



# MAGISTRATES COURT *of* TASMANIA

## CORONIAL DIVISION

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### **Record of Investigation into Death (Without Inquest)**

*Coroners Act 1995*  
*Coroners Rules 2006*  
*Rule 11*

I, Robert Webster, Coroner, having investigated the death of Barbara Maree Dobson

**Find, pursuant to Section 28(1) of the Coroners Act 1995, that**

- a) The identity of the deceased is Barbara Maree Dobson (Ms Dobson);
- b) Ms Dobson died in the circumstances set out below;
- c) Ms Dobson's cause of death was mixed drug toxicity (including heroin and methylamphetamine); and
- d) Ms Dobson died on 24 February 2020 at Huonville, Tasmania.

In making the above findings I have had regard to the evidence gained in the comprehensive investigation into Ms Dobson's death. The evidence includes:

- The Tasmania Police Report of Death for the Coroner;
- Affidavits as to identity and life extinct;
- Affidavit of the forensic pathologist Dr Andrew Reid;
- Affidavit of the forensic scientist Mr Neil McLachlan–Troup of Forensic Science Service Tasmania;
- Affidavit of Senior Constable Paul Edwards;
- Affidavit of Constable James O'Neill;
- Affidavit of Sergeant Eloise Penney;
- Affidavit of Detective Senior Constable James Craig;
- Affidavit of Senior Constable Sally Swifte;
- Affidavit of Senior Constable Richard Pascoe;
- Affidavit of Mr Geoffrey Bresnehan;
- Affidavit of Mr Geoffrey Parremore;
- Affidavit of Ms Storm-Maree Maynard;
- Affidavit of Ms Mercia Bresnehan;

- Affidavit of First-Class Constable Dean Walker;
- Ms Dobson's medical records obtained from the Royal Hobart Hospital (RHH);  
and
- Photographs, forensic evidence and body worn camera footage.

The file was reviewed by my predecessor, Coroner McKee, and questions were put to the officer in charge of prosecution services in the South of Tasmania (Inspector Keane) and he responded. As a result of his response Acting Inspector Parsons requested Senior Constable Edwards and Constable O'Neill to review their body worn camera footage and provide supplementary affidavits. Senior Constable Edwards provided a supplementary affidavit as did Senior Constable Pascoe. Constable O'Neill did not. The next thing that occurred is that Coroner McKee then asked the Commissioner of Police whether a review of the circumstances surrounding Ms Dobson's death had been conducted and if not, that such a review be conducted. This office then received a summary of that review from Assistant Commissioner Higgins before being provided with a copy of the review itself. I then arranged for Sergeant Orr, an associate attached to the Coroners office, to review the family violence management system (FVMS) of Tasmania Police with respect to incidents between Ms Dobson and Mr Hashemi and provide a report. I have taken into account all of this material in conducting my investigation.

## **Background**

Ms Dobson was 45 years of age (date of birth 2 November 1974) and in a violent relationship with Mr Said (aka Nigel) Hashemi at the date of her death. Ms Dobson is the daughter of Florence Dobson (now deceased) and Geoffrey Bresnehan. She has one younger sibling, a brother. Her parents married at a young age and were together for a short period of time before her mother left her father with her two children.

Ms Dobson had a troubled life from a young age because she was left alone for many hours by her mother and she was exposed to her mother's drug and alcohol use and her gambling. Not long after her parents separation Ms Dobson and her brother went to live with their grandparents on the east coast of Tasmania. Although the next few years of Ms Dobson's life were settled as she reached her teens her behaviour became more challenging.

Ms Dobson attended Triabunna District School until grade 8 after which she attended Ogilvie High School where she boarded during the week and returned home to the east coast over the weekend. Ms Dobson was not settled at high school, she struggled with her classes, was absent for significant periods and she was consuming alcohol and smoking cannabis. By the time she was 15 years of age she had dropped out of school and was staying on and off with her mother and various friends. Her stable living arrangements ended and

what followed was a largely itinerant lifestyle marked by drug and alcohol addiction, homelessness, crime and periods of imprisonment.

Ms Dobson had her first child at the age of approximately 18 years and after a short period that child was taken into the care of Child Safety Services (CSS). Having become estranged from her father and grandparents, her aunty Mercia Bresnehan, became her de facto mother and main point of support and contact. Over the years Ms Dobson regularly sought support and assistance from Ms Bresnehan who would provide any support she could.

Ms Dobson's life was marred by successive violent relationships. In or about 1997 she and Tory Maynard moved to Western Australia where they remained for approximately 12 years. During this time Ms Dobson lost contact with her family in Tasmania apart from the occasional telephone call. It is during this period she had three daughters, including Storm-Maree Maynard, and a son. During this period her traumatic lifestyle continued. In or about 2009 she and her four children left Western Australia for Tasmania because she said she was escaping from a significant drug debt and domestic violence. Despite assistance from mental health services, family support services, the food bank and support from family members Ms Dobson was only able to look after her children for six months after her return to Tasmania before they were taken into the care of CSS. Both Ms Bresnehan and her partner, and her brother and his partner cared for the children until stable foster placements were found. Subsequently Ms Dobson entered a number of further relationships however her tragic lifestyle continued.

In or about 2017 she formed a relationship with Mr Hashemi who was abusive towards Ms Dobson and who controlled her. In return for sexual favours Mr Hashemi supplied Ms Dobson with drugs and, owing to her addiction, she became dependent on him despite his violent behaviour. On a number of occasions Ms Bresnehan picked her up from Mr Hashemi's home after he had assaulted her but within a number of days she would always return to him.

Approximately ten days prior to Ms Dobson's death there was another incident between Ms Dobson and Mr Hashemi after which Ms Bresnehan collected Ms Dobson from the Huonville police station. Ms Bresnehan took Ms Dobson to a friend's home at Warrane however she only remained with him for about five days before she met Mr Hashemi in Hobart and returned with him to Huonville.

## **Health**

Ms Dobson's RHH records corroborate her tumultuous life circumstances. There are no records from in or about the middle of 1999 until August 2008 when she resided in

Western Australia. The alerts on the file indicate she was opioid dependent, she exhibited drug seeking behaviour and she had a significant substance abuse history. In summary the major entries are as follows:

- 22 March 1992 (age 17) she presented with behavioural problems after fighting with her boyfriend and another male person;
- 5 January 1996 – overdose plus alcohol abuse and she was diagnosed as hepatitis C positive;
- 1 March 1996 – overdose, reason provided was the removal of her child by CSS;
- 13 December to 14 December 1996 – inebriated – question seizure;
- 31 December 1996 – left chest, neck and abdominal pain subsequent to injection of medication into arm;
- 30 November 1997 – overdose – depressed and suicidal, facing assault charges;
- 19 December 1997 – pain in left arm post IV injection;
- 16 January 1998 – overdose;
- 19 March 1999 – alleged rape by ex-partner together with assault 4 months ago. Ms Dobson was taken into custody for attacking her current partner with a knife – she felt unwell while in custody. She was pregnant. In addition to being known as hepatitis C positive and an intravenous drug user, the notes record she has a history of adjustment disorder, depression, anxiety and post-traumatic stress disorder and a borderline personality disorder;
- 5 April 1999 while in custody was taken to the RHH for DNA testing;
- 5 August to 8 August 2008 – overdose because she had overmedicated with Panadol due to severe jaw and teeth pain as a result of an assault from partner in Western Australia; generalised anxiety disorder and panic attacks;
- 26 December 2008 – ankle sprain after a fall;
- 20 January to 25 January 2009 – situational crisis due to physical and emotional abuse as a child;
- 5 March 2009 diagnosed with abdominal pain;
- 9 November to 11 November 2009 – drug withdrawal. Situational crisis due to death of partner from an overdose and her children being removed from her care by CSS;
- 13 May to 17 May 2010 – admitted after overdose after taking too many tablets due to a situational crisis which included difficulties getting her children back from CSS;
- 8 January 2012 methadone withdrawal;

- 19 December to 21 December 2012 – inpatient treatment received for withdrawal from alcohol and drugs;
- 4 June 2013 – assaulted by partner, anxious and teary;
- 28 February until 2 March 2014 – confinement. Ms Dobson delivered one child who survived 5 hours and then passed away while another child was stillborn. Both children were in excess of 12 weeks premature;
- 9 September 2014 – unexplained reflux and abdominal pain – underwent colonoscopy but no abnormalities detected;
- 29 January 2017 – presented post assaults with thoracic and right flank pain;
- 1 May 2017 anxiety disorder;
- 4 May 2017 anxiety disorder;
- 31 July 2017 – psychiatric review – claims her medication was stolen;
- 7 May to 8 May 2019 – overdose;
- 30 August 2019 – abdominal pain – using methamphetamine while in custody;
- 6 December 2019 – overdose from drugs provided by Mr Hashemi, she is homeless again; and
- 2 January 2020 – Ms Dobson was taken into protective custody under the provisions of the *Mental Health Act 2013* due to self-harm to the left wrist. She had taken an overdose of medication to help her sleep and had very low blood pressure. She was treated and released.

In addition to these entries Ms Dobson also attended a number of outpatient clinics including the gastroenteritis and rheumatology clinics.

### **Recent Family Violence History**

There are no recorded acts of violence between Mr Hashemi and Ms Dobson prior to July 2019. At 2.45pm on 30 July 2019 police were advised of a male and female fighting in an alley way off Feltham Street in North Hobart. Ms Dobson was located soon after and was visibly shaken and crying. She advised Mr Hashemi had attacked her and hit her with a piece of wood to the back of her head when he became angry after she indicated she was leaving the address at which they were staying. He also poked her hard in the stomach with the piece of wood and had struck her to the left side of the face. There was bruising and marks present on Ms Dobson to corroborate her claims. Mr Hashemi was placed under arrest and taken into custody at which time investigation commenced into family violence as well as a possible common assault. He denied the allegations. A police family violence order (PFVO) was issued against Mr Hashemi which protected Ms Dobson for a period of 12 months. That

order effectively required Mr Hashemi to keep the peace towards Ms Dobson<sup>1</sup> but they were permitted to have contact. A witness subsequently came forward and a complaint was laid against Mr Hashemi for assault.

On 30 December 2019 an argument in relation to household finances took place between Mr Hashemi and Ms Dobson. Police attended and spoke separately to both parties. There was no sign of any physical violence or property damage and therefore attending police determined there was no breach of the PFVO.

Prior to 11 February 2020 Ms Dobson and Mr Hashemi had been arguing and Ms Dobson had made the decision to leave the relationship. Mr Hashemi had given her until 13 February 2020 to leave his home. On 11 February 2020 Ms Dobson packed her belongings and left the residence. Mr Hashemi followed her and another argument ensued where upon Mr Hashemi took Ms Dobson's suitcase and walked away with it. They then stopped at which point Ms Dobson put her possessions down including her backpack. Mr Hashemi grabbed the backpack indicating his possessions were inside it. There was a brief struggle before Mr Hashemi punched Ms Dobson to the right side of the head. She released the backpack and Mr Hashemi ran off with it. A passerby ran after Mr Hashemi retrieved the backpack and returned to the Huonville police station where Ms Dobson had attended to make a report. Mr Hashemi was not located until 18 February 2020 at which time he was arrested for breaching the PFVO, assault and stealing. He was detained and then subsequently brought before a magistrate where he was bailed. A full noncontact interim family violence order (IFVO) was made at that time. Mr Hashemi was bailed to appear on 4 March 2020.

Mr Hashemi was residing in a home which belonged to Housing Tasmania (HT). His lease of that home provided he was the only person permitted to reside there. It is a detached dwelling which has a common driveway with 11 other detached dwellings. Complaints from nearby residents regarding Mr Hashemi's use of the home were being investigated by HT. HT had issued a trespass notice to a number of visitors to that residence including Ms Dobson. Ms Dobson was personally served with this notice on 11 December 2019 and she was advised she was not to reside or visit Mr Hashemi's home due to an alleged nuisance and unlawful behaviour occurring at that property. The notice was to remain in force until revoked by HT. The notice advised should she breach the terms of the notice then Tasmania Police would take action against her for trespass.

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<sup>1</sup> That is not directly or indirectly threaten, harass, abuse or assault her nor damage any of her personal or other property owned or possessed by her.

## **Circumstances Leading to Death**

On 23 February 2020 Ms Dobson was identified by a neighbour, Mr Parremore, to be at Mr Hashemi's unit. This was in breach of the trespass notice and perhaps the IFVO. Mr Parremore advised HT and subsequently Tasmania Police were informed. At 4.16pm on 24 February 2020 Senior Constable Edwards and Constable O'Neill entered Mr Hashemi's home, via the front door, and located both Ms Dobson and Mr Hashemi inside the unit. Senior Constable Pascoe, who was an Acting Sergeant at the time, maintained observations from vacant land at the rear of the property and then attended the residence after Mr Hashemi had been arrested for breaching the IFVO.

Ms Dobson was located lying on the floor in a bedroom. She was advised she should not be present. Police spoke to another female who was present, Sarah McCauley. She appeared to be affected by alcohol and/or drugs and was asked to leave.

Ms Dobson was spoken to by police again while still lying on the floor. Again she was advised she should not be there, that there is a trespass notice prohibiting her attendance at the property and a FVO protecting her from Mr Hashemi.

Police left the premises with Mr Hashemi leaving both Ms Dobson and Ms McCauley at Mr Hashemi's home. Sometime later they returned to find Ms McCauley lying on her back at the rear of the residence and Ms Dobson on the floor in the bedroom where she had been earlier located. She was not breathing and there was no pulse. An ambulance was called and police commenced CPR which continued until sometime after ambulance personnel had arrived and provided treatment to Ms Dobson. Ms Dobson was not able to be revived.

## **Investigation**

### ***Post Mortem***

Dr Reid conducted a post-mortem examination on 26 February 2020 that revealed a number of significant conditions including mild cardiac disease with aortic stenosis and left ventricular hypertrophy. Thyroid nodules were incidental findings with calcified sclerosis cholesterol clefts on a background of lymphocytic thyroiditis, interstitial fibrosis and colloid depletion. On histology myocardial hypertrophic and pulmonary aspiration of gastric contents were also identified. Toxicology showed concentrations of multiple prescription and illicit drugs detected in ranges reported to be associated with fatality as well as sub therapeutic and therapeutic ranges. The drugs were central nervous system depressants or stimulants. Dr Reid says:

*“Individual or combined concentrations of the drugs detected are sufficient to cause death. Toxic levels of these drugs are known to cause respiratory inhibition/depression. This adversely affects the “cough reflex” by which the upper airway is protected from inhalation of gastric contents. The drug concentrations in this case have likely contributed to pulmonary aspiration of gastric contents. This would act synergistically or additively with the toxic effects of the drugs in the mode or mechanism of death.”*

Accordingly Dr Reid found the cause of death in this case was mixed drug toxicity which included heroin and methylamphetamine. I accept his opinion.

### **Review of Police Attendance**

Body Worn Camera (BWC) footage from Senior Constable Edwards and Constable O’Neill has been obtained and reviewed. Although Senior Constable Pascoe is wearing his BWC it is not switched on.<sup>2</sup> Affidavits have also been obtained from these three officers.

The BWC footage depicts, amongst other things, the following; Senior Constable Edwards and Constable O’Neill entered Mr Hashemi’s unit at 4.16pm on 24 February 2020 via the front door and located Ms Dobson and Mr Hashemi inside. Senior Constable Pascoe maintained observations from vacant land at the rear of the property and then attended the residence after Mr Hashemi’s arrest for breaching the IFVO.

Police located Ms Dobson lying on the floor in a bedroom. Senior Constable Edwards informs Ms Dobson that she should not be there. He then rolls her onto her side. Senior Constable Edwards speaks to a female in the unit, Sarah McCauley. Ms McCauley appears slightly unsteady on her feet. Her speech is slurred, and she appears to be affected by alcohol and/or drugs and she is difficult to understand. Ms McCauley is directed to leave the unit by police. Senior Constable Edwards re-enters the bedroom and asks Ms Dobson a couple of times if she needs an ambulance. Ms Dobson replies, “No.” Ms Dobson is lying on her side, she is moving her arms, her speech is slurred and she is difficult to understand. Senior Constable Edwards asks, “What’s going on? You’re out of it?” and, “I’m concerned for your welfare.” He also informs Ms Dobson that she should not be at the unit. He explains there is a prohibition notice and an IFVO protecting her from Mr Hashemi. He tells her to grab her belongings and leave.

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<sup>2</sup> This is a breach of paragraph 6.2 of the Tasmania Police Body Worn Camera Policy and paragraph 2 of the Tasmania Police Body Worn Camera Guidelines.



Senior Constable Edwards then speaks to HT staff at the front of the unit. He tells them one of the occupants of the unit is “*really high*”. He says he is not happy to remove Ms Dobson from the unit just yet and they might come back later on and deal with them. They will deal with Mr Hashemi first and then remove the rest of them. Senior Constable Edwards speaks to Senior Constable Pascoe and Constable O’Neill and says he is not happy for Ms Dobson to be on the street. I infer he said this because her intoxication was such that it would not have been safe for her to be left on the street. I am of the view having viewed this footage Ms Dobson was clearly incapable of collecting her belongings and leaving due to the level of her intoxication. At no stage does she get to her feet. Senior Constable Pascoe advised Ms Dobson to move as it will make her feel better. Senior Constable Pascoe says to Ms Dobson, “Do you want an ambulance to make sure you are fine?” The officers then discuss Ms Dobson and Constable O’Neill says she cannot be in a public place. Senior Constable Edwards says to Senior Constable Pascoe and Constable O’Neill, at the front of the unit, he “is not happy about getting rid of those two, but we will need the keys to get back in, because they won’t answer the door.” Senior Constable Pascoe says “Because they are so out of it.” Senior Constable Edwards goes back into the kitchen and finds another female there and tells her to leave. She is wearing a green top. She gives her name as Rebecca Rogers and she appears to leave. Police are unable to locate this person at a later date to provide an affidavit for the investigation into Ms Dobson’s death.

Senior Constable Edwards returns to the bedroom and asks Ms Dobson, “Are you all right there matie, are you going to die here if we leave you? Do we need an ambulance for you?” Ms Dobson says “No” but she is difficult to understand. Ms McCauley remains in the unit. The BWC footage of Senior Constable Edwards ceased at 4.31pm; that is 15 minutes after it commences.

Police attended Mr Hashemi’s unit for a second time that evening. At approximately 7.45pm Mr Parremore walked past the open door of Mr Hashemi’s unit. He observed the door was open, which was unusual, and he could see a person lying on the floor at the end of the hallway. He called police. The person he saw on the floor was later identified as Ms McCauley.

At 7.52pm Senior Constable Edwards and Constable O’Neill arrived at the unit. They enter a bedroom and find Ms Dobson in a kneeling position, face down on the floor with her face in a pillow. They roll her onto her side. There is no sign of life and they radio for an ambulance. Senior Constable Edwards retrieves a bivalve mask from the police vehicle and they both then commence CPR. At 8.01pm Senior Constable Edwards checks Ms McCauley who is lying on the lounge room floor. Ms McCauley appears to be heavily under the

influence of drugs and/or alcohol. He asks her how she is going and if she is all right and she replies, "Yeah." He returns and assists with the CPR being provided to Ms Dobson.

At 8.03pm officers from Ambulance Tasmania (AT) arrive and Senior Constable Edwards briefs them on what has occurred. The ambulance officers assist with CPR. At 8.04pm Senior Constable Edwards checks on Ms McCauley and determines she is awake. Ms McCauley has not moved. At 8.19pm Senior Constable Edwards checks again on Ms McCauley. Ms McCauley is lying on her back and when questioned she provides incoherent answers. She appears to be significantly affected by drugs and/or alcohol. An ambulance officer advises Senior Constable Edwards to put her on her side and he does so. At 8.22pm police requested Radio Despatch Services to contact CIB and they discussed contacting a supervisor. At 8.27pm the BWC footage concludes and at that stage CPR is still being administered by the ambulance officers. At 8.54pm Ms Dobson was declared to be deceased.

Constable Walker from Forensics Services attended the scene, conducted an examination and took photographs. Three small snap lock bags containing a white powder, believed to be heroin, were located in the unit. Senior Constable Edwards says in his affidavit these three snap lock bags were not present when they initially attended the unit.

Senior Constable Edwards says in his affidavit he spoke to Ms Dobson, when he first attended the unit, who he says was under the influence of an intoxicating substance. He asked her if she needed medical assistance and she told him she did not. Ms McCauley was walking around the unit, he had not met her before, and he believed she was mildly intoxicated. A third female, who identified herself as Rebecca Rogers, arrived at the unit while police were in attendance. Senior Constable Edwards had previous dealings with Ms Dobson at which time she had been intoxicated by illicit substances. On those previous occasions she did not require medical intervention, and she declined his efforts to have her looked at by AT and medical staff. Ms Dobson was communicating with him, she declined to be seen by medical staff and there was another adult female in the house. He believed, although Ms Dobson was intoxicated, she was capable of sobering up before being removed from the household at a later time. He formed the opinion that Ms Dobson did not require medical assistance. He heard Senior Constable Pascoe give advice that Ms Dobson and Ms McCauley should sober up and leave the premises. Senior Constable Edwards' affidavit then outlines his attendance at the unit when Ms Dobson was deceased. During his time at the unit he observed a number of blood filled syringes, used syringe sharps containers, new syringes and various alcohol swabs, tourniquets and other implements used to administer illicit substances. He also observed three snap lock bags containing a white powder, believed to be heroin, which were on the kitchen bench in full view and which were not present at

his earlier attendance. He took possession of mixed medication that was with the deceased, a bag of sugar located in a bedroom and an ice pipe.

Pursuant to a request from Acting Inspector Parsons, Senior Constable Edwards provided a supplementary affidavit. In that affidavit he says it is his intention to expand upon the decision not to call AT. He also wanted to expand on the context of his commentary captured on BWC footage during his interaction with the deceased at the time of Mr Hashemi's arrest. In providing this affidavit he says he reviewed his original affidavit, the Coronial file in its entirety, and the BWC footage of Constable O'Neill and himself. In his original affidavit he says he did not hold such concerns that an ambulance was reasonably necessary,<sup>3</sup> while BWC footage records commentary such as, "... *I'm concerned about your welfare*" which when viewed in isolation would suggest otherwise. He says he made this statement relating to his broader dissatisfaction regarding Ms Dobson's living conditions, living with a family violence offender coupled with her intoxication due to what he assumed was an illicit drug. Another statement he made, recorded on BWC, to HT staff regarding removing trespassers was "... *'cause they're so out of it*". He says this relates to his belief that the broader safety of Ms Dobson would be at risk should she be put on the street while intoxicated and his understanding was she had no other place to go to within the Huon Valley. He states in printed form such comments may give rise to an impression of concern which far exceeds that which he felt in the operational context of a family violence arrest and an intoxicated person. As he had dealt with Ms Dobson on a number of prior occasions her intoxication did not come as a surprise to him. This included her state of consciousness due to drug and/or alcohol use plus her capacity to comprehend directions given by police. Her comment to him, "I just want to sleep..." along with her declining his offer to call for an ambulance further reassured him she was not in need of an ambulance at that point. It was in this context he made the above comments – in effect, a manner of cajoling/befriending those present into complying with directions while giving an impression of concern that would appeal to their better side and improve his future interactions with them. He says on reflection, and given the ultimate outcome, requesting the attendance of an ambulance when police first attended "*would certainly not have been unreasonable.*" Senior Constable Edwards goes onto say "*the decision not to call one on this occasion was made having regard to prior similar experiences with the deceased. Clearly, Ms Dobson's death "may" have been avoided on this day had an ambulance been dispatched and she was removed from the residence.*" Senior Constable Edwards says he demonstrated his intention to protect Ms Dobson by arresting Mr Hashemi for family violence. He had left Ms Dobson in the company of her friend, Ms McCauley, which he believed added an extra layer of supervision and safety. Due to his previous

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<sup>3</sup> This is not what Senior Constable Edwards says in his first affidavit. He actually says "*I formed the opinion that the deceased did not require medical assistance.*"

experiences with Ms Dobson he says he genuinely believed Ms Dobson's imminent death was not reasonably anticipated at that time.

Constable O'Neill says in his affidavit Ms Dobson was asleep in a bedroom. She was roused and appeared to be intoxicated. He says Ms Dobson refused medical assistance and he had seen her in a similar state before and says he held no concerns for her welfare. He says Mr Hashemi was conveyed to the Hobart Police Station and then he describes his second attendance at the unit when Ms Dobson was found to be unresponsive. He explains what then transpired.

Senior Constable Pascoe says in his affidavit he saw Ms Dobson in a half sitting position on the floor in the main bedroom. He briefly spoke to her and formed the opinion she was under the influence of some form of drug. He initially attempted to get Ms Dobson to leave but then thought it might be better if she stayed at the residence because she was affected by drugs. He asked her if she was ok and did she need an ambulance and she replied, "I'm ok, just having a bit of a sleep." As there was a responsible adult there who appeared to be unaffected by drugs and was staying the night with the deceased, he did not have any immediate concerns for Ms Dobson. He says Ms Dobson also said she was ok and did not want an ambulance. He had dealt with other drug users who have been as affected as Ms Dobson and they did not require medical attention. At that point it was decided in conjunction with HT Ms Dobson could stay the night because she was drug affected and she would be safer there in the company of the other female who was staying with her.

Senior Constable Pascoe provided a supplementary affidavit. It is in exactly the same terms as the earlier affidavit apart from the addition of the following passages:

*"The deceased was able to respond to my questions and was nearly on her feet when I decided to let her stay where she was as I believed she was safe in the hands of a responsible adult rather than out on the streets.*

*I only spoke with the other female briefly, I know this female as Sarah McCauley, she stated that she would look after the deceased, which is the same action I would take if I was dealing with a drunk person.*

*Because there was a (sic) adult present who in my opinion after speaking with her was only mildly affected by drugs and was capable of acting as a responsible person and was staying the whole night at the address, I did not have any immediate concerns for the deceased."*

A report was prepared by the investigating officer, Senior Constable Edwards which says amongst other things:

*“The deceased was roused by each officer and spoken to. She was asked a number of times if she required medical assistance and declined each time. Ms McCauley was walking around the unit and speaking with police. All officers had seen the deceased in this state of intoxication on previous occasions. In her current state of intoxication, the officers were not concerned for the deceased (sic) safety and little conversation between the officers occurred relating to her wellbeing. Attending police assessed the condition of the deceased, McCauley and Hashemi deeming that they were not in need of immediate medical intervention... Additionally, there were two other adults at the residence. Ms McCauley who appeared capable of looking after the deceased and a third adult person, who identified herself as Ms Rebecca Rogers who was also present at the scene.”*

The report highlights the differences in the residence from the initial attendance by police and the second attendance; namely the presence on the kitchen bench of a number of deal bags containing white powder believed to be heroin on the second attendance which were not present when police first attended.

My predecessor asked for an Inspector of Police to review the Coronial file and advise whether:

1. Attending police should have called an ambulance to attend to Ms Dobson when they first attended the address; and
2. Attending police should be provided an opportunity to view the BWC footage and provide a supplementary affidavit.

This review was conducted by Inspector Keane who was at that time attached to Southern Regional Prosecution Services. In relation to the first question Inspector Keane says what should or should not have happened will be decided by the Coroner. Inspector Keane’s advice is an ambulance should have been called if police believed assistance from an ambulance was required, or reasonably likely to be required. Inspector Keane also says with the benefit of hindsight and possibly even earlier it is reasonably clear the deceased required some level of assistance. He says clause 1.34 of the *Tasmania Police Manual* provides guidance to officers. That clause is 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 imperilled 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.”*

Inspector Keane says he believes there was no legal liability for the attending police to provide first aid. However, as highlighted in subclause (4) police officers have a sworn oath to protect life and have not just a duty imposed by that oath, but also a departmental expectation they will call an ambulance if they believe a person needs such assistance. He noted there was conjecture about whether attending police held or should have held such a belief and says that it is a matter for the coroner to decide.

In relation to the second question Inspector Keane says since the commencement of BWC he has noted some officers do not seem to be reviewing available footage before completing their affidavits, instead relying on their memory of the event. Inspector Keane says “I see nothing illegal or unethical about an officer watching footage to help refresh his memory before completing an affidavit or giving evidence”. I infer it was as a result of this advice Acting Inspector Parsons arranged for supplementary affidavits to be provided.

Inspector Burke reviewed the body worn camera footage and the affidavits of attending police, together with Senior Constable Edwards subject report and the review conducted by

Inspector Keane. Inspector Burke's conclusions, after having considered that material were as follows:

- The attending police officers did hold concerns for the wellbeing of Ms Dobson.
- On review it would have been prudent for the police officers to call an ambulance to assess Ms Dobson and provide medical assistance, if required.
- Although the police officers had concerns for Ms Dobson their decision to leave her in the unit was heavily influenced by having a responsible adult present in the unit.
- To a lesser degree, the attending police officers had to consider how they were going to manage the custody of Mr Hashemi who had been arrested for breach of an Interim Family Violence Order. This may have impacted them in providing more time to Ms Dobson.
- It is reasonable to suggest that further illicit drugs were brought to the unit and were used/consumed by Ms Dobson which may have contributed to her death in the period after initial police responders had left – over 3 hours.
- The review considered if there were any organisational learnings from the incident. The requirements of Part 1.34.1 of the *Tasmania Police Manual* provides appropriate guidance for police officers in situations such as this and he did not believe that it requires any further review.

I do not accept the evidence of Senior Constable Pascoe or Constable O'Neill that they had no concerns for Ms Dobson's welfare. In that regard I agree with Inspector Burke's conclusion on that point. If they were not so concerned then they should have proceeded to remove her from the unit as she was trespassing but it is clear they did not do so because it would have been unsafe to put her out on the street due to her level of intoxication.

I also do not accept Senior Constable Pascoe's assessment Ms McCauley was unaffected by drugs and she was staying the night with Ms Dobson. Ms McCauley was clearly affected by drugs. As Senior Constable Edwards says on BWC she was difficult to understand. Further Ms McCauley had been given a direction to leave and HT staff were told police would return and remove Ms Dobson and Ms McCauley once they had dealt with Mr Hashemi. Initially Ms Dobson was also asked to collect her belongings and leave. One only has to watch the video footage to see Ms Dobson was highly intoxicated and incapable of going anywhere. She was unable to get up off the floor. Importantly I find she was also incapable of deciding whether or not she required medical attention. Consistent with paragraph 4 of clause 1.34.1 of the *Tasmania Police Manual* an ambulance should have been called.

There is no evidence to suggest further drugs were consumed by Ms Dobson between the first and second attendances at the property by police.

The word *responsible* is defined in the *Macquarie Dictionary* as “*having a capacity for moral decisions and therefore accountable; capable of rational thought or action*”. Having viewed the BWC footage I do not accept Ms McCauley, given the level of intoxication, was capable of rational thought or action. It follows by definition she was not a responsible person.

### ***Family Violence Aspects of This Death***

A review of the family violence management system with respect to this incident which was reported on 24 February 2020 records Mr Hashemi as the offender and Ms Dobson as the victim. At the time of this incident there was a full interim family violence noncontact order which had been in place for 6 days<sup>4</sup> protecting Ms Dobson from Mr Hashemi. Police attended on information provided by HT that Ms Dobson was present at Mr Hashemi’s address in contravention of a trespass notice. On arrival police found Ms Dobson’s vehicle in the driveway to Mr Hashemi’s unit after which they entered the premises and located her passed out in the main bedroom. Mr Hashemi was located and arrested for breaching the IFVO. Mr Hashemi was not interviewed but was charged with breaching the IFVO and a breach of bail. He was bailed to appear in court on 26 March 2020 upon the authority of an Inspector after it was determined Ms Dobson had passed away. The allegation was Mr Hashemi had breached one of the conditions of the IFVO which prohibited him from being within hundred metres of or contacting Ms Dobson directly or indirectly (including by any form of electronic or other means) except for a number of defined circumstances. The particulars of the breach were that he went within a hundred metres of Ms Dobson without lawful excuse. The breach of bail was alleged to be he had not complied with the IFVO dated 18 February 2020 given the alleged breach of the IFVO.

This case raises a similar issue to that considered by Magistrate Brett, as he then was, in *Kerr v Brown* [2013] TASM 30. In that case the defendant was charged with one count of breaching a Family Violence Order, contrary to section 35 of the *Family Violence Act 2004*. In particular, it was alleged he contravened a term of an order which provided that he not approach the protected person directly or indirectly, including by a number of specified modes of electronic communication.

The particulars of the alleged contravention were:

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<sup>4</sup> The IFVO was made in Mr Hashemi’s presence by this Court after which he was bailed to appear on 4 March 2020. He then attended the bail room and was served with a copy of the order before he was permitted to leave the Court.



“...that you allowed [the protected person] to stay with you in your abode at 34 Eastern Avenue, West Moonah”.

The Prosecutor after the defendant submitted that it was not established, nor even alleged, the defendant had, at any time, approached the protected person, submitted the order should be interpreted to mean the respondent is not permitted to allow the person protected to come into his presence, and if such person does, then the respondent must immediately leave the presence of that person. The prosecution allegation was based on the act whereby the defendant permitted the protected person to enter his house and come into his company, at the time that she first arrived at the house, and that the prosecution did not rely on any subsequent acts during the course of the time they resided together. Accordingly the particulars were amended to reflect that allegation. His Honour said the intention of the order is to prevent the respondent from coming near or initiating communication with the person to be protected. However, his impression is police, and perhaps courts, view the condition as a primary mechanism for keeping persons apart in cases where family violence has been alleged or perpetrated, and may well consider the order to have the more extensive effect contended for by the prosecution in this case. He went on to say the following:

*“In my view, it is appropriate to construe the word as it appears in this order not only having regard to the context of the balance of the condition, but also bearing in mind its ordinary common meaning. The order is intended to create obligations on the part of the respondent, the breach of which constitutes an offence and can result in the application of criminal sanction. It would be unfair to interpret the provision in any way other than that by which it would be understood by persons in the position of the defendant i.e. without legal training and of average experience and education. It is the defendant who is expected to comply with the obligations imposed by the condition, in jeopardy of criminal sanction, and, accordingly, it is fair that those obligations be understood according to their ordinary common meaning. The word should not be given any extended meaning.*

*It seems to me that what is clearly conveyed by the provision is that a person is not to deliberately, and with intent, initiate action in order to bring himself into the presence of, or initiate a communication directly or indirectly with the protected person. An interpretation which limits the obligation to not initiating contact is consistent with the reference in the order to the various electronic means of communication. The word approach, as Gee J pointed out, involves an element of intent, and hence necessarily must involve the initiation of some action on the part of the defendant to give effect to that intent. On the other hand, if the obligation was intended to be wider than this, for example, that the respondent must*

*not allow himself passively to come into the physical company or proximity of the person to be protected in any circumstances and if that occurs, then to remove himself, then it seems to me that the relevant order could easily be worded in a way which would clearly spell out that obligation to the respondent. This order was not so worded.*

*What occurred in this case was that the person to be protected initiated contact with and approached the defendant. There is no evidence that the defendant did anything to bring [the protected person] to his front door. I do not know what they discussed on the telephone. The defendant cannot, in my view, be said to have approached her by simply allowing her into the house, even for an extended stay, once she was there. To hold otherwise would be to give the word an extended meaning which is beyond its ordinary common meaning.*

*Accordingly, I am not satisfied that the defendant has been proved to have contravened the order in the manner alleged. The complaint is dismissed.”*

Likewise in this case there was no evidence Mr Hashemi had contacted Ms Dobson either directly or indirectly or that he went within 100 m of Ms Dobson without lawful excuse. On the evidence provided to me it is Ms Dobson who attended Mr Hashemi's house. Accordingly Mr Hashemi may not have been the offender as he was residing at his residence. Attending police could have therefore arrested both parties for investigation into family violence and trespass breaches. Mr Hashemi then should have been interviewed to determine the circumstances around Ms Dobson being at the address and then Ms Dobson could have been interviewed to determine if she knew the IFVO existed. If no breaches were detected Mr Hashemi could have been unconditionally discharged. In addition police could have acted upon the trespass notice which had been served on Ms Dobson on 11 December 2019. She would not have immediately been fit enough to be interviewed and therefore she could have been detained until she was, then charged and bailed. Alternatively if police suspected family violence was likely to occur then consideration could have been given to serving her with a PFVO.

Finally I note Senior Constable Pascoe, who was an Acting Sergeant on the day of this incident, was in charge and therefore responsibility for any decisions made at the time police first attended Mr Hashemi's residence rest with him.

### **Comments and Recommendations**

A draft of my findings was forwarded to Tasmania Police on 9 May 2023 with a request that a copy be forwarded to the relevant officers in order to provide them with an opportunity to comment before my decision was published. A response was received from the

Commissioner of Police, Ms Adams, on 16 June 2023. That response indicates she is responding on behalf of Tasmania Police and its members. Amongst other things, which are not relevant to my findings, Commissioner Adams says:

*“The three police officers who are subject to comment in the draft findings have particular views on how they managed the incident and the motivations behind prioritising the arrest and custody of Mr Hashemi. All police officers have reflected on their actions on that night and each accepts in hindsight that objectively the appropriate course of action would have been to call an ambulance. Other police officers who attended to Ms Dobson’s death (CIB and Forensic Services) were included in correspondence, however, they have no specific feedback or submissions on this matter.”*

Having considered all the evidence in this matter it is my view an ambulance should have been called to attend Mr Hashemi’s unit and assess whether or not Ms Dobson required medical care. If she required that care then she would have been removed from the scene by ambulance. Once she was well enough to speak to police she should have been arrested and taken into custody for investigation of potential family violence and trespass offending. If she did not require medical care then she should have been arrested and taken into custody and detained until she was fit enough for interview. Either way she would have been removed from the scene and it is more likely than not she would not have passed away on the floor of Mr Hashemi’s unit.

I extend my appreciation to investigating officer Senior Constable Edwards for his investigation and report.

The circumstances of Ms Dobson’s death are not such as to require me to make any comments or recommendations pursuant to Section 28 of the *Coroners Act 1995*.

I convey my sincere condolences to the family and loved ones of Ms Dobson.

**Dated:** 11 August 2023 at Hobart in the State of Tasmania.

**Robert Webster**

**Coroner**