



**CORONERS COURT  
OF NEW SOUTH WALES**

<b>Inquest:</b>	Into the death of Lester Collins (a pseudonym)
<b>File number:</b>	2018/291962
<b>Hearing dates:</b>	31 May 2021, 1 June 2021
<b>Date of findings:</b>	11 June 2021
<b>Place of findings:</b>	Coroners Court, Lidcombe
<b>Findings of:</b>	Deputy State Coroner E. Truscott
<b>Catchwords:</b>	Coronial Law-Cause and manner of death-death in police operation- suicide-firearm
<b>Representation:</b>	<p><u>Counsel Assisting:</u> Mr M Dalla-Pozza instructed by Ms T Bird of the Crown Solicitor's Office</p> <p><u>Commissioner of NSW Police (and T Kerr and M Dashwood):</u> Mr R Hood instructed by Mr S Robinson of the Office of the General Counsel, NSW Police</p>
<b>Findings:</b>	<p><b>Identity</b>                    <b>Lester Collins (a pseudonym)</b></p> <p><b>Date of Death</b>        <b>23 September 2018</b></p> <p><b>Place of Death</b>        <b>Newell Highway, near Brocklehurst, NSW</b></p> <p><b>Cause of death</b>        <b>Gunshot wound to the head</b></p> <p><b>Manner of death</b>      <b>Suicide</b></p>
<b>Non Publication and Restricted Access Orders</b>	<p>1. Pursuant to s. 65(4) of the <i>Coroners Act 2009</i> ("the Act"), the Court orders that there is to be no access to the following material unless ordered by a Senior Coroner after providing the Commissioner of NSW Police Force the opportunity to be heard:</p> <p>a) Exhibit 1, Tab 6.b of the brief of evidence (in-car</p>

- video recording) from 14:25:47pm onwards.
- b) Exhibit 1, Tab 16 of the brief of evidence (recording of interview with Lara Kim (a pseudonym)).
- c) Exhibit 1, Tab 23.b of the brief of evidence (VKG recording).
- d) Exhibit 1, Tab 24 (Triple 0 recording).

2. Pursuant to s. 74(1)(b) of the Act, the Court orders that there is to be no publication of the following material:

- a) Exhibit 1, Tab 6.b of the brief of evidence (in-car video recording) from 14:25:47pm onwards.
- b) Exhibit 1, Tab 16 of the brief of evidence (recording of interview with Lara Kim).
- c) Exhibit 1, Tab 23.b of the brief of evidence (VKG recording).
- d) Exhibit 1, Tab 24 (Triple 0 recording).
- e) Exhibit 1, Tab 6.b of the brief of evidence from 14:23 to 14:25:47 and elsewhere in Exhibit 1- the registration number of vehicles.

Note: The electronic material referred to at tabs 6.b, 16, 23 and 24 are contained in a USB at the front of Exhibit 1.

3. Pursuant to ss. 74, 75(1) and (2) of the Act, the Court orders that there is to be no publication of the name of, or any matter (including the publication of any photograph or other pictorial representation) that identifies, Lester Collins (a pseudonym) or his relatives (including Lara Kim, and Mr Collins children). Further, there is to be no publication of the name of any town or location.

4. Pursuant to s. 75(4) of the Act, order (3) continues to have effect after the delivery of findings.

IN THE CORONERS COURT  
LIDCOMBE  
NSW

Section 81 Coroners Act 2009

**REASONS FOR DECISION**

**Introduction**

1. This is an inquest into the death of Lester Collins (a pseudonym). Mr Collins died on 23 September 2018 aged 51 years as the result of a shot gun wound to his head. Mr Collins' death was deliberately self-inflicted. The identity of Mr Collins and place, time and cause of Mr Collins' death is uncontroversial, as is the manner of his death.
2. Mr Collins was, until a short time before his death, in a de facto relationship for over 30 years with Lara Kim (a pseudonym). They had two adult children. Mr Collins' family did not attend the inquest as they had earlier advised the officer in charge Detective Inspector Grant that they did not wish for an inquest to be held. However, the inquest is required under sections 23 and 27 of the *Coroners Act 2009* ("the Act"). Efforts have been made to contact Mr Collins' family in recent times, to no avail.
3. The Commissioner of NSW Police, having a sufficient interest, was granted leave to appear in the inquest.
4. As s. 23 of the Act is applicable to Mr Collins' death, the coronial findings will be published. Due to Mr Collins' death being self-inflicted, the provisions of s. 75 of the Act apply and accordingly an order has been made that there be no publication of the name of, or any matter (including the publication of any photograph or other pictorial representation) that would reveal Mr Collins' true identity. It is for this reason that pseudonyms are used for both the deceased and his former partner.
5. Likewise, some of the evidence is sensitive and it is appropriate that it not be published and that no access is granted to this material. Accordingly, orders are made pursuant to ss. 74 and 65 of the Act.

**This inquest is required to be held by a Senior Coroner**

6. Section 27(1)(b) of the Act requires an inquest to be held when the Court's jurisdiction to hold an inquest arises under s. 23 of the Act.
7. Section 23(1)(c) confers jurisdiction to hold an inquest upon a Senior Coroner where a death is "as a result of" a "police operation".
8. At approximately 1:50pm on 23 September 2018, police received an urgent broadcast that Mr Collins had, in breach of an Apprehended Domestic Violence Order ("ADVO") approached and committed violence against Lara Kim and had decamped from the scene in his vehicle. The police located and followed Mr Collins. When the police signalled for Mr Collins to stop his vehicle on the Newell Highway less than 10 km north of Dubbo, he did so. However, when a police officer opened the door of Mr Collins' vehicle she saw that he had a shortened rifle by his legs and had shot himself under the chin. He died shortly thereafter.
9. Those circumstances are such that Mr Collins' death is regarded as being a result of police operations. However, that is not to suggest that any police officer by act or omission caused or was responsible for Mr Collins' death.

#### **The role of an inquest**

10. The Coroner is required to make the following findings, pursuant to s. 81 of the Act:
  - (a) the person's identity;
  - (b) the date and place of the person's death; and
  - (c) the manner and cause of the person's death.
11. The "manner" of Mr Collins' death requires some inquiry into the police operation that resulted in Mr Collins' death.
12. Following Mr Collins' death, Detective Inspector Rodney Grant was assigned as the Critical Incident Investigator. He travelled from Bourke to the scene.
13. Four police officers in three marked police vehicles were involved in Mr Collins' vehicle stop. This was captured on the In Car Video ("ICV") of the lead police vehicle. Each of the officers was identified as a "directly involved officer", and on the day following the incident each directly involved police officer engaged in an interview as part of the critical incident investigation. The transcripts of those interviews form part of the evidence in the inquest. Those four police officers were not required to give further evidence in the inquest.

### **Brief of evidence and witnesses**

14. The matters of fact are established in the evidence collected during the critical incident investigation, led by Detective Inspector Grant. They are collected in a brief of evidence, which also contains further material gathered during the coronial investigation.
15. That brief of evidence is tendered as Exhibit 1. It includes a Body Worn Camera ("BWC") video of a statement taken from Ms Kim at between 2:10pm and 2:23pm on 23 September 2018. It also includes ICV footage commencing at 2:23:13pm, shortly prior to Mr Collins stopping his vehicle at 2:25:17pm. Further, Mr Collins' criminal history, which was limited, as well as intelligence records from the police WebCOPS and COPS computer system form part of the brief. Transcripts of VKG police radio communications between the directly involved police officers and the VKG despatcher are contained in the brief.
16. Detective Inspector Grant gave evidence in the inquest, as did a VKG police radio operator, Mr Kerr. There were no other witnesses called at the inquest.

### **Mr Collins' relevant criminal history**

17. Mr Collins was charged with an assault upon a man in 2009. As part of that incident, police located two rifles in Mr Collins' vehicle that were unsecured.<sup>1</sup> Mr Collins was convicted and fined for the firearms offence and he lost his firearms licence (which was a category "AB").<sup>2</sup> His firearms were seized and forfeited. In 2014, he unsuccessfully applied for his firearms licence to be restored. In 2015, a police intelligence report indicated that Mr Collins was known to sometimes borrow and use firearms belonging to friends.<sup>3</sup>
18. In July 2018, Mr Collins was charged with a number of assaults of Ms Kim. The allegations were serious including that Mr Collins pulled Ms Kim by her hair, hit her to the right side of her face, kicked her to her leg and body causing bruising and placed a hot saucepan to the back of her neck, burning her.<sup>4</sup>
19. After being charged by way of Court Attendance Notice, Mr Collins was released on bail and served with an ADVO for Ms Kim's protection. He appeared in court and the proceedings were adjourned to a date in January 2019.<sup>5</sup> The conditions of the ADVO, amongst others, included prohibiting Mr Collins from contacting or attempting to locate Ms Kim.<sup>6</sup>
20. Ms Kim moved to a new address some two and a half hours drive from where she had lived with Mr Collins. She told the police that she did not want Mr Collins to find her.<sup>7</sup>

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<sup>1</sup> Exhibit 1, tab 17, pp. 11, 18.

<sup>2</sup> Exhibit 1, tab 18, p. 8.

<sup>3</sup> Exhibit 1, tab 17, p. 7.

<sup>4</sup> See, generally, Exhibit 1, tab 19B.

<sup>5</sup> Exhibit 1, tab 17, pp. 2, 15; see, generally, tab 19B.

<sup>6</sup> Exhibit 1, tab 19.b.

<sup>7</sup> See Exhibit 1, tab 17, p. 3, COPS Event E 68649045.

21. In August 2018, Mr Collins indicated to police that he wanted the ADVO varied so that he could resume his relationship with Ms Kim. It appears police told Mr Collins that Ms Kim did not want any contact with him.<sup>8</sup> On 20 August 2018, Ms Kim made a complaint that she had heard through family that Mr Collins was asking about her location. The NSW Police COPS entry identified that police intended to speak to Mr Collins in relation to breaching a condition of the ADVO.<sup>9</sup> However, for unknown reasons this did not occur.

### **Mr Collins acquires a firearm**

22. In the morning of 23 September 2018, Mr Collins borrowed a .22 calibre rifle and 80 to 100 rounds of ammunition from a friend, claiming he needed to shoot rabbits.<sup>10</sup> Upon receiving the firearm, Mr Collins took it to a caravan and with the use of a saw he shortened it by cutting off the barrel and half of the stock.<sup>11</sup> It is not difficult to infer that when Mr Collins received the firearm he had no intention to return it to his friend. After shortening the firearm, Mr Collins drove the two and a half hours to Ms Kim's residence in his vehicle.

### **Violent incident at Ms Kim's address**

23. At approximately 1pm, Ms Kim was sitting on her couch watching television. She had her front door open but the front screen door was closed and locked. She heard a scratching sound at the back door and thought it was the dog. She then heard the same sound at the front door shortly after which she saw Mr Collins standing at the entrance of the room looking at her. He approached her with a boning or butchers' knife in his hand. He had used that knife to cut the wire screen near the latch and placed his hand in to unlock the door.<sup>12</sup>

24. Mr Collins placed a knee on the couch and used one arm to push Ms Kim down. She was clutching her phone to her chest. Mr Collins said words such as "Why are you doing this to me" and "I can't live without you". He held the knife up and stabbed at her three to four times. Ms Kim raised her hand to defend herself, thinking that he was going to plunge the knife into her. The knife struck her finger, causing a long wound and bleeding.<sup>13</sup>

25. Mr Collins moved off Ms Kim. Ms Kim was able to de-escalate the situation, although she thought he wanted to kill her. Mr Collins remained in the house for about 40 minutes during which time Ms Kim made him a drink. They each had a cup of tea and cigarette and Mr Collins told her he wanted her to return to their home with him that day. Ms Kim told the police that she didn't want to get in his vehicle because she knew she would never get out of it. She assured Mr Collins she would return to live with him, as she hoped that saying so would keep him from hurting her.<sup>14</sup>

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<sup>8</sup> *Ibid.*

<sup>9</sup> Exhibit 1, tab 17, p. 3.

<sup>10</sup> See generally, Exhibit 1, tab 11.

<sup>11</sup> Exhibit 1, tab 5, [27], p. 9.

<sup>12</sup> See generally, Exhibit 1, tab 16; tab 17, p. 2.

<sup>13</sup> *Ibid.*

<sup>14</sup> *Ibid.*

26. Mr Collins told Ms Kim that a family member had told him of her address, and that the previous day he drove to the town and saw her vehicle at another family member's address and then drove home. He told her that when he returned he had parked his car near a church and walked to her house.<sup>15</sup>
27. At some stage, Mr Collins cleaned up the blood from the lounge-room floor and, after having the knife in the back of his pants, he placed it on a small table. Ms Kim, wanting Mr Collins to leave, told him that she was expecting her sister to visit and that he should go. He told her that if he went to prison he would kill himself.<sup>16</sup>
28. They heard the neighbours' truck arrive and Ms Kim told Mr Collins that he should go, because if someone saw him he would be reported to the police. As soon as Mr Collins left, Ms Kim locked the front door and whilst standing in a corner next to it telephoned emergency services on '000'.<sup>17</sup>
29. A police radio broadcast regarding the incident was transmitted at approximately 1:48pm.<sup>18</sup> Ms Kim remained on the telephone with the emergency telephone operator until the police arrived at her address at about 2pm.
30. Highway patrol police interviewed Ms Kim from 2:10pm to 2:23pm and obtained the above version of events.

#### **The response by the directly involved officers**

31. Constable Flemming, at Dubbo Police station, responded to the broadcast. He drove Dubbo 15 (a police van) in the direction of the town where Ms Kim lived and he saw a car matching the description of the registration of Mr Collins' vehicle (a white utility) driving southbound on the Newell Highway towards Dubbo. The car was driving in a normal manner at a speed of 100 kilometres per hour. The posted speed at that section of Newell Highway was 110 kilometres per hour.<sup>19</sup>
32. Constable Flemming followed Mr Collins' vehicle. Initially, a car was between him and Mr Collins' vehicle. Constable Flemming remained about 200 metres behind Mr Collins' vehicle whilst he was following it,<sup>20</sup> until such time as other police were in a position to assist in a vehicle stop procedure.
33. Constable Flemming was not wearing BWC. He says that was because a quick or (at least as it was suggested to him by the interviewing officer) an emergency response was necessary.<sup>21</sup>
34. Senior Constable Wheelhouse was driving highway patrol vehicle Western 220. Her vehicle's ICV footage has been tendered in the brief of evidence. Senior Constable Wheelhouse was wearing a BWC but it was not activated. She states

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<sup>15</sup> Exhibit 1, tab 16.

<sup>16</sup> See generally exhibit 1, tab 16; tab 17, p. 2; tab 24.

<sup>17</sup> See generally exhibit 1, tab 16; tab 17, p. 2, Cops Event E 679712965; tab 24.

<sup>18</sup> See exhibit 1, tab 23b, c.

<sup>19</sup> Exhibit 1, tab 7, q. 16 (p. 4).

<sup>20</sup> *Ibid*, also q. 95.

<sup>21</sup> Exhibit 1, tab 7, qq. 99-103.

that she did not think to do so and agreed with a suggestion made to her by the interviewing police officer that her BWC was fairly new to her. Senior Constable Wheelhouse said she had only been trained in its use a couple of days beforehand.<sup>22</sup>

35. Constables Sutton and Worthington were in Dubbo 35 which directly followed Dubbo 15 and shortly before the vehicle stop, Dubbo 220. Those officers did not activate the ICV and did not activate the BWC that they were wearing.<sup>23</sup> Constable Sutton says that she had inadvertently put the BWC onto standby mode,<sup>24</sup> and Constable Worthington says that his camera had failed to turn on.<sup>25</sup>
36. From the VKG records, it is evident that the directly involved officers had been communicating with each other on a different radio channel about performing a co-ordinated stop of Mr Collins' vehicle at a location known as the "truck stop" south of Brocklehurst on the Newell Highway. There is no evidence in the brief about these communications or under whose supervision they were conducted. Detective Inspector Grant suggested that the supervisor was Sergeant Jason Russell who provided a statement.<sup>26</sup> In any event, their plan was conveyed to Mr Kerr via VKG.
37. The ICV records Western 220 turning left onto the Newell Highway to take up a position directly behind Dubbo 15, at which stage Dubbo 15 was a couple of seconds behind Mr Collins' vehicle. Mr Collins' vehicle was still travelling at approximately 100 km per hour. The ICV recording starts at a time when Western 220 was about to enter the Newell Highway. The recording shows Mr Collins' vehicle (at 2:23:37pm) followed by Dubbo 15 (at 2:23:39pm) going past. At this point in time, there is no car between those vehicles and the lights and possibly the sirens of Dubbo 15 are activated.<sup>27</sup>
38. Constable Flemming indicated in his interview that he had formed an intention to stop Mr Collins at the truck stop. He says that he did not engage warning devices at all until he intended to stop him.<sup>28</sup>
39. Senior Constable Wheelhouse briefly flashed the sirens of Western 220, however switched them off because at that stage she was behind Dubbo 15.<sup>29</sup>
40. The truck stop is shown in the ICV recording at 2:23:59pm, at which point Mr Collins does not respond to Dubbo 15's lights and sirens. Once past the truck stop, at about 2:24:43pm Dubbo 15 moved to the left of the road, allowing vehicles Western 220 followed by Dubbo 35 to go past so that Senior Constable Wheelhouse in Western 220 took lead position with lights and sirens activated.

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<sup>22</sup> Exhibit 1, tab 6, qq. 137-140.

<sup>23</sup> Exhibit 1, tab 8, qq. 37-38; tab 9, q. 114.

<sup>24</sup> Exhibit 1, tab 8, q. 69.

<sup>25</sup> Exhibit 1, tab 9, q. 115.

<sup>26</sup> Exhibit 1, tab 27.

<sup>27</sup> Exhibit 1, tab 6.b.

<sup>28</sup> Exhibit 1, tab 7, qq. 74-76.

<sup>29</sup> Exhibit 1, tab 6, q. 24.



41. It is unclear why Mr Collins did not stop at the truck stop as he appeared to have the opportunity to do so. Although Constable Flemming suggested this may have been because there were other vehicles in the truck stop,<sup>30</sup> there was in fact only one vehicle which had apparently pulled over in response to the lights and sirens. Mr Collins was travelling at a speed of between 80 to 90 kilometres per hour as he was passing the stop. It appears that the speed limit was still 110 kilometres per hour on this section of the Newell Highway.<sup>31</sup>
42. Mr Collins activated his left-hand indicator within 15 seconds of Western 220 taking the lead position behind him. The ICV records Mr Collins' vehicle pulling over to the side of the road at 2:25:03pm.
43. Each of the police officers say that they did not consider themselves at any stage to be in a pursuit.<sup>32</sup> Given that Mr Collins stopped when he did, the police officers' view appears to be correct, as they had no cause to consider that a pursuit was required at that time.
44. Senior Constable Wheelhouse agreed with the suggestion put to her by the interviewing police that she had formed the view, based on the broadcast of the allegation against Ms Kim, that she had reasonable cause to stop and arrest Mr Collins.<sup>33</sup>
45. After Mr Collins' vehicle pulled over, Senior Constable Wheelhouse exited Western 220 and approached the passenger side door of Mr Collins' vehicle. As the radio communications had indicated knives were used in the earlier incident, Senior Constable Wheelhouse had her OC spray in hand.<sup>34</sup> Although Senior Constable Wheelhouse did not conduct the operation as a dangerous vehicle stop,<sup>35</sup> she agreed with the interviewing officer's suggestion that she was cautious when she approached the car.<sup>36</sup> That is borne out by the ICV footage.
46. Senior Constable Wheelhouse opened the door of Mr Collins' vehicle and saw blood running from Mr Collins' nose and mouth and a firearm between his legs. Constables Sutton and Flemming went to the driver's side of the vehicle where they also saw the firearm between Mr Collins' legs.<sup>37</sup>
47. Constable Flemming checked for a pulse and called for an ambulance.<sup>38</sup> Senior Constable Wheelhouse and Constable Worthington administered first aid to Mr Collins. Police later assisted in transferring him to the ambulance.<sup>39</sup>
48. The P79A form records that Mr Collins was pronounced deceased enroute to Dubbo Base Hospital. His time of death is recorded as being at approximately

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<sup>30</sup> Exhibit 1, tab 7, q. 16.

<sup>31</sup> *Ibid.*

<sup>32</sup> Exhibit 1, tab 6, q. 51; tab 7, q. 77; tab 9, q. 92.

<sup>33</sup> Exhibit 1, tab 6, q. 154.

<sup>34</sup> Exhibit 1, tab 6, q. 26.

<sup>35</sup> Exhibit 1, tab 6, q. 86.

<sup>36</sup> Exhibit 1, tab 6, q. 88.

<sup>37</sup> Exhibit 1, tab 6, q. 100.

<sup>38</sup> Exhibit 1, tab 7, q. 17.

<sup>39</sup> See, for example, Exhibit 1, tab 7, p. 5.

2:20pm, which is slightly earlier than the times recorded on the ICV.<sup>40</sup> The attending paramedic, Mr Cumming, however, states that he pronounced Mr Collins deceased at the scene.<sup>41</sup> However, nothing turns on these slight discrepancies.

### **Issues at the inquest**

49. The issues list distributed prior to the inquest comprised the following:
- a. The appropriateness of the actions of NSW Police Force officers on 23 September 2018.
  - b. The appropriateness of the communication to attending police officers of information and intelligence in relation to Mr Collins having a firearm on 23 September 2018.
  - c. Whether there were difficulties with communication via police radio (VKG) on 23 September 2018, and the cause of any difficulties.
  - d. Whether any recommendations are necessary or desirable in relation to any matter connected with Mr Collins' death.

### **The firearm**

50. The friend from whom Mr Collins acquired the firearm was interviewed by police and fully co-operated with their inquiry. He was charged with the appropriate offence and those matters were finalised in the Local Court. Although it is deeply concerning that someone with a firearms licence would provide a firearm to someone without a licence, there was no utility in revisiting that issue in the inquest.
51. The circumstances by which Mr Collins came to be in possession of a firearm do not disclose any systemic failing or opportunity for improvement regarding the scheme for licensing firearms. The evidence reveals that the Firearms Registry had no information available to it that the owner of the firearm was likely to commit the offence he did and there was no way of predicting that it would occur.

### **Mr Collins' bail**

52. As noted above, in July 2018 after charging Mr Collins with serious violent offences against Ms Kim, police released Mr Collins on bail. Detective Inspector Grant gave evidence that conditions of bail encompassed Mr Collins complying with the ADVO. Detective Inspector Grant considered that bail was appropriate in light of Mr Collins' criminal history and the conditions of the ADVO.
53. In addition, the evidence indicates that appropriate actions were taken by police to ensure Ms Kim's safety (by applying for the ADVO and keeping her new address secret from Mr Collins).

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<sup>40</sup> Exhibit 1, tab 1.

<sup>41</sup> Exhibit 1, tab 25, [10].

54. Mr Collins was not spoken to by the police in late August as suggested in the COPS material. Detective Inspector Grant expressed the view that this should have been followed up, although the reason it was not was not identified in evidence (other than as it was a junior officer who sought advice regarding what to do). The inquest did not inquire into this as it is outside the scope of the manner of Mr Collins' death.

### **Actions of police**

55. Detective Inspector Grant commended the way the police officers approached Mr Collins' vehicle whilst on foot. Those officers were aware via VKG that although Mr Collins used a knife against Ms Kim, that knife had been left at her house. However, they were also clearly made aware by VKG that it was not known whether Mr Collins had any other weapons in his vehicle. Detective Inspector Grant gave evidence that the protocol for a dangerous vehicle stop depends on the police having confirmed knowledge that there is a weapon or firearm in the vehicle.

56. The ICV clearly shows that the police approached Mr Collins' vehicle in a co-ordinated fashion. The police on the driver's side approached widely in an "inverted V" shape so that they could protect themselves if needed. They sought to make eye contact with the driver. The officers on the passenger side approached cautiously but quickly and Senior Constable Wheelhouse had the can of OC spray in her hand in case that was needed. None of the police officers had their firearms drawn; however it appears they were in a position to do so if required. Detective Inspector Grant described the police stop and approach as "text book" and gave evidence that the police officers acted exactly as they are trained to do.

57. The police officers' evidence is that they did not hear or see Mr Collins discharge the firearm, which is consistent with the ICV footage. Police did not have any opportunity to prevent Mr Collins from taking his own life. They did all they could to provide first aid but his injuries were non-survivable.

### **Interviews with directly involved officers**

58. An issue arising during the inquest concerned the investigative strategy adopted as part of the initial critical incident investigation. The records of interview and evidence of the officer in charge evidenced that the directly involved police officers were shown the ICV prior to being interviewed and were asked a number of leading questions during the course of their interviews.

59. Detective Inspector Grant gave evidence that he was advised by the then Director of the Professional Standards Command of the NSW Police Force to show the ICV to the directly involved officers prior to interview. He said that the NSW Police Force Standard Operating Procedures ("SOP") governing the use of ICV required that the ICV be shown to the police officers prior to interview.

60. The relevant extracts of the SOPs were tendered as Exhibit 3. Paragraphs [64] and [65] of the SOPs create, in effect, a presumption that ICV media files are to be made available to an officer who was an occupant of the police vehicle at the

time of the incident, prior to him or her being interviewed, and that the actions of an officer captured on another ICV system may be made available to that officer if it is not captured on their own ICV system.

61. I find that Detective Inspector Grant acted as he was required to by those paragraphs of the SOPs. However, on its face and without the benefit of evidence as to the rationale for why those paragraphs have been included in the SOPs, the effect of the SOPs is concerning. On one view, they seem to require police investigating other police officers (in the context of a critical incident) to take a different investigative approach to that which might be adopted in other investigations. In situations involving an investigation of fellow police officers, transparency is of great importance. Further, as Detective Inspector Grant said, such a practice could create a real possibility of witness memory displacement. I note that in his evidence, Detective Inspector Grant stated that he disagreed with the approach and had initially opposed it. I agree with Detective Inspector Grant in this regard and find that a practice of showing the ICV to officers being investigated prior to being interviewed is capable of prejudicing the integrity of those investigations.
62. However, in the absence of any evidence as to the rationale for these paragraphs of the SOPs, I do not intend to make a formal recommendation regarding these issues. However, as suggested by counsel assisting, I intend to raise this issue with the NSW State Coroner for possible consultation with a suitable representative on behalf of the Commissioner of NSW Police.
63. Further, Detective Inspector Grant's accepted that when interviewing the directly involved officers, he used leading questions. He explained that he do so because he was adopting what he described as a "cognitive interview" technique rather than a "conversation management" approach. He gave evidence that, as a matter of investigative theory, both approaches may be justified depending on the circumstances. It is not necessary for me to make findings on questions of abstract investigative theory. I accept that there are situations where the use of leading questions as part of an investigation are appropriate. Though such questions should be avoided in a Critical Incident Investigation interview the fact that the ICV indicated that the directly involved officers had done nothing wrong may well have justified the greater use by Detective Inspector Grant of leading questions.
64. I make no criticism of the officer in charge or Commissioner of Police in this regard.

### **Police Radio Communications**

65. I find that there was some evidence in the brief that the communications on police radio were sometimes challenging. However, the VKG transcript and recording indicate it was adequate and there is no suggestion that any communication was lost or failed due to any systems failures on 23 September 2018.
66. It is apparent that the communications between the directly involved officers and any officer who was acting as their supervisor are not included in the brief.

However, the plan that had been devised to stop Mr Collins' vehicle was appropriately communicated to VKG and those communications continued throughout the operation, including when the ambulance arrived.

67. Clearly, the facts reveal that Mr Collins did in fact have a loaded firearm and plenty of ammunition in his vehicle. This posed a real risk to the officers tasked with affecting the vehicle stop.
68. The inquest considered whether more could have been done to prepare the officers for that risk. Senior Constable Wheelhouse's evidence was that she did not regard this as a high risk stop. The adequacy of the content of what was communicated to the police was examined in the inquest, with particular regard to the intelligence that Mr Collins had been known to borrow firearms. In addition, the inquest examined whether it was effectively conveyed to the directly involved officers that Mr Collins had a firearms licence which was no longer current and had no firearms registered to him.
69. Mr Kerr broadcast over the radio:<sup>42</sup>

*"And just so you know the POI is known, nil outstanding but he does have non-current firearms. He's got a category AB licence but no firearms and he's also got bail as well all wrapped around an Enforceable AVO that he has with the POI ...sorry the victim.."*

70. That information was responded to by Constable Flemming. Detective Inspector Grant was quite certain that the words "no firearms" meant that Mr Collins had "no firearms licence", despite the next sentence affirming the category of licence. Mr Kerr gave evidence that he was referring to firearms, rather than a licence. Mr Kerr said he was meaning to convey that Mr Collins previously had a firearms licence but no longer did. Mr Kerr agreed he could have better communicated those facts.
71. This information may have affirmatively conveyed to the police that Mr Collins did not have firearms with him and accordingly that Senior Constable Wheelhouse's approach to Mr Collins' vehicle did not need to comply with a dangerous vehicle stop protocol.
72. When Constable Flemming was about 20 kilometres north of Dubbo (half way to the planned stop location) Mr Kerr conveyed the following information to him and Dubbo 35 and Western 220:<sup>43</sup>
- "The POI was with a butcher's knife when he attacked his partner... He did leave that knife there but **it's unknown if he does have anything else.**" (my emphasis)*
73. All of the police officers were aware that Mr Collins had left the knife at Ms Kim's house. Detective Inspector Grant asked Senior Constable Wheelhouse these questions (Questions 163 to 169):<sup>44</sup>

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<sup>42</sup> Exhibit 1, tab 23.c, p. 6.

<sup>43</sup> Exhibit 1, tab 23.c, p. 10.

*“Q163. ....Did you hear something mentioned about weapons or anything over the radio?”*

*A163. I only when I've heard the replay was when we listened to it, um, before this interview, I did hear radio broadcast that he, I think had a class AB firearms licence.*

*Q164. Yes.*

*A164. But due to the fact that out on the Golden Highway our radio comms aren't as good.*

*Q165. Yeah.*

*A165. Or I possibly wasn't listening to all that information. I think I possibly acknowledged it but whether I actually, it's actually sunk in that he did have, he did have firearms.*

*Q166. Yeah.*

*A166. Or did have a, or did have a licence yeah.*

*Q167. Is it correct that they said that he had a licence but do you remember hearing that in fact it said that he has no firearms?*

*A167. Firearms. Yeah, no, I couldn't.*

*Q168. Yeah. O.K.*

*A168. Well I, I just, I assume I, coming in, driving in - - -*

*Q169. Yeah, yeah, how long.*

*A169. - - - I, um, I was just under the assumption that he's just had a knife.”*

74. Senior Constable Wheelhouse then said that “I think radio turned around and said they're unsure whether he had more” and she agreed with the interviewer's proposition that you should expect that if someone had a knife at some stage they may have another one.<sup>45</sup>

75. Constable Flemming said at Question 182 of the relevant record of interview that “...at no point did I know he had a firearm in the car”.<sup>46</sup>

76. There was an issue during the inquest as to whether Mr Kerr could have provided more information about Mr Collins' firearms or criminal history, and in particular about Mr Collins being known to borrow firearms from friends.

77. Detective Inspector Grant's evidence was that at the time there were multilayered information sources that the VKG despatcher would have been

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<sup>44</sup> Exhibit 1, tab 6, qq. 163-169.

<sup>45</sup> Exhibit 1, tab 6, Senior Constable Wheelhouse interview dated 24 September 2018, qq. 171-174.

<sup>46</sup> Exhibit 1, tab 7, Constable Flemming interview dated 24 September 2018, A. 182.

required to access separately, and that the communications system is currently under renewal so that platforms are more easily accessible.

78. It is apparent from reading the material in tab 17 of Exhibit 1 that the relevant intelligence was not readily accessible. Having heard from Mr Kerr, I am of the view that he did not have the time to trawl through that material, nor was it his job to do so.
79. Mr Kerr gave evidence that if he had been directed by a police officer to make a particular inquiry he would have done so, however that did not occur on this occasion. Ideally, there would be a system whereby, for any person who previously had firearms and who is subject to an AVO, intelligence (no matter how old) such information is automatically placed as a warning on the front page. This would result in police officers and despatch operators not having to search through pages of material to see whether there is any relevant information. As Detective Inspector Grant said, such a situation would be ideal.
80. I find that the evidence reveals that the police officers acted in a justified and well executed and co-ordinated vehicle stop to arrest Mr Collins for violent offences and breaching an ADVO. They acted professionally and bravely. The task they carried out shows how a task routinely carried out has the potential to put their own personal safety at great jeopardy.
81. That Mr Collins took his own life is deeply regrettable, but that he did not seek to take the lives of others is something that the community and the police officers should be deeply grateful for.
82. I commend the overall police response, all of whom professionally and efficiently discharged their resources in attending to Ms Kim and seeking to apprehend Mr Collins. There was no evidence at that time that Mr Collins was at risk of harming himself.

### **Findings**

83. I now enter my findings:

<b>Identity</b>	Lester Collins (a pseudonym)
<b>Date of death</b>	23 September 2018
<b>Place of death</b>	Newell Highway, near Brocklehurst
<b>Cause of death</b>	Gunshot wound to the head
<b>Manner of death</b>	Suicide

84. I close this inquest.

Magistrate E. Truscott

Deputy State Coroner

11 June 2021