
JURISDICTION : CORONER'S COURT OF WESTERN AUSTRALIA
ACT : CORONERS ACT 1996
CORONER : SARAH HELEN LINTON
DELIVERED : 30 DECEMBER 2020
FILE NO/S : CORC 41 of 2017
DECEASED : GREEN, DENNIS MICHAEL

Catchwords:

Nil

Legislation:

Nil

Counsel Appearing:

Ms K Heslop assisted the Coroner.

Ms N Eagling, with her Ms C Chapman, appeared for the WA Police Force.

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

Nil

Coroners Act 1996
(Section 26(1))

RECORD OF INVESTIGATION INTO DEATH

*I, Sarah Helen Linton, Coroner, having investigated the death of **Dennis Michael GREEN** with an inquest held at Perth Coroners Court, Central Law Courts, Court 85, 501 Hay Street, PERTH, on 15 to 16 June 2020, find that the identity of the deceased person was **Dennis Michael GREEN** and that death occurred on 7 December 2017 at Julimar Road, Toodyay, from multiple injuries in the following circumstances:*

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SUPPRESSION ORDER

On the basis that it would be contrary to the public interest, I make orders that:

- (1) 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; and**
- (2) there be no reporting or publication of the name, picture or any other identifying features of a certain named police officer, as identified in the original suppression order, referred to as T in this finding.**

INTRODUCTION

1. Dennis Michael Green, who was known as Den to his family and friends,¹ spent most of his adult life in active service to the community. He served for more than two decades in the British Army before moving to Western Australia, where he worked first as a prison officer and then, from 2011, as a police officer with the WA Police Force. Even when he wasn't at work, he was serving the community by volunteering with the Two Rocks Sea Rescue. He was also a devoted husband and father to his two sons. He was, as his family described him, "a selfless man"² who dedicated his life to the happiness of his family and service to the wider community.
2. Tragically, Den died on 7 December 2017 while on duty as a police officer, still serving the community. He was a First Class Constable attached to a Traffic Enforcement Group and was participating in a WA Police motorcycle training course at the time. Den was undertaking the rural road component of the training when he crashed on Julimar Road in Toodyay. He died at the scene from multiple injuries he sustained in the crash.
3. The death of a police officer in such circumstances is a very serious and concerning event and Den's death has been treated as such by the WA Police Force, with involvement in the review of the events surrounding his death going all the way up to the Commissioner of the WA Police Force, who has provided his personal support to the Green family.³ Prior to this inquest, the WA Police Force conducted a number of different internal reviews, including:
 - a Major Crash Investigation Section investigation into the cause of the crash;
 - an Occupational Safety and Health investigation conducted by the WA Safety Branch in conjunction with the State Traffic Division and Traffic Enforcement Group (TEG) to identify the causative factors and any occupational health and safety issues;
 - a re-investigation, expanding on the Major Crash investigation, by Major Crime Division;
 - an Internal Affairs Unit investigation into the conduct and management of the police officers involved; and
 - a review by the Commissioner's Assurance Team into the Police Motorcycle Training Package.

¹ At the request of his family, I will refer to him as Den for the rest of the finding.

² Exhibit 1, Tab 8.

³ T 212.

4. All of this information has been provided to me to assist me in the coronial investigation into Den's death. In addition, a number of the police officers involved in the events leading up to Den's death, as well as many of the police officers involved in the subsequent investigation and reviews, attended to give evidence in person at the inquest.
5. Due to the fact Den died in the course of training for his work, Worksafe commenced an investigation into his death, which is still ongoing. There is the potential for criminal proceedings to be instituted at the conclusion of that investigation. In those circumstances, and out of an abundance of caution, I granted a certificate under s 47 of the *Coroners Act 1996 (WA)* to the two police instructors who were supervising Den's driving at the time of his death, namely Senior Constable Adam Whitney and Senior Constable Damien Hawkins.
6. While Den's loss to the WA Police and community as a whole is very significant, it is undeniable that the loss is greatest to his wife and children and extended family. Den's family have provided a great deal of personal information about him to assist me to know more about him as a person. They also prepared a statement, which was read out at the conclusion of the inquest, to try to express their grief and pain at his loss, as well as their hurt at some aspects of the initial police investigation and their devastation that the findings of the ultimate investigations suggest his death might possibly have been avoided. Nevertheless, they expressed their sincere thanks personally to the Commissioner of Police, Mr Chris Dawson, for his compassion and support since Den's death.
7. In conclusion they provided another statement setting out their thoughts and feelings after the inquest. The Green family expressed a hope that the findings of this inquest might lead to recommendations that will ensure that any future training and training routes are reviewed to ensure no other police officer's family have to face similar heartbreak to their own.
8. I have seen the lengths that the Commissioner of Police was prepared to go to in order to ensure that the best and most correct information was provided to me for the coronial investigation into Den's death. I have also seen the willingness of all involved to assist wherever possible. I believe this conduct shows that the WA Police Force, as individuals and as an organisation, agree with the Green family and wish to make meaningful changes to ensure that another valued police officer does not needlessly lose his or her life in a similar way.
9. As to what those changes should be, I note that changes have already been effected since Den's death, including the postponement of any further

motorcycle training until this inquest and the Worksafe investigation are concluded. After the inquest, I received closing submissions filed on behalf of the WA Police Force, which showed that the evidence at the inquest, and my comments on some of the issues that arose, had been reflected on and incorporated into the planning for the new WA Police motorcycle training course.⁴ I will set them out in some detail at the conclusion of this finding, but I note at the outset that the willingness of the WA Police Force to take on board the views of Den's family and my comments and act upon them immediately, has removed the need for me to make a number of recommendations that I would otherwise have made.

BRIEF BACKGROUND

10. It is important to start first with some more information about Den and the person he was, before moving to the events leading up to his death.
11. Den was born in Hong Kong into a military family. In 1990 he married his childhood sweetheart, Michelle, and they remained happily married for 27 years until his death. They have two sons, James and Ryan, to whom Den was a devoted father and disciplined role model.⁵
12. Den enlisted in the British Army on 17 September 1986 as part of the Royal Engineers and had a long and distinguished military career, despite sustaining a serious injury in an explosion. He was posted around the world, learning new things, taking on further responsibilities and taking up new sports and adventurous activities as he went. He was a fully trained and qualified Explosive Ordnance Disposal Operator. He saw action in Northern Ireland, Iraq and Bosnia, and was decorated accordingly. In a eulogy at his funeral, it was noted that Den practised every day the values he learnt in the army, such as duty, decorum, reliability, honour, dignity and professionalism. It is apparent he was a professional, well-respected and popular member of the Royal Engineers Corp. In November 2008 Den left the Corp, at the rank of Staff Sergeant, after 22 years of loyal service.⁶
13. Den relocated with his family to Australia on New Year's Day 2010 to start a new life as a 'normal' family with Den at home. He initially became a prison officer, before he joined the WA Police Force in August 2011. Den was described as totally committed to his new role as a police officer, a role which had been a childhood ambition and one he truly loved.⁷

⁴ Closing Submissions on behalf of the Western Australia Police filed 4 August 2020.

⁵ T 3 – 4; Exhibit 2, Tab 1.

⁶ T 4; Exhibit 1, Tab 8.

⁷ Exhibit 1, Tab 8.

14. By 2017 Den had reached the rank of First Class Constable and was stationed at the Traffic Enforcement Group Unit 3 (TEG3), based in Joondalup. He was described as an easy-going person who got along with everyone.⁸ Den is also described as a person “who was always looking to the next challenge and experience, and gave 110% effort and commitment to everything he did.”⁹
15. Den and a colleague at TEG3, Senior Constable Jason Brewer, applied to undertake the WA Police ‘On Public Road Training’ Course (OPRT). Den was initially scheduled to take part in the course in April 2017 but this course was cancelled. Instead, Den and Senior Constable Brewer were scheduled to commence the OPRT course together on 23 November 2017. They hoped to qualify and have an opportunity to act as relief riders undertaking motorcycle policing duties, with a view to ultimately obtaining a permanent role as a motorcycle officer.¹⁰ The course was only open to individuals who already had a motorcycle licence and experience riding motorcycles, which Den had.¹¹
16. Den’s decision to undertake the OPRT course was consistent with his desire to learn new skills and take on new challenges, so his wife Michelle supported him as always. Given the many dangers he had successfully faced in his life, she did not expect this course to be the last challenge he attempted.

THE ‘OPRT’ COURSE

17. In the past, police officers wishing to conduct authorised motorcycle training had to undergo the Advanced Motorcycle Course, which was conducted largely on closed courses (racetrack) with some limited on road riding.¹² Due to a crash during the track based Advanced Motorcycle Course training at Barbagallo Raceway in 2012, training was suspended.
18. After this time it was identified that there were a number of motorcycle police officers attached to the Traffic Enforcement Group who were not qualified to the required level to conduct their duties to the best of their ability. The Driver Training Unit at the academy, which was responsible for the police motorcycle training at that time, did not have sufficient qualified trainers to undertake that training. Therefore, there were riders who required training but the unit responsible had no capacity to train them.¹³

⁸ T 4.

⁹ Exhibit 1, Tab 8.

¹⁰ T 65.

¹¹ T 4.

¹² Exhibit 1, Tab 11.

¹³ T 161.

19. In order to resolve this problem, it was proposed that the TEG consider taking over the motorcycle training component. In about 2013 the motorcycle training was transferred to State Traffic Division so the training could be provided by trainers at TEG2 in Midland.¹⁴ As part of the project, the training transitioned from the Advanced Motorcycle Training course, involving predominantly closed venue type training on a track with a small amount of on road training in the form of a rural ride, to the OPRT Course, which involved a small amount of track work and the bulk of the training conducted on public roads. At that stage, the training for motor vehicles had shifted to on public road training, so the idea was to essentially replicate that type of competency-based training for motorcycles.¹⁵
20. Between July 2014 and July 2017, Sergeant Paul Gale, who was a supervisor at TEG2, was the training coordinator for the WA Police motorcycle OPRT. He had ceased that role prior to Den's death, but while in the role he had been actively involved in the creation of the training programme.¹⁶
21. The plan was for the motorcycle OPRT to run for a minimum of 100 hours spread over two and a half weeks. Sergeant Gale indicated the 100 hours was considered a conservative timeframe, given it was effectively one on one training. Communication between the instructor and candidate was enabled through Bluetooth headsets so that they could provide 'on the spot' instruction.¹⁷ Sergeant Gale indicated consideration had been given to breaking up the Priority 2 (P2) and Priority 1 (P1) training so that the rider had more time to develop their skills at one level before moving to the next, however, it was felt that momentum was a key to progressing motorcycle training and breaking that momentum would have required the candidates to revisit a number of aspects of the training on each occasion, involving unnecessary and time-consuming duplication. Also, it was felt that the move from P2 to P1 was not a major step. Sergeant Gale explained that he believed all the "hard work was done under P2 because of the change in process from a practical riding assessment to then riding with lights and sirens."¹⁸ The only change from P1 to P2 was the increased speed.¹⁹ However, Sergeant Gale did accept that with increased speed, there is a change in the riding experience as "everything comes at you quicker, so you have to be more alert, more focussed, more understanding of what the environment's actually going to allow you to do."²⁰

¹⁴ Exhibit 1, Tab 11; Exhibit 3, Tab 1, pp. 24 – 25 and Tab 4.

¹⁵ T 161 – 162.

¹⁶ T 161.

¹⁷ T 162 - 163.

¹⁸ T 174.

¹⁹ T 165, 174.

²⁰ T 174.

22. The motorcycle OPRT was rolled out in 2014, and initially taught by Sergeant Gale and another officer, Sergeant Wilkinson. In order to enrol in the OPRT course, the candidate must have already held an open class motorcycle licence so there was an expectation that participants in the course knew the basics of riding a motorcycle and could ride any class of motorcycle.²¹ Candidates had to apply and go through an interview to be selected, but the instructors were not personally involved in who was selected.²²
23. The OPRT that was implemented was a 100 hour course held over two and a half weeks, inclusive of the following components not on roads:²³
- theoretical session;
 - low speed manoeuvres at Caversham race track.

The course then moved onto public road training, as follows:

- Practical Riding (Assessment) to ride police motorcycles at normal speeds without breaching any intersections;
 - P2 driving, which involves driving at a certain level over posted speed limits without breaching any controlled intersections; and finally
 - P1, which involves driving at a higher level over the posted speed limit, stopping at the designated maximum speed.
24. The trainers were also trained through competency-based training ‘on the job’. In order to obtain qualification as an instructor, the prospective instructor underwent a transition from observing the delivery of the course, to providing partial delivery of the course and then full delivery of the course in its entirety, under supervision by an overseeing instructor.
25. Senior Constable David Sumner and Senior Constable Damien Heseltine were selected as the first instructors to be trained. In 2015, two other officers, Senior Constable Whitney and Senior Constable Moore were also trained as instructors. The initial participants for the course were the 20 officers at TEG who had been identified as not qualified to the required level. After the initial group were trained, new candidates were selected for a job at TEG and as part of the application process they would ask questions around their motorcycling experience. If they were successful in joining the TEG unit then further discussion would be had. Ultimately, around 60 police officers completed the training before Sergeant Gale left the role as his tenure was up. Sergeant Gale

²¹ T 13.

²² T 81.

²³ T 18.

recalled one police officer who decided after the first two days that the course was not for him, but of the rest he felt they generally adapted well to the police motorcycle, irrespective of their past experience, and progressed well through the course.²⁴

26. Senior Constable Whitney completed the Advanced Motorcycle Course in January 2012 and had completed the OPRT instructor's qualification on 28 December 2015, which had been through the 'on the job' accreditation process.²⁵ He had also been riding motorcycles in a personal capacity for approximately 40 years.²⁶
27. Senior Constable Whitney estimated he had run around 8 to 10 OPRT courses as a trainee instructor and another 10 to 12 as a qualified instructor prior to Den's course commencing on 28 December 2015. The courses were run on an ad hoc basis and the rest of the time he would be performing on road policing as part of his general duties at TEG2.²⁷
28. Senior Constable Whitney explained at the inquest that the benefit of doing training on public roads, rather than simply on a track in a controlled environment, is that it gives the trainees "the chance to interact with other road users in real time and experience in real time what other road users do, which is sometimes quite unexpected."²⁸ He noted it is difficult to replicate those conditions on a track as it removes the variable element of other road users.
29. However, Senior Constable Whitney did add that he personally believes there might be some benefit to including a track component in the OPRT course (currently there is zero track work apart from the low speed component) as when he did his own motorcycle training, 98% of the high speed element was done on a track, which he believes is a better place for candidates to explore the handling capabilities of the motorcycle and their abilities.²⁹

DEN'S PARTICIPATION IN THE COURSE

30. Den and Senior Constable Brewer each had an allocated pair of instructors (a qualified instructor and trainee instructor). Senior Constable Whitney was Den's trained OPRT instructor. He was supervising Senior Constable Damien Hawkins, who was being trained as a motorcycle instructor to deliver the

²⁴ T 163, 165 -166.

²⁵ T 12, 209; Exhibit 1, Tab 11.

²⁶ T 12.

²⁷ T 13.

²⁸ T 41.

²⁹ T 42.

OPRT course at the time of Den's death.³⁰ Senior Constable Hawkins was also attached to TEG2 and he had completed the Advanced Motorcycle Course in January 1989. At the time of Den's death, Senior Constable Hawkins had been training as an instructor for approximately eight or nine months and was nearing the end of his instructor training.³¹

31. Senior Constable Sumner,³² was the qualified OPRT instructor for Senior Constable Brewer, and he was supervising a trainee instructor, Senior Constable Rod Moore. Like Senior Constable Hawkins, Senior Constable Moore did the direct supervision of Senior Constable Brewer as part of his instructor training. Senior Constable Sumner was one of the first two police officers to have been trained as an instructor to deliver the OPRT. He completed the course himself in early 2014 and quickly began training other police officers. Like Senior Constable Whitney, he therefore had a lot of experience delivering the course.³³
32. In order for there to be a suitable level of impartiality for each assessment, the instructors swapped candidates. Therefore, Den was assessed by Senior Constable Brewer's instructors, Senior Constables Sumner and Moore, and Senior Constables Whitney and Hawkins conducted the assessments for Senior Constable Brewer.
33. Senior Constable Whitney gave evidence that he would usually speak to candidates on the course in an informal way at the start of the course to assess their experience and to try to put the candidates at ease, as he recognised "it can be quite a daunting prospect to jump on a police motorcycle and be scrutinised."³⁴ In relation to Den's experience, Senior Constable Whitney was not there at the start of the course but he recalled he had a number of conversations with Senior Constable Hawkins as to Den's experience and his expectations in relation to the OPRT course.³⁵
34. Senior Constable Brewer, who was Den's friend and colleague, recalled that Den had ridden a 350 or 400 cc (referring to the engine capacity) motorcycle in the United Kingdom and owned a 250 cc motorcycle that he rode to and from work for about four years prior to undertaking the course. He was aware that Den was looking to buy a 'bigger', which I take to mean a larger engine

³⁰ Exhibit 1, Tab 9.

³¹ T 47 - 48; Exhibit 1, Tab 11.

³² Mr Sumner had left the WA Police Force by the time of the inquest, but I refer to him as Senior Constable Sumner in this finding as that was his title at the time of the relevant events.

³³ T 80.

³⁴ T 14.

³⁵ T 15.

capacity rather than just a larger framed motorcycle, and Senior Constable Whitney recalled the same.³⁶

35. When the first practical component of the course started on Thursday, 23 November 2017, at Caversham Raceway. It became apparent early on that Den was struggling with the size of the motorcycle while trying to complete the requirements of the low speed manoeuvres. He did not pass on his first attempt of the assessment. Senior Constable Whitney indicated that while most candidates managed to complete this part of the course on the first go, it was not the first time a participant had failed their first attempt. In Den's case, it appeared he was struggling with the size of the motorcycle because of his height and he was used to riding a smaller motorcycle.³⁷
36. The motorcycles used by WA Police Force are quite large Yamaha motorcycles with a 1300cc engine and fixed panniers.³⁸ As noted above, Den's motorcycle that he usually rode was a smaller, 250cc motorcycle, which weighed about half the weight of the police motorcycle, so it was a big step up to riding a bigger, heavier, more powerful motorcycle.³⁹
37. Senior Constable Hawkins indicated that he instructed candidates that once the motorcycle started to lean they shouldn't try to hold it, due to its weight, and they should step off instead, which is what Den did a number of times. Senior Constable Hawkins demonstrated how the manoeuvres could be done on the motorcycle, to encourage him to keep trying and be positive, and they also tried out a different motorcycle⁴⁰
38. Senior Constable Brewer already had a former police motorcycle at home as his private vehicle, and had previously ridden police motorcycles at work as a relief rider, so he did not experience the same issues as Den with managing the motorcycle itself and he passed the assessment first time.⁴¹
39. It was obvious to everyone that Den was a bit frustrated with the issues he was having with the motorcycle. Senior Constable Brewer believed Den was overthinking it and suggested once he relaxed, let go and enjoyed it, things would improve.⁴²

³⁶ Exhibit 1, Tab 11; Exhibit 2, Tab 3.

³⁷ T 15 – 16.

³⁸ T 14 – 15.

³⁹ T 25, 48, 50; Exhibit 2, Tab 1.

⁴⁰ T 48 - 49.

⁴¹ T 65 - 66.

⁴² T 66.

40. Den's wife Michelle also recalled that in the first week of the course Den expressed concerns and frustrations with the motorcycle he was allocated to use on the course. During the assessments on manoeuvres he told her that the steering on the bike felt 'heavy' and he had to 'put the bike down' many times, which on one occasion resulted in a smashed wing mirror that had to be replaced.⁴³ Still, he indicated he intended to persevere and hopefully complete the course.
41. Senior Constable Sumner had not met Den before, but said he liked him immediately when he met him at the course. They had a similar background, both coming from the United Kingdom, and he felt Den was a really approachable person with a good sense of humour. It was also immediately apparent to Senior Constable Sumner that Den had the determination to pass the course and do well. Senior Constable Sumner did recall that Den had trouble in the early stages of the course, which he attributed to Den being short and stocky and struggling with where to look and revving the engine while moving slowly. However, although Den was having difficulty doing the slow manoeuvres and getting frustrated, Senior Constable Sumner could see Den was determined and felt he would be able to do it once he 'tweaked' a few things. Senior Constable Sumner suggested to Den that he go home and relax and 'chill out' over the weekend and come back and try the assessment again on the Monday.⁴⁴
42. The plan was, therefore, made to return to Caversham Raceway on Monday, 27 November 2017, for Den to attempt the low speed manoeuvres assessment again. The instructors felt Den was definitely improving and wanted to finish the course, so there was no issue with returning for this purpose.⁴⁵
43. On the way to the course on the Monday, Senior Constable Brewer and Den discussed it and both agreed they were enjoying being on the course. Senior Constable Brewer gave him some advice that day to relax and think of something else to get into the rhythm.⁴⁶
44. Senior Constable Whitney was not present for the first two days of Den's course, but when he attended on Day 3, which was the Monday of that second week, it was apparent that Den had become more comfortable, based upon what he had been told. Senior Constable Brewer also noted a dramatic improvement in Den's riding that day, suggesting it was 'like a lightbulb had gone on'.⁴⁷

⁴³ T 17, 49; Exhibit 1, Tab 8.

⁴⁴ T 82, 85.

⁴⁵ T 49.

⁴⁶ T 66 - 68.

⁴⁷ T 68.

45. When Den undertook the test again on the Monday, he successfully completed all the manoeuvres. Senior Constable Sumner recalled Den finished a figure eight then did a fist pump and high-fived him. Senior Constable Sumner noted it was Den's determination and his focus that got him through those early difficulties.⁴⁸ Den later told his wife that he felt he had finally mastered the motorcycle and was enjoying the course.⁴⁹
46. Once both participants had passed the low speed manoeuvres test, they returned to their usual instructors, which meant Den returned to the supervision of Senior Constables Whitney and Hawkins. The riders would head off on different routes and meet up for breaks, so Senior Constable Brewer did not see much of Den's riding from this stage onwards. When they caught up for breaks Den would generally shrug and say it was going well, which was normal for him, so Senior Constable Brewer assumed there were no further issues.⁵⁰
47. The need for Den to retake the testing had pushed back the planned schedule for the second week, which raised a question mark over whether they would be able to complete the P1 assessment module of the course. The instructors had a conversation with the supervisors who were coordinating the course and it was agreed that they could push the final assessment to the Monday or Tuesday of the following week, if required. This meant they had the extra time they needed to complete the course with both the participants, if all went to plan.⁵¹
48. If one of the participants had not been able to complete all of the assessments within that time, it had been indicated that the course would not run with just one participant, but there was the possibility they could come back at a later time and do an abridged version of the course, with the consent of the course coordinator. However, the plan was to try to get both Den and Senior Constable Brewer through the course together without the need to return for more testing.⁵²
49. Den's training continued, with a move to practical on road training. It was explained at the inquest that this component was to ensure that the candidate could ride the police motorcycle and comply with all the laws and policies and conduct risk assessments. Instruction was given to Den on an ongoing basis by

⁴⁸ T 83.

⁴⁹ Exhibit 1, Tab 8.

⁵⁰ T 69.

⁵¹ T 19.

⁵² T 19.

Senior Constable Hawkins. The instruction was mainly done by way of a briefing prior to the ride, then coaching whilst riding and a de-brief afterwards.

50. The police officers all wore Bluetooth headsets so they could communicate with each other while riding. Generally while they were riding the trainee would be providing commentary, explaining what they were looking at and describing their assessment of hazards to demonstrate they were capable of conducting appropriate risk assessments. If any serious errors or safety concerns were noted, the instructors would pull him over to have a chat and provide some critique and guidance before continuing on. Senior Constable Whitney indicated there was the option available to abort the ride entirely, if they felt Den was unable to meet expectations or ride safely, but it was not necessary in his case.⁵³
51. Senior Constable Whitney gave evidence he had formed the impression that Den was an extremely focussed and determined individual who really wanted to do well at the OPRT training and he was also, at least in the second week, enjoying it.⁵⁴ He passed the practical riding assessment on his first attempt with what Senior Constable Sumner recalled was a “good PRA ride.”⁵⁵ and he then commenced the P2 component of the course.⁵⁶ Senior Constable Hawkins also felt the fact that Den passed the practical component first time demonstrated he had picked up this part quite well. He did struggle a little with providing the commentary at first, but Senior Constable Hawkins indicated this was not uncommon.⁵⁷
52. The P2 training was conducted primarily on metropolitan roads, and also a few semi-rural roads. Den was unsuccessful in his first attempt at passing the P2 assessment, which surprised Senior Constable Hawkins as he felt Den had been riding quite well.⁵⁸ The feedback provided was that Den had been forced by the conduct of another car to come to a stop on a sloping road and he had experienced difficulty balancing on the slope and the motorcycle went over. In addition, there was an issue with Den re-engaging or upgrading to P2 within a work zone, which is prohibited by police driving policy. Given the nature of the issues fell into the category of law and policy and vehicle management, it was not felt that he required much input by way of remedial training. Senior Constable Sumner described them as “little silly mistakes” but they have a standard set and they would not let anyone pass having made mistakes.⁵⁹

⁵³ T 20 - 21.

⁵⁴ T 21.

⁵⁵ T 85.

⁵⁶ T 26.

⁵⁷ T 51.

⁵⁸ T 52.

⁵⁹ T 85 – 86.

53. When he undertook the P2 assessment again the following day, Den was noted to have completed a good pass.⁶⁰ As with the previous assessments, the testing was done by Senior Constable Brewer's instructor, Senior Constable Rod Moore, but this time he was supervised by Senior Constable Heseltine as Senior Constable Sumner was on leave. Den was assessed as being proficient in all areas and advanced in the category of 'essential attitude, flow signal and responsiveness.'⁶¹
54. Based upon Den's performance in the second P2 assessment, Senior Constable Whitney considered there were no barriers to Den undertaking the P1 training. P1 training therefore commenced that day with a training ride in metropolitan Perth. Senior Constable Hawkins recalled that Den stepped up well to the challenge of the different driving conditions.⁶²
55. Senior Constable Brewer had not passed the P2 component by the end of Tuesday, 5 December 2017. He was told by his instructors that there probably wasn't enough time for him to complete the P1 component, so they would simply focus on getting him through the P2 testing. He was happy with that.⁶³
56. The following day, being 6 December 2017, was a rest day. The rest day was included as part of the fatigue management plan, as it was accepted the course could be tiring. Senior Constable Brewer indicated that both he and Den were tired during the course, which was not unusual.⁶⁴
57. The plan that had been made by Senior Constable Hawkins and Senior Constable Whitney with Den that on their return on 7 December 2017, Den was to undertake his first rural ride. The route involved a ride from Bullsbrook to Toodyay and back again. Senior Constable Whitney accepted the proposition that rural riding presents a different set of challenges to metropolitan riding,⁶⁵ but he was satisfied that Den had a sufficient skill level to undertake a rural ride.⁶⁶ Senior Constable Whitney gave evidence he had ridden the particular road they were going to ride "many, many times,"⁶⁷ so he was very familiar with its particular challenges.
58. Based on his familiarity with Julimar Road and also having some familiarity with Den's riding ability by this time, Senior Constable Whitney was asked if

⁶⁰ Exhibit 1, Tab 15; T 26 – 27.

⁶¹ T 28 - 29.

⁶² T 52.

⁶³ T 70.

⁶⁴ T 28, 72.

⁶⁵ T 30.

⁶⁶ T 29.

⁶⁷ T 29.

he had any concerns about Den's capacity to ride that road at P1 conditions. He replied, "None whatsoever."⁶⁸ Senior Constable Whitney indicated that he had observed Den's driving on the afternoon of Tuesday, 5 December 2017, and considered Den had experienced a "lightbulb moment" where "everything fell into place and his riding was absolutely fantastic."⁶⁹ He had expressed surprise to Senior Constable Hawkins that day that Den was on track to do his P1 assessment on the Friday, as he had been expecting they would need to go into the extra days the following week to complete the course, but Den had progressed faster than expected.⁷⁰

EVENTS ON THURSDAY, 7 DECEMBER 2017

59. On the morning of Thursday, 7 December 2017, Den was his usual self, full of life and humour. He was looking forward to the final two days of the course and making plans with his wife for the weekend. He was due to start leave the following week to spend time with family who were visiting and they were all going to get to spend Christmas together as a family.⁷¹ Sadly, those plans for a happy family Christmas were shattered that day.
60. Den spoke to Senior Constable Brewer at the start of the shift and Den told him that he was going to be doing a country drive. Senior Constable Brewer was surprised as he had understood that neither of them would be undertaking the rural development ride. However, he wished Den well and told Den to "take it easy, enjoy the ride ... and don't push yourself."⁷² Den seemed good and not apprehensive about the ride but Senior Constable Brewer did still encourage him to relax and enjoy it. Senior Constable Brewer went off to complete more of his P2 training, and he did not see Den again.⁷³
61. Den apparently had been required to attend court on the rest day but in accordance with WA Police policy he had had a ten hour break before commencing duty. He indicated he was not fatigued and felt 'good to go' so it was felt that it was appropriate to continue.⁷⁴
62. Prior to heading out on the road for his P1 development ride, Senior Constables Whitney and Hawkins conducted a safety briefing with Den. The main topics canvassed were:

⁶⁸ T 32

⁶⁹ T 32.

⁷⁰ T 32.

⁷¹ Exhibit 1, Tab 8.

⁷² T 70.

⁷³ T 70 – 71.

⁷⁴ Exhibit 1, Tab 9, p. 11 and Tab 11, p. 4.

- looking at the features of the road itself and assessing correctly the bends and the risks associated with that;
 - looking for debris;
 - keeping an eye out for other road users, particularly those who may not be keeping to their own side of the road;
 - monitoring their own fatigue because they are riding at higher speeds at P1; and
 - the need to maintain commentary.⁷⁵
63. Senior Constable Whitney also mentioned the need for Den to be making choices as to the path he chose to move through a curve in order to reduce the radius of the curve and, therefore, reduce the inputs required into the motorcycle.⁷⁶ Similarly, Senior Constable believed he spoke with Den about the racing lines and to use everything he could see in front of him (the tree lines, roads, signage) to make a risk assessment for the corner and to pick the speed and location on the roadway.⁷⁷
64. Senior Constable Whitney said he did not isolate any particular risks for the specific roads they were going to travel, but instead suggested they would be discussed on an ongoing basis as they rode along, with Senior Constable Hawkins there to provide feedback and monitor Den's hazard assessment and fatigue.⁷⁸ Senior Constable Hawkins recalled he told Den to be alert to the road conditions relevant to a country ride, such as gravel washed across the road, honky nuts and wildlife.⁷⁹ He also emphasised to Den that there was no need to do the top speed if he didn't feel comfortable to achieve it, particularly at the start of the ride, and he could ease off until he felt comfortable with it and stop if required.⁸⁰
65. They undertook the usual checks of the motorcycle and also checked with Den before commencing the ride that he had had a proper break and wasn't feeling fatigued.⁸¹ Senior Constable Hawkins recalled that Den appeared to be in good spirits and was looking forward to the ride.⁸² Senior Constable Hawkins couldn't recall whether Den told him, prior to leaving, if he had undertaken a similar ride on a rural road before.⁸³

⁷⁵ T 30.

⁷⁶ T 30 – 31.

⁷⁷ T 55.

⁷⁸ T 31.

⁷⁹ T 55; Exhibit 1, Tab 9, pp. 11 - 12.

⁸⁰ T 55.

⁸¹ T 32 – 33, 54.

⁸² T 55.

⁸³ T 56.

66. The ride commenced at the Shell service station on Great Northern Highway in Midland. When they commenced the ride, Den was the first rider, Senior Constable Hawkins followed him and Senior Constable Whitney was last in line. They generally maintained this position, with Senior Constable Hawkins' primary role to observe and monitor Den and Senior Constable Whitney's primary role to oversee how Senior Constable Hawkins' was delivering instructions and coaching Den, although he obviously still observed Den's riding as part of that process.⁸⁴
67. Senior Constable Whitney recalled that initially the traffic was heavy and Den was approaching each vehicle and then slowing and waiting for a break in the traffic before overtaking. Senior Constable Whitney spoke to him over the intercom and told Den to slow down and pull left so that he could overtake him. Senior Constable Whitney then took the lead and demonstrated a different method of overtaking by staying on the painted edge line between the traffic and built up median strips, allowing him to maintain a steady speed. Senior Constable Whitney then dropped to the back of the group again and continued to follow them, with Den adopting the correct approach from that time.⁸⁵
68. Not long after, there was another incident that prompted Senior Constable Whitney to overtake Den again. They had turned off Great Northern Highway onto Chittering Road and there was a section of road where the white centre line finished and there were road markings. As they approached some left-hand bends, it appeared to Senior Constable Whitney that Den was holding his position a fraction wider than he felt comfortable with, which meant he wasn't able to come across and clip the apex of the bend. This positioning had the potential for Den to push wide on the outrun of the bend and possibly come into contact with oncoming vehicles.⁸⁶ Senior Constable Whitney again spoke to Den on the intercom and overtook him and demonstrated how he could make his riding smoother.⁸⁷
69. Senior Constable Whitney described these first two incidents as developmental issues as opposed to serious issues, where there was an opportunity to demonstrate a more expedient way of riding.⁸⁸
70. There was a third incident near the intersection of Chittering Road and Julimar Road where Den required correction, and Senior Constable Whitney described

⁸⁴ T 33.

⁸⁵ T 34.

⁸⁶ T 34.

⁸⁷ T 34.

⁸⁸ T 40.

this as a serious issue as it had the potential for danger.⁸⁹ Den was observed to go into the intersection very hard on the brakes and he then executed a square turn, which meant that Den had possibly not looked well enough along Julimar Road before he turned. Senior Constable Whitney came up on the inside edge, which meant he was able to make a smooth turn rather than a square turn, he could see more easily if anything was coming and he was actually able to overtake Den in the process. Senior Constable Whitney began to speak to Den through the intercom about the need to look more closely at the bends and while doing so, they went around a reasonably sharp left-hand bend. Senior Constable Whitney looked in his mirror and noticed that as Den went around the bend behind him, he went wide over the double lines and approximately one metre onto the incorrect side of the road. Senior Constable Hawkins immediately shouted 'downgrade' over the intercom and they slowed their speed but did not pull over.⁹⁰

71. Both instructors spoke to Den over the intercom to ascertain what had happened. Den told them he had simply misjudged the bend. They asked him whether he was fatigued and whether he wanted to stop or if he felt he was able to carry on. He assured them he was, "Good to go."⁹¹ Senior Constable Whitney gave evidence that there was nothing that gave him any indication at that stage that Den was suffering from fatigue and he took Den's answers at face value and accepted that Den had misjudged the turn due to a minor lapse in concentration and he was good to carry on and quite happy to continue.⁹² Senior Constable Hawkins thought Den may have been distracted listening to Senior Constable Whitney talking over the intercom at the time, and that is why he misjudged it.⁹³ He did not think there was any element of fatigue in what had occurred.⁹⁴ Either way, both instructors thought the incident was not serious enough to shut down the ride entirely.
72. They continued on the ride and rode at the speed limit, with Senior Constable Whitney still at the front, for a while before they reached some roadworks. After they passed through the roadworks, Senior Constable Hawkins gave Den the approval to upgrade again and they rode on at P1 speeds. Den and Senior Constable Hawkins overtook Senior Constable Whitney, who dropped to the rear again as they continued along Julimar Road. The road was in an unrestricted zone for a while, which permitted them to travel at the highest P1 speed for a while, but as they approached Toodyay West Road the speed limit reduced to 80 km/hr, which required some reduction in the speed cap for the

⁸⁹ T 40.

⁹⁰ T 35 - 36.

⁹¹ T 35.

⁹² T 35 - 36, 57.

⁹³ T 56.

⁹⁴ T 57.

officers. Senior Constable Whitney indicated the requirement was on Den to adjust his speed accordingly.⁹⁵

73. The plan was to reach Toodyay and then have a break and debrief for about 45 minutes, with an opportunity to have a coffee and something to eat before starting their return. They had been riding for approximately 35 minutes at this stage and were heading into the final approach to Toodyay, about 5 km from the town centre, when the crash occurred.⁹⁶

THE CRASH

74. As Den entered the bend on Julimar Road where he crashed, Senior Constable Whitney indicated they were still travelling under P1 conditions and estimated Den's speed was around 110 - 115 km/hr. Senior Constable Hawkins thought their speed was more like 105 – 110 km/hr. Both Senior Constable Whitney and Senior Constable Hawkins indicated they had previously taken that corner at that speed and up to 120 km/hr without incident, so they had no concerns about their speed at that time.⁹⁷
75. As they approached the bend, Senior Constable Hawkins was behind Den and Senior Constable Whitney was positioned in the rear of the trio. Den identified over the intercom he had recognised the bend in the road was coming up. Den was initially sitting to the left and, as was normal, he moved over to the centre of the road to the apex. The movement initially appeared normal and there was nothing to indicate that Den would not be able to safely take the corner. However, Den suddenly veered to the left for no obvious reason. Den's motorcycle moved onto the gravel verge and once it was on the gravel it was effectively irrecoverable.⁹⁸
76. Senior Constable Hawkins recalled that he thought Den had positioned himself on a reasonably good line for the corner but just before mid-corner he stood the motorcycle up slightly, just for a second, which put his whole line "out of whack."⁹⁹ Senior Constable Hawkins explained that the movement of the motorcycle was controlled by leaning and as soon as Den 'stood the motorcycle up' slightly, it changed all the dynamics of the corner, which meant he needed to reduce speed to get back into a correct position to take the corner. As it was, his change in position threw his whole cornering out and he drifted wide and was pulled out onto the verge.¹⁰⁰

⁹⁵ T 37.

⁹⁶ T 37.

⁹⁷ T 37, 58.

⁹⁸ T 38.

⁹⁹ T 58.

¹⁰⁰ T 59.

77. Senior Constable Hawkins was not sure why Den stood the motorcycle up, but suggested he may have been distracted or didn't read the road correctly and perhaps thought the curve ended a bit earlier than it did or may have lost a little confidence.¹⁰¹ Senior Constable Hawkins noted that Den had been around sharper corners at higher speeds than that one earlier in the ride, and had made it almost all the way to Toodyay with what he considered to be only minor problems, so he was not expecting this corner to present a problem.¹⁰²
78. Den's motorcycle appeared to fishtail once or twice and Senior Constable Hawkins thought briefly that Den was going to come back on to the road, but then he started to slide and the motorcycle went over the edge of the embankment. The motorcycle flipped and Den was projected off the motorcycle.¹⁰³ Senior Constables Hawkins and Whitney immediately stopped. There was a cloud of dust from the crash, which made it difficult to see what happened next, but as it cleared they could see Den's motorcycle lying on the ground and Den lying at the base of a tree nearby, not moving. Senior Constable Hawkins rang emergency services while Senior Constable Whitney went to check on Den.¹⁰⁴
79. Senior Constable Whitney could see Den was immobile and appeared unconscious, so he put him in the recovery position and checked him for signs of breathing and a pulse. He found neither, so he rolled him onto his back and commenced CPR. Senior Constable Hawkins came to assist him, and they continued CPR until paramedics arrived and took over. After assessment, a paramedic certified Den life extinct at the scene at 2.22 pm.¹⁰⁵

CAUSE AND MANNER OF DEATH

80. On 8 December 2017 Forensic Pathologist Dr Jodi White performed an external post mortem examination. At the request of Den's family, an internal examination was not conducted, but x-rays were performed to assist in formulating a cause of death. The external examination showed soft tissue injuries to the head, trunk and limbs with bony injuries to the limbs. The post mortem radiology showed significant fractures to the limbs and ribs. Toxicology analysis showed no alcohol or drugs.¹⁰⁶ Based on these limited

¹⁰¹ T 58, 59.

¹⁰² T 62.

¹⁰³ T 38, 59.

¹⁰⁴ Exhibit 1, Tab 9, p. 14.

¹⁰⁵ Exhibit 1, Tab 6, p. 3, Tab 9, Tab 11 and Tab 24.

¹⁰⁶ Exhibit 1, Tab 4.

examinations, Dr White formed the opinion that the cause of death was multiple injuries.¹⁰⁷

81. I accept and adopt the opinion of Dr White and find the cause of death was multiple injuries.
82. Based on the evidence available I am satisfied Den's death occurred by way of accident.

MAJOR CRASH INVESTIGATION

83. As I noted at the outset of this finding, a large number of police investigations and reviews were conducted following Den's death. The first was the Major Crash investigation into the circumstances of the crash.
84. Senior Constable Peter Price is a qualified crash investigator and crash reconstruction officer working in the Major Crash Investigation Section of the WA Police Force. He was tasked to attend the scene of Den's crash on 7 December 2017 and to commence an investigation into his death. Senior Constable Price noted on arrival at Julimar Road that the crash location was on a sweeping right-hand bend (on the basis of the direction Den was heading). The motorcycle Den had been riding was still in situ near a mature tree and Senior Constable Price could see tyre marks leading back from that tree in the gravel verge. There were insufficient marks to establish whether there had been any significant braking at that point, although the marks were consistent with braking.¹⁰⁸ Later, Senior Constable Price was able to watch the footage from Senior Constable Whitney's helmet camera and this assisted him in recreating events. From watching the footage, Senior Constable Price was able to see the brake light did illuminate on the motorcycle, then went out before it re-illuminated, indicating Den was applying the brakes.¹⁰⁹
85. Senior Constable Price took some measurements at the crash scene and he was later able to calculate the radius of the bend in the direction Den was travelling. Using that radius, he established a possible speed the bend would support whilst maintaining the lane in the direction of travel. He established the bend could support a speed of 130 km/hr, based on that particular motorcycle.¹¹⁰ Senior Constable Price noted that the radius of the bend changes as you progress through the bend. When you first come into the bend, it is open, then the bend tightens and the radius gets smaller, before the radius

¹⁰⁷ Exhibit 1, Tab 4 and Tab 5.

¹⁰⁸ T 98, 104.

¹⁰⁹ T 99, 104 - 105.

¹¹⁰ T 99.

starts to open up again as you exit the bend.¹¹¹ Senior Constable Price did not consider there was any obstruction to seeing the line of the bend as you entered it, so the bend could still be followed quite easily.¹¹²

86. However, Senior Constable Price noted that, given a motorcycle is a narrower vehicle than a car, it allows the rider to use more of the width of the lane. Watching the video footage of the line Den took through the bend, it would actually have been a bigger radius than what he calculated, based solely on the forensic survey. This would allow the curve to be taken at greater speed than his calculations.¹¹³
87. The profile of the road is cambering to the right, as it is a right-hand bend, so there were no obvious undue forces pushing him to the left.¹¹⁴ Rather, the camber would have assisted Den to stay on the road.¹¹⁵
88. From the materials available to him, Senior Constable Price estimated Den was travelling at 118 km/hr as he travelled through the bend, which was below his calculated maximum speed. Therefore, Senior Constable Price did not consider speed was a factor in the causation of the crash, in the sense that the geometry of the road was capable of supporting the speed at which Den was travelling.¹¹⁶ However, Senior Constable Price acknowledged that Den's speed was 38 km/hr in excess of the posted 80 km/hr speed limit for that section of road, and the speed he was travelling at was a high speed, which will inevitably lead to more serious consequences in the event of a crash.¹¹⁷
89. Having reviewed the scene, the available helmet footage and all other available information, Senior Constable Price was unable to determine an obvious reason why Den crashed.¹¹⁸ Senior Constable Price did confirm that on the helmet footage, he could see an action similar to what a witness, Senior Constable Hawkins described, where Den appeared to "stand the bike up a little bit."¹¹⁹
90. The helmet footage from Senior Constable Whitney's motorcycle helmet camera shows clearly Den riding on his motorcycle leading up to the crash and captures the actual moments of the crash. It is a very difficult thing to watch, knowing in advance that it captures Den's last moments. However, it is

¹¹¹ T 99.

¹¹² T 100 – 101.

¹¹³ T 100 - 101.

¹¹⁴ T 38.

¹¹⁵ T 102.

¹¹⁶ T 102 – 103, 106.

¹¹⁷ T 104 – 105.

¹¹⁸ T 103.

¹¹⁹ T 103.

important evidence as it shows very clearly that there were no obvious warning signs of what was about to occur until the moment when Den moves off the roadway onto the verge and loses control.

91. The footage also shows the responses of Senior Constable Hawkins and Senior Constable Whitney and their attempts to provide first aid and their distress as they come to realise that Den has been critically injured. It is apparent they were shocked and traumatised by what occurred and in my view they have done their best to give a true recollection of everything that occurred, acknowledging that the trauma of the situation has no doubt affected them.
92. Senior Constable Whitney confirmed there was no debris on the road that he was aware of, there was no oncoming traffic and the road was dry and appeared to be in good condition. In his words, there was, “[a]bsolutely nothing to indicate that there was anything amiss.”¹²⁰ He could not see any outside influences that might have caused Den to drift to the left and lose control.¹²¹
93. Senior Constable Whitney was asked at the inquest whether he had been able to determine a reason as to why Den crashed based upon what he witnessed. Senior Constable Whitney indicated he had “pondered this over the last two and a half years”¹²² and yet he still had no idea why Den crashed. His only possible explanations were that the bend is a long, sweeping right-hand bend and Den may have expected it to finish earlier than it did or else he just lost concentration.¹²³
94. Senior Constable Whitney was asked whether he had identified any signs that Den was fatigued, immediately prior to the crash, and he noted that Den was a person who was very succinct and to the point, which suggests he was not providing a lot of commentary but it did not raise a concern. Up until the crash, Senior Constable Whitney had not identified anything else that might have been a sign that Den was fatigued.¹²⁴
95. Senior Constable Hawkins indicated that he believed the errors that required correction, namely missing corner and going too deep at the T-junction between Chittering Road and Muchea East Road and at the next T-Junction with Julimar Road, as well as drifting wide on a left hand bend, all related to “a lack of confidence in leaning the motorcycle.”¹²⁵ They were common errors

¹²⁰ T 38.

¹²¹ Exhibit 1, Tab 11, p. 8.

¹²² T 39.

¹²³ T 39.

¹²⁴ T 41.

¹²⁵ Exhibit 1, Tab 9, p. 13.

and he felt they would be rectified as his training continued and his confidence grew.¹²⁶ His commentary was normal as he entered the last bend and there was nothing that gave him any reason to be concerned until Den appeared to stand up the motorcycle slightly while navigating the bend. The event happened too quickly for Senior Constable Hawkins to provide any advice or instruction before Den lost control and crashed.¹²⁷

96. In hindsight, Senior Constable Hawkins could attribute Den's loss of control to his standing the motorcycle up a little bit, before leaning it again, but he was unsure as to why Den did this action. He accepted Senior Constable Whitney's suggestion that Den thought the curve ended sooner was possible, but he could not reach a final conclusion.¹²⁸
97. Senior Constable Sumner was not a witness to the crash, but he was asked at the inquest about his opinion on what could have gone wrong, based upon the accounts of Senior Constable Whitney and Hawkins. He suggested that if Den did not continue to look through the bend to the limit point as he moved through the corner, and instead tried to reposition himself too early, he would have looked to where the tree is and would have gone where he was looking. By the time he realised his mistake, it would have been too late to rectify it at the speed he was travelling, particularly once he hit the gravel.¹²⁹
98. Another motorcycle supervisor from TEG 2, Sergeant Paul Gale, who created and implemented the OPRT course for the WA Police Force, also analysed the helmet footage and other materials and could not explain why Den drifted to the left, and could only suggest rider error as the cause.¹³⁰
99. Detective Senior Constable Evan Damianopoulos completed the Major Crash Investigation Section final report to the Coroner, based upon Senior Constable Price's crash reconstruction and all other relevant information, including the reports of the officers involved and the other motorcycle supervisor's opinions, a review of the helmet footage. He also took into account the vehicle examination of the motorcycle Den was riding, which found two electrical related defects. One of the defects was felt to be crash caused and one was not, but it was also not considered to have played a role in the crash.¹³¹ I note at this stage that the motorcycle was decommissioned and destroyed after examination, but before the coronial investigation was completed. This was unfortunate but has not affected my ability to make appropriate findings.

¹²⁶ Exhibit 1, Tab 9, p. 13.

¹²⁷ Exhibit 1, Tab 9, p. 14.

¹²⁸ T 59.

¹²⁹ T 95 - 96.

¹³⁰ Exhibit 1, Tab 6, p. 7.

¹³¹ Exhibit 1, Tab 6, p. 5.

Further, Main Roads provided a report about the road environment. I will return to the Main Roads report later, in relation to statistics for Julimar Road, but at this stage I note that Main Roads found there were no road environment issues directly or possibly related to crash causation, although the trees in the clear zone may have contributed to the severity of the crash.¹³² This finding is not uncommon in rural crashes.

100. Based upon the above information, in relation to the causal factors in the crash, Detective Senior Constable Damianopolous concluded the main factors were speed and rider error.¹³³

EXPERT OPINIONS ON DEN'S MANNER OF DRIVING

101. As noted previously, the Major Crime Division conducted a re-investigation with the intention to add value to the original Major Crash investigation. The Major Crime re-investigation obtained expert opinions from a number of different motorcycle experts. These included Mark Gill, an awarded professional motorcycle sport coach licensed under Motorcycling Australia who is the Operations Manager for Motorcycling Western Australia, a detective from WA Police Force who is a licensed Motorcycle Road Race Coach with Motorcycle Australia, and Senior Constable Ian Macken from the ACT police, who works as a police motorcyclist.¹³⁴
102. Mr Gill provided a report after reviewing the helmet footage of Den's last ride. There is no recording of the conversations between Den and the instructors, so his review was limited to considering the visual footage. His comments addressed Den's overall handling of the motorcycle. Mr Gill commented that in the early stages of the ride through the Swan Valley area, where the speeds varied between 80 to 120 km/hr, Den had good control of the motorcycle. However, in the second half of the video footage, he believed the ability and comfort of Den came into question due to his handling of the motorcycle and corner entry/line selection, often resulting in the motorcycle "finishing the corners in precarious positions."¹³⁵
103. Mr Gill noted that it is a common error for riders with limited ability and experience riding at speed to have a tendency to roll the motorcycle into a turn prematurely and with insufficient lean angle due to a fear of failing to negotiate the turn, which can mean the motorcycle is pushed wide on exit. He observed the footage of Den's ride in the later stages showed this situation

¹³² Exhibit 1, Tab 6, p. 8.

¹³³ Exhibit 2, Tab 6, p. 16.

¹³⁴ Exhibit 2, Tab 1.

¹³⁵ Exhibit 2, Tab 9, p. 1.

occurring multiple times.¹³⁶ Mr Gill identifies eight specific incidents. One in particular, at 13:01:11, when Den failed to negotiate a left hand turn and ran into the opposing lane, he considered this to be a mistake that showed a clear indication that Den was not in full control of the motorcycle and not capable of safely participating in a P1 training exercise. He believed it was a result of human error, and of a type commonly displayed by riders uncomfortable with the speed or situation they are facing.¹³⁷

104. The detective sergeant from the WA Police Force, who was not involved in the WA Police OPRT but is an experienced motorcycle trainer in his private life, was also asked to provide an opinion in this matter by the WA Police Force as part of the Major Crime re-investigation. The detective is a certified, qualified and licensed Motorcycle Road Race Coach with Motorcycling Australia and obtained relevant training qualifications from the Australian Institute of Sport. He has been involved in motorcycling and motorcycle racing for over 30 years and has instructed, trained and coached motorcycle riders at various levels, ranging from basic level street riders to international competitors.¹³⁸
105. Following Den's death, the detective was asked to review some of the helmet video footage of Den's P1 motorcycle ride leading up to, and including, the crash and provide his opinion and comment on, in effect, the quality of the riding and supervision. Due to a suppression order, I will simply refer to this witness as DT. DT had previously completed the Police Motorcycle P1 course on 4 February 2016, and had ridden the same route that Den rode when he crashed, so he was familiar with the route.¹³⁹
106. Based upon the information available to him, DT prepared an initial report expressing his opinion on the manner of riding and instruction, as well as any suggestions for a future motorcycle training package. DT also gave evidence at the inquest.¹⁴⁰ DT indicated in his report that he considered Den displayed the ability to control the motorcycle in a reasonably smooth and stable manner in most circumstances. He also appeared to assess and negotiate hazards appropriately. However, from his outward appearance, DT felt that Den appeared more comfortable riding on the urban roads, and when they moved into a rural environment, he displayed "uncertainty in cornering techniques and line selection and on some occasions [displayed] inconsistency in

¹³⁶ Exhibit 2, Tab 9, p. 2.

¹³⁷ Exhibit 2, Tab 9, p. 3.

¹³⁸ Exhibit 2, Tab 10A.

¹³⁹ Exhibit 2, Tab 10A.

¹⁴⁰ T 113.

controlling the motorcycle.”¹⁴¹ This opinion is consistent with Mr Gill’s opinion.

107. In his first report, DT identified 19 issues or actions in the video footage that were of note, many of them matched the eight incidents identified by Mr Gill in his report, plus there were some more. Many of them related to cornering theory and technique. DT explained that cornering theory is based on the idea that the fastest and smoothest way through a corner or bend is as close to a straight line as possible. It involves three parts: a turn-in point (or entry point), an apex (which is the central or midpoint of the corner) and the exit point. He teaches riders to look for, at the very minimum, the exit point in the corner, but the entry point is also key as it will determine exactly where the motorcycle sits in the corner.¹⁴² DT commented a number of times when reviewing the footage of Den’s ride that it appeared he was not projecting his vision far enough through the corner.¹⁴³
108. DT clarified at the inquest that he considered most of these issues with Den’s cornering to be “pretty minor.”¹⁴⁴ He felt it was probably an average number for a ride of that length and noted it is a common error made by motorcyclists. DT also observed that Den often appeared to be responding to correction afterwards.¹⁴⁵
109. However, there were identified incidents that were of more significant concern. An incident occurred at 12:57:46, when Den “enters a left hand bend too early and moves the motorcycle towards the apex too early, causing him to straighten up the motorcycle and re-enter the bend.” DT described this as a “clear indication that the rider is not casting his vision far enough around the corner.”¹⁴⁶ This is potentially relevant to what occurs later, immediately before Den crashes.
110. At 13:00:21 Den crossed to the wrong side of the marked centre line of the road and stayed there longer than what would be considered normal, being a period of approximately five to six seconds.¹⁴⁷ There was no apparent reason for him to do so. He then overshot a right hand corner.¹⁴⁸
111. Immediately after, at 13:01:11, Den failed to negotiate a left hand bend, straightened the motorcycle and braked hard, causing him to go to the

¹⁴¹ Exhibit 2, Tab 10A, p. 3.

¹⁴² T 119.

¹⁴³ Exhibit 2, Tab 10A.

¹⁴⁴ T 116.

¹⁴⁵ T 117 - 118.

¹⁴⁶ Exhibit 1, Tab 10A, p. 4.

¹⁴⁷ T 120.

¹⁴⁸ Exhibit 2, Tab 10A.

incorrect side of the road on a blind crest.¹⁴⁹ This was the incident described by Senior Constable Whitney, which caused the instructors to downgrade and provide instruction. This was generally considered to be the most significant incident, prior to the crash, and is the incident also noted above by Mr Gill as indicating Den was not in full control of the motorcycle.¹⁵⁰

112. DT also identified a number of later incidents from 13:08:00. At 13:13:01, Den is observed in the centre of the road whilst approaching another vehicle coming from the opposite direction. Den makes no effort to move away from the centre line when approaching this potential hazard.¹⁵¹
113. In terms of the events leading to the fatal crash, DT describes Den entering the long right hand bend too early. He then slightly straightens the motorcycle and attempts to continue the right hand bend. By doing so, he “places the motorcycle on a trajectory that carries it towards the left road edge.”¹⁵² It appears that Den cannot correct that trajectory and the motorcycle then leaves the hard surface of the road and Den subsequently loses control of the motorcycle on the soft shoulder.¹⁵³
114. DT was later provided with additional information, in the form of statements and reports of other people involved in the matter, as well as the full, unedited helmet video footage. He then prepared an addendum to his first report, based on that additional information.¹⁵⁴
115. DT indicated that initially he was given limited footage of the crash, but when he viewed all of the footage, he said “it seems that the front wheel has left the road to a gravel surface, which then put it into an unrecoverable state. Whether that was bad cornering theory, a target fixation, a poor choice of line, or a combination of all of those things, I can’t say for sure.”¹⁵⁵ DT explained that target fixation is, “What you look at is where you go.”¹⁵⁶ DT went on to say that it was probably a combination of things, with Den having “chosen the wrong line, sat up or tried to straighten that line and then fixated on an object and that’s then affected the line of the motorcycle.”¹⁵⁷
116. DT explained that “with motorcycles, the faster you go, the more intense the input and the more intense the output. So you can make a very minor

¹⁴⁹ Exhibit 2, Tab 10A.

¹⁵⁰ T 120.

¹⁵¹ Exhibit 2, Tab 10A.

¹⁵² Exhibit 2, Tab 10A, p. 5.

¹⁵³ Exhibit 2, Tab 10A.

¹⁵⁴ Exhibit 2, Tab 10B

¹⁵⁵ T 129.

¹⁵⁶ T 118.

¹⁵⁷ T 130.

adjustment to a motorcycle at a low speed, it has a small effect, you make a minor adjustment to a motorcycle at a high speed, it has a massive effect.”¹⁵⁸

117. Senior Constable Price, the Major Crash reconstruction expert, had also agreed that the worst thing Den could have done, once he left the road, was to brake as it exacerbates the problem, but also indicated it is a very common thing to do in that situation.¹⁵⁹
118. DT was asked at the inquest whether he maintained the view that Den did not appear comfortable or competent riding unknown rural roads at the speeds required for the training exercise. He indicated that he still thought Den “was having some struggles with it”¹⁶⁰ and he did not “seem entirely comfortable but then not many people are entirely comfortable riding like that unless they’ve got a great deal of experience.”¹⁶¹
119. Noting that Den was riding on a route that he was not familiar with in hot conditions, while riding under P1 conditions that included high speed and providing a running commentary, DT considered it would be “a very intense experience”¹⁶² for someone who didn’t have a lot of experience in that environment. With that in mind, DT indicated he thought a good length of time for that kind of ride would be approximately half an hour.¹⁶³ However, he accepted that on a country road it can be impractical to find stopping places and the length of the ride is often dictated by the stopping and finishing point.¹⁶⁴
120. Similarly, although he felt there was an indication to perhaps have stopped at around the 13:01 mark, when Den was making mistakes, he accepted there may not have been anywhere safe at that time to do so. Nevertheless, if they had been able to pull over at that time, it would have been an opportunity to dismount, take off their helmets and debrief. With their helmets off, the instructors would have been able to see if Den showed any signs of heat illness, such as a red face or profuse sweating, as well as judge him for any signs of fatigue.¹⁶⁵
121. If there was no safe place to stop and they were approaching their destination, DT suggested another option would have been to downgrade and slow their

¹⁵⁸ T 115.

¹⁵⁹ T 130 - 131.

¹⁶⁰ T 131.

¹⁶¹ T 131.

¹⁶² T 115.

¹⁶³ T 115.

¹⁶⁴ T 132.

¹⁶⁵ T 135 - 136.

speed to normal speed the rest of the way, to reduce the pressure on Den.¹⁶⁶ At the very minimum, DT indicated that he would have put one instructor in front of Den and one behind him at that stage, to give him a guide as to what to do while still being able to observe his reactions.¹⁶⁷ They did, indeed, downgrade around this time due to some roadworks, and Senior Constable Whitney did move to the front for a period to provide some technique demonstration, which DT acknowledged.¹⁶⁸

122. DT gave evidence that if he had been doing the training, he probably would have stopped and had a rest, but he acknowledged that he is very safety conscious and another instructor might make a different choice. He also acknowledged that the instructors had the advantage of communication with Den, which would affect the decisions they were making.¹⁶⁹ DT noted that every rider makes errors every day, no matter their level of experience. He would be conscious of trying to make sure that the physical behaviour he saw matched what the student was telling him and whether they were reacting to their mistakes, to make a judgment about whether they were safe to continue.¹⁷⁰
123. Overall, DT expressed the opinion that the route for that day was well planned although there needed to be the possibility to insert additional rest periods, if required. DT noted that Den had showed some difficulty with cornering theory and other issues while he was riding, but there was nothing in his riding that had suggested that there was an imminent risk that he would crash, prior to the moment when he did.¹⁷¹
124. As to the use of Julimar Road, DT described it as a “challenging road”¹⁷² and indicated that it is not an easy ride on a motorcycle. However, he indicated that it would boil down to how the individual rider behaved, as to whether he would be concerned about their ability to negotiate it.¹⁷³ When asked about using Julimar Road as part of the OPRT, DT said in his opinion as a road, he thought it was “a great training tool”¹⁷⁴ but qualified that statement to indicate that it was a good tool as part of a graduated or development phase of a whole training package. As to whether it was suitable for training at P1 speeds, DT

¹⁶⁶ T 136.

¹⁶⁷ T 137.

¹⁶⁸ T 137.

¹⁶⁹ T 121 - 122.

¹⁷⁰ T 123 - 124.

¹⁷¹ T 141.

¹⁷² T 123.

¹⁷³ T 123.

¹⁷⁴ T 149.

said, if it was “the first time the rider has ever ridden a country road then [he] personally wouldn’t use it.”¹⁷⁵

125. DT agreed with others that there would be benefits to having a rider first complete high speed training on a track, as he noted that some people ride well at normal speeds but “they’re not necessarily comfortable riding at higher speeds because of the difference in reaction of the motorcycle and it’s fairly radical between 60 and 130, 140” kilometres per hour. DT noted that there is an important relationship between the rider and the motorcycle and they need to understand what the motorcycle is telling them, as much as what they’re telling it to do.¹⁷⁶
126. Like Mr Gill’s report, Senior Constable Macken’s report was also based solely on viewing the video footage from the helmet, despite requests for other information, so he indicated his ability to obtain full context of the riding performance in the video footage was limited. However, based upon what he saw, and his own police training, Senior Constable Macken expressed an opinion that Den’s performance showed him operating the police motorcycle under conditions of high stress, showed an inadequate skill level to conduct P1 driving, and there were instances requiring stoppage of the training on multiple occasions due to unreasonable risks, which on three occasions justified an immediate termination of the training ride.
127. Senior Constable Macken identified one of the termination incidents at 12:48, which had also been identified by Mr Gill and DT as an incident of concern. Significantly, another of these incident was the incident at 13:01 when Den crossed over the centreline to the left edge line of oncoming traffic. Senior Constable Macken noted there was very little lean angle applied to the motorcycle and with more, it may well have negotiated the corner without moving out of its lane. He considered this incident justified termination of the ride and a return to base at road speed.¹⁷⁷ Senior Constable Macken noted from previous experience that an incident such as this can shatter a trainee’s confidence and lead to their stress levels rising dramatically, so they require close monitoring for their safety.¹⁷⁸ He believed Den appeared to be suffering from increased stress levels as the ride continued, which was indicated in the “exponential increase in riding errors.”¹⁷⁹
128. In conclusion, Senior Constable Macken expressed the opinion that Den’s skill level was low for a P1 ride and based upon the Australian Federal Police

¹⁷⁵ T 149.

¹⁷⁶ T 134.

¹⁷⁷ Exhibit 2, Tab 11, p. 11.

¹⁷⁸ Exhibit 2, Tab 11, p. 12.

¹⁷⁹ Exhibit 2, Tab 11, p. 13.

Advanced Motorcycle Program that Senior Constable Macken is familiar with, he did not think Den was ready for P1 training on a public road. He noted there were numerous concerning incidents requiring stoppage and ultimately termination of the ride, prior to the event that led to his death. Senior Constable Macken suspected that Den's loss of concentration at the end was "a momentary loss of concentration due to fatigue caused by high levels of stress."¹⁸⁰ Senior Constable Macken suggested that Den would have benefited from P1 training sessions on a closed road course before attempting a training run on a public road.¹⁸¹

129. Sergeant Paul Gale, who as described below, set up and ran the OPRT motorcycle course for many years, also reviewed the helmet footage and prepared two statements and gave evidence at the inquest about his opinion of Den's riding ability on the day in question. Sergeant Gale commented that Den's riding did not stand out to him as extraordinary in any way. He believed Den did not demonstrate a lack of competency or lack of confidence. Similarly to Mr Gill and DT, Sergeant Gale did note some issues with Den's riding position and indecision hampering his progress in the early stage of the P1 rural ride, but he considered those issues to be minor and felt they were appropriately addressed by the instructor. Sergeant Gale did acknowledge the incident, as described by DT and Mr Gill at 13:01:11, where Den positioned himself in an unsafe area on Julimar Road on a bend, as a more serious incident, but he noted Senior Constable Whitney downgraded and took over, so he considered it was dealt with appropriately and did not consider it required termination of the ride.¹⁸²
130. Sergeant Gale was asked about the various issues that DT identified in Den's riding, prior to the crash, and he commented that it was not unusual for riders to make errors in the first part of the rural ride, requiring the instructors to downgrade and provide correction, and there was usually then a progressive improvement in their ability as the ride continued. He saw this in Den's riding. Sergeant Gale commented that Den responded well to correction and Den's riding appeared to improve substantially from the commencement of the ride. He also expressed the opinion that the training he observed being delivered was consistent with the OPRT course.¹⁸³ In watching Den's riding overall, Sergeant Gale did not feel that there was any signs that the instructors should have been concerned for his safety, prior to the fatal crash.¹⁸⁴

¹⁸⁰ Exhibit 2, Tab 11, p. 15.

¹⁸¹ Exhibit 2, Tab 11, p. 15.

¹⁸² T 167 – 168, 178.

¹⁸³ T 169 – 170, 178.

¹⁸⁴ T 167 – 168, 178.

131. Sergeant Gale had not previously been involved in any serious incidents involving participants on the OPRT being injured, prior to Den's crash. He indicated the instructors were very conscious that riding a motorcycle is inherently dangerous and the course was structured in a progressive way, starting at a very easy level and then building up in complexity, to ensure that the rider is improving as they go along.¹⁸⁵
132. Considering the moments prior to Den leaving the road, Sergeant Gale commented that while Den did not perfectly position himself going into the bend, his position wasn't incorrect and he was in a position where he could see around the bend. However, Sergeant Gale accepted Den may have felt he was in the incorrect position as he reached the apex of the road and tried to adjust his position to look further around the bend, prior to losing control.¹⁸⁶
133. I will come back to these opinions in my later conclusions about the conduct of the police instructors.

OTHER WA POLICE INVESTIGATIONS INTO DEN'S DEATH

Internal Affairs Unit

134. Den's death fell into the category of a critical incident involving the police, within the terms of the WA Police manual, as there was a death arising from police driving or operating a motor vehicle.¹⁸⁷ The Internal Affairs Unit therefore had oversight of the investigation in that regard.¹⁸⁸ They worked with the investigators from the Major Crash Unit, considering whether police policies were complied with as well as the cause of the crash.
135. Detective Senior Sergeant Brian Hunter prepared a report in relation to the IAU investigation. The report indicated that no criminal offences had been identified over the course of the IAU investigation and no breach of the WA Police Code of Conduct had been identified. An issue was identified in relation to the early destruction of the police motorcycle that Den was riding at the time of the crash, five days after the incident, without the prior approval of the Coroner. The release and authorisation to dispose of the motorcycle was found to be premature and unnecessary and not in compliance with the relevant legislation. The police officers involved were given managerial guidance and the Major Crash Investigation Section has received further

¹⁸⁵ T 178 -179.

¹⁸⁶ T 170.

¹⁸⁷ T 158.

¹⁸⁸ T 159.

clarification and direction from the State Coroner for future matters.¹⁸⁹ No other issues were identified.

Occupational Safety and Health

136. The Safety Branch of the WA Police Force, in conjunction with the State Traffic Division and TEG, undertook an Occupational Safety and Health (OSH) investigation to identify the potential causative factors, or any other OSH issues, which may have contributed to Den's death directly or indirectly. The final report was prepared by Mr Wayne Deany, the Executive Manager of the Safety Branch.
137. Some of the primary findings identified in the report were that Den died as a result of a combination of rider error and speed, noting the speed was lawful at the time. The fact he struck a tree in the clear zone was acknowledged, but it was noted that even if he had not hit a tree he was still likely to have sustained serious or fatal injuries when he came off his motorcycle at that speed. Den had only completed 1 hour 15 minutes of P1 training prior to engaging in the country ride and the road he was riding on at the time of the fatal crash, namely Julimar Road, had recorded 36 motorcycle crashes between 2008 and 2017, with 6 fatalities, 14 serious injuries requiring hospitalisation and 6 requiring medical treatment.
138. This information was consistent with a Main Roads investigation and report into the incident. The Main Roads investigation team conducted a site inspection of the crash site on 16 February 2018 and reviewed crash data from 1 January 2012 to 31 December 2016 for 1 km either side of the crash location. It was noted there were 11 other reported crashes in that area, eight of which involved motorcycles, of which 5 were off path on curve crashes, the same as Den's crash. For a 10 km section, there were 19 other crashes identified in the 5 year period leading up to 31 December 2016, and it was noted that curve and slope crashes were significantly overrepresented against network averages. Some recommendations were made by Main Roads for the Shire to remove trees from the effective clear zone and improve signage. The Shire of Toodyay has completed the signage amendments and has sought Blackspot Funding for the clearing of trees.¹⁹⁰
139. The OSH report identified that no evidence was located during their investigation to show that Julimar Road was ever subject to a written risk assessment despite the high incidence of motorcycle crashes on the road.¹⁹¹

¹⁸⁹ Exhibit 1, Tab 7.

¹⁹⁰ Exhibit 1, Tab 18 and Tab 36.

¹⁹¹ Exhibit 3, Tab 4, p. 43.

140. The OSH report concluded that “the use of Julimar Road for motorcycle training is an extreme risk” and recommended that its use in future motorcycle courses should include stronger risk assessments, including the introduction of additional competency checks of a student’s abilities.¹⁹²
141. I note later in this finding that some negative comments were made about this report and the qualifications of the author to reach some of their conclusions. I personally considered the report to be a very comprehensive, considered and a well-written report that appropriately focussed on areas of concern. I found it to be a very helpful document from a coronial inquiry perspective and I agree broadly with the conclusions of the author.

Major Crime Re-investigation

142. Commander Alan Morton is currently the WA Police Commander for Regional Western Australia and at the time of Den’s death was the Commander at State Crime portfolio, which included Major Crime Division. After Major Crime were requested to become involved in the investigation, to effectively re-investigate aspects of the incident, after it was identified by the then Acting Deputy Commissioner, Mr Gary Budge, that there were discrepancies between the initial Major Crash report and the occupational health and safety report. The re-investigation was commissioned in those circumstances, with particular consideration given to whether there was any criminality in the conduct of the police officers involved. Commander Morton had oversight of this re-investigation in his role as Commander at State Crime portfolio.¹⁹³
143. The working hypotheses of the Senior Investigating Officer, Detective First Class Constable Kelly Crago, was that the involved officers who were instructing Den owed him a duty to take reasonable care not to cause him foreseeable harm. The degree to which they may have breached that duty and thereby Den suffered harm was examined. The report concluded that there was no evidence of a serious degree of negligence in this case.¹⁹⁴
144. Detective Inspector Martin Voyez provided a report to Commander Morton after the re-investigation, and following on from the report of Detective Crago, which concluded there was no criminality in the conduct of any police officer involved. He concluded there were some acts/omissions but they did not rise to the level of criminal negligence and the evidence indicated that Den’s death

¹⁹² Exhibit 3, Tab 4, pp. 2 – 3.

¹⁹³ T 158 – 159.

¹⁹⁴ Exhibit 2, Tab 1.

was truly an accident and was not a direct result of the careless actions of anyone else.¹⁹⁵

145. Commander Morton considered this report and agreed with Detective Inspector Voyez's ultimate findings, although he took some issue with the line of reasoning that was taken to reach those findings.¹⁹⁶ Commander Morton reported to the Deputy Commissioner that there was no evidence of criminal culpability in any of the actions of the police instructors/trainers.¹⁹⁷

COMMENTS ON CONDUCT OF POLICE INSTRUCTORS

146. All the OPRT instructors who gave evidence were clear that there was no pressure on them to pass anybody or get them through the course quickly, and they all noted there was flexibility to extend a course for longer when required. They were also consistent in their evidence that sometimes participants might not complete all stages of the course all at once, and there were opportunities for them to return and complete the course at a later stage.
147. Senior Constable Sumner was one of the first instructors trained on the course, together with Senior Constable Heseltine. Senior Constable Whitney had been trained by Senior Constable Heseltine to be an instructor and had worked closely with the other two officers, assessing students Senior Constable Whitney had trained, so Senior Constable Sumner was able to say that he believed Senior Constable Whitney's training ability was on par with his own and Senior Constable Heseltine's.¹⁹⁸
148. Senior Constable Sumner's recollection was that when Senior Constables Whitney and Hawkins handed Den over for assessment there was nothing to suggest he might have particular issues he needed to work on. Senior Constable Sumner said he was surprised when Den didn't downgrade for the roadworks and the school zone and felt he could have been a bit flustered or trying too hard.¹⁹⁹
149. Senior Constable Whitney acknowledged that fatigue is a significant in the motorcycle training, because of the greater physicality involved when driving (having to manoeuvre the motorcycle and being exposed to wind and heat), as compared to driving a car, as well as the stress of being under instruction and high level of concentration required to provide the necessary commentary. In

¹⁹⁵ Exhibit 3, Tab 2.

¹⁹⁶ T 158, 160.

¹⁹⁷ Exhibit 3, Tab 3.

¹⁹⁸ T 93 - 94.

¹⁹⁹ T 94.

addition, riding at P1 and P2 conditions also requires a high level of concentration due to the higher speeds and breaching of intersections, particularly on unfamiliar roads.²⁰⁰

150. In order to manage participants' fatigue, generally rides are limited to about 35 – 40 minutes' duration with an adequate break between sessions. Candidates are also encouraged to declare if they feel fatigued or unable to continue as there is flexibility in the course to either implement a lengthy break or even terminate the session for the day if necessary.²⁰¹ The instructors are also trained to be alert for signs of fatigue, including in their voice, or if their commentary drops off (which is often an early indicator of fatigue) or potentially their manner of riding.²⁰²
151. Senior Constable Brewer agreed they were both tired and happy to have a rest day before returning, but I note Den didn't get the full benefit of his rest day as he had to attend court. Senior Constable Brewer, who was both a colleague and friend of Den, described Den as someone who pushed himself and tried to do everything right, and noted Den had a knack of "pulling a rabbit out of the hat,"²⁰³ by which he meant Den was both lucky and good at achieving the goals he set himself. Therefore, it would seem Den had every expectation that if he pushed himself a little bit harder, he would rise to the challenge and complete the course. It had certainly worked for him in the early days of the slow speed manoeuvres.
152. I make all of these comments to emphasise that all of the instructors had a similar approach and they all believed Den was doing well on the later stages of the course and was a good candidate to complete the course. They were aware of the risks of fatigue and did their best to try to monitor it.
153. On the day in question, Den indicated he was not fatigued and had been off work for the requisite 10 hours. During the ride he made some early mistakes, which were corrected, and Senior Constable Whitney and Hawkins thought he was managing the ride appropriately.
154. As I've set out earlier, the general evidence from the experts who were consulted after Den's death and reviewed the helmet footage, were in agreement that Den was managing reasonably well in the early stages of the ride that day. However, the experts differed from Senior Constables Whitney and Hawkins when they expressed the opinion that Den began to struggle later

²⁰⁰ T 22 - 23.

²⁰¹ T 24.

²⁰² T 24.

²⁰³ T 75.

in the ride, which was probably due to a combination of the increased speed, fatigue and possibly the layout of the road.

155. All of them identified one serious incident, at around 13:01, about 15 minutes before Den's crash, as a major cause of concern. Senior Constables Whitney and Hawkins acknowledged it at the time and downgraded to check with Den why the incident occurred. They were satisfied the reason he gave was sufficient to allow the P1 training ride to continue. However, Senior Constable Macken expressed the opinion that this incident warranted immediate termination of the training ride, and Mr Gill also expressed the opinion that the mistake showed a clear indication that Den was not in full control of the motorcycle and not capable of safely participating in a P1 training exercise.
156. While I accept that the two instructors properly appreciated that Den's failure to make the turn at that time was a significant error and they acted appropriately in asking him to downgrade so they could discuss why he had made the error and assess him for signs of fatigue, they then allowed him to continue on at P1 speeds after a period of time. A more prudent, and in my view appropriate, course would have been to encourage Den to complete the ride to Toodyay at the set speed limit, then allow him to have an opportunity to rest and refresh himself and discuss the errors, before continuing on and perhaps returning to P1 speeds. I do not accept the suggestion that the decision was in Den's hands as to the speed, once he was given the green light to return to P1 conditions. He was a trainee, under instruction, wanting to do well and without sufficient experience of the road or P1 driving conditions to be expected to make that sort of decision on his own. While I accept that Den had a responsibility to be careful for his own safety, in the particular circumstances I consider the decision was best placed in the hands of the instructors, and that decision should have been not to proceed at P1 conditions, at least until they reached Toodyay and were able to have a rest break and a detailed discussion.
157. However, I note that I make these comments with the benefit of hindsight. Both instructors have given evidence that at the time, they genuinely believed Den was managing the course well and the errors he made did not suggest to them that he was overly fatigued or struggling to meet the requirements of the course. I have no doubt that the two officers involved deeply regret these events and there was nothing in their decision-making that was reckless or deliberately dangerous. It was simply a misjudgement, probably influenced by the fact that until that time there had fortunately been no adverse incident involving serious injury or death of a trainee on OPRT course.

SUGGESTIONS FOR CHANGE FROM THOSE INVOLVED

Police Officers

158. Sergeant Gale was asked whether, following's Den's death, he could suggest any changes to the training programme moving forward. He proposed that there be a pre-selection of potential riders. Sergeant Gale noted that the early participants had been attached to the TEG and been riding police motorcycles for at least two years. However, once they started to select participants from outside the unit, there was greater variation in the participants' experience. The selection process did not include a practical riding assessment, so it was difficult to properly assess the person's ability to ride a motorcycle prior to them being selected. The only pre-requisite was that the person had to have a motorcycle licence, and then the instructors gauged their level of experience and knowledge of motorcycles through a line of questioning.²⁰⁴
159. Based on his own experience with the Advanced Motorcycle course on the track, Sergeant Gale also felt that having more time on the track in the OPRT, to expose the skills of the rider and their capacity and ability to ride the motorcycle, would have definite benefits.²⁰⁵
160. Sergeant Gale did not agree with the proposition that Julimar Road should no longer be used as part of the OPRT course. As noted above, Sergeant Gale had been involved in creating the OPRT, and he gave evidence that he included in the course the rural ride, which involved travelling to Toodyay via Julimar Road and returning via a different route. Sergeant Gale indicated the route was selected as he had vast experience travelling that route, both personally and professionally. It had been a component of the previous Advanced Motorcycle Course when they took all the students in a large group on that route and it was also used by the Driver Training Unit for the OPRT for motor vehicles. In consultation with the other police officers who set up the course, he deemed it a suitable road to include for the challenges it presented and for what they were trying to achieve as far as the objectives of rural riding went.²⁰⁶
161. Sergeant Gale indicated he was not aware at the time that Julimar Road had been the site of a number of fatal motorcycle crashes but he gave evidence that he didn't think it would have changed his mind as he believed, based on the information he has obtained about those crashes, that they were very particular circumstances.²⁰⁷ Sergeant Gale also noted that Julimar Road had changed a lot over the period he had been riding it professionally, starting in 2006, and

²⁰⁴ T 171 – 173.

²⁰⁵ T 171.

²⁰⁶ T 164.

²⁰⁷ T 165.

he believed it had progressively become better over time and he did not consider that there were any sections that were beyond anybody's capacity to achieve. He was firm in his opinion that Julimar Road remains an appropriate road for inclusion on the course, despite this tragic event. He noted that the objective is to look for a rural road that will challenge the riders, which requires choosing a road that has bends and curves and undulations and changes in the road environment. Therefore, if a different road was to be included, it would still be a road that would present similar challenges to Julimar Road.²⁰⁸

162. Sergeant Gale gave evidence that he believed the rural section of the course, which was the last part Den undertook, was “actually a de-stress component of the course.”²⁰⁹ He explained this was because in the suburban environment you are dealing with traffic, breaching intersections and other hazards presented by the urban environments, which requires a high level of concentration to negotiate those hazards, whereas in the rural environment the rider was able to relax a little and concentrate on a different component of the riding objective. Sergeant Gale indicated they would give a lengthy briefing before the rural ride to explain that the focus would shift to concentrating on what they see ahead and to make assessments about the road and the environment and ride to those conditions.²¹⁰
163. Senior Constable Whitney has not been involved in the review of the OPRT but he was asked whether he considered any changes could be made to make it safer, other than his earlier suggestion that a component of high speed track work be added. He indicated that he believes the training course is beneficial for WA Police Force and he felt that, as far as they were able, the instructors had made it “as safe as possible.”²¹¹ He advised that, prior to Den's tragic death, there had been no previous similar incidents during police motorcycle training.²¹² However, Senior Constable Whitney acknowledged that there is an inherent vulnerability for riders of motorcycles, which means all riders need to be “hyper aware of what's around you,”²¹³ as the possible consequences of a crash are so severe.
164. Senior Constable Whitney described Julimar Road as a “challenging road but it's easily doable”²¹⁴ although he also conceded “it does require a good degree of concentration.”²¹⁵ Senior Constable Whitney indicated at the time of the

²⁰⁸ T 177, 180 – 182.

²⁰⁹ T 175.

²¹⁰ T 176.

²¹¹ T 43.

²¹² T 44.

²¹³ T 43.

²¹⁴ T 31.

²¹⁵ T 31.

inquest that he was unaware that there had been a high number of motorcycle deaths on Julimar Road in the past and he indicated he used the road for training as it was part of the course designed by Sergeant Gale.²¹⁶

165. Senior Constable Sumner gave evidence he had done the Toodyay Road ride over 30 times, always as part of his training or instructing, never in his own time. He quibbled with the word challenging and described it as “a good ride”²¹⁷ and “a comfortable ride”.²¹⁸ Senior Constable Sumner believed it could be ridden at speeds faster than the police rode it, if riding a sports bike, but on the police motorcycles it would be more difficult to go faster than the P1 speeds. However, he acknowledged that “it’s all about rider ability.”²¹⁹
166. Senior Constable Sumner indicated that when he had been involved in the OPRT, he had always felt that it would benefit from a pre-assessment course, where they could take all the potential candidates to Caversham and put them in the full protective gear and get them to ride a police motorcycle on the track and see what their ability was as a rider. He indicated “you get a feel for people” that way and “having that knowledge of how somebody handles a motorcycle prior to them coming on a course, and what their abilities are, I felt would have been beneficial.”²²⁰ He also agreed it would have given the candidates a better sense of what type of motorcycle they were going to be riding.²²¹ Senior Constable Sumner indicated he had made the suggestion during meetings with the formulators of the OPRT, but it had never been implemented while he was there.²²²
167. Senior Constable Sumner also agreed with the suggestion that doing some track time at speed would be an improvement. He noted that he had done an initial two day course at Barbagallo Raceway and he enjoyed the feeling that, should someone come off, it’s not going to hurt, and felt it was a safer environment for becoming comfortable on the motorcycle at high speeds as it is a “hazard-free environment.”²²³ However, he was also on the course when someone had a crash there and was aware that after this incident the Barbagallo Raceway was no longer used by the WA Police Force.²²⁴
168. Senior Constable Sumner also suggested increasing the length of the course by a few days, and preferably enough to make it a three week course, to give

²¹⁶ T 31 – 32.

²¹⁷ T 88.

²¹⁸ T 88.

²¹⁹ T 88.

²²⁰ T 90.

²²¹ T 90.

²²² T 90, 97.

²²³ T 91.

²²⁴ T 91 - 92.

some built-in flexibility. He noted some people were fast learners but people adapt differently and others needed more time to become comfortable with the motorcycle and the other requirements of the course.

169. Nevertheless, Senior Constable Sumner still believed it was one of the best courses that he had been involved with in 27 years as a police officer and felt participants got a lot out of the course and the ‘on public road’ component was a significant improvement on the earlier track based course.²²⁵ Senior Constable Sumner indicated that he took great pride in having been selected as one of the first instructors for the new course and followed the OPRT training manual carefully and never went off course as he believed it was a really good course and was very happy with the way they ran it. He was, therefore, “devastated”²²⁶ by Den’s fatal crash as it was something that he had never envisaged. He noted that it is usually easy in hindsight to look at what might have been done differently, but he still believed in the course and could only identify minor improvements that could have been made.²²⁷
170. Senior Constable Sumner also gave evidence he had never experienced any similar serious incident during the OPRT and said the call telling him about Den’s death “was the worst phone call I think I’ve ever had in my life.”²²⁸ However, in terms of changes to the course, he felt that there was nothing that might have prevented this incident, and felt it was just “a very unfortunate accident.”²²⁹
171. Senior Constable Hawkins, who was still a trainee instructor, agreed with the common suggestion that some high speed track work would be helpful as part of the police motorcycle training. He suggested that it would give the riders more confidence in the capabilities of the motorcycle, with the hope that this would give them more confidence when executing manoeuvres out on the road. He agreed that this could have been a helpful training component for Den to have done, given he had struggled early on with being comfortable with the police motorcycle, and in the context he thought it was possible Den may have lost confidence as he negotiated the bend immediately before the crash.
172. Senior Constable Brewer, who was participating in the course with Den and who had previously completed the older training course, felt that instructors did a good job of running the OPRT course and they made sure they weren’t dehydrated and had lots of breaks and coffee. However, he did state his

²²⁵ T 90 - 92.

²²⁶ T 92.

²²⁷ T 92.

²²⁸ T 96 - 97

²²⁹ T 97.

personal opinion that more time on the police motorcycle to get comfortable with it would be advantageous, to allow the rider to become more comfortable with the machine first before attempting the other, high speed components. Further, he noted the benefits of the previous course being a week longer, which also allows more time for confidence building.²³⁰

The Green Family

173. Den's family provided a statement to the Court at the conclusion of the inquest on behalf of the entire Green family. They attended the entire inquest and have properly and helpfully provided their own perspective on the evidence, for my consideration as part of this inquiry. Den's family remain focussed on wanting to effect change to ensure that no other family will have to endure the heartbreak that they must continue to endure. They accept that Den's death was a tragic accident but draw attention to the fact that the evidence at the inquest highlighted training issues and inadequacies and areas for improvement.
174. The Green family expressed concern at the planned continued use of Julimar Road as part of the WA Police motorcycle training and note that, as well as the inherent dangers of the road, such a decision shows no consideration for future police officers/instructors' mental well-being and an insensitivity to the memory of Den.
175. I wholeheartedly agree. I consider asking future trainees and instructors to ride past the place where Den lost his life during the same training would be a potentially dangerous distraction to the participants, as well as disrespectful to Den's memory. Fortunately, these concerns have been heard by the WA Police Force and I am advised in submissions filed on behalf of the WA Police Force that the WA Police Force do not intend to use Julimar Road for P1 or P2 training the new Motorcycle Response Course.²³¹
176. The Green family strongly supports the inclusion of a racetrack element in future training, as they believe after hearing the evidence that this could have helped Den to master the vital components of road positioning and cornering at speed before attempting this on an open rural road. This was well supported by the evidence of several witnesses at the inquest, and in my view it is an obvious area for inclusion to improve safety in the police motorcycle training package moving forward.

²³⁰ T 72, 75.

²³¹ Closing Submission on behalf of the Western Australia Police filed 4 August 2020.

WA POLICE MOTORCYCLE TRAINING – MOVING FORWARD

177. In May 2019, in response to the findings of the Major Crime review, the Police Commissioner commissioned a thorough and comprehensive review of the purpose, use and training of police motorcycles and riders. This review was known as the Commissioner’s Assurance Team Review (CAT Review). Commander Michael Sutherland is the current commander with State Traffic Operations, having commenced in that role in August 2019. He is, therefore, responsible for moving forward with WA Police motorcycle training in the future. Prior to taking on that role, Commander Sutherland was involved in overseeing the CAT review into Den’s death.
178. The Commissioner appointed Commander Sutherland as at the time he was unconnected with the people involved, as was based in the south west, so he was independent. He was asked to select four other people to join him in the Commissioner’s Assurance Team, which was referred to as the ‘CAT’. The people Commander Sutherland chose were also all independent of this incident and had skills, qualifications or experience in training around crash investigations/motorcycle training. The purpose of the CAT review was not to investigate the causal factors leading up to Den’s death. The two objectives of the CAT review were:
- to reduce the risk of death or serious injury to WA police officers resulting from the use of a motorcycle in the execution of their duty and relevant training for the same; and
 - to ensure the provision of an excellent standard of welfare and support to police officers, police staff and families impacted by the death or injury of a police officer or police staff member.²³²
179. All OPRT motorcycle training was immediately ceased following Den’s crash so there was time to consider what changes should be made.²³³ Commander Sutherland also took early action to remove ‘relief’ motorcycle riders and to remove mobile radars off motorcycles, as part of his risk mitigation focus.²³⁴ The relief rider issue had been identified in the OSH review as a possible risk.
180. The CAT review was completed in June 2019. The final CAT report included a large number of findings and recommendations. In summary, some of the findings were:²³⁵

²³² T 184.

²³³ T 190.

²³⁴ T 189.

²³⁵ T 185 – 186; Exhibit 3, Tab 1, pp. 4 - 8.

1. Riding a motorcycle is inherently more dangerous than driving a motor car;
2. The risks involved in emergency driving are similar between motorcycles and motor cars, but the consequences are significantly different due to the increased vulnerability of the motorcycle rider;
3. Police motorcycles have a specific role in traffic enforcement;
4. The current police motorcycle models have been selected for their suitability for the role and are appropriate for use;
5. Qualified police motorcyclists should be allowed to undertake response and intercept driving to P1 standard;
6. Police motorcycles should continue to be prohibited from engaging in evade police intercept driving;
7. Motorcycle training is potentially dangerous and State Traffic lacked a 'training culture';
8. There is no agency endorsed training quality standards in place across the WA Police Force;
9. Welfare services and support provided to Den's family were comprehensive and well-meaning but uncoordinated.

181. While it was acknowledged that there are inherent dangers in motorcycle riding, it is still considered to form an important part of policing in WA and there are no plans to remove it entirely.²³⁶ The recommendations are focussed on risk mitigation strategies, acknowledging you cannot eliminate human error entirely. A competency based training approach also remains the preferred approach.²³⁷

182. In terms of the 28 recommendations that flowed from the review's findings, some of the key items were:²³⁸

1. Consideration should be given to the creation of a traffic motorcycle group as a 'stand alone' unit. This would allow a higher level of supervision and specific resource tasking solely for motorcycles;
2. A Traffic Training Unit should be established with responsibility for the management administrative and renewable traffic related training. Commander Sutherland gave evidence the CAT review found the OPRT motorcycle training was "adequate to excellent" prior to its suspension, but felt there needed to be a connection to the WA Police Academy Driver Training Unit, in terms of governance and a training framework. The training would, therefore, be carried out at the academy, to establish good governance and auditing of the motorcycle training, but still using the

²³⁶ T 203.

²³⁷ T 209 – 210.

²³⁸ T 186 – 193; Exhibit 3, Tab 1, pp. 9 - 12.

instructors from State Traffic, who are best qualified to provide this instruction. Sergeant Gale is involved with other staff from the academy and State Traffic in reviewing the curriculum and training package to enhance it to a level that is suitable for the future.²³⁹

3. There was an identified need to re-introduce track work as a component of priority training, as it was felt that riding at speed would be better assessed on a track in a confined environment, at least at first.²⁴⁰
4. Introduction of a practical riding assessment as a pre-requisite for selection as a TEG Motorcyclist. It would apparently be similar to what currently occurs for mounted police and TRG, and would introduce a requirement for officers nominating to move into the section to already have completed the prerequisite training.²⁴¹ Therefore, new riders will hopefully already have a good understanding of road conditions and the concept of undertaking risk assessments and how to engage with the unpredictable factor of members of the public.

183. The CAT review did not consider there was scope to improve or adjust the training given to the instructors,²⁴² but changes are proposed to have the instructors complete an educator's course at the Police Academy and they will then conduct the motorcycle training courses at the academy, under the academy guidelines and reporting directly to the OIC of the Driver Training Unit, while conducting the training. It is hoped this will ensure greater consistency in training methods across the WA Police Force and also hopefully ensure continuity of instructors across a course. The course itself will still be under the ultimate governance of the State Traffic Command.²⁴³ The WA Police Force are also looking at what different forms of technology are available to record the verbal communication between the instructors and trainees, as well as the visual footage.²⁴⁴

184. Commander Sutherland gave evidence at the inquest that the review had indicated that a rural ride component should remain part of the motorcycle training and the CAT review team "were quite comfortable with Julimar Road."²⁴⁵ He indicated they were well aware there have been a lot of fatalities and serious crashes on Julimar Road but felt that these needed to be considered within the context of the OPRT programme, which had not had any incidents on the road prior to Den's death. The CAT review felt that Julimar Road fulfilled all the requirements of the module and, given it had been used

²³⁹ T 187.

²⁴⁰ T 188.

²⁴¹ T 188 – 189.

²⁴² T 191.

²⁴³ T 191 - 192.

²⁴⁴ T 201.

²⁴⁵ T 193.

in the past without incident, there was no reason to shift the course.²⁴⁶ In reaching that conclusion, Commander Sutherland and the other CAT members did not rely upon the conclusions of the author of the Occupational Health and Safety Report. Commander Sutherland gave evidence that he did not accept the report, and indicated the Commissioner does not accept the report, for a number of reasons. Commander Sutherland expressed concern that the author wasn't qualified to form those opinions around training. Commander Sutherland gave evidence he had not personally ridden Julimar Road but his understanding was it is a "very, very typical type of road" for a rural area.²⁴⁷ I return to the use of Julimar Road below.

185. At the inquest, information was provided that on 12 June 2020 the WA Police Corporate Board had approved a number of recommendations made by the CAT Review and the financial costs that implementation will incur.²⁴⁸
186. Full implementation of changes moving forward is subject to the outcome of the Worksafe investigation and this inquest.²⁴⁹ A working party, including Sergeant Gale, is continuing to work with the Police Academy to consider all aspects of the rider training package. This includes consulting with the Australia New Zealand Policing Advisory Agency to establish consistency for rider training and motorcycle rider training across Australia and New Zealand.²⁵⁰ Commander Sutherland indicated that the working party are "a long way along the track,"²⁵¹ but the WA Police Force do not intend to recommence any form of motorcycle OPRT until this inquest is concluded and any recommendations considered, and the Worksafe investigation is also complete.²⁵² The overall review of the motorcycle training will also seek the input of Den's family for any feedback or input they wish to provide.²⁵³ Ultimately, Commander Sutherland hopes to implement a "comprehensive training package based around ... safety"²⁵⁴ with consistency throughout the various Australian police jurisdictions. As part of the CAT review, the team did a preliminary review of all other Australian jurisdictions, and concluded that in their opinion, Western Australia already leads the jurisdictions in terms of safety and instructor's qualifications.²⁵⁵

²⁴⁶ T 193.

²⁴⁷ T 205.

²⁴⁸ Exhibit 4.

²⁴⁹ T 190.

²⁵⁰ T 190.

²⁵¹ T 192.

²⁵² T 192.

²⁵³ T 192.

²⁵⁴ T 192.

²⁵⁵ T 190; 209 - 210.

187. After the inquest, the WA Police Force provided submissions,²⁵⁶ which included the information that Julimar Road will not be included as part of the new motorcycle training package, no doubt in response to my comments during the inquest and the statements of the Green family.
188. In the submissions, the WA Police Force also advised it is planned that the new course will have the following components:
- Day 1 of the course will incorporate a Practical Riding Assessment;
 - The rural ride component will include a rural ride from the Academy to Collie on Days 5 and 6 (at normal conditions within the legislation);
 - Days 5 and 6 of the course will also incorporate an on-track component at Collie Motorplex;
 - Day 7 of the course will involve P2 riding on semi-rural roads;
 - Day 10 will involve P1 training on semi-rural routes; and
 - Day 11 will involve P1 training including rural riding on a pre-determined and risk-assessed route (that route having yet to be identified);
 - There will be no more than two consecutive training days scheduled in order to manage fatigue, with a focus on afternoon shifts to allow the candidate to rest; and
 - The training course will remain progressive in nature.²⁵⁷
189. These changes clearly demonstrate that the members of the WA Police Force involved in the inquest, going all the way up to the Commissioner, have listened carefully to the evidence during the inquest, as well as my comments and the comments of the Green family, and taken steps to incorporate changes to reflect that new information. It shows a genuine willingness on the part of the WA Police to make meaningful changes as a result of the inquest and hopefully prevent another death in such circumstances.
190. As I noted at the commencement of this finding, the initiative shown by the WA Police Force has largely removed the need for me to make recommendations. I certainly intended to make recommendations about the continued use of Julimar Road, the need to manage fatigue for trainees better and to incorporate a practical riding assessment and more track work at high speed, particularly for cornering. All of these changes have been incorporated into the WA Police's planned course as indicated in the submissions.
191. I also note that the Shire of Toodyay has taken steps to rectify the issues with the road identified by Main Roads.²⁵⁸

²⁵⁶ Closing Submission on behalf of the Western Australia Police filed 4 August 2020.

²⁵⁷ Closing Submission on behalf of the Western Australia Police filed 4 August 2020.

192. Accordingly, I do not consider there are any recommendations I now need to make. However, I urge the WA Police Force to continue to consult with the Green family to ensure that the ultimate training course that is put in place is crafted within a framework that reflects the importance of putting safety first, particularly in a training environment.

CONCLUSION

193. Police officers make many sacrifices to do their jobs and serve the community. The officers and their families understand that they may often miss special events and important anniversaries in order to perform their duties and protect the community. They also understand that they are sometimes required to put their health, and even lives, on the line when doing their duty.
194. However, what does not need to be compromised is the safety of the officers when training to do their job. All agencies and employers are required to provide, as much as possible, a safe workplace. While the WA Police Force cannot always protect their officers from outside forces when doing their jobs, they can provide a safe way in which those officers learn to do their jobs.
195. It is acknowledged that motorcycle riding carries an inherent risk and emergency driving also carries an inherent risk, particularly given it can involve higher speeds than the set speed limit and breaching intersections. I note that individual officers self-select to do this type of motorcycle training, rather than it being a job requirement for all sworn police officers, and they must already have appropriate motorcycle licence qualifications to be included, so the participants will likely have an appreciation of the additional risk they are undertaking.
196. It was clear that Den wanted to do the course and wanted to do well in it, so that he could undertake motorcycle traffic duties in the future. Although he struggled in the early stages of the training course, he had persisted and shown significant improvement. He was the kind of person who rose to a challenge, and this course was no different. Unfortunately, there appears to have been an over estimation by Den and his instructors as to the level of skill and confidence he had reached by the time they undertook the journey to Toodyay. Den could not have made an independent assessment of his ability to complete the course. It was for the instructors to make that assessment. There were moments along the journey where Den made errors and required correction. In hindsight, these might have been an indicator that he was struggling to

²⁵⁸ Exhibit 1, Tab 6, p. 9.

complete the course to the required standard, particularly as time went on and fatigue potentially became a factor.

197. Unfortunately, they had reached the stage where they were close to their destination where they intended to have a rest and refreshments, so it would have seemed more desirable to continue rather than stop on the roadside, which carries its own inherent dangers. In my view, the decision to continue on was reasonable, but I question the decision to permit Den to continue at P1 speeds again at that stage. It was suggested that Den was able to make his own choice as to what speed he reached, but that ignores the fact he was a trainee trying to follow the instruction of his supervisors and meet the requirements of the course, as well as being considerably less experienced than the instructors in making such a risk assessment.
198. Until that time, no participant had ever been injured while completing the course, which suggests that the overall safety of the course was generally good. Nevertheless, Den's death is an indicator of the inherent risks involved in this type of training and the fact that there can be no room for complacency.
199. Den's family have described how they remember Den as an amazing son, husband and father and their struggle to now face their futures without him. He is obviously greatly missed by them every day, and the empty place his absence has left in their lives cannot be filled by anything that can come out of this inquest. However, I hope that as a result of this inquest, the Green family have been reassured that changes have, and will continue, to be made by the WA Police Force to ensure that lessons are learnt from his death and other families are spared the pain they have endured.
200. Den's legacy will be present in the lives lived by his family, particularly his sons, as they move on to live their lives following the principles he instilled in them. However, they can also take pride and some comfort in the legacy that Den's death has generated in terms of the changes to police motorcycle training not only in Western Australia, but hopefully across the entire country.

S H Linton
Coroner
30 December 2020