QUEENSLAND COURTS

CORONERS COURT OF QUEENSLAND

FINDINGS OF INVESTIGATION

CITATION:	**Non-inquest findings into the death of Sarahjane Dower**
TITLE OF COURT:	Coroners Court of Queensland
JURISDICTION:	CAIRNS
DATE:	20 August 2021
FILE NO(s):	2012/3179
FINDINGS OF:	Nerida Wilson, Northern Coroner
CATCHWORDS:	Intimate Partner Violence; Private Domestic Violence Application; Service of Domestic Violence Application and Order/s; dismissal of domestic violence application; parenting orders; stabbing; fatal injuries; set vehicle to fire; interfering with corpse; military service; Australian Defence Force; psychological care; Veteran's Counselling Service; private psychologist; termination of therapeutic relationship; failure to disclose intention to harm.

Contents

Introduction

1. Ms Sarahjane Dower (Ms Dower), was born on 17 December 1985 and died on 1 September 2012 aged 26 years.

2. At the time of her death, Ms Dower was living in a shared residence at Ayr, Queensland with her two sons and her younger sister. She was employed at a local hotel.

3. Mr Kynan Devenna (hereafter referred to as "DEVENNA"), was the former fiancé / de-facto partner of Ms Dower and biological father of their children. Ms Dower separated from DEVENNA in 2007 and their Family Court proceedings were finalised in 2009. DEVENNA had since remarried.

4. On the morning of 1 September 2012, Ms Dower informed her mother she was meeting DEVENNA at the Ayr McDonalds Family Restaurant to discuss parenting arrangements in relation to their two children. Ms Dower's mother expressed concern for her safety, but Ms Dower reassured her she would be in a public place. Ms Dower was due to commence work at 4.00pm that afternoon and was expected to return home from her meeting with DEVENNA before going to work.

5. That was the last occasion Ms Dower was seen alive by her family. Ms Dower left the residence at 9:30am but did not return home, or attend her workplace.

6. It transpired that Ms Dower in fact met with DEVENNA at his mother's residence in Rossiters Hill (a township immediately adjacent to Ayr).

7. When Ms Dower did not return home as expected, her mother contacted her workplace and was advised that her daughter did not report for work that afternoon and had not made any contact about her absence. Ms Dower's mother and other family members then made unsuccessful attempts to contact Ms Dower on her mobile phone.

8. That night, 1 September 2012, the paternal grandmother took the children with her to a local annual festival, where she encountered the maternal grandmother (Ms Dower's mother) who later took the children home with her.

9. At 11:30pm that night Ms Dower's mother reported to Queensland Police that she was missing.

10. Police commenced enquiries and made telephone contact with DEVENNA at 11.30pm on 1 September 2012. He told police he met with Ms Dower at McDonalds as planned, they discussed a variation to the parenting arrangement, and that their conversations had been '*calm and civil*'. He did not disclose any knowledge of her whereabouts or movements during the remainder of that day.

11. Police again spoke with DEVENNA (at his Townsville address) by telephone early the following morning, at around 5.00am on 2 September 2012 (Father's Day) and he provided the same version of events – that he met Sarahjane at McDonalds to discuss parenting arrangements on 1 September.

12. DEVENNA and his wife travelled back to Ayr early on Father's Day to have contact with the children, however no one was present at the residence where Sarahjane, her younger sister, and the children ordinarily lived.

13. At 9:30am on 3 September 2012 members of the ADF located a burnt-out vehicle on a dirt track near Keelbottom Creek in the Mingela Range, an area that forms part of Army training grounds. The vehicle was Ms Dower's. Their attention was drawn to this vehicle as it appeared to be destroyed by fire. When two ADF personnel inspected the burnt-out vehicle, they located human remains in the back seat. They reported their findings through their chain of command and the Queensland Police Service was notified.

14. Police suspected those remains were those of Ms Dower; and this was confirmed by dental records and DNA analysis.

15. Throughout these findings I refer to events and conversations between DEVENNA and Sarahjane. Significant aspects of the narrative are drawn entirely from DEVENNA's version of events, as told to police in interviews or provided during court proceedings.

16. Ms Dower's version of events are unavailable.

17. I am assisted by the academic research analysing the weight given to an accused's version of events in the absence of any other witness (see for example: Jenny Morgan, *Provocation Law and Facts: Dead Women Tell No Tales, Tales Are Told about Them*, 21 Melb. U.L. Rev. 237 (1997).

18. DEVENNA's version of events, being the only version available, was the subject of a trial. He entered a not guilty plea to the charge of murder and was found guilty. There are no independent witnesses to the events.

Electronically Recorded Interview with DEVENNA

19. On 4 September 2012 police received details from an informant that led them to formally interview DEVENNA. During that interview DEVENNA made admissions to being directly involved in Ms Dower's death. He disclosed the steps he had taken to plan her death and his acts in preparation, including pre-purchasing fuel. He disclosed in his police record of interview how, under the pretence of discussing their parenting arrangements, he invited her to attend his mother's residence on Rossiters Hill.

20. He disclosed that after Ms Dower arrived at his mother's house and whilst his mother was out shopping, he stabbed her twice in the neck using a one blade flick knife, driving it "*all the way*" in (approximately 10cms). The direct narrative recorded within the police interview is italicised within these findings.

21. Immediately prior to DEVENNA inflicting the fatal injuries Ms Dower allegedly said to him that the only reason he wanted to do '*week on week off with the children'* was so he could reduce his child support payments. Upon hearing this, DEVENNA described then walking up behind Ms Dower while she was in a chair, flicking open his knife and striking her with it, immobilising her straight away. In his words:

'*She yelled out "no", I grabbed her and pushed her to the ground and sort of half my weight was on her, holding her down and by then the pain had set in and she was immobilised. She was breathing heavily and gasping for air she was just staring at me, I said ah you going to die, I'm not going to get the I'm not ringing the Ambulance so I told her I'd get you bitch. She was sort of fighting a little bit grabbing the chairs I pushed them out of the way so she couldn't grab anything, from my mind it was taking so long, so I hit her again I needed it done then and there'*.

I then got into her truck I reversed it to the back I cleaned up I put her in I drove straight to Townsville dumped her off and I walked back. Opportunity had arisen I decided to take it when she turned up by herself if she had turned up with probably someone in the car probably wouldn't have happened, but eventually it would have this wasn't going to go away I wasn't going to watch my kids go through that anymore then what they had to. She was pretty much immobilised on the ground just bleeding out I was holding her down yeah and she was kind of moving fighting it and yeah used to everything that was going through my head was what she had done and I'm lucky I stopped at two I would have done a lot worse… (stabbed her) *in the neck area again. I wanted her dead as much as I'm a bad person she's just bad for doing what she's doing* (her parenting).'

22. DEVENNA then transported Ms Dower's body using her vehicle to a location where he set fire to the vehicle using petrol purchased by him that morning for that purpose. He disclosed returning to the Hervey Range site the following day to reignite the vehicle when he saw that Ms Dower's body was largely untouched and there was minimal damage to the inside of the vehicle from the first fire. DEVENNA '*re-doused*' it (his words) and lit the vehicle again, this time using more fuel.

23. When asked by police during the record of interview '*at what point did you make a decision you wanted her dead?*' DEVENNA responded on the first occasion:

'back in 2007 for taking them (the children) *away from me probably should have talked to someone then a psychologist about the Timor everything that happened to me and didn't after Afghan it all came out everything came out then and whatever I was able to hold back was gone and it was very hard to be myself and that's why I was put back on medication. Have been taking medication* (Effexor 250mg per day) *up until a few months ago.*

A general GP (prescribed them to me) *I was giving it to me um issued when I was still in the army and going to a psychologist* (Dr B) *um each week about 2 to 4 times a week since we had to move to Ayr um coz the kids had moved that time with the psychologist ceased which I know myself I still needed people to talk to and it was just hard it's still hard just not being able to talk to anyone just in general daily basis if I skipped one day of my tablet I couldn't be around anyone I would always be angry the smallest thing would set me off it would be very hard to calm done but I would have to walk away from anyone who has been around me and* (current wife) *knows this the best my mood swings'.*

24. When asked by police again, at what point he made the decision to kill Sarah he responded:

'um that day ah probably after the comment um with the week on week off ah actually ah I nearly didn't do it, it did cross my mind um but straight away I just went if I don't the kids are just going to be and I wasn't going to do that nothing she was ruining their lives and mine and dealing with that I had to move away back to Townsville that's why we are here now while I was in Ayr because the kids were running away every couple of days they were running away from her and ah telling the police that and they couldn't do nothing and either could the child safety so we left I stood back and said look alright I'm going so less time away from my own children and she was still not even looking after them and that's the end result no one would listen'.

25. DEVENNA was subsequently charged with murder, two counts of arson and one count of misconduct with corpse by interfering.

26. DEVENNA pursued contact with the children on Father's Day within 24 hours of intentionally inflicting the fatal knife wounds to their mother's neck, then incinerating her corpse, and prior to her body being located. This brazen and perverse attempt to see the children in those circumstances adds a further shocking element to this case.

Scope of coronial investigation

27. Within these findings I examine:

    i. the appropriateness of the psychological treatment provided to DEVENNA following his discharge from the Australian Army, by a psychologist, Dr B, including the safety plan implemented at the time of termination of their therapeutic relationship.
    ii. Ms Dower attempt to seek protection by way of a private application for a Domestic and Family Violence Protection Order;
    iii. the role of Veterans and Veteran's Families Counselling Service (Open Arms) and reforms within both the Australian Defence Force (ADF) and Open Arms.

28. In the formulation of these findings I have had regard to the following:

    a) The expert report prepared by psychiatrist, Adjunct Professor Dr Warwick Middleton and received on 21 May 2018;
    b) The expert report prepared by Clinical and Forensic Psychologist, Dr Timothy Lowry and received on 14 November 2019;
    c) A review by the Domestic and Family Violence Death Review Unit, Coroners Court of Queensland;
    d) Magistrates Court Records;
    e) Clinical psychological counselling records of Dr B in relation to DEVENNA's clinical care and management;
    f) Records of the Veterans Counselling Service in relation to DEVENNA's clinical care and management;
    g) Response of the Australian Department of Defence dated 18 April 2018.

Background

29. DEVENNA and Ms Dower commenced their relationship in 1999 when they were in high school. They went on to have two children together, aged 9 and 6 at the time of Ms Dower's death.

30. When the relationship between Ms Dower and DEVENNA ended in 2007, she became the primary carer for their children however DEVENNA maintained a parenting role. There were documented instances of domestic violence, both during and after the relationship, by DEVENNA against Ms Dower.

31. Family Court proceedings were finalised on 3 June 2009 and a parenting order (by consent) was made. The order included provision that the children live with their mother and that '*they spend time with the Father at all reasonable times as agreed between the parties, and failing agreement, from Friday afternoon until Sunday afternoon of each week*'.

32. With the benefit of hindsight, I consider that Ms Dower was not in a position to negotiate any parenting agreement with DEVENNA in a fair and equitable manner. Ultimately, the order legitimised DEVENNA's ongoing contact with Ms Dower.

33. DEVENNA was a former member of the Australian Defence Forces (Army). He had enlisted in December 2005 and served as an infantry soldier before being medically discharged in August 2010. During his service he was deployed to Timor-Leste and Afghanistan.

34. During his deployment in 2009 DEVENNA displayed symptoms of being psychologically unwell. He was referred to the Veterans and Veteran's Families Counselling Service (VVCS), and in November 2009 he commenced a therapeutic relationship with a private psychologist, Dr B, who was then based in Townsville. That therapeutic relationship, facilitated and funded by VVCS, continued after DEVENNA was medically discharged. VVCS is now known as 'Open Arms' however I will continue to refer to the agency as it was at the time of these events.

35. Following his medical discharge in 2010, DEVENNA relocated to Ayr on the basis that he wanted to live closer to his children. In doing so DEVENNA also placed himself closer to Ms Dower. DEVENNA travelled from Ayr to Townsville two or three times per month for his counselling.

36. The therapeutic relationship between DEVENNA and Dr B ceased in August 2011 when DEVENNA disengaged from treatment.

Criminal Proceedings

37. DEVENNA entered a plea of 'not guilty' to the charge of murder.

38. Following a jury trial in the Supreme Court at Townsville he was found guilty of the charge of murder.

39. DEVENNA was sentenced for all charges on 17 July 2015. He was sentenced to imprisonment for life for the charge of murder. He received lesser concurrent sentences for the remaining charges.

40. The sentencing Justice declared:

> '*Your confession to police was tendered into evidence and was played to the Court and to the jury. That confession demonstrated that the murder of Sarahjane Dower was planned and premeditated. In its execution, in what you said to her when she was dying from her wounds, you demonstrated a chilling cruelty … the victim impact statement evidences the grief and suffering of the family of the deceased, including your children, whom you claim to love. As a consequence of your crime, your children have lost their mother, a loss that will be with them all their lives.*'

41. DEVENNA was sentenced in the Supreme Court of Queensland at Townsville on 17 July 2015 and received the following:

a) For Murder	Life imprisonment.
b) For Misconduct with corpse by interfering	1 year imprisonment;
c) For Arson x 2 counts	3 years imprisonment

42. The Court declared that 1046 days of the pre-sentence custody (from 4 September 2012) be imprisonment already served under the sentence.

Post-Mortem Examination

43. A post-mortem examination was performed on 4 September 2012.

44. Ms Dower's remains were extensively damaged on account of the application of heat. However, a haemorrhage associated with the hyoid bone, located in the anterior midline of the neck, was detected. I consider that haemorrhage would be consistent with the knife assault that DEVENNA disclosed to police.

45. Of the samples available it was not possible to analyse for the presence of carbon monoxide; however microscopic examination of the lungs did not exhibit any signs of the inhalation of soot.

46. The pathologist gave the cause of death as:

> 1a. **Not determined but suspect neck injury.**

47. I will refer to that cause of death at the conclusion of these findings.

Review by the Domestic and Family Violence Death Review Unit (DFVDRU)

48. The Domestic and Family Violence Death Review Unit (DFVDRU) sits within the Coroners Court of Queensland. The DFVDRU reviewed the police Brief of Evidence provided in this matter and prepared a report as part of this coronial investigation. The review outlined the

history of domestic and family violence perpetrated by DEVENNA toward Ms Dower. I have drawn upon and refer to aspects of the report within these findings.

49. I do not propose to detail each of those incidents in these findings; however, I will focus on events in April 2012 when Ms Dower applied for a protection order. The significance of that Application lies in its temporal proximity to the fatal events and informs Ms Dower's state of mind with respect of her contact with DEVENNA.

Intimate partner homicide lethality risk indicators

50. The recognition of multiple risk factors within a relationship allows for a comprehensive assessment of risk, safety planning and, potentially the prevention of future deaths related to domestic and family violence. Assessing and determining the severity of domestic and family violence can assist services to identify and quantify the level of risk or danger; allocate resources; and assist victims to understand that they may be at a high risk of violence against them.

51. Currently the DFVDRU adopts the Ontario Domestic Violence Death Review Committee Coding Form as it provides a comprehensive list of 39 risk factors developed cumulatively over time from reviews of intimate partner homicides. The following 14 risk factors were identified as existing in the relationship of Ms Dower and DEVENNA:

- History of domestic violence
- Prior assault with a weapon
- Child custody/access disputes
- Actual or pending separation
- Victim's intuitive sense of fear of the perpetrator
- Prior threats to kill
- Perpetrator - Depression- professionally diagnosed
- Perpetrator - Prior destruction of victim's property
- Perpetrator - Prior suicide threats and attempts
- Perpetrator - History of violence outside of the family
- Perpetrator - Mental health or psychiatric problems
- Perpetrator - Failure to comply with authority
- Perpetrator - Sexual jealousy
- Perpetrator - Obsessive behaviour.

52. The above assessment was limited to the documented history of domestic and family violence, as such, the presence of other relevant risk factors could not be excluded. Even with these limitations, the presence of such a significant number of risk factors indicates that Ms Dower's death was potentially preventable if all of this information had been available prior to the death and had prompted earlier recognition and action by both formal and informal support mechanisms.

53. I accept that the circumstances of the domestic and family violence committed by DEVENNA against Ms Dower, whether during their relationship or after their separation, were not known to his treating psychologist, Dr B. However, during those counselling sessions DEVENNA sought to undermine Ms Dower and her capacity to effectively parent

their children. DEVENNA would portray her as unloving, malicious and incompetent which had the converse effect of portraying himself (as a father) as being good, rational, victimised and heroic.

54. Although these are common tactics of perpetrators of domestic and family violence who use minimisation, denial and blame to avoid accountability for their violence, it was not apparent whether any of DEVENNA's portrayals of himself or Ms Dower were ever challenged or tested by his psychologist, and if so, such is not documented within the counselling records.

Ms Dower's private application for a protection order

55. On 12 March 2012, Ms Dower filed a Private Application for a domestic violence (DV) protection order in the Magistrates Court. The DV Application was mentioned on three occasions:

- 16 March 2012 – a temporary protection order was made
- 30 March 2012 – the proceedings were adjourned
- 13 April 2012 – the application was dismissed

56. Ms Dower completed a private Application – in the form of a template document. As part of her application for a protection order Ms Dower provided her residential address. As part of the application, Ms Dower also sought to have her younger sister named as someone to be protected under the order. As part of the application Ms Dower was required to nominate the basis for which the order was sought. The template nominated some defined actions or behaviours that an applicant could select. Ms Dower selected the following:

> '*Intimidation and harassment (for example constantly following a person; constantly telephoning a person, threatening the withdrawal of care of an aged parent if the parent does not sign over their pension cheque)*'.

57. Part 10A of the Protection Order application required Ms Dower to provide details of the most recent episode of domestic and family violence. She deposed as follows:

> '*Yesterday 11/03/12, I was at my ex partner's mothers house, to collect my children, and nearly had them in the truck, when Kynan arrived. His mother had rung him. He started to tell them to get back up the stairs. I was telling them to get in the truck. I asked him if he was going to keep this up in front of the children, when he started screaming and said I was 'f**king lousy mum'. I let the children go as I did not want them to see this. The children had gone round to their grandmother's house and wanted to see their dad. This behaviour is only allowed to go on, because neither Kynan and his mother, follow the Family court order that we have in place. It is very hard for me to tell them what is right, when Kynan and his mother allow this to happen. I have made an appointment with Family Relationships, to discuss the breaching of the order, and to commence mediation once again, to clear up this matter.*
>
> *On February 16, Kynan had the children, because they did the running over to the grandmothers, and she called him and he had gone and picked them up. I was not at*

home, but my 13 year old sister, was home alone. He was screaming for me and my sister said I was not there. He smashed at the door to get in and then kept smashing the door when he was inside. He said to my sister 'you are lucky I let you live'. She was terrified of him. I cannot have him coming to my home and behaving in this manner.

*We have a Family Court Order in place, and it did work for a while, but it is falling apart now. My eldest who is 8 years old, has decided that going over to grandmother's place whenever it pleases, if (sic) the thing to do. The youngest goes with the oldest. I have told them not to do this, and I am having trouble stopping them because the grandmother, instead of saying this is not the right thing to do, and bring them home, allows it to happen. She then rings the father, and he comes and gets them. I am trying very hard to deal with this properly, but I am not getting any support. All I get from their father, is constant abuse. He calls me terrible names, 'f**king mole', 'dumb bitch' 'pathetic excuse of a mother' and more.*

I am tired of it all. I want to get on with my life, and give my children a good upbringing. Kynan seems to delight in encouraging the children to behave (sic). I have made an appointment for the children to see their Guidance Officer at school as well. I am at my wit's end.'

58. Part 10B of the Protection Order application required Ms Dower to provide details of the history of domestic violence, she deposed as follows:

'Kynan and had (sic) been together for 5 years and have 2 children. We have been apart for six years and he has remarried. He was in the army, and when he came back from East Timor, he bashed me up and threw a TV on me, and smashed the kitchen up, and tried to stab himself and blame it on me. He was sent back to East Timor. I took out a DV against him in 2007 when I left him. This DV expired in 2009. In 2008 Kynan stole the children from me. He took out a DV against me when I went back to get them. Since then it has been constant texting and abuse. I want it stop (sic). I am terrified of when (sic) he can do. I have experienced his violence, and I always worry that he will get really angry, and anything can happen. I just want him to leave me alone, and let us do what is right for the children. I am worn down with the constant fighting. I have my younger sister living with us, and I do not want her terrified again.'

59. Part 19C of the Protection Order application required Ms Dower to articulate why she believed that domestic violence was likely to occur again or that a threat was likely to be carried out. She deposed as follows:

'Because it never stops. He is always angry and threatening. I am tired of living with his constant threats. I am frightened of what he may do, because he has done it before. After six years you would think it would stop but it doesn't. I need for my children to have a structured life and for me not to have to live in fear.'

60. When required to provide details of whether DEVENNA had access to weapons or had used, or threatened to use them, during an episode of domestic and family violence, Mr Dower answered '*no.*'

61. As part of that application Ms Dower sought standard mandatory conditions plus three extra conditions prohibiting contact between them, except to allow for contact under the family court Order.

62. Part 28 of the Protection Order application asked if Ms Dower wished to have a Police Officer represent her at her court appearances, she responded '*Yes*'.

63. After the application for a protection order was filed, a summons was issued to DEVENNA, requiring his appearance at the Magistrates Court on 16 March 2012.

64. The Queensland Police Service (QPS) were required to serve the summons upon DEVENNA. As I will detail further below, this did not occur.

A Temporary Protection Order is made on 16 March 2012

65. On 16 March 2012 Ms Dower appeared in person at Court. DEVENNA did not appear on this date (he had not yet been served with the application and Notice to Appear).

66. A temporary protection order was made naming Ms Dower as the aggrieved. A Police Prosecutor (a Sergeant) was present and made submissions to an Acting Magistrate. I have the benefit of the audio recording (7m 28s) from this appearance and note the following exchange:

> **Prosecutor**: *I am told that the respondent [DEVENNA] is not with us*
> **A/Magistrate**: *No appearance*
> **Prosecutor**: *It's a private application*
>
> *[Sarahjane Dower enters the Courtroom]*
>
> **Prosecutor**: *You're Ms Dower?*
> **A/Magistrate**: *Ms Dower is here in person. Do we have an affidavit of service?*
> **Prosecutor**: *I'm just looking through the summons … service … not with me Your Honour. I don't have a, there's nothing with the Court is there?*
> **A/Magistrate***: I don't have any affidavit of service; it can only be a temporary order made today*
> **Prosecutor***: Certainly, Your Honour, thank you. I didn't have one with my file too, so there's nothing to assist the Court with that, so … Ms Devenna is seeking two extra conditions, I see as well*
> **A/Magistrate***: Not to enter or remain at any place?*
> **Prosecutor***: Yes, and uh … not to enter or remain at any place, and on page 12 I see that she's seeking a, not to contact, try to contact, ask somebody to contact me directly or indirectly*
> **A/Magistrate***: Any contact? But there is apparently a family law order isn't there, in place?*
> **Dower***: There is, yes.*
> **A/Magistrate***: And what are the conditions of that?*
> **Dower***: He has them every second weekend, he only contacts me in regards to the children*
> **A/Magistrate***: We will have to take that into consideration*

Unknown*: He doesn't come to her house*
A/Magistrate*: So, premises where the aggrieved resides or works, that will suffice?*
Prosecutor*: Thank you, Your Honour*
A/Magistrate*: And now, maybe we can say with the, the respondent is prohibited from having any, attempting to have any contact, including by means of communication directly or indirectly with the aggrieved, other than in terms of the existing Family Court order. So, if he contacts you in terms of that, that's okay*
Dower*: Okay*
A/Magistrate*: Alright –*
Prosecutor*: Oh my … I'm ably assisted by [indistinct], there's a, um named person, at 18 Your Honour*
A/Magistrate*: Yes, so the sister*
Prosecutor*: Yes, there's a sister*
A/Magistrate*: Alright, I'll include the aggrieved and any named person, and we'll put* [sister] *in there*
Prosecutor*: [To Sarahjane] police will have to go around and serve this on [indistinct] the matter will be brought back before the court on another day and get the order*

67. The Acting Magistrate then made the temporary protection order in the terms discussed. As QPS service of the DV Application had not by then been effected on DEVENNA, the Acting Magistrate was precluded from making anything other than a temporary order. It was the responsibility of police to effect service on DEVENNA in a timely manner.

68. After the temporary order was made, the matter was adjourned to 30 March 2012 at 9am. Ms Dower was not informed that her further attendance was required.

Adjournment of proceedings on 30 March 2012

69. When the matter was called on again on 30 March 2012 there was no appearance by either Ms Dower or DEVENNA.

70. I am satisfied that Ms Dower did not appear because she was unaware that she was personally required to appear again and was not informed she was required (either by the Court or the police). Ms Dower therefore had no reason or basis to consider that the QPS would not appear on her behalf at the further mention of the matter, noting she had requested that police represent her in Court in her original application and they had done so at the first appearance.

71. I have the benefit of the court recording of this appearance; it runs for 32 seconds.

72. The Magistrate in this instance was different to the (Acting) Magistrate that made the temporary order on 16 March 2012.

73. A civilian Police Prosecutor spoke on behalf of Ms Dower in her absence. The Prosecutor (who seemed to have some knowledge of the first mention of the matter during which the temporary order was made, and likely was the person assisting the Sergeant in court) submitted as follows:

'*If we could have an adjournment, I could give her a call, because I was a bit worried about her*'

74. The Magistrate stated the matter would be adjourned for a fortnight. The matter was adjourned to 13 April 2012.

75. The temporary protection order was enlarged with no change to the conditions made at first instance.

76. Ms Dower was not informed or notified by police of the outcome of that mention, or that the temporary order had been enlarged (or that her further Appearance was required).

Service of the Temporary Protection Order on 1 April 2012

77. At 3pm on 1 April 2012, DEVENNA was personally served by a police officer with a copy of the temporary protection order (as enlarged on 30 March 2012), a summons to appear (to use the language of the previous legislation legislation) on 13 April 2012 and a copy of Ms Dower's Application for a Protection Order.

78. This was the first occasion QPS effected service on DEVENNA in relation to these proceedings, almost three weeks after Ms Dower submitted her application for a protection order, and two weeks after the temporary order had first been made.

79. A copy of the temporary protection order and affidavit of service was then filed with the court. The temporary protection order contained the following declaration:

'*I, Kynan Watego DEVENNA state that on 1/4/12 @ 3pm the within domestic violence order was explained to me and that I understand the purpose, terms and effect of the order, including that the order may be enforceable in other States and Territories of Australia and New Zealand without further notice and that I also understand the consequences that may follow should I not comply with the terms of the order.*'

80. DEVENNA did not sign that declaration and it appears it was pre-sealed by the court prior to being served.

Final court appearance on 13 April 2012

81. When the matter was further mentioned on 13 April 2012 (the third mention of the matter), DEVENNA appeared with legal representation. There was no appearance by Ms Dower.

82. I have the benefit of the audio recording of this court appearance; it runs for 3 minutes and 33 seconds.

83. The matter was mentioned before the same Acting Magistrate who presided on the first occasion, 16 March 2012.

84. The civilian Police Prosecutor who appeared on 30 March 2012 (two weeks prior), also appeared on this date.

85. When the matter was called on, the Police Prosecutor stepped away from the bar table and could be heard to call Ms Dower's name three times to determine whether she was present in court or not. When the Police Prosecutor returned to the bar table, she placed the following matters on the record:

> '*In the matter of Dower and Devenna, the aggrieved is not present, I don't have instructions*.'

86. When asked by the Acting Magistrate whether it was a police application, the Police Prosecutor informed the Acting Magistrate that it was not. The Police Prosecutor then confirmed that it was a private application. (It is likely that the Prosecutor was the same person who assisted at the first mention, and who also appeared at the second mention and therefore would have been aware Ms Dower had requested police represent her in the proceedings, and that police had appeared for and with her on the first occasion, and negotiated orders).

87. The Acting Magistrate sought submissions from DEVENNA's legal representative. It was submitted that the application be struck out for 'want of prosecution', because Ms Dower was not present in court. The Acting Magistrate then sought submissions from the Police Prosecutor as to the Application to strike out. The Police Prosecutor submitted as follows:

> '*Your Honour, given the matter has been before the court, um, once; twice, um I'm just, I'm wondering if the court file reflects whether or not a notice was sent to the aggrieved on the last occasion, the 30th of March, that if she did not appear today it may be struck out?*'

88. The Acting Magistrate informed the Police Prosecutor that it was not 'normal' for such a notice to be issued.

89. The indication by the Acting Magistrate that it was not normal to provide notice of adjournments is not correct. It is standard court practice for such adjournment notices to be issued. The Acting Magistrate by this misunderstanding did not check the court file which would have confirmed that Ms Dower had not received notice of the adjournment.

90. Both the Acting Magistrate and the Police Prosecutor were aware that Ms Dower had appeared on the first occasion, 15 March 2012, that she did not appear on 20 March 2012 and again that day (13 April 2012).

91. The Police Prosecutor submitted:

> '*I'm in Your Honour's hands*'

92. The Acting Magistrate went on to make the order striking out the Application. Had the acting Magistrate understood that it was the practice to send out notices of adjournment, and that it had not been done on this occasion, the Application was unlikely to have been struck out on grounds of not appearing (and should not have been).

93. The striking out of Ms Dower's Application had the effect of removing the temporary protection order and removing the Application from the court list entirely.

94. Ms Dower was not informed or notified by the QPS or the court that her Application had been struck out, and that there was no protection order in place.

Additional comment by the Coroner

95. I do not accept the position of the civilian Police Prosecutor who appeared on 13 April 2012, that they were '*in the hands'* of the court. The Prosecutor was by then 'on the record' and held a paramount duty to the court and the administration of justice. The Prosecutor should, at a minimum, have stood the matter down, made contact with Ms Dower whether by telephone or in person, satisfied themselves that Ms Dower was aware of the developments in her DV Application (wherein she had requested representation by a police officer) and taken instructions from her.

96. The line of enquiry enlivened by the Prosecutor, as to whether Ms Dower had received the Notice of Adjournment, was appropriate and foreshadowed the need to make further enquiries before the Application was struck out.

97. The usual practice of the Magistrate's court registry in relation to such appearances is that notices to appear should be sent to the aggrieved (Ms Dower) after the first and second mention of the matter, notifying of the adjournments and then (in this case) after the third mention, that the Application was struck out.

98. A search of Magistrates Court holdings for this Application indicates that there are no hardcopies of these notices on the relevant physical court file and that no notices have been printed or entered in 'QWIC' (Queensland Wide Interlinked Courts) which holds computer records for all court appearances and outcomes. I therefore find that contrary to usual and best practice, notice of the adjournment and the subsequent striking out of the Application was not generated, sent, or provided, to Ms Dower by the court registry.

99. I find that at no time was Ms Dower informed by any official means, either via police or the courts, that her Application for a domestic violence order had been adjourned for a second time, and then struck out.

100. I find that, in all likelihood, Ms Dower continued to operate under the belief that a protection order was in place, as she had not ever been informed to the contrary. She died at the hands of the Respondent, within 5 months of her application being struck out.

101. The QPS provided the following response to my specific enquiry:

At the time of this application being dealt with by the court the process for (QPS) dealing with private applications was as follows;

i. Application supplied to police by the court when filed by the aggrieved. Police appear if the aggrieved had requested assistance.
ii. On this occasion police appeared on all three appearances.
iii. If documentation is required for service, that material is supplied by the court. Police would serve that documentation and supply proof of service to the court.

Review of psychological counselling records of DEVENNA

102. DEVENNA's clinical treatment was the subject of a significant volume of records (some 2000 pages). The Northern Coroner's office directed that the VVCS Open Arms provide a copy of those records as part of the coronial investigation. The hardcopy of DEVENNA's file was scanned in 2015 and provided to the Northern Coroner's office in 2016. I understand the hardcopy file was subsequently misplaced.

103. DEVENNA's records included assessments by three psychiatrists who agreed with a diagnosis of Post-Traumatic Stress Disorder complicated by fluctuating Major Depression. Those diagnoses went on to form the basis of DEVENNA's medical discharge. None of those psychiatrists identified any element of psychosis.

104. Relevant to this investigation was the therapeutic relationship DEVENNA had with an external psychologist, Dr B (engaged on his behalf by VVCS), and disclosures made during their counselling sessions. As these counselling sessions were being funded by VVCS, Dr B was required to provide updates to them with regards to DEVENNA's progress. Dr B went on to diagnose DEVENNA with Post-Traumatic Stress Disorder (PTSD), Major Depressive Disorder (MDD) and Dissociative Identity Disorder (DID), a diagnosis that had not been determined by, or discuss with, any of the psychiatrists.

105. In understanding the defining features of Dissociative Identity Disorder, I am assisted by the expert report of psychiatrist, Adjunct Professor Dr Warwick Middleton, commissioned as part of the coronial investigation and received on 21 May 2018. Dr Middleton refers to the DSM-5 that states Dissociative Identity Disorder is the presence of two or more distinct personality states or an experience of possession. Furthermore:

> '*It is stated that the overtness or covertness of these personality states, however, varies as a function of psychological motivation, current level of stress, culture, internal conflict and dynamics, and emotional resilience.'*

106. It is relevant to understand those features when considering disclosures that DEVENNA made to Dr B. At different times during his treatment DEVENNA made disclosures with respect to homicidal intent towards Ms Dower. The context of those disclosures is that they were purported to have been made by an '*alter*' or '*the Angry Part*' which was part of the manifestation of DEVENNA's Dissociative Identity Disorder. DEVENNA himself disavowed any such homicidal ideation. Risk assessments by Dr B therefore focussed on management of the '*alter*'.

107. In total, DEVENNA had 45 counselling sessions over 22 months (November 2009 to August 2011) where he was engaged in treatment. Dr B did not ascribe a session number to each instance. Treatment sessions were identified by date only. Any reference to a session number in these findings is an annotation by me. Where relevant, I have highlighted certain disclosures made by DEVENNA to Dr B and reports that Dr B provided to VVCS.

108. In highlighting those disclosures, I am solely reliant on notes completed by Dr B. The same review that identified the absence of session numbers, also highlighted concerns as to the amount of information contained in the notes, particularly in circumstances where

DEVENNA was expressing homicidal ideation. I therefore cannot exclude the possibility that there were other, highly relevant disclosures, made by DEVENNA that ultimately did not get transcribed and become part of Dr B's clinical notes.

109. The following sequence represents a chronology of counselling sessions between Dr B and DEVENNA:

Diagnoses of Dissociative Identity Disorder (DID)

110. On 25 November 2009 (Session #03) Dr B provided a report to VVCS and a notification of care plan. It was during Session #3 that Dr B had DEVENNA complete the 'Dissociative Experiences Scale' of Eve Bernstein and Frank Putnam. He scored 28; a figure that Dr Middleton considered was significantly lower than the mean scores of each published series of patients with Dissociative Identity Disorder. Dr Middleton referred to a study he co-authored that identified a mean score of 51 of the 62 individuals with Dissociative Identity Disorder that were analysed for the purpose of that study.

111. Dr Middleton advised that the Dissociative Experiences Scale is not a diagnostic instrument but a useful guide regarding the extent of dissociative symptomology. It was the view of Dr Middleton that people with higher scores on the scale were more likely to ultimately satisfy the diagnostic criteria for DID than others. It was also the opinion of Dr Middleton that lower scores on the scale, in the range of 25-30, were common amongst individuals with PTSD who were military veterans. Dr Middleton commented:

> '*Generally speaking, as pointed out in the DSM-5, the histories associated with Dissociative Identity Disorder involve significant ongoing childhood trauma. One encounters traumatised veterans with Chronic PTSD who in triggered states can go into an altered state where they are functioning in 'flashback' mode. Whilst these altered states have some of the characteristic of 'the alters' of Dissociative Identity Disorder, they are generally less fully-formed and are usually unnamed and transient. They can be triggered by reminders of/or trauma e.g. certain sounds or sights.*'

112. It was the opinion of Dr Middleton that while DEVENNA had experienced some known major traumas during his deployment, his childhood history did not reflect significant ongoing childhood trauma, a feature that would typically be expected to be present in persons diagnosed with Dissociative Identity Disorder.

113. In the report to VVCS, Dr B did not disclose the results of DEVENNA's Dissociative Experiences Scale, nor did Dr B inform VVCS of any diagnosis (provisional or otherwise) of Dissociative Identity Disorder.

114. Following Session #3, DEVENNA's psychological counselling continued as follows:

27 November 2009 (Session #04)
30 November 2009 (Session #05)
02 December 2009 (Session #06)
04 December 2009 (Session #07)
08 December 2009 (Session #08)
12 December 2009 (Session #09)
22 December 2009 (Session #10)

13 January 2010 (Session #11)
18 January 2010 (Session #12)
27 January 2010 (Session #13)
29 January 2010 (Session #14)
04 February 2010 (Session #15)
08 February 2010 (Session #16)
12 February 2010 (Session #17)
01 March 2010 (Session #18)
02 March 2010 (Session #19)
09 March 2010 (Session #20)
12 March 2010 (Session #21)
15 March 2010 (Session #22)
19 March 2010 (Session #23)
30 March 2010 (Session #24)
06 April 2010 (Session #25)
14 April 2010 (Session #26)

115. During session #26 on 14 April 2010 there were specific notes that DEVENNA was experiencing '*anger*' towards Ms Dower because (he alleged) she had '*taken all his money – sold everything*'. He also disclosed words to the effect that he '***wants to kill Sarah*'.** This was the first documented occasion of DEVENNA expressing homicidal ideation towards a specific, named person. No notification was made to VVCS, Ms Dower, or the QPS in relation to that disclosure.

116. In addition, there are no records to reflect that Dr B conducted any screening or assessments to consider whether DEVENNA's '*anger'* and homicidal ideation to his former wife were within the context of domestic and family violence.

Psychological counselling sessions from April 2010 to August 2011

117. Between April 2010 and August 2011, DEVENNA attended a further 19 counselling sessions with Dr B.

20 April 2010 (Session #27)

118. During session #27 it was noted that DEVENNA was feeling '*less angry*' however it was planned for the next session that there be some follow up or further discussion about his '*anger re Sarah*'. No notification was made to VVCS regarding that disclosure, nor were there any domestic and family violence screenings or risk assessment.

30 April 2010 (Session #28)

119. During session #28 on 30 April 2010 a notation was made in relation to an incident having occurred on a 'Friday' in which DEVENNA was '*contacted by police. Incident between Sarah and another man*'. No notification was made to VVCS following that disclosure.

120. On 5 May 2010 Dr B made a notification to VVCS that DEVENNA had failed to attend an appointment that day. In this advice, Dr B informed VVCS that '*there is no evidence of*

any safety or risk concerns currently' and did not disclose DEVENNA's prior disclosures of homicidal ideation directed at Ms Dower.

15 May 2010; 31 May 2010 and 16 June 2010 (Sessions #29, #30, #31)

121. During session #31 a notation was made to the effect of DEVENNA experiencing '*issues around Sarah*' and that it was '*harder to calm down*'. There is a further notation to the effect of a '***Discussed resolved intention to murder Sarah***'. Dr B failed to notify VVCS, Ms Dower, or police of that disclosure.

25 June 2010 (Session #32)

122. On 25 June 2010 Dr B provided a report to VVCS notifying them of DEVENNA's homicidal ideation towards Ms Dower. **This was the first occasion when any notification of homicidal ideation was made to VVCS**, although it occurred some two months after the first documented disclosure. It did not provide the critical context of the earlier disclosure of homicidal ideation or thoughts of harming Ms Dower, nor did Dr B appear to consider DEVENNA's disclosures as potentially indicative of an underlying pattern of domestic and family violence. I reproduce that report in full:

> '*[DEVENNA] is reportedly experiencing daily episodes of extreme anger. This anger is associated with [DEVENNA's] former partner [Ms Dower], her apparent abuse towards his children (reports have been made to DChS), her denial of his access to his children, her apparent theft of all his assets during one of his deployments, and outstanding associated debts. During yesterday's appointment [DEVENNA's] distress had reportedly increased due to an unmanageable increase in his maintenance payments following his partner's false reporting of his income. These combined factors appear to have destabilised DEVENNA's relationship and are threatening his pending marriage.*
>
> *On the 25th June, during a dissociative episode in session, DEVENNA disclosed homicidal tendencies towards his ex-partner [Ms Dower]. Safety contracts have been made with DEVENNA, and he has confidently agreed to self-admit … in the event that he feels unable to control this urge.*
>
> *[DEVENNA has also agreed to upgrade his sessions to twice weekly and appears highly motivated to resolve his anger.*
>
> *At this time no additional action is recommended. However, in the event of deteriorating environmental factors, additional support may be necessary in the near future. [DEVENNA] has two additional sessions booked for next week*'.

123. I consider this to be a relevant example of DEVENNA engaging in behaviours that sought to elevate his own victim status. It is also relevant in that it clearly highlighted to VVCS that homicidal ideation was a risk and that the person at risk, whilst not directly named in the report, was readily identified as DEVENNA's former partner, Ms Dower. While I acknowledge that Dr B clearly did not recognise indicators of domestic and family violence, best practice standards for working with perpetrators clearly highlight the need

to ensure that practitioners are mindful not to dismiss or minimise a person's use of violence within their intimate partner or family relationships.

124. Notwithstanding Dr B's advice that '*no additional action is recommended,*' I consider it was incumbent upon VVCS at that time to conduct an independent risk assessment. That did not occur.

125. On 16 September 2020, the Northern Coroner's office received notification from Open Arms it had re-located DEVENNA's hardcopy file and was in the process of re-digitising it. Open Arms enquired whether a fresh digital copy was need. The Northern Coroner's office informed Open Arms that provided they were satisfied that there were no documents, not previously provided, then a fresh copy would not be required.

126. Open Arms reviewed its material, and on 8 December 2020 provided the Northern Coroner's office with an additional 216 pages of material, not previously provided.

127. In addition to Dr B's Occurrence Report arising from the 25 June 2010 consultation, Session #32 (already provided), the new material disclosed concerns about the nature of the disclosure contained within the Occurrence Report and the timeliness of the notification.

128. It took one week for Dr B's Occurrence Report to reach the relevant VVCS officer, namely on 2 July 2010. A file note dated 8 July 2010 set out the circumstances of that delay. Dr B had initially sent the report by facsimile on 25 June 2010 however due to technical fault at VVCS that report was not able to be received by them. It is my understanding Dr B would have received an error notification informing them their facsimile was unsuccessful. It seems no such check was conducted.

129. In addition to the attempted facsimile, Dr B also sent a copy of the report by standard mail, which accounted for the seven-day delay in being received by VVCS. The file note dated 8 July 2010 detailed a conversation with VVCS and Dr B in which they expressed their "*displeasure*". Dr B was informed of her obligation to ensure electronic communication sent by her was successful and to follow-up accordingly by telephone.

130. An earlier file note created on the day the report was received by VVCS (2 July 2010) evidenced concerns held by them as to the nature of the report.

131. I reproduce that file note in full:

> "*VVCS received an On-Occurrence report from [Dr B] a contracted counsellor for VVCS, reporting on the above ADF referred client [DEVENNA]. There were a number of issues raised in the report which VVCS need to have clarified before sending it through to the Referring Medical Officer. The counsellor was called on [their] mobile with no answer, so a message was left for [them] to call VVCS.*
>
> *Due to the time of day when the report came to my attention, it was decided to call the referring officer [Dr W], medical officer of 1 RAR. [Dr W] was informed of the content of the On-Occurrence report as it was expressed by the contract counsellor. There is also a history of this member being a risk and the intervention of [Dr W] raised some concerns regarding the late notification.*

[Dr W] expressed his disappointment with the counsellor as he reported previous discussions regarding this counsellor non compliance in reporting risk. He also stated that there should not have been delay in reporting back to him.

I provided Dr W the members [DEVENNA] mobile number to make contact and to assess current risk issues. This will also determine whether [DEVENNA] requires twice weekly session whilst hyper aroused and anger towards his ex-wife.

VVCS to follow up with [Dr B] regarding the report content and the late notification.

132. I am not advised on the material as to whether Dr W did conduct an additional risk assessment or not, and if so, the outcome of that assessment. Dr B's own, limited notes, from her subsequent consultations with DEVENNA do not document any further contemplation of a risk assessment, or the results of one.

133. Attempts to locate Dr W and have them provide a statement setting out their recollection of these events have been unsuccessful.

134. I make no finding as to whether any additional risk assessment was completed however, I do find that Dr B was previously identified as having been non-compliant with VVCS policies and procedures regarding the reporting of risk.

135. It is concerning that Dr W was likely operating under the mistaken impression that this was the first instance where DEVENNA had expressed homicidal ideation towards Ms Dower. I find Dr W was more likely not informed of the earlier expressed ideation arising from session #26 on 14 April 2010. The failure by Dr B to properly report all these risk features meant that VVCS was operating with an incomplete profile of DEVENNA. However upon become seized of the information that DEVENNA was expressing homicidal ideation towards Ms Dower, it was incumbent on them to take all necessary steps to satisfy themselves that the treatment pathway they had developed remained reasonable and appropriate in the circumstances. I am unable to find this occurred.

28 June 2010; 7 July 2010; 9 July 2010 (Session #33; Session #34; Session #35)

136. On 9 July 2010 Dr B provided a report to VVCS recommending a further 10 counselling sessions be provided to DEVENNA increasing in time from 50 minutes to 1.5 hours. The report noted DEVENNA was experiencing '*daily episodes of extreme anger associated with issues pertaining to his ex-wife*'. DEVENNA was assessed as not being at risk of harm to himself but '*as moderate risk of harming his ex-wife*'. The report to VVCS also referenced the previous correspondence of 25 June 2010 that discussed DEVENNA's homicidal ideation. The only (preventative) measures discussed were 'safety contracts' formed with DEVENNA.

11 July 2010 (Session #36)

137. During Session #36 on 11 July 2010, DEVENNA disclosed that he had found employment in Ayr. The progress note also documented: "*no anger at all during past four days … no homicidal ideation. Low risk*".

138. Two days later, on 13 July 2010, Dr B provided an occurrence report to VVCS notifying them of a de-escalation of DEVENNA's levels of anger which were seen as '*driving the homicidal ideations*'.

139. It is important to note that, by its very nature, domestic and family violence is motivated by a desire for dominance, power and control over another and while it may (also) manifest as '*anger',* to state it as such is a misrepresentation. Treatment and programs for Anger Management are very different to the structured interventions addressing violence and abuse within intimate partnerships.

23 July 2010 (Session #37)

140. On 26 July 2010 an additional occurrence report was provided to VVCS, the issue of DEVENNA's homicidal ideation was discussed as being '*completely resolved*' and '*remission in relation to this issue is unlikely*'. He was reassessed as being of 'low or no risk' to either himself or others. I consider this to be an overly optimistic assessment and note this assessment occurred within 17 days of him being assessed as a moderate risk of harming his ex-wife.

141. There was then a break in counselling sessions during which time DEVENNA married his current wife.

23 August 2010 (Session #38)

142. On 23 August 2010, during session #38, DEVENNA reported that he did not have any issues with Ms Dower and there was '*no contact*' between them.

30 August 2010; 31 August 2010; 03 September 2010; 10 September 2010; 15 September 2010 (Session #39; Session #40; Session #41; Session #42; Session #43)

143. The counselling session on 15 September 2010 was the last session DEVENNA engaged in during 2010.

144. On account of his disengagement his case was closed, and Dr B sent such notification to VVCS on 17 November 2010. It was noted that DEVENNA's self-termination was considered '*premature*' and that due to his then level of functioning and medication, psychiatric follow-up was '*strongly recommended*'. Dr B also provided a final report to VVCS which informed them as follows:

> '*During DEVENNA's last appointment he was assessed as being at low risk of harm to himself and to others. He was intending to relocate to Ayr, which is close to his ex-*

wife. He was formerly assessed as being at moderate risk of harm to her. It is uncertain whether his current level of risk will maintain upon exposure to his ex-wife'.

145. As noted, DEVENNA did ultimately relocate to Ayr, in doing so he placed himself in geographic proximity to Ms Dower. DEVENNA's decision to relocate closer to Ms Dower represented an escalation in risk to Ms Dower. It is unclear on what basis Dr B concluded that it was "*uncertain*" whether he would pose the same risk, given DEVENNA's ongoing and relatively recent homicidal ideation.

146. On 21 January 2011 DEVENNA referred himself to VVCS requesting to reengage with Dr B. VVCS approved additional counselling sessions. There were sessions on the following dates:

31 January 2011 (Session #44)

147. During the 31 January 2011 session it was noted that DEVENNA '*was getting extremely angry*' on a daily basis although he specifically denied having any homicidal ideation towards Ms Dower.

148. DEVENNA disengaged again after that session. Dr B subsequently provided a case closure report to VVCS. DEVENNA was assessed as not being at risk of harm to himself or others.

149. On 16 August 2011 DEVENNA again referred himself back to VVCS requesting to reengage with Dr B. DEVENNA self-disclosed that the basis for seeking the referral was de-escalate his anger.

23 August 2011 (Session #45)

150. Counselling session #45 on **23 August 2011 was the last session** DEVENNA had with Dr B. During that session he made a disclosure of homicidal ideation which was noted as ***'wants to see Sarah Dead'.*** DEVENNA further disclosed feeling as though he was '*back to Square 1*'.

151. That same day Dr B provided information to VVCS notifying them that DEVENNA was '***experiencing ideations regarding harming his ex-wife*****' and that he was a moderate risk of harm to himself and others**.

152. I find that Dr B's progress note to VVCS failed to accurately reflect the substance of DEVENNA's disclosure.

153. DEVENNA did not engage in any further counselling sessions after 23 August 2011, as such his case was again closed. A case closure report was provided to VVCS, no reference was made to '*homicidal ideation'* although reference was made to DEVENNA having expressed a desire to '*harm'* Ms Dower but without any plan. The report also raised doubts as to whether DEVENNA would implement any of the therapeutic recommendations. His risk of harm to his ex-wife was assessed as moderate. Dr B commented as follows:

'*In the absence of any further advice from DEVENNA his file has been closed. Although DEVENNA's risk status regarding his ex-wife is moderate, he is engaged with an Ayr GP, has initiated avoidance strategies with his ex-partner, and has good family support via both his [new] wife and extended family in Ayr. DEVENNA is aware that he may re-refer at any time and has been advised of support services. Work commitments, travel requirements and DEVENNA's mental health appear to preclude him from effectively engaging with Townsville support. It has been recommended to DEVENNA that he engage with more accessible services in Ayr. His willingness to do so is unclear at this time. No further action is required*'.

154. Ms Dower was not informed by any party of that risk assessment or disclosures DEVENNA had made of homicidal ideation.

155. I question the efficacy of '*avoidance strategies'* in circumstances where DEVENNA was geographically proximate to Ms Dower and would have regular (direct or indirect) contact with her in the context of parenting arrangements for the children. I further question the reliance that was placed on the relationship that DEVENNA may have had with a GP in Ayr in circumstances where there was no arrangement for a handover or the sharing of any clinical notes or summaries held by Dr B with that GP. In effect, reliance was placed on DEVENNA being a thorough and reliable historian in circumstances where he had disengaged from treatment, and during which he had presented himself as the victim.

156. Whilst VVCS had the benefit of progress reports sent by Dr B during treatment of DEVENNA, they did not receive the clinical notes until 7 December 2016, following a request made to Dr B in June 2015. Whilst I am critical of the delay by Dr B in responding to the request from VVCS, I am also critical of VVCS given their own request was made more than four years after DEVENNA'S case file had been closed, and almost three years after the death of Ms Dower.

157. It appears VVCS only called in the clinical notes when Dr B notified them (in 2015) of an intention to provide a Treatment Summary Report to DEVENNA's legal representatives as part of his criminal proceedings relating to the homicide of Ms Dower.

Appropriateness of the care and treatment provided to DEVENNA

158. I have already referred to the report of psychiatrist, Dr Middleton and touched upon some of his opinions regarding whether a diagnosis of Dissociative Identity Disorder was available on the clinical information available to Dr B. Dr Middleton was ultimately provided with approximately 2000 pages of material containing clinical notes and reports in relation to DEVENNA. Dr Middleton was asked to provide his clinical impression of the care and treatment DEVENNA received (including risk management) and whether it was appropriate.

Expert report of Dr Middleton

159. At the time of these findings' Dr Middleton has some 40 years clinical experience as a Psychiatrist. In addition to his clinical practice Dr Middleton has held a number of senior teaching positions, has published extensively and is founding member of the Royal

Australian and New Zealand College of Psychiatrists (RANZCP) Faculty of Forensic Psychiatry and Faculty of Psychotherapy.

160. Dr Middleton considered the diagnosis of PTSD and fluctuating Major Depression to be 'reasonably *conventional.*' He further considered the medication that had been prescribed was '*unremarkable*'. However, Dr Middleton considered that the various psychiatric assessments did not extend to a detailed management plan that addressed the challenges DEVENNA would encounter living at Ayr.

161. I accept that opinion and would extend it as applying to the last consultation DEVENNA had with Dr B before the last disengagement.

162. With respect to the diagnosis by Dr B of a Dissociative Identity Disorder (DID) I adopt the following opinions of Dr Middleton:

> '*Whether DEVENNA is conceptualized as having a dissociative sub-type of PTSD incorporating repeated switching into an emotive 'flash back' state or a simple variant of DID, is something that may be debated. DSM-5 states the primary criteria for DID as being, 'two or more distinct identities or personality states are present, each with its own relatively enduring pattern of perceiving, relating to and thinking about the environment and self' … I suspect that many clinicians, whilst noting that DEVENNA is significantly dissociative, would never-the-less feel that the 'Angry' state that [Dr B] described DEVENNA as periodically exhibiting, may fall short of being a personality state with 'its own relatively enduring pattern of perceiving, relating to and thinking about environment and self', but rather a dissociative state largely defined by an affect*'.

163. In any event, it was the opinion of Dr Middleton that DEVANNA's ability to recall, in detail, the circumstances of Ms Dower's death more likely indicated that he was not dissociated at the time of her death.

164. Dr Middleton was of the opinion that Dr B had the principal role in DEVENNA's long term management. Dr Middleton ultimately considered that Dr B's use of cognitive behavioural therapies (CBT), eye movement desensitization and reprocessing (EMDR) and the therapeutic alliance were reasonable. Dr Middleton considered that the clinical notes did not provide sufficient detail to determine the adequacy of any management plan after DEVENNA disengaged for the last time. Dr Middleton also highlighted the difficulty faced by Dr B in assessing the likelihood of any of the homicidal ideation being acted upon.

165. I will touch upon that aspect again when considering the ethical obligations that attached to Dr B's role. (Dr Middleton was not asked by me to comment in that regard).

Statement of Dr B

166. During the coronial investigation, Dr B was requested to provide a statement addressing a number of targeted issues, namely:

    a) What if any concerns did Dr B hold for Ms Dower and the children;
    b) What was the basis of those concerns;

c) Noting Dr B's report to VVCS on 25 June 2010 identified a potential threat of harm to Ms Dower, what if any steps were taken to notify VVCS on that occasion, of:

   i) DEVENNA's expressed desire to harm Ms Dower again;
   ii) DEVENNA's self-termination of treatment; and
   iii) The inability of being able to complete a final assessment of DEVENNA's functioning

d) What if any steps did Dr B take to notify any other authority (e.g. Queensland Police or Queensland Health including Mental Health Services) of their concerns;
e) If no notification was made, what if any restrictions existed that prevented Dr B from being able to do so?

167. Dr B responded that no concerns were held in relation to the children on the basis that DEVENNA had communicated strong desires to protect them from harm. In relation to Ms Dower, Dr B accepted a moderate risk existed, however Dr B did not consider there was anything in any of the relevant disclosures to indicate that Ms Dower was in '*imminent*' risk; I accept that. I also accept Dr B communicated an assessment of the level risk to VVCS. However, I find that VVCS was not fully informed of the full nature of that risk nor did they have the full context of disclosures made very early in DEVENNA's treatment with Dr B.

168. The basis of Dr B's concern for the risk to Ms Dower was founded on psychometric assessment tools completed with DEVENNA, that examined his levels of depression, anxiety, stress, anger and alcohol use. Dr B also took into account a number of factors that were considered to be protective or supportive of DEVENNA including the support of his wife, to whom he was recently married, reliable family support, proximity to his children, disclosed engagement with a GP in Ayr and self-reported compliance with medication.

169. Dr B also took the view the 'expressions of harm' towards Ms Dower made by DEVENNA were generalised. Furthermore, Dr B considered those expressions were not evidenced by any organised plan(s) or immediacy. Whilst I accept there was no evidence of organisation or immediacy (as based on the notes alone) I find the expression of wanting to see Ms Dower '*dead'* was precise in terms of the outcome of the harm, even though the means by which that might be achieved was not expressed.

170. Dr B also considered that a 'safety contract' / management plan developed with DEVENNA provided appropriate risk management. The plan included:

a) DEVENNA not contacting Ms Dower at any time;
b) DEVENNA continuing to employ cognitive distraction and stress management strategies;
c) DEVENNA informing his wife if he formed any intention to harm Ms Dower;
d) DEVENNA contacting police in the event he felt unable to desist from engaging with Ms Dower; and
e) DEVENNA continuing to engage in therapeutic intervention.

171. Each of those strategies were reliant on DEVENNA's compliance. Any monitoring by Dr B of DEVENNA's level of compliance was also reliant on DEVENNA's own willingness and ability to be a truthful historian. In circumstances were DEVENNA would actively denigrate Ms Dower during his treatment sessions whilst elevating his own victim status, it is difficult to understand how the management plan could have been effectively implemented or monitored.

172. Dr B considered that based on the assessment of the risk and professional judgement, steps were not taken to notify Queensland Police or Queensland Health of the concerns.

173. In the absence of any evidence suggesting an imminent risk of harm, Dr B was proscribed from making any disclosure because of the duty of confidentiality.

174. The Australian Psychologist Society (APS) Code of Ethics at that time, indicated that a psychologist could only disclose confidential information in the course of the provision of psychological services under one of the following circumstances:

    a) With the consent of the relevant client;
    b) Where there is a legal obligation to do so;
    c) **If there is an immediate and specific risk of harm to an identifiable person or persons that can be averted only by disclosing information**; or
    d) When consulting colleagues in particular circumstances.

175. For the purposes of these findings it is the third of those circumstances that assumes the greatest significance.

The expert report of Dr Timothy Lowry Forensic Psychologist– Ethical Considerations

176. To assist me better understand Dr B's ethical obligations their treatment of DEVENNA, I requested an independent expert report and am assisted by the report of Clinical and Forensic Psychologist, Dr Timothy Lowry.

177. Dr B's relevant progress notes and reports to VVCS, comprising approximately 200 pages were provided to Dr Lowry along with the report of Dr Middleton and Dr B's first statement.

178. Having considered Dr B's records, Dr Lowry was asked to comment on whether their treatment met the standard required at that time pursuant to the Australian Psychological Society (APS) Code of Ethics (2007) and whether Dr B had met a threshold to disclose confidential information obtained during the counselling sessions (namely the homicidal ideation), where there was a specific risk of harm to an identifiable person.

179. It was the opinion of Dr Lowry that while there was evidence of homicidal ideation and of wishing harm towards Ms Dower, there were at no stage any statements or other information recorded within the progress notes indicating DEVENNA had developed any specific plan to harm Ms Dower, or held any immediate or imminent intent to cause harm to her at any stage during the course of counselling. Dr Lowry further considered that whilst there was no doubt that DEVENNA was in a distressed state and experiencing periods of anger and low mood, there is no information to suggest that his reported and

expressed ideation to Dr B had progressed to specific plans within a particular or imminent time frame.

180. Dr Lowry went on to comment as follows:

> '*While there is no evidence contained in Dr B's clinical notes to suggest an imminent/immediate and specified risk to Ms Dower, that is statements by him of enacting a threat within a specific time frame,* ***it is evident that at the times DEVENNA expressed homicidal ideation and notably at the time of the final contact in August 2011****, he was acutely distressed, agitated, experiencing mental health concerns and a sense of hopelessness regarding his children's well-being, and faced the ongoing and unresolving stressor of the situation with his ex-wife. The expression of homicidal ideation in this context, and following previous similar expressions, even without language indicating a specific plan and immediacy of harm, may cause alarm for other psychologists or mental health clinicians. In this circumstance some psychologists may well have formed an opinion that there was risk of harm to a high enough degree that disclosure of confidential information, whether to the QPS or Queensland Health, was justified.*'

181. Furthermore:

> '*My own response, were I to find myself in the situation Dr B found themselves in August 2011, is that I would have certainly considered a notification to police and the GP, however this would have been done in close consultation with senior colleagues and following notification of my concerns and duty to warn to DEVENNA himself. It would also be appropriate, and something I would also have considered, to gain DEVENNA's consent to directly discuss the situation with Ms Dower. These actions would have been noted in clinical notes for future reference*'.

182. Dr Lowry acknowledged such action brings with it the potential for loss of a therapeutic relationship which in turn would lead to a loss of ongoing opportunities for monitoring, risk reduction and intervention. Dr Lowry noted Dr B considered that very issue and ultimately determined that the situation was better managed by maintaining the therapeutic relationship.

183. I accept the expert opinion of Dr Lowry that in this case that the risk of harm warranted consideration of the disclosure of confidential information to the Queensland Police Service and / or Queensland Health, (I would add VVCS to the list of considerations), after consulting senior colleagues and issuing appropriate warnings to DEVENNA and canvassing his attitude regarding the psychologist discussing the matter directly with Ms Dower.

184. I accept these considerations would be weighed against the then Code of Ethics which at the time required a risk to be 'immediate or specified'

185. As for considerations about maintaining the therapeutic relationship with Dr B, I note that DEVENNA had disengaged, therefore, the extent to which the therapeutic relationship was capable of being maintained was (in my view) not paramount.

186. Dr Lowry notes that changes to the Code of Ethics in September 2017 have since removed the requirement for the risk to be '*immediate*' or '*specified*' for a psychologist to be allowed to disclose confidential information. These changes were made following the commencement of the s.16A of the *Privacy Act (Cth) 1988*.

187. Dr B was ultimately making a threat assessment as to the likelihood or not, of DEVENNA acting upon any of his ideation to '*harm'* Ms Dower. Dr Lowry describes this process as differentiating '*between those who 'make' a threat and those who 'pose' a threat*'. I am informed by Dr Lowry that this is an emerging and evolving area of professional practice in psychology, psychiatry and mental health. Furthermore, non-forensic clinicians rarely receive training in this area of professional practice. While suicide and self-harm assessment forms a core component of general training, the training in the assessment of a threat is far less common.

188. Dr Lowry also highlights the low statistical rate of those that act upon homicidal ideation and the risk that arises for clinicians, placed in the position of making a risk assessment, having a '*false sense of reassurance*'.

189. However, when a psychologist is presented with a client making threats of harm towards others, it is the opinion of Dr Lowry that the psychologist (or other mental health clinician) should make a '*comprehensive assessment of the threat*' by reference to a number of factors including (but not limited to):

- Understanding the motivation behind the threat and the nature of any existing grievance
- Planning (including timing) and access to means / capacity to follow through
- Awareness of target/victim location and access
- Exposure to stressors / destabilisers
- Ongoing distress or psychopathology
- History of previous violence – either general and/or in similar situation (e.g., domestic violence in previous relationships)
- Evidence of non-compliance with risk reduction strategies
- Protective factors

190. Whilst it was the opinion of Dr Lowry that while Dr B had attempted to implement appropriate safety planning and engaged in ongoing monitoring and assessment of risk, he held reservations as to the final management plan that relied on DEVENNA seeking treatment or a therapeutic alliance with a GP in Ayr. Dr Lowry comments:

> '*The expectation that DEVENNA, in a distressed state with likely depleted coping resources, would have the capacity and motivation to seek out local support after disengaging from Dr B was perhaps an overconfident assessment. An effort to link and formally refer DEVENNA with local supports in Ayr by Dr B may have assisted in bolstering supports for him*'.

191. As to the standard of Dr B's note keeping, Dr Lowry made the following comments:

> '*The information contained in [the progress notes] regarding the assessment of threat and decision making is limited and lacking in detail. This is also an issue with the*

summary case review documents forwarded to VVCS. The record of DEVENNA's expressed ideation is largely confined to generic statements such as 'wants to kill Sarah', 'intention to murder Sarah', 'homicidal tendencies', and broad risk judgements such as 'moderate risk of harming his ex-wife'. These statements, although clearly very concerning, provide little to no information regarding the actual wording used by DEVENNA, the context which they were made, further risk assessment and questioning undertaken by Dr B, and the decision-making process used. Ideally Dr B would have detailed the assessment of threat conducted on each occasion, providing verbatim examples of DEVENNA's statements and expressions with clear statements reporting the presence or absence of associated risk factors indicative of high concern. A 'moderate' risk of harm, while communicating an elevated level of concern, says little to nothing about the nature, severity, likelihood, imminence, or precipitants of harm. There must be a clear and defensible line of reasoning to explain and justify assessment decisions; this is largely lacking in the notes of Dr B'.

192. It was the opinion of Dr Lowry that Dr B's records did **not** meet the standard required by the APS Guidelines on Record Keeping.

193. Critical for Dr Lowry, was the absence within the notes, of any supervision or peer consultation in relation to the treatment of DEVENNA. In this regard Dr Lowry brought attention to the APS Ethical Guidelines for working with clients where there is a serious risk of harm to others. The guidelines emphasise:

- Conducting thorough risk assessments;
- Monitoring the ongoing risk of serious harm;
- Seeking professional support from experienced colleagues where necessary;
- Carefully weighing up their responsibility to others with the importance of an effective professional relationship with the client when deciding whether to disclose client information;
- Maintaining clear professional boundaries and attending to their own safety; and
- Involving other professionals in the management and containment of individuals who are considered to be at risk of committing seriously harmful or violent acts.

194. In addition, in 2017 amendments to the *Domestic and Family Violence Protection Act 2012* (Qld) came into effect. These amendments enable certain entities, such as psychologists and GPs, to share information with government and non-government organisations without the client's consent (in certain circumstances) for the purpose of assessing and managing a serious domestic violence threat. The amendments were not in effect at the time of Ms Dower's death.

195. The absence of any relevant notes meant that Dr Lowry was unable to make any assessment as to whether Dr B had sought any peer consultation or supervision in their treatment of DEVENNA, particularly in circumstances where an additional diagnosis of Dissociative Identity Disorder had been made, a diagnosis that had not been made by any of the psychiatrists that had engaged with DEVENNA.

Response of Dr B to report of Dr Lowry

196. In a second statement, responding to the report of Dr Lowry, Dr B reiterated that '*lengthy'* consideration was given to a notification to either QPS or the GP (based in Ayr). However, after considering the following factors Dr B did not make a notification:

    a) The outcome of the risk assessment that Dr B had conducted;
    b) The degree of response required to address that risk;
    c) The '*likely response*' by the relevant authority; and
    d) The impact that response was '*likely to have on the risk*'.

197. I consider that the '*likely response*' of the relevant authority should not have been a consideration by Dr B. It was not a matter for Dr B to presuppose what supports or interventions might have been made available by other agencies, whether to DEVENNA or Ms Dower.

198. Dr B further responded that:

    '*[Dr B's] previous experience in similar matters led [Dr B] to conclude the response by QPS or the GP, was not likely to reduce any risk of harm to [Ms Dower]. In Dr B's experience, QPS is unlikely to intervene in a meaningful way unless there is an immediate and specific risk to an identifiable person*'.

199. Ms Dower was plainly identifiable as the person at risk of harm. Even if there was no identifiable plan, and no sense of immediacy to the homicidal ideation expressed by DEVENNA (to the extent documented in the progress notes), the specificity of the risk (death) was unmistakable.

200. I can only conclude from that statement that Dr B had, on previous occasions, made notifications in accordance with the APS Code of Ethics. Dr B's role **was not** (my emphasis) to assess the efficacy of any response of other agencies but, to the extent possible within their training and experience, and in consultation with peers, Dr B was required to assess whether or not DEVENNA posed a threat.

201. It is not for a treating psychologist in this situation to anticipate that a response by a person or agency to whom risk of harm is reported, may not respond in a meaningful way, or have the effect of not reducing the harm. Dr B was relying entirely on the self-report of DEVENNA. The police (and other relevant authorities) had access to records that potentially add to the overall picture of an individual including any history of violence or mental health.

202. With knowledge of DEVENNAS contempt for Ms Dower and his expressed intentions of harm towards her, the police may have communicated with Ms Dower about his imminent return to Ayr.

203. It was not for the psychologist to opine or forecast the likely response of agency or person.

204. On the material before me I am of the view that Dr B could, and should, have formally linked and referred DEVENNA to local supports in Ayr, such as a general practitioner, or counsellor, or community mental health.

205. A formal handover to one of those supports could and should have been part of the agreed safety management plan prior to DEVENNA being closed to Dr B in August 2011.

206. During that session DEVENNA made a disclosure of homicidal ideation which was noted as '*wants to see Sarah Dead.*' DEVENNA further disclosed feeling as though he was '*back to Square 1*'. That same day Dr B provided information to VVCS notifying them that DEVENNA was '*experiencing ideations regarding harming his ex-wife*'. Dr B assessed DEVENNA as being a **moderate** risk of harm to himself and others.

207. It was not sufficient to then release DEVENNA without appropriate referrals, and absent his consent for those clinical referrals, serious consideration to disclosing confidential information to the Queensland Police Service and / or Queensland Health and VVCS, including that he wanted to see Sarah dead would have been entirely appropriate.

208. Ayr is a small rural location and DEVENNA'S intention to return there to live, highlighted two issues of concern a) it placed DEVENNA in immediate and close proximity to Ms Dower and b) the likely limited the access to psychological care (and therefore much more difficult for a private individual to source, as opposed to a handover between professionals or agencies).

209. Dr B further responded:

> '*After considering the likely response from the relevant authorities, [I] determined the best avenue to reduce risk to DEVENNA and Ms Dower, was by continuing to encourage DEVENNA to engage in therapeutic treatment from a psychologist*'.

210. Whilst Dr B confirmed they considered '*as a minimum*', the threat assessment factors identified by Dr Lowry, I find the emphasis Dr B placed on the '*likely response from relevant authorities'*, was an irrelevant consideration, and failed to appreciate that they (e.g. QPS) may have held additional information about possible risk, that was not known to Dr B. The irrelevant consideration tainted the risk assessment process.

211. Whilst I accept that Dr B did not have access to or an awareness of the full history of domestic violence by DEVENNA towards Ms Dower, Dr B nonetheless had an appreciation for a dynamic that existed between them. Dr B responded:

> '*[I do] not believe that contacting Ms Dower about the statements made about her, would have been a realistic option at the time. The situation between DEVENNA and Ms Dower* ***was already fragile****. [I]* ***had intimate knowledge*** (my emphasis) *of their relationship and the dynamics between the parties. Respectfully, [I] do not believe that any risk would have been reduced by telling Ms Dower about the comments DEVENNA had made*'.

212. I disagree with Dr B's assessment. Whilst informing Ms Dower, whether directly or via another agency, may not have altered DEVENNA's ideation, it would have enabled Ms Dower to make more informed decisions about her own safety, particularly in circumstances where DEVENNA had relocated to Ayr in order to be closer to the children (and therefore Ms Dower). It would also have been highly relevant information to Ms

Dower when considering how best to protect herself (and her children) including the potential to make an Application for a protection order.

213. As to the other aspects of Dr Lowry's report, Dr B accepted the comments with respect to record keeping and concedes that their note taking could have included further detail and information about the threat assessments. Dr B has undertaken to continue to improve record keeping.

214. Dr B advised they did engage in a peer review process with one other professional colleague, who I understand operated in a separate practice to Dr B and that the colleague had experience in trauma therapies and working with persons experiencing Dissociative Identity Disorder. Dr B's consultation with this colleague was not documented. I am therefore unable to establish the veracity of that claim.

215. I accept Dr B provided regular reports to VVCS

Veterans and Veteran's Families Counselling Service Response

216. VVCS (now known as Open Arms) highlighted that at the time DEVENNA was receiving treatment their (now current) online client record system had not been implemented. I emphasise that VVCS did not seek, or come into possession of, DEVENNA's clinical notes until 7 December 2016, around the time Dr B had signalled an intention to provide a report for criminal proceedings. Therefore, any comments VVCS have specifically made in relation to the progress notes (as distinct from the treatment reports) is entirely retrospective.

217. An internal review of DEVENNA's records, as produced by Dr B, was conducted by VVCS. The review was conducted in 2017 and was independent of the review by Dr Lowry. The VVCS review highlighted the following issues:

- The case / progress notes contained minimal information and it was difficult to follow notations;
- There were inconsistencies between those notes and the reports;
- There were inconsistencies in the identification of relevant people e.g. the distinction between Ms Dower and DEVENNA's second wife;
- Notations on risk were incomplete or not available;
- There was a lack of specificity regarding risk management and safety plans;
- The diagnosis of Dissociative Identity Disorder occurred outside of the context of VVCS and independent of them. The diagnosis should have been documented as part of service provisions.

218. In relation to internal VVCS issues, their review highlighted:

- The placement of information on DEVENNA's case file was not timely; and
- When risk was notified to VVCS correct procedures were not followed internally by VVCS staff.

219. I am informed by VVCS that during the time that DEVENNA was engaged with Dr B, the standard practice was to review treatment reports and attendance records although this would not have included the progress notes. If the VVCS received the progress notes at the same time as the treatment reports then the inconsistencies between them would have been apparent, although in saying that, I find that Dr B's treatment report of 25 June 2010 was unambiguous.

220. At no stage was VVCS precluded from contacting Dr B to seek additional information if it was considered that the reports were insufficient in detail, or the risk assessments and report contents were at odds with each other. That did not occur.

221. Since 2014, Outreach Providers, such as Dr B, are now required to upload their clinical notes into the Electronic Client Management System referred to as VERA. This now enables VVCS to reconcile any differences that may exist between the content of reports versus the disclosures made in counselling sessions and documented in progress notes.

222. VVCS has, since 2015, revised its risk management policies such that Risk Assessment and Management Plans, are now required to be completed for every client regardless of risk status (e.g. low, moderate or high). Those RAMP assessments require the assessor, to take into consideration any history of domestic violence, along with other matters.

223. VVCS were unable to confirm whether there was any case review conducted in relation to DEVENNA's file at the time of Ms Dower's death. I am informed however, that it is now current policy, when notification of an 'adverse event' is received to ensure that clinical records are complete. They are then reviewed by a Senior Clinician to evaluate clinical management and identify any policy or procedural changes that should be implemented.

224. Senior Clinicians are now also trained in the Root Cause Analysis approach to Adverse Events. I am also informed that additional Senior Clinicians have been recruited.

Department of Defence responses to domestic and family violence

225. The Department of Defence responded to a Coroners Request for Information Form 25 regarding the Defence Family and Domestic Violence Strategy and provided policy documents outlining how additional supports are now available to victims of domestic and family violence such as leave for domestic and family violence purposes. It is also apparent that considerations of domestic and family violence are made in the development of policy and strategies going forward.

226. In addition to this suite of material, the Department of Defence outlined training packages that have been implemented, and the action plan and supplementary documents.

1. Training

i) *'Silence is the Accomplice' Army Family and Domestic Violence Awareness Training* – Facilitator notes outline that perpetrators of domestic and family violence are 'fundamentally at odds with the meaning and profession of

soldiering' when explaining why domestic and family violence is a workplace issue. Furthermore, this challenges the organisation to proactively stamp out violence: *Having an attitude of zero tolerance is not enough, it must be reflected in our actions, and our actions must be deliberate and considered*.

ii) The *Responding Appropriately to Disclosures of Domestic Violence* – this outlines strategies that perpetrators use to gain power and control; impacts of domestic and family violence; and techniques on how to respond to disclosures of domestic and family violence.

2. The *Army Family and Domestic Violence Action Plan* (dated by the Chief of Army 30 August 2016 under CA Directive 28/16) outlines an intent to support victims and to hold perpetrators accountable for their actions, and to take action to address attitudes, behaviours, culture and social norms to eliminate domestic and family violence in the army. The purpose of the Plan is to educate and support members to identify, prevent and safely intervene in situations of domestic and family violence to ensure capability is not impacted. This will be done through:

i) awareness training;
ii) promulgating domestic and family violence plans and supporting guidance;
iii) improving the reporting of domestic and family violence;
iv) developing a centralised portal of information for first responders, members and superiors;
v) engaging with local domestic and family violence services and civilian police services;
vi) examining selected behaviour management and change programs for perpetrators of domestic and family violence;
vii) improving support and safety of people affected by domestic and family violence by ensuring commanders are aware of the relevant policies and support mechanisms.

227. The three goals of the Action Plan are:

- to prevent domestic and family violence by or against army members or army families
- respond and support army members and army families involved in domestic and family violence situations
- provide opportunities for perpetrators to change their behaviours

228. This Action Plan is supplemented by discrete lists of tasks and responsibilities for various ranking members, and the *Commanders and Managers Guide to Responding to Family and Domestic Violence*. This includes outlining steps to take where disclosures about domestic and family violence by an ADF member are made, including consideration of whether the disclosure requires mandatory reporting to military and/or civilian police.

229. In summary, with regards to the ADF, it is clear that since Ms Dower's death in 2012, the Department of Defence has made significant advancements in terms of raising awareness of and responding to disclosures of domestic and family violence.

230. I make the further observation that in accord with expert and community expectations in this space, and in the exercise of skill and good judgement, all third party suppliers of ADF counselling services (indeed all persons and agencies who provide that service to veterans) be credentialed for Domestic Violence (as distinct from Anger Management) counselling. Awareness of the specific nuances of domestic and family violence and the interplay within intimate partnerships is a powerful tool and expands the insight and capacity of the counsellor to recognise the dynamic of domestic and family violence and assess risk against that dynamic. It also flows, that if identified, the client may then properly be referred to specific perpetrator programs as part of any management plan. See paragraphs 240 and 241 below for resources that are available to practitioners.

Conclusions

231. DEVENNA sought to portray himself as a victim to friends, families, colleagues and service providers; and to denounce Ms Dower as a bad mother who was unable to care for the children. He actively undermined Ms Dower's ability to parent the children and sought to portray himself as a rational and protective father to others. That false narrative was used to continue his abuse. It is clear to me that Ms Dower loved her children deeply and tried desperately to keep them safe.

232. DEVENNA was not accountable for his continued abuse of Ms Dower, who continued in her efforts to abide by the parenting order without formal support, for the benefit of her children. It seems unlikely that Ms Dower, as a victim of domestic and family violence, could have successfully negotiated shared custody arrangements with her abuser in a fair and equitable manner, due to the significant power imbalance. Ultimately, the order legitimised DEVENNA's ongoing contact with Ms Dower.

233. The landscape for those experiencing domestic and family violence has changed in the period from 2012 to present. The Special Taskforce on Domestic and Family Violence in Queensland made a suite of recommendations in 2015 which triggered significant and sweeping reform across the sector.

234. On 24 October 2019, the Queensland Premier announced that all 140 recommendations from the Special Taskforce had been implemented. This was a significant milestone and several of the issues identified in these findings have been addressed by changes that have occurred since Ms Dower's death. For example, legislative amendments to the *Domestic and Family Violence Protection Act 2012* have been introduced to better protect victims and children from harm. This includes the establishment of support services to assist victims to navigate legal proceedings and amendments to allow for the sharing of information by support service providers (such as health services) to government departments (such as police) and specialist domestic violence support services.

235. Ms Dower was at a sustained high risk from DEVENNA and much of this risk was known to services, though no one service held a totality of information about the level of risk. The sharing of information between those services may have allowed for a greater understanding of the risk.

236. I consider there was a missed opportunity for professional handover from Dr B to psychological services in Ayr at the time of the termination of the therapeutic relationship with Dr B.

237. I am mindful that DEVENNA was disengaged from treatment for one year prior to Ms Dower's death and there was no opportunity for any clinical assessment of his homicidal ideation sufficiently proximate to her death. However, a need for such clinical assessment was identified as early as 2 July 2010. The material is silent as to whether any action was taken to initiate that assessment and with the effluxion of time it is no longer possible to obtain further evidence.

238. Whilst I accept risk assessments were undertaken, I consider that opportunities existed for the treating Psychologist to conduct them in a different manner. There were matters taken into consideration that were extraneous and irrelevant and may have contributed to an incorrect determination as to the level of risk. Whilst I accept the homicidal ideation that as documented did not have any 'immediacy', and with or without the lens of intimate partner violence, the counsellor failed to identify a specific risk (of homicide) to an identifiable person (Sarah Dower). DEVENNA's expressed intention to harm Sarah Jane were considered to be words without substance.

239. Whilst VVCS was in receipt of documents that identified the homicidal ideation and level of risk associated with it, there was at times, a disconnect between what was being disclosed by DEVENNA during treatment, to what was being reported back to VVCS. Had VVCS been apprised more fully this may have caused them to consider the adequacy of the risk assessment. In saying that, I find there was nothing to preclude VVCS from making their own enquiries. They had before them over a period of time, information that suggested variable levels of risk, but there is no evidence to suggest they sought to escalate DEVENNA's treatment.

240. I also note there has been a growing recognition of the need to embed a focus on domestic and family violence within mental health settings. In response to a recommendation of the Domestic and Family Violence Death Review and Advisory Board, Queensland Health have published a Domestic and Family Violence Toolkit training package which aims to support health professionals to detect, respond and manage domestic and family violence. The Toolkit contains resources for health workers, including evidence-based information to support health professionals' understanding of domestic and family violence risk in line with the *National risk assessment principles for domestic and family violence*.

241. The Queensland Government has also made these resources available to peak professional bodies, including the Australian Association of Psychologists and the Royal Australian and New Zealand College of Psychiatrists, to ensure that all registered practitioners receive ongoing specialist domestic and family violence awareness training. In addition, there is also work currently underway to update clinical screening tools to ensure they capture indicators of domestic and family violence.

242. I have been advised that, since Ms Dower's death, the ADF have developed the Defence *Family and Domestic Violence Strategy 2017 – 2022* and the *Army Family and Domestic*

Violence Action Plan which seeks to address domestic and family violence within the army. Although these are in the earliest stages of implementation, it is a promising step.

243. Finally, I note that the Family Court of Australia and the Federal Circuit Court of Australia have recently commenced a pilot of the Lighthouse Project, an innovative approach by the Courts to screen for domestic and family violence risk in the family law system. The intent is to allow for the early identification of domestic and family violence risk and to respond appropriately. Pilot sites are in operation in Adelaide, Brisbane and Parramatta. This process is ongoing.

244. I accept that there has been significant reform since Ms Dower's death which precludes the benefit of proceeding to inquest.

Findings required by s.45

245. I **find** that:

a) The deceased is Sarahjane Dower;

b) Ms Dower died when stabbed twice in the neck by her former de-facto Kynan DEVENNA, resulting in significant blood loss to her. While doing so DEVENNA said to Ms Dower *"ah you going to die, I'm not ringing the Ambulance, so I told her I'd get you bitch".*

c) DEVENNA remained with Ms Dower until he could no longer observe any signs of life. He then cleaned the scene and transported her body in a motor vehicle to a remote location where using fuel purchased by him on the morning of her death, he ignited the vehicle and Ms Dower's remains. He returned to the location the following day to 're-douse' the vehicle and ignite it for the second time.

d) DEVENNA intentionally inflicted fatal knife wounds to Sarahjane Dower's neck, and then incinerated her corpse twice in two days.

e) DEVENNA planned and intended Ms Dower's death, his motivation for doing so was his long-held contempt and loathing for her. His hatred for her infected all aspects of their co-parenting and interactions, and he ultimately acted on his skewed belief that she was unable to properly parent their children.

f) DEVENNA suffered from long term psychological health issues and was diagnosed with post-traumatic stress disorder arising from his service as an Australian Army Officer. He received counselling facilitated by the defence force veterans organisation 'Open Arms' (formerly the VVCS), via a private psychologist. He disengaged from his therapeutic relationship with the psychologist after undertaking 45 counselling sessions over a 22-month period from November 2009 to August 2011.

g) At the time he disengaged from the therapeutic alliance including during his last consultation in August 2011 he expressed a desire to see '*Sarah dead'* and expressed homicidal ideation about / towards her. Notwithstanding he was released from counselling with a safety plan requiring him to self-refer to a '*local*

GP in Ayr'. The content of this session was not disclosed to police or health authorities, notwithstanding that DEVENNA had disengaged, so as to move to Ayr to be closer to his children (and therefore Ms Dower). The safety plan did not include any formal (clinical) handover between his psychologist and new health care providers in Ayr.

h) DEVENNA posed an increased and escalating risk of harm to Sarah–Jane Dower at the time he disengaged from his therapeutic relationship. DEVENNA was released without the scaffolding or wrap around that would have potentially minimised the risk of harm to Ms Dower.

i) By 16 March 2012 Ms Dower had commenced domestic violence proceedings in the Magistrates Court. At first mention of the matter a temporary domestic violence order with additional conditions was made in her favour naming DEVENNA as the Respondent. The Application was dismissed for 'want of prosecution' at the third mention of the matter. A search of all police and court records have failed to yield any record that Ms Dower was ever provided notice (after the first mention) of her further requirement to appear, or that her Application had been struck out and that no domestic violence order was in place.

j) It was more likely than not that at the time of her death Ms Dower believed she remained under the protection of a Domestic Violence Order.

k) Ms Dower sustained fatal wounds at the hands of the respondent within 5 months of her Application being struck out.

l) Ms Dower died on 1 September 2012.

246. I amend the place of death to:

a) Ayr in the State of Queensland

247. Based on admissions made by DEVENNA, and consistent with the pathologist's report, I conclude the cause of death was as follows:

1(a) Neck injury;

Due to or caused by:

1(b) Stabbing.

248. I do not intend to conduct an Inquest into the death of Sarahjane Dower as I have sufficient information and evidence available to me to formulate the findings so as to fulfil my relevant statutory obligations.

249. A number of themes in these findings were explored in my findings into the death of Rinabel Tiglao Blackmore, and the deaths of Nyobi, River and Charlie Hinder, also published on the Coroners Court of Queensland website. The issues examined in these coronial investigations inform critical and ongoing public discourse.

I **find** that:

Identity of the deceased -	Sarahjane Dower
How she died -	Ms Dower died on 1 September 2012 when stabbed twice in the neck by her former de-facto Kynan DEVENNA, resulting in significant blood loss to her. While doing so DEVENNA said to Ms Dower "*ah you going to die, I'm not ringing the Ambulance, so I told her I'd get you bitch*". DEVENNA remained with Ms Dower until he could no longer observe any signs of life. He then cleaned the scene and transported her body in a motor vehicle to a remote location where, using fuel purchased by him on the morning of her death, he ignited the vehicle and Ms Dower's remains. He returned to the location the following day to '*re-douse'* the vehicle and ignite it for the second time. DEVENNA intentionally inflicted fatal knife wounds to Sarahjane Dower's neck, and then incinerated her corpse twice in two days.
Place of death:	Ayr in the State of Queensland, AUSTRALIA
Date of death:	1 September 2012
Cause of death:	1(a) Neck injury; Due to or caused by: 1(b) Stabbing.

Acknowledgements and Condolences

250. I thank Counsel Assisting the Coroner, Mr Joseph Crawfoot, for his invaluable commitment to this protracted investigation.

251. I thank Mr Jordan Cotter (the then) Acting Manager Domestic and Family Violence Death Review Unit for his contribution to this significant body of work. The Coroners Court of Queensland is well served by the skill and commitment of all at the DFVDRU.

252. For matters such as this, words of comfort often seem trite. Nonetheless, I offer my sincerest condolences to Sarahjane Dower's mother, her children and her sisters, and wider family for their unspeakable loss, and thank them, at the risk of opening old wounds, for providing their consent to publish these non-inquest findings in the public interest and to inform important public discourse. I acknowledge their quiet dignity and sincerely thank

them for reflecting on this very difficult material, and for providing their feedback at the time of final draft. I, and all at the Office of Northern Coroner, wish them well in their healing journey.

253. I close the coronial investigation.

Nerida Wilson
Northern Coroner
20 August 2021