



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

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| Inquest: | Inquest into the death of Dion Moore |
| Hearing dates: | 23 – 27 October 2023 Bourke Local Court |
| Date of findings: | 6 August 2024 |
| Place of findings: | Bourke Local Court |
| Findings of: | Deputy State Coroner, Magistrate Grahame |
| Catchwords: | CORONIAL LAW – missing person in a remote area – death due to methamphetamine and buprenorphine use – heat and dehydration as contributing factors – police land search and rescue (LANDSAR operation) – NSWPF training with regard to working with First Nations communities in missing person matters |
| File number: | 2019/6790 |

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| <p>Representation:</p> | <p>Chris McGorey, Counsel Assisting the Coroner, instructed by Holly Fitzsimmons and Maclaren Wall (Crown Solicitor's Office)</p> <p>David Jordan for the Commissioner of Police, instructed by Rebecca Atherton (Office of General Counsel)</p> <p>Gary Doherty for C/Insp Nicholas Weyland and A/Insp Gavin Smith, instructed by Ken Madden (Walter Madden Jenkins)</p> <p>Jonathan Cooper for the family of Dion Moore, instructed by Christopher Huxley (Aboriginal Legal Service)</p> |
| <p>Orders in relation to access to the Coronial file are available from the State Coroner's Court Registry</p> | |
| <p>Findings:</p> | <p>The identity of the deceased The person who died was Dion Moore</p> <p>Date of death Dion Moore died on 5 or 6 January 2019</p> <p>Place of death Dion Moore died at the West Mooculta property, east of Bourke, NSW.</p> <p>Cause of death The cause of Dion Moore's death was mixed drug toxicity, most significantly methamphetamine and buprenorphine, with heat and dehydration being significant contributing factors.</p> <p>Manner of death Dion Moore died in circumstances where, while under the influence of illicit substances and in hot weather conditions, he became a missing person after venturing into a paddock alone.</p> |

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| Recommendations: | <p>To the Commissioner of the NSW Police Force</p> <p>a) The Commissioner examine the Queensland Police Force's search and rescue (SAR) command structure and consider implementing an equivalent command structure (described in this inquest in the evidence of Mr James Whitehead) within the NSWPF. This would provide for the SAR command assuming responsibility for managing a police response to a missing person report where the person is suspected of being potentially lost or in difficulty in a rural or non-urban environment that may be hazardous owing to its location, terrain and/or the temperatures at the time.</p> <p>b) The Commissioner give consideration to providing police in the Bourke local area additional cultural awareness training. The expertise of the Aboriginal Training Coordinator from the Aboriginal Coordination Team in the NSWPF should be sought and the facts of this inquest could be considered as a case study.</p> |
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Introduction

1. This inquest concerns the death of Dion Moore. Dion was 29 years old when he died on open ground just over ten kilometres from the outskirts of the township of Bourke in Western NSW. Dion had been travelling from Dubbo to Bourke with his nephew Arryn Ferguson in the early hours of Saturday 5 January 2019, when the vehicle they had been driving ran out of petrol southeast of Bourke. Dion and Arryn had consumed methamphetamine prior to and during their journey. After leaving the vehicle on the side of the highway, and travelling a short distance, Dion and Arryn separated from each other. While Arryn made his way to back to Bourke, Dion ventured further into the remote West Mooculta property (“West Mooculta”) that bordered the road.
2. Dion was first reported missing to the New South Wales Police Force (NSWPF) in Bourke by family members in the very early hours of Sunday 6 January 2019. After a co-ordinated land search was initiated on the afternoon of Monday 7 January 2019, Dion was found deceased in a paddock on West Mooculta.
3. Dion was described by family members as a happy-go-lucky boy, always up for a good time, a laugh and a joke.¹ Dion’s mother, Jennifer told the court that Dion was adored by his brothers and sisters, nieces and nephews and all of their extended family. He loved to *“play footy, ride bikes or sit around telling jokes, making them laugh, and they loved it.”* In recent times Dion was pleased that he was also developing a strong relationship with his son, Brielly. Dion was clearly very attached to his family and I accept that his unexpected death has caused profound suffering and significant ongoing grief.
4. Despite the love he certainly experienced, Dion grew up in difficult circumstances. Like many in regional Aboriginal communities he experienced disadvantage and the effects of inter-generational trauma. He developed a drug problem and later spent time in custody. Jennifer told the court that Dion was the third of her children to die too young and the traumatic circumstances of his death meant that family were never able to hold him or say goodbye. Her pain was palpable in the court room.
5. Dion had been in a relationship with his partner Kacy Orcher for some years prior to his death and although the relationship could be violent at times, she apparently remained supportive. Despite a recent assault she was in contact with Dion right up to the time his mobile phone battery ran out in the period shortly before his death. After that time she was involved in the family’s extensive search efforts.

¹ See Jennifer Moore’s family statement 27.10.2023

6. Many members of Dion's family attended the inquest, some travelling many kilometres to be there. In particular I thank Dion's mother, Jennifer and Dion's son Brielly for their participation in these difficult proceedings. It was clear that Dion's death has affected many in the Bourke and Mildura communities and I offer them my heartfelt condolences.

The role of the coroner and the scope of the inquest

7. This inquest is a public examination of the circumstances of Dion's disappearance and death.
8. The role of the coroner is to make findings as to the identity of the nominated person and in relation to the place and date of their death. The coroner is also to make findings concerning the manner and cause of the person's death.² A coroner may make recommendations, arising from the evidence, in relation to matters that have the capacity to improve public health and safety in the future.³
9. At this inquest, Dion's identity and the place of his death were not in dispute. An issues list was prepared and circulated prior to the hearing.⁴ The list included consideration of the cause and time of Dion's death and set out the various matters to be considered in relation to the search conducted by NSWPF.

The evidence

10. The court took evidence over five hearing days.
11. The court also received extensive documentary material comprising six volumes. The material included witness statements from Dion's family and from local police officers, various policies and procedures, expert reports, maps and photographs. During the inquest, the court heard oral evidence from a range of witnesses who described the events leading up to and during the period Dion was missing. The court also held a view at West Mooltla and examined key locations, including the area where Dion's body had been found.
12. At the conclusion of proceedings, Counsel Assisting provided an extensive summary of the facts along with his closing submissions. I rely on that document to set out the uncontroversial material and have taken into account the submissions made on behalf of the parties where differences of fact or emphasis arise. In all matters the conclusions are my own.

² Section 81 *Coroners Act 2009* (NSW).

³ Section 82 *Coroners Act 2009* (NSW).

⁴ Issues List 17.10.2022

Background and important context to Dion's death

13. The court was informed that Dion was a proud Aboriginal man of the Wanggumara Baakindji people with links to communities in Bourke and in the Dareton/Mildura area. A moving smoking ceremony took place before we commenced.
14. Dion was born on 17 December 1989 in Mildura to his father Colin Moore Senior and mother, Jennifer. Colin and Jennifer had ten children together and Dion was their seventh. He lived with his family in Dareton until he was a teenager, at which time he decided to live with his uncle and aunt in Bourke. As a young man, Dion fathered a son, Brielly. Over the years Dion frequently moved between Bourke and Mildura, sometimes with members of his family who travelled annually for the grape picking season.
15. While living in Bourke, Dion commenced a relationship with Kacey Orcher.
16. Of some relevance to these proceedings was an incident which occurred in 2018. Around 12 months prior to his death, Dion and his younger brother were the subject of a coordinated police search on 18 and 19 January 2018. This search commenced following a police vehicle pursuit through remote properties outside Mourquong, New South Wales. Dion and his brother reportedly exited a vehicle and headed on foot into bushland. About 4pm that same day (18 January 2018), police commenced a coordinated search for them which continued to about 1pm on 19 January 2018. The search area was remote, being more than 40 kilometres away from the nearest town, there were no nearby residences, no natural water supplies and temperatures exceeded 40 degrees celsius.
17. At 1:00pm on 19 January 2018, police located Dion and his brother, who were still on foot when found. Dion was transported by police to the Mildura Base Hospital at about 2:30pm for a medical examination. Dion was treated for heat exposure with intravenous hydration and oral fluids. Later he was charged with various criminal offences.
18. As at early December 2018, Dion was living with Kacey at her residence in Bourke. On 24 December 2018, Kacey presented to Bourke Hospital with a significant injury to her right arm. She was later transferred to Dubbo Hospital for treatment. Police subsequently received information that led them to suspect that the injury had been caused by an assault by Dion upon Kacey.
19. On about 26 December 2018, Kacey was discharged from hospital in Dubbo and returned to Bourke. On 27 December 2018, Kacey spoke with Dion at her residence in Bourke before returning to stay with her parents.⁵

⁵ Kacey Orcher [12] tab 26 (vol 5).

20. On Friday 28 December 2018, Dion called Kacey several times from a mobile phone and reported that he was in Narromine.⁶ Based on how he sounded during this call, Kacey suspected that Dion was likely to be under the influence of illicit drugs.
21. On 3 January 2019, Police attempted to speak with Kacey about her arm injury however, she refused to speak with Police.
22. It is worth noting that the court heard that Andrew Cavanough (also known as Alleycat) had seen Dion at about 2am on Friday 4 January 2019 at a residence in Narromine.⁷ Mr Cavanough also formed the view, based on Dion's appearance, that Dion was significantly affected by illicit substance(s) at this time, describing him as "*off his head.*"
23. The evidence establishes that Dion had a significant problem with the drug ice for some time. It is likely to have been relevant as a factor in his troubled relationship with Kasey and it is certainly relevant to his irrational and confused conduct in the period leading up to his death.
24. Once again I am compelled to stress the need for support for those struggling with this issue and their families particularly in regional areas⁸. The effect of ice on Aboriginal communities which are already disadvantaged is a significant problem identified in the Special Commission of Inquiry into crystal methamphetamine and other amphetamine-type substances (the Ice Inquiry). The Ice Inquiry paid particular attention to the needs of Aboriginal communities, particularly regional communities, because ice use aggravates the substantial socioeconomic disadvantage and trauma already experienced in those communities. In my view any investigation of Dion's death must acknowledge the problems associated with this drug in western NSW. The need to fully implement the recommendations of the Ice Inquiry must not be forgotten. Support for those affected by ice, including those with substance abuse issues and their family members must be increased.

Events of Saturday 5 January 2019

Dion and Arryn Travel from Dubbo

25. At some point on 4 or 5 January 2019, Arryn Ferguson met his uncle, Dion by chance at a residence in Dubbo. Both Arryn and Dion had been using methamphetamine (and possibly other drugs) in the days prior. While they were at the residence, Dion injected

⁶ Woolfe [18] tab 7 (vol 1).

⁷ Mr Cavanough described Dion as appearing like he was "*on heaps of drugs. He was off his head*". After this encounter Mr Cavanough left and drove to Bourke. See Cavanough [4]-[6] tab 31 (vol 5).

⁸ This is the third occasion this year where I have been compelled to raise the need for increased support for ice related issues for First Nations men in regional areas. See also *Inquest into the death of Jasmynd Gibbs* (20 February 2024), *Inquest into the death of Brandon Rich* (21 March 2024)

himself with methamphetamine.⁹ At about 1 am on Saturday 5 January 2019, Dion called Kacey and told her that he would see her in a “*few hours*”, in other words he was intending to travel back to Bourke.

26. At about 1:40am, Arryn apparently stole a red Nissan Navara Utility (“Red Utility”) from premises in Dubbo.¹⁰ At about 2:30am, Arryn and Dion drove the Red Utility to a BP Service Station in Dubbo. Dion sat in the driver’s seat of the vehicle while Arryn filled the vehicle with petrol. They then set off from Dubbo towards Bourke.
27. At about 2:45am, Kacey received another call from Dion. Dion told her that he was with Arryn and that they were almost back in Bourke.¹¹ Dion’s mobile phone signal during this call was picked up on a cell tower somewhere to the west of Dubbo.¹²
28. Dion and Arryn continued driving to Narromine. There, they asked an associate to supply them with more methamphetamine. They sourced about half a gram of the drug and injected some of it soon after. They continued driving towards Bourke and stopped just outside of Girilambone. Dion and Arryn had another ‘hit’ of methamphetamine. It is not clear exactly when Dion consumed the other drugs which were later found in his post mortem toxicological results.
29. Dion and Arryn continued driving towards Bourke. During the drive, Dion presented to Arryn as heavily affected by methamphetamine. He made statements indicative of paranoia including stating they were being followed by a drone. His behaviour was erratic and dangerous. At one point Dion put a screwdriver through the vehicle’s CD player as he thought people were listening to their conversation. Dion was also falling asleep behind the wheel at times.
30. About 30km outside of Bourke, they stopped at a rest area where they filled up a plastic cup and a 600ml plastic bottle with dirty water from a tank by the side of the road. They set off again driving in the direction of Bourke.¹³ They had no other water than that obtained from the tank and what had been contained in their small water phials for injection.

Dion and Arryn run out of petrol near West Mooculta

31. At about 6 to 7 am on Saturday 5 January 2019, the Red Utility ran out of petrol near a road landmark called the “*S-bends*”, about 6 – 10 km southeast of Bourke on the Mitchell

⁹ T 24.10.2023 p 153-155.

¹⁰ T 24.10.2023 p 156.

¹¹ Kacey Orcher [26] tab 26 (vol 5).

¹² Woolfe [168] tab 7 (vol 1).

¹³ Ferguson ERISP transcript p.13 tab 25 (vol 4).

Highway (commonly referred to by locals as “*the Sydney Road*”). The highway in this area runs adjacent to West Mooculta, which was then co-owned and operated by Andrew Gordon. In his oral evidence, Arryn estimated that they ran out of fuel about 1 ½ hours after their last hit.¹⁴ However, given his state of intoxication it is difficult to place too much weight on the accuracy of Arryn’s timings.

32. West Mooculta was used for cattle and could be accessed via gates positioned along both the Kamilaroi and Mitchell Highways.¹⁵ The property was divided into 13 fenced and gated paddocks. It was not usually possible to drive on to the property other than through the locked gateway. There were only a few buildings on the property.
33. Located on the property around this area was one cement tank and two steel tanks which apparently each held some water on 5 January 2019. These tanks supplied water to troughs positioned in each of the paddocks for livestock. There was also a small dam. There were no waterways or rivers running through the property.¹⁶ As of January 2019, the conditions were very dry.¹⁷ Only Mr Gordon, his brother and one of his adult sons worked on the property at this time.¹⁸

Dion and Arryn separate

34. After the Red Utility ran out of fuel, Arryn and Dion abandoned the vehicle and headed on foot into the West Mooculta property, away from the highway by jumping over a locked gate. They ran along a dirt roadway through the property.¹⁹ When they left the vehicle, both men were wearing shoes and Dion had his mobile phone on him. Neither wore a hat.
35. At this time, Dion presented as paranoid and agitated. He ran from tree to tree and rolled on the ground in an apparent attempt to avoid detection. After Arryn told Dion that they should go home, Dion said: “*No, the - the coppers will come*”.
36. After they had walked about one kilometre, in a south-easterly direction (away from Bourke), Arryn tried to persuade Dion to turn and head in the direction of Bourke, however, Dion refused. It appears that Dion could not be reasoned with at this time.
37. About 60 to 90 minutes after they left the Red Utility, Arryn gave up trying to persuade Dion. He turned and walked back in the direction of an abandoned abattoir complex commonly known as the Old Meatworks (“Meatworks”), which remains a well known

¹⁴ T 24.10.2023 p 162.

¹⁵ T 24.10.2023 p 106.

¹⁶ Aylett [2] tab 8 (vol 1).

¹⁷ T 24.10.2023 p 107.

¹⁸ T 24.10.2023 p 108.

¹⁹ T 24.10.2023 p 164.

landmark in the local area. Dion continued in the other direction, east-south-east, despite Arryn's attempts to get Dion to follow him home to Bourke.²⁰ At the time Arryn last saw him, Dion was on the phone "*to his missus*".

38. When they separated, Dion did not appear to Arryn to be in pain or discomfort but did appear thirsty.²¹ All he had seen Dion consume was a packet of chips (early in the day) and a bottle of soft drink and the water from the rest stop.
39. Kacey Orcher received two calls from Dion at 7:55am (lasting 79 seconds) and 8:37am (lasting 221 seconds).²² In these calls, Dion asked Kacey to come out and pick him up. Kacey arranged for her mother, Narelle Orcher, to drive about ten kilometres out of Bourke along the Mitchell Highway.
40. Narelle Orcher left to look for Dion shortly before the second call at 8:37 am. During this call, Dion said that he had started walking and was on a dirt track. Kacey asked Dion if he was near the Old Meatworks and told him not to leave that area as her mother was on her way to collect him. Dion replied to the effect that Arryn did not want to walk, so Dion was "*walking on this dirt track*". Kacey asked Dion to stay in a place where her mum would be able to spot him. The phone cut out before she ended the call, which was likely due to Dion's phone battery going flat.²³

Narelle Orcher finds Arryn

41. After separating from Dion, Arryn Ferguson walked until he reached the Meatworks. He changed his clothes and hid his old clothes in a bag near the Meatworks. Arryn then walked a short way along the Mitchell Highway until Narelle Orcher, who had set off to look for Dion, pulled over in her vehicle and spoke to him.
42. Arryn indicated to Narelle that Dion had walked off in a north-easterly direction (in the opposite direction to the Meatworks). Narelle took Arryn Ferguson back to Bourke.
43. At approximately 9:30am, Narelle Orcher arrived home and told Kasey that she had found Arryn out the front of the Meatworks and dropped him home, but that Dion was not with Arryn Ferguson and she had not seen him.²⁴ Narelle Orcher told Kacey that Arryn had said Dion was "*on the track heading towards the Bre Road*" (a reference to the Kamilaroi Highway directly north of the Mitchell Highway).²⁵

²⁰ T 24.10.2023 p 164.

²¹ Woolfe [105] tab 7 (vol 1)

²² Woolfe [169]-[170] tab 7 (vol 1).

²³ Kacey Orcher [32] tab 26 (vol 5).

²⁴ Kacey Orcher [33] tab 26 (vol 5).

²⁵ Woolfe [139], tab 7 (vol 1).

Initial searches by family for Dion

44. There is no doubt that Kacey Orcher was already concerned about Dion. At about 10 am on Saturday 5 January 2019, she drove her father's car along the Mitchell Highway looking for Dion but was also unsuccessful. She drove to the S-bends and saw the Red Utility by the southern side of the road. She turned around and stopped in front of the Meatworks but Dion could not be seen. She tried ringing Dion's mobile telephone but it would not connect.²⁶
45. Kacey Orcher then returned to her mother's house and called Dion's sister, Melissa Moore and they drove together out along the Mitchell and Kamilaroi Highways for several hours in an unsuccessful attempt to find Dion.²⁷ They drove along the side of the road beeping the horn and calling for him.²⁸

Arryn collects the Red Utility

46. At about 8pm on Saturday 5 January 2019, Narelle and Kacey Orcher drove Arryn, at his request, back to the Red Utility which was still on the side of the Mitchell Highway near to the S-bends. Arryn took a jerry can of fuel with him. Arryn put petrol in the Red Utility and then drove it back to Bourke on his own.²⁹ Later Senior Constable Gibson saw the Red Utility (being driven by Arryn) in Bourke. When he approached the vehicle left the road and then sped off.
47. SC Gibson pursued the Red Utility for a short time until it went off road behind houses on Meadows Road, at which point SC Gibson terminated the pursuit. Shortly afterwards, SC Gibson drove to Arryn's house and spoke to Arryn's older brother who stated that Arryn was not at home.
48. At about 11pm, SC Gibson located the Red Utility parked, apparently abandoned, in a laneway on the North/Eastern side of Denman Street. SC Gibson located syringes in the vehicle's centre console.³⁰

Arryn speaks to Melissa Moore

49. At about 11pm on Saturday 5 January 2019, Melissa Moore unexpectedly encountered Arryn near a friend's house in Bourke. Arryn was under the influence of illicit substances at this time. Melissa Moore asked Arryn where Dion was. Arryn, believing that Dion

²⁶ Kacey Orcher [34] tab 26 (vol 5).

²⁷ Woolfe [125]-[126] tab 7 (vol 1).

²⁸ Kacey Orcher [36] tab 26 (vol 5).

²⁹ N.Orcher [25]-[26] tab 28 (vol 5).

³⁰ Gibson [7]-[12] tab7 (vol 1).

would have walked through West Mooculta to the Kamilaroi Highway, told Melissa that Dion had “walked off out on the Bre Road, on the dirt track”.³¹

50. Melissa Moore asked Arryn to travel out to where he had last seen Dion. Arryn declined to do so, stating that “the Police are looking for me”.³²

Events of Sunday 6 January 2019

Melissa Moore reports to police that Dion is missing

51. At about 12:05 am on Sunday 6 January 2019, Melissa Moore, attended Bourke Police Station and made a missing person report to Sergeant Nicole Ward and SC Gibson.
52. Fearing that she would get Dion in trouble for being involved with a stolen vehicle if she told Police about Arryn Ferguson’s involvement, Melissa Moore gave police inaccurate information that Dion had last been seen by an “Aboriginal man” known to her as “Alleycat” at about 10 am on Saturday 5 January 2019 about 10 kilometres south of Bourke on the Mitchell Highway. Melissa Moore told police that this man had stopped and offered Dion a lift but he did not reply and walked off into a paddock.³³ At this point, police were unaware that Alleycat was an alias of Alan Cavanough. With hindsight it is clear that Melissa was telling police as much as she knew about Dion’s location, but withholding information which might incriminate him or Arryn.
53. Melissa Moore told police that she had attempted to find Dion but with no success and that she was very concerned. Kacey Orcher had attended the police station with Melissa but had refused to go inside. SC Gibson asked Melissa to ask Kacey what phone number Dion was using. Kacey told Melissa that Dion had called her from a private number. After speaking to police, Melissa Moore continued driving around looking for Dion for several hours.

Initial police response

54. At about 12:30am on Sunday 6 January 2019, Sgt Ward called Acting Inspector Gavin Smith, the Bourke Officer in Charge and on call Inspector for the Central North Police District and notified him of the missing person report.

³¹ T 24.10.2023 p 195.

³² M.Moore [14] tab 29 (vol 5).

³³ Ward [6] tab 18 (vol 1).

55. At about 1:00am, SC Gibson contacted Senior Constable Benjamin Wright for advice. SC Wright was a NSW Police Land Search Co-ordinator and Police Rescue Operative, based at the Cobar Police Station.³⁴
56. SC Wright completed a Land Search Operations Search Urgency Assessment form (“search urgency form”).³⁵ SC Wright considered a number of factors including the high temperatures in the Bourke Area (fluctuating around 40 degrees celsius during the day), the area being in drought and the absence of information suggesting Dion had any supplies. SC Wright formed the opinion that Dion’s Time Frame For Survival (“TFFS”) was minimal.³⁶ Given this, SC Wright believed an emergency response was needed, this would require immediate action by police to commence a coordinated land search regardless of the time of day or prevailing conditions.³⁷
57. At approximately 1:05am, officers were tasked with locating and speaking with Kacey Orcher in order to get the phone number Dion was using. They were unable to locate Kacey. However, when SC Gibson returned to the Police Station, Melissa Moore was out the front. Melissa Moore told SC Gibson that Kacey Orcher did not want to speak to the Police. SC Gibson told the court that he told Melissa about the importance of police being able to speak with Kacey, the need to try and get the phone number Dion was using and the need for further information about the Aboriginal man that Melissa Moore had told police Dion was last seen with.
58. At about 2:00am Senior Constable Mitchell Smith and Senior Constable Anthony Lunney drove about 10kms along the Mitchell Highway towards Dubbo, to look for Dion along the side of the highway.
59. At 1:45am Sgt Ward called Chief Inspector Darren Gregor, the Duty Operations Inspector (“DOI”), seeking his authorization for an urgent iASK request for reverse call charge phone records which would provide information needed to ultimately request a mobile phone triangulation of Dion’s mobile phone.³⁸
60. C/Insp Gregor advised Sgt Ward to seek that request during business hours as the mere fact of making an urgent iASK request would not mean that it would be seen outside of business hours.³⁹ Sgt Ward emailed Detective Inspector Rodney Grant, the Crime Manager of the Central North Police District, informing him about the commencement of an investigation following a missing persons’ report for Dion. Sgt Ward then included

³⁴ Wright [5] tab 14 (vol 1).

³⁵ Land Search Operations Assessment, tab 14A (vol 1).

³⁶ Wright [12] tab 14 (vol 1).

³⁷ Wright [13] tab 14 (vol 1).

³⁸ Ward, [13] tab 18 (vol 1).

³⁹ Transcript of Phone Call to DI Gregor [Ward to Gregor] re iASK request tab 77 (vol 5).

in the 'changeover' document to Senior Constable Renee Simpson, who would be the next shift supervisor, the need to follow up with a phone call to D/Insp Grant for the urgent iASK requests to be processed⁴⁰

61. SC Wright completed the search urgency form by 3:43am, after which he forwarded the assessment to Sgt Ward via email. Sgt Ward spoke with SC Wright over the phone about the search urgency form and said that consideration should be given to an emergency land search.⁴¹

Shift handover and police response on Sunday morning

62. At 5:30am, Sgt Ward completed a Situation Report. Sgt Ward gave SC Simpson a briefing in-person before going off shift at 6:00am.⁴²
63. Sgt Ward requested that SC Simpson contact the Duty Officer or Crime Manager to authorise Leading Senior Constable Travis Pocock to return to work on overtime to assist with using the Rescue Drone in the investigation efforts. She also asked SC Simpson to confirm with the Duty Officer or the Crime Manager whether they wanted a coordinated search or a General Duties response search.⁴³ Sgt Ward then completed her shift, with SC Simpson assuming shift responsibility thereafter.
64. At 8:09am, SC Simpson contacted A/Insp Smith, and discussed several matters relating to Dion, including the use of a drone to assist with the investigation, the search urgency form received from SC Wright, search options, the obtaining of reverse call charge phone records, the possibility of triangulating Dion's phone, the need to identify Alleycat and reviewing staff rosters to consider capacity to conduct a land search.⁴⁴
65. As a result of this phone conversation, SC Simpson was advised to continue with the iASK request, to follow up with Melissa Moore and Kacey Orcher for further information, to identify Alleycat and to notify the Rescue Bomb Disposal Unit in Sydney regarding a pending search for Dion.⁴⁵
66. Further actions of police up until 9:50am on Saturday 6 January 2019 included:
 - a. Meeting with Melissa Moore to get her to sign a media consent form and to obtain a photo of Dion;

⁴⁰ Grant, [4] tab 22E (vol 1).

⁴¹ Ward [17] tab 18 (vol 1).

⁴² Simpson, [18] tab 19 (vol 1).

⁴³ Ward [18] tab 18 (vol 1).

⁴⁴ Simpson [7] tab 19 (vol 1).

⁴⁵ Simpson [7] tab 19 (vol 1).

- b. The identification of Alleycat as Alan Cavanaugh, whose last known address was in Queensland;⁴⁶
 - c. The approval of the outstanding iAsk request relating to obtaining the reverse phone charge records by D/Insp Grant;⁴⁷
 - d. LSC Pocock being recalled in order to commence an aerial search using a drone.⁴⁸
67. At 9:50am SC Simpson phoned the Rescue and Bomb Disposal Unit and spoke with Senior Constable Jervis, the State Search & Rescue land search and rescue (“LANDSAR”) Coordinator, about the information known to Bourke Police concerning the missing person report for Dion.⁴⁹
68. After this phone conversation, SC Jervis spoke with Sergeant Michael Hood, the Shift Supervisor at the Rescue and Bomb Disposal Unit. SC Jervis completed his risk assessment based on the information given to him by SC Simpson. The completed risk assessment gave a score of 16, which signified an emergency response should be considered.⁵⁰
69. D/Insp Grant spoke with A/Insp Smith, who had taken charge of the operation to search for Dion.⁵¹ A/Insp Smith informed D/Insp Grant that there were not severe concerns for the welfare of Dion as he had only been reported as missing for several hours during the previous evening.⁵²
70. D/Insp Grant approved the use of Criminal Investigation staff being recalled to duty to further investigate and enquire into the injury sustained by Kacey Orcher on 24 December 2018.⁵³

Consideration of a LANDSAR operation

71. At about 10:30 am on Saturday 6 January 2019, a briefing took place at Bourke Police Station involving A/Insp Smith, SC Simpson, SC Carney, and Sgt Hood, in which discussion was had about:⁵⁴
- a. The information about Dion’s whereabouts being uncertain and the possibility he was in the proximity of towns at Bourke, Dubbo or Narromine;

⁴⁶ Simpson [10] tab 19 (vol 1).

⁴⁷ Simpson, [8] tab 19 (vol 1).

⁴⁸ Simpson [12] tab 19 (vol 1).

⁴⁹ Hood [6] tab 16 (vol 10).

⁵⁰ Hood, [7] tab 17 (vol 1).

⁵¹ Grant [5] tab 22E (vol 1).

⁵² Grant [5] tab 22E (vol 1).

⁵³ Grant [6] tab 22E (vol 1).

⁵⁴ See information recorded in the Missing Person Investigation Log tab 58 (vol 6).

- b. That Dion was considered to have “*bush survival skills based on recent search and rescue incident with police near Dareton*”;
- c. That Dion had a mobile phone; and
- d. The information that Dion went for a walk from town and the possibility he was hiding or being hidden as he suspected he was wanted for the suspected assault on Kacey Orcher.

72. During this conversation the following advice was given by Sgt Hood to the Bourke Police:

- a. To conduct a land search for the last known area with a search radius of 3km.
- b. To perhaps use SES volunteers.
- c. For a LANDSAR Coordinator to be used.
- d. The possibility of using PolAir fixed wing to search the area (Sgt Hood would make further enquiries if PolAir was available).
- e. For frequent updates to be placed on the Police CAD system.⁵⁵

Acting Inspector Smith’s contact with Chief Inspector Weyland at about 10:45am on Sunday morning

73. At about 10:45 am on Sunday 6 January 2019, A/Insp Smith spoke by phone with Chief Inspector Nick Weyland, who was rostered as the “*On Call*” Officer for the Western Region Office.

74. A/Insp updated CI Weyland about the missing person report for Dion with the information known at the time. CI Weyland was informed of the following:

- a. Unconfirmed information that a male known as Alleycat had seen Dion walking along the Mitchell Highway south of Bourke around 10am on Saturday 5 January 2019;
- b. Bourke Police had made extensive patrols of the area south of Bourke on the Mitchell Highway earlier in the morning and found no sign of the missing person;
- c. A relative of Dion had stated Dion left an unknown location in Bourke to go for a walk. No direction or destination had been provided;
- d. Dion may be avoiding police due to a recent domestic violence offence;

⁵⁵ Simpson [13] tab 19 (vol 1).

- e. Dion had a history for evading Police and had an extensive network of people in the area that may assist him with evading Police. Relatives at this stage had been reluctant to assist Police with information;
- f. Information that Dion was skilled in bush survival. He had earlier been involved in a police pursuit where he ran off from Police into the bush and spent 3 days hiding out;
- g. The weather in Bourke was currently mild, overnight rain and the expected temperature for the day was 37 degrees celsius;
- h. Police were informed that Dion had a mobile phone with him, but his number was unknown. A triangulation of mobile phone towers would be sought when his phone number was ascertained;
- i. Dion may have been walking on foot along the highway and could have covered some distance by this time; and
- j. Bourke Police were enquiring with the Rescue Bomb Disposal Unit as to whether PolAir could assist with a fixed wing aircraft to perform an aerial search.

75. CI Weyland told A/Insp Smith that he was supportive of a Police drone operator being used in a search. However, he was not of the view that a large-scale search using SES personnel should be commenced before the exact point where Dion was last seen could be identified.⁵⁶

76. A record was subsequently made in the Investigation Log that CI Weyland considered the matter did not need to be *“escalated to the level advised by Sgt Hood/RBDU and that all actions taken so far were adequate.”* CI Weyland’s reasons were documented as⁵⁷:

- a. Dion was a *“violent criminal”* who is likely to be wanted by police.
- b. Dion *“believes he is wanted...and could possibly be hiding”*.
- c. Dion in the last 12 months near Dareton *‘was intercepted by police in a stolen car...spent 3 days in the bush when he was eventually arrested’* (Real Time Intelligence to be asked to include this in its profile).
- d. Dion has *“bush and survival skills”*.
- e. Weather overnight was mild with rain and *“today’s top is 37 degrees”*.
- f. Dion was last seen only 4 kilometres from the town limits.
- g. Dion has a history of extensive evasion when wanted.

⁵⁶ Weyland [4]-[5] tab 11 (vol 1).

⁵⁷ Woolfe [48] tab 7 (vol 1); Investigation Log tab 58 (vol 6).

- h. Dion has an extensive network in Bourke and other areas that are willing to *'harbour him'*.

Drone search

77. Between 11:00 and 11:30am LSC Pocock, SC Carney and SC Taylor commenced a drone operation with the starting point opposite the Meatworks on the Mitchell Highway.⁵⁸
78. From this position, LSC Pocock operated the drone to fly for approximately 1km south of the Mitchell Highway on the property, Lakota, and then for the drone to fly approximately 1.2km north of the Mitchell Highway on the property West Mooculta.⁵⁹
79. Whilst operating the drone, LSC Pocock located several points of interest. LSC Pocock, SC Carney and SC Taylor commenced a ground search of the points of interest and were unable to find any signs of Dion. LSC Pocock also checked for footprints around the dam located on West Mooculta.⁶⁰
80. At about 12 pm, SC Carney, SC Taylor and LSC Pocock spoke with Mr Gordon, who advised that he had previously seen a red utility truck near the S-bends on the Mitchell Highway but that it was no longer there.⁶¹ The officers checked machinery sheds and a farmhouse at Latoka Station but located nothing of interest.

Availability of PolAir and status of iASK request

81. At 1:00pm on Sunday 6 January 2019 SC Simpson was contacted by Sergeant Justyn Backhouse from the Aviation Command ("PolAir") and advised that the aircraft they had at Dubbo would not be suitable for the task of searching for Dion due to "shift lengths." She was further advised that no other resources were available to assist at that time and to contact them on Monday, 7 January 2019 to reassess whether their assistance was still required and if so, whether a more suitable aircraft was available for the search.⁶²
82. At 1:29pm SC Simpson contacted the Duty Operations Inspector ("DOI"), Inspector Michael O'Rourke to follow up the iASK request that had been submitted by Sgt Ward and to further enquire whether a phone triangulation of Dion's phone was likely to be approved.⁶³ Insp O'Rourke was doubtful that a request for phone triangulation would be

⁵⁸ Simpson [18] tab 19 (vol 1).

⁵⁹ Pocock, [6] tab 13 (vol 1).

⁶⁰ Pocock [8] tab 13 (vol 1).

⁶¹ Investigation Log tab 58 (vol 6).

⁶² Simpson [24] tab 19 (vol 1).

⁶³ Simpson [25] tab 19 (vol 1).

approved on the information provided. He agreed to follow up the earlier iASK request and to get back in contact SC Simpson.⁶⁴

83. At 2:43pm, SC Simpson made a further phone call to the DOI, to follow up her earlier call with Insp O'Rourke. SC Simpson spoke briefly with Inspector Matt Clifford who advised that he would get Insp O'Rourke to call SC Simpson back.⁶⁵
84. At 2:49pm, Sgt Hood contacted Aviation Support Branch and was advised that due to headwinds and taskings in Dubbo, PolAir would not be able to attend on this date to assist in any aerial search. He recorded this in the CAD.⁶⁶
85. At 2:54pm, SC Simpson was contacted by Insp O'Rourke who advised that the iASK result was unlikely to come back until Monday 7 January 2019.

Police contact with Alan Cavanough (Alleycat)

86. At 3pm, SC Carney and Constable Taylor attended on Alan Cavanough (Alleycat) at an address in Bourke. Mr Cavanough said he spoke to Dion on 4 January 2019 at Narromine but had not seen him on 5 January 2019 or told Melissa Moore that he had.⁶⁷ This information was inconsistent with the information provided by Melissa to Bourke Police when she reported Dion missing on 5 January 2019.

Advice provided by Sergeant Hood and Sergeant Connelly on Sunday afternoon

87. Sometime in the afternoon of Sunday 6 January 2019, Sgt Hood contacted A/Insp Smith and advised him of what steps they should be undertaking. A/Insp Smith contacted Sergeant Tim Connelly, who is trained as a Police Search and Rescue Coordinator and is based at Nyngan Police Station.
88. A/Insp Smith advised Sgt Connelly of the missing person report for Dion and the information that Police knew at that point. Sgt Connelly advised that it was his belief that a land search should be commenced and although he wasn't working on this day, he would arrange to immediately travel from Nyngan to Bourke to commence coordinating a land-based search.⁶⁸
89. This was the third LANDSAR accredited officer who advised that a coordinated land search was required.

⁶⁴ Transcript of Phone Call to State Coordinator [Simpson to O'Rourke] re Triangulation, p 2 tab 78 (vol 6).

⁶⁵ Transcript of Phone Call to State Coordination Unit [Simpson to Clifford] re follow up on IAsk, p 1 tab 79 (vol 6).

⁶⁶ Hood [12] tab 16 (vol 1).

⁶⁷ Woolfe [56] tab 7 (vol 1).

⁶⁸ Connelly [4] tab 22B (vol 1).

Crime Stoppers Report

90. At 3:15pm on Sunday 6 January 2019, SC Simpson was informed via police radio that a person called Peyton had contacted Crime Stoppers to provide information that she had provided a lift to Dion around 11:00am on Saturday 5 January 2019 to Aaron Moore's address in Dubbo. SC Simpson arranged for Dubbo Police to attend this location and to verify that information. Attempts were made by SC Simpson to contact Peyton however her phone was turned off.⁶⁹

Calling off the LANDSAR operation

91. Upon learning from SC Simpson about the Crime Stoppers information at about 3:30pm on Sunday 6 January 2019, A/Insp Smith contacted Sgt Connolly and called off the plans for him to travel to Bourke to commence a LANDSAR operation.⁷⁰

92. That afternoon and evening, SC Carney and SC Taylor spoke to Melissa Moore about the information police had received from Alan Cavanough. The officers made further attempts to speak with Kacey Orcher, however they could not locate her.⁷¹

Attempts by family to locate Dion on Sunday evening

93. Sometime in the late afternoon on Sunday 6 January 2019, Kacey Orcher travelled with others in a black Lancer out to the Meatworks on the Mitchell Highway looking for Dion. The car had spotlights and they were still extremely worried.⁷²

94. After searching this area, they drove back out along the Kamilaroi Highway and entered an open gate into West Mooculta. Before entering, a person in the vehicle called Mr Gordon (whose number was listed on a sign on the gate).⁷³ They then drove into the property and searched close to the Kamilaroi Highway.

95. Mr Gordon saw them searching and approached. The vehicle occupants told him they were looking for Dion, that Dion was missing and showed him a picture of Dion. Mr Gordon said he had mustered his paddocks and had not seen anyone.⁷⁴ Mr Gordon told them that the police were looking for Dion, that they should "*let the police do their job*" and *not* to come back onto his property. They then left the property.⁷⁵

⁶⁹ Simpson [31] tab 19 (vol 1).

⁷⁰ Connelly [6] tab 22B (vol 1).

⁷¹ Smith [5] tab 12 (vol 1).

⁷² T 27.10.23 p 466.

⁷³ Gordon [7] tab 33 (vol 5).

⁷⁴ K.Orcher [45]-[46] tab 26 (vol 5); Gordon [10] tab 33 (vol 5).

⁷⁵ Gordon [10] tab 33 (vol 5).

96. At about 9 pm on Sunday 6 January 2019, Arryn Ferguson rode a quad bike out to West Mooculta, via the Kamilaroi Highway and through a locked gate, to look for Dion.⁷⁶ He later told police he searched for about two hours, calling out for Dion but saw no signs of him.
97. Arryn told the court that after a while the owner of the farm approached him.
98. Andrew Gordon yelled at Arryn to get off the property. According to Mr Gordon, Arryn said words to the effect, "*Kasey Orcher had given [me] permission to be on the property*", to which Andrew Gordon replied that he owned the property and "*he had to piss off right away, no one is allowed on here*".⁷⁷
99. In oral evidence Arryn told the court about the interaction. He said: "The owner come out, Andrew Gordon, he's like, 'What the eff are you doing on me – on me farm?' I said 'I'm looking for my uncle.' He -he said 'The black C aint here.' I said, 'how do you know that ? This is where I walked'."⁷⁸
100. Arryn left and Andrew Gordon followed him off the property. Mr Gordon then locked the gates to prevent anyone else driving into his property.⁷⁹
101. Arryn Ferguson returned home.⁸⁰ He was later charged with trespass, a matter to which I will return.

Melissa Moore's contact with police

102. At 8 pm on Sunday 6 January 2019, Melissa contacted Bourke Police. Melissa Moore said she had been told by Jamie Moore, Arryn's brother, that Dion had been with Arryn Ferguson on Saturday morning, 5 January 2019, and that Dion had walked off into a paddock after an argument. Arryn Ferguson had then got a lift from the Meatworks with his aunt, Narelle Orcher.⁸¹
103. At 8:20 pm, SC Smith and SC Gibson attended Arryn Ferguson's home. Police spoke to Arryn Ferguson's mother, Kerri-Anne Howarth. Arryn was not at home. Ms Howarth told police that her son had told her that he travelled from Dubbo to Bourke with Dion and they had broken down just outside of Bourke on the Mitchell Highway S-bends. Her

⁷⁶ Arryn Ferguson [11] tab 33 (vol 5).

⁷⁷ Andrew Gordon [11]-[12] tab 33 (vol 5).

⁷⁸ T 24.10.23 p 194

⁷⁹ Andrew Gordon [11]-[12] tab 33 (vol 5).

⁸⁰ Woolfe [104] tab 7 (vol 1).

⁸¹ Woolfe [63] tab 7 (vol 1).

son had said he last saw Dion on a track walking towards the Brewarrina Road (Kamilaroi Highway).⁸²

104. After speaking with Ms Howarth, SC Gibson spoke with Jaime Moore and several other people. Jaime provided SC Gibson with a phone number for Peyton Kelly. SC Gibson was only able to speak with Peyton for a short period of time.⁸³

Andrew Gordon reports Arryn trespassing to Bourke Police

105. At about 9 to 10pm on Sunday 6 January 2019, Mr Gordon contacted LSC Pocock by phone. Mr Gordon said that he found *“one of the Moore/Ferguson boys riding around on a quad bike on his property searching for the missing person”* and that he did not *“want those sorts of people on his property as they are thieves and he was concerned for his property”*. LSC Pocock told Mr Gordon to contact Bourke Police Station to report the matter.⁸⁴

106. At about 10:40 pm on Sunday 6 January 2019, Andrew Gordon attended Bourke Police Station where he made a statement regarding finding Arryn riding a quad bike and trespassing on his property.

107. After attending the Police Station, Mr Gordon returned to West Mooculta. Some time later, Mr Gordon and his son saw vehicles driving up and down the Kamilaroi Highway shining torches south into the property, which were family and friends of Dion still searching for him. It is clear that Mr Gordon must have known that the family still believed that Dion may be on his property and that they remained very concerned for his welfare. The family search appears to have continued until about 3am on Monday 7 January 2019.⁸⁵

Events of Monday 7 January 2019

Information regarding Peyton Kelly

108. At approximately 12:00 midnight, Melissa Moore and Jack Gasby attended Bourke Police Station. They told SC Gibson that Kacey Orcher was in a car across the road from the Bourke Police Station and that she had been attempting to call Dion’s phone but was not getting through.⁸⁶ Kacey refused to speak to police at this time.

⁸² Woolfe [64] tab 7 (vol 1).

⁸³ Woolfe [65] tab 7 (vol 1).

⁸⁴ Pocock [10] tab 13 (vol 1).

⁸⁵ T 24.10.2023 p 130.

⁸⁶ Gibson, [40] tab 9 (vol 1).

109. Jack Gasby returned a short time later with Kacey's phone and gave Dion's phone number to SC Gibson. Melissa Moore informed SC Gibson that the information Police had received about Peyton Kelly giving Dion a lift on Saturday, 5 January 2019 was incorrect.

Request for triangulation and further police actions

110. Upon receiving Dion's phone number, SC Lunney phoned the DOI, C/Insp Gregor, to seek approval for a triangulation of Dion's phone number. This was declined as it was decided that it did not meet the criteria required.⁸⁷ This is an issue to which I will return.
111. At around 12:55am on Monday, 7 January 2019, SC Gibson attended Jamie Moore's address. Jamie Moore told SC Gibson that he returned to Bourke around midday on Sunday 6 January 2019 and spoke to Arryn Ferguson. Arryn Ferguson had told Jamie Moore that he was picked up by Narelle Orcher from the S-bends and that Dion was last seen walking on a dirt track near the S-bends towards the Kamilaroi Highway.⁸⁸ Jaime Moore also advised Police that Dion had been drug affected at the time Arryn Ferguson last saw him, that he had a one litre bottle of water and provided a brief description of what Dion was wearing.⁸⁹
112. SC Gibson and SC Smith continued to make further patrols along the highway through the night.⁹⁰

Briefing at 7:30am on Monday 7 January 2019

113. At 7:30 am on Monday 7 January 2019, a briefing was held at Bourke Police Station. In that briefing it was determined that police would speak to Narelle Orcher further to ascertain her knowledge of what had occurred and then speak to Arryn Ferguson.⁹¹
114. At 8:15am Detective Tim Pilon and DSC Woolfe attended Narelle's residence, but she was not home. Detective Woolfe was able to speak with Narelle on the phone and they organised to meet her at her residence at 8:25am.⁹²
115. At about 9:00am, Narelle came with Det Pilon and DSC Woolfe to the Bourke Police Station to provide a further statement.⁹³ Narelle confirmed the account attributed to her by Jamie including that Arryn was the last person to see Dion.

⁸⁷ Gibson, [45] tab 9 (vol 1).

⁸⁸ Gibson, [46] tab 9 (vol 1).

⁸⁹ Smith [15] tab 12 (vol 1).

⁹⁰ Gibson, [47] tab 9 (vol 1).

⁹¹ Woolfe [184] tab 7 (vol 1).

⁹² Pilon [6] tab 15 (vol 1).

⁹³ Pilon [7] tab 15 (vol 1).

116. Police made further attempts to locate Dion in Bourke and to contact Kacey.
117. At some stage on the afternoon of Monday, 7 January 2019, Sgt Connolly received a phone call to advise that Dion was not in Dubbo and he was last seen walking into West Mooculta. Given this information, Sgt Connolly advised that a LANDSAR operation needed to be commenced and he immediately gathered his search coordinators kit and travelled from Nyngan to Bourke.⁹⁴

Decision to activate an emergency land search

118. A further briefing took place at 1:50pm involving Sgt Connolly, Det Pilon, SC Proctor, Senior Intelligence Analyst Kristie Doughty and Acting Intelligence Analyst Peta-Jayne Gardiner.⁹⁵ Following this briefing, the decision was made to commence a land search of the broad area south of Bourke at about 4:00pm. Sgt Connolly was recalled to duty to perform the role of SAR Coordinator.⁹⁶

Attempts by family to locate Dion on Monday morning

119. Throughout Monday morning, Dion's family continued their search. Melissa Moore and family members drove out to the Meatworks to resume searching for Dion. One of them operated a drone but they did not find any sign of Dion.⁹⁷

Arryn Ferguson shows police where he last saw Dion

120. At about 2 pm on 7 January 2019, Detective Pilon and DSC Woolfe found Arryn Ferguson at a residence in Bourke with his mother Kerri-Anne Howarth. Police asked him to show them where he had last seen Dion. At this time Police state that they clarified with him that they were not currently investigating the stolen Red Utility and that they wouldn't be arresting him at that point.⁹⁸ Arryn Ferguson agreed to show police the last place he had seen Dion.
121. Arryn Ferguson and his mother drove to the S-bends (about six kilometres outside Bourke). Arryn Ferguson showed Detective Woolfe and Detective Pilon where he and Dion jumped the fence of West Mooculta. He told police that he and Dion were in a vehicle that ran out of fuel near the start of the S-bends and that Dion was paranoid and refused to follow him. Arryn told police that he knew Dion was going the wrong way, away from Bourke, but he assumed he would just walk to the "*Bre Road*" (Kamilaroi

⁹⁴ Connelly [7] tab 22B (vol 1).

⁹⁵ Simpson [42] tab 19 (vol 1).

⁹⁶ Hurst [29] tab 21 (vol 1).

⁹⁷ Melissa Moore [27]-[29] tab 29 (vol 5).

⁹⁸ Woolfe [186]-[187] tab 7 (vol 1).

Highway) and would find his way back to Bourke via that route.⁹⁹ It is clear that while Arryn tried to get Dion to stay with him, when Dion refused Arryn still believed that his uncle would get to town eventually by travelling down the other highway.

122. Detective Woolfe organised for Andrew Gordon to unlock the gate in order for Arryn to show police exactly where he and Dion had separated. Kacey and Melissa pulled up in a vehicle and asked for permission to enter the property to help search. This request was refused.
123. Arryn Ferguson and the officers drove onto West Mooculta, following a dirt track which led in a south-easterly direction. After approximately one kilometre, near some trees, Arryn Ferguson located the spot where he had left Dion, who he believed was on the phone to Kacey Orcher at the time. Police used a GPS marker to plot this position. Arryn Ferguson told police that when he left Dion, he turned back and began walking towards the road, in the direction the Meatworks.

Preparation for LANDSAR operation

124. Detective Woolfe later met Detective Connolly at West Mooculta. Detective Connolly had just arrived in Bourke to act as the Search Co-Ordinator. Detective Woolfe showed Detective Connolly the last known location of Dion and then returned to the Bourke Police Station.¹⁰⁰
125. At 2:40pm, SC Simpson completed the iASK request on Kasey's phone and confirmed Dion's number.¹⁰¹
126. At approximately 3:30pm, LSC Pocock was recalled to duty by A/Insp Smith to attend a police briefing at 4:00pm at the Meatworks on the Mitchell Highway to assist with conducting a drone flight.¹⁰²
127. At 4:00pm Sgt Hood received a call from A/Insp Smith that a formal Land Search was being undertaken by Police based on new information received from Dion's family and friends.
128. At 4:00pm the briefing took place at the Meatworks and lasted approximately 45 minutes. Following this, several Police crews were tasked with searching several areas in the vicinity.¹⁰³

⁹⁹ Pilon [10]-[11] tab 15 (vol 1).

¹⁰⁰ Woolfe [197] tab 7 (vol 1).

¹⁰¹ Simpson [43] tab 19 (vol 1).

¹⁰² Pocock [11] tab 13 (vol 1).

¹⁰³ Pocock [11] tab 13 (vol 1).

129. Sgt Connolly spoke with Andrew Gordon and took down information about how West Mooculta is divided up into different paddocks. Given that information and with the assistance of the NSW Rural Fire Services and SES Volunteers, along with police officers, a search was commenced in the first paddock.¹⁰⁴

LANDSAR operation commences and Dion's body is found

130. At about 4 pm on 7 January 2019, the LANDSAR operation formally commenced. The point of origin of the search was the last place Arryn Ferguson indicated to police that he had seen Dion. The searching team consisted of police, SES volunteers and RFS volunteers.¹⁰⁵
131. At about 5:30 pm, Andrew Gordon was driving along the northern side of the northern fence of the Gidgee paddock to check some water. As he was driving, he located Dion deceased about five kilometres from the Mitchell Highway on West Mooculta. Dion was lying face up on his back. He was only wearing underpants with no other clothing.
132. During a subsequent search of the paddock on Thursday 10 January 2019, police were unable to locate any of Dion's clothes or his mobile phone.

Issues

What was the cause of Dion's death?

133. Following Dion's death, he was taken to the Department of Forensic Medicine at Newcastle where a post mortem examination took place. Post mortem decompositional change was detected and there was extensive post mortem drying of the skin. Toxicological testing indicated the presence of methamphetamine, traces of Fentanyl, Oxycodone and its metabolite, Ibuprofen, Mirtazapine, Buprenorphine/Norbuprenorphine and Quetiapine.
134. Dr Istvan Szentmariay completed an Autopsy Report for the Coroner, indicating Dion's cause of death was "*acute Methamphetamine toxicity*". The report noted that it may be necessary to modify this opinion in light of further investigations.¹⁰⁶
135. The toxicological results were later reviewed by Professor Alison Jones.¹⁰⁷

¹⁰⁴ Connelly [9]-[10] tab 22B (vol 1).

¹⁰⁵ Woolfe [85] tab 7 (vol 1).

¹⁰⁶ Autopsy Report for the Coroner Tab 4, (vol 1).

¹⁰⁷ Qualified in 1989 from the University of Edinburgh as a medical practitioner (MB chB), Specialist Physician and Clinical Toxicologist, and part-time Director of Medical Education, Fiona Stanley Hospital

136. Professor Jones noted that while acute methamphetamine toxicity was likely to have been a major contributor to Dion's death, the buprenorphine found in post-mortem blood was also in the toxic, likely fatal concentration. She told the court that it was found in sufficient concentration to have caused his death "*on its own*".¹⁰⁸ Further, quetiapine and mirtazapine were detected in either subtherapeutic or therapeutic levels and would also have contributed to respiratory depression.
137. In a later joint conclave report, Professor Jones and Dr Szentmariay agreed that Dion's cause of death was best described as "*mixed toxicity*". While several substances were detected in the postmortem blood analysis, methamphetamine and buprenorphine were the most significant in effect and concentration in all the circumstances. The reported paranoid behaviour of Dion and evidence of drug use prior to his death supports this conclusion. Neither Professor Jones or Dr Szentmariay could exclude dehydration and heat as contributing factors in Dion's death.¹⁰⁹
138. Counsel Assisting submitted that there were no signs observed at the scene to suggest that Dion died elsewhere and was later moved to the location in the paddock. I accept that submission. Dion was found without clothes, and I note the evidence of Mr Whitehead that undressing can often be associated with hyperthermia. The evidence of his paranoia and confusion could also have impacted on his behaviour at this time.
139. I had the benefit of viewing firsthand the open location where Dion was found. I have also reviewed the drone photographs which captured the arid conditions on 7 January 2019.¹¹⁰ Mr Gordon confirmed that there was minimal surface water on the property.¹¹¹ The dam and stock tanks which existed were spread out and would have been difficult to find if one was unfamiliar with the property and travelling on foot. I also heard evidence regarding the weather and climate conditions at the time Dion was missing. By about 9am on Saturday 5 January the temperature was 34.8 degrees. That rose to 43.1 by 3pm, with a wind blowing at 33km/h in a northerly direction.¹¹² The conditions were extremely difficult and Dion was unprepared for them. At some point it appears that he removed his clothes and shoes, and he had no hat. If he had any water left, it is likely to have been dirty. I do not accept that Dion had any particular survival skills, even if he had been unaffected by drugs.
140. Counsel Assisting has submitted that I could be satisfied that dehydration and heat were significant contributing factors to Dion's passing. In contrast, counsel for the

¹⁰⁸ Report of Professor Jones p 15 Tab 24B.

¹⁰⁹ Conclave report tab 24D (vol 4).

¹¹⁰ Drone photographs Tab 38 (vol 5).

¹¹¹ T 24.10.2023 p 107.

¹¹² Bureau of Meteorology data Tab 59, (vol 6): summarised by OIC at [2] Tab 8 (vol 1).

Commissioner of Police submitted that following the expert evidence, heat and dehydration are “unable to be excluded as contributing factor(s)” but no positive finding should be made.

141. I have considered the matter carefully and am comfortably satisfied that dehydration and heat must have been significant contributing factors in the circumstances of Dion’s death. It appears unlikely that Dion had concealed some methamphetamine and used it after he separated from Arryn, when he was alone on the property. Given that they remained together for about an hour after the car ran out of petrol, it is likely Dion’s last use of methamphetamine did not immediately precede his death. Similarly, given both Arryn’s evidence and Professor Jones’s toxicological analysis, the buprenorphine he had taken was likely to have been consumed some hours before his death. The additional factors of heat and dehydration cannot be ignored or under-estimated. In my view they became significant factors that combined with Dion’s drug use to cause his death. I intend to make a positive finding that these factors contributed to his death.

At what time was Dion’s death?

142. After separating from Arryn Ferguson on the morning of Saturday 5 January 2019, we do not know exactly what Dion did or how he arrived at his final resting spot. The medical experts Professor Alison Jones and Dr Istvan Szentmariay were unable to provide a firm timeframe for Dion’s death. While there was significant decomposition, the heat and open position in which he was found means that this process would have occurred quickly.
143. Mr James Whitehead, LANDSAR operations expert, was of the opinion in his written report that Dion likely died some time on Sunday 6 January 2019. Although Mr Whitehead is not a medical clinician he does have extensive experience with LANDSAR operations and I have considered his opinion carefully. Mr Whitehead told the court that the National Search and Rescue Manual indicates that a normal stationary person can survive between 2-5 days without water depending on a variety of factors including the location, access to shelter and ambient weather conditions. It was Mr Whitehead’s opinion that there have been “many instances where lost/missing people have perished in significantly shorter periods”, especially in high heat conditions. I note that Mr Whitehead did not factor in Professor Jones’s toxicological time frame in coming to his view. In oral evidence, he agreed with the Counsel for the Commissioner of Police’s proposition that it was unlikely that Dion would have survived through 5 January 2019.¹¹³ However he also added there were lots of variables in these sorts of cases and that:

¹¹³ T 26.10.23 p 400.

“there’s lots of cases where people die when they shouldn’t die and who don’t die when they should have died”.

144. Of some significance to the task of determining the time of Dion’s death is the evidence of Andrew Gordon. Mr Gordon told the court that he saw Dion on the ground, deceased, as he drove along a track running parallel to the northern Gidgee Paddock fence line at about 5pm on Monday 7 January 2019. Mr Gordon took this route as part of his daily mustering duties, his primary purpose at this time was to look at the water points on the property and check fences. He told the court that he had taken the same route at about 5 or 6 am on Sunday 6 January 2019 (albeit, this time travelling in the opposite direction to that taken on Monday 7 January 2019).
145. Two scenarios arise for consideration. Firstly, that Dion was already deceased on the morning of Sunday 6 January 2019 and Mr Gordon did not see him due to light conditions, his focus on his duties or other factors. Secondly, that Dion was still alive but had not yet reached this location. Both explanations are plausible.
146. Counsel Assisting submitted that although I would not be comfortably satisfied as to the specific date Dion passed away, it was more likely that Dion died on Saturday 5 January 2019. Counsel Assisting noted the weather conditions, Dion’s lack of water supplies and placed emphasis on Professor Jones’ opinion that the consumption of buprenorphine most likely occurred in the few hours preceding Dion’s death. There is no positive evidence that Dion had possession of buprenorphine when he left the Red Utility on foot. Dion may have consumed the buprenorphine while still in the Red Utility (or at some time shortly thereafter), but it is not a matter that Arryn was able to assist with.
147. Professor Jones was unable to say whether the buprenorphine was consumed on a single occasion or on multiple occasions on the information available to her from a single post mortem sample. However, given the high dose found in the post-mortem sample and factoring in the half-life of buprenorphine in the blood stream, Professor Jones stated that *“administration preceding a few hours of death most likely occurred”*¹¹⁴ I find it hard to accept that Dion would have travelled on foot or rested in open country all day Saturday and into the night, before taking the last of his buprenorphine, but I cannot be certain.
148. Counsel for the Commissioner of Police submitted that the evidence suggests Dion died some time on Saturday 5 January 2019. Counsel highlighted the plausible explanations for why Mr Gordon may have missed Dion’s body on the morning of Sunday 6 January 2019, the evidence that Dion was displaying signs of severe paranoia and the evidence

¹¹⁴ Report of Professor Jones p 7 tab 24B.

of Arryn Ferguson that he and Dion had no drugs left at the time they left the Red Utility. I accept that it is certainly possible that Mr Gordon may have missed seeing Dion on the morning of 6 January 2019.

149. Taking into account all the available evidence I accept Counsel Assisting's view that I cannot be certain of the date Dion died. While I think it likely he died some time on 5 January 2019, in my view it is not established to the requisite standard. It remains possible he lived into 6 January 2019.

Nature of the police response

150. I accept the submissions of both Counsel Assisting, Counsel for the Commissioner of Police and Counsel for the involved officers that there was a continuous police response from the time Melissa Moore made her missing person report around midnight on Saturday 5 January 2019, up to the point that Dion's body was found in the afternoon of Monday 7 January 2019. What concerns me is the level of that response.

151. The police response can be broadly categorized as follows:

- a. Attempts were made to obtain Dion's mobile phone number in order to arrange a triangulation to ascertain the area where his mobile phone signal was last detected;
- b. Police liaised with land search and rescue experts located with the Rescue and Bomb Disposal Unit in Sydney. Discussion included initiating an emergency response and requesting PolAir assistance with an aerial search;
- c. At various times, Police drove along the Mitchell Highway and entered the property owned by Mr Gordon. At one point police conducted a drone search in the area around the Meatworks;
- d. Police attempted to identify and locate witnesses who may have been able to assist including Alleycat, also known as Alan Cavanough, who was purportedly the last person to see Dion alive and later Peyton Kelly; and
- e. Police attempted to speak with various members of the community and Dion's family about matters including Dion's mobile number, his last movements and sightings.

In my view more should have been done.

Police decision making regarding LANDSAR

152. A matter examined during the inquest was the purpose of A/Insp Smith's call to C/Insp Nicholas Weyland, who was the delegated on call officer for the Western Region, at about 10:45am on Sunday 6 January 2019.
153. C/Insp Weyland gave evidence that the decision about whether to initiate a LANDSAR operation was one for the command within Bourke Police Station (being A/Insp Smith and A/Supt Hurst).
154. Nevertheless he accepted that had he formed the view that a LANDSAR operation should be commenced, he could have requested A/Smith to do so.
155. If a coordinated LANDSAR operation required the use of RFS or SES volunteers and/or the recall of police onto duty, this would certainly have required the approval of C/Insp Weyland.
156. C/Insp Weyland's evidence to the court was that the relevant call involved A/Insp Smith outlining the circumstances of Dion's missing person report, the advice given by LANDSAR officers and C/Insp Smith's plan moving forward. Both C/Insp Weyland and A/Insp Smith were of the view that a larger scale LANDSAR operation should *not* take place as they were not yet able to pinpoint a precise location where Dion was last seen. Both favoured a more minimal response at this time, including a drone search and further investigations.
157. C/Insp Weyland approved A/Insp Smith calling Sgt Connolly, the local LANDSAR officer based in Nyngan, on to duty to attend Bourke in readiness to begin coordinating a search. In the meantime, drone searches would be conducted by police in Bourke and further information could be obtained.
158. Counsel Assisting submitted that contemporaneous records suggested that A/Insp Smith and C/Insp Weyland had discussed advice from LANDSAR accredited officer Sgt Hood to commence a co-ordinated LANDSAR operation. However, A/Insp Smith and C/Insp Weyland had decided not to follow that advice during the call.
159. According to C/Insp Weyland, at the conclusion of the call, there remained the possibility that a LANDSAR search could commence if Police were able to gain more precise information about the location where Dion was last seen.
160. Counsel Assisting submitted that C/Insp Weyland had limited accurate information available to him at the time he declined Sgt Hood's advice to commence a LANDSAR search. He was not in a position to scrutinize the accuracy of the information and assumptions being outlined to him. He had been told, for example that Dion was a skilled

survivalist and had previously spent three days in the bush hiding from NSWPF. This was not correct.

161. There also appeared to be a difference in understanding between A/Insp Smith and C/Insp Weyland regarding whether the future use of volunteers (SES and RFS) in a future co-ordinated LANDSAR operation could be *“taken as authorised”*. It was submitted that although there may not have been any material impact on the police response in Dion’s case, *“it is important ambiguity does not arise in police responses of this kind”*.
162. In response, counsel for the Commissioner of Police submitted that the Court is not in a position to resolve this issue as it would only have arisen should there have been any disagreement between the two officers as to whether the operation should take place.
163. I accept it is not an issue which directly impacted Dion’s death and I note it only to assist NSWPF to consider whether their systems are clear in this respect.

Observations regarding the police response

164. Counsel Assisting submitted that seven key observations ought to be made about the police response itself and the context surrounding it.
165. Firstly, while police had received conflicting information regarding Dion’s whereabouts (including whether he was somewhere off the Mitchell Highway or had made his way to Dubbo), it eventually transpired that he was in open country southeast of Bourke.
166. Secondly, that the environment around Bourke can be dangerous. Although Dion had ventured into West Mooculta relatively close to Bourke (6 to 10km away) and while he had some familiarity with the Bourke region, the weather and conditions were extremely hazardous. This was compounded by the fact that he had limited access to water and was affected by drugs.
167. Thirdly, that LANDSAR accredited officers had advised that a coordinated search should commence immediately. The factors underlying this view, including consideration of the environment, weather and Dion’s time frame for survival, were shown to be valid.
168. Fourthly, although A/Insp Smith, C/Insp Weyland or A/Supt Hurst were not accredited in LANDSAR operations, the final decision whether to initiate a coordinated LANDSAR operation fell to them.
169. Fifthly, with the benefit of hindsight, Counsel Assisting submitted that the decision at about 3:30pm on Sunday 6 January 2019 to call off Sgt Connelly (who was already en route to Bourke to commence a LANDSAR operation) was not the correct one. This

decision was made on the basis of incorrect and unconfirmed information that Dion had travelled to Dubbo on the morning of Saturday 5 January 2019. Counsel Assisting submitted that although that report warranted investigation, there remained the prospect that Dion was missing in the country outside of Bourke.

170. I note that counsel for the Commissioner of Police submitted that in any case, the decision to rescind the deployment of Sgt Connelly was correct. This was due to the fact that the search area proposed at the time was based on false information as to location, the search area would not have included the location where Dion's body was ultimately found, the police had received further (but incorrect) information that Dion was in Dubbo and ultimately, Sgt Connelly concurred with the decision.
171. In my view the unconfirmed report was not of sufficient weight to call off Sgt Connelly.
172. Sixthly, by 1am on Monday 7 January 2019, police had received information from various sources that pointed to the last known location of Dion being in the vicinity of the Meatworks and the s-bend on the Mitchell Highway. These sources included the report of the Red Utility on the Mitchell Highway made by Andrew Gordon to LSC Pocock and other reports made by family members regarding Arryn's version of events and how Dion had walked into the scrub near to the S-bends, and family members searching West Mooculta in the evening of Sunday 6 January 2019.
173. Finally, Counsel Assisting submitted that there were some police actions that were "*questionable*". These included the fact that usual "*reflex taskings*" to a missing persons report may include asking farmers to carry out searches on their property. Despite this, Andrew Gordon was not asked by police in Bourke to search his property for Dion on 6 or 7 January 2019. Instead, in the evening of Sunday 6 January 2019, Mr Gordon reported to LSC Pocock via telephone that he had found Arryn Ferguson on his property searching for Dion. He was advised to report Arryn to police. Arryn was later charged for entering an enclosed land. Counsel Assisting submits that the decision to charge Arryn seems counterproductive to the future formation of trust with families in missing persons matters. It is a matter to which I will return.
174. In reply to this issue, Counsel for the Commissioner cited the immense size of West Mooculta and suggested that for police to request such a search "*would be an exercise in near futility*". It was further submitted that since the introduction of geo texting in 2021 (where mobile telephones within a specific area are sent text messages by police with information regarding missing persons), geo texting would be a preferable approach to contacting individual farmers. Geo texting is a great innovation, but while rural mobile reception remains patchy it may have limited success in regional areas. In any event, in my view a personal request to Mr Gordon was called for.

175. In my view, NSWPF did not put enough resources into the search, did not treat it as sufficiently urgent and initially overlooked the significance of the red utility. It is extremely unfortunate that PolAir did not have the resources to become involved and I have seen no evidence that the initial refusal prompted subsequent requests to have this decision reconsidered or reviewed. An air search had the capacity to cover the large distances potentially involved. It should have occurred.
176. I am also concerned that a number of poor decisions were made by police during the course of the investigation.
177. One of the most serious, in my view, was the way Police dealt with Andrew Gordon. I accept that LSC Pocock had access to Mr Gordon's keys for a short period of time and conducted limited searching on lands he owned, but there is just no evidence that NSWPF encouraged Mr Gordon and his family to assist in trying to find Dion in a timely manner. Mr Gordon, his brother and son knew the property where Dion might have been better than anyone. They also had vehicles available to search and in the course of their work needed to move around the property frequently. In my view they should have been encouraged to assist a fellow citizen who may have been in serious trouble on their land at the earliest opportunity.
178. There is evidence that Mr Gordon told Police that he did not want "*those sorts of people on his property as they are thieves.*"¹¹⁵ I have no reason to doubt LSC Pocock's account of that conversation. I also accept Arryn Ferguson's evidence that Mr Gordon called Dion a "*black c*" when Arryn was discovered looking for his uncle.¹¹⁶ It appears clear on that evidence that Mr Gordon held views that affected his willingness to assist. His demeanour in court was not impressive. At one point I asked him whether he considered helping, given that he knew people were attending his property because they were desperately worried and he responded "*Well, what can I do? I can't do anything. I'm trying to stop people on the place.*"¹¹⁷ He appeared fixated on the idea that Dion's family were trying to steal from him. Having been to the search area, it is difficult to understand what he thought Melissa Moore and her girl friends were going to steal. Cattle? In my view, if Mr Gordon held views that stopped him assisting, given the language he used these views may have been racially based. Police should have done all they could to encourage his cooperation. They did not.
179. Counsel for the family drew my attention to Mr Gordon's evidence on the issue when questioned. He told the court that if he had been advised by Police that Dion's family

¹¹⁵ Statement of Pocock [10] Tab 13 (vol 1).

¹¹⁶ T 24.10.23 p 194.

¹¹⁷ T 24.10.23 p 131.

were desperate and wanted to come onto his property to search he would have changed his approach.¹¹⁸This is difficult to reconcile with the fact that there was ample contemporaneous evidence that the family were desperately concerned and willing to search and yet he refused them entry. Whatever the case, the police should have spoken to Mr Gordon and encouraged him to assist.

180. I was appalled when I discovered that precious Police time on the evening of 6 January 2019 had been used taking a statement from Mr Gordon to ground the trespass and drive while disqualified charges that were later laid and for which Arryn Ferguson received a custodial penalty. This evidence only emerged after the relevant officers had given evidence, so I am unable to say more about their decision making process in this regard.
181. In my view Mr Gordon showed a lack of compassion when he refused to allow family searching on his property and I understand the family's anger about this issue. The fact that Police made no attempt to encourage him to assist family members who were desperately worried about a loved one and instead proceeded that night with taking a statement for the trespass charge is particularly shocking. What was more urgent at that point?

When should a LANDSAR operation have been commenced?

182. It was the opinion of LANDSAR expert James Whitehead, that a coordinated land search for Dion should have commenced at around 10:45am on 6 January 2019. He stated "*... a land search should have been commenced at around 10.45am on 06 January 2019. A Search Urgency Assessment form (SUA) was completed, and with single ones's in several categories should have indicated an emergent response (Single person, impaired cognitive ability due to drugs and hazardous weather) The emergency response was based on Mr Moore being alone, ill prepared to remain at large, under the influence of drugs and in an area of hazardous weather.*"¹¹⁹
183. I accept his view on this issue.
184. Mr Whitehead told the court that he would have identified a search area using the approximate location where Dion was last reported to have been sighted (about 10 km south of Bourke) as the origin point. Using methodology for the Lost Person Behaviour (LPB) with suspected psychological illness (which includes disorders induced by

¹¹⁸ T 24.10.23 p 142.

¹¹⁹ Whitehead 1st report at [1] Tab 24 (vol 2).

substance use) he expects he would have commenced a search distance at about 4.7 km from the last known position and then extended that out to 11.73 km.¹²⁰

185. Mr Whitehead explained that search areas are not frozen and as new information comes to light or is confirmed, the search area can change. Clues can emerge which can “tighten up” the search area. Mr Whitehead also raised the interesting point that in his experience the very exercise of obvious or official public searching can raise community awareness of the fact that a person is missing and trigger the provision of further information and support.
186. If one uses the position Melissa Moore gave Police about midnight on 5 January 2019, that is about ten kilometres outside of Bourke on the Mitchell Highway, Dion’s final position would have been inside the search radius (4.7 and 11.73 km)
187. As it transpired Dion was found about 360 metres beyond the 4.7 km search radius using the approximate location of the property’s gated entrance as the origin point.
188. Counsel Assisting submitted that there were seven factors which appeared to have contributed to the delay in initiating the LANDSAR operation to find Dion:
189. Firstly, there was inadequate consideration of the possibility that Dion was drug affected. Despite Dion’s known history of drug use, it does not appear that the relevant police considered this as an important risk factor at the time Dion went missing. I accept the submission and find that it was a significant oversight.
190. Secondly, there was an erroneous assumption about Dion’s survival skills which was passed on up the chain of command. It was concluded or assumed by police that Dion had “*bush survival skills*”. This factor weighed against the commencement of a coordinated LANDSAR operation in the morning of Sunday 6 January 2019. This assumption was apparently based on a past attempt by Dion to evade police in January 2018. Police in Bourke took into account erroneous information that Dion had spent three days in the bush on this occasion. In reality, Dion had only spent 20 hours in the bush and was treated for dehydration in hospital after being found. This should have been clear from NSWPF’s own records. I accept this submission and find that there was no credible evidence that Dion had the kind of experience that could ever have given police appropriate comfort that he had specialized skills that might equip him to survive in the difficult conditions that existed.
191. Thirdly, there was insufficient weight being given by senior officers to the advice of qualified LANDSAR officers. SC Wright completed an assessment in the early hours of

¹²⁰ Whitehead 1st report at [14] Tab 24 (vol 2).

Sunday 6 January 2019 and gave the circumstances a score of 1, indicating significant risk. He was particularly concerned about the risk caused by high temperatures. Counsel Assisting submitted that while coordinating officers were not ignorant about the environment around Bourke posing danger, they may have had a lesser appreciation of the potentially limited time of survival for someone in that environment. I accept that submission.

192. Fourthly, that the analysis of the implications arising from the fact that Dion may be attempting to evade police was flawed. I have no trouble accepting the Commissioner of Police's submission, based on Arryn's recorded interview, that Dion was worried that he was wanted by police. It is the way this factored into the police response that was flawed. This consideration was given weight in the police response on 6 January 2019 as a factor tending to suggest that Dion was *intentionally* hiding out, rather than being missing. However, it also raises the possibility that Dion may have exposed himself to even greater jeopardy in the elements, in seeking to avoid police. Counsel Assisting submitted that, this "*should have been weighed as a factor that potentially enhanced the risks or urgency of this situation. It does not appear it was considered in this manner*". I accept this submission. In any event, it is telling that those closest to Dion remained very concerned for his welfare and continued to actively search. Their conduct does not suggest that they believed he was safely hiding out somewhere near Bourke.
193. Fifthly, significant weight was given to the possibility that Dion was hiding out in Dubbo or Narromine. Counsel Assisting submitted that police "*became anchored*" to the (incorrect) scenario that Dion had travelled to Dubbo with Peyton Kelly on the morning of Friday 4 January 2019. Around the time police received this information, Sgt Connolly was called off from travelling to Bourke in the afternoon of Sunday 6 January 2019. No allowances were then made for the possibility that Dion was still missing outside of Bourke. In my view the information apparently received from Peyton Kelly was never strong enough to trigger a decision to call off Sergeant Connolly. In my view it was given excessive weight when it was open to police to keep looking into both possibilities.
194. Sixthly, Counsel Assisting submitted that there was insufficient curiosity in the family's searches on the evening of Sunday 6 January 2019. Counsel Assisting stressed that police were aware the family were actively searching for Dion outside of Bourke on the evening of Sunday 6 January 2019. For example, Arryn Ferguson was located on West Mooculta sometime after 10pm. The fact that family continued to search ought to have indicated to police that they held ongoing concerns for his welfare and that Dion was genuinely missing. I accept this submission.
195. Seventhly, delay was caused by police requiring direct confirmation with Arryn Ferguson before commencing a coordinated LANDSAR operation. Counsel Assisting submitted

that although it was reasonable for police to want to confirm with Arryn first hand the information he knew about Dion, there remained the possibility that police would never have succeeded in that task. It was submitted that *“taking steps to locate the person who last sighted Dion did not have to be mutually exclusive with the commencement of a coordinated land search using 10km south of Bourke as the origin point.”* Ultimately, the LANDSAR operation could have shifted as new information came to light. I accept that submission.

196. Counsel for the Commissioner of Police submitted that there should be no finding of delay in initiating the coordinated land search for Dion and that an earlier land search would have resulted in the search area continuously expanding, the exhaustion of volunteer resources, and a loss of faith and interest. It was suggested that even under the theoretical approach of Mr Whitehead, the search pattern would not have been close to Dion’s position until at least 7 January 2019.
197. It was further submitted on behalf of the Commissioner that Mr Whitehead had conceded that police actions at 11am on 6 January 2019, including drone searches and the search of local structures and water points by police, constituted a ‘search’ as contemplated by Mr Whitehead in his original written report. It was submitted that once members of Dion’s family had informed police that he was missing, the case was treated as a missing persons case, rather than as an operation seeking only to apprehend an offender.
198. Having weighed all the evidence I accept Mr Whitehead’s original view that a LANDSAR search should have ideally been commenced by around 10.45 am on 6 January 2019. While there was searching, in my view it was not adequately resourced. By 1 am on 7 January 2019, NSWPF had received information pointing to the last known sighting of Dion being adjacent to the S-bends on the Mitchell Highway. At the very latest the search should have been ready to commence at first light. In my view there was unnecessary delay in gathering resources and obtaining the cooperation of landowners and volunteers.
199. Having said that I am unable to make a firm finding that an earlier search would have found Dion alive. I accept Counsel Assisting’s submission that such a conclusion does not make the adequacy of the police response any less important. It is important to acknowledge any weaknesses in the Police approach to properly consider what can be learnt from the circumstances of Dion’s death.

Difficulties encountered by police and engagement with the family

200. Counsel Assisting submitted that building rapport and trust in the circumstances of this case would have been challenging.

201. He also outlined several difficulties that Police faced in responding to the missing person report relating to Dion. By the time the first report was received, Dion had been missing for many hours. The information provided at this time did not outline an accurate last known location.
202. Inaccurate or incomplete information was received from Melissa Moore just after midnight on Saturday 6 January 2019 in relation to who last saw Dion. I accept that this became a distraction and led to a delay in speaking with Arryn Ferguson. I also accept that there are clear reasons behind this, as Melissa did not want to get Dion into trouble and did not trust that she could speak openly to police without risking harm to others. She was in the difficult position of having limited information herself and was torn between wanting to find Dion and to protect him from arrest. I accept the submission of Counsel Assisting that Melissa was always very concerned about Dion's wellbeing, as reflected in the extensive attempts she made to locate Dion on 5 and 6 January 2019. I acknowledge and accept Melissa's evidence that she felt the police were "*not taking her seriously*" when she first attended the station to report Dion missing at midnight or in the very early hours of 6 January 2019.¹²¹ This appears to be when she decided to mention Alleycat to add some information that might prompt Police act. Later it appears she became angry with what she perceived to be Police inaction. SC Gibson stated that there was a "*communication breakdown*"¹²² He told the court that when Melissa returned to the Police Station, she started getting frustrated and said "*Why do you keep asking to speak with Kasey and for his phone number? Why aren't you out there looking for him?*"¹²³ To my mind this indicates the need for someone to have clearly explained to the family the potential importance of the telephone records. It also indicates a clear lack of trust.
203. Police were also unaware of the phone conversation between Kacey and Dion on the morning of Saturday 5 January 2019. I accept Counsel Assisting's submission that no criticism should be directed towards Kacey given the complex circumstances she found herself in, particularly as it related to the recent allegation of serious domestic violence.
204. In support of an overarching argument that the single greatest factor which hindered the finding of Dion was misinformation from the family, Counsel for the Commissioner of Police submitted that I should also conclude that family members were reluctant to provide information because they believed Dion was "*on the run*" and not wanting to be found. Counsel outlined information which was provided to police regarding Dion's

¹²¹ T 27.10.23 p 460

¹²² T 23.10.23 p 18

¹²³ Ibid

disappearance that was *“false and diverted police resources in the missing person inquiry”*.

205. The Commissioner submitted that *“community engagement and the community being forthright with police is integral to the NSWPF being able to conduct searches for missing persons”*. It was submitted that for police to keep the community and its members safe, the community should be *“encouraged to provide full assistance to police who are the recognised experts within NSW in terms of finding missing persons.”*
206. The court was informed that Aboriginal Client Liaison Officers are available to give advice and support. There were two ACLOs stationed in Bourke at the time. One was on annual leave and the other was not working on Saturday or Sunday. When I inquired of A/I Smith whether consideration was given to involving a community member, not necessarily an ACLO, he responded that he had a good working relationship with the family.¹²⁴ Whatever the truth of that statement, it appears that more was required.
207. It appears to me that the Commissioner fails to adequately grapple with the real reasons why Melissa and the family were reticent in their early dealings with NSWPF. It cannot be forgotten that Melissa’s report took place against a background of historic difficulties in the relationship between police and Aboriginal communities, in a state where Aboriginal people are arrested and incarcerated at a disproportionate rate. Arryn’s arrest for trespass is a useful illustration of the way the discretion to charge operated in Bourke at the relevant time. Other factors also indicate a troubled relationship between townfolk. There was no evidence that family members were trying to steal Mr Gordon’s livestock or damage his property. Their reason for being on his property was abundantly clear and yet NSWPF did not help to facilitate their searching.
208. William Green, Aboriginal Training Coordinator from the Aboriginal Coordination Team in the NSWPF told the court, in general terms, of the need for cultural training for all NSWPF officers. He acknowledged the importance of engaging with Aboriginal communities because of the deep seated history of tension and distrust towards police.¹²⁵ He spoke about the use of ACLOs and the need for police to be better informed culturally. Interestingly Bourke was one of the first stations to trial an ACLO program because of the perceived need in that area.
209. Mr Green told the court that he provides training in issues such as the effect of intergenerational trauma and the operation of unconscious bias.¹²⁶ He informed the court of the need to understand the local and historical issues of a community to improve

¹²⁴ T 26.10.23 p 334

¹²⁵ T 27.10.23 p 429.

¹²⁶ Statement of William Green Tab 74.

engagement and trust. In my view, in this case there was inadequate sensitivity to the difficulties the family experienced when coming forward to ask for help. I do not see genuine or sustained attempts to reassure them or make the process sufficiently safe to create real confidence.

210. The court was informed that the current Missing Persons Standard Operating Procedures (SOPs) urge police to “*consider the use of an Aboriginal Community Liaison Officer (ACLO)... if relevant and available*”.¹²⁷ We know that in this case there was no ACLO involvement. Mr Green told the court that his team was currently reviewing the SOPs and providing recommendations to the Missing Persons Registry. It is expected that further information may be inserted into the SOPs regarding how to engage and work with ACLOs in missing persons cases.¹²⁸ For this reason no specific recommendation was formulated at the conclusion of the inquest.
211. The State Coroner had considered similar communication issues between NSWPF officers and First Nations families in her findings concerning a missing person investigation in Moree. The Inquest into the death of Gordon Copeland¹²⁹ examined the circumstances of a young Gomeri man’s drowning in the Gwydir River, after he had been involved in a police pursuit. The State Coroner noted that proceedings took place against a history of troubled relationships between police and Aboriginal people in that local area.
212. Ultimately, the State Coroner made a recommendation asking the NSW Police Force to review its training in relation to the history of First Nations Peoples to ensure that it is as comprehensive as possible in relation to the history of colonization and the ongoing impact of colonization today. While a response was not available at the time of the inquest into the death of Dion Moore, I understand that the Commissioner has now responded to the State Coroner’s recommendation and appears to state that the training packages currently available are adequate.
213. The State Coroner had also recommended that the Commissioner consider providing officers with training on trauma-informed communication with families, particularly First Nations families when they are concerned about a missing person. After Mr Green’s evidence before me I remain hopeful that further work will be done in this area.
214. I accept the submissions made by counsel for the family that, “*any suggestion that it was the vulnerable Aboriginal community’s responsibility to overcome boundaries with communicating with police is problematic when viewed against the background of*

¹²⁷ See Exhibit 9 p 28.

¹²⁸ T 27/10/23 p 432.

¹²⁹ Inquest into the death of Gordon Copeland 18 April 2023

historical disadvantage, the power imbalance between the two parties and the police responsibility for search and rescue operations.”

215. In my view Melissa Moore and Kasey Orcher and family members did their best in difficult circumstances to trigger a police search for Dion. I also note the fact that they did their best to search themselves.
216. I have also carefully considered the role of Arryn Ferguson in these proceedings, given that he had information which was not directly provided to police immediately. I had the opportunity to observe Arryn closely as he gave his evidence and I accepted him as a witness of truth who did his best to provide accurate evidence to the court. I have no trouble accepting that Arryn tried to persuade Dion to return with him to Bourke down the Mitchell Highway. I accept that Dion was highly agitated, frightened of the police, erratic and unable to listen to reason. I accept Arryn’s evidence that even after they separated he thought Dion would make it back because he considered his uncle “*smart*” and he knew they were not too far from home. It is very important to remember that Arryn was also drug affected and had likely been up for days at that time. It is clear to me that like Dion, Arryn was not able to make sound decisions at that time.
217. In explaining his efforts to help find Dion, Arryn told the court “*at the time I was coming down, I was scattered on the ice. And you know what I mean, I I showed them where – where we took off from.*”¹³⁰ While it is still not exactly clear to me when Arryn told family members everything he knew, there is little doubt that some information was given immediately, likely when Narelle Orcher drove Arryn back to town. In court Arryn spoke directly to his Grandmother, Dion’s mother Jennifer, who was present throughout these proceedings, apologising for missing chances to tell the family everything he knew at an early stage.¹³¹ His guilt, regret and pain was obvious to everyone in the court room.
218. Arryn also said that he wished his uncle had listened to him earlier and travelled with him back to Bourke. Once in Bourke, I accept Arryn was coming down from ice and was scared of being arrested. He was not in a good state to be making sound decisions. Later when he joined the search, he was summarily ejected from West Mooculta and later charged.
219. Arryn was visibly distressed when he spoke of Dion’s death. I accept it has affected him greatly and that his grief is ongoing. In my view his remorse was very genuine and he

¹³⁰ T 24.10.23 p 191.

¹³¹ T 24.10.23 p 198.

showed courage when he faced his family's anger for not coming forward earlier. I note the family expressed love for Arryn, even during this painful exchange.

Telephone triangulation

220. Counsel Assisting submitted that police went to great lengths to secure Dion's mobile phone number to conduct a triangulation of the location of his last known mobile phone signal. It is not known what results the phone triangulation might have returned.

221. The Court heard from the relevant Duty Operations Inspector that he would have declined to make an application to the telecommunications provider for a triangulation, even if police had obtained Dion's mobile number from Melissa Moore during her initial missing persons report.

222. At the relevant time, an application to access phone triangulation data was made under s 287 of the *Telecommunications Act 1997*, which provided:

287 Threat to person's life or health

Division 2 does not prohibit a disclosure or use by a person (the **first person**) of information or a document if:

- (a) the information or document relates to the affairs or personal particulars (including any unlisted telephone number or any address) of another person; and
- (b) the first person believes on reasonable grounds that the disclosure or use is reasonably necessary to prevent or lessen a serious and imminent threat to the life or health of a person.

(underline added)

223. C/Insp Gregor, who was the Duty Officer Inspector, told the court that in effect, had the request been made to him within a short time of Dion going missing, the "imminent" requirement would have been satisfied. He explained that his view was based on the NSW Police Force's interpretation of the "imminent" requirement. He stated that the greater the passage of time that Dion was missing, the greater the difficulty in satisfying the "*imminent threat*" requirement. This determination is not withstanding other factors including the environment and weather conditions faced by Dion. The reasoning was difficult to understand.

224. The application of the "imminent" requirement was considered in the *Inquest into the disappearance of CD* (findings delivered by Deputy State Coroner Kennedy on 16 September 2022, 2019/00306113). In that matter, Deputy State Coroner Kennedy made a recommendation to the Commonwealth Minister of Communications to consider

urgent reform of s 287 to remove the “imminent” qualifier and change the requirement of “belief” to that of “suspicion”.

225. Following these recommendations, s 287 was amended and an application under this provision no longer requires an “imminent threat” to be established. Counsel for the Commissioner of Police submitted that the restrictions in place regarding accessing phone triangulation data have a basis in privacy concerns and that the “*softening*” of the language of the provision may allow for different determinations in similar cases in the future.
226. Given the amendment to the legislation, I do not intend to comment further on NSWPF’s interpretation of the “imminent threat” requirement or make a recommendation on this issue.

Proposed Recommendations

Qualified LANDSAR officers to assume control responsibility for coordination

227. Counsel Assisting submitted that the court should make a recommendation that the Commissioner of Police examine the Queensland Police Force’s search and rescue command structure and consider implementing an equivalent command structure in NSW.
228. In effect, counsel for the family made a similar submission, proposing a recommendation that the decision about whether to engage an emergency search should be made by an officer trained in LANDSAR. Counsel highlighted the fact that officers in Bourke decided against the expert advice of the NSW Police Rescue and Bomb Disposal Unit who advised that an emergency search response should take place.
229. The court heard evidence regarding the differences between the NSWPF and Queensland Police Force’s approach to circumstances which may require a potential land search for a missing person. Although the NSWPF has many Land Search Coordinators, who have undertaken specialised training in this area, a key difference between the NSW and Queensland approach concerns the management of the overall response to a missing person report.
230. James Whitehead, an ex-Queensland police officer who specialised in LANDSAR, outlined the two command structures for search and rescue operations in Queensland: Patrol Groups (equivalent to a Police District) and the ‘SAR System’, a specialised

search and rescue service which supports all Patrol Groups with expertise, resources and advice on search and rescue operations.

231. Apparent benefits from the Queensland approach include:
- a. SAR Coordinators who are rostered on to manage missing persons responses within different areas of the State;
 - b. A State SAR Coordinator who verified search urgency assessments and the necessity of commencing SAR operations;
 - c. In the case of a disagreement between a SAR Coordinator and an on call commissioned officer who “owns” the operation, the State SAR Coordinator will intercede.
232. Once the SAR system has taken on the management of the missing person operation, a SAR Coordinator has responsibility for the SAR response, with oversight from the State SAR Coordinator.
233. Under the NSWPF approach, a Duty Officer attached to a Police Area Command or Police District, has overall responsibility for managing the police response. That includes the decision about whether, and when, to commence a land search and rescue operation. This is what occurred in Dion’s missing person case. Although officers in Bourke had received advice from two SAR accredited specialists, these officers did not have overall responsibility for managing the missing person response. I accept Counsel Assisting’s submission that in Dion’s case, different decisions would have likely been made had the Queensland approach been in operation in New South Wales. In my view the Queensland system appears to ensure the decisions will be made by people with the relevant expertise and are thus more likely to be more rigorous and based solely on relevant factors.
234. As we have seen, some of the factors recorded as C/Insp Weyland’s reasons for not accepting the advice of Sgt Hood to escalate the search on the morning of 6 January 2019 included factors that were either irrelevant or given too much weight. For example it is difficult to know what weight was given to the recorded fact that Dion was “*a violent criminal*”, that he had “*bush skills*” and that he had people willing “*to harbour him*”. These factors may have been weighed differently by an officer whose sole focus was on LANDSAR criteria.
235. In the context of missing persons who may also be wanted by police or are attempting to evade police, families and communities may also feel more comfortable to provide information if the response to a missing person report is managed by an accredited SAR Officer rather than by local officers tasked also with criminal investigations. As submitted

by Counsel Assisting, this officer may indeed be based outside of the local area and their primary focus would be on locating the missing person.

236. Counsel for the Commissioner of Police submitted that the court should not make any findings or recommendations in relation to the command and control structure applicable to missing persons searches. It was submitted that the proposed recommendation “*assumes a compatibility in command ethos between Queensland and NSW police about which there is no evidence*”. Counsel submitted that external SAR officers, brought into Local Area Commands for the purpose of a search, would not be in a better position than local police to understand the local area, its community and the resources available to assist with a search.
237. Notwithstanding the Commissioner of Police’s reasons for opposing the recommendation, there appears to me apparent benefit to the Queensland approach. Placing the decision about whether, and when, to commence a land search and rescue operation under the control of those expertly trained in the area appears to be a preferable approach. SAR Coordinators have specialized training and experience, including in evaluating the risk posed by the environment the missing person is in and in circumstances where there is little or conflicting information as to their last known location.
238. I have considered the matter carefully and I intend to make the recommendation.

Recommendations proposed by Dion’s family

239. In written opening and closing submissions, Counsel for Dion’s family proposed a total of six recommendations. They include:
- a. A police review of information gathering and cultural safety;
 - b. The decision whether to engage an emergency search should be made by an officer trained in search and rescue (addressed above);
 - c. A facilitation, through co-operative policing, for access to land so that communities can help search for missing persons;
 - d. A review of police practices and policies to include assuring vulnerable witnesses that their information is sought for the purpose of finding the missing person (instead of purely for the purposes of a criminal investigation into any wrongdoing on behalf of the missing person);
 - e. Cultural awareness training for police in relation to vulnerable witnesses; and
 - f. A warning road sign at the start of the S-bends south-east of Bourke.

Police review of information gathering and cultural safety

240. It was submitted that people who had information about where Dion went missing did not feel comfortable giving that information to police and that there was a conflict of interest because while police were searching for Dion, they also wanted to “*prosecute him*”.
241. Counsel for the family has proposed a recommendation that police should review practices and policies to facilitate information gathering from Aboriginal witnesses in missing persons investigations.
242. I accept that this issue was clearly raised by the evidence before me and I have carefully considered the recommendation. I was given some small comfort by the evidence of Mr Green who advised the court that he was currently involved in discussions with the Missing Persons Registry about highlighting the need to consider involving an ACLO in matters of this sort.
243. Mr Green also advised the court that training around trauma-informed communication is now incorporated into certain training packages provided to NSWPF officers.
244. I referred earlier to the State Coroner’s Findings in relation to the death of Gordon Copeland¹³². Following the evidence in those proceedings, recommendations were made for trauma informed training in relation to missing person investigations and also more broadly in relation to the need for police training to include the history of First Nations People, including the history and impact of colonization.
245. The concerns raised in the Copeland Inquest echo some of the concerns raised in this inquest. Rather than making a new recommendation, I record my strong support for the recommendations made in the Copeland Inquest and intend to send a copy of these findings to the Missing Persons Registry for their ongoing review.

A facilitation, through co-operative policing, for access to land during missing persons searches

246. Counsel for the family highlighted issues faced by the family in trying to access West Mooculta on the evening of 6 January 2019. First, Melissa Moore and Kacey Orcher were denied permission by Andrew Gorton to search the property for Dion. Later that night, Arryn Ferguson was caught by Mr Gorton searching the property. Mr Gordon told him to leave and called LSC Pocock who advised him to report Arryn to the police.

¹³² Inquest into the death of Gordon Copeland 18 April 2023

247. Counsel for the family proposed a recommendation that co-operative policing should facilitate access to land so that the community can help search for missing persons.
248. I have thought carefully about this recommendation and the evidence before me. As I have already made clear, in my view Dion's family were treated very badly during their attempts to search for him on West Mooculta. However I need to place that in the context of the many other searches I have investigated to understand whether it is indeed a systemic problem. Unfortunately in my experience community cooperation is usually easily obtained. I know it will be of no comfort to Dion's family, but I do not identify the issue as one commonly encountered or in need of a general recommendation.

Police review to assure vulnerable witnesses that information is sought for finding a missing person, not criminal investigations

249. It was submitted that although Arryn Ferguson had the most accurate information about where Dion went missing, he did not share it with police because he feared arrest. As soon as police promised not to use the information against him, Arryn Ferguson took police to the location where he had last seen Dion.
250. The LANDSAR expert witness James Whitehead told the court that a promise by police not to use witness information for ulterior purposes "*has been utilized on numerous occasions with varying levels of success*". Such a strategy is more effective when used on family or friends and is predicated on the police honouring the agreement.
251. Counsel for the family has proposed a recommendation that police should review practices and policies to include assuring vulnerable witnesses that their information is sought for the purpose of finding the missing person. In my view this is an important issue and one that is worthy of further consideration. I did not have evidence from the Missing Persons Registry on this issue. For this reason, rather than making a formal recommendation, I have decided to send a copy of these findings to the Missing Person's Registry for their further consideration and review.

Cultural awareness training for police in relation to vulnerable witnesses

252. Counsel for Dion's family submitted that all police in Bourke should be provided with cultural awareness training in relation to vulnerable witnesses, using the facts of this Inquest as a case study. In my view this would be a useful process. William Green demonstrated the work already being done in this field in relation to expanding NSWPF officers' understanding of cultural awareness issues as they affect Aboriginal communities.

253. The court also received evidence from the Officer in Charge, Detective Inspector Aylet of about the usefulness of involving an ACLO at an early stage¹³³. He spoke of a matter about which he was aware from his experience in Broken Hill. He described involvement of the ACLO as a “*turning point*” in the investigation, allowing trust to develop which in turn meant further information was provided.
254. The Commissioner did not comment specifically on the recommendation.
255. In my view it is appropriate and I intend to request consideration of further cultural awareness training in Bourke, using this investigation as a case study.

A warning road sign

256. Counsel for Dion’s family further proposed that a warning sign be installed at the start of the S-bends serving as a “*practical day-to-day reminder*” to warn the public of the risks of running out of petrol around this area. I understand the family’s desire to warn others of the perils involved. However, in my view these exist in many areas, and I am not persuaded to recommend erecting such a sign. I also note that there has been no involvement in this inquest by any authority that may have the power to erect such a sign. It may be a matter the family’s lawyers can assist them to take up elsewhere.

Findings

257. As a result of considering all of the evidence given at the inquest, I make the following findings.

The identity of the deceased

The person who died was Dion Moore.

Date of death

Dion Moore died on 5 or 6 January 2019.

Place of death

Dion Moore died at the West Mooculta property, east of Bourke, NSW.

Cause of death

The cause of Dion Moore’s death was mixed drug toxicity, most significantly methamphetamine and buprenorphine, with heat and dehydration being significant contributing factors.

¹³³ T 25.10.23 p 298

Manner of death

Dion Moore died in circumstances where, while under the influence of illicit substances and in hot weather conditions, he became a missing person after venturing into a paddock alone.

Recommendations

258. Pursuant to s 82 of the *Coroners Act 2009*, Coroners may make recommendations connected with a death. For reasons stated above, I make the following recommendations:

To the Commissioner of the NSW Police Force

- a. The Commissioner examine the Queensland Police Force's search and rescue (SAR) command structure and consider implementing an equivalent command structure (described in this inquest in the evidence of Mr James Whitehead) within the NSWPF. This would provide for the SAR command assuming responsibility for managing a police response to a missing person report where the person is suspected of being potentially lost or in difficulty in a rural or non-urban environment that may be hazardous owing to its location, terrain and/or the temperatures at the time.
- b. The Commissioner give consideration to providing police in the Bourke local area additional cultural awareness training. The expertise of the Aboriginal Training Coordinator from the Aboriginal Coordination Team in the NSWPF should be sought and the facts of this inquest could be considered as a case study.

259. I also endorse the relevant recommendations made by State Coroner O'Sullivan in the Copeland Inquest, namely

That the NSWPF review their training in relation to the history of First Nations People to ensure that it is as comprehensive as possible in relation to the history of colonization and the ongoing impact of colonization on First Nations peoples today. Where possible, Aboriginal Liaison officers should be engaged in delivering ongoing training for Police.

That the NSW Police Force consider providing officers with training on trauma informed communication with families, particularly First Nation families, when they are concerned about a missing person.

260. I direct that a copy of these findings is sent to the Missing Persons Registry for their ongoing review of matters raised in this and the Copeland Inquest.

Conclusion

261. I offer my sincere thanks to Counsel Assisting, Chris McGorey and his instructing solicitors Maclaren Wall and Holly Fitzsimmons for their hard work in the preparation of this inquest. The court was also greatly assisted by Nicolle Lowe, Aboriginal Coronial Information and Support Worker from the NSW Coroners Court. Her work was invaluable. I am aware that during the inquest the family also received outstanding support from the Dhadjowa Foundation, particularly Apryl Day. Family participation is central to the integrity of the inquest process. The Dhadjowa Foundation should be recognised for its significant contribution to making family participation in matters of this kind a reality. I thank them.
262. Thank you to Detective Inspector Tom Aylet for his assistance in these proceedings.
263. Finally, once again I offer my sincere condolences to Dion's family. His death in these circumstances is extremely distressing. I acknowledge their ongoing pain.
264. I close this inquest.

Magistrate Harriet Grahame

Deputy State Coroner

NSW State Coroner's Court, Lidcombe

Lidcombe

6 August 2024