



**CORONERS COURT  
OF NEW SOUTH WALES**

<b>Inquest:</b>	Daniel Wall
<b>File number:</b>	2018/131055
<b>Hearing dates:</b>	21-23 October 2019
<b>Date of findings:</b>	21 November 2019
<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 - s23 death in Police Operation - police pursuit - absconding offender - fall from cliff
<b>Representation:</b>	<p>Counsel Assisting:</p> <p>Mr D Barrow instructed by Mr A Nicholas of Crown Solicitors Office</p> <p>NSW Police Commissioner:</p> <p>Mr R Hood instructed by Mr S Robinson of Office of General Counsel, NSW Police Force</p>
<b>Findings:</b>	<p><b>Identity: Daniel Wall</b></p> <p><b>Date of Death: 25 September 2017</b></p> <p><b>Place of Death: Bushland off Oliver Road Mt Elliot, North Gosford</b></p>

	<p><b>Cause of death: Multiple injuries from fall from height</b></p> <p><b>Manner of death: Misadventure - In an attempt to avoid being apprehended by police, Mr Wall drove his vehicle at speed whilst disqualified and under the influence of methamphetamine, he abandoned his vehicle and entered bushland prior to daylight. At some point whilst the police were looking for him or shortly thereafter he fell from a ridgeline cliff and fell 9.5 metres which caused him fatal injuries.</b></p>
<b>Protective Orders</b>	As per Orders contained in Minute dated 11 October 2019
<b>Non-Publication Orders</b>	As per Orders contained in Minute dated 11 October 2019

IN THE CORONERS COURT  
LIDCOMBE  
NSW

Section 81 *Coroners Act 2009*

**REASONS FOR DECISION**

1. Daniel Wall was born on 3 October 1974. He was last seen in the early hours of the morning on 25 September 2017. Mr Wall's remains were located on 24 April 2018 at the bottom of a 9.5 metre cliff in bushland on Mt Elliot in Gosford about 150-200 metres from where he had abandoned his vehicle after the police commenced following him in Gosford at about 4.00 a.m.
2. This inquest examines the circumstances of his death, and whether the police actions and responses in those circumstances were appropriate. At no time did the police attempt to stop Mr Wall and, accordingly, the police were not engaged in a police pursuit. However, the police were engaged in what is known as a police "follow" intending to attempt to stop him if the opportunity arose. The NSW Police Force Safe Driving Policy ("The Safe Driving Policy") dictates the rules and procedures applicable and the inquest has examined whether the police complied with this policy.
3. The circumstances give rise to the issues of whether the police should have been concerned for the welfare of the driver and whether their failure to investigate who he was, particularly in light of the report he was a missing person and the latter discovery of his remains, was reasonable.

Background

4. Mr Wall was 42 years old, married to Nicole Wall and the father of five boys and the stepfather of another boy and a girl. At the time of his death,

although Mr Wall was no longer living with Nicole at Green Point they were on amicable terms and he visited his children often. Mr Wall was living with two friends in North Gosford. Despite being a frequent methamphetamine user, he had just completed parole for offences of driving whilst disqualified and drive manner dangerous in a police pursuit (first offence). He was still serving an Intensive Corrections Order for another offence of drive whilst disqualified. Despite being disqualified from driving, Mr Wall continued to drive. He had one car registered in his name but at the time drove another car which was a white Hyundai registration number CI62JD (“the white Hyundai”).

### The Day Prior to the Police Follow

5. At about 1.30 a.m. on 24 September 2017, Mr Wall was seen by Senior Constable McCarthy driving the Hyundai with a passenger, Mr Wells. Mr Wall stopped his vehicle at a service station. Whilst there Senior Constable McCarthy and Senior Constable Bates spoke with them. The car was registered to a Stephen Riddle who was Nicole’s first husband.<sup>1</sup> It was registered to an address in Empire Bay which is near Woy Woy on the Central Coast.<sup>2</sup> Mr Wall told Senior Constable McCarthy that it was his son’s vehicle. Senior Constable McCarthy charged Mr Wall with the offence of drive whilst disqualified by issuing to him a Field Court Attendance Notice (“Field CAN”) (at 1.47 a.m.) to appear at the Gosford Local Court on 22 October 2017.<sup>3</sup>
6. Mr Wall arranged for someone to pick him and Mr Wells up. Senior Constable McCarthy was due to end her shift at 2.00 a.m. By the time she had returned her vehicle to the Gosford Police Station it was 2.30 a.m. and she left work without entering the incident as an Event in the NSW Police

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<sup>1</sup> Statement of Nicole Wall dated 12 April 2018 at [10], **Tab 35** - Mr Wall had been driving the car in Mr Riddle’s name, so as to avoid detection as a disqualified driver.

<sup>2</sup> Certificate issued in accordance with s. 257 of the *Road Transport Act 2013*, **Tab 58A**.

<sup>3</sup> Statement of Senior Constable Grant Bates dated 28 June 2018, **Tab 23**; statement of Senior Constable Lana McCarthy dated 27 June 2018, **Tab 26**.

Force's Computerised Operational Policing System ("COPS") until her next shift which commenced at 7.00 a.m. on 25 September 2017<sup>4</sup>.

7. Later in the day of 24 September 2017, the car was collected from the service station and, despite being charged with drive whilst disqualified by Senior Constable McCarthy, Mr Wall continued to drive.

### The Police Follow

8. At about 1.30 a.m. on 25 September 2017, Mr Wall picked up a friend in North Gosford and they went for a drive and they each injected methamphetamine.<sup>5</sup> Mr Wall returned his friend home sometime after 3.00 a.m. He drove to another suburb in Gosford where Mr Wells was living and whilst in that area he was seen to be driving erratically by police officers in a Police Truck called BW15.
9. [REDACTED]  
[REDACTED]. Leading Senior Constable McBride was the driver, Probationary Constable Usachou was the front passenger and Senior Constable Laing was the rear nearside passenger. They were conducting general police patrols. At 4.00 a.m. Probationary Constable Usachou had logged the vehicle onto the mobile Computer-Aided Dispatch ("CAD") system.<sup>6</sup>
10. BMW 15 followed Mr Wall and Leading Senior Constable McBride contacted police radio ("VKG") to call for any police vehicles in the area to look out for Mr Wall's vehicle and stop him. Sergeant Paul Taylor was the mobile supervisor on duty at the Gosford Police Station. At about 4.12 a.m. he heard the VKG broadcast so he took his car (BW14) and drove it in the direction identified over VKG.<sup>7</sup>

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<sup>4</sup> Statement of Senior Constable Lana McCarthy dated 16 September 2019 at [5], **Tab 26A**.

<sup>5</sup> Statement of Paige Dunn dated 29 June 2018, **Tab 39**.

<sup>6</sup> Statement of Leading Senior Constable Alan McBride dated 11 May 2018 at [5], **Tab 9**; Typescript of directed interview with Senior Constable Richard Laing, p. 8, **Tab 10**; Statement of Probationary Constable Kiryl Usachou dated 14 June 2018 at [5], **Tab 12**.

<sup>7</sup> Statement of Sergeant Paul Taylor dated 23 June 2018 at [3], **Tab 15**.

11. A transcript of the VKG recording is included in the brief of evidence.<sup>8</sup> Leading Senior Constable McBride relayed Mr Wall's car registration plate number over the radio and he said that he could only describe the person driving as wearing a grey "hoodie". The VKG operator advised that the vehicle had a warning on it, which was that it was associated with a woman called Nicole Riddle who lived in the Singleton area and who was a disqualified driver.<sup>9</sup> The woman they were referring to was Mr Wall's wife who had once been married to Stephen Riddle.
12. Mr Wall drove out of North Gosford and up Maidens Brush Road which, after leaving the residential area, traverses woodland, becomes quite narrow and steep with sharp turns and then becomes unsealed at a part of the road which is known as the Fire Trail until it becomes sealed again when it enters Toomeys Road.<sup>10</sup>
13. Leading Senior Constable McBride indicated on VKG that the driver of the vehicle may head for Singleton.<sup>11</sup> Accordingly, the police anticipated that the vehicle may proceed to the main road called The Ridgeway which joins the Pacific Highway and then the M4 at Ourimbah.
14. Mr Wall drove the vehicle off Toomeys Road onto Atkinson Road, which leads to The Ridgeway, but he turned left into a cul-de-sac, Oliver Road. This is on the ridge of Mt Elliott and the area is known as Rumbalara Reserve, which is an extensive area extending back to Gosford.<sup>12</sup>
15. BW15 passed the Oliver Road intersection but Senior Constable Laing saw tail lights disappearing over a crest about 500 metres away on Oliver Road.<sup>13</sup> Leading Senior Constable McBride stopped and turned BW15 around and drove down Oliver Road. He turned on the vehicle's alley lights

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<sup>8</sup> Police Radio Broadcast and Transcript, **Tab 44**.

<sup>9</sup> *Ibid*, p. 3, **Tab 44**.

<sup>10</sup> Statement of Leading Senior Constable Alan McBride dated 18 March 2019, **Tab 9B**.

<sup>11</sup> Police Radio Broadcast and Transcript, p. 3, **Tab 44**.

<sup>12</sup> Typescript of directed interview with Senior Constable Richard Laing dated 30 July 2018, p. 9, **Tab 10**.

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

and at about 500 metres down the road he saw the white Hyundai parked about 35-50 metres off the road next to a large tree between 2 properties.<sup>14</sup>

### Looking for the Driver

16. The police officers went to the vehicle and noted that it smelt of burning brakes and the bonnet felt hot. Looking through the windows it was evident that the driver was not in the car.<sup>15</sup> The police started searching for the driver. There were no lights and it was a dark night. The egress funnelled into thick bushland and rugged topography. Probationary Constable Usachou was given a torch and he went into the bushland until it was too thick and unsafe for him to go any further. He gave evidence that whilst doing so he was calling out that he was police and for the person to stop.
17. By this stage Sergeant Taylor in BW14 had arrived and commenced searching for the driver by roving the nearby roads to see whether the driver would emerge onto the roadway and perhaps be collected by another vehicle.
18. Senior Constables Crotty and Zellar in BW16, who had been nearby and responded to VKG, also arrived at Oliver Road. They searched for the driver by knocking on the door of the nearby house which went unanswered. They looked around the property to see if the driver was hiding.
19. Senior Constable Laing opened the white Hyundai's driver's door to conduct a cursory search to see whether the driver had dropped or left anything from which his identity could be ascertained. He said that he did not open the glove box. He and Leading Senior Constable McBride both noted that the ignition had not been tampered with and there were no keys in the vehicle.

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<sup>14</sup> Statement of Leading Senior Constable Alan McBride dated 11 May 2018 at [8]-[9], **Tab 9**.

<sup>15</sup> Statement of Probationary Constable Kiryl Ursachou dated 14 June 2018 at [7], **Tab 12**.

20. The police officers explained that they did not search the vehicle on the basis that they did not have any power to do so. After a little under an hour of looking for the driver the police determined to return to the Gosford police station. The distance over which BW15 followed the white Hyundai was about 7-8 kilometres.
21. The police officers from BW14, BW15, and BW16 gave evidence during the inquest. Each acknowledged that the driver could have entered the bushland. They also said he could have entered the nearby house or remained hiding in another property, or he could have made his way back to the road and had a vehicle pick him up.
22. When the police returned to the Gosford police station Leading Senior Constable McBride wrote Event E65685848 on COPS at 5.31 am. He recorded that the white Hyundai *“continued along Maidens Brush Road to the dirt section where police lost sight of [it]”*, and that the vehicle *“was later located parked on private property at 32 Oliver rd Mount Elliott, the driver had decamped and police were unable to locate them nearby. Police were unable to raise anyone inside this rural property to speak with them”*.<sup>16</sup>
23. The police officers finished work at 6.30 a.m. Leading Senior Constable McBride, having completed a 4 day roster and having extra leave, did not return to work for over a week.
24. The next police shift of 0600 started before the 6.30 a.m. finish and Sergeant Taylor gave evidence that he would have conducted a verbal handover to the next mobile supervisor and relayed what had happened with the vehicle follow and decamped driver. He could not recall who that supervisor was. He agreed that he did not write anything down as he knew that Leading Senior Constable McBride had created the Event on COPS.

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<sup>16</sup> COPS Event E65685848, **Tab 48C**.



## The Vehicle Being Removed from Mt Elliott

25. Within two hours of the change of shift, at 8.15 a.m., the owner of the rural property at Oliver Road telephoned the Gosford Police Station and asked the police to remove the car which had arrived on his property earlier that morning.<sup>17</sup>
26. Senior Constable McCarthy commenced work at 7.00 a.m. at the Gosford Police Station. At 9.15 am she created COPS Event E66320041 about the incident on 24 September 2017 where she charged Mr Wall for driving the white Hyundai, plate number CI62JD. I note that Senior Constable McCarthy recorded that she did not breath test Mr Wall, citing the reason "*Driver left scene*"<sup>18</sup>. She recorded his address as being at Green Point and that the name Mr Wall used was Stephen John Riddley and that he (Mr Riddley) lived at an address in St Marys. She also recorded a work and mobile phone number and Mr Riddley's date of birth.<sup>19</sup> She recorded the vehicle details including registration plate number, but did not record that it was registered to a Stephen Riddle at an address at Empire Bay.<sup>20</sup>
27. Senior Constable Bernadette Difford, who had started her shift at 6.00 am, was in her vehicle BW38 when, at 8.15 am, she heard a VKG request for an officer to attend the Oliver Road address in relation to the abandoned vehicle. At about 9.45 a.m. she attended the property and determined to have the vehicle towed by the local contractor, Adams Towing, to their towing yard.<sup>21</sup> In her evidence she said that she did not arrange for the vehicle to be towed off the property and parked on the road for the driver to collect it because she was concerned that the police would be liable for any damage occasioned to it.

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<sup>17</sup> Statement of Senior Constable Bernadette Difford dated 18 July 2018 at [4], **Tab 27**.

<sup>18</sup> COPS Event E 66320041, p. 3, **Tab 48F**.

<sup>19</sup> Senior Constable McCarthy knew Mr Wall from having had previous dealings with him: see Statement of Senior Constable Lana McCarthy dated 27 June 2018 at [4], p. 1, **Tab 26**.

<sup>20</sup> Material provided by Roads and Maritimes Services ("RMS") indicates that the vehicle had been acquired and kept at a given Empire Bay address on 29 July 2017: see Certificate issued in accordance with s. 257 of the *Road Transport Act 2013*, **Tab 58A**. It would appear SC McCarthy was relying on last known police information rather than RMS records.

<sup>21</sup> Statement of Senior Constable Bernadette Difford dated 18 July 2018 at [5]-[8], **Tab 27**.

28. When Senior Constable Difford was at the property she conducted checks on the vehicle over the police radio and was advised that it had been sighted earlier in the day driving erratically.<sup>22</sup>
29. After the vehicle was towed away, Senior Constable Difford returned to the Gosford Police Station and searched for the vehicle on COPS by entering the vehicle's registration number. She saw Senior Constable McBride's E65685848 and she opened it and added a further narrative at 12.15 p.m. She wrote that the police attended the Oliver Road property at 8.15 a.m. *"in relation to a vehicle on the [informant's] property ... Checks revealed the vehicle was seen that morning driving erratically ... The vehicle was towed at owner's expense due to it being on private property. There does not seem to be any other offences committed other than the vehicle driving in an erratic manner ... Form of demand to be placed on the owner of the vehicle to ascertain the driver's details"*<sup>23</sup>.
30. Senior Constable Difford gave evidence that she expected that Leading Senior Constable McBride, being the Officer in Charge of that Event, would be the person to decide whether to carry out any further investigations about the driver and organise the formal demands on the registered owner of the vehicle. She said that she did not see Senior Constable McCarthy's Event and was unable to say whether that Event Number appeared when she entered the vehicle's registration number into COPS.

#### Police Authorised the Towing Company to dispose of the Vehicle

31. On 3 October 2016, the manager of Adams Towing contacted Sergeant Hassett at the Gosford Police Station advising that the police had not supplied the owner and disposal contact details for the white Hyundai.<sup>24</sup> In his evidence Sergeant Hassett said that he made inquiries about the

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<sup>22</sup> *Ibid*, at [6].

<sup>23</sup> COPS Event E 65685848, **Tab 48C**.

<sup>24</sup> Statement of Sergeant Stephen Hassett dated 15 April 2019 at [5], **Tab 34C**.

vehicle looking at all the COPS Event narratives created by Leading Senior Constable McBride, Senior Constable Difford and Senior Constable McCarthy.<sup>25</sup>

32. As a result of reading both COPS entries Sergeant Hassett determined that the vehicle did not need to be retained for the purpose of placing a formal demand on the registered owner so he completed a form called "Return Authority 'Police to pay Requested' Rostered Tow Vehicles".<sup>26</sup> On that document Sergeant Hassett only recorded E65685648, he identified that the police were to pay for the tow costs and that the vehicle could be released to the owner who was "*Steven James Riddle or Stephen James Riddley?*".<sup>27</sup> Sergeant Hassett wrote down the 2 telephone numbers that Senior Constable McCarthy had written in her Event E66320041. He did not record on either of the COPS Events a narrative stating that he had authorised Adams Towing to dispose of the vehicle.
33. Accordingly, there was no electronic record about what had happened to the vehicle as it was only recorded on the paper record called a "Tow Log".<sup>28</sup> The Tow Log was amended in that the words "*SIN (or SIV) recovery*" were crossed out and replaced with "*Traffic Private Property*" and in recording that the vehicle was no longer to be disposed of by "*Owner to Pay*" but rather "*Police to Pay*" with reason "*Not stolen. Driver decamped*". The towing fee was placed on the same invoice as another vehicle towed on 26 September 2017 which had been involved in a carjacking.<sup>29</sup>
34. Sergeant Hassett did not make any inquiry with either Leading Senior Constable McBride or Senior Constable McCarthy. He did not turn his mind to whether the decamped driver was Mr Wall and, if he had, it is not clear whether he would have told Leading Senior Constable McBride in any event.

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<sup>25</sup> *Ibid*, at [7].

<sup>26</sup> *Ibid*, at [8].

<sup>27</sup> See annexure to the Statement of Sergeant Stephen Hassett dated 15 April 2019, **Tab 34C**.

<sup>28</sup> *Ibid*.

<sup>29</sup> *Ibid*. Consequently, if the invoices were electronic, a search would not have identified the vehicle as it did not have its own invoice number.

35. There appears to be no means to electronically link what happens to a vehicle involved in a police operation or towed at the request of police other than through connecting it to the relevant COPS Event.
36. Senior Constable Difford gave evidence that she did not connect the white Hyundai to the COPS Events or fill out any of the paperwork for the vehicle as she expected that LSC McBride would because he was the officer in charge. She also expected that he would place a formal demand on the registered owner as indicated in the narrative that she added to LSC McBride's Event number.
37. On 3 October 2017, Sergeant Hassett did not enter any narrative in COPS. Accordingly, there was no outcome of the Event E65685848 which would indicate that the police had authorised Adams Towing to dispose of the vehicle to the registered owner. There does not appear to be an electronic system at Gosford Police Station in relation to authorisations of vehicle disposal.

The Incident involving the Police Follow closed without further Inquiry about the Driver or any formal demand on the owner of the Vehicle

38. On 12 October 2017, Leading Senior Constable McBride closed Event E65685848. He explained that, as he had not received any requisition by his supervising officers to follow up any matter in relation to the incident, there was nothing further required of him. In closing the matter he did not enter any further record in terms of what happened to the vehicle or that he had determined not to make a formal demand of the driver. There was no further narrative written after that entered by Senior Constable Difford.
39. In his evidence Leading Senior Constable McBride said that he had engaged in numerous police follows where he would often lose sight of the vehicle or its driver and that such an incident would not necessarily or

indeed usually result in him making a record about such an incident in COPS.

#### Mr Wall fails to appear in Court and is Reported Missing

40. On 20 October 2017, Mr Wall did not attend the Gosford Local Court for the offence of drive whilst disqualified laid by Senior Constable McCarthy on 24 September 2017. The Local Court issued a warrant for Mr Wall's arrest. Senior Constable McCarthy learned that Mr Wall had been staying at a property with associates and on 24 October 2017 she attended that address. She saw that it was now abandoned and a blue car owned by Mr Wall was there – its windows were smashed and its tyres slashed.<sup>30</sup>
41. On 23 October 2017, Nicole Wall attended the Gosford Police Station and spoke with Senior Constable Boyd to report Mr Wall as a missing person.<sup>31</sup> Senior Constable Boyd created a case number C65759917 on COPS. A search of the police computer system revealed that Mr Wall had two warrants issued for his arrest.<sup>32</sup> Senior Constable Boyd believed that the reason Mr Wall could not be located was because he was avoiding being served with the warrants for his arrest.<sup>33</sup>

#### Had the Police Searched the Vehicle they would have found one of Mr Wall's phones

42. Adams Towing arranged for the disposal of the vehicle. An employee, Steve Maloney, searched through the vehicle and found one of Mr Wall's mobile telephones in the glove box. On 26 October 2017, he used the telephone to message the friend who last saw Mr Wall at 3.00 am on 25

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<sup>30</sup> Statement of Senior Constable Lana McCarthy dated 27 June 2018 at [13]-[14], **Tab 26**.

<sup>31</sup> Statement of Senior Constable Andrew Boyd dated 27 March 2018 at [5]-[6], **Tab 16**;

Statement of Nicole Wall dated 12 April 2018 at [17], **Tab 35**.

<sup>32</sup> One would have been issued at Gosford Local Court. The other would have been for failing to attend Corrective Services as part of his Intensive Corrections Order, but there is no evidence about this warrant or the date on which it was issued.

<sup>33</sup> Statement of Senior Constable Andrew Boyd dated 27 March 2018 at [8], **Tab 16**.

September 2017.<sup>34</sup> They arranged to meet so he could give her the phone but after speaking with his work colleagues he apparently disposed of it in the rubbish bin.<sup>35</sup> Adams Towing disposed of the white Hyundai in December 2017.<sup>36</sup> The car was presumably scrapped.

The Police failed to understand the significance of the two September 2017 COPS entries

43. On 18, 24 and 28 December 2017, Nicole Wall again attended Gosford Police Station and spoke with Support Officer Kristie Morris, Senior Constable Boyd and Senior Constable Bickle respectively.<sup>37</sup> After his shift on 24 December 2017, the Officer in Charge of the Missing Person investigation, Senior Constable Boyd, went on leave for 5 weeks. On 28 December 2017, Nicole gave Senior Constable Bickle the white Hyundai's registration number and explained to him that Mr Wall had registered the car in the name of her ex-husband Stephen Riddle so that Mr Wall could use the vehicle to avoid detection as he was unlicensed.<sup>38</sup>
44. Senior Constable Bickle searched COPS for both Mr Wall and the white Hyundai. He entered the names of Mr Wall and Mr Riddle and the vehicle's registration number. However, Senior Constable Bickle says in his statement that *"this check did not reveal any relevant information to me"*<sup>39</sup>.
45. It is somewhat inexplicable that both of the September 2017 COPS Events created by Senior Constable McCarthy and Leading Senior Constable McBride were not at that point realised to hold the key as to why Mr Wall was missing. It seems that Senior Constable Bickle was looking for currently active information because the COPS Event E127232701 recorded by Senior Constable Bickle notes that *"[p]olice conducted checks on the [vehicle of interest] as well as RIDDLE, RIDDLE had a recent person*

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<sup>34</sup> Statement of Steven Maloney dated 1 August 2018 at [6]-[8], **Tab 42**.

<sup>35</sup> *Ibid*, at [9].

<sup>36</sup> There is no evidence about their processes to identify the owner of the vehicle but it is not controversial that Mr Riddle was unaware that the vehicle was registered to him at an address he did not occupy.

<sup>37</sup> Statement of Senior Constable Andrew Boyd dated 5 April 2018 at [11]-[14], **Tab 16**.

<sup>38</sup> Statement of Nicole Wall dated 12 April 2018 at [10], **Tab 35**

<sup>39</sup> Statement of Senior Constable Benjamin Bickle dated 28 July 2018 at [7], **Tab 18**.

search event in December 2017 in the Cessnock area but [Nicole] seems to think this is actually RIDDLE. The vehicle hasn't had an event since September 2017"<sup>40</sup>.

#### The Police finally make the Link between Mr Wall and the Vehicle

46. On 12 February 2018, Mr Wall's sister spoke to police and gave other registration numbers of cars Mr Wall was known to drive.<sup>41</sup> On 8 March 2018, she attended Gosford Police Station and spoke with Senior Constable Bickle about the status of the investigation.<sup>42</sup> On 12 March 2018, she sent him an email in which she asked Senior Constable Bickle whether he (Mr Wall) had picked up "*the car*"<sup>43</sup> – she was presumably referring to the white Hyundai because Senior Constable Bickle's statement says that on 8 March 2018 the police were told by Adams Towing that the car had been disposed of after the owner failed to attend.<sup>44</sup>
47. There is no reference in either Senior Constable Boyd's statement or Senior Constable Bickle's statement as to what led them to make any inquiry with Adams Towing about the white Hyundai registration CI62JD. Perhaps one of them looked at the "*Tow Log*". Shortly thereafter the matter was referred to the Detectives for review.
48. On 13 March 2018, almost five months after the missing person report was made, Detective Sergeant Urquhart allocated Detective Senior Constable Fuchs to the missing person case of Mr Wall.<sup>45</sup> On 15 March 2018, Detective Sergeant Urquhart established Strike Force Garemyn for the investigation.<sup>46</sup>
49. Between 13 March 2018 and 24 April 2018, police made further enquiries. Results indicated there had been no calls from Mr Wall's telephone

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<sup>40</sup> COPS Event E127232701, pp. 8-9, **Tab 48E**.

<sup>41</sup> *Ibid*, p. 4.

<sup>42</sup> Statement of Terry Simmons dated 26 August 2018 at [13], **Tab 37**.

<sup>43</sup> Statement of Senior Constable Benjamin Bickle dated 28 July 2018, Annexure A, **Tab 18**.

<sup>44</sup> *Ibid*, at [8].

<sup>45</sup> Statement of Detective Senior Constable Chris Fuchs dated 31 July 2018 at [3], **Tab 19**.

<sup>46</sup> Statement of Detective Sergeant Ranald Urquhart dated 18 July 2018 at [6], **Tab 21**.

numbers since 25 September 2017;<sup>47</sup> that Mr Wall's friend was the last person to see Mr Wall at around 3.30 AM on 25 September 2017;<sup>48</sup> and the final transaction for Mr Wall's bank account was on 23 September 2017 in Wyoming. Ask inquiries with immigration revealed that he had not left the jurisdiction.

50. By 26 March 2018, Detective Fuchs had concluded there was a possibility the deceased had been the driver of the white Hyundai followed by police at about 4.00 AM on 25 September 2017 to Oliver Road, Mt Elliot.<sup>49</sup> Detective Sergeant Urquhart reached a similar conclusion at about this time.<sup>50</sup>

### The Location of Mr Wall's remains

51. A search was conducted on 24 April 2018 and Mr Wall's body was located about 200 metres from where the white Hyundai had been parked on Oliver Road, Mount Elliot. Mr Wall's body was at the bottom of a 9.5 metre cliff<sup>51</sup> in dense bush. His body was substantially decomposed. Dental records identified him. Cards, keys and a phone personal to Mr Wall were located beside his body. There is no doubt as to his identity.

### The Coronial Investigation

52. Despite the obvious scenario indicating that Mr Wall had fallen to his death when evading police officers in BW15 on 25 September 2017, a critical incident was not declared.<sup>52</sup>
53. A Report to the Coroner was made on the date Mr Wall's remains were located and on review of that Report on 31 May 2018, the State Coroner determined that this matter was a death as a result of a police operation

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<sup>47</sup> Cellbrite Extraction Report of Daniel Wall's mobile phone, **Tab 48B**.

<sup>48</sup> Statement of Paige Dunn dated 29 June 2018 at [18], **Tab 39**.

<sup>49</sup> Statement of Detective Senior Constable Chris Fuchs dated 31 July 2018 at [8]-[12], **Tab 19**.

<sup>50</sup> Statement of Detective Sergeant Randal Urquhart dated 18 July 2018 at [5]-[8], **Tab 21**.

<sup>51</sup> Statement of Detective Sergeant Mark Conroy dated 27 September 2018 at [49], **Tab 5**.

<sup>52</sup> Statement of Detective Senior Constable Chris Fuchs dated 31 July 2018 at [21], **Tab 19**.



pursuant to s. 23 of the *Coroners Act 2009* (“the Act”).<sup>53</sup> That means this is a required inquest (s. 27 of the Act).

54. Detective Sergeant Conroy, who is from a command other than Brisbane Waters which includes the Gosford Police Station, was then appointed to investigate Mr Wall’s death and remains in that role.

### The Cause of Mr Wall’s death

55. A subsequent autopsy identified bone injuries consistent with Mr Wall having fallen from the top of the cliff. Mr Wall’s body, dressed in a grey hooded jumper,<sup>54</sup> was approximately 202.85 metres from where the motor vehicle had been abandoned on 25 September 2017.<sup>55</sup>
56. On 30 April 2018 and 1, 4 and 7 May 2018, Dr Hannah Elstub and Dr Jane Vuletic conducted an autopsy on Mr Wall’s skeletal remains. According to the autopsy report dated 25 June 2018, the direct cause of death was “multiple injuries” which “are consistent with a fall from height”.<sup>56</sup>
57. The forensic evidence seems not to allow for any conclusion to be reached about when Mr Wall passed away. He may have died very soon after the fall; however it remains a possibility that he died some time later. It is this possibility that must be borne in mind when considering the actions of the police in the period from 24 to 25 September 2017 and in the days that following. It is for this reason that, whilst the missing person investigation has not been the focus of this inquest, it is necessary to understand the context in which the question arises as to whether the police response to a person entering treacherous bushland in an apparent attempt to evade apprehension was appropriate.

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<sup>53</sup> Letter from Acting Registrar Kazeline Dawson of 31 May 2018 (Annexure to Statement of Detective Sergeant Urquhart at [6]), **Tab 21**.

<sup>54</sup> Statement of Detective Senior Constable Chris Fuchs at [20], **Tab 19**.

<sup>55</sup> Statement of Senior Constable Mark Galluchi at [7], [13], **Tab 29**.

<sup>56</sup> Autopsy report for the Coroner Dr Hannah Elstub and Dr Jane Vuletic, pp. 2-4, **Tab 4**.

## Issues of significance considered at the inquest

58. The issues of the inquest were as follows:

- (a) Determination of statutory findings required under s. 81 of the Act as to the date, manner and the cause of Mr Wall's death;
- (b) Was the conduct of members of the NSW Police Force in following Mr Wall's vehicle on 25 September 2017 reasonable and appropriate and in accordance with any applicable policies and procedures that existed at the time?
- (c) Was the conduct of members of the NSW Police Force, once Mr Wall's vehicle had been located near 32 Oliver Road in Mt Elliot, reasonable and appropriate and in accordance with any applicable policies and procedures that existed at the time?
- (d) In particular:
  - a. Did members of the NSW Police Force take adequate steps to identify and locate the driver of the vehicle?
  - b. Was the towing and disposal of the vehicle reasonable and appropriate?
- (e) Were the injuries suffered by Mr Wall and described in the autopsy report immediately fatal or would Mr Wall have survived for some time after the fall?

59. At the outset of the inquest Mr Hood, on behalf of the Commissioner of Police, objected to issue (d), submitting that it does not arise from the confines of a "police follow". I disagreed with him and did not call on Counsel Assisting to respond. That issue arises from concerns about whether the police were genuinely unconcerned about the driver or whether they were attempting to distance themselves from the possibility that Mr Wall "came to grief" as a result of their following him on 25 September 2017. Conversely, there is an issue about whether the police should have a

concern for welfare and how they should respond to such concerns. The investigation of this issue was necessary given the course of events in this matter.

#### Two Missing Links and Opportunities to identify the driver

60. Those Assisting me requisitioned a number of police statements and records to determine: why it was that the police did not identify or attempt to identify and locate the driver particularly in light of Senior Constable McCarthy's earlier interaction with Mr Wall; how it was that the police did not locate the telephone in the glovebox of the vehicle; and why it was that the police authorised the vehicle to be disposed of prior to the COPS Event E65685848 being closed by Leading Senior Constable McBride.

#### Senior Constable McCarthy's explanations about issuing a Field CAN and failing to make a COPS entry prior to shift's end.

61. Senior Constable McCarthy indicated in her statement that she had dealt with Mr Wall on numerous previous occasions.<sup>57</sup> Mr Wall had a lengthy criminal record and, at the time she charged him, he was serving an Intensive Corrections Order for driving whilst disqualified. He had just completed parole for driving whilst disqualified and drive manner dangerous in a police pursuit. Senior Constable McCarthy arrested Mr Wall but discontinued the arrest, electing to issue him with a Field CAN. She not only did not make a COPS entry before she ended her shift but when she did so she failed to record such and the reason for doing so.<sup>58</sup>
62. Senior Constable McCarthy was excused from attending the inquest but has provided statements explaining why she did not detain Mr Wall. She says that, when she interacted with Mr Wall that morning, she had with her

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<sup>57</sup> Statement of Senior Constable Lana McCarthy dated 27 June 2018 at [4], **Tab 26**.

<sup>58</sup> Further, Senior Constable McCarthy's reason for not breath testing Mr Wall is not supported by the fact that there was ample time to carry out such a test – she just simply failed to do so.

a NSW Police Mobipol device, which records for an individual their last 10 charges, dates and offences.

63. The last 10 offences on Mr Wall's record, from March 2017 descending to February 2016, were drive illicit drug (second offence), larceny, go onto running lines (rail corridor), drive while disqualified, drive uninsured, drive unregistered, drive misleading number plate, drive whilst disqualified and drive dangerously in a police pursuit, break enter and steal dwelling house (February 2016).
64. Senior Constable McCarthy says that the NSW Mobipol does not record the court outcome for the charges. Detective Sergeant Conroy explained that a police officer would need to make a radio call to ascertain that information. Senior Constable McCarthy, despite having had numerous previous interactions with Mr Wall, did not make that inquiry. Her statement is silent as to the reason for this.
65. In relation to her failure to create a COPS entry before going off shift, Senior Constable McCarthy explained that her shift ended at 2.00 a.m. and that by the time she had returned to the Gosford Police Station it was 2.30 a.m. She was due to commence her next shift at 7.00 a.m. on 25 September 2017.<sup>59</sup> She entered the incident on COPS at 9.15 a.m.
66. Had the entry of Mr Wall's involvement with that vehicle registration number been placed on COPS by Senior Constable McCarthy earlier it may have been information which VKG could have accessed when Leading Senior Constable McBride was following the vehicle.
67. If so, the police may have been able to rapidly conclude that Mr Wall was most likely to have been the driver. Detective Conroy explained that the information VKG relayed about the driver was not contained in a COPS entry but rather in a window known as "*intel*". It is unknown whether VKG would have accessed the COPS entry had it existed. Detective Sergeant

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<sup>59</sup> Statement of Senior Constable Lana McCarthy dated 16 September 2019 at [5], **Tab 26A**.

Conroy suggested it is likely that the vehicle was also known to be driven by persons other than Mr Wall and Nicole.

Leading Senior Constable McBride explains lack of investigation into identity of driver

68. Had the police on the night suspected Mr Wall was the driver, it is unclear as to whether they would have followed up any investigation in any event. Leading Senior Constable McBride explained that he did not pursue a formal demand on the registered owner because that would be insufficient evidence to proceed against the person so nominated. It is likely that Mr Wall would have denied being the driver in any event.<sup>60</sup>
69. Leading Senior Constable McBride said that the offence of driving erratically was insignificant to pursue the identification of the driver. He said that because he had not attempted to stop the vehicle it may be that the driver did not know he was being followed by the police and, further, the nature of that driving would fall short of being described as dangerous. However, I note that Mr Wall did exceed the speed limit by over 30 km/h. I also note that the manner of driving was sufficient for Leading Constable McBride to want to stop the vehicle and follow it at speed for 7-8 kilometres [REDACTED]. It is difficult to reconcile the claim that the conduct was so insignificant to warrant further investigation on the one hand, and sufficiently significant to follow, notify VKG, [REDACTED], and follow into bushland on the other hand. I do not accept that Mr Wall did not know that he was being followed by police. It is not clear whether steps to identify the driver for the purpose of investigating charges should have been pursued. It would appear that by the time Leading Senior Constable McBride returned to work, unless he had been directed to make further

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<sup>60</sup> As he had when approached by Senior Constable McCarthy until she confronted him with the service station's CCTV footage.

inquiry by his supervisor, he intended to do nothing further in relation to who and where the driver he followed was.

70. Senior Constable Difford's entry in COPS Event E65685848 did not ignite any interest in Leading Senior Constable McBride to make any inquiry with Adams Towing, cause the vehicle to be searched or inquire whether the registered owner had been located or could be located.
71. In his examination, Leading Senior Constable McBride was asked many questions about whether he had any concerns for the driver who had likely run into the bush. His propositions that the driver could have been hiding in a house or out-building or re-entered the roadway on foot were both events which, within hours of the police follow, seemed unlikely given that the house owner asked the police to remove the vehicle and the fact that nobody was seen on the roadway during the time Sergeant Taylor was conducting his roving exercise.
72. I was convinced by Leading Senior Constable McBride's evidence that he genuinely held absolutely no concern for the welfare of the driver. He was unaware of the terrain of the bush, and though he was sufficiently cognisant and concerned that he or any other police officer should not jeopardise their wellbeing by entering the bush, he did not extend that regard to the driver.
73. It would appear that, because he had been involved in so many matters where drivers abandon their vehicles and evade the police, he thought no further about this instance. A point of difference might be that other matters might not be entered on COPS when this one was; however, he was not requisitioned to do any more in relation to the Event upon his return to work.
74. The lack of concern for the wellbeing of the driver was shared by the other police who attended Mt Elliot that morning, including the supervisor Sergeant Taylor who provided the verbal handover to the next mobile police supervisor.

75. I have not been provided with any police procedure or policy in relation to what the police should do in relation to an unidentified driver who has evaded the police in a police operation in circumstances where the environment they have entered may pose a risk to their safety and wellbeing.
76. I note that there appears to have been no attempt by police to contact Mr Riddle, the registered owner of the vehicle, to advise him of the location of the white Hyundai, or the fact that it had been towed away. After Mr Wall's body was located, police did manage to speak to Steven's mother Penny Riddle. Mrs Riddle told police her son had been homeless for the past few years and moved between the Woy Woy area and Cessnock.<sup>61</sup>

#### The NSW Police Force Safe Driving Policy and the Police Follow of the Vehicle

77. The police first saw Mr Wall near the corner of Gertrude and Lindsey Streets in North Gosford. A map of the area, showing the route taken by the white Hyundai and the police, has been tendered.
78. Leading Senior Constable McBride told investigators that he observed the driver to be wearing a grey hooded jumper and to be alone.<sup>62</sup> He said in his evidence that, as the vehicle turned right at the roundabout from Henry Parry Drive to Dwyer Street, the driver looked to his right and behind him. He would have seen the police vehicle so this alone indicates Mr Wall was well aware of the presence of BW15.
79. Each police officer in BW15 said in their evidence that they were chasing tail lights - that is, losing sight of the white Hyundai as Mr Wall went around the corner and gaining sight when the police vehicle negotiated the corner.

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<sup>61</sup> Statement of Detective Sergeant Mark Conroy dated 27 September 2018 at [73], **Tab 5**.

<sup>62</sup> Statement of Leading Senior Constable Alan McBride dated 11 May 2018 at [5], **Tab 9**.

Each said in their statements that they lost sight of the vehicle due to the dust on the unsealed section of Maidens Brush Road.<sup>63</sup>

80. Leading Senior Constable McBride said in evidence that BW15 was near the shops near Blackbutt Road when he last saw Mr Wall's tail lights. This location is about 1 kilometre short of the unsealed section of Maidens Brush Road. In light of the other evidence I do not accept that evidence as presenting a reliable indication of the distance between BW15 and the white Hyundai.
81. The course of Mr Wall's driving, through the suburban streets and then at speed up Maidens Brush Road to abandoning the vehicle, satisfy me that Mr Wall was aware that the police were not far behind him and his actions were the result of his attempts to avoid the police stopping him.
82. Leading Senior Constable McBride said that he did not attempt to stop the white Hyundai.<sup>64</sup> He did not activate the police vehicle's lights and sirens.<sup>65</sup> That is confirmed by listening to the VKG transmission. It is apparent from the VKG broadcast and evidence given by Probationary Constable Usachou that Mr Wall was driving his vehicle at a high speed.<sup>66</sup>
83. BW15 was equipped with GPS tracking equipment that had the ability to record the police vehicle's speed and direction.<sup>67</sup> Unfortunately this information is not available as it appears that the vehicle had provided no GPS data at all in the period between 3 February 2017 and 16 November 2017, despite measures taken in August 2016 to alert users of police vehicles to the existence of faults preventing the technology from operating. It is not clear from the available evidence why, following these measures in August 2016, this unsatisfactory situation has occurred. There is no

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<sup>63</sup> Statement of Leading Senior Constable Alan McBride at [7], **Tab 9**; Typescript of directed interview with Senior Constable Richard Laing, p. 8, **Tab 10**.

<sup>64</sup> Statement of Leading Senior Constable Alan McBride at [4]-[5], **Tab 9**; Typescript of directed interview with Senior Constable Richard Laing, p. 10, **Tab 10**; Police Radio Broadcast transcript, p. 3, **Tab 44**.

<sup>65</sup> Statement of Probationary Constable Kiryl Usachou at [5], **Tab 12**.

<sup>66</sup> Statement of Probationary Constable Kiryl Usachou at [6], **Tab 12**; Police Radio Broadcast, p. 3, **Tab 44**.

<sup>67</sup> Statement of Terry Brombey dated 14 February 2019 **Tab 34B**.



evidence whether there was a fault in BW15 or whether there is some other reason for the failure.

84. In the absence of such evidence, to determine the length of time that BW15 “followed” the white Hyundai, the duration of the VKG broadcast has been assessed. The VKG recording is 5 minutes 20 seconds from when the incident was first reported until BW15 advised it was approaching the stationary and now empty white Hyundai on Oliver Road, Mt Elliot.
85. However, as none of the police were able to identify the location of BW15 at the commencement of the VKG transmission the totality of the time BW15 followed the white Hyundai remains unclear.
86. The route taken by BW15 and the white Hyundai was the subject of a reconstruction on 21 March 2019. The distance travelled from the intersection of Gertrude and Lindsey Streets in Gosford to the place where the white Hyundai was located abandoned on Oliver Road, Mt Elliot, was 7 kilometres and the driving time, proceeding at the sign posted speed limit and slowing to 40-50 km/h where the road condition was poor, took approximately 12 minutes, excluding about 20 seconds when the police vehicle performing the reconstruction was stationary waiting for traffic at the intersection of North Crescent and Maidens Brush Road. However, the reconstruction did not include the time it took BW15 to stop and turn around to enter Oliver Road.
87. I accept that Leading Senior Constable McBride did not attempt to stop Mr Wall’s vehicle. He said he decided to follow it so that the police could speak to the driver about the manner of his driving if such an opportunity arose. In his evidence, Leading Senior Constable McBride explained that such an opportunity might be when the driver parked his vehicle outside his home or some other place.
88. It is apparent from the VKG transmission that the police would stop the vehicle if circumstances permitted and that [REDACTED] [REDACTED] such a course might follow.

89. Leading Constable McBride made it clear to VKG that he was not engaged in a pursuit and that, although he held the appropriate qualifications to engage in a police pursuit, [REDACTED]  
[REDACTED].
90. Acting Sergeant Hrymak, a senior officer within the NSW Highway Patrol Command, provided a report which sets out his examination of the incident and, in his opinion, Leading Senior Constable McBride complied with the Safe Driving Policy (version 8.2) published July 2016.<sup>68</sup> He gave evidence to the same effect.
91. The Safe Driving Policy sets out, at 8-6-3, that should a driver attempt to avoid apprehension or appear to be ignoring a direction to stop and a decision has been made to pursue the vehicle, then a pursuit has commenced and the Safe Driving Policy pursuit guidelines must be adhered to.<sup>69</sup>
92. However, the Safe Driving Policy, at 7-1, defines a “pursuit” as only occurring when a vehicle has ignored a direction to stop. If a police officer does not direct a vehicle to stop and follows the vehicle it is not a police pursuit and the police officer is not required to comply with the Safe Driving Policy pursuit guidelines. The Policy only applies in circumstances of a “follow” if that follow continues after a police pursuit is commenced, so it does not apply to a “follow” when a vehicle stop has never been attempted.
93. Part 6 of the Safe Driving Policy deals with a police vehicle engaged in “Urgent Duty”, which is defined as “duty which has become pressing or demanding prompt action”. [REDACTED]  
[REDACTED]

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<sup>68</sup> Report of Acting Sergeant Hrymak, Traffic Policy Section, Traffic & Highway Patrol Command dated 9 August 2019, **Tab 63**.

<sup>69</sup> NSW Police Force Safe Driving Policy (version 8.2) dated July 2016, p. 31, **Tab 61**.

[REDACTED]

[REDACTED]<sup>70</sup>

94. After a police officer attempts to stop a vehicle and it refuses to do so, there are a number of criteria for a police officer to consider in deciding whether to engage in a police pursuit. Once that determination is made, the police are then required to engage in certain procedures including notifying VKG and activating lights and sirens. If a police officer does not attempt to stop a vehicle then anything that follows does not fall within the category of a police pursuit. [REDACTED]

[REDACTED]

95. Guideline 8-6-1 of the Safe Driving Policy enables a police officer to perform a traffic stop or reduce the distance between an offending vehicle and a police vehicle without informing VKG or activating warning devices, provided reasonable care is taken and that it is reasonable that warning devices are not used.

96. [REDACTED]  
[REDACTED], however it is unclear what the policy is in circumstances where the police follow an offending vehicle and close the distance to it with the intention to speak to the driver if the opportunity arises.

97. Leading Senior Constable McBride said that he did not intend to attempt a traffic stop. He advised VKG he would not attempt to stop the vehicle because he was of the opinion that if he did so the vehicle would not stop.<sup>71</sup>

98. Despite not being required to do so, Leading Senior Constable McBride contacted VKG. One reason he did so was to ask for assistance but also to obtain information about the vehicle. Leading Senior Officer McBride is heard on the VKG transmission recording advising the operator of the

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<sup>70</sup> [REDACTED]

Police Radio Broadcast and Transcript, p. 3, Tab 44.

vehicle's registration number within a very short period of commencing the transmission.<sup>72</sup>

99. Acting Sergeant Hrymak was unable to comment on the time it took BW15 to reach the vehicle on Oliver Road to assess whether the speed at which it travelled was compliant with the Safe Driving Policy when comparing it with the time the reconstruction took and taking into account the duration of the VKG broadcast.<sup>73</sup>
100. Acting Sergeant Hrymak's description of Leading Senior Constable McBride's decision was that he decided to "*monitor the vehicle while waiting to see if any other vehicles were available*".<sup>74</sup> With respect, I think the term "monitor" is a disingenuous term. Certainly, despite my search of the Safe Driving Policy, I could find no such term. No officer in BW15 used that term and I do not think the proximity of the vehicle to Mr Wall over that speed and distance would fall within a benign term of "monitoring". Leading Senior Constable McBride did not use that term when reporting to VKG, in his statement or in his evidence.
101. If there is to be such a term used, then I would hope that the Safe Driving Policy would define such and determine its terms of operation. Whilst I agree with Acting Sergeant Hrymak's opinion that Leading Senior Constable McBride did not engage in urgent duty, attempt a traffic stop, or engage in a police pursuit, he followed Mr Wall's vehicle over at least a 7 kilometre distance at speeds well in excess of the speed limit, conducted a U-turn when Mr Wall entered a side road and followed him to a location where the vehicle was abandoned.
102. Whilst I agree that that conduct did not involve any non-compliance with the Safe Driving Policy, that is because the conduct did not fit within any criteria of that policy.

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<sup>72</sup> *Ibid*, p. 2.

<sup>73</sup> Report of Acting Sergeant Hrymak, Traffic Policy Section, Traffic & Highway Patrol Command dated 9 August 2019 at [34], p. 6, **Tab 63**.

<sup>74</sup> *Ibid*, at [36], p. 7.

103. The fact remains, however, that though he did not direct Mr Wall to stop, Mr Wall was driving in a manner which indicated to Leading Senior Constable McBride that, if he did so direct, Mr Wall would not stop. For reasons earlier indicated, I am satisfied that Mr Wall was aware that the police were following him and were closing the distance to his vehicle and, as a result, he drove down Oliver Road to avoid apprehension. He would likely have seen that the vehicle followed him down that road which caused him to drive off the road and 35-50 metres into an egress, and, when he could drive no further, he abandoned the vehicle on foot and ran into the bushland.
104. Leading Senior Constable McBride saw Mr Wall look to his right and behind him at the Henry Parry Drive roundabout where he would have seen the police vehicle. He quickly concluded that the driver would not stop upon a direction to do so. Despite Leading Senior Constable McBride suggesting that there was no certainty in this regard, I am satisfied that he was aware that the driver of the white Hyundai was driving in the manner he was in order to avoid being spoken to by the police. Indeed, the alert on the vehicle indicated by VKG, despite it relating to a female, did not allay his opinion that the vehicle would not stop if directed to do so.
105. It is evident from listening to the VKG transmission that Leading Senior Constable McBride was anticipating the direction the vehicle might take to the M4 and that, at the very least, when it turned down Oliver Road, it must have been in an attempt to avoid the police. The use of the alley lights on BW15 suggests an attempt to locate the driver which exceeds a description of "monitoring".
106. However, it is not suggested on the evidence that, in the course of driving, Leading Senior Constable McBride, or indeed Mr Wall in response to the police vehicle, posed an unreasonable risk to the safety of other road users or the occupants of the police vehicle whilst driving. Accordingly, I decline to make any recommendations in relation to the Safe Driving Policy.

107. I am unable to make a finding about the appropriateness of the “follow” in attempting to close the distance as I am unable to determine the speeds at which the vehicles were travelling and the distance between them. Though it is evident that BW15 lost sight of Mr Wall’s vehicle, it was due to the dust which caused them to stop for 10-15 seconds. This suggests that BW15 was sufficiently close for Mr Wall to feel pressed upon.
108. The risk that was involved in the “follow” was exactly what occurred – that the occupant of the vehicle would abandon it and decamp and in doing so enter dangerous terrain under limited lighting conditions.

#### The Adequacy of the Police “Search”

109. It would appear that the police search for the driver was not performed out of concern for the driver but with the intent to apprehend him. If it was out of concern for him it would be expected that such would be indicated in the COPS Entry for the incident and, perhaps, a supervisor would ask the Officer in Charge to make inquiries about the identity of the driver, not for the purpose of laying any charges but as a concern for his wellbeing.
110. The failure to follow up anything at all in relation to the driver was not because the police were attempting to distance themselves from being involved in an operation that may have or in fact did have an adverse outcome for the person of interest but rather because they genuinely had no interest in the welfare of that person.
111. Despite the incident being sufficiently significant to request assistance [REDACTED], when the vehicle was abandoned and the police officers finished their shift the incident lost any significance.
112. The police did not take any steps to identify the driver after this incident. Their effort to locate him was minimal due to the circumstances of the danger to themselves in entering the bushland. The possibility that the offender had entered the house was reduced to unlikely when the owner of the property owner called at 8.15 am on 25 September 2017. This

increased the probability that the driver had entered the bushland to avoid police, consistent with the course of his driving. The vehicle was kept at Adams Towing Yard for a sufficient period for the vehicle to be searched, by which stage it should have been.

113. The vehicle should probably have been towed to the roadside rather than the towing yard so that the council could carry out the correct process for an abandoned vehicle. Even if that had occurred it would not have changed the outcome for Mr Wall but it may have changed the outcome for his family and located his remains a great deal earlier than what occurred.
114. It would appear that, without being particularly informed, Senior Constable Difford determined where the vehicle should go out of concern about the police being held responsible for any damage occasioned to the vehicle on private property.
115. Ironically, the inaction by the police in relation to locating the driver or attempting to ascertain the driver's identity could indicate a lack of concern for him or it could indicate a concern about the police being held responsible for any harm occasioned to him as a result of evading the police.
116. On balance, it is my view that the coronial investigation has demonstrated that the inaction by police is due to a complete lack of concern for the welfare of the driver. The steps the police engaged in were inadequate due to the COPS Event E65685848 not having included any reference to a concern for welfare that might be followed up by police in Leading Senior Constable McBride's absence. There was no evidence about what Sergeant Taylor said in his handover to the next supervisor but it is apparent that there couldn't have been an expression of concern because there was no evidence of any inquiry being made about the driver. Some comfort should be taken that a COPS entry was made at all.
117. Sergeant Hassettt did not appreciate the significance of the disposal of the vehicle and though he saw both September COPS Events it did not enliven

his interest as it was not his task to investigate the incident. The way the vehicle was disposed of leaves much to be desired, especially the lack of electronic recording and the failure to marry up the disposal on the COPS entry. Again, the significance of this issue does not go to the cause and manner of Mr Wall's death, but rather is a piece of the puzzle as to why the police did not make the connection when he was reported as missing and the incidents in September 2017.

118. I accept that the police should not have entered the bushland to search for the driver when it was dark and treacherous, especially because they were unsure where he went. However, by the light of day, particularly when it was apparent that he had not emerged to collect his car, there should have been at least some consideration given to carrying out a search of the bushland and its terrain.
119. If it was determined that a search would not be mounted due to resources then in those circumstances there should have been at least some attempt to ascertain the identity of the driver in an attempt to check that they had emerged from the bush.
120. It would seem that, due to a change of shift and personnel, there was a lack of continuity and, by the time Leading Senior Constable McBride returned to work, there was no interest at all. The lack of action when Mr Wall's family reported to the same police station that he was a missing person compounded the situation.
121. There is no evidence that, had the police performed a search when the car was towed, they would have located Mr Wall and, if they had, whether he would have been alive but gravely injured. It is not possible to identify precisely when he died but it would appear that he had not moved from the location he landed after falling from the cliff. The identification of his injuries has been limited to skeletal injuries and they were of such significance that it is more likely than not that he died when or soon after he fell so that any search would have likely involved a recovery rather than a rescue.



122. I extend my condolences to Mr Wall's family and now enter my findings:

Findings

<b>Identity</b>	<b>Daniel Wall</b>
<b>Date of Death</b>	<b>25 September 2017</b>
<b>Place of Death</b>	<b>Bushland off Olivers Road Mt Elliot, North Gosford</b>
<b>Cause of death</b>	<b>Multiple injuries from fall from height</b>
<b>Manner of death</b>	<b>Misadventure - In an attempt to avoid being apprehended by police, Mr Wall drove his vehicle at speed whilst disqualified and under the influence of methamphetamine, he abandoned his vehicle and entered bushland prior to daylight. At some point whilst the police were looking for him or shortly thereafter he fell from a ridgeline cliff and fell 9.5 metres which caused him fatal injuries.</b>

I close the inquest.

Magistrate Truscott  
Deputy State Coroner  
21 November 2019