



Coroner's Court of Western Australia

**RECORD OF INVESTIGATION INTO DEATH**

Ref: 50/19

*I, Sarah Helen Linton, Coroner, having investigated the death of **Ryan Philip SCRIVENER** with an inquest held at the **Perth Coroner's Court, Court 51, CLC Building, 501 Hay Street, Perth** on **11 and 12 September 2019** find that the identity of the deceased person was **Ryan Philip SCRIVENER** and that death occurred on **28 February 2016** at **37 Chiltern Avenue, Brookdale**, as a result of **a shotgun injury to the head** in the following circumstances:*

**Counsel Appearing:**

Ms F Allen assisting the Coroner.

Mr M Crispe appearing on behalf of the family of Ryan.

Ms R Hartley (State Solicitor's Office) appearing on behalf of the WA Police.

**TABLE OF CONTENTS**

INTRODUCTION.....	2
BACKGROUND .....	4
THE RELATIONSHIP BREAKDOWN .....	5
GRANTING OF THE VRO .....	8
INITIAL ATTEMPTS TO SERVE THE VRO .....	8
INITIAL ATTENDANCE OF POLICE AT 37 CHILTERN AVE .....	9
ATTENDANCE OF TRG .....	11
INVOLVEMENT OF A POLICE NEGOTIATOR .....	13
EVENTS LEADING UP TO ENTERING THE HOUSE .....	17
EXAMINATION OF THE SCENE .....	18
CAUSE AND MANNER OF DEATH.....	19
COMMENTS ON CONDUCT OF POLICE.....	20
Service of the VRO .....	20
Attempts by police to resolve the situation .....	21
Effect of drugs on Ryan.....	24
Involvement of family and friends in negotiation.....	24
Recommendation .....	27
Failure to record the conversation.....	27
CONCLUSION .....	27

## SUPPRESSION ORDER

**On the basis it would be contrary to the public interest, I make an order that there be no reporting or publication of:**

- 1. The name, picture or any other identifying feature of the witnesses Operator 42 and Operator 23;**
- 2. The decision-making criteria, response times, resourcing and any other operational aspects of the WA Police Force Tactical Response Group; and**
- 3. The methodologies, response times or resourcing of the WA Police Force Tactical Response Group Negotiations Unit.**

### INTRODUCTION

1. On 28 February 2016 police officers were called to attend a house in Chiltern Way in Brookdale. They were told that a lady by the name of Sonja Tomsic lived at the home and she believed that her former partner, Ryan Scrivener (who I will call Ryan, as he was referred to by his family in letters to the court), was in the house. Ms Tomsic had been granted an interim Violence Restraining Order (VRO) against Ryan, but it was yet to be served on him. There was, however, evidence Ryan was aware of the existence of the VRO.
2. Four local police constables went to Brookdale and met with Ms Tomsic near the house at about 11.00 am. One of the police officers spoke to Ryan on Ms Tomsic's telephone. Ryan effectively told him the police should not try to enter the house. The initial attending police officers did try to enter the house through the front door and garage door, in order to serve the VRO on Ryan, but it became apparent that he had effectively barricaded himself into the house and they were unable to gain entry. The police officers requested additional assistance.
3. A short time later two operators from the Tactical Response Group (TRG) attended. They obtained written permission from Ms Tomsic to enter the house and serve the VRO. They used Ms Tomsic's key to open the front door and then entered the house with the protection of a ballistic shield. They saw Ryan inside the house and then heard the distinct sound of a shotgun being actioned. Ryan called out to the police to get out of the house and asked for his friend Lance Orme to come and collect his personal belongings before he would come out. The police officers immediately withdrew from the house for their own safety.
4. A large contingent of police moved into the area, including a full TRG Tactical Team, accompanied by an armoured police tactical vehicle referred to as a 'Bearcat'. A police negotiator, located within the Bearcat, attempted to convince Ryan to come out of the house peacefully, but he refused. During this time Ryan was sending text messages to Ms Tomsic and family and friends. It was apparent he was aware of the police presence outside and he

made comments to Ms Tomsic that suggested he was thinking of committing suicide.

5. At about 4.40 pm police heard a sound from the vicinity of the house. The police officers who heard the noise could not say with any confidence that it was a gunshot. Some officers thought the sound may have been Ryan moving furniture, which had happened before in a siege situation.
6. Shortly after, a plan was formulated to force open the door of the house with the aid of the Bearcat, but this was then put on hold when a TRG operator believed they had detected movement in the house. The front door was eventually forced open via the Bearcat at 5.53 pm. There was no sign of Ryan. With the use of binoculars, a TRG operator eventually sighted the body of Ryan inside the house on a couch, with an obvious large wound to his face. He was not moving. TRG officers entered the house and found Ryan inside with a large head wound. It was obvious he had died. He had a shotgun in his right hand, with his finger inside the trigger guard,<sup>1</sup> resting on his lap. A post mortem examination found he died from a shotgun injury to the head.
7. Following the police investigation into the death, the circumstances of the death became relatively clear. Ryan died from a gunshot injury to the head and there was no suggestion another person was involved in inflicting the gunshot injury. There was also no real dispute that Ryan had intentionally fatally shot himself.
8. A submission was made on behalf of the family of Ryan to the State Coroner that an inquest into the death was mandatory on the basis the death appeared to be caused or contributed to by any action of a member of the police force, pursuant to s 22(1)(b) of the *Coroners Act 1996* (WA). The State Coroner did not accept the submission that an inquest was mandated under that section as she was not persuaded there was a sufficient nexus between the police action and Ryan's death. However, the State Coroner determined that it was desirable, within the meaning of the s 22(2) of the Act, for a coroner to investigate the circumstances attending the death.
9. I held an inquest on 11 and 12 September 2019. The inquest focused primarily on the involvement of the police and the circumstances of the siege prior to his death. I heard evidence from some of the police officers who attended on the day and had contact with Ryan, as well as those who investigated the death and the Negotiation Coordinator for the WA Police TRG.
10. Ryan's friends and family had questioned why Ryan's friends had not been permitted by the police to try to talk to him to see if they could de-escalate the situation. This was particularly so, given Ryan had asked for Lance Orme to be allowed to come and get his personal belongings. This was covered in the evidence of the police negotiators.

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<sup>1</sup> Exhibit 1, Tab 31 [73].

11. Lance Orme did not provide a statement to police when they were investigating the death, but he did indicate he would attend an inquest and give evidence if summonsed.<sup>2</sup> This was raised at the inquest, but it was noted that Mr Orme's availability was limited due to work, and in the end his attendance was not required by agreement. However, information was provided via a conversation with counsel assisting and through some text message exchanges.<sup>3</sup>
12. Ryan's family also raised some concerns about missing property but it was made clear that this was not a proper focus for the inquest. I understand the family are concerned that Ryan's possessions may have been taken from him prior to his death, which would have adversely affected his mental state, but this is a matter for police separate to a coronial investigation.
13. The primary focus of the inquest was ultimately on the circumstances of the siege in order to determine whether there was a missed opportunity to prevent the death of Ryan, particularly in relation to the offer made by family and friends to assist in the negotiation.

## **BACKGROUND**

14. Ryan was one of six children who all grew up very close in age, interests and friendship. Ryan grew up in the Kelmscott area and attended Kelmscott Senior High School. Ryan's mother recalled that there were two major incidents that occurred during high school that went on to affect Ryan in his adult life. One involved a schoolboy prank gone wrong when he was only 13 years old, which ended in Ryan being taken to the police station without his parents' knowledge or consent. Ryan's mother believed his treatment by police at the time shaped his attitude towards police and the law thereafter.
15. The second incident occurred when Ryan was around the same age, and involved allegations of sexual abuse perpetrated against Ryan by an older female. Ryan's parents were informed of the incident and they took steps to send Ryan away to protect him, but this also meant he was sent away from his family. Ryan's mother described him as a "lost soul"<sup>4</sup> afterwards, with both incidents having a profound effect upon him and his ability to form long-lasting relationships. Ryan did have several relationships and three children. He formed a very close bond with his son but lost contact with his two daughters and did not know where to find them.<sup>5</sup>
16. After leaving school Ryan entered the workforce and worked in various jobs as a mechanic, panel beater, spray painter, welder and metal worker, amongst other things. He also worked as a bouncer from time to time to supplement his income. At the time of his death he was working at West Coast Meat Solutions in Canning Vale.<sup>6</sup>

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<sup>2</sup> T 122 – 123.

<sup>3</sup> Exhibit 4.

<sup>4</sup> Exhibit 5.

<sup>5</sup> Exhibit 5.

<sup>6</sup> Exhibit 1, Tab 2, p. 2 and Tab 10.

17. Ryan was described as a family oriented person who also loved animals, going fishing and riding his Harley Davidson motorcycles. His love of motorcycles led him to become a member of an Outlaw Motorcycle Gang, Gods Garbage, but the club did not fill the gap in his life and he left the club after a brief period in 2015 as he was trying to change his life for the better.<sup>7</sup>
18. His mother described him as having “a heart as big as his country” and said he would “help anyone, anytime and anywhere.”<sup>8</sup>
19. Ryan was said to be in generally good health and had no known medical conditions. His family did not believe he had ever required treatment for mental health concerns. He was known to use cannabis and amphetamine on occasion.<sup>9</sup>
20. A few years prior to his death Ryan commenced a relationship with Ms Tomsic. They lived together for approximately one year at Ms Tomsic’s home at 37 Chiltern Avenue in Brookdale. Also living with them was Ms Tomsic’s young son from a previous relationship.<sup>10</sup>

## **THE RELATIONSHIP BREAKDOWN**

21. After Ryan’s death, Ms Tomsic described to police an incident in December 2014 when she said Ryan became angry and strangled her and pinned her to the wall during an argument. She did not report this incident to the police at the time.<sup>11</sup>
22. Ms Tomsic also told police that in August 2015 she had an argument with Ryan after he forgot to collect her son from school. After the argument, Ryan reportedly said he was going to commit suicide and told Ms Tomsic during a phone call that he had taken something and said,<sup>12</sup>

*“I won’t be here in the morning, you could have stopped this, you are too late. You loaded the gun and pulled the trigger.”*
23. Ms Tomsic said she was concerned after this incident and she asked the deceased’s friends to try to get him to seek help.<sup>13</sup>
24. Ms Tomsic also told the police that the deceased was often angry towards her during their relationship and made indirect threats that frightened her. This had led to their relationship being “on and off,”<sup>14</sup> particularly from December 2015.
25. In the early hours of 18 December 2015 a neighbour called police and reported a domestic incident occurring at Ms Tomsic’s address in Chiltern

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<sup>7</sup> Exhibit 1, Tab 2, p. 2, Tab 9, Statement dated 5.5.2016 and Tab 10; Exhibit 4.

<sup>8</sup> Exhibit 4 [19].

<sup>9</sup> Exhibit 1, Tab 2, p. 3.

<sup>10</sup> Exhibit 1, Tab 9.

<sup>11</sup> Exhibit 1, Tab 2, p. 3.

<sup>12</sup> Exhibit 1, Tab 2, p. 3.

<sup>13</sup> Exhibit 1, Tab 2, p. 3 and Tab 9, Statement dated 29.2.2016 and Statement dated 5.5.2016.

<sup>14</sup> Exhibit 1, Tab 2, p. 3.

Avenue. First Class Constable Paul Grant and Constable Jonathon Trimble went to the house at 3.29 am.

26. All was quiet at the house upon their arrival. When they knocked on the door Ms Tomsic answered. She spoke to the two police officers from behind a security screen and appeared very upset and nervous. Ms Tomsic admitted there had been an argument between herself and Ryan but she said the argument had ended and they had gone to sleep. She also said Ryan had agreed to leave the house in the morning and there was no need for police attendance. Ryan called her away from the door for a time before she returned. It appeared to the police he was trying to dissuade her from letting the police inside the house. While the police officers were talking to Ms Tomsic, they could hear Ryan yelling, "Fuck off copper."<sup>15</sup> There was very clear evidence during the inquest that Ryan held a strong "anti-police"<sup>16</sup> view, as counsel for the family described it.
27. The police officers continued to speak to Ms Tomsic, who was adamant the argument had been purely verbal and that he had never hurt her before, although it was clear to the police that Ms Tomsic was very afraid of Ryan. They eventually convinced Ms Tomsic to unlock the door and let them enter the house.
28. Once inside the house, the police officers attempted to talk to Ryan but he was aggressive towards them. He also made abusive comments towards Ms Tomsic, insisting she had called the police. She denied this and began to cry. The police officers asked to speak to Ryan on his own. When Ms Tomsic left the room he became increasingly aggressive. The police officers issued Ryan with a temporary restraining order, known as a Police Order,<sup>17</sup> which required Ryan to leave the house and prohibited Ryan from contacting Ms Tomsic for 72 hours. He was told if he breached the order he would be arrested. Ryan appeared to be compliant and collected his belongings and left the house on his motorcycle. The police officers gave Ms Tomsic some information about Violence Restraining Orders (VRO) before they left the house.<sup>18</sup>
29. It was explained at the inquest that the main purpose of issuing a Police Order in a family violence situation is to separate the parties and to allow the aggressor a chance to calm down and the victim to apply for a restraining order if they wish.<sup>19</sup>
30. Ms Tomsic said that Ryan was very angry about receiving the police order. She changed the locks on her house but he broke in soon afterwards when she wasn't at home and stole personal items from her. He later returned the items and they reconciled around Christmas 2015.<sup>20</sup>
31. On 6 January 2016 police were again called to attend a disturbance at Ms Tomsic's home. Sergeant Lindsay Collett and Constable Alex Jones

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<sup>15</sup> Exhibit 1, Tab 11 [15].

<sup>16</sup> T 40.

<sup>17</sup> The order is made pursuant to the terms of Division 3A of the *Restraining Orders Act 1997* (WA).

<sup>18</sup> Exhibit 1, Tab 11 and Tab 12.

<sup>19</sup> T 103.

<sup>20</sup> Exhibit 1, Tab 9, Statement dated 5.5.2016.

attended. They found Ryan standing outside the locked front door of the house. He was very hostile towards the police officers and provided them with limited information. Ryan did tell the police officers Ms Tomsic would not let him in and he did not know why. The police officers spoke to Ms Tomsic, who appeared very upset. She said Ryan was refusing to leave her property. While they were talking to her, Ryan approached and tried to speak to her, but the police officers stopped him.<sup>21</sup>

- 32.** Sergeant Collett and Constable Jones moved away from Ryan and spoke to Ms Tomsic in the garage. She did not appear to have any visible injuries but appeared to be very frightened of Ryan. She said he was her ex-partner and he had attended her house and then refused to leave. While they were speaking to her, Ryan again approached and had to be moved back by the police officers. He continued trying to talk to Ms Tomsic over their heads and Sergeant Collett felt he was trying to intimidate her. Ms Tomsic did not reply. Ryan eventually moved back at the request of police, although he remained hostile towards Ms Tomsic. Constable Jones remained outside with him while Sergeant Collett spoke to Ms Tomsic further in the garage.<sup>22</sup>
- 33.** After Sergeant Collett finished speaking to Ms Tomsic, the attending police officers issued Ryan with another 72 hour Police Order. Ryan initially refused to accept the order. He eventually listened to the explanation of the terms of the order and agreed to the conditions but then threw his copy of the order onto the lawn and rode away on his motorcycle. After he left the police provided Ms Tomsic with some advice about applying for a more permanent VRO if she wanted to do so.<sup>23</sup>
- 34.** Ms Tomsic later provided a statement to police indicating that Ryan bombarded her with text messages in breach of the Police Order, starting only an hour after he had left the house. She did not report the breaches to the police at the time as she was concerned this might aggravate Ryan and provoke him to become violent towards her.<sup>24</sup>
- 35.** However, Ms Tomsic did decide at this time that that she wanted to end her relationship with Ryan. She told him of her decision via text messages. Ryan's dog and other possessions remained at her house and he apparently did not make any immediate attempt to collect these, despite being told the relationship was over. Ryan stayed elsewhere over the following weeks and Ms Tomsic believed he did not collect his possessions as he didn't have a permanent place to keep them. Ryan did go to Ms Tomsic's house once in early February 2016 to collect a couple of boxes of possessions but he left the bulk of his possessions, and his dog, behind.<sup>25</sup>

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<sup>21</sup> Exhibit 1, Tab 13.

<sup>22</sup> Exhibit 1, Tab 13 and Tab 14.

<sup>23</sup> Exhibit 1, Tab 9, Statement dated 5.5.2016 and Tab 14 and Tab 15.

<sup>24</sup> Exhibit 1, Tab 9, Statement dated 5.5.2016.

<sup>25</sup> Exhibit 1, Tab 9, Statement dated 5.5.2016.

## **GRANTING OF THE VRO**

36. On 19 February 2016 Ms Tomsic received a text message from Ryan that she described as “particularly chilling.”<sup>26</sup> She interpreted the message as conveying a threat to physically harm her. This message prompted Ms Tomsic to take steps to obtain a VRO.
37. On 22 February 2016, with the assistance of a lawyer, Ms Tomsic swore an affidavit in support of her VRO application. The application was granted the following day, being 23 February 2016, by a Magistrate in the Perth Magistrates Court. The VRO included conditions prohibiting Ryan from contacting Ms Tomsic, attending at her home address and possessing a firearm. Ms Tomsic provided details to assist in serving the order on Ryan, including his brother’s full address (as he was believed to be staying with his brother at the time), his work address and his mobile telephone number.<sup>27</sup>

## **INITIAL ATTEMPTS TO SERVE THE VRO**

38. At 4.30 pm on 23 February 2016 an electronic copy of the VRO issued by the Perth Magistrates Court was sent to the Mandurah Police Station for service. At 7.20 pm that same evening, Constable Harris from the Mandurah Police Station took the VRO to Ryan’s brother Terry’s house in Secret Harbour to attempt to serve it on Ryan.<sup>28</sup>
39. Ryan was not at home and Constable Harris spoke to Terry Scrivener instead. Constable Harris told him he had some paperwork for Ryan, but did not say it was a VRO. Terry Scrivener said Ryan was working 12 hour shifts and was at work until midnight. Terry Scrivener offered to take the paperwork and give it to his brother when he returned from work. Constable Harris declined the offer as he needed to give it to Ryan personally, but left his calling card. Terry Scrivener agreed that he would pass on the card to Ryan. Terry was about to fly out of Perth for work so he left the card out for Ryan, together with a note saying the police might be serving a VRO.<sup>29</sup>
40. Constable Harris returned the unserved VRO to Mandurah Police Station. It does not appear that any further attempt was made to serve it on Ryan and there is no evidence that Ryan voluntarily made contact with the police. However, it does appear that he suspected that the police were trying to serve him with a VRO. On 23 February 2016 Ryan texted Ms Tomsic and asked her if she had ‘put a restraining order on him’ despite his belief she had promised him she would not.<sup>30</sup>
41. At about 4.00 am on 24 February 2016 Terry Scrivener saw Ryan. He said “She’s not worth it” and Ryan told his brother he would go to Mandurah

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<sup>26</sup> Exhibit 1, Tab 9 [6], Statement dated 29.2.2016.

<sup>27</sup> Exhibit 1, Tab 2, p. 6.

<sup>28</sup> Exhibit 1, Tab 2, pp. 6 – 7.

<sup>29</sup> Exhibit 1, Tab 2, pp. 6 – 7 and Tab 10 and Tab 18.

<sup>30</sup> Exhibit 1, Tab 2, p.p. 6 – 7.

Police Station to collect the paperwork, but he never did. Terry later texted Ryan about it and told him he should go and get the VRO and move on.<sup>31</sup>

42. In the meantime, Ryan had continued to send text messages to Ms Tomsic. As a result of receiving these messages, she got her lawyer to contact police and request them to follow up service of the VRO. Nevertheless it remained unserved for the next few days while Ryan continued to text her.<sup>32</sup> Ms Tomsic felt that Ryan's messages were becoming more threatening and she became concerned for her safety. She chose not to go home and stayed elsewhere. She also took the step of changing the door locks on her house.<sup>33</sup>
43. The dogs remained at the house, so Ms Tomsic still had to return home to feed them. On 26 February 2016, when Ms Tomsic went home to feed the dogs, she observed some things that made her believe Ryan had been to the house. She was later told by a neighbour he had been on the roof of the house and when questioned by the neighbour, Ryan had said he was fixing something. Ms Tomsic did not enter the house as she was concerned for her safety.<sup>34</sup> Ryan sent her a number of text messages throughout the day and night. Some of the messages suggested he was aware of the VRO application and was actively avoiding service. Ms Tomsic arranged for her lawyer to contact police to follow up service and provide Ryan's contact details again.<sup>35</sup>
44. On 27 February 2016 Ryan sent more text messages to Ms Tomsic in which he appeared to be asking to meet with her. At about 7.00 pm that evening she returned home and noticed the garage door was working, whereas the previous day it had not been lifting. She entered the house and noticed her own copy of the VRO application, which was in the house, had handwriting on it. Ms Tomsic recognised the handwriting as Ryan's. It appeared Ryan had seen the document and had written comments on it.<sup>36</sup> Ms Tomsic was concerned he might still be in the house, so she packed some clothes and quickly left. Ms Tomsic was aware the VRO had still not been served at this time and she didn't want to return to her house until it was served.<sup>37</sup>

## **INITIAL ATTENDANCE OF POLICE AT 37 CHILTERN AVE**

45. The following day, being 28 February 2016, Ryan started sending texts to Ms Tomsic from about 7.00 am. Some of the text messages suggested he was in her house. The messages advised that if she did not respond to his messages she would lose her possessions.<sup>38</sup> Other messages sent included "this is all your fault" and "U just killed me."<sup>39</sup>
46. At 9.26 am Ms Tomsic telephoned police and requested police attendance at her home. She made a further phone call to police at 9.48 am to confirm that

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<sup>31</sup> Exhibit 1, Tab 2, p. 7 and Tab 10.

<sup>32</sup> Exhibit 1, Tab 2, p. 7.

<sup>33</sup> Exhibit 1, Tab 2, p. 7.

<sup>34</sup> Exhibit 1, Tab 2, p. 7.

<sup>35</sup> Tab 9 Exhibit 1, Tab 9, Statement dated 5.5.2016.

<sup>36</sup> Exhibit 1, Tab 2, p. 8.

<sup>37</sup> Exhibit 1, Tab 2, p. 8 and Tab 9, Statement dated 5.5.2016.

<sup>38</sup> Exhibit 1, Tab 2, p. 8.

<sup>39</sup> Exhibit 1, Tab 2, p. 8.

that she believed Ryan was still in her house. Police updated the dispatch system with an alert that the deceased was identified as a Gods Garbage member and there was a warning that he was not to be issued with a firearm.<sup>40</sup> He was also prohibited from being issued with one under the conditions of the VRO.<sup>41</sup>

47. The police job was allocated at about 9.45 am to two local police officers, Constables Mitchell O’Kane and Elias Nassif from Armadale Police Station, but the officers were then diverted en route to a priority job. They were dispatched to attend the job in Chiltern Avenue again at 10.58 am. They printed the VRO and brought it with them in anticipation of being able to serve it on Ryan at the house. They arrived at the location at about 11.20 am. A second police vehicle containing Constables Paul Anscombe and Laura Molloy also attended to assist.<sup>42</sup>
48. The four police officers walked up together to the front door of 37 Chiltern Avenue. Constable Nassif noticed two security cameras facing the front door and the front room windows were covered by a mesh-like material. Constable Nassif rang the doorbell several times and knocked several times on the front door and side windows but no one responded and no noises could be heard from within other than the sound of two dogs barking. Constable Nassif was unsure whether the dogs were inside or outside the house, but Constable O’Kane thought it sounded like they were inside. Constable Anscombe checked and found there was no way to enter the property from the rear as the gate was locked.
49. The police officers retreated to their police cars and rang Ms Tomsic. Ms Tomsic advised Constable Nassif that she had been receiving text messages from Ryan in which he stated that if she did not reply to him he would start damaging property inside the house. She had received the last text message approximately 15 minutes before. When told that the dogs appeared to be inside the house, Ms Tomsic indicated this was further confirmation Ryan was in the house as she had left the dogs outside.<sup>43</sup>
50. Constable Nassif asked Ms Tomsic if she could come to the house with her keys and let the police inside to have a look if Ryan was there. She arrived in her car about 20 minutes later. Ms Tomsic appeared distraught on arrival and told the police officers she had received multiple phone calls and text messages from Ryan. Ms Tomsic walked the police officers to the front door and gave Constable O’Kane her house key. He attempted to unlock the front door but could not get the key into the lock. Ms Tomsic suggested to the police that Ryan may have jammed the lock from behind. Constable O’Kane also attempted to open the garage door with Ms Tomsic’s garage remote but it did not work. Ms Tomsic advised Ryan may possibly have unplugged it internally.<sup>44</sup>

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<sup>40</sup> Exhibit 1, Tab 2, p. 8.

<sup>41</sup> Exhibit 1, Tab 2, p. 6.

<sup>42</sup> Exhibit 1, Tab 2, p. 8 and Tab 19, Memorandum, pp. 1 - 2.

<sup>43</sup> Exhibit 1, Tab 19 and Tab 20.

<sup>44</sup> T 106; Exhibit 1, Tab 19 and Tab 20.

51. Constable O’Kane was about to ask Ms Tomsic if he could force entry into the premises when Ms Tomsic received a phone call from Ryan. Constable O’Kane asked her permission to answer it, then took the phone and spoke to Ryan. Constable O’Kane identified himself and Ryan told him to “put her back on the phone,”<sup>45</sup> and repeated this a number of times. Constable O’Kane declined to do so and told Ryan he had paperwork to serve on him. Ryan again asked for him to put Ms Tomsic on, and Constable O’Kane explained the paperwork was a VRO and he could not speak to her.
52. Constable O’Kane then said, “Come to the door so that I don’t have to break it in.”<sup>46</sup> Ryan responded, “If you guys come in, it will not end well for you.”<sup>47</sup> He then hung up. Constable O’Kane said Ryan sounded firm and he took Ryan’s statement seriously.<sup>48</sup>
53. The police told Ms Tomsic to leave the area for her safety and she drove away shortly after. Constable O’Kane then rang the District Control Centre and provided information, including about Ryan’s Outlaw Motorcycle Gang links and the fact he had barricaded himself into someone else home and the words he had said on the phone, before asking if it might be an appropriate matter to involve the TRG. Enquiries were made by the District Control Centre staff and Constable O’Kane then received a call from a member of the TRG assessment team. They instructed him to position the attending police officers in a way to maximise a cordon around the house while maintaining a visual of the front door. They were then to wait for TRG officers to attend.<sup>49</sup>
54. While waiting for the TRG to attend, Constable O’Kane obtained consent from Ms Tomsic for police to cause damage to her property during their entry and obtained a description of Ryan.<sup>50</sup> Constable O’Kane was still waiting when he received a text from Ms Tomsic advising that she had received a text message from Ryan on her phone that read,<sup>51</sup>
- “I have unlocked the front door, come and get a front row seat to watch the show.”
55. Constable O’Kane gave evidence that in the context of events, it was clear to him that the message was intended as a threat. He took no action as he was expecting the TRG to arrive soon.<sup>52</sup>

## **ATTENDANCE OF TRG**

56. When the TRG officers attended they received a briefing then sent Constable O’Kane to confirm from Ms Tomsic that she was the owner of the house and Ryan no longer resided there. After she provided this confirmation, he then

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<sup>45</sup> Exhibit 1, Tab 20 [23].

<sup>46</sup> Exhibit 1, Tab 20 [30].

<sup>47</sup> Exhibit 1, Tab 20 [31].

<sup>48</sup> T 107.

<sup>49</sup> T 107 - 108; Exhibit 1, Tab 20.

<sup>50</sup> Exhibit 1, Tab 20.

<sup>51</sup> Exhibit 1, Tab 20 [41].

<sup>52</sup> T 109; Exhibit 1, Tab 20 [41].

updated the TRG. The TRG officers formulated a plan with the attending police to go in and serve the VRO on Ryan.<sup>53</sup>

57. The TRG officers, accompanied by Constable O’Kane and Constable Nassif, went to the front door of the house. TRG Operator 42 knocked on the security door and called out to Ryan, advising him the police were at the door. There was no response. They next tried calling Ryan with Ms Tomsic’s phone but the call went straight through to message bank, indicating Ryan’s phone was turned off.<sup>54</sup>
58. Operator 42 then noticed a black and yellow cap wedged between the security screen and front door. The cap contained a mobile phone, keys and wallet with Ryan’s ID inside. Operator 42 moved the cap near the front pillar.<sup>55</sup>
59. Constable O’Kane said the cap had not been there earlier as he was sure he would have seen it. He believed Ryan had opened the front door and placed the items there while the police officers were waiting for the TRG to arrive.<sup>56</sup> He recalled that the TRG requested that Constable O’Kane take the phone to Ms Tomsic to confirm whether it belonged to Ryan and to ask her for her house keys and mobile phone. Ms Tomsic did confirm the Nokia phone belonged to Ryan and she advised it was his only mobile telephone. Constable O’Kane passed this information on to the TRG.<sup>57</sup>
60. The TRG officers instructed Constable O’Kane to open the flyscreen door for them and to keep it open as they entered the house. He used the keys to unlock the front door and pushed it open while holding open the flyscreen door. TRG Operator 42 and Operator 70 then entered the house, backed up by the two police constables.
61. The TRG officers were armed with protective equipment as a precautionary measure. They called out to Ryan as they entered the house and declared themselves as police officers. Ryan replied with the words “Fuck off,” in an aggressive tone. Operator 42 told him there was a VRO to be served on him and he continued to swear at them and tell them to get out.<sup>58</sup>
62. It was difficult to see as they entered the house, due to the transition from the light outside, and it took Operator 42 a few seconds to realise that Ryan was standing at the end of the corridor, sitting on a lounge. Only the left side of his face and left arm was visible at this stage. Operator 70 thought he saw a metal bar being held by Ryan. Ryan then moved to his right, so the TRG operators lost sight of him behind a wall.<sup>59</sup>
63. Ryan did not hold, and had never held a firearm licence, and he was prohibited from obtaining one. Nevertheless, it is apparent he had one in his possession on this day. The police officers did not see a firearm (although the

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<sup>53</sup> T 7.

<sup>54</sup> T 8; Exhibit 1, Tab 23.

<sup>55</sup> Exhibit 1, Tab 23.

<sup>56</sup> T 110 – 111.

<sup>57</sup> Exhibit 1, Tab 20 and Tab 23.

<sup>58</sup> T 8; Exhibit 1, Tab 23.

<sup>59</sup> T 8.

metal bar may have actually been a shotgun) but all of the police officers inside the house next heard the distinct sound of a shotgun being actioned, meaning the weapon was being readied to fire. Operator 42 believed the sound came from where Ryan had moved to around the corner.<sup>60</sup>

64. Constable O’Kane had pulled out his taser. When he heard the sound of the shotgun being actioned, he dropped his taser in order to draw his firearm as quickly as possible. The taser landed on the floor near the doorway. Constable Nassif, who was holding a fire extinguisher in case it was needed to deter the dogs and a taser, dropped the fire extinguisher and re-holstered the taser and pulled out a firearm.<sup>61</sup> Operator 70 also drew a firearm and pointed it towards where he believed Ryan to be, while shouting to him to put the gun down. It is apparent that the police officers were fearful that shots were about to be fired.
65. Ryan again said to the police to get out and also asked for his friend Lance to collect his belongings, saying he would then come out.<sup>62</sup> The TRG officers decided to tactically disengage at this time. The TRG officers yelled for everyone to ‘pull out’ and all four officers retreated out the front door. One of the TRG officers collected the dropped taser as they left the house. The police officers all retreated to a safe distance and took cover. Constable Nassif made a call requesting more units come to assist.<sup>63</sup> Operator 70 also rang the Tactical Commander of the TRG and requested further resources.<sup>64</sup>
66. The TRG officers went back to their vehicle and Operator 42 got out a firearm and took up position to monitor the front door of the house. The police had left the front door open but the security door self-closed, so it was still difficult to see inside the house. After some time, Ryan walked out the front door and looked around. Operator 42 called out to him a number of times, “Show me your hands” as he could only see one hand at that stage. I note that Operator 42 took no steps to fire towards Ryan at this stage. Ryan “looked around as if he was looking for someone, then casually turned around and went inside the premises.”<sup>65</sup>

## **INVOLVEMENT OF A POLICE NEGOTIATOR**

67. The other police officers had taken steps to cordon off the streets to protect the public, and a command post was set up some distance away from the house. Further resources from the TRG then arrived.
68. The WA Police armoured vehicle, commonly known as the ‘Bearcat’ came forward and stopped out the front of the house after a time. The Bearcat was parked parallel directly in front of the house on the verge. The front of the Bearcat was approximately 6 metres from the front door. The rest of the TRG team were placed into positions and teams by Operator 70 while Operator 42

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<sup>60</sup> Exhibit 1, Tab 23.

<sup>61</sup> Exhibit 1, Tab 19 and Tab 20.

<sup>62</sup> T 10; Exhibit 1, Tab 23 and Tab 24.

<sup>63</sup> Exhibit 1, Tab 19 and Tab 20 and Tab 23.

<sup>64</sup> Exhibit 1, Tab 23.

<sup>65</sup> Exhibit 1, Tab 23 [48].

continued to keep watch on the front door. Operator 42 then joined the Bearcat team along with Operator 70 and other TRG officers. Operator 42 stood behind the vehicle to use it as cover while he continued to keep watch on the front of the house. At no time did he see any police officer or other person enter the front of the house until later in the night when the front door was breached by the Bearcat.<sup>66</sup>

- 69.** Detective Senior Sergeant Rohan Ingles (now Inspector Ingles, but I will refer to him as Detective Ingles in the finding) was the on-call police negotiator that day and he received a telephone call from Senior Sergeant Balfour to attend Chiltern Avenue at 1.44 pm. He arrived at the scene at 2.34 pm and received a briefing from Detective Sergeant Mansell, who was the nominated Incident Controller. Detective Mansell had been approached earlier by Ryan's friend, most likely Lance Orme, who had offered to assist the police. Detective Mansell had told him it was unlikely he would be allowed to speak to Ryan, but suggested he stay nearby.<sup>67</sup>
- 70.** Mr Orme later provided information to the Court that he had received unsettling text messages from Ryan that morning that made it clear that Ryan was feeling down due to his relationship breakdown. Ryan asked Mr Orme if he could collect a car near Ms Tomsic's house, which he thought was a strange request. Copies of the text messages show that message and also one around the same time where Ryan wrote "Sorry mate but hurts 2 much." Mr Orme tried to call Ryan, but he did not answer. He then drove to Ms Tomsic's house and when he arrived he saw police in attendance and the street blocked off. He went over to speak to police, who advised him he could not go to the house. Mr Orme sent a text message to Ryan but didn't receive a response. He then waited at the command post with the hope of speaking to someone to offer his help, as he believed he could resolve the situation peacefully if he was allowed to speak to Ryan.<sup>68</sup>
- 71.** There is evidence Ryan had sent another text to Mr Orme, on the day, which read "Sorry mate me hats at the door the pigs got me covered every way. Ur a true brother." This is consistent with the police evidence that Ryan had asked the police to give the hat and his property to Mr Orme.
- 72.** While at the command post, Detective Ingles was made aware that Mr Orme was present. Detective Ingles spoke to Mr Orme, who suggested he could get Ryan out of the house within 10 minutes if the police let him speak to him.<sup>69</sup> I note Detective Ingles did not recall this part of the conversation in his oral evidence, but I have assumed that his statement is the more reliable version, given he gave it much closer in time to the event, and it is consistent with Mr Orme's recollection of events.<sup>70</sup> Detective Ingles asked Mr Orme what had caused the situation today, and Mr Orme indicated it was the relationship breakdown that was affecting Ryan. Detective Ingles asked if Ryan might have a firearm, and Mr Orme indicated he could have a shotgun. Detective

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<sup>66</sup> Exhibit 1, Tab 23.

<sup>67</sup> T 35.

<sup>68</sup> Exhibit 4.

<sup>69</sup> T 51; Exhibit 1, Tab 26 [14].

<sup>70</sup> T 51; Exhibit 4.

Ingles asked Mr Orme to wait at the outer cordon in case he needed to speak with him further.<sup>71</sup>

73. On arrival, Detective Ingles had seen the Bearcat was already parked outside the house, which was unusual as it wouldn't normally be deployed before his arrival. Given it was in place, Detective Ingles felt it was prudent to quickly take a position in the vehicle so that he could assist with the negotiation component of the incident.<sup>72</sup>
74. Detective Ingles was told he would be taken to the Bearcat, so he took some of his equipment out of the negotiators vehicle and carried it with him to the Bearcat. Unfortunately, due to the urgency of the situation, Detective Ingles forgot a key item, namely his recorder and radio, which meant he was not able to record his negotiation with Ryan.<sup>73</sup> I note that it would only have recorded Detective Ingles' words, in any event, as the general evidence was that Ryan was very hard to hear due to other background noise.<sup>74</sup>
75. Once in the Bearcat, Detective Ingles obtained a 'Surrender Plan' from a TRG operator, which covered how the negotiator should arrange for Ryan to exit the house, if he agreed to surrender. Detective Ingles was confident at this stage that he should be able to resolve the matter peacefully.<sup>75</sup>
76. Detective Ingles started speaking to Ryan at about 3.00 pm from within the Bearcat via a loud speaker that was broadcast outside the Bearcat. It was difficult to hear if he responded due to the distance from the house and the engine noise of the Bearcat, which remained running for operational reasons, and other noises in the vehicle. The engine was switched off from time to time during the negotiations to assist with communication.<sup>76</sup>
77. Initially there was no obvious sign of a response, then after a few minutes Ryan came to the front door and stood behind the security screen. It appeared he was speaking but Detective Ingles couldn't hear a lot of what he was saying from inside the vehicle, so he told Ryan he would move to the rear of the Bearcat so they could talk.<sup>77</sup>
78. While standing at the back of the Bearcat Detective Ingles attempted to speak with Ryan. He couldn't see him as he was behind the security screen door and could only hear some of what Ryan was saying. Ryan told him to "fuck off" a number of times and then mentioned something about giving his wallet to his friend Mr Orme. He said if the police did that, he would come out. Detective Ingles asked where it was and Ryan became angry and didn't answer. Shortly after he shut the main door and ended the face to face communication.<sup>78</sup>

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<sup>71</sup> T 51; Exhibit 1, Tab 26 [14].

<sup>72</sup> T 52.

<sup>73</sup> T 52; Exhibit 1, Tab 26.

<sup>74</sup> T 76.

<sup>75</sup> Exhibit 1, Tab 26.

<sup>76</sup> Exhibit 1, Tab 26 and Tab 29.

<sup>77</sup> Exhibit 1, Tab 26.

<sup>78</sup> T 53; Exhibit 2, Tab 26.

79. Operator 70 recalled that Ryan told Detective Ingles to “fuck off”<sup>79</sup> and was being very uncooperative. He also heard the reference again to Mr Orme and his property.<sup>80</sup> Although Detective Ingles was saying that nobody wanted to hurt him and they wanted it to end peacefully, Ryan was heard to say that “the word of the police is worth fuck all.”<sup>81</sup>
80. The ‘On-call’ Tactical Commander of the TRG, Senior Sergeant Gregory Balfour, had established a command post away from the house in Chiltern Avenue. Senior Sergeant Balfour could not hear exactly what was said, but he could hear Ryan shouting towards Detectives Ingles from his position at the command post. He was advised by Detective Ingles and TRG operators that Ryan had indicated he was not willing to surrender to police.<sup>82</sup>
81. Detective Ingles established from one of the TRG operators that Mr Orme’s wallet, phone and hat were at the front of the premises. From their conversation, Detective Ingles understood Ryan wanted these items to be given to Mr Orme, who he understood was still at the outside perimeter. Detective Ingles was open to doing this, as he felt it would demonstrate a show of good faith and assist to establish a rapport with Ryan, but he knew it was unlikely that it would be authorised because of the risks associated with someone walking to the front of the premises to retrieve the items.<sup>83</sup>
82. The request was relayed up the command chain. Senior Sergeant Balfour was concerned that Ryan might be using this request as a ploy to entice police forward and away from cover so that he could shoot them. With the safety of the police officers a priority, Senior Sergeant Balfour instructed that they should not agree to Ryan’s request.<sup>84</sup>
83. Detective Ingles attempted to speak to Ryan again and requested on numerous occasions that he exit the house with his hands up. Ryan did eventually come to the front door again but he did not open the security screen. Detective Ingles went to the rear of the Bearcat again and attempted to convince Ryan to surrender, but he did not. Detective Ingles could not recall in his oral evidence if they had any meaningful discussion, although there is some evidence they had a discussion about whether Ryan had a firearm, and it seemed that he did but he said he did not intend to use it on police.<sup>85</sup> The belief that Ryan had a firearm made negotiations very difficult, as Detective Ingles had to maintain cover for safety reasons. Ryan also appeared very angry and was abusive towards the police, so it was hard to predict what he might do. Ryan eventually closed the door again and he did not return to the door after that time.<sup>86</sup>
84. At some stage the electricity to the house was switched off as it was noted there was CCTV at the house and there was a concern Ryan could be

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<sup>79</sup> Exhibit 1, Tab 24 [52].

<sup>80</sup> Exhibit 1, Tab 24 [54].

<sup>81</sup> Exhibit 1, Tab 31 [31].

<sup>82</sup> Exhibit 1, Tab 25.

<sup>83</sup> T 53

<sup>84</sup> Exhibit 1, Tab 25 and Tab 26.

<sup>85</sup> T 53, 55 - 56; Exhibit 1, Tab 29 [24] and Tab 30 [36].

<sup>86</sup> Exhibit 1, Tabs 24 to 26.

watching the police activity via this means.<sup>87</sup> It seems Ryan was aware this occurred, as one TRG operator who was positioned near the house could hear Ryan inside the house shouting that he wanted his power turned back on.<sup>88</sup>

85. Detective Ingles indicated that the options for meaningful communication were limited but he continued to try to raise Ryan and convince him to “come out, relinquish his firearm and be safe.”<sup>89</sup> He also tried to reassure Ryan that the police were not keen to ‘storm the premises’ and wanted to resolve the situation peacefully.<sup>90</sup>
86. Detective Ingles was asked whether he considered getting family or friends involved, but he did not consider that to be an option at that initial stage as he hadn’t yet been able to establish two-way conversation. It was also impractical as any family member or friend would have to be brought to the Bearcat, which could potentially put that person at risk of harm. Nevertheless, it was still an option Detective Ingles was prepared to consider, depending on how the negotiation went over time.<sup>91</sup>

### **EVENTS LEADING UP TO ENTERING THE HOUSE**

87. At 4.41 pm police officers outside the house heard a sound from the direction of the house. It was described variously as a “muffled pop,”<sup>92</sup> a “dull bang,”<sup>93</sup> “deep thud,”<sup>94</sup> and a loud popping noise “similar to a packet of chips being popped.”<sup>95</sup> Even the experienced officers at the scene were uncertain what the sound was and were not confident it was the sound of a gunshot. Some thought it could be the sound of Ryan moving furniture inside the house. Negotiations were attempted again but Ryan did not respond in any way.<sup>96</sup>
88. Not long after, a decision was made that the TRG would be moving to a ‘Breach and Hold’, which means they were going to use the ram on the Bearcat to punch through the front door but not enter; rather, they would move back and resume negotiations. The Bearcat had to be taken away to affix the ram, which occurred at about 5.30 pm. Whilst this was occurring, Detective Ingles spoke to Senior Sergeant Balfour. Detective Ingles mentioned that he and others in the Bearcat had heard a ‘popping’ sound some time ago but were uncertain of its origin. Senior Sergeant Balfour had also been told a neighbour had heard movement coming from the bathroom of the house, which suggested Ryan was still alive.<sup>97</sup>

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<sup>87</sup> Exhibit 1, Tab 24 and Tab 25.

<sup>88</sup> Exhibit 1, Tab 28 [20].

<sup>89</sup> T 54.

<sup>90</sup> T 54, 58.

<sup>91</sup> T 58 – 59, 69.

<sup>92</sup> Exhibit 1, Tab 23 [65] and Tab 26 [38] and Tab 31 [42].

<sup>93</sup> Exhibit 1, Tab 24 [60].

<sup>94</sup> Exhibit 2, Tab 33 [26].

<sup>95</sup> Exhibit 1, Tab 19 [72].

<sup>96</sup> Exhibit 1, Tab 26 and Tab 29.

<sup>97</sup> Exhibit 1, Tab 23.

89. The operators and Detective Ingles then returned to the Bearcat to initiate the Breach and Hold. Detective Ingles again attempted to engage with Ryan, without success. The fact he had ceased all communications seemed unusual to some of the TRG operators, given he had been so aggressive earlier. It began to be considered that Ryan had self-harmed and they became concerned for his welfare.<sup>98</sup> The ram was then used to push in the front door at 5.53 pm. The front door went in as planned and Detective Ingles called out to Ryan using a loudspeaker to come out and surrender. There was no response. The TRG operators tried to see inside the house, but it was still difficult.<sup>99</sup>
90. To improve their view, and noting what had been suggested about movement in the bedroom en-suite, the Bearcat was to be re-positioned near the front bedroom window. While this was underway, two of the operators in the Bearcat used binoculars to look inside the house. Operator 23 believed he could see a man with an apparent gunshot injury to the head slumped against the lounge. Permission was given for operators to commence entry to the house by the front door in order to locate Ryan and check on his welfare.<sup>100</sup>
91. TRG operators moved forward to clear the premises. Operator 42, together with other TRG operators, walked up to the front door and entered and searched the premises. Operator 42 and Operator 70 both saw a male person who appeared to have died in the main living area. The person had a fatal gunshot wound to the left side of his head and brain matter was on the floor. Operator 42 recognised this person as the person who had walked outside the house earlier, and he was later identified as Ryan.<sup>101</sup>
92. Once the premises were secured, and it was confirmed that no one else was in the house, Operator 23 went to the body of Ryan. He could see Ryan had a catastrophic head injury. There was a pump action shotgun lying across his lap, with “his right hand on the handle and his right index finger in the trigger guard.”<sup>102</sup> He had no pulse and it was clear he had died. It appeared to the police officers that Ryan had shot himself in the head with the shot gun and had sustained a fatal injury to the head.<sup>103</sup>
93. No operators touched the gun as they were satisfied that he had died and could not use the gun against them.<sup>104</sup> The scene was locked down and handed over to Detectives to investigate the death.<sup>105</sup>

## **EXAMINATION OF THE SCENE**

94. Major Crime Squad officers, Coronial Investigation Unit and Forensic Field Operations staff conducted an examination of Ms Tomsic’s residence. Ryan

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<sup>98</sup> Exhibit 1, Tab 27 [22] – [24].

<sup>99</sup> Exhibit 1, Tab 23 and Tab 26 and Tab 40.

<sup>100</sup> T 21; Exhibit 1, Tab 27.

<sup>101</sup> Exhibit 1, Tab 23 and Tab 25.

<sup>102</sup> T 21 - 22.

<sup>103</sup> Exhibit 1, Tab 23 and Tab 24; Exhibit 2, Tab 32.

<sup>104</sup> T 22.

<sup>105</sup> Exhibit 1, Tab 23 and Tab 24.

was located in the lounge room with an apparent shotgun wound to the head. A shotgun was located in his hand, lying in his lap. Ryan's finger was near the trigger of the shotgun.<sup>106</sup>

95. It was determined from the scene examination that Ryan's injuries were consistent with a self-inflicted gunshot wound to the head and there was no evidence of third party involvement in his death.<sup>107</sup>
96. Internal Affairs Unit investigators attended and conducted drug and alcohol testing of all officers involved and all testing was negative.<sup>108</sup>
97. Enquiries indicated only one round was expended from the firearm.<sup>109</sup> The shotgun had been cut down and altered and the manufacturer's serial number had been removed. There was no way of identifying its origin.<sup>110</sup> Later enquiries by police found he had been seen in possession of a rifle by his brother Terry a few months earlier, although he didn't keep the gun at Terry's house. Ms Tomsic had also become aware that he might possess a firearm, although she had never seen it herself, and she had confronted him about it early in their relationship to clarify that it was not in her home.<sup>111</sup>
98. The house was secure, indicating to investigators that Ryan was alone in the house at the time the firearm was discharged. There was no physical material indicating the presence of another person at the time the firearm was discharged.<sup>112</sup>
99. Inside the house it was noted the CCTV system was controlled by a unit in the first bedroom, but it did not appear to be recording.<sup>113</sup>
100. After Homicide Squad investigators ruled out any third party involvement that would suggest a homicide, the case was handed over to coronial investigators. The coronial investigation took into account the results of the post mortem examination, noted below, and found that the evidence supported the conclusion that the deceased committed suicide. An Internal Investigation Unit officer also attended the scene and considered the evidence was unequivocal that it was a self-inflicted injury.<sup>114</sup>

## **CAUSE AND MANNER OF DEATH**

101. On 3 March 2016 a Forensic Pathologist, Dr Moss, made a post-mortem examination on the body of Ryan. The post mortem examination revealed a shotgun injury to the head with severe destruction to the face, skull and brain. A shotgun wad and multiple small pellets were recovered. There was an apparent entrance wound within the roof of the mouth. There was no

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<sup>106</sup> Exhibit 1, Tab 7, p.2 and Tab 8.

<sup>107</sup> Exhibit 1, Tab 49.

<sup>108</sup> Exhibit 1, Tab 49.

<sup>109</sup> Exhibit 1, Tab 7, p.2.

<sup>110</sup> Exhibit 2, Tab 56.

<sup>111</sup> Exhibit 1, Tab 2, p. 6.

<sup>112</sup> Exhibit 1, Tab 7, p.2.

<sup>113</sup> Exhibit 1, Tab 8.

<sup>114</sup> T 123 – 124, 136.

other evidence of significant injury. Coronary artery atherosclerosis was noted.<sup>115</sup>

102. Toxicological analysis showed methylamphetamine and amphetamine (probably as a metabolite of the methylamphetamine) in the blood. Alcohol and other common drugs were not detected.<sup>116</sup>
103. Dr Moss formed the opinion that the cause of death was shotgun injury to the head.<sup>117</sup>
104. Based upon the evidence obtained during the police investigation and the inquest, I find that the manner of death was by way of suicide.
105. I note at this stage that some information was provided to me after the inquest, which I understand was authored by Ryan's family members, indicating that none of Ryan's immediate family (specifically his brothers, sister or son and friends) believe his death was a suicide, although it is unclear who they would suggest was involved in his death and they do not point to any evidence of a third party being involved. Further, they feel that if his death was, indeed, a suicide, then it was due to his relationship breakdown and they are concerned her message exchanges with him prompted his actions.
106. It is clear from the evidence that the relationship breakdown was volatile and Ryan was unhappy that it was ending and was initially hopeful they could reconcile. However, ultimately he made his own decision about what to do next, when he was aware the police were outside and, no doubt, that Ms Tomsic had called them. It is a very sad outcome for Ryan and his family and friends, but I do not accept that the responsibility lies anywhere but with him. I understand that Ryan did not like or trust the police, and their presence would have provoked him and unsettled and disturbed him even further, but the police had a responsibility to Ms Tomsic and the community as well as Ryan, so they couldn't just walk away. I do, however, accept that more could have been done to involve Ryan's family and friends

## **COMMENTS ON CONDUCT OF POLICE**

### **Service of the VRO**

107. One issue that arose from the inquest was why the police did not follow-up any attempt to serve Ryan with the VRO after the initial attempt on 23 February 2016. Ms Tomsic said she made a number of requests for it to be served, both personally and through her lawyer, but other than Constable Harris' attempt to serve it at Terry Scrivener's house, it was not progressed further.

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<sup>115</sup> Exhibit 1, Tab 6B.

<sup>116</sup> Exhibit 1, Tab 6B and Tab 6C.

<sup>117</sup> Exhibit 1, Tab 6B.

- 108.** Senior Sergeant Stephen Thompson was the Officer in Charge of the Local Policing Team at the Mandurah Police Station at the relevant time. The Local Policing Team had the responsibility to serve VRO's in the area. Senior Sergeant Thompson stated that Mandurah Police treat all VRO's as "HOT and a high priority is given with the view to immediate service."<sup>118</sup> Efforts and enquiries to serve the order are recorded on both the hard copy running sheet and the Incident Management System (IMS) running sheet.<sup>119</sup> Senior Sergeant Thompson confirmed that the police records show that the VRO was issued on 23 February 2016 and was electronically received by Mandurah Police at 4.30 pm. After the attempt was made to serve it by Constable Harris at 7.20 pm that same day, there are no further entries on the hard copy running sheet and no entries on the IMS running sheet. There is no record of an attempt to serve the order at Ryan's work place or anywhere else.<sup>120</sup>
- 109.** The coronial investigation conducted following Ryan's death did not find any additional information explaining why the order remained unserved.<sup>121</sup> However, the investigation officer, Senior Constable Van Anandel, found that it could not be ascertained whether service of the VRO would have directly impacted on the subsequent events.<sup>122</sup> Further, Senior Constable Van Anandel advised that in his experience it is not unusual for people to avoid service of such orders, and the options available to police are limited in those circumstances as personal service is required. He has since made inquiries with the Domestic Violence Unit within the WA Police and was advised that the unit is looking into this issue, but it is likely to require legislative change to address the issue of personal service. He noted that in other jurisdictions there are options for substituted service or oral service rather than personal service, which may be alternative options that can be considered.<sup>123</sup>
- 110.** In my view, the situation was unsatisfactory as there was evidence Ms Tomsic was very keen for the VRO to be served on Ryan, and had done her best to facilitate it, but other than the initial effort to serve the VRO on the night, no more attempts were made. Nevertheless, while it would have been preferable for more efforts to have been made to serve the order, I accept the evidence of Senior Constable Van Anandel that it was unlikely to have altered the course of events in this case. Ryan was well aware that an order was in existence but it did not stop him going to Ms Tomsic's house and behaving in an aggressive and threatening manner towards her. When he had been served with a Police Order in the past, he has also continued to contact her in contravention of the order. It seems clear that even if he had been served with the VRO, he was unlikely to have altered his behaviour.

### **Attempts by police to resolve the situation**

- 111.** Police officers in Western Australia are trained to attempt to resolve matters peacefully wherever possible, using the least amount of force necessary.

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<sup>118</sup> Exhibit 1, Tab 18 [4].

<sup>119</sup> Exhibit 1, Tab 18.

<sup>120</sup> Exhibit 1, Tab 18.

<sup>121</sup> T 119 – 120.

<sup>122</sup> T 124.

<sup>123</sup> T 125.

Police negotiators can form an important part of that process. The role of a police negotiator is to carry out a planned intervention on behalf of the senior officer in command of the incident to defuse a crisis and to achieve a peaceful resolution through the use of skilled communication.<sup>124</sup>

- 112.** Detective Ingles had completed the Negotiators Course with WA Police in October 2003 and an additional National Counter-Terrorism Negotiators Course in July 2006. He had since been placed on the WA Police Negotiators Unit weekly on-call roster on a regular basis and attended monthly training. Detective Ingles had attended many crisis incidents as a negotiator prior to this incident. In the past, he had always been able to resolve the incidents either by peaceful resolution or through tactical intervention by police with minimum force. This was the first incident he had attended as a negotiator that had resulted in a death, and it was apparent from his evidence that Detective Ingles felt the weight of Ryan's death heavily.<sup>125</sup>
- 113.** I asked Detective Ingles how he felt after he found out that Ryan had died. He was very candid in his response. Detective Ingles indicated that he felt he had failed in his task and was deeply sorry and saddened by Ryan's death.<sup>126</sup> It was very apparent to me in seeing and hearing Detective Ingles that his response was genuine and he deeply regretted his inability to negotiate a peaceful resolution. In that regard, I note that the police negotiators self-nominate for the role, which is in addition to their usual duties, so the people who do the training are passionate and committed to the task. When they attend a scene as a negotiator, they are not involved in any criminal investigation, but are solely focussed on the welfare of the person with whom they are negotiating. Detective Ingles had never had a fatal outcome in the previous incidents he had attended as a negotiator. The difference in this case came down to the decision of Ryan to choose not to negotiate with Detective Ingles and not to surrender to police.
- 114.** Whilst the outcome is tragic, and has understandably devastated Ryan's family and friends, who have lost a son and a brother and friend, the responsibility for that decision cannot be passed on to Detective Ingles or any of the other police present, or indeed Ms Tomsic. The responsibility for that decision lay solely with Ryan, who made the fateful decision to take his own life, rather than surrender himself.
- 115.** Ryan's family queried whether the police response was disproportionate, and greater than what would occur with an ordinary citizen, because he was a former member of an Outlaw Motorcycle Gang. The evidence of the police officers was that this information was available as an alert on the police computer system, but did not factor significantly in their decision making. Constable O'Kane had noted it from the computer system and passed the information on to Operator 42, but Operator 23 was unaware of it. Operator 42 gave evidence that the information was not a significant factor and did not affect any of the decisions that he made on the day.<sup>127</sup> Detective Sergeant Mansell said he was also aware of this information, as part of

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<sup>124</sup> Exhibit 1, Tab 26 [5].

<sup>125</sup> Exhibit 1, Tab 26.

<sup>126</sup> T 65.

<sup>127</sup> T 7, 13, 22, 40.

Ryan's background information, but it was only one consideration amongst many.<sup>128</sup> The key factor for an increase in response, beyond the initial two TRG operators, was the belief (proved to be correct) that Ryan had a firearm that was capable of being used.

- 116.** Sergeant Craig Reynolds is the Negotiator Coordinator at the WA Police. He is the officer in charge of all the WA Police Negotiators throughout the state and the subject matter expert for all negotiator related matters. Sergeant Reynolds has extensive training and experience in the area, and now provides that training to others throughout the country.<sup>129</sup>
- 117.** Sergeant Reynolds was made aware of the incident at Chiltern Avenue on the day it occurred, when Detective Ingles was called to duty. Sergeant Reynolds considered Detective Ingles at that time to be one of the units more experienced officers, and was aware he had attended, and peacefully resolved, 55 negotiator incidents, as well as attending a large amount of training events.<sup>130</sup>
- 118.** Sergeant Reynolds gave evidence at the inquest that, tragic as the outcome was, based upon the available information and the circumstances at the scene, Detective Ingles, and the other police officers, acted to their best abilities on the day to try to resolve the matter peacefully. In particular, Sergeant Reynolds did not consider Detective Ingles could have done any more than what he did in his role as the response negotiator on the day. He considered Detective Ingles to be one of his senior negotiators, who was well trained for the role, and other than forgetting to take the recording equipment, Detective Ingles followed his training and the negotiator procedures.<sup>131</sup>
- 119.** I pause to note that when the negotiations failed, it was not realistically an option for the police to walk away and leave Ryan in the house. He was due to be served a VRO ordering him to keep away from the person whose house he was in, namely Ms Tomsic. It also appeared he was in possession of a firearm despite having no lawful authority to have one in his possession. Based on what was known, he was liable to be arrested for a number of offences. Further, it was unclear what his intentions were, but there was a real concern he might harm himself and/or others. The priority was to get him out of the house safely and secure the premises, but once this was done he was likely to be placed under arrest. Therefore, it was reasonable and in line with community expectations for the police to remain at the premises and contain Ryan within a cordon, even when it was apparent he was not prepared to give himself up to police.<sup>132</sup>
- 120.** As for other ways to communicate with Ryan, it was indicated by Sergeant Reynolds and Detective Ingles that there are some other options, such as a speaker that can be thrown in and delivering a phone from a distance, but they are not that practical in many cases. The WA Police are looking at other

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<sup>128</sup> T 40.

<sup>129</sup> T 77; Exhibit 2, Tab 50.

<sup>130</sup> Exhibit 2, Tab 50.

<sup>131</sup> T 90; Exhibit 2, Tab 50.

<sup>132</sup> T 38, 90 - 91.

communication platforms as technology advances, such as drones, but at this stage there are still few options available, particularly where the person is not open to having another form of communication delivered to them.<sup>133</sup> Ryan's parents expressed their concern at the limited options available to police to communicate with Ryan and they are supportive of the police exploring any other means of communication that would reduce the confrontational aspect of a Bearcat parked out the front and the negotiator having to work from its shield.<sup>134</sup>

## **Effect of drugs on Ryan**

- 121.** As noted above, during the post mortem examination, toxicological analysis found methylamphetamine and amphetamine (probably as a metabolite of the methylamphetamine) in Ryan's blood.<sup>135</sup> No particular evidence was led in this case about the potential effect of that on Ryan, although I am aware from many other coronial matters of the detrimental effect this can have on a person. Expert pharmacological evidence suggests that small amounts of methylamphetamine can make people paranoid, aggressive and more willing to take risks and Ms Tomsic told the investigating officer that Ryan's illicit drug use had been escalating prior to their relationship breakdown and his behaviour had become more irrational.<sup>136</sup>
- 122.** Without drawing any particular conclusions about the effect of the methylamphetamine on Ryan on this day, I note the evidence of Sergeant Reynolds that where people are affected by drugs, their ability to reason is affected and this can make the process of negotiation significantly harder.<sup>137</sup> While it is unclear how much the drugs in his system affected Ryan, I simply note that it would certainly not have improved the ability of Detective Ingles to negotiate with him.

## **Involvement of family and friends in negotiation**

- 123.** It is apparent from the statements that as well as Mr Orme, there were other friends of Ryan who were at the cordon who felt they might have been able to help defuse the situation and convince Ryan to come out peacefully.<sup>138</sup>
- 124.** Without going into too much detail for operational reasons, I can indicate that it was made clear to me that third party intervention in negotiation, by way of the involvement of family and friends, is a common issue raised in negotiating incidents. Indeed, it was suggested that it was almost invariably the case that at some stage it will be suggested that a third person intervene and negotiate on behalf of the negotiating team. The general position is that third party intervention is treated with caution as it is fraught with danger. However, it will always be carefully considered, to determine whether in an exceptional case it is the appropriate or best option to peacefully resolve a situation. There is a duty of care to the third party, and the safety of the

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<sup>133</sup> T 88 – 89.

<sup>134</sup> Exhibit 4.

<sup>135</sup> Exhibit 1, Tab 6B and Tab 6C.

<sup>136</sup> T 121.

<sup>137</sup> T 91.

<sup>138</sup> Exhibit 2, Tab 44 and Tab 46.

negotiating team and general public are also important factors to be considered in taking this step.<sup>139</sup>

- 125.** If a third party was to become involved, it would usually be by telephone. In this case, Ryan would not engage on the phone, and indeed had put his phone outside. The other avenues of contact were limited to face to face conversations with a person who appeared to be armed with a firearm, so it was clearly not a situation that police would consider it safe to bring in a civilian.<sup>140</sup>
- 126.** Detective Ingles also explained that in a longer siege situation, there is more time to explore alternatives, but in this case events moved quite quickly, and negotiations were frustrated by the difficulty in engaging in two-way communication.<sup>141</sup>
- 127.** Detective Ingles spoke about the need for a negotiator to find out more of the history between individuals before considering a ‘third party intervention’. This is usually done by a member of the negotiating team conducting a comprehensive interview with the people involved. However, this was not possible where Detective Ingles was the only negotiator at the scene and he was isolated in the Bearcat away from the command post. Detective Ingles suggested it would have been “highly beneficial to have two negotiators” on call as one of the negotiators could have stayed at the command post and spoken to relevant people and relayed information to Detective Ingles in the Bearcat. Detective Ingles explained that it was not standard practice to have two negotiators on call or responding in WA, although a secondary negotiator can be called in to assist in certain circumstances. However, other states have different protocols that allow for additional staff to be on call.<sup>142</sup>
- 128.** Sergeant Reynolds agreed that where a second negotiator is able to attend, it allows for much more detailed discussions with family and friends, which can help with gaining more information and as part of a negotiating tool, as much as for exploring the possibility of allowing them to talk to the person of interest.<sup>143</sup> Sergeant Reynolds also suggested that an additional benefit is that a second trained negotiator can assist the primary negotiator to come up with further strategies and provide a different point of view.<sup>144</sup>
- 129.** Sergeant Reynolds gave evidence that the new Officer in Charge of the unit has recently given approval where a siege or incident is ongoing for a second negotiator to be called in at an earlier stage, without having to go through the Tactical Commander. However, there is still some delay, which Sergeant Reynolds was not ideal when compared to the procedure in other states where multiple people are on call, with access to a couple of vehicles.<sup>145</sup>
- 130.** Sergeant Reynolds suggested that from his perspective, an ideal improvement would be to have two on-call people, one northside and one

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<sup>139</sup> T 61, 84; Exhibit 2, Tab 50.

<sup>140</sup> T 85; Exhibit 2, Tab 50.

<sup>141</sup> T 63.

<sup>142</sup> T 59 - 61.

<sup>143</sup> T 84, 86 – 87, 92.

<sup>144</sup> T 94.

<sup>145</sup> T 80.

southside, both with vehicles and equipment, so that both can attend an incident when required and work as a team, or even attend separate incidents if two occur at the same time.<sup>146</sup>

- 131.** It was apparent to me from the information provided to the Court by the family that the failure of anyone to really speak to family and friends, to find out more about who Ryan was as a person, the full history of his relationship with Ms Tomsic, and the likelihood that they might be able to help resolve the matter peacefully. I acknowledge their frustration and disappointment that more was not done to speak to them and involve them at the time, which could have been achieved if another negotiator had attended. Ryan's parents have indicated that they would have come immediately if they had been contacted, and would also have willingly have spoken to someone over the phone, to provide assistance and information that might have assisted Detective Ingles. They are very supportive of a recommendation that in siege situations there should be a second negotiator to liaise with the family and friends and obtain relevant information.<sup>147</sup>
- 132.** Following the inquest, I received information from the Assistant Commissioner of Specialist and Support Services for WA Police, Assistant Commissioner Zanetti, that he is supportive of a second negotiator being placed 'On-Call'. Assistant Commissioner Zanetti noted that there is an increased demand for negotiation services and the current system relies on 'good will' to ensure that a secondary negotiator is always available. The implementation of a "2 x 24/7 Negotiator On-Call rostering system"<sup>148</sup> would remove the reliance on the goodwill of officers and ensure an immediate response, especially over weekend periods when recalling officers can be problematic. However, Assistant Commissioner Zanetti noted that the change would require a funding and asset submission, potentially to government, as current budget allocations to the relevant unit are insufficient to provide a secondary On-Call negotiator service.<sup>149</sup>
- 133.** In my view, the evidence at this inquest has demonstrated that having a second negotiator being available for immediate attendance (and also to allow for swift attendance in the event of two incidents, although that did not arise in this case) to assist with dealing with family and friends requests to provide information and assistance, and also to provide support to the primary negotiator, would be a significant improvement on the current service. I support the change suggested by Assistant Commissioner Zanetti.

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<sup>146</sup> T 94.

<sup>147</sup> Exhibit 4.

<sup>148</sup> Letter from Assistant Commissioner Paul Zanetti dated 17 October 2019.

<sup>149</sup> Letter from Assistant Commissioner Paul Zanetti dated 17 October 2019.

## Recommendation

**I recommend that the Honourable Minister for Police give consideration to providing funding to the WA Police to provide a secondary 24/7 On-Call negotiator service, including the allocation of a vehicle for the second negotiator, as a priority.**

### Failure to record the conversation

134. I mentioned earlier that Detective Ingles forgot to take his recorder with him when he went to the Bearcat. This was noted in the Internal Affairs Unit investigation. The failure to take the recorder and to provide radio equipment to the Tactical Commander was a breach of standard operating procedures, but the omission was explained by the urgency of the situation and officer safety concerns, and it was not considered to have influenced the outcome of the situation.<sup>150</sup>
135. Sergeant Reynolds was also asked about the lack of recording of the incident and although he indicated it is desirable to record all negotiations, he expressed the opinion it was a minor oversight and agreed that it in no way impacted on the incident as it unfolded. He reiterated that the communication between Ryan and Detective Ingles was also unlikely to have been captured on the equipment the negotiators utilise due to the distance between the parties and the noise emanating from the Bearcat.<sup>151</sup>

## CONCLUSION

136. It was clear from the evidence that Ryan was upset about the breakdown of his relationship with Ms Tomsic and he was aware she had obtained a VRO against him although it had not been served on him. He also appears to have believed she had formed a new relationship, which would obviously be very upsetting. Other information obtained during the coronial investigation indicated that Ryan had had his driver's licence suspended because of unpaid fines and he had other financial issues related to Family Court proceedings and unpaid bills that were being pursued by debt collection agencies.<sup>152</sup> His family believed he may have been the victim of theft, which would have made his financial problems even worse.<sup>153</sup> There is also a suggestion that Ryan's drug use may have been making more irrational.<sup>154</sup> All of this information paints a picture of someone who was struggling to cope with life's challenges.

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<sup>150</sup> Exhibit 2, Tab 49.

<sup>151</sup> T 83; Exhibit 2, Tab 50.

<sup>152</sup> T 121.

<sup>153</sup> Exhibit 5.

<sup>154</sup> T 121.

- 137.** On the day of his death, Ryan went to his former partner's home. He invited her to come there to speak to him but she made it clear she did not want to and she did not want him in her home. Police officers attended to remove him from the house and serve him with the VRO, but things quickly escalated when Ryan made it apparent he had a firearm and might be prepared to use it, either on himself or someone else. He wouldn't engage with police, so it made it very difficult to know what his intentions were. There is evidence to suggest he may have been thinking of taking his life at an early stage.
- 138.** Sadly, while police were stationed outside, and with efforts to negotiate with Ryan frustrated by poor communication, Ryan took his own life. His family are broken hearted, due to the lonely way he died and the fact that they have to continue on their lives without him. Ryan's mother says she feels that their family are broken by their loss and cannot seem to mend. I know that the outcome of this inquest is unlikely to help them mend, but to the extent that it can provide them with the knowledge that Ryan's death may lead to some changes in the way police negotiations take place in future situations, I hope they take some small comfort from their contribution to these proceedings.

S H Linton  
Coroner  
17 December 2019