

IN THE CORONERS COURT  
OF VICTORIA  
AT MELBOURNE

Court Reference: COR 2016 3075

**FINDING INTO DEATH WITH INQUEST**

*Form 37 Rule 63(1)*

*Section 67 of the **Coroners Act 2008***

**INQUEST INTO THE DEATH OF ELIZABETH JUDITH ROBYN WILMS**

Findings of:	State Coroner Judge John Cain
Delivered On:	27 October 2022
Delivered At:	65 Kavanagh Street Southbank, Victoria, 3006
Hearing Dates:	27 October 2022
Assisting the Coroner:	Samantha Brown, Inhouse Legal Service
Legal Representation:	Anna Pejovic, of the Victorian Government Solicitors Office, appeared on behalf of the Chief Commissioner of Police
Catchwords	Homicide; intimate partner family violence; execution of interstate arrest warrant; missing person investigation

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## SUMMARY

1. Elizabeth Judith Robyn Wilms was 29 years old at the time of her death.
2. Ms Wilms had been in a relationship with Alexander Freeburn since about late May 2016; the relationship was characterised by physical violence and controlling behaviours perpetrated by Mr Freeburn against Ms Wilms.
3. At all material times, Mr Freeburn was the subject of an unexecuted New South Wales (NSW) arrest warrant following the revocation of his parole.<sup>1</sup>
4. Ms Wilms died at a time between 1 and 5 July 2016 as a consequence of an assault in a woman with gamma hydroxybutyrate in her blood.
5. In March 2017, Mr Freeburn was charged with Ms Wilms' murder. He successfully appealed his conviction for murder and was ultimately convicted of the manslaughter of Ms Wilms and sentenced to 12 years' imprisonment with a non-parole period of nine years.<sup>2</sup>

## CORONIAL INVESTIGATION

### Jurisdiction

6. Ms Wilms' death constituted a '*reportable death*' pursuant to section 4 of the *Coroners Act 2008* (Vic) (**Coroners Act**), as her death occurred in Victoria and was unexpected, unnatural and violent.

### Purpose of the Coronial Jurisdiction

7. The jurisdiction of the Coroners Court of Victoria (**Coroners Court**) is inquisitorial.<sup>3</sup> The purpose of a coronial investigation is to independently investigate a reportable death to ascertain, if possible, the identity of the deceased person, the cause of death and the circumstances in which the death occurred.
8. The cause of death refers to the medical cause of death, incorporating where possible, the mode or mechanism of death.

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<sup>1</sup> New South Wales, 0000436207 – Freeburn Alex Dow [...] PBreach.

<sup>2</sup> The Queen v Alexander Freeburn [2020] VSCA 176.

<sup>3</sup> Section 89(4) *Coroners Act 2008*.

9. The circumstances in which the death occurred refers to the context or background and surrounding circumstances of the death. It is confined to those circumstances that are sufficiently proximate and causally relevant to the death.
10. 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 recommendations by coroners. This is generally referred to as the prevention role.
11. Coroners are empowered to:
  - (a) report to the Attorney-General on a death;
  - (b) comment on any matter connected with the death they have investigated, including matters of public health or safety and the administration of justice; and
  - (c) make recommendations to any Minister or public statutory authority or entity on any matter connected with the death, including public health or safety or the administration of justice.

These powers are the vehicles by which the prevention role may be advanced.

12. The power to comment, arises as a consequence of the obligation to make findings. It is not free ranging. It must be a comment “on any matter connected with the death”. The powers to comment and make recommendations are inextricably connected with, rather than independent of, the power to enquire into a death or for the purpose of making findings. They are not separate or distinct sources of power enabling a coroner to enquire for the sole or dominant reason of making comment or recommendation.<sup>4</sup>
13. It is important to stress that coroners are not empowered to determine the civil or criminal liability arising from the investigation of a reportable death and are specifically prohibited from including a finding or comment or any statement that a

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<sup>4</sup> *Harmsworth v The State Coroner* [1989] VR 989 at 996.

person is, or may be, guilty of an offence.<sup>5</sup> It is not the role of the coroner to lay or apportion blame, but to establish the facts.<sup>6</sup>

14. However, the principal registrar of the Coroners Court must notify the Director of Public Prosecutions if the coroner investigating a death believes an indictable offence may have been committed in connection with the death.<sup>7</sup>
15. All coronial findings must be made based on proof of relevant facts on the balance of probabilities.<sup>8</sup> In determining these matters, I am guided by the principles enunciated in *Briginshaw v Briginshaw*.<sup>9</sup> The effect of this and similar authorities is that coroners should not make adverse findings against, or comments about, individuals or entities, unless the evidence provides a comfortable level of satisfaction that they caused or contributed to the death.

### **Inquest**

16. At the conclusion of my investigation, I was satisfied I was able to make findings about the deceased's identity, the cause of death and the circumstances in which death occurred, so this case was listed for inquest. Although I am not required to hold an inquest into Ms Wilms' death (even though it was the result of homicide),<sup>10</sup> I consider that a public hearing is likely to assist in maintaining public confidence in the administration of justice or other public agencies. The Inquest was a Summary Inquest – one conducted without oral testimony – as there were no evidentiary conflicts or discrepancies that would justify calling witnesses.

### **Sources of Evidence**

17. This Finding draws on the totality of the material the product of the coronial investigation into Ms Wilms' death. That is, the court records maintained during the coronial investigation, the Coronial Brief and further material sought and obtained by

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<sup>5</sup> Section 69(1). However, a coroner may include a statement relating to a notification to the Director of Public Prosecutions if they believe an indictable offence may have been committed in connection with the death. See sections 69(2) and 49(1) of the Act.

<sup>6</sup> *Keown v Khan* (1999) 1 VR 69.

<sup>7</sup> Section 49(1).

<sup>8</sup> *Re State Coroner; ex parte Minister for Health* (2009) 261 ALR 152.

<sup>9</sup> (1938) 60 CLR 336.

<sup>10</sup> Section 52(3)(b) of the Act.

the Court, the evidence adduced during the Inquest and any submissions provided by Interested Parties.

18. In writing this Finding, I do not purport to summarise all of the evidence but refer to it only in such detail as appears warranted by its forensic significance and the interests of narrative clarity. The absence of reference to any particular aspect of the evidence does not infer that it has not been considered.

## **BACKGROUND**

### **Personal History**

19. Ms Wilms was the youngest daughter of Peter and Jennifer Wilms. She was raised, along with her two sisters, Catherine and Alice, in Balwyn North.
20. Ms Wilms was identified as having developmental delays in kindergarten and was later diagnosed with a mild intellectual disability.<sup>11</sup> A neuropsychological assessment completed four months before her death found Ms Wilms' to have deficits in executive functioning, attention and new learning, with her capacity for reasoning, problem solving and impulse control particularly limited.<sup>12</sup> Overall, Ms Wilms' intellectual function was in the extremely low to borderline range.<sup>13</sup>
21. With individualised professional support, Ms Wilms completed Year 11 at school before gaining a Certificate III qualification in childcare and working in the field for about a year. Unable to find a permanent position in a competitive industry, Ms Wilms undertook office administration duties in the family business and worked at the Lentil as Anything restaurant as a Centrelink work placement from mid-2015. She continued to live at home with her parents.<sup>14</sup>
22. As Ms Wilms' sisters met partners and started families, she reportedly became 'very focussed' on doing the same.<sup>15</sup> Ms Wilms had two significant intimate relationships prior to 2016. According to her family, the first relationship was 'respectful and quite

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<sup>11</sup> Coronial Brief, Statement of Peter Wilms.

<sup>12</sup> Coronial Brief, Neuropsychological Report of Dr Sheryl Monteath dated 15 February 2016.

<sup>13</sup> Coronial Brief, Neuropsychological Report of Dr Sheryl Monteath dated 15 February 2016.

<sup>14</sup> Coronial Brief, Statement of Peter Wilms.

<sup>15</sup> Coronial Brief, Statement of Peter Wilms.

healthy' and was ended by Ms Wilms due to the partner's drug use.<sup>16</sup> The second relationship involved verbal abuse and controlling and violent behaviours perpetrated by the partner against Ms Wilms, including in November 2015, a period of several days when Ms Wilms was allegedly held captive and repeatedly assaulted. Although Ms Wilms disclosed to family that she was afraid of that partner and his violence, she did not report the violence to police until assisted to do so by her parents after the November 2015 incident.<sup>17</sup>

23. Victoria Police prosecuted the partner and sought a Family Violence Intervention Order (FVIO) to protect Ms Wilms from him. The FVIO granted at the Melbourne Magistrates' Court prohibited the partner from having any contact with Ms Wilms indefinitely.<sup>18</sup> Ms Wilms applied to have the FVIO varied to enable her to have contact with the partner.<sup>19</sup>
24. In November 2015, Jennifer Wilms filed an application at the Victorian Civil and Administrative Tribunal (VCAT) for an order appointing her as Ms Wilms' guardian and administrator of her legal and financial affairs.<sup>20</sup>
25. On 7 December 2015, a VCAT Tribunal member made an order under the *Guardianship and Administration Act* 1986 appointing Mr and Mrs Wilms joint guardians with powers and duties limited to decisions concerning accommodation and 'access to' Ms Wilms, and all powers and duties to administer their daughter's estate.<sup>21</sup>
26. With the assistance of a lawyer, Ms Wilms filed an application for rehearing on 24 December 2015.
27. On 24 February 2016, having reheard the application for guardianship and administration, the orders of 7 December 2015 were set aside.<sup>22</sup> An order was made

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<sup>16</sup> Coronial Brief, Statement of Peter Wilms.

<sup>17</sup> Coronial Brief, Statement of Peter Wilms.

<sup>18</sup> Order of the Magistrates' Court of Victoria at Melbourne [Case Ref: F13738450] dated 10 November 2015

<sup>19</sup> Application in relation to FVIO F13738450 dated 6 December 2015.

<sup>20</sup> Application dated 17 November 2015 [Case Ref: G76231].

<sup>21</sup> Order of the Victorian Civil and Administrative Tribunal dated 7 December 2015 [Case Ref: G76231].

<sup>22</sup> Ms Wilms was legally represented at the rehearing.

appointing Ms Wilms' parents as joint limited guardians<sup>23</sup> and joint administrators of Ms Wilms' estate except for 'most of' her income from social security benefits.<sup>24</sup>

28. Ms Wilms had opposed the application (and the grounds asserted by her parents), stating that 'my parents have been trying to control my life and money since I became an adult. I have always been capable of making good decisions and I want to control my life.'<sup>25</sup>
29. In December 2015, Mr Wilms arranged for a global positioning system (**GPS**) tracking device to be installed in Ms Wilms' car. He also started to record his daughter's movements and behaviour in a diary.<sup>26</sup>

### **CIRCUMSTANCES OF DEATH PURSUANT TO S.67(1)(c) OF THE ACT**

30. On 23 May 2016, Ms Wilms and Mr Freeburn met on an online dating platform, meeting in person soon after and commencing an intimate relationship.<sup>27</sup> Ms Wilms frequently stayed overnight at the third-floor bedroom Mr Freeburn rented, situated in a residence above a kebab shop in High Street, Kew (**High Street premises**).<sup>28</sup>
31. In early June 2016, Ms Wilms confided in several family members and friends that Mr Freeburn had perpetrated family violence against her.<sup>29</sup> She disclosed to her friend Chris Belfiore that Mr Freeburn 'had been hitting her and pulling her hair and that he had not let her leave his house for three days'.<sup>30</sup> Friends also saw Mr Freeburn behave in a controlling and jealous manner towards Ms Wilms and aggressively accuse a mutual acquaintance of being intimate with her.<sup>31</sup>
32. On 16 June 2016, Ms Wilms disclosed to her father that Mr Freeburn had kicked her and put all his body weight onto her chest, making it difficult for her to breathe. She

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<sup>23</sup> With powers and duties to make decisions about Ms Wilms' accommodation and 'access' to her, including any applications under the *Family Violence Protection Act* 2008 for orders to protect her.

<sup>24</sup> Order of the Victorian Civil and Administrative Tribunal dated 24 February 2016 [Case Ref: G76231].

<sup>25</sup> Statutory Declaration of Elizabeth Wilms dated 25 February 2016.

<sup>26</sup> Coronial Brief, Statement of Peter Wilms.

<sup>27</sup> Oasisactive.com, Chat History – alextoasis, line 45.

<sup>28</sup> Coronial Brief, Statement of Ping (Violet) Geng.

<sup>29</sup> Coronial Brief, Statements of Peter Wilms, Raymond Allen, Alice McCann.

<sup>30</sup> Coronial Brief, Statement of Chris Belfiore.

<sup>31</sup> Coronial Brief, Statement of Raymond Allen.



told her father she had removed her belongings from Mr Freeburn's residence and did not wish to return.<sup>32</sup>

33. Around that time in June 2016, Ms Wilms had sex with a Mr Belfiore whilst still in a relationship with Mr Freeburn.<sup>33</sup> She appears to have told Mr Freeburn of the liaison, and on 22 June 2016, she and Mr Freeburn arranged to meet Mr Belfiore. When he arrived, Mr Freeburn assaulted and robbed Mr Belfiore, saying, 'you shouldn't have fucked my girl' and 'you shouldn't have fucked with me, next time I'll stab you, I'll fucking kill you.'<sup>34</sup> Mr Belfiore did not report the incident to police.<sup>35</sup>
34. On 26 June 2016, Ms Wilms returned home with bruises around both eyes (claiming it was smudged mascara) and told her father that Mr Freeburn had broken her phone and taken her Centerlink payment.<sup>36</sup>
35. On 28 June 2016, Ms Wilms returned home and told her parents that she had ended the relationship with Mr Freeburn. Mr Wilms contacted Mr Freeburn to arrange for the return of Ms Wilms' belongings, however Ms Wilms returned to Mr Freeburn that same evening.<sup>37</sup>
36. On 29 June 2016, Ms Wilms phoned her father and asked him to give her access to all her finances. Mr Wilms considered that Mr Freeburn directed his daughter to make this call as he could be overheard instructing her during it.<sup>38</sup>
37. In the early hours of 30 June 2016, Ms Wilms and Mr Freeburn visited a friend's house. While there, Mr Freeburn self-injected methylamphetamines and was threatening and aggressive towards Ms Wilms.<sup>39</sup> Ms Wilms disclosed to the friend that she was

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<sup>32</sup> Coronial Brief, Statement of Peter Wilms.

<sup>33</sup> Coronial Brief, Statement of Chris Belfiore.

<sup>34</sup> Coronial Brief, Statement of Chris Belfiore.

<sup>35</sup> Mr Belfiore drove himself to the Austin Hospital for treatment of injuries. While there Victoria Police members and asked him what occurred; though he told them in general terms (without identifying people involved) he declined to report the matter to police. Police provided a business card to facilitate him contacting them if he changed his mind: Coronial Brief, Statement of Chris Belfiore.

<sup>36</sup> Coronial Brief, Statement of Peter Wilms.

<sup>37</sup> Coronial Brief, Statement of Peter Wilms.

<sup>38</sup> Coronial Brief, Statement of Peter Wilms.

<sup>39</sup> Coronial Brief, Statement of Raymond Allen.

‘petrified’ of Mr Freeburn, who had threatened to kill her if she did not leave her family.<sup>40</sup>

38. At about 6am on 30 June 2016, Ms Wilms and Mr Freeburn were captured on CCTV footage returning to the High Street premises.<sup>41</sup> Ms Wilms was last captured on CCTV footage going up to Mr Freeburn’s room at 10:45am that day.<sup>42</sup> The two other residents of the High Street premises were overseas<sup>43</sup> and CCTV cameras show no other person entering after Ms Wilms and Mr Freeburn on 30 June until the police attended on 5 July 2016.<sup>44</sup>
39. At about 10pm on 1 July 2016, Mr Wilms received a text message from Ms Wilms reading in part, ‘I would like all my money back to me. This is so I can save up to move out to be indeendant [sic] and live my own life. If u don’t give me the full amount I am taking u and mum to couqt [sic] ... I don’t want ... u and mum telling me what I can and cant [sic] do anymore. I am strong and indappendant [sic].’<sup>45</sup> Mr Wilms texted and called his daughter after 11pm, and several times over the following days, without receiving any response.<sup>46</sup>
40. At 12.20am on 2 July 2016, Ms Wilms’ mobile phone was used to call Mr Wilms, but the call was not answered.<sup>47</sup> Between 12.26am and 12.37am, Ms Wilms phone was used to make a series of unanswered calls to Erin Dober, another woman Mr Freeburn had met through an online dating platform but who was not known to Ms Wilms.<sup>48</sup> There was no further activity on Ms Wilms’ mobile phone.

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<sup>40</sup> Coronial Brief, Statement of Raymond Allen.

<sup>41</sup> CCTV Footage from 244 High Street, Kew (Disc 3). There were three CCTV cameras at the High Street premises: two located in the courtyard and capturing the courtyard and entry to the building and the other in the kitchen, which captured the kitchen and hall.

<sup>42</sup> CCTV Footage from 244 High Street, Kew (Disc 3).

<sup>43</sup> Coronial Brief, Statements of Ping (Violet) Geng and Shay Smith.

<sup>44</sup> CCTV Footage from 244 High Street, Kew (Disc 3).

<sup>45</sup> Coronial Brief, Appendix O SMS Records Extract of Peter Wilms and Call Charge records of Elizabeth Wilms (Disc 6).

<sup>46</sup> Coronial Brief, Appendix O SMS Records Extract of Peter Wilms and Call Charge records of Elizabeth Wilms (Disc 6).

<sup>47</sup> Call Charge records of Elizabeth Wilms (Disc 6).

<sup>48</sup> Coronial Brief, first Statement of Erin Dober and Call Charge records of Elizabeth Wilms (Disc 6).

41. Sometime between 11.28am and 2.30pm on 2 July 2016, Mr Freeburn left the High Street premises and returned having interrupted the electricity supply to the CCTV surveillance system for that period.<sup>49</sup> At about 4.40pm on 2 July 2016, Mr Freeburn was captured on CCTV footage leaving the High Street premises with a large suitcase, having called for a taxi to Southern Cross train station.<sup>50</sup> He was met that evening in Terang by Ms Dober.<sup>51</sup>
42. Mr Wilms sent text messages to Mr Freeburn on 2 and 3 July 2016 to ascertain his daughter's whereabouts and wellbeing.<sup>52</sup> At about 12.45pm on 4 July 2016 Mr Freeburn replied claiming to not know where Ms Wilms could be found.<sup>53</sup>
43. On the evening of 4 July 2016, Mr Wilms reported his daughter as a missing person at Boroondara police station.<sup>54</sup>
44. At about 1.35pm on 5 July 2016, Victoria Police members from the Boroondara Crime Investigation Unit (**CIU**) and Critical Incident Response Team (**CIRT**) attended the High Street premises to search for and arrest Mr Freeburn pursuant to a NSW parole warrant.<sup>55</sup>
45. Upon entering Mr Freeburn's room, police found that Mr Freeburn was not present. Ms Wilms was located, deceased, in a prone position on the floor of the bedroom covered by a bedsheet.<sup>56</sup> A crime scene was established, and an investigation commenced.
46. At about 5.15pm on 9 July 2016, Mr Freeburn was arrested on suspicion of Ms Wilms' murder by CIU and uniformed police in Warrnambool.<sup>57</sup> Mr Freeburn was interviewed

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<sup>49</sup> Coronial Brief, Statements of Michael Miskulin and Stuart Rainsford, Momentum Energy Consumption Records (Disc 7) and CCTV from 244 High Street, Kew (Disc 3).

<sup>50</sup> CCTV from 244 High Street, Kew (Disc 3).

<sup>51</sup> Coronial Brief, first Statement of Erin Dober.

<sup>52</sup> Coronial Brief, Statement of Peter Wilms; and Appendix N, SMS Records Extract of Alex Freeburn and Call Charge Records of Alex Freeburn (Disc 6).

<sup>53</sup> Coronial Brief, Appendix N, SMS Records Extract of Alex Freeburn and Call Charge Records of Alex Freeburn (Disc 6)

<sup>54</sup> Coronial Brief, Statement of Peter Wilms.

<sup>55</sup> Coronial Brief, Statements of Marc Callegaro and Shayne Bandel.

<sup>56</sup> Coronial Brief, Statements of Shayne Bandel, Juan Ramirez, Matt King, Robert Tarjani and Mitchell Hunter.

<sup>57</sup> Coronial Brief, Statements of Gary Greene and Andrew McOrist.

by Homicide detectives before the NSW arrest warrant was executed and he was remanded in custody pending extradition.<sup>58</sup>

#### **IDENTITY OF DECEASED PURSUANT TO S.67(1)(a) OF THE ACT**

47. Dental analysis and comparison was undertaken<sup>59</sup> to identify Elizabeth Judith Robyn Wilms born 25 May 1987.<sup>60</sup>
48. Identity was not in dispute and required no further investigation.

#### **MEDICAL CAUSE OF DEATH PURSUANT TO S.67(1)(b) OF THE ACT**

49. Senior Forensic Pathologist Dr Matthew Burke from the Victorian Institute of Forensic Medicine (VIFM) attended the scene of Ms Wilms' death on 5 July 2016. He conducted an autopsy of Ms Wilms' body on 6 July 2016 having reviewed post-mortem computed tomography (CT) scans of the whole body. Dr Burke provided a written report of his findings dated 16 December 2016.<sup>61</sup> He provided an amended report on 6 February 2019<sup>62</sup> and another dated 29 July 2020,<sup>63</sup> which supersedes his earlier reports.
50. Dr Burke's external examination revealed the presence of clear adhesive tape wrapped several times around Ms Wilms' neck and evidence of wrist restraint.<sup>64</sup>
51. Among Dr Burke's anatomical findings were 43 separately documented injuries including extensive skin and subcutaneous bruising involving the face and scalp, neck and jaw, chest, back and buttocks, and scattered bruises to the upper limbs. Whilst there were extensive injuries to the head, there was no skull fracture nor intracranial bleeding. Although there was tape around the neck and bruising, there were no

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<sup>58</sup> Coronial Brief, Statement of Luke Farrell.

<sup>59</sup> Report of Consultant Forensic Odontologist Dr Jeremy Graham (undated).

<sup>60</sup> Determination by a Coroner of Identity of Deceased dated 7 July 2016.

<sup>61</sup> Dr Burke provided an amended report dated 6 February 2019 after considering correspondence from Ms Wilms' family seeking amendment to the medical cause of death.

<sup>62</sup> Dr Burke's amended Report dated 6 February 2019. Dr Burke's amended report re-formulates the medical cause of Ms Wilms' death and in an additional comment (comment #10), explains the reason for the reformulation.

<sup>63</sup> Dr Burke's second amended report dated 29 July 2020 (but signed on 12 November 2020) revises the medical cause of death to remove any reference to gamma hydroxybutyrate.

<sup>64</sup> Dr Burke's amended Report signed on 12 November 2020.

petechial haemorrhages in or around the eyes, nor foreign material or vomitus in the larynx or trachea, and the thyroid cartilages and hyoid bone were intact.<sup>65</sup>

52. Neuropathological examination of the brain showed a head injury with brain swelling and multifocal traumatic axonal injury, including the corpus callosum and posterior internal capsule of the basal ganglia.<sup>66</sup>
53. There was no evidence of any natural disease that would have contributed to death.<sup>67</sup>
54. Toxicological analysis of post-mortem samples detected gamma hydroxybutyrate<sup>68</sup> (~39mg/L), phentermine<sup>69</sup> (~0.3mg/L) and quetiapine<sup>70</sup> (~0.05mg/L).<sup>71</sup>
55. Dr Burke observed that Ms Wilms sustained significant blunt force injuries resulting in widespread bruising prior to her death. However, there was no evidence of lethal head or neck injury and no collections of blood within body cavities. Moreover, whilst there was some blood within the airway, most likely associated with her fractured nose, upper airway obstruction did not appear to be a single cause of death. The forensic pathologist noted that death due to superficial soft tissue injuries had been reported in the forensic literature.<sup>72</sup>
56. Dr Burke formulated the medical cause of death as a consequence of an assault.<sup>73</sup>
57. I accept Dr Burke's opinion.

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<sup>65</sup> Dr Burke's amended Report signed on 12 November 2020.

<sup>66</sup> Neuropathological Report of Dr Linda Iles dated 29 November 2016; referred to in Dr Burke's report.

<sup>67</sup> Dr Burke's amended Report signed on 12 November 2020.

<sup>68</sup> Gamma hydroxybutyrate is an illegal drug known as GHB, GBH, Fantasy or liquid ecstasy. The drug can cause death through depression of the central nervous system.

<sup>69</sup> Phentermine is a drug chemically related to amphetamines and, as Duromime, is prescribed for weight reduction but also has stimulant properties.

<sup>70</sup> Quetiapine is an antipsychotic drug used in the treatment of schizophrenia.

<sup>71</sup> VIFM Toxicology Report dated 12 September 2016.

<sup>72</sup> Dr Burke's amended Report signed on 12 November 2020.

<sup>73</sup> Dr Burke's amended Report signed on 12 November 2020.

## FOCUS OF INVESTIGATION

58. The focus of my investigation of Ms Wilms' death was threefold:

- (a) assessment of the service response to Ms Wilms' needs particularly as these relate to intimate partner violence;
- (b) assessment of the arrest warrant execution and extradition processes relating to revocation of Mr Freeburn's NSW parole; and
- (c) the adequacy of the investigation to locate Ms Wilms after she was reported missing.

59. I will discuss each of these issues in turn.

### Service Response

60. For the purposes of the *Family Violence Prevention Act 2008*, the relationship between Ms Wilms and Mr Freeburn was one that fell within the definition of 'family member'<sup>74</sup> based on their intimate relationship. Mr Freeburn's fatal assault on Ms Wilms constitutes 'family violence'.<sup>75</sup>
61. As Ms Wilms' death occurred in circumstances of family violence, the circumstances of her death were examined as part of the Victorian Systemic Review of Family Violence Deaths (VSRFVD).<sup>76</sup>
62. Among the issues considered was whether any opportunities for prevention were missed in Ms Wilms' interactions with service providers proximate to her death.<sup>77</sup>

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<sup>74</sup> Section 8(1)(b) *Family Violence Protection Act 2008*.

<sup>75</sup> 'Family violence' is defined in section 5 of the *Family Violence Protection Act 2008*.

<sup>76</sup> The VSRFVD provides assistance to Victoria 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 the identification of systemic prevention-focused recommendations aimed at reducing the incidence of family violence in the Victorian community.

<sup>77</sup> I note that allegations of family violence arose in Ms Wilms' relationship with an earlier partner, and she alleged that her parents perpetrated family violence against her in submissions made during the guardianship proceeding, which were also examined during my investigation.

### *VCAT*

63. Ms Wilms was the subject of a guardianship and administration order made by the VCAT in December 2015 and revised after a re-hearing instituted by Ms Wilms in February 2016. Central to her parents' application for guardianship was their concern for Ms Wilms' safety, particularly in interpersonal or intimate relationships. Ms Wilms was legally represented at the re-hearing of her parents' application.
64. Ms Wilms' only written submission opposing her parents' application was received by the VCAT after the revised order was made. She was advised by the VCAT that no further re-hearing was possible, but that she should seek legal advice about other options to appeal the order.<sup>78</sup>

### *Medical Services*

65. Ms Wilms attended appointments at seven medical practices<sup>79</sup> in the 12 months prior to her death. Review of the records maintained by each of these reveals that Ms Wilms did not discuss her experience of family violence or present with any injuries.

### *Workskil*

66. Ms Wilms was engaged with employment support service Workskil from 20 July 2015 until her death. Workskil facilitated her Work for the Dole placement and unsuccessfully encouraged her to access a Disability Employment Service.<sup>80</sup>
67. Though it is not clear whether Ms Wilms' Workskil case worker knew she was experiencing family violence, a note dated 30 June 2016 indicates awareness of 'many [ongoing] personal issues.'<sup>81</sup> Records reflect an arrangement for the Workskil Employment Coordinator to work closely with Ms Wilms' mother to help her to address Ms Wilms' needs.
68. No missed prevention opportunities were identified in Ms Wilms' engagement with the VCAT, Workskil and medical service providers proximate to her death.

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<sup>78</sup> Letter from the VCAT to Ms Wilms dated 8 March 2016.

<sup>79</sup> These medical service providers were Harp Family Medical Centre, Dr W. S. Cheung-Yap Surgery, Forrest Hill Medical Centre, Box Hill Medical Centre, Plaza Medical Centre, Camberwell Road Medical Practice and Kealba Family Practice.

<sup>80</sup> Ms Wilms' Workskil case records.

<sup>81</sup> Ms Wilms' Workskil case records.

## Execution of the NSW parole warrant

69. Mr Freeburn's lengthy involvement with the criminal justice system commenced while he was a minor, including periods in juvenile detention.<sup>82</sup> Between 2008 and 2013, he appeared before adult courts in NSW eight times for property and violent offending and spent most of the first half of his 20s in prison.<sup>83</sup>
70. On 6 September 2013 at Wollongong District Court in NSW, Mr Freeburn was sentenced to two years and nine months' imprisonment for armed robbery. He was granted parole in September 2014 to live at an address in Pambula but a post-release visit by the NSW Police Force (NSWPF) determined that he was living at a motel in Campbelltown.<sup>84</sup>
71. Mr Freeburn failed to comply with conditions of his parole<sup>85</sup> and so parole was revoked by the NSW State Parole Authority. A warrant was issued on 15 January 2015 for his arrest and return to prison to serve the unexpired eight months and six days of his original sentence (**parole warrant**).

## *Efforts to apprehend Mr Freeburn in NSW*

72. The parole warrant for Mr Freeburn's arrest was received by the NSWPF on the date of issue, 15 January 2015.
73. Ordinarily, warrants are sent to the 'Warrants and Summons Officer' at the police station closest to the wanted person's address (in this case, Campbelltown). If the person's address is unknown, the warrant is sent to the police station responsible for the originating offence (Lake Illawara).<sup>86</sup>

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<sup>82</sup> *DPP v Alexander Dow Freeburn* [2018] VSC 616.

<sup>83</sup> *DPP v Alexander Dow Freeburn* [2018] VSC 616.

<sup>84</sup> Statement of Suzanne Gill.

<sup>85</sup> The NSW State Parole Authority revoked Mr Freeburn's parole on the grounds he was unable to adapt to normal lawful community life; failed to obey all reasonable directions of his parole officer; failed to live at an agreed address and he failed to abstain from the use of prohibited drugs: NSW Warrant Timeline and Supporting Documents.

<sup>86</sup> Statement of Suzanne Gill.



74. On 16 January 2015, a police member at Campbelltown contacted the motel recorded as Mr Freeburn's last known address and was informed that he was no longer a resident.<sup>87</sup>
75. By 21 January 2015, the parole warrant had been sent to Lake Illawara police station where the Warrants and Summons Officer submitted a request to Centrelink to ascertain Mr Freeburn's address. On 10 February 2015, Centrelink advised Mr Freeburn was living in Redfern and so on the same day, the parole warrant was transferred to Redfern police station.<sup>88</sup>
76. Between 10 February 2015 and 10 March 2016, Redfern police made six unsuccessful attempts to locate Mr Freeburn at the address in Redfern.<sup>89</sup> The first such attempt occurred on 15 June 2015,<sup>90</sup> by which time it appears likely Mr Freeburn had already left the address, and NSW.
77. On 9 April 2015, in the Australian Capital Territory (ACT), Australian Federal Police (AFP) found Mr Freeburn intoxicated in a bus shelter. During a search, illicit substances were located but Mr Freeburn absconded from police custody and evaded pursuing police.<sup>91</sup> Charges of possession of illicit substances and handling stolen goods were initiated and on 11 May 2015, when he failed to appear, a warrant for Mr Freeburn's arrest was issued by ACT Magistrates' Court.<sup>92</sup>
78. During Redfern police's final attendance<sup>93</sup> at the address Mr Freeburn was believed to be living on 10 March 2016, an attending member spoke with a resident of the property who confirmed that Mr Freeburn no longer lived there.<sup>94</sup>

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<sup>87</sup> Statement of Suzanne Gill.

<sup>88</sup> Statement of Suzanne Gill.

<sup>89</sup> Statement of Suzanne Gill.

<sup>90</sup> Statement of Suzanne Gill.

<sup>91</sup> National Police Records System (NPRS) Person Report (Alexander Freeburn).

<sup>92</sup> NPRS Person Report (Alexander Freeburn).

<sup>93</sup> The previous five attempts to locate Mr Freeburn at the Redfern address occurred between June and October 2015 on four occasions police noted 'no person was home'.

<sup>94</sup> Statement of Suzanne Gill, Annexure C, Notice History Report.

79. On 14 March 2016, the parole warrant was returned to Lake Illawarra police station for further enforcement action.<sup>95</sup>
80. On 15 March 2016, the Warrants and Summons Officer at Lake Illawarra submitted a request to Centrelink to ascertain Mr Freeburn's address.<sup>96</sup>
81. On 22 March 2016, the results of the Centrelink request were received and revealed that Mr Freeburn was living in Kew, Victoria, at the High Street premises.<sup>97</sup> That day, Detective Senior Constable (DSC) Suzanne Gill was tasked by the investigation manager with contacting the closest Victoria Police station to confirm Mr Freeburn's address and submit a report for extradition approval.<sup>98</sup>

*Efforts to apprehend Mr Freeburn in Victoria*

82. Section 82 of the *Service and Execution of Process Act* 1992 (Commonwealth) provides for a person named in a warrant issued in one jurisdiction to be apprehended in another. The arrested person is then brought before a Magistrates' Court where a police member of the issuing jurisdiction may apply for extradition to the jurisdiction where the warrant was issued.
83. On 22 March 2016, DSC Gill contacted DSC Mark Rippon of Boroondara CIU seeking his assistance to confirm Mr Freeburn's address in Kew.<sup>99</sup>
84. On 13 April 2016, DSC Rippon confirmed Mr Freeburn lived at the High Street premises and relayed this information to his NSW counterpart.<sup>100</sup>
85. On 27 April 2016, DSC Rippon identified and spoke to the owner of the property who confirmed Mr Freeburn lived in the residence above the kebab shop<sup>101</sup> and provided Mr Freeburn's mobile phone number.<sup>102</sup> DSC Rippon obtained authorisation to conduct a

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<sup>95</sup> Statement of Suzanne Gill, Annexure C, Notice History Report.

<sup>96</sup> Statement of Suzanne Gill, Annexure C, Notice History Report.

<sup>97</sup> Statement of Suzanne Gill, Annexure C, Notice History Report.

<sup>98</sup> Statement of Suzanne Gill.

<sup>99</sup> Email from DSC Gill to DSC Rippon dated 22 March 2016.

<sup>100</sup> Email from DSC Rippon to DSC Gill dated 13 April 2016.

<sup>101</sup> Operation Carpetbagger-2016 dated 30 May 2016.

<sup>102</sup> Operation Carpetbagger-2016 dated 30 May 2016.

location-based search for Mr Freeburn's phone; random checks thereafter showed the phone was consistently located close to the High Street premises.<sup>103</sup>

86. On 6 May 2016, DSC Gill submitted a request for authorisation to travel to Victoria to extradite Mr Freeburn.
87. On 23 May 2016, DSC Gill's request to travel to Victoria and seek Mr Freeburn's extradition was approved after being considered by five successively more senior NSWPF members.<sup>104</sup> Although formally notified on 25 May 2015, it appears DSC Gill informed DSC Rippon that extradition had been approved on 23 May 2016.<sup>105</sup> Although she was aware that 'due to [Mr] Freeburn's propensity for violence' arrest planning would be undertaken by DSC Rippon, DSC Gill considered herself 'on standby' to travel to Victoria from that time.<sup>106</sup>
88. On 24 May 2016, DSC Rippon was provided with a copy of the parole warrant.<sup>107</sup>
89. There was provisional agreement between DSCs Rippon and Gill to arrest Mr Freeburn in the week commencing 6 June 2016.<sup>108</sup>
90. On 30 May 2016, DSC Rippon submitted an arrest plan to his superiors for authorisation, including written confirmation provided by DSC Gill that day that Mr Freeburn's extradition had been approved by NSWPF.<sup>109</sup> Although DSC Rippon's operational risk assessment categorised the arrest as 'routine and planned,'<sup>110</sup> the arrest plan proposed that CIRT assist to cordon the High Street premises and call Mr Freeburn out to be arrested.<sup>111</sup>

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<sup>103</sup> Operation Carpetbagger-2016 dated 30 May 2016.

<sup>104</sup> Statement of Suzanne Gill.

<sup>105</sup> Statement of Mark Rippon.

<sup>106</sup> Statement of Suzanne Gill.

<sup>107</sup> Email from DSC Cooper to DSC Rippon dated 24 May 2016.

<sup>108</sup> Emails exchanged between DSCs Gill and Rippon dated 26 May 2016.

<sup>109</sup> Email from DSC Gill to DSC Rippon dated 30 May 2016.

<sup>110</sup> Operation Carpetbagger-2016 dated 30 May 2016, Risk Assessment Tool.

<sup>111</sup> Operation Carpetbagger-2016 dated 30 May 2016.

91. The plan for CIRT involvement appears premised on DSC Rippon's belief that Mr Freeburn had 'stabbed someone once'<sup>112</sup> notwithstanding that DSC Gill advised him that Mr Freeburn 'didn't stab anyone' but had 'threatened [someone] with a knife during a robbery.'<sup>113</sup> That said, it was clear from the intelligence holdings available to DSC Rippon – National Police Records System holdings originating from NSWPF and AFP (in the ACT) – that Mr Freeburn's criminal antecedents involved violence, including using unspecified violence against police members.<sup>114</sup>
92. A request for CIRT assistance to arrest Mr Freeburn was submitted on 1 June 2016.<sup>115</sup>
93. On 2 June 2016, an Inspector of Victoria Police authorised DSC Rippon's arrest plan with the notation 'please have CIRT conduct cordon/call as outlined.'<sup>116</sup>
94. The request for CIRT assistance was considered on 9 June 2016. Initially, Mr Freeburn's arrest was assessed as meeting the operational criteria for CIRT involvement, with a proposal to attempt the arrest on 10 June 2016 if another operation did not proceed.<sup>117</sup> However, on review, the Officer in Charge (**OIC**) did not consider CIRT resources were warranted in the absence of any indication Mr Freeburn had committed offences in Victoria or specific intelligence that he would react adversely to an approach by local members. The OIC suggested all other options to effect Mr Freeburn's arrest be exhausted before resort to the use of CIRT in a cordon/call operation.<sup>118</sup>
95. On 10 June 2016, DSC Rippon was advised that Mr Freeburn's arrest did not meet the criteria for CIRT involvement.<sup>119</sup>

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<sup>112</sup> Email from DSC Rippon to DSCs Cooper and Gill dated 24 May 2016.

<sup>113</sup> Email from DSC Gill to DSC Rippon dated 26 May 2016.

<sup>114</sup> Statement of Mark Rippon.

<sup>115</sup> Interpose INTMIN367660 relating to CIRT consideration of involvement in Operation Carpetbagger-2016.

<sup>116</sup> Operation Carpetbagger-2016 dated 30 May 2016.

<sup>117</sup> Interpose INTMIN367660 relating to CIRT consideration of involvement in Operation Carpetbagger-2016.

<sup>118</sup> Interpose INTMIN367660 relating to CIRT consideration of involvement in Operation Carpetbagger-2016.

<sup>119</sup> Interpose INTMIN367660 relating to CIRT consideration of involvement in Operation Carpetbagger-2016.

96. Between 10 and 16 June 2016, DSC Rippon developed an amended arrest plan.<sup>120</sup> Planning included his attendance in the vicinity of the High Street premises; DSC Rippon had attended intermittently throughout his liaison with DSC Gill but had never seen Mr Freeburn.<sup>121</sup>
97. On 20 June 2016, DSC Gill advised her Victorian counterpart that she could not travel to Victoria that week due to personal leave.<sup>122</sup>
98. On 24 June 2016, DSC Rippon commenced three weeks' recreational leave.<sup>123</sup>
99. On 5 July 2016, in the context of Boroondara CIU's missing person investigation to locate Ms Wilms, the assistance of CIRT was sought and obtained to attend and search the High Street premises and arrest Mr Freeburn.<sup>124</sup>
100. On 9 July 2016, having been arrested in connection with Ms Wilms' death, the parole warrant was executed, and Mr Freeburn was remanded in custody pending extradition.
101. On 12 July 2016, Mr Freeburn was re-arrested by NSWPF members and extradited to NSW.<sup>125</sup>

*Processes for prioritisation and timely execution of warrants*

102. The processes for prioritisation and the timely execution of warrants (including interstate warrants) by Victoria Police and NSWPF are similar in that they involve risk assessment, intelligence gathering and resource allocation and are guided by policy and/or guidelines relating to arrests,<sup>126</sup> warrants,<sup>127</sup> extradition<sup>128</sup> and tasking and

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<sup>120</sup> Statement of Mark Rippon.

<sup>121</sup> Statement of Mark Rippon.

<sup>122</sup> Statement of Suzanne Gill.

<sup>123</sup> Statement of Mark Rippon.

<sup>124</sup> Coronial Brief, Statements of Marc Callegaro and Shanye Bandel.

<sup>125</sup> Statement of Suzanne Gill, Annexure E.

<sup>126</sup> Policy and guidelines relating to arrests: NSWPF Handbook, 'Arrests' (as in force August 2014); Victoria Police Victoria Police Manual (VPM) Procedures and Guidelines 'Arrests and warrants to arrest' (dated 1/7/2015 and 22/5/2015 respectively).

<sup>127</sup> Policy and guidelines relating to warrants: NSWPF Handbook, 'Warrants' (as in force on 17/6/2014 and 18/3/2015) and Guideline for the Management of Warrants (as in force 2015-2016); VPM Procedures and Guidelines 'Arrests and warrants to arrest' (dated 1/7/2015 and 22/5/2015 respectively).

coordination.<sup>129</sup> There is also a Memorandum of Understanding (**MoU**) between Police Commissioners for Application to Outstanding Interstate Warrants.<sup>130</sup>

#### *NSWPF*

103. NSWPF uses an automated Court Notice Service Management (**CNSM**) system which provides real-time information about a range of ‘court notices’<sup>131</sup> to members to enable them to ‘prioritise and monitor workflow’ and document service and execution of outstanding notices allocated to their Police Area Command (**PAC**).<sup>132</sup> Pursuant to the Guidelines,<sup>133</sup> outstanding warrants are prioritised by offence type and age of matter to determine the level of investigation and associated cost involved to locate the offender.<sup>134</sup>
104. All warrants allocated to a particular police station are allocated (by a ‘Tasker’ as a ‘task’) to an appropriate member (‘Tasked Officer’).<sup>135</sup> Before tasking a warrant for service, the Tasker should conduct a risk assessment considering current arrest guidelines, local knowledge and intelligence holdings and information contained in police databases.<sup>136</sup> Other members are informed of outstanding warrants in their PAC

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<sup>128</sup> Policy and guidelines relating to extradition: NSWPF Handbook, ‘Extradition’ (versions dated in force 16/6/2014 and 12/3/2015); Victoria Police Victoria Police Manual Procedures and Guidelines ‘Extradition’ and ‘Court processes’ (dated 1/7/2015 and 15/2/2016 respectively).

<sup>129</sup> Policy and guidelines relating to tasking and coordination: Guideline for the Management of Warrants (as in force 2015-2016) via the Court Notices Services Management system; Victoria Police Intelligence Doctrine (VPID) dated 27 June 2016.

<sup>130</sup> MOU dated November 2013 was in force at the time of events material to Mr Freeburn’s apprehension.

<sup>131</sup> Among the court notices managed by the CNSM (and so require action by NSWPF members) are: applications for intervention orders (in NSW these are known as Domestic and Personal Violence Orders), interim and final intervention orders; future court attendance notices (eg summonses of accused persons or witnesses) in addition to warrants of apprehension, which include warrants issued by a court upon an accused’s (or witness’) failure to appear as directed, parole warrants, warrants relating to forensic patients or public health orders, the defence force (AWOL), the protection of children or the conduct of a forensic procedure, and interstate warrants.

<sup>132</sup> Statement of Christopher Stinson, Annexure G. The NSW State Intelligence Command publish monthly statistical data on the intranet reflecting all Police Area Command and Policing Districts’ outstanding notice information drawn from the CNSM.

<sup>133</sup> That is, Guideline for the Management of Warrants (as in force 2015-2016);

<sup>134</sup> Some investigative activities such as the use of policing databases (categorised as ‘internal checks’) and some external iASK checks (eg Centrelink, ATO, Rental Bond, Electoral Commission) do not incur costs while other iASK checks (eg obtaining telecommunications subscriber information, or Registry of Births, Deaths and Marriages) attract fees.

<sup>135</sup> Guideline for the Management of Warrants (as in force 2015-2016).

<sup>136</sup> The Guideline specifically refer to consideration of National Crimtrac Warnings and Alerts and NSWPF’s database COPS (Computerised Operational Policing System) including Warnings, Events and Information Reports and other known risk indicators (violence; association; addictions; mental health status).

at morning meetings and via email.<sup>137</sup> iASK requests (to locate the offender) are made as needed for warrants relating to ‘serious matters’ and, at Lake Illawarra, the Target Action Group are notified (via CNSM) of these outstanding notices.<sup>138</sup>

105. A warrant’s ‘urgency’ is determined by the CNSM system when it enters the system based on the type of notice/warrant, the seriousness of the offence and the age of the notice. CNSM assigns the notice a rating from most to least urgent<sup>139</sup> and prioritises the person to whom the notice relates – the person of interest (**POI**)<sup>140</sup> – to assist workload management. Relevantly, the age of the notice ‘triggers an [automated] ongoing urgency change,’<sup>141</sup> with urgency decreasing over the time the warrant remains unexecuted.<sup>142</sup>
106. The Guidelines indicate that Taskers should set a deadline of one to 14 days for finalisation (execution) of the warrant where there is a current address within the local area command; any warrant where the address is ‘whereabouts unknown’ should allow for sufficient enquiries to be made – the example given is ‘30-60 days’ – to locate the POI.<sup>143</sup> That said, the Guidelines ‘support’ the CNSM ‘tool’ but ‘the way in which warrants are prioritised is ultimately up to each PAC’ (as some PACs, due to geography, population density or other factors, may have a greater warrant burden than others).<sup>144</sup>
107. Tasked Officers are to attend the address on the notice ‘as soon as possible’ to execute the warrant.<sup>145</sup> If the POI is not present, or the occupant advises that the POI no longer

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<sup>137</sup> Statement of Craig Gray and Guideline for the Management of Warrants (as in force 2015-2016).

<sup>138</sup> Statement of Craig Gray.

<sup>139</sup> Notices are categorised high medium or low urgency: Statement of Craig Gray.

<sup>140</sup> Based on the number of outstanding notices, release date for any POI in custody and CNSM notice urgency level, POIs are assigned a priority from highest to lowest: extreme, critical, major, minor or insignificant’: Statement of Craig Gray.

<sup>141</sup> Statement of Craig Gray.

<sup>142</sup> Statement of Christopher Stinson, Annexure G.

<sup>143</sup> Guideline for the Management of Warrants (as in force 2015-2016).

<sup>144</sup> Statement of Christopher Stinson.

<sup>145</sup> Guideline for the Management of Warrants (as in force 2015-2016).

lives there, the Tasked Officer is to use the “5 Neighbour Policy”<sup>146</sup> to verify the information and gather intelligence.<sup>147</sup> Attempts to execute warrants and any intelligence gleaned ‘must’ be recorded in CNSM in ‘as much detail as possible’.<sup>148</sup> Tasked Officers are encouraged to complete the task in the given time frame or request an extension; tasks that cannot be completed should be ‘escalate[d]’ (returned) to the Tasker who will consider any request based on the actions recorded and then ‘re task’ the notice or place it in ‘review’.<sup>149</sup>

108. Taskers (supervisors and sergeants) should prioritise for service/execution notices ‘owned’ by another local area command (in this case, the notice was owned by Lake Illawarra but allocated to Campbelltown and then Redfern).<sup>150</sup> Taskers should ‘find and action’ all overdue tasks and re-task them to the same or another member; if the Tasked Officer has been re-tasked more than once ‘consider an email notification to the supervisor ... [and] Crime Manager’.<sup>151</sup> If the task cannot be completed because the POI cannot be located, Taskers should consider tasking to another members for intelligence gathering or place the notice in ‘review’ (sometimes referred to as ‘parked’) for further enquiries at a later date, but ‘generally not exceed[ing] 6 months.’<sup>152</sup>
109. The Guidelines note that ‘if after exhausting all reasonable levels of enquiry’ no address is located, then the address should be updated to whereabouts unknown and the warrant placed into review (with all enquiries documented on CNSM).<sup>153</sup> As noted above, the expectation is that notices owned by another local area command will be returned if the POI’s address is found to not be located in the allocated area command.

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<sup>146</sup> The “5 Neighbour Policy” requires the Tasked Officer to attend neighbours on either side of the POI’s address and the three across the street, making enquiries while showing the offender photograph and note all vehicle registrations in the vicinity: Guideline for the Management of Warrants (as in force 2015-2016).

<sup>147</sup> Guideline for the Management of Warrants (as in force 2015-2016).

<sup>148</sup> Guideline for the Management of Warrants (as in force 2015-2016).

<sup>149</sup> Guideline for the Management of Warrants (as in force 2015-2016).

<sup>150</sup> Guideline for the Management of Warrants (as in force 2015-2016).

<sup>151</sup> Guideline for the Management of Warrants (as in force 2015-2016).

<sup>152</sup> Guideline for the Management of Warrants (as in force 2015-2016).

<sup>153</sup> Guideline for the Management of Warrants (as in force 2015-2016).



110. When a POI is located interstate, the Investigation Manager is informed and will, in turn, notify the appropriate member so that the internal process authorising extradition can begin.<sup>154</sup>
111. The responsibility for ensuring timely extradition of a POI (in relation to a NSW warrant) lies with the PAC allocated the warrant.<sup>155</sup>
112. The NSWPF Handbook states that there is ‘no strict criteria’ for determining extraditions. However, as there are costs associated with extradition which are often borne by the local area command that owns the warrant,<sup>156</sup> the approval of the commander is required. It is clear from the report prepared by DSC Gill seeking authorisation for Mr Freeburn’s extradition that the seriousness of the offence of which he was convicted, the length of the custodial term imposed as punishment and the unserved term were significant considerations to the senior members who approved it.<sup>157</sup> Equally clear was the requirement that Mr Freeburn be in Victoria Police custody before NSWPF members arranged their interstate travel.
113. When arresting a POI interstate, NSWPF members are to obtain a copy of the warrant from the Warrant Unit (it should be produced for the court hearing the extradition application but is not required at the time of arrest) and arrange travel for the prisoner to NSW if bail is not granted by the magistrate hearing the extradition application. The Warrant Unit and CNSM are updated to reflect execution of the warrant.<sup>158</sup>
114. Warrants relating to POIs located interstate are placed in ‘review’ on CNSM pending the result of the extradition application, which removes the notice from the outstanding warrants list.<sup>159</sup>

### *Victoria Police*

115. Management of interstate warrants remains the responsibility of the originating jurisdiction. However, once Victoria Police is aware that an interstate warrant exists for

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<sup>154</sup> Statement of Craig Gray.

<sup>155</sup> Statement of Christopher Stinson.

<sup>156</sup> The extradition costs for parole warrants of offenders with ‘lengthy’ (that is, 12 months or more) incomplete sentences may be met by Corrective Services.

<sup>157</sup> Operation Carpetbagger-2016 dated 30 May 2016.

<sup>158</sup> NSWPF Handbook, ‘Extradition’ (version dated 12/3/2015).

<sup>159</sup> Statement of Craig Gray.

a POI located in Victoria and extradition has been approved by the issuing state, it will consider executing the warrant as part of its routine prioritisation under the tasking and coordination process.<sup>160</sup>

116. Victoria Police relies on the issuing state to provide information about the POI; this information will inform the triage of interstate warrants and risk assessments.<sup>161</sup>
117. All warrants are triaged (highest to lowest priority) based on the seriousness of the offending, the likelihood of imminent offending, the risk posed to community safety by the POI and the public interest in executing the warrant.<sup>162</sup> If seriousness of the offending suggests execution of the warrant may pose risks to Victoria Police members, additional planning may be necessary before the warrant is executed.<sup>163</sup>
118. At the time of Ms Wilms' death in July 2016, the Victoria Police Intelligence Doctrine (VPID)<sup>164</sup> was the operative policy governing the prioritisation of POIs. The VPID was then and remains the overarching intelligence practice philosophy for Victoria Police. The VPID provides an overview of the high-level principles and minimum requirements for intelligence and tasking and coordination.<sup>165</sup> Division Tasking and Coordination Committees prioritise the highest risk offenders in their area for proactive management and prioritise the completion of enforceable actions, such as warrant execution, in accordance with the factors listed in the preceding paragraph.<sup>166</sup>

### *Assessment*

119. The timeline for execution of Mr Freeburn's parole warrant bears repeating:

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<sup>160</sup> T&C is the process used by Victoria Police to prioritise problems, plan effective responses, allocate tasks and coordinate resources in way designed to improve community safety.

<sup>161</sup> Correspondence filed on behalf of the Chief Commissioner of Victoria Police dated 13 May 2022. Police members may also seek the advice of the Fugitive Taskforce, the subject matter expert on extradition policy and process in Victoria Police; that did not occur in this case: Statement of Mark Rippon.

<sup>162</sup> Correspondence filed on behalf of the Chief Commissioner of Victoria Police dated 13 May 2022.

<sup>163</sup> Correspondence filed on behalf of the Chief Commissioner of Victoria Police dated 13 May 2022.

<sup>164</sup> The version in force at the time of Ms Wilms' death was dated 27 June 2016 (though the version provided by the Chief Commissioner of Victoria Police is labelled 'VPID\_2015').

<sup>165</sup> The 2016 VPID provided instruction and guidance in relation to the prioritisation of POIs in Parts 2.13-2.14, Part 3.9 and Part 3.13. During the relevant period Division T&C Committees prioritised the highest risk offenders in their area for proactive management and prioritised the completion of enforceable actions, such as warrant execution.

<sup>166</sup> Correspondence filed on behalf of the Chief Commissioner of Victoria Police dated 13 May 2022.

(a) the parole warrant was issued in NSW on 15 January 2015 and executed in Victoria, nearly 18 months (541 days) later,<sup>167</sup> on 9 July 2016;

(b) for 432 days,<sup>168</sup> the effort to execute the parole warrant was based in NSW:

i. Redfern police attempted to execute the warrant six times in 395 days,<sup>169</sup> with the first attempt occurring 125 days<sup>170</sup> after originally tasked, and likely 60 days after Mr Freeburn had left NSW;

(c) for 109 days,<sup>171</sup> the effort to execute the parole warrant was based in Victoria:

i. 27 days<sup>172</sup> passed between confirmation of Mr Freeburn's Victorian address (by the landlord) and authorisation of his extradition by NSWPF; and

ii. 40 days<sup>173</sup> elapsed between confirmation that extradition was authorised and execution of the parole warrant (and arguably only at that point due to the missing person investigation, not as a result of interstate collaboration to execute the warrant).

120. Objectively, a period of 541 days between the dates of issue and execution of a parole warrant is astonishing.

121. Perhaps more startling is the realisation that the execution of Mr Freeburn's parole warrant occurred – broadly – in line with the policies and procedures in place at the time and which remain substantially unchanged today.

122. I am mindful of the danger of being critical of perceived delay in execution of the parole warrant while the task was allocated to Redfern police station because the competing operational priorities in the policing district at material times cannot now be

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<sup>167</sup> The parole warrant was executed one year, five months and 24 days (excluding the end date) after it was issued.

<sup>168</sup> 15 January 2015 to 21 March 2016 (when a Victorian address is identified).

<sup>169</sup> 10 February 2015 until 10 March 2016.

<sup>170</sup> Between 10 February 2015 and 15 June 2015.

<sup>171</sup> 22 March (Victorian address identified and DSC Gill allocated the investigation) to 9 July 2016.

<sup>172</sup> Between 27 April 2016 (the date DSC Rippon spoke directly to the landlord and confirmed Mr Freeburn's address) and 23 May 2016 (extradition authorised).

<sup>173</sup> 30 May (DSC Rippon was notified that extradition was approved) until 9 July 2016.

reconstructed. I am also cognisant that I must assess actions of all involved – in NSW and Victoria – based on what was known at the time, that is, without the benefit of hindsight.

123. That said, the evidence before me suggests that some of the benefits of the automated CNSM system were not used, or not optimised in this case. The available evidence shows no deadline applicable to the Tasked Officer at Redfern (and so unsurprisingly, there is no evidence that any extension to complete the task was sought). Deadlines/extension processes provide opportunities for review and reassessment, and potentially re-tasking to promote timely completion. In this case, a deadline for execution of the warrant (even if the longest suggested in the Guidelines, 60 days), if nothing else, would have increased the likelihood of NSWPF's timely awareness of Mr Freeburn's relocation to Victoria, particularly if attendance at the address involved intelligence gathering.
124. There is no evidence of any change to the Tasked Officer, though four different NSWPF members reported on the six attendances at the Redfern address. This suggests some oversight or awareness that the parole warrant execution task remained outstanding even in the absence of any apparent escalation of effort or priority.
125. Most critically, however, there is no evidence of intelligence gathering in line with the "5 Neighbour Policy" referred to in the Guidelines during attendances at Mr Freeburn's Redfern address. The potential of compliance with this aspect of the Guideline to enhance enforcement activities is obvious: it increases the chance that information that will progress execution of the warrant will be discovered. There is no evidence either that tasking intelligence gathering to the same or a different Tasked Officer was considered (notwithstanding repeated CNSM entries showing 'attended' and 'no person home'), though this likely would have required a deadline review, extension request or similar action as a trigger.
126. It is not clear from the available evidence whether the CNSM system permits a user to see at a glance the time/days a warrant has remained unexecuted. While there may be good reason for the CMSN system to automatically deprioritise "ageing" warrants there is arguably also merit in knowing, and considering when tasking, how long – objectively – a warrant has remained outstanding.

127. Comparatively, progress towards execution of the parole warrant was more expeditious once NSWPF learned Mr Freeburn was living in Victoria.
128. On the available information, it is difficult to assess whether it was reasonable for extradition approval to take 27 days to complete. Extradition approval was the precondition for Victoria Police's triage and prioritisation of Mr Freeburn's parole warrant to begin.
129. It is appropriate that Victoria Police perform an independent assessment of the risks associated with any operation it undertakes; this necessarily requires robust information sharing between collaborating police forces. It is unclear from the available evidence what, if anything, was requested or provided by way of intelligence about Mr Freeburn or his criminal antecedents to inform DSC Rippon's arrest plan; or, indeed, whether knowing general duties NSWPF members had been tasked with executing the parole warrant in NSW would or should have changed the Victorian detective's assessment that CIRT was needed. I note that the CIRT OIC did not consider specialist resources were required and that when Mr Freeburn was arrested it occurred without incident and without CIRT members.
130. Although reformulation of DSC Rippon's arrest plan was necessary, it did not significantly delay readiness to attempt Mr Freeburn's arrest. The evidence suggests arrest planning was complete by about 16 June 2016; the complicating factor thereafter was the virtual alignment of DSC Gill and Rippon's periods of leave. From 20 June 2016 it was evident that Mr Freeburn's arrest could not be attempted – by DSCs Gill and Rippon – before the latter returned from leave on or about 15 July 2016.
131. 20 June 2016 was a point at which knowing and considering how long – objectively – the parole warrant would continue to remain outstanding may have proved useful (29 days between arrest plan completion and DSC Rippon's return from leave). Delegation of warrant execution to other NSW and Victorian detectives does not appear to have been contemplated. That said, it is difficult to suggest that Mr Freeburn's arrest should have been attempted prior to 15 July 2016 without the benefit of hindsight. There was no evidence available to DSC Rippon at the time that Mr Freeburn was engaged in criminal activity in Victoria, that he was in a relationship with Ms Wilms and the relationship was characterised by family violence or that he was likely to leave the area.

*Changes to procedures for prioritisation and timely execution of warrants since 2015-2016*

132. No ‘major changes’ to policies and procedures relevant to execution of warrants have occurred within NSWPF since 2015.<sup>174</sup>
133. In Victoria, although the VPID was updated in 2018 (and a POI Management Practice Guide incorporated in 2020), the general policy relating to the prioritisation of POIs remains largely unchanged from the original VPID.<sup>175</sup> An exception is an improvement to the classification of POIs to assist Divisions to triage POI cohorts. Under the current Victoria Police POI Management and Coordination Model, there are three tiers of POIs, with ‘Tier 1 POIs’ defined to include those with an immediate enforceable action where an arrest power is available (including POIs subject to interstate warrants where extradition is approved) and being subject to active police targeting. Each POI is triaged with other Tier 1 POIs, with the order of triage reflecting the highest to lowest priority, based on their assessed risk to community safety.<sup>176</sup>
134. Victoria Police has also implemented and updated Victoria Police Manual (VPM) policies and procedures relating to extradition<sup>177</sup> and tasking and coordination. The VPM for Tasking and Coordination came into effect in March 2018 and was updated in 2021 to reflect the VPID Practice Guide POI Management and Coordination introduced in 2020.<sup>178</sup>
135. Victoria Police and NSWPF are among the signatories the MoU (on extradition) with other Australian jurisdictions since 2013. Although MoUs were revised in 2017 and 2021, the terms of the current MOU remain substantively unchanged from the iteration in force at the time of Ms Wilms’ death.<sup>179</sup>

**Missing Person Investigation to locate Ms Wilms**

136. Mr Wilms had last spoken to his daughter on the evening of 29 June 2016 and received a text from her around 10pm on 1 July 2016. He was aware that her car had not been

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<sup>174</sup> Statement of Christopher Stinson. However, I note that the following has been added to the current NSWPF Handbook chapter on ‘Arrests’: parole warrants should be executed ‘ASAP’ (Annexure D).

<sup>175</sup> Correspondence filed on behalf of the Chief Commissioner of Victoria Police dated 13 May 2022.

<sup>176</sup> Correspondence filed on behalf of the Chief Commissioner of Victoria Police dated 13 May 2022.

<sup>177</sup> VPM ‘Extradition’ dated 2 November 2020.

<sup>178</sup> Correspondence filed on behalf of the Chief Commissioner of Victoria Police dated 13 May 2022.

<sup>179</sup> Correspondence filed on behalf of the Chief Commissioner of Victoria Police dated 13 May 2022.

moved from the vicinity of the High Street premises between 30 June and 3 July 2016, when he had driven it himself to ensure the battery remained charged, parking it again in the same area and texting her to say he had left cash in the centre console.<sup>180</sup>

137. Mr Wilms returned to his daughter's car early on 4 July 2016 and found it where he had left it, with the cash still in the centre console.<sup>181</sup>
138. Having not seen nor heard from Ms Wilms for several days, and Mr Freeburn claiming not to know where she was, Mr Wilms attended Boroondara police station to report his daughter as a missing person on the evening of 4 July 2016.<sup>182</sup>
139. Mr Wilms reported this recent history, and that his daughter's behaviour (not contacting him or asking for or using money) was uncharacteristic. He highlighted Ms Wilms' vulnerability due to a mild intellectual disability, her 'history' of 'staying with abusive men' and that when last seen she had had two black eyes for which her explanations were inconsistent.<sup>183</sup> Mr Wilms did not know Mr Freeburn's full name – he knew him as 'Alex' – but provided the address of the High Street premises and Mr Freeburn and his daughter's mobile phone numbers.<sup>184</sup>
140. The reporting member identified a number of risk factors<sup>185</sup> – including 'relationship problems', 'disability' and 'circumstances cause suspicion' – and categorised Ms Wilms as a 'high' risk<sup>186</sup> missing person.<sup>187</sup> Precisely what prompted the reporting member to identify suspicious circumstances in Ms Wilms' disappearance is unclear from the available information.
141. The missing person investigation case summary narrative indicates that a divisional van attended the High Street premises at 6pm on 4 July 2016 but police members were

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<sup>180</sup> Coronial Brief, Statement of Peter Wilms.

<sup>181</sup> Coronial Brief, Statement of Peter Wilms.

<sup>182</sup> Coronial Brief, Statement of Peter Wilms.

<sup>183</sup> Incident Report and Case Progress Incident Number 160234705, Sub-incident 160366977.

<sup>184</sup> Incident Report and Case Progress Incident Number 160234705, Sub-incident 160366977.

<sup>185</sup> The purpose of this risk assessment is to inform the investigative response required in the circumstances.

<sup>186</sup> High risk assessment category is defined as 'risk posed is immediate and there are substantial grounds for believing that the missing person or the public is in danger'.

<sup>187</sup> Screenshot LEAP Modus Operandi Enquiry, Incident Report and Case Progress Incident Number 160234705, Sub-incident 160366977.

unable to gain access to the property and it appeared no-one was present as the lights were off.<sup>188</sup>

142. The missing person investigation was handed over to the incoming night shift.<sup>189</sup>

143. At 8.50pm, police sent text messages to Ms Wilms and Mr Freeburn asking them to contact Boroondara police.<sup>190</sup> Preparations were commenced for an appeal to the public via the media.<sup>191</sup>

144. Divisional van members were tasked to patrol the vicinity of the High Street premises throughout the night.<sup>192</sup> At about 11.50pm on 4 July 2016, Senior Constables (SC) Mahon and Soane attended to search for Ms Wilms.<sup>193</sup> There was no access to the upstairs residence from the front and so they went to the rear of the building and entered the rear courtyard by climbing over the locked gate.<sup>194</sup> Although a light was visible on the second floor,<sup>195</sup> the members received no response to repeated knocking on the (rear) door.<sup>196</sup> Knocking at the neighbouring property also received no response.<sup>197</sup>

145. SC Mahon called the patrol duty sergeant who confirmed that the night shift senior sergeant had not authorised the members to force entry to the High Street premises, there being no sign that anything was amiss.<sup>198</sup> The divisional van members left shortly after.

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<sup>188</sup> Incident Report and Case Progress Incident Number 160234705, Sub-incident 160366977.

<sup>189</sup> Incident Report and Case Progress Incident Number 160234705, Sub-incident 160366977.

<sup>190</sup> Incident Report and Case Progress Incident Number 160234705, Sub-incident 160366977.

<sup>191</sup> Incident Report and Case Progress Incident Number 160234705, Sub-incident 160366977.

<sup>192</sup> Incident Report and Case Progress Incident Number 160234705, Sub-incident 160366977 and Coronial Brief, Statement of Ben Mahon.

<sup>193</sup> Coronial Brief, Statements of James Soane and Ben Mahon.

<sup>194</sup> Coronial Brief, Statements of James Soane and Ben Mahon.

<sup>195</sup> The kitchen and laundry are located on the second floor.

<sup>196</sup> Coronial Brief, Statement of James Soane.

<sup>197</sup> Coronial Brief, Statement of James Soane.

<sup>198</sup> Coronial Brief, Statements of James Soane and Ben Mahon.



146. The missing person investigation was handed over to the incoming morning shift.<sup>199</sup> General duties police liaised with CIU colleague DSC Callegaro and supervising members.<sup>200</sup> Boroondara CIU (DSC Callegaro) took carriage of the missing person investigation to locate Ms Wilms at about 6.30am on 5 July 2016.
147. An urgent request for a location-based search for Ms Wilms' mobile phone as well as records of incoming and outgoing calls was made at 7.25am on 5 July 2016.<sup>201</sup>
148. Interpose<sup>202</sup> and interstate searches revealed 'Alex' to be Alex Freeburn who was known live at the High Street premises, was wanted by NSWPF and had a history of violence.<sup>203</sup>
149. At about 11am, DSC Callegaro tasked detectives to attend the vicinity of the High Street premises to ascertain if Ms Wilms' car was parked there and otherwise maintain observations. Surveillance commenced ten minutes later.<sup>204</sup>
150. By 11.30am, a request had been made for CIRT assistance to attend the High Street premises to arrest Mr Freeburn, if present, and to search for Ms Wilms.<sup>205</sup> Tactical planning commenced as soon as authorisation for the operation was received.<sup>206</sup>
151. Around 1pm, DSC Callegaro briefed the CIRT and CIU members assembled at Boroondara police station on the available intelligence concerning Mr Freeburn and informed them that he had obtained keys to the premises. CIRT members outlined their tactical plan.<sup>207</sup>

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<sup>199</sup> Incident Report and Case Progress Incident Number 160234705, Sub-incident 160366977.

<sup>200</sup> Incident Report and Case Progress Incident Number 160234705, Sub-incident 160366977; it appears that Mr Wilms contacted DSC Callegaro independently, whom he knew from the detective's involvement in the prosecution of Ms Wilms' previous intimate partner: Coronial Brief, Statement of Peter Wilms.

<sup>201</sup> Incident Report and Case Progress Incident Number 160234705, Sub-incident 160366977.

<sup>202</sup> Interpose is a secure, restricted-access database use by Victoria Police members which is designed to record information and details of specific police investigations or operations; not all police members have access to Interpose, nor are members with access to Interpose able to access all Interpose records.

<sup>203</sup> Coronial Brief, Statements of Marc Callegaro and Eric Young.

<sup>204</sup> Coronial Brief, Statement of Adrian Woodcock.

<sup>205</sup> Coronial Brief, Statement of Shayne Bandel.

<sup>206</sup> Coronial Brief, Statement of Shayne Bandel.

<sup>207</sup> Coronial Brief, Statement of Shayne Bandel.

152. At about 1.35pm on 5 July 2016, CIRT members entered the High Street premises and went upstairs to the room occupied by Mr Freeburn on the third floor. There was no response to members' knock on the door and so the door was unlocked and CIRT members entered. Ms Wilms was found deceased. Mr Freeburn was not present.<sup>208</sup>

153. I am satisfied that the missing person investigation conducted by Victoria Police was reasonable in the circumstances. Although the reporting member's identification of suspicious circumstances connected with Ms Wilms' disappearance ought to have resulted in the immediate notification of (if not immediate allocation to) Boroondara CIU pursuant to the applicable Victoria Police Manual guideline,<sup>209</sup> I am not satisfied that this was a missed opportunity to prevent Ms Wilms' death.

## **FINDINGS**

154. Having investigated the death of Elizabeth Judith Robyn Wilms, and having held an inquest in relation to her death on 27 October 2022 at Melbourne, I make the following findings, pursuant to section 67(1) of the Coroners Act:

- (a) that the identity of the deceased was Elizabeth Judith Robyn Wilms, born on 25 May 1987;
- (b) that Ms Wilms died at 244 High Street, Kew, between 1 and 5 July 2016 as a consequence of an assault;
- (c) in the circumstances described above.

## **ACKNOWLEDGEMENTS**

I convey my sincere condolences to Ms Wilms' family for their loss and acknowledge the distress caused by this protracted coronial investigation.

## **RECOMMENDATIONS**

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

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<sup>208</sup> Coronial Brief, Statement of Shayne Bandel.

<sup>209</sup> Victoria Police Manual – Guideline – Missing Persons Investigations (as updated 17/8/15).

1. That New South Wales Police Force and Victoria Police independently and collaboratively review and if necessary amend any police, guidelines or processes relating to the management of warrants (including interstate warrants) to ensure that they are executed in a timely manner.

## ORDERS

Pursuant to section 73(1) of the Coroners Act, I order that this finding be published on the internet.

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

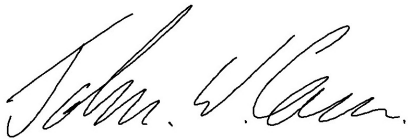
Ms Wilms' family

Chief Commissioner of Victoria Police, C/- Victorian Government Solicitor's Office

Office of General Counsel, New South Wales Police Force

Detective Sergeant Luke Farrell, Coroner's Investigator

Signature:



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Judge John Cain  
State Coroner  
Date: 27 October 2022

