crime prevention of improving relations between the Police Service and the community which obviously includes Aboriginal members of the community. That submission came from the Police Service. Its purpose was to draw my attention to a proposal by the Police Service to implement Beat Policing throughout the West End Police Division. The submission was dated 24 February 1994 and acknowledged that relationships between police and the Aboriginal community in the West End area "*had recently deteriorated*".

The purpose of the Beat Policing proposal is not only to reduce crime in the West End Police Division but to build on improving relationships between the Police Service and the community. It was acknowledged in the submission that the Aboriginal community forms a large portion of the population within the West End Police Division.

In summary what is involved in the proposal is:

- The West End Division will be divided into six defined beat areas. Each beat area will be policed by a single Beat Area Officer (BAO). BAOs will work alone and on foot or bicycle, within their beat area.
- BAOs will become the principal police service providers within the beat communities and will be responsible for all police/community liaison within that area, as well as the provision of mainstream police service. Other police will still work within these areas, but appropriate policing methods will be negotiated with the beat communities via the BAOs.

- BAOs will be responsible for co-ordinating a total community response to the problems of crime and public order. They will utilise problem-solving strategies in co-operation with the community, and will seek to determine the root causes of community problems and address these, rather than simply treat the symptoms of deeper problems via - often inappropriate - use of the criminal law.
- By getting to know the community and letting the community put 'faces to uniforms' it is expected that this strategy will go a long way towards engendering more harmonious relationships between police and the wider community, which already includes minority groups with whom the police have experienced less than favourable relations in the past.

The Commission is aware of the elements contained within this proposal and, on the basis of the research evidence and expertise available to the Commission, it would appear the proposal will address many of the concerns that one might have with respect to the policing of Aboriginal persons in the West End area.

Available criminological and police management research indicates that strategies of this nature are likely to be the most productive answers to long-standing problems in troubled communities. Similar strategies are now being deployed in troubled communities in many jurisdictions overseas.

In May 1993 the Southern Region of the Police Service together with the Commission established a Community Policing Pilot Project in Toowoomba. That project has been designed to run for two years and a recent survey to evaluate its progress indicates a high level of success.

Although the strategy outlined in the Police Service's proposal has been in the planning phase for some months and was not specifically developed with the Daniel Yock incident in mind, I accept the submission that it should go a long way towards addressing many of the issues of concern in police/Aboriginal relations and I recommend the institution of the proposal.

CHAPTER 5

RECOMMENDATIONS WITH RESPECT TO MATTERS REVEALED BY THE EVIDENCE

A consideration of the evidence raises a number of matters which, in my view, are of concern and about which I believe I should make recommendations.

1. In part 3.10.7 of this report I made reference to the obligations that the custody manual imposes on police officers to make a careful assessment of the condition of prisoners in their custody. I also express the opinion that the evidence was not sufficient to warrant proceedings against any police officer.

However, I do consider that Domrow ought to undergo further training in relation to the obligations imposed on any officer who has a prisoner in his or her custody.

2. Appropriate training should be given to all officers to ensure that an assessment of a prisoner's condition is made, not only at the time of arrest, but also at appropriate intervals whilst the prisoner is in the custody of police officers prior to his or her arrival at the watchhouse.
3. Urgent consideration should be given to the establishment of a means of communication between the occupants of special purpose vehicles of the type involved in this case (S255) and those persons imprisoned in the secure area of those vehicles.
4. The handcuffing procedures laid down by the Police Service should be reviewed to ensure that officers have a discretion not only as to whether an offender is initially handcuffed but also as to whether the handcuffs remain on that person. The training material tendered before the hearings (Exhibit 167) indicates that officers are instructed that "*wherever and whenever possible a prisoner should be handcuffed with his hands behind his back*" and handcuffs are not to be removed from a prisoner other than at a place of safety (watchhouse, police station, prison etc). It was as a result of this material that I considered that the officers involved in the arrest and

detention of Yock cannot be criticised in leaving him handcuffed with his hands behind his back for a period in the order of thirty minutes. However, these officers recognised that persons with their hands handcuffed behind their back are incapable of using their hands to control their position. That being so, it is difficult to place them in a position other than on the floor of the police van. Once a person is placed in the van they are in a secure area. If the person is subdued, there would seem to be no reason why the handcuffs should not be removed.

5. The Police Service should ensure that all serving officers have access to and do study the contents of the Custody Manual. Whilst there was tendered in evidence a Commissioner's Circular in relation to the Custody Manual, the evidence of Domrow and Harris indicates that they did not have sufficient, if any, knowledge of its contents. The evidence of Senior Sergeant Stanley, the officer-in-charge of the West End Police Station, also indicates that there was an inadequate system in place to ensure that all officers complied with the circulars and familiarised themselves with the contents of the Custody Manual.
6. The debriefing procedure laid down by the Police Service should be reviewed to have regard to the need for officers to give their own recollection of events as soon as possible after an incident such as the incident involving Yock. The debriefing session in this case, whilst conducted in accordance with the guidelines, occurred after an official investigation had commenced but before the officers had been interviewed by the investigators. The session involved all relevant police officers, as a group, discussing not only their feelings but also the events in question.

I recommend that the guidelines be changed to ensure that in future no debriefing session occurs until after each officer has provided a record of his/her recollection of relevant events. This will prevent any allegation of their accounts of events having been affected or altered by the accounts given by other officers involved in the incident in the course of the debriefing session.

**RESOLUTION BY THE CRIMINAL JUSTICE COMMISSION
TO UNDERTAKE AN INVESTIGATION AND
CONDUCT PUBLIC HEARINGS**

WHEREAS:

- (a) On the 7th day of November 1993:
 - (i) In accordance with the provision of Commissioner's Circular II/92, the fact that an Aboriginal youth had died in police custody on that date was referred to the Criminal Justice Commission ["the Commission"] by members of the Queensland Police Service; and
 - (ii) An officer of the Commission overviewed the commencement of the investigation into the youth's death;
- (b) The deceased youth has been identified as Daniel Alfred Yock;
- (c) On the 8th day of November 1993 the Aboriginal and Torres Strait Islanders Corporation [Q.E.A.] for Legal Services requested in writing:
 - (i) That the Commission undertake an independent investigation of the death of Daniel Alfred Yock;
 - (ii) That the Commission investigation be instead of an investigation then being conducted by the Queensland Police Service; and
 - (iii) That the Queensland Police Service investigation be terminated;
- (d) On the 8th day of November 1993 the Director of the Official Misconduct Division of the Commission directed the Acting Commissioner of the Queensland Police Service in writing pursuant to section 2.28(6) of the *Criminal Justice Act 1989*

["the Act"] that the responsibility for the investigation be transferred to the Commission and that all material and/or information relating to the incident in question be delivered forthwith to the Commission,

THE COMMISSION HAS RESOLVED in the discharge of:

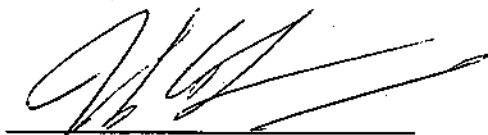
- (a) its function under section 2.20(d)(i) of the Act to investigate cases of alleged or suspected misconduct by members of the Police Service; and
- (b) its responsibility under section 2.15(c) of the Act of, inter alia, monitoring and reporting on the use of law enforcement resources; and/or
- (c) its responsibility under section 2.15(e) of the Act of researching and generating and reporting on proposals for reform of the criminal law and the law and practice relating to the enforcement of, or administration of, criminal justice, including an assessment of relevant initiatives and systems outside the State; and/or
- (d) its responsibility under section 2.15(h) of the Act of providing the Commissioner of Police with policy directives based on the Commission's research, investigation and analysis, including with respect to law enforcement priorities, education and training of police, revised methods of police operation and the optimum use of law enforcement resources; and/or
- (e) its responsibility under section 2.15(i) of the Act of overseeing reform of the Police Service; and/or
- (f) its responsibility under section 2.15(l) of the Act of taking such action as the Commission considers to be necessary or desirable in respect of such matters as, in the Commission's opinion, are pertinent to the administration of criminal justice; and/or
- (g) its function under section 2.45(2)(d)(i) of the Act of researching and making recommendations on law reform pertinent to criminal justice; and/or

- (h) its function under section 2.45(2)(e) of, inter alia, informing the Parliamentary Committee and agencies for the enforcement of the criminal law in relation to matters affecting criminal justice,

to undertake an investigation and to conduct hearings open to the public presided over by the Acting Chairman of the Commission, LEWIS FRANCIS WYVILL QC sitting alone, and assisted by Mr D Boddice of Counsel in respect of the following matters:

- (a) Whether there is evidence of any criminal offence, official misconduct in any other form, misconduct including neglect or violation of duty by any member of the Queensland Police Service in relation to the death of Daniel Alfred Yock;
- (b) Whether the relationship between members of the Police Service and members of the Aboriginal community had a bearing on the circumstances of the apprehension of Daniel Alfred Yock; and, if so,
- (c) Whether any changes are necessary to Police Service policies, procedures or operational instructions in relation to the apprehension and management of aboriginal persons in similar circumstances.

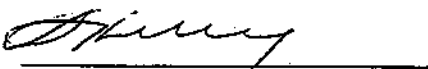
DATED at Brisbane this 12th day of November 1993.



Professor J S Western
Commissioner



Mr L F Wyvill QC
Acting Chairman



Mr J J Kelly
Commissioner



Mr B M French
Commissioner

APPENDIX 2

LIST OF EXHIBITS

The asterisk indicates that the maker of the statement gave evidence at the hearing.

Exhibit No.	Description
1	Twenty (20) photographs numbered (i) to (xx) of various scenes in Brereton Street, West End
1A	Statement of Senior Constable Sean Christopher MASKELL, Photographic Section
2	Nine (9) photographs marked "A" to "H" of various aspects of footpath in Brereton Street, West End
3	Thirteen (13) photographs of different views of Brereton Street, West End
4	Ten (10) photographs of different views of police van, (S255)
4A	Statement of Senior Constable Kenneth Alan KOPLICK, Photographic Section
5	Aerial photograph of Musgrave Park and parts of West End
6	Scale plan of the intersection of Boundary and Brereton Streets, West End
6A & B	Statement of Senior Constable Robert John RULLER, Accident Investigation Squad
7	* Statement of Kenneth Robert McNAMARA of events observed in Brereton Street, West End
8	* Statement of Kenneth Norris Kent MARTIN of events observed in Brereton Street, West End

- 9 * Statement of Carolyn Jane DAVIES of events observed in Brereton Street, West End
- 10 * Statement of William David Gordon CLARKE of events observed in Brereton Street, West End
- 11 * Statement of Hilton Daniel PURSER of events observed in Musgrave Park and Edmondstone Street, South Brisbane
- 12 Statement of Charles Graham COLMAN of events observed in Brereton Street, West End
- 13 * Statement of Dorothy Elizabeth WILLIAMS of events observed in Brereton Street, West End
- 14 * Statement of Judith Pamela WILLIAMS of events observed in Brereton Street, West End
- 15 * Statement of Vincent Antonio COSTAS of events observed in Brereton Street, West End
- 16 * Statement of Damien John WATERS of events observed in Brereton Street, West End
- 17 Wooden stake (in two pieces) located in Brereton Street, West End
- 18 Curriculum Vitae and Report of Dr Diana EADES, Consultant Sociolinguist
- 19 Statement of Senior Constable Nigel Gwyder SMITH, Accident Investigation Squad
- 20 * Statement of Julie Anne COSGROVE of events observed in Brereton Street, West End
- 20A Personal Statement of Julie Anne COSGROVE
- 21 Statement of Robert COLUSSI of events observed in Brereton Street, West End
- 22 * Statement of Dennis Michael RYAN of events observed in Brereton Street, West End

- 23 * Statement of Rhonda Lenore RYAN of events observed in Brereton Street, West End
- 24 * Statement of Jonathan WILSON of events observed in Brereton Street, West End
- 25 * Statement of Hermann SCHRAUT of events observed in Brereton Street, West End
- 26 * Statement of Eric John BLAIR, Manager of Baynes Street Hostel
- 27 * Statement of Lyndell Fay TURBANE, Manageress of Oxford Street Hostel
- 28 Statement of Edward James COUGHLIN, Investigator, Criminal Justice Commission
- 29 Statement of Brian Alan PITMAN, Investigator, Criminal Justice Commission
- 30 Statement of Inspector Raymond Lyle TURNER, Criminal Justice Commission
- 31 * Statement of Roy James HOPKINS of events observed at Oxford Street Hostel
- 32 * Statement of Mabel Ann HOPKINS of events observed at Oxford Street Hostel
- 33 * Statement of Charles Livingstone RILEY, a companion of the deceased
- 34 * Statement of Archie James GRAY, a companion of the deceased
- 35 * Statement of Joseph Norman BLAIR, a companion of the deceased
- 36 Records of Royal Brisbane Hospital for Joseph Norman BLAIR - **Restricted**
- 37A Record relating to Joseph Norman BLAIR - **Restricted**
- 37B Record relating to Damien James BOND - **Restricted**

- 37C Record relating to Glen Tony GRAY - **Restricted**
- 37D Record relating to Lindsay Samuel Charles FISHER - **Restricted**
- 37E Record relating to Charles Livingstone RILEY - **Restricted**
- 37F Record relating to Archie James GRAY - **Restricted**
- 38 * Preliminary report of Dr David John WILLIAMS, Consultant Pathologist, Department of Health
- 39 * Report of Dr David John WILLIAMS, Consultant Pathologist, Department of Health
- 40 Post Mortem Certificate
- 41 Records of Royal Brisbane Hospital relating to Archie James GRAY - **Restricted**
- 42 Records of Royal Brisbane Hospital relating to Lindsay Samuel Charles FISHER - **Restricted**
- 43 Transcript of interview on 7 November 1993 between Joseph Norman BLAIR (Bernard HOPKINS) and Inspector CRONE and Senior Sergeant MELLING
- 44 Transcript of interview on 13 November 1993 between Joseph Norman BLAIR and Inspector TURNER, Investigator PITMAN, T CARBERRY and R CANNING
- 45 * Statement of Lorraine Jean TURBANE of events observed at Oxford Street Hostel
- 46 * Statement of Kathleen Gertrude HOPKINS of events observed at Oxford Street Hostel
- 47 Statement of Dr Jeremy Francis INGLIS, Aboriginal and Islander Community Health Service
- 48 Tape recording and transcript of interview on 23 November 1993 between Lorraine Jean TURBANE and Investigators COUGHLIN and PITMAN

- 49 Statement of Edward Horton RILEY, a companion of the deceased
- 50 * Statement of Daniel Matthew WEAZEL, a companion of the deceased
- 51 * Statement of Glen Tony GRAY, a companion of the deceased
- 52 * Statement of Damien James BOND, a companion of the deceased
- 53 * Statement of Eric John BLAIR, father of Joseph Norman BLAIR
- 54 Statement of Sergeant John Paki KARIPA, John Tonge Centre
- 55 Statement of Sergeant Christopher Noel DALGLEISH, West End Police Station
- 56 Statement of Sergeant Ian Charles ROBERTSON, Homicide Squad
- 57 * Statement of Lindsay Samuel Charles FISHER, a companion of the deceased
- 58 * Statement of Senior Sergeant Darryl Arthur MELLING, watchhouse Keeper and Operational Supervisor
- 59 Statement of Senior Constable Raymond Arthur SIMMONS, City watchhouse
- 60 Statement of Constable Paul Anthony JOYCE, City watchhouse
- 61 Statement of Constable Robertino PATANE, City watchhouse
- 62 Statement of Constable Tamara Nicole DAVIES, City watchhouse
- 63 * Statement of Constable John Henderson HARE, City watchhouse
- 64 Queensland Police Service Custody Manual

- 65 * Statement of Senior Constable Frank William CAGE, City watchhouse
- 66 * Further Statement of Senior Constable Frank William CAGE
- 67 Notebook of Senior Constable Frank William CAGE
- 68 Rough notes and draft forms of Senior Constable Frank William CAGE
- 69 Form 4 and Form F under Coroner's Act 1958-1982: re Daniel Alfred YOCK
- 70 Medical Records of Royal Brisbane Hospital relating to admission of Daniel Alfred YOCK on 7 November 1993 and relating to previous attendances - **Restricted**
- 71 * Statement of Dr Robert Adam SCOTT, Registrar in Emergency Medicine, Royal Brisbane Hospital
- 72 Statement of Dr William Gresley LUKIN, Medical Officer, Royal Brisbane Hospital
- 73 * Statement of Inspector Clifford John CRONE, Regional Duty Officer, Metropolitan North Region
- 74 Significant Incident Report compiled by Inspector Clifford John CRONE
- 75 Activity log and diary of Inspector Clifford John CRONE
- 76 Queensland Police Computer Message 938
- 77 Commissioner's Circular 43/92 dated 29 July 1992 - "Critical Incident Stress Debriefing Procedures"
- 78 * Statement of Constable Ian John HANSEN, The Gap Juvenile Aid Bureau
- 79 Tape recording and transcript of Channel 23, Police Communications Centre
- 80 * Statement of Sergeant Warren Lindsay WHITTAKER, Dutton Park Station

- 81 Ten (10) photographs of the deceased - **Restricted**
- 82 * Statement of Marie Stephanie TATTERS, Queensland
Ambulance Service
- 83 Queensland Ambulance Service call cards
- 84 Queensland Ambulance Service Coronary Care Protocols &
Procedures
- 85 ECG strip, third copy of MR51, Commission's request for
information, Queensland Ambulance Service Board
documents confirming approval of M.S. TATTERS to
perform coronary care
- 86 Statement of Sergeant Rodney Arthur John ASHTON, City
watchhouse
- 87 * Statement of Constable Tracie Maree LEIGH, Criminal
Investigation Branch
- 88 Statement of Senior Constable Brett Douglas BARBER,
The Gap Juvenile Aid Bureau
- 89 Statement of Senior Constable Graham WALKER, Windsor
Juvenile Aid Bureau
- 90 Statement of Mac Vivian CLAPPERTON, Chemist,
Government Chemical Laboratory
- 91 Two (2) certificates of Government Chemical Laboratory
- 92 Report of Royal Brisbane Hospital dated 8 September 1990
re Daniel Alfred YOCK
- 93 * Statement of Constable Peter Christian LARSEN, City
watchhouse
- 94 Tape recording and transcript of Channel 27 Police
Communications Centre
- 95 Tape recording and transcript of Channel 45 Police
Communications Centre

- 96 Tape recording and transcript of interview between Constable DOMROW and Inspectors PICKERING and BENJAMIN on 8 November 1993
- 97 Activity log, West End Station 1700 - 2300, 7 November 1993
- 98 Photograph 4 of Exhibit 1
- 99 Daily Occurrence Sheet, Dutton Park Station for 24 hours ending 0700 on 8 November 1993
- 100 Commissioner's Circular 40/93
- 101 * Statement of Constable Suzette Michelle DOMROW, West End Police Station
- 102 * Statement of Constable Scott Andrew HARRIS, West End Police Station
- 103 Tape recording and transcript of interview between Constable HARRIS and Inspectors PICKERING and BENJAMIN on 8 November 1993
- 104 * Report by Dr Richard Bryon COLLINS, Consulting Pathologist
- 105 Operation OLYMPUS - Action Plan - **Restricted**
- 106 Tape recording and transcript of telephone call on 7 November 1993 between Acting Sergeant SYMES and Inspector PICKERING
- 107 Tape recording and transcript of interview between Acting Sergeant SYMES and Inspectors PICKERING and BENJAMIN on 8 November 1993
- 108 Computer Message from Dutton Park Police Station to South Brisbane Task Force at 3.08 on 8 November 1993
- 109 * Statement of Acting Sergeant Richard John SYMES, South Brisbane Task Force
- 110 * Statement of Senior Constable Gregory Ian BISHOP, Dutton Park Police Station

- 111 Tape recording and transcript of interview between Senior Constable BISHOP and Inspectors PICKERING and BENJAMIN on 8 November 1993
- 112 * Statement of Sergeant Michael Joseph CROWLEY, Dutton Park Police Station
- 113 Tape recording and transcript of interview between Sergeant CROWLEY and Inspector PICKERING on 8 November 1993
- 114 Activity Log, Dutton Park Police Station 1400 - 2200 7 November 1993
- 115 * Statement of Constable Gary David CROZIER, Dutton Park Police Station
- 116 Tape recording and transcript of interview between Constable CROZIER and Inspector BENJAMIN on 8 November 1993
- 117 Statement of Sergeant Kerry John CARLTON, Transport Section re measurements of police van
- 118 * Statement of Senior Constable Andrew Bernard CARIS, Morningside Station
- 119 Notebook of Senior Constable CARIS
- 120 Activity log, Morningside Police Station 1600 - 2400 7 November 1993
- 121 * Statement of Constable Joseph Franciscus LEYENDECKERS, Morningside Police Station
- 122 * Statement of Senior Constable David Rountree PARKER, Dutton Park Police Station
- 123 Statement of Dr Stephen Ronald YATES who saw YOCK at a boxing tournament in Goondiwindi in 1990
- 124 Video of boxing match in Goondiwindi in 1990
- 125 Statement of Dr Larry Ewin BULL, treated the deceased at Cherbourg Hospital in 1990

- 126 Statement of Warry John STANLEY, boxing trainer at
Goondiwindi boxing match
- 127 Statement of Frederick Ronald MARTIN, President of
Queensland Amateur Boxing Association Incorporated
- 128 Statement of Raymond John NEAL, Secretary of
Queensland Amateur Boxing Association Incorporated
- 129 Statement of Dr John ATHERTON, Cardiology Registrar at
Royal Brisbane Hospital in 1991 - **Restricted**
- 130 Statement of Kristine Erica BENTLEY, Scientist, John
Tonge Centre
- 131 Statement of Constable Ian Christopher GUNTHORPE,
Scientific Section
- 132 Statement of Sergeant Charles William CRICK, Scientific
Section
- 133 Statement of Inspector Kenneth BENJAMIN, Regional
Crime Co-ordinator, Metropolitan North Region
- 134 Statement of Inspector Ronald Douglas PICKERING,
Regional Crime Co-ordinator, Metropolitan North Region
- 135 Statement of Sandra Narrelle WAITE, Ambulance Officer
- 136 Statement of Shane Patrick O'DONNELL, Ambulance
Officer
- 137 Statement of Nicholas Constantine LENTAKIS, Ambulance
Officer
- 138 Statement of Sascha Robert ZBAEREN, Soldier (Medic)
attached to Queensland Ambulance Service
- 139 Statement of Constable Andrew LEAK, Dutton Park Police
Station
- 140 Statement of Constable Sean Robert MASSINGHAM,
Dutton Park Police Station

- 141 Statement of Constable Anthony Alexander LIESSI,
Windsor Juvenile Aid Bureau
- 142 Statement of Senior Constable Brandon Gregory
COLEMAN, Fortitude Valley Police Station
- 143 Statement of Elva Hoya FOGARTY, Murri Watch Liaison
Officer
- 144 Statement of Dr Amanda Leanne NIXON who saw YOCK
on 27 April 1993 at Princess Alexandra Hospital -
Restricted
- 145 Photocopy of page from watchhouse custody register
- 146 Photocopy of page from watchhouse Visitors Book -
Restricted
- 147 Letter from Inspector TYLER, Cross Cultural Support
Services to Superintendent, Community Policing Support
Branch dated 29 July 1993 re telephone numbers
- 148 QP9 - Court Brief re charges preferred against Bernard
HOPKINS (aka Joseph Norman BLAIR)
- 149 * Report by Dr Graeme NEILSON AM, Consultant
Cardiologist
- 150 * Statement of Kim COONEY, witnessed events at City
watchhouse
- 151 Tape recording and transcript of interview between Kim
COONEY and Inspector SWIFT
- 152 * Statement of James Francis COONEY, witnessed events at
City watchhouse
- 153A Video tape and transcript of interview between 3
anonymous Aborigines and Real Life reporter
- 153B * Statement of Glen Tony GRAY re interview with Real Life
reporter
- 154 Statement of Constable Sonia Michelle HAMLIN, Police
Communications Centre

- 155 Statement of Inspector Roger John LUND, Police Communications Centre
- 156 * Statement of Constable Roderick Harold SEYMOUR, Police Communications Centre
- 157 * Statement of Senior Sergeant Kenneth Gordon STANLEY, Officer in Charge, West End Police Station
- 158 Statement of Inspector Colin Maxwell DILLON, Officer in Charge, Cross Cultural Support Services Section, Queensland Police
- 159 Statement of Sergeant Maxwell Wayne PRESTON, Policing Policy and Strategy Branch, Queensland Police Service
- 160 Statement of Dennis O'BRIEN, Principal Human Services Officer, Queensland Police Service
- 161 Commissioner's Inspectorate, Charter of Operations - **Restricted**
- 162 Minutes of Meetings, Cross Cultural Support Services
- 163 Commissioner's Circulars 74/93, 87/90, 73/90, 5/87
- 164 Queensland Police Service briefing note "ATSI Issues - Watchhouse Custody Awareness Training" 17 December 1993
- 165 Letter from Acting Assistant Commissioner WILSON, Queensland Ambulance Service 23 December 1993 re hypothetical situation if ambulance had been called at time of arrest of deceased
- 166 Letter to Mater Hospital 12 January 1994 and response of 13 January 1994 re hypothetical situation if the deceased had been taken to that hospital instead of watchhouse
- 167 Statement of Senior Constable Trevor William WENDT, Officer in Charge, Physical Skills Education Centre

APPENDIX 3

LIST OF WITNESSES

The companions of Daniel Alfred YOCK who were involved in events which occurred in Musgrave Park and between Musgrave Park and the hostel in Oxford Street:

BLAIR, Joseph Norman

BOND, Damien James

FISHER, Lindsay Samuel Charles

GRAY, Archie James

GRAY, Glen Tony

RILEY, Charles Livingstone

RILEY, Edward Horton

WEAZEL, Daniel Matthew

Police who became involved in events that occurred between Musgrave Park and the hostel in Oxford Street:

BISHOP, Senior Constable Gregory Ian

CARIS, Senior Constable Andrew Bernard

CROWLEY, Sergeant Michael Joseph

CROZIER, Constable Gary David

DOMROW, Constable Suzette Michelle

HARRIS, Constable Scott Andrew

LEYENDECKERS, Constable James Francis

PARKER, Senior Constable David Rountree

SYMES, Acting Sergeant Richard John

WHITTAKER, Sergeant Warren Lindsay

Independent observers of events:

PURSER, Hilton Daniel of 49 Russell Street, South Brisbane who observed events in Musgrave Park, Edmondstone Street and SEQEB Park

Residents of 2 Brereton Street

COSTAS, Vincent Antonio

MARTIN, Kenneth Norris Kent

McNAMARA, Kenneth Robert

SCHRAUT, Hermann

WATERS, Damien John

Resident of 6 Brereton Street

DAVIES, Carolyn Jane

Residents of 8 Brereton Street

WILLIAMS, Dorothy Elizabeth

WILLIAMS, Judith Pamela

Resident of 14 Brereton Street

CLARKE, William David Gordon

Resident of 18 Brereton Street

WILSON, Jonathan

Resident of Oxford Street Hostel

HOPKINS, Mabel Ann

Passers-by and other persons who attended

COSGROVE, Julie Anne

HOPKINS, Kathleen Gertrude

HOPKINS, Roy James

RYAN, Dennis Michael

RYAN, Rhonda Lenore

TURBANE, Lorraine Jean

TURBANE, Lyndell Fay

Ambulance Officers and Medical Practitioners:

COLLINS, Doctor Richard Bryon

NEILSON, Doctor Graeme

SCOTT, Doctor Robert Adam

TATTERS, Marie Stephanie

WILLIAMS, Doctor David John

Other witnesses:

BLAIR, Eric John

CAGE, Senior Constable Frank William

COONEY, James Francis

COONEY, Kim

CRONE, Inspector Clifford John

HANSEN, Constable Ian John

HARE, Constable John Henderson

LARSEN, Constable Peter Christian

LEIGH, Constable Tracie Maree

MELLING, Senior Sergeant Darryl Arthur

SEYMOUR, Constable Roderick Harold

STANLEY, Senior Sergeant Kenneth Gordon

REPORT TO THE CRIMINAL JUSTICE COMMISSION, QUEENSLAND

CONCERNING THE CIRCUMSTANCES OF THE DEATH OF

DANIEL ALFRED YOCK

SOURCES:

1. Copy of records Goondiwindi Health Services.
2. Copy of record of interview with Dr Stephen Yates re Goondiwindi incident.
3. Copy records Charbourg Hospital.
4. Copy records Royal Brisbane Hospital.
5. Copy records Princess Alexandra Hospital.
6. Copy statement Dr Nixon re attendance Princess Alexandra Hospital.
7. Copy records Aboriginal Health Service.
8. Copy statement Dr Inglis, Aboriginal and Islander Community Health Service.
9. Copy Queensland Ambulance Service records.
10. Copy Royal Brisbane Hospital emergency department records.
11. Copy statement of Dr Scott re attendance Royal Brisbane Hospital emergency department.
12. Copy statement Dr Lukin re Royal Brisbane Hospital emergency department attendance.
13. Copy Statutory Declaration Dr D J Williams re autopsy results.
14. Copy post mortem examination certificate.
15. Copy Certificate Government Chemical Laboratory, Brisbane.
16. Copy video of boxing match at Goondiwindi in August, 1990.

G.H.

The records show Daniel Yock suffered a syncopal episode on 11th August 1990 in Goondiwindi. This occurred very shortly after the start of a boxing bout. A video recording of the event shows no evidence of trauma being a factor in this event. This is the only medically witnessed episode of this type. Daniel was pulseless, with initially no heart beat and later a very slow heart rate (around 30 beats per minute). He regained consciousness after a minute or two but felt "dizzy" for some hours afterwards. Electrocardiogram on admission to the Goondiwindi Hospital was normal. The episode was thought to be of vasovagal origin (a fainting spell).

Subsequently he was referred to Royal Brisbane Hospital in August 1990 and limited investigations were done and the above diagnosis was thought correct.

Daniel was admitted to Royal Brisbane Hospital in July 1991 for investigation. A second syncopal episode in March 1991 had been documented at his grandmother's funeral. Other less well documented episodes were mentioned, while "walking long distances".

Extensive investigations were done.

Electroencephalogram (recording brain electrical activity).

Echocardiogram (delineation of heart structures and function with ultrasonic waves).

Twenty four hour Holter tape (recording of heart beat).

Exercise stress test.

All these investigations were normal and the episodes were thought to be vasovagal in origin.

Daniel was reviewed at Royal Brisbane Hospital in March 1992 when two further syncopal episodes were documented. One occurred while sparring with friends and a second before starting a fight. Examination at Royal Brisbane Hospital at this time showed no abnormality.

In April 1993 Daniel had a syncopal episode in a park and became unconscious. He was taken to Princess Alexandra Hospital and physical examination was normal. This episode had occurred when a fight was about to start.

Royal Brisbane Hospital records show Daniel was arrested "after fighting" on 7th November 1993. The ambulance was called to the watch house. The ambulance recorded the heart was in asystole when first recorded. Cardiopulmonary resuscitation had been commenced by a bystander. Subsequently Daniel was found to be in ventricular fibrillation and direct current counter shock was given. Prolonged resuscitation was given at Royal Brisbane Hospital accident and emergency department. An idioventricular rhythm was seen but this was not associated with a pulse i.e. electro-mechanical dissociation. The patient was noted to have vomited during resuscitation. Asystole followed and resuscitation was stopped.

Autopsy revealed:

1. Minor abrasions.
2. Inhalation of gastric contents.
3. Haemodynamically significant coronary atheroma in at least one coronary artery on sectioning.
4. Inflammatory cells in the right atrium and neurofibromatous changes in one nerve.
5. Presence of alcohol, nicotine metabolites and cannabis.

I conclude Daniel died from coronary atheroma. This is known to occur in the young, as was demonstrated at autopsy in young servicemen killed in the Korean war. Smoking is a factor in producing this. High blood pressure was not present. The cholesterol level is unknown.

The immediate cause of death was a cardiac arrhythmia. These may be abnormally fast (tachyarrhythmia) or abnormally slow (bradyarrhythmia). On the one witnessed event the heart was abnormally slow. Such episodes are described as Stokes Adams attacks and such recurring episodes can occur, though any individual one is potentially fatal. Alcohol is a direct myocardial toxin and can produce arrhythmias. Cannabis increases heart muscle work and as such could aggravate the effects of coronary atheroma.

The common denominator of all the syncopal events (fighting, about to start to fight, funeral of a close relative) is a highly emotional situation. This is associated with increased sympathetic nervous activity, a recognised factor aggravating the ischaemic results of coronary atheroma.

Graeme Neilson

Graeme Neilson A.M.
M.B. B.S. (Hon), F.R.C.P. (Lond), F.R.A.C.P., F.R.S.A.
The Prince Charles Hospital,
BRISBANE.

20.12.93



QUEENSLAND HEALTH

JOHN TONGE CENTRE
FORENSIC PATHOLOGY AND BIOLOGY

OFFICE 36 Keessels Road
Coopers Plains Q 4108
POSTAL PO Box 904
Archerfield Q 4108
PHONE (07) 274 9200
FAX (07) 274 9199

APPENDIX 5

ENQUIRIES Dr D Williams
PHONE (07) 274 9200
OUR REF DJW:DMK 48087
YOUR REF



9 November 1993

Mr G M Casey
Brisbane Coroner
Central Courts Building
179 North Quay
BRISBANE QLD 4002

CJC CLASSIFICATION	
<input type="checkbox"/>	Sensitive
<input type="checkbox"/>	Confidential
<input type="checkbox"/>	Restricted
<input type="checkbox"/>	Unclassified

Dear Mr Casey

Re: Daniel YOCK, deceased

Inspector Ross Dwyer of the CJC has asked me to prepare a summary of my preliminary post mortem findings, in view of the considerable public interest in the death.

The injuries present were minor and consisted of two small facial grazes (on the right eyebrow and right temple) and a small bruise on the basal knuckle of the left little finger, found only on dissection.

A small amount of blood tinged fluid was found in the peritoneal cavity, attributable to the effects of vigorous resuscitation.

None of the internal organs were injured. In particular, there was no evidence of scalp bruising, skull fracture or brain injury.

There was therefore no post mortem evidence that injuries had caused or contributed to death and no post mortem evidence to suggest involvement in a substantial fight or struggle.

The post mortem did not reveal a cause of death detectable by the naked eye. For this reason, no certificate can be issued at this stage. Microscopic examination of small tissue samples (histology) including the heart, and testing of blood and other samples for alcohol and drugs (toxicology) are being undertaken urgently, but will take several weeks.

I understand from the deceased's medical records that he had been investigated by a heart specialist for syncopal (fainting) attacks suffered during the past three years.

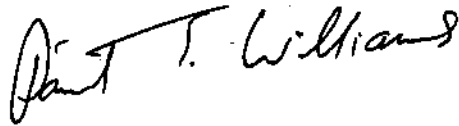
D Williams
P.T.O

If the condition underlying the cause of the death is a subtle abnormality of the heart conduction system, positive proof may not be available from post mortem samples.

Dr Jeremy Inglis, who I understand represented the family's interest, was present throughout the post mortem.

From my point of view, the deceased is ready for release to the family for the funeral.

Yours sincerely

A handwritten signature in black ink, appearing to read "Dr D J Williams". The signature is written in a cursive style with a long horizontal stroke extending to the right.

DR D J WILLIAMS BSc MB ChB MSc PhD MRCPATH DMJ FRCPA

cc. Inspector Ross Dwyer, CJC

STATUTORY DECLARATION

QUEENSLAND)
 TO WIT) *BRISBANE*

I, David John WILLIAMS of Brisbane
 in the State of Queensland, do
 solemnly and sincerely declare that:

- I am a legally qualified medical practitioner and am registered in Queensland as a specialist pathologist. I am a Consultant Pathologist employed by Queensland Health, Brisbane.

I have a Bachelor of Science (Honours) in Chemistry from the University of Wales, I have a Master of Science in Forensic Science from the University of Strathclyde. I have a Doctorate of Philosophy in Forensic Medicine from the University of Glasgow. I have the degrees of Bachelor Medicine, Bachelor of Surgery from the University of Glasgow.

I am a Member of the Royal College of Pathologists and a Fellow of the Royal College of Pathologists of Australasia.

I possess the Diploma in Medical Jurisprudence in Pathology.

I have over twenty years experience in Forensic Medicine obtained in England, Wales, Scotland, U.S.A. and Australia.

I am also a member of the British Society of Neuropathology and I have previously worked in the United Kingdom as a Consultant Neuropathologist.

- On 8 November 1993 between 2.15 pm and 4.15 pm I performed a post-mortem examination on a body identified to me by A/Sgt J Karipa of the John Tonge Centre as being that of DANIEL ALFRED YOCK.

The examination was also attended by Det Insp Pickering, Det Insp Benjamin, Det Insp Pascoe, Snr Const Koplick (Photographics), K Darch, (Video) and Dr Jeremy Inglis (representing the Aboriginal and Torres Strait Islanders Corporation for Legal Services). I demonstrated all the macroscopic appearances and findings from this post-mortem examination to Dr Inglis.

- A full photographic and video record was made of the post-mortem examination.
- At the time of my examination I made a tape-recording of my findings from which my report (a copy of which is attached) was made.
- I also attended a second autopsy on Daniel Alfred Yock performed by Dr Byron Collins at twelve noon on 11 November 1993 at the John Tonge Centre.

[Signature]/2
[Signature]

6. During my examination I took samples of blood, urine, liver, stomach with contents, nasal swabs, nail clippings and head hair from the deceased which I handed to A/Sgt J Karipa. Certain of these specimens were submitted to toxicological analysis.

At the suggestion of Dr Collins, I also submitted a sample of skin from the left antecubital fossa for toxicological analysis (this skin was sampled at the second autopsy).

7. I took multiple tissue samples which I subsequently subjected to microscopic examination.
8. I found the body to be that of a well built, thin, brown skinned male. Three recent abrasions, of a minor nature, were found on the head.

- (a) 2 x 2 x 2 cm; in front of right ear.
- (b) 1 cm; in right eye brow.
- (c) 1 cm; right side of chin.

An older abrasion, 2 x 3 cm was found at the left shoulder. A bruise 1.1 cm across was found at the head of the left fifth metacarpal.

These injuries were, in my opinion, comparatively trivial but would be consistent with a minor scuffle or fight.

I found no post-mortem evidence of a sustained violent assault upon the deceased.

9. I found a puncture wound over the site of the right subclavian vein, evidence of vene puncture at the left elbow (antecubital fossa) and small amounts of blood-stained fluid in the peritoneal cavity.

In my opinion, these findings are consistent with resuscitation.

10. I found evidence of significant pre-existing disease including evidence of previous pleurisy, chronic bronchitis, chronic tracheitis and ischaemic heart disease. There were also infrequent inflammatory foci in the heart and an unusual appearance to a cardiac nerve was noted.

In my opinion, the three conditions mentioned, ischaemic heart disease, inflammatory foci and vagus nerve abnormalities are all potential causes of a rhythm disturbance in the heart.

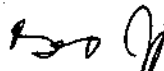
I have read the hospital notes relating to Mr D Yock. He had been investigated by cardiologist for his three year history of syncopal attacks. He demonstrated electrocardiograph evidence of heart rhythm disturbances on his admission to hospital on the day of his death.

In my opinion, Mr Yock may well have developed a cardiac arrhythmia (an abnormal heart rhythm) which led to his collapse and subsequent death in hospital.

11. I found no evidence of alcoholic liver disease. However, based on the Government Analysts report, there is evidence that Mr Yock was severely intoxicated at the time of his death. Also, breakdown products of cannabis were found.

In my opinion, Mr Yock may not have had much tolerance of a high alcohol level and was at risk of collapse and also of vomiting.



.../3


Most test-books of Forensic Medicine state that inhalation of vomit (aspiration) may occur in acute alcoholic poisoning but that the blood alcohol level is usually over 400 mg/100 ml in such cases.

- 12. Aspiration of gastric contents is an extremely common complication of cardio-pulmonary resuscitation. In my opinion, Mr Yock demonstrated this complication.
- 13. As a result of my examination, I formed the opinion that death was due to:

- 1(a) ISCHAEMIC HEART DISEASE
- (b) CORONARY ARTERY STENOSIS
- (c) CORONARY ARTERY ATHEROMA
- 2. DRUG INTOXICATION

[Handwritten signature]

[Handwritten initials]

"THE OATHS ACTS 1867 to 1960"

I make this solemn declaration by virtue of the provisions of the Oaths Acts 1867 to 1960 that:-

- 1. This written statement consisting of ^{three} ~~two~~ pages is true to the best of my knowledge and belief; and
- 2. I make it knowing that if it were admitted as evidence I would be liable to prosecution if I state in it anything that I knew to be false.

TAKEN AND DECLARED BEFORE ME AT BRISBANE THIS ^{25th} 23RD DAY OF NOVEMBER 1993.

[Handwritten signature]
SIGNATURE

WITNESS:
A JUSTICE OF THE PEACE
FOR THE STATE OF QUEENSLAND.

[Handwritten signature]
[Handwritten name]

DJW:BMW

CORONER'S ACT 1958-1982

(Section 18)

POST-MORTEM EXAMINATION REPORT

No
48087

NAME OF DECEASED (Surname First) YOCK, Daniel Alfred		AGE 18 years	SEX <input type="checkbox"/> Male <input type="checkbox"/> Female	
ADDRESS 196 Boundary Road <u>WEST END</u>		TIME AND DATE OF DEATH 7.13 pm 7/11/93		
		TIME AND DATE OF POST-MORTEM 2.15 pm 8/11/93		
OCCUPATION Unemployed		PLACE OF POST-MORTEM John Tonge Centre		
NAME OF CORONER G M Casey, Brisbane		POLICE OFFICER ATTENDING See below		
EXAMINATION	HEIGHT: 170 cm	WEIGHT: 51 kg	RIGOR MORTIS: Established	HYPOSTASIS Posterior

Police officers attending post mortem examination are Det Ross Dwyer (CJC), Det Insp Pickering, Det Insp Benjamin, Det Insp Pascoe, Snr Const Ken Koplick (Photographics), Kevin Darch (Video), Det Sgt Robertson, S/C J Karipa (Identification) and Dr Jeremy Inglis.

The body is that of a well built thin brown skinned male. The appearance is consistent with the given age of 18 years. Hypostasis is posterior and purple. The head hair is brown and is arranged in dread-locks style. There is a brown moustache and goatee-type beard. A hypertrophic scar 2 cm long is seen on the left side of the face.

Tattoos are absent. There are no surgical scars. Finger clubbing and jaundice are absent. The only evidence of recent injuries seen on the back is an abrasion 3 x 2 cm at the left shoulder. There is evidence of a pad having been applied to this abrasion. There are old scarred ulcers between the buttocks, of uncertain origin. The anus appears normal. There are no lacerations or incised wounds on the back of the body.

On the face there is an abrasion 2 x 2 x 2 cm forming a triangular shape just in front of and above the right ear. An abrasion 1 cm across is also noted in the right eyebrow. There is a red brown mark 1 cm across below the right side of the chin 3 cm from the midline. This mark is of uncertain significance. There is a puncture wound over the site of the right subclavian vein. There is also evidence of a vene puncture at the left elbow. There are no needle track marks. The knees show old punctate scars, the largest 1.5 cm diameter, these scars are of uncertain origin. There is no evidence of bruising to the head and neck, to the chest, to the abdomen or to any of the lower limbs.

The hands demonstrate frequent old scars, mainly on dorsal surfaces (Dr Inglis suggests that they probably represent previous scabies). There are no abrasions, bruises or lacerations at the wrists but there is a slightly sunken brownish mark, 0.7 cm diameter, at the base of the left thumb. This mark appears to be a skin sore rather than an abrasion. Dorsal skin incision reveals no evidence of bruising on the right and left wrists and there is no bruising of the right hand. There is a 1.1 cm across bruise at the head of the left fifth metacarpal seen only on reflection of the skin.

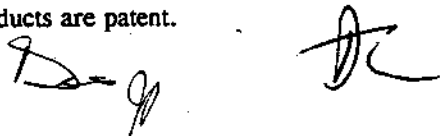
Examination Continued

Reflection of the scalp and facial skin shows no evidence of bruising, in particular there is no evidence of bruising below the abrasions noted between right ear and right eyebrow. The skull shows no fractures and there are no fractures seen in the bones of the face. The brain weighs 1380 g and is entirely normal. The superficial appearance of the brain is normal and it is normal on serial coronal section. There is no evidence of either cerebral infarction or cerebral haemorrhage and there is no evidence of intracranial haemorrhage. The Circle of Willis is free of aneurysms and there is no evidence of either subarachnoid haemorrhage or subdural haemorrhage. The dura is entirely normal and there is no evidence of extradural haemorrhage.

The pericardial sac is free of fluid. The heart weighs 310 g and shows a normal configuration of chambers. The coronary arteries are of small calibre but demonstrate no evidence of coronary thrombosis. These arteries show no significant atheroma (but see below). Atheroma of more significance is noted in the aorta and atheromatous plaques are seen to extend close to the coronary ostia. This aortic atheroma consists of fibrous plaques which do not coalesce and which have not yet ulcerated. The cardiac valves are morphologically normal. There is no evidence of endocarditis. The myocardium appears healthy and there is no convincing evidence of ischaemic scarring or of recent infarction. Thrombus is absent from atria and ventricles. The atrial appendages are free of thrombus and have a normal morphology. The aorta has a normal arrangement of branches and these branches are patent. The venae cavae are normal and there is no evidence of either deep venous thrombosis or of pulmonary thrombo-embolism.

The hyoid bone, thyroid cartilage and cricoid cartilage are intact. There is no evidence of any damage to the larynx. The strap muscles of the neck are free of bruising. There is no evidence of any trauma to the neck. The trachea and main bronchi contain small amounts of mucoid secretion and the airways appear congested. The right lung weighs 800 g and the left lung 780 g. These lungs demonstrate pulmonary oedema and also what may be evidence of aspiration. The left lung in particular has a mottled haemorrhagic appearance. Frequent adhesions anchor the right lung in the right thoracic cavity. The left lung demonstrates several adhesions linking it to the thoracic cavity. There is no evidence of pneumo-thorax. The diaphragm is normal. The pleural cavities are free of fluid.

The mouth shows no evidence of bruising. There are no loosened teeth. The tongue is normal and is free of bruising and bite marks. The pharynx and oesophagus are normal. The stomach contains approximately 400 ml of recognisable food material but no obvious pills, tablets or capsules. The small bowel is entirely normal. The large bowel is also normal. Small amounts of blood-stained fluid are present in the peritoneal cavity (less than 100 ml), the origin of this fluid is not clear. The liver weighs 1710 g and shows no evidence of lacerations. This liver is normal on section. The gall bladder is free of stones. The bile ducts are patent.



YOCK, Daniel Alfred

48087

Examination Continued

Each kidney weighs 190 g and has a smooth subcapsular surface. The cortex and medulla of each kidney are normal. The ureters, bladder and male genital tract are normal. There is a small amount of discoloured urine in the bladder.

The thyroid, parathyroids, adrenals, pituitary and pancreas are normal.

The spleen weighs 220 g and shows no evidence of laceration. There are two separate splenunculi. The splenic tissues appear normal. There are no obvious tumour involved lymph nodes.

There are no fractures. The spine has a normal curvature.

Second Autopsy performed by Dr Byron Collins

I attended a second autopsy on Daniel Alfred YOCK, performed by Dr Byron Collins at twelve noon on Thursday 11 November 1993. Dr Collins commented on this occasion that the skin lesion at the base of the left thumb looked like an abrasion. He asked me to examine histology of the abrasion in front of the right ear, of the red-brown mark on the right chin and of the abrasion on the left shoulder. He commented that there appeared to be "*mercurochrome*" in the latter abrasion.

Dr Collins made multiple fresh incisions on the back of the body but no obvious bruising or other evidence of external violence was apparent. He then opened my original post-mortem incisions and examined the organs. He commented on apparent food material in the smaller airways and on the dark red colour of the trachea. We agreed that these features were suspicious of aspiration of vomit.

Dr Collins suggested that I send (L) antecubital fossa skin from the site of vene puncture for toxicology and I did so.

Dr Jeremy Inglis was invited to attend this second autopsy but he declined the invitation.

The second autopsy was videoed by Kevin Darch.

Histology Report

SKIN

- (a) Right Temple: Section confirms a recent abrasion.
- (b) Right Chin: This lesion is also a recent abrasion.
- (c) Left Shoulder: This abrasion has probably occurred at least six hours prior to death. It is older than the abrasions seen on temple and chin.

YOCK, Daniel Alfred

48087

Histology Report Continued

Heart - Thorough sampling (19 blocks) of the heart reveals a number of abnormalities.

- (1) One of the coronary arteries sectioned demonstrates substantial narrowing caused by atheroma. The stenosis is approximately 60% by area.
- (2) Occasional collections of chronic inflammatory cells are noted in the right atrial wall adjacent to sino-atrial node territory. The node itself is not identified. Significant numbers of inflammatory cells are noted on the epicardial surface of the right atrium.
- (3) An expanded nerve trunk is noted entering the myocardium. This nerve contains mast cells and also occasional eosinophils. On multiple sectioning of this nerve, occasional pigmented cells, of uncertain significance, are noted. The nerve has a neurofibromatoid appearance.

Myocardial infarction and ischaemic scarring are not identified in the heart sections. No lesions of AV node are detected.

Lungs - Examination of eight blocks of lung tissue confirms:

- (1) Adhesions between visceral pleura of each lung and the chest wall.
- (2) Aspiration of gastric contents. There is no active inflammatory response to this aspiration. Many of the smaller bronchi do, however, demonstrate a chronic bronchitis. Frequent pigmented macrophages are seen in the lungs.

Brain - The five blocks of brain examined show no significant abnormalities.

Aorta - Atheroma is confirmed.

Liver - The liver shows no evidence of fatty change and there are no features to suggest long-term alcohol abuse.

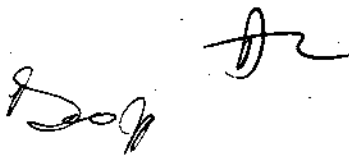
Spleen and Splenunculus - These tissues demonstrate reactive changes.

Kidneys and Pancreas - These tissues are within normal limits.

Trachea - Section shows congestion and mild chronic inflammation.

X-Ray of Limbs

No fractures are demonstrable.

Handwritten signature and initials in the bottom right corner of the page.

YOCK, Daniel Alfred

48087

Virology Report

Human Immunodeficiency Virus Testing - Anti-HIV 1 not detected by ELISA.

Government Analyst Report

Stomach Contents	No drugs detected.
Liver	No drugs detected.
Blood	Cannabis metabolite* - positive (presumptive test) Alcohol - 157 mg/100 mls
Urine	Cannabis metabolite* - positive (presumptive test) Alcohol - 195/100 mls
Nasal Swabs	No drugs detected

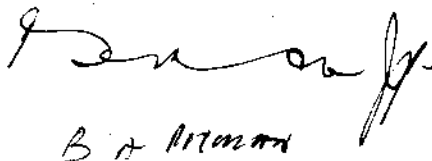
* This tests requires confirmation by mass-spectrometry.

CAUSE OF DEATH

1. (a) Ischaemic Heart Disease (b) Coronary Artery Stenosis
(c) Coronary Artery Atheroma
2. Drug Intoxication



D J WILLIAMS
22/11/93



B A Moran



Dr. R. Byron Collins. B. Med.Sci. (hons) MB. BS. FRCPA. CONSULTANT FORENSIC PATHOLOGIST

Mr. R. Finney,
Aboriginal & Torres Strait
Islanders Corporation
63 Turbot Street,
BRISBANE, QLD. 4000

10th December, 1993

Your Ref: DY:RF
Facsimile: 07 2210740

Dear Sir,

RE: DANIEL YOCK, deceased.

Thank you for asking me to perform a second autopsy on the body of the above-mentioned deceased and to comment on various issues relating to his death. As discussed with you upon arrival in Brisbane on Thursday 11th, November, 1993, it is my practise in these types of matters not to provide a detailed autopsy report, because it generally only duplicates the original document. It was therefore agreed that I should satisfy myself of the validity of the findings made by Dr David Williams and to request any additional procedures considered to be appropriate, under the circumstances. I have now received and reviewed the completed post mortem examination report and statutory declaration prepared by Dr. Williams and also a set of light microscope slides of tissues retained from the major organs identified during the autopsy. The following are my initial comments and opinions on this matter, however it should be appreciated that the complete circumstances surrounding the death have not yet been fully ascertained.



1. Prior to the commencement of the second autopsy I viewed, in company with Dr Williams and Detective Sergeant G. Sheldon from the Criminal Justice Commission, one of the video tape recordings which had been taken during the first autopsy. I have not yet examined the set of photographs relating to this matter.

2. As recorded in Dr Williams' report there were three fresh abrasions identified in the head region with no injuries apparent on the skin of the neck or its deeper structures, including the laryngeal complex. The abrasions were recent and, as such, were consistent with having been caused during the circumstances under investigation. I agree that they are relatively minor but, as to their "triviality" or otherwise, this can only be properly determined by the Commission of Inquiry. Abrasions result from the application of blunt force trauma to the skin, either by the skin moving over a stationary object or the surface of the body being struck with a blunt object. Common examples of this type of abrasive force are following a punch, kick, blow with a hard object or a fall to the ground. There was no fracturing of the skull and the integrity of all the major thoracic and abdominal organs appeared intact on detailed naked-eye examination. Consequently, there were NO findings apparent at autopsy to indicate that the death was directly the result of major trauma.

3. The significance of the presence of gastric contents in the smaller branches of the respiratory tree is difficult to assess, although it is my present opinion, based on



3

the available clinical history and features present in the lung sections, that this was a consequence of the resuscitation procedures and was therefore unlikely to be a prominent factor in the demise.

4. Significant natural disease was found at autopsy to involve the heart, this being especially manifested by severe coronary atherosclerosis and, to a lesser extent, a vagus nerve abnormality. The collections of small round cells (inflammatory foci) were predominantly located on the epicardial aspect of the heart muscle and, therefore, their pathological importance was uncertain.

In summary, having regard to the video tape recording and my naked-eye observations (assisted by Dr. D. Williams), I have no disagreement with the factual observations contained in the original post-mortem examination report prepared by him. It is my opinion that the cause of death was related to the development of a cardiac arrhythmia, although its precipitating factors have not yet been fully determined. An abnormal rhythm of the heart need not necessarily be fatal and the subsequent treatment of Daniel Yock following his collapse would be of supreme importance.

I trust this report has been of some assistance to you and I look forward to your further advices.

Yours faithfully,

A handwritten signature in black ink, appearing to read 'R. Byron Collins', with a long horizontal stroke extending to the right.

DR. R. BYRON COLLINS.
CONSULTANT FORENSIC PATHOLOGIST.

APPENDIX 7

PARTS B AND C - LIST OF SUBMISSIONS RECEIVED

Danny ABEDNEGO	Aboriginal and Torres Strait Islander Liaison Officer, Corruption Prevention Division, Criminal Justice Commission, BRISBANE
Eugene BARGO	139 Club Inc., Welfare Centre for the Homeless, 505 Brunswick Street, FORTITUDE VALLEY
Monique BOND	30 Sexton Street, HIGHGATE HILL
Anne COLEMAN	B.A., B.Soc.Wk (Hons) P.O. Box 227, KEDRON
Josephine CONWAY	1/30A Kendall Street, EAST IPSWICH
R A COOK	9/164 Stratton Terrace, MANLY
Carol DAGLEY	Aboriginal and Islander Community Health Service, WOOLLOONGABBA
Graham Hamilton DILLON	Gold Coast Aboriginal and Islander Housing Co-operative
Andrew DUNSTONE & Lin MORROW	5 Logan Street, GREENSLOPES
Mary GRAHAM & Netta TYSON	ex-Commissioner, Corrective Services Commission, Brisbane & Regional Council, Aboriginal Council for Reconciliation Black Community Housing Service, Treasurer of Bali Young Women's shelter, Parole Board, Police Liaison Group
Robert LACHOWICZ	Solicitor, Cross Cultural Training Consultant, South Brisbane Immigration and Community Legal Service, WEST END

Bruce LILLIS
& Mary-Lou MYLES

20 Mitchell Street, WEST END
34 Sexton Street, HIGHGATE HILL

John LUCAS

139 Club Inc., Welfare Centre for the
Homeless, 505 Brunswick Street,
FORTITUDE VALLEY

PHILLIPS Ms R

2/14 Teak Street, MALENY

QUEENSLAND POLICE SERVICE

Proposed Beat Policing of West End Police
Division