



# **CORONERS COURT OF QUEENSLAND**

## **FINDINGS OF INQUEST**

**CITATION:** **Inquest into the death of Johann Ofner**

**TITLE OF COURT:** Coroners Court

**JURISDICTION:** BRISBANE

**FILE NO(s):** 2017/360

**DELIVERED ON:** 25 January 2022

**DELIVERED AT:** Brisbane

**HEARING DATE(s):** 23 August 2021

**FINDINGS OF:** Donald MacKenzie, Coroner

**CATCHWORDS:** Coroners: inquest, non-intentional shooting in theatrical setting, criminal acts, role of armourer and adequacy of applicable work, health and safety standards

**REPRESENTATION:**

**Counsel Assisting:** Ms Sarah Lio-Willie  
Coroners Court of Queensland

**Ms Maria Ofner:** Mr M Rawlings (Counsel)  
Instructed by Caxton Legal Centre Inc

Mr Judd Wild: Mr J Godbolt (Counsel)  
Instructed by Fisher Dore Lawyers

Mr Alan Hardy: Mr M Clarke (Counsel)  
Instructed by MKW Legal

Media Entertainment & Arts Alliance  
(MEAA) Mr Ian Latham (Counsel)

Mrs Mary Ritchie: Mr Andrew Hanlon (solicitor)  
Instructed by Potts Lawyers

## Contents

Executive Summary of the Inquest into the death of Johann Ofner .....	4
Findings required by s. 45 <i>Coroners Act (Qld)</i> .....	8
The scope of a Coroner’s inquiry and findings .....	9
The Inquest .....	10
Undisputed Facts: .....	11
Mr Warren Ritchie (Armourer) .....	15
Queensland Police Service Investigation .....	20
Workplace Health and Safety Queensland Investigation .....	20
Witnesses called at the Inquest .....	21
Victim Impact Statement .....	25
Witnesses providing written answers at the Inquest .....	25
Safety Issues .....	25
The adequacy of training and safety briefings provided to cast and crew on production sets.....	26
Consideration of the regulation and applicable standards of the use of firearms by which the entertainment, film and production industry operates in Queensland and Australia.....	29
Whether there are ways to prevent a similar death occurring in the future ....	35
Recommendations .....	37
Conclusion .....	38

## **Executive Summary of the Inquest into the death of Johann Ofner**

1. In December 2016, the Australian music group “Bliss N Eso” engaged The Dreamers Creative Agency Pty Ltd (The Dreamers) to produce a music video for their new song ‘Friend like you’. Mr Allan Hardy was a company director of this production company and was also engaged as the Film Director of this music video. Ms Ariel Verri, a full-time employee, was appointed as the “Producer”. On 15 December 2016, Mr Hardy contacted Mr Judd Wild about the Bliss N Eso contract and the proposed scenes. At the time, Mr Wild operated under the business name of “Wild Stunts”. Mr Wild was engaged as the ‘Stunt coordinator’ to coordinate and choreograph all stunts for the filming of the music video. Some scenes included a high fall, a car knockdown, and a shootout at a restaurant. His role also included sourcing performers and organising the stunt performers under the Mr Hardy’s direction on the day.
2. Mr Wild recommended a number of stunt performers for the poker game scene for this music video, of whom The Dreamers ultimately engaged Mr Johann Ofner (the deceased) and three Japanese based stuntmen: Shinji Ikefuji, Yutaka Izumihara and Yoshinao Aonuma. It was to be filmed at the Brooklyn Standard Bar, Eagle Lane, Brisbane on Monday, 23 January 2017. Mr Ofner was a professional actor and highly skilled and athletic stunt performer. In the months before his death, he entered a television contest, ‘Australian Ninja Warrior’ and made it to the grand final. Mr Ofner is survived by his daughter, Kyarna, and was the eldest son of parents Maria and Johann Ofner (Snr).
3. At 08:00 hours on 23 January 2017, the production crew and cast members assembled on set at the Brooklyn Standard Bar. The storyline was the creative vision of Mr Hardy. The concept of this ‘Friend Like You’ video was based on a journey of a \$50 note, where it passed through different character’s lives: a small child, a poker game, and an old man. This Brooklyn Standard Bar scene involved an underground poker game, around a large round table, where an argument erupts between the four

stunt actors. During the argument Mr Izumihara was to point a sub-machine gun at Mr Ofner who then returns fire from a weapon from under the table striking Mr Izumihara in the leg. This causes him to fall to his knees. As Mr Ofner then approaches Mr Izumihara to “pistol whip” him, Mr Ikefuji was to remove a 12-gauge sawn-off shotgun from his waist band and fire from the hip, striking Mr Ofner in the chest at close range. Mr Ofner was to wear a ‘jerk vest’ attached to a ‘jerk rope’ which, by pulling him back, simulated impact from the shotgun blast catapulting him backwards. This filming of the poker game scene was not in sequence. The actors were to rehearse a specific part of the scene several times and then it would be filmed.

4. An experienced and licenced theatrical armourer, Mr Warren Ritchie was engaged to provide firearms for this music video scene. He was the owner of a business called “Fireworks Downunder”. He brought a number of firearms to the set. Relevantly, he supplied a 12-gauge Francois Dumoulin & Co. side by side break action, twin trigger, hand shortened shotgun to Mr Ikefuji. This was a “sawn off” operable firearm not permitted for theatrical productions. Mr Ritchie had illegally obtained “home-made” shotgun shells purportedly for theatrical productions from Mr Adam Corless. Whilst they did not contain metal “projectile shot”, the shells contained “ignition powder”, cloth wadding and a plastic casing which was effectively a “projectile”.
5. From about 13.30 hours, Mr Hardy, Mr Wild, the actors, and crew ran through their final dress rehearsals and sequences for the gunfight scenes, without discharging the firearms. Mr Ofner donned the ‘jerk vest’ under his shirt, to allow him to be pulled backwards across the table. The weapons were assigned to the actors by Mr Wild and Mr Ritchie in consultation with the director Mr Hardy. The loading and unloading of the firearms was conducted by Mr Ritchie. At 13.46 hours, the shooting of the fatal scene commenced. Mr Wild removed the 12-gauge blank ammunition from the shotgun and showed the ammunition to both Mr

Ofner and Mr Ikefuji, to confirm it did not contain any 'shot'. Mr Ikefuji was told to hold the shotgun at his hip and aim the barrel to the side of Mr Ofner's body when he fired it.

6. Mr Wild called "3, 2, 1 action" and Mr Ofner raised his left arm holding a handgun, in position to pistol whip Mr Izumihara. Mr Ikefuji pulled both triggers on the shotgun towards Mr Ofner. The distance between the barrel of the shotgun and Mr Ofner's chest was between 1.3 and 1.45 metres. Mr Wild and his assistant pulled the jerk rope and Mr Ofner backwards just as the double barrel shot gun discharged.
7. After a few moments, the participants realised that Mr Ofner was still lying on his back. They rushed to him, observed two wounds with minimal blood on his chest. Mr Ikefuji commenced CPR. A "000" call was made at 13:53 hours and paramedics arrived at the Brooklyn Standard just after 14:00 hours. Resuscitative efforts continued for approximately 23 minutes before Mr Ofner was declared life extinct. An autopsy showed two projectile wounds on the front left side of the deceased's chest. The cause of death was "Gunshot wound to the Chest" causing heart failure due to laceration, hypovolemic and cardiogenic shock (transmitted force rather than penetration of the projectile).
8. The issues considered at Inquest did not involve a review of what had taken place and who was to blame but rather how such a tragedy as this could be prevented in future. This was primarily because, unusually, the events in question were recorded by cameras in place for this music video scene. The important issues at Inquest were the final three:
  3. *The adequacy of training and safety briefings provided to the cast and crew on production sets:*
  4. *Consideration of the regulation and applicable standards of the use of firearms by which the entertainment, film and production industry operates in Queensland and Australia: and*

5. *Whether there are ways to prevent a similar death occurring in the future.”*
9. These are each considered in more detail in my findings. In short, the shortcomings of training and safety for this production, can be identified as inadequate from the following failures:
- (a) the failure to appoint a site safety officer with overall control of safety considerations;
  - (b) the failure to undertake dedicated firearm safety briefings;
  - (c) the failure to test fire the firearm to establish safe distances for the actors;
  - (d) the failure to realise aiming difficulties attached to firing “from the hip”;  
and
  - (e) the failure to consider more costly but safer production options such as computer enhancement or inoperable firearms;
10. I have made recommendations to the Queensland Government regarding legislative reform and improved training and supervision of theatrical armourers. However, the critical lesson from this tragedy is that Mr Ofner died because of criminal actions. His death was avoidable. Pursuant to *s39(1)(a) of the Weapons Regulations 2016 (Qld)*, all weapons supplied under Mr Ritchie’s Theatrical Ordinance Supplier licence must have been ‘blank fire or permanently inoperable’. Clearly, the shortened shotgun which was fired killing the deceased was neither. The use of a plastic wad and fibre filler in the shotgun cartridge shell created a projectile so this sawn-off shotgun could not be considered inoperable. Further, “blank-fire” weapons have restrictors which are effectively stoppers in the barrel which allow discharge of gases only. Mr Adam Corless was prosecuted for the unlawful supply of the home-made ammunition to Mr Ritchie.
11. At the time of this music video production, Mr Ritchie was suffering from a terminal illness and was taking prescribed opioid medication. There is an inference to be drawn that he was unwell at the time of this death which

affected his judgment. On 5 August 2017, Mr Ritchie died of natural causes. Nevertheless, had Mr Ritchie survived, he would have faced the prospect of a Manslaughter (s303, 289 *Criminal Code (Qld)*) charge, Unlawful possession of a hand gun (s50 *Weapons Act (Qld)*) and/or Unlawful supply of a hand gun (s50B *Weapons Act (Qld)*) charges and/or a Breach of a Workplace Health and Safety Duty causing Death charge under now repealed legislation. In October, 2017, an Industrial Manslaughter (s34C *Work Health and Safety Act (Qld)*) offence became available to prosecutors of which theatrical armourers must be cognisant today. These charges would stem from the illegality of Mr Ritchie bringing an operable firearm on to a theatrical performance site pursuant to s39(1)(a) *Weapons Act Regulations 2016 (Qld)*. If convicted of any of these provisions, Mr Ritchie would have received lengthy prison sentences. A manslaughter conviction based on criminal negligence might have seen a head sentence of 10 years imprisonment (see *R v Streatfield* (1991) 53 A Crim R 320), unlawful supply of a handgun carries a mandatory minimum sentence of 30 months imprisonment before release (per Section 50B(e) *Weapons Act (Qld)*) and an industrial manslaughter charge, now carries a penalty of up to 20 years imprisonment.

12. Given these grave consequences for any theatrical armourer in Queensland, should he or she repeat Mr Ritchie's recklessness, it is hoped that this tragic death and its attendant publicity, will act as a paragon of deterrence.

#### **Findings required by s. 45 *Coroners Act (Qld)***

13. Section 45 of the Coroners Act 2003 provides that when an inquest is held the coroner's written findings must be given to the family of the person in relation to whom the inquest has been held, each of the persons or organisations granted leave to appear at the inquest and to officials with responsibility over any areas the subject of recommendations.

14. These are my findings in relation to the death of Mr Johann Ofner. They will be distributed in accordance with the requirements of the *Coroners Act (Qld)* and posted on the web site of the Coroners Court of Queensland.
15. Pursuant to s. 45(2) of the Coroners Act 2003 (Qld), I find:

<b>Identity of the deceased –</b>	The deceased person was Johann OFNER (Birth: 8 December,1988).
<b>How he died –</b>	Mr Ofner in his capacity as a stunt actor whilst filming a music video, was shot with a firearm he believed was inoperable. He died as a result of being struck in the chest by projectiles from this firearm.
<b>Place of death –</b>	The Brooklyn Standard Bar, Eagle Lane, Brisbane.
<b>Date of death –</b>	23 January, 2017
<b>Cause of death –</b>	Gunshot wound to the chest causing cardiovascular collapse due to laceration, hypovolemic and cardiogenic shock (transmitted force rather than penetration of the projectile).

### **The scope of a Coroner's inquiry and findings**

16. An inquest is not a trial between opposing parties but an inquiry into a death. The scope of an inquest can traverse beyond merely establishing the medical cause of death but there must be a reasonable nexus between the death and any line of enquiry: see Muir, J in *Doomadgee v Clements* [2006] 2 Qd R 352 at [30] to [33]. The focus is on discovering what happened; not on ascribing guilt, attributing blame, or apportioning liability. The purpose is to inform the family and the public of how the death occurred and, in appropriate cases, with a view to reducing the likelihood of similar deaths. As a result, a coroner can make preventive recommendations concerning public health or safety, the administration of justice or ways to prevent deaths from happening in similar

circumstances in future. Generally, a coroner must not include in the findings any comments or recommendations, statements that a person is or may be guilty of an offence or is or may be civilly liable. However, that can involve discussion of facts or consequences tending to prove criminal actions: see Martin, J in *Neumann v Coroner Hutton* [2020] QSC 17, at [37] and [38].

17. Proceedings in a Coroners Court are not bound by the rules of evidence. That does not mean that any and every piece of information however unreliable will be admitted into evidence and acted upon. However, it does give a Coroner greater scope to receive information that may not be admissible in other proceedings and to have regard to its origin or source when determining what weight should be given to the information. A Coroner should apply the civil standard of proof, namely the balance of probabilities. However, the more significant the issue to be determined, the more serious an allegation or the more inherently unlikely an occurrence, then the clearer and more persuasive the evidence needs to be for a coroner to be sufficiently satisfied it has been proven.
18. If, from information obtained at an inquest or during the investigation, a Coroner reasonably suspects a person has committed an offence, the Coroner must give the information to the Director of Public Prosecutions in the case of an indictable offence and, in the case of any other offence, the relevant department. A Coroner may also refer a matter to the Criminal Misconduct Commission or a relevant disciplinary body.

### **The Inquest**

19. An inquest into the death of Johann Ofner was originally listed to proceed between 30 June 2021 to 2 July 2021. Due to limitations imposed by the Covid-19 lockdowns in Queensland from 29 June 2021 and interstate, the inquest was adjourned to 23 August 2021, with only five (5) witnesses called to give oral evidence: Detective Sergeant John Fleming, Suzanne Dent, Adam Corless, Judd Wild and Allan Hardy. Written questions and

answers were then conducted of a further five (5) witnesses: Mr John Bowring (Expert Armourer), Mr Paul Murphy (CEO Media Entertainment and Arts Alliance), Mr Joe Pampanella (Safety Consultant to the Australian Film Industry), Mr Owen Johnston (Consultant, Screen Producers Australia) and Mr Steven Steenstrup (Expert Theatrical Armourer).

20. A substantial brief of evidence, which included the coronial investigation report, as well as several thousand pages of statements, audio and video exhibits, photographs and other materials gathered during the coronial investigation were tendered at the commencement of the inquest. There was no objection from any party regarding the admission of this brief of evidence into evidence at the Inquest and it forms the basis of the “Undisputed Facts” which follow.

21. The following is the relevant evidence:

**Undisputed Facts:**

In December 2016, the Australian music group “Bliss N Eso” engaged The Dreamers Creative Agency Pty Ltd (The Dreamers) to produce a music video for their new song ‘Friend like you’. Mr Allan Hardy was a company director of this production company and was also engaged as the Film Director of this music video. Ms Ariel Verri, a full-time employee, was appointed as the “Producer”. On 15 December 2016, Mr Hardy contacted Mr Judd Wild about the Bliss N Eso contract and the proposed scenes. At the time, Mr Wild operated under the business name of “Wild Stunts”. Mr Wild was engaged as the ‘Stunt coordinator’ to coordinate and choreograph all stunts for the filming of the music video. Some scenes included a high fall, a car knockdown, and a shootout at a restaurant. His role also included sourcing performers and organising the stunt performers under Mr Hardy’s direction on the day.

22. Mr Wild recommended a number of stunt performers for the poker game scene for this music video, of whom The Dreamers ultimately engaged Mr

Johann Ofner (the deceased) and three Japanese based stuntmen: Shinji Ikefuji, Yutaka Izumihara and Yoshinao Aonuma. It was to be filmed at the Brooklyn Standard Bar, Eagle Lane, Brisbane on Monday, 23 January 2017.

23. At 08:00 hours on 23 January 2017, the production crew and cast members assembled on set at the Brooklyn Standard Bar. The storyline was the creative vision of Mr Hardy. The concept of this 'Friend Like You' video was based on a journey of a \$50 note, where it passed through different character's lives: a small child, a poker game, and an old man. This Brooklyn Standard Bar scene involved an underground poker game, around a large round table, where an argument erupts between the four stunt actors. During the argument Mr Izumihara was to point a sub-machine gun at Mr Ofner who then returns fire from a weapon from under the table striking Mr Izumihara in the leg. This causes him to fall to his knees. As Mr Ofner then approaches Mr Izumihara to "pistol whip" him, Mr Ikefuji was to remove a 12-gauge sawn-off shotgun from his waist band and fire from the hip, striking Mr Ofner in the chest at close range. Mr Ofner was to wear a 'jerk vest' attached to a 'jerk rope' which, by pulling him back, simulated impact from the shotgun blast catapulting him backwards. This filming of the poker game scene was not in sequence. The actors were to rehearse a specific part of the scene several times and then it would be filmed.
24. An experienced and licenced theatrical armourer, Mr Warren Ritchie was engaged to provide firearms for this music video scene. He was the owner of a business called "Fireworks Downunder". He brought a number of firearms to the set. Relevantly, he supplied a 12-gauge Francois Dumoulin & Co. side by side break action, twin trigger, hand shortened shotgun to Mr Ikefuji. This was a "sawn off" operable firearm not permitted for theatrical productions. Mr Ritchie had illegally obtained "home-made" shotgun shells purportedly for theatrical productions from Mr Adam Corless. Whilst they did not contain metal "projectile shot", the shells

contained “ignition powder”, cloth wadding and a plastic casing which was effectively a “projectile”.

25. From about 13.30 hours, Mr Hardy, Mr Wild, the actors, and crew ran through their final dress rehearsals and sequences for the gunfight scenes, without discharging the firearms. Mr Ofner donned the ‘jerk vest’ under his shirt, to allow him to be pulled backwards across the table. The weapons were assigned to the actors by Mr Wild and Mr Ritchie in consultation with the director Mr Hardy. The loading and unloading of the firearms was conducted by Mr Ritchie. At 13.46 hours, the shooting of the fatal scene commenced. Mr Wild removed the 12-gauge blank ammunition from the shotgun and showed the ammunition to both Mr Ofner and Mr Ikefuji, to confirm it did not contain any ‘shot’. Mr Ikefuji was told to hold the shotgun at his hip and aim the barrel to the side of Mr Ofner’s body when he fired it.
26. Mr Wild called “3, 2, 1 action” and Mr Ofner raised his left arm holding a handgun, in position to pistol whip Mr Izumihara. Mr Ikefuji pulled both triggers on the shotgun towards Mr Ofner. The distance between the barrel of the shotgun and Mr Ofner’s chest was between 1.3 and 1.45 metres. Mr Wild and his assistant pulled the jerk rope and Mr Ofner backwards just as the double barrel shot gun discharged.



**Brooklyn Standard CCTV**

27. After a few minutes, the participants realised that Mr Ofner was still lying on his back. They rushed to him, observed two wounds with minimal blood on his chest. Mr Ikefuji commenced CPR. A “000” call was made at 13:53 hours and paramedics arrived at the Brooklyn Standard just after 14:00 hours. Resuscitative efforts continued for approximately 23 minutes before Mr Ofner was declared life extinct.
28. An external and full internal post-mortem examination was performed on the body of Mr Ofner on 24 January 2017. The autopsy examined two projectile wounds on the front left side of the chest, consistent with having been caused by a gun. One of the wounds penetrated the chest from the front of the left side of the chest between the third and fourth intercostal cartilages. The wound measured 2.2cm x 1.8cm. The projectile travelled in the direction of front to back and slightly to the right. Within the intercostal muscle was a 19mm disc-like card wad and a 7cm x 4m soggy brown wad material. A piece of white fabric-like material was also found.
29. Embedded within the anterior mediastinal tissue (the area between the lungs) beneath the intercostal muscle at third intercostal space was a 19mm green rounded plastic wad. Two pieces of somewhat soggy dark brown material (fibre filler wads) were recovered from the left pleural cavity (inner chest area). Also recovered from the left pleural cavity posteriorly was a single 19mm card wad and two pieces of somewhat soggy dark brown wad material (fibre filler wads).
30. This wound was associated with laceration of the heart, resulting in hemopericardium, as well as haemothorax (blood in the heart and lungs). The laceration of the heart was caused by the transmitted force rather than penetration by the projectile. The second wound was minor and was irrelevant in the cause of death.
31. The cause of death was “gunshot wound to the chest” causing blood flow constriction and heart failure due to laceration, hypovolemic and

cardiogenic shock (transmitted force rather than penetration of the projectile). I adopt these undisputed facts and so find.

### **Mr Warren Ritchie (Armourer)**

32. Mr Warren Ritchie was the owner and director of his own business, 'Fireworks Down Under', which provided special effects, fireworks, and theatrical ordinance (weapons supply) for stage and movie productions. He had been involved in the industry since 1998. He held licences as a Theatrical Ordinance Supplier, Firearms Dealer, and an Armourers Licence for differing categories of weapons since 16 March 2006. In order to obtain these licences, Mr Ritchie was required to submit an application to the Queensland Police Service Weapons Licensing branch with a Statement of Eligibility identifying the genuine reason for needing the licence, his knowledge of firearms, safety practices, storage, and maintenance. The safety test dealt with the safe handling of live firearms and ammunition on shooting ranges and in hunting situations. In order to obtain an Armourers Licence he was further required to have demonstrated the ability to manufacture, modify or repair weapons. The required background checks considered Mr Ritchie to be a fit and proper person and his licences were duly issued.
33. Mr Ritchie had worked with Mr Wild on productions prior to the Bliss N Eso film clip. They had a positive professional relationship with no adverse incidents in the past. Mr Wild gave evidence that he respected Mr Ritchie and felt safe working with him. Mr Ritchie had also worked with The Dreamers on previous productions. By all accounts Mr Ritchie was well regarded.
34. No one from the The Dreamers production company had advised Mr Ritchie of the exact details of what was occurring on set at the Brooklyn Standard Bar on 23 January 2017, save for the selection of firearms needed. On 21 January 2017, Mr Ritchie faxed a required notification to

the Officer in Charge at Alderley Police station advising that he would be using “replica guns” for the production but not an operable shot gun.

35. On 23 January 2017, Mr Ritchie provided eight firearms and ammunition on the set. The four weapons used for the scene were:
  1. 1 x 12-gauge Francois Dumoulin & Co. side by side break action twin trigger shortened shotgun (the firearm fatally used by Mr Ikefuji);
  2. 1 x Denix brand M11 model replica submachine gun;
  3. 1 x 9mm PAK. calibre EKOL brand Firat Magnum blank-fire self-loading pistol; and
  4. 1 x 9mm PAK. calibre EKOL brand Firat Mag92 blank-fire self-loading pistol.
  
36. The shortened shotgun fatally used by Mr Ikefuji in the music video scene was an old “Duco” brand double barrel shotgun which Mr Ritchie had shortened to be “sawn off”. This firearm was capable of firing live rounds. Pursuant to s39(1)(a) of the *Weapons Act Regulations (Qld)*, all weapons supplied under a Theatrical Ordinance Suppliers licence are to be ‘blank fire or permanently inoperable’. The shotgun was an “operable firearm” because it was capable of discharging a projectile out through the barrel. A Queensland Police Service ballistics expert determined that the shotgun constituted a firearm (Category A weapon) under the *Weapons Act (Qld)*. By definition, it was capable of being aimed at a target and causing death or injury by discharging a projectile.

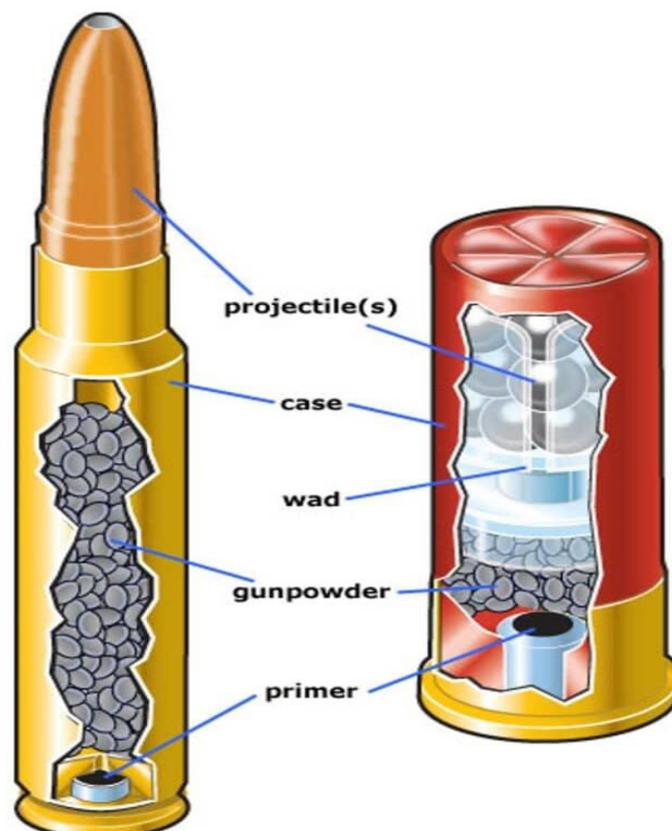


**Photograph of the modified Francois Dumoulin & Co shotgun (Exhibit B49 – Image 3165271)**

37. In contrast, the barrels of the two 9mm pistols were blocked off and side vents allowed ignition gases to escape. This meant that no projectile could be discharged from the firearm. By definition, these are “blank fire firearms” weapons permitted under the Weapons Act Regulations (Qld) and were specifically made for close proximity special effects. During an interview with police investigators on 26 January 2017, Mr Ritchie told police that he advised Mr Wild that a wad would come out of the shotgun barrel when it was fired. In his evidence Mr Wild denied being aware that the shotgun would discharge a projectile. He stated that had he known, he would have “pulled the scene”.
38. Mr Steven Steenstrup, an expert Queensland Police Officer Armourer and a theatrical armourer with over 25 years’ experience in the entertainment and production industry, provided evidence that the use of “blanks” in shotguns create the greatest danger on a set or stage involving firearms. Anything fired down a shotgun barrel will exit unrestricted and will not be slowed in any way. Shotgun barrels are unsuited to the use of a restrictor

device placed at the end to inhibit discharge of a wad and gases. Indeed, that would potentially create an exploding barrel.

39. Obviously, the replica submachine gun was inoperable.
40. The shotgun cartridges supplied by Mr Ritchie for this music video scene were 12-gauge shotgun cartridges obtained some 12 months prior from Mr Adam Corless whom he included on this theatrical ordinance and dealer's licence in approximately June 2015. Mr Corless made two types of shotgun shells for Mr Ritchie: (i) smokeless (blue shell) and (ii) black powder (green shell). The plastic and fibre filler wads retrieved from Mr Ofner's wounds were consistent with the materials contained in the blue shot shells. He provided a handwritten document to Mr Ritchie, with a list of the contents of the blue shell (smokeless): *"20grn AS50N ADI, plastic over powder cup from plastic wad, 3 x fibre lubed wads (12gA), 3 x paper over shot card (circle fly products), WIN 209 primer"*



### Basic bullet and shot gun cartridge shell terminology



Source QP1700138761 FR1597675 3167306-IMG\_9759.JPG 2017-02-02 11:05:28 4010166 - Disassembly of one shotshell from Item 14.

### Photograph of Blue Shell Cartridge (Exhibit B25 Image 3167306)

41. These blue shell cartridges had to have a hard plastic wad in them to hold the ignition powder against the primers and create a blast effect to propel the shell forward down the barrel. At the bottom of the document, Mr Corless wrote: *“Please ensure when using smokeless (blue) shells that after every discharge the barrels are clear of wad before reloading and refiring.”* Mr Corless had no formal qualifications or licences in relation to manufacturing ammunition for supply to others. He was self-taught how to reload ammunition from years of dealing with firearms, off the internet, through literature, and from his employer. Mr Corless was not advised at any stage that the shotgun shells would be used to be discharged in an enclosed space, or in a shotgun that was going to be aimed at a person.
  
42. Mr Ritchie was asked by investigators before he died if he was satisfied that the material used for the shotgun shells was safe and sufficient. He answered that he thought it was “safe”. He later told Mr Corless that he had previously safely and successfully used six (6) shots on a minor production and nothing like what happened at the Brooklyn Standard had

occurred. He said, “it was the same situation”, he directed the shooter to “just aim to the side”.

43. On 27 February, 2018 at the Magistrates Court at Brisbane, Mr Corless was convicted on his own plea of guilty to one charge of manufacturing explosives without authority and the unauthorised sale of explosives. He told the court that he would not have made the shotgun shells if he had any idea they would be used indoors. He was fined \$2500.00.

### **Queensland Police Service Investigation**

44. The Queensland Police Service attended at the Brooklyn Standard Bar on 23 January 2017 just after 14:00 hours. A crime scene was established immediately, and forensic science police officers conducted an extensive examination of the incident location. The police investigation was considerably enhanced by the unusual availability of high quality and extensive camera footage of this fatality. It was quickly determined that the investigation into Mr Ofner’s death would be a collaborative effort between the Queensland Police Service and Workplace Health and Safety Queensland (WHSQ).
45. Ultimately and unremarkably, the Queensland Police Service did not charge Mr Wild (Stunt Co-ordinator), Mr Hardy (Artistic Director) or Ms Ariel Verri (Producer) with a criminal offence related to the death of Mr Ofner. This is clearly because the failure to ensure the lawful use of theatrical ordinance weapons was Mr Ritchie’s.

### **Workplace Health and Safety Queensland Investigation**

46. A comprehensive Workplace Health and Safety Queensland Investigation took in excess of three years to complete. A series of experts were commissioned to provide opinions in many aspects of this death. COVID-19 considerations created a substantial impediment to the conclusion of the investigation in 2020.

47. Ultimately, the Workplace Health and Safety Queensland investigation established a number of potential breaches of duties and responsibilities held by The Dreamers and Mr Hardy (Artistic Director), Mr Wild (Stunt Co-ordinator) or Ms Ariel Verri (Producer). However, given the “recklessness” of Mr Ritchie, none could be held responsible for the death of Mr Ofner. Prima facie, the following failures were variously identified by Workplace Health and Safety Queensland investigators:

- (a) the failure to appoint a site safety officer with overall control of safety considerations;
- (b) the failure to undertake dedicated firearm safety briefings;
- (c) the failure to test fire the firearm to establish safe distances for the actors;
- (d) the failure to realise aiming difficulties attached to firing “from the hip”; and
- (e) the failure to consider more costly but safer production options such as computer enhancement or inoperable firearms.

48. At first blush, it is eyebrow raising that no person was prosecuted for a simple breach of work health and safety obligations. However, that prosecuting agency ultimately came to the conclusion that any arguable breaches failed to be proved to a criminal standard of proof. That decision must be respected. No doubt the situation was complicated by the death of Mr Ritchie. Investigators concluded that a decision to prosecute him would have been likely, had he not passed away. Today, if a prosecution was commenced, there would be fairness issues in relation to the effluxion of time since an earlier indication that no prosecution would take place. I make no criticism of the decision not to prosecute any person pursuant to the *Work Health and Safety Act* (Qld) and note that it was not an issue at the Inquest.

### **Witnesses called at the Inquest**

49. Detective John Fleming

- Detective Fleming was the Queensland Police Service investigating officer and co-ordinator with the Workplace Health and Safety investigators.
- He arrived at the Brooklyn Standard Bar shortly after this fatal shooting and managed the investigation thereafter.
- The footage from the camera crew filming the music video scenes gave investigators an unusual and significant advantage in determining what had occurred.
- There was only test firing of the “blank fire” 9mm pistols which were lawfully at the theatrical production.
- The only people present for the subject camera shoot in the Brooklyn Standard Bar were Mr Hardy (director), Mr Wild (stunt co-ordinator), a junior assistant, the four stuntmen and camera operators.
- The stuntmen appeared to understand English although it was not the first language of the Japanese stuntmen.
- The Blue shell (smokeless) shotgun cartridges contained: 20 grams of gunpowder, a plastic over powder cup from plastic wad, 3 x fibre lubricated wads (coconut or horse hair), 3 x paper over shot card and a WIN 209 primer.
- There was no safety supervisor assigned to the video production and confusion about who was to perform that role and no test fire of the shotgun.
- There was no specific safety briefing for this particular stunt scene.
- There were staff trained in first aid on standby.
- The shortened double barrel twin trigger 12-gauge shotgun used in this fatal shooting was a “live fire weapon” which could not fire blanks and accordingly was illegally on site at a theatrical performance and illegally supplied to Mr Ikefuji.
- Mr Ikefuji acted honestly and reasonably in believing this shooting was “safe”.
- In some states in Australia operable firearms can be used in limited ways during theatrical performances

50. Ms Suzanne Dent

- Ms Dent was an experienced film and television hair make-up artist employed to assist in the production of this music video.
- Ms Dent identified Mr Wild as the stunt co-ordinator who held a safety briefing on the morning of 23 January, 2017 in relation to firearms being used but it mainly concerned hearing loss.
- It appears that Ms Dent mistakenly believed the jerk rope vest was a weapons safety vest.

51. Mr Adam Corless

- Mr Corless supplied the shotgun ammunition used in the music production scene to Mr Ritchie
- He confirmed that the shotgun cartridges that he sold to Mr Ritchie were not for the purpose of firing at anyone or used inside a building because debris still flew from the barrel on discharge
- His view was that these cartridges were “blanks”.

52. Mr Judd Wild

- Mr Wild was the Stunt Co-ordinator
- A stunt co-ordinator is an industry certificate-based qualification under the auspices of the Media, Entertainment and Arts Alliance
- He was unclear about which regulatory safety guidelines applied to this position
- He did not hire Mr Ritchie – The dreamers did
- He was required to prepare a risk assessment but not in relation to firearms – that was an armourer’s task.
- He supplied a risk assessment which mentioned firearms but not specifically the risk of a stuntman being shot and was for “insurance purposes”
- He was not the safety officer on site and made that clear in correspondence to Mr Hardy.
- His understanding was that the shotgun was a blank-firing weapon with no projectile expelled

- Mr Ritchie told Mr Ikefuji to “aim off” of Mr Ofner when firing and that firing from a one metre distance away would be safe
- Mr Ritchie gave a brief safety talk to the stuntmen, but it was mainly about the operation of the weapons and Mr Wild was not involved
- He did not request a test fire of the shotgun because “it was up to the armourer” but there was a test fire of the 9mm pistols
- Mr Ritchie did not assure him that no projectile would be expelled from the shotgun
- His involvement in the stunt was to pull the jerk rope
- He believed that the overall responsibility for firearm safety was with the armourer, Mr Ritchie.
- He stated that if he had believed the situation to be unsafe, he would have “pulled the scene” and stopped the performance.
- He recommended that an overall site safety supervisor should be mandated in filming firearms scenes.

#### 53. Mr Alan Hardy

- Mr Hardy was the owner of the production company The Dreamers but, on set, only director in charge of “creative vision”
- He was not involved in production guidelines (Ms Verri) nor stunt safety (Mr Wild) nor firearm safety (Mr Ritchie)
- It was the producer’s job to ensure safety briefings and seek risk assessments
- He understood Mr Wild oversaw stunt safety
- He did not direct Mr Wild to engage Mr Ritchie. Mr Wild chose Mr Ritchie as armourer
- He operated a camera during the filming of the production approximately seven metres from the deceased
- His expectation was that the producer, stunt co-ordinator and armourer were experts who would not have brought firearms to the production set that could have caused injury.

## **Victim Impact Statements**

54. Material regarding the tragic effects upon Mr Ofner's family and his largely over-achieving and much celebrated life was placed before the court. On the evidence, Mr Ofner made a difference to a number of lives and is sorely missed by his family and friends.

## **Witnesses providing written answers at the Inquest**

55. Mr John Bowring (Expert Armourer)  
Mr Paul Murphy (Chief Executive Officer, Media Entertainment and Arts Alliance)  
Mr Joe Pampanella (Safety Consultant to the Australian Film Industry)  
Mr Owen Johnston (Consultant, Screen Producers Australia)  
Mr Steven Steenstrup (Expert Theatrical Armourer)
56. These experts provided much assistance to the Inquest in relation to the Guidelines (and lack thereof) to Theatrical Armourers and Film Production crews when firearms are involved. The relevant evidence of these experts is incorporated to findings addressing issues [3] to [5].

## **Safety Issues**

57. The issues considered at Inquest did not involve a review of what had taken place but rather how this tragedy should not be repeated:
1. The findings required by s 45(2) of the *Coroners Act 2003* (Qld); namely the identity of the deceased, when, where and how he died and what caused his death;
  2. The circumstances and cause of the fatal shooting of Johann Ofner at the 'Brooklyn Standard Bar' at Lower ground level, 371 Queens Street, Brisbane, which occurred on 23 January 2017;
  3. The adequacy of training and safety briefings provided to cast and crew on production sets;
  4. Consideration of the regulation and applicable standards of the use of firearms by which the entertainment, film and production industry operates in Queensland and Australia; and

5. Whether there are ways to prevent a similar death occurring in the future.
58. [1] and [2] have been dealt with above and, in particular, under the Undisputed Facts which outlines my findings of fact regarding the circumstances of Mr Ofner's death.
59. In relation to the remaining issues explored at the inquest, I make the following findings:

***The adequacy of training and safety briefings provided to cast and crew on production sets***

60. The following failures were identified by investigators:
  - (a) the failure to appoint a site safety officer with overall control of safety considerations;
  - (b) the failure to undertake dedicated firearm safety briefings;
  - (c) the failure to test fire the firearm to establish safe distances for the actors;
  - (d) the failure to realise the aim difficulties attached to firing "from the hip"; and
  - (e) the failure to consider more costly but safer production options such as computer enhancement or inoperable firearms.
61. Both Mr Bowring and Mr Steenstrup provided great assistance to the Court in identifying these failures. Both identified the absence of a site safety officer and dedicated safety briefings on the firearms, rather than what appeared to be "chats" while handing out weapons as critical shortcomings. Mr Ritchie should have taken up the safety officer role in the absence of direction from Mr Hardy. Test firing of the supposedly safe shot gun should have taken place in a safe area along with the testing of the two 9mm pistols. That test firing would have exposed the danger, particularly the unsafe distance between Mr Ikefuji and Mr Ofner. Another

critical mistake was the assumption that Mr Ikefuji could accurately aim “shooting from the hip”. Firing a weapon not secured against a hard surface like a shoulder, wall or gun stand invites inaccuracy. This is particularly so with the “kick back” from the discharge of a shortened, twin triggered, double barrelled 12-gauge shotgun whilst on the move.

62. Unhelpfully, counsel for the family, Mr Wild and Mr Hardy particularly in written submissions concentrated, not on the corporate failings on 23 January, 2017, but rather on the inconsistencies between the evidence of Mr Ritchie, Mr Hardy and Mr Wild, in attributing blame. Both were unimpressive witnesses in the sense that they sought to distance themselves from their duty to maintain a safe workplace. Mr Hardy particularly so, in trying to compartmentalise safety responsibilities. However, this Inquest was not about blame but rather ways to prevent deaths from happening in similar circumstances in the future. I will not devolve into an examination of the evidence for and against each of their irresponsibility for this death. What cannot be ignored, as counsel for Mr Wild put it: *“With the introduction of weapons, primary responsibility for that particular aspect of the production rested with the armourer who was specifically engaged due to his experience and expertise in this regard.”*

63. I was very much assisted, however, by this elegant observation by counsel for the family, which I adopt:

“26. *The submissions of Mr Wild and Mr Hardy make clear that communication and consultation between the stunt co-ordinator, the director and the armourer was absent. In essence, their approach was that each person adopt the risk for their own area of responsibility, without regard to how joint or concurrent risks were being addressed between areas of expertise. This disparate approach to safety responsibility in filming was one of the only areas of consistency between the evidence of Mr Wild and Mr Hardy.*

27. *In this regard, the evidence of Mr Wild and Mr Hardy exposes an approach to safety which falls foul of the Workplace Health and Safety Act, 2011. Under the Act, each person conducting a business or undertaking is required to consult in the discharge of*

*their duties. The policy rationale behind this requirement is both evident and essential to the framework of safety across an enterprise; the consultation serves to prevent a particular risks falling through the gaps between individual's roles.*

28. *The Court ought to find the approach to compartmentalisation of safety responsibility left no person in a position to make a decision to abandon live firing, and find such distribution of safety is not consistent with the individuals' obligations at law...*"

64. The difficulty is in finding a regulatory mechanism to mandate this level of co-operation. A good example is the failure to undertake a test fire of the shotgun. Had a test fire been done, it is likely that the cast and crew would have been alerted to the force and power of the projectile once discharged from the barrel of the shotgun. There was no reasonable basis to have not simply conducted one test fire of the shotgun. The two 9mm pistols were test fired. Ultimately, Mr Ritchie, the armourer, as the person responsible for the handling and safe use of the firearms, was accountable for the decision to not conduct a test fire. However, if one person had insisted, a test fire of the shotgun probably would have been in all probability undertaken.

65. The only rational solution is to ensure that a site safety officer with overall control of any stunt production including all the component film production departments is mandated to ensure such a breakdown in communication cannot reoccur. However, that provides a further layer of cost to small production companies and, in the event of disagreement, the theatrical armourer should have the final say.

66. Mr Joe Pampanella, Safety Consultant to the Australian Film Industry, was asked the following question:

*"Assume the law is changed to positively deem a producer to be responsible for the safety of all persons in any production, and that the producer holds the responsibility to ensure all reasonably practicable steps are taken to ensure the safety of all persons on a set. What impact*

*would you expect such a change to have on the Australian Film and Television industry?”*

67. His response was that film productions are vast and complex and there are many aspects to the production process. He noted producers engage individuals with specific expertise to assist in this process. The producer maybe the overall responsible person, but there are also other individual persons in positions of control that also must assume responsibility for activities within their control. He did specifically support the idea of the producer taking sole responsibility.

***Consideration of the regulation and applicable standards of the use of firearms by which the entertainment, film and production industry operates in Queensland and Australia***

68. Stunt actors are regulated by the Media, Entertainment & Arts Alliance (MEAA). The MEAA was established in 1992 and is the union for people working across the arts, entertainment, sports, outdoor, music and events industries. The union looks after the interests of a large variety of members including, but not limited to, screen technicians, professional basketball players, costume designers, make-up artists, sound engineers, ushers, venue event staff, broadcast technicians, animators, live performance crew and stunt performers. The MEAA is also an industry advocate for creative professionals on issues such as members' rights at work, workplace health and safety, and protecting wages and conditions. Mr Ofner was an accredited stunt performer and member of the MEAA since 11 September 2014. Film production companies usually only employ MEAA members.
69. The Screen Producers Australia (SPA) is an 'employer association' body, formed by the screen industry to represent the interests of small-to-medium sized, independent Australian film and television production companies on issues affecting the business and creative aspects of screen production.

70. At the time of the Mr Ofner's death, safety in the entertainment and screen production industry was guided by three documents:
- i. The Film Industry Recommended Safety Code 1983 (Safety Code 1983); and
  - ii. Occupational Risk Management in the Australian Film & Television Industry – Draft National Safety Guidelines 2004 (Draft National Safety Guidelines 2004).
  - iii. Film and Television Industry Safety Guidance Notes (1995)
71. The Safety Code 1983 is the only ratified and fully endorsed standard approved by the MEAA and the Screen Producers Australia (SPA). It has not been updated or reviewed since its approval in August 1983. The Safety Code 1983 was also silent as to the role and responsibilities of armourers and remains accessible on the MEAA website.
72. The Draft National Safety Guidelines 2004 was drafted on 10 November 2004, with the intention of being industry national safety guidelines. The Screen Production Review Committee comprised representatives from the MEAA, the Screen Producers' Association of Australia (SPA), Fox Studios Australia (representing film studios), the Australian Broadcasting Corporation (representing public broadcasting) and the New South Wales Film and Television Officer (representing state funding agencies). After industry consultation, the Committee did not reach an agreement to formally codify the Draft National Safety Guidelines 2004.
73. The guidelines are instructive in nature only and used on many screen productions, but they are not legally binding and do not displace or replace the legislative work health and safety obligations on employers and employees.

74. The Film and Television Industry Safety Guidance Notes of 1995 (1995 Guidance Notes) covered more screen production areas than the 1983 Code. The 1995 Guidance Notes provided, for the first time, consolidated advice on the use of firearms and armoury in screen productions. The provisions with respect to firearms and armoury matters, appeared on pages 51 to 54. These provisions provided, inter alia, that:

#### *"FIREARMS AND WEAPONS*

*An armourer must be engaged and on set when firearms, actual or imitation, or prohibited weapons such as replica firearms, flick knives, grenades or crossbows are in use. Note that regulations may vary from state to state.*

*The armourer must hold current appropriate licences for all weapons prior to their use on set.*

#### *ARMOURER RESPONSIBILITIES*

*To instruct relevant members of the crew and cast on the safe handling and safety procedures of all the weapons to be used.*

*To ensure that the weapons and ammunition are safe to use together and are of a good fit type whether or not they are specially manufactured or obtained commercially.*

#### *LIVE AMMUNITION AND NON-PROP WEAPONS*

*Live ammunition is defined as any cartridge loaded with explosive and a projectile or projectiles of any cartridge loaded with a propelling charge and one or more projectiles.*

*Dummy ammunition used in prop firearms should be proved to be safe to the safety supervisor and 1st [Assistant Director] and to any actors using the firearm(s) or having them pointed in their direction.*

#### *HANDLING PROCEDURES*

*Before the firing of any weapon, the armourer, 1st [Assistant Director], key grip and safety supervisor should plan for the protection of cast and crew essential for the shot who must remain either in the line of fire or arc of fire. All other nonessential personnel shall be removed from the line of fire and arc of possible fire.*

*If a weapon is to be fired in the close proximity of cast, the armourer, 1st [Assistant Director], the safety supervisor and those members of cast who*

*may either be firing the weapon or being fired at, shall meet and agree upon the safe angles and distances to ensure safety. This will be dependent on the weapon, ammunition, distance, and the type of protection available for the participants. An example test blank should be fired.”*

75. Mr Steenstrup gave evidence, that in his expert opinion, the armourer and firearm related provisions of the 1995 Safety Guidance Notes are well-known among established and experienced theatrical armourers. This would have included Mr Ritchie.
  
76. As a direct response to Mr Ofner’s death, a meeting was convened with the MEAA, SPA and other screen funding agencies to review the screen industry safety guidelines. As a result, the MEAA and SPA jointly established Screen Safe Australia, and in consultation with armourers and other industry professionals, produced the ‘National Guidelines for Screen Safety’ 2021 (‘National Guidelines’). This was published on 1 June 2021 on a dedicated website: “*National Guidelines for Screen Safety*”. Electronic notification of the new guidelines was sent to all MEAA and SPA members. These guidelines are ancillary to work health and safety laws, and its purpose is to provide advice on how to manage safety in screen industry workplaces and comply with relevant legislation.
  
77. Chapter E of the National Guidelines is dedicated to ‘high risk production activities’, which encompasses the role of armourers and the use of firearms. Section 1 expressly identifies who is considered the Person Conducting a Business Undertaking (the statutory test for a person caught by work, health and safety obligations) and lists ‘golden rules’ about the use of firearms and safety requirements. While this is not a considered legally enforceable document, the Chapter certainly creates a checklist of what should ideally occur in a production when firearms are going to be used, a breach of which would “guide” prosecutors.

78. Mr Steenstrup gave evidence that in his expert opinion, National Guidelines for Screen Safety that Chapter E, Section 1 could include a provision that, in the event of a disagreement about what is considered safe, the armourer has the final word on the use of firearms and munitions, to combat any doubt who has the responsibility and control in relation to the use of weapons in theatrical settings.
79. Both Mr Bowring and Mr Steenstrup provided great assistance to the Court in identifying the areas that could be improved with respect to theatrical armourers in the film industry and proposed meaningful changes that could be made to clarify the role and responsibilities of theatrical armourers.
80. The circumstances of Mr Ofner's death highlight the lack of regulation and compliance checks with regards to the licensing and auditing of theatrical armourers, and the use of firearms in the film and production industry. It may be due to the small number of professional full time theatrical armourers operating in Australia. Mr Bowring opined that the current lack of critical mass of professional theatrical armourers is a constraint on forming a guild or specific union to represent this niche group of the industry.
81. Armourers, theatrical ordinance, and the use of firearms and blank firing ammunition on a set or in a theatrical production is governed by individual state Weapons Act and explosives laws. Therefore, there is a lack of consistency across the States in Australia. The Screen Producers Australia (Mr Owen Johnston) supported a submission that a national Code of Practice be established for safe use of firearms on screen productions in Australia based on the Firearms / Armoury section of the National Guidelines for Screen Safety (2021).
82. In Queensland, the *Weapons Act (Qld)* defines an armourer as a person who stores, manufactures, modifies, or repairs weapons in the course of the person's business. The term "theatrical armourer" does not exist in

Queensland legislation. The consequence is that the standard to be issued with an armourer's license is considered inadequate by those working in the film industry, because any person with an armourer's licence can advertise and be engaged for work as a theatrical armourer.

83. It is evident that the process of acquiring a Theatrical Ordinance Suppliers or Armourer's Licence is not difficult. There is no established process, training, testing or any industry vetting to qualify for an armourer's or theatrical ordinance licence. It therefore leaves the industry at risk of employing inappropriately licenced persons without the requisite industry skills, knowledge, and experience.
84. Mr Bowring opined that theatrical armourer's licences should be more difficult to obtain with refresher courses and a graded training and certification regime. He noted the existing test used to obtain a shooter's license would be adequate for entry level so long as the entry-level armourer only worked on set under the direct supervision of a licensed armourer or an employee with adequate qualifications.
85. Moving onto an intermediary level, that certification would entail someone capable of operating on a film set unsupervised by the licensed theatrical armourer. His or her work should be checked and regularly overseen by the licensed theatrical armourer. Finally, someone who had passed a qualifying exam to be a licensed armourer with enough onset and workshop experience could be issued with a full licence. This person would be able to plan out an armoury budget, do risk assessment paperwork, discuss with producers and directors what is required for a film shoot with an overarching safety responsibility.

***Whether there are ways to prevent a similar death occurring in the future***

86. Mr John Bowring (Expert Armourer) was asked the following questions:

1. Is there a way that the scene could have been filmed without the need to load the shot gun? a) Is the effect of the shotgun being fired something that could have been edited in post-production? b) Are you able to comment at all how costly adding that specific special effect would have been?

Mr Bowring's response:

*“To correctly frame an answer to this question and outline options available, it is important to understand why firearms are fired on film sets. There are two key reasons. The first is to enable the physical and audio affect to be captured on film/digital media. Secondly, to facilitate / enhance timing, and reaction and performance of participants on and off screen. Alternatives to blank firing of a shotgun: a) It is possible and relatively easy to duplicate the visual and sound effect of the shot gun being fired in post-production. I do not myself do this sort of work but have made enquiries and have been advised that it would cost between \$1,500 and \$3,000, depending on the movement of the firearm on firing (For example is it stationary or is it moving in the frame at the time it fires). b) The sound que for coordination of the participants could have been done by firing only a primer seated in an otherwise empty cartridge. c) A blank could have been safely fired off-screen (ordinarily done using a smaller firearm). d) The cue is generated some other way that everyone can clearly hear (a common choice)”.*

2. When actors are using firearms on set, do you think it would be beneficial for them to wear some form of ballistic vest or added protection?

Mr Bowring's response:

*“Only once in my 40-year career have I taken a bullet-proof vest to set for use by an actor. This occasion was the filming of Mission impossible*

*2 and it was taken on-set for exclusive use by Tom Cruise. After trying it on, he determined that it was too restrictive and bulky to be worn under the costume and would negatively impact the performance. Additionally, it is not a good idea to introduce measures that give people a false sense of security. While a bullet-proof vest covers the torso it does not cover the head and the most vulnerable part of the body, the eyes. Furthermore, it does not protect the arms, groin, and legs. If best practice safety provisions are put into place and strictly and consistently implemented the use of such accessories becomes completely unnecessary.*

*We do however use Lexan Shields and cloth padding to protect members of crew who may come into the line of fire from unburnt powder or very small pieces of the brass crimp from blanks that may break off from time to time. Additionally, any form of wadding that could pass through a cotton sheet or a T-shirt at two metre distance from the muzzle of the firearm would be not suitable for use on a film set due to the possibility of eye or other soft tissue damage”.*

3. What would the implications be if an actor were to wear a vest? Is that something that would be very noticeable on camera?

Mr Bowring’s response:

*“As stated above it is likely to be visible under the costume although that would depend on the costume being worn. It would also tend to be restrictive and hot, and I couldn’t see many actors being happy to wear them. Additionally, it would add a false sense of security or a invoke lack of confidence”.*

87. Further to Mr Bowring’s responses above, it is hoped with the development of digital imaging techniques, the cost of enhancing stunt scenes with computer animation will eventually make the use of even blank firing weapons obsolete in film productions. Clearly there would

have been a more substantial cost involved if computer graphics were used. The duration of the scene itself was about 30 seconds and could have been filmed using different angles and the use of cutaways and additional editing. The additional cost to this music video scene eliminates the hazard and risk associated with discharging a loaded shotgun towards Mr Ofner. It was arguably not a disproportionate cost.

88. Nevertheless, the use of blank-firing weapons like the 9 mm pistols and the replica machine gun was always safe. Live fire weapons like the 12-gauge shotgun are not.

### **Recommendations**

89. Section 46 of the *Coroners Act (Qld)* provides that a Coroner may comment on anything connected to a death that relates to:
  - a. public health and safety,
  - b. the administration of justice, or
  - c. ways to prevent deaths from happening in similar circumstances in the future.
90. Given the concerns raised in this matter and the evidence provided during the investigation and inquest, I make the following recommendations:
  1. That the Queensland Government review the relevant provisions of the Weapons Act (Qld) and Weapons Act Regulations (Qld) as it relates to:
    - i. The definition of “blank-fire” munitions, and their practical use in theatrical productions
    - ii. The establishment of a section of the Queensland Police Service specific to review the role of theatrical armourers; defining their lawful rights and obligations, the serious penalties facing Weapons Act offenders and introduce standards for qualification including training and testing, in order to obtain a Theatrical Ordinance Supplier, Firearms Dealer and/or an Armourers Licence.

- iii Making it absolutely clear that operable firearms and non-blank firing weapons cannot be used in theatrical performances
2. That the Office of Industrial Relations consider creating a Code of Practice for armourers and the use of firearms in the film industry, modelled from the Chapter E, Section 1 of The National Guidelines for Screen Safety, in consultation with the requisite industry stakeholders.
3. That the Minister for Police liaise with his interstate counterparts to ensure that there is a consistent Australia-wide legislative code for theatrical armourers outlawing the use of operable firearms and non-blank firing weapons in theatrical performances.

## **Conclusion**

91. It is uncontested that Mr Ofner's death was avoidable. It is evident that what occurred on 23 January 2017 can only be described as an accumulation of errors, that resulted in tragedy. Nevertheless, Mr Ikefuji acted honestly and reasonably in believing his firing of the shotgun at the deceased was a "safe" action.
92. It is not disputed that Mr Ritchie, as the armourer, was primarily responsible for the safe use of all the firearms brought to the Brooklyn Standard Bar video production set. Industry expert witnesses accepted that armourers have the final say on a production set. It can be reasonably accepted that all other persons involved in the production primarily relied on this proposition to usurp their responsibilities to ensure the safe practices on set. That being said, the tenet of work, health and safety is that all participants in a workplace hold a duty to be safe and make safe. It can be readily inferred that Mr Ritchie supplied a firearm which was in breach of *Weapons Act Regulations (Qld)*. He was too experienced to have thought otherwise.
93. The artistic director, producer and stunt co-ordinator cannot escape some criticism for their failures to appoint a site safety officer with overall control of safety considerations; undertake dedicated firearm safety briefings; test fire the firearm to establish safe distances for the actors; realise aiming

difficulties attached to firing “from the hip”; and consider more costly but safer production options such as computer enhancement or inoperable firearms. There are reasons for each of these “failures” not taking place mostly relating to oversight, excessive cost, interference with artistic effect and/or a lack of knowledge and experience. Morally, the question must be asked: “Was this lack of foresight worth the tragedy of a young man’s life?”

94. The critical lesson from this tragedy is that Mr Ofner died as a result of criminal actions. His death was avoidable. Pursuant to *s39(1)(a) of the Weapons Regulations 2016 (Qld)*, all weapons supplied under Mr Ritchie’s Theatrical Ordinance Supplier licence must have been ‘blank fire or permanently inoperable’. Clearly, the shortened shotgun which killed the deceased was neither. The use of a plastic wad in the shot shell created a secondary projectile and could not be ‘blank-fire’ ammunition.
  
95. At the time of this music video production, Mr Ritchie was suffering from a terminal illness and was taking prescribed opioid medication. There is an inference to be drawn that he was unwell at the time of this death. On 5 August 2017, Mr Ritchie died of natural causes. Nevertheless, had Mr Ritchie survived, it is clear that he would have faced the prospect of a Manslaughter (*s303, 289 Criminal Code (Qld)*) charge, Unlawful possession of a hand gun (*s50 Weapons Act (Qld)*) and/or Unlawful supply of a hand gun (*s50B Weapons Act (Qld)*) charges and/or a Breach of a Workplace Health and Safety Duty causing Death charge under now repealed legislation. (In October, 2017, an Industrial Manslaughter (*s34C Work Health and Safety Act (Qld)*) offence became available to prosecutors. These charges would stem from the illegality of Mr Ritchie bringing an operable firearm on to a theatrical performance site pursuant to *s39(1)(a) Weapons Act Regulations 2016 (Qld)*. If convicted of any of these provisions, Mr Ritchie would have received lengthy prison sentences. A manslaughter conviction based on criminal negligence might have seen a head sentence of 10 years imprisonment (see *R v*

*Streatfield* (1991) 53 A Crim R 320), unlawful supply of a handgun carries a mandatory minimum sentence of 30 months imprisonment before release (per Section 50B(e) *Weapons Act (Qld)*) and an industrial manslaughter charge, carries a penalty of up to 20 years imprisonment.

96. I am aware that s45 ( of the *Coroners Act (Qld)* prohibits my determining that a person “ ... *is, or may be (a) guilty of an offence;*”. However, Mr Ritchie is arguably no longer “a person” and the present and future tense of this section is obvious. Further, in order to comment on the adequacy of regulations surrounding the use of theatrical ordinance by armourers, I must refer to what “would have been” had Mr Ritchie survived. More pertinently, given the grave consequences for any theatrical armourer in Queensland, should he or she repeat Mr Ritchie’s recklessness, it is hoped that this tragic death and its attendant publicity, will act as a paragon of deterrence.

I close this inquest. I express my condolences to Johann Ofner’s family and friends.

Donald MacKenzie  
Coroner  
BRISBANE