IN THE CORONERS COURT
OF VICTORIA
AT MELBOURNE

Court Reference: COR 2017 5371

FINDING INTO DEATH WITHOUT INQUEST

Form 38 Rule 63(2)
Section 67 of the Coroners Act 2008

Findings of:	Ian James Guy, Coroner
Deceased:	Jacinta Mary Dwyer
Date of birth:	11 July 1967
Date of death:	21 October 2017
Cause of death:	1(a) Hanging
Place of death:	Apollo Bay, Victoria

INTRODUCTION

1. Jacinta Mary Dwyer was born on 11 July 1967 and was the eldest of seven children in a family of high achievers, all of whom went on to successful careers in their own right. Ms Dwyer excelled at school and went to university, graduating in 1991 with an Arts/Law degree. She married Charles Power and had four boys whom she treasured.

2. Ms Dwyer has been variously described by family members as gracious, nurturing, loyal, funny, strong, and highly intelligent.

3. She worked as a solicitor in family law before taking an extended absence from her legal career of some 10 years to raise her children. In 2014, she returned to the law, working at the Women's Legal Service Victoria. Ms Dwyer subsequently applied for and was successful at interview in 2016 for the role of magistrate at the Magistrates' Court of Victoria.

4. Ms Dwyer was sworn in as a magistrate on 28 February 2017 and undertook an induction and training program with other successful appointees and thereafter sat at a number of court locations and jurisdictions.

5. Within a few months, Ms Dwyer had attended her medical practitioner complaining of stress, anxiety, and an inability to cope with her new role. Despite encouragement by the Court for her to stay, and after some periods of leave, Ms Dwyer tendered her resignation on 26 July 2017.

6. Sadly, Ms Dwyer's mental health continued to decline, and she was later to be diagnosed with major depressive disorder. Her extended family continued to provide unconditional love and support for Ms Dwyer throughout her illness. They were, and remain, utterly devastated following her decision to take her life on 21 October 2017 at Apollo Bay, aged 50 years.

7. The primary issues that arose in this investigation are:

   (a) the adequacy of the medical care provided to Ms Dwyer;

   (b) whether the induction, training, and support provided to Ms Dwyer on her appointment to the Magistrates' Court of Victoria was appropriate; and

   (c) the adequacy of the changes made by the Magistrates' Court of Victoria to improve the health and wellbeing of new appointees.

THE PURPOSE OF A CORONIAL INVESTIGATION

8. Ms Dwyer's death was reported to the Coroner as it appeared both unexpected and unnatural, and so fell within the definition of a reportable death in the *Coroners Act 2008.*

9. The role of a coroner is to independently investigate reportable deaths to establish, if possible, identity, medical cause of death and surrounding circumstances. Surrounding circumstances are limited to events which are sufficiently proximate and causally related to the death. The purpose of a coronial investigation is to establish the facts, not to cast blame or determine criminal or civil liability.

10. The Coroner's Investigator prepared a coronial brief in this matter. The brief includes statements from witnesses, including family, the forensic pathologist, treating clinicians, and investigating officers. The Court also obtained a number of further statements from Ms Dwyer's former colleagues, the Magistrates' Court of Victoria, and one of her treating practitioners. In addition, the Coroners Prevention Unit reviewed the mental health treatment Ms Dwyer received in the lead up to her death.

11. The coronial investigation into Ms Dwyer's death was transferred to me in November 2019 in my capacity as a reserve magistrate and coroner in Victoria. I also hold the judicial office of magistrate of the Local Court of New South Wales.

12. After consultation with Ms Dwyer's senior next of kin, I am satisfied the investigation does not require the conduct of an inquest. There is, however, a significant public interest in the publication of these findings on the Court's website.

13. I have based this finding on the evidence contained in the coronial brief. In the coronial jurisdiction, facts must be established on the balance of probabilities.[1]

IDENTITY

14. On 23 October 2017, Craig Smith visually identified his sister-in-law, Jacinta Mary Dwyer, born 11 July 1967.

15. Identity is not in dispute and requires no further investigation.

[1] This is subject to the principles enunciated in *Briginshaw v Briginshaw* (1938) 60 CLR 336. The effect of this and similar authorities is that coroners should not make adverse findings against, or comments about, individuals unless the evidence provides a comfortable level of satisfaction as to those matters taking into account the consequences of such findings or comments.

BACKGROUND

Medical history

16. Ms Dwyer's medical history contains some matters of significance. The first involved a suicidal event in her early 20s in the context of personal stressors. She would later tell her husband she had felt out of her depth at university.[2] Secondly, there was a period of depression after the birth of one of her children, also in the context of personal stressors. She later told her sister, Maureen Dwyer, that her symptoms were more severe and lasted longer than she had revealed to her treating doctor.[3] It appears both events resolved without medical treatment. Finally, her treating psychiatrist in 2017 indicated that Ms Dwyer reported a level of anxiety about her performance as a lawyer for several years. I will return to these matters later in the finding.

17. In 1991, Ms Dwyer graduated from Melbourne University with a degree in Arts/Law and subsequently worked for a number of legal firms solely in the area of family law. From approximately 2004, Ms Dwyer took some 10 years absence from paid employment to focus on raising her children.

18. Ms Dwyer returned to the law in July 2014 working on a part-time basis as a solicitor at the Women's Legal Service Victoria (**WLSV**). A former colleague described her as generous, reliable, professional, cheerful, and productive and a person who understated her achievements in the workplace. Her duties at the WLSV included complex family law matters and cases involving family violence, incest, and sexual abuse. She was also a duty WLSV lawyer attending the Federal Circuit Court / Family Court, the Melbourne Magistrates' Court, and the Moorabbin Justice Centre.[4] It is clear she loved her role at the WLSV. Maureen Dwyer observed that her sister was passionate about using her role to effect change in the Family and Children's Courts. Her brother, John Dwyer, said she loved being part of a team, but observed in his opinion the concept of being sole arbiter was outside of her career.[5]

19. Her colleagues at the WLSV did not hold any concerns about Ms Dwyer's mental health or general wellbeing. Her brother, Daniel Dwyer, said he gained a sense when speaking with her about the cases at the WLSV that she had difficulty leaving cases *"at work"* and dwelled

[2] Coronial Brief (**CB**), statement of Charles Power, p158.
[3] CB, statement of Maureen Dwyer, p51.
[4] CB, statement of Helen Matthews, p137.
[5] CB, statement of John Charles Dwyer, p131.

on them afterwards.[6] Mr Power said that as his wife's workload grew at WLSV she experienced symptoms of sleeplessness and feelings of dread in leaving for work. He said he was not overly concerned as it was evident to him that she was on top of her work and doing well.[7]

Appointment to the Magistrates' Court of Victoria and induction

20. In late 2016, Ms Dwyer submitted an application for the role of magistrate at the Magistrates' Court of Victoria. An interview followed and she and three other applicants were successful. She was reportedly excited by the new challenge but sad to be leaving the WLSV.[8] Mr Power said his wife was deeply concerned about transferring her caseload to other solicitors at the WLSV with little notice and, as a result, the weeks leading to her appointment were highly stressful.[9]

21. Ms Dwyer's appointment as a magistrate on 28 February 2017 was well received by a number of her colleagues. Magistrate Jennifer Goldsbrough had known Ms Dwyer as a highly regarded duty lawyer from the WLSV. She said Ms Dwyer was an excellent appointment to the bench being intelligent, thoughtful, very capable, and with an ideal demeanour. Magistrate Goldsbrough said similar observations were made of Ms Dwyer by the former Chief Magistrate, Peter Lauristen.[10] Magistrate Therese McCarthy said Ms Dwyer was a skilful and diligent lawyer with a high degree of aptitude in the area of family violence.[11]

22. From 1 March to 3 April 2017, Ms Dwyer underwent an induction program at the Court with the three other new appointees.

23. The first week of the induction comprised court observation of experienced magistrates, information about listings, security, finance, and the role of the Judicial College of Victoria (**JCV**).

24. The second week comprised Court observation of magistrates and sitting in Court beside an experienced magistrate, library and information technology, occupational health and safety including an explanation of the Employee Assistance Program, and training in the Courtlink

[6] CB, statement of Daniel Dwyer, p123.
[7] CB, statement of Charles power p158.
[8] CB, statements of Ursula Dwyer p59; Emma Leslie, p68; Eileen Dwyer, p95; John Charles Dwyer, p131; and Charles Power, p159.
[9] CB, statement of Charles Power, p159.
[10] Statement of Magistrate Jennifer Goldsbrough, pp2, 4.
[11] Statement of Magistrate Therese McCarthy, p18.

database. Each of the appointees were also assigned an experienced magistrate as their mentor.[12]

25. The third week primarily involved Court observation and in Court sitting with an experienced magistrate, sitting alone with a Courtlink trainer, training on the Victims of Crime Assistance Tribunal (**VOCAT**), and an introduction to issues in the Family Violence division of the Court.

26. The final week involved primarily further training on the Courtlink, sitting alone in Court lists with a Courtlink trainer, being rostered in chambers, and an introduction to issues in the criminal law division of the Court. The final day of induction on 3 April 2017 involved a one-day program by the JCV on delivering oral decisions.

27. Upon completion of the induction period, Ms Dwyer and at least one other of the appointees, being Magistrate McCarthy, were allocated to a range of lists at various court sites, including Melbourne, Ringwood, Broadmeadows, Ballarat, and Moorabbin.[13] Their role in large measure was to relieve magistrates who had taken leave.[14]

28. Mr Power said that while Ms Dwyer was excited about her role, she was *"slightly shocked"* with the short duration before she was to preside over cases alone and that she hoped the Court recalled what was said at the interview, namely, her only experience was in family law, family violence, and child protection. Mr Power said she nevertheless threw herself into the work with enthusiasm and spent long hours outside of work acquainting herself with unfamiliar areas of law.[15] Similar observations were made by family members of her dedication to the new role and the time she was spending at home preparing for the following day's cases.[16]

29. The topic of her job interview and her limited experience was also mentioned to Magistrate McCarthy a few days after their appointments. Ms Dwyer said she had been told by the Chief Magistrate she would be provided with all the time she needed to get on top of the criminal jurisdiction and that she would not be required to sit in a criminal list until she was

[12] Magistrate Suzanne Cameron acted as Ms Dwyer's mentor.
[13] CB, statement of Acting Principal Registrar Debra Gallucci, p141. Ms Dwyer was also provided with two further days of Courtlink training
[14] Statement of Magistrate Therese McCarthy, p9.
[15] CB, statement of Charles Power, p159.
[16] CB, statement of Eileen Dwyer, p95.

ready.[17] Magistrate Suzanne Cameron also stated Ms Dwyer told her that at the interview, she was advised she would be provided with training in criminal law.[18]

30. On 15 March 2017, being two weeks into the induction program, Ms Dwyer presided alone in her first case. A contested Personal Safety Intervention Order hearing was chosen for her as it was felt to be within her field of experience and expertise. A senior magistrate assisted Ms Dwyer to understand the legislative framework before the hearing.[19] It is reported she experienced some difficulties with a legal representative during the hearing, however in a telephone call with Magistrate McCarthy later that day, she appeared elated the case had gone well.[20]

31. On 24 and 28 March 2017, being three and four weeks respectively after Ms Dwyer had joined the Court, she was allocated to the criminal mention list and was assisted on the bench by a Courtlink trainer.[21] Magistrates are required to enter the results of cases including penalties imposed on computers located on the bench. The trainer sits with newer magistrates to assist in that process. The evidence indicates the mention list can include as many as 80 to 100 matters involving pleas of guilty for a wide cross section of offences and requires an understanding of the various sentencing options available for particular offences. Ms Dwyer told Magistrate McCarthy she was *"terrified"* of sitting in the mention list given her lack of experience in criminal law and in sentencing and that it was made worse by her lack of proficiency in the Courtlink computer system.[22]

32. It was about this time, according to Magistrate McCarthy, that Ms Dwyer told her she felt under-resourced to sit in those lists and asked her whether she should go directly to the Chief Magistrate to discuss the need for training in criminal matters including mentions. There is no evidence to support the conclusion that such a request was in fact made. Magistrate Cameron stated however that in her role as mentor for Ms Dwyer, she raised with the Court her concerns about the nature of some of the work being assigned given her lack of criminal law experience.[23]

33. The topic of magistrates being appointed with little background in criminal and civil law and the need for training had apparently been of concern to Magistrate Cameron for some time.

[17] Statement of Magistrate Therese McCarthy, p3.
[18] Statement of Magistrate Suzanne Cameron, p5.
[19] Statement of Deputy Chief Magistrate Franz Holzer, p2.
[20] Statement of Magistrate Therese McCarthy, p6.
[21] CB, statement of Acting Principal Registrar Debra Gallucci, p141.
[22] Statement of Magistrate Therese McCarthy, p8.
[23] Statement of Magistrate Suzanne Cameron, p6.

She said she had approached the Chief Magistrate for approval to conduct an introduction to criminal law as part of the induction programme. The limited time available and breadth of the topic in reality meant only the basics could be briefly covered. Unfortunately, by the time of the presentation on 27 March, Ms Dwyer had been allocated the criminal mention list on 24 March 2017.[24]

34. The allocation of cases to Ms Dwyer and all other magistrates was conducted by Deputy Chief Magistrate (**DCM**) Franz Holzer in conjunction with list co-ordinators and Listing Managers at Melbourne. DCM Holzer said in the allocation process, regard was had to availability of judicial officers, courtrooms, and prosecuting agencies, and that the process was fluid and required daily adjustment to spread the work across all courts. His Honour stated Ms Dwyer did not disclose to him any issues of relevance to her work or of the nature or number of cases allocated to her.[25]

Development of anxiety / misgivings for the role

35. As will be seen from the following overview from several witnesses, Ms Dwyer's general feelings of anxiety about her new role soon began to change to one of misgivings.

36. Magistrate McCarthy shared adjoining chambers and said, *"[d]espite the challenges of being a new Magistrate, Ms Dwyer was upbeat and optimistic in the first few weeks after our appointment"*.[26] Her friend, Emma Leslie, said that from about March to May 2017 she had found the job exciting, exhilarating, and stressful.[27]

37. In the lead up to a sex offences committal hearing in early April, being about a month after her appointment, Ms Dwyer was said to be increasingly anxious and spent a considerable amount of time reviewing the materials.[28] Nevertheless, DCM Holzer stated he was satisfied that appropriate orders had been made by Ms Dwyer at the hearing.[29]

38. Maureen Dwyer said her sister felt anxious from the start and over the next two to three months struggled with feeling overwhelmed and being out of her depth. There were also strong indications Ms Dwyer did not appreciate the demands and nature of the role when she

[24] Ibid, pp5-6.
[25] Statement of Deputy Chief Magistrate Franz Holzer, p3.
[26] Statement of Magistrate Therese McCarthy, p5.
[27] CB, statement of Emma Leslie, p69.
[28] CB, statement of Charles Power, p159.
[29] CB, statement of Acting Principal Registrar Debra Gallucci, p141; Statement of Deputy Chief Magistrate Franz Holzer, pp2-3.

applied and was appointed given the comment to her sister that she understood the maximum penalty a magistrate could impose was a fine.[30]

39. Mr Power said that by the end of the first two months (March and April 2017) he had no reason for concern about his wife's health, but during May 2017, Ms Dwyer expressed misgivings about her role and suitability, indicating she missed the collegiality of WLSV; she felt out of her depth and was considering resigning.[31]

40. Magistrate McCarthy stated that in April/May 2017, she and Ms Dwyer would discuss how exhausted they were from travelling to and from outlying courts, the constant workloads, and the pressure to get through large lists and long sitting times. Ms Dwyer had also wondered if she could do the job and be a good parent as well.[32] Magistrate McCarthy also felt that some feedback Ms Dwyer received from within the Court about the longer time she had taken to get through the lists may have had an impact on her level of confidence.[33]

41. The first indication provided to the Chief Magistrate of her misgivings appears to have been discussion on 2 June 2017. It is said his Honour reassured her, as did Mr Power, that she was doing a fine job and she should continue in the role.[34]

42. From 5 to 7 June 2017, Ms Dwyer's training continued with sessions at the Melbourne Children's Court.[35] Mr Power said it was there she delivered a decision in a difficult matter that caused her extreme anxiety and distress and she believed she was making incorrect decisions that would be later challenged.[36]

43. On 8 June 2017, Ms Dwyer consulted her general practitioner, Dr Nick Carr. She told him of her appointment as a magistrate, complained of stress and anxiety, that she was not coping, and wanted to resign. A medical certificate was issued; a referral was made to a psychologist and a planned review the following week.[37]

44. On 9 June 2017, Ms Dwyer sent an email to Chief Magistrate Lauristen informing him she would be taking leave.[38] Later that day, she telephoned the Chief Magistrate to say she had a

[30] CB, statement of Maureen Dwyer, p58.
[31] CB, statement of Charles Power, p159.
[32] Ms Dwyer's sister, Brigitte Squire, described her as a devoted mother and extremely involved in her children's development and education: CB, statement of Brigitte Squire, p78.
[33] Statement of Magistrate Therese McCarthy, p11.
[34] CB, statement of Charles Power, p160.
[35] CB, statement of Acting Principal Registrar Debra Gallucci, p142.
[36] CB, statement of Charles Power, p160.
[37] CB, statement of Dr Nick Carr, p103.
[38] CB, statement of Chief Magistrate Peter Lauristen, p145. Ms Dwyer took personal leave from 9 to 16 June 2017.

naïve understanding of what the role entailed and did not believe she had the skill set required. A subsequent email that day confirmed her intention to resign, stating that she would be unable to fulfil her duties into the future. She thanked his Honour for his generous advice, availability, and encouragement.[39]

45. In a telephone call with her sister, Maureen, on 9 June 2017, Ms Dwyer expressed the view she was *"trapped, and a failure";* that the workplace had no structural support, and she did not use the work psychologist as it was an "*in-house service"*.[40] Ms Dwyer told her sister her lack of criminal law knowledge and terminology in the courtroom was significantly affecting her ability to carry out her role; she felt completely out of her depth and it was "*like asking a GP to perform neurosurgery"*.[41]

46. Over the following days, Mr Power sought to reassure Ms Dwyer, who voiced to him a feeling of being trapped – unable to discharge her role yet unable to resign because of what she saw were the financial and professional repercussions.[42]

47. On 12 June 2017, Ms Dwyer advised Chief Magistrate Lauristen that she had reflected over the weekend and wanted to discuss whether *"there was any basis to continue"* her role, noting she believed she owed it to herself and those who had supported her.[43] Chief Magistrate Lauristen spoke with Ms Dwyer the following day and, in an effort to help her regain her confidence, it was agreed she would do some VOCAT work in chambers, her stay in the Children's Court would be extended, and she would undertake training in the Family Division. She was due to return to work later that week.[44]

48. On 13 June 2017, Ms Dwyer returned to see Dr Carr advising him she had *"essentially decided to resign"*. Dr Carr felt the anxiety appeared to be triggered by the *"high stress situation"* rather than an underlying psychological disorder. A further appointment was scheduled but Ms Dwyer did not attend.[45]

[39] Ibid, p145.
[40] CB, statement of Maureen Dwyer, p52.
[41] Ibid, p58.
[42] CB, statement of Charles Power, p160.
[43] CB, statement of Chief Magistrate Peter Lauristen, p145.
[44] Ibid, p146.
[45] CB, statement of Dr Nick Carr, p103.

49. By mid-June 2017, Ms Dwyer's family were increasingly concerned about her mental health and the extent of her stress and anxiety. An appointment with Tim Layton, psychologist, was arranged for 4 July 2017.[46]

50. On about 14 June 2017, Ms Dwyer spoke with Magistrate McCarthy of her experience in the Children's Court, telling her she felt disturbed in sentencing children the same age as her sons and she felt she couldn't do Children's Court work.[47]

51. On 19 June 2017, Ms Dwyer returned to the Children's Court and commenced a planned two-week period of sitting in court beside another magistrate.[48]

52. On 20 June 2017, Chief Magistrate Lauristen made arrangements for a senior magistrate to mentor and train Ms Dwyer between 3 and 14 July 2017. The plan involved Ms Dwyer sitting in court beside Magistrate Robert Kumar for a half day, her doing chamber work in the afternoon, and discussing the cases they had heard. Ms Dwyer initially agreed but then sought and received approval to stay at the Children's Court.[49]

53. On 21 June 2017, Ms Dwyer again spoke with Magistrate McCarthy telling her she found the job very stressful, felt ashamed about not being able to do the job, and was struggling to carry out home duties at the end of the day.[50] Magistrate McCarthy encouraged her without success to see a counsellor and to contact a senior female judicial colleague to talk about her concerns.

54. On 2 July 2017, Ms Dwyer sent an email to Chief Magistrate Lauristen thanking him for his support and encouragement but indicated she wished to resign as soon as possible. A draft letter of resignation was attached. His Honour twice spoke to Ms Dwyer the next day. She told him she found decision-making too stressful, that it was affecting her health, she could not see herself returning to work, and felt that she had *"over-reached".* She said she might cope with a fifth of the work; she was seeking to avoid going into the Children's Court; and she could not make decisions in a court environment.

55. Chief Magistrate Lauristen was still hopeful that a change of court location and further assistance would build Ms Dwyer's confidence rather than resigning. He proposed she sit at the Moorabbin Magistrates' Court, being closer to her home, and where she would receive

[46] CB, statement of Charles Power, p160.
[47] Statement of Magistrate Therese McCarthy, p13.
[48] CB, statement of Acting Principal Registrar Debra Gallucci, p142.
[49] CB, statement of Chief Magistrate Peter Lauristen, p146.
[50] Her mother also noted that Ms Dwyer was trying to accommodate fulltime work pressures as well as home duties: CB, statement of Eileen Dwyer, p95.

support and supervision from Magistrate Goldsbrough whom she knew professionally. Ms Dwyer subsequently agreed with the arrangement to commence on 10 July 2017.[51]

56. Magistrate Goldsbrough believed Ms Dwyer was well-suited to the specialist Family Violence Court in Moorabbin and had done well on the three previous occasions she had presided over the Family Violence Intervention Order List. Her Honour readily agreed to accept Ms Dwyer to the Court. Chief Magistrate Lauristen foreshadowed unlimited time to support and encourage Ms Dwyer as necessary and that Ms Dwyer could take her time and transition at her own pace.[52]

57. On 4 July 2017, Ms Dwyer saw Dr Fiona Cochran at New Street Medical Centre, disclosing that she was not coping with work, had sleep disturbances, poor concentration, and was generally struggling. Dr Cochran prescribed citalopram (an anti-depressant). Ms Dwyer also consulted Mr Layton later that day.[53]

58. On 6 July 2017, Magistrate Goldsbrough spoke to Ms Dwyer, who said she was happy to be moving to the Moorabbin Court and preferred sitting in Family Violence Lists. They spoke of Ms Dwyer continuing to observe other magistrates for a week or more and her further training. Magistrate Goldsborough felt she and the staff at Moorabbin could support Ms Dwyer to become comfortable in her role and regain her confidence.[54]

59. On 7 July 2017, Ursula Dwyer observed her sister's mental health had significantly declined and she was exhibiting alarmingly uncharacteristic behaviours.[55] There was a repetition of themes – of feeling trapped, wanting to resign, being talked out of it, and fearing the consequences of resignation.[56] Ursula Dwyer and Mr Power contacted Beyond Blue for advice.

60. Mr Power then spoke with Chief Magistrate Lauristen and Magistrate Goldsbrough advising them that Ms Dwyer was not well enough to attend work. Both remained confident in her abilities and suggested she take leave rather than resign.[57] Ms Dwyer subsequently took leave without pay from 10 to 28 July 2017.[58]

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[51] CB, statement of Chief Magistrate Peter Lauristen, pp146-147.
[52] Statement of Magistrate Jennifer Goldsbrough, p5.
[53] CB, statement of Charles Power, p160.
[54] Statement of Magistrate Jennifer Goldsbrough, pp7-8.
[55] CB, statement of Ursula Dwyer, p60.
[56] Ibid, p61.
[57] Statement of Magistrate Jennifer Goldsbrough, p8; CB, statement of Chief Magistrate Peter Lauristen, p147.
[58] CB, statement of Acting Principal Registrar Debra Gallucci, p142.

61. On 10 July 2017, Ms Dwyer returned to see Dr Carr, disclosing feelings of hopelessness. Dr Carr encouraged her to see a psychologist, recommended she continue taking the medication, and made a follow-up appointment for the following week.[59]

62. On 11 July 2017, Ms Dwyer went to Apollo Bay with Ursula Dwyer for several days where they discussed the stressors at length. The apparent solution of resignation to address her concerns and return to full health was rejected by Ms Dwyer who thought the consequences of resigning were unacceptable.[60]

63. There were consistent themes in the observations of several other family members during July and August 2017 of Ms Dwyer's anxiety and distress, unusual behaviours and comments, a perception of failure, the illegitimacy of her initial selection as a magistrate, and of the financial and professional consequences of resigning.

64. Ms Dwyer returned to Dr Carr on 17 July 2017, telling him she felt slightly better but was still unwell. A referral was made to Dr Ilan Rauchberger, psychiatrist, with a recommendation she continue taking the citalopram.[61] Ms Dwyer attended Dr Rauchberger the following day, reporting excessive worries about her future, feeling overwhelmed, a lowered mood and insomnia. She reported suicidal ideas and plans but denied intent.[62]

65. On 21 July 2017, Ms Dwyer notified Chief Magistrate Lauristen of her intention to resign the following Monday, indicating it was clear to her she would no longer be able to fulfil the requirements of her appointment. She again thanked his Honour for his support.[63]

66. On 24 July 2017, Ms Dwyer returned to Dr Carr. She initially reported that she felt *"normal"* but then described the same anxieties. He encouraged her to maintain the citalopram and to see her psychiatrist, which she was reluctant to do. A review was planned for the following week, but Ms Dwyer did not attend.[64]

67. On 26 July 2017, Ms Dwyer resigned from the Magistrates' Court, effective from 31 July 2017.[65]

[59] CB, statement of Dr Nick Carr, p104.
[60] CB, statement of Ursula Dwyer, p63.
[61] CB, statement of Dr Nick Carr, p104.
[62] CB, statement of Dr Ilan Rauchberger, p105.
[63] CB, statement of Chief Magistrate Peter Lauristen, p148.
[64] CB, statement of Dr Nick Carr, p104.
[65] CB, statement of Acting Principal Registrar Debra Gallucci, p142.

Post-resignation

68. On 8 August 2017, Ms Dwyer returned to Dr Rauchberger and reported battling with a darkness.[66] She disclosed she had stopped taking the citalopram due to its side effects and felt the medication was ineffective. Dr Rauchberger commenced Ms Dwyer on sertraline.[67]

69. Ms Dwyer failed to attend the next scheduled appointment with Dr Rauchberger on 15 August 2017 and instead drove to the family's holiday home in Apollo Bay without notice. She did not answer calls from family and on returning home, said she had been cleaning the house. Mr Power now believes Ms Dwyer had, by this time, made plans to take her own life.[68]

70. On 16 August 2017, the family became increasingly concerned with Ms Dwyer's behaviour. Maureen Dwyer sought assistance from the Clayton Crisis Assessment and Treatment Team (**CATT**).[69] An assessment the next day led to a diagnosis of a major depressive disorder.[70] Ms Dwyer agreed to participate in a community support plan and was prescribed diazepam.[71]

71. On 18 August 2017, CATT consultant psychiatrist, Dr Hemlata Ranga, assessed Ms Dwyer and confirmed the diagnosis, noting some evidence of subtle paranoia. Ms Dwyer reported feeling overwhelmed as a magistrate and unworthy of her appointment. It was reported she was anxious in general about her performance as a lawyer for several years, with increased stress over the last year or so and increasing with her new role.

72. Dr Ranga stated that at the time of the assessment, Ms Dwyer denied a history of depression or suicide attempts, with Mr Power confirming same. She denied any current suicide ideation, plans, or intent. On the issue of compliance with medication prescribed by her doctors she said she only trialled the citalopram for three weeks, had not tried the sertraline, and took diazepam intermittently.[72] Dr Ranga prescribed olanzapine (a sedating antipsychotic to assist with sleep and anxiety).

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[66] CB, statement of Dr Ilan Rauchberger, p105.
[67] Ibid, p106.
[68] CB, statement of Charles Power, p161.
[69] CB, statement of Maureen Dwyer, p54.
[70] According to the Court's Coroners Prevention Unit, a major depressive disorder can appear without apparent cause and can develop in people who have coped well with life, who are good at their work and happy in their family and social relationships. It can also be triggered by a distressing event that the person is unable to deal with.
[71] CB, statement of Dr Hemlata Ranga, p108.
[72] Ibid, p110.

73. On 29 August 2017, Ms Dwyer attended Dr Rauchberger and continued to present as anxious but denied suicidal ideation.[73] A diagnosis of adjustment disorder with depressed and anxious mood was later revised to psychotic depression.[74] The plan was to manage Ms Dwyer's mental health with input from the CATT and to review within a week.

74. With a further deterioration in Ms Dwyer's mental state, family concerns of escalating risks of self-harm, and a reluctance on her part to consider antidepressant medication, Ms Dwyer reluctantly agreed to an admission to The Melbourne Clinic (**the Clinic**) on 30 August 2017. Upon admission the diagnosis was revised to severe depression with psychotic symptoms.[75]

75. At the completion of the treatment at the Clinic, Dr Ranga stated there was no evidence of anxiety, paranoia, or psychotic symptoms. With a significant improvement in her condition and compliant with medication, Ms Dwyer was discharged on 19 September 2017 with a detailed set of instructions that included no driving or socialising other than with close family members.[76] The purpose of the instructions was to assist Ms Dwyer focus on her recovery and wellbeing.

After discharge from hospital

76. Dr Ranga assessed Ms Dwyer a few days after discharge. She presented as very jovial, spontaneous, warm, and happy. No self-harm themes were reported.[77] A pre-booked family holiday had been planned for late September 2017 and following discussion whether Ms Dwyer was fit to travel, Dr Ranga agreed a holiday would assist with further recovery.[78]

77. Between 24 September and 7 October 2017, Ms Dwyer went to Queensland with her husband and two youngest children where she continued to show signs of improvement. During the holiday she disclosed to her husband her earlier thoughts of suicide.[79] Mr Power said the family observed Dr Ranga's instructions except for a meeting with a friend on 22 September and inadvertently meeting friends at the airport on 24 September.[80]

[73] CB, statement of Charles Power, p162.
[74] CB, statement of Dr Ilan Rauchberger, p105.
[75] CB, statement of Dr Hemlata Ranga, p112.
[76] Ibid, p115.
[77] Ibid, p114.
[78] Ibid, p115.
[79] CB, statement of Charles Power, p163.
[80] Ibid, p163.

78. During this time, Ms Dwyer had video consultations with Dr Ranga every third or fourth day, at which time Ms Dwyer presented as happy, cheerful, and enjoying her holiday. Her mental health and self-care remained stable and she was compliant with her medications.[81]

79. On return from the holiday, Ms Dwyer saw Dr Ranga on 10 October 2017 who said she continued to present as happy and further improved. She continued to take olanzapine and desvenlafaxine. Dr Ranga saw no evidence of imminent risk to Ms Dwyer; she appeared to be continuing well in her mental state and had the capacity to make complex decisions. She allowed Ms Dwyer to gradually resume driving.[82] Several days later, Dr Ranga says she contacted Maureen Dwyer who reported that her sister had maintained good improvement.[83]

80. On 12 October 2017, Ms Leslie met with her friend, Ms Dwyer, describing her doing well and as being back to her old self.[84] Mr Power said that he believed her recovery was progressing well; she was returning to normal life and good health.[85]

81. In contrast, there were concerns from some family members about Ms Dwyer's lowered mood at a family gathering on 15 October 2017. At a family function on 17 October 2017, John Dwyer noticed his daughter to be very quiet and introspective[86] and her mother, Eileen, was concerned her daughter appeared ill.[87] Maureen Dwyer was also concerned about her sister and stated she contacted Mr Power the following day to tell him that Ms Dwyer's mood had lowered.[88]

82. Ms Dwyer was due to see Dr Ranga again on 16 October 2017 but requested an appointment the following week as there were several family events she wanted to attend. Ms Dwyer agreed to contact Dr Ranga if there was any decline in her mental state and Dr Ranga had intended to contact Ms Dwyer on 21 October 2017.[89]

83. In the week leading to 21 October 2017, Mr Power said there was *"a terse exchange"* with his wife about his plan to attend the races on the weekend but he did not believe there was any "*ongoing negativity about it*".[90] Dr Ranga's instructions on discharge had allowed for Ms Dwyer to be left alone provided she had no significant carer responsibilities. Mr Power

[81] CB, statement of Dr Hemlata Ranga, pp116-117.
[82] Ibid, p117.
[83] CB, statement of Dr Hemlata Ranga, p118.
[84] CB, statement of Emma Leslie, p75.
[85] CB, statement of Charles Dwyer, p163.
[86] CB, statement of John Dwyer, p88.
[87] CB, statement of Eileen Dwyer, p99.
[88] Supplementary statement from Maureen Dwyer, p2.
[89] CB, statement of Dr Hemlata Ranga, p118.
[90] Supplementary statement of Charles Power, p1.

stated he was unaware Ms Dwyer had told her mother she feared being left at home with some of her children.[91]

84. On 20 October 2017, Ms Dwyer enjoyed a day out with a friend and appeared cheerful and her usual self but something appeared *"a little off"*.[92] That evening Mr Power said his wife expressed concern about a journalist enquiring into the reasons for her resignation and of what she saw as the repercussions of an earlier court case she presided over. He said this was the first occasion since her discharge from hospital that some of the earlier paranoid beliefs were mentioned.[93] Ms Dwyer also spoke to her sister, Ursula, that evening, who said she sounded subdued, uncomfortable, and guarded.[94]

CIRCUMSTANCES IN WHICH THE DEATH OCCURRED

85. On 21 October 2017, Mr Power attended the Caulfield Cup. He said there was no negativity or tension between he and his wife before he left the house.

86. Ms Dwyer subsequently drove one of her children to sport and then drove, without notice, to the family's holiday home in Apollo Bay.

87. The family became concerned when Ms Dwyer failed to respond to text messages after one of the children reported she had left the family home. During the search for his wife, Mr Power found her notebook that recorded a declining mental health and suicidal thoughts.[95]

88. At 6.30pm that evening, Victoria Police members forced their way into the Apollo Bay holiday home and found Ms Dwyer deceased.[96]

CAUSE OF DEATH

89. On 23 October 2017, Dr Matthew Lynch, a Senior Forensic Pathologist practising at the Victorian Institute of Forensic Medicine, conducted an inspection and provided a written report, dated 26 October 2017. In that report, Dr Lynch concluded that a reasonable cause of death was *"Hanging"*.

90. Toxicological analysis identified the presence of desmethylvenlafaxine[97] and olanzapine.[98]

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[91] CB, statement of Eileen Dwyer, p99.
[92] CB, statement of Emma Leslie, p75.
[93] CB, statement of Charles Power, p163.
[94] CB, statement of Ursula Dwyer, p65.
[95] CB, statement of Charles Power, p163.
[96] CB, statement of Senior Constable Paul Doherty, p151.

91. I accept Dr Lynch's opinion as to cause of death.

REVIEW OF MENTAL HEALTH CARE

92. Several of Ms Dwyer's family members expressed their concern regarding the standard of mental health care she received, particularly after her discharge from hospital. For this reason, the Coroners Prevention Unit (**CPU**) reviewed whether her mental health treatment was reasonable and whether there were any missed opportunities in her care.

93. The CPU is staffed by healthcare professionals, including practising physicians and nurses who are independent of the health professionals and/or institutions under consideration. They draw upon their medical, nursing, and research experience to evaluate the clinical management and care provided in particular cases by reviewing the medical records, and any particular concerns raised.

Quality of care

94. The CPU reviewed Ms Dwyer's medical records from Monash Health, The Melbourne Clinic, Dr Carr, Dr Cochrane, Dr Rauchberger, and Mr Layton. The CPU found that the care provided by these healthcare organisations and clinicians was appropriate and within expected practice guidelines.

95. The CPU advised the care provided by Dr Ranga was also appropriate, and within expected practice of a public mental health service consultant psychiatrist (Monash Health) and as a private psychiatrist (The Melbourne Clinic). The CPU noted the extensive and sustained consultation with Ms Dwyer, her husband, and some members of her family.

Family concerns

96. Maureen Dwyer, herself a medical practitioner, said she was closely involved with all aspects of her sister's care during her illness and communicated with Dr Rauchberger and Dr Ranga and via her sister, Ursula, with Dr Carr. She saw Ms Dwyer very frequently and contacted her by phone and text and held no concerns about the medical care her sister received.[99] She stated Dr Ranga communicated with her frequently and comprehensively,

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[97] Desmethylvenlafaxine is used for the treatment of depression.
[98] Olanzapine is used for the treatment of schizophrenia and related psychoses. It can also be used for mood stabilisation and as an anti-manic drug.
[99] Maureen Dwyer was nominated with Charles Power as the Next of Kin.

listened to her concerns, sought and accepted feedback, and offered to liaise with other family members.[100]

97. Maureen Dwyer also noted there had been significant non-compliance by her sister with medication and the follow-up of medical appointments during the period of her treatment.[101]

98. Some family members expressed concern they were led to believe Ms Dwyer had recovered once she had been discharged from hospital and could recover quickly in general, yet were later told Ms Dwyer had a lifelong illness. The CPU noted there are the inherent intangibles associated with communicating medical information to family and carers and their perception and conclusion. In any event, the medical records show Dr Ranga had extensive consultation with Ms Dwyer's nominated next of kin and, in particular, a lengthy meeting with some of the family prior to her discharge from the Clinic with a written plan of instructions aimed at supporting Ms Dwyer. The medical records also demonstrated Dr Ranga focused on the need for Ms Dwyer to take time to recover and that it would be slow. The evidence did not support a conclusion that advice was given or suggested the recovery from a major depressive disorder would be rapid.

99. The CPU advised that once a person suffers a major depressive disorder episode, they are considered to be in remission upon recovery rather than being cured. They will remain vulnerable to a re-emergence of the illness in the future. It is clear from the statements of a number of family members that they were aware of the risk of a return of the depressive symptoms.

100. Some family members have disputed Dr Ranga's opinion that in the lead up to her death, Ms Dwyer was in remission. In an addendum to her statement, Dr Ranga said Ms Dwyer did not present as being in an acute stage of depression or experiencing any psychotic symptoms in the lead up to her death; she had shown significant improvement and Dr Ranga believed her condition was in remission. However, Ms Dwyer's family point to their observations referred to in paragraph 81 above, indicating an apparent decline in her mental health. It is important to observe that Dr Ranga's last appointment with Ms Dwyer was 10 days before her death and that a planned appointment for 16 October 2017 was cancelled by Ms Dwyer. The very extensive file note of the appointment on 10 October 2017 sets out observations of and discussions with Ms Dwyer and her conclusion that the major depressive disorder was

[100] CB, statement of Maureen Dwyer, pp54-55.
[101] Ibid, p54.

in remission. Dr Ranga was unaware of the concerns and observations by family and her friend in the days immediately preceding Ms Dwyer's death.

101. There is also a dispute by some of the family concerning Dr Ranga's conclusion that Ms Dwyer had been struggling with anxiety symptoms for at least two to three years but had been able to mask the symptoms to others. They point to the absence of indications of anxiety seen by family and friends. In my view, Dr Ranga had the opportunity to discuss, in private, on many occasions the stressors in Ms Dwyer's life and her conclusion is well open to be made. It is also supported by the observation of Mr Power that during Ms Dwyer's time at WLSV, as the workload increased, she experienced sleeplessness and feelings of dread in leaving for work.[102]

102. Some members of the family raised concerns as to the extent of the therapeutic relationship between Ms Dwyer and Dr Ranga. The CPU noted Dr Ranga encouraged Ms Dwyer to engage with her general practitioners and to return to the care of Dr Rauchberger; however, she wished to remain in the care of Dr Ranga. I am satisfied that Ms Dwyer trusted Dr Ranga and there existed a sound therapeutic relationship.

103. Some concerns were also raised concerning the form of treatment Ms Dwyer received at the Clinic. Based upon a review of the medical records and Ms Dwyer's condition, the CPU considered the treatment was appropriate. It is noted that a second medical opinion as to the form of treatment had been sought at the time, relevant patient and family education provided, and consent was sought and revisited throughout Ms Dwyer's admission. This complied with expected practices and the treatment appeared to have been effective.

104. The final matter involves knowledge by Dr Ranga of the earlier history of depression. Dr Ranga's statement that she had not been told of the history is incorrect. Medical records dated 16 August 2017 refer to *"Hx depression"* and a written outline sent by some family members dated 30 August 2017 listing concerns about Ms Dwyer's deteriorating health referred to two prior episodes of anxiety/depressive symptoms. I am satisfied, however, the detail of Ms Dwyer's suicidal event at university was not disclosed to Dr Ranga.

105. Dr Ranga nevertheless addressed the relevance of Ms Dwyer's history, noting it in combination with other factors would have made Ms Dwyer more susceptible to severe depression and an increased the risk of suicide. Although it would have added to the

[102] Monash Hospital notes dated 16 August 2017 also record advice from Mr Power of Ms Dwyer's sleeplessness for more than one year.

formulation of the risk assessment, Dr Ranga stated it would not have changed the treatment plan considerably.[103]

Conclusion regarding medical care

106. A review of the medical records did not identify any issues with the care experienced by Ms Dwyer provided by the practitioners and services involved. I am satisfied the concerns raised by some of Ms Dwyer's family members are not supported by a review of the medical records.

107. I agree with and accept the CPU's advice that the mental health treatment Ms Dwyer received was reasonable and there were no missed opportunities in her care.

COMMENTS PURSUANT TO SECTION 67(3) OF THE ACT

108. It is clear the onset of Ms Dwyer's mental illness was connected with her role as a magistrate. A number of family members have also alluded to social and family dynamics that may have, combined with her appointment, led to the deterioration in Ms Dwyer's mental health. There is indeed much to support the view of Maureen Dwyer that a number of complex circumstances combined to produce a tragic outcome. The trigger for what appears to have been a cascade of events was, however, undoubtedly the stress arising from her appointment as a magistrate.

109. Although the material indicated Ms Dwyer did not appreciate the demands of the role of magistrate, it would be wrong to conclude she was alone in experiencing anxiety and stress upon appointment to the bench. In my view, it would be a rarity for a newly appointed judicial officer not to experience a level of stress for many months and beyond.

110. Judicial skills clearly do not materialise upon the taking of the oath of office but are acquired over months, if not years, of experience. Those skills include but are not limited to a thorough understanding of civil and criminal practice and procedure, complex sentencing principles and acquiring a sense of an appropriate sentencing range for a particular offence, working under extreme pressure with large court lists, being the sole decision-maker where the decision can have major consequences for a person's financial security or liberty, conveying detailed reasons for decisions both orally and in writing, and dealing with difficult litigants and, at times, difficult legal practitioners.

[103] Supplementary statement of Dr Hemlata Ranga, p7.

111. For Ms Dwyer, who had been away from the law for a very lengthy period of time and whose background was limited to Family Law and Family Violence and no other experience in civil and, in particular, criminal law, the role and the demands of her appointment as a magistrate must on any view have been truly daunting.

112. It should also be remembered that her treating psychiatrist, Dr Ranga, stated Ms Dwyer was a perfectionist and also very self-critical. She was said to hold high moral and ethical values and was very conscientious.[104] Those admirable qualities would in my opinion have compounded the understandable stress and anxiety she was experiencing.

113. There are three principal matters that need to be considered. First, the level of support from the Magistrates' Court when it became known she was struggling in the role of magistrate; secondly, the quality of the induction program; and thirdly, the changes made to enhance judicial wellbeing at the Court.

Support on being aware of Ms Dwyer's difficulties

114. Some of Ms Dwyer's family members raised concerns as to the level of support provided by the Magistrates' Court to Ms Dwyer when her mental health declined.

115. I am satisfied very significant support was provided to Ms Dwyer when the Court became aware of her difficulties in the role. Chief Magistrate Lauristen invited Ms Dwyer on a number of occasions to take time to re-consider her intention to resign; leave was granted without question; and there were several plans proposed to assist her in gaining confidence that included sitting beside experienced magistrates, reduced sitting time, increased chamber time, further training, and changes to allocated court locations.

116. Although there were a number of purported resignations by Ms Dwyer, the encouragement by the Chief Magistrate to remain in the role was done with the very best intentions and without knowledge of the extent of her mental health difficulties. It is clear that his Honour remained hopeful throughout that Ms Dwyer would regain her confidence, persevere in the role, and reach her clear potential.

Adequacy of induction as a new magistrate

117. I am satisfied there were some positive features of the induction program. The length of the program was substantial, running from 1 March to 3 April 2017. It provided an overview of

[104] Ibid, p3.

the administrative workings of the Court, significant time observing and sitting beside experienced magistrates in Court, training in the use of the Court's electronic case management database, provision of information about the Judicial Officers' Assistance Program (**JOAP**), being a 24-hour seven days per week confidential counselling service, the role and resources of the JCV, the appointment of a mentor, introductory sessions by senior magistrates to the jurisdictions of the Court, and an oral decisions workshop. Those aspects of the program were, in my view, reasonable.

118. The program and the subsequent placement of new magistrates in a variety of courts and jurisdictions did not however address the knowledge base or backgrounds of new appointees.

119. It appears there may have been an assumption that new appointees would have previously practised in criminal law or had at least a general understanding of the area and there was an expectation they would quickly sit in the criminal law lists. This may in part be a reflection of the practical reality that the Court needed assistance to deal with its very large workload, the majority of which relates to criminal law.

120. The overview of criminal and civil jurisdictions provided at the induction was clearly of value, but for those without any background in, for example criminal law, as was the case with Ms Dwyer, it would not have provided the required time to understand the basics. Nor in my view was it realistic to spend weeks in lectures when the work of the Court must be carried out. It appears the issue turns in large measure on the type of work initially allocated where the appointees may have limited, if any, experience.

121. The difficulties Ms Dwyer faced would also have been accentuated by the significant pressures of the work environment that all magistrates were apparently experiencing – the ever increasing workloads, the long sitting hours, the expectation to get through long lists, travelling to outlying courts, and the absence of time in chambers.

Changes to judicial wellbeing and the induction program

122. It is important then to consider the changes made to the induction and training of new magistrates and efforts more generally to enhance the wellbeing of magistrates.

123. In October 2017 and arising in large measure from the death of Ms Dwyer, Chief Magistrate Lauristen established the Judicial Wellbeing Committee (**JWC**). Chaired by a former Justice the Supreme Court with membership including a psychologist and a large number of

magistrates, its terms of reference included the provision of advice on matters affecting judicial wellbeing and the induction of magistrates within the Court.

124. One of the initiatives recommended by the JWC was the Professional Wellbeing Supervision Program. The Program was implemented in June 2018 and provides judicial officers one chamber day per month and four wellbeing days per year (new appointees receive six wellbeing days) for debriefing and meeting with a senior psychologist for coaching and developing personalised wellbeing plans. Each judicial officer has a dedicated psychologist to ensure continuity of care. Chamber days allow judicial officers time to prepare reserved decisions and complete other work without being required to sit in a courtroom.[105]

125. It should be noted also on the issue of assistance that the JOAP has been in operation since 2016. It comprises a team of senior psychologists from an external organisation who provide support through a dedicated counselling program, including confidential counselling available 24 hours a day, seven days per week. From May 2018, the JOAP was extended to immediate family members of judicial officers.[106]

126. In 2017 and 2018, the JCV facilitated a number of presentations, including presentations on judicial wellbeing, vicarious trauma, and burnout.[107] In 2019, the JCV continued to provide a number of programs relating to judicial support and wellbeing, including a two-day program called 'Judicial Peer Support' in June 2019.[108]

127. The JWC also recommended engaging an external occupational health and safety consultant to prepare a report about the operations of the Court. In March 2019, David Caple & Associates Pty Ltd provided its report titled *Investigation, Analysis, Risk Assessment and Report on the Work Occupational Health and Safety Operations of the Magistrates' Court of Victoria* (**the Caple Report**) to the Court.[109] The Caple Report drew upon the views of magistrates, judicial registrars, and substantial data of the Court's operations. The report, totalling over 60 pages, is extensive and made a number of recommendations, many of which have already been implemented. They include:

[105] Statement of Acting Chief Executive Officer Elissa Scott, p3.
[106] Ibid, p2.
[107] Ibid, p6.
[108] Ibid, p7.
[109] Ibid, p6.
[109] Ibid, p7.

(a) the continuation of the JCV's educational programs regarding stress, mental health, and wellbeing;[110]

(b) the introduction of a peer support program and the ability to select external professional development programs and medical assessments;[111]

(c) engagement with the JCV regarding the differences between metropolitan and regional working conditions and consider tailored training;[112]

(d) expansion of the programs that support judicial health and wellbeing through the use of e-mental health programs and leadership programs; and

(e) the assignment of new magistrates and judicial registrars to metropolitan locations where a range of supports are available during their first 12 to 18 months.[113]

128. Other accepted recommendations involved redistribution of work to judicial registrars, better support for magistrates sitting in regional locations, and generally reducing the workload of magistrates.[114]

129. The Caple Report noted the ever-increasing size of daily Court lists and workloads within the sitting times and that since 2016 there had been a year on year 25 per cent increase in criminal cases finalised. The Caple Report advocated placing limits on the number of cases listed on any given day, strict sitting times, building in more time for complex matters, and other case management initiatives. It noted the increasing workloads brought delays in hearings and stress to judicial officers in not being able to determine matters as promptly as desired.

130. In June 2018, Chief Magistrate Lauristen issued a practice direction to ensure strict adherence to court sitting time between 10.00am and 4.00pm with an hour for lunch. The current Chief Magistrate, Judge Lisa Hannan, is conducting a review of all practice directions, including a review of the starting and finishing times to explore different approaches to address workloads. A new position of Strategic Advisor (Listings and Allocations) has been created to focus on listings and allocation of judicial resources.[115]

[110] Ibid, p8.
[111] Ibid, p9.
[112] Ibid, p8.
[113] Ibid, p11.
[114] Ibid, p14.
[115] Ibid, p16.

131. The Caple Report also recommended scheduling a program of health and wellbeing audits for the Court on an annual or biennial basis. The Court has indicated that as an alternative, it is committed to implementation of the International Framework for Court Excellence, which includes an annual self-assessment that covers a broad range of topics.[116]

132. More recently, Chief Magistrate Hannan has created three Divisional Heads in Crime, Civil and Specialist Courts with a supervising magistrate for each practice area, an advisory board to provide advice on the strategic direction of the Court, and a wellbeing magistrate to bring a welfare perspective to decisions of the advisory board and to act as a central point of contact for judicial officers on wellbeing matters.

133. The Court has noted that health and wellbeing has been elevated to a Court-wide strategic priority that has included the establishment of a Health and Wellbeing Steering Committee in July 2020, large scale consultation with staff on health and wellbeing issues, and a Health and Wellbeing Plan for 2020-2022.

134. Significantly, the Caple Report observed new appointees will have a variety of professional backgrounds and as a result there was a need to tailor the induction and mentoring support appropriately. It noted the program should ensure the occupational health and safety risks associated with the work are recognised with practical guidance about support programs and people available for peer support.

135. Since 2018, the induction program has been refined to emphasise and acknowledge the varied backgrounds and skill levels of appointees. There has been an expansion of the time for observation of other experienced magistrates, training, and allocation of sittings in Court dependent upon the individual plan for the new magistrate.

136. The Court has observed that the wellbeing magistrate and senior magistrates each have input into the development and implementation of individual programs for new appointees. All new appointees commence at the Melbourne Magistrates' Court where the Chief Magistrate seeks feedback to ensure the aims of induction are being met.

137. I am satisfied the most significant change has been that new appointees are assigned to the jurisdiction in which they have experience and/or feel most comfortable following their

[116] Ibid, p19.

induction. The time spent in that jurisdiction before further training in other jurisdictions follows discussion and is largely dependent on the *"comfort level of the magistrate"*.[117]

138. It is noted the induction process may vary in length and in pace and is tailored to the background and experience of the appointee. The program involves the appointee participating in the selection of a mentor who has an important role in providing day to day advice and assistance when needed.

Conclusion regarding changes to judicial wellbeing and the induction program

139. The Court has stated that it is *"committed to ensuring appropriate responses in relation to judicial induction, wellbeing and support"* and that it *"continues to progress its implementation of a suite of measures designed to strengthen the resilience, health and wellbeing of its judicial officers, particularly in the early stages of their judicial career.*"[118]

140. It is also reassuring to note the commitment of the Chief Magistrate to *"drive and embed an organisational culture that fosters positive health and wellbeing for judiciary and staff"*.[119]

141. In my view, the changes made to the induction and training of new appointees to the Court and more generally changes to enhance the wellbeing of all magistrates are both timely and significant. I do not consider any meaningful recommendations under the Act can be made.

FINDINGS AND CONCLUSION

142. Ms Dwyer's death utterly devastated her family. Their detailed statements and insightful submissions in this investigation reveal the depth of pain of their loss and the unconditional love they felt for Ms Dwyer.

143. Contrary to Ms Dwyer's statements made to her family and health professionals at a time of significant ill health, it is clear she did not fail in any way. She applied herself to the role of magistrate with enthusiasm, dedication, and integrity.

144. Ms Dwyer's death also shocked the legal fraternity. In 2017, although the topic of judicial stress was known within the court system, it was rarely acknowledged in a meaningful fashion. Ms Dwyer's death caused many within the Victorian courts at all levels and the

[117] Statement of Chief Executive Officer Simon Hollingsworth, p5.
[118] Ibid, p6.
[119] Ibid, pp6-7.

wider legal community to pause, acknowledge the problem of judicial stress, and to turn their attention to address it in significant ways and to prioritise judicial wellbeing.

145. Having investigated the death, without holding an inquest, I find pursuant to section 67(1) of the *Coroners Act 2008* that Jacinta Mary Dwyer, born 11 July 1967, died on 21 October 2017 at Apollo Bay, Victoria, from hanging in the circumstances described above.

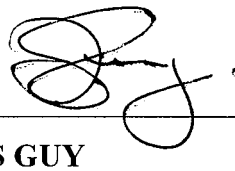
146. I convey my sincere condolences to Ms Dwyer's family for their loss.

147. Pursuant to section 73(1) of the Act, I direct this finding be published on the Internet.

148. I direct that a copy of this finding be provided to the following:

Charles Power, senior next of kin
Maureen Dwyer
Monash Health
Dr Hemlata Ranga
WorkSafe Victoria (care of Wisewould Mahony)
Her Honour Judge Lisa Hannan, Magistrates' Court of Victoria
Detective Senior Constable Matt Roberts, Victoria Police, Coroner's Investigator.

Signature:



IAN JAMES GUY
CORONER
Date: 9 December 2020.