



IN THE CORONERS COURT
OF VICTORIA
AT MELBOURNE

Court Reference: COR 2016 1154

FINDING INTO DEATH WITHOUT INQUEST

Form 38 Rule 63(2)

Section 67 of the Coroners Act 2008

Findings of:	Judge John Cain, State Coroner
Deceased:	Mark Leslie Missen
Date of birth:	16 November 1959
Date of death:	29 January 2016
Cause of death:	1(a) Multiple blunt force trauma to the head and neck
Place of death:	8 Larsen Street, Mooroopna, Victoria
Catchwords:	family violence; adult child-parent homicide

INTRODUCTION

1. Mr Mark Leslie Missen was 56 years old and living with his son, Nathan Missen and Nathan's girlfriend, Ebonee Rohde, in a rental premise at Larsen Street, Moorroopna at the time of his death.
2. Mr Missen was born and raised in Traralgon, Victoria and finished his schooling when he was 15 years old. Mr Missen started working as a brick layer and continued working throughout his career in various trade occupations including as a plant operator, mill superintendent, spray painter, truck diver, and boilermaker.
3. Mr Missen met his first partner, Ms Rosalind Smith, in 1983 and the couple married in 1984. Mr Missen and Ms Smith had a son, Nathan, who was born on 5 October 1989.
4. In 1996, Mr Missen witnessed a serious workplace accident at the Australia Paper Mill where his colleague was killed. Mr Missen struggled with the death of his colleague and developed Post Traumatic Stress Disorder and depression in the aftermath of the workplace accident.
5. In the same year as the workplace accident above, Mr Missen also separated and divorced Ms Smith. Nathan originally lived with his mother, Ms Smith until 2000 when Ms Smith allowed Mr Missen sole parental responsibility for Nathan.
6. In 2004, Mr Missen met and married Ms Kerrie Mitchell and moved to Wallace Court, Traralgon.
7. On 15 December 2008, Mr Missen slipped and fell on his back during a workplace accident whilst he was working at the Yallourn Power Station. Mr Missen suffered a significant back injury which resulted in him eventually ceasing to work and claiming Work Cover.
8. In June 2012, Mr Missen and Ms Mitchell divorced and separated. Mr Missen and Nathan moved to Shepparton to live closer to Mr Missen's sister, Cheryl Missen.
9. Nathan commenced an intermittent relationship with Ms Ebonee Rohde around July 2015. The couple were both regularly using "ICE" (methylamphetamines) together and Ms Rohde would often stay with Nathan who was living with Mr Missen in Shepparton. Nathan and Ms Rohde also frequently moved house in the lead up to the fatal incident due to their itinerant lifestyle.

THE CORONIAL INVESTIGATION

10. Mr Missen's death was reported to the Coroner as it fell within the definition of a reportable death in the *Coroners Act 2008* (the Act). Reportable deaths include deaths that are unexpected, unnatural or violent or result from accident or injury.
11. 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.
12. 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.
13. The Victoria Police assigned an officer to be the Coroner's Investigator for the investigation of Mr Missen's death. The Coroner's Investigator conducted inquiries on my behalf, including taking statements from witnesses – such as family, the forensic pathologist, treating clinicians and investigating officers – and submitted a coronial brief of evidence.
14. This finding draws on the totality of the coronial investigation into the death of Mr Missen, including evidence contained in the coronial brief and further evidence obtained under my direction. Whilst I have reviewed all the material, I will only refer to that which is directly relevant to my findings or necessary for narrative clarity. In the coronial jurisdiction, facts must be established on the balance of probabilities.¹

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

Circumstances in which the death occurred

15. Mr Missen, Nathan and Ms Rohde moved to 8 Larsen Street, Mooroopna on 13 January 2016. Prior to this date, Nathan, Ms Rohde and Mr Missen camped together and stayed at a cabin park

¹ 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.

in Mooroopna until Mr Missen successfully obtained access to the rental property on Larsen Street.

16. On the evening of 29 January 2016, Nathan and Ms Rohde were out driving and had a verbal argument which resulted in Ms Rhode being punched in the face and assaulted by Nathan. Ms Rhode reportedly sent text messages to Mr Missen between 7.33pm and 7.36pm informing him of the assaults.²
17. Upon arriving home at the Larsen Street residence later that evening, Nathan and Ms Rohde went straight into their bedroom to watch a movie.³ Shortly after their arrival, Mr Missen went into the bedroom to check on Ms Rhode and question Nathan about the assaults. Nathan followed Mr Missen into the kitchen where a loud verbal argument developed. Ms Rhode could not hear what was being said in the kitchen but noted that the argument turned violent and heard the noise of a person's body displacing the refrigerator or freezer.⁴
18. Ms Rhode reported that Nathan shortly after dragged Mr Missen's body into the bedroom and dropped him on the floor. Ms Rhode observed Mr Missen lying on his back, bleeding from the mouth and gasping for air whilst trying to talk.⁵ Nathan requested that Ms Rhode get something to stop the bleeding and when Ms Rhode returned with a pillowcase and towel, Nathan wrapped them around Mr Missen's head and then kicked and stomped on him repeatedly. Nathan then placed a belt around his neck and pulled it tight.⁶
19. At approximately 7.44pm, Ms Rhode attempted to contact police by calling 000 but was not able to complete the call due to Nathan seizing her phone.⁷ It is unclear from the available evidence at what point during the assault on Mr Missen that this call was made.
20. The following day, Nathan, Ms Rohde and Nathan's associates assisted with the disposal of Mr Missen's body down a mine shaft near the Balaclava mine.⁸
21. On 12 March 2016, Mr Missen's body was discovered by campers who were exploring the vicinity of the mine shaft. Police were contacted and alerted to the body. They retrieved Mr

² *Coronial Brief*, Exhibit 88 – Transcript of interview with Ebonee Jade Rohde dated 27 March 2016, 2953

³ *Ibid*, 2954-2955

⁴ *Ibid*, 2975

⁵ *Ibid*, 2955-2956

⁶ *Ibid*, 2966-2971

⁷ *Coronial Brief*, Exhibit 60 – Call charges for Ebonee Jade Rohde mobile phone.

⁸ *Coronial Brief*, Exhibit 88 – Transcript of interview with Ebonee Jade Rohde dated 27 March 2016, 3202-3220

Missen's remains on 13 March 2016 and commenced their investigations into his death.⁹ Police members arrested Ms Rohde and Nathan on 23 March 2016 for the murder of Mr Missen.

22. Nathan subsequently pleaded guilty to murder and was sentenced to 21 years imprisonment with a non-parole period of 17 years.¹⁰ Ms Rohde was found guilty of assisting Nathan with Mr Missen's murder and sentenced to 211 days imprisonment and a Community Corrections Order for 18 months.¹¹

Identity of the deceased

23. On 26 March 2016, VIFM identification services took fingerprint impressions from the body of the deceased who was identified as Mark Missen born 16 November 1959.
24. Identity is not in dispute and requires no further investigation.

Medical cause of death

25. Forensic Pathologist Dr David Ranson from the Victorian Institute of Forensic Medicine (VIFM), conducted an autopsy on 14 March 2016 and provided a written report of his findings dated 19 July 2016.
26. Dr Ranson noted the following:
 - (a) The postmortem examination revealed evidence of significant recent skull fractures to the facial skeletal structures, the mandible lower jaw and the hyoid bone in the neck;
 - (b) The recent bony injuries to the head have occurred to more than one plane/surface and would have involved the infliction of several applications of blunt force. The circumstances of the infliction of blunt forces may have included objects striking the head and the head striking objects with sufficient force to fracture bone;
 - (c) The extensive loss of soft tissue from the body as a result of autolysis, decomposition and insect related activity makes arriving an equivocal cause of death problematic. This is because the inability to examine all the internal structures of the body at autopsy means

⁹ *Coronial Brief*, Statement of Sergeant Lisa Maree Cook dated 10 June 2016, 101-103

¹⁰ *DPP v Missen* [2019] VSC 32.

¹¹ *DPP v Ebonee Rohde* [2017] VSC 436

that it may not be possible to exclude natural disease processes or further internal trauma in the missing tissues that could have contributed to death; and

(d) The degree of decomposition and tissue losses indicate that the person was deceased for many weeks.

27. Toxicological analysis of post-mortem hair and liver samples identified the presence of trace amounts of codeine (narcotic analgesic), diltiazem (calcium channel blocker), venlafaxine (used to treat depression), alprazolam (short acting antidepressant) and oxycodone (semi-synthetic opiate narcotic analgesic). All substances detected were prescribed medications that the deceased had scripts from his GP to treat chronic severe pain.
28. I have considered Dr Ranson's findings from autopsy and in combination with the evidence from the coronial brief including admissions from the accused involved in the death of Mr Missen, I find that Mr Missen's cause of death to be on a balance of probabilities, 1(a) 'Multiple blunt force trauma to the head and neck'.

FURTHER INVESTIGATIONS AND CPU REVIEW

Family violence investigation

29. As Mr Missen's death occurred in circumstances of recent family violence, I requested that the Coroners' Prevention Unit (CPU)¹² examine the circumstances of Mr Missen's death as part of the Victorian Systemic Review of Family Violence Deaths (VSRFVD).¹³
30. The available evidence suggests that Mr Missen and Nathan's relationship was tumultuous and characterised by numerous historic family violence incidents perpetrated by Mr Missen but more recently, family violence primarily perpetrated by Nathan against Mr Missen in the lead up to the fatal incident.

¹² The Coroners Prevention Unit (CPU) was established in 2008 to strengthen the prevention role of the coroner. The unit assists the Coroner with research in matters related to public health and safety and in relation to the formulation of prevention recommendations. The CPU also reviews medical care and treatment in cases referred by the coroner. The CPU is comprised of health professionals with training in a range of areas including medicine, nursing, public health and mental health.

¹³ The VSRFVD provides assistance to Victorian Coroners to examine the circumstances in which family violence deaths occur. In addition the VSRFVD collects and analyses information on family violence-related deaths. Together this information assists with the identification of systemic prevention-focused recommendations aimed at reducing the incidence of family violence in the Victorian Community.

31. Mr Missen's relationship with his son, Nathan, met the definition of '*family member*' under the *Family Violence Protection Act 2008 (Vic) (the FVPA)*.¹⁴ The family violence perpetrated by both Nathan and Mr Missen towards each other met the definition of '*family violence*' in the FVPA.
32. An in-depth family violence investigation was conducted in this case and I requested materials from several key service providers that had contact with Mr Missen and Nathan and Ms Rohde prior to Mr Missen's death.

History of family violence and Victoria Police contact with Mr Missen and Nathan

33. Based on the available material there appears to have been a long history of family violence between Nathan and Mr Missen. In the sentencing remarks it was noted that Nathan had suffered 'major developmental neglect, abuse and trauma during [his] childhood and adolescence.'¹⁵ Nathan reported that Mr Missen had physically abused him repeatedly as he grew up.¹⁶
34. Most of the incidents of family violence reported to Victoria Police prior to the homicide, however, involved Nathan perpetrating family violence against Mr Missen, particularly in the lead up to the fatal incident. Furthermore, Victoria Police LEAP records contain numerous reported incidents of Nathan allegedly perpetrating family violence against five other complainants, including his mother, between 2008 and 2015.¹⁷
35. On 12 December 2008, it was reported that Nathan had been verbally aggressive, had refused to leave Mr Missen's property when asked to do so, and had threatened to burn Mr Missen's house down. Mr Missen contacted police and they applied for a Family Violence Intervention Order (FVIO) to protect Mr Missen and his then wife. Mr Missen was satisfied with the FVIO on this occasion and reported the family violence had ceased afterwards. As a result, he advised police that he did not want to pursue criminal charges against Nathan and declined to make a statement in relation to this incident.¹⁸

¹⁴ Section 8(1)(c) of the *Family Violence Protection Act 2008*

¹⁵ *DPP v Missen* [2019] VSC 32, 12 [61].

¹⁶ *DPP v Missen* [2019] VSC 32, 13 [61].

¹⁷ Form 32 Material, 1277-1420.

¹⁸ Coronial brief, Statement of M Fitt, 450.1; Appendix OO, Victoria Police Incident Number 080340415 documentation, 2581, 2597.

36. On 25 May 2011, Nathan reported that Mr Missen had assaulted him with a mattock handle and threatened to shoot him. Police attended, applied for a FVIO to protect Nathan, and filed criminal charges against Mr Missen. However, police noted that the available evidence did not match the account provided by Nathan, and Nathan subsequently made a further statement withdrawing his complaint.¹⁹ Mr Missen was referred to LaTrobe Community Health on this occasion but indicated that he did not wish to engage with this service.²⁰
37. On 28 July 2013, Mr Missen reported to police that Nathan was controlling, abusive and aggressive. They issued a Family Violence Safety Notice (FVSN) to protect him from Nathan, and the matter was listed for hearing on 30 July 2013.²¹
38. On 29 July 2013 Mr Missen reported that Nathan was in attendance at his home in breach of the FVSN. When police attended Nathan attempted to assault the police and had to be subdued with capsicum spray. He was arrested and conveyed to the police station for interview.²² On 30 July 2013 a FVIO was issued which prohibited Nathan from perpetrating family violence against Mr Missen, contacting or communicating with him or going near him or his residence.²³ Nathan was also charged and later convicted and fined in relation to contravening a FVSN, assaulting police and resisting police.²⁴
39. Mr Missen subsequently sought police assistance to vary the FVIO to remove the clauses that prohibited Nathan from contacting or residing with him. On 1 October 2013 a varied FVIO was issued at the Shepparton Magistrates' Court that allowed Nathan to contact and reside with Mr Missen but prohibited him from perpetrating family violence against Mr Missen, damaging his property or threatening to do so. It also ordered that Nathan remain involved with Primary Care Connect.²⁵
40. On 2 October 2013, Mr Missen attended Shepparton Police Station and reported that Nathan had demanded he remove the FVIO and threatened him about it. Mr Missen had sought police assistance to vary the FVIO due to his fear of Nathan, however he had not reported this, or the threats, to police when he sought to vary the order. Nathan had purportedly threatened to kill

¹⁹ Coronial brief, Statement of M Thek, 451.1; Appendix PP, Victoria Police Incident Number 110150013 documentation, 2605-2606, 2618-2629.

²⁰ Ibid.

²¹ Coronial brief, Statement of L Wiltshire, 452.1; Appendix QQ, Victoria Police Incident Number 130226431 documentation, 2642-2643.

²² Coronial brief, Statement of S Watkins, 453.1; Appendix RR, Victoria Police Incident Number 130228739 documentation, 2675, 2685-2695.

²³ Coronial brief, Appendix QQ, Victoria Police Incident Number 130226431 documentation, 2655.

²⁴ Coronial brief, Prior convictions, Nathan Missen, 3385.

²⁵ Coronial brief, Appendix QQ, Victoria Police Incident Number 130226431 documentation, 2650.

his partner, his child and Mr Missen if he went to jail. Mr Missen reported he had been suffering from depression and mental health issues and had not felt well enough to report the breaches sooner.²⁶ Nathan was interviewed on 4 October 2013 and released on bail.²⁷

41. On 26 October 2013 Mr Missen made a police statement withdrawing his previous complaint in relation to Nathan's breaches of the FVIO and stating he had been mistaken about Nathan threatening to kill him. He also stated that he was satisfied with the limited FVIO, and there had been no further family violence incidents since the order had been issued.²⁸
42. On 15 November 2013, the charges against Nathan were withdrawn and the matter struck out in court.²⁹
43. In 2015, Nathan moved in with Mr Missen at his rental property in Shepparton. In approximately July 2015, Nathan commenced a relationship with Ms Rohde.³⁰ Ms Rohde moved in with Nathan and Mr Missen at the Shepparton residence in August 2015.³¹ Both Nathan and Ms Rohde regularly consumed methyamphetamine³² and Ms Rohde stated that Nathan was violent towards her during their relationship.³³
44. On 2 September 2015, Mr Missen reported a family violence incident to police. He stated that Ms Rohde had smashed his television during an argument and assaulted him, and that Nathan had threatened to kill him. Both Ms Rohde and Nathan were arrested and interviewed, and both claimed that Mr Missen had been the aggressor in the incident. Ms Rohde and Nathan were served with FVSNs that prohibited them from contacting or communicating with Mr Missen, living with him or perpetrating family violence against him.³⁴

²⁶ Coronial brief, Statement of J Ferguson, 454.1; Appendix QQ, Victoria Police Incident Number 130226431 documentation, 2645, 2652-2653; Appendix SS, Victoria Police Incident Number 130296082 documentation, 2701, 2711, 2720-2727.

²⁷ Coronial brief, Statement of J Ferguson, 454.1; Appendix SS, Victoria Police Incident Number 130296082 documentation, 2702.

²⁸ Coronial brief, Appendix SS, Victoria Police Incident Number 130296082 documentation, 2728.

²⁹ Ibid 2709.

³⁰ Coronial brief, Statement of E Rohde, 147.

³¹ Coronial brief, Statement of C Tyndall, 130, 132.

³² Coronial brief, Statement of E Rohde, 147.

³³ Ibid 149.

³⁴ Coronial brief, Statement of J Middleton, 455.1-455.2; Appendix TT, Victoria Police Incident Number 150276740 documentation, 2750-2751, 2758-2765, 2767-2768, 2776-2788.

45. On 4 September 2015, two FVIOs were issued to protect Mr Missen from Nathan and Ms Rohde. They contained the same conditions as the FVSNs. These orders were for 12 months and both remained active at the time of the fatal incident.³⁵
46. Criminal charges arising from this incident were ultimately not authorised for prosecution due to a lack of conclusive and independent evidence to support Mr Missen's version of events.³⁶ On 31 December 2015, police sent a letter to Mr Missen confirming that there was insufficient evidence to prosecute the charges and providing him with referral information for the Victims of Crime helpline.³⁷
47. On 17 September 2015, Mr Missen reported to police that Nathan had contravened the FVIO. Mr Missen stated that he had received numerous phone calls from Nathan in breach of the FVIO and showed police the call history on his phone. Police recorded photographs of the calls and commenced investigations with the relevant phone service providers. However, Nathan was unable to be located for interview.³⁸
48. On 3 October 2015, Mr Missen's sister, Cheryl Tyndall, and her family moved Mr Missen's property out of his residence in Shepparton and assisted him to clean the property. Mr Missen moved into a caravan at his sister's residence, on the agreement that he wouldn't allow Nathan to attend the property.³⁹
49. In December 2015, Ms Tyndall's neighbour informed her that Nathan had been at Ms Tyndall's property yelling and being aggressive. Ms Tyndall advised the neighbour to contact the police if they saw Nathan again.⁴⁰
50. On 1 December 2015, a family violence incident was reported to Victoria Police involving Nathan and his mother. On this occasion it was reported Nathan had been banging on the front door of her house between 5.30am and 7.00am that day and had refused to leave. Although Nathan was not present when police initially attended, he approached the police as they were

³⁵ Coronial brief, Appendix MM, 2575-2576; Appendix NN, 2577-2578; Appendix UU, Victoria Police Incident Number 150294014 documentation, 2831-2832.

³⁶ Coronial brief, Appendix TT, Victoria Police Incident Number 150276740 documentation, 2751, 2769-2772, 2775-2776.

³⁷ Ibid 2773.

³⁸ Coronial brief, Statement of J Simpson, 456.1; Appendix UU, Victoria Police Incident Number 150294014 documentation, 2792-2793.

³⁹ Coronial brief, Statement of C Tyndall, 133.

⁴⁰ Ibid 134.

leaving the premises and had a discussion with them.⁴¹ Police subsequently applied for and obtained a FVIO in protection of Nathan's mother, but were unable to locate and serve him.⁴²

51. On New Year's Day, 1 January 2016, Nathan went missing after an incident that morning where he had cut his wrist with a piece of glass.⁴³ Ms Rohde informed Nathan's mother, who contacted Mr Missen. Mr Missen and Ms Rohde went to the Traralgon Police Station to report Nathan as a missing person and spent several days looking for him. They also reported him missing at the Morwell Police Station.⁴⁴ LEAP records from the missing person's report indicated that Nathan and Ms Rohde were living with Mr Missen at this time, but made no mention of the fact that this was in breach of the FVIOs that Mr Missen held against both Nathan and Ms Rohde.⁴⁵ Nathan eventually contacted Mr Missen via telephone.⁴⁶
52. Mr Missen and Nathan attended the Shepparton Police Station on 8 January 2016 to inform them that he had been located.⁴⁷ Police served Nathan with the FVIO in protection of his mother that had been issued following the family violence incident on 1 December 2015.
53. Following this incident Nathan, Ms Rohde and Mr Missen camped together and stayed at a cabin park in Mooroopna until Mr Missen successfully obtained a rental property in the town on 12 January 2016. They then moved into this property together.⁴⁸

COMMENTS

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

Victoria Police

54. The available evidence and reported family violence history between Mr Missen and his son, Nathan listed above raises several concerns. On 17 September 2015, Mr Missen reported to police that Nathan had contravened the FVIO. The response to this report does not appear to comply with best practice for police investigations into reports of family violence. The initial steps taken by the attending police member on 17 September 2015 appear to be appropriate.

⁴¹ Coronial brief, Statement of R Missen, 307; Form 32 Material, 1415-1419.

⁴² Ibid 1419.

⁴³ Coronial brief, Statement of E Rohde, 150.

⁴⁴ Coronial brief, Statement of E Rohde, 150; Statement of K Pawson, 380; Form 32 material, 968-971.

⁴⁵ Form 32 Material, 969.

⁴⁶ Coronial brief, Statement of E Rohde, 151.

⁴⁷ Form 32 material, 971.

⁴⁸ Coronial brief, Statement of E Rohde, 151; Form 32 material, 968-971.

They obtained a statement from Mr Missen and took steps to collect appropriate evidence. However, Nathan was never interviewed in relation to these charges and a preliminary brief was not submitted until June 2016, well after Mr Missen's death.

55. The available evidence suggests that it is likely that the initial failure to charge Nathan in relation to these breaches was due to Victoria Police being unable to locate Nathan for interview, as they did not have a current address for him. LEAP records from this incident indicate that a whereabouts request was to be submitted for Nathan, however this does not appear to have been submitted at the time.⁴⁹ Consequently, Victoria Police missed an opportunity to interview and charge Nathan in relation to the contravention when he had contact with police on two subsequent occasions. Specifically, on 1 December 2015 when police spoke with Nathan in relation to a family violence incident involving his mother, and on 8 January 2016 when Mr Missen and Nathan attended the Shepparton Police Station.
56. On both occasions, 1 December 2015 and 8 January 2016, police members did not identify that Nathan needed to be interviewed with respect to the contravention of the FVIO reported in September 2015. Police made further attempts to locate Nathan in February 2016, however at this point Mr Missen was already deceased.
57. The available evidence also suggests that police members failed to investigate a contravention of the FVIO protecting Mr Missen from Nathan and Ms Rohde when a missing person's report was filed with police in January 2016. Investigating police members noted that Nathan, Ms Rohde, and Mr Missen were reportedly living together. This was in contravention of the FVIOs protecting Mr Missen from Nathan and Ms Rohde. Further, when Nathan and Mr Missen attended the police station together in January 2016 this was also in contravention of the FVIO between Mr Missen and Nathan.
58. On 23 July 2021, the Court received a response (**Victoria Police response**) to potential adverse concerns raised in the coronial investigation and the Victoria Police response concedes that a person whereabouts request was not submitted by Victoria Police in relation to Nathan following the family violence report on 17 September 2015 and that under the *Victoria Police Manual – Procedures and Guidelines – Family Violence (VPMG)* this should have been

⁴⁹ Coronial Brief, Appendix UU, Victoria Police Incident Number 150294014 documentation, 2792.

submitted. Victoria Police however confirm that the VPMG is not mandatory and departure from it is not subject to disciplinary action.

59. The Victoria Police response confirms that a Person Whereabouts would have appeared in the LEAP checks which were recommended by the VPMG to have been conducted during Victoria Police's subsequent interactions with Nathan on 1 December 2015 and on 8 January 2016. However, in the absence of this flag the attending police members were not expected to interrogate LEAP to the extent that would have been required to identify that Nathan needed to be interviewed in relation to the contravention reported in September 2015.
60. Furthermore, the Victoria Police response confirms that even if the attending officers had been alerted to a Person Whereabouts on 1 December 2015 and/or 8 January 2016, this would not have given them a power to arrest Nathan. They could have advised him that the informant at Shepparton Police Station wanted to interview him, tried to obtain an updated address from him and notified the informant, but beyond that 'any further action to interview him would have been contingent on his co-operation.'⁵⁰
61. The Victoria Police response does concede that enquiries should have been made on LEAP when Mr Missen and Nathan attended the Shepparton Police Station together on 8 January 2016, which are required to be undertaken by the *Victoria Police Manual Policy Rules - Missing Persons Investigations (VPMP)*. This '*should have revealed that there was an existing FVIO between them.*'⁵¹ Further, under the VPMG at the time, FVIOs were to be strictly interpreted and enforced. As such, Nathan '*should have been arrested pursuant to s 124 of the Family Violence Protection Act 2008 (Vic).*'⁵² The Victoria Police response noted that '*in 2015 in circumstances where the parties to a FVIO presented amicably, an arrest would not always have been made.*'⁵³ However, the position is different today and the expectation now is that Nathan would have been charged and interviewed for contravening the FVIO.⁵⁴
62. The Victoria Police response confirms that significant reforms have taken place since Mr Missen's death. This includes improvements to family violence risk assessment tools and the family violence training provided to Victoria Police members. The VPMG and VPMP in relation to family violence have also been '*consolidated into the current VPM Family Violence*

⁵⁰ Victoria Police response prepared by the Victorian Government Solicitors Office dated 23 July 2021, 4.

⁵¹ Ibid 4.

⁵² Ibid 5.

⁵³ Ibid.

⁵⁴ Ibid.

so that all guidance to members responding to family violence is mandatory.’⁵⁵ Further, ‘submitting a Person Whereabouts is now mandatory under the VPM Family Violence as is arresting and charging for any contravention of an FVIO; and Person Whereabouts are now communicated outside of Victoria Police to the Central Information Point (CIP) to assist in locating the subject.’⁵⁶

FINDINGS AND CONCLUSION

63. Pursuant to section 67(1) of the Coroners Act 2008 I make the following findings:
- (a) the identity of the deceased was Mark Leslie Missen, born 16 November 1959;
 - (b) the death occurred on 29 January 2016 at 8 Larsen Street, Mooroopna, Victoria from 1(a) Multiple blunt force trauma to the head and neck; and
 - (c) the death occurred in the circumstances described above.
64. Having considered all the available evidence, I am satisfied that no further investigation is required in this case.
65. I convey my sincere condolences to Mr Missen’s family for their loss.
66. Pursuant to section 73(1A) of the Act, I order that this finding be published on the Coroners Court of Victoria website in accordance with the rules.
67. I direct that a copy of this finding be provided to the following:

Ms Cheryl Tyndall, Senior Next of Kin

Ms Saie Neal, Principal Solicitor, Victorian Government Solicitor’s Office

Assistant Commissioner Lauren Callaway, Family Violence Command, Victoria Police

Civil Litigation Unit Manager, Victoria Police

⁵⁵ Ibid.

⁵⁶ Ibid 6.

Detective Senior Constable Benjamin Kelly, Coroner's Investigator

Signature:



JUDGE JOHN CAIN

STATE CORONER

Date: 20/11/2021

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.
