



IN THE CORONERS COURT
OF VICTORIA
AT MELBOURNE

Court Reference: COR 2017 0558

FINDING INTO DEATH WITHOUT INQUEST

Form 38 Rule 60(2)

Section 67 of the Coroners Act 2008

Findings of:	JUDGE SARA HINCHEY, STATE CORONER
Deceased:	PATELESIO KENNER
Date of birth:	15 December 1985
Date of death:	2 February 2017
Cause of death:	Complications of stab wounds to the chest
Place of death:	1 Waringa Crescent, Broadmeadows, Victoria

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HER HONOUR:

BACKGROUND

1. Patelesio Kenner (**Mr Kenner**) was 62 years old and resided at 1 Waranga Crescent, Broadmeadows, at the time of his death. Weeks before his death, he had separated from Pelelini So'oula (**Mrs So'oula**), who had lived with him up to 18 January 2017. He is survived by his three children.
2. In the last two years of her life, Mrs So'oula was in a relationship with Mr Kenner, who was also known by the name "Logi". Mr Kenner was also a New Zealand national of Samoan descent. He was 12 years older than Mrs So'oula.
3. Like Mrs So'oula, he was in Australia on a TY 444 Visa.¹ Mrs So'oula had no previous convictions and so had nothing to declare on her passenger declarations cards when she entered Australia. Mr Kenner did have criminal convictions. He was first convicted in 1981 and had a large number of driving convictions, including six convictions for driving whilst under the influence of alcohol.²
4. Mr Kenner also had a number of convictions for violence and weapons offences:
 - (a) in 1981, he was convicted of carrying an offensive weapon;
 - (b) in 1985, he was convicted of setting fire to property and endangering life. He was sentenced to three months of residential detention. The victim of this offence was his ex-wife, Christina Kenner, from whom he had separated at the time. He had arrived at her home address intoxicated and kicked over her scooter and threw it. He then removed its petrol cap and set the scooter alight with a lighter. He then ran off;³
 - (c) on 15 September 1987, he was convicted of offences of assaulting a child, wilful damage and threatening to kill/do Grievous Bodily Harm (Weapon). He was sentenced to six months' imprisonment, seven days' imprisonment and six months' imprisonment respectively, all to run concurrently. These offences related to family violence, after Mr Kenner assaulted his adopted three-year-old son, Benjamin. Christine Kenner

¹ A special category visitor visa for New Zealand citizens, above, n 1, 291

² Coronial Brief, Appendix K, New Zealand Conviction History for Patelesio Kenner, 464-466

³ *ibid*, 465; Also, Coronial Brief, Appendix L, New Zealand Police Report re: 14 September 1985, 468

returned home and argued with Mr Kenner about this. Mr Kenner then attacked Christine with a knife. He also bit her, causing a bite mark injury;⁴

(d) in 1993, he was convicted of offensive behaviour and fined;⁵ and

(e) in 1999, he was convicted of a further assault for which he received six months' supervision. In that incident, he threatened to kill and assaulted with a weapon.⁶

5. In March 1998, Mr Kenner was also charged with two separate offences of assaulting a person under 13. Once again, the alleged victim was his adopted son, Benjamin. There is no record of the outcome of those charges.
6. Checks with the Australian Border Agency show that Mr Kenner entered Australia on 27 January 2006. He later had a trip to New Zealand, departing on 22 July 2015 and returning to Australia on 15 August 2015. Mr Kenner falsely indicated on his 2006 passenger card that he did not have any criminal convictions.⁷ His August 2015 passenger card was not completed in the section relating to whether Mr Kenner had any convictions or not.⁸ It appears that this was not detected by Border Force Officers. However, it does appear that Mr Kenner was in Australia lawfully, as he had not spent 12 months in prison previously.
7. One of Mr Kenner's daughters, Patricia Toomata (**Ms Toomata**), described her father as *"gentle, bubbly, kind-hearted and someone who goes with the flow. He was someone who has hard to make mad and he never showed me signs of being mad. Sometimes, I would test his limits but he would not get angry with me."*⁹ Mr Kenner never spoke to Ms Toomata of suicide or gave her any reason to think he would kill himself.
8. Ms Toomata described her parents' relationship as loving, although she recalls they would argue when Mr Kenner drank alcohol and gambled. She remembered one occasion when they were yelling at each other and family members would attend and take the children, including her, away. Mr Kenner left New Zealand (where they all lived in 2006) and her parent's relationship ended around 2008.
9. Mr Kenner told Ms Toomata of his relationship with Mrs So'oula. Initially, Ms Toomata liked Mrs So'oula, although over time their relationship broke down. She formed the conclusion

⁴ Above, n5, 465; Coronial Brief, Appendix M, NZ Police Report 20 July 1987, 470

⁵ Above, n5, 465

⁶ *ibid*

⁷ Above, n1, 297

⁸ Above, n1, 295

⁹ Coronial Brief, statement of Mereseleisa Patricia Toomata, dated 20 February 2017, 135

that Mrs So'oula was money hungry and Mr Kenner told Ms Toomata that Mrs So'oula was being unfaithful. Mr Kenner also told Ms Toomata that Mrs So'oula was stalking him and, after separating at the end of 2016, that Mrs So'oula was trying to restart the relationship with Mr Kenner. Mr Kenner had told his daughter that he intended to return to New Zealand to live and planned to do so the week that he died.

10. When Mrs So'oula and Mr Kenner first began dating in 2015, Mrs So'oula was living in Pakenham with her relative, Pagafoa Pepe (**Ms Pepe**). At some stage, Mr Kenner moved into that address with them.¹⁰ Amu was also living at that address for a period. She recalled a time when Mrs So'oula and Mr Kenner had been arguing in the bedroom. Amu heard Mrs So'oula scream and ran into the bedroom with her aunt, Ms Pepe, to see Mr Kenner hit Mrs So'oula in the face with a closed fist. Ms Pepe told him to stop, which he did. Mrs So'oula did not receive any serious injuries from this incident.¹¹
11. In the middle of 2016, Mrs So'oula and Mr Kenner were struggling for money. Mr So'oula lived in a house in Jacana with his new partner, Vai, as well as Amu, Junior, Roselina, Andrea and Amu's partner, Penny Silva (**Mr Silva**). Given their situation, Mr So'oula allowed Mrs So'oula and Mr Kenner to live in the garage of the house.
12. Whilst at this address, Mr Kenner was unemployed and in receipt of Centrelink benefits and was therefore often around the house. Amu noted that "*mum and Logi would always be fighting,*" citing arguments about cars, phones and money. She commented that it was normal for them to "*always be arguing.*" During that time, Amu never saw Mr Kenner be physically violent towards Mrs So'oula.¹² However, Vai told Amu that Mrs So'oula had confided in her that Mr Kenner had once choked her.
13. In approximately September 2016, Mrs So'oula and Mr Kenner moved out of the Jacana address and took up a tenancy at 1 Waranga Crescent, Broadmeadows; a one bedroom self-contained unit that had been converted from a garage.
14. Text messages recovered from Mrs So'oula's and Mr Kenner's telephones demonstrate a couple regularly argued. Mr Kenner would regularly visit Malae Luatutu (**Mrs Luatutu**) and her husband, Alefa Futialo (**Mr Futialo**). Mrs Luatutu had met Mrs So'oula a few times and described her as '*a very nice lady.*'¹³ However, she said there was too much trouble in the

¹⁰ Above n3, 122

¹¹ *ibid*, 125

¹² *ibid*, 122

¹³ Coronial Brief, Statement of Malae Luatutu, dated 2 February 2017, 255

relationship between Mr Kenner and Mrs So'oula. On describing the relationship, Mrs Luatutu believed that Mr Kenner's problem was jealousy, and he "*would sometimes say she's probably not at work and (is) having an affair.*"¹⁴ Mrs Luatutu cited a further example of Mr Kenner's jealousy, when he frequently complained about their Church's Pastor calling Mrs So'oula's phone and not his.¹⁵

15. At some point towards the end of 2015, Mrs So'oula obtained employment at Hellier's chocolate factory in Coburg.¹⁶ Her usual working hours were from 3.30pm to midnight. One of her colleagues and friends was Margaret Luafalealo (**Ms Luafalealo**). At the time of Mrs So'oula's death, they had worked together for over a year. Ms Luafalealo reported that Mrs So'oula complained almost daily that Mr Kenner would never pay any of the bills, instead spending his money on bingo, smoking and alcohol.¹⁷
16. Amu would sometimes collect her mother from work, or meet her there. Mrs So'oula would tell her that Mr Kenner sometimes attended her work to check that she was working, as he did not trust her. On one occasion in late 2016, Mr Silva and Amu were at Mrs So'oula's work and saw Mr Kenner's car. She did not see Mr Kenner on that occasion.
17. Junior was aware that there had been family violence incidents between Mr Kenner and his mother. Mrs So'oula had told Junior that Mr Kenner was very jealous and that he had assaulted her and also cut her wrists. Junior told her that she should leave him.¹⁸
18. On the Thursday before Christmas in 2016, Mrs So'oula told Ms Luafalealo that Mr Kenner was no longer living with her. Consequently, Ms Luafalealo and her family invited Mrs So'oula to their home for Christmas, as they did not want Mrs So'oula to spend it on her own. Mrs So'oula accepted the invitation. Text messages between Mrs So'oula and Mr Kenner indicate that Mrs So'oula had forced Mr Kenner out of the house because of an argument over money on approximately 21 December 2016. The argument continued in the messages sent and received up to Christmas Day.
19. On Christmas Day, Mrs So'oula spent the day with the Luafalealo family and was in good spirits. She did not mention Mr Kenner at all. She was dropped off back at 1 Waranga Crescent, Broadmeadows at 11.00pm by the Luafalealo family. They did not notice a car in

¹⁴ *ibid*, 257

¹⁵ *ibid*

¹⁶ Coronial Brief, Statement of Margaret Luafalealo, dated 27 February 2017, 153

¹⁷ *ibid*

¹⁸ Above, n2, 117

the driveway. When Mr Kenner was home, his distinctive, grey Volkswagen car would usually be there.

20. Throughout Christmas Day, Mrs So'oula and Mr Kenner's text message argument had become more heated and they had traded insults. The final message sent was from Mr Kenner's phone to Mrs So'oula, which said, "*(d)on't think I don't know where you are.*"¹⁹ This was sent at 10.27pm, shortly before Mrs So'oula returned home.
21. At 9.15am on Boxing Day, Mrs So'oula sent a message from Mr Kenner's phone to her daughter, Amu which read, "*Amu its me thanx (sic) so much for everything n im so thankful im still alive merry Xmas n happy new year GB bye.*"²⁰ Amu assumed her mum had sent the message as it was in English and Mr Kenner usually sent texts in Samoan. Amu was shocked to read that her mum was saying she was thankful to be alive. Amu had no credit and so did not reply.
22. On 27 December 2016, Amu received another message from her mother, asking that Amu return Mrs So'oula's bank card. In a further message to Amu, Mrs So'oula said she could not go outside because of her face and body, as "*once im walking outside might be my neighbors call da cops n he fucked.*"²¹
23. Amu and Mr Silva drove over to Mrs So'oula's house, to drop off the bank card. As instructed by Mrs So'oula, they sent a message on arrival so that Mr Kenner was unaware that they were there.²² Amu and Mr Silva saw that Mr Kenner was in the backyard. Mrs So'oula came out. Straight away, Amu and Mr Silva noticed Mrs So'oula had injuries including a black eye on her left side, bruising on her arm and on her chest. She also had a bandage on the top of her left arm that was obviously covering an injury.
24. They asked Mrs So'oula how she received her injuries. She told them that she had come home late, having being dropped off by one of her girlfriends. As she was dropped off, she and her friends were laughing. Mrs So'oula went into her home and saw Mr Kenner, who must have broken in. She thought that Mr Kenner must have been watching her arrive home and listening to her. Mr Kenner assaulted her and attacked her with a knife. When she mentioned

¹⁹ Coronial Brief, Appendix G, Selection of Text Messages from Phone Attributed to Mr Kenner, 440

²⁰ *ibid*, 439

²¹ *ibid*

²² *ibid*; Above, n3, 123-124

the knife, she pointed to the bandage on her left arm. Mrs So'oula believed that Mr Kenner assaulted her because he mistakenly believed she had been with another man.²³

25. Mr Silva was so shocked at the injuries that he told Amu to take pictures. Those pictures were later exhibited and are time stamped as being taken at Broadmeadows on 27 December 2016 at 12.24-12.25pm.²⁴ The images confirm the description of injuries given by Amu. Both Amu and Mr Silva wanted to call the police. Mrs So'oula refused to let them, saying instead that she would show the landlord her injuries and they would evict Mr Kenner.
26. In the days that followed, others close to Mrs So'oula also learned of her injuries. On 30 December, she messaged and then spoke to Ms Luafalealo about it. She also sent pictures of her injuries. When asked why she did not call the police, Mrs So'oula told Ms Luafalealo that her kids were going to deal with it.²⁵
27. On 4 January 2017, Mrs So'oula told Junior via text that she had been attacked. Junior took this to mean Mr Kenner attacked her. Junior asked if she had called the police. Mrs So'oula replied, "*no son can't coz my fone fucked.*"²⁶ Amu later showed Junior the photos of Mrs So'oula's injuries.
28. On 7 January 2017, Mrs So'oula sent a text message to Mr Kenner stating, "*I have already talked to you not to make me angry because you know of the bad thing you did to me.*"²⁷
29. Mrs Luatutu and Mr Futialo also saw the injuries in early January. Mrs Luatutu observed bruising to Mrs So'oula's face and chest, as well as fresh stab marks to Mrs So'oula's arms and hand. Mrs So'oula told her that Mr Kenner had stabbed her. Both Mrs Luatutu and her husband told her to go to the police. Mrs So'oula said she would give Mr Kenner one more chance.²⁸ Mr Futialo told Mr Kenner that he could not assault a woman. Mr Kenner replied that he understood and that he wanted to leave the address and stay somewhere else. Mr Futialo offered to take him wherever he wanted to go. In the event, Mr Kenner stayed at the address. He did not deny the assault.²⁹
30. A neighbour at 1 Waranga Crescent, Broadmeadows, Faasalafa Fue (**Mr Fue**) also saw Mrs So'oula at about this time, in the communal laundry area of the property. To Mr Fue, Mrs

²³ Above, n3, 124

²⁴ Coronial Brief, Appendix J, Selection of Photos from Penny Silva's phone, 461-463

²⁵ Above, n 18, 154

²⁶ Above, n 2, 117-118

²⁷ Above, n 20, 438

²⁸ Above, n 15, 255-256

²⁹ Coronial Brief, Statement of Alefa Futialo, dated 2 February 2017, 269

So'oula seemed upset and he noticed her face was swollen, as though she had been struck. She had bruises around her face. He asked her what had happened and she said Mr Kenner had assaulted her the night before. Mr Fue told her to call the police. Mrs So'oula said she would be ok. At that time, Mr Fue could see Mr Kenner, who was a few metres away. He formed the view that Mrs So'oula wanted to say more but was too afraid to do so.³⁰ Days later, Mrs So'oula sought out Mr Fue and spoke to him again. She was crying and was upset. Mr Fue asked what happened. Mrs So'oula replied that she needed to get out and that Mr Kenner had said to her that if she went "*with another man, I will kill you and then kill myself as well.*"³¹ Mr Fue advised her to get out, stating that she never knows what Mr Kenner could do. Mrs So'oula confided that she was going to move out without Mr Kenner knowing.

31. Four days later, Mr Fue last saw Mrs So'oula as she was packing up her things and leaving the property. She told Mr Fue that she was going and not coming back.
32. Mrs So'oula kept a diary. An entry on 18 January 2017 read, "*I moved out from the Evil person I was living with thanks God for saving and helping me.*"³² There is an entry in the diary for 26 December 2016 (the day she received injuries to her face and arms) as "*DAY THAY HARDLY FORGET!!!*"³³
33. Mrs So'oula moved into 2/221 Main Road East, St Albans where she lived with Mr and Mrs Isaako. They had helped her collect her belongings to leave Broadmeadows. Mrs So'oula had texted Mrs Isaako the week before Christmas, asking to live with the Isaakos because Mr Kenner had abused her. At that time, Mrs Isaako had queried why Mrs So'oula had stayed with Mr Kenner, suggesting that she should leave him. She then next heard from Mrs So'oula around 10 or 11 January 2017, when she disclosed that Mr Kenner had assaulted her and smashed her phone.³⁴ They made arrangements for Mrs So'oula to live with them.
34. On 19 January 2017, Mrs So'oula sent text messages to Mr Kenner telling him that the relationship was over and that all she wanted was her clothes. She said that she will "*go with (her) cousin.*"³⁵
35. Once Mrs So'oula moved in with the Isaakos, she confided in Mrs Isaako the events of Boxing Day. She reported being stabbed twice by Mr Kenner with injuries to her right

³⁰ Coronial Brief, Faasalafa Fue, dated 2 February 2017, 239-240

³¹ *ibid*, 240

³² Coronial Brief, Appendix F, Selection of Pages Sourced from Mrs So'oula's Diary, 424

³³ *ibid*, 423

³⁴ Coronial Brief, Statement of Tausau Isaako, dated 2 February 2017, 179-180

³⁵ Above, n 20, 437

forearm and left bicep area. The knife Mr Kenner used had snapped during the assault, otherwise Mrs So'oula believed that Mr Kenner would have inflicted further injuries. Mrs Isaako saw the scars on Mrs So'oula's arm and the photographs of the bruising on Mrs So'oula's phone.³⁶

36. During the period from Christmas to her death, Mrs So'oula was still in communication with Mr Kenner. The arguments over text message continued. Both appeared to believe that the other had been unfaithful. It also appears that Mr Kenner could not afford to remain at the Broadmeadows property alone. On 21 January 2017, Mrs So'oula sent a text stating that she was not worried about another woman but worried that *"you may kill me."* Mr Kenner replied that they were strong words and *"what you are saying would only result in death"* and *"there will be a time when you will be sorry."*³⁷ On 24 January 2017, after more arguing, Mr Kenner sent a message stating, *"what you are saying to me are stories of murder."* Mrs So'oula replied, *"yeah, whatever."*³⁸

37. On 30 January 2017, Mr Kenner sent a message asking why Mrs So'oula had reported him to the police. Mrs So'oula denied this but said, *"should I call the police because you are driving around in a car but your licence has been confiscated and should I give them the photos of when you had beaten me up ok."* Mr Kenner replied, *"report me, up to you. All this trouble was because you left if you had stayed home nothing would have happened."* Mrs So'oula replied that she may die quickly because of Mr Kenner and that *"the children don't know how many times you have tried to kill me. Don't worry, after I will call Junior."*³⁹

38. On 31 January 2017 at 10.24pm, Mrs So'oula sent a message to her son Junior telling him that she was no longer living with Mr Kenner *"...coz he tried to tie my neck with his belt, so I went to work n never came back home..."*⁴⁰

THE PURPOSE OF A CORONIAL INVESTIGATION

39. Mr Kenner's death constituted a *'reportable death'* under the *Coroners Act 2008* (Vic) (**the Act**), as the death occurred in Victoria and was unexpected and not from natural causes.⁴¹

40. The jurisdiction of the Coroners Court of Victoria is inquisitorial.⁴² The Act provides for a system whereby reportable deaths are independently investigated to ascertain, if possible, the

³⁶ Above, n 35, 179-80

³⁷ Above, n 20, 434

³⁸ *ibid*, 431

³⁹ *ibid*, 428

⁴⁰ Above, n 2, 118; Coronial Brief, Appendix H, Selected Text Messages from Mrs So'oula's mobile phone, 448

⁴¹ Section 4 *Coroners Act 2008*

identity of the deceased person, the cause of death and the circumstances in which death occurred.⁴³

41. It is not the role of the coroner to lay or apportion blame, but to establish the facts.⁴⁴ It is not the coroner's role to determine criminal or civil liability arising from the death under investigation, or to determine disciplinary matters.
42. The expression "*cause of death*" refers to the medical cause of death, incorporating where possible, the mode or mechanism of death.
43. For coronial purposes, the phrase "*circumstances in which death occurred*," 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.
44. 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.
45. Coroners are also empowered:
 - (a) to report to the Attorney-General on a death;
 - (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; 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. These powers are the vehicles by which the prevention role may be advanced.
46. All coronial findings must be made based on proof of relevant facts on the balance of probabilities. In determining these matters, I am guided by the principles enunciated in *Briginshaw v Briginshaw*.⁴⁵ The effect of this and similar authorities is that coroners should

⁴² Section 89(4) *Coroners Act 2008*

⁴³ See Preamble and s 67, *Coroners Act 2008*

⁴⁴ *Keown v Khan* (1999) 1 VR 69

⁴⁵ (1938) 60 CLR 336.

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.

47. 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.

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

48. On 9 February 2017, Ulese Frost identified the body of the deceased to be that of his first cousin's ex-partner, Patelesio Kenner, born 15 February 1954.
49. 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

50. On 6 February 2017, Dr Essa Saeedi (**Dr Saeedi**), a Forensic Pathologist practising at the Victorian Institute of Forensic Medicine, conducted an autopsy upon Mr Kenner's body. Dr Saeedi provided a written report, dated 27 April 2017, which concluded that Mr Kenner died from complications of stab wounds to the chest. Dr Saeedi concluded that the mechanism of death was a combination of blood loss and the effects of pneumothorax.
51. Dr Saeedi commented that post mortem examinations revealed multiple sharp force injuries including to the chest, abdomen and upper limbs and a patterned ligature mark on the neck.
52. Dr Saeedi determined that the sharp force injuries showed features suggestive of self-infliction, including clustering of the wounds in accessible areas of the body, with superficial incisions suggestive of hesitation marks adjacent to deeper incised wounds, similar orientation wounds with clusters and avoidance of damage to clothing. There was no natural disease identified of a type likely to have caused or significantly contributed to death.
53. Toxicological analysis of post mortem specimens taken from Mr Kenner were negative for common drugs or poisons.
54. I accept the cause of death proposed by Dr Saeedi.

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

55. At approximately 3.30pm on 1 February 2017, Mrs So'oula attended work as normal at Hellier's chocolate factory in Coburg. As had become usual, Ms Luafalealo and her father, Konelio Luafalealo (**Mr Luafalealo**), collected her from 221 Main Road East, St Albans, and took her to work with them.
56. The arguing over text message between Mrs So'oula and Mr Kenner continued until 1 February 2017. At 12.06pm, Mr Kenner sent a message to Mrs So'oula's phone. She did not reply. He then sent a further message at 2.30pm. Again, there was no response. At 8.06pm, he sent another message to Mrs So'oula asking, "*Why have you not responded to my message.*" Again, there was no response.⁴⁶
57. CCTV footage showed that, at 11.57pm, a vehicle drove into Errington Parade, from Main Road East, St Albans.⁴⁷
58. At 12.11am on 2 February 2017, CCTV shows Mr Kenner emerging from Errington Road and approaching 221 Main Road East, St Albans.
59. At approximately 12.16am, CCTV shows that Mr Kenner approached the front door to the unit that Mrs So'oula was staying in. He was seen to be wearing clothing that was later found at his home address.⁴⁸ CCTV then showed him walking towards a large tree in the front yard, where he appeared to be waiting. The position he stood in was out of view from traffic approaching along the Main Road East.
60. At approximately 12.21am, a four wheel drive station wagon arrived at this address and dropped someone off. The car then carried on driving west along Main Road East. This car was the car Mr Luafalealo was driving and Mrs So'oula was the person dropped off.
61. In the early hours of 2 February 2017, Mr Luafalealo had collected Ms Luafalealo and Mrs So'oula from work and dropped Mrs So'oula off at 221 Main Road East, St Albans. Mrs So'oula got out of the car and wished them both a good night and asked them to drive home safe. Mrs So'oula seemed happy and was smiling. Contrary to his usual practice, Mr Luafalealo did not wait until Mrs So'oula got to her front door before driving off.⁴⁹

⁴⁶ Above, n 20, 426

⁴⁷ Coronial Brief, Statement of Detective Leading Senior Constable Rob Catania, Summary of CCTV, 362 & Exhibit 11, Main Road, St Albans CCTV

⁴⁸ *ibid*, 363

⁴⁹ Coronial Brief, Statement of Konelio Luafalealo, dated 16 February 2017, 164-165

62. After their car left, CCTV shows Mr Kenner running from the tree, towards the direction of the driveway to 221 Main Road East. Shortly afterwards, CCTV showed him running off towards Errington Road. At 12.22am, Mr Kenner's vehicle was seen to drive out of Errington Road.
63. At approximately 1220am, several neighbours on Main Road East heard a woman scream. Some heard her say "*help!*" One of those neighbours was Margaret Bailey (**Mrs Bailey**). On hearing the scream, she looked out and saw a female standing near the door of Unit 2, screaming. Mrs Bailey thought the woman was staggering and looked almost drunk, but quickly realised that she was bleeding. She saw the male from Unit 2 open the door.⁵⁰
64. That person was Mrs So'oula's housemate, Mr Isaako. He was awake at home, alone, watching television when he heard screaming outside. He then heard more screaming and his name being called. He got up and ran to the door. He saw Mrs So'oula standing there holding her neck. He went out and saw a cut on her neck that was bleeding. He asked her what happened and caused the injury. Mrs So'oula replied, "*my boyfriend, my boyfriend.*"⁵¹ He tried to stop the bleeding. He noted that Mrs So'oula was struggling to breathe. Mr Isaako could see several injuries to Mrs So'oula. Other neighbours came out to help, many of whom called the emergency services.
65. Another neighbour who assisted was Lauren Harris (**Ms Harris**), a nurse. She was at home, asleep, when her partner, Ryan O'Callaghan, awoke her at about 12.20am. He told her that someone had been stabbed and might need help. She went outside and saw Mr Isaako holding a towel to a wound on the left side of Mrs So'oula's neck. Mrs So'oula was moving around on the floor and said that she could not breathe. Ms Harris noted Mrs So'oula's injuries and used some medical supplies that she had to treat Mrs So'oula until paramedics arrived.
66. Victoria Ambulance paramedics arrived and took control of the scene. Michael Holmes, a MICA Paramedic, arrived at the scene at 12.35am. He described Mrs So'oula as being in an altered level of consciousness and distressed. He tried to stem the bleeding from Mrs So'oula's neck by providing point pressure with his fingers. He believed that

⁵⁰ Coronial Brief, Statement of Margaret Bailey, dated 2 February 2017, 183

⁵¹ Coronial Brief, Statement of Maua Isaako, dated 2 February 2017, 175

Mrs So'oula was about to go into cardiac arrest and so needed to be moved to the ambulance. He asked Victoria Police to contact the hospitals to notify them of the situation.⁵²

67. At 12.42am, Mrs So'oula was transported by ambulance to Western Hospital at Sunshine, as it was the closest hospital and there was an immediate risk of Mrs So'oula going into cardiac arrest. At 12.45am, the ambulance was advised that Western Hospital could not admit Mrs So'oula and were told to divert to Royal Melbourne Hospital, which it did.
68. At 12.45am, whilst on the Tullamarine Freeway, Mrs So'oula went into cardiac arrest. Attempts to resuscitate her were unsuccessful. At 1.04am, Mrs So'oula was pronounced deceased en route to the Royal Melbourne Hospital.⁵³
69. Victoria Police created a crime scene around the ambulance and at 221 Main Road East, St Albans. They took statements from many of the witnesses present.
70. On 2 February 2017, Victoria Police enquiries resulted in police executing a search warrant at 1 Waranga Crescent at about 3.25pm. They also intended to arrest Mr Kenner on suspicion of Mrs So'oula's murder.⁵⁴ The police were unable to raise Mr Kenner. On gaining access to the property, Mr Kenner was discovered deceased within the bedroom.
71. Mr Kenner was found lying on his side on the floor near the bed. His body was partially on top of a doona that had blood on it. There was blood staining on the floor around Mr Kenner. Mr Kenner had several stab wounds to his abdomen and upper chest area.⁵⁵ A blood-stained filleting knife was also found on the floor near Mr Kenner and a torn brown, plaited style leather belt was found beside his knee. The apparent other part of the belt was knotted around a fixed, internal metal post above Mr Kenner's body.
72. At the autopsy upon Mr Kenner's body, the forensic pathologist identified ligature marks around his neck which were consistent with the belt's pattern.
73. In the same bedroom where Mr Kenner was found, the police also located clothing identical to that which he appeared to be wearing on the CCTV footage, as well as blood-stained sneakers. That blood was later DNA tested and was a match for Mrs So'oula's DNA.⁵⁶ Mrs So'oula's blood was also found on keys seized from 1 Waranga Crescent,

⁵² Coronial Brief, Statement of Michael Holmes, dated 17 May 2017, 278

⁵³ *ibid*, 279

⁵⁴ Above, n 47, 363

⁵⁵ Coronial Brief, Statement of Dr Essa Saeedi, dated 27 April 2017, 99

⁵⁶ Coronial Brief, Statement of Louise Brown, dated 10 July 2017, 349; She concluded the DNA likelihood ratio was a 100-billion-to-one match

Broadmeadows. Also seized was a knife sheath that appeared to fit the filleting knife found and Mr Kenner's mobile phone.

74. Mr Kenner's car was not parked at the front of 1 Waranga Crescent, Broadmeadows. It was located in the driveway of a neighbouring, derelict house. The car was searched and blood was found in several areas within it.
75. The police searched the area of 1 Waranga Crescent and undertook a residential canvass. There was no evidence of a struggle within the residence, nor any reports of a disturbance.

COMMENTS PURSUANT TO SECTION 67(3) OF THE ACT

Finding of suicide

76. It is evident to me, based upon the evidence in the coronial brief, that Mr Kenner killed Mrs So'oula by stabbing her multiple times. Mr Kenner then returned home, where he inflicted a number of incised wounds to his body using a filleting knife, which had his blood on it and was found near his body. He died as a result of those self-inflicted wounds.
77. A finding of suicide⁵⁷ can impact upon the memory of a deceased person and can reverberate throughout a family for generations. Such a finding should only be made on compelling evidence, not indirect inferences or speculation.
78. In considering whether Mr Kenner's death was due to suicide, I note that:
 - (a) Ms Toomata stated that her father had no mental health issues and she did not believe that her father was suicidal as he was preparing to move back to New Zealand to stay with her;
 - (b) there was no evidence of a third party's involvement in Mr Kenner's death; and
 - (c) the evidence indicates that Mr Kenner's stab wounds were self-inflicted and that Mr Kenner attempted to hang himself with a leather belt.

⁵⁷ Suicide is defined by the World Health Organization as 'an act deliberately initiated and performed by a person in the full knowledge or expectation of its fatal outcome'

79. I am satisfied that the available evidence supports a finding that Mr Kenner acted deliberately with the intention of ending his own life.

Family violence

80. Mr Kenner's death met the criteria for inclusion as part of the Victorian Systemic Review of Family Violence Death, a Review established by section 102U of the Act. The function of the Review is to examine deaths suspected to have resulted from family violence in order to:
- (a) identify risks and contributory factors associated with deaths resulting from family violence;
 - (b) identify trends and patterns in deaths resulting from family violence;
 - (c) identify trends and patterns in response to family violence; and
 - (d) provide coroners with information obtained through the exercise of the Review's functions.
81. Research indicates that there is a strong link between suicide and prior violent behaviour, with studies showing that the use of violent behaviour is a risk factor for suicide.⁵⁸ The Coroners Prevention Unit⁵⁹ (CPU) undertook research in 2016 which indicated that perpetrators of intimate partner violence who had contact with the legal system within the last 12 months were more likely to suicide, when compared to Victoria's male population generally. This was especially true when a perpetrator of intimate partner violence had contact with police in the 12 months prior to their suicide.⁶⁰
82. The CPU's analysis of suicides in 2014 by perpetrators of family violence, revealed 24 cases of suicide where the perpetrator had contact with the police or courts in relation to their violence within three months of their suicide. Of the suicides identified, 11 occurred within 24 hours of such contact.
83. The heightened rate of suicides amongst perpetrators of family violence who have had recent contact with the justice system indicates that this area may provide opportunities for

⁵⁸ Stefansson J, Nordstrom P, Runeson B, et al (2015), "Combining the Suicide Intent Scale and the Karolinska Interpersonal Violence Scale in suicide risk assessments", *BMC Psychiatry*, 15, 226

⁵⁹ The CPU is a specialist service for Coroners, within the Coroners Court of Victoria. The CPU was created to strengthen the Coroners' prevention role and provide professional assistance on issues pertaining to public health and safety

⁶⁰ Coroners Prevention Unit, *Suicides of male perpetrators of intimate partner violence* (Victoria: 2015)

intervention. However, the relationship between perpetration of family violence, suicide and intervening factors is not well understood.

84. In this case, Mrs So'oula threatened to report Mr Kenner's assault to the police two days prior to the fatal assault and his subsequent suicide. However, as nobody reported the family violence to the police, nor contacted any other services in relation to the family violence, no missed opportunities for intervention were identified in this matter.
85. I note that the Royal Commission made a number of recommendations with respect to perpetrators of family violence, particularly recommendations 86 to 93.⁶¹ These recommendations are targeted at holding perpetrators of family violence to account for their actions and encourage the development of perpetrator interventions that '*address gender-related issues and other risk factors*,' including mental health issues.⁶²
86. In the course of my investigation, apart from the matters referred to above, I did not identify any prevention opportunities arising from the circumstances of Mr Kenner's death.

FINDINGS AND CONCLUSION

87. 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 Patelesio Kenner, born 15 February 1954;
 - (b) the death occurred on 2 February 2017 at 1 Waringa Crescent, Broadmeadows, Victoria from complications of self-inflicted stab wounds to the chest; and
 - (c) the death occurred in the circumstances described above.
88. I convey my sincerest sympathy to Mr Kenner's family.
89. Pursuant to section 73(1) of the Act, I order that this Finding be published on the internet.
90. I direct that a copy of this finding be provided to the following:
- (a) Patricia Toomata, Senior Next of Kin;
 - (b) Detective Senior Constable Rob Catania, Coroner's Investigator, Victoria Police;

⁶¹ Victorian Royal Commission into Family Violence, *Summary and Recommendations* (2016) 69-71

⁶² *ibid*, 28

- (c) Judge Peter Lauritsen, Chief Magistrate; and
- (d) Homicide Detective Inspector Tim Day, Victoria Police.

Signature:



JUDGE SARA HINCHEY
STATE CORONER
Date: 10 July 2018

