



IN THE CORONERS COURT  
OF VICTORIA  
AT MELBOURNE

Court Reference: COR 2017 4564

**FINDING INTO DEATH WITHOUT INQUEST**

*Form 38 Rule 63(2)*

*Section 67 of the Coroners Act 2008*

Findings of:	Judge John Cain, State Coroner
Deceased:	Lina Huynh
Date of birth:	22 October 1972
Date of death:	7 September 2017
Cause of death:	1(a) Unascertained
Place of death:	63 View Street, St Albans, Victoria

## INTRODUCTION

1. On 7 September 2017, Ms Lina Huynh (**Ms Huynh**) also known as Hoa Thi Nguyen and Thi Lan Tran, was 44 years old when she was found deceased in a makeshift living arrangement at 63 View Street, St Albans, Victoria. At the time of her death, Ms Huynh was living with her defacto partner, Phuc Thien Tang (**Mr Tang**).
2. Ms Huynh was born in Vietnam and migrated to Australia following the sponsorship of her then husband, Mr Bond Huynh, ultimately obtaining Australian citizenship on 29 August 1996. Ms Huynh had two sons during her relationship with Mr Bond Huynh; Michael Phan (**Michael**), born 28 October 1993, and John Phan (**John**), born 22 March 1999.<sup>1</sup> Ms Huynh and Mr Bond Huynh divorced shortly after John's birth in 1999.<sup>2</sup>
3. Ms Huynh met Mr Tang in 2012<sup>3</sup> and they commenced an intermittent de-facto relationship that continued up until the time of Ms Huynh's death.<sup>4</sup>
4. Mr Tang was born in Vietnam and migrated to Australia at the age of 19.<sup>5</sup> Mr Tang had been unemployed since 2012 and was a known poly substance user for over 25 years, his substance use included heroin, amphetamine, and cannabis. In 2014, he commenced using large amounts of methamphetamine daily.<sup>6</sup>
5. Mr Tang had an extensive criminal history, beginning in 1989 with a substantial number of court appearances for a variety of offences largely related to stolen property and illicit substances. Mr Tang had also been found guilty of offences relating to weapons and physical assaults.<sup>7</sup>

## THE CORONIAL INVESTIGATION

6. Ms Huynh's death was reported to the Coroner as it fell within the definition of a reportable death in the *Coroners Act 2008* (the Act). Reportable deaths include deaths that are unexpected, unnatural or violent or result from accident or injury.
7. The role of a coroner is to independently investigate reportable deaths to establish, if possible, identity, medical cause of death, and surrounding circumstances. Surrounding circumstances

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<sup>1</sup> *Coronial Brief*, Statement of John Phan dated 10 September 2017, 43

<sup>2</sup> *Ibid*

<sup>3</sup> *Coronial Brief*, Statement of Michael Phan dated 19 September 2017, 46

<sup>4</sup> *Ibid*

<sup>5</sup> *R v Tang* [2018] VSC 460, 6-7

<sup>6</sup> *Ibid*

<sup>7</sup> *Ibid*, 4-5

are limited to events which are sufficiently proximate and causally related to the death. The purpose of a coronial investigation is to establish the facts, not to cast blame or determine criminal or civil liability.

8. Under the Act, coroners also have the important functions of helping to prevent deaths and promoting public health and safety and the administration of justice through the making of comments or recommendations in appropriate cases about any matter connected to the death under investigation.
9. The Victoria Police assigned an officer to be the Coroner's Investigator for the investigation of Ms Huynh's death. The Coroner's Investigator conducted inquiries on my behalf, including taking statements from witnesses – such as family, the forensic pathologist, treating clinicians and investigating officers – and submitted a coronial brief of evidence.
10. This finding draws on the totality of the coronial investigation into the death of Ms Huynh, including evidence contained in the coronial brief and further evidence obtained under my direction. Whilst I have reviewed all the material, I will only refer to that which is directly relevant to my findings or necessary for narrative clarity. In the coronial jurisdiction, facts must be established on the balance of probabilities.<sup>8</sup>

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

### **Circumstances in which the death occurred**

11. During December 2016, Ms Huynh and Mr Tang resided together in a boarding house located at Vincent Street, St Albans.<sup>9</sup>
12. On 18 December 2016, Ms Huynh contacted her eldest son, Michael, and disclosed that Mr Tang had assaulted and threatened her with a knife the previous night. Michael encouraged Ms Huynh to attend Sunshine Police station and report the incident of family violence.<sup>10</sup> Ms Huynh further disclosed to Michael, that she had experienced a history of family violence '*for a while*'.<sup>11</sup>

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<sup>8</sup> Subject to the principles enunciated in *Briginshaw v Briginshaw* (1938) 60 CLR 336. The effect of this and similar authorities is that coroners should not make adverse findings against, or comments about, individuals unless the evidence provides a comfortable level of satisfaction as to those matters taking into account the consequences of such findings or comments.

<sup>9</sup> *Coronial Brief*, Statement of Michael Phan dated 19 September 2017, 46

<sup>10</sup> *Ibid*, 46-47

<sup>11</sup> *Ibid*, 46

13. Ms Huynh spoke to a Police member at the Sunshine Police station on 18 December 2016,<sup>12</sup> disclosing that Mr Tang had ‘held a knife to her and said, “get out of my house or I will kill you”.’<sup>13</sup> Michael sat with Ms Huynh as a statement was written that was approximately three to four pages long.<sup>14</sup> Ms Huynh, however, did not sign the statement, stating that she wanted to stay away from Mr Tang, and did not want to attend court to obtain a Family Violence Intervention Order (FVIO).<sup>15</sup> This was despite efforts made by Michael and Victoria Police to explain the FVIO process to her and address her concerns.<sup>16</sup>
14. In mid-June 2017, Ms Huynh and Mr Tang began residing together in an unoccupied property in St Albans, with two other occupants.<sup>17</sup> The property also had bungalows situated at the rear which were occupied by tenants paying rent to the property’s landlord.<sup>18</sup> The landlord discovered that Ms Huynh and Mr Tang were squatting in the vacant property and ordered them to leave. Mr Tang remained, whilst Ms Huynh relocated to the home of Mr Ho Phi Nguyen in August 2017.<sup>19</sup>
15. Ms Huynh had been introduced to Mr Nguyen in August 2017 by Mr Nguyen’s niece, Ms Ngoc Banh, and commenced an intimate partner relationship with him shortly after moving out of the previous unoccupied property.<sup>20</sup> Ms Huynh moved into his property in Braybrook and their relationship was described as ‘*boyfriend and girlfriend*.’<sup>21</sup> The relationship between the two broke down over the course of three to four weeks, with Mr Nguyen asking Ms Huynh to leave the property with her belongings on 22 August 2017.<sup>22</sup>
16. The following day, Mr Tang attended the home of Mr Nguyen, after being asked by Ms Huynh for his assistance to remove her belongings.<sup>23</sup> Ms Huynh had stated to Mr Tang that Mr Nguyen had repeatedly raped her over the preceding weeks.<sup>24</sup> Mr Tang was armed with an imitation handgun and samurai sword when he attended the property on this occasion, and he used them

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<sup>12</sup> Statement of Police Constable dated 24 November 2017, 1; *Coronial Brief*, Statement of Michael Phan dated 19 September 2017, 47

<sup>13</sup> *Coronial Brief*, Statement of Michael Phan dated 19 September 2017, 47

<sup>14</sup> *Ibid*

<sup>15</sup> *Ibid*

<sup>16</sup> Statement of Police Constable dated 24 November 2017, 1; *Coronial Brief*, Statement of Michael Phan dated 19 September 2017, 47

<sup>17</sup> *Coronial Brief*, Transcript of Interview with Phuc Thien Tang dated 20 September 2017, 157.

<sup>18</sup> *Coronial Brief*, Statement of Hue Thi Nguyen dated 10 September 2017, 54

<sup>19</sup> *Ibid*

<sup>20</sup> *Coronial Brief*, Statement of Ho Phi Nguyen dated 22 August 2017, 17

<sup>21</sup> *Ibid*

<sup>22</sup> *Ibid*, 18

<sup>23</sup> *Ibid*, 19

<sup>24</sup> *Coronial Brief*, Transcript of Interview with Phuc Thien Tang dated 20 September 2017, 140.

to threaten and assault Mr Nguyen, stating ‘*I am going to kill you, I’m going to stab you until you die because you took my [sic] wife.*’<sup>25</sup>

17. Mr Nguyen fled and Victoria Police were called, however Mr Tang had already left the premises when they arrived.<sup>26</sup> The following day, Mr Tang made further threats towards Ms Ngoc Banh, stating he would burn their home and would kill her and her family if his demands for a ‘*few thousand dollars*’ were not met.<sup>27</sup>
18. As a result of this incident, Mr Tang was charged with criminal offences and bailed to appear at Sunshine Magistrates Court on 2 November 2017.<sup>28</sup>
19. Following this incident Ms Huynh returned to squatting with Mr Tang at the St. Albans property.<sup>29</sup>
20. On 7 September 2017, Mr Tang took a large amount of methamphetamine and returned to the residence in which he and Ms Huynh were squatting at approximately 3.00am.<sup>30</sup> Ms Huynh became angry at Mr Tang due to his intoxicated state and ongoing drug use, which led to a verbal argument.<sup>31</sup> Mr Tang became angry and used a vacuum cleaner pole to strike Ms Huynh several times on the head until she stopped breathing.<sup>32</sup>
21. During his interview with Police, Mr Tang confirmed that he also stabbed Ms Huynh in the face with a sword, penetrating her brain at some point during the assault.<sup>33</sup>
22. Ms Huynh’s deceased body was found on the morning of 10 September 2017 and emergency services were contacted by other occupants who were also residing at the address on View Street, St Albans.<sup>34</sup> Police members attended the scene at approximately 9.23am and found Ms Huynh in the backroom of the house. Paramedics arrived shortly after and pronounced Ms Huynh deceased.<sup>35</sup>

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<sup>25</sup> *Coronial Brief*, Statement of Ho Phi Nguyen dated 22 August 2017, 20; Statement of Detective Senior Constable Kwok Yu dated 8 November 2017, 38

<sup>26</sup> *Coronial Brief*, Statement of Detective Senior Constable Kwok Yu dated 8 November 2017, 33

<sup>27</sup> *Coronial Brief*, Statement of Ngoc Bich Banh dated 22 August 2017, 26

<sup>28</sup> Victoria Police records provided to the Court on 18 June 2019, Criminal History regarding Phuc Thien Tang, 4

<sup>29</sup> *Coronial Brief*, Statement of Michael Phan dated 19 September 2017, 46

<sup>30</sup> *Coronial Brief*, Transcript of Interview with Phuc Thien Tang dated 20 September 2017, 140

<sup>31</sup> *Ibid*, 146

<sup>32</sup> *Ibid*, 146-147

<sup>33</sup> *Ibid*, 202-203

<sup>34</sup> *Coronial Brief*, Statement of Hue Thi Nguyen dated 10 September 2017, 55; Statement of Nghia Quang Tran dated 10 September 2017, 59

<sup>35</sup> *Coronial Brief*, Statement of Detective Senior Constable Aftyn Lee Rockes dated 6 November 2017, 78-80

23. On 20 August 2018, in the Supreme Court of Victoria, Mr Tang was found guilty of the murder of Ms Huynh and he was sentenced to 25 years imprisonment with a non-parole period of 20 years.<sup>36</sup>

### **Identity of the deceased**

24. On 12 September 2017, Hoa Thi Nguyen aka Lina Huynh, born 22 October 1972, was identified via fingerprint identification comparison.
25. Identity is not in dispute and requires no further investigation.

### **Medical cause of death**

26. Forensic Pathologist Dr Victoria Francis from the Victorian Institute of Forensic Medicine (VIFM), conducted an autopsy on 11 September 2017 and provided a written report of her findings dated 16 April 2018.
27. The post-mortem examination revealed that the exact mechanism of death was difficult to determine, at least in part due to decomposition changes when Ms Huynh's body was discovered. In addition, the death may be attributed to a combination of factors.
28. Dr Francis noted the following:
- (a) that there was blood in her trachea and blood in the stomach and duodenum indicating that Ms Huynh swallowed and aspirated blood prior to her death. This may have been due to the metal object inserted into her left nostril or may have been due to blood entering the mouth following blunt force trauma to her face and head. Aspiration of blood may have contributed as a mechanism of death but because of decompositional changes it was impossible to accurately assess the amount of blood in her airways.
  - (b) It is unclear whether the metal object that had been inserted into Ms Huynh's left nostril had a significant contribution to her death. There was evidence of aspiration and swallowing of blood, but there was no evidence of intracranial haemorrhage or significant neuropathological findings.
  - (c) The blunt force injuries to her head and face may have caused haemorrhage which may provide a contributing mechanism that contributed to her death but it is not possible to estimate the amount of blood loss and blood loss in isolation is considered unlikely to have had a significant contribution to her death.

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<sup>36</sup> *R v Tang* [2018] VSC 460, 12

29. Toxicological analysis of post-mortem samples did not identify the presence of any alcohol or any common drugs or poisons.
30. Dr Francis provided an opinion that the medical cause of death was '1(a) Unascertained' due to multiple possible mechanisms of death as described above.
31. I accept Dr Francis' opinion.

## **FURTHER INVESTIGATIONS AND CPU REVIEW**

### *Family violence investigation*

32. As Ms Huynh's death occurred in circumstances of recent family violence, I requested that the Coroners' Prevention Unit (CPU)<sup>37</sup> examine the circumstances of Ms Huynh's death as part of the Victorian Systemic Review of Family Violence Deaths (VSRFVD).<sup>38</sup>
33. Ms Huynh's relationship with Mr Tang met the definition of de facto partner and 'family member' under the *Family Violence Protection Act 2008 (Vic)* (**the FVPA**). The reported behaviour of Mr Tang towards Ms Huynh meets the definition of 'family violence' in the FVPA, specifically in the form of physical assault, damaging property, emotional and psychological abuse, threatening behaviour and controlling behaviour.
34. An in-depth family violence investigation was conducted in this case and I requested materials from several key service providers that had contact with Ms Huynh and Mr Tang prior to Ms Huynh's death.

### *Victoria Police engagement with Ms Huynh on 18 December 2016*

35. On 18 December 2016, Ms Huynh attended the Sunshine Police Station and reported a family violence incident in which Mr Tang held a knife to her and made threats to kill Ms Huynh.<sup>39</sup>

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<sup>37</sup> The Coroners Prevention Unit (CPU) was established in 2008 to strengthen the prevention role of the coroner. The unit assists the Coroner with research in matters related to public health and safety and in relation to the formulation of prevention recommendations. The CPU also reviews medical care and treatment in cases referred by the coroner. The CPU is comprised of health professionals with training in a range of areas including medicine, nursing, public health and mental health.

<sup>38</sup> The VSRFVD provides assistance to Victorian Coroners to examine the circumstances in which family violence deaths occur. In addition the VSRFVD collects and analyses information on family violence-related deaths. Together this information assists with the identification of systemic prevention-focused recommendations aimed at reducing the incidence of family violence in the Victorian Community.

<sup>39</sup> Statement of Police Constable dated 24 November 2017, 1; *Coronial Brief*, Statement of Michael Phan dated 19 September 2017, 47

Ms Huynh refused to sign a statement reporting the incident, and there were no further actions taken by Police to protect Ms Huynh at this time.

36. Section 2.3 of *The Code of Practice* stipulates that ‘Police are to respond to and take action’<sup>40</sup> in response to all family violence incidents reported to them regardless of who makes the report or how the report is made. The action taken should depend on appropriate risk assessment, irrespective of whether the Affected Family Member (AFM) made a verbal complaint or written statement.<sup>41</sup> The actions Police must take in response to reports of family violence include:

*...Undertak[ing] a family violence risk assessment which incorporates but is not limited to the background and identification of the recent pattern of violence, recognition of risk and vulnerability factors and the victim’s own assessment of their level of fear... Refer all parties involved to appropriate services...<sup>42</sup>*

37. A Family Violence Risk Assessment and Management report (VP Form L17) must be completed for every family violence incident that is reported to Police.<sup>43</sup> This must be recorded in LEAP<sup>44</sup> and be used to inform the most appropriate course of action, whether that is criminal, civil, or referral processes.<sup>45</sup>
38. The available evidence suggests that a VP Form L17 does not appear to have been completed in response to Ms Huynh’s report, and no further referrals to support services appear to have been made for either party (Ms Huynh as the AFM or Mr Tang as the Respondent).<sup>46</sup> This was a missed opportunity for intervention.
39. Based on the information provided by Ms Huynh during her attendance at Sunshine Police Station, and information that would have been ascertained by appropriate completion of a VP Form L17 (such as Mr Tang’s extensive criminal history), Victoria Police could have considered applying for a FVIO to protect Ms Huynh, regardless of whether she was consenting to such an order. At a minimum Victoria Police should have made referrals for her to family violence support services. There also appears to be a failure to consider whether criminal action should have been taken to investigate the alleged indictable assault and compile a brief of evidence.

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<sup>40</sup> Ibid, 18

<sup>41</sup> Ibid

<sup>42</sup> Ibid

<sup>44</sup> Ibid, 21

<sup>45</sup> Ibid

<sup>46</sup> Department of Health and Human Services, Correspondence regarding Lina Huynh, dated 21 June 2019



40. It is also noted that Ms Huynh was of Vietnamese descent and had very little English language skills. There is a well-documented issue of underreporting of family violence and crime by persons from Culturally and Linguistically Diverse communities.<sup>47</sup> These communities face additional barriers to seeking family violence assistance, which may make them more reluctant to disclose such violence or pursue formal actions in response to it. It is not clear to what extent Victoria Police took this into account in their interactions with Ms Huynh even though a Vietnamese interpreter was engaged via teleconference during Ms Huynh's attendance at Sunshine Police Station on 18 December 2016.
41. I confirm that the events of 18 December 2016 were the subject of a Victoria Police Professional Standards Command internal review. This internal review confirmed most of the issues identified in the coronial investigation and confirmed that the Police member who had contact with Ms Huynh on 18 December 2016 did not consult with her supervising Sergeant and was required to attend Police Academy for remedial family violence training as a matter of urgency in November 2017.<sup>48</sup>

## FINDINGS AND CONCLUSION

42. Pursuant to section 67(1) of the Coroners Act 2008 I make the following findings:
- (a) the identity of the deceased was Lina Huynh, born 22 October 1972, who was also known by the names Hoa Thi Nguyen and Thi Lan Tran;
  - (b) the death occurred on 7 September 2017 at 63 View Street, St Albans, Victoria from 1(a) Unascertained' causes; and
  - (c) the death occurred in the circumstances described above.
43. Having considered all the available evidence, I am satisfied that no further investigation is required in this case.
44. I convey my sincere condolences to Ms Huynh's family for their loss.

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<sup>47</sup> InTouch Multicultural Centre Against Family Violence (2010), *Barriers to the Justice System Faced by CALD Women Experiencing Family Violence*, Melbourne

<sup>48</sup> Professional Standards Command interim oversight report dated 2 February 2018

## COMMENTS

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

### *Victoria Police Family Violence Training*

45. I confirm that there have been significant reforms in the family violence sector and among police responses to family violence since Ms Huynh's death. Responding agencies are now required to comply with additional requirements when completing a VP Form L17 in response to a family violence incident. New police policy requires 39 questions be asked in the VP Form L17, 14 of which are scored. All 39 questions are to be asked every time a report of family violence is taken. The scores help police officers to determine risk, with medium risk matters to be case managed.
46. Police policies and procedures have also been updated since Ms Huynh's death and now require Family Violence Liaison Officers to be responsible for providing quality assurance by monitoring and reviewing VP Form L17 reports and for reporting on VP Form L17 compliance rates.<sup>49</sup> Family Violence Training Officers (**FVTO**) (21 Senior Sergeants located within each Division across the state) are also required to 'assist their Family Violence Investigation Unit to address inadequate Family Violence Reports (L17) submitted by frontline officers or other areas. This includes reviewing incorrect scoring, poor narratives and overriding issues regarding a poor or inadequate response to an incident of family violence. FVTOs will address the deficiencies with the members involved and coach/mentor them to ensure future compliance with policy and procedure.'<sup>50</sup> It is hoped that these changes will assist in ensuring that attending police officers complete VP Form L17s to accurately reflect the level of risk of family violence.
47. Victoria Police has also established the Centre for Family Violence at the Police Academy, which provides specialist family violence training and education for all police employees. Mandatory family violence training commenced in 2019 for all Victoria Police members from Constable to Superintendent rank. The training consists of both online and face-to-face sessions and includes topics such as family violence dynamics and the recent reforms to the Family Violence Response Model (including the new L17).<sup>51</sup>

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<sup>49</sup> Victoria Police, Practice Guide- Family Violence Roles and responsibilities, 3 & 4

<sup>50</sup> Ibid, 11-12

<sup>51</sup> Victoria Police submissions to the Court dated 26 November 2020, 3

*Victoria Police and Culturally and Linguistically Diverse Communities (CALD)*

48. I commend Victoria Police for their work to date in addressing the significant underreporting of family violence matters within CALD communities, specifically:

- (a) recent reforms to Victoria Police guidelines as to the role that belonging to a CALD community plays in family violence. For example, the recently updated *Victoria Police Practice Guide - Family Violence* indicates that members should employ a number of suggested strategies to assist those from CALD backgrounds, including the use of appropriate interpreters.<sup>52</sup> Further, the *Victoria Police Practice Guide - Family Violence Priority Community Response* highlights the importance of being culturally sensitive when investigating family violence.<sup>53</sup>
- (b) the development of an information sheet titled '*Family Violence: What Police do*' in 13 different languages (Arabic, Burmese, Chinese [Simplified and Traditional], Dari, English, Farsi, Greek, Italian, Macedonian, Punjabi, Somali, Turkish and Vietnamese).
- (c) the development of Family Violence Quick Guides for various priority communities to support police members in developing a greater understanding of family violence in these communities.<sup>54</sup>
- (d) a Crime Reporting Card in Vietnamese which was developed specifically for the Brimbank Local Service Area Police stations (North West Division 3), which encompasses the Sunshine Police Station, after it was identified that the majority of the community may not understand or know how to report crimes to the police.<sup>55</sup>

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

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

Mr Michael Phan, Senior Next of Kin

Ms Sharon Van Dyk, Special Counsel, Russell Kennedy Lawyers

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<sup>52</sup> Victoria Police Practice Guide, Family Violence Report L17) and Frontline Response, 3 August 2019, 9

<sup>53</sup> Victoria Police Practice Guide – Family Violence Priority Community Response, 28 June 2019, 20

<sup>54</sup> Victoria Police submissions to the Court dated 26 November 2020, 4

<sup>55</sup> Ibid

Ms Jacinta Gibbs, Senior Solicitor, Victorian Government Solicitor's Office

Detective Leading Senior Constable Rob Blezard, Coroner's Investigator

Signature:



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**JUDGE JOHN CAIN**

**STATE CORONER**

Date: 15 March 2021

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

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