
FINDINGS and COMMENTS of Coroner Robert Webster following the holding of an inquest under the *Coroners Act 1995* into the death of:

Benjamin Robert Wildman

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Record of Investigation into Death (With Inquest)

Coroners Act 1995

Coroners Rules 2006

Rule 11

I, Robert Webster, Coroner, having investigated the death of Benjamin Robert Wildman (Mr Wildman), with an inquest held at Hobart in Tasmania, make the following findings.

Hearing Dates

28 June and 30 August 2022

Representation

Counsel Assisting the Coroner: Ms Lillian King-Roberts

Counsel for the Commissioner of Police and Senior Constable Timothy Keenan: Ms Neicha Pearce-Rasmussen

Ms Kylie Eastley, Mr Wildman's sister, appeared and made submissions on behalf of Mr Wildman's family.

Notice of Hearing

Notice of a case management conference, held on 31 March 2022 pursuant to Rule 22 of the *Coroners Rules 2006*, was provided to Ms Eastley, Senior Constable Keenan and to the Commissioner of Police. Senior Constable Keenan chose not to attend however both he and the Commissioner of Police were represented by Ms Pearce-Rasmussen. Prior to that conference Ms Charlene Barker was contacted and she indicated on 29 March 2022 that she did not wish to attend the case management conference or participate in these proceedings. At the conference Ms Eastley and Ms Pearce-Rasmussen were provided with the proposed scope of the inquest for comment. They were also asked to consider the evidence which would be disclosed to them and advise which witnesses they wanted called to formally give evidence. At the subsequent case management conference on 28 April 2022 both Ms Eastley and Mr Miller, who on this occasion appeared for the Commissioner of Police and Senior Constable Keenan, advised they were both content with the scope and they did not request any witness to be formally called to give evidence.

At the time both case management conferences were held Senior Constable Barnes was counsel assisting the Coroner. Senior Counsel Barnes is a police officer who has been appointed as a

Coroner's Associate under s15 of the *Coroners Act* 1995 (the Act). As this inquest would involve me considering the actions of Tasmania Police I sought the assistance of independent counsel from the Director of Public Prosecutions. He assigned Ms King- Roberts from his office to this case.

The hearing took place on 28 June 2022 after which I set a timetable for the delivery of submissions. I reconvened again on 30 August 2022 so that each party had an opportunity, if they wished, to comment on the written submissions of the other parties. I then reserved my decision.

Preliminary Matters

Introduction

1. Mr Wildman died on 29 December 2020, aged 37, adjacent to the Arthur Highway opposite the intersection of that highway and Blowhole Road at Eaglehawk Neck in Tasmania.
2. At 15:30 hours on 29 December 2020 Senior Constable Keenan located Mr Wildman's vehicle on the Arthur Highway at Eaglehawk Neck near the intersection with Blowhole Road. The vehicle was in a gravel parking area on the left hand side of the road facing in a north easterly direction. The location is an open public area and clearly visible to all traffic travelling in and out of the Tasman Peninsula. Senior Constable Keenan notified radio dispatch services (RDS) of his observation, confirmed the allegation Mr Wildman had breached a family violence order (FVO) which was in place and requested backup from Sorell. He then approached Mr Wildman and activated his body worn camera. Senior Constable Keenan conferred with Mr Wildman and advised him he had received a report Mr Wildman had been to Charlene Barker's home at White Beach. Mr Wildman agreed he had been to the address. At that point Senior Constable Keenan cautioned Mr Wildman and after further discussion with Mr Wildman notified him he was under arrest for breaching the FVO. During their conversation Mr Wildman appeared to be using his mobile phone. Subsequently Senior Constable Keenan asked Mr Wildman if he had any weapons at which time he put down his phone and picked up a knife in his left hand and put the knife to his chest. Senior Constable Keenan told Mr Wildman to put the knife down and he repeated this request on several occasions. Despite Senior Constable Keenan's efforts to remove the knife from Mr Wildman and his attempts to negotiate with Mr Wildman, Mr Wildman stabbed himself with the knife. Senior Constable Keenan and members of the public, who stopped at the scene, assisted Mr Wildman until the arrival of paramedics who examined Mr Wildman and confirmed his passing.

3. As a consequence of Mr Wildman being placed under arrest and therefore being taken into police custody, an inquest in relation to his death is mandatory. This is because the Act provides an inquest must be held where a death occurs in Tasmania and the deceased person was, immediately before their death, a person held in custody.¹

4. On the basis of the evidence tendered at the inquest I make the following formal findings pursuant to section 28(1) of the Act:
 - (a) The identity of the deceased is Benjamin Robert Wildman;
 - (b) Mr Wildman died in the circumstances set out further in this finding;
 - (c) The cause of Mr Wildman's death is a self-inflicted stab wound to the chest²;
 - (d) Mr Wildman died on 29 December 2020 adjacent to the Arthur Highway opposite the intersection of that highway with Blowhole Road at Eaglehawk Neck in Tasmania.
 - (e) While Ms Pearce-Rasmussen accepts Ms King-Roberts submission that at the time of Mr Wildman's death he was a person held in custody, as defined in s3 of the Act, she submits the arrest of Mr Wildman had not been effected by Senior Constable Keenan because he had not taken control of Mr Wildman, by removing him from his vehicle and/or by removing his weapon. I agree. The arrest while made had not been completed. Because of what follows I find, for the purposes of s28(5) of the Act, Senior Constable Keenan properly cared for, supervised and treated Mr Wildman while Mr Wildman was in his custody. Senior Constable Keenan discharged the duty of care he owed to Mr Wildman while Mr Wildman was in his custody.

A Coroner's jurisdiction and functions

5. In Tasmania, a coroner's functions are set out in section 28(1) of the Act. By this section, a coroner is required to find the identity of the deceased, how death occurred, the cause of death and when and where death occurred. By section 28(2), a coroner may make comment on any matter connected with the death; and by section 28(3), a coroner must, whenever appropriate, make recommendations with respect to ways of preventing further deaths and

¹ S24(1)(b) of the Act.

² Exhibit C5.

on any other matter the coroner considers appropriate.

6. Coroners complete their written findings pursuant to section 28(1) of the Act in respect of a reportable death after receiving documentary evidence in the investigation. In a small proportion of reportable deaths, the coroner will hold a public inquest, which almost always involves the calling of oral testimony to further assist the coroner in investigating the death and in making findings. Many of the public inquests held by coroners in Tasmania are made mandatory by the Act.³ The remaining inquests are held because the coroner considers that a public inquest is desirable in the particular circumstances of the investigation⁴.

Issues at this inquest

7. Given s28 of the Act, the Scope of this inquest was as follows:
- (a) The circumstances of Mr Wildman's death including:
 - (i) what he was doing on the day of his death;
 - (ii) his interaction with his parents, Kylie Eastley, Charlene Barker and Paul Barker on the day of his death;
 - (iii) his interaction with Senior Constable Keenan on the date of his death; and
 - (iv) the subsequent action taken by Senior Constable Keenan and other witnesses.
 - (b) The response of/investigation by Tasmania Police to the incident giving rise to Mr Wildman's death.
 - (c) Mr Wildman's upbringing, his forensic history* and mental health.
 - (d) The medical treatment Mr Wildman received for his mental health difficulties and an assessment of its adequacy.
 - (e) An assessment of Senior Constable Keenan's compliance with his legal obligations and his adherence to the relevant policies, procedures and guidelines of Tasmania Police.

* criminal history including family violence history.

³ S24(1) of the Act.

⁴ S24(2) of the Act.

Evidence in the Investigation

8. The documentary evidence at this inquest comprised exhibits C1 to C69. The exhibit list is annexed to this finding.
9. At inquest no witnesses provided oral testimony as no party required any witness to be called to give evidence.

Background⁵

10. Mr Wildman was born at the Royal Hobart Hospital⁶ (RHH) on 10 June 1983. His parents are Robert Keith Wildman and Kim Susan Wildman. He has one sister, Kylie Melissa Eastley, and 2 half-sisters Nicole Barber and Penelope Thompson who are the daughters of Kim Wildman from a previous relationship.
11. Mr Wildman grew up living with his parents and siblings on a remote bush property in Nubeena. Their house was without power or running water and did not have all weather access. Mr Wildman's background was severely dysfunctional. He was the youngest of his mother's four children. His father had also come from a difficult background including periods in care and being subject to abuse. Mr Wildman's parents abused alcohol and cannabis. There was frequent conflict between them and gross neglect of the children.
12. In about 1986 the family moved to Geeveston. However after about 9 months Ms Eastley moved back to the family residence at Nubeena and sometime in 1997 or 1998 Mr Wildman's parents moved to the north of Tasmania where, remarkably, they became foster parents. Mr Wildman subsequently moved back to the Nubeena property and lived with Ms Eastley. He was about 14 years of age at the time. In 1999 Ms Eastley moved to an address in Sloping Main and Mr Wildman remained at the Nubeena property. Because of Mr Wildman's unstable home arrangements Dr Sale comments that his education was likely to be poor. There had been periods of home schooling arising out of their isolation at the Nubeena property.
13. Mr Wildman led an itinerant lifestyle for a number of years from about this time which resulted in him staying with friends for periods of time and then living on and off with Ms

⁵ This section covers part of the Scope referred to in paragraph 7(c).

⁶ Or more particularly at that part of the hospital known as the Queen Alexandra Maternity Hospital.

Eastley. During this time Ms Eastley says she was unaware if Mr Wildman received any financial benefits however she would often give him money and look after him. She says he did not have the necessary skills to manage his life and accordingly she took on a role, much like a parent, and looked after him for about the next 10 years.

14. On or about 23 April 1987 Mr Wildman purchased a home at White Beach. It was a three-bedroom weatherboard house built in 1973 and it was in poor condition. The mortgage was held by the Commonwealth Bank of Australia.
15. Mr Wildman has never been married and has no children. The evidence establishes he was in a long-term relationship with Danita Hills from around 2007 until 2012. This relationship broke down because of several attempts by Mr Wildman to take his own life. He commenced a significant relationship with Charlene Barker in or about 2018 which continued until the date of his death. At that time he was the respondent to a full non-contact FVO protecting Ms Barker.
16. Mr Wildman attended the Tasman District School at Nubeena during primary school. On occasions he and his siblings were home schooled when the family home was inaccessible; particularly during the winter months. He attended years 7 and 8 at Geeveston District High School and years 9 and 10 back at the Tasman District School however he regularly missed school during years 9 and 10. Mr Wildman attended Rosny College in year 11 however he only lasted a few months.
17. Mr Wildman did not maintain consistent long-term employment. Ms Eastley says he undertook some small handyman and maintenance type jobs but was not able to maintain employment because he suffered from anxiety. Some notes from the medical records about Mr Wildman's employment history reveal that after leaving year 11 he moved to Sydney for approximately 2 years and worked in the car and motorbike spare parts cleaning business. When he returned to Tasmania he then worked as a labourer for the Tasman Council. In 2012 it is recorded Mr Wildman worked as an egg collector and chicken farmer. A note in December 2020 indicates he was a self-employed gardener.
18. It is apparent from the evidence in this case Mr Wildman had a significant and consistent history of cannabis and alcohol use from an early age. Ms Eastley says her parents were

heavy cannabis users and they regularly grew cannabis on the property. Ms Eastley says both she and Mr Wildman commenced using cannabis and alcohol from a young age. She says she was approximately 13 years of age and Mr Wildman was about 10 years old when they first tried cannabis together. She says after her parents had parties at the residence the children would often go around afterwards and drink any remaining alcohol they located. Ms Eastley says Mr Wildman was a regular cannabis and alcohol user during his adult life and he would sometimes become violent when drinking alcohol.

History of Self Harm⁷

19. There is a significant history of self-harm which has either been reported, discovered in records obtained by the Coroners' office or revealed by witnesses interviewed as result of Mr Wildman's death. The first reported incident occurred on 4 December 2009 when Mr Wildman cut his wrists with a knife. This incident related to a family violence matter involving Ms Hills. Next on 29 January 2012 it is reported Mr Wildman again cut his wrists with a knife which appears to be related to the final breakup of his relationship with Ms Hills. Mr Wildman was found by Ms Eastley's husband. It is reported Mr Wildman had lost 2 litres of blood and he had to be airlifted to the RHH where he underwent surgery to repair multiple tendons, nerves and an artery. He was assessed the next day by the duty psychiatrist at which time he reported a recent relationship breakdown with his fiancée of 2 years and that he was having financial issues in that he had lost his job as a labourer with the council 2 months ago and was having difficulty paying his bank home loan.
20. In about 2019 Mr Wildman attempted to hang himself. During a police search of his home on the date of his death a rope tied in a noose was located in Mr Wildman's bedroom. Mr Calder who was Mr Wildman's housemate at the time of his death advised police Mr Wildman had attempted to hang himself with the rope which police located about 12 months earlier. Ms Barker also mentions this incident in her statement although she says Mr Wildman never disclosed it to her.
21. There are also several references in Mr Wildman's medical records and allegations made by witnesses of Mr Wildman attempting to gas himself in his vehicle on possibly more than one occasion. Ms Eastley says she was informed of such an occasion by a friend of Mr Wildman, who approximately 2 years before Mr Wildman's death, had located him attempting to gas

⁷ This section covers part of the Scope referred to in paragraph 7(c).

himself in his vehicle. This attempt failed as the vehicle was too old resulting in exhaust gases leaking out of the vehicle which had also run out of fuel. Mr Wildman woke up with a headache only. Ms Barker also mentions an incident similar to this in her affidavit whereas a note of the clinical psychologist Dr Wong-Hoy of 16 September 2020 records Mr Wildman tried to suffocate himself with a car exhaust 6 months ago. Further notes of 30 January 2012 of the psychiatry registrar Dr Chikramane also indicate Mr Wildman had considered carbon monoxide inhalation as a method of suicide.

22. Finally on 21 November 2020 Mr Wildman had been arrested by police in relation to the alleged breach of a FVO and he was placed in the rear of a police divisional van for transport to Hobart. During that journey he removed his shoelaces, tied them around his neck and pulled them tight. Police observed this occurring on the CCTV monitor from within the cabin of the police divisional van and therefore they stopped the police vehicle and removed the shoelaces from Mr Wildman's neck. It was noted the shoelaces were not tight enough to cut off his airway. Police also took his socks, belt and hair bands at that time. As the rear door to the divisional van was closed Mr Wildman commenced hitting his head against the walls of the van. He later told custodial staff at the Hobart Reception Prison he wanted to "kill himself over a woman".

Police Intelligence and Forensic History⁸

23. The following is a summary of Mr Wildman's interactions with police and convictions in relation to incidents involving drugs, self-harm and violence only:
- 19 March 2001: police located cannabis plants growing in a greenhouse at the property where Mr Wildman resided. He received a caution for grow and possess cannabis.
 - 17 March 2003: he was arrested for assault and threaten police. He pleaded guilty. A conviction was recorded and he was fined.
 - 16 September 2005: Mr Wildman was arrested for obstructing police while they were attempting to conduct a random breath test of another driver and doing an act which enabled another person to commit a simple offence. He pleaded guilty. A conviction was recorded and he received 98 hours community service.
 - 25 April 2008: information was received by police Mr Wildman was supplying cannabis from his residence.

⁸ This section covers the final part of the Scope referred to in paragraph 7(c).

- 1 April 2009: Mr Wildman obstructed and assaulted police during a random breath test where the driver escaped. It appears no charges were laid. As a result a “violence warning” was placed on his police profile record.
- 4 December 2009: a family violence incident involving Ms Hills occurred and there was the related self-harm incident referred to above.
- 2 April 2011: Mr Wildman and his father were intercepted by police at Lime Bay and a large quantity of cultivated cannabis was located. They later took police to the source plantation which was concealed within the Lime Bay camping area at Saltwater River. Only Mr Wildman’s father was charged.
- 29 September 2012: police responded to a crash near to Mr Wildman’s home. He was arrested and assaulted police. He was charged with assaulting a police officer, resisting a police officer, threaten a police officer, hindering a conveyance and drive a motor vehicle while exceeding the prescribed alcohol limit. Convictions were recorded, he was fined, disqualified from driving and he received a prison sentence which was wholly suspended on conditions for 18 months which included complying with a community service order, performing 35 hours community service and complying with the conditions of supervision by a probation officer for 12 months. Another “violence warning” was placed on Mr Wildman’s police profile and further it was recorded he was “subject to sudden mood swings and aggressive violent behaviour towards attending police.”
- 12 January 2014: police were called to a disturbance at an address at White Beach. Mr Wildman was present and became aggressive. He was restrained by others at the address in order to prevent him from approaching police.
- 8 August 2019: police received information Mr Wildman was involved in a crash and attended his address. He was treated by ambulance personnel for his injuries but no police action was taken. Senior Constable Keenan attended this incident.
- 19 June 2020: there was a family violence incident involving Mr Wildman and Ms Barker involving alleged serious assaults of Ms Barker.
- 22 November 2020: allegations of breaching the FVO which protected Ms Barker and which led to Mr Wildman attempting to strangle himself with his shoelaces in the rear of the police divisional van while he was being transported to the Hobart Reception Prison. Another warning was placed on his police profile record that he presented as a risk of self-harm.

- 29 December 2020: the incident involving Senior Constable Keenan which is summarised in paragraph 2.
24. As a result of the incident occurring on 4 December 2009 Mr Wildman was served with a police family violence order. The incident on 19 June 2020 related to the report of a serious assault committed that day and 2 historical assaults committed on Ms Barker by Mr Wildman. Mr Wildman was arrested, charged and detained for Court in relation to these complaints. He was indicted on 3 counts of assault contrary to s 184 of the *Criminal Code Act* 1924. The incident on the 22 November 2020 related to allegations Mr Wildman breached a FVO, which had been made because of the *Criminal Code* assaults and his bail conditions. He was arrested, charged and detained for court.
25. Investigation of the final incident on 29 December 2020 has revealed some discrepancies between what is reported on the police family violence management system and what some of the evidence establishes. The report indicates there were 6 occasions when Mr Wildman contacted Ms Barker by phone or text message. The downloaded phone records indicate significantly more contact than this by both Mr Wildman and Ms Barker. The report suggests the screen door of Ms Barker's address was locked however she says in her affidavit the screen door was unlocked and Mr Wildman did not attempt to enter the residence. Finally the report indicates "... the offender would not leave the premises and said he would kill himself if she didn't speak with him..." and "... the offender eventually left the premises after saying to the victim that if she didn't talk to him, he wouldn't be around after today...". While these comments are contained in Ms Barker's original statutory declaration she has refuted those comments when completing her Coroner's affidavit.
26. In addition documents obtained from the Safe at Home Coordination Unit record, during contact with Ms Barker on 7 January 2020, she had a very high fear Mr Wildman would kill her. It is not known if this comment came from Ms Barker personally or was a concern raised by the case officer. A note for 20 June 2020 reveals Ms Barker was very distressed when Mr Wildman was on bail and that "this may cost her life" and she felt an order would not stop him. She said she was planning to flee to Queensland because "the justice system has failed".

27. Court appearances in the 6 months prior to Mr Wildman's death included an appearance on 20 June 2020 when an interim family violence order (IFVO) was issued which was a full noncontact and not approach order which protected Ms Barker. He was bailed on conditions to reappear on 7 August 2020. He appeared on 7 August 2020 at which time the IFVO was continued and he was bailed to appear on the same conditions on 12 October 2020. On that day a FVO in similar terms was made for a period of 12 months. Mr Wildman was bailed to appear in the Hobart Supreme Court on 1 February 2021 and his bail conditions were continued. On 22 November 2020 he was arrested for allegedly breaching the FVO and his bail conditions. He appeared in the after-hours court on 22 November 2020 and was remanded in custody until the next day. On 23 November 2021 the police prosecutor opposed bail however it was granted by Magistrate G A Hay with curfew, residential and surety conditions. Mr Wildman was bailed to reappear on 10 February 2021 at the Hobart Magistrates Court. The surety was Ms Eastley and the residential condition was that Mr Wildman had to reside at her home.

Circumstances Leading to Mr Wildman's Death⁹

28. Mr Wildman's exact movements in the hours leading up to his death are not known however a consideration of the evidence which has been obtained in this investigation leads me to make the following findings.
29. Ms Eastley says Mr Wildman had been abiding by his bail conditions at all times except in the early hours of the morning prior to his death. A curfew check conducted by police in the evening of the 3 December 2020 confirmed at that time Mr Wildman was abiding by his bail conditions.
30. Ms Barker says after the FVO was made she and Mr Wildman continued their relationship and continued to contact and see one another. She says nothing had really changed in so far as their relationship was concerned other than them being more careful.
31. Just before midnight on 29 December 2020 Ms Barker sent Mr Wildman a text message asking him to call her the next day. Phone records indicate this message was sent at 00:31 hours. There was significant contact between them after this message was sent. Phone

⁹ This section and the next covers that part of the Scope referred to in paragraph 7(a).

records indicate they contacted each other by way of SMS and Facebook on 14 occasions and made 26 phone calls up until 03:58 hours including a one-hour 19 minute phone call at 01:40 hours.

32. Ms Barker says within a short period of time she received several missed phone calls, voice and text messages from Mr Wildman. She answered one of the phone calls however says Mr Wildman just screamed at her. In a subsequent phone call she had she could hear road noise in the background and believed Mr Wildman was driving to see her. She became concerned for her safety and subsequently left her house and drove to an isolated area in the bush in order to avoid a confrontation with Mr Wildman. He continued to ring her and Ms Barker spent several hours speaking to Mr Wildman on the phone while hiding in the bush in her vehicle. During one of the calls Mr Wildman told her he had had enough of living, that he was at Taranna and he had a knife to his chest. Ms Barker says she spent several hours trying to talk Mr Wildman out of hurting himself and believes she eventually calmed him down. She told him on several occasions to return home however he said he did not have enough petrol and he sent her a picture of his fuel gauge on empty. Between her phone calls with Mr Wildman, Ms Barker tried to phone Ms Eastley to determine if Mr Wildman was still present at her home. She eventually spoke to Ms Eastley at approximately 03:27 hours and she determined that neither Mr Wildman's vehicle nor Mr Wildman were present. He then arrived at Ms Eastley's address at 03:47 hours. Ms Eastley subsequently advised Ms Barker of her brother's return and Ms Barker returned to her residence at around 06:00 hours.
33. Mr Wildman was observed, at approximately 14:00 hours, driving in an erratic manner in the Port Arthur area by Mr Norman. Mr Norman estimates Mr Wildman's speed at being between 130 and 140 kph. At one stage he observed Mr Wildman and he describes Mr Wildman as looking "stressed out" and that his face was red. It cannot be determined whether this observation was made prior to or after Mr Wildman's attendance at Ms Barker's home which occurred in the early afternoon.
34. Ms Eastley says she saw Mr Wildman again at about 12:00 hours on 29 December 2020. At that time she introduced him to her daughter's mother-in-law. Shortly thereafter he left her property.

35. Robert Wildman says his son had previously contacted Kim Wildman and requested to borrow \$100 dollars from them which they presumably agreed to as he visited his parents that afternoon. The time and method of contact is unknown however there is a text message from Mr Wildman to his mother at 13:10 hours. Mr Wildman subsequently attended his parents address however his father is unsure of the time. He remained there for a while and is described by his father as a bit quiet but he otherwise seemed okay. When police attended the address of Mr Wildman's parents at 18:34 hours to advise the next of kin of Mr Wildman's death it was reported to police at that time Mr Wildman was at the their residence at 11:30 hours and they had given him \$100. They also advised police they had received a call later in the day from Ms Barker asking them to come and remove Mr Wildman from her property. They went to Ms Barker's address but Mr Wildman had already left. Robert Wildman saw his son driving out of Port Arthur.
36. Mr Wildman at some point in the afternoon drove to Ms Barker's address. Ms Barker estimates the time to be between 12:00 and 13:00 hours however her brother, Paul Barker, estimates the time to be shortly after 13:00 hours. Having considered Mr Eastley's affidavit and the phone records it seems Mr Wildman arrived at Ms Barker's home at or around 14:00 hours. Neither Charlene or Paul Barker saw Mr Wildman arrive in his vehicle. They say he arrived suddenly and unexpectedly. He was not parked in the driveway or visible from the property and so it is believed he parked his vehicle in an unknown nearby location. He remained on the back door step of the residence and asked Ms Barker to speak with him on several occasions through the closed screen door. Ms Barker says he did not seem angry and was not abusive towards her. She told him she did not want any issues as her brother and his children were at the house. She asked Mr Wildman to leave several times and she said she would call him later in the day. Mr Wildman ignored her requests and remained at her house.
37. Ms Barker says at some stage she spoke to Ms Eastley by phone but she does not recall who initiated that phone call. Ms Eastley says she received a phone call from Ms Barker at approximately 14:20 hours however call records confirm it was Ms Eastley who telephoned Ms Barker at approximately 14:12 hours and the call lasted for approximately 12 minutes. Ms Barker says she put her phone on loudspeaker which enabled Ms Eastley to speak with Mr Wildman. He remained at the address for approximately 15 minutes in total however neither Ms Barker or her brother recall the exact time he left. Ms Eastley says she spoke to

her parents by phone at 14:32 hours and they indicated they had just passed Mr Wildman in his vehicle while driving through White Beach.

38. At 14:39 hours Ms Eastley spoke to Mr Wildman again by phone for approximately 4 minutes. During that conversation Mr Wildman indicated he was at the chemist in Nubeena and had just filled his prescription. He said he was heading back to Orielton. During this conversation Mr Wildman advised his sister he did not care if police came and then he said if Ms Barker had called police he would kill himself rather than be arrested again.
39. Subsequent enquiries by police established the only pharmacy in Nubeena is the Tasman Pharmacy located at 1628 Main Road. Mr Wildman was served by the pharmacist, Ashok Narayana, who says he dispensed a prescription to Mr Wildman at 13:30 hours. However the receipt for that transaction, which was subsequently located in Mr Wildman's vehicle along with the unopened medication, showed it took place at 14:53 hours. Further enquiries conducted of nearby businesses to determine if any CCTV footage was available to corroborate the time of Mr Wildman's attendance at the pharmacy were unsuccessful.

Circumstances of Mr Wildman's Death

40. Mr Barker made the initial 000 call for police assistance at 14:43 hours. During the call Mr Barker advised the Radio Dispatch Services (RDS) operator Mr Wildman had attended an address in contravention of an "AVO" but had left. At 14:46 hours Constable Williams was tasked to attend the address. Senior Constable Keenan was tasked to attend as his backup. At that time Senior Constable Keenan advised he was at Sorell and was an hour from the address.
41. At 14:47 hours Mr Wildman sent an SMS message to Ms Barker which said:
- "If you call the police again for no reason I promise I will die before I get arrested. Let me know if you already have."*
42. Phone records confirm Mr Wildman phoned Mr Barker at 14:49 hours. While Mr Barker could not recall the time of this call he did say Mr Wildman asked him if he had called police. He told Mr Wildman he had not called police because he did not want to aggravate Mr Wildman any further.

43. At 14:50 hours the RDS operator transmitted, via radio, Mr Wildman's identity and outlined the cautions as follows:

"... He's got a number of cautions. Uh, self-harm. He tied a shoelace around his neck whilst in the uh, divvy van. Violent, subject to sudden mood swings and aggressive violent behaviour. Also, able to remove his handcuffs from the rear of his body to the front and obstructed police..."

44. Senior Constable Keenan replied by radio he was aware of Mr Wildman and had previously arrested him. The RDS operator confirmed the existence of a current FVO protecting Ms Barker and that the order was a "full non-contact order" which included a condition Mr Wildman not go within 50 m or enter the property where Ms Barker was residing.
45. At 14:51 hours the RDS operator called Mr Barker and obtained further details and confirmed Mr Wildman had left the address in his vehicle. Mr Barker also provided a description of the vehicle. During this conversation Mr Barker advised Mr Wildman had been seen near the pharmacy in Nubeena.
46. Senior Constable Keenan says he directly telephoned Constable Williams, as he had just recently transferred to the area, in order to provide him with further information regarding Mr Wildman's unpredictability. Constable Williams travelled through Nubeena and checked the pharmacy and shopping areas but did not locate Mr Wildman or his vehicle. He then drove to Ms Barker's residence. He says he arrived at that residence at approximately 15:00 hours. His radio transmission indicates he arrived at 15:13 hours and he remained at the address and commenced obtaining a statutory declaration from Ms Barker.
47. At 15:01 hours Mr Wildman messaged Ms Eastley and asked whether Ms Barker or her brother had called police. Ms Eastley says she rang Mr Wildman back at approximately 15:03 hours and spoke to him for about 7 minutes. During the conversation Mr Wildman indicated he was heading to Orierton and Ms Eastley says he sounded calm. Although nothing turns on it phone records indicate Mr Wildman rang Ms Eastley at that time.

48. At 15:21 hours Mr Wildman sent a message to Ms Barker via Facebook messenger which said:

"Are you going to see me tomorrow like you PROMISED??? Please let me know so I know

what to do. Thank you."

49. At 15:22 hours Mr Wildman sent a SMS message to Ms Barker which said:

"I was no threat to you whatsoever. You could all see that, ask your bro. I was not threatening in any way. I simply wanted to talk like you PROMISED!!! Are you going to see me tomorrow or was that a lie as well? Please let me know so I know what to do."

50. Phone records establish Mr Wildman sent a final SMS message to Ms Barker at 15:34 hours with the word "Goodbye" and an attached photo of him holding a knife to his chest.

51. At 15:30 hours Senior Constable Keenan located Mr Wildman's vehicle on the Arthur Highway at Eaglehawk Neck near the intersection with Blowhole Road. The vehicle was in a gravel parking area on the left side of the road facing in a north-easterly direction. That location is open public space and it is clearly visible to all traffic travelling into and out of the Tasman Peninsula. Senior Constable Keenan notified RDS of his observations, confirmed Mr Wildman had breached the FVO and requested backup from Sorell. As Senior Constable Keenan approached Mr Wildman's vehicle he activated his body worn camera (BWC)¹⁰ which records Senior Constable Keenan's interactions with Mr Wildman, what action Mr Wildman took and Senior Constable Keenan's response.

52. The time and date stamp on BWC footage is displayed in what is called Coordinated Universal Time (UTC). Australian Eastern Standard Time (AEST) is 10 hours ahead of UTC so it is necessary to add 10 hours to UTC to determine AEST. In addition this incident occurred during daylight savings which requires the addition of an extra hour. (AEDST). That is the time in Tasmania on the date of this incident is UTC +11 hours. The times which follow have been converted to AEDST. In addition Tasmania Police utilises a 30 second back capture function on BWC. This function captures and records the previous 30 seconds from when the BWC is activated and the recording is commenced. This function records visual images only and not audio so therefore the first 30 seconds of all Tasmania Police BWC footage contains no audio. In this case the back capture function records Senior Constable Keenan's driving prior to him parking behind Mr Wildman's vehicle.

¹⁰ The BWC was activated by Senior Constable Keenan while he was driving towards Mr Wildman's vehicle.

53. At 15:31 hours the recording commences with a depiction inside Senior Constable Keenan's police vehicle while he is driving. He parks his police vehicle behind and to the right of Mr Wildman's vehicle. He then approaches the driver side door of Mr Wildman's vehicle, introduces himself and commences a conversation with Mr Wildman. He asks Mr Wildman to turn his vehicle off and Mr Wildman does so. Senior Constable Keenan then says he has received a report Mr Wildman had been to Ms Barker's house. Mr Wildman agrees he had been to her home. Senior Constable Keenan asks Mr Wildman to wind the window down a bit and cautions him. During this time Mr Wildman appears to be using his mobile phone. Senior Constable Keenan then asks Mr Wildman to unlock his door and informs him he is under arrest for breaching the FVO. Mr Wildman is still on his mobile phone however he appears to comply.
54. At 15:32 hours Senior Constable Keenan asks Mr Wildman if he has any weapons. At about the same time Mr Wildman puts his phone down and picks up a knife in his left hand. He looks at Senior Constable Keenan and puts the knife to his chest. Senior Constable Keenan asks the deceased to put the knife down and repeats this request on several occasions. Senior Constable Keenan briefly reaches into the vehicle to try and take the knife off Mr Wildman. Mr Wildman can be heard to say "*Fuck you...*" Senior Constable Keenan attempts to negotiate with Mr Wildman and draws his OC spray. By this time Mr Wildman is holding the knife in 2 hands with the tip against his chest. He looks down to the knife and appears to be aligning it to his chest.
55. At 15:33 hours Senior Constable Keenan tells Mr Wildman to take the knife away from his chest and warns him that he is going to spray him with OC spray. Senior Constable Keenan informs RDS by radio Mr Wildman has a knife to his chest and is locked in his vehicle. Senior Constable Keenan tells Mr Wildman to put the knife away and deploys the OC spray and repeats his direction to Mr Wildman to drop the knife. Mr Wildman briefly pulls the knife away from his chest, pushes himself up out of his seat and then pushes the knife into his chest as he slumps down into his seat.
56. At 15:34 hours Senior Constable Keenan tries to open the driver door which appears to be locked. He then requests an ambulance by radio and informs RDS Mr Wildman has just stabbed himself. Senior Constable Keenan reaches through the window, turns the ignition on and tries the door handle again. He continues to speak to Mr Wildman throughout the

incident. Senior Constable Keenan gains access to the vehicle. He dons gloves and removes Mr Wildman from the vehicle and places him on his back on the ground outside the vehicle.

57. At 15:35 hours Senior Constable Keenan tries to use the police radio on a number of occasions but it appears he has no coverage. From this time onwards he continually checks Mr Wildman's pulse, speaks with him and applies pressure to the wound. He informs RDS Mr Wildman has lost consciousness and he requests the attendance of a helicopter.
58. In the following 20 minutes members of the public stop at the scene and either provide or offer to provide assistance to Senior Constable Keenan. The following occurred:
- At 15:36 hours Mr Herman arrived and commenced assisting Senior Constable Keenan who was providing first aid to Mr Wildman. Mr Herman was a current member of the Country Fire Authority in Victoria and had completed several first aid courses during his time with that authority which included attending fatalities.
 - At 15:38 hours Senior Constable Keenan says he could not feel a pulse however Mr Herman indicates he had found a pulse.
 - At 15:39 hours Senior Constable Keenan updates RDS and confirms a helicopter had been activated. He confirmed the location of the helicopter.
 - At approximately 15:40 hours off duty police officers Senior Constable Patmore and Constable Tew offer assistance.
 - At 15:42 hours Mr Parkes approaches Senior Constable Keenan and hands him a first aid kit. He had completed first aid training through his work with New South Wales Parks and Wildlife and was certified, at the time of this death, with basic first aid and resuscitation qualifications.
 - At 15:45 hours Dr David Kilpatrick arrived on the scene. He advised he is a cardiologist and he provided advice. He checked for Mr Wildman's pulse. Dr Kilpatrick says Mr Wildman looked as though he had already exsanguinated. Based on his experience of these incidents any resuscitation would have required in the order of 20 units of blood or fluid support and Mr Wildman would have required a thoracotomy¹¹. He acknowledged this was not possible at this location within any reasonable length of time. He advised cardiac massage would not be helpful and he advised leaving the knife

¹¹ A thoracotomy is a surgical procedure to gain access into the pleural space of the chest. It is performed by surgeons (emergency physicians or paramedics under certain circumstances) to gain access to the thoracic organs, most commonly the heart, the lungs, or the oesophagus.

in situ. He also advised Mr Wildman was deceased. He was travelling with his son who is also a medical practitioner but who was not involved in Dr Kilpatrick's examination of Mr Wildman.

- At 15:46 hours Mr Storm Eastley arrived at the scene and advised Senior Constable Keenan Mr Wildman was his uncle. He did not remain on the scene for long as he did not want to get in anybody's way. He walked straight back to the vehicle in which he was travelling and telephoned his mother and told her what he had seen.
- At 15:55 hours Dr William Kimpton arrived at the scene and advised he is an emergency doctor at the RHH and he asked Senior Constable Keenan whether he needed any help. He says in his affidavit he is a resident medical officer. He asked for a pair of gloves and conducted an examination of Mr Wildman. He determined there was no pulse. He said the only thing to do would be to commence CPR. Senior Constable Keenan therefore retrieved a soft bag resuscitator which is a device which uses positive pressure to inflate the lungs of an unconscious person who is not breathing, in order to keep them oxygenated and alive. Dr Kimpton called the medical officer in charge at the RHH emergency department for advice. Dr Bowen advised it was not appropriate to begin CPR at that point and that no interventions were required.

The Response of / Investigation by Tasmania Police to the Incident Giving Rise to Mr Wildman's Death¹²

59. The investigation of Mr Wildman's death was conducted by police in accordance with section 7.4 (Death or Life-Threatening Injury in Custody) and section 4.2 (Coronial) of the Tasmania Police Manual (TPM) and section 4.11 (Deaths or Life Threatening Injury in Custody) of Abacus (Commissioner's Directions for Conduct and Complaint Management, and Compliance Review).

60. The first thing that occurred was at 15:58 hours the Southern District Commander, Commander Cerritelli, was notified of this incident by Inspector Harris who was the officer in charge of the Sorell Police Division. Commander Cerritelli subsequently notified the Professional Standards Unit of Tasmania Police (Detective Inspector Cretu), the Coroners office, Acting Assistant Commissioner Stolp who was the Duty Commissioner, Well-being

¹² This section covers that part of the Scope referred to in paragraph 7(b).

Support of Tasmania Police and the Police Association of Tasmania. At 16:30 hours Detective Inspector Cretu recalled Detective Sergeant O'Connor and Detective Sergeant Weeding to duty and directed them to the scene to take control of the investigation. Detective Inspector Cretu then advised Acting Deputy Commissioner Adams of the incident at 16:54 hours, he notified Colin Thomas from Relevant Drug Testing Solutions at 17:02 hours and arranged for Mr Thomas to conduct drug and alcohol testing of Senior Constable Keenan. At 18:10 hours he advised the Integrity Commission of Tasmania and on 30 December 2020 Acting Detective Inspector Pratt notified the Australian Institute of Criminology of the death by completing a death in custody notification form.

61. At approximately 16:01 hours Sergeant Ward and Senior Constable Dennis from the Sorell Police station arrived at the scene and assisted Senior Constable Keenan. At about the same time Senior Constable Bowering and Senior Constable Sheen from the Sorell Police station arrived at the scene however they were immediately directed to the identified landing site of the helicopter. Senior Constable Sheen remained with the helicopter and Senior Constable Bowering conveyed the helicopter crew to the scene and then conducted some traffic management duties.
62. At approximately 15:58 hours Constable Williams arrived at the scene where he remained for a short period of time before he was redirected by Sergeant Ward to return to Ms Barker's address. He advised Ms Barker of Mr Wildman's death at 16:34 hours.
63. At 16:10 hours the helicopter paramedic crew arrived at the scene, examined Mr Wildman and confirmed he was deceased.
64. At 16:55 hours Inspector Harris attended the scene, coordinated resources and provided support. A forensics officer, Acting Sergeant Swinton arrived at the same time and was followed by another forensics officer, Constable Curtis, who arrived at 17:05 hours. Both forensics officers examined the scene and took photographs. A search of Mr Wildman's vehicle was also conducted and his mobile phone was located and seized. The vehicle was removed from the scene by tow truck at approximately 20:20 hours and conveyed to the Forensic Services Examination Bay at the Hobart police station where a detailed examination was conducted the next day.

65. At 16:58 hours 2 officers from Bellerive CIB attended the scene and they were followed by a further 2 officers from that unit at 17:15 hours. Ten minutes later the Acting Inspector of Bellerive CIB attended and coordinated investigative resources prior to the attendance of investigators from the Professional Standards Unit. At approximately 17:41 hours Senior Constable Bowering and Senior Constable Sheen attended the home of Mr Wildman's parents and advised them of his passing. At approximately 19:00 hours 2 officers from the Professional Standards Unit arrived at the scene. At 20:00 hours 2 of the detectives from Bellerive CIB escorted the mortuary ambulance containing Mr Wildman's body from the scene to the mortuary.
66. At 20:15 hours Constable Curtis attended Mr Wildman's home with the other 2 detectives from Bellerive CIB and conducted a search. Mr Calder was present and consented to that search. He provided a statutory declaration to one of the officers and Constable Curtis took a series of photographs. A rope tied in a noose, a prescription and several notes were seized.
67. At approximately 20:20 hours Senior Constable Keenan left the scene in the company of a police welfare officer, Sergeant Castle, and attended the Sorell Police station. By that time all other units had left the scene. At approximately 21:09 hours Senior Constable Keenan underwent drug and alcohol testing at the Sorell Police station as required by s50(2) of the *Police Service Act 2003*. Testing was conducted in accordance with that provision and in accordance with the directions of the Commissioner of Police with respect to alcohol and drug testing. The test was conducted by an employee of the firm Relevant Drug Testing Solutions which firm is independent of Tasmania Police.
68. At 21:44 hours Senior Constable Keenan participated in an audio recorded interview conducted by Detective Sergeant O'Connor and Detective Sergeant Weeding at the Sorell Police station. Also present was a representative from the Police Association who was acting as an independent support person for Senior Constable Keenan. The interview concluded at 22:16 hours. After the interview Senior Constable Keenan provided investigators with a copy of his notes and he concluded duty for the evening. Prior to the interview at 19:24 hours Senior Constable Keenan's BWC was seized by Detective Sergeant Weeding and that camera was docked and uploaded using the docking station located at the Professional Standards Unit. That footage was secured and access was restricted to Professional Standards

investigators only.

69. As indicated in paragraph 46 Constable Williams attended Ms Barker's home at 15:13 hours and commenced to take a statutory declaration from her which detailed the circumstances of Mr Wildman's attendance at her address earlier in the day. While taking that statutory declaration Ms Barker received a message on her mobile phone, she checked the message and became visibly upset and then passed her phone to Constable Williams. The message included the word "goodbye" together with a photo of Mr Wildman holding a knife to his chest. Constable Williams took a photograph of the picture on Ms Barker's phone and a number of other photographs detailing messages between Ms Barker and Mr Wildman. He then left the address to backup Senior Constable Keenan. On arriving at the scene he remained a short time before returning to Ms Barker's residence to advise her of Mr Wildman's death. He remained at her address for several hours in an attempt to complete the statutory declaration and he seized her phone.

70. Both Ms Barker's phone and Mr Wildman's phone were subsequently accessed using pin numbers which had been provided and the contents of both phones were downloaded. On the 31 December 2020 Detective Sergeant O'Connor and Detective Sergeant Weeding attended Ms Eastley's home and conducted a search of Mr Wildman's bedroom. Nothing of relevance was located. Subsequently investigators followed up a number of witnesses and obtained affidavits.

Post-Mortem Examination

71. The forensic pathologist Dr Lawrence conducted a post-mortem examination on 30 December 2020. As a result of conducting that examination Dr Lawrence concluded Mr Wildman died as result of a self-inflicted stab wound to the chest. There was evidence of capsicum spray on Mr Wildman's body and Dr Lawrence says the location of that spray appears to correspond with what is depicted on the BWC footage which he examined. Dr Lawrence says there are no other suspicious marks and no unusual features and what he observed is consistent with the version of events provided by Senior Constable Keenan. I accept the opinion of Dr Lawrence.

The Medical Treatment Mr Wildman Received for his Mental Health Difficulties and an Assessment of its Adequacy

72. This is one of the issues raised in the scope at paragraph 7(d). The evidence is Mr Wildman did not have the necessary life skills to manage his life and for approximately 10 years Ms Eastley did that for him. He also experienced difficulties in coping with important relationships. First there was a self-harm incident during December 2009 and the significant self-harm incident during January 2012 which resulted in significant blood loss. Mr Wildman required emergency transfer to the RHH followed by surgery and then follow-up treatment. During this admission he underwent a psychiatric assessment.
73. In more recent times Mr Wildman was in a volatile relationship with Ms Barker who I note was a widowed woman 9 years his senior. The nature of their relationship was such that police intervened and orders were made under the *Family Violence Act 2004* as are set out in paragraph 27. Then when Mr Wildman was taken into custody on about 22 November 2020 he attempted self-harm in the divisional van when he was being transported to the Hobart Reception Prison. In her affidavit Ms Barker describes Mr Wildman's violence towards her but also her continued fondness and attachment to him. As I have already mentioned notwithstanding the FVO there was continued contact between them.
74. During the admission to hospital in 2012 after the self-harming incident Mr Wildman was assessed by the psychiatry registrar, Dr Chikramane. At the initial assessment Mr Wildman was sedated after surgery and so therefore no steps were taken beyond managing any risk that presented. Dr Chikramane returned later the same day to continue the assessment. A history was obtained of recent stressors including the breakdown of a two-year relationship and financial difficulties. Mr Wildman had experienced low mood, loss of appetite and poor sleep for a period of 2 to 3 months. He had been prescribed an antidepressant by his general practitioner but improvement was minimal. On the following day, a consultant psychiatrist, Dr Mandy Evans, reviewed Mr Wildman with Dr Chikramane. By that time Mr Wildman said he felt better and he regretted his behaviour. He said he had received support from family and friends. The doctors obtained a history of episodes of low mood since adolescence related to family functioning and a "need to be more self-reliant when not yet ready for this". Other history obtained includes occasional cannabis abuse and a pattern of binge drinking. His mental state appears to have been unremarkable other than there being a reference to low self-esteem. The doctors made the decision to discharge a mental health

order which had been made earlier and recommended the continuation of antidepressant medication plus a referral to a clinical psychologist. It was understood Mr Wildman was returning to Nubeena and would be cared for by his family. The diagnostic formulation was of impulsive self-harm associated with a relationship break down on a background of recurrent depressed mood “due to personality structure”.

75. During July 2015 a locum GP at Nubeena, Dr Essed, sought assistance for Mr Wildman prompted by family concerns. This led to a referral to the Eastern Community Mental Health Service. After some preliminary assessments by allied health workers Mr Wildman was assessed by a psychiatrist, Dr Marian Van der Veen at Nubeena on 27 August 2015. Mr Wildman expressed reluctance to engage with mental health services. He disclosed he was “a bit of a worrier” and that he needed to be more independent. He tended to put things off. He had been stressed by Centrelink arising out of his difficulty coping with more than one part-time job. Mr Wildman disclosed obsessive-compulsive symptoms, an excessive need for symmetry, counting rituals, orderliness and perfectionism. His father shared similar tendencies. He had become more withdrawn and avoidant since his difficulties in 2012. He wanted help with anxiety but was reluctant to take medication. Although alcohol use had diminished his cannabis intake was daily and heavy. Dr Van der Veen obtained details of prior offending which included several DUIs, assaults and resisting arrest. Marked family dysfunction including substance abuse, violence and neglect was disclosed. Mr Wildman’s school attendance declined from year 9 onwards. In her formulation Dr Van Der Veen noted a development characterised by emotional neglect and insecure attachment, an anxious temperament and a person who had tried to cope and self-regulate emotions through cannabis and alcohol. Mr Wildman was socially anxious and avoidant and had been subject to suicidal ideation and behaviour. Her treatment plan included assigning a case manager to work with him on various issues and for a review after 4 to 6 weeks.

76. About 6 weeks later a case manager met with Mr Wildman at a reserve in Murdunna. Mr Wildman reported improvement in some areas including mood and anxiety. Further attempts to remain in touch with Mr Wildman were unsuccessful, prompting the case manager to speak with his sister, Ms Eastley, who reported some improvement but she also spoke of poor resilience and a lack of independence. Dr Van der Veen conducted a review at Sorell. By then a low dose of quetiapine had been prescribed as a sedative. Although there was an intention to follow-up Mr Wildman he proved increasingly difficult to contact. As a

result his case was closed during March 2016.

77. The mental health services file also contains references to contact during November 2020. It contains a document titled Facts for the Prosecutor and notes Mr Wildman was made subject to a FVO during October 2020. On 21 November 2020 Ms Barker had invited him to her home. They had been drinking together through the afternoon and evening but an argument developed. Ms Barker had become fearful and sought help. Mr Wildman was arrested later that day and conveyed to Hobart. During the journey he had been agitated and attempted to hang himself in the van. He was considered to be intoxicated. As a result of this incident police contacted a court liaison officer. Mr Wildman declined to be seen but advised a legal aid lawyer he was seeing a psychologist fortnightly and that he was also receiving assistance through Holyoake and a Men's' shed. The court liaison officer attended a subsequent hearing where bail with tightened restrictions was granted.
78. In more recent times Mr Wildman had been a patient of the Nubeena General Practice and had attended during the later months of 2020 reporting anxiety and depression. In August a referral was initiated to a clinical psychologist, Dr Ashley Wong Hoy. On 9 February 2020 the general practitioner, Dr Felmingham, also initiated a referral to the psychiatrist, Dr Yvonne Turnier-Shea. In the referral letter Dr Felmingham advises of a strong family history of mental health problems, that Mr Wildman was already seeing a psychologist and had been receiving support through Relationships Australia. At that time he was prescribed a low dose antidepressant. A mental health care plan, part of the referral to Dr Wong Hoy makes reference to anxiety and depression together with suicidal thoughts. Dr Turnier-Shea declined the referral on the basis she was no longer accepting new patients. Dr Ashley Wong Hoy provided a report to Mr Wildman's legal practitioner in relation to a hearing in the Magistrates Court scheduled for 12 October 2020 which concerned a FVO. Dr Wong Hoy noted Mr Wildman complained of anxiety and had appeared anxious in interview. He refers to sporadic suicidal ideation and depressive symptoms. He describes Mr Wildman as being continually anxious and with poor self-esteem. He refers to earlier relationship problems and a background of family violence. Cannabis use was said to have declined but alcohol use had remained hazardous until recent weeks. In Dr Wong Hoy's opinion there was no salient evidence of a personality disorder.

79. I arranged for the very experienced consultant psychiatrist Dr Ian Sale to review the medical records and comment upon the standard of mental health care received by Mr Wildman. He noted the history set out above. In summary Dr Sale notes Mr Wildman was raised in a dysfunctional household in which there was violence, substance use, neglect and isolation. Emerging from this he was ill-equipped to cope with managing his life, his relationships and emotions. His personality development was severely damaged and this left a legacy of poor impulse control, chronic anxiety symptoms, a poor work record and dysfunctional intimate relationships. There was also maladaptive coping including the use of alcohol and cannabis.
80. Dr Sale notes his diagnosis is made in retrospect and without direct contact with Mr Wildman however he believes it is reasonably likely Mr Wildman's problems reflected the presence of a personality disorder. This is defined in DSM-5¹³ as follows:

General personality disorder

- A. An enduring pattern of inner experience and behaviour that deviates markedly from the expectations of the individual's culture. This pattern is manifested in two or more of the following areas:
1. Cognition (i.e. ways of perceiving and interpreting self, other people and events);
 2. Affectivity (i.e. the range, intensity, lability and appropriateness of emotional response);
 3. Interpersonal functioning;
 4. Impulse control.
- B. The enduring pattern is inflexible and pervasive across a broad range of personal and social situations.
- C. The enduring pattern leads to clinically significant distress or impairment in social, occupational or other important areas of functioning.
- D. The pattern is stable and of long duration, and its onset can be traced back at least to adolescence or early adulthood.
- E. The enduring pattern is not better explained as a manifestation or consequence of another mental disorder.
- F. The enduring pattern is not attributable to the physiological effects of a substance or

¹³ The Diagnostic and Statistical Manual of Mental Disorders, Fifth Edition. This book is published by the American Psychiatric Association and serves as the principal authority for psychiatric diagnoses.

another medical condition.

81. In this case Dr Sale says criteria A (2), (3) and (4) were present. He says the other criteria are met and although there was significant substance abuse at times this, in Dr Sale's view, was not sufficient to explain the scope of Mr Wildman's difficulties.
82. Dr Sale says personality disorders are divided into different subtypes. He did not think there was any value, in this case, to make a more specific diagnosis. This is because there were features present from different subtypes e.g. the police experience might suggest an antisocial personality but on the other hand he was also chronically anxious and avoidant and he was also obsessional. The damage to Mr Wildman's personality development and structure is likely to have been a consequence of his adverse child circumstances. It was noted his father experienced similar difficulties and therefore a constitutional component might be present.
83. Mr Wildman's difficulties were pervasive and ongoing and in Dr Sale's view would likely have continued throughout his life. He says treatment interventions have limited effect undoing damage of this nature. While some psychological therapies can have benefit for some patients where there are so-called borderline features (instability of affect and relationships), these treatments are not readily available, particularly in a rural community. Medication can provide symptomatic benefit from anxiety and obsessional symptoms however Mr Wildman was not keen to use them.
84. Dr Sale says from his personal experience of working in the Tasman region between 1996 and 1998 he is aware of the challenges there are in obtaining services for members of this community. He notes at times Mental Health Services has provided some outreach to the area but he is unaware whether this remains the case and in this case the general practitioner chose to refer Mr Wildman to a private psychiatrist rather than a public sector service.
85. That Dr Turnier-Shea was unable to accept a referral is, in Dr Sale's view, regrettable but not surprising. He says there are insufficient numbers of psychiatrists in Tasmania to meet clinical needs. He notes even if the referral had been accepted it is unlikely Mr Wildman could have been seen as a matter of urgency.

86. Dr Sale says Dr Felmingham's clinical management in prescribing an antidepressant and initiating referrals was entirely appropriate. There is a handwritten note in the medical records at the time when the psychiatric referral was declined making reference to a "phone consult", perhaps indicating an intent to arrange a telehealth referral, which in the absence of other services would also have been appropriate. Enquiries of Dr Felmingham's surgery indicate that note is a response from Dr Felmingham, after Dr Turnier – Shea declined the referral, asking reception staff to contact Mr Wildman to arrange a phone appointment. Mr Wildman was contacted on 15 December 2020 and a message was left on his mobile for him to contact the surgery to make an appointment. No doubt Dr Felmingham would have discussed with Mr Wildman what further treatment options there were for him had he responded to the message which was left on his mobile phone.
87. Dr Sale concludes by saying Mr Wildman's already fragile resilience was under increased pressure during the later months of 2020 which was a consequence of his deteriorating relationship with Ms Barker and him being made the subject of a FVO. *"For a man such as Mr Wildman, the relationship with Ms Barker and others before her was in part a reflection of a need to depend on people rather than intimacy alone. In addition, Mr Wildman's troubles at that stage were increased by the presence of an ongoing hand infection which would have caused pain and affected his capacity to work."* I accept the opinions of Dr Sale.
88. My enquiries of the Tasmanian Health Service confirm Adult and Community Mental Health – Eastern, which is located at Bellerive, services clients residing on the Tasman Peninsula. A full range of services is provided however distance may dictate when the service can be provided. For example the ability of medical staff to travel is limited and may result in only monthly visits however clients can travel to Sorell or Clarence for an appointment. A crisis response is available as is case management. The service predominately undertakes home visits but when needed the Tasman multipurpose centre can be accessed.

Did Senior Constable Keenan Comply with his Legal Obligations and did he Adhere to Relevant Policies, Procedures and Guidelines of Tasmania Police?

89. This issue is referred to in the Scope at paragraph 7(e) and has been examined by the Professional Standards Unit of Tasmania Police by looking at the following matters:

- the lawfulness and justification for police involvement and the arrest of Mr Wildman;
- the initial approach by Senior Constable Keenan and the circumstances of the arrest;
- the use of force;
- after-care and first-aid response and
- notification of investigation.

I have considered the conclusions of the Professional Standards Unit very carefully. In general terms I am in agreement with those conclusions.

(i) Lawfulness and justification for police involvement and the arrest of Mr Wildman

90. From the evidence set out in paragraphs 40 and 43 through to 46 inclusive a police officer could reasonably suspect Mr Wildman had breached the FVO however subsequent direct questioning of him by Senior Constable Keenan confirmed this was so.¹⁴ Section 7(b)(iii) of the *Family Violence Act 2004* defines the contravention of a FVO as “family violence”. In addition s11(5) of that Act provides as follows:

“In deciding whether to arrest a person under subsection (1), the police officer is to give priority to the safety, wellbeing and interests of any affected person or affected child.”

91. Further guidance is provided by the Department of Police Fire and Emergency Management- Family Violence Manual (FVM) which sets out additional factors police officers must consider when determining whether or not to arrest a person. The following relevant factors are included in the manual:

- *“... the necessity for immediate protection, and welfare of the person or persons to be protected*
- *any previous family violence by the offender against the person or against any other person, whether or not convicted of an offence or prior family violence or restraint order made against the offender in respect of that violence*

¹⁴ See paragraph 53.

- *any other information which indicates a propensity for violence...*

Furthermore page 8 of the FVM says:

“It is the policy of Tasmania police for members to adopt a pro-intervention approach to family violence...”

92. Section 7.1 of the TPM provides guidance with respect to a person’s arrest and stipulates it may be appropriate to arrest a person-

- *“... to prevent the continuation or repetition of the offence, or the commission of another offence;*
- *to preserve the safety or welfare of any person, or the harassment of witnesses...”*

In addition section 2.5 of the TPM relates to Family Violence. The section contains the following order:

ORDER – All members shall comply with the requirements of the Family Violence Manual.

93. Senior Constable Keenan says in his affidavit¹⁵ and his police interview¹⁶ that as he was approaching Mr Wildman’s vehicle, he believed he heard Mr Wildman rev the vehicle slightly. This caused him to suspect Mr Wildman’s intention was to flee the area and therefore Senior Constable Keenan believed he had to act in a prompt manner.

94. Given the reason for Mr Barker’s initial call, Mr Wildman’s known history and his propensity for violence it is clear Senior Constable Keenan was justified in approaching Mr Wildman. He was also legally obliged to arrest him in order to ensure the ongoing safety of Ms Barker and given the admissions Mr Wildman made to Senior Constable Keenan that position is beyond doubt.

(ii) Initial approach and circumstances of the arrest

95. On locating Mr Wildman’s vehicle Senior Constable Keenan manoeuvred his police vehicle and parked behind Mr Wildman’s vehicle. In acting in this manner Senior Constable Keenan complied with the principles set out in the *Low Risk Vehicle Operation Manual*¹⁷ in particular those relating to the ‘Corridor of Safety’, at p 44 and ‘Approaching the Vehicle’ at p. 46.

¹⁵ Exhibit C35.

¹⁶ Exhibits C21c and C52.

¹⁷Exhibit C61.

96. Senior Constable Keenan notified RDS he had located Mr Wildman's vehicle and activated his BWC. These actions were either conducted concurrently or within quick succession and comply with the requirements of section 14.13 of the TPM (Vehicle Interceptions¹⁸); the *Tasmania Police Body Worn Camera Policy and Guidelines*¹⁹ and the relevant orders contained in section 10.10 of the TPM (Body Worn Cameras²⁰). This demonstrates Senior Constable Keenan understands the principles which underpin Tasmania Police's Operational Response Policy²¹.
97. When Senior Constable Keenan approached Mr Wildman's vehicle and commenced interacting with him, it is evident he has considered the content of the Operational Response Policy and he has applied appropriate risk mitigation strategies to minimise risk. Section 7.2 of the policy relates to 'A Single Member Response' and applies when members are either tasked to or initiate a single member response to an incident. While Senior Constable Keenan was initially tasked as the backup to the initial incident, he subsequently initiated a 'single member response' when he located and interacted with Mr Wildman on the Arthur Highway. Senior Constable Keenan immediately notified RDS of Mr Wildman's location as required by the policy. Once notified by Senior Constable Keenan of Mr Wildman's location, RDS has initiated a further backup unit from Sorell to assist him.
98. As can be seen on the BWC, Senior Constable Keenan approached Mr Wildman and engaged with him in a professional, respectful, and courteous manner. He cautioned Mr Wildman at the appropriate time and asked him if he had breached the FVO. Mr Wildman confirmed he had approached Ms Barker contrary to the conditions of the FVO. Up until that point Mr Wildman gave no indication he would stab himself and Senior Constable Keenan was not aware of the details of the contact between Ms Barker and Mr Wildman that day or his message to Ms Barker detailed in paragraph 41. Prior to producing the knife Mr Wildman had been compliant and non-threatening.

¹⁸ Exhibit C59.

¹⁹ Exhibit C63.

²⁰ Exhibit C59.

²¹ Exhibit C61.

99. Senior Constable Keenan informed the deceased he was under arrest and attempted to open the door and remove him from the vehicle to complete the arrest. In doing so he was complying with section 7.1.4 of the TPM (Method of Arrest²²). Senior Constable Keenan then asks Mr Wildman if he has any weapons and Mr Wildman then puts his phone down and picks up the knife in his left hand and holds the knife to his chest.

100. Section 58B of the *Police Offences Act 1935* gives a police officer the power to search a person who is in lawful custody. In particular subsection (1)(a) provides:

“(1) If a police officer believes on reasonable grounds that it is necessary to search a person who is in lawful custody, a police officer may search that person –

(a) for the purpose of ascertaining whether there is concealed on that person or in that person's clothing a weapon or other article capable of being used to inflict injury or to assist that person to escape from custody; or..”

101. Senior Constable Keenan then directs Mr Wildman to put the knife down and repeats this request on several occasions. He then briefly reached into the vehicle to try and take the knife off Mr Wildman but quickly withdrew his hand fearing he would be injured.

102. Having considered the evidence I find the actions of the Senior Constable Keenan and the RDS operator when initiating the approach to Mr Wildman are consistent with the policies, instructions, directions, orders and procedures discussed above. Accordingly the initial approach by Senior Constable Keenan and the circumstances of the arrest comply with all the relevant policies and procedures.

(iii) Use of Force

103. As the incident developed and Mr Wildman armed himself, Senior Constable Keenan's response (as recorded on BWC) has noticeably changed. He has immediately notified RDS of the developments and has increased his operational awareness and readiness, in particular by warning Mr Wildman of his intention to use OC spray and in preparing to use it.

²² Exhibit C59.

104. Given the alleged breach of the FVO and the escalating danger Mr Wildman was not only presenting to himself but also possibly to the public (as he was locked in his car in a public place and could have potentially driven away) it was inappropriate for Senior Constable Keenan to withdraw from the scene. In his affidavit²³ Senior Constable Keenan says: –

“I then deployed OC spray into his face. He turned to his left and tried to avoid it. I gave him another one or two more sprays to try and get him in the face. My intention for spraying him was to try and stop him self-harming and to try and provide some sort of distraction in the hope that he might drop the knife. I was also conscious that he had a very large knife so I didn’t want him to get out of the car and attack me with the knife”.

105. There are 2 relevant legislative provisions relating to the use of force by police namely:

- Section 26 of the *Criminal Code Act 1924* which relates to the force which can be used in making an arrest. Subsection (1) provides:

“It is lawful for any person who is justified or protected in the execution of any sentence, process, or warrant, or in making an arrest, to use such force as may be reasonably necessary to overcome any force used in resisting such execution or arrest.”

- Section 46 of the *Criminal Code Act 1924* which provides for self-defence and defence of another person. The section says:

“A person is justified in using, in the defence of himself or another person, such force as, in the circumstances as he believes them to be, it is reasonable to use”.

106. Several sections of the TPM provide guidelines around the level of force which can be used, what options may be used and what amounts to excessive force. Included are the following: -

- Section 1.44 of the TPM ²⁴ ‘Use of Force’ contains the following order -

²³ Exhibit C35.

²⁴ Exhibit C59.

ORDER - Members shall not use excessive force in the performance of their duty.

107. Additionally, that section provides guidance to assist police to determine the appropriate type and level of force to use. This is illustrated on the *Use of Force Continuum* which is as follows:

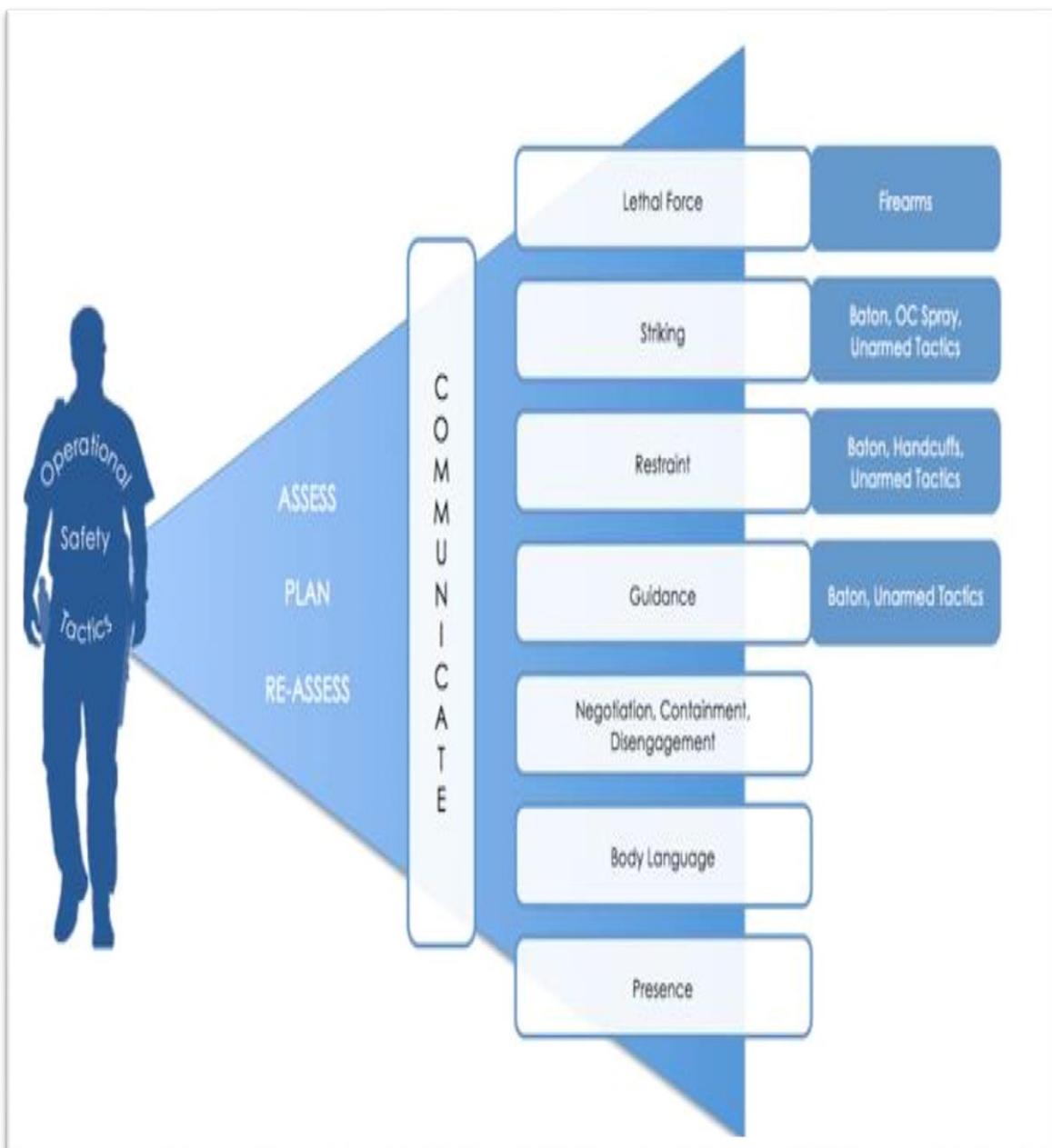


Image 1 – Use of Force Continuum

108. The section sets out critical factors and considerations to be observed prior to, and during, the use of any force. These factors and considerations require police to:

- adhere to operational safety tactics;
- assess, plan and re-assess the situation;
- maintain communication with the suspect and other officers at all times;
- implement and adjust the level of action required in accordance with the continuum; and
- use the appropriate weapon/technique in accordance with policy, orders and training.

109. Section 10.2 of the TPM relates to 'Less-Lethal Force'²⁵ and contains the following order:

ORDER - Members who are not qualified in the proficient use of less-lethal weapons, shall not carry or resort to the use of such weapon in the performance of their duties.

110. In this case Senior Constable Keenan was qualified and trained in the used of all operational accoutrements (including OC spray) at the time of this incident. His training history and qualifications are set out in paragraph 125.

111. Section 10.2 of the TPM provides guidelines for the justified use of less-lethal force options for the resolution of specified incidents. In addition Section 10.6 of the TPM (Oleoresin Capsicum Spray²⁶) provides that operational police members may only use OC Spray where they believe on reasonable grounds it is necessary in certain situations. Both sections provide examples of incidents or situations where use may be justified. The same examples are included in both sections. Police are justified in using departmental approved, less lethal weapons/techniques and/or OC spray:-

“(a) to defend themselves or another person or persons against violent or serious physical confrontation; or

(b) to arrest an offender if they believe on reasonable grounds that the offender poses a threat of physical injury and the arrest cannot be effected less forcefully; or

(c) to resolve an incident where a person is involved in violent or other physical conduct, likely to cause serious injury to themselves or result in suicide ;or

(d) to deter attacking animals”.

²⁵ Exhibit C59.

²⁶ Exhibit C59.

112. In addition sections 10.2 and 10.6 of the TPM require:

- Police officers receive approved training in the use of OC Spray at least once per year;
- The use of any force must be in accordance with relevant legislation and Section 1.44 of the TPM (Use of Force); and
- Police must comply with the relevant operational skills manual, in this case the *Tasmania Police Service – Oleoresin Capsicum Spray Manual*²⁷.

113. Section 10.6.2 of the TPM (Use) includes additional specific requirements in relation to the use of OC spray and includes the following which are relevant to this case:

“(2) The deployment of OC Spray is to be used to prevent serious injury. There must be a real threat, it should be the minimum amount of force and must be necessary.

And,

(7) If possible, members should give verbal warnings prior to using OC Spray”

114. In summary the use of force is permitted when police are attempting to make an arrest. In this case Senior Constable Keenan’s use of force was intended to prevent Mr Wildman from self-harming, to ensure his own safety and that of the public including Ms Barker. There is no doubt at the time Mr Wildman produced the knife he posed a real threat. Senior Constable Keenan gave Mr Wildman a clear warning of his intent to use OC spray, he did not use excessive force and in my view the choice he made to use the OC spray was more appropriate than using a baton or a taser. Senior Constable Keenan continued to communicate with Mr Wildman throughout his interaction with him. I note he had also been trained, qualified and validated in the use of OC spray and he had complied with all the guidelines and procedures set out above.

(iv) After-care and First Aid Response

115. Section 7.2 of the TPM (Custody²⁸) provides guidelines for dealing with persons in custody.

Section 7.2.1 says: -

7.2.1 Duty of Care

²⁷ Exhibit C64.

²⁸ Exhibit C59.

(1) A member involved in the arrest, incarceration or supervision of a person in custody has a legal duty of care to that person and may be held responsible for the death or injury of the person caused, or contributed to, by a breach of that duty.

(2) A legal duty of care applies at all times from the time a person first comes into police custody until the time of that person's safe discharge.

116. Section 1.34 of the TPM sets out provisions in relation to life saving assistance and first aid.

The relevant parts of that section to this matter provide as follows:

"1.34.1 Legal liability to render life-saving assistance

(1) Generally, no duty is imposed by criminal or civil law, or by statute upon a police officer to give life-saving aid in the form of resuscitation or otherwise. No duty to render assistance arises between a rescuer and an imperiled person, even though, in the case of a police officer, it is their role to protect life.

(2) Statute law and the Police Service Act 2003 impose no statutory duty upon police officers to give life-saving assistance or impose criminal liability for failing to give such assistance.

*(3) In appropriate circumstances, **members may exercise discretion to make an informed decision whether to attempt resuscitation** or not to do so.*

*(4) There is an obligation placed upon a police officer to **seek health assistance, such as call for an ambulance**, and a moral duty under the ethical principle of beneficence (doing good; actively kind) to provide support pending the arrival of medical assistance.*

(5) In situations where a police officer is involved in the arrest, incarceration or supervision of a person in custody, that police officer has a legal duty of care to that person and may be held legally responsible for the death or injury to that person caused or contributed to by a breach of that duty.

(6) A police officer is obliged to perform resuscitation on a person apparently in need in the following circumstances:

(a) where the police officer has custody of a person in a police station where bag valve mask resuscitation (BVM) equipment is available; or

(b) where the police officer is present on a firearm range and has access to bag valve mask resuscitation (BVM) equipment." (my emphasis).

“1.34.2 Resuscitation and first-aid training/equipment

(1) Members who are Firearms Instructors will undertake an appropriate refresher resuscitation and first-aid training course every 12 months.

*(2) All other operational members up to and including the rank of sergeant (qualified) will undertake an appropriate **refresher resuscitation and first-aid training course every three years.***

(3)...

(4)..." (my emphasis).

117. Senior Constable Keenan is not a firearms instructor however at the date of this incident his first aid qualification was current. Details of his training history and qualifications are set out in paragraph 125.

118. It can be seen from Senior Constable Keenan’s BWC footage and affidavits from witnesses who assisted him that Senior Constable Keenan provided first-aid assistance to Mr Wildman although it is clear from the evidence of Dr Kilpatrick there was little that could be done. Dr Kilpatrick’s advice was subsequently confirmed by the advice Dr Kimpton relayed to Senior Constable Keenan from Dr Bowen who was on duty as the medical officer in charge of the RHH Emergency Department.

119. I refer to the evidence at paragraph 58. Mr Herman, who had current first-aid qualifications, says in his affidavit²⁹ he has experience in critical incidents and Senior Constable Keenan was dealing with Mr Wildman in a caring and competent way. He says Senior Constable Keenan appeared to be doing the best he could, and he had no criticism of what Senior Constable Keenan was doing. In addition neither Dr Kilpatrick or Dr Kimpton have outlined any concerns in the manner in which Senior Constable Keenan attended to Mr Wildman.

120. Senior Constable Keenan was concerned given the nature of the injury that CPR may cause Mr Wildman further harm. This concern and the futility of commencing CPR, given the seriousness

²⁹ Exhibit C31.

of the injury, was confirmed by the medical advice he received from the 2 doctors who attended shortly after the incident. It is these circumstances which led him to exercise his discretion to not commence CPR.

121. Immediately after Mr Wildman wounded himself Senior Constable Keenan advised RDS of the nature of the injury, that it was serious and an ambulance and helicopter were required.

122. I find Senior Constable Keenan owed a duty of care to Mr Wildman at the time of the arrest. There was no breach of duty by him; that is there is nothing he did that contributed to or caused Mr Wildman to take his own life. I find Senior Constable Keenan acted in a professional and lawful manner at all times. In addition he has complied with his obligations under section 1.34 of the TPM.

(v) Notification and Investigation

123. Several sections contained within the TPM require a police officer to make certain notifications and perform certain tasks as part of an investigation. Relevant to this case are the following:

- Section 4.2 titled *Coronial*³⁰, specifically sections –
 - 4.2.1 Initial Attendance and Investigation
 - 4.2.3 Next of Kin Notification
 - 4.2.4 Removal of Deceased to Mortuary
 - 4.2.5 Procedure at Mortuary
 - 4.2.6 Property of Deceased Persons
 - 4.2.7 Identification of Deceased Persons
 - 4.2.12 Suicide, including the order -
Order – Members investigating a suicide shall ensure the deceased person’s fingerprint (sic) are taken; and take the fingerprints from the original scene.
- Section 7.4 Death or Life Threatening Injury in Custody³¹
- Section 10.1 Electronic Reporting³²

³⁰ Exhibit C59.

³¹ Exhibit C59.

³² Exhibit C59.

124. Having considered all the evidence and the above-mentioned provisions of the TPM I am satisfied that every aspect of that manual which applies in this case has been complied with.

*(vi) Senior Constable Keenan's Training and Qualification History*³³

125. The records of a police officer's training are recorded on the *Tasmania Police Electronic Self Service (ESS)* computer system. The following is recorded in that system with respect to Senior Constable Keenan:

- he completed Tactical First Aid (TACMED) training on 24 April 2019 which training is valid until 24 April 2022. This first aid training is the approved first aid training for Tasmania Police. Prior to that training Senior Constable Keenan completed several first aid training courses with St Johns Ambulance.
- prior to this incident he completed his most recent 'Operational Skills Firearms Validation' or testing on 26 August 2020. That validation was due to expire on 26 September 2021. The skills validation included validation in the use of OC spray.

Accordingly I find Senior Constable Keenan's training was, at the time of Mr Wildman's death, up-to-date and he was able to validly use all operational equipment including OC spray.

(vii) Code of Conduct Assessment

126. Detective Sergeant Weeding found, after investigating and considering this matter, Senior Constable Keenan's actions complied with all legislative requirements and applicable Tasmania Police policies, instructions, directions, orders and procedures. Accordingly he found no breach of the Tasmania Police Code of Conduct contained in s42 of the *Police Service Act 2003*. He therefore recommended no disciplinary action be taken.

The Application for Bail on 23 November 2020

127. After the scope of this inquest was settled and agreed to by all parties Ms Eastley queried whether Mr Wildman should have been released on bail on 23 November 2020 without a mental health assessment given he had attempted to hang himself in the police van on 22 November 2020. She suggests people who behave in this manner be held for 48 hours so they can receive medical treatment which may deter people in Mr Wildman's position acting like he

³³ Exhibit C58.

did on this occasion but also the treatment he would have received in such a scenario may have better equipped both Mr Wildman and his family to assist him thereafter. Although this matter was discussed with Ms Eastley during the course of the inquest it is appropriate that I deal with it in this finding.

128. A police officer has the power, under the *Mental Health Act 2013* to take a person into protective custody if that officer reasonably believes:

“(a) the person has a mental illness; and

(b) the person should be examined to see if he or she needs to be assessed against the assessment criteria or the treatment criteria; and

(c) the person's safety or the safety of other persons is likely to be at risk if the person is not taken into protective custody.”³⁴

The term “mental illness” is defined in s4 of that Act and the assessment and treatment criteria are set out in ss25 and 40 respectively. If a police officer takes a person into protective custody then he or she must escort the person to an approved assessment centre and may ask a mental health officer at that centre to take over the protective custody of the person³⁵. Once a person, who has been taken into protective custody, is at an approved assessment centre the authority in charge of that centre must, amongst other things, have the person examined by a medical practitioner within 4 hours of the person’s arrival at the centre to determine if the person needs to be assessed against the assessment criteria or the treatment criteria. There are further provisions in the Act which deal with the release of a person from protective custody, the making of assessment orders and the making of treatment orders³⁶.

129. On 23 November 2020 Mr Wildman appeared before the very experienced Magistrate, Mr G A Hay on complaint 9718/2020, charged with one count of breaching a FVO, one count of breach of bail and one count of resisting a police officer on 21 November 2020. He was at that time on bail with respect to 3 complaints alleging a *Criminal Code* assault to which Mr Wildman had pleaded not guilty and on which he had been committed to the Supreme Court. Mr Wildman appeared before a Bench Justice on Sunday, 22 November 2020 and had been

³⁴ S17 *Mental Health Act 2013*.

³⁵ S18 *Mental Health Act 2013*.

³⁶ Chapter Part 2 and 3 of the *Mental Health Act 2013*.

refused bail. Before Mr Hay Mr Wildman, through his counsel from Tasmania Legal Aid, applied for bail³⁷. That application was opposed by the police prosecutor. Mr Hay was advised by the prosecutor he had asked a nurse from Forensic Mental Health Services to assess Mr Wildman. Mr Wildman's counsel advised Mr Hay he did not believe an assessment had taken place but he had spoken to the forensic mental health nurse who considered an assessment was not necessary. I also note no police officer deemed it necessary to take Mr Wildman into protective custody after the incident in the police van. The prosecutor told the Magistrate at the time of the incident in the police van Mr Wildman was intoxicated and he was detained so that he could be interviewed when sober. He also advised the Magistrate of the alleged facts with respect to the charges on complaint 9718/2020 and the alleged facts with respect to the *Criminal Code* assaults. As is customary the prosecutor also advised the Magistrate of Mr Wildman's prior convictions.

130. Mr Wildman's counsel, during his submissions for bail, noted the prosecution's concerns with respect to Mr Wildman's mental health and advised the Magistrate his instructions were Mr Wildman was in a dark place when arrested, he had been drinking at that time, it was his first alcoholic drink in almost 2 months and he had previous issues with alcohol. He was however engaged with Holyoake and was attending phone appointments every 2 weeks. He had commenced engaging with that service about 3 months ago. In addition it was submitted Mr Wildman was future focused as he had previously sought assistance from the Defendant Health Liaison Office, he had a mental health care plan organised through his general practitioner which had been in place since June or July of this year and he was seeing the psychologist Dr Wong Hoy every 2 weeks. He was not medicated but had been diagnosed with depression and anxiety. In addition he was participating in a men's program every Tuesday which he had been doing for the past 6 weeks. It was submitted Mr Wildman was actively engaging in rehabilitation and trying to improve himself. Submissions were then made addressing the criteria for bail set out in s12 of the *Family Violence Act 2004*.

131. Having heard the submissions by the parties the Magistrate was satisfied, subject to the imposition of certain conditions, that if Mr Wildman was released on bail he would not be likely to adversely affect the safety, well-being and interests of Ms Barker³⁸. Mr Wildman was therefore bailed to appear in the Magistrates Court on this complaint on 10 February 2021 on

³⁷ The recording of these proceedings is in evidence at exhibit C69

³⁸ S12 *Family Violence Act 2004*.

condition he reside with Ms Eastley, that he be at her residence between the hours of 9pm and 6am each day and between those hours he must present himself to police if required, that Ms Eastley enter into a surety and pay a sum of money into Court which was to be forfeited should Mr Wildman not comply with his bail conditions, that he not directly or indirectly contact or be within 100m of Ms Barker, he must comply with the FVO and he must not be found within a 1km radius of Ms Barker's residence. I repeat what I said to Ms Eastley during the hearing which was had I been presented with the material Mr Hay was presented with I would also have bailed Mr Wildman.

132. There is a mechanism already provided in the *Mental Health Act 2013*, which can result in a medical examination, if a police officer reasonably believes the matters set out in (a)-(c) in paragraph 128. In addition Mr Wildman's counsel could have also arranged a mental health assessment if he believed it was warranted. It seems given what transpired he did not think that assessment was necessary. In addition it was Mr Wildman who applied for bail and when doing so Ms Eastley supported that application by agreeing to permit him to reside with her and by acting as his surety. Had she not done so I suspect the application for bail would have been refused. I also note Mr Wildman did not self-harm immediately after his release; that occurred in excess of 5 weeks later. For all these reasons I do not think it is necessary to make a recommendation of the kind suggested by Ms Eastley.

Conclusions

133. My formal findings are set out in paragraph 4. I also find the response of, and investigation by, Tasmania Police to this very sad and unfortunate incident was immediate, professionally undertaken and very thorough. The medical treatment received by Mr Wildman for his mental health difficulties was appropriate and was of a good standard. Dr Sale says Mr Wildman's mental health condition was pervasive and ongoing and would likely have continued throughout his lifetime. Because his personality development was in all likelihood damaged as a result of his adverse childhood circumstances Dr Sale says treatment interventions are of limited effect in undoing such damage. Mr Wildman did not consistently engage with his treatment providers and was not keen on using medication. Unless his condition reached the threshold required under the *Mental Health Act 2013*³⁹ Mr Wildman could not be forced to engage with treatment and take medication. Senior Constable Keenan

³⁹ See Chapter 2 Parts 2 and 3 of that Act

acted lawfully and complied with all relevant policies, procedures and guidelines of Tasmania Police when interacting with Mr Wildman prior to him self-harming and in assisting Mr Wildman after that incident. In so far as s28(5) of the Act is concerned I find that while Mr Wildman was in police custody he was cared for, supervised and treated appropriately by Senior Constable Keenan.

Comments and Recommendations

134. I acknowledge and thank Detective Sergeant Weeding for his very thorough and comprehensive report.

135. I formally record the comments of Dr Ian Sale where he says:

“Finally, I would like to commend Mr Wildman’s family, particularly his sister Kylie, for the ongoing support they provided, including seeking mental health and other assistance for him. I do not believe that there is anything further they could have done.”

136. On or about 6 May 2022 an email was received by my office from Ms Eastley some parts of which ought to be formally recorded. First she thanks the Coroners’ office and those who have provided statements and reports on behalf of Mr Wildman’s family and close friends. She expresses her gratitude to the members of the public who stopped and offered assistance. She also says the following:

“We would like to thank and express our empathy to Senior Constable Keenan”.

137. Finally Ms Eastley says:

“These reports, police recounts of arrest, criminal record, they do not speak of the person that Ben’s family and friends knew. Ben was well known for his generosity, softly spoken nature, kindness, hard-working when he could work and an infectious smile and sense of humour that could change a person’s whole day. Ben was a good man, a kind man and the struggles and violence were symptoms of his mental health, while unacceptable, were potentially avoidable.”

138. I too express my gratitude to those members of the public who stopped to assist Senior Constable Keenan. Senior Constable Keenan found himself in a very difficult situation which unfortunately, these days, police officers find themselves in all too often. Having considered this matter very carefully I commend Senior Constable Keenan for the manner in which he interacted with Mr Wildman and then in the way he acted in rendering assistance to Mr Wildman.

139. In concluding, I convey my sincere condolences to the family and loved ones of Mr Wildman.

Dated: 15 December 2022 at Hobart in the State of Tasmania.

Robert Webster

Coroner