



CORONER'S COURT

Inquest: Inquest into the death of Scott Noel PICKFORD

Hearing dates: 28-29 May 2014

Date of findings: 21 July 2014

Place of findings: State Coroner's Court, NSW
44 – 46 Parramatta Road, Glebe

Findings of: Paul MacMahon
Deputy State Coroner

Catchwords: CORONIAL LAW – Mandatory Inquest, Death in a Police Operation, Police Pursuit. Application of the NSW Police Force Safe Driving Policy

File number: 2013/2130

Representation: Mr P Aitken – Counsel Assisting
Mr B Haverfield – Senior Constables B Dixon and S Thompson,
Mr R Hood – Commissioner of Police

Non-publication order made pursuant to Section 74(1) (b) Coroners Act 2009:

Non-publication orders have been made in respect of the following evidence contained in Exhibit 2 in the proceedings:

- In the statement of John Zdrilic at Tab 4– paragraphs 162-167 and 170-171,
- In the statement of Anthony Grace at Tab 14– paragraphs 12-19 and 22-24 together with the annexure thereto,
- The statement of Kris Cooper at Tab 16a,
- The NSW Police Force – Safe Driver Policy at Tab 21 of, and
- The report of Kris Cooper at Tab 21b.

It should also be noted that consistent with the abovementioned non-publication orders certain parts of the reasons for my findings in this matter are redacted and the redacted parts of my reasons are also subject to a non-publication order.

Findings made in accordance with Section 81(1) Coroners Act 2009:

Scott Noel Pickford (born 20 March 1972) died on 2 January 2013 at the John Hunter Hospital, Rankin Park in the State of New South Wales. The cause of his death was multiple injuries that he sustained when the motor cycle that he was riding at speed failed to negotiate a bend in Masonite Road, Heatherbrae on 26 December 2012 and collided with a metal street sign during the course of a police pursuit.

Recommendations made in accordance with Section 82 (1) Coroners Act 2009:

Nil

Paul MacMahon
Deputy State Coroner
16 July 2014

Reasons for Findings:

1. Scott Noel Pickford was born on 20 March 1972. I will refer to him in these reasons as 'Scott'.
2. On 26 December 2012 Scott was riding motorcycle bearing NSW registration QGH40 on Nelson Bay Road, Stockton, an area to the north of Newcastle. He approached a police random breath testing (RBT) site and was directed to stop for a breath test. He stopped his vehicle and spoke briefly with a highway patrol officer. As the officer was making inquiries about his motorcycle licence he sped away from the RBT site.
3. Police in two highway patrol vehicles left the site and sought to catch up with Scott. At the intersection of Cabbage tree Road and Salt Ash Road Williamstown Scott did not stop when indicated by police. He sped off along Cabbage Tree Road and then into Masonite Road, Heatherbrae travelling at speeds of up to 180km/h. The police following him initiated a pursuit.
4. In Masonite Road Scott failed to negotiate a right hand bend. His motorcycle left the roadway and collided with a metal street sign. Scott was thrown from the motorcycle and sustained injuries. The police in pursuit stopped and rendered assistance. Ambulance assistance was called for and Scott was transported to the John Hunter Hospital.
5. Scott was found to have suffered multiple spinal fractures, a fractured sternum, a fractured left arm, a fractured right orbital, fractured ribs, fractured pelvis, internal bleeding and suspected brain injury. On 2 January 2013 a MRI scan showed that Scott was suffering from hypoxic brain injury. Active treatment was withdrawn with the consent of his family. He was declared deceased just before midnight on 2 January 2013.
6. Scott's death was reported to the Office of the State Coroner on 3 January 2013.

Jurisdiction of the Coroner:

7. It is important at this stage to set out the role and function of the coroner in respect of the death of Scott. The role and function is established by the Coroners Act 2009 (the Act). All legislative references, unless otherwise mentioned, will be to that Act.

8. Section 6 defines a "*reportable death*" as including one where a person died a "*violent or unnatural death*" or under "*suspicious or unusual circumstances*".
9. Section 35 requires that all *reportable deaths* be reported to a coroner.
10. Section 18 gives a coroner jurisdiction to hold an inquest where the death, or suspected death, of an individual occurred within New South Wales or where the person who has died, or is suspected to have died, was ordinarily a resident of New South Wales.
11. Section 27(1) (b) provides that if it appears to a coroner that a person died, or might have died, in circumstances to which Section 23 applies then an inquest is mandatory.
12. Section 23 gives exclusive jurisdiction in respect of the investigation of certain deaths to Senior Coroners.
13. The exclusive jurisdiction given to Senior Coroners includes the investigation of deaths that occur *as a result of or in the course of a police operation* (Section 23 (c)).
14. Section 22 (1) defines a Senior Coroner as being the State Coroner or a Deputy State Coroner.
15. Section 81(1) sets out the primary function of the coroner when an inquest is held. That section requires, in summary that at the conclusion of the inquest the coroner is to establish, should sufficient evidence be available, the fact that a person has died, and the identity of that person, the date and place of their death and the cause and manner thereof.
16. In addition to the matters to be determined in accordance with Section 81(1), in a case such as this where a death occurs *as a result of or in the course of a police operation* it is important that the contribution of police action, if any, to the circumstances of the death be the subject of a full and public inquiry.
17. The Parliament requires that inquests in such circumstances be conducted so as to provide a positive incentive to police to ensure that their actions are appropriate in all situations and to satisfy the community that those deaths that occur when police are involved are properly investigated. It is also in the interest of the police that such deaths be properly investigated so as to ensure that the officers involved, and the police in general, are not the subject of unsubstantiated or malicious allegations.

18. The circumstances that led to Scott's death are such that his death was one that occurred *as a result of or in the course of a police operation* and, as a result, the conduct of an inquest into his death is mandatory and must be undertaken by either the State Coroner or a Deputy State Coroner.
19. Section 82 provides that a coroner conducting an inquest may also make such recommendations, as he or she considers necessary or desirable, in relation to any matter connected with the death with which the inquest is concerned. The making of recommendations is discretionary and relate usually, but not necessarily only, to matters of public health, public safety or the conduct of services provided by public instrumentalities. In this way coronial proceedings can be forward looking, aiming to prevent future deaths of a nature similar to that with which the inquest is concerned.
20. Section 74 (1)(b) authorises a coroner during the course of an inquest, if he or she is of the opinion that it is in the public interest to do so, to prohibit the publication of any evidence given in the proceeding.

Identity and Date and Place of Death:

21. Scott's identity and the date and place of his death were not matters of controversy. Scott's body was identified by his mother Cheryl Murrell at the John Hunter Hospital on 3 January 2013. He was declared deceased by Dr Claire Wohlfahrt at the John Hunter Hospital at 11:55pm on 2 January 2013.

Cause of Death:

22. Following Scott's death an autopsy was performed by Dr Brian Beer a forensic pathologist. On the basis of his examination, and taking into account the information available as to the treatment Scott received following his admission to John Hunter Hospital, Dr Beer recommended that the cause of Scott's death be recorded as being 'multiple injuries'. I accept that recommendation.

Manner of Death:

23. There was no controversy that Scott's death occurred as a result of injuries received when the motorcycle he was riding left the road whilst he was travelling at speed whilst being pursued by police vehicles. It was also not

controversial that the actions of the police officers engaged in the pursuit on 26 December 2012 did not cause Scott's motorcycle to collide with the metal street sign.

24. In the circumstances the primary issue to be considered at inquest that required examination related to the circumstances that resulted in the commencement of the pursuit by the involved officers and their conduct, and compliance with NSW Police Force protocols and procedures, during the course of the pursuit.
25. Before I undertake that examination it would be appropriate for me to record some aspects of Scott's life and recent history that would seem to be relevant to understanding the events of 26 December 2012.
26. At the time of his death Scott was 40 years of age. He had had, at times, a turbulent life which had unfortunately involved on-again off-again periods of drug abuse. In early adulthood he inherited a reasonable sum of money but also started using drugs and possibly gambling. Later he managed to get things back on track and enjoyed a number of years living in Leeton, where he bought a house with his then partner and worked at the Berry Juice factory. He and his then partner also had a child together who is now aged 9 years.
27. Unfortunately after a number of years Scott sustained an injury at work and for a period could no longer work. He began to abuse Methylamphetamine and Cannabis and his relationship broke up. In later years he had various jobs and would try to continue to see his son each weekend.
28. In 2012 after a brief period of imprisonment he received a substantial compensation payout for his back injury but relapsed into drug abuse. At the time of his death he was living on and off at a motel whose proprietor described him as a generally happy and friendly person. He had told her that he could hear voices in his head which made him drive and ride fast.
29. Shortly before his death Scott was involved in two significant traffic matters. On 19 December 2012 he was detected speeding on his motorcycle, and changing lanes without indicating. He was pulled over and found to be unlicensed to ride a motorcycle. He was issued with a Court Attendance Notice and was then, shortly after, charged again after being seen to ride his motorcycle again.

30. On 23 December he was stopped again in his Commodore and while checks were being made accelerated away and was pursued, reaching speeds up to 180kmh. The pursuit was terminated after he went through a red light but he was later found in the car and told police he had taken speed (amphetamine).
31. As a consequence his car was confiscated, he was charged and a condition of his bail was that he not ride a motorcycle. The police officers for those two matters were different police officers to the police involved in the events of 26 December 2012. A mental health assessment of Scott was undertaken on 23 December 2012 however it did not detect any signs of delusions.

The Evidence:

32. To assist in reaching an understanding of the events of 26 December 2012 the inquest occurred at East Maitland Courthouse between 28 and 29 May 2014.
33. At the inquest evidence was taken from:
- Detective Inspector John Zdrilic, the Officer in Charge of the investigation into the circumstances of Scott's death,
 - Senior Constable Aaron Brock, Geoffrey Barnes and Brett Petersen, officers involved in the random breath testing site on 26 December 2012,
 - Senior Constable Scott Thompson and Ben Dixon who were the officers involved in the pursuit,
 - Sgt Barry Chapman who was the coordinator of the random breath testing site on 26 December 2012,
 - Sen. Sgt Anthony Grace who was the highway patrol supervisor on 26 December 2012 who had monitored part of the pursuit, attended the site of Scott's collision and convened the subsequent police safe driving panel,
 - Inspector Craig Reid the duty officer for the Port Stephens Local Area Command on 26 December 2012,
 - Chief Inspector Kim Sorensen the duty officer for the Lake Macquarie Local Area Command on 26 December 2012, and
 - Sgt. Kris Cooper from the Traffic Policy section of the NSW Police Force.

34. Cheryl Murrell, Scott's mother, also made a moving statement to the inquest about her son.
35. In addition to the oral evidence a large number of statements and other relevant material assembled by the OIC was tendered and became part of the evidence in the proceedings.

Outline of the events of 26 December 2012

36. About 11am on 26 December 2012 police from Newcastle Traffic and Highway Patrol set up an RBT site on Nelson Bay Rd, Fern Bay. This was adjacent to the border between Newcastle LAC and Port Stephens LAC. Some vehicles apparently had radios tuned to Port Stephens VKG and some to Newcastle VKG.
37. About 11.30am Scott, riding a 1000cc Suzuki GSXR motorcycle, was waved into the RBT site by S/C Aaron Brock and given a breath test, which was negative, by S/C Brett Petersen. Scott was then asked for his licence by S/C Petersen but said he didn't have it. He gave S/C Petersen a bowling club card in his correct name. He had not removed his helmet at that point.
38. S/C Petersen got what he thought was the bike's registration (OGH40). He checked the police in car computer system which showed a photo of Scott and indicated that he did not hold a motorcycle licence. Because Scott had his helmet on the photo did not allow S/C Petersen to confirm his identity. In fact the bike's registration was QGH40.
39. As S/C Petersen came back to speak to him Scott sped away.
40. After Scott left the site three police then ran to their vehicles and started after him. In the lead vehicle was S/C Scott Thomson, driving NCC 203, a fully marked highway patrol vehicle. Behind him in a yellow fully-marked highway patrol vehicle was S/C Ben Dixon, driving NCC 204.
41. Following behind them, but apparently not at speed, was S/C Petersen in NCC 205. S/C Petersen's intention was to drive to the address that the licence search had identified for Scott. That address was an address in Raymond Terrace. This was Scott's mother's address.
42. At the time S/C Thomson (call sign 203) had his radio tuned to Newcastle VKG and S/C Dixon (call sign 204) had, or changed, his radio to Port Stephens VKG into which area he was travelling.

43. The effect of this was that the protocol that was required to be followed (of a Duty Officer remotely monitoring the pursuit) was made more complex because it involved two radio operators, two Duty Officers and consequential problems sharing relevant information.
44. By way of example, S/C Petersen broadcast on the Port Stephens channel, advised what he thought was the registration number of the motorcycle (which turned out to be wrong by one letter) but, for some reason, he did not broadcast the address which he was going to attend.
45. The first broadcast to Port Stephens VKG was at 11.34.28. To Newcastle VKG it was 11.35.40. It seems that both pursuing police knew that the bike had just fled the RBT; they did not apparently know, however, what offence the rider may have committed. NCC203 and NCC204 then drove after the motorcycle in an effort, as they said, to catch up to it.
46. Just before 11.37.20 Newcastle VKG records PolAir on its way; at 11.38.40 it stated that it is a couple of minutes out. During what might be described as the catch-up phase, various speeds were relayed back to the operators.
47. NCC203 (Thompson) variously told Newcastle VKG that the bike was doing maybe 190kmh (prior to 11.37), then at about 11.38.40, 180 over 90 (meaning in a 90kmh speed limit zone), which was shortly after VKG was told that a pursuit had commenced. At about 11.39.00 203 said the bike was 300 metres away. A further speed estimate was given after it turned off Cabbage Tree Rd into Masonite Rd, of 160kmh (after 11.39.40). At about 11.42.00 NCC203 told VKG that the bike rider had crashed; PolAir was not yet on scene until about 11.43.00.
48. On the Port Stephens channel, NCC204 (Dixon) told the operator that he thought the lead vehicle was on the Newcastle VKG channel. At 11.36.00 he spotted the bike in the distance and at 11.37.20 he estimated his own speed at 130kmh, in a 60 zone, in light traffic with dry conditions. At 11.37.40 the estimate was 150 over 90, on the correct side of the road, nil traffic. At 11.38.20 it was 180 over 90, which was shortly after it was announced as a pursuit.
49. At 11.40.00 the bike turned into Masonite Rd and the speed of the police was given as 120 over 80. At 11.40.20 it had increased to '140 and increasing'. At 11.41.20 NCC 204 tells VKG that the rider has come off his bike.

50. There is no doubt that very high speeds were reached in the lead-up to, and during, the pursuit. The ICV from each car shows the amount of traffic on the road during the catch-up phase, almost all of it fortunately pulling over in advance to allow police to pass, under lights and sirens. The bike is eventually caught up to at a roundabout at Cabbage Tree Road but does not stop and in fact drives round NCC 203 which has pulled up across where it had stopped in traffic. At that point both police advise that they are in pursuit.
51. The In-car video records the pursuing vehicle's speed and shows the apparent distance that the vehicle is away from the bike at any given time, the manner of riding by the cyclist and the traffic and road conditions. It seems from the video in NCC 203 that contact with the bike was lost shortly before the Masonite Rd intersection, or at least after the bike had turned into that road. The bike was not in sight of police when it crashed.
52. Scott was found unconscious and unresponsive at the roadside, severely injured. He was airlifted to John Hunter Hospital and was found on 2 January 2013 to have suffered a hypoxic brain injury. With his family's consent life support was ceased and he passed away shortly before midnight that night.
53. On admission to hospital at 1pm on 26 December 2012 testing revealed the presence of Methylamphetamine in Scott's blood. A statement has been obtained from an expert pharmacologist, Dr Judith Perl, in which she expressed the opinion that Scott would have been under the influence of the drug to the extent that his driving ability would have been significantly impaired.
54. Crash investigators examined the scene and interviews were conducted with the involved police and statements taken from civilians and police at the RBT scene, as well as those supervising the pursuit via VKG.
55. As part of the investigation the motorcycle that Scott was driving was examined for mechanical defects. The report of Sgt. Stace was that no mechanical defects were identified that might have contributed to the cause of the collision.

Discussion and Conclusions:

56. The NSW Commissioner of Police, A. P. Scipione APM, in the forward to the NSW Police Force Safe Driving Policy (SDP), emphasises the significant dangers to the public of police engaging in a pursuit when he says,

The New South Wales Police Force has a major responsibility to improve road safety throughout the State. While enforcing the road laws obviously plays a big part in this effort, it's not the entire answer. We must lead by example.

The police motor vehicle, if used irresponsibly and inappropriately, can result in it being the most deadly weapon in the police arsenal. Police do not have to keep going until told to terminate. You are perfectly entitled to make that decision for yourselves. Please be assured that any decision to terminate a pursuit; for your safety or others, will not result in criticism.

57. This is the reason why it is important that the reasons for the commencement of as well as the continuation of a pursuit be examined carefully so as to give the public confidence, or otherwise, in the actions of the officers involved.

58. The SDP defines 'urgent duty' as being '*duty which has become pressing or demanding prompt action*'. The SDP also requires that officers undertaking high speed urgent duty do so '*as a last resort*' and when '*the gravity and seriousness of the circumstances require such action and there are no other immediate means of responding*'.

59. A pursuit is defined by the SDP as commencing when an officer *decides to pursue a vehicle that has ignored a direction to stop* or where there has been an *attempt by a police officer in a motor vehicle to stop and apprehend the occupant(s) of a moving vehicle when the driver of the other vehicle is attempting to avoid apprehension or appears to be ignoring police attempts to stop them*.

60. The events of 26 December 2012 involved the officers engaging in action that met the NSWPF definition of both urgent duty and a pursuit. The Coroners Act 2009 does not have regard to definitions contained in the SDP as it concerns itself with a death that *arises out of or in the course of a police operation*. It is important therefore to examine the events that occurred from the time of Scott entering the RBT site until the collision that resulted in his death.

61. The evidence is that the time period from when Scott left the RBT site to the collision that resulted in his death was a little over 7 minutes. NCC 203 (S/C Thomson) came on air at 11:35:40, advised that it was attempting to catch up,

- announced a pursuit at 11:37:20 and advised that Scott had come off his bike at 11:42:00. NCC 204 (S/C Dixon) came on air at 11:34:28, advised he was attempting to catch up, announced a pursuit at 11:37:20 and advised that Scott had 'lost it, he's off the bike' at 11:41:40.
62. What the officers described as being the attempt to 'catch up' met the definition of 'urgent duty.'
63. The SDP requires where both urgent duty and pursuits are undertaken the vehicle must be appropriate for that action. There was no dispute that NCC 203 and NCC 204 met that requirement.
64. The SDP also requires that officers engaging in urgent duty and pursuit have a specified licence classification. In this case there was no dispute that both Senior Constables Thompson and Dixon met this requirement.
65. Scott left the RBT location at speed. S/C's Thompson and Dixon were not the officers dealing with him at the site. They were not aware why he left the site at speed, whether or not he had committed an offence and if so what that offence was. This is made apparent by the response from S/C Dixon to a request from the Duty Officer for information about the original offence when he said that it was 'fail to stop RBT.'
66. This, of course, was incorrect. The evidence was that Scott had complied with the direction to stop and had undertaken a breath test which he did not fail. The issue that arose was whether or not he was licensed to ride a motorcycle. His recent experience with the police on other driving matters no doubt weighed on his mind when he decided to ride off at speed.
67. Certainly in the circumstances it was reasonable for S/C Thompson and S/C Dixon to try to catch up to Scott for a traffic stop. They were approved to do so and did so after having activated all warning devices. They advised VKG of their action which they were not required to do. The catch up phase took between 1 minute and 40 seconds in the case of NCC203 and 2 minutes and 52 seconds in the case of NCC 204.
68. The In Car Video (ICV), which was an exhibit in the inquest, allowed us to see the course of the catch up. It involved passing a large number of vehicles at high speed who, for the most part, moved to the side of the road to allow them to pass. The road was a single lane each way. The speeds reached by the police vehicles were considerable. This raises the question of the

appropriateness of undertaking such action when the original offence was not known however because of the speed that Scott had left the RBT site criticism of the officers for seeking to undertake a traffic stop would not be warranted.

69. At 11:37:20 both officers independently advised VKG that they were in pursuit. This was in accordance with their obligation under the SDP. The ICV recordings establish that at the time of calling a pursuit the actions of Scott met the SDP requirement that he was 'seeking to avoid apprehension or appears to be ignoring police attempts to stop them.' Indeed I am of no doubt that at that time Scott was trying to avoid apprehension. The officers were as a result required to comply with the SDP pursuit guidelines.

70. The SDP pursuit guidelines required that all officers engaging in a pursuit provide certain information to police radio (VKG). This requirement is to allow supervising police (the Duty Operations Inspector, the Local area Duty Officer and the VKG supervisor among others) to monitor the pursuit and, if necessary, decide to terminate it. The evidence is that both officers Thompson and Dixon complied with this requirement.

71. The ability of supervising officers to actually undertake such supervision in this case was, however, made more difficult by the fact that the two vehicles involved were reporting to different radio operators. This meant that the full extent of the information reported was not available to any of the officers seeking to monitor this pursuit. This is an issue to which I will return later.

72. The time of the pursuit lasted between 4 minutes 20 seconds (NCC 203) and 4 minutes 20 seconds (NCC 204).

73. During the course of a pursuit the SDP requires that all vehicles involved in a pursuit [REDACTED]

[REDACTED] The ICV recording of the pursuit confirms that both S/C Thompson and S/C Dixon complied with this requirement.

74. An examination of the ICV recording in fact makes it clear and I am satisfied that it was the case, that the driving of the officers during the course of the pursuit did not cause nor was it a contributing factor to Scott's vehicle leaving the roadway and colliding with the metal street sign. Indeed the evidence available is that at the time of the collision both officers were not in visual contact with Scott's motorcycle. I am satisfied that this was the case.

75. The SDP requires that officers who commence a pursuit must, in doing so, weigh the need to immediately apprehend the offender against the risk to the community (which includes the person pursued) and police that will occur as a result of the pursuit. Both officers gave evidence that they did so and considered there were negligible risks to the police and minimal risks to the community. As such they considered the pursuit justifiable in accordance with the SDP.
76. I accept that this was the opinion of the officers. Making such a judgement is, of course a matter of judgment. It is not my function to second guess months or years later the judgement of the officers at the time. The evidence available to me would not allow me to come to another conclusion in any event and no criticism of the officers is made of their decision to commence the pursuit.
77. A pursuit must only be commenced as a last resort when 'the gravity and seriousness of the circumstances require such action and there is no other immediate means of responding'. The attitude of the officers was that they complied with this requirement. I accept that they considered the requirement to have been complied with. With the information they had that opinion was, I accept, reasonable.
78. Of course they, and the monitoring officers, were not aware of all the information available in particular that S/C Petersen had a name and an address in Raymond Terrace that he was on his way to. That information was not provided to VKG, the monitoring officers nor S/C Dixon or S/C Thompson.
79. Whilst there was a difference of opinion as to the importance of this information between police I accept that it was not provided to officers Dixon and Thompson and even if it had been it is uncertain what affect it might have had on the decision making of those officers.
80. During the course of the pursuit a question was raised as to whether the officers had been able to identify the registration of the motorcycle that Scott was riding. I accept that neither of the officers involved in the pursuit were able to obtain the registration of the vehicle. Indeed the registration provided to VKG from the RBT site was incorrect. This however does not appear to have been a factor in the decision making of the officers at the time.
81. During the course of a pursuit the officers involved are required to continue to monitor the circumstance of the pursuit and where the circumstances change

consideration be given to terminating the pursuit. [REDACTED]
[REDACTED]

82. This was an issue once Scott's motorcycle entered Masonite Road and there was a loss of visual contact between the police and the Scott's motorcycle. [REDACTED], once again, a matter of judgement and it is difficult to second guess the involved officers. It was put on their behalf that, at that point, the pursuit [REDACTED] as Masonite Road was a relatively straight stretch and there were no side roads that Scott could take.
83. I accept that there were no roads off Masonite Road that Scott could have entered however by that time it was clear that he was not going to stop for the pursuing police and it seems to me that by the time the pursuing police entered Masonite Road the pursuit was not going to achieve to goal of apprehending Scott. In this regard the pursuit was, in my view, futile and the pursuit should have been terminated.
84. Officers involved in a pursuit are also required to anticipate changes in the risks involved in a pursuit. The evidence is that, about 1 kilometre from the point at which the collision occurred, Masonite Road intersects with the Pacific Highway at Heatherbrae and that shortly before that intersection there is a roundabout that vehicles use to enter fast food enterprises. It is apparent that approaching midday on Boxing Day many people would be likely to be at that location and the risks to the community would have been magnified to such an extent that consideration to discontinuing the pursuit due to the increased risk to the public would need to have occurred.
85. S/C Thompson in his evidence did not appear to be alive to this issue believing that he would have 'caught up to' Scott at Heatherbrae. As to what he would do when he caught up to him there did not seem to be an answer.
86. S/C Dixon gave evidence that he was aware of the dangers and intended to reassess the situation on reaching the roundabout at Heatherbrae. I accept that S/C Dixon was aware of his obligation to reassess the changes in risk during the course of a pursuit and was doing so.
87. One might, however, reasonably question the reasoning of S/C Thompson and S/C Dixon at this time.

88. It seems to me that it was abundantly clear from the time Scott entered Masonite Road he was not going to stop for police. From that time the continuation of the pursuit was futile and should have been terminated.
89. Scott, from the time he entered Masonite Road was approaching a location of high risk to the community. There were only three ways this pursuit was likely to end. The first, as occurred, was that Scott would lose control of his motorcycle and he would as a result suffer serious injury, the second was that when he reached the roundabout at Heatherbrae there would be a collision with an innocent third party and he, and perhaps others, would be injured. The third was that on entering Heatherbrae area the pursuit would be terminated or he would be able to evade the police and he would have made good his escape.
90. As I have already said it is never satisfactory, months and years later, to second guess the decisions police make in a matter of seconds in the course of an incident however in the factual circumstances of this case I am satisfied that this pursuit ought to have been terminated once Scott entered Masonite Road.
91. It is noted that Sgt Kris Cooper, of the Traffic Policy Unit, Traffic and Highway Patrol Command who gave evidence in the proceedings, was of the opinion that termination of the pursuit was appropriate at or about the entering of Masonite Road. It is also noted that Inspector Reid considered that the pursuit should be terminated before it reached the roundabout. This reinforces that fact that the application of the SDP can vary depending on the individual applying it however it seems to me that once it is apparent that the objects of the pursuit, the apprehension of the offender, are unlikely to be achieved the pursuit is futile and should be terminated.
92. Of course it cannot be assumed that even if the pursuit had been terminated, and he was aware that this had occurred, that Scott would have slowed down and as a result not suffered the injuries he did. He may have continued to ride at the considerable speed he had been riding at. He had told a person at the motel at which he had been residing that he had voices in his head that told him to ride/drive at speed. This may have been an effect of the Amphetamine and Methylamphetamine that was found in his blood at the time of the collision. This is, of course, all speculation.

93. Although I am of the view that the appropriate application of the SDP would have resulted in this pursuit being terminated after Scott entered Masonite Road I do not propose that any action be taken against S/C Thomson or S/C Dixon. Whilst I question their application of the SDP I am not satisfied that the evidence available would allow me to conclude that had the pursuit been terminated at the time I consider it should the collision and Scott's death would necessarily have been avoided.

Section 82 Recommendations:

94. One issue that the investigation of Scott's death raised was the situation where both NCC203 and NCC 204 were communicating with different police radio channels. This was acknowledged as creating problems for supervision officers seeking to monitor the pursuit. This is a matter that would justify consideration of making recommendations in accordance with Section 82 of the Act. On the evidence available, however, it would seem that the NSWPF has recognised the difficulty and action has been taken to address it. As such it is not necessary for me to give consideration to the making of any recommendations on this issue.

95. It is also my opinion that the evidence in the proceedings does not raise any other issues that would require consideration being given to the making of recommendations.

Paul MacMahon
Deputy State Coroner
21 July 2014