



OFFICE OF THE STATE CORONER

FINDINGS OF INQUEST

CITATION: **Inquest into the deaths of Ronald ELLISON and Jacqueline SYLVESTER**

TITLE OF COURT: Coroner's Court

JURISDICTION: Brisbane

FILE NO(s): COR 3026/2009 & 3044/2009

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DELIVERED AT: Brisbane

HEARING DATE(s): 11 October 2013; 26-27 February 2014

FINDINGS OF: Mr Terry Ryan, State Coroner

CATCHWORDS: CORONERS: death in police operations, attempted intercept

REPRESENTATION:

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Senior Constable Michael Brock	Mr Glen Cranny (Gilshenan & Luton)
Senior Constable Lisa Harmer	Mr Calvin Gnech (QPUE Legal Group)
Queensland Police Commissioner:	Ms Belinda Wadley
Mr Brett Glenbar	Mr Andrew Bale (A.W. Bale & Son)

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The *Coroners Act 2003* provides in s. 45 that when an inquest is held the coroner's written findings must be given to the family of the person who died, each of the persons or organisations granted leave to appear at the inquest and to various officials with responsibility for any issues that are the subject of recommendations. These are my findings in relation to the deaths of Ronald Ellison and Jacqueline Sylvester. 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

Just before 10.00 pm on Friday 4 December 2009, Ronald Ellison and his partner, Jacqueline Sylvester, were walking along Chambers Flat Road, Park Ridge. Several kilometres to the south, on the same road, Brett Glenbar was driving while significantly intoxicated. When he saw a police car flash its emergency lights, he continued to drive at his already high speed. With the police car now following him Mr Glenbar lost control of his vehicle as it attempted to negotiate a right hand curve.

As they stood beside the paved surface waiting to cross Chambers Flat Road at the point of this curve, Mr Ellison and Ms Sylvester would have had no time to react as Mr Glenbar's speeding vehicle suddenly slid into their path. The vehicle struck them causing catastrophic injuries that killed them instantly. Mr Glenbar managed to regain control, returned to the paved road surface, and kept driving. Police continued to follow him for several kilometres during which they observed him collide with another vehicle. They were not aware until much later of the collision with the two pedestrians.

These findings:-

- establish the circumstances in which the fatal injuries were sustained;
- confirm the identity of the deceased persons, the time, place and medical cause of their deaths; and
- consider whether the police officers involved acted in accordance with the Queensland Police Service (QPS) policies and procedures then in force.

An inquest is not a criminal or civil trial. Accordingly, these findings do not seek to lay blame or suggest anyone has been guilty of a criminal offence or is civilly liable for the death (beyond noting where that has already been determined by another court). As the deaths followed immediately a series of events involving police and the incident was investigated by other police officers, the findings also examine the quality of that investigation.

The investigation

The coronial investigation was conducted by the QPS Ethical Standards Command (ESC) and a detailed report was prepared by Acting Inspector Fiona Hinshelwood.

ESC officers attended the scene late on the evening of 4 December 2009. Forensic police and traffic accident investigators were already examining the three crime scenes which had been established around the point of collision with the deceased, the point of collision with another vehicle and the location where the vehicle driven by Mr Glenbar had come to rest. A large number of photographs were taken and later tendered at the inquest.

The two police officers involved in the incident were separated, breath tested and later provided urine samples for analysis. ESC officers conducted disciplinary interviews with each of those officers in the early hours of 5 December 2009. They then recorded a drive through re-enactment with the driver of the police vehicle. The investigators later obtained training and personnel records pertaining to each of the officers involved.

Interviews were conducted with the occupants of the vehicle struck by Mr Glenbar. Statements were later obtained from them and a number of other witnesses including the large number of responding police officers. A friend of the deceased couple who was the last to speak to them prior to their deaths, Janelle Johnson, refused to provide a statement to police though was cooperative when summonsed to appear at the inquest.

Phillip Chang was in the front passenger seat of Mr Glenbar's vehicle. He and Mr Glenbar were both interviewed by investigating police. A breath analysis test was conducted on Mr Glenbar.

Investigators arranged for a mechanical inspection of the vehicle driven by Mr Glenbar and the marked police vehicle involved in the incident. This included testing of the mobile radar device initially used by police to determine that Mr Glenbar was travelling at excess speed.

A detailed forensic crash scene analysis was prepared by Sergeant Jim Hickey of Logan Forensic Crash Unit. In the course of their investigations investigators obtained CCTV footage from a service station on Chambers Flat Road. This footage was used by Sergeant Hickey, in conjunction with his observations of various road markings, to draw conclusions as to the likely speed of the vehicle driven by Mr Glenbar and of the police vehicle.

I am satisfied that all relevant sources of information have been accessed and the results effectively collated. I commend those responsible for their efforts.

The inquest

A pre-inquest conference was held in Brisbane on 11 October 2013. Mr Johns was appointed counsel assisting and leave to appear was granted to the Commissioner of the Queensland Police Service, Mr Glenbar and the officers involved in the incident.

I conducted a view of the scene on the 25 February 2013 and the inquest was held in Brisbane on 26 and 27 February 2013. Nine witnesses gave evidence

and 159 exhibits were tendered. I am satisfied that all information relevant to and necessary for my findings was made available at the inquest.

The evidence

A large amount of information was contained in the exhibits and transcript. These reasons record only the evidence I believe is necessary to understand the findings I have made.

Social history

Ronald Anthony Ellison was born on 20 April 1963 in Brisbane and was 46 years of age at the time of his death. Jacqueline Sylvester was born on 1 April 1969 in Brisbane and was 40 years of age when she died. Residents of Loganlea, they had been in a long term relationship which saw them survived by two teenage daughters.

It is clear that Mr Ellison and Ms Sylvester were greatly loved and are missed by their children, other family members and their friends.

The offender

Brett Walter Glenbar pleaded guilty to two counts of manslaughter and one count of grievous bodily harm (relating to his passenger, Mr Chang). He was sentenced for these offences and a number of summary offences relating to his manner of driving on 4 December 2009 when he appeared in the District Court at Brisbane on 28 February 2013.

Mr Glenbar received a head sentence of 10 years imprisonment for the manslaughter offences. On 29 November 2013, the Court of Appeal refused an application for leave to appeal against the severity of this sentence.

Background

Brett Glenbar was a 42 year old man who worked for a mining company in Western Australia. He travelled to Brisbane on Friday 4 December 2009 for a job interview. After hiring an eight cylinder maroon Holden Statesman from Brisbane Airport he set off to meet up with a friend, Phillip Chang, with whom he had arranged to stay.

Mr Chang had finished work and was having drinks at the house of an employee on Logan Reserve Road, Park Ridge. Mr Glenbar received directions to this house and went there via a hotel at Logan Village, arriving at around 7:00 pm. Mr Chang noted Mr Glenbar had brought with him a bottle of bourbon and a bottle of cola and was drinking this during the next two to three hours.

The two men left this house at around 9:45 pm in the maroon Statesman. Mr Chang asked Mr Glenbar if he was "*OK to drive?*" and Mr Glenbar told him he was. They set off towards Mr Chang's house which saw them turn right from Logan Reserve Road into Chambers Flat Road. Mr Chang recalls the vehicle accelerating to around 120 km/h in what he knew was an 80 km/h zone and he says he told Mr Glenbar to "*slow down you idiot*". A short time later Mr

Chang and Mr Glenbar saw a marked police car travelling in the opposite direction. Both men saw the police vehicle activate its lights just as it was about to reach them. Mr Chang says this resulted in Mr Glenbar saying "*fuck*" and, once passed the police car, accelerating. Mr Glenbar told the inquest that, contrary to this, he was unsure if the police vehicle was interested in him or another vehicle. On his account there were a number of vehicles following him although all other evidence, including CCTV footage of an area further along Chambers Flat Road suggests this is incorrect.

Senior Constables Phillip Brock and Lisa Harmer from Logan District Traffic Branch were conducting patrols along Chambers Flat Road at around 9:50pm. As they travelled south both officers noticed a vehicle travelling in the opposite direction apparently above the speed limit. Senior Constable Brock activated the mobile radar device which recorded the oncoming vehicle at 134km/h.

Ronald Ellison and Jacqueline Sylvester had been at a party in Park Ridge. When they left they were picked up by a friend, Janelle Johnson. Although not inclined to speak to police initially Ms Johnson was co-operative and helpful at the inquest. She told the court that the couple, with whom she had been friends for many years, were arguing in the back seat of her vehicle as she set off along Beaumont Road towards Chambers Flat Road. This became increasingly heated and near the intersection of those roads she pulled over to allow Ms Sylvester out of the vehicle. Mr Ellison followed and, she alleges, began to hit Ms Sylvester. This detail is included as it is relevant in explaining why Ms Johnson says she became 'scared', panicked and, in her words, did a 'U-bolt'. She drove off with a view to seeking help but later decided that it was unnecessary to return.

The last sighting of the couple occurred several minutes later on the United service station CCTV as they walked northbound along the western verge of Chambers Flat road. Nothing in this footage of them appears unusual. Ms Johnson did not consider that either was sufficiently inebriated to affect their balance or ability to walk normally.

The attempted intercept

After the speed of the oncoming vehicle had been recorded at 134 km/h Senior Constable Harmer activated the emergency lights on the police vehicle in an attempt to slow the speeding vehicle. Both officers say this was done when the vehicle was still 100m in front of them. The evidence of the officers and other witnesses was that the siren was not activated at any stage.

Senior Constable Harmer noted that the vehicle was a maroon sedan, possibly a Statesman or a Falcon. She entered the vehicle's registration number into the computer in the police vehicle and the details displayed were for a maroon Holden Statesman registered to a hire-car company.

Senior Constable Brock drove on a short distance to the intersection with Koplick Road and performed a U-turn. The officers told the inquest that they could not remember any other vehicles driving in front or behind the speeding

vehicle. Mr Glenbar told the inquest that there were indeed vehicles behind him and he believed it was one of the reasons that police had to wait before performing a U-turn. CCTV footage at a service station 1km to the north shows Mr Glenbar's Statesman and the police vehicle pass seven seconds apart. It shows no other vehicles in between the two or any within their immediate vicinity.

Once the police vehicle had performed a U-turn both officers say there was nothing visible on the road in front. This is unsurprising given the undulating nature of the road. Senior Constable Brock accelerated up to what he initially estimated might have been 150 km/h. This was done with a view to intercepting the speeding vehicle. Although undulating, Chambers Flat Road is straight for the first 1.2km of the attempted intercept and the surface was dry. Only 50m or so after the intersection with Park Ridge Road (the location of the United Service Station) it rises and begins to veer to the right simultaneously. Senior Constable Brock says that the maximum speed of the police vehicle was reached at a point prior to this right hand curve, where he "washed off" his speed.

Collision with the deceased

It was on this curve north of the United Service Station that Ms Sylvester and Mr Ellison decided, it appears, to cross the road.

Mark-Alan Hohepa was driving with his son, Jordan, to work at a nearby meat-works where they were both employed as cleaners on the night-shift. As they travelled northbound along Chambers Flat Road in their Nissan Pulsar both men saw a male and a female standing, stationary, on the gravel on the western verge. They were facing perpendicular to the roadway on the right hand curve mentioned earlier. The Hohepas formed the conclusion that they were waiting to cross the road. Both say they remember this clearly because it was an unusual sight at that time of night on a stretch of road over which they regularly travelled.

The next vehicle to pass that point was the speeding Statesman driven by Mr Glenbar. As he tried to negotiate the right hand curve he lost control of the rear of his vehicle and entered into what is termed a 'yaw'. This sees the vehicle rotate in a clockwise direction around its axis. The loss of control was not complete, in that Mr Glenbar was ultimately able to return to the paved surface and continue along Chambers Flat Road. However, for 104.7 metres, as later measured by traffic accident investigators, at least some part of the Statesman was travelling on the gravel verge west of the paved surface on the right hand curve. At this point the Statesman was still travelling at great speed and shortly after leaving the road struck two 'wheelie' bins. Analysis of friction marks at the scene reveals a speed of between 186 and 190 km/h at the point the bins were struck. The path of Statesman's travel saw the front of the vehicle strike Ms Sylvester and Ms Ellison. They would have had little if any warning they were in danger and no time to react in any event. The speed involved meant their injuries were catastrophic and they were killed instantly.

The windscreen of the Statesman was smashed as a consequence of the impact with Ms Sylvester, and Mr Chang appears to have been concussed or knocked unconscious, at least briefly. Mr Glenbar drove on at high speed later telling police he thought he must have hit an animal.

Senior Constables Brock and Harmer were too far back to see the deceased being struck on this unlit stretch of road. As they passed the scene there was nothing to draw their attention to what had just happened.

The second collision

The Statesman was now closing at great pace on the vehicle in front of it, the Pulsar driven by Mark-Alan Hohepa. It is possible that a vehicle travelling in the opposite direction blocked that lane as an overtaking option for the Statesman as it approached the Pulsar. Whatever the reason, the Statesman drove straight into the rear of the Pulsar at a speed differential that was likely to have been around 100 km/h. This left Mr Hohepa with little control and the Pulsar was shunted into a spin off the left hand side of the road into a ditch. If the air-bags in the Statesman had not already been activated they certainly were by now. The Statesman had sustained significant panel damage and the rear bumper bar hung from the body of the vehicle. However, it drove on after the second collision. This collision had occurred approximately 750 metres to the north of where Ms Sylvester and Mr Ellison were struck.

Senior Constables Brock and Harmer saw what they now know to be the collision of the Statesman with the Hohepa's Pulsar. Both officers say they were first alerted to something unusual when they saw spinning headlights which they assumed was the speeding vehicle they were attempting to intercept having lost control. They arrived to find the Pulsar of the Hohepas having clearly sustained severe damage. Senior Constable Harmer alighted to check on the occupants.

Senior Constable Brock saw the Statesman ahead, turning left off Chambers Flat Road into Bumstead Road and continued after it. He told the inquest that while he was still attempting to intercept the vehicle to speak to the driver about the manner of driving, that by this time he was also concerned for the welfare of the occupants given the damage obviously sustained. The police officers say that the emergency lights on the police vehicle were switched off just prior to arriving at the scene of the accident with the Pulsar. The Hohepas corroborated this by telling investigators that the police vehicle did not have its emergency lights or siren on when it arrived.

Resolution and aftermath

Bumstead road is approximately 2 kilometres long and Senior Constable Brock followed the Statesman for the entire length. He told the inquest that this was done at much lower speeds (approximately 80 km/h) than the initial stages of the attempted intercept. As he attempted to negotiate a 'T' intersection with Clarke Road at the end of Bumstead Road, Mr Glenbar again lost control and the Statesman came to rest in a shallow ditch on the western side of Clarke Road.

Senior Constable Brock approached the Statesman to find both the driver and passenger still in their seats. He removed Mr Glenbar from the vehicle and handcuffed him. He assisted Mr Chang from the vehicle and observed that he had blood over his face. Mr Chang also stated that he had something in his eyes and was unable to see. Senior Constable Brock then performed a breath test on Mr Glenbar.

A short time later a dog squad officer, Sergeant Peter Miles, arrived at the scene. It was agreed that he would stay with the occupants of the Statesman while Senior Constable Brock returned to check on Senior Constable Harmer. Sergeant Miles began checking the inside of the Statesman with his torch and in doing so discovered the torso of Ms Sylvester. Senior Constable Brock heard the frantic report of this discovery over police radio while driving back to the Hohepa's vehicle. Almost simultaneously he heard radio reports from other responding police that they had found body parts on Chambers Flat Road and so it was that the horrific events leading to these two deaths began to emerge.

At the inquest Mr Glenbar alleged that he was told by a police officer after the incident words to the effect of "*This wasn't a pursuit, ok*". He took this to be a threat attempting to ensure he would not allege police had been pursuing him. This was the first time he had mentioned such an event despite having every opportunity in his interview with ESC officers and in fact being prompted to nominate any allegation of police wrongdoing. Mr Glenbar was quickly confused when examined on which officer had made the apparent threat.

It would have been immediately clear to the officers involved on the night that this was a serious incident that would be investigated by the ESC and a coroner. It would have been clear, I expect, that whether a pursuit occurred or not would rest on a large body of evidence including, for example, eye witness accounts and CCTV footage. The opinion of an offender with no knowledge of QPS pursuit policy is hardly going to be of much influence in such circumstances. This makes it unlikely that a police officer would have anything to gain by making such a threat.

I found Mr Glenbar to be a particularly unimpressive witness. As in his interview with ESC officers his answers were consistently self-serving and he was slow to make any concession prejudicial to his interests, no matter how overwhelming the evidence against him. There is clearly insufficient evidence on which to base any further inquiry into his allegation.

The autopsies

A post-mortem examination was conducted on the bodies of Mr Ellison and Ms Sylvester at the Queensland Health Forensic and Scientific Services Facility in Brisbane on the morning of 7 December 2009 by an experienced forensic pathologist, Dr Beng Ong. Dr Ong was assisted in his examination by CT scans, x-rays and histological analysis.

Samples of blood and urine were taken for toxicology testing although nothing was found in that analysis which could be considered to have contributed to the deaths.

In both cases Dr Ong found the deceased had suffered major traumatic injuries consistent with having been struck by a motor vehicle travelling at high speed and imparting “*severe force*”. In his autopsy reports which were tendered at inquest Dr Ong stated that the deaths would have been “*instantaneous*” or “*immediate*”.

After considered the scans, histology reports, his own observations, the facts as set out by police on the coronial Form 1 and the toxicology results, Dr Ong issued autopsy certificate listing cause of death in both cases as:

- (a) Multiple injuries; *due to or as a consequence of*
- (b) Motor vehicle accident (pedestrian).

The investigation findings

The breath analysis conducted on Mr Glenbar recorded a blood alcohol concentration of 0.147. The breath and urine samples taken from the two police officers showed neither was affected by alcohol and otherwise revealed nothing of concern.

The forensic crash investigation conducted by Sergeant Hickey established that the Statesman was travelling at 188 km/h (+/- 2km/h) when it entered into a ‘yaw’ while trying to negotiate the right hand curve on Chambers Flat Road. The path of the vehicle at this point took it off the left hand side of the roadway for around 105m before re-joining. It was during this period that the fatal collision occurred.

Sergeant Hickey also estimated speed using CCTV footage from the United Service Station located 100-150 metres to the south. This process involved detailed analysis of still frames, theodolite mapping of the service station forecourt and the application of recognised scientific formula. His unchallenged evidence is that the CCTV footage shows the Statesman travelling at 197 km/h (+/- 8 km/h). Using the same technique he told the inquest he established the police vehicle was travelling at 186 km/h (+/- 7 km/h) at the same point. These speeds allowed him to determine that the police vehicle was between 326 and 352 metres behind the Statesman as it passed the CCTV camera.

The speed of the police vehicle established by Sergeant Hickey formed the basis for disciplinary action that was taken against both police officers. QPS policy allows for ‘*urgent duty driving*’ in some circumstances, including while attempting to intercept a vehicle. The policy, as it was then, included the following requirement as part of Commissioner’s Circular 24/2007 “Safe Driving Policy” at 13.32.1:

In relation to these situations, (urgent duty driving), officers should recognise that the safety of all persons (i.e. police

officers, members of the public and offenders) is paramount. Officers are not to drive a Service vehicle in a manner which is likely to expose themselves or other road users to unjustifiable risk, injury or death. Officers are expected to use sound professional judgement and will be held accountable for their decisions.

The officers accepted the basis for the disciplinary action and were dealt with by way of managerial guidance from a senior officer in relation to safe driving policy. Both were required to undergo a Pursuit Refresher Training course.

Findings required by s. 45

I am required to find, as far as is possible, who the deceased people were, how they died, when and where they died and what caused their deaths. As a result of considering all of the material contained in the exhibits and the evidence given at inquest, which I have summarised above, I am able to make the following findings.

- Identities of the deceased -** The deceased people were Ronald Anthony Ellison and Jacqueline Sylvester.
- How they died -** They died as a result of injuries sustained when, as pedestrians; they were struck by the speeding vehicle of an intoxicated driver who lost control of his vehicle while attempting to evade police.
- Place of death -** They died at Chambers Flat Road, Park Ridge in Queensland.
- Date of death -** They died on 4 December 2009.
- Cause of death -** They each died from multiple injuries suffered during a motor vehicle collision.

Concerns, 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 direct and proximate cause of the death of Mr Ellison and Ms Sylvester was the drunken, dangerous driving of Brett Glenbar. It is likely that the attempted interception of the car driven by Mr Glenbar by police precipitated his driving faster than the already high speed at which he was travelling prior to any contact with them. It does not automatically follow that the police officers involved did anything wrong or were in any way responsible for the deaths. What needs to be considered is whether the actions of the officers

involved in the incident were lawful and reasonable. This requires an assessment of whether the officers complied with the relevant QPS policies.

QPS pursuit policy

On 1 January 2008, after an extensive trial period, the QPS implemented a new pursuit policy State wide. The QPS policy in place at the time of these deaths was based on a three-tiered standard of decision-making that proved effective in reducing the number of pursuits.

The policy has subsequently been refined. The current pursuit policy was implemented after the then State Coroner, Mr Michael Barnes, presented a report on police pursuits in 2010.¹

The policy is again undergoing a review to identify whether improvements might assist officers in conducting enforcement and investigation of offences. I acknowledge that the reforms to date demonstrate an ongoing commitment by the QPS to ensure public safety while pursuing offenders.

The parts of the policy that were in force in December 2009 and that are relevant to this case are considered below.

When can a pursuit be commenced and continued?

The principles underpinning the policy are outlined in the Operational Procedures Manual (OPM)². 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 reinforces the seriousness of pursuit matters and reminds officers that suspects who fail to stop when directed will still be the subject of law enforcement action. However, means other than pursuits will be used to apprehend them. 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

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Report on Police Pursuits – Policy Recommendations -
http://www.courts.qld.gov.au/__data/assets/pdf_file/0011/86879/cif-police-pursuits-20100331.pdf

² Exhibit C7

offenders who fail to be intercepted but pursuits will not be the principal means of effecting apprehension.

The policy prohibits the commencement of a pursuit for a “non-pursuit matter”. These include licence and vehicle checks, random breath tests and traffic offences, including exceeding the speed limit.

A pursuit can be started provided the pursuing officers conduct a risk assessment in relation to the pursuit. The risk assessment must consider a range of factors, including 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 paramount.

The policy defines “pursuit” as 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.

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 said to commence 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. As with most aspects of law enforcement, officers must align their conduct with what a reasonable officer would do or believe in the circumstances.

An attempted intercept must be abandoned if a pursuit is not justified. Where a pursuit that had initially been justified becomes one where either the officer, the occupants of the pursued vehicle or members of the public are exposed to unjustifiable risk, it 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 and provide details to the local police communications centre.

Was a pursuit permitted?

When initially interviewed, neither of the officers involved asserted a pursuit could have been permitted under the QPS policy. It is clear that this case constituted a ‘non-pursuit matter’. Although the collision with the Hohepa’s vehicle might have constituted dangerous driving; an indictable offence otherwise potentially justifying a pursuit, the policy does not allow such driving (alone) to justify a pursuit where it occurs after an attempted intercept has

taken place. At no time during the relevant course of events was a pursuit allowed by QPS policy.

Was there a pursuit in this case?

I accept the submissions from counsel assisting and from counsel for Senior Constables Harmer and Brock that there was no pursuit in this case. There was clearly a large distance between the vehicles by the time the officers set off after the Statesman. The officers were entitled to make some attempt to intercept and to undertake urgent duty driving in aid of this. In order for this attempted intercept to become a pursuit there must have been a basis on which they ought to reasonably have believed the driver of the Statesman was trying to evade them. The evidence of the officers and of Mr Glenbar himself (insofar as it can be relied upon) is that his manner of driving did not change in the very brief period after the police turned on their emergency lights. The officers say, and I accept, that they did not see the Statesman again until the point of the collision with the Hohepa's Pulsar. This means there was certainly no pursuit at the time the deceased were struck.

I have also considered whether a pursuit took place on Bumstead Road while Senior Constable Brock was alone in the police vehicle. The fact the police vehicle had its emergency lights off as it approached the collision with the Pulsar means it would not have been sufficiently clear to Senior Constable Brock whether the driver of the Statesman knew he was still following. I accept that this was an unusual situation. The speed of the Statesman had clearly decreased and it was appropriate to continue to follow at a safe distance. There is insufficient evidence to say that Senior Constable Brock ought to have believed the other driver was trying to evade him.

Urgent duty driving

I noted earlier in these findings that the QPS policy sets limits on urgent duty driving requiring of officers that they not expose themselves or others to unjustifiable risk, injury or death. I agree with the findings of the ESC investigators that the speed at which the police car was recorded in this instance could not be justified in that context. The dry conditions, light traffic and experience of the driver all serve to mitigate the extent of any breach of QPS policy, but these fail to bring the very high speed within an appropriate range.

Section 48

Sub-sections 48(3) and 48(4) of the *Coroners Act 2003* provide for the giving of information about a person's conduct by a coroner to the CMC (for official or police misconduct) or to a disciplinary body for the person's profession or trade (if the coroner reasonably believes it might cause that body to inquire into, or take steps in relation to, the conduct).

In this case the only referral I could make is one which has already been made by ESC investigators and, in my view, been adequately dealt with. In the circumstances there is no basis for me to refer any matter.

I close the inquest.

Terry Ryan
State Coroner
Brisbane
20 May 2014