



**CORONERS COURT  
OF NEW SOUTH WALES**

**Inquest:** Inquest into the death of Brooke Carroll

**Hearing dates:** 26 February 2020- 28 February 2020

**Date of findings:** 22 May 2020

**Place of findings:** Coroner's Court, Lidcombe

**Findings of:** Magistrate Harriet Grahame, Deputy State Coroner

**Catchwords:** CORONIAL LAW – Safe Driving Policy, “police pursuit”, traffic stop, training in relation to the Safe Driving Policy

**File numbers** 2015/00208086

**Representation:**

Ms R Mathur, counsel assisting, instructed by Ms J Hoy and Ms L Nash, Crown Solicitor's Office

Mr R Coffey for the Commissioner of Police (PII issue only)

Mr B Haverfield for the Commissioner of Police and NSW Police Force, instructed by Mr S Robinson, Office of General Counsel

Mr R Hood (from 27/2/2020) for Senior Constable Luke Trudgett instructed by K Madden, Walter Madden Jenkins Lawyers

**Non-publication orders:**

The court made specific non-publication orders pursuant to sections 65 and 74 *Coroners Act 2009* (NSW). The orders relate to sections of the NSW Police Safe Driving Policy. The orders cover documents tendered and evidence given in relation to specific sections in the policy. The orders are available through the Court Registry.

Reference to the Safe Driving Policy, as stated in these findings is permissible.

## Table of Contents

Introduction .....	4
The role of the coroner.....	5
The evidence .....	6
Background.....	7
The events prior to the critical incident.....	7
The weather conditions.....	9
The course of driving .....	9
Post mortem examination and Brooke's cause of death.....	13
Proceedings against Scott Thompson .....	14
The Safe Driving Policy.....	15
Was there compliance with the Safe Driving Policy? .....	17
The evidence of Senior Constable Trudgett.....	17
The evidence of Acting Senior Sergeant Hrymak.....	19
Changes to the policy since Brooke's death .....	20
The need for recommendations .....	21
Response from the Commissioner to draft recommendations .....	23
Findings .....	24
Identity.....	24
Date of death.....	24
Place of death .....	24
Cause of death.....	24
Manner of death .....	24
Recommendations pursuant to section 82 <i>Coroners Act 2009</i> .....	24
Conclusion .....	25

## Introduction

1. This inquest concerns the tragic death of Brooke Carroll. Brooke died by the side of the Mitchell Highway after the vehicle she was travelling in hit a power pole. At the time of the collision, the vehicle was being followed by a police car. Brooke was in the passenger seat. The driver was speeding and affected by methylamphetamine.
2. Brooke was only 18 years of age at the time of her death. She was one of four sisters and also had two half-brothers. She had strong bonds with her parents and also with her uncle and aunt. Her sister shared with the court a little of Brooke's personality. "To know Brooke was to love her. She had a personality like no other. Brooke had so many hopes, dreams and aspirations. She was never afraid to set the bar high. As kind and gentle as she was,

Brooke was equally mischievous and was always ready to play jokes and bring humour ...she was a larrikin.”<sup>1</sup>

3. The profound grief felt by all family members was evident in court four and a half years after her death. I acknowledge the pain of losing this wonderful young woman so young.

### **The role of the coroner**

4. The role of the coroner is to make findings as to the identity of the nominated person and in relation to the place and date of death. The coroner is also to address issues concerning the manner and cause of the person's death.<sup>2</sup> A coroner may also make recommendations in relation to matters that have the capacity to improve public health and safety in the future.<sup>3</sup>
5. In this case, there is no dispute in relation to the identity of Brooke, or to the date, place or medical cause of her death. For this reason the inquest focused on the manner and circumstances of Brooke's death and on questions about whether her death could have been prevented.
6. At the time Brooke died, she was a passenger in a vehicle being followed by a NSW Police Force vehicle. Her death clearly occurred “in the course” of police operations. In these circumstances, pursuant to the relevant legislation, the conduct of an inquest, by a senior coroner, was mandatory.<sup>4</sup> The purpose of these provisions is to ensure that a death of this nature is thoroughly and carefully reviewed. The public must have confidence that all deaths which occur during police operations are scrutinised carefully and independently and that any opportunities for improving police practice are quickly identified.
7. I am satisfied that after Brooke's death, an investigation of the events surrounding the collision took place pursuant to the relevant NSW Police Force Critical Incident Guidelines<sup>5</sup> and that the necessary information was gathered by non-involved officers so that these matters were able to be properly and fully examined at the inquest in an impartial manner.
8. The inquest could not be commenced until after the relevant criminal proceedings had concluded. I acknowledge this delay is likely to have caused further distress to Brooke's family members.

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<sup>1</sup> Family Statement, Transcript 27/2/20, p. 63, lines 49-50; p.64, line 1 onwards

<sup>2</sup> Section 81 *Coroners Act 2009* (NSW)

<sup>3</sup> Section 82 *Coroners Act 2009* (NSW)

<sup>4</sup> See sections 23 (1)(c) and s 27 of the *Coroners Act 2009* (NSW) (as in force at the time of her death, subsequently amended).

<sup>5</sup> NSW Police Force Critical Incident Guidelines as at 15 July 2015 see Tab 29D

## The evidence

9. The court took evidence over three hearing days. The court also received extensive documentary material, compiled in a two volume brief of evidence. This material included witness statements, medical records, photographs and video recordings, as well as court records. While I do not intend to refer to all of the material in detail in these findings, it has been comprehensively reviewed and assessed.
10. A list of issues was prepared before the proceedings commenced and circulated to the parties. The issues explored at the inquest included:
  1. Was Senior Constable Trudgett's attempt to follow Mr Thompson's vehicle a "police pursuit", such as to enliven the pursuit policy within NSW Police Force Safe Driving Policy ("the SDP")?
  2. If the conduct of Senior Constable Trudgett amounted to a "pursuit" for the purposes of the SDP, whether the conduct of Senior Constable Trudgett prior to and during the pursuit was appropriate.
  3. If Senior Constable Trudgett's conduct did not amount to a "pursuit" for the purposes of the SDP, whether his conduct was appropriate in the circumstances, in light of the other provisions of the SDP.
  4. Whether, if the conduct of Senior Constable Trudgett did not amount to a "pursuit" for the purposes of the SDP, it should have done so, so that the safeguards contained in the SDP apply to these circumstances.
  5. Regardless of the applicability of the SDP, was Senior Constable Trudgett's contact with VKG adequate?
11. These questions directed the focus of the evidence presented in court. However as is often the case, a hearing can crystallise the issues which are really at stake.
12. In addition to brief oral evidence from the officer in charge, Sergeant Yonneka Hill, two witnesses were called to give oral evidence. The court heard from Senior Constable Luke Trudgett, who was the involved officer, and also Acting Senior Sergeant Nicholas Hrymak, who provided a report for the purposes of assessing whether or not Senior Constable Trudgett's conduct on the night was in compliance with the SDP.<sup>6</sup>

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<sup>6</sup> Report of Acting Senior Sergeant Hrymak, Tab 29A

13. Throughout the inquest, it became clear that aspects of the SDP are poorly understood by the officers tasked to implement it. Police are often called upon to make difficult decisions quickly. More training and clearer guidance is needed to ensure these decisions are based on an adequate assessment of the risk involved.
14. While I have some criticism of Acting Senior Sergeant Hrymak's review of the incident that led to Brooke's death, I am satisfied that Senior Constable Trudgett approached these proceedings with honesty and a genuine willingness to learn.
15. It is important to note that the driver of the vehicle involved in the accident, Scott Thompson, has already been dealt with in a criminal court. He was charged and convicted for aggravated dangerous driving causing death, and failure to stop in a police pursuit, amongst other offences. Documents relating to these proceedings were before the court and those matters were not revisited in any detail. Mr Thompson gave various early inconsistent accounts of what happened.<sup>7</sup> What is clear is that he knew police were signalling him to stop and he continued to drive at speed. His eventual plea reflects this fact.

## **Background**

16. Little is known about Brooke's decision to travel in the car with Scott Thompson that evening. The court is informed that Mr Thompson was Brooke's boyfriend, but knows little about the nature of their relationship.
17. The car they were travelling in had been purchased on the day of the incident from Mr Thompson's friend Gregory Knight.<sup>8</sup> It appears the car belonged to Ms Maddison Emery, who at some point was in a volatile relationship with Mr Knight.
18. During the investigation, the car was examined by Senior Constable Anthony Pellicane. The only pre-existing defect discovered was that the nearside rear tyre was found to be worn, with no tread present on the inner edge of the tyre. This may have contributed to the driver losing control at speed, in poor weather.<sup>9</sup>

## **The events prior to the critical incident**

19. Senior Constable Trudgett had been a police officer for around eight and a half years at the time of Brooke's death. He had spent three of those as a highway patrol officer.<sup>10</sup> He had

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<sup>7</sup> ERISP transcript of interview of Scott Allan Thompson, Tab 32

<sup>8</sup> Statement of Maddison Emery, Tab 38, pp. 5-6 at [27] to [29]

<sup>9</sup> Statement of Senior Constable Pellicane, Tab 31, p.2 at [6]

<sup>10</sup> Transcript 26/2/20, p. 14, line 35 onwards

undergone a highway patrol education course, which included full time study at Goulburn and on the job training in the western region.<sup>11</sup> By July 2015 he estimated that he had been involved in 2000 – 3000 traffic stops and a small number of pursuits.<sup>12</sup>

20. On Wednesday 15 July 2015, Senior Constable Trudgett was rostered on at Dubbo Police Station and was tasked to conduct Highway Patrol duties within the Orana Local Area Command between 4pm and 2am. Senior Constable Trudgett was the driver of Western 219 (“WTN 219”), a green, fully marked Highway Patrol Holden SS Commodore sedan<sup>13</sup>, NSW registration CB 59 DR. He was in full police uniform and operating as a single unit.<sup>14</sup>
21. WTN 219 had a Mobile Data Terminal (“MDT”) attached to the vehicle and Mobile Automated Number Plate Recognition (“MANPR”) capabilities, as well as In Car Video (“ICV”).<sup>15</sup> At the commencement of his shift, Senior Constable Trudgett conducted a number of routine checks and procedures relating to his vehicle and equipment. Senior Constable Trudgett noticed that on attempting to log onto the MDT, there was no power running to it, or to the ICV, which was obvious as the mirror did not illuminate. He noted that the radar appeared to be working appropriately.<sup>16</sup>
22. Senior Constable Trudgett subsequently attended the police “radio techs” and was assisted by Senior Constable Goodman, who replaced a fuse in the rear of the vehicle. This resulted in the ICV and MDT being operational. Senior Constable Trudgett stated that throughout his shift that evening, the ICV was functioning correctly with the exception of the microphone, which appeared to be faulty.<sup>17</sup>
23. Senior Constable Trudgett stated that he commenced his duties on the road and conducted three vehicle stops prior to the fatal accident, without incident. The ICV appeared to be functioning, aside from the issue with the microphone.
24. At approximately 8.15pm, Senior Constable Trudgett was driving WTN 219 in a “general west direction” on the Mitchell Highway.<sup>18</sup> He said the road “appeared to be in a reasonable

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<sup>11</sup> Transcript 26/2/20, p. 15, line 1 onwards

<sup>12</sup> Transcript 26/2/20, p. 18, line 43 onwards

<sup>13</sup> The P79A describes the car as Holden Caprice; the Officer in Charge of the coronial investigation, Sergeant Yonneka Hill, describes it as a Holden Statesman.

<sup>14</sup> Statement of Senior Constable Trudgett, Tab 9, p. 1 at [3]

<sup>15</sup> Recorded Interview with Senior Constable Trudgett, Tab 9B, p.7 at A32

<sup>16</sup> Recorded Interview with Senior Constable Trudgett, Tab 9B, p. 6 at A29

<sup>17</sup> *Ibid*

<sup>18</sup> Recorded Interview with Senior Constable Trudgett, Tab 9B, p. 3 at A15



condition.”<sup>19</sup> The highway at that point is a single lane dual carriageway and the area has a sign post indicating a speed limit of 110km/h.<sup>20</sup>

### **The weather conditions**

25. The court heard various accounts of the weather conditions at around that time. Senior Constable Trudgett noted that prior to and at the time of the incident it had been raining.<sup>21</sup>
26. Independent civilian witnesses were more descriptive. Justin Beavis described the weather just before the accident as “terrible”<sup>22</sup>... “it was pouring rain and there was rain all over the road that [his] car was, sort of, tracking off on the road”.<sup>23</sup> Angela Coker, who was travelling from Sydney to Dubbo stated that “it was raining all the way”.<sup>24</sup> She described the conditions as “[r]aining very heavily. They were, yeah, horrendous”.<sup>25</sup> She was familiar with the road, but the weather was such that she was travelling at a speed lower than she would normally. Robert Thomson said it was “raining horribly” and that the weather was “probably the worst [he had] driven on those roads...”, he had his high beams, driver lights and spotlights on his vehicle on and “visibility was very poor”.<sup>26</sup> He was driving a lot slower and had engaged the four wheel drive on his vehicle, because he thought the conditions were “very dangerous”.<sup>27</sup>
27. I accept that the road was wet and the driving conditions were dangerous with diminished visibility. The ICV shows that Senior Constable Trudgett had his wipers on and that rain was falling. It was dark.<sup>28</sup>

### **The course of driving**

28. Senior Constable Trudgett told the court that as he approached Tarwong Lane, an oncoming vehicle “popped over the rise and appeared to have their main beam headlights on”.<sup>29</sup> The headlights remained on as the vehicle continued to travel in an easterly direction towards Wellington.<sup>30</sup>

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<sup>19</sup> Recorded Interview with Senior Constable Trudgett, Tab 9B, p. 8 at A42; Statement of Senior Constable Trudgett, Tab 9, p. 2 at [5]

<sup>20</sup> Recorded Interview with Senior Constable Trudgett, Tab 9B, p. 8 at A42 and p. 5 at A 18; Statement of Senior Constable Trudgett, Tab 9, p. 2 at [5]

<sup>21</sup> Recorded Interview with Senior Constable Trudgett, Tab 9B, p.8 at A42; Statement of Senior Constable Trudgett, Tab 9, p. 2 at [5]

<sup>22</sup> ERISP transcript of interview of Justin Beavis, Tab 33, p. 3 at A21 and elsewhere

<sup>23</sup> ERISP transcript of interview of Justin Beavis, Tab 33, pp. 1-2 at A8

<sup>24</sup> ERISP transcript of interview of Angela Coker, Tab 34, p. 2 at A 11

<sup>25</sup> ERISP transcript of interview of Angela Coker, Tab 34, p. 2 at A 10 and elsewhere

<sup>26</sup> ERISP transcript of interview of Robert Thomson, Tab 35, p. 5 at A20

<sup>27</sup> *Ibid* A 22

<sup>28</sup> Copy of In Car Video footage, Tab 27

<sup>29</sup> Recorded Interview with Senior Constable Trudgett, Tab 9B, p. 3 at A15; Statement of Senior Constable Trudgett, Tab 9, p. 2 at [5]

<sup>30</sup> Statement of Senior Constable Trudgett, Tab 9, p. 2 at [5]

29. Approximately 50 metres from the oncoming vehicle, Senior Constable Trudgett activated WTN 219's primary warning lights. In the recorded interview he conducted the day after Brooke's death, Senior Constable Trudgett stated "I activated the police warning lights to conduct a u turn."<sup>31</sup> However in his later police statement, provided five days after the incident, he stated "I activated the Police vehicle's primary warning lights to signal the driver to stop."<sup>32</sup> In oral evidence, Senior Constable Trudgett clarified his thinking at the time he made the decision to activate his lights, agreeing that in terms of his state of mind, he put the warning lights on, "namely the lights on top of the police vehicle above, to indicate to [Thompson] with the high beams to stop".<sup>33</sup> He further explained:

"I was conducting a U-turn in order to ... when I activated my lights it was the intention to stop. I've conducted the U-turn safely and then when Mr Thompson was nowhere to be in sight, I've had to catch up."<sup>34</sup>

Senior Constable Trudgett confirmed that the issue he was concerned with was the offence of using high beam lights on an oncoming vehicle.<sup>35</sup>

30. Senior Constable Trudgett conducted his U-turn just near a roadside memorial on the southern side of the roadway. It was dark but he was able to identify that the car with the high beams was white in colour. He accelerated to "catch up to the vehicle"<sup>36</sup>, rounding a slight left hand bend in the roadway, and then he saw the brake light on the white vehicle activate as it navigated a slight right hand bend leading onto the Maryvale Straight.<sup>37</sup> Shortly after this, Senior Constable Trudgett saw a "white flash" or "glow" in the area he believed the white vehicle was travelling.<sup>38</sup>

31. Senior Constable Trudgett accelerated further reaching an approximate speed of 170 km/h before slowing slightly to take a right hand bend. The court was able to view the ICV, which records a highest speed at 170 km/h.<sup>39</sup>

32. Justin Beavis was travelling from Dubbo towards Wellington at the time of the incident and told police that the white car had followed his 4WD at a very close distance after leaving the town of Geurie, until both vehicles entered the 110 km/h zone sign posted area of the road.

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<sup>31</sup> Recorded Interview with Senior Constable Trudgett, Tab 9B, p. 3 at A15

<sup>32</sup> Statement of Senior Constable Trudgett, Tab 9, p. 2 at [5]

<sup>33</sup> Transcript 26/2/20, p. 21, line 39 onwards

<sup>34</sup> Transcript 26/2/20, p. 23, line 22 onwards

<sup>35</sup> Transcript 26/2/20, p. 31, line 28 onwards

<sup>36</sup> Recorded Interview with Senior Constable Trudgett, Tab 9B, p.3 at A 15; Statement of Senior Constable Trudgett, Tab 9, p.2 at [6]

<sup>37</sup> Recorded Interview with Senior Constable Trudgett, Tab 9B, p. at A 15; Statement of Senior Constable Trudgett, Tab 9, p.2 at [6]

<sup>38</sup> Recorded Interview with Senior Constable Trudgett, Tab 9B, p. 3 at A 15; Statement of Senior Constable Trudgett, Tab 9, p.2 at [6]

<sup>39</sup> Copy of In Car Video footage, Tab 27, see 20:15:13

Mr Beavis states that the white car then overtook him and “flew past”, “leaving him for dead”. He described the speed as “unbelievable” in light of the rain.<sup>40</sup> Mr Beavis states that he “noticed the police car”, WTN 219, first seeing “his lights” and then noticing the police car turn “around in pursuit of the speeding car”.<sup>41</sup>

33. After making it through the right hand bend, Senior Constable Trudgett observed a white vehicle (BFN-49J) in a paddock on the northern side of the Mitchell Highway. He stated “my eyes were on the vehicle and as I looked back in front of me there was a cable or wire across the roadway appearing to be falling. The sounds of glass exploding inside the Police vehicle and something hitting it rang out.”<sup>42</sup> Senior Constable Trudgett stopped his vehicle at what he estimated to be about 60-70 metres past the white vehicle. He realised that his police vehicle had no power and that the ICV was not recording. He had no headlights or light bar. Senior Constable Trudgett used his police radio to call for urgent assistance.<sup>43</sup>
34. He walked back towards the white vehicle in the paddock, flagging down two civilian vehicles to slow down and stop on his way to the white sedan. When he got to the white car, the first person he saw was a female in the front passenger seat. He believed that she was already dead. He was unable to find a pulse.<sup>44</sup> This person was Brooke Carroll.
35. Senior Constable Trudgett then noticed a male he recognised as Scott Thompson trying to exit the vehicle. He was wearing a seatbelt and had a brown and white bag draped over his shoulder. He appeared to be momentarily trapped by compression and confinement.<sup>45</sup>
36. Senior Constable Trudgett called out to the two civilian vehicles that had stopped. One male, Adrian Whitehead, called ‘000’ and another male, Robert Thomson, came into the paddock to assist him.<sup>46</sup>
37. In his recorded interview, Senior Constable Trudgett stated that Mr Thompson had some apparent injuries including a head laceration. He appeared to have scattered speech and train of thought, and overall he appeared vague.<sup>47</sup> Senior Constable Trudgett then attempted to free Mr Thompson by cutting his seatbelt with his leatherman. He also cut the brown and white bag draped over Mr Thompson’s shoulder, which felt heavy.<sup>48</sup>

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<sup>40</sup> ERISP transcript of Interview of Justin Beavis dated 3/08/15, Tab 33, p.2, A 8

<sup>41</sup> *Ibid*

<sup>42</sup> Statement of Senior Constable Trudgett, Tab 9, p.2 at [7]

<sup>43</sup> Statement of Senior Constable Trudgett, Tab 9, p.3 at [7]

<sup>44</sup> Statement of Senior Constable Trudgett, Tab 9, p.3 at [8]

<sup>45</sup> Statement of Senior Constable Trudgett, Tab 9, p.3 at [9]

<sup>46</sup> Statement of Senior Constable Trudgett, Tab 9, p.4 at [10]; Statement of Adrian Whitehead, Tab 36, p.3 at [12]; ERISP transcript of interview of Robert Thomson, Tab 35, p.2 at A8

<sup>47</sup> Recorded Interview with Senior Constable Trudgett, Tab 9B, p.4 at A15

<sup>48</sup> *Ibid*

38. Senior Constable Trudgett stated that he then questioned Mr Thompson about the other passengers in the vehicle. He was told that there was an additional male passenger in the vehicle called "Stephen".<sup>49</sup> This was evidently a lie. Senior Constable Trudgett briefly spoke to the '000' operator before asking Robert Thomson to conduct "a line search for a body or a further injured person".<sup>50</sup> Robert Thomson attempted to locate the third person. He walked back up to the road following the marks through the field and to the foot of the telegraph pole.<sup>51</sup> Nothing of interest was located.<sup>52</sup>
39. Senior Constable Trudgett then asked Mr Thompson "Why did you try and fuck off from me? I just wanted to talk to you about the high beams".<sup>53</sup> Mr Thompson denied he had taken off and enquired about the other car that was in front of him. Senior Constable Trudgett told Mr Thompson that there was no other car. He also reconfirmed with Mr Thompson who the other passengers in the vehicle were. Mr Thompson still stated there had been a male and female passenger in the car. It was later confirmed that there were only two people in the car.
40. Robert Thomson states that while he was assisting with Mr Thompson, he asked him questions about the incident. He stated that Mr Thompson told him that his car had been travelling approximately 120 km per hour and that he had "just hit a pole".<sup>54</sup>
41. Approximately 15 minutes later, assistance arrived including police vehicles Wellington 20 and Western 222 and ambulance paramedics. Mr Thompson was taken to Dubbo Base Hospital. It was subsequently confirmed that his bag contained methamphetamine and cannabis.
42. Senior Constable Trudgett immediately observed significant damage to the roof of the white vehicle and to the offside part of the vehicle near the "B pillar" (behind the driver's seat). Senior Constable Trudgett described the car as "almost folded in half."<sup>55</sup> He also described the "telephone pole/post" as broken in two pieces – one piece with cable rolled on itself on the southern side of the roadway and the bigger piece located on the northern side of the roadway".<sup>56</sup>

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<sup>49</sup> Recorded Interview with Senior Constable Trudgett, Tab 9B, p.4 at A15

<sup>50</sup> *Ibid*

<sup>51</sup> ERISP transcript of interview of Robert Thomson, Tab 35, pp.2-3, A8

<sup>52</sup> Statement of Senior Constable Trudgett, Tab 9, p.4 at [14]

<sup>53</sup> It is difficult to be certain of the exact order of some events, as accounts differ slightly between Senior Constable Trudgett's statement and his recorded interview. In my view nothing turns on the discrepancies given the shocking nature of the scene Senior Constable Trudgett faced on arrival at the white car.

<sup>54</sup> ERISP transcript of interview of Robert Thomson, Tab 35, p.9 at A 47-49

<sup>55</sup> Recorded Interview with Senior Constable Trudgett, Tab 9B, p.5 at A 20; Statement of Senior Constable Trudgett, Tab 9, pp. 4-5 at [15]

<sup>56</sup> Recorded Interview with Senior Constable Trudgett, Tab 9B,p.5 at A 23-24, Statement of Senior Constable Trudgett, Tab 9, p.4 at [16]

43. Senior Constable Trudgett also noted the damage to WTN 219, the vehicle he had been driving. Both ICV cameras were off the windscreens, the near side and rear windscreens had “exploded” and there was “damage to the front and the offside of the vehicle for the whole length of the vehicle”. He stated he did not “think there was a panel that wasn’t dented.”<sup>57</sup>
44. Sergeant Kelly Wixx was the Supervisor at Dubbo Police Station on the evening of the accident and was utilising fully marked police vehicle Dubbo 14. She acknowledged the broadcast relating to the collision at about 8:30pm and proceeded to the scene of the accident.<sup>58</sup> When she arrived at the scene, she observed that Senior Constable Trudgett’s vehicle was approximately 100 metres from the white vehicle and that there was a broken piece of telegraph pole in the drainage ditch on the right hand side of the road, with steel cabling wrapped around it. Sergeant Wixx stated that a short distance from this, a police light bar system was lying on the road, which Senior Constable Trudgett identified as belonging to WTN 219.<sup>59</sup>
45. In all the circumstances, it appears that Mr Thompson lost control of his vehicle and collided with a telegraph pole. Damage to the pole caused wires to fall on the roadway. These have impacted with WTN 219 and dislodged the police light bar and caused other damage.
46. Sergeant Brett Samuel and Senior Constable Gudgeon of the Crash Investigation Unit attended the incident at approximately 1.45am on 16 July 2015.<sup>60</sup> They confirmed the significant damage to the white vehicle was caused by the white vehicle colliding with a timber telegraph pole.<sup>61</sup> The court has had an opportunity to review their evidence and view the photographs of the collision scene. I accept that Brooke’s terrible injuries were caused by this collision and that there was no contact between the white vehicle and the police car. This is corroborated by viewing the ICV.<sup>62</sup>

#### **Post mortem examination and Brooke’s cause of death**

47. Tragically Brooke was confirmed deceased at the scene<sup>63</sup> and was subsequently transferred to Dubbo Base Hospital.<sup>64</sup>
48. A post mortem examination was performed by forensic pathologist Dr Leah Clifton on 17 July 2015. In her report dated 22 September 2015, Dr Clifton stated that the cause of Brooke’s

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<sup>57</sup> Recorded Interview with Senior Constable Trudgett, Tab 9B, p.5 at A 20

<sup>58</sup> Statement of Sergeant Wixx, Tab 12, p.1 at [3]-[4]

<sup>59</sup> Statement of Sergeant Wixx, Tab 12, p.3 at [9]

<sup>60</sup> Statement of Sergeant Samuel Tab 25, p.3 at [6]

<sup>61</sup> Statement of Sergeant Samuel, Tab 25, p.4 at [13]

<sup>62</sup> Copy of In Car Video footage, Tab 27

<sup>63</sup> Brooke was confirmed deceased by various witnesses; see ambulance record for Brooke Carroll attached to Statement of Trevor Bruce, Tab 37, p.4

<sup>64</sup> P79A Report of death of Coroner, Tab 1, p. 3

death was multiple injuries to the head, thorax and limbs, including fractures to the skull, left clavicle, pelvis, right femur, left tibia and fibula and right scapula. There were also multiple superficial lacerations, bruises and contusions on her body.<sup>65</sup> Dr Clifton concluded these injuries were consistent with blunt force trauma in a high speed motor collision.<sup>66</sup>

### **Proceedings against Scott Thompson**

49. Scott Thompson was charged, convicted and sentenced in relation to Brooke's death and other related matters. He received a sentence of four years and nine months (with a non-parole period of three years and seven months) for "dangerous driving occasioning death in circumstances of aggravation". The aggravating circumstance was that his driving was impaired by methylamphetamine. A number of other offences were also finalised, including a failure to stop in a police pursuit, driving under the influence of methylamphetamine, driving with illicit drug in blood and drive while disqualified. He was also convicted of a drug supply charge.<sup>67</sup>
50. Forensic pharmacologist Dr Judith Perl provided an expert report in this matter. In her view, the concentration of methylamphetamine detected in Mr Thompson's blood was "very significant" and would have "very substantially" impaired his driving ability at the time of the collision.<sup>68</sup>
51. It should be emphasised that Mr Thompson pleaded guilty to failing to stop in a police pursuit.<sup>69</sup> The plea was taken on an agreed set of facts<sup>70</sup> and Mr Thompson received a custodial sentence for the offence.<sup>71</sup>
52. Both Senior Constable Trudgett and Acting Senior Sergeant Hrymak told the court that they were unaware of this outcome.<sup>72</sup> It is difficult to understand why this important information was not available to Acting Senior Sergeant Hrymak when he was tasked to review the incident. It is difficult to understand how the Assistant Commissioner who signed off on the report or someone on the Critical Incident Team did not at least question Acting Senior Sergeant Hrymak's characterisation of the course of driving, given the criminal charge which had been preferred.

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<sup>65</sup> Autopsy report, Tab 6, p. 1 and p. 2

<sup>66</sup> *Ibid*, p.2

<sup>67</sup> Statement of Agreed facts, Tab 29E, p.1

<sup>68</sup> Expert report of Dr Judith Perl, Tab 30, p. 3-4 at [1] and p.8 at [18]

<sup>69</sup> See Statement of Agreed facts, Tab 29E, p.1, H58710521 sequence 3

<sup>70</sup> Statement of Agreed facts, Tab 29E, p.1

<sup>71</sup> See remarks on sentence, Tab 29F, pp. 20 - 21

<sup>72</sup> Trudgett: Transcript 26/02/20, p.23, line 34 onwards and p.24, lines 19-21; Hrymak: Transcript 2/02/20, p. 28, line 42 onwards

53. Notwithstanding the fact that neither Acting Senior Sergeant Hrymak nor Senior Constable Trudgett had knowledge of the fact that Mr Thompson had pleaded guilty to failing to stop in a police pursuit, I am deeply troubled by the apparent inconsistent approach across the agency as a whole, regarding the categorisation of the driving of Senior Constable Trudgett on the tragic evening in question.
54. At the conclusion of these coronial proceedings, those appearing for the Commissioner of Police (“Commissioner”) urged me to accept that no pursuit had occurred. However during the criminal prosecution of Mr Thompson, other officers, also working for the Commissioner, appear to have thought it appropriate to pursue a conviction for the offence of failing to stop in a police pursuit. Indeed Mr Thompson was convicted and sentenced for this very offence. Acting Senior Sergeant Hrymak was adamant to the end that no pursuit took place. Why then was a plea accepted to the charge? Why was Mr Thompson imprisoned for the offence?

### **The Safe Driving Policy**

55. In recent times, the complex issues surrounding police pursuits have been widely debated in public and have been the subject of significant research and investigation throughout many parts of the world. A number of the issues as they relate to NSW have previously been examined by this Court.<sup>73</sup> The issues clearly have a wide public interest. The question of whether and in what circumstances police should pursue a vehicle is a complex one and one that is currently approached differently in various jurisdictions. There are no obvious or easy answers and reasonable people may differ on the correct approach to take. Ultimately, it involves a careful balance between interests that at times conflict. Providing police with sound and accessible guidance on the operation of their discretion to pursue becomes a difficult but necessary task, particularly when decisions to pursue are so often made quickly and in stressful circumstances. Over the years many in the community have been rightly concerned at the number of deaths arising from or in the course of police pursuits.
56. The SDP<sup>74</sup> is a NSW Police Force internal policy document which guides police driving practice and strategies, including the conduct of police pursuits. There have been numerous iterations of the policy. The court had access to the policy in force at the time of Brooke’s death (“SDP version 7.2”)<sup>75</sup>, and the current policy (“SDP version 9.2”)<sup>76</sup>. While much of the policy is identical across versions, there have been some significant changes.

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<sup>73</sup> See for example Deputy State Coroner Dillon’s findings in the *Inquest into the death of Hamish Raj* (7 April 2014) and more recently *Mauceri v Deputy State Coroner MacMahon* [2017] NSWSC 545 among many others.

<sup>74</sup> SDP version 7.2, Tab 29B; SDP version 9.2, Tab 29C

<sup>75</sup> SDP version 7.2 is dated November 2009

<sup>76</sup> SDP version 9.2 is dated June 2019

57. The previous Commissioner Scipione APM notes in the foreword of the SDP version 7.2 that the NSW Police Force has a major responsibility to improve road safety and in doing that, “we must lead by example”.<sup>77</sup> Right from the start, the policy makes it clear that oversight of pursuits is essential and the Duty Operations Inspector (“DOI”) is especially charged with the role of determining whether a pursuit shall terminate or continue. Individual officers no longer have an unfettered discretion in this matter.<sup>78</sup> A clear head, away from the stressful operational environment, must be involved if a pursuit is to continue.
58. Part 6 of the SDP version 7.2 deals specifically with urgent duty and pursuits, providing definitions and guidelines to support officers in making their decisions to initiate and/or continue pursuits. It is clear that a pursuit commences at the time a decision is made to pursue a vehicle that has ignored a direction to stop.<sup>79</sup> The pursuit continues if the police vehicle follows the offending vehicle in an attempt to remain in contact, whether or not warning lights or sirens are activated.<sup>80</sup>
59. Police are given guidelines to consider prior to making a decision to pursue, which involve weighing up the danger to themselves, other road users and the subject of the pursuit.<sup>81</sup> Police are reminded that the driver and [REDACTED].<sup>82</sup> [REDACTED]  
[REDACTED]  
[REDACTED].<sup>83</sup>
60. Importantly, in the factual circumstances of this case, the SDP Version 7.2 contained a clear direction that when a vehicle engages in a pursuit, the DOI or VKG shift operator must be informed and certain information must be communicated immediately, including the reason for the pursuit<sup>84</sup> [REDACTED].<sup>85</sup> [REDACTED]  
[REDACTED].<sup>86</sup> This policy is aimed at giving proper independent oversight to each and every police pursuit which occurs in NSW. If police in pursuit are told to terminate, they must do so. It is an essential and important part of the current policy.
61. A critical issue arising in this case was whether officers are adequately trained to quickly and accurately recognise when they are “in pursuit”. Is there a grey area between following a vehicle after a traffic stop and being “in pursuit”? Only the latter will provide the officer and the general public with the protection of contemporaneous oversight and independent risk

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<sup>77</sup> SDP version 7.2, Tab 29B, p.iv

<sup>78</sup> *Ibid*

<sup>79</sup> SDP version 7.2, Tab 29B, p.25

<sup>80</sup> *Ibid*

<sup>81</sup> SDP version 7.2, Tab 29B, p. 26

<sup>82</sup> SDP version 7.2, Tab 29B, p. 27

<sup>83</sup> See SDP Version 9.2, Tab 29C, Part 7-2-2-(i)

<sup>84</sup> ‘Reason for pursuit’, SDP version 7.2, Tab 29B, p.27, (1) d)

<sup>85</sup>

<sup>86</sup>



assessment. This court has previously grappled with the question – was this course of driving a “pursuit”?<sup>87</sup> Are there ways to clarify and improve police understanding of policy in this area?

### **Was there compliance with the Safe Driving Policy?**

#### ***The evidence of Senior Constable Trudgett***

62. Senior Constable Trudgett impressed the court as a genuine and honest witness who did all he could to grapple with the issues before the court. I accept that he has been severely and sincerely traumatised by Brooke’s death and has given the matter considerable thought. His willingness to review his original assessment of the circumstances in which he found himself does him enormous credit.

63. Senior Constable Trudgett initially told the court that he had not been “in pursuit” of Mr Thompson.<sup>88</sup> He explained

“I was conducting a U-turn in order to...when I activated my lights it was the intention to stop. I’ve conducted the U-Turn safely and then when Mr Thompson was nowhere to be in sight, I’ve had to catch up. And if I had gotten behind him earlier enough and he still hadn’t stopped, that’s when I would have been looking at going with the sirens, adding the flashing of the lights and horn in order to stop, if he hadn’t have stopped then, then it would be in pursuit.”<sup>89</sup>

The thrust of his evidence was that the brief period where he followed the white vehicle was not a pursuit but rather an attempt to “close the gap” after an attempt at a traffic stop. In his mind, pursuant to the policy, there was no obligation to call VKG until it became “a pursuit.”<sup>90</sup>

64. I accept that Senior Constable Trudgett genuinely believed he was conducting a traffic stop. He explained

“I felt that at the time it wasn’t a pursuit because I was in the correct...vehicle... I needed to catch up to him for, safety of police and others, and I also took in the, the conditions at the time, being night, rainy and being a rural road. I felt that catching up and well stopping him about the, the offence of using his high beam on an oncoming vehicle required my, my attention.”<sup>91</sup>

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<sup>87</sup> See for example, Inquest into the Death of Andrew Ngo, 28 January 2020; Inquest into the Death of Xavier Burke, 25 July 2019; Inquest into the Death of Terry Ah-See, 21 May 2019; Inquest into the Death of Ryan Auton, 30 April 2019; Inquest into the Death of Shaun Crighton-Cromb, 15 April 2019; Inquest into the Death of Bryce Doyle, 21 February 2019; Inquest into the Death of Geoffrey Richardson, 6 July 2018; Inquest into the Death of Caillie Scott-Lewis, 26 June 2018; Inquest into the Death of Corey Kramer, 9 April 2018

<sup>88</sup> Transcript 26/2/20, p.23, line 15

<sup>89</sup> Transcript 26/2/20, p. 23, line 22 onwards

<sup>90</sup> Transcript 26/2/20, p. 33, line 16 onwards

<sup>91</sup> Transcript 26/2/20, p.31, line 28 onwards

Senior Constable Trudgett told the court he had conducted traffic stops before where he had just activated lights and the person had just pulled over.<sup>92</sup>

65. Senior Constable Trudgett was taken to the relevant definition of pursuit in SDP version 7.2. He was advised that at the time of Brooke's death, a pursuit included circumstances where an officer has attempted to stop a vehicle and the driver of the vehicle is attempting to avoid apprehension or appears to be ignoring police attempts to stop them and the officer continues to follow them, whether or not their vehicle is displaying warning lights or sounding a siren.<sup>93</sup> On reflection, Senior Constable Trudgett agreed that on the evening of 15 July 2015 he had signalled to the driver to stop, the driver appeared to be ignoring the request to stop, he made a decision to follow him and that this constituted a "pursuit".<sup>94</sup>
66. Senior Constable Trudgett also stated that he now believed there was "ambiguity" with respect to the correct interpretation of the policy.<sup>95</sup> He had already stated that while he had some education about the SDP and had read it two or three times, he had not been specifically trained in its interpretation.<sup>96</sup> He was aware that there were discussions and differences of opinion between highway patrol officers about "what constitutes a pursuit and what doesn't" under the SDP and, for example, at what point "trying to keep in contact", becomes a "pursuit".<sup>97</sup>
67. At the time Senior Constable Trudgett's car made contact with the wires from the power pole, he was chasing the white vehicle at up to 170 km/h. His light was activated. Some of his first words to the driver were "Why did you try and fuck off from me?"<sup>98</sup>, so it is clear he believed that the vehicle was trying to avoid apprehension. I am well satisfied that Senior Constable Trudgett was "in pursuit" within the meaning of the policy and that his conduct should have been subject to the oversight and guidance of an independent officer. In other words VKG should have been contacted. I accept that the period of time between the U-turn and the point where the collision occurred was relatively short, just 47 seconds.<sup>99</sup> Nevertheless in my view a pursuit had clearly commenced.
68. While we are now aware that the driver was affected by drugs and had been speeding shortly prior to the accident<sup>100</sup>, it is important to remember that at the time the pursuit

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<sup>92</sup> Transcript 26/2/20, p.26, line 39 onwards

<sup>93</sup> See Transcript 26/2/20, p.33, line 35 onwards

<sup>94</sup> Transcript 26/2/20, p.33, line 47 onwards, p.34, line 1

<sup>95</sup> Transcript 26/2/20, p.34, line 3 onwards

<sup>96</sup> Transcript 26/2/20, p.17, line 13 onwards

<sup>97</sup> Transcript 26/2/20, p.17, line 31 onwards, page 18, line 1

<sup>98</sup> Statement of Senior Constable Trudgett, Tab 9, p. 3 at [9]

<sup>99</sup> Copy of In Car Video footage; Tab 27, U-Turn commenced at 20:14:30, ICV cuts out at 20:15:17

<sup>100</sup> Statement of Justin Beavis, Tab 33, p.2, A8. Mr Beavis states that he was travelling at 90km/h and Mr Thompson's car "flew past" him at an "unbelievable speed"

commenced, it did so because a motorist did not dip his high beams on a dark and rainy night.

69. It became evident that Senior Constable Trudgett was not particularly troubled by the speed at which he was travelling, nor did he think it inappropriate for a traffic stop. He was focussed on “closing the gap”. He stated “I needed to close the gap. I, I don’t think about the speed as much. I’m not going to try and pull max speed in order to catch it”.<sup>101</sup> When questioned about his speed of 170 km/h, he explained that he “didn’t believe it’s high speed” on a highway.<sup>102</sup>
70. In my view the circumstances of this case make it very clear that Senior Constable Trudgett, operating as a single officer, would have been assisted by calling in a pursuit so that he had the immediate guidance of a senior independent officer.

### ***The evidence of Acting Senior Sergeant Hrymak***

71. The brief contained a report prepared by Acting Senior Sergeant Hrymak, of the Traffic Policy Section, Traffic & Highway Patrol Command.<sup>103</sup> Acting Senior Sergeant Hrymak had been attached to the Traffic Policy Unit since 2013<sup>104</sup> and had previously worked in general duties and as a highway patrol officer.
72. He conducted a review of the incident “based on the contents of the information stored on Eagle.i”. However he was unable to identify which documents he had actually reviewed.<sup>105</sup> I was concerned, for example, when statements from independent eye-witnesses about the road and weather conditions were put to him in court and he had no recollection of seeing them. Nor did he apparently have any way of checking whether or not he had reviewed those statements.<sup>106</sup>
73. He was an unhelpful witness in a number of respects. Firstly, his report contained reference to the incorrect version of the policy.<sup>107</sup> Secondly, he had no direct experience in drafting and reviewing the policy and limited involvement in training with respect to the relevant sections.<sup>108</sup> Thirdly, he appeared to have limited knowledge of police involvement in the specific incident or any awareness of the criminal proceedings.<sup>109</sup> His review was, in my view, superficial.

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<sup>101</sup> Transcript 27/2/20, p. 9, line 47

<sup>102</sup> Transcript 27/2/20, p. 10, line 1 onwards

<sup>103</sup> Report of Acting Senior Sergeant Hrymak, Tab 29A

<sup>104</sup> Transcript 27/2/20, p. 22, line 10 onwards

<sup>105</sup> Transcript 27/2/20, p. 27, line 30 onwards

<sup>106</sup> Transcript 27/2/20, p. 35, line 36 onwards; page 36, line 30; page 37, line 10 onwards, and elsewhere

<sup>107</sup> Transcript 27/2/20, p. 22, line 20 onwards

<sup>108</sup> Transcript 27/2/20, p. 25, line 14 onwards

<sup>109</sup> Transcript 27/2/20, p. 27, line 39 onwards

74. Acting Senior Sergeant Hrymak had been asked to provide a report for the purposes of assessing whether or not Senior Constable Trudgett's conduct on the night was in compliance with the SDP.<sup>110</sup> His report concluded that "S/C Trudgett did not give the offending vehicle a direction to stop. S/C Trudgett was undertaking a traffic stop and was attempting to reduce the distance to the offending vehicle".<sup>111</sup> His opinion was that Senior Constable Trudgett's conduct was in compliance with the SDP guidelines in relation to traffic stops.<sup>112</sup>
75. Acting Senior Sergeant Hrymak had the opportunity to hear Senior Constable Trudgett's evidence. By the time he gave his oral evidence, he was well aware that Senior Constable Trudgett had clarified any possible ambiguity about the reason he activated his lights. It was a signal to stop. He was aware that Senior Constable Trudgett decided to follow the vehicle and drove in wet conditions at a speed of 170 km/h. He was aware that some of the first words Senior Constable Trudgett exchanged with the driver after the collision indicated that the officer believed the driver had "tried to fuck off." He was aware that Mr Thompson was convicted and gaoled for not stopping in a police pursuit. He was aware that the involved officer had agreed, in hindsight, that a pursuit had been triggered.
76. Notwithstanding all of this, Acting Senior Sergeant Hrymak remained firm in his view that no pursuit had occurred. He said

"...in this actual incident had the officer closed the distance on the vehicle, and there was a clear intention of him to stop that vehicle by way of warning devices, and the vehicle doesn't stop, at that point that's when a pursuit is engaged."<sup>113</sup>

I found his explanation and lack of reflection unimpressive. In my view, he is incorrect and his evidence does nothing but further muddy the distinction between traffic stop and pursuit.

### **Changes to the policy since Brooke's death**

77. It was well beyond the scope of this inquest to conduct a full scale review of the SDP or assess all the changes made in the last iteration of the policy. However, the court accepts that there have been some small improvements to the SDP since Brooke's death. In the 2019 policy, SDP version 9.2, officers are given more specific guidance in relation to factors they should consider when conducting traffic stops (Part 6), pursuits (Part 7) and in urgent

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<sup>110</sup> Transcript 27/2/20, p. 23, line 47 onwards

<sup>111</sup> Report of Acting Senior Sergeant, Tab 29A, p.4

<sup>112</sup> Report of Acting Senior Sergeant Hrymak, Tab 29A, p. 3 at [25]

<sup>113</sup> Transcript 27/2/20, p. 50, line 28 onwards

duty (Part 8). [REDACTED]

[REDACTED]<sup>114</sup>

78. SDP version 9.2 also elaborates on one further relevant factor. [REDACTED]  
[REDACTED]  
[REDACTED].<sup>115</sup> However, it is troubling that Part 6-4, which relates to traffic stops and the factors that must be taken into consideration when conducting a traffic stop, a police officer need only consider [REDACTED]  
[REDACTED].<sup>116</sup> [REDACTED]  
[REDACTED], a factor to be considered in relation to pursuits, is not given as a specific factor to be considered in traffic stops. Considering the particular circumstances of this case, it is hard to understand why [REDACTED] should only be specifically referred to in relation to pursuits.
79. I accept Senior Constable Trudgett honestly (but incorrectly) believed he was conducting a traffic stop at the time he drove after the white vehicle reaching a speed of 170 km/h in the rain. Clearly whatever he was doing – traffic stop or pursuit – he needed to carefully consider the danger of the speed he needed to reach to “close the gap.”

### The need for recommendations

80. Police Officers failing to properly understand or be able to implement the Safe Driving Policy in the field is not a new or isolated issue. The *Inquest into the Death of Corey Kramer*<sup>117</sup> for example, dealt with a non-compliant pursuit of a 14 year old boy on a mini motorbike in October 2016, which occurred more than a year after Brooke’s death.<sup>118</sup> Officers following Corey had failed to understand that they were in pursuit and as a result there was no contemporaneous oversight of their decision to follow the boy in extremely risky circumstances.
81. In that case, the court heard some evidence about the nature of training that occurs during initial training at Goulburn Police Academy. It was also referred to the Mandatory Education Program delivered in 2016/17 across NSW.

<sup>114</sup> [REDACTED]

<sup>115</sup> [REDACTED]

<sup>116</sup> [REDACTED]

<sup>117</sup> [REDACTED]

*Inquest into the Death of Corey Kramer*, 9 April 2018,

<http://www.coroners.justice.nsw.gov.au/Documents/Findings%20Kramer%20-%20final%20Redacted.pdf>

<sup>118</sup> *Inquest into the death of Corey Kramer* examined version 8.2 of the Safe Driving Policy.

82. During the inquest into Corey's death, the Commissioner accepted that there had been a breach of the relevant SDP and that the officers involved had a flawed understanding of the requirements of the policy. Nevertheless, counsel for the Commissioner resisted a recommendation aimed at improving officer training, expressing confidence that sufficient training was already in existence. Despite that resistance, I made a recommendation in April 2018 that the Commissioner "implement further training and educational initiatives aimed at developing a better understanding of the requirements of the Safe Driving Policy regarding pursuits amongst employees of the NSW Police Force to whom the Safe Driving Policy applies and furthermore, undertakes a full audit regarding the effectiveness of these training and educational initiatives".
83. Disappointingly, the recommendation was ultimately rejected. Following the proceedings, the Commissioner, M J Fuller APM, informed the court that he

"...consider[ed] there are adequate training and education initiatives in place to educate police on the SDP and pursuits. Following amendments to the SDP, a Mandatory Continuing Education ("MCPE") module was implemented for the 2016/17 training year. The policy puts measures in place to address deficiencies or policy compliance issues. The MCPE remains available as an optional training module for the current training year. These training elements supplement the training courses provided by Police Driver Training".

"Effectiveness measures are gauged through ongoing assessment and review of policy compliance. This is done at a local level by Safe Driving Panels formed at individual Commands in accordance with the SDP. The Traffic and Highway Patrol Command reviews, on a daily basis, every pursuit in the State. Any compliance issues or other matters of concern arising from them are referred to the State Pursuit Management Committee (SPMC). This Committee is responsible for monitoring the functioning of the SDP and recommending to the Commissioner any changes to policy that may be required. The findings arising from the Kramer Inquest are being considered by the SPMC as part of the SDP review currently underway."<sup>119</sup>

84. I note that Brooke's death predates Corey's death. I am confident that should I have been minded to make a similar broad recommendation in these proceedings, it would again be rejected. However, in my view the issues remain. The SDP, particularly as it relates to pursuits, is poorly understood by those tasked to implement it. The issue goes beyond those working in general duties and relates also to those in Highway Patrol Units. At the very least, further training for Highway Patrol Officers is called for. The Highway Patrol Officer who was involved in this tragic incident, Senior Constable Trudgett, himself spoke of ambiguity and ongoing discussion between officers about what being "in pursuit" entailed. When asked

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<sup>119</sup> Commissioner's public response can be viewed in "Coroner's Recommendations and Government Responses 2017" at <https://www.justice.nsw.gov.au/lsb/Documents/coroners-recommendations-2017.DOC>, p.35 under "Response"

about how he thought this ambiguity could be corrected, he asked the court “how much time have you got”?<sup>120</sup>

85. Two other draft recommendations also arose directly from the evidence.
86. It appeared evident that there needs to be further work done in explaining the difference between urgent duty, traffic stops and pursuits in a form that is easily accessible to all officers in the field. The evidence of Acting Senior Sergeant Hrymak indicates to me that the difference is not well understood, even at a senior level. Health workers have benefitted greatly in recent years by the thoughtful design of one page flowcharts which consolidate complicated policy into easy-to-read formats. In my view, if a chart which would assist officers to understand and interpret Parts 6, 7 and 8 of the SDP cannot be easily produced, then there is a problem with the policy itself, and the grey areas between the categories, which must then exist, need further attention and clarification.
87. Finally there is also a need to add [REDACTED] as a specific factor to the current policy in relation to traffic stops (Part 6-4).

#### **Response from the Commissioner to draft recommendations**

88. Draft recommendations in those terms were circulated at the end of the proceedings to allow for comment prior to finalisation. In a response from counsel, on the Commissioner’s behalf, the need for any further training in relation to the SDP was rejected outright.
89. In relation to the development of a flowchart, the Commissioner stated “the current education of the SDP v 9.2 parts 6, 7 and 8 are sufficiently satisfactory in quality and quantity to delineate the requirements and obligations of officers with respect to each part”<sup>121</sup> and therefore a flowchart is not required.
90. The recommendation suggesting an amendment to SDP version 9.2 (Part 6-4) regarding the inclusion of a specific factor requiring police to consider [REDACTED] when conducting a traffic stop, will apparently be considered. However it was also submitted that a paragraph in the SDP foreword advising police that their actions must be reasonable in all the circumstances and that all reasonable care must be taken, already serves to “reinforce that all aspects of using a

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<sup>120</sup> Transcript 26/02/20, p. 34, line 7 onwards

<sup>121</sup> Submissions on behalf of the Commissioner of Police, p. 2 at [9]

police vehicle are to be taken into account not just [REDACTED], and the actions of police must be reasonable, and police must be able to justify their actions.”<sup>122</sup>

91. The response of the Commissioner is disappointing. In my view, there is sufficient evidence to establish that police officers need further assistance in understanding and properly implementing sections of the SDP, particularly in relation to traffic stops and pursuit. After considerable reflection, I believe the Commissioner ought consider carefully the issues raised in these proceedings and implement changes to reduce the risk of road deaths in the future.

## **Findings**

91. The findings I make under section 81(1) of the *Coroners Act 2009* (NSW) are:

### ***Identity***

The person who died was Brooke Carroll.

### ***Date of death***

She died on 15 July 2015.

### ***Place of death***

She died by the side of the Mitchell Highway, near Maryvale NSW.

### ***Cause of death***

She died of multiple injuries. Her injuries were consistent with blunt force trauma sustained in a high speed motor vehicle collision.

### ***Manner of death***

Brooke was the passenger in a motor vehicle driven at speed by a drug affected driver who was attempting to evade police. The car she was in collided with a pole during a police operation.

## **Recommendations pursuant to section 82 *Coroners Act 2009***

92. For reasons stated above, I make the following recommendations,

### **To the Commissioner of Police**

- 1) To give consideration to enhancing the training provided to all Highway Patrol Officers to include a yearly refresher course on Parts 6, 7 and 8 of the SDP and that training be

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<sup>122</sup> Submissions on behalf of the Commissioner of Police, p.3 at [10]



developed and delivered with the assistance and involvement of the Traffic Highway Patrol Command.

- 2) To give consideration of developing and implementing a flow chart to assist officers in their implementation/interpretation of Parts 6, 7 and 8 of the SDP.
- 3) To give consideration to amending Part 6-4 of the SDP to include a specific factor requiring police to consider [REDACTED]  
[REDACTED] when conducting a traffic stop.

### **Conclusion**

93. Finally, I offer my sincere thanks to counsel assisting Ragni Mathur, and her instructing solicitors Jennifer Hoy and Lena Nash for their assistance in the preparation and conduct of this inquest.
94. Once again, I offer my sincere condolences to Brooke's family and friends. I acknowledge that the pain of losing a loved one in these circumstances is profound and that their grief is ongoing.
95. I close this inquest.

Magistrate Harriet Grahame  
Deputy State Coroner  
22 May 2020  
NSW State Coroner's Court, Lidcombe