



IN THE CORONERS COURT  
OF VICTORIA  
AT MELBOURNE

Court Reference: COR 2013 3101

**FINDING INTO DEATH WITHOUT INQUEST**

*Form 38 Rule 63(2)*

*Section 67 of the Coroners Act 2008*

Findings of:	<b>CAITLIN ENGLISH, DEPUTY STATE CORONER</b>
Deceased:	<b>TERESA MANCUSO</b>
Date of birth:	14 June 1964
Date of death:	15 July 2013
Cause of death:	Multiple stab wounds
Place of death:	19 Massey Avenue Reservoir South, Victoria

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## HER HONOUR:

### INRODUCTION

1. Teresa Mancuso (Ms Mancuso) was a 49 year-old-woman who resided in Reservoir South, at the home she shared with her mother Rosa Mancuso (Mrs Mancuso).
2. Ms Mancuso was born to Mrs Mancuso and Giovanni (John) Mancuso. She was the mother of Daniel and Luke Paulino and the sister of Francesca, Melina and Patrick Mancuso.<sup>1</sup>
3. On 15 July 2017, Ms Mancuso died as a result of stabbing injuries inflicted upon her by her separated husband, Fernando Paulino (Mr Paulino).

### THE PURPOSE OF A CORONIAL INVESTIGATION

4. Ms Mancuso's death constituted a '*reportable death*' under the *Coroners Act 2008* (Vic) (the Act), as the death occurred in Victoria and was violent and not from natural causes.<sup>2</sup>
5. The jurisdiction of the Coroners Court of Victoria is inquisitorial.<sup>3</sup> The Act provides for a system whereby reportable deaths are independently investigated to ascertain, if possible, the identity of the deceased person, the cause of death and the circumstances in which the death occurred.<sup>4</sup>
6. It is not the role of the coroner to lay or apportion blame, but to establish the facts.<sup>5</sup> It is not the coroner's role to determine criminal or civil liability arising from the death under investigation,<sup>6</sup> or to determine disciplinary matters.
7. The expression '*cause of death*' refers to the medical cause of death, incorporating where possible, the mode or mechanism of death.
8. For coronial purposes, the phrase '*circumstances in which death occurred*,'<sup>7</sup> refers to the context or background and surrounding circumstances of the death. Rather than being a consideration of all circumstances which might form part of a narrative culminating in the death, it is confined to those circumstances which are sufficiently proximate and causally relevant to the death.

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<sup>1</sup> Coronial brief, Statement of PM dated 1 October 2013, 257; Coronial brief, Statement of DP dated 16 July 2013, 153.

<sup>2</sup> Section 4 *Coroners Act 2008*

<sup>3</sup> Section 89(4) *Coroners Act 2008*

<sup>4</sup> Preamble and s 67, *Coroners Act 2008*

<sup>5</sup> *Keown v Khan* (1999) 1 VR 69

<sup>6</sup> Section 69 (1)

<sup>7</sup> Section 67(1)(c)

9. The broader purpose of coronial investigations is to contribute to a reduction in the number of preventable deaths, both through the observations made in the investigation findings and by the making of recommendations by coroners. This is generally referred to as the Court's 'prevention' role.
10. Coroners are also empowered:
  - (a) to report to the Attorney-General on a death;<sup>8</sup>
  - (b) to comment on any matter connected with the death they have investigated, including matters of public health or safety and the administration of justice;<sup>9</sup> and
  - (c) to make recommendations to any Minister or public statutory authority on any matter connected with the death, including public health or safety or the administration of justice.<sup>10</sup> These powers are the vehicles by which the prevention role may be advanced.
11. All coronial findings must be made based on proof of relevant facts on the balance of probabilities.<sup>11</sup> In determining these matters, I am guided by the principles enunciated in *Briginshaw v Briginshaw*.<sup>12</sup> 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 that they caused or contributed to the death.
12. In conducting this investigation, I have made a thorough forensic examination of the evidence including reading and considering the witness statements and other documents in the coronial brief.

## BACKGROUND

13. Ms Mancuso and Mr Paulino met at Lakeside Secondary College and became engaged in February 1985. They were married in January 1987.<sup>13</sup>
14. Evidence in the coronial brief suggests that Mr Paulino perpetrated family violence towards Ms Mancuso throughout their marriage and after their separation in 2010. This included physical abuse, threats, emotional and psychological abuse, controlling behaviour, financial abuse and property damage.

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<sup>8</sup> Section 72(1)

<sup>9</sup> Section 67(3)

<sup>10</sup> Section 72(2)

<sup>11</sup> *Re State Coroner; ex parte Minister for Health* (2009) 261 ALR 152

<sup>12</sup> (1938) 60 CLR 336

<sup>13</sup> Coronial brief, Appendix AA, 862, 873.

15. In their statements Luke and Daniel described witnessing family violence perpetrated by Mr Paulino against Ms Mancuso. Daniel stated, '*I could hear stuff being thrown, or smashed, or he [Mr Paulino] used to push and shove my mum.*'<sup>14</sup> Luke stated that he and Daniel had, on occasion, intervened in arguments between Mr Paulino and Ms Mancuso. Luke corroborated that on occasion Mr Paulino smashed dishes and pushed and shoved Ms Mancuso during arguments. Luke also reported having seen bruises on Ms Mancuso's arms after arguments had occurred.<sup>15</sup> Luke described a further incident where Mr Paulino picked up a knife and gestured with it during an argument with Ms Mancuso.<sup>16</sup>
16. Ms Mancuso's family members were also aware of, or suspected, that family violence was occurring in the relationship between Ms Mancuso and Mr Paulino. Ms Mancuso's brother and sister reportedly saw injuries on Ms Mancuso, including injuries to her face<sup>17</sup> and scratches on her arms and legs.<sup>18</sup> Ms Mancuso alleged to her sister, Melina, that Mr Paulino had been violent towards her during their relationship.<sup>19</sup> Ms Mancuso's mother was also reportedly aware that Ms Mancuso had been subjected to verbal abuse and physical violence by Mr Paulino during their marriage, and described witnessing verbal arguments between them, as well as injuries to Ms Mancuso on a number of occasions.<sup>20</sup>
17. Ms Mancuso also disclosed allegations of family violence to several friends.<sup>21</sup> A number of her friends stated that they had observed injuries to Ms Mancuso during her relationship with Mr Paulino. These injuries included bruises on Ms Mancuso's arms and throat,<sup>22</sup> bruises and cuts on her face,<sup>23</sup> and bruises to her body.<sup>24</sup>
18. At least two witnesses stated that they had suggested that Ms Mancuso contact the police about Mr Paulino's violence, but Ms Mancuso was reluctant to do so.<sup>25</sup> One friend stated that they repeatedly encouraged Ms Mancuso to leave Mr Paulino but that Ms Mancuso stated that she could not because '*if she left him then he would kill her.*'<sup>26</sup> Ms Mancuso's cousin also encouraged Ms Mancuso to leave, and Ms Mancuso replied that she could not because he had

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<sup>14</sup> Coronial Brief, Statement of D Paulino, 176.

<sup>15</sup> Coronial Brief, Statement of L Paulino, 218-219.

<sup>16</sup> Coronial Brief, Statement of L Paulino, 220, 222-223.

<sup>17</sup> Coronial Brief, Statement of P Mancuso, 259; Statement of M Mancuso, 273-274.

<sup>18</sup> Coronial Brief, Statement of M Mancuso, 273.

<sup>19</sup> Coronial Brief, Statement of M Mancuso, 274.

<sup>20</sup> Coronial Brief, Statement of R Mancuso, 280-281.

<sup>21</sup> Coronial Brief, Statement of D Lombardo, 293-294; Statement of I Rizzolio, 315;

<sup>22</sup> Coronial Brief, Statement of D Lombardo, 293

<sup>23</sup> Coronial Brief, Statement of C Cotroneo, 336; Statement of R Micalizzi, 344; Statement of M Micalizzi, 348; Statement of V Baullo, 351.

<sup>24</sup> Coronial Brief, Statement of I Rizzolio, 315; Statement of C Cotroneo, 337; Statement of V Baullo, 351.

<sup>25</sup> Coronial Brief, Statement of I Rizzolio, 315; Statement of C Cotroneo, 336-337.

<sup>26</sup> Coronial Brief, Statement of R Micalizzi, 345.

threatened to ‘kill my mum, my dad, my boys, everyone...’<sup>27</sup> Ms Mancuso also reportedly stated on a number of occasions that she believed that Mr Paulino would kill her one day.<sup>28</sup>

19. Ms Mancuso separated from Mr Paulino in January 2010, after an alleged family violence incident which occurred in Rye.<sup>29</sup> During this incident Mr Paulino was reportedly verbally abusive towards Ms Mancuso and her family members, including her mother, and threw a plastic table in their presence.<sup>30</sup> On this occasion, Mr Paulino also allegedly stated that if Ms Mancuso was at home when he got there, he would kill her.<sup>31</sup>
20. After this incident Ms Mancuso separated from Mr Paulino and resided with her parents at their home in Reservoir.<sup>32</sup>
21. In late 2011, Mr Paulino began attempting to show family and friends of Ms Mancuso, including Daniel and Luke, a pornographic video, claiming that Ms Mancuso was one of the persons in the video.<sup>33</sup> He also reportedly contacted Ms Mancuso and advised her that he had a video of her engaging in sexual activities with a man, which he threatened to post on the internet.<sup>34</sup>
22. Mr Paulino contacted friends and family of Ms Mancuso, alleging that she was cheating on him<sup>35</sup> and persistently referred to Ms Mancuso as a “*slut*” when talking about her to Luke and Daniel.<sup>36</sup>
23. Between 20 January and 14 February 2012 Ms Mancuso reportedly received approximately 81 phone calls where the caller would hang up shortly after she answered the phone. A number of these occurred in the early hours of the morning between 12.30am and 4.30am. Telstra records indicate that these calls were made by Mr Paulino.<sup>37</sup>

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<sup>27</sup> Coronial Brief, Statement of M Micalizzi, 348.

<sup>28</sup> Coronial Brief, Statement of N Franco, 145; Statement of P Mancuso, 262; Statement of V Baullo, 352.

<sup>29</sup> Coronial Brief, Statement of D Paulino, 154, 169; Statement of M Mancuso, 268.

<sup>30</sup> Coronial Brief, Statement of D Paulino, 169; Statement of M Mancuso, 268.

<sup>31</sup> Coronial Brief, Statement of F Mancuso, 268.

<sup>32</sup> Coronial Brief, Appendix AA, 875.

<sup>33</sup> Coronial Brief, Statement of D Paulino, 183; Statement of L Paulino, 226-228; Statement of P Mancuso, 262; Statement of D Lombardo, 295; Statement of M Lombardo, 301; Statement of A Rizzolio, 322-323; Statement of L Safarewicz, 393; Appendix AA, 875-876.

<sup>34</sup> Coronial Brief, Appendix Z, 844.

<sup>35</sup> Coronial Brief, Statement of D Paulino, 171; Statement of L Paulino, 228; D Lombardo, 296; Statement of M Lombardo, 301; Statement of I Rizzolio 317; Statement of A Rizzolio, 322-323; Appendix AA, 875.

<sup>36</sup> Coronial Brief, Statement of D Paulino.

<sup>37</sup> Coronial Brief, Appendix HH.

24. In late January 2012, Ms Mancuso sought legal advice from a family lawyer who advised her to obtain a Family Violence Intervention Order (FVIO) to protect herself from Mr Paulino.<sup>38</sup>
25. On 10 February 2012, Ms Mancuso attended the Reservoir Police Station and advised a member of Victoria Police about Mr Paulino's repeated telephone calls. She asked the police member to contact Mr Paulino and request that he no longer contact her directly and instead communicate via their lawyers. The member contacted Mr Paulino via telephone and he reportedly agreed to contact Ms Mancuso via his lawyer. The member also advised Ms Mancuso that the police could apply for a FVIO to prevent Mr Paulino from contacting her if he continued to do so.<sup>39</sup>
26. The following day, on 11 February 2012, Ms Mancuso again attended the Reservoir Police Station and reported to a member of Victoria Police that Mr Paulino had been texting her. The member referred Ms Mancuso to a colleague, from the Family Violence Unit, for assistance.<sup>40</sup> Ms Mancuso told the second police member that Mr Paulino had been harassing her with numerous phone calls. During this discussion, Ms Mancuso received approximately six or seven phone calls from a number Ms Mancuso identified as belonging to Mr Paulino.<sup>41</sup>
27. The second member answered one of the phone calls and advised Mr Paulino she was going to apply for a FVIO on behalf of Ms Mancuso. Mr Paulino reportedly became aggressive and purportedly told the second member '*I have friends who are in the force and I can have them fuck you up.*'<sup>42</sup> The second member stated that when she requested that Mr Paulino stop calling Ms Mancuso, he replied '*How about I come down there and smash your fucking head in.*'<sup>43</sup> The second member advised him that he had just threatened a member of Victoria Police before terminating the phone call.<sup>44</sup>
28. The second member then applied for a complaint and warrant for a FVIO to protect Ms Mancuso from Mr Paulino.<sup>45</sup> Whilst the second member was completing this paperwork Mr Paulino called Ms Mancuso again. The second member answered the phone, and Mr Paulino reportedly told her '*I am not scared of police*'<sup>46</sup> and began making allegations

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<sup>38</sup> Coronial Brief, Statement of LS, 393-394.

<sup>39</sup> Coronial Brief, Statement of DM, 441.

<sup>40</sup> Coronial Brief, Statement of DM, 442.

<sup>41</sup> Coronial Brief, Statement of MC, 438.

<sup>42</sup> Coronial Brief, Statement of MC, 438.

<sup>43</sup> Coronial Brief, Statement of MC, 439.

<sup>44</sup> Coronial Brief, Statement of MC, 439.

<sup>45</sup> Coronial Brief, Appendix Z.

<sup>46</sup> Coronial Brief, Statement of MC, 440.

about Ms Mancuso cheating on him.<sup>47</sup> The second member advised Mr Paulino that a FVIO had been granted against him and that a court date had been listed for 24 February 2012 at the Heidelberg Magistrates' Court. Mr Paulino again threatened to come to the police station and '*smash [the second member's] head in.*'<sup>48</sup>

29. On 20 February 2012, a FVIO was issued by the Heidelberg Magistrates' Court which protected Ms Mancuso from Mr Paulino. The FVIO included conditions which prevented Mr Paulino from contacting Ms Mancuso, communicating with her, approaching her or going near her home or work. The order was for 12 months and was due to expire on 20 February 2013. Mr Paulino was present at the FVIO hearing and consented to the order being made without making any admissions as to the allegations against him.<sup>49</sup>
30. The FVIO appears to have initially resulted in a de-escalation of Mr Paulino's behaviour. Ms Mancuso was contacted by Berry Street Family Violence Services (Berry Street)<sup>50</sup> in March 2012, following an earlier referral from Victoria Police. Ms Mancuso advised Berry Street that she felt safe and that Mr Paulino was generally abiding by the FVIO. She reported that although he had tried to call her, she had not answered the phone.<sup>51</sup>
31. When Ms Mancuso spoke to Berry Street again in April 2012, she advised them that Mr Paulino was not bothering her anymore, that everything was fine, and that she did not require any further assistance from them.<sup>52</sup>
32. In March 2012 Ms Mancuso instructed her solicitor to write a letter to Mr Paulino '*to commence negotiations for a property settlement.*'<sup>53</sup> Ms Mancuso's solicitor sent the letter but received no response. As a result, Ms Mancuso then instructed her solicitor to commence proceedings in the Federal Magistrates' Court seeking a property settlement.<sup>54</sup> The initiating application was filed in the Federal Magistrates' Court on 18 May 2012, with the first court date listed for 27 June 2012.<sup>55</sup>
33. In an affidavit supporting her initiating application, Ms Mancuso stated that Mr Paulino '*often told me that if I left him I would not be entitled to anything and if I tried to get anything from*

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<sup>47</sup> Coronial Brief, Statement of MC, 440.

<sup>48</sup> Coronial Brief, Statement of MC, 440.

<sup>49</sup> Coronial Brief, Appendix AA, 869-870.

<sup>50</sup> Berry Street Family Violence Service provides a range of support services to women and their children who have experienced family violence.

<sup>51</sup> Berry Street Family Violence Service case records in relation to Theresa Paulino (nee Mancuso).

<sup>52</sup> Berry Street Family Violence Service case records in relation to Theresa Paulino (nee Mancuso).

<sup>53</sup> Coronial Brief, Statement of LS, 394.

<sup>54</sup> Coronial Brief, Statement of LS, 394.

<sup>55</sup> Coronial Brief, Appendix AA, 859.



him he would kill me.’<sup>56</sup> She also stated that she had initially ‘been reluctant to pursue a property settlement because of the threats made by him [Mr Paulino] to harm me if I ever tried to get anything.’<sup>57</sup>

34. Ms Mancuso disclosed incidents of family violence which she alleged had occurred throughout her and Mr Paulino’s marriage. She stated that Mr Paulino:

*...would lose his temper at the slightest thing. He would often shout at me in front of the children and threaten to hit me. On quite a number of occasions he pushed me and hit me but never with enough force to cause bruising. This often occurred in front of the children.*<sup>58</sup>

35. Ms Mancuso also described running out of the house on numerous occasions to escape from Mr Paulino and having to wait outside until he calmed down.
36. Ms Mancuso and Mr Paulino both attended the Federal Magistrates’ Court on 27 June 2012. Ms Mancuso was accompanied by her new partner, Dario Ferella (Mr Ferella). Mr Ferella stated that when they arrived at the court Mr Paulino yelled out to Ms Mancuso ‘*Is that your weasel boyfriend from Essendon.*’<sup>59</sup> Ms Mancuso reportedly told friends after the hearing that whilst they were at court she could hear Mr Paulino in a side room yelling loudly and demanding to know who the male with her was.<sup>60</sup>
37. The proceedings on 27 June 2012 were adjourned to 6 December 2012, to allow Ms Mancuso and Mr Paulino to obtain an independent valuation of jointly owned properties and engage in mediation; however, Ms Mancuso and Mr Paulino were unable to agree as to a suitable property valuer, and mediation could not commence until this had occurred.<sup>61</sup>
38. On 22 November 2012, Ms Mancuso attended an appointment at her place of employment and appeared visibly upset. Ms Mancuso reported to colleagues Susan Simmons (Ms Simmons) and Helen MacDonald that she had earlier attended LaManna Supermarket in Essendon when she allegedly saw Mr Paulino. She became fearful and left to go to her car, at which point Mr Paulino reportedly approached her, banged on the car window and yelled at her aggressively, saying words to the effect of ‘*I’ll end this and put you in the ground.*’<sup>62</sup>

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<sup>56</sup> Coronial Brief, Appendix AA, 874.

<sup>57</sup> Coronial Brief, Appendix AA, 875.

<sup>58</sup> Coronial brief, Appendix AA, 873.

<sup>59</sup> Coronial Brief, Statement of D Ferella, 358.

<sup>60</sup> Coronial Brief, Statement of M Lombardo, 302.

<sup>61</sup> Coronial Brief, Statement of LS, 39; Appendix AA.

<sup>62</sup> Coronial Brief, Statement of H Macdonald, 386; Statement of S Simmons, 389.

39. Ms Simmons's statement noted that she advised Ms Mancuso to contact Victoria Police, but Ms Mancuso advised that she did not want to upset Mr Paulino further.<sup>63</sup> Ms Simmons insisted on calling the police and they contacted the Reservoir Police Station on speaker phone, so that Ms Mancuso could hear the conversation. Ms Simmons advised the police what had allegedly occurred, and they purportedly responded that they could not get someone to attend immediately but that if Mr Paulino was sighted nearby to call '000' immediately. The police also reportedly advised Ms Mancuso to come to the station to make a statement.<sup>64</sup>
40. According to Ms Simmons, she encouraged Ms Mancuso to go to the police station, escorted her to her car and waited to ensure no other cars followed her when she left. Ms Simmons also made a note of the incident in Ms Mancuso's personnel file.<sup>65</sup> Ms Mancuso contacted Ms Simmons by telephone the following day and informed Ms Simmons that she had been to the police station to report the incident.<sup>66</sup>
41. Ms Mancuso also told several friends and family members about this incident after it occurred.<sup>67</sup>
42. In an affidavit filed in the family law proceedings, Mr Paulino admitted that he had seen Ms Mancuso at LaManna in Essendon Fields and spoke to her at the entrance. Mr Paulino stated that he had said to her, '*we need to talk about the kids and what's happening*' and that she did not respond.<sup>68</sup> During a police interview following Ms Mancuso's death, Mr Paulino also admitted that he spoke to Ms Mancuso at LaManna in Essendon Fields.<sup>69</sup>
43. Victoria Police Law Enforcement Assistance Program (LEAP)<sup>70</sup> records provided to the Court contain no record of any family violence report being made in relation to the alleged incident on 22 November 2012.
44. On 6 December 2012, Ms Mancuso and Mr Paulino attended family law proceedings in the Federal Magistrates' Court. During these proceedings, Ms Mancuso's solicitor stated that Mr Paulino yelled to Ms Mancuso words to the effect of, '*you should be ashamed of yourself...think of your children.*'<sup>71</sup> Ms Mancuso's solicitor stated that she advised Mr Paulino

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<sup>63</sup> Coronial Brief, Statement of S Simmons, 390.

<sup>64</sup> Coronial Brief, Statement of S Simmons, 390.

<sup>65</sup> Coronial Brief, Statement of S Simmons, 391.

<sup>66</sup> Coronial Brief, Statement of S Simmons, 391.

<sup>67</sup> Coronial Brief, Statement of V Christodoulou, 313; Statement of D Ferella, 357-358, 361.

<sup>68</sup> Coronial Brief, Appendix AA, 819.

<sup>69</sup> Coronial Brief, Appendix YY, 1601.

<sup>70</sup> The Victoria Police Law Enforcement Assistance Program is an electronic database which stores information about members of the public whom the police have had interactions with.

<sup>71</sup> Coronial Brief, Appendix AA, 1121.

that there was a FVIO in place and that he should not speak to Ms Mancuso, at which point Mr Paulino told her to ‘*shut up*.’<sup>72</sup> Ms Mancuso’s solicitor reported that she advised Mr Paulino’s lawyers about the incident.<sup>73</sup> It is unclear whether any further action was taken to report this incident to the police, or whether Ms Mancuso was advised to do so, however, Victoria Police LEAP records provided to the Court do not contain any indication that a report was made on this occasion.

45. The family law proceedings were adjourned to August 2013 to allow the parties to arrange a conference of valuers and a mediation.<sup>74</sup>

46. On 13 January 2013 Ms Mancuso applied to have the FVIO extended indefinitely.<sup>75</sup> In her application for an extension of the order, Ms Mancuso stated:

*I do not feel safe. [Mr Paulino] verbally abused me on 22 November 2012, which was reported to police. He also verbally abused me in court on 6 December 2012, in the presence of my solicitor and barrister. We are still in the process of disputed family law proceedings (property settlement) and I feel unsafe every time I see him.*<sup>76</sup>

47. On 19 February 2013 the Heidelberg Magistrates’ Court granted an interim extension of the FVIO to 21 May 2013. Mr Paulino was not present at the hearing.<sup>77</sup>

48. In late April 2013, Ms Mancuso’s solicitor was advised by Mr Paulino’s lawyers that they no longer represented him. When Ms Mancuso’s solicitor contacted Mr Paulino directly to try to resolve the property dispute, Mr Paulino was purportedly verbally abusive towards her and reportedly called her a “*fucking bitch*”.<sup>78</sup> In an interview with police following Ms Mancuso’s death Mr Paulino stated that he ‘*told [Ms Mancuso’s solicitor] to get fucked*.’<sup>79</sup>

49. At around this time, Ms Mancuso advised her solicitor, ‘*if anything happens to me, go to the police, as he will have killed me*.’<sup>80</sup>

50. On 21 May 2013, the Heidelberg’ Magistrates’ Court granted an extension of Ms Mancuso’s FVIO to 21 May 2015. Mr Paulino was again not present at the hearing.<sup>81</sup>

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<sup>72</sup> Coronial Brief, Appendix AA, 1121.

<sup>73</sup> Coronial Brief, Appendix AA, 1121.

<sup>74</sup> Coronial Brief, Statement of LS, 394; Appendix AA.

<sup>75</sup> Coronial Brief, Appendix Z, 849.

<sup>76</sup> Coronial Brief, Appendix Z, 849.

<sup>77</sup> Family Violence Intervention Order documentation from Heidelberg Magistrates’ Court.

<sup>78</sup> Coronial Brief, Statement of LS, 395; Appendix AA, 1122;

<sup>79</sup> Coronial Brief, Appendix YY, 1605.

<sup>80</sup> Coronial Brief, Statement of LS, 395.

<sup>81</sup> Victoria Police Law Enforcement Assistance Program records in relation to Fernando Paulino.

51. On 8 July 2013, Ms Mancuso signed an application in a case in the family law proceedings, seeking an urgent directions hearing to enforce Mr Paulino's compliance with the interim orders made on 6 December 2012.<sup>82</sup> During Ms Mancuso's appointment with her solicitor to sign the documentation, Ms Mancuso asked her solicitor to accompany her to the court hearing as she was frightened and worried about walking to and from her car on her own.<sup>83</sup>
52. The documentation from Ms Mancuso's application, which included an application in a case form and an affidavit signed by Ms Mancuso's solicitor, was filed in the Federal Magistrates' Court on 9 July 2013.<sup>84</sup> A hearing date was set for 1 August 2013.<sup>85</sup> In a police interview with Mr Paulino, the police suggested that Mr Paulino was served with this documentation the following day, although Mr Paulino stated he could not recall this.<sup>86</sup>

## **MATTERS IN RELATION TO WHICH A FINDING MUST, IF POSSIBLE, BE MADE**

### **Identity of the Deceased, pursuant to section 67(1)(a) of the Act**

53. On 18 July 2013 Mr Patrick Mancuso visually identified the deceased to be his sister, Teresa Mancuso, born 14 July 1964.
54. Identity is not in dispute in this matter and requires no further investigation.

### **Medical cause of death, pursuant to section 67(1)(b) of the Act**

#### *Neuropathology Investigation*

55. On 12 August 2013, Dr Linda Iles, Forensic Pathologist at the Victorian Institute of Forensic Medicine (VIFM) performed macroscopic and microscopic examinations of Ms Mancuso and provided a report dated 11 December 2013. Dr Iles commented that *'the neuropathological examination of the brain showed evidence of minor contusion and subarachnoid haemorrhage in the posterior inferior right temporal lobe. There were no skull fractures.'*

#### *Forensic Pathology Investigation*

56. On 16 July 2013, Dr Heinrich Bouwer, a Forensic Pathologist practising VIFM, conducted an autopsy. Dr Bouwer provided a written report, dated 20 December 2013, which concluded that Ms Mancuso's cause of death was multiple stab wounds.

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<sup>82</sup> Coronial Brief, Appendix AA, 1127.

<sup>83</sup> Coronial Brief, Statement of L Safarewicz, 395.

<sup>84</sup> Coronial Brief, Appendix AA, 1120.

<sup>85</sup> Coronial Brief, Appendix AA, 1120.

<sup>86</sup> Coronial Brief, Appendix QQ, 1416-1417.

57. Toxicological analysis of blood did not detect alcohol, common drugs or poisons.

58. Dr Bouwer confirmed the following in his report:

- (a) At postmortem, there were multiple penetrating stab wounds to Ms Mancuso's chest, abdomen and back. There were at least 16 stab wounds, of which 7 were at the front and 9 at the back of the body. Stab wounds tracks extended in multiple directions into the chest and abdominal cavity and were associated with transection and fractures of multiple ribs, multiple perforating lung injuries with associated bilateral haemopneumothoraces, perforating heart and liver injuries as well as penetrating ascending aorta injury.

The length of the longest stab wound injury to the upper chest was 2.8 cm.

The characteristics of these stab wounds are consistent with being caused by a sharp implement such as a knife or a similar object.

- (b) There was also evidence of blunt force trauma to the head and face region. There were two scalp lacerations, a right upper lip laceration and left periorbital bruise. The maxilla was fractured across.
- (c) With respect to the requisite degree of force to produce these stab injuries, a number of factors need to be taken into consideration including the sharpness of the tip of the culprit implement, the resistive effects of clothing, skin and underlying tissue and a degree of kinetic energy conferred on the blade. Having regard to the above caveats, and the fact that multiple ribs were incised and transected, the degree of force on a scale of mild/moderate/severe, in Dr Bouwer's view, is most appropriately considered severe.
- (d) There were some bruises and abrasions on the arms and legs and a bruise on the back. There were no incised injuries to the arms.

59. Dr Bouwer did not detect any significant natural disease at autopsy that may have caused or contributed to the death.

## **Circumstances in which the death occurred, pursuant to section 67(1)(c) of the Act**

60. On the evening of 15 July 2013, Ms Mancuso had dinner at her sister Francesca's home. Luke, Daniel and other relatives were in attendance.<sup>87</sup>
61. At approximately 8.30pm, Ms Mancuso returned home to her residence and began getting ready to go out, as she had planned to meet an acquaintance later that evening.<sup>88</sup>
62. At approximately 8.41pm, Ms Mancuso's friend, Pasqua Varallo (Ms Varallo) telephoned Ms Mancuso. Ms Mancuso told Ms Varallo that she had just heard a banging noise, whilst exiting the shower. Ms Varallo remained on the phone whilst Ms Mancuso checked the house. They spoke for a brief period of time before organising for Ms Mancuso to contact Ms Varallo once she had finished doing her hair.<sup>89</sup>
63. At approximately 9.00pm, Ms Mancuso's neighbours Nina and Petros Katsopoulos (Mr and Mrs Katsopoulos) heard a scream coming from the direction of Ms Mancuso's property. They went to the back door of their home and Mrs Katsopoulos called Ms Mancuso's name several times, but there was no response. Mrs Katsopoulos attempted to telephone Ms Mancuso, but she did not answer.<sup>90</sup>
64. Following the incident, Mrs Katsopoulos contacted Ms Mancuso's sister, Francesca telling her that she was concerned for Ms Mancuso. Mrs Katsopoulos noted in her statement that Ms Mancuso's garage door was open, the lights were on and the gate was shut.<sup>91</sup>
65. Francesca's husband, Nick and his friend Michael Cardamone attended Ms Mancuso's property at approximately 9.40pm that night. They located Ms Mancuso lying on the garage floor. She was unresponsive and had significant injuries. Emergency services were contacted, and Ms Mancuso was declared deceased at the scene.<sup>92</sup>
66. On 21 December 2017, Mr Paulino was convicted of the murder of Ms Mancuso and sentenced to 30 years imprisonment with a non-parole period of 25 years.<sup>93</sup> Mr Paulino subsequently appealed his murder conviction to the Supreme Court of Appeal. In a judgement

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<sup>87</sup> Coronial Brief, Statement of LP dated 16 July 2013.

<sup>88</sup> Coronial Brief, Statement of FM dated 16 July 2013, 267.

<sup>89</sup> Coronial Brief, Statement of PV dated 17 July 2013, 133.

<sup>90</sup> Coronial Brief, Statement of PK (unsigned) Coronial Brief, 136; Statement of NK (unsigned), 139.

<sup>91</sup> Coronial Brief, Statement of FM dated 16 July 2013, 267.

<sup>92</sup> Coronial Brief, Statement of NF dated 16 July 2013, 147.

<sup>93</sup> *DPP v Paulino (Sentence)* [2017] VSC 794.

dated 21 November 2018, Mr Paulino was granted leave to appear, but his appeal was dismissed on the basis that there had been no substantial miscarriage of justice.<sup>94</sup>

## COMMENTS PURSUANT TO SECTION 67(3) OF THE ACT

67. For the purposes of the *Family Violence Protection Act 2008* (Vic), the relationship between Ms Mancuso and Mr Paulino clearly fell within the definition of ‘*family member*’<sup>95</sup> under the *Family Violence Protection Act 2008* (Vic). As outlined above, evidence in the coronial brief suggests that there was a history of family violence within Ms Mancuso and Mr Paulino’s relationship.
68. In light of Ms Mancuso’s death occurring under circumstances where there was a history of family violence prior and proximate to her death, former State Coroner Judge Sara Hinchey requested that the Coroners’ Prevention Unit (CPU)<sup>96</sup> examine the circumstances of Ms Mancuso’s death as part of the Victorian Systemic Review of Family Violence Deaths (VSRFVD). The VSRFVD assists Victorian Coroners to examine the circumstances in which family violence deaths occur. In addition, the VSRFVD collects and analyses information on family violence-related deaths. Together this information assists with the identification of systemic prevention-focused recommendations aimed at reducing the incidence of family violence in the Victorian Community.

### *Family violence risk factors*

69. The *Family Violence Risk Assessment and Risk Management Framework*, known as the *Common Risk Assessment Framework* (CRAF), details a number of evidence based risk factors which have been found to impact on the likelihood and severity of family violence.<sup>97</sup> These risk factors are divided into three categories: those which relate to the victim of family violence, those which relate to the perpetrator, and those which relate to the relationship. The CRAF also identifies several additional factors which can impact on the options and outcomes available to family violence victims.<sup>98</sup>

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<sup>94</sup> *Fernando Paulino v The Queen* [2018] VSCA 306.

<sup>95</sup> *Family Violence Protection Act 2008*, section 8.

<sup>96</sup> The Coroners Prevention Unit is a specialist service for Coroners established to strengthen their prevention role and provide them with professional assistance on issues pertaining to public health and safety

<sup>97</sup> Department of Health and Human Services, *Family Violence Risk Assessment and Risk Management Framework and Practice Guides 1-3* (2012), 2<sup>nd</sup> Edition.

<sup>98</sup> Department of Health and Human Services, *Family Violence Risk Assessment and Risk Management Framework and Practice Guides 1-3* (2012), 2<sup>nd</sup> Edition, 30.

70. It is noted that the CRAF has recently been replaced by the *Family Violence Multi-Agency Risk Assessment and Management Framework* (MARAM).<sup>99</sup> The CPU examined the risk factors present in this case using the CRAF as that was the risk assessment tool available to Victoria Police at the time they had contact with Ms Mancuso and Mr Paulino.
71. With respect to Mr Paulino, the CPU identified that nine of the 18 perpetrator specific risk factors were evidenced in the circumstances of this case. Specifically, Mr Paulino had previously threatened to harm Ms Mancuso, had previously threatened to kill Ms Mancuso, had previously threatened to harm Ms Mancuso's family, had previously breached the FVIO protecting Ms Mancuso, engaged in stalking behaviour, obsessive and jealous behaviour and controlling behaviours towards Ms Mancuso, had a diagnosed mental illness,<sup>100</sup> and had a history of engaging in violent behaviour against others.<sup>101</sup> Of these, four are listed in the CRAF as risk factors that '*may indicate an increased risk of the victim being killed.*'<sup>102</sup> These include the prior threats to kill Ms Mancuso, stalking, obsessive and jealous behaviour, controlling behaviours and mental illness.
72. With respect to relationship specific risk factors, the CPU identified that there were no relationship specific risk factors evidenced in the circumstances of this case. It is noted that the impending financial settlement may have been a financial stressor for Mr Paulino, however, Mr Paulino's adverse reaction to the proceedings appeared to centre more around his view that the property belonged to him and Ms Mancuso was not entitled to any of it, rather than any indication that it might cause financial stress for Mr Paulino.
73. It should be noted that there are several additional risk factors included within MARAM which were not included in the CRAF, that are evidenced in this case.
74. With respect to risk factors applicable to adult victims, the MARAM notes that a victim's self-assessed level of risk is an important risk factor as '*victims are often good predictors of their own level of safety and risk.*'<sup>103</sup> In this case, Ms Mancuso indicated on numerous occasions that she believed that Mr Paulino would kill her.<sup>104</sup>

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<sup>99</sup> Family Safety Victoria, *Family Violence Multi-Agency Risk Assessment and Management Framework* (2018).

<sup>100</sup> *DPP v Paulino (Sentence)* [2017] VSC 794, 7 [18].

<sup>101</sup> Department of Health and Human Services, *Family Violence Risk Assessment and Risk Management Framework and Practice Guides 1-3* (2012), 2<sup>nd</sup> Edition, 28.

<sup>102</sup> Department of Health and Human Services, *Family Violence Risk Assessment and Risk Management Framework and Practice Guides 1-3* (2012), 2<sup>nd</sup> Edition, 28.

<sup>103</sup> Family Safety Victoria, *Family Violence Multi-Agency Risk Assessment and Management Framework* (2018), 27.

<sup>104</sup> Coronial Brief, Statement of NF, 144; Statement of DP, 154, 169; Statement of PM, 262; Statement of FM, 268; Statement of R<, 345; Statement of MM, 348; Statement of VB, 352.



75. The MARAM also notes ‘*imminence*’ as a victim specific risk factor, noting that ‘*certain situations can increase the risk of family violence escalating in a very short timeframe.*’<sup>105</sup> Such situations are noted to include ‘*family court proceedings.*’<sup>106</sup>
76. Financial abuse or difficulties are also noted within the MARAM as a distinct risk factor which can be a ‘*relevant determinant of a victim staying or leaving a relationship.*’<sup>107</sup>
77. The MARAM also notes a number of risk factors for adult victims caused by perpetrator behaviours, and includes physical harm, emotional abuse and property damage as three distinct risk factors under this category to consider in family violence risk assessment.<sup>108</sup>
78. Had the MARAM been applicable at the time that Ms Mancuso was seeking assistance, the above risk factors may have assisted Victoria Police and other service providers to more fully assess the risk faced by Ms Mancuso in the circumstances of this case.

## **Assessment of Service Contact**

### Victoria Police

79. At my request the Chief Commissioner of Police Graham Ashton AM, (Chief Commissioner Ashton), was invited to make submissions in relation to the service contact between Victoria Police, Ms Mancuso and Mr Paulino. Ronald Gipp (Mr Gipp) Counsel for the Chief Commissioner Ashton provided a written response to the Court dated 15 November 2019.

### *Family violence incident reports on 10 and 11 February 2012*

80. Ms Mancuso sought assistance from Victoria Police on 10 February and 11 February 2012 regarding alleged family violence incidents involving Mr Paulino.
81. Based on the statement of the second Victoria Police member, and the Victoria Police Family Violence Risk Assessment and Management Report (VP Form L17) completed by Victoria Police, it appears that Ms Mancuso reported the repeated telephone calls made by Mr Paulino, his verbal abuse, his threats to post a pornographic video of her on the internet, and his threats that ‘*someone would get hurt.*’<sup>109</sup>

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<sup>105</sup> Family Safety Victoria, *Family Violence Multi-Agency Risk Assessment and Management Framework* (2018), 27.

<sup>106</sup> Family Safety Victoria, *Family Violence Multi-Agency Risk Assessment and Management Framework* (2018), 27.

<sup>107</sup> Family Safety Victoria, *Family Violence Multi-Agency Risk Assessment and Management Framework* (2018), 27.

<sup>108</sup> Family Safety Victoria, *Family Violence Multi-Agency Risk Assessment and Management Framework* (2018), 29-30.

<sup>109</sup> Coronial Brief, Appendix Z, 845.

82. Based on the information reported by Ms Mancuso, the member appears to have taken all appropriate steps as required by the Victoria Police, *Code of Practice for the Investigation of Family Violence* (Code of Practice).<sup>110</sup> The member completed a VP Form L17,<sup>111</sup> applied for a FVIO to protect Ms Mancuso, and submitted referrals for family violence services to make contact with Ms Mancuso and Mr Paulino.<sup>112</sup> The member also contacted the Women's Domestic and Family Violence Service, now known as Safe Steps, to refer Ms Mancuso to them.<sup>113</sup>
83. The Victoria Police brief for the FVIO proceedings noted that Mr Paulino was 'to be interviewed re threats.'<sup>114</sup> The incident report and case progress note in the Victoria Police LEAP database stated that Mr Paulino was to be interviewed regarding 'threats to inflict serious injury on member.'<sup>115</sup> However, subsequent notes indicated that the 'member sought direction from Serg [sic] FVU'<sup>116</sup> and nil further criminal charges to proceed due to member believing that respondent was angry with being issued with C/W [complaint and warrant]'<sup>117</sup> for a FVIO.
84. Evidence in the coronial brief suggests that no actions were pursued by Victoria Police in relation to the alleged threats against the second Victoria Police member.
85. On behalf of Chief Commissioner Ashton, Mr Gipp agreed with my assessment that Mr Paulino's alleged conduct on 11 February 2012 in threatening to inflict serious injury to a Victoria Police member prima facie constituted an offence of threatening to inflict serious injury to the Victoria Police member, contrary to s 21 of the *Crimes Act 1958* (Vic).<sup>118</sup>
86. Mr Gipp advised that at law, police members have discretion as to whether enforcement action is taken against persons found committing an offence. In accordance with the Victoria Police Manual (VPM) Policy Rules – *Disposition of offenders*, when considering appropriate action (including no further action) the police member must consider the:
- (a) nature, severity and gravity of the offence;
  - (b) characteristics and circumstances of the offender and victim;

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<sup>110</sup> Victoria Police, *Code of Practice for the Investigation of Family Violence* (2010), 2<sup>nd</sup> Edition.

<sup>111</sup> Coronial Brief, Appendix Z, 842.

<sup>112</sup> Coronial Brief, Statement of M Collier; Appendix Z.

<sup>113</sup> Safe Steps case records in relation to Teresa Paulino (nee Mancuso), 6.

<sup>114</sup> Coronial Brief, Appendix Z, 847.

<sup>115</sup> Victoria Police Law Enforcement Assistance Program Records in relation to Fernando Paulino.

<sup>116</sup> The CPU believe this is a reference to the 'Family Violence Unit'.

<sup>117</sup> Victoria Police Law Enforcement Assistance Program Records in relation to Fernando Paulino.

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- (c) any injury, loss or damage resulting directly from the offence;
- (d) appropriateness of the action in light of community expectations, effect of deterrence on the individual and of the community in general; and
- (e) requirements that apply to the specific enforcement action.<sup>119</sup>

87. Mr Gipp submitted that the member decided not to pursue criminal charges against Mr Paulino as the member reportedly did not believe that Mr Paulino was serious in his threats and did not feel threatened by his words.<sup>120</sup> The member sought advice from her superiors on two occasions to ensure that exercising this discretion was the correct course of action. Mr Gipp noted that this response did not reflect an attempt to minimise Mr Paulino's behaviour, but rather highlighted a reasoned assessment by the member that the threats were not serious and therefore did not merit pursuing charges.<sup>121</sup>
88. The *Code of Practice* highlights the importance of holding perpetrators of family violence to account for their actions.<sup>122</sup> Several years after Ms Mancuso's death, the Royal Commission into Family Violence (the Royal Commission) also highlighted the importance of perpetrator accountability within the family violence response system.<sup>123</sup> Although Mr Paulino's threats on 11 February 2012 were towards a police member and not towards Ms Mancuso, they indicated that Mr Paulino had a disregard for the law and authority, which should have been considered a serious risk factor in the circumstances. By not pursuing action against Mr Paulino at this stage, Victoria Police missed a valuable opportunity to hold Mr Paulino accountable for his threatening behaviour and reinforce that violent and threatening behaviour would not be tolerated by Victoria Police.
89. The Royal Commission noted the importance of improving perpetrator accountability in the Victorian family violence response system. It highlighted the importance of '*placing perpetrators in full view*'<sup>124</sup> and acknowledged that '*[w]hile support services must prioritise*

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<sup>119</sup> Correspondence to the Court dated 15 November 2019 from Mr Ronald Gipp, Counsel for the Chief Commissioner of Police.

<sup>120</sup> Correspondence to the Court dated 15 November 2019 from Mr Ronald Gipp, Counsel for the Chief Commissioner of Police.

<sup>121</sup> Correspondence to the Court dated 15 November 2019 from Mr Ronald Gipp, Counsel for the Chief Commissioner of Police.

<sup>122</sup> Victoria Police, *Code of Practice for the Investigation of Family Violence* (2010), 2<sup>nd</sup> Edition, 2.

<sup>123</sup> Victoria, Royal Commission into Family Violence, *Final Report* (2016) vol 3, 241-312.

<sup>124</sup> Victoria, Royal Commission into Family Violence, *Final Report* (2016) vol 3, 242.

*the needs of victims of family violence, existing interventions largely leave women to carry the burden of managing the risk associated with the conduct of perpetrators.*<sup>125</sup>

90. Perpetrator accountability is enacted through a range of responses including civil and criminal justice responses, as well as responses provided by community services, victim survivors and their families, and the wider community.<sup>126</sup> To ensure effective perpetrator accountability within the Victorian family violence response system the Royal Commission recommended *‘the creation of a response to perpetration that links all the parts of the government, justice and social services sectors, to overcome the existing fragmented and episodic response to perpetrators, and create a mutually reinforcing web of accountability.’*<sup>127</sup>
91. In this case, there were several missed opportunities for Mr Paulino to be held responsible for his actions. The main contact that Mr Paulino had with a service in relation to his use of family violence was Victoria Police. Although Victoria Police did take appropriate action in relation to the family violence incident initially reported to them, they failed to hold Mr Paulino to account for his threatening behaviour towards a police member on that occasion, and in relation to the purported breaches of the FVIO on 22 November 2012 and 6 December 2012.
92. The apparent failure to action Mr Paulino’s verbal threats to a police member and his breaches of the FVIO was a significant missed opportunity to hold Mr Paulino to account for his actions. Such failures to respond appropriately to breaches of FVIO’s are a significant systemic issue, particularly when there is clear evidence that the *‘integrity of protection orders is contingent on police responding appropriately to breaches.’*<sup>128</sup>

#### *Family violence incident report on 22 November 2012*

93. Victoria Police were reportedly contacted by Ms Mancuso’s work colleague, Ms Simmons, and Ms Mancuso, on 22 November 2012, advising that Mr Paulino had earlier approached Ms Mancuso and threatening her. Ms Mancuso was also reportedly advised by police to attend the Reservoir Police Station to make a statement.<sup>129</sup>

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<sup>125</sup> Victoria, Royal Commission into Family Violence, *Final Report* (2016) vol 3, 242.

<sup>126</sup> Family Safety Victoria, *Family Violence Multi-Agency Risk Assessment and Management Framework* (2018), 32.

<sup>127</sup> Victoria, Royal Commission into Family Violence, *Final Report* (2016) vol 3, 242.

<sup>128</sup> Christopher Dowling et al, ‘Protection orders for domestic violence: A systematic review’ (Trends & Issues in crime and criminal justice No 551, Australian Institute of Criminology, 2018) 11

<https://aic.gov.au/publications/tandi/tandi551>.

<sup>129</sup> Coronial Brief, Statement of SS, 390.

94. Evidence provided by Ms Simmons suggests that Ms Mancuso had attended the police station following this report.<sup>130</sup> Ms Mancuso's application to vary her FVIO, which was made on 31 January 2013, also noted that the incident on 22 November 2012 had been reported to Victoria Police.<sup>131</sup> However, there is no evidence that this alleged breach was recorded in the Victoria Police LEAP records provided to the Court, or that any follow up action was taken by police in relation to this report.
95. This appears to be a significant missed opportunity for intervention by Victoria Police. If proven, the alleged threat made by Mr Paulino was potentially a crime in contravention of s. 20 of the *Crimes Act 1958* (Vic), and a breach of the FVIO protecting Ms Mancuso at the time.
96. The apparent failure to take any action against Mr Paulino in relation to the death threat appears to have been in breach of the *Code of Practice* which states that '*police will respond to and take action on any family violence incident reported to them, regardless of who made the report and how it was made.*'<sup>132</sup> The *Code of Practice* also notes that the action taken should be '*based on risk assessment and risk management, regardless of whether the AFM [Affected Family Member]*<sup>133</sup> *makes a verbal complaint or written statement.*'<sup>134</sup> The *Code of Practice* explicitly notes that reports '*may be made by telephone.*'<sup>135</sup>
97. The *Code of Practice* required the relevant member to complete a VP Form L17 risk assessment after receiving the report.<sup>136</sup> This would have led to the family violence incident report being recorded in LEAP, which would should have subsequently been reviewed by a supervisor to ensure appropriate action was taken in response to the report.
98. It is also noted that Mr Paulino had attended the Sunshine Magistrates' Court on 26 September 2012 in relation to charges of wilfully damaging property, unlawful assault, recklessly causing injury, making a threat to kill, throwing a missile to injure, and refusing to leave a private place after warning.<sup>137</sup> These charges arose from an incident unrelated to Ms Mancuso. At the hearing on 26 September 2012, Mr Paulino was fined without conviction

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<sup>130</sup> Coronial Brief, Statement of SS, 391.

<sup>131</sup> Coronial Brief, Appendix Z, 849.

<sup>132</sup> Victoria Police, *Code of Practice for the Investigation of Family Violence* (2010), 2<sup>nd</sup> Edition, 8.

<sup>133</sup> As per the Victoria Police, *Code of Practice for the Investigation of Family Violence* (2010), 2<sup>nd</sup> Edition, 6 - AFM refers to the 'Affected Family Member' and means the family member whose person or property is the subject of an application for an order, and is an interchangeable word with victim (of crime).

<sup>134</sup> Victoria Police, *Code of Practice for the Investigation of Family Violence* (2010), 2<sup>nd</sup> Edition, 8

<sup>135</sup> Victoria Police, *Code of Practice for the Investigation of Family Violence* (2010), 2<sup>nd</sup> Edition, 8.

<sup>136</sup> Victoria Police, *Code of Practice for the Investigation of Family Violence* (2010), 2<sup>nd</sup> Edition, 17, 20.

<sup>137</sup> Victoria Police Law Enforcement Assistance Program Records in relation to Fernando Paulino.

in relation to the charges of wilfully damaging property and unlawful assault and placed on an undertaking. The remaining charges were withdrawn or struck out.<sup>138</sup>

99. The alleged threat to kill and breach of a FVIO which allegedly occurred on 22 November 2012 may also have been in breach of the undertaking made by Mr Paulino with the Court on 26 September 2012.

100. Mr Gipp stated on behalf of Chief Commissioner Ashton that Victoria Police had no record of a telephone conversation between Ms Simmons and the Reservoir Police Station on 22 November 2012, nor any record that Ms Mancuso reported the threats by Mr Paulino to police in person on or shortly after 22 November 2012.<sup>139</sup>

101. Nonetheless, Mr Gipp stated that Victoria Police accepted Ms Simmons' version of events that on 22 November 2012 police advised her they could not attend immediately but if Mr Paulino was seen '*hanging around*' to call triple zero (000) immediately. Mr Gipp also stated that the Chief Commissioner accepted that police also advised that Ms Mancuso needed to attend the station to make a statement. Mr Gipp noted that the advice given to Ms Simmons was compliant with the *Code of Practice*.

102. Mr Gipp further stated that, Victoria Police does not challenge whether Ms Mancuso attended a police station to report the alleged contravention on 22 November 2012 and that Victoria Police policy requires that such an attendance prompt immediate police action. He noted that a VP Form L17 should be completed and a statement taken, in this case from Ms Mancuso, resulting in an investigation into her complaint that the criminal offence of threats to kill had been committed contrary to s 20 of the *Crimes Act 1958* and that a breach of the FVIO taken out on Ms Mancuso's behalf by a Victoria Police member on 20 February 2020 had occurred. That investigation would also have identified that the threatening conduct also constituted a breach of Mr Paulino's undertaking to the Sunshine Magistrates' Court on 26 September 2012 not to commit any further criminal offences. Apart from the statement provided by Ms Simmons regarding Ms Mancuso's attendance at the police station, Victoria Police confirmed that there was no VP Form L17, crime reports, investigation or prosecution in relation to the alleged breaches.<sup>140</sup>

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<sup>138</sup> Victoria Police Law Enforcement Assistance Program Records in relation to Fernando Paulino.

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<sup>140</sup> Correspondence to the Court dated 15 November 2019 from Mr Ronald Gipp, Counsel for the Chief Commissioner of Police.

103. I note that in addition to potentially being a breach of the *Code of Practice*, the failure to action the family violence incident report on 22 November 2012 was a further missed opportunity to hold Mr Paulino to account for his violent behaviour and offer another opportunity to engage Ms Mancuso with family violence support services.<sup>141</sup>

*Notification of Ms Mancuso's application to vary the FVIO*

104. On 31 January 2013 the Victoria Police member who had applied for the initial FVIO on Ms Mancuso's behalf received a facsimile from the Heidelberg Magistrates' Court notifying the member that Ms Mancuso had applied to extend the FVIO against Mr Paulino. A copy of Ms Mancuso's application to extend the FVIO was included within the facsimile. The application stated that Mr Paulino had verbally abused Ms Mancuso on 22 November 2012, which had been reported to the police, and had also verbally abused Ms Mancuso at Court on 6 December 2012.<sup>142</sup>

105. The *Code of Practice* states that when the police, as an applicant to an FVIO, are served with notice that another party has applied to extend the conditions of the order, they '*must contact the AFM,*'<sup>143</sup> who in this case was Ms Mancuso. Further, the *Code of Practice* states that '*Police and the AFM must attend court*'<sup>144</sup> and any agreement to extend, vary or revoke a FVIO must '*be appropriate in the circumstances, based on an assessment of the present and future risks.*'<sup>145</sup>

106. There is no information in the available material which suggests that the police member who was the applicant to the FVIO contacted Ms Mancuso, undertook an updated risk assessment, or attended court in relation to Ms Mancuso's application to extend the FVIO. The statements of the relevant police member do not mention Ms Mancuso's application to extend the FVIO or the actions she took in response to it. The LEAP records provided to the court do not indicate any family violence reports being received or actioned in relation to the incidents on 22 November 2012 or 6 December 2012.

107. Mr Gipp advised the Court that the police member had no recollection of being notified of the application by Ms Mancuso to extend the FVIO. However, he stated that there is a written notification from the Heidelberg Magistrates' Court addressed to the member advising of the

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<sup>141</sup> Correspondence to the Court dated 15 November 2019 from Mr Ronald Gipp, Counsel for the Chief Commissioner of Police.

<sup>142</sup> Coronial Brief, Appendix Z.

<sup>143</sup> Victoria Police, *Code of Practice for the Investigation of Family Violence* (2010), 2<sup>nd</sup> Edition, 40.

<sup>144</sup> Victoria Police, *Code of Practice for the Investigation of Family Violence* (2010), 2<sup>nd</sup> Edition, 40.

<sup>145</sup> Victoria Police, *Code of Practice for the Investigation of Family Violence* (2010), 2<sup>nd</sup> Edition, 40.

application for the extension of the FVIO which attached a copy of the application under the *Family Violence Protection Act 2008*. Further, there was a written response from the member stating that there had been no further incidents of family violence reported to her knowledge since the FVIO was issued on 20 February 2012, and therefore whether an extension was granted was a matter for the Court.<sup>146</sup>

108. Mr Gipp acknowledged that had the member considered the application for an extension she would have seen the assertions by Ms Mancuso that she had been subjected to family violence by Mr Paulino on 22 November 2012 and 6 December 2012, and would have identified that these were not matters that were recorded or investigated by Victoria Police. In those circumstances, the member would have been expected to address those matters by ensuring that VP Form L17s were completed and that steps were taken to investigate those allegations and prosecute any breaches.<sup>147</sup>
109. Mr Gipp conceded in this instance that there was non-compliance with the *Code of Practice* as it does not appear that the member or any other police member, contacted Ms Mancuso or attended the hearing at the Heidelberg Magistrates' Court for the extension of the FVIO.<sup>148</sup>
110. I note that this was a further missed opportunity for Victoria Police to contact Ms Mancuso and take appropriate action in response to the allegation that Mr Paulino had breached the FVIO on 22 November 2012, as well as 6 December 2012.

#### *Recommendations from the Royal Commission into Family Violence to Victoria Police*

111. On 29 March 2016, the Royal Commission made several recommendations with respect to improving the Victoria Police response to family violence.
112. Of particular relevance to the circumstances of this case are recommendations 42, 43 and 44, which relate to improving compliance with the *Code of Practice* by members of Victoria Police.<sup>149</sup> These recommend improving family violence education across all levels within Victoria Police,<sup>150</sup> ensuring random file and case reviews are undertaken to monitor compliance with the *Code of Practice*,<sup>151</sup> and establishing a regular cycle of comprehensive

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<sup>146</sup> Correspondence to the Court dated 15 November 2019 from Mr Ronald Gipp, Counsel for the Chief Commissioner of Police.

<sup>147</sup> Correspondence to the Court dated 15 November 2019 from Mr Ronald Gipp, Counsel for the Chief Commissioner of Police.

<sup>148</sup> Correspondence to the Court dated 15 November 2019 from Mr Ronald Gipp, Counsel for the Chief Commissioner of Police.

<sup>149</sup> Victoria, Royal Commission into Family Violence, *Final Report* (2016) vol 3, 39, 41.

<sup>150</sup> Victoria, Royal Commission into Family Violence, *Final Report* (2016) vol 3, 39.

<sup>151</sup> Victoria, Royal Commission into Family Violence, *Final Report* (2016) vol 3, 41.



and independent audits of Victoria Police's compliance with the *Code of Practice*, the results of which should be published.<sup>152</sup>

113. The Royal Commission also made several additional recommendations in relation to broader improvements in the way that Victoria Police acknowledges and responds to family violence throughout the organisation.<sup>153</sup>
114. Victoria Police have undertaken significant work to implement the above Royal Commission recommendations, including amending their *Code of Practice*. However, the current *Code of Practice* does not provide clear guidance regarding the recording of reports of family violence incidents and/or breaches of FVIO's that are made via telephone, including by third parties. The current *Code of Practice* notes that family violence may be reported 'by telephone' and 'direct from the AFM...or from a friend, neighbour or anonymous person or from another agency'<sup>154</sup> and that police must 'respond to and take action on any family violence incident reported to them, regardless of who made the report and how it was made.'<sup>155</sup>
115. This is reiterated in the current *Victoria Police Manual Policy Rules – Family Violence* (the Policy Rules) which state that '[a]ll reports of family violence must be investigated, no matter where they originated from.'<sup>156</sup> The policy rules also state that '[a]ll reports of family violence must be recorded by completing a Family Violence Report (FVR) [Form L17]'.<sup>157</sup> However, it is not clear whether the VP Form L17 should be completed upon receipt of the initial report, or following the initial investigation of the report. There is also no clear and direct requirement that family violence incident reports made via telephone be recorded contemporaneously within LEAP.
116. Recording such reports within LEAP when they are received will ensure that they are brought to the attention of members dealing with the family violence subsequently. As supervisors are required to regularly monitor family violence incidents recorded in LEAP, this would also ensure that the report is subjected to a review by a supervisor to ensure appropriate action has been taken in response to the report.<sup>158</sup>

## Previous Coronial Recommendations to Victoria Police

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<sup>152</sup> Victoria, Royal Commission into Family Violence, *Final Report* (2016) vol 3, 41.

<sup>153</sup> Victoria, Royal Commission into Family Violence, *Final Report* (2016) vol 3, 94, 98, 101 (Recommendations 49-53).

<sup>154</sup> Victoria Police, *Code of Practice for the Investigation of Family Violence* (2019), 3<sup>rd</sup> Edition V4, 15.

<sup>155</sup> Victoria Police, *Code of Practice for the Investigation of Family Violence* (2019), 3<sup>rd</sup> Edition V4, 15.

<sup>156</sup> Victoria Police, *Victoria Police Manual Policy Rules Family Violence* (July 2019) 3.

<sup>157</sup> Victoria Police, *Victoria Police Manual Policy Rules Family Violence* (July 2019) 3.

<sup>158</sup> Victoria Police, *Code of Practice for the Investigation of Family Violence* (2019), 3<sup>rd</sup> Edition V4, 59.

117. There have been several prior coronial recommendations in relation to the way that Victoria Police responds to family violence. The coronial recommendations which hold specific relevance to the circumstances of Ms Mancuso's death are summarised below.

118. In the investigation into the death of Hayley Monteau,<sup>159</sup> Coroner John Olle recommended in October 2011 that:

*Victoria Police give consideration to developing a program of regular training and information dissemination for operational members across all regions of the organisation to ensure familiarity and compliance with the Code of Practice for the Investigation of Family Violence, the Victoria Police Manual pertaining to the investigation and response to family violence, and completion of the Victoria Police Form L17, in order to ensure that requirements of members are well understood, and that appropriate action is taken when police receive reports of, and respond to, instances of family violence and child abuse.*<sup>160</sup>

119. In the investigation into the death of Kelly Thompson (Ms Thompson),<sup>161</sup> former State Coroner, Judge Ian Gray, recommended in April 2016 that:

*Victoria Police examine the feasibility of developing a system for recording a telephone call to a police station by a party to a family violence incident, creating a record that is visible to members who subsequently check the parties on LEAP.*<sup>162</sup>

120. In its response to this recommendation Victoria Police indicated that they had 'examined the feasibility of implementing' this recommendation and were 'investigating options to improve [their] current processes for recording this information on LEAP.'<sup>163</sup> Chief Commission Ashton, also noted that 'technology is available to develop this capability, however an assessment of the feasibility for implementing this capability will need to be undertaken, as such a technical solution raises both technical and resource issues for the organisation.'<sup>164</sup>

121. In the investigation into the death of Joy Rowley<sup>165</sup> former State Coroner Judge Sara Hinchey recommended in July 2018 that Victoria Police 'conduct systemic reviews of family violence-related deaths where there was a known history of family violence between the deceased person and the perpetrator of family violence.'<sup>166</sup>

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<sup>159</sup> COR 2009 3753.

<sup>160</sup> COR 2009 3753.

<sup>161</sup> COR 2014 0824.

<sup>162</sup> COR 2014 0824.

<sup>163</sup> Response provided by Graham Ashton AM on behalf of Victoria Police dated 28 July 2016, 3.

<sup>164</sup> Ibid.

<sup>165</sup> COR 2011 3947.

<sup>166</sup> COR 2011 3947.

122. Following this recommendation, Victoria Police advised the Court that they have begun initial development and planning to establish internal systemic reviews of family violence related deaths to ensure that systemic issues are identified and remedied more quickly.<sup>167</sup>
123. In the investigation into the death of Fiona Warzywoda<sup>168</sup> Coroner Audrey Jamieson recommended that ‘*Victoria Police examine and develop a system for recording a telephone call to a police station by a party to a family violence incident, creating a record that is visible to members who subsequently check the parties on LEAP and updating the Victorian Police Code of Practice for the Investigation of Family Violence to set out the obligation to record telephone calls to police reporting family violence incidents on LEAP.*’ Coroner Jamieson confirmed that a similar recommendation was made in the coronial investigation into the death of Ms Thompson and noted that at the time of her Findings into Ms Warzywoda’s death that Victoria Police had yet to implement a system for recording such telephone calls to police.
124. In his response to Coroner Jamieson’s recommendations dated 20 December 2019, Chief Commissioner Ashton endorsed Coroner Jamieson’s recommendation and advised that in August 2017, Victoria Police published the VPM – *Crime and event reporting and recording*.<sup>169</sup>
125. Chief Commissioner Ashton advised that the VPM – *Crime and event reporting and recording* that a report made in person or by telephone to a police station, requires members to first obtain details of the incident, and confirms that LEDR MK2 must be used to record all Crime and Event Reports (ensuring automatic upload to LEAP), including:
- (a) Crimes against person, property and statute; and
  - (b) Events such as family violence, fire, lost property and missing person.<sup>170</sup>
126. Chief Commissioner Ashton’s response explained that the requirement to record the event using LEDR MK2 would apply to a report of family violence, regardless of whether or not an offence had occurred.<sup>171</sup>

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<sup>167</sup> Response provided by Chief Commissioner Graham Ashton AM on behalf of Victoria Police dated 1 November 2018.

<sup>168</sup> COR 2014 1962.

<sup>169</sup> Response provided by Chief Commissioner Graham Ashton AM on behalf of Victoria Police dated 20 December 2019.

<sup>170</sup> Response provided by Chief Commissioner Graham Ashton AM on behalf of Victoria Police dated 20 December 2019.

127. Chief Commission Ashton outlined that for serious/urgent reports, members must notify Police Communications who will dispatch the nearest available unit to attend and that for less serious/not urgent reports, members must enter a crime report on LEDR MK2 with as much detail as possible.
128. Chief Commissioner Ashton also noted that, Victoria Police considers that in most cases, reports of family violence will require serious/urgent classification as per the VPM - *Crime and event reporting and recording* and that in all cases, the VPM - *Crime and event reporting and recording* confirms that LEDR MK2 must be used to record all Crime and Event Reports.
129. Chief Commissioner Ashton further advised that Family Violence Command is currently revising the VPMs for Family Violence and will consider appropriate cross-referencing of this VPM and that Family Violence Command will develop communications to ensure force-wide understanding of these VPMs as they relate to reports of family violence.

## RECOMMENDATIONS

130. The investigations into the death of Ms Mancuso, highlights the imperative of Victoria Police maintaining and resourcing a system which records and captures data from telephone calls to police reporting family violence incidents, a third party or other organisation, creates a record that is visible to members who subsequently check the parties on LEAP.
131. Victoria Police's introduction of the *VPM – Crime and event reporting and recording* in August 2017 introduces the requirement that a Victoria Police member must obtain details family violence incident/report made in person or by telephone to a Victoria Police member, and that the LEDR MK2 must be used (ensuring automatic upload to LEAP). Whilst this a significant change in the recording of family violence incidents, the practice is not currently reflected in the current *Code of Practice for the Investigation of Family Violence* and the current *Victoria Police Manual Policy Rules – Family Violence*. I am aware that both documents are currently being reviewed by Victoria Police.
132. Pursuant to section 72(2) of the Act, I make the following recommendation that:

Victoria Police amend the current *Code of Practice for the Investigation of Family Violence* and the current *Victoria Police Manual Policy Rules – Family Violence* to provide clear

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<sup>171</sup> Response provided by Chief Commissioner Graham Ashton AM on behalf of Victoria Police dated 20 December 2019.

instructions to Victoria Police members responding to reports reports of family violence incidents received via telephone and make reference to the updated *VPM – Crime and event reporting*.

## **FINDINGS AND CONCLUSION**

133. Having investigated the death, without holding an inquest, I make the following findings pursuant to section 67(1) of the Act:

- (a) the identity of the deceased was Teresa Mancuso, born 14 June 1964;
- (b) the death occurred on 15 July 2013 at 1/19 Massey Avenue Reservoir South, Victoria, from multiple stab wounds; and
- (c) the death occurred in the circumstances described above.

134. I convey my sincerest sympathy to Ms Mancuso's family for their tragic loss.

135. Pursuant to section 73(1A) of the *Coroners Act 2008*, I direct this finding be published on the internet.

136. I direct that a copy of this finding be provided to the following:

Mr Luke Paulino, Senior Next of Kin.

Senior Sergeant Alexander Austin, Victoria Police Civil Litigation Unit.

The Chief Commissioner of Police, Shane Patton APM.

Detective Senior Constable Tony Harwood, Coroner's Investigator.

Signature:



**CAITLIN ENGLISH**  
**DEPUTY STATE CORONER**

Date: 10 March 2021

