



IN THE CORONERS COURT  
OF VICTORIA  
AT MELBOURNE

Court Reference: COR 2017 4175

**FINDING INTO DEATH WITH INQUEST**

*Form 37 Rule 63(1)*

*Section 67 of the Coroners Act 2008*

Findings of:	John Cain, State Coroner
Deceased:	Marilyn June Burdon
Delivered on:	21 September 2021
Delivered at:	Coroners Court of Victoria, 65 Kavanagh Street, Southbank
Hearing date:	25 January 2021 to 1 February 2021; 10 to 11 February 2021
Counsel Assisting:	Naomi Hodgson Instructed by Nicholas Ngai, Family Violence Senior Solicitor
Counsel for the Burdon family:	Tanya Skvortsova Instructed by Gemma Hannah (Holding Redlich)

Counsel for the Chief Commissioner of Police: Ronald Gipp  
Instructed by Jacinta Gibbs (Victorian Government Solicitor's Office)

Counsel for Dr Rowan McIntosh: Paul Halley  
Instructed by Rob Perry (Perry Maddocks Trollope)

Catchwords Intimate partner homicide; family violence;  
firearms related death; murder; suicide

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## INTRODUCTION

1. Marilyn June Burdon was born in Sydney, New South Wales, on 26 May 1947 and was 70 years old at the time of her death.
2. Ms Burdon's family moved to Victoria when she was around 12 months old and spent most of her time living in East Ivanhoe and Toorak. After completing her matriculation at Melbourne Girls' Grammar School, Ms Burdon attended Monash University and obtained a Bachelor of Arts.
3. In 1970, Ms Burdon married Jonathan Burdon and they had three children together, Rebecca, Natalie, and Nicholas. At the time of her death Ms Burdon had five grandchildren. In addition to raising her three children, Ms Burdon worked in her husband's medical practice. Ms Burdon and her husband Jonathan divorced in 2000.
4. In around 1996, Ms Burdon completed a Masters in Criminology. She then worked in various Municipal Council's crime prevention units and in community development. Ms Burdon was reported by those close to her, '*as an intelligent, loving, dedicated, funny woman. She loved life, her family and helping others.*'<sup>1</sup>
5. Ms Burdon was introduced to Mr Bisucci by a mutual friend at a dinner party around 2010 and they entered a relationship around late 2011.<sup>2</sup> From 2011 Ms Burdon and Mr Bisucci attended social activities and holidays together.
6. In 2004, Mr Bisucci met Karen Cattapan and they formed a relationship. In April 2005, Mr Bisucci purchased a house in Strelton Avenue, Strathmore. Ms Cattapan loaned Mr Bisucci part of the purchase monies and it was agreed that she could live with him rent-free.<sup>3</sup> Mr Bisucci struggled to pay the mortgage on his property and had several tenants rent rooms in the house to assist him.<sup>4</sup>
7. The available evidence suggests that Mr Bisucci maintained his relationship with Ms Cattapan whilst continuing a separate relationship with Ms Burdon until the fatal incident.<sup>5</sup>

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<sup>1</sup> Court Transcript, 929: 27-30

<sup>2</sup> *Coronial Brief*, Statement of Natalie Justine Burdon dated 19 October 2017, 43

<sup>3</sup> *Coronial Brief*, Statement of Karen Cattapan dated 19 October 2017, 72

<sup>4</sup> *Ibid*

<sup>5</sup> *Coronial Brief*, Statement of Karen Cattapan dated 19 October 2017, 76-77; Statement of Rebecca Amanda Burdon dated 19 October 2017, 27

8. Mr Bisucci was intermittently engaged with a private psychiatrist, Dr Rowan McIntosh, since 2002.<sup>6</sup> Mr Bisucci is noted as engaging irregularly with Dr McIntosh who observed that he would attend when his mental health had deteriorated but would refuse to return when he self-determined that he was recovered.<sup>7</sup>
9. Dr McIntosh formed the view that Mr Bisucci had '*episodic, and at times profound and debilitating depression*' and that he presented with '*some features of mild Asperger's*' and had displayed various narcissistic and antisocial traits during treatment.<sup>8</sup>
10. On 22 June 2017, Mr Bisucci attended Dr McIntosh's consulting rooms in the presence of Ms Burdon.<sup>9</sup> During this appointment, Ms Burdon requested that Dr McIntosh act as an adjudicator/mediator in relation to a financial agreement between both parties. Ms Burdon then purportedly questioned Dr McIntosh in relation to Mr Bisucci's mental health and Dr McIntosh, in the presence of Mr Bisucci, noted that Mr Bisucci suffered from severe depression and explained that he had more of a '*personality based diagnosis*'.<sup>10</sup>
11. Dr McIntosh reported that he also warned Ms Burdon of Mr Bisucci's history of duplicity and advised her of the risks of entering a financial relationship with him. In his statement to the Court, Dr McIntosh advised that he '*did not entertain the notion that Mr Bisucci might harm Ms Burdon*' and '*had no reason to believe that Mr Bisucci was contemplating any violence acts against others*' during this appointment.<sup>11</sup>
12. In July 2017, Mr Bisucci sold his Strathmore property and through an agreement with Ms Burdon, moved in with her for a trial period at her residential address in Princess Street, Kew.
13. Mr Bisucci last met with Dr McIntosh alone on 8 August 2017. Ms Burdon is noted as having transported Mr Bisucci to the appointment on this occasion, but as not having attended the appointment.<sup>12</sup> Records provided to the Court by Dr McIntosh indicate that his secretary had observed Ms Burdon to be irritated with Mr Bisucci and to have stated something similar to, '*I can't cope with him*'.<sup>13</sup> During this appointment, Dr McIntosh observed that Mr Bisucci's symptoms had worsened and explored several treatment options with him.

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<sup>6</sup> *Coronial Brief*, Medical records provided by Dr Rowan McIntosh, 1208

<sup>7</sup> *Ibid*

<sup>8</sup> *Ibid*, 1211-1212

<sup>9</sup> *Ibid*, 1214-1215

<sup>10</sup> *Ibid*, 1175-1176

<sup>11</sup> *Ibid*, 1216-1217

<sup>12</sup> *Ibid*, 1215-1216

<sup>13</sup> *Ibid*, 1183

14. Dr McIntosh reported that during this appointment, Mr Bisucci had said that he was not a risk to himself but Dr McIntosh had queried whether Mr Bisucci may have been experiencing thoughts of self-harm that he did not wish to discuss. During this appointment, Mr Bisucci also disclosed that Ms Burdon ‘*didn’t want*’ him anymore and that this meant that he ‘*had nothing to live for*’.<sup>14</sup> Mr Bisucci also spoke of concerns regarding his ability to maintain employment, his dire financial situation and his lack of sleep.<sup>15</sup>

## OVERVIEW OF FIREARMS LICENSING AND PERMIT SYSTEM IN VICTORIA

15. As this case involves a significant discussion about firearms and how the firearms regulation system operates in Victoria, I have provided an outline below of how the system operates. The Licensing and Regulation Division (LRD) of Victoria Police regulates the firearms industry in Victoria, operating under powers stipulated in the *Firearms Act 1996* (Vic) (the **Act**).
16. Generally, to gain access to a firearm in Victoria, an individual must have a valid firearms license and apply for a permit to acquire each firearm they intend to own. To obtain a valid firearms license, an individual must complete a firearms safety course and have a genuine reason for applying to use a firearm. The genuine reasons<sup>16</sup> can include sport or target shooting, hunting, primary production, security, prison guard or prescribed person.
17. After obtaining a firearms license, a person can then apply for a permit to acquire a firearm. Each permit application includes personal details, storage address details, firearms license details, details for the reasons to acquire a firearm and details of the firearm to be acquired. A permit application is required for buying, selling or transferring ownership of a firearm.
18. Firearms license holders must also be ‘*fit and proper persons*’ and not a ‘*prohibited person*’ as defined under the Act. The following characteristics would make a person ‘*unfit*’:<sup>17</sup>
- a. has a history of irresponsible handling of firearms;
  - b. has findings of guilt for crimes of violence;

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<sup>14</sup> Ibid

<sup>15</sup> Ibid, 1180-1183

<sup>16</sup> The genuine reasons listed here are only for Category A and B firearms, these are the most popular firearms type in the community and were the type of firearms owned by Mr Bisucci. More information about the categories of firearms can be found online at: <https://www.police.vic.gov.au/firearms-forms-and-reference-information>

<sup>17</sup> This list is not exhaustive and there maybe other criteria that will prevent an individual from being considered to be a fit and proper person, see section 17 of the Act.

- c. does not have good character;
- d. has a criminal history associated with firearms (eg. armed robbery, assault with a weapon, attempted murder and murder);
- e. has provided false or misleading information to the police in a firearms matter;
- f. has a record of physical or mental illness which medical evidence suggests you should be excluded from owning or using firearms;
- g. has a record of drug or alcohol misuse which medical advice suggests you should be excluded from owning or using a firearm; or
- h. has failed to possess sufficient knowledge and competency in the carriage and use of firearms.

19. A prohibited person is someone who must not be issued a firearms licence. A prohibited person will not be allowed to retain a firearms licence or possess, use, or carry a firearm.<sup>18</sup> There is no formal declaration process for prohibited persons, they become one automatically if they meet the definition under the Act.<sup>19</sup> There are generally two scenarios that will make someone a prohibited person<sup>20</sup>:

- a. being found guilty of a specific criminal offence in Australia; or
- b. being made the respondent in a final intervention order in Australia.

## **FIREARMS BACKGROUND AND ISSUES IN THIS CASE**

20. In 2004 Mr Bisucci's firearm licence was suspended and his firearms were seized by police. At the time, Mr Bisucci had been declared a missing person and had presented with suicidal ideation to Dr McIntosh. Shortly afterwards, Mr Bisucci's firearms licence was cancelled as a result of a Family Violence Intervention Order (**FVIO**) in respect of his then wife and he was declared a prohibited person under the Act for an indefinite term.<sup>21</sup>

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<sup>18</sup> Section 5 of the *Firearms Act 1996*

<sup>19</sup> Section 3 of the *Firearms Act 1996*

<sup>20</sup> *Ibid*

<sup>21</sup> Exhibit 45, Statement of Sergeant Stoneham; Exhibit 53, Licencing and Regulation System (**LARS**) diary notes for Mr Charles Bisucci.

21. When Mr Bisucci's firearms licence was suspended in 2004, there were 16 firearms registered in his name,<sup>22</sup> fifteen were seized and the sixteenth, an air-rifle, was the only unaccounted for firearm.<sup>23</sup>
22. Once a firearm is seized the usual process for law enforcement is to transfer the firearms to a firearms dealer to dispose of the firearms. These firearms are normally on sold to any individual who has a valid firearms license and permit to acquire the firearm.
23. The available evidence suggests that following the cancellation of his firearms licence in 2004, Mr Bisucci was able to utilise his friends/acquaintances to take ownership of all 15 of his firearms that had been seized via a licenced firearms dealer. The records show that of those 15 firearms, six were transferred to his friend, Mr Carmuciano and nine were transferred to another acquaintance, Mr Phillip Di Maria.<sup>24</sup> In 2010, the nine firearms in possession of Mr Di Maria were then transferred to other friends/acquaintances through arrangements made by Mr Bisucci.
24. The ability for individuals who lose their firearms license to get friends or associates to lawfully acquire these firearms is a gap in the firearms regulation system.
25. Whilst it is legal for friends or acquaintances of prohibited persons (or unlicensed persons) to apply for a permit to acquire a firearm that used to belong to a prohibited person, it is an offence under section 127 of the Act for a person who lawfully possesses a firearm to allow an unauthorised person (someone without a firearms license) to use or carry the firearm. However, this offence is rarely used to prosecute individuals and the circumstances of this case illustrate the significance of this issue as a public health and safety concern for the community.
26. At the time of the fatal incident in 2017, of the 15 firearms originally seized from Mr Bisucci in 2004, two were still in his possession, 11 firearms were owned by his friends/acquaintances<sup>25</sup> and only two were owned by unrelated parties.
27. In November 2014, Victoria Police received information that Mr Bisucci was illegally in the possession of firearms and conducted a search of his residence in Strathmore (**2014 investigation**). Six firearms were located in an unlocked cabinet in the garage of Mr Bisucci's

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<sup>22</sup> Exhibit 30, Storage and Ownership History of Firearms, 2004-2017; Exhibit 47, List of Firearms seized from Mr Charles Bisucci

<sup>23</sup> Exhibit 47, List of Firearms seized from Mr Charles Bisucci; Exhibit 45, Statement of Sergeant Stoneham; Exhibit 46, Letter to Licencing Services Branch from Sergeant Stoneham; Exhibit 48, Statutory Declaration of Mr Charles Bisucci.

<sup>24</sup> Exhibit 30, Storage and Ownership History of Firearms, 2004-2017

<sup>25</sup> Including the Uberti/Winchester which remained registered in Mr DiMaria's name but later seized by police from Mr Bisucci in 2014, but erroneously thought to be unregistered



home during this search. Four of the firearms seized were registered to Mr Bisucci's friend, Mr Carmuciano, and two were unregistered. Further investigations identified that Mr Carmuciano had eight firearms in total registered in his name and that several of these firearms had been owned by Mr Bisucci prior to the cancellation of his license in 2004.

28. The police then conducted a search of Mr Carmuciano's property and located an additional two firearms that were registered to him. Of the eight total firearms registered to Mr Carmuciano, only six were found and seized by police and two firearms were unable to be located. The two firearms registered to Mr Carmuciano that were still missing had previously belonged to Mr Bisucci prior to the cancellation of his license. Mr Carmuciano advised police that he believed he may have lent a total of six firearms to Mr Bisucci, including the two missing firearms, but Mr Bisucci subsequently advised police that he did not have them.
29. At the conclusion of their investigation, police members proceeded to alert the Licensing and Regulation Division of Victoria Police that the whereabouts of the two missing firearms was unknown and Mr Carmuciano was served with a Notice of Suspension. Mr Bisucci was also charged with being in the possession of a firearm whilst being listed as a Prohibited Person under the *Firearms Act 1996* and was convicted and fined \$1500. Following this prosecution, the investigation into the two missing firearms was discontinued and there is no available evidence of any further investigation.
30. The firearm used in the fatal acts was a Winchester 30-30 Calibre, Model 94, lever action, repeating rifle, with serial number WFC18977 (the **Winchester WFC18977**).<sup>26</sup> Also found at the scene was a Lotus Coupe parked in the middle of the carport with the rear boot hatch open and a box of Winchester Super X Rifle cartridges containing eight cartridges and a single loose cartridge was inside.<sup>27</sup> The following day, a further firearm was found in another Lotus Coupe owned by Mr Bisucci, which was parked in Molesworth St, Kew, the side street adjacent to Ms Burdon's house.<sup>28</sup> That second firearm was a .577/450 Martini Henry calibre, Enfield brand, Model 1884, lever action, single shot with serial number 3607FRA (the **Enfield 3607FRA**).<sup>29</sup>
31. The Winchester WFC18977 and the Enfield 3607FRA, were both firearms which were originally owned by Mr Bisucci in 2004 but were seized by police when his firearms licence was suspended.

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<sup>26</sup> Exhibit 90, Coronial Brief, Statement of Leading Senior Constable (LSC) Griffiths of the Ballistics Unit, at page 144.

<sup>27</sup> Exhibit 90, Coronial Brief, Statement of LSC Thowless, at pages 139-140.

<sup>28</sup> Exhibit 90, Coronial Brief, Statement of Coroner's Investigator, DSC Steven Sinclair, at page 169.

<sup>29</sup> Exhibit 90, Coronial Brief, Statement of LSC Griffiths of the Ballistics Unit, at page 144.

32. LRD maintains the Licencing and Regulation System (**LARS**) which records that the Winchester WFC18977 and the Enfield 3607FRA were left in storage at (and registered as owned by) Frank O'Reilly firearms dealer until October 2006 and March 2008 respectively, and then transferred to Mr Bisucci's friend, Mr Sebastian Carmuciano. LARS records the last storage address as Mr Carmuciano residential address at 39 Spry Street, Coburg North.<sup>30</sup>
33. The available evidence suggests that Mr Bisucci was using his friends and associates to circumvent the firearm restrictions placed upon him as a prohibited person. Between 2004 and the fatal incident, Mr Bisucci had falsified various firearms permit applications and produced fraudulent evidence to support these false applications for his friends and associates to acquire firearms he used to own and secretly retain use and access to them whilst he was a prohibited person. This will be addressed later in this finding.

## **THE CORONIAL INVESTIGATION**

34. Ms Burdon's death was reported to the coroner as her death appeared to be unnatural or violent or to have resulted from injury and therefore was within the definition of a reportable death pursuant to section 4 of the *Coroners Act 2008* (Vic) (**the Act**).
35. The jurisdiction of the Coroners Court of Victoria is inquisitorial.<sup>31</sup> The Act provides for a system whereby reportable deaths are independently investigated to ascertain, if possible, the identity of the deceased person, the cause of death and the circumstances in which death occurred.<sup>32</sup>
36. It is not the role of the coroner to lay or apportion blame, but to establish the facts.<sup>33</sup> It is not the coroner's role to determine criminal or civil liability arising from the death under investigation,<sup>34</sup> or to determine disciplinary matters.
37. The expression '*cause of death*' refers to the medical cause of death, incorporating where possible, the mode or mechanism of death.
38. For coronial purposes, the phrase '*circumstances in which death occurred*'<sup>35</sup> refers to the context or background and surrounding circumstances of the death. Rather than being a consideration of

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<sup>30</sup> Exhibit 30, Storage and Ownership History of Firearms, 2004-2017.

<sup>31</sup> Section 89(4) *Coroners Act 2008* (Vic).

<sup>32</sup> Preamble and section 67 *Coroners Act 2008* (Vic).

<sup>33</sup> *Keown v Khan* (1999) 1 VR 69.

<sup>34</sup> Section 69(1) *Coroners Act 2008* (Vic).

<sup>35</sup> Section 67(1)(c) *Coroners Act 2008* (Vic).

all circumstances which might form part of a narrative culminating in the death, it is confined to those circumstances which are sufficiently proximate and causally relevant to the death.

39. The broader purpose of coronial investigations is to contribute to a reduction in the number of preventable deaths, both through the observations made in the investigation findings and by the making of comments and recommendations by coroners.
40. The coronial investigation in this case was undertaken by a member of Victoria Police who was appointed as the coroner's investigator, Detective Acting Sergeant Steve Sinclair. A coronial brief was prepared.
41. All coronial findings must be made based on proof of relevant facts on the balance of probabilities.<sup>36</sup> In determining these matters, I am guided by the principles enunciated in *Briginshaw v Briginshaw*.<sup>37</sup>
42. The previous State Coroner, Judge Hinchey had the original carriage of this investigation. I took over this investigation in December 2019. I decided to hold an inquest due to the identified public health concerns and the fact that this matter met the requirements of a mandatory inquest as I suspect that Ms Burdon's death was the result of a homicide and no one was charged with an indictable offence in connection with her death. A Directions Hearing was held on 8 September 2020 to finalise the scope of the inquest and witness list.
43. For the purposes of the *Family Violence Protection Act 2008*, the relationship between Ms Burdon and Mr Bisucci was one that fell within the definition of 'domestic partner'<sup>38</sup> under that Act. Moreover, Mr Bisucci's actions in fatally shooting Ms Burdon constitutes 'family violence'.<sup>39</sup>
44. In light of Ms Burdon's death occurring under circumstances of family violence, I requested that the Coroners' Prevention Unit (CPU)<sup>40</sup> examine the circumstances of her death as part of the Victorian Systemic Review of Family Violence Deaths (VSRFVD).<sup>41</sup>

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<sup>36</sup> *Re State Coroner; ex parte Minister for Health* (2009) 261 ALR 152.

<sup>37</sup> (1938) 60 CLR 336.

<sup>38</sup> Family Violence Protection Act 2008, section 9(1)(b)

<sup>39</sup> Family Violence Protection Act 2008, section 4

<sup>40</sup> The Coroners Prevention Unit is a specialist service for Coroners established to strengthen their prevention role and provide them with professional assistance on issues pertaining to public health and safety

<sup>41</sup> The VSRFVD provides assistance to Victorian Coroners to examine the circumstances in which family violence deaths occur. In addition the VSRFVD collects and analyses information on family violence-related deaths. Together this information assists with the identification of systemic prevention-focused recommendations aimed at reducing the incidence of family violence in the Victorian Community

45. The VSRFVD reviewed the available evidence and two issues emerged for consideration at inquest. Firstly, how did Mr Bisucci, a prohibited person, have access to firearms at the time of the fatal incident. Secondly, the management of Mr Bisucci's mental health by Dr McIntosh and whether any family violence risks were appropriately identified and mitigated.

## **SCOPE OF THE INQUEST**

46. The scope of the inquest was formulated as follows:
- (a) Victoria Police policies and procedures for investigating missing/lost/stolen firearms and training to conduct such investigations at the time of Ms Burdon's death.
  - (b) The decision making and investigation method employed by Victoria Police members involved in the 2014 investigation into illegal firearm possession by Mr Bisucci.
  - (c) What considerations are taken into account regarding whether a prosecution should take place when offences have been identified in a firearms investigation.
  - (d) What changes have been made to these policies, procedures and training for investigating missing/lost/stolen firearms since 2014.
  - (e) Firearms license and permit application approval processes and security measures utilised by the Victoria Police Licensing and Regulation Division at the time of Ms Burdon's death and currently in force.
  - (f) The clinical management of Mr Bisucci's risk of self-harm and harm to others by his treating private psychiatrist.
  - (g) The role of family violence risk assessments in mental health treatment of family violence perpetrators and relevant recommendations from the Royal Commission into Family Violence that apply to public funded mental health services and private mental health services.
47. The inquest proceeded on the 25 to 29 January and 10 and 11 February 2021 with Ms Burdon's family, Chief Commissioner of Police and Dr McIntosh all represented. The following witnesses gave evidence:
- a. Mr Sebastian Carmuciano;

- b. Mr Mario Carnesi;
- c. Mr Philip Di Maria;
- d. Ms Karen Cattapan;
- e. Senior Constable Ian Miles;
- f. Sergeant Daniel Bailey;
- g. Sergeant James Stoneham;
- h. Acting Inspector Andrew Armstrong;
- i. Dr Rowan McIntosh; and
- j. Dr Manjula O'Connor.

48. Written submissions were filed by Counsel assisting on the 15 March 2021 and submissions by other interested parties in April 2021.
49. This finding is based on the coronial brief, the oral evidence of all witnesses who testified at inquest, any documents tendered at inquest or submitted for my consideration afterwards and the final submissions of counsel who appeared for the interested parties. It is unnecessary to summarise all this material, which will remain on the court file, I will refer only to so much of it as is relevant or necessary for clarity.
50. I acknowledge and thank Counsel Assisting Ms Naomi Hodgson and the Counsel and Solicitors for the interested parties for their assistance in the Inquest and their comprehensive submissions. I also acknowledge and thank Mr Nicholas Ngai Family Violence Senior Solicitor at the Court for the invaluable assistance he has provided me in this investigation.

#### **IDENTITY OF THE DECEASED PURSUANT TO SECTION 67(1)(A) OF THE ACT**

51. On 24 August 2017, Dr Jeremy Graham, a forensic odontologist compared ante-mortem dental records with the results of a post-mortem dental examination and was able to positively confirm a match for, Marilyn Burdon, born 26 May 1947.
52. Identity is not in dispute and requires no further investigation.

## **MEDICAL CAUSE OF DEATH PURSUANT TO SECTION 67(1)(B) OF THE ACT**

53. On 22 August 2017, Dr Joanna Glengarry, a Forensic Pathologist practising at the Victorian Institute of Forensic Medicine, conducted an examination and provided a written report, dated 2 October 2017. In that report, Dr Glengarry concluded that a reasonable cause of death was “*Gunshot wounds to the head and chest*”.
54. The toxicology results were non-contributory to death.
55. I accept Dr Glengarry’s opinion as to cause of death.

## **CIRCUMSTANCES IN WHICH THE DEATH OCCURRED PURSUANT TO SECTION 67(1)(C) OF THE ACT**

56. On the morning of 21 August 2017, Ms Burdon sent a text message to Mr Bisucci’s employer informing him that Mr Bisucci had an appointment with a doctor and would be late for work.<sup>42</sup> Later that morning, Ms Burdon was contacted by her daughter to confirm plans for lunch. Ms Burdon confirmed to her daughter that she would be taking Mr Bisucci to his psychiatrist or to work and would then leave the house in the next half an hour.<sup>43</sup>
57. Ms Burdon did not attend her daughter’s house as arranged and this raised concerns amongst Ms Burdon’s children.<sup>44</sup> Following a series of unanswered text messages and phone calls, two of Ms Burdon’s children attended Ms Burdon’s house on Princess Street, Kew around 3.40pm and discovered Mr Bisucci deceased.<sup>45</sup>
58. Ms Burdon’s children contacted emergency services and they attended shortly at around 3.57pm.<sup>46</sup> Police members located both Ms Burdon and Mr Bisucci and paramedics confirmed that they were deceased and appeared to have suffered fatal gunshot injuries.<sup>47</sup>

## **CONCERNS IDENTIFIED DURING THE CORONIAL INVESTIGATION**

*The concerns identified with the firearms regulation system with respect to licensing and permit approvals*

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<sup>42</sup> *Coronial Brief*, Statement of Tony Zino dated 21 August 2017, 103

<sup>43</sup> *Coronial Brief*, Statement of Rebecca Amanda Burdon dated 28 September 2017, 33

<sup>44</sup> *Ibid*; Statement of Nicholas Burdon dated 21 August 2017, 48-49

<sup>45</sup> *Coronial Brief*, Statement of Rebecca Amanda Burdon dated 28 September 2017. 35-36; Statement of Nicholas Burdon dated 21 August 2017, 48-49

<sup>46</sup> *Coronial Brief*, Statement of Senior Constable Julie Shea dated 4 October 2017, 123-125

<sup>47</sup> *Ibid*.

59. As noted previously, the available evidence suggests that following the cancellation of his firearms licence in 2004, Mr Bisucci was able to utilise his friends/acquaintances to take ownership of all 15 of his firearms that had been seized by police via a licenced firearms dealer. The records show that of those fifteen firearms, six were transferred to Mr Carmuciano and nine were transferred to Mr Phillip Di Maria.<sup>48</sup>
60. It appears that after Mr Di Maria relinquished ownership of all nine firearms in 2010, Mr Bisucci arranged for transfers of these firearms to friends/acquaintances. In the case of firearms held by Mr Carmuciano, (save for those missing firearms found at the fatal scene) those were seized in 2014 by Victoria Police.<sup>49</sup> After this seizure, however, they eventually ended up being transferred to Mr Bisucci's friends/acquaintances via another licenced firearms dealer. At the time of the fatal incident in 2017, of the 15 firearms originally seized from Mr Bisucci in 2004, two were in still in his possession, 11 firearms were transferred to his friends/acquaintances<sup>50</sup> and only two were owned by unrelated parties.
61. During the course of the coronial investigation it became apparent to me using the available evidence that:
- a. there were concerns raised about the permits and supporting documentation used by Mr Carmuciano and Mr Di Maria to obtain firearms formerly owned by Mr Bisucci;
  - b. there were concerns raised about the records kept by Victoria Police;
  - c. there were concerns about the adequacy of the 2014 police investigation conducted by DSC Bailey; and
  - d. there were concerns raised by Ms Burdon's family regarding the clinical management of Mr Bisucci by his private psychiatrist.

*Concerns with the documentation used by Mr Carmuciano*

62. Mr Carmuciano gave evidence that the documentation created to acquire the six firearms that used to belong to Mr Bisucci, did not contain his handwriting and he was either unsure if it contained his signature, or denied that it contained his signature.<sup>51</sup> The supportive documentation

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<sup>48</sup> Exhibit 30, Storage and Ownership History of Firearms, 2004-2017.

<sup>49</sup> Ibid, see Birmingham .303, with serial number erroneously recorded as both K1765 and 7165.

<sup>50</sup> Including the Uberti/Winchester which remained registered in Mr DiMaria's name but later seized by police from Mr Bisucci in 2014, but erroneously thought to be unregistered.

<sup>51</sup> T:26-T:151.

used to establish Mr Carmuciano's reason for acquiring the firearms was fabricated. This documentation suggested that he was a Big Game Shooting Club member. However, Mr Carmuciano had never been, or sought to be, a member of the Big Game Shooting Club and did not know the people who provided his references.<sup>52</sup>

63. It was Mr Carmuciano's evidence that he signed forms when they were blank and gave them to Mr Bisucci,<sup>53</sup> because Mr Bisucci (he thought) was a solicitor, he was in a hurry and he put his full faith in Mr Bisucci.<sup>54</sup> He also stated that Mr Bisucci was his friend and he did not want to argue with him.<sup>55</sup> Plainly, the documentation was completed by Mr Bisucci, at times replacing his own address and phone number for Mr Carmuciano's.
64. At one stage, this appears to have resulted in a change of Mr Carmuciano's licence holder address to Mr Bisucci's.<sup>56</sup> The documentation was also witnessed by Mr Bisucci as a barrister and solicitor, when he was not entitled to practice as either.<sup>57</sup> Further, the address for storage on the Permits to Acquire, was sometimes listed as Mr Bisucci's farm in Erica (sometimes referred to as Rawson or Parker's Corner.)<sup>58</sup>
65. Mr Carmuciano gave varying accounts as to why Mr Bisucci's firearms were transferred to him. In his statement and his original *viva voce* evidence it was because Mr Bisucci had a family violence matter.<sup>59</sup> In his later *viva voce* evidence he said that it had nothing to do with the family violence matter and he thought he was a happily married man and it was because Mr Bisucci did not want the firearms destroyed.<sup>60</sup> Mr Carmuciano, whilst agreeing that the firearms were registered in his name, disputed that he owned them, because he never paid anything for them, and asked '*so how could he own them?*'<sup>61</sup>

#### *Concerns with the documentation used by Mr Di Maria*

66. The evidence of Mr Phillip Di Maria, was that he initially stored one firearm for Mr Bisucci, (who he described as an acquaintance), until he got his licence back after his marriage break up.<sup>62</sup> He was aware of the marriage break up from other people in the area, but did not ask Mr Bisucci

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<sup>52</sup> T:35-T:37.

<sup>53</sup> T:41:28-30.

<sup>54</sup> T:42:1-4.

<sup>55</sup> T:42:8-10.

<sup>56</sup> Exhibit 5, LARS diary notes for Mr Sebastian Carmuciano; Exhibit 6, Firearms Licence of Mr Sebastian Carmuciano.

<sup>57</sup> Exhibit 6, Firearms Licence of Mr Sebastian Carmuciano; Exhibit 10, Permit to Acquire Firearms.

<sup>58</sup> Exhibit 10, Permit to Acquire Firearms.

<sup>59</sup> Exhibit 1, Statement of Mr Sebastian Carmuciano made on 2 January 2018; T:25:16-29.

<sup>60</sup> T:84:6-30 and T:85:2-4.

<sup>61</sup> T:26:1-7.

<sup>62</sup> T:208:18-25.



about it because '*it wasn't his business*'.<sup>63</sup> Mr Di Maria stated that about three months later, Mr Bisucci turned up with another five or six firearms and that Mr Di Maria believed they had been transferred to his name through Tony's Sportz Store in Moe.<sup>64</sup> Mr Di Maria thought this happened no later than 2006.<sup>65</sup> Mr Di Maria thought that the three month gap in time was due to the paperwork and that the paperwork would have included the one firearm he already had.

67. In May 2008, nine firearms that had previously belonged to Mr Bisucci were transferred to Mr Di Maria via Frank O'Reilly's firearms dealer in Melbourne. Mr Di Maria recalled attending the dealer in Melbourne for a couple of hours to collect the firearms.<sup>66</sup> At inquest, Mr Di Maria did not recognise the handwriting or signature that was purportedly his on any of the Permits to Acquire firearms for the nine firearms which were transferred to him and which had previously belonged to Mr Bisucci.<sup>67</sup>
68. Mr Di Maria also gave evidence that in the paperwork, it said that he would be purchasing the firearms but that in Mr Di Maria's view this was never the real case. He said that it was never discussed that he would buy the firearms and that he had only done it as a favour to Mr Bisucci. Mr Di Maria said that he stored the firearms for about 18 months and in that time, Mr Bisucci never asked to see them or use them.<sup>68</sup> Mr Di Maria thought that the arrangement for the first firearm and subsequent five firearms was legitimate in that he believed if Mr Bisucci had already lost his licence he would not have been able to bring him the original firearms<sup>69</sup> and that he had all of the paperwork for them. He said that if the paperwork had not arrived, he would have taken the firearms to the Rawson Police Station.<sup>70</sup>
69. The LARS records show that Mr Di Maria had called the Registry about the firearms in July 2008.<sup>71</sup> Mr Di Maria thought that it was okay for Mr Bisucci to get his firearms back after his suspension as that is what had happened to him under the '*old Act*'. Upon further clarification, Mr Di Maria said he was not sure of the arrangement under the '*new Act*.'<sup>72</sup>
70. Mr Di Maria provided the Court with documentation he had which he thought related to the transfer of firearms, some of which also appear in LARS records. All of these documents,

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<sup>63</sup> T:209-T:210.

<sup>64</sup> T:213-T:214.

<sup>65</sup> T:207:24-26.

<sup>66</sup> T:214-T:215.

<sup>67</sup> T:218 and T:238-T239 and T:243.

<sup>68</sup> Exhibit 32, Statement of Mr Phillip DiMaria and attached exhibits.

<sup>69</sup> T:212-T:213.

<sup>70</sup> T: 209:18-29.

<sup>71</sup> Exhibit 33, LARS diary notes for Mr Phillip DiMaria.

<sup>72</sup> T:211-T:212.

however, relate to an attempt to store Mr Carmuciano's firearms on Mr Di Maria's property. None of this documentation pertained to records of transfer or Permits to Acquire.<sup>73</sup>

71. In 2010, Mr Di Maria became aware through the woman he was seeing and her friendship with Karen Cattapan that Mr Bisucci had accessed the firearms and was provided with two photographs by Ms Cattapan of Mr Bisucci inside the gun safe.<sup>74</sup> At inquest, Mr Di Maria was able to identify from the photo that it was the gun safe he built and that it was inside a shipping container owned by Mr Bisucci. Mr Di Maria said that when he saw the photographs, he could not believe what he was seeing and was speechless. He said he was never happy with the arrangement, which is why he contacted the Registry and when they were okay with it, he thought it was okay.<sup>75</sup> He arranged to meet Mr Bisucci at the safe (because Mr Bisucci needed to unlock the storage container first<sup>76</sup>) and checked on the firearms and discovered that '*one gun being a 'Uberti' was not there.*'<sup>77</sup> Mr Di Maria did not give any thought to contacting the local police or the Registry about Mr Bisucci having access to these firearms.<sup>78</sup> Mr Di Maria said that he used '*the missing firearm as an excuse to wind up the whole operation without upsetting [Mr Bisucci.]*'<sup>79</sup>
72. Mr Di Maria did not then dispose of the firearms himself, but said he was given paperwork that the firearms were not in his name anymore and had no idea how the guns then got out of the safe he built and were taken off for someone else to buy.<sup>80</sup> The LARS records show that around this time, eight firearms were transferred from Mr Di Maria's name to a licenced firearms dealer in Melbourne and from there; four firearms were transferred to Francesco Mildoni, three firearms were transferred to Mario Carnesi and one firearm was sent to a Registry in Tasmania. The misnamed Uberti, remained in Mr Di Maria's name.<sup>81</sup>
73. There is no evidence to suggest that after Mr Carnesi and Mr Mildoni took possession of the firearms that had previously belonged to Mr Bisucci, that Mr Carnesi or Mr Mildoni ever allowed Mr Bisucci to have access to those firearms. Mr Carnesi was a credible witness and gave adamant evidence that Mr Bisucci did not have and would never have been given access to the firearms after they were in Mr Carnesi's name.<sup>82</sup> Mr Mildoni was not asked to provide a statement or

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<sup>73</sup> Exhibit 32, Statement of Mr Phillip DiMaria and attached exhibits.

<sup>74</sup> Exhibit 32, Statement of Mr Phillip DiMaria and attached exhibits.

<sup>75</sup> Exhibit 32, Statement of Mr Phillip DiMaria and attached exhibits.

<sup>76</sup> T:254:21-26.

<sup>77</sup> Exhibit 32, Statement of Mr Phillip DiMaria and attached exhibits.

<sup>78</sup> T:254:31-T:255:13.

<sup>79</sup> T:252:22-24.

<sup>80</sup> T:251-T:252.

<sup>81</sup> Noting this firearm was actually a Winchester and it was seized by DSC Bailey in 2014, who thought it was an unregistered firearm.

<sup>82</sup> T:179:6-22.

called to give evidence. Further, there is no evidence that Mr Carnesi's and Mr Mildoni's paperwork was completed by Mr Bisucci. Indeed, Mr Carnesi gave evidence that it was his own handwriting,<sup>83</sup> and it can be seen on the face of the paperwork to be different handwriting to that on the forms of Mr Carmuciano and Mr Di Maria, which were almost certainly completed by Mr Bisucci. On the evidence, there is no basis to make any adverse comment against either Mr Carnesi or Mr Mildoni.

74. Importantly, it appears from the photographs taken by Ms Cattapan, there were at least 14 firearms in the gun safe. Accordingly, it can be surmised that more than the nine firearms which were in fact owned by Mr Di Maria (albeit, he thought there were around 15 firearms he had taken ownership of) were in the gun-safe in the shipping container at the address variously given as Thompson Valley Road, Parker's Corner, or Lot 10 Thompson Valley Road, Rawson, or Erica or 3250 Moe Rawson Road, Rawson.<sup>84</sup>
75. Mr Di Maria said he never stored any of his own firearms at the shipping container but rather what he called 'Bisucci's firearms' and said, '*why would I? I've got my own perfect safe at my place.*'<sup>85</sup> It appears that at around the time of Mr Di Maria inspecting the safe with Mr Bisucci (after seeing the photographs and prior to the transfer of ownership of firearms from Mr Di Maria in October 2010,) that Mr Bisucci was storing fifteen firearms that he had previously owned in the shipping container at the Rawson/Erica farm and were therefore in the custody and control of Mr Bisucci around this time.

#### *Concerns with the Victoria Police LARS records*

76. The Court was provided with several LARS records relating to the firearms that Mr Bisucci used to own and his activities and that of firearms license holders Mr Carmuciano and Mr Di Maria. These records evidence activities that are of particular concern including storage inconsistencies and evidence of information provided to LARS that should have resulted in further enquiries or investigations.
77. An application was made (by Mr Bisucci acting as self-appointed and unauthorised agent of Mr Carmuciano) in 2006 to store the firearms at Mr Bisucci's Erica property. This application was rejected following a storage inspection by a delegate of the local regional firearms office (**RFO**) who recognised that the property was owned by and accessible to a prohibited person.<sup>86</sup> This fact

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<sup>83</sup> T:166:1-31.

<sup>84</sup> Exhibit 90, Second Statement of Coroner's Investigator, DSC Sinclair dated 22 January 2021, at page 1584.

<sup>85</sup> T:236:1-7.

<sup>86</sup> Exhibit 83, 2006 Firearms Inspection File.

was raised by the RFO, Senior Constable Miles (as he then was), in a memo to the Licensing Services Branch (**LSB**) – Firearms Storage Team in November 2006. In that memo he advised that the whole arrangement was very suspect and perhaps an investigation was warranted into the two persons and who had access to the firearms.<sup>87</sup> No investigation was conducted by the LSB (now the Licencing and Regulation Division (**LRD**)) into this matter.<sup>88</sup> Acting Inspector Armstrong, as the head of LARS, gave evidence on behalf of Police during the Inquest and noted that there was some initial reference to the entries in the LARS diary notes in February 2007, however this did not result in an investigation. He acknowledged that this matter was not followed up and should have been followed up.<sup>89</sup>

78. In July 2008, the LARS diary entries show that Mr Di Maria called to ask about, ‘*storage of firearms as he stores the f/a [firearm] with an applicant who lost his licence. He wanted to know if it was ok to store the f/a [firearm] at the address.*’ It appears this query was raised with a Senior Constable at LRD who confirmed that it was okay.<sup>90</sup> Mr Di Maria was unable to recall this phone call, and could only recall a phone call after the firearms were already at Mr Bisucci’s address at ‘*Parker’s Corner.*’<sup>91</sup> On its face, the diary entry does not make sense, because in July 2008, Mr Di Maria was seeking to store the firearms *for* an applicant who lost his licence, rather than *with* an applicant who lost his licence.<sup>92</sup> In any case, it is not conceivable that either arrangement could be approved without finding out what ‘*lost his licence*’ meant and checking the name of that person. In those circumstances, it would be untenable that the LRD could approve either scenario.
79. In 2010, Mr Di Maria said he became aware through Mr Bisucci’s girlfriend, Karen Cattapan, and others that Mr Bisucci had been telling people he had ‘*all these guns*’ at his property.<sup>93</sup> At that time, Mr Di Maria says he called the Registry about moving the firearms to be inside a gun safe within a shipping container on the property and that only Mr Di Maria would have keys to the gun safe and that it would be secured as per the requirements of being bolted to the inside of the shipping container.<sup>94</sup> The LARS diary notes do not record the inquiry,<sup>95</sup> but do record the automatically generated storage inspection on 27 December 2009. According to Acting Inspector Armstrong, an inspection was automatically generated by LARS when a notification of change

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<sup>87</sup> Exhibit 12, Memo of SC Miles to LSB, dated 15 November 2006.

<sup>88</sup> Exhibit 5, LARS diary notes for Mr Sebastian Carmuciano; T:740-T:742 (Acting Inspector Armstrong.)

<sup>89</sup> T:740-T:742 (Acting Inspector Armstrong.)

<sup>90</sup> Exhibit 33, LARS diary notes for Mr Phillip DiMaria.

<sup>91</sup> T:230-T:233.

<sup>92</sup> By virtue of the date of the diary entry being between the date of application for the firearms (see for example Exhibit 37), the date of ownership being transferred (see Exhibit 30) and the date the firearms were collected from Frank O’Reilly’s (see for example Exhibit 40.)

<sup>93</sup> *Ibid.*

<sup>94</sup> *Ibid.*

<sup>95</sup> Exhibit 33, LARS diary notes for Mr Phillip DiMaria.

of storage address was made, or for acquisition of a first firearm, or acquisition of a fifteenth firearm.<sup>96</sup>

80. A storage inspection of Mr Di Maria's firearms was not conducted until May 2010,<sup>97</sup> where it was noted there were four firearms at Finns Road, Rawson and four firearms at Thompson Valley Road, Parker's Corner. The RFO, Mr Miles wrote to the LRD (then the LSB) in June 2010 and advised that the guns highlighted (on the document) were sighted and the others were held by a Moe licenced firearms dealer.
81. On 5 July 2010, the LARS record shows that the storage inspection was complete.<sup>98</sup> Neither RFO Mr Miles, nor Acting Inspector Armstrong said there was any time period within which a storage inspection must be done.<sup>99</sup> Mr Di Maria's evidence was that he thought that the local police member had completed a storage inspection at his property soon after he built the gun safe but before the firearms were stored at Thompson Valley Road, Parker's Corner.<sup>100</sup> However, no record of this appears in the LARS diary notes and no record of inspection appears in Mr Di Maria's LRD records.<sup>101</sup>

*The adequacy of Sergeant Bailey's 2014 investigation and concerns identified with Victoria Police policies and procedures when conducting such investigations*

82. Following a notification about Mr Bisucci having firearms at his property in Strathmore, the Moonee Ponds CIU obtained and executed a search warrant and seized six firearms on 13 November 2014, in the knowledge that Mr Bisucci was a prohibited person. On 14 November 2014, Detective Sergeant Bailey (**DSC Bailey**) attended at the property of Mr Carmuciano and later interviewed Mr Bisucci at the police station.
83. The available evidence suggests that prior to going to Mr Carmuciano's house, DSC Bailey knew 'very little' about Mr Carmuciano, he was aware that he was the owner of four of the firearms he had seized the day before and that he would have looked at whatever criminal history he had, and did not think he did have a criminal history.<sup>102</sup> According to DSC Bailey, the purpose of attending Mr Carmuciano's, 'was simply to establish why registered firearms belonging to him were located at an unrelated property.'<sup>103</sup> The total time taken at Mr Carmuciano's house by

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<sup>96</sup> T:884:9-19.

<sup>97</sup> Exhibit 34, Record of Firearms Storage Inspection by LSC Naughton for Finns Road Rawson and Thompson Valley Road, Parker's Corner.

<sup>98</sup> Exhibit 33, LARS diary notes for Mr Phillip DiMaria.

<sup>99</sup> T:770-T771 and T:673-674 and T:681:16-28.

<sup>100</sup> T:232-T:234.

<sup>101</sup> Exhibit 90, Coronial Brief, at pages 756-781(inclusive of other Exhibits.)

<sup>102</sup> T:359:21-T:360:2.

<sup>103</sup> T:360:10-12.

DSC Bailey and a senior officer of Moonee Ponds CIU was 22 minutes, which included inspecting the gun safe and seizing and documenting the seizure of two firearms and interviewing and taking a statement from Mr Carmuciano.<sup>104</sup>

84. It appears that DSC Bailey did not; ask Mr Carmuciano if he could look around for the missing firearms; form an opinion he was hiding them; look up to see if he had stored firearms at any other location; subsequently apply for a search warrant for Mr Carmuciano's home; make any further contact with Mr Carmuciano after interviewing Mr Bisucci. The only contact made by DSC Bailey with Mr Carmuciano was a month later to serve the notice of suspension.<sup>105</sup> This raises serious concerns about the adequacy of DSC Bailey's investigation at the time concerning outstanding registered firearms that were missing and the connection between Mr Bisucci and Mr Carmuciano.
85. DSC Bailey said prior to interviewing Mr Bisucci, that he '*couldn't find any connection*' between Mr Bisucci and Mr Carmuciano but that he did not do any further LEAP searches (or make any LARS enquiries) of Mr Bisucci or Mr Carmuciano after the interview with Mr Carmuciano.<sup>106</sup> Although Mr Carmuciano had made a statement to the contrary that said, '*Charles borrowed the guns to shoot on land he has.*'<sup>107</sup>
86. DSC Bailey did not look on LEAP in relation to this land and said it was '*pending what Mr Bisucci had to tell me in his interview.*'<sup>108</sup> However, DSC Bailey said the purpose of the interview was to '*establish his involvement around these firearms and - and why he had these firearms at his address, encompassing the entire job.*'<sup>109</sup> When prompted about whether it was also relevant that there were two missing firearms that also belonged to Mr Carmuciano, DSC Bailey responded, '*Well, there's two firearms unaccounted for. So I was, yeah, I was going to put that to him in the interview as well.*'<sup>110</sup> However, following the interview with Mr Bisucci, DSC Bailey did not investigate the whereabouts of the missing firearms further by making enquiries about the land, or the address of the land or any information given by Mr Bisucci in the interview about the land. His justification for this was that he knew the address because it came up in '*Bisucci's LEAP. This Erica or wherever the land was.*'<sup>111</sup>

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<sup>104</sup> T:360-T:361; Exhibit 58, Police diary notes of DSC Bailey.

<sup>105</sup> T:368:28-T:372:22.

<sup>106</sup> T:373:18-T:374:2.

<sup>107</sup> Exhibit 21, Statement of Mr Carmuciano dated 14 November 2014, see handwritten copy, at page 94.

<sup>108</sup> T:375:8-10.

<sup>109</sup> T:375:19-22.

<sup>110</sup> T:375:27-29.

<sup>111</sup> T:387:28-31.

87. The evidence before the inquest shows that in relation to the land or farm address, LARS held records that it had been originally used as a storage address by Mr Bisucci when he owned the firearms until 2004. LARS were also aware that the land had been attempted to be used as a storage address by Mr Carmuciano in 2006 and had resulted in the local RFO asking for an investigation into the two men. In addition, LARS also held knowledge that in 2009-2010, the land had been used by Mr Di Maria for storage of firearms that used to belong to Mr Bisucci, and that it was the last known listed storage place of one of the firearms which was mistakenly considered as unregistered.<sup>112</sup>
88. Importantly, the evidence shows that prior to interviewing Mr Bisucci, the only information that Moonee Ponds CIU had obtained from LRD was that Mr Bisucci was a prohibited person.<sup>113</sup> No information was obtained by Moonee Ponds CIU from LRD in relation to Mr Carmuciano and LRD were not made aware that there were two missing firearms until a month later.<sup>114</sup>
89. Acting Inspector Armstrong agreed there was no requirement for investigators to let LRD know immediately when they identify that firearms are missing and that it was a gap in the system. Acting Inspector Armstrong also considered that it would be helpful for LRD to be advised of missing firearms, that they should be advised immediately and that a recommendation about this would assist everybody.<sup>115</sup>
90. DSC Bailey interviewed Mr Bisucci for the primary purpose of establishing that he was a prohibited person in possession of firearms. DSC Bailey testified that he also intending to ask Mr Bisucci about the missing firearms.<sup>116</sup> However, this was done without seeking additional information from LRD or undertaking any other forms of investigation.<sup>117</sup> Acting Inspector Armstrong agreed that obtaining the names, addresses and history of firearms was not just best practice but essential to an investigation under the Act.<sup>118</sup>
91. Following the interview with Mr Bisucci, DSC Bailey did not obtain any further information from LRD and after submitting the information he had on the investigation and the missing firearms on 15 December 2014, he was not contacted by LRD for any further follow up or

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<sup>112</sup> Exhibit 30, Storage and Ownership History of Firearms; Exhibit 83, 2006 Inspection File.

<sup>113</sup> Exhibit 53, LARS diary for Mr Charles Bisucci.

<sup>114</sup> T:803:18-22.

<sup>115</sup> T:804-T:805.

<sup>116</sup> See footnotes 109 and 110 above.

<sup>117</sup> T:348:13-18 and T:357:7-16 and T:390-T:396.

<sup>118</sup> T:811:26-T:812:3.

investigation.<sup>119</sup> At this point, DSC Bailey considered he was briefing up and handing over to LRD to take carriage in relation to the two missing firearms.<sup>120</sup>

92. Despite not knowing anything about the history of the seized or missing firearms and ‘*very little*’ about Mr Carmuciano, DSC Bailey conducted his interview of Mr Bisucci. DSC Bailey did know that Mr Bisucci had a long history of dishonesty offences.<sup>121</sup> When asked if this put him on notice that he should not trust Mr Bisucci or take his answers at face value, he responded by saying (presumably in reference to the answers in the interview) that ‘*there was nothing available to me to show that he was blatantly lying to me.*’<sup>122</sup>
93. However, during interview Mr Bisucci answered questions about coming into possession of the firearms in a manner that was inconsistent with Mr Carmuciano as to the timing, the purpose and the circumstances of borrowing the firearms.<sup>123</sup> And despite those inconsistencies, DSC Bailey did not put the contrary version of events to Mr Bisucci, did not make any enquiries about Mr Bisucci’s versions of events and did not follow up with any further interview or enquiries of Mr Carmuciano.<sup>124</sup>
94. Despite Mr Bisucci repeatedly asking DSC Bailey to please not speak to Mr Carmuciano again and to please leave him alone, in response to questions about other unrelated matters, it did not strike DSC Bailey as odd or cause him concern, despite the inconsistencies in the two men’s stories about the missing firearms. DSC Bailey did not form the opinion that this required any further interview or enquiries of Mr Carmuciano. Instead, DSC Bailey, perhaps rather charitably, thought Mr Bisucci was trying to protect his friend from getting into trouble.<sup>125</sup>
95. In the interview, Mr Bisucci gave a highly implausible story of a man who had brought the firearms to Melbourne from the farm, possibly two weeks or two months prior (as opposed to two years according to Mr Carmuciano.) He said this man, John Caruso (made up individual), may know about the unregistered firearms but that he had permanently moved to Italy on the very day he had moved the firearms.<sup>126</sup> However, despite this, DSC Bailey did not ask any further questions to identify this person, and the only follow up inquiry made was a LEAP search which, unsurprisingly and without any further details, yielded no results.<sup>127</sup> DSC Bailey did not ask Mr

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<sup>119</sup> T:390-T:396 and T:399-T:401.

<sup>120</sup> T:401:25-28.

<sup>121</sup> T:383:15-20.

<sup>122</sup> T:383:27-30.

<sup>123</sup> See Exhibit 21, Statement of Mr Carmuciano dated 14 November 2014, see handwritten copy, at page 94; Exhibit 61, Interview Video of Mr Bisucci; T:377-378 and T:389-T:390.

<sup>124</sup> T:387-T:388; Exhibit 61, Interview Video of Mr Bisucci; T:377-378 and T:389-T:390.

<sup>125</sup> T:393-T:394.

<sup>126</sup> Exhibit 61, Interview Video of Mr Bisucci; T:377-378 and T:389-T:390.

<sup>127</sup> T:390 and T:392-T:393.



Carmuciano about this person or follow up with Mr Bisucci when the LEAP search was not fruitful.

96. Mr Bisucci suggested in interview that the land was a farm he used to own, and that it was now owned by a relative and that ‘he’ did not want any firearms on the property. Mr Bisucci also said he would search the farm for the firearms and make enquiries about the firearms at the farm.<sup>128</sup> Following the interview, DSC Bailey did not make any enquiries about the owners of the farm or about whether Mr Bisucci made his own searches or enquiries.<sup>129</sup> Acting Inspector Armstrong was concerned about the prospect of a prohibited person searching for firearms and said that following the disclosure about the relative owing the farm, there should have been follow-up questions asked and a follow-up phone call made at the very least.<sup>130</sup>
97. In his statement to the Court, Acting Inspector Armstrong was supportive of DSC Bailey and the adequacy of the investigation conducted by the Moonee Ponds CIU into the missing firearms.<sup>131</sup> However, with the benefit of viewing the record of interview,<sup>132</sup> and being informed that the only information obtained by Moonee Ponds CIU from LRD was the inquiry on 13 November 2014 about whether Mr Bisucci was a prohibited person, he offered a contrary opinion to the one expressed in his statement and resiled completely from the conclusion he had drawn.<sup>133</sup> Acting Inspector Armstrong opined that there were missed opportunities in the interview with Mr Bisucci, that there were more enquiries that should have been made including following up with Mr Carmuciano.<sup>134</sup>
98. Acting Inspector Armstrong also opined that Mr Bisucci’s story should have been treated with some cynicism and checked after the interview as a bare minimum investigative step and proffered that the interview should not have ended when it did and that ending it when Mr Bisucci started to speak freely was the biggest mistake.<sup>135</sup> Acting Inspector Armstrong said that the problem with the interview was that once the interview established Mr Bisucci was a prohibited person in possession of firearms, the interviewer did not then focus on the missing firearms.<sup>136</sup> Acting Inspector Armstrong agreed that it was not just the interview that was inadequate, but that follow up enquiries could have been made and should have been done.<sup>137</sup>

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<sup>128</sup> Exhibit 61, Interview Video of Mr Bisucci.

<sup>129</sup> T:388-T:391.

<sup>130</sup> T:834:4-14.

<sup>131</sup> Exhibit 87, Statement of Senior Sergeant Armstrong dated 21 June 2019.

<sup>132</sup> Exhibit 61, Interview Video of Mr Bisucci.

<sup>133</sup> T:838:12-18.

<sup>134</sup> T:835-T:836.

<sup>135</sup> T:836-T:837.

<sup>136</sup> T:837:27-T:838:1.

<sup>137</sup> T:838:7-11.

99. I agree with the observations of Acting Inspector Armstrong and on the basis of the available evidence before me, I conclude that the investigation conducted by the Moonee Ponds CIU into the missing firearms was inadequate. DSC Bailey did not have the necessary or available evidence from LRD about the history of the missing or the seized firearms beyond who was the current owner and the registered storage location (but not for the firearms thought to be unregistered). DSC Bailey did not follow up with any enquiries following interviews of Mr Carmuciano or Mr Bisucci of any intelligence holdings of Victoria Police, save for a search of the name 'John Caruso', given as an improbable decoy. DSC Bailey accepted the improbable answers of a person who had a long history of dishonesty offences and who had just admitted to being a prohibited person in possession of firearms.
100. The family of the deceased submitted that *'it is open to the Coroner to find that on the balance of probabilities subsequent search of any of these locations by Bailey, or by a member of LRD, is likely to have detected the murder weapon and, hence, removed it from Mr Bisucci's possession. In doing so the tragic outcome of Ms Burdens death could have been prevented.'*<sup>138</sup>
101. There is no question that there were many short comings in the investigation that was conducted and these have been acknowledged in the evidence of Acting Inspector Armstrong. I do not however consider that the conclusion proposed by the family of Ms Burdon is one that is open to me on the evidence. Whilst there is a possibility that the murder weapon may have been located had searches of the locations occurred, I cannot conclude on the balance of probabilities that it was likely.

*Assistance that could have been provided by LARS members to support the 2014 investigation*

102. Prior to 2014, LRD held records (in LARS) that indicated that:
- Mr Bisucci was a prohibited person from 2004 and had previously held 16 firearms;
  - in 2006, RFO SC Miles requested an investigation into Mr Bisucci and Mr Carmuciano's arrangements regarding firearms;<sup>139</sup>
  - in 2007, Mr Bisucci was confirmed to be a prohibited person;
  - in 2007, Mr Carmuciano is erroneously noted as storing his firearms on Mr Bisucci's property;<sup>140</sup>

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<sup>138</sup> Submission by Family of the deceased 22/3/2021 para 75

<sup>139</sup> See paragraph 76, above.

<sup>140</sup> Exhibit 5, LARS diary notes for Mr Sebastian Carmuciano.

- in 2008, Mr Di Maria was seeking guidance and was told it was okay to store firearms with or for a person who had lost their licence;<sup>141</sup> and
- in 2009-2010, Mr Di Maria sought and was granted permission store firearms on Mr Bisucci's property.<sup>142</sup>

103. The above information was recorded in LARS prior to DSC Bailey sending his report and documentation to LRD on 15 December 2014 to complete his investigation. That report which is documented on a *Notice to Suspend and Proposal to Cancel* form, noted that a prohibited person (Mr Bisucci) was found with six firearms, two of which were unregistered and four of which belonged to a licence holder (Mr Carmuciano). This report also detailed that two further firearms belonging to Mr Carmuciano, which he stated he had lent to Mr Bisucci, were '*unable to be located*.'<sup>143</sup> Significantly, the two missing firearms were those that were later found at the fatal scene, one of which was used to kill Ms Burdon.<sup>144</sup>
104. The *Notice to Suspend and Proposal to Cancel* form DSC Bailey sent to LRD required Mr Carmuciano to provide a statutory declaration as to the '*proof of disposal*' of any unaccounted for firearms.<sup>145</sup> Mr Carmuciano provided a statement dated 14 November 2014 about the missing firearms made to DSC Bailey but this does not appear on the LRD file.<sup>146</sup> That statement did not state the firearms had been disposed of, but rather that they had been lent to Mr Bisucci (a prohibited person) and were unable to be located.<sup>147</sup>
105. Despite the fact that there was no appropriate statement provided to LRD along with the '*proof of disposal*', LRD staff appear to have accepted the material and not requested further clarification.<sup>148</sup> In his evidence, Acting Inspector Armstrong said that he could see no indication that anyone at LRD had checked whether DSC Bailey had complied with the requirements of the *Notice to Suspend and Proposal to Cancel* form and that DSC Bailey clearly had not complied with the requirements. Acting Inspector Armstrong said that he did not know why there had been no follow up, or check and balance by LRD, and that while a statutory declaration was not

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<sup>141</sup> Exhibit 33, LARS diary notes for Mr Phillip DiMaria.

<sup>142</sup> Ibid.

<sup>143</sup> Exhibit 22, Notice of Suspension (should include pages 293 and 294, albeit the exhibit list omits page 294); Exhibit 62, Letter to LRD from DSC Bailey, dated 15 December 2014.

<sup>144</sup> See paragraph 21, above.

<sup>145</sup> Exhibit 22, Notice of Suspension (should include pages 293 and 294, albeit the exhibit list omits page 294.); Exhibit 90, Coronial Brief at pages 286-363, which has been produced by the Coroner's Investigator as the '*Licensing and Registration System (LARS) records for Sebastian Michael CARMUCIANO – Entity 534585: Records on file regarding Sebastian CARMUCIANO'S firearms licensing and registrations.*'

<sup>146</sup> Exhibit 21, Statement of Mr Sebastian Carmuciano, dated 14 November 2014

<sup>147</sup> Ibid.

<sup>148</sup> T:401:10-20.

adequate, it was the bare minimum required and even that had not been done.<sup>149</sup> Acting Inspector Armstrong agreed that from LRD's point of view, where the bare minimum requirements were not being met by DSC Bailey, LRD should have contacted DSC Bailey requesting further information.<sup>150</sup>

106. Consequently, the two missing firearms found at the scene of the fatal incident remained registered in Mr Carmuciano's name and were never transferred to the '*reconfirmation list*', a list of firearms maintained by LRD whose whereabouts are not known.<sup>151</sup> Acting Inspector Armstrong confirmed that the purpose of the '*reconfirmation list*' or '*recon bin*', is to keep a record and history of a firearm which cannot be located and its whereabouts are unknown. Such firearms are recorded as whereabouts unknown due to being reported lost, stolen, missing or destroyed without record.<sup>152</sup> If a firearm is consequently found or intelligence suggests that its whereabouts can be accounted for, it will be removed/updated in the '*reconfirmation list*' or '*recon bin*'. Victoria Police have informed the Court that there are currently 101,821 firearms that are recorded in the '*reconfirmation list*'.<sup>153</sup>
107. When DSC Bailey concluded his investigation he did not record the serial numbers of the '*unregistered*' firearms on the documentation for LRD and their serial numbers, which appear in the photographs of the prosecution brief, show that the two '*unregistered firearms*,' were in fact the missing air-rifle registered to Mr Bisucci in 2004 which he reported as lost in 2004 and the missing 'Uberti' which was still in Mr Di Maria's name despite him having reported that he did not have it. Acting Inspector Armstrong said that the serial numbers in the prosecution brief would have been checked by LRD including for unregistered firearms and the registration certificates issued for the prosecution of Mr Bisucci.<sup>154</sup>
108. The fact that no such certificates appear in the prosecution brief, and more compellingly, the fact of the Uberti still appearing as being owned and stored by Mr Di Maria<sup>155</sup> establishes that LRD did not ever become aware of the serial numbers of the so-called '*unregistered*' firearms and that Police were therefore never aware that they had been previously owned by Mr Bisucci. This highlights a further avenue of investigation that was never pursued by DSC Bailey or LRD when the circumstances suggested further evidence of suspect arrangements.

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<sup>149</sup> T:805-T:806.

<sup>150</sup> T:806:21-24.

<sup>151</sup> T:873-875.

<sup>152</sup> Ibid.

<sup>153</sup> VGSO letter to the Court dated 21 May 2021, 1-2

<sup>154</sup> T:798-T:799.

<sup>155</sup> Exhibit 30, Storage and Ownership History of Firearms, 2004-2017.

109. Police members using the LEAP system, are able to search a firearm on LEAP if it is registered to a person, but will not be able search the LEAP data base for a firearm when it is not registered to a person.<sup>156</sup> To obtain information about the history of a firearm which is unregistered, or which has been moved to the '*reconfirmation list*', the police member would need to contact LRD. According to Acting Inspector Armstrong, at the time of DSC Bailey's investigation, most members were aware that if they could not find a serial number on LEAP, they were to contact LRD. Acting Inspector Armstrong confirmed that country police members were more likely to be aware of these requirements but metropolitan police members, '*not so much*,' and that they '*don't deal with it very often*.'<sup>157</sup>
110. While it is not clear why the serial number for the Uberti/Winchester SN 37542<sup>158</sup> was not revealed to DSC Bailey as being owned by Mr Di Maria in his search of LEAP, it is the case that as at November 2014, LARS records disclosed that it was owned by Mr Di Maria of Finns Road, Rawson, VIC 3825, and last stored at Thompson Valley Road Parkers Corner, VIC 3825. Had such information been accessed by anyone at the time of the 2014 investigation, it would have provided the investigator with another probative link to the Rawson area, and to Mr Di Maria's friend/acquaintance who had agreed to have Mr Bisucci's firearms transferred into his name and who had knowledge of Mr Bisucci's history of firearms ownership. Although it cannot be determined what further action police may have taken if they had had this information, it was information that was not identified in the investigation but existed at the time in the LARS intelligence holdings and could have possibly assisted with DSC Bailey's 2014 investigation.
111. Acting Inspector Armstrong gave evidence that at the time, notifications about missing firearms were received by an unsworn VPS2 staff member and that there was no guidance or procedure to indicate to staff when to escalate such a notification. It is now the case that all missing firearms notifications are received by a sworn police member to consider.<sup>159</sup> Acting Inspector Armstrong was asked whether there is a failsafe in place now to ensure that when there is a missing firearm that has previously been registered to a prohibited person that LRD must alert the investigating member. Acting Inspector Armstrong responded, no, '*not unless we're asked for it*'.<sup>160</sup>
112. However, the Acting Inspector did agree that this underlined the importance of investigating members understanding the history of a firearm on each and every occasion and the importance of it being a requirement that every piece of information about the names, addresses and history

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<sup>156</sup> T:766:13-18.

<sup>157</sup> T:766:19-T:767:5.

<sup>158</sup> T:356:6-10.

<sup>159</sup> T:807.

<sup>160</sup> T:811.

of the firearms which are part of the investigation, is obtained by investigating members.<sup>161</sup> The Acting Inspector also said that, *‘in the current environment, this would be raised to the sworn area and somebody would be tasked to reach out to Mr Bailey, offer our assistance, find out where - where the investigation’s at around the firearm.’*<sup>162</sup>

113. Acting Inspector Armstrong agreed that when a sworn member at LRD later considered DSC Bailey’s report and documentation for the purpose of cancelling Mr Carmuciano’s licence on or before May 2015, it was an opportunity for a sworn member to raise the question about the missing firearms and the explanation given about those firearms. In this case no question or concern was raised by the sworn member. However, the Acting Inspector said at that time, there was no *‘requirement’* for that to be *‘followed-up.’*
114. This has since changed<sup>163</sup> and it is now the case that all missing firearms notifications are received by a sworn police member to consider.<sup>164</sup>

*Should Victoria Police have prosecuted Mr Carmuciano and others for further possible offences?*

115. When DSC Bailey interviewed Mr Carmuciano on 14 November 2014; he said that he had not formed the view that Mr Carmuciano had committed any firearms offences;<sup>165</sup> that he had not turned his mind to whether he had committed any offences under the Act;<sup>166</sup> that he was not aware of the offence under section 127 of the Act of allowing a person who was not authorised to carry a firearm; and that he was not aware of any offences as a result of lending firearms to a person who was prohibited.<sup>167</sup> DSC Bailey later stated that he was aware Mr Carmuciano was not abiding by his responsibilities as a registered firearms owner by not being able to account for where his firearms were, but that he was not aware what those particular offences were.<sup>168</sup>
116. After Mr Bisucci had been charged with being a prohibited person in possession of a firearm and DSC Bailey returned to serve the notice of suspension of a firearms licence on Mr Carmuciano in December 2014, he again did not turn his mind to whether Mr Carmuciano had committed any

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<sup>161</sup> T:811:22-30.

<sup>162</sup> T:810:15-19.

<sup>163</sup> T:819.

<sup>164</sup> T:807.

<sup>165</sup> T:362:4-9 and T:364:24-28 and T:365:20-24.

<sup>166</sup> T:366:4-11.

<sup>167</sup> T:364:26-T:366:11.

<sup>168</sup> T:369:16-20.

offences under the Act.<sup>169</sup> DSC Bailey agreed that if he had turned his mind to it, he could have interviewed Mr Carmuciano in relation to ‘*those Firearms Act breaches.*’<sup>170</sup>

117. The evidence suggests that at no time was there any consideration of prosecuting Mr Carmuciano for having lent his firearms to Mr Bisucci, a prohibited person.<sup>171</sup> Police disputed that such a prosecution would have been straight-forward with suggestions of defences available to Mr Carmuciano.<sup>172</sup> Acting Inspector Armstrong said that it was not incumbent on the LRD (even as the unit fulfilling the purpose of the Act) to prosecute Mr Carmuciano where the investigator had not done so.<sup>173</sup>
118. Mr Carmuciano had openly stated that he had lent his firearms to Mr Bisucci, a person he knew did not have a licence and that he could not account for two firearms that were registered to him except that he had lent them to that same person. Despite this, Mr Carmuciano faced no charges under the Act and simply had his licence suspended and eventually cancelled. It is not clear what deterrent there was for Mr Carmuciano not to act in a manner that was a serious breach of his licence obligations and which in the present case, was part of a series of events that had tragic consequences.
119. Acting Inspector Armstrong says that while the LRD would not take over the investigation and charge a licence holder in breach of the Act with offences themselves, today they would reach out to the investigator, find out the circumstances and make recommendations.<sup>174</sup>
120. The suggestion that this prosecution was likely to be difficult with the defences open to Mr Carmuciano does not provide an adequate explanation as to why a prosecution was not ever considered. DSC Bailey states that he did not know that an offence may have been committed and therefore never turned his mind to the likelihood of whether there was a reasonable prospect of obtaining a conviction. This is a further shortcoming in this investigation. At a minimum DSC Bailey should have turned his mind to possible offences or taken steps to obtain information about possible offences and then considered whether there was a reasonable prospect of conviction based on the possible charges and the evidence available.

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<sup>169</sup> T:366:15-21.

<sup>170</sup> T:366:25-28.

<sup>171</sup> See above in paragraphs 0 and 116; T:815-T:817.

<sup>172</sup> T:815 – T:818.

<sup>173</sup> Ibid.

<sup>174</sup> T:818:13-T:819:1.

*Review of the mental health treatment provided to Mr Bisucci*

121. The available evidence suggests that Mr Bisucci was engaged intermittently with psychiatrist, Dr Rowan McIntosh from 2002.<sup>175</sup> Mr Bisucci is noted as engaging regularly when his mental health had deteriorated with periods when he *'refuse[d] to return'*<sup>176</sup> when he believed he had *'recovered'*.<sup>177</sup> Dr McIntosh proposed that Mr Bisucci had *'episodic, and at times profound and debilitating depression'*<sup>178</sup> and that he presented with *'some features of mild Asperger's'*<sup>179</sup> and was prone to *'duplicity/dissembling/frank lying'*<sup>180</sup> and had *'displayed various narcissistic plus borderline plus some antisocial traits'*.<sup>181</sup>
122. In the lead up to the fatal incident, Mr Bisucci engaged with Dr McIntosh on several occasions with the most recent appointment being on 8 August 2017.<sup>182</sup> Prior to this appointment, on 22 June 2017, Mr Bisucci was accompanied by Ms Burdon for an appointment with Dr McIntosh.
123. Dr Manjula O'Connor, a consultant psychiatrist and Chair of the Family Violence Psychiatry Network, was engaged by this Court to provide an expert report. Dr O'Connor noted that Mr Bisucci was a very difficult patient to treat by virtue of his depressive illness, his irregular attendance for treatment and his personality (cluster B) disorder.<sup>183</sup> Dr O'Connor opined that Dr McIntosh's treatment of Mr Bisucci was in accordance with the RANZCP Practice guidelines for Treatment Resistant Depressive Illness or Chronic Recurrent Depressive Illness.<sup>184</sup>
124. Following the fatal incident, a complaint was submitted to the Australian Health Practitioner Regulation Agency (AHPRA), raising several concerns in relation to the care provided by Dr McIntosh to Mr Bisucci. The complaint contained concerns that Dr McIntosh had not warned Ms Burdon of the risk that Mr Bisucci posed to her and had not taken action in relation to the illegal firearms possessed by Mr Bisucci.<sup>185</sup>
125. The AHPRA investigation concluded that in circumstances where there was no evidence of a history of violence or threatened violence known about Mr Bisucci in relation to Ms Burdon or generally, and it was unlikely Dr McIntosh was aware of any threats of physical harm posed by the patient, Dr McIntosh's treatment was thorough and of a high standard. Further, that where Dr

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<sup>175</sup> Coronial Brief, Statement of Dr R McIntosh, 162.

<sup>176</sup> Dr Rowan McIntosh, Statement to AHPRA, 1.

<sup>177</sup> Ibid.

<sup>178</sup> Ibid, 2.

<sup>179</sup> Ibid.

<sup>180</sup> Ibid.

<sup>181</sup> Ibid, 5.

<sup>182</sup> Ibid, 8.

<sup>183</sup> Exhibit 74, Report of Dr Manjula O'Connor.

<sup>184</sup> Ibid, at page 6.

<sup>185</sup> Ibid, 1-10.



McIntosh had both identified a financial risk to Ms Burdon and had previously been aware of use of firearms by Mr Bisucci, he had acted appropriately.<sup>186</sup>

126. Dr O'Connor opined that had Dr McIntosh obtained information from the women in Mr Bisucci's life in sessions alone, they may have disclosed his abusive and controlling behaviours and perhaps violent behaviours.<sup>187</sup> However, the evidence before the court does not support such a conclusion. Dr McIntosh's records reveal, as confirmed by his *viva voce* evidence during the inquest, that he had met with Mr Bisucci's ex-wife, Ms Channon, alone and later with his girlfriend, Ms Cattapan. No such disclosures were made during these meetings. Further, information contained in the witness statement of Ms Channon about Mr Bisucci having thrown a rock through her window, and by Ms Cattapan about the multiple episodes of violence against her, do not appear anywhere else in the evidence. There is no evidence before the Court to suggest that that information had been disclosed anywhere prior to the Coronial investigation. The only information held by Dr McIntosh that related to violence by Mr Bisucci was an awareness of the 2004 FVIO taken out against Mr Bisucci to protect Ms Channon.
127. The *viva voce* evidence of Ms Cattapan that Mr Bisucci had physically assaulted those who boarded in his house in Strathmore, and that they were afraid of him was not known or recorded anywhere prior to the Coronial investigation.
128. Had Dr McIntosh known of Mr Bisucci's violent and controlling conduct towards Ms Cattapan, or his ongoing access to firearms (known by Marilyn and her friends)<sup>188</sup> it would have then been incumbent upon him to factor those matters into a risk assessment in respect of Mr Bisucci. Especially in circumstances where Dr McIntosh had identified that Mr Bisucci presented over the 15 years with a mildly elevated potential risk to the people in his life. But Dr McIntosh saw no evidence, or corroborative perspective to suggest there was a significant likelihood of this occurring.<sup>189</sup>
129. In relation to Ms Burdon, Dr McIntosh considered the risk to be that Mr Bisucci could become threatening or coercive.<sup>190</sup> However, in the absence of the information now known about Mr Bisucci's history of violence and access to firearms, it could not be expected that a private psychiatrist, without specific or specialised training, would be able to identify that there was a risk of family violence.<sup>191</sup>

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<sup>186</sup> Exhibit 90, *Coronial Brief*, APHRA letter dated 12 January 2018, at page 1215-1216.

<sup>187</sup> Exhibit 74, Report of Dr Majula O'Connor.

<sup>188</sup> See Exhibit 90, *Coronial Brief*, Statement of Mr Christiana McIntosh, at page 81.

<sup>189</sup> T:533:18-30.

<sup>190</sup> T:534:1-13.

<sup>191</sup> T:640-T:644.

## COMMENTS PURSUANT TO SECTION 67(3) OF THE ACT

### Victoria Police – Firearms investigations and the firearms regulation system

130. It is apparent from the available evidence that Mr Bisucci manipulated both the system and his friends/acquaintances to ensure he maintained custody and control of his firearms despite being an unlicensed and prohibited person under the Act. His friends/acquaintances were unaware of their obligations under the Act and did not want to upset or argue with Mr Bisucci.<sup>192</sup>
131. In relation to applications for Permits to Acquire firearms (which now includes the paper-based system and an online dealer system<sup>193</sup>), there are no checks that need to be done on the history of a firearm before the application can be approved.<sup>194</sup> The only checks done on any association between a person acquiring a firearm and the previous owner is on the LEAP system and a National Police System check.<sup>195</sup> Thus, many persons whose firearms have been seized and have been declared ‘prohibited persons’ are able to get friends or family with valid firearms licenses to acquire the firearms seized by police.
132. Acting Inspector Armstrong conceded that more often than not, the previous owner was the dealer and the LEAP system would only show the previous owner, not the person who transferred it to the dealer.<sup>196</sup> Acting Inspector Armstrong agreed that this was a gap and being able to see the whole history of a firearm may go some way to stopping prohibited persons from circumventing the Permit to Acquire process.<sup>197</sup>
133. No checks are done on the person witnessing an application for a firearms license to see if they have previously owned the firearm named in the application.<sup>198</sup> No checks are done on the person witnessing the applications or the referees to the application to see if they are a prohibited person.<sup>199</sup> Acting Inspector Armstrong noted that in ‘*some circumstances, I agree, yes, it would be important.*’<sup>200</sup> There is no system in place which will pick up on a Permit to Acquire application which has a storage address common to a prohibited person. Acting Inspector Armstrong agreed that there should be some way to cross reference postage, storage and personal addresses against prohibited person information.<sup>201</sup>

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<sup>192</sup> T:252:22-24; and T:42:8-10.

<sup>193</sup> T:774:20-31.

<sup>194</sup> T:774:27-31.

<sup>195</sup> T:774-776.

<sup>196</sup> T:783:28-T:784:23.

<sup>197</sup> T:784:24-30.

<sup>198</sup> T:783:6-8.

<sup>199</sup> T:783:9-16.

<sup>200</sup> T:783:17-23.

<sup>201</sup> T:781:30-T:782:8.

134. If there had been a system in place that could provide the cross-referencing of address information as noted above, either in LARS or LEAP, the information that connected Mr Bisucci and Mr Carmuciano both to the Strathmore address (and phone numbers) and connected Mr Bisucci and both Mr Carmuciano and Mr Di Maria to the farm address, it would have been highly probative and reasonably anticipated that it would have been acted upon in furtherance of the 2014 investigation.
135. Acting Inspector Armstrong said that as of about two years ago, any notifications to LRD about concerns with storage of firearms and involvement of a prohibited person, as were evident in the events of 2006-2007, would be addressed by a sworn member and an investigation would be commenced by LRD and potentially with the local DFO.<sup>202</sup> In the case of missing firearms, the LRD will proactively contact the investigator and assist them.<sup>203</sup> However, this of course would require that the LRD is aware that a firearms investigation is being conducted and still today there is no requirement that a member investigating missing firearms contact LRD.<sup>204</sup>
136. Acting Inspector Armstrong confirmed that if the same circumstances in this case occurred today, LRD would contact DSC Bailey to offer assistance, the internal unit would put together a profile of the people being investigated and any links between them and be able to assess what else they could do to assist.<sup>205</sup> It is not clear whether the internal unit would have been aware of the many consistencies in addresses and phone numbers between the individuals being investigated, or any highlighted concerns in relation to the farm address, where there is not yet a system in place to cross-reference such information.
137. One of the policies or procedures provided in relation to the scope of inquest, is the *Victoria Police Manual (VPM) Policy Rules – Regulatory Responsibilities*.<sup>206</sup> This document suggests that LRD has the same duties that are enshrined in the purposes of the Act, as well as a duty to take action on their own initiative when a licence holder has breached a provision of the Act in relation to a licence or permit. However, this does not account for those who do not hold a licence or clarify whether the LRD has responsibility for missing firearms or even responsibility for prosecution of breaches under the Act. Under this VPM the DFO (as they are now known) must investigate matters relating to licencing and registration, but again, there seems to be no allocation of responsibility for missing or unregistered firearms in this VPM.

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<sup>202</sup> T:749-T:750.

<sup>203</sup> T:838-T:839.

<sup>204</sup> T:801-T:802.

<sup>205</sup> T:905- T:906.

<sup>206</sup> Exhibit 90, Coronial Brief, at page 1554.

138. The other relevant part of the VPM, appears to be the *VPM - Procedure and Guidelines - Regulatory Responsibilities*,<sup>207</sup> which consistent with the evidence, provides that the responsibility for investigations into unaccounted for firearms upon notice of suspension of a licence rests with the investigating member (this is not actually for missing firearms *at large* but is the closest procedure document provided to the present case.) This is consistent with the *viva voce* evidence heard, and the form DSC Bailey completed and sent to the LRD in 2014.<sup>208</sup> However, it appears the only guidance offered to the investigating member about the ‘*further action to recover these firearms*’ is that ‘*this may require obtaining a search warrant.*’<sup>209</sup>
139. It may be that such investigations are said to be part of Detective training or some other police training, but DSC Bailey was not aware of having ever receiving any training on locating missing firearms.<sup>210</sup> Nor was DSC Bailey aware of any changes in Victoria Police policy or procedure in relation to missing firearms since 2017.<sup>211</sup> Further DSC Bailey was not aware of any changes to policy regarding prohibited persons having accessed firearms.<sup>212</sup> When asked about the policy for LRD on missing firearms, Acting Inspector Armstrong said there was no guideline within LRD, and no procedure, and he had since introduced a Standard Operating Procedure which required VPS staff to escalate missing firearm notifications to a sworn member.<sup>213</sup>

### **Clinical management of Mr Bisucci by a private psychiatrist**

140. The Royal Commission into Family Violence (RCFV)<sup>214</sup> noted that health professionals play an important role in the identification and response to family violence. The RCFV considers that family violence should form part of the critical working knowledge of health professionals, rather than being an optional add on to their studies and ongoing professional development. Recommendation 102 of the RCFV specifically recommends that a family violence learning agenda form part of undergraduate and graduate training for general practitioners and mental health professionals (psychologists and psychiatrists).<sup>215</sup>

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<sup>207</sup> Exhibit 90, Coronial Brief, at page 1532.

<sup>208</sup> Exhibit 22, Notice of Suspension (should include pages 293 and 294, albeit the exhibit list omits page 294.)

<sup>209</sup> Ibid.

<sup>210</sup> T:404:17-22.

<sup>211</sup> T:405:7-18.

<sup>212</sup> T:405:20-24.

<sup>213</sup> T:809-T:810.

<sup>214</sup> *Royal Commission into Family Violence Final Report* (March 2016)

<sup>215</sup> Ibid, Volume 4, Chapter 19, 55

141. The Office of the Chief Psychiatrist, the Royal Australian and New Zealand College of Psychiatrists (the **College**), the Royal Australian College of General Practitioners and the Australian Psychological Society issued a joint statement in June 2019, committing to promoting a learning agenda on family violence as a priority for each organisation and to exert any influence possible on undergraduate and graduate University training.<sup>216</sup>
142. Dr McIntosh's evidence was that he had not undertaken any training in relation to family violence since the recommendations were made by the RCFV. Further, he was not aware of the College (of which he is a member) offering any training in family violence since the recommendations were made by the Royal Commission and believed that no training had been conducted due to the pandemic.<sup>217</sup>
143. Dr McIntosh was also not aware of any training being offered by the Private In-Patient Hospital in which he also works. No criticism is made of Dr McIntosh for his lack of awareness about such matters, but it serves to illustrate that the recommendation made by the RCFV and the implementation of any training by the College has not yet been effective. Dr O'Connor noted that attendance at the College's family violence training over the Covid-19 period had been increasing, but attendances were still best described as modest.<sup>218</sup> Dr O'Connor was supportive of a recommendation that would make family violence education a compulsory component of the requisite continuing medical education hours that fellows must undertake.<sup>219</sup> Dr O'Connor also saw a role for the College to target private inpatient psychiatric hospitals with further training and awareness.<sup>220</sup>
144. Dr O'Connor noted that identification of perpetrators of family violence, as opposed to victims, was much more challenging.<sup>221</sup> Dr O'Connor said there were not really risk assessment tools for perpetrators and what was required was a high index of suspicion by psychiatrists where risk factors (such as intervention orders or a history of violence) were present.<sup>222</sup>

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<sup>216</sup> Exhibit 75, Statement from the Office of the Chief Psychiatrist entitled, '*Commitment to a family violence learning agenda*,' dated June 2019.

<sup>217</sup> T:555-T:556; However, it appears training has been offered by the College, including online sessions in November 2020, entitled, '*Risk assessment for intimate partner violence: how can the police assess risk?*' and in August 2020, entitled, '*Reframing family violence responsiveness in mental health*.' See <https://www.ranzcp.org/practice-education/webinar-event-recordings>

<sup>218</sup> Exhibit 74, Report of Dr Manjula O'Connor.

<sup>219</sup> T:641-T:642.

<sup>220</sup> T:607-T:608.

<sup>221</sup> T:609:18-28.

<sup>222</sup> T:609:29-T:610:10.

145. Ms Burdon's family provided submissions indicating that there needs to be an objective set of markers that prompt a treating practitioner to make a notification to police in the absence of a direct report of violence from the perpetrator client or their victim.<sup>223</sup> The requirements prescribed by section 351 of the *Mental Health Act 2014* (Vic) provide a baseline threshold for when police can apprehend an individual who may be at risk of *imminent* and *serious harm* to others or themselves. Dr O'Connor's view was that in the circumstances of Ms Burdon's death and with respect to the last appointment that Mr Bisucci had with Dr McIntosh on 8 August 2017, the threshold to utilise section 351 or for a Compulsory Treatment Order<sup>224</sup> to be made, was not met.<sup>225</sup>
146. The circumstances of this case suggest that there should be minimum mandatory training for private psychiatrists to better understand the factors which indicate the presence of a risk of family violence and therefore be able to identify it and know how to address it, by using the risk and information sharing frameworks that already exist in Victoria.
147. The RCFV has already identified that this is needed in order to reduce the risk of family violence, and there are recommendations targeted at the public health sector requiring substantial mandatory training to ensure that specific workforces acquire an understanding of family violence appropriate to their professions. This training however is not mandated for the private sector and whilst professional bodies like the College offer this training to their members, the available evidence in this case suggests that there is lack of participation in these programs by College members.

### **Was Ms Burdon's death preventable?**

148. Mr Bisucci was a deceitful person with a long history of fraud and dishonesty offences. The available evidence indicates that Mr Bisucci actively and persistently broke or sought to evade the law. He continued to hold himself out as a solicitor, despite no longer being entitled to practice. The evidence illustrates that Mr Bisucci was a man who acted entirely out of self-interest and used or attempted to use those around him for his own personal gain. The evidence also demonstrates that Mr Bisucci managed to manipulate people by virtue of their unwillingness to

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<sup>223</sup> Submissions on behalf the Burdon family dated 22 March 2021, 11

<sup>224</sup> Compulsory Treatment Order - If an individual has a mental illness, and need treatment for your health and safety or the safety of others, a doctor may examine the individual and decide that they must receive treatment under a compulsory treatment order.

<sup>225</sup> Transcript of evidence given at inquest into the death of Ms Marilyn Burdon COR 2017 4175, 1 February 2021, 622:9-30

upset him or argue with him. Mr Bisucci was described by witnesses in the inquest as ‘*secretive*’ or that he would ‘*lie*’ in order to avoid disclosing his illicit and manipulative conduct.<sup>226</sup>

149. The 2004 Intervention Order against Mr Bisucci and subsequent breaches of that order did not involve physical violence. However, Ms Cattapan’s statement and viva voce evidence revealed that Mr Bisucci was physically violent with her on many occasions and also with the boarders in his Strathmore house.<sup>227</sup>
150. Although they had been in a relationship since around 2011, Mr Bisucci only moved into Ms Burdon’s house in Kew after the settlement of his house in Strathmore on 30 June 2017.<sup>228</sup> Ms Burdon had not given Mr Bisucci a key or allowed him to stay in the house without her being there, and it appears that Mr Bisucci had to stay elsewhere on a couple of occasions during that time.<sup>229</sup> Mr Bisucci had told a friend around this time that ‘*she’s my superannuation*’ in reference to Ms Burdon.<sup>230</sup>
151. Ultimately, Ms Burdon asked him to move out of her house two weeks prior to her death,<sup>231</sup> albeit they still appeared together socially around that time.<sup>232</sup> Ms Burdon’s daughter, Rebecca, reports that a week or two prior to her death, Ms Burdon told her that when she told Mr Bisucci he could no longer live with her, he had responded that ‘*not only am I losing a girlfriend, I am losing my financial future.*’ Ms Burdon had also told a friend two days before her death, that ‘*he has to go.*’<sup>233</sup>
152. Given the weight of the evidence, and in the absence of any other circumstances which provide an alternative precipitant for Mr Bisucci taking Ms Burdon’s life, it is open to me to find that Mr Bisucci acted on his perceived failure to manipulate Ms Burdon and he fatally shot and killed Ms Burdon before turning the same firearm upon himself and ending his life. Mr Bisucci believed that he had lost ‘*his superannuation*’ in the form of financial support from Ms Burdon which he desperately desired after finding himself at 69 years of age and irremediably impecunious, despite his many years of fraud and manipulation.

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<sup>226</sup> Exhibit 63, Statement of Ms Karen Cattapan; T:27:13-17 (Mr Carmuciano) and T:169:17-21 & T:176:3-14 (Mr Carnesi) and T:263:13-25 (Mr DiMaria).

<sup>227</sup> T:458:18-27; and Exhibit 63, Statement of Ms Karen Cattapan.

<sup>228</sup> Exhibit 90, Coronial Brief, Statement of Ms Rebecca Burdon, at page 28.

<sup>229</sup> Exhibit 90, Coronial Brief, Statement of Ms Michael Walsh, at page 89.

<sup>230</sup> *Ibid*, at page 90.

<sup>231</sup> Exhibits 76 & 77, Notes of Dr Rowan McIntosh, dated 8 August 2017.

<sup>232</sup> Exhibit 29, Statement of Mr Mario Carnesi.

<sup>233</sup> Exhibit 90, Coronial Brief, Statement of Ms Christiana McIntosh, at page 82.

153. Without knowing where the two missing firearms were at any time between November 2014 and August 2017, it cannot be found, on the balance of probabilities, that a particular type of investigation, or the execution of a search warrant on a particular property, would have resulted in locating those firearms, so that they would not have been in Mr Bisucci's possession on 21 August 2017 for use in the fatal incident.
154. In the absence of knowing where those firearms were kept at any particular time, all that can be found, is that had there been more robust systems to monitor the registration and storage of those firearms and an adequate investigation into the missing firearms in 2014 and more robust systems for ensuring that the investigation into the missing firearms was adequate, then the chances of locating those firearms would have improved significantly.
155. It cannot therefore be said that on the balance of probabilities that in the absence of any of those inadequacies, that the tragic outcome of Ms Burdon's death would have been avoided. However, the circumstances of Ms Burdon's death does highlight the existence of those inadequacies and the need for systemic improvements that may be preventative of further family violence related deaths and firearms violence in the community.

## **RECOMMENDATIONS PURSUANT TO SECTION 72(2) OF THE ACT**

Pursuant to section 72(2) of the Act, I make the following recommendations:

1. That **Victoria Police** make changes to their information technology system so that when a member is searching the serial number of a firearm to obtain information about previously registered owners that the search results provide information about all previous registered owners of that firearm. Where it is not possible to change any relevant system, Victoria Police should mandate that police members must contact the Licencing and Regulation Division (**LRD**) to obtain this information when they are conducting any such search.
2. That **Victoria Police** (LRD) when assessing for approval an Application for Permit to Acquire Firearms be required to establish whether:
  - a. the person witnessing the Application was ever previously the registered owner of the firearm and if so, enquiries must then made about their interest in the firearm;
  - b. the person witnessing the Application is a prohibited person and if so, enquiries must then be made about their interest in the firearm;
  - c. the person providing a reference for or evidence of a matter relevant to the Application



(for example, the property owner where the firearm is to be used,) is a prohibited person and if so, enquiries must then be made of their interest in the firearm;

- d. the proposed storage address listed is common to a prohibited person or person whose firearms licence has been cancelled and if so, the Permit should not be granted and an investigation commenced.
3. That **Victoria Police** update their policies and procedures so that upon notification of a change of postal, residential or storage address by a licence holder, LRD must establish whether the proposed address listed is common to a prohibited person or person whose firearms licence has been cancelled and if so an investigation should be commenced.
4. That **Victoria Police** update their policies and procedures to confirm that upon identification of missing or unregistered firearms or the commencement of an investigation involving the same, police members are required to notify LRD (unless circumstances prohibit such notification) immediately. LRD must then provide the investigating member any and all relevant intelligence contained in the LARS records and any other assistance and information available in the investigation (unless circumstances prohibit the provision of such information). These updates should be promulgated to police members via the necessary information sharing, policy documents and training to ensure compliance.
5. That **Victoria Police** consider an update to the firearms safety courses for new firearms licence holders to include education about the licence holders' responsibilities and offences under the *Firearms Act 1996*. New licence holders must be able to demonstrate an understanding of those responsibilities and offences in order to successfully complete the firearms safety course.
6. That **Victoria Police** consider providing an information brochure about licence holder's responsibilities and highlighting common offences under the *Firearms Act 1996* with every licence renewal and upon issuing a new permit to acquire a firearm.
7. That the **Victorian Attorney-General** consider requesting a review of the sentencing outcomes and practices under the *Firearms Act 1996* by the Sentencing Advisory Council to provide feedback on the effectiveness of sanctions imposed on offenders found guilty of offences under this Act.
8. That the **Royal Australian and New Zealand College of Psychiatrists** mandate that of the 50 hours per year of continuing medical education (as required by the Medical Board of Australia) that Fellows complete, not less than four hours of training and education within a two-year period relate to Family Violence (including but not limited to identification, risk assessment or understanding of the relevant frameworks) (four hours out of 100 hours.)

## FINDINGS AND CONCLUSION

1. Having investigated the death, and held an inquest, I find pursuant to section 67(1) of the *Coroners Act 2008* that Marilyn June Burdon, born 26 May 1947, died on 21 August 2017 at 81 Princess Street, Kew, Victoria, from gunshot wounds to the head and chest in the circumstances described above.
2. I convey my sincere condolences to Ms Burdon's family for their loss and I particularly thank Rebecca, Natalie and Nicholas for their input and engagement through the investigation and Inquest.
3. Pursuant to section 73(1) of the Act, I order that this finding be published on the Coroners Court of Victoria website in accordance with the rules.
4. I direct that a copy of this finding be provided to the following:

Ms Rebecca Burdon, Senior Next of Kin

Mr Natalie Burdon, Senior Next of Kin

Mr Nicholas Burdon, Senior Next of Kin

Ms Gemma Hannah, Holding Redlich

Mr Rob Perry, Perry Maddocks Trollope

Dr Rowan McIntosh

Ms Jacinta Gibbs, Victorian Government Solicitor's Office

Mr Shane Patton APM, Chief Commissioner, Victoria Police

The Honourable Jaelyn Symes MLC, Attorney-General, Victoria

Dr Neil Coventry, Office of the Chief Psychiatrist

Associate Professor John Allan, President, The Royal Australian & New Zealand College of Psychiatrists

Dr Manjula O'Connor

Ms Lauren Callaway, Assistant Commissioner, Family Violence Command, Victoria Police

Ms Eleri Butler, CEO, Family Safety Victoria

Detective Acting Sergeant Steve Sinclair, Victoria Police, Coroner's Investigator.

Signature:



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**JOHN CAIN**  
**STATE CORONER**

Date: 21/09/2021

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NOTE: Under section 83 of the *Coroners Act 2008* ('the Act'), a person with sufficient interest in an investigation may appeal to the Trial Division of the Supreme Court against the findings of a coroner in respect of a death after an inquest. An appeal must be made within 6 months after the day on which the determination is made, unless the Supreme Court grants leave to appeal out of time under section 86 of the Act.

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