

CITATION: *Inquest into the death of Deryck Michael Calvert* [2010]
NTMC 65

TITLE OF COURT: Coroners Court

JURISDICTION: Darwin

FILE NO(s): D0233/2009

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DELIVERED AT: Darwin

HEARING DATE(s): 9 – 11 November 2010

FINDING OF: Mr Greg Cavanagh SM

CATCHWORDS:

Motor vehicle crash, police pursuit
policy

REPRESENTATION:

Counsel:

Assisting
Commissioner of Police

Ms Elisabeth Armitage
Mr Kelvin Currie

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IN THE CORONERS COURT
AT DARWIN IN THE NORTHERN
TERRITORY OF AUSTRALIA

No. D0233/2009

In the matter of an Inquest into the death of
Deryck Michael Calvert

**ON 7 DECEMBER 2009
AT ROYAL DARWIN HOSPITAL**

FINDINGS

Mr Greg Cavanagh SM:

Introduction

1. Mr Deryck Michael Calvert (“the Deceased”) died on 8 December 2009 at Royal Darwin Hospital. His cause of death was a severe head injury. He sustained the injury at about 10.30pm on 7 December 2009 when the car he was driving was involved in a single vehicle roll-over crash on Gunn Point Road, Howard Springs. The Deceased was not wearing a seat-belt and was thrown from his vehicle during the roll-over.
2. Shortly before the crash, police at a road breath testing station (“RBT”) on Lambrick Avenue, Bakewell, saw an approaching vehicle which they intended to stop for testing. Before it reached them, the vehicle did a U-turn thereby avoiding the RBT. Sergeant David Wilson and Constable Alan Wellfair, who were manning the RBT, attempted to follow the vehicle and intended to stop it. Although the police car was not close to the U-turn vehicle, the police were engaged in a pursuit as defined by the current Police Service Urgent Duty and Pursuit Policy 2004. The police lost sight of the vehicle but continued to search for it in the direction they believed it had travelled. During that search they came upon the crash site and provided assistance to the Deceased.

3. Police manning the RBT were not able to confirm whether the Deceased's vehicle was in fact the vehicle they observed doing a U-turn on Lambrick Avenue. The distance was too great, and the observation time insufficient, for the police to make a positive identification of the vehicle that did the U-turn. However, the coronial investigation disclosed significant circumstantial evidence that the Deceased's vehicle and the vehicle seen doing the U-turn on Lambrick Avenue were the same. I have considered that evidence and am satisfied to the requisite standard that the Deceased was the driver who conducted the U-turn seen by police on Lambrick Avenue.
4. The extended definition of "custody" includes a person fleeing or attempting to flee from police. I am satisfied that this death falls within the extended definition of a death in custody and this Inquest was mandatory.
5. The stated destination of the Deceased would have required him to pass the RBT and at the time of the crash he was driving in a direction away from his stated destination. The estimated speed at the time of crash was conservatively estimated in the order of 150 km/h. Toxicology results identified low concentrations of alcohol and methyl amphetamine in the Deceased's blood. The Deceased needed his licence to pursue his employment as a truck driver. These combined factors lead me to conclude that the Deceased had a motive to and was deliberately avoiding the RBT and possible apprehension by police, when he conducted the U-turn and sped away.
6. Pursuant to section 34 of the *Coroners Act*(the "Act"), I am required to make the following findings:

“(1) A coroner investigating –

(a) a death shall, if possible, find –

(i) the identity of the deceased person;

(ii) the time and place of death;

(iii) the cause of death;

(iv) the particulars needed to register the death under the Births, Deaths and Marriages Registration Act;

7. Section 34(2) of the Act operates to extend my function as follows:

“A Coroner may comment on a matter, including public health or safety or the administration of justice, connected with the death or disaster being investigated.”

8. Additionally, I may make recommendations pursuant to section 35(1), (2) & (3):

“(1) A coroner may report to the Attorney-General on a death or disaster investigated by the coroner.

(2) A coroner may make recommendations to the Attorney-General on a matter, including public health or safety or the administration of justice connected with a death or disaster investigated by the coroner.

(3) A coroner shall report to the Commissioner of Police and Director of Public Prosecutions appointed under the Director of Public Prosecutions Act if the coroner believes that a crime may have been committed in connection with a death or disaster investigated by the coroner.”

9. Ms Elisabeth Armitage appeared as Counsel Assisting in this Inquest and Mr Kelvin Currie appeared for the Police Commissioner. The death was investigated by Senior Constable Ainsley Phipps and I received into evidence her thorough and detailed investigation brief, the Police Service Northern Territory Urgent Duty Driving and Pursuit Policy dated 20 May 2004, and the Office of the State Coroner Queensland Report on Police Pursuits – Policy Recommendations dated 31 March 2010. I heard evidence from Senior Constable Ainsley Phipps, Dr Terence Sinton, Mr Brenton Knight, Ms Geraldine Fraser, Ms Rebecca Fraser, Ms Diane Titchiner, Mr Damien O’Brien, Sgt David Wilson, Constable Alan Wellfair, Constable Chris Bibby, Auxiliary Grayson McKinlay, Constable Clinton Richardson,

Watch Commander Gregory Pusterla, Superintendent Bruce Porter, Superintendent Michael Murphy, and Commander Katherina Vanderlaan.

Formal Findings

10. Pursuant to section 34 of the Act I find, as a result of evidence adduced at the public inquest, as follows:

- (i) The identity of the Deceased person was Deryck Michael Calvert born 2 December 1985. The Deceased resided at 36 Hutchison Terrace, Bakewell, in the Northern Territory of Australia.
- (ii) The place and time of death was Royal Darwin Hospital, at 8.40pm on 8 December 2009.
- (iii) The cause of death was blunt head trauma..
- (iv) Particulars required to register the death:
 1. The Deceased was Deryck Michael Calvert.
 2. The death was reported to the Coroner.
 3. The cause of death was confirmed by post mortem examination carried out by Dr Terence Sinton.
 4. The Deceased's parents are Mrs Julie Calvert and Mr Michael Calvert.
 5. The Deceased lived at 36 Hutchinson Terrace, Bakewell.
 6. The Deceased was employed as a truck driver.

Relevant circumstances surrounding the death

11. The Deceased was born at Royal Darwin Hospital. As a young child he lived with his family on Ruby Downs, a property at Douglas Daly. The family

moved to Darwin when it was time for the Deceased to start school. He attended Nightcliff Primary School and Darwin High School. After leaving school the Deceased worked in a number of jobs and had been working as a truck driver for four years. The Deceased was living with his girlfriend, Ms Shantelle Christie, and her family at the time of his death. He was described by his family as a true Territorian, honest, generous and a very good sportsman. Tragically he died just days after his 24th birthday. He is greatly missed by his family and friends.

12. Approximately two weeks prior to his death, Mr Michael Calvert bought the Deceased a 1998 blue Mercedes Benz C200, a 4 cylinder automatic, in immaculate condition. The Deceased was driving this vehicle at the time of the crash.
13. On 7 December 2009 the Deceased was working. During the day the Deceased spoke to his friend Mr Brenton Knight and arranged to visit him after work at 2/10 Weewall Road, Livingston. From about 6pm onwards, the Deceased and Mr Knight chatted and drank some Melbourne Bitter stubbies of full strength beer. Mr Knight told me that they only had a six-pack between them, the Deceased had only one or two beers, and Mr Knight drank the rest. Mr Knight gave evidence that he had no knowledge of any drugs being consumed by the Deceased.
14. At about 10.08pm the Deceased phoned Ms Christie. He told her he was leaving Livingston and would see her soon. Mr Knight said the Deceased was in good spirits when he left, and that he did not appear to be affected by drugs or alcohol.
15. It was approximately 37 kilometres from Mr Knight's unit in Livingston, to the Deceased's home address at 36 Hutchinson Terrace, Bakewell. The most direct route was to travel north on the Stuart Highway, left onto Lambrick Avenue, and then right into Hutchinson Terrace.

16. At about 10.10pm police set up an RBT station on Lambrick Avenue, Bakewell, between the Stuart Highway and Hutchinson Terrace. Assuming the Deceased intended to travel home via the most direct route, he would have had to pass through the RBT to reach his destination.
17. Lambrick Avenue is a sealed bitumen road with a single lane in each direction. It is sign posted with a speed limit of 80 km/h. It is lit by street lighting. Two marked police vehicles were present at the RBT. They were parked on either side of the street and their emergency roof-top beacons were activated. Police were stopping vehicles travelling in both directions on Lambrick Avenue for testing at the RBT. Police were wearing reflective vests. Cars were waved down by torch and directed to stop on the same side of the road they were travelling on. There were police conducting breath tests on each side of the road. Traffic was light and most cars were being stopped.
18. The police conducting the RBT were:
 - Sgt David Wilson, the senior officer in charge of the RBT, and Const Alan Wellfair, in marked police sedan Palmerston 240. Palmerston 240 was parked on the Western side of Lambrick Avenue, facing towards Palmerston. Const Wellfair was conducting breath tests on the Western side of the road. Sgt Wilson was positioned on the roadway and was stopping and directing cars into the RBT.
 - Const Chris Bibby and Auxiliary Grayson McKinlay, in marked police car Palmerston 241. It was parked on the Eastern side of Lambrick Avenue, facing towards the intersection with the Stuart Highway. Const Bibby was conducting breath tests on the Eastern side of the road.

19. At about 10.20 pm a vehicle travelling south towards the Stuart Highway, was stopped and pulled into the Eastern side of Lambrick Avenue for breath testing by Const Bibby. Mrs Geraldine Fraser was driving and her daughter Ms Rebecca Fraser was sitting in the front passenger seat. Mrs Fraser was breath tested and was sober but Const Bibby noticed that her vehicle registration had expired two days earlier. Whilst Const Bibby was writing an infringement notice for the expired registration, the Frasers saw a car approaching the RBT from the Stuart Highway. About 200 metres away, that car did a U-turn and took off.
20. Ms Fraser described the car as black and said that when she saw the U-turn she “yelled out ‘there’s a runner’...and the two cops that were on the other side of the road ran back to their car, jumped in and chased behind that car.” Mrs Fraser noticed that “they had the lights flashing all the time...and they put the siren on when they actually started pursuing...I’ll never forget that noise, yeah it was loud.” Ms Fraser did not recall the siren but told me she was dealing with two tired children in the back seat at the time.
21. Const Bibby did not see the U-turn because he was writing the ticket, but he heard Sgt Wilson yell out “there’d been a turn-around” and he saw Sgt Wilson and Const Wellfair running to their vehicle and driving off after the turn-around vehicle.
22. Sgt Wilson explained that a “turn-around” is a car trying “to avoid the RBT”. Sgt Wilson couldn’t identify the car but he thought it looked like a sedan. Sgt Wilson said that after he took off, he turned off the flashing lights because “he didn’t want the car to realise we were following it at this stage, because it gives us a chance to catch up to the car and at least identify the car”. According to Const Wellfair, Sgt Wilson accelerated to approximately 120 km/h. The police saw tail lights accelerating away at quite a high speed back towards the intersection with the Stuart Highway.

23. Sgt Wilson radioed police communications with the following message “Yeah we’re mobile from our RBT – um- we’ve just got a turn around, we’re just trying to chase it down”. The time was 10.28 pm (22.28.12).
24. The intersection of Lambrick Avenue – Howard Springs Road and the Stuart Highway is controlled by traffic lights. Ms Dianne Titchiner was stopped on Howard Springs Road by a red light. She was waiting for a green light to turn right onto the Stuart Highway. From head-on she saw a dark coloured vehicle come through what she believed must have been a red light with “a bit of speed up”. She thought to herself “where are the coppers when you need them” and she then saw “a car over a little bit of a rise from Lambrick-Palmerston side with its lights going and thought... ‘well the chase is on’ because as the policeman got to the intersection he very sheepishly came through the intersection, same red light change, there wasn’t a different sequence of lights, it happened all in the one red light. He had no siren, he just had his lights flashing and as soon as he crossed over the intersection he floored it, so he could see what he was looking after, there wouldn’t have been a 30 second break in between one car going through and the police car”. Ms Titchiner was in no doubt that the police were in pursuit of the first vehicle she had seen. Ms Titchiner was certain the police siren was not activated because she thought to herself at the time that it was unusual but reasoned “it might be a sneak attack”.
25. Mr Damien O’Brien was driving a minivan along Howard Springs Road away from the intersection with the Stuart Highway. When he was about one kilometre past the intersection he saw headlights in his rear vision mirror and a black Mercedes “whistled past”. Mr O’Brien estimated his speed to be 70 – 80 km/h, and said the Mercedes was travelling at an “easy 120 to 130 and accelerating”. He described the Mercedes as “flying”. Mr O’Brien went on to say “after he went past me...I saw some red and blue lights in my rear vision...the Police coming. Straight away I thought it was a pursuit to be honest, with the speed the Mercedes was travelling at and the police were

sort of lagging behind a bit”. Mr O’Brien thought the police were about 10-15 seconds behind. Mr O’Brien did not see the Mercedes tail lights after it drove past and it is possible the Deceased turned off his lights to further his attempt to avoid detection.

26. Sgt Wilson said that he slowed right down as he approached the red traffic light at the intersection with the Stuart Highway. Const Wellfair caught a glimpse of tail lights straight ahead on Howard Springs Road. Sgt Wilson then activated his flashing lights and siren and proceeded slowly across the intersection against the red light. Const Wellfair recalled the beacons being activated but not the siren. Once through the intersection Sgt Wilson deactivated the warning signals and accelerated in the direction of the tail lights. Sgt Wilson said “the tail lights looked right off in the distance and then it was like a blink and the lights appeared a lot closer...we then caught up to those tail lights and as I got closer I put the red and blues on...and I could see that it was a white van”. As to the rapid change in his perception of the distance of the tail lights, Sgt Wilson reasoned that the minivan may have come out of a dip. However, Sgt Wilson’s observations are also consistent with his observation of the tail lights of the Mercedes being replaced by the tail lights of the much slower minivan after the Mercedes overtook Mr O’Brien, particularly if the Deceased then turned off his lights.
27. The police pulled over the white van driven by Mr O’Brien and radioed in the traffic apprehension (“Trap”) at 10.29 pm (22.29.39). Sgt Wilson asked Mr O’Brien if he had performed the turn-around on Lambrick Avenue and Mr O’Brien said “no, it’d be that black Mercedes that just went flying past me”. Sgt Wilson and Const Wellfair continued driving. At this point the police did not think they would catch the vehicle but were looking to see if it might have pulled off the road.
28. Sgt Wilson caught a glimpse of something to the right of Gunn Point Road, he did a U-turn, and both police then saw the crash site and the Deceased

outside but trapped under his vehicle. An ambulance was requested at 10.31 pm (22.31.38).

29. Ambulance officers were in attendance at 10.43 pm, the Deceased was conveyed from the scene at 11.03 pm, and arrived at Royal Darwin Hospital at 11.25 pm.
30. The Deceased's head injury was so severe he did not regain consciousness at any time. He passed away when his life support was terminated at 8.40 pm on 8 December 2009 following organ removal for transplant donations. The significance and generosity of the organ donations is a matter that cannot pass without comment. I wish to express my sincere thanks to the Deceased's family who made the donations possible.

The crash investigation

31. The crash site and vehicle were investigated by police members attached to the Northern Traffic Operations Unit. Their investigation came to the following conclusions which I accept:
 - The Deceased was driving a Mercedes Benz sedan, NT registered 957 474 northbound, along Howard Springs Road, Howard Springs. At the right hand bend into Gunn Point Road the vehicle travelled into the southbound lane and lost traction with the road surface. The vehicle began to yaw and slid for 159.3 metres before leaving the sealed surface of the roadway. The vehicle slid a further 6.4 metres on the dirt verge before striking a culvert. The impact caused the vehicle to become airborne. The vehicle vaulted for 23.4 metres before hitting the ground and rolling. It came to rest on its roof a distance of 89.1 metres from the culvert.
 - Speed calculations establish that the vehicle was travelling at approximately 154 km/h at the start of the yaw in a section of road that had a posted speed limit of 100 km/h.

- The driver's seat belt was locked in the retracted position and was not being worn by the Deceased at the time of the crash.
- The front windscreen and left window were smashed and the sun roof was open. The Deceased was ejected from the vehicle during the crash but the investigation could not determine through which aperture he was ejected.
- The interior of the Mercedes was in relatively good shape after the crash. The Deceased might not have received fatal injuries if he had been wearing his seat belt.
- Traffic was light. The road surface was sealed, in good condition and free from contamination. The weather conditions were overcast but fine and the road surface was dry. Nothing about the road, traffic or weather conditions contributed to the crash.
- The vehicle was inspected and no pre-crash faults were found. It was in a roadworthy condition. There was nothing about the condition of the vehicle that contributed to the crash.

32. I find that the car crashed because the Deceased was driving at an excessive speed, hit a culvert and lost control of the vehicle. At the time he was under the influence of low concentrations of alcohol and methyl amphetamine which are likely to have affected his driving capabilities. The interior of the Mercedes was in relatively good shape after the crash and the Deceased might not have received his fatal head injuries if he had been wearing a seat belt. The Deceased was known to drive without wearing a seat belt. The safety benefits of seat belts are well understood. It is difficult to reconcile that many lives continue to be lost because seat belts are not worn.

Did the Deceased attempt to avoid the RBT and evade police?

33. A strong circumstantial case satisfies me that it was the Deceased who conducted the U-turn on approaching the RBT on Lambrick Avenue. I make this finding based on the following compelling circumstantial evidence presented at this Inquest:

- The Deceased departed Livingston shortly after 10 pm. He said he was going home. He lived at Hutchinson Terrace Bakewell. The distance from Livingston to Bakewell was approximately 37 km. The most direct route to his home was via Lambrick Avenue.
- A U-turn by a sedan travelling from the direction of the Stuart Highway towards Hutchinson Terrace was spotted at 10.28 pm which is consistent with the expected time taken to the travel from Livingston to Bakewell.
- Police followed the U-turn vehicle on its route back towards the Stuart Highway. Ms Titchiner had been waiting at the lights at this intersection for some time. She saw a dark car cross the intersection between Lambrick Road and the Stuart Highway against a red light followed shortly thereafter by a police car. No other vehicles were sighted coming through that intersection.
- A dark Mercedes overtook a minivan at speed on Howard Springs Road about 1 km past the intersection with the Stuart Highway followed shortly thereafter by a police car.
- The crashed Mercedes was located at 10.31pm (three minutes after the U-turn was spotted) approximately 500 metres along Gunn Point Road from the intersection with Howard Springs Road.
- The crash site was not en route to the Deceased's home and there is no reasonable explanation for him being there other than the fact that he was the person who attempted to avoid the RBT.

- Toxicology results indicate that the Deceased had low concentrations of alcohol and methyl amphetamine in his system. The Deceased driver's licence was essential to his employment as a truck driver. Mr Calvert told police that his son was "alert that he can't drink and drive" and "was very aware of not losing his licence". The Deceased therefore had a motive to avoid the RBT.

Was there a police pursuit?

34. The Northern Territory Urgent Duty Driving and Pursuit Policy 2004 (the "Pursuit Policy") states, inter alia, the following:
 - Members shall not use following a vehicle as a substitute for initiating or maintaining a pursuit.
 - Pursuit means an attempt by a police officer in a police vehicle to stop and apprehend the occupants of a moving vehicle when the driver of the other vehicle is attempting to avoid apprehension or appears to be ignoring police attempts to stop the driver.
35. There is conflicting evidence as to whether Sgt Wilson and Const Wellfair considered their actions amounted to a police pursuit. For example:
 - In Const Wellfair's first radio call at 10.28 pm he told police communications "we've just got a turn-around, we're trying to chase it down". But later at 10.46 pm in response to a question from police communications Sgt Wilson said "We believe this is the vehicle that did the turn-around, however, **no-nil pursuit** was initiated."
 - The Territory Duty Superintendent Bruce Porter spoke to Sgt Wilson by phone while he was at the crash scene. Sgt Wilson told Superintendent Porter "he left the RBT in unit 240 **to pursue** the vehicle". But when Snr Sgt Gregory Pusterla attended the crash scene in his capacity as Watch Commander Greater Darwin Region,

having listened to the radio transmissions as they were made, he was of the opinion that “the vehicle had not been in a pursuit”.

36. However, I am left in no doubt by the evidence presented at this Inquest that this was a police pursuit. Sgt Wilson believed the U-turn was done to avoid the RBT. The police ran to their car with the intention of “chasing it down”, to stop and possibly apprehend the driver. The police intentions are evident from their on the spot radio communication, their actions in rapidly pursuing the U-turn car at speeds in excess of the speed limit and contrary to traffic light signals, and their “Trap” of the minivan under suspicion that it may have been the U-turn car. Although there was no great degree of proximity between the police car and the U-turn car, proximity is not a requisite component of the current definition of pursuit.

37. I repeat what I have said recently concerning police pursuits, and the Police Commissioner’s recognition of my position in this regard,

“As much as police may wish it so, there is no distinction in the policy as it stands [between following and pursuing a vehicle based either on speed or physical proximity between the vehicles]. This was properly acknowledged ...on behalf of the Commissioner.”

Did the pursuit contribute to the death?

38. I find that the police pursuit ended when the police pulled over Mr O’Brien’s minivan. Both officers formed the opinion that they would have no chance of catching the speeding Mercedes after they stopped the minivan. Thereafter they continued to look for a parked car but did not continue with the pursuit.

39. The facts do not establish whether the Deceased ever knew he was being pursued by police. On the evidence before me there was a 15-30 second gap between the Deceased’s car and the police car and it is not possible for me to determine whether or not the Deceased ever saw the police flashing lights in pursuit of him, or alternatively, knew that the police had stopped

pursuing. I am, however, satisfied that the Deceased knew that he might be pursued and sped away from the RBT in order to avoid possible apprehension and loss of licence.

40. Certainly when the Deceased crashed there is no evidence that the police vehicle was in sight, and the police were most likely still engaged in dealing with Mr O'Brien.
41. It was the Deceased's own decision to drive away from the RBT at speed in order to avoid apprehension. The tragic consequences that followed are attributable to his decision, and not to the actions of the police.

Was the pursuit conducted in accordance with the Pursuit Policy?

42. The short answer to this question is no. Neither Sgt Wilson nor Const Wellfair appreciated that the Pursuit Policy applied to their conduct and therefore made no attempt to comply with its requirements.
43. It is obvious from the evidence of the police witnesses called in this Inquest that police at all levels of seniority continue to fail to understand the scope and applicability of the Pursuit Policy to their day to day policing activities. The definition of pursuits in the Policy is not clear or well understood. It appears that Police may be engaging in pursuits without appreciating that they are doing so and without applying the risk assessments and other safety procedures which are required under the Policy. In this instance the following failings with respect to the application of the Policy can be identified:
 - Appropriate warning devices were not continuously activated.
 - At the time of the U-turn, there was no evidence of any serious offence having been committed by the Deceased and arguably no identified basis sufficient to justify a pursuit.
 - Constant radio communications were not maintained.

- There was no acknowledgement by police communications that a pursuit was taking place and accordingly the required notifications to senior officers concerning a pursuit being in progress were not made.
 - No-one assumed the role of pursuit controller or complied with any of the monitoring duties required of that position.
 - The area supervisor was not aware a pursuit was occurring and accordingly did not comply with his responsibilities under the Pursuit Policy.
44. In failing to apply the Pursuit Policy in circumstances where it should apply, police might be putting themselves and members of the public at unnecessary risk. As the Policy clearly states:

“Engaging in Urgent Duty Driving and police pursuits is life threatening and puts lives at risk! They are dangerous and should never be regarded as routine or ordinary.”

Policy considerations

45. I have considered the Queensland Coroner’s “Report on Police Pursuits – Policy Recommendations” delivered 31 March 2010 (the “Report”). The Report was prepared in response to ten separate Inquests involving police pursuits over a twelve month period. The Report considered the competing policy considerations between law enforcement (the need to apprehend offenders) and the risk to the public created by pursuits. Ultimately the Report emphasised safety, not just for the public but also for police called upon to enforce the law. The Report touches on many policy aspects not directly relevant to this Inquest, but worthy of consideration. I am told the Report is currently being considered by the Northern Territory Police Service.
46. In Queensland there are some situations in which pursuits are simply not permitted: situations which are deemed not to justify a pursuit. One of the

currently specified non-pursuit categories is “random breath tests”. The reason being, that whilst avoidance of an RBT might arouse suspicion, suspicion alone is not sufficient to justify a police pursuit when one takes into account, and gives appropriate weight to, the inherent dangers associated with a pursuit.

“Perhaps the only thing more dangerous than a drunk driver on the road is a drunk driver being chased by the police.”

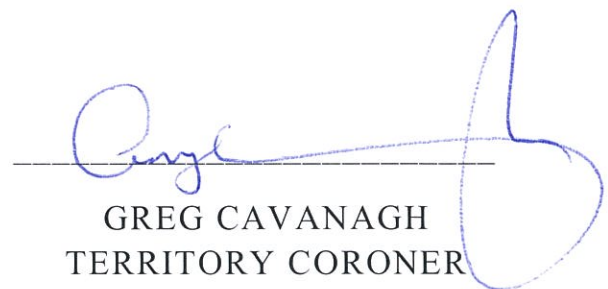
47. One suspicion readily aroused by the avoidance of an RBT, is the suspicion that the driver might be intoxicated. Consistent with the philosophy that a pursuit is only justified if a failure to apprehend would be likely to be more dangerous than pursuing, the Queensland policy generally prohibits the pursuing of drunk (or potentially drunk) drivers. The Report recommends that the pursuit of drunk or drug affected drivers be included in the non-pursuit category.
48. The Report considered whether a non-pursuit policy might encourage avoidance of RBT’s or result in increased offending. Whilst there does not appear to be extensive evidence on the issue, the Report cited a 2003 CMC report which found that police departments in the United States that had adopted a “no-chase” or very restrictive pursuit policy did not experience any increase in the number of motorists failing to comply with a direction to stop or any increase in reported crime that could be traced to the policy.
49. In a number of Inquests I have reflected on police (including senior police) failing to understand and apply the Pursuit Policy. I recognise that part of the problem rests with the Policy and not individual police. The current Policy is imprecise, fails to provide concrete guidance to police and, in some aspects, is impractical. The current Policy requires comprehensive review and I was pleased to learn from Commander Vanderlaan that a full review of the Policy has commenced. Training will necessarily need to

follow any re-write to ensure the new Policy is well understood and implemented.

Recommendations

50. That the Northern Territory Police Service Urgent Duty Driving and Pursuit Policy 2004 be comprehensively reviewed and rewritten.
51. That consideration be given to including “non-pursuit” categories in the Policy, where the risks associated with engaging in pursuits cannot be objectively justified.
52. That there be an increased focus on training and re-training for officers involved in applying the Urgent Duty Driving and Pursuit Policy. Only trained officers who have demonstrated that they understand and can apply the Policy should be involved in pursuits.

Dated this 23rd day of December 2010.



GREG CAVANAGH
TERRITORY CORONER