

IN THE CORONERS COURT  
OF VICTORIA  
AT MELBOURNE

Court Reference: 359/08

**FINDING INTO DEATH WITH INQUEST**

*Form 37 Rule 60(1)  
Section 67 of the Coroners Act 2008*

**Inquest into the Death of JAMES THOMAS SMITH**

Delivered On: November 2, 2011

Delivered At: Coroners Court of Victoria  
Level 11, 222 Exhibition Street  
Melbourne 3000

Hearing Dates: November 2, 2011

Findings of: JUDGE JENNIFER COATE

Police Coronial Support Unit  
(PCSU): Sergeant Tracy Weir

I, JUDGE JENNIFER COATE, State Coroner having investigated the death of JAMES SMITH

AND having held an inquest in relation to this death on November 2, 2011  
at Melbourne

find that the identity of the deceased was JAMES THOMAS SMITH<sup>1</sup>

born on December 18, 1962

and the death occurred on January 23, 2008

at Overton Lea Reserve, Overton Lea Boulevard, Sydenham, Victoria 3037

from:

1a. SINGLE PENETRATING STAB WOUND TO THE CHEST.<sup>2</sup>

**in the following circumstances:**

1. James Thomas Smith ("Jamie")<sup>3</sup> was the first born child of the four children to the marriage of Cecil and Patricia Smith. He was 45 years old at the time of his death.
2. Jamie had three children to three separate partners. Jasmine, aged 18 at the time of her father's death; Paige, aged 13, who was born during his relationship with Sharon Bishop; and Jay, aged 7, who was born during his marriage to Nicole Smith.
3. Jamie had completed his education to year 10 before taking on work in a variety of labouring trades and most recently working on the installation of swimming pools. He was described by his friends in Victoria as a polite, amicable and "mellow guy" who was not seen as likely to be involved in a fight with anyone.
4. Jamie moved to Victoria in 2003 from New South Wales. He was married to Nicole Smith at this time. Jamie and Nicole Smith separated in early 2007 and Nicole Smith returned to New South Wales with her children to her previous relationship and the child of her relationship with Jamie.
5. Jamie had accumulated a considerable criminal history during his adult life in New South Wales.
6. The material contained in the inquest brief<sup>4</sup> makes clear that Jamie's family were aware of his criminal history in New South Wales and saw his move to Victoria as an opportunity for him to make a fresh start. A summary of the family's knowledge of Jamie's general behaviour was that they saw him as an amiable sort of fellow, who got into a lot of trouble as a result of drug use, but was never known by them to be of a violent nature.

<sup>1</sup> Victoria Police finger print match report of 24.1.08

<sup>2</sup> Pathology report from Dr Malcolm Dodd; Inquest Brief Exhibit 3

<sup>3</sup> I have extrapolated from the Inquest Brief material that James was known as "Jamie" to friends and family and consequently I have referred to him as "Jamie" during the course of the Inquest and Finding.

<sup>4</sup> Exhibit 3 tendered into evidence at the inquest.

7. However, whilst living in New South Wales between 1979 and 2003, a perusal of Jamie's criminal history demonstrates that he was convicted and sentenced in relation to a number of criminal offences including assault, traffic offences, dishonesty offences, injury and damage charges, armed robbery, domestic assaults resulting in restraining orders and at least one breach of a domestic restraining order. He had spent some years in prison in New South Wales.

8. Jamie had been the subject of domestic violence restraining orders with respect to both of his previous partners Sharon Bishop and Nicole Smith whilst in New South Wales.<sup>5</sup>

9. In approximately May 2007, Jamie commenced a relationship with Jacqueline Holmes (herein referred to as Jacqui) who was aged 21 at the time. Jacqui moved into Jamie's home at 19 Boberrit Wynd, Sydenham. They both worked together installing swimming pools. Jamie's only entry in Victoria Police criminal records was recorded as a result of police attending a domestic incident involving Jacqui and himself in November 2007.

## **Background**

10. Prior to 23 January 2008, the police had attended upon Jamie and Jacqui's home on two separate occasions. On each occasion, alcohol was involved. The evidence is that Jamie drank daily and that Jacqui was consuming considerable amounts of alcohol as well.

11. The first occasion involving police attendance was on 4 October 2007. Jacqui and Jamie were entertaining some friends at home. A considerable amount of alcohol was consumed in the context of which an argument broke out between Jamie and Jacqui in the presence of friends. Both were observed to be punching property and yelling at each other. One of the male friends present intervened to assist Jacqui to leave the house. She called 000 for police to attend, reporting that Jamie was alcohol affected and assaulting her. At approximately 11.20pm, two police arrived at the house. Neither Jamie nor Jacqui would assist police in establishing what had occurred. There was no report to the police of violence nor threats made towards either person. On 8 October 2007, Constable Diez, one of the police who had attended on the 4 October 2007, made a follow-up phone call and spoke with Jacqui. Jacqui advised Constable Diez that she wished to stay with Jamie and that she would seek advice from a local doctor regarding alcohol programs.

12. There were no further recorded calls to police regarding Jamie or Jacqui until 6 November 2007 (Melbourne Cup Day). On this day, Jacqui called 000 at approximately 4.49pm. She sounded distressed to the emergency services operator, and could be heard crying, screaming and arguing with Jamie. Jamie could be heard assaulting, threatening and abusing Jacqui. Jacqui was heard pleading with Jamie, saying "please let me go". Police attended and found both Jacqui and Jamie alcohol affected. Jacqui had sustained a bite to her nose. She also reported to police that she had been grabbed by the throat by Jamie and had hit her head against the wall. She reported to police that Jamie had been throwing property, punching walls and "going crazy".

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<sup>5</sup> See Exhibit 5

13. Jacqui was transported to Sunshine Hospital where she was treated for her injuries and sent home.

14. In the course of the police attempting to arrest Jamie, he was uncooperative and was sprayed with capsicum foam.

15. Jamie was arrested and interviewed. During the interview he stated that he and Jacqui had both been drinking at their regular hotel and he had left her there and returned home. Later that night when they reunited, Jamie accused Jacqui of drinking with other men in his absence. This led to the violent physical argument in which Jamie admitted to police that he pushed Jacqui through a wall and stated during the interview *"I nearly broke her fucking neck... that's what I normally do... trying to scare the shit out of her."* He admitted that he must have bitten Jacqui on the nose but could not recall doing so.

16. Jamie was charged with a range of offences including intentionally or recklessly causing injury, unlawful assault and resisting police arrest. In regard to these criminal charges, he was bailed to appear on 1 February 2008. Senior Constable Carton also applied for a complaint and warrant for an interim-intervention order on behalf of Jacqui, seeking a non-contact and non-assaulting order. An undertaking of bail to appear at Sunshine Magistrates' Court was entered into by Jamie, which prohibited him from contacting Jacqui or going near her mother's home, which is where she had relocated. This complaint was returnable to the court on 12 November 2007.

17. On 12 November 2007, Jamie and Jacqui both appeared at Sunshine Magistrates' Court where a final intervention order was made for six months. The final order did not prohibit contact, but did prohibit Jamie assaulting, threatening or intimidating Jacqui or damaging property owned or jointly owned by her. The order was made by consent, but without any admissions by Jamie. Jamie was served with a copy of the order at court.

### **Jamie's last day: 23 January 2008**

18. Jamie and Jacqui had both been working on Wednesday 23 January 2008. By approximately 3.30pm that afternoon, they commenced drinking at a local hotel with a mutual male friend. At some point over the next couple of hours, a staff member at the hotel asked security to keep an eye on Jamie as she thought he was about to start a fight with the mutual male friend. Jacqui and Jamie were seen leaving the hotel together at about 9.35pm. No witnesses made any observations of tension or an impending argument between Jacqui and Jamie at the time they left the hotel.

19. The facts of what then took place have largely been extracted from the recorded interview that Jacqui undertook with the homicide squad detectives in the wake of Jamie's death, with the exception of the independent eye witness accounts which accord with Jacqui's description of what happened in the park.

20. Jacqui stated that she and Jamie drove home together, completed some domestic tasks and got into bed to watch television. She stated that an argument then developed over her reference to him not looking after his own dogs. She stated that the argument commenced in the bedroom where Jamie threw

a television at a window and threw a picture from the wall. He then walked out of the bedroom and continued to damage property.

21. Jacqui stated that she got dressed and managed to run out of the house, despite Jamie trying to stop her. She ran into vacant parkland opposite the house. She stated that as she fled the house she took her handbag containing her mobile phone and wallet, and the kitchen knife she had been carrying since 18 December 2007.<sup>6</sup>

22. She ran approximately 50 metres into the park opposite their home and took the knife from her handbag. At 10.30pm she called 000 from her mobile phone. This phone call was recorded. She sounded calm but slightly out of breath. She told the 000 operator that she wanted to report that Jamie was being very violent and that she had an intervention order against him. She stated that Jamie was in the house and she had just got away from him and that he was damaging property and nearly hit her but she got away. She said she had previously been hurt by Jamie and that he was drunk and she was really scared.

23. She stated that she got an intervention order last time because he nearly choked her to death. She stated that she was across the road in the park and had a knife in her hand because she was scared. She asked the 000 operator to hurry and that she was going to keep running if Jamie came near her. Indecipherable yelling, presumed to be from Jamie, can be heard in the background of the call.

24. According to Jacqui, after she ended the call she ran away from Jamie but he caught up with her and knocked her to the ground. She further stated that Jamie held her down with one hand at her throat. Jacqui stated that she was trying to push Jamie off with her left hand whilst holding the knife in her right hand on her chest. She states it was during the struggle, the blade of the knife she held penetrated Jamie's chest. The blade of the knife entered Jamie's body up to the hilt and the handle snapped off at the blade.

25. By this time, others in the area had come to the aid of Jacqui as Jamie got off her. Jamie was observed to walk a short distance back towards his home and then collapse in the position where he was later found by ambulance and police.

26. When paramedics and police arrived at the scene, Jamie was found to be deceased.

27. During the police investigation, police interviewed independent witnesses who had overheard the sound of someone screaming for help. They had also observed Jamie completely naked and chasing after Jacqui. These independent witnesses ran approximately 50 metres to where Jamie and Jacqui were. They observed Jamie on top of Jacqui and that he had her pinned to the ground. They observed Jamie get off Jacqui, prior to them reaching the pair, and then walk the short distance before collapsing.

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<sup>6</sup> In the course of her interview with police in the wake of Jamie's death, Jacqui stated to police that on or about 18 December 2007 she and Jamie attended a hotel but were refused entry because Jamie was too drunk. Jacqui stated that both she and Jamie were assaulted by security staff during this incident. She stated that as a result of this she commenced carrying a knife in her handbag. The knife was a standard type steak knife.

28. Jacqui was cared for by witnesses at the scene. When she initially spoke to police she denied that she knew the cause of Jamie's injury and had no explanation as to why he had collapsed. She was arrested at the scene and during the initial interview denied she caused the injury to Jamie.

29. During a further interview on the morning of 24 January 2008, Jacqui stated she had stabbed Jamie in the chest with a kitchen knife in the way described above. She stated she had remained with Jamie after previous assaults upon herself because she loved him. She also stated that she thought that even though she was acting in self-defence, her actions were wrong in that Jamie did not deserve to die but she had acted in a way that she thought was "...what she felt she had to do." She stated that she had initially denied stabbing Jamie because she was worried about going to jail.

30. Jamie was transported to the Victorian Institute of Forensic Medicine where he underwent a post-mortem examination by Dr Malcolm Dodd. After autopsy Dr Dodd provided his opinion as to Jamie's cause of death as "single penetrating stab wound to the chest."<sup>7</sup> Toxicological examination of Jamie on post-mortem analysis found alcohol in his blood at 0.16 and vitreous at 0.19g/ml.<sup>8</sup>

31. The homicide squad prepared a brief of evidence regarding Jamie's death. This brief of evidence was reviewed by the Office of Public Prosecutions and the decision was made not to proceed with any charges against Jacqui. The decision to proceed with a prosecution in these circumstances is one exclusively for the Director of Public Prosecutions.

## **Conclusion**

32. I find that James Thomas Smith died on 23 January 2007, as a result of one penetrating stab wound to his chest caused by a knife being held by Jacqueline Holmes.

## **Victorian Systemic Review of Family Violence Deaths**

33. Given the circumstances of Jamie's death, the coronial investigation included a review by the Coroners Prevention Unit as part of the Victorian Systemic Review of Family Violence Deaths (VSRFVD).<sup>9</sup>

34. A range of investigations were undertaken to address possible systemic issues or opportunities for intervention which may have prevented Jamie's death and provided assistance to Jacqui in the weeks preceding the fatal event.

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<sup>7</sup> Autopsy report of Dr Malcolm Dodd.

<sup>8</sup> Vitreous is considered to be more accurate than blood.

<sup>9</sup> Within the Coroners Court of Victoria, this specialised team assists the coroner in the investigation and review of family violence deaths. Such investigations are aimed at providing an informed analysis of family violence related deaths investigated by Victorian coroners, and to assist the coroner to investigate all relevant circumstances in which the death occurred, and if appropriate, make comments or recommendations aimed at assisting in future interventions to protect children and adults from family violence. The VSRFVD collects and analyses information on family violence-related deaths for the coroner to inform their investigations of fatal family violence 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.

35. The further investigations resulted in obtaining a statement from Dr Ruth Wagner<sup>10</sup> in relation to the management and assistance provided to Jacqui on 6 November 2007, when she presented at Sunshine Hospital Emergency Department in the wake of the injuries she sustained that evening. Dr Wagner stated that Jacqui had attended the hospital in the company of her mother. She stated that an immediate safety plan was arranged, which included Jacqui living with her mother instead of Jamie. Dr Wagner noted that both Jacqui and her mother agreed with this plan. Dr Wagner also noted that in the presence of Jacqui's mother, she advised Jacqui of the risk of recurrent assault and the need to protect herself from this.

36. Dr Wagner also stated that Jacqui declined review and follow-up with the hospital psychiatric team. Jacqui was provided with crisis telephone numbers and advised to see a psychologist to assist her to cope with what had occurred and to further manage her relationship with her boyfriend.

37. The further investigations also sought the production of police records of previous reported family violence incidents relating to Jamie in NSW<sup>11</sup> and in Victoria involving Jamie and Jacqui.<sup>12</sup> These investigations revealed the previous calls referred to above on 4 October 2007 and 6 November 2007.

38. On 8 October, 2007, Constable Diez, one of the police members who had attended on 4 October, made a follow up phone call and spoke with Jacqui. As noted above, Jacqui advised that she wished to stay with Jamie and that she would seek advice from a local doctor regarding alcohol programs.

39. Consistent with Victoria Police Manual requirements, policies and procedures in place at the time, despite there being no report of threat or violence made, Constable Diez recorded the incident in police records (as required by VPM 109-7) and followed up with a call to Jacqui four days after police attended to an initial family violence incident report and discussed informal referral options (as required by VPM 109-2).

40. To enable a thorough examination of the incident on 6 November 2007, the investigating member assisting this investigation was granted a coroner's authority to obtain a copy of the police file from Keilor Downs Police Station and a copy of the court file from Sunshine Magistrates' Court, where both the criminal charges and the intervention order application were initiated.<sup>13</sup>

41. The police file confirmed that Senior Constable Carton and Senior Constable Tobin were the Victoria Police members who attended that night.

42. Consistent with Victoria Police Manual requirements incumbent on Victoria Police members when attending a family violence incident, Senior Constable Carton applied for a complaint and warrant on the evening of 6 November 2007, made returnable to Sunshine Magistrates' Court on 12 November

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<sup>10</sup> Statement dated 12 November 2010; Exhibit 6

<sup>11</sup> Exhibit 5

<sup>12</sup> Exhibit 3

<sup>13</sup> Exhibit 4

2007.<sup>14</sup> The risk factors noted in the family violence incident report were "violent past, controlling behaviours, extreme jealousy and alcohol." Jamie was bailed on this complaint and warrant to appear at Sunshine Magistrates' Court on 12 November 2007. His conditions of bail were that he must not contact Jacqui or go within 200 metres of where she was living at her mother's address. There was also a non-assaulting, threatening or harassing condition on his bail.

43. Jamie was arrested at the scene and interviewed at the police station, and thereafter charged with intentionally or recklessly causing injury, resist arrest and unlicensed driving. Senior Constable Tobin was the informant for these charges. The pending charges were to be heard at Sunshine Magistrates' Court on 1 February 2008.

44. These actions were consistent with Victoria Police Manual requirements (VPM 109-3 and 4) that Victoria Police must not only pursue the civil option of the intervention order but also pursue arrest and criminal charges where appropriate.

45. The incident was recorded appropriately (as required by VPM 109-7) to assist police in being able to assess operational and family violence risks and identify an appropriate response to assist in early intervention in any future attendances.

46. Police attending a family violence incident are also required to refer all persons involved to appropriate agencies (VPM 109-2). In the event that an intervention order is being sought and criminal charges are being laid, police must refer a woman (if victim) to a domestic violence crisis service. This referral requires the completion of a form known as an L17 (the Family Violence Risk Assessment and Management Report) which once completed, is required to be faxed to the service before the completion of the police shift. It would appear that the procedure in 2007 was for the attending police member to fax the referral on the form L17 within 48 hours for follow-up.

47. As part of this investigation, Senior Constable Carton telephoned Michelle Vranic at Women's Health West, Footscray. The evidence is that the L17 was completed but not faxed to Women's Health West Footscray. Consequently, the referral process was not finalised. On investigation, the evidence reveals that there was some apparent confusion at police station level as to whose responsibility it was to fax the form. The apparent confusion was about whether or not it was the attending member, duty sergeant or the member laying criminal charges who was responsible for faxing the form to the appropriate service. Furthermore, it would appear that the failure to fax the L17 was not picked up by any supervising officer. There is no evidence that Jacqui was referred to any service.

48. A further statement was obtained from Jacqui as part of the coronial investigation and the family violence death review process.<sup>15</sup> In response to questions concerning the incident on 6 November 2007, Jacqui stated that it was at the suggestion of police that she get an intervention order and she stated that the police had organised it on the night. She stated she had not had an intervention order before this and, although she had known of them, she had not considered obtaining one until it was

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<sup>14</sup> If police feel immediate action is required, the preferred option is to apply for a complaint and warrant. That was done in this case.

<sup>15</sup> Statement of Jacqueline Holmes 6 September 2011



suggested by the police. In reference to the evening Jamie was removed by police, she stated *"I never wanted to see him again because I was so angry and he was so violent. Later we talked things through when he was sober again and I thought I would give him another go. After we talked it through, things were good for a little while. I thought Jamie would never lay a hand on me again. I don't know why I thought this at the time, just stupidity I guess. Also after the intervention order, I thought it might make a difference because Jamie knew he could get into trouble if he laid a hand on me or touched my belongings."*

49. Jacqui stated that she stayed with her mother after the incident on 6 November. She stated that she could not recall that the police had advised her that Jamie was not allowed to contact her or come near her. She stated that she thought the police took Jamie away for long enough for him to sober up and then he would be allowed to see her. She also stated that a few days after 6 November, and before returning to court but whilst still staying at her mother's home, Jamie called her and said he wanted to see her. She agreed to meet with him, during which time Jamie told her how sorry he was for what he did and how he wanted her back and that he would never touch her again. Jacqui stated that the night before they returned to Sunshine Magistrates' Court to obtain the intervention order, she spent the night at Jamie's house and they attended court together on 12 November 2007.

50. As noted above, the court file was obtained on summons for this aspect of the investigation. The applicant support worker file was also obtained during the Inquest. The court file notes that Jacqui was seen by an applicant support worker at court on 12 November 2007. The applicant support worker file confirms that Jacqui was seen at court by the applicant support worker, but it has scant information about any risk assessment or safety plan that was completed, or any advice or referral information that was given.

51. As noted above, a final intervention order was made for six months with no admissions. The final order did not prohibit contact between the parties but did contain conditions prohibiting Jamie from assaulting or threatening Jacqui or damaging property belonging to her. Jamie was present at court on the day and served with a final copy of the order. There is no record of any referrals being made for him at this time.

52. In Jacqui's further statement, she noted that she thought it may have been good to have had some sort of support person with her at the court, which implies that Jacqui was not aware of the role of the applicant support worker who did see her on the day. Jacqui noted that although she had not been aware of the non-contact part of the order up until 12 November, she would not have wished it to remain on the order because she wished to live and work with Jamie.

53. In furtherance of the family violence death review process, a statement was obtained from the current applicant support worker, Ms Abbey Newman, at the Sunshine Magistrates' Court.<sup>16</sup> Ms Newman has been in the role for approximately two and a half years and, prior to this, had been working in family violence outreach services for three years. Before that, Ms Newman gained

<sup>16</sup> The applicant support worker who saw Jacqui is no longer employed in the role and has left the employ of the court. Exhibit 1 contains the statement of Abbey Newman and the job description for her role as applicant support worker.

experience in both mental health and disability services. She holds qualifications as a tertiary trained social worker.

54. Ms Newman, in her statement, gave a helpful description of the referral process at court, the reporting structure, and the process the applicant support worker engages in with the client, who will almost always be the affected family member (i.e. the victim of family violence). The process includes conducting a risk assessment with the affected family member, safety planning for the affected family member, as well as court support and referral.

55. Ms Newman's evidence was that the applicant support worker will generally only have the capacity to see about 25% of the affected family members who present at the court on any given day. Of necessity, those seen by the applicant support worker will be those referred by the police, the court staff or sometimes the Magistrate. These referrals are usually based on an assessment that there is concern for the safety of the affected family member and hence the system operates, of necessity, given the limitations on resources, to give these affected family members priority.

56. Ms Newman's evidence was that a regionally based service, Women's Health West, is in attendance three days of the week to support those affected family members who have made contact with their service or been referred by others to their service.

57. In this case, it would appear that Jacqui was referred to the applicant support worker at the court. Had the L17 been provided to Women's Health West, she would also have been a client of that service.

58. Ms Newman gave evidence about the risk assessment process generally and the form and rationale for it. She stated that at the present time, she uses the Common Risk Assessment Framework (CRAF) developed in collaboration by a number of Victorian agencies working in the area of family violence. Ms Newman described the CRAF as a useful tool to use with clients who arrive at court wanting to revoke orders and those who may be minimizing the violence. She described how the CRAF can be used to demonstrate to an affected family member where they are on the continuum of risk. She also gave evidence about the value of the CRAF for inter-agency collaboration as a tool that enables agencies to exchange information using a "common language." It also means that as an affected family member moves between agencies and consents to the information being transferred, it avoids having to re-tell their history.

59. Ms Newman stated that she also assists clients in developing safety plans, whether a client is proceeding with an application or not. She noted that this can be a difficult process for those who are resistant to the discussion. With respect to assessing the need for appropriate referrals for clients who are reluctant to engage, Ms Newman noted it requires considerable skill to engage with these clients.

60. Ms Newman also explained that she provides a range of written information to clients about family violence including information on the cycle of violence, where they may be in the cycle, power and control techniques that violent partners use both in relationships and in an effort to regain the relationship, literature about safety plans, crisis support lines and details about a range of agencies available for support. Her evidence was that she developed this written information to assist clients at

Sunshine Magistrates' Court. She noted the value of the written information is that most people will have difficulty absorbing very much at court on the day, and need time to reflect on their situation, the events that have occurred, and what has been discussed.

61. In the course of giving evidence, Ms Newman noted a possible gap in the current applicant support worker service. Specifically, she observed that a senior social worker is not available to her from whom she can seek counsel, guidance and supervision on a daily basis. Ms Newman noted that the team in the family violence unit at Sunshine Magistrates' Court are an outstanding and dedicated group, but that the ideal for her in such a system would be to have that form of supervision available.

62. Whilst noting the above aspects of the operation of the service system with respect to Jamie and Jacqui, I note that Jacqui stated quite candidly that she did not access or attempt to access any type of service, counsellor or doctor's assistance at any stage up until Jamie's death, as she did not consider she needed to do so. She stated that other than 6 November and the night that Jamie died, she had never had any other concerns about her safety. Furthermore, she stated she could not recall ever being given any type of verbal or written information about services that might have been able to assist her.

63. This position is reflected by the last paragraph of Jacqui's statement made on 6 September 2011 which reads: *"... with the benefit of hindsight, if I ever come across someone who was in the same position that I was in that time, the advice I would give them would be 'don't go back and just leave altogether.' The only person who was giving me this advice at the time was my mother, no one else ever suggested it. I didn't take this advice from my mum, I guess I was just being stubborn."*

#### COMMENTS:

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

1. Given what Jacqui has candidly described in her statement, it seems unlikely that even the most diligent and fulsome range of referrals (resulting from the police requirement to refer via the L17 and the applicant support workers requirements) would have led her to engage with services at the time. However, what is well understood about the nature of intimate partner violence is that patience and diligence are required, together with an understanding that the cycle of violence will often take a number of repeat interventions and supports before resulting in the victim finally leaving a violent partner. There is no record that any referrals were made for Jamie at either police contact stage or court attendance stage.

2. Knowing this, it is crucial that all of the work that has been done to provide comprehensive steps and systems of referral in each and every aspect of a victim and perpetrator's contact with the system, must be complied with consistently and thoroughly.

3. Therefore, if there is confusion in the current system at police station level which requires not only the completion of the L17, but the faxing it to the appropriate service, it must be clarified simply and quickly.

4. Jacqui's evidence was that she was not aware of the prohibition on contact between Jamie and herself between 6 and 12 November 2007. Whilst Jacqui's evidence leads me to conclude it would not have made a difference as to her actions at the time, it is most important that police members involved in obtaining orders against perpetrators of family violence ensure that the affected family member is fully informed of the conditions of that order.

5. Considerable thought, effort and expense has been put into the applicant support worker program at several Magistrates' Courts to ensure that victims of family violence feel supported and are provided with appropriate referrals and associated information. In this case, it has not been possible to clarify with the applicant support worker what occurred at court on this day. What can be concluded, however, is that the record kept by the applicant support worker did not include any risk assessment, safety plan, advice or referral information having been given to Jacqui.

6. The evidence is that the applicant support worker service addresses a potent need at Magistrates' Courts across Victoria. I come to this view not only based upon the evidence in this case, but the evidence emerging from other family violence-related deaths investigated within the Coroners Court over the last 12 months. The evidence in this case is that some consistency and enhancements in the current system would be valuable. However, I note with considerable concern that currently, applicant support workers are only available to affected family members attending Sunshine, Ballarat, Melbourne, Frankston, Werribee and Heidelberg Magistrates' Courts.

7. Finally, I note the evidence above that Jamie does not appear to have been referred to any service. It would be pure speculation to conclude that it would have made a difference to this sad outcome had Jamie been referred to a Men's Behaviour Change program and that he was accepted into and attended the program. Indeed, the evidence of Ms Newman was that there is currently a three month waiting period in the region to access a Men's Behaviour Change program. This evidence is disturbing as the motivation of a respondent male such as Jamie to address his behaviour is likely to be at its highest in those first months when he is facing serious criminal charges.

#### RECOMMENDATIONS:

Pursuant to section 72(2) of the **Coroners Act 2008**, I make the following recommendation(s) connected with the death:

#### **Victoria Police**

1. To assist victims of family violence, I recommend that the Chief Commissioner of Police review the Victoria Police Manual provisions that require members to complete and forward the Family Violence Risk Assessment and Management Report (L17), following attendance at family violence incidents. The purpose of this is to ensure that the Manual has clear instructions as to which member is responsible for ensuring that the L17 is completed and sent to the relevant family violence support service.

2. I recommend that the Chief Commissioner of Police review current procedures and directions to ensure that the conditions and outcome of Family Violence Intervention Order applications made by Victoria Police on behalf of affected family members, is conveyed in a timely and effective and consistent way to those affected family members.

### **Department of Justice**

3. That the Secretary to the Department of Justice give consideration to extending the current applicant support worker program to each Magistrates' Court in the state that is required to deal with Family Violence Intervention Order applications.

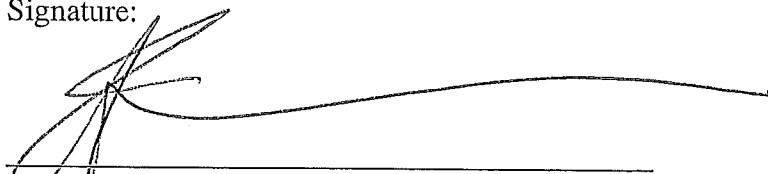
### **Magistrates' Court of Victoria**

4. That the Chief Executive Officer of the Magistrates' Court of Victoria review the current applicant support worker system of recording information to ensure that the system meets with the requirements of the role in respect to maintaining appropriate records of contact with affected family members at court.

5. To ensure quality and consistency in the applicant support worker program, that the Chief Executive Officer of the Magistrates' Court of Victoria give consideration to including the following components into the current applicant support worker program:

- (1) the development of a training standard and internal supervision process for applicant support workers in the areas of risk assessment, safety planning and service referral;
- (2) the development of written materials regarding the nature and dynamics of family violence and contacts for local family violence and associated support services for distribution to affected family members by applicant support workers at Magistrates' Courts;
- (3) to ensure continual improvement of the applicant support worker program, a system be developed of ongoing program evaluation incorporating feedback from the applicant support workers.

Signature:



JUDGE JENNIFER COATE  
STATE CORONER

Date: November 2, 2011



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

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

Ms Penny Armytage  
Secretary to the Department of Justice  
121 Exhibition Street  
Melbourne Vic 3000

Ms Charlotte Stockwell  
Chief Executive Office  
Magistrates' Court of Victoria  
Level 7, 436 Lonsdale Street  
Melbourne Vic 3000

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

Dr Ruth Wagner  
Sunshine Hospital  
PO Box 294  
St Albans Vic 3021

Senior Constable Shelley Carton  
Victoria Police  
Fawkner Sexual Offence and Child-abuse Investigation Team  
1151 Sydney Road  
Hadfield Vic 3046

Senior Constable Emma Tobin  
Victoria Police  
Fawkner Sexual Offence and Child-abuse Investigation Team  
1151 Sydney Road  
Hadfield Vic 3046

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

The Hon. Robert Clark, MP  
Attorney-General of Victoria  
Level 26, 121 Exhibition Street  
Melbourne Vic 3000

The Hon. Peter Ryan, MP  
Minister for Police and Emergency Services  
Level 3, 1 Treasury Place  
East Melbourne Vic 3002

The Hon. Mary Wooldridge, MP  
Minister for Community Services  
Minister for Mental Health  
Minister for Women's Affairs  
Level 22, 50 Lonsdale Street  
Melbourne Vic 3000

The Hon. Andrew McIntosh, MP  
Minister for Corrections  
Minister for Crime Prevention  
Level 26, 121 Exhibition Street  
Melbourne Vic 3000

The Hon. Wendy Lovell MLC  
Minister for Housing  
Level 22, 50 Lonsdale Street  
Melbourne Vic 3000

Mr Simon Phemister  
Chairperson, Family Violence Inter-Departmental Committee  
Department of Human Services  
GPO Box 4057  
Melbourne Vic 3001