

IN THE CORONERS COURT
OF VICTORIA
AT MELBOURNE

Court Reference: 2012 / 3086

FINDING INTO DEATH WITH INQUEST

Form 37 Rule 60(1)

Section 67 of the Coroners Act 2008

Inquest into the Death of: Jong Hyun KIM

Delivered On:

Delivered At: MELBOURNE

Hearing Dates: 14 November 2013

Findings of: State Coroner, Judge Ian L Gray

Representation:

*Police Coronial Support Unit Sharon Wade

I, Judge Ian L. Gray, State Coroner having investigated the death of Jong Hyun KIM

AND having held an inquest in relation to this death on 14 November 2013
at Melbourne

find that the identity of the deceased was Jong Hyun KIM

born on 1 May 1987

and the death occurred on 1 August 2012

at the intersection of Waverley and Gallaghers Road, Glen Waverley

from:

1 (a) EFFECTS OF FIRE

in the following circumstances:

Background

1. Jong Hyun Kim was 25 years old at the time of his death on 1 August 2012. Little is known about Mr Kim, except that he is a citizen of the Republic of Korea who was residing in Australia on a Working Visa. Mr Kim entered Australia via Hong Kong on 9 February 2012.
2. In March 2012, Mr Kim began working at a Banana Farm in the Northern Territory, where he worked for approximately one month. At the farm, Mr Kim befriended a man called Jaecin Kim. Mr Kim appears to have spent some time in Sydney, making acquaintance with a couple of other Korean men there. Mr Kim lived with these men from May to July 2012 in a rented room at an apartment in Little Lonsdale Street, Melbourne. It was alleged that Mr Kim stole \$500.00 from one of the men and that he lost large amounts of money at the Crown Casino.
3. Mr Kim was residing at the Hotel Discovery at Franklin Street, Melbourne at the time of his death.
4. It is believed that Mr Kim had a gambling problem and was spending substantial amounts of money. Mr Kim is believed to have spent approximately \$3297.00 on 31 July 2012.
5. On Monday, 30 July 2012, \$1298.89 was deposited into Mr Kim's bank account.

Tuesday, 31 July 2012

6. At 1.12am on Tuesday, 31 July 2012, Mr Kim withdrew \$1950.00 from a Commonwealth Bank (CBA) ATM on La Trobe Street, Melbourne Central. Mr Kim withdrew a further \$50.00 at 2.09am, from a Westpac ATM in Crown Promenade, Southbank.
7. At approximately 7.00am, Jaein Kim had a phone conversation with Mr Kim, during which Mr Kim asked Jaein Kim to lend him money to send home to his family. Jaein Kim met with Mr Kim at the intersection of Flinders and Elizabeth Street shortly after the phone conversation. Jaein Kim lent Mr Kim \$1000.00.
8. At approximately 9.35am, Mr Kim withdrew \$297 over the counter at the CBA branch at the intersection of Flinders and Elizabeth Streets, Melbourne. The CBA's CCTV footage showed Mr Kim wearing a distinctive dark blue coat, light blue shirt, denim jeans and black sneakers with a white sole.
9. At approximately 2.41pm, Mr Kim sold his mobile phone to a woman for \$250.00.
10. At approximately 8.10pm, Jaein Kim received three phone calls from Mr Kim, from a private number. Just after 8.30pm, Jaein Kim met with Mr Kim at the Pie Face restaurant near the Southern Cross train station. Mr Kim asked Jaein Kim to lend him a further \$1000.00, in exchange for his passport. Jaein Kim refused and did not see or hear from Mr Kim again after that.

Wednesday, 1 August 2012

11. Mr Kim returned to the Hotel Discovery at approximately 1.00am. At 1.54am, Mr Kim left the hotel. The hotel's CCTV footage showed Mr Kim wearing a dark coloured jacket and walking toward Elizabeth Street, Melbourne.
12. According to the taxi's Mobile Data Terminal (MDT), at approximately 2.20am on 1 August 2012, taxi driver Mr Stephen Seymour collected a 'street hail' fare from the intersection of Elizabeth and Little La Trobe Street, Melbourne. The evidence indicates that the passenger was Mr Kim. Mr Kim's intended destination remains unknown. However, Mr Kim had a friend who lived in Glen Waverley and a Glen Waverley Korean Christian Church which had a 5.00am prayer service daily. Mr Kim's friend said that he did not know her address but knew she attended the church in Glen Waverley.
13. Mr Seymour then drove through East Melbourne, Richmond and South Yarra, where he entered the Monash Freeway. Mr Seymour exited the Monash Freeway at Blackburn Road, Mount Waverley.

14. At approximately 2.45am, Mr Seymour's taxi stopped for a three-minute period outside the Pinewood Shopping centre at 417-421 Blackburn Road, Mount Waverley. The taxi meter was kept running during this short stop. The purpose of this stop remains unknown.
15. At approximately 2.48am, Mr Seymour's taxi left the Pinewood Shopping Centre and travelled along Pinewood Drive until it collided with the rear fence of 480 Waverley Road, Mount Waverley.
16. A nearby resident heard the collision and looked outside her bedroom window. The resident observed a taxi with the front, driver's side door open, parked directly outside 1 Pinewood Drive, Mount Waverley. The resident heard a male screaming and observed shadow movement in the front compartment of the taxi. A short time later, the resident observed the taxi driving off toward Waverley Road, where it mounted a nature strip and continued until she could no longer see it. The resident then phoned '000' and reported that the taxi driver was screaming and she thought he had been robbed.
17. Another resident in Waverley Road heard the taxi collide with his fence, followed by a male crying out as if in pain. The resident went outside with his cousin to investigate, who was also at the residence, and observed the taxi parked in the wrong lane of Pinewood Road, facing Waverley Road. This resident observed Mr Kim, who appeared panicked, walking toward the boot of the taxi. The resident observed that the front left panel of the taxi was damaged and asked Mr Kim if he was okay. Mr Kim replied "yeah, I'm okay". The resident asked Mr Kim what had happened, but Mr Kim did not respond. The resident, believing Mr Kim to be the taxi driver and having been told by his cousin that there was damage to the brick fence and gate, asked Mr Kim for the car's number plate. Mr Kim closed the boot of the taxi and read out the number plate. He then got in the car and drove away, accelerating quickly.
18. At this time, the resident and his cousin noticed a person lying on the road between two cars, moaning. The resident phoned '000' and requested police and ambulance attendance. Police and ambulance arrived at 3.03am.
19. Mr Seymour was unresponsive by the time police and paramedics attended the scene and paramedics were unable to revive him. Mr Seymour had more than 20 stab wounds to his chest and back.
20. Mr Seymour's mobile phone and \$360.00 were still in his possession.

21. After driving off from the scene, Mr Kim travelled in an easterly direction along Waverley Road toward Glen Waverley. The taxi's MDT showed that the taxi reached speeds of up to 123 km/ph. At approximately 2.55am, the MDT recoded heavy braking before losing the vehicle's signal at 2.56am. At 2.56am, the taxi collided with a light pole on the north-eastern corner of the intersection situated at Waverley Road and Gallaghers Road, Glen Waverley.
22. At 2.59am, a witness to the taxi's collision with the light pole phoned '000'. The witness advised that the taxi was on fire and she could see a male inside the vehicle raise his arm. Another witness observed Mr Kim to be moving very slowly, as if he was rocking from side to side.
23. When police attended the collision, the taxi was fully alight and Mr Kim's torso and arms were observed to be moving. When the fire was extinguished, Mr Kim's body was found in the front driver's seat of the taxi. Paramedics were unable to revive Mr Kim.
24. On inspection, the taxi was found to contain Mr Kim's coat, a CBA MasterCard in Mr Kim's name, a wallet containing various international cards and licences in Mr Kim's name and a large carving knife with visible blood on the blade. Mr Kim's DNA was on the knife handle. The blood on the knife blade was identified as Mr Seymour's.

Finding

25. I find that:
 - a. the identity of the deceased was Jong Hyun Kim; and
 - b. Mr Kim died of the effects of fire, following a single car collision with a light pole at the intersection situated at Waverley Road and Gallaghers Road, Glen Waverley, in the circumstances described above.

COMMENTS

Pursuant to section 67(3) of the **Coroners Act 2008**, I make the following comments connected with the death:

CCTV system

26. When the Victorian Taxi Directorate inspectors examined the VerifEye Taxicam CCTV system in Mr Seymour's taxi, they identified that there was no CCTV footage. The CCTV

system was determined to have stopped working at approximately 4.00pm on 31 July 2012 due to a faulty inductor within the controller unit.

27. Following Mr Seymour's death, the Taxi Services Commission implemented an inspection operation on the VerifEye security cameras. In a two-week period following Mr Seymour's death, nearly 300 cameras were inspected and 62 rectification notices were issued regarding concerns with the cameras. None of the rectification notices identified 'false positive' displays (i.e. where the camera identified as working but was not).
28. Investigations into the failure of Mr Seymour's VerifEye security camera identified a single component failure caused the failure to obtain images that night. The cause of the failure was not identified. VerifEye Australia stated that they have used the component that failed for over eight years and it has historically proven very reliable.
29. In August 2012, the Victorian Taxi Directorate developed and implemented a communication plan covering education strategies for operators and drivers about the correct processes for checking that security cameras are working. Articles were sent out to all operators and drivers, detailing instructions on checking security camera systems and explaining the meanings of the different indicator lights.
30. Posters titled 'Is your taxi safety camera working?' were sent to all Network Service Providers for display at their business premises. The posters were also displayed at the customer service counter at the Victorian Taxi Directorate and the Taxi Services Commission inspection centre at Melbourne Airport. The posters contained the same information as the articles on checking security camera systems and indicator lights.
31. In April 2013, the Victorian Taxi Directorate surveyed 550 taxi drivers and found that nearly 53% wanted indicator lights for security cameras moved to a more easily visible place in the car. The specifications under the *Transport (Taxi-Cabs) Regulations 2005* have since been amended to specify placement of security camera visual indicators in taxis. The specification states '*the indicator light must clearly be visible to the driver when seated in the normal driving position*'.
32. An internal strategy team was established, comprising members from the Transport Safety and Compliance management, Transport Safety Officers and a Senior Policy Officer. Meetings are held fortnightly to discuss recent CCTV downloads and provide an information sharing forum to discuss current and emerging issues with taxi security cameras. Joint meetings have also been introduced between VerifEye Australia and the Taxi

Services Commission management team. These meetings have a similar information sharing function, with the addition of discussion of software and camera upgrades.

33. Since Mr Seymour's death, VerifEye Technologies have established a dedicated 24 hour, 7 day a week phone hotline to VerifEye Technologies. The hotline provides VerifEye technical experts to give technical support to the Taxi Services Commission staff.
34. The Taxi Services Commission has also developed and introduced new security camera labels informing passengers in large text that they are being filmed. These labels are easily visible and must be placed on the dashboard and inside of both rear passenger windows.
35. I am satisfied that the Taxi Services Commission and Victorian Taxi Directorate's actions in response to the circumstances of Mr Seymour's death:
 - a. have increased awareness of driver safety; and
 - b. assist to prevent future circumstances such as this, where vital CCTV footage was unavailable following a serious incident possibly occurring in a taxi.

Driver protection screens

36. In response to driver safety concerns, the Taxi Services commission amended the *Transport (Taxi-Cabs) Regulations 2005* to permit a taxi operator, owner or driver to fit an approved protection screen. Since 31 December 2008, it has been mandatory for all taxi operators to provide an approved driver protection screen to a driver intending to drive between the hours of 10.00pm and 5.00am.¹ This requirement is a condition of holding a taxi licence and applies to taxis operating in the metropolitan, outer-suburban or urban (Ballarat, Bendigo and Geelong) taxi zones. In the country, screens must be provided on the driver's request, on a shift that includes hours between 10.00pm and 5.00am.
37. The requirement to fit a screen does not apply where a driver protection screen has not been approved by the Taxi Services Commission for the particular make and model of the licensed vehicle being operated. However, when an approved screen becomes available for purchase, operators have 45 days from approval of the screen to comply.²
38. However, unless a driver's agreement requires it, the driver may elect to not use the approved screen or may remove the approved screen from the licensed vehicle if he or she

¹ *Transport (Taxi-Cabs) Regulations 2005*

² *Ibid.*

does not wish to drive the licensed vehicle with the screen installed.³ Mr Seymour was not using a driver protection screen on his shift commencing 31 July 2012.

39. In 2010, Monash University conducted a study on behalf of the Taxi Services Commission, to look into the use of driver protection screens post their 2008 introduction. The study considered over 3700 taxis and found that on average, 29-33% of vehicles had driver protection screens fitted.⁴
40. Drivers reported electing not to use the protective screens for reasons including:
- c. they effect vision to blind spots;
 - d. difficulty performing safe and proper head checks when merging into traffic;
 - e. concerns that the screens would not actually protect them;
 - f. the screens taking away too much room from the back passenger seat; and
 - g. passengers tending to kick and shake the screen, causing drivers discomfort.
41. However, some drivers requested an extension of protective screens to reach the dash board, for additional protection.
42. An approved taxi driver protection screen is designed to primarily restrict a seated driver being attacked from behind. Given that the precise details of the location of the attack on Mr Seymour remain unknown, it is possible that such a screen may not have protected Mr Seymour entirely from this attack unless extended to the dashboard. However, the protective screens can reduce the severity of assaults on drivers and it is possible that a protective screen could have had the potential to save Mr Seymour's life.
43. I consider that the introduction of driver protection screens was an important safety initiative and potentially protects drivers from many forms of attack within the taxi. I consider it important that the issues of blind spot vision and safe performance of head checks be resolved so that more drivers are encouraged to use the screens. Once these issues are resolved, I consider that driver protection screens should be mandatory for use in all taxis operating between the hours of 10.00pm and 5.00am. I made a recommendation to this effect in the related finding into the death of Stephen Seymour.⁵

³ Ibid.

⁴ Letter from Taxi Services Commission, dated 25 November 2013.

⁵ Case number COR 2012/3085.

I convey my sympathies to Mr Kim's family and friends at his tragic passing in 2012.

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

Mr Kim Hoon, Senior next of kin

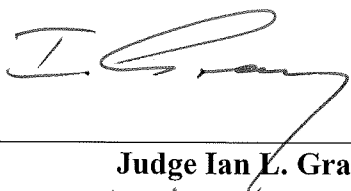
S/C Robert Catania, Investigating Member, Victoria Police

Victorian Taxi Directorate

Taxi Services Commission

Department of Transport

Signature:



Judge Ian L. Gray

Date:

2/4/14

