



CORONERS COURT OF NEW SOUTH WALES

Inquest: Inquest into the death of Harri Tapani Jokinen

Hearing dates: 7-11 April 2025, Queanbeyan Local Court

Date of findings: 16 May 2025

Place of findings: Coroners Court, Lidcombe

Findings of: Deputy State Coroner, Magistrate Hosking

Catchwords: CORONIAL LAW – Death as a result of police operations; NSW police application of policies and procedures in relation to motor vehicle pursuits.

File number: 2022/2500

Representation: Counsel Assisting the inquest: Andrew Wong of Counsel instructed by Elizabeth Leung, Crown Solicitors Office

Commissioner of Police (**NSWPF**) and Murray Adamson: Sebastian de Brennan of Counsel, instructed by Rebecca Atherton of the NSWPF Office of General Counsel

Senior Constable Rodney Sutcliffe: Stephen Russell of Counsel instructed by Michael Jaloussis of McNally Jones Staff Lawyers

Soul Ryan: Darien Nagle of Counsel, instructed by Dominic Longhurst of the Police Association

Dominic Goodyer: Brent Haverfield of Counsel, instructed by Mathew Treharne of Walter Madden Jenkins

Marc Jessop: Jacklyn Dougan-Jones, Aboriginal Legal Service

Findings:

Identity of deceased: Harri Tapani Jokinen

Date of death: 30 December 2021

Place of death: Monaro Highway, near Deep Creek, Williamsdale, NSW, 2620

Manner of death: Motor vehicle collision occurring in the course of a 'police operation' being a police pursuit of a Commodore driven by Marc Jessop

Cause of death: Multiple injuries sustained in a motor vehicle collision

Recommendations:

That the Commissioner of Police:

- 1 amend the Safe Driving Response and Operations Guideline (**SDROG**) to mandate that a pursuit can be commenced only if police are satisfied that a serious risk to the health and safety of a person existed before the decision to intercept or stop the vehicle.
- 2 make clear in the terms of the SDROG, and in any relevant training, that the above test is the threshold test for a police pursuit.
- 3 amend the SDROG to expressly provide that upon a pursuit being called the relevant pursuit supervisor must, as soon as practicable, ask the pursuing officer to identify the serious risk to health or safety of a person that existed before the decision to intercept or stop the vehicle, and give independent consideration to whether that threshold is met.

- 4 ensure that state-wide mandatory training be provided to all NSWPF officers on the threshold test for police pursuits.
- 5 mandate that the serious risk to the health and safety of a person that existed before the decision to stop or intercept a vehicle be recorded for every police pursuit.

Publication orders:

Protected Information Orders and Sensitive Evidence Orders apply to the evidence in this inquest. A copy of the orders made by Deputy State Coroner Hosking can be obtained from the Court Registry.

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FINDINGS

Introduction

- 1 Section 81(1) of the *Coroners Act 2009* (NSW) (**the Act**) requires that when an inquest is held, the coroner must record in writing their findings as to whether the person has died and if so, the date and place of the person's death, and the cause and manner of their death.
- 2 In addition, the coroner may make recommendations in relation to matters which have the capacity to improve public health and safety in the future, arising out of the death in question.
- 3 These are the findings of an inquest into the circumstances of the death of Harri Tapani Jokinen on 30 December 2021, then aged 56. Harri was a wonderful man. He was much loved by his family and friends. In particular, his partner, Elisabeth Adamson, his sister Tarja Harvey and his daughters and son in law, Lisa, Rhys and Paula.
- 4 Harri died following a motor vehicle collision in which a stolen black Holden Commodore, driven by Marc Jessop, crossed onto the Southbound Lane of the Monaro Highway, near Deep Creek, Williamsdale, NSW, into the path of Harri's vehicle. At the time of the collision, the Commodore was being pursued by FS 228¹. This was the second pursuit of the Commodore by NSWPF Officers, the first pursuit having been terminated.
- 5 The inquest into Harri's death was a mandatory inquest pursuant to section 23 of the Act because Harri's death occurred 'as a result of' NSWPF operations, being the pursuit of Jessop.

¹ NSWPF Highway Patrol Vehicle Far South 228.

The issues examined at the inquest

- 6 An inquest into the circumstances of Harri's death was held between 7 and 11 April 2025 in Queanbeyan, NSW.
- 7 The issues identified in the coronial investigation to be explored in the inquest follow.
 - (1) Findings as required by s 81(1) of the Act.
 - (2) Was it appropriate, and consistent with the SDP², for permission to be granted for initiation of the second pursuit and how was that permission conveyed?
 - (3) Was it appropriate, and consistent with the TDD SOPs³, for permission to be granted for the deployment of the TDD⁴?
 - (4) Was the TDD appropriately deployed by Goodyer?
 - (5) Did Sutcliffe comply with the SDP and follow the directions of Ryan?
 - (6) What, if any, relevant changes have been made to the SDROG⁵ and the TDD SOPs since Harri's death.
 - (7) Whether the alcohol and methylamphetamine in Jessop's system contributed to the collision.
 - (8) Whether it is necessary or appropriate to make any recommendations.

² Safe Driving Policy Version 9.2 (**SDP**)

³ Tyre Deflation Device Standard Operating Procedures.

⁴ Tyre Deflation Device, also colloquially referred to as 'spikes.'

⁵ Safe Driving Response and Operations Guideline.

The evidence

8 A two volume brief of evidence compiled by the Officer in Charge of the coronial investigation, Detective Chief Inspector Ainsworth⁶, and supplemented by the Assisting team, was tendered to the Court (Exhibit 1).

9 At the inquest, the court received oral evidence from:

- (1) DCI Ainsworth, OIC
- (2) Senior Constable Duncan Mellis, driver of FS 236⁷ during the first pursuit
- (3) Constable Trent Foster, passenger in FS 236 during the first pursuit
- (4) Senior Constable Rankin, Pursuit Manager, responsible for monitoring and ordering the termination of the first pursuit
- (5) Senior Constable Sutcliffe, driver of FS 228 during the second pursuit
- (6) Soul Ryan (former Sergeant), Pursuit Manager, responsible for monitoring the second pursuit
- (7) Communications Officer, Murray Adamson, Dispatch Offsider
- (8) Dominic Goodyer (former Sergeant), driver of FS 226⁸, responsible for setting up the TDD in conjunction with the second pursuit
- (9) Marc Jessop, the driver of the Commodore
- (10) Phillip Sixsmith, witness
- (11) Shannon Leach, witness

⁶ Detective Chief Inspector, Bradley Ainsworth.

⁷ NSWPF Highway Patrol Vehicle Far South 236.

⁸ NSWPF Highway Patrol Vehicle Far South 226.

- (12) Thomas Ratcliffe, witness
- (13) Nicole Ratcliffe (nee Stewart), witness
- (14) Wendy Nolan, Supervisor, Rescue Coordinator and Pursuit Manager (institutional witness)
- (15) Sgt Nicholas Dixon, member of the Safe Driver Incident Review Panel, responsible for reviewing this incident (institutional witness)
- (16) Dr Shane Richardson, Forensic Engineer (expert).

Findings

10 As will be seen, I have concluded that:

- (1) Harri Tapani Jokinen died on 30 December 2021 on the Monaro Highway near Deep Creek, Williamsdale, from multiple injuries including extensive injuries to the lower extremities with severe blood loss. The injuries were caused by a motor vehicle collision with the Commodore driven by Jessop while he was being pursued by the NSWPF.
- (2) The fact that there were two senior officers in appropriate vehicles available and appropriately situated to undertake a short pursuit (including using a TDD) to safely stop and apprehend Jessop was, 'pertinent information' which had the *potential* of significantly impacting the circumstances of the pursuit. I consider the potential element of control available to the NSWPF in re-engaging in a short pursuit would be a significant change to the first pursuit commenced in response to excessive speed.
- (3) However, the existence of this pertinent information and significant change does not, in and of itself, justify re-engaging in the pursuit. What it does do, in accordance with Part 7.1.4 of the SDP, is enable consideration to be given as to whether the pursuit can be re-engaged.

Ultimately, I consider it is at that point, that an appropriate consideration of known facts would have resulted in the request to re-engage being refused, as the only known facts Ryan was made aware of was:

- (a) that in response to the first pursuit, Jessop was travelling at a speed of around 180km p/hr in a 100 km p/hr zone and travelled on the wrong side of the road and this resulted in the pursuit being terminated.
 - (b) that there were two highway patrol vehicles and one was available to deploy road spikes and the other available to re-engage the pursuit.
- (4) In this case, the need to immediately apprehend Jessop was low to moderate. While he had been speeding before the first pursuit commenced, there was no evidence of speeding or dangerous driving in the period between the two pursuits. By comparison, there was clear evidence of speeds of up to 180km/hr in a 100km/hr zone during the first pursuit. This is indicative of the lengths Jessop may be prepared to go, to avoid arrest. The degree of risk this posed to the community and to members of the NSWPF, was excessive.
- (5) I appreciate that the purpose of the second pursuit was to deploy the TDD and arrest Jessop. Given that at that time, a pursuit must be in operation for TDD to be deployed, the risk posed by the pursuit, was excessive. At the commencement of the second pursuit there was no evidence of dangerous driving or excessive speed, the potential charges were not of such a nature that they gave rise to a community safety risk. If the balancing exercise required by Part 7.2.1 of the SDP had been appropriately undertaken, the second pursuit should not have been authorised.
- (6) Permission to re-engage in the pursuit was conveyed over VKG in colloquial terms and the parameters expressed by Ryan to Adamson

pursuant to which they were authorised to re-engage should have been passed onto Sutcliffe and Goodyer over VKG and they were not.

- (7) At the relevant time, a pursuit was required for the TDD to be deployed. Given my finding that the second pursuit should not have been authorised, it follows that the deployment of the TDD should not have been authorised.
- (8) I find that the TDD was set up but not activated by Goodyer prior to Harri's death. While the front drivers side tyre of the Triton vehicle was punctured, it is unclear as to exactly how this occurred.
- (9) The TDD SOPs have been amended and [REDACTED]
[REDACTED]
[REDACTED].
- (10) While the SDP has been updated in the form of the SDROG, the amendments are a matter of form rather than substance. As such, the revisions are not sufficient to address the inadequacies of the SDP highlighted in this case such that it is appropriate to make the recommendations outlined below.
- (11) I find that Jessop's driving was impaired by alcohol. While he had methylamphetamine in his system, it was not of a level where I could be satisfied that it contributed to any impairment in driving.

Recommendations

11 As will be seen, I recommend that the Commissioner of Police:

- (1) amend the SDROG to mandate that a pursuit can be commenced only if police are satisfied that a serious risk to the health and safety of a person existed before the decision to intercept or stop the vehicle.

- (2) make clear in the terms of the SDROG, and in any relevant training, that the above test is the threshold test for a police pursuit.
- (3) amend the SDROG to expressly provide that upon a pursuit being called the relevant pursuit supervisor must, as soon as practicable, ask the pursuing officer to identify the serious risk to health or safety of a person that existed before the decision to intercept or stop the vehicle, and give independent consideration to whether that threshold is met.
- (4) ensure that state-wide mandatory training be provided to all NSWPF officers on the threshold test for police pursuits.
- (5) mandate that the serious risk to the health and safety of a person that existed before the decision to stop or intercept a vehicle be recorded for every police pursuit.

Background

- 12 I have drawn from submissions by Counsel Assisting in relation to non-contentious factual matters and issues. I am grateful for his assistance.
- 13 Harri was born on 26 November 1965 in Finland. His family describe him as kind, generous, intelligent, an adventurer, lover of nature and as having an enthusiasm for life. His impact was far reaching as evidenced through the hundreds that attended to farewell him at his memorial service.
- 14 He returned to Finland in 2011 with his parents and his sister. Harri spoke of taking his daughters to Finland, an opportunity now lost.
- 15 On the day of his death, Harri was on his way to the house he and his partner, Elisabeth, had recently purchased. Harri's family celebrated when Harri met Elisabeth as they were pleased that he had a soulmate to share his life with. Harri and Elisabeth were both active and adventurous.

- 16 Harri's daughters, Lisa and Paula, sadly lost their mother to cancer in their teens. It was all the more traumatic for them to lose their father in these tragic circumstances.
- 17 On the morning of 30 December 2021, Jessop was driving north along the Monaro Highway from Cooma, in a stolen Commodore. He saw a man hitchhiking, Gregory Coe, and picked him up.
- 18 At 10:27am on 30 December 2021, Mellis and Foster were driving southbound on the Monaro Highway in the vicinity of Billililingra in FS 236.
- 19 Mellis observed the Commodore travelling in the opposite direction at a speed in excess of the sign posted 100 km/h restriction. A short radar check revealed the speed to be 157 km/hr. The radar check was not 'locked on' to the Commodore for enough time to enable a precise speed. However, the fact that the radar check momentarily read 157 km/hr supports that at that time, Jessop was travelling dangerously above the speed limit.
- 20 Mellis activated the lights on FS 236, performed a U-turn, then activated the sirens. When Jessop failed to stop for police, Mellis formed the view that he had committed an offence and decided to initiate a pursuit. Mellis said over police radio, "Far South 236 in Pursuit". Mellis noted after the pursuit commenced that there was no rear numberplate attached to the Commodore⁹.
- 21 At the time of the first pursuit, the pursuit manager, Ryan, had stepped out of the room. Adamson advised another pursuit manager, Rankin, that a pursuit had commenced on their channel and asked if he could monitor it. Rankin heard that the Commodore was driving 180km/hr in a 100km/hr zone and had crossed onto the incorrect side of the road. Rankin made the decision to terminate the pursuit. This was acknowledged by Mellis and the pursuit was terminated.

⁹ In his closing submissions, Counsel Assisting erroneously stated that Mellis had observed the absence of a numberplate before the pursuit commenced – this did not accord with the evidence.

Jessop was observed to continue northbound towards Bredbo on the Monaro Highway.

22 At 10:29am, Goodyer, driving FS 226, asked on VKG¹⁰ whether there were any highway patrol vehicles north of the Commodore on the Monaro Highway. He considered there might be an opportunity to use a TDD. Sutcliffe, driving FS 228, responded that he was in Queanbeyan, about 15 minutes shy of the NSW border and confirmed he was carrying a TDD. Goodyer suggested that Sutcliffe head south, and that with the approval of the pursuit manager, they could locate the Commodore and use the TDD if there was an opportunity to do so.

23 At about 10:33am, Adamson advised Ryan that Goodyer and Sutcliffe were seeking permission to re-engage in the pursuit of the Commodore if they prepared a TDD site in advance. Ryan says he told Adamson:

I will give permission on the basis that no vehicle is to overtake the suspect vehicle in order to set up the spikes. They need to attend the site and prepare for deployment. They need to advise you of the site and then have the waiting pursuing vehicle who is parked five hundred metres or so from the spike location, acknowledge its location. I want a short pursuit and deployment of spikes occurring.

24 Ryan's statement was significant. The effect was that permission to re-engage was granted provided certain conditions were met. These included having the waiting pursuing vehicle '500m or so' from the TDD location and having the location acknowledged. We know that this information was not conveyed to Sutcliffe on VKG. Ryan's evidence was that he expected Adamson would have told the officers involved what the conditions were. He authorised a short pursuit because he wanted to limit the risk and eliminate the danger to other road users. He acknowledged that '500m or so' is not a common condition – he meant it as a guide to accommodate a short pursuit, 30 seconds or so.

25 The precise distance between Sutcliffe's vehicle and the TDD set up by Goodyer is not certain but it was estimated at 3.2km. Ryan was asked whether he would have permitted the pursuit to be re-engaged if he knew the distance

¹⁰ NSWPF Radio

was approx. 3km. He said it was possible he would have authorised it but under stringent conditions and he considered there was a real risk it would have been terminated before the offending vehicle would have reached the TDD.

26 Adamson could not recall the specific conversation he had with Ryan and could not recall any reference to '500m or so'. He understood that permission to re-engage was granted and he was to convey that to Communications Officer Bade who was the dispatch operator on VKG with Sutcliffe and Goodyer. Bade did not give evidence. In his statement he does not deal with the conversation he had with Adamson in relation to the second pursuit. It is apparent that there was a communication breakdown in that the information conveyed by Ryan was not disseminated to Sutcliffe and Goodyer. On the evidence adduced, I am unable to determine whether the breakdown occurred in Adamson's conversation with Bade or in Bade's transmission over VKG to Sutcliffe and Goodyer.

27 Bade said to Sutcliffe and Goodyer over VKG:

Yeah, you guys, from the supervisor here, are right to set up the spikes. And we'll get onto ACT and let em know as well.

28 Upon receiving authorisation, Goodyer suggested that Sutcliffe meet him at the intersection of Old Cooma Road and the Monaro Highway where they could decide on a location to set up the TDD. Goodyer told VKG that he was happy to be the one to deploy the TDD and that he was thinking of setting them up at either Deep Creek or Waterhole Creek.

29 At 10:46am, Goodyer advised over VKG that he was setting up the TDD at Deep Creek. While he was doing this, Sutcliffe continued driving 'Code Red' southbound on the Monaro Highway in search of the Commodore. Shortly before 10:48am, Goodyer advised police radio that the TDD was set up¹¹.

¹¹ It was clear on the evidence adduced at the inquest that there is a two stage process to activate a TDD. These were described as 'pre-deployment' and 'deployment' or 'set up' and 'activated'. The former caused confusion so I will refer to the latter.

- 30 At 10:48am, Sutcliffe advised over VKG that he had sighted the Commodore. Importantly, he observed the Commodore to be travelling within the speed limit. Sutcliffe performed a U-turn and started to travel in a northerly direction along the Monaro Highway. He advised over VKG that he had initiated a pursuit with the Commodore. Jessop started to speed.
- 31 During the second pursuit, Sutcliffe estimated Jessop was travelling 175km/hr. In his statement Sutcliffe indicated he was travelling between 155-160km/hr and was not gaining on Jessop. This was corrected after he watched the ICV¹² which indicated speeds of up to 204km p/hr. Dr Robertson opined that just prior to the collision, Jessop's speed was at 188km p/hr. This is significant as there is no evidence suggesting he travelled in excess of the speed limit between the two pursuits.
- 32 At 10:49am, whilst being pursued by Sutcliffe, Jessop approached the site where the TDD had been set up by Goodyer. Goodyer observed Jessop approaching but did not activate the TDD before he arrived at the location¹³. Ahead of Jessop was a Volkswagen Amarok driven by Phillip Sixsmith. Sixsmith had noticed the police car with its lights on approximately 400m away (Goodyer's vehicle) and had slowed down to about 50km/hr to pass the police car.
- 33 Jessop said he saw a car parked on the left side of the road (FS 226) but didn't notice any lights or specifically that it was a police car. He did not see the TDD. In order to evade Sutcliffe, Jessop attempted to overtake Sixsmith by swerving into the oncoming traffic. As Jessop swerved to overtake the Amarok, he travelled between the Amarok and a Mitsubishi Triton heading southbound and swiped both driver's sides before crashing head-on into a southbound Mitsubishi Star Wagon, driven by Harri.
- 34 Dr Richardson was asked to consider the likely speed Jessop was travelling at the time the Commodore collided with Harri's van. He took into account data

¹² In car video.

¹³ This is an issue of some contention and will be discussed in greater detail below.

extracted from the Commodore which recorded two collisions. If there were only 2 collisions, then the collision with the Amarak and the collision with the Triton would be one collision and the collision with Harri's van would be the second. If this is the case, Jessop was likely traveling at around 119km p/hr at the time of the collision with Harri's van. A more likely scenario is that the collision with Harri's van was a third collision in which case Dr Richardson opined that Jessop was travelling at 54km p/hr at the time of the collision. I accept this appears the more likely scenario.

- 35 Jessop was arrested, charged and breath tested at the scene. He returned a positive reading for alcohol of 0.129. A blood sample later showed he was positive for both alcohol and methylamphetamine.
- 36 At 10:50am, Goodyer advised VKG that there had been a head on accident and that an ambulance was required. Ryan organised rescue units to attend the scene. He advised the State Coordinator of the incident and monitored it.
- 37 Immediately after the collision, Goodyer observed Harri loosely hanging out the front of his vehicle, unresponsive. Goodyer approached the Commodore and arrested Jessop, who he observed did not appear to be injured.
- 38 Sutcliffe arrived at the scene and attended to Harri, who was trapped in his vehicle. Sutcliffe approached Harri's vehicle and observed him to be very badly injured. He had blood coming from his mouth and nose and his breathing was short and laboured. He appeared to be semi-conscious. Sutcliffe held Harri's head back to maintain his airway. About 3-4 minutes later, a woman approached Sutcliffe and asked if she could assist. He believed she was an off-duty doctor or ambulance officer. Sutcliffe asked the woman to continue to hold Harri's head back to maintain his airway and he left to arrest Coe, the passenger in the Commodore.
- 39 An ambulance arrived at 11:17am and paramedics took over Harri's care. Harri was extricated from his vehicle at 11:25am and despite best attempts by paramedics to assist him, he was declared deceased at 11:35am.

Post-Mortem

- 40 Dr Duflou performed an external post-mortem examination on 5 January 2022 at the ACT Forensic Medicine Centre, Phillip ACT. Dr Duflou opined that Harri's cause of death was 'multiple injuries'. In particular he notes a massive lower limb injury.
- 41 Toxicology analysis indicated a blood alcohol concentration of 0.045 g/100mL. However, Dr Duflou concluded that this was likely the result of post-mortem fermentation and not the result of antemortem ingestion of alcohol.

Issues

Issue 1: Findings as required by s 81(1) of the Act.

- 42 The evidence in relation to the statutory findings is uncontentious. Harri Tapani Jokinen died on 30 December 2021 on the Monaro Highway near Deep Creek, Williamsdale, from multiple injuries including extensive injuries to the lower extremities with severe blood loss. The injuries were caused by a motor vehicle collision with the Commodore driven by Jessop while he was being pursued by the NSWPF.

Issues 2 & 3: Was it appropriate, and consistent with the SDP, for permission to be granted for initiation of the second pursuit and how was that permission conveyed?

Was it appropriate, and consistent with the TDD SOPs, for permission to be granted for the deployment of the TDD?

Threshold question: Was there pertinent information which indicates that the circumstances of the pursuit had changed significantly?

- 43 Part 7.1.4 of the SDP provided:

Approval to re-initiate a pursuit will only be considered if pertinent information is received which indicates that the circumstances of the pursuit have changed significantly.

- 44 Adamson advised Ryan that highway patrol vehicles were seeking to re-engage in the pursuit of the vehicle if they prepared a TDD in advance.

- 45 Dixon gave evidence that he was of the view that the additional information was pertinent information that changed the circumstances of the pursuit significantly. He said the fact that there was a short plan with an actual resolution as to how Jessop's vehicle could be apprehended, was to his mind, pertinent information.
- 46 Nolan, who performs the role of a pursuit manager, was asked if the additional information provided to Ryan would, in her opinion, constitute 'pertinent information' that would indicate the circumstances of the pursuit had changed significantly. She said the information could constitute pertinent information. She said that she would want to know the location, the manner of driving, and if the pursuit was to be re-commenced out of town where there was not as much traffic. She would need to look at a lot of information to determine if a pursuit should be re-commenced.
- 47 We know that Ryan was not provided with information as to the exact location where the pursuit would occur, the manner of driving of the offending vehicle at the time or the level of traffic.
- 48 I consider the fact that there were two senior officers in appropriate vehicles available and appropriately situated to undertake a short pursuit (including using a TDD) to safely stop and apprehend Jessop was, 'pertinent information' which had the *potential* of significantly impacting the circumstances of the pursuit. I consider the potential element of control available to the NSWPF in re-engaging in a short pursuit would be a significant change to the first pursuit commenced in response to excessive speed.
- 49 However, the existence of this pertinent information and potential significant change does not, in and of itself, justify re-engaging in the pursuit. What it does do, in accordance with Part 7.1.4, is enable consideration to be given as to whether the pursuit can be re-engaged. Ultimately, I consider it is at that point, that an appropriate consideration of known facts would have resulted in the request to re-engage being refused. Such facts include:

- (1) that in response to the first pursuit, Jessop was travelling at a speed of around 180km p/hr in a 100 km p/hr zone and travelled on the wrong side of the road and this resulted in the pursuit being terminated.
- (2) that there were two highway patrol vehicles and one was available to deploy road spikes and the other available to re-engage the pursuit.
- (3) it was during a holiday period where double demerit points applied.

Was it appropriate for permission to be granted to re-engage in the pursuit

50 Part 7.2.1 of the SDP provides:

The decision to initiate and/or continue a pursuit requires weighing the need to immediately apprehend the offender, against the degree of risk to the community and police as a result of the pursuit.

Prior to engaging in a pursuit police should take into consideration the following;

- Danger to police, other road users and the offender/s subject of the pursuit
- In considering the danger of the pursuit, factors should include;
 - (i) Weather and road conditions, traffic density including vehicles and pedestrians
 - (ii) Time of the day, day of the week (e.g active school zones, road works)
 - (iii) The manner of driving, including speed, of the offending driver and the apparent level of control of the offending vehicle
- The police vehicles suitability to pursue based on its vehicle categorisation.
- The drivers police response classification (i.e. gold, silver, bronze).
- The distance between the police vehicle and offending vehicle and the speed required to close that distance.

51 The factors to be considered in the balancing exercise outlined in Part 7.2.1 are summarised below, in relation to both Ryan's decision in approving the pursuit and Sutcliffe's decision in undertaking the pursuit.

Factors relevant to the 'need to immediately apprehend' Jessop	The degree of risk to the community and police
• The understanding that the Commodore was travelling at a speed of around 157km/hr in a 100km p/hr zone before the commencement of the first pursuit. • That there was no back number plate on the Commodore. • That Jessop failed to stop in accordance with a lawful traffic stop.	• That in the course of the first pursuit, Jessop had reached a speed of around 180km per hour in a 100 km per hour zone and crossed onto the wrong side of the road to overtake and escape police. • While traffic was described as light, the ICV indicated that 25 vehicles passed Sutcliffe's car on the other side of the road during the second pursuit (this being considered only in respect of Sutcliffe's decision and not Ryan's decision). • The participating NSWPF officers were senior and their vehicles were suitable for a pursuit. • While it was not school time, it was a holiday period contributing to traffic on the road. • The weather did not increase the risk.

52 In this case, the need to immediately apprehend Jessop was low to moderate. While he had been speeding before the first pursuit commenced, there is no evidence of speeding or dangerous driving in the period between the two pursuits. By comparison, there was clear evidence of speeds of up to 180km/hr in a 100km/hr zone during the first pursuit. This is indicative of the lengths he may be prepared to go, to avoid arrest. The degree of risk this posed to the community and to members of the NSWPF, was excessive.

53 I appreciate that the purpose of the second pursuit was to deploy the TDD and arrest Jessop. [REDACTED], a pursuit must be in operation for TDD to be deployed, the risk posed by the pursuit, was excessive. At the commencement of the second pursuit there was no evidence of dangerous driving or excessive speed, the potential charges were not of such a nature that they gave rise to a community safety risk. If the balancing exercise required by Part 7.2.1 of the SDP had been appropriately undertaken, the second pursuit should not have been authorised by Ryan nor undertaken by Sutcliffe. To this

end, I have separately considered what was known individually by Ryan and Sutcliffe, at the time they authorised or undertook the second pursuit.

- 54 The grave risk to the community was the risk that materialised, the death of an innocent civilian. However, the impact is far more reaching. Harri's death has caused significant harm: to his family and friends that lost their loved one; to the broader community who had lost a community member who positively contributed through work and social activities; to the first responders; to the NSWPF officers - some of whom may have left the NSWPF as a consequence of the trauma associated with Harri's death.

How was permission to re-engage conveyed

- 55 The words used to convey permission to re-engage were:

Yeah, you guys, from the supervisor here, are right to set up the spikes. And we'll get onto ACT and let em know as well.

- 56 The words used did not convey the parameters imposed by Ryan, or any parameters. While the phrasing is colloquial, I accept that it conveyed that there was authority to re-engage in the pursuit in conjunction with the deployment of a TDD. However, such permission should have been conveyed in conjunction with the clear and unequivocal parameters expressed by Ryan, including that the waiting pursuing vehicle should be '500m or so' from the TDD.
- 57 In his evidence Ryan indicated that he was not surprised that his directions were not conveyed as that can happen when 'Chinese whispers¹⁴' are involved. What he was referring to, was the process by which his 'authority' was expressed to Adamson who informed Bade who conveyed it over VKG. His evidence was given with the benefit of hindsight.

¹⁴ An outdated term representing a situation where a message is conveyed to one person who whispers it to the next and they whisper it to another such that a 'chain of misinterpretation' occurs and the message ultimately repeated by the last person in the chain bears little resemblance to the original message.

- 58 The requirement that the waiting vehicle be 500m or so behind the TDD was significant. The reason was to ensure the pursuit remained short to reduce the risk of harm to the community. Nolan confirmed that she too would have required a short pursuit in the circumstances. She did not usually put meterage on it but would have emphasised that a short pursuit was required. She also gave evidence that on ascertaining that a pursuit was to commence (or had commenced) she would have moved to the radio room and 'plugged in'. Had that been done in this case, Ryan would have heard precisely what was conveyed on VKG and could have made sure that his parameters for the re-engaging of the pursuit, were conveyed.
- 59 Based on the evidence from Nolan, it appears that the process is for the pursuit manager to be able to hear what is being conveyed over VKG in real time. Given that, I make no formal recommendation in relation to this issue but I will indicate that any practice which involves messages of significance passing between multiple people with no accountability should cease.

Was it appropriate, and consistent with the TDD SOPs, for permission to be granted for the deployment of the TDD?

- 60 In circumstances where I have found that it was not appropriate for permission to be granted for the second pursuit, it follows that I find it was not appropriate for permission to be granted to set up and activate the TDD.

Issue 4: Was the TDD appropriately deployed by Goodyer?

- 61 There was a factual issue as to whether or not Goodyer actually activated the TDD. We know that it was set up on the highway and was ready to be activated.
- 62 I'm grateful to Counsel Assisting for the helpful summary of the evidence he outlined in his closing submissions which I have relied on below.
- 63 The evidence pointing to the fact that Goodyer did try to activate the TDD by pulling it across the road includes:

- (1) The front drivers side tyre of the Triton was punctured. This means that the TDD was on the road and its location is such that it was in the south bound lane – as the photo as Page 25 of Dr Richardson’s statement shows.
- (2) Thomas Ratcliffe says that as his vehicle was parallel to Goodyer’s vehicle he saw the police officer make a pulling motion back toward himself. He also says he saw the “item” move and it went from his driver wheel into the lane of incoming traffic (as in the northbound lane) and it didn’t look like it was pulled all the way off the road. The fact that Thomas Ratcliffe said he saw the item move into the northbound lane undermines his evidence as we know the TDD never reached the northbound lane¹⁵. Photo 26 in Dr Richardson’s report shows the TDD device (the sections where the quills or spikes are) much closer to the edge of the southbound lane as opposed to being in the middle of the highway.
- (3) Further supporting the fact that Goodyer may have activated the TDD is the fact Nicole Ratcliffe saw the police officer do an action with his arm that made her think he threw something on the road. A throwing movement is more consistent with activating spikes as opposed to if she simply said he was crouched down and not moving.

64 The evidence pointing against the fact Goodyer activated the TDD includes:

- (1) Dr Richardson opined that it is possible the TDD ended up on the highway as Jessop’s decelerating vehicle may have gripped the road and the cord of the TDD dragging it onto the highway.
- (2) Goodyer has a conversation with Shannon Leach very soon after the collisions and when asked “what the hell were you thinking” – Goodyer said, “we didn’t deploy, we didn’t deploy”. This contemporaneous

¹⁵ I am not suggesting he is anything but an honest witness. The speed at which these events took place and the trauma of what he witnessed combined with the fallibility of recollection explains any inaccuracies.

statement at the scene soon after the crash that he did not deploy should be given some weight.

- 65 Considering the evidence as a whole, particularly the explanation provided by Dr Richardson, I find that while Goodyer had 'set up' the TDD, he did not 'activate' it. As such, the TDD was not a factor contributing to Harri's death.

Issue 5: Did Sutcliffe comply with the SDP and follow the directions of Ryan?

- 66 We know that the parameters in which the pursuit was to recommence were conveyed by Ryan to Adamson and not conveyed by Bade to Sutcliffe over VKG. On that basis he could not be expected to have followed the directions given by Ryan.

- 67 Sutcliffe was also independently responsible for complying with the SDP. This obligation arose when he commenced the pursuit and was an ongoing obligation while the pursuit continued.

- 68 For the reasons outlined in relation to Issues 2 & 3 above, I find that the second pursuit should not have been authorised, initiated or continued because on an appropriate application of the balancing exercise outlined in Part 7.2.1 of the SDP, the risk to the community and police as a result of the pursuit outweighed the need to immediately apprehend the offender.

- 69 Moreover, even if the second pursuit had been appropriately initiated, it should have been terminated by Sutcliffe as soon as Jessop crossed onto the wrong side of the road and when his speed reached 135km/hr.

Issue 6: What, if any, relevant changes have been made to the NSWPF SDROG and the TDD SOPs since Harri's death.

TDD SOPs

- 70 The TDD SOPs, as at 30 December 2021 included the following:

Part 1.4:

[REDACTED]

[REDACTED]
[REDACTED]

71 During his interview, Goodyer stated that, [REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]

72 Ainsworth noted that the updated TDD SOPs that came into effect in August 2022, directly addresses this issue. The current TDD SOPs state at Page 4:

[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]

73 In the opinion of Ainsworth, [REDACTED]. He is of the view that a pursuit heightens the situation dramatically especially with flashing lights and sirens and creates a scenario where the offending vehicle tries to outrun the police. In the present case, the re-initiation of the pursuit was one of the reasons why Jessop increased his speed and crossed onto the wrong side of the road.

SDP

74 The SDP has been replaced by the SDROG.

75 As to the balancing exercise, SDROG Part 4.3.5 provides:

The decision to engage in a pursuit requires weighing the need to immediately apprehend the offending driver, against the degree of risk to the general public, police and offender as a result of the pursuit. This is a key component of these Guidelines.

76 The SDROG includes a 'Dynamic Risk Assessment Framework'. [REDACTED]
[REDACTED]
[REDACTED]

77 Importantly, the SDROG refers to the risk to human life, at page 24 the SDROG provides:

[REDACTED]

78 In his evidence Dixon indicated he considered the change to be more of form over substance. To his mind, the balancing exercise remained the same but the process by which it is undertaken is more clearly articulated in the SDROG.

Issue 7: Whether the alcohol and methylamphetamine in Jessop's system contributed to the collision.

79 Jessop was breath tested at the scene and returned a BrAC¹⁶ of 0.129, well over double the legal limit for driving. A blood sample was taken at 13:00pm on 30 December 2021. On analysis, the following levels were located:

- (1) BAC¹⁷ 0.063 g/ml
- (2) amphetamine at < 0.01mg/L
- (3) methylamphetamine at 0.03mg/L.

80 Benjamin Ryan, forensic pharmacologist opined that:

- (1) Jessop's BAC at the time of the collision would have been between 0.088g/100ml and 0.120g/100ml, with a likely concentration being 0.98g/100ml.
- (2) at a BAC of 0.088g/100ml or above, all people would be under the influence of alcohol to the extent that there would be impairment of driving ability.

¹⁶ Breath alcohol concentration.

¹⁷ Blood alcohol concentration.

- (3) Jessop's methylamphetamine level was within the reported therapeutic range and the relatively low blood level was suggestive of previous use. Without a firm admission or indication of recency of use or history of use, he was unable to determine whether there Jessop's driving was likely impacted due to methylamphetamine.

81 I find that Jessop's driving was impaired by alcohol. While he had methylamphetamine in his system, it was not of a level where I could be satisfied that it contributed to any impairment in driving.

Issue 8: Whether it is necessary or appropriate to make any recommendations.

Submissions from Harri's family

82 I received written and oral submissions from Mr Rowe for Harri's family outlining the areas in which they consider recommendations were appropriate. I deal with each of these below.

- (1) Amendments to the SDP: See below under the heading 'SDP/SDROG'.
- (2) Strengthening training: I am not satisfied on the evidence adduced that an inadequacy of training contributed to Harri's death and that recommendations in relation to strengthening training are necessary or appropriate in the circumstances.
- (3) Improving communication protocols: As outlined at paragraph 59, it was very clear that there was a breakdown in communication and pertinent information was not conveyed over VKG in relation to the parameters in which the second pursuit was to commence were not conveyed. However, the evidence was such that it was unusual that the pursuit manager would not be listening to the pursuit in real time such that this communication failure was not a systemic issue. Given that, I make no formal recommendation in relation to this issue but I will indicate that any practice which involves messages of significance passing between multiple people with no accountability should cease.

- (4) Culture of reflection and accountability: Harri's family sought a recommendation that incidents such as police pursuits be reviewed with the purpose of learning and reform rather than blame. The incident was reviewed and a report was prepared by Dixon in his role as a member of the 'Safe Driver Incident Review Panel.' The evidence adduced did not suggest that this process combined with the coronial investigation was inadequate in achieving the desired outcome of learning and reform rather than blame.
- (5) That consideration ought to be given to ICV being automatically accompanied by sound. I did not consider this a matter arising from this inquest in circumstances where there was no passenger in the vehicle at the material time and therefore there was no relevant conversation to be recorded.

TDD SOPs

- 83 The evidence was persuasive that [REDACTED] [REDACTED] has the potential of unnecessarily increasing the danger to community members depending on the circumstances in which the TDD is deployed. However, [REDACTED] [REDACTED] it is not necessary to make any recommendations to respond to that issue.

SDP/SDROG

- 84 I was asked by Counsel Assisting, to consider making the recommendations that were made in the previous inquest into the death of Tyrone Adams (**Adams Recommendations**). This submission was supported by Mr Rowe for Harri's family.
- 85 Mr Rowe also asked me to consider the recommendations made in the previous inquest into the death of Andrew Stark (**Stark Recommendations**) which is in the following terms:

A new paragraph be inserted in the SDP between paragraphs 7-2-1 and 7-2-2 as follows:

a. In weighing the need to immediately apprehend the offender, matters to be taken into account include:

- The seriousness of the offence for which the police were initially attempting to stop the vehicle, and in particular; of the need to engage in the pursuit of a vehicle in relation to a road traffic offence without evidence that another offence, being of a serious nature, is likely to have been committed in relation to offences other than road traffic matters, whether the police are satisfied that a serious risk to the health and safety of a person exists;

- the means that may be available to police to apprehend the offender at a later time (for example, the ability to use of a “form of demand” in relation to the registered owner, or where the identity of the driver is known).

86 Unfortunately, this proposed recommendation was not circulated to the participants prior to closing submissions such that they were not afforded an appropriate opportunity to respond. However, to my mind, the first limb of the Stark Recommendations is of a similar nature to the Adams Recommendations. On that basis, separate consideration is not necessary.

87 The second limb of the Stark Recommendations relates to the potential for police to otherwise apprehend the offender. I appreciate that Harri’s family’s preference is that a more prescriptive approach be adopted in policies and training in respect of when an officer can commence and continue a pursuit. I accept that the nature of the Dynamic Risk Assessment in the SDROG is not prescriptive. Putting that distinction aside, in a broad sense, the SDROG, as presently drafted, does enable consideration as to whether there are alternative means of apprehending an offender in the following ways:

(1) the ‘Factors unique to operations’ section on page 25 of the SDROG provides, [REDACTED]

(2) the Dynamic Risk Assessment page 27 provides [REDACTED]
[REDACTED],

88 A fulsome application of the SDROG would include consideration as to alternative means of arresting an offender such as by using a 'form of demand' or otherwise.

89 In relation to the SDP/SDROG, the recent amendments, as described by Dixon, are more with respect to form rather than substance. It is my view that the participants in the second pursuit (at the site and on VKG) failed to adequately address the required balancing exercise which, on a proper analysis, would have precluded the commencement of the second pursuit in circumstances where the need to immediately apprehend Jessop did not outweigh the risk to the community.

90 It is evident from the circumstances surrounding Harri's death that the provisions in the SDP were insufficient to protect the community, and in this case Harri, from the inherent dangers of a police pursuit. It needs to be made very clear that a lawful pursuit needs to be necessary to ensure community safety before the community is exposed to the risk of a pursuit. Given Dixon's evidence that reform in the form of the SDROG was to form rather than substance, the SDROG, to the extent that it is an upgraded version of the SDP, is not sufficient to address the inadequacy.

91 The foreword of the previous SDP stated:

You must be able to readily justify your actions and your driving should not place members of the public, or indeed offenders, at greater risk of harm than that which you are trying to prevent.

92 This remains an appropriate starting point.

93 There needs to be a requirement for police to be satisfied that a serious risk to the health and safety of a person existed, before the decision to intercept or stop the vehicle. This should ensure that the community will not be placed at a

greater risk of harm when compared to the harm that police are trying to prevent when they engage in a pursuit.

- 94 This does not mean that the police can't stop an offender - they can try to pull over an offender in the usual course - and in most cases an offender will pull over. Where an offender does not pull over and chooses to deliberately ignore the police - it is then that police will have to consider if a serious risk to the health or safety of a person exists - as that factor is what will justify embarking on a pursuit with all of its inherent risks.
- 95 All police pursuits pose a risk to human life – as such there should be a safeguard or qualifier before police engage in such activity. That safeguard needs to be clear and unambiguous.
- 96 I make the following recommendations:
- (1) That the Commissioner of Police:
 - (a) amend the SDROG to mandate that a pursuit can be commenced only if police are satisfied that a serious risk to the health and safety of a person existed before the decision to intercept or stop the vehicle.
 - (b) make clear in the terms of the SDROG, and in any relevant training, that the above test is the threshold test for a police pursuit.
 - (c) amend the SDROG to expressly provide that upon a pursuit being called the relevant pursuit supervisor must, as soon as practicable, ask the pursuing officer to identify the serious risk to health or safety of a person that existed before the decision to intercept or stop the vehicle, and give independent consideration to whether that threshold is met.

- (d) ensure that state-wide mandatory training be provided to all NSWPF officers on the threshold test for police pursuits.
- (e) mandate that the serious risk to the health and safety of a person that existed before the decision to stop or intercept a vehicle be recorded for every police pursuit.

Concluding remarks

- 97 I will close by conveying to the Jokinen family my sympathy for the tragic loss of Harri. He is forever lost to them. This loss is also felt by the broader community.
- 98 I thank the Assisting team for their outstanding support in the conduct of this inquest.
- 99 I thank the officer in charge, DCI Ainsworth, and Detective Senior Constable Barrass for their work in conducting the investigation and compiling the brief of evidence.

Statutory findings required by s 81(1)

- 100 As a result of considering all the documentary and the oral evidence heard at the inquest, I make the following findings:

Identity of deceased: Harri Tapani Jokinen

Date of death: 30 December 2021

Place of death: Monaro Highway, near Deep Creek, Williamsdale, NSW, 2620

Manner of death: Motor vehicle collision occurring in the course of a 'police operation' being a police pursuit of a Commodore driven by Marc Jessop

Cause of death: Multiple injuries sustained in a motor vehicle collision

I close this inquest.



Magistrate R Hosking

Deputy State Coroner

Lidcombe
