



New South Wales

**CORONER'S COURT
OF NEW SOUTH WALES**

Inquest: Inquest into the death of Dima Thomson

Hearing dates: 25 to 29 August 2025

Date of Findings: 3 October 2025

Place of Findings: Coroner's Court of New South Wales, Lidcombe

Findings of: Magistrate Derek Lee, Deputy State Coroner

Catchwords: CORONIAL LAW – death as a result of a New South Wales Police Force operation, critical incident, use of lethal force by police, Tactical Options Model, communication, weaponless control, arrest planning, negotiation, deployment of conducted electrical weapon (taser)

File number: 2022/123358

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Findings:

Dima Thomson died on 28 April 2022 at Newport NSW 2106.

The cause of Dima's death was multiple gunshot wounds.

After arriving at Dima's home in response to a Triple Zero call regarding a reported domestic violence incident, six NSWPF officers commenced an investigation to determine if Dima had allegedly breached the conditions of an apprehended domestic violence order that had been made against him nine days earlier. Following an investigation, a decision was made to arrest Dima. An opportunity existed for the NSWPF officers to plan Dima's arrest but this was not taken, although it is not possible to determine if such planning might have materially altered the subsequent events. In the course of effecting the arrest, Dima unexpectedly produced a knife and advanced towards the NSWPF officers. Two of the NSWPF officers, in the lawful execution of their duties, drew their firearms and discharged a total of seven rounds at Dima, fatally wounding him. The suddenness at which these events unfolded precluded the use of any other tactical option.

Non-publication orders

See Annexure A

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1. Introduction

- 1.1 At around 1:18am on 28 April 2022, a call was made to Triple Zero reporting that Dima Thomson, a 39-year-old man, was allegedly involved in a domestic violence incident at his home at Newport. The incident was broadcast over New South Wales Police Force (**NSWPF**) radio and three separate units consisting of a total of six NSWPF officers attended the scene a short time later.
- 1.2 After entering the home, the NSWPF officers found Dima out on a balcony. He appeared to be intoxicated. Some of the NSWPF officers remained with Dima on the balcony whilst other NSWPF officers spoke to Dima's mother, father and sister inside the house. From these discussions it was determined that Dima had breached a condition of an enforceable apprehended domestic personal violence order (**ADVO**) that had previously been made against him. A decision was made to arrest Dima.
- 1.3 Some of the NSWPF officers returned to the balcony and, after a brief conversation, one of the NSWPF officers informed Dima that he was under arrest. Following a short exchange, another NSWPF officer produced some handcuffs and attempted to grab hold of Dima who swung a closed fist at the NSWPF officer. Dima then reached behind his back, produced and unfolded a folding knife, and advanced towards the NSWPF officers.
- 1.4 Two of the NSWPF officers drew their firearms and discharged a total of seven rounds at Dima which caused multiple gunshot wounds. Dima collapsed to the ground. New South Wales Ambulance (**NSWA**) paramedics were called to the scene and resuscitation efforts were commenced. However, Dima could not be revived and was tragically pronounced life extinct at the scene.

2. Why was an inquest held?

- 2.1 Pursuant to the *Coroners Act 2009* (**the Act**) a Coroner has the responsibility to investigate all reportable deaths. This investigation is conducted primarily so that a Coroner can answer questions that they are required to answer pursuant to the Act, namely: the identity of the person who died, when and where they died, and the cause and the manner of that person's death.
- 2.2 Certain deaths are reportable to a Coroner. Some examples of reportable deaths are where the cause of a person's death is not due to natural causes, or where the cause or manner of a person's death may not immediately be known. In Dima's case, his death was reported because he died as a result of a NSWPF operation. In other words, the use of lethal force by NSWPF officers in discharging their firearms at Dima resulted in his death.
- 2.3 Section 23(1)(c) of the Act makes it mandatory for an inquest to be held in such circumstances. This is primarily because NSWPF officers are bestowed with unique powers not available to ordinary members of the community, in order to allow them to discharge their duties. The exercise of such powers, particularly in circumstances which result in the death of a member of the community, requires transparent and independent scrutiny. Doing so serves a number of purposes, including ensuring that such powers are exercised appropriately and responsibly, and to reassure the

community that where lethal force is used, it is only used as a measure of last resort in appropriate circumstances.

- 2.4 In this context it should be recognised at the outset that the operation of the Act, and the coronial process in general, represents an intrusion by the coronial jurisdiction and inquest process into what is usually one of the most traumatic events in the lives of family members who have lost a loved one. At such times, it is reasonably expected that families will wish to attempt to cope with the consequences of such a traumatic event in private. The sense of loss experienced by family members does not diminish significantly over time. Therefore, it should be acknowledged that both the coronial process and an inquest by their very nature unfortunately compel a family to re-live distressing memories and to do so in a public forum.

3. **Dima's life**

- 3.1 Inquests and the coronial process are as much about life as they are about death. A coronial system exists because we, as a community, recognise the fragility of human life and value enormously the preciousness of it. Understanding the impact that the death of a person has had on those closest to that person only comes from knowing something of that person's life. It is hoped that what is set out briefly below acknowledges Dima's life in a meaningful way.
- 3.2 Dima was born on 25 February 1983 in the former Soviet Union to his parents, AB and OB. He had a younger sister, SB.
- 3.3 In 1992, Dima emigrated to Australia with his family and moved into a house at 18 Belinda Place, Newport (**the Newport Property**). Dima's paternal grandmother lived nearby in Dee Why.
- 3.4 Growing up, Dima loved playing tennis, swimming in the surf and playing chess. SB describes him as a happy, cheeky and intelligent child. Dima attended Newport Public School where he excelled despite English being a new language to him. With sacrifices made by his parents, Dima later attended high school as a boarder at St Joseph's College in Hunters Hill. Dima did well in high school. He pursued his love of chess, was a good maths student, continued to play many sports, and he had a lot of friends.
- 3.5 As a young man, Dima travelled to Europe, Thailand and Nepal. Some of Dima's travel experiences proved to be profound moments in his life. Dima both witnessed and experienced the fragility of life firsthand after contracting dengue fever and seeing casualties from an earthquake disaster.
- 3.6 Dima was greatly interested in history, politics and philosophy. He could talk for hours on end about these topics. Dima also valued the simple things in life: a warm home, good coffee, swimming in the surf, a good movie and a loving family.
- 3.7 Throughout his life, Dima always had the love and support of his family, particularly his mother, despite the personal challenges he faced. Dima's father had worked hard and made many sacrifices to bring the family to Australia for better opportunities in life. It is heartbreaking to know that the day after Dima found a job and the opportunity to change his life, that life was cut short in sudden

and devastating circumstances. Dima continues to be loved, remembered and deeply missed by his family.

4. Relevant background to the events of April 2022

Social history

- 4.1 When Dima was in Year 10, one of his best friends died suddenly and unexpectedly after being hit by a train. This tragic event had a significant impact on Dima. After finishing Year 10, Dima decided that he did not want to complete his last two years of high school.
- 4.2 After leaving school, Dima started a TAFE course in Brookvale but did not complete it. Dima spent much of his time at home and it was around this time that he began drinking heavily, usually whiskey and sometimes wine. When he drank, Dima's personality would change. He became aggressive, belligerent, argumentative and difficult to deal with. Dima's drinking strained his relationship with his family and often led to arguments and, on occasion, property damage.
- 4.3 Dima attended several detoxification and rehabilitation programs in an attempt to address his drinking. Whilst some of these programs were successful in the short term, Dima eventually resumed his drinking habits.

Medical history

- 4.4 Dima was diagnosed with attention deficit hyperactivity disorder when he was seven years old. He was treated with Ritalin as a child and an adult.
- 4.5 Dima suffered from anxiety and depression, and was prescribed benzodiazepines including alprazolam, diazepam, and antidepressant medication (including, most recently, duloxetine). Dima had previously self-harmed and expressed suicidal ideation. He had previously overdosed on medication and been treated at hospital with the last incident of self harm occurring about 10 years ago. In the five years preceding his death, Dima was seeing Dr Allan Garrity, a psychiatrist in Dee Why.
- 4.6 In December 2013, Dima had an accident at home when he fell through a window and fractured a bone in his neck which required surgery.
- 4.7 According to his mother, Dima did not have a healthy diet and gained a lot of weight. At his peak, Dima weighted around 160 kilograms. However, in the months preceding his death, Dima changed his diet, began swimming again and lost around 40 kilograms.

Apprehended domestic violence orders

- 4.8 Dima's behaviour towards his family when he was drinking resulted in incidents being reported to the NSWPF and an apprehended domestic violence order (**ADVO**) made against Dima. Between September 2004 and April 2022, Dima had 10 ADVOs made against him. Some of these incidents also resulted in Dima being charged with related criminal offences, with many of these matters being dealt with pursuant to mental health legislation.

4.9 By way of summary:

- (a) In September 2004, an ADVO was obtained after Dima had been abusive towards his mother.
- (b) In November 2005, Dima took hold of two kitchen knives and threatened to kill his mother. He was charged with common assault and an ADVO was obtained. A week later, Dima again threatened to kill his mother and maternal grandmother, and then attempted self-harm by hanging, off a balcony. Dima was later charged with breaching the ADVO but the charges were later dismissed.
- (c) In January 2009, Dima threatened his father with a knife resulting in another ADVO.
- (d) In June 2012, Dima obtained a machete and threatened his family and pushed his mother, with another ADVO made against him.
- (e) In August 2012, Dima threatened to kill his father and damaged a wall in the family home. He was charged but these charges were later dealt with pursuant to mental health legislation.
- (f) In January 2014, Dima became intoxicated and threatened his father. When NSWPF officers attended, Dima allegedly punched a NSWPF officer in the jaw and was subdued with OC spray. This incident resulted in another ADVO.
- (g) In October 2014, Dima became abusive towards his mother and threw a phone in her direction. When NSWPF officers attended, Dima became aggressive towards them. He was charged with breaching an ADVO and also resisting arrest.
- (h) In March 2014, Dima repeatedly threatened his father and kicked his father's door open, damaging it. Dima was charged again and an ADVO was obtained.
- (i) In January 2016, Dima became angry when intoxicated and pushed his mother, causing her to suffer an injury to her knee. Dima was charged with an assault offence and breaching an ADVO.
- (j) In May 2019, Dima became intoxicated and threatened his family. He also cut the wires supplying electricity to the house. When NSWPF officers attended, Dima reported that he had weapons in his room. When the NSWPF searched the room, they found four replica handguns and three knives. Dima was subsequently charged with a number of firearms offences.

4.10 On the evening of 31 March 2022, Dima had been drinking and threatened to stab his father. The NSWPF were called and two NSWPF officers attended Dima's home later that evening. When the NSWPF officers arrived, they asked Dima to step outside and observed that he appeared to be highly intoxicated. Dima reported that he had been drinking vodka since 3:00pm that day and arguing with his father. After obtaining a version of events from Dima's father, the NSWPF officers decided to seek an ADVO.

4.11 Dima was arrested and taken to Mona Vale police station. Whilst there, Dima was reportedly behaving in a belligerent and objectionable manner. A provisional ADVO was obtained nominating

Dima's father as the person in need of protection. At 9:45pm, Dima was taken to spend the night with his grandmother in Dee Why.

4.12 On 19 April 2022, the ADVO application was listed at Many Local Court. Dima attended and did not contest the order resulting in a two-year final order being made with the following relevant conditions (**the April 2022 ADVO**):

(a) Dima was not to assault, threaten, stalk, harass, intimidate his father or any person he has a domestic relationship with, or intentionally or recklessly destroy or damage property belonging to, in the possession of, his father; and

(b) Dima was not to approach or be in the company of his father for at least 12 hours after drinking alcohol or taking illicit drugs.

5. The events of 27 and 28 April 2022¹

5.1 On the morning of 27 April 2022, Dima worked a trial shift for a food preparation company in Mona Vale. After finishing his shift at around 12:00pm, Dima called his mother and went to the Park House Hotel in Mona Vale. Whilst there, Dima played the poker machines for about an hour before leaving at around 1:30pm. Dima's mother called him after he left the hotel whilst on her way to a dentist appointment. Dima took an Uber home, arriving at around 2:00pm. Dima's father and sister were home at the time.

5.2 At around 3:00pm, Dima called the food preparation company and was told that his trial shift had been successful and that he had been given a shift for the following Monday. This was very positive news as it was the first job that Dima had for several years. Dima then went to his room and slept.

5.3 At around 6:30pm, Dima spoke to Dr Garrity on the phone. Nothing concerning was noted and Dima did not appear to be intoxicated at the time.

5.4 At around this time, Dima's mother returned home and began making dinner. Dima reported that his day had gone well and his mother saw that he appeared happy. Dima later returned to his room and at around 10:00pm his mother went to bed.

5.5 At around this time, Dima's family heard Dima making phone calls in his bedroom. He spoke to his grandmother on the phone for about 30 minutes. Dima became increasingly noisy and his family believed that he was drinking alcohol in his room. At around 10:45pm, SB called her mother from her bedroom, advising that Dima had been drinking and asking her to get Dima to close his door as she was trying to sleep. Dima, SB and Dima's mother all had bedrooms on the top floor of the house whilst AB's bedroom was on the ground floor.

5.6 At around 11:00pm, Dima banged on his mother's door, waking her up. Dima began complaining about SB living in the house. OB pushed Dima away saying that she had to go to sleep. According to OB, Dima showed his mother a superficial cut on his wrist which was bleeding. OB reportedly took

¹ This summary has been drawn from the helpful opening submissions of Counsel Assisting.

Dima to the kitchen to clean his wrist and stop the bleeding. At this point, OB saw that Dima was holding a knife which was folded.

5.7 Dima later returned to his bedroom, called his grandmother again and spoke to her for about 20 minutes. At around 11:30pm, Dima made two phone calls to his father who was in his downstairs bedroom. AB told Dima to stop calling him and to go to sleep.

5.8 At around 1:00am on 28 April 2022, Dima began knocking on the doors of his family's bedrooms. SB told Dima that she would call the NSWPF if Dima did not go to bed. However, Dima did not change his behaviour and made further calls to his father's phone.

5.9 At 1:18 AM, SB called Triple Zero and made this initial report:

Oh, hi, there, um, I'm at 18 Belinda Place and there's someone that's got an ADVO at the house, um, that they're not meant to be drinking, harassing people in the house and they, they've been drinking and harassing everyone.

5.10 After identifying that she was speaking about Dima, SB went on to report:

Yeah. He's, um, yeah, he's severely intoxicated, um, and he's, he's harassing and verbally abusing my mum and we've got an AVO in place which says that he's not allowed to be drinking at the property.

5.11 SB provided her name and contact number and indicated that Dima had an enforceable ADVO made against him. The Triple Zero operator concluded by asking SB if Dima had any weapons "*or anything on him*", with SB replying, "*Not that I know of*".

5.12 A short time later, the following broadcast was made over NSWPF radio (commonly known as **VKG**):

Yep. Northern Beaches car, Beaches car for a domestic, number 18 Belinda Place at Newport, cross of Cheryl Crescent. Informant states their intoxicated brother, 38 years old, ah, harassing, ah, harassing her mother. Ah, informant also claims there's a current enforceable ADVO in place, ah, not to drink in company of any other persons listed at the address and he's known to be violent. I'll just do some checks, ah, Beaches car. Any North Shore cars...available for...

5.13 At 1:20am, Constable Mitchell Smith² and Constable Kendall Desbrow, who were working in a NSWPF vehicle with callsign Northern Beaches 36 (**NB36**), acknowledged the job. Constable Smith and Constable Desbrow recognised that they might need to arrest someone and, because they were in a sedan, called for assistance from other NSWPF officers in a caged vehicle. Constable Aden Blanch and Probationary Constable Jack Walker were working in a NSWPF caged vehicle with callsign Northern Beaches 16 (**NB16**) at the time. They copied on to the job at 1:26am.

5.14 As NB36 made its way to the Newport Property, they passed a third NSWPF car crew, Constable Cameron Hensby and Probationary Constable Jonathan White, who were working in a NSWPF

² For clarity and convenience, the ranks that each of the NSWPF officers held as at 28 April 2022 have been used in these Findings. No disrespect is intended.

vehicle with callsign Northern Beaches 15 (**NB15**). NB36, NB16 and NB15 all proceeded to the Newport Property in response to the VKG broadcast.

5.15 At around 1:30am, SB called Triple Zero again seeking an update and was told that NSWPF officers were on their way.

5.16 Whilst on their way to Newport, NB36 attempted to obtain more information about Dima from the Mobile Data Terminal (**MDT**) installed in their NSWPF vehicle. However, after experiencing technical difficulties, Constable Desbrow asked the radio operator to broadcast this information over VKG (**VKG Warning**):

Yeah. Copy. O.K. On the person, Dima Thompson [sic], the brother, 38 old, he's got a warning here, probationary service. Also may be aggressive or violent whilst under the influence of alcohol or drugs. He does a [sic] current enforceable AVO. ILS says an adverse licence history there.

5.17 The NSWPF Computer Aided Despatch (**CAD**) Incident Header for the job (**CAD Warning**) recorded the following:

INFT SAYS HER BROTHER DIMA THOMPSON [SIC] APPROX 38 OLD AA EXTREEMLY [SIC] IP AND HARRASSING INFT MOTHER. INFT STATES THERE IS A CURRENT ENFORCEABLE ADVO IN PLACE THAT POT IS NOT TO DRINK IN THE COMPANY OF OTHER PERSONS LISTED AT THE HOUSEHILD – OCCUPANTS ARE INFT, POI AND THEIR PARENTS – POI KNOWN TO BE VIOLENT. NIL WEAPONS

5.18 At around this time, Constable Ferguson called Constable Desbrow and told her that there was a warning about Dima, or that Dima had previously been charged, in relation to possession of prohibited firearms.

5.19 At around 1:42am, NB36 and NB15 arrived at the Newport Property. Before they entered the house, the NSWPF officers had a brief discussion about the need to be cautious due to the VKG Warning and other information.

5.20 The NSWPF officers knocked on the door and were let in by OB. The NSWPF officers proceeded upstairs and spoke briefly to SB and OB who indicated that Dima was outside on the balcony.

5.21 The balcony at the Newport Property is 14.2 metres long and 2.3 metres wide, narrowing at the northern end. It is surrounded by a 1 metre high timber railing and is 5 metres from ground level. There are three entry points to the balcony: via the kitchen, and from two doors leading to a study and lounge room, both of which were closed. At the northern end of the balcony was a table which Dima was sitting on.

5.22 Constable Smith and Constable Desbrow went out to the balcony to speak with Dima who was generally compliant. Dima responded to the questions from the NSWPF officers although his responses were at times unclear or incoherent. Constable Smith and Constable Desbrow formed the view that Dima was intoxicated.

5.23 Meanwhile, Constable Hensby went to Dima's room with OB who pointed out some bottles of alcohol, including spiced rum, and a glass containing a brown-coloured liquid. Constable Hensby

looked around Dima's bedroom but did not see anything of concern. Afterwards, Constable Hensby went out on the balcony to join Constable Smith and Constable Desbrow.

- 5.24 At around 1:46am, NB16 arrived at the Newport Property. After entering the house, Constable Blanch went to speak with AB.
- 5.25 At around 1:53am, Constable Smith asked SB and OB whether they were prepared to give a Domestic Violence Evidence-in-Chief (**DVEC**) video statement regarding the incident that had been reported. Constable Smith also looked at a copy of the April 2022 ADVO which SB and OB had brought to the kitchen.
- 5.26 Following this, Constable Smith went downstairs to speak to AB who informed him that Dima had been harassing him all evening by knocking on his door and calling him on his mobile phone. AB indicated that he had been unable to go to the bathroom as Dima had blocked the doorway. AB indicated that he was willing to provide a DVEC. Constable Smith told AB that Dima would be arrested and that the DVEC would be obtained after Dima was taken to a police station.
- 5.27 Meanwhile, Constable Desbrow and Constable Hensby continued to speak with Dima on the balcony. The NSWPF officers asked Dima what he had been doing the previous day with Dima providing various accounts. At some points, Dima moved towards the NSWPF officers and they asked him to move back, with Constable Hensby on one occasion gently pushing Dima back in order to maintain distance between him and the NSWPF officers.
- 5.28 At around 2:00am, Constable Smith returned upstairs and spoke with some of the other NSWPF officers about arresting Dima. Constable Desbrow and Probationary Constable White went to the kitchen and moved some items out of the way in preparation for moving Dima through the kitchen in order to leave the property.
- 5.29 By 2:03am, Constable Smith returned to the balcony and asked Dima whether he had gone downstairs and approached his father, and knocked on his door to try to speak with him. Dima denied that he had done so but Constable Smith indicated that he had spoken to AB who reported a contrary version of events. Constable Smith also told Dima that he believed that Dima was intoxicated. After Dima denied going downstairs and knocking on his father's door, the following exchange took place:

Constable Smith: Mmm, OK. All right, at this point I'm Constable Smith from Northern Beaches Police. You're under arrest for a breaching an ADVO. You don't have to say or do anything - - -

Dima: I haven't, I haven't done anything.

Constable Smith: - - - if you do not want to. Do you understand that?

Dima: I haven't done anything.

Constable Smith: I will record everything you say and do. I can use that recording in court. Do you understand that?

Dima: This is crap.

Constable Smith: So you got to come with us to Manly. You're under arrest right now and then you'll get your chance to be interviewed there.

Dima: But I haven't done anything.

Constable Smith: The allegation is a breach ADVO, like I said.

Dima: By who?
Constable Smith: By your parents and your family.
Dima: By who? Which one?
Constable Smith: Your dad, your mum and your sister.
Dima: Yeah, well, which, well, which one's which?
Constable Desbrow: Doesn't matter.
Constable Smith: Your dad, your mum and your sister.
Dima: But the ADVO's only for my dad.
Constable Smith: Yeah, and he's the one that's saying that you breached as well.
Dima: But I haven't done anything.
Constable Hensby: Um - - -
Constable Smith: Yes, you have. All right, mate - - -
Dima:

Constable Smith: - - - you got to come.

5.30 Constable Hensby then intervened, moved towards Dima and the following exchange took place:

Constable Hensby: All right, mate, put your hands together for us. We'll sort this down at Manly.
Dima: Look, I have, ah, look, look, I haven't done anything, man. I - - -
Constable Hensby: All right, put your hands together. Dima, put your hands together.
Constable Desbrow: Out in front.
Constable Hensby: Put your hands together.
Dima: Look, can I - - -
Constable Hensby: Ha, hands together.
Dima: Whoa, whoa, whoa, can I speak to my mum?
Constable Hensby: Yeah, put your hands together.
Dima: Hang on a minute, can I speak to my mum, please?
Constable Hensby: Dima, put your hands together.
Constable Smith: Hands together.
Dima: Can I speak to my mum?
Constable Hensby: Put your hands together.
Dima: Can I speak with my mum?
Constable Hensby: Now.
Constable Desbrow: You cannot speak to your mum at this time, no.
Constable Hensby: Put your hands together, Dima.
Dima: Look, ah, this, this is the wrong - - -
Constable Hensby: Dima

5.31 At this point, Dima was standing next to the table. Constable Smith was facing Dima with Constable Hensby on his right. Constable Desbrow was standing behind Constable Hensby with Probationary Constable Walker to her left.

5.32 At 2:06am, Constable Hensby attempted to take hold of Dima's left hand. Dima pulled his hand away and swung a raised fist towards the head of Constable Hensby but did not make contact. Dima then took a step back, placed his right hand behind his back, produced a folding knife from the waistband of his shorts and opened it. Dima began walking towards Constable Smith and Constable Hensby.

- 5.33 Constable Hensby saw the knife and yelled, “*Don’t do it. Don’t do it*” whilst drawing his firearm and moving backwards. Constable Smith also drew his firearm and moved backwards. Constable Blanch stepped forward towards the table with Probationary Constable White behind him, whilst Probationary Constable Walker remained at the back of the group of NSWPF officers.
- 5.34 At a point when Dima was approximately two metres from the NSWPF officers, Constable Hensby discharged his firearm five times and Constable Smith discharged his firearm twice. The seven rounds were all discharged within 1.8 seconds, with the first round discharged by Constable Hensby 3.8 seconds after Dima produced the knife.
- 5.35 Dima collapsed to the ground in a supine position. Constable Hensby broadcast over VKG that shots had been fired and NSW paramedics were called whilst the knife was secured by Constable Blanch. Constable Desbrow left the balcony to retrieve a first aid bag from one of the NSWPF vehicles parked outside.
- 5.36 NSW paramedics attend the scene at around 2:20am but Dima could not be revived and was pronounced life extinct.

6. The post-mortem examination

- 6.1 A post-mortem examination was performed by Dr Rebecca Irvine, forensic pathologist, on 2 and 3 May 2022 at Forensic Medicine Sydney. The significant findings from the examination can be summarised as follows:
- (a) An entrance gunshot wound at the left parietal scalp which caused multiple pulped lacerations of the left temporal lobe base, subarachnoid haemorrhage, subarachnoid disruption, parenchymal disruption and left periorbital contusion;
 - (b) An entrance gunshot wound at the left anterior shoulder which tracked through soft tissue of the right anterior lateral chest wall;
 - (c) An entrance gunshot wound at the left upper anterior lateral chest which caused stretch laceration of dome of spleen, small peri-splenic haemorrhage, and haemorrhage within soft tissue around the head of the pancreas;
 - (d) An entrance gunshot wound at the left lower anterior lateral chest which tracked through skin and soft tissue of the anterior lateral chest and abdomen;
 - (e) An entrance gunshot wound at the lateral left upper quadrant of the abdomen which tracked through skin and soft tissue of the anterior abdominal wall to the level of the pelvic brim and into the central inferior pelvis;
 - (f) An entrance gunshot wound at the right mid anterior abdomen which tracked through skin to soft tissues of the lower right anterior abdominal wall and groin. It was noted that this wound was atypical and may represent a re-entrance from the gunshot wounds of the left arm;

- (g) An entrance gunshot wound at the dorsal midline of the left forearm which tracked through the soft tissue of the arm;
- (h) An entrance gunshot wound at the left distal thumb which tracked through skin and soft tissue and bone of the thumb; and
- (i) Toxicological analysis of post-mortem leg blood showed a blood alcohol concentration of 0.222 g/100 mL, and a non-toxic concentration of diazepam with its metabolites, nordiazepam and temazepam also present. Oxazepam, another metabolite of diazepam, was also detected.

6.2 In the post-mortem examination report dated 17 July 2023, Dr Irvine opined that the cause of Dima's death was multiple gunshot wounds.

7. What issues did the inquest consider?

7.1 Prior to the commencement of the inquest a list of issues was circulated amongst the sufficiently interested parties, identifying the scope of the inquest and the issues to be considered. That list identified the following issues for consideration:

- (1) What information did each of the attending NSWPF officers obtain about the incident and Dima's background, prior to their attendance at the home? Was that information shared with other officers?
- (2) Was there a reasonable opportunity for the NSWPF officers to obtain and share further information? Would it have made a difference to the police approach?
- (3) Did police engage with Dima's family in a manner that was appropriate and consistent with NSWPF policy?
- (4) Did police engage with Dima in a manner that was appropriate and consistent with NSWPF policy?
- (5) When and why was a decision made to arrest Dima? Was that decision appropriate in the circumstances, and consistent with NSWPF policy?
- (6) Did the NSWPF officers discuss a plan to arrest Dima? Was there a reasonable opportunity to do so?
- (7) Was any alternative approach to the arrest reasonably available?
- (8) When Dima resisted arrest and brandished the knife, was the use of force by the NSWPF officers reasonable, appropriate, and in accordance with NSWPF policy?
- (9) Is it necessary or desirable to make any recommendations in relation to any matter connected with the death?

- 7.2 As part of the coronial investigation, Mr Stephen Leane APM, a former Victoria Police Assistant Commissioner, was instructed to provide a report addressing a number of questions regarding the circumstances of Dima's death.
- 7.3 In addition, Sergeant William Watt, NSWPF Operational Safety Instructor, provided two statements commenting on the actions of the directly involved NSWPF officers on 28 April 2022.
- 7.4 Issue 9 has been considered in conjunction with each of the other eight discrete issues and is not dealt with separately in these Findings.

8. What information did the NSWPF officers gather and was it shared?

- 8.1 The NSWPF Domestic and Family Violence Standard Operating Procedures 2018 (**DVSOP**) relevantly provides for the following in relation to an operational response to domestic violence:

ASSESS RISK ON ROUTE

- Prior to attending the scene, consider your safety and the information that has been made available to you.
- Obtain from VKG the relevant checks (i.e. ILS, warnings, intelligence reports, ADVO, bail, previous domestic violence history)
- Consider your need for backup officers including if:
 - the offender is still present at the scene
 - your police vehicle is appropriately equipped as a first response vehicle
- Consider officer safety issues

- 8.2 Constable Desbrow gave evidence that:

- (a) she used the MDT to access information about Dima and the location;
- (b) she recalled hearing the VKG Warning and saw a photo of Dima noting that he was of "*larger stature*";
- (c) whilst on route to the Newport Property she had a discussion with Constable Smith about the above information but could not recall specifically what was discussed;
- (d) the information available to her indicated that she was responding to a domestic violence incident with an enforceable ADVO and that "*there could have been a potential for an arrest*"; and

at some point whilst on route she received a call from Constable Ferguson who told her about "*either a warning or a charge on [Dima] about possessing a firearm and had a charge for possession of a firearm and effectively to be cautious and aware of that*", and that she shared this information with Constable Smith.

- 8.3 Constable Smith gave evidence that:

- (a) he heard the VKG Warning and that Constable Desbrow relayed information to him regarding Dima's history of ADVOs, his history of being aggressive whilst under the influence of alcohol, and that Dima was a physically large person weighing in the vicinity of 140 kilograms;
- (b) the above information matters stood out to him "*just for [his] own officer safety when attending*";
- (c) Constable Desbrow provided additional information regarding Dima having a previous charge relating to a firearm; and
- (d) the totality of information he received emphasised the need to exercise caution.

8.4 Probationary Constable White gave evidence that:

- (a) he could not specifically recall hearing the VKG Warning on route but that he used the MDT in the NB15 and also a MobiPol (a mobile device to access a person's Central Names Index (**CNI**)) to obtain certain information, although he could not specifically recall what information was accessed;
- (b) accepted that he read the CAD Warning and that at 1:29am it is likely that he reviewed a POI Web Link which contain the following information (**Web Link Warning**):

THOMPSON [SIC], DIMA****WNGS NSW PROB SERVICE 02/07/2020 MAY BE AGGRESSIVE OR VIOLENT
WHILST UNDER THE INFLUENCE OF ALCOHOL OR ILLICIT DRUGS – CURRENT ENFORCE ADVO****ILS
ADVERSE LIC HISTORY

- (c) he was aware that Dima had a history of AVOs being made against him, that he had previously been charged with possession of a firearm;
- (d) he saw a photo of Dima and observed that he was someone of a larger size; and
- (e) it was likely he treated all the information he gathered as important and conveyed it to Constable Hensby who was driving at the time.

8.5 Constable Hensby gave evidence that:

- (a) he heard the VKG Warning and was conscious of the fact that a caged truck would be needed if a person was going to be arrested;
- (b) Probationary Constable White read out the Web Link Warning whilst they were on route to the Newport Property ; and
- (c) from hearing warnings about a person who may have committed an offence of breaching an ADVO whilst intoxicated, and that the person was known for being aggressive whilst intoxicated that "*Officer safety's probably going to be my biggest concern*".

8.6 Probationary Constable Walker gave evidence that:

- (a) whilst on route to the Newport Property he used the MDT to check the CNI in order to obtain information about Dima and the job;
- (b) he provided a summary to Constable Blanch of what he read;
- (c) he saw a photo of Dima but could not recall anything about his physical characteristics;
- (d) he saw that Dima had a number of previous ADVOs made against him and checked the conditions of the April 2022 ADVO; and
- (e) he could not remember the VKG Warning and could not recall discussing with Constable Blanch what risks there may have been in relation to the incident.

8.7 Constable Blanch gave evidence that:

- (a) when he received a phone call from Constable Desbrow he was at Frenchs Forest police station with Probationary Constable Walker and that he reviewed the CAD job regarding the incident; and
- (b) whilst on route to the Newport Property, Probationary Constable Walker used the MDT to access three pieces of information, namely that: Dima had warnings for being aggressive and violent, that Dima had previously had a number of AVOs made against him with only one enforceable ADVO at the time, and that Dima was of large build and weighed 140 kilograms.

8.8 Mr Leane gave evidence that “*as a group*”, the six NSWPF officers “*obtained a great deal of information and there was a significant information available to them*”, including the VKG Warning and Web Link Warning. Mr Leane concluded that “*from an operational point of view*” the attending NSWPF officers “*endeavoured to obtain as much information as they could*”. Senior Sergeant Watt agreed with the opinions expressed by Mr Leane.

8.9 **Conclusions:** The oral and documentary evidence establishes that prior to arriving at the Newport Property, the six NSWPF officers appropriately gathered information that was relevant to the job they were responding to. Consistent with the DVSOP, the NSWPF officers familiarised themselves with the VKG Warning and Web Link Warning in order to obtain relevant checks and warnings about Dima, and to consider NSWPF officer safety issues.

8.10 From this information, the NSWPF officers appropriately recognised what risks were present and the need to exercise caution in the performance of their duties. The NSWPF officers who accessed this information appropriately shared it with their colleagues who were driving to the Newport Property at the time.

9. Was there an opportunity to share information and would it have made a difference to the NSWPF approach?

9.1 The DVSOP also relevantly provides:

ATTENDANCE AT SCENE - PRIORITY CHECKLIST

When attending a location where a domestic and family violence incident has been reported there are **mandatory actions** that must be completed by attending police:

- Make an immediate risk assessment of the scene for the safety of yourself and others
- Announce who you are and why you have been called
- Know your powers of entry
- Take control of the situation
- Locate and separate all persons
- Maintain constant surveillance of your partner
- Identify victim and person of interest. If not present, make attempts to determine the location of the absent parties.
- Secure any weapons
- Ensure compliance with legislative powers that may be exercised on entry into premises
- Enquire about children and physically check on their welfare
- Enquire about the presence or ownership of firearms
- Mobile Supervisor to attend all domestic incidents, if unable to attend scene, car crew must contact Supervisor via mobile phone. [original emphasis]

9.2 Constable Desbrow gave evidence that, prior to entering the Newport Property she could not recall having any discussions with the other NSWPF officers about the need to exercise caution because of the VKG Warning and Dima's physical size. Constable Desbrow also gave evidence that she did not believe there was any discussion regarding a plan of how to approach Dima once inside the property. When asked whether she had particular way of approaching the type of incident on 28 April 2022, Constable Desbrow gave this evidence:

Not a specific way. A lot of the time it might depend on who you're working with and sometimes there is a bit of a unspoken - not rule, but unspoken connection between you and your partner that it sort of flows maybe a bit more organically than having to lay out a format - a plan.

9.3 As to this matter:

- (a) Constable Desbrow gave evidence that she had worked with Constable Smith "*multiple times before*" and that each knew the "*working style*" of the other. Constable Desbrow also gave evidence that she had previously worked with Constable Hensby and had the same "*organic*

understanding” with him as she did with Constable Smith and had possibly worked with Constable Blanch previously but “*not very often*”; and

(b) Probationary Constable Walker gave evidence that he had not worked with Constable Blanch previously but had with Constable Hensby; and

(c) Probationary Constable White gave evidence that he had worked with Constable Hensby “*a couple of times*” previously; and

(d) Constable Smith gave evidence that he had “*worked with each individual there at certain points*”.

9.4 Constable Desbrow also gave evidence that after entering the house she believed that she did not ask OB or SB if Dima had access to any weapons. Constable Desbrow accepted in evidence that she ought to have asked at that stage whether Dima had access to any firearms or other weapons.

9.5 Constable Smith gave evidence that after arriving at the scene, he could not recall having a discussion with the other NSWPF officers who arrived. However, Constable Smith gave evidence that as he was walking down the driveway he recalled “*telling [Constable Desbrow] to have her wits about her*”. Constable Smith also gave evidence that he did not check with anybody inside the Newport Property whether Dima had access to any weapons due to his belief “*that radio had already done that*”. However, on reflection, Constable Smith acknowledged that he could have made this enquiry regarding weapons with OB and SB.

9.6 Probationary Constable White gave evidence that after arriving at the scene, there was a brief discussion involving Constable Hensby, Constable Smith and Constable Desbrow at the top of the driveway regarding Dima being intoxicated and of a large build, and that Constable Desbrow “*mentioned something further to [sic] firearms following a call she’d had with Constable Ferguson*”. Probationary Constable White also gave evidence that the effect of the conversation was to acknowledge the need to exercise caution for this particular matter due to the VKG Warning, CAD Warning, Dima’s physical size and possible intoxication, and the information associating him with firearms.

9.7 Constable Hensby gave evidence that after arriving on scene, there was “*a bit*” of a discussion with the other NSWPF officers about Dima’s warnings and previous charges, including a charge relating to possession of a weapon or a firearm. Constable Hensby also gave evidence, agreeing with Counsel Assisting, that the provisions of the DVSOP emphasised the need for awareness of the level of risk that an incident presents, as this might affect the number of personnel required to attend and what resources might need to be brought to the scene.

9.8 Constable Hensby also gave evidence that:

(a) he understood from the job itself that there was no report of there being any weapons present;

(b) there was no indication that Dima was armed;

(c) he could not recall seeing any weapons in Dima’s room;

(d) he did not specifically ask anybody at the scene whether Dima had access to weapons; but

(e) on reflection, he should have done so.

9.9 Constable Blanch gave evidence that after arriving at the scene, he and Probationary Constable Walker initially went to the left side of the house and heard voices coming from the balcony above before proceeding to the front door and going upstairs.

9.10 Probationary Constable Walker gave evidence that he could not specifically recall what was discussed when he arrived on scene but considered it likely that there would have been some discussion about what risks might be associated with the incident.

9.11 Mr Leane gave evidence that after the first two units arrived on scene, certain information was shared but the exact details of what was shared was not overly clear. Counsel Assisting invited Mr Leane to assume that, at a minimum, information was shared about Dima's previous charges including a firearm charge, his history of ADVOs and the need for caution. On this basis, Mr Leane expressed the view that "*there was an opportunity, perhaps, to have...more of a discussion*".

9.12 Senior Sergeant Watt gave evidence that any opportunity to exchange information needed to be assessed within the operational context at the time and the familiarity of the NSWPF officers with each other. In other words, if the NSWPF had worked together previously and there was a pressing need to enter the property to prevent an offence from occurring, this may have meant having a discussion outside less significant. Senior Sergeant Watt went on to express this view:

Information exchange is always a good thing, but it's got to be balanced against the operational situation.

9.13 Mr Leane gave evidence that he was comfortable with the concepts referred to by Senior Sergeant Watt and described this as the "*concept of the practise of policing*", in other words "*how individual police officers should operate, and the practise being able to cut through and to get to those issues and draw conclusions in a dynamic environment*". Mr Leane also went on to express this view:

I think it's important for the officers to not spend too much time outside, so if the officers were comfortable with what they knew and there was an urgent need to protect those in the house, then that would be a reasonable conclusion for the officers to draw.

9.14 Mr Leane ultimately opined that even if the attending NSWPF officers had an opportunity to discuss or share the information regarding Dima prior to entering the house, this "*would probably not have made any difference*". Senior Sergeant Watt agreed with Mr Leane.

9.15 It is apparent from the accounts of OB and the attending NSWPF officers and the available records that:

(a) OB had earlier seen Dima with an injury to his wrist and to be holding a knife;

(b) OB did not convey these observations to any of the attending NSWPF officers;

(c) equally, none of the attending NSWPF officers asked whether Dima had engaged in self-harm or had access to any weapons; and

(d) the CAD Warning indicated that “*nil weapons*” had been reported.

9.16 In the above circumstances, Mr Leane considered that it would have been “*unrealistic*” for the attending NSWPF officers to have made any enquiry about any threat of self-harm. Conversely, both Mr Leane and Senior Sergeant Watt expressed the view that if information about a self-harm incident had been volunteered to the attending NSWPF officers they would have been expected to ask questions about it.

9.17 Mr Leane and Senior Sergeant Watt initially appeared to express different views about what the attending NSWPF officers should have done if, hypothetically, they had been told about the presence of a knife. Senior Sergeant Watt gave evidence that he would not consider searching for a knife that had been used in a self-harm attempt to be a “*high priority*” because even if it was located this “*doesn’t mean there’s not another one*”. In this sense, Senior Sergeant Watt drew a distinction between a knife being found in Dima’s bedroom and the suspicion or knowledge that Dima had a knife on his person. Later in his evidence, Senior Sergeant Watt accepted that if the NSWPF officers knew that at one stage Dima had possession of a knife it was necessary for them to confirm that he no longer had access to it.

9.18 Mr Leane expressed the view that if the attending NSWPF officers were aware that Dima had been in possession of a knife he would have expected them to make sufficient enquiries to satisfy themselves whether it could be accounted for or not.

9.19 **Conclusions:** After arriving on scene, the NSWPF officers were required to balance the operational context of the job they were responding to and the need to determine whether any offence had been, or was being, committed against the need to gather and exchange information relevant to the job. Although some of the individual NSWPF officers could not entirely recall the details of any information exchange that occurred outside the Newport Property, the available evidence generally establishes that sufficient information was shared to allow for an immediate risk assessment consistent with the DVSOP.

9.20 It is evident that each of the NSWPF officers had previously worked with at least one of the other NSWPF officers and therefore had some degree of familiarity with one or more of their colleagues. Constable Desbrow, Constable Smith and Constable Hensby had the most experience of previously working together. There is therefore evidence that the attending NSWPF officers engaged in the “*practise of policing*” described by Mr Leane, meaning that they were able to perform their roles individually and collectively in responding to the job. Further, the expert evidence establishes that any greater degree of information sharing outside the Newport Property would not have changed the NSWPF approach.

9.21 From the information available, there was no clear indication that Dima was in possession of, or had access to, any weapon. Indeed, the CAD Warning specifically informed the NSWPF officers that “*nil weapons*” were present. However, Constable Smith and Constable Hensby acknowledged that in hindsight there was an opportunity to enquire, consistent with the DVSOP, whether any weapons were present and that this ought to have occurred. Had such an enquiry been made and if information had been elicited about Dima having been seen earlier holding a knife, the attending NSWPF officers would have been expected to make further enquiries to confirm that he no longer had access to it. However, it is not possible to reach any conclusion about the likelihood of this being elicited, and what any enquiry would have led to.

10. Did the NSWPF officers engage with Dima’s family appropriately?

10.1 The DVSOP provides the following in relation to the investigation of domestic and family violence incidences:

The NSW Police will pursue a policy of thoroughly investigating domestic violence incidents (or suspected incidents) with a view to arresting and charging offenders. It is not sufficient to view and investigate DV as a matter that largely relies upon the evidence of a victim against that of a defendant. Police will investigate all avenues of inquiry with a view to establish a comprehensive brief of evidence. Police will always give the strongest consideration to arrest when dealing with DV offenders. Assessments relating to risk should be ongoing throughout the investigation.

10.2 Constable Blanch and Probationary Constable White gave evidence that they initially spoke to OB and SB in the kitchen with a physical copy of the April 2022 ADVO available, to determine whether any condition of the ADVO had been breached.

10.3 Constable Blanch gave evidence as to what he then did in order to determine whether an offence had been committed:

[A]t some point I, I went downstairs to where the father [...] AB was located in the bedroom. I can't quite recall whether I was actually by myself or not. Regardless, I knocked on the door there where AB was situated. He came to the door, he answered, he opened it up, so I spoke to him face-to-face. It was a fairly brief conversation with AB in regards to “has Dima approached you, or what has happened”, in which he sort of alleged that Dima was knocking at the door, rattling the door knob, talking through the door and calling him. At which point I've asked “how do we know it was him” and he was able to identify that voice as Dima, his son.

10.4 Although Constable Blanch was wearing a Body Worn Video (**BWV**) camera he did not activate it when speaking to AB despite being aware that AB was providing information that might support whether a criminal offence had been committed. When asked whether, on reflection, he ought to have activated the BWV, Constable Blanch gave this evidence:

Absolutely, it's a mistake, an oversight that I acknowledge, and I'm aware of.

10.5 Constable Blanch gave evidence that from his conversation with AB he determined that an offence had been committed by Dima breaching condition 4 of the April 2022 ADVO that was enforceable against him.

10.6 Constable Smith gave evidence that he also went downstairs to speak to AB, being unaware that Constable Blanch had also done so. Constable Smith gave evidence that he wanted to be confirm whether Dima had in fact breached a condition of his ADVO and explained:

Yeah, it was my duty of care to go and speak to AB that night, and so I did, as I saw he was listed as the PINOP.

10.7 Constable Smith gave evidence that he did not activate his BWV when speaking to AB despite knowing that this was something that he ought to have done. Constable Smith explained that he “[c]ompletely had forgotten to turn it on”.

10.8 Constable Hensby gave evidence that he left the balcony area at one point to speak to OB and SB, and that they took him to Dima’s bedroom. Constable Hensby gave evidence that he visually scanned the bedroom noting the presence of some alcohol which could have been potentially relevant to whether any condition of the ADVO had been breached, but had not seen any weapons or anything else of concern.

10.9 Mr Leane and Senior Sergeant Watt both gave evidence that they considered that the attending NSWPF officers engaged with Dima’s family in an appropriate way that was consistent with NSWPF policy by speaking to Dima’s family members separately and asking them questions with the purpose of advancing the investigation into whether an offence had been committed or not.

10.10 **Conclusions:** The attending NSWPF officers took a number of steps to properly respond to a reported domestic violence incident and investigate whether any condition of the April 2022 ADVO had been breached and whether any domestic violence or other offence had been committed. Consistent with the DVSOP, Dima was kept on the balcony whilst the NSWPF officers spoke to his family separately in order to pursue a thorough investigation. Two distinct enquiries were made of Dima’s father, the person in need of protection in relation to the April 2022 ADVO, to obtain a reliable version of events. There is no evidence to suggest that the attending NSWPF officers engaged with Dima’s family in anything other than a professional and appropriate manner.

11. Did the NSWPF officers engage with Dima appropriately?

11.1 On any reasonable viewing of the BWV footage it is apparent that up until the point when an attempt was made to handcuff Dima, the NSWPF officers engaged with Dima in a respectful manner. As noted above, It is also apparent that the NSWPF officers kept Dima separated from his family so that any potential offence could properly be investigated. Further, on several occasions Dima approached the NSWPF officers on the balcony and was asked to move back so that an appropriate distance was maintained between Dima and the NSWPF officers.

11.2 It is also apparent that at times Dima became upset with that was occurring and that the NSWPF officers attempted to calm him down by establishing some degree of rapport with him. The following exchange is an example of this:

Constable Hensby: [...] And you're still playin' football?
Dima: Do I play football?
Constable Hensby: Yeah.
Dima: Yeah, I play football, yeah.
Constable Hensby: Who you playin' for?
Dima: Play for Waratah Rats.
Constable Hensby: Warringah Rats?
Dima: Yeah.
Constable Hensby: Nice.
Dima: You follow?
Constable Hensby: Mmm?
Dima: You follow?
Constable Hensby: Little bit. I don't play much any more. What position do you play?
Dima: I used to go to Joeys.
Constable Hensby: You a front rower?
Dima: No, no, no, I'm a winger.
Constable Hensby: You're a winger? You got some speed on ya?
Dima: Look at my feet man. Look, ah, all this is is nothin' because I haven't done anything to anybody.
Constable Hensby: Look, we're just tryin' to figure it out and, all right? We got a call, we got to make sure everything [...]

11.3 Mr Leane expressed this view regarding the interactions between the attending NSWPF officers and Dima:

From my review of the file, and watching the body-worn video cameras it was apparent that they were professional and calm in spite of some conversation from Dima which may have been inflammatory, and I think what I could see through that, those interactions and the policy around family violence in New South Wales, and operational safety is they kept Dima contained, they kept him safe from themselves; keeping distance, and allowed the other officers then to get to the bottom of what was happening inside the house; to form a view about what action they could take, or not take, so I'm more than comfortable with that, how police went about their business on that balcony up until the point of the altercation.

11.4 Senior Sergeant Watt also agreed that the attending NSWPF officers engaged with Dima in an appropriate and professional way.

11.5 At one point during the interaction of the balcony, Constable Hensby asked Dima about the alcohol that had been found in Dima's bedroom. At the end of these questions, the following exchange occurred:

Dima: Look, what do you want to do? You want to, like, kill, kill some people? Like - - -
Constable Hensby: No. We want to make sure you're fi - - -
Dima: Well, like, I mean, when you sign up to be a police officer, what do you want to do?
Constable Hensby: Mate, we're trying to make sure you're following your ADVO conditions, that's for starters.

11.6 In his electronically recorded interview on 5 May 2022, Constable Hensby referred to the above exchange when asked whether there was anything about his conversation with Dima which alarmed

him. Constable Hensby initially described the above exchange as a little “*red flag*” but later said that he brushed it off, “*thought it was just a stupid comment*”, and “*took no note of it*”. However, when asked about this “*red flag*” during his oral evidence, Constable Hensby said that it indicated a level of risk from Dima and that he considered that “*a violent confrontation may occur from him*”.

11.7 In his oral evidence, Mr Leane described this as a nuanced observation of Dima’s behaviour and that whilst there may not have been an obligation for the attending NSWPF officers to make sure that they all had an appreciation of this “*red flag*”, in hindsight it would have been wise to do so.

11.8 Senior Sergeant Watt agreed with Counsel Assisting that such nuanced behaviours are very situationally dependent on an individual’s impressions of the wider circumstance, and gave this evidence:

Any information exchange is useful, but it's the practicalities, and the other thing is the certainty and the evaluation of what those red flags mean. Somebody may observe them, recognise them as a potential, and then rate them as not terribly high, and therefore not warranted in relaying it. Likewise, somebody may misinterpret a behaviour and communicate it immediately, and take it in a direction that perhaps it didn't need to go.

11.9 **Conclusions:** Overall, the attending NSWPF officers engaged with Dima in a calm and respectful manner. Dima was appropriately separated from his family members and spoken to in order to avoid any continuation of a possible criminal offence. Further, the NSWPF officers ensured that an appropriate distance was maintained between Dima and the NSWPF officers for safety reasons. On occasions when Dima’s behaviour became unsettled, the NSWPF officers attempted to build some rapport with Dima and defuse any tension by asking him questions about his activities and interests.

11.10 Although Constable Hensby interpreted some comments by Dima as a “*red flag*” that may indicate a degree of risk or that a violent confrontation was possible, there is no evidence to suggest that the other NSWPF officers were made aware of these comments. However, the expert evidence establishes that the observations by Constable Hensby were nuanced and dependent on an individual’s interpretation of the situation. Accordingly, there was no requirement to share these observations amongst the other attending NSWPF officers. However, in hindsight, it may have been useful to do so. Notwithstanding, the evidence does not allow for any conclusion to be reached as to what might have occurred (if anything) if this information had been shared, or whether it might have had any bearing on subsequent events.

12. When and why was a decision made to arrest Dima and was it appropriate?

12.1 Constable Smith gave evidence that after speaking with AB and reviewing the conditions of the April 2022 ADVO, he decided that Dima was to be arrested. Constable Smith also gave evidence that he went upstairs and briefly told Constable Blanch and Probationary Constable White in “*about a 15 to 30 second conversation*” that his plan was to arrest Dima “*and they had no objections to that at that point*”.

12.2 Constable Blanch gave similar evidence that after speaking with AB he returned to the kitchen and had a brief conversation with Constable Smith regarding whether Dima had breached a condition of

his ADVO. This conversation confirmed that Dima had indeed breached a condition of his ADVO and that Constable Smith, being the most senior NSWPF officer at the scene, decided that Dima was to be arrested.

12.3 Constable Desbrow gave evidence that there was a discussion in the kitchen, with possibly Constable Smith and Constable Hensby present, regarding whether Dima was to be arrested or not. Although she could not recall the details of the conversation, Constable Desbrow gave evidence that the outcome was that a decision was made to arrest Dima.

12.4 The DVSOP relevantly provides for the following regarding the arrest and charging process for domestic and family violence offences:

Before you consider arresting a person, you must suspect on reasonable grounds that the person IS committing or HAS committed an offence AND

You are satisfied that the arrest is reasonably necessary for any one or more of the following reasons:

- (i) to stop the person committing or repeating the offence or committing another offence,
- (ii) to stop the person fleeing from a police officer or from the location of the offence,
- (iii) to enable inquiries to be made to establish the person's identity if it cannot be readily established or if the police officer suspects on reasonable grounds that identity information provided is false,
- (iv) to ensure that the person appears before a court in relation to the offence,
- (v) to obtain property in the possession of the person that is connected with the offence,
- (vi) to preserve evidence of the offence or prevent the fabrication of evidence,
- (vii) to prevent the harassment of, or interference with, any person who may give evidence in relation to the offence,
- (viii) to protect the safety or welfare of any person (including the person arrested),
- (ix) because of the nature and seriousness of the offence.

12.5 In their oral evidence, both Mr Leane and Senior Sergeant Watt agreed that the decision to arrest Dima was appropriate. Mr Leane explained his reasoning in this way:

I was comfortable that based on all the information that was collected, and presented on the night, that the breach was made out. There was a power of arrest and under the policy an expectation that officers would take action.

12.6 **Conclusions:** Both Constable Smith and Constable Blanch separately questioned Dima's father and determined that a condition of the April 2022 ADVO had been breached by Dima. As the most senior NSWPF officer present, Constable Smith made the decision shortly his conversation with Dima's father that Dima was to be arrested. It is evident that, in accordance with the DVSOP, Constable Smith formed a suspicion on reasonable grounds that Dima had committed an offence and that the arrest was reasonably necessary to at least prevent the commission of any further offence. The expert evidence establishes that this was an appropriate decision.

13. Did the NSWPF officers discuss a plan to arrest Dima and was there a reasonable opportunity to do so?

13.1 Constable Smith was asked whether, after he made the decision to arrest Dima, he discussed how the arrest was going to be effected with any other NSWPF officer. Constable Smith gave this evidence:

Other than making them aware that an arrest was about to occur, and that they would come out onto the deck as well. There was no plan as such, but the way that we would conduct arrest was through using communication 99.9% of the time, so everybody there was on board with that.

13.2 Constable Smith gave evidence that:

- (a) there was a “*possible opportunity*” whilst he was in the kitchen with Constable Blanch and Probationary Constable White to plan how Dima was to be arrested;
- (b) if a plan had been formulated it would possibly have allowed the NSWPF police officers to position themselves on the balcony so that they could have used different tactical options, such as deploying a taser;
- (c) in hindsight, it may have been advantageous to discuss with the other NSWPF officers how Dima was going to be arrested given everything that was known about him and his history at the time;
- (d) if he had his time again he would have potentially engaged in more discussions regarding how the arrest was to be effected.

13.3 Constable Blanch gave evidence that he did not discuss any arrest plan with any other NSWPF officer and was unaware whether any of the other NSWPF officers had done so. Constable Blanch also gave evidence that the presence, or likely presence of a weapon and whether a person was known to act aggressively if under the influence of drugs or alcohol were considerations relevant to whether an arrest plan was required. Despite this, Constable Blanch gave evidence that in his experience an arrest plan would only be formulated “*probably right smack bang in the middle of 50/50*” of circumstances. However, Constable Blanch went on to explain:

In this particular matter what ruled it out was the fact of the sheer numbers of police involved; that being six officers involved, I guess, warranted that factor in deciding not a plan was needed.

13.4 Constable Blanch went on to give evidence that the presence of six NSWPF officers “*may have mitigated any further issues*” with the VKG Warning and Web Link Warning. However, when questioned by Counsel for Dima’s family, Constable Blanch agreed that having more NSWPF officers involved meant that it would have been a good idea to devise an arrest plan to allow for effective coordination. Constable Blanch also agreed that, in turn, this would place the NSWPF officers in a better position to effect the arrest.

13.5 Constable Blanch also gave evidence that:

- (a) after Constable Smith communicated his decision to arrest Dima there was an opportunity to discuss an arrest plan;
- (b) the situation was stable at the time with nothing to indicate that Dima was becoming more agitated, whilst later indicating that Dima's compliance up to that point was a factor against the need for an arrest plan; and
- (c) with an arrest plan he had no idea whether any of the NSWPF officers intended to go "hands on" with Dima or how the officers were going to position themselves on the balcony.

13.6 Constable Desbrow gave evidence that:

- (a) she could not recall hearing any plan about how Dima's arrest was actually going to be effected;
- (b) whilst the NSWPF officers were still in the kitchen there was an opportunity to discuss an arrest plan and that this ought to have occurred;
- (c) from past experience, she had been involved in discussions regarding an arrest plan but could offer no reason why it did not occur in this case.

13.7 When asked at the conclusion of evidence whether, on reflection, she considered whether there was anything she would have done differently, Constable Desbrow gave this evidence:

It is hard to say, cause you know there's so many different things that potentially could have happened that didn't happen, and at the end of the day, you know, a knife was presented on us, and, you know, it was officer safety first and foremost. But there could have been maybe a plan of arrest, as you said before, but other than that, there's many of - situations that could have, you know - things could've gone differently.

13.8 Probationary Constable Walker gave evidence that he was not involved in any discussion during which it was suggested that Dima was going to be arrested. Probationary Constable Walker gave evidence that it was only at the point when he saw Constable Smith approach Dima and tell him that he was under arrest that he became aware of Constable Smith's decision.

13.9 Probationary Constable White gave evidence that he became aware that Dima was to be arrested when Constable Smith returned upstairs after speaking with Dima's father and indicated that there had been a definite breach of the April 2022 ADVO. Probationary Constable White also gave evidence that he did not observe or participate in any plan regarding how the arrest was to be effected. Probationary Constable White gave evidence that as at April 2022, he had generally not had any experience of an arrest plan being formulated, and explained:

It's just not something that I'd sort of experienced, I believe. Once an arrest had been determined, it was - arrest was conducted, I believe.

13.10 When asked to reflect on the incident and consider whether there might have been anything that could have been done differently in his approach to the incident, Probationary Constable White gave this evidence:

There could've been a discussion about the arrest. The - possibly some questions to the family regarding Dima's mental health.

13.11 Probationary Constable White accepted the propositions that arresting a person in the field is a regular aspect of a NSWPF officer's duties and that "*some arrests are more tricky than others*" with some requiring a greater degree of thought and planning. In hindsight, Probationary Constable White agreed that it was fair to describe the incident involving Dima as "*more tricky than the usual arrest*".

13.12 Constable Hensby gave evidence that there was no discussion as to how the arrest would be effected and explained that it in his experience it was generally not uncommon to devise an arrest plan. Indeed, like Probationary Constable Walker, Constable Hensby gave evidence that it was only when he heard Constable Smith putting the allegation to Dima that he had breached a condition of his ADVO that he understood that Dima was about to be arrested.

13.13 Constable Hensby gave evidence that on reflection, he did not think that anything more could have been done regarding how to plan to arrest Dima at any stage during the incident. When asked whether he would have taken an opportunity to plan for Dima's arrest if he had his time again, Constable Hensby gave this evidence:

General duties police, we can't just stop and say, "Hold on, mate. I'm going to go plan how to arrest you". We kind of - the world isn't black and white, it's grey, and ever-changing. So we have to play it how it comes.

13.14 Although he accepted that situations can be dynamic and unpredictable, Constable Hensby maintained in his evidence that there was no opportunity to pause and plan an approach to the arrest.

13.15 Mr Leane gave evidence that there was a limited opportunity to formulate a plan of how Dima's arrest would be effected but there were practical difficulties involved in communicating this plan to all the NSWPF officers present. For example, some changeover of NSWPF officers on the balcony would have been required but Mr Leane considered it would have been inappropriate to entirely remove the NSWPF officers from the balcony as this would have jeopardised the security and safety of Dima as well as his family. Ultimately, Mr Leane expressed this view:

I think there was an opportunity, in hindsight, to have a conversation about what's likely to happen; even the size of Dima and what they were going to do. Again, that's a matter for the individual officers and their experience with each other, and this may be an everyday occurrence that they do, but there was an opportunity, I think, there to do that. They didn't take it for reasons known to themselves.

13.16 Senior Sergeant Watt gave evidence that the situation confronting the NSWPF officers was, despite the presence of individual risk factors, "*effectively a routine arrest*" and that it was common to arrest

a person for breaching an ADVO when that person is intoxicated. Senior Sergeant Watt gave evidence that whilst “*planning is always good*” the level of planning required is “*very much a sliding scale*” dependent on the experience and knowledge of the NSWPF officers involved and the particular circumstances of the job. In this regard, Senior Sergeant Watt drew a distinction between arresting a person with a history of being violent when intoxicated for breaching an ADVO and arresting a person for terrorism-related offences. Ultimately, Senior Sergeant Watt considered that the issue had to be left to an individual NSWPF officer to judge based on their experience.

13.17 **Conclusions:** After Constable Smith made the decision to arrest Dima, no plan was devised as to how the arrest would be effected. Indeed, some of the NSWPF officers only became aware of the decision to arrest Dima when Constable Smith made the announcement on the balcony. Whilst it can be accepted that the “practise of policing” described by Mr Leane means that sometimes a decision to arrest a person does not need to be communicated between NSWPF officers who are familiar with working with each other, such communication and planning does have certain advantages.

13.18 Senior Sergeant Watt described, in a non-pejorative way, the attempted arrest of Dima to be “*routine*”. Counsel for the NSWPF Commissioner embraced the description of the arrest as “*textbook*” and submitted that up to the point that Dima produced a knife the attending NSWPF officers had already applied their training and innate skills and knowledge to the task of arrest without the need for any plan. However, Senior Sergeant Watt’s description of a “*routine*” arrest appeared to be at least contingent upon the experience of the attending NSWPF officers and their assessment of the situation that confronted them. The evidence establishes that two the NSWPF officers were Probationary Constables and relatively inexperienced, and that one of them (Probationary Constable White) considered the situation confronting him, in hindsight, to be “*more tricky than the usual arrest*”. There is therefore evidence to at least doubt in part Senior Sergeant Watt’s description of the attempted arrest of Dima as entirely “*routine*”.

13.19 This being the case, the evidence establishes that there was an opportunity for the attending NSWPF officers to discuss an arrest plan and that this could have conveniently occurred in the kitchen where Constable Smith communicated his decision to arrest Dima to some of the NSWPF officers. The situation was stable at the time and even though Dima’s compliance and mostly settled behaviour up to that point may have been a factor suggesting that no arrest plan was required, the available evidence did not demonstrate any disadvantage in formulating an arrest plan. Indeed, the evidence of Constable Smith and Constable Blanch establishes that there would have been potential advantages in doing so, namely allowing for better coordination so that other tactical options might have been utilised to better effect the arrest. That said, it is not possible to conclude whether any such planning might have made a material difference to the eventual outcome.

13.20 Overall, the evidence also establishes that in general a plan to arrest a person is not devised in every instance by NSWPF officers. This is likely reflective of the features particular to an individual case, the differences in experience of the NSWPF officers involved, and the exigences, complexities and the dynamic nature of certain situations. Certainly, the attending NSWPF officers on 28 April 2022 had different experiences about the formulation, or not, of an arrest plan. The most senior NSWPF officer present on the night, who was also the decision-maker regarding Dima's arrest, acknowledged in hindsight that he would have taken opportunity to devise an arrest plan. It follows that Dima's case discloses important learnings for the NSWPF more broadly.

14. Was any alternative approach to the arrest reasonably available?

Policy and procedural framework

14.1 Several NSWPF policy and procedure documents inform the issue of whether any alternative approach was available to the attending the NSWPF officers.

14.2 The NSWPF Tactical Options and Use of Force Manual (**TOUOF Manual**) provides that NSWPF officers have 10 tactical options including, relevantly, communication, officer presence, weaponless control, conducted electrical weapon, firearm and tactical disengagement "*when use of force is needed to resolve a situation which poses a threat to [their] safety or the safety of others*". The TOUOF Manual also relevantly provides that the model is non-linear and allows NSWPF officers to "*transition between options as required*" and allows for "*rapid escalation and/or de-escalation in dynamic and changing situations*".

14.3 The TOUOF Manual also provides for the following in relation to control theory:

The ultimate **goal** is **control** of the situation.
You need advantage for control.
Evaluate the propensity for control versus injury (reasonable force)
Ability to disengage, de-escalate the situation or respond to escalation is imperative.
[original emphasis]

14.4 The NSWPF Dynamic Risk Assessment Guide (**DRA Guide**) defines dynamic risk assessment in a policing context as:

The continuous process of identifying hazards, assessing risk, taking action to eliminate or reduce risk, monitoring and reviewing, in the rapidly changing circumstances of an operational incident.

14.5 The DRA Guide goes on to provide that to assist NSWPF officers in dynamic risk assessment, the **STOPAR** mnemonic is the endorsed critical thinking model:

Stop: Apply some critical thinking.
Think: How do you approach the problem without escalating the risk to self or others?
Observe: Your priority is public safety and safety of self.
Plan: Gather all available information, plan your approach, communicate with your partner, advise police radio of the situation.

Act: Adapt your approach based on the risks and components observed.

Review: Continually review your plan. Is what you are doing still effective? Are there any other strategies you can use?

Contact with Supervisor

14.6 The DVSOP provides that if a Mobile Supervisor is unable to attend the scene of a reported domestic incident, NSWPF officers on scene must contact the Supervisor by mobile phone. On 28 April 2022, the relevant Supervisor was Sergeant Aaron Crandon. He was aware of the VKG broadcast, saw that three NSWPF car crews had acknowledged the job, and commenced driving to the Newport Property. However, whilst on route Sergeant Crandon acknowledged another job that was broadcast relating to an incident at Belrose and redirected to that location. Sergeant Crandon did not arrive at the Newport Property until after Dima had been fatally wounded.

14.7 Despite the provisions of the DVSOP, and most of the attending NSWPF officers being aware of them, no contact was made with Sergeant Crandon. Various, sometimes conflicting, reasons were provided for this:

(a) Constable Blanch gave evidence that as Constable Smith had formed the view that Dima had allegedly breached a condition of the April 2022 ADVO supervisory assistance was not required.

(b) In contrast, Constable Hensby gave evidence that if a view was taken that a domestic violence had been committed there was a need to contact a supervisor regarding what action to take in response and to seek approval. Constable Hensby also gave evidence that he did not contact Sergeant Crandon because he was “*engaged with Dima*”.

(c) Constable Blanch also gave evidence that he was unaware whether any of the other NSWPF officers had already contacted Sergeant Crandon.

(d) Constable Smith gave evidence that it was usual practice for the Northern Beaches NSWPF supervisors to monitor VKG and the CAD and be aware of any reported domestic violence incident. Constable Smith therefore was under the impression that Sergeant Crandon “*would be attending at some point*”.

14.8 Both Mr Leane and Senior Sergeant Watt agreed that a Supervisor can bring “*experience, knowledge, capability*” to an incident. Mr Leane gave this further evidence regarding how the attending NSWPF officers may have utilised a Supervisor’s experience and knowledge:

May have landed in exactly the same place, hypothetically, but had the opportunity to ask some critical questions around the nature of the premises, you know, what they were planning, whether they had the capability to do it.

14.9 **Conclusions:** The provisions of the DVSOP were not complied with because none of the attending NSWPF officers contacted the designated Supervisor, Sergeant Crandon, who was unable to attend the scene. Having regard to the interpretations of the DVSOP offered by some of the attending NSWPF officers, and the explanations provided for no contact being made, it appears that there was a degree of misunderstanding regarding the requirements of the DVSOP.

14.10 If contact had been made with Sergeant Crandon, the decision to arrest Dima could have been discussed. This may have allowed the attending NSWPF officers to draw upon Sergeant Crandon's knowledge and experience as to the next steps to be taken, including how Dima's arrest was to be effected. However, it is not possible to gauge the degree to which input which from Sergeant Crandon might have allowed for a different course of action, if any. As Mr Leane acknowledged, any input from Sergeant Crandon might have resulted in the same outcome. Notwithstanding, the provisions of the DVSOP highlight how a valuable resource such as a Supervisor's knowledge and experience might be effectively utilised if pre-arrest planning is undertaken.

Opportunity to consider any alternative approach

14.11 NB36 and NB15 arrived at the Newport Property at around 1:42am on 28 April 2022, with NB16 arriving four minutes later at around 1:46am. At around 2:03pm, Constable Smith returned to the balcony and informed Dima that he was under arrest a short time later. These timings indicate that most of the attending NSWPF officers were at the Newport Property for around 21 minutes when an attempt was made to arrest Dima.

14.12 Constable Smith gave evidence that once he made the decision to arrest Dima, he "*could have arrested [Dima] at any time*" and that there was "*[n]ot any particular urgency*" to do so. However, Constable Smith went on to give evidence that once it became apparent that Dima was not going to comply with instructions from the NSWPF officers, "*at a certain point you need to step it up*". Constable Smith also gave evidence that "*the point that [Constable Hensby] stepped it up was the right point to step up*" and that it "*was about the time that [he] was going to step it up [himself]*".

14.13 Later, when asked questions by Counsel for the NSWPF Commissioner, Constable Smith explained that "*step up*" meant moving to a "*different tactical option in order to maintain control over the situation*", in other words beginning with communication and then moving to weaponless control.

14.14 Constable Blanch similarly gave evidence that when Constable Smith decided to arrest Dima the situation was stable but that there is "*some sense of urgency*" in all domestic violence matters. However, Constable Blanch agreed with Counsel for Dima's Family that by that point the attending NSWPF officers had been at Dima's house for at least 15 minutes and there was no indication that Dima was "*becoming more aggravated in any real sense*".

14.15 Constable Hensby likewise gave evidence that there was no time pressure requiring the NSWPF officers to "*bring [the] matter to a conclusion*".

14.16 Senior Sergeant Watt confirmed that once an arrest is initiated there is no time frame within which it must be completed and that there is "*no immediacy or no magic time limit*".

14.17 Constable Hensby gave evidence that from the time that Constable Smith told Dima that he was under arrest, there was no opportunity to pause and plan the arrest. Constable Hensby specifically rejected any suggestion that there was an opportunity to pause and plan the arrest before producing the handcuffs, before advancing towards Dima, and before going hands-on with Dima. Constable Hensby also rejected the suggestion that it was his actions in doing these three things which

escalated the interaction. Constable Hensby also rejected a suggestion that there was any opportunity to apply the STOPAR model in order to stop and apply some critical thinking.

14.18 Constable Smith was asked whether there was any opportunity to “*pause and plan*” before Constable Hensby advanced towards Dima, before Constable Hensby produced a handcuffs and after he noticed a change in Dima’s behaviour. Constable Smith gave evidence that he did not consider there was any opportunity to do so and that the NSWPF officers had given Dima “*ample opportunity*” to comply. Constable Smith explained:

I was of the opinion that we needed to step it up at that point; that we needed to get Dima off that balcony and out the house to process him.

14.19 **Conclusions:** Once Constable Smith decided to arrest Dima, the arrest did not have to be effected immediately. As noted already, an opportunity existed for consideration to be given by the NSWPF officers to how the arrest was to be effected and to prepare for any unexpected outcomes. Counsel for Dima’s Family submitted that the approach of the NSWPF officers demonstrated a “*rigidity of thought*” and that critical thinking ought to have been applied instead in accordance with the STOPAR model. Counsel for the NSWPF Commissioner submitted that “*rigidity of thought*” would have meant the NSWPF officers continuing to pursue the same tactical option which was not working, and that instead they followed a dynamic risk assessment and transitioned to a different tactical option.

14.20 However, whilst the arrest process commenced with the tactical option of communication, all the remaining tactical options available to the NSWPF officers, save one, involved more direct action or the use of force. Transitioning to these other tactical options had the potential to escalate the situation making the one non-direct option available, tactical disengagement, more difficult to pursue. This suggests that, in hindsight, any opportunity that existed between the decision to arrest Dima and the point at which he was notified of his arrest ought to have been utilised to plan its execution.

Opportunity to negotiate with Dima

14.21 Constable Hensby gave evidence that he decided to handcuff Dima to ensure the safety of the NSWPF officers and because it was necessary to remove Dima from the property and into a caged vehicle. Constable Hensby agreed that this was the point at which Dima’s behaviour appeared to escalate.

14.22 Constable Smith agreed that that the BWV showed that Dima was seated on the table and did not stand up prior to Constable Hensby indicating that he was going to handcuff Dima. Constable Smith agreed that after Dima was told he was under arrest his behaviour became more escalated but he remained seated and that Constable Smith was forming a view that Dima would not comply willingly.

14.23 Both Mr Leane and Senior Sergeant Watt expressed the view that the decision to handcuff Dima was reasonable. Senior Sergeant Watt explained that due to Dima’s physical size, “[h]andcuffs provide a *significant advantage*” in order to achieve control. Further, the use of handcuffs provided “*effective*

resistance” given that Dima would need to be moved from the balcony through the kitchen (which had knives capable of being accessed), down a narrow flight of stairs and up a slippery, steep driveway.

14.24 Constable Hensby was asked by Counsel for Dima’s Family whether the Dima would have been allowed to speak with his mother if he allowed himself to be handcuffed and gave this evidence:

Once he was secured it could have been an option. Once he was secured and handcuffed.

14.25 However, Constable Hensby rejected the suggestion that Dima’s request to speak with his mother presented an opportunity to negotiate with him.

14.26 When asked by Counsel for Dima’s Family whether Dima’s request to speak with his mother represented an opportunity to de-escalate the situation and continue to negotiate with him, Constable Smith gave evidence that this was “*never an option [he] was going to take*”. When asked why not, Constable Smith explained:

Because I have a duty of care to Dima's family members to protect them. They'd made a complaint for a domestic incident, and I wasn't going to allow any further domestic incidents to occur.

14.27 Constable Smith gave further evidence that he did not attempt, or even think, to negotiate with Dima that if he allowed himself to be handcuffed he would be permitted to speak with his mother. Constable Smith gave evidence that he did not “*believe that was an option in the scenario [that the participants] were in*”.

14.28 After being informed that Constable Hensby had given evidence that there was a possibility of allowing Dima to speak with his mother if he allowed himself to be handcuffed, Mr Leane gave evidence that such a negotiation is “*on the table as a viable option*”. Senior Sergeant Watt was more circumspect and gave evidence that “*involving family members in a negotiation is fraught with danger*” and that “*first response police are effectively trained not to do it*”. Senior Sergeant Watt explained that in some situations there may be an attempt by the person being handcuffed to intimidate an alleged victim or dissuade an alleged victim from providing information to NSWPF officers. Further, Senior Sergeant Watt explained that if Dima’s mother had refused to talk to Dima then the credibility of the attending NSWPF officers in Dima’s eyes would have been damaged. Overall, Senior Sergeant Watt considered that the divide between Constable Hensby and Constable Smith demonstrated that whilst some NSWPF officers may consider the opportunity to negotiate as an option, others would not consider it under any circumstances.

14.29 **Conclusions:** Constable Smith and Constable Hensby were divided about whether it would have been possible to accede to Dima’s request to speak to his mother. Whilst Constable Smith considered it an option that he was never going to take, Constable Hensby considered it a possibility if Dima first allowed himself to be secured by being handcuffed. The experts were equally divided about such a negotiation tactic being an available option. Senior Sergeant Watt’s evidence establishes that, from a tactical options perspective, such a tactic carried several inherent risks.

14.30 Given the finely balanced nature of the evidence, it cannot be concluded that the decision to not explore the possibility of negotiation with Dima was inappropriate. Equally, it is not possible to conclude whether, if the tactic had been employed, it would have resulted in Dima's peaceful arrest or whether one of risks highlighted by Senior Sergeant Watt would have materialised.

Opportunity to deploy a taser

14.31 The NSWPF *Use of Conducted Electrical Weapons (Taser) Procedures* (**Taser Procedures**) sets out the criteria to draw and cover with a taser and to discharge a taser. Draw and cover occurs when a taser is drawn from a holster, arms and pointed at the subject.

14.32 The Taser Procedures relevantly provides the following regarding the criterion to draw and cover:

Officers must consider all Use of Force tactical options available to them when considering resorting to the Taser.

Do not draw your Taser, point it or aim it unless you consider that you are likely to be justified in using it. [original emphasis]

14.33 The Taser Procedures relevantly provides the following regarding the discharge of a taser:

The Taser may be discharged at the discretion of the Taser User after proper assessment of situation and environment to:

- Protect human life
- Protect yourself or others where violent confrontation or violent resistance is occurring or evidence
- Protect an officer(s) in danger of being overpowered or to protect themselves or another person from the risk of actual bodily harm

14.34 Constable Smith gave evidence that when he noticed a change in Dima's demeanour he thought it was possible that a confrontation was going to occur between Dima and the NSWPF officers. Constable Smith also agreed that given Dima's physical size there was possibly a danger that he would be able to overpower one of the NSWPF officers. On this basis, Constable Smith agreed that there was a need to protect a NSWPF officer in danger of being overpowered and that therefore the criteria to draw and cover, and also discharge a taser had possibly been fulfilled.

14.35 Senior Sergeant Watt gave evidence that whilst the criteria were fulfilled, this tactical option was effectively removed due to the positioning of the NSWPF officers and there being insufficient space on the balcony. Senior Sergeant Watt gave evidence that whilst there was an option for the NSWPF officers to create distance by moving beyond the doorway to the kitchen this would be "*poor tactical practice to give up your escape route*". Ultimately, Senior Sergeant Watt gave evidence that identifying whether there were other exit points from the balcony (namely through doors to the study and lounge room) was a potential matter to consider. However, Senior Sergeant Watt did not accept that any failure of the attending NSWPF officers to consider such a matter reduced the tactical options available to them.

14.36 Even assuming that sufficient space might have been created to deploy a taser, Senior Sergeant Watt gave evidence that it was not an appropriate tactical option, explaining:

If I was using a taser against somebody with a knife, the expectation is that they would have lethal force available for immediate use in case it fails. The ability for somebody under those circumstances to perceive whether or not the taser has worked, or failed, is such that by the time they perceive it's failed, and they need to use lethal force, it's almost certainly going to be too late. Because if it fails the subject keeps moving forward, they get into arm's reach, and then even - unless you achieve an immediately incapacitating shot they're [sic] still got opportunity to cause significant injury to the police officers, if not death.

14.37 Mr Leane agreed with the assessment made by Senior Sergeant Watt.

14.38 **Conclusions:** The proximity of Dima to the NSWPF officers, coupled with the confined nature of the balcony, rendered the use of a taser—whether by way of draw and cover or by discharge—operationally unfeasible. While it is conceivable that the NSWPF officers could have retreated to create a greater distance, such actions would have exposed them to other operational risks, particularly in the event that a further withdrawal from the balcony became necessary.

14.39 The drawing of a taser as a compliance measure constitutes a use of force. Although it may have achieved compliance, it carried an equivalent risk of escalation and the loss of any opportunity for peaceful resolution. Further, once Dima produced the knife, the prospect that a taser discharge might prove ineffective meant that the risk to NSWPF officer safety would have remained unresolved. Overall, the evidence establishes the use or potential use of a taser was not a viable tactical option.

Opportunity to disengage and de-escalate

14.40 Constable Smith gave evidence that he did not believe it was an option to withdraw in order to formulate a plan of how to remove Dima from the balcony. Whilst acknowledging that it was an option to tactically withdraw from the situation in order to regroup and gain control, Constable Smith gave evidence that he did not consider that this was the “*correct option*”. When asked to explain why, Constable Smith gave this evidence:

Because [Dima] was becoming aggressive too fast. Yeah, we weren't going to leave him with the family.

14.41 Constable Smith also gave evidence that there was no opportunity to withdraw to a safe place inside and leave Dima on the balcony because of Dima’s “*demeanour and aggression that was picking up*”.

14.42 When asked whether there was any opportunity to retreat completely off the balcony and formulate a plan about how to approach Dima, Constable Hensby gave evidence that there was no such opportunity because the NSWPF officers “*were in front of him, effecting the arrest*”. Counsel Assisting explored this topic several different ways with Constable Hensby which did not elicit a clear answer and only produced somewhat circular questions and answers. The following exchange illustrates this:

Q. When you could see him resisting, why not pause at that point and withdraw, in order to formulate a plan about what you were going to do next?

A. Because he started to resist.

Q. Was there any time pressure on you to bring the incident to a conclusion?

A. No.

Q. You'd been there - I think I took you to times earlier - 1.42 is when you called off, or your colleague called off, and by now we're about 2.06 in the morning; do you accept those times?

A. Yes.

Q. So 24 minutes or thereabouts. You'd agree there was nothing, in terms of a time pressure, requiring you to bring this matter to a conclusion?

A. No.

Q. At the point when you asked Dima to put out his hands to be handcuffed, you could see that he wasn't going to do that?

A. Yes.

Q. Do you agree that at that point in time, you could have withdrawn to formulate a plan about how you were going to arrest him?

A. No.

Q. Why do you say that?

A. We were at that stage. I was - we were - he was just - informed him he was under arrest, he started to be uncooperative, and start to be argumentative, and - so I felt an escalation was arising, so for everyone's safety, handcuffs were needed.

14.43 When asked questions by Counsel for the NSWPF Commissioner, Constable Hensby gave evidence that tactical disengagement, meaning retreating from the balcony to inside the house, was not appropriate for the following reason:

An unarmed man failing to comply with directions, it's not appropriate to just walk away. It's weaponless control is the right, like, sorry. Weaponless control is the tactic, but it's ever changing, so, yeah.

14.44 Constable Hensby went on to explain that if Dima was left unaccompanied on the balcony it meant that the NSWPF officers had “*no control of him at all*” and that he could have fallen over the edge of the balcony or a siege situation could have developed if Dima had prevented the NSWPF officers from re-entering the balcony.

14.45 In re-examination, Constable Hensby agreed that the TOUTOF Manual provides that in order to achieve control of a situation responding to the way a situation is developing is required. Constable Hensby agreed that this might include de-escalation or disengagement “*if a situation requires it*”, and that the TOUTOF Manual does not provide that control must be achieved “*at all costs*”.

14.46 Senior Sergeant Watt gave evidence that there was an opportunity to disengage between when Dima’s behaviour escalated after being told he was under arrest to the point when he produced the knife. Senior Sergeant Watt explained this further:

[T]here is an opportunity, but it's dependent on what - whether you disengage or not is dependent on your assessment of whether I'm capable of resolving this situation, whether I think I can manage it, whether this is a genuine indicator of serious resistance or whether it's simply posturing, and coupled with that there is a reluctance to use force unless it's necessary. So realistically, a lot of times people will posture right up till the point that you actually touch them and put hands on them, and they'll go, "Okay, I'm done". Or you can utilise limited pain compliance-based techniques to get a degree of compliance without going to effectively higher levels of use of force.

14.47 Senior Sergeant Watt later gave evidence that whilst such an opportunity existed it also came with potential risks. For example, any pause gave Dima time to potentially formulate a response to the attempt to arrest him. Senior Sergeant Watt described the choice between proceeding with the arrest and pausing as being a *"very nuance[d] decision"* and a matter for individual NSWPF offices without a *"hard and fast set of rules"*.

14.48 Later in his evidence, when questioned by Counsel for the NSWPF Commissioner, Senior Sergeant Watt gave evidence that once a decision was made to go hands on, or to use weaponless control, *"it would be almost impossible to disengage sufficiently to gain an advantage or utilise an alternate approach"*. Both Senior Sergeant Watt and Mr Leane agreed that it was reasonable and appropriate for the NSWPF officers to begin with communication and then move to weaponless control.

14.49 Senior Sergeant Watt also highlighted a practical difficulty with retreating off the balcony given that the entry to the kitchen, and the kitchen itself was a small area. Senior Sergeant Watt explained that this potentially prevented the ability of the NSWPF officers to intervene if Dima decided to move elsewhere on the balcony, including accessing any exit points that the NSWPF officers were unaware of, or if he attempted self-harm.

14.50 Mr Leane gave evidence that on reviewing the BWV he could not see *"a realistic opportunity to disengage"*. This is because once the NSWPF officers *"started to get a resistance"* from Dima, they *"moved forward to actually nullify the threat to themselves, and then they had to backtrack as soon as the knife was produced"*.

14.51 Senior Sergeant Watt gave evidence that there were two separate problems confronting the NSWPF officers: achieving control (given Dima's physical size and propensity to behave aggressively when intoxicated) and then moving Dima from the balcony, through the house and into a NSWPF vehicle. Senior Sergeant Watt was asked by Counsel for Dima's Family whether there needed to be a *"backup position"* given these problems. Senior Sergeant Watt gave this evidence:

In reality, yes, the formation of a backup plan would be appropriate.

14.52 Senior Sergeant Watt gave evidence that he saw no evidence of any formulation of a backup plan.

14.53 Mr Leane described any secondary plan as *"probably [a] contingency"* and that once the NSWPF officers had decided to move forward to arrest Dima *"the only contingency they had, if they started to lose that wrestle, is to disengage and move back"*. Mr Leane indicated that he saw no evidence of any discussions regarding such a contingency plan.

14.54 Mr Leane agreed that such a contingency “*is a really fragile one*” and that the NSWPF officers would have to attempt to disengage whilst Dima was in an “*escalated state*” meaning that “*they’re in real trouble at that point*”. The following exchange then took place:

Q: So it is not then, in that context, where they've come to consider a secondary position, which is fragile, that they should then consider whether their first line plan has a prospect, a significant prospect of success at all.

A: I think that's a reasonable conclusion.

14.55 Mr Leane agreed with Counsel for Dima’s Family that one tactical option available would have been to contain Dima “*until such time as a tactical response could be rallied from specialist officers who are more significantly trained to deal with a more tricky position*”. Mr Leane indicated that he saw no evidence of this being considered. Senior Sergeant Watt gave evidence that up to the point that Dima produced the knife, the incident “*would not meet the threshold to warrant the attendance of a tactical team*”.

14.56 **Conclusions:** The TOUOF Manual did not provide that once Constable Smith informed Dima that he was under arrest, that arrest had to be effected under any circumstances. Indeed, the tactical options model allows for tactical disengagement. It would appear that there was a limited window of opportunity during which the NSWPF officers on the balcony could have pursued such tactical disengagement. This window was available between when Dima was told he was under arrest (at 2:05:10am, according to the timestamp on the BWV footage), and when Constable Hensby moved towards Dima and Dima stood up from sitting on the table (at 2:06:07am), a period of about 57 seconds.

14.57 Constable Hensby did not consider tactical disengagement to be an available option at all on the basis that once the process of arrest commenced it needed to be completed. Constable Smith acknowledged that tactical disengagement was an available option but not, in his view, a correct one due to Dima’s increasing aggression. There was similarly no consensus in the expert evidence on this issue. Whilst Mr Leane considered that there was no opportunity for tactical disengagement after Dima had been told he was under arrest, Senior Sergeant Watt acknowledged that the opportunity existed but did not consider it to be tactically sound.

14.58 Taken as a whole, the absence of any viable contingency option—whether in the form of disengagement or another alternative—supports the conclusion that planning for Dima’s arrest ought to have occurred before he was informed, and before some of the NSWPF officers themselves first became aware, that he was under arrest. Such planning is likely to have allowed for consideration of all the available tactical options and whether a safe arrest could be effected. It is acknowledged that this conclusion has been reached with a significant degree of hindsight. It is also acknowledged that even if such planning had been undertaken it might not have materially altered the subsequent course of events.

15. Was the use of force reasonable, appropriate and in accordance with NSWPF policy?

15.1 The TOUOF Manual refers to the NSWPF Handbook which provides:

The decision to use your firearm rests with you. You are accountable for your actions. If you kill or injure a person when such action is not reasonable you could face serious criminal charges and or civil action.

You are only justified in discharging your firearm when there is an immediate risk to your life, or the life of someone else, or there is an immediate risk of serious injury to you or someone else and there is no other way of preventing the risk.

15.2 When asked why he removed his firearm from its holster, Constable Smith gave this evidence:

Because I believed my life was in danger at that point, and the life of my colleagues.

15.3 Constable Hensby gave evidence that after Dima took a swipe at him, he began reaching for his OC spray with his left hand, while still holding the handcuffs in his right hand. Constable Hensby gave evidence that when he saw Dima produce the knife, he dropped the handcuffs and reached for his firearm. When asked why he did so, Constable Hensby said:

Thought [Constable Smith] and I were going to die.

15.4 Constable Smith agreed that he did not draw his firearm until the saw Dima holding the knife, and that he did not discharge the firearm until Dima began advancing towards the NSWPF officers and reached a distance of between 1.5 and 2 metres. When asked why he discharged his firearm, Constable Smith gave this evidence:

Because I believed that he was going to stab me.

15.5 Constable Hensby similarly gave evidence that he saw Dima advancing and discharged his firearm. When asked why he did so Constable Hensby gave this evidence:

Because I thought I was going to die, or [Constable Smith] was going to die.

15.6 Mr Leane and Senior Sergeant Watt both gave evidence that the discharge of the firearms by Constable Smith and Constable Hensby was a reasonable use of force in the circumstances given the risks that the NSWPF officers perceived to themselves and their colleagues.

15.7 **Conclusions:** The decision made by Constable Smith and Constable Hensby to discharge their firearms was reasonable, appropriate and in accordance with applicable NSWPF policy and procedure material. Prior to the discharge of the firearms, the NSWPF officers had attempted to use communication and weaponless control in order to effect Dima's arrest. At the point that each NSWPF officer discharged their firearm, Dima had unexpectedly produced a knife and began advancing towards the NSWPF officers despite a verbal instruction to "don't do it".

15.8 The situation confronting each of the NSWPF officers represented an immediate threat to their safety and, potentially, the safety of the other NSWPF officers next to and behind them. The expert evidence establishes that the use of lethal force by Constable Smith and Constable Hensby in the circumstances was reasonable given the immediate threat which each NSWPF officer perceived.

16. Findings pursuant to section 81(1) of the Act

16.1 I acknowledge the exceptional assistance provided by Mr Jake Harris, Counsel Assisting and his instructing solicitor, Ms Rebecca Campbell with much gratitude and appreciation. The Assisting Team has worked tirelessly to ensure that the coronial proceedings have been conducted in a thorough, fair, transparent and empathetic manner.

16.2 I also thank Detective Chief Inspector Andrew Marks APM, and his Critical Incident Investigation team, for their professionalism and comprehensive investigation, and the sensitivity shown to Dima's family.

16.3 The findings that I make under section 81(1) of the Act are:

Identity

The person who died was Dima Thomson.

Date of death

Dima died on 28 April 2022.

Place of death

Dima died at Newport NSW 2106.

Cause of death

The cause of Dima's death was multiple gunshot wounds.

Manner of death

After arriving at Dima's home in response to a Triple Zero call regarding a reported domestic violence incident, six NSWPF officers commenced an investigation to determine if Dima had allegedly breached the conditions of an apprehended domestic violence order that had been made against him nine days earlier. Following an investigation, a decision was made to arrest Dima. An opportunity existed for the NSWPF officers to plan Dima's arrest but this was not taken, although it is not possible to determine if such planning might have materially altered the subsequent events. In the course of effecting the arrest, Dima unexpectedly produced a knife and advanced towards the NSWPF officers. Two of the NSWPF officers, in the lawful execution of their duties, drew their firearms and discharged a total of seven rounds at Dima, fatally wounding him. The suddenness at which these events unfolded precluded the use of any other tactical option.

17. Epilogue

17.1 On behalf of the Coroners Court of New South Wales and the Assisting Team, I offer my deepest sympathies, and most sincere and respectful condolences, to Dima's parents and sister; his wider family, and his loved ones and friends for their most painful and tragic loss.

17.2 I close this inquest.

Magistrate Derek Lee
Deputy State Coroner
3 October 2025
Coroners Court of New South Wales

Inquest into the death of Dima Thomson
Coroner's Court File Number: 2022/123358
Annexure A
Non-publication orders

Pursuant to section 74(1)(b) of the *Coroners Act 2009* (**the Act**), or any incidental powers arising under the Act:

1. There shall be no publication of the names, photographs or any other information that would otherwise identify the following persons in connection with these proceedings:
 - (a) AB
 - (b) OB
 - (c) SB

2. For the purposes of the publication of any evidence or other information relating to the above matters, the following persons are to be given the following pseudonyms:
 - (a) AB = "AB"
 - (b) OB = "OB"
 - (c) SB = "SB"

3. Orders 1 and 2 do not operate to prevent the persons referred to being named or referred to in any evidence tendered or adduced in the inquest hearing (including reference to those persons' names in open Court) or require the use of pseudonyms in documentary evidence in lieu of those persons' names in the material tendered in the proceedings.

Magistrate Derek Lee
Deputy State Coroner
3 October 2025
Coroners Court of New South Wales