



POLICE COMPLAINTS AUTHORITY

**Report of the Police Complaints Authority
on the Investigation into the Death of Emmanuel Papadopoulos
in Wellington on 30 December 1989**

REPORT OF POLICE COMPLAINTS AUTHORITY
UPON DEATH OF EMMANUEL PAPADOPOULOS

Introduction

At about 3am on Saturday 30 December 1989 Emmanuel Papadopoulos died in the course of attempts by Police to arrest him. In compliance with their obligation under s. 13 of the Police Complaints Authority Act 1988 (to which I refer as "the Act") the Police notified me by telephone of the incident at about 7.35am the same day. At that time I had only such information as was contained in the short preliminary report which had been made by the member of Police concerned in the attempt to arrest Mr Papadopoulos (referred to in this report as "the Sergeant"). Limited as that information was it was clear that a person had died in the course of Police action of some kind and this was therefore not only a matter within my jurisdiction under the Act but also was of a kind which required me to ascertain the full circumstances.

I elected at once to exercise the power contained in s.17(1)(c) of the Act to oversee the Police investigation into the incident. Section 17(1) relates to "complaints" made under the Act, and at that stage I was not aware of any complaint having been made. There is provision, however, under s.12(1)(c) of the Act for me to "take such action in respect of complaints, incidents, and other matters as is contemplated by this Act". I have no doubt that this provision entitled me to apply the provisions of s.17(1)(c) and to oversee the investigation.

I accordingly asked one of my Investigating Officers, Mr John Roberts, to undertake the oversight of the investigation. It was my intention from the outset to exercise the power contained in s.12(1)(b) to investigate the incident of my own motion, but that had necessarily to await the completion of the Police internal investigation as the first task involved the interviewing of all possible witnesses, and the Police had the facilities to do this whereas I did not.

The part played by Mr Roberts in his oversight of the investigation was to be present with the Police on a daily basis, to attend Police briefings, to attend the post mortem examination, and ultimately to attend at the interview of the Sergeant by the Police Investigating Officers. He also reported to me at least once daily. His function was not to take any active part in the investigation, but to ensure that all proper lines of enquiry were pursued and all relevant witnesses were located and interviewed. It should be noted at once that the Police investigation was thorough and meticulous to the point of some witnesses being re-interviewed on several occasions in order to try and clear up apparent discrepancies or to fill apparent gaps in the picture which was emerging.

On 8 January 1990 I received from the solicitors for the Papadopoulos family a formal complaint made on behalf of the widow and father of the deceased as to the circumstances relating to his death. In general terms the complaint was that the death had been caused or contributed to by the use of undue force by the Sergeant, and that the Police had failed to take sufficiently prompt steps to summon an ambulance. On the same day I notified the Police, in terms of s.12(1)(b) of the Act, that, regardless of the complaint I had received, I intended to carry out a full investigation into the circumstances of the death.

I was aware that the family had legal representation, and that the Sergeant had also. Accordingly, on 9 January 1990, I invited counsel to see me in order to discuss the form which my investigation should take. That meeting was attended also by the Senior Legal Adviser to the Police.

As this investigation was to be the first of its kind conducted since the Act came into force I have thought it proper to set out in this report a full note on the procedure which was followed.

Procedure

I decided that the investigation should take the form of a formal hearing at which counsel for interested parties could appear. The interested parties were the Papadopoulos family, the Sergeant and the Police. Section 23(2) of the Act provides, "Every investigation by the Authority under this Act shall be conducted in private". There was, therefore, no question of members of the public or of the news media being admitted. I received a request that members of the Papadopoulos family should be permitted to be present. As the widow and father were complainants I considered that they had a right to be present. I was also prepared to accept that the Sergeant should have the right to be present as he was the member of Police complained about. In the end, however, in order to try and preserve his anonymity, he chose to be present only for the purpose of giving his own evidence, and during that time I asked the complainants to leave.

I received a request also from the President of the Police Association for a representative of that Association to be present and to take a part in the hearing. This request was made because of the novelty of the proceedings and because it was realised that this enquiry was likely to set the pattern for any subsequent investigations of a similar nature. With the concurrence of counsel for the interested parties I agreed to the request for a representative of the Police Association to be present as an observer but not to take any part in the hearing. The

Association instructed its legal counsel to be its representative but he had no right of audience. He was present throughout as an observer.

I had arranged with counsel to supply them with copies of the statements taken by the Police from all witnesses interviewed, and with copies of relevant job sheet entries. With the exception of the medical witnesses (who gave their evidence in full) I determined that copies of the signed statements would be accepted as the evidence in chief of each witness, and I informed counsel that I would be prepared to require by subpoena the attendance of any witness whom it was desired by any counsel to examine orally. In the case of those not so required I was prepared to accept the signed statement as part of the evidence without the appearance of the witness. In due course counsel told me which witnesses they wanted called and I then issued the necessary subpoenas.

The circumstances surrounding the death of Mr Papadopoulos had attracted considerable news media interest and conflicting statements had been made by a number of people. The news media were understandably anxious to receive a copy of the post mortem report and at first the Police indicated that this would be made available when it was received. I considered this to be undesirable and asked the Police to withhold publication of the report. Its publication would only have stimulated further comment and speculation which in my view would have been unhelpful to a calm consideration of the circumstances. In view of the fact that it was my intention to hold a full enquiry at an early date I thought it better that there should be as little advance debate on the matter as possible. I am grateful to the Police for agreeing to my request and withholding publication of the post mortem report.

I have considered it necessary to try and preserve the anonymity of the Sergeant and the two Traffic Officers associated with him in the actions involving Mr Papadopoulos. This was because I received information of threats of violence to each of them. None of them is the subject of any charge and I considered it inappropriate for their names to be made public, at least until the enquiry was concluded. Accordingly, throughout the hearing, and for the purposes of this report, the Sergeant is referred to simply by his rank, and the Traffic Officers as Traffic Officer 1 and Traffic Officer 2.

Outline of Facts

I set out first an outline of the sequence of events, but without at this stage attempting to resolve disputed issues of fact.

At about 2.50am the Sergeant was driving a patrol car along Courtenay Place. He saw a car being driven along Tory Street without tail lights. He followed the car into Wakefield Street, where he stopped it by turning on his flashing lights. The car was being driven by Mr Emmanuel Papadopoulos (to whom I refer as "the deceased"). The deceased got out of his car and there followed a brief discussion about the tail lights. The Sergeant then noticed that both rear tyres were bald and he told the deceased that he proposed to summon a Traffic Officer to "write the car off the road". Traffic Officers have simpler and more speedy powers than the Police to prevent a defective car from being driven and what the Sergeant proposed doing was a normal and well recognised procedure.

The deceased asked if he could turn off the engine and the headlights. The Sergeant agreed and the deceased then

went and sat in the driver's seat of his car for that purpose. The Sergeant saw him remove something from his pocket and then reach over towards the passenger's side of the car. The Sergeant then went to the driver's door and he saw a plastic bag on the seat. He at once realised that the bag may contain a controlled drug and made a remark about the bag. Thereupon the deceased took the bag and put it in his mouth. The Sergeant assumed the deceased was about to swallow the bag and made an attempt to retrieve it, but the deceased backed into him, knocking him out of the way, and then ran off.

The deceased's car had stopped just to the west of the Arena Nightclub in Wakefield Street. The deceased ran off along the street in an easterly direction. After only a short distance the Sergeant caught him and the two of them fell to the ground together. The Sergeant had the deceased by his jacket, but the deceased managed to shrug off his jacket, leaving it in the Sergeant's hands, and then resumed running. The Sergeant threw down the jacket and gave chase. They ran along the footpath, past the entrance to the Arena Nightclub and towards the intersection of Wakefield and Chaffers Streets.

For the purposes of having the deceased's car written off the road the Sergeant had radioed for Ministry of Transport assistance. That call was made at 2.52am. It was responded to by a Ministry of Transport patrol car containing Traffic Officers 1 and 2. That car, driven by Traffic Officer 2, went to Wakefield Street. It reached the vicinity of the Arena at a time when the Sergeant and the deceased were running towards the Chaffers Street intersection. Traffic Officer 2 realised what was happening and accelerated so as to head off the deceased. He stopped his car on an angle partly into Chaffers Street, effectively blocking the deceased's line of flight.

The deceased suddenly turned about and tried to run back past the Sergeant. His manoeuvre very nearly succeeded as the Sergeant was running at top speed and was caught off balance. He managed, however, to grab the deceased with one hand. His momentum caused him to swing round and in this way he finished up at the deceased's back and with both arms round his chest in a kind of bear hug. The two of them, locked together in that way, crashed into a wire gate which was at the entrance to a construction site. Because this was a construction site the footpath was partly enclosed in a covered way, the effect of which was to reduce substantially the visibility within the covered way by obscuring the path from the street lighting.

The Sergeant was holding the deceased in the manner described but the deceased was struggling violently to escape and the Sergeant could not on his own have subdued him and effected an arrest. The deceased and the Sergeant were both of a fairly powerful build and about equally proportioned. As soon as the Traffic car stopped Traffic Officer 1 jumped out and went to the Sergeant's assistance. So also, a few seconds later, did Traffic Officer 2. There was a brief but fierce struggle, the precise nature of which is disputed. The outcome was that the deceased was finally wrestled to the ground. Almost immediately, and certainly within a matter of only a few seconds, the deceased stopped struggling and lay still.

The sight of the two men running past the Arena had attracted the attention of some patrons and staff of the nightclub and people started to go along the path to see what was happening. The accounts later given by these witnesses are in many respects widely divergent and I deal with them later. What is undoubted is that there formed a highly emotional and hostile crowd - hostile, that is, to

the Police. Eventually a woman who had been at the Arena and who was an experienced nurse realised that her services may be needed and went to where the deceased was lying. This was Miss Desmond who announced herself as a nurse and at once felt for the deceased's pulse. She did so by pressing at the site of the carotid artery and felt what she described as a normal and regular pulse. She also attempted to ascertain if the deceased was breathing and for that purpose put her hand in front of his mouth. She was not able to detect any exhalation of breath but could not be sure whether he was breathing or not. She was, however, reassured by the presence of the pulse and felt that the deceased was all right. The Sergeant told her that the deceased had swallowed a plastic bag containing cannabis. Miss Desmond then said that it would be wise for him to call an ambulance. The Sergeant did so at once by means of the portable radio which he carried on his belt. That call was made at 20 seconds after 2.59am to Police Control who at once radioed the ambulance.

The call for the ambulance was received at the Ambulance Control Room at 30 seconds after 2.59am, and the ambulance left at 45 seconds after 2.59am. All these times are taken from the tapes upon which the calls were recorded at the Police and Ambulance Control Rooms. The ambulance had only a very short distance to go, and arrived at the scene at 30 seconds after 3.01am. It was manned by two Ambulance Officers, Mr Wilson and Mr Jenkins. They took charge of the deceased at once. They were told that he had swallowed a bag of cannabis and so looked in his mouth and felt for the bag but could detect nothing. The necessary equipment for examining the airway and removing an obstruction, namely a laryngoscope and McGill forceps, were carried in the ambulance, but neither officer had the necessary training enabling them to use that equipment.

Mr Wilson enquired whether the deceased had been breathing and was told that this was not known. He felt for a pulse and found it to be strong and regular. He shone a torch in the deceased's eyes and observed that they did not react to light and that the pupils were unequal. He and Mr Jenkins then started to try and induce breathing by the process of intubation. They introduced into the windpipe a tube and then used a bag to pump air through the tube. It was soon apparent the air was going into the stomach rather than the lungs and so it was attempted to remove the obstruction to the airway by abdominal thrusts. None of this treatment, although repeated, was successful. About two minutes after arrival the Ambulance Officers called for more skilled assistance, and in response a more senior officer, Mr Smyth, arrived shortly after 3.04am.

Mr Smyth misunderstood the information he received and thought the deceased had swallowed drugs rather than a bag. He decided the deceased should be taken at once to the hospital. On the way the intubation was continued, and it was noticed that there was still a pulse, at least for a time. On arrival at the hospital the deceased was at once taken to the resuscitation room where Mr Smyth, with the aid of a laryngoscope, quickly detected the plastic bag and at once removed it with forceps. A doctor then carried out a full intubation procedure but it was apparent the deceased was already dead.

Areas of Enquiry

Arising out of these circumstances there are three particular matters requiring determination:

1. What was the cause of death?

2. Whether excessive force was used by any member of Police in apprehending the deceased.
3. Whether all proper assistance was given to the deceased by members of Police after his apprehension.

Resolution of Disputed Facts

- A. There are in the evidence a number of areas of sharp conflict. I do not find it necessary to resolve them all but I need to reach a decision upon the nature of the struggle which took place and the nature and extent of the restraining hold applied by the Sergeant.

In approaching a resolution of these matters it is essential to keep in mind certain important general considerations.

- (a) What happened on this occasion was a sudden and dramatic incident of a kind experienced by few people. It was an incident such as would inevitably arouse emotional feelings in an onlooker. Particularly will this be so where the onlooker realises that he or she knows one or more of the participants so that strong personal feelings also come into play. It is common experience that in such a situation the accounts given by onlookers will almost invariably differ and often differ so widely that one is left to wonder whether each has actually witnessed the same incident. Resolving such conflicts can at times be very difficult because each onlooker will quickly become convinced that his or her account is correct, and any contrary version is wrong and perhaps dishonest. This divergence by no means

necessarily involves lying (although of course on occasions that occurs) but generally means that the witness has genuinely persuaded him or herself of the correctness of what was seen.

Added to these considerations is the fact that a number of the witnesses were of the same national extraction as the deceased so that the emotional impact was likely to be even stronger.

(b) The entire incident with which I am concerned, namely from the time the deceased placed the plastic bag in his mouth until the arrival of the ambulance, occupied a total of 8 minutes. By reason of the various radio calls which were made, and the fact that the tapes on which those calls were received had on them the precise time of each call, it has been possible to calculate the time span with almost complete accuracy. These recorded times, when compared with the estimates of time by the various witnesses, demonstrate not only the faulty nature of personal recollection in any incident such as this, but also throw into perspective the actions of those involved.

(c) Although this started as a matter of minor traffic infringement it very quickly changed completely in character. The Sergeant thought the plastic bag probably contained cannabis. That belief was in itself sufficient to justify him in forming an immediate determination to apprehend the deceased. In fact the position was a good deal more serious than he realised. The plastic bag, which measured 115mm x 75mm, contained another plastic bag of a similar size, but folded in two, in which was a

quantity of whitish powder of a total weight of 9.79 grams. This comprised 4.1 grams of cocaine which was mixed with glucose. Also in the plastic bag were two folded paper sachets (sometimes referred to as bindles), in each of which was the same whitish powder. The quantity in one was 865 milligrams, of which 346 milligrams was cocaine, and in the other 832 milligrams of which 341 milligrams was cocaine. In total, therefore, the plastic bag contained nearly 5 grams of cocaine.

Section 6(6)(b) of the Misuse of Drugs Act 1975 provides that the possession of half a gram or more of cocaine will raise the presumption (until the contrary is proved) that the possession was for the purpose of supply. Moreover, the paper sachets are well known to be the form in which controlled drugs are customarily prepared for sale at street level.

The present enquiry is not in any sense, of course, a trial for an offence under the Misuse of Drugs Act. The significance of the contents of the plastic bag is that the deceased must have known that his apprehension with that amount of cocaine would inevitably have led to a very serious charge, and it helps to explain the apparently desperate nature of his efforts to escape. That in turn provided some indication of the severity of the struggle in which the Sergeant and the Traffic Officers became involved.

- B. With these considerations in mind I turn to the accounts of those witnesses who were in a position to observe the struggle which took place down to the stage when the deceased apparently lost consciousness. There are a number who claim to have seen what happened but who were plainly not at the scene until after the struggle had ceased.

Those whose evidence must be particularly considered are Mr Serci, Mr Mahmoodi, Miss Cox, Mr Lingonis, Mr Avramides and Mr Johns. I consider these separately:

Mr Serci

He had worked until midnight, had a few drinks between midnight and 1.00am, and then went to the Arena where he had more drinks. He was about to leave the Arena when he saw two men running along the path from his right to his left past the Arena. These were undoubtedly the deceased and the Sergeant. He went out onto the path and was able to see some of what happened. He said that he saw the deceased throw at least two punches at the Sergeant (whom he then thought was a Traffic officer). He then saw a Police officer approaching these two. Again he was mistaken as the second officer must have been a Traffic officer. He did not see the two who were struggling fall to the ground, but he then went along the path until he was close to those on the ground. He was then able to see that there was one Policeman and two Traffic Officers. He saw that the two Traffic officers were holding the deceased by the lower half of his body and that the Sergeant was lying across his back with his right arm round the deceased's neck and was holding on. Mr Serci said that the deceased was struggling a lot and the Sergeant was having to use a lot of force to try and control him. Mr Serci recalled seeing Mr Lingonis arrive and speak first to the Sergeant and then to the deceased. Although he was aware that Mr Lingonis and Miss Cox, both of whom were at the scene, were expressing concern about the deceased he himself could see no cause for concern and shortly after he left the scene. He said that throughout the whole time he was there the Sergeant had his arm round the deceased's neck and the deceased was continuing to struggle.

Although Mr Serci was undoubtedly there his recollection of what occurred was, as he acknowledged, uncertain. He was at some pains to explain that he had had a good deal to drink. I am satisfied that the sequence of events cannot have been as he described them, because all the other evidence makes it clear that the deceased stopped struggling within a matter of seconds of reaching the ground. There remains the question of whether the Sergeant maintained his hold round the deceased's neck after he had ceased to struggle and I deal with that shortly.

I consider Mr Serci was doing his best to recall what he had seen, but his account is unreliable in a number of respects. Perhaps of some assistance is his overall impression that the Sergeant was doing only what had to be done to try and control a violently struggling man.

Mr Mahmoodi

Mr Mahmoodi arrived at the Arena at about 12.30am. He was drinking both before and after arrival. He was standing at the entrance to the nightclub when the two men ran past. He walked along the path after them and, from a distance of about 8 metres, he saw the Sergeant catch the deceased. He saw the Sergeant grab the deceased by the shoulder and then punch him with what he described as a full round house punch to the head. The Sergeant had pushed the deceased against a car parked alongside the path and then punched him. The deceased thereupon dropped straight to the ground. There was no struggle at any stage. The Sergeant held the deceased in a headlock and was assisted by the arrival of the two Traffic officers. Mr Mahmoodi said that the Sergeant maintained the headlock for 5 to 7 minutes (in

cross-examination he extended this to about 7-8 minutes) namely until the arrival of the ambulance. He saw Mr Lingonis and Miss Cox arrive and heard Mr Lingonis speak to the deceased in Greek. Mr Mahmoodi kept telling the Sergeant to let the deceased go, saying that he could not breathe. Mr Mahmoodi's account of the matter is, perhaps, summarised in his observation that he thought the Sergeant wanted to kill the deceased.

This account is so clearly wrong in almost every respect that I can attach no credibility of any kind to his evidence. His estimate of time is wildly imaginative; the Sergeant's hold was released long before the ambulance arrived; there is no suggestion that the two men ever went near a parked car; there is no possibility in the circumstances that the Sergeant could have thrown the punch described by Mr Mahmoodi; and the deceased must certainly have been struggling violently at the time when Mr Mahmoodi said he was not. Why Mr Mahmoodi should have given such a faulty account is not clear. He said that the deceased was not known to him. It emerged that Mr Mahmoodi had a recent conviction for conspiracy to supply cocaine and perhaps this affords some explanation. Whatever the reason I dismiss his evidence as valueless.

Miss Cox

Miss Cox also saw the two men running past the Arena. She walked along the path and saw the Sergeant and the two Traffic Officers holding on to the deceased. They were all standing but in a crouched attitude near the ground. The Sergeant had the deceased in what Miss Cox described as a sort of choker hold, with his right arm round the deceased's neck from behind and was pulling

his head back. She also said that she saw the Sergeant's left hand under the deceased's jaw and squeezing the throat with the thumb on one side of the windpipe and the fingers on the other.

Miss Cox said that she yelled at the Sergeant to stop it, and the group of four involved in the struggle then went to the ground with the Sergeant maintaining the grip she had described. Miss Cox then knelt and checked the deceased's pulse by holding his wrist. She said there was a faint pulse.

Mr Lingonis then arrived and told the Sergeant he knew the deceased and would speak to him. He did so, in Greek and in English, and received no response. Miss Cox said that Mr Lingonis grabbed at the Sergeant or was trying in some manner to push him away.

While the sequence of the struggle described by Miss Cox appears reasonably accurate, her account is plainly wrong in some important aspects. In particular, her account of the Sergeant holding the deceased by the throat is contrary to all the other evidence and insupportable in view of the medical evidence. Miss Cox was described by other witnesses as having been hysterical and there is little doubt that she was in a highly emotional state. She was told at the time by Mr Lingonis who the deceased was. She evidently knew him and his wife well, having worked with his wife for some time. It is perhaps understandable that she became emotionally involved with a resulting distortion in her mind of what she had seen.

Mr Lingonis

As Assistant Manager of the Arena nightclub Mr Lingonis was, at the relevant time, standing near the entrance to

the Club. He saw the two men run past, but he did not see the apprehension of the deceased. When he first saw them the men were on the ground with a traffic officer holding the deceased's legs and the Sergeant kneeling beside him with his right arm in a choker hold. He saw the deceased's head struck against the fence twice while being held in that hold. At no stage did he see the deceased struggling.

Mr Lingonis heard someone say that the man being held was Emmanuel Papadopoulos. Mr Lingonis knew the deceased and so he knelt down and asked the deceased whether he was all right. He spoke to him both in Greek and English. The only response from the deceased was that at about this stage he reached out with one hand and took hold of Mr Lingonis' arm. Mr Lingonis said that the Sergeant was maintaining the choker hold and so he told the Sergeant to let him go. The Sergeant told him to get away and so he pulled the Sergeant's arm from round the deceased's neck. Mr Lingonis then checked the deceased's pulse and could feel a faint pulse. He touched his forehead and could feel a cold sweat. Both Mr Lingonis and Miss Cox were calling for someone to summon an ambulance, but in the general state of confusion nothing effective was done about this.

Like Miss Cox, Mr Lingonis was in my opinion affected in his recollection of what he saw by the fact that he knew the deceased well and realised he was in serious trouble. His perception of the precise sequence is faulty. If he first saw the men when they were on the ground then there could have been no question of seeing the deceased's head struck against the fence. If he had seen that happen, then he could not have failed to see that the deceased was struggling violently

Mr Avramides

I include Mr Avramides' account only because he was an onlooker of the whole incident. This was, however, from a distance, and although Mr Avramides does not drink his account is so confused as to be of little assistance.

Mr Avramides was in the Pan Hellenic Club which is on the corner of Wakefield and Allen Streets, almost directly across the road from where the incident occurred. He was looking out from the second floor window of the building. The apprehension and struggle took place in the covered walkway outside the construction site. As I have already mentioned this was deprived of any direct lighting and most of the witnesses were agreed that it was difficult to see clearly what occurred in that area. Undeterred by this, however, Mr Avramides gave a dogmatic account of events. He said with great confidence that the deceased had first been apprehended by two Traffic Officers and then, half a minute to a minute later, the Sergeant arrived. Apart from this unpromising start Mr Avramides claimed to have seen what happened notwithstanding the distance he was away, the poor lighting and the obstruction to his line of vision of a row of parked cars.

Mr Avramides' account was altogether unreliable and he acknowledged that it may have been influenced by what he later saw and read in the news media.

Mr Johns

Mr Johns' is the owner of the Arena nightclub. He saw the two men running past but at first he seems to have thought nothing of it. It was not until Mr Lingonis returned from the scene to arrange for an ambulance to

be called (which was never done) that Mr Johns became aware that the deceased, whom he knew, was involved and apparently unconscious, that he went to see for himself. At the scene he became so emotional, and was so involved in inciting the onlookers to display antagonism towards the Police, that he had to be arrested and removed from the scene.

Mr Johns' account is therefore suspect from the start, but it is also impossible to reconcile with the other accounts. According to Mr Lingonis he had forced the Sergeant to release his neck hold on the deceased before returning to the Arena to call an ambulance. Notwithstanding this Mr Johns claims to have seen on arrival that the Sergeant was choking the deceased with his left hand and had his right arm round the deceased's neck holding the left hand in position. I am satisfied this situation could never have occurred, and I have no doubt that Mr Johns' account owes a good deal to what he was told by Miss Cox who at that time was living in Mr Johns' house.

The main interest in Mr Johns' activities centres on the effect of the distraction which he caused by his intervention, his arousing of the crowd and the circumstances of his arrest. I will refer again to this later.

C. The Sergeant

I have said as yet nothing about the account given by the Sergeant. I have thought it necessary first to consider the extent to which credence could be given to the other witnesses in order to be able to measure the Sergeant's evidence against that of those others.

The Sergeant was interviewed by Detective Inspector Cook and Detective Senior Sergeant Gregory, the two Police

Investigating Officers, at great length. The transcript of that interview runs to 74 pages. At the hearing he was cross-examined over a period of some two hours. I was therefore given a very good opportunity of observing him closely. It is necessary to set out his account of the apprehension of the deceased.

He was running at top speed in an endeavour to catch up with the deceased. As already described, the deceased suddenly stopped, turned about, and tried to run back past the Sergeant. He nearly succeeded but the Sergeant was able to grab him with one hand. His momentum and the fact that the deceased was going in the opposite direction meant that the Sergeant was swung round and found himself at the deceased's back. He completed the movement by wrapping his arms round the deceased's chest in a bear hug. This left the deceased's arms free but he could not effectively use them against the Sergeant because of the latter's position behind him. He was, however, struggling violently to get away. He could not at that stage apply any form of neck hold because to loosen his grip would have enabled the deceased to break away. At the moment when the Sergeant managed to take the deceased from behind the combined momentum caused them to crash into the gate to the construction site. It may be that this accounts for one of the minor abrasions on the deceased's head. He may also have struck his head against the fence in the course of the ensuing struggle, but again at no danger to him.

The first Traffic Officer to arrive seized the deceased around the waist. It was necessary to get him flat on the ground before any attempt could be made to handcuff him, and this could best be accomplished by taking his feet from under him. That was not, however, easy to accomplish because of the violence of the deceased's resistance.

The second Traffic Officer joined in and at first tried to apply a restraining hold round the deceased's neck. He could not do so because the Sergeant's head was in the nape of the deceased's neck and therefore in the way. The Sergeant told the Traffic Officer to get out of the way.

At this stage the deceased had been brought partly towards the ground, and he and the Sergeant were in a kneeling position, or something close to that. This enabled the Sergeant then to release his bear hug and to attempt to apply a carotid hold.

It must be explained that a carotid hold is a procedure recognised and approved by the Police for use, as a last resort, in the apprehension of persons who are showing a determination to avoid apprehension. The purpose of it is to apply pressure to the carotid arteries on each side of the neck so as to cut off the blood supply to the brain and cause unconsciousness. For this reason it is sometimes referred to as a sleeper hold. It is applied from behind by putting one arm round the neck so that the crook of the elbow is directly in front of the neck and applying no significant pressure to the throat. The pressure is applied to the sides of the neck by the biceps and forearm. To ensure that such pressure is achieved it is desirable, for a full carotid hold, for the hand of the arm round the neck to grasp the other arm at about the elbow and for that other arm to be put across the back of the neck with the hand grasping the top of the first arm. This acts as a lever for the purpose of applying pressure. If the hold cannot be applied fully in that way, then an alternative is to grasp the hand of the arm round the neck with the other hand and use that to apply pressure. A correctly applied carotid hold, in either

the full or partial position, can be expected to produce unconsciousness in a maximum of about 20 seconds. Once unconsciousness is achieved the hold should be released. By the time consciousness has returned there should have been a sufficient opportunity to apply handcuffs.

The Sergeant's evidence was that he managed to put his right arm round the deceased's neck but never achieved a proper carotid hold. He said the hold can only be properly applied when the person is either upright or at least fairly well up off the ground. Once he is flat on the ground the necessary position cannot be achieved. In this case the progress towards the ground was too quick. This had resulted from the fact that one of the Traffic Officers had finally managed to pull the deceased's feet from under him. The Sergeant did, therefore, get an arm round the neck but was sure he had not been able to apply a carotid hold.

Within seconds of the deceased going fully to the ground he ceased to struggle and lay motionless. It was shortly after this that Miss Cox and Mr Lingonis arrived. Mr Lingonis said that he knew the man and would quieten him down. The Sergeant was prepared to accept this assistance and relaxed his hold round the neck. He was, however, unsure whether the deceased was only pretending unconsciousness and so he kept his hand on his back and remained kneeling beside him.

The accounts given by the two Traffic Officers are in substantial agreement with those of the Sergeant, although neither saw the Sergeant apply any restraining neckhold. This is understandable because both were busily occupied at the lower half of the deceased's body.

I am satisfied that the Sergeant's account of what happened is generally correct. It is undoubted that he reached a stage when he applied some form of restraining hold round the deceased's neck. He estimated that he maintained that hold for no more than 15 to 20 seconds, and that he released it once the deceased had ceased to struggle and Mr Lingonis had offered his help. I do not accept the evidence of those witnesses who said that the neck hold was maintained for a lengthy period after the deceased had become motionless. This, however, is by no means an end of the matter because the question of what injuries that hold may have caused needs to be considered and I will come to that shortly.

I turn now to the three particular areas of enquiry:

The Cause of Death

There was no dissent among the medical witnesses from the general proposition that the cause of death was asphyxia. The real enquiry, however, is as to what was responsible for that asphyxia having occurred. Upon the basis of the medical evidence there are three possibilities:

- (a) The presence in the deceased's throat of the plastic bag obstructing the airway.
- (b) Choking caused by the application of force to the throat resulting in the compression of the larynx.
- (c) A combination of both.

A post mortem examination was carried out very promptly. It commenced at 1.30pm on 30 December 1989, which was about 10 1/2 hours after the deceased died. It was

performed by Dr C A Teague, a privately practising pathologist who has practised full time pathology since 1968. He was assisted at the post mortem by Dr R W Hill, also a pathologist, who had been retained on behalf of the deceased's family.

It is unnecessary to set out the clinical findings made by Dr Teague. These are, in any event, largely unintelligible to the non-medical person. In addition to the preliminary post mortem examination Dr Teague removed the larynx. This was the structure which was likely to reveal damage if there had been external force exerted on the neck. It did indeed reveal some damage, but the reason for this has been the subject of some medical disagreement.

One of the indicators of force can be the extent of injury to the hyoid bone which is a bone situated at the top of the larynx and approximately opposite the Adam's apple. This is a single bone comprising the central body and two horns, one at either side. It was found that there was no fracture of the hyoid bone, but there was a tear in the cartilage at the site of the joint between the main body of the bone and the right horn. The result was that there was movement between that horn and the body of the bone which ought not to have been present. Dr Teague was of the opinion that this indicated injury to the hyoid as a result of external force. He considered this could have been caused by pressure on the front of the neck, or by vigorous resuscitation or a combination of both. The vigorous resuscitation to which he referred was the full intubation procedure carried out on arrival at the hospital. Dr Teague considered that the plastic bag which had been removed from the deceased's throat provided a satisfactory cause for asphyxiation. On the basis of this

opinion, therefore, the more probable cause of death was the presence of the plastic bag, although the possibility of injury to the neck by the restraining hold applied by the Sergeant could not be excluded as a contributing factor.

Dr K J Thomson, also a private practising pathologist, was retained by the Police to give his opinion on these matters. Like Dr Teague, Dr Thomson had considerable experience, having practised forensic pathology since 1978 and during that time having performed most of the coroner's autopsies in the Wellington and Porirua Police Districts. Dr Thomson was not present at the post mortem but he had examined the larynx which was removed from the deceased. His opinion was that death was almost certainly from asphyxia secondary to the impaction of the plastic bag. He considered the injury to the hyoid bone and the bruising found in that area were consistent with minor trauma and far less than he had seen in cases of strangulation. In essence, therefore, Drs Teague and Thomson were in agreement and considered the obstruction caused by the plastic bag was the most probable cause of death.

A different view was taken by two doctors called on behalf of the family. The first of them was Dr A G Dempster who also has practised pathology since 1968 and is a Senior Lecturer in Pathology at the Otago University Medical School.

While conceding that the presence of the plastic bag may have been a factor in death ensuing Dr Dempster was of the opinion that the more probable cause of unconsciousness and then death was the application of pressure to the front of the neck, resulting in the collapsing of the

airway inducing a rapid fall in blood oxygen levels. The effect of that could have been to cause the deceased to struggle more violently. It was also Dr Dempster's view that the pressure applied to the front of the neck could have been such as to force the tongue upwards and backwards and so cause the bag to be moved from the front to the back of the mouth. It would then be in a position to be sucked into the airway by a sudden gasping intake of air. Dr Dempster considered that unconsciousness probably occurred before the bag finally lodged in the throat and that once there it would effectively preclude any chance of recovery.

Like Drs Teague and Thomson, Dr Dempster was not prepared to exclude the alternative view but thought the arm hold round the neck was more probably the principal cause of unconsciousness and was consistent with the bruising to the front of the throat, and the undoubted injuries to the hyoid bone and other parts of the larynx. He would not accept that any of those injuries could have been caused by intubation. He observed that the presence in the blood of what he called street drugs or alcohol increased the risk of unconsciousness or death resulting from a restraining hold round the neck. It was the case that, upon analysis, it was found that the deceased had in his blood and urine traces of cocaine, cannabis and phentermine (an amphetamine). While these findings lend support for his involvement with controlled drugs there does not seem to be any clear indication of the extent, if any, to which the drugs he had consumed may have contributed to his death.

While Dr Dempster's qualifications and experience entitle his opinion to close consideration and respect, I have felt unable to prefer it to that of Drs Teague and

Thomson. Perhaps it should be noted that Dr Dempster conceded that it would not be irrational for a non-medical person to take the view that the obvious problem in this case was the presence of the plastic bag.

Evidence was given also by Mr Peter Blake who practices as a specialist in Otolaryngology. His evidence was directed expressly to the damage which had been found to the larynx and as to the causes of that. He rejected any suggestion that this damage might have been caused by the intubation procedure carried out at the hospital. He rejected also the presence of the plastic bag as a likely cause of asphyxia, but unfortunately he did so largely on his acceptance of the accounts given by Mr Lingonis and Miss Cox. As I have not been prepared to accept their evidence as reliable the basis for Mr Blake's conclusions loses a good deal of force.

Mr Blake considered that the evidence of a continuing pulse in the deceased until shortly before arrival at the hospital could not be accepted and was contrary to his clinical experience. His explanation for those witnesses who gave evidence as to the presence of the pulse was that in moments of tension one's own pulse beats more strongly, and that what the witnesses were experiencing was their own pulse beating in their fingertips. An acceptance of this theory involved deciding that Mr Wilson and Mr Jenkins (both Ambulance Officers), Traffic Officer 2, the Sergeant and Miss Desmond (an experienced nurse) had all been afflicted by this phenomenon. I find Mr Blake's evidence in this regard unconvincing and I am not prepared to accept it.

Mr Blake's further opinion was that the plastic bag had been forced to the back of the mouth by the pressure exerted on the front of the neck by the Sergeant's arm

hold and that the deceased then involuntarily inhaled it a short distance down the throat. He thought that it was only the pressure on the airway from the neck hold which prevented the deceased from coughing up or spitting out the bag, so that it was able to remain as an obstruction and so contribute to death. This opinion seems to ignore the evidence as to the position in which the plastic bag had lodged. The person who removed it, Mr Smyth, said that it was in the general area of the back of the larynx. Dr Teague identified the position as he understood it as being between the oropharynx and the laryngopharynx. From the diagrams put in evidence I understand this to be at about the entrance to the airway into the lungs. It was that airway which was obstructed and which prevented the deceased getting any air into his lungs. My understanding is that this was too far down to be seen by the light of a torch or to be felt by the fingers and therefore unlikely to have been rejected by coughing or voluntary action by the deceased.

I assess the effect of the medical evidence I received to mean that, while other possibilities could not be excluded, the probable cause of asphyxia was the presence of the plastic bag. This was the opinion of Drs Teague and Thomson. I am fortified in the acceptance of their evidence by the fact that no evidence was offered by Dr Hill. I have already stated that Dr Hill was retained by the deceased's family at the very outset. He was present and assisted at the post mortem and was present also at the later dissection of the larynx. He was in attendance throughout the hearing, and in particular while the medical evidence was given. Had he disagreed with any of the evidence given by Drs Teague or Thomson then one might have expected that in his role of advising the deceased's family he would have been prepared to say so. Counsel for

the family explained the decision not to call Dr Hill as being because he could add nothing to the evidence of Dr Dempster. If this was intended to be an assertion of fact by counsel that Dr Hill would have given evidence identical with that of Dr Dempster then I reject his right to seek to give his own evidence in this way. It would, of course, have been different if Dr Hill had said in evidence that he agreed in full with Dr Dempster. The inference I draw is that in fact Dr Hill agreed with Drs Teague and Thomson. I do not need to rely upon that inference in reaching my conclusion, but I am comforted by what I take to be the fact that such an inference can be drawn.

Before leaving the medical evidence it is necessary to say something about how the plastic bag got where it was. The doctors were unanimous in the view that the deceased could never have attempted to swallow the bag when he first placed it in his mouth. To have done so and then run 60 to 80 metres at full speed they considered an impossibility. I must conclude, therefore, that he simply intended to hold it in his mouth until he could dispose of it. No doubt he had it in mind to turn into Chaffers Street and then remove the bag from his mouth and fling it over a fence or dispose of it in some such manner.

The question then remains as to whether in the end he attempted to swallow it once he was apprehended, or whether he inhaled it involuntarily. The evidence seems to me to suggest most strongly that it was the latter. The doctors were again agreed that, by reason of the size of the bag, it would require a big effort to swallow it even as far as it went, and that it could never have been completely swallowed. I prefer the inference that it was an involuntary act, probably caused by a sudden gasp for

breath consequent upon running and struggling and perhaps precipitated by crashing into the gate when seized by the Sergeant.

There was no evidence of any choking, but the doctors were agreed that this need not have occurred and probably did not. There was, therefore, no such warning to those at the scene that the bag was causing an obstruction.

I conclude that the bag was involuntarily inhaled, that it caused at once a complete obstruction to the airway, and that once this had persisted for about 20 seconds, or perhaps less, unconsciousness was bound to follow. From that moment only the removal of the bag (had its presence been known) could have prevented death ensuing. The damage found to the larynx permits the possibility that external pressure to the neck could have played a part, but was probably secondary to the presence of the bag.

The Use of Force

Apart from any question of whether the force used by the Sergeant caused or contributed to the death of the deceased, there is the separate matter of whether in the circumstances he used greater force than was necessary.

It was submitted on behalf of the family that the actions of the Sergeant amounted to an intention by him to kill the deceased, or at least to cause him bodily injury of a kind which he knew was likely to cause death and was reckless whether death ensued or not. These, of course, are the principal definitions of murder and it was contended that I should recommend he be prosecuted on a charge of murder or at least manslaughter. I can find no

acceptable evidence at all to support such charges, but I need to consider whether there is an indication of some lesser offence.

The degree of force which the Sergeant was entitled to use depends upon the nature of the incident in which he became involved and the actions of the deceased. As I have said earlier, the Sergeant was confronted not with a traffic offender, but with an obvious drug offender. He could not have known whether this involved a major or a less serious drug offence, but experience must have told him that an apparent attempt to swallow a bag of drugs suggested an offence at a fairly high level. He took what turned out to be a somewhat charitable view and assumed that only cannabis was involved. That was still serious enough to demand that he make sure the deceased was apprehended and preferably that the evidence in the form of the bag was preserved. He was therefore entitled, and indeed it was his duty, to make sure the deceased did not get away. There can be no criticism of any kind of his decision to pursue the deceased and to arrest him.

What then happened was determined largely by the deceased himself. He knew, as the Sergeant did not, what really was in the bag. He knew the urgency of the necessity that he escape, at least for long enough to be able to dispose of the bag. This, of course, accounts for the violence of his resistance and for the nature of his struggle to escape.

The best the Sergeant could do initially was to seize the deceased from behind in a bear hug. This in itself had achieved little. The deceased was of about equal size and strength and the Sergeant could never have subdued him alone. Even with the help of the two Traffic Officers the

outcome was by no means certain. Before they could hope to succeed it was essential that they brought the deceased to the ground so that he could be held in a position enabling them to handcuff him. I have already indicated that this was achieved in two stages. First, by pulling his feet from under him, they were able to get him part way to the ground and in something akin to a kneeling position. This was not enough, because his arms were still free and he was still struggling violently.

It was at this stage that the Sergeant attempted to apply a carotid hold. This was a procedure which his training and the Police General Instructions entitled him to do. The Sergeant has said that he never completely applied that hold. There is obviously a fine margin between a correctly applied carotid hold and a choker hold, that is, one where the forearm is across the throat when pressure is applied. I think it likely that this may have occurred, particularly in view of the deceased's continued struggling. It is consistent with the square bruise which became apparent after death on the front of the throat. The doctors were agreed that that bruise could only have been caused by some form of external pressure applied while there was still circulation. Two possibilities were advanced, namely the arm hold and the resuscitative procedures. Of these the evidence persuades me that the former was the more probable.

The deliberate and sustained application of such a hold could not have been justified. I do not believe that it was deliberate. It must have been difficult in the extreme for the Sergeant to have applied the hold he intended with accuracy.

There has been wide conflict in the evidence as to the length of time the hold was maintained. The Sergeant's

estimate is 15-20 seconds. If that is an acceptable estimate then I am unable to see that he acted improperly. I have earlier set out the main features of the accounts given by the onlookers. They vary widely, even to an estimate of 5-8 minutes for the maintenance of the hold, which is plainly absurd.

It is clear that the deceased stopped struggling within a few seconds of falling fully to the ground. That precise moment is nowhere recorded with accuracy. Traffic Officer 1 said that when the deceased's struggles had lessened and he considered the Sergeant and Traffic Officer 2 had him under control he stood up and used his portable radio to call for more Police assistance. This call was made very close to 2.55am. At 35 seconds after 2.56am the Sergeant himself radioed to control giving his position as outside the Arena. That position was not entirely accurate, but the significance of that call is that it means the Sergeant was no longer holding the deceased round the neck. In order to make the call he had to remove the mouthpiece from his belt and hold it to his mouth. There seems little doubt he did that with his right hand which could therefore not have been round the deceased's neck. There is no question of his ever re-applying the hold, and indeed he made three further calls on his radio, the last being to call for an ambulance.

The time frame to which I have referred allows in theory for the arm hold to have been maintained for longer than 20 seconds, but that cannot have been the case because other things were happening during that period. I have discussed earlier the unreliability (understandable though it may be) of most of the accounts given by people at the scene. I can see no reason to regard the evidence of the two Traffic Officers as other than generally reliable,

although they, too, are not altogether free from discrepancies. Neither Traffic Officer thought that the Sergeant had applied any arm hold at all. In this they were wrong as the Sergeant himself concedes, but it seems undoubted that if he had maintained the hold for more than a few seconds, and certainly once the deceased had ceased to struggle, then they could not fail to have seen that.

I am satisfied on the evidence as a whole, testing it as best I can, that the arm hold was applied by the Sergeant for no more than a few seconds. The exact duration must be a matter of speculation but I am unable to regard it as excessive.

In particular, I reject the evidence of Miss Cox and Mr Johns who said that the Sergeant was out of control, with eyes bulging, with a white glare, and screaming. There is no reliable evidence of any kind that the Sergeant lost control of himself.

I am satisfied that the Sergeant did what his duty required him to do, and that while the arm hold he applied to the deceased may well have caused at least some of the injuries to the neck, that hold was not maintained for an unreasonable or an excessive period. In the circumstances of the case I do not consider the use of force by the Sergeant was excessive.

The Failure to Give Assistance

This aspect of the matter arose mainly in the form of an allegation made on behalf of the family that the Sergeant, or perhaps some other member of Police, ought to have called the ambulance sooner than was done. It is necessary to consider what happened from the time the

deceased stopped struggling, and it must be remembered that while several of the onlookers evidently thought an ambulance should be called none of them did anything but talk about it. The record of radio calls shows that the only request for an ambulance was that made by the Sergeant. This may well be a reflection of the emotional reaction, amounting in some cases almost to hysteria, of most of the onlookers.

It must also be remembered that the only practical form of assistance which could be offered to the deceased was to call an ambulance. Such limited first aid training as the Police have could scarcely have enabled the members of Police present to do anything else effectively. They were not to know what had happened to the deceased. The Sergeant thought that he had swallowed the plastic bag. Presumably he thought that this meant the bag had passed right into the stomach. Certainly there was nothing in what happened to have warned him that the bag had suddenly lodged in the deceased's throat. There was no coughing or choking sound such as might have alerted him to that possibility. Even if he had thought of it, he could have done nothing. Even the ambulance officers, with the aid of torches, could not see or feel with their fingers the obstruction which was there. What has to be considered, therefore, is whether the Sergeant ought to have realised that an ambulance should be called sooner than it was. It needs to be remembered that, had he made the call the moment the deceased stopped struggling it still would have had no effect on the outcome and the deceased would still certainly have died. It is still necessary, however, to examine what happened.

It is not possible to say with accuracy the moment that the deceased stopped struggling, but on the basis of the

surrounding evidence and by reference to the recorded radio calls I fix the time, as best I can, at 2.55am at the earliest. It may well have been a little later. The ambulance call was made by the Sergeant at 20 seconds after 2.59am. The period with which I am concerned is therefore something very close to four minutes. On the face of it that may seem to be ample time in which to assess the situation, recognise that the deceased needed medical assistance, and to call an ambulance. During that period, however, a great deal was happening.

From before the deceased had stopped struggling people had started to assemble nearby. Almost without exception they were demonstrating hostility to the Police. It is not without significance that the first thing Constables Amai and McLaughlan (who were the first Police to arrive on the scene) did was to try and control the crowd. They arrived at 45 seconds after 2.56am, and already the scene had become an ugly one. This cannot have failed to be a distraction to the Sergeant. At 20 seconds after 2.57am he radioed for further Police assistance and at 2.58am he radioed again to report that Mr Johns was being arrested. It was simply not possible for his attention to be concentrated on the deceased.

The Sergeant was, during this time, maintaining a check on the deceased's pulse, and was noting that it was strong and regular. This must have suggested to him that there was no immediate urgency. During this same period Traffic Officer 2 was also checking the pulse, with similar results. Moreover, he believed that he had detected that the deceased was breathing. It seems clear that the exhaled breath which Traffic Officer 2 felt on the back of his hand was coming from the stomach rather than the lungs, but both he and the Sergeant thought that the

deceased was breathing and had a normal pulse.

It was this that prompted Traffic Officer 2 to say that the deceased was faking unconsciousness. Medically that may not have been a justifiable conclusion, but it is not one which can properly be criticised in the circumstances. It prompted the Sergeant to maintain pressure on the deceased's back in case he should suddenly spring into activity again. A further period of time accordingly elapsed because of this possibility.

It was at 20 seconds after 2.57am that Miss Desmond arrived, said she was a nurse and offered her assistance. No doubt the Sergeant was pleased to have such a person in attendance and he cannot be criticised for awaiting her view of the matter. Miss Desmond seems to have checked the deceased with some care. She first made sure to feel the carotid pulse and found it to be normal. She then checked for breathing. She could detect none, but was unsure whether the deceased was breathing or not. She was then told by the Sergeant that the deceased had swallowed a plastic bag of cannabis. She recognised at once the dangers involved in this and suggested that an ambulance should be called. The Sergeant immediately did so.

Miss Desmond had remained with the deceased for slightly under two minutes. At the end of that time she felt no cause for real alarm and she left to go home. She said in the course of her evidence that if she had believed that the deceased was either dead or likely to die she would not have left him. In view of this, from an experienced nurse, it becomes very hard to say that the Sergeant ought to have been more perceptive and to have acted sooner than he did to call an ambulance.

I should add that it was during the time that Miss Desmond was with the deceased that there was a further distraction caused by Mr Johns inciting the onlookers to greater hostility. This resulted in the Sergeant instructing the Constables who were there to arrest Mr Johns. He resisted their attempts to do so and there was a struggle before he agreed to go with them and was taken away.

For these reasons I find no support for the allegation that the deceased was not given proper assistance at the scene.

I have not regarded it as any part of my task in the particular context of the present enquiry to consider what amount of first aid training should be given to members of Police. For what it may be worth, however, I think I should place on record a comment volunteered by Dr Teague. The Sergeant in his evidence had made brief reference to the extent of his first aid training and it was this which prompted Dr Teague to say:

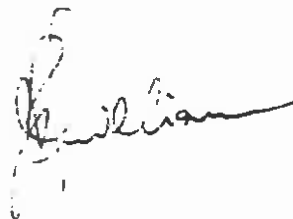
"It surprises me that frontline Police officers who are in fact using this hold are not regularly updated in cardio pulmonary resuscitation. I think one of the manuals implies that they should be but the Sergeant's statement doesn't indicate that they are."

No doubt the Commissioner will take whatever note he thinks proper of that comment.

SUMMARY

For the reasons I have set out in perhaps over-full detail, I summarise my findings as follows:

1. The cause of the deceased's death was asphyxia more probably than not resulting from the involuntary inhalation of the plastic bag into a position where it completely obstructed the airway to the lungs. The damage to the deceased's larynx was probably caused by the arm hold applied by the Sergeant and cannot be excluded as a contributing cause to the death, but it is to be regarded as secondary to the obstruction caused by the plastic bag.
2. Although it was necessary for the Sergeant to use considerable force in his endeavour to apprehend and subdue the deceased, this was no greater force than the circumstances required.
3. There was no culpable failure upon the part of the Sergeant or any other member of Police to render proper assistance to the deceased once he had become unconscious.
4. It follows from these findings that no question of any prosecution or other disciplinary proceedings against the Sergeant could be justified and I recommend that none be commenced.
5. Having regard to these findings I consider it appropriate that the names of neither the Sergeant nor the two Traffic Officers should be made public and I recommend that their names be withheld from publication accordingly.



POLICE COMPLAINTS AUTHORITY

9 February 1990