

IN THE CORONERS COURT
OF VICTORIA
AT MELBOURNE

Court Reference: 873 / 06
874 / 06

REDACTED FINDING INTO DEATH WITH INQUEST

Form 37 Rule 60(1)

Section 67 of the Coroners Act 2008

**Inquest into the Deaths of HETTIARACHCHIGE SAMMY PERERA and
THUPPIGE DONNA SOMMEY IRANGANIE PERERA**

Delivered On: Tuesday 3 July 2012

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

Hearing Dates: Monday, 23 April 2012

Findings of: JUDGE JENNIFER COATE, STATE CORONER

Representation:

Counsel Assisting the Coroner: Jacqui Hawkins, Principal In-House Solicitor

I, JUDGE JENNIFER COATE, State Coroner, having investigated the deaths of
HETTIARACHCHIGE SAMMY PERERA and THUPPIGE DONNA SOMMEY IRANGANIE
PERERA

AND having held an inquest in relation to these deaths on 23 April 2012
at Melbourne

find that the identity of the deceased persons were:

HETTIARACHCHIGE SAMMY PERERA born on 25 September 1929 aged 76; and

THUPPIGE DONNA SOMMEY IRANGANIE PERERA born on 15 September 1929 aged 76

and the deaths occurred on 7 March 2006

at 11 Pauline Court, Hallam, Victoria, 3803

from:

Hettiarachchige Sammy Perera

1 (a) STAB WOUNDS TO THE ARM AND CHEST

Thuppige Donna Sommey Iranganie Perera

1 (a) STAB WOUNDS TO THE FACE AND CHEST

in the following circumstances:

Introduction

1. On 7 March 2006, Mr Hettiarachchige Sammy PERERA (Mr Perera)¹ aged 76 and Mrs Thuppige Donna Sommey Iranganie PERERA (Mrs Perera)² aged 76, died in their daughter's home as a result of fatal stab wounds.
2. Mr and Mrs Perera were on holiday from Sri Lanka visiting their daughter (BH), and their grandchildren (RAH), aged 4 months and (RTH) aged 4 years. They had been in Australia for approximately two weeks.

¹ Statement of identification by (BH), inquest brief at p213

² Statement of identification by (BH), inquest brief at p214

3. Their son-in-law, Mr Sarath Lakshman Hettiarachchi (Mr Hettiarachchi) was charged with the murders of Mr and Mrs Perera. On 5 November 2007 he was found guilty by jury verdict in the Supreme Court after a 14 day trial conducted by Her Honour Justice King. After hearing a plea, Her Honour sentenced Mr Hettiarachchi to 27 years imprisonment with a minimum sentence of 22 years to be served before being eligible for parole.
4. Mr Hettiarachchi appealed unsuccessfully against his conviction to the Victorian Court of Appeal. He thereafter sought special leave to appeal to the High Court. On 9 February 2012 his special leave application was refused by the High Court.³
5. In the course of rejecting his application for special leave, the High Court stated, "*we see no reason to doubt the correctness of the conclusions reached by the Court of Appeal. In particular, we see no reason to doubt the conclusion that the circumstantial case against the applicant "was particularly powerful".*"⁴ The High Court stated that an appeal to this Court "*would enjoy no reasonable prospect of success*" and that "*it was not in the interests of justice generally nor in this particular case that there now be a grant of special leave to appeal.*"⁵
6. Upon completion of the proceedings in the High Court, the inquest brief was delivered to the Coroners Court of Victoria. The inquest brief consisted of the evidence gathered for the purposes of the criminal trial of Mr Hettiarachchi. Further investigations touching upon the "systems" involved in the circumstances in which these deaths occurred were conducted as part of the coroner's investigation. In particular, the issues that have been further investigated touch upon the responses of Department of Human Services (DHS) Child Protection, Victoria Police and the family violence documents produced by the Magistrates Court for intervention orders. I have relied upon the facts as found by Her Honour Justice King as the circumstances in which the deaths of Mr and Mrs Perera occurred.
7. Upon being advised of the short inquest in this Court, Mr Hettiarachchi wrote to the Court seeking to have the proceedings adjourned. The purpose for which he sought the adjournment was to re-litigate the defence which he had run in his Supreme Court trial that is, that it was his wife and not himself that had killed Mr and Mrs Perera. This was the same basis upon which he unsuccessfully sought special leave from the High Court.

³ *Hettiarachchi v the Queen* [2012] HCASL 5 (9 February 2012)

⁴ Ibid

⁵ Ibid

8. This Court is prohibited from making any finding or comment that a person is or may be guilty of a criminal offence.⁶ This Court and its processes are not an adjunct to or a substitute for the criminal justice system. The purpose of this inquest is not to consider whether or not the entire findings and outcome of the criminal justice process were correct. Such an endeavour would immediately put this Court beyond its power and purpose. For this reason, given that Mr Hettiarachchi's application was to adjourn for a fruitless exercise, I did not consider it appropriate to grant that application.
9. The following is a summary of the material contained in the inquest brief, together with some further material obtained from the agencies mentioned above as to their relevant interactions with the family and facts as found by King J in her sentencing remarks.

Mr & Mrs Perera's personal background

10. Mr Perera was born in Dehiwala, Sri Lanka on 25 September 1929.
11. Mr Perera had been gainfully employed as an office clerk for 35 years with a company called McWoods, based in Colombo, Sri Lanka.⁷ Mr Perera's passions in life were his children, family and music.⁸
12. Mrs Perera was born in Panadura, Sri Lanka on 15 September 2009. After completing secondary schooling, Mrs Perera studied primary school teaching and early childhood development at a teachers training college in Colombo and eventually taught in a government run primary school in Colombo for a number of years.⁹
13. Mr and Mrs Perera met in 1956. They were married in a Buddhist wedding ceremony in Colombo, Sri Lanka the same year. They had five children including a daughter, (BH).
14. In relation to her parents and family upbringing, (BH) commented *"I recall nothing but a loving and happy family environment growing up...they lived for us and did everything within their power to ensure that we had a happy existence."*¹⁰

Background circumstances and relationship of (BH) and Mr Hettiarachchi

⁶ S. 69 Coroners Act 2008

⁷ Statement of (BH) at p240

⁸ Ibid p241

⁹ Ibid

¹⁰ Ibid

15. (BH) met and married Mr Hettiarachchi in February 1990 in Colombo. The marriage had been an arranged one. Mr Hettiarachchi returned to Australia in 1990 but it was not until 1994 that (BH) arrived in Australia to join him. In 1998, Mr Hettiarachchi and (BH) purchased a block of land at 11 Pauline Court, Hallam and built a house. They moved into their house on 1 April 1999.
16. Mr Hettiarachchi was born in Sri Lanka and qualified as an electronics technician, and had immigrated to Australia in 1988, and mainly worked as a part time taxi driver. (BH) had completed an Arts Degree majoring in Sociology before coming to Australia.
17. The inquest brief contains a considerable amount of material touching upon the unhappy relationship between (BH) and Mr Hettiarachchi after commencing their life together in Australia. (BH) describes many episodes of emotional abuse and controlling behaviour by her husband. (BH)'s statement describes a number of specific examples of physical abuse and acts of humiliation committed by Mr Hettiarachchi against her. Ms Nelum Liyanage, a friend of (BH), made a statement to police, which stated "*the simple way to describe their relationship was as master and servant.*"¹¹
18. Her Honour Justice King in the course of sentencing Mr Hettiarachi stated to him "*you have a most unfortunate manner, which became evident during the proceedings, and it gives you the appearance of being overbearing and demanding. I am not able to say if that is your normal manner with all persons, as I have not been in a position to make that determination, particularly as the trial places those involved in the process, under great stress. That, however is the evidence of your wife, as to how you treated her during your marriage.*"¹²
19. In September 2000, (BH) gave birth to a son, (RTH). (RTH) was born with a developmental delay and according to Dr Cong Phan of the Hallam Family Practice "*would fall into the 'special need' category, demanding full time care and attention from his carer(s).*"¹³ After the birth of (RTH), (BH) stated a further deterioration in the relationship between Mr Hettiarachchi and herself occurred.
20. A second child to their marriage, (RAH), was born on 25 October 2005. Shortly after (RAH) was born, (BH) stated that Mr Hettiarachchi discovered he had diabetes and was also

¹¹ Statement of Ms Nelum Liyanage at p140

¹² *R v Hettiarachchi* [2007] VSC (14 December 2007) Para 24

¹³ Inquest brief at p1347

advised that he was required to repay a sum of money to Centrelink. According to (BH), Mr Hettiarachchi formed the belief that (RAH) was in some way responsible for these negative events and this caused a strain on his relationship with his daughter.¹⁴

(BH)'s history of attempts to separate from Mr Hettiarachchi

21. (BH)'s statement indicates that by 2003, she was no longer able to tolerate her husband's treatment of her. As a result, she decided to leave Mr Hettiarachchi and informed him that she wanted to take (RTH) with her. (BH) alleged in her statement that Mr Hettiarachchi did not take this well and threatened to kill her if she took (RTH) when she left.¹⁵
22. During this period, (BH) sought assistance from a number of service providers. In 2003, she obtained crisis accommodation from the community organisation 'Hanover,' before moving into family violence refuge accommodation. This led to a referral being made to the Women's Liberation Half Way House, a specialist family violence organisation. Arrangements were made for (BH) to stay in supported crisis accommodation in April 2003, and she was provided with legal advice in order to have access with (RTH), who remained with Mr Hettiarachchi. A worker from the Women's Liberation Half Way House, Ms Yalgin, supported (BH) to attend the Magistrates' Court for the purpose of obtaining a family violence intervention order. This was one of several contacts (BH) had with the justice system, as describe in further detail below.
23. Following their separation, arrangements were made for (BH) to have contact with (RTH). During the course of these visits, Mr Hettiarachchi told (BH) that he would attend counselling if she agreed to return to the family home. Counselling sessions did occur, during which time (BH) remained in accommodation provided through the Women's Liberation Half Way House.
24. Around October 2003, (BH) returned to live with Mr Hettiarachchi. At this time she was advised by Ms Yalgin that if things did not go well, she could seek further assistance from Women's Liberation Half Way House.¹⁶
25. In December 2003, (BH) contacted Ms Yalgin and told her that her situation at home was still problematic. Ms Yalgin invited (BH) to attend a Christmas party at the refuge, however

¹⁴ Statement of (BH) at p229

¹⁵ Ibid at p227

¹⁶ Statement of Zehra Yalgin, inquest brief at p181

(BH) stated that Mr Hettiarachchi would not permit it. Throughout 2004 and 2005, (BH) called Ms Yalgin from time to time and spoke about her situation at home. The nature of these calls was not to seek immediate involvement from the service, but it seems reasonable to interpret that (BH) took this action in order to maintain a connection with the organisation should she need assistance in the future.

Contact with Department of Human Services, Child Protection

26. In February 2003, DHS Child Protection initiated an investigation after allegations of concern were raised regarding (RTH)'s welfare. (BH) had separated from Mr Hettiarachchi at the time and was living in refuge accommodation. The report to DHS contained allegations that the reason she had left her husband was due to family violence. Protective involvement focused on the adequacy of (RTH)'s developmental needs being met, coupled with his exposure to emotional trauma. During a protective planning meeting held on 13 March 2003, it is documented that Mr Hettiarachchi stated he would kill himself if he lost (RTH).¹⁷ Mr Hettiarachchi was described as largely reluctant to accept DHS Child Protection's involvement, but agreed to (RTH) seeing a paediatrician and attending a playgroup for children with special needs. The DHS Child Protection investigation was closed in June 2003.
27. In October 2005, and following the birth of (RAH), a further report was made to DHS Child Protection. It was alleged that Mr Hettiarachchi had been observed slapping (RTH) across the face.¹⁸ In addition, concerns were raised in connection to his treatment of (BH). As a result of these allegations, Child Protection conducted another investigation.
28. DHS Child Protection visited (BH) and Mr Hettiarachchi on 7 November 2005. Mr Hettiarachchi denied hitting (RTH) and further denied the existence of family violence involving (BH). During the visit, Mr Hettiarachchi made comments to the effect that *"people have it in for me."*¹⁹
29. DHS Child Protection remained involved for a period of approximately three months. Arrangements were made for (BH) to receive visits from the Enhanced Maternal Children Health Nurse (EMCN) and further consultation occurred in relation to (RTH)'s educational needs. Concerns raised about Mr Hettiarachchi's treatment of (RTH) were not

¹⁷ DHS 28 Day Protective Planning Meeting Record dated 13 March 2002

¹⁸ Statement of Linda Spann inquest brief at p. 192

¹⁹ Statement of Linda Spann, inquest brief at 194

substantiated. DHS Child Protection did not identify evidence of physical or other abuse at the time²⁰ and ceased any further involvement in January 2006.

Contact with Victoria Police and the Magistrates' Court

30. There were a number of family violence reports made to police between (BH) and Mr Hettiarachchi during their marriage. The first of these was on 3 November 1995, when police attended their home in Carnegie. (BH) reported that she was being harassed by her husband to get employment as he was about to lose his job. It is noted on the police LEAP system that there was no violence, weapons or alcohol involved.²¹
31. On 3 January 2001, (BH) telephoned police from the Hallam Railway Station and stated that she had had an argument with her husband. Police spoke to (BH) at the railway station then returned with her to the shared residence. She advised police that her husband had been violent one month earlier, however police were not notified at this time. The LEAP records on this occasion record that both parties decided to remain in the house, but that they would sleep in separate rooms. There was no further involvement with police after this incident.²²
32. On 3 March 2003, a complaint and summons (summons) for an intervention order was issued by the Melbourne Magistrates Court against Mr Hettiarachchi. The summons states that (BH) moved out of the family home due to domestic violence and that her husband had threatened to kill her and further that he *"has physically, verbally, emotionally and sexually abused me and has physically, verbally and emotionally abused my baby ...and I fear my baby is in danger."*²³
33. On 11 March 2003, the summons was struck out.²⁴ There was no further information as to why this was the case.
34. On 7 July 2003, after separating from Mr Hettiarachchi and with the assistance of the Women's Liberation Half Way House, (BH) attended the Melbourne Magistrates' Court where an interim intervention order was made.²⁵ On 15 July 2003 the court ordered an

²⁰ DHS Child Protection written submission, dated 26 May 2012

²¹ LEAP Report, inquest brief at p748

²² LEAP Report, inquest brief at p751

²³ Complaint and Summons for an Intervention Order dated 3 February 2003, inquest brief at p754

²⁴ Certified Extract, Melbourne Magistrates Court dated 11 March 2003, inquest brief at p753

²⁵ Certified Extract, Melbourne Magistrates Court dated 7 July 2003, inquest brief at p756

intervention order against Mr Hettiarachchi, which prohibited him from having contact with (BH).²⁶

35. On 24 September 2003, (BH) made an application to the court to vary the intervention order to allow contact with Mr Hettiarachchi. This was granted but prohibited Mr Hettiarachchi from assaulting, harassing, molesting, threatening or intimidating (BH).²⁷
36. On 2 October 2003, (BH) made an application to revoke the intervention order after she had reconciled with Mr Hettiarachchi. This application was granted by the court²⁸ and (BH) moved back to the family residence.

Events leading up to the incident

37. During 2005, while pregnant with (RAH), (BH) asked Mr Hettiarachchi if she could invite her parents who lived in Sri Lanka to come to Australia to assist with the children. Mr Hettiarachchi agreed to this.
38. Mr and Mrs Perera arrived in Australia on 22 February 2006, almost four months after (RAH) was born. By the time of their arrival, Mr Hettiarachchi and (BH) were living separately within the family residence. (BH) reported that initially, Mr Hettiarachchi behaved amicably towards Mr and Mrs Perera, however, according to (BH), the situation deteriorated after a very short time.
39. According to (BH), on 5 March 2006, Mr Hettiarachchi took (BH) to an ATM and withdrew all her Centrelink benefits. (BH) alleged that the money he withdrew was used to purchase food for (RTH) and himself only.
40. According to (BH), on 6 March 2006, Mr Perera advised Mr Hettiarachchi that he should treat his wife better. According to (BH), Mr Hettiarachchi reacted out of character by becoming silent, and his lack of response was of concern to (BH). She stated that *"the fact that Sarath just said nothing really frightened me and he gave me the strong feeling that things were going to get very nasty."*²⁹

(BH)'s contact with the Women's Liberation Halfway House

²⁶ Certified Extract, Melbourne Magistrates Court dated 15 July 2003, inquest brief at p759

²⁷ Certified Extract, Melbourne Magistrates Court dated 24 September 2003, inquest brief at p761

²⁸ Certified Extract, Melbourne Magistrates Court dated 2 October 2003, inquest brief at p767

²⁹ Statement of (BH) Hettiarachchi, inquest brief at p230

41. At approximately 10:10am on Monday 6 March 2006, (BH) called Ms Yalgin from the Women's Liberation Halfway House and stated that "*she was having problems at home.*"³⁰ (BH) requested accommodation in the women's refuge for herself and her parents. Ms Yalgin told her that it would not be possible to obtain accommodation for her parents, as men were not allowed in a women's refuge, but she indicated she would look for transitional housing for them.
42. Ms Yalgin later mentioned (BH)'s situation to her colleague, Marcela Posteraro, who then telephoned (BH) and explained one option she had available to her included applying for a sole occupancy interim intervention order, which was a court order that would require Mr Hettiarachchi to leave the home.³¹ After some consideration, (BH) indicated to Ms Posteraro that she would consider this alternative.³² Ms Posteraro states that she reiterated to (BH) that if she took this course of action it was important to change the locks to the house and to call the police if Mr Hettiarachchi ever came near the property.³³

Interim Intervention Order

43. On that day, 6 March 2006, (BH) attended the Dandenong Magistrates Court with her parents and her baby (RAH) and spoke to Deputy Registrar Linda Morrison to obtain an Intervention Order against her husband.³⁴ Ms Morrison was not able to interview (BH) at the time and suggested she come back after 2:00pm. Ms Morrison states that the "*circumstances that she relayed to me caused me sufficient alarm to warrant me making an appointment to see her prior to the days end*"³⁵ as she said she was "*frightened of her husband.*"³⁶
44. A 2:15pm (BH) and her parents returned to the registry counter. (BH) filled in the Family Violence Information Form³⁷ and was then interviewed by Ms Morrison. With the information provided, Ms Morrison generated a complaint and summons for an intervention order.

³⁰ Statement of Ms Yalgin, inquest brief at p182

³¹ Statement of Ms Marcela Posteraro, inquest brief at p173

³² Ibid at p174

³³ Ibid at p173

³⁴ Statement of Ms Linda Morrison, inquest brief at p208

³⁵ Ibid at p209

³⁶ Ibid

³⁷ Inquest brief at p772

45. The complaint and summons sought to prohibit Mr Hettiarachchi from the following:

- a. *Assaulting, harassing, molesting, threatening or intimidating the aggrieved family member/s;*
- b. *Approaching, telephoning or contacting the aggrieved family member/s except:*
 - i. *In the company of a police officer; or*
 - ii. *To participate in counselling or to exercise child contact by agreement with the aggrieved family member/s or pursuant to a court order, or by direction or order made by a court exercising jurisdiction under the family law act 1975, or*
 - iii. *To participate in mediation by agreement with the aggrieved family member/s*
- c. *Knowingly being at or within 200 metres of premises situated at 11 Pauline Court, Hallam or any other premises where the aggrieved family member/s lives or works except:*
 - i. *In the company of a police officer; or*
 - ii. *To exercise child contact by prior agreement with the aggrieved family member/s or pursuant to a court order*
- d. *Damaging property owned/jointly owned by the aggrieved family member/s*
- e. *Causing another person to engage in conduct prohibited by this order*
- f. *Further order that any party has liberty to apply in writing to the court at any time to revoke, vary or extend this order.*

46. The narrative supporting the application stated:

“The defendant is my husband. We have been in a relationship for 12 years and we have two children aged 5 and 4 months. I have made two previous applications for intervention orders in the past. On both of these occasions the defendant said that he would change and I didn’t proceed with the orders. I am now seeking a further intervention against him to protect me and my children. I want the defendant to leave the family home. I have been subjected to emotional, social and financial abuse. The defendant keeps me and my children isolated. The defendant is a very controlling man. He also controls my money and only allows me \$30. I am not

allowed to answer the phone and I can't open my Centrelink letters. He hates my daughter. In 2003, I moved out of the house due to domestic violence and I stayed in a refuge. He was socially, emotionally, financially and sexually abusive towards me. He physically hit me in the past. I am very scared that it will happen again. I want my children included in the intervention order as I am scared that he[will] assault them. In the past child protection were involved. He abuses my daughter all the time because he hates her."³⁸

47. Ms Morrison thought (BH)'s application was serious enough to list the matter in court before a Magistrate that same day. Pursuant to the *Crimes (Family Violence) Act 1987* in place at the time, an interim intervention order was made, with a return date of 20 March 2006.³⁹ The interim intervention order made included four of the conditions applied for on the complaint and summons, but did not include a sole occupancy order. One can assume this was a considered decision of the presiding magistrate. There were no written reasons provided for this decision, although I readily accept that reasons most likely would have been provided orally in open court by the presiding Magistrate. The conditions made by the court were that Mr Hettiarachchi be prohibited from:
- a. *Assaulting, harassing, molesting, threatening or intimidating the aggrieved family member/s;*
 - b. *Damaging property owned/jointly owned by the aggrieved family member/s*
 - c. *Causing another person to engage in conduct prohibited by this order*
 - d. *Further order that any party has liberty to apply in writing to the court at any time to revoke, vary or extend this order.*

48. A registrar from the Dandenong Magistrates Court faxed the interim intervention order together with the complaint and summons to the Endeavour Hills Police Station the next morning on Tuesday, 7 March 2006.

Police Service of the Order

49. On Tuesday 7 March 2006, Senior Constable Tracey Arnold received instructions to serve that interim intervention order on Mr Hettiarachchi. She performed the necessary checks on the LEAP database to determine if any warnings for the person on whom the intervention

³⁸ Ibid p660 and 774

³⁹ Interim Intervention Order, inquest brief at p664

order was to be served existed.⁴⁰ SC Arnold established that Mr Hettiarachchi did not have a firearms licence and did not have any prior convictions. SC Arnold's statement indicates she "*read the intervention order and saw that it was an order prohibiting the defendant from being within 200 metres of his home. This indicated to [her] that police would have to remove the defendant from his home.*"⁴¹ However, as noted above, this condition was not in fact part of the order, but **was** listed in the complaint and summons (ie the application for the order).

50. SC Arnold telephoned (BH) on the morning of 7 March 2006. She was advised by (BH) that Mr Hettiarachchi was in the shower and would be home all day. SC Arnold confirmed with (BH) that Mr Hettiarachchi was not expecting the order to be served upon him and (BH) was said to make the observation "*he wont be happy.*" What (BH) meant by this, or her expectations as to how Mr Hettiarachchi might respond, were not further explored by SC Arnold.
51. After considering the material, SC Arnold stated that she did not feel comfortable going to the Hettiarachchi home alone to serve the order. Consequently, she spoke to Constable Stephen Regnier and Senior Constable Graeme Stanley and asked them to go with her.⁴² They offered to serve the interim intervention order on Mr Hettiarachchi without her and she explained the documentation to them, namely, that Mr Hettiarachchi had to be removed from the home. Further, she stated they had "*to kick the male out of the house and he didn't know about the order.*"⁴³
52. Constable Regnier and SC Stanley stated that they read the documentation and determined that "*according to police records the defendant did not possess firearms; he didn't have any prior convictions for violence or a history of violence.*"⁴⁴ SC Stanley stated that "*the conditions in the order were fairly standard in that the defendant named in the order could not assault or harass the aggrieved family member, that the defendant could not be within 200 metres of the address at 11 Pauline Court, Hallam unless in company of a police*

⁴⁰ Senior Constable Tracey Arnold, inquest brief at p318

⁴¹ Ibid

⁴² Ibid at p319

⁴³ Statement Constable Stephen Regnier, inquest brief at p322

⁴⁴ Ibid at p323

officer.”⁴⁵ However, as previously outlined, this was a misreading of the documents as this condition was not featured in the interim order, but was contained in the complaint and summons.

53. The two officers left the police station and en route to the Hettiarachchi home, discussed the contents of the intervention order, conducted a risk assessment⁴⁶ and formulated a plan on how they would serve the intervention order on Mr Hettiarachchi.⁴⁷ The statements of both police officers indicate that at this time they both held the view that there were no previous episodes of physical violence against (BH) by Mr Hettiarachchi.
54. Constable Regnier and SC Stanley arrived at the Hettiarachchi home at approximately 12.01pm and served the intervention order and complaint and summons on Mr Hettiarachchi. The police officers advised Mr Hettiarachchi that as a condition of the order, he was required to leave the family home. Mr Hettiarachchi requested to read the documents and was permitted to do so. It was explained to Mr Hettiarachchi that he was allowed to gather some clothes and personal items. Further, he was instructed not to go within 200 metres of the house until the court hearing on 20 March 2006.⁴⁸ Mr Hettiarachchi asked where he might find a solicitor and SC Stanley stated that he advised that there were many solicitors’ offices in Foster Street, near the Dandenong Magistrates Court.
55. The police officers state that Mr Hettiarachchi was “*calm and showed no hostility or violence towards anyone.*”⁴⁹ Police waited for Mr Hettiarachchi to leave the home and finalised their formal duties at the residence by 12.35pm. The two police officers observed Mr Hettiarachchi leave the house in his car. They followed him a short distance, and when he slowed down, they passed him in their vehicle.
56. Mr and Mrs Perera, (BH) and the two children remained at the residence. Following the departure of Mr Hettiarachchi and the police, (BH) stated that she locked the doors of the house.

⁴⁵ Statement of SC Graeme Stanley, inquest brief at p330

⁴⁶ This is the language that was used in their statement. There is no evidence of any informed risk assessment taking into account the family violence situation.

⁴⁷ Statement of Constable Regnier, inquest brief at 327

⁴⁸ Statement of SC Stanley, inquest brief at p331

⁴⁹ Statement of Constable Regnier, inquest brief at p326

The fatal actions of Mr Hettiarachchi

57. Her Honour Justice King found that after the police drove past Mr Hettiarachchi, he turned the car around and returned home, used his key to unlock the front door, and walked into the house. At this time, (BH) states that she was on the phone, attempting to contact Ms Posteraro in order to make arrangements for the locks to be changed. She heard the front door open and observed Mr Hettiarachchi enter the house. (BH) states "*I was shocked I couldn't believe it. He opened the door and just walked right in.*"⁵⁰
58. Mr Perera was seated in an armchair opposite the front door holding his granddaughter in his lap. (RTH) was at the front window. (BH) stood between the front door and her father and Mrs Perera stood near the master bedroom door.
59. Her Honour Justice King found that Mr Hettiarachchi walked into the kitchen area of the house, picked up two large knives from the kitchen drawer, went to the lounge chair in which Mr Perera was seated holding (RAH), pushed her aside and stabbed Mr Perera with a deal of force on at least two occasions. Mr Perera died in the chair in which he sat, still holding his granddaughter (RAH).
60. King J found that Mrs Perera tried to come to the aid of her husband and she was stabbed in the face with such force by Mr Hettiarachchi that the wound penetrated to the spine at the back of her neck. Her Honour Justice King found that Mrs Perera attempted to escape and run to the front door while Mr Hettiarachchi continued to stab her. She finally collapsed on the ground outside the front door. Mr Hettiarachchi, then placed the knives on the ground next to Mrs Perera and left.⁵¹
61. (BH) noticed her mother was still breathing and called 000 at 12.42pm. An ambulance and police units arrived at 12.48pm. Constable Regnier and SC Stanley were making their way back to the police station when they received the call describing the incident at the Hallam address.
62. Sadly, attempts to resuscitate Mr and Mrs Perera were unsuccessful. They were subsequently pronounced deceased at the scene by Dr Noel Woodford, forensic pathologist of the Victorian Institute of Forensic Medicine (VIFM).

⁵⁰ Ibid, inquest brief p217

⁵¹ Ibid, inquest brief p236

63. The evidence at trial heard that Mr Hettiarachchi left the scene and attended a number of solicitors firms in Dandenong. At the first two offices, Mr Hettiarchchi was observed to have blood on the right and left sleeves of his shirt.
64. In the evening at approximately 7.25pm, Mr Hettiarachchi was leaving a motel when he was intercepted by police who then arrested him.

INVESTIGATION AS TO CAUSES OF DEATH

Forensic Pathology

Mr Perera

65. Dr Noel Woodford, Senior Forensic Pathologist of VIFM, performed an autopsy on Mr Perera on 8 March 2006 and provided his opinion as to cause of death was *stab wounds to the arm and chest*.⁵²
66. Dr Woodford judged the degree of force to be “*at least moderately severe on a four point scale of mild, moderate, severe and extreme.*”⁵³ He also noted “*there were no defensive-type incised injuries to the forearms or hands.*”⁵⁴
67. Toxicological analysis did not reveal the presence of alcohol or commonly encountered drugs or toxins.⁵⁵
68. Natural disease processes that were identified at autopsy included ischaemic heart disease and chronic obstructive airways disease.⁵⁶

Mrs Perera

69. Dr Noel Woodford, conducted an autopsy on Mrs Perera on 8 March 2006 and provided his opinion as to cause of death was *stab wounds to the face and chest*.⁵⁷
70. Dr Woodford noted a total of 5 stab wounds were identified (one to the face, two to the right upper arm and two to the back of the chest)⁵⁸ he also noted two incised wounds to the left mid upper arm.⁵⁹

⁵² Statement of Dr Noel Woodford, inquest brief at p114

⁵³ Ibid, p 115

⁵⁴ Ibid, p115

⁵⁵ Ibid p114 and p638

⁵⁶ Ibid p115

⁵⁷ Ibid p132

71. Dr Woodford stated that *"the degree of force is judged to have been at least severe on a four point scale of mild, moderate, severe and extreme."*⁶⁰
72. Toxicological analysis showed no findings of significance.⁶¹
73. Dr Woodford noted that there was *"no natural disease evident at autopsy likely to have caused or significantly contributed to death"*.⁶²

Record of Interview

74. Police interviewed Mr Hettiarachchi on 7 and 8 March 2006. Mr Hettiarachchi denied returning to the residential home after leaving with police officers. He denied having any knowledge of the incident. When interviewed by police, Mr Hettiarachchi denied returning to the house after being evicted and denied that he had killed Mr and Mrs Perera. He claimed that his wife had done it and that she was "mad".
75. On 8 March 2006, Mr Hettiarachchi was charged with the murders of Mr and Mrs Perera.

Criminal Trial and Appeal

76. As noted above, Mr Hettiarachchi pleaded not guilty to the charges against him but he was convicted upon trial by judge and jury.
77. On 14 December 2007, Her Honour Justice King sentenced Mr Hettiarachchi to 27 years imprisonment with a non parole period of 22 years.⁶³ In her sentencing remarks, Justice King noted Mr Hettiarachchi's reaction was *"absolutely out of proportion, to the upset [he] may have felt"*.⁶⁴ Further, Mr Hettiarachchi *"behaved in a savage and agitated manner, at the time of the actual killings. The force, the ferocity and the number of wounds, indicates that."*⁶⁵

⁵⁸ Ibid

⁵⁹ Ibid p133

⁶⁰ Ibid p133

⁶¹ Ibid p133 and p643

⁶² Ibid p133

⁶³ *R v Hettiarachchi* [2007] VSC 541

⁶⁴ *R v Hettiarachchi* [2007] VSC 541

⁶⁵ *R v Hettiarachchi* [2007] VSC 541

78. Mr Hettiarachchi sought leave to appeal against his conviction and the Director of Public Prosecutions also sought to appeal against the sentence. On 27 November 2009, the Court of Appeal dismissed both appeals.⁶⁶
79. Mr Hettiarachchi made an application for special leave to appeal to the High Court of Australia. This application was dismissed by the High Court on 9 February 2012.⁶⁷

COMMENTS

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

80. This investigation was assisted by the Victorian Systemic Review of Family Violence Related Deaths (VSRFVD) in order to identify any opportunities to strengthen the response to family violence in this state.⁶⁸ As a result of that review, there are a number of important observations that can be made in connection to the family violence aspects present in this case. These are outlined here, in order to assist with understanding the circumstances surrounding how these deaths occurred.

DHS Child Protection inquest submission

81. As part of this coronial investigation, further information was requested from DHS Child Protection in respect to their last contact with the family prior to the horrific deaths of Mr and Mrs Perera. A submission was received at the Coroners Court on the 26 May 2012. As outlined above, this notes that concerns regarding Mr Hettiarachchi's inappropriate physical discipline of (RTH) could not be substantiated during the associated investigation. Similarly, while concerns pertaining to (BH)'s exposure to family violence were raised, the DHS Child Protection reported that it found no evidence of this.
82. It is not possible to draw the conclusion that had DHS Child Protection remained involved with the family, the tragic deaths of Mr and Mrs Perera could have been prevented and I do not draw any such conclusion. However, there are some important observations that can be made in relation to family violence and contact with the DHS Child Protection.

⁶⁶ *R v Hettiarachchi; DPP v Hettiarachchi* [2009] VSCA 270

⁶⁷ *Hettiarachchi v The Queen* [2012] HCASL 5

⁶⁸ Positioned within the Coroners Court of Victoria, the VSRFVD provides assistance to Victorian coroners to investigate the circumstances in which family violence deaths occur. In addition, the VSRFVD collects and analyses information on family violence-related incidents. This contributes to the development of a broader knowledge base for dissemination to the community and agencies working in the area of family violence.

83. At the time DHS Child Protection became involved with the family in late 2005, this was the second occasion in which concerns about Mr Hettiarachchi's abusive behaviour had been raised. While the DHS Child Protection reported that it was unable to find evidence family violence was occurring, it is known that much of this behaviour is typically obscured from public view. Further, (BH) was experiencing a number of additional factors known to increase risk and vulnerability, such as her cultural background, limited family and social supports, and the recent birth of (RAH). Whilst necessary and appropriate community supports were arranged for (RTH) and (RAH), there is no evidence that DHS discussed ongoing family violence assistance with (BH) at the time. Support to (BH) in this area was likely to be an important factor, not only for her own safety, but also for that of the children.
84. The submission provided by DHS Child Protection documents the continued efforts made by the DHS Child Protection in connection to family violence since the deaths of Mr and Mrs Perera in 2006. Chief among these is a whole of government approach to addressing this issue. Given the widespread prevalence of family violence in the community, a strategic approach of this kind is undoubtedly necessary. It is particularly important for Child Protection interventions to protect children from exposure to violence, to assist in that protection by understanding and supporting the parent who is the victim of that violence.

Actions of Victoria Police

85. SC Tracey Arnold states that she filled in the Intervention Order Action Advice Cover Sheet, which records information about the intervention order. She states that she conducted the relevant LEAP searches and enquired as to whether Mr Hettiarachchi had a history of violence, was licensed to own a firearm and whether he had a firearm registered to him. SC Arnold stated that she noticed that there had been previous expired intervention orders. It is acknowledged that the resources of police are stretched⁶⁹ and that it is not always possible to conduct extensive enquiries, however, this case serves as a stark example of the powerful danger to life that family violence can pose.
86. SC Arnold states that she cannot remember the complaint saying anything about a history of violence, however, the second page of the complaint details allegations of prior physical assaults and (BH)'s fear of her husband.

⁶⁹ The written submission provided by Victoria Police dated 15 June 2012 notes that police serve approximately 100,000 Family Violence Intervention Orders annually.

87. SC Arnold also states that she spoke to (BH) on the phone and enquired as to how Mr Hettiarachchi may react to being served with an intervention order and (BH) responded he would not be happy. SC Arnold did not follow up with any questions as to how he might react, whether she was fearful for her safety, whether she had a safety plan, or whether she was in touch with her family violence worker. Had SC Arnold made these further enquiries, she may have assisted police member's Regnier and Stanley with their risk assessment as to how this intervention order ought to be served and what could have been considered to bolster the family's safety.
88. It appears that both Constable Regnier and SC Stanley may not have adequately read the documentation, prior to their attendance at the family home. Constable Regnier states that there was *"definitely no mention of any violence towards her or any other person."*⁷⁰ Further, SC Stanley asserts *"there was no indication of violence in the summary towards the victim"*.⁷¹ However, as previously discussed these assertions were incorrect. In fact, Constable Regnier at Mr Hettiarachchi's trial stated *"I don't recall reading [the intervention order] myself but we had a conversation about it."*⁷²
89. I do not conclude that had the police read the documents accurately and not excluded Mr Hettiarachchi from the home then these terrible events would not have occurred. There is no basis to come to such a conclusion. Indeed, the order sought by (BH) was that Mr Hettiarachchi be excluded from the home which is no doubt why she readily accepted that what she had asked for was the order made.
90. The facts in this case provide an horrendous example of the heightened risk of death and injury in such circumstances and must remain as a tragic monument to all of those involved in family violence work of the need for constant vigilance and safety and attention to all of the details available. Any police member involved in the removal of an alleged perpetrator of family violence from the family home cannot afford to be cavalier about the risks to the family in the wake of that removal.

Victoria Police Submission

91. As part of this coronial investigation, further information was provided to the court from Victoria Police in connection to current practice when police serve intervention orders. The

⁷⁰ Inquest brief, p323

⁷¹ Inquest brief, p330

⁷² Trial transcript, p129

submission notes that since the deaths of Mr and Mrs Perera there have been a number of changes to Victoria Police policies and procedures in relation to intervention orders. It is also noted that legislative reform has occurred with the introduction of the *Family Violence Protection Act 2008*, which had the intention of increasing the safety of affected family members (AFM) and enhancing risk management at family violence incidents. Police submit that risk management at family violence incidents has improved dramatically as a result of these reforms.⁷³

92. The submission of Victoria Police states that police procedure prior to serving orders involves standard risk assessment and safety planning. This includes conducting LEAP checks to determine prior criminal histories and identify any warning flags; reviewing previous risk assessments where police have attended a family violence incident involving the parties; and assessing for access to firearms or other weapons. Further, police submitted they consider the physical parameters of the location where the order is to be served, and any other information provided by the AFM in relation to the respondent. Consideration is also given as to how contact with the AFM prior to service of the order on the respondent might impact on the AFM's safety. Specifically, the submission notes that "*the danger of escalating risk to the AFM by alerting the respondent to the order in advance of service needs to be carefully weighed against the benefits of proactive planning.*"⁷⁴
93. The submission provided by Victoria Police also describes some of the issues and challenges currently encountered by the organisation in connection to serving intervention orders. Among these, and of particular relevance to the circumstances of the present case, relates to the readability of the documentation. The submission notes that the current format can be difficult to read by the parties required to absorb the information, namely police, affected family members and respondents. In addition, intervention orders are described as being "*lengthy and repetitive.*" I accept that submission and agree that the documents generated by the current system are repetitive and confusing. All parties would benefit from a more streamlined and 'user friendly' set of documents.⁷⁵
94. Were it not for the Victoria Police submission provided to the Coroners Court regarding the enhanced changes to their policies and procedures over the years since the deaths of Mr and

⁷³ Victoria Police written submission dated 15 June 2012

⁷⁴ Ibid p3

⁷⁵ Ibid p2

Mrs Perera, I would have turned my mind to making recommendations specifically to Victoria Police addressing the issues which arose in this case. However, given the material I have been provided with I am satisfied, that Victoria Police has been proactive in improving the systems associated with serving intervention orders and considering the safety of affected family members when doing so.

Conclusion

95. Mr Hettiarachchi was convicted of the murders of Mr and Mrs Perera and will serve a lengthy term of imprisonment. In sentencing, Her Honour Justice King commented, *"These were vicious murders of elderly, defenceless, innocent people, who were doing nothing more than visiting their child and grandchildren, and undoubtedly feeling protected as a result of the intervention order that had been granted. It is appalling that an intervention order, designed to protect predominantly women from abusive partners, could end up being the precipitator, for such horrific violence."*⁷⁶
96. It is important to note that Mr Hettiarachchi did not have any prior convictions, a firearms licence or a firearm registered to him, nor is it recorded that he made any violent threats toward Mr and Mrs Perera. Further, he appeared calm and complied with the requests made of him by police at the time the order was served upon him.
97. Family violence is a matter of extreme importance to our community. It requires continued efforts to strengthen and enhance the services that are designed to both prevent and intervene in this behaviour. With this in mind and based on the material elicited throughout this investigation, I make the following recommendation:

RECOMMENDATION

1. I recommend that the Victoria Police and Magistrates' Court of Victoria Family Violence Committee review the written format of family violence intervention orders, so as to improve the readability of these documents for all those required to understand and adhere to them, including members of Victoria Police, affected family members and respondents.

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

⁷⁶ *R v Hettiarachchi* [2007] VSC 541

Magistrate Kate Hawkins and Detective Inspector Kerry Hynam, Chairpersons of the Victoria Police and Magistrates Court of Victoria Family Violence Committee

Pursuant to section 73(1) of the **Coroners Act 2008**, I order that this Finding be published on the internet in REDACTED form (consistent with the Suppression Order made on this day).

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

(BH)

Sarath Hettiarachchi

Chief Magistrate Ian Gray

Magistrate Kate Hawkins and Magistrate Felicity Broughton

Chief Commissioner of Victoria Police Ken Lay APM

Ethical Standards Division, Victoria Police

The Hon. Robert Clark, MP, Attorney-General of Victoria

The Hon. Peter (RTH), MP, Minister for Police and Emergency Services

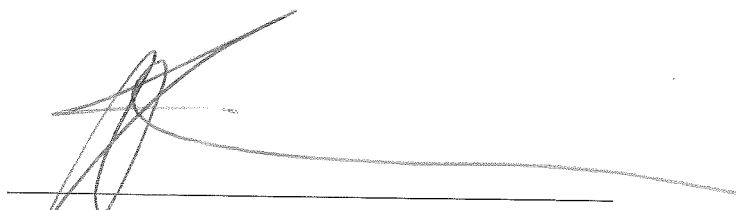
The Hon. Mary Wooldridge, MP; Minister for Community Services; Minister for Mental Health; Minister for Women's Affairs

The Hon. Andrew McIntosh, MP, Minister for Corrections; Minister for Crime Prevention

The Hon. Wendy Lovell MLC; Minister for Housing

Assistant Commissioner Wendy Steendam and Mr Simon Phemister, Chairpersons, Family Violence Inter-Departmental Committee, Department of Human Services

Signature:



JUDGE JENNIFER COATE, State Coroner

Date: 3 July 2012

