



Western

Australia

RECORD OF INVESTIGATION INTO DEATH

Ref No: 22/16

*I, Evelyn Felicia Vicker, Deputy State Coroner, having investigated the death of **Giovani Wade RYAN** with an Inquest held at Carnarvon Coroners Court, Carnarvon, on 5-6 July 2016 find the identity of the deceased child was **Giovani Wade RYAN** and that death occurred on 5 October 2013 at Carnarvon Hospital as the result of Head Injury in the following circumstances:-*

Counsel Appearing:

Mr T Bishop assisted the Deputy State Coroner

Mr B Humphris and with him Mr G Huggins (WA Police Legal) appeared on behalf of the Commissioner of Police, First Class Constable Caitlin Griffiths, First Class Constable Wayne Shaw, Senior Sergeant Loverock and Senior Constable McCann

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SUPPRESSION ORDER

No publication of the detail of the discussion about the police emergency driving policies and procedures.

INTRODUCTION

On 5 October 2013 at approximately 12:35am, Giovanni Wade Ryan, the deceased child (Giovani) was the front seat passenger of a stolen blue Ford panel van (panel van) driven in an easterly direction on Harbour Road, Carnarvon, when the driver of the panel van lost control of the vehicle and it crashed, ejecting Giovani from the vehicle.

Giovani was seriously injured. He died later that morning in Carnarvon Hospital but remained on life support until the early hours of 6 October 2013.¹

Giovani was 15 years of age.

Shortly before the crash the panel van had been the target of a vehicle intercept on Boundary Road, south, when the driver of the panel van failed to stop.

Once the panel van failed to stop the police did not institute pursuit protocols but abandoned the intercept. The police continued in the direction the panel van had taken, without lights and sirens, and some minutes later came across the

¹ Ex 2, tab 6

crashed panel van at the intersection of Harbour Road with Collins Street.

The driver of the panel van had sped off in the belief the police vehicle was chasing the panel van and some minutes later lost control of the panel van when attempting to turn from Harbour Road into Collins Street.

The driver of the panel van at the time of the crash (the driver) was later convicted of the offence of dangerous driving occasioning death with respect to the death of Giovanni and dealt with in the Juvenile Justice System.

Under the provisions of the *Coroners Act 1996* (section 3) there is no doubt the death of Giovanni was a reportable death.

In addition, by the provisions of section 22 (1)(b) of that Act, where it appears the death was caused or contributed to by any action of a member of the police force, there must be an inquest into the circumstances of the death to enable an independent review of the actions of the police officers involved.

BACKGROUND

The Deceased

Giovanni was born on 18 February 1998 and at the time of his death was living in Carnarvon with his aunty.

He had been born in Subiaco to Raylene Ryan and commenced his schooling in Leonora, before moving to Laverton and then Gosnells. When he was six years old he moved to Carnarvon, where he was schooled until 2013, when he commenced school in Karratha. He was in the process of moving back to Carnarvon at the time of his death because he did not like the school in Karratha. Giovanni enjoyed school and did consistently well with his grades. During the holidays Giovanni either lived with his aunty in Carnarvon or another aunty in Wickham. His mother was in Carnarvon but he did not live with her.

Giovanni was good at sports, particularly Basketball and Football, and was part of the Clontarf Football Academy in Carnarvon. He played for the Gascoyne Football Club. He also enjoyed video games, music, was a motor bike enthusiast and enjoyed cooking. He was generally considered to be neat and tidy by his aunts and kept his room clean and did his own washing.

Giovanni had lots of friends and a girlfriend who lived in Broome. He mixed with some friends who took drugs and had been known to use marijuana. He was known to drink with his friends, especially on a Friday or Saturday night.

Giovanni's aunt had last seen him during the Friday evening (4th) before his death when he was with a group of friends at

her home. They were drinking UDL premix drinks and the boys had access to a 10 pack premix of Jack Daniels and cola cans. Giovanni left the house with his group of friends at approximately 10:30pm. His aunt was expecting him back home sometime between midnight and 1am. In the event he did not come home she expected to receive a telephone call from him advising her of where he would be.

The Panel Van

The panel van was a 1991 Ford Falcon panel van owned by, and registered to, Linden Sean Grandcourt. He had owned it since 2011.

Mr Grandcourt was a self-employed painter and used the panel van for his business. He stored his work equipment and paint inside the panel van along with his telephone, iPad, chainsaw, a blower vac, drop sheets, harnesses, oils and other materials necessary for earning his income.

On the evening of Friday 4 October 2013 Mr Grandcourt had used the panel van during the day. When he finished work he and one of his employees drove to the Tropicana Tavern, on Camel Lane, in Carnarvon town site. He parked the panel van behind the Tropicana in the carpark. Mr Grandcourt left the front windows of the panel van open with the keys in the ignition. In his statement he stated he always did this.²

² Ex 1, tab 18

The evidence would seem to disclose Mr Grandcourt had remained in the tavern until closing time, midnight, at which time he returned to where he had left the panel van and discovered it was no longer there. Mr Grandcourt had not given anyone permission to take the panel van and was concerned about the items stored inside as they were essential to his business and he was intending to work the following morning.

The Police

There were only four police officers rostered on duty at Carnarvon Police Station overnight from 4-5 October 2013.

The senior officer on duty after 21:00 hours was Sergeant David Loverock (Sgt Loverock). As the senior officer on shift it was his responsibility to carry out all supervisory duties for that night shift as well as perform administrative duties relevant to the administration sergeant. He was relatively new to Carnarvon.

Also rostered on duty during that shift was Senior Constable Joe McCann (McCann), on light duties, and First Class Constables Wayne Shaw (Shaw) and Caitlin Griffiths (Griffiths) who were tasked with patrol and enquiry duties for the shift.

Both Shaw and Griffiths were priority 2 trained police drivers for the purposes of the police Emergency and Urgent Duty Driving Policies and Guidelines (Guidelines).³ Currently all police officers graduating from the academy are priority 2 trained drivers. This allows them to drive all police vehicles, but only to a priority 2 competency. Essentially, a priority 2 driver can only drive a limited speed above the posted speed limit, in specified conditions, unless specifically authorised by a senior police officer in the position of Police Operations Centre Communications Controller (POCCC).

Griffiths and Shaw were in a marked Toyota Hilux dual cab utility with a secure pod, call sign FC102 (FC102). This vehicle was classified as a class 3 vehicle for the purposes of the Guidelines. The Guidelines designate particular types of vehicle as appropriate to different types of police driving.

The different types of police driving are defined in the Guidelines and include definitions for vehicle intercepts and pursuits.

The Carnarvon police vehicles are all fitted with automatic vehicle locators (AVL) which enable a police operations centre (POC), appropriately resourced, to locate vehicles with an AVL system at any specific time. It can also be used as a guide in determining approximate speeds of police

³ Emergency Management Driving Policy and Guidelines TR7.4 (Emergency Driving)

vehicles over known distances. It operates in conjunction with the police computer system which in regional areas is subject to signal coverage.

There are occasions when incomplete coverage affects the reliability of the information police are able to obtain on examination of the AVL system. Essentially, operating police are aware their vehicles are monitored in this way and do not have precise knowledge as to when the system may or may not be working in remote areas which do not have a contemporaneous tracking facility. Police drivers drive with the knowledge their approximate speed and location may be recoverable at a later time for verification purposes.

In 2012 the OIC of Carnarvon Police station, Senior Sergeant McComish, had a very restricted attitude to the whole concept of police emergency driving in “*pursuit*” conditions. He positively discouraged all Carnarvon police officers from engaging in pursuits. A pursuit requires POCCC authorisation and, in Carnarvon in 2013, was unlikely to be authorised. This had been the situation prior to October 2013 and all police officers were aware of that policy.⁴

⁴ Ex 2, tab 4

THE EVENTS

On the evening of Friday 4 October 2013 Giovanni and four of his friends had been at the home of his aunty in Fanes Crescent, Carnarvon. Sometime before midnight the five boys, who had been together drinking UDL's, left Giovanni's aunt's house to walk into town. They took with them some of the carton which had been bought earlier as well as some of the Jack Daniels and cola. Firstly the boys, who were all aged 17 or younger, went to the locality known as "*the ponds*" where they continued drinking their cans. When they got up to leave Giovanni left some of the full cans behind.

The boys then continued on into town and at some point realised they no longer had the remainder of the UDL cans with them.

The boys were walking on Camel Lane, near the Tropicana Tavern, when one of the boys left the group. The remaining three boys and Giovanni continued on their way. They walked into the carpark of the Tropicana Tavern and there saw the panel van which had been left unlocked by Mr Grandcourt.

Initially the boys walked past the car but in doing so it was noted that both of the windows were down and there were

keys in the ignition.⁵ They walked on and then returned to the car.⁶

Two of the boys jumped into the back of the panel van while Giovanni sat in the front passenger seat and the oldest boy, who was 17 years old at the time, jumped into the front driver's seat (the driver). Giovanni and the driver both climbed into the front of the panel van through the open windows.

In evidence the driver stated he had not specifically learnt how to drive a car nor did he have a licence, but he did know how to drive.⁷ One of the boys who had jumped into the back of the panel van moved from the back of the van and sat in the middle in the front (middle passenger). This left one boy in the back (rear passenger) and the driver, the middle passenger and Giovanni in the front passenger position. None of the boys were secured in the panel van. At some point the driver commented he could not believe they had just stolen a car.

The driver drove back to the ponds so the boys could pick up the rest of their UDL cans and Jack Daniels premix. They then drove towards the BMX track on Babbage Island Road where they drove down a dirt track and onto the levy bank.

⁵ t 5.7.16, p42

⁶ t 5.7.16, p69

⁷ t 5.7.16, p93

The boys continued to drink and the evening became “*more funner*”. The driver did not feel concerned about driving. He didn’t believe they were driving anywhere in particular, just going for a ride.⁸

At some stage, when driving out along the levy banks, the panel van stalled when being driven up the levees and rolled back down the bank and into a pole behind it. The panel van was restarted and the boys continued along their way with the driver apparently driving the vehicle well, although the rear passenger believed the driver may have been driving a little faster than he had earlier.⁹

Eventually, after leaving the levy banks the driver was in the vicinity of east Carnarvon and turned right into Boundary Road, north.

It was now after midnight and Saturday 5 October 2013.

Mr Grandcourt had left the Tropicana pub at midnight when it closed and discovered his panel van had been stolen. At that time Shaw and Griffiths were parked outside the Tropicana Tavern in FC102 and Mr Grandcourt approached Griffiths and advised her that his car had been stolen. He made it clear he was concerned about his work equipment which he needed for work later that morning. After some

⁸ t 5.7.16, p71

⁹ t 5.7.16, p45

checks through McCann at the police station concerning the correct registration¹⁰ for the panel van, Shaw and Griffiths decided they would continue on patrol duties and see if they could find the panel van in order to return the work items to Mr Grandcourt in time for his work later that day.

At the time the driver of the panel van turned left into Boundary Road, north, and drove south, so the police in FC102 were driving north on Cornish Street, turned right onto Cleveland Street and then left into Boundary Road, south, to drive north towards Robinson Street.

Boundary Road is a staggered junction with Robinson Street with the northern intersection slightly to the east of the southern intersection of Boundary Road. The police had encountered very few vehicles on the road and had not located the dumped panel van. When they saw headlights coming towards them on the northern part of Boundary Road they believed it warranted a check to see whether the headlights belonged to the reported stolen panel van.

Griffiths, who was driving FC102, continued north on Boundary Road south, towards the intersection with Robinson Road, as the driver of the panel van continued south towards Robinson Street. The driver of the panel van turned left onto Robinson Street and then immediately right into Boundary Road south. As the panel van passed FC102,

¹⁰ Ex 2, tab 5

as it approached the intersection to Robison Street, so the boys in the panel van realised it was a police vehicle. FC102 had its emergency lights (red and blue) turned off at that time.¹¹

On first realising it was a police vehicle there was some discussion between the boys which essentially resolved they should drive normally, and the driver continued south on Boundary Road at appropriate speed.¹² Similarly, in FC102 Griffiths and Shaw had a quick discussion about the vehicle and as it passed them Griffiths recognised the panel van and Shaw recognised both the registration number and the vehicle as the stolen panel van. As FC102 passed the panel van so Shaw looked across and could see the driver. He believed it was a Caucasian male or possibly fair skinned Aboriginal male driving. Neither police officer could see any other people in the panel van and did not recognise the driver or determine his age.

The police officers intention had been to locate the stolen vehicle in an attempt to return property to the owner. Griffiths continued to the intersection of Robinson Street and Boundary Road south, did a U-turn, and started to follow behind the panel van in an attempt to intercept it.

As Griffiths completed the U-turn, Shaw radioed back to the Carnarvon Police Station to say they had located the stolen

¹¹ † 5.7.16, p73

¹² † 5.7.16, p47

vehicle, and Griffiths accelerated to get behind the panel van. The emergency lights and siren were then activated on FC102. The driver confirmed the police in the police vehicle activated the red and blue lights once they had come up behind the panel van on Boundary Road.¹³

It was his evidence the police car was some distance away and not directly behind them and that the boys in the panel van all panicked. The driver believed it was the intention of all the boys to “*just get away*” or “*try and lose the police*”.¹⁴ The rear passenger agreed the boys had all indicated the driver should keep going, although he was not entirely clear about the details because “*I don’t know, my adrenalin kicked in, because I was still a bit drunk*”¹⁵. The middle passenger agreed the driver of the panel van had been encouraged to keep going and drive faster, although he wasn’t sure who specifically said that. It was his evidence no one had asked the driver to stop.¹⁶ The driver understood the flashing red and blue lights were a request by the police for the panel van to stop.¹⁷

The evidence of the boys in the panel van from the time they were aware of the police activating the emergency lights and sirens on FC102 on Boundary Road, over the next few minutes is consistent in where they went, but somewhat

¹³ 5.7.16, p74

¹⁴ † 5.7.16, p75

¹⁵ † 5.7.16, p48

¹⁶ † 5.7.16, p20

¹⁷ † 5.7.16, p93

indistinct as to what precisely they believed was happening. They had been drinking, were of a relatively young age, and not experienced in driving, although the driver was the oldest of the four boys in the panel van. Overall, the evidence of the driver in court seems to be the most consistent thread of the competing versions of the sequence of events from the boys' perspective.¹⁸

It was his evidence, that once he understood the police had turned around and pulled closer to the panel van and activated their red and blue lights and siren, that was an indication they wished the driver of the panel van to stop the vehicle. There was a general discussion in the panel van about whether they should stop but it seemed to be the consensus they should attempt to get away from the police.

The driver accelerated away from the police vehicle which dropped behind the panel van and the driver then turned left at the bottom of Boundary Road to continue on down to what is generally called the “*powerline track*”, a dirt track which services the powerline. It is very much a track with powdery red soil and has power poles, supported by cables, dotted along its length. The driver certainly appeared to negotiate that track successfully although it is common evidence both he, and any driver, needed to drive more slowly due to the difficult conditions on that track. With respect to his evidence along the powerline track it was this;

¹⁸ † 5.7.16, p78

“Did you know what the police were doing once you got onto that powerline track?...I couldn’t – I couldn’t see them”.

A little further on;

“Did you see if the police were still chasing you when you were on the powerline track?...I’m not sure”.

And then;

“Why did you think they probably were still chasing you?...I don’t know. I couldn’t see them.

Did you know – did you ever see at any stage anything from the police or hear, for instance a siren, or did you see flashing lights in the bushes around you from the police when you were on that powerline track?...Just flashing lights.

And did you see those when you first entered the powerline track? Did you see the flashing lights?...Yes.

Did you notice whether they continued as you headed further south along that powerline track?...No.”¹⁹

There was then a minor discussion about what lights it was the driver could see and then;

“Did you see the police headlights at any stage when you were on the powerline track?...No. It was pretty dusty. Dust.

Could you see dust when you looked in the mirrors?...No”.²⁰

¹⁹ † 5.7.16, p78

²⁰ † 5.7.16, p79

The panel van continued down the powerline track, clearly on the assumption the police were still chasing them. At the conclusion of the powerline track the driver turned left onto Harbour Road, which is a conventional unsealed gravel road, and drove east down Harbour Road towards the North West Highway (the Highway). The intersection of Harbour Road and the Highway is bituminised, with a truck stop. In October 2013 the right hand side of the truck stop was completed and was illuminated.²¹ There were also industrial premises in the direction of the Highway which had some lights.²²

Before reaching the Highway the driver swung left into Collins Street and lost control of the panel van on the corner. It rolled and came to rest on its wheels. The driver stated he believed it was oncoming lights which caused him to swerve.²³ He also agreed he had intended to turn left.²⁴

Giovani was ejected from the passenger side of the panel van and landed on the ground alongside the panel van. The rear passenger was injured in the rollover and remained in the back of the panel van, while the middle passenger and the driver climbed out of the panel van. The driver initially ran off, but then realised Giovani was hurt and returned to try and attend to Giovani on the ground.

²¹ † 5.7.16, p142

²² † 5.7.16, p116

²³ † 5.7.16, p82

²⁴ † 5.7.16, p90, 93

POLICE ACTIONS

When Griffiths and Shaw drove up behind the panel van on Boundary Road and activated the lights and sirens on FC102 they initially believed the panel van may stop as the brake lights came on momentarily and it appeared to pull slightly towards the left. The panel van then accelerated heavily away from them, and Griffiths believed it swung momentarily to the right before continuing down Boundary Road. As it became clear the driver of the panel van was not going to stop for police, so Griffiths decided the situation was no longer an intercept and she aborted any concept of a pursuit.

Shaw advised the police station the vehicle they had been intending to stop had failed to stop, and as McCann was enquiring as to their speed so Shaw advised him they had aborted their intercept. Shaw did not believe FC102 had ever gone above the posted speed limit, but Griffiths agreed she might have done in the process of catching up to the panel van.²⁵

Shaw and Griffiths are quite clear the panel van had drawn away from them by some distance as they passed the vicinity of Holden Street and aborted any attempted stopping of the panel van. As they aborted both officers are adamant the lights and sirens of the police vehicle were

²⁵ † 5.7.16, p137

turned off. This was verified over the radio with the police station.²⁶ By that time, with the acceleration of the panel van as referred to by the police, it is possible the panel van had reached the powerline track and so on leaving the bitumen and driving onto the track it is possible those in the panel van were still aware of the police lights and sirens as the intercept was aborted.²⁷

The two police officers continued in FC102 down Boundary Road because they still wished to recover the panel van for the owner. They believed it likely the panel van would be dumped in the vicinity of the commencement of the powerline track. From that point it would be easy for the occupants to reach the Mungullah Aboriginal Village (the village) on foot across the bush in that area.²⁸ The police officers believed the lights of the panel van were turned off briefly before it reached the end of Boundary Road, but turned back on again as it swung left onto the dirt track. The driver of the panel van did not believe he either swung to the right on Boundary Road or turned the panel van head lights off.

The police officers became aware of a large cloud of dust as they turned onto the dirt track and their visibility ahead was obscured. They could see the panel van had not been dumped and continued down the dirt track with the dust

²⁶ † 6.7.16, p169

²⁷ † 5.7.16, p50

²⁸ † 5.7.16, p138

cloud ahead. The police officers are adamant the lights and sirens had been turned off, and they had reduced speed considerably, both to the speed limit whilst on Boundary Road, and to a safe level of driving once on the powerline track with its poles and cables.

The two police officers remained confident it was the intention of the occupants of the vehicle to dump the panel van somewhere in that locality and they continued to the end of the powerline track in an endeavour to recover the vehicle and contents for the owner. On reaching the intersection of the powerline track with Harbour Road, the police paused because they did not know which way the panel van had gone.

On looking to their right they had a clear view to Cornish Street, and on looking to their left they could see, through some bushes, what appeared to be headlights facing in their direction.²⁹ Their initial thought was the vehicle had done a U-turn³⁰ and was returning towards them, but then it became apparent the lights were stationery.

The police officers thought the vehicle had been dumped and turned left towards the vehicle which they then located. It had already stopped and was on its wheels, off the north east corner of Harbour Road and Collins Street intersection.

²⁹ † 5.7.16, p116

³⁰ † 5.7.16, p140

There were lights in the background from the industrial area and the truck stop.

As the police approached that intersection they saw the stationary panel van and two figures in the vicinity, one apparently running away across Harbour Road, before turning back and returning to the panel van, where the police as they got out of FC102, could see there was someone on the ground.

It was at that point Shaw and Griffiths realised there had been a crash and Shaw recognised the driver, who was attempting to rouse Giovanni, who was on the ground alongside the panel van. The police headlights were shining onto the scene, but slightly elevated above the ground due to the topography, which made it difficult for the police to see Giovanni on the ground. When Shaw realised the driver was trying to rouse Giovanni he intervened to assist Giovanni and from that point on concentrated on Giovanni, while Griffiths attempted to calm and control the driver and the middle passenger, both of whom were in a state of shock.

It is clear from the description of the police officers the boys were quite traumatised, and it took the driver a moment to recall the rear passenger in the panel van. He then went with Griffiths to get the rear passenger out of the panel van and it was discovered he had a relatively serious head wound. Griffiths was then attempting to reassure the rear

passenger, the driver and the middle passenger, and assess their injuries.

On realising how badly injured Giovanni was Griffiths radioed the police station and requested an ambulance attend. She also asked for the shift sergeant to attend to help them. It was obvious to Griffiths that with four boys, one of whom was seriously injured with potentially others, they needed assistance and the only quick assistance available was the shift sergeant. There were no other police officer available as quickly.

Sgt Loverock then left the police station in the care of McCann while he took another Toyota 4WD Hilux to the scene. His vehicle was also a class 3 vehicle, the same as FC102. Sgt Loverock had not been at Carnarvon for very long and had difficulty locating the crash site. He requested FC102 reactivate its emergency lights to allow him to locate the crash scene.

Sgt Loverock approached the crash scene from the Highway end of Harbour Road and while he did not believe he had his police vehicle emergency lights on, he conceded it was possible he turned them on once he reached the scene as a beacon for other vehicles and the ambulance.³¹

³¹ † 6.7.16, p158

Griffiths estimated Sgt Loverock attended some 15-20 minutes after she had requested assistance. During that time the boys were distressed, traumatised, confused and very worried about Giovanni. Their evidence they saw other police cars or lights on Harbour Road prior to the crash, which caused the crash cannot be supported by the police station records making it clear that until Griffiths radioed for assistance there were no other police vehicles on the roads in Carnarvon.³² The boys' evidence was not consistent, either at the time of the crash or in court, as to the presence of other police before the crash. They were all clear there were only two police officers at the crash site shortly after the crash and not clear the lights in front of them on Harbour Road were police lights.

Similarly their perception they were being followed by red and blue police lights, but also believed they had 'lost' the police vehicle following, fits more with a distorted recall of the sequence of events, due to their traumatic experiences.

Once Sgt Loverock had identified the location of the crash by asking the police officers at the scene to activate their emergency lights he approached the crash site from the direction of the Highway. Sgt Loverock stated that by the time he arrived at the scene Griffiths had three boys sitting on the ground against the panel van while Shaw was attempting to keep Giovanni breathing.

³² Ex 2, tab 3

FC102 was parked on the eastern side of the Harbour Road/Collins Street intersection with its headlights shining over the scene. Sgt Loverock turned his vehicle's headlights onto the panel van to assist in lighting up the area as well. Once he had got out of his vehicle Sgt Loverock walked over to the panel van and spoke with Shaw about the state of Giovanni. He could hear his breathing was difficult and it was obvious Shaw was attempting to rouse Giovanni.

In evidence, Sgt Loverock described the three young males as being very quiet and not showing any signs of wanting to leave the scene. They were quite focused on what had happened to Giovanni and all concerned with what was going on, other than perhaps the rear seat passenger who was injured and not completely conscious of what had occurred.³³

Griffiths advised Sgt Loverock the rear seat passenger was injured and needed attention once Giovanni had been attended to. It was decided the boys who appeared less physically injured should be separated and the driver was placed in the rear of FC102, while the middle passenger was placed in Sgt Loverock's vehicle. Sgt Loverock advised both boys they would be taken to hospital to be examined as a precaution for their welfare, once Giovanni and the rear seated passenger had been attended to by an ambulance. Sgt Loverock noted the driver was very concerned about

³³ † 6.7.16, p158-159

Giovani, while the middle passenger seemed to be dazed and slightly disassociated from what was going on.

When Sgt Loverock returned to the panel van he noted the injured rear passenger was in and out of consciousness and struggling with what was happening. It was Sgt Loverock's impression he did not understand he had been involved in a crash. Griffiths continued to check on the welfare of the rear passenger and the two boys which had been placed in the police vehicles.

Sometime after the arrival of Sgt Loverock, but before the ambulance had arrived, the brother of the owner of the panel van turned up at the scene and attempted to collect property. Griffiths advised that person he was to leave the scene and not interfere until he was contacted by police.

The ambulance arrived with three ambulance officers. Giovani was immobilised and placed on a stretcher and carried into the ambulance, while the rear passenger was able to walk to the ambulance with assistance. Shaw escorted him to the ambulance and travelled with the two boys for the ambulance journey. While this was occurring the Carnarvon Volunteer Fire Brigade attended the scene to assist with the panel van.

Sgt Loverock located a Samsung tablet, an iPhone and an iPad and collected them for the owner of the panel van. He

also located the middle passenger's shoe and caps which he placed in his vehicle. Sgt Loverock took the middle passenger in his vehicle to hospital, preceded by Griffiths in FC102 with the driver. This meant there were no police officers left with the panel van because there were no other police officers available and McCann had to remain at the station for radio communications. It was apparent to the police at the scene it was important the boys be taken to hospital for a check-up. That took priority over the panel van which had the volunteer fire officers in attendance.

Once all four boys were at the hospital, Sgt Loverock left his vehicle at the hospital for the use of the police officers and returned to the police station on foot to coordinate further enquiries. He there obtained another police vehicle with a camera and note book and after recall of other police officers to the station, re-attended the crash scene with McCann. The OIC of Carnarvon Police Station, Senior Sergeant McComish, had already been recalled and had attended at the crash scene in civilian clothing.

The owner of the panel van was at the crash scene and looking for property. Sgt Loverock spoke to Mr Grandcourt and told him he was not to remain at the scene unattended because it was a protected forensic area. From that time onward the crash scene was guarded by police officers until it could be examined by officers from Major Crash Unit (MCU) and the police Internal Affairs (IAU).

There was nothing about the scene or the police vehicle involved which caused any of the senior police to be concerned as to the involvement of FC102 with the crash.

CARNARVON HOSPITAL

Giovani was admitted to Carnarvon Hospital at approximately 2:00am on 5 October 2013 with cardio pulmonary resuscitation (CPR) in progress. He was intubated and stabilised but his Glasgow Coma Score (GCS) remained at 3/15. His prognosis was poor. The intention was for Giovani to be flown to Perth via the Royal Flying Doctor Service (RFDS) later in the morning, however, his condition deteriorated and his GCS was noted at 0/15.³⁴ A decision was made to remove him from the ventilator once all his appropriate family members had been able to gather in Carnarvon to say goodbye.

Life was certified extinct following family attending in the early hours of 6 October 2013.³⁵

POST MORTEM EXAMINATION

The Forensic Pathologist, Dr G Cadden, undertook the post mortem examination of Giovani on 9 October 2013.

³⁴ The apparent discrepancy in the date of Giovani's death is due to the fact he was officially brain dead on 5 October 2013 but maintained on life support for his family until 6 October 2013 when the certificate of life extinct was issued.

³⁵ Ex 1, tab 4 & Ex 2, tab 6

Dr Cadden confirmed the hospital diagnosis Giovanni had suffered a severe head injury, and neuropathology confirmed he had suffered a traumatic brain injury.

Toxicology on Giovanni's ante mortem blood samples indicated an alcohol level of 0.021% at the time of his admission to Carnarvon Hospital and tested positive for cannabinoids.

Dr Cadden formed the opinion Giovanni had died as the result of a head injury.

CRASH INVESTIGATION

The conclusion from the forensic examination of the scene of the crash by MCU was that the panel van was being driven east on Harbour Road, Greys Plain, a straight and level carriageway with a state default speed of 110km/h.³⁶ The panel van was under control when being driven east, but 47 metres before the intersection with Collins Street there was aggressive steering input, left, which caused the panel van to veer left in an uncontrolled manner and enter a counter clockwise yaw.

It was not possible to accurately determine the speed of the panel van due to the road surface and yaw but was

³⁶ Ex 1, tab 31

estimated to be somewhere between 86-114km/h. Prior to the swerve there was no loss of control, and the steering input was deliberate. This suggested either the driver swerved to avoid something or intended to turn left but was travelling too fast for that to occur.

MCU concluded the panel van left the unsealed road surface at the intersection and rolled over into the bush on the north east side of the intersection. As the panel van rolled so Giovanni was ejected from the panel van and suffered serious injury. The panel van completed its roll and landed back on its wheels, facing west.

The Main Roads report³⁷ indicated the intersection was an unsealed surface and due to the predominant turn at Collins Street from Harbour Road being to the left, there was a build-up of loose gravel on the intersection surface. As a result of the construction of the intersection and the surface it was only suitable for low speed turns.

CONCLUSION AS TO THE DEATH OF THE DECEASED

I am satisfied Giovanni was a 15 year old boy who had recently returned to Carnarvon from Karratha where he was staying with his aunty.

On the evening of 4 October 2013, Giovanni and a group of friends were drinking alcohol in the form of UDL cans and

³⁷ Ex 1, tab 32

Jack Daniels and cola cans before they walked into Carnarvon town site and passed the carpark at the Tropicana Hotel.

In the carpark the boys as a group noticed the panel van with its windows down and keys in the ignition. Initially the boys walked past the van, but then returned and jumped into the van, either via the open windows or the back door. Giovanni sat in the front passenger seat while the oldest boy got into the driver's seat.

The intention of the boys appears to have been purely joy riding and there is no evidence they were particularly concerned with the items used by the owner of the panel van for his business.

At approximately midnight the owner of the panel van discovered it was missing and reported the fact of the theft to the two police officers in FC102, which was parked outside the Tropicana carpark at the time. Having established the correct registration number for the panel van, the police officers with Griffiths driving, continued a general patrol of the area, attending places they thought it likely a panel van may be dumped, in an effort to locate the vehicle.

The police officers travelled mainly in a south west direction from the Tropicana ending up travelling north east on

Cornish Street towards the village. Apparently the bush in the vicinity of the village is a frequent dumping ground for stolen property.

The boys in the panel van had by this stage travelled north and east from the Tropicana and at approximately 1am were travelling south on Boundary Road north as the police travelled north on Boundary Road south.

The police guessed the vehicle travelling towards Boundary Road north, intersection with Robinson Street, may be the stolen vehicle and the boys in the panel van continued south on Boundary Road north, turned right into Robinson Street and then left into Boundary Road south as the police were approaching the same intersection with Boundary Road south and Robinson Street. As the police officers in FC102 passed the panel van they confirmed between themselves it was the stolen van and Shaw, in the passenger seat of FC102, looked across at the driver and saw what he believed to be a Caucasian male or possibly fair skinned Aboriginal male. He did not detect that the driver was a child.

The police officers continued to the intersection with Robinson Road and did a U-turn and Griffiths accelerated down Boundary Road to catch up with the panel van. The boys in the panel van had recognised it was a police vehicle as they passed it on Boundary Road south, and following a

discussion between themselves decided the appropriate thing to do was to travel normally. They did this until it was apparent the police had turned around to follow them. They maintained a normal speed and manner of driving until the lights and sirens in FC102 were activated. The driver of the panel van understood this meant he was supposed to stop for the police.

I am satisfied there was some quick discussion between the boys as to what they should do and an implication made they should attempt to lose the police. The driver accelerated away from the police vehicle.

At this point the police officers in FC102, having advised McCann they were attempting to stop a stolen vehicle, realised the driver of the panel van had no intention of stopping.

I am satisfied that on Griffiths understanding the panel van driver had no intention of stopping, and was in fact accelerating heavily away from the police, made a decision to abort any further attempt to intercept the panel van which was now some way ahead of the police vehicle and one of the police officers turned off the lights and sirens.

Due to the topography of the area there were not many places the police could go unless they turned around and they decided to continue with their search for the panel van

which they believed would be dumped very shortly. Rather than turning around or off Boundary Road (there is only one option) the police continued in the direction the panel van had taken which was down the “*powerline track*”. By the time FC102 reached the commencement of the powerline track the panel van was some distance ahead of them and had thrown up a considerable amount of dirt. It was clear it had not been dumped at that point.

I am satisfied the panel van was some distance ahead of the police vehicle and obscured by the dust cloud it had created. I am also satisfied both vehicles would have had to slow down considerably through the powerline track and there was a need to avoid both the poles and the cables securing the powerlines.

The evidence indicates the panel van reached the end of the powerline track and turned left onto Harbour Road some distance ahead of the police vehicle. The police could not see the lights of the panel van and at the intersection with Harbour Road both Griffiths and Shaw had to look in both directions to establish there was nothing to their right towards Cornish Street, but there were headlights facing in their direction on Harbour Road. For the headlights to be facing in their direction the crash of the panel van at the intersection of Harbour Road and Collins Street had to have already occurred by the time the police reached the intersection of the powerline track and Harbour Road.

On deciding the headlights were not travelling towards their intersection, the police turned left and realised the headlights of the panel van were stationary. As the police officers in FC102 came up to the intersection of Collins Street and Harbour Road, so they saw the driver cross Harbour Road as though to leave the scene, but then turn back towards the panel van. On leaving FC102 the police officers understood Giovanni was seriously injured alongside the panel van and the driver was attempting to wake him up.

Shaw went to assist Giovanni, while Griffiths gathered together the driver and the middle seat passenger and the driver recalled there had been a boy in the back of the panel van. Griffiths and the driver let him out and Griffiths understood the rear passenger had also suffered a head wound but appeared to be conscious.

Griffiths radioed to McCann at the police station for urgent assistance and Sgt Loverock left the police station in another police vehicle to attend the scene while McCann remained at the police station to coordinate radio contact, organise an ambulance, and arrange the recall of police officers to duty.

Sgt Loverock became lost on the way to the scene and contacted FC102 to request they reactivate their lights to guide him to the scene of the crash. I believe it likely the

lights of either one or both police vehicles remained active to assist the arrival of the ambulance.

I am satisfied on the whole of the evidence the boys, in their very traumatised and distressed state, recalled the police lights from the accident scene and confused that as continuous with the original intercept back on Boundary Road south.

It is possible ordinary vehicle headlights from the highway intersection with Harbour Road also confused the driver while they were driving east on Harbour Road, but I am more inclined to believe it was the general lighting in the area of that intersection which the boys later remembered as lights.

There are a number of factors which satisfy me Griffiths, as the driver of FC102, decided to abort the vehicle intercept on Boundary Road, somewhere in the vicinity of Holden Street, and deactivated the lights and sirens. There was, in 2013, a strong incentive for police not to engage in police pursuits following a failure to stop a vehicle by the activation of lights and sirens at the instigation of the police union, following a series of deaths in 2012.

Griffiths was not an authorised driver for the purposes of a pursuit and nor was FC102 an authorised police vehicle for the purposes of a pursuit. The evidence of the boys at the

time of the crash was predominately that they had lost the police and that there was no additional police car coming towards them.

I am satisfied the panel van was far enough ahead of the police in FC102 for the boys, while on the powerline track, to have believed the police lights were still activated, but none of the evidence given by the boys at the time of the crash indicated they believed the police lights were still visible at the time of the crash.

The police officers were quite clear that when they reached the intersection of the powerline track and Harbour Road the crash must have already occurred. The crash occurred in an area renowned for the dumping of vehicles and the boys at the time indicated it had been their intention to leave the vehicle in the vicinity the police suspected it would be left.

Indeed, the appearance of those connected with the panel van at the scene of the crash would indicate it was a known area for the dumping of stolen vehicles, and the activity of the police lights while attempting to assist the boys and the topography would encourage those searching for the panel van to attend the area, which they did.

I am satisfied the driver believed the police had been lost but would have seen the police vehicle headlights

approaching the crash site as he ran away and then returned to Giovani. I am satisfied all the boys were very concerned about Giovani and that the events surrounding the crash itself and the aftermath were extremely disjointed and surreal for them.

I am satisfied Shaw concentrated on attempting to save Giovani's life, while Griffiths was also concerned as to the welfare of the other boys. The best she could do to ensure their welfare was to make them sit down and wait, without obstructing Shaw's efforts with Giovani. She obtained help as quickly as she could and, that when Sgt Loverock attended the scene and the ambulance arrived, it was appropriate all the boys were taken to the hospital and the scene left unattended by police officers until more could come on duty.

Once the boys had all been safely taken to hospital and left with the police officers, Sgt Loverock returned to the scene as promptly as he could, to ensure a protected forensic area. Senior Sergeant McComish was already there, but in civilian clothing, and there was a need to discourage those associated with the panel van from removing further property until the scene could be examined.

Giovani died in Carnarvon hospital in the presence of those of his family who could attend.

MANNER AND CAUSE OF DEATH

I am satisfied Giovanni died as a result of injuries he received in the crash at the intersection of Collins Street and Harbour Road in the early hours of 5 October 2013. Giovanni had been a front seat passenger and none of the boys in the panel van, which was stolen, appear to have been wearing seatbelts. When the driver steered strongly to the left at the intersection, he lost control on the gravel surface and the panel van rolled, ejecting Giovanni from the front seat onto the ground, before it bounced upright again off road.

I find Giovanni died as the result of a serious traumatic brain injury incurred in the crash and that the driver of the panel van was dealt with in the criminal jurisdiction for the offence of dangerous driving occasioning the death of Giovanni.

Accordingly, I find death occurred by way of Unlawful Homicide.

CONCLUSION

There is no doubt in my mind this was a tragedy of immense proportions. All four boys in the panel van at the time of these events, despite drinking on a Friday evening, inappropriate for their age, were essentially reasonable boys and were not known for being particular trouble makers.

Although the driver did have some history in the juvenile justice system he was clearly somewhat amazed at their combined actions when he stated “*I can’t believe we’ve just stolen a car*”, and his driving was not overall incompetent, despite the fact he had no licence and had never learnt to drive.

The police officers in FC102 did not pick the driver of the panel van as being inexperienced or incompetent. They were undertaking normal law enforcement duties and their actions did not cause or contribute to Giovanni’s death.

It was clear during the course of the inquest none of the boys had a problem with the two police officers involved in FC102 and there seems to have been a general feeling of confidence in Shaw, in particular, who knew all the boys and had played football with Giovanni.

While I accept the boys believed the police had engaged them in a pursuit, I am satisfied that was not the case. Lights carry a long way in the environment on Greys Plain and they would not have believed they had “*lost*” the police had FC102’s lights and sirens been still activated in reality, despite the dust on the powerline track. I have no doubt the presence of the police emergency lights later in the events, in the very traumatic circumstances the boys were in, blurred into a continuous event.

It is clear Giovanni was generally a popular, friendly boy who enjoyed school and, like many teenagers of his age, engaged in risk taking behaviour late on a Friday night/Saturday morning which resulted in the dreadful event of his death later on 5 October 2013.

E F Vicker
Deputy State Coroner
18 October 2016