

IN THE CORONERS COURT  
OF VICTORIA  
AT MELBOURNE

Court Reference: COR 2012 1551

**FINDING INTO DEATH WITH INQUEST**

**(Amended pursuant to s76 of the *Coroners Act 2008* on 22 November 2013)**

*Form 37 Rule 60(1)*

*Section 67 of the *Coroners Act 2008**

**Inquest into the Death of:** Luke Grosvero

Delivered On: 7 November 2013

Delivered At: Melbourne

Hearing Dates: 7 November 2013

Findings of: Iain West, Deputy State Coroner

Counsel Assisting the Coroner Sarah Gebert

I, IAIN TRELOAR WEST, Deputy State Coroner having investigated the death of

**Luke Grosvero**

AND having held an inquest in relation to this death on 7 November 2013

at Melbourne

find that the identity of the deceased was Luke John Grosvero

born on 3 January 1980

and the death occurred on 1 May 2012

at a location on the traffic island adjacent to the left turn slip lane leading to Blackburn Road from the Monash Freeway, Mount Waverley

**from:**

1 (a) Multiple Injuries Sustained in a Motorbike Incident

**in the following circumstances:**

**Background**

1. Luke John Grosvero (referred to in my finding as Luke) was 32 years of age at the time of his death. He was living with his defacto partner, Natasha Poesch in Hoppers Crossing. His parents are Michael and Sandra Grosvero. Luke had no siblings.
2. Luke was the holder of a licence to ride a motorcycle. He purchased a black 2002 Suzuki GRXR600 motorcycle ('the Suzuki') in 2003 which was his only mode of transport at the time of his death. It would appear that both Luke's parents and his defacto partner were apprehensive about Luke riding motorcycles and encouraged him to drive a car as an alternative.
3. Luke held casual employment at 'Tasty Trucks' in Ferntree Gully as a Production Night Worker.

**Circumstances of death**

4. At approximately 8.30 pm on 30 April 2012, Luke left his home to travel to work in Ferntree Gully. Ms Poesch says that Luke would usually travel along the Princess Freeway

though the City Link tunnel, then along the Monash Freeway, Glen Waverley and then turn left into Ferntree Gully Road.

5. On the evening of 30 April 2012, Leading Senior Constable Richard Castano<sup>1</sup> and First Constable Sarrah O'Keefe<sup>2</sup> of the Stonnington Highway Patrol (Stonnington 625) were in an unmarked police car performing radar/static duties on the Monash Freeway. LSC Castano was the driver of the police vehicle and FC O'keefe was the observer.
6. The vehicle was a Gold rated police vehicle which permitted travel at unlimited speeds. At the time of the incident, LSC Castano held a Gold Class licence which also allowed him to travel at unlimited speeds.<sup>3</sup> The vehicle was fitted with an In Car Video and Mobile Data Terminal.
7. Sometime between 9.00-9.01pm, after exiting the Burke Road on ramp to the Monash Freeway, the police officers observed Luke's 'solo' vehicle, the Suzuki, with Queensland number plates displaying registration 457-AY driving in a south easterly direction along the Monash Freeway. Luke was riding within the speed limit at the time he was first observed (80-85 km/h).
8. The police vehicle followed Luke (and travelled beside him) and at the same time FC O'Keefe ran registration checks on the number plates fitted to Luke's motorcycle. It appears that the motorcycle was displaying a Queensland registration plate 457-AY which belonged to a red 1997 Yamaha 850cc motorcycle whose registration had expired.
9. Luke was travelling at or under the speed limit (100kmh) and at about 200 metres before Warrigal Road, the police determined that they should '*intercept the vehicle to speak to the rider and have a closer inspection of the motorcycle.*'
10. The police moved behind Luke's vehicle and created 50 metres of space. LSC Castona said: '*I then commenced conducting a risk assessment as we all approached the Warrigal Road off ramp. At this point an additional left lane is introduced to the freeway. ....I stated to [Sarrah] that if there are false number plates he will probably run and in which case we will*

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<sup>1</sup> Leading Senior Constable is abbreviated to LSC

<sup>2</sup> First Constable is abbreviated to FC

<sup>3</sup> In accordance with the *Victoria Police Manual* Victoria Police personnel are required to hold an Approved Driving Authority in order to drive police vehicles. This is an internal licensing system which has a colour coded system. The Victoria police fleet also have classification that are colour coded. The licence codes and vehicle codes are linked together. The highest is a Gold Class licence which enables the driver to drive a Gold Class vehicle at unrestricted speeds.

*call a pursuit, I will terminate the pursuit if he gets too fast or a danger to anyone occurs. In my mind I considered some options. The first consideration I thought of was that if he pulled over that there was a safe area to pull over to the left. I knew that there as a long straight stretch of emergency lane past the Warrigal Road on ramp, so I was going to use that area to perform a safe routine intercept of the motorcycle. The second consideration I thought of was that if he takes off, the road and traffic conditions at the time. I was making these considerations so that the danger to other road users was not increased. I was aware that if the motorcycle increased the danger I would make the decision to terminate the pursuit.'*

11. LSC Castona activated the blue and red emergency lights and flashed the high beams whilst directly behind Luke's motor cycle (30 metres). It appears that Luke's vehicle moved to the far right lane and accelerated.
12. LSC Castona then activated the siren and FC O'Keefe contacted the Police Communications Centre to advise that a pursuit had commenced.
13. The police officers followed Luke as his vehicle increased in speed until LSC Castano observed that the police vehicle was travelling at 172km/h (in 100km/h zone) and Luke's motorcycle was still pulling away.
14. A short time later, as the police were approaching Forster Road (about 100-200 metres from the Forster Road off ramp exit) the pursuit was terminated due to *'the risks of travelling at that speed and the considered danger this placed the rider, the community, my partner and myself. It was clear to me that the danger had increased and the need to terminate outweighed the need to intercept the motorcycle. It was clear the motorcycle rider was not going to stop.'*
15. I note the following exchange recorded on the police radio channel:

TIME STAMP 21:03:00

STONNINGTON 625: *Stonnington 625 in pursuit*

RADIO OPERATOR: *Stonnington 625, your location?*

STONNINGTON 625: *Stonnington 625 outbound on the Monash. I'll give you a registration 457 AY. Elective pursuit.*

RADIO OPERATOR: *Roger that. Nearest intersection?*

STONNINGTON 625: *Stonnington 625, speed 170. Terminated.*

TIME STAMP 21:03:20

16. Following termination of the pursuit, the police officers immediately stopped the vehicle in the emergency lane and deactivated the emergency lights at a location approximately 200 metres west of the Forster Road Exit from the Monash Freeway.
17. A Pursuit Controller, Sergeant Kane Josephs, was allocated but he did not communicate with the police members until after the pursuit was terminated as the pursuit was short in duration.
18. The evidence suggests that Luke's motorcycle continued along the Monash Freeway. Roberto Tapia, a witness driving in the same direction, said: *'I then saw the bike travelling at speed in the third lane move right and lane split between two trucks. The bike was still going very fast about the speed of ...150kmh.'* Another driver, Jessica Spargo observed as she approached the Blackburn Road exit: *'As I got closer to the exit I heard a loud whoosh like a V8 and then saw something black go past me in the far left lane I was travelling at about 95 Km/h. When I looked I saw that it was a motorcycle and I think he would have been travelling at least 145Km/h.'*
19. It was found by Detective Sergeant Peter Bellion, a collision reconstructionist, that Luke's vehicle *'had been travelling along the [Blackburn Road] off ramp and had entered onto the left turn slip lane. Whilst on the left turn slip lane, approaching the traffic island that separates the left turn slip lane and the eastbound lanes, it had skidded in an easterly direction from emergency braking. The motorcycle had then capsized sliding up onto the semi-mountable concrete kerbing of the island before continuing onto the grass covered section of the island where it was apparent it had struck a chevron alignment steel posted sign, knocking it partly out of the ground and then the left wooden post of a directional sign before tumbling and gouging through to its rest position.'*
20. Luke, having being thrown from the motorcycle and *'undergone a sudden stop on impact with the northern wooden post of the directional sign'*, was assisted at the scene by other motorists who called for an ambulance. In addition, they sought instructions from emergency services as to any assistance that could be provided pending the arrival of the ambulance. Luke was transported to The Alfred Hospital and arrived at 10.15pm. He was given emergency treatment but on the morning of 1 May 2012 the results of scans revealed severe brain injury and Luke was subsequently pronounced 'brain dead'. Following

consultation with Luke's family, life support was withdrawn at 12.30pm on the same day and he was pronounced deceased at 12.45pm on 1 May 2012.

### **Post Mortem Examination**

21. Dr Heinrich Bouwer, Medical Practitioner and Forensic Pathologist at the Victorian Institute of Forensic Medicine, conducted an Inspection and Report and determined a reasonable cause of death as 'Multiple Injuries sustained in a motorbike incident'.
22. The toxicology analysis of body fluids disclosed no drugs or alcohol.

### **Police investigations**

23. The collision was investigated by Detective Sergeant Rohan Courtis of the Major Collision Investigation Unit with oversight by Professional Standards Command.
24. The distance of the police pursuit was estimated to be approximately 600-800 metres and its duration was approximately 20 seconds. The distance from where the pursuit was terminated and the point of impact was approximately 1.2 km.
25. Detective Sergeant Peter Bellion, estimated that the speed of Luke's vehicle at the start of skidding was 77 kmph. *'This does not include any slowing of the motorcycle when it hit the chevron sign and/or the directional sign. The motorcycle would have also slowed via the braking system and backing off from the throttle before skidding.'*
26. LSC David Ackland, a qualified mechanical investigator found that the bike was in a mechanically safe condition prior to the collision and therefore could find no mechanical faults that would have caused or contributed to the collision.
27. The police members indicated that they were engaged in an *elective pursuit* which is defined in the relevant Victoria Police Manual (VPM) as a vehicle: *that has failed to stop after being signalled to stop for a lawful purpose. The reason for the pursuit is to intercept an offending driver.*<sup>4</sup>
28. The police vehicle was fitted with a Mobile Data Terminal from which Global Positioning System (GPS) data can be downloaded recording time, direction and speed of the police

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<sup>4</sup> The following are relevant Victoria Police documents: *Victoria Police Manual - Policy Rules - Urgent duty driving and pursuits*, *Victoria Police Manual - Procedures and Guidelines - Urgent duty driving and pursuits* and *Victoria Police Manual - Policy Rules - Police Vehicles*.

vehicle. An analysis of that data was conducted by Mike Mohammed, Acting Inspector of Police who stated: *'Stonnington 625 advised D24 of an elective pursuit at 21:03:00 hours via Police radio. At 21:03:06 the police vehicle was travelling at 167km/hr...east bound on the Monash Freeway. At 21:03:14 the police vehicle was travelling 173 km/hr...east bound on the Monash Freeway. This is just prior to Huntingdale Road, Chadstone. At 21.03.20 Stonnington 625 terminated the pursuit and advised D24. The police unit initially reduces its speed to 127 km/hr...and then a further reduction to below 100 km/hr at 21:03:29. From an analysis of the MDT data, it appears that Stonnington 625 did not proceed any further east bound on Monash Freeway than the Forster Road overpass.'*

29. In summary, the GPS data and the In Car Video confirms the police members version of events relating to the conduct of the pursuit.
30. Following the incident, both officers were separated and underwent critical incident blood testing for drugs and alcohol which produced negative results.

#### **Was Luke Grosvero in custody at the time of his death?**

31. As part of my investigation I have turned my mind to whether at the time of Luke's death, he was a *person placed in custody or care* in accordance with section 3 of the *Coroners Act 2008* (the Act). Section 3(j) includes:  
*a person who a member of the police force was attempting to take into custody*
32. I have considered whether the police were actively trying to arrest Luke at the time of his death as well as what might have been going through Luke's mind at this time. The Act does not define the meaning of *attempting to take into custody*.
33. The relevant VPMs at the time of the death set out the policies and procedures regarding the conduct of a police pursuit.<sup>5</sup> LSC Castano and FC O'Keefe tried to intercept Luke and when that failed, they engaged in an elective pursuit by activating the siren and contacting PCC to advise them of this fact. However, the police officers terminated the pursuit after approximately 20 seconds which covered approximately 600-800 metres in distance.
34. I note that the accident occurred a further 1.2 km from where the pursuit was terminated and so it is clear that the police officers were not actively trying to apprehend Luke at the time of his death.

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<sup>5</sup> See note 3. I note that Coroner John Olle is investigating issues with respect to current Victoria Police pursuit policy in the death of Sarah Booth, COR 2006 4974.

35. What Luke was thinking in the moments before his death can only be a matter of speculation and will remain unknown. I note however evidence suggesting that Luke fitted the *false* number plates to his motorcycle as it was unregistered. I also note that at the time of the incident Luke had some prior traffic convictions and a pending matter to be heard in August 2012, with an allegation relating to a road incident and trying to evade police.
36. It is clear from the evidence that the manner of Luke's driving was in direct response to the police attempt to intercept him and the pursuit that followed. That is, he appears to have actively and intentionally tried to avoid police interception in the deliberate manner of his driving by increasing his speed and changing lanes. In particular, I also note that his estimated speed just before exiting onto the off the ramp was said to be approximately 145 kmph and that he appears to have diverted from the route which he ordinarily took to work.
38. On the basis of all these matters I find on balance that Luke was a person who should be considered a person who was *in custody* as defined by the Act at the time of his death.

### **Conclusions**

42. Having considered all the evidence I find that Luke John Grosvero born on 3 January 1980 died on 1 May 2012 as a result of 'Multiple Injuries Sustained in a Motorbike Incident'.
43. I find that Leading Senior Constable Richard Castano and First Constable Sarah O'Keefe acted in accordance with Victoria Police policies and procedures and did not contribute to his death.
44. I have further directed that a copy of this Finding be provided to Coroner John Olle for the benefit of his investigation into the broader issue of the current Victorian Police pursuit policy.

### **COMMENTS**

Pursuant to section 67(3) of the **Coroners Act 2008**, I make the following comment connected with the death:

45. The police officers vehicle was fitted with an In Car Video which captured the entire interaction between Luke and the police officers. This greatly assisted my investigation by providing an independent and contemporaneous visual record of these events in addition to the GPS data.

Pursuant to section 73(1) of the **Coroners Act 2008**, I order that this Finding be published as part of the Court record.



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

Michael and Sandra Grosvero

Detective Sergeant Rohan Courtis, Investigating Member

Signature:

*Iain West*



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**IAIN WEST**  
**DEPUTY STATE CORONER**  
Date: 22 November 2013

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