

IN THE CORONERS COURT
OF VICTORIA
AT MELBOURNE

Court Reference: COR 2016 1958

AMENDED FINDING INTO DEATH WITHOUT INQUEST

Amended pursuant to s.76 of the *Coroners Act 2008* (Vic) on 23 June 2020 by order of State Coroner Judge John Cain.*

Form 38 Rule 60(2)

Section 67 of the Coroners Act 2008

Findings of:	IAIN WEST, ACTING STATE CORONER
Deceased:	KAREN ELDA BELEJ
Date of birth:	19 October 1984
Date of death:	1 May 2016
Cause of death:	I(a) Single contact range gunshot wound to the head
Place of death:	18 Montana Avenue, Cardross, Victoria, 3496

* At paragraph 28, the reference to '*cleaning an illegally purchased revolver*' has been amended to '*playing with an illegally purchased revolver*.'

At paragraph 50, the reference to '*Mr Osborn was found guilty*' has been amended to '*Mr Osborn pleaded guilty*.'

At paragraph 43, the date of the final family violence intervention order has been amended from '*18 March 2014*' to '*17 February 2014*.'

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HIS HONOUR:

BACKGROUND

1. Karen Elda Belej (**Ms Belej**) was 31 years old at the time of her death. Ms Belej was the youngest of four children born to Mr Gerry Belej and Mrs Louisa Belej. Ms Belej was born in the Mildura region of Victoria and spent time growing up in both Mildura, Victoria and the border town of Wentworth, New South Wales.
2. Ms Belej completed her secondary education at St Joseph's College in Mildura and was enrolled with Charles Sturt University studying for a human resources qualification whilst employed with the Mildura Rural City Council as a Human Resources Coordinator at the time of the fatal incident.
3. Brandon Osborn (**Mr Osborn**) was born on 24 November 1979 in South Australia. Mr Osborn completed Year 11 in Mildura and was employed as a security officer at a local winery at the time of the fatal incident. Mr Osborn was also a patched member of the Rebels Outlaw Motorcycle Club (Mildura Chapter) and was a firearms enthusiast.¹
4. Ms Belej and Mr Osborn met in Mildura a few years after Ms Belej completed her secondary education in 2004, they formed a relationship. Prior to their relationship commencing, Ms Belej had been living in Melbourne and studying Theology at the Australian Catholic University. Whilst studying in Melbourne, Ms Belej would periodically return to Mildura to catch up with Mr Osborn.
5. In November 2004, Ms Belej left Melbourne and discontinued her studies. She returned to Mildura to live with Mr Osborn. In late 2008, the couple purchased a residential property located at 18 Montana Avenue, Cardross, Victoria (**Cardross residence**).
6. Whilst continuing his relationship with Ms Belej, Mr Osborn also commenced a relationship with a work colleague, Yuli Morrow in May 2009.² On 28 February 2011, Ms Belej separated from Mr Osborn after becoming aware of his relationship with Ms Morrow which had continued up to that point.³ As part of the separation, the title to the Cardross residence was

¹ *Coronial Brief*, Statement of Michael John Brown dated 2 May 2016, 107

² *Coronial Brief*, Statement of Yuli Morrow dated 16 February 2014, 126

³ *Coronial Brief*, Statement of Carmody Forbes dated 25 May 2016, 93

transferred into Ms Belej's name, although Mr Osborn continued to reside there up until the date of the fatal incident.⁴

7. Ms Morrow ended the relationship with Mr Osborn in January 2014. Ms Belej observed Mr Osborn to be quite distressed about the relationship breakdown with Ms Morrow and observed him making comments about wanting to kill himself.⁵
8. On 16 February 2014, Mr Osborn went to Ms Morrow's house and physically assaulted Ms Morrow's new partner, as well as Ms Morrow. As a result of this incident Mr Osborn was charged with, and pleaded guilty to, recklessly causing injury. Ms Morrow also obtained a Family Violence Intervention Order (**FVIO**) against Mr Osborn.⁶ The FVIO resulted in Mr Osborn becoming a prohibited person under the *Firearms Act 1996* until 18 March 2019 and his firearms license was revoked. Mr Osborn was also not permitted to have any firearms in his possession following the revocation of his firearms license.⁷
9. At some point after their initial separation, Mr Osborn and Ms Belej recommenced their relationship.⁸ Mr Osborn also commenced a relationship with another woman, Emily Saint, during this period which continued up until the date of Ms Belej's death.⁹ In between early 2016 and April 2016 Mr Osborn also engaged in a relationship with Kathryn Thomas,¹⁰ whilst maintaining his relationships with Ms Saint and Ms Belej.
10. Between 29 April 2016 and 1 May 2016, Ms Belej sent text messages to Mr Osborn indicating that she was unhappy in the relationship.¹¹ These included statements from Ms Belej such as "*you make me feel so invisible sometimes.*"¹²

THE PURPOSE OF A CORONIAL INVESTIGATION

11. Ms Belej's death constituted a '*reportable death*' under the *Coroners Act 2008 (Vic)* (**the Act**), as the death occurred in Victoria and was violent, unexpected and not from natural causes.¹³

⁴ Above n 3, 93; Statement of Carolyn Dufty dated 25 May 2016, 97; Statement of Robyn Osborn dated 2 May 2016, 101.

⁵ *Coronial Brief*, Statement of Carolyn Dufty dated 25 May 2016, 97.

⁶ Above n 2, 123; Appendix B, 61; Exhibit 60.

⁷ *Coronial Brief*, Statement of Senior Sergeant Andrew Armstrong dated 20 June 2016, 200.

⁸ *Coronial Brief*, Appendix 12, 441-442.

⁹ *Coronial Brief*, Statement of Emily Rose Saint dated 24 May 2016, 114.

¹⁰ *Coronial Brief*, Statement of Kathryn Thomas dated 3 May 2016, 119-122.

¹¹ *Coronial Brief*, Exhibit 59, Extraction report from phone of Karen Belej, SMS messages, 5369.

¹² *Coronial Brief*, Exhibit 59, 623; Extraction report from phone of Karen Belej, SMS messages, 5353.

¹³ Section 4 Coroners Act 2008

12. The jurisdiction of the Coroners Court of Victoria is inquisitorial.¹⁴ The Act provides for a system whereby reportable deaths are independently investigated to ascertain, if possible, the identity of the deceased person, the cause of death and the circumstances in which the death occurred.¹⁵
13. It is not the role of the coroner to lay or apportion blame, but to establish the facts.¹⁶ It is not the coroner's role to determine criminal or civil liability arising from the death under investigation,¹⁷ or to determine disciplinary matters.
14. The expression "*cause of death*" refers to the medical cause of death, incorporating where possible, the mode or mechanism of death.
15. For coronial purposes, the phrase "*circumstances in which death occurred*,"¹⁸ 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.
16. 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.
17. Coroners are also empowered:
 - (a) to report to the Attorney-General on a death;¹⁹
 - (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;²⁰ 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.²¹ These powers are the vehicles by which the prevention role may be advanced.

¹⁴ Section 89(4) Coroners Act 2008

¹⁵ See Preamble and s 67, *Coroners Act 2008*

¹⁶ *Keown v Khan* (1999) 1 VR 69

¹⁷ Section 69 (1)

¹⁸ Section 67(1)(c)

¹⁹ Section 72(1)

²⁰ Section 67(3)

18. All coronial findings must be made based on proof of relevant facts on the balance of probabilities.²² In determining these matters, I am guided by the principles enunciated in *Briginshaw v Briginshaw*.²³ The effect of this and similar authorities is that coroners should not make adverse findings against, or comments about individuals, unless the evidence provides a comfortable level of satisfaction that they caused or contributed to the death.
19. In conducting this investigation, I have made a thorough forensic examination of the evidence including reading and considering the witness statements and other documents in the coronial brief.

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

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

20. On 6 May 2016, a member of the Forensic Services Department (Victoria Police) took fingerprint impressions from the deceased which identified her to be Karen Belej, born 19 October 1984.
21. 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

22. On 4 May 2016, Dr Malcom Dodd (**Dr Dodd**), a Forensic Pathologist practising at the Victorian Institute of Forensic Medicine, conducted an autopsy upon Ms Belej's body. Dr Dodd provided a written report, dated 14 July 2016, which concluded that Ms Belej died from a single contact range gunshot wound to the head.
23. Dr Dodd commented that the deceased suffered a single gunshot injury with an entry wound in the mid-forehead region and evidence of catastrophic damage to vital areas of the brain leading to a rapid death.
24. A toxicological analysis of specimens taken from Ms Belej were negative for common drugs or poisons but positive for ethanol (alcohol) at a concentration level of 0.03 gram/100mL.²⁴
25. I accept the cause of death proposed by Dr Dodd.

²¹ Section 72(2)

²² Re State Coroner; ex parte Minister for Health (2009) 261 ALR 152

²³ (1938) 60 CLR 336

²⁴ Postmortem blood sample concentrations of ethanol taken from the deceased body were 0.03 g/100mL. The legal limit for blood alcohol for fully licensed car drivers is 0.05% (gram/100mL).

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

26. In the early evening of the 1 May 2016 at 6.45pm, Ms Belej attended her local IGA supermarket to get groceries on her way home from visiting some of Mr Osborn's family.²⁵
27. At 7.00pm, Mr Osborn returned home to the residence that he was sharing with Ms Belej on Montana avenue in Cardross, Victoria. Ms Belej also returned home approximately eight minutes later according to security footage at the Cardross residence.²⁶
28. Mr Osborn was playing with an illegally purchased revolver in a bedroom inside the residence when Ms Belej approached him and said, "*get that thing out of the house or I'm probably gunna use it.*" Ms Belej left the bedroom and entered the kitchen to prepare dinner. Mr Osborn was in the process of taking the revolver outside to the rear shed when he heard Ms Belej say something to him and he stopped to confront her. In response to the comment, Mr Osborn loaded one bullet into the barrel of the revolver, then spun it, checked to see if the chamber was empty and pointed it at his head. He faced Ms Belej, saying "*will this make you happy?*". He then pulled the trigger and the revolver did not discharge.²⁷
29. Ms Belej reportedly responded to his actions by saying, "*you're pointing that at the wrong person*", at which point Mr Osborn aimed the revolver at her, directly in close range to her head, checked the chamber and pulled the trigger.²⁸ The revolver discharged and killed Ms Belej instantly.
30. Mr Osborn contacted emergency services at 7.39pm and he told the operator that Ms Belej had been shot in the head, and that she was dead.²⁹ The emergency service operator instructed Mr Osborn to attempt cardiopulmonary resuscitation (CPR), which he did. Mr Osborn continued, for an hour or so, trying to revive Ms Belej until emergency services arrived. Ambulance officers observed that Ms Belej was clearly deceased.³⁰
31. Victoria Police members who attended the Cardross residence took Mr Osborn into custody at 8.43pm.³¹

²⁵ *Coronial Brief*, Fishers IGA Irymple CCTV footage; *Coronial Brief*, Statement of Robyn Osborn dated 2 May 2016, 102

²⁶ *Coronial Brief*, CCTV footage of 18 Montana Avenue, Cardross, Victoria, 3496

²⁷ *Coronial Brief*, Appendix 12 – Transcript of Interview of Brandon Leigh Osborn on 2 May 2016, 430

²⁸ *ibid*, 434

²⁹ *Coronial Brief*, Appendix 9 - Transcript of Triple-Zero Call, 319-351

³⁰ *Coronial Brief*, Statement of Dennis Mark Homfray dated 17 July 2016, 168

³¹ *Coronial Brief*, Statement of police constable Corey Brandon Keogh dated 2 May 2016, 153

COMMENTS PURSUANT TO SECTION 67(3) OF THE ACT

32. 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.
33. For the purposes of the *Family Violence Protection Act 2008*, the relationship between Ms Belej and Mr Osborn was one that fell within the definition of ‘*de facto partner*’³² under that Act. Moreover, the actions of Mr Osborn discharging a firearm and fatally shooting Ms Belej constitutes ‘family violence.’³³
34. In light of Ms Belej’s death occurring under circumstances of family violence, I requested that the Coroners’ Prevention Unit (CPU)³⁴ examine the circumstances of Ms Belej’s death as part of the Victorian Systemic Review of Family Violence Deaths (VSRFVD).³⁵

Family violence in the relationship between Ms Belej and Mr Osborn

35. The CPU identified the presence of several risk factors for perpetrating family violence in relation to Mr Osborn.³⁶ In particular, Mr Osborn had access to weapons, had previously threatened suicide, exhibited signs of alcohol abuse, exhibited obsessive, jealous and controlling behaviour towards Ms Belej, and had a history of violence against others. All of these risk factors, other than the history of violence towards others, are identified as indicating an increased risk of a victim being killed or almost killed.
36. In a prior intimate relationship, Mr Osborn had not only been verbally and emotionally abusive but had reportedly been physically violent against a former intimate partner.³⁷ Mr Osborn reportedly put a knife against his former partner’s throat and punched her in the face,

³² Family Violence Protection Act 2008, section 9

³³ Family Violence Protection Act 2008, section 5(1)(a)(i)

³⁴ The Coroners Prevention Unit is a specialist service for Coroners established to strengthen their prevention role and provide them with professional assistance on issues pertaining to public health and safety

³⁵ The VSRFVD provides assistance to Victorian Coroners to examine the circumstances in which family violence deaths occur. In addition, the VSRFVD collects and analyses information on family violence-related deaths. Together this information assists with the identification of systemic prevention-focused recommendations aimed at reducing the incidence of family violence in the Victorian Community

³⁶ The CPU utilised the *Family Violence Risk Assessment and Risk Management Framework*, also known as the *Common Risk Assessment Framework (CRAF)* to assess risk factors which have been found to impact on the likelihood of family violence occurring and the severity of family violence that is likely to occur. CRAF was designed to assist service providers from a wide range of fields understand and identify risk factors associated with family violence and respond consistently

³⁷ *Coronial Brief*, Statement of Cheryl Lorraine Hadelor dated 30 July 2016, 133-134

this behaviour resulted in his former partner applying for a family violence intervention order against Mr Osborn in early 1997.³⁸

37. Evidence in the coronial brief suggests that Mr Osborn perpetrated family violence in various forms against Ms Belej during their relationship. Mr Osborn was both threatening and emotionally abusive towards Ms Belej and exhibited psychologically and economically abusive behaviour towards her as well.³⁹
38. Over the course of their relationship, Mr Osborn repeatedly referred to Ms Belej using derogatory language and constantly tried to put her down emotionally.⁴⁰ Ms Belej noted that she had experienced “*12 years of being put down and treated like less than nothing.*”⁴¹
39. The Royal Commission into Family Violence (**the Royal Commission**) received submissions on the dynamics and nature of family violence which identified that an “*abuser’s need to maintain control and dominance lies at the core of every abusive relationship.*”⁴² Further research from the UK Home Office also identifies that:

*“Controlling or coercive behaviour does not relate to a single incident, it is a purposeful pattern of behaviour which takes place over time in order for one individual to exert power, control or coercion over another.”*⁴³

40. On the available evidence, Mr Osborn appears to have also used threats of suicide to control Ms Belej’s actions and prevent her from raising issues with him or separating from him. This type of behaviour constitutes a form of emotional and psychological abuse.⁴⁴ In her diary Ms Belej wrote ‘*I can’t say what I think or feel because I’m worried he will harm himself. He said he’d cut his wrists.*’⁴⁵ She also wrote, ‘*I’m not allowed to voice anything I have to leave it.*’⁴⁶
41. Mr Osborn also appeared to perpetrate economic abuse against Ms Belej. Text messages contained within the coronial brief evidence exchanges between Mr Osborn and Ms Belej that suggest Mr Osborn was monitoring Ms Belej’s bank account and had access to her banking

³⁸ *Coronial Brief*, Statement of Cheryl Lorraine Hadelor dated 30 July 2016, 133-134

³⁹ Extraction report from phone of Karen Belej, SMS messages, 2009-2032

⁴⁰ Extraction report from phone of Karen Belej, SMS messages, 2009-2032

⁴¹ Above n 39

⁴² Royal Commission into Family Violence: Report and Recommendations Volume I, Chapter 2, 18

⁴³ Home Office (UK), ‘*Controlling or Coercive Behaviour in an Intimate or Family Relationship: Statutory Guidance Framework*’ (December 2015), 3

⁴⁴ Section 7 of the *Family Violence Protection Act 2008* (Vic)

⁴⁵ *Coronial Brief*, Exhibit 37, 504

⁴⁶ *Coronial Brief*, Exhibit 37, 506

password, but did not allow her to have access to his.⁴⁷ Mr Osborn also refused to provide Ms Belej with the internet banking password to their joint account, which required her to ask him to transfer money to her when she needed it.⁴⁸

42. In the context of family violence, economic abuse is a form of control over the economic freedom of a family member, examples of this include: restricting access to funds, only providing an allowance, or denying a partner the ability to work to achieve financial independence.⁴⁹ The Royal Commission's findings note that:

“Economic abuse is commonly experienced during a violent relationship, and can continue post-separation. In some cases, economic abuse can begin after separation. In family violence situations, physical and sexual abuse may cease after separation while emotional and economic abuse continues. Economic abuse is a mechanism for the perpetrator to continue to exert control when other forms of violence are not available.”⁵⁰

Firearms and family violence

43. Mr Osborn was a respondent in a final family violence intervention order made on 17 February 2014 protecting his former partner, Ms Morrow. As a result of this order, Mr Osborn automatically became a prohibited person by operation of the law under the *Firearms Act 1996*. A prohibited person is someone who cannot be issued a firearms licence, allowed to retain a firearms licence or possess, use or carry a firearm. However, despite Mr Osborn being a prohibited person, he was still able to access and acquire an illegal firearm.
44. The CPU conducted a search of the Victorian Homicide Register⁵¹ on 10 January 2019 to examine closed coronial cases of homicides between intimate partners. The parameters of this search focused on intimate partner homicides that were: perpetrated by men against women, which occurred in Victoria between 2000 and 2018 and were reported to the Coroners Court of Victoria.

⁴⁷ Extraction report from phone of Karen Belej, SMS messages, 2239- 2251

⁴⁸ Extraction report from phone of Karen Belej, SMS messages, 4386-4393, 5109-5111.

⁴⁹ Royal Commission into Family Violence: Report and Recommendations Volume I, Chapter 2, 27

⁵⁰ Royal Commission into Family Violence: Report and Recommendations Volume IV, Chapter 21, 94

⁵¹ The Victorian Homicide Register is a database maintained by the Coroners Prevention Unit that contains detailed information on the offender(s) and deceased(s) in all Victorian homicides reported to the Coroner since 2000. It comprises 223 data fields which capture information such as: socio-demographic characteristics; location information; presence and nature of physical and mental illness; service contact; and in cases where there was a history of family violence, information on the presence and nature of the violence

45. The CPU found a total of 68 homicide cases were identified matching this criterion and of these, 10 homicides were perpetrated using a firearm. The CPU also found that amongst these 68 homicide cases, a history of family violence prior to the homicide was identified in 87% of homicides cases.⁵² The CPU also found that 32% of homicide cases that involved a history of prior family violence also involved family violence that was non-physical, and consisted of either sexual, emotional, psychological, social or economic violence⁵³.
46. The *Family Violence Risk Assessment and Risk Management Framework*, also known as the *Common Risk Assessment Framework* which was in operation at the time of the fatal incident indicates that access to or ownership of a gun is recognised as a risk factor for fatal family violence.⁵⁴ If a gun is present in the house, perpetrators of family violence will frequently use it to scare, threaten or harm their intimate partner and this can include cleaning or holding a gun during an argument, similar to the events immediately preceding the fatal incident between Mr Osborn and Ms Belej.⁵⁵
47. In the events immediately preceding the fatal incident, Ms Belej had sent Ms Osborn messages indicating she was unhappy with the relationship and Mr Osborn loaded a bullet into a revolver in front of Ms Belej and said “*will this make you happy?*”⁵⁶ He then checked to ensure there was no round in the left chamber, pointed the gun at his head and pulled the trigger.⁵⁷ This is a clear example of using a threat of suicide as a tool of emotional and psychological abuse and the use of a firearm to intimidate a partner.
48. Research data in Australia on the use of firearms in family violence homicides is limited. Whilst the Royal Commission was informed that access to firearms is a ‘major concern’ in rural, regional and remote communities, there is limited data to analyse the prevalence of firearm use in family violence homicides across Australia generally.⁵⁸ The Australian Bureau of Statistics information indicates that 0.15 percent of all deaths registered in Australia were

⁵² A total of 59 cases were identified that met this criterion

⁵³ A total of 19 cases were identified that met this criterion

⁵⁴ Department of Health and Human Services, *Family Violence Risk Assessment for Specialist Family Violence Workers Participant Handbook – Practical Guide 3 (Version 3)* (September 2012), 42

⁵⁵ Sorenson, S.B. & Wiebe, D.J. (2004) *Weapons in the Lives of Battered Women*, *American Journal of Public Health*, 1412

⁵⁶ *DPP v Osborn* [2018] VSCA 2017, 6 [19]

⁵⁷ *Ibid*

⁵⁸ Royal Commission into Family Violence: Report and Recommendations Volume V, Chapter 33, 219

attributed to the use of firearms and of those deaths the majority were attributed to self-harm using a firearm.⁵⁹

49. Despite the presence of several known risk factors for family violence, the CPU identified limited opportunities for the legal system, health system of family violence service providers to intervene to reduce the risk of family violence between Ms Belej and Mr Osborn. This is due to the lack of service contact both parties had leading up to the fatal incident.
50. On 1 September 2017, in the Supreme Court of Victoria, Mr Osborn pleaded guilty to one charge of manslaughter and one charge of being a prohibited person in possession of a firearm and was sentenced to nine years and two months' imprisonment with a non-parole period of six years.⁶⁰
51. I am satisfied that the available evidence does not identify any obvious missed opportunities that could have prevented Ms Belej's death.
52. I am also satisfied, having considered all the available evidence, that no further investigation is required.

FINDINGS AND CONCLUSION

53. Having investigated the death, without holding an inquest, I make the following findings pursuant to section 67(1) of the Act:
 - (a) the identity of the deceased was Karen Elda Belej, born 19 October 1984;
 - (b) the death occurred on 1 May 2016 at 18 Montana Avenue, Cardross, Victoria, 3496, from a single contact range gunshot wound to the head; and
 - (c) the death occurred in the circumstances described above.
54. I convey my sincerest sympathy to Ms Belej's family.
55. Pursuant to section 73(1A) of the Act, I direct that a copy of this finding be published on the Coroners Court website.

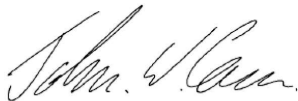
⁵⁹ Australian Bureau of Statistics 2015, *Causes of Death, Australia 2014*, <http://www.abs.gov.au/AUSSTATS/abs@.nsf/mf/3303.0>; Australian Criminal Intelligence Commission, *Illicit Firearms in Australia* (2016), 13

⁶⁰ *R v Osborn* [2017] VSCA 207, 1

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

- (a) Mr Christopher Belej, Senior next of kin
- (b) Detective Senior Constable Simon Quinnell, Victoria Police, Coroner's Investigator.

Signature:



JUDGE JOHN CAIN

STATE CORONER

Date: 23 June 2020

