



**CORONERS COURT
OF NEW SOUTH WALES**

Inquest:	Inquest into the deaths of Jebriel Dandan and Seiffedine Malas
Hearing dates:	6-8 May 2025, 22-24 September 2025
Date of findings:	24 February 2026
Place of findings:	Coroners Court of New South Wales
Findings of:	Magistrate Joan Baptie, Deputy State Coroner
Catchwords:	CORONIAL LAW – death in police operation – s 23 – police pursuit – motor-vehicle accident – fire/burns – high range speeding – motor vehicle crash – under influence of drugs (cocaine) – traffic offence record – safe driver policy – Tramadol - cannabis
File numbers:	2023/00026159 and 2023/00026119

<p>Representation:</p>	<p>Ms Surya Palaniappan, Counsel Assisting, instructed by Ms Amber Boatman, Ms Hannah Fordham and Ms Charlotte Ward of the NSW Crown Solicitor’s Office.</p> <p>Mr Oussama Elfawal and Ms Karen Asal of Crimcorp Defence Lawyers, for the families of Mr Jebriel Dandan and Mr Seiffedine Malas.</p> <p>Mr Martin Watts, for the Commissioner of NSWPF, Senior Constable Peter Miliatis and Constable Williams, instructed by Ms Alaana Wooldridge of the Office of General Counsel.</p>
<p>Non publication order:</p>	<p>Non-Publication orders made pursuant to s 74 of the <i>Coroners Act 2009</i> and/or the incidental powers of the Court apply in this matter. A copy of the orders made by Deputy State Coroner Baptie can be obtained on application to the Coroners Court Registry.</p>
<p>Findings:</p>	<p>The identity of the deceased</p> <p>The persons who died were Mr Jebriel Dandan and Mr Seiffedine Malas</p> <p>Date of Death</p> <p>Mr Dandan and Mr Malas both died on 24 January 2023</p> <p>Place of Death</p> <p>Mr Dandan and Mr Malas both died on the M4 Motorway at Homebush West</p> <p>Cause of death</p> <p>The cause of both Mr Dandan and Mr Malas’ deaths were Multiple Traumatic Injuries</p> <p>Manner of Death</p> <p>Injuries inflicted as a result of a car accident in the course of a police pursuit</p>

<p>Recommendations:</p>	<p>To the Commissioner of Police for NSW:</p> <ol style="list-style-type: none"> 1. That the SDROG be amended to provide either that where (a) the police vehicle’s speed exceeds a specified threshold or (b) the observed or estimated speed of the target vehicle is more than double that of the posted limit, officers must activate warning devices (lights and sirens) and give an immediate direction to stop, rather than proceeding with a “speed check”. The policy should expressly state that at such speeds the priority is to alert other road users to the police vehicle’s presence in order to expressly prioritise community safety, risk education and early intervention, rather than “best evidence gathering.” 2. That the SDROG be amended to expressly require an explicit verbal check between driver and any offsider (eg. “speed check vs direction to stop”) before commencing or continuing speed check to enable both occupants (if applicable) to expressly turn their mind to the issue, which would provide a further check and/or balance in terms of the rationality or reasonableness of the decision. 3. That once these amendments are made to the SDROG, that a scenario-based practical training module be developed and rolled out for Highway Patrol, Silver and Gold certified officers that <ol style="list-style-type: none"> (a) prioritises risk reduction and early directions to stop over evidence gathering, (b) contains the relevant speeds at which a speed check is to be abandoned, and (c) includes the communication protocol subject of Recommendation 2. <p>Any training should expressly temper the current emphasis on collecting the “best evidence” in priority to giving a direction to stop at the earliest available opportunity.</p> 4. Even if changes to the SDROG are not made, officers be practically trained on the Dynamic Risk Assessment requirements introduced in the SDROG, including
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	<p>worked examples of whether that Dynamic Risk Assessment contraindicates the necessity of a speed check and warrants immediate activation of lights and sirens as a direction to stop.</p>
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Introduction

- 1 This inquest concerns the deaths of Mr Jebriel Dandan and Mr Seiffedine Malas on 24 January 2023. The two men were the occupants of a motor vehicle which had been involved in a police pursuit in the early hours of 24 January 2023.
- 2 Mr Jebriel Dandan was born on 15 January 1999. He died on the M4 Motorway, in the vicinity of Homebush West, on 24 January 2023, at the age of 24 years.
- 3 Mr Seiffedine Malas was born on 5 November 1997, and also died on the M4 Motorway, in the vicinity of Homebush West, on 24 January 2023, at the age of 25 years.
- 4 Mr Dandan and Mr Malas were cousins, who shared an “especially close bond”.
- 5 Mr Dandan and Mr Malas each died from “Multiple Traumatic Injuries” sustained as a result of their vehicle losing control and crashing during the police pursuit.
- 6 The identity, place and date of both Mr Dandan and Mr Malas’s deaths are not in dispute. This inquest has focused on the cause and manner of Mr Dandan and Mr Malas’ deaths, particularly the circumstances of their deaths as a result of their actions, and those of the police officers, involved in the police pursuit.
- 7 Mr Jebriel Dandan was the much-loved son, brother and uncle. He was a loyal friend and work colleague.
- 8 Mr Seiffedine Malas was similarly much loved by his family, friends and work colleagues.
- 9 Members of both families have been constant advocates for both men and have been unwavering in their determination to ascertain the reasons for their unnecessary deaths. Various family members and friends have participated and contributed during these proceedings, and I acknowledge the profound loss and anguish felt and experienced by them.
- 10 At times in these findings I have referred to Mr Dandan as Jebriel.
- 11 Similarly, at times in these findings I have referred to Mr Malas as Saf.

- 12 I would like to express my sincere condolences to Jebriel and Saf's families for the loss of these two young men, as well as their hopes and aspirations. I hope that both Jebriel and Saf's memories have been honoured by the careful examination of the circumstances surrounding their deaths and the lessons that have been learned from the circumstances of their passing.

The role of the Coroner and the scope of the inquest

- 13 A coroner is required to investigate all reportable deaths and to make findings as to the person's identity; as well as when and how the person died. A coroner is also required to identify the manner and cause of the person's death. In addition, a coroner may make recommendations, based on the evidence presented during the inquest, which may improve public health and safety.
- 14 The inquests in relation to the deaths of Mr Dandan and Mr Malas are mandatory as their deaths occurred as a result of a police operation. Sections 23 (1)(c) and 23 (2) invoke the Court's jurisdiction and section 27 (1) (b) imposes an obligation to hold a mandatory inquest where the death occurred pursuant to section 23. A "police operation" is defined in section 23 (2) as "any activity engaged in by a police officer while exercising the function of police officer other than an activity for the purpose of a search and rescue operation."
- 15 During these proceedings, a brief of evidence containing statements, photographs and other documentation, was tendered in court and admitted into evidence. In addition, oral evidence was received from numerous witnesses. Written and oral expert evidence was received from Mr Lin, forensic toxicologist and Mr John Fitzpatrick.
- 16 All the material placed before the Court has been thoroughly reviewed and considered. I have been greatly assisted by the written submissions prepared by counsel assisting, Ms Surya Palaniappan of Counsel, Crimcorp Defence Lawyers on behalf of the Dandan and Malas families and Mr Martin Watts, counsel on behalf of the Commissioner of Police, Senior Constable Peter Miliatis and Constable Martin William. At times, I have embraced their descriptions in these findings.

List of issues considered during the inquest

- 17 The following list of issues was prepared before the proceedings commenced and were considered and provided focus during the inquest, namely:
- a. the appropriateness of the police response in conducting a speed check and thereafter pursuing the vehicle driven by Mr Malas, in which Mr Dandan was a passenger;
 - b. Whether the two involved officers, Senior Constable Peter Miliatis, and Constable Martin Williams, conducted themselves in accordance with standard operating procedures and policies, including the Safe Driving Policy that applied at the time (v 9.2 published in June 2019);
 - c. Whether the current NSWPF Safe Driving Response and Operations Guidelines introduced on 1 July 2024 adequately addresses any relevant deficiencies in the previous Safe Driving Policy (v 9.2 published in June 2019).

Factual Background relating to the incident

- 18 On the evening of Monday, 23 January 2023, Senior Constable (**SC**) Peter Miliatis and Constable Martin Williams were performing duties in the vicinity of Centenary Drive, Strathfield.
- 19 At that time, SC Miliatis was the driver of NSW Police Force (**NSWPF**) vehicle with call sign Cumberland 215 (**CMB215**). This vehicle was a fully marked Highway Patrol [REDACTED]. Constable Williams was seated in the front passenger seat of the vehicle. Both officers were attached to the Auburn Highway Patrol Command.
- 20 SC Miliatis was a silver certified driver and had completed the Highway Patrol Course. Constable Williams was also a silver certified driver; however, he had not completed the Highway Patrol Course. Both officers had previously worked together. Although SC Miliatis was the more qualified of the two officers, neither his more senior rank nor his greater experience, determined that he should be the driver of the police vehicle.

- 21 CMB215 was fitted with an in-car video (**ICV**), which was capable of video recording events in front of the police vehicle. The ICV monitor was mounted on the dashboard and displayed symbols which confirmed that certain functions were engaged, such as the activation of lights and sirens, the speed and braking of the police vehicle.

"B" - shown in top left corner when the driver is applying the brake.

"S" - shown in top left corner when the audible siren is activated

"L" - shown in top left corner when the light bar (Red and Blue lights) are activated.

Bottom right corner - GPS speed and direction of travel - In this image it shows 217km/h in North West direction

Bottom left (to middle) - GPS coordinates - In this image it is LA S 33 52 13. 62 LO E 151 3 52. 16

Bottom left (above the GPS coordinates) - Serial number of the vehicle - 104292

Top right - Date and time. - In this image it is 24/01/2023 at 00:24:27



- 22 Constable Williams also had his police issued body worn video (**BWV**) camera mounted on the front passenger sun visor of the police vehicle. This camera recorded events on the evening, including video of the view from the front of the police vehicle, as well as capturing audio recordings.
- 23 At 12.23am on 24 January 2023, both officers observed a white Audi heading in an easterly direction on the Hume Highway before turning left onto the “on ramp” to Centenary Drive. At this time, the police officers were travelling in a westerly direction on the Hume Highway.
- 24 Both police officers perceived that the Audi was travelling “quite quick” and “what I believed to be over the speed limit” when it made a left hand turn from the Hume Highway onto the “on ramp” of Centenary Drive.

- 25 SC Miliatis stated that it was the “speed of the vehicle” which caught his attention, and that the Audi was travelling “above the speed limit”. Constable Williams stated that it was the initial speed of the Audi that caught his attention.
- 26 CCTV evidence obtained from the Primo Food Hume Highway property was reviewed by the Forensic Evidence and Technical Support Command and it was determined that the Audi was travelling at a speed of 81 kph in a 70 kph zone.
- 27 As SC Miliatis approached the multi-laned intersection of the Hume Highway and Centenary Drive, he slowed his vehicle and activated the car’s warning lights for 5 seconds between 00:23:43 and 00:23:48. He did not activate his sirens. He stated that he activated the warning lights to alert other drivers in the two designated right hand turn lanes that he was turning right from an adjacent “through” traffic lane on their left. He then turned right onto Centenary Drive to follow the Audi.
- 28 At no time could either officer see the occupants of the Audi, nor were they able to determine how many passengers were travelling in the Audi. The two police officers were unable to determine the details of the Audi’s number plate, and an automatic number plate recognition check was unable to be performed as the police vehicle was never within ten metres of the Audi, which is the minimum distance required to undertake the number plate recognition check.
- 29 As the police vehicle accessed the “on ramp”, SC Miliatis accelerated to a speed of 126 kph in a 70 kph speed zone. This speed was displayed on the ICV console although it was not a calibrated speed device as it “runs off the GPS antenna in the vehicle”. The ICV and BWV, recorded footage of the Audi vehicle crossing over a chevron shaped road marking (or “painted island”) which delineated the “on ramp” from Centenary Drive. At the point in time that the chevron marking ended, CMB215 was travelling at the GPS speed of 165 kph.
- 30 At that point in time, both police officers agreed that they had witnessed the Audi commit at least two, and possibly three traffic offences, being speeding as the vehicle entered the “on ramp”, crossing the solid painted lines of the chevron and a further speeding offence on Centenary Drive.
- 31 SC Miliatis decided not to activate his lights and sirens at this time. He indicated that he had decided to perform a speed check, also known as a check speed. He acknowledged that if he had activated his lights and sirens

at this time, he would have “alert[ed] the other driver and render[ed] the check-speed pointless.”

- 32 A speed check requires the driver of a police vehicle to place their vehicle behind the vehicle of interest for three-tenths of a kilometre or 300 metres, with a minimum two-second gap or larger between the two vehicles and match the other vehicle’s speed.
- 33 The speed check performed by SC Miliatis determined that the Audi was travelling at 190 kph on Centennial Drive at approximately 00:24:11.
- 34 The ICV time stamp 00:24:16 confirmed that the lights and sirens were activated just prior to the police vehicle passing through the intersection of Centennial Drive and Weeroona Road. At this time, CMB215 was travelling at 203 kph.
- 35 CMB215 continued to follow the Audi, reaching a maximum GPS speed of 232 kph.
- 36 At ICV timestamp 00:24:48, some 32 seconds after CMB215 had activated the lights and sirens, Constable Williams made a radio call, stating “Cumberland 215, urgent in pursuit.”
- 37 Both police officers maintained that they were not in pursuit of the Audi until 32 seconds had elapsed since the activation of the lights and sirens of CMB215. They indicated that by activating the lights and sirens, they were directing the Audi to stop, but they were not in pursuit as there was no evidence that the Audi driver was “ignoring the police direction to stop or [was] actively avoiding apprehension.”
- 38 SC Miliatis indicated that the point at which he believed that the driver of the Audi ought to have reasonably known or reasonably suspected that they were being followed by police with lights and sirens activated was at a point shortly after Arthur Street, and before the turnoff to Marlborough Road, after the bend.
- 39 At ICV timestamp 00:24:57, nine seconds after the pursuit was called, the Audi is seen to fail to take a left-hand turn, crashing through a road barrier and disappearing from view.
- 40 The time between CMB215 turning onto the “on ramp” at 00:23:48 until the time the Audi collided with the guardrail at 00:25:01, occupied a period of 73 seconds and covered a total distance of 3.41km.

- 41 SC Miliatis and Constable Williams stopped their vehicle at the damaged road barrier and could see that the Audi had come to rest on its roof down the embankment and there was a small fire in the engine well.
- 42 Constable Williams ran down the road access ramp while SC Miliatis drove the police vehicle down the ramp and onto the M4. Both police attempted to extract the occupants of the vehicle, including opening the passenger side door. SC Miliatis told investigators that there was no movement or signs of life of either occupant. The police obtained a cutting implement from a bystander and attempted to cut the driver's seat belt; however, small explosions and a growing fire forced the officers back from the vehicle.
- 43 NSW Fire and Rescue arrived at the scene at 00:36 hours and the fire was eventually extinguished.
- 44 A Critical Incident was declared by Acting Assistant Commissioner Adam Whyte.
- 45 SC Miliatis and Constable Williams were both subjected to mandatory drug and alcohol testing. No drugs or alcohol were detected in either sample.

Mr Malas' Driving Record

- 46 The Audi motor vehicle being driven by Mr Saf Malas was a 2017 Audi S3, 7 speed sports sedan. The vehicle was registered in Mr Malas' wife's name.
- 47 Mr Malas was the holder of a P1 provisional driver's license, license number 21405921. As such, he was not permitted to drive a vehicle with a Power to Tare Mass Ratio (**PMR**) greater than 130kW per tonne. The Audi was a prohibited vehicle for the holder of a P1 provisional license.
- 48 Saf had a lengthy traffic record, including multiple fines, three licence suspensions and four charges of driving whilst disqualified between 2014 and 2023.
- 49 On 21 June 2022, he was detected travelling at 176 kph in an 80 kph zone on the M4 Motorway, not far from where this accident occurred. On 29 September 2022, he was sentenced for the offence of "Speed dangerous – 2nd offence" to a nine-month Intensive Corrections Order (**ICO**), with 100 hours of Community Service. A condition of the ICO was that he was required to remain abstinent from illicit drugs and attend a psychologist as

recommended. He was also disqualified from driving a motor vehicle for a period of three years commencing on 21 June 2022.

50 Mr Malas appealed his sentence. The appeal was listed for hearing the day of his death. He was the subject of appeals bail which required him “not to occupy the driver’s seat of a motor vehicle.”

51 SC Miliatis and Constable Williams gave evidence that they did not know the identity of the driver of the vehicle, nor his criminal and driving antecedents.

Cause of Death

52 Dr Sairita Maistry, Forensic Pathologist performed an external examination, together with a toxicological examination on both Mr Saf Malas and Mr Jebriel Dandan on 25 January 2023.

53 Dr Maistry performed post-mortem CT imaging and confirmed that Mr Malas had sustained multiple traumatic injuries.

54 Dr Maistry confirmed that post-mortem toxicology from a sample of femoral blood detected “cocaine and its metabolite benzoylecgonine and tramadol (opioid analgesic). Alcohol was not detected. The femoral blood sample was insufficient for further analysis.”

55 In addition, Dr Maistry used a sample of subclavian blood and the analysis “detected cocaine and its metabolites benzoylecgonine and methylecgonine, diazepam (a benzodiazepine and its metabolites nordiazepam, oxazepam and temazepam), tramadol, lignocaine (an adulterant often found in cocaine) and delta-9-tetrahydrocannabinol and delta-9-THC acid indicative of cannabis use. The carbon monoxide saturation was 5% (no survival period during/following the fire). Alcohol was not detected in post-mortem vitreous fluid.”

56 Dr Maistry performed post-mortem CT imaging on Mr Dandan and confirmed that he had sustained multiple traumatic injuries.

57 Dr Maistry confirmed that the post-mortem “toxicology of femoral blood detected cocaine and its metabolite benzoylecgonine and methylecgonine, diazepam (a benzodiazepine and its metabolites nordiazepam, oxazepam and temazepam), lignocaine (an adulterant often found in cocaine) and delta-9-tetrahydrocannabinol and delta-9-THC acid indicative of cannabis

use. The carbon monoxide saturation was 5% (no survival period during/after the fire). Alcohol was not detected.”

Evidence of Mr Alen Lin, Forensic Pharmacologist

58 Mr Alen Lin is a Forensic Pharmacologist employed by the NSW Police Force, within the Impaired Driving Research Unit.

59 Mr Lin’s expert opinion was sought on the effect of substances found in Mr Malas’ system, particularly any impact those substances may have had on his perception and ability to judge matters such as distance and speed.

60 Mr Lin provided two expert reports, dated 18 December 2023 and 16 September 2025. Mr Lin also gave oral evidence on 6 May 2025.

61 Mr Lin confirmed in his first report that “According to Police, there was NO information available or provided that concerned any use of illicit drugs or medications (including ones used under a doctor’s prescription) relating to MALAS. There were also no available observations of the Deceased’s sobriety or behaviour made prior to the crash at any time during driving.”

62 Mr Lin noted that a post-mortem femoral blood sample was obtained from Mr Malas, and returned an analysis of:

63	Substance	Concentration
	Lignocaine	0.30 mg/L
	Tramadol	>2 mg/L

64 Mr Lin further noted that a post-mortem subclavian blood sample was also obtained from Mr Malas, and the subsequent analysis disclosed the presence of:

65	Substance	Concentration
	Lignocaine	0.29 mg/L
	Tramadol	1.7 mg/L
	Methylecgonine	4.2 mg/L
	Benzoylecgonine	0.63 mg/L
	Cocaine	0.09 mg/L
	Delta-9-tetrahydrocannabinol	0.036 mg/L
	Delta-9-THC acid	0.095 mg/L
	Diazepam	0.03 mg/L
	Nordiazepam	0.12 mg/L
	Oxazepam	0.008 mg/L

Temazepam	<0.005 mg/L
Alcohol	Not Detected

66 Mr Lin explained that:

“Diazepam belongs to the class of drugs known as benzodiazepines and is commonly used in the treatment of anxiety but it can be used for its muscle relaxant and anticonvulsant effects”. He noted that diazepam has various brand names such as Valium, valpam and antenex. He further noted that Nordiazepam is the primary metabolite of diazepam, with both oxazepam and temazepam occurring as minor metabolites.

67 Mr Lin noted that:

“Benzodiazepines cause central nervous system (**CNS**) depression and even at therapeutic blood concentrations can cause profound impairment of psychomotor tasks required for competent driving and there is an epidemiological association between benzodiazepines and increased traffic-accident risk.” Adverse effects include sedation, incoordination, confusion, slurred speech, dizziness, decreased alertness and anterograde amnesia.

68 Mr Lin recognised the possibility of post-mortem distribution (**PMR**) regarding the Diazepam, and particularly where the substance was detected and quantified from a subclavian blood sample only. He did note that Lignocaine was detected and quantified from both the femoral and subclavian blood samples, which detected “very little impact of any PMR due to the levels being quite consistent.” In any event, Mr Lin opined Mr Malas’ use of diazepam was “some time in the past and not very recent at all.”

69 Mr Lin confirmed the presence of cocaine, as well as lignocaine (which is frequently used as a bulking agent for cocaine). Cocaine is known to be a central nervous system stimulant.

70 A sufficient sample was obtained from the subclavian blood sample to detect the presence of cocaine. Mr Lin confirmed that cocaine concentrations in subclavian blood decreases between death and autopsy, whilst femoral blood samples increase. He stated that it is likely that the “subclavian blood sample was highly conservative and would therefore be expected to be much higher at the time of the collision.”

71 Mr Lin also noted that research has indicated that “drug concentrations not only depend on the site from which the sample is drawn and PMR...but they can also depend on the condition of the body, the physical barriers, decomposition and/or trauma.”

72 Mr Lin concluded that the “concentration of cocaine detected in subclavian blood sample taken may then be suggestive of recent use relative to the time of death given the short elimination half-life ...and that both the cocaine and benzoylecgonine are within the range of blood concentrations reported of arrested drivers suspected of being impaired.”

73 Mr Lin noted that:

“in the acute phase after typical moderate street doses, can alter perception, judgement and increase risk taking behaviours. At high doses it can lead to personality/mood changes, irritability, anxiety, depression, repetitive and purposeless movements, hallucinations or psychosis, and would be expected to affect the ability to focus on divided tasks, follow instructions/road signs, confusion, time distortion.

Following the intense euphoric effects from significant doses of cocaine, there is a marked dysphoria coupled with physical and emotional depression, irritability, agitation and the user can have suicidal and significant fatigue and drowsiness which will result in impaired cognitive and motor functioning and therefore impairs driving ability. This state is often referred to as the “crash”.

74 Mr Lin also noted the presence of “Delta-9-tetrahydrocannabinol (THC) (which is) the major active drug present in cannabis... and Delta-9-THC acid is an inactive metabolic product of THC”. Mr Lin indicated that even allowing for some PMR, the amount “would still be considered a significant concentration and strongly suggest very recent use and likely to have contributed to some impairment of Mr Malas’ driving ability.”

75 Mr Lin stated that the potential effects of cannabis use have a sedative or depressant effect and can impair driving by impacting on “your attention and your vigilance to carry out performance skills whilst driving.”

76 Mr Lin also gave evidence that the prescription only medication, Tramadol was detected in the toxicology results. He noted that the concentration was “vastly higher than what would be considered a normal therapeutic range.”

77 In his first report, Mr Lin concluded that: “Whilst there are likely to have been other factors contributing to the crash such as speed, given the significant blood concentrations of Tramadol far exceeding the reported therapeutic range detected in both Mr Malas’ femoral and subclavian blood samples and his manner of driving, in conclusion, I would expect Tramadol to have been a contributory factor in some impairment of his attention and vigilance, perceptions to judge his speed, safe distance and risks, and his reaction time

to taking evasive action such as slowing down to avoid a crash. Given the concomitant use of other central nervous system depressant drugs such as THC and other psychoactive drugs such as cocaine, I would expect a heightened risk and compounding effect on any impairment to be present greater than any single drug consumed alone. Whilst the exact concentration of THC and cocaine in femoral blood is unknown in this case, based on the manner of driving and the significant blood concentrations of both Delta-9 tetrahydrocannabinol and cocaine in subclavian blood, both drugs would likely have been additive in contributing to some impairment of Seiffedine Malas' ability to drive."

- 78 At the conclusion of the first tranche of this inquest, Mr Malas' legal representative advised the Crown Solicitor's Office that Mr Malas had been prescribed certain medications prior to the accident. A number of health and medical records were then subpoenaed, and Mr Lin was requested to provide his second statement.
- 79 Mr Lin stated that, notwithstanding the fact that Mr Malas had been prescribed Tramadol eleven days prior to the accident, he "would not expect consumption of therapeutic doses of Tramadol to result in both a femoral blood concentration of >2mg/L and a subclavian blood concentration of 1.7mg/L as in the case of Malas' post-mortem blood analysis" and that both "far exceed the general therapeutic range reported in clinical data." Mr Lin's opinion remained unchanged, with him opining that "Tramadol would have been a contributory factor in some impairment of Mr Malas' driving ability."
- 80 In addition, Mr Lin noted that Mr Malas had been prescribed "Medicinal cannabis" during 2022, however, it was unclear what his pattern of use was during that period of time. Mr Lin's opinion remained unchanged, with him stating that the concentration detected was "significant" and was "strongly suggestive of very recent use" and was "likely to have contributed to some impairment of Malas' driving ability."

Evidence of Senior Constable Peter Miliatis

Road conditions and speed

- 81 As the driver of a police vehicle involved in a Critical Incident, SC Miliatis was directed to participate in an Electronically Recorded Interview, also known as a "directed interview", pursuant to Regulation 8 of the NSW Police Regulations, 2015. He participated in an interview on 23 February 2023, some 30 days after the incident.

- 82 In addition, SC Miliatis gave oral evidence during the inquest on 7 May 2025.
- 83 SC Miliatis described the weather and driving conditions on 24 January 2023 as being “dry and fine” and the road being “dry, it’s a paved, dried, sealed bitumen road”. Centenary Drive is a dual carriageway consisting of three lanes on each side of the roadway which generally runs in a north and south direction.
- 84 SC Miliatis described the traffic density at 12.23am on 24 January 2023, as being “very light”, with no pedestrians.
- 85 SC Miliatis confirmed that the ICV speeds displayed on the visual display within the police vehicle are a GPS speed and is not a calibrated device. Video and still footage from the ICV was shown to the witnesses in these proceedings and tendered into evidence.
- 86 It is noted that a police officer performing police duties does not commit a traffic offence pursuant to the *Road Rules 2014 NSW*, rule 305 (1), if the police officer is taking reasonable care and has activated the police vehicle’s lights and sirens. Rule 305 (2) permits the police officer to not activate the vehicle’s lights and sirens if, in the circumstances, that decision is reasonable.
- 87 At the time SC Miliatis’ police vehicle followed the Audi onto the Centenary Drive on ramp from the Hume Highway at 00.23.43, SC Miliatis accelerated his vehicle from 29 kph to 94 kph in a 70 kph zone. At this time, SC Miliatis did not believe that the driver of the Audi had seen his vehicle’s warning lights.
- 88 The Audi continued to accelerate as it crossed a chevron marking, or painted island on the roadway, which delineated the on ramp from Centenary Drive. The Audi merged onto Centenary Drive and moved into the third lane. At that time, a semi-trailer was travelling in lane one. The traffic in the oncoming three lanes was separated by a ‘griffin wire’ barrier. At this time, being 00.23.58, the police vehicle was travelling at 133 kph in an 80 kph zone.
- 89 At 00.24.13, SC Miliatis accelerated to 193 kph in lane 3, past three vehicles travelling in lane 2, but did not activate his lights and sirens. He stated that he was “attempting to catch up with the speeding vehicle” and wanted to perform a speed check at this time.
- 90 SC Miliatis denied that he was engaged in a police pursuit at this time, because “at no point yet have I attempted to stop the vehicle.”
- 91 A calibrated speed check was performed by SC Miliatis “just before the top of the crest” near the Weeroona Road intersection, which confirmed the Audi was travelling at 190 kph. Constable Williams gave evidence that at the ICV

time stamp 00.24.10, SC Miliatis said to him that he had “read” a speed of 180 kph. (Sergeant Howell indicated that the speed check commenced at 12.24.07 (sic) and concluded at 12.24.16 (sic)).

- 92 At 00.24.16, the ICV display showed that the vehicle’s lights and sirens had been activated. At that time, the police vehicle was passing through the intersection of Weeroona Road and Centenary Drive at a speed of 203 kph. At this time, the Audi is not visible in the ICV vision.
- 93 At 00.24.24, the police vehicle reached speeds in excess of 200 kph, reaching a maximum speed of 232 kph at 00.24.27.
- 94 At 00.24.27, the ICV confirms that SC Miliatis applied the brakes in the police vehicle as he negotiated a sweeping righthand bend.
- 95 At 00.24.33, the police vehicle proceeded through the traffic light-controlled intersection of Arthur Street and Centenary Drive, at a time when the lights were in the amber phase.
- 96 At 00.24.41, the Police Radio commences recording.
- 97 At 00.24.42, both the Audi and the police vehicle undertake another vehicle which was travelling in lane 2 of 3 as they pass the off-ramp to Marlborough Road at a speed of 185 kph.
- 98 At 00.24.59, Constable Williams advised VKG “Cumberland 215 in pursuit”.
- 99 Almost immediately afterwards, Constable Williams advised VKG, “215 urgent, the car’s just crashed... Centenary Drive Cross of M4, he’s gone off the ramp.”

SC Miliatis’ high speed pursuit training

100 SC Miliatis indicated in his oral evidence that the vehicle he was driving on the night of the accident was “[REDACTED]”.

101 SC Miliatis was asked:

Q. “Had you personally been involved in any high-speed pursuits before the night in question?”

A. Not high speed

Q. So it’s fair to say that this was your first one?

A. Yes.”

- 102 Later during his examination, SC Miliatis was asked and answered the following:
- Q. "I think you told me earlier, you hadn't been in many pursuits. That's right?"
- A. I believe I said "high-speed pursuits."
- Q. I think you'd said you hadn't been involved in any prior high-speed pursuits before this one? Is that correct?
- A. High speed, yes.
- Q. What do you categorise as high speed when you have corrected me then?
- A. Something similar as this.
- Q. What would the highest speed pursuit have been before this one. Do you recall?
- A. No."
- 103 SC Miliatis was asked:
- Q. "Did you consider at that time that travelling more than twice the speed limit was being safe?"
- A. Yes.
- Q. Why do you say that?
- A. I'm trained to travel in speed, yes."
- 104 Later in his sworn evidence, SC Miliatis stated that he didn't believe that he was travelling at excessive speeds during the incident as,
- "Again, I'm trained to handle those speeds and as part of my duties I'm required to do that, to attempt to stop or to perform duties of traffic enforcement."
- 105 The original records produced in relation to SC Miliatis' driver training appeared to only relate to his participation in the 29 May 2019 Silver Driving Certificate course. SC Miliatis was asked if he agreed that the speeds he travelled at during this training course were between 140 and 160 kph, and he stated "Possibly". He was asked to confirm if he was trained to travel at around 170 kph, he answered that "I'm trained to travel in speed, yes."

- 106 Further records were called for during the first tranche of the inquest. Additional records were produced, which included SC Miliatis' training records from 19 July 2022.
- 107 Those records disclose that SC Miliatis undertook three speed checks as part of his Highway Patrol Education Course. Those speed checks were recorded on a closed circuit as involving speeds of 98kph, 98 kph and 113 kph.
- 108 Similarly, SC Miliatis was asked:
- Q. "Had you ever performed a speed check before at a speed such as this, 190 kilometres an hour?"
- A. Not as high.
- Q. "When you were trained to travel at speed, I think you said earlier, were you trained at speeds such as this to perform a speed check?"
- A. Similar speeds.
- Q. Do you recall what they were?"
- A. No"

SC Miliatis' decision to undertake a speed check rather than call in a police pursuit

- 109 SC Miliatis agreed that by the time the Audi entered Centenary Drive, the driver had committed three traffic offences. These included the initial speeding prior to entering the on ramp, crossing over the chevron line markings and further speeding as the vehicle entered Centenary Drive.
- 110 SC Miliatis stated that at this time, he did not hold a reasonable suspicion that the driver of the Audi was under the influence of drugs or alcohol.
- 111 In his directed interview on 23 February 2023, SC Miliatis was asked what he had intended to do immediately after the commission of the three traffic offences, and he indicated:
- A. "Ah, so at that point I was, yeah, this is, I'm going to stop this vehicle now.
- Q. Yeah, yeah.
- A. Um, I'm going to do, I'm going to get behind him and do a speed check."

- 112 In his sworn evidence, SC Miliatis was asked which of the two options abovementioned options was he intent on doing at that time. He indicated that he intended to undertake the speed check, and his earlier response in his directed interview that he was going to stop the vehicle was “Possibly, a miscommunication.”
- 113 SC Miliatis indicated in his sworn evidence that he intended to undertake a speed check, despite the commission of the three offences. Indeed, he stated later in his sworn evidence that he had no intention of stopping the driver for committing the offence of crossing the unbroken chevron lines.
- 114 He agreed that he could have activated his lights and sirens and pulled the driver over and issued two infringement notices, however, the driver was “speeding again, so that’s a further offence.”
- 115 SC Miliatis agreed during his sworn evidence that the Audi must have been travelling at the same speed, or above his vehicle’s speed, as he was not gaining speed on the Audi during the speed check phase.
- 116 SC Miliatis stated that during the speed check phase, he had decided not to activate the lights and sirens as this would “alert the other driver and render the check-speed pointless.”
- 117 SC Miliatis indicated that at this time he did not consider that his vehicle was in pursuit of the Audi as he had not attempted to stop the Audi by initiating his lights and sirens.
- 118 He agreed, however, that if the point of the exercise was to stop the speeding he could have activated his lights and sirens.
- 119 It is unclear from the evidence the exact time that the speed check was completed. SC Miliatis stated that it was before the lights and sirens were activated at 00.24.16.
- 120 SC Miliatis indicated that even after the lights and sirens were activated, he did not accept that he was in pursuit of the Audi, as he could not be certain that the driver of the Audi had heard or seen the siren or warning lights as “They would’ve been too focused on their driving at such a high speed.” He agreed that he could not determine if there were passengers in the Audi at this time.
- 121 SC Miliatis was asked:

Q. “Were you aware that between Weeroona Road and Arthur Road (sic), a pursuit had not yet been called at that stage?”

A. Yes.

Q. Did you turn your mind to whether a pursuit should be called?

A. No.

Q. Why is that?

A. I didn't believe I was pursuing the vehicle at the time."

122 SC Miliatis was questioned as to why there was a delay of 32 seconds between the activation of the lights and sirens on the police vehicle and Constable Williams advising VKG that they were in pursuit of the Audi. The following exchange appears in the transcript of evidence:

Q. "What is our explanation for that delay of the 32 seconds that I've just mentioned between the activation of the lights and sirens and the pursuit being called?

A. I was not in pursuit.

Q. So you had your lights and sirens on, you were following the Audi at speeds of up to 200 kilometres plus, and your evidence is you were not in pursuit?

A. At some point, I was in pursuit. Yes. But not 32 seconds prior to this moment.

123 SC Miliatis gave sworn evidence that he believed that the driver of the Audi was aware he was being followed by the police vehicle with lights and sirens activated "shortly after Arthur Street and before the turnoff to Marlborough Road, after the bend."

124 Later in his evidence, SC Miliatis was asked:

Q. "You've said to Constable Williams, "Call it". What was the next step that you expected would occur?

A. To attempt to stop the vehicle.

Q. If the vehicle hadn't stopped – I withdraw that. What's your understanding of the purpose of calling in a pursuit?

A. To inform radio and other vehicles around the area of what's occurring?

Q. Why would you need to inform radio and other vehicles of what's occurring?

A. I suppose for our safety, For further clarification, For assistance.

Q. Is it also so that others can weigh in as to whether it is reasonable to continue the pursuit or whether it should be terminated?

A. That is what I meant by assistance.”

SC Miliatis’ considerations of safety to other road users

125 SC Miliatis stated that he did not believe that the speed that his vehicle was travelling during the incident placed members of the public or the occupant(s) of the Audi at risk or in danger. He accepted that his maximum speed on the night was the fastest he had travelled in a police vehicle.

126 He indicated that he was constantly reassessing the various risk factors during the chase, including the road and weather conditions, the traffic density, the need to stop the offending vehicle and his training. He believed that he was taking reasonable care at the time.

127 He gave evidence that he believed that pursuant to Road Rules 2014, he had a reasonable excuse not to activate the lights and sirens earlier as the offending vehicle may slow down and stop, thereby rendering the speed check, and subsequent prosecution for traffic offences, ineffective.

128 He further stated that he “deemed it safe to conduct a speed check” and that if he activated his lights and sirens “I won’t be conducting a speed check.”

129 SC Miliatis was then asked the following:

Q. “Why do you say that having the lights and sirens on mean that you can’t conduct a speed check?”

A. Sorry, I’m just thinking. Because you would alter the vehicle in front and the speed check wouldn’t be able to be completed.

Q. It could alter the vehicle in front because they might slow down and stop. Is that correct?

A. When you direct them to stop, yes.

130 Later in his evidence, SC Miliatis was questioned as follows:

Q. “Isn’t that why 7.1 of the Policy that defines pursuit, is either that the other vehicle is attempting to avoid apprehension or appears to be no police attempt to stop it?”

A. Yes.

Q. You don't need to know whether they have in fact heard you, do you? If it appears to you that they are not stopping, that is enough for it to be a pursuit. Do you accept that?

A. No.

Q. What do you say needs to happen before it's a pursuit?

A. They need to appear to avoid – to be avoiding apprehension or attempt to stop them, not continuing the offence.

Q. What do you mean by not continuing the offence?

A. It was one continual speed. They were still speeding.

Q. Had you turned your lights and sirens on earlier, wouldn't that have given a longer opportunity for them to have stopped. Do you accept that?

A. Yeah, a possibility.

Q. But that possibility didn't eventuate because you were concerned to capture their speed, is that right?

A. I was collecting evidence.”

- 131 SC Miliatis' demeanour during his oral evidence was unhelpful, evasive at times and anchored to one singular position.

Evidence of Constable Martin Williams

- 132 Constable Williams was directed to participate in an Electronically Recorded Interview, known as a directed interview, pursuant to Regulation 8 of the NSW Police Regulations, 2015. He participated in an interview on 23 February 2023, some 30 days after the incident.
- 133 Constable Williams also gave sworn evidence during the inquest on 8 May 2025.
- 134 Constable Williams stated in his sworn evidence that he has subsequently been involved in high speed pursuits, including pursuits which exceeded speeds of 150kph.

- 135 Constable Williams confirmed that he was unable to distinguish any features of the Audi, registrations plate or the number of passengers in the vehicle during the incident.
- 136 Constable Williams agreed that by the time the Audi entered Centenary Drive, the driver of the Audi had committed two offences and was continuing to exceed the speed limit. He later agreed that there may have been an additional offence of crossing multiple lanes or “dangerous driving”.
- 137 He stated that there was no discussion between himself and SC Miliatis about conducting a speed check, however, he understood that it was SC Miliatis’ intention to conduct one, due to the manner that he positioned the police vehicle behind the Audi on Centenary Drive.
- 138 Constable Williams confirmed that it was his role as passenger to act as the observer and call the pursuit of an offending vehicle. He further stated that it was the driver’s role to undertake the speed check and activate the lights and sirens after the completion of the speed check.
- 139 Constable Williams was asked whether he had considered safety concerns prior to the speed check being undertaken and he replied “No”. He later stated that he “misspoke” and that he “As in highway patrol duties, risk and safety is very important.”
- 140 He indicated that he believed that the speed check confirmed the Audi’s speed at 180 kph rather than 190 kph, although he stated that “I’m not too sure how I became aware of that.”
- 141 He confirmed that prior to the incident he had never been involved in a speed check that returned a speed of 180kph.
- 142 It was suggested to Constable Williams that it was not reasonable that the police vehicle’s lights and sirens were not activated when they were travelling at high speed behind the Audi. He responded that when they are conducting a speed check, lights and sirens are not activated so they can “gather evidence”. He agreed that a speed check could only be performed without the activation of warning lights and sirens if it was reasonable in the circumstances, in accordance with the Safe Driver Policy.
- 143 He agreed that it was possible that that was the practice because it would alert the car, the subject of the speed check, that they were being targeted. He was then asked:
- Q. “But if there were safety concerns, even if you were conducting a speed check, you would expect to turn your lights and sirens on. Do you accept that?”

A. I think if there was (sic) safety concerns, we wouldn't be following the vehicle."

144 He accepted that the activation of the lights and sirens was a direction to the offending driver to stop. He didn't accept that the Audi driver was aware of their presence at the intersection between Weeroona Road and Arthur Street because there was "quite a gap between the two vehicles." He was of the view that if a driver was driving at those speeds, they wouldn't be looking back in their rearview mirrors.

145 Constable Williams was asked the following questions:

Q. "Once a direction to stop has been given, then a pursuit commences, do you accept that?"

A. No.

Q. So in your mind, when does a pursuit commence following a direction to stop?

A. When attempts have been made to stop that vehicle and they appear to be ignored.

Q. Isn't the attempt to stop the lights and sirens?

A. It's the way that we signify to stop cars.

Q. By turning on the lights and sirens?

A. Yes.

Q. When the lights and sirens went on at Weeroona Road, in your mind, was that the direction to stop?

A. At this point, we're catching up to the vehicle to affect the vehicle stop.

Q. But was the lights and sirens being turned on the direction to stop to the vehicle in front?

A. That's the point of the lights and sirens. But at this point in the footage, we are catching up to the vehicle to affect that vehicle stop.

Q. At this point, was the vehicle giving you any indication that it was slowing down?

A. No.

Q. Or that it was stopping?

A. No.

Q. So is it fair to say that it appeared to you that they were ignoring your direction to stop?

A. No.

Q. Why do you say that?

A. Because at this point in time, we're catching up to that vehicle to affect the vehicle stop".

146 There appears to be scant independent evidence to suggest that the police vehicle was in fact gaining on the Audi at this time.

147 Constable Williams' explanation, like SC Miliatis' explanation for this period of time, appears to be illogical and confusing.

148 Constable Williams contended that: "So if we go back to Weeroona Avenue, as the vehicle goes over the crest, we've temporarily lost sight of that vehicle. We're not behind it. We're behind it, but it wouldn't be – we can't see it, so we can assume that they can't see us. There's a number of seconds gap in between us and the other vehicle. It takes until Arthur Street for us to be behind that vehicle in an attempt to stop that vehicle."

149 His questioning continued with the following questions:

Q. "At what point in your mind did you reach the view that you were in pursuit?

A. After the Arthur Street intersection, where we were behind the offending vehicle with our lights and sirens on. And at that point after Arthur Street, approaching near the intersection of Marlborough Road slip road is where I formed the view that this vehicle was not stopping.

Q. So notwithstanding that you are travelling behind it at a GPS speed of 211 kilometres per hour at timestamp 12.44.22, you did not form the view here that the vehicle was not stopping?

A. No.

Q. I put it to you that that was not reasonable in the circumstances. Do you accept that?

A. No"

150 Constable Williams didn't recall if he was waiting for SC Miliatis to tell him to call the pursuit but did recall that they had a conversation about calling the pursuit. This assertion appears to be at odds with SC Miliatis' recollection.

151 He did, however, recall as they were passing through a bend between Weeroona Road and Arthur Street saying to SC Miliatis “Bend” a few times, as he wanted to “ensure that Pete (SC Miliatis) was aware that that bend was coming up.”

152 Constable Williams confirmed that he attempted to contact VKG to report the pursuit sometime after Arthur Street, however experienced a delay due to radio traffic. He then used an emergency override function to broadcast the pursuit. He estimated that the time he waited for that gap in transmission was about five to ten seconds.

153 Constable Williams confirmed that he was aware of the Safe Driver Policy at the time of the incident, as well as the new policy in effect from 1 July 2024. He indicated that he had read the new policy. He stated that he believed that SC Miliatis and he had weighed the competing safety requirements outlined in the policy with the need to stop and apprehend the driver of the Audi.

154 He was asked the following:

Q. “One of the reasons its dangerous is because even if the driver himself doesn’t do something that would trigger an accident, another road user, not knowing a vehicle is travelling at speed, may very well conduct themselves in a way that causes an accident, do you accept that?”

A. Yes.

Q. And you’d accept that there is danger to yourself and other users by virtue of that conduct, don’t you?

A. Yes

Q. But unlike the other road users, your role is to ensure the safety of the people within your vehicle and members of the public. Do you accept that as well?

A. Yes”

The Speed Check and other alternative methods

155 SC Miliatis was a silver certified driver and was therefore trained to conduct speed checks.

156 Constable Williams was not trained to conduct speed checks.

- 157 If Constable Williams had been the driver of the police vehicle on the night of the incident, he would not have been able to conduct a speed check on the Audi.
- 158 The abovementioned situation suggests that the decision to conduct a speed check on the night was a highly subjective and discretionary decision.
- 159 The evidence confirmed that there are four current options available to NSW Police to detect the speed of a vehicle. They are:
- i) the use of a radar which is a vehicle mounted radar manufactured by Kustom Signals, which is used to conduct a three second check of the vehicle of interest,
 - ii) the use of LiDAR, which is a hand-held device that can only be used when the operator is stationary,
 - iii) a speed check which requires the police vehicle to match the speed of the vehicle of interest for 300 metres with a calibrated speedometer, and
 - iv) a speed estimation.
- 160 The options available to SC Miliatis and Constable Williams on the night of the incident were a speed check and a speed estimation, as Constable Williams was not qualified to operate the vehicle mounted radar and the LiDAR cannot be used in a moving vehicle.
- 161 The evidence indicated that NSW Police are trained to use a speed check in preference to a speed estimation if there is an intention to prosecute the driver of a vehicle of interest in a NSW Court.
- 162 SC Miliatis indicated that he was trained to use the calibrated speedometer to capture the speed that a particular vehicle was doing, specifically for the purpose of providing evidence to a criminal standard for a traffic offence, particularly if the evidence was challenged by a defendant.
- 163 Constable Williams agreed, indicating that his training promoted the digital speedometer as the “more accurate tool” to an estimation of speed.

NSW Police Force Safe Driver Policy versions 9.2 and V1.0

- 164 On 24 January 2023, the NSW Police Force Safe Driver Policy version 9.2 was in force. At the time of this inquest in 2025, a new version of that police was in

force, being the Safe Driving Response and Operations Guideline version V1.0.

- 165 Both versions are the subject of a non-publication order in these proceedings, and as such have not been reproduced in these Findings.
- 166 Each version identifies the operational requirements governing traffic stops and check speeds, pursuits and community safety.
- 167 The policies require the police driver to weigh the decision to initiate or maintain a pursuit with the degree of risk that may result from that decision to either the community or police officers.

Internal Departmental Review of the incident

Evidence of Sergeant Grant Howell

- 168 Sergeant Grant Howell, a team leader in a metropolitan highway patrol unit was requested to perform a review of the incident by the Senior Critical Incident Investigator assigned to the police investigation, comparing the actions of the police involved with the NSW Police Force Safe Driver policy.
- 169 He prepared a report dated 4 July 2023, which was tendered in these proceedings. In addition, he gave sworn evidence during the inquest on 22 September 2025.
- 170 Sergeant Howell noted that the police vehicle was fitted with an ICV and an independent digital speedometer, which is an approved device manufactured by Ballinger Technology. The digital speedometer was certified for accuracy on 9 September 2021 and again on 5 September 2022.
- 171 Sergeant Howell noted that during the 16 second speed check from 00.24.17 – 00.24.33, the Audi had covered “approximately 52 metres of distance per second and travels approximately 475 metres during the check. The evidence gathered would be sufficient to obtain prima facie evidence for a relatively serious traffic offence.”
- 172 Sergeant Howell opined that during a speed check if “lights and sirens are activated at a point when police are substantially behind an offending vehicle, the driver of that vehicle may see an opportunity to drive more recklessly believing they have sufficient distance from a police vehicle and can successfully evade police.”

- 173 Sergeant Howell commented that the Audi was attempting to evade police at 12.24.38 (sic).
- 174 Sergeant Howell stated that during the ensuing 11 second pursuit which commenced at 12.24.47 (sic), the Audi overtook four vehicles, made five lane changes and reached speeds of 200 kph.
- 175 Sergeant Howell noted the difficulties that Constable Williams faced attempting to broadcast the pursuit to VKG. He stated that during the 11 seconds of the pursuit, “very little information regarding the pursuit was able to be provided to the police radio operator. There was no realistic opportunity for a Duty Officer Supervisor, Gold classified driver, State Co-Ordinator or VKG Shift Co-Ordinator to form an appreciation of the circumstances and to consider the appropriateness for the pursuit to continue.”
- 176 In terms of the balance required by the Safe Driving Policy between gathering evidence and the safety of the community, Sergeant Howell was asked his views about SC Miliatis’ determination to perform a speed check. He stated

“I would probably say yes, and I keep coming back to it, that he – he’s establishing proofs for an offence that he sees is fairly serious. There’s a community expectation that police undertake their role and detect these sorts of offences, and if you look at it from a more wholistic point of view, the Road Policing Strategy 2026 has a target of reducing road trauma by 50% by 2030. Primarily through enforcement which targets the factors that contribute toward road trauma and, you know, I’m aware that about 41% of road trauma is attributed to high speed driving so in my view there’s – there’s not an expectation, but police would feel duty bound to detect and prosecute speeding motorist to try to reach that benchmark set by the organisation.

Q. But if the ultimate goal is to reduce road trauma, do you accept that travelling with lights and sirens activated would assist in that goal?

A. Well, I can only say that the officer is trying to gather evidence of an – of an offence. He – he believes that’s the best way for him tactically to gather that evidence and that’s the best way to detect it and try to commence a prosecution.

Q. Do you accept that there’s a tension between obtaining the best evidence and community safety?

A. Yes, I do. It’s something that, I guess, one has to be weighed up against the other.

Q. Do you accept that the focus of the policy is community safety and not the gathering of evidence?

A. It's community safety through enforcement, is primarily where it's at."

177 Sergeant Howell was shown SC Miliatis' Police Driver Training Highway Patrol Remedial Assessment records dated 8 March 2023. These records refer to a remedial course SC Miliatis was required to undertake and complete due to his involvement in this incident. These records were not available at the time that SC Miliatis gave oral evidence on 7 May 2025.

178 The records indicated that he undertook three test assessments at 140 kph on each occasion. The comments regarding his driving included "Jerky" as it related to steering, "Nervous" and "Needs to look further ahead." He completed the course successfully.

179 Sergeant Howell had not previously seen these records. He indicated that although there were comments outlined above, SC Miliatis successfully completed the course.

180 Sergeant Howell indicated that "the skills that you apply driving at 140, I guess, are the same as the skills you apply driving at a higher speed."

181 Sergeant Howell stated that "there's a natural tendency for any person to have tunnel vision. It's sometimes referred to by NSW Police as "Red mist" and it's something that police training works towards eliminating from police drivers." He indicated that the concept is dealt with at the Silver Response Course which is not part of the Highway Patrol Education Program, and "that deals with mental challenges of driving and we do certain things such as commentary driving and things like that to try and combat these things."

182 The evidence confirms however, that no NSW Police Force driver undertakes driver training at speeds proximate to 200 kph. The conclusions of Sergeant Howell in that regard that SC Miliatis would have been completely competent at excessive speeds must be treated with caution.

Evidence of Superintendent Robert Toynton

183 Superintendent Toynton is a Superintendent of Police and the Commander of the Auburn Police Area Command (**PAC**) at the time he gave his statement on 17 April 2025 and his sworn evidence on 24 September 2025. He also holds a Gold Driving Certification.

- 184 Superintendent Toynton indicated that although SC Miliatis and Constable Williams were stationed at Auburn police station they were attached to the Auburn Highway Patrol and the Highway Patrol in NSW is a separate command to Superintendent Toynton's Auburn PAC.
- 185 Superintendent Toynton was made aware of the critical incident involving the pursuit, however, was not involved in any professional capacity in the ensuing investigation.
- 186 Superintendent Toynton confirmed in his sworn evidence that he had been involved in hundreds of speed checks, including checks undertaken at speeds possibly in excess of 190kph. He noted however, that speed checks in that range would usually occur on multi-lanes roads, generally dual carriageways, rather than back streets.
- 187 Superintendent Toynton noted the distinction between police operations and police tactics during such operations. He commented that the tactics are the matters that a police officer can physically do. He stated that as soon as you start exercising your police powers, a police operation has commenced.
- 188 He stated that police are required to have a lawful reason to stop a vehicle. Those lawful reasons may include a random breath test or seeing a driver on a mobile phone or a speeding vehicle.
- 189 He noted that
- “a check speed is a – an evidentiary process where we actually get the evidence available to issue someone with a speeding ticket...or in the case of a more higher end speeding offence, like 190 in an 80 zone, you potentially would be looking at a more serious offence of speeding – driving dangerously or speeding dangerous to the public.”
- 190 He indicated that he preferred a speed check to a speed estimation.
- 191 Superintendent Toynton described the four available speed detection methods. He indicated that in his experience the LiDAR was his preference as it is a laser which utilises distance and range. He stated that his second preference was both the radar check and the speed check. His fourth preference was the speed estimation.
- 192 He noted that the radar would have been ineffective in these circumstances as the police vehicle was behind a B-double truck as it entered Centenary Drive which would have interrupted the speed check. He opined that the speed check was the only available option for the police officers in this situation.

193 He noted that,

“estimating speed is – is definitely a learnt behaviour.....But it’s – it’s not an exact science, whereas a – a proved speed measuring device, ie the digital speedometer we’ve got in the police car, that is an evidentiary device. The evidence, I would say, is so much stronger than an estimation. An estimation is a good start but the evidentiary check from a digital speedometer, which gets checked every 12 months is most certainly a preference.”

194 Superintendent Toynton was later asked:

Q. “And you can tell when a car is going 45 kilometres or over?”

A. No, I can give it in a range. So, between say 40 and 50, might be an example.

Q. Okay

A. But I think in a Court, the evidentiary, like I explained before, having an actual digital speedometer with an actual number is a much better evidentiary result. And it’s much more widely accepted in a judicial space.

Q. But, you’re aware of many people who have been convicted of estimates of speed?

A. It does happen from time to times, yes. But, it’s probably in the minority. The most – the most, I think, and without having the statistics in front of me, the majority of speeding offences are done with the – either the lighter (sic), which is the laser instrument explained before or the radar or check speeds.

Q. But it suffices as evidence an estimate, right?

A. You can do an estimate, yes.”

195 Superintendent Toynton confirmed that the new Police policy still requires the police driver to attempt to stop the offending motor vehicle before a pursuit can commence.

196 He noted that both Police policies provided “some level of flexibility, because if they’re too rigid the police can’t do their job.”

197 He confirmed that there were no practical training modules introduced when the new Police Safe Driving Policy was released, suggesting that retraining 17,000 police was “logistically impossible,” although online and other training was made available to officers. He was asked about another training policy which was rolled out to all 17,000 plus police, called the “Mental Health

Communicate to Connect” policy, which he indicated he was familiar with. He suggested that while face to face training was beneficial, he believed that there should be ongoing online refresher courses for the Safe Driving Policy.

- 198 Superintendent Toynton noted that in both the old and new policies, police officers are required to apply an ongoing “dynamic risk assessment” when conducting either a speed check or during a pursuit. The dynamic risk assessment requires the officer to factor in various factors, including the type of vehicle they are driving, the weather and road conditions, and the safety of other road users, as well as police officers.
- 199 He was asked whether he perceived the community may have some consternation at police speed checks and pursuits occurring without the activation of lights and sirens. He responded that he believed that the community wanted “the police to stop high-end traffic offenders”.
- 200 He indicated that the policy was meant to reflect the need for an officer to have “flexibility to be able to initiate that pursuit and then manage it under our dynamic risk assessment”, given that each situation is different.
- 201 Superintendent Toynton was asked,
- Q. “do you consider 200 kilometres an hour in an 80 kilometre zone an objectively dangerous speed for a police vehicle to travel?”
- A. So when you put it in the context of a dynamic risk assessment and you look at all the factors that come with it, dual carriageway, three lanes, minimal traffic, highly trained police, high-performance vehicle which are designed to go at speed, straight road, high-end offence, I think it’s reasonable.
- 202 Superintendent Toynton was asked about his view of other jurisdictions in Australia which have curtailed pursuits. He indicated that those other models were not embraced by the policy review team as “They’re very restrictive in relation to when you can initiate a pursuit.”

Evidence of Mr John Fitzpatrick

- 203 Mr John Fitzpatrick provided an undated expert report and gave evidence on at the inquest on 23 September 2025. He was a Superintendent of Police with Victoria Police prior to his retirement in 2024. He had extensive experience in general and specialist operational roles over 44 years. In 2016 he was the

Inspector in Charge of the State Highway Patrol and was promoted to the rank of Superintendent at the Road Policing Command in 2017.

- 204 Mr Fitzpatrick confirmed repeatedly throughout his oral evidence that in his opinion SC Miliatis and Constable Williams complied with the Safe Driving Policy which was in force at the time. He also indicated that he formed the opinion that a better practice would have been for them to activate their lights and sirens in an attempt to get the Audi to yield as quickly as possible. He noted that he very much doubted that the circumstances would have changed in the sense that the Audi would have pulled over.
- 205 He indicated that his understanding of the NSW Safe Driving Policy does not require the police to undertake a speed check prior to issuing a direction to stop.
- 206 He noted that SC Miliatis, Constable Williams and Sergeant Howell were all consistent about their understanding of the need for a speed check to be conducted. Mr Fitzpatrick commented,
- “but the highway patrol in NSW seemed to have this thing around, you know, speed checking and I think whether it’s, whether it’s a training floor (sic) or not but the officer seemed to be, you know, and whether this is messaging they’re getting in the training, I don’t know, but they all seem to be talking about the speed check. The senior sergeant talked about the speed check and, and the two officers involved talked about the speed check. So, I’m unaware and that speed check may be fine but if it takes you over a minute to do it then you’re, you’re going, you’re creating some risk.”
- 207 Mr Fitzpatrick observed that SC Miliatis was intent on initiating the speed check. Later he referred to SC Miliatis’ position as being “hell bent” on doing the speed check. Despite that observation, he noted that SC Miliatis was compliant with the policy. He again posited that a better practice would have been to activate the vehicle’s lights and sirens and attempted to have the Audi yield.
- 208 He reasoned that the police could have relied on a speed estimation and that the speeds that both vehicles were travelling at were inherently unsafe. He did however, concede that a speed estimate may not be sufficient to secure a criminal conviction.
- 209 Mr Fitzpatrick stated that safety of road users and the police officers is always paramount. He accepted that the officers were conducting risk assessments during the incident, but there was “a lot going on”.

210 He noted that the police driver would have experienced an “adrenalin dump and the driver’s totally focused on driving because he’s driving at that speed, as the other driver would be.” He disagreed with Sergeant Howell’s evidence that police officers with SC Miliatis’ training are effectively able to block out the physiological changes.

211 Mr Fitzpatrick noted that the NSW Police Safe Driving Policy has a requirement that a pursuit is required to be reported to VKG so that there is “some governance sitting over the top of that. So they would have a pursuit manager or pursuit controller or a duty officer that was managing that pursuit that’s sitting away from that, that can actually look at the circumstances and determine whether those circumstances are safe enough...”

212 He was of the opinion that if the police officers had called VKG earlier during the speed check, “I would hazard a guess at that speed it would probably be terminated.” He then stated, “if it was me, I’d be terminating it.”

213 Mr Fitzpatrick was taken to his report where he stated, “I concur with the finding of Sergeant Grant Howell that the danger to police and other road users did not outweigh the need to stop the Audi.” Mr Fitzpatrick gave an even-handed response, noting that the Audi is travelling at a high speed and the police are trying to stop or pull over the offending vehicle.

214 He was then asked,

Q. “I suppose the key though there in your evidence is that it’s the need to stop the Audi and the way to do that is by activating lights and sirens, do you agree?”

A. Yeah, well, I mean, the better practice is to do it, yeah. They don’t have to, but the better practice for me is that they – if – if you, you know, if you put your light and siren on earlier, you call the pursuit earlier, you get a chance for someone else to come over from a governance perspective to sense check what you’re doing and if they agree with the speed limits then you would – the pursuit would continue and if they don’t then it would be terminated.”

Q. Do you accept that having two cars on the road travelling at 200 kilometres an hour is objectively more dangerous to the public’s safety than one?

A. Yeah, well, I mean, it has to be, doesn’t it?

215 Mr Fitzpatrick noted that the dilemma associated with balancing the need for traffic regulation involving police pursuits and public safety is a world-wide issue. Some jurisdictions, such as Tasmania have sought to ban police

pursuits in the past, only to reintroduce pursuits, albeit with significant restrictions.

- 216 During his oral evidence, Mr Fitzpatrick presented as an experienced witness. He constantly attempted to impart his opinion that the police involved in this incident complied with police driving policies. He was, however, of the view that the police vehicle's lights and sirens should have been activated sooner, whilst at the same time acknowledging that the outcome may not have been any different in the sense that the Audi would not have stopped.

Pursuit Statistics

- 217 The NSW Police Annual Reports report that between 2015-2024 there were 27426 police pursuits, resulting in 19 deaths and 502 injuries.
- 218 In 2023-24 there were 4087 pursuits, resulting in 2 deaths and 27 injuries.
- 219 In the 2024-25 Report there were 5029 pursuits, resulting in 3 deaths and 36 injuries.

Considerations regarding the Issues

Issue a. The appropriateness of the police response in conducting a speed check and thereafter pursuing the vehicle driven by Mr Malas, in which Mr Dandan was a passenger;

Issue b. Whether the two involved officers, Senior Constable Peter Miliatis and Constable Martin Williams, conducted themselves in accordance with standard operating procedures and policies, including the Safe Driving Policy that applied at the time (v 9.2 published in June 2019)

- 220 The evidence establishes that by the time SC Miliatis and Constable Williams were following the Audi onto Centenary Drive, Mr Malas had committed at least two, possibly three traffic offences.
- 221 At that time, there was nothing stopping SC Miliatis from activating his lights and sirens and requiring the Audi to pull over. SC Miliatis stated that the Audi

driver was committing a further offence of speeding and he determined that it was appropriate to commence a speed check and that he would not activate his lights and sirens as he didn't want the Audi driver to be aware he was being speed checked.

- 222 The evidence indicates that SC Miliatis' determination to undertake a speed check was compliant with the NSW Safe Driving Policy and appears to be consistent with standard NSW driver training, where a speed check is the preferred manner of gathering evidence for a prosecution in NSW.
- 223 The evidence also indicates that there are two reasons in practice for not activating the police vehicle's lights and sirens. The reasons given were that the offending driver would either yield and pull over, rendering the speed check invalid, or would attempt to avoid police by accelerating away from the police.
- 224 SC Miliatis indicated that in his experience it was more usual for the offending vehicle to pull over and stop once a direction to stop was signalled by the activation of lights and sirens. There is no credible evidence available which would indicate whether Mr Malas would have yielded to the demand to stop.
- 225 Sergeant Howell stated that the Road Policing Strategy 2026, has the target of reducing road trauma, primarily through enforcement. This strategy somewhat paradoxically permits police to follow offending vehicles at high speeds without the use of lights and sirens prior to calling a pursuit.
- 226 SC Miliatis insisted that his training prepared him to drive at speeds up to 232kph, almost three times the speed limit permitted on Centenary Drive, despite the fact that he had been trained to drive at speeds of up to 160 kph. He stated that this was his first high speed pursuit. He indicated that he had never previously performed a speed check at 190kph but claimed that he was trained to perform a speed check at "similar" speeds. His training records indicated that he had been assessed at performing speed checks at speeds of 97 kph, 98 kph and 112 kph.
- 227 Mr Fitzpatrick was asked whether SC Miliatis' training was sufficient for him to travel at speeds of 200 kph and he indicated that he didn't know, "but he certainly would have been inexperienced at it."
- 228 It is accepted that the vehicle SC Miliatis was driving was a high performance vehicle, capable of handling higher than usual speeds. It is also accepted that the environmental factors, such as the weather and road conditions, were positive.

- 229 It is not accepted however, that the risk to the public was being managed by continuing with the speed check at such high speeds for 32 seconds, through traffic light controlled intersections without activating lights and sirens.
- 230 A great deal of time has been spent during this inquest considering whether SC Miliatis should have conducted a speed check or relied on an estimation. Although the police witnesses have somewhat emphatically stated that a prosecution would fail simply based on a speed estimation, this does not appear to be wholly factual. The Courts have rejected speed estimates where the margin of the speed parameters are small, for example whether the vehicle was travelling at 60 or 70 kph. In this situation, the Audi was clearly travelling well in excess of 45 kph over the speed limit for the entirety of the time the vehicle was travelling along Centenary Drive.
- 231 The speed check indicated that the Audi was travelling at 190 kph in an 80 speed zone. Lights and sirens were activated, however there was a further delay prior to a pursuit being called, due to SC Miliatis' stated need to determine that the Audi was aware of the police vehicle and was refusing to comply with the direction to stop.
- 232 The evidence in this regard is perplexing and illogical. SC Miliatis stated that after he activated the vehicle's lights and sirens, he was of the view that the driver of the Audi would not have seen his lights and sirens as he would have been focused on driving. Nothing seemed to change between this time and the time that SC Miliatis determined that the Audi driver was aware of the police vehicle shortly after Arthur Street and before Marlborough Road.
- 233 Constable Williams somewhat confusingly stated that he believed that they were gaining on the Audi at the time they called the pursuit and that a vehicle would need to be "avoiding apprehension or attempting to stop them, not continuing the offence."
- 234 The evidence does not disclose how the circumstances had changed, although both officers were able to definitively state that they formed the view that the vehicle was either not stopping or not complying with the direction to stop at the same location on Centenary Drive.
- 235 Mr Fitzpatrick stated that if he was asked to determine whether a pursuit should continue in the circumstances of this case, he indicated that he would have terminated the pursuit as it was too risky. SC Miliatis denied that he had delayed telling Constable Williams to call the pursuit, however there is an available inference that he did not want VKG oversight, as he must have perceived that the pursuit would be terminated.

- 236 Mr Fitzpatrick gave sworn evidence about the importance of oversight and governance of pursuits by VKG and associated senior officers. It is noted that the capping of the speed of a police pursuit vehicle may present some practical difficulties, however, the need for oversight and governance is imperative.
- 237 An alternative would be where a police vehicle's speed exceeds a specified threshold, or the speed of the target vehicle is more than double the sign-posted limit, officers must activate warning lights and sirens and give an immediate direction to stop, rather than proceeding with a speed check.
- 238 The two police officers communicated with each other regarding the decision to follow the Audi at the intersection of Centenary Drive and the Hume Highway. The evidence suggests that they did not communicate regarding SC Miliatis' decision to undertake a speed check. Mr Fitzpatrick opined that this may have been because SC Miliatis was affected by tunnel vision, however, conceded that this was his speculation only. The only conversations that both officers recall, is Constable Williams stating "bend" and SC Miliatis' direction to Constable Williams to call the pursuit in to VKG.

Issue c. Whether the current NSWPF Safe Driving Response and Operations Guidelines introduced on 1 July 2024 adequately addresses any relevant deficiencies in the previous Safe Driving Policy (v 9.2 published in June 2019).

- 239 Superintendent Toynton was responsible for the creation of the redevelopment of the Safe Driver Policy and the new Safe Driving Response Operations Guidelines (**SDROG**) and the Safe Driving Public Policy Statement. The SDROG came into effect on 1 July 2024, replacing the older version which was current at the time of this incident.
- 240 He confirmed that "nothing really has changed in the tactic of doing a pursuit or a check speed. They're very, very similar."
- 241 SC Miliatis confirmed that he would not have done anything differently had the new version of the Policy been in effect on the night of the incident. He indicated that he had read the new policy and there was some material online as well that he had read.
- 242 Superintendent Toynton stated that there was no practical training module given to the drivers with the rollout of the new policy, although he would "most certainly support" further face to face training.

- 243 The “Dynamic Risk Assessment” is somewhat clearer in the new SDROG, and it would be beneficial if all Silver and Gold certified and Highway Patrol Officers were trained in the event that any of the recommendations from this inquest are adopted by the Police Commissioner.

Recommendations

- 244 Counsel assisting has submitted that there is a need to consider four recommendations, pursuant to section 82 of the Coroners Act 2009 NSW **(the Act)**.
- 245 The first recommendation is that the
- “SDROG be amended to provide either that where (a) the police vehicle’s speed exceeds a specified threshold or (b) the observed or estimated speed of the target vehicle is more than double that of the posted limit, officers must activate warning devices (lights and sirens) and give an immediate direction to stop, rather than proceeding with a “speed check”. Counsel Assisting submitted that the “policy should expressly state that at such speeds the priority is to alert other road users to the police vehicle’s presence in order to expressly prioritise community safety, risk reduction and early intervention, rather than “best evidence” gathering.”
- 246 The Commissioner of Police considers that this recommendation is “plainly well-meaning but poses numerous challenges and difficulties that render it unworkable.”
- 247 The Commissioner of Police offered four reasons why the recommendation should not be made.
- 248 Firstly, police officers “are frequently faced with the difficulty of needing to achieve multiple priorities, including detecting and prosecuting criminal offences on the one hand, and preserving public safety on the other.” It is submitted that the recommendation, if made, would detract from and remove any discretion on the part of the police officer and would also detract from the concept of a dynamic risk assessment being undertaken by the driver of a police vehicle.
- 249 Secondly, driving at high speed requires the police driver to be focused on the “road ahead” and “to ensure that the NSWPF vehicle is driving defensively

and safely” and that requiring the driver to watch the speedometer may increase the risks to the Police and members of the public.

250 Thirdly, “it carries the real potential of skewing the police officer’s conduct of their dynamic risk assessment”.

251 Fourthly, it may “be difficult for police officers to accurately estimate if a target vehicle is doing more than double the speed limit.

252 The Commissioner of Police submits that “the SDROG remains the best policy insofar as speed checks are concerned.” It was further submitted that “the SDROG does not encourage the gathering of the “best evidence”. Rather, it encourages a weighting of all relevant factors before determining whether to perform a speed check, or indeed, whether to take any other form of Police action.”

253 The Commissioner of Police (**CoP**) indicated that if “the Court is nonetheless minded to make such a recommendation, then the NSWPF Parties submit as follows:

a. as to the invitation to identify a speed threshold, if the recommendation is ultimately made, and the CoP chooses to act on it, the CoP will impose a speed threshold at that time, once he has had the opportunity to take advice from relevant stakeholders and expert. There is insufficient evidence in this inquest on which a submission could be properly and soundly advanced (or determination made) as to what that speed threshold could or should be;

b. consideration could be given to limiting the recommendation to amendment of the SDROG to expressly state that police officers must not give priority or importance to gathering the “best evidence” of an offence, but rather, the overriding consideration is always one of the officer and community safety; and

c. It should be made with a recommendation that the law also be changed to make it easier for police officers to convict offenders for speeding offences base on visual estimates. A reduction in speed checks, especially at high speeds, if that be the pathway pursued by the CoP, should not come with the consequences that high speeding drivers can potentially avoid criminal sanction because a police officer’s estimate, upon which reliance would invariably need to be placed considerably more often, is insufficient to secure a conviction. It would need to be tempered with legislative change that more readily permitted prosecution

and conviction on a police officer's visual estimate of speed, to avoid such undesirable consequences.”

- 254 This recommendation is not designed to remove the police officer's discretion nor detract that officer from utilising the Dynamic Risk Assessment tools already available in the SDROG. On one view, it is designed to emphasise the safety concerns outlined in the policy and the SDROG. It is designed to place a cap on high speed situations, with either an officer's self-regulation or a review by VKG, by encouraging an officer to activate lights and sirens earlier and call a pursuit if necessary, rather than being focused on gathering evidence which may present as a risk to the public.
- 255 This recommendation is not directed at allowing offenders to avoid prosecution. It is important that police officers continue to perform their duties as legislated.
- 256 The available speed estimation in this case, is not simply based on a police officer's visual assessment. Any estimation was supported by ICV and BWV footage and corroborated by Constable Williams. There was also evidence that a pursuit had been called.
- 257 This inquest did not consider the recommendations raised on behalf of the CoP in written submissions, specifically that the Court make recommendations to the NSW Government regarding amending the Crimes Act to increase penalties for serious offending and further regulating high-performance motor vehicles. The NSW Government was not notified as having a sufficient interest in these proceedings and have therefore not been a party to these proceedings. As such, it would be inappropriate to make recommendations regarding a party that has not had an opportunity to participate in these proceedings and make submissions.
- 258 Nothing in my view prevents the NSW Commissioner of Police making representations to the NSW Government for legislative change.
- 259 It is noted that the Commissioner of Police has indicated his potential position as per a) and b) above.
- 260 On behalf of both families, there is no opposition to the making of this recommendation.
- 261 Counsel Assisting's second recommendation is,
“The SDROG be amended to expressly require an explicit verbal check between the driver and any offsider (eg “speed check vs direction to

stop”) before commencing or continuing speed check to enable both occupants (if applicable) to expressly turn their mind to the issue, which would provide a further check and/or balance in terms of the rationality or reasonableness of the decision.”

- 262 On behalf of the Commissioner of Police, this recommendation is opposed on the basis that it carries several practical difficulties. These difficulties include a situation where the offside is not qualified to perform a speed check and would therefore not be able to provide an informed comment on whether the speed check should be performed or not. In addition, it is submitted that even if the offside is qualified, there may be insufficient time for the two officers to discuss and reach an agreement on whether or not to conduct a speed check. It is also submitted that if there is a disagreement as to the course to be adopted between the two officers, which opinion should prevail.
- 263 On behalf of both families, there is no opposition to the making of this recommendation.
- 264 Counsel Assisting’s third and fourth recommendations are,
- “if and once these amendments are made to the SDROG, that a scenario-based practical training module be developed and rolled out for Highway Patrol, Silver and Gold certified officers that (a) prioritises risk reduction and early directions to stop over evidence gathering, (b) contains the relevant speeds at which a speed check is to be abandoned, and (c) includes the communication protocol subject of Recommendation 2. Any training should expressly temper the current emphasis on collecting the “best evidence” in priority to giving a direction to stop at the earliest available opportunity.”
- “even if changes to the SDROG are not made or ordered, officers be practically trained on the Dynamic Risk Assessment requirements introduced in the SDROG, including worked examples of whether that Dynamic Risk Assessment contraindicates the necessity of a speed check and warrants immediate activation of lights and sirens as a direction to stop.”
- 265 The Commissioner of Police has indicated that these recommendations are not resisted. It is submitted however, that although the recommendations are not resisted “for further training to drivers of Police vehicles on the SDROG, whether further changes are made to that document or not, acknowledging that the SDROG is not a static document, and will be the subject of regular

review and improvements, either following consideration of recommendations made in consequence of this inquest or otherwise.”

266 On behalf of both families, neither of these recommendations is opposed.

Closing submissions on behalf of both families

267 The families of Mr Malas and Mr Dandan made the following submissions:

- a. “That it was questionable whether police were conducting a speed check at all,
- b. If the Court concludes that the officers were conducting a speed check, that response was not appropriate in all of the circumstances,
- c. In circumstances where the relevant Safe Driving Policy in force at the time provided that maintaining a constant distance behind an offending vehicle without the activation of lights or sirens could only be done “if operationally or tactically necessary”, it was not reasonably necessary for a speed check to be conducted at all in circumstances where traffic offences were already detected, and the offender’s speed could have been easily estimated at being over 45 kph over the speed limit,
- d. Against policy that provided that “police must take reasonable care, and it must be considered reasonable that warning devices are not used” that the officers did not take any reasonable care and it was not reasonable that warning devices were not used,
- e. The police vehicle response in pursuing the vehicle was not appropriate,
- f. Senior Constable Miliatis placed member of the public and Mr Dandan and Mr Malas at greater risk of harm than that he was trying to prevent, and that it would be inferred that his evidence was that two cars travelling at the speed he reached created a greater risk of harm than that he was trying to prevent,
- g. The actions of the officers presented significant risk to the community and to the police officers, which fare outweighed the need to undertake the speed check, or immediately apprehend the driver of the Audi,
- h. In circumstances where SC Miliatis was not even aware that lights and sirens can be activated during a speed check, it cannot be concluded that

he took reasonable care, and it was reasonable that warning devices were not used,

i. As a result, SC Miliatis and Constable Williams, did not conduct themselves in accordance with standard operating procedures and policies, in particular part 6.3 and 6.4 of the Safe Driving Policy that applied at the time (V 9.2 published in June 2019),

j. There are clear issues in the SDROG that “need to be addressed”,

k. The families agree with the recommendations proposed by Counsel Assisting,

l. The Court would find that the actions of the involved officers, SC Miliatis and Constable Williams, led to the deaths of Mr Dandan and Mr Malas such that the matter should be referred to the Director of Public Prosecutions.”

268 The majority of the matters raised by the families have been addressed above.

269 I have concluded that the officers had not breached the Safe Driving Policy and were acting in accordance with standard operating procedures. It is clear, however, that the new policy should be reviewed and amended, as referred to above.

270 In relation to the submission that both officers should be referred to the Director of Public Prosecutions (**DPP**), there is insufficient evidence to ground such a referral. It is accepted that the families of both men feel that the officers, particularly SC Miliatis deliberately placed both Mr Dandan and Mr Malas in danger, however, they were clearly not in breach of the relevant driving policy. The recommendation for a referral to the DPP is declined.

Family statements

271 At the conclusion of the evidence, six family statements were delivered to the Court by family members. In addition, a photo slideshow and video were played in Court.

272 The family members that provided statements were Jebriel’s father, Hayssam, his mother, Fede, his partner, Greta, and his sister, Enass.

273 Each of them spoke eloquently of their love for Jebriel who was a vibrant and loving young man who took pride in his work. His family spoke of their emptiness and pain they feel every day.

274 His mother stated that

“On the 24 of January 2023, I lost not just one, but two sons. Saif’s loss is felt just as deeply. And while they are both gone, their memories live on in our hearts, in our home, and in every corner of the lives they touched. The way he was taken from us has left an indescribable emptiness. There is no way to fully express the grief of losing a child so suddenly. It is a pain no parent should ever have to endure. I never had the chance to say a proper goodbye, to kiss his beautiful face one last time.”

275 Saf’s family members also provided statements to the Court. His father Zain, his mother Amne provided statements which were full of love and loss of their son. He was described as being “full of love for his family”, and “He was the rock of our family, our provider, our protector and our biggest source of strength.”

276 His mother stated “As his mother, I cannot express the pain of this loss. Saf was not only my son – he was a guiding light for our family. He was the reason we kept going through hard times. His younger brothers feel lost without him. His wife is heartbroken and alone. Our entire family is shattered.”

Conclusions

277 The Coroners Court of NSW has repeatedly made recommendations relating to the vexed question of police pursuits.

278 It is clear that there is a need to protect the community from drivers who take extraordinary risks, including speeding and dangerous driving. It is also clear, that the community needs to be protected from unnecessary dangers associated with high speed pursuits.

279 It was submitted by the legal representative for the Commissioner of Police that there are more examples of dangerous driving being observed by NSW Police every year.

280 It is clear that the cohort most responsible for dangerous driving are invariably young male drivers, with limited driving experience who are often affected by either drugs and/ or alcohol.

- 281 It would appear that Mr Malas fitted within that cohort. He was young, had limited driving experience, particularly at the speeds reached that evening and was affected by drugs. He was also disqualified and should not have been driving at all. In addition, the vehicle he was driving was a prohibited vehicle for the holder of a Provisional P1 licence.
- 282 The questions explored in this inquest have focused on the relevant driving policies available to police, which, according to police witnesses are designed to provide an assessment of the risks associated with high speed pursuits.
- 283 The question remains however, how to effectively balance the need to prosecute offenders and protect the community. The answers given by various witnesses regarding the timing of the use of lights and sirens was unhelpful and confounding.
- 284 The focus to date, appears to have been on current police training which encouraged the gathering of admissible evidence over activating lights and sirens. The paradox remains where the police submit that they are keeping the public safe by prosecuting offenders, when at the same time, potentially exposing the public to serious injury when speed checks and police pursuits are conducted at very high speeds.
- 285 Each of the police witnesses maintained that they were trained to manage risks at speeds that they have never travelled at previously. These speeds were at times almost 100 kilometres more than the speeds that they had attained during training and driving assessments. They stated that despite driving at such untested and excessive speeds, they were able to protect the community. These assertions seem inherently implausible.
- 286 This is a dynamic area of policing, and it is hoped that the Commissioner of Police will continue to consider alternatives to the current policy and guidelines to ensure that his Road Policing Strategy 2026 meaningfully reduces death and injury on the road.
- 287 Despite the opposition to some of the proposed recommendations by the Commissioner, I am of the view that the recommendations are minimal and potentially effective for community safety.
- 288 Before turning to the Findings that I am required to make, I would like to acknowledge my gratitude to Ms Surya Palaniappan of counsel, Ms Amber Boatman, solicitor, Ms Hannah Fordham solicitor and Ms Charlotte Ward solicitor for their significant assistance, commitment, support and preparation of these cases.

289 I would also like to acknowledge and thank the Officer in Charge of the investigation, Detective Inspector Luke Scott, for his assistance.

290 Finally, I would like to again record my most sincere condolences to both families.

Findings pursuant to section 81(1) of the Coroners Act 2009 (NSW)

1 I make the following findings pursuant to section 81 (1) of the Coroners Act 2009 (NSW):

Findings

The identity of the deceased

2 The persons who died were Mr Jebriel Dandan and Mr Seiffedine Malas

Date of Death

3 Mr Dandan and Mr Malas both died on 24 January 2023

Place of Death

4 Mr Dandan and Mr Malas both died on the M4 Motorway at Homebush West

Cause of death

5 The cause of both Mr Dandan and Mr Malas' deaths were Multiple Traumatic Injuries

Manner of Death

6 Injuries inflicted as a result of a car accident in the course of a police pursuit

I make the following recommendations pursuant to section 82 of the Coroners Act 2009 (NSW),

To the Commissioner of Police for NSW

1. That the SDROG be amended to provide either that where (a) the police vehicle's speed exceeds a specified threshold or (b) the observed or estimated speed of the target vehicle is more than double that of the posted limit, officers must activate warning devices (lights and sirens) and give an immediate direction to stop, rather than proceeding with a "speed check". The policy should expressly state that at such speeds the priority is to alert other road users to the police vehicle's presence in order to expressly prioritise community safety, risk education and early intervention, rather than "best evidence gathering."
2. That the SDROG be amended to expressly require an explicit verbal check between driver and any offsider (eg. "speed check vs direction to stop") before commencing or continuing speed check to enable both occupants (if applicable) to expressly turn their mind to the issue, which would provide a further check and/or balance in terms of the rationality or reasonableness of the decision.
3. That once these amendments are made to the SDROG, that a scenario-based practical training module be developed and rolled out for Highway Patrol, Silver and Gold certified officers that
 - (a) prioritises risk reduction and early directions to stop over evidence gathering,
 - (b) contains the relevant speeds at which a speed check is to be abandoned, and
 - (c) includes the communication protocol, subject of Recommendation 2.

Any training should expressly temper the current emphasis on collecting the "best evidence" in priority to giving a direction to stop at the earliest available opportunity.

4. Even if changes to the SDROG are not made, officers be practically trained on the Dynamic Risk Assessment requirements introduced in the SDROG, including worked examples of whether that Dynamic Risk Assessment contraindicates the necessity of a speed check and warrants immediate activation of lights and sirens as a direction to stop.

I now close this inquest.

A handwritten signature in black ink that reads "Joan Baptie". The signature is written in a cursive, flowing style.

Magistrate Joan Baptie

Deputy State Coroner

24 February 2026