



FINDING OF INQUEST

An Inquest taken on behalf of our Sovereign Lady the Queen at Adelaide in the State of South Australia, on the 7th, 15th, 18th and 19th days of May 2009 and the 20th day of August 2009, by the Coroner's Court of the said State, constituted of Mark Frederick Johns, State Coroner, into the death of Kunmanara Lawrie-Turner.

The said Court finds that Kunmanara Lawrie-Turner aged 18 years, late of 3 Fisher Street, Blair Athol, South Australia died at the Royal Adelaide Hospital, North Terrace, Adelaide, South Australia on the 20th day of June 2007 as a result of multiple injuries. The said Court finds that the circumstances of her death were as follows:

1. Introduction

- 1.1. In traditional Aboriginal culture it is customary to avoid using the first name of the deceased during the period of mourning. Instead of the first name, the word 'Kunmanara' is used. I will therefore refer to the deceased as Kunmanara Lawrie-Turner.
- 1.2. Kunmanara Lawrie-Turner was 18 years of age when she died on 20 June 2007. Her death followed a high-speed pursuit in which police followed a vehicle in which she was a passenger. An autopsy was performed by Forensic Pathologist Alan Cala who gave the cause of death as 'multiple injuries' and I so find¹.
- 1.3. There is no question that the driver of the vehicle in which Kunmanara Lawrie-Turner was travelling was attempting to evade apprehension by police officers. Had the driver died, there is no doubt that this Court would have been required under section 21(1)(a) of the Coroners Act 2003 to hold an Inquest into his death because it would

¹ See Autopsy report, Exhibit C3a

have fallen within the definition of death in custody as set out in the Coroners Act 2003. The position of a passenger in a vehicle which is involved in a police pursuit is not so clear. For example, was the passenger 'evading apprehension' by a police officer? In the case of the driver of a vehicle, his or her actions will provide evidence of an intention to evade apprehension, or will provide the basis for inferences to draw conclusions as to that question. However, a passenger has no control over the vehicle and, unless there is evidence of the passenger willingly participating in the attempt to evade apprehension from some other source, such as another passenger in the vehicle, it will be difficult to draw any conclusions. In the present case there was some evidence that Kunmanara Lawrie-Turner was a willing participant, but it is drawn from the accounts of the driver of the vehicle during submissions before the Court in which he was sentenced for offences including cause death by dangerous driving. There is also evidence to a similar effect from the other passenger. The evidence is, however, to be regarded with some caution bearing in mind that the driver of the vehicle had an interest in apportioning some responsibility for the events of the night upon Kunmanara Lawrie-Turner. So too did the other passenger.

- 1.4. Despite the doubt as to whether Kunmanara Lawrie-Turner's death was a death in custody, an Inquest was held nonetheless. That was because I, in my capacity as State Coroner, considered it necessary and desirable that an Inquest be held into the circumstances of Kunmanara Lawrie-Turner's death².

2. Kunmanara Lawrie-Turner's background

- 2.1. Kunmanara Lawrie-Turner celebrated her 18th birthday on 18 June 2007. According to a statement of her mother³ she was a very good student and was popular with all her friends. She enjoyed dancing and her studies, particularly reading books. She was a young woman with a great deal of potential.
- 2.2. In the two months prior to the crash she had been involved with a boy who was not attending at school and who had been involved with the police. Her mother initially opposed this friendship but was unable to prevent Kunmanara Lawrie-Turner seeing the boy. Kunmanara Lawrie-Turner started to change her behaviour and mood and was missing some lessons at school. Her mother became worried about her and did all she could to influence Kunmanara Lawrie-Turner to focus on her schooling.

- 2.3. On the day of Kunmanara Lawrie-Turner's birthday⁴ there was a celebration at her aunt's house. Kunmanara Lawrie-Turner wanted to go to her cousin's house and her mother agreed to drive her there. Her mother was in touch with her by phone the following day. Kunmanara Lawrie-Turner was busy doing her birthday shopping with some money she had been given. She and her mother discussed plans for an overseas holiday that her mother was arranging as a reward for completing her schooling at the end of the year.
- 2.4. During the evening of 19 June 2007 Kunmanara Lawrie-Turner was at a unit in Rosewater watching television with her friend, Jahla, a girl 15 years of age. Jahla made a statement which was admitted as Exhibit C5a in these proceedings. She said that Kunmanara Lawrie-Turner was in a celebratory frame of mind and had used "ice" that night⁵. She wanted to obtain more drugs to continue her celebrations.
- 2.5. At approximately midnight a vehicle pulled up outside the unit. It was driven by Bevan Lawrie, a cousin of Kunmanara Lawrie-Turner. The car was described by Jahla as a black utility. Jahla said:
- 'I have known Bevan for a while now, for at least a couple of years, about 4 years. He was driving a black ute. I knew that he must have stolen it, I did not even have to ask, I just knew. He did not own a black ute.'
- Kunmanara Lawrie-Turner asked Bevan to take her to Cheltenham to 'score'. After some hesitation he agreed and Kunmanara Lawrie-Turner got in the car with him. Kunmanara Lawrie-Turner asked Jahla to join them and she did so. The car had two single seats, one for the driver and one for the passenger. Kunmanara Lawrie-Turner and Jahla shared the passenger seat. It is not clear whether they had the seat belt around themselves or not.
- 2.6. Jahla said that they drove around for a while and stopped at two addresses where Kunmanara Lawrie-Turner attended for the purposes of obtaining drugs. Jahla was not certain if Kunmanara Lawrie-Turner was successful or not. Jahla described how, after some time, they were about to return to Rosewater when they saw a police vehicle. She said that the police commenced to pursue them.

² Section 21(1)(b)(i) of the Coroners Act 2003

³ Exhibit C93

⁴ 18 June 2007

⁵ This is corroborated by a toxicology report of blood taken from Kunmanara Lawrie-Turner at autopsy (Exhibit C4a) which detected 0.25 mg methylamphetamine per L, a concentration consistent with illicit drug use. Cannabis was also detected.

3. **The stolen vehicle**

- 3.1. David Menner was the owner of a black SS Holden utility, registration number (SA)WPP-150. The rear of the utility had a black fibreglass canopy fitted. On the morning of 19 June 2007 Mr Menner parked the utility near a site on which he was working in Findon. He left the utility unlocked and hid the keys out of sight in the left side door trim area. At approximately 11:30am Mr Menner heard a squeal of tyres. He looked towards the road and saw his utility being driven away. He immediately telephoned the police and reported that his vehicle had been stolen⁶.
- 3.2. At 11:41am on the same day, the utility was photographed by a speed camera on Tapleys Hill Road at Seaton. The speed camera recorded a speed of 92 kilometres per hour in a 60 kilometres per hour zone⁷.
- 3.3. Sometime shortly before 12:10pm that day the Holden utility was driven into the drive through bottle shop of the Empire Hotel on Prospect Road. Terry Warner was the Bottle Shop Manager. Mr Warner noted the registration number of the utility as being (SA)WPP-150. It was the stolen utility. He went to the passenger side window and spoke to the occupants of the car. He said the utility was driven by a young male aged about 15 to 16 years who looked to be Aboriginal. The other two occupants of the utility were of a similar age. One was of Aboriginal appearance and the other appeared to be Caucasian. One of the occupants asked to purchase some premixed bourbon and cola. Mr Warner asked for proof of age and the vehicle drove off with the wheels spinning in what Mr Warner described as a burnout. Mr Warner suspected that the vehicle may have been stolen and, accordingly, he wrote down the registration number and telephoned the police. Police records show that Mr Warner made the report at 12:10pm.
- 3.4. At 3:08pm the black Holden utility (SA)WPP-150 was detected by a speed camera driving at 67 kilometres per hour in a 50 kilometres per hour zone⁸.
- 3.5. At 6:55pm on the same day, the utility was detected by another speed camera. This time it was on Montague Road at Pooraka and the speed of the vehicle was recorded as 139 kilometres per hour in a 70 kilometres per hour zone⁹.

⁶ See Exhibit C22a

⁷ See Exhibit C87b

⁸ Exhibit C87b

4. Stolen vehicle involved in offence of aggravated theft using force

4.1. Shortly before 8pm that day the stolen black utility (SA)WPP-150 was involved in another incident. Sarah-Jane Lelliott was in a phone box on Chief Street, Brompton shortly before 8:05pm that day. While she was in the phone box she heard the sound of an engine and saw a dark coloured utility with a canopy on the back. The vehicle went past, returned, went past again and then returned for a third time. It then parked near the phone box and a male of Aboriginal appearance got out of the car and demanded her handbag. At first she thought it was a joke but then the male came right into the phone box, pushed her back against the phone and took hold of her handbag and tried to pull it away. She shouted “no” and the male said words to the effect ‘you slut, I’ll kill you’. Eventually the strap of the handbag broke and the male ran back to the car. The utility then sped off towards Port Road. Ms Lelliott memorised the registration number and repeated it to the person at the other end of the phone. At 8:05pm Ms Lelliott used her mobile phone to make an emergency call to the police to report the theft. She attended at the Parks Police Station at 9pm to make a statement¹⁰.

4.2. At 8:08pm, that is within minutes of the theft of Ms Lelliott’s handbag, the black utility was at St Marys at a BP Service Station on South Road with is a self-service station. The occupants of the vehicle filled the utility with petrol and drove off without paying. The closed circuit television recorded the incident and the registration number¹¹. According to Exhibit C86c, which is a Communications Centre incident history report, Ms Lelliott’s call to report the theft of her handbag occurred at 8:01pm. The theft of petrol at St Marys occurred at 8:08pm. Given the distance between Chief Street, Brompton and the BP Service Station on South Road at St Marys, it is reasonable to assume that the vehicle was being driven above the speed limit for some or all of that period.

5. Operation Mandrake persons of interest - Bevan Lawrie

5.1. In 2007 South Australia Police were conducting investigations into a number of offences committed by a group of young males who were repeat offenders involved in stealing cars, often for use in ‘ram raids’ and other criminal activity. The police

⁹ Exhibit C87b

¹⁰ See Exhibit 86d

¹¹ See Exhibit C17a

established 'Operation Mandrake' in an effort to identify the relevant offenders and prevent their illegal activity¹². Bevan Lawrie was a person of interest to the Port Adelaide LSA Intelligence Section. It was believed that he was criminally active in the local area¹³. Furthermore, Bevan Lawrie resided at 4 Byron Street, Mansfield Park which was listed as a 'trigger address' by Field Intelligence Officer, Senior Constable Noel Griffin, for Operation Mandrake¹⁴.

6. Constables Tiss and Bashford are briefed

- 6.1. Constable Tiss was seconded to Operation Mandrake on 19 June 2007 and was based at the Holden Hill Police Complex. Constable Bashford was also seconded to Operation Mandrake and was partnered with Constable Tiss that evening. They were working a night shift that night. At about 8:15pm Field Intelligence Officer, Senior Constable Griffin, briefed Constables Tiss and Bashford about the aggravated theft against Ms Lelliott and the involvement of the utility (SA)WPP-150. During the briefing Senior Constable Griffin supplied a piece of paper containing 'Mandrake trigger addresses'¹⁵ upon which he added the details of the Holden utility. The document contained the names of approximately 10 people and a number of addresses at which those people might be found. Included amongst those addresses was 4 Byron Street, Mansfield Park with a corresponding person of interest, namely Bevan Lawrie.

7. Constables Tiss and Bashford interview Ms Lelliott

- 7.1. At about 9pm on 19 June 2007 Constables Tiss and Bashford attended the Parks Police Station and spoke with Ms Lelliott. They asked her to look at a photographic identification pack to see if she could identify any person on that pack. The pack contained photographs of Operation Mandrake persons of interest and Bevan Lawrie was the first person pictured on the pack of 42 males and 8 female persons of interest. Ms Lelliott did not identify any person during the process.

¹² See Exhibit C99, Annexure IDH5

¹³ Exhibit C66a

¹⁴ Exhibit C67b, Mandrake Trigger Addresses

¹⁵ Exhibit C67b

8. Constables Tiss and Bashford pursue the utility

- 8.1. After leaving the Parks Police Station Constables Tiss and Bashford drove past the various addresses set out in the document provided to them by Senior Constable Griffin. At about 12:30am on Wednesday 20 June 2007 they were performing a traffic stop for a routine traffic offence. They were issuing an expiation notice. As they were completing this process they heard, and then saw, a dark coloured vehicle travel at high-speed east along Ridley Grove, Mansfield Park. The occupants of the car that had been stopped by Constables Tiss and Bashford made the same observation. Constables Tiss and Bashford returned to their vehicle with Constable Tiss driving to conduct a search of the area to see if they could locate the vehicle which had just driven past. They saw the vehicle enter Ridley Grove from a side street before turning right to travel north on Murchison Street where it accelerated to between 80 and 90 kilometres per hour. Constable Bashford activated the police vehicle lights and siren on Murchison Street when the vehicle was about 50 metres in front of the police vehicle. Constable Tiss was of the view that a 'pursuit' commenced when the vehicle took deliberate action to avoid the police by turning into Fleming Street. He said that he engaged the vehicle in the pursuit because he believed that the vehicle had been involved with the robbery the previous evening and he also believed the vehicle was stolen. At that point Constable Tiss had not obtained the vehicle's registration number. However, he believed it to be the stolen vehicle involved in the robbery of Ms Lelliott:

'It was a black ute SS model which means its got like a body kit on it. It's a little bit more than just a standard ute and also the black canopy on the back which matched the description we'd been given and the fact that those canopies aren't all that common as far as black SS utes go ... I was fairly confident that that was the black ute that we'd been looking for because of the area that we were in and intelligence that I'd been given earlier.'¹⁶

- 8.2. A transcription of Communications Centre recordings of the pursuit was prepared for the purposes of the Commissioner's Inquiry into this matter. It is a significant document in this Inquest and was admitted as Exhibit C91b. It shows that shortly after 12:35am Constables Tiss and Bashford reported that they had a 'fail to stop'¹⁷.

¹⁶ Exhibit C94b, page 16

¹⁷ See Exhibit C91b

Seven seconds later they provided the detail that they were proceeding west on Fleming Street and Constable Bashford added:

'... it's that black ute, currently 604, speed 80 in a 50, still west bound Fleming Lane.'¹⁸

Constable Tiss' intention was to 'stop the vehicle and speak with or deal with the offenders in relation to the investigation of the robbery and the illegal use of that vehicle'¹⁹.

- 8.3. Constable Bashford also understood the reason for commencing pursuit was a belief that the vehicle was stolen and that it was connected with the Lelliott robbery. He activated the police vehicle's warning equipment and it was his intention to stop the vehicle. When it did not stop he advised Communications of the fail to stop²⁰.

9. Incident controller

- 9.1. Thirty-six seconds after the fail to stop was first called by Constable Bashford, the Port Adelaide Shift Manager, Sergeant Oleksyn, nominated himself as incident controller. This was acknowledged by the Communications Centre operator 2 seconds later. Sergeant Oleksyn nominated himself as incident controller because he was aware that there was no shift manager for Operation Mandrake staff that night. He was in a police vehicle on Grand Junction Road at Ottoway when he heard the fail to stop being called. He described his role as incident controller to assess the risk and, if the pursuit went beyond the bounds of safety, to call it off²¹. Sergeant Oleksyn was aware of the area and familiar with it. He knew that the weather conditions were good and he noted that the radio manner of Constable Bashford was calm. He considered that the pursuit was safe at that stage.

10. The pursuit continues

- 10.1. Constables Tiss and Bashford continued the pursuit west along Fleming Street, Mansfield Park. At the junction of Hanson Road the pursuit turned left to run briefly south on that road and, almost immediately, turned right into Hamilton Road continuing in a westerly direction. After some 300 metres, Hamilton Road makes a right angle turn to the left for vehicles travelling west. Hamilton Road then continues

¹⁸ The code 604 is code for stolen vehicle

¹⁹ Exhibit C94b, page 21

²⁰ See Exhibit C25a

²¹ Transcript, page 181

in a southerly direction to the intersection with Ninth Avenue. At that intersection the pursuit turned right along Ninth Avenue and continued in a westerly direction until the intersection of Ninth Avenue and Audley Street in the suburb of Woodville North. At the intersection the black utility turned into Audley Street and the pursuit continued in a southerly direction²².

- 10.2. On Murchison Street the utility was travelling at about 70 kilometres per hour and the police vehicle at approximately 80 kilometres per hour²³. The flashing lights of the police vehicle were activated on Murchison Street approaching the intersection with Fleming Street²⁴. As Constables Tiss and Bashford turned into Hamilton Street, the utility was approximately 100 metres in front of them²⁵. Constable Tiss estimated the utility to be travelling at 100 kilometres per hour and his police vehicle at approximately the same speed²⁶. The radio transmissions of Constable Bashford also reported a speed of 100 kilometres per hour in Hamilton Street. Constable Tiss said that on Audley Street the utility was travelling at between 90 and 100 kilometres per hour²⁷. The radio transmission²⁸ records that Constable Bashford called a speed on Audley Street of 90 kilometres per hour for the utility. However, he did not nominate Audley Street in that transmission. At the intersection of Audley Street and Torrens Road the utility turned to the left to proceed east along Torrens Road. At that point, Constable Bashford called via police radio that another police vehicle had pulled in behind the utility and that he and Constable Tiss would 'let them take over'²⁹.

11. **Polair becomes involved**

- 11.1. Polair is the police helicopter service. According to Exhibit C91b, the transcription of radio communications, 1 minute and 5 seconds after the fail to stop had been called by Constables Tiss and Bashford, the Polair unit advised that they were 'mobile to the airport'. Just under a minute later, Polair advised that they were mobile to the airport and would be airborne in 4 to 5 minutes. By that stage the utility had travelled some distance down Torrens Road and was in the vicinity of the intersection of Torrens and Regency Roads³⁰.

²² See generally Exhibit C95 which is a map of the pursuit

²³ Evidence of Constable Tiss, Transcript, page 67

²⁴ Transcript, page 68

²⁵ Transcript, page 71

²⁶ Transcript, page 71

²⁷ Transcript, page 73

²⁸ Exhibit C91b

²⁹ Exhibit C91b

³⁰ See Exhibit C91b

12. Pursuit taken over by Constable Hill

- 12.1. Constable Hill was stationed at Parks Police Station patrols in June 2007. He started his shift at 10pm on 19 June 2007 and was to work into the early morning of the following day. He was aware through intelligence briefings that there were two black Holden utilities listed as 'active' stolen vehicles that night³¹. At approximately 12:30pm to 12:35pm on 20 June 2007 he was alone in his marked patrol vehicle when he heard the pursuit of the Holden utility being called by Constable Bashford. At that time he was on Torrens Road. He listened to the call of the pursuit and, on hearing that the black utility was driving south on Audley Street he positioned his vehicle slightly southeast of the intersection of Torrens Road and Audley Street on the southern side of Torrens Road³². Very shortly he saw the black Holden utility turn left out of Audley Street and commence travelling southeast towards the city on Torrens Road. He performed a U-turn and turned on his lights and sirens. He reported on the radio that the utility was travelling east on Torrens Road and approaching the Hanson Road intersection³³. Shortly before this, Constables Tiss and Bashford had seen that Constable Hill's marked police vehicle was between their vehicle and the Holden utility. They had indicated on police radio that they would let Constable Hill's vehicle take over the pursuit³⁴.
- 12.2. Constable Hill accelerated in pursuit of the black utility along Torrens Road. He said that there was light traffic in the vicinity³⁵. He said he gave consideration to the risk factors in pursuing the utility including weather, lighting, other traffic, speeds driven by himself and the utility and whether or not other resources were available to assist³⁶. He noted that another patrol vehicle was positioned at the intersection of Hanson and Torrens Roads³⁷. As he saw the utility enter the intersection of Hanson and Torrens Roads, he saw the other police vehicle activate its lights and conduct a U-turn from the west bound lanes of Torrens Road into the east bound lanes of Torrens Road and pursue the utility. At that point that other police vehicle took control of the pursuit and Constable Hill regarded himself as being the secondary police vehicle³⁸.

³¹ Transcript, pages 138-139

³² Transcript, page 142

³³ Exhibit C91b

³⁴ Exhibit C91b

³⁵ Transcript, page 146

³⁶ Transcript, page 147

³⁷ Transcript, page 147

³⁸ Transcript, page 149

12.3. In the meantime, Constables Tiss and Bashford had turned onto Torrens Road from Audley Street and were following from some distance behind. Constable Tiss considered himself to be out of the pursuit and fulfilling a support role at a reduced speed³⁹.

13. Constables Rodrigues and Bartley assume control of the pursuit

13.1. Constables Rodrigues and Bartley were the occupants of the police vehicle which Constable Hill observed to assume control of the pursuit. They had also heard the call of the pursuit by Constables Tiss and Bashford. They listened to the call of the pursuit and then positioned their vehicle on Torrens Road in the west bound lane at the intersection of Torrens Road and Hanson Road. They did not activate their warning equipment at that stage. They heard Constable Hill announce that the black utility was east bound on Torrens Road approaching the Hanson Road intersection⁴⁰ and then almost immediately noticed the warning lights on Constable Hill's police vehicle. They saw the black utility go past their vehicle in the opposite direction. Constable Rodrigues performed a U-turn and then activated the emergency lights. Constable Bartley, with whom he was partnered, announced on police radio that they were commencing to pursue the vehicle⁴¹. Constable Rodrigues said that by the time his vehicle had performed a U-turn and commenced to follow the utility, it had already entered the intersection of Torrens Road and Regency Road. Constable Bartley reported via police radio as follows:

'We're now right behind it, approximate speed 110 K's per hour, just crashed the lights on Torrens and Grange.'⁴²

Constable Rodrigues said that at that point he was 100 to 200 metres behind the black utility. Constable Rodrigues clarified that Constable Bartley's reference to the black utility having 'crashed the lights on Torrens and Grange' was meant to be a reference to the lights at the intersection of Torrens and Regency Roads⁴³. Constable Rodrigues followed the black utility and drove through the red lights at the intersection of Torrens and Regency Roads himself at approximately 80 kilometres per hour⁴⁴.

³⁹ See Exhibit C94b, page 40

⁴⁰ Exhibit C91b

⁴¹ Transcript, page 231

⁴² Exhibit C91b; Transcript, page 231

⁴³ Transcript, page 232

⁴⁴ Transcript, page 233

- 13.2. Ten seconds after his first transmission, Constable Bartley announced over police radio that the utility was proceeding west on Torrens Road at an approximate speed of 140 kilometres per hour⁴⁵. Eleven seconds later, Constable Bartley announced via police radio that he and Constable Rodrigues were:

'Still on the right side of the road, lights on, we're now 140 K's per hour.'⁴⁶

Constable Rodrigues acknowledged that this was a reference to the speed of his own police vehicle⁴⁷.

14. The pursuit is terminated

- 14.1. Seven seconds after the second announcement by Constable Bartley in which he reported that the utility was still west bound on Torrens Road at an approximate speed of 140 kilometres per hour, Sergeant Oleksyn is recorded as having announced via police radio as follows:

'Shift, cancel it.'⁴⁸

- 14.2. Four seconds after the transmission by Sergeant Oleksyn to 'cancel it', a further announcement was made by Constable Bartley as follows:

'Still on the right side of the road, lights on, we're now 140 K's per hour.'⁴⁹

Six seconds after that transmission, the Communications Centre operator repeated the message to terminate as follows:

'Thank you, all patrols from Shift Manager terminate thanks.'⁵⁰

One second later, Sergeant Oleksyn announced as follows:

'Port Shift Manager, terminate the chase.'⁵¹

- 14.3. Constable Rodrigues said that he only heard one call by Sergeant Oleksyn to terminate the pursuit⁵². Constable Bartley said that he only heard one direction to terminate⁵³. Constable Hill also said that he did not hear the initial call to terminate

⁴⁵ Exhibit C91b; Transcript page 233

⁴⁶ Exhibit C91b, page 2

⁴⁷ Transcript, page 233

⁴⁸ Exhibit C91b, page 2

⁴⁹ Exhibit C91b, page 2

⁵⁰ Exhibit C91b, page 2

⁵¹ Exhibit C91b, page 2

⁵² Exhibit C101b, page 22

⁵³ Exhibit C102a, page 32

by Sergeant Oleksyn⁵⁴. Constable Tiss said that he did not 'register' the first termination call and he asked Constable Bashford what had been said in that transmission. Constable Bashford confirmed that it was a direction to terminate⁵⁵.

- 14.4. It seems that Constable Bashford may have been the only police officer to hear the first call to terminate by Sergeant Oleksyn.
- 14.5. The time between Sergeant Oleksyn's first call and his second was 11 seconds. Inspector Newitt of the Security Intelligence Section conducted a Commissioner's Inquiry in this matter. His report was admitted as Exhibit C91a. It is a very thorough consideration of all relevant issues. Inspector Newitt considers that the reasons given by the officers for not hearing the first call to terminate are feasible. They include the difficulties involved in radio traffic where a participant in the traffic may be attempting to transmit at the time the message is coming through. Another factor is the noise of the police vehicle and their sirens. I agree with Inspector Newitt that it is entirely believable and understandable that some of the police officers involved may not have heard the first call to terminate. I have listened carefully to the recording of the radio communications. In my opinion, it is feasible that, in the heat of a pursuit, a participant or one or more participants may not have heard the initial termination call by Sergeant Oleksyn. Indeed, Sergeant Oleksyn did not use the word 'terminate' initially - he said 'shift - cancel it'. This may have been a further reason why some police officers did not recognise the transmission as a direction to terminate.

15. The collision

- 15.1. Six seconds after the second transmission by Sergeant Oleksyn to terminate the pursuit and 17 seconds after the first transmission to that effect, Constable Bartley announced via police radio that the black utility had collided with a pole⁵⁶. The first transmission to terminate by Sergeant Oleksyn occurred 17 seconds before Constable Bartley announced that the black utility had hit a pole. The termination was so close to the collision that I do not believe that the termination would have had any effect on Bevan Lawrie's driving behaviour. In fact it is doubtful that he had realised that the pursuit had been terminated prior to the collision. There was some consideration in the course of the investigation in this matter as to how promptly the police vehicles

⁵⁴ Exhibit C96b, page 17

⁵⁵ Exhibit C94b, page 39

⁵⁶ Exhibit C91b

responded to the direction to terminate. Given the very short timeframe between that direction and the collision, it is my view that not much is to be served by an extensive consideration of that issue. It is sufficient to say that the relevant police officers did, in my opinion, take action to comply with the direction to terminate. In my opinion, the police vehicles were maintaining a reasonable gap between themselves and the pursued vehicle. This is supported by CCTV camera footage taken by equipment fitted to a United Service Station on Torrens Road which depicts the utility followed by police vehicles. This footage shows that the gap between the lead police vehicle of Constables Rodrigues and Bartley and the utility is approximately 11 seconds⁵⁷. According to Inspector Newitt, this 11-second gap equates to approximately 300 metres if both vehicles maintained a constant speed of 100 kilometres per hour⁵⁸. However, Jahla, who was a passenger in the utility, stated that it was travelling at 140 kilometres per hour just before the collision. This means that the gap was probably in excess of 300 metres. In any event, 300 metres would seem to be a reasonable gap.

- 15.2. According to calculations referred to by Inspector Newitt, the utility covered a distance of approximately 1.48 kilometres on Torrens Road in about 36 seconds. If it maintained a constant speed over that distance the speed would be approximately 148 kilometres per hour. The gap between the police vehicles and the utility suggests, according to Inspector Newitt, that the police vehicles not only attained speeds of 135 to 140 kilometres per hour, but maintained those speeds for a period longer than 1 to 2 seconds over the distance of approximately 1 kilometre between the Regency Road/Torrens Road intersection to the eastern driveway of the United Service Station⁵⁹.

16. The dynamics of the collision

- 16.1. At the intersection of Torrens Road and Rosetta Street, Anthony Falanga had stopped his white Hyundai sedan at a traffic light showing red for vehicles on Rosetta Street. According to a statement made by Mr Falanga, he remembered stopping at the intersection of Torrens Road and Rosetta Street but had no further memory of the events of the night until he woke up in hospital⁶⁰.

⁵⁷ Exhibit C91c- Security Video from United Service Station

⁵⁸ Exhibit C91a, page 87

⁵⁹ Exhibit C91a, page 82

⁶⁰ See Exhibit C6a

- 16.2. Bevan Lawrie had been driving the stolen black utility at speeds of more than 140 kilometres per hour down Torrens Road. He had disobeyed at least one set of red traffic lights in the course of that driving. In my opinion, it is highly unlikely that Mr Falanga would have entered the intersection of Rosetta Street and Torrens Road against a red light. It is my opinion that the lights changed from red to green before Mr Falanga entered the intersection. The stolen black utility driven by Bevan Lawrie entered the same intersection and collided with Mr Falanga's white Hyundai. This is corroborated by the statement of Jahla Harradine-Stewart who said that she remembered seeing the red light of the traffic light at the intersection of Torrens Road and Rosetta Street⁶¹.
- 16.3. After colliding with the Hyundai sedan, the black utility then collided with the traffic lights and stobie poles on the north-eastern side of the corner of the intersection of Torrens Road and Rosetta Street, coming to rest near the wall of a building near the corner of those streets on the northern side of Torrens Road. For the sake of completeness, I should mention that Rosetta Street changes to Liberton Avenue on the northern side of that intersection.
- 16.4. After the collision Bevan Lawrie attempted to escape from police. However he was quickly detained at the scene.
- 16.5. Jahla Harradine-Stewart was injured in the collision. She sustained serious injuries including multiple lacerations to the right kidney, bruised lungs, cracks to her right rib cage and scalp lacerations requiring 9 staples⁶².
- 16.6. Mr Falanga sustained a broken tibia in his left leg, the skin at the rear of his left ankle was torn away and required a skin graft which was taken from his left thigh. A metal rod was inserted into his left leg to assist in the repair of his fracture. Both bones of his right forearm were broken and he required a plate to be inserted into his arm to assist in the repair of those fractures⁶³.

⁶¹ Exhibit C5a

⁶² See Exhibit C90j

⁶³ Exhibit C6a

17. **Police high risk driving**

17.1. On 20 June 2007 there was, in SAPOL, a General Order entitled ‘Operational Safety - High Risk Driving’. A copy of the General Order was annexed to Inspector Newitt’s report⁶⁴. The General Order contains a section dealing with pursuit driving. The section commences with a statement that a pursuit is not to take place when the risks outweigh the results to be achieved by such driving and that in such a situation, if a pursuit is occurring it must be terminated immediately. The General Order requires that the Communications Centre must be advised of the pursuit and the reason for it. Constant communications are to be maintained with the Communications Centre in which information relevant to the assessment of risk is relayed. Risk assessments are to be continuously conducted and any decision to terminate the pursuit must be complied with immediately.

17.2. The General Order provides that in making a risk assessment, the following issues are to be considered:

- the seriousness of the emergency or offence;
- the degree of risk to the lives or property of police, public and suspect/s;
- effectiveness of communications;
- police driver competence;
- the permit level held by the police driver;
- the capacity and type of police vehicle;
- whether the police vehicle is fitted with ‘police pack’ equipment;
- warning equipment fitted to the police vehicle;
- the outcome to be achieved;
- the effect on the outcome if the arrival of the police vehicle is delayed⁶⁵;
- the availability of other police assistance;
- local knowledge of road features and surrounding location;
- weather and traffic conditions;
- speed of vehicles;
- in a pursuit, whether immediate apprehension is necessary;
- if the identity of the driver is known;
- time and day of the week.

⁶⁴ See Exhibit C91j

⁶⁵ this element of the risk assessment is not relevant in the present case.

17.3. The General Order also provides that the passenger in the primary vehicle is responsible for maintaining communication with the Communications Centre and must continuously relay:

- reasons for the pursuit;
- speed travelled;
- direction of travel;
- environmental conditions;
- vehicle description;
- whether warning equipment has been activated;
- manner of driving;
- other relevant information.

17.4. The General Order sets out the role of the incident controller and requires the incident controller to observe the following:

- reasons for the pursuit must be obtained;
- risk assessments must be conducted;
- the pursuit must be terminated if not justified;
- a resolution strategy must be developed;
- support from the police helicopter is to be requested if appropriate;
- when the pursuit is resolved, ensure debrief and reporting requirements are complied with.

17.5. The General Order sets out resolution strategies which include:

- terminating the pursuit;
- police helicopter monitoring pursued vehicle;
- using police fixed wing aircraft;
- deploying road spikes;
- establishing a roadblock.

18. **SAPOL continuously reviews pursuit General Orders**

18.1. A comprehensive review of the changes to the General Orders concerning pursuits was introduced into evidence through an affidavit of Inspector Humby which was admitted as Exhibit C99. It is fair to say that Inspector Humby has made it his task to study all aspects of pursuit driving and urgent response driving. At paragraph 24 of

Exhibit C99 Inspector Humby sets out a number of characteristics of high risk pursuits which he has identified from his research. They are as follows:

- 1) the majority of pursuits occur outside normal working hours and usually at night;
- 2) a total of 728 high risk pursuits are recorded at Communications Branch as having occurred during 2006/2007;
- 3) this is significantly higher than the number of PD110s: 'Report of High Risk Pursuits' submitted for the same period;
- 4) the role of the incident controller and person calling the pursuit is crucial to the successful resolution of a pursuit;
- 5) of the 240 pursuits recorded between May and August 2007, 37 were terminated by a supervisor and 34 were terminated by the police driver or their passenger;
- 6) the Police driver and the driver being chased are often young males;
- 7) most pursuits are commenced for minor offences or on suspicion of something more serious;
- 8) the majority of high risk pursuits involve vehicles travelling above the designated speed limit, however a significant number involve vehicles travelling at low speed, this sometimes occurs after the offender's tyres have been punctured, after deployment of road spikes in accordance with Section 74 of the Summary Offences Act, and the driver refuses to stop, and
- 9) most end without incident.'

18.2. Annexure IDH-2 to Exhibit C99 is an example of a PD110 form. This is the form required pursuant to General Orders to be completed by the senior crew member of the primary vehicle involved in a police pursuit. It sets out details of the officers involved in the primary vehicle, the incident controller, details of the pursuit, the environment, the pursued driver and vehicle and the termination of the pursuit. This data is important in assessing the efficacy of General Orders and police training in relation to pursuits. It is concerning that, according to Inspector Humby, a significant number of high-risk pursuits recorded by Communications Centre as having occurred during 2006/2007 were not followed by the completion and lodgement of PD110 forms. There was no evidence about the current level of compliance by officers with the requirement to submit PD110s.

18.3. Inspector Humby stated that it is necessary for SAPOL to strike an appropriate balance between the community's interests in apprehending offenders and the danger to road users when pursuits are engaged in. He said in paragraph 26 of Exhibit C99 that 'to impose a "no pursuit policy" would send a message that one could offend and

flee with impunity'. An internal police brochure in relation to urgent response driving and pursuits was approved by the Police Commissioner and distributed to all police officers on 28 November 2008. It appears as Annexure IDH-11 to Exhibit C99. In it there is an introduction signed by the Commissioner which contains the following statement:

'There are occasions where the most responsible action for police to take is to discontinue pursuits. In many cases however, offenders will continue their high risk behaviour regardless of whether or not they are being pursued by police. Police can not adopt a 'no pursuit' policy as this approach simply encourages some offenders, and there are instances where offenders actually bait police into pursuing them.'

18.4. The General Order, both in June 2007 and as in force today, contain the following:

'The decision to terminate may be made by the driver or senior member in the police vehicle or the incident controller. Any decision to terminate on the grounds that the risks are unacceptable will be supported and viewed as a decision that displays sound professional judgement.'

18.5. In my opinion, that is a very sensible message to send to operational police officers. That is particularly so having regard to data collected between January 2003 and September 2005 that indicates that approximately 1 in 10 pursuits end in a crash⁶⁶.

19. The effectiveness of General Orders in the context of short pursuits

19.1. The evidence in the present case has shown that, despite good intentions on the part of all police officers concerned, the expectations of the General Orders in relation to the level of information being provided by the primary pursuit vehicles to the incident controller was not all that the General Orders expected it would be. The reason for that is that the entire pursuit from the beginning to the point at which Sergeant Oleksyn terminated it, occupied only 2 minutes and 24 seconds. In that amount of time it is simply not realistic to convey the level of information contemplated by the General Orders as needing to be conveyed from the passenger of the primary pursuit vehicle to the incident controller.

19.2. For example, Constable Bashford, who called the pursuit initially, did not mention environmental conditions, vehicle registration number and whether the warning equipment on the police vehicle had been activated, all of which are factors expected

⁶⁶ Annexure IDH-9 to Exhibit C99 (FAQ, Question 4)

by the authors of the General Order to be conveyed by the passenger in the pursuit vehicle to the Communications Centre.

- 19.3. I noted in paragraph 8.2 that Constable Bashford reported, after the transmission that there was a fail to stop, that '... it's that black ute, currently 604, speed 80 in a 50, still west bound Fleming Lane'. That transmission contained two indicators that Constable Bashford knew, rather than suspected, that the vehicle was the stolen utility. The first was the use of the word *that* in relation to the utility. The second was that it was *currently 604*, or stolen. At that point, neither Constable Bashford nor Constable Tiss actually knew that the vehicle was the stolen utility. They certainly had cause to form a reasonable suspicion, particularly by the time they had noted the characteristic fibreglass canopy on the back. But none of that was conveyed to those listening, including the officers Hill, Rodriguez and Bartley all of whom had a part to play later in the pursuit. The same applies to the incident controller, Sergeant Oleksyn, and the Communications Centre operator. All of those people, and particularly those in the police vehicles who subsequently became involved, might have assumed that it was established that the vehicle had been definitively identified. All of their actions were based upon that level of information. By contrast, the General Order expects that these things will have been accurately reported.
- 19.4. The situation becomes even more difficult when, as in this case, there are multiple primary vehicles, each one taking over from the last. A number of assumptions need to be made in such a case; is the incident controller able to satisfy himself that the new primary driver has the necessary experience and is sufficiently apprised of the driving behaviour of the pursued vehicle to safely assume control of the case? Is the new environment in which the chase is occurring sufficiently safe to permit it to continue? All of this is made more complicated by a reluctance on the part of an incident controller to interrogate the radio operator within the primary pursuit vehicle about matters pertaining to a risk assessment. In this connection I note that Sergeant Oleksyn, when asked whether he was aware whether Constable Tiss held a pursuit licence, said that he did not make an enquiry as to that. In acknowledging that it would assist his risk assessment he stated:

'It would but I would not, I would, it's not for me common for me to break into a chase call to ask a person if they've got a 1B.'⁶⁷

⁶⁷ Exhibit C100b, page 12; the reference to a 1B is a reference to a SAPOL 1B licence which entitles a police driver to engage in a pursuit

19.5. In the Inquest into the death of Steven Bradford⁶⁸, another death in custody involving a police pursuit, the incident controller told the Deputy State Coroner that he was waiting for the police driver to tell him what was going on and that he was reluctant to prompt the driver because he did not want to distract him in a potentially dangerous situation⁶⁹.

19.6. The Deputy State Coroner said in the finding:

'When the above is examined closely it is obvious that the whole incident was over in less than 3 minutes. It is to be acknowledged that in that time it would have been difficult for Mr Errington⁷⁰ to have assumed complete control of the incident and to have formed a view about whether or not the pursuit was being appropriately conducted.'⁷¹

I can only adopt those remarks and say that they apply with even more force in the present case where the pursuit lasted even less than the 3 minutes in the case before the learned Deputy State Coroner.

19.7. In my view, it is particularly significant that in two Inquests involving police pursuits, each of them lasting for a period of less than 3 minutes, the incident controllers have each explained that they were reluctant to 'break into a chase call'⁷² or 'distract'⁷³ the driver in a potentially dangerous situation.

19.8. It seems that the expectations of the General Orders are better suited to circumstances in which a chase is continuing for some lengthier period than 2 or 3 minutes. The irony of this of course is that, the longer a chase continues, the greater the likelihood that there will be a risk of serious harm or death resulting to participants or innocent bystanders.

20. Consideration by Ethical and Professional Standards Branch and DPP

20.1. The Ethical and Professional Standards Branch of SAPOL investigated the circumstances of this matter. As a result, a number of the officers were given managerial guidance in relation to aspects of their involvement in the pursuit. I do not intend to set out the details here, they can be found in the evidence that was tendered

⁶⁸ Inquest 1/2009

⁶⁹ Finding in the matter of Steven Bradford, paragraph 10.4

⁷⁰ The incident controller in that case

⁷¹ Finding in the matter of Steven Bradford, paragraph 10.3

⁷² Sergeant Oleksyn

⁷³ Senior Constable Errington in Bradford

in this matter⁷⁴. The Ethical and Professional Standards Branch also submitted the matter to the Director of Public Prosecutions for assessment. The outcome of that was that no charges were laid against any police officer for breach of the Australian Road Rules⁷⁵ or other laws.

21. Conclusions and recommendations

- 21.1. In my opinion, a decision to terminate the chase should have been made by the driver of the primary police vehicle once the stolen utility went through the intersection of Torrens and Regency Roads against the red light at high speed. That would have complied with the spirit of the General Order. The driver received managerial guidance about the risk assessment process.
- 21.2. I do not believe that it is possible to conclude that the fatal collision would not have occurred had the pursuit been terminated at that point. According to Exhibit C91b, that event was reported as having occurred some 34 seconds prior to the report of the collision. I believe that it is unlikely that Bevan Lawrie would have reduced speed in that time, bearing in mind that he had been involved in a pursuit for the preceding two minutes. So it may be that even if the pursuit had been terminated at that time, the tragic outcome would have been the same.
- 21.3. I recommend that SAPOL consider what improvements might be made to the General Orders to deal with the reality that some high speed pursuits will be over in such a short time that it is not feasible to manage communications as effectively as the orders presently contemplate. Such a consideration should include the use of technological aids to the tracking of the chase, and the speeds involved, perhaps by the use of Global Positioning Satellite technology.
- 21.4. I recommend that SAPOL consider the reluctance of the incident controller in this case, and the incident controller in the case of Steven Bradford to 'break into' the call of the chase to obtain information relevant to the risk assessment process. As matters stand at present, there is a level of confusion. Those officers who have reviewed this matter within the Ethical and Professional Standards Branch⁷⁶ clearly have an expectation that the incident controller will seek information if necessary. There is a

⁷⁴ See exhibit C98, Affidavit of Paul Dickson, Officer in Charge of Ethical and Professional Standards Branch.

⁷⁵ In particular, Rule 305

⁷⁶ See exhibit C98

gap between their expectations and the approach taken by the two incident controllers I have mentioned. The incident controllers are senior officers, and their reluctance to break into transmissions must be accorded respect and consideration. There may be limitations in radio communications that act as inhibiting factors in this regard also. There was evidence in the present case that officers were unable to transmit as and when they needed to because the system was busy, and the first call to terminate was not heard by all concerned. It may be that there is a need for a dedicated network to deal with high speed pursuits. These matters should be considered by SAPOL.

Key Words: Police Pursuit; Reckless Driving

In witness whereof the said Coroner has hereunto set and subscribed his hand and

Seal the 20th day of August, 2009.



State Coroner