



## CORONERS COURT OF NEW SOUTH WALES

<b>Inquest:</b>	Inquest into the death of Brent Reginald Pottinger
<b>Hearing dates:</b>	17-19 February 2025
<b>Date of findings:</b>	20 March 2025
<b>Place of findings:</b>	NSW Coroners Court, Lidcombe NSW
<b>Findings of:</b>	Magistrate Harriet Grahame, Deputy State Coroner
<b>Catchwords:</b>	CORONIAL LAW – death as a result of fall from height, NSW Police operation, apprehended domestic violence order, appropriateness of NSW Police response
<b>File Number:</b>	2023/154615
<b>Representation:</b>	Counsel Assisting the Coroner: Joanna Davidson and Peita Ava Jones instructed by Leanne Kohler, NSW Crown Solicitor's Office  NSW Commissioner of Police: Jillian Caldwell instructed by Stuart Robinson, Office of General Counsel
<b>Non-publication orders:</b>	Non-publication orders made on 19 February 2025.  A copy of the orders can be obtained on application to the NSW Coroners Court registry.

<b>Findings</b>	<b>Identity</b> The person who died was Brent Reginald Pottinger. <b>Date of death</b> Brent died on 13 May 2023. <b>Place of death</b> Brent died at Royal North Shore Hospital, St Leonards NSW. <b>Cause of death</b> Brent's cause of death was multiple blunt force injuries. <b>Manner of death</b> Brent's death was accidental after falling from the fourth floor of an apartment block.
<b>Recommendations</b>	No recommendations were made.

## Introduction

1. This inquest concerns the death of Brent Reginald Pottinger. Brent died on 13 May 2023 at Royal North Shore Hospital after he fell from the fourth floor of a unit block on Shirley Road, Wollstonecraft. At the time of his fall, NSW Police were on scene investigating an allegation that Brent breached an Apprehended Domestic Violence Order (ADVO). This was the second time in the course of a few hours that NSW Police had been called to the premises where Brent's friend and partner Tiffany Bisley lived.
2. Brent was 41 years old at the time of his death. He was dearly loved by his close family. His father and two sisters attended Court and their grief was palpable. They described Brent as a loving and caring person who would always be there to support someone in need. He was also full of adventure, always the life of the party and with a unique passion for life. He loved cars, boats, parties and food. He was described as loyal, passionate and fun. He is clearly greatly missed.
3. Tiffany Bisley also attended the inquest via AVL. She spoke of Brent with great affection, remembering that some of the happiest days of her life were spent with him. She also spoke of Brent's zest for life, his laugh and his warmth. The circumstances of his death continue to haunt her.
4. Brent's sudden and tragic death has affected many who knew him. I express my sincere condolences to his family and friends.

## The role of the coroner and the scope of the inquest

5. The role of the coroner is to make findings as to the identity of the nominated person and in relation to the place and date of their death. The coroner is also to address issues concerning the manner and cause of the person's death.<sup>1</sup> A coroner may make recommendations, arising from the evidence, in relation to matters that have the capacity to improve public health and safety in the future.<sup>2</sup>
6. An inquest was required to be held into Brent's death because of its connection to a NSW Police operation. Inquests in circumstances such as those are mandatory due to the combined effect of ss 23(1)(c) and 27 of the *Coroners Act 2009* (NSW) (the Act). There is significant public interest in matters of this kind and a clear need to independently scrutinise the adequacy and appropriateness of the actions of police.
7. Brent's family also had a need to know exactly what happened that evening and to understand the difficult decisions that were made.

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<sup>1</sup> Section 81 *Coroners Act 2009* (NSW).

<sup>2</sup> Section 82 *Coroners Act 2009* (NSW).

## **The evidence**

8. The Court took evidence over three hearing days and also received extensive documentary material in four volumes. This material included witness statements, medical records, photographs and video footage, as well as policy and procedural documents supplied by NSW Police. While I am unable to refer specifically to all the available material in detail in my reasons, it has been comprehensively reviewed and assessed.
9. The brief of evidence was compiled by the officer in charge (OIC) of the investigation, Detective Inspector Michelle Mathieson and her second in command Detective A/Inspector Andrew Brennan. Their investigation was thorough and complied with internal police protocols for the investigation of critical incidents.
10. A list of issues was prepared before the proceedings commenced. These issues guided the investigation and, after recording a brief chronology, I intend to structure these findings by reference to the matters set out below:
  - i. Was it reasonable and appropriate for police to arrest Brent on 12 May 2023 for breaching his ADVO?
  - ii. Was Brent subject to a Community Corrections Order (CCO) with an alcohol abstinence clause on 12 and 13 May 2023? Would it have been reasonable and appropriate for police to charge Brent with breaching the CCO following his arrest on 12 May 2023? Why wasn't this considered by police?
  - iii. Was it reasonable and appropriate for police to decide not to charge Brent with breaching his ADVO?
  - iv. Whether the police response to Tiffany's '000' call on 13 May 2023 was reasonable and appropriate.
  - v. Is it necessary or desirable to make any recommendations pursuant to s 82 of the Act.

## **Background**

11. In opening this inquest, counsel assisting provided a summary of much of the undisputed documentary evidence. Given that the events were largely agreed, I have relied heavily on her account which, in my view, accurately reflects the detailed evidence before me.
12. Brent was born in Ryde and grew up in North Epping with his parents, Bruce and Pauline, and two older sisters Kylie and Nicole. He was greatly affected by his mother's death in 2020. The family were close and Brent's father and sisters attended each day of these proceedings.
13. Nicole says her brother's "*passions in life*" included "*friends, having fun and cooking*". He was

*“a very helpful person”* who *“would do anything for anyone”* and *“was a hard worker”*. Brent had a ski boat which was his pride and joy. He would take it out on the harbour which his dad says was *“his enjoyment in life”*.

14. After high school, Brent worked in the automotive industry for about six years. He was highly regarded with an exceptional work ethic. He then commenced working in his father's professional photographic supply business in Artarmon. Brent looked after the rental department and learned the photography trade and the equipment required for professional photography. Brent's father gave a moving family statement where his love for his son was evident.
15. Brent met Tiffany Bisley in 2009 after she hired photography equipment for a fashion shoot. At that time, Tiffany was living in Hong Kong but frequently returned to Australia. She and Brent developed a friendship and, from time to time, their relationship was romantic.
16. In about 2015, Brent moved to Hong Kong with a plan to set up a photography business. He stayed with Tiffany for about one week before finding his own place. They moved in similar circles but did not catch up often.
17. For his first two or so years in Hong Kong, Brent ran workshops in fashion studio lighting and camera work. Due to a Hong Kong government restructure, the business was ultimately not sustainable and Brent started a motorbike modifications business. For someone with a love for motorbikes, it was a perfect fit.
18. It appears Brent's business was thriving for some time but, in 2020, the COVID-19 pandemic proved devastating to his efforts. Brent was unable to obtain parts and some of his customers put a lot of pressure on him to get their bikes finished. Brent was working around the clock. He was also deeply affected by his mother's deteriorating health and his inability to travel back to Australia for her funeral due to border closures. Brent's father believes he fell into a deep depression around this time.
19. It also appears that around this time Brent began to behave erratically. He reported that his mood was elated and described occasions of speeding on his motorbike believing he was in a race. He also claimed to have swum across Hong Kong Harbour convinced he was receiving messages and signs from a lighthouse. He felt invincible. Reflecting on his experience when back in Australia, Brent reported that while he had no insight at the time, he could now see his behaviour was unusual and he found it hard to understand. This must have been a confusing experience for Brent who had no previous history of mental health concerns.
20. It was during this period of unusual behaviour that Brent was arrested in Hong Kong for property offences. He was incarcerated from October to December 2020 in a prison psychiatric hospital and there received a diagnosis of bipolar disorder.

21. According to his sister Kylie, Brent did not cope well with authority. He was reportedly aggressive when first arrested in Hong Kong causing police (so he told his father) to chain him up. He apparently damaged property even after being restrained. Kylie said that following Brent's experience with Hong Kong police and gaol he developed an "*extreme fear*" of police and any possibility of going back to gaol.
22. The COVID-19 period was difficult for Brent. He could not come back to Australia as early as he may have wished. However in January 2021, after receiving a suspended sentence in Hong Kong, he flew back to Australia and entered hotel quarantine in Sydney. During this time, he was supported by a psychiatrist attached to Royal Prince Alfred Hospital. His medical records reveal he took olanzapine to treat his bipolar disorder, but it made him drowsy and he wanted to cease taking it.
23. Brent went to his general practitioner, Dr Rust, in February 2021 and relayed his bipolar diagnosis and recent incarceration. He reported that he had not taken his prescribed medication for a few days because he did not like feeling sedated and continually flat. Dr Rust prescribed lurasidone, which is an oral atypical antipsychotic medication which can be used to treat various mental illnesses, including bipolar disorder.

#### **Events of 9 July 2022**

24. On 9 July 2022, Brent came to the attention of security staff when he was out in Manly at the Steyne Hotel. According to NSW Police records, Brent was approached and asked to perform a sobriety test. It is recorded that the security guard was "*instantly met by [Brent's] argumentative, aggressive and intoxicated state*". In response to a request to leave the premises, Brent "*lunged out with closed fists striking [the security guard] in the face a number of times before the pair fell to the ground in a grapple.*" Additional security attended and Brent was restrained.
25. Police, who happened to be walking past, saw Brent being held down by security. They handcuffed him and placed him under arrest. He was ultimately convicted of assault and failure to leave licensed premises and he received a Community Corrections Order (CCO) in October of that year. One of the conditions of his 12-month CCO was to abstain from alcohol. This order was in effect at the time of his death.
26. Despite the CCO requiring him to abstain from alcohol, it appears that Brent continued to drink. His father observed that Brent's drinking increased over the 18 months before his death and that it was excessive.

#### **November 2022**

27. Tiffany had returned to Australia at the start of the pandemic and she and Brent would catch up

as friends from time to time. In November 2022, they started dating.

28. Brent's sister Nicole had the impression that he and Tiffany were in love. At Christmas that year, Brent visited his father and told him that he was in love with Tiffany and "*she was the one for him*". There is no doubt that the couple had strong feelings for each other and experienced a bond of friendship that had lasted many years.
29. Brent moved into Tiffany's apartment in February 2023. This was intended to be a temporary arrangement until Brent could secure other accommodation. Tiffany's unit block is situated on the corner of Shirley Road and Milner Crescent, Wollstonecraft. Her fourth floor balcony overlooks Shirley Road.
30. Tiffany says that "*initially everything was lovely*" but by the sixth week, she and Brent were arguing. Tiffany is clear that the arguments were never physical and no threats were ever made.
31. Brent attended upon Dr Rust on 31 March 2023. It is not clear what precipitated this visit but the evidence from Tiffany is they were having arguments and that she would try to help Brent calm down. She observed Brent to be struggling and speculated it might be related to poor anger management, suppressed grief surrounding his mother's death, or his bipolar disorder. She told Brent she did not feel equipped to deal with the situation.
32. Dr Rust's records disclose that Brent asked him for a mental health referral but insisted it not be to a psychiatrist because while he wanted help, he did not want to be medicated. A referral was made to psychologist Robert Craig and the main issues identified on Brent's Mental Health Plan were: "*to get my head sorted, to control my anger, to deal with my frustration*". Brent's history of bipolar disorder was recorded in the Plan and the referral letter noted that he had ceased taking Latuda, which is the brand name for lurasidone.

### **11 April 2023**

33. On 11 April 2023, an incident occurred at Tiffany's unit. Neighbours heard yelling and banging from inside her apartment and a woman's voice saying, "*please stop*" prompting them to call police.
34. NSW Police attended the apartment but Brent refused to open the door. A warrant was applied for and granted. Police forced entry by breaking down the front door. Tiffany told police that her argument with Brent had been verbal only and that she did not have any fears for her safety. Nonetheless, police had concerns and subsequently applied for an ADVO protecting her from Brent.
35. A final ADVO was made at Manly Local Court on 2 May 2023 prohibiting Brent from assaulting or threatening Tiffany, stalking, harassing or intimidating her, and destroying or damaging her property. There was no condition otherwise restricting their contact.

36. Tiffany said that police breaking into her apartment left them both shaken and it brought them closer. She describes this event as the catalyst for them remaining together. She says they had a “*deep moment*” that night. Brent cried and she “*told him to go get some help*”.<sup>3</sup>

### **Events following 11 April 2023**

37. However, as the week went on Tiffany says she found herself struggling to cope with what had happened on 11 April. She told Brent she wanted a break and he moved out.

38. On 19 April 2023, eight days after the police incident that culminated in the ADVO, Brent booked an appointment to see psychologist Robert Craig on Tuesday, 16 May 2023. It is clear to me that Brent had some insight into his problematic behaviour and was prepared to seek help.

39. Tiffany says the ADVO put a strain on their relationship and that she did not want it. She was aware of its conditions and was concerned that Brent might message her when feeling upset or angry and get into trouble with police. She has explained that it was this concern that drove her decision to block Brent’s communications with her except via email.

40. Over the next few weeks, the pair checked in on each other by email. Evidently, they still cared deeply for one another. One day, they met up at a local park and Brent told Tiffany he understood she needed a break but asked that it not be labelled as such. They both considered themselves to still be in a relationship. Brent seemed committed to seeking help.

41. On 8 May 2023, Tiffany and Brent met for lunch. Tiffany said, “*he didn’t look great*”. He was worried about finding a unit and his gout had flared up from the stress of the situation, causing him to be in pain. Tiffany told Brent that he would need to remove his personal items from her garage before she went to Queensland the following week and he agreed to fetch them in the coming days.

### **Friday, 12 May 2023**

42. On 12 May 2023, Brent spent the afternoon at Tiffany’s apartment confiding in her that he had an upcoming appointment with a psychologist where “*he hoped to get some answers*” which would improve their relationship. He said he wanted them to settle down and have a family.

43. At around 7:00pm, Tiffany and Brent went to the Oaks Hotel at Neutral Bay for a drink. Following this, they went to a taco restaurant for dinner. Brent drank beer, margaritas and had a shot of tequila. Tiffany recalls having a lot of fun with Brent that evening.

44. Back at Tiffany’s apartment, Brent was insistent on talking about a subject which was sensitive for Tiffany and which she made clear she did not want to discuss.

45. Tiffany later told police that “*he continued to talk about it. His attitude became extremely*

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<sup>3</sup> Tiffany Bisley statement [23].



*dramatic and over the top. He would not let the topic go and continued to push me to talk about it. I decided I wanted him to leave and repeatedly asked him to go. I felt I could no longer deal with him and what was happening. I wasn't able to talk to him or calm him down. He seemed so worked up and I just wanted him to leave and cool off.*" Tiffany did not want to divulge the exact nature of the conversation to police but made it clear that Brent would not stop and refused to leave her apartment.

46. Later at Chatswood Police Station, Brent was open with police about the subject matter of this conversation. Senior Constable De Zeeuw told the Court, *"Brent shared with us that [REDACTED]."* The evidence indicates that Brent was insistent that they talk about it, causing the couple to argue and become distressed.
47. It appears that nothing would make Brent drop the conversation and it is then that Tiffany threatened to call police, hoping that action would finally make him stop. She keyed '000' into her mobile phone, showed him the screen, quickly pressed the call button and a second later hung up. Brent then left her apartment.
48. It is known that a '000' operator then contacted Tiffany who explained what had occurred and confirmed that an ADVO was in place for her protection. The Court heard the recording of this '000' call. Tiffany's apartment buzzer can be heard in the background and she says, *"I really need him to go"*. At times, she sounds scared. The operator tells Tiffany that police will attend.
49. The dispatch message to police confirmed that an ADVO was in place, that Brent was downstairs ringing Tiffany's buzzer non-stop and that she was *"home alone and scared"*.
50. Senior Constable Gregory De Zeeuw and Probationary Constable Thomas Jones were the first police on scene at 11:07pm. Acting Sergeant Martin Irwin, the on-road or external supervisor, arrived at about the same time and they entered Tiffany's apartment together.
51. Senior Constable De Zeeuw had an initial conversation with Tiffany who provided details of what had occurred. She was observed to be very emotional and teary. Senior Constable De Zeeuw told the Court, *"she was very visible and very apparent that she was very emotional. She was crying. She was quite erratic. One minute she was crying and then she would, sort of, I guess settle down and be able to talk clearly. And then she would cry again."*<sup>4</sup> He also told the Court that her demeanour was consistent with someone *"who was probably experiencing intimidation or something from somebody else."*<sup>5</sup>
52. Tiffany told police that Brent had not been violent but that there had been a verbal dispute.<sup>6</sup>

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<sup>4</sup> 17/2/25 T35.9-13

<sup>5</sup> 17/2/25 T36.1

<sup>6</sup> A/Sgt Irwin ERISP [34.52].

Senior Constable De Zeeuw believes she said she was concerned but not scared.<sup>7</sup> Tiffany confirmed that there was an ADVO in place for her protection with the standard conditions.<sup>8</sup>

53. After obtaining background information from Tiffany, Acting Sergeant Irwin and Senior Constable De Zeeuw discussed in the foyer how to proceed. Acting Sergeant Irwin told Senior Constable De Zeeuw about the prior incident leading to the ADVO where police had to kick Tiffany's apartment door in.<sup>9</sup> Whilst it was unclear to them at that stage exactly why Tiffany had called '000', the fact that she did raised concerns for Senior Constable De Zeeuw.<sup>10</sup>

54. Acting Sergeant Irwin recalled his advice as follows:

*"...I said, Mate, she's an emotional wreck, she said she was, um, a bit fearful and concerned about his demeanour and his actions and stuff like that, and I said, There's already a current AVO in place, there's been incidences before. I said, you know, We're gunna, you're gunna have to arrest him and, you know, you'd do him for a breach of AVO along the lines of intimidation. Ah, if you are going to breach along the lines of the AVO of intimidation you'd have to charge with intimidation, um, and, and then sort of go from there..."*<sup>11</sup>

55. The police present at Tiffany's apartment were aware of the need to take particular care when attending an allegation of domestic violence. Each officer expressed it slightly differently, but the theme was common. Senior Constable De Zeeuw gave evidence that *"from a general duties perspective ...domestic violence issues seem to be, I guess held at a higher level. So yeah I think the onus is on us to...look into domestic violence probably more heavily than we would a normal incident"*.<sup>12</sup> He also spoke of the implications of not acting and that this might be *"scrutinised by certain people."*

56. Acting Sergeant Irwin spoke of domestic violence related incidents as being *"the highest risk incidences"* within the Command.<sup>13</sup> As the on-road supervisor, it was necessary for him to attend the scene. He noted that Tiffany was scared and home alone. His evidence indicates that the previous ADVO incident weighed heavily on his assessment of the risks involved. He told the Court, *"there's been a high level of focus on our response and dealing with domestic violence incidents in the past few years...we do treat them with a lot of, you know, respect and professionalism"*.<sup>14</sup>

57. I am not critical of the intention behind these comments and, in my view, it reflects nothing untoward. Rather, it appears to suggest that NSW Police are beginning to understand the

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<sup>7</sup> SC De Zeeuw ERISP [28.18]

<sup>8</sup> SC De Zeeuw ERISP [28.46-47]. Constable Jones states that while SC De Zeeuw is talking with Tiffany, he conducted checks on his police mobipol regarding the ADVO conditions and the circumstances leading to the ADVO [30.8].

<sup>9</sup> SC De Zeeuw ERISP [28.65-66].

<sup>10</sup> SC De Zeeuw ERISP [28.66].

<sup>11</sup> A/Sgt Irwin ERISP [34.58]

<sup>12</sup> 17/2/25 T35.39-41

<sup>13</sup> 17/2/25 T49.3

<sup>14</sup> 17/2/25 T63.1-3

seriousness of domestic violence, its prevalence in the community and the need to redress an historic anomaly where these matters were not taken seriously enough. In my view, the need to take extra care in investigating a potential ADVO breach factored into the approach police took on the evening.

58. Acting Sergeant Irwin recommended that a Domestic Violence Evidence in Chief (DVEC) be recorded or a statement obtained from Tiffany.<sup>15</sup> Tiffany was hesitant but agreed to provide a DVEC.<sup>16</sup> This information was conveyed to Acting Sergeant Irwin<sup>17</sup> who was, by this time, outside with another police crew - Constables Carolyn Lacey and Sean Laracy - who had located Brent in his parked Range Rover on Milner Crescent.
59. When with Brent at his vehicle, Constables Laracy and Lacey observed him to send a text message to Tiffany "*at least once*"<sup>18</sup> and to drink an entire bottle of beer "*in a short amount of time*"<sup>19</sup>. Brent also confirmed that he had been drinking earlier in the evening<sup>20</sup> and Acting Sergeant Irwin recalls there was a case of Pure Blonde in the car.<sup>21</sup>
60. Brent told Constable Lacey about the ADVO and "*that he was on a good behaviour bond but did not elaborate on what that was for*".<sup>22</sup>
61. After receiving an update from Constable Jones that Tiffany was prepared to provide a DVEC, Acting Sergeant Irwin took Constable Lacey aside and directed her to arrest Brent for breaching his ADVO on the basis that he had intimidated Tiffany.<sup>23</sup> Constable Lacey performed the arrest and cautioned Brent.<sup>24</sup> This arrest was captured on body worn video.
62. Constable Lacey explained the circumstances of the arrest in her oral evidence. She performed the arrest under her superior's direction, rather than making an independent personal decision that it was necessary. It was the first arrest she had made since joining the NSW Police Force. Constable Lacey described Brent as "*slightly intoxicated*" and "*unsteady on his feet*". He was not aggressive. She said that his reaction to being arrested was "*surprise and confusion*" and that he was convinced that it must have been neighbours who had called police.<sup>25</sup>
63. Brent was taken to Chatswood Police Station. Based on Constable Laracy's interactions with him, Brent's level of intoxication when entering custody at 12:15am on 13 May 2023 was

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<sup>15</sup> A/Sgt Irwin ERISP [34.21].

<sup>16</sup> Tiffany later declined the DVEC but agreed to provide a written statement instead. See De Zeeuw police notebook entry.

<sup>17</sup> Constable Jones statement [30.15].

<sup>18</sup> Constable Laracy statement [36.14]; Constable Lacey statement [37.20].

<sup>19</sup> Constable Laracy statement [36.16]; Constable Lacey statement [37.11].

<sup>20</sup> Constable Laracy statement [36.11]; Constable Lacey statement [37.7].

<sup>21</sup> A/Sgt Irwin ERISP [34.71].

<sup>22</sup> Constable Lacey statement [37.8].

<sup>23</sup> A/Sgt Irwin ERISP [34.22; 66] and Constable Lacey statement [37.9].

<sup>24</sup> Constable Lacey statement [37.10].

<sup>25</sup> 18/2/25 T72.20

assessed as moderate.<sup>26</sup> Brent was observed every 30-minutes by Custody Manager Sergeant Belinda Taylor who described him as compliant at all times.

64. Brent participated in an electronically recorded interview (ERISP) with Constable Jones and Senior Constable De Zeeuw commencing at 1:37am. He relayed his version of events, denied being angry but described himself as *“fired up”*. He rejected that his behaviour was intimidating.<sup>27</sup>
65. Brent gave an account of the evening, explaining that he and Tiffany had been out for drinks and then to a Mexican restaurant. They had enjoyed a good evening and it was only once they returned to Tiffany’s apartment that things had become difficult. Brent told police about the content of the difficult conversation he had had with Tiffany, something Tiffany had not wanted to share with officers. Senior Constable De Zeeuw told the Court that Brent’s account was largely consistent with the account Tiffany had given, but that they now understood the sensitive nature of the triggering conversation.
66. Police asked Brent to unlock his phone and they saw a message from Tiffany sent at 12:42am that read, *“Are you ok?”*<sup>28</sup>
67. Senior Constable De Zeeuw told the Court that after the ERISP he began to question whether Brent should in fact be charged with any offence. He said, *“the fact, I think that she had text messaged him very shortly after us leaving, pretty much as soon as we left. I guess, checking on his welfare, I don’t think that somebody experiencing intimidation would probably do that. And yeah, I think the puzzle – pieces of the puzzle came together through the interview, we were able to see what the topic was and how it would affect, I guess, Brent emotionally and how, if it’s a topic that’s always been ignored, it would be quite frustrating on his behalf.”*<sup>29</sup>
68. Following the ERISP, Senior Constable De Zeeuw took into consideration various matters:
  - a. He did not consider Brent’s actions that evening to be intimidatory.
  - b. Tiffany might have shown Brent ‘000’ on her phone screen as a device to stop the conversation she did not want to have with him and had not directly called for assistance.
  - c. Tiffany never expressed to attending police feeling fearful of Brent.
  - d. Brent left the apartment without incident when asked to leave.
  - e. Tiffany had sent a text message to Brent checking on his welfare after police left her home.<sup>30</sup>
69. Senior Constable De Zeeuw then discussed the matter with Custody Manager Sergeant Taylor

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<sup>26</sup> Constable Lacey statement [37.21]. Laracy says: *“He had slightly slurred speech and I could smell alcohol on his breath. I would say he was slightly to moderately intoxicated. His balance seemed fine.”* [36.18]. See also Custody Management Record [20].

<sup>27</sup> Pottinger ERISP [23.53-54].

<sup>28</sup> Pottinger ERISP [23.64].

<sup>29</sup> 17/2/25 T41.5-11

<sup>30</sup> SC De Zeeuw ERISP [28.18].

and with Sergeant Misipeka, who was the internal supervisor that evening. He also consulted Acting Sergeant Irwin, the external supervisor who had been at the scene and had knowledge of the job. By then, police were able to assess all the available information, including Tiffany's notebook statement and Brent's ERISP.

70. Senior Constable De Zeeuw said that there was consensus between Sergeants Irwin, Misipeka and Taylor to release Brent without charge.<sup>31</sup> He explained that police had considered varying the ADVO in relation to contact but that Tiffany had been adamant that she did not want such a variation. Additionally, police did not feel there were grounds to vary the ADVO because they did not think Brent had committed an offence.
71. Each of the officers involved in the decision to release Brent without charge gave consistent evidence that consultation had taken place.
72. By the time Brent was released from custody, he was considered to be "*slightly affected by alcohol*".<sup>32</sup> He was released with \$439 in cash in his wallet and a mobile phone.<sup>33</sup> Senior Constable De Zeeuw says he shook Brent's hand and that Brent thanked him for listening to his side of the story. He asked Brent what he was going to do and Brent said he was going to return to his car. Senior Constable De Zeeuw told Brent not to return to his car and that this would be the worst thing he could do. He advised Brent to call a mate, have a debrief and a sleep and then wake up in the morning and work out what he wanted to do. Brent said that he would not go back to his car and that he would call a mate. Senior Constable De Zeeuw reported telling Brent not to let him down.<sup>34</sup> Brent is captured on CCTV leaving Chatswood Police Station at 2:39am. Senior Constable De Zeeuw describes having a further conversation with Acting Sergeant Irwin about the decision not to charge Brent and that they were both comfortable with the decision.
73. I am not critical of the way police released Brent from the police station. There is no evidence that he was overly intoxicated at this stage. Senior Constable De Zeeuw appeared to have developed an appropriate rapport with Brent and certainly believed that he had no intention of driving or indeed returning to Tiffany's apartment. In effect there had been a "cooling off period". I understand why police did not encourage Brent to return to his car which was parked near Tiffany's apartment block. Going back to the vicinity might have tempted further contact and while Brent did not appear overly affected by alcohol, he had been drinking.
74. Almost immediately after leaving Chatswood Police Station, Brent entered The Orchard Hotel in Chatswood at 2:50am. A close examination of the CCTV within that hotel shows that Brent consumed five schooners of beer, played the poker machines and interacted with a female

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<sup>31</sup> SC De Zeeuw ERISP [28.18].

<sup>32</sup> Custody Management Records [20] see 2:20am entry.

<sup>33</sup> Property Docket signed by Brent Pottinger [21].

<sup>34</sup> SC De Zeeuw ERISP [28.18]. See also [28.125].

patron. At around 3:50am, he begins to show what the OIC described as “*clear signs of intoxication*” based on his body movements including uncoordinated walking, attempts to put money into a poker machine and notable difficulty putting on his jacket. I have watched the CCTV and accept Brent is clearly intoxicated at this time.

75. Brent left The Orchard Hotel at 4:30am.

76. Consistent with his phone messages to Tiffany, the OIC has ascertained that Brent walked from The Orchard Hotel back to Tiffany’s unit block at 54 Shirley Road, Wollstonecraft via the Pacific Highway.<sup>35</sup> This is a distance of more than five kilometres and it is estimated it would have taken him almost an hour and ten minutes.

### **The critical incident: 13 May 2023**

77. Shortly before 6am, Brent returned to 54 Shirley Road and started buzzing Tiffany’s intercom. By this point, he had been calling her mobile phone and sending text messages from the time he was released from custody (2:42am)<sup>36</sup> including a message that read, “*You called the police dick. Been begging my ass off in a police cell the last 5 hours to not get me in jail*” (3:25am) and “*You nearly put me in jail!!*” (4:39am).<sup>37</sup>

78. At 5:59am, Tiffany sent Brent a text message that read, “*Please go home and get some sleep Brent. I can’t talk to you right now.*”<sup>38</sup> Moments later she called ‘000’ because she was concerned that Brent was attempting to enter her apartment.

79. Brent called Tiffany again at 6:02am and left a voicemail 4 minutes and 11 seconds in duration. It starts with banging sounds on a door and Brent yelling out, “*open the fucking door Tiffany...Open the door and talk to me...open the door and talk to me (lots of banging) ...Tiffany...fucking ridiculous shit...people’s shit...*”<sup>39</sup>

80. It appears that the door Brent is banging on at this point is the one to Tiffany’s apartment, that is, within the apartment building itself. Although there was a glass security door downstairs, the CCTV reveals that Brent managed to gain entry into the lobby from a resident with a key fob.

81. The ‘000’ job was broadcast over police radio at 6:03am as a Priority 2 domestic with the notation, “*Brent is trying to break in*”. Police immediately proceeded to the unit block under lights and sirens. This response was clearly appropriate.

82. The first police crew comprising Constables Nicholas Macko and Nicholas Atherton arrived on

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<sup>35</sup> Timeline of events [5]: POTTINGER WALKS FROM ORCHARD HOTEL CHATSWOOD TO 54 SHIRLEY ROAD WOLLSTONECRAFT (from POTTINGER’s MIR’s it appears he walks via Pacific Highway (CCR-3 and CCR-4)).

<sup>36</sup> Chronology of Pottinger’s mobile phone/cellebrite

<sup>37</sup> Chronology of Pottinger’s mobile phone/cellebrite

<sup>38</sup> Chronology of Pottinger’s mobile phone/cellebrite.

<sup>39</sup> OIC statement [4.128].

scene at 6:08am<sup>40</sup> parking on Milner Crescent opposite Tiffany's building. Because it was a residential area and early morning, they had turned off their siren on Newlands Street at about the roundabout,<sup>41</sup> approximately 600 metres from the building. They left their lights activated when driving down Shirley Road.<sup>42</sup>

83. At about the same time, Brent sent Tiffany a text message saying, "*I just want the table*" followed by a phone call to Tiffany at 6:07:36am which only lasted 2 seconds.<sup>43</sup> The available evidence suggests that Tiffany was still on the '000' call at this time and did not answer. This is the last outgoing activity recorded on Brent's phone.
84. The Court heard Tiffany's '000' call. At seven minutes and four seconds into the call, it is possible to hear something like a siren in the distance. At seven minutes and seven seconds there is sound that could be a yelp, at seven minutes and nine seconds there is a thud sound. Around this time, Tiffany says to the triple zero operator, "*I think they're here*" referring to the police. At seven minutes and eleven seconds there is a louder thud sound. At seven minutes and twelve seconds Tiffany says, "*I think he's done something*".<sup>44</sup>
85. Throughout the call, which she makes from her bathroom, Tiffany sounds highly distressed and anxious for police to attend as soon as possible.
86. It is apparent how quickly events unfolded. It would certainly have been possible to hear an approaching police siren from the fourth floor of Tiffany's building, even if it was turned off towards the arrival point. That much was apparent from Constable Macko's body worn video. If one were facing out onto Shirley Road, the lights of the police car would also have been obvious.
87. It appears that once Brent had gained access to the building and Tiffany would not open her apartment door, he entered the door of neighbouring unit 42. Brent had previously stayed with Tiffany and he knew that this unit had been vacant and unlocked for some time.
88. It appears that at some point Brent decided to attempt access to Tiffany's apartment from her balcony. This involved taking the dangerous step of climbing out the window of unit 42 and onto the balcony of unit 41. Tiffany told police that Brent had gained entry to her apartment using this method on a previous occasion.
89. At 6:09am, Constables Macko and Atherton were walking towards the unit block entry from Milner Crescent when Constable Macko's body worn video activated. He is immediately captured as saying, "*Can you hear, did you hear that fuckin' bang?*"<sup>45</sup> He later describes the

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<sup>40</sup> Sgt Hewett statement [66.9]. See CAD as well.

<sup>41</sup> Constable Atherton ERISP [54.62]; Constable Macko ERISP [50.51]

<sup>42</sup> Constable Macko ERISP [50.22].

<sup>43</sup> Cellebrite Call Log [70.1.5]

<sup>44</sup> OIC statement [4.135]

<sup>45</sup> OIC statement [4.136] and Macko body worn video.

sound as like a golf ball being hit into a shed coming from the Shirley Road side of the building.<sup>46</sup>

90. Constables Macko and Atherton were in Tiffany's apartment by 6:15am when a second police crew arrived. Constable Atherton looked over Tiffany's balcony and saw Brent lying on the driveway. Constable Atherton and Constables Christopher Robertson and Anthony Lopes from the second police crew ran to Brent's aid.
91. NSW Ambulance paramedics were on scene at 6:24am and Brent was promptly conveyed to Royal North Shore Hospital.
92. At about 7:50am, Tiffany was captured on body worn video giving her account of events. She told police:
- a. Brent had been placing "*call after call*" and "*message after message*" since 2am. He had said he was walking back to get his car.
  - b. She was lying in bed feeling on edge when she heard Brent banging on her front door. That is when she sent him a message asking that he please go home and get some sleep.
  - c. She hoped he would cool down but he was "*banging, banging, banging*".
  - d. She phoned police and went into her bathroom feeling scared. She says her "*nerves were shot*".
  - e. She could hear something on her balcony.
  - f. She could hear some tapping.
  - g. She thought Brent could be on the balcony as she knew he could access it from the neighbouring window; he had done so a few weeks earlier when he was moving out.
  - h. When she let police in, she could not see anyone on her balcony.
93. Tiffany later noticed that the chairs on her balcony had been moved and the pots that were lining the edge of the balcony were on their sides.<sup>47</sup>
94. In my view, it is likely that Brent made it over to Tiffany's balcony from unit 42 and was responsible for disturbing her chairs and pots. It is also likely that shortly after reaching her balcony, he became aware that police were arriving and that this prompted him to attempt an immediate and panicked return to unit 42.
95. At hospital, Brent underwent two surgeries for his catastrophic injuries but his life could not be saved. He was declared deceased at 11:12pm.<sup>48</sup>

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<sup>46</sup> Constable Macko ERISP [50.78-83]

<sup>47</sup> Tiffany Bisley statement [85.55]. Constable Macko also observes two pot plants knocked onto their sides in the left corner of the balcony [50.87].

<sup>48</sup> P79A.



## Police investigation

96. Access was gained to neighbouring unit 42 and police observed it was vacant. The window closest to Tiffany's balcony was wide open.<sup>49</sup> In fact, the window panel had been entirely removed from its frame.<sup>50</sup>
97. Constable Macko told the Court that Constable Atherton would have been the first police officer to enter unit 42 at 6:32am. Constable Atherton's body worn video footage depicting his entry was played to the Court. It captures the window closest to Tiffany's balcony sitting out of its frame and placed on the ground. Constable Macko observed the scene in unit 42 for himself later that morning and noticed the window on the ground.
98. Constable Macko told the Court that Tiffany had advised him that Brent had previously "*popped the window*" out of the frame and placed it on the ground.<sup>51</sup> It is not clear if the window was out of its frame on the morning of 13 May 2023 or if Brent had to "pop" it out again, but I accept that he knew he could gain access to Tiffany's apartment by climbing out that window and manoeuvring across to her balcony. I accept that he had done so before.
99. I had access to crime scene photographs of the unit 42 window. I also attended the premises with police and legal representatives for a view prior to the inquest commencing. I accept counsel assisting's submission that the inherent danger of entering Tiffany's balcony from the neighbouring window is obvious. There is no balcony attached to unit 42 and it would be necessary to launch oneself out of the window and reach across sideways to grab hold of the unit 41 railing. Returning is likely to have been even more dangerous as there would be nothing to hang on to. The OIC gave evidence that one would almost have to "*jump across*" to reach the closest unit 42 window from the unit 41 balcony. I accept that this is correct.
100. I pause to say that there is no indication or piece of evidence that suggests that Brent's death was intentionally self-inflicted. All the evidence points to a tragic accident. Brent's level of intoxication and his panic that police were about to arrive would have contributed to the danger of the already difficult manoeuvre.
101. The scene was processed by police. Fingerprints belonging to Brent were located on Tiffany's balcony handrail and on the exterior glass panel of the balcony. His fingerprints were also found on the removed window and window frame from neighbouring unit 42.<sup>52</sup>
102. Constable Macko estimates that Brent was located by police when they arrived downstairs some distance forward and a bit to the right of the open window.<sup>53</sup> An open bottle of Pure Blonde

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<sup>49</sup> Constable Lopes ERISP [63.154].

<sup>50</sup> OIC statement [172].

<sup>51</sup> 18/2/25 T95.45

<sup>52</sup> Summary of Fingerprint Evidence [78].

<sup>53</sup> Constable Macko ERISP [50.168]

beer was found near where Brent was located<sup>54</sup> and his mobile phone was seized from the driveway.<sup>55</sup> There was \$4 in coins in his wallet.<sup>56</sup>

103. Brent's black Range Rover vehicle was located by police in Shirley Road quite some distance from the kerb. It appears that in the early hours, Brent entered his car and moved it from where it had been parked the previous night. In his car were a range of items including three empty Pure Blonde beer bottles and a case of Pure Blonde beer with numerous bottles missing.

### **Post Mortem examination**

104. An autopsy was conducted by Dr Jennifer Pokorny on 17 May 2023. Injuries to Brent's head, abdomen and elbows are described and the cause of death was given as "*multiple blunt force injuries*".
105. Toxicology detected alcohol in Brent's ante-mortem blood samples (collected at 7am on 13 May 2023) at 0.212g/100mL. Dr Pokorny reports that "*this blood alcohol level would be expected to cause noticeable intoxication.*"<sup>57</sup>
106. Professor Alison Jones is a specialist general physician and clinical toxicologist. She provided an opinion about Brent's blood alcohol level at the time he was at Tiffany's apartment block in the early hours of 13 May 2023. She considered the associated impacts Brent might have experienced to his balance, visual focus, reaction times, executive judgement and behaviour. She noted that consumption of alcohol is associated with an increased risk of injury.
107. Her report indicates that Brent would have been *moderately intoxicated* at 6am on 13 May 2023 with impairments to his balance, movement coordination and self-control. She further opines that the amount of ethanol in Brent's blood would likely have impacted his judgement.
108. Professor Jones gave oral evidence before me confirming that Brent's judgement would have been significantly affected by the level of alcohol in his system. This would have included impairment to his ability to judge distance and height, as well as causing deficits to his cognitive and psychomotor function.<sup>58</sup> I have no trouble accepting that Brent's overall judgement and physical ability would have been significantly affected by his intoxication that morning.

### **NSW Police Domestic and Family Violence Policies and Procedures**

109. Superintendent Danielle Emerton is the Commander of the Domestic and Family Violence Registry within the NSW Police Force. Her evidence helpfully contextualised the actions of police in their dealings with Brent on 12 and 13 May 2023. To illustrate the size and gravity of

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<sup>54</sup> Constable Robertson ERISP [58.131-140]; DSC Pensini statement [67.21]

<sup>55</sup> DSC Pensini statement [67.21].

<sup>56</sup> DSC Pensini statement [67.18].

<sup>57</sup> Post-mortem report dated 28 June 2023 [3.3]

<sup>58</sup> 19/2/25 T115.40

the domestic and family violence challenge for NSW Police Superintendent Emerton told the Court that in 2023, there were 31 domestic violence homicide victims and in 2024 there were 37; representing a 19% increase. She said this background weighs heavily on the minds of police who are tasked with responding to incidents of domestic violence.<sup>59</sup> NSW Police now respond to 160,000 domestic violence incidents per year, which equates to 330 per day or one every three minutes.

110. Superintendent Emerton told the Court that in recent years there has been an increased focus on the way in which domestic violence incidents are policed and that there has been improved oversight to ensure *“police are ready to respond and that they have the tools, both the physical, technological and knowledge, to be able to respond fairly and to keep the community safe”*.<sup>60</sup> She said that addressing domestic violence is a tier one priority for the NSW Commissioner of Police. This prioritisation is reflected in the establishment of the Domestic and Family Violence Registry in October 2023 which currently has around 25 staff providing advice and support on operational, legal and corporate issues.

111. Superintendent Emerton gave evidence that changing attitudes have affected the way that police approach initial decisions made on the scene of domestic violence incidents including the decision to arrest. From the NSW Police Force Domestic and Family Violence Standard Operating Procedures 2018 (DVSOPs):

*“As a society, our attitudes about domestic and family violence are changing. We are now more aware of the impact of domestic and family violence on victims, children, and families and to a large extent on the broader community. Domestic violence has a high financial and social cost. The community expectations of police are very high in relation to domestic and family violence. Police are expected to intervene, investigate and prosecute offenders successfully to stop and prevent violence from reoccurring. Thorough professional investigations are required to ensure victims are protected and perpetrators are held to account.”*<sup>61</sup>

112. The intention of the DVSOPs is to provide operational police with a comprehensive guide on how to respond to a domestic violence report. Police are required to comply with the procedures outlined in the DVSOPs.<sup>62</sup> They state:

*“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 the victim against that of a defendant. Police will investigate all avenues of inquiry with a*

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<sup>59</sup> 18/2/25 T110.45.

<sup>60</sup> 18/2/25 T100.35.

<sup>61</sup> Domestic and Family Violence Standard Operating Procedures 2018, v.5 at page 12.

<sup>62</sup> Domestic and Family Violence Standard Operating Procedures 2018, v.5 at page 12.

*view to establishing 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.*<sup>63</sup>

113. Superintendent Emerton explained that victims can endure up to 26 incidences of domestic violence before they report to police. It is for this reason that police approach a person's call for assistance very seriously and "*provide an avenue*" for them to tell police what has happened. This is balanced with giving the alleged perpetrator an opportunity to tell their side of the story. All available evidence is taken into account when making a decision to arrest or charge.<sup>64</sup>
114. Superintendent Emerton specifically reviewed Brent's interactions with police prior to his death and considered whether the actions of police complied with the DVSOPs and other NSW Police Force policies and procedures current at that time. In her view, police had no other option but to arrest Brent on the evening of 12 May 2023 because of the information they had in the dispatch message that Tiffany was "*scared*" and the observations they had made at the scene.<sup>65</sup>
115. She also considered that the decision not to charge Brent with intimidation or with breaching his ADVO once he was back at Chatswood Police Station was reasonable and appropriate given the "*complete picture*" police had by that stage including that he and Tiffany were arguing, that there was no evidence of assault or property damage and that Tiffany had expressed concern for Brent in a text message sent after his arrest.<sup>66</sup> After the ERISP, the facts, in Superintendent Emerton's view, did not meet the threshold for the offence of intimidation. Further, she considered Senior Constable De Zeeuw's consultation process with more senior police about the charging decision to be "*really excellent*" and in accordance with the DVSOPs.<sup>67</sup>
116. Superintendent Emerton was of the view that the police response to Tiffany's '000' call on the morning of 13 May 2023 was professional, reasonable and appropriate.
117. Superintendent Emerton also provided information about Brent's CCO and confirmed that police are not empowered to charge a person for breaching a CCO or to hold them in custody for a breach. I am satisfied that this is the legislative position.
118. The evidence reveals that Brent was subject to an unsupervised CCO which did not appear on the background checks performed by police. The position would have been different had Brent been subject to a supervised CCO. Even if police had been aware of the CCO, I have already observed that they were not empowered to charge Brent with any breach of it.
119. For completeness, I note that had Brent been charged and later convicted of breaching his

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<sup>63</sup> Domestic and Family Violence Standard Operating Procedures 2018, v.5 at page 62.

<sup>64</sup> 18/02/25 T101.37-T102.2.

<sup>65</sup> 18/05/25 T102.15-38.

<sup>66</sup> 18/05/25 T107.27-42.

<sup>67</sup> 18/05/25 T107.49-T108.8.

ADVO then, only after the conviction is recorded, would the CCO breach have been brought before the sentencing court in conjunction with the ADVO matter. It is for the sentencing court to determine whether to *call up* the CCO. The process of “calling up” a CCO is dealt with by police prosecutors in conjunction with the prosecution of the new charge, not by the police officers who effected the arrest or charge of the offender for the new offence.<sup>68</sup>

## The Issues

120. I will now deal with the specific issues identified at the commencement of these proceedings.

### **(i) Was it reasonable and appropriate for police to arrest Brent on 12 May 2023 for breaching his ADVO?**

121. The decision to arrest Brent for intimidation and breach ADVO was made by Senior Constable De Zeeuw in consultation with Acting Sergeant Irwin, the most senior officer at the scene. The arrest was effected by Constable Lacey, but it was not her decision.

122. When deciding whether to arrest Brent, attending police were aware of an enforceable ADVO against Brent and that Tiffany was reportedly “scared”. They also took into account Tiffany’s demeanour and her willingness, at least initially, to participate in a DVEC. Officers said that she was emotional and crying intermittently. Although she told police that she did not fear for her safety, police are trained to understand that it is common for victims of domestic offences to protect their partners. Police quickly became aware that after initially refusing to leave Tiffany’s apartment, Brent had stayed in the vicinity. It would have been difficult for officers to have any confidence that the situation would not re-escalate if they left.

123. Each of the officers expressed a need to approach domestic violence offences with sensitivity and caution.

124. Acting Sergeant Irwin gave evidence that he was aware of his statutory obligations under the *Law Enforcement Powers and Responsibilities Act 2002* (NSW)(LEPRA). He understood his specific power to arrest Brent was governed by s 99 of LEPRA. In his view, s 99(1)(b)(i), (viii) and (ix) were satisfied. In other words, he considered Brent’s arrest was necessary to stop the repeat of an offence or a further offence, to protect the safety of a person and because of the nature and seriousness of the offence.

125. Acting Sergeant Irwin explained that an arrest for physical violence offences may be more straightforward, while it can be more difficult to determine whether an offence with a mental element, like intimidation, is made out. He said that there is a need to thoroughly investigate all the circumstances involved.

126. Superintendent Emerton assessed Brent’s arrest having regard to the DVSOPs. In her

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<sup>68</sup> See Emerton statement [30]-[31] and 18/2/25 T.106.34-T.107.2.

statement, she said that the DVSOPs outline that NSW Police have an arrest power under s 99 of LEPR. She concurred with the conclusions reached by the OIC in relation to the appropriateness of Brent's arrest<sup>69</sup>, namely that:

- a. The information provided by Tiffany to police (including her later notebook statement) and Brent being located outside Tiffany's apartment complex inside his car gave rise to reasonable grounds that Brent had committed an offence; and
- b. Brent's arrest was reasonably necessary for the reasons identified above by Acting Sergeant Irwin.

I note that during her evidence, Superintendent Emerton also considered that s 99(1)(vii) of LEPR was satisfied. I accept her view that a further relevant consideration justifying Brent's arrest may have been to prevent the harassment or interference with a person who may give evidence.

127. Superintendent Emerton explained that officers needed to, and did in fact, place the 12 May 2023 incident in the context of the earlier event that triggered the existence of the ADVO. The fact that NSW Police had needed to force entry on the earlier occasion, indicated a real need for them to take the second incident very seriously. Superintendent Emerton explained that NSW Police are now taught that many victims experience numerous incidents of violence before they ever contact police.
128. Superintendent Emerton also noted that once police were aware that an attempt had been made to call '000', that there was an enforceable ADVO and a frightened person in need of protection, in circumstances where the defendant was unwilling to leave the premises until police were called, there was ample evidence to consider arrest. At the time of the arrest, Tiffany had agreed to a DVEC, but once Brent was removed from the scene, a notebook statement was instead provided. Superintendent Emerton told the Court that, in her view, arrest was the only option available to NSW Police. I accept it was certainly an available option.
129. I have considered the information available to NSW Police at the time they arrested Brent and took him back to Chatswood Police Station. In my view, it was open to NSW Police to effect a legal arrest. I accept that Senior Constable De Zeeuw, with the guidance of Acting Sergeant Irwin, had satisfied himself that arrest was reasonably necessary and that his decision was in accordance with legislation and informed by relevant NSW Police policy and procedure.

**(ii) Was Brent subject to a Community Corrections Order with an alcohol abstention clause on 12 and 13 May 2023? Would it have been reasonable and appropriate for police to charge Brent with breaching the CCO following his arrest on 12 May 2023? Why wasn't this considered by police?**

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<sup>69</sup> OIC statement [159].

130. Brent was subject to a CCO with an alcohol abstention clause. However, Police were not made aware via any alert available on the WebCOPS system that Brent was subject to an unsupervised CCO or what the conditions associated with it might be.

131. Even if police had been aware of the unsupervised CCO, they were not empowered to charge Brent with any breach of it.

**(iii) Was it reasonable and appropriate for police to decide not to charge Brent with breaching his ADVO?**

132. Once back at Chatswood Police Station, NSW Police offered Brent the opportunity to participate in a recorded interview. He was under no obligation to do so, but it appears he readily agreed and was appropriately cautioned.

133. As I have already mentioned, during the ERISP, investigating police became more fully aware of the circumstances prompting Tiffany's '000' call. Brent explained the nature of his conversation with Tiffany and police had a greater understanding of the heightened emotions involved.

134. By the time Brent was interviewed, Senior Constable De Zeeuw, the officer in charge of the investigation, had taken a notebook statement from Tiffany. He described Brent's version of events as "*pretty consistent*" with hers. Senior Constable De Zeeuw said that Brent's account appeared straightforward and honest.

135. Constable De Zeeuw explained the reasons for not wanting to continue the charge process in oral evidence. He consulted with two more senior colleagues, custody manager Sergeant Taylor and internal supervisor, Sergeant Misipeka. Sergeant Misipeka described what occurred as something akin to a "*brainstorm*" where they all discussed the best way forward.<sup>70</sup> He explained:

*"with intimidation, the person has to have an intent to intimidate somebody. So it's notoriously hard to prove someone's intention, and at the same time, listening to, you know, what had been talked about in regards to Brent Pottinger's behaviour up to the point of getting back to the station and what Ms Bisley had said, I didn't think we met the threshold."*<sup>71</sup>

136. On Sergeant Misipeka's suggestion, Senior Constable De Zeeuw contacted external supervisor, Acting Sergeant Irwin who had been at the scene. Sergeant Misipeka was cognisant that he had not met Tiffany or Brent and had not been present at the original job. For this reason, he thought it appropriate to run the matter past the external supervisor. When Senior Constable De Zeeuw spoke with Acting Sergeant Irwin, he too was comfortable with the decision not to charge Brent.

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<sup>70</sup> 18/2/25 T81.25

<sup>71</sup> 18/2/25 T81.3-9

137. At the time of this decision, police had the benefit of Tiffany's statement and Brent's account and understood better the dynamics of what had occurred. Having been released without charge, they were confident that Brent was acting in a rational and appropriate manner and that he would not return to Tiffany's apartment.

138. In her statement, Superintendent Emerton said she considered it appropriate that Brent was released without charge for the same reasons highlighted by the OIC in her statement<sup>72</sup>. During her oral evidence she elaborated as follows:

*"once [police] had brought Mr Pottinger back and spoken with him via ERISP, and they were able to get the complete picture of what it was he was upset about, because the in the victim's written statement, she mentioned that they were having an argument but wouldn't but didn't disclose what it was about. And then when, during the ERISP, he did disclose that it was a very personal matter that he'd been upset with but there was no evidence of assault.*

*There was no property damage. It was it wasn't from what the police could, you know, illicit from him. It wasn't intimidation as such, it sounded like it was him being really upset, she was really upset. During the ERISP, he opened his phone for the police, and they could see that the victim had said, "Are you okay?" And he would have also disclosed that he had gone downstairs and requested his car keys, and she had come down and given them to him. So, these are all things that at the time, they would not have known. But once they spoke with him on the ERISP, then this became clearer. Plus, they also asked for the advice of some very senior sergeants along the way who also agreed with them that this this didn't warrant a charge".*

139. I have considered all the available evidence and, in my view, it was open to NSW Police to not charge Brent with intimidation or an ADVO breach. I accept this decision was made after careful consideration and on reasonable grounds. It follows that Brent's subsequent release from Chatswood Police Station was necessary. I have not been persuaded that NSW Police were obliged, under the circumstances, to return Brent to his car. I accept that Brent was given appropriate advice, had the funds to get a taxi, had a mobile phone to call a friend or family member and was not overly intoxicated.

**(iv) Whether the police response to Tiffany's '000' call on 13 May 2023 was reasonable and appropriate.**

140. There is no doubt that Tiffany's '000' call on the morning of 13 May 2023 should have prompted the immediate police response that it did. I had the opportunity to listen to that call and formed the view that Tiffany sounded frightened and anxious for police to attend her apartment.

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<sup>72</sup> OIC statement [161-163].



141. In her statement, Superintendent Emerton again agreed with the conclusions drawn by the OIC that all police who responded to the '000' call on 13 May 2023 acted professionally and that the investigation was reasonable and appropriate in the circumstances.<sup>73</sup>

142. I am satisfied the response was appropriate.

**(v) Is it necessary or desirable to make any recommendations pursuant to s 82 of the Act.**

143. I am satisfied that there were no relevant recommendations arising in this matter pursuant to section 82 of the *Coroners Act 2009* (NSW).

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<sup>73</sup> Emerton statement [34].

## **Findings**

For the reasons stated above I make the following formal findings pursuant to section 81 of the Coroners Act 2009 (NSW):

### **Identity**

The person who died was Brent Reginald Pottinger

### **Date of death**

Brent died on 13 May 2023

### **Place of death**

Brent died at Royal North Shore Hospital, St Leonards, NSW.

### **Cause of death**

Brent died of multiple blunt force injuries.

### **Manner of death**

Brent's death was accidental after he fell from the fourth floor of an apartment block.

## Conclusion

144. I offer my sincere thanks to counsel assisting, Ms Davidson and Ms Jones and their instructing solicitor Ms Kohler for the efficient preparation and conduct of these proceedings.
145. I thank the OIC, Detective Inspector Michelle Mathieson and her second in command Detective A/Inspector Andrew Brennan for their assistance in this matter and for conducting a thorough investigation.
146. I recognise that Brent's death was traumatic for the involved officers who undertook their duties carefully and sensitively.
147. Finally, I once again offer my sincere condolences to Brent's family. The moving family statement and photographic display show he was a well-loved family member.
148. I also offer my condolences to Tiffany Bisley and thank her for her attendance at these proceedings.
149. I close this inquest.

*Harriet Grahame*

Magistrate Harriet Grahame  
Deputy State Coroner  
NSW Coroners Court, Lidcombe  
20 March 2025