IN THE CORONERS COURT
OF VICTORIA
AT MELBOURNE

Court Reference: COR 2019 5030

FINDING INTO DEATH FOLLOWING INQUEST

Form 37 Rule 63(1)
Section 67 of the ***Coroners Act 2008***

Inquest into the death of Ying Ying Zhou

Delivered on:	24 October 2022
Delivered at:	Coroners Court of Victoria, 65 Kavanagh Street, Southbank
Hearing dates:	24 October 2022
Findings of:	Judge John Cain, State Coroner
Counsel assisting the Coroner:	Nicholas Ngai, Family Violence Senior Solicitor
Keywords:	Mandatory inquest; no one charged with an indictable offence in connection to a suspected homicide; family violence; homicide

BACKGROUND:

1. Ying Ying Zhou was aged 36 at the time of her death and was residing at 7 Mount Pleasant Road, Nunawading, Victoria with her husband, Mr Wei Hu, and their eight year old son.

2. Ms Zhou was born and raised in Shanghai, China and was an only child. Ms Zhou completed tertiary studies at university in Shanghai and worked for a local consulting firm prior to meeting Mr Hu.

3. Ms Zhou and Mr Hu met online in 2003 whilst Ms Zhou was living in China and Mr Hu was studying in Australia. They commenced a relationship and met in person for the first time in 2004. They became engaged in April 2005 and Ms Zhou moved to Australia to live with Mr Hu in August 2005. The couple were married in Melbourne on 9 November 2005.[1] They had one child together, a son, who was born on 3 June 2011.[2]

4. In May 2012, Ms Zhou's parents visited Australia to assist Ms Zhou with caring for their grandson.[3] On 12 December 2014, they moved to Australia permanently, living with Ms Zhou, Mr Wei and their grandson.[4]

THE PURPOSE OF A CORONIAL INVESTIGATION

5. Ms Zhou's death constitutes a '*reportable death*' under the *Coroners Act 2008* (Vic) (**the Act**), as Ms Zhou ordinarily resided in Victoria[5] and the death appears to have been unexpected and violent.[6]

6. Pursuant to section 52(2) of the Act, it is mandatory for a coroner to hold an inquest if the death occurred in Victoria and the Coroner suspects the death was the result of a homicide and no person has been charged with an indictable offence in respect of the death being investigated.

7. The jurisdiction of the Coroners Court of Victoria is inquisitorial.[7] 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 death occurred.[8]

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[1] Coronial brief, Statement of Ms Zhou's mother, 37-38.
[2] Ibid 41.
[3] Coronial brief, Statement of Ms Zhou's mother, 41-42.
[4] Coronial brief, Statement of Ms Zhou's father, 54.
[5] Section 4 *Coroners Act 2008*
[6] Section 4(2)(a) *Coroners Act 2008*
[7] *Coroners Act 2008* (Vic) s 89(4),
[8] *Coroners Act 2008* (Vic) preamble and s 67.

8. It is not the role of the coroner to lay or apportion blame, but to establish the facts.[9] It is not the coroner's role to determine criminal or civil liability arising from the death under investigation,[10] or to determine disciplinary matters.

9. The expression "*cause of death*" refers to the medical cause of death, incorporating where possible, the mode or mechanism of death.

10. For coronial purposes, the phrase "*circumstances in which death occurred*,"[11] 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.

11. 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.

12. Coroners are also empowered:

    (a) to report to the Attorney-General on a death;[12]

    (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;[13] 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.[14] These powers are the vehicles by which the prevention role may be advanced.

13. All coronial findings must be made based on proof of relevant facts on the balance of probabilities.[15] In determining these matters, I am guided by the principles enunciated in *Briginshaw* v *Briginshaw*.[16] The effect of this and similar authorities is that coroners should not

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9 *Keown v Khan* (1999) 1 VR 69.
10 *Coroners Act 2008* (Vic) s 69 (1).
11 *Coroners Act 2008* (Vic) s 67(1)(c).
12 *Coroners Act 2008* (Vic) s 72(1).
13 *Coroners Act 2008* (Vic) s 67(3).
14 *Coroners Act 2008* (Vic) s 72(2).
15 *Re State Coroner; ex parte Minister for Health* (2009) 261 ALR 152.
16 (1938) 60 CLR 336.

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.

14. Detective Sergeant Daniel Brown was appointed the coroner's investigator and he prepared a coronial brief in this matter.

15. This finding draws on the totality of the material the product of the coronial investigation of Ms Zhou's death. That is, the investigation and inquest brief and the statements, reports and any documents obtained through the investigation. All this material will remain on the coronial file. In writing this finding, I do not purport to summarise all of the evidence but refer only in such detail as appears warranted by its forensic significance and interests of a narrative clarity.

IDENTITY OF THE DECEASED PURSUANT TO S.67(1)(a) OF THE ACT

16. On 23 September 2019, Ying Ying Zhou, born 2 November 1982, was visually identified by her father.

17. Identity is not in dispute and requires no further investigation.

MEDICAL CAUSE OF DEATH PURSUANT TO S.67(1)(b) OF THE ACT

18. Dr Matthew Lynch, a Forensic Pathologist practising at the Victorian Institute of Forensic Medicine, performed an external examination on Ms Zhou's body and provided a written report of his findings.[17]

19. Post-mortem external examination revealed evidence of a stab wound to the left side of the neck and post-mortem CT scans reveal a cerebral air embolism. The embolism appears to have formed from air within the ascending thoracic aorta and a fracture of the left superior cornu of the thyroid cartilage.

20. Dr Lynch concluded that a reasonable cause of death was

    1(a) **Stab wound to the neck**

21. Toxicological analysis showed no ethanol (alcohol) and no common drugs or poisons.

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[17] Medical Examiners Report prepared by Dr Melanie Archer dated 4 December 2018

CIRCUMSTANCES IN WHICH THE DEATH OCCURRED PURSUANT TO S.67(1)(c) OF THE ACT

22. On 14 September 2019, Ms Zhou went shopping with Mr Hu and their son to purchase homeware items for Mr Hu's home. During this shopping trip Mr Hu purchased a knife.[18]

23. On the way back to Mr Hu's residence they attended a McDonalds restaurant in Nunawading. CCTV footage from the restaurant shows Mr Hu and Ms Zhou appearing to have a verbal argument whilst at the restaurant.[19]

24. Mr Hu then drove Ms Zhou and their son to his residence. He went inside the residence to put the shopping inside whilst Ms Zhou and their son remained in the car.

25. The available evidence suggests that when Mr Hu returned to the vehicle, he used the knife he had purchased earlier to stab Ms Zhou before stabbing himself in the chest. This event was witnessed by their son, who approached a nearby residence seeking assistance. Emergency services were called and arrived at approximately 6.14pm. Both Mr Hu and Ms Zhou were declared deceased at the scene.[20]

FURTHER INVESTIGATIONS AND CORONER'S PREVENTION UNIT REVIEW

26. The unexpected, unnatural and violent death of a person is a devastating event. Violence perpetrated by an intimate partner is particularly shocking, given that all persons have a right to safety, respect and trust in their most intimate relationships.

27. For the purposes of the *Family Violence Protection Act 2008*, the relationship between Mr Hu and Ms Zhou was one that fell within the definition of '*spouse*'[21] under that Act. Moreover, Mr Hu's actions in fatally stabbing Ms Zhou constitutes '*family violence*'.[22]

[18] Coronial brief, Exhibit 11; Exhibit 18.
[19] Coronial brief, Exhibit 19.
[20] Coronial brief, Statement of MICA Paramedic dated 8 January 2020, 189
[21] Family Violence Protection Act 2008, section 9
[22] Family Violence Protection Act 2008, section 8(1)(a)

28. In light of Ms Zhou's death occurring under circumstances of family violence, I requested that the Coroners' Prevention Unit (**CPU**)[23] examine the circumstances of Ms Zhou's death as part of the Victorian Systemic Review of Family Violence Deaths (**VSRFVD**).[24]

29. The available evidence indicates that there was both reported and unreported family violence occurring between Ms Zhou and Mr Hu in the lead up to the fatal incident.

History of family violence between Mr Hu and Ms Zhou

30. Evidence in the coronial brief suggests that Mr Hu perpetrated family violence towards both Ms Zhou and the couple's son prior to the fatal incident. This included physical abuse and emotional/psychological abuse towards the couple's son, and threats, emotional/psychological abuse, and sexual abuse, towards Ms Zhou. There is also evidence to suggest that he perpetrated emotional/psychological abuse towards Ms Zhou's parents.

31. Ms Zhou's mother noted that when Mr Hu '*was in a bad mood he was not so kind and would beat [the couple's son] with a chop stick or slipper. There were times when [Ms Zhou] had to protect [the couple's son]. I observed [Mr Hu] on occasions order [the couple's son] to kneel on the ground as punishment. [The couple's son] was scared of his father*.'[25]

32. Ms Zhou had medical issues that impacted on her ability to conceive children and needed to take medication to assist with conception. Ms Zhou told her mother that she did not like the effects it was having on her body, and she wanted to stop taking it, but she felt a lot of pressure from Mr Hu to fall pregnant.[26] After the couple's son was born, Mr Hu reportedly '*kept pressuring [Ms Zhou] to have a second child*.'[27]

33. In early 2019, Ms Zhou commenced a relationship with a work colleague.[28] In the middle of 2019 Mr Hu told Ms Zhou's parents that both he and Ms Zhou were unhappy but did not provide further detail as to why.[29] There is no evidence in the coronial brief to indicate that Mr Hu or Ms Zhou's parents were aware of Ms Zhou's new relationship.

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[23] 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

[24] 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

[25] Ibid 41.

[26] Ibid 40.

[27] Ibid 42.

[28] Coronial brief, Statement of P Owens, 79.

[29] Coronial brief, Statement of Ms Zhou's mother, 43.

34. In June 2019 Ms Zhou advised her parents that she wanted to divorce Mr Hu, indicating that '*she couldn't communicate with [Mr Hu] anymore and that she didn't want to live like she was.*'[30] Ms Zhou told Mr Hu that she wanted a divorce and began sleeping in a separate room of the house, although they continued to reside together.[31]

35. In the early hours of the morning on 22 July 2019, Mr Hu allegedly entered Ms Zhou's room whilst she was sleeping and climbed into her bed, causing Ms Zhou to run into the living room. They engaged in an argument during which Mr Hu said words to the effect of '*Do you have to go to the situation where the family is broken, and the people are dead.*'[32] When Ms Zhou questioned him as to what he meant by that comment he reportedly replied *'we will all die together.'*[33] Ms Zhou's parents were not in the room when this argument occurred, however they overheard it and Ms Zhou later sent a text message to her father reassuring him that Mr Hu had only '*said these things because he was angry*.'[34]

36. Between 23 and 25 July 2019, Mr Hu sent news articles and text messages to Ms Zhou which contained content about children who had become criminals or had suicided after their parents had separated.[35] Ms Zhou responded to Mr Hu with information about Family Violence Intervention Orders (**FVIOs**) and wrote *'I hope you will not do something regrettable.'*[36]

37. On 31 July 2019, Ms Zhou was reportedly lying in her bed when Mr Hu entered the room and laid down on the bed next to her. He indicated that he wanted to have sexual intercourse and might engage the services of a sex worker. Ms Zhou reportedly responded that he could do that elsewhere if he wished but that she did not want him to engage a sex worker at their residence. In response, Mr Hu reportedly replied "*This is none of your business, this is still half my house*.'[37] Mr Hu reportedly kept moving closer to Ms Zhou, causing her to feel uncomfortable and unsafe, and when she asked him what he was doing Mr Hu allegedly said '*I might come back in sometime tonight and have sex with you, and then you can then call the police on me for rape*.'[38]

38. Ms Zhou became scared due to this threat and went into the bedroom that the couple's son shared with her parents, intending to sleep there. Mr Hu reportedly then followed her into the

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[30] Ibid 44; Statement of Ms Zhou's father, 58.
[31] Coronial brief, Statement of Ms Zhou's mother, 44.
[32] Ibid 46-47.
[33] Ibid.
[34] Ibid.
[35] Coronial brief, Exhibit 22, 347-349, 375.
[36] Ibid 348.
[37] Coronial brief, Exhibit 27, 429.
[38] Ibid 430.

bedroom and was threatening towards Ms Zhou. Ms Zhou's mother reported that Mr Hu '*was angry. He was standing over [Ms Zhou] and making hand gestures to imitate slapping her on the face*.'[39] Ms Zhou asked him if he wanted a peaceful separation and he reportedly stated that that would be impossible. During this argument, Mr Hu reportedly made several threats to Ms Zhou including: '*I'm going to fix you, it's going to be easy for me to fix you*', '*I only need one bottle of boiling water to finish you off', 'I'm going to make it more difficult for you to live than to die', 'I'll make you into someone who can't see any others for your whole life', 'I'll make you into someone who can't work for your whole life. I'll make your parents feel sad every time they see you.*'[40] Mr Hu also reportedly made threats to destroy Ms Zhou's life and write to her employer to make her '*feel embarrassed and ashamed*'[41] and threatened to have her parents deported.

39. The following day, on 1 August 2019, Ms Hu attended her local police station to report the incident to police. Police completed an L17 risk assessment, commenced a criminal investigation for unlawful assault, and issued a Family Violence Safety Notice (**FVSN**) to protect Ms Zhou from Mr Hu.[42] They served the FVSN on Mr Hu that day, and he declined to be interviewed in relation to the incident.[43]

40. On 6 August 2019, a FVIO was issued in the Ringwood Magistrates' Court. Mr Hu attended the court proceedings and agreed to the order without making any admissions to the allegations contained in the application.[44]

41. The FVSN, and subsequent FVIO, prohibited Mr Hu from residing with Ms Zhou or attending her home, except as agreed with Ms Zhou or her parents for the purposes of seeing the couple's son.[45] As a result, Mr Hu moved out of the marital home, however he continued to visit their son there. Such visits were initially by consent however over time Mr Hu began attending the home uninvited, letting himself in using a key to the house that he still possessed.[46]

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[39] Coronial brief, Statement of Ms Zhou's mother, 45.
[40] Ibid 44-45; Statement of Ms Zhou's father, 59; Statement of the investigating police member, 217-219; Exhibit 23, 391; Exhibit 25, 397. Exhibit 27, 430-431, 433-434.
[41] Coronial brief, Exhibit 27, 430.
[42] Coronial brief, Statement of the investigating police member; Exhibit 23; Exhibit 25; Exhibit 26; Exhibit 27; Appendix 3.
[43] Ibid.
[44] Coronial brief, Exhibit 26, 414.
[45] Coronial brief, Exhibit 26.
[46] Coronial brief, Statement of Ms Zhou's mother, 45-46, Statement of Ms Zhou's father, 60.

42. Over time Ms Zhou reportedly '*became concerned that [Mr Hu] was punished too much…She was of the belief he didn't mean what he had said during the incident. He wouldn't have realised the consequences of his actions and [Ms Zhou] didn't want him to be punished*.'[47]

43. On 7 August 2019, the Eastern Domestic Violence Outreach Service (**EDVOS**) contacted Ms Zhou. During this contact, Ms Zhou indicated that she had obtained an FVIO against Mr Hu and was happy with the order. She advised that things had been 'quiet', that she did not need further assistance from them at this stage and declined their offer of assistance to have the locks on her house changed. EDVOS engaged in safety planning with Ms Zhou and she advised them that she would recontact their service if Mr Hu's behaviour escalated or if she required further assistance.[48]

44. On 31 August 2019, Ms Zhou signed a statement of no complaint in relation to the criminal charges arising from the family violence incident on 31 July 2019. During this interaction, Ms Zhou reportedly advised police that Mr Hu had been complying with the FVIO and that she did not want them to pursue criminal charges against him.[49]

45. On 9 September 2019, Mr Hu attended the Burwood Health Care Clinic (**BHCC**) and appeared to be stressed and depressed. He reported having relationship issues with his wife and indicated that she wanted to separate but he was not in agreement with the separation. This appears to have been his first presentation to the General Practitioner (**GP**) for mental health related issues. Mr Hu was referred to his regular GP at the clinic for a Mental Health Care Plan (**MHCP**) to be completed.[50]

46. On 10 September 2019, Ms Zhou told Mr Hu she would be unable to ever conceive again due to a medical procedure she had undertaken that day. She reportedly encouraged Mr Hu to marry someone else who could have children. Mr Hu reportedly replied that he would *'be waiting for her twenty-four seven to come back to him.'*[51]

47. On 11 September 2019, Mr Hu attended upon his GP at BHCC and again reported feeling stressed and sad due to the separation from his wife. He reportedly indicated that he was not willing to separate from her. A MHCP was completed which noted that he denied suicidal

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[47] Coronial brief, Statement of P Owens, 81-82.
[48] Eastern Domestic Violence Outreach Service, records relating to Ying Ying Zhou, 40.
[49] Coronial brief, Statement of the investigating police member, 218-219; Exhibit 27, 435.
[50] Coronial brief, Statement of Mr Hu's treating medical practitioner 113, Exhibit 29, 444; GP Clinic medical records of Wei Hu, 50-51.
[51] Coronial brief, Statement of Ms Zhou's mother, 48.

ideation and did not express any homicidal ideation. He was referred to a psychologist and made an appointment to see the psychologist on 16 September 2019.[52]

COMMENTS

Pursuant to section 67(3) of the Act, I make the following comments connected with the death:

Victoria Police proximate service contact with Ms Zhou and Mr Hu

48. Ms Zhou's parents and the couple's son were present at and witnessed the family violence incident on 31 July 2019. However, further statements were not taken from them at the time the incident was reported, and no attempts were made to obtain statements from Ms Zhou's mother or the couple's son subsequent to the incident.

49. This was potentially contrary to the *Code of Practice for the Investigation of Family Violence* (**Code of Practice**) which notes that compulsory police action following receipt of a report of a family violence incident includes '*gathering background information and physical evidence, including… statements from direct and indirect witnesses*.'[53] Where children are present at an incident police are also encouraged to '*consider a VARE interview if children or young people have witnessed violence.*'[54]

50. On 11 August 2019, the initial investigating police member submitted a brief of evidence on a charge of unlawful assault for non-authorisation to a supervising Sergeant on the basis of there being no independent witnesses to corroborate the incident and the threat being veiled and indirect in nature.[55] This was incorrect given that the couple's son and Ms Zhou's parents were both present at the incident. This error was identified by the supervising Sergeant, who returned it to the investigating police member, requesting them to obtain additional statements from Ms Zhou's parents and re-submit the brief for authorisation.

51. On 28 August 2019, the investigating police member obtained a statement of no complaint from Ms Zhou and a witness statement from her father and resubmitted the brief of evidence to the supervising Sergeant.

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[52] Coronial brief, Statement of Mr Hu's treating medical practitioner, 113; Statement of T McCorriston 116; Exhibit 29, 444-445; GP Clinic medical records of Wei Hu, 50-51.
[53] Victoria Police, *Code of Practice for the Investigation of Family Violence* (2019) 3rd Ed, V4, 15.
[54] Ibid 17.
[55] Coronial Brief, Victoria Police internal memo dated 11 August 2019.

52. On 2 September 2019, the supervising Sergeant returned the brief to the investigating police member and requested that they add a charge for threats to inflict serious injury and re-submit the brief for authorisation.[56]

53. On 10 September 2019, the supervising police member resubmitted the brief of evidence for authorisation with the additional charge of threats to inflict serious injury.[57]

54. The available evidence suggests that further actions could have been taken to gather additional evidence from Ms Zhou's parents following her disclosures to investigating police on 31 July 2019. Further evidence gathered may have strengthened consideration to arresting, charging and bailing Mr Hu.[58] This in turn may have ensured that the matter was listed at court in a timelier manner, particularly given the *Family Violence Fast Tracking Initiative* requires matters involving arrest and bail to be listed within seven days of the arrest.[59]

55. It appears from the available evidence that the police interview of Mr Hu on 1 August 2019 was suboptimal and not in accordance with recommended techniques.[60] The interview of Mr Hu took two minutes and 24 seconds. This is inadequate for police investigators to have covered all points of proof of an offence and to fully understand the relationship dynamics and issues between the parties.

56. In addition, I note that the statement of no complaint taken from Ms Zhou was in the form of a pro forma template. This appears to be contrary to the requirements of the Code of Practice[61] which states that *'Police are not permitted to encourage victims to request no further action or to sign a statement of no complaint'*[62] and that a '*full statement should be obtained detailing all details of the incident. The AFM's request for no further action is recorded at the end of the statement or in a further statement*.'[63]

57. An internal review was conducted by Victoria Police following the death of Ms Zhou and Mr Hu. The internal review made four key recommendations to improve police practices when investigating family violence incidents. The recommendations address deficiencies identified

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[56] Coronial brief, Victoria Police brief of evidence (attendance number 190086953).
[57] Ibid.
[58] Ibid 18.
[59] Magistrates' Court of Victoria – Practice Direction No.10 of 2014.
[60] Victoria Police Manual – Interviews and statements (2019), 3-8.
[61] Ibid.
[62] Victoria Police, *Code of Practice for the Investigation of Family Violence* (2019) 3rd Ed, V4, 32.
[63] Ibid.

in the police response to this matter. These largely relate to improved training for police members in the local division where the incident occurred.[64]

58. Victoria Police identified that further training could be provided to front line members regarding responding to family violence incidents and initial police actions.[65]

59. Victoria Police have implemented improved administrative processes targeted at ensuring family violence related briefs of evidence are recorded more clearly and monitored more closely.[66]

60. It is noted that the Family Violence Report (**L17**) had recently been updated at the time of this family violence incident, and the police members directly involved in this case had not completed training in relation to the new L17 at the time of their involvement.[67] It is likely that this lack of training contributed to the deficiencies in the response provided in this case. The members involved have subsequently undertaken this training and all Station Commanders and Family Violence Liaison Officers have been updated with the timelines applicable to the *Family Violence Fast Track Initiative* and updates to relevant Victoria Police policy.[68]

FINDINGS AND CONCLUSION:

61. Having held an inquest into the death of Ying Ying Zhou, I make the following findings, pursuant to section 67(1) of the Act:

    (a) The identity of the deceased was Ying Ying Zhou born on 2 November 1982;

    (b) That the death occurred on 14 September 2019 at 7 Mount Pleasant Road, Nunawading, Victoria from 1(a) Stab wound to the neck; and

    (c) That the death occurred in the circumstances set out above.

62. Pursuant to section 73(1B) of the Act, I order that this finding be published on the Coroners Court of Victoria website in accordance with the rules.

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

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[64] VGSO correspondence to the Court dated 3 October 2022 on behalf of Chief Commissioner of Police, 1-2
[65] Ibid, 2-3
[66] Ibid, 3
[67] Ibid.
[68] Ibid.

Ms Zhou's parents, Senior Next of Kin

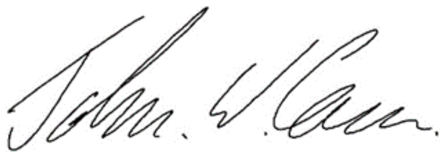
Ms Nell Gordon, Solicitor, Victorian Government Solicitor's Office

Ms Lauren Callaway, Assistant Commissioner, Family Violence Command, Victoria Police

Ms Eleri Butler, CEO, Family Safety Victoria

Detective Sergeant Daniel Brown, Coroner's Investigator

Signature:



JUDGE JOHN CAIN

STATE CORONER

Date: 24 October 2022

NOTE: Under section 83 of the ***Coroners Act 2008*** ('the Act'), a person with sufficient interest in an investigation may appeal to the Trial Division of the Supreme Court against the findings of a coroner in respect of a death after an inquest. An appeal must be made within 6 months after the day on which the determination is made, unless the Supreme Court grants leave to appeal out of time under section 86 of the Act.