



**STATE CORONER'S COURT  
OF NEW SOUTH WALES**

**Inquest:** Inquest into the disappearance and suspected death of Jordan Morris

**Hearing dates:** 22 May 2017, 4 July 2017, 27 October 2017, 6 December 2017

**Date of findings:** 2 March 2018

**Place of findings:** NSW State Coroner's Court, Glebe

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

**Catchwords:** CORONIAL LAW – missing person, death during or shortly after a police search,

**File numbers:** 2015/161961

**Representation:** Mr M Cahill, counsel assisting, instructed by Ms J Murty, Crown Solicitors Office

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## Introduction

1. Jordan Morris was last seen on 24 April 2015. Jordan was greatly loved and his family suffers the torment of not knowing where he is or what has happened to him since that time.
2. Jordan was reported missing to NSW Police by his father, on 26 May 2015. At that time some members of the NSW Police Force were already aware that Jordan had been involved in a police pursuit on 24 April 2015, however they believed Jordan had evaded detection and was likely to be hiding out somewhere in fear that he would be arrested. At that stage investigations in relation to possible criminal charges were still ongoing.
3. Subsequently further search operations were launched and extensive investigations commenced. However, no credible information has been received indicating any further sightings of Jordan alive<sup>1</sup>. There has also been no recovery of Jordan's body, despite extensive physical searching in the area where he was last seen.
4. Jordan's suspected death was reported to the Coroner on 30 May 2015.

## The role of the coroner and scope of the inquest

5. The role of the coroner in a case such as this is to make findings firstly as to whether the nominated person is actually dead and only if that can be established, to make further findings as to the date and place of death and to the manner and cause of death.<sup>2</sup>
6. The decision about whether a person is dead is considered a "threshold question" in a missing person case.<sup>3</sup> Given the seriousness of the finding, it is well established that the court should apply the Briginshaw standard<sup>4</sup>. The proof of death must be clear, cogent and exact. At common law, there is a presumption in favour of the continuance of life<sup>5</sup> however, it is not a rigid presumption and the circumstances of any given case must be carefully examined before a finding of death can be made.
7. In addition to deciding these questions, at the conclusion of proceedings, the coroner may make recommendations in relation to matters arising directly from the evidence if they have the capacity to improve public health and safety in the future.<sup>6</sup>

## The evidence

8. The inquest proceeded over four days. It was adjourned at one stage for fresh evidence to be investigated.
9. A nine volume brief was tendered, including statements, expert reports, audio and visual recordings, photographs and maps. It comprises records from many, many days of

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<sup>1</sup> The brief contains detail in relation to each of the reported sightings and the follow up investigations which took place. None of the sightings is credible.

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

<sup>3</sup> Dillon H and Hadley M "The Australasian Coroners' Manual" Federation Press 205 at page 15.

<sup>4</sup> *Briginshaw v Briginshaw* (1938) 60 CLR 336.

<sup>5</sup> *Axon v Axon* (1937) 59 CLR 395.

<sup>6</sup> Section 82 *Coroners Act 2009* (NSW).

investigative work and analysis. Oral evidence and supplementary statements were also received, including from police involved in the search process. It is impossible to refer to all the material in the scope of these short findings, however, all of the material has now been carefully considered.

### **Jordan's background**

10. Jordan was born in England on 13 December 1992. He is the son of Jayne McGonigal and Michael Morris. He has one sister, Meghan and a brother Leyton. The family moved to Australia in 2006. At the time of his disappearance, Jordan had recently been living with his brother and parents in Toongabbie, NSW.
11. Jordan attended high school up until year 10. He experienced some difficulties at school and had been diagnosed with attention deficit disorder and obsessive/compulsive disorder. At around the age of 16 he became involved in drugs and was known to use cannabis and "ice" on occasions. Jordan is reported to have developed a problem with alcohol and gambling. He was known to disappear from his family home for days at a time, but would always keep in contact via phone calls, text messages or on Facebook.<sup>7</sup>
12. Despite his difficulties, Jordan was greatly loved by his parents and siblings. They spoke of his loyalty and love of family.<sup>8</sup> His parents and brother attended the inquest each day and his sister attended the inquest on its final hearing day. Their grief in not knowing what has happened was clearly profound.

### **The lead up to Jordan's disappearance**

13. On 10 March 2015, Jordan attended the funeral of a friend, David Campbell. That afternoon he went to a barbeque. This was the last time his mother saw Jordan, although he kept in contact with her up until 17 or 18 April 2015.<sup>9</sup>
14. The following week, on 17 March 2015, Jordan had an argument with his father and left the family house. This was the last time his father saw him. Shortly afterwards, Jordan sent his father a new mobile number in a text message. This was their last contact.<sup>10</sup>
15. Leyton Morris last saw his brother in March 2015. He described Jordan as very shaken up by the death of his friend. He stated that although Jordan would disappear from time to time, he would always eventually make contact with the family.<sup>11</sup>
16. Jordan was a keen user of social media, however there has been no activity by Jordan on his Facebook page since April 2015.<sup>12</sup>

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<sup>7</sup> Statement of Detective Sergeant Paul Fenwick, Exhibit 1, Tab 2 [10-20].

<sup>8</sup> Leyton Morris, Transcript 6/12/17, page 3.

<sup>9</sup> Statement of Detective Sergeant Paul Fenwick, Exhibit 1, Tab 2 [14]; Statement of Jayne McGonigal, Exhibit 1, Tab 79 [15].

<sup>10</sup> Statement of Michael Morris, Exhibit 1, Tab 80 [18].

<sup>11</sup> Statement of Leyton Morris, Exhibit 1, Tab 81 [10], [15].

<sup>12</sup> While there was a report of Facebook activity on 9 June 2017, I am satisfied that it is fully explained by Jordan's original phone number being recycled by the operator and then used by a new owner. For details of the investigation in this regard see statement of Detective Senior Constable James Morgan, Exhibit 1, Tab 3AC.

17. His family assumed that Jordan would be back in touch soon and did not report him missing straight away. There had been other periods where he was out of contact for a while but he always returned to the family home.

### **The pursuit**

18. On 24 April 2015, police officers in Mudgee identified a silver Nissan Pulsar, registration number BG75CD, as a stolen vehicle. We now know that the vehicle had five occupants, Jordan Morris, Joshua Hines, Tahlia Needham, Justin Jones and Kelly Lucas, however they were not all identified at that time.
19. When officers attempted to stop the vehicle, the driver, subsequently identified as Joshua Hines, rammed the police car. At this point, Kelly Lucas got out of the car and was taken into custody. The stolen vehicle left the scene and a police operation commenced, spanning multiple commands, as the stolen car made its way, via Lithgow and the Bells line of road, in the direction of Sydney.
20. There were a number of separate pursuits over the next few hours. The car was driven by Joshua Hines and Jordan was apparently sitting in the front passenger seat.
21. The police operations were captured on both audio recordings by police radio and on video recordings made by Polair. The court has had the opportunity to review these records.
22. Around 2.55pm, police stationed themselves at the North Richmond Bridge on Kurrajong Road in Richmond in response to information received on the police radio about the pursuit. After stopping westbound traffic, Constable Sruhan threw tyre deflation devices onto the roadway in front of the silver sedan. The car drove over the devices causing significant damage to its rear wheels. It then continued to travel at speed eastbound and was pursued by a marked police car, with warning lights and sirens activated. The stolen car then travelled south towards Penrith, at which point police vehicles were advised to cease pursuit.<sup>13</sup>
23. At 3.07 pm, the stolen car stopped on the median strip near the Water Treatment Facility, located on Castlereagh Road in Penrith. Joshua Hines and Jordan Morris ran from the car. Talia Needham and Justin Jones remained in the vehicle and were arrested by police officers Constable May and Constable Barnes.<sup>14</sup>
24. At 3.08pm police helicopter, Polair 7 captured footage of something in the Boundary Creek line moving towards Castlereagh Road, then moving out of view of the camera.<sup>15</sup> Searching in the area commenced immediately, with police hoping to catch the two runaways quickly.
25. At some stage in the process of escaping police, Joshua Hines twisted his ankle and was unable to keep moving. He was subsequently found hiding in bushes located on the northern bank of Boundary Creek, behind the Water Treatment Plant, upstream and east of Castlereagh Road.

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<sup>13</sup> See Statement of Senior Constable Adam Mathieu, Exhibit 1, Tab 4 [7-10].

<sup>14</sup> Statement of Bradley May, Exhibit 1, Tab 20 [6].

<sup>15</sup> Statement of Senior Constable Scott Kepper, Exhibit 1, Tab 12[10].

26. Joshua Hines was found as a consequence of the operations of Polair 4, which was conducting an aerial search of the riverine corridor, utilising both visual tracking and infra-red tracking technology. Information that police in that helicopter gathered was sent to Police Dog Handler, Senior Constable Bennett, who was working with his dog Otis, on the ground.
27. Jordan, on the other hand continued to evade capture by the police. At this stage he had still not been positively identified by NSW Police, although as the afternoon wore on, some officers appeared to suspect his identity and it was later confirmed.

#### **When was Jordan last seen in the area of Boundary Creek?**

28. On all the available evidence the last known sighting of Jordan was shortly after 3pm on 24 April 2014 in the riverine corridor near the fence line at the rear of a car yard, named Heartland Motors, adjacent to Castlereagh Road, Penrith
29. It appears that after leaving the stolen car, Jordan had entered Boundary Creek to the east of Castlereagh Road and travelled downstream in the creek passing through the culvert under Castlereagh Road. After emerging from the culvert to the west of Castlereagh Road, it is likely that he exited onto the southern bank. Jordan would have been wet and struggling through thick undergrowth. From there, Jordan seems to have made his way up the southern side of the riverine corridor to the area adjacent to the fence line at the rear of Heartland Motors.
30. At this point he was seen by Terry Byrnes<sup>16</sup>, Lynette Byrnes<sup>17</sup>, Roderick Byrnes<sup>18</sup> and Bradley Colligan near the fence line at the rear of Heartland Motors<sup>19</sup>. It appears that Jordan was at this time moving in a westerly direction towards the Nepean River. Ms Byrnes noticed that he was “really struggling in the bushes...he was definitely tangled in the blackberries”. All of the witnesses described the sound of snapping branches, however they did not describe hearing any splashing sounds. They saw the young man, we now know was Jordan, struggle and slip as he moved in the bushes. Mr Colligan told Senior Constable Bennett that Jordan appeared “worn out”.<sup>20</sup>
31. This is the last reliable sighting of Jordan.
32. As a result of the report, various police moved into the area to continue searching. Police Officers Detective Wheeler and Constable Johnston were involved in searching the southern side of the creek bed.<sup>21</sup> Senior Constable Andrew Bennett, the dog squad officer, scaled the fence of Heartland Motors with his Police dog, Otis and commenced tracking the area. Almost immediately the dog indicated the presence of a human scent.

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<sup>16</sup> Statement of Terry Byrnes, Exhibit 1, Tab 98 and 98 A and the transcript of a walkthrough conducted with him by police 98B.

<sup>17</sup> Statement of Lynette Byrnes, Exhibit 1, Tab 99 and 99 B.

<sup>18</sup> Statement of Roderick Byrnes, Exhibit 1, Tab 101.

<sup>19</sup> Statement of Bradley Colligan, Exhibit 1, Tab100.

<sup>20</sup> Statement of Senior Constable Bennett, Exhibit 1, Tab 15 A, [226].

<sup>21</sup> Statement of Detective Senior Sergeant Wheeler, Exhibit 1, Tab 19 [5].

33. Shortly afterwards, at about 3.18pm, Police dog Otis located a grey hoodie in the foliage to the north west of the fence line at Heartland Motors. The hoodie was later identified, by Jordan's sister as belonging to him.<sup>22</sup>
34. The dog continued tracking the scent through thick vegetation for a short period until it appeared to Senior Constable Bennett that the scent was exhausted.
35. During a subsequent Police search of the area in June 2015, a black bum bag belonging to Jordan was located close to the same point where the hoodie had been found.<sup>23</sup> It was about 3 to 3.5 metres above the creek line, (as it stood on 1 June 2015). It was to the south of Boundary Creek, at a point approximately 50 metres west of Castlereagh Road. The backpack contained \$1525 in cash, a mobile phone, 2 USB flash drives, a number of credit/debit cards in the name of Jordan Morris and two credit cards in other names.<sup>24</sup>

### **The search after the sighting at Heartland Motors**

36. After the sighting at Heartland Motors the search continued into the afternoon of 24 April. Senior Constable Bennett continued to move in a westerly direction, also casting the dog down towards the water's edge. The vegetation was impenetrable in places. At one point, Senior Constable Bennett and his dog crossed to the northern bank of Boundary creek. While the current was not strong enough to knock him off his feet, Senior Constable Bennett described having to cross in a diagonal line. Once over the creek, Senior Constable Bennett continued searching the bushland and the adjacent industrial area.
37. A large number of police, including three dog squad units, continued to search a wide area on foot. Two helicopters from Polair continued to search from above. The search is well described in the material before the court and I do not intend to describe it in great detail. Suffice to say, the search was extensive and continued for over two hours.
38. The search was abandoned at 5.03pm.
39. At that time, Senior Constable Bennett was of the belief that Jordan was no longer within the search area and that he had somehow evaded police and made good his escape. This opinion was also shared by the officer in charge of the operation, Detective Superintendent McFadden.<sup>25</sup>

### **The decision to call off the search**

40. Detective Superintendent McFadden gave evidence that the search was finalised about 5pm. At that time he was satisfied that "*all the information and intelligence that was available to us on sightings, locations, areas of travel had been considered, exhausted and yielded no result and my assessment at the end of the day is that the offender that we were looking for had*

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<sup>22</sup> Statement of Senior Constable Bennett, Exhibit 1, Tab 15 , [219].

<sup>23</sup> Statement of Senior Constable Bennett, Exhibit 1, Tab 18 [223].

<sup>24</sup> Statement of Detective Sergeant Fenwick, Exhibit 1, Tab 2 [80].

<sup>25</sup> Statement of Detective Superintendent McFadden, Exhibit 1, Tab 176 [27].

*made good his escape.*<sup>26</sup> He communicated that fact to Acting Inspector Zahra, who was the operational Duty Officer for Penrith and St Marys Local Area Command. Penrith Local Area Command became responsible for the ongoing investigations arising from the pursuit and the arrests that had already been made.

41. Acting Inspector Zahra was also responsible for the mandatory debrief that follows any police pursuit. According to Acting Inspector Zahra, the debrief was “*solely focussed on the manner in which the pursuit was conducted and whether there were any issues internally that required referral to Penrith Safe Driver Panel*”<sup>27</sup> He identified “no adverse issues” in relation to the pursuit. In other words, Acting Inspector Zahra did not turn his mind to the dangers that could have arisen for Jordan once he left the car and entered the bushland.
42. Detective Superintendent McFadden explained to the court that there was no formal or documented separate debrief in relation to the search operation. While he conceded that people trying to escape police will frequently engage in “risky conduct”.<sup>28</sup> He suggested that this was the kind of risk that police were well used to evaluating.<sup>29</sup> Under cross examination, he was emphatic that at the time the search was called off, there was “*no other information available to us that would give us a direction to start any further operation to search for the offender. As far as I was concerned...he had eluded the police cordon at the time and made good his escape.*”<sup>30</sup> I accept, without hesitation, that this was his genuine belief at that time.

### **The subsequent searches**

43. Subsequent to the missing person report made on 26 May 2014, there were three major police search operations to see if any further evidence could be obtained or if any human remains could be located.
44. The first took place between 1 June 2015 and 6 June 2015. It was co-ordinated by an accredited search co-ordinator, Sergeant Atkinson<sup>31</sup>. It was an extensive land and water search performed within the riverine corridor of Boundary Creek concentrating on an area extending 800 metres west from Castlereagh Road to the junction with the Nepean River.<sup>32</sup>
45. The searching involved land searches and also the use of police divers, a police dog trained in detecting cadaver scent, and police aircraft conducting aerial visual and infrared searches.<sup>33</sup>
46. On 16 September 2015, Detective Senior Constable Morgan, in conjunction with Sergeant Atkinson decided that a second even more intensive search should be undertaken in and about the environs of the Boundary Creek corridor. It commenced on 8 October 2015 and continued over four days. Police Officers, combined with SES and RFS volunteers cleared vegetation and searched within the Boundary Creek riverine corridor from a point adjacent to

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<sup>26</sup> Detective Superintendent McFadden, Transcript 4/7/17, page 4, line 26.

<sup>27</sup> Acting Inspector Craig Zahra, Exhibit 1, Tab 190 [17].

<sup>28</sup> Detective Superintendent McFadden, Transcript 4/7/17, page 5, line 45.

<sup>29</sup> Detective Superintendent McFadden, Transcript 4/7/17, page 14, line 30 onwards and elsewhere.

<sup>30</sup> Detective Superintendent McFadden, Transcript 4/7/17, page 16, line 25-29.

<sup>31</sup> Statement of Sergeant Atkinson, Exhibit 1, Tab 60.

<sup>32</sup> See the map at Exhibit 1, Tab 60, page 573.

<sup>33</sup> For detail of this search see statement of Sergeant Atkinson at Exhibit 1, Tab 60.

Castlereagh road all the way up to the junction of the Nepean River. A section of about 200 metres of land was cleared and a number of tracks were cut to provide better access to the southern banks of Boundary Creek. While some areas of heavy vegetation remained undisturbed, particularly near the junction with the Nepean River, it was considered that they would have been impenetrable and unlikely to have been accessed by Jordan.<sup>34</sup>

47. On 10 November 2015, there was further searching with cadaver dogs, with no result.<sup>35</sup>
48. On 13 November 2015, Police divers returned to conduct a water search of Peachtree Creek from the Nepean River junction to the railway crossing. Again no items of relevance were located and the police dogs did not indicate the presence of human remains.<sup>36</sup>
49. On 15 November 2015, further land searching took place, this time involving two teams of SES volunteers.<sup>37</sup>
50. On 17 November 2015, police divers returned and commenced a search of part of the Nepean River.<sup>38</sup> Nothing of relevance was discovered.
51. On 6 December 2015, a search in relation to another matter took place around Boundary Creek, Peachtree Creek and the Nepean River at Penrith involving 100 volunteers. They were briefed to take note of the possibility of human remains, none were found.<sup>39</sup>
52. The brief contained considerable material outlining the searches which have taken place. I consider that there have now been significant attempts to locate evidence which might provide further information about what happened to Jordan. Unfortunately nothing further has been recovered.

### **Sergeant Atkinson's view at the conclusion of the subsequent searches**

53. At the conclusion of these subsequent searches, Sergeant Atkinson thought that it was unlikely that Jordan Morris drowned in Boundary Creek on the afternoon of 24 April 2015, because if he had, Sergeant Atkinson was confident that some of his remains would have been found in the extensive searching that took place. Equally he was confident that the search was extensive enough to find Jordan's remains if he had drowned in an area proximate to Peachtree Creek, northwest of where Jordan had been last sighted at Heartland Motors.<sup>40</sup>

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<sup>34</sup> Statement of Detective Senior Constable Morgan, Exhibit 1, Tab 3 [174]-[185].

<sup>35</sup> Statement of Detective Senior Constable Morgan, Exhibit 1, Tab 3 [186]-[188].

<sup>36</sup> Statement of Detective Senior Constable Morgan, Exhibit 1, Tab 3 [189].

<sup>37</sup> Statement of Detective Senior Constable Morgan, Exhibit 1, Tab 3 [190]; see also the map at Exhibit 1, Tab 60, page 573.

<sup>38</sup> Statement of Detective Senior Constable Morgan, Exhibit 1, Tab 3 [191]; see also the map at Exhibit 1, Tab 3, page 123.

<sup>39</sup> Statement of Detective Senior Constable Morgan, Exhibit 1, Tab 3 [193]; see also the map at Exhibit 1, Tab 60, page 574.

<sup>40</sup> Statement of Sergeant Atkinson, Exhibit 1, Tab 60A [12].

54. However, Sergeant Atkinson conceded that it was possible that if Jordan had re-entered Boundary Creek, passed downstream to the junction of the Nepean River and beyond, he could have drowned past the search area in fast flowing water.<sup>41</sup>

### **The evidence of Senior Constable Bennett and the possibilities that Jordan escaped or entered the Creek**

55. Given the lack of evidence arising from all the subsequent physical searches, it is necessary to carefully review the results of the searches that occurred on 24 April 2015 in an attempt to understand what might have happened.

56. I am well satisfied that the person seen by witnesses at Heartland Holden shortly after 3pm was indeed Jordan Morris. It is certainly consistent with the physical evidence found nearby. The question that remains is where did he go from there? At the time the search concluded on 24 April 2015, it was the accepted police view that he had somehow got away, but with hindsight it is necessary to consider the real possibility that Jordan re-entered Boundary Creek.

57. It is necessary to understand that initially police thought that a heat source seen to the west of the Heartland Motors fence might indicate Jordan Morris. The heat source appeared to be moving in a westerly direction. It appeared possible that this indicated Jordan making his escape from the area on land. At the time, Senior Constable Bennett shared the belief of other officers that somehow Jordan had evaded him and his police dog and escaped the area.

58. However, on further reflection, Senior Constable Bennett expressed the view that this was unlikely. A number of reasons were given, including,

- Extensive fencing capped with barbed wire limited access to Heartland Motors from the riverine corridor. It was Senior Constable Bennett's evidence that during his later searches he kept having to circle back to the point where he had initially jumped the fence from Heartland Motors into the corridor. This was because the fencing at other points was too difficult to scale as it was too high and capped with wire. For this reason it appears likely that Jordan would have experienced similar difficulties had he tried to scale the fence at another point. It is therefore unlikely that Jordan was able to cross back over the fence at the rear of Heartland Motors, at least during the search period.<sup>42</sup>
- Jordan's scent was not subsequently detected in or near Heartland Motors. It is likely that if Jordan had backtracked through the area, his scent would have been discovered by the tracking dog, Otis.<sup>43</sup>
- There were large numbers of police and members of the public monitoring the area that afternoon. It is likely that had Jordan scaled the fence to pass through Heartland Motors that he would have been seen.<sup>44</sup>

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<sup>41</sup> Statement of Sergeant Atkinson, Exhibit 1, Tab 60A [13].

<sup>42</sup> Statement of Senior Constable Bennett, Exhibit 1, Tab 15A [16].

<sup>43</sup> Statement of Senior Constable Bennett, Exhibit 1, Tab 15A [18].

59. For these reasons I accept that it is more likely that the heat source seen on land was an unidentified member of the public or a police officer, rather than Jordan making good his escape.
60. After the search on 24 April 2015, Senior Constable Bennett continued to wonder what had happened, particularly as the evidence that Jordan jumped the fence and escaped was weak. He told the court that it was a matter of “professional pride and ego” and that he wanted to know why he had been unable to find Jordan<sup>45</sup>. It was for this reason, he explained, that some time after 24 April 2015, he conducted some research and carefully reviewed what he remembered of the reactions of his police dog. He came to believe that Jordan must have re-entered the water.
61. Senior Constable Bennett described in court that with hindsight and the benefit of additional research, he was able to re-interpret his dog’s behaviour. He remembered Police dog Otis demonstrated clear behaviour that indicated he was following human scent up until the time his dog reached the riverbank, and “*suddenly there was no more scent*”.<sup>46</sup> The scent appeared to have disappeared and could not be located again. Somewhat surprisingly, at the time, this did not make Senior Constable Bennett think that the person they were following may have entered the water.<sup>47</sup>
62. Senior Constable Bennett explained that, as he learnt more about what happens to human scent on water, his view changed. He explained that he now knew scent was “*like an oil slick...it sort of spreads out across the water, sits on top and then is – is blown by the wind and the prevailing currents and stuff and spreads out and disperses that way*”.<sup>48</sup> When he put that information together with what he remembered about Police dog Otis’s behaviour on the day, he developed a theory that Jordan is most likely to have re-entered the Creek.

### **The evidence of Dr Tate**

63. The court was also assisted by the evidence of Dr Tate<sup>49</sup>, an expert oceanographer with specialist training, skills and experience in the study of physical processes in marine, estuarine and fresh waters, including the study of currents and tides. Dr Tate also has extensive experience in the investigation of fatalities in the waters around Sydney Harbour and Botany Bay.
64. Dr Tate expressed the view that, *if* Jordan had re-entered Boundary Creek on 24 April 2015 and got into trouble in the water, it is unlikely that his body would remain in Boundary Creek. There were very high flows in the Creek leading up to that day and the water was fast flowing.<sup>50</sup>

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<sup>44</sup> Statement of Senior Constable Bennett, Exhibit 1, Tab 15A [18].

<sup>45</sup> Senior Constable Bennett, Transcript 22/5/17, Page 34, line 1.

<sup>46</sup> Senior Constable Bennett, Transcript 22/5/17, Page 34, line 47.

<sup>47</sup> Senior Constable Bennett, Transcript 22/5/17, Page 35, line 10.

<sup>48</sup> Senior Constable Bennett, Transcript 22/5/17, Page 34, line 24.

<sup>49</sup> Report of Dr Peter Tate, 22 October 2015, Exhibit 1, Tab 104.

<sup>50</sup> Report of Dr Peter Tate, 22 October 2015, Exhibit 1, Tab 104 [15].

65. It is likely that *if* Jordan re-entered Boundary Creek, he would have been swept quickly into the Nepean River. If he drowned (or became incapacitated) in Boundary Creek or after he entered the Nepean River, Jordan's body could have become entangled in vegetation either along the bank or deeper in the water, well past the main search area. If Jordan survived in the water for a while or his body was free to move with the flow, Jordan could have been washed kilometres downstream.<sup>51</sup>

### **Did Jordan re-enter Boundary Creek?**

66. There is no way of knowing with complete certainty whether or not Jordan entered Boundary Creek after he was seen at Heartland Motors. Undoubtedly, Jordan was anxious to get away from police, especially once he had been spotted by customers at the car yard.

67. While I accept, that at the time the search was abandoned on 24 April 2015, NSW Police believed that Jordan had escaped the area, it now appears much more likely that he re-entered the water in a desperate attempt to escape. Certainly, there is no eye-witness evidence that Jordan re-entered Boundary Creek after he had been seen near Heartland Motors. However, with the benefit of hindsight, taking into account Senior Constable Bennett's later evidence, it appears to be the most likely possibility.

68. Unfortunately, it would have been potentially very dangerous. Boundary Creek flows directly into the Nepean River. It is subject to considerable erosion with high cliffs and very dense vegetation. In the days leading up to the pursuit there had been very heavy rainfall, which would have created high, turbulent flows in Boundary Creek. While Jordan's brother suggested that Jordan was a strong swimmer,<sup>52</sup> the conditions would have made swimming or keeping afloat extremely difficult, particularly given the fact that Jordan was clothed and by all accounts already tired from battling the dense vegetation.

### **Other inquiries into the possibility that Jordan survived**

69. Since Jordan's disappearance police have also undertaken substantial inquiries to ascertain whether Jordan could still be alive somewhere. These include inquiries include:<sup>53</sup>

- Obtaining information about his possible movement out of Australia. Jordan Morris is recorded as "onshore" by the Department of Immigration and Border Protection. There is no evidence he has left the country or applied for or used a passport.
- Obtaining information which might indicate later separate contact with police. There is no evidence that Jordan has come into contact with NSW, Commonwealth or any interstate law enforcement agencies during the years since his disappearance. There is also no evidence of activity recorded for Jordan Morris on the RMS system.

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<sup>51</sup> Report of Dr Peter Tate, 22 October 2015, Exhibit 1, Tab 104 [17].

<sup>52</sup> Statement of Detective Sergeant Paul Fenwick, Exhibit 1, Tab 2, [24].

<sup>53</sup> For a summary of these and like inquiries see Statement of Detective Senior Constable James Morgan, Exhibit 1, Tab 3, [166]-[169].

- Obtaining information about his Centrelink status. There is no evidence that Jordan has made contact with a Centrelink Office since 24 April 2015. He was previously dependent on this source of income and had submitted his last benefit claim on 22 April 2015. Jordan was subsequently suspended when he failed to lodge his next claim form.
- Obtaining information about his Medicare status. Jordan's last known Medicare transaction was on 16 March 2015. There is no evidence of any subsequent pharmaceutical benefit scheme claim.
- Obtaining information about his banking status. Jordan was known to bank with the National Australia Bank. His last identified banking transaction was a credit card transaction on his NAB Visa Card at Woolworths, Wentworthville on 23 April 2015. CCTV footage confirms Jordan was using his card on that day. Inquiries with other banks have failed to identify any transactions.
- Obtaining information from Police Missing Persons Units throughout Australia. There have been no unidentified bodies or remains that could match Jordan Morris.
- Checking his use of social media. There has been no activity on Facebook from Jordan since 24 April 2015. The last post on Jordan's wall that can be attributed to him was made on 10 April 2015.

70. In addition to these inquiries, police have interviewed each of Jordan's associates involved with the pursuit on 24 April 2015. None of these people have had any further contact with Jordan. Police have also conducted searches at places where Jordan is known to have stayed from time to time, with no positive result. Police have obtained statements and interviewed a large number of Jordan's friends and associates, but unfortunately this has not provided any further reliable information.

71. Police have obtained intelligence from a wide variety of sources, but this too has been unsuccessful in identifying any reliable information. Each lead and rumour has been carefully assessed and none have appeared to contain reliable information when checked.<sup>54</sup>

72. Police have investigated numerous possibilities, including that Jordan escaped the search area and was later harmed in relation to a failed drug transaction. There is no evidence to support this theory.<sup>55</sup> I also note that there has never been any evidence to suggest that Jordan may have taken his own life.

73. Jordan's disappearance has been widely reported in the media, but this has not produced any reliable information<sup>56</sup>. However, there have been a number of reported sightings. I am confident that each has been fully investigated and found to be mistaken. The recent alleged sighting of Jordan was thoroughly investigated by Detective Senior Constable Morgan and it has also been discredited.<sup>57</sup>

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<sup>54</sup> For details in relation to these inquiries, see the statement of Detective Senior Constable Morgan, Exhibit 1, Tab 3 [162] and elsewhere.

<sup>55</sup> See for example Detective Senior Constable Morgan's statement, Exhibit 1, Tab 3 [154] and elsewhere.

<sup>56</sup> See for example the statement of Detective Sergeant Paul Fenwick, Exhibit 1, Tab 2,[92] and elsewhere.

<sup>57</sup> See Detective Senior Constable Morgan's statement dated 28 November 2017, Tab 3AD.

74. I am confident that despite a major and coordinated investigation, there is no evidence which positively indicates that Jordan may still be alive.

### **Is Jordan Morris dead?**

75. Tragically, in my view the strongest evidence that Jordan is dead is his total lack of contact with his family. Even when things were not going well for Jordan, he kept in sporadic contact with his family; particularly his mother, Jayne. During the inquest, the love the Morris family demonstrated for Jordan and each other confirmed my thoughts on this issue. If Jordan Morris was alive, he would have found a way during the past – almost three years - to contact his family, or to send a message to them. I do not believe that he would allow his family to suffer, if he could avoid it. In my view, Jordan's failure to contact his family is, in itself, extremely strong evidence that he is no longer alive.
76. Given that it appears Jordan lost his money, phone and bag on the day of the pursuit, he would have had nothing to start a new life. He does not appear to have contacted anyone he ever knew prior to that day and he has sent no message home to the family he clearly loved.
77. Starting a new life under a false name is extremely difficult. Jordan's own sister stated that Jordan would not have had the capacity, without money or support, to stay hidden from authorities for such a long period of time.<sup>58</sup>
78. Having weighed up all the evidence before me I am able to make the formal finding that Jordan Morris is dead. I understand that for a family clinging to hope, these must sound harsh words, spoken without concrete evidence. Nevertheless, my task is to make findings "on the balance of probabilities" and I am satisfied that the evidence in this case reaches that standard.

### **Is it possible to say where, when or how Jordan died?**

79. While I am able to make a finding, based on all the available evidence that Jordan is dead, other questions are more difficult to answer.
80. I am satisfied, to the requisite standard, that given the complete lack of later contact or evidence of any administrative or financial activity, Jordan's death occurred on or shortly after, 24 April 2015.
81. I am also satisfied that that Jordan died somewhere in the vicinity of Boundary Creek, Peachtree Creek and the Nepean River at Penrith NSW. Unfortunately, given what is known about the swollen river and recent rain at that time, it is possible that Jordan could have been washed a long way down the river. In my view, if he died in the bushland, away from the water, it is highly likely that Jordan's remains would have been found in the extensive searching which took place, however I cannot be certain of that.

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<sup>58</sup> See Statement of Detective Constable James Morgan, Exhibit 1, Tab 3AA [50].

82. Tragically it is also impossible to know if Jordan drowned as he swam or tried to float downstream.
83. It remains possible, though less likely, that he died from injuries he sustained in the undergrowth or nearby the bank of the river. While I think it likely that he got into trouble in the water, it is impossible to know if some other misfortune or accident befell him as he attempted to evade police in the undergrowth.
84. For these reasons I am unable to find a medical cause of death.
85. In my view it is possible to say something about the manner of his death. The evidence establishes that Jordan Morris died during or shortly after an attempt to evade police, who were searching for him in bushland, after a vehicular pursuit.

### **Did Jordan die in a police operation?**

86. A critical incident was declared by Assistant Commissioner Jobson on 30 May 2015 and strike force Kalmia was established to investigate the disappearance of Jordan Morris and investigate the critical incident.<sup>59</sup> The depth of the investigation, after the declaration, has given the court confidence that all available leads have now been pursued.<sup>60</sup>
87. The fact that Jordan remained missing would have warranted an inquest in any event. However I am now satisfied that an inquest was also mandatory pursuant to section 23 of the *Coroners Act* (2009) NSW. I have been able to find, on all the available evidence that Jordan's death occurred in the general vicinity of the search area, during or soon after the search. I am thus satisfied that his death occurred "*as a result of, or in the course of police operations*".<sup>61</sup>
88. Jordan had not been arrested, so he was not "*attempting to escape the custody of a police officer*" but, Jordan was clearly making decisions to avoid being captured or arrested.
89. I am satisfied that "but for" the police operation, Jordan would not have died as he did. However, I should clarify that this does not necessarily suggest criticism of the police operation. I note that the pursuit was terminated before Jordan left the car, for safety reasons. I also note that the stolen car was being driven in such a dangerous manner that there were a number of risks of serious injury or death in relation to those inside the stolen car and to members of the public, even before it reached the Penrith area.

### **Is there a need for recommendations?**

90. I have carefully considered whether there is a need for recommendations arising out of the evidence before me. Counsel for the Morris family urged the court to identify a failure by the relevant police to recognise, in a timely manner, that Jordan was facing potential danger.

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<sup>59</sup> Statement of Detective Senior Constable James Morgan, Exhibit 1, Tab 3A [37].

<sup>60</sup> The investigative work undertaken by Detective Senior Constable Morgan is extensive and of a high quality. The scope of these findings means that I will only refer to a small proportion of the evidence collected.

<sup>61</sup> Section 23 *Coroners Act* (2009) NSW.

Counsel suggested that there was enough objective evidence, available on 24 April 2015, to warrant serious consideration of the possibility that Jordan had re-entered the water and could thus be at considerable risk of harm. It was well known that the terrain was difficult and that the vegetation was thick. The water levels were up and the recent rain meant that the current was particularly fast flowing. When he was last seen, Jordan appeared to be tired and struggling. Counsel submitted that it was obvious that Jordan might enter the water and once there, that he faced real danger.

91. Further it was suggested that the police failure to recognise the potential danger faced by Jordan on this occasion was likely to indicate a systemic or more general issue, rather than one merely arising from the particular facts of this case. It was submitted that the introduction of a policy or protocol to alert police to the possibility of risk in search situations was likely to promote public safety. The range of environments where alleged offenders might be chased is unlimited and could involve bushland or urban landscapes where very different risk factors exist. Counsel urged the court to consider a recommendation, which in general terms would, by formal protocol, encourage police, to turn their minds to the risks persons being pursued might face and to take steps to mitigate those risks.<sup>62</sup> On reflection, it was unclear to me exactly when this risk assessment should take place. Should it occur after the search has been called off in a debrief type situation or must it occur as an ongoing assessment as risks develop or change?
92. Counsel assisting and counsel for the NSW Commissioner for the Police urged against any recommendation in this regard, pointing out that there remains no direct evidence that Jordan re-entered the water, it exists at best as a theory, developed over time, with the benefit of hindsight. They submitted that in all the circumstances, it was a genuine and reasonable belief on the part of involved police to hold that Jordan had left the search area on 24 April 2015. Counsel for the Commissioner suggested that Police are well used to assessing risk, but even if they had been made to turn their mind to the dangers that might face Jordan that evening, given that they thought he had left the area, it is unlikely they would have come up with a plan to search the water at that time.
93. I have given the matter considerable thought. While I accept that on this occasion NSW Police appear to have missed the possibility that Jordan remained in the area, I am not convinced that the recommendation in its current form has sufficient clarity to assist police in dealing with the difficult task of risk assessment in operational policing of this sort. I accept that if it were known that Jordan had re-entered Boundary Creek on 24 April 2015, it would have been incumbent upon Police to mount a search of the local waterways in an attempt to find him. However, given that Police firmly believed that Jordan had escaped the area, a risk assessment of the dangers facing Jordan would have needed to focus on quite different concerns. In my view, a timely review of what had occurred by an uninvolved, accredited search co-ordinator might have been more useful than asking involved police to review the risks on the day.
94. Nevertheless, the proposal raised by counsel for the Morris family is not without merit and I commend the proactive approach taken to look for ways to improve current practise. I

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<sup>62</sup> The wording of the recommendation put forward was "That NSW Police consider developing a protocol for police involved in the pursuit of alleged offenders (though not applying to vehicular pursuits) that seeks to recognise the risks involved to the person or persons being pursued, as well as to other members of the public, and to take appropriate steps to mitigate those risks and to minimise the possibility that a person's life may be endangered."

understand that counsel for the Morris family suggest that, even if earlier water searching did not result in finding Jordan alive, it may have recovered his remains. This would at least have provided the Morris family with some certainty.

95. On balance, I have decided not to make a formal recommendation in the terms sought. I remain of the view that the proposal currently put forward is not sufficiently developed or targeted at a systemic problem. Nevertheless, I am concerned that any lessons that could arise from this tragedy are not lost and I intend to send a copy of these findings to the Commissioner of Police for his consideration of the issues that may be raised in relation to both the conduct and the aftermath of this search.

### **Findings pursuant to sections 81 *Coroners Act 2009 (NSW)***

96. Jordan Morris is dead. He died on or soon after 24 April 2015. He died in the vicinity of Boundary Creek, Peachtree Creek and the Nepean River at Penrith NSW. The exact medical cause of his death remains unknown. He died during or shortly after an attempt to evade police, who were searching for him in bushland, after a vehicular pursuit.

### **Conclusion**

97. Finally, I express my sincere sorrow to the Morris family. I am aware that my findings offer them no solace or comfort. I can only imagine the terrible pain they have experienced, waiting and hoping that Jordan will return. It seems a cruel tragedy, that part of the reason I am prepared to making a finding of death is because I sense the closeness of the family bond. I thank the Morris Family for attending the inquest in these sad circumstances.
98. I close this inquest.

Magistrate Harriet Grahame  
Deputy State Coroner  
2 March 2017  
NSW State Coroner's Court, Glebe