

ROYAL COMMISSION INTO
ABORIGINAL DEATHS IN CUSTODY

REPORT OF THE INQUIRY INTO THE DEATH OF
EDWARD JAMES MURRAY

ROYAL COMMISSION INTO ABORIGINAL DEATHS IN CUSTODY

His Excellency The Right Honourable Sir Ninian Stephen,
AK, GCMG, GCVO, KBE
Governor-General and Commander-in-Chief of Australia
Government House
CANBERRA ACT 2600

In accordance with Letters Patent issued to me on 16 October 1987 and varied by Letters Patent issued on 21 December 1987, 6 May 1988 and 27 October 1988, I have the honour to present to you a report of my inquiry into the death of Edward James Murray, which occurred in Wee Waa, New South Wales on 12 June 1981.

I am providing the same report to His Excellency the Governor of New South Wales.
Yours sincerely

J H MURHEAD
COMMISSIONER

ROYAL COMMISSION INTO ABORIGINAL DEATHS IN CUSTODY

His Excellency Rear Admiral Sir David Martin, KCMG, AO
Governor of New South Wales
Government House
SYDNEY NSW 2000

Your Excellency

In accordance with Letters Patent issued to me on 21 October 1987 and 18 August 1988, I have the honour to present to you a report on the inquiry into the death of Edward James Murray, which occurred in Wee Waa, New South Wales on 12 June 1981.

The same report is being provided to His Excellency the Governor-General.

Yours sincerely
JH MURHEAD
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Chapter 1

INTRODUCTION

Edward James Murray was born on 6 December 1959 in Coonamble and spent most of his youth in Wee Waa, a small town in the north of New South Wales situated on the Namoi River. He was the second oldest son of Arthur and Leila Murray who had 12 children in all, nine girls and three boys. On 12 June 1981 Eddie was found dead, hung by a strip of blanket made into a noose, in a police cell in the Wee Waa Police Station. He was then 21 years old.

1.1 WEE WAA

Wee Waa was the place in which Eddie grew up and the place in which he died. What environment did it provide for the Aboriginal people who lived there? The Commission heard evidence about the recent history of Wee Waa, particularly in relation to Aboriginals' involvement in the cotton industry which developed there over the last 25 years. In the early 1960s many Aboriginal families came to Wee Waa as itinerant workers to work in the industry during the cotton chipping season. Cotton chipping is hard monotonous work removing the weeds from the cotton plants. The cotton growers relied heavily upon Aboriginal people to work in the hot summer months (October-March) for comparatively low wages. Accommodation and other facilities were not provided so many of the workers camped along the banks of the river and later at Tulladunna Reserve in poor and unhygienic conditions. The Murray family lived at Tulladunna for a number of years.

In the early 1970s floods were experienced and as a result the Aboriginal Reserve was moved by Namoi Shire Council from Tulladunna to a campsite at The Pines which was acquired with funding from DAA. At The Pines toilet and shower facilities were provided but shelter was still very basic, eg. old cars, tents, iron sheets, etc. A piggery was set up in an effort to provide some economic base for the local community but eventually this project failed and recently the property was sold by the Aboriginal Development Corporation. The Pines had better facilities than Tulladunna but it was five miles from town well away from the river with no public transport except the school bus.

By the mid 1970s some Aboriginal families had become permanent residents of the camps. The Murray family along with others became involved in agitation for improvement in the living conditions of the people living in these camps. Funds became available and slowly the Aboriginal people moved into Housing Commission homes in town provided by an Aboriginal housing scheme. The Murray family moved from Tulladunna into town in 1975. The Aboriginals had better housing but they were then faced with the problem of living with a white community that generally, if find, resented Aboriginals living as their neighbours. There was limited acceptance of the Aboriginal people by the white community and there has been little attempt to understand their ways, their very real disadvantages and their aspirations. Black and white people in Wee Waa, as in so many other places in Australia, did not live in harmony, ie, in an atmosphere of understanding and mutual tolerance.

The industrial situation for Aboriginals working in the cotton industry gradually underwent change. The workers became organised demanding better wages and conditions, the industry was unionised. Children no longer worked but this involved a some separation from parents and lack of supervision.

New weedicides became available and this development and the requirement to pay higher wages resulted in reduction of the demand for chippers. The influx of itinerant Aboriginals during the chipping season declined and today even local people find it hard to obtain chipping work during the season. In the winter months there was very little employment for the Aboriginal population of Wee Waa. Few other jobs in the industry, such as ginning on the cotton farms, were available.

The Murray family together with several other Aboriginal families, notably the Flicks, were involved in efforts to improve the lot of Aboriginal people in the area. In particular, Arthur Murray was involved in activities for better housing, wages and conditions for Aboriginals working in the cotton industry. He was regarded as one of the leaders in the Aboriginal community and held various positions with their organisations. People who fight in the Aboriginal cause are commonly labelled in white society as 'activists' and like most people who seek to disturb the status quo, are liable to be regarded with suspicion. One consequence in cohesive and comparatively small and white communities is that activists are looked upon by many as 'troublemakers'. They thus become more vulnerable to the attention of the police when their conduct attracts such attention. Unhappily, local hotels, commonly patronised by all races, became the focal points of tension and resentment. Arthur Murray, in earlier days a heavy drinker, was in fact barred for life from two Wee Waa hotels, the Imperial Hotel and the Royal Hotel. I have little doubt that Eddie grew up with the notion that he and his family were picked upon, particularly by the authorities. He also was barred from the local hotels.

Local hotels throughout Australia are (and have been for years) in some ways a microcosm of race relations as they are perhaps the only places in town where black and white people wish to socialise at the same time. Practices involving Aboriginals in relation to their access to hotels and removal from them are generally perceived as discriminatory by these people and, although designed to control the conduct of those under the influence of liquor and to promote public order, are likely to be a source of tension, anger and police action.

Chapter 2

BACKGROUND OF EDDIE MURRAY

Eddie went to school until he was 15 years old. He was a boy who stood up for himself. His education history was marked by encounters with both teachers and students. He finished school when he was in Year 9.

He went to Newcastle, undertook a basic welding course and on its completion returned home to Wee Waa. He never worked in a trade but mainly did labouring and seasonal work. He worked as a cotton chipper and was regarded as a good worker. He apparently sporadically worked as a fruit picker in the Griffith and Mildura areas. When he was, from time to time, in Sydney he was largely unemployed. I was told he occasionally obtained casual work loading trucks at the markets.

On all accounts Eddie loved sport and he was generally regarded as a fine footballer. He had played Rugby League, Australian Rules and soccer with the local team. After school, in Sydney he played rugby league with the Redfern All Blacks in their A Grade team. In both Wales and Sydney he was well-liked in sporting circles and his relationships with both players and officials was good. He was a very fit young man. At the time he died, a trip with the Redfern All Blacks to New Zealand was scheduled and he was likely to have been included in the team.

In Sydney he lived with his uncle and aunt. I find in fact he did not drink heavily when training during the football season. He consumed alcohol on weekends and according to his uncle he drank a considerable amount on occasions. He did not attract police attention in Sydney for drunkenness or any other offence, a different scene to that in Wee Waa where he came in frequent contact with the local police. The Wee Waa police records show that Eddie had two convictions recorded against him for offensive behaviour, seven for drunkenness, three detentions under the Intoxicated Persons Act, and a charge of serious harm and affront that had not been finalised at the time of his death (N/1/3, Inquest Exhibit 45).

At this time he was visiting his family in Wee Waa as he was at that time unable to play football in Sydney for a couple of weeks. He had a good relationship with his parents and family although I find he and his family always involved family fights, when those involved were drinking heavily. Arthur Murray told me he himself had been a heavy drinker in the past. I find that in 1981 this was the source of some worry in Eddie's mind.

Chapter 3

TEMPERAMENT OF EDDIE MURRAY

3.1 OBSERVATIONS OF WITNESSES

I find that Eddie was generally (but not always) a happy young man who enjoyed life. This was the evidence of his family, friends, neighbours and some police officers. On occasions he appeared depressed. When he was drunk he was at times volatile and aggressive. Considering the nature of race relations in Wee Waa, it would be surprising if the police and some white witnesses who knew Eddie did not have a very different picture of him to that of his family and friends.

There is no doubt that Eddie's parents, family and the wider Aboriginal community regarded him as a happy, fun-loving young man. His father, Arthur Murray, held this opinion; he believed people liked his son who had a wide circle of friends (N/1/24). Leila Murray, Eddie's mother, was obviously a caring person and she did not believe that Eddie had any serious problems (252b). She said that Eddie was a happy-go-lucky boy who loved life (254c).

Eddie's brothers, John and Rodney, stated that Eddie enjoyed life in Sydney and was happy to be playing football there for the All Blacks (254d, 256b, 271f). Eddie did not tell them of any worries or problems (256b), 271f). His uncle, Allan Murray, also regarded Eddie as a happy person who had lots of mates and was a good mixer (N/1/53).

The other Aboriginal witnesses, many of whom were Eddie's friends, were of the same opinion. (See evidence of Lyaill Combo, Cheryl Gordon, Vivian Toomey, Stan Winters, Alfred Cochrane, Marge Toomey and Cecil Lewis). Eddie was relating to white people, especially when drunk, he wasn't always happy-go-lucky but could be aggressive and emotional, passive or bisterous. His behaviour was more variable. There is the evidence of the unnamed male witness discussed previously that Eddie displayed unhappiness, mostly about family matters, one week prior to his death. But although, like most young Aboriginal people, he encountered difficult social problems, there is no evidence to suggest that he was likely to kill himself, albeit under pressure of provocation. But to this issue must be added the intrusion of alcohol, the effects of which cannot be confidently predicted in assessing human conduct or reaction to particular circumstances.

Yvonne Kelly who had employed Eddie over a number of years in the cotton industry told me he was friendly and helpful to all at work, both black and white (N/1/73). Isabel Flick was certain that somebody in the family or the wider Aboriginal community would have been aware if Eddie had had any serious underlying emotional problems (349f).

But not everyone who knew Eddie regarded his life as totally problem free. A male witness (whose name was suppressed) who had previously regarded Eddie as happy-go-lucky had a conversation with him one week before his death. He concluded that Eddie was at that time very unhappy and depressed (293b). During the conversation Eddie had been very emotional (292a). To some extent this conversation had centred around Eddie's concern for his father (293c). I accept this evidence. Dr Mulvey, the family doctor, also believed that there were problems between Eddie and his father. He had been called out to the Murray house late at night on a number of occasions for problems that related to drinking and fighting (2537). On the other hand, Dr Mulvey, who had played football with Eddie, had no record or recollection of depression mediacally intruding (3339).

3.2 EDDIE MURRAY'S TEMPERAMENT WHEN DRUNK

Alcohol affects the conduct and thought processes of all of us. As I have said there is evidence that at times he drank far too much and so it was on the day he died when a blood alcohol level taken after death showed an extremely high content of 3 grammes of alcohol per millilitre of blood. His drinking habits were of possibly examined very closely in evidence presented to the Royal Commission and that evidence will be considered in more detail later. An important question arises, bearing in mind the high alcohol content of his blood, as to whether he retained the physical capacities to hang himself in the circumstances revealed in evidence. I am satisfied he (like many) became bisterous when drunk, with a tendency to become involved in fights. This is certainly the way his family and friends interpreted his reactions when drunk. It was agreed by most witnesses that Eddie was a person who would 'stand up for his rights' (being drunk or sober) and this inevitably resulted in periodic confrontations.

Several white witnesses, with an obvious regard for Eddie, thought he became aggressive towards whites when drunk although he was friendly and relaxed well when sober (Kelly N/1/73, unnamed female witness 376e-67, Killin N/1/40, 304d, Jurd N/1/38, 2970). Several police officers said that Eddie's behaviour was variable when drunk - he would be seemingly very drunk and practically unable to stand, the next minute he would be up and skyracking (Killin N/1/40, Jurd 2968).

His brother, John Murray, had seen Eddie become emotional and his uncle (2561), Allan Murray, had seen Eddie a bit seedy, but not depressed (3370).

My conclusions are that his reactions to alcohol were what one would expect in the case of a fit young man who grew up and lived in the environment of Wee Waa. I have briefly outlined his attitude to police authority was pretty typical, that is to say, that the police were on the cutting edge of a white society, typified the view and prejudices of that society that the Aboriginal and got 'on the back of those Aboriginals who transgressed its laws or social mores.

3.3 WAS EDDIE MURRAY SUICIDAL?

There is no evidence to suggest that Eddie was suicidal, ie, likely to deliberately kill himself. His father, Arthur Murray, and friend, Lyaill Combo, both knew of no reason why he would kill himself. Eddie's uncle, Allan Murray, thought he was incapable of suicide (N/1/53). Dr Mulvey, from his treatment of Eddie knew of no reason why Eddie would want to take his own life. There is no evidence of anything in Eddie's background that would suggest he wanted to kill himself (N/1/3 p. 122). In fact, at the time of his death, to most people, he seemed happy. His family expected him to return to Sydney to further his sporting interests, in fact his return was imminent. He had much to look forward to of interest and satisfaction including the prospect of a football tour to New Zealand. On the day of his death his mother found him in good spirits during the early morning. The drinking party at the levee, when much alcohol was consumed, did not, so far as the evidence went, produce discordant episodes of significance. He was not, as far as I know, involved in personal relationships at any worrying significance. As I have pointed, his dealings with the white community revealed a more complex young man. When Eddie was relating to white people, especially when drunk, he wasn't always happy-go-lucky but could be aggressive and emotional, passive or bisterous. His behaviour was more variable. There is the evidence of the unnamed male witness discussed previously that Eddie displayed unhappiness, mostly about family matters, one week prior to his death. But although, like most young Aboriginal people, he encountered difficult social problems, there is no evidence to suggest that he was likely to kill himself, albeit under pressure of provocation. But to this issue must be added the intrusion of alcohol, the effects of which cannot be confidently predicted in assessing human conduct or reaction to particular circumstances.

Dr Foy provided the Commission with some general evidence about the risk of suicide in relation to alcohol intoxication and he stressed that the fact that an intoxicated person had not previously exhibited suicidal tendencies was of limited value as a prediction of future behaviour. He said:

... in my experience suicidal attempts occur not infrequently when people are intoxicated and that it is very difficult to predict those people who will do that and certainly what you know of them prior to their becoming intoxicated isn't much help in identifying the people who are likely to do that.' (4405).

He went on to say:

... many suicidal attempts in acute intoxication are fairly impulsive acts and they relate just to the very short time-frame of the event.' (4405).

He also indicated that an intoxicated person who had shown no signs of depression but had displayed signs of aggression, could yet suicide as the aggressiveness may be turned inward when under the influence of alcohol (4406). He also stressed, if indeed emphasis is needed, that people with high blood alcohol levels must be recognised as people whose behaviour is unpredictable (4409).

Dr Foy concluded in his report:

'Whether this man died by his own action or by those of others, this was a preventable death. Severely intoxicated people should never be confined, left alone since the chance of suicide in such circumstances is very high.' (N/1/93, 4408).

Dr Foy's observations must be kept in mind when examining the events of 12 June 1981 when the only finding open is that Eddie was acutely intoxicated. I also find that he had not before exhibited suicidal tendencies.

Chapter 4

DELAY-STANDARD OF PROOF

My Terms of Reference require inquiry into the custodial deaths of Aboriginals since 1980. The conduct of this inquiry commenced almost seven years after the death when a host of witnesses were examined and cross-examined as to events and detailed matters, many of which were, at the time they occurred, common place events. Judicial experience well indicates the extent to which lapse of time erodes human capacity for accurate memory or recollection, as opposed to reconstruction. The human mind is akin to either a camera or computer capable of reasonably accurate reproduction. Our recollections are not infallible. The circumstances under which a person witnesses an event, eg. shock or fear, may result in an initially inaccurate, albeit genuine, memory. The processes of thinking over what occurred, especially when one faces the prospect of giving evidence as to an event are apt to involve pressures, reconstruction, as also are emotional responses to the event and its aftermath, be they anger, grief or fear. The demands of Counsel for precision after the lapse of years assume an air of unequity especially when evidence given is contrasted in the finest detail with what has been said or written by the witness before.

It is appropriate that I should refer to these matters which are well recognised by the law. Today one finds delay itself as a basis for 'abuse of process' applications. On this aspect I refer to the words of McHugh, JJA, who delivered the reasons of the Court of Appeal in *Heron v. McGregor and Ors.* (1986) 6 NSWLR 246 at 254 at seq:

... The public interest requires that complaints be lodged and dealt with as expeditiously as possible: see *Birkett v James* (at 329). A diligent with reasonable ground for complaint, therefore, should pursue it with reasonable persistence. Memorable fact. Relevant evidence becomes lost: see *Reid v State*, King long dealt with. It is the duty of the Commission to make its prejudice which can never be proved affirmatively, be as rarely be shown'. In some cases delay makes it simply impossible for justice to be done: *Birkett v James* (at 317-318, 327). In *R v Lawrence* (1982) AC 510 at 517, Lord Hale said: 'The difficulties in ascertaining the truth about a matter after time has deteriorated its work are vividly portrayed by Street CJ in *The Royal Commission of Enquiry into Certain Immigrant Proceedings Against K E Humphreys* (July 1963). His Honour said (at 9-10):

"In the intervening five or six years, rumours waxed and waned. In some cases suspicion underwent subtle change to belief, which itself progressed to recollection, which in turn escalated to speculation. In particular, the evidence of those who were present at the time of the events in question, and who were likely to have progressed upwards and not to be the product of one of these earlier stages. The sheer frailty of human memory of the necessities required a most anxious and critical appraisal of the evidence of the witnesses, no matter how credit-worthy they might be.

It became apparent that in the years since August 1977 the recollections even of those with undoubted first-hand knowledge have in some instances faded, in some instances fermented, and in some instances expanded. Moreover, in many cases the realisation of the significance - indeed, the enormity - of what had occurred has tended to transmute into a more or less cynical acceptance of what had, or was believed or rumoured to have, taken place."

Because delay creates prejudice and injustice, the policy of the law for over 300 years has been to fix definite time limits for prosecuting civil claims (usually a maximum of six years) and for 150 years to fix definite time limits for prosecuting summary criminal offences.

In this matter many documents have been produced and referred to, including the transcript of the inquest which followed this trial. One cannot expect a witness to be inaccurate or dishonest such a background, but lack of precision is not, standing alone, necessarily a pointer to inaccuracy or dishonesty any more than dramatic precision must lead to a finding of accuracy. It is the function of the Commission to make its findings (including those relating to credibility) on the balance of probabilities and upon the whole of the evidence and I refer to my remarks relevant to the standard of proof referred to in my report following inquiry into the death of Kingsley Dixon.

Chapter 5

MORNING OF EDDIE MURRAY'S DEATH - DRINKING BY THE LEVEE

On the morning of 12 June 1981 Eddie Murray was drinking with his brothers and friends first and began drink and then later at the levee. The evidence of his drinking mates differs as to the time he arrived and began drinking. There is no doubt at all that a large quantity of alcohol was consumed in the morning by Eddie and his friends.

The evidence of his mother, Leila Murray, was that Eddie had a shower in the morning and then helped her hang out the washing (N/1/25, 253c). At 8.30 am Eddie's mother, John, and his cousin, Don, left the house. Eddie remained but at about 9.45 am he walked to the main street (N/1/25, 2533). Leila saw him in town at about 10.00 am talking to some friends (2534-5). He appeared happy and was laughing at this time (2534). Arthur Murray, to the contrary, recalled Eddie left home with him at 8.30 am but I find it is probable that he did stay behind, to join his companions at Dangar Park between 9.45 am and 10.00 am (N/1/26A). By this time a group of about seven had got together in the Park and they jointly consumed a carton of beer and probably a flagon of port which had been purchased at the Mervans early that morning. Shortly after 10.00 am, the initial party of beer having been consumed, additional supplies were purchased in town at Mervans and the party made their way to the levee (John Murray N/1/26A, Chris Winters N/1/28, 2710, Combo N/1/27, West Dep 324f). Accounts differ but the second purchase of alcohol was probably of two cartons of beer (each containing 12 large bottles) and one or two flagons of port. The 'levee' was on the bank of the river a short distance from town. It was a place where Aboriginals frequently drank together to escape police attention.

It was a cold and windy day. A fire was lit. The group of men included Eddie Murray, John Murray, Don Murray, Chris Winters, Stan Winters, Lyaill Combo, Jack West, Alan Nicholls, Tom Winters and Kevin Orcher. Rodney Murray was present at some stage. People came and went. They were talking and laughing and Eddie seemed in good spirits. The men were sharing the bottles of beer, some drinking in pairs (John Murray N/1/26A). Eddie was drinking with Don Murray. Between 12.30 pm and 1.30 pm, the liquor having been consumed, some decided to walk to the Imperial Hotel to purchase more. By this time I find most of the group were pretty drunk. The evidence does not suggest the consumption of food during this period.

The young men walked into town, wobbling or staggered is probably a more accurate description upon their own evidence. Those members of the group who gave evidence were unanimous that all were substantially under the influence of liquor. There were no accounts of Eddie falling over although I find he was probably unsteady in gait and apparently drunk (John Murray 2557, 2715, N/1/26A, Rodney Murray 2715). When they reached town the group split up. John Murray went home when near the Imperial Hotel (N/1/26A, 2545). Rodney Murray went to eat at a cafe (Rodney Murray 2714, 2716) and some of the others drifted off. I can make no precise findings but a few fine groups of five or six were seen outside the Imperial Hotel laughing and talking, where such allegations can be simply dismissed. There is no evidence that Chris Winters, Alan Nicholls, Don Murray and Eddie were standing on the footpath at about this time. An onlooker, Cheryl Gordon, saw Eddie making boxing motions to Alan Nicholls (N/1/29, 2661). (See also Don Murray 2765, Molyneux N/1/88, Dep 133). To observers they had obviously been drinking (Cheryl Gordon N/1/29). They were noisy and attracted attention.

At some time after 1.30 pm Eddie entered the Imperial Hotel, probably to use the toilet (Chris Winters 2634). But he had been 'barred' from the Imperial Hotel and when he entered, the public, Jack Murray (now deceased), told him to leave the premises (Berger N/1/55, 3380). In view of his condition, this was a reasonable request. Molyneux gave evidence at the inquest that Eddie was abusive (Molyneux N/1/88, Dep 133/8). He closed the doors to the main entrance to keep Eddie out (Berger 3387, Collett 4459, Molyneux N/1/88). But Eddie was not to be put out so easily and he tried to force his way back in through the main entrance from Rose Street. The episode is variously described but Eddie vigorously endeavoured to enter and was kept out by Molyneux (an elderly man) with the assistance of two to three other men (Mahaffy N/1/88, Berger N/1/55, 3383, Chris Winters 2646, Bush N/1/36, 2906). Eddie was yelling out during this phase, he was angry with Molyneux for preventing his entry (Home N/1/90, witness (name suppressed) N/1/87, Molyneux N/1/88, Dep 133, Bush 2908).

It was at this time that Molyneux asked the barmaid, Beryl Berger, to call the police, which she did (Berger 3386, N/1/55, Molyneux N/1/88, Dep 133). I find that at that time a telephone call from a hotel was generally sufficient to initiate the apprehension of Aboriginals who were in some way found to be troublesome.

The above bald recitation of events that morning is, when viewed objectively, a sad reflection on a society many of whose young men, so often with no employment and nothing better to do, find their source of entertainment and companionship enhanced by the bottle. It is not a new concept, it is certainly not confined to the Aborigines but by reason of so many social circumstances it is so often to those people that the attention of the police is directed. It is a situation probably repeated daily in many places in Australia. And, as I prefaced, it is ironic that it is the hotels, historically places of relaxation and conviviality, that are so often the venues for racial disharmony. The evidence I have heard indicates that but a few Aboriginals in Wee Waa, at least in 1981, had right of entry to the hotels; to them the concept of a 'public house' was not a reality.

Chapter 6

APPREHENSION OF EDDIE MURRAY BY THE POLICE

I now enter contentious and difficult areas. The submission of Counsel for the parents is that their son was murdered, perhaps deliberately hanged, by the police in whose custody he was at the time. In Kingsley Dixon I made some comments on the situation in law where such issues are raised, of the care with which they must be approached. I will not reiterate. It is to be expected that the death of a person, especially in a lonely cell to which only custodians have access, will bring in its wake not only dismay, but suspicion, anger and cynicism. It is unlikely that findings of Commissions or other tribunals of fact or law will, at least in many cases, dispigate such emotions unless the findings satisfy the suspicions held. There are cases, eg. Charles Miles, where such allegations can be simply dismissed. There is no evidence that Chris Winters, Alan Nicholls, Don Murray and Eddie were standing on the footpath at about this time. An onlooker, Cheryl Gordon, saw Eddie making boxing motions to Alan Nicholls (N/1/29, 2661). (See also Don Murray 2765, Molyneux N/1/88, Dep 133). To observers they had obviously been drinking (Cheryl Gordon N/1/29). They were noisy and attracted attention.

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6.1 APPROACH ADOPTED IN ASSESSING EVIDENCE

Where deaths occur in circumstances such as these, invariably the only witnesses will be police officers. Where there is a history of distrust or hostility between the deceased and police officers generally, as was the case here, it is important that the events be critically scrutinised.

It was apparent that the approach adopted by members of Eddie's family and by many of his friends was to assume that Eddie had been mistreated or even murdered by police officers. That approach, which is perhaps understandable given the history of Aboriginal and police relations over many years, is not one which I should adopt.

Whilst the circumstances of the death required that the evidence of police witnesses be closely scrutinised without assumptions, I have endeavoured, wherever possible, to look to evidence from individuals and records which sheds light independently on the events now spoken about by police witnesses.

As will appear, I do not accept all the evidence of police witnesses, Moseley, Page and Parker, and the fact that I have reservations about their evidence on some issues necessitated care in assessing their evidence on the primary question of whether the police had a hand in Eddie's death.

In the end result I am satisfied that Eddie himself constructed the noose and, (whether intending the result or not, I cannot say), placed his head in it. I do not believe that he was murdered. In coming to that conclusion I have not had to rely on the words of the police witnesses. Indeed, I am not able to say whether or not Eddie was physically or verbally harassed by any officer thus precipitating his decision to construct the noose.

My confidence about the conclusions which I have reached is based not on the evidence of police officers but on the objective medical and pathological evidence, the accounts of witnesses whose independence and integrity I respect me and on an assessment of the probabilities relating to the sequence of events when viewed in their totality.

6.2 IDENTITY OF THE APPREHENDING POLICE OFFICERS

Before examining further specific issues I should say something of my impressions and assessments of the four police officers who were on duty at the Wee Waa Police Station this day. There is no dispute that Sgt Moseley, Sgt Page, Senior Constable Parker and Constable Fitzgerald were rostered and reported for duty at some time on 12 June 1981. There are some disputes as to which officers worked which shift and as to times of commencement. I will look at that issue a little later.

In 1981 Moseley (now retired) was the most senior officer in the station. When giving evidence to the Royal Commission he presented as a man with a very serious nervous condition for which he was receiving medical treatment. His memory as to aspects of the events of 12 June 1981 was very poor. There were many matters of which he gave evidence at the Coroner's inquest but which he no longer had memory when giving evidence to the Royal Commission. All police officers were subject to the most exhaustive cross-examination - in some cases on two occasions - by Counsel Assisting and by Counsel for the parents. At times I considered the demands, or perhaps I should say the expectations, of Counsel for exactitude, despite the introduction of earlier statements and positions, overlooked the passage of time between the date of death and the inquiry and the inevitable effects of that delay upon human memory upon which I have spoken. This applied to all witnesses. It was dear to me that processes of reconstruction as opposed to memory were at work.

Moseley appeared to be a 'shattered' man but his lack of memory and apparent level of fear worried me. He adhered closely to his statement and did not give much detail beyond that. In fairness to this witness I observe that the medical reports to which I had access, if used as a basis of a submission that he should not be required to give viva voce evidence, would probably have resulted in an order excusing his attendance, at least in a public inquiry. But he did not seek such an order, he wished it over and done with. His statement dated 13.6.81 (N/1/34) in parts bore a very close similarity to the entry in the Occurrence Pad (N/1/65) and the statement of Page (N/1/42). I do not believe that this was coincidental and I was concerned about the accuracy of his evidence in some respects.

Page had only recently arrived at Wee Waa Police Station and he was the second most senior officer in 1981. He was calm and collected when giving his evidence. He was direct, he showed no apparent embarrassment, and initially impressed me as a fairly reliable witness. However, I have become concerned over some aspects of his evidence. His statement dated 30 June 1981 again bore a similarity to Moseley's testimony and the Occurrence Pad entry.

Page depended heavily in a number of matters, whereas the evidence has led me to the opposite conclusion, eg, typing of Occurrence Book, attendance at the post mortem. His denials cause me concern and, making allowance for the passing of time, I have doubts as to his reliability. I found his apparent detachment from the events of the day unusual.

The evidence of Parker also concerned me. He was apparently unembarrassed and presented as an intelligent witness. Clearly, whilst his evidence on a number of matters was reliable, although in conflict with other witnesses, his testimony on some other issues led me to doubt his accuracy or frankness (eg, time of preparation of his statement, noises from the cell, conversations with Eddie, his whereabouts after Eddie's body was taken to the mortuary). I am particularly concerned as to what took place when Eddie was placed in the cell.

Fitzgerald was the most junior officer on duty that day. He also appeared to be detached from the events that occurred and had no involvement in significant events that occurred before and after Eddie's death. His lack of interest in what had occurred and lack of knowledge on some issues did not strike me as sincere. Nevertheless, despite the vigorous attack mounted against him, I am confident his involvement in events on 12 June 1981 was minimal.

Eddie Murray was detained by two police officers at about 2.00 pm on 12 June 1981 outside the Imperial Hotel. There is an issue as to the identity of those police officers. There is evidence that Sgt Moseley and Senior Constable Parker were the apprehending officers; there is also evidence that Constable Fitzgerald was one of the apprehending officers, the situation pressed by Mr Coorey, Counsel for the family.

Moseley and Parker gave evidence that they were the officers who detained Eddie. Their evidence was to

the effect that at 1.45 pm Moseley received a call at the Wae Waa Police Station from a woman informing him that Eddie Murray was drunk and causing trouble at the Imperial Hotel (Moseley N1/34, N1/3 0.57, 2811-2, 2839, Parker N1/48). At 1.50 pm they left the police station to detain Eddie Murray (Moseley 2839). They locked the police station before leaving as they were the only two officers on duty at that time (Parker 3184). They were both rostered on the morning shift. They left the police station unmanned (Moseley 2889, Parker 3184, 3189). They travelled in the police van, a Toyota Landcruiser, to the Imperial Hotel, Parker as driver and Moseley the passenger (Moseley N1/34, Dep 221,230, Parker 3192, 3270, Dep 179, 208).

The Occurrence Pad entry dated 12.6.81 (at 4.20 pm) which was signed by Moseley records Moseley and Parker as being the two officers who attended the Imperial Hotel and detained Eddie Murray (N1/17).

Mr Joseph John McKnight who was working as a cleaner at the police station recalls that Moseley and Parker left the police station at about 2.00 pm. He remained in the police station although he agreed (N1/99). He stated it was Parker, not Moseley, who had received the telephone complaint although he agreed he could have been mistaken about this (N1/99, 99, 11, 59358). McKnight impressed me as an honest witness who certainly wished to tell the truth as he recalled it.

Several witnesses at the scene of the detention identified Moseley and Parker as the apprehending officers. Mr Samuels who was standing outside his room in the corner of the lane and George Street positively identified Moseley and Parker, Moseley as the passenger and Parker as the driver of the vehicle (N1/136, 2908, Dep 288), as did Mr Terence Mahaffy who was standing in the foyer of the Imperial Hotel (N1/98, 4480, 4489). Mr John Frederick Horne, the butcher, who was in his shop roughly opposite the hotel saw Moseley alight from the passenger's side of the vehicle but could not identify the other officer (N1/90, 4358). Mr Moynoux, now deceased, witnessed the detention but did not identify the apprehending officers in his statement tendered to the Commission. There was a record that at a later date Mr Moynoux had been asked about the identity of the arresting officers and he told Detective Middleton, one of the officers investigating Eddie's death, that Fitzgerald had not attended at the hotel on 12 June 1981 (N1/89, 4331-32).

As mentioned previously, it has been vigorously contended that Fitzgerald was one of the apprehending officers. Fitzgerald gave evidence to the Commission that he was not rostered on duty until 3.00 pm on 12 June 1981 and that the arrested person at the police station at about 3.10 pm that day attacked his wife, Deborah, who was not well, to her parents' home. He said that he had nothing to do with Eddie Murray's apprehension (N1/79, 3971, 4017, 3972, Dep 196, 202). His wife, Deborah Fitzgerald, gave evidence that her husband had spent the morning at home with her and that he later took her to her parents' house before he went on duty (N1/81, 4073). She said he left her parents' house between 3.00 pm and 3.05 pm (4074, 4097). Mr John Humphries also told the Commission that his son-in-law, Constable Fitzgerald, had brought his daughter, Debbie, to his home before Fitzgerald went on duty and that he later left the house at 3.10 pm (N1/83, 4123-4129, Dep 304-308). Yvonne Kelly told the Commission that at about 11.00 am on 12 June 1981 she had visited Fitzgerald's home and both he and his wife were there (N1/73, 3866). Both Parker and Moseley swore that Fitzgerald was not involved in Eddie Murray's detention at the hotel (Parker 3211).

On the other hand, a number of witnesses identified Fitzgerald as one of the apprehending officers. A female witness whose name was suppressed (referred to hereinafter as the 'unnamed female witness') told me that Fitzgerald and Parker were the officers who arrested Eddie Murray (N1/67, 3733). Her evidence was in conflict with the evidence of other witnesses in a number of aspects. Eddie's position on the footpath prior to the arrest, his behaviour prior to the arrest, the clothing he was wearing, the position of the police van, the clothing of his police officer, the route taken by the police vehicle after the arrest and the noise made by Eddie during his detention and after he was placed in the police van. This witness had undergone serious medical problems. She was obviously distressed when giving evidence to the Royal Commission. There is no doubt she told the truth as she recalled it. She had no motive to lie, but I have concluded she was mistaken on this issue and a number of others.

Cheryl Gordon identified Fitzgerald and Moseley as the apprehending officers (2665). She was standing 40-50 yards away from the Imperial Hotel and did not see the faces of the apprehending officers - she identified them by their body shape, size and movements (2666, 2686). Loyal Combo, Christopher Winters and Don Murray also identified Fitzgerald as the apprehending officers. They were unable to identify the other officer. These three men had been drinking with Eddie during the morning. They all admitted to having consumed much alcohol. Combo and Winters were standing in front of the Post Office across the wad from the hotel when they witnessed Eddie's detention. They moved off before the police van left. Later that day, after hearing the news of Eddie's death, Combo was arrested by Constable Fitzgerald and another policeman for breaking windows. Chris Winters was with Combo when this happened. This may have influenced their recollection of events earlier in the afternoon.

Don Murray appears to have been confused about the events that day and there is some uncertainty as to whether he actually witnessed Eddie's detention or was subsequently told about it.

Having reviewed the evidence as in the identify of the officers who detained Eddie Murray outside the Imperial Hotel on 12 June 1981 I find that Eddie Murray was detained by Sgt Moseley and Senior Constable Parker and that Constable Fitzgerald played no part in his apprehension or the events leading to his death. As mentioned later when Fitzgerald gave evidence at the inquest, he swore he could not have apprehended Eddie as he collected his wife from the hospital that day. It was proved at the inquest that this was incorrect. The Coroner found his evidence was unreliable. Fitzgerald told me this was a mistake on his part, not deliberate design. The episode contributes to the overall suspicion and distaste that Moseley has for the evidence. I have considered these matters carefully. I should mention that I was impressed by the evidence of his wife and father-in-law, Mr Humphries.

6.3 EDDIE MURRAY'S CONDITION WHEN APPREHENDED BY THE POLICE

Eddie was detained as an intoxicated person under the Intoxicated Persons Act. He had consumed much alcohol on the morning of his death. A blood sample taken at autopsy was later analysed and the content of alcohol in the specimen was 0.3 per 100 millilitres of blood (Reece N1/78) - an extremely high range. This is not disputed.

An important issue to be determined is how seriously Eddie was apparently affected by alcohol when apprehended by the police and later in the police cell. Findings as to its effect on his physical functions and abilities are both difficult and important but they cannot be made in precise terms due to the variable tolerances of individuals.

A number of people observed Eddie and his behaviour prior to and at the time of his detention. Beryl Berger who was working as a barmaid at the Imperial Hotel (and who probably called the police by telephone) said that Eddie was very drunk. She saw him when he entered the hotel and during the scuffle with Mr Moynoux. Eddie seemed 'hardly stand yet' he was very strong and that his eyes were wide and staring. She said that Eddie said 'different' that day (N1/55, 3386, 3388).

Moynoux, the publican, is reported to have stated that he saw Eddie sparring with 'another dark boy' on the footpath outside the steps to the hotel. He said that at one stage both the boys fell over together. Moynoux asked Mrs Berger to call the police when Eddie became abusive (N1/88). His statement does not leave one with impressions of great violence:

'I went into the foyer of the hotel and I saw Eddy and another dark boy sparring just in front of the steps on the footpath. I said to them "Are you fighting". Eddy said, "No we are not fighting". Both of them then fell over together. After he fell over Eddy turned towards me and I said to him "Why are you fighting you won't let anybody come in". Eddy said, "We have got more right to be here than you" and then started to abuse everybody that came out. He became very abusive (4371). He did not see anything to indicate that Eddie had been drinking at the phone call. Eddy then became aggressive towards me and waved his hand towards me and I thought he might hit me. I spoke to him and talked him into leaving the hotel.'

Mr Mahaffy, who was doing renovations at the Imperial Hotel, saw Eddie arguing with Moynoux. He saw Eddie rushing at Moynoux who held up a walking stick as a type of barrier. He witnessed no violence. He told me Eddie 'didn't appear to be staggering' (4512). Mr McCarthy saw Eddie inside the Imperial Hotel and that Eddie looked drunk. He said that Eddie was yelling a lot (N1/102, 5974). Mr Bush's attention was drawn to the scene outside the Imperial Hotel because he heard and saw a person yelling in a loud voice almost continually until the police arrived. Bush saw the person walk over to the police when he was apprehended and the person was not staggering (N1/336, 2906, 2909). Mr Horne, the butcher, also had his attention drawn to the scene because of the yelling. He saw Eddie walk to the back of the police van and did not notice anything unusual about the man (4371). He did not see anything to indicate that Eddie had been drinking (4371). He said that when Sgt Moseley alighted from the vehicle Eddie walked over there quietly ... he quietened right down and walked over.'

The witness, Mr Noel Collett, who also witnessed Eddie's apprehension by the police, saw nothing that suggested to him that Eddie was drunk (4456).

The unnamed female witness who told me she saw Eddie outside the Imperial Hotel described Eddie's behaviour in different terms as lunatic-like and that he was rampaging. She said Eddie was 'that drunk he couldn't scratch himself' (3732) and that he was 'paralytic drunk' (3732). Her evidence as previously mentioned is inaccurate in a number of aspects and I do not find that Eddie's behaviour was as extreme as she described.

Cheryl Gordon saw Eddie sparring with other Aboriginal men on the footpath outside the hotel. She said that they looked as though they had been drinking but they were not staggering or falling over drunk (2862). She said that Eddie moved freely on his feet (2684). Several of the men with whom Eddie had been drinking made observations about Eddie's condition after they had finished drinking at the levee and came into town to the Imperial Hotel. John Murray said that Eddie had drunk as much as the others and may have been staggering as they walked into town (2577). Rodney Murray said that as the group came into town, Eddie was 'fully drunk and stumbling a bit' (2715). Don Murray said Eddie was at the same level of intoxication as himself when the group split up - that was 'half drunk' (2747). Stan Winters and Kevin Orcher both said that Eddie was pretty drunk (3056, 3052-3).

The police officers who apprehended Eddie made but brief observations of him. He was detained under the Intoxicated Persons Act (N1/89) which relates to the care and detention of intoxicated persons. Under the Act 'intoxicated' is defined as 'seriously affected, apparently by alcoholic liquor'. Eddie was detained as an intoxicated person. Sgt Moseley said that Eddie entered the rear of the vehicle himself (N1/34, 2814). He said that Eddie was not falling over drunk (2816).

Parker said that as they pulled up and he first observed Eddie he was yelling out in a loud voice to someone back inside the hotel (N1/48, 3191-92). At that stage Eddie appeared steady on his feet (3192). After they alighted from the police van and were standing at the rear of the vehicle he saw Eddie stagger and weave across the footpath (3192). Eddie was detained as an intoxicated person by reason of the telephoned complaint and his observations of Eddie staggering on the footpath (3194-95). When Eddie approached him and was closer, Parker detected a strong smell of intoxicating liquor on his breath (3195).

I find that Eddie became annoyed when Moynoux remonstrated with him. He made more than one attempt to enter the hotel and was physically prevented from so doing. He was noisy to the extent that he attracted attention in the general vicinity, but he did not attack Moynoux as an individual. He sought repeatedly and vocally to establish his right to gain entry - it did not go further. I conclude he was very drunk when the police arrived and obviously so, but he retained some control of his gait and appears to have been aware and resentful of the situation. His angry and abusive words were still intelligible despite his level of intoxication.

6.4 MANNER IN WHICH EDDIE MURRAY WAS PLACED IN THE POLICE VAN

Police officers, Sgt Moseley and Senior Constable Parker arrived at the Imperial Hotel shortly before 2.00 pm. Parker was driving the police van and Moseley was in the passenger seat.

The weight of evidence, which I accept, is that the police van pulled up in Rose Street on the same side of the street as the Imperial Hotel. It was parked parallel to the kerb and some distance from the kerb as there were some cars angle parked in front of the hotel. The position of the van was almost opposite the main entrance to the hotel and it was facing west (see evidence of Loyal Combo, Christopher Winters, Cheryl Gordon, Sgt Moseley, Senior Constable Parker, Samuel Bush, Jack Horne and Terence Mahaffy). Only two witnesses gave contrary evidence. The unnamed female witness and Noel Collett gave evidence that the police van was parked head on, backed into the gutter (3733, 3750, 3792, Collett 4450, 4453). Mr Horne did say that the vehicle may have been at a slight angle (4346). The unnamed female witness believed that the police van was parked much nearer the corner of George Street and Rose Street (3742, 3743). I find she and Collett were very much mistaken as to the situation of the police van at that time.

I find that by the time the police van pulled up the other Aboriginal men who had been standing with Eddie on the footpath had moved off. Eddie was then standing alone on the footpath outside the main entrance to the hotel. He was stirring yelling out and gesticulating (see evidence of Horne, Bush and Nolan).

There is some conflict of evidence as to the manner in which Eddie was placed in the police van. It was submitted by Counsel for the Murray family that I should find Eddie was thrown into the back of the police van by the apprehending officers. This version was supported by the evidence of Collett who said the police entered the back door of the wagon, grabbed Eddie and tossed him into the wagon head first (N1/85, 4450, 4454). He is the only witness who described Eddie's detention in this way and he is mistaken as to the position of the police vehicle. Chris Winters said there was a little bit of a struggle and then Eddie went into the back of the van (2637, 2642-43, 2647). Several other witnesses said one or both of the apprehending officers held Eddie by the arm as they brought him to the van and placed him inside (West, Chris Winters and Don Murray). Others said Eddie's actual apprehension was uncomplicated and uneventful. It was quiet and without struggle, in fact to the surprise of the witnesses, Senior Constable Parker (3200) and Mr Bush (Dep 296). The officers told me no physical assistance was used by the apprehending officers. Their evidence is the effect that the police van stopped, Sgt Moseley alighted first and went to the rear of the vehicle. Senior Constable Parker also went to the rear of the vehicle and Sgt Moseley, approaching Eddie on the footpath and in the back of the van, to the effect, 'Come on Eddie'. The latter then walked from the footpath to the rear of the vehicle on his own. A number of witnesses said there was no struggle, no yelling and that Eddie quietly went over to the rear of the police van and entered unassisted (Moseley 2816, Dep 232, Parker 3192, 3200, Dep 179, Bush N1/36, 2910, Dep 296, 300, 301, Mahaffy 4489).

The picture paint is in contrast to the young man who seconds earlier was standing on the footpath yelling abuse and gesticulating. However, I find that the apprehension was not accompanied by violence or indeed by a spirited struggle. I am confident Eddie was not thrown into the van and it is probable that the arrival of the police had an immediate effect upon Eddie whose behaviour became more subdued. Although Eddie was very drunk he comprehended the arrival of the police and this moderated his behaviour. He was probably held as he entered the van. The doors were then closed, the police entered and the vehicle was driven in a westerly direction down the main street.

Chapter 7

ARRIVAL AT THE POLICE STATION

I find Sgt Moseley and Senior Constable Parker returned immediately to the police station after the apprehension and arrived at or soon after 2.00 pm (Parker 3189, 2308, 3189). Moseley said that the police van was parked in the garage at the rear of the station (2817), however, Parker said that the police van was parked out on the road adjacent to the garage (3201). On the balance of probabilities I find that the police van was parked on the road in the position described by Parker. Mr McKnight, who had seen the police officers depart, stated that five to ten minutes later he heard the rear door to the police station open (N1/99, 4538-40). He heard Parker's voice and that of a stranger who he correctly assumed to be a prisoner (4534, 4539, 4540-2, 5921-2, 5925, 5934).

On arrival at the police station Eddie, accompanied by the officers, was taken from the garage area through the rear doors and along the passageway to the 'dock' area inside the police station. Both Moseley and Parker say that Parker opened the van door and Eddie alighted (Moseley Dep 234, Parker 3201). There is evidence that Eddie slipped in the garage and was assisted by Parker. At the Coronial inquiry Moseley said that Eddie slipped in water in the gutter and Parker grabbed him (Dep 234). When giving evidence to the Royal Commission, Sgt Moseley said that Eddie had stumbled in the gutter and that he recalled Eddie had fallen (2817). Parker gave evidence at the Coronial inquiry that Eddie slipped on the wet concrete and went down on his hands and knees whereupon he assisted him to his feet (Dep 184). He told the Royal Commission that Eddie went down to his knees (3202). Moseley at the Coronial inquiry, and Parker in his evidence to the Royal Commission, say that Eddie then walked unaided into the station (Moseley Dep 234, Parker 3202). Parker said that Eddie was walking slowly and weaving slightly (3202). However, the Occurrence Pad entry in relation to Eddie Murray recorded at 4.20 pm on 12.6.81 states (N1/17):

'On alighting from the rear of the Police truck, he slipped on the wet pavement, falling to the ground and had to be assisted into the Charge Room.'

The difference in this evidence is of importance as the latter evidence of Parker and Moseley presents an image of Eddie's condition in which he was apparently less affected by alcohol and more in control of his actions.

Mr McKnight, the cleaner at the police station, told the Royal Commission that he did not see, hear or smell the concrete area in the garage until after 2.30 pm that day and prior to that it was dry (4544, 4547, 5907, 5952). Eddie was then placed in the 'dock' and Moseley and Parker filled out the requisite forms under the Intoxicated Persons Act 2 (Moseley 2818, Parker 3206).

The only conversation that Parker initially recalled was when he asked Eddie for his middle name and date of birth and he said Eddie gave those details to him (3203, 3205, 3612-13). Mr McKnight, on the other hand, was upstairs and he told me he heard a conversation between Parker and a person he assumed to be the prisoner. He heard the prisoner shouting 'Why do you always pick on me? Why don't you pick on white people?' He heard him say something about 'I will have you'. He also heard a very loud voice say 'Sit down and shut up or I'll charge you with something very serious. I am only charging you with drunkenness'. McKnight then heard him say to another person 'I've told him to sit down and shut up or I'll charge him with something else.' (N1/99, 4593, 5933). McKnight said both Parker and the prisoner sounded angry (4543). Parker said he did not recall any of this conversation, however, he conceded that he may have said something similar (3611-13, 6553). Parker denied that Eddie had been yelling or screaming at him (6552, 6553). At the Coronial inquiry Moseley said that Eddie gave his particulars and his speech was slurred (Dep 185) but when giving evidence to the Royal Commission he could not recall any conversation with Eddie and could not in fact recall Eddie speaking (6433). I find that the exchange between Parker and Eddie as overheard by McKnight took place and that Eddie was shouting at Parker. I doubt whether Parker would have forgotten this exchange.

Moseley and Parker both said that Eddie was searched by Parker and was taken to no. 1 cell at about 2.10-2.15 pm (Moseley Dep 235, Parker Dep 183, 213). According to Moseley's evidence at the Coronial inquiry and Parker's recollection, Eddie was accompanied by both officers and walked to the cell unmanned (Moseley Dep 235). At the Commission hearing Moseley could not recall who placed Eddie in the cell or at what time (2819-20). In giving evidence to the Commission, Parker could not recall any conversation taking place between Eddie and the police officers when Eddie was placed in the cell (3206). Both officers gave evidence that they then returned to the office area. At some stage Moseley went upstairs (2820, Dep 235). Parker told me they both returned to the front office area, he re-opened the station doors, and Moseley went upstairs (3208, 3291, 3209).

I am concerned that I have not been given an accurate account as to what took place when Eddie was placed in and locked in the cell. I doubt whether it was as quiet an episode as the evidence of the officers depicts.

I am satisfied that words were exchanged between Parker and Eddie and, whilst Parker conceded the possibility, I think he was well aware that such an exchange in fact took place.

Why then was Parker holding back on this information? Had there been medical evidence consistent with Eddie's death having been caused by a third party, Parker's evasiveness would assume significance and hinder overtly. But whatever was said between he and Eddie, it is quite clear that Eddie was not forcibly bashed by a third party.

It is possible that Parker did so and that something which precipitated a decision by Eddie to stage a suicide attempt. If that was so, his reluctance to acknowledge any hostility between them could explain Parker's evasiveness. I find it unlikely that Eddie was sick or bowed although the only possible injury (a mark to the forehead) would neither have caused unconsciousness or death.

It does not follow that because a witness is wrong, evasive or even dishonest on one aspect, that the experience of the law. Be that as it may, at the same time Page opened the cell door (Moseley N1/34, Dep 235). The evidence is discredited at all aspects. That is the case here. In giving evidence, independent of the police witnesses, supports the denial of police officers that Eddie's death was physically caused by them.

Chapter 8

POLICE OFFICERS ON DUTY

I have found that Moseley and Parker were the officers on duty when Eddie was apprehended and that Fitzgerald was not present when they left the police station to apprehend him. Because of the serious allegations of Fitzgerald's involvement in Eddie's death, of a conspiracy to conceal this and the contention that Parker was not on duty in the morning, the movements of the police personnel need to be examined in more detail.

As I have said, there is no dispute that four police officers were rostered on duty on 12 June 1981, Sgt Moseley, Sgt Page, Senior Constable Parker and Constable Fitzgerald. There were two shifts at the Wae Waa Police Station in June 1981, the morning shift and the afternoon shift. The morning shift commenced at 8.00 am and finished at 4.30 pm and the afternoon shift commenced at 3.00 pm and finished at 11.30 pm. There was thus an overlap between 3.00 pm and 4.30 pm.

8.1 OFFICERS ON THE MORNING SHIFT

Sgt Moseley and Senior Constable Parker gave evidence that they were on the morning shift. The Duty Roster and the Record of Reporting supports that they came on duty at 8.00 am (N1/43). Mr McKnight confirmed that he saw only Moseley and Parker as duty officers that morning (4536). I have found that Parker and Moseley were the apprehending officers. It has been submitted that Parker was not on duty that morning, but the only evidence vaguely supporting the submission is the evidence of Dianne Parker, who previously the de facto wife of Senior Constable Parker. She gave evidence that she thought he was on the afternoon shift (N1/72, 3856). She also worked at the time and said she kept a record of the shifts worked by each of them in her diary for domestic purposes. This diary was not produced. Mrs Parker believed it to have been taken by Parker (N1/72, 3845-6, 3849, 3850-51, 3853). She recalled a conversation with Parker on the evening of Eddie's death when Parker said to her 'When I get home, Moseley was running around like a chook with his head cut off' (N1/72, 3841, 3848, 3852, 3855), but she was not confident that Parker was on duty on the afternoon shift (3856).

The evidence of Mr Cronin, a civilian witness whose evidence I accept, is important in relation to this issue. He attended at the police station at about 2.35 pm having previously attended at about 2.00 pm only to find the station doors locked and the station apparently unmanned (3011-12, 3028-9). On his return at 2.35 pm Cronin was attended by Parker in relation to his motor vehicle registration (N1/39, 3013, 3029). He also saw Moynoux around the station at this time but did not recall the presence of other officers at this stage (N1/39, 3014).

The vehicle registration receipt book (N1/121) satisfies me that Parker had transacted business earlier that day and prior to Cronin's attendance. (See also statement of Detective Sgt Champion N1/134 'D').

After consideration of the evidence, including the testimony of Parker and Moseley, the Duty Roster and Record of Reporting, the registration receipt book, the evidence of McKnight and Cronin, I find with this confidence that Moseley and Parker were on duty on the morning shift of 12 June 1981.

8.2 OFFICERS ON THE AFTERNOON SHIFT

Sgt Page and Constable Fitzgerald gave evidence they were rostered on the afternoon shift to commence duty at 3.00 pm on 12 June 1981. The Duty Roster and the Record of Reporting are consistent with their evidence and I find that Sgt Page and Constable Fitzgerald were rostered for duty on the afternoon shift and thus due to commence work at 3.00 pm on 12 June 1981.

Chapter 9

ALLEGED NOISES FROM THE CELL BETWEEN 2.00 PM AND 3.00 PM

Sgt Moseley and Senior Constable Parker state that between 2.00 pm and 3.00 pm they heard noises coming from the cell in which Eddie had been placed. Each said they individually attended him at the cell. At 2.15 pm Moseley went to investigate 'yelling noises' and at 2.30 pm Parker went to investigate a 'banging' noise. On the other hand, two civilian witnesses, Mr McKnight and Mr Cronin, who were in the police station complex at relevant times did not hear noises of the nature described.

At the Coronial inquiry Moseley said he was in the office downstairs at the time he heard yelling (about 2.15 pm) (Dep 235). At the Commission's inquiry he gave evidence that he was upstairs in his office when he heard the noise (2820). Moseley said he then went to the cell and asked Eddie what was the matter and he replied 'Nothing'. Moseley then said 'lie down and go to sleep', or words to that effect (2830, 2881, Dep 236). Eddie ceased yelling and he returned to his office (2824). Parker gave evidence that he also heard yelling at about 2.15 pm shortly after Eddie had been placed in the cell. He told me that after five to eight minutes of yelling Moseley came downstairs and viewed Eddie in the cell (N1/48, 3200-01, 3263). Parker could not recall what he himself was doing at the time and did not know why he did not go and see the prisoner himself. He said the yelling ceased for a little while (3210).

Moseley did not hear any further noise. Parker told me that the yelling only stopped briefly and the noise commenced again very soon after Moseley had returned upstairs (3210). First he heard yelling and then there was a banging or thumping noise (3210-11). It sounded to him as though the prisoner was kicking the door (3265). This went on for about eight to ten minutes (3643). Parker said that at about 2.30 pm he went to the cell and spoke to Eddie about the continual banging (N1/48, 3211, 3265). He looked into the cell through the open flap and saw Eddie walking about the cell; when adjacent to the cell door he lunged out and kicked the door with his feet (N1/48, 3211-12). Parker said he asked what was wrong and Eddie replied 'Nothing'. Parker then said to him 'Well look, just try to settle down and have a bit of sleep' (3211). Parker said he may have made noise on the doorkeeper's sick child (3211-12). Parker said that at 2.30 pm the banging and yelling noises ceased and he himself was not annoyed (3211). He then returned to the counter area in the office. He estimated his attendance at the cell door occupied two to three minutes (3212). But after he returned to the office the banging noise was heard again. He did not attend to the noise because a civilian (Mr Cronin) was waiting at the counter (3212). Parker said it was then approximately 2.30 pm. At the Coronial inquiry Parker said the civilian arrived two to three minutes after he had returned from the cell (Dep 214). Before the Commission Parker stated the banging continued whilst the civilian was there and the noise was quite audible (3212, 3213). Cronin, as I said, attended at the police station in relation to a motor vehicle registration. Parker said he commenced reading the instructions about registration between 2.25 pm and 2.31 pm (3643). He spent about half an hour carrying out the registration transaction and was in the main office area from 2.30 pm to 3.00 pm (3213, 3642).

McKnight (who was upstairs cleaning at the time when Eddie was placed in the cells and was allegedly yelling out and kicking the cell door thereafter) did not hear the noise described although he stated he had earlier heard a prisoner and Parker speaking in loud angry voices. He was vacuuming upstairs for a period of ten to ten minutes but told me he believed he would have heard any banging or yelling noises (4546, 5937-38). He said he came downstairs from the office at about 2.30 pm and went outside to the garage area to hose it down (4540, 4545, 5946-47, 5954). It is possible he was in this outside area at the time when Parker claims to have attended Eddie in the cells in relation to the yelling and banging. This garage area is quite close to the cell in which Eddie was placed. I find it probable that McKnight would have heard the yelling at 2.15 pm and the yelling and banging noises at 2.30 pm from either of the locations he was in, in fact from the upstairs office and downstairs in the garage area, if that occurred. In making this finding I am influenced in my assessment by the demonstration conducted from the cell in question on the occasion of the inquiry. The Commission's visit to Wee Waa. This was not a scientifically oriented test but the noises then emanating from the cell were clearly to be heard throughout the police station complex.

Cronin, who was attended at the counter by Parker, said he went back to the police station between 2.30 pm and 2.45 pm (N1/39, 3012), probably only a few minutes after 2.30 pm (3029). When he arrived both Parker and Moseley were in the area behind the counter (N1/39, 3012). Parker attended to his requirements and this took about 30 minutes (3030). Parker was with him the whole time (3029). In his statement (N1/39) Cronin made no mention of noises coming from the cell as described by Parker. When giving evidence to the Royal Commission he was not questioned about it. In a statement tendered at a later date Cronin stated that he heard neither the sound of kicking on a steel door, nor yelling, whilst he was at the station (N1/134). Parker said that the noises continued whilst Cronin was there (3213). He and Cronin may have heard the banging and yelling noises at the time that they occurred whilst he was at the police station, but again, it is possible that the noises ceased prior to his arrival. Again I am influenced by the demonstration referred to above. I find it probable that the yelling and banging noises would have been heard by McKnight, and by Cronin (assuming his presence), if they had occurred and I am not satisfied on the probabilities that Eddie yelled and kicked the cell door as depicted by the officer.

Why then should Moseley and Parker have fabricated this story about the noises? Counsel Assisting suggested the evidence of Eddie making noises from the cell would demonstrate that Eddie was both conscious and active after being placed in the cell. Presumably what follows from this is that Eddie's condition was such that he was likely to be capable of the physical acts involved in hanging himself. An alternative is that Parker and Moseley wished to demonstrate that they kept proper surveillance over Eddie after placing him in the cell.

Another possible explanation is that Parker and Moseley knew that Parker had been physically or verbally abused by one or both of them and rather than highlight that possibility they attempted to convey by their evidence that Eddie was active and was not demonstrably suicidal.

A further suggestion posed during the hearings was that Eddie may have been killed either at the time of his placement in the cell or thereafter and that to disguise that fact officers asserted that he had been very much alive up until shortly before 3.00 pm. For reasons which I later explain, this theory suffers from the absence of such a cause of death. No injury which was observed would have killed Eddie save for the hanging. If he had been hanged by the police then there would be injuries consistent with a struggle. If he was unconscious, perhaps due to a blow, why would police hang him when there would have been no less difficulty in asserting that any blow struck was done inadvertently or in self defence?

This theory runs directly counter to the theory finally advanced by Mr Coorey on behalf of the Murray family. It was his submission that Eddie was not hanged in the cell at all but that a hanging was simulated at the hospital mortuary. The cause of death was not suggested and none is obvious apart from an improbable assertion of vaso-vagal inhibition due to pressure on the neck (which is left no mark of fingers).

Chapter 10

POLICE OFFICERS ON DUTY AT 3.00 PM

Moseley and Parker were still on duty at 3.00 pm being rostered until 4.30 pm. Page and Fitzgerald were due to commence duty at 3.00 pm. The issue of who was actually in the police station precinct at 3.00 pm is important because it was at this time Eddie was found hanging in the cell.

Moseley, Parker and Page all gave evidence that they were in the police station at 3.00 pm. Page said he arrived at the police station at 2.58-2.59 pm (N1/42, 3094). His time of arrival is not in dispute and is supported by the evidence of Parker, Moseley and Cronin. Page said that when he arrived Moseley, Parker and Fitzgerald were all present (3081). He is the only witness who said that Fitzgerald was in the station at 3.00 pm and he was firm on this. Fitzgerald on the other hand denies that he was in the station, having arrived at work at approximately 3.10 pm (3972, 4027). Moseley said that Fitzgerald was definitely late that day (2842). Parker said that Fitzgerald arrived to commence duty at 3.05 pm or 3.10 pm (3214). The civilian witness, Cronin, also recalled Fitzgerald's later arrival (apparently after Eddie's body had been found and when Dr Ratle was leaving) (3011, 3018, 3031).

As mentioned earlier, Fitzgerald's evidence of his late arrival for work gained material support from the evidence of his wife, Debbie Fitzgerald, and his father-in-law, both of whom I regard as truthful witnesses. They both recall Fitzgerald leaving late for work after leaving his wife at her parents' home. Mrs Humphries corroborated that her daughter, Debbie, was unwell that day and she had in fact made a bed for her when she returned home from work at luncheon time that day (4175). I see no reason not to accept the veracity of her evidence.

I reiterate that at the Coronial inquiry, Fitzgerald said that he had picked his wife up from hospital on the day of Eddie's death and he was then pretty adamant on this issue. On the hospital records, later introduced, revealed he had taken her from the hospital the previous day, i.e., on 11 June 1981. At the inquest this evidence cast doubt on his entire testimony and the Coroner found he was an untruthful witness. However, he told me that he was in error at the Coronial inquiry.

Counsel for the family submitted I should find Fitzgerald was at the police station at 3.00 pm and earlier and it is his submission that Fitzgerald was in some way involved in Eddie's death. I find to the contrary as the evidence of his wife and father-in-law. There was no dispute that Moseley and Parker were on duty at the police station at 3.00 pm. I find that Page was mistaken as to the time of Fitzgerald's arrival, that the latter was in fact late for duty that day and arrived at the police station at approximately 3.10 to 3.15 pm.

Chapter 11

THE DISCOVERY OF BODY IN THE CELL

At 3.00 pm when Page commenced duty he spoke briefly to Moseley. Page recalls the following conversation (3062):

Page: 'Who is locked up?'
Moseley: 'There's only one fellow in.'
Page: 'Well go and have a look.'

This was consistent with the common practice of a senior officer checking the cells prior to assumption of control from the duty officer he relieved. Moseley was not due for relief for some time but I draw no adverse inference by reason of the early cell check.

Page said that he and Moseley then went to the cell (N1/42). Moseley's statement (N1/34) refers to a brief conversation with Page prior to the cell check, particulars of which he could not recall (2836). Parker recalled Page and Moseley in conversation before their departure, apparently to the cell (N179, 3213, 3245). Cronin saw Page arrive at the cell and the sergeant in the cell (N1/48, 3200-01). He was not involved in Page's effect. 'Well, let's go and have a look at it.' (3011, 3014). I assess Cronin as a competent and reliable witness. On this aspect his recollection supports the evidence of Page who said that upon his arrival there was nothing to indicate a tragedy in the police station (3062). Cronin also said that atmosphere in the police station seemed normal at this time (3031).

Page and Moseley proceeded to cell no. 1. They each gave a similar account of what happened on arrival at the cell. Page and Moseley both saw the back of Eddie's head through the open cell door flap and a piece of grey coloured blanket secured to bars directly above the cell entrance (Moseley: Notepad N

You at that point could see the back of the head of Eddie Murray. Is that right?---Yes.

And you could see something around his head, or around his neck?---Yes.

You said the blanket, did you recognise it as being part of a blanket?---Yes.

What did you do then?---Sergeant Page opened the door, the door come back and I could see and I had my right arm through the plait (flap) 3 and I had hold of- tried to support the deceased by holding a piece of his clothing. I forgot what he was wearing, but a piece of clothing or something- pardon me - and by that time Sergeant Page had got into the cell and he was supporting. I couldn't see because I was between the bar and he was supporting the deceased and I was trying to lift the blanket from round his neck.

Did you succeed in doing that?---Yes.

THE COMMISSIONER: Did you lift the noose through the trap door while you were still outside?---Yes.

MR EAMES: When you lifted the noose from around his neck, did it appear to be tight against his neck?---I can't remember, no.

Did you have any difficulty lifting it off over his head?---No.

When you did that, were you actually on the opposite side of the door with your arm through?---Yes.'

It is difficult to understand how Moseley loosened the noose and removed it while he was still standing on the opposite side of the door to Eddie's body. But Moseley and Page are firm in their evidence on this point. Page provided the Royal Commission with considerable detail of how he entered the cell and manoeuvred around Eddie's body (3105, 3124-25) and much cross examination was devoted to this event. In retrospect, as the cell door opened outwards it was a very clumsy way to proceed when they could have simply opened the door, entered the cell and attended to Eddie. Page explained their actions by his belief that Moseley had tried to alleviate the weight of Eddie's body from the noose immediately, before the door was unlocked (3104-05):

'MR COOREY: Yourself and Sergeant Moseley came to the cell door - this is at 3 o'clock?---Yes.

Right? Wouldn't the easiest thing have been to simply pull the cell door open rather than one of you put his hand through the peep-hole, which would have to stop, surely, the other one from opening the door?---No, sir.

If Sergeant Moseley is there and puts his arm through the peep-hole - right - doesn't that stop you from opening the door fully?---Fully, yes.

How would you get inside the cell if he's got his arm through the peep-hole and holding the body? How do you get inside?---After the door was slightly opened I then half - not crawled - half bent over, slid between the back of the body and the door while Sergeant Moseley still had his arms through the flap area. There wasn't a great deal of room for me to squeeze through.

But that would have been a lot slower, surely, than just opening the door and going in, wouldn't it?

THE COMMISSIONER: Forget about what actually happened. You were asked would it have been quicker for Sergeant Moseley not to have tried to support the body through the trap than if you'd just swung open the door and both gone in?---Sir, the door has to be unlocked and all that to start with, yes. There is a matter of seconds in time. I assume that Sergeant Moseley thought, "Well, we're wasting time by doing all this." At least he's going to hurry it up by trying to get some of the pressure off the neck.

Your assumption is that he took the first step that was actually available to him?---His instinct was to make as less weight on the body on the blanket.

Very well, thank you?---I'm only assuming that.'

Mr Williams, QC, submitted that they proceeded in this clumsy way in a panic reaction to the situation.

I have dealt with this in a little detail, as I deal with subsequent matters, in view of the fact that Mr Coorey, Counsel for the family, disputes the entire veracity of the police officers' accounts. In his submission Eddie certainly did not hang himself- indeed he was physically incapable of so doing - but he goes further and submits that Eddie was or may have been killed by these officers, deliberately or otherwise in some other manner, that the hanging if it occurred was carried out by the police, or simulated by them after death as a cover up to his earlier death at their hands by other means. In view of the nature of these submissions Counsel subjected practically every aspect of the police officers' testimony to close and critical scrutiny, credibility being a basic issue. Thus the necessity for me to deal in detail with these matters.

I agree that the steps taken by these officers to gain access to the cell were confused and perhaps clumsy, but I do not believe their evidence on this issue has been concocted. One may reasonably ask, whatever may have earlier occurred in the cell, what would have been the purpose of fabricating this evidence as to entry into the cell at the time they allegedly found Eddie's body and released it? I find that Moseley and Page who released Eddie's body from the noose, that they did so hurriedly in manner broadly described and that the clumsy entry I referred to probably resulted from the urgency of the moment. In fact, it may be argued that if they knew Eddie was dead before they visited the cell one would have expected a more deliberate and effective entry and release of the body.

Page and Moseley stated that Page then lowered Eddie to a mattress in the cell (Moseley: N/1/34, 2826, Page: Notepad N/1/3 575, N/1/42, 3065, 3067). Page tried unsuccessfully to find a pulse and told me he performed cardiac massage. Being unwell he found a pulse he ceased his attempts at cardiac massage after a few minutes (3067). He did not attempt mouth resuscitation (3067). Moseley left the cell and went to the office and to telephone a doctor and I was told Page stayed in the cell with Eddie. It was his recollection that he remained there until the doctor arrived (Moseley, 2827, Dep 241, Page 3067).

Chapter 12

MECHANICS OF HANGING

12.1 POSITION OF EDDIE MURRAY'S BODY

Page described the position of Eddie's body when they found him. The blanket was knotted around Eddie's neck and appeared to be tight. Eddie was slumped with his back to the door (N/1/42, 3105). The balls of Eddie's feet were on the ground, his knees were bent (N/1/42, 3064, 3105-06). The body was still warm. Page did not notice any blue colouring around Eddie's lips or ears (3074).

12.2 POSITION OF THE NOOSE

Page said the noose was left hanging in the position as shown in Photographs 1 and 2 of N/1/20 (Page 6584, Moseley 6450), the knot in the noose was not at the bar but in a lower position. He did not touch or remove the noose from the bar (3126, 3138 - Photographs - N/1/20). Measurements were taken by Detective Sgt Lamey of the Scientific Investigation section who attended the cell during the evening (2456). He measured the lowest point of the bar from which the noose was hanging to the ground as 2.02 metres (2475). The gap between the bars and the mesh behind the bars was 35 millimetres (a little over an inch) (2475). The distance from the knot in the noose to the ground was 1.55 metres and the distance between the lowest point of the noose to the ground measured 1.33 metres (2475). Eddie was 1.61 metre tall (2475), 41 cm short of the height of the suspension point.

The evidence of witnesses who entered the cell after the body was lowered is far from consistent.

Mr Lewis (the ambulance driver) did not recall seeing the strip of blanket hanging from the bar above the door and Dr Ralte when he first gave evidence at the Coroner's inquiry said that the blanket strip was around Eddie's neck when he examined him. At the Coroner's inquiry Dr Ralte apparently changed his mind when he was shown a photograph of the noose hanging from the bar above the cell door (4316, 4320, 4321). Dr Ralte told me that Page showed him the strip of blanket still hanging on the door after he had examined Eddie (4308-09) and said the noose was in the position as shown in Photograph 1 (4311), something he did not notice when he entered the cell (4309-10). He said that Page held the door open for him and Page's body could have obscured the noose as he entered the cell (4308-10).

Lewis believed that the blanket was looped around the flap in the cell door (6381, 6386). He said that it was a full blanket (6406) and that it could have been rolled (6407) or twisted (6424) and the ends of the blanket were hanging down inside the cell door (6386). He does not recall that the blanket looked like it did in Photograph 15 (6406). Lewis initially recalled that the flap area had bars in it (N/1/17, 6386) but later conceded he was wrong about that (6412). He also had no recollection of encountering the noose on entering the cell (6386).

I do not regard either Dr Ralte or Lewis as reliable witnesses as to the situation of the noose during their short visits to the cell. Their attention was devoted to the question of life or death. I am satisfied that the photographs of Detective Sgt Lamey accurately depict the position of the noose when he photographed it that evening and I find the noose had not been significantly disturbed after the body was released shortly after 3.00 pm.

12.3 THE NOOSE

An expert in fabrics gave evidence of the strip of blanket forming the noose and the properties of the blanket from which it was torn. He found that the strip of blanket forming the noose was 14 cm wide and 175 cm long plus the length in the knot (Report of Dr Hickie N/1/58). The blanket from which the strip was torn was 198 cm wide between the bound edges. I conclude that the strip of blanket forming the noose, before being cut from the bars was approximately 198 cm long (N/1/58, 3467).

Dr Hickie tested the blanket and strip for its fibre types, mass, yarn density and tear strength. He concluded that the noose strip came from the blanket and that it was comprised mainly of wool fibres. He said it would require a force of 30 newtons (3 kgs) to tear the blanket (3453). This is a relatively low force and the blanket could be torn easily by hand (3456). It required five times that force to tear the bound edge of the blanket (15 kgs) but this, he said, was still a relatively low force which could be exerted by hand (3456-57, 3460-61). He found at one end of the noose strip there was more pulling of the winding (binding) thread and said it was possible that the person who had torn the strip off first unravelled it against an edge to break the whisp thread (3462). Such an edge need not necessarily have been a sharp edge (3467). The plate of the inspection aperture in the cell door possibly provided such an edge.

Mr Frank Brown and Sgt Lamb, both I find experts in knots, examined the noose and the photographs of the noose hanging from the bars (N/1/20). Brown described the noose device as a thumb knot, a 'very simple, elementary knot' (6506). This knot would have been tied before the reef knot was tied. The reef knot joined the two ends of the strip of blanket after it had been passed behind the bar of the cell. He was of opinion the thumb knot would have acted as a fixed knot rather than a slip knot because of the blanket material and the twist in it (6507). He found that the reef knot was tidy, well dressed down with approximately equal 'tails' and described it as a simple, sophisticated and effective knot. It is a common knot but often tied without design. With untrained people it is just a matter of luck as to which knot evenerates (Sgt Lamb - 6526). Mr Brown undid the reef knot in the noose and found that it was very tight. He said the knot would not take long to tie although if the person so doing was intoxicated he considered he would be bouncing on him because he was slower (6512).

Chapter 13

WAS EDDIE MURRAY PHYSICALLY CAPABLE OF HANGING HIMSELF IN THE MANNER DESCRIBED?

13.1 INTRODUCTION

This is a vital question which cannot be answered in empirical terms. It is common ground his blood contained an alcohol level of .3 grammes per hundred millilitres. The alcohol he had absorbed must have substantially affected not only his behaviour (as is clearly did) but to some degree his co-ordination and motor skills. No-one would disagree with this broad observation. Was he then capable of forming the intention to hang himself (not necessarily to kill himself) and then to carry out the physical tasks necessary to accomplish that result? The physical tasks involved selection of the blanket, tearing a strip, looping it around the bar above the door between the grille and the bars, forming the noose and tying the strip ends together with a reef knot and applying the noose to his head. A demonstration at the Wee Waa police station showed that a fit person of Eddie's height, 5' 4", could reach the bar but had to stand on the balls of his feet in order to place the blanket strip around it (see N/1/68 Photographs 28-30). The noose knot could then be tied while standing flat footed.

In order for Eddie to have performed these tasks with a blood alcohol concentration of .3 gins per 100 mls of blood he must have developed a tolerance to alcohol of such a degree that his physical capacities and manual dexterities were not grossly impaired. It is probably fair to observe on the evidence that the average person, whose blood carried this concentration, would be grossly affected - maybe comatose. If the question as to his ability to do those things had raised in my early days in the law I am confident the answer would have been an emphatic 'no'.

The question of Eddie's tolerance to alcohol is incapable of assessment in absolute terms. I have the evidence of expert witnesses on alcohol and tolerance which includes assessment of Eddie's tolerance based on his behaviour on the day of his death and his history of drinking. My conclusions, if I am able to draw them, must be based on opinions which themselves are largely based on comparatively recent research which has been facilitated by reason of the fact that over comparatively recent years the capacities of some 'drinking drivers' with known blood alcohol levels have been the subject of assessment. There are no means by which a confident scientific opinion can be given without prior knowledge of Eddie's abilities with a known level of alcohol in his blood, evidence which is not available. The evidence of Eddie's drinking history comes from family and friends, police officers, his doctor and other observers. But in view of the importance of this issue, I must examine the evidence available.

13.2 HISTORY OF EDDIE MURRAY'S DRINKING

The testimony of his drinking patterns is not consistent which is perhaps inevitable bearing in mind that the witnesses who are the source of information had different relationships to him and observed him in different situations. There is also evident bias, conscious or unconscious, on the part of some witnesses. His conflicts with the law, apparently resulting from alcohol, must be approached with some caution in view of the nature of race relations and the prominence of the Murray family as previously discussed.

13.2.1 ARREST AND DETENTION RECORD

Eddie had been arrested seven times since 1977 for drunkenness and had been detained three times under the Intoxicated Persons Act (N/3, Inquest Exhibit 44, 3125-53). The dates of charges and detentions which occurred at Wee Waa are as follows:

20.10.78	Charged Drunk
28.10.78	"
9.12.78	"
16.12.78	"
4.1.79	"
6.9.79	"
25.1.80	"
22.3.80	Intoxicated Person
27.3.80	"
29.11.80	"
25.3.81	Serious Harm and Affront (by summons - not finalised)

Two additional charges of Offensive Behaviour were recorded for 22.12.77 and 16.10.78 but the record does not disclose whether they were related to alcohol.

13.2.2 THE OCCURRENCE PAD (N/1/17)

The entries in the Occurrence Pad usually related to incidents other than those involving arrest or detention (see - Jurd 2981). There are a number of entries in which Eddie's name appears, indeed seven incidents between 31.12.76 and 12.6.81. Most relate to fights and brawls in which he was allegedly involved. Clearly he frequently came under police notice and the only finding open to me that he was a young man who at times drank to excess. I doubt whether there is dispute as to this finding.

13.2.3 POLICE EVIDENCE

Chief Inspector Jurd, stationed in Wee Waa from July 1977 to June 1980, had seen Eddie at various levels of intoxication although he did not note the frequency of intoxication (N/1/38, 2968):

'I have been involved in the arrest of Edward James Murray and have seen him in all stages of intoxication. At times, while intoxicated, I have seen him behave in a very placid manner and at times he would become very emotional for no apparent reason. I have spoken to Edward whilst not affected by intoxicating liquor and found him to be most pleasant and friendly.

At times I had received complaints relating to his father, Arthur Murray, and whilst making inquiries into those complaints Edward has arrived on the scene and although not affected by intoxicating liquor he has become very upset and started shouting and making remarks of police only picking on his father and Aborigines in general and not white people.'

Senior Constable Killin, stationed in Wee Waa from December 1976 to December 1980, had arrested Eddie on occasions for drunkenness (3037):

'I still occasionally arrested Eddie for drunkenness and I do not recall Eddie ever causing any trouble when I had to arrest or detain him. At times he would be almost unconscious and unable to stand up unassisted and the next moment he would jump up and be bouncing and skylarking around. At other times he would be bouncing around happily and then suddenly sit down, start crying and complain that he were picking on him because he was black.

I do not recall Eddie ever becoming violent, however he may have been involved in fights which I do not recall.

Sgt Jackson, stationed in Wee Waa from November 1977 to July 1980, knew Eddie to be a person who enjoyed a drink and he had seen him in varying degrees of intoxication, from slightly to well affected (3156, 3159-60). His evidence does not assist on this issue.

Bryan Livermore, now retired, was stationed in Wee Waa from 1977 to February 1981. He said in his statement that Eddie appeared to be an alcoholic (N/1/759) although he later admitted in evidence he had little to do with him and his statement was to some extent based on hearsay (3480).

13.2.4 EVIDENCE OF FRIENDS AND FAMILY

There is no dispute in this evidence that Eddie at times drank heavily but the evidence does not go far to help me on this issue of tolerance.

His father said he would on occasions drink a considerable amount of liquor and undoubtedly this is so. He emphasised that when playing football his son drank sparingly (2593). His mother told me he did not drink every day, mainly on weekends when he had been paid. She did not recall him drinking as young as 15 or 16 and noted that he was first barred from hotels at 18 years (2537). She said that Eddie never complained of hangovers or feeling unwell after drinking

Eddie's brother, John Murray, who had been drinking with him on the day Eddie died, said they went to 'Permevans' every morning' at 8.30 am to buy alcohol (2544). John Murray told me that during the two weeks before his death he and his brother would have drunk together at Danger Park or the Lagoon three or four times (2547). He classified Eddie as a better drinker than himself and stated his brother did not experience hangovers as often as he himself did (2576, 2569). Loyal Combro said that Eddie had been addicted to the levee drinking with the other young men a couple of times (2613, 2599). He also said that Eddie did not complain to him of headaches after drinking (2614).

Cheryl (Gordon) had seen Eddie around town about six times in the two weeks he was in Wee Waa prior to his death (2656). She had driven him home on a few occasions. She had seen Eddie drunk a couple of these times but on no occasion was he 'real drunk' (2667, 2668). She described him as a 'bit merry' (2667). She said he had been sober on most occasions (2657). Cheryl Gordon regarded Eddie as a good drinker, someone who could hold his liquor (2667-68). This accords with the accounts of his brother John and friend Loyal Combro.

Eddie's aunt, Mary Clarke, with whom Eddie stayed in Sydney, said that Eddie started drinking at 16 or 17 (2702). She said that when he was in Sydney he would drink very little because it was the football season and he was serious about his training (2936). She said that when he did drink he would not get so drunk that he could 'swear or name names' (2697). Eddie's uncle, Alan Murray, agreed that Eddie did not drink during the (6507). He found that the reef knot was tidy, well dressed down with approximately equal 'tails' and described it as a simple, sophisticated and effective knot. It is a common knot but often tied without design. With untrained people it is just a matter of luck as to which knot evenerates (Sgt Lamb - 6526). Mr Brown undid the reef knot in the noose and found that it was very tight. He said the knot would not take long to tie although if the person so doing was intoxicated he considered he would be bouncing on him because he was slower (6512).

13.2.5 OTHER WITNESSES

Dr Mulvey stated he had not seen Eddie under the influence of alcohol although he recalled hearsay reports of heavy drinking (3536).

A male witness (name suppressed) said he had seen Eddie drunk. He had talked to Eddie about his drinking but Eddie had laughed it off initially (2933). Yvonne Kelly, who had employed Eddie as a cotton chaffer, said in seven years Eddie had only arrived for work under the influence of liquor on two occasions (3861, 3866).

Beryl Berger, the barmaid, had seen Eddie drunk a number of times, but she told me that on the day he died he appeared more intoxicated than ever before (3386).

My findings must be that Eddie commenced to drink alcohol at an early age. Saverio for his control of it is unlikely that he was a 'daily' drinker. When drunk he tended to become boisterous but his short of his physical capabilities when drunk was probably not that of the average- whatever the way merely. I find the drunk factors in Wee Waa than in Sydney. He had the appearance and capacities of a healthy young man. There is no evidence that liquor eroded his health or interfered with his sporting abilities or training. He probably drank heavily albeit sporadically, during the two weeks preceding his death.

13.3 EXPERT EVIDENCE - TOLERANCE TO ALCOHOL

13.3.1 PROFESSOR GRAEME STARMER

Professor Graeme Starmer, Associate Professor of Pharmacology at the University of Sydney, gave evidence as an expert on the effects of alcohol on driving ability, manual dexterity and co-ordination. Experiments in which he has been involved, in tasks, such as walking from one place to another, care between 0.25 gms per 100 mls and 2 gms per 100 mls (3949), experiments largely concerned with the effects of alcohol on driving abilities.

He earlier gave evidence at the inquest without any knowledge of Eddie's drinking patterns. Before the Commission he qualified the opinion he had expressed to the Coroner that it was improbable that a person intoxicated to a level of .3 could have hung himself in the manner discussed. In modifying his views he was influenced by additional information which he had been given and he commented he would be 'a little more equivocal' in expressing an opinion about Eddie's ability to perform the tasks involved in hanging himself at a .3% reading. He stated he would defer to the opinion of witness Dr Harding-Burns (referred to below) on those issues (3957). He explained the critical factor was to establish how 'tolerant' Eddie was to alcohol and he explained the difficulties. Professor Starmer said that at a reading of .3% would render a social drinker comatose (3955). He said that while considering tolerance there was a distinction between 'binge' drinkers (a category he believed applied to Eddie) and regular heavy alcohol consumption by alcoholics, usually older than 21 (3957, 4135-36). Professor Starmer's evidence illustrates the difficulties of establishing the question of tolerance. He made the point, as I interpret his evidence, that .3 is a level which will render the average social drinker comatose, incapable of performing the acts necessarily performed by Eddie if he hanged himself. But upon the material supplied to him as to Eddie's drinking, in the light of more recent research, in the light of his classification of Eddie as a 'hinge drinker', he found it necessary to be 'more equivocal' than his opinion at the Inquest indicated.

13.3.2 PROFESSOR DOUGLAS MCCLOSKEY

Professor Douglas McCloskey, Professor of Physiology and Pharmacology at the University of New South Wales, also gave evidence at the Coroner's Court and was called as a witness before the Commission. In 1981 he wrote a letter to the family's solicitors (N/1/105) in answer to specific questions put to him, which included the following passage:

'A blood alcohol level of 0.3/100 ml represents very severe intoxication. Even allowing for variability of response between drinkers, it would be sufficiently high to impair motor control seriously. This would be so even for established alcoholics. (A 21 -22 year-old, even with a history of heavy drinking, would probably not qualify as an established alcoholic). Simple motor acts such as fastening buttons, threading a belt, or locating a key on a ring and using it in a lock, would be grossly impaired or impossible at this level of blood alcohol. It is therefore my opinion that it is unlikely that an individual with a blood alcohol level of 0.3g/100 ml could tear a strip from a blanket, and/or devise and fashion a noose with a running or slip knot and attach same to a bar.'

He was asked whether the views then expressed were qualified by the Davis and Lipson paper he had since read and which was published well after the inquest. He replied in these terms (6039):

'MR EAMES: And a reading of that, has that led you to qualify at all the remarks that you made or the opinion that you expressed in November 1981?---It has. I wonder if I might make a comment on that point. It is very difficult to carry out research studies on blood alcohol levels because there are ethical constraints regarding the level to which a subject can have the blood alcohol raised. Therefore there has been very little literature on very high and sustained blood alcohol levels simply because research workers have been unable to take subjects to the levels with which we're dealing in this particular case. The Davis and Lipson paper dealt with alcoholic patients presenting themselves for acute care in a hospital who had already reached that level. They showed a considerable level of tolerance above that reported in the literature. Of course evidence on this point would now have to be tempered and conclusions tempered by reference to that finding.

Does it suggest to you that the question of individual responses to alcohol is one on which it is necessary to have fairly substantial information about the individual's past history of drinking, rather than being able to generalise, as it were, on the basis of what one would expect at certain levels of readings?---It does. That certainly is an important factor that emerges from that study, although I do point out that the age of the individual is another important factor in the Lipson and Davis study. I think the younger subject was 29 and most were considerably older than that and probably had a rather long history of drinking.'

He agreed that individual responses to alcohol varied greatly and it was unwise and difficult to generalise on the basis of what one would expect at certain levels. He appeared to regard the Davis and Lipson study as reasonably authoritative (6039-40). He told me he was not aware from experience of any correlation between age and tolerance (6059).

Professor McCloskey was provided with a history of Eddie's drinking and he agreed that Eddie's behaviour the day of his death was consistent with a very high level of intoxication and a reading of .3% (6042). He pointed out that the Lipson paper dealt with alcoholic patients presenting themselves for acute care in a hospital who had already reached that level. They showed a considerable level of tolerance above that reported in the literature. Of course evidence on this point would now have to be tempered and conclusions tempered by reference to that finding.

'THE COMMISSIONER: Professor, can I just ask a question. The Davis and Lipson paper which you've been referred to, that nowhere dealt with the capacity of people grossly affected to utilise unfamiliar motor movements, did it? It really talked about consciousness, the ability to walk, the ability to talk, the ability to shower oneself, matters such as that, which you would regard as automatic everyday actions?---That's right. They were to do largely also with states of mind and states of comprehension in the Davis and Lipson paper. They did instance a single case history of one patient whom they said was typical, who was able to take a tablet and drink a glass of water.

And have a shower?---And have a shower, and I believe that certainly taking a tablet and having a glass of water are rather finer movements than simply walking from one place to another. It's a pity that the Davis and Lipson paper didn't give us more information on the particular matters of concern in this inquiry

MR EAMES: The fine movements or finer movements that you are considering there, could I just ask you what you understand the fine movements to be?---Included in them would be the tearing of a strip from a blanket. This is a quite difficult movement to - it's common experience I think for many people that it is a difficult task to tear something like a blanket along in a straight line. It requires the coordinated movement and application of forces in opposite directions but in a straight line close to each other. This I would classify as a very difficult task, particularly the commencement of tearing a blanket. Fashioning a noose: depending on the precise nature of that, the complexity would vary, but even in the simplest form that one can conceive of, fashioning a noose would represent quite fine control, tying small knots and so on.

Could I just ask you what your opinion now is, professor, given the additional information, including the additional reading, that you've had. The conclusion which you gave in your report in 1981 was that:

Simple motor acts would be grossly impaired or impossible at this level of blood alcohol.

Do you still maintain that simple motor acts would be grossly impaired or impossible?---No, I don't. In the light of the Davis and Lipson paper I believe it's quite possible that some individuals would be able to carry out simple motor acts.

You go on to say:

It's therefore my opinion that it is unlikely that an individual with a blood alcohol level of .3 could tear a strip from a blanket, devise or fashion a noose with a running or slip-knot and attach same to a bar.

Do you still maintain that position?---I still believe that it is unlikely that that would happen, and in the particular case considered, unlikely because we know that the person Eddie Murray was ataxic at the time; his movements, his walking and so on, were not normal.

And so, although I temper that opinion in the light of the Davis and Lipson paper, I do believe still that it's unlikely that that sequence of events could have been carried out by someone with that blood alcohol level.

Dr Foy said of your opinion expressed in your report - and his evidence is page 4400 - that both you and, for that matter, Prof Starmer took inadequate account of tolerance:

They both mention the possibility in their evidence at the inquest but dismiss it and I feel it's wrong to dismiss it.

I think it's fair to say Dr Harding-Burns also says that the critical question in determining this issue is the question of tolerance of the individual and therefore his ability to perform particular acts. Would you concur with the view that tolerance is the critical factor?---I certainly agree with that.

And so far as being able to make an assessment of tolerance, would you say that you have sufficient information to enable you to say whether in this case Eddie Murray was a person who would be tolerant to drink at .3 sufficient to enable the motor acts you've described to be performed?---No, I don't have enough evidence to give an opinion on that.'

13.3.3 DR FRANCIS HARDING-BURNS

Dr Francis Harding-Burns was Head of the Drug and Alcohol Unit at Royal Prince Alfred Hospital between 1975 and 1987 and at the time he gave evidence was visiting physician to that Unit. His expertise on the effects of alcohol was acknowledged by all the expert witnesses.

He told me, after considering Eddie's drinking history, he was probably alcohol dependent. He classified Eddie as an alcoholic with a tolerance to alcohol (N/1/109, 6112). He said that the pattern of drinking on the day he died was the very heavy drinking one associates with dependence (6102). Alcohol dependence and tolerance go hand in hand and one does not usually see tolerance unless there has been dependence (6103).

He expressed the opinion that Eddie would have been capable of the requisite motor co-ordination to go through the process of preparing and fashioning the noose, and that he died by hanging ...' (N/1/109).

Dr Harding-Burns of course based his opinions on material submitted to him which included the Coroner's findings, the apprehension record and his belief that Eddie had been drinking in a harmful fashion since his mid-teens or earlier (N/1/109). He was an excellent witness displaying the objectivity required of experts.

On the question of tolerance, he also relied on the Davis and Lipson study carried out in 1985 at the detoxification unit of Drug and Alcohol Services, Royal Prince Alfred Hospital whilst he was the Director. The study showed that a high proportion of tolerant individuals would show little clinical evidence of intoxication at .3 and co-ordination may be only slightly affected. He also pointed out that concentrations above .3 have been demonstrated in traffic offenders who were able to continue driving motor vehicles (N/1/109). However, he was not aware of any study on the actual effect of alcohol on finer motor functions (6108). He described the Davis and Lipson paper as follows (N/1/109):

'... The most comprehensive current reference in the literature is from Davis and Lipson (Medical Journal of Australia, 1986, 144: 9-12), and Lancel March 8th 1986 page 56. I believe that Drs. Davis and Lipson have submitted these references to the Commission. The opinions in these papers are based on a up to date review of the literature, and an investigation in the detoxification unit, Drug and Alcohol Services, Royal Prince Alfred Hospital. Patients admitted to the detoxification unit are all ambulatory, and the treatment is in a non-medical setting. Over half of the patients studied by Davis and Lipson had blood alcohol levels exceeding 0.3gms/100mls (3gms/L), but little clinical evidence of intoxication. These authors suggest that alcohol abuses develop to tolerance to the extent that many are required to tolerate levels in the present study in order to achieve the

desired effect, and at the ability of the alcohol abuser to retain the function at high blood alcohol levels has wide clinical and forensic implications. These are very important observations, based on careful clinical research, and review of the drug and alcohol literature.'

In the doctor's opinion, the fact that Eddie was neither comatose, nor close to it, earlier that day supported the argument that he was tolerant and thus perhaps capable of hanging himself in manner described (6107-8).

The word 'perhaps' is my own. Dr Harding-Burns has said 'that Murray was capable of preparing a noose, placing it around his neck, and allowing his weight to fall, thereby coming to his death' (N/1/109). His evidence shows that most persons with blood alcohol contents of 0.3 would be incapable of so doing. Cross-examination showed perhaps that the material furnished to this witness did not fully reveal the complications of the task, the neatness of the knot - matters of that nature. The answer to the question as to whether Eddie had developed the tolerance to perform these acts (certainly unfamiliar acts) which involved some organisational concepts as well as manual dexterity remains, standing alone, a clouded one.

13.3.4 DR AIDEN FOY

Dr Aiden Foy had been Director of the Alcohol and Drug Clinic at Royal Newcastle Hospital for five years before he gave evidence, with specialist training in drug and alcohol dependency, detoxification and rehabilitation. He is a known drinker who at 23% was capable of performing the acts which Eddie would have had to have been quite capable of performing the actions described in this case. All those patients who had become very tolerant to the effects of alcohol (N/1/93). He considered that although it was not impossible, it was unlikely that a 21 year old with a drinking history of three years had the capacity to carry out the actions described with a blood alcohol level of .3 (N/1/93). He referred to the Davis and Lipson study and noted the youngest person studied was 29 (4402). He had not seen anyone aged 21 with a three year drinking history with the degree of tolerance referred to in the Davis and Lipson study (4402). In his report N/1/93 he stated:

... (b) LIKELY LEVEL OF INTOXICATION

The expert witnesses differed in their opinions about the likely level of intoxication produced by such a blood level. Prof McClosky and Starmer felt that the deceased would have been too intoxicated to have managed to perform the actions necessary to commit suicide, whilst Dr Brighton felt that such actions might be possible for a chronically alcohol dependent person with a high degree of tolerance. The question of tolerance, therefore, is crucial to resolving this issue.

Long-standing heavy drinkers do become remarkably tolerant to the effects of alcohol. They can be fully conscious and only mildly intoxicated at levels at which others are comatose and easily survive blood alcohol levels which are fatal in non-tolerant people. I have had considerable clinical experience with intoxicated people and have on numerous occasions encountered people with a blood alcohol level of 0.4 near 0.3 g % who would have been quite capable of performing the actions described in this case. All those patients have been older than the deceased and all had been drinking for longer than 3 years, but nonetheless I would have to say that whilst it is unlikely that a 21 year old with a drinking history of 3 years would be tolerant enough to carry out the action described with a blood alcohol of 0.3 g %, it is certainly not impossible. What we need to know however, is whether this particular person was that tolerant and no opinion can be advanced about that without more direct knowledge about the deceased.

WE NEED TO KNOW

What was the deceased's condition like when he was placed in the cells? Had he had a recent meal which might have slowed absorption so that his blood alcohol continued rising after his arrest? What was his past drinking history, had he drunk large quantities daily for 3 years or did he have only occasional binges? I note that Dr Mulvey had played football with him and may have had a reasonable idea of the consistency of this man's drinking. It's a pity he was not asked about this at the inquest.

2. ADDITIONAL INFORMATION NEEDED

- More detailed drinking history from friends, relatives and others including amount, regularity and the extent of alcohol-related problems.
- Information about his alcohol-related arrests. Was a breath analysis ever performed? If so, the result together with a description of his condition at the time might settle the question.
- Had he ever had an alcohol withdrawal reaction?
- What was his condition when arrested? Was he fully conscious, could he walk unaided or not?
- Did he have a meal just before his arrest?

If it transpires that this man had drunk to a blood alcohol level of about .3 g % every day for 3 years, it is very likely that he would have been able to hang himself in the manner described. If on the other hand, we find that a blood alcohol taken at his arrest 3 months earlier was 0.1 g % and that he was grossly intoxicated, we can be confident that he wouldn't have been able to commit this act unaided.

Thus Dr Foy believed the question of tolerance was crucial but tolerance was something he expected to see late in a person's drinking history (4393). To determine tolerance one had to look at the frequency and severity of the drinking bouts. He said that Eddie seemed to be a highly visible drunk given the number of arrests and that it was likely Eddie had an alcohol problem but he would not go as far as classifying Eddie as an alcoholic with an established tolerance and capable of performing the acts necessary to hang himself (4398-99).

Dr Foy said that the description of Eddie's activities on the day of his death were more consistent with a tolerant drinker than a non-tolerant one as a non-tolerant drinker would be either unconscious or close to it at a level at .3% (4415). He also said that Eddie's arrest record indicates some degree of tolerance but the tolerance required to perform the tasks involved in hanging himself at .3% would be a very highly developed tolerance. He would go no further than to say it was possible that Eddie had developed this tolerance (4399). In giving this opinion he said Eddie had probably been drinking in a harmful fashion since his mid-teens (4399).

Dr Foy also referred to the Hayes study 'And Darkness Closes In' which shows the substantial connection between people being incarcerated under the influence of alcohol and drugs and death by suicide ensuing within hours of detention (4409).

13.3.5 DR FREDERICKA MOYNHAM

Dr Moynham, Assistant Director of Police Medical Services, was also called. He had considerable experience in the field, especially, of course, in the realms of drink driving. His report (N/1/122) refers to the fact that blood tests of drivers or pedestrians involved in accidents between January 1983 and December 1987 revealed that 532 returned alcohol concentrations of .3 or higher. He referred me to some overseas studies, including those carried out by Mendelson and Mello, published by the World Academy of Sciences which indicated that 'some' subjects whose blood alcohol levels exceeded .3 were capable of 'voluntary physiological activities ... to some extent'.

His conclusions were perhaps summarised in the following passage:

'The above journal articles and the high blood alcohol levels achieved by some drivers and pedestrians involved in motor vehicle accidents show that levels above a certain concentration of alcohol can exist in people who are conscious and capable of performing quite intricate skills. Whilst these people would not perform those skills with the same level of competence as a person with a zero blood alcohol, they can still be performed. A person in this situation could tear a blanket, make a noose, then place it around the cell bar and himself.' (N/1/122, 6657)

He also agreed that before he could confidently express a view as to Eddie's capacity he would need to know his tolerance to alcohol.

13.3.6 STUDIES REFERRED TO BY EXPERT WITNESSES

Generally speaking, the experts appear to respect the Davis and Lipson study referred to above and I make brief comment of it.

Davis and Lipson

Andrew R Davis and Anthony H Lipson: 'Central Nervous System Tolerance to High Blood Alcohol Levels 5 (N/1/94).

Davis and Lipson studied 32 patients with chronic alcoholism who presented themselves at the Detoxification Unit at Royal Prince Alfred Hospital, Sydney, commencing in November 1983. They found that of the 32 patients who were all capable of walking, 17 (53%) of them had levels that exceeded .3% but showed little clinical evidence of intoxication. The subjects were aged from 29 years to 61 and the average age of the subjects was 45 years.

They all displayed ataxia and slurred speech of varying degrees, but none scored higher than 3 on the central nervous system depression scale (1 = altered mood or behaviour, 2 = confused, 3 = drowsy, 4 = stuporous, 5 = comatose). They were all able to deliver a breath sample, engage in conversation and provide a history of alcohol abuse.

The earlier Miles scale of intoxication, previously regarded as authoritative, would have predicted the 17 patients with readings of .3% or higher to have been stuporous or possibly comatose or dead.

In the report they discuss other studies on intoxication and chronic alcoholism and conclude that the mechanism by which tolerance develops has not been identified although they found that other studies suggest that tolerance is primarily the result of neuronal adaptation.

They accept that the previously accepted lethal range may apply to uncomplicated deaths resulting from acute alcoholic intoxication in naive drinkers but suggest that a person with alcoholism who has developed tolerance tends to consume large quantities of alcohol over long periods but rarely drinks to the point of life-threatening coma. These people maintain blood alcohol levels in the potentially lethal range in order to achieve the desired effect of the alcohol.

They believe the Miles scale is no longer acceptable as it does not accurately predict the clinical condition of persons with chronic alcoholism who are capable of developing a significant tolerance to high blood alcohol levels.

Hayes

Lindsay M Hayes: 'And Darkness Closes In ... A National Study of Jail Suicides' (N/1/94A).

This is an American publication of general interest to this Commission and I refer to it in that context. It does not, I stress, assist me in determining the issue as to Eddie's capacity to hang himself.

The author was Project Director of National Study of Jail Suicides for the National Centre on Institutions and Alternatives, Alexandria, Virginia and it was a study of documented suicides in county jails and police lockups in USA in 1979. From 419 documented suicides Hayes found that inmates in jails and lockups commit suicide at a rate 16 times greater than individuals in the general population. He found a substantial correlation between detention of a person intoxicated by drugs or alcohol and suicide occurring within a short period of time.

From data collected he constructed a profile of the typical suicide victim:

'An inmate committing suicide in jail was most likely to be a 22 year old, white, single male. He would have been arrested for public intoxication, the only offence leading to his arrest, and would presumably be under the influence of alcohol and/or drugs upon incarceration. Further, the victim would not have had a significant history of prior arrests: He would have been taken to an urban county jail and immediately placed in isolation for his own protection and/or surveillance. However, less than three hours from incarceration, the victim would be dead. He would have hanged himself with material from his bed (such as a sheet or pillowcase).'

Hayes found that 30% of suicide victims in his study had alcohol/drug related charges as their most serious offence and that almost 60% of suicide victims were under the influence of alcohol (40%), drugs (9%), or both (11%) at the time of incarceration.

He said that although the use of isolation is purportedly intended for inmates who are a danger to themselves and others, in the prevention of suicides it would seem to be counter-productive. 68% of victims in his study were in isolation at time of suicide. One of the most striking findings was that over 50% of victims were dead within the first 24 hours of incarceration and 28% dead within the first three hours. 56% of all suicide victims who were charged with alcohol/drug related offences died within the first three hours of confinement. 84% of suicide victims charged with alcohol/drug related offences died within the first 24 hours of confinement. 89% of suicide victims under the influence of alcohol and/or drugs at the time of arrest committed suicide within the first 48 hours of confinement. 50% of these victims died within the first three hours of confinement. Hayes believes that it is the 'alcoholic state' of the inmate at time of incarceration rather than a depression following withdrawal that contributes to suicide.

Hayes recommends that: 1) offenders falling within the suicide victim profile should be sent to an alternative facility, 2) special attention should be focussed on inmates during the initial period of incarceration, especially the first three hours; 3) the use of isolation enhances chance of suicide and should be prohibited; 4) cosmetic precautions such as barbed windows and doors, no-ear blankets, television monitors should be considered superficial and no substitute for much-needed human interaction.

The relevance to that study in application to prisoners in Australia may, of course, be a matter of debate.

13.4 CONCLUSION

The history of Eddie's drinking patterns as presented by the various witnesses leads me to find that Eddie started drinking at least four years before his death. At times he consumed large quantities of alcohol and became very drunk. He did not drink daily. He was probably more aptly described as a binge drinker than a consistent and heavy drinker. There were times when he would drink very little alcohol, particularly during the football season when he was playing and in training. I am confident he drank more alcohol when resident in Wee Waa, particularly during periods of idleness when there was no work available. There were few other diversions during times of unemployment. On the other hand, when he was working (and his work pattern in the year of his death was sporadic) he probably drank heavily on weekends.

I find during the two weeks before his death whilst he was in Wee Waa he had several 'sessions' but the evidence does not justify a finding of daily drinking. He did not always drink to the extent of extreme intoxication, sometimes he would just get a bit 'merry'. I find that when he was obviously drunk he displayed at times a capacity for vigorous and co-ordinated bodily movements. I can make no findings as to his manual dexterity on those occasions.

I am reluctant, upon the material at my disposal, to categorise him as an 'alcoholic', but clearly he was drinking far too much. In classifying him in this category Dr Harding-Burns and Dr Moynham place considerable weight upon the number of times Eddie had been arrested or detained for drunkenness. This may not be sufficient consideration of Aborigine/policy relations in Wee Waa or of his vulnerability to police attention. I have no doubt that he had gained some tolerance to alcohol. The expert witnesses agree on this. This is clearly indicated by his reported behaviour on the day of his death when he had a blood alcohol level of about .3%. The fact that he was able to stand, walk and negotiate the hotel steps, albeit in a staggering manner, that he talked or shouted in an intelligible manner justifies such a finding; a non-tolerant person would have been comatose or close to it. In the background I bear in mind the evidence of his family and friends to the effect that he was able to hold his liquor and there is no objective evidence that he subsequently experienced hangovers.

The expert witnesses do not agree as to his level of tolerance and they have insufficient data to express confident findings. Their expressions of opinions as to his physical capacities on the afternoon of his death are not confidently expressed.

Thus, if one views this issue in isolation, it is not possible to make a confident finding. On the other hand, consideration of all evidence may lead to a probable finding, notwithstanding scientific uncertainty or difference of opinion. Unhappily some doubts must and will remain. This Commission has commissioned a research project which has relevance to this issue. The report is unlikely to be available for two or three months and may not be of assistance in the particular inquiry. I say this as the principal stumbling block to confidence on this topic is the absence of a doctor (N/1/48, 3213, 3244). Parker estimates a complete shock. Why Page should evaluate behaviour, at least some of which is basically common ground and the very high blood alcohol finding. I could defer completion of this report indefinitely but that may cause further worry to the family and to some of the witnesses against whom criminal conduct has been alleged. Having anxiously considered the matter I have decided to proceed. My finding as to Eddie's capacities to so hang himself causing death (intentionally or otherwise) must be expressed in the expert terms. Should the Research report - which will in due course be made available to all parties and the tentative witnesses as promptly as possible - cast further light, this issue and only this issue may be considered further.

The alternatives to the conclusion that Eddie caused his own death are upon Mr Coorey's submission that he was hung by police officers (who, on the evidence, were the only persons with means of access to the cell thereby causing death) or that he was hung by officers after death by another cause or as a result of some incident in the cell. Why the officers possibly concerned in behaviour of this nature should so act is inexplicable in terms of rational human behaviour. No motive to act in this manner is proved or really suggested. It is suggested, however, that relations between Aborigines and police at Wee Waa were so bad that otherwise irrational behaviour would occur for no apparent reason. I cannot reject that theory as a possibility but it seems to me to be most improbable that even if he had been struck a blow which caused unconsciousness (which is not supported by the medical evidence) the police would then simulate or effect a hanging to hide that assault. I will, however, proceed with my general report as to events after Moseley and Page entered the cell to find, on their testimony, his lifeless suspended body.

Chapter 14

EVENTS AT THE POLICE STATION AFTER EDDIE MURRAY WAS FOUND

14.1 CONTACT WITH DOCTOR

Both Page and Moseley stated that Moseley alone left the cell to telephone a doctor. Page remaining in the cell during which time he attempted cardiac massage for a short time. Parker's evidence supports this, and confirms that Moseley returned to the office shortly after leaving to inspect the cells, informed of the death and asked him to contact a doctor (N/1/48, 3213, 3244). Parker estimates a complete shock. Why Page should call to contact Dr Mulvey who was not available and then he telephoned Dr Ralte (3.03 PM) Page stated he did not leave the cell prior to the doctor's arrival (3067, 3089, 6583) but I doubt the accuracy of his evidence on this aspect.

Mr Cronin, who was still at the counter attending to registration of his vehicle, gave a different account of events at this stage. He said that both officers 'got hold of the office area a couple of minutes after leaving, jostling each other to get there and one said 'Return to a doctor' (N/1/39, 3017, 3025). He saw Parker use the telephone. The three officers then congregated together talking behind the counter at the end of the panelled cupboard area (N/1/39, 3018). Dr Ralte arrived shortly after this and the three officers went behind the cupboards and he found himself alone at the counter (3018).

I prefer Cronin's account of the events at this stage. I have doubts whether Page performed cardiac massage or made attempts to revive Eddie. Cronin, who said things seemed quite normal at the station until this stage, then noticed a dramatic change in the atmosphere, an observation consistent with a sudden tragic discovery.

That dramatic change in atmosphere' is an important observation. Nothing in the behaviour of Parker or Moseley prior to the alleged discovery of Eddie's body at 3.00 pm was consistent with awareness of or involvement in his death before that time. After the discovery of the body their behaviour (including, possibly, attempts to disguise their own lack of vigilance, or even, the fact that there had been hostility between Parker and Eddie) is entirely consistent with the fact that the discovery of the body was a complete shock. Why Page should claim he remained with the body performing cardiac massage, which I do not accept, is, I believe, explained not by any suggested cover-up or staging of a hanging, but by reluctance to expose what could be interpreted as indifference about the death.

14.2 DR RALTE'S ATTENDANCE AT THE POLICE STATION

Cronin's version of events is consistent to some extent with the recollection of Dr Ralte. Dr Ralte recalled that he arrived at the police station at about 3.10 pm and was met in from of the counter by Times. He escorted him to the cell (N/1/87, 6946, 4314, 4326, 4304, 4323). Dr Ralte was very uncertain as to page. He earlier conceded it was possible that he arrived at the station at 3.15 or 3.20 pm and did not leave until 3.30 pm. Later he rejected the possibility that he remained until so late (4318, 6934). Page believed Ralte attended four or five minutes after they found Eddie (3067). Dr Ralte's belief as to time of attendance was based, first on information received from his receptionist when he returned to his surgery. On asking her at what time he had left, she said 3.10 pm (4314, 6933). Secondly, he said he would not have kept his patient, Mrs Cathcart, waiting an hour, her appointment being for 2.20 pm (6931, 6933). Helen Cathcart, Dr Ralte's patient, confirmed that the doctor could not have been at the police station as late as 3.30 pm. She had to come by 3.35 pm (6824). She recalls she was with the doctor for a ten minute consultation (6825). I found her evidence reliable and it is probable Dr Ralte returned to his surgery by about 3.20 pm, Rhonda Schwager, Dr Ralte's receptionist, believed that Dr Ralte returned to his surgery at 3.15 pm and he then saw Mrs Cathcart (6955). She thought he was away from the surgery for 15-20 minutes (6955, 6958).

On arrival at the police station Dr Ralte recalled Moseley standing behind the counter area (4304, 4323). Both Page and Moseley appeared shaken (4304). He recalled that Moseley came to the cells a little later (4305, 4323, 6932). Dr Ralte did not recall seeing either Parker or Fitzgerald at the police station (4305, 4323, 6942). Whilst it is absolutely no reflection upon his integrity, I consider Dr Ralte's true memory of events is not good. He was in a hurry at the time, he concentrated his attention on whether Eddie was alive or dead and I do not rely on his evidence of other matters, particularly the presence or otherwise of other persons.

14.3 EXAMINATION BY DR RALTE

He told me he entered the cell and saw Eddie's body on a mattress on the floor (4307). He examined the body and detected no heart beat. There was no respiration, no pulse and the eyes did not respond to stimulation. He recalled the body was still warm and he estimated that death had occurred 30 to 45 minutes beforehand (4323). He did not recall seeing marks on Eddie's neck (4311). He stated he was not looking for marks or injury, he was looking for signs of life (4312, 4317, 4327). He put his hand to Eddie's neck to check the pulse at the carotid artery, but said this was automatic when checking a pulse (4312-13).

The doctor did not recall anyone in the cell apart from Eddie and the police officers, Page and Moseley. He pronounced Eddie dead. At some stage in the cell Page demonstrated to the doctor how they had released Eddie from the noose. The doctor told the police to take the body to the mortuary (4318, 6943-45). He then left. He estimated he was at the police station for 10-15 minutes (4313). As I said, he was pretty indefinite as to times and he made no contemporaneous notes of the occurrence.

Cronin, who had remained in the counter area whilst that Page was in the cells, found that Dr Ralte was in the cells for only three to five minutes, an estimate which Cronin also shared. I think this estimate is reasonably correct. His haste was reflected in his evidence when he said: 'It happened very fast, I walked in through the door and straight into the cell and out again.' (4322). I find Dr Ralte simply determined that Eddie was dead, he did not consider an attempt at resuscitation and he left the cells hurriedly. Whilst Dr Ralte did not recall seeing an ambulance officer at the police station, I find that the ambulance officer attended whilst he was present and it is probable that Dr Ralte told him to take the body to the mortuary (4313). I refer to this later. The officers returned to the office area with Dr Ralte. To sum up, I find he arrived at the police station at about 3.10 pm and left not later than 3.20 pm. These findings are based on the totality of evidence.

14.4 ARRIVAL OF CONSTABLE FITZGERALD

I find that shortly after Dr Ralte left, Fitzgerald arrived at the police station. This was the first time he had been seen by Cronin and I believe it was the first time he attended the station that day. As stated previously, I find that Page was mistaken in his recollection that he saw Fitzgerald at the station at 3.00 pm. Page in fact admitted that it was possible he first saw Fitzgerald after he himself left the cell (3141).

Fitzgerald entered the office area of the station from the passageway to the garage on the public side of the counter. He went behind the counter and spoke to the three police officers, Page, Moseley and Parker, who were talking in a group. He was advised by Moseley of Eddie's death. This is in accord with Fitzgerald's evidence in the Coronial inquiry in 1981. He subsequently told me that he arrived at approximately 3.05-3.10 pm whilst Parker was telephoning the doctor and he initially had no recollection of seeing Dr Ralte at the police station that day. Later he said he saw both Dr Ralte and Dr Mulvey (4059). I find that Fitzgerald's original evidence at the Coronial inquiry more accurately reflects what happened when he arrived. Cronin gave evidence that he saw Fitzgerald arrive after Dr Ralte had left. Cronin was left alone for about ten minutes. I am unable to find whether Dr Ralte had left when Fitzgerald arrived but it is not of great importance.

Cronin recalls that a police officer then attended to him at the counter and suggested he should return later. Fitzgerald recalled that a police officer then attended to him at the counter and suggested that he should return later. Cronin said that the transaction had been completed there would have been no reason for him to return, as he did. I find that Cronin was sent away by an officer at 3.20-3.25 pm without completing his motor registry registration.

After Dr Ralte had pronounced that Eddie was dead, Page and Moseley left the police station by vehicle to locate Arthur Murray to advise him of his son's death. I find that they left shortly before the attendance of the ambulance at the police station at 3.20 pm (Page 3068, 3069, Heister 6382, Moseley 2810, John Murray 2544).

14.5 AMBULANCE OFFICER'S ATTENDANCE AT THE POLICE STATION

The findings I made in relation to times of Dr Ralte's attendance (3.10 pm-3.20 pm) are not easily reconciled with the evidence of Mr Lewis, the ambulance driver. His evidence introduces two areas of dispute:

- His records show that he did not arrive at the police station until 3.31 pm (N/1/52); and
- It was after he entered the cell that Dr Ralte entered and examined Eddie's body.

The ambulance records completed by Lewis show that he received the call for an ambulance at 3.30 pm. He arrived at the police station at 3.31 pm and departed at 3.45 pm, arriving at the hospital at 3.47 pm. After delivering Eddie's body to the mortuary he was advised of Arthur Murray's collapse at the police station and he returned to the station at 3.51 pm. He departed again with Arthur Murray at 4.04 pm and arrived at the hospital at 4.05 pm (N/1/52).

The evidence of Lewis as to times was not really disputed by Counsel, so it is only after careful consideration that I find that Lewis was in error as to the times he recorded in relation to his first attendance at the police station. The evidence of Mr Lewis as to recording of times is as follows:

He recalled receiving the telephone call requesting him to attend at the police station (6420, 6422). Naturally he did not recollect of the times, nor of recording the times and he relied on his practice and the records in giving evidence on this topic (6420). He said that when he made the telephone call he was not looking at the clock in the log sheet immediately, the log being kept by the telephone at the ambulance station (6373, 6376, 6377, 6419, 6420). He said that when he was out in the ambulance, times would be recorded directly on the case sheet and these would later be entered in the log sheet back at the station (6377). Because Wee Waa was a one-man station he also kept a personal notebook which he used to assist himself with completion of records (N/1/16, 6374). Lewis said that in Eddie Murray's case he may have recorded times straight onto the case sheet when he filled out the first part of the case sheet at the police station when he recorded Eddie's name and his observations (6374, 6399).

I find that Lewis must have attended at the police station earlier than 3.31 pm and that in fact he attended at about 3.20 pm. This is influenced by his evidence that Dr Ralte was in attendance while he was there. He was sure of this fact and I incline to the view that his memory on this issue was accurate. If Lewis was at the station when Dr Ralte was still in the cell, it was before 3.31 pm, in view of my finding that Dr Ralte attended the station at about 3.10 pm and returned to his surgery at approximately 3.20 pm; certainly before 3.30 pm. There is no dispute that ambulance officers are trained to be accurate in recording of times and Lewis said that he recorded times 'spot on to the minute' (6389, see also 6390) but the evidence that his times are inaccurate is considerable. In addition to the evidence concerning the time of Dr Ralte's attendance, Sister Elizabeth Cruickshank's evidence (in the ambulance records which she completed) are to the effect that she logged the time of arrival of Eddie's body in the hospital records at 3.30 pm (6874, 6883-4, 6888, 6932-4). She also was trained to be accurate in the recording of times. If her recording was accurate, the ambulance could not have left the depot, collected Eddie's body and arrived at the hospital at the time she recorded.

Lewis gave evidence that he was accompanied to the cell by a police officer (6378) and he states he was in the cell when Dr Ralte entered and examined Eddie's body (6378). He recalled that the doctor's examination was very brief, 30-60 seconds. Dr Ralte disputed his examination was so brief (6951). Lewis did not see the demonstration given to the doctor by Page of the release of Eddie's body from the noose (6391). It is possible that Dr Ralte returned briefly to the cell when the ambulance arrived, to pronounce Eddie dead and to direct the ambulance driver to take the body to the mortuary. The case sheet prepared by Lewis notes 'patient pronounced dead at police station by Dr Ralte' (N/1/52) and Lewis says that Ralte authorised him to remove Eddie's body (6379, 6388). This evidence is consistent with Lewis' memory that Dr Ralte whilst at the cell whilst he was present.

Neither Page nor Moseley recalled seeing Lewis at the cell whilst the doctor was in attendance although Page conceded that possibility (6577). Page stated that Dr Ralte was in the cell first with himself and Moseley, that he returned to the office with the police officers, and later may have returned to the cell (6577). Assuming this to be correct, it is likely that Page and Moseley had left the station to look for Arthur Murray prior to the arrival of the ambulance which explains why Page and Moseley have no recollection of seeing Lewis in the cell.

Parker said that Dr Ralte authorised him to call the ambulance (6543) and the ambulance arrived almost immediately. Earlier in his evidence he said that he was still in the cell when Dr Ralte who took Eddie to the ambulance (3215). He believed this to be at 3.20-3.25 pm (3215). Parker said that Dr Ralte was still at the station when the ambulance arrived (3250, 3251).

I find that Parker took Lewis to the cell. In his depositions (p.213) Parker said the only time he saw Eddie, after seeing him at 2.30 pm, was when the ambulance arrived. In his evidence to the Royal Commission Parker said that he did not again see Eddie or return to the cell after he allegedly went to the cell at 2.30 pm (3221).

Mr Cronin gave evidence that he saw the ambulance arrive as he was leaving the police station and after he had seen Dr Ralte leave (N/1/39, 3018, 3020, 3031). This evidence conflicts with the testimony of Lewis that he arrived before Dr Ralte left. I regard Cronin as a careful witness but he may be mistaken. A possible explanation for the conflict in evidence is that Cronin saw the ambulance driver entering the police station, rather than the ambulance van arriving, and he assumed Lewis was entering for the first time. I say this as Lewis stated he had to return to his vehicle to get the stretcher after Eddie was pronounced dead (6382); Dr Ralte said he did not return to see Eddie's body removed from the cell (4313, 4318, 6934).

The task of endeavouring to 'fit together' the recollections of witnesses on matters such as these in an effort to secure a homogeneous pattern should not be pursued too assiduously in case reliable evidence is rejected in the process. I do not find that any witness deliberately misled me on this issue as to times - the confusion results from the passage of time, the processes of examination and cross-examination, much thought, and some reconstruction. I am satisfied that the telephone call for the ambulance was received well before 3.30 pm and that Lewis (and in the eye he made) were incorrect to this extent. This situation and the above passage typifies the difficulties in making confident findings years after an event.

14.6 EXAMINATION BY AMBULANCE OFFICER

When Mr Lewis entered the cell he saw Eddie lying on his back on a bed (6378, 6381). He made an examination for pulse and breathing and found no signs of life (6378). He did not notice any marks to the neck and he did not see any other marks (6384, 6394). When he examined Eddie his attention also was concentrated upon the prospects of resuscitation (6404). He said the cell was dark and because Eddie was dark skinned it would have been difficult to see marks (6425). He noticed that there was a blue tinge to Eddie's lips and other areas (N/1/16, 6375).

14.7 TRANSFER OF EDDIE MURRAY'S BODY TO THE MORTUARY

Lewis gave evidence that a police officer assisted him place the body on the stretcher (N/1/17, 6384). No police officers have recollection of so doing. Page and Moseley had left the station at this stage leaving only Parker and Fitzgerald there. If Parker was the officer who took Lewis to the cells he was probably the police officer who assisted. Lewis does not recall Parker's presence. It was submitted that Parker does not admit to so assisting Lewis in an attempt to distance himself from Eddie's death. I doubt this.

Lewis transported Eddie's body from the cell to the mortuary annexed to Wee Wee District Hospital. The hospital records show the body was received at 3.30 pm (N/1/133). I find no police officers accompanied Lewis to the mortuary in the ambulance. Lewis did not see police at or near the mortuary (6392).

Mrs Elizabeth Cruickshank, who was a nursing sister on duty on 12 June 1981, opened the mortuary for Lewis (N/1/116). When she opened the side door of the hospital to admit Lewis she recalled a police vehicle and one or two police officers in the vicinity (6871, 6895). The ambulance officer took Eddie's body into the mortuary and he recalled placing the body on the stainless steel table (N/1/116).

Mrs Cruckshank later went to check that the body was present and she found the door locked (6894). She assumed Lewis had closed the door behind him. It was self-locking (6869, 6894). When she returned to check the body it was in the refrigerator and she saw Eddie's body (6870). Mr Pollard, a maintenance supervisor at the hospital, recalled seeing Eddie's body in the refrigerator while he was working on the Five Yearly Exam of 12.0.1981 to 1.0.1982. He said that he saw Eddie's body in the refrigerator (N/1/134-135).

The evidence as to a police presence at the mortuary was stressed by Counsel for the Murray family who submitted that either at this time or in the next morning Eddie's body and/or the clothing on his body was tampered with by police officers in order to cover-up the circumstances of his death.

No police officer admitted he was at or near the mortuary. As previously stated, Parker told me he did not carry the deceased to the ambulance (which I believe he did) and he did not accompany the ambulance officer to the hospital (which I accept) (6534). He could not recall patrol duties that afternoon although there is an entry in the Record of Police Reporting dated 12 June 1981 which says in part '... officer to 3.20 pm ... patrol to 3.45 pm ...' (N/1/43). Parker said it was possible that he could have gone to the mortuary but the only reason he could suggest was 'maybe to let the hospital know the particulars.' (6535-36). Moseley was pretty confident that he did not go near the mortuary on the day of Eddie's death (6456). He thought Parker may have done so, but he did not know one way or the other (6456). Page denied that he went to the mortuary and said he was on patrol with Moseley looking for Arthur Murray (6604, 6617). He did not send any officers to the mortuary; however, he conceded it was possible that officers could have gone to admit the body or remove valuables (6623).

Mrs Cruckshank believed it was the ambulance officer who had supplied her with the details relating to Eddie Murray although she was uncertain as to the time. It was suggested to her that the details may have been gained by a key and no police officer approached her for a key on 12 June (6895).

14.8 CHRONOLOGY OF EVENTS AFTER EDDIE MURRAY FOUND

Doing the best I can, I assess the sequence of some events as follows. All times are approximate only:

3.00 Parker and Cronin at counter. Page and Moseley inspect cells and release Eddie from noose.

3.03 Moseley (and probably Page) return to office (3017, 3025).

3.05 Parker telephones Dr Ralte - officers remain in office (3025, 3213-4, 3244, Dep 241).

3.10 Dr Ralte arrives (4326, 6946, 3018, 3214) - taken to cell by Page - Moseley joins them.