



OFFICE OF THE STATE CORONER

FINDING OF INQUEST

CITATION: **Inquest into the death of
Clay Marsden COLLINSON**

TITLE OF COURT: Coroner's Court

JURISDICTION: Nambour

FILE NO(s): COR 3567/09(5)

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FINDINGS OF: Mr Michael Barnes, State Coroner

CATCHWORDS: CORONERS: death in custody, police pursuit;
compliance with QPS policy

REPRESENTATION:

Counsel Assisting:	Mr Peter Johns
Sergeant John Latham:	Mr Calvin Gnech - QPEU
QPS Commissioner:	Ms Melanie Dixon - QPS solicitor

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The *Coroners Act 2003* provides in s45 that when an inquest is held into a death in custody, the coroner's written findings must be given to the family of the person who died, each of the persons or organizations granted leave to appear at the inquest and to various officials with responsibility for the justice system including the Attorney-General and the Minister for Police, Corrective Services and Emergency Services. These are my findings in relation to the death of Clay Marsden Collinson. They will be distributed in accordance with the requirements of the Act and posted on the website of the Office of the State Coroner.

Introduction

Late on the afternoon of Good Friday in 2009 Clay Collinson was detected speeding on his Kawasaki motorcycle as he rode towards the township of Palmwoods. He soon realised a police officer in a patrol car was attempting to intercept him and he accelerated away. Little more than a minute later Mr Collinson lost control of the motorcycle and crashed, suffering severe injuries that led, almost instantly, to his death.

These findings:-

- describe the circumstances in which the fatal injuries were sustained;
- confirm the identity of the deceased person, the time, place and medical cause of his death; and
- consider whether the police officer involved acted in accordance with the Queensland Police Service (QPS) policies and procedures then in force.

As the deaths followed a series of events involving police and the incident was investigated by other police officers, the findings also critique the quality of that investigation.

The investigation

Senior Sergeant Peter McGregor was the District Duty Officer at the time of the incident. He arrived at the scene within 30 minutes and managed the initial stages of the investigation. This included taking a breath sample from the police officer involved in the attempted interception, Sergeant John Latham.

Senior Constable Carl Christensen of the Sunshine Coast District Forensic Crash Unit attended the scene and commenced investigations into the cause of the crash. A forensic analysis of the scene was conducted, photographs of all relevant points were taken by a Scenes of Crime Officer and a mechanical inspection was conducted on the motorcycle of Mr Collinson.

The coronial investigation was conducted by officers from the QPS Ethical Standards Command (ESC) who arrived at the scene about four hours after the

death. A detailed report was prepared by Senior Sergeant Rose of the Internal Investigations Branch.

Sergeant Latham was interviewed under direction late on the evening of 10 April 2009 and was directed on the following day to provide a sample of urine which was later analysed.

Interviews were conducted with several eye witnesses to the events leading to Mr Collinson losing control of his motorcycle. Interviews were also conducted with the purpose of establishing the movements of Mr Collinson in the 24 hours prior to his death.

Investigators obtained a copy of the radio transmissions between Sergeant Latham and the Sunshine Coast Communications Room on the afternoon and evening of 10 April 2009. The driving history of the deceased and records relating to the Kawasaki motorcycle involved in the incident were obtained.

An autopsy examination was conducted by a highly trained forensic pathologist, Professor Peter Ellis on the morning of 15 April 2009. In the course of that examination blood and urine samples were taken from the deceased and later analysed.

An opinion was obtained from a medical expert regarding the likely effect the drugs detected in the deceased's blood samples would have had on his behaviour.

I am satisfied this matter has been thoroughly and professionally investigated and all sources of relevant information have been accessed and analysed. I commend Senior Sergeant Rose for his efforts.

The evidence

I turn now to the evidence. Of course I can not summarise all of the information contained in the exhibits and transcript but I consider it appropriate to record in these reasons the evidence I believe is necessary to understand the findings I have made.

Social history

Shortly before his death, Mr Collinson had travelled from his usual place of residence in NSW to spend the Easter weekend with family in the Palmwoods area. It had been his intention to return south after the holiday and resume his work in the mining industry.

Although he had some experience riding motorcycles, Mr Collinson predominantly drove a car. He had owned the motorcycle he was riding on the day of his death for approximately two years but he had very little experience riding it. He was making arrangements to organise its registration though sadly

failed to heed the advice of his family not to ride it until such arrangements were finalised.

I note from the material presented at the inquest and from other information supplied by his parents that Mr Collinson was highly accomplished in the sport of kick boxing having been crowned Queensland welter-weight champion in 2003.

Mr Collinson is survived by his parents and younger sister. His parents and grandfather attended the inquest and I offer my sincere condolences to them, the rest of his family and his many friends for their sad loss. He was clearly much loved and is sadly missed.

Background

On 9 April 2009 Mr Collinson spent the evening socialising in the Palmview Hotel with a group of friends before returning to the home of one of them where the partying continued. Mr Collinson spent the night and much of the next day there.

At around 5:30pm he left the property on his motorcycle. There is no evidence of where Mr Collinson was going, although at least until he came to police attention he was travelling in the direction of his parent's residence at Mons.

The inquest heard that the motorcycle, a powerful 900cc, 1996, green and white Kawasaki, was unregistered. Mr Collinson was only licensed to operate motorcycles with an engine size up to 250cc. His father advised that so far as he was aware, Mr Collinson rarely rode a motorcycle. He travelled from NSW in his car. His traffic history reflects a propensity to exceed the speed limit.

Sergeant John Latham, then the officer in charge of the Palmwoods police division, was working alone on that Good Friday. At about 5:30pm he was performing stationary radar duties on Palmwoods-Montville Road in a 60km/h speed zone. His car was off to the side of the road facing towards Palmwoods about 800 metres south of the township. He observed the motorcycle we now know was being ridden by Mr Collinson travelling towards Palmwoods and recorded its speed at 96km/h as it went past the police car.

Sergeant Latham set off after the motorcycle. He saw it overtake two cars as they approached Palmwoods. As the vehicles entered the township, Sergeant Latham observed the motorcycle was in a stream of traffic that was travelling at or below the speed limit.

The two cars between the motorcycle and the police car pulled off the road in the main street of Palmwoods just before the motorcycle turned left into Jubilee Drive. The police vehicle followed. It was now directly behind the motorcycle, in that there were no other cars between them.

The attempted intercept

After travelling about 200 metres in Jubilee Drive, Sergeant Latham activated the emergency lights and siren on the police vehicle with the intention of intercepting the motorcycle. Sergeant Latham says that immediately he did this the motorcycle accelerated rapidly away. On seeing this he used the police radio to contact the Sunshine Coast police communications centre. Transcript of the broadcast indicates he said:

“Just to let you know that there is a vehicle that um avoiding interception outbound Jubilee Drive, Palmwoods”.

Sergeant Latham told the inquest as he broadcast this message he could see the motorcycle travelling along Jubilee Drive a couple of hundred metres in front of him at a speed he estimated to be in the vicinity of 100km per hour.

Sergeant Latham says it was very soon clear any effort to continue to attempt to intercept the bike was futile and indeed prohibited by the QPS pursuit policy. He initially increased his speed to 75 – 80 km per hr but quickly dropped back to near the 60km per hr speed limit.

Within ten seconds of the commencement of his initial transmission there is a recording of the communications operator asking Sergeant Latham the reasons for the intercept.

Ten seconds later Sergeant Latham is heard to respond, this time with no noise of a police siren in the background to say:

“Yeah I’ve disengaged. He was speeding 96 in a 60 zone”.

Sergeant Latham estimates his lights and sirens were on for a period of approximately ten to fifteen seconds and he had covered around two hundred metres during this period.

The motorcycle then turned right into Old Palmwoods Road, narrowly avoiding a collision with a white vehicle travelling in the same direction which was forced to take evasive action. Sergeant Latham went to where the white car had pulled over. He could see the driver was not injured and the car did not appear to have been damaged. The motorcycle had sped out of sight, over a crest approximately 100 metres from the intersection.

Sergeant Latham continued along Old Palmwoods Road at or below the 80 km per hr speed limit.

The crash and aftermath

Margaret Wretham was travelling along Old Palmwoods Road outbound from Palmwoods about 600 metres from the Jubilee Drive intersection, when she heard an accelerating motorcycle coming up behind her. It passed her as the two vehicles approached the crest of a hill. Ms Wretham estimates the motorcycle was travelling at around 130km per hr.

Immediately after the crest, the road turns left quite sharply. When she reached the crest she could see the motorbike on the wrong side of the road, and out of control. She saw it violently wobble before sliding over on its side. She saw the rider catapulted from it. The bike continued sliding down the road as the rider slammed into a rocky culvert head first.

Mrs Wretham pulled over to the left hand side of the road and stopped. She began searching for her mobile phone. Before she could call anyone a police car pulled over in front of her vehicle with its emergency lights on but not its siren. This is the first she had seen or heard of the police vehicle. When interviewed she estimated she had been stationary for five to ten seconds before the police vehicle pulled in front of her. At the inquest she estimated this time to be 20 seconds. She saw a police officer exit the vehicle and immediately attend to the motorcycle rider.

Robert Unwin was working under his house at 200 Old Palmwoods Road when his attention was drawn to a police siren coming from the direction of Palmwoods. He estimates the siren was activated for a period of six to ten seconds before being switched off. As it ceased it was immediately replaced by the sound of a motorcycle which rapidly increased in intensity. He described the sound of the bike as it approached his property as "screaming" and considered the rider of the bike must be going "flat out". It caused Mr Unwin to go upstairs to the vantage point of his veranda because he anticipated the bike might crash.

He saw the motorcycle "flash" past the end of his drive way. He estimated it was travelling at 140-150 km per hr when it passed his property. He then heard two distinctive bangs as the motorcycle travelled over the crest in the road and recalls seeing something fly through the air.

Mr Unwin estimates it took him a minute or more to locate his car keys and mobile phone, tell his wife where he was going before he got into his car to drive the short distance to the scene. He told the inquest when he arrived he observed a police officer performing CPR on a male person on the side of the road. That was the first time he had seen the police officer or the police vehicle.

Although there is a recognised tendency amongst civilian eye witnesses to overestimate the speed of motorcycles given, amongst other reasons, their ability to accelerate extremely quickly, the evidence of speed from Ms Wretham and Mr Unwin, both independent of each other, is supported by a third independent eye

witness. Peter Murray-King observed the motorcycle from his property at 234 Old Palmwoods Road, further back towards Palmwoods than Mr Unwin's property.

He told police the motorcycle was travelling in excess of 120 km/h, perhaps even as high as 140km/h. Mr Murray-King also says he did not see or even hear a police vehicle despite taking particular notice of the motorcycle.

After arriving at the scene Sergeant Latham attended to Mr Collinson and observed he was not breathing but he was able to detect a pulse. He returned to his vehicle, made an urgent request for an ambulance and returned to perform CPR with the use of a laryngeal face mask. He was later assisted in this task by a member of the public. In addition to directing others to assist in traffic management, Sergeant Latham was also clear minded enough to appreciate the significance of the event from an investigative point of view and ensured the Forensic Crash Unit and District Duty Officer were immediately notified.

Records show the request for an ambulance was made at 5:34pm and QAS officers arrived at 5:47pm. Mr Collinson was transported to Nambour General Hospital though sadly the severity of his injuries was such he could not be saved by the medical attention he received. He was declared deceased at 6:50pm by Dr David Ward.

The investigation findings

Mr Collinson's body was formally identified by his father, Peter.

An autopsy was conducted on 15 April 2009 by Professor Peter Ellis at Nambour Mortuary.

It revealed blunt force impact to the head evidenced by some haemorrhage within brain tissue as well as broken ribs, collarbone, neck and chest vertebrae. There was evidence of significant bleeding into the chest and inhalation of blood. Professor Ellis considered these injuries led to death.

Blood and urine samples taken at autopsy were analysed and revealed the presence of THC (0.002mg/Kg) and the acid metabolite of cannabis (0.004mg/Kg); the first being evidence of recent cannabis use and the second of use over the longer term.

Professor Ellis issued an autopsy certificate listing the cause of death as:

- 1.(a) Head, neck and chest injuries, *due to or as a consequence of*
- 1.(b) Motor cycle collision (rider)

Dr Robert Hoskins, Director of the Queensland Health Clinical and Forensic Medicine Unit, was asked to consider the concentrations of THC and its metabolite acid in the blood sample. He noted the results were unusual to the

extent that in most cases, the concentration of the metabolite is much higher than that of THC. It is his view the absence of a large disparity in this case is “*strongly suggestive*” of fairly recent consumption.

Breath and urine samples taken from Sergeant Latham confirmed he was not affected by alcohol or drugs at the relevant time.

A mechanical inspection of the Kawasaki motorcycle found there were no defects which could have contributed to the accident.

The forensic analysis of the accident scene indicated excessive speed and probably the effects of THC on the rider contributed to the loss of control of the motorcycle. The failure of Mr Collinson to successfully negotiate a left hand bend in Old Palmwoods Road resulted in the motorcycle leaving the road and colliding with drain pipes. This caused Mr Collinson and the motorcycle to become airborne and travel 16 metres before impacting with the ground and then travelling a further 7.5 metres before colliding with a concrete drainage pipe. Senior Constable Christensen expressed the opinion that at this point Mr Collinson separated from the motorcycle and travelled a further distance before coming to rest in a culvert.

Findings required by s45

I am required to find, as far as is possible, who the deceased person was, how he died, when and where he died and what caused his death. As a result of considering all of the material contained in the exhibits and the evidence given by the witnesses, the material parts of which I have summarised above, I am able to make the following findings.

Identity of the deceased - The deceased person was Clay Marsden Collinson.

How he died - He died as a result of injuries sustained when he lost control of his motorcycle and crashed while attempting to evade a police officer who had tried to intercept him. Mr Collinson was affected by cannabis at the time.

Place of death - He died at Palmwoods in Queensland.

Date of death - Mr Collinson died on 10 April 2009.

Cause of death - He died from head, neck and chest injuries.

Comments and recommendations

Section 46, in so far as it is relevant to this matter, provides that a coroner may comment on anything connected with a death that relates to public health or

safety, the administration of justice or ways to prevent deaths from happening in similar circumstances in the future.

The circumstances of this case raise two issues which warrant comment from that perspective:-

- The officer's adherence to the QPS pursuit policy; and
- The traffic advisory sign at the crash site.

QPS pursuit policy

On 1 January 2008 QPS initiated a new pursuits policy. These reforms evidence the ongoing commitment of the QPS to the pursuit of excellence in this very challenging area of public policy.

Training in the new policy was to be provided to all operational members in the QPS.

I shall now summarise those parts of the policy relevant to this case.

When can a pursuit be commenced and continued?

The principles underpinning the policy are outlined in the Operational Procedures Manual (OPM). Those of particular relevance to this case are:

- (i) *Pursuit driving is inherently dangerous. In most cases the risk of the pursuit will outweigh the benefits.*
- (ii) *Pursuits should only be commenced or continued where the benefit to the community of apprehending the offender outweighs the risks.*
- (iii) *If in doubt about commencing or continuing a pursuit, don't.*

The policy assures officers that suspects who fail to stop when directed will still be the subject of law enforcement action, but less dangerous means than high speed pursuits will be utilised. It says:-

The revised pursuit policy seeks to shift the manner of apprehension of people who fail to be intercepted from pursuits into other strategies. The Service will continue to apprehend offenders who fail to be intercepted but pursuits will not be the principal means of effecting apprehension.

The policy requires the pursuing officers to balance the utility of a pursuit against the risks it generates. The utility is gauged by considering the consequences of failing to intercept the pursued – the seriousness of the offences the person fleeing may have committed and the strength of the evidence indicating they have committed those offences. In this balancing exercise, issues of safety are to weigh more heavily than has been the case under earlier policies.

According to the policy, “pursuit” means the continued attempt to intercept a vehicle that has failed to comply with a direction to stop where it is believed on reasonable grounds the driver of the other vehicle is attempting to evade police.

“Intercept” means the period from deciding to direct the driver of a vehicle to stop until either the driver stops or fails to stop. It includes the period when the police vehicle closes on the subject vehicle in order to give the driver a direction to stop.

The policy specifically excludes some matters from being sufficient on their own to justify the commencement of a pursuit. These are termed “*non-pursuit matters*” and they include license and vehicle checks, random breath tests and traffic offences.

When an intercept becomes a pursuit

When an officer is attempting to intercept a vehicle, if the vehicle fails to stop as soon as reasonably practicable; and the officer reasonably believes the driver of the vehicle is attempting to evade police a pursuit is commenced if the officer continues to attempt the intercept.

The reference to “reasonably believes” means the question is not determined by the subjective views of the pursuing officer, rather, as with most aspects of law enforcement, officers must align their conduct with what a reasonable officer would do or believe in the circumstances.

If a pursuit is not justified, an attempted intercept must be abandoned. In such cases the officer must turn off the flashing lights and siren, pull over and stop the police vehicle at the first available safe position.

Did the actions of Sergeant Latham comply with the policy?

Sergeant Latham, having observed the motorcycle of Mr Collinson exceeding the speed limit, was of course entitled to follow and then attempt to intercept that vehicle. It is equally clear there was no basis on which Sergeant Latham would be entitled to commence a pursuit of Mr Collinson under the QPS policy. This was very clearly a ‘non-pursuit matter’.

I am satisfied Sergeant Latham did not engage in a pursuit of Mr Collinson. Although he initially increased his speed and travelled for a period of 10-15 seconds with his lights and sirens on, this is not inconsistent with the process by which a reasonable officer confirms the motorist is aware of the officer’s direction to stop and does not intend to comply with it. He then abandoned the attempted interception.

I am also of the view in this case the actions of the officer did not directly contribute to the crash. Initially, the attempt to intercept the motorcycle caused the rider to speed off. However, because the officer discontinued the attempt so

promptly, from when Mr Collinson turned onto Old Palmwoods Road he would have had no reason to believe he was being pursued – the lights and sirens on the police car had been extinguished. I can only speculate that knowing he was riding an unregistered motorcycle, and that he was not licensed to ride, Mr Collinson panicked and unnecessarily drove in an intrinsically dangerous manner.

I accept that Sergeant Latham had a good understanding of the pursuit policy. He was candid in his admission he had intentionally failed to comply with the requirement he pull his vehicle to the side of the road following an attempted interception; alight from it and make various checks as to its functionality. He said he did not do this because first, he wanted to check on the welfare of the driver who he feared had been forced off the road at the intersection of Jubilee Drive and Old Palmwoods Road. After satisfying himself the driver did not need assistance he asserts he then kept driving because he feared the motorbike might come to grief precisely where it in fact crashed. I am satisfied Sergeant Latham's actions were reasonable in the circumstances.

Police policy should not be overly prescriptive because it is impossible for policy makers to envisage all of the combinations of circumstances an officer might confront. If, as in this case, a reasoned decision to not strictly follow policy produces a better outcome, the officer can not be criticised. However, these comments should not be taken to mean that officers are free to ignore policy. Those that do so will bear a heavy burden to demonstrate that their actions were justified.

Warning signs at the crash site

Sergeant Latham and Mr Unwin both gave evidence of the frequency of serious crashes at the site of this fatality. Having driven the road I can easily understand how motorists could be caught unawares by the switchback that confronts one when cresting the hill outside Mr Unwin's property when heading north. I am not suggesting better signs would have caused Mr Collinson to slow down sufficiently but one must look to the future.

Recommendation – Review of road signage

I am of the view the traffic sign currently in place at the approach to the crash site adjacent to 200 Old Palmwoods Road does not sufficiently warn motorists of the unusually dangerous road formation they are about to confront. Accordingly, I recommend the Sunshine Coast Regional Council review its adequacy.

I close the inquest.

Michael Barnes
State Coroner
Nambour
16 February 2011