

IN THE CORONERS COURT
OF VICTORIA
AT MELBOURNE

Court Reference: COR 2017 3180

FINDING INTO DEATH WITHOUT INQUEST

Form 38 Rule 63(2)
Section 67 of the Coroners Act 2008

Findings of:	Sarah Gebert, Coroner
Deceased:	Mr P
Date of birth:	1992
Date of death:	3 July 2017
Cause of death:	Gunshot wound to the head
Place of death:	, Victoria

it just doesn't sit right with me. How can someone be classed as fit to have their gun licence back less than 3 mths after an attempt on their life and then use that gun to take their life just weeks after ¹

Mr P's mother, 4 October 2019

Introduction

- 1. Mr P², born 1992, was 24 years of age at the time of his passing. Mr P is survived by his two children, and from his marriage to from whom he was separated. He is also survived by his parents, and and from and siblings and from and from and from the was separated.
- 2. Mr P lived in a workshop attached to a small living area, belonging to his father. He was employed as a chef.
- 3. On 3 July 2017, Mr P was found deceased at his home by his father.

The Coronial Investigation

- 4. Mr P's death was reported to the Coroner as it fell within the definition of a reportable death in the Coroners Act 2008 (the Act). Reportable deaths include deaths that are unexpected, unnatural or violent or result from accident or injury.
- 5. The role of a coroner is to independently investigate reportable deaths to establish, if possible, identity, medical cause of death, and surrounding circumstances. Surrounding circumstances are limited to events which are sufficiently proximate and causally related to the death. The purpose of a coronial investigation is to establish the facts, not to cast blame or determine criminal or civil liability.
- 6. Under the Act, coroners also have the important functions of helping to prevent deaths and promoting public health and safety and the administration of justice through the making of comments or recommendations in appropriate cases about any matter connected to the death under investigation.
- 7. Victoria Police assigned Senior Constable Kirsty Robinson (SC Robinson) to be the Coroner's Investigator for the investigation into Mr P's death. SC Robinson conducted inquiries on my behalf,³ including taking statements from witnesses and compiling a coronial brief of evidence. The brief contains statements from witnesses, including Mr P's father, consultant psychiatrist Dr Dennis Shum, general practitioner Dr Anthony Bongiorno, other treating health practitioners, the forensic pathologist who examined him and

² Referred to as ⁴ in this finding unless more formality is required.

³ The carriage of the investigation was transferred from Deputy State Coroner English.

investigating officers, as well as other relevant documentation. Mr P's mother also provided correspondence to the Court dated 13 July and 4 October 2019.

- 8. As part of the investigation, this case was referred to the Coroners Prevention Unit (**CPU**).⁴ CPU were asked to undertake a review of the psychiatric assessment conducted by Dr Shum on 29 May 2017 where he completed a medical report for Victoria Police regarding Mr P's suitability for a firearm licence stating: "he is now fit to hold a gun licence".⁵ Advice was requested regarding whether Mr P should have been re-licensed and had his guns returned following a suicide attempt in February 2017.
- 9. This finding draws on the totality of the coronial investigation into Mr P's death, including evidence contained in the coronial brief, information from Mr P's medical records as well as the review conducted by CPU. Whilst I have reviewed all the material, I will only refer to that which is directly relevant to my findings or necessary for narrative clarity. In the coronial jurisdiction, facts must be established on the balance of probabilities.⁶

Background

10. Mr P had a history of mental health issues from childhood. From 2012 until the time of his death, Mr P accessed treatment through Dr Dennis Shum, consultant psychiatrist. In 2012, Dr Shum confirmed a childhood diagnosis of Attention Deficit Disorder⁷ and prescribed methylphenidate (Ritalin)⁸. In 2015, Mr P reported symptoms of increased irritability and energy followed by periods of low mood consistent with Bipolar Disorder. Dr Shum prescribed Epilim (sodium valproate)⁹ and changed Mr P's Ritalin to dexamphetamine¹⁰. Dr Shum considered Mr P to be stable while taking medication¹¹ and suitable for management by a GP with annual reviews by Dr Shum.

⁴ The Coroners Prevention Unit (CPU) was established in 2008 to strengthen the prevention role of the coroner. The unit assists the Coroner with research in matters related to public health and safety and in relation to the formulation of prevention recommendations. The CPU also reviews medical care and treatment in cases referred by the coroner. The CPU is comprised of health professionals with training in a range of areas including medicine, nursing, public health and mental health.

⁵ Victoria Police Medical report: Suitability for Victorian Firearm Licence Holders completed by Dr Dennis Shum on 29 May 2017.

⁶ Subject to the principles enunciated in *Briginshaw v Briginshaw* (1938) 60 CLR 336. The effect of this and similar authorities is that coroners should not make adverse findings against, or comments about, individuals unless the evidence provides a comfortable level of satisfaction as to those matters taking into account the consequences of such findings or comments.

⁷ Now referred to as Attention Deficit/Hyperactivity Disorder (ADHD) in the Diagnostic and Statistical Manual of Mental Disorders, Fifth Edition. American Psychiatric Association.

⁸ Ritalin is a stimulant medication prescribed for Attention Deficit Hyperactivity Disorder.

⁹ Epilim or sodium valproate is an anticonvulsant medication prescribed for seizures or mania.

¹⁰ Dexamphetamine is stimulant medication prescribed for Attention Deficit Hyperactivity Disorder.

¹¹ Coronial Brief, Statement by Dr Dennis Shum, page 1.

- 11. In January 2017, Mr P and separated and he went to live with his father. Mr P's mother said,
 - This devastated Mr P as he adored his 2 children but the fighting had gotten so bad that he needed to leave.
- 12. On 1 February 2017, Mr P attempted suicide by overdose on his prescribed medications. He consumed 30 x 200mg Epilim and 250 x 5mg dexamphetamine tablets. Family members contacted Victoria Police after Mr P sent a 'goodbye' text message. Mr P was located by police in the bush, naked and disoriented with a firearm. He was transported to Ballarat Hospital and admitted to the medical ward from 2 to 6 February 2017. Mr P reported depression and hopelessness due to a relationship breakdown and workplace stressors.
- 13. On 6 February 2017 Mr P was declared medically stable and transferred to the Adult Acute Unit (AAU) on an Assessment Order under the *Mental Health Act 2014* (Vic). Mr P was referred to the Youth Mental Health Service (YMHS) for brief treatment. His principal diagnosis for this treatment episode was Adjustment Disorder with disturbance in emotions and conduct. The consultant psychiatrist did not observe symptoms consistent with Bipolar Disorder during this treatment episode. The plan was to manage immediate risk, clarify diagnosis, and link Mr P in with ongoing intervention services.
- 14. On 8 February 2017, Mr P was discharged from compulsory inpatient treatment to voluntarily access treatment in the community. Mr P expressed remorse over his suicide attempt and stated that he no longer had intent to suicide. Mr P was assessed as moderate risk of deliberate self-harm and moderate risk of accidental self-harm. YMHS spoke with Dr Shum and Dr Bongiorno prior to his discharge and Dr Shum agreed to continue providing treatment. Mr P's preference was to access ongoing treatment through Dr Shum but agreed to follow-up from the community team. Mr P intended to work on his relationship with and return to the family home.
- 15. According to his father, Mr P returned to his family for a week but then moved back with his father.
- 16. Following Mr P's suicide attempt, Victoria Police seized his firearm licence and firearms. Mr P obtained his Firearms Licence on 4 February 2011 and owned eight firearms. On 7 February 2017, Victoria Police issued him with a Notice of Suspension and Proposal to

- Cancel under the *Firearms Act*. Mr P was an inpatient at BHS at the time and was described to be "upset and angry" about the suspension of his licence.
- 17. Mr P was reviewed at home on 10 and 22 February 2017. He had a stable mental state and denied suicidal ideation. Mr P expressed guilt and shame over his suicide attempt. Mr P was noted to be preoccupied with the loss of his firearms licence. Psychoeducation and supportive counselling were provided, and referrals to other services such as Relationships Australia and a private psychologist were discussed. Mr P did not attend scheduled appointments with YMHS on 7 or 29 March 2017.
- Attempts by health practitioners to contact Mr P were unsuccessful. Staff spoke with who advised that Mr P had scheduled an appointment with his private psychiatrist and did not require any further support or treatment through YMHS. did not report any concerns for Mr P's wellbeing at this time and advised that he had returned to work. On 4 April 2017, Mr P's treatment episode with YMHS was closed. A copy of his discharge summary was sent to Mr P, his GP and Dr Shun.
- Mr P attended two appointments with Dr Bongiorno following his suicide attempt; on 28 March and 18 April 2017. Dr Bongiorno was contacted by Ballarat Health Service (BHS) on 7 February 2017 and was therefore aware of Mr P's suicide attempt and mental health admission. On each occasion Dr Bongiorno conducted a general check-up and documented that Mr P was "pretty stable, sleeping well, diet ok". No reference is made to suicidal ideation during either consultation. On 28 March 2017, Dr Bongiorno provided a copy of a previous referral to Dr Shum. On 18 April 2017, Dr Bongiorno provided a script for dexamphetamine with the restriction that Mr P could only access one week of medication at a time. Dr Bongiorno had no further contact with Mr P prior to his death on 3 July 2017.
- Mr P attended two appointments with Dr Shum following his suicide attempt; on 21 and 29 May 2017. On 21 May 2017, Mr Pwas described as calm and settled. Mr P advised Dr Shum that he had not intended to use the firearm on himself. Mr P reported that recreational shooting was a way of managing his stress and he was feeling more stressed without this available to him. The treatment plan was for Mr P to continue prescribed medication collected on a weekly basis, continue seeing his GP, commence psychotherapy with a private psychologist and attend appointments with Dr Shum as required. Dr Shum provided a review for Dr Bongiorno on this day, recommending that Mr P continue on his regular

¹² Statement by Dr Anoop Raveendran Nair Lalitha, Ballarat Health Services Mental Health Services, page 10.

medication and be referred to a psychologist as soon as possible to address his work and marital issues.

- 21. On 29 May 2017, Mr P attended another appointment with Dr Shum. Mr P reported that he had decided to end his relationship with and was living with his father. Mr P reported that he was working full-time as a chef and his work stress resolved. Dr Shum reported that he and Mr P discussed issues about safety if Mr P's firearms licence was reinstated and strategies to reduce risk. On this day, Dr Shum provided the medical report, at Mr P's request, stating that Mr P was a fit and proper person to hold a firearms licence. Dr Shum considered the following factors in supporting Mr P; his psychiatric conditions were fully controlled, he was open and honest and engaging well with help, he had no history of alcohol or substance use, his suicide attempt was atypical of him and stress induced, the immediate stressors have greatly improved, he had a supportive father with whom he was living, and he was cooperative and willing to adhere to an agreed safety plan regarding his guns.
- 22. Mr P had made an earlier written submission (27 February 2017) requesting that he retain his firearms licence and was advised that he would need to provide:

 A medical report from your treating medical professional who indicates their awareness of your medical history and states that you are a fit and proper person to hold a firearms licence and that you pose no threat to yourself or the community by the possession and use
- 23. Dr Shum completed the required Medical report: Suitability for Victorian Firearm Licence Holders on 29 May 2017.
- 24. Mr P's mother recalls of her son in June 2017,

of firearms. 13

Mr P seemed to be doing really well and was having inspections at rental properties and had also put on lay-bye beds for his kids and household items and also a new bed for himself that he would pick up from lay-by once he obtained a property.

Mr P had started a new eating plan his personal trainer had designed and spent a whole day with me cooking a weeks worth of meals and it was the happiest I had seen him in a long time.

¹³ Letter dated 18 April 2017 from Senior Sergeant Andrew Armstrong, Licencing and Regulation Division, Victoria Police.

25. On 8 June 2017 the Licensing and Regulation division of Victoria Police approved his application. On 21 June 2017, Mr P attended Ballarat police station and his firearms were returned.

CIRCUMSTANCES IN WHICH THE DEATH OCCURRED

- 26. At approximately 10.09pm on 2 July 2017, Mr P posted a last entry on his Facebook account where he uploaded an image of himself and his 3-year-old daughter.
- 27. On Monday, 3 July 2017, Mr P's father was at work in Melbourne. Prior to him finishing, he was contacted by his father (Mr P's grandfather) who raised concerns about Mr P after receiving unusual text messages from him during the evening. Mr P's father attempted to call him but his phone appeared to be turned off.
- 28. At approximately 10.20pm, arrived at the Sebastopol address after driving from Melbourne having decided to return early. It was at this time that he discovered his son in the workshop slumped on the floor against a couch.
- 29. Observed a high-powered rifle partially tucked under his son's body. He contacted emergency services and then removed the rifle and secured it near the gun safe. Ambulance paramedics later attended but Mr P was unable to be assisted and he was pronounced deceased at the scene.
- 30. At approximately 10.40pm, police, including the Criminal Investigation Unit attended the scene and commenced an investigation. It was apparent that Mr P had caused injuries to his head by placing the rifle under his chin and firing the rifle. A handwritten note was located on the couch.
- 31. Police found no signs of forced entry to the shed. They noted that the padlock securing the sliding doors was unlocked but still attached to the lock and there was a second entry point which was locked from the inside.
- 32. Ultimately, no suspicious circumstances were found by police as a result of their investigation.
- 33. Police spoke to at the scene and she stated that Mr P had ongoing mental health issues and referred to the episode in February where he attempted suicide and had his firearms removed. She said that the medication he was put on after the incident (Epilim) caused him to have severe mood swings, aggression and anger issues.

to these side effects she asked Mr P to leave the family home given the presence of young children residing with them. The Coroner's Investigator recorded in her statement, stated she refused to have Mr P living at the family home due to having three children living there and she refused Mr P access to see the children. 14

IDENTITY

- 34. On 10 July 2017, having considered, amongst other things, the Victorian Institute of Forensic Medicine (VIFM) Identification Report and the Scientist's Report as to DNA Analysis, Coroner Rosemary Carlin made a determination pursuant to section 24 of the Act identifying the Deceased as Mr P, born 1992.
- 35. Identity is not in dispute and required no further investigation.

CAUSE OF DEATH

- 36. Forensic Pathologist Dr Victoria Francis from the VIFM, conducted an examination on 4 July 2017 and provided a written report of her findings dated 13 July 2017.
- 37. Toxicological analysis of post mortem samples identified the presence of amphetamine (~0.2 mg/L) in his blood.
- 38. Dr Francis provided an opinion that the medical cause of death was '1(a) Gunshot wound to the head'.
- 39. I accept Dr Francis' opinion.

FURTHER INVESTIGATIONS

CPU advice and analysis

- 40. Victoria Police appeared to rely on the opinion of Dr Shum in determining whether to reinstate Mr P's firearm licence and return his firearms. Once the medical report was provided, Mr P's application was approved, and his firearms returned.
- 41. In the *Medical report: Suitability for Victorian Firearm Licence Holders* dated 29 May 2017, Dr Shum stated that the marital and workplace stressors in Mr P's life had resolved, his mental conditions were well controlled, and he was compliant with medication. It is not clear from the medical records what had occurred between 21 March and 29 May 2017 to remove Mr P's marital and workplace stress. Mr P reported ending his relationship with

¹⁴ Coronial Brief at page 26.

- and moving in with his father but would have to have on-going contact with as they had two children together.
- 42.Dr Shum based his professional decision on his knowledge of Mr P's mental health history since 2012, and Mr P's self-report and presentation during two appointments on 21 March and 29 May 2017. YMHS sent Dr Shum a copy of their discharge summary. Dr Shum did obtain collateral information from Mr P's father who was also his patient, which appears to have occurred incidentally during an appointment for Mr P's father.
- 43. Dr Shum's medical records indicate that Mr P had discussed his interest in shooting since their first appointment in 2012. Notes state that Mr P reported owning a firearm and going hunting with a friend. Therefore, Mr P had demonstrated a legitimate interest in firearms that predated his suicide attempt.
- 44. The Department of Health and Human Services (**DHHS**) has guidance available on factors to consider when deciding if a person is unfit to hold a firearms licence. ¹⁵ The following factors are considered relevant;
 - the level of suicide risk
 - past episodes of violence to self or others
 - if there is a current risk of harm to the client or others
 - the presence of comorbid disinhibiting factors such as illicit drugs, prescribed drugs or alcohol
 - whether there is a history of verbally threatening behaviour
 - any lack of impulse control
 - whether the person is a danger to themselves or others when acutely ill
 - concern expressed by a significant other.
- 45. The CPU noted that this guidance is designed to assist health practitioners working in a "relevant psychiatric service" in deciding whether to make a notification to Victoria Police and does not apply to private practitioners. The guidance also does not provide information on how many risk factors are necessary to determine a person is unfit to hold a firearms licence or whether each risk factor is of equal concern. There is also no clarity on what level of suicide risk makes a person unfit to hold a firearm licence (i.e. moderate vs high risk).

¹⁵ https://www2.health.vic.gov.au/mental-health/rights-and-advocacy/privacy/notifying-police-about-people-unfit-to-carry-firearms

- 46. Dr Shum considered many of the above factors when determining that Mr P was a fit and proper person to hold a firearms licence. Dr Shum does not mention suicidal ideation in the medical report for Victoria Police and his medical records document that Mr P was not suicidal. Consistent with this, on discharge from YMHS in April 2017, Mr P was considered low risk of suicide.
- 47. The CPU considered that Dr Shum's professional judgement that Mr P was a fit and proper person to hold a firearms licence and have access to firearms was justifiable. Mr P had mental health diagnoses that are associated with impulsive behaviour and a recent serious suicide attempt (with admitted intent to die) leading to a compulsory mental health admission; however, he did not have a known history of violent or threatening behaviour, substance abuse, or repeat suicide attempts. Mr P had expressed guilt, shame and remorse over his suicide attempt in February 2017 and denied any ongoing suicidal ideation. He appeared to be engaging with treatment providers. Appropriately, prior to supporting Mr P's application to regain his firearm licence, Dr Shum discussed risk reduction strategies with Mr P including storing the firearm at his family's home (which family member is not specified) and not going shooting alone. These measures were clearly intended to reduce risk of an impulsive suicide attempt but do not appear to have been adhered to by Mr P. Mr P also agreed to see a psychologist to "develop better life skills". ¹⁶ There is no evidence he did so.
- 48. The CPU noted that Mr P re-acquired his firearms approximately five months after his suicide attempt which was sufficient time for the acute crisis to subside and for him to engage with treatment providers. Mr P had consistently denied suicidal ideation to treatment providers for a four-month period. His suicide attempt in February 2017 was the first known suicide attempt and not part of an established pattern of self-harming behaviour. Mr P expressed guilt, shame and remorse over his suicide attempt.
- 49. Medical records indicate that Mr P was distressed about the suspension of his firearms licence and preoccupied with having it reinstated. Mr P also had a limited amount of time to appeal the suspension and prevent his licence from being cancelled so this may have influenced his actions.
- 50. From the available information it is not possible to determine if MrP purposely mislead his treatment providers and re-acquired his firearms with an intent to suicide, or if this was an

¹⁶ Medical records of Dr Dennis Shum, psychiatrist, dated 29 May 2017.

impulsive decision in response to unknown stressors and he utilised the means available to him. Mr P's suicide note states that he wished he had never returned to his work place and that his wife was not welcome at his funeral, suggesting that his workplace and relationship remained stressors in his life.

- The CPU considered that it was difficult to fault Dr Shum's professional opinion that Mr P was a fit and proper person to hold a firearm in the absence of any clinical guidelines or <u>practice directions</u> on how to appropriately determine suitability to hold a firearm in individuals with mental health diagnoses or suicide attempts.
- 52. It was noted that mental health and suicidality are not static conditions and an individual may be a fit and proper person for a firearms licence at one point in time but not another.

Systemic issue identified for the purpose of prevention

53. The CPU were unable to identify any structured risk or capacity assessments in this area. In the absence of guidance, medical practitioners must rely on unstructured professional judgment to determine fitness to own a firearm. Risk assessments based on unstructured professional judgement alone are known to be unreliable. Therefore, there appears to be a systemic issue in that no framework exists for determining whether someone is a fit and proper person on medical grounds.

Engagement with Victoria Police

- 54. At my request, the Court wrote to Victoria Police to advise that the investigation had identified that there does not appear to be any clinical guidelines or practice directions on how to appropriately determine suitability to hold a firearm in individuals with mental health diagnoses or suicide attempts. Nor was the Court able to identify any structured risk or capacity assessments in this area and that in the absence of guidance, medical practitioners must rely on unstructured professional judgment to determine fitness to own a firearm and that risk assessments based on unstructured professional judgement alone are known to be unreliable.
- 55. Recommendations were proposed around the development of a framework for determining whether someone is a fit and proper person on medical grounds to hold a firearm licence and firearms, noting that the Royal Australian and New Zealand College of Psychiatrists (and potentially the Royal Australian College of General Practitioners) may be an appropriate

body to assist in the development of an appropriate set of clinical guidelines to assess fitness to hold a firearms licence and firearms.

- 56. Suggestions for inclusion in the framework included:
 - clinical guidance similar to that provided to health practitioners on assessing fitness to drive;
 - a more structure medical report to facilitate consideration of all the factors that may medically influence whether someone is a fit and proper person;
 - a requirement to send the medical report independently to Victoria Police rather than provide it directly to the patient;
 - additional professional training or a hotline that could be contacted by medical practitioners;
 - in cases where an individual has had their firearms removed due to suicidal behaviour, a requirement could be introduced for two medical opinions; and
 - placing conditions on a firearms licence that an individual continue to engage with a medical practitioner and comply with treatment directions.
- 57. Victoria Police indicated that they were supportive of a recommendation to introduce a firearm licensing and ownership framework to support health professionals assessing individuals ongoing suitability to carry, use and possess firearms and hold firearms licence. In addition, that they considered that in the development of any individual mental health plans, all patients are asked about their access to, or the availability of, firearms.
- The response noted that in appropriate circumstances, Victoria Police can impose conditions upon an individual's licence, whereby access to firearms related activities is restricted. For example, a person may be issued a licence with the condition that they may not own or store firearms and are restricted to only participate in clay target shooting at an approved range. In addition, that another approach taken is to restrict the duration of the license, for instance issuing the licence for one year as opposed to five years. They did however concede that an approach of this sought relies on the effectiveness of systems, human resources and self-reporting on behalf of licence applicants.

FINDINGS AND CONCLUSIONS

Having investigated the death, without holding an inquest, I find pursuant to section 67(1) of the Act that Mr P, born 1992, died on 3 July 2017 at Victoria, Victoria, from 'Gunshot wound to the head', in the circumstances described above.

Intent

- 60. Having considered the available evidence, including the means chosen, I am satisfied that by his actions, Mr P intended to end his life.
- 61. Mr P left a note at the scene in which he expressed his sorrow for his actions and said, Just can't do it anymore have been trying so hard to stay strong but it destroyed me feel like iv lost everything and everyone....Please forgive me Don't let my kids forget me. His mother said that all he wanted was to see his children.
- 62. She also said that he had plans for the future,

 Mr P had plans, he had organised rental inspections, he had purchased items for himself
 and his children for when he obtained a property, Mr P did not want to die, he could see a
 future
- 63. His mother's observations suggest that his actions may have been impulsive and that he felt overwhelmed by the circumstances he experienced in that moment in time.
- 64. I note that suicide is preventable but it is often difficult to predict, particularly in circumstances such as these where Mr P gave no indication to those close to him, including health professionals, that he was considering the path he chose.
- 65. I am unable to determine whether Mr P would have taken the same action, with other available means, had his licence and firearms not been returned.

66. I convey my sincere condolences to Mr P's family and friends for their loss and the tragic circumstances in which the death occurred.

RECOMMENDATIONS

- 67. Pursuant to section 72(2) of the Act, I make the following recommendations:
 - Victoria Police develop a framework for determining whether a person with a history of
 or current mental illness and suicidality is a fit and proper person to hold a firearm
 licence under the Firearms Act, in consultation with the Royal Australian and New
 Zealand College of Psychiatrists and the Royal Australian College of General
 Practitioners; and
 - As part of the development of that framework, the Royal Australian and New Zealand
 College of Psychiatrists and the Royal Australian College of General Practitioners
 develop a set of clinical guidelines regarding assessing fitness to own a firearms licence
 and firearms in people with a history of or current mental illness and suicidality.
- 68. Pursuant to section 73(1B) of the Act, I order that this finding (redacted) be published on the Coroners Court of Victoria website in accordance with the rules.
- 69. I direct that a copy of this finding be provided to the following:

, senior next of kin

Senior Constable Kirsty Robinson, Victoria Police, Coroner's Investigator

Signature:





SARAH GEBERT, CORONER

Date: 25 February 2021