



# OFFICE OF THE STATE CORONER

## FINDINGS OF INQUEST

**CITATION:** **Inquest into the death of Troy Martin Foster**

**TITLE OF COURT:** Coroners Court

**JURISDICTION:** Brisbane

**FILE NO(s):** 2014/4357

**DELIVERED ON:** 3 May 2016

**DELIVERED AT:** Brisbane

**HEARING DATE(s):** 22 September 2015; 7 – 10 March 2016, 16 March 2016

**FINDINGS OF:** Mr Terry Ryan, State Coroner

**CATCHWORDS:** CORONERS: Death in custody, avoiding being placed in custody, family violence, police shooting, mental health assessment.

### REPRESENTATION:

**Counsel Assisting:** Mr Stephen Keim SC and Miss Emily Cooper

**Queensland Police Commissioner:** Mr Michael Nicolson (instructed by Public Safety Business Agency)

**Officers Staples and Donald:** Mr Troy Schmidt (instructed by Gilshenan & Luton)

**Queensland Police Union of Employees:** Mr Calvin Gnech

Constable Bibby, Constable King; Senior Constable Coleman, former Constable Davey, Senior Constable Slingsby:

Mr Adrian Braithwaite (instructed by QPUE)

Ms Rhonda Ryan:

Mr Damian Walsh (instructed by Hannay Lawyers)

Ms C:

Mr Damian Walsh (instructed by Guest Lawyers)

Gold Coast University Hospital:

Mr Chris Murdoch (instructed by Kaden Boriss Lawyers)

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## Introduction

1. Between August 2013 and November 2014, officers from the Queensland Police Service (QPS), acting in the course of their duties, shot and killed five men in separate incidents.
2. The incidents occurred at the Sunshine Coast (2), Brisbane (2), and the Gold Coast. In particular, three of the deaths occurred over the period of one week, from 18 November 2014 – 24 November 2014.
3. The functions of the Queensland Police Service, as set out in the *Police Service Administration Act 1990*, include:
  - the preservation of peace and good order;
  - the protection of all communities in the State;
  - the prevention of crime;
  - the detection of offenders and bringing of offenders to justice; and
  - upholding of the law generally.
4. The community has high expectations of police, particularly in times of crisis. All operational police are trained in a range of ‘use of force’ options, including equipment such as firearms, to assist in the performance of their functions. However, the community expects that police will act lawfully and professionally in the exercise of their duties, and in accordance with operational policies and training.
5. The use of firearms by police, particularly when that use results in a death has the capacity to affect the trust and confidence that the community has in the police. A death in these circumstances raises many issues, including:
  - public scrutiny and suspicion of the circumstances of the death;
  - emotional trauma for the police officers involved;
  - emotional trauma for the family of the deceased person;
  - the degree to which the use of firearms by police is controlled by appropriate safeguards;
  - decision-making by police officers in critical incidents; including whether other use of force options could have been deployed.
6. The *Coroners Act 2003* recognises the need for public scrutiny and accountability by requiring all deaths in custody to be investigated by the State Coroner. The Act requires that an inquest be held into all such deaths.
7. These findings examine the circumstances of the death of Troy Martin Foster at Southport on 24 November 2014 after the QPS responded to an ‘open line’ 000 call made by his mother, Rhonda Ryan, which indicated a violent domestic disturbance was occurring. Findings pursuant to s 45 will be made in the first phase of this inquest. The evidence taken in these hearings was the last in the series in relation to the five deaths referred to above. In the second phase during 2016 I will hear evidence concerning

what recommendations, if any, should be made to help prevent deaths occurring in similar circumstances in future.

8. The full list of issues to be considered as part of the inquest into Mr Foster's death is attached to these findings. These findings do not consider all issues. The findings:
  - confirm the identity of the deceased person, how he died, the place and medical cause of his death;
  - clarify the circumstances leading up to the deaths; and
  - consider the appropriateness of the actions of attending police.

## The Inquest

9. Troy Foster's death was reported as a death in custody under the *Coroners Act 2003*. He died while he was trying to avoid being put into custody. In those circumstances an inquest must be held.<sup>1</sup>
10. An inquest was held at Southport from 7 – 10 March 2016. All of the statements, records of interview, photographs and materials gathered during the investigation were tendered at the inquest.
11. Senior Counsel Assisting, Mr Keim SC, proposed that all evidence be tendered and that oral evidence be heard from the following witnesses:
  - A/Inspector Anthony Buxton (ESC Investigator)
  - Constable Brad Melville (arresting officer – EEO<sup>2</sup>);
  - Constable Leanne Hay (arresting officer – EEO);
  - Constable Trent King (first response officer);
  - Constable Claire Bibby (first response officer);
  - Senior Constable Nickolas Coleman (back up officer);
  - Sergeant Jane Beare (Police Communications Coordinator);
  - Senior Constable Benjamin Staples (dog squad officer);
  - Senior Constable Lyle Slingsby (dog squad officer); and
  - Senior Constable Nicholas Donald (dog squad officer).
  - Rhonda Ryan (mother);
  - C (niece);
  - Wahleena Saunders (triage nurse);
  - Dana Fox (Mental Health Team nurse); and
  - Carla Ferrari (psychologist).
12. I consider that the evidence tendered in addition to the oral evidence heard at the inquest is sufficient for me to make the necessary findings under s 45 of the *Coroners Act 2003*.

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<sup>1</sup> *Coroners Act 2003*, s 27(1)(a)(i)

<sup>2</sup> Emergency Examination Order

## The evidence

### *Personal circumstances*

13. Troy Martin Foster was 32 years of age at the time of his death. He was born on 13 August 1982 to Rhonda Ryan, and Martin Foster, in Sydney. He was the youngest of five children, having two brothers and two sisters.
14. Mr Foster's parents recognised that he had a learning difficulty from an early age. Ms Ryan's evidence at the inquest was that her son could not read or write. She reported various behavioural disorders, such as ADHD. She also said that Mr Foster had temporal lobe epilepsy.
15. Mr Foster attended a special school unit for his primary years of education, but his formal education stopped at the age of 12. A neuropsychological assessment in 2009 confirmed previous diagnoses and placed his intellectual impairment in the 'mild' range.<sup>3</sup> He received a disability pension in his adult years as a consequence of his cognitive functioning.
16. Mr Foster had one child, K. However, Mr Foster had little contact with his daughter or K's mother, Kylie.
17. In her evidence at the inquest, Rhonda Ryan confirmed that Troy was her youngest child. She said he could be described as a 'mummy's boy'. In an interview with police after his death, she described her son as being very unpredictable and capable of violence when using drugs or alcohol. She said that *'he hated life, he hated people, he couldn't get along with anybody in the long term.'*
18. In her evidence at the inquest, Ms Ryan spoke about a Domestic Violence Order, which was made in 2011. This related to a siege incident in Portland, Victoria where Mr Foster had consumed drugs and alcohol. He wanted to see his daughter, and held his mother hostage and assaulted her before police eventually stormed the house.
19. On 16 August 2014, Mr Foster was released from prison in Victoria after spending most of the previous three years in custody following an attempted armed robbery and numerous parole breaches. He immediately flew to Queensland to live with his mother and his niece, C, at their residence at 1/29 Nakina Street, Southport.
20. Rhonda Ryan's evidence was that Mr Foster's frequent contact with the police began when he was aged 11 years. She alleged that he was assaulted by police at Tweed Heads when he was aged 11. He disliked police intensely and had a number of convictions for assaulting police.

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<sup>3</sup> Exhibit C3.4

21. Rhonda Ryan described a pattern of physical and emotional abuse from her son. She accepted that she resorted to giving in to his demands to appease him, and avoid his unpredictable patterns of violent behaviour. Her evidence was that when he drank alcohol alone or took drugs alone she could reason with him. However, when he mixed alcohol and drugs, he would effectively turn into a 'ticking time bomb waiting to explode'. At the inquest she said 'I couldn't be separated from him but needed intervention to stop the violence'. She said that she 'understood when others turned away' and that she 'would be there for him'.

### ***Medical history***

22. I was provided with a helpful review of Mr Foster's medical history from Dr Jill Reddan, Consultant Psychiatrist,<sup>4</sup> whom I anticipate will be giving evidence at the recommendations phase of the inquest. I have noted her commentary regarding Mr Foster's medical history below.

23. Dr Reddan confirmed that Mr Foster had many health, including psychiatric, assessments over the years. Although he had told others that he had schizophrenia, Dr Reddan's opinion was that the history did not support such a diagnosis.

24. Mr Foster's criminal offending related to a number of factors including his substance abuse, which was lengthy and entrenched. Quite a lot of his criminal offending appears to have been related to obtaining money to purchase and obtain drugs of various classes. Dr Reddan's view was that due to a combination of factors, Mr Foster remained an impulsive individual prone to regression and acting out, who used violence in an instrumental but also highly affective laden manner.

25. Toxicology testing after Mr Foster's death revealed a high level of alcohol (214mg/100mL) as well as methamphetamine; diazepam, clozapine (an antipsychotic), and marijuana derivatives. Dr Reddan's report confirmed that Mr Foster was not prescribed clozapine, which is a drug used to treat treatment resistant psychosis. It is a restricted drug because it has some very significant and very serious potential side effects. Dr Reddan concluded that Mr Foster had to have obtained this drug 'on the street' and there was a chance that Mr Foster did not know what he was taking.

26. Dr Reddan's opinion with respect to the toxicology results was that they were consistent with his longitudinal history of serious poly-substance abuse. It also revealed that at the time of his death, Mr Foster was extremely intoxicated with multiple substances, all of which are likely to have had profound emotional, behavioural and cognitive effects.

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<sup>4</sup> Exhibit B62

## ***Events leading to the death***

27. On 15 November 2014, police were called to a domestic disturbance at Rhonda Ryan's home. Ms Ryan said that she called police after Mr Foster threatened to stab her with a syringe after she refused to help him inject his 'drug of choice'. Mr Foster was punching and smashing walls. Ms Ryan was concerned that C would also be assaulted as Mr Foster resented her presence in the home. As a result, a Protection Order was put in place prohibiting Mr Foster from having contact with his mother or his niece.<sup>5</sup>
28. Mr Foster subsequently entered into a 12-month lease at a Mudgeeraba caravan park. This park had some notoriety and Ms Ryan's evidence to the inquest was that she did not like her son being there, as she believed that he would associate with other drug dependent persons at the park.
29. Ms Ryan had minimal contact from her son after he moved to the caravan park, apart from a call from him seeking food. Mr Foster formed an association with Krista Weston, another resident at the caravan park. In her interview with police, Ms Weston acknowledged that she and Mr Foster had consumed alcohol and drugs together and she had witnessed him injecting methamphetamine.<sup>6</sup>
30. Late in the day on 23 November 2014, CCTV footage showed Mr Foster drive off from a 7-Eleven service station at Labrador without paying for fuel. This was not reported to police until the next morning. A/Inspector Buxton confirmed in his evidence that police were not aware of this alleged offence until after Mr Foster's death. I heard evidence from two Constables who were on general duty at Nerang Station at the time, Constable Bradley Melville and Constable Leanne Hay.
31. Constables Melville and Hay confirmed various jobs they were called to on the night of 23 November 2014, including an armed robbery that occurred at the Matilda Service Station at Labrador, and further a report made to police of a car crashing into a guardrail at Gaven. I accept that at the time these events were not known to involve Mr Foster.
32. In relation to the armed robbery, police received a report from the console operator at the Matilda Service Station, Zeeshan Ali. He said that, at approximately 8:30pm, he was tying his shoelaces when he looked up and saw a male wearing a black 'hoodie', black jeans and a Dracula style Halloween mask holding a knife.
33. The male said, *'I will kill you, give me the money!'* The male then took \$500 to \$1500 from the cash register and ran away southbound on Government Road.

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<sup>5</sup> Exhibit C21

<sup>6</sup> Exhibit B28

34. Patrols by the QPS police helicopter (POLAIR) located a vehicle parked suspiciously near the offence location. The vehicle showed a high heat reading indicating it had recently been driven. A uniformed crew was dispatched to investigate the vehicle and subsequently located Mr Foster's white Toyota Camry with registration number 671LRU in the car park of 191 Government Road, Labrador. The officers believed it was parked suspiciously to enable a 'fast getaway'.

## **Emergency Examination Order – Gold Coast University Hospital**

35. At 12:11am on Monday 24 November 2014, Ms Ryan made a phone call to 000. Ms Ryan told police that Mr Foster was driving around, totally psychotic, and had been involved in a car crash. Following consultation with Ms Ryan, police caught up with Mr Foster at 1:12am.

36. Constables Leanne Hay and Bradley Melville attended and their interaction with Mr Foster was caught on Constable Hay's body worn camera. That footage was tendered at the inquest.<sup>7</sup> The officers are seen to have a conversation with Mr Foster where they relayed to him concerns from Ms Ryan that he had expressed thoughts to kill himself. I heard from Senior Constable Hay that Mr Foster, at least initially, denied these thoughts and said he was all right. However, he then admitted that he had been trying to kill himself in the vehicle. He said he was 'sick of living' and planned to drive over a cliff.

37. As a result of that admission, Officers Melville and Hay informed Mr Foster that he was detained under the *Mental Health Act 2000* (MHA). Mr Foster was taken to Gold Coast University Hospital for the purposes of an Emergency Examination Order. Constables Melville and Hay transferred him there and they arrived at about 1:33am.

38. Constable Melville then completed the EEO form while Constable Hay stayed with Mr Foster in the triage area. Mr Foster was compliant and was not aggressive at any time. The triage nurse on shift, Wahleena Saunders, then signed the EEO form at 1:45am.<sup>8</sup>

39. Officers Hay and Melville left the hospital at 2:15am and returned to the station, where their shift ended at 3:00am. They had no further involvement with Mr Foster. However, Constable Hay passed on information the next day when he heard the call out to Nakina Street over the police radio. She informed the operator that Mr Foster was a suspect in an armed robbery and that he walked out on the EEO. She was transferred to officers at the scene.

40. The effect of Ms Saunders signing the EEO was that Mr Foster was, from that time, detained at the hospital pursuant to the MHA. I am satisfied from

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<sup>7</sup> Exhibit E15.1

<sup>8</sup> Exhibit C9

the evidence that a psychiatric assessment for an EEO is required to be carried out within 6 hours<sup>9</sup>, after which time a patient is considered to be a voluntary patient.

41. The CIMHA extract provides a record of Mr Foster's time at the GCUH. Nurse Saunders' evidence surrounding her completion of a Medical Evaluation Form described a series of 8-10 yes or no questions conducted with Mr Foster, which took about 5 minutes. Ms Saunders recalled that, given Mr Foster had been involved in a motor vehicle accident, she required him to be medically cleared prior to his mental health assessment. Nurse Saunders recalled that Mr Foster was compliant and calm and that he answered all questions openly.
42. Nurse Saunders' evidence at the inquest was that there was no need to have security officers present. There were avenues for security to be made available if necessary.
43. The completion of the Medical Evaluation Form also required Nurse Saunders to obtain a specimen of breath, and to conduct a set of basic observations. Mr Foster's BAC level was 0.07 and his observations were unremarkable. Nurse Saunders' evidence was that she then informed the Mental Health Liaison Nurse (MHLN) of Mr Foster's presentation under the EEO and that he required assessment. This was the extent of Nurse Saunders' involvement.
44. I heard evidence from the relevant MHLN on shift, Ms Dana Fox. She gave evidence of very limited involvement with Mr Foster, and confirmed that Mr Foster would not have been seen with respect to his mental health needs until a medical clearance had been obtained. She confirmed that she had never been informed that such a clearance had been obtained.
45. Ms Fox's evidence was that monitoring the timeframe for the EEO was not part of her responsibilities as the MHLN. Ms Fox gave evidence of attending to where Mr Foster was sleeping at one stage, but that was the extent of her interaction with him.
46. Officers Melville and Hay remained at the hospital for the duration of Mr Foster's triage assessment with Nurse Saunders. After Mr Foster was allocated a bed (Resus Bed 8) they left the hospital at around 2:15am. Both Officers gave evidence that at the time they left, they were not aware that Mr Foster was a suspect for the armed robbery at Labrador earlier that night.
47. The 'Emergency Department Queensland Adult Deterioration Detection System'<sup>10</sup> shows that observations were conducted at 3:10am, 5:00am, 7:45am, 10:00am and 11:00am. At 10:00am, a note is made '*pt not to be D/C home CIB to be contacted prior to this. EPS seeing pt now.*'

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<sup>9</sup> *Mental Health Act 2000*, s 36

<sup>10</sup> Exhibit C5.1

48. At 11:00am, a note was made '*pt not in bed. Search of ED nil sign.*' At 7:45am, the time for involuntary assessment had expired. Mr Foster was free to leave the hospital from that point onwards.

## **Mental Health Assessment**

49. Senior Psychologist, Carla Ferrari, gave evidence at the inquest that on the morning of 24 November 2014, she was called in to assist at the hospital shortly after she had arrived at the outpatient clinic at Ashmore. She was asked to assist as an unusually high number of patients required mental health assessments. Ms Ferrari is a registered psychologist with eight years' experience.

50. After Ms Ferrari attended at the hospital she spoke with the MHLN on shift and was provided with a handover of the current list of patients waiting to be seen. She reviewed Mr Foster's EEO and Medical Evaluation Form and noted that the timeframe for involuntary assessment had lapsed. However, Mr Foster had been compliant with hospital staff and was engaging during her interaction with him.

51. Mr Foster was still asleep, and had to be woken by Ms Ferrari so that she could commence her mental health assessment. The assessment went for about 90 minutes. A copy of that assessment was tendered at the inquest.<sup>11</sup>

52. Ms Ferrari recalled in her evidence that she considered Mr Foster to be 'scattered' and it was her opinion that he was displaying indicia consistent with drug use. Mr Foster admitted drug use during the assessment, stating that he used 1.5 points of 'Ice' every day, in addition to cannabis. He told Ms Ferrari that he had crashed the car on purpose to try and kill himself.

53. Ms Ferrari asked Mr Foster if he was depressed. He answered that he did not suffer depression but was angry all the time. When asked what he was angry about, Mr Foster said it was mainly due to 'conflict with his family over his drug use and having to go to court and being in and out of jail'. Ms Ferrari gave evidence that she asked Mr Foster directly if he wanted kill himself. Ms Ferrari confirmed that Mr Foster displayed no plan, intent, or ideation to suicide at the time of her assessment.

54. Ms Ferrari's opinion was that Mr Foster's issues were not related to mental health but, rather, his lifestyle and personality vulnerabilities stemming from drug use and anti-social behaviour. She concluded that, while there was history of drug-induced psychosis, there was no evidence of a mental illness, insofar as there was no evidence of an 'Axis I disorder', mood disturbance, pervasive psychotic illness or acute psychotic symptoms. Ms Ferrari was of the opinion that drug rehabilitation was the most appropriate course of action for Mr Foster and that he was not at acute risk.

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<sup>11</sup> Exhibit C5

55. At the end of the assessment, Ms Ferrari informed Mr Foster that he would need to wait to be medically cleared due to the car crash in which he had been involved. Ms Ferrari recalled that she had also mentioned to Mr Foster that the police wanted to speak with him before he left the hospital.
56. After assessing Mr Foster, Ms Ferrari also called Ms Ryan to obtain 'collateral' information about Mr Foster to assist with her assessment. Ms Ferrari said that this was her usual practice and helped to either confirm or deny the information provided during the assessment. This phone conversation lasted about fifteen minutes.
57. Not long after speaking with Ms Ryan, Ms Ferrari received a phone call from the MHLN asking if she had Mr Foster with her. This was after she had consulted with Dr Rawley about Mr Foster's presentation. It was at this point it was discovered that Mr Foster might have absconded. Ms Ferrari said that at around this time she called police to advise that he would be discharged and to find out what Mr Foster was wanted for. She also passed this on to the MHLN. However, she did not recall which police officer, or which police station she spoke to.
58. CCTV footage from the GCUH confirmed that Mr Foster left the hospital at 10:29am.

### ***Events leading up to the shooting***

59. Between 11:00am and noon on 24 November 2014, Rhonda Ryan noticed Mr Foster walking from the bus stop near Nakina Street. Earlier that day police had attended at her home wanting to speak to Mr Foster about the armed robbery the previous night. She had also received a call from someone at the hospital informing her that police would be speaking to Mr Foster at the hospital. She had collected his belongings from the caravan park as she anticipated he would be returning to custody.
60. Ms Ryan stopped and picked him up. Her evidence was that he looked dirty, unshaven, and had no shoes on. Ms Ryan said to Mr Foster that he could come back to her home and have a shower.
61. When asked at the inquest how the domestic and family violence order factored into her decision making, Ms Ryan said that it was intended that Mr Foster simply have a shower, get a change of clothes and then leave. He had agreed to this plan.
62. After Mr Foster had a shower, he told his mother that he was hungry and wanted to drink. When Ms Ryan was asked why she complied with this request and gave Mr Foster alcohol, she said that it was not a good idea to refuse her son and it was just easier to go along with what he wanted.
63. Mr Foster was drinking from a 700ml bottle of vodka. At first he was mixing the vodka with lemonade, but his drinking escalated such that he started drinking it straight. During the course of the afternoon, Mr Foster consumed

almost the entire bottle. Ms Ryan also recalled he was smoking cannabis from a bong.

64. At about 4:00pm, Rhonda Ryan and C went to get a pizza and, when they returned, Ms Ryan noticed a marked change in Mr Foster's demeanour. While Ms Ryan was only aware that her son had been consuming alcohol and cannabis, a search of the residence after his death also located a clip seal bag containing what appeared to be amphetamines.<sup>12</sup> The results of the search are consistent with Mr Foster's toxicology results. It is possible that Mr Foster consumed amphetamine while Ms Ryan and C were out getting the pizza, and may explain his change in demeanour after they returned.
65. Ms Ryan said that when she asked Mr Foster about the robbery he agreed that he had 'done some wrong things'. He said he wanted to leave and that police would be wanting to speak with him.
66. Mr Foster had spoken to his father by telephone and said he was going to go and visit him. He seemed happy about this proposal. However, according to Ms Ryan's evidence he started to get aggressive and wanted the keys to Ms Ryan's car. She said that he wanted to do another robbery, using her car, and told her to say that the car went missing. Ms Ryan would not let him have the car keys, and he proceeded to damage the house by punching and kicking holes in the walls.
67. Mr Foster also went into the kitchen and picked up a steak knife, which he stabbed into the wall. It seems Ms Ryan managed to hide at least one knife from him, but he picked up another one, which was shaped like a meat cleaver, some 30cm in length. This was the knife that Mr Foster had with him at the time he was shot by police.<sup>13</sup>
68. Mr Foster also engaged in threatening behaviour towards his mother and his niece. At one stage, Mr Foster held a knife to his mother's throat. There was also an incident where both C and Ms Ryan initially thought that Mr Foster had stabbed their pet dog. He had in fact stabbed the couch close to the family dog.
69. At one stage C tried to escape down the hallway, but Mr Foster ran after her with the knife. Mr Foster also locked the doors to the residence to prevent anyone from leaving. There were similarities between these events and events that took place in Victoria in 2011, which brought about a protection order against Mr Foster.<sup>14</sup>
70. At 6:55pm, Ms Ryan dialled 000 from her mobile phone and left the phone open but hidden on the couch. The 000 call was essentially an 'open line' call. Ms Ryan gave evidence that she did not want her son to know she had called 000.

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<sup>12</sup> Exhibit F5, page 98

<sup>13</sup> Exhibit F5, page 11

<sup>14</sup> Exhibit D1

71. On the tape recording of the 000 call<sup>15</sup>, Ms Ryan is heard to repeat her address a number of times and she mentions that Mr Foster has a knife, has smashed the house up and assaulted her. Mr Foster can be heard repeatedly asking for the car keys, and Ms Ryan can be heard refusing them.
72. Sergeant Patricia Hosking, an experienced call taker and Communications Co-ordinator (COMCO) took the call at the Brisbane Police Communications Centre. She was working as a call taker that evening. Sergeant Hosking checked the address and saw the domestic violence history from 15 November 2014 (DFVPO issued) and was able to infer the identities of both the caller and the male at the address.
73. The COMCO covering the north Gold Coast area on 24 November 2014, Sergeant Jane Beare, gave evidence at the inquest. Her evidence surrounded the information that was relayed to her by Sergeant Hosking, as well as the direct phone calls being made by Sergeant Hosking to Gold Coast Police Communications to ensure the information was being received.
74. At 6:58pm, the job was tasked as a Code 2 priority to a general duties crew, Constables Trent King and Claire Bibby. Both officers gave evidence at the inquest. They were at the Southport station when the call came over the radio. The radio operator on shift was Senior Constable Craig Rudd.
75. Senior Constable Nickolas Coleman and his partner, Constable Sarah Davey, were also at the station at the time the call came through. They offered to provide back up to the other officers. Both cars proceeded to the address. Sergeant Hosking continued to update the job card with details she was receiving from Rhonda Ryan's 000 call.
76. The audio of the initial job call was replayed to Officers King, Bibby and Coleman during their evidence.<sup>16</sup> It was apparent that the full extent of the information available from that call was not absorbed or heard by those officers.
77. The evidence from Sergeant Beare was telling in this regard. She reported that she constantly receives calls from general duties crews asking for significant information, such as the job address, after it has been relayed over the radio many times. I agree with Counsel Assisting that this raises an issue as to how best to disseminate significant information to general duties crews.
78. Constable Davey was wearing a body worn camera, which captures the approach to the residence, the meeting at the nearby child care centre, and the immediate aftermath of the shooting. While this was helpful in many

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<sup>15</sup> Exhibit E28.5

<sup>16</sup> Exhibit E40

respects, the experience from earlier inquests suggests that the same technology worn by the officers who discharged their guns would have been of much greater assistance in resolving conflicts of evidence. The parts of Ms Davey's video up until shortly after shots were discharged were played during the hearing.

79. Sergeant Beare was continuing to monitor updates coming from Sergeant Hosking and the 000 call. She was concerned about the escalating violence and the fact that Mr Foster was wanted for the armed hold up at the Matilda service station from the previous night. Sergeant Beare knew that dog squad officers were on a training night in the vicinity, as she had already used Senior Constable Nicholas Donald for a job earlier that day.
80. Sergeant Beare phoned the District Duty Officer, Senior Sergeant Chris Hurley. He agreed that the uniformed crews already tasked were relatively junior and the dog squad officers should support them. Coincidentally, three members of the Gold Coast dog squad were on a meal break at Ashmore when Senior Constable Lyle Slingsby received a call on his mobile phone from the COMCO. Senior Constable Slingsby was in company with Senior Constables Benjamin Staples and Nicholas Donald.
81. I heard from each of the dog squad officers at the inquest. Their recollection of the initial job details was also very limited. They each did not recall being told that Mr Foster was armed with a knife, the nature of the relationship between Mr Foster and his mother, or details of the persons involved in the disturbance they were to attend. There was also an impression that general duties crews were attending the job location rather than standing by, waiting for the arrival of the dog squad.
82. The three dog squad officers began to proceed to the address, which was only minutes away, in their separate vehicles with their dogs in a form of convoy. Shortly after 7:00pm, all four junior officers had arrived at a nearby childcare centre (150m away from the residence at 29 Nakina St) to plan their approach to the incident. During this meeting those officers were contacted by telephone and were advised to wait until the dog squad arrived.
83. It was decided that Senior Constable Coleman and Constable Davey (who were in an unmarked police car) would conduct a drive by of the address with two objectives. First, to get eyes on the address and attempt to establish an idea of what was occurring. Second, to park at the other end of the street and establish a cordon to prevent any offender from fleeing the area.
84. I heard evidence from Rhonda Ryan and C that Mr Foster had made his way outside, and Ms Ryan was going to try and coax him to go to a friend's house. They made their way out of the front door and down the driveway, and Mr Foster was seen to fall a number of times as he was walking down the driveway. He fell into palm trees on the left of the driveway as he walked

to the street, and again at the bottom of the driveway towards the right hand side.

85. The evidence from Rhonda Ryan and C was that Mr Foster was very drunk and was falling over his own feet. He was in possession of the meat cleaver and his mobile phone. They observed the unmarked police car drive past. Mr Foster remarked that it was 'the cops' while Ms Ryan thought the car was visiting another house, and tried to reassure Mr Foster to this effect.
86. At approximately 7:15pm, Senior Constable Coleman provided a transmission over the police radio that he and Constable Davey had driven past the address and had observed what they believed to be an assault taking place between two persons on the driveway of the residence.
87. His evidence at the inquest was that he assumed the larger person was male, and the smaller person was a female. He conceded that he could not see very well as the area was poorly lit. He could not see a knife and could not provide any further detail of the assault. He saw movements that were erratic and the situation did not seem calm – he was observing an altercation.
88. However, Senior Constable Coleman said that he was happy to wait for the dog squad because in his experience police dogs have a very powerful impact on offenders, and dog squad officers are highly skilled in handling challenging situations.
89. Senior Constable Staples heard this update from a stationary position in the southern part of Nakina Street. His reaction was to move forward straight to the address and Senior Constable Donald, who had left his vehicle, got into the passenger side of Officer Staples' vehicle.
90. In his evidence at the inquest Senior Constable Staples said that the information about an assault between a male and a female was enough to warrant immediate police action and this prompted his decision to move in. However, the general duties crews were not informed that the dog squad officers were going to the address. Constables Bibby and King saw the dog squad car drive past them, and they followed Senior Constable Staples' car to the address.
91. Senior Constable Slingsby (who had been following officers Staples and Donald) had been cut off on the way to the address by another vehicle. As a consequence, he was a couple of seconds behind his colleagues, and was not involved in the initial interaction at the location. He arrived just as the shots were fired.
92. The evidence of the police officers, apart from Officers Staples and Donald, was that they arrived at the address either as the shots were being fired, or a couple of seconds afterwards. The only direct evidence relating to the shooting was from Officers Staples and Donald, Rhonda Ryan and C.

93. As Officer Staples approached the house, he could see a male, and two females (whom he now knows to be Mr Foster, C and Rhonda Ryan) on the driveway. Officer Staples started to turn to his right in order to get his dog, Blitz, out of the back of his vehicle. However, almost immediately, he heard Officer Donald yell 'knife'.
94. The evidence indicates that as Officer Staples had momentarily turned, Officer Donald had seen Mr Foster (who had been laying down on his back on the bottom of the driveway) stand up. Officer Donald had called out to identify himself as a police officer, when he saw Mr Foster reach back down to the ground and pick up the meat cleaver with his right hand. He described it as a '25cm kitchen knife'.
95. After Officer Donald yelled 'knife', Officer Staples' attention was drawn back to the residence and he had started to approach the driveway with Officer Donald. Both officers had their firearms drawn. Officer Staples saw that Mr Foster had the knife in his right hand and was walking up the driveway towards Rhonda Ryan and C.
96. Officer Staples' evidence was that he shadowed Mr Foster up the driveway, as he thought Mr Foster was either going to harm Rhonda Ryan, or try and get inside the house. The officers did not know whether there was anyone in the house who was unaccounted for. Officer Staples wanted to maintain triangulation between the women and Mr Foster.
97. While Senior Constable Staples had the impression that Mr Foster had not formed any immediate intention to hurt Rhonda Ryan, Senior Constable Donald was more concerned. This may be explained by the fact that Senior Constable Staples had a better view of Mr Foster's face and was able to gauge his expressions.
98. Senior Constable Donald said that he heard Rhonda Ryan repeatedly saying 'No' to Mr Foster. He said both women appeared petrified and he was concerned about their safety.
99. In contrast, both officers were able to see Mr Foster's markedly changed attitude when he turned his focus more directly to the police officers.
100. Officer Staples had managed to position himself between Mr Foster and Rhonda Ryan. Officer Staples recalled that he was close to the top of the driveway at this point and Ms Ryan was to his right. As Mr Foster was walking up the driveway, he was holding the knife in a low position and moving it slightly in repetitive movements.
101. I accept that Officer Donald and Officer Staples were both calling on Mr Foster to drop the knife, or drop the weapon. Their repeated calls to drop the knife were confirmed by Ms Ryan and C.
102. Mr Foster did not respond to any of the calls to drop the knife. The evidence from both officers was to the effect that it was as if they were not there.

Officer Donald's evidence was that Mr Foster stopped, and angled his body to look at Officer Staples.

103. Officer Staples confirmed that Mr Foster's demeanour changed at this point. Officer Staples said that his light source was focused on Mr Foster's eyes, and he described Mr Foster's face as having a look of malevolence. His eyes were wide and he 'just looked evil'. Officer Staples' evidence was that at this point he thought Mr Foster intended to do something to him.
104. I heard from both Officers that Mr Foster turned to face Officer Donald directly. Officer Donald was further down the driveway. Officer Donald's evidence was that it was as if Mr Foster was looking straight through him. He described a look of 'pure hatred' that he had not seen in his eight years as a police officer.
105. There was considerable consistency, but some differences, between the recollections of the two police officers with respect to the events immediately before the discharge of the weapon.
106. Senior Constable Donald described at the inquest how Mr Foster took two 'purposeful steps' toward him. Senior Constable Staples recalled only one step to his colleague that was equally purposeful – a 'charging motion'.
107. Both officers described the knife as raised to shoulder or chest level with the blade facing Constable Donald. Senior Constable Staples described Mr Foster as pushing his right arm with the knife fully forward as he stepped.
108. Senior Constable Donald recalled the elbow still bent and the knife only partially thrust forward. Senior Constable Donald stated that Mr Foster had planted his foot after the second step when Officer Donald discharged his firearm. Ballistics evidence indicated that he fired four shots.
109. Simultaneously, Senior Constable Staples discharged his firearm, in his evidence, at the end of the single step towards Senior Constable Donald. He fired a string of three shots. Senior Constable Donald estimated that Mr Foster was approximately 3m away from him while Officer Staples estimated it was about 5m.
110. The evidence of both officers was that they were afraid for Senior Constable Donald's life at the point they discharged their weapons. Senior Constable Staples said that he was trained to fire his weapon until the threat was stopped. It was the only use of force option available when confronted with death or grievous bodily harm. In this case Mr Foster had presented an edged weapon and it was necessary to shoot him to protect Senior Constable Donald.
111. Senior Constable Donald said that he had formed the view that Mr Foster was going to stab him and that he was in fear of his life. He said that no other use of force options were available in those circumstances.

112. The body worn camera footage from Constable Davey records the audio of Officers Staples and Donald calling on Mr Foster to drop the knife as well as faintly recording the shots being fired.
113. Mr Foster fell to the ground and ended up on his back with his head facing down the slope of the driveway. The knife was still in his hand as he fell but ended up a short distance away from his left side. The officers continued to train their guns on Mr Foster. It is not exactly clear who picked up the knife but it was retrieved and general duties officer, Constable King, was given the responsibility to secure it in the back of a police car. Constable King also helped by providing gloves and looking for an airway device to assist with CPR.
114. Senior Constable Donald placed a handcuff on Mr Foster's left hand in order to apply push/pull methods to secure Mr Foster's compliance. Senior Constable Slingsby did a pat down search for further weapons.
115. In his interview with investigating police, Senior Constable Slingsby indicates that, in doing that search, he pulled Mr Foster's pants slightly to check for weapons. He indicated in oral evidence that it was more a matter of pulling the waistband out slightly.
116. This action may have explained C's evidence that police officers pulled Mr Foster's pants down after the shooting occurred. Officers Staples, Donald and Slingsby realised quickly that the need to administer first aid was a priority and resuscitation efforts commenced.
117. The documentary records show that at 7:18pm, the QAS was called. At about the same time, the District Duty Officer, Senior Sergeant Chris Hurley and the Regional Duty Officer, Inspector Tracey Dale, were informed of the shooting.
118. Mr Foster was pulled upwards so he lay across the driveway to enable first aid to be applied by the officers. Senior Constable Slingsby commenced compressions and Senior Constable Donald attended to making sure that Mr Foster's airway was clear. Constable Slingsby continued to provide assistance for a considerable time after the arrival of QAS officers. When he stopped compressions, he was relieved by another police officer who had attended the scene.
119. Mr Foster was declared deceased at 7:48pm. Senior Constable Slingsby remained in attendance until that point. The evidence of Senior Constable Staples' and others at the scene suggests he was involved in giving clear directions in the period immediately after the incident to ensure that the scene was preserved, and that first aid could be administered without interruption.

### ***Evidence of Rhonda Ryan and C***

120. The evidence of Ms Ryan and C was consistent with much of the evidence of officers Staples and Donald. However, there was a significant difference concerning Mr Foster's last steps, whether he spoke and what was said.
121. Ms Ryan confirmed that police told Mr Foster to put the weapon down at least three times.
122. There was also evidence from Rhonda Ryan that police pushed her to the ground before the shots were fired. C also indicated that immediately after the shots were fired she went and stood over Mr Foster. The officers' evidence did not accord with this.
123. The lighting was poor at the time of the incident. However, it is not considered that this contributed to the differences in recollection. There was no street lighting close by. Any house lighting was far away and offered little assistance. Rhonda Ryan and C recalled that headlights from the police vehicle at the base of the driveway made it easier to see. Officers Staples, Donald and Slingsby and C appeared to be able to see fairly well over the short distances they were observing.
124. One matter of apparent discrepancy is that Ms Ryan and C had observed Mr Foster being significantly affected by alcohol and falling over repeatedly. The officers varied in their appreciation of this fact from when they arrived. On their evidence Mr Foster appeared not to have stumbled, although whether his final fatal step or steps were in fact a stumble was in issue at the inquest.
125. There was no medical evidence on this subject. However, I agree with the suggestion of Counsel Assisting that the adrenalin associated with the arrival of police and their subsequent commands may have overcome the effect of alcohol to an extent, and for the short time, in which events occurred.
126. Ms Ryan's evidence was that, prior to the shots being fired, a person she presumed to be a police officer physically forced her to the ground. Senior Constable Staples was quite clear in his evidence that Rhonda Ryan was approximately one metre to his right and slightly further up the driveway. He did not recall any physical contact as both his hands were on his weapon. It is likely that he would have remembered if he had engaged in a forceful way with a bystander while focussing his firearm on the source of a lethal threat.
127. No other person observed this pushing to the ground or saw Ms Ryan on the ground until after the incident. She was, however, observed to collapse to the ground afterwards. Ms Davey's videotape also shows that officers both supported Rhonda Ryan and C and prevented them from going back to the area where officers were administering first aid.

128. In the circumstances, I accept the submission of Counsel Assisting that I cannot find Ms Ryan's evidence in this regard reliable. With the trauma experienced by her it is plausible that Ms Ryan confused the subsequent restraint with events before the firing of shots. I do not find that Senior Constable Staples or anyone else pushed her to the ground before the shots were fired.
129. In terms of C's evidence that she stood over Mr Foster after he was shot and she saw his pants being pulled down, there is some contextual evidence. The audio of Ms Davey's recording clearly shows that loud commands to stand back were given immediately after the shots were fired. The witnesses agree with various amounts of recollection that words to that effect were said.
130. Senior Constable Slingsby was the first person, not present at the time that shots were fired, to arrive and survey the scene. In his interview with investigating police<sup>17</sup>, Senior Constable Slingsby describes seeing a male laying on the driveway. Senior Constable Staples was near him, trying to keep a middle aged woman wearing a red top away from him. There was a younger girl behind her on the grass.
131. Senior Constable Slingsby's observations, combined with the audio recordings of officers directing that people move away, allow me to find that Ms Ryan and C did push closer when they saw their family member shot and fall to the ground.
132. Further, I am satisfied that C saw Senior Constable Slingsby conduct the pat down search and pull at Mr Foster's pants. This may have been shocking to her if she did not understand the purpose of the action (which is very likely).
133. I reject C's recollection of standing over her fallen uncle. By moving closer, as her grandmother did, she probably did see Mr Foster, in his seriously injured condition, quite clearly and from not more than a few metres.
134. As with Ms Ryan's recollection of being pushed to the ground, it is quite understandable that C's recollection is awry to this degree.
135. At the inquest both Ms Ryan and C stated that Mr Foster's last movement was a step towards his mother. Such a step may have been confused with a step towards Senior Constable Staples since all accounts place him and Ms Ryan in the same vicinity. It is much more difficult to confuse a step towards Senior Constable Donald as a step towards Ms Ryan.
136. Ms Ryan also stated that her son said or mouthed 'mum'. C gave evidence that his arms were raised in a form of surrender action (albeit, still holding the knife). Ms Ryan, in her first recorded statement, described Mr Foster as stepping towards police officers. The allegation that he stepped towards her

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<sup>17</sup> Exhibit B11, line 175

surfaced in her second statement, taken during a walk through interview in early December 2014.

137. Ms Ryan was asked, in her oral testimony, why she initially said to investigators that her son had walked towards police and not mentioned her son stepping towards her. Ms Ryan explained that she had not mentioned this as she did not want to be reminded of his final movements, and that he was shot by police for moving towards her. Ms Ryan said that because she was on the ground when the shots were fired she did not see Mr Foster step towards police.
138. Although the recollection is understandable, Ms Ryan's evidence in her first interview shows no other signs of deliberately framing her evidence out of sentiment for her deceased son. It is likely that her first and most immediate recollection was the accurate one. It is more likely that her later recollections have been affected by re-running the incident in her mind affected by the great sadness she feels for her loss of her son.
139. The transcript of C's first interview seemed to have a similar confirmation of the police evidence in that she is recorded as saying that Mr Foster walked towards a man. A close listening, however, confirms that she said towards her 'Nan'.<sup>18</sup> Her oral evidence that the transcript must be wrong is thereby confirmed and her version of events comes from her earliest formal interview. On this point, therefore, C's evidence has been consistent.
140. On the other hand, no other witness recalls Mr Foster in an act of surrender. If he had been attempting to surrender, as opposed to thoughtlessly stepping towards his mother, which might reasonably be seen as exacerbating the threat he was causing, one might have expected Ms Ryan to have also observed it and spoken about it in her first interview.
141. It may have been that the upwards raising of arm to chest or shoulder height was interpreted as a move to take up a surrender position by C either in observing the incident or in recalling it. It may be also observed that an intention to surrender could have been carried out without stepping in any direction. If Mr Foster wanted to stop the threat he was causing, he could have simply dropped the knife.
142. The conclusion that he was shot in confusion when he was surrendering or simply trying to display affection to his mother seems less likely. There are reasons, associated with the traumatic events she experienced for C, as well as her grandmother, to be confused on some points of their evidence.
143. On the other hand, Senior Constables Staples and Donald were both precise and careful in their evidence. Even though their recollection differed slightly on some points, for example, the extent to which Mr. Foster's arm was extended; the differences are within the bounds of two people honestly recalling an event with substantial accuracy.

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<sup>18</sup> Exhibit B1, page 17, line 565: The tape of her interview is exhibit E27.

144. Finally, I was assisted by the observations of several police officers, particularly, Senior Constable Slingsby, that Mr Foster fell and arrived at a position with his body down the driveway with his head closer to Nakina Street. This is more consistent with Mr Foster having stepped downhill towards where Senior Constable Donald was located.

145. In all the circumstances, I am satisfied that Mr Foster, immediately before his death, took at least one firm or definite step towards Senior Constable Donald and that it was this action which was the final action to cause those officers to discharge their weapons.

## **Autopsy results**

146. Forensic pathologist, Dr Dianne Little, conducted a full internal autopsy examination on 26 November 2014. Dr Little attended the death scene some hours after the death.

147. External examination of the body confirmed the presence of four gunshot wounds to the trunk, two of which were the direct cause of death:

- Wound A entered the top of the right shoulder/upper back and passed down through the right lung and heart to enter the abdominal cavity. It then passed down through the front of the liver and lodged in the fatty tissues just below the stomach. This wound caused haemorrhage into the chest cavities.
- Wound D passed upwards and to the left from the right side of the abdomen, through the 9<sup>th</sup> and 10<sup>th</sup> ribs, and through the liver. It proceeded through the diaphragm to the pericardium and through the right ventricle of the heart to lodge in the pericardial sac. This wound caused haemorrhage.

148. The other gunshot wounds, B and C, would not have caused immediately fatal injuries. Dr Little concluded that the cause of death was due to gunshot wounds to the trunk.

149. Senior Constable Ashley Huth conducted the ballistics examination. Senior Constable Huth confirmed that it was not possible to identify which bullets came from which firearm, so it is unknown as to who fired the fatal shots. It was able to be concluded that there were seven shots fired in total, with Officer Staples firing three shots, and Officer Donald firing four.

## **The investigation**

150. A/Inspector Anthony Buxton, who at the relevant time, was stationed at the Queensland Police Service Ethical Standards Command, conducted a detailed investigation into the circumstances leading to the death of Mr

Foster. I heard evidence from him and was provided with a detailed and comprehensive report.<sup>19</sup>

151. I am satisfied that upon being notified of the deaths, the ESC attended promptly and an investigation ensued. The investigation was informed by statements and recorded interviews with:

- All police officers involved;
- attending QAS staff;
- persons who were inside the residence in the lead up to the death;
- neighbours of the residence;
- other people who knew and had contact with Mr Foster; and
- next of kin.

152. The ESC investigation also relevantly included investigation of the events leading up to the shooting, namely the EEO process at the GCUH.

153. Forensic analysis was conducted and photographs were taken. All of the police investigation material was tendered to me at the inquest.

154. The evidence regarding the separation of the police officers has been confirmed from each of the attending police that they were eventually directed to separate and not discuss the incident.

155. Officers Staples and Donald were separated immediately, as it was clear at the outset that they had been involved. It was not as clear, however, how the other officers were involved and this explains why it took longer for them to be separated. All officers were taken to the Surfers Paradise police station to wait for interviews with Ethical Standards Command.

156. ESC investigators interviewed the officers on the same day. These directed interviews took place between 4.5 to 8 hours after the incident. The QPUE has indicated that it is concerned with the requirement for officers to participate in such an interview immediately following such an incident. Senior Constables Donald and Staples were also required to return to the scene the next day for walk-through interviews. The QPUE is also concerned that Senior Constable Slingsby was not permitted to remove blood from his face, hands and arms as gunshot residue testing was required. These matters will be the subject of further consideration at the next phase of these inquests.

157. For present purposes, I am satisfied that the integrity of the evidence of the officers was suitably preserved.

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<sup>19</sup> Exhibit A11

## Conclusions

158. The ESC investigation concluded that there was no misconduct displayed by any of the officers involved and further concluded that no disciplinary proceedings were required.
159. I accept the conclusions of A/Inspector Buxton in this regard.
160. Consistent with that conclusion, I accept the submission of Counsel Assisting that the actions of Senior Constable Staples and Senior Constable Donald, can be justified with respect to the final use of lethal force after Officer Donald was confronted by Mr Foster holding the meat cleaver and moving towards him.
161. Officer Donald gave evidence that he was in fear of his own life, and Officer Staples gave evidence that he was in fear of Officer Donald's life. In accordance with their training they used lethal force, as the appropriate response to an edged weapon.
162. Ms Ryan submitted that her son's death could have been avoided. She submitted that if Senior Constable Coleman had correctly observed the interaction between her and Mr Foster on the driveway, dog squad officers would not have been called in. I do not consider that the dog squad were called in by Senior Constable Coleman. Rather, on hearing his situation report, they responded to a perceived assault on Ms Ryan. I consider that their immediate attendance was justified.
163. Ms Ryan also submitted that there were insufficient attempts to negotiate with Mr Foster. Having regard to my conclusions above, I am unable to accept that submission.
164. I note that various issues have been raised about the lead up to the use of force (in terms of the information disseminated to both the dog squad officers and the other attending officers). While I am satisfied that the final use of force was justified in the circumstances, I agree that the other issues raised are more appropriately dealt with at the recommendations phase of this inquest.
165. While Dr Reddan was not called during this phase of the inquest, her report has been tendered. At this stage, it is sufficient to note her conclusions surrounding the EEO process, and that the assessment conducted by Ms Ferrari was adequate and appropriate in the circumstances.
166. Dr Reddan also commented in her report about the current process for an EEO prescribed by s 33 of the MHA as being adequate and appropriate. I also heard evidence from Ms Ferrari surrounding potential changes to the MHA in this regard, and from Constables Melville and Hay with respect to possible improvements to the EEO form.

167. I am of the view that these are matters would be more appropriately addressed at the recommendations phase, after Dr Reddan and other experts have given oral evidence. Consequently, I make no finding at this time as to the adequacy or appropriateness of the mental health assessment conducted at the GCUH on the day of Mr Foster's death.

## **Findings required by s. 45**

168. I am required to find, as far as is possible, the medical cause of death, who the deceased person was and when, where and how he came by his death. As a result of considering all the material contained in the exhibits, I am able to make the following findings:

**Identity of the deceased** – The deceased person was Troy Martin Foster

### **How he died -**

Mr Foster had no known mental health history in Queensland. His death occurred some three months after he was released from prison in Victoria. On 17 November 2014, a Protection Order was made prohibiting contact with his mother. This caused Mr Foster some distress as he relied heavily on his mother. In the early hours of 24 November 2014, Mr Foster crashed his car. He told police he wanted to kill himself. This prompted police to detain him for the purpose of an Emergency Examination Order. He was taken to the Gold Coast University Hospital for a mental health assessment. He was not found to require involuntary treatment. By the time the assessment was conducted, the statutory timeframe of the Order had ended and he could not be detained at the hospital against his will.

Mr Foster left the hospital without formally discharging himself at about 10:30am on 24 November 2014. He knew that police wanted to talk to him about his suspected involvement in an armed robbery the previous night.

Mr Foster was later picked up by his mother near her house. She took him back to her place to have a shower. Mr Foster proceeded to drink a bottle of vodka, and consumed cannabis and amphetamines. His behaviour deteriorated, and he acted in a violent and aggressive manner towards his mother and his niece. He caused extensive damage to the interior of the house. He had possession of a

number of different knives from the kitchen. His mother called 000 and left the line open, so that Mr Foster did not know she had made the call.

Two crews of general duties police attended in addition to three dog squad officers. When police arrived, Mr Foster, his mother and his niece were on the front driveway area. Mr Foster had a meat cleaver but refused police requests to drop the knife. Mr Foster walked towards his mother while holding the knife, but then stopped. He then took one or two steps down the driveway in the direction of one of the dog squad officers while holding the knife at chest height. Mr Foster was subsequently shot by two dog squad officers acting in the course of their duties.

**Place of death –** He died at Southport in the State of Queensland.

**Date of death –** He died on 24 November 2014.

**Cause of death –** The cause of death was from gunshot wounds to the trunk.

### ***Comments and recommendations***

169. I close the inquest into this death with respect to the findings required by s.45 of the *Coroners Act 2003*.

170. I extend my condolences to Mr Foster's family. It was clear that Ms Ryan remained firmly committed to her son's wellbeing despite his frequent unpredictable and often violent outbursts against her and others.

171. I acknowledge the submission on Ms Ryan's behalf that there can be no greater horror for a parent than to see their child killed in violent circumstances. I accept that the experience has been highly traumatising for Ms Ryan and her granddaughter. It was also clear that the incident has also left its mark on the police officers involved. One has since resigned from the QPS and was unable to give evidence at the inquest as a consequence of ongoing trauma.

172. Any comments and recommendations under s 46 of the Act will be considered in the second phase of this inquest.

Terry Ryan  
State Coroner  
3 May 2016

