

Shayne was fine by the morning. The doctor ticked him off and checked him off and just said “Best place is home. Rest. See you later.” Discharged us. When I got home on Monday morning with Shayne the house is a little bit upside down, but ok. “Hey, what was all of that about?” I asked Chris as he came into the room.

He’s like “F***, I needed your help man. With the boys.” He’s raving about how hard it was to look after them and all of this sort of carry on. So I checked on the twins, and they were fine. Bathed them, fed them, they’re just absolutely normal. And they just did all their normal things. Their stool had come solid, good colour. Full wees and nappies. Two number 2’s a day and four wets was around about it. They had got to four feeds a day at that point. So Chris & Cru were awake and alert and all of that. I knew I had to get ready to go to Emily’s, so I settled the twins back down and started preparing.

“I need help with the boys,” complained Chris. For the previous few weeks since the twins came home, I’d been their primary caregiver.

Macsyna may well have been wing commander when it came to baby duties, but she made sure Chris helped out. Basics like feeding, bathing and nappy changing were duties shared. That didn’t stop Kahui’s lawyers trying to suggest it was mainly the woman’s job to notice anything wrong.

“You would expect a mother to pick up on subtle signs of problems with her child,” ventured defence lawyer Michele Wilkinson-Smith during cross examination of a doctor at the inquest. Which prompted another female lawyer to spring to her feet and point out “My learned friend put to you that you would expect a mother to see subtle signs of, you know, injury or unwellness in a child. Now, if a father was involved in having taken a lot of care of the child for a year, and then was involved in feeding and changing and, on his own, looking after the twins, you would expect the father to also notice subtle signs, would you not? “

It took the good doctor a bit of umming and ahing, but eventually he conceded, “Yes, I expect that.”

When Kahui’s lawyer had later persuaded Mona Kahui to name Macsyna King as being in charge of all things baby, the Coroner felt compelled to help set the record straight:

CORONER: But the feeding was shared between the two of them on occasions wasn’t it?

MONA: Yes.

CORONER: And other things that need to be done with babies?

MONA: Yes.

CORONER: Changing their clothing, their nappies and bathing and so on?

MONA: Yes.

CORONER: Both of them helped each other there?

MONA: Yes.

Of course, the ultimate kicker is that only Chris Kahui knew how long the babies had gone hungry, because he had lied to everyone else and said he'd fed the babies. Chris was an experienced baby feeder. He chose not to tell the doctor his children had not fed in 24 hours. If these medical problems were truly not his fault, why did he keep that key information secret?

"If two three month old babies had not fed for 24 hours, certainly you would expect to be told that?" police counsel Simon Mount asked the doctor.¹⁷

"Yes, I think it would be pretty obvious."

"Christopher Kahui did not say anything to you about anything unusual in baby Cru's feeding pattern?" probed the lawyer.

"No."

Chris and Mona were regularly up at Middlemore visiting their ill mother Gwen who'd been in critical care but had just come out of danger. While she'd been critical, I'd taken on the load, and I reminded Chris of that. "Yeah. I've needed help with the boys over the last few weeks. And now that your mother is not in intensive care, I just want to go out with my sister."

So he knew I was going out. Stu knew, I told Stu. Ems knew, of course. And I think Mona and Stu also said to Chris, "Bro we're here, we'll help you. I'll help you. Ok so it'll be alright." It's not like Chris didn't have childcare experience – Shayne was now 13 months old – it was just that he preferred seeing his mother, to be frank, rather than child-minding.

All the witnesses agree, Macsyna King left the house after lunch to go to Emily's. Chris Kahui's older cousin April Saunders testified that she and her husband arrived sometime after 1pm and Macsyna wasn't there. She heard one of the babies crying, and picked up the twin making the noise,

17 Cross examination of Dr Gopinath Nayar, Coroner's Inquest, 2010

underneath a sign at one end of the cot saying "Cru".

April told the court, and this is crucial to the case, that she fed baby Cru the remains of his milk bottle that had been beside him – about an inch of milk left – and that the child opened his eyes during the feed and responded normally, there were no breathing difficulties and his eyes were normal.¹⁸

Why is this crucial? Because if Cru – who would later suffer the worst injuries – had been harmed prior to Maccsyna leaving the house, the experts are confident he would not have been feeding properly or – more significantly – looking alert, as it usually only takes 10 minutes or so for symptoms of the brain injury to kick in. Saunders told the court she fed Cru for around 10 to 15 minutes, then put him back to sleep.

"About the time that April fed baby Cru," police counsel Simon Mount asked Mona Kahui, "you saw your brother Chris go into the twins room with a full bottle of milk?"

"Yes."

"And then, some time later he came back out of the room with the same bottle empty?"

"Yes."

"At the trial," asked Mount, "Maccsyna was asked how the twins were, when she left the house on that Monday, and she said this at page 85, line 1, 'They looked normal, as normal as I remembered, fed normally, they were alert when they were awake, their eyes had just started following sound, their movements were not absolutely controlled but not floppy and limp so I left them and they were good, they were fine, there was nothing wrong with them, I wasn't worried and they were in the best condition that I remembered leaving them in.' Do you accept that Maccsyna's description of the twins as being fine and good, at about that time on the Monday is an accurate description from your own observation?"

"Yes," agreed Mona Kahui.

April Saunders was not only Mona and Chris' cousin, she was a mother and grandmother with extensive childcare experience. Hers is the last independent testimony that the twins were normal. It was around 2pm on Monday, 12 June 2006...

I'd driven from Courtenay Cres in Emily's grey Subaru, which I'd borrowed, went to her home and we picked up the work truck, a

¹⁸ Evidence of April Saunders, Queen vs Kahui, 2008

Safari or Pajero or something, a big ugly beast with a chrome-dome looking top and the number plate HORSES.

She's got to do some painting and renovation quotes for this home in Manurewa, with one other lady who worked in the office and who did cleaning of any homes that were vacant. It was a rental property business with Shane Wenzell. While Ems was meeting this woman, Des, I stayed in the truck with her daughter Ellen. About half an hour to an hour later she comes out and goes "OK, I've done my whole job. Now I'll just txt this to Honey (*husband Pou*) and we'll go out to Ginta's."

"Oh, ok then."

"I'll drive us out there," said Emily, "but once we get there I'm going to have some wines with Ginta and you can drive us back. Does that still suit with you?"

And I'm like "Yep."

"Ok well first I've got to go and drop Ellen off to Honey". Incidentally, she calls her husband Honey.

We dropped Ellen off. I think we eventually dropped her off at the office on the way to Ginta's, because when we got to their home in Papakura, Honey's not there so she rings Honey from home at Rolleston¹⁹ cause he's not there and Emily says, "I'll drop her off in Takanini."

In her testimony at Chris Kahui's trial, Emily said that Macsyna initially went to sleep for a while at Emily's house, probably understandable given a) the late night wake-up the previous evening when Chris had burst into Banjo's house demanding help with the twins, and b) the 4am visit to Middlemore hospital with a sick baby Shayne earlier that day. Emily told

¹⁹ Cellphone records show a call from Emily to husband Pou at 17.31 that evening. She appears to have been home in Rolleston – the Papakura street they lived in – while he was nearby, but clearly not close enough to physically speak to rather than phone. Pou testified at the inquest that he was driving around dropping some of his staff at their homes in various parts of South Auckland during this time. An hour passes, presumably dinner is made, and then Pou calls Emily at 18.47 from Takanini, where he worked, presumably to tell her he's there. Eleven minutes later, at 18.58, Emily calls Pou – presumably to tell him they're leaving now. She and Macsyna are on the move. See cross examinations of Emily Hepi and Pou Hepi, Coroner's Inquest, 2010. So as not to corrupt memories of the incident, I deliberately did not put the call times to Macsyna or indeed reveal that I had them. I wanted to see how they fitted her story. The sequence fits so well it actually clarifies some particularly lengthy exchanges during the inquest, when counsel were trying to get Pou Hepi, whose memory by all accounts is poor, to remember exactly what had happened that night and how baby Ellen had ended up in Pou's care. Macsyna remembered dropping the baby off at the office, which others had forgotten, and that salient fact not only proves Macsyna was with Emily, but it fits the call records. It also explains why Pou remembers seeing Macsyna with Emily, even though he could not have made it home.

the court they went out and did the painting quote only after Macsyna woke up several hours later.

So, having called Pou at 6.58pm to say “we’re on our way with Ellen”, they drive to the office to meet Pou in Takanini, drop off the baby, then sometime soon after that they rejoin Auckland’s southern motorway at Manurewa and begin tracking north to transfer to the Northwestern motorway at Spaghetti Junction in the city. It’s a Monday evening, but the worst of the rush hour is long past. From there it’s off at the Waterview exit...and a sudden change of plans caused by a phone call at 7.38pm...

We go past Carrington and it goes down like a horse shoe, and around. The first garage that we came to, I can’t remember if it’s a Caltex or a BP, but we stop there because cause Ems needed gas and smokes. Suddenly her phone rings – I’d forgotten to bring mine, which was unusual. We’re still slowing down to enter the service station forecourt, and I can see it’s her husband calling. She goes “I’ll speak to him as soon as I stop.”

Which she does. “What’s the matter?”

“You need to bring that bloody truck back. The boss has just given me a good bollocking over it.”

“Why, I’m a fully licensed driver, I wasn’t speeding, any tickets I get I’ll be responsible.”

And he’s like “nah, It’s just he just doesn’t want it to go out unless it’s on business, and you’ve gone out for something personal and you’re going to be back late. We can’t do that.”

They have a little bit of a “thing” on the phone, and Emily was really annoyed. We got the gas anyway because the truck was on E. She bought smokes and other bits and pieces, and then we pulled out of the service station and took the back way through Avondale, and I guess Mt Albert and eventually Mays Road, until you join the Southwestern motorway out to the airport and Manukau.

Emily’s spitting tacks and going “f***ing stinking so and so’s,” and she’s booting it in this bloody truck, she’s giving it death. We get back to Emily’s place in Papakura, swap cars, jump into the Subaru, and off we go again to Ginta’s.

While the women were driving back to return the car, Emily’s husband had phoned again to check on their progress. That cellphone call went through at 7.54pm, and was routed through Vodafone’s Mangere cellsite.

This was late-breaking news at the Kahui trial in 2008, and became one of the key pieces of evidence that drove the jury to acquit Chris Kahui. Defence lawyers argued strongly that the cellphone records meant Macsyna King must have returned to Courtenay Crescent, and bashed the children before being driven away again by Emily.

"Courtney Crescent is in Mangere, is it not?"

"Yes."

"You did not go to Mangere that evening, is that your evidence?"

Macsyna King replied: "I did not go anywhere else. I did not go to Mangere."

The issue of motive, and precisely why Macsyna would drive from half-way across town to sneak into a house normally full of people, and beat her babies senseless, was not credibly explored by Chris Kahui's defence lawyers. They didn't need to explain anything, they just had to plant the seeds of doubt about Macsyna's credibility as a witness, and a mother.

"You returned home and you lost it," defence lawyer Lorraine Smith argued. "What happened to make Emily suddenly go back? I put it to you that you did something terrible to the twins."

Addressing the jury, Lorraine Smith hammered the point home: "The defence says there is something very wrong about this. The defence says Emily King and Macsyna lied."

Despite the rhetoric, there were some sizeable evidential holes in the defence argument. Not the least of those was that if a cellphone call had indeed been made while the phone was at Courtenay Crescent, it would not actually have gone through the Mangere cellsite but a different one, Papatoetoe West. Far more likely then that the cellphone call was indeed placed while Emily and Macsyna were driving past Mangere on the Southwestern motorway, which is covered by the Mangere cellsite.²⁰

Smith was right about one thing though – Macsyna King had testified strongly in court that there had been no return trip to the Mangere home, and then been forced to explain the cellphone call placing her in Mangere. King argues that she did not technically return to Mangere, and she is right, but such subtleties are lost on juries: if the cellsite is named Mangere, and your house is in Mangere, you must have been in Mangere.

The other problem with Lorraine Smith's carefully constructed conspiracy theory, is that it relied a lot on chance. For a brief period, around 7pm, there was only one adult in residence at Courtenay Crescent – Mac-

²⁰ Evidence of Thorsten Teichmann, Vodafone, Queen vs Kahui, 2008

syna's brother Stuart. A short time later it was back up to the full quota of four adults. Macsyna had no way of accurately pinpointing, from half a city away, the best time to arrive at Courtenay Crescent without being noticed. It's a small house. Stuart King is adamant that his sister never came home that night. And there's still that issue of motive – why would a mother drive halfway across town to bash her babies, when she was having a girls' night off with her sister?

Why would the sister knowingly cover up a double murder of her own nephews, and then allow the killer to look after her own baby Ellen, born just a few days after the twins? As Crown Prosecutor Simon Moore put it to the jury, "When Emily gets up [the next morning] she finds Macsyna feeding her baby. The known baby-killer is feeding [Emily's] baby. Not only is Emily not concerned that this baby killer is feeding her baby, but she [then] asks if her sister will look after her baby while she is at work."

If the jury believe the defence claim, warned Moore, they need "a reality check".

The credence given to the cellphone records by the jury however was clearly reflected in a New Zealand Herald analysis of what led the jury to acquit Kahui in a record one minute verdict: "Denials by Ms King that she did not return to the south Auckland home for a brief time while Kahui was out dropping off his sister to visit their mother at hospital, were clearly not supported by cellphone records which showed Emily King had returned to the Mangere area that evening."

In other words, the jury believed that King's denial she had been home was overturned because of a call through the Mangere cellsite. Never mind Vodafone's evidence that the Papatoetoe West site was the one that actually covered the Kahui home.

When the cellphone and alleged secret trip resurfaced at the inquest in 2010, even Coroner Garry Evans was openly sceptical: "You've got to get her into the house, you've got to give her time to injure the babies – it's a long stretch, isn't it?"²¹

The coroner's disbelief didn't prevent Chris Kahui's lawyer, Chris Wilkin-Smith from continuing to flog a dead horse: "You went to the house and did violence to the twins. You were annoyed the house was untidy, annoyed [Kahui] was visiting his mother. It would have only taken a few minutes. . ." ²²

Given that Kahui had regularly visited his mother while other family

²¹ Coroner's Inquest, 2010

²² Cross-examination of Macsyna King, Coroner's Inquest, 2010

members like her brother were left babysitting the twins, that discovery is unlikely to have set Macsyna off, even if she had turned up. More to the point, though, the 2010 version of the conspiracy theory suggests Macsyna didn't sneak across town to deliberately kill the twins, but entered the house normally – yet without attracting the attention of anyone there – and only then did she supposedly lose it when she saw Chris wasn't home. But instead of going into the rooms to see who was there and asking where Chris was, the public are supposed to believe that Macsyna blamed the twins for this turn of events and slammed them against a wall or the cot without making any noise that would attract the attention of her brother across the hall, then snuck out again.

Believe that, you'll believe anything. It violates the K.I.S.S principle at so many levels, and it's astounding that the trial jury in 2008 got sucked in by the smoke and mirrors surrounding it. We'll return to this in a moment.

So what did happen at Courtenay Crescent the night the twins stopped breathing?

Chris Kahui gave an exclusive interview to the Sunday Star-Times newspaper in 2006, which may have helped trigger his arrest just a few weeks later. Kahui told the paper that "every four hours" he had fed the babies that night, the last feed being around 1am.²³

Kahui gave three statements to police, however, where he said the twins had last fed in the evening between five and 6pm on the Monday night, and that their behaviour had been "just like normal".²⁴ In the first two of his videotaped statements to police, Kahui claimed Cru had drunk a full 150ml bottle of milk after being given CPR. By the time of his third statement to police, taken after the Sunday Star-Times interview, he no longer mentioned the 1am feed.

In his first police statement, taken only a day after the incident, Kahui says he also fed the babies again at six in the morning after the incident. Again, this claim was dropped from his third statement to police.

Then, after his arrest and on the eve of his murder trial, Chris Kahui changed his story again. He coughed to the changes in his stories while his defence team quietly de-emphasised the later feeds and concentrated on the last normal feed everyone could agree on, when cousin April Saunders fed Cru between midday and 1pm on Monday afternoon. This was crucial for the defence case, because if the jury believed it then they could argue that Macsyna must have harmed the children before she left

²³ "I Did Not Kill Them". Sunday Star-Times, 1 October 2006

²⁴ Closing submissions by prosecutor Simon Moore, Queen vs Kahui, 2008

the house that day – that the children were already brain damaged and that's why they couldn't feed.

The defence lawyers had to come up with a plausible backstory on why Kahui kept changing his statements. Defence lawyer Lorraine Smith told the jury in 2008 he was a simple boy who had made errors (others would say 'lied' and indeed the prosecutors labelled him an outright "liar") in his police statements because he was "desperate" to look like a "good father". Chris Kahui himself told the Inquest last year the same thing, "I wanted to look like a good father".²⁵ You don't make mistakes for a reason, you make mistakes unintentionally. If Kahui was telling the police something with the intention of making himself look good, it was deliberate and he was lying in my view. Without casting judgement on Kahui at this point, it is a general truism that offenders frequently lie to the police when being questioned so as to make themselves look better.

Crown Prosecutor Simon Moore told the jury that if this was true, if Kahui was really "a good father", why was it always Macsyna King who had taken the children to get medical attention when they needed it, not Kahui?

At the 2010 inquest hearings, Coroner Garry Evans extracted yet a different excuse for the changed story in regard to feeding the twins: "Why is there a completely different story in your statement to what you told the police?"

"Because I wasn't sure if I had fed them."²⁶

So which is it, did Chris Kahui initially give false evidence because he wanted to look good, or because he remembered better four years after the event than when he first spoke to police 24 hours after the event?

In one early statement, Kahui had said the breathing incident happened around 11pm. Subsequently, that was changed to 9pm. Pinning down what actually took place and when inside 22 Courtenay Place was like trying to herd cats – different versions were flying in all directions.

In my view, Kahui's legal advisors would have realised that they had no hope of successfully getting the client off if he stuck to his story about regular feeding through the night. That's because they knew the prosecution's forensic experts were going to testify that the onset of rolling eyes and breathing difficulties would have been within minutes of any attack. If Kahui had fed the children at five or six pm normally, then the injuries could only have been inflicted after that, and one of the four adults in the home – Chris Kahui, Banjo Kahui, Mona Kahui or her partner Stuart King – must have been the killer.

²⁵ Evidence of Chris Kahui, Coroner's Inquest, 2010

²⁶ *ibid*

Only by ditching the later feeds and changing his story could Kahui's defence team push the blame elsewhere and create "reasonable doubt" for the jury to acquit. Even Kahui's change of story placing the breathing problem at 9pm, rather than 11pm, would have helped, particularly in light of the cellphone debate. But if Kahui was lying and being shielded by close family members, or collectively the four adults in the house were covering for one of their number, then the cellphone debate becomes irrelevant, regardless of how much heat it generated.

At the trial, Mona Kahui testified to seeing April Saunders feed Cru at 1pm, and how she had also seen her brother Chris walk up the hallway with a full bottle of milk and come out later with an empty bottle, suggestive of baby Chris having a feed as well. Chris later confirmed to the inquest that he had indeed fed baby Chris when Mona saw him. That evening, Mona says Chris drove her to Middlemore to see their mother, around 7pm. Cellphone records placed Emily and Macsyna in Papakura at 6.58pm, some 25 km away and evidently en route to Takalani to drop off baby Ellen. Mona says Chris left the hospital immediately after dropping her off, she says, presumably to return home. If that's the case, then Chris should well and truly have been back at the house at the time when defence lawyers claim Macsyna supposedly burst in after a mad dash across town, found him not there, and beat the babies senseless for reasons unknown. In the defence scenario, Emily and Macsyna have to be doing an average speed of 100km an hour through suburban Papakura and Mangere streets, in order to get there before Chris got home. Given that they didn't know Chris wasn't there, they wouldn't have been speeding like that. A diversion to suburban Mangere would also have made it impossible for Emily to have reached Avondale in time to receive a phone call there at 7.38pm.

At 8.15pm, Mona says she and her father Banjo left the hospital in his car and drove back to Courtenay Crescent, where they caught up with Chris. According to Mona they all went outside for a smoke, and when she'd finished she went inside to see the twins and found Chris holding baby Chris. She told the court Chris asked her to pick up Cru, but that when she did so his face was pale, lips were blue and his eyes were rolling into the back of his head. He was not breathing.

Mona testified she called out to Chris about Cru's eyes and his failure to breathe, but that Chris thought she was "over-exaggerating...he didn't think it was that serious."

There are clear conflicts, now that we've had a trial in 2008 and the inquest in 2010/2011, in the evidence from those in the house that night.

For example, Banjo Kahui told the 2008 trial that he saw Chris Kahui go into the twins' nursery, and then Mona followed in right behind him "almost immediately". Banjo's evidence conflicts with Mona's 2008 testimony immediately above, but it gets worse.

In June 2011, Mona admitted to Coroner Garry Evans that "it was probably about ten minutes from the time Chris went inside until I went in."²⁷ Chris Kahui had said exactly the same thing, "about ten minutes" in his initial police statements.

Ten minutes alone with the children before Cru was found by Mona not breathing and with his eyes rolling back. Perhaps realising it wasn't a good look, Chris Kahui again changed his story, saying he was only in the room alone for three minutes before Mona came in.²⁸ Either way, Banjo Kahui's testimony that Mona and Chris entered the room together is clearly wrong.

But think about it for a moment. He told police he had gone in to feed them. What was he doing for ten minutes (or even three) before Mona came in? Counsel assisting the Coroner, Chris Morris, wanted to know some answers when he got the chance to cross examine Kahui at the inquest.²⁹

"I think I was picking up stuff on the ground," Kahui responded.

"It wouldn't take three minutes to pick up stuff, would it?"

"No."

"So what else were you doing?"

"I can't remember what I was doing in there."

Given that defence counsel Lorraine Smith had a field day convincing the media that Macsyna should have noticed evidence of historical injuries, it is bitterly ironic that her own client failed to notice the much bigger elephant in the room. Did Chris Kahui see that any of the babies were apparently lifeless and scream for help? No. Mona was the first to see anything wrong, the instant she walked in.

Chris' initial response when Mona told him about Cru was to suggest giving the baby a pat.

"I told Chris that Cru had stopped breathing, but he thought that I was over-exaggerating," Mona told the inquest, which is similar to what she told the trial in 2008.

When Mona finally convinced Chris Kahui to do something about the

²⁷ Evidence of Mona Kahui, Coroner's Inquest, 2011

²⁸ Evidence of Chris Kahui, Coroner's Inquest, 9 October 2010

²⁹ Cross examination of Chris Kahui, Coroner's Inquest, 11 October 2010

lifeless Cru, she told the trial her brother put baby Chris back into his cot, took Cru from her and laid the baby down and initially just stroked his arm. Only after that, Mona says, did it look as if he was about to perform CPR. At that point Mona ran screaming from the room to alert her partner Stuart, and Banjo Kahui came in.³⁰

Banjo denied on oath seeing eyes rolling back or blue lips.³¹ However, Stuart King – who'd come into the room after Banjo, told police, "Cru's lips were purple and he kept getting darker and darker", and that the Cru's eyes rolled back in his head. Additionally, says Stuart, every time the baby tried to breathe his tiny hands shook and twitched as he took in a breath. "It sounded like sucking in drink through a straw," Stuart King told police. When King asked Chris Kahui if he wanted an ambulance, Kahui said no. "Nah, nah, he's breathing again. He should be fine."³²

Banjo Kahui told the 2008 trial he'd gone to assist Chris with the CPR, and "he looked alright...otherwise I wouldn't have passed him on".

Mona Kahui says when she re-entered the room shortly after Stuart, Chris had picked up Cru to cradle him and was saying "Oh my son, don't do that to me again."

But Stuart King's testimony to the 2008 trial is even more interesting.³³ He says he took Cru off Chris Kahui because he could see Cru still wasn't breathing. Kahui and Banjo had been in the room, supposedly performing CPR (although no one else appears to have actually seen this), but Stuart saw what the other two men had not – whatever the pair had done it hadn't worked. "His lips were dark purple. They were getting darker and darker. His body was so flimsy. You could tell it was not normal." How long was Chris going to cuddle a baby still turning blue, whilst saying "don't do that to me again" even though the crisis wasn't over?

Yet the Kahuis were all playing it down. Here's what Mona told the Coroner:³⁴

"What is the reason Cru was not taken to the hospital?"

"Because my brother thought that he had come to and that everything was going to be okay."

"So do I take it that, you were happy with that situation?"

"Yes."

"Banjo was happy with that situation, your father?"

30 Evidence of Mona Kahui, Queen vs Kahui, 2008

31 Evidence of William 'Banjo' Kahui, Queen vs Kahui, 2008

32 Evidence of Det Sgt Chris Barry, Coroner's Inquest, 4 October 2010

33 Evidence of Stuart King, Queen vs Kahui, 2008

34 Cross-examination of Mona Kahui, Coroner's Inquest, 2011

“Yes as far as I knew, yes.”

“So the situation was normal as far as you were concerned?”

“Yes.”

The odd one out in these witnesses is Stuart King – Mona’s partner and the only non-Kahui. Banjo says he was satisfied Cru was breathing and handed the baby back to Chris, and Mona walks in to see Chris saying “don’t do that to me again”, implying the crisis was momentary, fleeting and solved. It is only Stuart King who tells it differently.

Stuart, however, described Cru’s body as “limp...just hanging there”, and reckons breathing may have initially ceased for “between five and ten minutes”³⁵ while he was there, and when it resumed while he was holding the baby it was far from normal, with 40 second heavily-laboured breathing “in short bursts, like he was sucking air through a straw”³⁶ then stretches of silence.. “He [Cru] was cold. His hands were all floppy, his whole body was limp.”³⁷

Stuart told the court he personally did not perform CPR, nor did he see Chris Kahui or Banjo perform CPR. Instead, the two men looked “freaked out, scared.” Mona has already testified she had left the room before Chris began CPR.

So we are left with only two people who definitely claim to have seen CPR performed: Chris Kahui and his father – and both of them have now been forced to admit to police and/or Macsyna that they lied about the events of that night. Was CPR actually performed, and if not, why did they pretend that it was?

Contrast Stuart King's graphic description of the breathing failure with this statement to the court from Banjo Kahui: “If his eyes were rolling or something I would have immediately taken him to hospital. He didn’t look like he was gasping or anything.”³⁸

Not even one tiny gasp? According to Stuart King, Banjo was in the room watching Cru virtually die in front of them, hands twitching with every straw-sucking breath. According to Banjo, it didn’t happen. Yet Stuart King says “Banj[ol] wanted to ring an ambulance.”³⁹

There’s another piece of evidence that’s been overlooked in this CPR debate as well. Chris Kahui was not confident handling the tiny twins, so

35 Stuart later conceded on cross examination that five or ten minutes without breathing it was what it felt like, but two or three minutes would be more accurate. Coroner’s Inquest, 2010

36 Evidence of Stuart King, Kahui Depositions, 2007

37 *ibid*

38 Cross Examination of William ‘Banjo’ Kahui, Coroner’s Inquest, 2010

39 Evidence of Stuart King, Kahui Depositions, 2007

how likely is it that a man frightened of changing their nappies in case he damaged them would be confident enough to perform CPR on a prem baby? How confident would any of us be? That's why Stuart didn't perform CPR but tried to rub Cru back into life.

Chris Kahui at one point told police "he looked like he was just fading away", which he later confirmed meant "dying".⁴⁰

So if you didn't really know how to perform CPR, and your baby has stopped breathing in front of you, what would be the normal, natural, immediate reaction of any parent who wanted their child to recover?

Even Mona couldn't keep the story straight under questioning from the Coroner, gradually retreating from her claim that no one called an ambulance because everything was hunky-dory, to an admission that there had been some talk about it.

"But you've already told me that it was suggested by others in the room that baby should go to hospital, haven't you?," asked the Coroner.

"Yeah."

"Yes. And that suggestion was not accepted by your brother was it?"

"No," admitted Mona.

The question has always been, why did no one in the house call an ambulance? Perhaps the answer lies in the transcript of a bugged phone call between Chris Kahui and his father Banjo, released for the first time ever at the inquest, where Chris said: "See, f***, if we never went into the hospital that time we went to the doctors, f***en they probably never would have found out!"

"Who?" asked Banjo.

"The police, when they ain't even, you know, if we never had checked up on anything and then we still probably, you know, if the boys, you know," Chris was recorded saying.⁴¹

It displays a naivety about the ability of forensic science to work backwards from an incident. If Kahui truly believed that avoiding medical assistance would prevent detection by police, that would explain a lot about his reluctance to go to hospital. It also raises questions about how much Banjo Kahui really knew, and whether in fact anyone has yet heard the real story of what went on in that house, that night.

40 Cross examination of Chris Kahui, Coroner's Inquest, 2010

41 Cross Examination of Chris Kahui, Coroner's Inquest, 2010

I Want Straight Answers

As Kahui's lawyer jumped to object to the use of evidence that had never been used at the 2008 trial, and therefore never considered by the jury before they acquitted Kahui, he was overruled by the Coroner.

For Garry Evans, the reluctance to get medical attention was the final straw. "Any normal parent would take the babies to the hospital. Why did you not act like a normal parent would have?"

Evans said Kahui had been given "a great deal of latitude with his answers...It's time for him to give straight answers to straight questions."

Suppose you owned a puppy, said the coroner, that stopped breathing and turned blue, "Would you take it to the vet?"

"Yes," agreed Kahui.

"So why did you not take the babies to a doctor like everyone said you should? What is your answer? Take as long as you like."

Chris Kahui looked blank and said nothing for a few moments. "I don't have an answer to that."

For all of his apparently stellar ability to give police false information without blinking, there is one piece of evidence Kahui can't get around. Nurse Jane Eyres told the inquest she had personally visited the Kahui twins at home just five days before the breathing failure, and specifically discussed with Chris Kahui what to do if a baby stopped breathing. She testified explaining that in such an emergency, or even merely "showing signs of respiratory distress", the parents were to "ring 111" and call an ambulance immediately.⁴²

Chris had been told by a nurse just five days earlier exactly what to do in exactly this emergency. He decided not to do it. Nurse Eyres said

⁴² Evidence of Jane Eyres, Coroner's Inquest, 2010