
JURISDICTION : CORONER'S COURT OF WESTERN AUSTRALIA
ACT : CORONERS ACT 1996
CORONER : SARAH HELEN LINTON, DEPUTY STATE CORONER
HEARD : 14-15 APRIL 2021
DELIVERED : 27 JUNE 2021
FILE NO/S : CORC 202 of 2019
DECEASED : THORSAGER, JORDAN ALEXANDER

Catchwords:

Nil

Legislation:

Nil

Counsel Appearing:

Ms S Tyler assisted the Coroner.

Mr B Nelson with Ms C Gilchrist (SSO) appeared on behalf of the WA Police.

Case(s) referred to in decision(s):

Nil

Coroners Act 1996
(Section 26(1))

RECORD OF INVESTIGATION INTO DEATH

*I, Sarah Helen Linton, Deputy State Coroner, having investigated the death of **Jordan Alexander THORSAGER** with an inquest held at Perth Coroners Court, Central Law Courts, Court 85, 501 Hay Street, Perth, on 14 April 2021 - 15 April 2021, find that the identity of the deceased person was **Jordan Alexander THORSAGER** and that death occurred on 14 February 2019 at Royal Perth Hospital, Wellington Street, Perth, from multiple injuries in the following circumstances:*

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SUPPRESSION ORDER

On the basis that it would be contrary to the public interest, I make orders that there be no reporting or publication of the details of any of the versions of the WA Police Emergency Driving Policy and Guidelines including, but not limited to, any cap on the speed at which police officers are authorised to drive.

INTRODUCTION

1. Jordan Thorsager died in the early hours of 14 February 2019, after the motorcycle he was riding was struck head-on by a car being driven by Kylee King. At the time of the collision, Ms King was driving in an extremely dangerous manner in order to evade police, including driving on the wrong side of the road.
2. Sadly, motorcyclists are overrepresented in road fatality statistics in Western Australia, and the blame is often focussed on the motorcycle rider and their riding behaviour. However, there can be absolutely no doubt that Jordan was blameless in his conduct and the fault for this collision lay with Ms King. The problem is that, even when the motorcyclist is not at fault, they are the most vulnerable due to the lack of protection afforded by a motorcycle as compared to a car. That was proved true in this case, as Jordan suffered fatal injuries, whereas Ms King suffered only a minor leg injury.
3. Ms King was charged with murder¹ in relation to the death of Jordan. She pleaded guilty, and on 13 May 2020 she was sentenced in the Supreme Court in Perth to life imprisonment with a minimum non parole period of 13 years'.²
4. I am precluded from making a finding inconsistent with those proceedings,³ and that conduct is not the specific focus of this inquest. Rather, the purpose of this inquest is for me to consider whether Jordan's death was caused, or contributed to, by any action of a member of the Western Australian Police Force, given the police were attempting to intercept Ms King immediately prior to the collision.⁴
5. In that regard, it is relevant that the driver of the police car that was following Ms King, Senior Constable Michael Gordon, was charged with reckless driving (exceeding the speed limit by 45 km/h or more).⁵ The charge was preferred on the basis that Senior Constable Gordon's driving "grossly breached WA Police Driving Policy and Guidelines during the evade police incident."⁶ The charge was later downgraded to dangerous driving.⁷ Senior Constable Gordon pleaded guilty to the lesser charge and was dealt with in the Magistrates Court by way of a fine.⁸ He was also dealt with internally by way of a disciplinary charge under the *Police Force Regulations 1979*, resulting in a further fine.
6. Senior Constable Gordon's partner on that shift, Police Constable Tanya Harris, was also dealt with internally by way of a disciplinary charge under the regulations and fined.
7. It was made clear to both officers that I might make adverse comments in relation to their conduct, consistent with the above. They were represented by counsel at the inquest and had an opportunity to make submissions in that regard. I have considered those submissions in making my findings.

¹ Section 279(1)(c) *Criminal Code* (WA).

² Exhibit 1, Tab 9.

³ Section 53(2) *Coroners Act 1996* (WA).

⁴ Section 22(1)(b) *Coroners Act*.

⁵ Section 60A(2) *Road Traffic Act 1974* (WA).

⁶ Exhibit 1, Tab 6, p. 14.

⁷ Section 61 *Road Traffic Act*.

⁸ Exhibit 1, Tab 18.

BACKGROUND

8. Jordan was a young man in the prime of his life. He was killed only days before his 24th birthday. Jordan was described as outgoing and sociable and he lived a full life. After leaving school he gained employment at the ANZ bank in 2018, where he was a highly regarded employee. The day he died the branch where he worked closed for the day so his colleagues could mourn, and customers placed flowers outside.⁹
9. Jordan had wanted a motorcycle since he was a small child, and had finally got his licence and a motorcycle at the age of 23. He achieved this childhood dream less than a year before his death. Tragically, it was in living out this dream and doing what he loved that he met his untimely death through the reckless and selfish behaviour of another driver. Jordan himself was a good driver who had never been in trouble with the law.¹⁰
10. Jordan's family explained the extent of their loss in a statement to the Supreme Court as follows:

Jordan touched so many lives and was loved by so many people, with more than 300 people at his funeral. He was a wonderful young man who will forever be missed.

SUMMARY OF EVENTS LEADING TO COLLISION

11. I have adopted the general facts for the lead-up to the collision from the sentencing remarks from Ms King's Supreme Court sentencing proceedings wherever possible, so that I am consistent with that decision. I have added in relevant additional information where required.¹¹
12. At about 11.50 pm on Wednesday, 13 February 2019, Ms King was driving a Ford Falcon sedan in Camillo. The car had stolen number plates on it, which had been stolen about a month earlier. The car had been involved in five incidents in the previous two weeks. In these incidents the driver had engaged police in high speed incidents and managed to evade capture, including one incident about an hour earlier that evening. There was insufficient evidence to prove Ms King was the driver in those earlier incidents, but the evidence raised a suspicion Ms King was involved, particularly in relation to the event that occurred an hour earlier that night, when it was seen speeding by police at about 10.40 pm but was not intercepted.¹²
13. Due to the previous incidents and the stolen licence plates fitted to the car, the Ford Falcon was of interest to the police. It was also noted to have a faulty tail light.
14. The Ford Falcon was being driven by Ms King shortly before midnight when it was seen by detectives in an unmarked car. They followed the vehicle at a distance and a request went over the radio for any pursuit drivers in the area.

⁹ Exhibit 1, Tab 9.

¹⁰ Exhibit 1, Tab 9 and Tab 14, p. 5.

¹¹ Exhibit 1, Tab 9.

¹² Exhibit 1, Tab 9 and Tab 10, p. 5.

15. Senior Constable Gordon and Constable Harris, who were stationed at Gosnells Police Station and were working the night shift on patrol in a marked Holden Commodore sedan, call sign JG108, were at the station doing paperwork. Their vehicle was a class 1 vehicle and Senior Constable Gordon was a qualified priority pursuit driver, so they got in their car and identified themselves as available to assist. They were authorised at priority 1 to attend the scene and given permission by the Police Operations Centre to assist in the intercept and apprehension of the driver of the Ford. They left the station at about 11.45 pm, with Senior Constable Gordon driving and Constable Harris in the passenger seat.¹³
16. Ms King was driving through a roundabout in Seville Grove when the police officers in JG108 saw her for the first time. The police officers activated their emergency lights and sirens in an attempt to get Ms King to stop her vehicle. She failed to comply and accelerated away, driving through the back streets of Armadale at high speed.
17. Ms King successfully evaded the police in JG108 for approximately 40 minutes in total. During that time, she drove through suburban streets and on major roads at speeds that at times exceeded 140 km/hr. She failed to stop at stop signs and red traffic lights and repeatedly crossed to the incorrect side of the road at high speed, weaving through oncoming traffic. Whenever Ms King crossed to the wrong side of the road, the police officers disengaged from their attempts to stop her, but they continued to follow the vehicle, often at speed. When Ms King crossed back to the correct side of the road, the police would re-engage with her.
18. Much of Ms King's driving behaviour was captured on video by a Navman dashboard camera installed in the police vehicle JG108 by Senior Constable Gordon. Ms King's driving, as captured on the Navman, was described as "highly dangerous and frightening,"¹⁴ especially when she was travelling headlong towards oncoming traffic.¹⁵
19. By 12.22 am on Thursday, 14 February 2019, Ms King had reached Vahland Avenue in Willetton. Around that time, while still trying to evade the police, Ms King rang a friend on her mobile phone. While making the call, she turned right onto Leach Highway, against a red traffic light, and then headed north-east on Leach Highway on the wrong side of the road, driving into the oncoming traffic. Utilising CCTV footage from a house in Wilson, about 1.5 km from the crash location, investigators were able to estimate Ms King was travelling at about 111 km/hr in a 70 km/hr zone around this time. She continued on Leach Highway until she reached the intersection of Albany Highway.
20. After Albany Highway, Leach Highway curves left and tracks north. It inclines towards Welshpool Road as one approaches the overpass or bridge over the railway line. The road also inclines towards the bridge from the other direction. At 12.25 am, Ms King was driving the Ford Falcon towards the overpass. She was still driving on the wrong side of Leach Highway at this stage. The police in JG108 were following close behind her, but driving on the correct side of the road. They had lost sight of her car because of the bushes in the median strip and their lights and siren were not activated.

¹³ T 102, Exhibit 1, Tab 14.

¹⁴ Exhibit 1, Tab 9, [15].

¹⁵ Exhibit 1, Tab 9, [15].

21. As she approached the overpass, several cars heading south on Leach Highway had to take evasive action to avoid colliding with Ms King's car. She apparently flashed her headlights at the oncoming traffic to alert them to her approach. One driver, Ms Carol Allan, had a dash-cam installed in her vehicle, which captured the moments when Ms King's car approached her car and the taxi ahead of her. The taxi can be seen to swerve left and then right, obviously not certain which way to go given Ms King was flashing her lights and driving erratically. Ms King's car narrowly missed a head-on collision with the taxi and Ms Allan, who was behind the taxi, also had to swerve to get out of Ms King's way. These incidents happened moments before the fatal crash.
22. Ms Allan gave evidence at the inquest that she had assumed the car approaching in the wrong lane was a driver who had made a mistake, and it was only shortly before it passed her that she realised the car was going much faster than she had expected and the manner of driving was deliberate. Ms Allan then had to take emergency action to get out of the car's way.¹⁶
23. Jordan was riding his Kawasaki motorcycle south on Leach Highway. He was wearing appropriate protective clothing, properly licensed and by all accounts driving in an unremarkable manner. He was approximately 200 metres behind Ms Allan's vehicle. Jordan rode through the traffic lights at Welshpool Road in the right hand lane then began travelling up the incline towards the rail line overpass. Other drivers who were behind Jordan estimated he was travelling at about the speed limit and saw nothing unusual about his manner of driving.
24. The car driven by Ms King approached from the opposite direction at speed, heading over the bridge and over the crest on the wrong side of the road. Ms King's car struck Jordan's motorcycle head-on. It appears the collision occurred in the left-hand lane, indicating Jordan had moved to the left at some stage. It is unlikely Jordan had any warning of the Falcon's approach before the collision as her approach was concealed by the bridge. The force of the impact was enormous. The collision ripped the front wheel and forks from the motorcycle and they became embedded in the front of Ms King's vehicle. Jordan was thrown from his motorcycle and came to rest on the verge nearby. His helmet was dislodged by the force of the crash and landed approximately 30 m away, on the other side of the highway. The motorcycle then caught fire.¹⁷
25. Although damaged, Ms King's vehicle continued on and approached a Mercedes that was travelling with a family in it. Behind the Mercedes was a Volkswagen driven by Steven Marcos, who was heading home after working a shift at the airport. The driver of the Mercedes braked heavily, causing Mr Marcos to veer around it and come face to face with Ms King's vehicle. Mr Marcos had just enough time to "floor the car as fast as [he] could"¹⁸ and move back in front of the Mercedes, before Ms King passed him. He saw Ms King's face as she passed and he recalled she looked shocked.¹⁹

¹⁶ T 8, 11.

¹⁷ T 52 - 53.

¹⁸ T 21.

¹⁹ T 21; Exhibit 1, Tab 13.

26. As the vehicle slowed, Ms King opened the driver's door and rolled out, abandoning the car as it continued to roll forwards and crashed into the Mercedes.²⁰
27. In the meantime, Mr Marcos had stopped at the scene of the crash. He could see parts of the motorcycle scattered across the road and as he looked around he saw Jordan lying on the side of the road. He went over to try and help Jordan. Mr Marcos could see that Jordan was seriously injured so he rang to request an ambulance attend. While Mr Marcos was on the phone to emergency services he saw Ms King get to her knees and start running away through bushes towards the fenceline.²¹
28. The police officers who had been following behind, but on the correct side of the road, arrived on the scene seconds after the collision. Their view of Ms King's car had been obscured by thick bushland so they had not witnessed the collision. They did not immediately realise there had been a crash, and at first thought only that the Ford Falcon might have blown a tyre as they saw sparks coming off it.²²
29. Mr Marcos called out to alert the police that Ms King was running away. At the same time, they had seen the driver's door of the Ford Falcon open and Ms King launch herself from the car while it was still moving. The two police officers immediately ran after Ms King, not aware that Jordan was requiring assistance.
30. Mr Marcos was still with Jordan, waiting for an ambulance to arrive, and he called out to the police to come and assist as he was reluctant to move Jordan in any way in case he made his injuries worse. Constable Harris heard Mr Marcos call out that they needed an ambulance for an injured motorcyclist, so she turned to Senior Constable Gordon, and told him to go back to help. Senior Constable Gordon had also heard a voice call out about a motorcyclist, so he immediately turned and went back up the hill to assist. Other police officers also quickly arrived on the scene, and together they began providing first aid to Jordan until ambulance officers arrived and took over his care.²³
31. Constable Harris arrested Ms King after a short foot chase. Ms King was brought back to the scene, where she was aggressive towards police, blaming them for the crash as they had continued to 'chase' her. She was taken to hospital for treatment for an injury to her foot and was ultimately treated for a broken toe and grazes.
32. Jordan was noted to be severely injured. He was unconscious and not breathing. St John Ambulance officers made efforts to resuscitate him. He was transferred to Royal Perth Hospital, where his death from his injuries was confirmed.

CAUSE AND MANNER OF DEATH

33. A post mortem examination was conducted on 15 February 2019. The examination showed changes of resuscitation attempts and severe injuries to the head, neck, chest and

²⁰ Exhibit 1, Tab 12.

²¹ T 20 – 23.

²² T 120, 152 - 153.

²³ T 150.

abdomen, as well as injuries to both of the arms. There was no evident natural disease.²⁴ Toxicology analysis showed no alcohol or common drugs.²⁵

34. At the conclusion of all investigations, the forensic pathologist expressed the opinion the cause of death was multiple injuries. I accept and adopt their opinion as to the cause of death.
35. Noting the outcome of the murder indictment in the Supreme Court, it follows that I find Jordan's death occurred by way of unlawful homicide.

METHYLAMPHETAMINE AND IMPAIRED DRIVING

36. After Ms King was arrested, a sample of her blood was obtained under the provisions of the *Road Traffic Act* and the sample was analysed by the Chemistry Centre. The results indicated that Ms King had 0.2 mg/L of methylamphetamine in her blood during the time she evaded the police and the collision. By comparison, in the United Kingdom driving laws recognise that 0.01 mg/L of methylamphetamine is deemed to be impairing, so Ms King had 20 times that amount in her system.²⁶
37. Methylamphetamine (also known as speed or ice) is often found present in the blood of drivers in coronial cases involving dangerous driving and evade police incidents. Expert evidence from Professor Joyce, a clinical pharmacologist and toxicologist, in other cases explains that amphetamine-type drugs may influence driving capacity through a number of physiological and behavioural effects.
38. As was explained in a joint inquest into multiple deaths arising from several evade police incidents,²⁷ in Professor Joyce's experience, methylamphetamine intoxication can result in driving behaviour that defies all reason. At the early stage of methylamphetamine intoxication, common consequences include risk-taking behaviour, recklessness, aggression and violence. In terms of how this affects driving behaviour, examples include driving on the wrong side of the road, racing through red lights, complete indifference to the outcome of a crash, giving attention to some completely incidental activity rather than attending to the driving of the vehicle and proceeding in the face of overwhelming danger.²⁸ All of these features were present in Ms King's driving on this night.
39. Importantly, Professor Joyce gave evidence that if police did not pursue methylamphetamine intoxicated drivers, it does not mean they would drive safely as their willingness to engage in risk-taking behaviour remains. To quote Professor Joyce, "Methylamphetamine using drivers are just plain dangerous."²⁹
40. The issue of whether methylamphetamine affected drivers were able to still make reasoned decisions was also canvassed in that joint inquest, and Professor Joyce indicated

²⁴ Exhibit 1, Tab 4.

²⁵ Exhibit 1, Tab 4 and Tab 5.

²⁶ T 53.

²⁷ Inquest into the deaths of Kuldeep SINGH, Sean Duncan BARRETT, Gavin Wayne FRYER, Jordan Damon RUNDELL, Kyra Marjorie NARRIER and Hassan EL BAKDADI, delivered 29 December 2017.

²⁸ Ibid, [20] – [30].

²⁹ Ibid, [31].

that “the driver always has the option of desisting”³⁰ despite the effects of their intoxication. Therefore, their driving remains voluntary.

41. This well-known information about the frequency and behaviour of methylamphetamine affected drivers is important in terms of understanding how Ms King could have behaved in the callous manner that she did, as well as how it impacts on the WA Police Emergency Driving policy.
42. Detective Sergeant John Lee-Kong from the Major Crash Investigation Section was involved in the criminal investigation that led to Ms King’s murder conviction. Detective Sergeant Lee-Kong confirmed that the methylamphetamine found in Ms King’s system was relevant to crash causation in this case. He also noted that the Major Crash Investigation Section is finding that methylamphetamine use is a big issue in the crashes that they attend, noting that methylamphetamine is quite often found in the blood samples they take from drivers involved in these serious crashes.³¹
43. People who use methylamphetamine are obviously not putting their own safety first, but it is very important that the message gets through that driving while affected by methylamphetamine creates serious risks, not only to themselves, but members of the public who are going about their business. Ms King must now live with the consequence of having killed an innocent man while voluntarily driving under the influence of this dangerous drug.

DISCIPLINARY AND CRIMINAL CHARGES AGAINST THE POLICE OFFICERS INVOLVED

44. When police officers are driving while on duty, they are generally bound by the same road rules as any other driver, but there are some exceptions if they are undertaking emergency driving as part of their duties. There is a WA Police Emergency Driving Policy, which has been referred to above, that governs how police officers behave in such circumstances. The policy provides a framework in which individual police officers make decisions in any particular incident. If they breach the policy, they can be subject to disciplinary and criminal charges, as occurred in this case.
45. Due to the circumstances of the death and the police involvement with Ms King immediately before, officers from the WA Police Internal Affairs Unit (IAU) began an investigation into the conduct of Senior Constable Gordon and Constable Harris in the evade police incident and consideration of whether they complied with the WA Emergency Driving policy and also whether there was any evidence to support criminal charges in relation to their conduct. This was separate to the criminal investigation into the conduct of Ms King.
46. Detective Senior Sergeant Lloyd Van Der Schoor prepared the comprehensive IAU report for the coroner and gave evidence at the inquest. Detective Senior Sergeant Van Der Schoor confirmed that in addition to the charges that were laid against the two officers, consideration had also been given to charging Senior Constable Gordon and/or Constable

³⁰ Ibid, [32].

³¹ T 60.

Harris with more serious criminal charges arising from their behaviour on the night. In particular, consideration was given to whether an offence under s 304(1)(b) of the *Criminal Code* could be substantiated, but it was concluded that there was insufficient evidence to support such a charge. The IAU investigators also considered whether there was any evidence to suggest either police officer deliberately interfered with the Navman recording or footage, which might result in a criminal charge, but found no evidence to support that conclusion.³²

47. The primary adverse finding of the IAU investigation was that the two officers in JG108 did not complete an appropriate risk assessment themselves and did not communicate relevant information to the duty inspector at POC so they could make an independent risk assessment. Important information in relation to their speed and the fact Ms King was driving on the wrong side of the road and passing other vehicles (a total of 29 cars and two trucks) was not passed on to POC. The level of culpability between the two officers was differentiated on the basis of the difference seniority between the two officers and the fact that the driver should take primary responsibility, which attributed a greater level of responsibility to Senior Constable Gordon in this case.³³
48. It was noted that Senior Constable Gordon had been identified by the IAU as a high-risk officer prior to this incident, based upon the number of driving pursuits he had been involved in, and he had been subject to an early intervention process that had not identified any concerns in his conduct in those previous incidents and he was, in fact, congratulated on his compliance with policy and guidelines in those earlier matters.³⁴
49. Based upon his previous involvement in a significant number of pursuits, his participation in ongoing pursuit training, his experience with the early intervention IAU process and his answers in the IAU interview, it was not felt that Senior Constable Gordon's actions on the night were due to a lack of training or understanding of the relevant policy, but simply a failure to adhere to it on this occasion.³⁵
50. Senior Constable Gordon was the driver on the night and Constable Harris was the passenger. Senior Constable Gordon was a qualified priority pursuit driver and he was driving an appropriate class of vehicle, a marked Ford Holden sedan, call sign JG108. Senior Constable Gordon had graduated from the WA Police Academy in 2004 and had undertaken the Advanced Driver Training course in May 2007 in order to obtain his Priority 1 and Evade Police Intercept Driving qualifications. He had then maintained his online competency for those qualifications from that date.³⁶
51. Prior to leaving the Gosnells Police Station, Senior Constable Gordon fitted his personal Navman video recording device to the front windscreen of their car.³⁷ He gave evidence he used the device as a portable GPS, as there was not one installed in that car. He also used the footage, by downloading it, if something significant occurred during the shift

³² T 63 - 66; Exhibit 1, Tab 14.

³³ T 72.

³⁴ T 72 - 74, 83.

³⁵ T 74 - 75.

³⁶ Exhibit 1, Tab 14, p. 33.

³⁷ Exhibit 1, Tab 14 and Tab 18.

and the footage was required as evidence.³⁸ The officers in JG108 were intending to assist other police vehicles to intercept and apprehend the driver of the Ford, who was later identified as Ms King.

52. Senior Constable Gordon and Constable Harris had worked together before but they had not been involved in a evade police intercept together before.³⁹ Senior Constable Gordon took charge of activating the lights and sirens for the police car on the night, as he usually did when driving.⁴⁰ He explained that during this incident, while they left the station with lights and siren activated, he turned the siren off at an early stage because it is difficult to hear the radio communications over the sound of the siren.⁴¹
53. Senior Constable Gordon accepted that he also turned the lights and siren off at times, even though he was still following Ms King’s vehicle at high speed, as he didn’t consider them to be “pursuing the car”⁴² but instead just trying to keep observation of the car to assist in having a stinger activated to stop her. Because they were not in pursuit, he believed they did not require the lights and siren to be activated, and he was “trying to be covert and not tell Ms King where [they] were”⁴³ as he didn’t want to make her driving worse while trying to monitor her. He accepts now that his interpretation was incorrect, but at the time he believed the Emergency Driving Policy permitted lights and siren to be left off “for evidence-gathering purposes.”⁴⁴
54. By virtue of the Navman in the police car, evidence was obtained in relation to Senior Constable Gordon’s manner of driving, speed of the vehicle, geographical position of the car, dialogue between him and Constable Harris and the POC Radio Dispatcher and the activation and deactivation of the police car’s emergency lights and siren. It also captured the driving of Ms King ahead of them, showing her passing 29 cars and two trucks whilst she was driving on the incorrect side of the road. This footage ended at 12.14 am when the Navman apparently malfunctioned.⁴⁵ There was another 12 minutes or so of driving before the collision that is not captured on the footage.⁴⁶
55. It was notable that Ms King drove onto the incorrect side of the road almost immediately after JG108 engaged with her.⁴⁷ The evidence from the Supreme Court proceedings reveals Ms King held a belief that her behaviour in driving at high speed and onto the incorrect side of the road would lead to the police being downgraded, which is why she did it.⁴⁸ However, contrary to her expectation, the police in JG108 continued to follow her and there was a further series of authorised engagements and unauthorised engagements after this time.

³⁸ T 100 - 101.

³⁹ T 105.

⁴⁰ T 102.

⁴¹ T 106 – 107.

⁴² T 107.

⁴³ T 108.

⁴⁴ T 108.

⁴⁵ Exhibit 1, Tab 14.

⁴⁶ T 65.

⁴⁷ Exhibit 1, Tab 14.

⁴⁸ Exhibit 1, Tab 14, pp. 12 – 15.

56. Ms King tried to blame Jordan's death on the police for chasing her, saying to a police officer on the night "It's your fault, you shouldn't have been chasing me"⁴⁹ and later claiming in an interview that if they had aborted the chase "nothing would have happened."⁵⁰ This proposition clearly cannot be accepted. Jordan's death is the responsibility of Ms King and came about because of her callous and blatant disregard for the safety of other road users. His Honour, Justice Fiannaca, noted in his sentencing remarks, that a message must be sent to those who wish to behave in a similar way to Ms King that "the police have every right to try to protect the community by preventing persons, particularly when affected by drugs, from driving in such a dangerous way as to imperil the lives of other motorists who are innocently going about their business on the road."⁵¹ When asked by police why she didn't stop, Ms King's blunt response was, "Because I didn't want to."⁵² The police investigations confirmed the deliberate and willed acts of Ms King at all times.⁵³
57. However, it was clear that Ms King's motivation for driving on the incorrect side of the road, through traffic lights and at extremely high speed was because she was of the view that if she drove dangerously, police would have no choice but to let her escape.⁵⁴
58. It was noted in the IAU investigation that at 12.21 am Senior Constable Harris communicated a self-termination to POC but Senior Constable Gordon continued to pursue Ms King at speed, in excess of the authorised speed limit, and at 12.24 am she moved onto the incorrect side of Leach Highway and continued to drive on the incorrect side of the highway for approximately five kilometres until the fatal crash on the overpass in Welshpool.⁵⁵
59. The two police officers in JG108 were still following her at this time, albeit on the correct side of the road, and the Automated Resource Locator (ARL) data from their car indicated at 12.25 am Senior Constable Gordon reached a top speed of 133 km/h. The lights and siren on the car were not activated at this time and his pursuit of Ms King was unauthorised.⁵⁶
60. The two police officers did not witness the fatal collision between the Ford and Jordan's motorcycle, but they were on the scene shortly afterwards and initially reported that the Ford had blown a tyre before realising a collision had occurred. They saw Ms King jump from the still moving car and try to run away so they pursued her and Constable Harris arrested her. They then realised that there had been a collision and another motorist had been hurt.
61. Senior Constable Gordon accepted in a managerial interview on 7 March 2020 that he was pursuing Ms King when her Ford crashed into Jordan Thorsager and that in hindsight

⁴⁹ Exhibit 1, Tab 14, p. 46.

⁵⁰ Exhibit 1, Tab 14, p. 13.

⁵¹ Exhibit 1, Tab 9, [116].

⁵² Exhibit 1, Tab 14, p. 14.

⁵³ Exhibit 1, Tab 14, p. 65.

⁵⁴ Exhibit 1, Tab 9, p. 11.

⁵⁵ Exhibit 1, Tab 14.

⁵⁶ Exhibit 1, Tab 14, p. 3.

he should have terminated the pursuit of Ms King.⁵⁷ The police car was travelling at high speed and was only 4 seconds behind Ms King when she crashed into the motorcycle.⁵⁸

62. As noted at the start of this finding, Senior Constable Gordon ultimately pleaded guilty to a downgraded charge of dangerous driving on 27 February 2020. The circumstances of the dangerous driving were that “he drove in excess of 45 kilometres an hour over the posted speed limit whilst having turned off the vehicle’s emergency lights and emergency siren.”⁵⁹ In doing so, he failed to substantially comply with the WA Police Emergency Driving Policy. In addition, when Ms King drove onto the incorrect side of the road and passed several oncoming vehicles, Senior Constable Gordon failed to comply with the requirement to self-terminate due to the risks to other road users known to him at that time. It was not reasonable and not in the public interest for him to drive the police vehicle in that manner.⁶⁰
63. Submission was made by the prosecutor in the sentencing proceedings for Senior Constable Gordon’s charge that there is a public interest in police officers carrying out intercept driving to apprehend offenders and that public interest must be balanced against the risk posed to the public by that very manner of driving by police officers. That balance is struck by the WA Police policies and is not to be altered by the individual decision-making of police officers.⁶¹ It was not just Senior Constable Gordon’s speed in this case, but his speed while driving with his lights and sirens off, and failing to terminate in accordance with policy. He also exceeded the allowed speed differential on five separate occasions, not just once, during the approximately 40 minutes of driving.⁶²
64. The learned sentencing Magistrate described the conduct as demonstrating “some serious errors of judgment in the heat of the moment.”⁶³ Senior Constable Gordon was fined and ordered to pay the costs of the prosecution.
65. Separate to these criminal proceedings, Senior Constable Gordon, was also dealt with internally by the WA Police. This was not the first time he had been the subject of disciplinary proceedings in relation to his driving while on duty. Senior Constable Gordon had previously received a Letter of Corrective Advice in relation to his driving contravening the WA Police Emergency Driving Policy on 14 December 2012. That incident also involved a fatal traffic crash. Senior Constable Gordon was found to have contravened the policy by not having emergency lights and sirens on at all times and not having the proper authorisation from POC. It was not suggested that Senior Constable Gordon’s actions had an impact on the fatal traffic crash on that occasion, but he was reminded in the letter of his “responsibilities to obey all road and traffic laws and undertake emergency driving in accordance with the procedures and guidelines established for that purpose.”⁶⁴ In particular, and relevant to this case, he was specifically “reminded of the requirement under the Emergency Driving Policy to receive

⁵⁷ Exhibit 1, Tab 14, pp. 11 – 12 and Tab 17.

⁵⁸ Exhibit 1, Tab 14, p. 63.

⁵⁹ Exhibit 1, Tab 18, p. 9.

⁶⁰ Exhibit 1, Tab 18.

⁶¹ Exhibit 1, Tab 18, p. 21.

⁶² Exhibit 1, Tab 18, pp. 21 - 22.

⁶³ Exhibit 1, Tab 18, p. 41.

⁶⁴ Exhibit 1, Tab 20.

authorisation from POC and to display emergency warning devices when engaged in priority 2 driving.”⁶⁵

66. Senior Constable Gordon had also been spoken to by a detective from the Behavioural Assessment Team of the IAU about his intercept driving during 2017, in relation to the number of pursuits he had been involved in, as he had been involved in over 40 pursuits as a driver.⁶⁶ He had been identified as a ‘high risk driver’ so had been subject to that early intervention process.⁶⁷ On 27 June 2017 Senior Constable Gordon had a personal meeting with Detective Senior Constable Ryan Edmonds to reinforce policy and procedures in respect to Intercept Driving.⁶⁸ It is notable that the review had not found any breaches of policy by Senior Constable Gordon and he was simply told to keep up the good work at this time.
67. The outcome of the WA Police disciplinary proceedings in the present case, was a charge under regulation 402(e) of the *Police Force Regulations 1979* that he failed to comply and give effect to administrative instructions contained in the Emergency Driving Policy and Guidelines. He pleaded guilty before the Independent Review Panel and was fined 3% of his annual base rate of pay and his priority 1 pursuit driving qualification was permanently removed.⁶⁹
68. Constable Harris, the more junior officer and the passenger in this case, was also dealt with by way of a disciplinary charge under regulation 402(e) of the regulations and was also fined 3% of her wage.⁷⁰ Constable Harris also had her priority driver qualifications revoked and she has had to undergo those training courses again at the Academy since that time.⁷¹ The gravamen of her conduct was that the details provided to POC did not reflect the true circumstances of oncoming vehicle traffic during the intercept/evade incident, she was not independently monitoring the actual speed of the police vehicle and did not take sufficient action to terminate Senior Constable Gordon’s driving behaviour but rather relied on Senior Constable Gordon’s account and experience instead, including allowing him to operate the emergency lights and siren instead of taking control of these functions herself.
69. Consistent with Senior Constable Gordon’s account, Constable Harris gave evidence that she never deliberately underreported JG108’s speed and believed she conveyed all information accurately when they were in “active pursuit evade”.⁷² However, she accepted that there was relevant information that she did not convey back to POC as she was under the impression they were no longer engaging in the evade intercept when they had downgraded and were simply ‘following’ Ms King’s car for intelligence gathering purposes. Constable Harris said that when she watched the Navman footage of their drive, her “heart sunk”⁷³ and she could understand why others watching the footage

⁶⁵ Exhibit 1, Tab 20.

⁶⁶ Exhibit 1, Tab 14, p. 11 and Tab 17.

⁶⁷ Exhibit 1, Tab 14, p. 59.

⁶⁸ Exhibit 1 Tab 14, p. 60.

⁶⁹ Exhibit 1, Tab 19.

⁷⁰ Exhibit 1, Tab 23.

⁷¹ T 135.

⁷² T 137.

⁷³ T 136.

might form a different impression.⁷⁴ Since retraining, she is now more aware of her role and responsibility in these situations and, in hindsight, she can see why calling out all of the additional information would be helpful for the staff at POC.⁷⁵

70. In the scale of outcomes for internal disciplinary matters, the outcomes of these disciplinary proceedings constitute a “significantly serious breach of police force regulation”⁷⁶ and the two officers received the maximum financial police that the Deputy Commissioner could impose under the *Police Act*.⁷⁷
71. It was noted in the documentation of the various proceedings involving Senior Constable Gordon and Constable Harris that they were both deeply affected by the incident and genuinely remorseful for their actions. At the end of his evidence at the inquest, Senior Constable Gordon also expressed sincere remorse at this tragic outcome, indicating that he goes out there as a police officers to save lives and protect the community, and he never intended anything like this to happen.⁷⁸ Constable Harris expressed her sincere apology to Jordan’s family. She gave evidence that this incident has replayed in her mind ‘day in, day’ out over the last two years and in hindsight, she realised that “if we had stopped the first time that she had gone wrong side, Mr Thorsager would have his son, they would have his brother and we wouldn’t be here today.”⁷⁹
72. Constable Harris commented that she can’t take back what happened, but she has learnt a lot from this experience and she has shared her experience with other police officers, so that they can understand the high risks involved in an evade police incident. She emphasised the need for all officers to appreciate the “big picture, because we’re so caught up in being a police officer and getting the bad guy, that that focus needs to be a lot broader.”⁸⁰ Only then can they properly evaluate if the risks are worth it.

ROLE OF POLICE OPERATIONS CENTRE AND THE EMERGENCY DRIVING POLICY

73. If police officers try to pull over a member of the public and the driver fails to stop, the matter becomes an evade police incident and escalates beyond the decision-making of the individual officers involved to include specially trained staff at the Police Operations Centre (POC). These officers coordinate the police response, including obtaining additional resources to assist in resolving the incident if required. They look at the ‘big picture’ in the way suggested by Constable Harris.
74. Senior Sergeant Paul Lydiate was the senior sergeant on duty at Police Operations Centre (POC) on the night of this incident, working as the team leader. He was assisting the duty inspector to manage all emergencies and run the floor during the night shift. Senior

⁷⁴ T 136 – 137.

⁷⁵ T 138 – 139, 144.

⁷⁶ T 81.

⁷⁷ T 82.

⁷⁸ T 133.

⁷⁹ T 146.

⁸⁰ T 148.

Sergeant Lydiate explained that this generally involved being called in to assist the operators on the floor with evade police incidents.⁸¹

75. Senior Sergeant Lydiate described the role as requiring an ability to make split second decisions, using common sense and a knowledge of the policy and after taking the emotion out of the incident. He made it clear that he takes the role extremely seriously, with a focus on saving lives. In his words,⁸²

“it’s our role to protect the members of the public. The police officers so they can go home to their families and kids and ... the offenders so they can go home with their family and kids.”

76. In each case, there is an ongoing risk assessment. That may involve continuing an evade police incident, with or without additional resources, or it may require shutting down the evade incident where the risks of continuing outweigh the harm of letting the offender go and/or alternative means of identifying and dealing with the person are available.⁸³

77. At approximately 11.43 pm on 13 February 2019 an alarm sounded at POC to indicate an evade police intercept was about to start or was in progress. Senior Sergeant Lydiate went to the Armadale channel dispatcher and gave his instructions to convey to the police cars involved in the incident. Senior Sergeant Lydiate then ran the incident until approximately 12.45 am on 14 February 2019.⁸⁴

78. Senior Sergeant Lydiate indicated that he had a strong independent recollection of this matter as this was the first incident he had control of that ended in a fatality, after working there for several years.⁸⁵ He gave evidence he didn’t sleep for days after hearing of Jordan’s death, and it was only when he heard Jordan’s father on the news indicating that his family did not blame anyone for what happened, that he felt a bit better.⁸⁶

79. Senior Sergeant Lydiate made notes immediately after the incident concluded, as he was aware of the seriousness of what had occurred and wished to make an accurate record of his recollection of events. His notes were made at approximately 2.00 am on 14 February 2019. Senior Sergeant Lydiate made it very clear that those notes, and his own independent memory of events, do not match the events shown in the dash cam footage from JG108. Senior Sergeant Lydiate made it very clear that in his view, based upon what the footage shows, not all of the relevant risk factors were conveyed to him as the POC coordinator of the incident on that night.⁸⁷

80. Senior Sergeant Lydiate’s impression of the incident at the time it was occurring, based upon the information being fed to him by Constable Harris, and from Senior Constable Gordon through her, was that this was a low risk evade police incident. He assumed they were complying with the Emergency Driving Policy, particularly given they had a

⁸¹ T 29, 48.

⁸² T 49.

⁸³ T 32 - 33.

⁸⁴ Exhibit 1, Tab 24B.

⁸⁵ T 31

⁸⁶ T 49.

⁸⁷ T 34.

priority pursuit qualified driver involved, and that speed was not an issue in this incident. In particular, he assumed that at any time JG108 had terminated their pursuit of Ms King, they would have returned to the speed limit. However, Senior Sergeant Lydiate's viewing of the footage revealed to him that the two police officers in JG108 were not conveying to POC exactly what was going on during the evade incident, and there was relevant information not available to him at the time he was managing the incident, in particular their continued following of Ms King at speed.⁸⁸ After watching the footage of the dashcam from JG108, Senior Sergeant Lydiate described the driving behaviour he saw as "horrendous."⁸⁹

81. Senior Sergeant Lydiate did not recall anyone at POC alerting him to any concerns about the car's speed on the night, but he noted that there were an unusually large number of police cars involved in this incident (approximately 12 in total), which made it difficult for the staff at POC to independently monitor the speed of JG108 through viewing the ARL (automatic resource locator)⁹⁰ data.⁹¹
82. Senior Constable Gordon, on the other hand, seemed to have taken some reassurance on the night from the fact that he assumed someone at POC was viewing the ARL data and monitoring his speed. Given they were not raising any concerns and telling him to "keep following" and "keep calling" he took comfort from that fact and believed they were being told to keep doing what they were doing.⁹² He indicated his understanding at that time was that the reason they were calling in their speed was simply to allow them to validate the ARL data and ensure the technology was working correctly, rather than the duty inspector being reliant on the speeds called in for critical decision-making.⁹³
83. Senior Constable Gordon also disputed that the speeds called in by Constable Harris were incorrect and/or that they underreported their speed. He maintained that all of the speeds that Constable Harris called in were accurate at the time they were reported. However, he did acknowledge that they did not call in speeds at times when they were exceeding the speed limit but not engaged in authorised active pursuit. Again, he explained they did not call these speeds as he interpreted at the time that they were "evidence-gathering"⁹⁴ rather than in pursuit, so he incorrectly believed it was not required. He accepted at the time of the inquest that he was wrong and this course of driving was not authorised under the relevant policy.⁹⁵
84. Senior Sergeant Lydiate explained he personally could not simply focus on JG108 as he needed to monitor other police cars and keep them in the area, as there were a number with stingers and his resolution strategy was to try to position them in various locations so that one of them could activate a stinger and stop Ms King's vehicle. Unfortunately, the path Ms King took managed to avoid the stinger location numerous times. Senior Sergeant Lydiate also had a canine unit car in the area, with the aim of hopefully being able to have them nearby if the driver, Ms King, opted to leave her vehicle (which she did

⁸⁸ T 34 – 35, 38.

⁸⁹ T 41.

⁹⁰ Also referred to by witnesses as AVL, automatic vehicle locator.

⁹¹ T 36.

⁹² T 109 - 110.

⁹³ T 110 – 111.

⁹⁴ T 112.

⁹⁵ T 112.

later).⁹⁶ He believes Police Air Wing would also have been requested to assist, but for some reason had not been available in time.

85. Senior Sergeant Lydiate gave evidence that he understood the evade incident with JG108 was terminated a number of times, but if he had been aware of Ms King's true driving behaviour, or what was going on in JG108, he would have terminated the whole evade police incident, not given permission to re-engage, put in a police conduct report and disqualified Senior Constable Gordon's driving qualifications that same night.⁹⁷ Examples of Ms King driving through a red traffic light and on the wrong side of the road, passing numerous vehicles, were cited.⁹⁸
86. Senior Sergeant Lydiate noted it was apparent from the footage that as soon as JG108 activated the lights and sirens, Ms King moved onto the incorrect side of the road as an apparent strategy to try to avoid the police.⁹⁹ Senior Constable Gordon agreed that Ms King moved to the wrong side of the road almost immediately after they first saw her car and turned on their lights and siren. They self-terminated at that time and downgraded at that time, but continued to follow in the same direction, believing they were asked to assist by providing updated information on her whereabouts.¹⁰⁰
87. Senior Sergeant Lydiate agreed that he did convey the instruction "keep calling" because he wanted to know what was going on.¹⁰¹ However, in Senior Sergeant Lydiate's opinion, no experienced pursuit driver would consider a radio call from POC of "keep calling" or "keep going" to be authorisation to commence a further pursuit. Those instructions are simply to report anything they can see while the vehicle is in sight. Senior Sergeant Lydiate gave evidence it is not, and could not be considered, a prompt to follow the vehicle at speed, noting, "If we've lost the vehicle, fine, we've lost it. We're losing vehicles all the time."¹⁰²
88. Senior Sergeant Lydiate also rejected the suggestion that an experienced pursuit driver would consider he or she was authorised to drive at speed to effectively conduct reconnaissance, without specific authorisation.¹⁰³
89. Inspector Michael Hayes has been attached to WA Police State Traffic Operations since January 2020. One of his responsibilities is to ensure that all officers under his command are complying with the relevant WA Police emergency driving policies and guidelines. He noted that traffic officers do intercept driving hundreds of times a day, primarily just to stop a traffic vehicle. It is only when the vehicle fails to stop that it turns into an evade police incident, and the team at POC will become involved.¹⁰⁴
90. Inspector Hayes was asked about Senior Constable Gordon and Constable Harris' interpretation of the Emergency Driving Policy, in the sense that it allowed driving at

⁹⁶ T 36 - 37.

⁹⁷ T 39.

⁹⁸ T 38 - 39.

⁹⁹ T 42.

¹⁰⁰ T 113.

¹⁰¹ T 41.

¹⁰² T 39.

¹⁰³ T 40 - 41.

¹⁰⁴ T 154 - 155.

high speeds, well in excess of the speed limit, without lights or siren activated, for the purpose of undertaking reconnaissance of Ms King's vehicle. Inspector Hayes indicated there "is nothing in the policy that allows for or condones that type of activity."¹⁰⁵ Inspector Hayes noted that Senior Constable Gordon's behaviour was not indicative of disengaging. Continuing a pursuit to keep information available in order to allow a stinger to be deployed was not a justification for that behaviour.¹⁰⁶

91. Inspector Hayes acknowledged that there may have been some confusion created by the operator telling the officers in JG108 to keep following the car, but he noted that the responsibility is on the driver and the passenger to comply with policy and make safe risk assessments, so regardless of what instructions they were receiving from POC, the ultimate responsibility rested upon them to clarify those instructions and make sure they understood what they were being authorised to do.¹⁰⁷
92. Inspector Hayes emphasised that the policy is not a prescriptive list, but a guide to officers to make risk assessments with the number one priority being officer safety as if "we can't do our job and do it safely, we're of no use to the public."¹⁰⁸ The second consideration is the safety of other road users and the third consideration is the target vehicle and whether the nature of the suspected offence warrants continuation of the evade incident or whether it could be done by other means, such as following up the person later if they have been identified.¹⁰⁹
93. Inspector Hayes commented that though the names and acronyms might have changed, the essence of the policy has remained unchanged since 1994/1995. Driving training then, and now, "is all about risk reduction and risk management, not good luck."¹¹⁰ Inspector Hayes noted that in his experience, most of what he reviews shows the driver will do a good job in terminating themselves, although it can also be done by the passenger and the duty inspector or team leader at POC.¹¹¹
94. The behaviour of Senior Constable Gordon and Constable Harris, in that context, was described by one witness as "quasi-terminations"¹¹² and another commented that "their downgrading wasn't really downgrading,"¹¹³ noting it was said they 'downgraded' but there was often no significant reduction in speed or change in behaviour.
95. In terms of expected behaviour after a termination of an evade intercept, Inspector Hayes noted that when he was a young traffic officer, they were trained that once they disengaged they should pull over, clear the mind and just "disregard the car even existed. Go and get a coffee. Avoid it."¹¹⁴ He emphasised that the policy "is about the officer's safety, the public safety," so the WA Police hierarchy want "officers to disengage totally, to actually drive in the other direction, to leave it alone. The reasons for the ... pursuit

¹⁰⁵ T 156.

¹⁰⁶ T 172.

¹⁰⁷ T 164 – 165.

¹⁰⁸ T 165.

¹⁰⁹ T 165 – 166.

¹¹⁰ T 159.

¹¹¹ T 159.

¹¹² Exhibit 1, Tab 17, p. 122.

¹¹³ T 157.

¹¹⁴ T 156.

being terminated are it's too risky. It's beyond our control. The result is somebody's going to get hurt, whether it's our officers or somebody else."¹¹⁵

96. Inspector Hayes gave evidence he lived through the days of policing when they regularly lost police officers' lives conducting evade police or urgent duty driving, so he truly understands the need to emphasise saving police officers' lives as well as the lives of the public. He has seen the WA Police Force change its culture from the late eighties to now in terms of moving away from apprehending offenders at all costs, to weighing up the risks of their apprehension against the need to keep police officers and members of the public safe in the context of the known dangers of high speed pursuits.¹¹⁶
97. Inspector Hayes noted that 'contra flow', namely a person driving on the wrong side of the road, is a critical factor that must be relayed back to the duty inspector at POC so that he or she can take it into account in his or her decision making, as the risk to the public has escalated dramatically, and the police's job is not to hurt the public. There will be cases where the risk of harm to the public of the offender remaining out in the community will still warrant continued pursuit of the vehicle, and Inspector Hayes was able to recall occasions when this had occurred, but they are rare and the decision is best made by the duty inspector, who can weigh up all those risks. Inspector Hayes noted that the officers on the street "become a little tunnel-visioned,"¹¹⁷ which is why the POC staff have oversight of all such evade police incidents.
98. Senior Sergeant Jeffery Christmass is the current officer in charge of the Driver Training Unit at the WA Police Academy. His role is to provide oversight and manage all training in relation to emergency driving and driving courses for WA police officers. He personally holds all the qualifications for all emergency driving and has been involved in many failing to stop incidents, including back as a young detective in the days when incidents were occurring that led to the creation of the current Emergency Driving Policy. Senior Sergeant Christmass emphasised that risk assessment is the basis of all emergency driving training, with the participants being taught how to evaluate situations so that they can ensure that the risk does not outweigh the reward. The training is both theoretical and practical and includes both pursuit driving and pursuit calling, with an emphasis on timely and accurate reporting.¹¹⁸ Senior Sergeant Christmass emphasised that situation reports are a critical component of evade police training, and police officers have a duty to report relevant information to POC under the policy even if they are not actively involved in a pursuit.¹¹⁹
99. Senior Sergeant Christmass reviewed the Navman footage of this incident and gave evidence that the behaviour of Senior Constable Gordon and Constable Harris was outside of their training. He gave evidence that it "is clear in policy that once the incident has been terminated there are certain things they must do. The first thing they must do is acknowledge the direction from Police Operations Centre. They must return to the posted speed limit and they must turn off their emergency warning devices. Those three things must happen and if they don't do that, then they're still considered to be engaged in the

¹¹⁵ T 157/

¹¹⁶ T 166 - 167.

¹¹⁷ T 158.

¹¹⁸ T 173 - 175; Exhibit 1, Tab 41.

¹¹⁹ T 176, 178.

pursuit.”¹²⁰ Senior Sergeant Christmass confirmed that officers are also trained when disengaging to take some direction with the vehicle which is completely different to the vehicle being pursued, which will be picked up on the AVL data and demonstrate that they have actively disengaged.¹²¹

100. Evidence was given by Senior Sergeant Christmass that the standard of training within WA for emergency driving is high and held in high regard when compared to other states in Australia.¹²² This is supported by the fact that out of the evade police incidents that occur, only a small number result in sustained allegations of breach of policy and procedure, with many being considered to constitute technical breaches only. The statistics suggest that this case is unusual, and that is my experience as a coroner reviewing many of these evade police intercept matters where a death has unfortunately occurred.¹²³
101. At the end of the evidence, it was clear that under the policy, there were a number of times when any further pursuit of Ms King should have ended, and would have occurred if Senior Sergeant Lydiate had been aware of the full situation. He gave evidence that if he had been fully informed of the risk factors, the risk to the public would not have warranted continuing the pursuit.¹²⁴ Senior Sergeant Lydiate agreed “100 per cent”¹²⁵ that in his experience, if the police officers had stopped following Ms King, as should have occurred under the policy, that could have led to a different outcome on the night.
102. Senior Sergeant Lydiate indicated that he did not think there were any issues with the emergency driving policy. If he had been aware of all the relevant information on the night, he would have been able to apply the policy and make different decisions, which might have saved Jordan’s life.¹²⁶
103. It is for this reason that the role of the duty inspector and team leader at POC is so important. Those officers are trained to see the big picture and carefully evaluate and assess the risks, without emotion or the effects of adrenaline, putting the safety of all involved at the forefront of their mind.
104. Senior Sergeant Lydiate was asked if it would assist his role to have dash cam footage in police cars that could be streamed to POC, to which he responded, “Without a doubt.”¹²⁷ He noted that when Police helicopter is in the sky in an evade incident, they beam live footage back to POC, which can be viewed on a large screen by the POC duty inspectors and sergeants, which means they can “get a true picture of what’s going on.”¹²⁸ Similarly, live streaming from dash cam footage from a police car would assist the POC staff to have a real understanding of what is occurring in real time. Just watching the footage from Senior Constable Gordon’s Navman demonstrates that proposition very clearly.

¹²⁰ T 179.

¹²¹ T 180.

¹²² T 181.

¹²³ T 181; Exhibit 1, Tab 41 [32].

¹²⁴ T 44.

¹²⁵ T 46.

¹²⁶ T 49 – 50.

¹²⁷ T 42.

¹²⁸ T 42.

105. Detective Senior Sergeant Van Der Schoor also supported the use of this technology from an IAU perspective.¹²⁹
106. Similarly, Senior Constable Gordon and Constable Harris expressed their support for the implementation of live time footage, as it would take some of the pressure off the officers involved in the incident to try and process information and convey it, particularly in the face of radio chatter that makes it hard to get all of the information across.¹³⁰
107. Senior Sergeant Christmass referred to live feed footage from POC as a “game changer”¹³¹ and he strongly supports it in his role as head of driver training at the Academy. He gave evidence that he was absolutely sure that if POC had seen what JG108 was doing that evening, that it would have been stopped immediately. That is consistent with the evidence of the POC personnel.¹³²
108. Inspector Hayes indicated that in February 2020 he drafted and put forward an idea for using the same company that currently provides the WA Police body-worn cameras to provide an in-car dash camera system that has a live feed, picking up the communications within the police car and enabling the POC to dial into it and watch the footage feed live from the car to get a better appreciation of the situation as it is unfolding. It also downloads the footage automatically to the WA Police cloud storage once the vehicle returns to base.¹³³ Inspector Hayes indicated the details as to how and when it would operate were not decided, but he suggested one option would be from the time of activation of lights and sirens.¹³⁴ Inspector Hayes indicated the proposal is supported by the agency but it is still in the early planning stage. The next step is to evaluate the available technologies and secure funding.
109. In my view, the implementation of dash cam footage in police cars, to be activated when the lights and siren are activated, is the obvious next step for the WA Police, now that body worn cameras have been implemented. It would be ideal if the new technology allowed the staff at POC to access the real time footage from the car, so that they could see firsthand what is occurring and make decisions based upon that information.

RECOMMENDATION

I recommend that the WA Police Force give priority to seeking funding to implement the installation of ‘dash cam’ technology in all police vehicles that undertake emergency driving, along with the associated infrastructure and personnel to manage and review footage. The technology should, where possible, provide for real time live feed of footage to the Police Operations Centre, so that this information can be used by the duty inspector or team leader as part of their decision making when running an evade police incident.

¹²⁹ T 77.

¹³⁰ T 122 – 123, 147.

¹³¹ T 183.

¹³² T 183.

¹³³ T 161 – 162.

¹³⁴ T 162.

COMMENTS ON CONDUCT OF POLICE

110. Senior Constable Gordon was an experienced traffic policeman who had completed the advanced driver training course, which qualified him to engage in evade police incident driving. At the time of this incident he had many years of working in a traffic role with WA Police and he was fully compliant with all of his driver training qualifications.¹³⁵
111. Senior Constable Gordon was asked whether he understood on the night that Ms King’s manner of driving, moving onto the incorrect side of the road, was done in order to evade the police and force them to stop pursuing her. He gave evidence he noted that she didn’t tend to move to the incorrect side of the road on the minor roads and side streets, but did do so on more major roads. This appeared to give him some idea that her behaviour was not simply prompted by the police car’s presence, as she didn’t do it all the time the police were following her. However, he did accept that on the night he had formed the impression that she was probably moving to the incorrect side of the road so that the police would not continue to follow her.¹³⁶
112. In terms of a risk assessment, Senior Constable Gordon gave evidence he assessed the situation as high risk, in the sense that there was a high priority to try to stop Ms King, as in his experience a lot of the time when he has pursued a vehicle and then aborted the pursuit, the vehicles end up crashing a short time later into other vehicles, houses or trees. This was in the context that he was assuming Ms King was driving a stolen car. This was important, as in his experience the drivers of stolen cars often “drive recklessly and dangerously, regardless of police involvement.”¹³⁷
113. Constable Harris also suggested that it was unclear whether Ms King’s behaviour was “escalated”¹³⁸ by their conduct, as she believed Ms King had shown that was how she was willing to behave in any event. I do, however, note that Constable Harris was referring in part to earlier driving behaviour of the Ford Falcon that was not proven to have been committed by Ms King.
114. Their view is, to some extent, supported by the evidence of Professor Joyce to the effect that methylamphetamine drivers are a danger to the public, whether or not they are being pursued.
115. However, it was apparent from the footage that as soon as JG108 activated the lights and sirens, Ms King moved onto the incorrect side of the road as an apparent strategy to try to avoid the police. Based upon Senior Sergeant Lydiate’s experience of other incidents where people drive on the wrong side of the road to escape police, when the police cars back off the driver will move back to the correct side of the road.¹³⁹ That is certainly what Ms King has appeared to do on more than one occasion on this night, but each time JG108 tries to re-engage with her, she moves back to the incorrect side of the road.

¹³⁵ T 93 – 94.

¹³⁶ T 113 – 114.

¹³⁷ T 121.

¹³⁸ T 144.

¹³⁹ T 42.

Senior Sergeant Lydiate gave evidence he was unaware that this was occurring and if he had known, he “would have shut it down straight away.”¹⁴⁰

116. Senior Sergeant Christmass gave evidence that when he watched the Navman footage, he was concerned by “the number of breaches that were in there from the very word go.”¹⁴¹ Senior Sergeant Christmass referred to the phenomenon of “red mist” and indicated that it forms a big part of police driver training, teaching officers to recognise when the red mist descends and affects their good judgment and ability to make sound risk assessments because they are too focussed on the end goal. In his view, there was evidence to suggest that the red mist of focussing on the end goal of stopping Ms King’s vehicle affected Senior Constable Gordon and Constable Harris’ judgment and “all their training and procedures went out the door.”¹⁴² He gave evidence that from his viewing of the footage, at no stage did they disengage from the pursuit. So from the perspective of a driver in Ms King’s position, he agreed she would have thought the police were still on her tail.¹⁴³
117. Detective Senior Sergeant Van Der Schoor also commented that he believed “any reasonable person in the circumstances would have terminated ... that pursuit immediately.”¹⁴⁴
118. Senior Constable Gordon accepted that in hindsight when they first self-terminated, after Ms King moved to the incorrect side of the road for the first time, they should have pulled over to the side of the road, stopped and “let the car disappear off into the distance.”¹⁴⁵ As it was, they continued to pursue Ms King and she continued to drive for periods of time on the incorrect side of the road, which she was doing at the time she crashed head first into Jordan’s motorcycle.
119. Constable Harris’ involvement was less serious than Senior Constable Gordon’s, given she was the passenger, but she accepted that she understood the evade intercept should have been terminated at an early stage when Ms King moved to the wrong side of the road and although they purported to terminate, in hindsight their conduct was inconsistent with terminating. She also should have continued to provide relevant information to POC, which we know now would have led to termination of any form of pursuit.¹⁴⁶
120. I commented at the conclusion of the inquest that Jordan did nothing wrong on the night and he was, to a certain extent, put in danger because of the police conduct, whether they intended it or not.¹⁴⁷ We know now, without doubt, that Ms King’s extremely dangerous driving was prompted by a desire to escape the police. That desire may have been irrational in the context of what would have happened to her if she had simply stopped, and was no doubt affected by her methylamphetamine intoxication. However, it does not alter the fact that if the police officers in JG108 had terminated, as they said they had, and pulled over, there is a high probability that Ms King would have moved back to the

¹⁴⁰ T 42.

¹⁴¹ T 181.

¹⁴² T 184.

¹⁴³ T 185.

¹⁴⁴ T 79.

¹⁴⁵ T 124.

¹⁴⁶ T 142 – 144.

¹⁴⁷ T 190.

correct side of the road long before she came across Jordan heading in the opposite direction. I accept that, given her state of intoxication and the manner of her earlier driving, it is entirely possible she may have put other members of the public and/or herself in danger in another way, but while I am focussing on Jordan's death, I can only comment that the danger he faced was extremely likely to have been significantly altered if the police had properly disengaged.

121. I have received submissions on behalf of the WA Police Force and Senior Constable Gordon and Constable Harris. I accept their submission that I should not find that the conduct of Senior Constable Gordon and Constable Harris caused Jordan's death. I agree that the person who directly caused his death is Ms King, and she has been held accountable for that conduct and I understand she has expressed her sincere regret for her unconscionable behaviour on the night.
122. It is, however, accepted in the submissions that it is open on the evidence for me to find that the behaviour of Senior Constable Gordon and Constable Harris, in their interactions with Ms King over a lengthy period that night, "escalated her behaviour, and thereby is capable of being characterised as having contributed to [Jordan's] death."¹⁴⁸ This is a fair concession and one that I accept.
123. Based upon the available evidence before me, I make the finding that the behaviour of Senior Constable Gordon and Constable Harris, in failing to comply with policy and actively disengage from any continued pursuit of Ms King, contributed to the death of Jordan Thorsager. I make this finding noting that it is inescapable that Ms King's increasingly reckless behaviour was prompted by a desire to evade the police, who she believed were continuing to pursue her, even though this was not at the forefront of the minds of the two police officers involved on the night.
124. I accept that both police officers appear to have been operating under a misunderstanding as to the role they were playing in keeping Ms King under surveillance and were not wilfully underreporting their speed or engaging in deceptive conduct. However, I also note that the evidence of all the other police officers was that their behaviour was well outside the scope of their training and, if their true actions had been observed on the night before the fatal crash, they would immediately have been terminated by Senior Sergeant Lydiate and their conduct reported. The senior police officers who viewed the Navman footage were visibly appalled by the numerous breaches that occurred, from a very early stage in the engagement with Ms King, and having watched the footage myself, I can only concur.
125. With the benefit of hindsight, and having viewed the footage themselves in the clear light of day and with the knowledge of Jordan's death some 12 minutes after this footage ended, both Senior Constable Gordon and Constable Harris have expressed genuine remorse for their conduct, and any contribution their conduct has had towards Jordan's death, and they have properly accepted all consequences for their failure to comply with policy on the night.

¹⁴⁸ Submissions by the Western Australian Police Force, Senior Constable Michael Gordon and Constable Tanya Harris.

CONCLUSION

126. While the most tragic consequence of the events on this night was the death of Jordan Thorsager, it is notable that there has been significant effects on the lives of many other people involved in this incident. Ms King is serving life in imprisonment for her crime, two police officers have suffered penalties and they, and other police officers involved, were left sleepless and distressed by their involvement.
127. I am satisfied that the WA Police Force is very conscious of the need to weigh up the risks of harm to others when considering the benefits of pursuing offenders, and that the Emergency Driving Policy does that appropriately. If it had been followed in this case, it is likely that Jordan would not have died.
128. The most important message that all police officers should take from this very sad incident is that there are very good reasons for why the Emergency Driving Policy exists, and it is there as much for their own safety as for the safety of others. As Constable Harris eloquently explained at the inquest, after this event she has had to live not only with the sorrow and guilt from what happened to Jordan and the loss his family has experienced, but also the fear that she could be prosecuted and be taken away from her children or at least lose her job. Both Senior Constable Gordon and Constable Harris now continue in their policing roles, but with the knowledge that their conduct was found wanting on this occasion, and although inadvertently, they contributed to the death of another person.

S H Linton
Deputy State Coroner
27 June 2021