

CITATION: *Inquest into the death of Levi Timothy Griffiths* [2015] NTMC 004

TITLE OF COURT: Coroners Court

JURISDICTION: Darwin

FILE NO(s): D0077/2011

DELIVERED ON: 2 March 2015

DELIVERED AT: Darwin

HEARING DATE(s): 9 – 12 February 2015

FINDING OF: Mr Greg Cavanagh SM

CATCHWORDS: **Intoxicated driver; fleeing scene of collision with pedestrian, fail to report accident to Police or hospital; placing body away from scene, Hells Angels Outlaw Motorcycle club.**

REPRESENTATION:

Counsel Assisting: Dr Peggy Dwyer
Counsel for Nicholas Cassidy Louise Bennett

Judgment category classification: B
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IN THE CORONERS COURT
AT DARWIN IN THE NORTHERN
TERRITORY OF AUSTRALIA

No. D0077/2011

**In the matter of an Inquest into the death of
LEVI TIMOTHY GRIFFITHS
ON 4 JUNE 2011
AT DARWIN
FINDINGS**

Mr Greg Cavanagh SM:

Introduction

Levi Griffiths, a young man who was full of promise and much loved by his family and friends, was only 25 years old when he was killed walking home on Girraween Road, Howard Springs, in the early hours of the morning. Mr Griffiths was struck from behind by a car driven by Nicholas Cassidy (known as ‘Shonky Cassidy’, ‘Shonky’ or ‘Shonk’), who was intoxicated at the time. He did not notify Police of the accident and went to great lengths to cover up what he had done, including moving Mr Griffiths’ body to an area on the Stuart Highway in Coolalinga several kilometres away from the crash site.

The brutal nature of Mr Griffiths’ death and its aftermath has made it significantly more difficult for family members to deal with their tragic loss. Their trauma was magnified by the fact that there were gaps in their understanding of how and why the death occurred. The aim of this inquest was, in part, to assist the family and the general public by exploring the circumstances surrounding Levi’s death, in order to fill that void.

The role of the Coroner is set out in the *Coroners Act NT* (“the Act”). Pursuant to section 34, I am required to make the following findings:

“(1) A coroner investigating –

(a) a death shall, if possible, find –

(i) the identity of the deceased person;

(ii) the time and place of death;

(iii) the cause of death;

(iv) the particulars needed to register the death under the
Births, Deaths and Marriages Registration Act;

Section 34(2) of the *Act* operates to extend my function as follows:

“A coroner may comment on a matter, including public health or safety or the administration of justice, connected with the death or disaster being investigated.”

Additionally, I may make recommendations pursuant to section 35(1), (2) & (3):

“(1) A coroner may report to the Attorney-General on a death or disaster investigated by the coroner.

(2) A coroner may make recommendations to the Attorney-General on a matter, including public health or safety or the administration of justice connected with a death or disaster investigated by the coroner.

(3) A coroner shall report to the Commissioner of Police and Director of Public Prosecutions appointed under the *Director of Public Prosecutions Act* if the coroner believes that a crime may have been committed in connection with a death or disaster investigated by the coroner.”

In order to fulfil my statutory obligation to make the findings required by s34(1), including consideration of the broader circumstances surrounding the death, I had tendered in evidence the following: the brief of evidence (Exhibit 1); supplementary folder of material, including the closing addresses of defence and prosecution, and the Judge’s summing up in the trial of Nicholas Cassidy for pervert the course of justice (Exhibit 2); birth certificate

(Exhibit 3); map showing the primary and secondary crime scene (Exhibit 4) and a supplementary statement of Sergeant Mark Casey (Exhibit 5).

I heard oral evidence from Police officers who had investigated the collision – Senior Constable (SC) Andrea Davis, Acting Detective Sergeant (Det. Sgt) Tanya Larsen-Smith and Crash investigator, Sgt Mark Casey, and from forensic experts, Ms Susan Vintiner and Dr John Combaros. I also heard from the following civilians – Julia Shay, Jamie Schmidt (Aka Beamo), Mark Simpson, Scott Eaton, Paul Johnson, Aaron Abbott, Janina Innes and Karen Houlihan.

The death of Mr Griffiths at only 25 years of age has been devastating for his parents, grandparents, sister and broader family, who all continue to grieve for him. His death should be a reminder to Territorians that reporting a car accident, rendering assistance and treating the injured with basic human dignity is the very least that we can expect of drivers and where they fail to do so, it magnifies the grief for family members trying to piece together what has happened to their loved one.

Supreme Court proceedings against Mr Cassidy relating to Mr Griffiths' death

On 21 October 2013, a Supreme Court jury found Nicholas Cassidy guilty of the charge that between 4 June and 22 June 2011, he attempted to pervert the course of justice in relation to the police investigation of Mr Griffiths' death. The Crown called evidence of Mr Cassidy having performed 17 Acts that had the tendency to mislead, frustrate or deflect the police from obtaining evidence, for the use of any prosecution, as to the true circumstances of the death of Levi Griffiths.

Mr Cassidy was sentenced for that offence on 1 November 2013. Since the jury's verdict was non-specific and therefore not conclusive as to the nature and full extent of the conduct engaged in the Presiding Justice, his Honour

Justice Barr, was required to determine the facts for the purposes of sentencing. His Honour held that:

“I am satisfied beyond reasonable doubt that you were the driver of your Ford utility at the crucial time...by a process of exclusion, I conclude there was no one else who logically could have been driving that vehicle when it departed the Hells Angels Clubhouse premises and then struck the deceased.”

Furthermore, his Honour outlined the significant list of things that Mr Cassidy had done to cover his actions and frustrate the Police investigation. Mr Cassidy was sentenced to a term of imprisonment of 2 years with a non-parole period of 14 months.

There is nothing in these coronial findings which is inconsistent with the findings of Justice Barr, who presided over a three month trial, heard evidence from over 120 witnesses and considered 274 exhibits that were tendered in those proceedings. I have had the significant benefit of reading his Honour’s sentencing remarks, as well as his summing up and the closing submissions of the defence and Crown at trial. In addition, I have heard evidence that was not available to the jury or to his Honour, particular in relation to the extent of the intoxication of Mr Cassidy at the time his car struck Mr Griffiths.

Levi Griffiths

Mr Griffiths was born and raised in Darwin and went to Moulden primary school and then to St Johns High School. For most of his adult life he was in regular employment in a range of jobs including powder coating, mango picking and laboring. Shortly before he died Centrelink approved a grant for him and a friend to help start a business in electronics, installing car stereos.

Levi was living with his mother and sister in Moulden, and his mother, Kathy Griffiths, describes a kind and gentle young man who adored his much younger sister and doted on her. During the inquest Ms Griffiths read from two poems that she had written about her son when he was a child that

express her love for him and how much joy he brought into her life. I heard from his grandmother that around a week before his death, Mr Griffiths had gone to see his sister play sport and he and his grandfather had a terrific conversation which made it obvious to his grandmother that he was really becoming a responsible young adult, with a good future ahead of him.

Mr Griffiths had a group of close friends and a loving extended family who continue to struggle to come to terms with their loss.

Mr Griffiths movements on the morning of 4 June 2011

On the night of Friday 3 June 2011, Mr Griffiths attended a 16th birthday party held on a property on Anglesey Road, Girraween. He arrived around 8.30pm and was at the party for about 5 hours, leaving some time after 1.30am the next morning. Evidence from friends suggests that he drank a mixed amount of alcohol including beer, cider and rum and post mortem toxicology showed that he had a blood alcohol reading of 0.111%.

Mr Griffiths was wearing his black and red Holden shirt, black jeans and white sandshoes. He had his Mp3 music player with him, and his mobile phone. Evidence gathered by Police suggests that he walked towards home in Moulden along Girraween Road, perhaps listening to his portable music device and probably holding a mobile phone out in front of him for light.

Two men were delivering newspapers in that area around 2.20am. One of those men, Robert Adams, told Police that just before 2.25am he saw a man walking along Girraween Road wearing black pants, a black shirt and black sneakers. In his right hand the man appeared to be holding a mobile phone with a light on. It appears that Mr Griffiths was last seen alive at around 2.30am by a group travelling in several vehicles en-route to an address in Girraween. The majority of the group reported sighting someone matching Mr Griffiths' description walking alongside the outbound lane of Girraween Road, near the intersection of Mahaffey Road.

Levi's body found

On 4 of June 2011 at 6.39am, Police Communications received a report of a male lying unconscious outside the Territory Stock Feeds business premises, which is situated on the service road running parallel to the Stuart Highway in Coolalinga. Police and paramedics attended the scene and located the body of Levi Griffiths. It was clear that he had suffered a broken right leg, and obvious trauma to his head, legs and torso.

Mr Griffiths' clothes had been disturbed and his body had been left in a most disrespectful way. His jeans were draped around his ankles and he had one black sock on his right foot. His black and red 'Holden' polo short was found near him, and was inside out, suggesting to Police that it had been removed from his body. Mr Griffiths had on him his mobile phone, a set of keys, and a basics card in his name, and he was later formally identified from fingerprints.

Investigators from the Major Crash Scene Unit attended and quickly ascertained that Mr Griffiths had been hit by a car at another location (the primary crash scene) and his body transported to the Service Road (the secondary scene). Police established Operation Houston to investigate the death and significant Police resources had to be expended to identify the crash scene and the driver responsible.

On Sunday 5 June 2011, Police expanded the search of the Coolalinga area and pinpointed the primary crash scene on the outbound lane of Girraween Road between Hillier and Maheffey Roads. Located here were two 180 millimetre light clear plastic 'Narva' spotlight covers and multiple fragments of glass consistent with a vehicle windscreen. Police also found Mr Griffiths' MP3 player, headphones, a single white Adidas sandshoe, and (a short distance from the scene) a second black sock. Mr Griffiths' matching Adidas shoe was found on the corner of Temple Terrace and the Stuart Highway, approximately 10 kilometres away. His wallet was discovered by a council

worker on the grass area adjacent to the inbound lane of the Stuart Highway, Virginia.

This section of Girraween Road is a sealed dual lane contra-flow carriage way, with one inbound and one outbound lane, each 3.1 metres in width and separated by a single broken white lane. The inbound lane is bounded by an unusual sealed auxiliary passing lane that is 2.3 metres wide. A single broken white line separates the inbound and auxiliary passing lanes.

The scene was scattered with debris and notably, 35 windscreen glass fragments were located within the auxiliary lane. Police concluded that when the vehicle struck Mr Griffiths he would have been either completely or partially in the auxiliary lane.

Police conducted investigations to determine the point at which the driver of a vehicle would be able to discern a pedestrian traveling inbound in or close to the auxiliary lane by focusing on the contrast of the pedestrian to the surroundings and the illumination distance of headlights. In these circumstances, where Mr Griffiths was dressed in dark clothing, there is no street lighting along this section of Girraween Road and no background lighting, he would have been in what Sergeant Casey describes as a “poor contrast category” or in other words, he would have been difficult to see.

In determining if a driver is able to perceive and respond to a hazard, Police also factor in the speed of their vehicle and the perception reaction time of the driver. Since the speed of the vehicle was unknown, Police assumed a speed of 80kms per hour for the purpose of their calculations. Research cited by Sergeant Casey indicates that a driver on a straight rural road who is presented with an object in their path would have an “average reaction time” of 1.9 seconds, meaning that for a driver in these circumstances to perceive the hazard, respond and stop the vehicle would take average drivers 79 metres. That finding led Sergeant Casey to say that for the average driver the crash would have been unavoidable.

However, even though Levi Griffiths would have been difficult to see on this morning it is not possible to say that all drivers on this road would necessarily have hit and killed him. First, it is well understood that drinking affects perception and hazard reaction time and I am satisfied, for the reasons outlined below, that Mr Cassidy was intoxicated. At the point at which a sober, reasonable driver had seen Mr Griffiths they may have applied the brakes and possibly a horn, allowing Mr Griffiths to get out of the way, or at least resulting in a collision at a lower speed, which may not have been so catastrophic. Second, the collision would only have been inevitable if the pedestrian was in the path of the vehicle and many drivers would not have chosen to drive in the unusual sealed auxiliary passing lane, when there was no apparent reason for doing so. The fact that Mr Cassidy was intoxicated at the time of the collision may explain why he chose to drive in the auxiliary lane, although, since he denied any involvement in the accident and has not given a truthful account of his movements to police, there is no positive evidence as to why he was driving in that lane.

Time and cause of death

A post mortem examination conducted by pathologist, Dr Terrence Sinton, revealed that Mr Griffiths sustained a huge impact, causing his spinal cord to completely sever. He suffered a subdural haemorrhage, ruptured spleen and liver and compound fractures in both the fibula and tibia in the right leg. He may not have died immediately on impact, but he would immediately have been knocked unconscious and would have inevitably died very soon after the collision.

Combining this information with the information gathered by Police as to the timing of the accident, it is possible to determine that Mr Griffiths died some time between 2.30am and 3.30am on 4 June 2011.

Nature of the accident

Sergeant Mark Casey, an experienced investigator from the Major Crash Investigation Unit, provided a number of detailed statements outlining his methodology and findings. He concluded that Mr Griffiths was standing or walking inbound on Girraween Road when he was struck from behind by a vehicle also travelling inbound. The vehicle was a low profile passenger type vehicle, silver or grey in colour, fitted with an NT number plate and spotlights. Using crash investigation software, Sergeant Casey was able to determine that the car owned by Nicholas Cassidy, a silver 2001 Ford Falcon AUII utility with NT plate 619-844, was consistent with the injuries and identifiers located on Mr Griffiths and his clothing.

The speed limit in the area is 80kms per hour, but there was no forensic or eyewitness evidence as to the speed of Mr Cassidy's vehicle at the time it struck Mr Griffiths. One Crash Investigator at trial, Acting Sergeant Bellion, thought it likely that Mr Cassidy was travelling below 80km per hour.

Evidence suggests that the force of the strike caused Mr Griffiths to summersault over the vehicle and into the back tray. There is no definitive evidence as to whether Mr Cassidy then stopped his car to check on Mr Griffiths and to try to render assistance, although it is clear that there was no attempt to notify the police or obtain appropriate medical assistance for Mr Griffith.

Police investigations reveal the driver to be Nicholas Cassidy

After a lengthy police investigation, Nicholas Frank Cassidy, aka "Shonky" was identified as the owner and driver of motor vehicle NT 992354, a silver Ford AU utility that had struck Mr Griffiths.

After reviewing the bulk of the evidence gathered by Police, transcript of closing addresses by defence and Crown in the trial of Nicholas Cassidy for perverting the course of justice and the sentencing remarks of Justice Barr after the trial, I am in no doubt whatsoever that Nicholas Cassidy was the driver of the car when he hit and killed Levi Griffiths.

The following outline includes some, but by no means all, of the evidence gathered by Police.

In terms of **forensic evidence**, glass fragments found in Levi's hair and on his clothing 'shared a common origin' with glass fragments found at the club house, fragments removed from inside Cassidy's vehicle, and glass fragments found within a coke can located in a rubbish bin at Mr Cassidy's workplace. It did not match glass found at the primary collision site, likely because that was not identified until approximately 30 hours after the collision, by which time the glass had been compromised by passing traffic.

Camera footage from BP Palms captured Nicholas Cassidy purchasing fuel at 8.25 pm on the 3rd of June 2011 and his vehicle can be seen to be fitted with Narva driving lights. Fragments of that type of light were found at the primary crash scene.

An expert on Nike shoes, Mr Herbert HEDGES, reviewed the CCTV and determined that Mr Cassidy was wearing Nike sneakers. The sole of those shoes is consistent with a shoe impression left at scene where Levi's body was located.

Forensic analysis of exhibits indicated the likely presence of the Levi's DNA on the vehicle driven by CASSIDY.

Regarding the evidence from **crash and vehicle analyses**, the characteristics of the car owned by Mr Cassidy were consistent with the injuries suffered by Levi Griffiths and damage to Mr Cassidy's vehicle was consistent with a pedestrian strike. Furthermore, paint transferred to the back of Mr Griffiths' jeans in the collision was consistent with paint from Mr Cassidy's vehicle and registration plate and fibres found on Mr Cassidy's registration plate corresponded with control sample of fibres taken from Mr Griffiths' jeans.

An analysis of **call charge records** showed that Mr Cassidy made a series of seemingly frantic calls to Hells Angels associates in the hours after Levi

died. At 2.37am he called the phone belonging to Leighton Dial. At 2.38am he called the Hells Angels club house. At 2.41am he called the phone linked to Peter Maclaine-Cross and between 2.53am and 3.38am he contacted Leighton Dial a further four times.

Some of the most damning evidence against Mr Cassidy came from covert recordings of indiscrete and impulsive conversations involving associates of the Hells Angels. At the time of Mr Griffiths' death, the Police Drug and Organised Crime Section were investigating alleged criminal activity conducted by members of the Hells Angels Motorcycle club and had a warrant for various surveillance devices which were installed at relevant locations. Listening device material recorded conversations between Mr Mark Simpson, a Hells Angels 'prospect' and a number of others, in which he spoke of Mr Cassidy hitting someone in his car when he was drunk and causing them to flip up and into the tray of the vehicle. Camera footage from the United Service Station depicting Mr Simpson and Mr Maclaine-Cross in the area where they would have observed Mr Cassidy driving erratically, as described, corroborated Mark Simpson's unguarded statements captured on Listening Device.

Police examining recordings from the early hours of the morning on the 4th of June 2011 discovered that:

- a) At 0130hrs Hells Angels Outlaw Motorcycle Gang (HAOMCG) prospect, Mark SIMPSON (SIMPSON) leaves 48 Narrows Road, The Narrows in his green Holden Commodore.
- b) At 3.26hrs SIMPSON returns to 48 Narrows Road, The Narrows.
- c) At 0328hrs SIMPSON enters the bedroom and has the following conversation with his girlfriend, Brooke CANDIDA (CANDIDA):
- d) 03:28:32 hrs - SIMPSON says "You'll never guess what happened. Do you know how we've been looking for Dino? Well he's in town. He caught up with Shonk and Shonk took him to the club house. He was at the club house making his own drinks. He said sorry and the rest of it".
- e) 03:29:28 hrs - SIMPSON says "Shonky" (inaudible)

- f) 03:29:40 hrs - SIMPSON whispers “killed someone. Someone ran in front of the fucking car and this cunt’s fucked”. SIMPSON says “Tomorrow it's going to be 'pppphhhhhhh' for sure”.
- g) 03:30:40 hrs - SIMPSON says “Can you believe that or what”?
- h) 03:31:08 hrs – SIMPSON says “Shonks got his fucking ute, right. Smashed the whole fucking window, over the bonnet and flipped into the tray”.
- i) 03:31:18 hrs - CANDIDA and SIMPSON laughing. CANDIDA says “That's a bit convenient isn't it”?
- j) 03:31:36 hrs - SIMPSON says “And that took him out of his shoes. His shoes are still on the road”. CANDIDA says “Yeah, right. That's too convenient”.
- k) 03:31:46 hrs - SIMPSON and CANDIDA walk towards the door and stand beside the dresser. SIMPSON heard whispering. He is heard saying “service road, chucked him over there. His wallet was still”(inaudible). CANDIDA says “Ooopps”.
- l) 03:33:48 hrs - SIMPSON says “When I left here I grabbed my wallet and my key. I left my gate key, my buzzer, my bum bag, my phone everything here”.
- m) 03:34:50 hrs - SIMPSON is heard saying “Got taken off, out of his shoes”.
- n) 03:35:35 hrs – SIMPSON says “Shit happens I suppose”.
- o) 03:35:38 hrs - CANDIDA says “If it's his time, it's his time”. SIMPSON says “Don't worry about your shoes and I'll give you a 9.5 for the acrobat that you did from the bonnet, to the windscreen, over the boot and into the tray”.
- p) 03:36:28 hrs - SIMPSON says “Yeah, he's dead for sure. He's dead for sure”.

Just two days later, on 6 June 2011, optical and listening devices installed at a property at the Narrows where Mark Simpson was living captured another unedifying conversation, this time between Mr Simpson, Ms Candida and Mr Scott Eaton, who was at that time a long term and senior member of the Hells Angels.

- a) At 14:05:45 hrs CANDIDA says “Hi”, EATON says “I’ve been working hard”. SIMPSON says “One way to get rid of him”.
- b) At 14:06:37 hrs SIMPSON says “I guess he wanted to go planking, a different way to go planking”.

- c) At 14:06:59 EATON says “He come around to my place panicking”. EATON says “Who took the clothes off him”? SIMPSON says “I can’t remember, I don’t know what he did”.
- d) At 14:08:26 hrs SIMPSON say’s “He was pissed”. EATON says, “He was pissed was he”? SIMPSON says, “**Fucking blind**”. SIMPSON says, “Monster rang right, he said fucking Dino and Shonky have rocked up, Monster was panicking so I’ve gone down there, and Dino’s in the bar, making his own drinks’, I said, ‘Dino come here’ and then we went out side, he said, ‘we got to talk’ I said, ‘good, but what about this phone call?’, he said, ‘yeah look I shouldn’t have said anything’ he said, ‘I got off the phone after that, I don’t want to fuck around with this shit’. Monster turned around, shut the door and went to sleep, I was like, all right now no-ones not doing anything, I’m going back home, you cunts aren’t staying here. Shonk said, ‘it’s alright’, I said, ‘no man everyone can fuck off’. Shonky pulled out a fifty, twenty and a five, and put it on the bar, I said, ‘I don’t care mate, go’. I said, ‘**you shouldn’t even be here you’re blind**’ and that’s when Dino and that had come down with Beamo, remember Beamo the black fella. There was him, his misses, and Dino had some straggler with him, four of them in their car, old mate jumped in his Ute, you know what I mean, once I kicked them out, I went up to the house, I said to Monster, ‘rock solid you are, do you want me to tuck you in?’, I said, ‘I kicked them all out mate, thanks to you’, I said ‘I’m going’, he said, ‘take me up to the Servo I’m hungry’, all right then, come on then, went to the Servo, that’s when we were driving up there, there was a spare set of keys, I didn’t know who’s they were. When we were driving up to the Servo, **I could see them driving erratically up near the Servo** and then I saw their car go down the road one way and I saw the other one across the road, Monster said, ‘keep driving, keep driving’, I said ‘what for’, he said, ‘I don’t want them to see us’, I said, ‘I don’t care, you want a feed get a feed, I want to go home mate’. Pulled into the Servo, rar rar rar, did our thing, drove home back to the club house and old mate was there, I was like, then he was on his phone, if you want to go, I’m going now other wise grab your own car. SIMPSON says ‘old mate, you should organise in the morning when you clear your head”.

Police investigators are aware that ‘Dino’ referred to by Mr Simpson is Leighton Dial, a former patched member of the HAOMCG. ‘Beamo’ is Jamie Schmidtdand ‘Monster’ is Peter Maclaine-Cross who was, at the time of the recording, a prospect for the HAOMCG.

On both occasions the comments by Mark Simpson were inane and insensitive, but they were useful in demonstrating that some members of the Hells Angels knew that Nicholas Cassidy had hit and killed someone, and that Mr Cassidy had been very intoxicated at the time.

There was evidence from **credible witnesses who saw Mr Cassidy shortly after the collision with a body in the back of his Ford utility**. Annike Ulrich was, at the time of Mr Griffiths' death, the girlfriend of Jamie Schmidt, and she had been with Mr Schmidt, Mr Cassidy and others at various hotels in the afternoon and evening of 3 June 2011. She had observed Mr Cassidy and others in the group drinking alcohol and had accompanied them to the Hells Angels Club House at around midnight, where they continued to consume alcohol. Ms Ulrich was sober and in the early hours of the morning she drove her car away from the club house, with Mr Schmidt in the front passenger seat and Mr Dial and Ms Shay in the back. Mr Cassidy was getting into his vehicle at the same time.

Ms Ulrich explained that as they drove past Coolalinga, Mr Dial received a phone call and then said "turn around, we gotta go back, something's happened". He told her to drive to a nearby tattoo shop and she followed his instruction. Once there, she saw Mr Cassidy's ute with the windscreen smashed and a person apparently deceased who was, in her words, "hanging off the back of the ute like a dead deer", with his pants around his ankles. Mr Cassidy was in an agitated state pacing up and down beside the ute and Mr Schmidt yelled at Ms Ulrich to "get in the fucking car" saying that she "didn't need to see this shit". Ms Ulrich recalled that Mr Schmidt and Mr Cassidy were yelling at each other and she heard Mr Cassidy say something about being worried about cameras in the area. A short time later she drove away with her passengers on board, who appeared to her to be in shock. She remembered that Mr Dial said something like "Shonky is fucked with this".

Again on the instruction of Mr Dial, Ms Ulrich drove to the Hells Angels Clubhouse to see if Mr Cassidy was alright. Ms Ulrich observed him to be there with his ute, but he was angry and agitated and would not let them come inside the gate. She told Police that when she spoke to Mr Schmidt about how distress she was at seeing the body on the back of Mr Cassidy's ute he told her that it was in her best interests to forget about it.

The account given by Ms Ulrich was supported by Julia Shay, who was a friend of Mr Dial's at the time of these events and had had little to do with the Hells Angels before 3 June 2011. On that night, she heard that Mr Dial was in town and came to meet him at the Howard Springs pub at 9.30pm. She met up with Mr Cassidy, Ms Ulrich and Mr Schmidt and stayed there with them until midnight, when they left for the Hells Angels Club house. She was drinking alcohol at Howard Springs Tavern and at the Club House and she observed Mr Cassidy to be drinking a large quantity of alcohol. After leaving the clubhouse in the car driven by Ms Ulrich, Ms Shay fell asleep and woke up in the vicinity of a petrol station in Coolalinga. She saw a silver ute with what looked to her like a "rag doll" on the back of it and she was "100% sure it was a body (Trans, 10.2.14, at p 71).

Both Ms Ulrich and Ms Shay were initially too frightened to tell Police what they had seen in the back of Mr Cassidy's ute, because of a fear that they would be physically assaulted by members of the Hells Angels or their associates. There was evidence that Ms Ulrich had been told to "keep her mouth shut" (Davis, 9.2.15 at p 41) and had been forced to meet Mr Cassidy at Jingili Cemetery on two occasions in the middle of the night when he had questioned her about what information she had provided police. Ms Shay was told by Mr Dial that she "needed to be quiet and shut up about it, [or she] was going to wreck someone's life" (Trans, 10.2.15, p 69). About two weeks after Mr Griffiths' death she got an anonymous phone call from someone threatening to harm her daughter. In those circumstances, it is

entirely understandable that she was frightened and reluctant to initially disclose all she knew.

Ms Shay explained that she met Levi's mother, Cathy Griffiths, by accident in the Palmerston Tavern, after which she felt morally obligated to tell Police what she had witnessed. The bravery of Ms Shay and Ms Ulrich in coming forward to Police, at considerable cost to themselves is laudable and in stark contrast to the cowardice of others on the night. Although in my view there was sufficient evidence that Mr Cassidy hit and killed Levi Griffiths even without the evidence of Ms Ulrich and Ms Shay, their integrity, and the respect they showed for the life of a fellow citizen, has made a significant impact on the family of Levi Griffiths.

Police measurements of the distances between a number of locations of interests are consistent with other evidence that Mr Cassidy hit Mr Griffiths and then disposed of his body. The distances measured were:

- from the Hells Angels driveway to the collision scene 0.68km
- from the collision scene to the tattoo shop 1.83km
- from the tattoo shop to the location of the body 0.38 km
- from the body to the Hells Angels clubhouse 2.47km

Furthermore, Police gathered evidence revealing the elaborate methods adopted by Mr Cassidy to **cover up the damage** to his vehicle and any possible forensic evidence, including:

- Removing or arranging for other persons to remove the windscreen of the vehicle which had been smashed as a result of the collision, and replacing it with an undamaged one. A second hand windscreen was found to be fitted incorrectly to Mr Cassidy's vehicle and a taxi sticker was found adhered to the top right interior of the 'replacement' windscreen found in Cassidy's vehicle. It was identified as having been purchased by Mr Cassidy's brother, Ray Padden, from Hidden Valley

Auto Wreckers on 6 June, 2011 and had been removed from a wrecked vehicle which had previously been a taxi;

- Removing or arranging for others to remove the windscreen wiper arms and then putting them back on vehicle, back to front;
- Dropping or causing others to drop a tin or tins of paint onto the replacement windscreen to smash it;
- Pouring paint onto the damaged area of the replacement windscreen, the bulbar, bonnet and roof of the vehicle;
- Getting an employee to remove the front bull bar from the vehicle, as well as seats, flooring and interior plastic mouldings;
- Arranging for an auto electrician to remove the dashboard from the vehicle;
- Removing and disposing of the dashboard and the front skirting from the vehicle
- Removing the spotlights;
- Changing the rear tyres of the vehicle;
- On 19 June 2011, Mr Cassidy sprayed the bonnet, roof, rear tray, interior and front window drain area with insecticide from a spray can. After that he poured bleach onto the front windscreen drain area and parts of the interior compartment. Mr Cassidy was in the company of his brother Ray Padden at time and Mr Padden is captured hammering the vehicle roof with a rubber mallet. A can of insecticide & a bleach bottle were later recovered in wheelie bin at Mr Cassidy's workplace and his fingerprints and palm print were located on insecticide can.

As his Honour Justice Barr found:

“The steps which [Mr Cassidy] took to pervert the course of justice were multiple and quite elaborate. Those steps also involved other persons, several of whom were complicit with [him], some of whom were probably not.”

The story told by Mr Cassidy to explain the damage was utterly implausible. He claimed that a heavy paint can had dropped onto his vehicle at premises in Strath Road and broken a windscreen, followed by a further accident involving a second falling paint can striking the vehicle and spilling paint onto and into the vehicle through the broken windscreen. His Honour Justice Barr concluded that “the first incident was not a credible accident and the second, even less credible”.

In sentencing Mr Cassidy for perverting the course of justice, his Honour found that it is more likely that Mr Griffiths’ body ended up in the Ford Utility as a direct result of forces involved in the impact (a wrap and somersault trajectory) rather than Mr Cassidy placing the body in the vehicle. That is consistent with what Mr Simpson said to Ms Candida in the conversation recorded by Police, and it is consistent with the forensic evidence, since there was no blood or human tissue found at the Girraween Road scene.

Although I cannot conclusively say that Mr Cassidy did not check to determine whether Mr Griffiths had any signs of life, there is no evidence to suggest that he did. The fact that he drove whilst intoxicated demonstrates a reckless disregard for the lives of others on the road and his behaviour afterwards in covering up his actions suggests that he was more concerned with his own self preservation than for the life of a fellow citizen.

When Mr Cassidy was interviewed by Police he denied that he was involved in the accident. I completely reject the account that he gave.

Where a driver is suspected of having committed an offence against the *Traffic Act* or Regulations, Regulation 9 of the *Traffic Regulations* provides that they can be required to provide their personal particulars and any information necessary to identify the driver of the vehicle. However it appears that Mr Cassidy refused to cooperate.

During the inquest Mr Cassidy was subpoenaed and called to give evidence. After initially suggesting that he did not want to answer questions because he could not “add any extra weight to what [he had] been through” in his statement to police, Ms Louise Bennett sought and was granted leave to appear on his behalf. Through Ms Bennet, Mr Cassidy eventually sought to excused from giving evidence on the basis that his answers may incriminate him of crimes connected to the death of Mr Griffiths (Trans, 12.2.15, p 130).

It is clear from the evidence of Sgt Casey and Senior Constable Davis that both before and after Mr Cassidy was identified as a suspect, Police thoroughly investigated other lines of inquiry. Sergeant Casey and other officers examined numerous cars that were considered to be of interest, but could be excluded. Senior Constable Davis told the Court that she would reject any suggestion that this was a narrow inquiry focused only on Mr Cassidy. She explained that (Trans, 9.2.15, p 23):

“every single line on of enquiry that had been identified or continued to be identified throughout the progress of the investigation was followed through, even though we now had a suspect, a very strong suspect, and the evidence continued to pile up against Mr Cassidy, we still completed every other enquiry.”

Members of the Hells Angels Motorcycle club knew that Mr Cassidy had killed Mr Griffiths

As is evident from the outline above, there were several members of the Hells Angels Motorcycle Club who knew soon after the event that Mr Cassidy had hit a pedestrian and fled the scene.

Leighton Dial and Jamie Schmidt clearly must have known what happened, since they were with Annike Ulriche and Julia Shay when they saw Mr Griffiths’ body in the back of Mr Cassidy’s truck. Their behaviour in not coming forward with that information was cowardly. At inquest Jamie Schmidt’s evidence that he did not remember the events was completely unbelievable. Leighton Dial, an ex member of the Hells Angels, has been hostile to police

– he has refused to provide a statement and was not able to be located by Police before the inquest.

It is evident from the recorded conversations of Mark Simpson that soon after the collision, he knew that Mr Cassidy had hit and killed a pedestrian and had moved his body to a different site. Not only did he know that, but he can be heard to be making light about it in the conversation with Ms Brooke Candida and Scott Eaton. The behaviour of Mark Simpson at the time of these conversations was contemptible and shows a disgraceful disrespect for human life and frankly, for himself.

I completely reject the evidence of Mr Simpson and Mr Schmidt, who were utterly lacking in credibility and made no effort to assist the Court. They show a callous disregard for fellow citizens and for the truth and they bring shame on the Hells Angels Club and on themselves.

Nicholas Cassidy was intoxicated at the time of the collision

I am satisfied on the available evidence that Mr Cassidy had been drinking a significant amount of alcohol on the afternoon and evening of 3 June 2011, and into the morning, and he would have been well affected by alcohol at the time that he struck Mr Griffiths with his car. The evidence of his intoxication included:

- CCTV footage showing that he was drinking at the Hidden Valley Tavern, Noonamah Tavern and Howard Springs Tavern.
- The till receipts provided by the Noonamah Tavern and Howard Springs Tavern that show the significant amounts of alcohol being sold and can be matched to the CCTV showing the purchase of drinks by Mr Cassidy and his group.
- The evidence of Julia Shay and Annike Ulrich that Mr Cassidy was drinking more alcohol after midnight at the Hells Angels Clubhouse;
- The unguarded recorded comments of Mark Simpson (who had seen and spoken to Mr Cassidy immediately before and after

the accident) to the effect that he was “pissed” and “fucking blind”.

- Furthermore, the fact that Mr Cassidy fled the scene and then went to elaborate attempts to lie about and cover up his involvement is consistent with knowing that he was too intoxicated to be driving a car.

In those circumstances, it is disgraceful that Mr Cassidy got behind the wheel of his car and drove.

Criminal Proceedings

I have already referred to the fact that Mr Cassidy was convicted and sentenced in the Supreme Court for perverting the course of justice. He had initially been charged with the additional indictable offences of dangerous driving causing death, pursuant to s.174F of the *Criminal Code Act* and “hit and run” pursuant to s.174FA, but both charges were withdrawn before trial.

It appears that the charge of hit and run was withdrawn as a result of the Supreme Court decision in *The Queen v Yusoff [2013] NTSC 43* (see the discussion by Barr J in *The Queen and Nicholas Frank Cassidy*, SCC 21122226). I make no further comment about that except to welcome the changes to the *Criminal Code Act* since the time of Mr Griffiths’ death.

In June 2011, s.174FA of the *Criminal Code Act* (Hit and run) stated:

- “(1) The driver of a vehicle is guilty of a crime if:
- (a) the vehicle is involved in an incident that results in the death of, or serious harm to, a person; and
 - (b) the driver fails to:
 - (i) stop the vehicle at the scene of the incident; and
 - (ii) give any assistance to the person that is reasonable in the circumstances.”

Section 174FA (Hit and run) has since been amended and now reads:

“(1) The driver of a vehicle is guilty of a crime if:

- (a) the vehicle is involved in an incident that results in the death of, or serious harm to, a person; and
- (b) the driver fails to do any of the following:
 - (i) stop the vehicle at the scene of the incident;
 - (ii) give any assistance to the person that is reasonable in the circumstances;
 - (iii) as soon as reasonably practicable after the incident or after giving the assistance mentioned in subparagraph (ii) – notify a representative of the Police Force of the following:
 - (A) that the incident has occurred;
 - (B) the location of the incident;
 - (C) that the driver was the driver of the vehicle involved in the incident;
 - (D) the driver's name;
 - (iv) comply with any reasonable direction given by a representative of the Police Force in relation to the incident.”

Had those changes not been introduced, I would have been making a recommendation to that effect to the Attorney General.

Remaining criminal proceedings are dropped

In addition to the indictable offences referred to above, Mr Cassidy was initially charged with summary offences, including not assist after a crash (Reg 19, Traffic Regs); drive without due care (Regulation 18 of the Traffic Regulations); Drive Under Influence of Alcohol, pursuant to Division 4, Section 29AAA of the *Traffic Act*; Leave scene of an Accident (Regulation

19 of the *Traffic Regulations*) and Fail to Report a Crash, (Regulation 19 of the *Traffic Regulations*).

Additionally, as noted above, Mr Cassidy was charged under s.9 of the *Traffic Regulations* for failing to provide any information that may help to identify the vehicle or driver.

In fact at the time of sentencing Justice Barr specifically referred to the charge pursuant to s19(2) of *Traffic Regulations* for failing to report the accident to a member of the Police at the nearest station as soon as practicable after the accident. His Honour noted that the charge was still pending and if convicted, Mr Cassidy could be fined or face a term of imprisonment of 6 months.

However for some reason known only to the Office of the Director of Public Prosecutions, all remaining charges against Mr Cassidy were dropped after the Supreme Court proceedings.

The need to improve safety on Girraween road

It was evident from this inquest that the existence of the auxiliary lane on Girraween Road may cause unnecessary confusion for pedestrians and drivers. Sergeant Mark Casey of the Major Crash Investigation Unit gave evidence that most cars are driven between the standard inbound lane and a pedestrian in Mr Griffiths' position might assume it was safe to walk on the auxiliary lane. Sergeant Casey would expect humans to take the "path of least resistance" and walk on a firm surface, especially at night when it's dark in a grassed unlit area.

Girraween Road is the primary road providing access from the Stuart Highway to the surrounding suburbs. It is about 12.5 kilometres long and runs from the Stuart Highway in Collalinga to Angelsey Road in Humpty Doo. The Road is a dual lane contra-flow sealed roadway and each lane is the standard 3.5 metres in width. There is no street lighting in the area of the accident and

the road edges are roughly formed with no kerbing. For a 1.6 km section of the Girraween Road from 100 metres west of Maheffey Road to 80 metres east of Jarrold Place there is an auxiliary lane for west bound (in bound) traffic. At the crash location it is 2.4 metres in width but that varies along the length of the road.

Sergeant Casey assessed the roadway in the relevant area and identified the following hazards that may have contributed to the crash:

- “I The absence of street lighting which makes detecting obstacles difficult;
- II The rigid non-deformable power poles at close proximity to the road edge which create a significant hazard for a vehicle leaving the roadway. The poles are not impact energy absorbing and if a vehicle struck them at 80kms an hour a fatality would be likely;
- III The narrow, undefined auxiliary lane does not comply with any road design standards and is significantly narrower than standard lane widths, particularly give the speed limit of 80km/h. Sergeant Casey commented that while it is possible that this was intended as an overtaking lane for westbound vehicles, there is no similar provision for eastbound vehicles and no indication to road users as to what it is intended for.”

The Girraween Road is located within the Litchfield Shire Council boundaries and is owned and maintained by the Council. I accept the careful and thoughtful assessment made by Sergeant Mark Casey and in line with his suggestion I will make a recommendation that the Litchfield Shire Council conduct an urgent review of the section of the Road with the auxiliary lane with a view to making the purpose of the traffic lanes identifiable and to considering street lighting.

Police investigation

The police investigation of the circumstances surrounding the death of Levi Griffiths was meticulous, conscientious and excellent. In addition to the exemplary investigation work, a number of Police officers showed great

compassion and care for the family of Mr Griffiths. I commend the Police involved in this investigation, particularly Senior Constable Andrea Davis, Detective Acting Sergeant Tanya Larsen-Smith and Sergeant Mark Casey.

The family of Levi Griffiths

It bears repeating that Levi Griffiths' family have been through a terrible ordeal since his death. Not only have they had to bare his loss, but they have had to take part in a lengthy, and often frustrating legal process in order to try and get some answers as to how and why their loved one was killed and his body left in such an undignified way.

Ultimately there is no doubt that Mr Griffiths was killed by Mr Cassidy who drove his vehicle at a time he was intoxicated, hit Mr Griffiths and failed to notify authorities or the Hospital. It is clear that he then moved the body and went to significant lengths to cover up his involvement. His behaviour beggars belief and defies all standards of decency.

During the inquest I was impressed by the grace and tenacity of Mr Griffiths' family and particularly his mother Kathy, who is struggling with terminal cancer and yet attended court each day and showed great respect for the coronial process. I thank her for that and express my sincere condolences to the family for their loss.

Formal Findings

As a result of evidence adduced at the public inquest, and pursuant to section 34 of the *Coroner's Act*, I find as follows:

- (i) The identity of the deceased was Levi Timothy Griffiths, born on 26 September 1985 in Darwin, Northern Territory, Australia.
- (ii) The probable time of death was around 2.30am on 4 June 2011. The place of death is Coolalinga, Darwin, in the Northern Territory.

- (iii) The cause of death was internal injuries caused when he was hit by the vehicle driven by Mr Nicholas Cassidy, at a time when Mr Cassidy was intoxicated and was driving in the auxiliary lane.
- (iv) The particulars required to register the death:
 - 1. The deceased was Levi Timothy Griffiths
 - 2. The deceased was not of Aboriginal descent.
 - 3. The deceased was not employed at the time of his death.
 - 4. The death was reported to the coroner by a member of the Northern Territory police force.
 - 5. The cause of death was confirmed by post mortem examination carried out by Dr Terence Sinton.
 - 6. The deceased's mother is Kathy Griffiths and his father is Ron Laycock.

Recommendations

To the Litchfield Shire Council

That the Litchfield Shire Council conduct an urgent review of the section of Girraween Road from 100 metres west of Mahaffey Road to 80 metres east of Jarrold Place (1.6 kilometres) with a view to making the purpose of the auxiliary traffic lane identifiable and to considering street lighting.

Dated this 2nd day of March 2015.

GREG CAVANAGH
TERRITORY CORONER