



IN THE CORONERS COURT  
OF VICTORIA  
AT MELBOURNE

Court Reference: COR 2017 0548

**FINDING INTO DEATH WITH INQUEST**

*Form 37 Rule 60(1)*

*Section 67 of the Coroners Act 2008*

Findings of:	<b>JUDGE SARA HINCHEY, STATE CORONER</b>
Deceased:	<b>PELELINI SO'OULA</b> , born 29 December 1966
Delivered on:	10 July 2018
Delivered at:	Coroners Court of Victoria, 65 Kavanagh Street, Southbank
Hearing date:	9 July 2018
Counsel assisting the Coroner:	Rebecca Johnston-Ryan, Coroners Court of Victoria

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## **HER HONOUR:**

### **BACKGROUND**

1. Pelelini So'oula (**Mrs So'oula**) was 50 years old and resided with Maua Isaako (**Mr Isaako**) and his wife, Tauasu (**Mrs Isaako**) at Unit 2, 221 Main Road East, St Albans, at the time of her death. She had only moved into that address on 18 January 2017, having separated from Patelesio Patrick Kenner (**Mr Kenner**), with whom she had resided at 1 Waranga Crescent, Broadmeadows. She is survived by her five children.
2. Mrs So'oula was a New Zealand national, of Samoan descent. She was previously married to Alema Tony So'oula (**Mr So'oula**) and they had five children together, Tony Junior (**Junior**), Robert, Andrea, Roselina and Amu. Whilst the children were still young, Mr and Mrs So'oula separated. Mrs So'oula began a new life in Australia, arriving on 1 April 2005.<sup>1</sup>
3. Mrs So'oula's ex-partner and her children migrated to Australia later in 2005.<sup>2</sup> Initially, Mrs So'oula had fairly frequent contact with her children, although that reduced as the children grew older.<sup>3</sup> To a degree, that contact increased again in the last few years of her life particularly following the birth of her grandson, Hudson.
4. 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.
5. Like Mrs So'oula, he was in Australia on a TY 444 Visa.<sup>4</sup> 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.<sup>5</sup>
6. Mr Kenner also had a number of convictions for violence and weapons offences:
  - (a) in 1981, he was convicted of carrying an offensive weapon;

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<sup>1</sup> Coronial Brief, statement of Susan Jane San Juan, dated 1 March 2017, 304

<sup>2</sup> Coronial Brief, Tony So'oula, dated 2 February 2017, 116

<sup>3</sup> Coronial Brief, Statement of Amu Sooula, dated 2 February 2017, 121

<sup>4</sup> A special category visitor visa for New Zealand citizens, above, n 1, 291

<sup>5</sup> Coronial Brief, Appendix K, New Zealand Conviction History for Patelesio Kenner, 464-466

- (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;<sup>6</sup>
- (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 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;<sup>7</sup>
- (d) in 1993, he was convicted of offensive behaviour and fined;<sup>8</sup> 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.<sup>9</sup>

7. 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.
8. 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.<sup>10</sup> His August 2015 passenger card was not completed in the section relating to whether Mr Kenner had any convictions or not.<sup>11</sup> 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.

<sup>6</sup> *ibid*, 465; Also, Coronial Brief, Appendix L, New Zealand Police Report re: 14 September 1985, 468

<sup>7</sup> Above, n5, 465; Coronial Brief, Appendix M, NZ Police Report 20 July 1987, 470

<sup>8</sup> Above, n5, 465

<sup>9</sup> *ibid*

<sup>10</sup> Above, n1, 297

<sup>11</sup> Above, n1, 295

9. 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.<sup>12</sup> 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.<sup>13</sup>
10. 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.
11. 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.<sup>14</sup> However, Vai told Amu that Mrs So'oula had confided in her that Mr Kenner had once choked her.
12. 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.
13. Text messages recovered from Mrs So'oula's and Mr Kenner's telephones demonstrate Mrs So'oula and Mr Kenner were a couple that 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.*'<sup>15</sup> However, she said there was too much trouble in the 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.*"<sup>16</sup> Mrs

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<sup>12</sup> Above n3, 122

<sup>13</sup> *ibid*, 125

<sup>14</sup> *ibid*, 122

<sup>15</sup> Coronial Brief, Statement of Malae Luatutu, dated 2 February 2017, 255

<sup>16</sup> *ibid*, 257

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.<sup>17</sup>

14. At some point towards the end of 2015, Mrs So'oula obtained employment at Hellier's chocolate factory in Coburg.<sup>18</sup> 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.<sup>19</sup>
15. 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.
16. 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.<sup>20</sup>
17. 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.
18. 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 at 11.00pm by the Luafalealo family. They did not notice a car in the driveway. When Mr Kenner was home, his distinctive, grey Volkswagen car would usually be there.

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<sup>17</sup> *ibid*

<sup>18</sup> Coronial Brief, Statement of Margaret Luafalealo, dated 27 February 2017, 153

<sup>19</sup> *ibid*

<sup>20</sup> Above, n2, 117

19. 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.*"<sup>21</sup> This was sent at 10.27pm, shortly before Mrs So'oula returned home.
20. 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.*"<sup>22</sup> 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.
21. 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.*"<sup>23</sup>
22. 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.<sup>24</sup> Amu and Mr Silva saw that Mr Kenner was in the backyard. Mrs So'oula came out. Straight away, Amu and Penny 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.
23. 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 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.<sup>25</sup>

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<sup>21</sup> Coronial Brief, Appendix G, Selection of Text Messages from Phone Attributed to Mr Kenner, 440

<sup>22</sup> *ibid*, 439

<sup>23</sup> *ibid*

<sup>24</sup> *ibid*; Above, n3, 123-124

<sup>25</sup> Above, n3, 124

24. 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.<sup>26</sup> 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.
25. 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.<sup>27</sup>
26. 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.*"<sup>28</sup> Amu later showed Junior the photos of Mrs So'oula's injuries.
27. 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.*"<sup>29</sup>
28. 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.<sup>30</sup> 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 any event, Mr Kenner stayed at the address. He did not deny the assault.<sup>31</sup>
29. A neighbour at 1 Waranga Crescent, 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 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

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<sup>26</sup> Coronial Brief, Appendix J, Selection of Photos from Penny Silva's phone, 461-463

<sup>27</sup> Above, n18, 154

<sup>28</sup> Above, n2, 117-118

<sup>29</sup> Above, n 20, 438

<sup>30</sup> Above, n15, 255-256

<sup>31</sup> Coronial Brief, Statement of Alefa Futialo, dated 2 February 2017, 269



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.<sup>32</sup> 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.*"<sup>33</sup> 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.

30. 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.
31. 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.*"<sup>34</sup> 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!!!*"<sup>35</sup>
32. 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.<sup>36</sup> They made arrangements for Mrs So'oula to live with them.
33. 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.*"<sup>37</sup>
34. 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 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.

<sup>32</sup> Coronial Brief, Faasalafa Fue, dated 2 February 2017, 239-240

<sup>33</sup> *ibid*, 240

<sup>34</sup> Coronial Brief, Appendix F, Selection of Pages Sourced from Mrs So'oula's Diary, 424

<sup>35</sup> *Ibid*, 423

<sup>36</sup> Coronial Brief, Statement of Tausau Isaako, dated 2 February 2017, 179-180

<sup>37</sup> Above, n20, 437

Mrs Isaako saw the scars on Mrs So'oula's arm and the photographs of the bruising on Mrs So'oula's phone.<sup>38</sup>

35. 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."*<sup>39</sup> 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."*<sup>40</sup>
36. 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."*<sup>41</sup>
37. 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..."*<sup>42</sup>

## THE PURPOSE OF A CORONIAL INVESTIGATION

38. Ms So'oula's death constituted a *'reportable death'* under the *Coroners Act 2008* (Vic) (**the Act**), as the death occurred in Victoria, was unexpected and was the result of injury.<sup>43</sup>
39. The jurisdiction of the Coroners Court of Victoria is inquisitorial.<sup>44</sup> The Act provides for a system whereby reportable deaths are independently investigated to ascertain, if possible, the

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<sup>38</sup> Above, n35, 179-80

<sup>39</sup> Above, n20, 434

<sup>40</sup> *ibid*, 431

<sup>41</sup> *ibid*, 428

<sup>42</sup> Above, n2, 118; Coronial Brief, Appendix H, Selected Text Messages from Mrs So'oula's mobile phone, 448

<sup>43</sup> Section 4 *Coroners Act 2008*

<sup>44</sup> Section 89(4) *Coroners Act 2008*

identity of the deceased person, the cause of death and the circumstances in which death occurred.<sup>45</sup>

40. It is not the role of the coroner to lay or apportion blame, but to establish the facts.<sup>46</sup> It is not the coroner's role to determine criminal or civil liability arising from the death under investigation, or to determine disciplinary matters.
41. The expression "*cause of death*" refers to the medical cause of death, incorporating where possible, the mode or mechanism of death.
42. 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.
43. 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.
44. 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.
45. 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*.<sup>47</sup> The effect of this and similar authorities is that coroners should

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<sup>45</sup> See Preamble and s 67, *Coroners Act 2008*

<sup>46</sup> *Keown v Khan* (1999) 1 VR 69

<sup>47</sup> (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.

46. Section 52(2) of the Act provides that it is mandatory for a coroner to hold an inquest into a death if the death or cause of death occurred in Victoria and a coroner suspects the death was as a result of homicide (and no person or persons have been charged with an indictable offence in respect of the death), or the deceased was immediately before death, a person placed in custody or care, or the identity of the deceased is unknown.
47. While Ms So'oula's identity was not in dispute and she was not a person placed in "*custody or care*" as defined by section 3 of the Act, her death is considered to be a homicide. Therefore, it is mandatory to conduct an inquest into the circumstances of his death as no person or persons have been charged with an indictable offence in respect of the death.

#### **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 3 February 2017, Robert So'oula formally identified the body of the deceased to be that of his mother, Pelelini So'oula, born 29 December 1966.
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 2 February 2017, Professor Noel Woodford (**Professor Woodford**), a Forensic Pathologist practising at the Victorian Institute of Forensic Medicine, conducted an autopsy upon Ms So'oula's body. Professor Woodford provided a written report, dated 31 March 2017, which concluded that Ms So'oula died from haemorrhagic shock and stab wounds to the back, chest and abdomen.
51. Professor Woodford commented that the haemorrhagic shock was the result of multiple stab wounds, including to the neck, chest, back and arms. The stab wounds resulted in haemorrhage into the chest and abdominal cavities. There were also some incised (comparatively shallow) injuries which were indicative of a defensive-type manoeuvre.

52. Professor Woodford also found a pigmented linear scar, approximately 5mm in length just lateral to the superior aspect of the left axillary fold (armpit).
53. Professor Woodford considered that, on a three point scale of mild, moderate and severe, '*at least moderate*' force was used to inflict the wounds.
54. Post-mortem toxicological analysis specimens taken from Ms So'oula were negative for common drugs or poisons.
55. I accept the cause of death proposed by Professor Woodford.

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

56. 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.
57. 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.<sup>48</sup>
58. CCTV footage showed that, at 11.57pm, a vehicle drove into Errington Parade, from Main Road East, St Albans.<sup>49</sup>
59. At 12.11am on 2 February 2017, CCTV shows Mr Kenner emerging from Errington Road and approaching 221 Main Road East, St Albans on foot.
60. 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.<sup>50</sup> 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.

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<sup>48</sup> Above, n20, 426

<sup>49</sup> Coronial Brief, Statement of Detective Leading Senior Constable Rob Catania, Summary of CCTV, 362 & Exhibit 11, Main Road, St Albans CCTV

<sup>50</sup> *ibid*, 363

61. 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.
62. 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 away.<sup>51</sup>
63. 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.
64. 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.<sup>52</sup>
65. 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.*"<sup>53</sup> 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.
66. 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

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<sup>51</sup> Coronial Brief, Statement of Konelio Luafalealo, dated 16 February 2017, 164-165

<sup>52</sup> Coronial Brief, Statement of Margaret Bailey, dated 2 February 2017, 183

<sup>53</sup> Coronial Brief, Statement of Maua Isaako, dated 2 February 2017, 175

injuries and used some medical supplies that she had to treat Mrs So'oula until paramedics arrived.

67. 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 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.<sup>54</sup>
68. 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.
69. 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.<sup>55</sup>
70. 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.
71. On 2 February 2017, Victoria Police enquiries resulted in police executing a search warrant at 1 Waranga Crescent, Broadmeadows at about 3.25pm. Officers also intended to arrest Mr Kenner at that time on suspicion of Mrs So'oula's murder.<sup>56</sup> The police were unable to raise Mr Kenner. On gaining access to the property, Mr Kenner was discovered deceased within the bedroom.
72. 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.<sup>57</sup> Mrs So'oula's blood was also found on keys seized from 1 Waranga Crescent, Broadmeadows. Also seized was a knife sheath that appeared to fit the filleting knife found and Mr Kenner's mobile phone.

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<sup>54</sup> Coronial Brief, Statement of Michael Holmes, dated 17 May 2017, 278

<sup>55</sup> *ibid*, 279

<sup>56</sup> Above, n47, 363

<sup>57</sup> Coronial Brief, Statement of Louise Brown, dated 10 July 2017, 349; She concluded the DNA likelihood ratio was a 100-billion-to-one match

73. Mr Kenner's car was not parked at the front of 1 Waranga Crescent, Broadmeadows. Rather, it was located in the driveway of a neighbouring, derelict house. The car was searched and blood was found in several areas within it.
74. The police searched the area of 1 Waranga Crescent, Broadmeadows and undertook a residential canvass. There was no evidence of a struggle at the residence, nor any reports of a disturbance.
75. I am satisfied that the evidence supports a finding that Mr Kenner killed Mrs So'oula by stabbing her multiple times.

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

76. The unexpected, unnatural and violent death of a person is a devastating event. Violence perpetrated by a family member is particularly shocking, given the family unit is expected to be a place of trust, safety and protection.
77. Mrs So'oula's death met the criteria for inclusion as part of the Victorian Systemic Review of Family Violence Deaths, 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.
78. For the purposes of the *Family Violence Protection Act 2008*, the relationship between Mrs So'oula and Mr Kenner fell within the definition of 'family member'<sup>58</sup> under that Act. Moreover, Mr Kenner's actions in threatening to kill, exhibiting controlling and jealous behaviour, stalking, assaulting and later stabbing Mrs So'oula and causing her death constitutes 'family violence' under that Act.<sup>59</sup>

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<sup>58</sup> *Family Violence Protection Act 2008*, section 8(1)(a) identifying as a spouse or domestic partner

<sup>59</sup> *Family Violence Protection Act 2008*, section 5(1)(a)(i)



79. It is apparent that Mr Kenner was physically abusive, emotionally and psychologically controlling and jealous in his relationship with Mrs So'oula. He also had a history of perpetrating family violence against his ex-wife and adopted son, in New Zealand.
80. The Department of Health and Human Services has published a Family Violence Risk Assessment and Risk Management Framework, known as the Common Risk Assessment Framework (CRAF). It details a number of evidence-based risk factors which have been found to impact on the likelihood and severity of family violence. The risk factors are divided into three categories:
- (a) those relating to the victim of family violence;
  - (b) those relating to the perpetrator of family violence; and
  - (c) those relating to the relationship.
81. Applying those risk factors to this case, the evidence did not indicate the presence of any victim-specific risk factors in relation to Mrs So'oula.
82. However, Mr Kenner demonstrated a number of perpetrator-specific factors identified by the CRAF, which indicated that Mrs So'oula was at a higher risk of being subjected to more violence: there was evidence that Mr Kenner was previously violent to Mrs So'oula and he had previous convictions for violence in a family setting.
83. Additionally, three identified relationship risk factors were also present. Both the assault on Boxing Day and the subsequent, fatal assault on 2 February 2017, occurred after separation. There was also evidence of an escalation in the severity of the violence and issues between Mrs So'oula and Mr Kenner relating to money.
84. Unfortunately, homicide within the family is not uncommon. Data from the Victorian Homicide Register indicates that there have been 30 family violence related deaths in Victoria since 2000 which occurred in circumstances where there was a history of family violence that had not been reported to the services or to Victoria Police. In many of these cases, family and/or friends knew what was occurring.
85. A study looking at the statistics in Victoria to identify the risk of lethal violence<sup>60</sup> found that a key risk factor for intimate party homicide is prior family violence. In over 50% of intimate

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<sup>60</sup> McKenzie, M, Kirkwood, D, Tyson, D & Naylor, B, "*Identifying the risk of lethal violence*", Advocate, Autumn/Winter 2016, Domestic Violence Resource Centre, Victoria

partner homicides there was evidence that the offender had been abusive or violent towards his/her partner/ex-partner. Similarly, in over 50% of the cases considered, the homicide occurred after the offender's partner had attempted to leave or had left the relationship. In most of those cases, the killing occurred within days or months of the attempt to separate. The study revealed that the risk of homicide was high when a woman attempted to separate from a highly controlling man (41% of cases considered in the study).

### *Third party reporting of family violence*

86. This case highlights the difficult and often dangerous predicament family violence presents to family, friends and others who either become aware of it, or suspect it is occurring. Coupled with this, there are multiple indications within the relevant research that female victims of family violence are more likely to disclose the violence to family or friends rather than authorities or specialist services. Many times third parties feel, understandably, ill-equipped to assist or are concerned any intervention may increase the danger for the victim or themselves.
87. Previously, this Court has noted and approved proposed measures to support and educate third parties seeking to report family violence, using programs such as the 'Say Something' campaign, developed by Crime Stoppers. The 'Say Something' campaign encouraged young people who witness acts of violence to report them confidentially. It had been proposed to expand this program to encompass family violence reporting, although Crime Stoppers lacked the funding to broaden the initiative to target family violence.
88. In an effort to address the barriers that third parties face in obtaining access to information about family violence, and providing information and assistance to victims of family violence, the Royal Commission into Family Violence (**the Royal Commission**)<sup>61</sup> reviewed the available resources for third parties, including the 'Say Something' campaign. Crime Stoppers proposed the development of "*a single, confidential, central reporting portal to capture all non-immediate family violence family violence crime intelligence, into which all types of informants...[could] provide information.*"<sup>62</sup>
89. At its conclusion, predominantly by way of Recommendations 10 and 37, the Royal Commission encouraged the adoption of a model whereby third parties (as well as victims and perpetrators of family violence) can access information via a website, to assist in recognising

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<sup>61</sup> Victorian Royal Commission Into Family Violence, *Final Report* (2016)  
<http://www.rcfv.com.au/Report-Recommendations>

<sup>62</sup> Crimes Stoppers Victoria, Submission to the Royal Commission into Family Violence (May 2015) 23

family violence and how to seek help, both in the crisis period and during longer term recovery.<sup>63</sup>

90. The Victorian Government selected '*The Lookout*'<sup>64</sup> website (**the Lookout website**) as the most suitable existing site with the capacity to deliver accessible information for those experiencing, witnessing and being affected by family violence.
91. In line with Recommendation 10, the Lookout website was scheduled to finalise by March of 2018.<sup>65</sup> It is now active, however the Victorian Government website lists the recommendation as being '*in progress.*' Although the information contained within the Lookout website has changed somewhat,<sup>66</sup> the Government is still continuing to fund improvements, "*to ensure its ongoing role in the prevention of and response to family violence in Victoria, whilst undertaking a review of existing websites to identify information gaps.*"<sup>67</sup>
92. Through the introduction of Support and Safety Hubs (SSHs)<sup>68</sup> at 17 locations across Victoria, a central point for the family violence response network will:
  - (a) receive police referrals, referrals from non-family violence services, including family and friends, as well as self-referrals;
  - (b) provide a single, area-based entry point into local specialist family violence services, perpetrator programs and integrated family services and link people to other support services;
  - (c) perform risk and needs assessments and safety planning using information provided by the recommended state-wide central information point;
  - (d) provide prompt access to the local Risk Assessment and Management Panel;
  - (e) provide direct assistance until the victim, perpetrator and any children are linked with services for longer term support;
  - (f) book victims into emergency accommodation and facilitate their placement in crisis accommodation;

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<sup>63</sup> Victorian Royal Commission into Family Violence, Recommendation 10

<sup>64</sup> <http://www.thelookout.org.au>

<sup>65</sup> [http://www.vic.gov.au/familyviolence/recommendations/recommendation-details.html?recommendation\\_id=12](http://www.vic.gov.au/familyviolence/recommendations/recommendation-details.html?recommendation_id=12)

<sup>66</sup> In particular, there is more information for workers responding to family violence within the website

<sup>67</sup> Above n 65

<sup>68</sup> Victorian Royal Commission into Family Violence, Recommendation 37

- (g) provide secondary consultation services to universal or non-family violence services; and
- (h) offer a basis for co-location of other services likely to be required by victims and any children.<sup>69</sup>

- 93. This Court is informed that the Department of Premier and Cabinet, with Family Safety Victoria, is currently collaborating with partner agencies to design and implement SSHs state-wide. The completion date for this adopted recommendation is forecast to be 31 March 2021, with a staged roll out of the SSHs from the end of 2017 onwards.
- 94. In light of the comprehensive nature of the Royal Commission's work in this regard, I support the recommendations put forward, specifically in this case as they relate to the issue of assisting third parties to educate and assist both perpetrators and victims of family violence.
- 95. I also endorse Recommendation 142 made by the Royal Commission, where the Victorian Government was encouraged to ensure that family violence community awareness and prevention programmes use language, imagery and messaging that reflect the diversity of the Victorian Community and that prevention work should be developed with relevant communities.
- 96. Current family violence information available to victims and third parties does not include information about risk factors that can indicate an increased risk for victims, as set out in the CRAF. A recent review of the CRAF has acknowledged this information gap and online tools are being developed which identify these risks. The SSHs will also provide parties with this information. In my view, it is fundamental that the revised Lookout website contains information for family violence victims and their families and friends about the risk factors and risk assessments for victims.
- 97. The Lookout website provides links to useful information for family and friends about how to recognise family violence and provide assistance to someone who is in a violent relationship.<sup>70</sup> However, it does not contain any information on how to identify or assess risk factors. There appears to be a gap in the publicly-available information on how to identify family violence risk factors and the escalation of such.

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<sup>69</sup> Victorian Royal Commission into Family Violence, *Summary and Recommendations* (2016), 55

<sup>70</sup> see <http://www.dvrcv.org.au/help-advice/guide-for-families-friends-and-neighbours>

98. The section for family violence workers contains family violence risk assessment information, but it is not directed to the general public. A '*Red flags*' fact sheet deals with the risk factors for fatal violence,<sup>71</sup> but users need to follow several links in the worker section to find it. It is not easily accessible for members of the public.
99. I am informed that the Melbourne University has developed a pilot website named '*iDecide*,'<sup>72</sup> which provides a framework for members of the public to conduct a self-assessment of risk. The results of the self-assessment provide users with a clear picture of the level of risk they are facing. It is not specifically developed for third parties, but family and friends may use it to work through the checklist with a victim. Melbourne University intends to evaluate this website, to determine whether it has achieved its aims.
100. I am also informed that Family Safety Victoria is currently in the process of redeveloping the family violence risk assessment and risk management framework. The redeveloped framework will result in a number of risk assessment tools for professionals to use in their assessment, in addition to the development of an online self-assessment, available to the general public. The self-assessment tool is currently in development and communication will be provided closer to the anticipated launch date of December 2018. The self-assessment tool will enable members of the public to assess their own level of risk, and will then provide information about services and support they can access. Although the tool is not specifically targeted at friends and family members, they could still potentially use the online self-assessment tool as a method of engaging with victim survivors, by assisting them to complete this self-assessment in a safe environment.
101. In addition to the self-assessment tool, it is important to acknowledge the variety of other tools being developed as part of the new redeveloped framework. These tools will include screening and identification, brief assessment and preliminary assessment. It is anticipated that these tools will be used by a wide variety of workforces, in addition to specialists being provided with a comprehensive risk assessment. Mainstream services that previously did not consistently identify or respond to family violence indicators will now be trained and supported to implement tools that allow for earlier identification and possible intervention. This will improve service response for victim survivors, who may undertake a family violence assessment and receive support, due to their involvement with a mainstream service.

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<sup>71</sup> [http://www.thelookout.org.au/sites/default/files/DVRCV-Red-Flags-Infographic-2017\\_1.pdf](http://www.thelookout.org.au/sites/default/files/DVRCV-Red-Flags-Infographic-2017_1.pdf)

<sup>72</sup> [www.idecide.org.au](http://www.idecide.org.au)

102. A number of Mrs So'oula's close friends and family members were aware of the violence she was suffering at Mr Kenner's hands, in particular after the Boxing Day assault. However, none of those people reported the matter to the police. If they were aware of the heightened risk that Mrs So'oula faced of being killed, they may have been more likely to contact the police or another service agency. Had the police become involved after the Boxing Day incident, criminal charges could have been pursued against Mr Kenner and/or a Family Violence Safety Notice and Intervention Order could have been sought, to protect Mrs So'oula. The Victoria Police would have also had the opportunity to make appropriate referrals to appropriate support agencies, both for Mrs So'oula and Mr Kenner. Sadly, it is unknown whether these measures, if they had been taken, could have avoided Mrs So'oula's tragic death.

## **FINDINGS AND CONCLUSION**

103. Having investigated the death of Pelelini So'oula and having held an Inquest in relation to her death on 9 July 2018, at Melbourne, I make the following findings, pursuant to section 67(1) of the Act:

- (a) that the identity of the deceased was Pelelini So'oula, born 29 December 1966;
- (b) that Pelelini So'oula died on 2 February 2017, en route to the Royal Melbourne Hospital, Victoria from haemorrhagic shock and stab wounds to the back, chest and abdomen; and
- (c) that the death occurred in the circumstances set out above.

104. I convey my sincerest sympathy to Ms So'oula's family and friends.

105. Pursuant to section 73(1) of the Act, I order that this Finding be published on the internet.

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

- (a) Robert So'oula, Senior Next of Kin;
- (b) Senior Detective Rob Catania, Coroner's Investigator, Victoria Police;

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

Signature:



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**JUDGE SARA HINCHEY**  
**STATE CORONER**

Date: 10 July 2018