



IN THE CORONERS COURT
OF VICTORIA
AT MELBOURNE

COR 2020 000676 & 000677

FINDING INTO DEATH FOLLOWING INQUEST

Form 37 Rule 63(1)

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

**INQUEST INTO THE DEATHS OF
VAATOA MOLLI CHANG AND JONAS LEW MONTEALEGRE**

Findings of:	Coroner Audrey Jamieson
Delivered on:	23 June 2022
Delivered at:	Coroners Court of Victoria 65 Kavanagh Street, Southbank, Victoria, 3006
Inquest Hearing Dates:	21 June 2022
Counsel Assisting:	Lindsay Spence Principal In-House Solicitor Coroners Court of Victoria
Chief Commissioner of Police:	Dale McQualter Senior Associate, Maddocks

I, Coroner Audrey Jamieson, having investigated the deaths of Vaatoa Moli CHANG and Jonas Lew MONTEALEGRE, and having held an inquest in relation to their deaths on 21 June 2022 at Melbourne, find that:

- the identities of the deceased were Vaatoa Moli CHANG (born 4 May 1990) and Jonas Lew MONTEALEGRE (born 4 November 1983); and
- the deaths occurred on 4 February 2020 at the intersection of High and Bell Streets, Preston;
- from 1(a) MULTIPLE INJURIES SUSTAINED IN A MOTOR VEHICLE INCIDENT,

in the following circumstances:

BACKGROUND

1. Vaatoa Chang at the time of his death was 29 years of age residing in Sunshine West with his wife and five children. He was unemployed and had previously resided in Queensland. Vaatoa's wife was the registered owner of a black 2007 Toyota Kluger bearing Queensland registration 498-YTI. Vaatoa was the holder of a full and current Victorian driver's licence at the time of the collision.
2. Jonas Montealegre at the time of his death was 36 years of age residing with his friend, Vaatoa, and his family in Sunshine West. He was separated from his former partner and only child, both of whom resided in Queensland. He was also estranged from his siblings but still had contact with his mother. He was unemployed at the time of his death.
3. On 30 January 2020 at approximately 5.45pm First Constable Downs and Constable Vinten were patrolling when they observed a black Jeep Cherokee and a black Toyota Kluger bearing Queensland registration within the carpark of a medical centre in St Albans. Due to intelligence in respect of recent burglaries First Constable Downs drove into the carpark and as they approached the two vehicles, they departed the carpark in convey. First Constable Downs followed the two vehicles and activated their lights and sirens, causing the black Toyota Kluger to pull to the side of the road however the black Jeep Cherokee failed to stop.¹

¹ Statement of First Constable Downs, Inquest Brief, p90.

4. First Constable Downs and Constable Vinten identified that Vaatoa Chang was the driver of the Toyota Kluger, Jonas Montealegre was a rear passenger and there were two other males also in the vehicle. Person checks were conducted on all four persons that flagged one of the other two males had an outstanding whereabouts in respect of a burglary offence.
5. That male was subsequently arrested, handcuffed and transported to Sunshine Police Station for interview. During the arrest process Jonas Montealegre became argumentative and was threatened with arrest for hindering.² During interview that male made admissions to being a standover man for a drug dealer and stated he would break into houses of people who owed the drug dealer money and take items as collateral.³

THE CORONIAL INVESTIGATION

6. Vaatoa's and Jonas' deaths was reported to the Coroner as they 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. The death of a person in care or custody is a mandatory report to the Coroner, even if the death appears to have been from natural causes. At the time of their deaths, Vaatoa and Jonas were deemed to be '*in custody*' pursuant to the *Coroners Act 2008* as '*persons who a police officer is attempting to take into custody or who is dying from injuries sustained when a police officer attempted to take the persons into custody*', thereby mandating an inquest.
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 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.

² Statement of First Constable Downs, Inquest Brief, pp91-92.

³ Statement of First Constable Downs, Inquest Brief, p93.

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. Victoria Police assigned an officer to be the Coroner's Investigator for the investigation of Vaatoa's and Jonas' deaths. The Coroner's Investigator, Detective Acting Senior Sergeant Jarrod Dwyer, Major Collision Investigation Unit, 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 Vaatoa Moli Chang and Jonas Lew Montealegre including evidence contained in the coronial brief. Whilst I have reviewed all the material, I will only refer to that which is directly relevant to my findings or necessary for narrative clarity. In the coronial jurisdiction, facts must be established on the balance of probabilities.⁴

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

s67(1)(c) *Coroners Act 2008* Circumstances in which the deaths occurred

St Albans Burglary and Vehicle Theft

11. Just before 7.30pm on 4 February 2020 the resident of a premises in Erica Avenue, St Albans was returning home when she observed her vehicle, a white Mitsubishi Triton driving away from her house. The resident conducted a u-turn and followed her Mitsubishi Triton which subsequently parked in the driveway of a home on Biggs Street. The resident attempted to box the Mitsubishi Triton in at which point the driver, to avoid this, crashed into a parked car and then decamped.

⁴ 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.

12. The resident then returned home and found that her residence had been broken into and ransacked, the front door had been forced open, power turned off at the meter box, CCTV cameras and a video doorbell had been removed, a second vehicle had been stolen from the premises (a Volkswagon Golf) and a number of items had been stolen including an Apple iPad that had been removed from a charger.
13. The resident contacted Triple Zero and at 7.27pm D24 broadcast a job for Victoria Police in relation to the *'hot theft of, complainant's just sighted someone steal her car from out the front of her address white Mitsubishi Triton'* with a last known direction towards Sunshine Avenue and with the driver described as an *'Islander male'*.⁵ At the same time the resident's partner utilising Apple's 'Find My' application tracked the location of the stolen Apple iPad to a moving vehicle that he subsequently physically located, being the Mitsubishi Triton, and commenced following it. He then contacted Triple Zero to advise he was following the stolen vehicle and at 7.29pm D24 broadcast that this had occurred and that they were currently on Clarke and Ashton Avenue, eastbound.⁶
14. At 7.31pm Sergeant Rockes, who at that time was the Patrol Supervisor (callsign Sunshine 251) requested D24 to ascertain whether Police Air Wing were available to assist.⁷ A minute later at 7.32pm the stolen Mitsubishi Triton was sighted by First Constable Hammersley from the Brimbank Family Violence Unit on Hampshire Road, Sunshine driving past the Sunshine Police Station. At the time First Constable Hammersley was driving an unmarked silver Hyundai SUV (callsign Caroline Springs 481). Senior Constable Hammersley observed that the driver was the sole occupant of the Mitsubishi Triton described as *'male Asian appearance with short black hair, a black beard wearing a grey hoodie jumper and a black vest'*. Immediately after sighting the Mitsubishi Triton First Constable Hammersley also made a request to D24 for Police Air Wing assistance.⁸

⁵ D24 Transcript, Inquest Brief, p466.

⁶ D24 Transcript, Inquest Brief, p467.

⁷ D24 Transcript, Inquest Brief, p468.

⁸ D24 Transcript, Inquest Brief, p470.

15. First Constable Hammersley observed the Mitsubishi Triton turn off Ballarat Road onto Harvester Road travelling south, approximately thirty metres in front of him separated by another two cars.⁹ At the intersection of Harvester Road/Foundry Road the Mitsubishi Triton turned right at the roundabout and then stopped at a red-light intersection with Anderson Road. Once the traffic control signal turned green the Mitsubishi Triton turned left to travel south on Anderson Road¹⁰ and was, in First Constable Hammersley's opinion, obeying the road rules and driving to the road conditions.¹¹ At this time First Constable Hammersley was still three car lengths behind.
16. Police Air Wing acknowledged the broadcasts and requests for assistance however indicated they were *'just checking with the tower at the moment to see if we can get in'*.¹² Sergeant Rockes upon confirming that Caroline Springs 481 was in a fully unmarked vehicle¹³ then broadcast *'all marked units to stay well clear, we'll just let Springs unit just call it from a distance until we can get confirmation from Air Wing, thanks'*.¹⁴ Police Air Wing initially indicated that clearance had been refused to enter into the airspace¹⁵ however then broadcast *'we're gunna get airborne and see what we can do'*.¹⁶ Additional resources also acknowledged the broadcasts and commenced monitoring including Police Canine units.¹⁷
17. First Constable Hammersley followed the stolen Mitsubishi Triton south on Anderson Rd and then west on Glengala Rd before it turned and started travelling through some back residential streets. At that time First Constable Hammersley observed a black vehicle directly behind the Mitsubishi Triton following it very closely. That vehicle contained the resident's partner from the burglary at the Erica Avenue premises. Concerned that if the victim continued to follow the Mitsubishi Triton, the situation would escalate into dangerous driving, First Constable Hammersley requested D24 to request the Police call-taker to request that vehicle to pull over and stop following the Mitsubishi Triton.

⁹ Statement of First Constable Hammersley, Inquest Brief, p103.

¹⁰ D24 Transcript, Inquest Brief, p471.

¹¹ D24 Transcript, Inquest Brief, p473.

¹² D24 Transcript, Inquest Brief, p471.

¹³ D24 Transcript, Inquest Brief, p471.

¹⁴ D24 Transcript, Inquest Brief, p472.

¹⁵ D24 Transcript, Inquest Brief, p471.

¹⁶ D24 Transcript, Inquest Brief, p473.

¹⁷ D24 Transcript, Inquest Brief, p473.

18. First Constable Hammersley then observed the Mitsubishi Triton to conduct an illegal turn crossing double lines and travel north onto St Andrews Street, Sunshine West at a fast rate of speed. At this time First Constable Hammersley was of the opinion that *'the offending driver was aware the victim was following as the vehicle driving behaviour changed. He seemed to be turning corners quickly and looking back a lot more. At this point I was approximately forty metres behind'*.¹⁸ First Constable Hammersley broadcast *'I really need that complainant to get away from this car, he's starting to spook him'*.¹⁹ At that time First Constable Hammersley was driving on Mayne St approaching Oldfield Street and the victim pulled over to the side of the road and stopped following the Mitsubishi Triton.²⁰
19. First Constable Hammersley continued following the Triton as it travelled north on Oldfield Street however lost it for a short period of time when it pulled over in Mailey Street. First Constable Hammersley regained sight and followed the Triton onto Myers Street heading north however at 7.40pm, eight minutes after first sighting the stolen Mitsubishi Triton, he lost sight of it at the intersection of Glengala Rd/Bell St/Raymond St and advised D24 accordingly.²¹ At that time First Constable Hammersley broadcast that *'I've lost him near Bell Street, I think he's probably made me. But he's not driving erratically'*.²² At that time Police Air Wing had only just become airborne and were heading to the location however soon thereafter they were unable to get air traffic clearance and were only permitted in airspace south of that location.²³
20. Following Caroline Springs 481 losing sight of the stolen Mitsubishi Triton, Sergeant Rockes broadcast *'we've got Air Wing sort of right on the cusp of where we are. I'm happy for marked units to go in if we can flush him out, then marked units – if we do happen to see him marked units can pull back and hopefully it'll be in a position where Air Wing can take over'*.²⁴

¹⁸ Statement of First Constable Hammersley, Inquest Brief, p104.

¹⁹ D24 Transcript, Inquest Brief, p475.

²⁰ D24 Transcript, Inquest Brief, p476.

²¹ D24 Transcript, Inquest Brief, p479.

²² D24 Transcript, Inquest Brief, p479.

²³ D24 Transcript, Inquest Brief, p477, 482.

²⁴ D24 Transcript, Inquest Brief, pp482-483.

Recovery of stolen Mitsubishi Triton, Glengala Hotel | 'Ping' from Sunshine Motor Inn

21. At 7.49pm Leading Senior Constable Hudson and Constable Daniels (Brimbank Highway Patrol, callsign Brimbank 631) located the stolen Mitsubishi Triton within the carpark of the Glengala Hotel, Sunshine West.^{25,26} The vehicle was unattended, unlocked and was secured as a crime scene before being towed for forensic examination at a later time. Despite a Police Canine unit attending the location and attempting to track from the Mitsubishi Triton, no tracks of any probative value were developed.²⁷ A foot patrol of the Glengala Hotel also identified no persons of interest.²⁸
22. At the same time as the stolen vehicle recovery was occurring, in a telephone conversation between the victims of the burglary and Sergeant Rockes, Victoria Police were advised for the first time that a second vehicle had been stolen in the burglary, being a Volkswagen Golf. The victim further advised that they were still tracking the location of the stolen iPad via the appropriate application, that they believed it to be within the stolen Volkswagen Golf and that it was currently travelling along Station Road.^{29,30}
23. Sergeant Rockes subsequently tasked Keilor Downs Police Station with contacting the victim and making further enquiries in respect of the Volkswagen Golf. A lengthy conversation then occurred between First Constable Forsyth who was conducting watchhouse duties at Keilor Downs Police Station and the victim who provided live updates as to where the stolen iPad was 'pinging' with First Constable Forsyth subsequently relaying that directly to in-field units via D24 broadcasts.³¹ At 8.04pm the location of the 'last ping' was broadcast by First Constable Forsyth as '*heading on Fitzgerald Road towards David Drive, it looks to be getting on the Western Ring Road*'.³²

²⁵ D24 Transcript, Inquest Brief, p488.

²⁶ Statement of Constable Daniels, Inquest Brief, p122.

²⁷ D24 Transcript, Inquest Brief, pp 491, 505.

²⁸ D24 Transcript, Inquest Brief, p493.

²⁹ Statement of Sergeant Rockes, Inquest Brief, p96.

³⁰ D24 Transcript, Inquest Brief, p495.

³¹ Statement of First Constable Forsyth, Inquest Brief, p177.

³² D24 Transcript, Inquest Brief, p502.

24. Between 8.09pm and 8.16pm First Constable Forsyth, broadcasting from Keilor Downs 900 updated the ping location from Paringa Drive, St Albans to the Western Ring Road to Ballarat Road and heading back towards Sunshine and then '*near the West City Motel which is near the Sunshine Motor Inn*'.³³ During these broadcasts Air Wing broadcast that they had finally gained updated clearance to track the Western Ring Road down to the south and they were currently making their way towards that location to locate, what at that time, they believed to be the stolen Volkswagen Golf.
25. At 8.16pm First Constable Forsyth at Keilor Downs Police Station broadcast '*it looks like the car's stopped at this West City Motor Inn or whatever. She's saying the ping's been stationary for a couple of seconds*'³⁴ confirmed at 8.18pm as still being stationary.³⁵
26. In response to these broadcasts Sergeant Rockes (Sunshine 251) then broadcast a direction that '*I want them all [ie. marked vehicles] to hold back at this stage. I want the unmarked to go and do the drive-over, see if they can turn up the vehicle. I want highway patrol to be prepared with Stop Sticks, and all other marked units just to hold back. Are Air Wing able to get into that location?*'.^{36,37} Police Air Wing subsequently replied that they were airborne over that location and whilst a number of black vehicles were sighted within the carparks of both the West City Motel and Sunshine Motor Inn, none of them appeared to be a Volkswagen Golf.³⁸ At the time the belief, on the basis of all available information from the victims of the burglary, was that the stolen iPad was located in the stolen Volkswagen Golf.³⁹
27. Shortly thereafter Sergeant Rockes stopped her vehicle approximately 100 metres away from the entrance to the West City Motel, Ballarat Road, Ardeer and met up with Brimbank Highway Patrol.⁴⁰ Brimbank 631 began setting up a tyre deflation device at the entrance to the West City Motel.

³³ D24 Transcript, Inquest Brief, pp507-514.

³⁴ D24 Transcript, Inquest Brief, p515.

³⁵ D24 Transcript, Inquest Brief, p517.

³⁶ D24 Transcript, Inquest Brief, p517.

³⁷ Statement of Sergeant Rockes, Inquest Brief, p97.

³⁸ D24 Transcript, Inquest Brief, p517.

³⁹ Statement of Sergeant Rockes, Inquest Brief, p97.

⁴⁰ Statement of Sergeant Rockes, Inquest Brief, p97.

Toyota Kluger drives away from Sunshine Motor Inn, Air Wing Tracking to Caltex Service Station, Tullamarine, Arrest of Two (2) Occupants of Toyota Kluger

28. As Brimbank 631 were in the process of setting up the tyre deflation device the following broadcast was received from Keilor Downs Police Station at 8.19pm *'it looks like he's on the move – move again. It looks like he's on Reid Street at the intersection of Ballarat Road'*⁴¹ followed by Police Air Wing immediately acknowledging *'yeah, we're looking at that. There's one black car there that's – it's not a Golf we're over the Sunshine Motor Inn and we got Reid Street in view. There's one black car there but it's an SUV'*.⁴²
29. Around 8.26pm First Constable Hammersley within Caroline Springs 481 drove through the carpark of the West City Motel and did not observe any vehicle of interest and was about to commence a drive through of the Sunshine Motor Inn.^{43,44}
30. Minutes later at 8.28pm Police Air Wing then broadcast *'We had a couple of people near this motel leave and do – they've departed in a black Kluger and they've gone down to McIntyre, left turn northbound, they've just punched a red at McIntyre and now picking up the speed'*.⁴⁵ Sunshine 251 immediately confirmed that the Apple iPad 'ping' was tracking with that vehicle.⁴⁶ Police Air Wing then updated the location as *'he's at Berkshire about to go over the railway line, still northbound'*⁴⁷ with Sunshine 251 immediately confirming *'that's consistent with our ping'*⁴⁸ thereby linking the black Toyota Kluger being observed by Police Air Wing with the stolen iPad.⁴⁹
31. Police Air Wing observed that the Toyota Kluger was *'pushing cars out of the way'*⁵⁰ resulting in Sunshine 251 directing that *'given his manner of driving all marked units to stay clear until – just let Air Wing call it, thanks'*.⁵¹ Police Air Wing followed the Toyota Kluger northbound on McIntyre approaching the Western Ring Road describing the manner of driving as *'picking up the speed. He's certainly making headway, pushing his way through traffic, sitting in the right turn lanes and then pushing back into the left after the green'*.⁵² Police Air Wing however indicated that they were struggling to get airspace clearance in the direction that the Kluger was travelling.

⁴¹ D24 Transcript, Inquest Brief, p517

⁴² D24 Transcript, Inquest Brief, pp518, 520.

⁴³ Statement of First Constable Hammersley, Inquest Brief, p106.

⁴⁴ D24 Transcript, Inquest Brief, p523.

⁴⁵ D24 Transcript, Inquest Brief, p525.

⁴⁶ D24 Transcript, Inquest Brief, p526.

⁴⁷ D24 Transcript, Inquest Brief, p526.

⁴⁸ D24 Transcript, Inquest Brief, p527.

⁴⁹ Statement of Sergeant Rockes, Inquest Brief, p97.

⁵⁰ D24 Transcript, Inquest Brief, p526.

⁵¹ D24 Transcript, Inquest Brief, p527.

⁵² D24 Transcript, Inquest Brief, p528.

32. At 8.31pm the registration of the black Toyota Kluger was confirmed by Brimbank 631 and broadcast over D24 as QLD Registration 498-YTI.⁵³ The Toyota Kluger continued over the Western Ring Road heading northbound into Sunshine but then conducted a u-turn at a set of traffic lights near the Caltex Service Station, obeying the traffic signals, and headed southbound and turned left onto the Western Ring Road.
33. At that time unmarked CIU vehicle Brimbank 551 containing Detective Sergeant Jerabek and Senior Constable Bisby was directly behind the black Toyota Kluger and sought approval to attempt to intercept the vehicle. Given the ongoing difficulties with Police Air Wing gaining airspace clearance, Sunshine 251 then gave the following on-air direction *'I'm happy for someone to try and light 'em up, see if they'll pull over. If they don't I want all units just to stop where they are and we'll let the Air Wing call it, thanks'*.⁵⁴
34. At 8.33pm Brimbank 551 then activated its lights and sirens and attempted to intercept the black Toyota Kluger however it ignored the direction to stop and immediately accelerated to approximately 140km/h.⁵⁵ Brimbank 551 immediately desisted the attempted intercept and continued to follow the Toyota Kluger but at the sign-posted speed limit of 100km/h and lost observation of it due to its speed as it headed towards Greensborough.^{56,57} At that time Police Air Wing indicated they were not immediately in a position to continue observations on the vehicle as they were working on gaining clearance to access the air space.⁵⁸ Consequently Sunshine 251 directed *'can I get an unmarked unit just to continue obs until we can get the Air Wing to confirm whether or not they're – they can try and follow it again'*.⁵⁹
35. Brimbank 631 was approximately 300 metres behind the Toyota Kluger and observed it exit the freeway on the Airport Drive exit. Sunshine 251 at that time approved the Highway Patrol vehicle to continue following *'so long as the offenders are not aware that they're there until we get confirmation from the Air Wing whether or not they can head in there I'm happy for the highway patrol to continue unless the offenders know that they're there'*.⁶⁰

⁵³ D24 Transcript, Inquest Brief, pp 528, 530.

⁵⁴ D24 Transcript, Inquest Brief, p531.

⁵⁵ D24 Transcript, Inquest Brief, p531.

⁵⁶ Statement of Detective Sergeant Jerabek, Inquest Brief, p110.

⁵⁷ Statement of Senior Constable Bisby, Inquest Brief, p116.

⁵⁸ D24 Transcript, Inquest Brief, p532.

⁵⁹ D24 Transcript, Inquest Brief, p532.

⁶⁰ D24 Transcript, Inquest Brief, p536.

36. Due to the geographical location at the time the Police Radio switched over to a different channel at that time.
37. Brimbank 631 observed the Toyota Kluger travelling north along Airport Drive, turn left at Sharps Road travelling west. At the intersection of Sharps Road and South Centre Road it turned right and began to travel north along South Centre Road, towards the airport. At the intersection of South Centre Road and Annandale Road Brimbank 631 observed the Toyota Kluger enter the intersection against the red traffic control signal travelling approximately 120km/h. Shortly after this between Annandale Road and Sky Road, the Toyota Kluger was seen to *'diverge to the left and overtake several vehicles on the left, on the grass and dirt nature strip on the western side of the road. I could see a large amount of dirt flying up during this manoeuvre'*.⁶¹
38. At 8.36pm Brimbank 631 then broadcast the following *'he's driving like a ratbag, we're just gunna pull out 'cause we're not lights and sirens, I'm pretty sure he's aware we're here. And he's heading directly to the airport, last seen in South Centre Road he's overtaking stuff on the left, driving a bit erratically but, like I said, we're – we're disengaged'*.⁶²
39. Police Air Wing subsequently confirmed that they were overhead following the Toyota Kluger towards the Tullamarine Airport and then observed *'high rates of speed, through reds and the like heading towards Tullamarine It's north currently on South Centre Road between Sky and Link approaching Link'*.⁶³
40. At 8.40pm Police Air Wing then observed the Toyota Kluger travel onto the wrong side of the road and enter the Caltex Service Station on Sharps Road, Tullamarine and three persons initially alight from the vehicle, two entering the shop whilst a third commenced to refuel.⁶⁴ Police units circulating including Caroline Springs 481, Canine 218 and Caroline Springs 750 immediately converged on the Caltex Service Station. The Police Canine Unit parked their vehicle directly at the front of and hard up against the Toyota Kluger and activated his lights and sirens.

⁶¹ Statement of Leading Senior Constable Hudson, Inquest Brief, p128.

⁶² D24 Transcript, Inquest Brief, p537.

⁶³ D24 Transcript, Inquest Brief, p540.

⁶⁴ D24 Transcript, Inquest Brief, p542.

41. As Leading Senior Constable Barry exited his vehicle to deploy the Police Canine, a male described as Pacific Islander, 6 foot 2 wearing a black basketball singlet, grey track pants and black beard has run to the driver's door and entered the vehicle prior to Caroline Springs 481 being able to get into position. The Toyota Kluger reversed directly towards Caroline Springs 481 with First Constable Hammersley moving his vehicle out of the way to avoid a collision.
42. Minutes later First Constable Hammersley with the assistance of A/Sergeant Mitchell, First Constable Argus and Constable Margetts arrested DC⁶⁵ (a pseudonym) whilst Leading Senior Constable Barry arrested DS⁶⁶ (a pseudonym), both of whom had alighted from the Toyota Kluger when it initially stopped at the bowser.

Cessation of all active tracking of Toyota Kluger, 'pings' to Parkedge Boulevard, Mernda

43. Between 8.41-8.42pm Police Air Wing continued to track the Toyota Kluger as it decamped from the Caltex Service Station broadcasting *'continuing east on Sharps and just about to have a collision. Just missed the car turning right but he's gone straight through just passing some reds, coming around towards Melrose and still into oncoming traffic with cars approaching him. Back onto the incorrect side of the road to avoid a collision. Approaching Melrose'*.⁶⁷
44. Sergeant Rockes (Sunshine 251) immediately broadcast the following direction shortly thereafter *'this driver's obviously aware that the Air Wing are there. I want all units, including the Air Wing to pull away thanks. It's only a burglary. We'll catch up with them at another time but the driving is outrageous and I don't want anyone to get injured'*.^{68,69}
45. All Police vehicles including the Police Air Wing immediately desisted from actively following the Toyota Kluger. Sergeant Rockes subsequently confirmed with all in-field units that she was going to reinterrogate where the iPad was 'pinging' to ascertain its updated location.

⁶⁵ D24 Transcript, Inquest Brief, p547.

⁶⁶ D24 Transcript, Inquest Brief, p549.

⁶⁷ D24 Transcript, Inquest Brief, p544.

⁶⁸ D24 Transcript, Inquest Brief, p545.

⁶⁹ Statement of Sergeant Rockes, Inquest Brief, p99.

46. Between 8.50pm-8.56pm updated locations subsequently broadcast by Sergeant Rockes included 'north on the Hume Freeway up near Cooper Street',⁷⁰ and 'pulled into a BP servo on Cooper Street'⁷¹. The Toyota Kluger refuelled at the BP Service Station in Cooper Street/Hume Freeway, Epping with \$60.95 worth of unleaded and then decamped without paying. Sergeant Rockes continued to provide updated locations including 'heading north on the Hume'⁷² and 'it's just south of O'Herns Road on the Hume'⁷³.
47. Due to the geographical location at the time the Police Radio switched over to a different channel at that time.
48. After crossing over channels at 9.13pm Sunshine 251 broadcast an updated location as 'the intersection of Parkedge Boulevard and Silverwood Drive'⁷⁴ and the 'ping' then became stationary at a property on Parkedge Boulevard, Mernda closest cross street Balerno Way. Between 9.14pm and 9.32pm Sunshine 251 confirmed that the 'ping' remained stationary at the property on Parkedge Boulevard.
49. Sergeant Faulkner (Epping 251) subsequently requested an unmarked vehicle to attend that location and to start patrolling the area and for all marked vehicles to avoid the area at that time. Sergeant Faulkner also authorised that if the Toyota Kluger was located parked in the street, stop-sticks were authorised to be deployed beneath the stationary vehicle.⁷⁵ Whittlesea 550 (Criminal Investigation Unit) subsequently confirmed that a week-and-a-half ago three stolen vehicles had been located and recovered in the vicinity of where the 'pings' were currently located.⁷⁶
50. At 9.27pm Brimbank 551 attended the area and drove through Parkedge Boulevard and adjacent streets however no Toyota Kluger bearing QLD registration plates were observed so they parked around the corner and met up with a number of Whittlesea CIU units to formulate a plan.⁷⁷ During this time Police Air Wing had returned to base and refuelled and had then become airborne again and had been able to re-establish observations over the address in Parkedge Boulevard, Mernda.

⁷⁰ D24 Transcript, Inquest Brief, p553.

⁷¹ D24 Transcript, Inquest Brief, p553.

⁷² D24 Transcript, Inquest Brief, p556.

⁷³ D24 Transcript, Inquest Brief, p556.

⁷⁴ D24 Transcript, Inquest Brief, p558.

⁷⁵ D24 Transcript, Inquest Brief, pp560, 561.

⁷⁶ D24 Transcript, Inquest Brief, p566.

⁷⁷ Statement of Detective Sergeant Jerabek, Inquest Brief, p112.

Police Air Wing tracks Toyota Kluger leaving Parkedge Boulevard

51. At 9.32pm Police Canine Unit 230 observed a vehicle leaving the driveway of the address under observation in Parkedge Boulevard.⁷⁸ The headlights on the vehicle were observed to be off and Canine 230 immediately transferred calling of the vehicle's location over to Police Air Wing.⁷⁹ The vehicle was soon thereafter confirmed as a black Toyota Kluger bearing QLD registration 498-YTI.⁸⁰ Police Air Wing observed the Toyota Kluger travelling north on Wellington Street and then turn right onto Bridge Inn Road travelling eastbound '*at a fast rate of speed*' still with the headlights turned off.^{81,82} Sergeant Faulkner (Epping 251) then declared himself as the forward commander for the incident, transferring control over from Sergeant Rockes (Sunshine 251).⁸³ At that time Sergeant Faulkner had attended Mernda Police Station and was running the incident from a computer desktop within the Sergeants office.⁸⁴
52. With the Police Air Wing overhead and following Epping 251 broadcast '*I'll leave it to PolAir to be the observational platform, please. No other units to follow directly behind ... just keep the updates coming from PolAir, please*'.⁸⁵ Moments later Sunshine 251 then broadcast '*I can confirm the ping is moving with the vehicle*'.⁸⁶ This was Sunshine 251s final broadcast over the air as the Toyota Kluger was being monitored by Police Air Wing and command and control had transferred over to Epping 251.⁸⁷
53. At 9.35pm Police Air Wing then broadcast that the Toyota Kluger had reached the Plenty Road roundabout with Epping 251 then repeating his previous direction '*can I just confirm that no marked vehicles to go near the vehicle and to spook it and to start a pursuit. At this stage we'll just keep PolAir following the vehicle with updates. However, I will request a couple of Highway Patrol units with stop sticks or resolutions strategies such as that to possibly parallel the incident please*'.⁸⁸

⁷⁸ D24 Transcript, Inquest Brief, p577.

⁷⁹ D24 Transcript, Inquest Brief, pp577-578.

⁸⁰ D24 Transcript, Inquest Brief, p579.

⁸¹ D24 Transcript, Inquest Brief, p579.

⁸² Statement of Senior Constable Quick, Inquest Brief, p195.

⁸³ D24 Transcript, Inquest Brief, p580.

⁸⁴ Statement of Sergeant Faulkner, Inquest Brief, p179.

⁸⁵ D24 Transcript, Inquest Brief, p580.

⁸⁶ D24 Transcript, Inquest Brief, p581.

⁸⁷ Statement of Sergeant Rockes, Inquest Brief, p101.

⁸⁸ D24 Transcript, Inquest Brief, p581.

54. Greensborough 613 Highway Patrol vehicle indicated that they were on Bell Street, Preston and available to assist if required.⁸⁹ Police Air Wing observed the vehicle to travel northbound on Plenty Road with Epping 251 for a third time repeating the direction *'No unit to follow, thanks. No unit to follow this vehicle. We don't want to spook. Aerial platform only and, yeah, Greensborough 613, thanks, if you can monitor the channel we might be able to cut off with stop sticks or a resolution, thanks'*.⁹⁰
55. Police Air Wing continued to update the location of the Toyota Kluger as it turned onto Mernda Village Drive and returned to Bridge Inn Road travelling westbound⁹¹ with the manner of driving described as *'lights are back on, travelling a bit quicker than the other traffic but nothing crazy at this stage'*.⁹²
56. At 9.40pm Epping 251 subsequently authorised the deployment of stop sticks as a resolution strategy and re-requested Highway Patrol Units to parallel close to the incident at this stage.⁹³ Police Air Wing then tracked the Toyota Kluger as it travelled west on Bridge Inn Road to Epping Road heading south where it *'crashed a red at Baltrum Drive, continuing southbound, Epping Road'*.⁹⁴ In response to this for a fourth time Epping 251 broadcast *'can I please reiterate there are to be no lights and sirens activated near this unit, thanks'*.⁹⁵
57. Police Air Wing continued to track the Toyota Kluger as it continued southbound on Epping Road that then changed over into High Street with the manner of driving described as *'a bit faster than the other traffic, weaving at traffic lights around other vehicles, but other than that driving pretty good'*.⁹⁶ Whilst Greensborough 671 had been able to setup stop sticks at the corner of High Street and Cooper Street, the Toyota Kluger had already passed their location by the time they were in a position to deploy.⁹⁷ The Toyota Kluger breached the red light traffic signal at the intersection with Childs Road and continued past the Lalor Train Station. Around that time Greensborough 613 broadcast that they were on High Street underneath the Ring Road ready to deploy stop sticks.⁹⁸

⁸⁹ D24 Transcript, Inquest Brief, p582.

⁹⁰ D24 Transcript, Inquest Brief, p582.

⁹¹ D24 Transcript, Inquest Brief, pp582-585.

⁹² D24 Transcript, Inquest Brief, p585.

⁹³ D24 Transcript, Inquest Brief, p586.

⁹⁴ D24 Transcript, Inquest Brief, pp587-591.

⁹⁵ D24 Transcript, Inquest Brief, p592.

⁹⁶ D24 Transcript, Inquest Brief, p593.

⁹⁷ D24 Transcript, Inquest Brief, pp593-596.

⁹⁸ D24 Transcript, Inquest Brief, p597.

Deployment of Tyre Deflation Device, High Street, Preston

58. Leading Senior Constables Crewe and Bieser, Greensborough 613 Highway Patrol had identified a suitable deployment location on approach to Austarc Avenue just south of the Metropolitan Ring Road overpass on High Street. Leading Senior Constable Bieser positioned the fully marked police vehicle facing southbound on the grassed area to the east of the footpath and concealed by the bridge structure. Leading Senior Constable Crewe moved to a safe position behind a large concrete pole that allowed him to have clear observations of southbound traffic.
59. Leading Senior Constable Crewe observed the southbound traffic and identified the black Toyota Kluger in the nearside lane moving towards his position at an estimated speed of between 80-90km/h. Police Air Wing confirmed that the target vehicle was southbound on High Street on an immediate approach to the Metropolitan Ring Road overpass.⁹⁹ Leading Senior Constable Crewe deployed the tyre deflation device into the nearside lane and the Toyota Kluger drove at speed over the device, in Leading Senior Constable Crewe's opinion successfully impacting a number of tyres on the Toyota Kluger. The Toyota Kluger continued southbound at the same speed and at 9.52pm Leading Senior Constable Bieser broadcast over D24 '*613, the spikes have been effective*'.¹⁰⁰
60. Leading Senior Constable Crewe immediately removed the tyre deflation device from the roadway. At the time of the deployment the road was dry, weather was fine, visibility was excellent and southbound traffic was light.¹⁰¹ Leading Senior Constable Bieser observed no police vehicles following the Toyota Kluger at this time.¹⁰²

⁹⁹ D24 Transcript, Inquest Brief, p598.

¹⁰⁰ D24 Transcript, Inquest Brief, p598.

¹⁰¹ Statement of Leading Senior Constable Crewe, Inquest Brief, p201.

¹⁰² Statement of Leading Senior Constable Bieser, Inquest Brief, p204.

Events prior to the calling of a formal pursuit

61. Following the successful deployment of a tyre deflation device at 9.52pm, Police Air Wing continued to track the Toyota Kluger as it travelled southbound on High Street through the suburbs of Ruthven, Reservoir and Preston.¹⁰³ As the Toyota Kluger travelled past Ruthven Train Station, Protective Service Officers '488' broadcast that they had seen the vehicle travel past and it appeared both passenger side tyres were deflating.¹⁰⁴ Anticipating that the Toyota Kluger's operation would become ultimately compromised, Epping 251 questioned whether there was a Canine Unit in the immediate vicinity.¹⁰⁵
62. At that time Highway Patrol vehicle Greensborough 671 was being driven by Senior Constable Phillips with Senior Constable Kentish as the observer, travelling south on Dalton Road, towards Keon Parade. Senior Constable Phillips then travelled south on Cheddar Road towards High Street and as they approached the intersection with High Street they saw the Toyota Kluger travel south through the intersection in front of them. At that time Greensborough 671 was approximately 150 metres away from the intersection and observed a large amount of smoke coming from the passenger side of the vehicle and a strong smell of rubber.¹⁰⁶
63. Highway Patrol vehicle Greensborough 671 then questioned whether there were grounds for a pursuit to be called due to the successful deployment of the tyre deflation device and that the vehicle needed to be stopped however Epping 251 declined, broadcasting '*negative to that. Still got observation platform, thanks*' and subsequently enquired as to how far away a Police Canine unit was.^{107,108,109} Greensborough 671 then travelled southbound along High Street in the same direction as the Toyota Kluger but approximately 200 metres behind.¹¹⁰

¹⁰³ Statement of Senior Constable Quick, Inquest Brief, p196.

¹⁰⁴ D24 Transcript, Inquest Brief, p601.

¹⁰⁵ D24 Transcript, Inquest Brief, p600.

¹⁰⁶ Statement of Senior Constable Phillips, Inquest Brief, p209.

¹⁰⁷ D24 Transcript, Inquest Brief, p601.

¹⁰⁸ D24 Transcript, Inquest Brief, p602.

¹⁰⁹ Statement of Sergeant Faulkner, Inquest Brief, p183.

¹¹⁰ D24 Transcript, Inquest Brief, p602.

64. As the Toyota Kluger travelled past the intersection of High Street and Delaware Street, Reservoir, Police Air Wing observed debris being shed from the vehicle tyres.¹¹¹ Police Canine 227 subsequently confirmed that they were travelling southbound on High Street, behind both the Toyota Kluger as well as Greensborough 671. Epping 251 subsequently broadcast a direction to *'maintain the distance'* and Canine 227 took up a position some distance behind Greensborough 671.¹¹²
65. At 9:56:50 PM at the intersection of High Street and Wood Street/Spencer Street the Toyota Kluger came to a stationary line of vehicles stopped at the traffic lights and subsequently crossed to the incorrect side of the road and continued through the intersection against the red traffic control signals before returning to the correct side of the road.¹¹³ Dashcam footage from a private vehicle stopped second in that line of traffic captured the Toyota Kluger with that footage confirming there were no Police vehicles present in the immediate vicinity at this time.
66. Seconds later at both 9:57:05 PM and 9:57:18 PM Police Air Wing observed the Toyota Kluger to slow right down and cross to the incorrect side of the road and stop in the path of oncoming vehicles, with both vehicles forced to slow and take evasive action to drive around the Toyota Kluger and continue driving.¹¹⁴ At the time of the first occurrence at 9:57:05 PM the Toyota Kluger was just south of the intersection with Olver Street, whilst Greensborough 671 at that time was between the intersections of Wurruk Avenue and Cambrian Avenue, approximately 230 metres behind. At the time of the second occurrence at 9:57:18 PM the Toyota Kluger was between Youngman Street and Wilcox Street, whilst Greensborough 671 at that time was still north of Olver Street, approximately 130 metres behind.
67. In response to sighting this at 9:57:16 PM Police Air Wing have immediately broadcast *'stand-by, looks like he's gunna try and carjack someone here. He's stopped on High Street. 35, he's continued on a bit more he's just trying to stop other cars now. Can we get some people to push up'*.¹¹⁵

¹¹¹ D24 Transcript, Inquest Brief, p602.

¹¹² D24 Transcript, Inquest Brief, p603.

¹¹³ D24 Transcript, Inquest Brief, p603.

¹¹⁴ Despite a number of media releases, it has not been possible to identify the drivers of these two relevant vehicles.

¹¹⁵ D24 Transcript, Inquest Brief, p604.

Formal Pursuit and Fatal Collision

68. Epping 251 has immediately broadcast in reply '*Epping 251, make the approach please. Go and get him*'¹¹⁶ and when questioned by D24 as to whether a pursuit was being called, Epping 251 confirmed '*Epping 251, calling pursuit now, please*'.¹¹⁷ Epping 251 (Sergeant Faulkner) subsequently nominated himself as the pursuit controller and Greensborough 671 being driven by Senior Constable Phillips nominated their vehicle as the primary pursuit vehicle.¹¹⁸
69. Senior Constable Phillips immediately activated the lights and sirens of Greensborough 671 and accelerated in pursuit of the Toyota Kluger. The Highway Patrol Vehicle being driven by Senior Constable Phillips was fully marked and fitted with an in-car video recording system that activated as soon as the lights and sirens were activated, recording the pursuit from that point forward (both video and audio) *and* thirty seconds of pre-activation footage (video only). Also recorded was the corresponding metadata including in second increments, the vehicle longitude, latitude and speed.
70. Thirty seconds prior to lights/siren activation Greensborough 671 was located travelling southbound on High Street, between Wurruk Avenue and Cambrian Avenue (latitude -37.732346, longitude 145.005005). Greensborough 671 approached the intersection with Wood Street and passed through on the green light, briefly crossing to the incorrect side of the road to overtake a vehicle. Senior Constable Phillips was forced to slow down to just over 20km/h after becoming stuck behind traffic. At no time within that thirty second period was the Toyota Kluger sighted travelling in front of Greensborough 671. During that thirty second period the average speed obtained by Greensborough 671 was 55km/h with a range of 21-92km/h.
71. Senior Constable Phillips activated the lights at 9:57:34 PM with the sirens activating two seconds later at 9:57:36 PM. At that time Greensborough 671 was located at latitude negative 37.736305 and longitude 145.004295, corresponding to travelling south on High Street between Wilcox St and Pender St, approximately 200 metres north of the Murray Rd intersection and approximately 990 metres from the Bell Street intersection.

¹¹⁶ D24 Transcript, Inquest Brief, p604.

¹¹⁷ D24 Transcript, Inquest Brief, p604.

¹¹⁸ D24 Transcript, Inquest Brief, p605.

72. As soon as the audio recording commenced within Greensborough 671 the following D24 transmission is heard *'Epping 251, calling pursuit now, please'*. The Toyota Kluger first becomes visible in front of Greensborough 671 at 9:57:34 PM, the time of lights/siren activation, and it is still some distance away.
73. At the intersection with Murray Road, Greensborough 671 were facing a red traffic control signal, causing Senior Constable Phillips to slow the vehicle to 29km/h before entering the intersection against the red traffic control signal. The Toyota Kluger was observed to proceed through the intersection against the red traffic control signal with Senior Constable Kentish heard to immediately broadcast *'Greensborough 671 he's just ran the red'*.
74. I note Senior Constable Phillips evidence that *'I pulled up behind the Toyota near the intersection of High and Gower Street, Preston and activated my vehicles emergency lights and sirens, initiating the pursuit'*. The in-car video and associated metadata indicates that Greensborough 671's lights and sirens were activated approximately 200 metres north of the Murray Road intersection *however* they pulled up behind the Toyota Kluger south of the Gower Street intersection. I make no adverse inference from this discrepancy in Senior Constable Phillip's evidence and am of the opinion that the Officer within his statement was being truthful and recalling to the best of his ability the location where certain events occurred.
75. Between Gower Street and Bell Street (scene of collision) Epping 251 is heard to nominate themselves as pursuit controller and Greensborough 671 is heard to nominate themselves as the primary pursuit vehicle.
76. As the Toyota Kluger approached the intersection of High Street and Bell Street, the traffic control signals facing it were red. At no time were the brake lights activated on the Toyota Kluger as it approached the Bell Street intersection. At the same time Kuldeep Singh was driving a semi-trailer eastbound on Bell Street and entered the intersection on the green traffic control signal and commenced to travel through the intersection. As it travelled through the intersection the Toyota Kluger entered the intersection against the red traffic control signal and impacted the semi-trailer on the front left side causing the semi-trailer to topple onto its side, crushing the bonnet of an Audi A6 that was stationary at the intersection waiting to turn right from Bell Street into High Street.

77. Greensborough 671 immediately broadcast 'Code 9 Code 9 Bell Street'¹¹⁹ with Police Air Wing above then broadcasting '*come to grief on the corner of Bell Street and High Street with a truck which has rolled over. Can we get other units there, please*'. Greensborough 671 immediately stopped within the intersection and alighted and ran over to the Toyota Kluger in an attempt to provide medical assistance.
78. All Emergency Services expedited to the scene including multiple Victoria Police units, Ambulance Victoria and MICA Paramedics and the Metropolitan Fire Brigade Heavy Rescue Unit. Bell Street was closed down at the location and a critical incident immediately declared.
79. Vaatoa Chang was located trapped in the driver's seat of the Toyota Kluger deceased.¹²⁰ Jonas Montealegre was located in the back seat of the Toyota Kluger with his head between the two front seats, laying face down. Following the arrival of the MFB and Ambulance Victoria a rescue operation was initiated to extricate him from the vehicle. Following his extrication despite medical assistance being rendered by Ambulance Victoria he was declared deceased at the scene.
80. The occupant of the Audi A6 was fortunately uninjured in the collision and was able to extricate themselves from the vehicle and was conveyed by Ambulance Victoria to the Austin Hospital. Mr Singh was able to extricate himself from the cabin of his semi-trailer and was conveyed by Ambulance Victoria to Royal Melbourne Hospital. Both non-offending drivers were tested for the presence of alcohol and illicit drugs with the results of both returning as negative.

Post-Collision Investigations

81. Following Jonas Montealegre being declared deceased by Paramedics, his clothing was searched by Constable Gibbs and Senior Constable Gilbert. In the right jacket pocket being worn by Jonas Montealegre was located a wallet containing identification of a resident from the Erica Avenue, St Albans address that had been subject to the burglary and two vehicles stolen earlier that evening. A small zip lock bag was also located containing a white crystalline substance.¹²¹

¹¹⁹ D24 Transcript, Inquest Brief, p605.

¹²⁰ Statement of Senior Constable Phillips, Inquest Brief, p212.

¹²¹ Statement of Senior Constable Gilbert, Inquest Brief, p193.

82. The collision scene was forensically examined by numerous Officers from the Victoria Police Major Collision Investigation Unit (MCIU) including Detective Sergeant Dwyer (Coroner's Investigator), Detective Sergeant Dr Hardiman, Detective Senior Constables Oliver, Mitchell and Mitchell and Senior Constable Bail.
83. I also attended the collision scene in the early hours of the morning of 5 February 2020 in my capacity as the investigating coroner.
84. A critical incident having been declared, the following members were drug and alcohol tested in accordance with the requisite legislation, the results returned were all negative:
- a) Epping 251
 - b) Greensborough 671
 - c) Canine 227
 - d) Brimbank 551
 - e) Greensborough 613
 - f) Transit 643
 - g) Whittlesea 513
 - h) Police Air Wing
85. The intersection of High Street and Bell Street, Preston was a major intersection. Bell Street comprised a ten-lane roadway, five in each direction, separated by a concrete median strip. For eastbound traffic on Bell Street (direction of travel of Kuldeep Singh) there were four straight lanes, a right-hand turn lane and a slip lane for traffic turning left (north) onto High Street. The intersection was controlled by traffic control signals, the speed zone was 70km/h for all directions on Bell Street and the roadway was straight with clear vision and a gentle slope upwards when travelling east.
86. High Street was a four-lane roadway, two running lanes in each direction with each lane separated by a broken white line, with a solid white line dividing running directions. The speed limit in this area of High Street was 40km/h (8am-midnight). At the intersection with Bell Street there were three lanes; a right-turn lane, a straight lane, and a combined left/straight lane.
87. At the time of the attendance of the Major Collision Investigation Unit the weather was overcast however the roadway surface was dry. The roadway was constructed of bitumen and was in good condition.

88. The Toyota Kluger was located at rest, approximately 33.9 metres from the area of impact in the southeast corner of the intersection. The vehicle had sustained extensive damage to the front driver's side. There was evidence of contact between the passenger side bull bar of the Volvo prime mover and the front driver's door and driver side firewall of the Toyota Kluger. Both the front driver and front passenger seatbelts were retracted and tight against the B pillar consistent with pretensioner deployment whilst not being worn. Both passenger side tyres displayed evidence of damage consistent with the vehicle having travelled over tyre deflation spikes designed to disable the vehicle by puncturing tyres.
89. The Volvo FH450 prime mover and trailer had come to rest approximately 25.7 metres from impact, on the southeast corner of the intersection, across the west bound lanes of Bell Street. The trailer was at rest on its nearside with the driver side tyres of the prime mover off the ground. The prime mover had sustained moderate damage to the front passenger side, consistent with impact with the front driver side of the Toyota Kluger. The prime mover was towing a large shipping container filled with fire extinguishers. The towed mass was estimated to be approximately 22,000 kg with a total mass above 30,000 kg.
90. The Audi A6 sedan was at rest beneath the container on the trailer being towed by the prime mover. After impact, the rear trailer of the truck had swung around in a clockwise direction before rolling onto its nearside, onto the front of the stationary Audi. The Audi sustained extensive crush damage as a result of the collision.
91. On Wednesday 5 February 2020 Dr Hardiman, Collision Reconstruction Expert with Victoria Police downloaded the airbag control module from the Toyota Kluger that provided 4.4 seconds of pre-crash data, in second intervals. The download indicated:
- a) 4.40 seconds prior to impact the Toyota Kluger was travelling at a speed of 88km/h that increased to 96km/h at impact.
 - b) At no time within that 4.40 seconds was the vehicle brake engaged.

92. Dr Hardiman opined that *'4.4 seconds before impact, the Toyota Kluger was about 112.3 metres from the collision and travelling at 88km/h. At 88km/h a vehicle fitted with ABS can come to a stop in 38 metres or less. If the driver had made the decision to brake 4.4 seconds before impact, the vehicle could have safely come to a stop before the stop line for the intersection'*.
93. With respect to the overall collision, Dr Hardiman subsequently opined *'the Toyota Kluger was travelling south on High Street, Preston, approaching the intersection with Bell Street. The Volvo prime mover and trailer combination was travelling east on Bell Street, Preston, approaching the intersection with High Street. The driver of the Toyota Kluger entered the intersection against a red traffic control signal before colliding with the front passenger side of the prime mover. At impact, the Toyota Kluger was travelling about 96km/h and the prime mover was travelling between 56km/h and 59km/h. In the 4.4 seconds before impact, the driver was accelerating and at no time did he apply braking'*.
94. At a later date Senior Constable Gardner, Mechanical Investigation Unit examined the Toyota Kluger and made the following relevant observations:
- a) The vehicle had sustained severe impact damage, predominantly to the driver side front "A" pillar. The driver side of the firewall was severely impacted, and the instrument panel was destroyed.
 - b) Both front seat belts were found locked in the retracted position. The seat belt reel pretensioners had deployed locking the seat belts in position. This is consistent with neither seat belt being worn at the time of the collision.
 - c) The passenger side front tyre was severely delaminated and destroyed. The bead edges of the rim were heavily grazed and the outer bead edge of same was flat spotted. This is consistent with the vehicle being driven with the tyre deflated, and from the wheel locking up on a sealed surface.
 - d) The passenger side rear tyre was deflated and the inner and outer sidewalls of same were deformed and split. The damage is consistent with a run flat failure. A single roll pin from a tyre deflation device was located in the outer section of the tyre tread face.

95. Ultimately Senior Constable Gardner concluded '*the roll pin from the tyre deflation device caused the passenger side rear tyre to deflate, and the subsequent run flat failure damage was caused by the driver continuing to drive with the tyre deflated. The deflated passenger side rear tyre, and the destroyed passenger side front tyre, would have had an adverse effect on the steering and general handling of the vehicle, and could have contributed to the collision. My examination did not reveal any mechanical fault with this vehicle which would have caused, or contributed to, the collision*'.
96. At a later date enquiry was made with the Driver Training Unit that confirmed that at the time of the collision, Senior Constable Phillips, the driver of Greensborough 671 Highway Patrol vehicle held the appropriate accreditation for a Gold approved driving authority (ADA) and was also driving a 'Gold' classified vehicle.
97. At a later date enquiries were made that confirmed that at the time of the collision, Vaatoa Chang was licensed under the *Road Safety Act 1986* to drive a motor vehicle.

Forensic Identifications

98. Following the burglary being reported at the Erica Avenue, St Albans address, Sergeant Rockes tasked Constable Malhi and First Constable Hansen with attending the premises and securing a crime scene. Approximately 8.20pm they arrived at the premises, secured a crime scene and spoke with one of the residents who informed them of what had occurred. Crime Scene Services (Melton 573) arrived at 8.42pm and the burglary scene was forensically processed by Leading Senior Constables Brennan and Perry.
99. A fingerprint examination was conducted and three fingerprints were developed and recovered from a jewellery box from within the wardrobe of one of the bedrooms. Two fingerprints were also developed and recovered from a Coca Cola can that did not belong to any of the residents, which appeared to have been brought to the location by those who had committed the burglary.¹²²
100. At a later date one of the fingerprints developed and recovered from the jewellery box was identified as DC (who had been arrested following alighting from the Toyota Kluger at the Caltex Service Station, Tullamarine).
101. At a later date one of the fingerprints developed and recovered from the Coca Cola can was identified as Vaatoa Chang.

¹²² Statement of Leading Senior Constable Brennan, Inquest Brief, pp146-147.

s67(1)(a) Coroners Act 2008 | Identity of the deceased

102. On 6 February 2020 both Vaatoa Chang (born 4 May 1990) and Jonas Lew Montealegre (born 04 November 1983) were identified via Fingerprint Identification.
103. Identity is not in dispute and requires no further investigation.

s67(1)(b) Coroners Act 2008 | Medical cause of death

104. Forensic Pathologist Dr Parsons from the Victorian Institute of Forensic Medicine (**VIFM**) conducted an autopsy on the body of Vaatoa Chang on 5 February 2020 and provided a written report of her findings dated 23 April 2020.
105. The post-mortem examination revealed significant injuries including multiple skull and facial fractures, traumatic brain injury, compound fracture of the right femur, flail chest with multiple rib fractures and lung lacerations and pulmonary haemorrhages. There was no significant natural disease that would have contributed to death.
106. Toxicological analysis of post-mortem samples identified the presence of methylamphetamine and amphetamine.
107. Forensic Pathologist Dr Parsons from the Victorian Institute of Forensic Medicine (**VIFM**) conducted an autopsy on the body of Jonas Montealegre on 5 February 2020 and provided a written report of her findings dated 3 April 2020.
108. The post-mortem examination revealed significant injuries including pulmonary haemorrhage, facial and skull fractures, cerebral haemorrhages, fracture of the left wrist, flail segment rib fractures and haemothorax. There was no significant natural disease that would have contributed to death.
109. Toxicological analysis of post-mortem samples identified the presence of methamphetamine, amphetamine and loratadine.
110. Dr Parsons provided an opinion that the medical causes of death were 1 (a) MULTIPLE INJURIES SUSTAINED IN A MOTOR VEHICLE INCIDENT.

ASSESSMENT OF THE CONDUCT OF VICTORIA POLICE

111. The factual circumstances arising in regard to the deaths of Vaatoa Chang and Jonas Montealegre gives rise to a number of considerations in assessing the conduct of Victoria Police over the two-and-a-half hour period, primarily:
- a) The directions given by various Patrol Supervisors and an assessment of the compliance of Victoria Police units with those directions; and
 - b) The resolution strategies deployed including:
 - i. Police Air Wing aerial platform
 - ii. Tyre Deflation Device
 - iii. Canine Unit
 - c) Assessment of compliance with the *Pursuit Policy*.

PRE-PURSUIT CONDUCT OF VICTORIA POLICE | COMPLIANCE WITH DIRECTIONS

112. Initially Sunshine 251 (Sergeant Aftyn Rocks) assumed the role of forward commander from the outset at 7.27pm up until 9.34pm when Epping 251 (Sergeant Andrew Faulkner) formally nominated himself as the forward commander, given that the incident had transferred across geographical and D24 radio boundaries. Sergeant Faulkner remained the forward commander up until the time of the fatal collision.
113. During the two-and-a-half hour period the respective 251s gave repeated directions instructing all marked units to remain well clear of the Mitsubishi Triton (and then the Toyota Kluger), and under no circumstances was the Toyota Kluger to be followed at close distance to avoid escalating the driving behaviour and provoking a pursuit. Repeated, clear and concise directions were given that the Police Air Wing aerial platform had primary tasking in respect of following and tracking the Toyota Kluger.

114. A review of the D24 Police Radio communications on Channel 0103 indicates Sunshine 251 made the following on-air directions:

EXHIBIT 1 | CHANNEL 0103

Time	Broadcast Content
7.33pm 37s	<i>All marked units to stay well clear, we'll just let Springs unit call it from a distance until we can get confirmation from Air Wing, thanks.</i>
7.43pm 55s	<i>I'm happy for marked units to go in if we can flush him out, then marked units – if we do happen to see him marked units can pull back and hopefully it'll be in a position where Air Wing can take over.</i>
8.29pm 18s	<i>251, that's consistent with our ping. 251, given his manner of driving all marked units to stay clear until – just let Air Wing call it, thanks.</i>
8.29pm 51s	<i>Yeah, 251, if they come across it they can attempt an intercept. And if – if that – it it takes off I don't want any pursuits at this stage while we've got Air Wing up there, thanks.</i>
8.33pm 10s	<i>Yeah, 251, I'm happy for someone to try and light 'em up, see if they'll pull over. If they don't I want all units just to stop where they are and we'll let the Air Wing call it, thanks.</i>
8.34pm 3s	<i>Unit 251, no worries. Are any of the – can I get an unmarked unit just to continue obs until we can get the Air Wing to confirm whether or not they're – they can try and follow it again?</i>
8.35pm 15s	<i>251, if he's not aware that they're there I'm happy for them to follow and give until we can get confirmation from the Air Wing.</i>
8:42pm 36s	<i>Yeah, 251, this driver's obviously aware that the Air Wing are there. I want all units, including the Air Wing to pull away thanks. It's only a burglary. We'll catch up with them at another time but the driving is outrageous and I don't want anyone to get injured.</i>

115. A review of the D24 Police Radio communications on Channel 0105 indicates Epping 251 made the following on-air directions:

EXHIBIT 3 | CHANNEL 0105

Time	Broadcast Content
9.13pm 44s	<i>Epping 251, if I could have possibly someone in a Q car attend to that location or start patrolling in that area, please. Possibly Whittlesea 503 or 550.</i>
9.16pm 58s	<i>... .. and not have any marked units up in the area at this stage, thanks. Just leave it to the Q cars, thanks.</i>
9.35pm 6s	<i>Epping 251, received. I'll leave it to Police Air Wing to be the observational platform, please. No other units to follow directly behind and just keep the updates coming from Police Air Wing, please.</i>
9.36pm 10s	<i>Epping 251, can I just confirm that no marked vehicles go near the vehicle and to spook it and to start a pursuit. At this stage we'll just keep Police Air Wing following the vehicle with updates. However, I will request a couple of HWP units with stop sticks or resolution strategies such as that to possibly parallel the incident, please</i>
9.45pm 33s	<i>Epping 251, can I please reiterate there are to be no lights and sirens activated near this unit, thanks.</i>
9.55pm 51s	<i>Greensborough 671 '671, we're about 200 metres behind that vehicle' to which Epping 251 replies 'Epping 251, received that. Just TUPMED to them at this stage please we've just got an aerial platform with observations, thanks'.</i>
9.56pm 18s	<i>Epping 251 to Canine 227 'Yeah, Epping 251, just join the posse of the 671, thanks, maintain the distance'</i>

116. I have reviewed a range of sources of objective evidence to ascertain whether the repeated directions above, given by the respective Patrol Supervisors, were complied with throughout the two-and-a-half hour period including:

- a) D24 Police Radio Communications (Exhibits 1, 2 & 3)
- b) Police Airwing Footage (Exhibits 4 & 5)
- c) In Car Video Highway Patrol Vehicle Greensborough 671 (Exhibit 6)
- d) CCTV and Dashcam Footage Compilation (Exhibit 7)

117. A comprehensive review of the above exhibits indicates that either the Mitsubishi Triton or Toyota Kluger were followed, prior to the calling of a formal pursuit, at close proximity on only three separate occasions:

- a) Firstly at 7.32pm Caroline Springs 481, an unmarked police vehicle sights the stolen Mitsubishi Triton on Hampshire Road and commences following it. Eight minutes later Caroline Springs 481 loses sight of the Mitsubishi Triton and broadcasts *'I've lost him near Bell Street, I think he's probably made me'*. There is some force to Springs 481's conclusion that the occupants had identified him as an unmarked police vehicle given they appear to have dumped the Mitsubishi Triton within the carpark of the Glengala Hotel very soon thereafter. I identify no concern regarding the conduct of Caroline Springs 481, and that it was in compliance with the Patrol Supervisor's directions, given it was an unmarked police vehicle and tasked with following in the absence of Air Wing.
- b) Secondly at 8.33pm Brimbank 551, an unmarked CIU vehicle attempted an intercept of the black Toyota Kluger. I find this conduct was explicitly authorised by Sunshine 251 in the context of Police Air Wing struggling to gain air traffic control clearance, resulting in the direction *'if it takes off I don't want any pursuits at this stage while we've got Air Wing up there'*. Police Air Wing footage clearly shows Brimbank 551 attempting an intercept and then some 21 seconds later it deactivates its lights and significantly slows down ceasing the intercept as the Toyota Kluger accelerates at speed away, in compliance with the direction.

- c) Thirdly the attempted arrest of all occupants whilst the Toyota Kluger was stationary at the bowsers of the Caltex Service Station, Tullamarine. Police Air Wing footage shows that after the Toyota Kluger decamped from the Caltex and engaged in what was termed by Sunshine 251 as '*outrageous driving*', Police vehicles *desisted* from continuing to follow the Toyota Kluger. Further once the direction was given by Sunshine 251 that '*I want all units, including the Air Wing to pull away thanks*', a review of the Police Air Wing footage supports that this direction was complied with, including by the aerial observation platform itself.

118. Having reviewed all available evidence, I am satisfied that:

- a) Sunshine 251 (Sergeant Rockes) and Epping 251 (Sergeant Faulkner) gave clear and concise directions repeatedly throughout the incident that all marked police vehicles were to remain well clear of the Mitsubishi Triton/Toyota Kluger with Police Air Wing aerial platform to have primacy in tracking the Toyota Kluger and relaying its location; and
- b) All Victoria Police vehicles complied with these directions throughout the two-and-a-half hour period.

RESOLUTION STRATEGY | POLICE AIR WING AERIAL PLATFORM

119. At 7.31pm, four minutes after the initial broadcast in respect of the '*hot theft of complainant's just sighted someone steal her car from out the front of her address white Mitsubishi Triton*', Sunshine 251 requested on-air '*can you check if Air Wing are available?*'. A minute later this request was repeated by Caroline Springs 481 who had commenced following the Mitsubishi Triton.

120. The evidence reveals that utilisation of the Police Air Wing was a fundamental strategy engaged by Sunshine 251 in the developing stages of this incident, that continued when the forward commander role transitioned across to Epping 251. In spite of difficulties gaining air traffic control clearance, Police Air Wing was overhead and active:

- a) For a fifty-one-minute period from 7.51pm (overhead Glengala Hotel where stolen Mitsubishi Triton located dumped minutes earlier) to 8.42pm (Sunshine 251 terminates all vehicles following Toyota Kluger, including Police Air Wing, following extreme dangerous driving decamping from Caltex, Tullamarine after arrest attempt); and
- b) For a twenty-nine minute period from 9.29pm (overhead Mernda address where 'ping' stationary) to 9.58pm (time of fatal collision).

121. I am satisfied that an analysis of all available evidence indicates that:

- a) Both Sunshine 251 and Epping 251 gave clear, concise and repeated directions that Police Air Wing was to be the observational platform with no ground units to approach or follow directly behind so as not to aggravate the driving behaviour of the Toyota Kluger; and
- b) Police Air Wing once it was in position, undertook that critical task as directed that enabled the location of the Toyota Kluger to be effectively tracked across a considerable time period and geographical space.

122. Of note, excluding the attempted intercept by Brimbank 551 and the attempted arrest at the Caltex Service Station, Tullamarine, the driving of the Toyota Kluger was largely in accordance with the road rules (except for a few exceptions, primarily of breaching red traffic control signals or exceeding the speed limit moderately). It is clear that the driving behaviour of the Toyota Kluger, and the absence of any extreme, dangerous or significantly negative driving was significantly attributable to the absence of any overt ground units negatively influencing the driver's behaviour, and the presence of the Police Air Wing observation platform overhead.

RESOLUTION STRATEGY | TYRE DEFLATION DEVICE

123. Within minutes of the black Toyota Kluger leaving the Parkedge Boulevard, Mernda address, tracked by Police Air Wing, Epping 251 directed '*Epping 251, can I just confirm that no marked vehicles to go near the vehicle and to spook it and to start a pursuit. At this stage we'll just keep PolAir following the vehicle with updates. However, I will request a couple of Highway Patrol units with stop sticks or resolution strategies such as that to possibly parallel the incident, please*'. Minutes later Epping 251 repeated the direction, indicating on-air '*stop sticks are authorised for this*'.
124. In response both Greensborough 613 and 671 commenced heading to the location to assist. Greensborough 671 initially setup at a location on Cooper and High Street however the Toyota Kluger passed their location prior to them being in a position to safely depoy. Minutes later Greensborough 613 successfully deployed stop-sticks on High Street underneath the ring road overpass, impacting both passenger side tyres of the black Toyota Kluger.
125. Victoria Police on 4 February 2020 had legislative authority to deploy a *vehicle immobilising device* (including a tyre deflation device) pursuant to s63B *Road Safety Act 1986*. That legislation provided that '*(1) The Chief Commissioner of Police may authorise the use, by police officers, of a vehicle immobilising device (a) to prevent the use of the vehicle by a person for the purpose of escaping from lawful custody or avoiding arrest*'.
126. It is not in dispute that a power of arrest existed in respect of the occupants of the Toyota Kluger. Had a successful apprehension been achieved, both Vaatoa Chang and Jonas Montealegre would have been arrested in relation to the burglary at the Erica Avenue, St Albans residence and associated offences (section 76 *Crimes Act 1958* the offence of burglary, an indictable offence carrying a maximum penalty of 10 years imprisonment).
127. I find that, in accordance with the *VPM Vehicle immobilising devices*:
- a) The tyre deflation device was deployed on the authority of the forward commander (Epping 251); and
 - b) The tyre deflation device was deployed by a qualified member (LSC Crewe).

128. Further I am satisfied that on the basis of the evidence contained within the statement of Leading Senior Constable Crewe, a thorough risk assessment (as required by the *VPM Vehicle immobilising devices*) was conducted prior to and during the deployment of the vehicle immobilising device.
129. In all the circumstances I am satisfied that the deployment of a tyre deflation device was appropriate and conducted in accordance with legislative authority and policy.

RESOLUTION STRATEGY | CANINE UNIT

130. Complementary to both the utilisation of Police Air Wing and a vehicle immobilising device was consideration given by Epping 251 to the proximity of Canine Units to assist. Greensborough 613 broadcast at 9:52:27pm that the deployment of spikes had been effective, with Epping 251 subsequently broadcasting at 9:53:36pm *'Epping 251, received that. Just TUPMED to them at this stage please we've just got an aerial platform with observations, thanks. How far off canine?'*. Canine 227 immediately responded indicating they were on High Street with Epping 251 directing *'just join the posse of the 671, thanks, maintain the distance'*.
131. A review of the multimedia evidence, in particular the dashcam footage and CCTV from businesses on High Street (Exhibit 7) indicates that Canine 227 was approximately twenty-two seconds behind Greensborough 671 throughout the formal pursuit.
132. One of the expected and anticipated outcomes of a successful tyre deflation device deployment, is that the Toyota Kluger would at some stage become undriveable, resulting in the occupants decamping from the vehicle. The immediate presence of Canine Units to assist in tracking and apprehending any potential offenders was an important component of the resolution strategy and indicated that Epping 251 as the forward commander had given a thorough and comprehensive consideration to a range of potential outcomes to the incident.

COMPLIANCE WITH VICTORIA POLICE PURSUIT POLICY

133. The Victoria Police *Pursuit Policy* states that:

- a) 'Members may only conduct a pursuit when they reasonably believe a serious risk to the health or safety of a person existed before attempting interception and there is a need to prevent or respond to that risk; and
 - i. Other means for apprehending the vehicle occupant/s are not practicable;
 - ii. The serious risk they are seeking to prevent or respond to is greater than the risks involved in conducting the pursuit at that time
- b) If a pursuit is conducted, the members involved must assess whether continuing the pursuit is justified against the criteria.

134. At 9:56:50 PM at the intersection of High Street and Wood Street/Spencer Street the Toyota Kluger came to a stationary line of vehicles stopped at the traffic lights and subsequently crossed to the incorrect side of the road and continued through the intersection against the red traffic control signals before returning to the correct side of the road. Seconds later at both 9:57:05 PM and 9:57:18 PM Police Air Wing observed the Toyota Kluger to slow right down and cross to the incorrect side of the road and stop in the path of incoming vehicles, with both vehicles forced to slow and take evasive action to drive around the Toyota Kluger and continue driving.

135. An interrogation of both the Police Air Wing footage and the In Car Video system within Greensborough 671 (that records latitude, longitude and speed in second increments) indicates that

- a) at the time of the first occurrence at 9:57:05 PM the Toyota Kluger was just south of the intersection with Olver Street, whilst Greensborough 671 at that time was between the intersections of Wurruk Avenue and Cambrian Avenue, approximately 230 metres behind; and
- b) at the time of the second occurrence at 9:57:18 PM the Toyota Kluger was between Youngman Street and Wilcox Street, whilst Greensborough 671 at that time was still north of Olver Street, approximately 130 metres behind.

136. In response to sighting the Toyota Kluger slow and cross into the path of oncoming vehicles (twice), Police Air Wing have immediately broadcast *'wrong side of the road to go round the traffic at the intersection, now back on the right side of the road. Stand-by, looks like he's gunna try and carjack someone here. He's stopped on High Street. 35, he's continued on a bit more he's just trying to stop other cars now. Can we get some people to push up'*. Epping 251 has immediately given the direction *'make the approach please, go and get him'* and when clarification was sought from Police Communications *'are we calling a pursuit, 251?'* Epping 251 immediately responded *'calling pursuit now, please'*.
137. Senior Constable Phillips, driver of Greensborough 671 gives evidence in his statement that *'Pol Air indicated that the Toyota was crashing red traffic lights and rounding up other vehicles. They further indicated that the Toyota was driving into oncoming vehicles, trying to force them to stop, in what they believed was an attempt to carjack another vehicle. There were three clear attempted carjackings observed by Pol Air. Due to these updates, Epping 251 requested that I engage this vehicle in a pursuit. I believed this was due to the risk to the public that this vehicle posed, taking into account its manner of driving and attempted carjackings'*.
138. Sergeant Faulkner (Epping 251) gives the following evidence within his statement:
- a) *'I kept asking for the speed and manner of the driving which was normal, however, I was informed of three incidents of note. That the vehicle on High Street between the water storage facility and Murray Road, had crossed over to the wrong side of the road, crashed a red light at an intersection and that the vehicle had attempted to car Jack a civilian vehicle.*
 - b) *These observations were relayed by Pol Air. After I was informed of the attempted carjacking by the offender, I then instructed units to move in and go get him. By that I meant that the vehicle was to be intercepted and hopefully the driver apprehended without incident. My risk assessment to do that consisted of what units I had available to intercept the vehicle which was a Highway Patrol unit and to my recollection my canine unit.*

- c) *To my recollection I said this was a pursuit and I would be the pursuit controller. A short time later Greensborough 671 announced that the vehicle had collided with a truck on the corner of High Street and Bell St, Preston and that the truck was on its side they also requested all emergency services attend ASAP.*
- d) *I have exhausted my memory and have referred to those notes that I commenced at the command post. On reviewing my notes, I recalled that I stated that I didn't want marked units to get too close to the vehicle to spook the driver, when it was on Epping Rd. The reason I stated this was that I didn't want a pursuit initiated for a stolen vehicle at that point the criteria for a pursuit according to Victoria Police policy did not exist.*
- e) *The reason for pursuing the vehicle did not exist until the attempted carjacking occurred on High Street, Preston. That is when I formulated the decision to initiate a pursuit and called it as such. At that point my risk assessment of the situation meant that there were no other available options to me in order to achieve the task of stopping the vehicle.*
- f) *I had utilised Pol Air to follow the vehicle, stop sticks to disable the vehicle and recall that whilst being driven down High St Preston the tyres of the vehicle had been shredded to the point that it was driving on its rims, but the vehicle still continued on its path which further put road users at risk.*
- g) *Throughout this incident I provided regular clear on air directions to control the incident and escalated the incident at an appropriate time after the attempted carjacking which fell within the pursuit criteria initiation'.*

139. Of note, it has not been possible to identify and take statements from the drivers of the two vehicles that the Toyota Kluger passed in front of and attempted to stop. Despite three separate media releases and social media releases since the fatal collision occurred, no one and no relevant information from the public has been forthcoming, so it is unknown what the drivers of those two vehicles perceived.

140. The offence of carjacking is explicitly contained within the *Crimes Act 1958* pursuant to section 79 and 79A, the simpliciter offence carrying 15 years imprisonment (using force or putting a person in fear that force will be used immediately before or at the time of a vehicle theft), the aggravated offence carrying 25 years imprisonment (in the course of

the carjacking the person causes injury to another person). Further section 10AD of the *Sentencing Act 1991* requires that a term of imprisonment be imposed against the aggravated offence, with a non-parole period of not less than three years, unless the Court finds that a special reason exists.

141. They are, it must be said, very clumsy attempts at carjacking, in that on neither occasion did Vaatoa Chang position the Toyota Kluger sufficiently in front of the approaching vehicle to (i) force it to stop and (ii) enable sufficient time for his passenger to alight, approach and force the driver from their vehicle.
142. However on balance, I am satisfied that the conduct of the Toyota Kluger was rightfully interpreted by the Police Air Wing observer as a potential carjacking. Having repeatedly reviewed the Police Air Wing footage it is not in dispute that:
- a) On both occasions the Toyota Kluger crosses partially to the incorrect side of the road into the path of the oncoming vehicle; and
 - b) On both occasions the conduct of the Toyota Kluger causes the incoming vehicle to significantly slow down and almost stop and subsequently change the path that it was driving in order to manoeuvre around the risk posed by the Toyota Kluger.
143. Whilst it could not be known at the time, of note, after the fatal collision had occurred Jonas Montealegre was extricated from the rear middle seat of the Toyota Kluger, indicating he had moved from the front passenger seat into the rear seats of the vehicle for reasons unknown. One plausible explanation was to facilitate a carjacking by allowing him to exit from the Toyota Kluger on the driver's side rather than exiting from the front passenger side, minimising his approach time to the target vehicle.
144. It must also be noted that Epping 251 Sergeant Faulkner was running the incident from the Sergeant's Office within Mernda Police Station (as is recorded on D24 communications approximately 9.30pm). Neither Epping 251 nor Greensborough 671 had access to the 'live feed' from Police Air Wing and were solely reliant upon what was conveyed to them by the Police Air Wing observer.

145. One of the recommendations arising from an internal review conducted within Victoria Police was that all operational supervisors have access to PolAir Livestream vision on their desktops and IRIS devices. I am informed by the Chief Commissioner that this recommendation was endorsed and implemented such that by 12 May 2021, live streaming was now accessible by authorised members (this includes all primary frontline positions at the rank of Sergeant and above) on either a desktop or IRIS device.
146. On the available evidence I am satisfied that Epping 251, upon being informed of the carjacking attempts, '*reasonably believed a serious risk to the health or safety of a person existed and there was a need to prevent or respond to that risk*'. It is imperative to note that Epping 251 *did not* authorise the pursuit on the basis that the Toyota Kluger was linked to the earlier burglary offence, the pursuit was authorised due to the immediate risk to public safety arising from the separate attempted carjackings that had just occurred.
147. In assessing Epping 251's direction against the *Pursuits Policy*, there is also a need to consider whether other means for apprehending the vehicle occupants were not practicable, in particular given that the vehicle registration was known. Whilst Police Air Wing was above and tracking in real-time, they were not in position to effect an arrest on the ground.
148. Were Victoria Police ground units to have remained at distance from the Toyota Kluger, there was a very real risk that the occupants of the Toyota Kluger would have attempted a further carjacking, resulting in a civilian vehicle being seized by threats, force, intimidation or perhaps even with the infliction of injury. In the circumstances there was little probative value in the vehicle registration being known, in circumstances where prevention of the immediate commission of a serious indictable offence was the primary outcome to be achieved. The situation demanded that Victoria Police intervene, and the only practicable means for that intervention was to attempt to intercept the vehicle and for a formal pursuit to be called.
149. It is necessary then to consider whether the 44 second pursuit was conducted in accordance with the *Pursuit Policy*, or whether it should have been terminated, noting the requirement that '*all members involved in the pursuit must apply the risk assessment and decision-making guide at section 3.4 when conducting a pursuit. Any member involved can terminate the pursuit*'.

150. Reconciling some preliminary matters:

- a) Senior Constable Phillips held the appropriate approved driving authority (ADA), being Gold Classified on 12 March 2015.
- b) Senior Constable Phillips was driving a Gold classified vehicle, being a fully marked and outfitted Highway Patrol vehicle.
- c) In these circumstances Senior Constable Phillips was authorised, by virtue of both his ADA and vehicle classification, to drive at an unrestricted speed.
- d) As required there were two police members in the primary unit, the driver Senior Constable Phillips and the observer Senior Constable Kentish.
- e) Communications, flashing lights and alarm as required were operable and activated.

151. In terms of assessing the risk throughout the 44 seconds of the formal pursuit:

- a) In respect of the vehicle speed, I find the risk to be high. Throughout the 44 seconds of the pursuit, Greensborough 671 travelled the 990 metres at an average speed of 81km/h, with a speed range of 29-111km/h. There was a single transmission throughout the pursuit in respect of the speed of the Toyota Kluger when Greensborough 671 broadcast *'approaching Gower Street, wrong side of the road, probably doing about 70, 80 k's'*. High Street where the pursuit occurred had a sign-posted speed limit of 40km/h (8am-midnight).
- b) In respect of the age of the vehicle occupants I find the risk to be a low to moderate risk, noting both occupants were adults and could *not* be classified as juvenile or young.
- c) In respect of impairment from alcohol and/or drug I find the risk to be high on the basis that information was entirely unknown at the time of the pursuit.

- d) In respect of the location and road condition I find the risk to be moderate, noting that High Street was a sealed bitumen surface in good condition, dry weather, straight road with no visibility issues *however* significant number of cross-streets and major cross-intersections in a commercial (not residential) area controlled by traffic control signals
- e) In respect of other traffic/road users I find the risk to be moderate noting the In-Car Video within Greensborough 671 captured a moderate volume of traffic.
- f) In respect of the driving behaviour of the Toyota Kluger I find the risk to be moderate. During the 44 second pursuit the Toyota Kluger was observed to commit two traffic offences (excluding breaching the final red traffic control signal resulting in the fatal collision):
 - i. Seconds after the pursuit formally commenced, the Toyota Kluger breached red traffic control signals at the intersection of High Street/Murray Road. Greensborough 671 as it approached the intersection slowed the vehicle down to 29km/h to ensure it was safe to proceed before entering the intersection against the red traffic control signal. This breach was immediately broadcast by Greensborough 671.
 - ii. Just south of the intersection between High Street and Gower Street the Toyota Kluger briefly crossed to the incorrect side of the road. This breach was also immediately broadcast by Greensborough 671.
- g) In respect of any other known factors I find the pursuit to be high risk on the basis that the occupants of the Toyota Kluger were wanted in respect of the commission of the burglary and associated offences at St Albans that had occurred earlier that evening.

152. Fundamentally the question to be answered is, should the pursuit have been terminated? The *Pursuits Policy* provides that where the serious risk sought to be prevented is greater than the risks involved in conducting the pursuit, then the pursuit may continue on the basis that there is a continual and ongoing assessment of the risks. Alternatively phrased did the risks involved in conducting the pursuit exceed preventing the commission of a serious indictable offence (carjacking).

153. Having repeatedly viewed and analysed Exhibit 6, the In-Car Video footage from Greensborough 671, I find that there was nothing in the driving of the Toyota Kluger throughout the 44 second period, that would have caused Greensborough 671 to have terminated the pursuit.
154. On balance, both Greensborough 671 and Epping 251 during the pursuit reasonably concluded that the attempted carjackings posed a clear immediate risk to public health and safety, a risk that was not overborne by the conduct of the Toyota Kluger throughout the 44 second period. There was a real and escalating risk that inaction by Victoria Police would have enabled the occupants of the Toyota Kluger to successfully commit the offence of carjacking against an innocent member of the public.
155. In all the circumstances I am satisfied that the risk assessment conducted by both Epping 251 and Greensborough 671 throughout the pursuit was thorough and ongoing, and that, in the circumstances, they reached a decision in accordance with the *Pursuits Policy*, that the pursuit continue.
156. Ultimately I am satisfied on the basis of all the available evidence, that both the initiation of the pursuit, and the 44 second pursuit itself, was conducted in accordance with the requirements of the Victoria Police *Pursuits Policy*.
157. In coming to this conclusion it is indisputable that the In-Car Video footage from Greensborough 671 (Exhibit 6) along with the associated metadata (longitude, latitude and speed in second increments) has been invaluable objective evidence. Recommendations from coronial inquests in respect of police vehicles being fitted with in-car video date back nearly a decade and continue as recently as 2021. It is not difficult to understand the rationale for such recommendations. The existence of in-car video footage from Greensborough 671 has facilitated an accurate, objective assessment of their conduct and avoided protracted factual disputes based on fallible memories and recollections.

SUMMARY OF ASSESSMENT OF THE CONDUCT OF VICTORIA POLICE

158. In summary, in assessing the conduct of Victoria Police over the two-and-a-half hour period, I find that:

- a) Both Sergeant Rockes (Sunshine 251) and Sergeant Faulkner (Epping 251) gave repeated, clear and concise directions over D24 Police Communications that all marked units were to remain well clear of the Mitsubishi Triton/Toyota Kluger and that Air Wing had primacy for tracking the vehicles.
- b) At 8.29pm Sergeant Rockes (Sunshine 251) authorised an attempted intercept of the Toyota Kluger in circumstances where Air Wing were struggling to gain air traffic control clearance, however on the explicit condition *'if it takes off I don't want any pursuits at this stage while we've got Air Wing up there, thanks'*. Brimbank 551 attempted an intercept however complied with that direction when the Toyota Kluger increased speed to over 140km/h and immediately desisted from the intercept.
- c) At 8.42pm Sergeant Rockes (Sunshine 251) following the attempted intercept at the Caltex Service Station, Tullamarine whilst the Toyota Kluger was stationary and refuelling (and arrest of two of four occupants), terminated all units following the Toyota Kluger, including Air Wing, on the basis *'It's only a burglary. We'll catch up with them at another time but the driving is outrageous and I don't want anyone to get injured'*.
- d) All relevant Police vehicles on ground complied with the directions from both Sunshine 251 and Epping 251 throughout the entire time period.
- e) Both Sergeant Rockes and Sergeant Faulkner gave consideration to an appropriate range of resolution strategies in an attempt to bring the incident to a resolution. The Police Air Wing was requested within four minutes of the initial broadcast. Over the ensuing two-and-a-half hours both forward commanders appropriately utilised the Air Wing as an aerial observation platform, enabling ground units to maintain distance from the Toyota Kluger. The driving behaviour of the Toyota Kluger over this period was largely in accordance with the road rules, there was an absence of extreme, dangerous or significantly negative driving behaviour (excluding the attempted arrest at the Caltex, Tullamarine) that was significantly attributable to the absence of any overt ground units negatively influencing the driver's behaviour, and the presence of the Air Wing.

- f) The authorisation and deployment of a tyre deflation device was in accordance with both the legislative requirements and policy and was supported by concurrent resolution strategies, including the presence of Police Air Wing and Canine Units.
- g) The two attempted carjackings by the occupants of the Toyota Kluger unpredictably escalated the incident without warning. These carjack attempts were *not* precipitated by the presence or proximity of any ground units to the Toyota Kluger (given at the time of the first attempt the closest vehicle, Greensborough 671 was over 200 metres behind with no lights/sirens activated). Rather, on balance, the occupants made the decision that the Toyota Kluger was becoming undriveable and they would soon be forced to 'swap' vehicles, the only way they could obtain an alternative vehicle would be to 'carjack' or force a member of the public to surrender their vehicle.
- h) Epping 251, upon being informed of the carjacking attempts, '*reasonably believed a serious risk to the health or safety of a person existed and there was a need to prevent or respond to that risk*' and further there was no other practicable means of apprehending the vehicle occupants. The pursuit was therefore initiated in compliance with the *Pursuits Policy*.
- i) Both Greensborough 671 and Epping 251 during the pursuit reasonably concluded that the attempted carjackings posed a clear immediate risk to public health and safety, a risk that was not overborne by the conduct of the Toyota Kluger throughout the 44 second period.
- j) Ultimately the pursuit was initiated and conducted in compliance with the *Pursuits Policy*.

FINDINGS AND CONCLUSION

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

- a) the identity of the deceased were
 - i. Vaatoa Moli Chang, born 4 May 1990; and
 - ii. Jonas Lew Montealegre, born 04 November 1983;
- b) their deaths occurred on 04 February 2020 at Bell Street & High Street, Preston, Victoria, 3072, from MULTIPLE INJURIES SUSTAINED IN A MOTOR VEHICLE INCIDENT.; and
- c) my formal findings in relation to the involvement of Victoria Police in the circumstances of the deaths of Vaatoa Chang and Jonas Montealegre are identified within the body of my Finding.

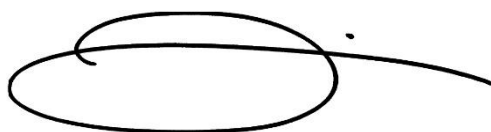
160. I convey my sincere condolences to Vaatoa's and Jonas' family for their loss.

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

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

- a) The Family of Vaatoa Chang
- b) The Family of Jonas Montealegre
- c) Shane Patton APM, Chief Commissioner Victoria Police
- d) A/Inspector Jarrod Dwyer, Road Policing Command, Coroner's Investigator

Signature:



AUDREY JAMIESON

CORONER

Date: 23 June 2022



NOTE: Under section 83 of the *Coroners Act 2008* ('the Act'), a person with sufficient interest in an investigation may appeal to the Trial Division of the Supreme Court against the findings of a coroner in respect of a death after an 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.
