
JURISDICTION : CORONER'S COURT OF WESTERN AUSTRALIA
ACT : CORONERS ACT 1996
CORONER : Rosalinda Vincenza Clorinda Fogliani, State Coroner
HEARD : 2 FEBRUARY 2022
DELIVERED : 14 SEPTEMBER 2022
FILE NO/S : CORC 2343 of 2020
DECEASED : MATTHEWS, WARREN KEITH

Catchwords:

Nil

Legislation:

Nil

Counsel Appearing:

Ms S Tyler assisted the State Coroner

Mr E Cade and Mr S Cobbett (State Solicitor's Office) appeared on behalf of the Western Australia Police Force

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

Nil

Coroners Act 1996
(Section 26(1))

RECORD OF INVESTIGATION INTO DEATH

*I, Rosalinda Vincenza Clorinda Fogliani, State Coroner, having investigated the death of **Warren Keith MATTHEWS** with an inquest held at Perth Coroners Court, Central Law Courts, Court 85, 501 Hay Street, Perth, on 2 February 2022, find that the identity of the deceased person was **Warren Keith MATTHEWS** and that death occurred on 22 October 2020 at Royal Perth Hospital from head injury in the following circumstances:*

Table of Contents

SUPPRESSION ORDER	3
INTRODUCTION	3
INTERCEPT DRIVING.....	5
THE COLLISION	10
FIRST AID AND EMERGENCY TREATMENT	12
CAUSE AND MANNER OF DEATH	13
DID POLICE CAUSE OR CONTRIBUTE TO MR MATTHEWS' DEATH?	14
Mr Matthews' levels of intoxication	14
Police conduct	15
RECOMMENDATIONS	18
Safety measures.....	18
Recommendation 1: dash cam	19
Recommendation 2: disengagement	21
Recommendation 3: re-engagement	22
CONCLUSION	24

SUPPRESSION 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. In the early afternoon of 21 October 2020 Warren Keith Matthews (Mr Matthews) was driving a motor vehicle that had previously been reported to Police as heaving been abandoned at an address in Broadwater. When Police saw the vehicle being driven on Bussell Highway, they tried to stop it, but Mr Matthews accelerated away and became involved in an Evade-Police Intercept Driving incident (formerly known as a police pursuit).
2. A few minutes after Police commenced their pursuit, they terminated it. Mr Matthews continued to drive along several streets. He came back onto Bussell Highway and drove very fast. Within a short period, he lost control of the vehicle, veered onto the incorrect side of the road, and collided with a parked stationary truck. He suffered catastrophic injuries as a result of the collision, and he tragically died of those injuries at Royal Perth Hospital the next day. He was 27 years old.
3. Mr Matthews' death was a reportable death within the meaning of s 3 of the *Coroners Act 1996* (WA) (the Coroners Act) and it was reported to the coroner as required by the Coroners Act. By reason of s 19(1) of the Coroners Act I have jurisdiction to investigate the death.
4. As this matter involved a death immediately following an Evade-Police Intercept Driving incident, under s 22(1)(b) of the Coroners Act, an inquest was mandated into Mr Matthews' death, because it appeared that the death was caused, or contributed to, by an action of a member of the Police Force. Therefore, the coroner is required to examine the actions of police.

5. A death may have that appearance where there is a temporal nexus between an action of a member of the Police Force in connection with the deceased person, and the events leading to death.
6. Section 22(1)(b) is enlivened when the issue of causation or contribution in relation to a death by a member of the Police Force arises as a question of fact, irrespective of whether there is fault or error on the part of the police.
7. My primary function is to investigate the death. It is a fact-finding function. Under s 25(1)(b) and (c) of the Coroners Act, I must find, if possible, how death occurred and the cause of death.
8. Under s 25(2) of the Coroners Act, in this finding I may comment on any matter connected with the death including public health, safety or the administration of justice. This is the ancillary function.
9. Section 25(5) of the Coroners Act prohibits me from framing a finding or comment in such a way as to appear to determine any question of civil liability or to suggest that any person is guilty of an offence. It is not my role to assess the evidence for civil or criminal liability, and I am not bound by the rules of evidence.
10. In making my findings I have applied the standard of proof as set out in *Briginshaw v Briginshaw* (1938) 60 CLR 336 per Dixon J at 361 - 362 which requires a consideration of the nature and gravity of the conduct when deciding whether a matter has been proved on the balance of probabilities.
11. I held an inquest into Mr Matthews' death on 2 February 2022 and received one Exhibit into evidence containing 47 tabs. On 3 March 2022 the Western Australia Police Force through its lawyer the SSO provided its response to the draft recommendations that were proposed by the counsel assisting at the close of the inquest.
12. My findings appear below.

INTERCEPT DRIVING

13. On 21 October 2020 Mr Matthews had been driving a blue 2006 Ford Falcon sedan (Ford Falcon) that had previously been reported to Police as “*abandoned*” at an address in Broadwater by a member of the public. Mr Matthews was not licenced to drive, and it was not his vehicle.¹
14. Before Mr Matthews commenced driving the Ford Falcon, Senior Constable Bryn Papalia (Senior Constable Papalia), and First Class Constable Bradley Walder (First Class Constable Walder), who were on duty at Busselton Police Station, had responded to the report of the Ford Falcon being abandoned. They attended at the nominated address and located the Ford Falcon. They believed the home to be vacant.²
15. The police officers noted that the Ford Falcon had an incorrect registration plate attached to the front and no registration plate at the rear. Senior Constable Walder removed the front registration plate, placed an orange (“*vehicle reported*”) sticker on the vehicle, and the officers then departed. Consequently, the Ford Falcon bore no registration plates and it should not have been driven. The Ford Falcon was easily recognisable due to its black coloured boot and a blue, apparently home-made, paint job.³
16. At approximately midday on 21 October 2020, Senior Constable Papalia and First Class Constable Walder received information about a male person attending at the address in Broadwater and driving away in the Ford Falcon. Initial inquiries did not generate information as to the identity of the driver. The two police officers continued those inquiries while driving in the area in the marked police vehicle, call sign RI201.⁴
17. Vehicle RI201 was a Class 1 vehicle, and Senior Constable Papalia, the driver, was a qualified Priority Pursuit driver. First Class Constable Walder was the passenger, and he was a qualified Priority 1 driver. The class of vehicle and qualifications of the driver were appropriate for engaging in Evade-Police Intercept Driving.⁵

¹ Exhibit 1, tabs 8, and tabs 25 to 28; ts 25 to 26.

² Ibid.

³ Exhibit 1, tabs 8, 22, 23 and 24.2 and tabs 25 to 28; ts 25 to 26; ts 58 to 59.

⁴ Exhibit 1, tabs 8 and 24.2 and tabs 25 to 28; ts 27 to 28.

⁵ Exhibit 1, tabs 8 and 24.2 and tabs 25 to 28; ts 8 to 9; ts 23 to 24; ts 56 to 57.

18. As they were driving east along Bussell Highway in Broadwater on 21 October 2020, at 1.08 pm Senior Constable Papalia and First Class Constable Walder saw the Ford Falcon travelling west along Bussell Highway, towards them. At this point RI201 was near the Alan Street junction.⁶
19. The weather was clear, and visibility was good. There had been some light rain previously, and there remained some minimal damp spots on the road. There was light traffic on Bussell Highway, and when they first saw the Ford Falcon, Police in RI201 were approximately 250 meters away from it. They were unable to make their usual inquiries in relation to a vehicle of interest because the Ford Falcon did not have its registration plates.⁷
20. It is now known that Mr Matthews was the driver of the Ford Falcon. Police in RI201 wanted to speak with the driver and identify the vehicle. The Ford Falcon turned right into Barnard Road and Police in RI201 followed it. There were no other vehicles on Barnard Road and when Police in RI201 were approximately 100 metres behind the Ford Falcon, they activated their emergency lights and sirens. The purpose was to cause the Ford Falcon to stop. Under the Intercept Driving Policy and Guidelines (Intercept Policy) this is known as a Vehicle Interception.⁸
21. Mr Matthews sped up, instead of stopping. I am satisfied he was reacting to their injunction to stop, and he made the decision to evade the police. Given that the Ford Falcon had no registration plates, First Class Constable Walder had thought there was a higher chance that it would fail to stop. At the inquest Police in RI201 gave their estimates as to the speed of the Ford Falcon's initial acceleration away from them, ranging between 80 to 100 kilometres per hour. They accelerated to follow it, and at this point, along Barnard Road, they commenced their Evade-Police Intercept Driving.⁹
22. They followed the Ford Falcon as it cut the corner and turned left onto Williams Drive. The Ford Falcon then turned right and travelled down Alan Street, which ended at a beach carpark. As a result, the Ford Falcon then turned right and travelled down an unsealed track before turning right

⁶ Exhibit 1, tabs 8 and 24.2 and tabs 25 to 28; ts 61 to 62.

⁷ ts 29 to 30; ts 61 to 62.

⁸ Exhibit 1, tabs 8 and 24.2, tabs 25 to 28, tab 33 and tab 44; ts 30 to 31; ts 62 to 63.

⁹ Exhibit 1, tabs 8 and 24.2, tabs 25 to 28, tab 33 and tab 44; ts 30 to 31; ts 53; ts 63 to 64.

and traveling along Silverglen Avenue. The Ford Falcon then turned right onto Williams Drive again, and left onto Barnard Road, travelling at speed back towards the Bussell Highway.¹⁰

23. Throughout this time, Senior Constable Papalia and First Class Constable Walder continued to pursue the Ford Falcon. At 1.09 pm when it cut the corner, they contacted the Police Operations Centre to advise that the driver was failing to stop, and to provide their reasons as to why they were pursuing it (that is, their Situation Report).¹¹
24. As police were travelling through those back streets in Broadwater in pursuit of the Ford Falcon, they conducted the required risk assessment. They noted that there was no danger to other vehicles and/or pedestrians, nor to the Ford Falcon driver or themselves, and they adjusted their driving to the varying road conditions. The evidence given by Senior Constable Papalia at the inquest was that through these back streets, the risk was still low, as there were no other vehicles in the area, and they were driving along short roads with coroners, that had the effect of reducing the Ford Falcon's speed, and consequently their own speed.¹²
25. Once Mr Matthews got back onto Barnard Road, he accelerated along it, and then turned right onto Bussell Highway. Police in RI201 continued to follow the Ford Falcon, now approximately 50 metres behind it. There was a medium traffic flow along the highway. The Ford Falcon began overtaking westbound vehicles along Bussell Highway at high speed and in a dangerous manner. The posted speed limit on that section of Bussell Highway was 70 kilometres per hour. At the inquest Police in RI201 gave their estimates as to the speed of the Ford Falcon along the Bussell Highway at this stage, ranging between 90 and over 120 kilometres per hour.¹³
26. As they travelled along Bussell Highway in pursuit of the Ford Falcon, Police in RI201 continued to provide updates to the Police Operations Centre. They kept assessing the risk and at 1.12 pm Police in RI201

¹⁰ Exhibit 1, tabs 8 and 24.2 and tabs 25 to 28; ts 32 to 36; ts 64 to 66.

¹¹ Exhibit 1, tabs 8 and 24.2 and tabs 25 to 28; ts 34 to 35; ts 65 to 66.

¹² Exhibit 1, tabs 8 and 24.2 and tabs 25 to 28; ts 38.

¹³ Exhibit 1, tabs 8 and 24.2 and tabs 25 to 28; ts 39 to 41; ts 67 to 70.

terminated their pursuit due to the Ford Falcon's manner of driving. They slowed down and turned off their emergency lights and sirens.¹⁴

27. As they terminated the pursuit, Senior Constable Papalia and First Class Constable Walder last saw the Ford Falcon speeding away from them travelling west along Bussell Highway. Police in RI201 proceeded to turn into the Broadwater Village Shopping Centre, and park their vehicle, for between 30 to 60 seconds, to fully terminate their pursuit. They communicated their termination to the Police Operations Centre, and the downgrade was confirmed.¹⁵
28. The entire Evade-Police Intercept Driving incident lasted between three and four minutes. The automated vehicle location (AVL) service report indicates that over that time, at one stage RI201 reached a maximum speed of 94 kilometres per hour. However, the AVL system is not a speed measuring device. The AVL data serves primarily as a vehicle locator system, and the recorded speeds are indicative, as opposed to conclusive, of the speed of a police vehicle. The police officers themselves did not note their speed at the material time.¹⁶
29. Shortly afterwards Senior Constable Papalia and First Class Constable Walder left the Broadwater Village Shopping Centre, turning right onto Bussell Highway heading west towards Travellers Well Street (this was in the same direction as the Ford Falcon, when they last saw it). They were driving within the posted speed limit, and they were not in active pursuit of the Ford Falcon, that was no longer visible to them.¹⁷
30. Police in RI201 turned left into Travellers Well Street. Their intention was to go into a nearby housing subdivision to ascertain whether the Ford Falcon's driver had pulled in there, or whether other drivers had sighted the Ford Falcon. Police in RI201 were aware that another police vehicle was heading towards the area and there was an opportunity to communicate as to the Ford Falcon's location, and have other police potentially deploy

¹⁴ Exhibit 1, tabs 8 and 24.2, tabs 25 to 28 and tabs 33 to 34; ts 40 to 41; ts 70.

¹⁵ Exhibit 1, tabs 8 and 24.2 and tabs 25 to 28; ts 41 to 43; ts 70 to 72.

¹⁶ Exhibit 1, tabs 8 and 34; ts 79 to 80.

¹⁷ Exhibit 1, tabs 8 and 24.2, tabs 25 to 28 and tabs 33 to 34; ts 42 to 44.

alternative and safer means of causing the Ford Falcon to stop, such as a stinger device.¹⁸

31. As Police in RI201 were driving through that housing subdivision, members of the public waved them down and directed them towards Higgins Drive, where they believed the Ford Falcon to have gone. Police drove around the subdivision area, as far down as Higgins Drive, and at this point First Class Constable Walder saw the Ford Falcon. They did not drive towards it, nor activate emergency lights and sirens.¹⁹
32. It is no longer possible to know whether, when he was in Higgins Drive, Mr Matthews spotted the police vehicle RI201, but it is likely, because he proceeded to drive back out of the housing subdivision towards Bussell Highway. It is no longer possible to know why, in the first place, Mr Matthews had gone to Higgins Drive, at the bottom corner of the housing subdivision. One inference is that he had gone there to get out of sight of the police.²⁰
33. Police in RI201 also headed towards Bussell Highway, but not behind the Ford Falcon. They returned along the same route they had taken. As they were turning back onto Travellers Well Street, they saw the Ford Falcon between approximately 200 and 500 metres in front of them, turning right onto Bussell Highway.²¹
34. Police in RI201 also turned right onto Bussell Highway, and at this stage they were again approximately 500 meters behind the Ford Falcon. Senior Constable Papalia briefly accelerated just after turning onto Bussell Highway. This discernible acceleration was likely to be in excess of the posted speed limit, but the evidence does not sufficiently establish it. I accept Senior Constable Papalia's evidence at the inquest, that his acceleration was for reasons of clearance with other vehicles, as opposed to the resumption of the pursuit.²²

¹⁸ Exhibit 1, tabs 33 and 34; ts 44 to 47; ts 71 to 74.

¹⁹ Exhibit 1, tabs 8 and 24.2 tabs 25 to 28 and tabs 33 to 34; ts 11; ts 44 to 48; ts 71 to 72.

²⁰ Ibid.

²¹ Ibid.

²² Exhibit 1, tabs 8 and 24.2, tabs 25 to 28 and tab 33; ts 46 to 49; ts 72 to 77.

35. Police in RI201 updated the Police Operations Centre as to their sightings of the Ford Falcon throughout this period. However, they did not re-engage with the Ford Falcon (meaning they did not re-activate RI201's emergency lights and sirens, and they did not accelerate in pursuit of it). They soon turned left off Bussell Highway and travelled in the area of Geographe Bay Road, away from the last known direction of the Ford Falcon. There is no suggestion that they were looking for the Ford Falcon in the Geographe Bay Road area.²³
36. Police in RI201 next heard about the Ford Falcon shortly afterwards when, having been alerted to the collision by the Police Operations Centre, they arrived at the scene approximately five minutes later to render assistance and saw that it was the Ford Falcon that had collided with another vehicle.²⁴

THE COLLISION

37. Shortly prior to the collision there had been some light rain in the area. The road was wet in places, though visibility was good. In the area of this incident, Bussell Highway is a single two-way carriageway, with a posted speed limit of 70 kilometers per hour.²⁵
38. After Mr Matthews turned right onto Bussell Highway from Travellers Well Street in the Ford Falcon, he continued to drive east in excess of the posted speed limit, while overtaking other vehicles. His manner of driving was erratic and dangerous.²⁶
39. Mr Matthews soon lost control of the Ford Falcon in the course of overtaking eastbound vehicles. At 1.15 pm on 21 October 2020, the Ford Falcon crossed onto the west bound lane, the wrong side of the road, and collided with a stationary Hino truck that was facing west. As the Ford Falcon crossed into that west bound lane, CCTV cameras recorded its speed as being between 50 and 70 kilometers per hour.²⁷

²³ Ibid.

²⁴ Exhibit 1, tab 33; ts 49; ts 75.

²⁵ Exhibit 1, tabs 8 and 10.

²⁶ Exhibit 1, tabs 8, 14, 15 and 24.2.

²⁷ Exhibit 1, tabs 8, 10 and 24.2

40. The driver of the Hino truck was under it conducting repairs because he had just recently ascertained, after hearing a loud noise, that its hydraulic system was leaking. He had stopped on the left-hand shoulder off the road near the Vibe Service station. He was very fortunate not to have sustained serious injury. After the collision he was understandably in shock. He had minor injuries to his forehead, right elbow and right leg. The outcome could have been far worse for him. He was assessed by the paramedics and cleared.²⁸
41. When police from the Major Crash Investigation section attended later that day, they saw a series of curved, light tyre marks commencing in the east bound lane to the west of the Vibe Service station entrance on Bussell Highway (near the junction with Hadfield Avenue). The marks curved to the right, into and across the westbound lane, where they led to where the Hino truck was positioned, on the southern verge.²⁹
42. Then a series of rotational tyre marks led from the front driver's side of the Hino truck to the final position of the Ford Falcon, which came to rest within the east bound lane proximate to the eastern entrance of the Vibe Service station.³⁰
43. The Ford Falcon sustained damage primarily to the front passenger side. The Hino truck sustained damage to the front driver side. The bonnet of the Ford Falcon had hit the front drivers' corner of the Hino truck and remained attached to it.³¹
44. A subsequent vehicle examination of the Ford Falcon by the Police's Vehicle Investigation Unit established a number of defects, including that both right tyres were worn below the 1.5-millimeter limit, which would have contributed to the collision on a wet road.³²
45. Other than the road being wet due to light rains, I am satisfied that there were no road environment factors that contributed to the collision.³³

²⁸ Exhibit 1, tab 13.

²⁹ Exhibit 1, tabs 8, 10 and 12.

³⁰ Ibid.

³¹ Exhibit 1, tabs 8, 10 and 14.

³² Exhibit 1, tabs 8 and 11.

³³ Exhibit 1, tab 8.

FIRST AID AND EMERGENCY TREATMENT

46. Mr Matthews had not been wearing a seatbelt. As soon as the collision occurred, bystanders rushed to the Ford Falcon to assist. One bystander was a retired military veteran, who was trained in providing advanced first aid. He was a former member of his Ship's Medical Emergency Team.³⁴
47. Mr Matthews' breathing became slow and irregular while the military veteran was assessing him. The military veteran took charge of the first aid efforts and was assisted by other bystanders in removing Mr Matthews from the Ford Falcon, due to concerns that he would stop breathing and require CPR. The military veteran promptly and effectively commenced the first aid efforts.³⁵
48. Senior Constable Papalia and First Class Constable Walder in RI201 arrived at the scene at approximately 1.21 pm. Shortly beforehand the Police Operations Centre had instructed them to attend a traffic crash on Bussell Highway as a Priority 2 task. CCTV and AVL data show they arrived approximately five minutes after the collision.³⁶
49. When Senior Constable Papalia and First Class Constable Walder arrived, they noted that the military veteran was effective in his management of the first aid efforts and comfortable to continue them. They felt he was more highly trained in this area than they were.³⁷
50. Records reflect that the St John Ambulance Service received a call at 1.21 pm, and that they departed promptly, arriving at the scene at 1.30 pm. They found Mr Matthews in the recovery position with his head and airway being supported. His respiratory rate was abnormally slow, and he had a rapid, weak pulse. The paramedics took over the resuscitation efforts and supported his breathing.³⁸

³⁴ Exhibit 1, tabs 8, 10, 20 and 24.2.

³⁵ Exhibit 1, tab 20.

³⁶ Exhibit 1, tabs 10, 24.2 and tabs 25 to 28.

³⁷ Exhibit 1, tabs 20 and 24.2 and tabs 25 to 28; ts 50.

³⁸ Exhibit 1, tab 42.

51. They conveyed Mr Matthews by ambulance to the Busselton Hospital Emergency Department, handing over his care at approximately 2.00 pm on 21 October 2020.³⁹
52. Mr Matthews was immediately assessed upon his arrival at Busselton Hospital Emergency Department. He had a large laceration to the back of his head and was noted to have a Glasgow Coma Scale score of 3. CT scans confirmed a severely comminuted, extensive skull base fracture with involvement of the bilateral carotid canals and right jugular foramen. He had a large acute subdural haematoma and acute subarachnoid haemorrhage.⁴⁰
53. Mr Matthews was transferred to the Royal Perth Hospital Emergency Department arriving there at approximately 6.00 pm on 21 October 2020. He was admitted to ICU and repeat CT scans showed an unchanged left cerebral haematoma. Mr Matthews remained in a prolonged unresponsive coma, and despite all efforts to revive him, he was pronounced dead at 10.30 pm on 22 October 2022.⁴¹

CAUSE AND MANNER OF DEATH

54. On 28 October 2020 the Forensic Pathologist Dr N. Vagaja (Dr Vagaja) made an external post mortem examination on the body of Mr Matthews at the State Mortuary. Dr Vagaja reviewed the medical records and noted that Mr Matthews had been diagnosed with a severe traumatic head injury. Dr Vagaja noted the laceration at the back of his head, that had been surgically managed.⁴²
55. Post mortem radiology (CT scan) confirmed the presence of skull fractures. At the conclusion of the examination on 28 October 2020 Dr Vagaja formed an opinion as to the cause of Mr Matthews' death. I accept and adopt Dr Vagaja's opinion.⁴³
56. **I find that the cause of Mr Matthews' death was Head Injury.**

³⁹ Exhibit 1, tab 42.

⁴⁰ Exhibit 1, tab 43.

⁴¹ Exhibit 1, tabs 3 and 46.

⁴² Exhibit 1, tab 4.

⁴³ Ibid.

57. Dr Vagaja ordered toxicological analysis of the post mortem blood sample, taken on 23 October 2020. Interim results became available on 30 October 2020, and the final results became available on 5 January 2021. The toxicological analysis detected some illicit drugs, including methylamphetamine and amphetamine. This did not affect Dr Vagaja's opinion on cause of death. The quantifications and effects of the illicit drugs that were detected are addressed in more detail immediately below in this finding under the heading: *Did Police cause or contribute to Mr Matthews' death.*⁴⁴

58. **I find that the manner of Mr Matthews' death was by way of Accident.**

DID POLICE CAUSE OR CONTRIBUTE TO MR MATTHEWS' DEATH?

59. This part of the finding addresses the reasons for my determination outlined at the close of the inquest on 2 February 2022, that police have not caused, or contributed to, Mr Matthews death.⁴⁵

Mr Matthews' levels of intoxication

60. Toxicological analysis of the post mortem blood sample showed methylamphetamine (0.02mg/L), amphetamine (less than 0.01mg/L), tetrahydrocannabinol (5.3ug/L) and multiple common medications consistent with the type of medical care received. There was no alcohol detected.⁴⁶

61. The Major Crash Section of the Western Australia Police Force arranged for an analysis by the drugs' analyst of Mr Matthews' blood sample taken two hours after the collision on 21 October 2020 and this gives a more representative analysis of the level of drugs present at the time of the Evade-Police Intercept Driving incident.⁴⁷

⁴⁴ Exhibit 1, tab 5.

⁴⁵ ts 79.

⁴⁶ Exhibit 1, tab 5.

⁴⁷ Exhibit 1, tab 6.

62. The drugs analyst's report shows higher concentrations of the illicit drugs, namely methylamphetamine (0.15mg/L), amphetamine (0.04mg/L) and tetrahydrocannabinol (6.0ug/L).⁴⁸
63. I am satisfied that at the time of the Evade-Police Intercept Driving incident, Mr Matthews was intoxicated with two potent drugs of the stimulant family, methylamphetamine and amphetamine. Common consequences of such intoxication can include risk-taking behaviour, aggression, and violence. Common manifestations can include speeding and reckless driving.⁴⁹
64. It is generally accepted that 0.01mg/L of methylamphetamine is deemed to impair driving capacity. It has deleterious effects upon behaviour, emotional stability and performance. Further the intoxication with tetrahydrocannabinol, at the levels found in Mr Matthews, may impair coordination, balance, reaction time, visual pursuit, judgement and stability of mood.⁵⁰
65. I am satisfied that Mr Matthews was incapable of safely driving the Ford Falcon under normal conditions, and that the methylamphetamine had an effect on his risk taking, inattention, preparedness to travel at speed and propensity to flight. Whist his judgement was impaired by the illicit drugs, his actions were under his voluntary control, meaning that he always had the option of desisting.⁵¹

Police conduct

66. The circumstances surrounding the Evade-Police Intercept Driving Incident were the subject of an Internal Affairs Unit Managerial Investigation, with a final report being produced in May 2021. The focus was on compliance with the Intercept Policy.⁵²
67. The outcome of the Managerial Investigation was that Senior Constable Papalia and First Class Constable Walder were exonerated from failing to

⁴⁸ Exhibit 1, tab 6.

⁴⁹ https://www.coronerscourt.wa.gov.au/Inquest_into_the_deaths_of_the_police_pursuits.aspx

⁵⁰ Ibid.

⁵¹ Ibid.

⁵² Exhibit 1, tab 24.2; ts 8 to 9.

comply with the Intercept Policy. It was also determined that there were no managerial or supervision issues identified, and that there was no breach of the Western Australia Police Force Code of Conduct.⁵³

68. I am relevantly informed, but not bound by the outcome of the Managerial Investigation. My focus is on whether Mr Matthews' death was contributed to by any action of a member of the Police Force, as a question of fact, irrespective of whether there is fault or error on the part of the involved police officers.
69. Inquiry has established that Mr Matthews had recently been released from prison after serving his sentence for offences that included aggravated reckless driving in an attempt to evade police. At the inquest Senior Constable Papalia explained that at the material time he was not aware that Mr Matthews was the driver of the Ford Falcon.⁵⁴
70. If Senior Constable Papalia had the information about this previous offending at the material time, he would have factored it into his risk assessment and they may have tried to follow up with the Ford Falcon at a later stage, at a safer time, when he was not in a vehicle. However, despite best endeavours, this information was not available at that time.⁵⁵
71. In determining that police have not caused, or contributed to, Mr Matthews' death I have had regard to the following:
- a) There is evidence before me about the Ford Falcon being driven in excess of the speed limit, and erratically, prior to the involvement of Police in RI201;
 - b) When Police in RI201 first activated their emergency lights and sirens on Barnard Road, effectively calling upon the driver of the Ford Falcon to pull over and stop (the Vehicle Intercept) they were approximately 100 metres behind it, on a quiet road with no other traffic, and I am satisfied that Mr Matthews knew that Police were calling upon him to stop, and he should have done so;

⁵³ Exhibit 1, tab 24.2

⁵⁴ Exhibit 1, tab 9; ts 51.

⁵⁵ ts 51.

- c) During the period of the Evade-Police Intercept Driving incident, Police in RI201 travelled below the speed cap articulated in the Intercept Policy, and for most of the incident, significantly below that speed cap;
- d) Having regard to their risk assessment, Police in RI201 appropriately chose to terminate their pursuit, and their decision to downgrade was confirmed by the Police Operations Centre;
- e) In order to more fully complete their termination of the pursuit, whilst it is not a requirement under the Intercept Policy, Police in RI201 turned into the Broadwater Village Shopping Centre, and parked their vehicle, for a short period;
- f) The Ford Falcon continued to drive in excess of the speed limit, and dangerously, whilst overtaking other vehicles;
- g) Whilst, after they terminated their pursuit, Police in RI201 then conducted patrol duties in connection with the location of the Ford Falcon, I am satisfied that they did not re-engage in the pursuit of the Ford Falcon;
- h) The CCTV footage from the Vibe Service station where the collision occurred, together with the AVL data, show that Police in RI201 arrived at the scene approximately five minutes after the collision, which goes to show that they had not re-engaged in the pursuit of the Ford Falcon;
- i) The Ford Falcon was not being pursued by any police officer immediately prior to and at the time of the collision;
- j) In accordance with usual procedures, Police in RI201 were alcohol and drug tested and they both returned negative results;
- k) The decisions made and the manner of driving of Police in RI201 were consistent with the terms outlined in the Intercept Policy; and
- l) Police in RI201 carried out the Vehicle Intercept and the Evade-Police Intercept Driving in the course of their legitimate policing functions.⁵⁶

⁵⁶ Exhibit 1, tabs 8, 10, 24.2, 33 and 34; ts 10 to 19; ts 30 to 31; ts 51; ts 62 to 63.

RECOMMENDATIONS

Safety measures

72. It is undeniably tragic that Mr Matthews, a young man with many years of living ahead of him, died unnecessarily. The tragedy could have extended to the infliction of serious injury or the loss of life of the Hino truck driver. He was underneath his truck conducting repairs and had just moved from the driver's side, which took the brunt of the impact, to the passenger side, behind the tyre.⁵⁷
73. When the collision occurred, he heard an unexpected and loud smashing sound, and he was quick and agile enough to hold on underneath the Hino truck as it moved towards him. It does not require much imagination to think what could have happened if he had remained working under or around the driver's side of his truck.⁵⁸
74. All police pursuits, now known as Evade-Police Intercept Driving incidents, are inherently dangerous. There are self-evident risks to the driver who is seeking to evade police, to the public who may be driving or walking in the vicinity of an incident, and to the police officers themselves.
75. Police seek to mitigate those risks through requiring compliance with the safety measures outlined in the Intercept Policy, rigorous Priority Pursuit driver training, the deployment of Class 1 vehicles that are more fit for purpose, and, very importantly, the real time oversight by the Duty Inspector located at the Police Operations Centre.
76. Throughout a pursuit, police officers are required to continually assess and re-assess the risks attending the incident. The passenger in the police vehicle is tasked with immediately communicating the commencement of the Evade-Police Intercept driving to the Duty Inspector, and providing certain information about the surrounding circumstances, in order to enable that person, who is supervising their actions, to make their own risk assessment.⁵⁹

⁵⁷ Exhibit 1, tab 13.

⁵⁸ Ibid.

⁵⁹ Exhibit 1, tab 44.

77. The Duty Inspector takes a more detached approach, focussing upon safety considerations, and compliance with the Intercept Policy. This operates as a stabilising factor in cases where, as experience shows, police officers can become fixed upon achieving their goal of apprehending the driver of the vehicle that is evading them.
78. Terms such as “*red mist*” are used to describe this fixed state of mind. It is nothing more than the recognition of a human reaction to a chase, not unexpected, where effort has been, and continues to be invested in achieving a goal, in a climate of risk and elevated emotion.⁶⁰
79. At the inquest Senior Constable Papalia, with insight, referred to it as tunnel vision: “...*you don’t want to give up until you get what you need to get done.*”⁶¹
80. The community accepts that there will be a degree of risk arising from Evade-Police Intercept Driving incidents (see sections 61A and 61B of the *Road Traffic Act 1974*). This risk is to be balanced against the law enforcement objective, and the need to keep the community safe from allegedly harmful acts of potential offenders.
81. On occasions the risk and its attendant consequences becomes very finely balanced. It is against this background that I make the following three recommendations directed towards improving safety and transparency in the conduct, and subsequent reviews, of Evade-Police Intercept Driving incidents.

Recommendation 1: dash cam

82. This recommendation has been made twice already in the inquests into the deaths of Jordan Alexander THORSAGER [2021] WACOR 20, and Child JP [2021] WACOR 42. It concerns the installation of “*dash cam*” technology in police vehicles that undertake emergency driving (especially Class 1 vehicles) that can be live streamed back to the Police Operations Centre.

⁶⁰ ts 42 to 45.

⁶¹ ts 42.

83. In the Ministerial response to the coroners' previous recommendations that appears on the website in connection with the death of Child JP, the Coroner's Court was informed that in December 2021 the Western Australia Police Force commenced a project to explore the development and funding options for this capability.⁶²
84. Technological advancements have made it possible for the installation of a dash cam that can be triggered when emergency lights and sirens are activated, and that has live stream capability. At the inquest both police officers in RI201 were supportive of the technology, referring to better reporting and better decision making. The question as to whether it is feasible is being assessed by the Western Australia Police Force.⁶³
85. On 3 March 2022, through its lawyer the SSO, the Western Australia Police Force informed the court of the commencement, on 16 February 2022, of a five-week trial to test the AXON Body 3 camera (a type of dash cam) mounted within specific police vehicles, to capture simulated Evade-Police Intercept Driving Incidents. The trial was being conducted in regional and metropolitan locations, under different environmental conditions.
86. The presence of a dash cam has the real potential to add another layer of restraint upon the actions of the police officers and enables the Duty Inspector to make more effective decisions based upon a clearer understanding of the event, and the attendant risks, in real time. It also manifestly assists the coroner in the subsequent investigation of a reportable death and can serve as a learning exercise for police in the future.⁶⁴
87. I therefore make the following recommendation in support of the recommendations already made, with the aim of improving the safety measures for Evade-Police Intercept Driving incidents:

⁶² https://www.coronerscourt.wa.gov.au/files/inquest_2022/recommendation%20child%20jp.pdf

⁶³ ts 52 and 76.

⁶⁴ ts 89.

Recommendation No. 1

I recommend that the Western Australia Police Force give priority to securing funding and implementing the installation of “dash cam” technology in all police vehicles that undertake emergency driving, along with the associated infrastructure and personnel to manage and review footage. The technology should provide for real time live feed of footage to the Police Operations Centre, so that this information can be used by the Duty Inspector or Team Leader as part of their decision making when supervising an Evade-Police Intercept Driving incident.

Recommendation 2: disengagement

88. Police in RI201 took a prudent step when they pulled into the Broadwater Shopping Centre and stopped their vehicle, to essentially cement their termination of the pursuit within their own minds. The related aim was to transmit to Mr Matthews that they were no longer pursuing him, in the hope that he would cease his dangerous manner of driving. I refer to it in this part of my finding as the disengagement manoeuvre.
89. The disengagement manoeuvre is neither a requirement, nor a guide, under the Intercept Policy. At the inquest, both police officers in RI201 considered it to be a proper step with First Class Constable Walder adding that regard should be had as to whether the disengagement manoeuvre is appropriate in each case. Senior Constable Papalia confirmed that the disengagement manoeuvre was not taught to him as part of his training, but the concept has been passed on to him over the years by more senior and experienced police officers, and he has adopted it.⁶⁵
90. At the inquest Detective Sergeant Boryczewski of the IAU referred to it in the context of its potential to de-escalate a pursuit situation and described it as “*best practice*”.⁶⁶

⁶⁵ ts 42 to 43; ts 71.

⁶⁶ ts 14 to 15.

91. On 3 March 2022, through its lawyer the SSO, the Western Australia Police Force informed the court that it agrees with the intent of this recommendation. A proposal is under way to compile suitable text instructing drivers to conduct an overt action to show they have completely disengaged from the target vehicle. Examples of such an overt action include immediately reducing speed to the area speed limit, turning off all emergency warning equipment, and at the earliest opportunity, bringing the police vehicle to a complete stop (if safe to do so) or turning off the current road at the next available junction (if practicable to do so).
92. I therefore make the following recommendation with the aim of improving the safety measures for Evade-Police Intercept Driving incidents:

Recommendation No. 2

I recommend that the Western Australia Police Force give priority to inserting a provision in the WA Police Intercept Driving Policy and Guidelines instructing that a driver involved in an Evade-Police Intercept Driving incident that has been terminated must conduct an overt action to display that the driver of the police vehicle has ceased their Evade-Police driving and is completely disengaged from the vehicle of interest.

Recommendation 3: re-engagement

93. At the inquest it became apparent that police officers would be assisted by clearer wording in the Intercept Policy, regarding the prohibition on re-engaging with a target vehicle where an Evade-Police Intercept Driving incident has been terminated.⁶⁷
94. Presently there are conditions regarding re-engagement after a termination instruction by the Police Operations Centre. This is an existing safety measure, that takes account of the fact that the termination of the Evade-Police Intercept Driving incident most likely happened for reasons related to the risk involved in continuing it.⁶⁸

⁶⁷ ts 44 to 45.

⁶⁸ Exhibit 1, tab 44.

95. However, a termination may be instigated by the Priority Pursuit driver (as was the case here). In this scenario, it is open for a Priority Pursuit driver to form the view that they have decided to terminate it, and the subsequent Police Operations Centre confirmation of their downgrade is an acknowledgement of their individual decision to terminate (as opposed to an instruction from the Police Operations Centre to terminate).⁶⁹
96. The risk is that a Priority Pursuit driver who decides to terminate the pursuit may erroneously form the view that they are able make the individual decision to re-engage with the target vehicle because they, and not the Police Operations Centre, made the decision to terminate.
97. Self-evidently, re-engagement with a target vehicle would require some careful consideration, irrespective of whether the Police Operations Centre has instructed a termination, or whether the Priority Pursuit driver decided to terminate it.
98. On 3 March 2022, through its lawyer the SSO, the Western Australia Police Force informed the court that it broadly accepts the intent of this recommendation and that the Intercept Policy will be reviewed in this regard.
99. I therefore make the following recommendation with the aim of improving the safety measures for Evade-Police Intercept Driving incidents:

Recommendation No. 3

I recommend that the Western Australia Police Force give priority to clarifying, in the WA Police Intercept Driving Policy and Guidelines, that the conditions regarding a re-engagement of a vehicle of interest are to be complied with whenever an Evade-Police Intercept Driving incident is terminated, whether that termination decision is made by the Police Operations Centre, or by the police officer involved in the incident.

⁶⁹ ts 44 to 45.

CONCLUSION

100. At the time of his death Mr Matthews' mother had passed away and he was one of 14 children in his family. He was dearly loved by his family and he is remembered by them as a kind-hearted and generous person who would help people in any way he could.
101. Evade-Police Intercept Driving is a component of the law enforcement role carried out by the Western Australia Police Force. It is important for the coroner to scrutinise the actions of police in the exercise of their powers and exemptions under the Intercept Policy, where a death has occurred following the emergency driving.
102. As part of the coroner's death prevention role, and as an ancillary function, it is also important for the coroner to consider the appropriateness of recommendations directed towards avoiding deaths in similar circumstances in the future. Sadly, a significant proportion of the deaths following Evade-Police Intercept Driving are of young persons.
103. The recommendations that I have made are to be considered within the context of an agency's commitment to a process of continual improvement. The added scrutiny and guidance contemplated by the recommendations is aimed at adding some layers of restraint, and transparency, without unnecessarily altering the emergency driving role.

R V C FOGLIANI

STATE CORONER

14 SEPTEMBER 2022