LAW REFORM COMMITTEE

Inquiry into Coroners Act 1985

Melbourne — 22 August 2005

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Witnesses

Ms K. Brand; and
Dr M. Van-der-Vlies, criminologist.
The CHAIR — I welcome Kathryn. Who is with you today, Kathryn?

Dr VAN-DER-VLIES — My name is Maartje Van-der-Vlies. I am a consultant criminologist specialising in victimology. I am Kath’s support person today.

The CHAIR — Excellent. I think you have been here for the morning so you know how you can use the time. We have about half an hour.

Ms BRAND — I could take 2 hours, believe me, but I will try to cut it down.

The CHAIR — You let us know when you would like it to be in camera.

Ms BRAND — I put this in because it is a summary of the experience with the coroner. The Queensland Premier said he thinks they will lose the next election because of the failures they have had in their health system, and that is in a state where the coroner can make strong recommendations.

If you look at the documents I gave you, my daughter’s boss lost her son under very similar circumstances in Queensland and the findings there were much stronger. I did not push harder because it is very difficult to deal with but after seeing the lack of results that Caroline had from the coroner’s inquest and the money that was spent on trying to get findings, I thought, ‘No, I will take a different attack, I will try and make public what happened to my son and hopefully that way make a better impression.’. The Coroners Court seemed to be hamstrung in some way in doing it.

Question 1 was ‘How do you feel about the way the coroner’s investigation process works in general?’. I would simply say that in my son’s case it did not. Is there any way the process could be improved? First, they could clarify the terms used and include a glossary and instructions with letters. Second, make sure politicians are aware of the limitations of the Coroners Act so they do not raise expectations that the coroner can actually investigate system breakdowns or faults that result in death. Or change the Coroners Act so he can investigate system faults. This is exactly what I would have wanted to happen:

I wanted the coroner to be able to look back and discover and document how my son arrived at that point in time that resulted in his death, not just the immediate cause of death. I want the coroner to be able to make recommendations that will fix a mental health system that is highly flawed and subsequently results in unnecessary deaths.

This is my experience of the Coroners Act as it is practiced. On 12 May 2003 my request for an open inquest was ignored even though police Assistant Commissioner Ashby recommended I ask for it. The response was a two-line note noting my interest and that I would be advised of the coroner’s intentions in due course. I do not want any mother to feel the way I do. No parent wants to bury his or her child. On 2 April 2003 the coroner’s office stated that it was limited in what it could look at. It said, ‘The coroner’s … comments must be related strictly to the circumstances surrounding the death’.

The interpretation appears to be very narrow and I want to know why. The way they see the terms of their investigation are far too limiting. I believe the coroners want to say more but they appear to be prohibited from doing so in Victoria. Unless there are open hearings there is no opportunity to cross-examine facts and ensure accuracy of information. Closed hearings result in limiting the accuracy of information.

On 30 June the Minister for Health, Bronwyn Pike, made a misleading statement. She advised Tim Holding that, ‘The clinical director acknowledges that there had been a delay in the communication of Mr Brand’s discharge plans to his GP’; that, ‘A coronial inquest on Mr Lee Brand is to be held’; and that, ‘These issues will be reviewed through the process. The chief psychiatrist will request a report of the coronial findings and review the implications for clinical practice standards as appropriate’. Her comments appear contradictory to the comments in the coroner’s letter dated 2 April: ‘The coroner’s jurisdiction to investigate how a person died is limited’.

This contradiction was confirmed by the lack of any recommendations at all in the coroner’s findings. There are clearly no workable lines of communication for those in charge of governing, managing and assessing our hospital system, except to say it is fine. Tell that to those who have just buried a loved one. It appears to me that the coroner is expected to work as a sheepdog and keep the investigations out of politically delicate areas.
On 4 July 2003 Tim Holding’s letter states ‘Minister Pike offers confirmation that she has been advised that a coronial inquest into the circumstances of Lee’s death is to be held,’ and that ‘The investigation to be conducted as part of the coronial inquest will examine the issues you have raised regarding the clinical practice standards at the Monash Medical Centre’. Again, this contradicts the coroner’s letters stating their limitations.

On 25 February 2004 — coroner’s letter, nothing resulted. This debacle finished with the coroner’s letter determining that ‘An inquest will not be held.’ This resulted in no investigation of the failure of the mental health system. Some other unlucky parent will soon be burying their child because of this.

I have one question for all of you: how can the Minister for Health say there will be an inquest and the coroner end up saying there will not be? How does this save lives? I used to believe this was the mandated role of a coroner, or have we got a political pawn rather than an independent coroner? You tell me.

Finally, I want good, timely communication between the mental health system, the drug and alcohol treatment providers, the supported accommodation providers, the carers and GPs to actually happen effectively and not on an ad hoc basis. And I wish to be notified of these improvements as they happen. We are determined it will happen. Please help it to happen.

I put together a slideshow of my son’s life because from what I have seen of other people’s experiences, the coroners inquests do not help to do that. One of the reasons is statistics are easy to ignore or to shove away but my son was not a statistic, he was a person.

Overheads shown.

Ms BRAND — It would probably take 2 hours to go through it so I will not take you through it all. However, I will show you some of the things that I think are important.

He was a fabulous kid. He was mischievous, he was boisterous, he was wonderful. He was amazing. He was very special. The boy in the picture with my son there is the child who also died. He was discharged. Kingston, where he used to go for help with his schizophrenia, was closed but before anything that replaced the beds that were lost, he went to the Dandenong psych ward — this is nine years ago — and was basically taken in and discharged that day. His mother was told he would suicide and he did. I do not call that support.

Comparing what happened to him to what happened to Caroline’s daughter recently — “Are you saying you discharge patients who are posing a significant risk to others or themselves?” “That is correct” — nothing has changed.” This is being repeated and repeated and repeated. It cannot be allowed to.

These are the declining psych beds. These are things I wanted the coroner to see but if the coroner will not look at them, then I am begging you to. Victoria has lost nearly 50 per cent — 42.4 per cent — of its beds in that period of time. I doubt very much if the money that has come from those beds has been put into mental health. We had a family member with a head injury and it took 30 years for him to get into suitable accommodation. That is not what I would call an appropriate time line. Demand in mental health has jumped. If you compare that to the drop in beds, it is very easy to see why the death rate has gone up 81 per cent, as Caroline stated.

My son was wonderful. This is the brother-in-law who suffered from a head injury. Support for him was minimal. What I am saying is that if you do not have support in the first place, the secondary impacts snowball dramatically. Because there was no suitable place for him, the impact on my husband’s health was dramatic. He lost his health, we lost our home, we lost our business and we ended up living in a shed for a couple of years trying to get our lives back together. I will not show you all of it but money was found for three new prisons but not for mental health. I find that absolutely atrocious.

Lee had 10 years. Time is limited so I will whiz through. However, not having support for a head-injured person in the family impacted on my son dramatically, apart from many other things. When he was ill my husband began to fight the offensive industries zone because the Environment Protection Authority (EPA) was putting chemical incinerators in our area and documenting them as recyclers. If you document something as a recycler, it does not get looked at.

My husband used to work in the transport industry — he had a transport business — and he noticed on the wharves big tanks in obscure places that had the name of this company on it. When he did some research and went back
through his friends in the shipping industry, it turned out they were importing waste to be recycled. When asked if anybody had checked what was being recycled, the answer was no. We were incinerating chemical waste from overseas in Dandenong South and no-one in the EPA knew it because it was kept quiet. That took eight years to stop but Dandenong has been left with a factory.

One of my friends had horses in the area and she was there early in the mornings and saw things being taken from that factory to that incinerator. That was particularly a PCB-oriented place. The impacts in that area were humungous. This is when my son started to have problems. I do not know whether he was led into drugs on purpose but why would anyone target a 14-year-old child? I want to know. I have some huge questions I want answered. How dirty can politics get? That is one of my major questions.

When he did decide 10 years later to try to get out of it, the woman who had got him involved in it was also connected — forget the in camera stuff, I do not give a damn — with corrupt police. The only reason I know that is my husband’s sister was in the police force and did some digging. She is no longer in the police force because the impact of the head injuries affected her health as well.

When my son decided to try to get out of it, he was threatened but he still took the chance to get out of it. I had no idea what trying to get out of a drug situation was but I would not wish anyone to be in that situation after what I saw him go through. He tried and tried and he kept trying. That is why I am so distraught that the system could let him down when he put himself through what he went through to try to get clean.

That young lady was amazing. I think she saved his life the first time he was discharged because she took the trouble as a counsellor to go in and talk to him when he was in hospital and warned him that he was likely to suffer depression and that was the biggest risk. I will flick through that but it was 10 years of hell. He tried. He was a different sort of kid. Even though he had a heroin problem he still tried to do good things.

Going back to that one, there is no support for young people who are trying to get off drugs. This was one boy who my son tried to help. There are some who made it whom Lee tried to help. One of them met me at a conference. She is now a youth worker trying to keep other kids out of it. The dealers got after this kid and he was stabbed 15 times and he hanged himself — prison is not the place for people trying to detox. It does nothing except toughen them up more or destroy them. The mental health system does not help people like that, the prison system does not help. There needs to be supported accommodation for people trying to detox for a minimum of two years because it takes two years for the receptors to alter. That support has to be long term, not short term. A quick detox with a couple of weeks support is nothing — you might as well put them in the bin and say goodbye. They need a minimum of two years support.

I put that in there because I am hoping kids who are thinking of using drugs might think it is not a pretty sight. Dave Glazebrook sent Lee to help a mate of his when he was doing well and he got on like a house on fire with this bloke. Most people who did meet Lee got on with him really well. He had a very outgoing personality.

This was his last Christmas card. It was a thank you. Someone said to me they thought it was a goodbye letter. It may have been, I do not know. You can only try so hard. After his first detox his grandpa and grandmother took him in. My husband had an intervention order on him because he found it difficult to deal with Lee. He was in his face and that does not work when people are trying to stop — you need to be patient, you need to be calm. You need the people who are good at that, you need them in those support places and you need to support them to stay there, not keep chopping funding around so they do not feel they can stay. They need ongoing funding that will keep them there so you do not lose that expertise — it is very hard-won.

I have experienced the best and the worst of our hospital systems. When Lee was staying with his grandparents his grandfather had a heart attack. It was Lee who noticed there was something wrong. He got the ambulance and got his grandpa into Monash. The cardiac ward at Monash was unbelievable. The support he got was amazing. The follow-up on discharge was amazing — and that is a gross contrast to what happens in the psych wards. It is a gross, gross contrast — there is no comparison.

With the privacy laws it is nearly impossible. As his mother, when he was picked up and not capable of functioning too well, it was his doctor who told me where he was. When I went there they said they could not tell me where they had moved him to because of the privacy laws. So I guessed, and I found him and went in and took him some money and tried to work out if he was all right. Then they moved him again and when I went back I could not find
him and they said, ‘No, we cannot tell you where we’ve moved him to, because of the privacy laws — we will lose our jobs’. Where is commonsense in that? There is none.

In Lee’s last letter to his grandpa he said, ‘From your most troublesome grandson Lee. Lots of love always. Get well soon!’.

This was someone who was a heroin addict and was trying desperately to get clean. If you remember that it takes two years for those receptors to change, to keep trying is a very difficult thing. But Lee loved his grandpa dearly and he went cold turkey, which someone in the psych field told me they had never heard of anyone even attempting to do — they did not think anyone would even consider it. But that was what my son was like — he would try. He missed every second dose for a week and then went cold turkey to be clean before his grandpa died.

He ended up being arrested because he was psychotic and did not know where he was and that was when I had trouble. When he was a bit better he told me he knew he would be physically very, very ill but he did not know if he would be affected mentally. So I am saying to you: is the methadone program something that should be being used or should there be two years support when you decide you want to try to get clean and without the drugs? This is what happens when the methadone is involved. I am not sure it is the right thing.

I will flick through the overheads. That was where my son died, after being discharged. I was not told of his discharge procedures. I remember [inaudible] when he kissed my forehead. I remember him going to sit beside an old lady outside the hospital, asking her if she was all right, did she need anything. He was the one who noticed her what everyone else ignored, including me. But that is what he was like.

He had documents, doctors letters. The discharge procedures, I believe from the Auditor-General’s 2002 report, that 0 per cent of them meet the requirements — 0 per cent, and kids are dying constantly. Yet the coroner will not or cannot look into those issues. Why not?

It was not the first time. The first time he was discharged Lee went to his doctor, [inaudible] ‘If you think you are going to [inaudible] go and see your doctor at least and he did that. But his doctor sat there for 4 hours. The hospital had his GP’s name. They had those contacts and they did not tell him what had been going on. He has no information on his discharge. If a football team played a game like that, they would lose. We are losing kids. The communications system stinks — and that is an understatement. Somebody said to me once, ‘But you’re only seeing one small window’. That is the problem; everybody has a small window and there is no way of it being communicated.

Bronwyn Pike thinks it is going to be investigated. She does not even have the communication windows. One of my relatives did consultancy work at the Dandenong Hospital and when she read my letter to the coroner, she said, ‘Kath, you are telling them exactly what I told them’. That was quite a few years earlier. Nothing had changed. The communication is non-existent. When a hospital chooses to give the information to an acquaintance who has just latched on to somebody and is someone with a problem, but because she is in that hospital ward day in, day out, latched on, who has no idea of his medical background or the contacts that he has made in the past that will be supportive to him — when that person is chosen by the hospital to give that information to, and not the family and not his GP, there is something seriously wrong. It seriously needs looking at.

I have other issues. One of the reasons I chose to make the slide show was the ineffectiveness of the Coroners Court in looking at the issues. I thought, ‘I have to find a way other than the Coroners Court of getting what is happening across’. I remember Peter Archer actually wrote a letter. It was only after he had a personal experience that he decided that he was going to state publicly what was wrong and what was short on. I believe a lot of people in the system are frightened of jeopardising their jobs.

When I raised the issue with the education department that reporting has to be accurate, I found out just what happens to people who try to say something is wrong. Maartje came as a support person to one meeting. She saw exactly what happens. Your career is really on the line once you open your mouth and say that something is not quite right. If that is happening in the medical system — in the hospital system as well — then heaven help us — that is all I can say.

The lady who spoke before said integrity is lacking. When people are frightened of their jobs and their careers can be threatened because they say what they think is wrong, then something seriously needs to change and integrity
needs to come back into every aspect of what is done. I can only ask you to please look at those issues and see what you can do.

One of the children I taught, her mother is schizophrenic and she was put in the care of her mother when I had her as grade 6. She had not been to school for 18 months and there did not seem to be any support for her. That 13-year-old child was in the care of someone with schizophrenia. It was only when I started jumping up and down, trying to get something done, that somebody removed her from that situation. Because of privacy laws, now I do not know where she is at all. So there are all sorts of interesting things to be looking at that need changing dramatically.

I spoke to Tim Holding after a Noble Park drug awareness meeting one night. Just quietly outside afterwards, as he was leaving, I said, ‘Tim, would you like to be working in an industry where you know what you are mandated to do but you do not have the resources to do it and you know your clients are dying? Could you deal with that emotionally and stay there?’. If that is the way the system is run, you are going to end up with the dregs of the earth working in that system instead of people who care — you will end up with people who do not care what the end results are, because they cannot do it.

People who do care will leave, because it is emotionally devastating to have to deal with. The people who try, my hat is off to them because they are trying to win an uphill battle. Thanks. I do not know what you can do.

Dr VAN-DER-VLIES — I have something I would like to say. Kath has been very brave through all this and has been given an extremely difficult time by the education department. We are ladies of a certain age and yes, we have attitude on account of we have lived. She has buried her son. I have buried a lot more. I have not buried my son, thank Christ! But when you bury child after child after child, you expect they will be burying you. The coroners need the power not to make recommendations but make directions. This committee has the power to give them legal clout to do so.

The problem is the communication system is not one; it is a communication mess. Most of the people in there are pretty decent but they are afraid to take a stand because they are afraid that, like Kath, they will be punished. I have gone past that point these days. I have just had too many victims over too many years.

Ms BRAND — I do not care any more.

Dr VAN-DER-VLIES — What we want is not to have anyone else ever stand over a grave while they lower a young person into it.

Ms BRAND — The reason I stood up in the education department is because if the reporting is not honest and accurate — that may be the very first indicator you have that a child is having problems and if that is stuffed around and mucked around with just to make the statistics look good, you may miss that one opportunity to help that kid at a time when it may do some good.

Dr VAN-DER-VLIES — Save the children, in a sentence.

Ms BRAND — I have gone back to this slide because if you think it goes away, it does not. When Lee was six months old, there was a woman on a train, an old red rattler. She was sitting opposite me and she could not take her eyes off him — and he was a lovely baby — and I asked her if she would like to have a nurse of him. She just burst into tears. She said that her child had been thrown into the ovens by the Nazis and she just held my son and she cried. I never thought that would be me and I never want it to be anybody else. I cannot do any more.

The CHAIR — Thank you.

Dr VAN-DER-VLIES — Has anyone got any questions? I am tough enough to answer.

The CHAIR — Kathryn, the things that you have raised about the mental health system, we have heard a number of times today. That has been very helpful because you have reinforced a number of issues which have arisen about the inadequacy of it but also looking particularly at the Coroners Court.

One of the things that comes through very strongly in your submission is that you believe the coroner should have the power to look at some of the systematic problems in, say, the mental health system or the drug and alcohol system, to see why so many young people are dying, particularly when they are apparently under treatment and
they are not getting the treatment they probably should be getting. It comes through very clearly that in a sense you want the coroner to use his powers to conduct on his own motion thorough investigations into a number of deaths that might have occurred which, if you looked at them in isolation, you might say do not have any links but when you look into them closely there may be things that can be learnt by the public from that through the recommendations of the coroner.

The other thing that comes through very clearly in your submission is the importance of having the guidelines that the coroner is using made available in a written form to families — —

Ms BRAND — And being aware about the limitations.

The CHAIR — Yes, being clear about what you can expect out of the process from the coroner. There should be the capacity to appoint people with particular expertise to assist with investigations into deaths in custody and in the mental health system. You raised being able to view the body of a loved one?

Ms BRAND — I still look for him. I am still not sure.

The CHAIR — And feeling that that should have been allowed, even if the body was in a decomposed state. You are saying that the recommendations of the coroner have to be more powerful but even when the coroner makes those recommendations, they have to be taken more seriously within the system of government. So we need to look at ways those recommendations can be given much greater weight and the requirements to respond to them. That is what I took from your submission.

Your submission was really clear. Thank you very much also for the slide presentation. I know it was very difficult for you but we have learnt a lot from it.

Ms BRAND — I thought it was useful in many ways because it can help with prevention. The research is showing that if children can see what the damage is, that has more impact than just saying, ‘Don’t’. I am hoping it might be useful in that field as well. I think it has a lot of good things. It was hard to put together for many reasons but I think it might be well worth it.

The CHAIR — It is comprehensive and thanks. I know it must have been traumatising to do it and we appreciate the time you have put into it.

Ms BRAND — Thank you.

The CHAIR — Thank you.

Witnesses withdrew.