

Coroners Act, 1996  
[Section 26(1)]



*Western*

*Australia*

**RECORD OF INVESTIGATION INTO DEATH**

*Ref No: 31/15*

*I, Rosalinda Vincenza Clorinda Fogliani, State Coroner, having investigated the death of **Aaron GENOVESE**, with an Inquest held at Perth Coroners Court, Central Law Courts, 501 Hay Street Perth, on 1 and 2 September 2015 find that the identity of the deceased person was **Aaron GENOVESE** and that death occurred on 3 March 2012 at the intersection of Bailey Road and Thomas Road Glen Forrest as a result of a fracture dislocation of the upper cervical spine in the following circumstances:*

**Counsel Appearing :**

Ms K Ellson assisting the State Coroner

Mr M Holgate appeared for the Commissioner of Police

**Table of Contents**

SUPPRESSION ORDER .....	2
INTRODUCTION .....	2
THE DECEASED .....	6
THE POLICE PURSUIT .....	8
The initial police attempt to intercept the motorcycle .....	11
The commencement of the pursuit .....	13
Permission sought to pursue .....	14
Pursuit of the motorcycle along Bailey Road .....	15
The speed of the police vehicle .....	16
THE COLLISION .....	21
THE CRASH RECONSTRUCTION .....	23
SOME INCONSISTENCIES IN THE EVIDENCE CONCERNING EVENTS AFTER THE COLLISION .....	26
CAUSE AND MANNER OF DEATH .....	28
COMMENTS CONCERNING THE CONDUCT OF THE PURSUIT .....	29
The reason for the pursuit .....	29
Balancing the law enforcement imperative with the risks .....	31
The risk assessment undertaken by police .....	33
The failure to comply with the Emergency Driving Guidelines .....	35
Did any action of the police cause, contribute to, the deceased's death? .....	38
Particular risks concerning the pursuit of motorcycles .....	41
Should special considerations apply to the pursuit of motorcycles? .....	45
RECOMMENDATION .....	46
Recommendation No. 1 .....	46
Recommendation No. 2 .....	46
CONCLUSION .....	46



## **SUPPRESSION ORDER**

**That there be no reporting or publication of the details of the WA Police Emergency Driving Policy and Guidelines**

**That there be no reporting or publication of the evidence given at the inquest concerning the capabilities of the police helicopter**

## **INTRODUCTION**

Aaron Genovese (the deceased) was 29 years old when he died on Saturday 3 March 2012 after the motorcycle he was riding collided with another vehicle at the intersection of Bailey Road and Thomas Road Glen Forrest. Upon impact the deceased was thrown onto the ground, coming to rest approximately 33 metres from the point of collision on the southern side of Thomas Road.

The impact resulted in the deceased sustaining a fracture dislocation of the upper cervical spine, causing his immediate death. The collision occurred at approximately 2.20pm.

Before the collision, the motorcycle was being pursued along Bailey Road by the police who were in a marked vehicle, with lights and sirens. For a short period during the pursuit, the police driver and the deceased exceeded the posted speed limits. However, immediately before the collision, both vehicles had almost stopped on Bailey Road,



at the intersection with Thomas Road. Then the deceased suddenly accelerated away and as the motorcycle crossed the intersection it collided with a vehicle being driven along Thomas Road.

The deceased's death was a reportable death within the meaning of section 3 of the *Coroners Act* 1996 (the Act) and it was reported to the coroner as required by the Act.

By reason of section 19(1) of the Act I have jurisdiction to investigate the deceased's death. The holding of an inquest, as part of this investigation, is mandated by reason of section 22(1)(b) of the Act because it appeared that the death was caused, or contributed to, by an action of a member of the police force.

Section 22(1)(b) is enlivened when the issue of causation or contribution in relation to a death arises as a question of fact, irrespective of whether there is fault or error on the part of the police. Section 25(5) of the 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.

On 1 and 2 September 2015 I held an inquest into the death of the deceased at the Coroner's Court at Perth. The question explored at the inquest was whether the deceased's death was caused or contributed to by any action on the



part of the police. I examined the actions of the police in attempting to intercept and then pursuing the motorcycle being ridden by the deceased, and the actions of the deceased. My examination included the process by which the police sought authorisation for the pursuit, an assessment of whether the Western Australian Police Emergency Driving Policy and Guidelines had been breached and if so, whether that breach, or indeed any other police action, caused or contributed to the deceased's death.

A number of witnesses gave evidence at the inquest and they are, in order of their appearance, Detective Sergeant Mottolini who assisted in the Internal Affairs Unit's investigation of the conduct of the police officers involved, Messrs Humphries and Todd, Mr and Mrs Ovington and Ms Johnston, all eye witnesses to the events, Detective Sergeant Wisbey of the Major Crash Division, Inspector Bordin of the Police Operations Centre, Mrs Genovese mother of the deceased, Detective Inspector McIntosh the Superintendent in charge of the Internal Affairs Unit at the material time, Sergeant Collett, the passenger in the police pursuit vehicle, Sergeant Byrne, present at the scene of the collision, and Sergeant Bilbrough, the driver of the police pursuit vehicle.

The documentary evidence tendered at the commencement of the inquest comprised two lever arch files, volume 1 tabs



1 to 48 became Exhibit 1, volume 2 tabs A to C and sub-tabs 1 to 31 became Exhibit 2, a letter from the Shire of Mundaring dated 31 August 2015 attaching the fatal crash corrective action report became Exhibit 3, Western Australia Police Report of Road Traffic Crash dated 3 March 2012 became Exhibit 4, the Western Australia Police Emergency Driving Policy and Guidelines in force as at 3 March 2012 became Exhibit 5, the bundle of 11 photographs of the scene became Exhibit 6 and the map depicting Bailey Road, Thomas Road, Great Eastern Highway and Margaret Road became Exhibit 7.

During the course of the inquest, further documentary evidence was tendered comprising the extract from the Emergency Driving Police Manual in force as at the date of the inquest, which became Exhibit 8, discs containing radio calls and further photographs became Exhibits 9 to 11 and the Department of Transport's handbook that refers to stopping distances became Exhibit 12.

At the conclusion of the evidence I sought submissions from Mr Holgate, counsel for the Commissioner of Police, on a proposed recommendation to the effect that the particular risks of intercepting and pursuing motorcycles be added to the guidelines that address the risk assessment process in the Emergency Driving Police Manual.



On 11 September 2015 the Commissioner of Police responded through his counsel.

## **THE DECEASED**

The deceased was born on 27 December 1982, the younger of two brothers, to Mr and Mrs Genovese. His brother was eight years older than him and moved interstate when the deceased was still quite young. The deceased's parents separated when he was eight years old and he spent time living with both parents at various points in his life.

His mother described him in loving terms as an active child, who did the normal mischievous things and who particularly enjoyed the outdoors, showing a keen interest in basketball. His father described him as a good hearted person and a lovable larrikin.

Unfortunately as the deceased reached his early teens, he occasionally missed school and he began to display some behaviour patterns that were difficult to manage. His parents endeavoured to assist him and for a time, it appeared that some success had been achieved with the deceased commencing his studies at the Narrogin Agricultural School. Sadly this was short lived; the deceased left his studies and began living with his friends when he was still only 15 or 16 years old.



The deceased's mother became aware that he was using methylamphetamine and she endeavoured to assist him, though for a time the deceased did not accept that he needed help. Over a number of years the deceased remained addicted to illicit drugs.

In the year before his death, the deceased's mother observed him to be making some progress with overcoming his drug addiction. He was impelled by a desire to look after his children. At that stage he was father to a young son and two young daughters.

The deceased's partner and mother of his two younger daughters provided evidence of the deceased's genuine and heartfelt commitment to his family. The deceased's main hobby was motorcycle riding, particularly in the bush. His partner was frequently anxious when he was away riding his motorcycle. On the occasions when he was late returning home from his riding she would contact his friends out of concern for him.

Prior to his death the deceased had obtained some employment at a scrap metal yard and whilst he was making efforts to work and become more financially secure, on occasion he would still take illicit drugs.



Tragically his family's hopes that he would turn his life around were unable to come to fruition. The deceased continued to engage in dangerous and risk-taking behaviour. He had taken methylamphetamine prior to the collision that resulted in his death.

### **THE POLICE PURSUIT**

At approximately 2.20pm on Saturday 3 March 2012 the deceased was riding his Kawasaki KDX200 198 cc motorcycle bearing the number plate 1AB 750 (the motorcycle) in an easterly direction along Great Eastern Highway in Glen Forrest. It was a road and trail motorcycle. The number plate 1AB 750 had been reported as lost in November 2011. The motorcycle had been re-registered with the number plate 1FJ 797 and the deceased purchased the motorcycle in January 2012. Therefore on the date of the pursuit the motorcycle was bearing an unregistered number plate. Also as at that date the deceased had an outstanding warrant for his arrest in connection with driving offences. He was not licenced to drive a car or ride a motorcycle.<sup>1</sup>

As the deceased was proceeding in an easterly direction, the police pursuit vehicle styled AH206 was driving along the same stretch of Great Eastern Highway in a westerly direction. The police vehicle was a Ford Falcon sedan,



<sup>1</sup> Exhibit 1, Annexure C and Tabs 38 and 39; Exhibit 2, Annexure D

marked and rated as a class 1 police pursuit vehicle (the police vehicle). Sergeant Michael Bilbrough was driving the police vehicle and Sergeant Edward Collett (at the material time a first class constable) was in the passenger seat. They were conducting general traffic patrol duties on Great Eastern Highway between Midland and Mundaring. They both possessed current certificates of competency for pursuit emergency driving. Sergeant Bilbrough had been certified for over 20 years and Sergeant Collett had been certified for approximately five years.<sup>2</sup>

The police first spotted the motorcycle on Great Eastern Highway travelling in the opposite direction between the intersections of Margaret Road and Bailey Road. They initially endeavoured to intercept the motorcycle and when it became apparent that the motorcycle was not going to stop, the police initiated their pursuit.

The attempt to intercept occurred along Great Eastern Highway and the pursuit was initiated after the motorcycle turned left into Bailey Road. The collision occurred at the intersection of Bailey Road and Thomas Street.

Bailey Road runs in a north-south direction and intersects with Thomas Road to form a four way intersection. Bailey Road is a local access road which provides access from Great Eastern Highway to residential properties to the



<sup>2</sup> T 129; T 150

south, before terminating 170 metres south of Thomas Road. Bailey Road is a two way six metre wide road with no dividing line marking and is subject to give way control markings at the intersection with Thomas Street. There is also a Give Way Ahead warning sign on Bailey Road located 140 metres in advance of the intersection and on that date it was partially obscured by vegetation.<sup>3</sup>

For vehicles travelling south along Bailey Road there is a long downhill gradient, and then a short distance prior to the intersection with Thomas Road the gradient becomes uphill. At the intersection Thomas Road is flat and straight.<sup>4</sup>

Thomas Road runs in an east-west direction. It is a regional distributor road that connects the suburbs of Glen Forrest and Mundaring. Thomas Road is a two way undivided road with three metre lanes in each direction separated by a broken separation line on the eastern leg and a double one way barrier line on the western leg. The road has two unsealed shoulders varying in width from 1.2 metres to 2.5 metres.<sup>5</sup>

Both Bailey Road and Thomas Road are constructed of a bitumen surface in good condition. The posted speed limit is 60 kilometres per hour on Thomas Road and

---

<sup>3</sup> Exhibit 1, Tab 36

<sup>4</sup> Exhibit 1, Annexure C

<sup>5</sup> Exhibit 1, Tab 36



50 kilometres per hour on Bailey Road, being the default limit for a built up area. The surrounding area is primarily rural with a number of rural residences situated along each of these roads. At the time of the pursuit the roads were dry and visibility was good. At all material times during the attempted intercept and the pursuit, the police vehicle and the motorcycle were on the correct side of the road.<sup>6</sup>

### **The initial police attempt to intercept the motorcycle**

As the police vehicle approached the deceased from the opposite direction on Great Eastern Highway, it was operating a mobile vehicle speed detection device, mounted on the dashboard. Both police officers were able to view the readout on the radar screen. Sergeant Bilbrough's attention was drawn to the deceased because the motorcycle appeared to be speeding as it overtook another vehicle. When Sergeant Bilbrough activated the radar it recorded the motorcycle travelling at a speed of 97 kilometres per hour and the device sounded an audible alert. Sergeant Bilbrough was aware the posted speed limit on that stretch of road was 80 kilometres per hour. He was qualified to operate the speed detection device.<sup>7</sup>

Sergeant Bilbrough decided to intercept the motorcycle along Great Eastern Highway. The lanes were separated by a vegetated median strip and he accelerated to the opening

---

<sup>6</sup> Exhibit 1, Annexure C and Tabs 35 and 36

<sup>7</sup> Exhibit 2, Tabs 1 and 2



at the intersection of Margaret Road, braked at Margaret Road and executed a U-turn, to head east along Great Eastern Highway after the motorcycle. Sergeant Collett activated the emergency lights on the pursuit vehicle to attract the deceased's attention to cause him to pull over. Both police officers could see the motorcycle between approximately 200 to 300 metres in front of them, travelling at speed. Sergeant Bilbrough's intention had been to stop the motorcycle rider and give him a ticket for speeding.<sup>8</sup>

It was a sunny day, the traffic was fairly light and the deceased was observed by police to be wearing a helmet. Sergeant Bilbrough accelerated heavily along Great Eastern Highway to reduce the distance between the police vehicle and the motorcycle. His intent was to get close enough so that the deceased was aware of his presence. As he did this he commenced his risk assessment, which at the inquest he described as follows:

*"I was monitoring his position, our position, the position of other cars, anything that may – any active hazards, anything that could appear from the side of the road; children at bus stops, other vehicles, all those things, be constantly on the lookout for anything that can cause interference. You know, you – it's the last thing you want to do is hit something."*<sup>9</sup>

When the motorcycle approached the intersection with Bailey Road, the deceased slowed down and made a right hand turn from Great Eastern Highway into Bailey Road.

---

<sup>8</sup> T 152; T 163 – 164; Exhibit 2, Tabs 1 and 2

<sup>9</sup> T 152



This action together with the prior acceleration by the police vehicle reduced the distance between both vehicles to approximately 50 metres.<sup>10</sup>

After the deceased turned into Bailey Road he began to accelerate away from the police. I am satisfied that at this stage, the deceased was aware of the police presence and he decided to evade them.

### **The commencement of the pursuit**

As Sergeant Bilbrough turned right off Great Eastern Highway and followed the motorcycle southwards along Bailey Road, he observed the deceased was accelerating hard up the hill approximately 20 metres into that road and he formed the view that the deceased was not going to stop. He observed the deceased riding with his head down and forward. At that point he said “*call it*” to Sergeant Collett. Both police officers understood that meant the pursuit had commenced and Sergeant Collett was required to immediately contact the Police Operations Centre to seek permission to continue the pursuit.<sup>11</sup>

The police vehicle’s sirens were activated and whilst Sergeant Collett endeavoured to contact the Police Operations Centre, Sergeant Bilbrough began his pursuit of the motorcycle along Bailey Road.

---

<sup>10</sup> T 152 - 53

<sup>11</sup> T 151 – 154; T 163 – 164; Exhibit 2, Tabs 1 and 2; Exhibit 8



## Permission sought to pursue

In the circumstances of this particular pursuit, the Western Australia Police Emergency Driving Policy and Guidelines required that express permission be sought for the continuation of the pursuit from the duty Inspector at the Police Operations Centre.

When Sergeant Bilbrough said “*call it*” shortly after turning into Bailey Road, Sergeant Collett was not immediately successful in making radio contact with the Police Operations Centre to seek permission for the continuation of the pursuit. Less than a minute later, at 2.20pm, he made contact and commenced to provide the requisite information concerning the pursuit. However approximately half a minute into that conversation, the collision occurred and he immediately requested an ambulance.<sup>12</sup>

When a police officer makes contact with the Police Operations Centre to inform of the commencement of a pursuit, an alarm is activated at the Centre, to notify the duty Inspector. On 3 March 2012 Inspector Bordin was the duty inspector attached to the communications division of the Police Operations Centre. One of his roles was to respond to the activation of the alarm. When contact was made with him, he was required to source the relevant information from the police officers involved in the pursuit

---

<sup>12</sup> T 164 – 166; Exhibit 1, Tab 48



and consider whether to give them permission to continue the pursuit. On this date Inspector Bordin became aware of the pursuit of the deceased because the alarm was activated in accordance with the usual procedures, indicating that his oversight was required. He moved from his work area to the console where the alarm had come from. However, by the time he reached that area, he was informed that the collision had occurred.<sup>13</sup>

### **Pursuit of the motorcycle along Bailey Road**

Initially the motorcycle was approximately 50 metres ahead of the police vehicle on Bailey Road. Sergeant Bilbrough accelerated in order to give Sergeant Collett an opportunity to read the registration number displayed by the motorcycle, and he then maintained a distance of approximately 20 metres between the police vehicle and the motorcycle. There were no other vehicles travelling along Bailey Road in either direction and he kept the motorcycle to the left of the police vehicle.<sup>14</sup>

Approximately 30 metres before the intersection with Thomas Road, the police officers observed the deceased begin to decelerate and sit up from his previously crouched position on the motorcycle. They formed the view that the motorcycle was about to stop at the intersection, and they decelerated as well. Both vehicles came to an almost

---

<sup>13</sup> T 83 - 84

<sup>14</sup> T 155; T 166; Exhibit 2, Tabs 1 and 2



stationary position at the intersection, with the motorcycle slightly in front of the police vehicle and to the left of it.<sup>15</sup>

Sergeant Collett, who was still on the radio communicating with the Police Operations Centre recalled that at this point the deceased turned around and looked towards the passenger side of the police vehicle. He formed the view that the deceased was about to pull over and that the pursuit was therefore coming to an end. He made to get out of the police vehicle, though he could not recall whether he actually opened the police vehicle's front passenger door.<sup>16</sup>

Sergeant Bilbrough also formed the view that the deceased was about to pull over and his intention was to also exit the police vehicle and approach the deceased. It was at this point that the deceased suddenly accelerated away from them.<sup>17</sup>

Before considering the events immediately following this action, an analysis of the speed of the police vehicle in the course of events that led to this point is warranted.

### **The speed of the police vehicle**

Both police officers gave evidence at the inquest concerning the speed of the police vehicle.

---

<sup>15</sup> T 155 – 156; T 166 – 167; Exhibit 2, Tab 1 and 2

<sup>16</sup> T 166 - 167

<sup>17</sup> T 155 - 156



The entire incident, from the time Sergeant Bilbrough first spotted the motorcycle until the time of the collision lasted approximately two minutes. The actual pursuit, which was initiated as soon as the police vehicle turned into Bailey Road, lasted about one minute.<sup>18</sup>

As it transpired neither police officer became aware of the actual speed of the police vehicle during the period of the intercept and the pursuit.

When Sergeant Bilbrough commenced the intercept and accelerated heavily along Great Eastern Highway, he did not check his own speed on the police vehicle's speedometer but he believed he was not travelling at an excessive speed for an intercept. By the time he turned into Bailey Road and initiated the pursuit he believed he was travelling nowhere near as fast as when he accelerated along Great Eastern Highway. However he was unable to give an indication of his speed along Bailey Road, noting that in the ordinary course he would rely on his passenger to look across at the speedometer and "*call*" the speed.<sup>19</sup>

When the intercept commenced, Sergeant Collett did not check the speed on the speedometer. When the pursuit commenced Sergeant Collett was focussed on obtaining the registration number displayed by the motorcycle in order to

---

<sup>18</sup> T 28; Exhibit 2, Tabs 5 and 6

<sup>19</sup> T 153 – 156; Exhibit 2, Annexure D and Tab 1



communicate it to the Police Operations Centre. After ascertaining the motorcycle's registration number his usual practice would have been to address the speed and the road conditions with the duty Inspector as part of the process of seeking permission to continue the pursuit. This practice was consistent with the evidence given by Detective Sergeant Mottolini at the inquest, who explained that whilst there is an onus on the passenger in the police vehicle to also conduct risk assessments, checking the speedometer may be difficult depending on the type of vehicle, and other factors such as needing to contact the Police Operations Centre.<sup>20</sup>

The data subsequently analysed from the police Automatic Vehicle Locator System (AVLS) indicated that the police vehicle reached a speed of 148 kilometres per hour during the intercept on Great Eastern Highway between Margaret and Bailey Roads, and that it reached speeds of 127 kilometres per hour initially and a matter of seconds later, 107 kilometres per hour, during the pursuit on Bailey Road. However whilst the data may be used to remotely manage associated risks during an authorised pursuit, it is not approved speed measuring equipment. It cannot be relied upon as the sole determining basis of the police vehicle's speed.<sup>21</sup>

---

<sup>20</sup> T 163 – 165; T 168

<sup>21</sup> Exhibit 2, Annexure D and Tabs 4 and 5



At the inquest I heard evidence concerning the distance between the two vehicles and their estimated speed from a number of witnesses who either saw or heard the pursuit along Bailey Road.

Mr and Mrs Ovington lived on Bailey Road close to the intersection with Great Eastern Highway. They heard the police sirens and Mr Ovington observed the motorcycle to be a good distance in front of the police vehicle, noting that the police vehicle was not travelling as fast as the motorcycle. Mrs Ovington considered the two vehicles were separated by approximately 100 metres.<sup>22</sup>

Mr Humphries who resided approximately half way down the hill on Bailey Road looked out of his window upon hearing the sirens and saw a motorcycle going down the hill followed by a police vehicle. Whilst he was unable to estimate the speed, they appeared to him to be travelling in excess of the 50 kilometre speed limit, and at the same speed. He described the vehicles as not being very close to each other.<sup>23</sup>

Mr Todd who lives further along Bailey Road was standing on his property and he heard the sirens. He heard the motorcycle make an exceedingly loud noise and then observed that it was coming down the hill at great speed. He believed the police vehicle was travelling more slowly

---

<sup>22</sup> T 43; T 46; Exhibit 7.4

<sup>23</sup> T 35 – 36; Exhibit 7.2



than the motorcycle and he described the two vehicles as not being very close.<sup>24</sup>

Mrs Johnston's evidence regarding the distance between the police vehicle and the motorcycle was at variance with that of the other witnesses. At the time she resided on Bailey Road approximately 40 metres north of the intersection with Thomas Road. She heard the sounds of the police vehicle's sirens and the motorcycle's engine. She then saw both vehicles. She recalled the police vehicle and the motorcycle were so close together it appeared to her as though the police vehicle may run over the motorcycle. She estimated the separation to be one to two metres. She estimated the speed to be approximately 80 kilometres per hour, describing it as a minimum estimate. She did not see the collision.<sup>25</sup>

There is evidence before me concerning stopping distances provided by the Australian Transport Safety Bureau through the Department of Transport. It provides a guide as to the total of reaction distance plus braking distance. It is the distance travelled once a driver reacts to an emergency, applies the brakes, and comes to a stop.<sup>26</sup>

Given that both vehicles came to an almost stationary position at the intersection, the question that comes up for

---

<sup>24</sup> T 39 – 40; Exhibit 7.3

<sup>25</sup> T 50; T 58; Exhibit 7.5

<sup>26</sup> Exhibit 12



consideration is whether it is likely that they were travelling at a minimum speed of 80 kilometres per hour 40 metres before the intersection.

On its own the guide as to stopping distances would not be conclusive of the speeds at the material time. However, having regard to this guide and all of the evidence before me I am satisfied that as the police vehicle and the motorcycle approached the intersection of Bailey Road and Thomas Road they were both slowing down and they came to a stop, or were practically stationary at the intersection, just before the deceased suddenly accelerated away. That would explain why Mrs Johnston, from a position located some 40 metres before the intersection, saw the vehicles as being closer together than the other witnesses.

Whilst is it not possible to estimate the speed of the vehicles as they approached the intersection, I am satisfied that they were not travelling at a minimum speed of 80 kilometres per hour, otherwise they would not have been able to come to their stationary positions.

## **THE COLLISION**

Whilst it may have appeared to the police officers that the pursuit had come to an end on Bailey Road at the Thomas Road intersection, within a few seconds, from his almost stationary position at the give way control, the deceased



suddenly accelerated away from the police vehicle and directly into the intersection, into the pathway of an oncoming vehicle.<sup>27</sup>

Sergeants Bilbrough and Collett both saw the Toyota Prado driving west along Thomas Road seconds before it collided with the motorcycle at the intersection. The Toyota Prado, which had right of way, was travelling at the posted speed limit of 60 kilometres per hour and its driver had seen the police lights just before the intersection on Bailey Road, but he had not seen the motorcycle. He had no time to brake or take evasive action prior to the collision. The impact of the collision resulted in the deceased being thrown through the air and onto the side of Thomas Road. The driver of the Toyota Prado immediately stopped and ran to the deceased to endeavour to render assistance. At the same time both police officers having observed the collision also exited the police vehicle and ran to the deceased to endeavour to render assistance.<sup>28</sup>

Sergeant Collett and the Toyota Prado's driver reached the deceased almost immediately. They both felt for a pulse but could not find one. Sergeant Collett was about to perform cardiopulmonary resuscitation when he heard an explosion. He saw flames coming from the motorcycle and a trail of what appeared to be fuel coming from the direction of the motorcycle towards the deceased. He was pushed back by

---

<sup>27</sup> T 155 – 156; T 166 – 167; Exhibit 1, Tab 36; Exhibit 2, Tabs 1 and 2

<sup>28</sup> T 157 – 159; T 166 – 167; Exhibit 1, Tab 10; Exhibit 2, Tabs 1 and 2



the heat from the explosion and he withdrew leaving the deceased in the recovery position.<sup>29</sup>

Ambulance paramedics attended and the deceased was pronounced dead. He was identified by visual means by his partner, who immediately attended at Thomas Road when she became aware that there had been a collision.<sup>30</sup>

### **THE CRASH RECONSTRUCTION**

Detective Sergeant Wisbey, at that time attached to the Major Crash division of the Western Australia Police, was the investigating officer and he attended and examined the scene of the collision. He gave evidence at the inquest.<sup>31</sup>

Detective Sergeant Wisbey observed that the motorcycle had come to rest approximately 16 metres from the point of collision on the southwest corner of the intersection. The deceased had come to rest approximately 33 metres from the point of collision, to the side of the road approximately three metres into the bushland. This might be because the deceased was carried for a short distance on the front of the Toyota Prado before becoming airborne.<sup>32</sup>

The post impact analysis, that I accept, establishes that the motorcycle was not travelling at a high speed when it

---

<sup>29</sup> Exhibit 1, Tab 10; Exhibit 2, Tab 2

<sup>30</sup> Exhibit 1, Tabs 2-4

<sup>31</sup> T 70-81

<sup>32</sup> T 71, Annexure C



entered the intersection, and certainly not at any speed close to the posted speed limit.<sup>33</sup> This is consistent with the evidence of Sergeants Bilbrough and Collett who observed the motorcycle to have stopped or practically stopped before accelerating away. Sergeant Bilbrough described the motorcycle as having stopped. Sergeant Collett described it travelling at “*a snail’s pace*”.<sup>34</sup> The differences in those descriptions are immaterial. I am satisfied that the motorcycle was practically stationary at the intersection.

The motorcycle was severely damaged by a fire that engulfed it at the scene, following an explosion straight after the collision. There was impact damage apparent to the left side of the motorcycle. The Toyota Prado showed impact damage to the front, primarily in the area of the lower portion of the kangaroo bar and the underside aluminium skirt suggesting that the Toyota Prado went over the top of the motorcycle.<sup>35</sup> This is consistent with the evidence of Sergeant’s Bilbrough and Collett, and the driver of the Toyota Prado, concerning the collision.

Detective Sergeant Wisbey did not find any tyre skid, scuff, gouge or scrape marks on Bailey Road in the carriageway leading up to and in front of the intersection. I accept the Forensic Surveying Unit’s scene survey and drawing as an

---

<sup>33</sup> Exhibit 1, Tab 31

<sup>34</sup> T 155; T 172

<sup>35</sup> T 73



accurate reconstruction.<sup>36</sup> The absence of striations is consistent with both vehicles having substantially slowed down as they approached the intersection.

The vehicle examinations showed that there were no prior defects detected with respect to the Toyota Prado and to the extent it was possible, none were detected with respect to the motorcycle either. There were no prior defects detected with respect to the police vehicle. A black scuff mark adhered to the left front wheel arch of the police vehicle was accounted for previously in the vehicle's log book, indicating that it was caused in February 2012. There were no other evident signs of recent damage to the police vehicle.<sup>37</sup>

Both of the police officers and the driver of the Toyota Prado were breathalysed in accordance with the relevant requirements. They all returned readings consistent with a zero blood alcohol content.<sup>38</sup>

I am satisfied that the collision was between the motorcycle and the Toyota Prado, that the motorcycle did not at any stage collide with or come into contact with the police vehicle and that there were no defects in the Toyota Prado or the motorcycle such as would reflect upon the collision.

---

<sup>36</sup> T 81, Exhibit 1, Tab 31

<sup>37</sup> Exhibit 1, Tab 31

<sup>38</sup> T 76-77



## **SOME INCONSISTENCIES IN THE EVIDENCE CONCERNING EVENTS AFTER THE COLLISION**

At the inquest, Mrs Johnston, one of the residents who at the time lived closest to the intersection between Thomas Street and Bailey Road, gave evidence regarding her observations of the conduct of some persons after the collision. She recalled seeing the younger of the two police officers sitting in the driver's seat of the police vehicle and she described him as "*the driver*".<sup>39</sup>

Sergeant Collett is the younger of the two police officers. In his evidence he explained that after the collision (and after he had called for an ambulance) he had moved over into the driver's seat of the police vehicle to utilise the vehicle's radio communication system to secure a better connection with the Police Operations Centre. His portable radio did not have an adequate connection. He stated he did not drive the police vehicle at all during his shift on 3 March 2012.<sup>40</sup>

I am satisfied that Mrs Johnston did see Sergeant Collett sitting in the driver's seat of the police vehicle after the collision and I accept Sergeant Collett's evidence of how he came to be sitting in the driver's seat at that point.

I am satisfied that Sergeant Bilbrough was the driver of the police vehicle at all material times on 3 March 2012.

---

<sup>39</sup> T 54

<sup>40</sup> T 129 - 130



At the inquest Mrs Johnston confirmed the evidence in her statement to the effect that she observed a male person by the name of “*Dave*” speaking with the older police officer and telling him words to the effect of: “*it’s alright mate. No-one saw what happened.*”<sup>41</sup>

At the inquest I received evidence from Sergeant Bilbrough (the older of the police officers) and Sergeant Byrne (who identified himself as the male person at the scene referred to as “*Dave*”).

Sergeant Bilbrough explained that he was greatly distressed at the scene and that Sergeant Byrne (who attended whilst he was off duty to assist with traffic control) provided support to him. Sergeant Bilbrough could not recall what words Sergeant Byrne used.<sup>42</sup>

Sergeant Byrne’s evidence was that he rushed to the scene to provide assistance and support, and remained there in that capacity for some hours. I am satisfied that whilst he may at one point have stated “*no-one saw anything*” to Sergeant Bilbrough,<sup>43</sup> it was in the nature of a factual statement based upon speaking to persons present at the time.

---

<sup>41</sup> T 56

<sup>42</sup> T 157 - 158

<sup>43</sup> T 139 - 141



## CAUSE AND MANNER OF DEATH

On 12 March 2012 Forensic Pathologist Dr G. A. Cadden made a post mortem examination of the deceased at the State Mortuary. At examination severe neck injury was evident. The severity of the injury was such as to be inconsistent with survival.

The forensic pathologist found a fracture dislocation of the C1 cervical spine column with wide separation of the fracture margins and laceration with complete transection of the upper cervical spinal cord. There was pulmonary contusion and congestion, and bony pelvis injury.<sup>44</sup>

Further examinations were undertaken as part of the post mortem examination. On 15 March 2012 Specialist Neurologist Dr V. A. Fabian performed a neurological macroscopic examination of the deceased's brain and concluded that the deceased had suffered traumatic brain and spinal cord injury.<sup>45</sup>

Toxicological analysis for the deceased showed methylamphetamine lying within the normal recreational use range and tetrahydrocannabinol consistent with recent cannabis use. No alcohol was detected.<sup>46</sup>

---

<sup>44</sup> Exhibit 1, Tab 1

<sup>45</sup> Exhibit 1, Tab 1A

<sup>46</sup> Exhibit 1, Tab 29



On 12 March 2012 the forensic pathologist formed the opinion that the cause of the deceased's death was fracture dislocation of the upper cervical spine. That opinion was maintained after the further examinations.

The blood methylamphetamine concentration of 0.34mg/L that was detected affected the deceased's judgment and his ability to ride his motorcycle. I am satisfied that the deceased's drug use contributed to his poor judgement and erratic riding.

I accept the forensic pathologist's opinion and find that the cause of the deceased's death is fracture dislocation of the upper cervical spine.

The manner of the deceased's death is by way of accident.

## **COMMENTS CONCERNING THE CONDUCT OF THE PURSUIT**

### **The reason for the pursuit**

Initially Sergeant Bilbrough's intention had been to intercept the motorcycle and give the deceased a ticket for speeding. When he determined that the deceased was evading him, he decided to commence the pursuit. Sergeant Collett did not disagree with that decision.



Sergeant Bilbrough considered it was necessary to immediately apprehend the deceased due to him travelling at 97 kilometres per hour on Great Eastern Highway, where the posted speed limit was 80 kilometres per hour. This was to be balanced against the level of risk posed if he, in effect, allowed the deceased to keep travelling along Great Eastern Highway unimpeded.

It could not at that stage be known whether or not the deceased would have slowed down of his own accord, or whether the deceased's speed would have resulted in harm or injury to himself or others if he had proceeded unimpeded along his chosen route.

There was no other information available to Sergeant Bilbrough and/or Sergeant Collett at that time concerning the deceased. They did not know who he was. They were unaware of his outstanding arrest warrant. They did not know that he had no licence to drive a car or ride a motorcycle.

The question of whether the deceased's motorcycle was displaying false or unregistered number plates was not a factor taken into account by Sergeant Bilbrough when he decided to commence the pursuit. The police were unable to ascertain the motorcycle's registration until they were travelling along Bailey Road.<sup>47</sup>

---

<sup>47</sup> T 151



## **Balancing the law enforcement imperative with the risks**

In deciding whether to commence a pursuit a police officer must balance the necessity to immediately apprehend a suspected offender against the obvious risk to safety posed by pursuit driving. Due to the speeds that may be reached there is a degree of danger to those directly involved in the incident, namely the person(s) being pursued and the police officers themselves. There is also a degree of danger to other road users and pedestrians.

The risk of harm or fatality is magnified due to critical decisions being made within split seconds. A sad reality of the times is that a proportion of persons seeking to evade the police during pursuits have used methylamphetamine; its deleterious effect on decision-making is well known. It predisposes the user to erratic behaviour, impulsivity, aggression, and generally contributes to risk taking behaviours.

The Western Australia Police seek to mitigate the inherent risks posed by pursuit emergency driving by requiring police officers to adhere to the Emergency Driving Policy and Guidelines (the Guidelines).<sup>48</sup>



<sup>48</sup> Exhibit 5; the version applicable at the material time

The Guidelines require that pursuit emergency driving be undertaken by appropriately trained and qualified police officers, in an appropriately designated police vehicle. Notably police may not undertake any “pursuit” on a motorcycle. The reasons are varied, but one clear factor concerns the obvious danger posed by reaching high speeds on a motorcycle.

The Guidelines outline a range of matters to be taken into account by an appropriately designated driver in making a risk assessment as part of the decision to commence the pursuit. The passenger in the police vehicle is also involved in monitoring the risk assessment. Due to the dynamic nature of a pursuit both driver and passenger in the police vehicle must continuously review and update their risk assessment as the incident unfolds, until the conclusion of the incident. The Guidelines set out the conditions giving rise to an obligation on the part of the pursuit driver to terminate the pursuit.

The Guidelines seek to further mitigate the risks by requiring real-time remote oversight of police pursuits.

One of the critical matters for consideration by all involved in this process is the need to balance the law enforcement imperative with the risk posed by the pursuit emergency driving. Each case is of necessity based on its own particular facts. Whilst some might assume that a driver or



rider must be evading police for particularly nefarious or sinister reasons, care is to be taken that this assumption is not unduly drawn.

As the pursuit unfolds, with oversight from the Police Operations Centre, including the gathering of further information, the law enforcement imperative may develop, or it may be outweighed by the risks. In the latter case the pursuit must be terminated.

In the circumstances of this matter, whilst both the motorcycle and the police vehicle had practically stopped, the pursuit had not ended. It was still ongoing at the time of the collision.<sup>49</sup>

### **The risk assessment undertaken by police**

At the inquest Sergeant Bilbrough, who remains deeply affected by the incident, could think of no reason why the deceased, from a practically stationary position suddenly accelerated into the intersection. On 3 March 2012 he did not consider terminating the pursuit because the motorcycle had gone over the brow of the hill on Bailey Road and it was slowing down and then he saw it stop at Thomas Road. From his perspective that ended the pursuit.<sup>50</sup>

---

<sup>49</sup> T 33

<sup>50</sup> T 158; T 160



At the inquest Sergeant Collett's evidence was that he saw no reason to have terminated the pursuit because in his opinion the motorcyclist was not doing anything overly dangerous, in that he was not on the wrong side of the road, he was wearing safety gear and there was no interference to any other traffic. As the passenger in the police vehicle, he had a function in terminating the pursuit if he disagreed with Sergeant Bilbrough's decision. Sergeant Collett could have done that by speaking with Sergeant Bilbrough, or by refusing to seek permission from the Police Operations Centre to continue the pursuit. On 3 March 2012, Sergeant Collett did not disagree with Sergeant Bilbrough's decision to commence and continue the pursuit.<sup>51</sup>

The evidence of Inspector Bordin, the duty Inspector at the Police Operations Centre on 3 March 2012, confirmed that there was no time to provide oversight of the pursuit as it ended in the collision very shortly after the Centre was notified. The usual matters taken into account by the duty Inspector in considering whether to grant express permission to continue the pursuit include checking the class of police vehicle and qualification of the driver and checking that the risk assessment has been completed. Inspector Bordin referred to checking the road and weather conditions "*...and any other factors that we need to take*

---

<sup>51</sup> T 168 - 169



*into account which might place the community at risk or the officers at risk.”<sup>52</sup>*

I am satisfied that the pursuit was initiated in accordance with the Emergency Driving Policy and Guidelines as they applied at the material time, there was a prompt request for permission to continue the pursuit, but the collision occurred before that permission was granted. Given the short time frame, it had not been possible to communicate the requisite information to the Police Operations Centre, in order for an assessment to be undertaken by the duty Inspector. There was no remote risk assessment undertaken. The risk assessments on 3 March 2012 were undertaken by Sergeant Bilbrough and Sergeant Collett.

On the evidence before me in the circumstances of this matter, there is nothing in the Emergency Driving Policy and Guidelines that would, or ought to have, caused Sergeant Bilbrough or Sergeant Collett to decide to terminate the pursuit of their own accord.

### **The failure to comply with the Emergency Driving Guidelines**

After the incident, the Western Australia Police Internal Affairs Unit liaised with the Major Crash Investigators and reviewed the evidence in order to investigate the actions of both police officers. At the inquest Detective Sergeant



Mottolini confirmed that the investigation found that Sergeant Bilbrough had failed to comply with the Emergency Driving Policy and Guidelines because on his own statement he said he was not aware of the speed of the police vehicle when he was attempting to intercept the motorcycle on Great Eastern Highway. Whilst the AVL data indicated he exceeded the permissible speed cap, it is not conclusive evidence of the speed.<sup>53</sup>

Detective Sergeant Mottolini explained that the failure was sustained because Sergeant Bilbrough's lack of awareness of his speed showed that he was not looking appropriately at his speedometer, hence in that respect he was not conducting accurate and constant risk assessments. Sergeant Bilbrough was issued with a letter of corrective advice reminding him to include the speed as part of the risk assessment and to be able to account for it if required. Detective Inspector McIntosh signed the letter of corrective advice and at the inquest he explained that is treated as documentation to reflect the verbal guidance provided to the officer, and specifically to bring to his attention that he should be monitoring his speed. However, for the reasons stated above concerning the probative value of the AVL data, the Internal Affairs Unit Investigation did not conclude that Sergeant Bilbrough was travelling at 148 kilometres along Great Eastern Highway. I accept that despite the AVL reading, the evidence is insufficient to establish Sergeant

---

<sup>53</sup> T 8 – 11; Exhibit 2, Annexure D



Bilbrough exceeded the permissible speed cap along Great Eastern Highway.<sup>54</sup>

There was no failure sustained in respect of Sergeant Collett and Detective Inspector McIntosh explained that during the short period of the pursuit, as passenger he would have been undertaking a number of activities that would negate his ability to monitor the speed of the motorcycle. Primarily they would concern contact with the Police Operations Centre.<sup>55</sup>

The outcome of the Internal Affairs Unit Investigation is a matter that occurs independently of the coronial process and relevantly informs me but does not bind me.

The question of fact before me is a separate one, namely whether or not Sergeant Bilbrough and/or Sergeant Collett in the conduct of any aspect of the intercept and/or the pursuit of the motorcycle, caused or contributed to the deceased's death. This arises irrespective of whether the Internal Affairs Unit Investigation finds that there has been a failure to comply with the Emergency Driving Policy and Guidelines.

---

<sup>54</sup> T 11 – 13; T 102 – 104; Exhibit 2, Annexure D and Tab 10  
<sup>55</sup> T 121 - 122



## **Did any action of the police cause, or contribute to, the deceased's death?**

The law mandates an inquest when a death **appears** to be caused, or contributed to, by any action of a member of the Police Force (sub-section 22(1)(b) *Coroners Act*, emphasis added). A death during the course of a police pursuit will have that appearance. In those circumstances, the law provides for the independent and public scrutiny of the actions of the police officers by the coroner, to guard against possible abuses of power and in furtherance of the protection of the community.

In order to address the nexus between the pursuit and the death, an analysis is required of the actions of the police officers and of the deceased. After hearing all of the evidence, on 2 September 2015 I did not find that the actions of the police caused or contributed to the deceased's death in the circumstances of this pursuit<sup>56</sup>. The matters I have taken into account are outlined below.

I am satisfied that the intercept was initiated for a proper policing purpose, the pursuit was initiated in accordance with the relevant Guidelines and the police took immediate steps to seek permission to continue it. Whilst the Police Operations Centre's Inspector did not have an opportunity to consider the risks of granting permission to continue the pursuit given the short time frames, there is no evidence

---

<sup>56</sup> T 184



that either Sergeant Bilbrough or Sergeant Collett failed to recognise and act upon any conditions giving rise to an obligation to terminate.

There is no evidence that Sergeant Bilbrough exceeded the permissible speed cap for pursuit emergency driving under the Guidelines whilst he was engaged in the pursuit along Bailey Road. I am satisfied that there was a reasonable distance between the police vehicle and the motorcycle along Bailey Road, with that distance being closed as both vehicles came to an almost stationary position at the intersection with Thomas Road, next to each other. At that point the police formed the view that the deceased had decided to heed their instruction to stop.

The deceased looked back towards the police vehicle and from the passenger seat, Sergeant Collett saw part of his body, but not his head, due to the positioning of the two vehicles. There were no words or gestures exchanged between the police officers and the deceased. Sergeant Bilbrough was at the wheel and Sergeant Collett was about to open the passenger door to approach the deceased.

The fact that both vehicles were practically stationary at the intersection has a bearing upon my determination that there is an insufficient nexus between the pursuit and the death. The deceased's next action of accelerating into the intersection was sudden and unpredictable. Whilst it



cannot be known why he took this dangerous and fatal course of action, there are a number of factors that reflect upon his decision-making.

The deceased was affected by methylamphetamine, impairing both his judgment and his capacity to safely ride the motorcycle. He had no authority to drive or ride a motorcycle (having never held a vehicle licence). He was subject to a number of court ordered driving suspensions.

The number plate displayed by the motorcycle had previously been reported as missing and it was no longer a current numberplate. There was an outstanding warrant for his arrest for no authority to drive and exceed zero blood alcohol content. He was in possession of a small amount of cannabis.<sup>57</sup>

Whilst I am satisfied that the deceased had not intended that his action would result in harm to his person, tragically as a result of that action, he was immediately and fatally injured. The dangers of accelerating into an intersection in those circumstances are self-evident.

I am satisfied that the deceased chose to flee from the police who were acting in the course of their duties. The police officers did not cause or contribute to the deceased's death.



<sup>57</sup> T 73; T 78; Exhibit 1, Annexure C

## Particular risks concerning the pursuit of motorcycles

A number of relevant police witnesses gave evidence at the inquest addressing the particular risks concerning the pursuit of motorcycles.

Detective Sergeant Mottolini's evidence was that the risks are heightened where a motorcycle is being pursued. He explained that there is nothing in the Emergency Driving Policy and Guidelines that specifically refers to pursuits of motorcycles, but it is one of the factors to take into account when conducting a risk assessment, for the obvious reason: *"They've got less protection if they do come to grief."*<sup>58</sup>

Inspector Bordin, the duty inspector at the Police Operations Centre on 3 March 2012 gave evidence to the effect that, had he been contacted and informed that the police were pursuing a motorcycle, he would have terminated the pursuit. He has been with the Western Australia Police for 30 years. In responding to a question concerning risk factors to be considered when a motorcycle is being pursued he said:

*"You're talking about someone that's operating on two wheels as opposed to four wheels, and you need to look at the factors of what's your termination strategy in respect to stopping a motorbike. They can accelerate up to a high speed very quickly, they can manoeuvre faster than any four-wheel vehicle that's on the road, and it places a heightened level of anxiety on the rider*

---

<sup>58</sup> T 19



*of the bike to maintain his scrutiny of what he's doing and where he's going.*"<sup>59</sup>

Inspector Bordin's concern is that there is no termination strategy when a motorcycle is being pursued, and that there is very limited opportunity to apprehend the rider unless they come off their motorcycle or have a collision. He notes that tyre deflation devices cannot be used in the case of a motorcycle. He gave a hypothetical example of when he would give permission to continue a pursuit of a motorcycle, by reference to "*extenuating circumstances*". That hypothetical was based upon a motorcycle rider being suspected of having committed an act of violence. He stressed that this is his practice and that other duty Inspectors may have different views.<sup>60</sup>

Detective Inspector McIntosh has been with the Western Australia Police for 37 years. He disagreed with Inspector Bordin on the matter of whether there is a termination strategy when a motorcycle is being pursued. He pointed to the possibility of a police helicopter being available for use as a tool in the management of a particular pursuit. If so, there is the possibility of terminating the pursuit by the police vehicle whilst maintaining the surveillance of the motorcycle by air support.<sup>61</sup>

---

<sup>59</sup> T 90

<sup>60</sup> T 89 - 91

<sup>61</sup> T 106



The tenor of Detective Inspector McIntosh's evidence regarding the general risks attending the pursuit of a motorcycle however was similar to that of Inspector Bordin. Detective Inspector McIntosh acknowledged that there is a degree of subjectivity to the decision-making. His evidence addressed the balancing exercise that police are required to undertake when balancing the law enforcement imperative against the inherent risks of commencing or continuing a pursuit.<sup>62</sup>

Detective Inspector McIntosh gave a number of examples of instances where he would be inclined to consider there to be a good reason for permitting the continued pursuit of a motorcycle, notwithstanding the inherent risks. By and large these examples related to instances where the motorcycle rider was suspected of having committed an act of violence, or an act that poses a risk of harm to the community. The import of his evidence was that where the police have no information other than the fact that a motorcycle rider was speeding and failed to stop for them, there might be further relevant information sourced from the Police Operations Centre that will assist in balancing the risk of continuing the pursuit as against the need to immediately apprehend the driver. Quite reasonably he noted that it would be irresponsible for a duty Inspector to

---

<sup>62</sup> T 125 - 127



require a pursuit to be terminated simply because it involves a motorcycle.<sup>63</sup>

Detective Inspector McIntosh confirmed that on each occasion it involves a risk assessment. In this instance the question to be addressed would be whether you let a speeding vehicle continue because you believe you can manage that risk, or whether you need to continue to pursue that vehicle.<sup>64</sup>

Detective Inspector McIntosh's experience of having worked with approximately ten Police Operations Centre officers over 12 months concerning the grant of permission to continue the pursuit of motorcycles was summed up by him as follows: "*....if you don't get immediate advice as to really good reasons why that pursuit should continue, it's very rare that a POC officer won't say 'abort'.*"<sup>65</sup>

Reflecting back on the incident and still deeply affected by it, Sergeant Bilbrough's evidence is that he will not pursue a motorcycle again.<sup>66</sup>

---

<sup>63</sup> T 125 - 128

<sup>64</sup> T 117;

<sup>65</sup> T 117; T 126

<sup>66</sup> T 160



## **Should special considerations apply to the pursuit of motorcycles?**

In light of the evidence received at the inquest concerning the police officers' experiences in pursuing motorcycles and/or giving permission to continue the pursuit of motorcycles, I raised with Mr Holgate, counsel for the Commissioner of Police, the desirability of alerting police officers to the particular risks involved in pursuing motorcycles, by making a specific reference to motorcycles in the Emergency Driving Policy and Guidelines. Mr Holgate drew my attention to a non-exhaustive list of factors that police are required to take into account when making an "emergency driving" risk assessment, but they do not make specific reference to motorcycles.<sup>67</sup> Subsequently, Mr Holgate also informed the court that a draft revised emergency driving policy includes reference to the elevated risks of pursuing motorcycles as a factor to be considered in the risk assessment process in emergency driving situations, though that draft was not yet approved. As at the time of writing this finding that revised policy is not yet issued.

---

<sup>67</sup> Exhibit 5, TR-7.4.3



## RECOMMENDATION

### *Recommendation No. 1*

**I recommend that Western Australia Police include, in their approved Emergency Driving Policy and Guidelines, a specific reference that addresses the increased risks in pursuing motorcycles.**

### *Recommendation No. 2*

**I recommend that in all of its training courses dealing with emergency driving, the Western Australia Police place particular emphasis on the increased inherent risks of intercepting and pursuing motorcycles.**

## CONCLUSION

On the afternoon of 3 March 2012 the deceased was riding his motorcycle in excess of the posted speed limit along Great Eastern Highway when police officers attempted an intercept. They intended to stop the deceased and give him a ticket for speeding. The deceased evaded the police and they commenced their pursuit of him when he made a right hand turn into Bailey Road.

The police vehicle, with lights and sirens activated, pursued the deceased along Bailey Road. Both vehicles travelled in excess of the posted speed limit, but slowed down as they approached the intersection with Thomas Street.



At the intersection, the police vehicle and motorcycle were practically stationary and next to each other.

As the police made to get out of their vehicle to approach him, the deceased suddenly accelerated into the intersection and into the pathway of a Toyota Prado. The deceased collided with the Toyota Prado, whose driver did not have time to apply the brakes.

The force of the impact resulted in the deceased being thrown onto the ground and suffering severe and fatal injuries. The cause of the deceased's death was fracture dislocation of the upper cervical spine.

The period of the pursuit was less than one minute and the inquest highlighted just how quickly the events escalated from the time the deceased was detected speeding, up until his tragic and untimely death.

The reasons for the deceased suddenly accelerating into the intersection, after he had practically stopped, will never be fully understood. The dangers of doing so are self-evident. The deceased had used methylamphetamine, which had a deleterious effect on his decision-making and his capacity to safely ride his motorcycle.



The deceased was 29 years old and leaves behind a grieving family, his partner, three young children and his parents, all of whom will continue to feel his loss.

R V C FOGLIANI  
STATE CORONER

30 May 2016

