
JURISDICTION : CORONER'S COURT OF WESTERN AUSTRALIA
ACT : CORONERS ACT 1996
CORONER : MICHAEL ANDREW GLIDDON JENKIN, CORONER
HEARD : 29 - 30 OCTOBER 2024
DELIVERED : 2 DECEMBER 2024
FILE NO/S : CORC 28 of 2021
DECEASED : NW

Catchwords:

Nil

Legislation:

Coroners Act 1996 (WA)
Restraining Orders Act 1997 (WA)

Counsel Appearing:

Mr W. Stops appeared to assist the coroner.

Ms R. Paljetak (State Solicitor's Office) appeared for the Western Australian Police Force.

SUPPRESSION ORDER

On the basis that it would be contrary to the public interest, I make an Order under section 49(1)(b) of the *Coroners Act 1996* that there be no reporting or publication of the name of the deceased. Instead, the deceased is to be referred to as "NW".

Order made by: MAG Jenkin, Coroner (29.10.24)

Coroners Act 1996
(Section 26(1))

RECORD OF INVESTIGATION INTO DEATH

I, Michael Andrew Gliddon Jenkin, Coroner, having investigated the death of NW with an inquest held at Perth Coroners Court, Central Law Courts, Court 85, 501 Hay Street, Perth, on 29 - 30 October 2024, find that the identity of the deceased person was NW and that death occurred on or about 9 October 2021 at Kununurra in the following circumstances:

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INTRODUCTION

1. NW¹ was killed by her partner on or about 9 October 2021 in Kununurra. NW's remains were located at Lily Creek in Kununurra on 24 October 2021.^{2,3,4,5,6} Although NW's remains were examined by two forensic pathologists and a forensic anthropologist, it was not possible to determine the cause of her death due to post mortem changes.^{7,8,9}
2. NW's partner pleaded guilty to NW's manslaughter and on 17 November 2023 in the Supreme Court of Western Australia, he was sentenced to 11 years' imprisonment.¹⁰
3. Prior to her death, Police had received three requests for assistance in relation to NW on the evening of 9 - 10 October 2021. For reasons I will explain, I have concluded that the police response to these requests for help was inadequate.
4. Under the terms of the *Coroners Act 1996* (the Act), NWs' death was a "reportable death". Further, because a member of the Western Australia Police Force (the Police) may have caused or contributed to NW's death, a coronial inquest was mandatory.¹¹
5. I note that section 22(1)(b) of the Act is enlivened whenever the issue of causation or contribution in relation to a death arises as a question of fact, irrespective of whether there is any fault on the part of any member of the Police.¹²
6. For reasons I will explain, I have been unable to conclude, to the relevant standard, that any member of the Police caused or contributed to NW's death.

¹ As a mark of respect to the deceased, I referred to her as "NW" at the inquest, and in this finding

² Exhibit 1, Vol 1, Tab 1, Life Extinct Form (24.10.21)

³ Exhibit 1, Vol 1, Tab 2, P98 - Mortuary Admission Form (24.10.21)

⁴ Exhibit 1, Vol 1, Tab 3, P92 Identification of deceased person other than by visual means (27.10.21)

⁵ Exhibit 1, Vol 1, Tab 3, Affidavit - Sen. Const. S Durka (27.10.21)

⁶ Exhibit 1, Vol 1, Tab 3.1, Coronial Identification Report (26.10.21)

⁷ Exhibit 1, Vol 1, Tab 4, Supplementary Post Mortem Report (07.02.23)

⁸ Exhibit 1, Vol 1, Tab 4.1, Post Mortem Report (08.11.21)

⁹ Exhibit 1, Vol 1, Tab 5, Toxicology report (04.11.21)

¹⁰ Exhibit 1, Vol 1, Tab 23, [2023] WASC SR 33, Sentencing remarks per Quinlan, CJ (17.11.23)

¹¹ Sections 3 & 22(1)(b), *Coroners Act 1996* (WA)

¹² Section 22(1)(b), *Coroners Act 1996* (WA)

7. I held an inquest into NW's death on 29 - 30 October 2024, and the Brief containing the documentary evidence adduced at the inquest comprised two volumes. The inquest focused on the actions of members of the Police in the period prior to NW's death, as well as the circumstances of NW's death. The following witnesses gave evidence at the inquest:¹³
- a. Prob. Const. C. Piahana, Attending police officer (Officer Piahana);
 - b. FC Const. S. Burtnyk, Attending police officer (Officer Burtnyk);
 - c. FC Const. D. Lee, Attending police officer (Officer Lee);
 - d. FC Const. L. Tompkins, Attending police officer (Officer Tompkins);
 - e. A'Sgt. D. Glasson, Supervising police officer (Officer Glasson);
 - f. Det. A'Sen. Sgt. D. Mackay, Author, IAU¹⁴ report (Officer Mackay); and
 - g. Supt. L. Hugo, OIC, Family Violence Division, (Officer Hugo).
8. In assessing the available evidence and considering whether to make any adverse findings, I have been mindful of two key principles. The first is the phenomenon known as hindsight bias, which is the common tendency to perceive events that have occurred as having been more predictable than they actually were.¹⁵
9. The other relevant principle with which I must engage is known as the Briginshaw test. This principle is derived from a High Court judgment of the same name, in which Justice Dixon said:

The seriousness of an allegation made, the inherent unlikelihood of an occurrence of a given description, or the gravity of the consequences flowing from a particular finding are considerations which must affect the answer to the question whether the issue has been proved to the reasonable satisfaction of the tribunal. In such matters "*reasonable satisfaction*" should not be produced by inexact proofs, indefinite testimony, or indirect inferences.¹⁶

10. The Briginshaw test requires that the more serious the allegation, the higher the degree of probability that is required before I can be satisfied as to the truth of the allegation.

¹³ Note: the ranks shown for Officers Piahana, Burtnyk, Lee, Tompkins and Glasson are the ranks they held on 9 October 2021

¹⁴ IAU is the abbreviation for the Police Internal Affairs Unit

¹⁵ See for example: www.britannica.com/topic/hindsight-bias

¹⁶ *Briginshaw v Briginshaw* (1938) 60 CLR 336 per Dixon J at 362

NW

Background^{17,18}

11. NW was born in Katherine in the Northern Territory on 11 June 1990, and grew up there and in Kildurk. NW had no siblings, and was 31 years old when she died on or about 9 October 2021 in Kununurra.^{19,20}
12. For about 18 months prior to her death, NW was in a relationship with Mr Warrick Walkerbear. NW and Mr Walkerbear had lived in the Northern Territory, but they moved separately to Kununurra in 2021.^{21,22}
13. NW was described by her mother as “*chatty, laughing and happy*” when around her family, but “*quieter and sad*” when she was in the presence of Mr Walkerbear.²³

NW’s previous exposure to domestic violence^{24,25,26,27,28,29,30,31,32,33,34,35,36,37,38,39}

14. Prior to her relationship with Mr Walkerbear, NW was in a relationship with a different male which was characterised by incidents of domestic violence.⁴⁰ NW was declared a recidivist family violence victim by the Police on 17 March 2014, and the alert attached to NW’s name in the police computer states (in part): “Positive police intervention to be taken in relation to all future DV (i.e.: domestic violence) incidents”.⁴¹

¹⁷ Exhibit 1, Vol 1, Tab 10.1, Statement - NW’s mother (28.10.21)

¹⁸ Exhibit 1, Vol 1, Tab 6, IAU Report - Det. A’Sen. Sgt. D Mackay (26.02.24), pp8-9

¹⁹ Exhibit 1, Vol 1, Tab 4, Supplementary Post Mortem Report (07.02.23)

²⁰ Exhibit 1, Vol 1, Tab 4.1, Post Mortem Report (08.11.21)

²¹ Exhibit 1, Vol 2, Tab 2, P100 - Report of Death

²² Exhibit 1, Vol 2, Tabs 38 & 39, Statements - Mr G Bradshaw (20.04.23 & 22.06.23)

²³ Exhibit 1, Vol 2, Tab 36, Notes of victimology discussions between NW’s mother and Sen. Const. R Macey)

²⁴ Exhibit 1, Vol 2, Tabs 6-19 & 21-26, CAD and IMS Incident Reports(various dates 27.01.20 - 09.10.21)

²⁵ Exhibit 1, Vol 1, Tab 15, NW’s Medical records - Derby Hospital

²⁶ Exhibit 1, Vol 1, Tab 16, NW’s Medical records - Katherine Hospital

²⁷ Exhibit 1, Vol 1, Tab 17, NW’s Medical records - Kununurra Hospital

²⁸ Exhibit 1, Vol 2, Tabs 38 & 39, Statements - Mr G Bradshaw (20.04.23 & 22.06.23)

²⁹ Exhibit 1, Vol 2, Tabs 44 & 45, Statements - Mr T Carlton (28.10.21 & 16.11.22)

³⁰ Exhibit 1, Vol 2, Tab 46, Statement - FC Const. B Coyle (22.11.22)

³¹ Exhibit 1, Vol 2, Tabs 51 & 52, Statements - Ms K Jessell (05.11.21 & 15.11.22)

³² Exhibit 1, Vol 2, Tab 57, Statement - Ms T Macale (22.06.23)

³³ Exhibit 1, Vol 2, Tab 60, Statement - Sen. Const. R Neville (09.11.22)

³⁴ Exhibit 1, Vol 2, Tab 64, Statement - Ms T Roberts (28.10.21)

³⁵ Exhibit 1, Vol 2, Tab 69, Statement - Mr P Rosewood (20.06.23)

³⁶ Exhibit 1, Vol 2, Tab 71, Statement - FC Const. L Tompkins (27.11.21) & attached photos and Incident Report summaries

³⁷ Exhibit 1, Vol 2, Tab 24, IMS Incident: Breach of FVRO (13.08.21)

³⁸ Exhibit 1, Vol 2, Tab 25, IMS Incident: Assault occasioning bodily harm (28.07.21)

³⁹ Exhibit 1, Vol 2, Tab 26, IMS Incident: Breach of FVRO (01.08.21)

⁴⁰ Exhibit 1, Vol 2, Tab 71, Statement - FC Const. L Tompkins (27.11.21) and attached Incident Report summaries

⁴¹ Email: Sen. Const. C Robertson to the Court (14.11.24)

15. NW's relationship with Mr Walkerbear was characterised by repeated incidents of domestic violence, some of which involved very serious assaults on her by Mr Walkerbear.⁴² In March 2021, NW separated from Mr Walkerbear and moved from the Northern Territory to Kununurra to live with her mother. It appears that Mr Walkerbear subsequently relocated to Kununurra to live with NW at her mother's house, and his relationship with NW resumed in about May 2021.
16. At about 1.30 am on 28 July 2021, Officer Tompkins and another police officer attended a family violence incident involving Mr Walkerbear and NW at her mother's home at 67A Barringtonia Avenue, Kununurra. When Officer Tompkins spoke to NW, who was lying on a mattress in a bedroom in the front of the home, NW was slurring her words and appeared to be intoxicated. Officer Tompkins also noted that NW had sustained "*significant facial injuries*".^{43,44}
17. NW told Officer Tompkins that she had been drinking with Mr Walkerbear "*down at the creek*" and that he had assaulted her, and inflicted her head and facial injuries. Although Officer Tompkins requested an ambulance, NW was very resistant to seek treatment. However, with NW's consent, Officer Tompkins took a photograph of her face and showed NW the extent of her injuries. After this, NW agreed to be taken to hospital where she received treatment.⁴⁵
18. A Police Order was issued against Mr Walkerbear, but it expired before it could be served. Further, although Officer Tompkins spoke with NW about prosecution action against Mr Walkerbear, this did not occur because NW declined to provide a statement. Nevertheless, later that day (i.e.: 28 July 2021), in the Magistrates Court at Kununurra, NW was granted an interim Family Violence Restraining Order (FVRO) to protect her from Mr Walkerbear.^{46,47,48,49,50}

⁴² The term "*domestic violence*" is used to refer to violence between people who are in an intimate relationship

⁴³ Exhibit 1, Vol 2, Tab 71, Statement - FC Const. L Tompkins (27.11.21), paras 5-22 and ts 29.10.24 (Tompkins), pp76-78

⁴⁴ Exhibit 1, Vol 2, Tab 71, Photographs of NW's head and facial injuries (29.07.21)

⁴⁵ Exhibit 1, Vol 2, Tab 71, Statement - FC Const. L Tompkins (27.11.21), paras 23-38

⁴⁶ Exhibit 1, Vol 2, Tab 71, Statement - FC Const. L Tompkins (27.11.21), para 42 and ts 29.10. 24 (Tompkins), p78

⁴⁷ Exhibit 1, Vol 2, Tab 3, Affidavit in support of application for FVRO (28.07.21)

⁴⁸ Exhibit 1, Vol 2, Tab 27, Transcript of proceedings - Magistrates Court at Kununurra (28.07.21)

⁴⁹ Exhibit 1, Vol 1, Tab 20, WAPF Restraining Order details (28.07.21)

⁵⁰ Exhibit 1, Vol 2, Tab 29, NW's FVRO records - Magistrates Court at Kununurra

19. Officer Burtnyk served the FVRO on Mr Walkerbear at 5.35 pm on 29 July 2021 and at the same time, he explained the terms of the FVRO to Mr Walkerbear. Nevertheless, between 1 and 13 August 2021, NW reported that Mr Walkerbear had breached the FVRO on three occasions, and he was subsequently charged with two offences in relation to these alleged breaches.^{51,52,53}
20. At NW's request, the FVRO was revoked by the Magistrates Court at Kununurra on 19 August 2021. NW told the court that she was intending to leave Mr Walkerbear, and relocate to the Northern Territory. However, as will become clear, she did not do so and in fact she and Mr Walkerbear remained together as a couple.^{54,55,56}
21. I am aware of research studies which have shown that it can take a significant number of domestic and family violence incidents before victims feel able to leave their violent partners. At the inquest, Officer Hugo (the OIC of the Police's Family Violence Division), agreed that the reasons why victims may find it difficult to leave perpetrators of domestic and family violence may be complex and multi-factorial, and can include emotional, psychological, and cultural issues; access to employment; the availability of alternative stable housing; and financial and other concerns.⁵⁷
22. In passing, I note that at the inquest, Officer Hugo noted that since January 2022 it has been mandatory for police officers attending a suspected family violence incident to activate their body worn cameras. In this case, all of the attending officers did so when they visited properties at 4B Carbeen Street, and 67A Barringtonia Avenue respectively.⁵⁸

⁵¹ Exhibit 1, Vol 2, Tab 43, Statement - Sen. Const. S Burtnyk (03.04.23), paras 3-15 and ts 29.10. 24 (Burtnyk), pp36-37

⁵² Exhibit 1, Vol 2, Tab 59, Statement - FC Const. R Morrisey (11.05.23)

⁵³ Exhibit 1, Vol 1, Tab 6, IAU Report - Det. A'Sen. Sgt. D Mackay (26.02.24), p9

⁵⁴ Exhibit 1, Vol 2, Tab 59, Statement - FC Const. R Morrisey (11.05.23)

⁵⁵ Exhibit 1, Vol 2, Tab 28, Transcript of proceedings - Magistrates Court at Kununurra (19.08.21)

⁵⁶ Exhibit 1, Vol 2, Tab 29, NW's FVRO records - Magistrates Court at Kununurra

⁵⁷ ts 30.10.24 (Hugo), pp122-123 & 131-132

⁵⁸ ts 30.10.24 (Hugo), pp124-125

EVENTS LEADING TO NW's DEATH^{59,60}

NW's mother's call for assistance^{61,62,63,64,65,66,67,68,69}

- 23.** During the evening of Saturday, 9 October 2021 NW and Mr Walkerbear were drinking alcohol and socialising with friends and family members at a house in Kununurra. At some point during the night, Mr Walkerbear told NW it was time to leave, and he began yelling at her. Some of the people at the house confronted Mr Walkerbear about his behaviour towards NW, and a physical altercation broke out.
- 24.** Meanwhile, NW spoke to her mother and said she was fearful of leaving the house alone with Mr Walkerbear. NW asked her mother to accompany them, which the mother agreed to do. NW, her mother and Mr Walkerbear left the house and walked to a property at 4B Carbeen Street in Kununurra, where NW and Mr Walkerbear sat on the driveway.
- 25.** A short time later, NW's mother left the 4B Carbeen Street address, and at 9.46 pm, she called emergency services. NW's mother asked the emergency operator to arrange for police to go to 4B Carbeen Street and take NW to a women's refuge.
- 26.** NW's mother told the emergency services operator that she was worried that NW was going to be assaulted by Mr Walkerbear that evening. NW's mother also said that Mr Walkerbear was "*an aggressive man*" who had been drinking, and that it wasn't safe for her daughter to be in the house.⁷⁰
- 27.** The Police Operations Centre (POC) in Perth created a family violence incident Computer Aided Dispatch task (CAD Task 1), and requested police at Kununurra to assist.⁷¹

⁵⁹ Exhibit 1, Vol 1, Tab 6, IAU Report - Det. A'Sen. Sgt. D Mackay (26.02.24), pp4-93

⁶⁰ Exhibit 1, Vol 2, Tab 1, Homicide Squad Report - Det. Sgt. M Long (04.01.24)

⁶¹ Exhibit 1, Vol 1, Tabs 10 & 10.1, Statements - NW's mother (22.10.21 & 28.10.21)

⁶² Exhibit 1, Vol 2, Tab 63, Statement - Prob. Const. C Piahana (03.12.21), paras 1-53 and ts 29.10. 24 (Piahana), pp9-31

⁶³ Exhibit 1, Vol 2, Tab 42, Statement - Sen. Const. S Burtnyk (02.11.21), paras 1-33 and ts 29.10. 24 (Burtnyk), pp31-48

⁶⁴ Exhibit 1, Vol 2, Tab 53, Statement - Ms C Johnson (23.10.21)

⁶⁵ Exhibit 1, Vol 2, Tab 61, Statement - Ms E Nipper (22.10.21)

⁶⁶ Exhibit 1, Vol 2, Tab 65, Statement - Ms C Rosewood (23.10.21)

⁶⁷ Exhibit 1, Vol 2, Tabs 66 & 67, Statements - Ms G Rosewood (27.10.21 & 20.06.23)

⁶⁸ Exhibit 1, Vol 2, Tabs 68 & 69, Statements - Mr P Rosewood (02.11.21 & 20.06.23)

⁶⁹ Exhibit 1, Vol 2, Tab 73, Statement - Mr B Waterloo (26.10.21)

⁷⁰ Exhibit 1, Vol 1, Tab 7, Incident Report LWP21100900765810 (9.46 pm, 09.10.21 - CAD Task 1)

⁷¹ ts 30.10.24 (Glasson), pp94-95

28. At the relevant time, Officer Glasson was an acting sergeant and was occupying the position of Kununurra police station supervisor.⁷² This was clearly a demanding and busy position, and as the Internal Affairs unit (IAU) investigation report noted:

To fulfil the role of Kununurra Police Station supervisor, you have to be CAD control supervisor, police station lock-up supervisor, prosecution system reviewer and approver, IMS incident reporter, reviewer and finaliser, attend to administrative duties, including telephone and responding to front counter inquiries, and attending to Kununurra Police Station human resource issues.^{73,74}

29. Officer Glasson allocated CAD Task 1 to Officer Burtnyk and Officer Piahana at 9.56 pm. At that time, Officer Piahana was a probationary constable and she had been in Kununurra for three months. Her partner, Officer Burtnyk, was a first class constable and he had been a police officer for about eight years.⁷⁵

30. Officer Burtnyk and Officer Piahana arrived at 4B Carbeen Street at about 10.05 pm. Officer Burtnyk was driving the police vehicle, and as passenger, Officer Piahana said it was likely that on the way she had read out the text of the CAD Task 1, which was as follows:

CLR (i.e.: caller) is requesting police to go to A/A (i.e.: above address) and take her daughter (NW) to a shelter. CLR states that she has just left A/A and her daughter stated that she is going to get bashed tonight by her partner Walkerbear, Warwick. CLR states that Walkerbear is an aggressive man and has been drinking today - not safe for her daughter to be in the house. Nil children at A/A.^{76,77}

31. After the officers arrived at 4B Carbeen Street, Officer Piahana knocked on the front door while Officer Burtnyk shone his torch down the left hand side of the property. No one was visible, and the front door was opened by Ms Doneta Nipper.

⁷² ts 30.10.24 (Glasson), pp91-92

⁷³ Exhibit 1, Vol 1, Tab 6, IAU Report - Det. A'Sen. Sgt. D Mackay (26.02.24), p84

⁷⁴ ts 30.10.24 (Glasson), pp91-92

⁷⁵ ts 29.10.24 (Piahana), p9 and ts 29.10.24 (Burtnyk), p32

⁷⁶ Exhibit 1, Vol 1, Tab 7, Incident Report LWP21100900765810 (9.46 pm, 09.10.21 - CAD Task 1)

⁷⁷ See also: ts 29.10.24 (Piahana), pp12-13

32. Officer Piahana asked Ms Nipper if someone had called police, and Ms Nipper said “No”, and she (Ms Nipper) confirmed that neither Mr Walkerbear, NW, or NW’s mother lived at her house. Ms Nipper also told police Mr Walkerbear and NW lived in a house at the end of Barringtonia Avenue.
33. At the inquest, Officer Piahana said that she recognised the property described by Ms Nipper as 67A Barringtonia Avenue, because she had attended a previous task at that address relating to a member of NW’s family.⁷⁸
34. Although neither Officer Piahana nor Officer Burtnyk had had any previous dealings with NW, NW’s mother, or Mr Walkerbear, during their interaction with Ms Nipper, neither of the officers asked any questions about NW’s location or welfare. At the inquest, both Officer Piahana and Officer Burtnyk agreed that with the benefit of hindsight, they should have made more fulsome enquiries with Ms Nipper about NW’s location and the nature of her relationship with Mr Walkerbear before leaving 4B Carbeen Street.⁷⁹
35. In any case, although Officers Burtnyk and Piahana had intended to go straight to 67A Barringtonia Avenue to locate NW and Mr Walkerbear, they were unable to do so. That is because at 10.09 pm, just as they were leaving the Carbeen Street address, the officers were allocated an unrelated, but higher priority task. This task (CAD Task 2) required the officers to proceed urgently to an address in Kununurra to assist a victim of family violence.⁸⁰
36. Once Officer Glasson had allocated CAD Task 2 to Officers Burtnyk and Piahana, they were “released” from CAD Task 1. When the officers arrived at the CAD Task 2 address, they were required to arrange for a woman to be taken to hospital, and their subsequent enquiries took several hours.

⁷⁸ ts 29.10.24 (Piahana), p18

⁷⁹ ts 29.10.24 (Piahana), pp13-17 and ts 29.10.24 (Burtnyk), pp38-39

⁸⁰ Exhibit 1, Vol 1, Tab 7.1, Incident Report LWP21100900765891 (10.04 pm, 09.10.21 - CAD Task 2)

37. As a result of being allocated CAD Task 2, Officers Burtnyk and Piahana made no further attempts to locate NW that night. Prior to leaving 4B Carbeen Street, Officer Piahana did not enter an “*at scene*” time in the text for CAD Task 1, which would have been her responsibility given she was the passenger in the police vehicle.
38. Further, neither officer subsequently entered an update into the text for CAD Task 1 recording their enquiries at 4B Carbeen Street, and their plan to visit 67A Barringtonia Avenue to try to locate NW and Mr Walkerbear, nor did they provide Officer Glasson with a verbal update using their police radios.
39. It appears that these failures by Officers Burtnyk and Piahana were partly due to the urgency associated with CAD Task 2, and also to communications issues with OneForce, the application on police-issued mobile phones used to manage assigned CAD tasks. As I will explain later in this finding, at the relevant time communication issues with OneForce were routine in Kununurra, and these issues significantly increased the difficulties officers faced in conducting routine patrols.⁸¹
40. At the inquest, Officer Glasson agreed that it would have been best practice for him to have asked if Officer Piahana and Officer Burtnyk had attended 4B Carbeen Street, and the result of their enquiries. His explanation for not doing so at the time was that he needed the officers to attend CAD Task 2, which was of higher priority. Officer Glasson also said:
- I didn’t ask for (a) briefing. I knew we would eventually get back to that job (i.e.: CAD Task 1), so I wouldn’t have worried about it then. But priorities change and I just – yes.⁸²
41. As I will explain, the fact that an “*at scene*” time was not recorded for CAD Task 1 and that an update was not entered in the text of this task at the time Officer Burtnyk or Officer Piahana attended 4B Carbeen Street, was to become a factor in the difficulties other police faced in their attempts to locate NW later that night.

⁸¹ ts 29.10.24 (Burtnyk), pp34-35 & 40

⁸² ts 30.10.24 (Glasson), p95

Ms Nipper's call for assistance^{83,84,85}

42. At 10.21 pm, Ms Nipper called emergency services to advise there was a “*girl quietly sobbing*” in her backyard at 4B Carbeen Street. In her police statements, Ms Nipper says it was dark when she looked out of her bedroom window at the back of her house into the backyard and that she “*couldn't see anyone*”. Nevertheless, Ms Nipper says she could hear a man “*talking quietly*”, who she recognised as Mr Walkerbear.^{86,87}
43. In her statement, Ms Nipper also says “*I assumed the girl was (NW), his partner*”, and that she called out to Mr Walkerbear: “*Warrick, you had better stop as I had rung the Police already*”. Ms Nipper says she told the emergency services operator that the Police were looking for NW and Mr Walkerbear, and “*they were now in the back yard*”.^{88,89}
44. Ms Nipper says there is no light in her backyard, “*only one around the left side near the laundry door*”. As she waited for police to attend, Ms Nipper says she “*put the light on and went into the backyard*”, but that Mr Walkerbear and NW had gone. Ms Nipper says she then went back to bed, and that when she went into the backyard again she: “*didn't see any blood or anything strange*”.^{90,91}
45. The transcript of Ms Nipper's emergency services call confirms that she told the emergency services operator that her address was 4B Carbeen Street, and that she also said:

You guys came earlier on...there is a fight out the back here...Yeah with (NW) and (Mr Walkerbear)...they came around early on looking for them...I think she (i.e.: NW's mother) rang early on and cops came around and I said no one was here, but then I went to the toilet and heard noise in the backyard. I think they're out the back here fighting...I can hear her crying.⁹²

⁸³ Exhibit 1, Vol 1, Tab 6, IAU Report - Det. A'Sen. Sgt. D Mackay (26.02.24)

⁸⁴ Exhibit 1, Vol 1, Tab 7.1, Incident Report LWP21100900765891 (10.04 pm, 09.10.21 - CAD Task 2)

⁸⁵ Exhibit 1, Vol 1, Tabs 11 & 11.1, Statements - Ms D Nipper (22.10.21 & 28.10.21)

⁸⁶ Exhibit 1, Vol 1, Tab 11, Statement - Ms D Nipper (22.10.21), paras 18-28

⁸⁷ Exhibit 1, Vol 1, Tab 11.1, Statement - Ms D Nipper (28.10.21), paras 27-38

⁸⁸ Exhibit 1, Vol 1, Tab 11, Statement - Ms D Nipper (22.10.21), paras 29-34

⁸⁹ Exhibit 1, Vol 1, Tab 11.1, Statement - Ms D Nipper (28.10.21), paras 39-46

⁹⁰ Exhibit 1, Vol 1, Tab 11, Statement - Ms D Nipper (22.10.21), paras 35-39

⁹¹ Exhibit 1, Vol 1, Tab 11.1, Statement - Ms D Nipper (28.10.21), paras 49-55

⁹² Exhibit 1, Vol 1, Tab 6, IAU Report - Det. A'Sen. Sgt. D Mackay (26.02.24), pp49-50

46. The emergency services operator told Ms Nipper that police would attend, and the information Ms Nipper had provided was added to the text of CAD Task 1 by the Police Operations Centre in Perth.^{93,94} However, at the inquest, Officer Glasson confirmed that he was unaware of this update to CAD Task 1.
47. Although Officer Glasson was supervising CAD tasks, he was also responsible for his other duties as station supervisor. It appears that Officer Glasson did not become aware of the update to CAD Task 1 partly because of his busy workload, and also because at the time he was unaware of a system feature which showed that an update had been made. At the inquest, Officer Glasson said:
- I've since learnt that there's a – a little tiny arrow at the side of the bar that lights up, but if you're not looking for it, you – you don't hear it or see it all.⁹⁵
48. As a result, there was no immediate police response to Ms Nipper's call, although at the relevant time Officer Glasson would not have had an available police vehicle to dispatch, because both were busy.⁹⁶
49. Whilst it is not entirely clear that the woman Ms Nipper heard sobbing in her backyard was NW, nevertheless, Ms Nipper assumed it was because she recognised Mr Walkerbear's voice (although he was talking softly) and knew NW was in a relationship with him. If police had attended 4B Carbeen Street soon after Ms Nipper's call, there is at least a possibility that they might have located NW, and been able to speak with her about what had been going on between her and Mr Walkerbear.
50. Of course, it is impossible to know whether or not NW would have accepted help from police if she had been found. I make that observation on the basis that after she was seriously assaulted by Mr Walkerbear in July 2021, NW was very reluctant to seek medical treatment, and declined to provide a statement to police confirming the details of the assault.⁹⁷

⁹³ See also: Exhibit 1, Vol 1, Tab 7, Incident Report LWP21100900765810 (9.46 pm, 09.10.21 - CAD Task 1)

⁹⁴ ts 30.10.24 (Glasson), p97

⁹⁵ ts 30.10.24 (Glasson), p97

⁹⁶ ts 30.10.24 (Glasson), p99

⁹⁷ Exhibit 1, Vol 2, Tab 71, Statement - FC Const. L Tompkins (27.11.21), para 42 and ts 29.10. 24 (Tompkins), p78

CAD Task 1 is reassigned^{98,99,100,101}

51. At 11.37 pm, Officer Glasson realised that CAD Task 1 was still open, and he reassigned it to Officers Tompkins and Lee (in police vehicle EK101), who had completed their previous task. At the relevant time, there was usually only one police vehicle patrolling Kununurra during the hours of darkness, however during shift changeovers two vehicles were sometimes available for periods of time.¹⁰²
52. As a result of the ongoing communication issues being experienced with OneForce in Kununurra, Officer Glasson used the police radio to make the following broadcast when he reassigned CAD Task 1 to Officers Tompkins and Lee: “*There’s a 329 (i.e.: a domestic violence incident) at 4B Carbeen Street if you are free*”.¹⁰³ Officer Piahana (in police vehicle EK103) heard this broadcast, and made the following transmission in response:

(Officer Burtnyk) and I went to that address (i.e. 4B Carbeen Street) and no one that was mentioned in that CAD text was there. The occupier (i.e.: Ms Nipper) said to try (NW’s mother’s) house...at I believe 67A Barringtonia I was unable to throw the update on due to the P2 (i.e.: CAD Task 2).^{104,105}

53. During her broadcast, Officer Piahana did not state (nor was she asked) what time she and Officer Burtnyk had attended 4B Carbeen Street earlier that night. Further, as I have already noted, an “*at scene*” had not been logged against CAD Task 1 for that attendance.
54. At the inquest, Officer Piahana accepted that with the benefit of hindsight she ought to have communicated the time that she and Officer Burtnyk had attended 4B Carbeen Street,¹⁰⁶ and in my view this is an appropriate concession. This information would clearly have been relevant to Officers

⁹⁸ Exhibit 1, Vol 1, Tab 6, IAU Report - Det. A’Sen. Sgt. D Mackay (26.02.24)

⁹⁹ Exhibit 1, Vol 2, Tab 63, Statement - Prob. Const. C Piahana (03.12.21), paras 54-59 and ts 29.10. 24 (Piahana), pp21-22

¹⁰⁰ Exhibit 1, Vol 2, Tab 56, Statement - FC Const. D Lee (15.03.23), paras 2-26 and ts 29.10. 24 (Lee), pp49-71

¹⁰¹ Exhibit 1, Vol 2, Tab 71, Statement - FC Const. L Tompkins (27.11.21), paras 46-65 and ts 29.10.24 (Tompkins), pp71-85

¹⁰² ts 29.10.24 (Burtnyk), p44 and ts 29.10.24 (Lee), p50

¹⁰³ Exhibit 1, Vol 1, Tab 6, IAU Report - Det. A’Sen. Sgt. D Mackay (26.02.24), p54

¹⁰⁴ ts 29.10.24 (Piahana), p21

¹⁰⁵ Exhibit 1, Vol 1, Tab 6, IAU Report - Det. A’Sen. Sgt. D Mackay (26.02.24), p55

¹⁰⁶ ts 29.10.24 (Piahana), p22, and see also: ts 30.10.24 (Glasson), p102 where Officer Glasson agrees

Tompkins and Lee in their assessment of the priority that should have been attached to the task of locating NW.

55. At the inquest, Officer Glasson said if he had been aware of Ms Nipper's earlier call at 10.21 pm (suggesting that NW and Mr Walkerbear were at 4B Carbeen Street), he would have ensured Officers Lee and Tompkins went there, instead of 67A Barringtonia, and that in his view, this was "*the sliding door moment*".¹⁰⁷
56. In any case, following Officer Piahana's transmission, Officers Tompkins and Lee went to 67A Barringtonia Avenue, and they arrived at the premises at 11.42 pm. Officer Lee knocked on the front door of the home, but there was no response. There was also no reply when Officer Lee shone his torch into the backyard of the property and called out "*Hello, Police*".
57. Meanwhile, Officer Tompkins had gone to the front bedroom of the house, where she knew NW slept from previous visits to the premises. As Officer Tompkins looked through a small gap in the window, she saw a mattress on the floor, but there was no one in the bedroom, and she heard no noise or movements from within the house. The scene was dark and quiet, and in her police statement, Officer Tompkins said she did not believe the house was occupied at the time.¹⁰⁸
58. After briefly checking the surrounding area, Officers Tompkins and Lee left the scene, and Officer Tompkins used EK101's police radio to update Officer Glasson about their enquiries.¹⁰⁹
59. At the inquest, Officer Tompkins and Officer Lee each confirmed that they had not checked the text of CAD Task 1, and were therefore unaware of Ms Nipper's call at 10.21 pm about the possible sighting of NW and Mr Walkerbear at 4B Carbeen Street. Officer Tompkins and Officer Lee also agreed they should have checked the text of CAD Task 1, and had

¹⁰⁷ ts 30.10.24 (Glasson), pp99-103

¹⁰⁸ Exhibit 1, Vol 2, Tab 71, Statement - FC Const. L Tompkins (27.11.21), paras 64-68

¹⁰⁹ Exhibit 1, Vol 2, Tab 56, Statement - FC Const. D Lee (15.03.23), paras 11-24

they been aware of Ms Nipper's call, they would have approached the task of locating NW with a greater sense of urgency.¹¹⁰

60. Meanwhile, back at the Kununurra police station, Officer Glasson updated the text of CAD Task 1. He noted that police had gone to 4B Carbeen Street, and that prior to being diverted to another task, the occupier had suggested NW might be at her mother's house in Barringtonia Avenue. Officer Glasson also noted that police had also attended 67A Barringtonia Avenue, but that no one was home.¹¹¹
61. At 11.48 pm, Officer Glasson "closed" CAD Task 1, after adding the following text to this job:

[NW] has made no formal complaint to police. There are no VROs in place between [Mr Walkerbear] and [NW]. Police have attended two addresses with no luck. Task to be closed pending any formal complaint or request for assistance from NW.¹¹²

62. At the time he closed CAD Task 1, Officer Glasson was unaware of Ms Nipper's call at 10.21 pm, and therefore the possibility that NW and Mr Walkerbear had in fact been at 4B Carbeen Street at around that time. It also appears that Officer Glasson was unaware of NW's previous FVRO, or that Mr Walkerbear had been charged with breaching it.¹¹³ After CAD Task 1 was closed, no further attempts were made to locate NW or Mr Walkerbear.
63. At the inquest, Officer Glasson conceded that with the benefit of hindsight he should not have closed CAD Task 1 without NW and Mr Walkerbear having been found and spoken to. Officer Glasson said that he is a very risk averse person, and that his thought process at the time had been that CAD Task 1 "was moving away from it being a domestic incident to maybe more of a welfare check".¹¹⁴

¹¹⁰ ts 29.10.24 (Lee), pp57-62 & 64-65 and ts 29.10.24 (Tompkins), p81

¹¹¹ Exhibit 1, Vol 1, Tab 7, Incident Report LWP21100900765810 (9.46 pm, 09.10.21 - CAD Task 1)

¹¹² Exhibit 1, Vol 1, Tab 7, Incident Report LWP21100900765810 (9.46 pm, 09.10.21 - CAD Task 1)

¹¹³ ts 30.10.24 (Glasson), pp96 & 105

¹¹⁴ ts 30.10.24 (Glasson), pp103-104

64. Officer Glasson also said that with the benefit of hindsight he would not have closed CAD Task 1, and that since NW's death, his general practice has changed.¹¹⁵

65. At the inquest, Officer Hugo confirmed current police practice is that a CAD task cannot be closed by a Sergeant (or acting Sergeant) without the parties being located and spoke to. Officer Hugo also noted that:

So as part of our investigative doctrine, when we're doing an investigation of family violence, we need to sight both parties...and so the CAD jobs will remain open. If they've spoken to, for example, one of the parties, they may close the CAD job because they've conducted inquiries. So there's still that need to speak to the second party. It might be the fact that I've spoken to the victim that has called. The perpetrator has decamped the scene. So then we would conduct our family violence investigation.¹¹⁶

66. After listening carefully to the evidence of attending police and their supervisor at the inquest, it is clear that they have each reflected deeply on their involvement in the suspected domestic violence incident involving NW. This is to their great credit.

67. At the inquest, Officer Tompkins said she had been deeply affected by NW's death, and that with the benefit of hindsight she would have questioned the decision to close CAD Task 1, and ensured that the investigation into NW's whereabouts and welfare continued. Officer Tompkins also said:

I would have questioned the decision to close the job, knowing what I know now. I would have spoken up and ensured the investigation continued as hindsight we had sufficient information to suggest a family violence incident was about to occur. I would have made contact with (NW's mother) and obtained more information and details. I would have made contact with (EK 103) and made sure I had a full understanding of the task. I would have continued throughout the night to look for NW and made sure she was safe. I would have conducted a more thorough investigation. At the time I didn't realise what I was

¹¹⁵ ts 30.10.24 (Glasson), pp104-105

¹¹⁶ ts 30.10.24 (Hugo), p125

doing wasn't enough, but I know now that I could have done more. Hearing the '000' update from (Ms Nipper) during my internal investigation was quite upsetting, because it would have raised my concern and suggested where NW was.¹¹⁷

Request for an ambulance^{118,119,120,121}

- 68.** At 4.27 am on 10 October 2021, St John Ambulance (SJA) officers requested police assistance after a male caller had called emergency services asking for an ambulance because an adult female had fallen over and “*busted her lip*”.¹²² Subsequent police enquiries established that the male caller was Mr Walkerbear, who had used his brother's mobile phone to make the call, but this was not appreciated at the time.¹²³
- 69.** Given what is known about the timeline of relevant events, it seems likely that Mr Walkerbear made his call requesting an ambulance sometime after he had assaulted NW. In any case, Officer Glasson created a CAD task for the SJA request, which he assigned to Officers Burtnyk and Piahana. The officers attended the task address namely Unit 4, 13 Carbeen Street, at 4.36 am but no one was home.
- 70.** A short time later an ambulance arrived, and Officers Burtnyk and Piahana had a brief discussion with the ambulance officers. They mentioned their earlier attendance at 4B Carbeen Street, and suggested they all go there to check if anyone needed assistance. It appears that Officers Burtnyk and Piahana suspected this task may be related to CAD Task 1 because of the proximity of the task addresses on Carbeen Street.
- 71.** Officers Burtnyk and Piahana and the ambulance officers arrived at 4B Carbeen Street at 4.41 am. The scene was quiet, and the officers checked down the side of the property (which was clear) before knocking on the front door and speaking with Mr Kingsley Nipper. Mr Nipper confirmed no one had called police or an ambulance, and there was no one at the address who was injured.

¹¹⁷ ts 29.10.24 (Tompkins), p81

¹¹⁸ Exhibit 1, Vol 1, Tab 7.2, Incident Report LWP211000007667770 (4.27 am, 10.10.21)

¹¹⁹ Exhibit 1, Vol 2, Tab 42, Statement - Sen. Const. S Burtnyk (02.11.21), paras 35-62 and ts 29.10. 24 (Burtnyk), pp41

¹²⁰ Exhibit 1, Vol 2, Tab 63, Statement - Prob. Const. C Piahana (03.12.21), paras 60-96 and ts 29.10. 24 (Piahana), pp23-27

¹²¹ Exhibit 1, Vol 2, Tabs 33 & 34, SJA Card Viewer & Patient Not Transported form (10.10.21)

¹²² Exhibit 1, Vol 1, Tab 6, IAU Report - Det. A'Sen. Sgt. D Mackay (26.02.24), pp50-53

¹²³ Exhibit 1, Vol 1, Tab 12, Statement, Mr Z Thomas (30.10.21)

72. Notwithstanding their suspicions of a possible link with CAD Task 1, Officers Burtnyk and Piahana did not ask Mr Nipper any questions about NW's whereabouts, nor did they check the backyard of the property to see if anyone was there.

NW's remains are located^{124,125,126,127,128,129,130,131,132,133,134,135}

73. On 18 October 2021, NW's mother contacted police to advise that she had not seen NW for about two weeks. Police commenced their inquiries, and a missing person incident report was created on 21 October 2021 in response to concerns for NW's welfare.¹³⁶

74. When police interviewed Mr Walkerbear on 23 October 2021, he initially claimed that he and NW had broken up after she walked off from 4B Carbeen Street, and that he had not seen her since. However, Mr Walkerbear also told police he had seen NW twice in Kununurra since her disappearance.^{137,138}

75. Of course none of these statements by Mr Walkerbear were true. By the time of Mr Walkerbear's interview with police, NW had been dead for almost two weeks.

76. On 24 October 2021, community members discovered NW's body in a shallow grave in bushland in the vicinity of Acacia Court, in Kununurra. Police were alerted, and NW's remains were recovered and transported to the State Mortuary in Perth.¹³⁹

¹²⁴ Exhibit 1, Vol 1, Tab 8, Incident Report 21102021 1015 13592 (21.10.21)

¹²⁵ Exhibit 1, Vol 1, Tabs 8.1 & 19, Incident Report 24102021 1600 12917 (24.10.21)

¹²⁶ Exhibit 1, Vol 1, Tab 6, IAU Report - Det. A'Sen. Sgt. D Mackay (26.02.24)

¹²⁷ Exhibit 1, Vol 1, Tabs 10 & 10.1, Statements - NW's mother (22.10.21 & 28.10.21)

¹²⁸ Exhibit 1, Vol 2, Tab 41, Statement - Ms J Bradshaw (25.10.21)

¹²⁹ Exhibit 1, Vol 2, Tab 48, Statement - Mr J Drill (25.10.21)

¹³⁰ Exhibit 1, Vol 2, Tab 49, Statement - Ms K Ellis (11.04.23)

¹³¹ Exhibit 1, Vol 2, Tab 50, Statement - Ms Y Galbat (24.10.21)

¹³² Exhibit 1, Vol 2, Tab 54, Statement - FC Const. D Lee (29.11.21), paras 3-28

¹³³ Exhibit 1, Vol 2, Tab 58, Statement - Ms R Macey (01.12.21)

¹³⁴ Exhibit 1, Vol 2, Tab 62, Statement - Mr M Ogilvie (25.10.21), paras 3-28

¹³⁵ Exhibit 1, Vol 2, Tabs 71 & 72, Statements - FC Const. M Tompkins (27.11.21 & 19.07.22)

¹³⁶ Exhibit 1, Vol 2, Tab 4, At Risk Person Assessment - Missing Person form

¹³⁷ Exhibit 1, Vol 2, Tab 30, Map depicting the location of NW's body

¹³⁸ Exhibit 1, Vol 1, Tab 23, [2023] WASC SR 33, Sentencing remarks per Quinlan, CJ (17.11.23)

¹³⁹ Exhibit 1, Vol 2, Tab 30, Map depicting the location of NW's body

CAUSE AND MANNER OF DEATH

77. Two forensic pathologists (Dr N Vagaja and Dr K Patton), and a forensic anthropologist (Dr A Buck) carried out post mortem examinations of NW's remains at the State Mortuary on 29 October 2021, 1 November 2021, and 8 November 2021.^{140,141}
78. NW's remains were also examined by two doctors from the Sexual Assault Resource Centre (Dr M Kelly and Dr K Farrington) on 29 October 2021. In her report, Dr Kelly said:
- I can neither confirm nor exclude that (NW) had experienced vaginal and/or anal penetration (consensual or non-consensual) prior to or after death as this may occur with no or minimal injury".^{142,143}
79. The post mortem examination by Dr Vagaja, Dr Patton, and Dr Buck noted established post mortem changes, and that "*most of the internal organs and tissues were lost to decomposition*". There were "*multiple bilateral rib fractures of varying ages*", some of which appeared to be recent, and a "*partly healed fracture of the cartilage at the front of the neck (thyroid cartilage)*".^{144,145}
80. Microscopic examination of tissues confirmed these findings, but toxicological analysis was not undertaken because of the state of NW's remains.^{146,147}
81. Following their post mortem examination, Dr Vagaja, Dr Patton, and Dr Buck were unable to ascertain the cause of NW's death. It follows that I have been unable to make any finding as to the cause of NW's death. However, as Mr Walkerbear was convicted of NW's manslaughter, I find that NW's death occurred by way of unlawful homicide.¹⁴⁸

¹⁴⁰ Exhibit 1, Vol 1, Tab 4, Supplementary Post Mortem Report (07.02.23)

¹⁴¹ Exhibit 1, Vol 1, Tab 4.1, Post Mortem Report (08.11.21)

¹⁴² Exhibit 1, Vol 2, Tab 31, SARC Forensic Biology Specimens form (29.10.21)

¹⁴³ Exhibit 1, Vol 2, Tab 32, SARC Medical Report - Dr M Kelly (01.11.21)

¹⁴⁴ Exhibit 1, Vol 1, Tab 4, Supplementary Post Mortem Report (07.02.23)

¹⁴⁵ Exhibit 1, Vol 1, Tab 4.1, Post Mortem Report (08.11.21)

¹⁴⁶ Exhibit 1, Vol 1, Tab 4, Supplementary Post Mortem Report (07.02.23)

¹⁴⁷ Exhibit 1, Vol 1, Tab 4.1, Post Mortem Report (08.11.21)

¹⁴⁸ Exhibit 1, Vol 1, Tab 23, [2023] WASC SR 33, Sentencing remarks per Quinlan, CJ (17.11.23)

ISSUES ARISING FROM THE EVIDENCE

*OneForce communication issues*¹⁴⁹

82. As noted, OneForce is the application police use on their issued mobile phones to manage CAD tasks they are assigned. The application depends on a reliable network connection, and at the relevant time in Kununurra this was often not available.^{150,151,152}
83. At the inquest, Officer Burtnyk said there were “*daily issues*” with OneForce in Kununurra at the relevant time, noting that:

We constantly have to change between 4G and 3G depending on how the service was or where we were...positioned in the town. So...if we wanted to like look up photos or anything like that, we wouldn't be able to do that on 3G. So...if we wanted to look up jobs and make sure the jobs are running a little bit smoother, we would change it to 3G so...they're not trying to download photos...you know, people's images when we go to jobs. Sometimes it just wouldn't even load. So the 3G service was easier so we could just manage the general text of the jobs.¹⁵³

84. Adding to the frustration for officers in Kununurra using OneForce, was the fact that at times the application would “*crash*” and stop working altogether. In this situation, the only option was to log out of the application and log back in, which would take time. Officer Burtnyk also confirmed that there were situations where it was necessary for officers to use the police radio to provide updates to CAD tasks, when OneForce failed to function correctly.¹⁵⁴
85. In a report he prepared for the Court, Mr Marc Smith (Chief Technology Officer) outlined the steps the Police have taken to “*improve deficiencies in the use of OneForce mobile phones in regional areas of the State*”.¹⁵⁵

¹⁴⁹ Exhibit 1, Vol 2, Tab 75, Report: Improvement of the use of OneForce mobile phones in regional areas (17.10.24)

¹⁵⁰ See for example: Exhibit 1, Vol 2, Tab 56, Statement - FC Const. D Lee (15.03.23), paras 8-10

¹⁵¹ ts 29.10. 24 (Tompkins), pp75-76 and ts 30.10. 24 (Glasson), p109

¹⁵² See also: ts 30.10. 24 (Mackay), pp111-112 & 114

¹⁵³ ts 29.10. 24 (Burtnyk), p34

¹⁵⁴ ts 29.10. 24 (Burtnyk), pp34-35

¹⁵⁵ Exhibit 1, Vol 2, Tab 75, Report: Improvement of the use of OneForce mobile phones in regional areas (17.10.24)

86. In his report, Mr Smith noted that recent developments in Low Earth Orbit satellites (LEO) have meant that high speed satellite based internet services can be made available to police officers operating in remote areas of the State. Mr Smith also said:

The WA Police Force Anywhere Communications Project is implementing a unified communication platform on 550 police vehicles (which largely comprises the WA Police Force's regional fleet and part of its specialised fleet that may be deployed regionally) and at 121 remote facilities across regional WA. "Unified" means the integration of the Starlink LEO satellite system, 4G, and the fibre/copper terrestrial network system to deliver more resilient and reliable communications.¹⁵⁶

87. In terms of the timeframe for deploying and fitting the equipment necessary to access the Starlink LEO satellite system, Mr Smith's report noted that the deployment to remote police stations started in June 2024, and the target date for completion of the work is June 2025. As for the equipment being fitted to police vehicles, Mr Smith said: "*It is anticipated that circa 180 vehicles will be fitted by June 2025 with the targeted completion of all 550 vehicles in June 2026*".¹⁵⁷

88. At the inquest, Officer Piahana (who is now based in a regional centre in the south of the State) said that one of the police vehicles at her station had been fitted with the Starlink system. Ms Paljetak asked Officer Piahana about her experience of using the Starlink system, and she (Officer Piahana) said: "*I haven't used it too much, but I have used it and it has been a lot more reliable than operating off a...network*".¹⁵⁸

89. On the basis of the available evidence, I am satisfied that the improvements to the connectivity of the OneForce application which are currently underway are appropriate. However, I would **strongly urge** the Police to take whatever steps are necessary to expedite the roll out of the Starlink system.

¹⁵⁶ Exhibit 1, Vol 2, Tab 75, Report: Improvement of the use of OneForce mobile phones in regional areas (17.10.24), p2

¹⁵⁷ Exhibit 1, Vol 2, Tab 75, Report: Improvement of the use of OneForce mobile phones in regional areas (17.10.24), p4

¹⁵⁸ ts 29.10. 24 (Piahana), p30

Domestic and family violence training^{159,160}

90. At the inquest, Officer Hugo outlined the improvements that the Family Violence Division (FVD) have made to family and domestic violence response training. Officer Hugo explained that in 2023, she implemented the family violence training and assessment strategy, which had been based on a review of the recommendations of several Royal Commissions and inquests, as well as national training guidelines.
91. Once the strategy had been developed, five levels of training were identified, with training specifically aimed at customer service operators, police cadets, auxiliary officers, recruits, and constables at all grades, sergeants, senior sergeants, and inspectors. Officer Hugo also explained that FVD had partnered with experts and developed a face-to-face learning event intended to:

[A]ssist frontline officers and supervisors to make more informed decisions in the context of the complexities of family violence. It is intended that officers will gain skills in initial attendance and response, identifying the primary aggressor, coercion and control, the legislative requirements for protective orders and a deeper understanding of agency expectation.¹⁶¹

92. The face-to-face learning event was first delivered on 10 October 2022. Since then, 17 learning events have been conducted in metropolitan and regional areas, with regional events including outreach to remote staff by way of a video-link.
93. At the inquest, Officer Hugo confirmed that over 1,000 officers (15% of the workforce) have attended this training to date,¹⁶² and in a report prepared for the Court, Officer Hugo noted that:

Further funding has been secured and additional training is planned to commence in November 2024, providing two sessions of this training each month.^{163,164}

¹⁵⁹ Exhibit 1, Vol 2, Tab 76, Report: A police Force Strategies to respond to family violence (28.10.24)

¹⁶⁰ ts 30.10.24 (Hugo), pp115-132

¹⁶¹ Exhibit 1, Vol 2, Tab 75, Report: A police Force Strategies to respond to family violence (28.10.24), p4

¹⁶² ts 30.10.24 (Hugo), pp119-120

¹⁶³ Exhibit 1, Vol 2, Tab 75, Report: A police Force Strategies to respond to family violence (28.10.24), p4

¹⁶⁴ At the inquest Officer Hugo confirmed there would be two training sessions on each of these two days

94. In relation to the issue of cultural shaming, which can be a powerful factor in influencing some victims of family and domestic violence to remain with their partners, Officer Hugo noted that:

So we've included in our training and on our online training a significant part about cultural shaming, and it's not just for Aboriginal and Torres Strait Islander people but also for CALD (i.e.: culturally and linguistically diverse) communities because we know that CALD communities are heavily underreported in family violence as well. So we've done significant work liaising with our Aboriginal Affairs Division as well as our Community Engagement Division, who specialise in CALD communities, to really make sure...that we are really incorporating the whole community in this training.¹⁶⁵

95. In addition to the roll out of the face-to-face training I have referred to, Officer Hugo also noted that the FVD has developed information for victims of family or domestic violence. This useful information is presented in the format of a small, folded card designed to fit in a wallet or purse. The card includes information about family and domestic violence, along with the telephone numbers of relevant agencies and services, and a QR code which makes the information available in 20 languages, including eight Aboriginal languages, and Auslan.^{166,167}
96. Officer Hugo also advised that the FVD had developed a succinct Supervisor Review Checklist for use by officers supervising the police response to a domestic or family violence incident. The previous checklist was three pages long, and had proved inefficient, leading to officers developing their own hybrid versions.^{168,169}
97. In my view, use of the checklist has considerable benefit, and I have recommended that the Police consider making it mandatory for officers supervising CAD tasks involving domestic and family violence to use the Supervisor Review Checklist FVD developed.

¹⁶⁵ ts 30.10.24 (Hugo), p118

¹⁶⁶ Exhibit 1, Vol 2, Tab 76.8, Family Violence Information and Support card

¹⁶⁷ ts 30.10.24 (Hugo), pp126-128

¹⁶⁸ Exhibit 1, Vol 2, Tab 76.6, Supervisor Checklist for FVI

¹⁶⁹ ts 30.10.24 (Hugo), p125

ASSESSMENT OF POLICE CONDUCT

Relevant considerations^{170,171}

98. I now turn to assess the conduct of Officers Piahana, Burtnyk, Lee, Tomkins, and Glasson (the Officers) who were involved in responding to or managing the suspected domestic violence incident involving NW. I have had regard to the Briginshaw test when deciding whether to make adverse findings about any of the Officers.
99. I acknowledge police officers perform a challenging and difficult job, and that they are routinely subjected to verbal (and sometimes physical) abuse. I also accept that at the relevant time, the workload for police stationed at Kununurra was heavy, and there were connectivity issues with the OneForce application used by police on their mobile phones.¹⁷²
100. As I have noted, the role of Kununurra police station supervisor, which was occupied by Officer Glasson at the relevant time, was clearly very demanding. Further, the police workload in Kununurra at the time was heavy.
101. At the inquest, Officer Burtnyk said that in his opinion at the relevant time, Kununurra was “*a very, very, very, very busy station*”. Officer Burtnyk also said and it was not uncommon for him to “*change partners multiple times in the night just to go to deal with the jobs*” and that these were “*the pressures that we would constantly face*”.¹⁷³
102. Finally, I note that at the relevant time, all of the Officers had completed a national domestic and family violence training course. At the inquest each of the Officers accepted that a police officer is required to investigate all reports of domestic and family violence to determine if an offence is about to be committed, has been committed, or will be committed. Each of the Officers also accepted that this requirement is enshrined in legislation and relevant Police policies.^{174,175}

¹⁷⁰ Exhibit 1, Vol 1, Tab 6, IAU Report - Det. A'Sen. Sgt. D Mackay

¹⁷¹ Exhibit 1, Vol 2, Tab 74, Family Violence Division Review of NW's death (30.12.21)

¹⁷² See for example: ts 29.10.24 (Burtnyk), p34

¹⁷³ ts 29.10.24 (Burtnyk), p43

¹⁷⁴ ts 29.10.24 (Piahana), p11, ts 29.10.24 (Burtnyk), pp32-33 and ts 29.10.24 (Tompkins), p73

¹⁷⁵ ts 29.10.24 (Lee), pp49-50 and ts 30.10.24 (Glasson), pp89-90

IAU report findings^{176,177}

103. On 26 October 2021, Homicide Squad detectives investigating NW's death, advised the Internal Affairs unit (IAU) that their investigation had:

[I]dentified the limited enquiries conducted by the officers attached to EK103 and EK101 in relation to the three "000" calls made between 9 - 10 October 2021, which resulted in (NW) not being located, proved to be fatal.¹⁷⁸

104. As a result of the Homicide Squad referral, Detective Acting Senior Sergeant Mackay (Officer Mackay) conducted an IAU investigation, and his comprehensive report was part of the brief of evidence before the Court.¹⁷⁹ Officer Mackay said that in his opinion, "*no criminal offences were identified during the course of this IAU investigation*".¹⁸⁰ I agree with that assessment.

105. In passing I note that at the inquest Officer Mackay said he did not agree with the conclusion expressed by the Homicide Squad investigator, namely that "*the failure to locate NW proved fatal*", and as he noted:

That's an opinion only. We don't have an extensive timeline of events that happened between NW and Walkerbear on the evening and, as such, that opinion cannot be either confirmed or verified.¹⁸¹

106. Following his investigation, Officer Mackay concluded that although Officers Piahana and Burtnyk had not neglected their duty to investigate a suspected family violence incident involving NW, contrary to the Police Code of Conduct (the Code), Officers Tompkins and Lee had. Officer Mackay also concluded that Officer Glasson had neglected his duty to supervise and ensure an adequate investigation of the suspected family violence incident involving NW, contrary to the Code.¹⁸²

¹⁷⁶ Exhibit 1, Vol 1, Tab 6, IAU Report - Det. A'Sen. Sgt. D Mackay (26.02.24) and ts 30.10.24 (Mackay), pp110-115

¹⁷⁷ Exhibit 1, Vol 1, Tabs 9 & 9.1-9.4, IAU Interviews with Officers Piahana, Burtnyk, Tompkins, Lee and Glasson (various dates)

¹⁷⁸ Exhibit 1, Vol 1, Tab 6, IAU Report - Det. A'Sen. Sgt. D Mackay (26.02.24), p7

¹⁷⁹ ts 30.10.24 (Mackay), p110

¹⁸⁰ Exhibit 1, Vol 1, Tab 6, IAU Report - Det. A'Sen. Sgt. D Mackay (26.02.24), p9

¹⁸¹ ts 30.10.24 (Mackay), p113

¹⁸² Exhibit 1, Vol 1, Tab 6, IAU Report - Det. A'Sen. Sgt. D Mackay (26.02.24), p

107. During her submissions on behalf of the Police, Ms Paljetak succinctly summarised the relevant failings by each of the Officers in these terms:

Officers Piahana and Burtnyk both accepted that their questioning of (Ms Nipper) during their initial attendance could have been better, and in particular that they could have asked further questions for NW.

Officer Piahana accepted that the update she gave with respect to their attendance at 4B Carbeen Street was delayed. However, as the IAU report identified, there was the mitigating circumstance of the officers in that vehicle being diverted to a priority 2 task that absorbed their focus.

Next, there is also the matter of **Officer Glasson** failing to seek a briefing from EK103 about their attendance at 4B Carbeen Street. But also, as the IAU report identified, this occurred in the context of Officer Glasson's attention being diverted by other tasks, including managing that priority 2 job.

The next matter to identify, and this is one of the most significant, is that **Officers Glasson, Tompkins and Lee** failed to appraise themselves fully of (CAD Task 1) at the point in time that it was dispatched to EK101, which meant that all three officers overlooked the update that was provided by (Ms Nipper's) '000' call at 10.21 pm.

And then finally, there is the matter that **Officer Glasson** closed (CAD Task 1) without either NW or Walkerbear being located, which he accepts with the benefit of hindsight he should not have done. [Emphasis added]¹⁸³

108. I concur with Ms Paljetak's summation of these various failures by the Officers in relation to the police response to the suspected domestic violence incident involving NW. Further, whilst I endorse the findings made by Officer Mackay against Officers Tompkins, Lee and Glasson, in my view, Officers Piahana and Burtnyk are responsible for each of the failures by them which are identified above.

¹⁸³ ts 30.10.24 (Paljetak), p137-138

Conclusions about the conduct of the Officers

- 109.** In my view the available evidence (including the IAU report, and concessions made at the inquest by each of the Officers), establishes that the police response to the suspected domestic violence incident involving NW was inadequate. Further, a combination of excessive workload, technical issues, and the failure to properly investigate suspected domestic violence relating to NW, led to CAD Task 1 being closed without NW or Mr Walkerbear having been found and spoken to.
- 110.** Each of these failures is deeply regrettable. In my view, the police response to the suspected domestic violence incident involving NW could, and indeed should have been better. At the inquest, each of the Officers was asked whether their approach to their duties had changed following NW's death and their responses were:

Officer Piahana: It has...been a blessing and a curse, blessing in the sense that I always err on the side of caution now, and a curse in the sense that I carry a lot of fear at even just basic jobs...I get fearful that something bad like this will happen again. So yes, it has changed the way that I police, because I think I always am a lot more cautious.¹⁸⁴

Officer Burtnyk: [Y]es, at the end of the day I just try to overthink a little bit more than normal, and just try to be more risk adverse and just try to cover off a lot more points and ask more questions.¹⁸⁵

Officer Lee: Since...this incident, and coincidentally, since I became a detective...it's almost a cornerstone...when I approach a job is to allocate an investigating officer...for me, my biggest lesson is...the reason why we should take accountability from the get-go. Had I considered myself at the time as an investigating officer of a domestic violence incident, I would have made it a priority to go through (CAD Task 1) and I would have found that entry (i.e.: Ms Nipper's call)...That is, for me...a big miss as an investigator. So yes, at the time I wasn't a detective, but I did...protracted investigations in the inquiry team and so I...had...sufficient experience, so...there's no justification, really.¹⁸⁶

¹⁸⁴ ts 29.10.24 (Piahana), p30

¹⁸⁵ ts 29.10.24 (Burtnyk), p47

¹⁸⁶ ts 29.10.24 (Lee), pp67-68

Officer Tompkins: This investigation has deeply affected me for the last three years. It has fundamentally changed me as a police officer. I've taken this experience to heart, but also used it as a lesson to improve how I approach my duties. Overall, I ensure that I fully understand every situation before making decisions. There's a lot that I've implemented, and, yes, I wish we had done more on the night.¹⁸⁷

Officer Glasson: On just a personal level, I have...you know...(thought)... about a lot of it, and moving forward...It's hard to explain, how to articulate. Just do more research. I guess I should have made more attempts to try and locate (*NW and Mr Walkerbear*) and, as you mentioned, the phone calls and stuff and so forth.¹⁸⁸

Did police cause or contribute to NW's death?

- 111.** In a general sense, it may be possible to say that had police found NW on 9 October 2021, she may not have been killed by Mr Walkerbear in the manner that she was. However, in my view when properly construed, a determination under s22(1)(b) of the Act requires more than a finding of mere possibility. Instead, a finding of causation requires a more direct and palpable link between the relevant events and the relevant person's death, and any such finding must take account of the Briginshaw principle to which I have already referred.
- 112.** When Mr Walkerbear was sentenced to 11 years' imprisonment for NW's manslaughter, this was on the basis that he had killed NW on 9 or 10 October 2021.¹⁸⁹ Although the manner of NW's death could not be determined following a post mortem examination, it is clear Mr Walkerbear brutally assaulted NW before she was partially buried.
- 113.** Although I have concluded that the police response to the suspected domestic violence incident involving NW was inadequate, after carefully considering the available evidence, I have been unable to find, to the relevant standard, that any failure by any member of the Police caused or contributed to NW's death.

¹⁸⁷ ts 29.10.24 (Tompkins), p81-82

¹⁸⁸ts 30.10. 24 (Glasson), p104

¹⁸⁹ Exhibit 1, Vol 1, Tab 23, [2023] WASC SR 33, Sentencing remarks per Quinlan, CJ (17.11.23)

114. In arriving at that conclusion, I have had regard to the following matters:

- a. It is not entirely certain that Ms Nipper’s call at 10.21 pm about an alleged assault at the rear of her property actually related to NW and Mr Walkerbear. Although Ms Nipper says she recognised Mr Walkerbear’s voice, he was “*talking quietly*” and she did not actually see him, or NW, who she assumed was the “*girl quietly sobbing in her back yard*”;¹⁹⁰ and
- b. It is unclear when NW was killed; and
- c. It is impossible to know whether NW would have accepted help from police if she had been found before she was killed. When NW was seriously assaulted by Mr Walkerbear in July 2021, she was very reluctant to seek medical treatment, and declined to provide a statement. There are numerous reasons why this may have been so, including cultural shame.

Although NW declined to give a statement confirming Mr Walkerbear’s assault, it is true that she obtained an FVRO and that she appeared to be contemplating returning to the Northern Territory. However, she did not do so and it is therefore unclear what she would have done had she been found by police prior to her death.^{191,192,193}

¹⁹⁰ Exhibit 1, Vol 1, Tabs 11 and 11.1, Statements - Ms D Nipper (22.10.21 & 28.10.21)

¹⁹¹ Exhibit 1, Vol 2, Tab 71, Statement - FC Const. L Tompkins (27.11.21), para 42 and ts 29.10. 24 (Tompkins), p78

¹⁹² Exhibit 1, Vol 2, Tab 27, Transcript of proceedings - Magistrates Court at Kununurra (28.07.21)

¹⁹³ Exhibit 1, Vol 2, Tab 29, NW’s FVRO records - Magistrates Court at Kununurra

RECOMMENDATIONS

115. In view of the observations I have made in this finding, I make the following recommendations:

Recommendation No. 1

The Western Australian Police Force should consider making it mandatory for officers supervising Computer Aided Despatch tasks involving domestic and family violence to use the Supervisor Review Checklist developed by the Family Violence Division.

Recommendation No. 2

Given the importance of ensuring a high quality response by police officers to incidents involving domestic and family violence, the Western Australian Police Force should consider making the face-to-face training developed by the Family Violence Division (i.e.: The Family Violence Learning Event) mandatory for all front line duty police officers.

The Western Australian Police Force should also take all necessary steps to ensure that this face-to-face training is funded on an ongoing basis, whether by way of internal funding allocations, or by way of funding obtained from external agencies and/or the Treasury.

Comments relating to Recommendations

116. In accordance with my usual practice, a draft of my proposed recommendations was forwarded to counsel for the Police (Ms Paljetak) by Mr Stops (Counsel Assisting the coroner), on 30 October 2024. Counsel were asked to forward any comments on the proposed recommendations to the Court by 20 November 2024.¹⁹⁴

¹⁹⁴ Email - Mr W Stops to Ms R Paljetak (30.10.24)

117. In an email dated 7 November 2024, Ms Paljetak advised that the Police response to the recommendations I had proposed was as follows:¹⁹⁵

a. *Recommendation 1:*

This recommendation was supported, and Officer Hugo has completed a policy change to make use of the Supervisor's Checklist mandatory, with effect from 13 November 2024; and

b. *Recommendation 2:*

This recommendation was supported and the Police advised that face-to-face training is due to recommence on 14 November 2024. Further, a briefing note to the Minister for Police (in relation to future funding for this training) has been progressed.

CONCLUSION

118. NW was 31 years old when she was killed on or about 9 October 2021. Several calls to emergency services were made seeking police assistance in relation to a suspected domestic violence incident involving NW. After carefully considering the available evidence, I concluded that the police response to these calls was inadequate.

119. While I endorsed the conclusions reached in the IAU report in relation to the attending police officers and their supervisor, for reasons I expressed, I was unable to conclude, to the relevant standard, that any member of the Police had caused or contributed to NW's death.

120. I note with approval the strategies that the Police are undertaking to improve the reliability of communications in regional areas. I also strongly support the initiatives being championed by the Police Family Violence Division in relation to improvements and enhancements to officer training, and policies and practice.

121. I made two recommendations aimed at enhancing the police response to domestic and family violence incidents, and I am heartened by the fact that the Police have endorsed both of these recommendations.

¹⁹⁵ Email - Ms R Paljetak (Counsel for the Police) to Mr W Stops (07.11.24)

122. The increasing prevalence of domestic and family violence incidents is of significant concern to a range of Government agencies including the Police. In an online article about domestic violence published on 30 October 2024, the Premier was reported as saying that:

[T]ackling the rates of family and domestic violence was an “*incredibly huge challenge*”. “*The biggest, worst part about it is that it’s so pervasive and large that it’s cultural*” he said. (The Premier also said) “*You’ve got to shift the culture to stop this scourge on society, and it’s not something that we can just pass a law and implement a police response or carry out a different action, and expect it’s going to turn around. It’s going to take time, and it’s going to take the whole of society to change behaviour*”.¹⁹⁶

123. In concluding this finding, I wish to convey to NW’s family and friends, on behalf of the Court, my very sincere condolences for their terrible loss.

MAG Jenkin

Coroner

2 December 2024

¹⁹⁶ Caporn, D, ‘Domestic violence order breaches soaring...’, *The West Australian* (online article published on 30.10.24)