



**CORONERS COURT
OF NEW SOUTH WALES**

Inquest:	Inquest into the death of Alan James Green
Hearing dates:	28-31 October 2024
Date of findings:	28 February 2025
Place of findings:	NSW Coroners Court - Lidcombe
Findings of:	Magistrate R Hosking, Deputy State Coroner
Catchwords:	CORONIAL LAW – Death as a result of police operations; NSW police application of policies and procedures in relation to motor vehicle pursuits.
File number:	2021/355435
Representation	<p>Counsel Assisting the Inquest: Andrew Wong of Counsel instructed by Alana Galasso, NSW Crown Solicitor's Office</p> <p>Commissioner of Police, NSW Police Force: Kim Burke of Counsel instructed by Aurhett Barrie, the Office of General Counsel</p> <p>Senior Constable Matthew Hunt; Senior Constable Jake Maher; Senior Constable Joshua Sanders; Senior Constable Callum Duran: Anthony Howell of Counsel instructed by Casey Young, Police Association of NSW</p>

<p>Findings</p>	<p>Identity The person who has died is Alan James Green</p> <p>Place of death Jacaranda Avenue, Bradbury NSW 2560</p> <p>Date of death 14 December 2021</p> <p>Cause of death Multiple traumatic injuries</p> <p>Manner of death Motor vehicle accident soon after being involved in a police pursuit.</p>
<p>Recommendation</p>	<p>To the Commissioner, New South Wales Police Force (NSWPF):</p> <p>That consideration be given to providing additional or updated or revised training to officers with designated category driving certification, who are permitted to conduct pursuits:</p> <ul style="list-style-type: none"> • of the difference between the police powers pursuant to sections 169A and 175 and Schedule 3 of the <i>Road Transport Act 2002</i> (NSW) and sections 36 and 36A of the <i>Law Enforcement (Powers and Responsibilities) Act 2002</i> (NSW) (LEPRA) and an understanding of the elements and objectives of those police powers. • as to how information about “<i>the speed of the offending vehicle</i>” should be conveyed to VKG and officers monitoring the pursuit, as referred to in Part 7.5.1(j) of the Safe Driving Policy (SDP), version 9.2, or in any future version of the SDP. • as to what type of information constitutes “<i>pertinent information</i>” that should be conveyed to VKG and officers monitoring the pursuit, as referred to in Part 7.5.1 of the SDP, version 9.2, or in any future version of the SDP.
<p>Non-publication orders</p>	<p>Non-publication orders apply to the evidence in this inquest. A copy of the orders made by Deputy State Coroner Hosking is available upon request from the Court Registry.</p>

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INTRODUCTION

1. Section 81(1) of the *Coroners Act 2009* (NSW) (**the Act**) requires that when an inquest is held, the coroner must record in writing their findings as to various aspects of the death.
2. These are the findings of an inquest into the circumstances of the death of Alan James Green, born 24 October 1973, held between 28 October and 1 November 2024. Mr Green was loved by his family and friends and known by them as Wally. I will refer to him as Wally in these findings, as he was during the inquest.
3. Wally was born on 24 October 1973 at Camden Hospital. He lived on a farm in Appin with his parents and siblings, he was the youngest of 5 children. He was particularly close with his big sister Jo who cared for him like a mother and his sister Pauline. He grew up with Jo's sons Sean and Andrew and Pauline's son, Damien.
4. Wally was the loved partner of Amanda and stepfather to Amanda's children Jamie-Lee and Mark. He was the loved father of Curtis, Chloe, Tamara, Jozelle, Dylan, Daniel, Jackson, Zac, Chelsea and Sonny. They miss him, especially at milestone events and also knowing he did not get to meet some of his grandchildren.
5. Wally's death has had significant consequences for Amanda's health. The impact of his death has been felt by all of his friends and family.

The role of the coroner

6. The inquest into Wally's death was a mandatory inquest pursuant to section 23 of the Act because Wally's death occurred 'as a result of NSW Police Force (**NSWPF**) operations, being NSWPF fully marked Holden Commodore known as 'Campbeltown 141' (**C141**) being in pursuit of the blue Suzuki motorcycle registration number RGZ41 ridden by Wally (**RGZ41**).
7. Pursuant to section 81 of the Act, a coroner holding an inquest concerning the suspected death of a person must make findings as to whether the person has died and if so, the date and place of the person's death, and the cause and manner of their death.

8. In addition, the coroner may make recommendations in relation to matters which have the capacity to improve public health and safety in the future, arising out of the death in question.

The issues examined at the inquest

9. The issues examined at the inquest follow.
 - a. The cause and manner of Wally's death.
 - b. The appropriateness of the decision of the officers in C141 to stop RGZ41 in order to: perform a random breath test (RBT), perform a license check, to check 'bona fides', or to arrest the rider believing it was Matthew O'Gorman.
 - c. The appropriateness of the decision by Senior Constable Hunt to initiate a pursuit of RGZ41.
 - d. The appropriateness of the decision by members of the NSWPF to continue the pursuit when the rider had engaged in risky and/or dangerous riding.
 - e. Whether there was proper communication between the NSWPF officers involved in the pursuit and the duty officer responsible for monitoring the pursuit over the NSWPF radio (**VKG**).

Evidence

10. Tendered to the court was a 2 volume brief of evidence compiled by the officer in charge of the coronial investigation, Detective Sergeant Stephen Quinn. This included expert opinions of:
 - a. Benjamin Ryan, forensic pharmacologist
 - b. Leading Senior Constable Peter Mason, Forensic Examiner, Engineering Investigation.
11. In addition, at the inquest the court received evidence from:
 - a. DS Quinn
 - b. Chief Inspector Jason Inkster, duty officer, Campbelltown Police Area Command, responsible for monitoring the pursuit

- c. SC Matthew Hunt, the driver of C141 during the pursuit
- d. Senior Constable Joshua Sanders, seated behind the driver in C141 during the pursuit
- e. Senior Constable Jake Maher, the front passenger in C141 during the pursuit
- f. Constable Callum Duran, seated behind SC Maher in C141 during the pursuit
- g. Senior Sergeant Chad George, Tweed heads Highway Patrol, reviewed the brief to consider collision and acts of police against the requirements of the NSWPF Safe Driving Policy (**SDP**).

Findings

12. As will be seen, the conclusions I have reached follow.
 - a. Having regard to the evidence adduced, I find that Wally died on the corner of Jacaranda and Cedar Avenue, Bradbury NSW on 14 December 2021 because of multiple traumatic injuries suffered in a motorcycle collision after being involved in a police pursuit.
 - b. The primary purpose of the stop was because of the possibility that the rider was Matthew O’Gorman, the subject of a warrant for serious acts of violence. However, I find the possibility that it was O’Gorman was remote and, on the information, available, the officers could not have formed a ‘reasonable suspicion’ to enable RGZ41 to be stopped pursuant to the *Law Enforcement (Powers and Responsibilities) Act 2002 (NSW) (LEPRA)* ss 21, 36 and 36A.
 - c. There was sufficient evidence to support the stop as being ‘multipurposed’ with the secondary purpose being to ‘check bona fides’/license and perform a random breath test (**RBT**). The officers were empowered by the *Road Transport Act 2013 (NSW) (RTA)* to perform the stop on this basis.
 - d. The decision to stop RGZ41 was appropriate.

- e. In this case, at the point where the pursuit commenced, Wally's manner of driving and speed was not particularly dangerous and the road conditions were not adverse, it was appropriate to commence the pursuit.
- f. I find that the instances of dangerous driving, when weighed against the immediate need to apprehend Wally, favoured terminating the pursuit prior to Wally crashing in accordance with the SDP. However, given the short time in which the pursuit took place I do not find that doing so would have necessarily prevented Wally's death.
- g. I find that the communication between C141 and VKG was inaccurate in terms of the conveying of the speed of the pursuit and the vehicles involved.
- h. I find that the officers in C141 failed to convey to VKG important and pertinent information which, as a result, meant that those monitoring the pursuit could not make an informed decision as to whether the pursuit should be terminated.
- i. I find that the NSWPF education and training regime in respect of the SDP is inadequate.

Recommendations

13. To the Commissioner, New South Wales Police Force (NSWPF):

That consideration be given to providing additional or updated or revised training to officers with designated category driving certification, who are permitted to conduct pursuits:

- a. of the difference between the police powers pursuant to sections 169A and 175 and Schedule 3 of the *Road Transport Act 2002* (NSW) and sections 36 and 36A of the *Law Enforcement (Powers and Responsibilities) Act 2002* (NSW) (LEPRA) and an understanding of the elements and objectives of those police powers.
- b. as to how information about "*the speed of the offending vehicle*" should be conveyed to VKG and officers monitoring the pursuit, as

referred to in Part 7.5.1(j) of the Safe Driving Policy (**SDP**), version 9.2, or in any future version of the SDP.

- c. as to what type of information constitutes “*pertinent information*” that should be conveyed to VKG and officers monitoring the pursuit, as referred to in Part 7.5.1 of the SDP, version 9.2, or in any future version of the SDP.

BACKGROUND

14. I am grateful for submissions by Counsel Assisting from which I have drawn directly at times in relation to non-contentious issues.
15. On Tuesday 14 December 2021 at approximately 1:13pm, Wally exited his home at 33 Colonial Street, Bradbury. He was wearing a helmet covering his entire face and mounted RGZ41. He exited the driveway turning left onto Colonial Street.
16. SC Hunt, SC Maher, SC Sanders and SC Duran were conducting patrols in C141. They were patrolling the area around Colonial Street, Bradbury.
17. It was unusual to have four officers in the one car. On this occasion, there was only the one car available which was why they were travelling together. They were rostered to work as part of the Campbelltown proactive team. This work involved high visibility policing, deploying to hotspots or areas of interest in the command and engaging with the community. They were not involved in a particular operation that day, rather they were involved in general proactive patrolling.
18. SC Sanders saw RGZ41 and pointed it out to the other officers in Campbelltown 141. SC Hunt decided to follow RGZ41 as it travelled north on Colonial Street.
19. RGZ41 travelled north on Colonial Street maintaining a speed of 40 km/hr before doing a u-turn at a roundabout and travelling south. SC Maher made a MobiPol enquiry and found out the motorcycle was registered to Andrew Green who they thought may be Wally’s son but was his nephew.
20. C141 continued following RGZ41 as it reached the intersection of Colonial Street and St Johns Road. As RGZ41 travelled past St Patrick’s College,

C141 activated its sirens and lights intending to stop RGZ41 and SC Maher notified VKG that C141 were in pursuit.

21. At no stage did the officers in C141 know that it was Wally riding RGZ41. Each of them thought it may be O’Gorman who, at the time, was the subject of an arrest warrant on serious charges.
22. Constable Connor Sykes-Morrison was on duty with Probationary Constable Kyle Broadribb in ‘Campbelltown 18’. Upon hearing of the pursuit over the police radio, Campbelltown 18 drove to the general vicinity and parked Campbelltown 18 on the curb of Jacaranda Avenue, 400 – 500m away from Cedar Avenue.
23. I discuss the nature of the pursuit in more detail below.
24. At or around the intersection of Jacaranda Avenue and Cedar Avenue, Wally lost control of RGZ41, collided with the gutter and street sign outside of 14 Cedar Avenue and came off the bike colliding with a Colorbond fence and knocking down two panels before resting in the backyard. The officers from C141 exited their vehicle.
25. SC Hunt noticed that Wally had a significant shoulder injury and notified VKG that Wally was conscious and breathing but appeared to have a dislocated shoulder. Cst. Sykes-Morrison saw an officer turn Wally over and Wally said his shoulder was sore and felt dislocated. He said after about 4 – 8 minutes of conversation Wally’s condition started to deteriorate, so he relayed information about his worsening condition to VKG and tried to get an estimated time of arrival for NSW Ambulance (**NSWA**). After about 8 – 10 minutes after the initial accident, Wally had no pulse and was turned over into the recovery position and CPR commenced.
26. When police first saw Wally, he was breathing and responsive to questioning. The CAD (Computer Aided Dispatch) logs show the deterioration in Wally’s health:

13:19:22 – C & B (conscious and breathing) DISLOCATED HIS SHOULDER.

13:19:25 – INT OF CEDAR X JACARDNA – M POI HAS DISLOCATE DHIS SHOULDER.

13:26:02 – CT141/M/ETA/FOR AMBOS

13:27:06 – PALE IN FACE

13:27:20 – NOT RESPONDING TO OUR QUESTIONS

13:30:13 – ETA FOR AMBOS?

13:30:54 – NOT BREATHING NOT RESPONDING ON HIS 50S

13:31:02 – COMMENCING CPR

13:32:09 – ICEMS Message from AMB-N – SHOULD BE LESS THAN 10

13:33:03 – CAR ENROUTE FROM CTOWN HOSP NOW – URGENT

13:33:06 – FROM AMBOS NSW – ETA LESS THAN 10 MINS

13:35:26 – CPR IN PROGRESS STILL

27. It appears that it took approximately 18 minutes for an ambulance to arrive on the scene. Cst. Sykes-Morrison stated that, “*police were doing CPR for anywhere between 4 to 6 minutes before, um, paramedics arrived on scene*”.
28. David Tranby, a paramedic who attended the scene, noted that NSW received a call at approximately 13:18pm. The call was initially only for a dislocated shoulder and was allocated a ‘2I’ category which required a response within 20 minutes. At 13:32pm Tranby was contacted by radio and advised the 2I category call was upgraded to a 1A (cardiac arrest) call and required an immediate response. At that time Tranby was at Campbelltown Hospital and left immediately and arrived at the scene at 13:36pm.
29. When Tranby arrived at the scene, he noticed CPR was currently in progress. He noticed Wally had significant blue/grey discolouration to the face, neck and chest. NSW officers inserted oral and nasal airways and attached defibrillator pads. Further CPR indicated that Wally remained in asystole (flatline). NSW officers discussed the case, and a decision was made to stop further resuscitation attempts. Wally was declared deceased at 13:46pm.
30. At about 2:02pm, Acting Assistant Commissioner Adam Whyte declared the matter a critical incident. CI Inkster attended the scene and the four officers in C141 were separated. Initially six officers, SC Hunt, SC

Sanders, SC Maher. SC Duran, Cst. Sykes-Morrison and Probationary Cst. Broadribb were identified as “*directly involved*” officers. Each of those officers tested to negative to alcohol and drugs. SC Sanders urine sample contained “Pholcodine”, a drug contained in over-the-counter cough medication.

AUTOPSY

31. Dr Sairita Maistry, Forensic Pathologist, performed Wally’s autopsy on 16 December 2021, limited to an external autopsy and toxicology analysis. Dr Maistry concluded that Wally’s cause of death was multiple traumatic injuries.
32. A sample of Wally’s femoral blood was taken after the accident. The certificate of analysis indicated the presence of the following substances:

Substance	Amount
Amphetamine	0.11mg/L
Delta-9-tetrahydrocannabinol	0.005mg/L
Delta-9-THC acid	0.003mg/L
Methylamphetamine	1.6mg/L

33. Ryan opined that Wally’s blood level of methylamphetamine was in a range considered to be toxic and potentially fatal and the “*very high*” level suggested very recent use of methylamphetamine and a “*binge*” or “*run*” type of use or, that he was a very regular user of methylamphetamine.
34. Ryan stated that even accounting for a significant degree of tolerance for methylamphetamine, at the time of the alleged incident, significant impairment of driving ability would have been highly probable. In fact, the manner of Wally’s driving, excessive speed and appearing to change direction quickly, were suggestive of the typical effects of impaired judgement and increased risk-taking associated with methylamphetamine use.
35. In relation to cannabis, Ryan stated that the THC and THC acid levels could be suggestive of recent cannabis use, but the relatively low levels of cannabinoids and any possible effects of THC on his psychomotor

function and performance skills would be relatively very minor when compared to the effect of the very high methylamphetamine concentration.

ISSUES

The cause and manner of Wally's death

Findings

36. Having regard to the evidence adduced, I find that Wally died on the corner of Jacaranda and Cedar Avenue, Bradbury NSW on 14 December 2021 as a result of multiple traumatic injuries suffered in a motorcycle collision after being involved in a police pursuit.

The appropriateness of the decision of the officers in C141 to stop RGZ41 in order to: perform an RBT, perform a license check/check 'bona fides', or to arrest the rider believing it was Matthew O'Gorman

Powers

37. The potential powers pursuant to which the decision to stop was made were either pursuant to LEPRA or the RTA.
38. The RTA affords the NSWPF broad powers to stop a driver/rider of a motor vehicle:
 - a. ss 169A(2) and (7) empowers police to direct the driver/rider of a vehicle to stop the vehicle and makes it an offence not to comply
 - b. ss 175 (1) and (2) empowers police to require a driver/rider of a motor vehicle to produce their license and state their name and address and makes it an offence not to comply
 - c. Schedule 3 ss(3) and (6) empowers police to stop a motor vehicle for the purposes of conducting an RBT and oral fluid testing.
39. It is not controversial that Andrew, the registered owner of RGZ41, did not have a valid motorcycle license. This was known to the officers in C141 after SC Maher conducted a 'MobiPol' check and before SC Hunt triggered 'lights and sirens' to make the stop.

40. Particularly in circumstances where the registered owner of the vehicle was unlicensed, it would have been appropriate (and lawful) for the officers in RGZ41 to direct the motorcycle to stop pursuant to the powers afforded to them under the RTA.
41. The issue is the evidence was not consistent as to which powers were relied upon by the officers in RGZ41 in attempting to stop the motorbike.
42. The power to direct the vehicle to stop pursuant to LEPR is fettered. The relevant sections provide:

36 Power to search vehicles and seize things without warrant

*(1) A police officer may, without a warrant, stop, search and detain a vehicle if the police officer **suspects on reasonable grounds** that any of the following circumstances exists—*

(a) the vehicle contains, or a person in the vehicle has in his or her possession or under his or her control, anything stolen or otherwise unlawfully obtained,

(b) the vehicle is being, or was, or may have been, used in or in connection with the commission of a relevant offence,

(c) the vehicle contains anything used or intended to be used in or in connection with the commission of a relevant offence,

(d) the vehicle is in a public place or school and contains a dangerous article that is being, or was, or may have been, used in or in connection with the commission of a relevant offence,

*(e) the vehicle contains, or a person in the vehicle has in his or her possession or under his or her control, a prohibited plant or prohibited drug in contravention of the **Drug Misuse and Trafficking Act 1985**,*

(f) circumstances exist on or in the vicinity of a public place or school that are likely to give rise to a serious risk to public safety and that the exercise of the powers may lessen the risk [my emphasis].

36A Power to stop vehicles

*A police officer may stop a vehicle if the police officer **suspects on reasonable grounds** that the driver of, or a passenger in or on, the vehicle is a person in respect of whom the police officer has grounds to exercise a power of arrest or detention or a search power under this Act or any other law.*

21 Power to search persons and seize and detain things without a warrant

*(1) A police officer may, without a warrant, stop, search and detain a person, and anything in the possession of or under the control of the person, if the police officer **suspects on reasonable grounds** that any of the following circumstances exists—*

(a) the person has in his or her possession or under his or her control anything stolen or otherwise unlawfully obtained,

(b) the person has in his or her possession or under his or her control anything used or intended to be used in or in connection with the commission of a relevant offence,

(c) *the person has in his or her possession or under his or her control in a public place a dangerous article that is being or was used in or in connection with the commission of a relevant offence,*

(d) *the person has in his or her possession or under his or her control, in contravention of the Drug Misuse and Trafficking Act 1985, a prohibited plant or a prohibited drug.*

Section 102 Power to arrest persons who are unlawfully at large

A police officer may, with or without a warrant, arrest a person if the police officer suspects on reasonable grounds that the person is a person who is unlawfully at large.

43. The common thread in each of the powers conferred under LEPRA is that the officer has to 'suspect on reasonable grounds' or in other words, have a 'reasonable suspicion' to exercise their power.
44. The key issues are why was Wally directed to stop, and, if he was directed to stop pursuant to powers conferred under LEPRA, whether the officers had a reasonable suspicion which would warrant the exercise of power.

The evidence

SC Hunt

45. As submitted by his Counsel, the evidence of SC Hunt as to the reasons for the stop is the most significant as he was the driver of C141 and he instigated the stop.
46. Of the decision to stop RGZ41, SC Hunt's evidence at the inquest was:
 - a. it was his decision to activate lights and sirens
 - b. he could not recall a conversation with the other officers in the car when he activated lights and sirens
 - c. he intended to stop the motorcyclist to check the bona fides of the person who was riding the motorcycle at the time and then stop the vehicle, conduct necessary checks on that person's license and conduct roadside testing (alcohol, and if applicable, drug testing as well).
47. SC Hunt's evidence at the inquest was that he activated the lights and sirens intending to stop RGZ41 to check the 'bona fides' of the person riding, undertake RBT and drug testing. When asked whether there was any other reason why he wanted to stop the vehicle he said he was

suspicious the rider may have been O’Gorman – a person known to that address.

48. At the time SC Hunt activated lights and sirens commencing the stop, he knew RGZ41 was registered to someone called Green, he could not recall the first name.
49. Though he wasn’t clear on the precise section, he indicated that he was relying on his powers under the RTA, to stop the vehicle.
50. His evidence at the inquest was wholly inconsistent with his directed interview obtained on 15 December 2021. He was asked:

Q: So in your mind, what were you trying to stop the bike for?

A: Well, I was aware the premises is known for drug supply, ah, and other offences. ... I’m aware that of late there has been numerous ...pursuits ... with motorbikes, road registered motorbikes with plates attached and no plates attached...which are believed to be stolen...which I’m aware have been travelling, between that premises and another premises in Ambarvale, which is also an associate of Alan Green...and is actively involved at the moment in...drug supply activity. And that there’s a person attached to both premises that’s currently wanted by Campbelltown PAC for...kidnapping and ...some serious violent offences which relate to a, a murder that occurred...in the Bradbury area a couple of months ago. And it’s of my knowledge...or belief... from the information that I’ve received from other officers...and from ...intelligence packages that we’ve received, that the person frequents...both addresses and commonly rides motorbikes as a mode of transport...Matthew O’Gorman.

51. I reject the evidence given by SC Hunt at the inquest in favour of the contemporaneous evidence he gave in his directed interview. His evidence at the inquest appeared to be a reconstruction to bring his conduct into the broader powers of the RTA.
52. His Counsel submitted that at the time SC Hunt activated his lights and sirens he knew that the registered owner of the motorcycle did not have a valid license and he knew that Wally, the owner of the house, was a disqualified driver. While that may be the case, this was not the contemporaneous reason given in his directed interview as to the purpose for the stop.
53. I accept, as suggested by his Counsel, that the decision to instigate the stop was SC Hunt’s decision. However, I reject that the decision was for the purpose of conducting a license check and RBT.

SC Maher

54. In his evidence at the inquest (and largely consistent with his directed interview), SC Maher said he formed the view he had a lawful power to stop the motorcyclist and when asked what power he was relying on he said RGZ41 was seen leaving known premises for drug supply, from what he could remember, the owner of RGZ41 didn't own a licence and in relation to his belief it was O'Gorman, he thought it could be him riding and he knew O'Gorman was wanted for outstanding warrants. He also stated that he was intending to conduct RBT and RDT.
55. While in his directed interview he referred to pulling over the motorcycle for the purpose of conducting an RBT, he resiled from that at the inquest.
56. When SC Maher was asked what specific powers or legislation he was relying on, he said LEPRA and the RTA but could not recall what sections of those Acts. SC Maher left the court due to an objection being raised and when he returned, he was asked what powers he wanted to use to stop RGZ41 and he said he was thinking of ss 36 and 36A of LEPRA, ss 53 and 175 and Schedule 3 of the RTA.

SC Sanders

57. In his directed interview, in relation to the stop, SC Sanders said they signalled with their lights and sirens for RGZ41 to pull over for the purpose of checking his 'bona fides', leaving a drug house, and his suspicion that it could've been a wanted person (ie, O'Gorman), as well as conducting an RBT.
58. In evidence he indicated that the reason supplied in the directed interview was false. It was given perhaps because he was tired, he did not recall saying that the purpose of the stop was to perform an RBT. He understood the purpose of the stop was that he believed the rider of RGZ41 may have been O'Gorman and that the rider had left a known drug house.

SC Duran

59. In his directed interview he said that he believed they were going to stop and search the motorcycle to check the rider's 'bona fides' and ascertain why he was at the address. He said in evidence that there was a

discussion in RGZ41 about pulling the vehicle over for the purpose of conducting an RBT.

‘Reasonable grounds’

60. All the powers under LEPRA referred to require police to hold a belief that is based on ‘reasonable suspicion’. In *R v Rondo* [2001] NSWCCA 540 (*Rondo*), Smart JA set out the following propositions in relation to reasonable suspicion (at [53]):

A reasonable suspicion involves less than a reasonable belief but more than a possibility. There must be something that would create in the mind of a reasonable person an apprehension of fear ... A reason to suspect that a fact exists is more than a reason to consider or look into the possibility of its existence.

Reasonable suspicion is not arbitrary. Some factual bases for the suspicion must be shown.

What is important is the information in the mind of the police officer stopping the vehicle or making the arrest at the time he did so. Having ascertained that information the question is whether that information afforded reasonable grounds for the suspicion that the police officer formed. In answering that question regard must be had to the source of the information and its content, seen in the light of the whole of the surrounding circumstances.

61. At its highest, the evidence supporting the fact that it was O’Gorman operating the motorcycle includes:
- a. SC Hunt said O’Gorman was wanted by Campbelltown Police and intelligence showed that he frequented 33 Colonial Street and commonly rode motorbikes as a mode of transport.
 - b. SC Maher stated in his interview, and in evidence, that he believed the motorcyclist may be O’Gorman as he used motorbikes as a mode of transport in the Campbelltown area.
 - c. SC Maher gave evidence that he knew O’Gorman had an association to Wally as Wally had lived with O’Gorman’s father Karl Dawson previously.
 - d. SC Sanders said in his interview that he believed the motorcyclist may be O’Gorman as:
 - i. he was involved in a pursuit a month earlier where a motorcycle left 33 Colonial Street and the intelligence suggested it was O’Gorman, and

ii. O’Gorman was a son of Karl Dawson who was an associate of Wally’s.

62. I accept the submission by Counsel Assisting that the evidence relied on by NSWPF Officers to suspect that the motorcyclist was O’Gorman does not reach the threshold of ‘reasonable suspicion’ for the following reasons:
- a. The motorcyclist was covered in a helmet, his face could not be seen, his rider gear masked his body shape and no officer said they believed the motorcyclist looked like O’Gorman or shared physical features with O’Gorman.
 - b. The MobiPol check showed the registered owner of the bike was Andrew Green. From that point on it would make it more likely the rider was Andrew Green or his uncle Wally, particularly as it was leaving Wally’s address.
 - c. There was no intelligence as to the type of motorcycle ridden by O’Gorman.
 - d. While there was intelligence that O’Gorman may have left the premises on a motorcycle one month earlier, this was never proven as the motorcyclist who left the property was never apprehended and identified as the pursuit was terminated.
63. There is also an issue as to whether police had the power to stop RGZ41 on the basis that he may have been involved in drug offences. The evidence supporting this fact includes:
- a. SC Hunt said in his interview at Q23 that 33 Colonial Street was known as a house actively involved in drug supply and other offences and knew Wally was involved in drug supply.
 - b. SC Maher gave evidence that he believed 33 Colonial Street was a drug house and the motorcyclist kept looking back in his side mirrors and this was suspicious.
 - c. When SS George gave evidence, he was asked whether he thought police had a lawful power to stop the motorcyclist and he said that 33

Colonial Street was known for drug supply and there was a reasonable suspicion the motorcyclist may have been involved in that activity.

64. In order for members of the NSWPF to rely on s36, s36A or s21 of LEPR, they had to have formed a suspicion on reasonable grounds that the rider possessed, or the motorcycle contained prohibited drugs. I accept the submission of Counsel Assisting that such a reasonable suspicion did not exist for the following reasons:
- d. The main evidence relied on to suggest the motorcyclist leaving 33 Colonial Street may have had drugs was the fact that address was well known for drug activity. This would mean any person leaving or entering that property could be searched. There is not sufficient evidence to find that there is a reasonable suspicion that any person leaving the property would have had drugs in their possession.
 - e. There was no evidence that the motorcyclist appeared to be under the influence of drugs.
 - f. There was no evidence the motorcyclist was seen to secrete drugs on his person or on the motorbike.
 - g. There was no evidence the motorcyclist was only at 33 Colonial Street for a short time which may suggest he was there to pick up drugs.
65. Counsel for the Commissioner for NSWPF submitted that the basis to stop RGZ41 was predominantly multipurposed. While a multipurpose stop may not involve any impropriety, it is not appropriate for a police officer to rely on its powers to stop a vehicle under the RTA for an ulterior purpose.
66. There are several District Court decisions highlighted by Counsel Assisting dealing with this issue. The most recent example, *R v Yongcheng Zhang* [2022] NSWDC 457 has analogous facts. Surveillance was being undertaken in respect of a unit suspected to be a drug premises. The accused entered the premises with a satchel bag and a box and exited without the box. It was unclear which unit the accused had entered. In that case, it was accepted that there was insufficient evidence to pursue a stop under s 21 of LEPR, so the officers waited until the accused drove up the road and then activated lights and sirens and pulled

him over for a RBT. The accused was questioned and based on answers given, the officer then considered 'reasonable suspicion' was sufficiently enlivened to conduct a search under s 21 of LEPRA. The accused was charged in relation to items seized in the search and the search was challenged.

67. Coleman DCJ excluded the evidence obtained. Coleman DCJ considered, amongst other things, that there was nothing random about the stopping of the accused. There was an intention and desire to question him to aid in the investigation of the possible drug supply. The reasonable suspicion enlivened by the questions asked of him, and his responses (together with the matters previously observed as he exited the unit complex) was not as an incidental result of a random stop at a breath testing station or a random roadside stop.
68. Coleman DCJ noted that in *R v Large* [2019] NSWDC 627, Norrish QC DCJ found that the 'primary purpose' of stopping the driver in that case was not to administer an RBT, rather to speak to the driver for 'proactive policing' investigatory reasons. He held such conduct was not a proper use of the RBT powers.

Conclusions

69. In isolation SC Hunt's evidence suggests that the stop was not in furtherance of the RTA. However, in context, the evidence in totality does not rule out the stop being multipurposed. The evidence in that regard includes:
 - a. The information obtained from MobiPol which confirmed that Andrew Green and Wally, both potential riders, were not licensed – this would certainly have justified a traffic stop for a license check.
 - b. While SC Maher resiled from his directed statement at the inquest by stating the purpose of the stop was not to conduct an RBT, SC Saunders and SC Duran both indicated the purpose of the stop was for, amongst other things, to check bona fides (license check) and to perform an RBT.

- c. After the commencement of the pursuit, the information provided to VKG was that the rider had failed to stop for an RBT.
70. The authorities referred to by Counsel Assisting, including those referred to above, confirm that a dual purpose stop is not unlawful. While it appears quite clear that the primary purpose of the stop was to ascertain whether the rider was O’Gorman, there is enough evidence in support of it also being a ‘traffic stop’ such that it was not an unlawful stop.

Findings

71. The primary purpose of the stop was because of the possibility that the rider was O’Gorman, the subject of a warrant for serious acts of violence. However, I find the possibility that it was O’Gorman was remote and, on the information, available, the officers could not have formed a ‘reasonable suspicion’ to enable the motorcycle to be stopped pursuant to the ss 21, 36 and 36A of the LEPRA.
72. There was sufficient evidence to support the stop as being ‘multipurposed’ with the secondary purpose being to ‘check bona fides’/license and perform an RBT. The officers were empowered by the RTA to perform the stop on this basis.
73. The decision to stop the motorcycle was appropriate.

The appropriateness of the decision by Senior Constable Hunt to initiate a pursuit of RGZ41

Legislative and policy framework

74. For the reasons outlined above, I consider the power pursuant to which the decision to stop was lawful, was the power afforded under the RTA. Once lights and sirens were activated, contrary to the direction to stop, Wally kept going. At that point, a decision was made to pursue the motorcycle.
75. In conducting a pursuit, the NSWPF are to be guided by their SDP. The key provisions include:

7.2.1 The decision to initiate and/or continue a pursuit requires weighing the need to immediately apprehend the offender, against the degree or risk to the community and police as a result of the pursuit.

7.2.2 *Prior to engaging in a pursuit police should take into consideration the following;*

- *Danger to police, other road users and the offender/s the subject of the pursuit*
- *In considering the danger of the pursuit, factors should include;*
 - (i) *Weather and road conditions, traffic density including vehicles and pedestrians*
 - (ii) *Time of the day, day of the week...*
 - (iii) *The manner of driving, including speed, of the offending driver and the apparent level of control of the offending vehicle*
- *The police vehicles suitability to pursue based on its vehicle categorisation.*
- *The drivers police response classification...*
- *The distance between the police vehicle and offending vehicle and the speed required to close that distance.*

7.2.3 *If after consideration of the circumstances of the pursuit prior to it being engaged concludes that the need to immediately apprehend does not outweigh the degree of risk to the community, police or offenders the pursuit should not be engaged.*

7.2.9 *When engaging in a pursuit you should ensure that there is reasonable cause to believe that the person being pursued has committed, or has attempted to commit, an offence and the offender is attempting to evade apprehension.*

76. Starting with 7.2.9, police must 'ensure that there is reasonable cause to believe that the person being pursued has committed or attempted to commit, an offence and that the offender is attempting to evade apprehension'.
77. For the reasons outlined above, the potential that the rider was O'Gorman was, in my view, remote. I also consider that the fact that the rider had left a known drug location was insufficient to ground a 'reasonable suspicion' as to a drug offence.
78. While the owner of RGZ41 and the occupant of the premises (Wally) did not hold a license at the time, there was no other evidence suggesting it was either of them riding the bike. As such, I don't consider that there was reasonable cause to believe the rider was riding without a license.
79. The only offence that the officers could have had 'reasonable cause' to believe the rider had committed, would be failure to stop for a traffic stop (RBT/License check).

80. Counsel Assisting grappled with whether s 7.2.9 requires an offence separate to the offence of failing to stop to satisfy 7.2.9. I'm satisfied that in this case, police had reasonable cause to believe the rider had committed an offence (being failing to stop at the direction of police for a traffic stop) and that as the rider continued, they were attempting to evade apprehension, satisfying the second limb.
81. SDP clauses 7.2.1 and 7.2.3 provide that the risks associated with a pursuit need to be weighed against 'the need to immediately apprehend the offender.'
82. There appears to be an anomaly between SDP clauses 7.2.1 and 7.2.3:
- a. 7.2.1 refers to 'the decision to initiate and/or continue a pursuit' and 'the risk to the community and police'
 - b. 7.2.3 refers to 'the circumstances of the pursuit prior to it being engaged' and 'the risk to community, police or **offenders**' [emphasis added].
83. The wording of the SDP appears to draw a distinction between the decision to initiate the pursuit and the decision to continue it. To my mind, the safety of the alleged offender could not become irrelevant once the pursuit has been commenced. The alleged offender remains part of the community and their safety must also be a factor in the decision to continue the pursuit. This is consistent with the evidence given by CI Inkster¹ and with the sentiment expressed in paragraph 2 of the Foreword to the SDP which states:
- You must be able to readily justify your actions and your driving should not place members of the public, or indeed offenders, at greater risk of harm than that which you are trying to prevent.*
84. In this case, the evidence was consistent that:
- a. traffic was light
 - b. the weather was fine
 - c. there were no additional external factors adding to the risk

¹ Transcript 28 October 2024: page 42, paragraph 25

- d. the speeds at the initiation of the pursuit were reasonably low (reported at 1.13.52 over VKG as '50/50').

Those factors mitigate the risk to the community.

85. On the other hand, the need to immediately apprehend the offender was low. The lawful grounds to direct the motorcycle to stop were for the purposes of an RBT and license check. The offence which the officers had reasonable grounds to believe had been committed, was a failure to stop for an RBT and license check.
86. I accept that if there was no basis to commence a pursuit for a lawful traffic stop then there would be no incentive for any driver to stop in response to a lawful traffic stop.
87. I also accept that to the extent that the factors referred to in 7.2.2 were considered, they would not have militated against the commencement of the pursuit.

Findings

88. In this case, at the point where the pursuit commenced, Wally's manner of driving and speed was not particularly dangerous and the road conditions were not adverse, it was appropriate to commence the pursuit.

The appropriateness of the decision by members of the NSWPF to continue the pursuit when the rider had engaged in risky and/or dangerous riding

89. The pursuit took place over a period of 4 minutes.
90. The evidence indicated that in the course of the pursuit, Wally had clipped or hit a guard rail, had gone over the median strip onto the wrong side of the road and then merged back into the correct lane before mounting a footpath for about 5 metres at about 40km/hr. As will become apparent, it is relevant as to whether these instances of driving could be considered 'erratic' or 'dangerous'.
91. The Macquarie Dictionary definition of 'erratic' is 'deviating from the proper or usual course in conduct or opinion.' 'Dangerous' is defined as 'full of danger or risk; causing danger; perilous; hazardous; unsafe.'

92. Each of these instances of driving deviated from the proper course of driving they are all also considered to be unsafe in the context of driving. I find that these instances of driving were erratic or dangerous (**instances of erratic or dangerous driving**).
93. Each of the officers in C141 could have, at any time, called for the pursuit to be terminated. It could also have been terminated at the request of those monitoring it.
94. There were two significant issues at play:
 - a. while I have found the only lawful purpose for the stop was a traffic purpose, each of the officers in the vehicle considered that the rider may be O’Gorman, for whom a warrant was out for serious offences.
 - b. as discussed in more detail below, not all of the pertinent information relevant to the pursuit was conveyed over VKG and in relation to speed, the information was not provided in a clear and unambiguous manner. Therefore, those monitoring the dispute were not able to make an informed decision.
95. SC Sanders was the only officer that indicated he had considered terminating the pursuit. However, he was doing so just prior to Wally crashing.
96. SC Hunt’s evidence was that he did not see Wally clip the guardrail, drift onto the median strip or travel onto the wrong side of the road. Nor was he told that any of these things happened by any of the passengers in C141.
97. Returning to the SDP 7.2.1 and 7.2.3. The decision to continue a pursuit requires weighing the need to immediately apprehend the offender, against the degree or risk to the community and police as a result of the pursuit. For the reasons outlined above, I say that the risk to the community also included the risk to Wally.
98. As the pursuit continued there were instances of dangerous or erratic driving. This posed a risk not only to Wally but to other road users and pedestrians. At each of these points, consideration ought to have been

given to terminating the pursuit. Had it been terminated before Wally went over the crest, he may have survived.

99. CI Inkster indicated that if this information were known, 'he would have been inclined to terminate the pursuit².'
100. The decision to terminate at this point should have been made in the context that the offence committed was a failure to stop for a license check/RBT, not because the rider may have been O'Gorman. Given the lower objective seriousness of the offence of failing to stop for an RBT/License check, the danger to the community of the pursuit continuing loomed large. That said, I accept the pursuit took place over 4 minutes and there was consideration given to terminating, at least by SC Saunders, just prior to Wally crashing. Given that short time frame, it is not clear on the evidence whether an earlier termination following the instances of erratic or dangerous driving, would have prevented Wally's death.

Findings

101. I find that the instances of dangerous driving, when weighed against the immediate need to apprehend Wally, favoured terminating the pursuit prior to Wally crashing in accordance with the SDP. However, given the short time in which the pursuit took place I do not find that doing so would have necessarily prevented Wally's death.

Whether there was proper communication between the NSWPF officers involved in the pursuit and the duty officer responsible for monitoring the pursuit over the NSWPF radio.

102. While there were four officers in C141, SC Maher was the passenger and he was the one on the radio. It was highlighted in evidence the importance of otherwise keeping quiet so as to ensure clear communication between VKG and the officer on the radio. That said, if SC Maher missed transmitting something important, another officer in the vehicle could have and should have raised it.

² Transcript 28 October 2024: page 44 paragraph 40

103. Part 7.5.1 of the SDP specifically states, inter alia, that:

Drivers and escorts: when involved in a pursuit will inform the State Co-Ordinator or VKG Shift Co-ordinator of certain information, including, frequent updates as to the location, direction of travel, speed of the offending vehicle, instances of erratic, and or dangerous driving, and other pertinent information.

104. It is significant that whilst each of the officers considered the rider of the motorcycle may have been O’Gorman, none of them conveyed that over VKG. I have found that stopping the motorcycle to determine whether it was O’Gorman would not have been a lawful stop, and on that basis, it is not information which was required to be considered by those monitoring the pursuit because the potential that the rider was O’Gorman should not have played into the balancing exercise required by s 7.2.1 of the SDP. However, I highlight it as another piece of information which the officers in C141 failed to convey.
105. In this case, relevant and pertinent information was not conveyed to VKG. That information included the instances of dangerous or erratic driving. SS George and CI Inkster acknowledged this information as relevant and pertinent.
106. In my view, these amounted to incidents of erratic and or dangerous driving which clearly ought to have been conveyed. The failure to convey this information meant that those monitoring the pursuit were not able to make an informed decision about whether the pursuit ought to have been terminated.
107. A second issue relates to the conveying of the speed of the vehicles involved in the pursuit.
108. There were numerous references to speed conveyed to VKG in the course of the dispute in the form of, ‘50 over 50’, ‘70 over 50’ etc.
109. Having heard evidence from all of the officers involved in and monitoring the pursuit, it was abundantly clear that there was no consistent view as to what was being conveyed.
- a. CI Inkster was initially mistaken as to whether the speed being conveyed was that of the C141 or RGZ41.

- b. SC Maher was unable to say whether it was the speed of the motorcyclist or the speed of the police vehicle.
 - c. SS George suggested it was the speed of the pursuit without identifying which vehicle. He suggested that other information such as 'the gap is widening' would be conveyed to indicate that the vehicle being pursued was travelling faster.
110. As a result, VKG was not advised in specific and non-ambiguous terms that Wally had reached 80km/hr in Jacaranda Avenue.
111. This also raises a wider concern. Given the pace with which pursuits occur and the danger they give rise to, it is imperative that each person involved in the radio transmission has a clear understanding of the information being conveyed to them. It was apparent from the evidence adduced at the inquest that there was no consistent understanding as to the meaning of the speeds being conveyed. This signifies a lack of current and consistent training.
112. The officers that gave evidence indicated there is no ongoing training in respect of the SDP. Rather, an information package is sent out when the SDP is amended.
113. The skills required to operate in a pursuit are not required to be used every day. However, given the danger, they need to be firmly ingrained so that when the need arises, they can be relied upon in a very short time frame – 4 minutes in this example. SC Hunt held a 'silver' classification in regards to pursuit training, however he had held this status for 11 years without substantive refresher training. For skills not used every day, ongoing training and education is required to ensure they are sufficiently 'bedded' to be used when required in a very fast paced operation such as a pursuit.

Findings

114. I find that the communication between C141 and VKG was inaccurate in terms of the conveying of the speed of the pursuit and the vehicles involved.

115. I find that the officers in C141 failed to convey to VKG important and pertinent information which, as a result, meant that those monitoring the pursuit could not make an informed decision as to whether or not the pursuit should be terminated.
116. I find that the NSWPF education and training regime in respect of the SDP is inadequate.

RECOMMENDATIONS

117. When considering the evidence of the NSWPF officers in C141, it was abundantly clear that there was no cohesion between the officers as to:
 - a. why lights and sirens were activated to stop Wally
 - b. under which power the officers were operating when they sought to stop Wally
 - c. how speed is to be conveyed to VKG in the course of a pursuit
 - d. what amounts to dangerous or erratic driving
 - e. what information is pertinent and important and should be conveyed over VKG in the course of a pursuit.
118. The evidence of the officers revealed an inadequacy in their knowledge, education and training which I consider requires addressing. As such, I make the recommendation that follows.
119. To the Commissioner, New South Wales Police Force (NSWPF):
 - a. That consideration be given to providing additional or updated or revised training to officers with designated category driving certification, who are permitted to conduct pursuits:
 - i. of the difference between the police powers pursuant to sections 169A and 175 and Schedule 3 of the *Road Transport Act 2002* (NSW) and sections 36 and 36A of the *Law Enforcement (Powers and Responsibilities) Act 2002* (NSW) and an understanding of the elements and objectives of those police powers.

- ii. as to how information about “*the speed of the offending vehicle*” should be conveyed to VKG and officers monitoring the pursuit, as referred to in Part 7.5.1(j) of the Safe Driving Policy (SDP), version 9.2, or in any future version of the SDP.
- iii. as to what type of information constitutes “*pertinent information*” that should be conveyed to VKG and officers monitoring the pursuit, as referred to in Part 7.5.1 of the SDP, version 9.2, or in any future version of the SDP.

CONCLUDING REMARKS

- 120. I will close by conveying to Wally’s family my sympathy for their loss.
- 121. I thank the Assisting team for their outstanding support in the conduct of this inquest.
- 122. I thank DS Quinn for his work in conducting the investigation and compiling the brief of evidence.

FINDINGS REQUIRED BY S 81(1)

Identity: The person who has died is Alan James Green

Place of death: Jacaranda Avenue, Bradbury NSW 2560

Date of death: 14 December 2021

Cause of death: Multiple traumatic injuries

Manner of death: Motor vehicle accident soon after being involved in a police pursuit.

I close this inquest.

Magistrate R Hosking

Deputy State Coroner

Lidcombe

28 February 2025