IN THE CORONERS COURT
OF VICTORIA
AT MELBOURNE

Court Reference: COR 2022 4453

FINDING INTO DEATH AFTER INQUEST OF ANGELO ANTHONY GIOSCIO

Form 37 Rule 63(1)

Section 67 of the Coroners Act 2008

Findings of:	Jacqui Hawkins, Deputy State Coroner
Delivered on:	7 September 2023
Delivered at:	Coroners Court of Victoria 65 Kavanagh Street Southbank, Victoria, 3006
Counsel Assisting:	Ms Anna Martin of counsel, instructed by Ms Sam Brown, Principal In-House Solicitor and Ms George Carrington, Coroner's Solicitor, Coroners Court of Victoria
Chief Commissioner of Police:	Ms Serala Fitzgerald and Ms Rachel Ellyard of counsel, instructed by Ms Kate Pereira and Ms Megan Potashynk of the Victorian Government Solicitor's Office
Ms Carmel Douglas	Mr John Melia of Melia Lawyers
Catchwords:	DEATH IN POLICE CUSTODY, REASONABLE FORCE, MENTAL ILL HEALTH, VICTORIA POLICE POLICIES AND PROCEDURES

BACKGROUND

1. Angelo Anthony Gioscio was 55 years old when he died on 7 August 2022 after he collapsed whilst in police presence. At the time of his death, he lived alone in Reservoir. Mr Gioscio was a father to two children, Jay and Alisha.

2. Mr Gioscio was the youngest of three children to Italian immigrants Nicola and Caterina Gioscio. His older sister, Carmel, described him as quiet, generous, loyal and self-sufficient. He always looked after himself and kept his house in good order.

3. Mr Gioscio was a qualified diesel mechanic. At the time of his death, he was on a disability support pension due to a mental health condition.

4. At the time of his death, Mr Gioscio had pre-existing medical conditions including schizoaffective disorder, depression, and emphysema. He had been a life-long smoker but was trying to quit. He was taking his prescribed medication to treat his depression and schizophrenia. He was known by his family, friends and treating practitioners to manage his schizophrenia very well since he was diagnosed at the age of 21.

CORONIAL INVESTIGATION

Jurisdiction

5. Mr Gioscio's death constituted a *'reportable death'* pursuant to section 4(2) of the *Coroners Act 2008* (Vic) (**Coroners Act**), as his death occurred in Victoria and immediately before death he was a person placed in custody or care. The definition of a "person placed in custody or care" relevantly at subsection 3(j) means a person 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 person into custody.

6. The jurisdiction of the Coroners Court of Victoria (**Coroners Court**) is inquisitorial.[1] The purpose of a coronial investigation is to independently investigate a reportable death to ascertain, if possible, the identity of the deceased person, the cause of death and the circumstances in which the death occurred.

7. The cause of death refers to the medical cause of death, incorporating where possible, the mode or mechanism of death.

[1] Section 89(4) *Coroners Act 2008.*

8. The circumstances in which the death occurred refers to the context or background and surrounding circumstances of the death. It is confined to those circumstances that are sufficiently proximate and causally relevant to the death.

9. The broader purpose of coronial investigations is to contribute to a reduction in the number of preventable deaths, both through the observations made in the investigation findings and by the making of recommendations by coroners. This is generally referred to as the prevention role.

10. Coroners are empowered to:

    (a) report to the Attorney-General on a death;

    (b) comment on any matter connected with the death they have investigated, including matters of public health or safety and the administration of justice; and

    (c) make recommendations to any Minister or public statutory authority or entity on any matter connected with the death, including public health or safety or the administration of justice.

11. It is important to stress that coroners are not empowered to determine the civil or criminal liability arising from the investigation of a reportable death and are specifically prohibited from including a finding or comment or any statement that a person is, or may be, guilty of an offence.[2] It is not the role of the coroner to lay or apportion blame, but to establish the facts.[3]

Standard of Proof

12. All coronial findings must be made based on proof of relevant facts on the balance of probabilities.[4] The strength of evidence necessary to prove relevant facts varies according to the nature of the facts and the circumstances in which they are sought to be proved.[5]

[2] Section 69(1). However, a coroner may include a statement relating to a notification to the Director of Public Prosecutions if they believe an indictable offence may have been committed in connection with the death. See sections 69(2) and 49(1) of the Act.
[3] *Keown v Khan* (1999) 1 VR 69.
[4] *Re State Coroner; ex parte Minister for Health* (2009) 261 ALR 152.
[5] *Qantas Airways Limited v Gama* (2008) 167 FCR 537 at [139] per Branson J (noting that His Honour was referring to the correct approach to the standard of proof in a civil proceeding in the Federal Court with reference to section 140 of the *Evidence Act 1995* (Cth); *Neat Holdings Pty Ltd v Karajan Holdings Pty Ltd* (1992) 67 ALJR 170 at 170-171 per Mason CJ, Brennan, Deane and Gaudron JJ.

13. In determining these matters, I am guided by the principles enunciated in *Briginshaw v Briginshaw*.[6] The effect of this and similar authorities is that coroners should not make adverse findings against, or comments about, individuals or entities, unless the evidence provides a comfortable level of satisfaction that they caused or contributed to the death.

14. Proof of facts underpinning a finding that would, or may, have an extremely deleterious effect on a party's character, reputation or employment prospects demands a weight of evidence commensurate with the gravity of the facts sought to be proved.[7] Facts should not be considered to have been proven on the balance of probabilities by inexact proofs, indefinite testimony or indirect inferences. Rather, such proof should be the result of clear, cogent or strict proof in the context of a presumption of innocence.[8]

Sources of evidence

15. This finding draws on the totality of the material obtained in the coronial investigation of Mr Gioscio's passing. That is, the court file, the Coronial Brief and any further material obtained by the Coroners Court, together with the transcript of the evidence adduced at Inquest and the submissions hearing.

16. In writing this finding, I do not purport to summarise all the material evidence but refer to it only in such detail as appears warranted by its forensic significance and the interests of narrative clarity. The absence of reference to any particular aspect of the evidence should not lead to the inference that it has not been considered.

CIRCUMSTANCES OF MR GIOSCIO'S DEATH

Background

17. On the evening of 6 August 2022, Mr Gioscio appeared to be in good spirits. He caught up with his friend, Nikolaos Georgileas, and went to a hotel in Coburg and played the pokies, until they left at about 11.30pm and Mr Gioscio returned home.

18. About two hours later, Mr Gioscio text messaged Mr Georgileas and asked whether he was still up. They then chatted on the phone for a few minutes. At about 2.25am Mr Gioscio travelled back to Mr Georgileas' home and arrived just before 3am. They shared a cigarette and then Mr Gioscio started yelling, acting irrationally, rocking and

[6] (1938) 60 CLR 336.
[7] *Anderson v Blashki* [1993] 2 VR 89, following *Briginshaw v Briginshaw* (1938) 60 CLR 336.
[8] *Briginshaw v Briginshaw* (1938) 60 CLR 336 at pp 362-3 per Dixon J.

hitting himself. Mr Georgileas considered his friend was having a psychotic episode before he left.

19. At approximately 3.45am, Mr Gioscio was involved in a single vehicle collision in Murphy St, Preston. Witnesses heard a loud noise and observed Mr Gioscio in the front seat of his vehicle acting erratically, possibly drug affected and told people to stay away.

20. Emergency services were called at 3.59am. A computer aided dispatch (**CAD**) event was created at 4.03am and the job was dispatched via police communications.

21. A local divisional van unit comprising of First Constable (**FC)** Samuel Connelly and Constable (**Cons**) Lachlan Duncan (**Preston 311**) received the job which was described as: "It's car v tree. He's – no-one's trapped but it says the male's trying to smash the window. Not known the extent of injuries. Possibly drug or alcohol affected."[9]

22. Preston 311 is recorded to have arrived at the scene at 4.16am. The police members initially could not find Mr Gioscio's vehicle. They located a bumper bar with a registration plate on it and Cons Duncan commenced LEAP enquiries. Whilst making these enquiries, police then heard yelling and a thudding noise which drew their attention to Mr Gioscio's vehicle, located about 30 metres away.

23. FC Connelly ran towards the vehicle and observed Mr Gioscio naked and lying in the back seat behaving erratically and kicking his feet against the roof of the car. FC Connelly formed the opinion that he was likely suffering a drug induced psychotic episode. He was saying "all kinds of profanities" and appeared to be "angry and pretty pissed off"[10]. FC Connelly considered his "eyes looked intense" and he had a "dead stare" towards him.[11]

24. Both police officers activated their body worn camera (**BWC**) device which captures the whole incident with Mr Gioscio.

25. FC Connelly provided the following update and requested the attendance of Ambulance Victoria:

[9] Exhibit 1, Coronial Brief, p 331.
[10] Exhibit 1, Coronial Brief, p 155.
[11] Exhibit 1, Coronial Brief, p 155.

> Yeah, Preston 311. Can I get AV out to my last, please? Got a male here, he's conscious, breathing. Seems to be having some sort of a drug psychosis happening.[12]

26. The BWC footage reveals that FC Connelly attempted to converse with Mr Gioscio and asked him if he had taken any drugs. Mr Gioscio answered that he had taken cannabis and ice. Mr Gioscio then changed position onto his knees and began hitting his head against the roof of the vehicle. He attempted to get out of the vehicle, but FC Connelly and Cons Duncan used force to keep the door closed to prevent him from exiting the vehicle. Mr Gioscio's behaviour then changed from attempting to harm himself to focusing his attention on the police.

27. His demeanour suddenly became aggressive, and Mr Gioscio launched himself out of the back passenger window and fell onto the ground. He was immediately restrained by police.

28. During this time, other police members arrived at the scene. He continued to struggle against the police for about three minutes, before he lost consciousness and stopped breathing. Police immediately commenced CPR.

29. Ambulance Victoria Paramedics arrived shortly after. Police members continued to assist with CPR for almost one hour. Despite all best efforts, Mr Gioscio was declared deceased by paramedics at 5.26am.

CORONIAL INQUEST

30. A coronial inquest is mandatory in respect of Mr Gioscio's death pursuant to s52(2)(b) Coroners Act where the deceased was, immediately before death, a person placed in custody or care.

31. The coronial inquest commenced on 31 July 2023 for three days, with a submissions hearing held on 4 August 2023.

Witnesses

32. Thirteen witnesses were called to give *viva voce* evidence at the Inquest, including:

    a) First Constable Samuel Connelly

[12] Exhibit 1, Coronial Brief, p 332.

b) Constable Lachlan Duncan

c) Detective Senior Constable Lucas Worland

d) Senior Constable Amanda Wright

e) Senior Constable Liam Doidge

f) Dr Joanna Glengarry

g) Sergeant Michelle Balboni

h) Inspector Paul Holland

Scope of Inquest

33. The following issues were examined at the Inquest:

a) Examination of the medical cause of Mr Gioscio's death, including:

i. Illicit and/or prescribed drug use;

ii. Exposure;

iii. Positional asphyxia; or

iv. A combination of the above and/or other factors

b) Examination of the actions of Victoria Police members in their dealings with Mr Gioscio, specifically the methods used to restrain him and the commencement of first aid.

c) Examination of the applicable Victoria Police training, policies, procedures, and practices in respect of the use of restraint and application of first aid.

IDENTITY OF THE DECEASED

34. On 11 August 2022, Angelo Anthony Gioscio was formally identified by fingerprint analysis. Mr Gioscio's identity was not in dispute and required no further investigation.

CAUSE OF DEATH

35. On 8 August 2022, Dr Joanne Ho, Forensic Pathologist at the Victorian Institute of Forensic Medicine conducted an autopsy on Mr Gioscio's body.

36. After conducting a thorough medical examination and investigation, Dr Ho considered that Mr Gioscio's death was unascertained. Dr Ho reported that there were multiple competing issues in relation to Mr Gioscio's death. The autopsy showed a mildly enlarged heart which is associated with increased cardiac mortality and morbidity and is a risk factor for heart attack. An enlarged heart can also be associated with ischaemic heart disease, hypertension, valvular heart disease, obesity, and some cardiomyopathies. There is also a link between cardiovascular disease and methamphetamine use.

37. Post mortem toxicological analysis showed evidence of methylamphetamine, amphetamine, citalopram, and aripiprazole. No alcohol or cannabis were detected.

38. Methamphetamine is a central nervous system stimulant and can cause an individual to become hyperactive, tachycardic (increased heart rate), and hypertensive (high blood pressure). It can also cause agitation and unusual behaviour. There is also an increased risk of cardiac arrythmias in those with cardiac disease particularly during periods of physical exertion or heightened emotion. Dr Ho indicated that it can also lead to a rare complication; excited delirium.

39. Excited delirium was explained by Dr Ho as a clinical entity and is characterised by acute onset of violent or bizarre behaviour, typically paranoia, combativeness, hyperactivity, aggression, and extreme strength followed by sudden death. It often follows law enforcement involvement.

40. Serious mental illness such as schizophrenia can be associated with an increased risk of sudden unexpected death.

41. Mr Gioscio had a recorded blood sugar level (**BSL**) of 25.3 mmo/L by paramedics. The cause for the elevated glucose was unclear and could be in the setting of acute illness, stress, and dehydration. He had no documented medical history of diabetes mellitus.

42. Neuropathological examination showed patchy subarachnoid haemorrhage and a subacute watershed infarction in the right anterior watershed zone.

43. Dr Ho explained that subarachnoid haemorrhage refers to the bleeding in the space surrounding the brain and typically occurs in the setting of a burst blood vessel. A watershed infarction (stroke) occurs in border areas between cerebral vascular territories, however given the subacute nature, Dr Ho believed it was unlikely to have caused or contributed to death.

44. There was some bruising to the head which was consistent with Mr Gioscio hitting his head on the roof of the vehicle.

45. After reviewing the BWC footage, Dr Ho provided a Supplementary Report and found no pathognomonic signs of positional asphyxia. She maintained her opinion that the medical cause of death was 1a) unascertained.

46. As Dr Ho was unavailable for the Inquest, Dr Joanna Glengarry, Forensic Pathologist was called to give evidence about the medical cause of death as she was the second pathologist who reviewed this case.

47. Dr Glengarry largely agreed with Dr Ho's findings and suggested the cause of death was multifactorial.[13] After viewing the BWC, Dr Glengarry excluded positional asphyxia as a contributing factor to his death.[14] According to her, she observed he was lying on his side and there did not appear to be significant compression of the chest or abdomen.[15]

48. At Inquest, Dr Glengarry was questioned about some of the other competing issues. The post mortem investigations ruled out a brain tumour, infection, thyroid disorders, or metabolic biochemical disorders.[16] She excluded Mr Gioscio's high blood sugar levels and low tympanic membrane temperature as contributing to his cause of death.[17] She considered his diagnosis of schizophrenia did not directly contribute to the cause of death, but opined that it could have indirectly contributed either via his medication or underlying cardiac condition.[18]

49. This led to a narrowed focus on three significant matters: the presence of methylamphetamine, Mr Gioscio's enlarged heart, and his highly unusual behaviour in

[13] Transcript of evidence, p 185.
[14] Transcript of evidence, p 187.
[15] Transcript of evidence, p 187.
[16] Transcript of evidence, p 185.
[17] Transcript of evidence, p 201-2.
[18] Transcript of evidence, pp 193-4.

the hour or so before his death. The latter of which is consistent with the term excited delirium. The term is used to describe a person's presenting behaviour, namely that they are hyperactive with an altered mental state experiencing delirium, disordered thoughts, movements and agitation.[19] Excited delirium is a term that has lost its utility in recent years and is no longer an accepted cause of death.

50. Toxicologist and Pharmacologist, Dr Dimitri Gerostamoulos provided a statement and proffered serotonin syndrome as a potential life threatening condition that may have contributed to Mr Gioscio's death.[20] Serotonin syndrome is an excess of serotonin which is known to lead to agitation with muscular rigidity and spasms, disordered behaviour, increased blood pressure, and heart rate abnormalities.[21] Dr Glengarry explained that it can look identical to methylamphetamine toxicity.[22] She confirmed however that it is a clinical diagnosis which cannot be made at autopsy.[23] Dr Glengarry considered it to be a distinct possibility based on the toxicology finding of antidepressant medication and the methylamphetamine found which together can increase the levels of serotonin. This syndrome is then compounded with the underlying heart disease.[24]

51. Dr Glengarry considered Mr Gioscio's laboured breathing witnessed and heard on the BWC footage could be due to his pre-existing diagnosis of emphysema or the effects of methylamphetamine and/or cardiac arrest.

52. Finally, Dr Glengarry considered the relevance of the police involvement which according to her could have a significant impact on someone who is in an agitated state, and causes adrenalin surges.[25] Their judgement and behaviour is impaired so when a person in a position of authority is giving directions or instructions to do something that they don't want to do, or are unable to do or cannot comprehend, this can escalate the situation due to the hyperactive and delirious state that person is in. This creates a downward spiral of cardiac and respiratory abnormalities leading to metabolic abnormalities, cardiac arrest, and death.

[19] Transcript of evidence, p 185.
[20] Exhibit 1, Coronial Brief, p 440.
[21] Transcript of evidence, p 187.
[22] Transcript of evidence, p 187.
[23] Transcript of evidence, p 187.
[24] Transcript of evidence, p 186.
[25] Transcript of evidence, p 188.

53. During her evidence, Dr Glengarry reflected on the multifactorial medical issues involved in Mr Gioscio's death and was able to provide a narrative cause of death as 1a) cardiac arrest in the setting of methylamphetamine toxicity, with possible serotonin syndrome, in a man with cardiac and respiratory disease in the setting of police presence.

54. The reference to police presence refers to the impact that the presence of a person of authority might have had on Mr Gioscio in the context of him presenting as experiencing hyperactive delirium with agitation.

55. After considering all of the evidence, I accept this cause of death.

Examination of the actions of Victoria Police members in their dealings with Mr Gioscio, specifically the methods used to restrain him and the commencement of first aid.

56. The inquest examined the actions of the various Victoria Police members who attended the scene, including their interactions with Mr Gioscio, the methods of restraint and the commencement of first aid. Most of these interactions were captured on BWC footage, which assisted the Inquest and my fact-finding role.

57. FC Connelly and Cons Duncan were the first officers on scene and once they found Mr Gioscio in the car, naked in the back seat, banging his feet on the roof of the car, they recognised that he may have been experiencing some form of mental health episode or drug induced psychosis.[26] Concerned he'd been in a car accident and may have been hurt, FC Connelly immediately requested an ambulance.

58. The police officers considered it was safer to contain Mr Gioscio in the car. FC Connelly opened the door and wound down the window because the windows were fogged up and he didn't have good visuals of Mr Gioscio. FC Connelly then calmly spoke to Mr Gioscio, asked him what his name was, and if he had taken any drugs. Mr Gioscio responded that he had used ice and cannabis and that he had taken the quantity of "the world."[27] The police members provided clear verbal instructions for him to remain in the vehicle. FC Connelly relayed the information on police communication and requested immediate back up.

[26] Transcript of evidence, p 20.
[27] Transcript of evidence, p 18.

59. Mr Gioscio was aggressive and clearly agitated, particularly with the presence of police. He was exhibiting pre-attack indicators,[28] such as repeatedly telling them to shoot him, to take a photo, and that he hated cops. Cons Duncan explained that his police training assisted him to identify, risk assess and manage those pre-attack indicators.[29] This kind of behaviour was described in evidence by Inspector (**Insp**) Holland as 'provoke shooting' mentality.[30]

60. In addition to the pre-attack indicators, Mr Gioscio was displaying concerning health issues, breathing heavily, wheezing, and sweating profusely.[31]

61. Mr Gioscio then experienced a burst of energy and launched himself out through the rear car window. FC Connelly and Cons Duncan immediately restrained him due to the danger he presented to himself and others including the members. FC Connelly justified that had he not restrained Mr Gioscio, he was concerned that he could potentially access his gun and put he and his offsider in danger. He felt it was necessary to hold him down.[32]

62. In the initial stages, Mr Gioscio was demonstrating great strength, and was resisting police. FC Connelly used his baton and hit Mr Gioscio twice, but not hard. He realised it was having no impact and it was better if he had both his hands on him.[33] Other tactical options were considered but OC spray was deemed not appropriate in the circumstances due to the proximity to Mr Gioscio, and the potential to negatively impact the officer's vision. In essence, they had limited options.[34] This strategic thinking reflected their training.

63. FC Connelly and Cons Duncan placed Mr Gioscio on his side, in the recovery position and kept their hands on him until further police arrived at the scene. Conscious of the risks of positional asphyxia, FC Connelly explained in evidence that "they're not to be on their stomach for any great length of time and [it's important] to put them on their side as quickly as possible".[35] Cons Duncan stated that their focus was on making sure

[28] Transcript of evidence, pp 93, 102.
[29] Transcript of evidence, pp 102-3.
[30] Transcript of evidence, p 269.
[31] Transcript of evidence, p 64.
[32] Transcript of evidence, pp 21, 67.
[33] Transcript of evidence, pp 28-9.
[34] Transcript of evidence, p 29-30.
[35] Transcript of evidence, p 23.

Mr Gioscio could breathe.[36] According to Insp Holland, this method of restraint was consistent with their training and deemed to be safe.

64. In evidence, the attending police members were all able to adequately explain the risk factors associated with offenders and positional asphyxia, particularly the risk factors of weight, general health, and potential medical conditions.[37] Mr Gioscio had a number of these risk factors.

65. Mr Gioscio was heard to be wheezing and seen to eventually calm and become quiet. The police members recognised this and they transitioned their concern to his wellbeing. FC Connelly explained in evidence that once Mr Gioscio calmed, he released any pressure, so that he wasn't holding him down or restraining him in any way. He kept his hand on Mr Gioscio in case of he had a surge of energy or something similar.[38] FC Connelly asked if Mr Gioscio was breathing and checked he was, but they were unable to get a response.[39] They immediately considered he had fallen unconscious and relayed this to police communications.

66. Detective Senior Constable (**DSC**) Lucas Worland arrived and directed FC Connelly and Cons Duncan to make some slight adjustments to Mr Gioscio's position. BWC footage shows that the small adjustment to his right shoulder caused Mr Gioscio's chest to be slightly more open. Once DSC Worland understood Mr Gioscio was unconscious his immediate concerns were for his medical wellbeing, to ensure he was in the recovery position, check his breathing, and maintain that position until ambulance paramedics arrived.[40]

67. Once SC Liam Doidge arrived, he quickly assessed the scene, checked if there were any other potential victims and turned off the radio, before relieving FC Connelly and Cons Duncan of their positions. He told them to go and get some gloves and to take a breather. DSC Worland and SC Doidge then took over Mr Gioscio's care. SC Doidge knelt next to Mr Gioscio and started conducting physical and verbal assessments to check his alertness.[41] They quickly recognised he wasn't breathing and immediately commenced CPR.

[36] Transcript of evidence, p 73.
[37] Transcript of evidence, pp 23, 113, 136, 163.
[38] Transcript of evidence, p 26.
[39] Transcript of evidence, p 33.
[40] Transcript of evidence, p 112.
[41] Transcript of evidence, p 157.

68. Between Mr Gioscio falling unconscious and the commencement of CPR, various police members checked whether he was breathing on numerous occasions, checked his pulse, and tried to get a response from him. He was constantly monitored by DSC Worland. In evidence, DSC Worland explained that constantly monitored meant that police members "had eyes on" him the whole time.[42]

69. As soon as Mr Gioscio's breathing was not able to be discerned, police members acted promptly, professionally, and consistently with their first aid training by commencing CPR until paramedics arrived. The officers worked effectively and efficiently together with good communication and oversight from SC Doidge.

70. Sgt Michelle Balboni arrived shortly after Mr Gioscio had been restrained and her evidence was that the officers' actions were swift, and they made the right choices in terms of treating it as a health episode.[43]

71. The evidence revealed that it is rare for a person being restrained to fall unconscious. DSC Worland commented that he has been in this situation a "handful of times where it's gone from somebody being arrested to needing to provide them first aid, not necessarily them being unconscious and needing CPR, but injured in some way."[44] SC Doidge explained that he has been a police officer for seven years and only performed CPR once.[45] Likewise, Insp Holland has been operational in the police force for 18 years and has never performed CPR. His evidence was that it is uncommon, but not out of the ordinary.[46]

72. Insp Holland reviewed the circumstances of this case including the BWC footage and considered the actions of the police members to be consistent with police training to isolate and contain a potential threat, commence negotiations, and communications.[47] He considered "they isolated, contained, and commenced negotiation as best they could with the person presenting" and they appropriately treated it as a health response.[48] Insp Holland considered they applied good tactical communications.[49]

[42] Transcript of evidence, p 113.
[43] Transcript of evidence, p 233.
[44] Transcript of evidence, p 127.
[45] Transcript of evidence, p 177.
[46] Transcript of evidence, p 258.
[47] Transcript of evidence, pp 264-5.
[48] Transcript of evidence, p 268.
[49] Transcript of evidence, p 281

73. I find the actions of the police members involved with Mr Gioscio to be professional, appropriate, and in accordance with their training. This included their communication, restraint, and the first aid provided. In a dynamic situation the police utilised their training, experience, and skills in their interactions with Mr Gioscio.

Examination of the applicable Victoria Police training, policies, procedures, and practices in respect of the use of restraint and application of first aid.

74. Insp Holland, Senior Manager at the Operational Safety Unit within People Development Command provided evidence about the training of Victoria Police members. Victoria Police conduct Operational Safety and Tactics Training (**OSTT**) at the commencement of a police officer's career and every six months thereafter.[50] Central to police operational training is the concept of SAFE TACTICS which is an occupational health and safety acronym for slowing down, assessing the risk, formulating a plan, assessing the environment and considering tactical options, information gathering and communications.[51] This philosophy enables police to use strategies to assist with their decision making and risk assessments,[52] and trains them how to think in dynamic situations.[53]

75. The content of the training changes from cycle to cycle and according to current issues and trends.[54] The recent OSTT training cycle has included decision making under stress and provides strategies on how to handle this.[55]

76. The evidence revealed police members received training in the following areas relevant to the circumstances of this case:

    a) Statutory requirements for use of force;

    b) Defensive tactics, methods of subject control, takedowns and restraint;

    c) Decision making under stress and the operational decision making framework;

    d) Communication; and

[50] Transcript of evidence, pp 245-6.
[51] Transcript of evidence, pp 249-50.
[52] Transcript of evidence, p 259.
[53] Transcript of evidence, pp 251-2.
[54] Transcript of evidence, pp 256-7.
[55] Transcript of evidence, pp 260-1.

e) Consideration of the risks, signs, symptoms and avoidance strategies for positional asphyxia.[56]

77. Level 1 First aid training is renewed every three years.[57] All the police officers involved in this incident were first aid trained.

78. Police officers who gave evidence at this inquest acknowledged that training can always be improved but they generally felt that their training had adequately prepared them for the situation they faced. DSC Worland commented that "training's always very dry, very unlike the real situation. … It prepared us as well as it could, but it's never the same as actually being in that situation."[58] According to DSC Worland "you need to very quickly change your mindset as to what your job is at that time and what you're trying to do."[59]

79. All the police officers involved in this incident were conscious of the risks associated with positional asphyxia and were able to adequately explain the signs and management. Positional asphyxia is discussed every six months during defensive tactics training of arrests.[60] Whether police needed further training on this was discussed during the evidence of Insp Holland. His evidence was that these issues are addressed in an informal basis in positional asphyxia training which he referred to as the "golden thread" through the OSTT training and which is covered in defensive tactics training.[61]

80. Counsel assisting suggested that consideration might be given to reviewing the OSTT curriculum, to include improved understanding of what it means to constantly monitor someone in different circumstances, how to recognise the signs of deterioration, and how to assess and treat a person whose physical condition is deteriorating. Further, it may be achieved by formalising the health response discussions which already occur in the context of training related to positional asphyxia.[62]

81. Counsel for the Chief Commissioner of Police submitted that in this case there were multiple police members conducting multiple checks and the evidence is that Mr Gioscio was being constantly monitored. The members were all familiar with the risks

[56] Exhibit 1, Coronial Brief, pp 445-567.
[57] Transcript of evidence, p 278.
[58] Transcript of evidence, p 126.
[59] Transcript of evidence, p 127.
[60] Transcript of evidence, p 163.
[61] Transcript of evidence, pp 255-6, 265-6, 283-5.
[62] Transcript of evidence, p 316.

associated with positional asphyxia therefore it was unnecessary to make any recommendation.[63] It was submitted that the police who attended upon Mr Gioscio on the night had been appropriately trained and equipped with the "tools in their toolbox" which allowed them to make sound decisions on the night.[64]

82. Counsel for the Chief Commissioner further submitted that care should be taken when making comments or coronial recommendations. It was submitted that the evidence supports a conclusion that even though there are always opportunities for improvement, things were done well in this case by police, and Counsel urged me not to make a recommendation.[65] I agree.

FINDINGS

83. Having investigated the death of Angelo Anthony Gioscio, I make the following findings and conclusions, pursuant to section 67(1) of the *Coroners Act 2008*:

    a) that the identity of the deceased was Angelo Anthony Gioscio, born 29 September 1966; and

    b) that he died on 7 August 2022, at 9 Murphy Street, Preston, Victoria, 3072 from 1a) cardiac arrest in the setting of methylamphetamine toxicity, with possible serotonin syndrome, in a man with cardiac and respiratory disease in the setting of police presence;

    c) the death occurred in the circumstances set out above.

84. I find the police members appropriately identified that Mr Gioscio required medical assistance, called an ambulance, communicated with him in a calm and professional manner, used the least amount of force required and immediately commenced CPR when he lost consciousness. Police used their training, experience, and skills in their interactions with Mr Gioscio. I find that the police response was reasonable, proportionate, appropriate, and in accordance with their training. I commend the police officers for their professionalism and attempts to resuscitate Mr Gioscio.

85. I find the police training was up-to-date, skills based, and appropriate.

[63] Transcript of evidence, pp 329-31.
[64] Transcript of evidence, p 331.
[65] Transcript of evidence, p 331.

86. I convey my sincerest sympathies to Mr Gioscio's family for their loss. His family showed grace and courage when, through their counsel, they conveyed their gratitude to police for their attempts to resuscitate him. I was impressed to see Counsel for the family be supportive and not combative in an inquest setting.

87. I order the Principal Registrar to notify the Registrar of Births, Deaths and Marriages of the change to the cause of death according to section 49(2) of the Coroners Act.

88. I order that this finding be published on the internet in accordance with section 73(1) *Coroners Act 2008* and the rules.

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

    a. Carmel Douglas;

    b. Ms Alisha Lorrigan

    c. Mr Shane Patton APM, Chief Commissioner of Police, Victoria Police

    d. Detective Sergeant Glenn Grandy, Victoria Police

    e. Ms Julia DeFreitas, Civil Litigation, Victoria Police

    f. Richard Laufer, Northern Health

    g. Ms Ligam Madhavi, Avant Law

    h. Ms Tegan Howard, Austin Health

    i. Detective Sergeant Simon Quinnell, Coroner's Investigator, Homicide Squad.

Signature:

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JACQUI HAWKINS
DEPUTY STATE CORONER
Date: 6 September 2023