

FINDING INTO DEATH WITHOUT INQUEST

Form 38 Rule 60(2)
Section 67 of the Coroners Act 2008

I, JUDGE JENNIFER COATE, State Coroner having investigated the death of SELINA TILLEY without holding an inquest:

find that the identity of the deceased was SELINA CECILIA TE NOHU TILLEY

born on 28 December, 1961

and the death occurred on 28 November 2007

at 17 Evans Street, Morwell, Victoria 3840

from:

1a. MULTIPLE INJURIES¹

Pursuant to Section 67(2) of the **Coroners Act 2008**, I make findings with respect to **the following circumstances:**

Summary:

1. Selina Tilley met Kenneth Patrick Mahoney in August 2006. Shortly after the couple met, the relationship was documented in various places as physically violent. Both Ms Tilley and Mr Mahoney had histories of drug and alcohol abuse. The evidence indicates that a number of violent incidents were set in the context of heavy alcohol consumption by both Ms Tilley and Mr Mahoney. Ms Tilley was linked in to some support services and in the last months of her life was noted to be voicing concerns for her own safety.

2. An intervention order was made on February 16 2007 after the police attended an incident at which they observed Ms Tilley with physical injuries perpetrated by Mr Mahoney. That order prohibited Mr Mahoney from living at Ms Tilley's premises. The court and police records document that Mr Mahoney was found at Ms Tilley's premises virtually immediately after that order was made and that he breached the order.

¹ Autopsy report of Dr Noel Woodford, forensic pathologist, of 31.1.2008 noted evidence of significant blunt force head injury together with significant injury to the head, chest and abdomen of Ms Tilley. She had a BAC reading of .24g/100ml.

3. From February 20 2007, Ms Tilley made several applications over the ensuing months to have the intervention orders revoked. Eventually, on September 28, 2007 Ms Tilley and Mr Mahoney attended the Magistrates' Court where the conditions of the intervention order were varied to permit contact. The application noted that the couple were in counselling and wished to reconcile.

4. On Wednesday 28 November 2007, Selina Tilley was reported as deceased by Mr Mahoney. Extensive bruising was observed on her body. Mr Mahoney made admissions to having assaulted Ms Tilley. He was convicted of her manslaughter on June 15, 2009 and sentenced to 9 years imprisonment with a non parole period of 6 years.

Background

5. Selina Cecilia Tilley was born in New Zealand and was 45 years old at the time of her death. She moved to Australia in the mid-1980s, where she met and married Lance Tilley. The couple had one daughter, Rebecca, aged twelve at the time of her mother's death. Ms Tilley's marriage to Lance Tilley ended in 2006, with Rebecca primarily remaining in the care of her father.

6. Ms Tilley met Kenneth Patrick Mahoney in Melbourne in August 2006. Mr Mahoney was unemployed at the time and remained so throughout their relationship. Mr Mahoney had a history of contact with the criminal justice system dating back to 1985.

7. In January 2007, Ms Tilley obtained a lease for private rental accommodation at 17 Evans Street, Morwell. This property was secured with the assistance of a local community support organisation called Quantum Support Services. Mr Mahoney also primarily resided at this address.

8. The relationship between Ms Tilley and Mr Mahoney involved a clearly documented history of family violence. This emerged shortly after the couple met and took the form of physical assaults, verbal abuse and property damage perpetrated by Mr Mahoney toward Ms Tilley. Family violence was witnessed and overheard by friends and neighbours who, on occasion, provided shelter and assistance to Ms Tilley in response to these violent incidents. Ms Tilley appeared to have an understanding of the danger she faced in her relationship with Mr Mahoney, and she expressed concerns for her safety to neighbours and professional persons in the months preceding her death.

9. Both Ms Tilley and Mr Mahoney had histories of drug and alcohol misuse. The evidence indicates that a number of the violent incidents that took place unfolded in the context of heavy alcohol consumption by both parties, however, these were not the only conditions under which violence occurred.

Events of 27 and 28 November 2007

10. Following his arrest on 28 November 2007, Mr Mahoney informed police that on Tuesday 27 November 2007, he fell asleep at 17 Evans Street, Morwell, after consuming a quantity of alcohol.² He stated that Ms Tilley woke him up by hitting him with a pot, whereby he retaliated and physically assaulted Ms Tilley. This incident was not reported to Victoria Police and Ms Tilley did not seek medical attention for the injuries she sustained in this incident.

11. The following morning, Wednesday 28 November 2007, Mr Mahoney was collected from 17 Evans Street, Morwell, by his mother, Joan Manners, and sister, Siobhan Mahoney, for the purpose of a planned shopping trip. Ms Manners made inquiries about the minor injuries she observed on Mr Mahoney, whereby he made admissions to having physically assaulted Ms Tilley the previous evening. During the course of their outing Mr Mahoney consumed a further quantity of alcohol, estimated to be up to six cans of pre-mixed vodka and soda, and was described by his sister as being intoxicated.³

12. Mr Mahoney, his mother, and sister, returned to the Evans Street address at approximately 1.30pm. Mr Mahoney's sister assisted him to take some groceries into the house while his mother waited in the car. When they entered the premises, Ms Tilley was situated in the bedroom. She was observed by Siobhan Mahoney sitting naked on the bed with significant facial injuries, including bruised eyes and a swollen graze to the forehead. Ms Mahoney recalled that she was shocked by Ms Tilley's presentation and advised her to go to hospital. Ms Tilley refused, stating that she would be required to report Mr Mahoney's involvement in her injuries. Mr Mahoney and his sister then left the residence to complete various errands in Morwell, leaving Ms Tilley alone.⁴

13. Mr Mahoney returned to 17 Evans Street at approximately 3.00pm. The sequence of events leading up to Ms Tilley's death from this time are not clear. A neighbour stated she overheard loud banging and crashing lasting for almost two hours from approximately 2.45pm, accompanied by what she believed to be Mr Mahoney swearing. These noises reportedly stopped at around 4.45pm. The evidence suggests that this commotion was the result of a further physical assault upon Ms Tilley by Mr Mahoney.

14. Mr Mahoney claimed to have fallen asleep at some point during the afternoon. When he awoke at approximately 8.00pm, he found Ms Tilley unconscious in the bedroom, prompting him to call emergency services and request an ambulance.

15. Paramedics attending the scene observed Ms Tilley to have no signs of life and an attempt to resuscitate her was not made. Mr Mahoney remained at the premises until members of Victoria Police arrived, at which time he was arrested and conveyed to the Morwell Police Station.

² Transcript of recorded conversation by DCS Brett MILLER and Kenneth MAHONEY on 28 November 2007, Victoria Police Brief of Evidence into the death of Selina Cecila TILLEY dated 4 February 2008 (pp.243-275)

³ Statement of Siobhan Mahoney, Victoria Police Brief of Evidence into the death of Selina Cecila TILLEY dated 4 February 2008 (p.84).

⁴ Ibid 2008 (p.86).

16. Mr Mahoney pleaded guilty to the charge of manslaughter. On 15 June 2009, Her Honour Justice Hollingworth sentenced him to a period of nine years imprisonment with a non-parole period of six years. Following the criminal proceedings being completed, a Brief of Evidence was provided to the coroner by Victoria Police.

Victorian Systemic Review of Family Violence Deaths (VSRFVD)

17. As part of this coronial investigation, the circumstances preceding Ms Tilley's death were examined for the purpose of the VSRFVD.⁵ Described below is a summary of the further investigation that occurred as part of that process.

Contact with Victoria Police and the Magistrates' Court

18. Mr Mahoney's violence against Ms Tilley came to the attention of both Victoria Police and the Magistrates' Court on several occasions prior to Ms Tilley's death.

19. On 14 February 2007, police attended a family violence incident involving Ms Tilley and Mr Mahoney. Both parties had been drinking alcohol and it was alleged that Mr Mahoney physically assaulted Ms Tilley. When police arrived at the scene, Ms Tilley was observed to have a grazed shoulder. Mr Mahoney was arrested and conveyed back to the Morwell Police Station. He was interviewed in connection to the assault and under the provisions of the *Crimes (Family Violence) Act 1987 (Vic)* in place at the time. An application for a complaint and warrant was made by Victoria Police

20. Mr Mahoney was released pending summons in relation to the assault and bailed on conditions in relation to the complaint and warrant. He was to attend the Latrobe Valley Magistrates Court on 16 February 2007. Mr Mahoney left the station sometime after 2:00am on the 15 February 2007, whereby he made his way back to Ms Tilley's home and proceeded to damage property and make further threats of violence. Ms Tilley managed to slip out and call police from a nearby telephone box. When police arrived they accompanied Ms Tilley back to her premises, however, Mr Mahoney could not be located.

21. On 16 February 2007, Ms Tilley attended court in the company of a worker from Quantum Support Services. A family violence intervention order was made for a period of 12 months, prohibiting Mr Mahoney from assaulting or approaching Ms Tilley. From this time Mr Mahoney was not to reside at 17 Evans Street, Morwell. However, the evidence suggests that he continued to spend a considerable amount of time at the premises.

22. Records indicate that Ms Tilley made an application to revoke the intervention order on 20 February 2007. This was listed on 2 March 2007. However, the application was struck out. The reason for this is not recorded on the court file.

⁵ Positioned within the Coroners Court of Victoria, the VSRFVD provides assistance to Victorian coroners to investigate the circumstances in which family violence deaths occur. In addition, the VSRFVD collects and analyses information on family violence-related incidents. This contributes to the development of a broader knowledge base for dissemination to the community and agencies working in the area of family violence.

23. On 3 May 2007, police were again called to 17 Evans Street following an assault perpetrated by Mr Mahoney against Ms Tilley and a neighbour. Mr Mahoney informed the attending police that he had been residing at Ms Tilley's premises, thus contravening the conditions set out in the intervention order. He was removed from the residence and transported to his mother's house.

24. Later that same day, police were again contacted by a neighbour who reported that Mr Mahoney had returned. When police arrived at the address, Mr Mahoney was located hiding in the backyard. He was arrested and charged with breaching the intervention order and remanded until the following day. On 4 May 2007 he appeared at the Latrobe Valley Magistrates Court where he was convicted for breaching the intervention order and fined the sum of \$500.

25. On 8 May 2007, Ms Tilley made a further application for revocation of the intervention order. This was listed on 18 May 2007, however this was also struck out. The reason for this is not recorded on the decision sheet of the Court file.

26. Several months later, on 23 August 2007, police were summoned to a further family violence incident involving Ms Tilley and Mr Mahoney. Ms Tilley was observed by police to have bruising around her eye and scratches on her face. The statement she provided to police at the time indicates that she had invited Mr Mahoney to her home, but had not given him permission to physically assault her.

27. Mr Mahoney was arrested and conveyed to the Morwell Police Station. He was interviewed and charged in relation to the assault and breach of intervention order. He was bailed on conditions to reside in Moe and attended court of Friday 24 August 2007. However, these charges were not heard prior to the fatal assault of Ms Tilley.

28. On 18 September 2007, Ms Tilley once again applied to have the intervention order varied. It is recorded in the application that Mr Mahoney was receiving counselling and the couple wished to reconcile. On 28 September 2007, Ms Tilley and Mr Mahoney both attended the Latrobe Valley Magistrates' Court where the conditions of the intervention order were varied to permit contact

29. As part of the coronial investigation, a copy of the Magistrates' Court file pertaining to the intervention orders between Ms Tilley and Mr Mahoney was obtained. It included documents for service upon Mr Mahoney in relation to the application to vary the order, which were apparently faxed to the Officer in Charge of Morwell Police Station on 18 September 2007. In addition, it appears that an additional copy of this form was faxed to the Morwell Police Station with the request made that it be provided to the original police complainant.

30. However, a statement obtained from the Victoria Police member indicates that she did not receive notification of the application, and that she would have objected to any variation due to ongoing concerns for Ms Tilley's welfare. Similarly, she claims that no other member of the Morwell Police station was advised of the hearing.⁶ It was, and continues to remain, a requirement that police members

⁶ Statement of Senior Constable Tara Vella, signed and dated 8 September 2011.

be informed of any application to vary orders in which Victoria Police are the complainants.⁷ It can not be established why this did not occur on this occasion. Regardless, the court transcript indicates that the Magistrate was aware the application was originally a police matter. (See Comments).

Contact with community services

31. While living in Morwell, Ms Tilley sought assistance for her personal and financial difficulties, as well as her exposure to family violence. This included assistance from Quantum Support Services. Ms Tilley became a client of this organisation in late 2006, from which time workers observed bruising on her arms and chest. While she was initially reluctant to disclose how these injuries occurred, following the assault that took place on 14 February 2007, she openly spoke about the abuse perpetrated by Mr Mahoney. Ms Tilley was subsequently referred to the family violence division of this organisation, and presented for an 'intake' appointment on 15 February 2007. That appointment focused upon the family violence incident that had occurred the previous night, and reportedly involved liaising with Victoria Police and organising court support.

32. Between 20 and 27 February 2007, several telephone calls were made by the family violence worker to Ms Tilley. An appointment was scheduled for 22 February 2007, however, this was cancelled by Ms Tilley who stated that she had to return to Melbourne due to a family crisis. The worker tried to contact her again on 26 February 2007 without success. On 27 February 2007, a worker spoke with Ms Tilley on the telephone, whereby Ms Tilley advised she was returning to Melbourne with her daughter due to the ill health of a family member. Ms Tilley stated she would make contact with the family violence worker when she returned to Morwell, however this did not occur. Her file was closed on 16 April 2007, before any risk assessment or safety plan could be arranged.

33. In addition to the above, Ms Tilley had numerous other contacts with professional persons from the Latrobe Community Health Service, primarily in relation to her drug and alcohol dependence. During these meetings she discussed her exposure to family violence with various workers, as well as having presented with significant physical injuries attributed to assaults from Mr Mahoney. While Ms Tilley was provided with support concerning her use of alcohol and other substances, it appears her exposure to family violence may not have been explored or addressed as part of the overall approach to addressing her presenting difficulties.

34. Ms Tilley sought medical assistance from a local general practitioner on 12 February 2007. She presented with pain in her chest, elbows, left hip and behind her ear, and informed her doctor that she had been 'fighting with her boyfriend' several days earlier and that he had punched her. Ms Tilley received a physical examination and medication for pain relief, however, no further assistance or referral was initiated. Enquiries regarding her safety or further exposure to family violence were not made by the general practitioner at subsequent appointments she attended. (See Comments).

⁷ Currently outlined in the *Family Violence Protection Act 2008* (Vic) and Victoria Police Code of Practice for the Investigation of Family Violence Second Edition (2010), and previously described in the *Crimes (Family Violence) Act 1987* (Vic) and Code of Practice For the Investigation of Family Violence 2004.

COMMENTS:

Pursuant to Section 67(3) of the **Coroners Act 2008**, I make the following comment(s) connected to the death of Selina Tilley:

Variation and revocation of intervention orders involving Victoria Police

1. The material examined as part of this coronial investigation indicates that the Victoria Police member who was the original complainant to the intervention order made on 16 February 2007 did not receive notification of the application to vary the order, which subsequently occurred on 28 September 2007. Information contained in Ms Tilley's court file indicates that a fax was sent requesting she be advised, however, the reason this did not reach her is not clear. While it may not have altered the outcome of Ms Tilley's death, it is important that this oversight be documented, and for both the Magistrates' Court and Victoria Police to be diligent in ensuring adherence to the process regarding the requirements that police complainants be informed in circumstances such as these.

Communication between organisations

2. Ms Tilley was in contact with numerous service providers in the months preceding her death. To this end, important information was held by these organisations concerning the level of risk she faced and the likelihood of further violence occurring. Based on the information available during this investigation, it does not appear that communication between the respective organisations took place, nor were they aware of the extent of each service's involvement with Ms Tilley. As a result, information about her situation and exposure to family violence was not accurately assessed or shared. Communication could have occurred with Ms Tilley's consent, and there is no evidence to indicate she would have objected to this. Alternatively, the Information Privacy Act 2000 (Vic) allows for disclosure of primary purpose information, particularly in situations where there are imminent and serious concerns for the life, health, safety or welfare of an individual. Had such communication transpired, a more co-ordinated approach to the provision of services might have been introduced to help improve her safety.

I direct that a copy of this finding be provided to the following parties for their information only:

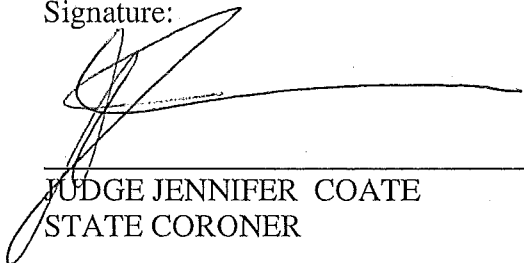
Chief Commissioner Ken Lay
Victoria Police
Victoria Police Centre
637 Flinders Street
Melbourne Vic 3005

Mr Peter McCann
Acting Chief Executive Office
Magistrates' Court of Victoria
Level 7, 436 Lonsdale Street
Melbourne Vic 3000

Fiona McCormack
Chief Executive Office
Domestic Violence Victoria
Level 2/210 Lonsdale Street
Melbourne Vic 3000

Investigating Member, Detective Leading Senior Constable Damian Jackson

Signature:



JUDGE JENNIFER COATE
STATE CORONER



Date: March 8, 2012