

IN THE CORONERS COURT
OF VICTORIA
AT MELBOURNE

COR 2016 005556

FINDING INTO DEATH WITHOUT INQUEST

Form 38 Rule 63(2)

*Section 67 of the **Coroners Act 2008***

Findings of:	Judge John Cain, State Coroner
Deceased:	Michael Andrew Power
Date of birth:	24 June 1985
Date of death:	22 November 2016
Cause of death:	1(a) Stab wound to the neck
Place of death:	5/13 Makepeace Street, Swan Hill, Victoria, 3585
Keywords:	Intimate partner homicide; family violence

INTRODUCTION

1. On 22 November 2016, Michael Andrew Power was 31 years old when he was fatally stabbed by his partner, Ms Stacey Edwards. At the time of his death, Mr Power lived with Ms Edwards at 5/13 Makepeace Street, Swan Hill, Victoria.
2. Mr Power was born and raised in Swan Hill and completed his secondary studies in 2003. Mr Power then commenced a building apprenticeship but unfortunately was involved in a serious motor vehicle accident in July 2008. Mr Power sustained serious injuries in his right femur, pelvis and left hand. At the time of the accident, Mr Power had a blood alcohol concentration that exceeded the legal limit and was not covered by his insurance company and lost his employment.
3. Mr Power developed an addiction to the painkiller, '*OxyContin*', and heroin use. Mr Power was being treated with a methadone program in the lead up to the fatal incident but was still using heroin and other illicit drugs during this period.
4. Mr Power met Ms Edwards through mutual friends in late 2015 and commenced a relationship shortly after. Mr Power and Ms Edwards relationship was characterised by ongoing family violence in the form of physical, verbal, emotional and psychological abuse.

THE CORONIAL INVESTIGATION

5. Mr Power's death was reported to the Coroner as it fell within the definition of a reportable death in the *Coroners Act 2008* (the Act). Reportable deaths include deaths that are unexpected, unnatural or violent or result from accident or injury.
6. The role of a coroner is to independently investigate reportable deaths to establish, if possible, identity, medical cause of death, and surrounding circumstances. Surrounding circumstances are limited to events which are sufficiently proximate and causally related to the death. The purpose of a coronial investigation is to establish the facts, not to cast blame or determine criminal or civil liability.
7. Under the Act, coroners also have the important functions of helping to prevent deaths and promoting public health and safety and the administration of justice through the making of comments or recommendations in appropriate cases about any matter connected to the death under investigation.

8. Victoria Police assigned an officer to be the Coroner's Investigator for the investigation of Mr Power's death. The Coroner's Investigator conducted inquiries on my behalf, including taking statements from witnesses – such as family, the forensic pathologist, treating clinicians and investigating officers – and submitted a coronial brief of evidence.
9. This finding draws on the totality of the coronial investigation into the death of Michael Andrew Power including evidence contained in the coronial brief. Whilst I have reviewed all the material, I will only refer to that which is directly relevant to my findings or necessary for narrative clarity. In the coronial jurisdiction, facts must be established on the balance of probabilities.¹

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

Circumstances in which the death occurred

10. In the days prior to the fatal incident Ms Edwards was noted by friends and builders working near her address to be agitated and under the influence of drugs.² On 21 November 2016 Ms Edwards told one friend that she had not slept in five days due to methylamphetamine use.³
11. On 21 November 2016, Ms Edwards told builders working at her block of units that she was not safe there and wanted a male removed from the property. Ms Edwards told one of the builders that she had an upcoming court case relating to an FVIO the male had taken out, but that she did not understand this as it was the male who had assaulted her. Ms Edwards reportedly stated that *'she had a brother that wanted to come around and get rid of him but she wanted to do things legally and lawfully'*.⁴ The builders heard Ms Edwards swearing and yelling at someone inside the unit to get out on a number of occasions that day, and heard a male voice mumbling in response.⁵
12. On the same day, Ms Edwards visited her friend Elton Bettinelli at his home. In the evening she went back to her unit with Mr Bettinelli's children to collect some food to bring back to his address for dinner. On their return home Mr Bettinelli's children reportedly told him that they

¹ Subject to the principles enunciated in *Briginshaw v Briginshaw* (1938) 60 CLR 336. 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 as to those matters taking into account the consequences of such findings or comments.

² Ibid, 94; Coronial Brief, Statement of S Atkinson, 149; Coronial Brief, Statement of L Coffey, 162; Coronial Brief, Statement of G McMahon, 172; Coronial brief, Statement of K Salter, 140-1.

³ Coronial brief, Statement of S Atkinson, 149.

⁴ Coronial brief, Statement of L Coffey, 160.

⁵ Ibid, 161.

had heard Mr Power screaming at Ms Edwards while they waited for her outside. Ms Edwards told Mr Bettinelli that Mr Power had grabbed her and thrown her away from the cupboard when she tried to get some food.⁶ She later told Mr Bettinelli that Mr Power had previously threatened to stab her.⁷

13. At 12.19am on 22 November 2016 Ms Edwards called the Swan Hill Police Station from Mr Bettinelli's house. A police member answered the call and noted that during the call, Ms Edwards reported that Mr Power had breached the FVIO in place by arguing with her, but that she also admitted to breaching a FVIO herself by being at the Makepeace Street address.⁸ The police member receiving the call also confirmed that Ms Edwards stated that she was safe at a friend's house, and did not want to attend the station to provide a statement until the following morning.⁹
14. On 22 November 2016, Ms Edwards had a court hearing relating to the alleged theft of a mobile phone on 18 October 2016 which she did not attend.¹⁰ On the same day, between approximately 12.00pm and 2.30pm, Ms Edwards was heard by nearby builders loudly telling someone in her unit to get out.¹¹ Around this time a builder also heard Ms Edwards telling someone *'[b]y tonight, I'll either be in jail or dead'*.¹²
15. At 2.30pm on 22 November 2016, Ms Edwards attended the Swan Hill Office of Community Corrections and spoke to a Community Correctional Services Specialist Case Manager named Vaughan Stockwell. Mr Stockwell observed that Ms Edwards was visibly upset. Ms Edwards told him that Mr Power had previously assaulted her, including on one occasion when he punched her repeatedly until she gave him her ATM card and pin number. Ms Edwards said that Mr Power threatened to kill her by text message when she cancelled her ATM card following this incident. Ms Edwards told Mr Stockwell that Mr Power would only punch her to the back of her neck so that he did not leave marks. Ms Edwards told Mr Stockwell that she was looking for her cousin Paul Sweeney as she wanted him to stay with her because Mr Power *'did not touch her when other people were around'*.¹³ Ms Edwards said she had reported the abuse to police but that no-one believed her. Mr Stockwell provided Ms Edwards with the card for a Family Violence Unit police officer but reports that Ms Edwards threw the card at him

⁶ Coronial brief, Statement of E Bettinelli, 136.

⁷ Ibid, 137.

⁸ Coronial brief, Statement of Swan Hill Police Member, 254.

⁹ Ibid, 255.

¹⁰ Coronial brief, Appendix MM – Anglicare case notes Edwards, 1370.

¹¹ Coronial brief, Statement of G McMahon, 172; Coronial brief Statement of L Coffey, 163.

¹² Coronial brief, Statement of G McMahon, 172.

¹³ Coronial brief, Statement of V Stockwell, 178.

and left.¹⁴ On her way out of the office Ms Edwards saw some Men's Behavioural Change Program (MBCP) workers and told them that she was not getting any help from the police or the courts but did not discuss family violence with them.¹⁵

16. Ms Edwards also attended the Swan Hill Magistrates Court in the afternoon of the 22 November 2016. Ms Edwards first spoke to the Koori Court Officer, Maydena Calvino, and told her that she had been on a 'massive bender on drugs'¹⁶ and had not slept in days. Ms Edwards said that she was experiencing conflict with Mr Power and that she was concerned about his behaviour.¹⁷ Ms Edwards then spoke with a Court registrar about arrangements in relation to her daughter.
17. At 4.40pm on 22 November 2016, Ms Edwards purchased a knife from Coles.¹⁸
18. At 7.47pm on 22 November 2016, Ms Edwards called Swan Hill Police Station and told an officer that she was about to stab Mr Power, and that she hoped he would not '*bleed out*' before police arrived.¹⁹ Ms Edwards reportedly also stated '*It's my fault for what I'm going to do. Even though there is intervention orders in place, I've been letting him back in the house*'.²⁰
19. At approximately 8.00pm, police arrived at Ms Edwards' address and saw her standing in the doorway. Ms Edwards went back into the unit briefly then ran out towards police holding a knife. Mr Power ran out after Ms Edwards and collapsed at the end of the driveway.²¹ Ms Edwards later told police that she had stabbed Mr Power on the couch,²² and had waited until police arrived to do so, so that he would not die.²³
20. Mr Power was pronounced dead on scene by paramedics at 8.29pm on 22 November 2016.²⁴ Ms Edwards plead guilty to manslaughter by unlawful and dangerous act and was sentenced to nine years imprisonment with a non-parole period of six years and nine months on 12 April 2019.²⁵

¹⁴ Ibid.

¹⁵ Coronial brief, Statement of A Thorp, 182.

¹⁶ Coronial brief, Statement of M Calvino, 186.

¹⁷ Ibid.

¹⁸ Coronial brief, Sentencing remarks, 10.

¹⁹ Coronial brief, Statement of J Alexander, 249-50.

²⁰ Ibid, 250.

²¹ Coronial brief, Statement of S Cartwright, 257; Coronial brief, Statement of A Taverna, 262.

²² Coronial brief, Statement of S Cartwright, 259.

²³ Coronial brief, Statement of A Taverna, 264.

²⁴ Coronial brief, Statement of A Zamurs, 272.

²⁵ Coronial brief, Sentencing remarks, 1.

Identity of the deceased

21. On 24 November 2016, Michael Andrew Power, born 24 June 1985, was identified via fingerprint identification.
22. Identity is not in dispute and requires no further investigation.

Medical cause of death

23. Forensic Pathologist Dr Matthew Lynch from the Victorian Institute of Forensic Medicine (VIFM), conducted an autopsy on 23 November 2016 and provided a written report of his findings dated 7 February 2017.
24. The post-mortem examination revealed the following:
 - a) A single stab wound to the right side of the neck that was 3 cm long and 9 cm deep;
 - b) The direction of the wound track was right to left, slightly anterior to posterior and slightly inferior to superior;
 - c) The stab wound incised the right internal jugular vein, the right common carotid artery and the anterior part of the fourth cervical vertebra;
 - d) There was no evidence of any significant natural disease that might have contributed to Mr Power's death.
25. Toxicological analysis of post-mortem samples identified the presence of the following drugs in non-fatal concentration levels: methadone, pregabalin²⁶, benzodiazepines, amphetamines and morphine.
26. Dr Lynch provided an opinion that the medical cause of death was 1 (a) Stab wound to the neck.
27. I accept Dr Lynch's opinion.

²⁶ Pregabalin is used clinically as an analgesic, anticonvulsant and anxiolytic agent.

FURTHER INVESTIGATIONS AND CORONER'S PREVENTION UNIT REVIEW

28. 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.
29. For the purposes of the *Family Violence Protection Act 2008*, the relationship between Mr Power and Ms Edwards was one that fell within the definition of '*de facto partner*'²⁷ under that Act. Moreover, Ms Edwards' actions in fatally assaulting Mr Power constitutes '*family violence*'.²⁸
30. In light of Mr Power's death occurring under circumstances of family violence, I requested that the Coroners' Prevention Unit (CPU)²⁹ examine the circumstances of his death as part of the Victorian Systemic Review of Family Violence Deaths (VSRFVD).³⁰

History of family violence between Mr Power and Ms Edwards

31. The available evidence suggests that there was a significant history of family violence perpetrated between Mr Power and Ms Edwards to each other throughout their relationship.
32. In December 2015, Ms Edwards was reportedly witnessed pushing Mr Power forcefully outside her cousin's house whilst she was substance affected.³¹ This incident was not reported to the police. Around this time, whilst the couple were drinking at a friend's house, Mr Power was witnessed inappropriately touching Ms Edwards in a sexual manner without consent.³² In response Ms Edwards is reported to have thrown a bottle at Mr Power and punched him in the face.³³
33. On 3 April 2016, a family violence incident occurred between Ms Edwards and Mr Power at Ms Edwards' unit. A friend of Mr Power reported that he was present during this incident, and that the conflict began when Ms Edwards refused to allow Mr Power to have a shower, then

²⁷ Family Violence Protection Act 2008, section 9

²⁸ Family Violence Protection Act 2008, section 8(1)(a)

²⁹ 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

³⁰ 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

³¹ Coronial brief, Statement of M Calvino, 186.

³² Coronial brief, Statement of A Walsh, 118.

³³ Ibid.

punched him. Mr Power allegedly put his arms underneath Ms Edwards' armpits, then threw her on the couch. Ms Edwards is reported to have gotten up and started punching Mr Power again. Ms Edwards' daughter was reported to be present and was crying. Ms Edwards reportedly told Mr Power to get out, and he started to pack his things.³⁴

34. At 1.57pm on 3 April 2016, Ms Edwards contacted emergency services to request that police attend her address. At the start of the call Ms Edwards can be heard requesting Mr Power leave the premises.³⁵ Both Ms Edwards and Mr Power implied that the other had assaulted them during this call, with Mr Power calmly stating '*[s]top assaulting me*', and Ms Edwards repeatedly shouting '*[d]on't touch me in front of my daughter*'.³⁶ The call ended before the operator was able to gather further information about what was occurring. Mr Power's friend stated that Ms Edwards told him to tell the police that Mr Power had assaulted her and became verbally abusive towards him when he refused to do so.³⁷
35. When police arrived at the property, Mr Power was outside with a number of his belongings, and Ms Edwards was observed to be '*highly aggressive and agitated*', and was witnessed '*yelling abuse*' at Mr Power.³⁸ Mr Power was noted to have a '*small injury to his lip*',³⁹ however he and Ms Edwards declined to provide police with details of the incident, with Ms Edwards stating that it had been a verbal dispute only.⁴⁰ Mr Power left the address with his belongings in his friend's ute.⁴¹ During a later interview with police Mr Power said that Ms Edwards was using methylamphetamines on this day.⁴²
36. Police did not see Ms Edwards' daughter on this day and did not record that she was present.⁴³ Police did not speak to Mr Reynolds at the scene and appeared to have been unaware that he was reportedly present during this incident. Police did not take any criminal or civil action on this occasion and noted that there had been '*nil injuries or threats made*'.⁴⁴ Ms Edwards was listed as the Affected Family Member (AFM) on the police family violence risk assessment

³⁴ Coronial brief, Statement of M Reynolds, 108.

³⁵ Coronial brief, Appendix D - Edwards 000 call 3 April 2016, 364.

³⁶ Ibid, 365.

³⁷ Coronial brief, Statement of M Reynolds, 108.

³⁸ Coronial brief, Statement of A Turner, 227.

³⁹ Ibid, 228.

⁴⁰ Ibid, 227-8.

⁴¹ Ibid, 228.

⁴² Coronial brief, Appendix SS - Transcript of police interview with M Power 26 August 2016, 1444

⁴³ DFFH, L17 portal records for S Edwards and M Power, 15; Mildura Magistrates Court, Transcript of proceedings – M King, 7.

⁴⁴ DFFH, L17 portal records for S Edwards and M Power, 13.

(**VP Form L17**). Police later indicated that this was an error, and that they had assessed that Mr Power was the AFM.⁴⁵

37. On 4 April 2016, Ms Edwards attended Mallee Domestic Violence Services (**MDVS**) and they supported her to apply for a Family Violence Intervention Order (**FVIO**) to protect herself from Mr Power.⁴⁶ In the application Ms Edwards alleged that Mr Power had choked her several times, damaged property in her home and stolen her medication during the incident the previous day. She stated that she was afraid Mr Power would kill her.⁴⁷ Ms Edwards indicated that she wanted conditions placed on the FVIO prohibiting Mr Power from contacting or approaching her.⁴⁸ MDVS also completed a family violence risk assessment and safety plan with Ms Edwards. Ms Edwards' risk assessment mirrored the disclosures made in her FVIO application, and noted that Ms Edwards had experienced other forms of abuse from Mr Power including controlling behaviour and stalking.⁴⁹
38. On 5 April 2016, Ms Edwards saw her General Practitioner (**GP**) and disclosed that Mr Power had strangled her on 3 April 2016. She stated that she was experiencing pain in the throat and psychological distress as a result.⁵⁰ Ms Edward's GP noted '*tenderness over cricothyroid cartilage however no skin changes, swelling or haematoma.*'⁵¹
39. On 13 April 2016, both Ms Edwards and Mr Power attended Swan Hill Magistrates Court for the FVIO hearing and indicated that they did not want the FVIO to prevent them from having contact with each other.⁵² The court issued a FVIO in protection of Ms Edwards prohibiting Mr Power from perpetrating family violence against her or damaging her property. The FVIO did not prohibit Mr Power from having contact, or living with, Ms Edwards.⁵³
40. On 13 April 2016, Ms Edwards and Mr Power also contacted Swan Hill District Health (**SHDH**) and completed counselling intake assessments. Mr Power's intake assessment noted that he was experiencing '*[r]elationship issues*'.⁵⁴ Although the intake form did not mention family violence, it is noted that Mr Power was provided with the number for a Men's Behaviour

⁴⁵ Coronial brief, Statement of M King, 225.

⁴⁶ Coronial brief, Statement of T Polglase, 325; Coronial brief, Statement of A Dickson, 342.

⁴⁷ Coronial brief, Appendix OO – Intervention order application Edwards 4 April 2016, 1417-20.

⁴⁸ Ibid, 1420-1.

⁴⁹ MDVS, Records of Edwards, 17.

⁵⁰ Coronial brief, Statement of B Piyumal, 91; Coronial brief, Appendix DD – MDAS medical records Edwards, 804.

⁵¹ Coronial brief, Statement of B Piyumal, 91.

⁵² Coronial brief, Statement of A Dickson, 342.

⁵³ Coronial brief, Appendix PP – IVO G10899047 13 April 2016, 1425.

⁵⁴ Coronial brief, Appendix W – Swan Hill Hospital counselling Power, 550.

Change Program (**MBCP**).⁵⁵ Ms Edwards' intake form also noted that she was experiencing relationship issues, that she was seeing a family violence worker following a '*[p]olice call out last Sunday*', and that she would like to '*learn strategies to talk through conflict*'.⁵⁶ Mr Power and Ms Edwards were put on the waiting list for counselling and advised to ascertain Mental Health Care Plans (**MHCP**) from their GPs and provide these to SHDH.⁵⁷

41. Mr Power and Ms Edwards spoke with their respective GPs to obtain a MHCP on 1 June 2016.⁵⁸ Both Ms Edwards and Mr Power failed to attend scheduled counselling appointments on 27 June 2016 and appear to have made no further contact with SHDH counselling services.⁵⁹
42. On 28 April 2016, Ms Edwards self-referred to Child First Mallee and advised them that she was feeling very anxious and struggling to leave her house after a recent incident of family violence involving her current partner.⁶⁰ Ms Edwards requested support from Anglicare family services with parenting her daughter, and addressing the social isolation both she and her daughter were experiencing.⁶¹ Ms Edwards was assigned an Anglicare worker who completed a family violence risk assessment during their engagement with her, however this is undated. Ms Edwards was assessed as '*at risk*', and a brief safety plan was completed including Ms Edwards and Mr Power spending a few nights apart each week, not drinking alcohol while Ms Edwards' daughter was home, and Ms Edwards contacting 000 should she feel unsafe.⁶²
43. On 25 August 2016 in the late evening, one of Ms Edwards' neighbours called emergency services and advised that Ms Edwards had asked her to call the police. The neighbour reported that she could hear Ms Edwards and Mr Power arguing. When asked by emergency services about whether there had been any violence or threats, the neighbour reported that '*there has been before, I had to stop them*'.⁶³ Police members attended Ms Edwards' address and noted that Mr Power had left the premises. Police observed a broken pot on the floor in the hallway.⁶⁴ Police noted that Ms Edwards appeared drug affected and described her as erratic, antagonistic

⁵⁵ Ibid.

⁵⁶ Coronial brief, Appendix DD – MDAS medical records Edwards, 834.

⁵⁷ Coronial brief, Appendix W – Swan Hill Hospital counselling Power, 551; Coronial brief, Appendix DD – MDAS medical records Edwards, 835.

⁵⁸ Coronial brief, Appendix W – Swan Hill Hospital counselling Power, 550; Coronial brief, SHDH records for S Edwards, 834.

⁵⁹ Coronial brief, Appendix W – Swan Hill Hospital counselling Power, 543; Coronial brief, SHDH records for S Edwards, 826.

⁶⁰ Coronial brief, Appendix MM – Anglicare case notes Edwards, 1281-2.

⁶¹ Ibid, 1283.

⁶² Ibid, 1363-4.

⁶³ Coronial brief, Appendix E – Johnstone 000 Call 25.08.2016, 370.

⁶⁴ Coronial brief, Statement of H Alexander, 236.

and unable to focus on the questions they were asking.⁶⁵ Ms Edwards reportedly told one of the attending officers that he was not culturally aware or culturally sensitive.⁶⁶ Ms Edwards told officers that Mr Power had assaulted her⁶⁷ and she had thrown the pot at him in self-defence.⁶⁸ However, Ms Edwards declined to make a statement as she said she did not feel safe,⁶⁹ and was ultimately deemed unfit to make a statement by police on this night.⁷⁰

44. Police members later that same evening located Mr Power on Ms Edwards' street and took him to the station to take a statement from him.⁷¹ Mr Power told police that Ms Edwards had used methylamphetamine that morning. He said that prior to police being contacted Ms Edwards was packing for her grandfather's funeral when he asked her for money which he had lent her so that he could purchase his medication, and an argument ensued over '*where her bankcard was*'.⁷² Mr Power said that Ms Edwards threw the pot at his head during this argument, and it grazed his shoulder and smashed on the wall behind him. Mr Power stated that he took Ms Edwards' handbag into her daughter's room to look for her bank card, and Ms Edwards followed him and tried to get her bag back whilst attempting to punch Mr Power to the back of the head.⁷³
45. After taking Mr Power's statement police advised him not to return to Ms Edwards' address that evening. Mr Power left the police station on foot and no plan was documented in relation to his accommodation for the night.⁷⁴
46. Police determined that Ms Edwards was the respondent in this incident, and that Mr Power was the AFM. Police documented a plan to apply for a complaint and summons and to interview Ms Edwards for the offences of unlawful assault and discharging a missile.⁷⁵ Police completed a VP Form L17, made formal referrals to family violence services for both Mr Power and Ms Edwards, and sent a referral to Child First as Ms Edwards' daughter was present during the incident. Ms Edwards was served with a summons in relation the charge of unlawful assault on 26 October 2016 and a court date was set for 6 December 2016.⁷⁶

⁶⁵ Ibid, 237

⁶⁶ Ibid, 238.

⁶⁷ Ibid, 237.

⁶⁸ Ibid, 240.

⁶⁹ Ibid, 238.

⁷⁰ Ibid, 241.

⁷¹ Ibid, 239-41.

⁷² Victoria Police, Incident 160301485 VP Form L17 25.08.2016, 9.

⁷³ Ibid.

⁷⁴ Coronial brief, Statement of H Alexander, 241.

⁷⁵ Victoria Police, Incident 160301485 VP Form L17 25.08.2016, 10.

⁷⁶ Coronial brief, Statement of H Alexander, 232.

47. On 6 September 2016, police interviewed Ms Edwards in her home in relation to this incident. Ms Edwards said Mr Power had grabbed her by the neck and punched her to the side of the head when she refused to give him money. Ms Edwards said she picked up the pot plant to use if needed for self-defence, and that in the process of throwing it at Mr Power he ‘*came at*’⁷⁷ her and it fell on the floor. Ms Edwards said Mr Power threw her on the bed then dug his finger into her windpipe before she went to the front door and asked the neighbour to call the police.⁷⁸ During this interview Ms Edwards stated that at the time of this incident she believed Mr Power was in breach of a FVIO protecting her and she had felt unheard and unsupported by police.⁷⁹
48. Mr Power later made a statement of no complaint in relation to this incident on 8 November 2016.⁸⁰ The charges against Ms Edwards were ultimately withdrawn following the fatal incident.⁸¹
49. After police left Ms Edwards’ address on 25 August 2016, Ms Edwards went to her friend Jessica Wilson’s house. In a statement provided to police after the fatal incident Ms Wilson stated that Ms Edwards appeared substance affected and told her that Mr Power had punched her to the face and back.⁸² Ms Edwards reportedly told Ms Wilson she was concerned that Mr Power would return to her address and hurt her.
50. Ms Wilson went with Ms Edwards to her address and advised that approximately 15 minutes after they arrived, Mr Power let himself in with a key and appeared to be under the influence of methylamphetamine. Ms Wilson said that Mr Power ‘*all of a sudden lost it*’, and ‘*went at*’⁸³ Ms Edwards, pushing her and punching her to the head while she was slumped over. Ms Wilson stated that Mr Power swept some digital scales off the kitchen bench, threw a chair through the dining room window then left.⁸⁴
51. At 11.37pm on 25 August 2016, Ms Wilson contacted emergency services at Ms Edwards’ request, and reported that Mr Power had attacked Ms Edwards, was trying to ‘*standover her for money*’, and had thrown a chair through the window.⁸⁵

⁷⁷ Coronial brief, Appendix TT – Brief of evidence Edwards, 1477.

⁷⁸ Ibid.

⁷⁹ Ibid, 1483.

⁸⁰ Coronial brief, Statement of H Alexander, 232.

⁸¹ Victoria Police, Incident 160301485 VP Form L17 25.08.2016, 10.

⁸² Coronial brief, Statement of J Wilson, 145.

⁸³ Ibid.

⁸⁴ Ibid.

⁸⁵ Ibid; Coronial brief, Appendix F - Wilson 000 call 25.08.2016, 477.

52. Police members attended Ms Edwards' residence shortly after the call to emergency services and observed Ms Edwards to be drug affected and noted that she '*kept on mentioning her dislike of police*',⁸⁶ and had no visible injuries. Ms Edwards told police that Mr Power had grabbed her by the throat, thrown her to the ground, and kneed her in the head before throwing the chair.⁸⁷
53. Police arranged for a support person from the Aboriginal Community Justice Panel to attend to assist Ms Edwards on this evening however she declined to make a formal police statement about the incident. Police left the address then returned at 1.42am on 26 August 2016, however Ms Edwards again declined to make a statement.⁸⁸
54. Police later found Mr Power sleeping in the waiting room at Swan Hill Hospital at 5.29am on 26 August 2016 and arrested him. Police interviewed Mr Power in relation to the offences of assault, criminal damage and contravention of a FVIO.⁸⁹ Mr Power denied all allegations and police questioned whether he had time to get back to Ms Edwards' address after being interviewed at the station following the first incident.⁹⁰
55. Mr Power later admitted to a friend that he had returned to Ms Edwards' address and thrown a chair through the window.⁹¹ Following his arrest, Mr Power was released on bail with conditions that he not attend Ms Edwards' address pending summons in relation to the criminal allegations.⁹² At the time of the fatal incident the brief of evidence for these offences had not yet been finalised or submitted as Ms Edwards had not yet provided a statement.⁹³ Following this incident police completed another VP Form L17 listing Ms Edwards as the AFM and Mr Power as the respondent, applied for a variation of the FVIO in protection of Ms Edwards to prevent Mr Power from attending her address, sent formal family violence service referrals for both Mr Power and Ms Edwards, and made a referral to Child Protection for Ms Edward's daughter.⁹⁴
56. On 26 August 2016, Ms Edwards told her Anglicare worker that she felt she had been '*placed as the perpetrator*'⁹⁵ the day before and said she had been experiencing family violence all

⁸⁶ Coronial brief, Statement of J Alexander, 247.

⁸⁷ Ibid.

⁸⁸ Coronial brief, Statement of J Alexander, 248.

⁸⁹ Ibid, 249.

⁹⁰ Ibid, 230.

⁹¹ Coronial brief, Statement of A Walsh, 119.

⁹² Coronial brief, Statement of J Alexander, 249.

⁹³ Ibid, 250.

⁹⁴ Victoria Police, Incident 160301505 VP Form L17, 6-7; Coronial brief, Appendix KK - DHHS Child Protection case notes Edwards, 1162-3; DFFH, L17 portal records for S Edwards and M Power, 12.

⁹⁵ Coronial brief, Appendix MM – Anglicare case notes Edwards, 1395.

week, including physical abuse. Ms Edwards also told her DFFH housing worker that Mr Power had been bullying her and telling her that the unit they lived in was his and that he would kick her out.⁹⁶ DFFH Housing arranged to have the locks changed and the broken windows boarded up.⁹⁷

57. Ms Edwards also spoke to a worker from MDVS whilst on the way to her grandfather's funeral. She stated that she was too scared to return to her address and was concerned that Mr Power would damage further property. Ms Edwards also reported that Mr Power had taken her wallet and her medication from her the day before.⁹⁸ A family violence risk assessment was completed with Ms Edwards at this time and Ms Edwards disclosed several significant family violence risk factors including a history of choking, stalking, threats to commit suicide, controlling behaviour and obsession/jealous behaviour.⁹⁹
58. On 30 August 2016, Mr Power informed police that he wanted to withdraw his complaint against Ms Edwards relating to the first incident on 25 August 2016,¹⁰⁰ and that he would be happy with a limited FVIO being issued prohibiting Ms Edwards from perpetrating family violence against him or damaging his property.¹⁰¹ On the same day, Ms Edwards attended MDVS. She reportedly appeared quite heavily drug affected, confused, angry and tearful.¹⁰²
59. Ms Edwards reported to MDVS workers that on 25 August 2016 she had thrown a pot at Mr Power after he banged her head into the fridge and choked her.¹⁰³ Ms Edwards stated that she wanted assistance to make a statement to police but declined to do so when police arrived.¹⁰⁴ Ms Edwards later reported that she felt blamed and unsupported at this appointment.¹⁰⁵ Ms Edwards' MDVS file was closed on 6 September 2016 after staff were unable make further contact with her.¹⁰⁶
60. On 31 August 2016, the police application to vary the FVIO in protection of Ms Edwards to prohibit Mr Power from going within 200 metres of Ms Edwards' address was approved. The varied FVIO did not prohibit Mr Power from having contact with Ms Edwards.¹⁰⁷ On the same

⁹⁶ Victoria Police, Information report - INT16IR1089503, 1.

⁹⁷ DFFH – Housing, Records of S Edwards, 2.

⁹⁸ MDVS, Records of Edwards, 43.

⁹⁹ Ibid, 9.

¹⁰⁰ Coronial brief, Statement of H Alexander, 231.

¹⁰¹ Coronial brief, Statement of A Kelly, 243.

¹⁰² Ibid; Coronial brief, Statement of T Polglase, 325-6.

¹⁰³ MDVS, Records of Edwards, 44.

¹⁰⁴ Coronial brief, Statement of T Polglase, 325.

¹⁰⁵ Coronial brief, Appendix KK – DHHS Child Protection case notes Edwards, 1116.

¹⁰⁶ Coronial brief, Statement of T Polglase, 326.

¹⁰⁷ Coronial brief, Appendix QQ – IVO G10899047 Variation, 1428-9.

day police applied for a FVIO in protection of Mr Power which prohibited Ms Edwards from going within 200 metres of 5/13 Makepeace Street. This FVIO was also issued by the court.¹⁰⁸ As a result, both Ms Edwards and Ms Power were prohibited from attending the address that they had been sharing.

61. On 5 September 2016, Child Protection contacted Ms Edwards and arranged to meet with her the following day. Ms Edwards advised them that Mr Power was no longer residing with her and that she had ended the relationship. Ms Edwards told Child Protection that Mr Power ‘*hits*’¹⁰⁹ her and had previously tried to choke her.
62. On 6 September 2016, Child Protection met with Ms Edwards and her Anglicare worker.¹¹⁰ They arrived while the police were interviewing Ms Edwards about the family violence incidents on 25 August 2016, and as a result police state they were unable to speak with Ms Edwards about the allegations she had made about the second incident on this night.¹¹¹ Ms Edwards advised Child Protection that her relationship with Mr Power changed after the couple moved out of her family member’s home and there was no longer a ‘*safety net*’¹¹² when they argued. Ms Edwards advised Child Protection that there had been a family violence incident in April 2016 which was similar to the 25 August 2016 incidents.¹¹³
63. After Child Protection left, Ms Edwards’ Anglicare worker completed a safety plan with Ms Edwards which included locking the doors and windows, advising a neighbour to call the police if they saw Mr Power at the address, ceasing contact with Mr Power, saving any text messages from him which might constitute FVIO breaches, and staying with a family member if necessary. Ms Edwards’ Anglicare worker also explained final FVIOs and breaches to Ms Edwards and encouraged her to make a statement to police about the second incident on 25 August 2016 and to be ‘*more descriptive*’¹¹⁴ when doing so. Following consultation with a team leader the Child Protection worker recorded a short plan consisting of ‘*[c]ase plan to be held and closure*’.¹¹⁵ Anglicare records reflect that Child Protection had no concerns for Ms Edwards’ safety ‘*as Stacey has left that relationship*’.¹¹⁶

¹⁰⁸ Coronial brief, Appendix RR – IVO G12352183, 1431.

¹⁰⁹ Coronial brief, Appendix KK – DHHS Child Protection case notes Edwards, 1115-6.

¹¹⁰ Coronial brief, Appendix MM – Anglicare case notes Edwards, 1389-90.

¹¹¹ Coronial brief, Statement of H Alexander, 231; Coronial brief, Appendix MM – Anglicare case notes Edwards, 1389.

¹¹² Coronial brief, Appendix KK – DHHS Child Protection case notes Edwards, 1116.

¹¹³ Ibid.

¹¹⁴ Coronial brief, Appendix MM – Anglicare case notes Edwards, 1388.

¹¹⁵ Coronial brief, Appendix KK – DHHS Child Protection case notes Edwards, 1118.

¹¹⁶ Coronial brief, Appendix MM – Anglicare case notes Edwards, 1389.

64. On 17 October 2016, Child Protection noted that they had concerns about Mr Power and Ms Edwards having contact with each other as they had seen Mr Power in Ms Edwards' area.¹¹⁷ On the same date, Ms Edwards' Anglicare worker sent Ms Edwards an email stating that Ms Edwards had told her the week before that Mr Power had been at her home '*a couple of times*',¹¹⁸ and expressed concern about this given the history of family violence in the relationship. In the email the Anglicare worker encouraged Ms Edwards to seek counselling in relation to her experiences of family violence and suggested that Mr Power should engage with a MBCP.¹¹⁹
65. On 18 October 2016, Child Protection and Anglicare met with Ms Edwards and completed a Child Protection case plan and a family violence risk assessment.¹²⁰ At this appointment Ms Edwards said she had not reconciled with Mr Power and did not plan to. She also reported high risk family violence perpetrated by Mr Power against her, including attempts to choke her on three occasions, stalking and obsessive/jealous behaviour.¹²¹ Ms Edwards said that she was not happy with the police response to previous FVIO breaches by Mr Power, and did not have a mobile phone to report further breaches. A safety plan was documented including Ms Edwards getting a nearby neighbour to call police for her if needed.¹²² Later on 18 October 2016 Ms Edwards was arrested for attempting to steal a mobile phone and a court date was set for 22 November 2016.¹²³
66. On 20 October 2016, Ms Edwards attended the Child Protection office with her daughter and told Child Protection worker that Mr Power had attended her address the night before, but that she did not let him in and he 'eventually went away'.¹²⁴ Ms Edwards asked the Child Protection worker to notify the police of this FVIO breach as she did not have a mobile phone,¹²⁵ which the Child Protection worker did.¹²⁶ Police attended Ms Edwards' address later that day but she was not at home. A plan was subsequently made for an Anglicare worker to take Ms Edwards to the station to make a police statement about the FVIO breach.¹²⁷ Anglicare worker Paulette

¹¹⁷ Coronial brief, Appendix KK – DHHS Child Protection case notes Edwards, 1380.

¹¹⁸ Coronial brief, Appendix MM – Anglicare case notes Edwards, 1379.

¹¹⁹ Ibid.

¹²⁰ Coronial brief, Appendix KK – DHHS Child Protection case notes Edwards, 1074, 1079.

¹²¹ Ibid, 1079; Coronial brief, Appendix MM – Anglicare case notes Edwards, 1378.

¹²² Coronial brief, Appendix KK – DHHS Child Protection case notes Edwards, 1074.

¹²³ Ibid, 1077.

¹²⁴ Coronial brief, Appendix KK – DHHS Child Protection case notes Edwards, 1056.

¹²⁵ Ibid.

¹²⁶ Ibid, 1055.

¹²⁷ Ibid, 1054.

Vargas went to Ms Edwards' home on 21 and 28 October 2016 to assist with this but Ms Edwards was not home.¹²⁸

67. In October 2016, Mr Power appears to have self-referred to Sunraysia Community Health Services Men's Behaviour Change Program (SCHS MBCP), and on 20 October 2016 he attended an appointment with a worker to complete an initial assessment. During this appointment Mr Power reported that there was a FVIO in place which he had breached, and '*that he has become physically violent when he was withdrawing*'.¹²⁹ Mr Power attended another appointment on 7 November 2016 then disengaged from the service.¹³⁰
68. On 24 October 2016, Ms Edwards attended the Child Protection offices and spoke to Ms Wilson about the possibility of reconciling with Mr Power in future and advised that he was attending a MBCP. Child Protection advised Ms Edwards not to reconcile with Mr Power until he had completed the MBCP.¹³¹ On 8 November 2016, Ms Edwards had her last meeting with Child Protection. She again advised that she and Mr Power were separated.¹³² Closure of Ms Edwards' case with Child Protection was endorsed by a team leader on 10 November 2016.¹³³
69. Approximately two weeks prior to the fatal incident, Ms Edwards' step-father Christopher Schreiber states that he saw bruises on the left side of Ms Edwards' body; near her ribs and up her arm. Ms Edwards reportedly told Mr Schreiber that Mr Power had been hitting her, and that she did not bruise straight away so people never saw her bruises.¹³⁴

COMMENTS

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

Victoria Police identification of the primary aggressor in family violence incidents

1. The term primary aggressor is at times substituted for the term predominant aggressor, and:
- seeks to assist in identifying the actual perpetrator in the relationship, by distinguishing their history and pattern of coercion, power and controlling behaviour, from a victim survivor who may have used force for the purpose of self-defence or violent resistance in an incident or series*

¹²⁸ Coronial brief, Appendix MM – Anglicare case notes Edwards, 1373.

¹²⁹ Sunraysia Community Health Service, MBCP records Power, 8.

¹³⁰ Ibid.

¹³¹ Coronial brief, Appendix KK – DHHS Child Protection case notes Edwards, 1051.

¹³² Ibid, 1045.

¹³³ Ibid, 1024.

¹³⁴ Coronial brief, Statement of C Schreiber, 190.

*of incidents. The predominant aggressor is the perpetrator who is using violence and coercive control to dominate, intimidate or cause fear in their partner or family member, and for whom, once they have been violent, particularly use of physical or sexual violence, all of their other actions take on the threat of violence*¹³⁵

2. The Victoria Police Code of Practice lists five indicators which police can consider when identifying the primary aggressor. These are:
 - Respective injuries
 - Likelihood or capacity of each party to inflict future injury
 - Whether either party has defensive injuries
 - Which party is more fearful
 - Patterns of coercion, intimidation and/ or violence by either party.¹³⁶
3. It is arguable that based on the information available to police following the family violence incidents on 25 August 2016, Mr Power appeared to be the primary aggressor in the relationship. Police did not identify injuries, defensive or otherwise, on either Ms Edwards or Mr Power on this occasion. Mr Power arguably had a greater likelihood and capacity to inflict future injury upon Ms Edwards given that he was much taller than her,¹³⁷ returned to her property following the first family violence incident despite being advised by police not to, and was witnessed assaulting her and significantly damaging her property.¹³⁸ The evidence available to police suggested that Ms Edwards was fearful of Mr Power; she had facilitated both calls to emergency services on 25 August 2016 and the previous call in April 2016, had applied for a FVIO of her own accord in April 2016, told police she did not feel safe at home following the first incident on 25 August 2016, and stated during the second emergency services call on 25 August 2016 that she was scared Mr Power would return to her address.¹³⁹ Conversely, Mr Power was noted by police to not to be fearful of Ms Edwards following the first incident on 25 August 2016, in which he was deemed to be the AFM.¹⁴⁰

¹³⁵ Family Safety Victoria, MARAM practice guides: Foundation knowledge guides (February 2021), 124.

¹³⁶ Victoria Police, *Code of Practice for the Investigation of Family Violence* (2014) 3rd Edition V2, 17.

¹³⁷ Coronial brief, Appendix TT – Brief of Evidence Edwards, 1482.

¹³⁸ DFFH, L17 portal records for S Edwards and M Power, 9; Coronial brief, Statement of J Wilson, 145; Coronial brief, Wilson 000 call 25.08.2016, 377-9.

¹³⁹ Coronial brief, Wilson 000 call 25.08.2016, 382.

¹⁴⁰ Coronial brief, Statement of H Alexander, 229.

4. It is also arguable that the information available to police evidenced a pattern of abusive behaviour perpetrated by Mr Power against Ms Edwards. Although Ms Edwards was observed verbally abusing Mr Power during the family violence incident attended by police on 3 April 2016, both Mr Power and Ms Edwards accused each other of assault during the emergency services call on this date. While Ms Edwards stated immediately following the first incident on 25 August 2016 that she had thrown a pot at Mr Power in self-defense,¹⁴¹ she also stated that he assaulted her during this incident,¹⁴² and Mr Power was witnessed assaulting Ms Edwards and throwing a chair through her window shortly thereafter.¹⁴³ Mr Power also described to police his own behaviour during the first incident on 25 August 2016 which could arguably be characterized as coercive, noting that he repeatedly pressured Ms Edwards to provide him with her bank card, and took her handbag to look through it without her consent.¹⁴⁴
5. Whilst guidance is provided to members on the range of relevant factors to be considered, it is often challenging to determine the appropriate weight to be given to each. Attending police members are required to undertake their assessment of the primary aggressor on the basis of the available evidence including their own observations. Police are faced with the inherently difficult task of assessing the subjective level of fear and intimidation experienced by a party and where parties both have committed offences. It can also be challenging to analyse historic family violence within a relationship in cases where there is limited or no family violence reported to police.
6. The Code of Practice states that only one primary aggressor should be identified by police.¹⁴⁵ This policy aligns with the principle that identification of the primary aggressor should not be based solely on an assessment of the incident which police are responding to, but on an assessment of the pattern of coercion, power and controlling behaviour across time. Police deemed Ms Edwards as the primary aggressor in the first incident on 25 August 2016, and Mr Power as the primary aggressor in the second incident.

¹⁴¹ Ibid, 240.

¹⁴² Ibid, 237; Coronial brief, Appendix TT Brief of evidence Edwards, 1477.

¹⁴³ Victoria Police, LEAP Incident Report and Case Progress 160301505, 6; Coronial brief, Statement of J Wilson, 145.

¹⁴⁴ Victoria Police, LEAP Incident Report and Case Progress 160301485, 9.

¹⁴⁵ Victoria Police, *Code of Practice for the Investigation of Family Violence* (2014) 3rd Edition V2, 17; Victoria Police, *Code of Practice for the Investigation of Family Violence* (2019) 3rd Edition V4, 23.

7. The Code of Practice states that if it is unclear who the primary aggressor is the AFM should be nominated ‘*on the basis of which party appears to be most fearful and in most need of protection*’.¹⁴⁶
8. Police misidentification of women as primary aggressors appears to be an increasing issue in Victoria and other Australian jurisdictions.¹⁴⁷ Women’s Legal Service Victoria found that police may misidentify victims as primary aggressors in instances where there has been ‘mutual violence’.¹⁴⁸ Available literature has established that mutual violence rarely occurs in heterosexual intimate partner relationships, and that the violence used by men and women is both qualitatively and quantitatively different. Research indicates that when women use violence in heterosexual intimate relationships, the violence tends to be a consequence of their own victimisation and as a violent resistance to a pattern of controlling, coercive and violent behaviour used against them.¹⁴⁹ It is important therefore that the primary aggressor is selected by police on the basis of a pattern of coercive and controlling behaviour, rather than on the basis of an incident-based approach to investigation which does not take patterns of coercion and control into account.¹⁵⁰ In the case of Ms Edwards and Mr Power, police identification of both parties as primary aggressors in separate incidents on the same night evidences an incident-based approach rather than an analysis of family violence within the relationship over time.
9. Misidentification of women as primary aggressors is often driven by racialized, classed and gendered stereotypes of ideal victims, and women in general, as being submissive to authority, downtrodden, passive, and dependent.¹⁵¹ Women who have complex needs and/or histories of trauma may not fit these stereotypes and may appear erratic and be hostile or aggressive towards police. This in turn may influence police decision-making in favour of the perpetrator who may in contrast appear calm and rational given their relative control over the situation and because

¹⁴⁶ Victoria Police, *Code of Practice for the Investigation of Family Violence* (2014) 3rd Edition V2, 17; Victoria Police, *Code of Practice for the Investigation of Family Violence* (2019) 3rd Edition V4, 23.

¹⁴⁷ Women’s Legal Service Victoria, ‘Snapshot of Police Family Violence Intervention Order Applications’ (2018), 1; Women’s Legal Service Victoria, “‘Officer she’s psychotic and I need protection’: Police misidentification of the ‘primary aggressor’ in family violence incidents in Victoria’ (Policy Paper One, July 2018), 1; No To Violence, ‘Predominant Aggressor Identification and Victim Misidentification’ (Discussion Paper, November 2019), 6; State of Victoria (n 2) 10

¹⁴⁸ Women’s Legal Service Victoria, “‘Officer she’s psychotic and I need protection’: Police misidentification of the ‘primary aggressor’ in family violence incidents in Victoria (2018), 2.

¹⁴⁹ Women’s Legal Service Victoria, “‘Officer she’s psychotic and I need protection’: Police misidentification of the ‘primary aggressor’ in family violence incidents in Victoria (2018), 2-3; Family Safety Victoria, MARAM Practice Guides, Foundation Knowledge Guide: Guidance for professionals working with child or adult victim survivors, and adults using family violence (2021), 112.

¹⁵⁰ Heather Nancarrow et al, ‘Accurately Identifying the “Person Most in Need of Protection” in Domestic and Family Violence Law’ (Research Report Issue 23, ANROWS, November 2020), 27; Women’s Legal Service Victoria (n 245) 4.

¹⁵¹ Women’s Legal Service Victoria (n 245) 3; Heather Nancarrow et al (n 246) 26; No To Violence (n 243) 12.

they are not fearful or traumatised.¹⁵² Further, victims who appear to have misused substances on police arrival, perhaps due to reasons related to their experiences of trauma, are less likely to fit stereotypes of ideal victimhood and may be at increased risk of misidentification as the primary aggressor.¹⁵³ Police perception of a party being uncooperative with their investigations may also increase the likelihood of misidentification of that party as the primary aggressor.¹⁵⁴

10. For this reason, and others, Aboriginal and Torres Strait Islander women are particularly vulnerable to police misidentification as primary aggressors.¹⁵⁵ Due to experiences of colonisation and systemic racism, including under- and over-policing and lack of cultural awareness and bias in policing responses, Aboriginal communities may mistrust police, law enforcement and other non-indigenous systems and authority.¹⁵⁶ Ms Edwards herself expressed a mistrust of the police,¹⁵⁷ and spoke with her Anglicare worker about the difficulties she experienced in working with services ‘due to the history of the stolen generation’.¹⁵⁸ Police should therefore not interpret refusal to cooperate with their investigations by Aboriginal women as an indicator that they are family violence perpetrators.
11. One study based on New South Wales police data showed that Aboriginal women were more likely than non-Indigenous women to use violence for violent resistance purposes.¹⁵⁹ This may represent another causal factor in the disproportionate police misidentification of Aboriginal women as primary aggressors, as violent resistance does not fit with ideal victim stereotypes.
12. It is possible that the police identification of Ms Edwards as the primary aggressor during the first incident on 25 August 2016, and failure to reconsider this following the second incident on this night, may have been influenced by a lack of understanding about trauma presentations of victims of family violence, particularly Aboriginal women who have experienced family violence. Ms Edwards did not present as an ideal victim during interactions with police. She

¹⁵² Women’s Legal Service Victoria, (n 245) 3; Family Violence Reform Implementation Monitor (n 2) 18.

¹⁵³ Women’s Legal Service Victoria (n 245) 3; No To Violence (n 243) 6, 12.

¹⁵⁴ No To Violence (n 243) 10.

¹⁵⁵ Heather Nancarrow et al (n 246) 11; Women’s Legal Service Victoria (n 245) 3-4; No To Violence (n 243) 8; Family Safety Victoria, MARAM practice guides: Foundation knowledge guides (February 2021), 114.

¹⁵⁶ Heather Nancarrow et al (n 246) 27; Family Violence Reform Implementation Monitor (n 2) 19.

¹⁵⁷ Coronial brief, Appendix MM – Anglicare case notes Edwards, 1395.

¹⁵⁸ Ibid, 1313.

¹⁵⁹ Hayley Boxall, Christopher Dowling, and Morgan, Australian Institute of Criminology, ‘Female Perpetrated Domestic Violence: Prevalence of Self-defensive and Retaliatory Violence’ (January 2020) 584 *Trends & Issues in Crime and Criminal Justice*, 12.

was described by police as erratic,¹⁶⁰ agitated,¹⁶¹ antagonistic,¹⁶² uncooperative,¹⁶³ and rude,¹⁶⁴ and it was noted that she told the officer that he was not culturally sensitive or aware and ‘*should have received cultural awareness training at the Academy*’.¹⁶⁵

13. In contrast, an officer who spoke with Mr Power at court on 31 August 2016 stated that it was evident to her that Mr Power was the victim of family violence ‘*as he spoke openly and honestly about what occurred on the night of the 25th August*’.¹⁶⁶ As previously noted, it appears that Mr Power’s accounts to police of the second incident of family violence on 25 August 2016 were not honest as he later disclosed to a friend that he had returned to the address and thrown a chair through the window that night.¹⁶⁷ However, Mr Power’s relative ability to appear open and honest appears to have influenced police decision making in relation to determining the primary aggressor.
14. The identification of primary or predominant aggressors in relationships marred by family violence is a difficult and complex task for Victoria Police frontline members and family violence workers. When a family violence victim is misidentified as the predominant aggressor, this can have a negative impact on a victim’s confidence in law enforcement and support systems and reluctance to disclose or re-engage with services in future incidents.
15. The Royal Commission into Family Violence in Victoria (**RCFV**) pointed to concerns about the misidentification of primary aggressors by police, and subsequently recommended that ‘*Victoria Police amend the Victoria Police Code of Practice for the Investigation of Family Violence to ensure that it provides suitable guidance on identifying family violence primary aggressors*’,¹⁶⁸ including procedures for amending LEAP when a service provider or a Support and Safety Hub subsequently informs Victoria Police that a person is not the primary aggressor, and provision of details of specialist support available to assist in identifying the primary aggressor.
16. The Code of Practice remains largely unchanged in relation to guidance on the identification of predominant aggressors, however the Victoria Police Manual – Family Violence (**the Manual**)

¹⁶⁰ Coronial brief, Statement of H Alexander, 237.

¹⁶¹ Victoria Police, Incident 160301505 VP Form L17, 6.

¹⁶² Coronial brief, Statement of H Alexander, 237.

¹⁶³ Coronial brief, Statement of A Kelly, 244; Coronial brief, Statement of A Turner, 227.

¹⁶⁴ Coronial brief, Statement of A Turner, 227.

¹⁶⁵ Coronial brief, Statement of H Alexander, 238.

¹⁶⁶ Coronial brief, Statement of A Kelly, 244.

¹⁶⁷ Coronial brief, Statement of A Walsh, 119.

¹⁶⁸ *Royal Commission into Family Violence: Summary and Recommendations* (2016) Recommendations, 57.

has been amended to include a more thorough definition of the term primary aggressor and further indicators police can consider when identifying the primary aggressor.¹⁶⁹ These indicators are taken from Victoria's family violence risk assessment and management framework, the Multi-Agency Risk Assessment and management Framework (MARAM).¹⁷⁰ The Manual also encourages police to be alert to the possibility of attempts at manipulation and systems abuse by primary aggressors, and of primary aggressors appearing calm in relation to victims who may present as agitated or even violent.¹⁷¹

17. A police policy paper entitled Responding to Family Violence (Primary Aggressor) (**the policy paper**) was published in 2019 and lists some initiatives undertaken by police to address the issue of police misidentification of the primary aggressor, including further training. The policy paper notes the RCFV recommendation that the Code of Practice be amended to include details of specialist support available to assist in identifying the primary aggressor, and notes that 'Family Violence Liaison Officers continue to provide real time assistance to police managing complex cases and when requiring assistance in determining primary aggressors and appropriate victim support'.¹⁷² The policy paper does not direct police to seek support from external specialist family violence services when they are having difficulty identifying the primary aggressor, but notes that under the Family Violence Information Sharing Scheme (FVISS) police are now able to request and voluntarily share information from certain agencies to mitigate family violence risk.¹⁷³
18. Police officers stationed at Swan Hill are now required to undertake Koori cultural awareness training, including a family violence component, within six months of their commencement at the station.¹⁷⁴ Further, Victoria Police acknowledge some of the barriers to Aboriginal victim survivors engaging with police in policies and procedures that have been issued since Mr Power's death.¹⁷⁵ It is hoped that these measures will improve police responses to Aboriginal people experiencing family violence, and build confidence in the community in relation to reporting family violence to police.
19. However, Victoria Police have recently advised that misidentification of the primary aggressor continues to be a significant issue, occurring in approximately 12% of cases.¹⁷⁶ The Victorian

¹⁶⁹ Victoria Police, Victoria Police Manual – Family Violence (June 2021), 12.

¹⁷⁰ Family Safety Victoria, MARAM Foundation Knowledge Guide (2021), 113.

¹⁷¹ Victoria Police, Victoria Police Manual – Family Violence (June 2021), 12.

¹⁷² Victoria Police, 'Responding to Family Violence (Primary Aggressor)' (Policy Paper, 2019), 4.

¹⁷³ Ibid.

¹⁷⁴ Victoria Police, *Swan Hill Koori Family Violence Police Protocols*, 11.

¹⁷⁵ Victoria Police, *Family Violence Priority Community Response* (2019), 2.

¹⁷⁶ VSRFVD, Review Panel: FVIO Enforcement minutes, 4; Family Violence Reform Implementation Monitor (n 2) 11.

Family Violence Reform Implementation Monitor (VFVRIM) has also recently established that misidentification of the primary aggressor continues to be a significant issue in Victoria, as does the lack of clarity about approaches to rectifying it when it does occur, and that these issues require urgent attention.¹⁷⁷

20. Given the nuances and difficulties related to the misidentification of the primary aggressor, further updates should be explored for updating police policy to assist police to distinguish between incident-based assessments of the crimes committed during specific family violence incidents, and identification of the primary aggressor – the person who is using violence and coercive control to dominate, intimidate or cause fear in their partner or family member.¹⁷⁸ The policy paper itself evidences a lack of understanding by Victoria Police of the distinction between these two concepts. For example, the policy paper states that the L17 risk assessment process assists police to *‘decide who might be the primary aggressor at both a current incident and within the relationship’*,¹⁷⁹ and that *‘[t]he decision about who is the primary aggressor at the incident is required to be reported within the L17 and the narrative should be used to outline any concerns or issues about the choice such as who the member believes to be the primary aggressor in the relationship.’*¹⁸⁰ Further, there is no clear police policy on the withdrawal of civil and criminal matters when it is identified that a misidentification has occurred.
21. Given the complexities involved, police would likely benefit from multi-disciplinary support from specialist family violence services when they are having difficulty with identifying a primary aggressor. Such an arrangement may more effectively fulfill the intended outcomes of recommendation 41 of the RCFV.
22. These and other related issues are thoroughly canvassed in the Family Violence Reform Implementation Monitor’s recent report *Monitoring Victoria’s family violence reforms: Accurate identification of the predominant aggressor (the report)*. It is evident that compelling arguments exist for the implementation of each of the 16 recommendations made in the report. I endorse the recommendations from the report and specifically recommendations four to eight, which recommend that Victoria Police:
 - Re-examine and potentially redesign the Family Violence Report and associated processes and guidance to:

¹⁷⁷ Family Violence Reform Implementation Monitor (n 2) 5.

¹⁷⁸ Family Safety Victoria, MARAM practice guides: Foundation knowledge guides (February 2021), 124.

¹⁷⁹ Victoria Police, ‘Responding to Family Violence (Primary Aggressor)’ (Policy Paper, 2019), 2.

¹⁸⁰ Ibid.

- support officers to identify the predominant aggressor before beginning the risk assessment, particularly in ambiguous situations
 - clearly differentiate between the risk assessment (and referral) function for civil protection purposes, and any criminal incidents (particularly in cases where a victim has used force)
 - ensure alignment with Victoria Police policies and the Family Violence Multi-Agency Risk Assessment and Management (**MARAM**) Framework.
 - Trial a review process, involving the specialist family violence sector, for any Family Violence Report where a woman is identified as a respondent (and possibly for other targeted cohorts) before it is committed to Victoria Police's LEAP database.
 - Urgently review how family violence records are captured in LEAP to ensure that where misidentification is found, the record can be amended so a person doesn't continue to be incorrectly listed as a respondent.
 - Establish and communicate clear processes to guide police responses where there is new information that suggests misidentification has occurred, including:
 - a contact point at Victoria Police that other agencies can use to raise misidentification
 - an agreed process to make a determination that misidentification has occurred
 - specific guidance for police on the actions they need to take once this determination has been made.
 - Develop clear guidance for withdrawing family violence intervention order applications or criminal charges in cases of misidentification and give police prosecutors the authority to quickly facilitate this.¹⁸¹
23. Victoria Police confirm in this investigation and the recently concluded investigation into the death of Alicia Little,¹⁸² that they are considering these recommendations and progressing work to refine their policy and practice regarding the identification of primary aggressors in family violence incidents. Family Violence Command are currently developing a program of works to respond to the recommendations, which includes reviewing policies and practices, improving

¹⁸¹ Family Violence Reform Implementation Monitor (n 2) 2.

¹⁸² COR 2017 6543

training and development for members, and exploring ways to correct misidentification of primary aggressors when they occur in police databases. They have been consulting with a wide range of stakeholders to inform their responses and progress these works, including legal services, child protection and specialist family violence agencies. When this work is finalised, both the consolidated VPM Family Violence and the Code of Practice will be updated to reflect these changes

Victoria Police family violence report on 22 November 2016

96. Ms Edwards called Swan Hill Police Station and spoke to a police member at 12.19am on 22 November 2016. Accounts of this call differ. A friend of Ms Edwards who overheard parts of the call stated that Ms Edwards told the call-taker that she felt unsafe in her home due to ongoing threats made against her by Mr Power, but that the call-taker was rude and dismissive.¹⁸³ In contrast, the police member who took the call stated that Ms Edwards reported that Mr Power had breached the FVIO in protection of her by arguing with her and that she declined to make a statement that night.¹⁸⁴
97. Regardless of these differing accounts, best practice ought to have been to record the call on police systems and complete a VP Form L17 following this call given that the police member was aware that both Ms Edwards and Mr Power had breached FVIOs by being present at Ms Edwards' Makepeace Street address. A breach of a FVIO constitutes a family violence incident, and police policy requires police to complete and submit a VP Form L17 identifying an appropriate risk management strategy to address any safety concerns when a FVIO breach is reported, even if no other criminal offenses have been reported.¹⁸⁵ This requirement has not changed since the time of the fatal incident.¹⁸⁶
98. The available evidence suggests that the attending police member assessed the immediate risk of harm to Ms Edwards and noted that she was in no immediate danger as she was no longer at the address and staying with a friend, and that her brother was also staying with her. Whilst it is accepted that Ms Edwards communicated that she would attend the police station in the morning to make a statement, there was no system for following this up if she did not attend and there was no note of this call in police systems.

¹⁸³ Coronial brief, Statement of E Bettinelli, 136-7.

¹⁸⁴ Coronial brief, Statement of police member, 254-5.

¹⁸⁵ Victoria Police, *Code of Practice for the Investigation of Family Violence* (2014) 3rd Edition V2, 29.

¹⁸⁶ Victoria Police, *Code of Practice for the Investigation of Family Violence* (2019) 3rd Edition V4, 35.

99. In response to coronial investigations since this time police have confirmed that they have amended their policies to provide clearer instructions to police members responding to reports of family violence received via telephone, including reiteration of the need to complete a VP Form L17 in response to such reports.¹⁸⁷ Furthermore, the current Manual provides that:
- 49.1 when members receive information regarding a family violence incident, including a contravention of an intervention order over the telephone, they must assess the need for police attendance*
- 49.2 if there is any indication that any person, including children, are at risk of harm, the member must immediately arrange for police attendance through Police Communications;*
- 49.3 where an offence against a person is identified or property damage has occurred, including a series of offending, stalking, using a carriage service to harass or persistent breach of an intervention order, the report must not be taken over the telephone. Instead, the member must immediately arrange for police attendance through Police Communications;*
- 49.4 where there is no risk of harm to any party, including children, it may be deemed appropriate for an FVR (L17) to be completed over the telephone. This does not preclude attending the scene subsequently as part of an ongoing investigation; and*
- 49.5 approval to complete an FVR (L17) over the telephone is required from a member of the rank of Sergeant or above prior to the commencement of the FVR being taken.*
100. Victoria Police confirm in a response provided to the Court that in similar circumstances where an individual sounded heavily intoxicated during a call, it is likely that a “Sergeant or above would not have approved the VP Form L17 being taken over the telephone. Police attendance would have been organised and subsequently a VP Form L17 would have been completed”.¹⁸⁸

FINDINGS AND CONCLUSION

70. Pursuant to section 67(1) of the Coroners Act 2008 I make the following findings:

¹⁸⁷ Victoria Police, Response to recommendations made in Mancuso 2013/3101 (June 2021), 1-2.

¹⁸⁸ Victoria Police response dated 21 June 2022, 14

- a) the identity of the deceased was Michael Andrew Power, born 24 June 1985;
- b) the death occurred on 22 November 2016 at 5/13 Makepeace Street, Swan Hill, Victoria, 3585, from a stab wound to the neck; and
- c) the death occurred in the circumstances described above.

71. I convey my sincere condolences to Mr Power's family for their loss.

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

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

Bernadette Power, Senior Next of Kin

Priscilla Wong, Magistrates Court of Victoria

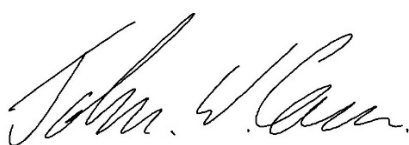
Nell Gordon, Victorian Government Solicitors Office

Assistant Commissioner Lauren Callaway, Victoria Police

Eleri Butler, Family Safety Victoria

Detective Acting Sergeant Kirsty Hellebrand, Coroner's Investigator

Signature:



Judge John Cain
STATE CORONER
Date 1 February 2023

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 investigation. 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.
