



## CORONERS COURT OF NEW SOUTH WALES

<b>Inquest:</b>	Inquest into the death of AJ (a pseudonym)
<b>Hearing dates:</b>	17-19 May 2021 at Newcastle Local Court
<b>Date of findings:</b>	30 July 2021
<b>Place of findings:</b>	Newcastle Local Court
<b>Findings of:</b>	Magistrate R G Stone, Deputy State Coroner
<b>Catchwords:</b>	CORONIAL LAW – manner of death – s23 mandatory inquest – death in the course of a police operation – suicide intervention – whether conduct of responding police adequate and appropriate – self-inflicted death
<b>File number:</b>	2019/00236119
<b>Representation:</b>	<b>Counsel Assisting the Coroner</b> Mr Joe Edwards instructed by Ms Clara Potocki, NSW Crown Solicitor's Office  <b>NSW Commissioner of Police</b> Mr Ray Hood instructed by Mr Stuart Robinson, Office of General Counsel (NSW Police Force)

<p><b>Findings:</b></p>	<p><b><i>Identity</i></b></p> <p>The person who died was AJ (a pseudonym).</p> <p><b><i>Date of Death</i></b></p> <p>AJ died on 29 July 2019.</p> <p><b><i>Place of death</i></b></p> <p>AJ died at the rocks below King Edward Park in Newcastle in the State of NSW.</p> <p><b><i>Cause of death</i></b></p> <p>The cause of AJ's death was multiple injuries consistent with a fall from a height.</p> <p><b><i>Manner of death</i></b></p> <p>AJ died as a consequence of actions taken by him with the intention of ending his life during the course of a police operation to try save his life.</p>
<p><b>Recommendation:</b></p>	<p><b>To the Commissioner of Police:</b></p> <p>That consideration be given to whether the police operation concerning AJ (with appropriate anonymisation and conditional upon consent being provided by AJ's family) could be used as a case study as part of future training packages provided by the NSW Police Force Negotiation Unit to police negotiators in respect of issues such as: (a) the importance of establishing clear communication with the subject in a negotiation; (b) the importance of relaying information from the negotiation cell to the team leader and/or forward command post, especially with respect to requests or demands made by the subject; and (c) the importance of early consideration by the team leader and/or the Police Forward Commander of requests or demands made by the subject and of appropriate documentation or recording of the results of that consideration.</p>

*Section 81(1) of the Coroners Act 2009 (NSW) (the Act) requires that when an inquest is held, the Coroner must record in writing his or her findings as to various aspects of the death. These are the findings of an inquest into the death of AJ (a pseudonym).*

### **Non-publication orders**

*I make an order under s 75(2)(b) of the Act prohibiting the publication of any material that seeks to identify the deceased AJ, his parents, his ex-partner or their son or any relative of AJ as that term is defined in s 75(3).*

*Further, pursuant to ss 65(4) and (5) of the Act, a notation is to be endorsed on the court's coronial file prohibiting a copy of the whole of the file or any part of the file to be supplied to any person other than these findings. The reasons for that include consideration of the deceased person's family and the significant impact the disclosure of the material would have on them; the need to protect the identity of NSWPF Negotiators who are referred to within the brief of evidence; and evidence of policing high risk situations and certain standard operating procedures of NSW Police that are contained within the brief and the need to keep safe that material in the public interest and for the proper and effective operation of police duties.*

*The Court also made specific non-publication and non-disclosure orders pursuant to the Court's implied or incidental powers. The orders relate to the surnames, addresses and contact number of NSWPF Negotiators; the radio channel used by the NSWPF Negotiation Unit; evidence relating to sensitive police methodology; the Negotiation Unit Standard Operating Procedures document; and information contained in the Negotiation Unit Standard Operating Procedures. The orders are available through the Court Registry.*

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## Introduction

1. AJ died on 29 July 2019, aged 36 years. He sent a SMS message to his father and posted on a social media account that he intended on ending his life. He was located by police positioned on a ledge below a cliff top near the Bogey Hole at Newcastle. Despite police efforts in communicating with him he moved from the ledge, fell, and landed on the rocks below. As his death occurred as part of a police operation, an inquest is required to be held pursuant to sections 23(1)(c) and 27(1)(b) of the *Coroners Act 2009* (NSW) (the Act). The purpose of this type of inquest is to fully examine the circumstances of the death in which police have been involved, in order that the public, the relatives and the relevant agency can become aware of those circumstances.<sup>1</sup>
2. Section 81(1) of the Act requires a Coroner to make findings as to:
  - the identity of the person who has died;
  - the date and place of the person's death; and
  - the manner and cause of the death.
3. In addition, under s 82 of the Act, the Coroner may make recommendations in relation to matters connected with the death, including matters that may improve public health and safety in the future.

## Background

4. On the morning of 29 July 2019, AJ made a decision to end his life. We do not know from the evidence whether that was a decision he had been contemplating for some time or whether it was a decision only made that morning. We will never know the answer to that issue. He communicated the decision to his father via a SMS message and also posted a message on his Instagram account. The content of the text message and the message on the social media account make it clear that AJ felt he could no longer carry on. The reasons for that are in part set out in the messages. There are other signs of his distress, anguish and depression that were part of the unfolding mental health crisis that AJ was sadly experiencing.
5. The evidence gathered (the text messages and other posts) appears to strongly support a conclusion that his death was self-inflicted. As such, the focus of the Inquest has been on the events that led to AJ taking his own life and, more particularly, the actions of police officers during the operation in which they attempted, ultimately unsuccessfully, to save his life. This required the asking of questions about how and why particular actions or decisions of police officers were undertaken or made.

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<sup>1</sup> Wallers Coronial Law and Practice in New South Wales at [23.7].

6. In these findings, I have referred to the police officers, currently or formerly attached to the Negotiation Unit of the NSW Police Force, by their first name.
7. To understand how the events of 29 July 2019 came to pass it is necessary to provide some background material. What is set out below comes from Counsel Assisting who, with the cooperation and agreement of AJ's parents and ex-partner, prepared an agreed summary of background facts which is set out below.

### ***Early life and adolescence (1982-2003)***

8. AJ was born on 8 September 1982 to parents G and T
9. In or about 1985, G and T separated and subsequently divorced. AJ lived with T for around a month and then went to live with G. In or about 1987, AJ went to live with T and her partner. AJ claimed that he had a volatile relationship with T's partner and that T's partner had been physically abusive.
10. There is information available that suggests that at some point during the early 1990s, AJ began smoking tobacco and using marijuana. AJ later told his doctor that he had been smoking tobacco since 1992 (from about the age of 9 or 10). He later told G that he had been using marijuana since the age of 9. AJ smoked tobacco for the rest of his life and, at least during certain periods, used marijuana.
11. In or about 1996, due to difficulties in his relationship with T's partner, AJ went to live with G and G's new wife C in North Lambton. By this time, G and C had a daughter together, A. C also had another daughter, D, from a previous relationship, who was no longer living in the family home.
12. G has stated that, at or about the time that AJ went to live with them, he was struggling at school, associating with a negative peer group and continuing to use marijuana. AJ's use of marijuana caused some conflict between him and C.
13. In or about 1999, when AJ was in year 11, he left high school and moved to Ballina with G, C and A. AJ worked with G as a labourer. In or about 2000, after a year or two in Ballina, the family returned to North Lambton.

### ***Period of relative stability (2003-2017)***

3. In or about 2003, AJ began a relationship with F. He soon moved out of G and C's house because of conflict between AJ and C about F staying over at G and C's home. AJ and F then lived with F's parents for a few years.
4. In the early period of his relationship with F, AJ worked at a number of bakeries. Then, in 2006, AJ took a job as a metal fabricator at Dywidag Systems International

(DSI) via a labour hire arrangement.

5. In or about June 2009, after several years of living in various rental properties in the Newcastle area, he and F bought a house in Maryland.
6. In or about 2012, AJ left his job at DSI and worked for a few months at Hedweld Engineering. This job did not last long, and he soon returned to work at DSI, again via a labour hire arrangement. Also, in or about 2012, AJ and F began trying to have children, but experienced difficulties conceiving. F had several miscarriages and AJ saw his doctor in relation to concerns about whether or not he had a medical issue that was a contributing factor. F has stated that this caused stress in the relationship between her and AJ.
7. In or about 2013, AJ and F got married.
8. In or about 2014, AJ lost his job at DSI and had difficulty finding a new job. For about the next 18 months, he had a series of casual jobs, including one processing chickens at Steggles. By this time, F was studying full-time at university and not in paid employment. F has stated that AJ's lack of stable work, coupled with her study commitments, meant that there was considerable financial pressure on them and that this too caused stress in the relationship. F has also stated that AJ was drinking a lot during this period.
9. On 2 March 2014, during the period in which AJ did not have stable work and F was studying, the couple had a son.
10. On 1 March 2016, AJ took a job at Tomago Aluminium (Tomago), initially via a labour hire arrangement and then, from 27 February 2017, directly. He worked mainly as a furnace operator and metal hauler driver.
11. AJ subsequently attributed wheeziness and breathing difficulties that he experienced to exposure to chemicals at Tomago. AJ's medical records do not indicate that he ever sought treatment for this issue (although he did seek treatment for his lifelong addiction to tobacco).

***Period of growing instability (2017-2018)***

12. In early 2017, AJ and F separated. F has stated that she and AJ separated because he had "a drinking problem", "regularly smoked marijuana", "spent all of his money on alcohol" and did not spend enough time with her or their son. F has also stated that she suspected that AJ suffered from an undiagnosed mental health condition, such as bipolar disorder, schizophrenia or depression.
13. After his separation from F, AJ went to live with [a] friend for about a month and a half and then went to live with his mother in Stockton. T has stated that, during this period, her son was "situationally depressed": "ashamed that he was living at home

with his mother”, “distressed about where his life was going” and “not happy at work”.

14. G has stated that from his observations AJ was probably suffering from depression and in hindsight that illness was in existence for the entire period after he separated from F, with the depression getting progressively worse over time.
15. In late 2017 and early 2018, AJ was absent from work for 7 consecutive rostered shifts without authorisation or explanation. On 12 January 2018, following a meeting on site at which AJ’s absences were discussed, Tomago sent him a letter containing a “Final Written Warning” in relation to unsatisfactory work performance. In the letter, Tomago advised that his performance and behaviour would be monitored and evaluated and that any further underperformance might result in disciplinary action (including termination). Tomago also advised AJ to seek assistance from the Employee Assistance Program.
16. On 30 June 2018, AJ saw Dr Lee Drury at the Elder Street Medical Centre in relation to suspected depression. AJ reported that he had been suffering from depression for the “past year, since separating from [his] wife”; that he was not drinking alcohol or taking drugs; and that “[I] don’t want to go to work, don’t want to see people”. He also reported that he had no “suicidal plans”. AJ was prescribed sertraline (Zoloft) 50mg daily and given a retrospective medical certificate for absences from work. Records obtained from the Pharmaceutical Benefits Scheme indicate that AJ never filled the sertraline (Zoloft) prescription.
17. On 23 October 2018, AJ saw Dr Lisa Wall at the Elder Street Medical Centre in relation to ongoing depression. He reported that he had “been going through separation / divorce”; that he was “feeling terrible, very down” and “quite depressed”; and that this had been going on “for 18 months”. AJ also reported that he was not suicidal. The Doctor advised him to see more of his son if possible; to take sertraline (Zoloft) 25mg daily (i.e., half a 50mg tablet); and to consider “getting out of the house”, “exercise” and counselling. AJ was again given a retrospective medical certificate for absences from work.
18. On 6 November 2018, Tomago sent AJ a “Letter of Concern” in relation to his fitness for work. In the letter, Tomago advised AJ that his continuing absences from work for medical reasons and his resulting use of personal leave were unacceptable, and that further underperformance might result in disciplinary action (including termination). Tomago also advised him to seek assistance from the onsite health services team or the Employee Assistance Program.
19. On 10 December 2018, AJ formally resigned from Tomago. AJ and Tomago entered into a separation agreement/deed of release in which Tomago agreed to provide certain financial and other benefits to him (including an ex gratia payment

of \$9,500 plus financial assistance of up to \$1,000 for outplacement support) in exchange for him releasing Tomago from any and all claims he might otherwise have had in respect of his employment (including the termination).

***Period leading up to AJ's death (late 2018 to July 2019)***

20. Various family members and friends of AJ have stated that, from late 2018 onwards, they noticed changes in his behaviour, including increased alcohol consumption; increased use of illicit drugs, including cocaine; and increased gambling. They have also stated that they noticed changes in AJ's mood, including increased negativity and threats of or allusions to suicide (which were made at least to G, F, F's mother and AJ's friend), as well as changes in his physical appearance. They have stated that they attributed these changes to AJ's loss of employment at Tomago and conflict with F over financial matters and child access arrangements.
21. In March 2019, AJ moved out of T's house. From the period after he moved out of T's house, he was without stable accommodation. AJ stayed with friends for short periods, but also often lived out of his car.
22. In April 2019, AJ visited T's house to collect some mail. This was the last time that T saw her son alive.
23. In June 2019, AJ spent about a month living in his car. During this period, AJ saw G every couple of days for meals and he occasionally came to G and C's house to shower and eat.
24. In early July (probably on 2 or 4 July 2019), AJ received \$50,000 from his property settlement with F.
25. On 4 July 2019, AJ went over to G and C's house to have a shower, wash his clothes and pay his car registration and some fines. G then dropped his son back at his car. This was the last time that G saw AJ alive.
26. Also on 4 July 2019, AJ checked into the Executive Inn, attached to the Wests New Lambton Leagues Club. He stayed at the Executive Inn until 29 July 2019 (the day of his death). Various members of AJ's family and friends have stated that, during this period, AJ's social media posts and text messages suggested that he was drinking and gambling heavily, and possibly using illicit drugs. Staff at the Executive Inn noticed that AJ would not sleep very often and would regularly attend the Leagues Club to drink and gamble.
27. During the period that AJ was staying at the Executive Inn, G tried to persuade AJ to repay him for past financial assistance, using money from the property settlement with F, but he refused to do so.

28. On 21 July 2019, AJ and G spoke to each other on the phone and G again raised the possibility of AJ repaying him for past financial assistance. He told G to leave him alone and give him some space. This was the last time that G spoke to his son.
29. On 27 July 2019, T messaged AJ: “No word from you. Where are you. I hope that everything is ok. Please let me know”. AJ messaged T back: “It doesn’t matter where I am” and “Today is my last day I have decided that this life just isn’t for me don’t bother messaging me I’m not going to be answering and soon I will not be able to”.
30. Shortly before AJ’s death, F told AJ that she had started a relationship with someone else.

### **Events of 29 July 2019**

31. I adopt the following chronology of events of 29 July 2019 that Counsel Assisting set out in his opening address to the Court.
32. At 10:49 am, AJ posted a video on Instagram depicting a cliff top with the beach in view. He also posted a message with the video. It is sufficient to say that the message was in the nature of a “suicide note” and was written by someone who was clearly in a state of considerable emotional distress. It included words such as “today is the day” and “I’ve decided that it’s time to go”.<sup>2</sup>
33. Also at 10:49 am, AJ sent a text message to G which read: “I’m sorry dad but it’s just what has to happen I’m over being lonely and not seeing [my son] and depression has just taken over me I love you and you have always helped me when no one else would. I’ve written something on Instagram please read it and you might understand. Love AJ.” G did not see the text message until about 2 hours after it was sent.<sup>3</sup>
34. Shortly after AJ sent the text message to G, he sent a further text message to F, which said: “My Instagram account name is [...] there’s something on there you should read I really did love you but you never loved me back Im not going to say anymore its way past that I just hope you enjoy your new life goodbye.” F had blocked AJ on Instagram, so could not access his Instagram account to look at the Instagram post.<sup>4</sup>
35. At about 12:42 pm, G saw AJ’s text message from earlier in the morning and immediately attempted to contact him. AJ would not answer phone calls, but he and G exchanged a long series of text messages in which G pleaded with his son

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<sup>2</sup> Transcript, 17/05/21, T7-8.

<sup>3</sup> Transcript, 17/05/21, T8.

<sup>4</sup> Transcript, 17/05/21, T8.

not to take his life. AJ expressed sorrow for doing something that would be hurtful, and gratitude to G for past assistance, but adamantly stated and restated that he could not be helped. The last text message in this chain was from AJ and said: “Just do that one thing for me be part of [my son’s] life and tell him I just couldn’t fight off the pain anymore”.<sup>5</sup>

36. In the period after this exchange of text messages, G went searching for AJ, including to the King Edward Park above the Bogey Hole, which G recognised from AJ’s Instagram post. G was there between about 1:20 pm and 1:30 pm but could not find AJ.<sup>6</sup>
37. It was shortly after this time, at 1:38 pm, that the police were first made aware of the situation. At this time, AJ’s friend contacted Newcastle Police to alert them that he had seen concerning Instagram posts from AJ. Police created a Computer Aided Dispatch (CAD) message reference, which was broadcasted via police radio (VKG) to police in the Newcastle area.<sup>7</sup>
38. Between about 2:12 pm and 2:36 pm, police conducted an initial search of the area around Bogey Hole, from both sea and land, but, like G, could not find AJ. Police on the ground requested that police at the Newcastle Police Station conduct further inquiries/investigations and update the CAD message with details about the registration of AJ’s vehicle.<sup>8</sup>
39. The question of where AJ was during the period between about 1:20 pm to 2:45 pm, while G and police were conducting their searches, is not one that the Inquest was likely to be able to answer. The fact that police searched the area around the Bogey Hole from both sea and land suggests that he was not at that time positioned on the cliff ledge that he was subsequently found on, although he may well have been somewhere in the general vicinity of King Edward Park.<sup>9</sup>
40. After the initial police search, between about 2:45 pm and 3:30 pm, police at Newcastle Police Station conducted various investigative steps designed to obtain further information about AJ, including: (a) conducting a search of police databases in relation to him (which revealed no major issues); (b) telephoning one of AJ’s friends; (c) telephoning another of one of AJ’s friends; (c) telephoning G; and (d) telephoning the mobile telephone of AJ (whose phone was switched off).<sup>10</sup>

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<sup>5</sup> Transcript, 17/05/21, T8.

<sup>6</sup> Transcript, 17/05/21, T8.

<sup>7</sup> Transcript, 17/05/21, T8.

<sup>8</sup> Transcript, 17/05/21, T8.

<sup>9</sup> Transcript, 17/05/21, T8.

<sup>10</sup> Transcript, 17/05/21, T9.

41. From 3:39 pm onwards, G and AJ exchanged a series of text messages in which G tried to persuade his son to reveal his location. AJ was unyielding: his text messages to G read “Goodbye dad I love you” and “Like I said I’m done”.<sup>11</sup>
42. G immediately contacted police and advised them that his son’s phone was back on. Police began efforts to initiate a triangulation on AJ’s phone.<sup>12</sup>
43. In the ensuing few minutes, AJ used his phone to post three messages to Facebook.
- The first, posted at 3:46pm, said simply “420” (or perhaps “four twenty”).
  - The second, posted at 4:02pm, said “It’s almost time so my phone is in my car so no need for anymore call to little to late”.
  - The third and final message, posted at 4:08pm, was a picture of a cliff face with the sea in view.<sup>13</sup>
44. At about 4:20 pm, AJ’s sister, A, contacted police and alerted them to the three messages that had been posted to Facebook, including the picture of the cliff face. Police inspected the pictures on Facebook and recognised the site as being in the vicinity of the Bogey Hole. Within minutes, police were dispatched to Bogey Hole via updates to the CAD message. A COPS event report was also created.<sup>14</sup>
45. Police arrived at the scene very quickly, at about 4:30 pm, and began searching for AJ, both on the cliff top and at the base of the cliff near the Bogey Hole. The officers at the base of the cliff spotted him sitting on a cliff ledge about 4-6 metres below the top of the cliff near the Shepherd’s Hill complex, which forms part of King Edward Park. They noticed that he was “waving his arms around and seemed very agitated” and was “pacing back and forward” on the ledge. They retreated out of sight so as not to inflame the situation.<sup>15</sup>
46. While this was going on, Acting Inspector Lisa Jones (A/Inspector Jones) arrived at the Bogey Hole carpark. During the course of the ensuing police operation, A/Inspector Jones assumed the position of forward commander; that is, she was the person who had overall command responsibility at the scene of the operation.<sup>16</sup>
47. A/Inspector Jones spoke briefly to G and A to obtain information about AJ. She then, at 4:49 pm, utilised the police radio network to request any police negotiators on air to contact her via phone. In the following few minutes, she spoke to two negotiators, Detective Senior Constable Simon (DSC Simon) and Senior Constable Katrina (SC Katrina), who advised that they would attend the scene.

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<sup>11</sup> Transcript, 17/05/21, T9.

<sup>12</sup> Transcript, 17/05/21, T9.

<sup>13</sup> Transcript, 17/05/21, T9.

<sup>14</sup> Transcript, 17/05/21, T9.

<sup>15</sup> Transcript, 17/05/21, T9.

<sup>16</sup> Transcript, 17/05/21, T9.

She was also advised that two further negotiators, Sergeant Daniel (Sgt Daniel) and Senior Constable Michael (SC Michael), would also attend.<sup>17</sup>

48. In addition to being supported by specialist negotiators, the police operation was supported by specialist Police Rescue Operators. The Police Rescue Operators were Sergeant John King (Sgt King), Leading Senior Constable Ian Johnston (LSC Johnston), Senior Constable Stephen Maloney (SC Maloney) and Senior Constable Mark Gallucci (SC Gallucci).<sup>18</sup>
49. The first negotiator to arrive at the scene was DSC Simon, who arrived at approximately 4:51pm. Shortly thereafter, at about 5:02pm, the first two Police Rescue operators, Sgt King and LSC Johnston, arrived. These three officers all arrived in the vicinity of the Shepherd's Hill complex, and were guided to the cliffs above AJ's position by the police officers who remained at the base of the cliffs. They located AJ at about 5:10pm.<sup>19</sup>
50. AJ was not on the cliff top itself, but on a cliff ledge about 4-6 metres below. The ledge consisted of a loose gravel surface and salt bush vegetation. The precise drop from the cliff ledge to sea level is not clear, with estimates in the evidence gathered by the Inquest varying from between 35 to 100 metres.<sup>20</sup> However, it is clear that, on any view, the drop was significant and that AJ was in a dangerous location. This in turn meant that the operating environment for the responding police officers may also fairly be described as a dangerous one.<sup>21</sup>
51. Upon locating AJ, DSC Simon called Senior Sergeant Ross (S/Sgt Ross), who was the Coordinator on the evening of the police operation. DSC Simon asked S/Sgt Ross whether he should attempt to engage AJ and S/Sgt Ross agreed, although he also instructed DSC Simon to hand over to SC Katrina upon her arrival (as SC Katrina was a fully accredited negotiator, whereas DSC Simon was still a trainee negotiator).<sup>22</sup>
52. From about 5:11pm, DSC Simon approached the cliff top and attempted to engage AJ. A number of things were more or less immediately apparent. First, AJ was quite unresponsive to DSC Simon's attempts at engagement. Second, to the extent that AJ responded, DSC Simon had difficulty hearing him because of the ambient noise of the wind and waves. Third, one thing that AJ made clear right away, and which DSC Simon heard despite the noise, is that he wanted a "cigarette and a lighter".<sup>23</sup>
53. At approximately 5:20pm, DSC Simon withdrew from the cliff top, after AJ's friend, who had arrived at the scene, called out to him. DSC Simon had a short

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<sup>17</sup> Transcript, 17/05/21, T9.

<sup>18</sup> Transcript, 17/05/21, T10.

<sup>19</sup> Transcript, 17/05/21, T10.

<sup>20</sup> Exhibit 1, Brief of Evidence, Tab 18 at p. 351.

<sup>21</sup> Transcript, 17/05/21, T10.

<sup>22</sup> Transcript, 17/05/21, T10-11.

<sup>23</sup> Transcript, 17/05/21, T11.

conversation with AJ's friend to gather information about AJ. DSC Simon then returned to the cliff top and attempted to engage with AJ.<sup>24</sup>

54. This period of engagement between DSC Simon and AJ lasted from about 5:20pm to 6:05pm. During this period, where DSC Simon was the only negotiator at the cliff top, AJ was quite unresponsive. DSC Simon had difficulty hearing what AJ was saying, and AJ indicated that he wanted to have a cigarette and would not engage until he had one.<sup>25</sup>
55. During this period of interaction between DSC Simon and AJ, several other movements transpired between police. These included the following:
- a. First, at about 5:25pm, A/Inspector Jones moved the police command post, which she had initially established at the Bogey Hole carpark, to a spot near the Shepherd's Hill complex, much closer to where DSC Simon was attempting to engage AJ.
  - b. Second, the other negotiators arrived at the scene. SC Katrina appears to have arrived first, at about 5:25pm, followed by Sgt Daniel and SC Michael, somewhere around 5:45pm. SC Katrina spent some time speaking to AJ's friend to obtain information about AJ.
  - c. Third, during the same period, the Police Rescue operators put in place measures to ensure the safety of police officers working at or near the cliff top (esp. the negotiators) and also developed a rescue plan for AJ.<sup>26</sup>
56. At about 6:00pm, SC Katrina approached the cliff top. After a short handover briefing from DSC Simon, SC Katrina then engaged AJ, while DSC Simon commenced a log.<sup>27</sup>
57. The log kept by DSC Simon, a copy of which has been obtained by the Inquest and is included in the brief of evidence<sup>28</sup>, indicates that the first thing that SC Katrina said, at 6:10pm, was words to the following effect: "come up not safe to get cigarette ... we can get [you] up safe and [you] can have cigarette here". The log also reveals that AJ was, again, generally unresponsive. He is recorded as having said only two things:
- a. First, "Don't want to talk to anybody. I can't hear you anyway". This comment suggests that the communication difficulties being experienced by the negotiators were two-way difficulties; that is, they could not hear AJ and he could not hear them.

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<sup>24</sup> Transcript, 17/05/21, T11.

<sup>25</sup> Transcript, 17/05/21, T11.

<sup>26</sup> Transcript, 17/05/21, T11.

<sup>27</sup> Transcript, 17/05/21, T11-12.

<sup>28</sup> Exhibit 1, Brief of Evidence, Tab 14.

- b. The second thing AJ is recorded as having said is “Can not hear you at all. Got cigarette for me?” Again, this comment speaks to both the difficulty in communication and AJ’s persistence in requesting a cigarette.<sup>29</sup>
58. Unfortunately, the log ends shortly after 6:33pm. The reason for this is that, after that time, DSC Simon withdrew from the cliff edge to assist SC Michael in the preparation and testing of a device.<sup>30</sup>
59. The preparation and testing of the device took place in the period between about 6:35pm and 7:00pm. The evidence gathered by the Inquest suggests that SC Katrina informed AJ about the plan to use the device; he gave a thumbs up and also requested that a cigarette be brought down with the device.<sup>31</sup>
60. At about 7:00pm, SC Katrina requested to withdraw from the cliff top to use the toilet. The precise reason why SC Katrina needed a break is the subject of some conflicting evidence. In the interview that SC Katrina gave after AJ’s death, she indicated that she “wasn’t feeling very well” and indeed was “a little dizzy”. However, the evidence given by other officers suggests simply that SC Katrina needed to use the toilet in the ordinary way.<sup>32</sup>
61. Whatever the precise reason for SC Katrina’s request for a withdrawal, permission was granted, subject to her informing AJ that she was taking a short break and would be back soon. SC Katrina then withdrew from the cliff. The evidence gathered by the Inquest suggests that the following things then happened, in quick succession, in the few minutes after SC Katrina’s withdrawal:
- a. First, A/Inspector Jones, the Police Forward Commander, handed command over to Sgt Daniel, and then walked SC Katrina across the road to use the bathroom facilities at the house of a member of the public.
  - b. Second, Sgt Daniel tasked SC Michael to go down the hill to the Bogey Hole carpark to speak to AJ’s family; to update them and obtain further information about AJ.
  - c. Third, Sgt Daniel instructed DSC Simon, who remained at the cliff top, not to engage AJ but simply to observe him and report back if the situation at the cliff top changed.<sup>33</sup>
62. According to DSC Simon, he initially observed AJ to be sitting down on the cliff ledge, apparently in a calm state. However, just after 7:10pm, he observed AJ stand up, clap his hands together and say something out towards the ocean. DSC Simon attempted to contact Sgt Daniel on police radio, but could not reach him. He therefore looked away for about 15 seconds while he tried to gain the

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<sup>29</sup> Transcript, 17/05/21, T12.

<sup>30</sup> Transcript, 17/05/21, T12.

<sup>31</sup> Transcript, 17/05/21, T12.

<sup>32</sup> Transcript, 17/05/21, T12.

<sup>33</sup> Transcript, 17/05/21, T12-13.

attention of his colleagues at the command post. When he looked back, AJ was no longer on the cliff ledge.<sup>34</sup>

63. Within a few minutes, at 7:34pm, a Level 2 Critical Incident was declared by Assistant Commissioner Max Mitchell. A critical incident is an incident involving a member of the NSWPF which has resulted in the death of or serious injury to a person, including an incident arising from a police operation. The declaration of a Critical Incident meant that the NSWPF Critical Incident Guidelines came into effect. Detective Chief Inspector Greg Thomas was appointed to conduct an investigation into the incident.<sup>35</sup>

## **The Issues for the Inquest**

64. Prior to the Inquest commencing, a list of issues was prepared and circulated to the interested parties, these included: –

1. The circumstances which led AJ to go to the cliffs above the Bogey Hole on 29 July 2019.
2. Whether the actions engaged in by police officers during the police operation conducted on 29 July 2019 were:
  - a. consistent with applicable policies and procedures; and
  - b. otherwise adequate and appropriate in all the circumstances.
3. Without limiting Issue 2, the following actions engaged in by police officers are expected to be among the actions that are considered:
  - a. the decision not to provide AJ with a cigarette during the police operation;
  - b. the efforts made by police officers to establish clear communication with AJ during the police operation;
  - c. the decision to permit the negotiator to withdraw from the cliffs above the Bogey Hole at about 19:10 on 29 July 2019 and the movements of other police officers, consequent upon or related to that withdrawal; and
  - d. the decision not to separate the police negotiators from one another after AJ's death.
4. Whether, pursuant to s 82 of the *Coroners Act 2009*, any recommendations should be made with respect to the conduct of similar police operations in the future, so as to contribute to improvements in public health and safety.

65. I will return to address these issues after I record my analysis and summary of the oral evidence given by witnesses at the Inquest which is set out below.

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<sup>34</sup> Transcript, 17/05/21, T13.

<sup>35</sup> Transcript, 17/05/21, T13.

## The Witnesses

66. The following witnesses attended the Inquest to give evidence:

- a. Detective Chief Inspector Greg Thomas, the officer in charge of the critical incident investigation;
- b. Sgt Daniel, DSC Simon and SC Michael, three of the four negotiators involved in the police operation;
- c. SC Gallucci, who was one of the Police Rescue Operators; and
- d. A/Inspector Jones, who was the Police Forward Commander during the police operation.

67. Their evidence is summarised below.

### ***Detective Chief Inspector Gregory Jones William Thomas***

68. Detective Chief Inspector Thomas is now an Acting Superintendent for the Northern region based in Newcastle. On the evening of 29 July 2019 at about 7.34 pm a critical Incident was declared, and he was appointed the senior investigator. He provided three statements to the Inquest and they form part of the brief of evidence.<sup>36</sup>

69. A/Superintendent Thomas was asked questions by Counsel Assisting about a COPS event report that was prepared by Senior Constable Chambers.<sup>37</sup> A/Superintendent Thomas gave evidence that during the investigation he caused enquiries to be made by an officer on the Critical Incident Team in efforts to ascertain AJ's movements in the last month of his life, with staff at West Executive Inn at New Lambton, where AJ was staying. The staff relayed that some staff who met AJ told him that he could on days appear erratic and appeared to be drug and/or alcohol affected. One of the staff said that police had been contacted about a concern for his welfare however from A/Superintendent Thomas' investigations, there are no formal records of any contact or report with police on the police computer system. From his investigations, AJ resided at the Inn from 4 July 2019 to 29 July 2019. There is no evidence to suggest he formed any great friendship with others at the Inn. Sadly, his isolation while surrounded by others is consistent with his behaviour before he stayed at the Inn. The inference I draw is that it likely did not help him, and possibly contributed to his mental health decline.<sup>38</sup>

70. A/Superintendent Thomas explained that after the tragic event occurred each of the police officers were interviewed with each interview being sound recorded. The transcripts from those oral recordings were provided to the Inquest and are

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<sup>36</sup> Transcript, 17/05/21, T16-1; Exhibit 1, Brief of Evidence, Tabs 6 & 7; Exhibit 4.

<sup>37</sup> Exhibit 1, Brief of Evidence, Tab 43 at p.503.

<sup>38</sup> Transcript, 17/05/21, T17-18.

included in the brief of evidence.<sup>39</sup> A/Superintendent Thomas said that he spoke with SC Katrina on the night of 29 July 2021 at the police station. She appeared to be in an emotional state over what had occurred as were other officers who were directly involved. She was composed but still quite upset. Even after the interview, some two days later, she was still showing that it had an emotional impact on her. At one point in the interview she did breakdown and the interview was paused.<sup>40</sup>

71. From his investigation, the information that A/Superintendent Thomas obtained about why SC Katrina withdrew was her need to go to the bathroom to relieve herself. There was no evidence to suggest that she had suffered any form of breakdown while negotiating with AJ and there were no other suspicious circumstances in relation to her withdrawing on the night.<sup>41</sup>

72. A/Superintendent Thomas was taken to the Critical Incident Guidelines which states that you are to:

“keep any officer you believe to be a “directly involved officer” including officers from external agencies, and other witnesses separated and ensure the evidence of these people is not cross contaminated. It is important that directly involved officers are informed of the reasons for their separation. Ensure officers have sufficient welfare support. Separate, not isolate.”<sup>42</sup>

73. A/Superintendent Thomas did not agree that separated means the directly involved officers were to be kept apart from each other.<sup>43</sup> He claimed that historically in cases where there was isolation it caused police officers significant harm to their welfare.<sup>44</sup>

74. A/Superintendent Thomas gave evidence that in this matter two of the negotiators returned to the Newcastle Police Station in a van with no one else present in the van. The other negotiator returned in his own motor vehicle and others from police rescue also returned to the station without being separated. The distance by motor vehicle from the scene of the incident on the head land above the Bogey Hole back to the police station would have only been a couple of minutes travelling time. The two officers that had gone back together were Sgt Daniel and SC Katrina. A/Superintendent Thomas said there was no evidence of any collusion or contamination of their evidence. Back at the police station they all sat in the breakout room where there was, as it happened, a Detective working in or around that area. It was not his role to be an oversight officer and was just there working.<sup>45</sup>

75. A/Superintendent Thomas said that there was a technical breach of the Critical

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<sup>39</sup> Exhibit 1.

<sup>40</sup> Transcript, 17/05/21, T20.

<sup>41</sup> Transcript, 17/05/21, T20-21.

<sup>42</sup> Exhibit 1, Brief of Evidence, Tab 58 at p. 647.

<sup>43</sup> Transcript, 17/05/21, T21.

<sup>44</sup> Transcript, 17/05/21, T21-22.

<sup>45</sup> Transcript, 17/05/21, T23-25.

Incident Guidelines in regard to SC Katrina travelling back to the police station with Sgt Daniel and no breach for all officers sitting in the one break out room. The directly involved officers that had been at the scene did not speak to each other about what had occurred. He considered that on that basis they could be in the one area.<sup>46</sup>

76. A/Superintendent Thomas explained that other officers did arrive who offered support. There may have been a short period where no other independent officer was present, however it was for a very short period. Overall, A/Superintendent Thomas considered there was compliance with the Critical Incident Guidelines.<sup>47</sup>

77. A/Superintendent Thomas said there was no evidence of any cross contamination of evidence or collusion of any of the officers concerned. In his opinion, there was some tension between the Critical Incident Guidelines and officers who needed support and were not isolated. Sgt Daniel accompanied SC Katrina on the return from the headland because she was upset, needed some support and the welfare of officers was a priority.<sup>48</sup>

78. A/Superintendent Thomas gave evidence that A/Inspector Jones was managing the overall event at the forward command post. She would not have been a specialist in either rescue or negotiating. In A/Superintendent Thomas' opinion she did not fall within the terms of being an "involved officer" as she managed" the incident and was provided with advice.<sup>49</sup>

79. The Critical Incident Guidelines describes a "directly involved officer" in the following terms:

" A directly involved officer is any officer, regardless of rank or grade, who by their words, actions or decisions, in the opinion of the SCII, contributed to the incident under investigation. An officer who is present, and does not involve themselves in activities which have contributed to the incident occurring is not a directly involved officer. A person's mere presence at the scene is insufficient."<sup>50</sup>

80. A/Superintendent Thomas gave evidence that A/Inspector Jones was the only other female at the command post and that there was no public toilet located near the command post.<sup>51</sup>

### ***Detective Senior Constable Simon***

81. DSC Simon's record of interview is located at Tab 10 of the brief of evidence and

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<sup>46</sup> Transcript, 17/05/21, T23.

<sup>47</sup> Transcript, 17/05/21, T23-26.

<sup>48</sup> Transcript, 17/05/21, T23-26.

<sup>49</sup> Transcript, 17/05/21, T26-27.

<sup>50</sup> Exhibit 1, Brief of Evidence, Tab 58 at , p. 638.

<sup>51</sup> Transcript, 17/05/21, T29.

was conducted on 1 August 2019.<sup>52</sup> He remains a current serving New South Wales police officer attached to Newcastle Detectives. He has been a policeman for 19 years. As at July 2019 he was not fully accredited as a negotiator and was in phase 4 of a 5-phase training course. He was regarded as a trainee although he had as at July 2019 attended some 10 high risk events of which approximately five or six would have related to suicide interventions. He is now a negotiator and has probably been to some 24 incidents of which half of that number have involved suicide interventions.<sup>53</sup>

82. He confirmed that he first heard of a request for negotiators over police radio at about 4:30 pm on 29 July 2019. He then had telephone calls with Sgt Andrew, Sgt Daniel and A/Inspector Jones. At that time he was almost at the end of a shift and had been working for nearly 10 hours. He considered he was still capable to perform duties. He arrived at the Bogey Hole at around 4.51 pm.<sup>54</sup>

83. DSC Simon was taken to a series of photographs<sup>55</sup> that provided an overview of the scene. He marked on those photos when he first arrived (he marked "A" for arrival on photo 1) and marked with arrows and highlighted a path that he took from the car park up to an area where he could be closer to AJ from the top of the cliff. He was only aware of the command post at the top of the headland on Shepherds Hill and not aware that it had first been set up in the car park and then subsequently moved. He has placed a marked "C P" as to where the command post was located. He was not aware of AJ's family being there. He accepted that from photograph number 2 that the black star as marked was an accurate representation of where negotiators were placed in. The blue larger star was accurate as to the location of the command post. The red star located on the diagram was also accurate as to where AJ was standing (as much as he could tell from the position that the photograph was taken). Photograph number 5 he accepted was a fair representation of the position of where he was and that of AJ. The photograph taken looking down on AJ was taken by him. He estimated the distance between the Command Post and the location of negotiators at the cliff edge at about 20 to 30 meters.<sup>56</sup>

84. DSC Simon gave evidence that when he first sighted AJ, he was standing, had a hood over his head and his arms folded. Specifically, he remembered that he was not wanting or prepared to talk or engage with him. He can recall him waving his arms, but it appeared to be more focused down or towards the bottom of the cliff perhaps at offices that were down at that position. His estimate of the height from where AJ was standing to the bottom of the cliff was about 70 metres. He had difficulty hearing what AJ was saying because of the sound of waves breaking on the rocks below, wind blowing and that he was talking directly out to the towards

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<sup>52</sup> Exhibit 1.

<sup>53</sup> Transcript, 17/05/21, T32-33.

<sup>54</sup> Transcript, 17/05/21, T34.

<sup>55</sup> The series of photographs became Exhibit 9.

<sup>56</sup> Transcript, 17/05/21, T35-8.

the ocean rather than looking up and towards himself.<sup>57</sup>

85. DSC Simon sought approval from S/Sgt Ross to engage with AJ. He did so because he was only in training and knew that someone else was arriving who would be more senior and experienced (SC Katrina). He asked AJ a number of questions including why he was there, and what he was doing there. He said the only thing he asked for was a cigarette. He accepted that while it presented an opportunity to advance cooperation, it also could be a sign that he was wanting it to be the last thing that he did.<sup>58</sup>

86. DSC Simon gave evidence that he did not transmit to anyone over the police radio or phone the request for a cigarette. He was concerned for his safety and was wanting to build rapport with him.<sup>59</sup> He said that AJ was not speaking much. He was told by AJ to look up his Instagram account which he did look up and he requested a cigarette again. He said words such as “I’m not talking to you until I get a cigarette”.<sup>60</sup>

87. DSC Simon was asked questions in relation to the roles of the negotiators and agreed that it was important that whoever the negotiator was that was speaking with a subject, they had to be able to hear each other and communicate.<sup>61</sup>

88. DSC Simon realised that the issue of communication with AJ was a significant problem, yet at the time he didn’t relay the issue to the team leader. He explained that AJ wasn’t speaking much, although difficult to hear AJ, he thought most of the time AJ could hear him but chose not to respond. He was asked whether or not he relayed the difficulty of hearing AJ to another officer, his answer:

“I don’t recall. There wasn’t much – I wasn’t getting much out of him. I was, I mean I was talking down to him and it was only on the odd occasion where he would say something. When he looked up I could hear him, but when he was – looked out, I couldn’t”.<sup>62</sup>

He thought he would be able to establish reasonable communication with AJ so long as he looked up and faced him.<sup>63</sup>

89. At about this time, DSC Simon explained that he had a conversation with AJ’s friend. He believed that he was away from the cliff face for at least five minutes and returned to the cliff edge at about 5:20 pm and remained there till about 6:00 pm. In this second period there again, AJ requested a cigarette. DSC Simon said to AJ that he could have a cigarette if he came up from the cliff but would not be able to

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<sup>57</sup> Transcript, 17/05/21, T38.

<sup>58</sup> Transcript, 17/05/21, T39-44.

<sup>59</sup> Transcript, 17/05/21, T44.

<sup>60</sup> Transcript, 17/05/21, T46.

<sup>61</sup> Transcript, 17/05/21, T41-45.

<sup>62</sup> Transcript, 17/05/21, T45.

<sup>63</sup> Transcript, 17/05/21, T45.

get a cigarette down to him. He believed there was a safety issue in lowering a cigarette to him in any event in view of the narrow shelf/ledge that he was standing on. Again, he has no recollection of relaying this second request for a cigarette to any other officer.<sup>64</sup> He estimated the distance from the cliff edge to where AJ was standing was about five or six metres. He gave evidence that the difficulty in communication, be it from either being unable to hear AJ or AJ refusing to talk, was not transmitted back to the forward command post at that time.<sup>65</sup>

90. DSC Simon's recollection was that SC Katrina arrived shortly after 6:00 pm. When she first arrived, she spoke to him and he showed her the Instagram message enforcing the point that AJ had a son and that he was not getting a lot of feedback from any conversation that he had with him. He recalls relaying to her that AJ had wanted a cigarette. He did not relay to her that he was having difficulty hearing AJ when he was communicating with him. DSC Simon said that he had not worked with SC Katrina before in a negotiators team.<sup>66</sup>

91. DSC Simon's observation of SC Katrina was that she looked well. She did not appear nervous, tired, or unwell from his observation.<sup>67</sup>

92. DSC Simon gave evidence that after he provided a briefing to SC Katrina she took over and he commenced to take notes at about 6:15 pm. From the log<sup>68</sup> that DSC Simon authored it was noted that AJ only responded to SC Katrina on two occasions. There is one entry that indicates AJ saying, "I can't hear you anyway". Once SC Katrina attempted to communicate with AJ, she realised there was a problem with communication and that was relayed back to the team leader. DSC Simon believed there was a regular update being provided to the command post with matters at about five minute intervals. He received prompting for updates from SC Michael who also had direct contact with AJ. It was noted that a message was sent that AJ had requested a cigarette, but he now cannot remember relaying that back to the command post.<sup>69</sup>

93. DSC Simon gave evidence that a decision was then made to prepare a device to assist with their communication with AJ. DSC Simon said that the preparation of this device occurred near a white fence that was located up on top of the head land near where or in line with where AJ was standing. He said normally it takes somewhere between five to ten minutes to prepare the equipment for the device. He said that he remained on the cliff side of the white fence and thought he was away from the cliff edge for about 10 minutes.<sup>70</sup>

94. While he did not believe that the preparation of the device was delayed, he recalled

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<sup>64</sup> Transcript, 17/05/21, T47.

<sup>65</sup> Transcript, 17/05/21, T47.

<sup>66</sup> Transcript, 17/05/21, T47-48.

<sup>67</sup> Transcript, 17/05/21, 48-49.

<sup>68</sup> Exhibit 1, Brief of Evidence, Tab 14.

<sup>69</sup> Transcript, 17/05/21, T49-51.

<sup>70</sup> Transcript, 17/05/21, T51.

there being some issue that had to be rectified. It was at about this time, once the device was ready to be utilised, that SC Katrina told him that she had to go to the toilet. DSC Simon said that she had told him while she was still lying on the ground and then stood up and moved away from the cliff edge. DSC Simon said that he relayed this information to the command post. This was done standing up slightly back from the cliff edge and that he remembered her saying words to the effect "I'm busting to go to the toilet". He does not recall her indicating that she was feeling sick or not feeling well and does not recall her saying words to the effect "I'm not feeling great". DSC Simon recalls that AJ was told by SC Katrina before she got up that she was leaving for a short time and the device would be coming down to him. AJ again asked for a cigarette. This was again relayed to the command post by DSC Simon.<sup>71</sup>

95. SC Katrina then withdrew from the cliff edge. From DSC Simon's observations she didn't appear ill or dizzy and she didn't complain of being dizzy or feeling ill. DSC Simon took over observing AJ and noted that after SC Katrina left, that AJ stepped back from the ledge that he was standing on and squatted down. DSC Simon asked Sgt Daniel what he wanted him to do while SC Katrina was away, and he was told to just make observations and to let the command post know if there were any changes.<sup>72</sup>

96. DSC Simon volunteered that when AJ sat down, he thought that was a positive step but then within a couple of minutes he stood up, clapped his hands, and yelled out some words in the direction of the ocean. DSC Simon tried to speak to Sgt Daniel on the radio and then tried to yell out to him and his concentration was directed back towards the command post at that time when he heard a bump. He believed he had only turned his head and taken his eyes off AJ for no more than about 15 seconds. He turned back around towards where AJ had been standing and he was gone. DSC Simon was not aware of the reason why the radio didn't work at that time.<sup>73</sup>

97. It was suggested to DSC Simon by Counsel Assisting that a loudspeaker or loud hailer could have been attempted. In DSC Simon's opinion, it would not have been effective as it was only projecting one voice and not assist with the projection of AJ's voice back to them. In his opinion, he did not think it was an advantage and he also did not consider a mobile telephone to be appropriate to use. He knew AJ's phone was not on him. Further, DSC Simon explained that lowering a mobile phone was problematic in view of the narrowness of the ledge where AJ was standing, and they were worried about him losing his footing by twisting and turning to grab any rope that might be let down to him.<sup>74</sup> He indicated that little was relayed to the command post because there was no progress in communicating with AJ. He didn't believe that he needed to communicate a lack of communication back to the

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<sup>71</sup> Transcript, 17/05/21, T51-55.

<sup>72</sup> Transcript, 17/05/21, T56.

<sup>73</sup> Transcript, 17/05/21, T57-58.

<sup>74</sup> Transcript, 17/05/21, T57-66.

command post either.<sup>75</sup>

98. The issue of using family members to assist as negotiators was also raised by Counsel Assisting. Again, in DSC Simon's opinion it is problematic. He said sometimes it can generate as much risk because it might be a family member that aggravates them, sufficient enough to make matters worse.<sup>76</sup>

99. DSC Simon knew that the matter would be declared a critical incident and that the Critical Incident Guidelines would be applied. He understood that he was directly involved and that he was not to talk about the incident to anyone. That message was also relayed by Sgt Daniel not to talk to anyone and from his observations he does not believe anybody did talk. He travelled back to the Newcastle Police Station by himself. As soon as he got back, he went to a breakout area, sat down, and started to write out notes about what had happened away from the others.<sup>77</sup>

### ***Senior Constable Michael***

100. SC Michael remains a current serving police officer at Waratah Police Station as the youth liaison officer. His experience extends to a period of some 12 years mostly in general duties. As at July 2019, he was also undertaking the negotiators course and was in a similar position to DSC Simon in that he was in phase 4 of 5 phases and he believed he had undertaken about 14 high risk incidents of which about half involved a suicide attempt. Since this tragedy he believes he is now been to a further 20 situations where again about half would be attempts at suicide.<sup>78</sup>

101. SC Michael gave evidence that he received a telephone call from Sgt Daniel at about 5:00 pm asking if he was available to go to the Bogey Hole. Because of the location, he had assumed it would be in connection to a suicide intervention. He arrived at about 5:30-5:40 pm. He confirmed from the photographs that were shown to him<sup>79</sup> the accuracy of the position of the command post and where particular people were positioned in the photographs.<sup>80</sup>

102. SC Michael gave evidence that as part of his duties, he was asked to move the negotiators van close to where the command post was located. At no time did he proceed past the white fence on top of the cliff, so he did not actually see AJ at any time. His estimate of the distance between the command post to the point where the negotiators were talking to AJ was about 35 to 50 metres. He was able to see the negotiators even when they were lying down with their heads over the cliff edge talking to AJ although he was able to see them better when they stood up.<sup>81</sup>

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<sup>75</sup> Transcript, 17/05/21, T58-66.

<sup>76</sup> Transcript, 17/05/21, T60.

<sup>77</sup> Transcript, 17/05/21, T61-63.

<sup>78</sup> Transcript, 17/05/21, T72-73

<sup>79</sup> which became Exhibit 11.

<sup>80</sup> Transcript, 17/05/21, T74.

<sup>81</sup> Transcript, 17/05/21, T77-78.

103. SC Michael recalls that when he first arrived, it was getting closer to dusk. There was a bit of wind on the cliff face, and he couldn't remember any rain falling. After moving the negotiators van, he had a brief conversation with SC Katrina, and from his observation she looked fit and well. She was writing notes from a conversation she had with a friend of AJ. He started copying those notes to show Sgt Daniel but stopped as Sgt Daniel then arrived. He saw SC Katrina speak to Sgt Daniel, but he was also doing other things at the same time and was not concentrating on their conversation. In his opinion, from his observation, SC Katrina looked fit and well. He had been to one other incident with her, but they were not required at the incident.<sup>82</sup>
104. He remembered a request coming from DSC Simon about a cigarette but did not recall any other information at the initial time he arrived about AJ requesting a cigarette. His initial task was getting radios ready and ensuring that each one was on the same frequency setting. He also set up the generator to run power. That took about 15 minutes. SC Michael said that he helped SC Katrina over the fence who then walked towards the cliff edge. He also handed her a radio.<sup>83</sup>
105. SC Michael also acknowledged that there must have been a discussion about a communication issue before she went over the fence towards the cliff edge. He did not, from his answers, appear to directly remember the timing of when the device to assist with communication was discussed, it was more as a result of refreshing his memory from the interview and putting the sequence of events into a logical order.<sup>84</sup>
106. SC Michael gave evidence that the device was removed from the van and moved towards the cliff edge. He explained that in his experience, to connect and test the device to ensure it is in working order takes some 5 to 10 minutes. On this day, because it was falling light, he said that it took slightly longer. He had a recollection that part of the device was not working and that needed to be fixed. His best estimate is that the device would have been ready by about 6:30 pm.<sup>85</sup>
107. SC Michael gave evidence that for the purposes of setting up the device, it is put together and tested and then taken apart and handed over to the frontline negotiators. He said that it was handed to DSC Simon then he had to set it up again on the other side of the fence closest to the cliff edge. His best estimate is that DSC Simon would have taken 5 to 10 minutes to reconnect and test the device. All up, to have it ready to use, would take about 30 to 40 minutes.<sup>86</sup>
108. SC Michael recalls that SC Katrina was already at the scene when he arrived,

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<sup>82</sup> Transcript, 17/05/21, T78-80.

<sup>83</sup> Transcript, 17/05/21, T80-81.

<sup>84</sup> Transcript, 17/05/21, T81-83.

<sup>85</sup> Transcript, 17/05/21, T83-85.

<sup>86</sup> Transcript, 17/05/21, T85.

and he believes that she deployed to the cliff edge at about 6:05 pm. His recollection is that SC Katrina, after arriving, spoke to AJ's friend, then she was assisted into safety equipment and briefed by Sgt Daniel and DSC Simon. He did not believe that SC Katrina was slow in getting ready and that she did what she had to do in an appropriate amount of time.<sup>87</sup>

109. He recalls that there was a discussion with Sgt Daniel about a loud hailer and it was discounted because that meant they would not hear what AJ said. When asked by Counsel Assisting whether consideration was given to using a mobile phone, SC Michael responded that he didn't remember any discussion about that and from his understanding AJ did not have a mobile phone with him.<sup>88</sup>

110. SC Michael remembers AJ requesting a cigarette, and that request being relayed to him by DSC Simon when they were setting up the device. He relayed the request for a cigarette to Sgt Daniel, but no decision was made at the time. A second request was relayed to Sgt Daniel and he recalls being in person with A/Inspector Jones and SC Gallucci for the discussion in relation to the request for a cigarette. He could not recall whether Sgt King was a part of that discussion. The decision made was not to grant AJ a cigarette. SC Michael recalls that this was based on a safety issue with the ropes and the type of material they are made from, but he could not recall the exact words that were said in that conversation.<sup>89</sup>

111. He accepted that another cause for concern was that it might be seen as one last cigarette before ending his life. While he has had no prior experience of that himself, he cannot recall ever providing a cigarette to a person in that situation either.<sup>90</sup>

112. SC Michael recalled DSC Simon transmitting that "Tina needs a toilet break". He did not recall any reasons being given and nothing was said that indicated she was unwell. He was with or near Sgt Daniel when this was said and recalls Sgt Daniel informing him. He did not recall any discussion between A/Inspector Jones and Sgt Daniel about SC Katrina being relieved. He was then directed to inform DSC Simon that she could be relieved, and then directed to speak to the family of AJ. He took a police radio with him.<sup>91</sup>

113. SC Michael's recollection is that as he was walking towards the family, he heard over the radio from DSC Simon that AJ had sat down on the cliff ledge. When he arrived to speak to the family, he turned the radio down but considered it low enough to still hear any direct conversation to him. He did not hear DSC Simon state on the radio that AJ had stood up and clapped his hands. In hindsight, he agrees that he probably should not have turned the radio down.<sup>92</sup>

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<sup>87</sup> Transcript, 18/05/21, T93.

<sup>88</sup> Transcript, 18/05/21, T94.

<sup>89</sup> Transcript, 18/05/21, T96-97.

<sup>90</sup> Transcript, 18/05/21, T97-98.

<sup>91</sup> Transcript, 18/05/21, T98-99.

<sup>92</sup> Transcript, 18/05/21, T100-102.

114. Counsel Assisting took SC Michael to the Critical Incident Guidelines. He confirmed he was told not to talk to anyone and that back at the police station they were sitting apart from each other. He acknowledged he was not fully conversant with the guidelines. He remembered a Detective working in the breakout area at Newcastle Police Station when they first arrived. He did not discuss any of his evidence with any other involved police officer.<sup>93</sup>

### ***Sergeant Daniel***

115. Sgt Daniel is currently acting Detective Senior Sergeant of police and has been with NSW Police Force for over 28 years. He has been with the Negotiating Unit for 10 years and he estimated as at July 2019 that he had been to or attended in excess of 100 high risk incidents. Approximately half of those would have involved a suicide attempt. Since July 2019 he estimates that he's probably attended another 30 high risk events with half of them involving an intention to commit suicide.<sup>94</sup>

116. On 29 July 2019, he was on a rostered day off but on call and recalls that he received a telephone call at around 5:00 pm. Ultimately, after calls being made, he was directed to attend the Bogey Hole. He was fit to be deployed and capable of attending.

117. Sgt Daniel said that he had worked with SC Katrina and SC Michael on previous deployments. His recollection was that he arrived at about 6:00 pm however A/Inspector Jones' recollection was that he arrived at about 5:45 pm. He accepted that she may have been correct. He was taken to a number of photographs<sup>95</sup> and accepted that the location of the command post was accurately displayed, and he estimated the distance of about 50 metres to where the negotiators were positioned at the cliff edge. Sgt Daniel gave evidence that there was no clear line of sight from where he was standing at the command post to where the negotiators were lying down and speaking to AJ. He could see the negotiators if they stood up and he moved a little way towards them. He remembered that it was starting to get dark with some wind and his recollection was there was a light spitting of rain.<sup>96</sup>

118. On his arrival, Sgt Daniel said that he spoke to SC Katrina to check if she was okay to deploy to the cliff edge. He indicated he had worked with her before at high risk events. His observation was that SC Katrina appeared fit to be deployed and he had no concerns about that. He asked her if she had any concerns both as to working at a height and performing the role and that she told him she was comfortable. He also said that she did not appear nervous or unwilling and appeared physically well.<sup>97</sup>

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<sup>93</sup> Transcript, 18/05/21, T103-106.

<sup>94</sup> Transcript, 18/05/21, T109-110.

<sup>95</sup> which became Exhibit 12.

<sup>96</sup> Transcript, 18/05/21, T113-116.

<sup>97</sup> Transcript, 18/05/21, T117.

119. Sgt Daniel was asked about the 40-minute period of time and his opinion as to whether or not that appeared to be slow. He said that he took some time to talk to her and that there are safety issues and procedures to follow. He had no concerns over the time it took for her to deploy.<sup>98</sup>
120. Sgt Daniel accepted that it was necessary and critical for the negotiator and the person they are speaking to, to be able to hear each other. He also acknowledged that there may be circumstances where delaying a request or demand might be important for the purpose of keeping the subject alive and safe.<sup>99</sup>
121. Sgt Daniel's recollection was that he was aware that there had been some difficulty communicating with AJ. Whether he had been told that by DSC Simon or SC Katrina he could not now remember. He does specifically recall SC Katrina advising him of the difficulty in communicating once she had deployed to the cliff edge. He could not exactly recall what time the decision was made to deploy a device to assist with communication.<sup>100</sup>
122. He was also asked questions by Counsel Assisting about the use of a loud hailer as an option or lowering a mobile phone. It was indicated by Sgt Daniel that they were not suitable in this type of situation. He indicated they were trained to use a particular device and that is what they concentrated on. A loud hailer provided one person the ability to project their voice but not the other person and that it might also startle the subject or make them more anxious if they are having a mental health crisis. The issue of using a mobile phone was not really considered as AJ did not have his mobile phone on him, having left his phone in his motor vehicle.<sup>101</sup>
123. Sgt Daniel believes the decision to use the device (and he was not sure when – as to time) was made after consultation with A/Inspector Jones after 6.15 pm and before 6.30 pm.<sup>102</sup> It was noted that it was not deployed at 7:00 pm when SC Katrina made her request to go to the toilet. Each job, he indicated, is different and the degree of difficulty is different in each job.<sup>103</sup> Sgt Daniel was not able to give an average of time on how long it takes to put the equipment together.<sup>104</sup>
124. In relation to a request for a cigarette, Sgt Daniel indicated that he was not aware that a request had been made before SC Katrina was deployed. He believes he was informed of the request about the same time as the decision to use the device.<sup>105</sup> He accepted that a request for a cigarette by AJ should have been relayed to him so that a discussion could have occurred with A/Inspector Jones.

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<sup>98</sup> Transcript, 18/05/21, T117-118.

<sup>99</sup> Transcript, 18/05/21, T120.

<sup>100</sup> Transcript, 18/05/21, T122.

<sup>101</sup> Transcript, 18/05/21, T123-124.

<sup>102</sup> Transcript, 18/05/21, T125.

<sup>103</sup> Transcript, 18/05/21, T125.

<sup>104</sup> Transcript, 18/05/21, T126.

<sup>105</sup> Transcript, 18/05/21, T127.

He was not aware of whether a request for a cigarette by AJ had been transmitted to the Police Forward Commander before he arrived. When the request was made for a cigarette, which he accepts was a request transmitted at around the time the device was being deployed, he recalls having a discussion with A/Inspector Jones and SC Gallucci (a representative from police rescue branch) about that request. To his recollection, Sgt King was not present at this discussion.<sup>106</sup>

125. It was decided not to provide AJ with a cigarette taking into consideration SC Gallucci's concerns about the safety of and/or integrity of the police safety ropes. A/Inspector Jones made the ultimate decision. Sgt Daniel had a concern in any event, as it might have been taken by AJ as a last cigarette before ending his life. In the field notes taken at the time there is no reference to a decision made not to provide a cigarette and he acknowledged that it should have been recorded.<sup>107</sup>
126. Sgt Daniel recalls that it was at about 7:02 pm that he received information that SC Katrina wanted a bathroom break. He remembers DSC Simon saying words to the effect "Katrina needs to have a toilet break". This was conveyed to him via his police radio. There was no discussion about her feeling unwell and in view of the fact that she needed to go to the toilet it was decided that she should go and was given approval. He considered it inappropriate to leave her in a position where she may well wet herself.<sup>108</sup> At the time, AJ's state was considered to be calm and he was sitting down. When he saw SC Katrina walking back from the cliff edge, she did not look unwell and wasn't appearing dizzy or stumbling. When he briefly spoke to her, she informed him that AJ was calm and sitting down against the back of the cliff wall. A/Inspector Jones volunteered to go with her being the only other female police officer available. While A/Inspector Jones was away, Sgt Daniel assumed the position of Police Forward Commander of the command post.<sup>109</sup> A role he has performed before on many occasions.
127. Sgt Daniel said that DSC Simon then asked if he should engage with AJ and he responded to that request by saying to DSC Simon to keep his eyes on AJ and to let him know if there was any issue. He tasked SC Michael to go and speak to the family at the bottom of the hill. His evidence was that SC Michael had a radio and that he also had a radio and that he was also in radio contact with DSC Simon. He is unsure why he didn't hear on the radio the statement made by DSC Simon that AJ had stood up and clapped his hands. DSC Simon attracted his attention by shouting to him rather than by radio.<sup>110</sup>
128. Sgt Daniel was taken to the Critical Incident Guidelines by Counsel Assisting. He understood he was an involved officer and that he had to separate from other involved officers. He said that he gave his officers a direction not to talk each other

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<sup>106</sup> Transcript, 18/05/21, T130.

<sup>107</sup> Transcript, 18/05/21, T126-132.

<sup>108</sup> Transcript, 18/05/21, T135.

<sup>109</sup> Transcript, 18/05/21, T136.

<sup>110</sup> Transcript, 18/05/21, T137-139.

about the incident. He said he was concerned about SC Katrina because she was visibly distressed and upset and that the overriding issue was the welfare of an officer.<sup>111</sup> In his opinion, someone needed to support her and he made the decision to take her back to the police station which was only a short distance from where they were situated. He said that he did not discuss the events with her or any other officer. He thought the idea of someone who you did not know attempting to support you is a difficult concept where the welfare of the officer was paramount.<sup>112</sup>

### **Senior Constable Mark Gallucci**

129. SC Gallucci is a member of the Police Rescue Squad and Acting Team Leader and been in the Police Force for some 20 years. As at July 2019 he estimated he had been to about 20 to 30 suicide intervention in his capacity as a police rescue operator.<sup>113</sup>

130. SC Gallucci gave evidence that Sgt King had telephoned him at about 5:15 pm when he was driving home at the completion of a shift and asked that he attend to assist at a suicide intervention at the Bogey Hole. He telephoned SC Maloney because he knew he was on shift and asked him to assist. He travelled directly to the scene on siren and arrived at about 5:45 pm. It took that time because he was in a suburb near Lake Macquarie. He confirmed that he was fit to be deployed and capable of undertaking the duties performed.<sup>114</sup>

131. He was taken to a series of photographs by Counsel Assisting and confirmed the accuracy of various positions of where the command post was located, and other officers located.<sup>115</sup> SC Gallucci confirmed that didn't approach the cliff edge or crossover the fence line at the top of the cliff. He could recall that the distance between the command post to the cliff edge where the negotiators were located was within a shouting distance some 35 to 45 meters.<sup>116</sup>

132. His recollection was that the sun was setting, it was last light, there was a breeze and there may have been a light shower. He received a briefing from Sgt King and his task was to set up the equipment that would be needed with the aim of bringing AJ back to the top of the cliff. He was also involved in putting together equipment that was to be used for the police negotiators.<sup>117</sup>

133. He doesn't recall if SC Katrina was there when he arrived, and he has no recollection of helping her with safety equipment. He explained that he was tasked in establishing a lighting system.<sup>118</sup>

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<sup>111</sup> Transcript, 18/05/21, T140.

<sup>112</sup> Transcript, 18/05/21, T140-141.

<sup>113</sup> Transcript, 18/05/21, T146.

<sup>114</sup> Transcript, 18/05/21, T147-148.

<sup>115</sup> Exhibit 13.

<sup>116</sup> Transcript, 18/05/21, T150.

<sup>117</sup> Transcript, 18/05/21, T152-153.

<sup>118</sup> Transcript, 18/05/21, T153-155.

134. SC Gallucci gave evidence that he was not involved in a discussion about the deployment of the device. He has a recollection of AJ requesting a cigarette at some stage, but does not recollect the time he was told that. He believes that it was at a time after ropes and lighting had been set up. In relation to the discussion about the cigarette, he believes that he was involved along with Sgt Daniel and that Sgt King was also present. He put the point across to those that were in the discussion that cigarettes or cigars can emit ash and they can melt the rope and he expressed that concern to Sgt Daniel and SC Michael was also present. He cannot now remember whether A/Inspector Jones was there. In his opinion, it is too dangerous to allow cigarettes to be used near the ropes and that is the position that police rescue take at all times about cigarettes near ropes.<sup>119</sup>

135. SC Gallucci recalls that he was near the command post when SC Katrina withdrew from her position, and that from his observation, she did not appear to be unwell or unsteady.<sup>120</sup>

### ***Acting Inspector Lisa Vicki Jones***

136. A/Inspector Jones has been employed with the New South Wales Police Force for about 20 years. She had started a shift at 1:00 pm on 29 July 2019 and remembers there was a concern for welfare report about AJ at about 1:30 pm. It was at about 4 to 4:30 pm that she became more substantially involved when she was shown some photographs from a Facebook page and she recognised the Bogey Hole being displayed in those photographs. As the highest-ranking officer at the police station at the time she made the decision to go to the Bogey Hole. She indicated that a person of that rank was required to attend in any event, and she was the duty inspector for that shift.<sup>121</sup> She accepted she would be the ultimate decision maker at the scene with the advice of specialists in other fields. She has had experience in the past at suicide risk preventions as a Forward Commander.<sup>122</sup>

137. A/Inspector Jones gave evidence that when she initially arrived at the scene, they set up a command post near where the family were located. She decided to move the command post near to where AJ was located and established a second command post. In her opinion, the distance between the new command post and the first (where the family were) was about 40 to 50 metres. There was no clear line of sight. She said that the distance from the command post to where the negotiators were positioned at the cliff edge was some 15 to 20 metres. It was within shouting distance and she had a clear line of sight but becoming difficult with failing light. It was approaching darkness, there was some wind and it had rained.<sup>123</sup>

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<sup>119</sup> Transcript, 18/05/21, T155-159.

<sup>120</sup> Transcript, 18/05/21, T159-160.

<sup>121</sup> Transcript, 18/05/21, T162.

<sup>122</sup> Transcript, 18/05/21, T163.

<sup>123</sup> Transcript, 18/05/21, T165-167.

138. A/Inspector Jones gave evidence that she rang at about 5:00 pm looking for police negotiators and that she received calls from DSC Simon and SC Katrina. She requested them to attend the location.<sup>124</sup> In addition she put in a request to the regional coordinator to contact others and she is aware that that coordinator contacted Sgt Daniel and SC Michael.<sup>125</sup>
139. It was agreed by A/Inspector Jones that SC Katrina arrived at about 5:25 pm. She was not fully aware when she deployed to the cliff edge and does not know what she was doing between the time she arrived and the time that she did deploy. She wasn't aware of any particular hearing issue and was aware, initially, that AJ was waving people away. It was not until SC Katrina became involved with a discussion with AJ that there was a discussion about the device. It was not relayed to her that there were any issues with hearing until SC Katrina made that complaint.<sup>126</sup>
140. A/Inspector Jones recalls that the decision about the device occurred at about 6:30 pm. There was no discussion of using other methods of communicating with AJ.<sup>127</sup> She was not aware of any requests for cigarettes at the time that SC Katrina deployed. She was not surprised that the negotiation team did not discuss it with her. She accepted that the negotiation team could discuss it and make a decision on a preliminary basis. She accepted that there was a discussion about cigarettes at about 7:00 pm and it was at that time that the safety issue with ropes was discussed. She recalls SC Gallucci and Sgt Daniel being present. She does not accept that Sgt King was involved but knew he was nearby, however, he was not involved in the discussion.<sup>128</sup> She took on board the advice that she had received in relation to the safety issue of the ropes and made the decision not to give him a cigarette.<sup>129</sup>
141. It was shortly after the decision about the cigarette that Sgt Daniel told A/Inspector Jones that SC Katrina needed to use the bathroom, at about 7:10 pm. She asked if it was safe for SC Katrina to be removed at that point and the reply was yes.<sup>130</sup> She asked what AJ was doing and it was relayed back to her that he was calm and sitting down and so she agreed with the suggestion that SC Katrina could return to use a toilet. Again, A/Inspector Jones made the ultimate decision for SC Katrina to move back. From her observation of SC Katrina coming back towards her over the grass she did not seem to stumble nor appear to be unwell.<sup>131</sup>
142. When SC Katrina approached, the decision was made by A/Inspector Jones at that time that she would accompany SC Katrina. There was no other available

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<sup>124</sup> Transcript, 18/05/21, T168.

<sup>125</sup> Transcript, 18/05/21, T168.

<sup>126</sup> Transcript, 18/05/21, T168-170.

<sup>127</sup> Transcript, 18/05/21, T170-171.

<sup>128</sup> Transcript, 18/05/21, T171-172.

<sup>129</sup> Transcript, 18/05/21, T172.

<sup>130</sup> Transcript, 18/05/21, T173.

<sup>131</sup> Transcript, 18/05/21, T174.

officer and someone in uniform needed to go with her to a private house and it was better if someone in uniform went so that the householders were aware it was a police request and to ensure the safety of the officer not in uniform.<sup>132</sup>

143. A/Inspector Jones was asked if she thought it was appropriate to allow SC Katrina to move back from the cliff face. Counsel Assisting asked: –

“Q. Given that you both had important roles to play during the police operation and with the benefit of hindsight, do you think that it was appropriate that both you and Katrina left the scene at the same time?”<sup>133</sup>

A/Inspector Jones responded:

“A. Appropriate in hindsight? I think that appropriate has to be judged in the case of what resources were available as well. In the circumstances, given what I had on hand that was to me the only option that was available. We were going to be gone only a short period of time. We were less than 30, 40 metres from where the command post was, the position of the house that was used, and it was the case of more important that we do what was needed to be done and get back as opposed to the time that would have been required to have another alternative.”<sup>134</sup>

144. A/Inspector Jones gave evidence that she went with SC Katrina to the nearest home and the householders allowed SC Katrina to use the toilet. She also acknowledged that she used the toilet as well while she was there. She didn’t hear anything to indicate that SC Katrina was ill while waiting for her outside of the bathroom door. Her recollection is that they were gone approximately 10 minutes and that when they arrived back, they were told that AJ was no longer on the cliff edge.<sup>135</sup>

145. A/Inspector Jones was aware that it was a critical incident and that directly involved officers should separate but not necessarily isolate. In her view, not talking would satisfy the Critical Incident Guidelines in the situation. In her opinion, it is not always practical operationally to isolate.<sup>136</sup>

146. A/Inspector Jones gave evidence that she had given permission for Sgt Daniel to travel back to the police station with SC Katrina. She was visibly upset, and she needed help.<sup>137</sup>

147. A/Inspector Jones was asked her opinion of SC Katrina as a police officer and, in her opinion, she was a good operational officer and a valued work colleague.<sup>138</sup>

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<sup>132</sup> Transcript, 18/05/21, T174.

<sup>133</sup> Transcript, 18/05/21, T175.

<sup>134</sup> Transcript, 18/05/21, T175.

<sup>135</sup> Transcript, 18/05/21, T178.

<sup>136</sup> Transcript, 18/05/21, T178.

<sup>137</sup> Transcript, 18/05/21, T180.

<sup>138</sup> Transcript, 18/05/21, T180.

148. Finally, A/Inspector Jones was asked whether she had been to the same spot previously for operational reasons, and she said that she had on a number of occasions. It was her opinion that there was inadequate fencing and not much by way of a barricade to prevent easy access to the cliff face. It was her opinion that something should be done to try and restrict persons accessing this area.<sup>139</sup>

### **AJ's father**

149. At the conclusion of the Inquest, AJ's father provided some insight into his son. He commenced by saying his son had a wicked grin and a sense of humour to match. Overall, he believed that his son had mastered the hardest parts of life but not necessarily the easiest parts be it playing the guitar, to his employment in areas as diverse as baking to steel fabrication and CAD design. He said that AJ did not like the structure of school or for that matter work; it just did not suit him. He also said that AJ mastered the difficult parts of things and then would lose interest, and that he did not accept advice readily or criticism as he thought he knew better.<sup>140</sup>

150. He said that AJ was a doting and proud father and that after AJ separated from F, he became isolated and unfortunately somewhat evasive. Looking back, AJ was obviously struggling with his mental health and using recreational drugs and alcohol to try and cope rather than prescription medications. AJ's father told the Inquest that AJ had been prescribed antidepressants by his General Practitioner but did not take them being worried about how they would make him feel.<sup>141</sup>

151. AJ's father thanked the police for all they did on the day. He said:

"I and my family would like you to know that we believe that you did everything that you could that could've been done to save AJ".<sup>142</sup>

152. In his own mind he said that AJ, being a strong-willed young man, had made a decision to end his life. He said that F was also grateful for what the police had attempted to do on the day. He apologised for any hurt and distress that had been caused to the police officers. He provided his heartfelt thanks to the police negotiators on their efforts which were gratefully appreciated.<sup>143</sup>

153. AJ's father passed on his thanks to Counsel Assisting and the instructing solicitor from the Crown Solicitor's Office for their caring and supportive manner during the process of the Inquest.<sup>144</sup>

154. Finally, he suggested that perhaps the appropriate authority could look at an

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<sup>139</sup> Transcript, 18/05/21, T183.

<sup>140</sup> Transcript, 19/05/21, T186.

<sup>141</sup> Transcript, 19/05/21, T186-187.

<sup>142</sup> Transcript, 19/05/21, T187.

<sup>143</sup> Transcript, 19/05/21, T187.

<sup>144</sup> Transcript, 19/05/21, T187.

appropriate safety fence at the top of the cliff to assist and attempt to prevent people accessing the cliff edge.<sup>145</sup>

155. I now address the issues as set out on the issues list that was prepared and circulated to the interested parties.

### **Issue 1: *The circumstances which led AJ to the cliffs above the Bogey Hole on 29 July 2019***

156. Counsel Assisting's submissions, which I adopt and set out below, identify the circumstances which led AJ to the cliffs above the Bogey Hole on 29 July 2019 and accordingly I find as follows:

- a) AJ had a history of declining mental health in the last two years of his life, and especially in the last six months. The factors which contributed to the deterioration in AJ's mental health included the breakdown in his relationship with his then wife F and the resultant decrease in contact with his son, the loss of his job, concerns about his physical health, increased drug and alcohol use, an unstable housing situation, a self-induced financial crisis, and the news, shortly before he died, that F had commenced a new relationship. This evidence leads to a conclusion that AJ was, more likely than not, suffering from a severe depressive disorder at the time of his death and probably had been suffering from it for some years.<sup>146</sup>
- b) With regards to the messages that AJ posted on social media on the day of his death and, perhaps even more so, the text messages that he sent to his father G on that day, as well as AJ's initial post on Instagram was in the nature of a suicide note. His text messages to G, likewise, were the messages of a man who had resolved to end his life, but wished to say a final thank you and goodbye to his father.<sup>147</sup>
- c) His behaviour was concerning during the police operation that was initiated after concerns for his welfare were raised. When police initially attempted to engage, he was agitated and waved them away. While he thereafter engaged with police negotiators to a limited extent, he was largely unresponsive. This, again, is suggestive that AJ had already reached a resolution to end his life and was not interested in attempts by police to persuade him otherwise.<sup>148</sup>

157. Counsel Assisting submitted that the available evidence supports a finding that AJ's death was self-inflicted.<sup>149</sup>

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<sup>145</sup> Transcript, 19/05/21, T187.

<sup>146</sup> Transcript, 19/05/21, T188-T189.

<sup>147</sup> Transcript, 19/05/21, T189.

<sup>148</sup> Transcript, 19/05/21, T189.

<sup>149</sup> Transcript, 19/05/21, T189-T190.

158. A finding that a death is intentionally self-inflicted should not be made lightly. The evidence must be extremely clear and cogent in relation to intention.<sup>150</sup>

159. On this matter, I again refer to and adopt Counsel Assisting's submissions which are set out below:

a) Given the dangerous location at which AJ was located throughout the police operation, a narrow, gravelly ledge on the side of a high cliff, and given also the poor conditions, darkness, wind and intermittent rain, and given that no police officer actually witnessed AJ jumping or stepping off the ledge, there remains some possibility that his death was accidental, in the sense that he slipped and fell from the ledge. However, the preponderance and strength of the evidence suggests a contrary conclusion.<sup>151</sup>

b) It is relevant to note that, at about 6:05 pm; AJ removed his personal possessions (including his hat, keys, wallet and puffer) and placed them on the ledge. This action, unburdening oneself of worldly possessions, is commonly seen in persons who commit suicide. More importantly, there is the evidence of DSC Simon who, in seconds before AJ disappeared from the ledge, saw him stand up, clap his hands together and say something out towards the ocean. This evidence, especially the fact that AJ consciously went from a sitting position to a standing position, suggests strongly that he did not slip or fall from the ledge, but rather chose to step off it.<sup>152</sup>

c) The toxicology report obtained after AJ's death indicates that he did not have alcohol in his body at the time of his death, nor any significant amounts of any other drugs.

160. I am satisfied that the evidence before me establishes that AJ intended to end his life for the reasons set out at [156] & [159] and accordingly, I make a finding that his death was self-inflicted.

## **Issue 2: Actions engaged in by police during the police operation conducted on 29 July 2019**

161. This issue in respect of which much of the oral evidence led at Inquest was directed, was whether the actions of police during the course of the police operation that was underway at the time of AJ's death in any way caused or contributed to his death and, more particularly, whether the actions of police during the police operation were:

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<sup>150</sup> The proper evidentiary standard to be applied to a coronial finding of intentional taking of one's own life is the *Briginshaw* standard (*Briginshaw v Briginshaw* 60 GLR 336).

<sup>151</sup> Transcript, 19/05/21, T189-T190.

<sup>152</sup> Transcript, 19/05/21, T189-T190.

- (a) consistent with applicable policies and procedures; and
- (b) otherwise adequate and appropriate in all the circumstances.<sup>153</sup>

162. I refer to and adopt Counsel Assisting's submission that the evidence does not support a finding that any action by police caused or contributed to AJ's death. There is, ultimately, considerable force in the opinion of A/Inspector Jones, given in her statement of 2 August 2019, that AJ's interaction with police on 29 July 2019 "merely delayed a decision that AJ appeared to be resolute in following through to its inevitable conclusion".<sup>154</sup>

163. However, a conclusion that the actions of police did not cause or contribute to AJ's death does not mean that there are no lessons to be learned from the police operation concerning AJ or no opportunities to identify areas of improvement. A number of issues tied in with this issue were explored with the witnesses over the course of the Inquest which are addressed below. In addressing these issues, I want to emphasise that there is no dispute that police responded bravely to the dangerous situation with which they were confronted and that all officers tried their best, in discharging their particular roles and responsibilities, to save AJ's life.<sup>155</sup>

### ***Issue 3a: The decision not to provide AJ with a cigarette during the police operation***

164. In respect of this issue, I find that the evidence supports a finding, that while AJ requested a cigarette almost immediately after he was first engaged by DSC Simon, at about 5:10 pm, and made a number of requests thereafter, it was not until sometime later, probably at about 6:30 pm, that Sgt Daniel became aware of the requests, and not until some after that, at about 7:00pm, that the Police Forward Commander, Acting Inspector Jones, was briefed as to the requests.<sup>156</sup>

165. I refer to and adopt Counsel Assisting's submission that at least part of the delay in transmitting AJ's requests for a cigarette is explicable and justifiable. I find that no criticism of DSC Simon is warranted for not relaying AJ's first request for a cigarette to Sgt Daniel and/or Acting Inspector Jones. That first request was made at a time when DSC Simon had only just arrived at the scene, was still gaining situational awareness, was in a situation of high personal danger, and his colleagues in the Negotiation Unit had not yet arrived. He was understandably and appropriately focussed on trying to establish communication with AJ so as to come to grips with what had brought him to the cliff's edge.<sup>157</sup>

166. However, in the ensuing period in which DSC Simon engaged AJ at the cliff's edge, between about 5:20 pm and 6:05 pm, I agree with Counsel Assisting that the better view is that there were opportunities in which DSC Simon could have relayed AJ's requests for a cigarette, which seem to have been made on at least a few

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<sup>153</sup> Transcript, 19/05/21, T190.

<sup>154</sup> Transcript, 19/05/21, T190; Exhibit 1, Brief of Evidence, Tab 26 at p. 443 [60].

<sup>155</sup> Transcript, 19/05/21, T190.

<sup>156</sup> Transcript, 19/05/21, T190-T191.

<sup>157</sup> Transcript, 19/05/21, T190-T191.

occasions in this period, to either Sgt Daniel or A/Inspector Jones. In this period, DSC Simon was not in the same personal danger; he had both a police radio and a mobile phone with him, and thus had the means to contact his superiors; and, while he was still focussed on trying to establish communication with AJ, it was apparent that he was being quite unresponsive, and accordingly could have taken a minute or two out of the negotiation to make a radio transmission or phone call.<sup>158</sup>

167. I accept Counsel Assisting's submission that it would have been much easier for the information concerning AJ's requests for a cigarette to be relayed to Sgt Daniel and/or A/Inspector Jones in the period between 5:20 pm and 6:05 pm if there had been two negotiators at the cliff's edge, instead of one. That would have permitted one negotiator, to focus on AJ while the other negotiator, focussed on the relay of information back to the command post. However, in this period, DSC Simon was the only negotiator at the cliff's edge, as SC Katrina had not yet deployed to the cliff's edge.<sup>159</sup>
168. One of the matters that this Inquest has not been able to explore fully, by virtue of SC Katrina not being fit to give evidence, is why it took her about 40 minutes after her arrival at the incident site to deploy to the cliff's edge. As Counsel Assisting submitted, it may be accepted that SC Katrina needed to be fitted with safety equipment. It may also be accepted, as Counsel Assisting submitted, that SC Katrina had a conversation with AJ's friend to gain relevant information about AJ. However, in her interview with A/Superintendent Thomas, SC Katrina said that AJ's friend "didn't have too much information"<sup>160</sup> and that the conversation "didn't take a long time".<sup>161</sup>
169. While SC Katrina also spoke to Sgt Daniel (which is a step that DSC Simon did not undertake), I agree with Counsel Assisting's submission that it is still perhaps somewhat surprising that it took SC Katrina considerably longer than DSC Simon to deploy to the cliff's edge especially given that DSC Simon, who was still a trainee negotiator, was at the cliff edge alone, and that the working assumption of all of the negotiators and A/Inspector Jones, was that DSC Simon should be relieved or supported as soon as possible.<sup>162</sup>
170. Ultimately, without the benefit of SC Katrina having given evidence, I agree with Counsel Assisting's submissions that it is not possible to make any findings about all the things that SC Katrina did in the period between her arrival at the scene and her deployment to the cliff's edge; nor is it possible to make any findings about whether there was any inappropriate delay in her deployment. The point in raising for the purposes of the present issue is simply that, by virtue of there being only one negotiator at the cliff's edge, it was more difficult for DSC Simon to relay information concerning AJ's requests for a cigarette to the command post.<sup>163</sup>

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<sup>158</sup> Transcript, 19/05/21, T191.

<sup>159</sup> Transcript, 19/05/21, T191.

<sup>160</sup> Transcript, 19/05/21, T186.

<sup>161</sup> Transcript, 19/05/21, T187.

<sup>162</sup> Transcript, 19/05/21, T191-T192.

<sup>163</sup> Transcript, 19/05/21, T192.

171. Counsel Assisting raised in his submission that even if there was some delay in the relaying of AJ's requests for a cigarette to the command post, it would not have made any difference, because the Police Rescue operators would have inevitably advised against the provision of a cigarette on safety grounds. In this respect, it is worth noting that SC Gallucci's evidence before this Court was to the effect that he considered the safety risk presented by a lit cigarette in the vicinity of a police rope system was such that he would never have recommended the provision of a cigarette. Sgt Daniel was also involved in the decision. They are the experts in this field and are best placed, in my opinion, to make the decision. On this view, I agree with Counsel Assisting's submission that it does not matter whether there was a delay in relaying AJ's requests for a cigarette because the requests would not have been acceded to in any event.<sup>164</sup>
172. Counsel Assisting's submission which I accept, is that the earliest possible transmission of AJ's requests for a cigarette to the command post would still have been preferable. The earlier that requests were transmitted, the earlier that they could have been the subject of informed discussions between the Police Forward Commander and the relevant specialist advisers. That discussion may have identified options for the provision of a cigarette that minimised, if not entirely eliminated, the safety risk identified by SC Gallucci. In particular, earlier discussion may have allowed for police rescue operators other than SC Gallucci to become involved, including operators who had actually crossed the fence line, approached the cliff's edge and made direct physical observations of where AJ was relative to the police rope lines (which SC Gallucci had not done).<sup>165</sup>
173. I find the evidence of SC Gallucci that Sgt King was involved in the discussion that occurred at the command post in relation to the safety risk involved in providing a cigarette to AJ was incorrect and that he was mistaken about this. The evidence of A/Inspector Jones, Sgt Daniel and SC Michael was clear and consistent on the point that Sgt King was not involved in those discussions.<sup>166</sup>
174. I agree with Counsel Assisting's submissions that it is not possible now to know whether earlier discussion of AJ's requests for a cigarette would have resulted in the identification of a safe mechanism to provide a cigarette to him. Nor is it known whether, if a safe mechanism could have been identified, the cigarette would have been provided in any event. The evidence before the Inquest, including from Sgt Daniel, who was the most senior negotiator at the scene, is that the provision of cigarettes in the course of suicide interventions can raise concerns. Nevertheless, Sgt Daniel's evidence is also that, as at about 7:00pm, he at least had not discounted the possibility of providing a cigarette.<sup>167</sup>

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<sup>164</sup> Transcript, 19/05/21, T192.

<sup>165</sup> Transcript, 19/05/21, T192.

<sup>166</sup> Transcript, 19/05/21, T192-T193.

<sup>167</sup> Transcript, 19/05/21, T192-T193; Exhibit 1, Brief of Evidence, Tab 8 at p. 154.

### **Issue 3b: *The efforts made by police officers to establish clear communication with AJ during the police operation***

175. In respect of this issue, I agree with Counsel Assisting that the position is quite similar to that in relation to issue 3a (the cigarette issue). That is, the evidence supports a conclusion that, while the difficulties in establishing clear two-way communication with AJ were appreciated by DSC Simon very early in the course of his engagement with him, it was not until sometime later, probably at about 6:15 pm, that Sgt Daniel, became aware of the difficulties, and not until sometime after that, probably between 6:15 pm and 6:30 pm, that A/Inspector Jones was briefed as to the difficulties. This meant that the decision to deploy the device was probably made somewhere around the 6:15-6:30 pm mark, rather than earlier, which, because of the time associated with setting up the device, meant that the device was never actually used during the course of the negotiation with AJ.<sup>168</sup>
176. The evidence for the reasons for the delay in alerting the command post about the difficulties being experienced in establishing clear two-way communication with AJ were the same as outlined above in the context of the cigarette request. I agree with Counsel Assisting's submission that a large part of the problem was that DSC Simon was deployed to the cliff edge by himself, without the support of another negotiator. If SC Katrina had deployed to the cliff edge more quickly than she did, the likelihood is that those at the command post would have been apprised of the communication difficulties sooner than they were, which would in turn have permitted those at the command post to start considering appropriate communication strategies sooner than they did. If, as a result of this, the device had been able to be deployed, something which ultimately did not occur, during the course of the police operation, it may have been possible for the negotiators to commence a meaningful negotiation with AJ in which rapport was built and trust gained. I agree with Counsel Assisting's submission that we will not know, but it may have provided the best opportunity of securing a different result than the one that eventuated.<sup>169</sup>
177. Three further matters were also addressed with the witnesses in connection with the communication issue.
178. The first issue is whether there was any delay in the setting up of the device. I agree with Counsel Assisting's submission that the evidence before the Inquest indicates that, while SC Michael encountered some difficulties achieving a reliable power source, the setting up of the device took about as long as would be expected given the inherent challenges of working at a cliff top location. A particular challenge, in this respect, was that the device needed to first be set up and tested on the command post side of the fence line and then passed to police officers on the cliff side of the fence line, who had, to some extent, repeat the same set up and testing steps. I find on the available evidence before me that to the extent that

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<sup>168</sup> Transcript, 19/05/21, T193.

<sup>169</sup> Transcript, 19/05/21, T193.

there was any delay with respect to the device, it lay more with the decision to deploy the device, than with the set-up process.<sup>170</sup>

179. The second issue is whether a loudspeaker could have been used as a means of establishing at least one-way communication with AJ. I agree with Counsel Assisting's submission that the evidence establishes that the use a loudspeaker was briefly considered, at least by Sgt Daniel, and perhaps other members of the negotiation team, but ultimately dismissed on the following basis:

- a) one-way communication would have been of limited utility;
- b) the loudspeaker may have startled or alarmed AJ, thereby causing a risk to his safety; and
- c) the loudspeaker, being of its nature an intrusive device, may have been stressful for a person who was clearly in a state of severe emotional distress.

These reasons are sound, and I find there was not anything inappropriate about the decision not to utilise a loudspeaker.<sup>171</sup>

180. The third issue is whether a mobile phone could have been used as a means of establishing two-way communication with AJ. I agree with Counsel Assisting's submission that the evidence establishes that, to the limited extent that the use of a mobile phone was considered, it was dismissed for sound reasons, including that providing a mobile phone to AJ would have presented the same logistical and safety issues that providing the device presented, but would not offer the same benefits in terms of functionality as would the device. Again, I find there was not anything inappropriate about the decision not to pursue (or pursue with any seriousness) the possibility of utilising a mobile phone.<sup>172</sup>

### ***Issue 3c: The decision to permit the negotiator to withdraw from the cliffs above the Bogey Hole at about 19:10 on 29 July 2019 and the movements of other police officers, consequent upon or related to that withdrawal***

181. This issue concerns the withdrawal of SC Katrina from the cliff edge shortly after 7:00pm and the related movements of other police officers.

182. As Counsel Assisting submitted this has been perhaps the most difficult issue for the Inquest to explore in any detail, because SC Katrina was not able to attend to give evidence. This was unavoidable, given the medical evidence relating to SC Katrina, and unfortunate because it meant that the Inquest was not able to address directly with SC Katrina the reasons why she withdrew from the cliff edge.<sup>173</sup>

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<sup>170</sup> Transcript, 19/05/21, T193-T194.

<sup>171</sup> Transcript, 19/05/21, T194.

<sup>172</sup> Transcript, 19/05/21, T194.

<sup>173</sup> Transcript, 19/05/21, T194.

183. There was some inconsistency in reasons given by her namely:
- a) that she told A/Superintendent Thomas in her record of interview that she withdrew from the cliff because she was feeling unwell<sup>174</sup>; and
  - b) the evidence of all other police officers, including their oral evidence given during the Inquest, that SC Katrina simply needed an “ordinary” bathroom break.
184. Counsel for the NSW Police Commissioner suggested that the reasons for SC Katrina’s withdrawal, and whether there was any inconsistency in what SC Katrina said to various officers, are irrelevant. I allowed the questions for the following reason: it is an Inquiry and not subject to the normal rules of evidence. It was in my opinion relevant to determine if a suggestion of illness played any role at all in the way the matter was handled.
185. I am satisfied that although there was an inconsistency in what she said to A/Superintendent Thomas on the day she was interviewed, on the night she made it clear she required a toilet break. Likely, as it was assumed by others, the reason was to relieve herself. There is no evidence of illness and no evidence that she displayed any signs of illness on the evening. Further, there is no criticism by her colleagues of how she performed her duties on the evening. In light of all the evidence of other officers and their observations of SC Katrina’s behaviour during the course of the police operation and, in particular, her withdrawal from the cliff’s edge, I am satisfied that it did not affect, in my opinion, the Police operation. She performed her duties as a dedicated police officer to her best and placed herself on the cliff edge in an effort to save a life. It should be observed in this respect that, in the lead up to the withdrawal, SC Katrina was essentially alone at the cliff’s edge for a period while DSC Simon was setting up the device. There is thus no notes or log relating to the last 30 minutes or so of the negotiation between SC Katrina and AJ.<sup>175</sup>
186. Ultimately, from all of the evidence before the Inquest I cannot make any specific findings about the precise reasons for SC Katrina’s withdrawal from the cliff other than she requested a toilet break.
187. However, the oral evidence given at Inquest does permit certain other issues, connected to the withdrawal issue, to be resolved.
188. First, on the question of whether it was appropriate that A/Inspector Jones accompanied SC Katrina to the bathroom. The oral evidence of A/Inspector Jones clarified an issue arising from her statements, that is, the evidence indicates that A/Inspector Jones accompanied SC Katrina to the bathroom not so much because they were both female officers, but because there was no other uniformed police officers in the vicinity of the Shepherd’s Hill complex. The other police officers were several hundred metres away, closer to the Bogey Hole carpark, and summoning another uniformed police officer to attend the Shepherd’s Hill complex to

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<sup>174</sup> Exhibit 1, Brief of Evidence, Tab 9 at p 28.

<sup>175</sup> Transcript, 19/05/21, T194-T195.

accompany SC Katrina to the bathroom would have taken more time than the option which A/Inspector Jones decided upon, which was to accompany SC Katrina herself. In light of this evidence, I find that Inspector Jones' decision to accompany SC Katrina to have been an appropriate one.<sup>176</sup>

189. Second, on the question of whether it was appropriate for A/Inspector Jones to hand over the Police Forward Command to Sgt Daniel. Again, I find there is no criticism to be made of that decision. I agree with Counsel Assisting's submission that A/Inspector Jones' judgment that Sgt Daniel was best placed to act as Police Forward Commander during her absence was a reasonable one, given Sgt Daniel's experience in dealing with high risk incidents and given that the other senior officer at the scene.<sup>177</sup>

190. Finally, on the question of whether it was appropriate for Sgt Daniel to send SC Michael down the hill to speak to AJ's family in the period while A/Inspector Jones and SC Katrina were absent from the incident site, I find that this decision was reasonable in the circumstances. I agree with Counsel Assisting's submission that while the documentary evidence gathered by the Inquest contained some suggestion that SC Michael's absence from the command post meant that Sgt Daniel and DSC Simon did not have direct radio contact, Sgt Daniel clarified in his oral evidence that he had a police radio on him and thus maintained direct radio contact with SC Simon at all times. While Sgt Daniel did not hear DSC Simon's radio broadcast about AJ standing up, I am of the opinion and find that this would not have made any difference to the overall result, given the very short period between when this radio broadcast was made and when AJ was no longer on the cliff ledge.<sup>178</sup>

### ***Issue 3d: The decision not to separate the police negotiators from one another after AJ's death***

191. This issue concerns the operation of the Critical Incident Guidelines (Guidelines) in the period after AJ's death. The issue, simply stated, is this: what do the Guidelines mean when they say that directly involved officers should be separated, but not isolated, to ensure that evidence of police officers is not cross-contaminated.

192. Counsel Assisting submitted that the evidence of each of the police officers who gave evidence at the Inquest was that the Guidelines do not require directly involved officers to be separated from one another, provided either that:

- i. The directly involved officers are monitored or supervised by an independent officer; OR

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<sup>176</sup> Transcript, 19/05/21, T195.

<sup>177</sup> Transcript, 19/05/21, T195.

<sup>178</sup> Transcript, 19/05/21, T195-T196.

- ii. The directly involved officers are given a direction not to discuss the incident with each other.<sup>179</sup>

193. I agree with Counsel Assisting that it is difficult to square the interpretation offered by the witnesses with the plain language of the Guidelines, –especially at pp. 632, 634-635, 648-649 and 653 of the Brief Of Evidence,<sup>180</sup> and that the far more natural reading of the Guidelines is that they require directly involved officers to be kept separate or apart from each other, but not left isolated or alone. Directly involved officers should be supported by a peer or supervisor, so long as that peer or supervisor is not another directly involved officer.<sup>181</sup>

194. I agree with Counsel Assisting that this reading of the Guidelines also accords with the evident purpose of the Guidelines. That purpose is to ensure that the evidence of directly involved officers is not contaminated, whether accidentally or deliberately. It is also to ensure that the investigation that follows a critical incident is both proper, and seen to be proper, such that there can be no question mark about the integrity of the investigation.<sup>182</sup>

195. In this matter, although there is no evidence to suggest that the directly involved officers discussed the particulars of the police operation, or the evidence to be given to the Senior Critical Events Officer, with each other, however the fact that they were not separated from each other, and were allowed to act as a source of welfare support for each other, meant that they were put in a position where they potentially could have done so. As Counsel Assisting submitted, this meant, in turn, that an issue which could have been avoided, instead needed to be dealt with, in the interest of transparency, in the forum of this Inquest.<sup>183</sup>

196. Counsel Assisting submitted that it should be borne in mind that the requirement in the Guidelines that directly involved officers be separated from each other, and given welfare support by persons other than other directly involved officers, is ultimately to the benefit of the directly involved officers themselves as it ensures that no question marks over their integrity can later arise. There is an obvious tension between what is said in the Guidelines and the natural tendency by officers who want to support and care for an officer who has been involved in some terrible tragedy. As Counsel for the Police Commissioner pragmatically submitted, they are just as the name states, guidelines, not rules or regulation, formulated and put in place, to guide and recommend how investigations should be conducted.<sup>184</sup>

197. Although not submitted as the subject of a recommendation by Counsel Assisting, I suggest that those in senior positions within the NSW Police Force review and clarify whether the “separate but not isolate” requirement in the

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<sup>179</sup> Transcript, 19/05/21, T196.

<sup>180</sup> Exhibit 1, Brief of Evidence, at Tab 58.

<sup>181</sup> Transcript, 19/05/21, T196.

<sup>182</sup> Transcript, 19/05/21, T196.

<sup>183</sup> Transcript, 19/05/21, T196.

<sup>184</sup> Transcript, 19/05/21, T196-T197.

Guidelines should be further clarified, particularly when distressed officers need support.<sup>185</sup>

198. I do not agree with respect to A/Superintendent Thomas' interpretation that an involved officer did not include A/Inspector Jones. On the clear wording of the definition of an "involved officer", in my opinion, she falls squarely within that definition. She was present, assumed the senior role in decision making notwithstanding she sought advice from other officers. Ultimately, she made decisions concerning placement of the Command Post, the cigarette request and SC Katrina's withdrawal and her replacement while they were away. In my opinion she was an involved officer.

**Issue 4: *Whether any recommendations should be made with respect to the conduct of similar police operations in the future, so as to contribute to improvements in public health and safety***

199. This brings me finally to the question of whether it is necessary or desirable to make any recommendations in this case under s 82 of the Act.

200. In my opinion, which accords with Counsel Assisting's submissions, the various issues that this Inquest has raised, and especially what has been described as the cigarette issue and the communication issue that have been ventilated and commented on, suggest that the police operation concerning AJ could be used as a case study by police in the delivery of training to police negotiators, especially training in respect of some of the key principles of police negotiation. It is not suggested that the police do not already have training addressing these principles, but simply that the events of this police operation might provide an opportunity to reaffirm these principles by providing an example of how these principles might play out in a particular situational context.<sup>186</sup>

201. I agree with Counsel Assisting, that a particular issue that could be explored in any training is the issue of how a negotiator is to respond to a negotiation in circumstances where he or she is not supported by another negotiator. It follows that this is connected with the death under investigation and may well improve future operations of this nature.<sup>187</sup>

202. The recommendation that is proposed by Counsel Assisting, and to which I adopt, is this:

**To the Commissioner of Police:**

That consideration be given to whether the police operation concerning AJ (with appropriate anonymisation and conditional upon consent being provided by AJ's family) could be used as a case study as part of future training packages provided by the NSW Police Force Negotiation Unit to police negotiators in respect of issues such as: (a) the importance of

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<sup>185</sup> Transcript, 19/05/21, T197.

<sup>186</sup> Transcript, 19/05/21, T197.

<sup>187</sup> Transcript, 19/05/21, T197.

establishing clear communication with the subject in a negotiation; (b) the importance of relaying information from the negotiation cell to the team leader and/or forward command post, especially with respect to requests or demands made by the subject; and (c) the importance of early consideration by the team leader and/or the police forward commander of requests or demands made by the subject and of appropriate documentation or recording of the results of that consideration.<sup>188</sup>

203. I note the recommendation is that the Commissioner of Police gives consideration to the issue. The precise formulation, as Counsel Assisting submitted, of training packages is, ultimately, something best left to those with specialist expertise.<sup>189</sup>

### **Conclusion and remarks**

204. One final matter, not the subject of any submissions but I feel compelled to mention is that the issue of time and when people arrived and when certain things were done required a degree of questioning and time at the Inquest. People had to rely on their memories, not assisted now by the passing of time. While there was some log kept by DSC Simon and a log by Sgt Daniel, various matters were not recorded. If a log of events was kept by one officer which included all decisions and actions, when officers arrived, when tasks were directed to them, when tasks were completed, when officers conveyed information and so on, had been kept at a central point, that would have greatly assisted the Inquest and by extension the witnesses themselves. Further, may I also add that the records of interview of each of the Officers involved, again, was lacking times as to when things were done. It is a matter that, I hope, can be taken on board and that area of operation improved.

205. Lastly, notwithstanding my comment in the last paragraph, I convey my gratitude to those Officers that attended on the early evening of 29 July 2019. Your efforts on this night unfortunately did not end in the saving of a life. AJ's father and his ex-partner were appreciative of your efforts as I am. Thank you for all that you tried to do on the day.

206. I extend my sincere and respectful condolences to AJ's family and friends for the loss they have sustained. As parents, there can be no greater loss than the loss of a child. I hope that AJ's family and friends will be reassured that this Court has listened to their concerns and attempted to ensure that those concerns have been addressed.

207. I pass on my thanks to A/Superintendent Thomas for his efforts in the process of the investigation and preparation of the brief of evidence which was of a high standard.

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<sup>188</sup> Transcript, 19/05/21, T197.

<sup>189</sup> Transcript, 19/05/21, T197.

208. I very much thank Counsel Assisting for his efforts and in particular the opening remarks and background statement and his closing submissions which were helpful and for the most part adopted. To Ms Potocki instructing solicitor with the Crown Solicitor's Office my great appreciation for your efforts in assisting in preparing the matter, liaising with the family in a supportive fashion and overall your efficiency in staying on top of the matter.
209. Counsel for the NSW Commissioner of Police, as always, constructive and helpful, and adopted, as one should expect, a helpful and sensitive attitude to the proceedings, thank you.
210. Below I record my formal findings regarding this Inquest, as required by the Act. I am of the view that the evidence supports that a recommendation as outlined above is appropriate to be made in relation to AJ's death and outline this also below.

## **Formal Findings and Recommendation**

14. The findings I make under section 81(1) of the Act are:

### ***Identity***

The person who died was AJ.

### ***Date of Death***

AJ died on 29 July 2019.

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

AJ died at the rocks below King Edward Park in Newcastle in the State of NSW.

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

The cause of AJ's death was multiple injuries consistent with a fall from a height.

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

AJ died as a consequence of actions taken by him with the intention of ending his life during the course of a police operation to try save his life.

211. The recommendation I make under section 82 of the Act is:

**To the Commissioner of Police:**

That consideration be given to whether the police operation concerning AJ (with appropriate anonymisation and conditional upon consent being provided by AJ's family) could be used as a case study as part of future training packages provided by the NSW Police Force Negotiation Unit to police negotiators in respect of issues such as: (a) the importance of establishing clear communication with the subject in a negotiation; (b) the importance of relaying information from the negotiation cell to the team leader and/or forward command post, especially with respect to requests or demands made by the subject; and (c) the importance of early consideration by the team leader and/or the police forward commander of requests or demands made by the subject and of appropriate documentation or recording of the results of that consideration.

212. I close this Inquest.

Magistrate R G Stone

Deputy State Coroner

Newcastle

30 July 2021