
JURISDICTION : CORONER'S COURT OF WESTERN AUSTRALIA
ACT : CORONERS ACT 1996
CORONER : SARAH HELEN LINTON
HEARD : 11-12 AUGUST 2020
DELIVERED : 22 OCTOBER 2020
FILE NO/S : CORC 126 of 2017
DECEASED : KOSTOVSKI, JORDANA

Catchwords:

Nil

Legislation:

Nil

Counsel Appearing:

Ms K Heslop assisted the Coroner.

Ms P Femia appeared on behalf of the WA Police Force.

Case(s) referred to in decision(s):

Nil

Coroners Act 1996
(Section 26(1))

AMENDED RECORD OF INVESTIGATION INTO DEATH

*I, Sarah Helen Linton, Coroner, having investigated the death of **Jordana KOSTOVSKI** with an inquest held at Bunbury Courthouse, Sitrling Street, Bunbury, on 11 and 12 August 2020, find that the identity of the deceased person was **Jordana KOSTOVSKI** and that death occurred on 29 July 2017 at Brunswick River Bridge, Forrest Highway, Wellesley, from Multiple Injuries in the following circumstances:*

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SUPPRESSION ORDER

On the basis it would be contrary to the public interest, I make an order that there be no reporting or publication of the details of any of the versions of the WA Police Emergency Driving Policy and Guidelines, including, but not limited to, any cap on the speed at which police officers are authorised to drive.

INTRODUCTION

1. On the evening of 29 July 2017 two police officers from the Australind Police Station attempted to stop a car in Australind. They had earlier received a report from a member of the public that the car had been seen driving erratically on Forrest Highway. Further enquiries suggested the car was being driven by Jordana Kostovski, who had a cancelled driver's licence and an outstanding warrant for her arrest.
2. The car was, indeed, being driven by Jordana Kostovski. When the police officers tried to pull her over on Grand Entrance in Australind, Ms Kostovski did not stop and proceeded to drive erratically away from the police onto Forrest Highway. The police officers followed her while seeking instructions from Police Communications as to what to do next. On two occasions, Ms Kostovski rammed her car into the following police car, so there is no doubt she was aware of their presence. The police officers were told not to engage with Ms Kostovski, given her dangerous and aggressive driving behaviour, but they were given permission to follow her at a distance to keep an eye on her until other police officers could come to assist. Another police officer from Australind joined them and he was given the same instruction.
3. While Police Communications were arranging for other police officers to attend and put 'stingers' in place to try to stop her car, Ms Kostovski executed a u-turn and started driving at speed the wrong way down Forrest Highway. She headed north into the path of oncoming southbound traffic with her lights turned off. One of the police cars had to get out of her way to avoid being hit head on. One of the police cars then drove in the same direction but in the correct, northbound, lanes, as they were certain a crash would soon occur and they wanted to be nearby to help. The other police car waited on the highway in case Ms Kostovski returned.
4. Unsurprisingly, given she was driving in the dark with no lights on at speed in the wrong direction on a country highway, Ms Kostovski's car quickly collided with another car travelling in the correct direction. Ms Kostovski suffered catastrophic injuries in the crash and died at the scene. The driver of the other car suffered a broken ankle but was fortunately otherwise physically unharmed.
5. Later analysis of Ms Kostovski's blood indicated she was under the influence of alcohol and methylamphetamine at the time of her death. The other driver was also found to have alcohol in his blood in excess of 0.8%, for which he was charged and later dealt with, but the WA Police Major Crash Investigation Section investigators did not conclude his intoxication was a contributing factor to the crash. The primary cause of the crash was attributed to the highly dangerous driving behaviour of Ms Kostovski.

6. The evidence indicates Ms Kostovski had a number of reasons for driving in this manner, including her significant impairment due to the alcohol and illicit drugs in her system and a desire to avoid arrest due to her cancelled driver's licence and outstanding arrest warrant. There was also evidence indicating she was feeling depressed due to personal matters that day. Overall, the evidence supports the conclusion that at some stage during her involvement with the police car that night, Ms Kostovski made the decision to deliberately crash her car into another car with suicidal intent.
7. Due to the police officers' involvement with Ms Kostovski leading up to the crash, an inquest was required in order to investigate whether the death was caused or contributed to by any action of a member of the police force, pursuant to s 22(1)(b) the *Coroners Act 1996* (WA). I held an inquest at the Bunbury Courthouse on 11 and 12 August 2020.
8. The circumstances of the death were relatively clear and there was no dispute that Ms Kostovski died from multiple injuries she sustained when she crashed her car into the other vehicle on the Forrest Highway. The inquest focussed primarily on the behaviour of Ms Kostovski, as to whether it demonstrated suicidal intent, as well as the conduct of the police prior to the crash and whether their conduct could be said to have caused or contributed to Ms Kostovski's driving behaviour.
9. At the conclusion of the inquest hearing, I observed there was nothing in the evidence before me to suggest that the police officers involved caused or contributed to the death. Ms Kostovski made a choice on the night to drive while significantly intoxicated with alcohol and methylamphetamine. The effects of the methylamphetamine and alcohol would have seriously impaired her ability to make good choices and also increased the likelihood she would engage in risk-taking behaviour.
10. Although the presence of the police no doubt motivated her to drive in a dangerous manner, in order to escape them, Ms Kostovski had already been seen driving erratically before the police became involved and her extreme manner of driving required the police to try to monitor her due to the risk she created to herself and all other road users.
11. There is no evidence to suggest the police were actively pursuing Ms Kostovski at the time of the crash. Rather, I am satisfied they were following her at a distance in order to try to warn other road users of the danger she presented and to be in a position to advise Police Communications of her location for when other measures could be put in place to stop her. Sadly, there was insufficient time for this to occur before Ms Kostovski fatally crashed. Given the circumstances, it is very fortunate that no other deaths occurred.

BACKGROUND

12. Jordana Kostovski ('Jordy' to her family and friends) was born and raised in Western Australia. She was single and had two children, a daughter and son. The children lived with their respective fathers and Ms Kostovski kept in regular contact with them. She was described as funny and kind and she had a good rapport with children. Ms Kostovski loved to travel and lived a nomadic lifestyle, staying 'wherever she laid her hat'. She worked in many different jobs, including childcare and as a nursing assistant. Shortly before her death she had worked for three months with a travelling carnival in the Northern Territory and Derby, before returning to the South West.¹
13. In the weeks before her death it appears Ms Kostovski had no fixed address, staying with various friends in the Bunbury/Australind area as well as visiting Katanning.²
14. Ms Kostovski had a long history of illicit drug use. She had periods when she managed to abstain for a few months, but she would eventually return to using drugs. According to her family, Ms Kostovski also had a history of mental health issues and was believed to have been diagnosed with bipolar affective disorder and post-natal depression in the past, but it does not appear she was taking any regular medications prior to her death. She had also reportedly twice attempted suicide by hanging.³

EVENTS LEADING UP TO THE POLICE INVOLVEMENT

15. There is evidence to suggest Ms Kostovski was using illicit drugs on the day of her death and was also experiencing a depressed mental state.
16. On 29 July 2017 Ms Kostovski popped in unannounced to visit a friend, John Cooper. She stayed for about 45 minutes then left to visit another friend, where she had a shower. It is unclear where she went for the remainder of the day, but at 3.01 pm Ms Kostovski posted a message on Facebook to her daughter and son that referred to the fact she loved her children and believed she had been a good mother. She also mentioned that depression had hit her hard at the moment and ended with the quote, "Fuck life man."⁴
17. Shortly after, at 3.08 pm, Ms Kostovski sent a message to Mr Cooper, in which she also referred to hitting 'peak point depression'.⁵
18. Ms Kostovski returned to Mr Cooper's house at about 4.00 pm that day. He told her he needed to clean his house as he had a guest coming, so she helped

¹ Exhibit 1, Tab 8, Victimology p.1.

² Exhibit 1, Tab 10.

³ Exhibit 1, Tab 8, Victimology p.1.

⁴ T 12; Exhibit 1, Tab 8, p. 9.

⁵ Exhibit 1, Tab 10 [13].

him do some cleaning. Ms Cooper left at some stage to go to a bottle shop and she returned with two bottles of white wine, saying to Mr Cooper, "One each."⁶ They opened both bottles and began to drink them.

19. Ms Kostovski left Mr Cooper's house at around 6.30 or 6.45 pm on. He saw her go out the front door and initially believed she was going out to get a jumper or check on her dog, but she did not return. At 7.10 pm Mr Cooper confirmed with his children that Ms Kostovski's van had left, so he realised she was not returning. He did not see her again.⁷
20. Ms Kostovski owned a white Ford Econovan, which she had purchased on her return from travelling with the circus. She kept her belongings in the car as she didn't have a permanent home. Ms Kostovski travelled everywhere with her dog, a white bull terrier called "Bully,"⁸ who was described as her best friend. Ms Kostovski's driver's licence had been cancelled due to a number of convictions for driving whilst disqualified over the years, but it seems she continued to drive.⁹
21. It appears Ms Kostovski drove away from Mr Cooper's home in her van with Bully to go and meet some people at their home in Australind. Ms Kostovski had been communicating with them after she put up a post on a local Facebook chat page asking if anyone wanted to catch up for a drink. Benjamin Stolworthy and his partner Christina Gust replied to the post and invited Ms Kostovski to come to their home at about 7.00 pm to 7.30 pm to share a drink. They had exchanged phone numbers and Mr Stolworthy sent a text message providing his address in Australind and some directions.¹⁰
22. At around 7.00 pm Ms Kostovski rang Mr Stolworthy and told him she was lost and parked at a Caltex Service Station. Mr Stolworthy realised she was at the Treendale Caltex, which was around the corner from his house. He gave her directions and suggested his partner would go to the Spud Shed nearby to meet her. Ms Kostovski replied, "I'm at the Caltex and have a cop car following me."¹¹
23. As mentioned earlier, Ms Kostovski had come to the attention of police because of her manner of driving. A person driving on the Busselton Bypass had been overtaken by Ms Kostovski and noticed she was swerving and driving erratically. At times she had her mobile phone in her hand with the screen lit up as she drove. The witness had pulled over at the Treendale Caltex with the intention of calling police when he realised there were two police officers at the nearby McDonald's. He went to McDonald's and approached

⁶ Exhibit 1, Tab 10 [19].

⁷ Exhibit 1, Tab 10.

⁸ Exhibit 1, Tab 10 [28].

⁹ Exhibit 1, Tab 8, p. 9.

¹⁰ Exhibit 1, Tab 12.

¹¹ Exhibit 1, Tab 12 [19].

the police officers to report his concerns about Ms Kostovski's manner of driving.¹²

24. Senior Constable Alicia Golik and First Class Constable Andrew Goff¹³ were both attached to the Australind Police Station at the time and were on duty together in a Class 3 marked police vehicle, call sign RE102. Officer Golik was driving and was a Priority 2 driver. They had stopped at McDonald's in Australind to get dinner when they were approached by the member of the public who was carrying a toddler. The man expressed his concern about the driver of the white van. He reported that he had seen the van being driving dangerously, weaving in and out of traffic, and it had almost run him off the road. He was concerned that someone might get hurt by their manner of driving. He indicated the van was parked at the Caltex Service Station over the road.¹⁴
25. Officer Golik and Officer Goff left the McDonalds and Officer Golik drove towards the Caltex, where they saw a white van parked next to a bowser. It was the only vehicle at the service station at that time. They couldn't see anyone near the vehicle, so they parked nearby and waited for the driver to take control of the vehicle. They saw a person leave the service station and get in the driver's seat of the van. Officer Golik then drove towards the van in order to obtain the registration number and have a look at the occupant of the vehicle.¹⁵
26. As they approached, the lights on the van were on, but they were turned off again as the police car got closer. When the police car drove past, Officer Golik observed a female sitting in the driver's seat who was talking on her mobile telephone. Officer Goff thought she appeared to be avoiding looking at them.¹⁶ Officer Goff made some enquiries via the police car computer system TADIS and ascertained that the registered owner of the van was Jordana Kostovski, who did not have a valid driver's licence and had a warrant out for her arrest for serious offences. The description provided on TADIS matched the woman Officer Goff had observed as they passed the van. The police officers had already intended to pull over the driver to speak to her about the complaint in relation to her driving, but this information added to their reasons to pull her over and speak to her to ascertain if she was Ms Kostovski. There were warnings listed against her name but Officer Goff did not have time to look at them (noting that the system was working quite slowly that night).¹⁷
27. Officer Golik gave evidence that, based upon what they knew by that stage, she thought it likely Ms Kostovski would not cooperate with the police. With

¹² Exhibit 1, Tab 11.

¹³ I will call them Officer Goff and Officer Golik for convenience, noting their rank at the time was as indicated here. Both officers have now resigned from WA Police Force.

¹⁴ Exhibit 1, Tab 29 and 30 - 31.

¹⁵ Exhibit 1, Tab 29.

¹⁶ Exhibit 1, Tab 30 - 31.

¹⁷ T 96; Exhibit 1, Tab 29 and Tab 30 - 31.

that in mind, she decided a petrol station was not the best place to pull her over, as if they had to effect an arrest it was a very public area on a busy Friday night with dangerous substances in the vicinity. Accordingly, based upon her risk assessment, she thought it would be best to allow Ms Kostovski to move out of the service station and pull her over somewhere quieter nearby.¹⁸

28. Officer Golik drove the police car back in the direction of the service station and saw Ms Kostovski had started the van, driven onto The Promenade and come to a stop at the roundabout intersecting The Promenade and Grand Entrance. The police car took a little while to catch up to her. Officer Golik drove the police car up behind Ms Kostovski's van and then turned left at the roundabout to follow her. Officer Golik closed the distance between the two vehicles at this time in order for the police to be able to conduct a vehicle intercept and speak to Ms Kostovski as part of a standard traffic stop.¹⁹
29. Officer Golik noticed that, instead of slowing as expected, Ms Kostovski appeared to increase her speed. At this point, Officer Golik assumed that Ms Kostovski hadn't seen her or was trying to get out of the way of an emergency vehicle, rather than trying to evade her. Ms Kostovski indicated and turned left at the next roundabout and moved onto Centaurus Avenue. Officer Golik also turned left and assumed at that stage that Ms Kostovski was now going to pull over, as it was a dead-end street. However, this was not the case.²⁰
30. Ms Kostovski drove the van into a car wash before exiting back onto Grand Entrance and driving away fast. At this moment, Officers Golik and Goff realised that Ms Kostovski was aware of the presence of the police vehicle and was potentially trying to evade police. Officer Golik told Officer Goff to alert the police radio operator.²¹ Officer Goff called "urgent"²² over the police radio to advise VKI, but did not hear anything back. It became apparent later that this was because the radio volume was turned down, but he did not realise this at the time.²³
31. Ms Kostovski was apparently still talking on the phone to Mr Stolworthy around the time the police first started following her. Mr Stolworthy stated that when Ms Kostovski told him the police were following her he suggested that she stay where she was and get out of the car and speak to the police. He also told Ms Kostovski that his partner would come to her. She agreed and hung up.²⁴

¹⁸ T 93, 96.

¹⁹ T 93, 98; Exhibit 1, Tab 29.

²⁰ Exhibit 1, Tab 29.

²¹ T 96 – 97; Exhibit 1, Tab 29.

²² Exhibit 1, Tab 30 - 31.

²³ T 97.

²⁴ Exhibit 1, Tab 12.

32. Mr Stolworthy's partner, Ms Gust, had been waiting at the Spud Shed. Ms Gust tried calling Ms Kostovski. When Ms Kostovski answered she was screaming, "Help me, the cops are following me."²⁵ Ms Gust could not hear any police sirens in the background. At one point Ms Kostovski mentioned Old Coast Road, but otherwise just kept screaming, "Help me. Help me"²⁶ in a panicked and hysterical tone. Ms Gust was unable to get anything more from Ms Kostovski, so she eventually hung up the phone.²⁷
33. Ms Gust waited for a while on Old Coast Road and then drove around the area trying to find Ms Kostovski without success. She eventually decided to go home. As she drove home she came across a police road block on the Forrest Highway, which I assume related to the eventual crash. The police directed Ms Gust to return to her home by way of Old Coast Road, which she did.²⁸

FIRST RAMMING INCIDENT

34. While Officer Goff was trying to contact VKI, Officer Golik was focussed on driving. There were no other vehicles between the police car and Ms Kostovski's van and minimal traffic in the area. Officer Golik considered the other road conditions and decided it was safe to conduct a vehicle intercept. The police emergency lights and siren were activated and the van was approximately 50 metres ahead and accelerating away. The traffic lights ahead were red and there were a number of vehicles waiting at the lights. Ms Kostovski approached them and attempted at the last minute to turn left onto Forrest Highway. She was unable to negotiate the turn as she was going too fast. The van went straight across the two northbound lanes of Forrest Highway and became hooked on the concrete edge of the median strip. The van then came to a stop. Fortunately, as the traffic lights had been red, the intersection was clear so no other traffic was involved.²⁹
35. Officer Golik pulled the police car up next to the van in a way that would block the van's driver's door but without the vehicles actually touching. She positioned the police car in this way so Ms Kostovski would not be able to open her door and attempt to run away. However, Ms Kostovski reversed her van back on an angle and the van collided with the bull bar and passenger side of the police car so that the two cars were wedged side by side. The driver's side window of the van was next to Officer Goff's window and he could see Ms Kostovski inside. She was looking away from the police and was screaming in an aggressive manner while frantically trying to turn the steering wheel while revving the engine.³⁰

²⁵ Exhibit 1, Tab 12 [33], Tab 13 [13].

²⁶ Exhibit 1, Tab 13 [14].

²⁷ Exhibit 1, Tab 13.

²⁸ Exhibit 1, Tab 12.

²⁹ Exhibit 1, Tab 29 and Tab 30 - 31.

³⁰ T 97 - 98; Exhibit 1, Tab 29.

36. Officer Goff could not open his door, so he wound down his window and hit the window of the van with his hand while calling out to Ms Kostovski to stop the car. She appeared to him to be hysterical and was “screaming laughing”³¹ in a manic kind of way. He felt her behaviour was not normal but was unable to determine whether it was caused by being under the influence or a mental health issue at that time.³²
37. Officer Goff then climbed out the window onto the bonnet of the police vehicle, still instructing Ms Kostovski to stop, and used his baton to attempt to smash the windscreen of the van and hopefully apprehend her. The van’s windscreen cracked but did not shatter. At the same time, Officer Golik got out of the police car and ran around the front of the police car to assist Officer Goff to arrest the driver.³³
38. Ms Kostovski was still aggressively revving the engine of the van and the wheels of the van were spinning and smoking. Both officers saw the van slowly start edging backwards as it broke free from the police vehicle. Both officers recalled hearing the van’s tyres screeching and they saw smoke coming from the back of the van. The van scraped along the right side of the police vehicle as it reversed. Officer Golik could hear Ms Kostovski screaming as she reversed and in Officer Golik’s words, it “was not a scream grounded on fear, it sounded more like a psychotic and aggressive scream.”³⁴ At one stage she also thought she could hear Ms Kostovski laughing. Officer Golik suspected from her behaviour that Ms Kostovski was under the influence of an illicit substance.³⁵
39. Ms Kostovski managed to reverse about five metres before the van stalled. Officer Goff had jumped off the bonnet and noticed the van had stopped. He ran towards the van’s driver’s side window and swung his baton. It struck the window but the van then moved forward out of his reach.³⁶
40. Ms Kostovski drove the van away, heading north in the north bound lanes of Forrest Highway. Having been notified by a member of the public, and then having seen Ms Kostovski’s dangerous driving first hand, both police officers were very concerned that she presented a danger to the public. The police got back into their vehicle after quickly checking it and ascertaining there was no obvious damage. Officer Golik reversed the police car and followed the van with the intention of trying to intercept it again in order to arrest the driver. The police vehicles emergency lights and siren were still activated and the police were about 200 metres behind the van, which was accelerating away, when Officer Goff called “urgent”³⁷ again over the radio. He again did not get

³¹ T 98.

³² T 98.

³³ T 98 - 99; Exhibit 1, Tab 29.

³⁴ Exhibit 1, Tab 29.

³⁵ Exhibit 1, Tab 29.

³⁶ Exhibit 1, Tab 30 - 31.

³⁷ T 99; Exhibit 1, Tab 29, p.4.

a response and at this point he realised the volume on the radio had been turned down. Officer Goff immediately turned up the volume and advised VKI that they had a vehicle failing to stop, it was evading them and had just rammed the police and taken off again northbound along Forrest Highway. Officer Goff also advised VKI of their class of vehicle and class of driver.³⁸

41. The radio dispatcher told Officer Goff to keep calling information over the radio and then broadcasted for a Priority Pursuit driver in the area. Officer Goff advised they were doing 110 km/hr and mistakenly indicated this was in a 100 km/hr zone, but then corrected himself and advised it was now an 80 km/hr zone (noting the speed zoning had recently changed). They then moved back into a 110 km/hr zone.
42. A short time later the dispatcher advised the two police officers that the Duty Inspector at the Police Operations Command Centre had ordered them to abort. The police vehicle's emergency lights and siren were immediately deactivated by Officer Goff in response and he reminded Officer Golik she must return to the posted speed limit. They continued to drive in the same direction under normal driving conditions and could see the taillights of the van as it pulled further ahead of them.³⁹

SECOND RAMMING INCIDENT

43. Inspector Alyson Brett was on duty at the Police Operations Centre (POC) as the Police Operations Centre Controller or Duty Inspector. In this role, Inspector Brett was responsible for the management and supervision of intercept driving events in accordance with the WA Police Force policies and procedures. When an evade alarm went off that evening, Inspector Brett had attended the Regional WA dispatcher's desk at POC to provide direction. She was informed that RE102 had engaged Ms Kostovski's van, which had then rammed the police vehicle.⁴⁰
44. Inspector Brett conducted a risk assessment and considered the resources available and whether there could be a resolution of the incident. Based upon the class of vehicle and skills of the driver, Inspector Brett considered that resolution of the incident was unlikely until further resources could be located and deployed, so she terminated the evade incident and the police officers confirmed they had downgraded.⁴¹
45. Inspector Brett did, however, authorise the police officers in RE102 to continue to follow the van in order to keep it under observation while they tried to locate a suitably qualified driver in an appropriate class of vehicle to

³⁸ Exhibit 1, Tab 29.

³⁹ T 99 - 100; Exhibit 1, Tab 29 and Tab 30 - 31.

⁴⁰ Exhibit 1, Tab 34.

⁴¹ Exhibit 1, Tab 34.

engage in emergency driving, should that become necessary. She also tried to locate 'Stinger' equipped vehicles to enable a safe resolution via tyre deflation.⁴²

46. Inspector Brett explained that part of her reasoning for allowing RE102 to keep the van in sight was her concern that the van's broken windscreen might put the van driver and the community at increased risk due to the vehicle's reduced roadworthiness. They were told to keep observations of the vehicle whilst remaining at the posted speed limit only. Inspector Brett considered this to be the best course of action to mitigate the risk to the evading driver, the police and the community.⁴³
47. In accordance with Inspector Brett's direction, Officer Golik attempted to follow the van at a distance in order to keep it in sight. Officer Golik was performing a constant risk assessment while she did so, with her concentration on what she considered to be the highest risk area, which was other vehicles on the road. Officer Golik indicated she was happy at this time that she was able to drive in a manner that was "safe, expedient and in the public interest."⁴⁴
48. Officer Golik and Officer Goff could see the white van weaving in and out of traffic ahead, going past a number of other vehicles. It was not accelerating very quickly but the manner of driving was reckless and Officer Goff was concerned Ms Kostovski might hit another civilian's car.⁴⁵
49. Officer Golik indicated she was conscious that she had been told to abort any active pursuit of the van but had also been authorised to keep the vehicle in sight. She sometimes lost sight of the van as it accelerated around a number of bends in the road, but Officer Golik did not try to get closer as she did not consider it safe to drive through the group of civilian vehicles that were now between her and the van. The van had begun to pull ahead and was approximately 300 to 400 metres ahead of the police car at this stage.⁴⁶
50. The dispatcher spoke to Officer Goff and advised him that the only resolution possible was a pursuit vehicle attending from Waroona Police Station (which was about 15 minutes from their location) as there was no one else nearby. He acknowledged this information and advised they were travelling at the posted speed limit and could still see the tail lights of the van ahead. Officer Goff confirmed with the dispatcher that they were allowed to continue travelling behind the van at the posted speed limit in order to maintain visual contact and assist any arriving pursuit vehicles with the van's location. He was told they

⁴² Exhibit 1, Tab 34.

⁴³ Exhibit 1, Tab 34.

⁴⁴ Exhibit 1, Tab 29, p. 4.

⁴⁵ Exhibit 1, Tab 30 - 31.

⁴⁶ Exhibit 1, Tab 30 - 31.

could not engage with the offending vehicle but they could keep eyes on the van until the Waroona Police pursuit vehicle could get to them.⁴⁷

51. As they neared the intersection of Forrest Highway and Old Coast Road, Officer Goff alerted Officer Golik to the fact that Ms Kostovski had conducted a u-turn at the intersection and was now heading south in the south bound lanes of Forrest Highway. Officer Golik decided she would do the same in order to keep the van in sight.⁴⁸
52. Being aware of vehicles waiting at the intersection, the police activated the police vehicle's emergency lights to alert the other road users to their presence and to discourage them from crossing the median strip while the police car was slowing down and attempting to do a u-turn. Officer Golik conducted the u-turn and believes Officer Goff then immediately deactivated the emergency lights. Officer Goff also believes he deactivated the lights at this time.⁴⁹
53. The police vehicle began travelling in the south bound lanes of Forrest Highway, behind the van. At this time there were no other vehicles between the van and the police car, although the van was approximately 400 metres ahead and still accelerating away. It could also be seen swerving across the lanes. Officer Golik could just see the van's tail lights in the distance.⁵⁰ Officer Goff could hear the dispatcher trying to arrange a pursuit car or stinger operator to come from Bunbury at this time. They continued to follow the van for about 1.5 km until the turnoff for Stanley Road.⁵¹
54. Ms Kostovski indicated left and turned sharply down Stanley Road. The police were aware Stanley Road is a dead-end street that heads into the rubbish dump. As they followed the van into the street, Officer Golik could see Ms Kostovski attempting to turn left at the end of the cul-de-sac down a gated road that leads to the waste management facility, before she seemed to realise there was a gate blocking her path. The van mounted the verge and came to a skidding stop. The van was approximately 150 metres ahead of the police car at this time and the police car did not have its emergency lights or siren activated. Officer Golik and Officer Goff thought Ms Kostovski might try to abandon the van in the cul-de-sac and attempt to run away on foot. To prevent this occurring, Officer Golik pulled up alongside the van in a way that stopped the driver's door from opening.⁵²
55. Once again, Ms Kostovski began aggressively revving the engine and reversed back into the police vehicle before seeming to get stuck again. The driver's window of the van was open and Officer Goff could hear Ms Kostovski

⁴⁷ Exhibit 1, Tab 30 -31.

⁴⁸ Exhibit 1, Tab 29.

⁴⁹ Exhibit 1, Tab 29 and Tab 30 - 31.

⁵⁰ Exhibit 1, Tab 29.

⁵¹ Exhibit 1, Tab 30 - 31.

⁵² Exhibit 1, Tab 29.

screaming in an aggressive/psychotic manner, much the same as she had in their earlier interaction. He described her as appearing to be in “her own world.”⁵³ By her behaviour, it appeared to him that she was affected by methylamphetamine, which later proved to be the case.⁵⁴

56. Officer Goff attempted to reach through the window and reach the keys in the van’s ignition but before he could reach them the van broke free from the police car and pulled back to the left, away from them. Officer Golik drove forward and circled the cul-de-sac until they were facing back towards Forrest Highway. She could see the van being driven towards Forrest Highway and saw another police car with its emergency lights activated. Officer Golik assumed this was the pursuit driver that had been requested over the radio and anticipated it would take over and attempt to intercept the van. In fact, it was Acting Sergeant Craig Cowcill, who was performing supervisor’s duties at Australind Police Station, where the other two officers were stationed.⁵⁵
57. Officer Cowcill had heard Officer Goff call ‘urgent’ over the radio at about 7.30 pm and knew they were in the Treendale area and was aware they had been at McDonald’s. Officer Cowcill knew that he was the closest person to assist and he was already ‘kitted up’, so he immediately got into a marked police vehicle, a Ford Falcon sedan with the call sign RE101. The vehicle is a Class 1 vehicle, but Officer Cowcill was only a Priority 2 driver and the only occupant of the car. At that time, there was no stinger device available at the station, so such an option was not available locally.⁵⁶
58. Officer Cowcill could hear Officer Goff providing more details of his location as he left the Australind station and drove down Forrest Highway in the direction of the other police car. Officer Cowcill informed VKI that he was on the road in RE101 and going to try to assist the other officers.⁵⁷ Officer Cowcill said he had no idea how fast he was going as he never looked at the speedo. His intention was to help his colleagues by backing up with an additional car and additional physical presence and he wanted to get there quickly as he knew he was the closest car by far. He didn’t ask for a priority as there was a lot of traffic on the radio and he wanted to give priority on radio communications to Officer Goff and others to pass on vital information, so he kept the airways clear.⁵⁸
59. When Officer Cowcill heard that the other officers were turning around and heading back southbound on Forrest Highway towards Stanley Road he knew he wasn’t far behind. He then ‘put his foot down’ so he could get up to the next intersection and swing around behind them. Officer Cowcill was aware it

⁵³ T 101.

⁵⁴ T 101 – 102; Exhibit 1, Tab 30 - 31.

⁵⁵ T 86, 102.

⁵⁶ T 110 – 112; Exhibit 1, Tab 32.

⁵⁷ Exhibit 1, Tab 32.

⁵⁸ Exhibit 1, Tab 33.

was a dead end and the van would be boxed in, so he wanted to be close by in case his colleagues needed his help. He admitted he accelerated but still described his driving as safe and expedient as it was a clear and open road with no other cars around, so based on his risk assessment he determined it was safe to accelerate. He heard when RE102 was told to downgrade and not to pursue the van but to continue to follow and monitor it, so he adopted a similar approach. Officer Cowcill said he felt it was a unique situation and accordingly, there was some greyness as to how the usual policies applied.

60. Officer Cowcill acknowledged in his evidence he was aware of the policies around getting approval from VKI to exceed posted speed limits but at the time he prioritised the safety of his colleagues and felt he was comfortable in his knowledge of the car and the road to be able to make a proper risk assessment of the safety of what he did. Looking back, he believes he would take the same action again.
61. When Officer Cowcill heard over the radio that the van had headed into Stanley Road, which he knew to be a dead end, he parked in the slip lane turning into Stanley Road to wait and warn any oncoming traffic.⁵⁹
62. Officer Golik followed the van up Stanley Road towards Forrest Highway at some distance with the expectation that the other police car would take over. Their own police car appeared undamaged and drove normally, so Officer Goff advised VKI that the police car was still working fine. At this time, both officers saw a dog being thrown from the driver's window of the van, which was later confirmed to be Ms Kostovski's beloved pet Bully. Bully landed on the ground and tumbled a few times before getting to his feet and running away. Bully was later found and taken by police to Ms Kostovski's friend, Mr Cooper, who agreed to take care of him.⁶⁰
63. The alarming action of throwing the dog out the window, together with the earlier erratic behaviour of the driver, led Officer Golik and Officer Goff to conclude that Ms Kostovski might be considering deliberately crashing her van. Officer Golik assumed Ms Kostovski intended to do this on Stanley Road and perhaps drive into a tree, so she wanted to stay in close proximity to the van in order to provide immediate assistance in the event that the van did crash.⁶¹
64. Officer Cowcill had heard some of the events being called over the radio, including the ramming and throwing of the dog out of the window. He could see headlights coming towards him indicating cars were approaching, so he activated his emergency lights and reversed his police car into the middle of the road to provide a warning to other road users to slow down so they did not come into contact with Ms Kostovski's van. Officer Cowcill made it clear in

⁵⁹ T 111; Exhibit 1, Tab 32.

⁶⁰ Exhibit 1, Tab 10 and Tab 30 - 31.

⁶¹ T 86, 102; Exhibit 1, Tab 29.

his evidence that he was not in any way attempting to intercept Ms Kostovski, only to warn approaching motorists of the potential danger.⁶²

MOVE ONTO FORREST HIGHWAY

65. Ms Kostovski did not crash the van on Stanley Road. Instead, she drove back down Stanley Road towards Forrest Highway. Officer Cowcill had seen her repositioning herself in the driver's seat as she passed and described her as appearing "fidgety."⁶³ Ms Kostovski also didn't seem to be wearing a seat belt.⁶⁴
66. Ms Kostovski turned left from Stanley Road back onto Forrest Highway and accelerated south in the south bound lanes, followed by Officer Goff and Officer Golik. Officer Goff informed VKI of what was occurring while Officer Golik continued to follow the van. She indicated she was very concerned for the safety of the driver and for the safety of other road users. She was also still waiting for the other police car to take over the vehicle interception, based on her belief it was the pursuit vehicle they were expecting. Instead, Officer Cowcill allowed them to drive past, before he began following the other police car at some distance, with the intention of keeping all other road users back behind him to keep them away from the van.⁶⁵ He described himself as being there as a backup car, with no intention of trying to engage with the van, but instead to be there to help the other officers if required.⁶⁶
67. Inspector Brett and the dispatcher were still working to get other resources to the area. Inspector Brett authorised stinger equipped police resources to attend at Priority 1 emergency driving conditions to get them there urgently. No emergency driving was authorised for the police vehicles already in the vicinity, namely RE101 and RE102, as they were able to monitor the location and manner of driving within the posted speed limits and Inspector Brett wanted to avoid escalating the situation or influencing Ms Kostovski to drive in a more erratic manner.⁶⁷
68. They could still see Ms Kostovski's headlights and she continued to drive erratically and Officer Golik observed the van drifting from the left lane to the right lane and then back to the left lane numerous times. At other times she drove in the middle of the road. There were no other vehicles between the van and Officer Golik's police car and no vehicles appeared to be travelling close in front of the van. There is no street lighting in the area but Officer Golik was still able to get a clear and unobstructed view of the van ahead. She saw

⁶² T 111 – 112; Exhibit 1, Tab 32.

⁶³ Exhibit 1, Tab 32.

⁶⁴ Exhibit 1, Tab 32.

⁶⁵ T 86 – 87; Exhibit 1, Tab 32.

⁶⁶ T 113.

⁶⁷ Exhibit 1, Tab 34.

Ms Kostovski indicate left and enter the slip lane to Clifton Road before she suddenly left the slip lane and continued to travel south on Forrest Highway.⁶⁸

69. Officer Golik gave evidence that she had treated the fact Ms Kostovski had indicated left with some caution, as her previous experience in traffic enforcement had taught her that drivers will often indicate to deceive the police and hopefully give themselves an opportunity to go in a different direction once the police have committed to making the turn. Accordingly, Officer Golik did not follow her into the slip road and backed even further off to wait to see what Ms Kostovski did next.⁶⁹
70. The two police officers saw Ms Kostovski throw an object from the van, which appeared to be a glass wine bottle, and heard it smash on the road. At this point, Ms Kostovski turned off the headlights on the van and accelerated away. It was dark at this time, so that action was very concerning. Officer Goff advised the dispatcher and Inspector Brett that they were dropping back further from the van and were now approximately 200 metres behind it.⁷⁰
71. Officers Golik and Goff were travelling behind Ms Kostovski's van at a distance of approximately 150 metres, still with no emergency lights or siren activated. They stated they were just trying to keep the van in sight and, similarly to Inspector Brett, were conscious they did not want to "antagonise her into driving more recklessly."⁷¹ Officer Golik recalled they could only see the reflectors on the back of the van as Ms Kostovski drove with the van's lights off.⁷²
72. The van continued to drift across the left and right lanes as well as sometimes occupying the middle of the road. Officer Cowcill described her driving as "reckless and dangerous to every other road user."⁷³ Officer Golik was also concerned about the roadworthiness of the van at this stage, as there was smoke coming from it and it appeared it might fail mechanically.⁷⁴
73. A white work utility pulled out from a side road in between RE102 and RE101, so that it was travelling between the two police cars. Officer Cowcill had been blocking off any approaching cars from behind, but this car would be in front of him. This prompted Officer Cowcill to activate his emergency lights and speed up to overtake the utility to indicate to the utility to slow down. It pulled to the side, allowing Officer Cowcill to overtake it. He then positioned the police car in the centre of the road, "effectively operating like a rolling road block to stop civilian cars"⁷⁵ getting ahead of him again, so that

⁶⁸ Exhibit 1, Tab 29 and Tab 30 - 31.

⁶⁹ T 87.

⁷⁰ Exhibit 1, Tab 34.

⁷¹ Exhibit 1, Tab 29, p. 5.

⁷² T 87.

⁷³ Exhibit 1, Tab 32.

⁷⁴ T 88.

⁷⁵ T 113; Exhibit 1, Tab 32.

his car remained between other road users and the van. Officer Cowcill acknowledged this was unconventional, but explained that it was an unusual situation that he had never encountered before, and he took this action to try to keep the public away from the danger presented by Ms Kostovski.⁷⁶

74. Ms Kostovski indicated left again and attempted to turn left on to Raymond Road but she failed to negotiate the turn and skidded sideways across the westbound lanes of Raymond Road while still facing east. The van came to rest on the grass verge and appeared to get stuck. The police officers following her were trying to work out what she might do next.⁷⁷
75. The police car driven by Officer Golik was still about 200 metres behind the van at this stage. Officer Golik stopped the car in the left slip lane of Raymond Road at a safe distance from the van in order to see what Ms Kostovski was going to do. Ms Kostovski drove forward across the grass into the eastbound lanes and turned the van around so it faced in a westerly direction on Raymond Road, facing straight back towards the police car. The van then drove towards the police car. It appeared to Officer Goff that Ms Kostovski drove directly at them and Officer Golik turned the car to avoid it. The van went behind Officer Golik and Officer Goff's vehicle. Fearing that she would drive at the police again, Officer Golik drove their vehicle so that the police car mounted the bricked median strip. As she did so, Officer Golik saw the van drive forward west in the east bound lanes of Raymond Road past the police car RE102 again.⁷⁸
76. Officer Golik still feared the van might ram them from behind, so she drove off the median strip and turned the police car around so that she could observe what the van was doing and report its movements back to VKI. Once she had turned the car around, Officer Golik observed Ms Kostovski had gone up the wrong side of the road and begun to travel north in the south bound lanes of Forrest Highway. Officer Golik said she "knew that it wasn't going to end well"⁷⁹ and her main concern from that time was to stop traffic coming south towards Ms Kostovski.⁸⁰ Unfortunately, there were already a number of cars heading that way.

NEAR MISSES

77. There was general agreement from witnesses that Ms Kostovski's manner of driving made a head on crash with another vehicle inevitable. This is emphasised by the number of near misses that occurred before she eventually crashed. Any one of these other cars could have met the same fate as the unlucky last driver, but for good luck and quick evasive action.

⁷⁶ T 113 - 114.

⁷⁷ Exhibit 1, Tab 29.

⁷⁸ T 88.

⁷⁹ T 89.

⁸⁰ T 88 – 89; Exhibit 1, Tab 29.

78. Officer Cowcill was the first in line, as he had been holding back the civilian traffic by positioning his car in the centre of the two lanes to prevent anyone overtaking him. Officer Goff could see the headlights of Officer Cowcill's vehicle in the distance and quickly called over the radio that the offending vehicle was "coming wrong side, no lights."⁸¹ Officer Cowcill heard the message as, in effect, "she's coming towards you"⁸² and when he looked up he saw the van travelling straight at him. He was still positioned in the middle of the road, so Ms Kostovski could have gone either side of him, but it appeared to Officer Cowcill that Ms Kostovski was aiming directly for his police car.⁸³ He had to swerve hard to the left to avoid colliding with the van head on. She then "blew past"⁸⁴ him. Officer Cowcill gave evidence that if he had not taken evasive action, he was without a doubt certain that Ms Kostovski's van would have struck his police car.⁸⁵
79. After the van passed him, he tried looking back behind him for the work utility he had slowed earlier, but couldn't see it. Officer Cowcill pulled over and waited on the side of the road. He did not have his emergency lights on and did not believe RE102 did either, as he should have been able to see them if they were illuminated. He heard over the radio about a crash and then executed a u-turn and proceeded northbound down Forrest Highway towards the crash site on the wrong side of the road, as there was no traffic approaching.⁸⁶
80. Michael Cain was also driving on Forrest Highway at the time and appears to have been the next car after Officer Cowcill, as Mr Cain was driving the white utility that had initially been caught between the two police cars. He had seen Ms Kostovski's white van travelling in the right hand lane heading south, then realised there was a police car following her with its headlights on. Mr Cain had turned onto Forrest Highway behind the van and police car and was travelling south when he saw another police car approach (Officer Cowcill in RE101) and flash its headlights at him as it passed him. Mr Cain took the flash of headlights to be a 'warning flash' and then noted the police car took up a position ahead of him in the middle of the dual carriageway, which indicated to him that the police didn't want him to pass them. Mr Cain then noticed the police car slowed its speed and gave a quick flash of its police lights, which he assumed was to protect him and indicated "Mate this is dangerous stay away."⁸⁷
81. Mr Cain continued driving for about 30 seconds more heading south when he saw Ms Kostovski's white van coming towards him with no lights on and

⁸¹ Exhibit 1, Tab 30 - 31.

⁸² T 114.

⁸³ T 115.

⁸⁴ Exhibit 1, Tab 33B, p.49

⁸⁵ T 115.

⁸⁶ T 116; Exhibit 1, Tab 32.

⁸⁷ Exhibit 1, Tab 16 [14].

travelling on a swerved angle. Mr Cain was in the left lane at the time and he swerved to the left towards the rumble strip to avoid the approaching van. He estimated the van missed his car by about a metre as it passed. The van had no headlights on and he noted the car was very dark inside as it passed.

82. Mr Cain stopped his car briefly on the side of the road and activated his hazard lights before recommencing his journey heading south. As he moved off he noticed one of the police cars do a u-turn at the Raymond Road/Forrest Highway traffic lights and head north and the other police car then did the same thing and followed the first. He did not recall hearing any sirens at this time but did notice the police sedan turn its emergency lights on.⁸⁸
83. Mr Cain adopted the safe course at this stage and took the first opportunity to pull off the highway into a carpark off Raymond Road, where he waited as he stated he “knew the van would have a head on with another vehicle”⁸⁹ and he “just hoped that it wasn’t a young family.”⁹⁰ While he was sitting in the carpark a friend came by and they discussed what Mr Cain had witnessed and what he feared would happen next. He then got in his friends’ car and they drove past the crash scene he had predicted.⁹¹
84. Stephanie Vaughan was driving south on Forrest Highway around Leschenault with her partner Denise Davies in the front passenger seat at about 7.30 pm when she saw a police car with its lights flashing approaching from the left. She also noticed Ms Kostovski’s van with its lights off in front of the police car and saw them both pull out onto the highway. She then realised the van was driving between two police cars, both with their flashing lights on. The rear police car pulled into the middle of the carriageway, straddling the white line, which Ms Vaughan took to be a movement to deter anyone trying to overtake them.⁹²
85. Ms Vaughan continued to drive but kept a safe distance behind the rear police car. She estimates she followed the two police cars and van for the best part of a kilometre at a speed of approximately 60 to 70 km/hr, well below the speed limit. She then witnessed the van veer into a cross break in the median strip and execute a 180° turn, behind the first police car, before heading north up the southbound lanes of Forrest Highway, directly towards Ms Vaughan’s vehicle, which was heading south.⁹³
86. Ms Vaughan recalls the van was in the middle of the carriageway coming straight towards her, so she moved left onto the hard shoulder so that the van could travel past her. Ms Davies, who was in the passenger seat, recalled it

⁸⁸ Exhibit 1, Tab 16.

⁸⁹ Exhibit 1, Tab 16 [23].

⁹⁰ Exhibit 1, Tab 16 [24].

⁹¹ Exhibit 1, Tab 16.

⁹² Exhibit 1, Tab 14.

⁹³ Exhibit 1, Tab 14.

was very dark and she could not even see the van until it was about 20 metres away from them as its lights were off.⁹⁴

87. They passed each other without incident, although close enough for Ms Vaughan to see Ms Kostovski and what appeared to be an expression of horror on her face.⁹⁵ Ms Vaughan indicated if she hadn't taken evasive action she believed they would have collided.⁹⁶ Ms Vaughan noticed at this stage that the police car had gone across the junction and was travelling up the northbound carriageway in the correct direction. Ms Davies noticed sirens for the first time at about this stage.⁹⁷ After the van had passed, Ms Vaughan and her partner continued their journey to Busselton without incident.⁹⁸
88. Joel Maley-Fadgyas also had a near miss with Ms Kostovski's van that night. He was travelling south down Forrest Highway heading home from Perth. Just before Treendale he saw red and blue flashing lights about one kilometre ahead on the northbound side of Forrest Highway. As he got closer he looked more closely at the lights trying to discern if it showed the presence of a 'booze bus' or similar. When he looked back ahead Ms Kostovski's van was suddenly in front of him. The van had no headlights on and appeared to be mainly in the right hand lane, although some of the van was travelling in Mr Maley-Fadgyas' lane. Mr Maley-Fadgyas had to swerve sharply to avoid hitting the van and he immediately felt that he began to lose control of the rear end of his car. Fortunately he managed to correct it in time and was able to drive on safely.⁹⁹
89. Daniel Denton was travelling south on Forrest Highway when he noticed ahead of him cars were suddenly pulling over to the side of the highway. He was wondering what was happening when he was suddenly confronted by Ms Kostovski's white van heading straight for him. He estimated the van was travelling at 100 km/hr and as it had no headlights on it was difficult to see. The van was also straddling the white lines dividing the two southbound lanes. Mr Denton believes if it had been raining heavily, he would not have been able to avoid crashing into it, but fortunately he was able to see it in time and as he was travelling in the left hand lane, he was able to swerve to the side and avoid a head on crash. A couple of seconds later Mr Denton recalled seeing red and blue flashing lights through the trees of the median strip and then saw a police car on the other side of the road, although he could not hear any sirens at this time.¹⁰⁰
90. Erin Ireland, who was also driving south in the left hand lane, didn't even see Ms Kostovski's van until it passed her car. She states she couldn't even make

⁹⁴ T 25; Exhibit 1, Tab 15.

⁹⁵ T 26.

⁹⁶ T 25 - 26.

⁹⁷ Exhibit 1, Tab 15.

⁹⁸ Exhibit 1, Tab 14.

⁹⁹ T 70; Exhibit 1, Tab 19.

¹⁰⁰ Exhibit 1, Tab 21.

out there was a car approaching as the lights were not on, and all she saw was a white flash as the van passed by. Ms Ireland estimates the van was travelling at about 140 km/hr at this time. Ms Ireland immediately slowed down as she was concerned the car travelling behind her would be involved in a collision instead, but both cars managed to safely evade the oncoming van.¹⁰¹

91. Shem Bisluk was travelling to Perth with his wife and children on the Forrest Highway. As they headed north near Treendale they saw what appeared to be a van heading north in the southbound lanes. Mr Bisluk began flashing his high beams at the vehicle and sounding his horn to attract the driver's attention in the hope they would realise they were on the wrong side of the median strip. His warnings appeared to have no effect and he watched the van continue its course down the road. Mr Bisluk pulled over and his wife began dialling '000' when they saw two police vehicles travelling north in the northbound lanes with their lights flashing and sirens sounding.¹⁰²

THE CRASH

92. Jacob Geerssen was not as fortunate as the other drivers on Forrest Highway that night, although he is fortunate that he drove a sturdy car at the time, given what happened next. Mr Geerssen was driving south to Eaton to catch up with a friend. He was driving his Nissan Patrol single cab utility with his dog in the cabin sitting on the passenger's seat. His headlights were on as it was dark, and he had his seatbelt on. He recalls the road was wet and it may have still been drizzling a little with rain at the time.¹⁰³ It was later noted by investigators that there is no street lighting in the area, so the only light available would have come from Mr Geerssen's headlights.¹⁰⁴
93. Suddenly, Mr Geerssen saw the white van driven by Ms Kostovski coming straight at him. The van did not have its headlights on. He moved across to the left but saw the van kept coming on towards him and in his opinion the driver of the van, Ms Kostovski, aimed for him. He recalled he had less than half a second to brake before they collided head on. Mr Geerssen later told witnesses on the scene he "had no choice"¹⁰⁵ and wasn't able to swerve as he was on the bridge.¹⁰⁶
94. Mr Geerssen believed his Nissan rolled over from the impact then came to a stop on its wheels facing sideways across the road. He was unable to open the driver's door as it was jammed shut. He managed to undo his seatbelt and then got out of the car with his dog through the front passenger door with some assistance from other drivers who had stopped to help. They moved

¹⁰¹ Exhibit 1, Tab 22.

¹⁰² Exhibit 1, Tab 18.

¹⁰³ Exhibit 1, Tab 24.

¹⁰⁴ T 13.

¹⁰⁵ Exhibit 1, Tab 28 [24].

¹⁰⁶ Exhibit 1, Tab 24.

Mr Geerssen and his dog away from the crashed car and then sat him on his swag by the roadside while they waited for emergency services to arrive. Mr Geerssen did not see the van after the crash.¹⁰⁷

95. Officers Golik and Goff had travelled in their police car north in the northbound lanes, keeping roughly parallel to Ms Kostovski but on the correct side of the road. Officer Golik's evidence was that she was trying to position their police car in a place where they could still see the van but hopefully where Ms Kostovski could not see them so that she would not be provoked by their presence to drive even more erratically. They could see glimpses of Ms Kostovski's van travelling the wrong way down the other side of the highway, although their view was often obscured by heavy foliage in the median strip. The two police officers believed they did not have their emergency lights or siren activated at this time, although there is other evidence to suggest they may have unknowingly had their emergency lights on. Officer Goff specifically recalled a discussion with Officer Golik about the issue and the fact he was concerned if they had the lights on it might antagonise Ms Kostovski. Instead, Officer Golik sounded her car horn to try to warn oncoming vehicles of the danger.¹⁰⁸
96. As Officer Golik and Officer Goff believed it was very likely that Ms Kostovski's driving behaviour would result in a traffic crash, they had tried to remain close enough that they could advise VKI of her location and hopefully be in the immediate vicinity of any crash in order to provide first aid to any injured parties. Officer Golik drove their police car down the correct side of the highway trying to keep out of Ms Kostovski's vision but keep her van in sight, but the view was restricted by thick bush in the median strip.¹⁰⁹
97. Officer Goff saw the headlights of at least one car swerving off the road to avoid a collision with the van. Officer Goff requested they be given a priority in order to try to get ahead of the van at the next intersection of the highway with Paris Road, which would help them to stop oncoming traffic and possibly divert the van back onto the correct side of the road, but Inspector Brett declined to give them priority approval as Ms Kostovski was already driving in an unpredictable manner and the activation of lights and siren might provoke more aggressive driving and she was also concerned that RE102 had already been involved in two ramming incidents with unknown damage. Further, Inspector Brett felt it was possible that the activation of lights and siren might act as a distraction for other road users, rather than providing them with a warning of the imminent risk.¹¹⁰ Inspector Brett was still working with the dispatcher to try to come up with alternative strategies utilising other resources but nothing was able to be sourced in time.

¹⁰⁷ Exhibit 1, Tab 24.

¹⁰⁸ Exhibit 1, Tab 29 and Tab 30 - 31.

¹⁰⁹ T 89 - 90.

¹¹⁰ Exhibit 1, Tab 29 and Tab 30 - 31.

98. Officer Goff watched the van as it passed through the Paris Road intersection and saw it pass approximately four cars then also pass the Clifton Road turn off. He advised VKI of what he had seen and the fact they only had limited observations of the van due to the bush in the median strip. As they neared the bridge over the Brunswick River, Officer Goff observed sparks and saw a large car spinning in the southbound lanes. He called out “crash, crash, crash.”¹¹¹ Officer Golik turned and saw orange sparks. Officer Goff believed he turned the police car’s lights on after he saw the sparks.¹¹²
99. Officer Golik drove up to the nearest intersection and conducted a u-turn to travel south in the southbound lanes towards the crash site with the aim of getting there as quickly as they could.¹¹³ As they approached they could see the white van in the left hand lane and Officer Golik stopped the van nearby and activated the police car’s emergency lights and siren to warn approaching vehicles. Officer Golik ran first to the Nissan utility that the van had crashed into and Officer Goff ran to the van. Officer Goff was calling out, “she’s gone” and Officer Golik initially assumed the van driver had run away from the scene. In fact, Officer Goff was actually indicating that Ms Kostovski had died in the crash. Officer Goff indicated that the driver’s side of the van had been almost completely ripped off and it was immediately apparent that she had suffered injuries that would have instantaneously caused her death.¹¹⁴
100. The driver of the other vehicle, Mr Geerssen, was taken by ambulance with full spinal precautions to Bunbury Hospital. Other than some lacerations and tenderness, he was found to have only a broken right ankle, which was put in a cast before he was discharged home.¹¹⁵ His dog was unharmed.
101. Witness reports suggested Mr Geerssen may have been intoxicated.¹¹⁶ Mr Geerssen was breathalysed and found to have a blood alcohol content of 0.096% but the Major Crash investigators found the evidence supported the conclusion his intoxication was not a contributing factor to the crash as he had no opportunity to see Ms Kostovski’s van approaching and take any avoidant action.¹¹⁷
102. After Officer Cowcill heard of the crash over the radio he looked down Forrest Highway and observed a number of vehicles pulled over to the side of the road. He activated his emergency lights and cautiously drove north in the southbound lanes in order to check on the welfare of the drivers of the vehicles, all of whom would no doubt be in shock. After finding all of the drivers and their passengers were okay, Officer Cowcill continued on to Brunswick Bridge and stopped at the crash scene, where he assisted members

¹¹¹ T 90; Exhibit 1, Tab 29, p. 6.

¹¹² T 104 – 105.

¹¹³ T 90.

¹¹⁴ Exhibit 1, Tab 29 and Tab 30 - 31.

¹¹⁵ Exhibit 1, Tab 24.

¹¹⁶ Exhibit 1, Tab 26 and Tab 30 - 31.

¹¹⁷ T 11; Exhibit 1, Tab 8.

of the public and checked on the welfare of the other two police officers. He also declared a Protected Forensic Area of the crash scene and managed it until other police officers arrived and took over.¹¹⁸

CAUSE OF DEATH

- 103.** When police officers first attended the scene and approached Ms Kostovski's van, it was apparent that she had severe injuries incompatible with life and must have died almost instantly at the time of the crash.¹¹⁹
- 104.** On 3 August 2017 a Forensic Pathologist, Dr V.B. Kueppers, performed an external examination on the body of Ms Kostovski. The examination showed multiple severe injuries, including catastrophic not survivable injury to the head. Dr Kueppers formed the opinion that the cause of death was multiple injuries and it concluded that a full internal post mortem examination was not required.¹²⁰
- 105.** Toxicology analysis of post mortem samples found a blood alcohol level of 0.155% and urine alcohol level of 0.235%. Methylamphetamine was detected at 0.16mg/L and amphetamine at 0.04 mg/L in the blood, and the antidepressant medication sertraline was also detected.¹²¹
- 106.** Ms Kostovski's blood alcohol level was above the amount that would have deemed her to be incapable of having proper control of a motor vehicle.¹²² Police found an empty bottle of wine in Ms Kostovski's van after the crash, which is consistent with the evidence of Mr Cooper that Ms Kostovski was drinking from a bottle of white wine that afternoon, and her blood alcohol level suggests she had consumed its contents.¹²³
- 107.** The level of methylamphetamine in Ms Kostovski's system was also high. Expert pharmacology advice to WA Police is to the effect that any measurable level of methylamphetamine and amphetamine may be associated with driver impairment without any alcohol association, and the level found in Ms Kostovski's system would suggest significant impairment, particularly when coupled with the alcohol in her system.¹²⁴ I am aware from evidence provided by expert witnesses in other coronial matters that methylamphetamine has pervasive effects on driving performance. Methylamphetamine intoxication can lead to over-confidence, a propensity for risk-taking, excitability and impulsivity in the early, stimulated phase, as well

¹¹⁸ Exhibit 1, Tab 32.

¹¹⁹ Exhibit 1, Tab 8, p. 3.

¹²⁰ Exhibit 1, Tab 6.

¹²¹ Exhibit 1, Tab 6 and Tab 7.

¹²² T 11; Section 63(5) Road Traffic Act 1974 (WA).

¹²³ T 14.

¹²⁴ T 11; Exhibit 1, Tab 8, pp. 17 - 18.

as paranoia and psychosis in the coming down phase, all of which lead to an increased risk of accident.

MANNER OF DEATH

- 108.** There was evidence from the witnesses that Ms Kostovski turned her van's lights off, even though it was dark, and then deliberately executed a u-turn and drove the wrong way down the highway. A number of oncoming vehicles, including a police car, had near misses with the van and most of the drivers formed the impression Ms Kostovski deliberately aimed for them, including Mr Geerssen.¹²⁵ Ms Kostovski also did not appear to have been wearing her seatbelt.¹²⁶
- 109.** I also take into account the evidence of messages sent and Facebook posts made by Ms Kostovski earlier in the day, suggesting that she was feeling very depressed. Further, she threw her pet dog out of the car after ramming the police car for the second time, which prompted at least one of the police officers who witnessed her behaviour to think that she had formed an intention to deliberately crash her car.¹²⁷
- 110.** The evidence, taken together, strongly supports the conclusion that Ms Kostovski had formed an intention to take her life at the time she crashed her van head on into another vehicle, causing her death. I note that her judgment would have been impaired by the alcohol and methylamphetamine in her system at the time, but there is nothing to suggest that she was incapable of making this decision. One eye witness who had a near miss with Ms Kostovski, close enough to see her face, made the comment that Ms Kostovski's driving behaviour appeared quite deliberate and showed she was still able to think clearly enough to execute a manoeuvre around the first police car.¹²⁸
- 111.** Based on the evidence available I am satisfied Ms Kostovski's death occurred by way of suicide.

POLICE INVESTIGATION

Cause of the Crash

- 112.** Detective Senior Constable Nathan Dalton from the WA Police Major Crash Investigation Section was actively involved in investigating Ms Kostovski's death. He attended the crash scene on the night of the death and he arranged for Ms Kostovski's van and Mr Geerssen's vehicle to be examined by a

¹²⁵ Exhibit 1, Tab 24 [10].

¹²⁶ T 15.

¹²⁷ T 86, 102.

¹²⁸ T 25.

qualified mechanic and vehicle examiner, who found no defects in either vehicle that would have caused or contributed to the crash. Detective Dalton later prepared a report for the Coroner and gave evidence at the inquest.¹²⁹

113. After examining the crash scene, interviewing all relevant witnesses and considering other additional relevant information, including Ms Kostovski's toxicology results, Detective Dalton concluded that it appeared Ms Kostovski was desperately attempting to avoid apprehension by police due to her cancelled driver's licence and outstanding arrest warrant, and her behaviour was exacerbated by her level of intoxication and depressive state. He did not find any evidence of inattention, but instead concluded Ms Kostovski deliberately drove directly at Mr Geerssen's vehicle, resulting in an unavoidable collision that caused her death.¹³⁰
114. Detective Dalton indicated that the difference in the injuries sustained by Ms Kostovski and Mr Geerssen could be explained by the difference in their vehicles, as Ms Kostovski's van was quite flat at the front with no bonnet to absorb the impact, whereas Mr Geerssen's Nissan Patrol was a larger vehicle with a bonnet and a front bull bar to provide extra protection for the driver. There was also evidence that Mr Geerssen was wearing a seatbelt at the time of impact and it appeared that Ms Kostovski was not wearing a seatbelt.¹³¹
115. Detective Dalton noted Mr Geerssen's blood alcohol reading, but given the circumstances in which the crash occurred, felt it was reasonable to conclude the presence of alcohol in Mr Geerssen's blood was not a contributing factor to the crash occurring.¹³² Given his position on the bridge, Mr Geerssen was unable to take the evasive action the other motorists were able to do, so he had no available option to move out of her way.¹³³

Internal Affairs Investigation

116. Detective Senior Constable Ryan Edmonds investigated the incident in terms of the involvement of the police officers. All three officers from Australind had prepared signed memorandums setting out their recollections not long after the event. Officers Goff and Cowcill also participated in interviews with Internal Affairs Unit staff but Officer Golik had already left the WA Police Force by the time those interviews were conducted. Inspector Brett's conduct was also reviewed and her report and an interview with Internal Affairs officers were considered.¹³⁴
117. Detective Edmonds indicated he was conscious that all the officers had been involved in a traumatic event, particularly the three who were physically there

¹²⁹ Exhibit 1, Tab 8.

¹³⁰ T 17 – 18; Exhibit 1, Tab 8.

¹³¹ T 14 – 15, 19.

¹³² Exhibit 1, Tab 8.

¹³³ T 16 - 17.

¹³⁴ Exhibit 1, Tab 34 and Tab 35.

at the scene, and was cognisant of trying to protect their mental health while still obtaining the necessary information.¹³⁵

118. Detective Edmonds considered seven primary issues arising from the incident and ultimately found three complaints sustained. Two were against Officer Golik and one against Officer Cowcill, being both the drivers during the incident.¹³⁶
119. The Automatic Vehicle Locator (AVL) data and the accounts of those involved were used to establish that Officer Golik had exceeded the maximum speed of a priority 2 driver at one stage, which was due to some confusion about the posted speed limit at the time. Officers Golik and Goff self-reported the error and it was accepted that it was a genuine error. It was treated as a minor breach of the policy.¹³⁷
120. Officer Golik was also found to have left the scene of a police crash without proper authorisation, which related to Officer Golik continued to drive after the first ramming incident. Again, it was considered to be in the nature of a technical breach of policy, based upon the fact that at the time she drove away direct communication had not yet been established with Police Operations, so there was initially no direct consent from Inspector Brett to leave the scene.¹³⁸
121. No penalties were imposed against Officer Golik for either of these breaches of policy as she had left the WA Police by the time the Internal Affairs Unit investigation was completed. However, Detective Edmonds believed any penalty would have been minimal, similar to what was issued to Officer Cowcill.¹³⁹
122. Officer Cowcill's penalty was imposed for breaching the priority 2 driver limit when initially driving to the scene and was based upon the AVL data. He received the lowest form of intervention, which is verbal guidance.¹⁴⁰
123. Officer Golik and Officer Goff recalled being taken to the Australind Police Station and being breath and drug tested. Officer Cowcill was present when a sergeant from Bunbury Police conducted a preliminary breath test on both Officer Golik and Officer Goff, which both produced a negative result.¹⁴¹
124. Officer Cowcill indicated his number one priority was trying to help the two officers from his station, who had already been rammed at least once, and secondly to protect the public.¹⁴² After his narrow miss with the van he recalls

¹³⁵ T 130.

¹³⁶ T 124.

¹³⁷ T 124.

¹³⁸ T 124 – 125.

¹³⁹ T 125 - 126.

¹⁴⁰ T 128.

¹⁴¹ Exhibit 1, Tab 29, p. 7, Tab 30 and Tab 32.

¹⁴² T 117.

he got onto the radio and said, “It has got to stop. She’s going to kill someone.”¹⁴³ Officer Cowcill received a written notice of correction in relation to exceeding the speed limit but he remained certain he had taken the correct action on the night, using sensible risk assessments and with a good local knowledge of the area, to ensure he was there to help his colleagues.¹⁴⁴ In hindsight, Officer Cowcill considered there was nothing else he could have done to prevent Ms Kostovski’s death.

COMMENTS ON THE ACTIONS OF POLICE

125. The focus of Officers Golik and Goff was on apprehending Ms Kostovski as she was believed to present a risk to the public by her manner of driving. A concerned member of the public had sought out police to inform them of her driving as he had almost been run off the road and was scared someone else might be hurt. The driving behaviour the police officers then observed only reinforced their view that she presented a danger to the public. After she rammed the police car Officer Goff commented, “If she was prepared to do that to the police, what might she do to anyone else on the road?”¹⁴⁵ They believed she was going to crash into something or someone at some stage, and wanted to be nearby when she did. Officer Goff gave evidence that throughout this incident his primary concern was “[p]ublic safety, 100 per cent.”¹⁴⁶
126. The whole incident took approximately 12 minutes,¹⁴⁷ so events happened quickly, but there was a lot taking place in that short time. The officers had to make split second decisions on the ground, and Inspector Brett also had to make quick decisions during a dynamic incident with limited information and resources. It was not an easy task for any of them.
127. Once Ms Kostovski decided to drive the wrong way down the highway, it was apparent that someone would end up seriously injured or killed and the officers were steeling themselves for that eventuality. It was not that long before that a similar event had happened in the south west and more than one death had resulted. Officer Golik mentioned her very real fear that a young family might be involved. As it turned out, the only death was that of Ms Kostovski, but her death was still a very sad event for all of those involved who questioned whether there was anything else they could have done to stop her.
128. It is apparent that Officer Golik was extremely traumatised by the incident, both at the time she attended the crash scene and even now, many years on. A civilian early on the scene recalled Officer Golik appeared “distracted.”¹⁴⁸ She

¹⁴³ T 118.

¹⁴⁴ T 118.

¹⁴⁵ Exhibit 1, Tab 31.

¹⁴⁶ T 106.

¹⁴⁷ T 120.

¹⁴⁸ Exhibit 1, Tab 28 [15].

was visibly distressed while giving her evidence and has indicated that her memory of some of the later events at the crash scene is limited due to shock. Officer Golik resigned from the WA Police Force not long after this incident.

129. The other officers were also deeply affected. Officer Goff also later resigned from the WA Police Force. It is a great loss to the community when we lose trained, experienced police officers in this way.
130. Officer Cowcill is the only one of the three who is still a serving police officer. When Officer Cowcill had pulled over, after his near miss with the van, he was approached by a male driver who also pulled over to the side of the road. The driver was upset and told Officer Cowcill there was a crazy person driving down the opposite side of the road and they had almost collided. He appeared angry and confused that police were not attempting to stop the offending vehicle. That motorist was presumably unaware that Officer Cowcill had experienced the same frightening event, and also unaware on the many limitations on what police can do in such circumstances. They must put their own safety, and the safety of other road users first and the policies and instructions they must follow serve that purpose. Catching an offender in such circumstances is no longer the primary aim.¹⁴⁹
131. Any actions the police officers took that night were clearly aimed at protecting the public. They tried to intercept Ms Kostovski to stop her from driving and remaining a danger to herself and others, and after that became impossible, they took steps to try to alert other road users and keep them out of harm's way, as well as keep an eye on Ms Kostovski's location so they could be close at hand if someone was injured.
132. When, as in this case, someone dies, it is hard for the police officers involved not to blame themselves. Two of the first civilian witnesses on the scene recalled Officer Golik appeared to be blaming herself. One of them commented that he believed this "was a load of rubbish because the police were on the correct side of the road"¹⁵⁰ and his wife also told Officer Golik it was not her fault.¹⁵¹ I concur with these witnesses. Based on all the evidence before me, I do not consider any of the actions of the police officers could be said to have caused or contributed to Ms Kostovski's death. All of the involved police officers were faced with an extremely dangerous and volatile situation and there is nothing I can see that they could have done differently to prevent Ms Kostovski from making the ultimate decision to drive in a manner intended to end her own life.

¹⁴⁹T 115; Exhibit 1, Tab 32.

¹⁵⁰ Exhibit 1, Tab 26 [34].

¹⁵¹ Exhibit 1, Tab 26 and Tab 27.

OTHER COMMENTS

Tyre Deflation Devices/Stingers

133. The police officers involved were asked if, in hindsight there was anything more they could have done, and other than taking extreme action, such as ramming Ms Kostovski's van, with the resources available to them they felt there was nothing more they could have done to prevent this incident. Obviously, that is not an action that is condoned or encouraged by either the WA Police or this Court. Even if officers with higher forms of emergency driving qualifications had been available, such an action would not have been authorised in this case.
134. The main option considered at the time, which was unavailable to be put into place quickly, was the utilisation of a tyre deflation device. At the time of this incident, there was no tyre deflation device (more commonly known as a stinger) available at the Australind Police Station. This incident provided a good reason why one should be available at the station and a successful application was made soon after.¹⁵² Training in the use of the stinger was provided and Officer Cowcill estimated 80% of the Australind staff were trained in how to use it, although Officer Cowcill himself was on leave at the time and missed the training. Three years on from this incident, he has still not been trained in its use. Officer Cowcill indicated he has asked to be trained in that time, but it's a question of when the training becomes available again.¹⁵³
135. The WA Police provided further information after the inquest indicating currently, 64.3% of the Australind police officers are trained in the use of stingers and there is one stinger available at that station. There are an additional four stingers available in Bunbury, with a similar percentage of officers (60%) trained in their use. Overall, I understand that just under 60% of all WA police officers are trained in their use. Training in the use of stingers is conducted at the District level and I'm advised there is no set schedule. Rather, it is provided on an 'as needed' basis.¹⁵⁴
136. I am also informed that there are still a number of police stations that don't have a tyre deflation device, with almost all of them based in regional WA. The omission of such a device at Rottnest Island makes complete sense, given the small number of vehicles on the island, but it is concerning that a significant number of other country stations do not have such a device readily available.¹⁵⁵
137. While I am conscious of the fact that the recent pandemic has made it even more difficult for this type of training to be undertaken, given the limitations

¹⁵² T 108.

¹⁵³ T 109 - 111.

¹⁵⁴ Letter of Assistant Commissioner Paul Zanetti dated 8 October 2020.

¹⁵⁵ Letter of Assistant Commissioner Paul Zanetti dated 8 October 2020.

imposed on numbers and in my view, it is the kind of training that should be prioritised for country based police officers. The evidence was that options such as air wing are not a realistic prospect for most country incidents, given the time it would take, and even trying to get officers from other stations will take time in regional areas, given the vast size of Western Australia. It is important that everyone stationed locally has the capacity to use such an important resource, particularly when put in the context of the emergency driving policy and the limits on other intervention options. No particular reason was given for why no such device is available at all stations although it was indicated that there was an emphasis on groups most focussed on road policing. I assume it is, as most things are, ultimately a resourcing issue, both in terms of supply of the devices and training. While there are always limits on resources, and managers must make difficult decisions as to where to direct them, in my view the need for widespread availability of stingers, and qualified staff to use them, is still important in country WA.

138. Accordingly, I recommend that the WA Police Force give consideration to offering an increased number of training courses in the use of tyre deflation devices, to improve the percentage above 60%, and to allocating at least one such device to every regional police station in WA, other than somewhere like Rottnest Island, where the need is minimal.

RECOMMENDATION

I recommend that the WA Police Force give consideration to prioritising the provision of a tyre deflation device or stinger to all regional police stations in Western Australia, other than where it is clear it is not required. Training in the use of such devices should also be prioritised for all police officers stationed at those regional police stations, so that the majority of those officers are able to deploy the device during an incident.

Emergency Driving Training

139. The police officers involved were asked if, in hindsight there was anything more they could have done, and other than taking extreme action, such as ramming Ms Kostovski's van, with the resources available to them they felt there was nothing more they could have done to prevent this incident. Obviously, that is not an action that is condoned or encouraged by either the WA Police or this Court. Even if officers with higher forms of emergency driving qualifications had been available, such an action would not have been authorised in this case.

140. Therefore, the issue of priority driver training does not specifically arise in this case. However, an issue was raised incidentally during the inquest about Priority 1 driver training.
141. Currently, there are only three out of 15 officers at Australind Police Station who are priority pursuit qualified.¹⁵⁶ Officer Cowcill mentioned that there are limited opportunities for priority pursuit training, particularly when based in the country. He suggested a simple solution would be to train all new officers when they come through the academy.¹⁵⁷
142. I'm advised that currently only Priority 2 training is provide to police recruits at the Academy. However, following a recent Corporate Board endorsement, the Standard Car Course undertaken by recruits is being redesigned to incorporate the additional Priority 1 training. In the final week for those recruits who show an aptitude for this skillset.¹⁵⁸ That is a very positive advancement and is likely to increase the number of Priority 1 trained officers out in the regions.
143. There is a further level of qualification above this of Evade Police Intercept Driving, which I gather is the same as the previously named Priority Pursuit driving qualification that Officer Cowcill mentioned. A current Priority 1 driver qualification is a prerequisite for all candidates selected to undertake this course and requires an additional number of days to the other driver training. It would likely be impractical to add this in to the other driver training at the academy, but at least there will be more officers already possessing the suitable pre-requisite from their academy training, which should hopefully make it easier to apply for the additional course at an early stage in their career.¹⁵⁹

Emergency Driving Policy regarding 'Watch and Observe'

144. It was mentioned during the inquest that the current WA Police Force Emergency Driving Policy might benefit from some amendment to accommodate a scenario such as occurred here, where the police are facing extraordinary circumstances that raise real issues about public safety. It arose in the context of the sustained findings of policy breaches against the two officers in this case, as it was noted IAU officers have no discretion to exonerate such breaches if they are made out. Their only discretion arises in relation to the type of penalty then imposed.
145. I suggested that, given the exceptional circumstances the officers faced, it would be preferable if broader discretionary powers were available to IAU so that the officers involved could be exonerated in such an unusual case.

¹⁵⁶ T 109.

¹⁵⁷ T 108 – 109.

¹⁵⁸ Letter of Assistant Commissioner Paul Zanetti dated 8 October 2020.

¹⁵⁹ Letter of Assistant Commissioner Paul Zanetti dated 8 October 2020.

Otherwise, they may be left with a perception that they are not supported by their employer, which may add to their trauma.

146. Additional information provided on behalf of the WA Police after the inquest indicates the Emergency Driving Policy does contain special circumstance provisions to authorise a response outside of standard restrictions and requirements, which could in this case have been used to authorise “watch and observe” action in this circumstance. If that had been done, then Officer Golik and Officer Cowcill’s breaches of the policy could have been excused. However, because it was not invoked at the time, the technical breaches were sustained.¹⁶⁰
147. Further, I am informed that the WA Police Force Integrity Framework has, in 2019/20, moved away from an adversarial model to a model focussed on procedural fairness and promoting positive employer/employee relationships. In particular, the Framework provides scope to exonerate officers where a policy breach did occur but it was lawfully authorised, justified or excused in law. This allows the internal investigation process to give weight to officers acting in the public interest for scenarios such as this incident involving Ms Kostovski.
148. These two options, either to be invoked at the time of the incident, or to be taken into account during the later internal investigation, are sufficient to address my concerns.

CONCLUSION

149. Police officers face a difficult task when they are confronted by a driver who has made it clear they will not stop for police. Public safety and the safety of the police officers is a priority and police officers are trained to conduct risk assessments in these situations.
150. I am satisfied that the police officers involved in the attempt to intercept Ms Kostovski did so out of a genuine concern for her safety and the safety of other road users. When it became clear she had no intention to stop for them, the police officers conducted their own risk assessments and then followed an instruction from a superior to move back and simply try to follow her from a distance, with the hope that they could monitor her location until other help arrived. They were conscious of the need to avoid antagonising Ms Kostovski or inciting her into even more dangerous behaviour. Unfortunately, despite their efforts, Ms Kostovski became increasingly agitated and she eventually chose to take a lethal course of action by driving directly at oncoming traffic until she crashed head on with another vehicle. I have no doubt the illicit drugs and alcohol in her system contributed to her unstable mental state that led to this decision.

¹⁶⁰ Letter of Assistant Commissioner Paul Zanetti dated 8 October 2020.

151. I have commented in other inquest findings about the increasing prevalence of methylamphetamine in Western Australia and the dangers it presents to drivers on our roads. A large number of coronial inquests have been conducted in recent years into deaths following evade police incidents or attempted intercepts where the driver's ability to control a vehicle was found to be significantly impaired by methylamphetamine. Sadly, Ms Kostovski's is one more such case that can be added to this ever increasing list. Ultimately, the responsibility rests upon the individual, preferably not take this very dangerous drug, or alternatively, definitely not to take control of any motor vehicle when they are under its influence.

S H Linton
Coroner
22 October 2020