CORONERS ACT, 2003

SOUTH  *AUSTRALIA*

FINDING OF INQUEST

An Inquest taken on behalf of our Sovereign Lady the Queen at Adelaide in the State of South Australia, on the 21st day of June 2013, the 2nd and 30th days of September 2013, the 1st, 2nd, 3rd, 4th, 8th, 9th, 10th and 11th days of October 2013, the 17th, 18th, 19th, 20th, 24th and 25th days of March 2014 and the 7th day of July 2014, by the Coroner's Court of the said State, constituted of Mark Frederick Johns, State Coroner, into the death of Zahra Abrahimzadeh.

The said Court finds that Zahra Abrahimzadeh aged 44 years, late of 8 Drummond Street, Brooklyn Park, South Australia died at the Royal Adelaide Hospital, North Terrace, Adelaide, South Australia on the 22nd day of March 2010 as a result of incised wound to the chest with superior pulmonary artery injury. The said Court finds that the circumstances of her death were as follows:

1. Introduction and cause of death

1.1. Zahra Abrahimzadeh died on 22 March 2010. An autopsy was conducted by Dr Carl Winskog of Forensic Science SA and in his post-mortem report Dr Winskog gave the cause of death as incised wound to the chest with superior pulmonary artery injury[1], and I so find. Mrs Abrahimzadeh was 44 years of age at the time of her death.

1.2. Zahra Abrahimzadeh was stabbed repeatedly by her estranged husband, Ziaolleh Abrahimzadeh, at a Persian function held at the Adelaide Convention Centre on the evening of 21 March 2010. Zahra was taken to the Royal Adelaide Hospital but could not be saved. Ziaolleh had been physically and psychologically abusive to Zahra and their three children ever since Zahra had married him in about 1984 or 1985.

[1] Exhibit C1a

1.3. On 12 February 2009 (some 13 months before Zahra's death) Ziaolleh assaulted Zahra and her adult daughter, Atena Abrahimzadeh, and threatened to kill both Zahra, Atena and the other two children, Arman (who was then an adult) and Anita (who was then a child). Following that episode of violence, Zahra decided with her elder children that she and they would leave Ziaolleh and the family house and seek refuge elsewhere. Accordingly, Zahra and her two elder children attended at the Salisbury Police Station on the afternoon of 23 February 2009 having packed their possessions in Zahra's car to report the episode of domestic violence. It was their plan to collect Anita from school that day and take her with them. I will describe the 12 February 2009 assaults and threats in greater detail below.

1.4. Between 23 February 2009 and the murder of Zahra by her husband on 22 March 2010, Ziaolleh was never arrested or reported by police for the offences he was alleged to have committed on 12 February 2009. To be quite clear, for a period of some 13 months, between the date of the attendance at Salisbury Police Station to report the domestic violence and the date of Zahra's death, Ziaolleh was never dealt with by the criminal justice system for his alleged offending. That was because the first step in the criminal justice process, namely arresting and charging Ziaolleh for the reported offending, never occurred at anytime during those 13 months.

1.5. In my opinion the single most important and decisive step in deterring Ziaolleh Abrahimzadeh from acting violently towards his wife was to arrest and charge him for his alleged offences. That said, police did take action to obtain a domestic violence restraining order against Ziaolleh in favour of Zahra. That order was served upon him by police in late April 2009[2]. With that exception, and apart from contact with police prosecutors as the domestic violence restraining order, which was subject to confirmation, moved through the court process, there was no contact between Ziaolleh and police for the purposes of the underlying criminal allegations.

1.6. In my opinion this failure to arrest and charge Ziaolleh meant that a very significant deterrent to any further violent act by him and threats by him against the family did not exist.

[2] This was witnessed by Arman Abrahimzadeh when he attended at the family house to remove family possessions and saw his father being approached by a police officer, Transcript, pages 86-87

One of the most powerful influences that police can have in a context where a person has been violent, or threatened to be violent, is the power of arrest and charging. If that power is not exercised expeditiously, or worse still is not exercised at all, there is a real danger that the offender will think that he or she has 'got away with it', to use the vernacular.

I am afraid that this kind of thinking was a feature of Ziaolleh's behaviour in this case. Indeed, as will be revealed later, at one stage during that 13 months he taunted the adult children by saying that he had not been arrested or otherwise dealt with by police for the original allegations. It was clearly a factor that gave him a sense of security and bravado. This is the single most important lesson to be learnt in this case. It is notable that in dealing with Ziaolleh Abrahimzadeh's appeal against sentence, the Full Court[3] noted the importance of deterrence when the court fixes a non-parole period when sentencing for a murder involving domestic violence. The Full Court cited the observations of King CJ in The Queen v Stewart (1984) 35SASR477 where he said that the safety of people who might become the victims of domestic violence depends upon their likely perpetrators understanding that giving way to violent inclinations and causing death is likely to result in spending the greater part of their lives in prison. King CJ said:

> 'It is only that knowledge which is likely to provide any deterrence to persons so disposed and, therefore, likely to provide any safety to those whose lot in life is to be in personal relationships with them. There is therefore a very grave responsibility upon the Court in fixing a non-parole period in crimes of this kind.' [4]

If deterrence is important when a court comes to sentence an offender in a domestic violence case, it is every bit as important for police to exercise their powers of arrest and charging in the exercise of their duty to prevent and deter further domestic violence offending.

2. Background

2.1. The evidence is very clear that Ziaolleh had been violent towards his wife and children for many years. Ziaolleh and Zahra were married in Iran in about 1984 or 1985[5]. It was an arranged marriage. Ziaolleh was Afghani by birth. He moved to Iran when he was about 23 years of age. He was forced to work illegally in the field of construction. Atena, the eldest daughter, was born in about 1987 in Afghanistan.

[3] See [2012] SASCFC 112
[4] The Queen v Stewart (1984) 35SASR477 at 479
[5] Exhibit C108b, Family Court Affidavit

Arman was born one year later, also in Afghanistan. Anita, the younger daughter, was born in Australia in about 1998. The family moved to South Australia in about 1997. Zahra was Persian by birth.

2.2. Ziaolleh had extended family in South Australia. On the other hand, Zahra's family resided in Iran. Ziaolleh had regular contact with his parents and siblings who lived in South Australia. From early in the relationship there were arguments between Ziaolleh and Zahra. They escalated when they came to Australia. Ziaolleh was violent towards his wife and children. The children observed regular fights and disagreements between them. On occasions the disputes became violent and over the years the violence escalated. The children observed these acts of violence by Ziaolleh against his wife. One of Ziaolleh's grievances against his wife was his belief that a property purchased by he and Zahra in Iran should have been sold by Zahra's relatives and the proceeds of sale remitted to Ziaolleh in Australia. He believed that he was deprived of what was rightfully his. Ziaolleh was violent towards his children and the material shows that this may properly have been characterised as extreme violence. Ziaolleh denied these things in his trial for the murder of his wife. In particular, he instructed his counsel to cross-examine his children when they gave evidence about his conduct and to suggest that they had lied to the court. It was only when Ziaolleh was himself cross-examined that he withdrew his plea of not guilty and substituted a plea of guilty. The sentencing judge, Justice Sulan, concluded beyond reasonable doubt that each of the children gave an accurate account of their life with him and his violent behaviour towards them.

2.3. The Judge concluded that Ziaolleh Abrahimzadeh lacked remorse for his crime. He also referred to a long letter written by Ziaolleh to his children after his arrest for the murder of their mother. The letter expressed remorse and sought forgiveness in two lines at the beginning, but those two lines were followed by ten pages in which Ziaolleh painted himself as the victim and attempted to justify and excuse his conduct by blaming his wife. He spoke in that letter of what he described as pressure upon him and the treatment he received at the hands of his wife. He blamed her and her family for his financial woes and complained of the suffering he had been subjected to over 25 years. Justice Sulan described the letter as demonstrating Ziaolleh's self-absorption.

2.4. There were many incidents of violence by Ziaolleh towards his wife Zahra. Both Arman and Atena gave evidence at the Inquest. The history of violence is amply demonstrated in their evidence and in the sentencing remarks of Justice Sulan. I mention one particular incident. In approximately the year 2000 there was an incident in which Ziaolleh punched Zahra and dragged her by the hair. She was pushed towards a glass window and her hand went through the window, resulting in a wound that required stitches. He then kicked her while she lay unconscious on the floor. He refused to permit Arman or Atena to go with Zahra to the doctor.

2.5. The major incident in February 2009 which resulted in Zahra and the children leaving the family home started with Ziaolleh telephoning Zahra and threatening to cut her throat. When he arrived home there was a violent altercation in which he repeated his threat to kill Zahra. He went to the kitchen towards a drawer where knives were kept. Arman intervened and wrestled with Ziaolleh to prevent him from taking a knife. The argument eventually ceased. In the altercation there were assaults upon not only Zahra, but also upon Atena, the eldest daughter. During the altercation Ziaolleh threatened the life of his wife and three children. They were terrified at what had happened. It was this that prompted them to leave the family home.

3. <u>The murder of Zahra Abrahimzadeh</u>

3.1. Zahra Abrahimzadeh decided to attend a Persian New Years Eve function at the Adelaide Convention Centre on 21 March 2010. She arranged to go with her daughter Atena and Arman's girlfriend. She purchased tickets for the function at an Iranian grocery store where she knew one of the shop assistants. She asked to be seated at a table with women only. Approximately 300 people attended the function. Zahra, Atena and Arman's girlfriend arrived at approximately 6:30pm. Unknown to them, and to their surprise, Ziaolleh arrived at the function approximately 20 minutes later. Furthermore, he was seated at their table. Zahra was not surprisingly very upset to see him at the table. At her request Ziaolleh moved to another table during the evening. During the evening he spoke to his daughter and said that he wished to speak to her mother to tell her to stop divorce proceedings which were underway. His daughter told him that her mother did not wish to speak to him and was frightened by his presence. At about 11pm Zahra, Atena and Arman's girlfriend decided that they would leave the function shortly. An arrangement was made for the three of them to be escorted to their car because they were frightened of what might happen. The two

younger women made their way to the dance floor and Zahra remained at the table. Then, shortly afterwards, Ziaolleh was seen to run towards Zahra brandishing a knife with which he stabbed her. The evidence established that Ziaolleh had brought the knife to the function and had concealed it. He had brought it for the purposes of attacking his wife. The sentencing judge said that he was obsessed about the property settlement between himself and Zahra which would result from the divorce proceedings. He believed that he had been deprived of the benefits of the property in Iran and that his wife and relatives were responsible for not having sold it and made the proceeds available to him. The sentencing judge concluded that he was motivated by the fact that he had lost control of his family and particularly his wife, and he believed that she was responsible for the breakup of the marriage and for his financial difficulties and he decided to act to kill her because she continued to disobey his demands that she not proceed with the divorce proceedings.

4. Zahra, Arman and Atena Abrahimzadeh attend the Salisbury Police Station on 23 February 2009

4.1. The family arrived at the Salisbury Police Station at between 1430 and 1500 hours on 23 February 2009. They were seen by Probationary Constable Olivia Negruk. PC Negruk was the most junior member of three SAPOL members on duty in that station at the time. In fact, she had only graduated from the Police Academy some two months earlier. She had commenced her shift at 1300 hours. The other police members on duty in the station were her supervising station sergeant, Acting Sergeant Sowle and Senior Constable Thomas. The evidence shows that PC Negruk spent three or four hours with the family. During that time PC Negruk did a number of things. She generated a domestic abuse report (DAR) (non-offence PIR)[6]. She undertook a domestic violence risk assessment (PD438)[7]. She took an affidavit from Zahra Abrahimzadeh[8], an affidavit from Atena Abrahimzadeh[9] and an affidavit from Arman Abrahimzadeh[10]. She generated a Police Incident Report (PIR) (aggravated assault)[11]. She made a child abuse notification through the Child Abuse Report Line[12]

[6] Exhibit C116b
[7] Exhibit C116f
[8] Exhibit C116a
[9] Exhibit C115
[10] Exhibit C114
[11] Exhibit C116c – this related to the complaint of assault by Atena Abrahimzadeh against her father when she tried to intervene between her father and mother. The particulars were that she was pulled by the hair, slapped in the face and punched in the left eyebrow.
[12] Transcript, page 266

and she contacted Crisis Care to arrange for emergency accommodation[13]. As a result of the arrangements for emergency accommodation that were initiated by PC Negruk, the family left the Salisbury Police Station for that accommodation at the Arkaba Hotel at approximately 1900 hours.

4.2. After the departure of the family PC Negruk arranged for patrols to undertake initial inquiries with a view to apprehending Ziaolleh. In order to do this she contacted patrol sergeants at both Elizabeth and Salisbury Police Stations to ascertain patrol availability, spoke with the Salisbury Station Sergeant and also the State Duty Officer to ensure that a patrol could be tasked as quickly as possible[14]. At approximately 2030 hours PC Negruk provided the two PIRs, the three affidavits and the domestic violence risk assessment to Senior Constable Costigan and Probationary Constable Sullivan who were the team who formed one of the Elizabeth patrols that night[15]. Furthermore, PC Negruk faxed copies of the documents she had provided to the Elizabeth patrol officers to the Elizabeth Family Violence Investigation Section. Finally, she forwarded the electronic PIRs to A/S Sowle for vetting.

4.3. On any view, PC Negruk had a complex task to take these statements and identify appropriate offences. She had little or no assistance from any more senior officer. She did not note the possible offences of threats to kill in the information she had been provided by Zahra, Atena and Arman Abrahimzadeh. In the result, PC Negruk raised only two PIRs, one for Zahra Abrahimzadeh and one for Atena Abrahimzadeh. Only the one relating to Atena was a PIR disclosing an offence, the one for Zahra having been a domestic abuse report rather than an offence PIR. That technical error was soon corrected as will be seen hereunder. It is perhaps more concerning that each of Zahra and Atena should have also been recorded as being the victims in offence PIRs for the offence of unlawful threats contrary to section 19 of the Criminal Law Consolidation Act. Offence PIRs should also have been raised for that same offence for both Arman and Anita Abrahimzadeh.

4.4. Nevertheless, to her credit, PC Negruk did a great deal of work in a difficult situation bearing in mind her very limited experience and lack of assistance from more senior officers. She set the scene for the protection of the Abrahimzadeh family in carrying out the work she did. The domestic violence abuse report was ultimately actioned as

[13] Exhibit C116b shows an entry at 1902 hours that evening in which this was attended to
[14] Transcript, pages 267-268
[15] Exhibits C116b, C43a and C44a

a PIR in any event. The other shortcoming in PC Negruk's work that afternoon was that she did not initiate an application for a domestic violence restraining order for Zahra and Anita, although she included in Zahra's affidavit her desire to apply for such an order. This was quickly cured when the family subsequently attended at the Port Adelaide Police Station as will be seen hereunder. These matters did not affect the subsequent course of the investigation and I make no criticism of the work of PC Negruk.

5. The replacement police incident report (PIR)

5.1. On 24 February 2009 PC Negruk was advised by Senior Constable Coleman of the Elizabeth Family Violence Investigation Section that her use of the domestic abuse report was in error. PC Negruk was instructed to generate a replacement offence PIR for Zahra and to copy across the entries in the investigation diary and forward the original domestic abuse report for deletion. On 27 February 2009 PC Negruk acted as directed.

5.2. Patrols and taskings on the night of 23 February 2009 - Nazar and Hill

5.3. In 2009 SAPOL had a General Order entitled 'Domestic Violence'[16]. The General Order included the following relevant material:

> '*Positive action*
> Positive action includes the provision of a police response to ensure the victims' ongoing safety and at all times holding the offender accountable for their behaviour.
>
> …
>
> *Responding to domestic violence*
> A member of PSM Act employee (where applicable) must respond to instances of domestic violence by:
>
> - adopting a positive action response to all facets of policing (including the initial response and prosecution process)
> - holding the offender accountable for their criminal actions.'

Where domestic violence is reported by a victim in person at a police station:

> 'if the location of an offender is known, advise a supervisor/shift manager of the need for a patrol to:
>
> - Investigate and assess the domestic violence incident report
> - locate the offender
> - take positive action against the offender'

[16] Exhibit C108v

'Despatching of a police response – Patrols
An employee receiving a report of domestic violence must:

- where an offence has occurred, enter a CAD job (code 106), allocate the relevant priority and despatch a police response'

'Arrest-removal of the offender
In all domestic violence cases where a member suspects on reasonable grounds that an offence has occurred they will take positive action. A member must:

- make an evidence-based decision to exercise any powers of arrest to prevent further violence and abuse and to secure the victim and children's safety
- if the offender has decamped and cannot be located and there is a continuing risk to the safety of the victim, advise a supervisor for further enquiries to be conducted by the next shift. If the next shift is unable to locate the offender, forward the file to FVIS[17] for urgent attention where applicable; however, a member must make every reasonable effort to locate the offender prior to forwarding the file to FVIS. Detail all enquiries made to locate the offender in the investigation diary of the PIR.
- The preferred response is to arrest the primary domestic violence offender.'

5.4. Those provisions of the General Order Domestic Violence governed the responsibilities of the patrol officers to whom taskings were directed on the evening of 23 February 2009, and the early hours of the following day.

5.5. As a result of PC Negruk's contact with COMMS and the State Duty Officer, Elizabeth Patrol 2EH10 consisting of SC Costigan and PC Sullivan was tasked to attend at the Abrahimzadeh's home address. This tasking was received at 1936 hours while 2EH10 was on patrol. In all probability this occurred while Zahra and her children were still at the Salisbury Police Station.

5.6. SC Costigan and PC Sullivan arrived at the Abrahimzadeh address at approximately 1948 hours. There was no-one home. At approximately 2030 hours SC Costigan and PC Sullivan attended at the Salisbury Police Station where they collected the two PIRs that had been generated by PC Negruk and the three statements she had taken and the PD438[18]. SC Costigan and PC Sullivan were due to complete their shift at 2330 hours. At that time PC Sullivan updated the two PIRs. PC Sullivan included entries in Police Incident Management System (PIMS) in respect of the two PIRs noting that Ziaolleh Abrahimzadeh owned a pizza bar and might be home quite late and suggested that nightshift patrol attend.

[17] Family Violence Investigation Section
[18] The domestic violence risk assessment document

5.7. Senior Constable Nazar and Senior Constable Hill commenced their shift at 2300 hours as Elizabeth Patrols 3EH10. At about 0010 hours on 24 February 2009 SC Nazar and SC Hill were called back to Elizabeth Police Station by their team sergeant, Sergeant Murphy. Sergeant Murphy gave SC Nazar and SC Hill copies of the two PIRs received from the afternoon shift. Unfortunately it appears that the paper copies of the PIRs that were provided to SC Nazar and SC Hill were the same copies as those provided to SC Costigan and PC Sullivan. They therefore did not contain the additional entries of PC Sullivan referring to the pizza bar.

5.8. SC Nazar and SC Hill treated the tasking to locate Ziaolleh as a priority A tasking. That meant that it was to be accorded the highest priority. They attended at the Abrahimzadeh address at 0030 hours. Once more no-one responded when they attempted to rouse the occupants.

5.9. In their evidence, SC Nazar and SC Hill both acknowledged that the tasking was a priority A. They also acknowledged that they would have arrested Ziaolleh had they located him given the serious nature of the offending.

5.10. Apart from that one attendance at the Abrahimzadeh residence, SC Nazar and SC Hill made no further attempt to arrest Ziaolleh that night. Apart from the residential address they also had available to them a mobile telephone number for Ziaolleh and they had mobile numbers for Zahra and her elder children. They did not call any of these numbers with a view to establishing the whereabouts of Ziaolleh.

5.11. SC Nazar was questioned about their activities for that evening. The most serious other tasking for that evening was an armed robbery at approximately 0300 hours. That occupied the patrol for almost an hour. It is clear from other evidence that a number of other patrols attended that armed robbery also. It may be that this is why SC Nazar and SC Hill were not required to remain for more than an hour. In questioning SC Nazar[19] it was suggested to him that on some occasions when he and SC Hill attended to priority D taskings that evening, they might have returned instead to the Abrahimzadeh address. SC Nazar responded that when officers are on a patrol there are various taskings which are pending. He said:

> 'It's not common practice to just stop taking taskings, whether they're priority As or Bs, to do other inquiries.' [20]

[19] Transcript, pages 328-329
[20] Transcript, page 328

This prompted me to suggest to SC Nazar that in that case a patrol would effectively never have an opportunity to do more than one check on a high risk domestic violence report. SC Nazar responded after some hesitation, by accepting that proposition[21]. It is concerning that, based on the unprompted evidence of SC Nazar, once the first attempt at a priority A tasking for domestic violence offending has been attended, the patrol would be unlikely to re-attend because of the flow of other taskings coming through, including lesser priority taskings. It is also very concerning that one of the tasks at the end of the shift was the cleaning and refuelling of the patrol vehicle. Obviously a patrol vehicle must be refuelled. However, cleaning is clearly a much lower priority than the location of a domestic violence offender such as Ziaolleh Abrahimzadeh.

5.12. On returning to the Elizabeth Police Station SC Nazar and SC Hill completed their paperwork. They updated the PIR investigation diary for the relevant PIRs. Their documentation was then given to Sergeant Murphy for allocation.

5.13. It was conceded by counsel for the Commissioner of Police that the only reasonable conclusion which can be drawn from the evidence of SC Nazar and SC Hill is that attempting to locate an alleged domestic violence perpetrator will not be accorded a high priority in circumstances where the victims are no longer residing at the premises because there is no perceived immediate threat. It was also conceded by counsel for the Commissioner that there is a consistent theme in this and other evidence, to which I will come in due course, that the departure of Zahra and her children from the family home caused the degree of urgency assigned by police to this matter to be less than it otherwise would. It was conceded that although the removal of the victim from immediate danger is an important factor in reducing the imminent risk of harm, it does not of itself result in a victim ceasing to be at high risk under the domestic violence risk assessment documentation and does not diminish the need for a positive and timely response by police.

5.14. Finally I note that SC Hill expressed the opinion in his evidence that at the time of their attendance at the Abrahimzadeh residence he and SC Nazar did the job to the best of their ability. He conceded however that he may have been wrong in that opinion when it was brought to his attention that there was other relevant information within the paperwork they had available to them on the evening, namely the relevant telephone numbers that could have been further pursued. It must not be forgotten that

[21] Transcript, page 329

at this time there was within PIMS a location for Ziaolleh's work address, namely the pizza bar. Had SC Nazar and SC Hill contacted their supervisor, Sergeant Murphy, for further instructions, it is possible that he may have interrogated PIMS and noted the pizza bar address. This would have opened a further line of enquiry for that night and might very likely have resulted in Ziaolleh's arrest.

5.15. As is apparent from the terms of the General Order Domestic Violence cited above, SAPOL recognises the importance of bringing home to a domestic violence offender the notion of accountability for his actions. This was the first occasion after Ziaolleh's violent behaviour in February 2009 that the matter came to police attention. It was the first time that police had an opportunity to exercise their authority in relation to Ziaolleh for his domestic violence behaviour. It was the first occasion on which police could bring to bear upon him the authority of their office and the weight of the law they are empowered to execute. This was the earliest opportunity police had to deal directly with Ziaolleh and to reinforce to him that his behaviour carried with it consequences under the criminal law of the State. Unfortunately, as will be seen in the remainder of this finding, at no time did that message get communicated by police officers to Ziaolleh before his final act of violence towards his wife in March 2010. There were further opportunities for this to occur as will be seen in due course.

6. Sergeant Murphy

6.1. On 24 February 2009 Sergeant Murphy was the supervisor for SC Nazar and SC Hill. It was his role to supervise the patrols and the Elizabeth Police Station. As I have already mentioned, on that night Sergeant Murphy's attention was also occupied by the aggravated robbery which had required the attendance of SC Nazar and SC Hill. Sergeant Murphy was responsible for coordinating the police response to that armed robbery. It may be that this distracted him from other duties. In any event, Sergeant Murphy conceded that he did not review the investigation diaries for either of the Abrahimzadeh PIRs prior to handing them to SC Nazar and SC Hill in hard copy or electronic form. His instructions to them were to review and to follow the matter up. He was not aware of PC Sullivan's entry relating to the pizza bar. Although that information was available electronically, he did not convey that information to the patrol. He agreed that this would have constituted an important line of enquiry had he

and the patrols been aware of it[22]. He agreed that the patrol had not exhausted all lines of enquiry including telephone numbers and the pizza bar address and he agreed that based on the taskings allocated for that shift, SC Nazar and SC Hill could have returned to the Abrahimzadeh residential address[23]. Sergeant Murphy said that it was his usual practice to follow up with patrols attending high risk domestic violence jobs. He believed he may have been distracted by the armed robbery from that practice on this occasion.

6.2. At the end of SC Nazar and SC Hill's shift, Sergeant Murphy did not review the two PIRs when SC Nazar and SC Hill returned them to him. Had he done so, and been dissatisfied with their efforts, he could have required them to return to the Abrahimzadeh's residential address. Instead, Sergeant Murphy merely delivered the PIRs and related materials to the Elizabeth Crime Management Unit for allocation to an investigator.

7. Elizabeth Family Violence Investigation Section

7.1. Senior Constable Hern was working in the Elizabeth Family Violence Investigation Section in the early part of 2009. The evidence shows that the Abrahimzadeh PIRs were allocated to him electronically on 2 March 2009[24]. SC Hern was responsible for the PIRs until 27 April 2009 when he left the Section[25]. Between 2 March and 27 April 2009 the sum total of SC Hern's involvement with the PIRs was as follows:

1) On 30 March 2009 SC Hern made an entry in PIMS as follows:

   'Hern EHFVIS: unable to attend to matter, working on DV high risk case management and PD90 files.'

2) On 27 April 2009, his last day in Elizabeth Family Violence Investigation Section, SC Hern made a further entry in PIMS as follows:

   'Hern EHFVIS: spoke with victim (daughter of accused) Atena. Received information that father (accused) works at Migrant Resource Centre, King William Street Adelaide and THAT PIZZA & BBQ BAR, Waterloo Corner Road, Paralowie. Accused flagged as wanted re 2 x PIR. Victim and family residing in a safe house in the Southern Suburbs, supplied by Crisis Care.' [26]

[22] Transcript, page 395
[23] Transcript, pages 377-378
[24] Transcript, page 434
[25] Transcript, page 435
[26] Exhibit C116d

That was the extent of SC Hern's involvement with the Abrahimzadeh case. SC Hern did accept, for the purposes of disciplinary action that was taken against him by SAPOL, that he could have followed the General Orders in relation to paperwork and data entry better and that he could have done more by way of investigation and attempts to locate and arrest Ziaolleh Abrahimzadeh[27].

7.2. SC Hern's oral evidence was much less accepting of responsibility than might be suggested by his acceptance of those disciplinary charges. For example, he said that at the time he thought that he was putting his work into dealing with the appropriate victims who needed it[28]. He said that the Elizabeth Family Violence Investigation Section had a case management system in which each officer would be allocated domestic violence victims to deal with. That work would involve ensuring the safety of those domestic violence victims, arranging safe houses and so on. The other aspect of the work was the allocation of the PIRs for criminal investigation. SC Hern did not have Zahra and Atena Abrahimzadeh as part of his case management. He only had the PIRs in relation to the criminal offending of Ziaolleh. He noted in response to a question about whether he treated the case as a high risk family violence matter, bearing in mind the high score of 92 accorded the matter by PC Negruk, that he did not. He said:

> 'It wasn't my high risk matter, it was the high risk matter for another officer to deal with.'

And

> 'It wasn't my case management.' [29]

He pointed out that he had the PIRs and Senior Constable Flitton had the case management for Zahra and Atena Abrahimzadeh[30]. He said that as a rule of thumb, officers in Elizabeth Family Violence Investigation Section always concentrated on the case management work allocated to them first in priority to dealing with the criminal aspects of the PIRs[31]. He said that the fact that an officer might have the case management for a particular incident of domestic violence did not necessarily mean that the same officer would have the PIR to deal with. He said that the PIRs were allocated 'across the board'[32].

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[27] Transcript, page 445
[28] Transcript, page 450
[29] Transcript, page 432
[30] Transcript, page 433
[31] Transcript, page 435
[32] Transcript, page 443

7.3. SC Hern acknowledged that the General Orders required that a high risk domestic violence offender should be arrested as soon as possible. He said that:

> 'Hypothetically if I had more time it would have been great to have arrested him and get bail conditions in place.' [33]

On the other hand, he also claimed that all domestic violence risk scores in Elizabeth are high when being asked to acknowledge that a score of 92 is a high score[34]. He was at pains to deflect responsibility and accountability. For example, at one stage in describing his busy workload he made the following remarks:

> '… there was lots of time spent in the front counter, whether it be being yelled at by a victim because you've 'ruined their life' by locking him up; or abuse for not dropping the matter, and we couldn't actually drop the matter, it still had to be presented to court.' [35]

I infer that SC Hern did not enjoy his work in the Elizabeth Family Violence Investigation Section if that passage of evidence is any indication.

7.4. When asked what he did on 30 March 2009 apart from making the PIMS entry referred to above, to make an effort to have Ziaolleh apprehended, he responded that if another officer were to bring up PIMS, for example at a traffic stop, it would become apparent that Ziaolleh was wanted for two aggravated assaults[36]. When it was pointed out to him that this would rely upon Ziaolleh coming to attention of police he responded that he was not assuming that that would happen, and went on to say 'but when someone can't be located that's one of the tools that we use'[37]. This implication that Ziaolleh could not be found was of course completely incorrect. At that time no effort had been made apart from those of the patrols on the night of 23/24 February 2009, to locate him. Indeed it was put to SC Hern that it was not correct to say that Ziaolleh could not be found and he responded that:

> '… if this was the only case that an officer had I'd like to think that we could find him.' [38]

This prompted me to suggest to him that effectively on his evidence about how busy he was at the Elizabeth Family Violence Investigation Section and how busy that Section was generally, the chances of an officer ever having the time to find a

[33] Transcript, page 446
[34] Transcript, page 486
[35] Transcript, page 441
[36] Transcript, page 486
[37] Transcript, page 486
[38] Transcript, page 487

perpetrator of domestic violence were remote. SC Hern was reluctant to accept this[39] and returned to his proposition that the offender 'had disappeared'[40]. Once more, SC Hern was asserting something that simply was not the case bearing in mind that no efforts had been made between 24 February 2009 and 30 March 2009 to arrest Ziaolleh on the PIRs. Unfortunately SC Hern then described the offences disclosed on the Abrahimzadeh PIR as 'it was a kick and a slap'[41] and although he went on to suggest that it was still a horrible thing for a family to go through, when it was pointed out to him that there was more to this event than a 'kick and a slap' he responded that, compared to the other matters that were happening in Elizabeth at the time, other families were at far greater risk[42]. In the end SC Hern seemed to be reluctant to acknowledge that there was any opportunity whatsoever for him between 2 March 2009 and 27 April 2009 to make any effort to locate and apprehend Ziaolleh. When I suggested that in that case it was unlikely that any other offender in the same situation was likely to be apprehended if the workload was the same, he appeared to reluctantly accept that proposition[43].

7.5. It was pointed out to SC Hern that there was on PIMS on 30 March 2009 information that could be used to attempt to find Ziaolleh, including the address of the pizza bar and his home address. It was suggested to him that he could have requested that a patrol attend at either of those places to apprehend Ziaolleh if he was too busy. His response was that could be done 'if patrols were available'. When it was suggested that a patrol would likely be available, he responded in the negative as follows:

> 'No, it's a fairly busy area. To pick up the phone and ask patrols to go do something is pretty unlikely.' [44]

This reinforces my impression that SC Hern was conveying in his evidence that police were so busy, at least in the Elizabeth area, that it was simply not possible from his point of view for police to take any active steps to apprehend Ziaolleh. With a view to pursuing that issue further I asked him about the characteristics that typify domestic violence offenders with a view to establishing whether their behaviour would become worse without positive action against them by the police as contemplated by the General Order Domestic Violence. This led to me enquiring of him whether he could

[39] Transcript, page 487
[40] Transcript, page 488
[41] Transcript, page 488
[42] Transcript, page 488
[43] Transcript, page 490
[44] Transcript, page 491

tell me if he had training around domestic violence that would enable him to describe typical elements that might be found in a domestic violence offender. He responded in the negative. When pressed he offered controlling or overbearing behaviour as likely to be found in such a person. When asked why he offered controlling, he responded 'well that's from my training, that's what we've been told'[45]. I was left as a result of that passage of evidence, and other evidence of SC Hern, with the impression that he did not approach his evidence with a view to assisting the Court and was defensive and resentful. An acceptance of his evidence would lead to the conclusion that from a practical point of view it would have been impossible for SAPOL to have taken any positive action to apprehend Ziaolleh Abrahimzadeh between 2 March and 27 April 2009. If correct, that would be an extremely disturbing state of affairs.

7.6. The ancillary report which was made by SC Hern on 27 April 2009 was not entered by him directly onto the computer system. Instead he made the report in handwriting that was given to a clerical officer for entry into the system. For reasons which were not established, the intention of SC Hern that Ziaolleh be flagged as wanted did not occur. This would not have happened if SC Hern had entered the data directly himself onto PIMS.

8. Senior Constable Flitton

8.1. Senior Constable Flitton's first dealing with the Abrahimzadeh case occurred on the morning of 24 February 2009. On that morning he became aware of the report of domestic violence the previous afternoon by the Abrahimzadeh's at the Salisbury Police Station to PC Negruk. SC Flitton opened a case management system (CMS) running sheet. In February 2009 it was Elizabeth Family Violence Investigation Section's practice to open a CMS running sheet for every high risk domestic violence victim. The intention was to carefully manage the case to ensure that the victim was safe from the perpetrator of the domestic violence and appropriately accommodated in a safe location. The evidence in this case showed that in February 2009 the Elizabeth Family Violence Investigation Section separated the tasks of attending to the victim through the CMS on the one hand, and on the other hand locating and arresting an offender via the PIR. There was a general rule not to allocate PIRs to the investigator associated with the responsibility for the victim under the CMS. This was because, it

[45] Transcript, page 495

was suggested, there was a conflict of interest in one SAPOL member providing support and assistance to a victim of an offence and at the same time investigating whether an offence has been committed. This of course is nonsense as it is common practice in all police work for investigating officers to have close contact with victims but also to investigate the offenders. Evidence given by Detective Sergeant Martin of the South Coast Family Violence Investigation Section showed that her Section had no qualms about assigning the same officer to the tasks of caring for the victims and dealing with the offenders. DS Martin's evidence was that this is the most efficient and practical approach. That is hardly surprising.

8.2. This division of responsibility clearly operated to Zahra's disadvantage in this case. It enabled SC Hern to claim that the Abrahimzadeh family were not his case management (file), as a mitigating factor in his lack of progress in pursuing Ziaolleh for the offences of the PIRs.

8.3. In any event, SC Flitton had dealings with the case management of the Abrahimzadehs as victims. But, on 27 February 2009, SC Flitton became aware that the family had moved into the Port Adelaide Local Service Area. He contacted the Port Adelaide Family Violence Investigation Section to inform them of that fact. On 4 March 2009 SC Flitton was informed by the Port Adelaide Family Violence Investigation Section that Zahra and her children were to attend the Port Adelaide Family Violence Investigation Section to set in train the process of applying for a domestic violence restraining order. SC Flitton had no further involvement with the matter until 7 May 2009 when the PIR for the apprehension and investigation of the offending of Ziaolleh in respect of his daughter Atena was assigned to him. In another example of poor practice within the Elizabeth Family Violence Investigation Section, Zahra Abrahimzadeh's PIR was not assigned as it should have been with Atena's. Instead there was a delay which did not see the allocation of Zahra's PIR to SC Flitton until 2 July 2009. This anomaly had no particular impact on what could have been done in relation to locating and arresting Ziaolleh for his offending behaviour, as that could be pursued on the PIR for Atena. Nonetheless it was indicative of the poor management practices and generally slack administration within the Elizabeth Family Violence Investigation Section of which more will be said later.

8.4. Exhibit C116d[46] and Exhibit C116c[47] can be used to outline the efforts of SC Flitton between his receipt of Atena's PIR on 22 May 2009 and his recommendation that both PIRs be filed because 'the whereabouts of the suspect is currently unknown, and he has been flagged as wanted'[48].

8.5. SC Flitton's first entry on 22 May 2009 records that he had dealt with Atena Abrahimzadeh as a domestic violence victim previously. This is clearly a reference to his dealings with the case in February 2009. His entry erroneously asserted that the Abrahimzadehs were residing in Campbelltown and that the address and contact details were unknown due to the residence being a women's shelter. He then asserted that the current location of the victim was unknown and that he had sent an email to the Eastern Adelaide Family Violence Investigation Section to determine if they knew the current location of Atena Abrahimzadeh and that he is awaiting a reply. Of course, at that time contact details for the Abrahimzadehs were not unknown at all. There were mobile telephone numbers for Zahra, Atena and Arman Abrahimzadeh on PIMS which SC Flitton could have accessed at any time with little or no effort. The evidence of Arman and Atena showed that. Furthermore, he had at all times available to him a mobile telephone contact number for Ziaolleh and work addresses for Ziaolleh at the pizza bar address and the Migrant Resource Centre.

> *This distraction involving Eastern Adelaide Family Violence Investigation Section now occupied a large amount of time and a modest amount of fruitless activity.*

8.6. The next entry was on 1 June 2009 when SC Flitton recorded that he had not received a reply from Eastern Adelaide Family Violence Investigation Section. Then, on 6 June 2009, he recorded that there will be no attention paid to the file between 7 June 2009 and 17 July 2009 because he will be attending courses and having annual leave. The next entry is recorded on Exhibit C116c as 19 June 2009. The corresponding entry on Exhibit C116d is 19 July 2009 which is the correct date. SC Flitton confirmed that his entry for 19 June 2009 in Exhibit C116c should read 19 July 2009. This is yet another example of poor administration, poor record keeping and inattention to detail. The entry recorded that he had sent an email to Eastern Adelaide Family Violence Investigation Section to seek contact details for the victim.

[46] The PIR for Zahra Abrahimzadeh
[47] The PIR for Atena Abrahimzadeh
[48] See both Exhibits C116c and C116d

Presumably the lack of a response from Eastern Adelaide Family Violence Investigation Section was a reflection of the fact that SC Flitton's idea that the family were in the Eastern Adelaide Local Service Area was incorrect. Again this entry implied that contact details of the victims are unknown. Once again this is simply untrue as SC Flitton had available to him relevant phone numbers which he clearly did not access or use.

8.7. The next entry was on 28 July 2009 when SC Flitton recorded a further fruitless attempt to obtain information from the Eastern Adelaide Family Violence Investigation Section in pursuance of his wrongheaded approach.

8.8. On 5 August 2009 SC Flitton noted that he had not had a reply from Eastern Adelaide Family Violence Investigation Section to locate the victims. Refreshingly, he adopted a new initiative and checked the SAPD database which had an address in Royal Park. He recorded that he attended the address and in the absence of anyone being present, left a calling card for the resident to call him. Inexplicably, he did not use this time more constructively to telephone the numbers for the three victims, all of which were still available to him.

8.9. SC Flitton's next entry was on 13 August 2009 when he recorded that there was still no reply from Eastern Adelaide Family Violence Investigation Section or from leaving the calling card. This is not surprising as by then the family had moved from the address in Royal Park to another address in Brooklyn Park.

8.10. On 14 August 2009 SC Flitton recorded an anticipatory lack of attention to the file because between that date and 24 August 2009 he would have rostered days off and be attending a course. His next entry was on 24 August 2009 when he recorded a further attempt to get 'them' to provide him with a location for the victim. No doubt the Eastern Adelaide Family Violence Investigation Section might have been wondering why it was that this officer from Elizabeth was so persistently seeking from them details about a victim who was not, and never had been, part of their jurisdiction. In any event, on 28 August 2009, no doubt despairing of SC Flitton's persistent emails, the Eastern Adelaide Family Violence Investigation Section made enquiries which could have been made by SC Flitton all along, which revealed that the victims were living in the Western Adelaide Local Service Area and were being looked after by the Western Domestic Violence Service. The Eastern Adelaide

Family Violence Investigation Section informed SC Flitton of that with the suggestion that he contact the Western Domestic Violence Service. This he decided to do. I can only observe that it must have been a relief for Eastern Adelaide Family Violence Investigation Section to have been relieved of further contact with SC Flitton thereafter.

8.11. Two weeks later on 11 September 2009 SC Flitton contacted Western Domestic Violence Service and they agreed that they would attempt to locate the victims and advise him of their location. On 12 September 2009 the Western Domestic Violence Service contacted SC Flitton and informed him that they had been in touch with the victim and would request that she contact him. On 22 September 2009 SC Flitton again made contact with Western Domestic Violence Service, presumably because he had not heard from the Abrahimzadehs. On that day SC Flitton ascertained from Sandra Dunn of the Western Domestic Violence Service that the family were residing in private rental accommodation in Brooklyn Park. Ms Dunn said that she would ask the family to contact SC Flitton. Of course, as I have already noted, during all of this period SC Flitton had access to the mobile telephone numbers of Zahra, Atena and Arman Abrahimzadeh.

8.12. On 30 September 2009 SC Flitton made the following entry in the records:

> 'Received call from victim this date. She received the message from Central Domestic Violence Service. Victim said that she would like matter proceeded with and suspect dealt with. Victim also stated that the family is currently going through divorce proceedings and the suspect is continually harassing the victim to stop this from occurring. Family Court have been advised of this harassment. Victim does not know where suspect lives as he has moved out of the Hillbank residence. SAPD and PIMS checks reveal either 8 Amsterdam Crescent, Salisbury Downs or 20 Robert Court, Para Hills as being two possible addresses. Attended both addresses this date and spoke to occupants. They have not heard of suspect or any of his family.'

8.13. SC Flitton made a further entry on 30 September 2009 in which he wrote that considering the whereabouts of the suspect 'is currently unknown' and that he had been flagged as 'wanted', he suggested that the PIR be filed pending the suspect being located and, when located, the suspect should be spoken to about the matter. That was SC Flitton's last involvement with the PIRs.

8.14. As I have noted, throughout this period SC Flitton had mobile telephone numbers for Zahra, Atena and Arman Abrahimzadeh. Furthermore, the case management system

at Elizabeth Family Violence Investigation Section indicated that the Abrahimzadehs had moved to the Western Adelaide Local Service Area, a fact that SC Flitton presumably knew because of his earlier dealings with the matter. PIMS also contained information indicating that a domestic violence restraining order application had been made at Port Adelaide and interim orders obtained. SC Flitton did not contact the Port Adelaide Local Service Area in order to locate the Abrahimzadehs. Instead he persisted in his erroneous belief that they were to be found in the Eastern Adelaide Local Service Area and hence continued to harass the Eastern Adelaide Family Violence Investigation Section for information he himself could have obtained.

8.15. In his oral evidence, SC Flitton said that he did note that the PIRs contained mobile telephone numbers for the three Abrahimzadeh victims. He was asked if he had telephoned those three mobile telephone numbers and, somewhat unconvincingly, said that he believed that he did, or that presumably he did, or that possibly he did[49]. In each case he conceded that he made no record of having done those things. He had to acknowledge that because there is indeed no such indication in any of his entries in the PIRs. I do not accept his evidence that he would have contacted them, and indeed he conceded it was possible that he did not[50].

8.16. Furthermore, he acknowledged that he saw the telephone number for Ziaolleh and suggested in his evidence[51] that he made no entry about it but that he would have telephoned Ziaolleh's mobile number. I think it unlikely that he did.

8.17. Remarkably, SC Flitton gave evidence that when he attended the two addresses on 30 September 2009 looking for Ziaolleh, he did not ascertain the identities of the occupants who told him that Ziaolleh was unknown to them. Had he done so, it would have been apparent that he was speaking to, at least in one instance, close family members of Ziaolleh. It would have been far more difficult for them to deny any knowledge of Ziaolleh if SC Flitton had bothered to ascertain their identities. This is suggestive of a desultory and half hearted attempt to locate Ziaolleh. In my opinion it does not represent a serious effort to investigate serious criminal behaviour. SC Flitton was disciplined for his part in this tragic saga. In my opinion his conduct was deserving of censure.

[49] Transcript, page 536
[50] Transcript, page 592
[51] Transcript, page 538

8.18. SC Flitton was asked why he did not attend the pizza bar address as recorded in the PIRs. He responded:

> '… generally we did not attend workplaces. It wasn't a hard and fast rule, but we preferred not to.' [52]

When asked why this was so, he responded:

> 'Mostly to avoid embarrassment on behalf of the suspect. Often we would deliver restraining orders, it might mean their job, embarrassment, no more employment for them, so we did try and avoid it.' [53]

8.19. SC Flitton accepted that in reality that was the wrong approach[54]. SC Flitton accepted that he had not exhausted all lines of enquiry when he suggested the PIRs be filed and acknowledged that in particular he could have distributed an intelligence circular throughout the Elizabeth Local Service Area and that he could have applied for a warrant of apprehension[55]. He accepted that a warrant of apprehension would result in more active efforts being put into place by police to apprehend the offender than merely flagging him as a wanted suspect[56].

8.20. SC Flitton acknowledged that when he spoke to Atena on 30 September 2009 she told him that there had been ongoing threats against the family by her father, Ziaolleh. He accepted that he should have investigated that issue further because it represented further criminal charges including breaches of the restraining order that he was aware of having been put in place at that time[57].

8.21. Towards the end of SC Flitton's evidence I asked him if he genuinely and conscientiously believed as at 30 September 2009 that he had exhausted all lines of enquiry and he responded that at the time he did. I asked him how he could reach that state of satisfaction when the evidence staring him in the face was to the opposite effect, and he responded:

> 'Well, at the time, I did the best I could and I thought I was doing the best job that I could at the time and - ' [58]

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[52] Transcript, page 524
[53] Transcript, page 525
[54] Transcript, page 564
[55] Transcript, pages 567-570
[56] Transcript, pages 571-572
[57] Transcript, page 575
[58] Transcript, page 589

When I asked him if he thought it was wrong for me to suggest that there were other options that were staring him in the face, he said:

> 'No, not at all, because there clearly was.' [59]

In my opinion it is impossible to reach any other conclusion than that SC Flitton was derelict in his duties. Ziaolleh Abrahimzadeh was accused of serious criminal conduct. It is the duty of a police officer to arrest and apprehend people for serious criminal conduct. The efforts made by SC Flitton in this case were desultory, ineffective and demonstrated a lack of regard for the duty imposed upon police officers to apprehend people for criminal offending. The South Australia Police website and all official publications contain the slogan 'South Australia Police Keeping SA Safe'. The efforts of SC Flitton in his task of pursing the PIRs against Ziaolleh make a mockery of that slogan.

9. Detective Sergeant Webber

9.1. Detective Sergeant Webber was the Officer in Charge of the Elizabeth Family Violence Investigation Section. He supervised SC Hern and SC Flitton. He was assisted in his supervisory duties by Senior Constable Coleman, formerly McElroy. There was some confusion and inconsistency between the evidence of DS Webber and SC Coleman in relation to the duties DS Webber had assigned and delegated to SC Coleman. I will come to that in due course. Generally speaking I found that DS Webber's evidence was helpful and candid, but having heard him I do have reservations about his effectiveness and abilities as a supervisor.

9.2. DS Webber gave evidence that the workloads in the Elizabeth Family Violence Investigation Section were 'overwhelming' and as a result he decided to find ways to delegate some of his tasks[60]. He said that he delegated what he described as 'simple victim contacts on their own'[61], by which he meant cases where an offender had been arrested or reported, or cases of a domestic abuse report with no offence disclosed. In those cases he considered that he was not required to deal with them personally and delegated those to SC Coleman.

[59] Transcript, page 589
[60] Transcript, page 608
[61] Transcript, page 608

9.3. DS Webber said that he informed the Crime Management Unit at Elizabeth that all offence PIRs where there was an offender or suspect still outstanding should be referred to him rather than to SC Coleman[62]. DS Webber said in evidence that the two PIRs for Zahra and Atena should have come to him and not to SC Coleman in accordance with the system he had put in place[63]. He said that was because the PIRs disclosed aggravated assault and the offender had not been arrested. Therefore it was not just a victim contact matter, but was an investigation that should have come through him[64].

9.4. DS Webber was asked about the entry dated 30 September 2009 in the Abrahimzadeh PIRs recommending that they be filed[65] and said that he had not seen them before they were filed and that he absolutely ought to have seen them before a decision for filing was made[66].

9.5. DS Webber explained that the authority he had given to SC Coleman, limited as it was, could not be limited by means of the computer system. He said that if he gave a person supervisory rights on the system, their rights would extend to the whole matter. Thus, in delegating the management of victim contact to SC Coleman, DS Webber was actually giving her the ability to file other matters such as the Abrahimzadeh PIRs. He reinforced however that that was not within his instructions to SC Coleman[67].

9.6. DS Webber's evidence was that at the other end of the process, where PIRs were to be closed or sent for filing, it was his expectation that he would see all of them, not merely the ones in the category that he had instructed should initially go to him rather than to SC Coleman. Thus, although when the PIRs came into the section DS Webber's interest was in the PIRs where an offender was outstanding, when the file was closed he wished to see all of the PIRs, including those where an arrest had been made and the offender was not therefore 'outstanding' when the PIR came in for allocation initially[68].

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[62] Transcript, page 610
[63] Transcript, page 611, 631
[64] Transcript, page 612
[65] Exhibits C116c and C116d
[66] Transcript, page 616
[67] Transcript, page 616
[68] Transcript, pages 622, 651-652

9.7. DS Webber explained that the very reason he wanted to see all PIRs prior to filing was because of the very heavy workloads in the section and the possibility that errors may have been made[69]. As I have said, he confirmed that he had not seen the Abrahimzadeh PIRs prior to them having been filed and went on to say that he had no doubt that he would not have agreed to them being filed because there were further lines of investigation to be pursued, namely the work addresses for Ziaolleh which had not been checked. He disagreed with the assertion by SC Flitton in the entry dated 30 September 2009 that the whereabouts of the suspect was unknown. It was DS Webber's position, which must be accepted as a matter of commonsense, that that assertion could not be made if the work addresses had not been checked[70].

9.8. In relation to SC Flitton's assertion that there was a convention or policy not to attend a suspect's work address, DS Webber said that there was certainly no rule against attending at a work address. He said that it would be his preference that officers not jeopardise a person's employment and thus would prefer that a person's work address not be attended unless necessary. He would normally expect his staff to make contact with a suspect and request that they attend a police station. However, if a suspect were not cooperative in that respect he would have no hesitation in attending the offender's work address[71]. He went on to say that it is his experience that some 30% to 40% of suspects are actually prepared to attend the police station for an interview about assault allegations[72]. It remains a matter of speculation whether Ziaolleh would have been prepared to attend at the police station for interview because he was never contacted and requested to do so. DS Webber acknowledged that he was disciplined as a result of his part in this matter. He said that the basis of the disciplinary action predominantly related to the delegation he had given to SC Coleman and the fact that it had not been set out in writing[73].

9.9. Very concerningly, DS Webber gave evidence about the heavy workload at Elizabeth. He described the workload as generally being extreme[74]. For example, in the first six months of 2009 the Elizabeth Family Violence Investigation Section received 180 high risk cases[75] and on some days as many as seven would come in at once. He said

[69] Transcript, page 622
[70] Transcript, pages 622-623
[71] Transcript, page 623
[72] Transcript, page 624
[73] Transcript, page 625
[74] Transcript, page 625
[75] Transcript, page 626

that each of these cases could require a considerable amount of work[76]. He said that in 2009 he absolutely rejected the proposition that he had sufficient staff resources to perform this work[77]. He said that at one point he had 55 open high risk cases and only two officers. He said it was just 'absolutely mission impossible'[78]. He said that as a result of this it was necessary to deal with the high risk victims first and this did not leave much room for anything else[79].

9.10. DS Webber said that he was transferred from the Elizabeth Family Violence Investigation Section to the Holden Hill Family Violence Investigation Section in 2011. His understanding of the present resourcing of the Elizabeth Family Violence Investigation Section is that they have two additional staff beyond those he had in 2009[80]. In summary DS Webber said that the family violence work had grown 'exponentially' and that he found it very difficult to manage both the child abuse aspect and the domestic violence aspect of the work. He repeated his assertion that it was 'basically mission impossible' and said that he complained 'pretty incessantly' about workload. He expressed the view that it was necessary to have separate supervisors for the child abuse side of the work from the domestic violence side of the work[81].

9.11. DS Webber acknowledged that the General Orders require that PIRs that are open for 28 days or more must be reviewed by the supervisor, in this case that would have been him[82]. He acknowledged that he did not perform 28 day reviews while he was at the Elizabeth Family Violence Investigation Section. His explanation was that he was not aware of the requirement because he had not read the General Orders in that regard[83]. Needless to say that is a concerning admission. Indeed, he acknowledged that the two Abrahimzadeh PIRs had not been reviewed at all in the months between March and September 2009 when they were in that section, and he acknowledged that none of the PIRs were reviewed by supervisors on the 28 day basis during that period[84].

[76] Transcript, page 626
[77] Transcript, page 626
[78] Transcript, page 626
[79] Transcript, page 627
[80] Transcript, page 627
[81] Transcript, page 628
[82] Transcript, page 652
[83] Transcript, page 653
[84] Transcript, pages 656-657

9.12. DS Webber acknowledged that it was one of his responsibilities to ensure that PIRs were correctly vetted for filing. He was not aware that some PIRs were not going through him[85].

9.13. In relation to the matter of resourcing, DS Webber described his role of ensuring that appropriate resources were deployed within the section as one of his 'lofty goals'[86]. The cynicism inherent in that remark was not typical of his evidence. However, his evidence was consistent that the workload was excessive and that he drew that to the attention of those senior to him on many occasions, both orally and in writing[87]. He did obtain a response from his Detective Chief Inspector on the matter of staff, to the effect that he would not get any more staff[88]. One of the suggestions that DS Webber made was that the task of serving domestic violence restraining orders should not be undertaken by his section, but by the Enquiries Section and that that was the process adopted by other Local Service Areas. He was not successful in securing that reform either[89]. DS Webber said that increase in the volume of the work handled by the Section was not matched by any growth in resources[90]. Indeed, he went so far as to say that it was a realistic possibility that in the period that SC Hern was responsible for the Abrahimzadeh PIRs, he might not have been able to find five minutes to make a phone call in respect of those PIRs[91]. If that assertion were really true, it might be of some assistance to SC Hern in this matter, but would certainly be damning of the Elizabeth Family Violence Investigation Section.

9.14. DS Webber, when interviewed by the Internal Investigations Branch[92], raised the issue of why the patrol that served Ziaolleh with the domestic violence restraining order did not deal with the outstanding assault PIR arrest at that point, and expressed the opinion that he had expected that that might have happened. In evidence he said that if a police officer is asked to serve a domestic violence restraining order he would have thought it would be standard practice to check PIMS to see if the person was not wanted for any other offences. He said:

> 'So I would have thought you would check that and know that information.' [93]

[85] Transcript, page 659
[86] Transcript, page 658
[87] Transcript, page 660
[88] Transcript, pages 661-662
[89] Transcript, page 662
[90] Transcript, page 715
[91] Transcript, page 677
[92] Exhibit C51b
[93] Transcript, page 739

10. Senior Constable Coleman

10.1. SC Coleman started work in the Elizabeth Family Violence Investigation Section in January 2008. She had been in the Section for more than a year when she came to deal with the Abrahimzadeh PIRs. She had no training for the position she was going into at the Elizabeth Family Violence Investigation Section[94]. She said that when PIRs came into the Section it was her job to review the PIRs and allocate them to investigating officers in the unit[95]. She said that her instructions as conveyed to her by DS Webber were that she was to allocate PIRs involving minor indictable and lesser offences. PIRs disclosing more serious offending than that were to go through DS Webber[96]. She agreed that PIRs were referred to the Section from the Crime Management Unit and said that she would allocate work to the investigators according to their workload. It was her evidence that she was not required, nor was it her practice to discuss high risk victims with DS Webber[97]. When it came to finalising PIRs she said that an investigating officer would place the file in her basket, she would review the PIR and then send it through to the Crime Management Unit, either to be filed or for further investigation in another section[98]. She said that in that process she would be carrying out the function of 'vetting' the file[99]. She said that sometimes the Crime Management Unit would send files back to her saying that some aspect of the matter should be followed up or further pursued[100]. She said that the only categories of PIR that she would not be authorised to vet for filing were those when an offender had been reported or arrested[101]. However, the fact that a PIR victim was high risk was not a factor that would preclude her from vetting the PIR for filing[102]. SC Coleman said that major indictable PIRs in which there had not been a report or arrest would not be dealt with by her for vetting or filing. Instead they would go through DS Webber[103].

10.2. SC Coleman agreed that she had dealt with the Abrahimzadeh case in February 2009 when she returned one of the PIRs to PC Negruk. She also allocated the PIR for Atena Abrahimzadeh to SC Hern in March 2009.

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[94] Transcript, page 998
[95] Transcript, page 998
[96] Transcript, page 999
[97] Transcript, page 1007
[98] Transcript, page 1008
[99] Transcript, page 1008
[100] Transcript, page 1008
[101] Transcript, pages 1008-1009
[102] Transcript, page 1009
[103] Transcript, page 1012

10.3. SC Coleman acknowledged that on 7 October 2009 she accepted SC Flitton's recommendation that the Abrahimzadeh PIRs be filed and sent through to the Crime Management Unit and she made an entry on the PIRs accordingly. Although she had no memory of dealing with it at the time when giving evidence, she said that it appeared that she had based her decision to send the PIRs for filing on SC Flitton's entry of 30 September 2009. She said that her usual practice was to review the PIR to see that all investigation opportunities had been exhausted[104]. She acknowledged that the information in the PIR relating to Ziaolleh's work addresses revealed that there were lines of enquiry that had not been exhausted and that she had either not reviewed the PIR adequately, or had not appreciated the significance of that information[105].

10.4. SC Coleman said that in 2009 she was not aware of the General Order that required that all PIRs have an entry made in them at least once every 28 days[106]. SC Coleman said that as a result of her dealings with the Abrahimzadeh PIRs she was the subject of disciplinary action involving managerial guidance[107].

10.5. SC Coleman was questioned about the workload within the Elizabeth Family Violence Investigation Section. She accepted DS Webber's description of the workload as extreme and added that at times it was 'ridiculous'[108]. As to his suggestion that the task was 'mission impossible', she said that there were times that they were very busy and probably could not do the work justice. She also said that the volume of work was such that it could not be adequately performed by the staff available[109]. SC Coleman was cross-examined by counsel for DS Webber as to her different view of the tasks delegated to her by him than DS Webber's. She did not agree with the propositions that DS Webber had instructed her only to allocate standard and medium risk PIRs where an offender had already been reported or arrested by patrols before the matter arrived at Elizabeth Family Violence Investigation Section. She disputed that DS Webber had said that he was to deal with such matters and said that all reports came through her except for anything above minor indictable offences[110].

[104] Transcript, page 1022
[105] Transcript, page 1024
[106] Transcript, page 1027
[107] Transcript, page 1031
[108] Transcript, page 1034
[109] Transcript, page 1035
[110] Transcript, page 1063

10.6. As to the vetting end of the process, SC Coleman agreed with DS Webber's evidence that she was not to vet or review PIRs involving offenders who had been arrested or reported by the Elizabeth Family Violence Investigation Section or one of its officers[111]. She disputed that DS Webber had told her that he wanted to oversee all high risk domestic violence cases[112]. SC Coleman disputed that DS Webber had told her that he was to vet PIRs where a suspect had not been arrested because they had not been found and she disputed that she had assumed more responsibility than DS Webber had delegated to her[113]. She said that she was surprised that SC Flitton had said that he placed the Abrahimzadeh reports in DS Webber's basket for vetting rather than hers[114].

10.7. SC Coleman acknowledged that her decision to forward the Abrahimzadeh PIRs to the Crime Management Unit for filing were wrong[115]. She accepted that her vetting process was insufficient and did not in fact constitute vetting. She accepted that she was not qualified for the role of vetting the PIRs and that she had not understood at the time she was doing the work that she was not qualified for it. She had only come to that appreciation as a result of being questioned about the matter later[116].

10.8. <u>Conclusion as to allocation system in Elizabeth Family Violence Investigation Section</u>
It is apparent from the evidence of DS Webber and SC Coleman that there is a dispute about this matter. DS Webber's position was that SC Coleman was only to allocate PIRs requiring simple victim contact. His position was that he would allocate all PIRs disclosing an offence where an offender or suspect were still outstanding in that the patrols had not reported or arrested the suspect. By contrast, it was SC Coleman's evidence that she had the responsibility to deal with all offence PIRs up to and including those disclosing minor indictable offences.

10.9. DS Webber's directions to SC Coleman were not written down. It is therefore impossible to resolve the dispute between them authoritatively. Perhaps the fact that the Crime Management Unit was regularly sending PIRs to SC Coleman that were outside the limitations claimed by DS Webber to have been imposed suggests that she

[111] Transcript, pages 1064-1065
[112] Transcript, page 1064
[113] Transcript, page 166
[114] Transcript, page 1067
[115] Transcript, page 1076
[116] Transcript, pages 1042 and 1091

is more likely to be correct in this than he. In the result it is not necessary for me to resolve the dispute. I comment only that the existence of the dispute was in itself a systems failure and that, in all probability, had the system worked properly with the PIRs going to DS Webber, they would have been returned for further investigation. That may have prevented Zahra's tragic death and is therefore a matter of great concern. On any view, DS Webber was responsible for ensuring that his directions to SC Coleman were written and clear. Furthermore, he was responsible for ensuring that they were duly complied with. It is more than regrettable that he did not do any of those things.

11. The Abrahimzadehs and the SAPOL Call Centre

11.1. There were three occasions on which the Abrahimzadeh family had occasion to deal with the SAPOL call centre on the number 131 444. I will deal with them in chronological order.

11.2. The first occasion was in the early hours of the morning of 26 February 2009. This was only just over 24 hours after the family's initial report at the Salisbury Police Station against Ziaolleh Abrahimzadeh.

11.3. It was the evidence of Atena that this was the first night in the domestic violence safety house. Unfortunately, the electricity had not been connected. Atena said that there were noises and her mother had a panic attack when they could not turn on the lights. Atena took her mother in a car to find a police station and in the meantime she rang 131 444. It was her hope that she would be able to take her mother to a police station where she would feel safe. She was told that that would not be able to happen and accordingly they went back to the safe house, electricity or no electricity. Atena said in evidence that she was disappointed that they could not go to a police station and thought that the person she spoke to on 131 444 simply did not understand how fearful she and her mother were. She said that her mum was terrified.

11.4. A transcript of that telephone call was admitted as Exhibit C120 and I set out the relevant portions hereunder:

'Operator: Good morning, SA Police.

Atena: Hi, we've been placed in a domestic, in temporary housing from Domestic Violence Services but the house doesn't actually have

electricity to it and we're really, really, really afraid because we're scared of my dad. We got a restraining order against him but every time a noise, there's a noise we get scared. I'm actually, I drove to the Henley Beach Police Station just to maybe sleep here or something for the night but there's no one there, like the office is closed.

Operator: That's right.

Atena: Yeah, so we were just thinking is there any other police station around we can go in because my mum doesn't feel safe at all in that house because it's really dark and there is no electricity for the night.

Operator: Who placed you there?

Atena: Domestic Services people. They thought that –

Operator: You need to take that up with them tomorrow. You can't sleep in the police station.

Atena: I know but it's just because, honestly we have gone out a few times by now my mum was about to have a heart attack every time there was noise.

Operator: I'm sorry, what? –

Atena: She's crying and –

Operator: What do you want me to do?

Atena: I just called up, I don't know if there's any police station that we can just go to for the night, that's all.

Operator: You can't stay at a police station for the night unfortunately. I suggest you try going to a hotel or call Crisis Care.

Atena: Okay, call Crisis Care. Alright, I'll try and do that, thank you. Bye.'

11.5. Superintendent James-Martin was the Officer in Charge of the call centre in 2009. He was called to give evidence in this case and I will return to his evidence and his responses about the performance of the call centre later in this finding. For the moment, I simply note that his response to the way that the operator handled this call from Atena is that it was unacceptable. He explained his reason for that conclusion as follows. He said that it was clearly evident that there was a person who was traumatised by a situation and that if nothing else, it would have been appropriate to send a patrol to the person to make an assessment and call in other agencies if they needed to. It was totally unacceptable to respond by directing the person to call Crisis Care under these circumstances[117].

11.6. The next occasion on which the Abrahimzadeh family interacted with the SAPOL call centre was on 15 May 2009. On that day Zahra had seen her brother-in-law, that is Ziaolleh's brother, sitting outside the safe house in a car. Arman Abrahimzadeh

[117] Transcript, page 959

contacted Sandra Dunn of the Central Domestic Violence Service and she in turn rang the police call centre on 131 444 to inform them of this information. She said that Zahra was absolutely petrified of Ziaolleh's family. A transcript of the telephone call from Ms Dunn to the call centre was admitted[118]. It shows that the call took place at 1635 hours. I will refer to the relevant parts of the call.

11.7. Ms Dunn introduced herself as Sandra calling from the Central Domestic Violence Service. She then explained to the operator, who was revealed by subsequent investigations to be an administrative officer employed in the call centre, Kelly Van Dongen, that she was 'just wanting to flag this with you guys'. She then went on to refer to the address of one of the Domestic Violence Service properties where she said a Persian woman and her two young adult children and her 11 year old child were living. She informed the operator that the woman had walked out the front of the house to pick her daughter up from school and 'her brother-in-law and two other men were sitting opposite the property in a car'. Ms Dunn said that Zahra did not get the number plate because the car drove off and then said that she was 'just flagging this with you 'cos this woman is petrified that she's gonna be killed'. At that point Ms Van Dongen responded by saying 'Alright. I mean we don't have any control here about flagging a certain address'. She then said that she would speak to her Sergeant to find out what the correct procedure was and the call was briefly interrupted while that happened. Upon Ms Van Dongen returning to the call she asked if Zahra had made previous reports to the police. Ms Dunn responded that Zahra had actually obtained a restraining order and had made reports to the police. The operator then repeated that at the call centre 'we don't deal with flagging of any addresses here' and then apparently looked up the details of the restraining order. She then attempted to put Ms Dunn through to the Port Adelaide Police Station, explaining that that was the part of SAPOL that was dealing with the case. But she was unable to put the call through. After a couple of attempts the call was terminated with Ms Van Dongen recommending that Ms Dunn telephone the Port Adelaide Police Station to report the matter there.

11.8. At 1710 hours[119] there was a further telephone call to the SAPOL call centre from Arman Abrahimzadeh[120]. In this call Arman also spoke with Ms Van Dongen,

[118] Exhibit C119
[119] That is, approximately half an hour after the call by Ms Sandra Dunn
[120] Exhibit C114a

presumably by coincidence. After explaining to Ms Van Dongen that his mother had a restraining order against his father, and his father's brother had found the accommodation, he asked what should they do. At that point Ms Van Dongen realised that she was dealing with the same subject as had been raised by Ms Dunn earlier. She said that she had already spoken to the domestic violence person. She then informed Arman that it would be possible for a patrol to come around at the time when such an event occurs and have a look to see if they could locate the vehicle. I do not take this to be a suggestion by Ms Van Dongen that she could dispatch a patrol at that time. She then went on to say that the event as described to her did not amount to a technical breach of the restraining order but then, confusingly, added that there might be a case. She asked if the order had anything to do with harass, intimidate or threaten in its wording. A vague conversation ensued and Ms Van Dongen then said 'there might be something in the restraining order that he may have broken'. She then said that because the restraining order was obtained by the Port Adelaide Police Station that Arman should ring the Port Adelaide Police Station and see whether there was a breach of the order. Ms Van Dongen then gave Arman the telephone number to call that station. She said that in the event that a similar episode occurred in future, to get Zahra Abrahimzadeh or someone on her behalf to make contact with the police so they could get a patrol there. The call terminated shortly thereafter.

11.9. I heard from Ms Van Dongen, two police officers, Senior Constable Southall and Senior Constable Collier, both of whom were supervisors in the call centre on the night of 15 May 2009 and finally, as I have already mentioned, from Superintendent James-Martin who was the Officer in Charge of the call centre in 2009, although he was not personally involved in any of these events.

11.10. Ms Van Dongen said that she did not have an independent recollection of the call from Ms Dunn. She said that when she took the call she interpreted it to mean that Ms Dunn wanted a specific notation on the address for patrols to be aware of. She was asked whether when she consulted her supervisor after the initial part of the conversation, she would have told the supervisor that the report was to the effect that the brother-in-law had been sitting in a car at the property and that the victim was in

fear of her life. Ms Van Dongen said that she did not believe that she did pass that information on because she was directing her attention to the concept of flagging[121].

11.11. Ms Van Dongen accepted that a correct application of the relevant General Orders at the time would have led to her dispatching a patrol to the address[122]. However, she also said that it was her belief that most other operators in the call centre would have acted as she did and would have referred the caller to a police station to report the matter[123]. Ms Van Dongen did not regard the second call from Arman as indicating that the matter might be more serious than she first thought when speaking to Ms Dunn[124]. Ms Van Dongen did not think that it registered with her that Ms Dunn was saying that Zahra was petrified of being killed. She said:

> 'We get calls sometimes from people saying the same thing. Whether or not that is accurate or not we don't have any indication, we take the information that's offered to us and assess the call at the time and go from there.' [125]

This was, to say the least, a blasé response. Confusingly, Ms Van Dongen immediately acknowledged to the examiner that she nevertheless accepted that this was a genuine domestic violence call and repeated that she overlooked the most alarming piece of information 'because I took the word "flagging" into account'[126].

11.12. For my part I find it utterly bizarre that any reasonable person listening to Ms Dunn's call could have interpreted it as a piece of police jargon requesting that a particular address be flagged. Ms Van Dongen explained to the Court that the concept of 'flagging' was to flag an address with a warning or some important information about the address so that if patrols attended at that address they would have that information available to them[127]. She added that the procedure of flagging an address is something that is not done by the call centre. It is in fact done by a Domestic Violence Unit in a police station[128]. How Ms Van Dongen or anyone else could have assumed that a civilian caller such as Ms Dunn was requesting that a particular administrative procedure, internal to SAPOL, should be undertaken, is a mystery to me. To begin with, Ms Dunn was clearly not a police officer. She clearly did say that she wanted to

[121] Transcript, page 803
[122] Transcript, page 817
[123] Transcript, page 820
[124] Transcript, page 824
[125] Transcript, page 826
[126] Transcript, page 826
[127] Transcript, page 802
[128] Transcript, page 802

'flag this with you guys' and then went on to speak about a property belonging to the Domestic Violence Service at which the Service had a woman who had just walked out the front and 'seen her brother-in-law and two other men sitting opposite the property'. Ms Dunn then said she was 'just flagging this with you because this woman is petrified that she's going to be killed'. From all of that Ms Van Dongen managed to reach the conclusion that she was being asked to carry out an internal police procedure because Ms Dunn used the word 'flagging', even though she did not specifically say that she was asking that a particular address be flagged.

11.13. It is true that she said that she wished to flag an issue with the police, and furthermore that she mentioned a particular address to which the issue related. I am at a loss to understand how Ms Van Dongen could construe the message as being about internal police jargon when it was not coming from a police officer or other SAPOL employee. In saying that, I would add that I did regard Ms Van Dongen as a genuine witness who was not attempting to mislead the Court. However, that simply means that she made a serious and inexplicable mistake. Furthermore, she added that she thought that any of the other operators would have done the same thing. That is gravely concerning.

11.14. I also heard evidence from the two Senior Constables who were supervising on that shift. The first was Senior Constable Southall. It was SC Southall's evidence that when she initially listened to the recording of the call (in preparation for her evidence) the impression she had was that Ms Dunn wanted to have the address 'flagged'. She said that this was because the caller was from the Domestic Violence Service but if it had been a member of the public she said that it might have been different[129]. By contrast, the fact that Ms Dunn identified herself as being with the Domestic Violence Service was not a matter of significance to Ms Van Dongen[130]. In any event, it was SC Southall's position that Ms Van Dongen needed to ask more questions of the call taker and get more information[131]. In particular SC Southall would have wanted to explore whether there had been a breach of the restraining order[132].

[129] Transcript, page 838
[130] Transcript, page 825
[131] Transcript, pages 838-839
[132] Transcript, page 839

11.15. It was SC Southall's initial reaction when interviewed for the purposes of the coronial investigation[133] that Ms Van Dongen dealt with the call appropriately. She was asked if that remained her evidence and she confirmed that it did, saying that Ms Van Dongen had assisted the domestic violence worker who wanted to flag an address and Ms Van Dongen assisted her with that[134]. That passage of evidence was the subject of further examination of SC Southall. She was asked if it was still her evidence that on a careful examination of the words used by Ms Dunn that she was actually ringing to flag an address. SC Southall then changed her position and agreed that that was not the effect of Ms Dunn's request. She agreed that it was a bizarre interpretation and she would not have interpreted Ms Dunn's request in that way[135].

11.16. SC Southall accepted that administrative officers such as Ms Van Dongen are not equipped with appropriate knowledge to ask the questions that a police officer would in that situation[136], adding that she thought there is a lack of training[137]. She also said that there is pressure on the administrative officer call takers to get through calls quickly[138]. She said that there are benchmarks they are expected to comply with. 90% of the calls are to be answered within 10 seconds and calls are meant to be completed within 5 minutes and 40 seconds during which the operators need to answer and complete the calls[139].

11.17. Senior Constable Collier was the other person on duty as a supervisor that afternoon. By contrast with SC Southall, SC Collier stated that when she reviewed the transcript of the telephone call it was her interpretation that Ms Dunn was calling to let SAPOL know about something that had happened[140]. She noted that instead the call had been interpreted as a request that a particular address be flagged[141]. She said that there was a need for more information to be obtained from the caller including how recently the vehicle had left the address and if there were restraining orders in existence that could be, to use her word, 'interrogated'[142]. She said that if she had taken the call herself she would have interrogated PIMS to see if there was a restraining order and see if there

[133] Exhibit C60a
[134] Transcript, pages 859-860
[135] Transcript, pages 861-862
[136] Transcript, page 863
[137] Transcript, page 864
[138] Transcript, page 865
[139] Transcript, page 865
[140] Transcript, page 882
[141] Transcript, page 882
[142] Transcript, page 883

had been an indirect breach of a condition of that order. She said it was possible that she would have sent a patrol depending on what she discovered[143].

11.18. Having listened to the call it was SC Collier's belief that it was not she who was the supervisor to whom Ms Van Dongen spoke because of the way the call was handled[144].

11.19. Finally, Superintendent James-Martin gave evidence that it is his opinion that the administrative officer call takers do exceedingly well having regard to the range of calls that they take[145]. Like SC Collier, and unlike SC Southall and Ms Van Dongen, it was Superintendent James-Martin's interpretation of the call that Ms Dunn was calling to advise of an incident[146].

11.20. In summary, it is my opinion after having listened to the recording of the conversation between Ms Van Dongen and Ms Dunn a number of times, and having read the transcript carefully, it is quite remarkable that Ms Van Dongen fixated on the word 'flag' or 'flagging' and related it to an address that was mentioned by Ms Dunn for the purpose of identifying the location where a domestic violence restraining order may have been breached. To summarise the call, Ms Dunn said she was wanting to flag that one of the Domestic Violence Service's properties had a Persian woman and her two young adult children and her 11 year old child living in that property and that she had seen her bother-in-law and two other men sitting opposite the property in a car. She did not get the number plate. Ms Dunn then said 'I am just flagging this with you because this woman is petrified that she is going to be killed'. It is my opinion having re-read the transcript and again listened to the recording, that the call could not have been construed as anything other than a call about a woman who is petrified and who is the subject of a domestic violence situation. This is even more obvious when one considers that Ms Dunn announced herself as calling from the Domestic Violence Service, which in itself is a clue that the call is about domestic violence.

> *It is bizarre that Ms Van Dongen should have fixated on the word 'flag' as a piece of police jargon about flagging an address. Ms Dunn never actually linked the word 'flag' to an address at any stage in the conversation.*

[143] Transcript, page 884
[144] Transcript, page 906
[145] Transcript, page 922
[146] Transcript, page 930

Ms Van Dongen failed to interpret the call as a report of a potential breach of a domestic violence restraining order. Her failure to do that and the matter-of-fact manner in which SC Southall herself described the call as being about flagging an address suggests to me that there is a significant problem in the use of administrative officers in the SAPOL call centre.

12. Arman and Atena Abrahimzadeh attend at Netley Police Station

12.1. During the year 2009 Ziaolleh Abrahimzadeh made verbal threats to Arman and Atena about their mother and her divorce proceedings against him. Zahra had engaged a solicitor to deal with the Family Court proceedings and the access arrangements for Ziaolleh to see Anita, who it will be recalled was still a child. Access arrangements had been put in place. There were weekly visits organised every Saturday between 12pm and 4pm[147]. It was a condition of these access visits that either Arman or Atena would attend with their younger sister.

12.2. During these visits it was a regular occurrence that Ziaolleh would make threats to Arman and Atena about the court case. He would say that he would take revenge. He would say that every action has a reaction and would warn his son and daughter not to blame him if he were to lose his cool and do something[148]. At one stage Ziaolleh even suggested that he would do something that would make history[149]. As a result of these threats Arman started keeping a diary[150].

12.3. Arman gave evidence about a diary entry he made on 18 July 2009 when his father complained about what was going on and said that the children and Zahra would all regret what they were doing and should not blame Ziaolleh if he lost his patience and did 'something'[151].

12.4. Arman also gave evidence of a meeting that took place between Arman, Atena and Ziaolleh at Ziaolleh's pizza shop. The meeting took place on 25 August 2009 at night. Arman gave evidence that there had been a few such meetings where either he or Atena would get a telephone call from their father requesting that they meet him somewhere to discuss something.

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[147] Transcript, page 93
[148] Transcript, page 94
[149] Transcript, page 95
[150] Transcript, page 95
[151] Transcript, page 96

12.5. On that particular occasion Ziaolleh once again raised the matter of the Family Court case which he wanted withdrawn. He made threats that he would have his revenge and said that everyone had their limits and that if he reached his limit and did something, they would have been warned. He said that he would take his revenge sooner or later and he told Arman and Atena to pass the warning on to Zahra Abrahimzadeh. They did pass the threat onto their mother[152].

12.6. As a result of this threat, Arman and Atena decided to report it to the police. They attended at the Netley Police Station for that purpose. The result of the attendance at the Netley Police Station was unsatisfactory. They left without feeling that any action would be taken, or that they had really achieved anything[153]. They said they spoke to a male police officer. That police officer was Senior Constable Thomas. SC Thomas gave evidence. He had at the time of giving evidence been a police officer for some 27 years[154]. He did not have an independent recollection of speaking with Atena and Arman[155], although as a result of their attendance he had completed an ancillary report which he identified in the course of his evidence[156]. The ancillary report records that at 1300 hours on 5 September 2009 at Netley Police Station an ancillary report was made in relation to Ziaolleh Abrahimzadeh. The ancillary report recorded his work address at the Migrant Resource Centre and also recorded his pizza shop business address and the fact that he could be found there after 5pm every day. The text of the report relevantly provides as follows:

> 'Information from Arman Abrahimzadeh. On 25/8/09 he and his sister Atena were at their father's (Ziaolleh) home and he told them to get his estranged wife (Zahra) to drop the case (this is reference to a pending property settlement and divorce proceedings in the Family Court) or else you will be sorry. He also said 'if I harm her I don't care if I go to jail. If I do. Don't blame me. I am warning you now'. There is currently a DVO between Ziaolleh and Zahra. Ziaolleh currently resides at 8 Amsterdam Crescent, Salisbury Downs with his partner Tahereh Mohammadi or with his brother Masoud at an unknown house number on Robert Crt, Ingle Farm. Ziaolleh also owns a pizza bar on Waterloo Corner Road, Paralowie where he can be located after 5pm each day. Zahra has now moved to …. an address unknown to Ziaolleh. She can be contacted via Arman and Atena on …. Ziaolleh also works at the Migrant Resource Centre, King William Street, City.'

[152] Transcript, pages 97-98
[153] Transcript, pages 101-102, 196-199
[154] Transcript, page 964
[155] Transcript, page 972
[156] Exhibit C62a

12.7. The ancillary report is stamped 'Approved Sturt Intel' which evidences the fact that it was forwarded to the Sturt Intel Section and noted.

12.8. When asked why he chose to create an ancillary report, SC Thomas gave evidence that he believed that he did not have a proper understanding of exactly what the complaint was about and consequently submitted an ancillary report instead of what should have been a PIR[157]. He said that the correct procedure would have been to raise a PIR which would have disclosed an offence and that he should have taken statements from one of the family members, made a domestic violence risk assessment and then considered tasking a patrol to locate the suspect[158]. He was able in his evidence to identify that the appropriate offences disclosed by the allegations would have been those of unlawful threat and a breach of a domestic violence order[159]. He said that the breach of the domestic violence order would mean that the incident should also be brought to the attention of the relevant Family Violence Unit, which in this case he understood was Elizabeth[160]. SC Thomas acknowledged that during the meeting he had with Atena and Arman he used PIMS to access the two PIRs that existed on the system already against Ziaolleh Abrahimzadeh. He said he did not recall when he accessed those records, but he acknowledged that his access of them should have prompted him to take different action from that which he did take[161].

12.9. Despite the fact that in his record of interview[162] SC Thomas was not prepared to accept that the reported behaviour constituted a threat against Zahra, in his evidence he had changed his position and acknowledged that they did indeed constitute threats[163]. He explained somewhat unconvincingly in his evidence that his response when interviewed was attributable to the interview having been 'sprung' on him at the time and that in the environment of an interview his response had not 'come out correctly'[164].

12.10. A reading of the record of interview does not reflect at all well on SC Thomas. His response was defensive and unhelpful. However, he readily conceded in his evidence

[157] Transcript, page 975
[158] Transcript, page 976
[159] Transcript, page 976
[160] Transcript, page 976
[161] Transcript, page 977
[162] Exhibit C62a
[163] Transcript, page 979
[164] Transcript, page 980

in this Court that the words reportedly uttered by Ziaolleh were a threat against Zahra, passed on through her children[165].

12.11. SC Thomas acknowledged that he should have listened more carefully to what Atena and Arman told him and that he should have looked up the domestic violence restraining order while they were present. He conceded that he should have raised a PIR including one count of aggravated threaten harm, a second count of breach domestic violence restraining order and that he should have taken statements in relation to the PIR[166]. He conceded that he should have made contact with the Elizabeth Family Violence Investigation Section and that he should have dispatched a patrol to look for Ziaolleh and that he was provided with details of two work addresses[167].

12.12. As a result of his involvement with this matter he was the subject of disciplinary proceedings founded upon a failure to follow General Orders. The sanction against him was that he was given 'recorded advice' which he explained meant that there would be a note on his personal file for the next three years and the issue would be raised if he were to apply for another position within SAPOL[168].

12.13. In conclusion, SC Thomas acknowledged that he did not act as he should have done when Atena and Arman attended at Netley Police Station on 5 September 2009. He provided no explanation for why he raised an ancillary report rather than a PIR disclosing an offence. His error was compounded by the fact that the Sturt Intelligence Section failed to pick up what had occurred. Thus there were two opportunities on this occasion for members of SAPOL to have intervened to change the course of events. Had SC Thomas raised a PIR and dispatched a patrol, then it may have been the case that Ziaolleh might have been arrested. Had he been arrested it is possible that his subsequent behaviour may have been altered. Not only was there a failure on the part of SC Thomas on this occasion, but also those members of the Sturt Intelligence Section who approved the ancillary report when it should have been obvious from a mere reading of it that there should have been a PIR raised and that an offence was disclosed on the face of the text of the ancillary report.

[165] Transcript, page 980
[166] Transcript, page 985
[167] Transcript, page 986
[168] Transcript, page 991

12.14. Furthermore, had SC Thomas contacted Elizabeth Family Violence Investigation Section as he should have, there is a prospect that SC Flitton would have been moved to contact Arman and Atena. Had he done so, he might have been prompted to take action to arrest Ziaolleh. This is another possible turn of events that may have led to a different outcome.

13. The domestic violence restraining order – application and affidavit taken at Port Adelaide

13.1. I return to the events of February and March 2009 and the aftermath of the decision of Zahra and her children to leave the family home and report Ziaolleh to police. I have mentioned that the family were moved to a domestic violence safe house in the Western suburbs. This meant that it was necessary for them to attend at the Port Adelaide Police Station. That occurred on 4 March 2009 when Zahra attended at the Port Adelaide Police Station with Ms Sandra Dunn from the Domestic Violence Support Service. Zahra was interviewed by Constable Tammy Taylor. As well as Ms Dunn an interpreter was present. An affidavit was prepared by Constable Taylor for the purposes of an application for a domestic violence restraining order[169]. An apprehension report was also generated by Constable Taylor[170]. This was used as the basis for the Criminal Justice section to continue to act in the matter by going to court.

13.2. Constable Taylor had not long been in the Family Violence Unit at the Port Adelaide Police Station at that time. She was only to remain there for 8 months before being transferred to Henley Beach. Constable Taylor was suspended from SAPOL on 5 March 2010. She was subsequently found guilty of an offence and her employment with the police force ceased. Remarkably, she had by the time of her suspension been promoted to Senior Constable. At the time of giving evidence she described her occupation as 'wellbeing worker'[171]. It was clear that Ms Taylor had left SAPOL under a cloud. Ms Taylor herself said that she was told by her supervisor, Detective Sergeant Moody, that her performance was unsatisfactory and it was suggested that she should return to patrol duties rather than pursuing a career in the Domestic Violence Unit[172]. From my own assessment of Ms Taylor in the witness box I can say that she was not an impressive witness. I have no confidence that her performance as

[169] Exhibit C22b
[170] Exhibit C122a
[171] Transcript, page 1097
[172] Transcript, page 1121

a Constable in the Port Adelaide Domestic Violence Unit would have been any more impressive than her presentation in the witness box.

13.3. The objective evidence bears this out. The affidavit that was prepared by Ms Taylor[173] is a poor document. Ms Taylor admitted to a number of deficiencies in the affidavit including a lack of detail about what was actually said by Ziaolleh when making threats against Zahra and a lack of detail about the physical acts which took place when Arman and Ziaolleh were struggling in the kitchen on the night of 12 February 2009. She conceded that what was said by Ziaolleh after the physical confrontation was not included and should have been. She conceded that statements about other threats Ziaolleh had made on Zahra's life were not sufficiently specific. She agreed that particular episodes in addition to those which were specified could also have been specified which would have provided a magistrate with evidence of an ongoing pattern of violence. Furthermore, she conceded that Atena and Arman were witnesses to the events of 12 February 2009, and no doubt to other events that had occurred during the course of the marriage. She conceded that each of them should have given an affidavit[174].

13.4. Her supervisor, DS Moody, also gave evidence. She described the affidavit taken by Ms Taylor as 'brief and poor'[175]. She acknowledged that she had vetted the document however, but said she had no recollection of doing so. She said that she would have regarded the affidavit as sufficient to obtain a restraining order at the time and probably decided to adopt that course rather than bring Zahra in for a more comprehensive affidavit[176].

13.5. DS Moody had no contact with the Abrahimzadeh family. Her only role was as the supervisor of Ms Taylor.

13.6. DS Moody was aware of the impending court date for the confirmation of the domestic violence restraining order in March 2010. On that occasion a document known as a PD90 had been issued by the prosecutor who had the conduct of the matter. The PD90 called for the attendance in court of Ms Taylor and another police officer[177] to be present in court on that day. Neither SC Kaftan nor Ms Taylor was present in court on that day and the evidence suggests that neither of them was aware

[173] Exhibit C122b
[174] See generally Transcript, pages 1132-1137
[175] Transcript, page 1164
[176] Transcript, page 1164
[177] Senior Constable Kaftan

of the date. Certainly, by the time of the confirmation hearing on 9 March 2010, Ms Taylor had been suspended for some four days. She was also at Henley Beach at that point. In any event, DS Moody was only able to say that there was a failure in the process of ensuring the attendance of SC Kaftan and Ms Taylor in court on that day[178].

13.7. DS Moody was a straightforward and helpful witness. She is clearly a competent police officer in the domestic violence arena. She gave evidence that early intervention is a good crime prevention strategy with domestic violence. She said that the longer the perpetrator goes without being arrested, or at least spoken to by police, after having committed a domestic violence offence, the more the offender will be prone to 'diminish their responsibility'[179]. She also noted that the victim in such a situation will have thoughts that the police are not treating her complaint appropriately[180].

13.8. It was suggested to DS Moody by counsel for SC Hern and SC Flitton that it would be good practice to make contact with a domestic violence victim before proceeding to apprehend an offender to ensure that the victim still wishes to proceed. She said, contrary to the impression that was conveyed by SC Hern and SC Flitton in their evidence:

> 'I can guarantee you victims will make contact with us very quickly if they want the matter withdrawn or if they don't want police to investigate. But when we have an investigation, a PIR and a statement, the assumption is that she wants something done about it.' [181]

13.9. DS Moody agreed that it was not appropriate for an investigator to continue trying to seek contact with the victim to see whether they wanted the charges to proceed at the expense of making attempts to locate the suspect[182].

13.10. Finally, DS Moody was questioned about a very stark difference that was obvious to me and to all others involved in this case between the affidavit taken by Ms Taylor for the purposes of the domestic violence restraining order, and the affidavit that was prepared by Zahra's solicitors for the purposes of her Family Court proceedings[183]. The latter is a document of 57 pages. It details a harrowing account of a history of domestic violence by Ziaolleh against Zahra dating back many years.

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[178] Transcript, page 1180
[179] Transcript, page 1196
[180] Transcript, page 1197
[181] Transcript, page 1200
[182] Transcript, page 1202
[183] Exhibit C108b

13.11. The affidavit prepared by Ms Taylor is three pages in length. By way of example, paragraph 8.3 of the affidavit taken by Ms Taylor says that for about the last two years 'we have been having problems in our marriage'. By contrast, the Family Court affidavit[184] details that the problems had commenced many years before that, and in particular Zahra states that from approximately one year following their marriage she was physically and emotionally abused by her husband on a regular basis. The marriage took place in 1984 or 1985 and was described by Zahra in the Family Court affidavit as 'an arranged marriage'. It is therefore apparent from the Family Court affidavit that the violence in the relationship had been occurring as at March 2009 for some 24 years. No hint of this can be found in the affidavit taken by Ms Taylor which wrongly suggests violence has been occurring for only two years.

13.12. Furthermore, the Family Court affidavit records that there was an earlier period of separation in the year 2000 following the interception by Ziaolleh of a letter to Zahra from her sister offering to send money. Ziaolleh was enraged by this and attempted to strangle Zahra until she feared she would lose consciousness. He then dragged her across the floor by her hair and pushed her right hand through a window pane, shattering the glass and wounding her right hand. This incident took place in the presence of Atena who was then 14 years of age, Arman who was then 13 years of age and Anita who was then 3 years of age. The affidavit records that she still had a visible scar at the time of swearing that affidavit. All of this detail could have been included in the affidavit taken by Ms Taylor. Indeed, the affidavit taken by Ms Taylor in asserting that for the previous two years they had been having problems with their marriage is, to say the least, misleading. It would be more accurate to say the problems had occurred for the life of the marriage and, furthermore, that they were so bad that they had resulted in a separation in the year 2000 following a violent assault as described in the Family Court affidavit.

13.13. It was DS Moody's evidence that far more detail could have and should have been included by Ms Taylor in the domestic violence restraining order affidavit. However, and disturbingly, it was also DS Moody's evidence that magistrates had been critical of her staff more than once for having too much detail for the magistrate to be required to read[185]. That evidence is disturbing. In my opinion it is no part of the task of a magistrate hearing a domestic violence restraining order to complain of the length

[184] Exhibit C108b
[185] Transcript, pages 1209-1210

of the material presented in support of that order, provided that the material is not repetitive and follows a logical sequence.

14. The history of the domestic violence restraining order application in the Port Adelaide Magistrates Court

14.1. The initial application for a domestic violence restraining order occurred in the Port Adelaide Magistrates Court on 11 March 2009. On that occasion the interim order was granted. I will come to the terms of the order in a moment. The next time the matter came before the court was 18 March 2009 for mention. The interim order had not been served at that time and a fresh summons was issued. The next appearance was 25 March 2009 and a fresh summons was issued at that point as the interim order still had not been served. The matter was next before the court on 15 April 2009 for a pre-trial conference. There was a further pre-trial conference on 27 May 2009. On 8 July 2009 the matter was again before the court for mention only. On 29 July 2009 it was again mentioned before the Court. The matter came on before the court once more on 18 November 2009 when it was listed for trial on 9 March 2010. On all occasions apart from 27 May 2009 the prosecutor appearing for the Commissioner of Police was Sergeant Tina Smith.

14.2. The interim order[186] provided as follows:

> '1. The defendant was restrained from attending within 300 metres of Zahra Abrahimzadeh's residence or place of work.
>
> 2. The defendant was not to contact, harass, threaten, follow or intimidate Zahra or cause or allow another person to do any of those things;
>
> 3. The defendant was not to contact, harass, threaten or intimidate any person at Zahra's place of residence or work nor to allow any other person to do any of those things.'

14.3. When the matter came before the Court for the disputed confirmation hearing on 9 March 2010, the position was that the restraining order was disputed by Ziaolleh. It was necessary for the prosecutor, Sergeant Smith, to prove that a permanent order should be granted. For that purpose she had to be ready to proceed as if all matters were in dispute. However, on the day, the solicitor for Ziaolleh informed the court

[186] Exhibit C122c

that the matter could be resolved by Ziaolleh consenting to the order, but with a modification. The requested modification was that because Ziaolleh was asserted to be a cultural leader within his community, he should be permitted to attend cultural and religious functions in that capacity. The intent of the application was that the order would not prevent Ziaolleh from being present at such a cultural event, even if Zahra were present at the same event.

14.4. The solicitor for Ziaolleh had clearly failed to appreciate that there was nothing in the existing interim order to prevent such a thing from occurring. Nor apparently had Sergeant Smith because it was left to the clerk of the court to inform the presiding magistrate that nothing in the interim order prevented such a circumstance from occurring. In any event, after discussions between Sergeant Smith and Zahra and Arman, who were present at the court on that day, the order was confirmed in a varied format. The following addendum was made:

> '1. Order confirmed:
>
> The domestic violence restraining order is varied by inserting a new paragraph 6(g):
>
> In the event both the defendant and protected person are at a community religious event, the defendant is not to approach or speak to the protected person[187].
>
> 2. All other terms and conditions are to remain the same without change.' [188]

14.5. It will be apparent from the above that although the amended order did not positively state that Ziaolleh could be present at a 'community religious event' at which Zahra was also present, it was implicit that the new paragraph 6(g) permitted him to do so, and forbad him to approach or speak to Zahra while both were present at such an event.

15. Sergeant Tina Smith

15.1. As I have said, Sergeant Tina Smith was the prosecutor who appeared for SAPOL at the granting of the interim order, and also at the trial date on 9 March 2010. She was also present for all of the other court appearances, with one exception. The exception was one of the pre-trial conferences being the less significant of the two.

15.2. Sergeant Smith presented as an articulate and intelligent police officer. Unfortunately her evidence was filled with the stock answers of one who seeks to minimise

[187] A reference to the protected person is a reference to Zahra Abrahimzadeh and the reference to the defendant is a reference Ziaolleh Abrahimzadeh
[188] Exhibit C123d

responsibility. The broad topics under which she sought to achieve that outcome were as follows:

1) She was incredibly busy;
2) The family could not be located because they were in hiding;
3) The existing orders were very strong and were in fact strengthened by the variation which she herself suggested;
4) There was a chance that the application might be dismissed if it had gone to trial;
5) The principal witness, Zahra Abrahimzadeh, was very fragile;
6) An adjournment might not be granted by the court;
7) There was no need to ascertain the current status of the PIR offences as the case could simply be proved through the victim;
8) In any event the victim would know the current status of the offences.

15.3. Sergeant Smith was interviewed by Detective Cullinan in May 2013. In that interview Sergeant Smith was asked why the victim was not called and advised of the trial date prior to late February 2010. Her response was that it is not necessarily the prosecutor's role to find victims and witnesses, but rather that of the investigating officer. She added that it was important to note that the family would not have been informed because they were 'in hiding' and that a 'non appearance would have been formally proved and the matter would have been dismissed'. The facts of the matter were that the matter was listed for trial on 18 November 2009, some four months before the date of the trial. The records show that the case was allocated to Sergeant Smith to conduct the trial on 24 December 2009[189]. The first activity on the file by Sergeant Smith was not until 25 February 2010 when she contacted the courts to request that a Persian interpreter be arranged and rang the victim and left a message to return her call and issued PD90s to Tammy Taylor and SC Kaftan. These PD90s never found their way to their intended recipients in the result and that fact was never explained. The evidence was clear that Sergeant Smith did not finally make contact with any member of the Abrahimzadeh family to warn them to attend for the hearing until 5 March 2010, only four days before the date of the trial. As it happened, 5 March 2010 was a Friday. The trial date, 9 March 2010, was a Tuesday. Therefore

[189] Exhibit C123d

there was only one clear working day between the date of the notification and the trial date.

15.4. A trial court faced with a non appearance by a victim of domestic violence for the reason that they were not notified of a trial date through no fault of their own, could not rationally arrive at a decision to dismiss the case due to the non appearance of the victim, thus depriving the victim of the protection of a restraining order protecting them from further violent assaults. It would be far more likely that the court would enquire of the prosecutor why it was that, despite the matter having been set down for trial four months previously, the victim had not yet been made aware of the hearing date. If the prosecutor candidly informed the court that the first effort to contact the victim had not been made until 25 February 2010, only two weeks before the trial date, it would be absurd to suggest that a court would realistically deprive the victim of the protection of the interim order. The court would however be very likely to criticise the conduct of the prosecutor in not having done a better job to ensure that the victim was properly informed and advised of the hearing date.

15.5. Thus, from an early stage when questioned about this matter, Sergeant Smith was at pains to present herself favourably on the basis that she wrested the case from a prospective dismissal by her efforts to successfully contact the victim four days before trial. On 5 August 2010 Sergeant Smith prepared a briefing paper for the Commissioner of Police[190]. The briefing paper came to be written because Arman had written to the Commissioner expressing concern about the murder of his mother and the process by which the restraining order was amended. That briefing paper omitted to inform the Commissioner that the victim and her son had only four days in which to prepare themselves to attend for the trial[191]. The briefing paper omitted any mention of Sergeant Smith's later contention that her workload was such that she was unable to give more than four days notice of the trial date to the victim[192]. The briefing paper omitted to mention that there was a period between 18 November 2009 and 25 February 2010 during which nothing happened on the matter by way of preparation for trial[193].

[190] Exhibit C123d
[191] Transcript, page 1413
[192] Transcript, page 1415
[193] Transcript, page 1417

15.6. When Sergeant Smith was asked in her evidence why it was that she failed to include any of those matters in a briefing paper addressing a complaint by Arman about the process by which the restraining order was varied, she responded by asserting that she included what she considered was required of her as a result of the request that was made of her to prepare the briefing paper[194]. She denied that she had deliberately omitted anything[195]. She said that she was told that what she had included in the briefing paper was sufficient[196]. When it was put to her that the latter statement was extraordinary bearing in mind that the person receiving a briefing is unlikely to be aware of the things that are within Sergeant Smith's knowledge that have not been included in the briefing paper, she could provide no response[197]. When it was pointed out to her that the recipient does not know the things that the writer of the paper would know, she parried by saying she did not know what the recipient would know. The obvious repost to this was that the person requesting the briefing paper would not need to do so if they were already aware of all of the facts.

15.7. It was Sergeant Smith's evidence that often when appearing on an application to obtain an interim domestic violence restraining order she as a prosecutor would not receive the application until the morning of the hearing and that, more often than not, she would be reading the affidavit in support for the first time while the magistrate was also reading it[198]. This is clearly most unsatisfactory. Sergeant Smith had this to say about her workload:

> 'At that time my workload was intense, we were an incredibly busy unit, we were understaffed. My workload back then averaged two to three trials a week, domestic violence court which was the entirety of every Wednesday and the management of a team of people and obviously everything else that went with that. So it was an incredibly busy, busy place.' [199]

15.8. Sergeant Smith said that generally PD90s (the forms that inform police witnesses to be available to give evidence on the trial date) would be distributed as soon as the file was allocated for conduct to a particular prosecutor[200]. In this case therefore, the PD90s should have been distributed on or soon after 24 December 2009 when the file

[194] Transcript, page 1418
[195] Transcript, page 1418
[196] Transcript, page 1418
[197] Transcript, page 1418
[198] Transcript, page 1272
[199] Transcript, page 1278
[200] Transcript, page 1295

was allocated to Sergeant Smith. In fact, PD90s were not disseminated until 25 February 2010, two months later.

15.9. In giving evidence about her efforts to ensure that Zahra would be available to give evidence on 9 March 2010 she said that, only a few days before the trial, she 'hadn't been contacted by the victim'[201]. She said that she rang a mobile number twice that day. On the second occasion Arman answered the phone. According to Sergeant Smith, Arman explained that the police 'wouldn't have been able to find him – or find them - because his mother and the three children were in hiding from the respondent'[202].

15.10. Sergeant Smith was asked to describe the circumstances in which she informed Zahra and Arman about the proposal that Ziaolleh would consent to the order being finalised subject to the variation which I have discussed above. She said that Arman was extremely opposed to the variation. She said that she then explained that as the order stood already, there was nothing restraining or preventing Ziaolleh from attending such functions, even if Zahra was also there. She then explained 'risk versus benefit' with 'proceeding to trial'. She pointed out that given that Ziaolleh was prepared to consent to the order, the risk of proceeding to trial outweighed any benefit because the order as it stood 'was a very comprehensive order'[203]. Sergeant Smith said that Zahra was extremely apprehensive about going into court[204]. She described her as 'a very fragile victim' who would have been very challenged in giving evidence with Ziaolleh, of whom she was very fearful, being present in court. She also explained that she thought that she had an opportunity to strengthen the order by prohibiting Ziaolleh from approaching or speaking to Zahra when they were both together at a community religious event.

15.11. In fact, it is quite true that the variation did have that effect.

> *The great misfortune of this aspect of the case however was that from Ziaolleh's point of view, he was obtaining a concession from Zahra.*

It is important to remember the context here. By March 2010, Ziaolleh had been free to go about his business for 13 months without being arrested by police, or even spoken to by police, about the offending that occurred on 12 February 2009. During

[201] Transcript, page 1297
[202] Transcript, page 1297
[203] Transcript, page 1398
[204] Transcript, page 1304

that period he had repeatedly made further threats against Zahra through her children. He had almost certainly been aware that his brother had driven a vehicle past Zahra's safe house, yet none of these further episodes of harassment and intimidation resulted in police action against him. The only contact he had had with police had been the service of the interim restraining order in April 2009. After that he had attended and been present at the various court appointments as the domestic violence restraining order process worked its way through the Port Adelaide Magistrates Court. He had flaunted his perceived impunity from police action in his remarks to Arman and Atena at the pizza shop when he had pointed out that they had been to the police, but he was still standing before them.

> *Thus, the single most important thing that might have discouraged Ziaolleh in his hubris and bravado, namely being arrested by police and facing court action for an offence, never happened.*

15.12. Indeed, from his point of view, on the hearing of the domestic violence restraining order application his solicitors requested that he be permitted to attend and be present at cultural religious events was acceded to by the court and by the police prosecutor. It was that very outcome that he clearly desired bearing in mind that the Persian New Year event at which he murdered Zahra was just such an occasion. It would not be drawing a long bow to suggest that at the time of his instructions to his lawyer to propose that he be entitled to attend at religious cultural events at which Zahra was also present, he was already planning to attack her at the forthcoming Persian New Year event. In response to doubt Sergeant Smith would argue that as the order stood prior to that time, Ziaolleh was free to do just that without any variation to the order. The difficulty with that contention is that Ziaolleh clearly did not understand that and neither did his legal adviser, because it was left to the clerk of the court to alert all concerned to the true legal effect of the interim order. I very much doubt that Ziaolleh would have been interested in the legal niceties of the exact effect of the order as it stood prior to 9 March 2010. His perspective would simply have been that he had achieved another small victory in his ongoing campaign against Zahra. This led to an extremely dangerous situation.

> *Ziaolleh was a man who needed no encouragement. To the contrary, he should have been apprehended and arrested at a very early time. He should have felt the weight of the law in February 2009. He should not have been allowed the minor victory afforded him on 9 March 2010 in the Port Adelaide Magistrates Court.*

15.13. When Sergeant Smith was asked what efforts had been made to speak to Atena because she was, on the face of the affidavit supporting the interim restraining order a relevant witness, she responded 'we were unable to locate the family'[205]. She repeated her contention that she could not find the family and that she was concerned that if she did not find them 'a formal non appearance would likely result in the matter being dismissed'[206]. She added that 'there was no indication at any point throughout the prosecution process that the children were willing to give evidence'[207]. This self serving contention is dispensed with by observing that at no point during what Sergeant Smith describes as the 'prosecution process' were the children ever spoken to with a view to ascertaining if they would give evidence. Their version of events, however, was always in SAPOL's hands and the affidavit in support of the interim restraining order made it obvious that they were adults and that they were witnesses who could give an independent account.

15.14. Sergeant Smith again reverted to her contention that she was in 'the circumstance of not being able to locate the family'[208]. It was suggested to Sergeant Smith that it was open to her to proceed on 9 March 2010 by seeking an order that simply would not permit Ziaolleh to be in the same place as Zahra, regardless of what that place was. She responded that she could not be confident that such an order would be made:

> 'Confidence with trials is a very difficult thing when you have a victim who is extremely hesitant and apprehensive. My concern also, with all due respect to the magistrate, was that he had indicated his intention, whether it be the matter be resolved prior to trial or at the completion of trial if the matter was found proved that he would be reluctant to restrain a cultural leader from attending such functions.'

She was then asked:

> 'Q. Are you suggesting that that was a concluded view that the magistrate was expressing at that point.
>
> A. It was a concern. I can't - with all due respect, I can't speak on behalf of the magistrate, but it was certainly a very strong concern of mine that he had expressed.' [209]

15.15. It was suggested to Sergeant Smith that she never really investigated the matter with a view to determining the weight of the evidence and the strength of her case[210]. To this

[205] Transcript, page 1335
[206] Transcript, page 1335
[207] Transcript, page 1335
[208] Transcript, page 1336
[209] Transcript, page 1338

she responded that the strength of the case is not always a matter for the evidence. She said that it was very reliant on the:

> '… competency of the victim and her ability to give evidence, and I had very strong concerns about her withstanding the rigours of giving evidence at trial.' [211]

However, when it was pointed out to her that she did not proof Zahra, she responded that there was no opportunity[212]. After this Sergeant Smith reverted to her position that the existing order was 'a comprehensive order'[213].

15.16. It was suggested to Sergeant Smith that the evidence that could have been led on the trial could have been strengthened and elaborated upon if she had spoken to Atena and Arman. It was suggested that she could have been armed with information about things that had happened since Zahra's affidavit was sworn, such as ongoing threats and the compromising of the safe house. It was suggested that all of that information could have been easily obtained if there had been a proofing, and she responded:

> 'Had we been able to locate them, yes.' [214]

This is another illustration of her tendency to avoid answering questions and to deflect responsibility. She returned to her contention that the conditions of the interim order 'were very strong conditions'[215]. However, the difficulty with maintaining that proposition on the state of Sergeant Smith's knowledge on the morning of 9 March 2010 was that she did not know very much about this case. All she knew was what could be found in the affidavit supporting the interim order that had been made more than a year before. She did not know about the ongoing threats. She was in no position to make a judgment about the strength of the conditions because she was in no position to make a judgment about the extent of the risk that Ziaolleh presented to Zahra and her family.

15.17. Sergeant Smith was asked again about the further information she might have obtained from proofing and further investigation and her response that these things could have occurred had 'we' been able to locate them[216]. She was asked what she knew about the attempts that had been made to locate the family. She was asked

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[210] Transcript, page 1339
[211] Transcript, page 1339
[212] Transcript, page 1339
[213] Transcript, page 1340
[214] Transcript, page 1343
[215] Transcript, page 1344
[216] Transcript, page 1343

whether on the day she made contact with Arman, she knew objectively that no one from SAPOL had been able to locate the family at that time. She responded that she was aware that they had not been contacted or located by the Family Violence Section[217]. She was asked how she was aware of that and she responded that she had not been informed and had not had contact made with her by the victim[218]. She was asked again what she meant by the expression 'unable to be located'. She responded that she used that term because when she spoke with Arman he 'explained that the family had been in hiding'[219]. It was pointed out to her that police have at their disposal techniques for locating people and she parried by responding that it was her understanding that they had not been spoken with. It was again put to her that police have techniques for locating people and she responded 'if people want to be located. If they are in hiding it can be very difficult'. It was then pointed out to her that she was talking about a woman with a 12 year old child in her care and was again pressed to answer how it was that she knew the family was unable to be located. Her response was as follows:

> 'It was a term (sic) of phrase. It was my concern that they couldn't be located. I hadn't had any communication from the investigating officer - it was a term (sic) of phrase.' [220]

She then asserted that she had made 'all efforts' to speak with the family when she realised the investigating officer had not done so. She then had to concede that she made two phone calls, only the second of which was successful. That passage of evidence reflects very poorly on Sergeant Smith in my opinion. It was suggested to Sergeant Smith that the consent of Zahra to the resolution on 9 March 2010 was a consent obtained under some level of duress bearing in mind:

1) The lack of notice of the trial;

2) The language difficulties of Zahra, and;

3) Sergeant Smith's own lack of preparation

all of which must have been obvious to the family. It was suggested that all of these matters must have overborne Zahra's capacity to freely consent. Sergeant Smith responded:

> 'No sir. In fact with respect I would strongly oppose the suggestion that they were under any duress.' [221]

[217] Transcript, page 1346
[218] Transcript, page 1347
[219] Transcript, page 1347
[220] Transcript, page 1348

This reflects again Sergeant Smith's inability to acknowledge what, to everyone else, was quite obvious. Sergeant Smith was also unwilling to acknowledge that proceeding to trial was not her only option on that day. Instead, it was her contention that a court would not have granted an application for an adjournment, even if it were made aware of the deficiencies in the preparation of the case by the prosecution[222]. Once again, this is simply a reflection of a refusal to accept reality.

15.18. When Sergeant Smith returned to give further evidence the following day it was put to her by counsel assisting that it was never the case that the family could not be located. Despite the extensive questioning on that subject on the previous day, she persisted in responding that she could not answer and did not know[223]. Sergeant Smith was unwilling to acknowledge that she had the carriage of the matter from March 2009 despite the fact that she appeared at the application for the interim restraining order and every mention of that matter, bar one, until the trial at which she also appeared[224]. In my opinion, this is again reflective of her unwillingness to accept responsibility when she clearly should do so.

15.19. Sergeant Smith maintained that the substantive offending underlying the two PIRs which were referred to in the affidavit supporting the interim restraining order were not matters that she regarded as relevant for the purposes of what she would put before the court on 9 March 2010[225]. When it was suggested to her that it was important at the contested domestic violence restraining order hearing to tell the magistrate the status of the substantive offending underlying the application, she responded that the status of the offending 'would be elicited from the victim's evidence'[226]. When it was suggested to her that the victim may not know the status of the PIRs she simply responded that she would rely on the victim's evidence of the incident itself to satisfy the magistrate that the protection was required[227]. When it was put to her that as the prosecutor appearing at the contested hearing it would be important for her to be able to inform the magistrate about the status of the substantive offending, she parried by asking whether the examiner was speaking

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[221] Transcript, page 1353
[222] Transcript, page 1354
[223] Transcript, page 1359
[224] Transcript, page 1359
[225] Transcript, page 1364
[226] Transcript, page 1376
[227] Transcript, page 1376

hypothetically or specifically to this matter[228]. She was asked why she would not make enquiries about that issue and responded that she was too busy, although conceded that a computer enquiry of that nature would take only a matter of minutes[229]. She returned to her position that she could rely on the victim to provide the status of the substantive offending and how it had been disposed of, or not disposed of, before the court. Once again, she avoided responding when asked how the victim would necessarily know what had happened to that matter[230]. Although she conceded shortly thereafter that the status of the underlying criminal offending was of considerable relevance to the court[231], she was reluctant to accede to the proposition that it was likely that a magistrate might ask what had happened with the underlying assault[232]. Having acknowledged that that information could be obtained by a few keystrokes on a computer interrogating PIMS, she grudgingly accepted that it would have been 'preferable' for her to have done so before the hearing on 9 March 2010[233].

15.20. Sergeant Smith was also questioned about whether it would have been useful for her to have been aware of the contents of a Family Court affidavit that had been prepared by Zahra's solicitor for the purposes of the Family Court proceedings. The affidavit had only been made in February 2010 and thus had very recent information in it. The evidence on this topic[234] was characterised by Sergeant Smith engaging in responses that could only be described as wilfully obtuse.

15.21. The final topic on which Sergeant Smith was closely questioned was her contention that 'His Honour had intimated his intention irrespective of whether or not we proceeded to trial, that he would be reluctant to restrain a cultural leader from attending such functions'[235]. Unfortunately there is no transcript of what occurred in the Magistrates Court on 9 March 2010. However, it is disturbing that Sergeant Smith would have interpreted a remark made by a magistrate before having heard any evidence as indicative of what his likely attitude would be after he had heard the evidence. I very much doubt that Sergeant Smith was correct in attaching such significance to whatever it was the learned magistrate said that morning about his

[228] Transcript, page 1377
[229] Transcript, page 1378
[230] Transcript, page 1379
[231] Transcript, page 1379
[232] Transcript, page 1380
[233] Transcript, page 1382
[234] Transcript, pages 1383-1384
[235] Transcript, page 1402

reluctance to restrain a cultural leader from attending such functions[236]. It is of course a frequent occurrence that a magistrate or other judicial officer will express preliminary or tentative views about particular issues before a matter proceeds in order that the parties can understand the issues that the magistrate will be particularly interested in hearing evidence about. Parties may also need to have some idea of a magistrate's likely view about particular issues. Sergeant Smith's evidence was that the learned magistrate said that he would be reluctant to restrain a cultural leader from attending such functions 'irrespective of whether or not we proceed to trial'[237]. That is not the same thing as saying that the magistrate stated that regardless of what evidence was adduced at the trial he would refuse to restrain a cultural leader from attending such functions. It is true that if indeed the magistrate had said irrespective of whether or not the matter proceeded to trial he would be so reluctant, that would be very close to the same thing. Nevertheless there is a subtle difference. All of this is speculative as there is no transcript and all I have is Sergeant Smith's version of what occurred. On the basis of her evidence I am not prepared to attribute anything to the learned magistrate. I find it most unlikely that a magistrate would have stated before a trial was due to proceed that, regardless of the evidence to be adduced, he would refuse to make an order preventing a particular situation from occurring, even if that situation were culturally significant or sensitive. It goes against every tenet of legal principle to indicate before a trial that regardless of the evidence, the trier will refuse to make an order that is within jurisdiction.

15.22. I think it far more probable that Sergeant Smith interpreted a preliminary observation of the magistrate about reluctance in general terms to restrain a cultural leader from attending cultural functions as suggesting that would somehow translate to a risk that, regardless of the evidence, the magistrate would adhere to that position. I think this is due to the lack of legal ability and experience and general court craft that Sergeant Smith demonstrated generally in her evidence. For example, her unwillingness to concede the extremely unsatisfactory nature of the situation she was in on the morning of the trial with her complete lack of preparation. Secondly, her unwillingness to accept that in circumstances where the matter had not been properly prepared due to no fault of the applicant, that there was any risk that the matter might be dismissed or that a refusal of an adjournment was on the cards. Another stark

[236] Transcript, pages 1403-1404
[237] Transcript, page 1403

example that demonstrates her poor forensic skill is the glaring example of her inability to appreciate that the status of the underlying criminal offending was a matter of great importance and relevance in the disposition of the confirmation or otherwise of the restraining order.

> *It beggars belief that any competent counsel would not recognise that it would be crucial to be aware of the outcome of the underlying criminal offending and, if there was no outcome for some reason, why that was so. Obviously enough, if the underlying criminal charges had been finalised by a finding of guilt and a conviction, that would make the proof of the domestic violence restraining order all the easier. Equally obviously, if the criminal proceedings had resulted in an acquittal, while not fatal to the confirmation of the order, that would have made the task more complex.*

15.23. Very significantly, had Sergeant Smith troubled to take the time to ascertain that as a matter of fact the underlying criminal proceedings had not been finalised and indeed that Ziaolleh had not been apprehended or arrested, or even charged with the underlying behaviour, she may have recognised that it was crucial to ensure that steps be taken for that to happen as soon as possible. She might for example have recognised that he would be likely to be in court on 9 March 2010, and that at the completion of the court hearing that day, officers would be able to approach him as he left the court precinct in order that the PIRs could be progressed by way of his apprehension, reporting and charging for serious underlying criminal behaviour. On her evidence, those things never even occurred to her. Had she done those things it is possible that the tragic events of 21 March 2010 when Ziaolleh attacked Zahra at the Persian New Year function, a function that he was no doubt encouraged to attend by virtue of the consent orders that were made on 9 March 2010, may not have occurred.

15.24. For all of these reasons I do not regard Sergeant Smith as a reliable reporter of precisely what was said by the magistrate that morning about his reluctance or otherwise to make orders.

15.25. Senior Sergeant Watterson was Sergeant Smith's supervisor at the Port Adelaide Magistrates Court in 2010. He continues in that role today. He gave evidence that went some way towards explaining the situation that existed in February 2009 regarding workload in the Criminal Justice Section at Port Adelaide. He said that towards the end of 2009 the magistrates at the Port Adelaide Magistrates Court were

concerned about a blowout in the list. As a result they made certain changes to listing procedures and there was what SS Watterson described as a 'bubble of work' that accumulated towards the end of 2009[238]. As a result of this the trial load went from a normal 45 to 50 trials per month to 104 trials in the month of January 2010, 89 trials for the month of February and 124 trials for the month of March 2010. In April it fell back to 86 and then in May returned to normal levels of approximately 45 per month[239].

15.26. SS Watterson said that the workload at that time was 'just appalling'[240]. SS Watterson conceded that Zahra's domestic violence restraining order confirmation trial was not properly prepared[241]. SS Watterson agreed with the evidence that had been given by Sergeant Smith that her workload was excessive and that it was nearly impossible to properly prepare for trials, saying 'she was not adequately able to prepare for trials, but then again no one in the unit was able to adequately prepare for trials. It was totally unsatisfactory.'[242].

15.27. While SS Watterson's evidence confirms Sergeant Smith's position about her workload, the difficulty with Sergeant Smith's evidence was that she herself was not willing to attribute all of the deficiencies manifested in the handling of the confirmation hearing to workload only. In that respect she demonstrated an unwillingness to make concessions that ought to have been made as I have said above. It is these factors that cause me to have particular reservations about her evidence.

15.28. That said, there is no doubt that on SS Watterson's evidence, taken together with that of Sergeant Smith, the situation regarding the police prosecution service in Port Adelaide was completely unsatisfactory in 2009/2010. On that evidence there was simply no way that the important work of preparing matters for trial and presenting matters before the Port Adelaide Magistrates Court could be adequately or appropriately carried out. There was some evidence to suggest that the situation has improved since that time. Nevertheless, I have no confidence that the situation today is substantially better than it was in 2009/2010.

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[238] Transcript, page 1625
[239] Transcript, page 1631
[240] Transcript, page 1646
[241] Transcript, page 1650
[242] Transcript, page 1664

16. Evidence from Maria Hagias, Executive Director, Central Domestic Violence Service

16.1. Maria Hagias is the Executive Director of the Central Domestic Violence Service. She has extensive experience in the provision of domestic violence support. The Central Domestic Violence Service provides support and accommodation to women experiencing domestic violence and their services include case management, crisis response and programs to support women and children. They also participate in family safety meetings and they offer support to women in 91 accommodation options[243]. I regard Ms Hagias as an expert in the field of domestic violence and have treated her evidence accordingly.

16.2. Ms Hagias gave evidence that even in 2014 when women present to the front counter of a police station there are still inconsistencies of approach from police officer to police officer and police station to police station[244].

> *Ms Hagias gave the example of a recent case where a woman presented at a police station requesting assistance in obtaining an intervention order and was told that she needed to have evidence of three different episodes of domestic violence before she could proceed. That is clearly wrong information. Ms Hagias said that episodes of that kind are not uncommon, even today[245].*

16.3. Ms Hagias said that the reforms conducted in the area of domestic violence in the past several years, of which the Family Safety Framework is a feature, were intended to create a structural change in agencies, including SAPOL. One of the primary goals was to ensure that regardless of where a woman presented for assistance, she would get a consistent response[246]. Disappointingly, it appears that that goal has not yet been achieved as far as SAPOL is concerned.

16.4. Ms Hagias said that it is absolutely crucial that when a victim of domestic violence presents at a police station the person to whom she presents should undertake an appropriate risk assessment and then act accordingly[247].

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[243] Transcript, page 1489
[244] Transcript, page 1497
[245] Transcript, page 1497
[246] Transcript, page 1498
[247] Transcript, page 1499

> *In all aspects of policing, whether it be the task of a patrol looking for a domestic violence offender in the first few hours after a report has been made, or whether it be the officer at the police station when the children of a victim come in to report ongoing threats despite the existence of an interim order, or whether it be the police prosecutor preparing for the final contested confirmation hearing, there is a need to think, to question and to show a sense of curiosity. There is no substitute for listening and thinking. Every case is different. No general approach fits every situation. There is no substitute for an active mind and a sense of curiosity. With those habits the carrying out of a risk assessment becomes a meaningful, productive exercise. Treating the task as an invocation or a ritual, or a box to be ticked while the operator leaves his or her brain in neutral, will inevitably produce a disastrous result such as the result so tragically evidenced by this case. Unfortunately, only diligent management can engender a sense of curiosity and diligence in a workforce. The task is continuous and never complete. It is not sufficient to say a new General Order has been put in place or a new policy or procedure has been enacted and that training has been rolled out so that all officers have been informed. What is necessary is an ongoing performance management framework in which managers actively monitor what is going on and ensure compliance with expectations.*

16.5. Ms Hagias was asked about the unfortunate conversation between Ms Dunn and Ms Van Dongen. It was Ms Hagias' opinion that a patrol car should have been despatched immediately. She said that it was very clear that Ms Dunn was concerned about Zahra's safety, and the fact that she had announced herself as calling on behalf of a domestic violence service should have elevated the significance of her call in the mind of the call taker[248]. Ms Hagias was asked whether in her opinion domestic violence enquiries of this kind should be taken by sworn or unsworn officers. She responded that the person taking the call should have the skills and experience to be able to extract the appropriate information and make the appropriate decision. She said that it has been her experience that unsworn officers do not commonly provide an adequate response[249].

16.6. Ms Hagias expressed the opinion that the tendency demonstrated in this case to contact the domestic violence victim and ask whether she still wished to proceed against the perpetrator was not appropriate. She said that it puts the responsibility back onto the victim and removes accountability from the perpetrator. She said that unfortunately in 2014 the practice continues to happen[250].

[248] Transcript, page 1504
[249] Transcript, pages 1505-1506
[250] Transcript, page 1515

16.7. Finally, Ms Hagias confirmed that the family safety meetings which have been introduced in the last several years are now embedded in the system and that the responses from these meetings are positive and that agencies involved in these meetings are working quite closely together to share information[251].

17. The evidence of Deputy Commissioner Stevens

17.1. The Deputy Commissioner of Police gave evidence at the Inquest. Deputy Commissioner Stevens said that it was his view that the workload of officers at the time of the Abrahimzadeh case were significant, but not so significant that they could not properly do their jobs[252]. He said that there has been an increase in resources to the Family Violence Investigation Sections. An additional six positions across the metropolitan area were allocated in 2012. Resources are again under review now. He said that there has been a recommendation, which has been endorsed, that SAPOL have a domestic violence portfolio which will be managed by the Deputy Commissioner himself rather than the present situation with Family Violence Investigation Sections responsible to individual Local Service Areas[253]. That would appear to be a sensible reform.

17.2. Deputy Commissioner Stevens expressed the opinion that if family safety meetings had been in place under the Family Safety Framework at Elizabeth in 2009, there would have been a vastly different response. He said that he thought that if police officers attending a family safety meeting became aware that there had been no action to apprehend an offender in a case such as the Abrahimzadeh case, that would 'trigger activity'[254].

> *I must say I have difficulty accepting his confidence that the result would be different. There were many occasions when the lack of activity in apprehending Ziaolleh came to the attention of various police officers who were not directly responsible for ensuring his apprehension. None of them noted the lack of progress and none of them instigated activity. Just because they happen to be attending a family safety meeting does not fill me with confidence that the result will be different in future.*

[251] Transcript, page 1518
[252] Transcript, page 1549
[253] Transcript, page 1550
[254] Transcript, page 1560

17.3. Deputy Commissioner Stevens also described a new concept calls MAPS[255]. However MAPS is at the very early stage of conception at the moment[256]. It remains to be seen what effective change MAPS might bring in future.

17.4. Deputy Commissioner Stevens was asked about the workload of Criminal Justice Sections including the Port Adelaide Criminal Justice Section. He was unable to comment specifically on the workload of the latter, but he said that generally it is no secret that Criminal Justice Sections are heavily taxed. He said that there are approximately 150 or 160 prosecutors within SAPOL who handled within the vicinity of 65,000 briefs per year. That works out at some 430 briefs per prosecutor, per year[257]. This too is under review.

17.5. Deputy Commissioner Stevens was unwilling to accept that unsworn members at police call centres do not have the capacity to appropriately absorb and act on information as sworn members[258]. It would appear that he would be unwilling to accept that the situation might be improved if sworn police officers handled domestic violence calls to the 131 444 number.

> *In my opinion the appalling reality shown by the transcript of the Ms Dunn / Ms Van Dongen conversation indicates the opposite. I intend to recommend that call centre practices be reformed so that domestic violence related calls are dealt with by sworn officers and not unsworn officers. This conforms with the opinion of Ms Hagias whose views I prefer in this matter.*

Furthermore, the remarkable obtuseness of Ms Van Dongen in interpreting a call for help as a desire to take a bureaucratic step called 'flagging' is so concerning that the situation should never be allowed to repeat itself.

17.6. When asked to comment about the overall performance of SAPOL and its officers in this case, Deputy Commissioner Stevens made the following comments:

> '… in a general sense the service provided by SAPOL in this case … disappointing.' [259]
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> '… certain individuals whose actions were so far below our expected standards that I find it troubling.' [260]

[255] Multi Agency Protection Service (high level coordination group across Government agencies)
[256] Transcript, page 1565
[257] Transcript, pages 1572-1573
[258] Transcript, pages 1591-1592
[259] Transcript, page 1602

'… failure in some regards to actually perform the duties that people have been required to perform.' [261]

'I am particularly concerned about the actions of Sergeant Weber, Constable Flitton and Constable Hern.' [262]

'…it can't be disregarded that our failure to take appropriate action encouraged him (Ziaolleh Abrahimzadeh) to think that he was beyond reproach in terms of police action.' [263]

17.7. With the exception of the last of those acknowledgements, it is my view that Deputy Commissioner Stevens has understated, by a considerable margin, the true nature of SAPOL's performance in this case.

> *To describe it as 'disappointing' simply does not go far enough. The adjective 'appalling' would have been far more suitable.*

I set out hereunder a list of explanations that were deployed by different officers at different times in the course of this Inquest. I have refrained from using the expression 'excuses', but they speak for themselves:

1) One reason for the original patrol officers SC Nazar and SC Hill not making a second visit to the Abrahimzadeh address was that they were washing and refuelling the car;

2) Placing a higher priority on trying to contact the victim than apprehending the offender:

   a) To see if they want to proceed (SC Flitton);

   b) Family 'unable to be located' because 'in hiding' (Sergeant Smith)

   c) When SC Flitton finally attended the address of certain relatives of Ziaolleh he did not ask to whom he was speaking, with the result that they were easily able to deny any knowledge of Ziaolleh;

   d) At all times throughout the process there were three active mobile numbers to which a call could be made for each of Atena, Arman and Zahra.

3) Not attending the workplace of suspected domestic violence perpetrators 'to avoid embarrassment on behalf of the suspects';

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[260] Transcript, page 1602
[261] Transcript, page 1603
[262] Transcript, page 1603
[263] Transcript, page 1608

4) The whereabouts of the suspect is ‘currently unknown’ (SC Flitton, Exhibits C116c and C116d);

5) ‘Unbelievably excessive workload’ (Sergeant Smith);

6) Ms Van Dongen thought that Ms Dunn wanted to flag an address on the SAPOL computer system when she was saying the woman was petrified because she had seen her brother-in-law outside the house;

7) When Atena and Arman attend at Netley Police Station complaining of the ongoing threats of violence by Ziaolleh, those threats were characterised as technically not a breach of the restraining order;

8) More attention being given to checking if victims wish to continue to pursue matters because victims often want to withdraw complaints and sometimes officers are ‘yelled at’ by victims where the complaint has not been withdrawn (SC Hern);

9) Not according a higher priority to the Abrahimzadeh PIRs because ‘not my high risk matter’ and ‘not my case management’ (SC Hern);

10) The original complaint against Ziaolleh Abrahimzadeh could be minimised as follows: 'It was a kick and a slap' (SC Hern);

11) The option of getting a patrol to go out and visit an address to potentially locate Ziaolleh: 'To pick up the phone and ask patrols to do something is pretty unlikely' (SC Hern);

12) There will be no attention paid to the file between 7 June 2009 and 17 July 2009 because the officer will be attending courses and having annual leave (SC Flitton);

13) No attention to file for next 10 days due to rostered days off and attending a course (SC Flitton);

14) The workload was ‘absolutely mission impossible’ (DS Webber, Transcript page 626);

15) Supervisor not aware of the General Order requirement to review PIRs that were open for 28 days or more because: ‘he had not read the General Orders’ (DS Webber, Transcript page 653);

16) In minimising the seriousness of the caller saying that someone was petrified of being killed: 'We get calls sometimes from people saying the same thing' (Ms Van Dongen);

17) When Arman and Atena report Ziaolleh's ongoing threats to kill Zahra at Netley Police Station: 'I did not have a proper understanding of what the complaint was about' (SC Thomas, Transcript page 975).

18. Conclusions

18.1. For 13 months Ziaolleh was not arrested, reported or even spoken to by police for the offences he committed in early February 2009. During that time he continued to make threats against Zahra through her adult children. He taunted Arman and Atena with the pointlessness of their having gone to the police in the first place, saying that he was still at liberty months later. He attended at the Port Adelaide Magistrates Court on numerous occasions as the domestic violence restraining order worked its way towards a contested hearing. Each time he knew that his presence must have been obvious to the police prosecutor, and other police at the precinct. He knew that his brother had located the safe house, and had been seen by Zahra. Yet still he was not arrested or charged. Finally, when the contested hearing took place he was able, through his lawyers, to gain what to him must have appeared a significant concession, because it expressly permitted him to attend the Persian New Year function where he would finally make good his threat to kill Zahra. All this time the most significant deterrent to further violent acts by him was not taken by police.

> *The power of arrest and charging is the most powerful influence that police can bring to bear against a person such as Ziaolleh. If that power is not exercised expeditiously, or worse, not exercised at all, the domestic violence offender will think that he has 'gotten away with it'. He will be encouraged to think that he can repeat his behaviour. The victim will think that she is not being taken seriously. The combination of these factors makes it highly likely there will be a repetition of the violence. This is the most important lesson to be learnt from this case.*

18.2. At all times, it is necessary for police to conduct risk assessments when dealing with domestic violence cases. These are not mere words. It is easy to regard an admonition to conduct an appropriate risk assessment and act accordingly as a statement of the obvious that everyone would do. However, this case has shown that the only time it happened for Zahra was when she presented to PC Negruk, one of the

least experienced SAPOL officers who had anything to do with her case. PC Negruk comes out of this case as one of the most competent of the many SAPOL officers who were involved.

> *This case has shown that it is essential for police officers not to merely recite 'risk assessment' as a mantra, but to actually conscientiously perform the task at hand.*

> *The SAPOL slogan or logo 'Keeping SA Safe' is a very good summary of SAPOL's most important function. At every level it was a hollow promise in the case of Zahra Abrahimzadeh.*

18.3. There were multiple opportunities where Zahra could have been offered the chance of preventing her death. Whether any of those chances would actually have prevented her death cannot be known. However, she was denied each and every one of those chances.

19. Her Majesty's Inspectorate of Constabulary Report 2014 'Everyone's business: Improving the police response to domestic abuse'

19.1. In the United Kingdom a report was published earlier this year by Her Majesty's Inspectorate of Constabulary (HMIC) entitled 'Everyone's business: Improving the police response to domestic abuse'. The report is to be found at www.hmic.gov.uk. I commend it to the Commissioner of Police and any other person interested in this subject. A principal theme of the report is suggested by its title. The report strongly states that the police services need to build a domestic violence case for the victim, not expect the victim to build the case for the police. In the case of Zahra Abrahimzadeh, there are many instances of police officers seeking to place responsibility on the victim to build the case, rather than shouldering that burden themselves. This is of course wholly at odds with the findings of HMIC. For example, it was Sergeant Smith's contention that it was somehow for the victim to contact her before the case came to court (even though she had not been notified). It was Sergeant Smith's contention that she could use the victim's evidence to found her case, and not bother with the potential evidence of the two adult children. These attitudes are exactly what HMIC was referring to in the report.

19.2. Further examples of this attitude come out of the evidence of SC Hern and SC Flitton. The latter was content to assume that the victim 'could not be found', when that was simply not the case. How could that be regarded as consistent with an approach that values building a case for the victim? In any event, his preoccupation was to wait until he could ask Zahra if she still wanted to proceed. I pose the same question. How is that consistent with an ethos of building the case for the victim? Ms Van Dongen's acts were not those of a case builder. Her role was to misinterpret the clear message from Sandra Dunn about the harassment of the brother-in-law. She told Ms Dunn and Arman to call the Port Adelaide Police Station. Let them solve the problem themselves, or get some other officer at Port Adelaide to look after them. SC Thomas at Netley Police Station could hardly be regarded as building a case for the victim. His role was to send Atena and Arman away without any action in the face of their clear reports of ongoing threats by Ziaolleh in what was clearly a domestic violence case. The only officer who made a genuine effort to build the case for Zarah was the probationer, Constable Negruk.

19.3. The HMIC report notes that the dynamics of domestic abuse mean that the victims may find it difficult actively to support police action. For example, they may not want the offender to be charged and prosecuted. Nevertheless, criminal justice agencies have a responsibility to seek criminal justice sanctions. It said that there is a need to pursue cases even without the support of the victim. It points out that this makes it all the more important for the initial investigation to be rigorous and extensive.

19.4. Significantly, the report says that the alleged offender should normally be arrested. Police officers should not base a decision to arrest on the willingness of the victim to testify in subsequent proceedings. Officers should be clear that the decision to arrest rests with them rather than with the victim and they need to follow the maxim that where an offence has been committed in a domestic abuse case, arrest will normally be necessary. Of course this maxim makes it imperative that the offender be located.

20. Recommendations

20.1. Pursuant to Section 25(2) of the Coroners Act 2003 I am empowered to make recommendations that in the opinion of the Court might prevent, or reduce the likelihood of, a recurrence of an event similar to the events that were the subject of the Inquest.

20.2. Normally I would direct recommendations about the operations of SAPOL to the Commissioner of Police. However, given that this Inquest is about domestic violence, an issue which has recently been described by the Premier as a key priority of the Government[264], I have thought it appropriate to direct the recommendations to the Premier. The Premier will no doubt bring them to the attention of the Commissioner in due course, but it is my hope that the Premier will be able to maintain oversight of this key priority for Government.

1) I recommend that all aspects of domestic violence policing be characterised by a sense of curiosity, questioning and listening. Risk assessment must be actually applied, not merely recited as a mantra;

2) I recommend that the SAPOL Criminal Justice Section be staffed by legal practitioners so that domestic violence restraining orders can be properly presented before magistrates;

3) I recommend that all domestic violence calls to the SAPOL call centre are handled by sworn police officers with particular training in domestic violence risk assessment;

4) I recommend that the domestic violence training that cadets receive at the Police Academy from external domestic violence agencies occupy at least one day, rather than the half day that it has been reduced to;

5) I recommend that all domestic violence safe houses be flagged with police communications in order to ensure consistency of approach when a response to an incident or report is made;

6) I recommend that prosecutors appearing in domestic violence matters must, as a matter of course, seek out all available information about the longitudinal

[264] http://hansardpublic.parliament.sa.gov.au/Pages/IndexResult.aspx#/SubjectIndex/HANSARD-6-19/HANSARD-11-16362

history of the domestic violence offending, particularly from Family Court documents if those exist;

7) I recommend that prosecutors appearing in domestic violence matters must, as a matter of course, establish the outcome of the offence PIRs underlying the application;

8) I recommend that police officers do not ask domestic violence complainants whether they still wish to proceed unless there is some communication from the complainant that justifies such an enquiry;

9) I recommend that when a domestic violence victim makes a report at a police station, they are afforded an opportunity of privacy in an interview room;

10) The evidence of SC Nazar showed that the flow of taskings received by patrols meant that Priority A taskings that had been attended to but without result earlier in a shift, were unlikely to be returned to. This needs to be changed. Priority A taskings should remain higher in priority than later, lower priority taskings.

Key Words: Homicide; Domestic Violence

In witness whereof the said Coroner has hereunto set and subscribed his hand and Seal the 7th day of July, 2014.

State Coroner