
JURISDICTION : CORONER'S COURT OF WESTERN AUSTRALIA
ACT : CORONERS ACT 1996
CORONER : MICHAEL ANDREW GLIDDON JENKIN
DELIVERED : 25 NOVEMBER 2020
FILE NO/S : CORC 8 of 2019
DECEASED : GRAHAM, JAMIE ALAN

Catchwords:

Nil

Legislation:

Nil

Counsel Appearing:

Ms R Collins assisted the Coroner.

Ms N Eagling and Mr E Cade (State Solicitor's Office) appeared on behalf of the Western Australia Police Force.

Ms A Barter [Aboriginal Legal Service of Western Australia (Inc.)] appeared on behalf of the deceased's family.

Note: In this finding, the term "*Aboriginal*" is used in preference to "*Aboriginal and Torres Strait Islander*", in recognition of the fact that Aboriginal people are the original inhabitants of Western Australia. No disrespect is intended to members of the Torres Strait Islander community.

*Coroners Act 1996
(Section 26(1))*

RECORD OF INVESTIGATION INTO DEATH

*I, Michael Andrew Gliddon Jenkin, Coroner, having investigated the death of **Jamie Alan GRAHAM** with an inquest held on 27 - 28 October 2020 at Carnarvon Coroner’s Court, corner of Babbage Island Road and Robinson Street, Carnarvon, find that the identity of the deceased person was **Jamie Alan GRAHAM** and that death occurred on or about 11 April 2019 at Twitchin Road, approximately one kilometre from the North West Coastal Highway, Yannarie, from acute renal failure due to dehydration in relation to environmental exposure in the following circumstances:*

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INTRODUCTION

1. Jamie Alan Graham (Jamie)¹ died on Twitchin Road near Yannarie, from acute renal failure due to dehydration in relation to environmental exposure. He was 50-years of age.
2. On 9 April 2019, Jamie and two companions set off from Carnarvon to drive to Karratha. Their car ran out of fuel and they called emergency services for help. Police from Onslow made an unsuccessful attempt to locate them on the evening of 9 April 2019, but the search was not subsequently resumed. Jamie's companions left him with the vehicle and went their separate ways and Jamie was found deceased on 12 April 2019, about 4 kilometres from the broken down car.
3. Pursuant to the *Coroners Act 1996* (WA) (the Act), Jamie's death was a "reportable death".² Where, as here, it appears that the death was caused, or contributed to by any action of a member of the Western Australia Police Force (the Police), an inquest is mandatory.³ I held an inquest into Jamie's death in Carnarvon on 27 - 28 October 2020. Members of Jamie's family attended the inquest and the following witnesses gave evidence:
 - i. First Class Constable Kieran Richards, (Officer Richards);
 - ii. Senior Constable Liam Thomson, (Officer Thomson);
 - iii. Senior Constable Malin Svedberg, (Officer Svedberg);
 - iv. First Class Constable Craig McDonald, (Officer McDonald);
 - v. Senior First Class Constable Matthew Dwyer, (Officer Dwyer);
 - vi. Mr Meechum Kelly, (Mr Kelly);
 - vii. Detective Sergeant Dean MacKay, (Officer MacKay);
 - viii. Inspector Stephen Scott, (Officer Scott); and
 - ix. Commander Alan Morton, (Officer Morton).
4. The documentary evidence at the inquest included reports prepared by the Police, witness statements and other materials. Together, the Brief comprised two volumes. The inquest focused on the circumstances surrounding Jamie's death, including the conduct of members of the Police.

¹ At the request of his family, Mr Graham is referred to as "Jamie" in this finding.

² *Coroners Act 1996* (WA), s 3

³ *Coroners Act 1996* (WA), s 22(1)(b)

JAMIE^{4,5}

5. Jamie was born on 10 February 1969 and grew up in Carnarvon. He was a playful, happy child and a talented sportsman. He enjoyed playing Australian Rules Football and was a fan of the West Coast Eagles. Jamie had a long-term partner, but they did not have any children.⁶
6. Jamie's medical conditions included: type-2 diabetes, moderate cognitive impairment (possibly as a result of foetal alcohol spectrum disorder), recurrent skin infections and alcohol dependence. Jamie is said to have started drinking alcohol at a young age and although he reportedly drank heavily, it appears he did not use illicit drugs.^{7,8}
7. Jamie is recorded as being in denial about his diagnosis of diabetes and refusing to accept that he had the condition. Although he was prescribed medication for his diabetes, he was often non-compliant. This is borne out by the results of post mortem tests which confirmed that in the period before his death, Jamie's blood sugar levels had not been properly controlled.^{9,10,11}
8. Jamie is reported to have presented at the Carnarvon Hospital on 23 March 2019 and 30 March 2019, complaining of abdominal pain. He was treated for abdominal pain but on 30 March 2019, he discharged himself without being seen.^{12,13}
9. Jamie was referred to an occupational therapist after being seen by a mental health social worker in December 2018, following a referral from a community drug and alcohol service. The occupational therapist reviewed Jamie on 9 January 2019, and concluded he had a moderate cognitive impairment that impacted on most areas of his intellectual function, including memory and the ability to plan and organise.¹⁴

⁴ Exhibit 1, Vol. 1, Tab 7, Report - Det. Sgt. C Correia, pp11-13

⁵ Exhibit 1, Vol.1, Tab 11, Statement - Ms B Graham, paras 5-20 & 27-41

⁶ Exhibit 1, Vol.1, Tab 1, P100

⁷ Exhibit 1, Vol.1, Tab 32, Records - Carnarvon Medical Service Aboriginal Corp.

⁸ Exhibit 1, Vol.1, Tab 11, Statement - Ms B Graham, paras 32

⁹ Exhibit 1, Vol.1, Tab 32, Records - Carnarvon Medical Service Aboriginal Corp. (19.02.19 & 22.02.19)

¹⁰ Exhibit 1, Vol.1, Tab 32, Records - Carnarvon Medical Service Aboriginal Corp. (20.03.19 & 27.03.19)

¹¹ Exhibit 1, Vol. 1, Tab 5 - Supplementary Post Mortem Report, pp1-2

¹² Exhibit 1, Vol. 1, Tab 29, Report - Det. Sgt. A Foster, Karratha Detectives (undated), p4

¹³ H61-275-68, Medical records, Carnarvon Hospital, Volume 4, (23.03.19 & 30.03.19)

¹⁴ Exhibit 1, Vol.1, Tab 32, Report - Occupational therapist, Carnarvon Health Campus (09.01.19)

THE EVENTS OF 9 - 12 APRIL 2019¹⁵

The road trip and the breakdown^{16,17,18,19,20}

10. On the morning of Tuesday, 9 April 2019, Jamie and his nephews, Greg Ryan and Cyril Mow²¹ (the Group), set off from Carnarvon to travel to Karratha, via Onslow. Mr Mow said he and Jamie wanted to go to Karratha, whereas Mr Ryan planned to go on to Broome. The Group was travelling in a 2004 Holden Commodore sedan (the Commodore) which had been loaned to Mr Ryan.
11. As they were leaving Carnarvon, the Group stopped at a service station and Jamie put \$20.00 worth of petrol in the Commodore because, as Mr Ryan put it, the vehicle was: “*really good on fuel*”. It is obviously unfortunate that the Group set off on such a long journey with such little fuel. The Group had with them three or four “*orange juice sized*” bottles (presumably two-litre plastic bottles), full of water. They also had some kangaroo meat, potatoes and carrots and two 4-litre casks of Fruity Lexia wine. They were all intoxicated and shared the driving. Mr Ryan had reportedly said he wanted to drive to Onslow along the “*old track*”, (i.e.: Twitchin Road), because he had been drinking and didn’t want to get caught by police.
12. Twitchin Road is unsealed and provides an alternative to the North West Coastal Highway (the Highway) as a route to Onslow. The intersection of Twitchin Road and the Highway (the Intersection) is about 300 kilometres north-west of Carnarvon and about two kilometres north of a 24-hour rest stop (the Rest Stop), situated near the old Barrahdale Roadhouse, which is abandoned and unmanned. The distance from the Intersection to Onslow is about 141 kilometres by way of Twitchin Road and about 194 kilometres using the Highway.²²

¹⁵ Exhibit 1, Vol. 1, Tab 7, Report - Det. Sgt. C Correia, pp3-10

¹⁶ Exhibit 1, Vol. 1, Tab 29, Report - Det. Sgt. AS Foster, Karratha Detectives (undated), pp2-4

¹⁷ Exhibit 1, Vol. 1, Tab 13A, Statement - Mr C Mow, paras 2-19

¹⁸ Exhibit 1, Vol. 1, Tab 13B, Statement - Mr C Mow, para 3

¹⁹ Exhibit 1, Vol. 1, Tab 14, Statement - Mr G Ryan, paras 2-9

²⁰ Exhibit 1, Vol. 1, Tab 12, Statement - Ms C Westcott, paras 2-7

²¹ I note that Mr Cyril Mow is also known as Mr Cyril Peck

²² Google Maps, 24-hour Rest stop, Yannarie

13. The Group turned onto Twitchin Road from the Highway and travelled north for about four or five kilometres. At about 3.00 pm, the Group ran out of fuel. The Commodore (which had a smashed front windscreen and smashed back windows) was subsequently found where it had broken down. Jamie's body was located about one kilometre from the Intersection, (see red marker on Figure 1, below), meaning he was about three kilometres from the car.^{23,24}

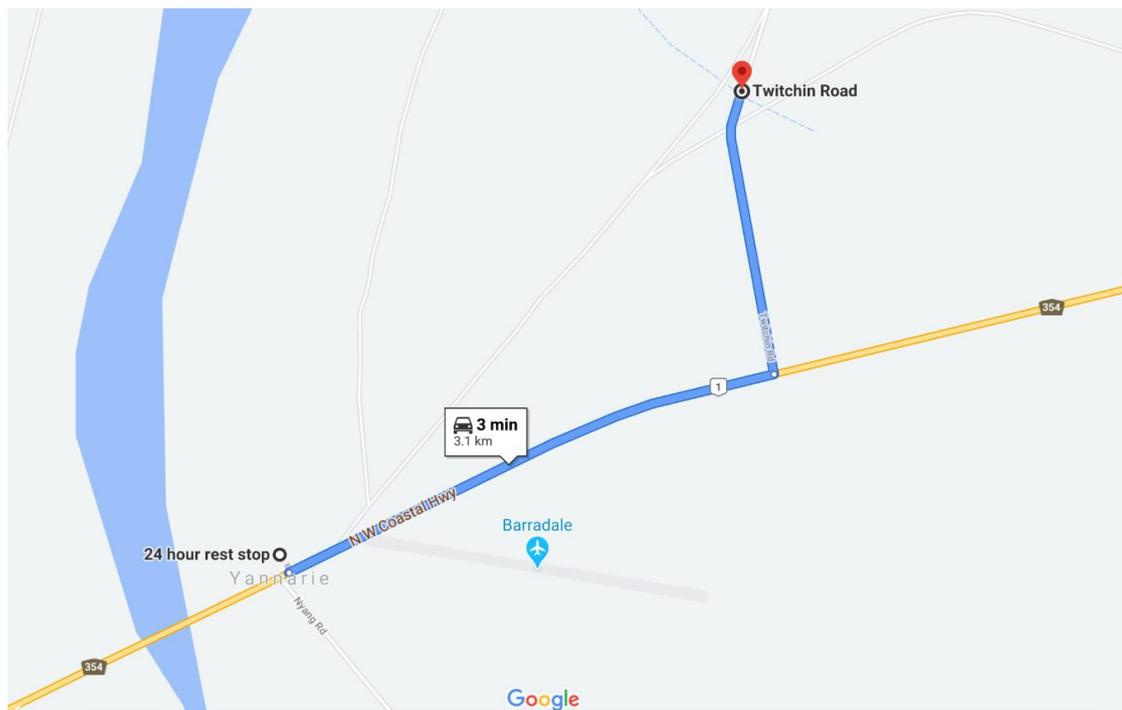


Figure 1: Location of Rest Stop, Intersection and where Jamie's body was found²⁵

*Calls to "000"*²⁶

14. After the Commodore had broken down, the Group decided to camp the night at their location. None of them had mobile phones, but Mr Mow had an electronic tablet (the Tablet), which was capable of making and receiving calls. The Group used the Tablet to call emergency services on four occasions (the Calls).²⁷

²³ Exhibit 1, Vol. 1, Tab 30, Report of vehicle inspection (16.04.19)

²⁴ Exhibit 1, Vol. 1, Tab 34, Jamie's approximate location: (22.848292, 114.971611)

²⁵ Image taken from: www.google.com/maps

²⁶ Exhibit 1, Vol. 1, Tab 7, Report - Det. Sgt. C Correia, p3

²⁷ Exhibit 1, Vol. 1, Tab 13A, Statement - Mr C Mow, paras 20-24

15. Emergency calls to the Police are recorded on the Computer Aided Despatch system (CAD). Each CAD job is assigned a code signifying the nature of the task and the assigned priority. In this case, the code for the CAD job relating to the Group was “348”. The “3” signified that the job was given the highest priority available without attending officers activating lights and sirens, and the “48” identified the job as a “*welfare check*”. CAD jobs are also assigned a unique identification number.²⁸

16. In summary, the content of the Calls is as follows:^{29,30,31}

a. *First call (CAD274672), 6.41 pm, 9 April 2019:*³²

Jamie says he is with two others heading to a funeral in Onslow. They have run out of fuel about 10 kilometres from the Barrahdale Roadhouse on the new dirt road, not the old one. Jamie says a four-wheel drive is not required to drive on the road and confirms he can’t use the Maps app on the Tablet to give a more precise location. Jamie says the Group has water and have just had a feed of kangaroo meat and vegetables. The operator asked for a more precise location and tells Jamie to stay with the car. The operator transfers the call to road side assistance.

b. *Second call (CAD274756), 6.48 pm, 9 April 2019:*³³

Mr Mow says they are in the middle of nowhere and then Jamie comes on the line. He says they are just off the Barrahdale Roadhouse heading to Onslow and their car has run out of fuel and has a flat battery. Members of the Group sound intoxicated. Jamie says he and his two nephews are travelling to Onslow and are four or five kilometres from the Barrahdale Roadhouse off the main highway from Carnarvon on a dirt road. Jamie also says Onslow is four kilometres away and it is a long walk to the Barrahdale Roadhouse. Jamie confirms they have no phone numbers for family or friends and that he is unable to use the Maps app on the Tablet to give a more precise location. The operator tells Jamie that local police will be tasked to locate the Group and to stay with the vehicle.

²⁸ Exhibit 1, Vol. 2, Tab 18, Statement - Comd. A Morton, paras 26-29

²⁹ Exhibit 1, Vol. 2, Tab 1, Memo - Sen. Const. M Dwyer (17.04.19), p2

³⁰ Exhibit 1, Vol. 2, Tab 16, Transcripts of “000” calls

³¹ Exhibit 1, Vol. 2, Tab 15, IAU Report (06.12.19), pp36-38

³² Exhibit 1, Vol. 1, Tab 27, Incident report (CAD 274672)

³³ Exhibit 1, Vol. 1, Tab 26, Incident report (CAD 274756)

- c. *Third call (not recorded on CAD), 7.16 pm, 9 April 2019:*
Jamie says the Group need a jumper lead start and fuel. The operator advises Jamie to call the RAC saying this is not a police matter and that road side assistance will help. Jamie repeats they are in the middle of nowhere and need fuel and a jumper lead start and the operator tells Jamie she will transfer the call to another line for assistance.
- d. *Fourth call (CAD274857), 9.18 pm,³⁴ 9 April 2019:³⁵*
Jamie says they need help for an emergency and require fuel and a jumper lead start. He says they are between Carnarvon and Onslow in the middle of nowhere, on the new dirt road to Onslow, a long way from the airfield. The operator says phone reception is not very good. Jamie says they have “*one old fella*” who needs to get to Onslow, they have his wheelchair in the boot and he is 55-years of age. They passed the Barrahdale Roadhouse and are about four kilometres from the main road and 260 kilometres from Onslow. Jamie then says they are two hours from Barrahdale and the ‘old fella’ needs his medication. An unknown male in background says ‘*I gotta have my medicine, I am an epileptic*’. Jamie confirms his name and date of birth and the car’s registration number before the call abruptly ends.

17. The IAU report into oversight by the district office at Karratha noted that the following information with respect to risks, was recorded on CAD:

Three calls were made to ‘000’, with the last being at 7.18 pm on 9 April 2019. A call to the Group after that had failed to connect. Jamie and two unknown males had water and food but were intoxicated. The best description of their location was: ‘*New dirt road to Onslow, having turned off the Highway, north of the Barrahdale Roadhouse heading to Onslow*’. One of the males was 55-years of age and one required unspecified medication for an unknown medical condition.³⁶ The Group had communications, via a mobile, had no means of transport and no phone numbers to contact family.³⁷

³⁴ Based on the relevant incident report about this CAD job, the time shown here cannot be correct

³⁵ Exhibit 1, Vol. 1, Tab 25, Incident report (CAD 274857)

³⁶ The IAU report notes ‘epilepsy’ was mentioned during one of the POC calls but not recorded on CAD

³⁷ Exhibit 1, Vol. 2, Tab 15, IAU Report (06.12.19), pp 38-39

Initial police response^{38,39,40,41,42,43}

18. At 7.33 pm on 9 April 2019, Sergeant Stephen Edwards (Officer Edwards) from the Karratha Police Station contacted the acting officer-in-charge (OIC) of the Onslow Police Station, Officer Dwyer. Officer Edwards told him that a welfare check was required for Jamie and two companions who had broken down four or five kilometres from Onslow. Officer Dwyer called the Tablet at 7.37 pm, but the call went straight to Message Bank. Given the nature of the CAD task, Officer Dwyer recalled himself and Officer Richards to duty. His decision to do so was clearly correct.
19. Based on the information he had been given, Officer Dwyer's assessment was that the Group mainly needed fuel. He was aware that the Group had an unspecified amount of food and water as well as access to shelter, in the form of the Commodore. Officer Dwyer was also aware that members of the Group had sounded intoxicated during the Calls and that one of them needed unspecified medication.
20. Officer Dwyer's plan was to find the Group and bring them back to Onslow and then recover the Commodore at a later date. When Officer Richards arrived at the station he did not check the CAD job himself and relied instead on what he was told by Officer Dwyer. After checking Google Maps, Officer Dwyer concluded that the Group was most probably stranded on Twitchin Road and at about 8.15 pm, he and Officer Richards set off to locate the Group.

The search is abandoned

21. After travelling south along Twitchin Road for about 30 kilometres, the officers encountered extensive floodwater and couldn't see the road. It was too dangerous to continue and Officer Dwyer did not want to get the police vehicle bogged and end up stranded. The officers headed back to Onslow and arrived at the police station at about 9.45 pm.^{44,45}

³⁸ Exhibit 1, Vol. 2, Tab 2, Report - Det. Sgt. C Correia, p3

³⁹ Exhibit 1, Vol. 2, Tab 1, Memo - Sen. Const. M Dwyer (17.04.19), pp1-3

⁴⁰ ts 27.0.20 (Dwyer), pp79-84, 92, 94-95, 109 & 106

⁴¹ Exhibit 1, Vol. 2, Tab 2, IAU Interview - Sen. Const. M Dwyer (18.04.19), pp6-8

⁴² Exhibit 1, Vol. 1, Tab 29, Report - Det. Sgt. AS Foster, Karratha Detectives (undated), p6

⁴³ ts 27.10.20 (Richards), pp6-8

⁴⁴ Exhibit 1, Vol. 2, Tab 1, Memo - Sen. Const. M Dwyer (17.04.19), p3 & ts 27.10.20 (Dwyer), p110

22. Officer Dwyer says he contemplated travelling to the southern end of Twitchin Road via the Highway in order to try to reach the Group, but that this would have entailed a round trip of about 400 kilometres and taken at least four hours. After considering a range of factors including fatigue, the availability of other officers and the fact that the situation was not, at that time, life-threatening, Officer Dwyer decided not to continue searching for the Group that night.^{46,47}
23. Although mention had been made of one member of the Group needing medication, that request was not accompanied by any particular urgency. In any event, the nature of the medication was unknown, the Group did not answer a call to the Tablet and none of the pharmacies in Onslow were open. Further, Onslow District Hospital was open at that hour, but it was staffed by nurses who would not have been able to dispense medication.⁴⁸
24. Officer Dwyer knew that he and Officer Svedberg were due to resume duty at 8.00 am on 10 April 2019, but they would both be busy providing support to the Magistrates Court (the Court), which was convening in Onslow that day. Officer McDonald was unavailable because he was a witness in a trial before the Court and Officer Thomson (seconded from Pannawonica) and Officer Richards were not due to resume duty until 11.00 am on 10 April 2019.⁴⁹
25. Officers Dwyer and Richards had already completed a full shift before being recalled to duty on the night of 9 April 2019. The Group had some water and food and they had shelter, in the form of the Commodore. As noted, mention had been made of the fact that one of the Group needed medication, but the nature of that medication was unknown and the request had not been made with any apparent sense of urgency.^{50,51}

⁴⁵ Exhibit 1, Vol. 2, Tab 2, IAU Interview - Sen. Const. M Dwyer (18.04.19), pp27-28

⁴⁶ Exhibit 1, Vol. 2, Tab 1, Memo - Sen. Const. M Dwyer (17.04.19), p3 & ts 27.10.20 (Dwyer), p111

⁴⁷ Exhibit 1, Vol. 2, Tab 2, IAU Interview - Sen. Const. M Dwyer (18.04.19), pp9-10

⁴⁸ Exhibit 1, Vol. 2, Tab 1, Memo - Sen. Const. M Dwyer (17.04.19), p3

⁴⁹ Exhibit 1, Vol. 2, Tab 2, IAU Interview - Sen. Const. M Dwyer (18.04.19), p9

⁵⁰ ts 27.10.20 (Dwyer), p81

⁵¹ ts 27.10.20 (Richards), pp8-9

26. I agree with the assessment of Officer Morton, (one of two Commanders for regional Western Australia) and Officer Scott, [OIC of the Police Emergency Operations Unit (EOU)], namely that in the circumstances, Officer Dwyer's decision not to persist with efforts to locate the Group on the night of 9 April 2019 was reasonable.^{52,53}
27. However, as both Officer Morton and Officer Scott observed in their respective police statements, efforts to assist the Group should have been an absolute priority at first light on 10 April 2019. Had this occurred, the outcome in this case would have been different.^{54,55}
28. On 10 April 2019, Officer Dwyer directed Officers Thomson and Richards, who started their shifts at 11.00 am that day, to conduct further enquires in relation to the Group.⁵⁶ However, in addition to conducting those enquiries, the officers were tasked with apprehending several people who were due to appear in Court and had not answered their bail and the transport of a prisoner halfway to Karratha once the Court had finished. Further, at about 2.15 pm, Officer Thomson was tasked to witness a video interview conducted by Officer Svedberg.^{57,58,59}
29. As I will discuss in more detail later in this Finding, Officer Dwyer did not explicitly tell either Officer Thomson or Officer Richards to head out to Twitchin Road and find the Group. Instead, he says he assumed that this task was necessarily implied by his direction to the officers to "*conduct further enquiries*".^{60,61} In my view, for reasons which I will explain later in this finding, this assumption is difficult to justify.
30. I will return to the ongoing police response momentarily, but first I will deal with the events that transpired after the Commodore had run out of fuel and broken down.

⁵² ts 28.10.20 (Morton), p152

⁵³ Exhibit 1, Vol. 2, Tab 17, Statement - Insp. S Scott, paras 12-13 and ts 28.10.20 (Scott), pp165-166 & 167-168

⁵⁴ Exhibit 1, Vol. 2, Tab 18, Statement - Comd. A Morton, paras 51-52 and ts 28.10.20 (Morton), p153

⁵⁵ Exhibit 1, Vol. 2, Tab 17, Statement - Insp. S Scott, para 14 and ts 28.10.20 (Scott), pp166-168

⁵⁶ Exhibit 1, Vol. 2, Tab 1, Memo - Sen. Const. M Dwyer (17.04.19), p4

⁵⁷ Exhibit 1, Vol. 2, Tab 2, IAU Interview - Sen. Const. M Dwyer (18.04.19), pp11-12

⁵⁸ ts 27.10.20 (Dwyer), pp87, 91-92 & 112-114

⁵⁹ Exhibit 1, Vol. 2, Tab 5, Memo - FC Const. M Svedberg (17.04.19), p2

⁶⁰ Exhibit 1, Vol. 2, Tab 2, IAU Interview - Sen. Const. M Dwyer (18.04.19), pp39-40

⁶¹ ts 27.10.20 (Dwyer), pp85-87, 103-104 & 112-113

Events after the breakdown

31. The accounts Mr Ryan and Mr Mow gave in their police statements as to what happened after the Commodore ran out of fuel, are somewhat muddled. Mr Mow made two police statements with differing accounts, but in broad terms, Mr Ryan’s version of events is corroborated, at least in part, by the account given by Mr Mow in his first statement to police.

Mr Mow’s first account

32. In summary, Mr Mow gave the following account of events in his first statement to police dated 13 April 2019:

At some stage on Wednesday, 10 April 2019, Mr Mow decided to walk to the Highway. He told his companions that if he encountered anyone he would ask them to send help. Mr Mow says he set off alone because Mr Ryan was feeling hungover and Jamie was “*old and not very good at walking long distances*”. Mr Mow walked to the Rest Stop and filled up two 1.25 litre bottles with water, which he brought back before returning to the Highway.

Mr Mow says a passing motorist gave him a lift to a roadhouse outside of Onslow. The driver told Mr Mow he worked “*on the mines*” and that if one of his friends was driving down Twitchin Road, he would ask them to help Jamie and Mr Ryan. Mr Mow says he called his uncle, Mr Gregory Peck who lived in Carnarvon, and told him what had happened before continuing on to Onslow, after being picked up by another mine worker.⁶²

33. For his part, Mr Peck says he received a call from Mr Mow at about 8.00 am on Thursday, 11 April 2019. Mr Peck says he was aware that Mr Mow was travelling to Onslow with Jamie and Mr Ryan and that Mr Mow told him “*they*” had experienced car troubles. As to when the call to Mr Peck was made, I note that Mr Mow acknowledged that he was intoxicated and confused about dates and times and in those circumstances, I prefer Mr Peck’s evidence on this issue.^{63,64}

⁶² Exhibit 1, Vol. 1, Tab 13A, Statement - Mr C Mow, paras 25-31

⁶³ Exhibit 1, Vol. 1, Tab 18, Statement - Mr G Peck, paras 4-6

⁶⁴ See: Exhibit 1, Vol. 1, Tab 13A, Statement - Mr C Mow, para 40

34. Mr Peck says Mr Mow called him again at about 8.00 am on Saturday, 13 April 2019 and said he had camped at the beach the previous night (Friday, 12 April 2019), but didn't know where Jamie and Mr Ryan had stayed. Mr Mow also said he had hitch-hiked to Karratha and that Jamie was "*not too far behind*", although the basis for Mr Mow making this assertion is unclear.⁶⁵
35. Mr Mow told Mr Peck he didn't know if anyone had gone to help Jamie and Mr Ryan, but that Jamie was "*in good health*" when he (i.e.: Mr Mow) had left him. Mr Mow said he didn't know if Jamie had any health issues and did not go back to see if Jamie was "*OK*" because he thought that the first mine worker he encountered would do so.⁶⁶

Mr Mow's second account

36. In his second statement to police dated 16 August 2019, Mr Mow said:

On Wednesday, 10 April 2019, the Group decided they needed to get help and so Mr Mow and Jamie walked to the Rest Stop, where they had a swim under a nearby bridge and got some water. Mr Mow and Jamie walked back to the Commodore, but when they arrived, Mr Ryan wasn't there.

On 11 April 2019, Mr Mow decided to walk to Onslow to get help. Jamie asked Mr Mow to take his backpack and leave it at the turn-off so it would be there when he (Jamie) arrived. Mr Mow says that when he got to the turn-off, he saw Mr Ryan and demanded to know where he had been the night before, but that Mr Ryan made no reply.

Mr Mow left Jamie's bag with Mr Ryan and told him to wait for Jamie who "*would be along soon*". Mr Mow says he walked to the Rest Stop and returned with four 1.25 litre bottles of water which he gave to Mr Ryan, telling him to save some for Jamie. Mr Mow then walked back to the Highway "*to get help*".⁶⁷

⁶⁵ Exhibit 1, Vol. 1, Tab 18, Statement - Mr G Peck, paras 7-13

⁶⁶ Exhibit 1, Vol. 1, Tab 13A, Statement - Mr C Mow, paras 49-51

⁶⁷ Exhibit 1, Vol. 1, Tab 13B, Statement - Mr C Mow, paras 4-21

37. At about 10.30 am on Friday, 12 April 2019, a motorist heading south on the Highway, encountered Mr Mow about 30 kilometres from the turn-off to Onslow, meaning he was about 100 kilometres south-east of Onslow. Mr Mow told the motorist he had been with Jamie and Mr Ryan when their car had broken down near the Rest Stop, although he did not say when. He also told the motorist he had gone to Onslow on 11 April 2019 to find a bank but had been unsuccessful. The motorist thought Mr Mow looked “*buggered*” and offered to take him to Onslow, but Mr Mow refused, saying he wanted to continue on to Karratha.⁶⁸

Mr Ryan’s account^{69,70}

38. In his statement to police on 16 August 2019, Mr Ryan says that after the Commodore ran out of fuel, he was feeling unwell from drinking alcohol and that Jamie and Mr Mow fetched him some water “*in a big bottle*”. Mr Ryan says he slept under a tree for the night, while the other two slept in the Commodore.

39. The next morning (i.e.: Wednesday, 10 April 2019), Mr Ryan says Mr Mow fetched some more water before leaving, apparently to hitchhike to Karratha or Nanutarra. Mr Ryan says Mr Mow left a bag by a sign on Twitchin Road, not far from the Highway. After Mr Mow left, Mr Ryan says Jamie came over to where Mr Ryan was lying under a tree and told him that he was “*crook from too much alcohol*”.

40. Mr Ryan says he told Jamie that he was going to walk to the Rest Stop and asked him to come. Jamie refused and lay back down again and he (i.e.: Mr Ryan) left Jamie with the Commodore and walked alone to the Rest Stop. Mr Ryan says when he last saw Jamie, he was lying on his back wearing a white hat with a black “*thing*” around it and that he had placed a white shirt over his face.

41. Mr Ryan says that he arrived at the Rest Stop and that eventually, a person who he didn’t know turned up. The evidence establishes that this person was Ross Kelly, a nephew of Rodney Hicks.

⁶⁸ Exhibit 1, Vol. 1, Tab 15, Statement - Ms D Carlo, paras 2-16

⁶⁹ Exhibit 1, Vol. 1, Tab 14, Statement - Mr G Ryan, paras 2-27, 31 & 34

⁷⁰ Exhibit 1, Vol. 1, Tab 8, Memo - Const. K Richards (13.04.19), p2

42. Mr Ross Kelly said he was heading to Onslow and Mr Ryan asked if he could come with him. The two men were eventually picked up by Mr Hicks and his family and all of them travelled to Onslow together. Mr Ryan says he told Mr Ross Kelly about Jamie and his reply was: “*Jamie loved to go walkabout*”.⁷¹ Sadly, no attempt was made by any of the occupants of the car to check on Jamie, who at that time was probably only six kilometres from the Rest Stop.
43. Mr Ryan says that when he was subsequently told about Jamie’s death, he became upset. He said he should have “*forced*” Jamie to come with him to the Rest Stop, but that Jamie had told him he “*wanted to stay*” with the Commodore.

What Mr Mow told Mr Billy Graham⁷²

44. For the sake of completeness, I note that in his statement to police dated 15 August 2019, Mr Billy Graham (Jamie’s younger brother) says he had a conversation with Mr Mow in Bulgarra, a suburb of Karratha, on 12 April 2019. Mr Billy Graham says Mr Mow told him that Jamie was at the Rest Stop “*hitch-hiking*”.
45. Mr Mow told Mr Billy Graham that he, Jamie and Mr Ryan had started walking down the Highway after the Commodore broke down but that Jamie started getting chest pains. The Group walked back to the Commodore and Jamie dropped to the ground and was unable to stand up. Mr Mow and Mr Ryan placed a blanket by a tree and put a water bottle under Jamie’s head for a pillow. Mr Mow said he left Mr Ryan with Jamie and hitch-hiked to Onslow and then on to Karratha.

Conclusion as to what occurred after the breakdown

46. Given Jamie’s medical conditions and the evidence of Mr Ryan, Mr Mow’s second account of events and what he told Mr Billy Graham seems implausible. In my view, it is unlikely, that Jamie would have been able to walk to the Rest Stop and back as Mr Mow asserts. However, given the conflicts in the evidence, I have been unable to determine exactly what happened after the Commodore ran out of petrol.

⁷¹ Exhibit 1, Vol. 1, Tab 10, IAU Report (02.09.19), p43

⁷² Exhibit 1, Vol. 1, Tab 17, Statement - Mr B Graham, paras 2-19

47. In my view, the evidence of both Mr Mow and Mr Ryan must be approached with extreme caution. Both men freely acknowledge they were intoxicated at all relevant times and neither can accurately recall dates and times.^{73,74} However, regardless of what happened after the Commodore broke down, it is clear that Jamie was alive on Wednesday, 10 April 2019 and was probably alive on Thursday, 11 April 2019.

Subsequent police actions

48. On his return to the Onslow Police Station on the night of 9 April 2019, Officer Dwyer updated the relevant CAD task in the following terms: “*Onslow Police will conduct follow-up to ascertain what if any relatives or friends the caller...[Jamie]...has in Onslow*”.⁷⁵ On 10 April 2019, Officer Dwyer allocated the “*follow-up*” task to Officers Thomson and Richards, but not before he had directed them to apprehend a person due to appear in Court that day who had not answered their bail.⁷⁶

49. However, there is more. Although not recorded in his CAD entry, or indeed anywhere else, Officer Dwyer said it was his expectation that the follow-up task he allocated to Officers Thomson and Richards included locating the Group. Officer Dwyer conceded although he never explicitly told either of the officers to “*go out and retrieve the group*”, it was his assumption that they:

[H]ad the necessary experience to know when they are given a job what needs to be done”.^{77,78}

50. Officers Thomson and Richards did make further enquiries as they had been directed to do by Officer Dwyer. However, quite reasonably in the circumstances, neither of them understood Officer Dwyer’s “*follow-up*” direction to include a requirement to travel to Twitchin Road and locate the Group.^{79,80}

⁷³ See: Exhibit 1, Vol. 1, Tab 13A, Statement - Mr C Mow, para 40

⁷⁴ See: Exhibit 1, Vol. 1, Tab 14, Statement - Mr G Ryan, paras 31 & 34

⁷⁵ Exhibit 1, Vol. 1, Tab 25, Incident Report (274857), p2

⁷⁶ ts 27.10.20 (Richards), pp10-11

⁷⁷ Exhibit 1, Vol. 2, Tab 2, IAU Interview - Sen. Const. M Dwyer (18.04.19), pp39-40

⁷⁸ ts 27.10.20 (Dwyer), pp85-87, 112 & 114

⁷⁹ ts 27.10.20 (Richards), pp9-12

⁸⁰ ts 27.10.20 (Thompson), p50

51. Officer Richards says that Officer Dwyer told him to “*follow up with the job*” and try to find out whether the Group had made it to Onslow and possibly to talk to some people in Onslow: “*who might know who they are and where they are*”. In accordance with that direction, Officer Richards contacted a number of people including Mr Hicks, and also made attempts to contact Mr Meechum Kelly. Officer Thomson tried calling the Tablet, but there was no reply and he left a message.^{81,82}

52. Officer Richards updated the CAD job and recorded his follow-up enquiries in the following terms:

12.19 pm: Spoke to Rodney Hicks, brother of the deceased person whose funeral it is this weekend. He knows [Jamie] but doesn’t know who he would be with. Said Meakim Kelly⁸³ also knows Graham and is a Thalanyji ranger who could go look for Graham. Door knocked Kelly’s caravan, no person home.

12.22 pm: TPC (i.e.: telephone call) to Meechum Kelly’s listed number on IMS, no connection.⁸⁴

53. According to Officer Richards, the enquiries that he and Officer Thomson were making with respect to the Group on 10 April 2019, were carried out whilst they were attending to various tasks associated with the visit to Onslow by the Court that day. As Officer Richards put it, he and Officer Thomson were essentially “*multi-tasking*”.⁸⁵

54. As to why the follow-up enquiries were being made, Officer Richards said that attempts were made to contact Mr Kelly because:

He’s also a Thalanyji ranger and travels out to those locations. We believed he would have been able to go and locate him...[i.e.: Jamie]...possibly have a better idea of where he may have been.⁸⁶

⁸¹ ts 27.10.20 (Richards), pp10-11

⁸² ts 27.10.20 (Thompson), pp46-47

⁸³ This spelling of Mr Kelly’s first name is incorrect but is reproduced here as it appears in the CAD entry

⁸⁴ Exhibit 1, Vol. 1, Tab 25, Incident Report (274857), p2

⁸⁵ ts 27.10.20 (Richards), pp14 & 31

⁸⁶ ts 27.10.20 (Richards), p11

55. At the inquest, Officer Richards confirmed that he did not make enquiries with police in Carnarvon or the owner of the Commodore. He was also asked if he had thought about the possibility of driving out to Twitchin Road to locate the Group, even though he and Officer Thomson had not specifically been requested to do so. His response was:

Yes, but as we have said, it's not an excuse, but it wasn't really a possibility...at that point in time, due to the court proceedings*.⁸⁷

**[i.e.: the support that Onslow police were providing to the Court on 10 April 2019].*

56. Officer Thomson also says he considered travelling out to Twitchin Road to find the Group on Wednesday, 10 April 2019, but that he didn't raise the idea with anyone at the Onslow Police Station. He said he had no real excuse for not doing so, it was just that Onslow wasn't his station, and he "*didn't want to interfere*".⁸⁸

57. Officer Thomson said he had worked at the Onslow Police Station when Senior Sergeant Cindy Morgan (Officer Morgan) had been the OIC and he thought he could talk to her "*a lot better*" than he could talk to Officer Dwyer. For that reason, Officer Thomson thought it was possible that had Officer Morgan been the OIC, he might have raised the idea of heading out on Twitchin Road to find the Group.⁸⁹

58. At about 2.00 pm on 10 April 2019, Officer Richards says he updated Officer Dwyer about the enquiries that he and Officer Thomson had been making. Officer Richards says that Officer Dwyer's response to his briefing was words to the effect of "*no worries*", although I note that Officer Dwyer says he does not recall receiving this update. Although busy with other tasks, Officer Richards says he made further attempts to locate Mr Kelly, but was unsure whether he later briefed Officer Dwyer that these attempts had also been unsuccessful.^{90,91}

⁸⁷ ts 27.10.20 (Richards), p30

⁸⁸ ts 27.10.20 (Thompson), pp48 & 50-51

⁸⁹ ts 27.10.20 (Thompson), p48

⁹⁰ ts 27.10.20 (Richards), pp13-15 & 31

⁹¹ ts 27.10.20 (Dwyer), pp88 & 114

59. At the inquest, it was put to Officer Dwyer that when he saw Officers Thomson and Richards in the Onslow Police Station at around lunchtime on 10 April 2019, he could not have assumed that they had driven out to Twitchin Road to find the Group. His response was:

I honestly didn't realise or know exactly what actions they undertook that day in relation to that job.⁹²

60. Despite apparently not knowing whether the Group had in fact been found, Officer Dwyer tasked Officers Richards and Thomson with the job of apprehending several alleged offenders who had not answered their bail and were due in Court. At about 2.15 pm, Officer Dwyer directed Officer Thomson to witness a video-interview with a suspect, a task Officer Dwyer says he would have attended to himself had he realised that the Group had not been found. After Court had finished for the day, Officer Dwyer directed Officers Thomson and Richards to complete a prisoner transfer that required them to drive halfway to Karratha to meet up with officers driving halfway to Onslow.⁹³

61. Notwithstanding the fact that Officers Thomson and Richards had started their shifts at 11.00 am on 10 April 2019, Officer Dwyer maintained that it would have been possible for them to have completed all of the tasks he had allocated to them, and to have driven to Twitchin Road to search for the Group, as he assumed they would do.⁹⁴ With respect, I do not understand how Officer Dwyer can possibly have thought so.

62. The CAD entries made by Officer Richards make it clear that he and Officer Thomson were focussed on ascertaining who Jamie was travelling with, and whether there were any family members or friends that could assist in locating him.⁹⁵ Even assuming Officer Dwyer was too busy to check for updates on the CAD job himself, I find that he was briefed by Officer Richards about the nature of follow-up enquiries that Officers Thomson and Richards had undertaken.

⁹² ts 27.10.20 (Dwyer), pp & 113-114

⁹³ ts 27.10.20 (Dwyer), pp87 & 91-92

⁹⁴ ts 27.10.20 (Dwyer), pp85-88, 91 & 112-113

⁹⁵ Exhibit 1, Vol. 1, Tab 25, Incident Report (274857), p2

63. Because Officer Richards had not travelled out to Twitchin Road, when he briefed Officer Dwyer about what follow-up enquiries had been made, he would not have told Officer Dwyer that this had occurred. If Officer Dwyer really had assumed that Officers Thomson and Richards understood they were to drive out to Twitchin Road, then when Officer Dwyer was briefed by Officer Richards, he would have asked why this had not been occurred. There is no evidence that Officer Dwyer did so.
64. The other reason I do not accept that Officer Dwyer reasonably assumed that Officers Thomson and Richards understood they were to attempt to find the Group has to do with timings. As noted, Officers Thomson and Richards resumed duty at 11.00 am on 10 April 2019. In addition to conducting follow-up enquiries with respect to the Group, the officers were tasked with apprehending several people who had not attended Court.
65. Further, Officer Thomson was tasked with witnessing a video interview being conducted by Officer Svedberg at about 2.15 pm that day and both he and Officer Richards were also required to complete a prisoner transfer after the Court had concluded, a task that was thought to take about two hours. On any reasonable view, a round trip to the southern end of Twitchin Road would have taken at least four hours via the Highway, not including the time taken to find the Group.
66. Given all of that, I cannot understand how Officer Dwyer could have reasonably thought that Officers Thomson and Richards would have had time to attend to all of their other allocated tasks and head out to Twitchin Road to try to find the Group.
67. In his IAU interview on 18 April 2019, Officer Dwyer says that after Tuesday, 9 April 2019, he “*inadvertently forgot about the job*”.^{96,97} In truth, for reasons I will address later in this Finding, it is my view that the Group’s plight dropped out of everyone’s minds with the tragic consequences I will describe.

⁹⁶ Exhibit 1, Vol. 2, Tab 2, IAU Interview - Sen. Const. M Dwyer (18.04.19), pp34 & 37

⁹⁷ Ts 27.10.20 (Dwyer), pp89 & 115

The CAD job is closed

68. On 11 April 2019, Officer Dwyer was on leave caring for his child, and he gave the CAD task relating to the Group no further thought.⁹⁸ Officer Svedberg was on duty alone on 11 April 2019. Although with the benefit of hindsight, she feels she should have driven out to Twitchin Road to search for the Group, she says that this did not occur to her at the time.⁹⁹

69. At 7.45 am on 12 April 2019, Senior Constable Andrew Slee (Officer Slee), from the Karratha Police Station, noticed a CAD job relating to the Group was still “open”. He assumed that the matter had either been resolved or had not been updated. Officer Slee checked the CAD job again at 12.10 pm and realised it had still not been updated, so he contacted Onslow Police Station. He says that shortly afterwards, the CAD job “was no longer on the screen”.¹⁰⁰

70. In his evidence at the inquest, Officer Thomson referred to the contact from the Karratha Police Station in the following terms:

The only time I heard from Karratha was a phone call on the Friday, I think it was, where Sergeant Edwards was asking why is it still open and that was when I had a conversation with Matt as to what – why it was still - I essentially just said, ‘*The job is still open, what would you like done with it*’ and he [i.e.: Officer Dwyer] said words to the effect of he’ll deal with it.^{101,102}

71. At the inquest, Officer Dwyer was asked what he was told by Officer Thomson about the CAD job and his response was:

Your Honour, to be honest, I can’t remember. It was so long ago. I asked him – as I said to you – if it had been all completed, everything had been done and – yes – he pretty much told me that it had – well, you know, I don’t remember the specific wording.¹⁰³

⁹⁸ ts 27.10.20 (Dwyer), p109

⁹⁹ ts 27.10.20 (Svedberg), pp59-60

¹⁰⁰ Exhibit 1, Vol. 2, Tab 15, IAU Report (06.12.19), p12

¹⁰¹ ts 27.10.20 (Thompson), p48

¹⁰² See also: ts 27.10.20 (Dwyer), p114

¹⁰³ ts 27.10.20 (Dwyer), p104

72. CAD jobs may only be “closed” by a Sergeant, or a person acting in that capacity. This provides oversight with respect to the job and is meant to ensure that relevant procedures have been followed. In the case of welfare checks, the person or persons at risk must be sighted before the relevant CAD job can be closed. Officer Slee said it was not unusual for welfare check jobs to remain open for a number of days on the CAD system because of the requirement to physically locate the person or persons at risk.¹⁰⁴
73. Although Officer Dwyer was aware of this requirement, he conceded that in breach of the relevant policy, he closed the CAD job relating to the Group without having physically sighted them.¹⁰⁵ At the inquest Officer Dwyer was asked whether he had received information that members of the Group had been sighted and his response was:

I asked Officer Thomson if it had been completed, or something of that nature, and he gave me a verbal briefing that it had and then I closed it and I acknowledge that I didn’t do that relevant checks prior to closing it. I acknowledge that is my mistake.¹⁰⁶

74. Neither Officer Thomson nor Officer Richards had been out to Twitchin Road to find the Group and none of the enquiries they made had unearthed any relevant information relevant to the Group’s welfare. For that reason, I cannot accept Officer Dwyer’s evidence that Officer Thomson had told him that the CAD job had been “completed”.

Jamie is found

75. Mr Hicks says that on either 10 or 11 April 2019, he was contacted by an officer from the Onslow Police Station and asked if he could assist Jamie, who was part of his extended family. The relevant entry in CAD, which was made by Officer Richards, makes it clear that Mr Hicks was contacted on 10 April 2019.^{107,108,109}

¹⁰⁴ Exhibit 1, Vol. 2, Tab 15, IAU Report (06.12.19), p15

¹⁰⁵ ts 27.10.20 (Dwyer), pp104 & 116

¹⁰⁶ ts 27.10.20 (Dwyer), p104

¹⁰⁷ Exhibit 1, Vol. 1, Tab 25, Incident Report (274857), p2

¹⁰⁸ Exhibit 1, Vol. 1, Tab 19, Statement - Mr R Hicks, para 3

¹⁰⁹ Exhibit 1, Vol. 1, Tab 25, Incident Report (274857), p2

76. Mr Hicks was told that Jamie was stranded on Twitchin Road near the Highway and may be with two others. He told police that he could not assist because he was in Geraldton, some 900 km away, and suggested that police contact Mr Meechum Kelly (Mr Kelly) who may be able to locate Jamie. Mr Kelly lived in Onslow and was Jamie's cousin.¹¹⁰
77. On 11 April 2019, Mr Hicks and his wife and family drove from Geraldton to Carnarvon. On 12 April 2019, they set off for Onslow and at about 10.30 am, as they had previously arranged, Mr Hicks collected his nephew, Mr Ross Kelly, from the Rest Area. Mr Ross Kelly was with Mr Ryan, who was known to Mr Hicks' wife.¹¹¹
78. Mr Ryan told Mr Hicks that Jamie had water and was "*healthy and walking around*" but had not wanted to leave the Commodore. Mr Ryan also told Mr Hicks that "Cyril" (i.e.: Mr Mow) had made his way to Onslow, meaning Jamie had been left alone with the car.^{112,113} Unfortunately, the occupants of the car made no attempt to check on Jamie, despite the fact that at that time, he was probably only six away.¹¹⁴
79. At about 1.00 pm on 12 April 2019, Mr Hicks saw Mr Kelly in Onslow and asked him to take some food and water to Jamie. Mr Kelly says Mr Hicks told him that that Jamie had been stuck on Twitchin Road about four to five kilometres from the Highway, since the day before.^{115,116}
80. Mr Kelly is a ranger with the Buuabalayji Thalanyji Aboriginal Corporation and is familiar with the area. He knew that Twitchin Road could be "*boggy*" if approached from the north at that time of year. At about 1.45 pm, Mr Kelly and his partner set off from Onslow and travelled south on the Highway, in order to approach Twitchin Road from the south.^{117,118,119,120}

¹¹⁰ Exhibit 1, Vol. 1, Tab 19, Statement - Mr R Hicks, paras 5-15

¹¹¹ Exhibit 1, Vol. 1, Tab 19, Statement - Mr R Hicks, paras 19-25

¹¹² Exhibit 1, Vol. 1, Tab 19, Statement - Mr R Hicks, paras 28-32

¹¹³ Exhibit 1, Vol. 1, Tab 14, Statement - Mr G Ryan, paras 2-27, 31 & 34

¹¹⁴ Exhibit 1, Vol. 1, Tab 10, IAU Report (02.09.19), p43

¹¹⁵ Exhibit 1, Vol. 1, Tab 20A, Statement - Mr M Kelly, paras 2-6 & 9-10 and ts 27.10.20 (Kelly, M), p123

¹¹⁶ Exhibit 1, Vol. 1, Tab 19, Statement - Mr R Hicks, paras 37-41

¹¹⁷ Exhibit 1, Vol. 1, Tab 20A, Statement - Mr M Kelly, paras 2-6 & 9-10 and ts 27.10.20 (Kelly, M), p123

¹¹⁸ See also: Exhibit 1, Vol. 1, Tab 20B, Statement - Mr M Kelly, para 9 and ts 27.10.20 (Kelly, M), pp123-124

81. At about 4.25 pm on 12 April 2019, Mr Kelly located Jamie's body on Twitchin Road, about one kilometre from the Highway. Jamie was lying on his left-side with a plastic two-litre juice bottle under his head. He was wearing a beanie which was pulled down over his eyes, and was clearly deceased. Mr Kelly covered Jamie with a doona and called emergency services. Mr Kelly noted a black bag near a sign on Twitchin Road, but didn't stop to look at it.^{121,122,123}
82. Officers Richards and McDonald arrived at the scene about 7.10 pm and ambulance officers who had accompanied them, confirmed that Jamie had died. Meanwhile, Officers Richards and McDonald examined Jamie's body and noted he had no visible injuries and there was no blood around his body. Jamie's wallet, which contained cash and his bankcard, was with his body, there were no footprints and the surrounding area was undisturbed.^{124,125,126,127,128}
83. Given that Jamie was found about three kilometres from the Commodore, it follows that at some point, he must have set off down Twitchin Road in the direction of the Highway. He was found lying on his side with a plastic bottle under his head, which he must have brought with him. Given Jamie's cognitive impairment and the fact that he was severely dehydrated, it is very likely that he would have been unaware of the potentially fatal consequences of leaving the Commodore.
84. After examining Jamie's body, Officers Richards and McDonald drove further along Twitchin Road and located the Commodore. The vehicle's bonnet was up and its battery had been disconnected. There were empty food tins and casks of wine around campfires near the car and the officers formed the view that there was "*no apparent evidence identifying any criminality or suspicious circumstances*".^{129,130,131}

¹¹⁹ Exhibit 1, Vol. 1, Tab 19, Statement - Mr R Hicks, paras 37-41

¹²⁰ Exhibit 1, Vol. 1, Tab 7, Report - Det. Sgt. C Correia, p8

¹²¹ Exhibit 1, Vol. 1, Tab 20A, Statement - Mr M Kelly, paras 12-22

¹²² See also: Exhibit 1, Vol. 1, Tab 20B, Statement - Mr M Kelly, paras 9-13

¹²³ Exhibit 1, Vol. 1, Tab 34, Aerial photographs showing Jamie's approximate location

¹²⁴ Exhibit 1, Vol. 1, Tab 20A, Statement - Mr M Kelly, para 23

¹²⁵ Exhibit 1, Vol. 1, Tab 35, St John Ambulance Patient care record, p2

¹²⁶ Exhibit 1, Vol. 1, Tab 4, Life extinct from (12.04.19)

¹²⁷ Exhibit 1, Vol. 1, Tab 21, Statement - FC Const. C McDonald, paras 2-28 and ts 27.10.20 (McDonald), pp70-71

¹²⁸ Exhibit 1, Vol. 1, Tab 22, Statement - Mr A Price (paramedic), paras 20-35

¹²⁹ Exhibit 1, Vol. 1, Tab 7, Report - Det. Sgt. C Correia, pp1-2

¹³⁰ Exhibit 1, Vol. 1, Tab 8, Memo - Const. K Richards (13.04.19), pp1-2

- 85.** The ambulance officer who confirmed that Jamie had died noted that Jamie's body was stiff and cold to the touch and that although rigor mortis had set in, the body was not bloated. The ambulance officer took Jamie's body to the Onslow District Hospital and saw no obvious signs of injury when he helped staff remove Jamie's clothing.¹³²
- 86.** On 13 April 2019, a District Forensic Officer examined Jamie's body, and again, found no apparent injuries.^{133,134} Jamie's body was formally identified by his sister on 15 April 2019.¹³⁵
- 87.** The investigating officer, Officer Correia, noted that when examined on 13 April 2019, Jamie's body showed no obvious signs of bloating, decomposition or insect infestation, and that:

The assessment of the deceased's body by experienced Forensic Officer, Senior Constable Mathew Tidman, supported by Forensic Pathologist, Dr Kueppers suggests that the deceased had likely died at some point in the 12 - 24 hours before being located.¹³⁶

- 88.** In other words, Officer Correia's hypothesis is that Jamie died sometime between Thursday, 11 April 2019 and Friday, 12 April 2019. Given that Jamie was found deceased at about 4.25 pm on 12 April 2019, and was clearly alive on 10 April 2019, this hypothesis seems reasonable.

¹³¹ Exhibit 1, Vol. 1, Tab 21, Statement - FC Const. C McDonald, paras 31-35

¹³² Exhibit 1, Vol. 1, Tab 22, Statement - Mr A Price (paramedic), paras 32-55

¹³³ Exhibit 1, Vol. 1, Tab 7, Report - Det. Sgt. C Correia, p3

¹³⁴ Exhibit 1, Vol. 1, Tab 28, Forensic disclosure report, pp10-17

¹³⁵ Exhibit 1, Vol. 1, Tab 2, P92 - Identification of deceased person

¹³⁶ Exhibit 1, Vol. 1, Tab 7, Report - Det. Sgt. C Correia, p14

CAUSE AND MANNER OF DEATH

Post mortem examination and results^{137,138}

89. A forensic pathologist (Dr Victoria Kueppers), conducted a post mortem examination of Jamie's body on 23 April 2019 and found early degenerative changes. His liver was firm and fatty and there was minor focal scarring over the surface of his right lung. The vessels supplying oxygen to Jamie's heart showed a moderate degree of thickening and narrowing (coronary artery atherosclerosis), but no significant injuries were found.
90. Toxicological analysis found a blood alcohol level of 0.016% and a urine alcohol level of 0.01%, but given the state of the samples analysed, it is possible that these small amounts of alcohol were produced in Jamie's body after his death. Common drugs were not detected.
91. Analysis showed that Jamie's recent blood sugar control had been poor, which is consistent with his known medical history. Whilst his glucose levels did not suggest he had suffered a life-threatening hyperglycaemic event, Jamie's markedly elevated creatinine and urea levels showed he was experiencing acute kidney failure due to dehydration.
92. The quantity of water and/or alcohol Jamie had access to in the period before he died in unknown. However, as Dr Kueppers noted that where alcohol is the main source of a person's fluid intake, the effects of dehydration can be exacerbated, especially when environmental temperatures are high. The average temperatures for the first 16 days of April 2019 ranged from about 36°C during the day to 25°C at night.¹³⁹

Cause and manner of death

93. At the conclusion of her post mortem examination, Dr Kueppers expressed the opinion that the cause of Jamie's death was acute renal failure due to dehydration in relation to environmental exposure. I accept and adopt Dr Kueppers' opinion and in view of all of the circumstances, I find that death occurred by way accident.

¹³⁷ Exhibit 1, Vol. 1, Tab 5 - Supplementary Post Mortem Report, pp1-2

¹³⁸ Exhibit 1, Vol. 1, Tab 6 - Toxicology Report

¹³⁹ Exhibit 1, Vol. 1, Tab 31, Daily weather observations

CONDUCT OF POLICE

Investigation by Internal Investigation Unit

94. As Jamie’s death fell within the relevant category of a critical incidents involving police, officers from the Internal Affairs Unit (IAU) conducted an investigation to determine whether officers at Onslow Police Station had complied with relevant police policies, procedures and training. A report on the IAU investigation (authored by Officer MacKay and Detective Inspector Craig Collins) was provided to the Court.¹⁴⁰
95. The IAU investigation found that there was no criminality with respect to Jamie’s death. The investigation also found that the actions of officers at the Onslow Police Station were not overtly racist.¹⁴¹ Whilst I agree with those findings, in my view, the evidence shows that Officer Dwyer considered that the Group’s request for help was mainly related to fuel and that the Group were “*resourceful*” because they were members of the Aboriginal community.
96. This perception, whilst comforting insofar as the decision not to continue the search for the Group on the night of 9 April 2019 may have been, appears to have contributed to the CAD task being assigned a lower priority than was warranted and helps to explain why the task was subsequently overlooked.

IAU findings with respect to individual officers

97. The IAU investigation made adverse findings with respect to several of the officers based at the Onslow Police Station. In summary, those findings were:

*a. Officer Dwyer:*¹⁴²

i. Poor culture: on the balance of probabilities, Officer Dwyer adopted a negative and dismissive attitude towards the CAD job involving the Group, which he verbalised to junior staff. This led to a lowering of the risk assessment associated with the task and led to the task not being attended to in accordance with policies and procedures of the Police.

¹⁴⁰ ts 28.10.20 (MacKay), pp135-136

¹⁴¹ Exhibit 1, Vol. 2, Tab 15, Statement - Det. Sgt. D MacKay, para 7 and ts 28.10.20 (MacKay), p136

¹⁴² Exhibit 1, Vol. 1, Tab 10, IAU Report (02.09.19), pp60-63 and ts 28.10.20 (MacKay), pp136-138

a. Officer Dwyer: (continued)

ii. Communication breakdown: on the balance of probabilities, there was a communication breakdown in Onslow Police Station with respect to the CAD task relating to the Group because of an office culture where Officer Dwyer's investigative methods were not questioned. The culture developed because of the way Officer Dwyer interacted with colleagues and was exacerbated by him acting as OIC.

iii. Ownership and responsibility: on the balance of probabilities, Officer Dwyer failed to take carriage and accountability of the CAD task relating to the Group. He failed to apply managerial oversight from Wednesday, 10 April 2019 to Friday, 12 April 2019, in accordance with his role as Acting OIC. Therefore, Officer Dwyer failed to conduct his duty as a sworn officer of the Police to ensure the Group's welfare.

*b. Officer Richards:*¹⁴³

On the balance of probabilities, it can be inferred that Officer Richards accepted an inappropriate comment by Officer Dwyer about the CAD job relating to the Group. Officer Richards failed to challenge that comment and the remark was incorporated into Officer Richards' inaccurate risk assessment. Therefore, Officer Richards failed to conduct his duty as a sworn officer of the Police to ensure the Group's welfare.

*c. Officer Thomson:*¹⁴⁴

On the balance of probabilities, Officer Thomson having sound knowledge of the CAD task involving the Group, failed to formulate an accurate risk assessment and therefore neglected to conduct his duty as a sworn officer of the Police to ensure the Group's welfare.

*d. Officer Svedberg:*¹⁴⁵

On the balance of probabilities, Officer Svedberg having sound knowledge of the CAD task involving the Group, failed to formulate an accurate risk assessment and therefore neglected to conduct her duty as a sworn officer of the Police to ensure the Group's welfare.

¹⁴³ Exhibit 1, Vol. 1, Tab 10, IAU Report (02.09.19), pp63-65 and ts 28.10.20 (MacKay), p138

¹⁴⁴ Exhibit 1, Vol. 1, Tab 10, IAU Report (02.09.19), pp65-66 and ts 28.10.20 (MacKay), p138

¹⁴⁵ Exhibit 1, Vol. 1, Tab 10, IAU Report (02.09.19), pp66-67 and ts 28.10.20 (MacKay), p138

98. I agree with the findings made by the IAU investigation with respect to each of the officers. In my view, those findings were clearly appropriate given the available evidence. In each case, the sanctions imposed by the Police after the IAU recommendations were considered, have been accepted by the officers.^{146,147}

Why was no further action taken to find the Group after 9 April 2019?

99. In my view, the evidence establishes two main reasons which appear to explain why police took no substantive action to find the Group after Tuesday, 9 April 2019:

- a. First, on 9 April 2019, the task of locating the group was notionally allocated a lower priority than was warranted, and this shaped the subsequent police response in the days that followed; and
- b. Second, on 10 April 2019, frontline policing tasks effectively became impossible, because of the support local police were obliged to provide to the Court sitting in Onslow that day.

100. In my view, whilst neither of these reasons provides an excuse for the fact that further efforts were not made to locate the Group, they do help explain why events in this case transpired as they did.

Task assigned lower priority

101. At the inquest, a great deal of time was spent on the issue of whether Officer Dwyer had used the term “*blackfellas*” when he and Officer Richards travelled on Twitchin Road on 9 April 2019, and if so, in what context. Although Officer Dwyer does not recall using the term, he conceded it is a term he has used and that he may have done so whilst searching for the Group. Officer Richards recalls the term being used by Officer Dwyer and that the context was something like: “*It’s blackfellas they want fuel, they’ll make it. They’ll be in town tomorrow*”.^{148,149,150}

¹⁴⁶ ts 27.10.19: (Richards), pp18 & 24-25 & 36-37, ts 27.10.19: (Thompson), p47 and ts 27.10.19: (Svedberg), p60

¹⁴⁷ See also: ts 28.10.20 (MacKay), p139

¹⁴⁸ Exhibit 1, Vol. 2, Tab 15, Statement - Det. Sgt. D MacKay, para 17

¹⁴⁹ ts 27.10.20 (Dwyer), pp96 & 122

¹⁵⁰ ts 27.10.20 (Richards), pp21-22

102. The following exchange appears in the first of Officer Richards' interviews with IAU investigators:¹⁵¹

IAU interviewer: Was it more a case it was just drunk blackfellas being lazy, wanting fuel to get into town and trying to abuse the services of the West Australian Police?

Officer Richards: Yes, that's how I understood that job to be.

IAU interviewer: Was that your opinion?

Officer Richards: No. That was the information that was given to me on the night.

...

IAU interviewer: [I]f that wasn't your opinion, don't you have an obligation to make sure that these people are looked after, whoever they are, whatever their background?

Officer Richards: Yes.

IAU interviewer: And you chose not to do that? Or you didn't consider it?

Officer Richards: It was definitely considered, and I did suggest that, perhaps, that night we drive out there. And it was - Matt's basically said to me that they just want fuel, they'll be in town tomorrow, we'll speak to family and find out where they are tomorrow.

103. In his police statement dated 12 October 2020, Officer Richards asserted that when the IAU investigator asked him the question about the words "*just drunk blackfellas being lazy and wanting fuel etc*", he (Officer Richards):

[D]id not have the opportunity to properly convey that I had never heard those words spoken.¹⁵²

¹⁵¹ Exhibit 1, Vol. 2, Tab 12, IAU Interview - Const. K Richards (19.04.19), p48

¹⁵² Exhibit 1, Vol. 2, Tab 14, Statement - Const. K Richards, para 6 and ts 27.10.20 (Richards), pp36-37

104. However, Officer Richards did not resile from the assertion he made in his IAU interview that Officer Dwyer had said that the Group just wanted fuel and would “*be in town by tomorrow*”. In fact, in his police statement on 12 October 2020, Officer Richards made the following observation:

On the way back to the station on the Tuesday night, Matt said something along the lines of ‘*they’re just blackfellas, they will make it back*’. By that I took it to mean that he meant that they were resourceful.^{153,154}

105. Clearly the comment ascribed to Officer Dwyer is consistent with the assertion that Officer Dwyer assigned a lower risk assessment and priority to the CAD task relating to the Group than was warranted.

106. At the inquest, I asked Officer Richards whether the same assumptions about resourcefulness would have been made if the Group had not been Aboriginal and his response was: “*Possibly not, no*”.¹⁵⁵ In my view, this comment from Officer Richards comes close to the nub of the matter and I will return to the issue of assumptions later in this Finding.

107. There is no evidence that Officer Dwyer behaved in a racist manner towards Aboriginal people in Onslow and in fact, the available evidence is to the contrary. At the inquest, Officer Dwyer said he had “*the best relationship*” with the local Aboriginal community and because of the practical help he gave to so many of its members, they trusted him and actively sought him out.¹⁵⁶

108. Officer Dwyer’s contention is supported by Officer Richards who also said he had never seen Officer Dwyer behaving in a racist or derogatory way towards Aboriginal people. For his part, Officer Thomson (who is an Aboriginal man), said he thought the relationship between police and the Aboriginal community in Onslow was “*quite good*”.^{157,158}

¹⁵³ Exhibit 1, Vol. 2, Tab 14, Statement - Const. K Richards, para 10

¹⁵⁴ See also: Exhibit 1, Vol. 2, Tab 15, Statement - Det. Sgt. D MacKay, para 17

¹⁵⁵ ts 27.10.20 (Richards), p22

¹⁵⁶ ts 27.10.20 (Dwyer), pp106, 118 & 121-122

¹⁵⁷ Exhibit 1, Vol. 2, Tab 14, Statement - Const. K Richards, paras 8-9 and ts 27.10.20 (Richards), pp37 & 39 & 44

¹⁵⁸ ts 27.10.20 (Thompson), p54

- 109.** Officer Svedberg said that in her view, there was no difference in the way officers in Onslow treated members of the Aboriginal and non-Aboriginal communities.¹⁵⁹
- 110.** For the sake of completeness, I note that Officer Dwyer’s self-assessment of his relationship with members of the Onslow Aboriginal community was not universally endorsed. Mr Kelly said that whilst Officer Dwyer may have good relationships with some members of that community, this did not apply to all of them.¹⁶⁰
- 111.** Whilst there is no evidence to suggest that Officer Dwyer holds racist views, to some extent this is beside the point. At the inquest he conceded that his perception of local Aboriginal people as “*resourceful*” was a stereotype which he would not necessarily apply to non-local Aboriginal people or non-Aboriginal people more generally.¹⁶¹
- 112.** That stereotype, whilst not derogatory on its face, clearly has the potential to influence the way individual police officers might view requests from members of the Aboriginal community. In this case, it seems that this perception resulted in the CAD job involving the Group being allocated a lower priority than was warranted.
- 113.** In his evidence at the inquest, Officer Thomson confirmed that he had not done his own risk assessment of the CAD job because of what he described as “*peer pressure*” and that his approach to the job had been influenced by what Officers Dwyer and Richards had told him. Officer Thomson was asked to elaborate on what he meant by this and his response was:

Essentially just that, like I said, the job...came across as...not urgent and the acting sergeant at the time and Kieran...had gone out there the night before but they obviously didn’t deem it necessary to go around onto the North West Coastal Highway. Yeah, basically that it...was not...an urgent job essentially.¹⁶²

¹⁵⁹ ts 27.10.20 (Svedberg), pp63 & 66

¹⁶⁰ ts 27.10.20 (Kelly, M), pp124-125

¹⁶¹ ts 27.10.20 (Dwyer), pp120-121

¹⁶² See also: ts 27.10.20 (Thompson), p47

114. On a related issue, it is my view the use of terms such as “*blackfellas*” to describe members of the Aboriginal community is problematic. For starters, such terms have the potential to offend, as Mr Kelly observed during his evidence.¹⁶³ It seems to me that the better approach is the one adopted by Officer Morton. He said he did not use the term “*blackfellas*” and did not encourage other officers to do so. His reasoning was that if there was even a 1% chance of causing offence, then that term (and others like it), should be avoided.¹⁶⁴

115. A draft document attached to Officer Morton’s statement is entitled “*Aboriginal Cultural Induction*” (the Document). The Document was a collaboration between the Police and members of the Onslow Aboriginal community and is designed to recognise the local needs and sensitivities of that community. The Document contains a section headed: “*Communicating with Sensitivity*” which notes:

Respectful communication with Aboriginal People fosters a productive working relationship, even when dealing with recidivist offenders.¹⁶⁵

116. Whilst I appreciate that providing officers with a list of acceptable phrases may be impracticable, the use of colloquial phrases such as “*blackfellas*” may clearly be counter-productive to building appropriate relationships with members of the Aboriginal community.

117. At the inquest, I made a suggestion which Officer Morton agreed with,¹⁶⁶ namely that it would be appropriate for the Document to be amended to include a statement along the lines of:

You should exercise extreme caution before using colloquial expressions when speaking with members of the Aboriginal community. The use of such phrases may inadvertently cause offence and thereby affect your ability to build relationships built on mutual trust and respect.

¹⁶³ ts 27.10.20 (Kelly, M), p125

¹⁶⁴ ts 28.10.20 (Morton), pp158-159

¹⁶⁵ Exhibit 1, Vol. 2, Tab 18, Statement - Comd. A Morton, Annexure B, Aboriginal Cultural Induction, p5

¹⁶⁶ ts 28.10.20 (Morton), pp158-159

- 118.** Returning to Officer Dwyer’s risk assessment of the information he had been given about the Group’s situation, I note that he considered a number of factors including the fact that members of the Group may be intoxicated and that one of them needed medication. Clearly, Officer Dwyer considered that the Group’s predicament warranted action, which explains why he recalled himself and Officer Richards to duty and why they headed out on Twitchin Road at night to try to find the Group.
- 119.** In my view, Officer Dwyer acted reasonably when he decided not to continue searching for the Group on the night of 9 April 2019. It seems likely he took some comfort from the fact that the Group had sufficient supplies to survive the night and that as local Aboriginal men, they were “*resourceful*”.¹⁶⁷
- 120.** However, the enquiries Officer Dwyer told Officers Thomson and Richards to undertake on 10 April 2019, appeared to be directed towards trying to determine whether the Group had any family or friends who might be able to assist them, rather than to actively locating the Group.
- 121.** Another interesting piece of the puzzle comes from Mr Kelly’s evidence that two male police officers visited him at home to tell him about the Group’s situation. Mr Kelly says that the officers told him that responding to the Group’s request for help was not “*police work*” and that the State Emergency Service (SES) should assist instead.¹⁶⁸ Mr Kelly was unsure whether the visit from police had occurred on 10 or 11 April 2019, and seemed unclear about why the officers were visiting him in the first place.¹⁶⁹
- 122.** Mr Hicks had suggested police contact Mr Kelly because he may be able to help the Group but the only reference in CAD to Mr Kelly being contacted by police is the unsuccessful call made by Officer Richards on 10 April 2019 and the visit is not referred to in the statement Mr Kelly gave to police.^{170,171,172}

¹⁶⁷ See also: ts 28.10.20 (Morton), p156 regarding challenging these sorts of stereotypes and assumptions

¹⁶⁸ ts 27.10.20 (Kelly), pp125-129

¹⁶⁹ ts 27.10.20 (Kelly), pp125-129

¹⁷⁰ ts 27.10.20 (Kelly, M), pp130-131

¹⁷¹ Exhibit 1, Vol. 1, Tab 20A, Statement - Mr M Kelly, paras 2-6 & 9-10 and ts 27.10.20 (Kelly, M), pp123 & 126-130

¹⁷² Exhibit 1, Vol. 1, Tab 19, Statement - Mr R Hicks, paras 37-41

- 123.** On the available evidence, I have been unable to determine whether (and indeed when) Mr Kelly was visited by police. However, it does seem strange he would recall being told that responding to the Group’s situation was “*not police work*” if this had not been said. Frankly, it seems an odd thing for Mr Kelly to have recalled.
- 124.** In any event, Officer Dwyer was unable to offer any explanation for why he did not check the CAD job before finishing his shift on 10 April 2019, other than the matter had “*simply slipped his mind*”.¹⁷³ In my view, the most likely explanation for why the matter slipped Officer Dwyer’s mind is that the CAD job involving the Group was not regarded as urgent, largely because it related to resourceful Aboriginal men who it was expected would be able to make it to Onslow under their own steam.
- 125.** If it is true that the task of responding to the Group was not initially regarded as pressing because the Group had sufficient resources to get them through the night of 9 April 2019, then this may explain why, in the face of the avalanche of tasks Officer Dwyer and his team were faced with on 10 April 2019, no substantive efforts were made to find the Group on that day or on subsequent days.

Impact of support to Magistrates Court

- 126.** Magistrates Courts in larger regional centres regularly visit smaller towns within their districts. The Carnarvon Magistrates Court visits Onslow in person one month and by way of video-link the next. On 10 April 2019, the Court was visiting Onslow in person.¹⁷⁴
- 127.** Over many years, a practice has developed whereby local police provide a range of support services to the Courts visiting their respective towns. That support might include: ferrying judicial officers and Department of Justice (DoJ) staff to and from the local airport, court security and orderly duties and assisting with administrative and other tasks relating to the court’s functions.

¹⁷³ ts 27.10.20 (Dwyer), p89

¹⁷⁴ ts 27.10.20 (Richards), p23

- 128.** On occasion, as happened in this case, police may also be required to apprehend alleged offenders who have not answered their bail and bring those persons before the Court to be dealt with.¹⁷⁵
- 129.** Given the vast geographical area serviced by each regional magistrate, and the infrequency of circuits to smaller towns, it is sensible for local police to provide support to the Court when it visits.
- 130.** In that context, it would make sense for the level of support that the Police are routinely expected to provide to Courts visiting regional centres to be mutually agreed by the parties and, importantly, to be clearly set out in writing. Once this has been done, local police will be in a position to “*backfill*” any potential staff shortages, so as to ensure that frontline policing can continue unabated whenever the Court visits a regional centre. At the inquest, a number of officers agreed that this would be appropriate.¹⁷⁶
- 131.** In this case, additional support was required. The list for the Court in Onslow on 10 April 2019 contained 21 matters and a trial. As a consequence, all of the available police officers in Onslow were required to support the Court in one way or another. On 10 April 2019, Onslow police were effectively unable to deal with other matters and normal policing functions became impossible.¹⁷⁷
- 132.** Officer Morton said that the issue of regional police providing support to Court activities was a “*long standing battle*” between DoJ and the Police. He said that despite the fact that negotiations between the parties had been going on for over 20 years and although a memorandum of agreement (MOU) had been drafted, it had not yet been signed.¹⁷⁸

¹⁷⁵ ts 27.10.20 (Richards), p23

¹⁷⁶ ts 27.10.20 (Dwyer), p103

¹⁷⁷ ts 27.10.20 (Richards), p23 and ts 27.10.20 (Svedberg), pp59 & 68-69

¹⁷⁸ ts 28.10.20 (Morton), pp147-152 & 188-189

- 133.** At the inquest, Officer Morton referred to the fact as part of the Government's overall drive to increase the numbers of police officers, additional officers are being allocated to regional centres and some of those officers will be specifically tasked to court security and custodial services. However, even with these additional officers, it appears that providing support to the Court when it visits smaller towns will still be an issue. In this case it was Officer Morton's view that additional police officers should have travelled to Onslow from Karratha, in order to support the Court.¹⁷⁹
- 134.** In the absence of an MOU, the expected level of support is open to interpretation. From a resource allocation perspective, this is clearly inappropriate. Whilst I would not presume to instruct the parties as to what the MOU should contain, it is patently obvious that the level of support to regional courts that is expected from the Police should be clearly stated, in writing.
- 135.** The fact that the situation remains unresolved and there is still no signed MOU despite many years of negotiations between the parties is lamentable. This wholly unsatisfactory situation should be urgently resolved.

Communication issues at Onslow Police Station

- 136.** Open and effective communication between officers is vital to ensuring an appropriate policing response. At the inquest, I heard evidence that at around the time of Jamie's death there were issues in the way Officer Dwyer communicated with some officers at the Onslow station.¹⁸⁰
- 137.** It is not part of my statutory role to conduct a review of matters which do not bear on Jamie's death, however, in this case, there is evidence that suggests that communication issues at Onslow Police Station may have impacted on the police response to the Group's situation.¹⁸¹ For that reason, it is appropriate for me to comment on the issue.

¹⁷⁹ ts 28.10.20 (Morton), pp147-148

¹⁸⁰ ts 27.10.20 (Richards), p17; ts 27.10.20 (Svedberg), pp60-61 and ts 27.10.20 (Dwyer), pp100-102

¹⁸¹ ts 27.10.20 (Richards), pp22-23 and ts 27.10.20 (Svedberg), p61

138. In a uniformed service like the Police, officers must work closely together. In fact, in many cases, officers must trust each other with their lives. In that context, I accept that it would be rare for officers to speak out against one another. Nevertheless, that is what has occurred in this case.

139. For a start, Officer Svedberg says that Officer Dwyer interacted with her in what she regarded as a condescending and patronising manner and treated her like “*shit*”. She agreed that her relationship with Officer Dwyer had definitely interfered with communication around the CAD job relating to the Group.^{182,183} Officer Dwyer said that any difficulty between him and Officer Svedberg had occurred because he had been obliged to challenge her about: “*her non-existent work ethic*”, which he says, Officer Svedberg did not appreciate.¹⁸⁴

140. If this was the only communication difficulty identified, it might be possible to regard it as some sort of personality clash between officers. However, other officers made comments about Officer Dwyer.

141. In his first IAU interview on 19 April 2019, Officer Richards was asked if Officer Dwyer was approachable and whether officers could go up to him with recommendations of their own and his response was:

He’s not as bad with me as he may be with others. I can usually approach him, for the most part, but he does tend to sort of his way most of the time...[and]...He’ll listen to it [i.e: an alternative plan], but he might downplay it, I suppose or say, ‘*No, we’ll do it this way*’.¹⁸⁵

142. Officer Richards was then asked whether Officer Dwyer would ridicule officers whilst downplaying their ideas and his response was:

I don’t think he’s ridiculed me personally. Sometimes he’ll have a joke and I’ll take it in that fashion. But I know that some other people may be uncomfortable with the way he speaks to them.¹⁸⁶

¹⁸² Exhibit 1, Vol. 2, Tab 7, IAU Interview - FC Const. M Svedberg (18.04.19), pp25-27

¹⁸³ ts 27.10.20 (Svedberg), p60

¹⁸⁴ ts 27.10.20 (Dwyer), pp97 & 100

¹⁸⁵ Exhibit 1, Vol. 2, Tab 12, IAU Interview - Const. K Richards (19.04.19), p42

¹⁸⁶ Exhibit 1, Vol. 2, Tab 12, IAU Interview - Const. K Richards (19.04.19), p43

143. The following questions were put to Officer Richards by the IAU investigator and his responses are relevant.¹⁸⁷

IAU investigator: Okay, would you say that's caused a lack of communication, or it's closed the lines of communication between...

Officer Richards: To a degree, yes.

IAU investigator: Okay. And is that why no one has a general forum of discussion with regards to jobs that come in, to say, 'Everyone put your best suggestions forward and we'll make a complete action plan'?

Officer Richards: Probably, yeah.

144. Officer Thomson (who was seconded to Onslow from Pannawonica) thought that Officer Dwyer's approachability was variable and suggested this may have been because he did not have a close working relationship with him.¹⁸⁸ Officer McDonald said he had no issues communicating with Officer Dwyer and thought he was approachable.¹⁸⁹

145. The issue of so called "*office banter*" at the Onslow Police Station was raised at the inquest. Although Officer Dwyer appeared to see this as a way of raising morale, Officer Svedberg felt it could have the opposite effect. For example, she referred to the fact that Officer Dwyer had treated Officer McDonald "*badly*" and that she heard Officer Dwyer tell Officer McDonald he was "*disgusting*".^{190,191}

146. Although neither Officer Dwyer nor Officer Thomson could recall these words being used, Officer Dwyer said that sort of thing could potentially be an example of the kind of banter that might be used. Officer Dwyer agreed that if banter directed at a person was perceived by them to be condescending or derogatory, then this could negatively impact on effective communication.^{192,193}

¹⁸⁷ Exhibit 1, Vol. 2, Tab 12, IAU Interview - Const. K Richards (19.04.19), p43

¹⁸⁸ ts 27.10.20 (Thompson), pp49 & 57

¹⁸⁹ ts 27.10.20 (McDonald), pp71-74

¹⁹⁰ Exhibit 1, Vol. 2, Tab 7, IAU Interview - FC Const. M Svedberg (24.04.19), p29 and ts 27.10.20 (Svedberg), pp61-62

¹⁹¹ ts 27.10.20 (Dwyer), pp97,

¹⁹² ts 27.10.20 (McDonald), pp71-72

¹⁹³ ts 27.10.20 (Dwyer), p98

147. Officer Dwyer also agreed that banter between officers of equal rank could have a different impact than banter between a senior and more junior officer because a more junior officer may feel less comfortable calling out banter they felt was inappropriate.¹⁹⁴ In my view, the issue is one of context and degree. It would not be appropriate to “*ban*” officers from making non-work related comments to each other, but in a modern police force, professional and courteous interaction is clearly desirable.
148. Interestingly, several officers said that the response to the Group’s situation would have been different had Senior Sergeant Cindy Morgan (Officer Morgan), who had been the OIC of the Onslow Police Station, been in charge at the relevant time. The view expressed was that Officer Morgan was more amenable to the ideas of others and therefore more approachable.^{195,196}
149. In terms of how communication issues at the Onslow Police Station may have impacted on Jamie’s death, it seems to me that something Officer Richards said at the inquest encapsulates the problem. He was asked about Officer Dwyer’s comment that the Group “*would get back into town*”, and what effect this may have had on his (i.e.: Officer Richards’) approach to the Group’s plight and his response was:
- I don’t think that influenced my - our decision or my decision on the Tuesday night...and maybe, perhaps, it eased my concerns for the following day. However, I think a lot of that was down to, on the following day, how busy we were and the fact that I was distracted doing other tasks and...I guess it wasn’t on the forefront of my mind, that particular job at that time.¹⁹⁷
150. It appears that the perception that the Group would probably make it back into Onslow under their own steam may have been the subject of discussion at the Onslow Police Station and Officer Svedberg says Officer McDonald had told her that these types of comments were being discussed.¹⁹⁸

¹⁹⁴ ts 27.10.20 (Dwyer), p99

¹⁹⁵ ts 27.10.20 (Thompson), p49

¹⁹⁶ Exhibit 1, Vol. 2, Tab 7, IAU Interview - FC Const. M Svedberg (24.04.19), pp27-28 and ts 27.10.20 (Svedberg), p61

¹⁹⁷ ts 27.10.20 (Richards), pp22-23

¹⁹⁸ Exhibit 1, Vol. 2, Tab 7, IAU Interview - FC Const. M Svedberg (24.04.19), pp24-25 ts 27.10.20 (Svedberg), p63

Comments on the police response to the Calls

151. Clearly the police response to the Group’s predicament was woefully inadequate. As was identified by both Officers Morton and Scott, the resumption of the search for the Group should have been an absolute priority at first light on 10 April 2019.

152. In the month after Jamie’s death, the senior police officer responsible for regional Western Australia, Assistant Commissioner Jo McCabe, made a formal apology to Jamie’s relatives for the delayed response to his situation and explained that there would be an internal investigation. Officer Morton took the opportunity to speak with Jamie’s family on 27 October 2020 and he reiterated that the Police are extremely sorry for what happened.¹⁹⁹ To their credit, several of the officers based at Onslow Police Station at the relevant time, made powerful observations about the inadequacy of their actions during the inquest.

153. Officer Richards said that when he heard that Jamie had been found deceased, he felt sick and guilty. Regardless of police decision-making at the time, he said Jamie’s death just shouldn’t have happened and he was frustrated and stressed.²⁰⁰

154. Officer Richards said that Jamie’s death has had a profound impact on the way he approaches his duties as a police officer and that:

[W]ell, as long as I am working, something like this will never happen again. It’s how I base every decision I make now, so that something like this doesn’t happen.²⁰¹

155. Officer Svedberg said that in hindsight, she should have driven out to Twitchin Road on Thursday, 11 April 2019, but that on that day she was on duty on her own. She said there had been a “*communication breakdown*” in relation to the CAD job and that Jamie’s death weighs heavily on her. As she poignantly observed: “*I mean, someone died because of us*”.²⁰²

¹⁹⁹ Exhibit 1, Vol. 2, Tab 18, Statement - Comd. A Morton, para 53 and ts 28.10.20 (Morton), pp163 & 204

²⁰⁰ ts 27.10.20 (Richards), p 22

²⁰¹ ts 27.10.20 (Richards), pp 22 & 24

²⁰² ts 27.10.20 (Svedberg), pp60 & 68

156. Officer Thomson said that he wished he had done more at the time to assist the Group, and in particular, he said:

I wish I had spoken up and said, “Let’s actually go out there,” and not given into – to peer pressure as it were and that again, that I am sorry for my oversight.²⁰³

157. Jamie’s death was the culmination of a number of factors and missed opportunities. Although the initial response to the Group’s situation was appropriate, the fact that no substantive efforts were made to find the Group after the night of 10 April 2019, is appalling. As I have already noted, confirming the Group’s welfare should have been an absolute priority at first light on 10 April 2019.

158. The fact that this did not occur was related to a combination of factors, including:

- a. the lack of urgency attached to the CAD job initially and the failure to monitor the CAD job thereafter;
- b. the unwillingness of some officers at Onslow Police Station to challenge Officer Dwyer’s approach to the CAD task and/or to take their own action to locate the Group;
- c. the lack of available resources at the Onslow Police Station on 10 April 2019, because of the support being provided to the Court that day; and
- d. the failure to explore alternative options, including requesting officers from other stations, contacting the EOU or calling on resources such as the Police Air Wing or the SES.

Did police cause or contribute to Jamie’s death?

159. As I have already noted, where it appears that a death was caused, or contributed to by any action of a member of the Police, an inquest is mandatory.²⁰⁴ An inquest in these circumstances provides an opportunity for independent and public scrutiny by a coroner.

²⁰³ ts 27.10.20 (Thompson), p53

²⁰⁴ *Coroners Act 1996* (WA), s 22(1)(b)

- 160.** In this case, the evidence establishes that Jamie died of dehydration related to environmental exposure, at a time when average temperatures ranged from about 36°C during the day to 25°C at night. Jamie had access to an unknown quantity of food and water and his companions had left him alone with the Commodore when they continued their respective journeys.
- 161.** The location of Jamie's body suggests that he was walking towards the Highway prior to his death, presumably in an effort to get help. Given his cognitive impairment and the effects of his severe dehydration, it is unlikely that Jamie would have been aware of the potentially fatal consequences of leaving the Commodore. Taking account of the average temperatures at the time and the state of Jamie's body when it was found, it seems clear that Jamie was alive on 10 April 2019.
- 162.** Although Officer Dwyer and Officer Richards made a reasonable attempt to locate the Group on 9 April 2019, no substantive effort was made to locate the Group after that time. In my view, that failure occurred, not because of a conscious decision on the part of any of the officers at the Onslow Police Station, but rather because the Group's situation was overlooked. In turn, this appears to have occurred because the CAD job relating to the Group was not given the appropriate degree of priority and because of the volume of tasks the officers were required to deal with on 10 April 2019.
- 163.** Clearly the failure to make confirming the Group's welfare an absolute priority at first light on 10 April 2019 and the other failures I refer to above, are deeply regrettable. Essentially as a consequence of these failures, Jamie lost the chance of being found alive. However, after carefully reviewing the available evidence, I have been unable to conclude that Jamie's death was caused or contributed to by any action of a member of the Police.

OTHER ISSUES IMPACTING ON JAMIE'S DEATH

Monitoring of CAD jobs

- 164.** As a smaller station, Onslow does not have its own CAD desk and instead, CAD tasks are allocated to it by the district office in Karratha. At the time of Jamie's death, the expectation was that the CAD desk at the Karratha District Office would monitor the tasks it allocated to its regional stations.²⁰⁵
- 165.** A further layer of oversight was supposed to be provided by the regional Western Australian CAD control desk supervisor (RWA supervisor) at the State Operations Command Centre (SOCC). Neither of these things occurred in relation to the Group's CAD job and this led to an investigation by the IAU.²⁰⁶
- 166.** The IAU investigation found that despite the CAD task relating to the Group remaining open from 9 to 12 April 2019, the Police quality control measures failed. Specifically, the IAU investigation found:^{207,208}
- a. there was no "*intrusive supervision*" from the Karratha District Office CAD desk. This occurred because of a lack of training as to the role and function of a regional CAD console operator and the fact that CAD console operators did not have access to standard operating procedures (SOP);^{209,210,211} and
 - b. there had been no "*intrusive supervision*" from the RWA supervisor at the SOCC because the relevant SOP's stated that the RWA supervisor was not to interfere with the CAD management of incidents by the regional 24/7 Police Complex.²¹²

²⁰⁵ Exhibit 1, Vol. 2, Tab 18, Statement - Comd. A Morton, paras 30-31

²⁰⁶ Exhibit 1, Vol. 2, Tab 15, IAU Report (06.12.19), p52

²⁰⁷ Exhibit 1, Vol. 2, Tab 15, IAU Report (06.12.19), p52

²⁰⁸ ts 28.10.20 (Mackay), pp139-140

²⁰⁹ Exhibit 1, Vol. 2, Tab 18, Statement - Comd. A Morton, para 32

²¹⁰ Exhibit 1, Vol. 2, Tab 15, IAU Report (06.12.19), pp48 & 52

²¹¹ Exhibit 1, Vol. 1, Tab 10, IAU Report (02.09.19), p68

²¹² Exhibit 1, Vol. 2, Tab 15, IAU Report (06.12.19), p52

167. The IAU investigation also found that at the time of Jamie’s death, there were no handover procedures between shift managers and in relation to oversight of CAD tasks allocated to the Onslow Police Station by the Karratha District Office CAD desk. Further, the IAU investigation noted:

With regards to CAD tasks allocated to out-stations, such as Onslow Police Station, it is the understanding of all Karratha CAD Console Operators, once the out-station OIC is aware of the task, it is the OICs responsibility for completing and reviewing allocated tasks.

It is the understanding of all Karratha CAD Console Operators, they are not to interfere with how the out-station OICs complete or manage assigned CAD tasks unless they are specifically requested to assist and there is no clear instruction to counter this understanding.²¹³

168. The IAU investigation recommended that SOP’s be developed to guide Karratha CAD Console operators and that a formal shift handover process be implemented. A formal shift handover was implemented on 17 May 2019 and SOP’s for the CAD Console have since been introduced. Both of these initiatives are aimed at ensuring that there is “*intrusive supervision*” from the Karratha CAD desk in relation to the CAD tasks it allocates.^{214,215}

169. With respect to the formal shift handover process, this initiative has been adopted across all districts in regional Western Australia and generates daily reports at 6.00 am and 6.00 pm, which are widely circulated and discussed at daily management meetings. The primary aim of this initiative is, as Officer Morton explained:

[T]o create a further level of oversight and governance to ensure appropriate and timely tasking and response at the earliest opportunity.²¹⁶

²¹³ Exhibit 1, Vol. 2, Tab 15, IAU Report (06.12.19), p48

²¹⁴ Exhibit 1, Vol. 2, Tab 18, Statement - Comd. A Morton, paras 30-31 and ts 28.10.20, pp160-161

²¹⁵ Exhibit 1, Vol. 2, Tab 15, IAU Report (06.12.19), p48 and ts 28.10.20 (MacKay), p140

²¹⁶ Exhibit 1, Vol. 2, Tab 18, Statement - Comd. A Morton, paras 34-37

170. According to Officer Morton, in July 2019, the SOCC evolved into a “*real time tactical intelligence facility including command and control to support frontline operations*”. The “*frontline operations*” referred to include locating persons at risk. The importance of SOCC’s role in this regard was underscored by policy changes in September 2019.²¹⁷

171. The regional CAD desk at SOCC now scans the CAD system for priority 1-3 jobs, which are generally considered the most serious and urgent. Officer Morton explained that the function of the regional CAD desk at the SOCC in the following terms:

As well as providing CAD oversight, this Desk is able to provide advice and liaise with the Emergency Operations Unit. Police Air Wing and other support services.²¹⁸

172. Officer Morton advised that a recent review of regional CAD desks had identified “*significant improvement opportunities*”. The upshot of the review is that regional CAD services will be centralised through the Police Operations Centre (POC), which incidentally, is the model used for CAD services in the metropolitan area. In addition, “*operations supervisor*” positions, to be located at district offices in regional Western Australia, have been proposed. These positions would liaise directly with the POC and SOCC and would presumably ensure that CAD tasks do not get overlooked.²¹⁹

173. It is my sincere hope that these initiatives will improve the external monitoring and review of CAD tasks allocated to regional police stations. However, the fundamental responsibility for completing allocated CAD tasks remains with the OIC at the relevant police station. In this regard, there have been improvements at the Onslow Police Station since Jamie’s death, and: “*Officers look at CAD now every morning and there is more oversight from the Karratha District Office*”.²²⁰

²¹⁷ Exhibit 1, Vol. 2, Tab 18, Statement - Comd. A Morton, paras 39-41 & 44 and ts 28.10.20, p161

²¹⁸ Exhibit 1, Vol. 2, Tab 18, Statement - Comd. A Morton, paras 42-43

²¹⁹ Exhibit 1, Vol. 2, Tab 18, Statement - Comd. A Morton, paras 46-47 & ts 28.10.20 (Morton), pp201-203

²²⁰ Exhibit 1, Vol. 2, Tab 14, Statement - FC Const. K Richards, para 14(a) and ts 27.10.19: (Richards), p16

Lack of formal handovers and running sheets at the Onslow Police Station

174. At the time of Jamie’s death, formal handovers between shifts were not routine at the Onslow Police Station. This has now been addressed and should help to ensure that CAD tasks are not inadvertently overlooked. Further, the importance of “*running sheets*”, used to record actions during an ongoing investigation, now appears to be recognised by officers at Onslow.^{221,222,223}

175. Officer Svedberg noted that since Jamie’s death, information sharing between officers at the Onslow Police Station had been assisted by the use of a mobile phone app which had streamlined communications. She said that a recent incident at “*Old Onslow*” similar to the one involving the Group had been resolved without issue.²²⁴

Lack of awareness of land search policies

176. The Police have policies relating to land searches for missing persons and the following extracts from those policies were included in the IAU investigation:²²⁵

SS-04.02 Land Search and Rescue: the aim of any Land Search and Rescue (Land SAR) is to locate person(s) lost or in distress (vulnerable) and/or evidence pertaining to their whereabouts.

CR-10.07 Person Lost in Bush or at Sea (Lost in Bush policy): person(s) lost in the bush or at sea are very vulnerable to environmental factors, and are therefore at risk. A timely response is critical.

177. Officers can qualify as Search Mission Controllers (SMC) by completing a one-week course conducted by the EOU. Some 923 officers have completed this training with 453 of those officers located in regional areas.^{226,227}

²²¹ Exhibit 1, Vol. 2, Tab 14, Statement - FC Const. K Richards, para 14(d) & (f)

²²² Exhibit 1, Vol. 2, Tab 18, Statement - Comd. A Morton, paras 48(a) & (d)

²²³ ts 27.10.19: (Richards), p24; ts 27.10.19: (Svedberg), p68; (McDonald), p75 and ts 27.10.19: (Dwyer), p103

²²⁴ ts 27.10.19: (Svedberg), p64

²²⁵ Exhibit 1, Vol. 2, Tab 15, IAU Report (06.12.19), p50

²²⁶ Exhibit 1, Vol. 2, Tab 17, Statement - Insp. S Scott, paras 16-17 & 19

- 178.** Given the self-evident importance of officers posted to regional stations being familiar with land search operations, (if not being qualified as SMC), I was surprised to learn that at the time of Jamie’s death, officers at Onslow were unfamiliar with the contents of relevant policies.^{228,229}
- 179.** During the COVID-19 pandemic, travel within Western Australia has been heavily promoted and the number of locals visiting regional areas of Western Australia has increased. As a consequence, police stations (especially those in the north of Western Australia), can expect to be involved in more search and rescue operations. Indeed, as at September 2020, the Police have been involved in 329 land search operations.²³⁰
- 180.** Several of the officers based at Onslow Police Station at the time of Jamie’s death said that if they had been aware of the Land SAR policies and if those policies had been followed, the outcome in Jamie’s case may have been different.²³¹
- 181.** This clearly demonstrates the importance of officers posted to regional stations being aware of the content of Land SAR policies and further, the need to ensure that there are a sufficient number of SMCs at those stations. Since Jamie’s death, three officers posted to the Onslow Police Station have completed Land SAR training.^{232,233} Whilst this is a pleasing development, I am concerned about the possibility that shortages may exist at other regional police stations.
- 182.** At the inquest, Officer Scott noted that when officers are being posted to regional police stations, there is a six-week transfer period during which all necessary arrangements are attended to. Officer Scott and Officer Morton said that it had been agreed that Land SAR training would be delivered to all officers being posted to regional stations before they are deployed. In my view, this is a very welcome development.²³⁴

²²⁷ ts 28.10.20 (Scott), pp164-166 &168-169

²²⁸ ts 27.10.20 (Richards), p25; (Thompson), p50; (Svedberg), p62 and (Dwyer), pp92-93

²²⁹ See also: ts 28.10.20 (MacKay), p139

²³⁰ Exhibit 1, Vol. 2, Tab 17, Statement - Insp. S Scott, para 18

²³¹ ts 27.10.20 (Richards), pp25 & 33 and ts 27.10.20 (Svedberg), p62

²³² Exhibit 1, Vol. 2, Tab 14, Statement - FC Const. K Richards, paras 14(b) & (c)

²³³ Exhibit 1, Vol. 2, Tab 18, Statement - Comd. A Morton, para 48 and ts 28.10.20, pp162-163

²³⁴ ts 28.10.20 (Scott), pp165 & 169-170 & see also: ts 28.10.20 (Morton), pp193-194

183. With respect to officers who have already been posted to regional police stations, I suggest that training officers at district offices conduct a skills audit of the officers within their area. The purpose of the audit would be to address any skill shortages identified. Training opportunities could then be prioritised to address those shortfalls. Both Officer Morton and Officer Scott agreed that the suggested audit was sensible and could be achieved within existing resources.²³⁵

184. At the Onslow Police Station, there appears to be a much greater awareness of Land SAR policies and an appreciation of how important SMC can be when conducting land-based searches. In his police statement, Officer Richards said:

Cases of stranded persons are now taken very seriously, and on one occasion I have called in a Land SAR trained officer from another station to assist me in locating someone.²³⁶

185. There is also a greater awareness of the important resources available through the EOU, including expert advice and additional staff. The EOU sends out regular email broadcasts to remind police officers the resources available and of their obligations under relevant Land SAR policies.²³⁷

186. In this case, as Officer Scott pointed out, had the EOU been contacted about the CAD job relating to the Group, these additional resources could have been utilised. Officer Scott said that had the EOU been contacted about the Group:

EOU would have ensured that either local or other Police officers attended and located the stranded party at first light on Wednesday [i.e.: 10 April 2019].²³⁸

²³⁵ ts 28.10.20 (Morton), p195 and ts 28.10.20 (Scott), pp169-170

²³⁶ Exhibit 1, Vol. 2, Tab 14, Statement - FC Const. K Richards, para 14(f) and ts 27.10.20 (Richards), pp18-19

²³⁷ ts 28.10.20 (Scott), pp165 & 171

²³⁸ Exhibit 1, Vol. 2, Tab 17, Statement - Insp. S Scott, para 15 and ts 28.10.20 (Scott), pp166-167

187. In addition, assets from other business units of the Police such as the Air Wing could have been deployed and support from agencies such as the SES could have been arranged. Officer Scott expressed the opinion that the outcome in this case may have been different if the EOU's resources had been requested.²³⁹

Support to Acting OICs

188. I accept that it is good practice to offer the opportunity of acting as the OIC of a police station to suitably experienced police officers. This type of on-the-job training can be a powerful way to develop and enhance the skills of those aspiring to leadership roles within the Police.²⁴⁰

189. Officer Morton confirmed that decisions about Acting OIC opportunities are taken locally and although there is no formal selection process, seniority based on rank is a common consideration.²⁴¹ He said that Officer Dwyer had acted in the OIC role at the Onslow Police Station before and that his disciplinary complaint history was towards the "*lower end of the scale*" and would not therefore have precluded him from acting in the role of OIC.²⁴²

190. I would have thought that it was obvious that officers selected for Acting OIC opportunities require ongoing support and mentoring. In this case, despite his previous experience as an Acting OIC, Officer Dwyer confirmed that he was unfamiliar with the "*governance*" requirements of the OIC role and had received no guidance or support in this regard.²⁴³

191. In order to provide an avenue for officers to improve their supervisory and management skills, a police supervisor course (the Course) was reinstated in January 2019. The Course, which is aimed at First Class and Senior Constables, seeks to provide the:

[C]ontemporary procedural knowledge and skillsets required to fulfil their role and responsibilities as Police Supervisors.²⁴⁴

²³⁹ Exhibit 1, Vol. 2, Tab 17, Statement - Insp. S Scott, para 17 and ts 28.10.20 (Scott), p167

²⁴⁰ ts 28.10.20 (Morton), pp196-199

²⁴¹ ts 28.10.20 (Morton), pp159-160

²⁴² Exhibit 1, Vol. 2, Tab 18, Statement - Comd. A Morton, paras 23-25 and ts 28.10.20 (Morton), pp160 & 196-198

²⁴³ ts 27.10.20 (Dwyer), p102

²⁴⁴ Exhibit 4, Learning and assessment strategy: Police supervisor course, (version 1.0: 2019), p2

- 192.** I note that the Course incorporates a number of learning areas including: Aboriginal cultural awareness; occupational safety and health; emergency incident management; and the roles and skills of a supervisor.²⁴⁵ Officer Morton confirmed that officers who successfully complete the Course are more competitive when applying for Acting OIC opportunities.²⁴⁶
- 193.** There seems little doubt that Officer Dwyer would have benefitted from the Course had it been available before he undertook his Acting OIC duties, especially since some of the modules of the Course appear to relate to governance responsibilities.

CULTURAL SECURITY TRAINING

Previous recommendations

- 194.** In 2016, the State Coroner investigated the death of an Aboriginal woman in police custody and found that the unprofessional and inhumane behaviour of a number of police towards the deceased “*was affected by preconceptions they had formed about her*”.²⁴⁷
- 195.** Following the inquest, Her Honour made a number of recommendations, two of which are relevant for present purposes, namely:²⁴⁸
- a. there be mandatory initial and on-going cultural competency training for police officers to assist them in their dealings with Aboriginal persons, who should be involved in the delivery of the training. Initial training and at least a component of the on-going training should be delivered face-to-face; and
 - b. Officers transferred to stations serving areas with significant Aboriginal populations should receive comprehensive cultural competency training tailored to the specific issues relevant to the location. Aboriginal people be involved in the delivery of such training and initial training and at least a component of the on-going training should be delivered face-to-face.

²⁴⁵ Exhibit 4, Learning and assessment strategy: Police supervisor course, (version 1.0: 2019), pp2 & 4

²⁴⁶ ts 28.10.20 (Morton), p160

²⁴⁷ Record of Investigation of Death, Ms J Dhu, 47/15, p164

²⁴⁸ Record of Investigation of Death, Ms J Dhu, 47/15, pp137-138

Training audit

- 196.** The Police commissioned an audit of their Aboriginal cultural and diversity training (the Audit). In its comprehensive report published in March 2018, the Audit team concluded that the training being delivered by Police was largely inadequate. There had been little Aboriginal involvement in the development of the training and the time allocated was inadequate.²⁴⁹ These issues have been addressed and according to Officer Morton, the Police now deliver “*bespoke ongoing Aboriginal Cultural Awareness programs, contextualised to policing*”.²⁵⁰
- 197.** The Aboriginal Cultural Awareness training referred to by Officer Morton has been internally designed with “*extensive Aboriginal workforce and community consultation*” and consists of two-day courses specifically aimed at either police recruits, supervisors or managers. In addition, a mandatory online program relating to Aboriginal cultural awareness has been introduced.²⁵¹
- 198.** The online course has several modules dealing with history, culture and working together and also offers additional video content and links to websites to enable users to “*extend the learning journey*”. About 80% of officers in regional Western Australia, (including 88% of officers in the Pilbara region) have completed this online training. Officer Morton, with whom Officers Richards and Thomson agreed, freely acknowledged that online programs are not nearly as effective as face-to-face training.^{252,253,254} As the Audit pointed out:

Aboriginal Cultural Security training is experiential rather than competency-based. Participants require plenty of time to spend engaging with Aboriginal people, immersed in Aboriginal-led experiences. This provides opportunities for building relationships and fostering respect, and can ultimately bring about transformative learning.²⁵⁵

²⁴⁹ Exhibit 2, Cultural Security Audit for WA Police, (March 2018), pp3-5

²⁵⁰ Exhibit 1, Vol. 2, Tab 18, Annex A, Statement - Comd. A Morton, p1

²⁵¹ Exhibit 1, Vol. 2, Tab 18, Annex A, Statement - Comd. A Morton, p1

²⁵² Exhibit 1, Vol. 2, Tab 18, Annex A, Statement - Comd. A Morton, p1 ts 28.10.20 (Morton), pp175-177 & 179-180

²⁵³ Exhibit 1, Vol. 2, Tab 18, Statement - Comd. A Morton, paras 17-18 and ts 28.10.20 (Morton), pp153 & 155-156

²⁵⁴ ts 27.10.20: (Richards), pp34-35; (Thompson), p53; (McDonald), p78 and (Dwyer), p118

²⁵⁵ Exhibit 2, Cultural Security Audit for WA Police, (March 2018), p5

199. The online training program takes about one hour to complete, but again, as the Audit points out:

Best practice Aboriginal Cultural Security training allows plenty of time for formal learning, practical activities and personal reflections and building relationships/yarning. A minimum of two days' formal training is required, although three-to-five days allows a much deeper and transformative experience. Lifelong learning is of course, the ultimate aim.²⁵⁶

200. I accept that training time is precious and that it would be impracticable to deliver centralised three to five day immersive cultural security training to the approximately 1,500 police officers currently posted to regional police stations. However, there are some possible solutions that would incorporate both area specific and more general cultural security training.²⁵⁷

Future training opportunities

201. In Onslow, officers currently undergo a 60 - 90 minute training session with a local Elder. This training deals with local customs and traditions and is certainly a good start, but it is currently presented in the offices of a local mining company, rather than on-Country.²⁵⁸

202. At the inquest, Officer Morton agreed that it would be feasible for the OICs of the 120 regional police stations in Western Australia to undergo immersive, face-to-face cultural security training. Officer Morton thought that this training could perhaps be delivered during the six-week transition period that applies before officers (including OICs) are transferred to regional centres.²⁵⁹ It may be the case that some of the OICs in regional locations may have already undergone immersive cultural security training by way of the Managers or Supervisors courses referred to in Officer Morton's statement.²⁶⁰

²⁵⁶ Exhibit 2, Cultural Security Audit for WA Police, (March 2018), p17 & ts 28.10.20 (Morton), pp180-181

²⁵⁷ ts 28.10.20 (Morton), p156-157 & ts 28.10.20 (Scott), p169

²⁵⁸ ts 27.10.20 (Richards), pp34-35

²⁵⁹ ts 28.10.20 (Morton), pp154-155

²⁶⁰ Exhibit 1, Vol. 2, Tab 18, Annex A, Statement - Comd. A Morton, p1

203. I suggest that OICs who have completed this immersive training be encouraged to act as cultural security “*ambassadors*” in their respective communities and model appropriate behaviours. Further, these OICs should also be encouraged to engage with local Aboriginal Elders and invite them to deliver area-specific immersive cultural security training to officers posted to their respective police stations. I note that Officer Morton was supportive of this suggestion.²⁶¹

204. I envisage that this local immersive training would be delivered “*on-Country*” in order to maximise its impact and to in order to provide opportunities for yarning and the sharing of experiences in a relaxed and informal environment. Aboriginal culture in Australia is not monolithic and cultural practices vary widely from area to area.²⁶²

205. The aim of tailored immersive training would be for officers to develop a deeper understanding of local Aboriginal issues and to reduce the likelihood that stereotypes would impact on police interaction with the local Aboriginal community. This outcome would clearly have mutual benefits.

Comment relating to recommendations

206. After reviewing the available evidence, I concluded that it would be appropriate to make three recommendations. It has been my practice to send interested persons a draft of any recommendations I intend to make and invite comment. By email dated 11 November 2020, Ms Collins forwarded a draft of these recommendations to Ms Eagling and Ms Barter.²⁶³

207. By email dated 18 November 2020, Ms Eagling forwarded several suggested changes to the draft recommendations on behalf of the Police, some of which I have incorporated. By email dated 19 November 2020, Ms Barter advised that her clients supported the draft recommendations and had no further comment.^{264,265}

²⁶¹ ts 28.10.20 (Morton), pp154, 178-179, 182 and 185

²⁶² ts 27.10.20 (Dwyer), p107

²⁶³ Email from Ms R Collins to Ms N Eagling and Ms A Barter (11.12.20)

²⁶⁴ Email from Ms N Eagling to Ms R Collins (18.11.20)

²⁶⁵ Email from Ms A Barter to Ms R Collins (19.11.20)

RECOMMENDATIONS

208. In light of the observations I have made in this matter, I make the following recommendations:

Recommendation No.1

In order to identify any skill deficits amongst officers posted to regional police stations, especially in relation to the conduct of land searches for missing persons, training officers at District Offices should conduct an audit of the police officers in their respective Districts. Any identified skills deficiencies should then be addressed and training opportunities should be prioritised.

Recommendation No.2

In order to enhance and strengthen relationships between police and members of local Aboriginal communities, the Officers in Charge (OIC) of regional police stations should undertake immersive, face-to-face cultural awareness training. Once they have completed this training, the OICs should engage with local Aboriginal Elders with a view to developing and delivering locality-specific immersive cultural security training to the police officers posted to their respective stations.

Recommendation No.3

As a matter of urgency, the Department of Justice (DoJ) and the Western Australian Police Force (the Police) should finalise a memorandum of understanding (MOU) which clearly sets out the types and level of support that DoJ expects the Police to provide to Courts visiting towns in regional Western Australia. The MOU should be structured in a way which enables the Police to make strategic decisions about what additional resources may be required, so as to ensure that frontline policing in the regional town being visited by the Court is not adversely impacted. Where an incident requiring urgent police attendance occurs, the policing response to that incident should take priority over any court security and custodial services being provided by police at that time.

CONCLUSION

209. In her closing submissions at the inquest, Ms Barter explained how much Jamie meant to his loved ones:

His family have many happy memories with Jamie. They went fishing, had birthday parties with kids, they cooked kangaroo tails at the Gascoyne River. They spent lots of time...enjoying family time. The family acutely feel the loss of their loved one. Jamie was always with his brother Steven around Carnarvon, and many community members now ask, "*Where's the other brother?*"²⁶⁶

210. Jamie's death was preventable and should not have happened. A number of factors lead to a situation where the police response to Jamie's calls for help was demonstrably inadequate. The Police apologised to Jamie's family and several of the officers at Onslow Police Station at the relevant time spoke in moving terms about the impact of Jamie's death and how their approach to police duties has been forever altered.

211. Since Jamie's death, the Police have made some positive improvements to their procedures, and I have made three recommendations for further changes. The aim of these changes is to try to make sure that what happened to Jamie will never happen again.

212. It is my sincere hope that the changes which have been made, as well as the ones I have recommended, may offer Jamie's loved ones some solace as they continue to cope with their terrible loss.

MAG Jenkin

Coroner

25 November 2020

²⁶⁶ ts 28.10.20 (Barter), p210