

CITATION: *Inquest into the deaths of Clifford Norman and Jennifer Taylor*
[2013] NTMC 001

TITLE OF COURT: Coroners Court

JURISDICTION: Alice Springs

FILE NO(s): A0017/2012 and A0018/2012

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FINDING OF: Mr Greg Cavanagh SM

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Custody, Police General Order
Emergency Vehicle Driving (EVD)
and Pursuit Driving**

REPRESENTATION:

Counsel Assisting: Ms Elisabeth Armitage

Counsel for the

Northern Territory Police: Mr Michael Maurice QC and
Ms Elizabeth Reed

Judgment category classification: A

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IN THE CORONERS COURT
AT DARWIN IN THE NORTHERN
TERRITORY OF AUSTRALIA

No. A0017/2012 and A0018/2012

In the matter of an Inquest into the death of
Mr Clifford Norman and Ms Jennifer Taylor

ON 7 APRIL 2012

**AT INTERSECTION OF SOUTH TERRACE
AND TEMPE STREET, ALICE SPRINGS**

FINDINGS

(Delivered)

Mr Greg Cavanagh SM:

Introduction

1. At about 10.50 pm on 7 April 2012 there was a high speed, single motor vehicle crash at the intersection of South Terrace and Kempe Street, Alice Springs. There were five occupants in the Holden Commodore that crashed. The driver, Mr Clifford Norman (Mr Norman), and his front seat passenger, Ms Jennifer Taylor (referred to as Ms Kwementyaye Taylor out of respect for her family), both died at the scene. The three backseat passengers survived the crash.
2. Tragically, Mr Norman's actions caused his and Ms Kwementyaye Taylor's deaths. At the time of his death, Mr Norman was an unlicensed, heavily intoxicated (0.259% alcohol concentration), and speeding driver. He failed to stop when directed to do so by police and accelerated away from them. Mr Norman drove at a speed of more than 171 kilometres per hour, well in excess of the 60 kilometre per hour speed limit. He lost control of the vehicle and it crashed into a power pole. Mr Norman died from head injuries while trapped in the crushed vehicle. Even though she was wearing a seat

belt, the force of the crash threw Ms Kwementyaye Taylor from the vehicle. She died from a constellation of severe injuries including bilateral leg amputations, a broken neck and severed spinal cord. The back seat passengers, Ms Janelle Taylor (Mr Norman's partner and Ms Kwementyaye Taylor's sister) and Ms Freda Teamay were initially trapped in the burning vehicle. They both suffered serious injuries but have since made sound recoveries. Remarkably, Ms Teamay's unrestrained four year old daughter, Miss Bianca Swan, crawled from the crash with only minor injuries.

3. Moments before the crash, police attempted to stop the Commodore by conducting a traffic apprehension. The police had seen the Commodore fail to correctly negotiate a roundabout and they thought the driver appeared intoxicated. The police drew close to the Commodore and activated their red and blue beacons and siren as a direction for him to stop. The Commodore proceeded slowly through another roundabout and then accelerated sharply. The police immediately determined that the driver was attempting to evade their direction to stop and that it would be too risky to pursue him. The police deactivated their lights and sirens and turned into a street on their right, away from the path of the Commodore. Less than a minute later the crash was reported to police in a 000 call.
4. I have considered the definition of custody in section 12 of the Coroners Act. That definition includes "a person in the process of being taken into or escaping from the custody or control" of a member of the police force. I am satisfied that when the police gave Mr Norman a direction to stop, they were commencing the process of taking him into their custody or control and that when he sped away, Mr Norman was escaping from the police. Given the very close temporal proximity between; the police direction to stop, the evasive action taken by Mr Norman, and the crash, I find that these were deaths in custody.

5. The police did not pursue the Commodore. The passengers told Mr Norman that the police were not following and begged him to stop or slow down. I find that the attempted traffic apprehension did not directly contribute to the crash or the death. To the contrary, had Mr Norman obeyed the directions of the police or heeded the pleadings of his passengers, the circumstances in which the crash occurred would have been avoided.
6. In the interests of public safety, the Police Service has taken proactive steps to limit their use of pursuit as a tool of law enforcement. However, in response it appears that some members of the public are exploiting this change to their own advantage, at a cost to law enforcement and community safety. Accordingly, I have made recommendations designed to discourage drivers from failing to stop and with the ultimate aim of preventing future deaths in similar circumstances.
7. Ms Elisabeth Armitage appeared as Counsel Assisting and Mr Michael Maurice QC appeared for the Northern Territory Police. The deaths were investigated by Detective Senior Sergeant Bradley Currie. I received into evidence his detailed and thorough investigation brief. I also heard evidence from Dr Terence Sinton, Ms Freda Teamay, Ms Janelle Taylor, Ms Elizabeth Driffen, Constables Marek Hutchinson-Goncz, Ian Davies and Jason Cripps, ACPO Manual Nikki, Ms Dianne Maree, Paramedic Tarja Dick, Fire Fighter David Quang, Senior Sergeant Peter Malley, and Commander Kate Vanderlaan. The Police Commissioner, Mr John McRoberts, made a statement to the court.
8. Concerning a death in custody, pursuant section 26(2) of the Coroners Act (“the Act”), I must make recommendations that I consider relevant to the prevention of future deaths in similar circumstances.
9. Pursuant to section 34 of the Act, 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;

10. 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.”

11. 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.”

Relevant circumstances surrounding the death

Background of Mr Norman

12. Mr Norman was born in Alice Springs on 18 February 1985, the son of Ms Lillian Burke and Mr Peter Norman. Mr Norman’s only sibling, Shane Mitchell Norman, born 23 March 1987, died at the age of 12.

13. Mr Norman grew up in Mutitjulu and attended school until he was 15 or 16 years old. When he was about 15 years old Mr Norman met Ms Janelle Taylor and they later married in a traditional aboriginal way. They had three children; Henry, born on 2 March 2001, Juleus, born 30 August 2003 and Annalisa, born 21 August 2007.
14. Unfortunately the 13 year marriage was marred by excessive alcohol use and domestic violence. Mr Norman spent time in gaol for assaults, stealing, and domestic violence offences. On 30 December 2011 Mr Norman was served with a 12 month domestic violence order which prevented him from contacting or approaching Ms Janelle Taylor if he was consuming alcohol. The circumstances reveal he was breaching this order when he died, as he was drinking with Ms Janelle Taylor that day.
15. Mr Norman did not have a driver's licence. Motor Vehicle Registry records indicate he had never held a drivers licence. He was also a disqualified driver. Mr Norman was disqualified for a period of six months from 15 December 2011.
16. Relevant to this inquest, Mr Norman's criminal record reveals seven separate convictions for driving a motor vehicle whilst unlicensed, three convictions for driving with excess alcohol, a conviction for reckless driving and failing to obey a direction to stop, two convictions for resist police, and two convictions for escape lawful custody. The last escape occurred on 26 November 2011. Mr Norman was directed to stop by police but did not do so. He was arrested after a police pursuit in Mutitijulu.

Background of Ms Kwementyaye Taylor

17. Ms Kwementyaye Taylor was born on 23 April 1996 in Alice Springs to parents Mr Tony Taylor Tjimawa and Ms Pulay Taylor.
18. Ms Kwementyaye Taylor attended school in Ernabella. She had one child, Miriam Taylor, who is now cared for by family members in Ernabella. Ms

Taylor's sister, Ms Janelle Taylor, was married to Mr Norman and was one of the back-seat and surviving passengers in the crash.

19. Ms Kwementyaye Taylor lived in Mutitjulu but often visited family in Alice Springs where she consumed alcohol.
20. Ms Kwementyaye Taylor was an accomplished artist. She worked at the Ayers Rock National Park Cultural Centre for approximately two years and her paintings were used in tourism brochures.

The day of the crash

21. Ms Kwementyaye Taylor was staying at 73 Flynn Circuit, Alice Springs, with Ms Freda Teamay and her four year old daughter, Bianca Swan.
22. During the morning of Saturday 7 April 2012, Ms Kwementyaye Taylor, Ms Teamay and her daughter, Bianca, drove to Karnte camp to get some money from a family member to purchase alcohol. Ms Teamay was driving her recently purchased silver/green Holden Commodore, with NT registration CA17DX.
23. The two women, with Bianca, purchased a carton of VB cans and a bottle of Jim Beam spirits from the Gap bottle shop and then drove to bush land near Karnte camp to talk and drink. Later in the day they dropped Bianca off to her grandmother, Ms Elizabeth Driffen, at 16 Plumbago Crescent.
24. Ms Janelle Taylor and Mr Norman were also drinking near Karnte camp. In the early evening they saw Ms Teamay and Ms Kwementyaye Taylor driving near house 5. Ms Janelle Taylor and Mr Norman called out, because they wanted a lift to the Gap bottle shop to purchase more alcohol. Ms Teamay wanted to go home because she was tired but Mr Norman and Ms Janelle Taylor jumped into the back seat of her car. Ms Teamay then agreed to take them to the Gap bottle shop. CCTV footage and bottle shop records show a purchase of a six pack of Jim Beam cans and a bottle of Jim Beam. The four

then went to the 24 Hour Store at 105 Todd Street to buy cigarettes and coke.

25. Ms Teamay then drove to 16 Plumbago Crescent to pick up her daughter. There was an argument. Ms Driffen didn't want Ms Teamay to take the child because she thought Ms Teamay was drunk and it was not safe for her to be driving. However, Ms Teamay refused to listen and she placed Bianca in the rear of the vehicle and drove off.
26. A short time later Ms Teamay stopped near the Todd River to go to the toilet. While she was away from the car Mr Norman jumped into the driver's seat. When she returned to the car Ms Teamay asked Mr Norman to get out of her seat. She did not want Mr Norman to drive her car because she thought he was too drunk and she was worried about Bianca being in the car. Ms Janelle Taylor also remonstrated with Mr Norman. She reminded him that he was "not allowed to drive". However, Mr Norman refused to leave the driver's seat. Ms Teamay capitulated and got into the back seat.
27. Mr Norman drove back to the 24 Hour Store. CCTV footage from the store shows the vehicle arriving at 9.29 pm. The footage shows the occupants walking in and out of the store in what can be described as an intoxicated state. The car departed the store at 9.38 pm. Mr Norman was driving, Ms Kwementyaye Taylor was the front passenger, Ms Janelle Taylor sat behind her sister, Ms Teamay sat behind Mr Norman, and Bianca was sleeping in the middle of the back seat.

A traffic infringement and attempted traffic apprehension

28. At 9.00 pm Constable Marek Hutchinson-Goncz (with two and half years' experience) and Probationary Constable Ian Davies (with close to two years' experience) commenced a rostered night shift at the Alice Springs Police Station. The Watch Commander was Senior Sergeant Peter Malley.

29. Following a shift briefing, the Constables left the Alice Springs Police station and commenced patrolling the Alice Springs central business district in a marked 4x4 Toyota Hilux Utility with call sign 651. Constable Davies was driving.
30. At about 10.49 pm three vehicles converged on the intersection of Bath Street and Gregory Terrace controlled by a roundabout. Police vehicle 651 was travelling east along Gregory Terrace towards the roundabout. A marked police vehicle with call sign 652, occupied by Aboriginal Community Police Officers Manuel Nikki and Jason Sariago, was driving west on Gregory Terrace approaching the roundabout. And Mr Norman was heading north along Bath Street towards the roundabout.
31. I viewed CCTV footage of the roundabout from 10:51:52 pm which depicted the events that then occurred. When Mr Norman approached the roundabout he had his left blinker on. If he had made that turn it would have taken him past police car 651. However, at the roundabout Mr Norman appeared to hesitate. In my view it is likely he had spotted police car 651. Police car 651 entered the roundabout and got about half way around. At that point Mr Norman also entered the roundabout. Instead of turning left as he had indicated, he made a manoeuvre similar to a right hand turn into Gregory Terrace. In other words, he did not follow the roundabout around and instead travelled on the incorrect side of the road.
32. The right hand turn brought Mr Norman's car directly in line with police car 651. Police car 651 stopped in the middle of the roundabout and the beacon lights were activated. The Constables told me that they stopped and put on their lights so they could be seen and to avoid "being rammed". Mr Norman swerved to the left of 651, went around the police car, and slowly exited the roundabout travelling east into Gregory Terrace.
33. Marked police car 652 stopped at the entrance to the roundabout. Its beacons were turned on briefly when Mr Norman's odd turning manoeuvre was

observed. As Mr Norman drove past, ACPO Nikki called out from the driver's seat for him to stop, but Mr Norman continued to slowly drive east along Gregory Terrace towards the Todd River.

34. As Mr Norman passed Police vehicle 651, both Constables formed the view that Mr Norman was most likely intoxicated. Constable Hutchinson-Goncz briefly got out of the police car because he thought Mr Norman might stop. When Mr Norman drove away, Constable Hutchinson-Goncz returned to the car. Constable Davies continued around the roundabout, and exited east onto Gregory Terrace. 651's beacon lights were still on. The Constables saw the Commodore some distance ahead of them, slowly travelling east in a normal fashion. The Constables intended to catch up with the Commodore to conduct a traffic apprehension.
35. Police car 652 was taking an intoxicated person to the police station. Its lights were deactivated and it continued through the roundabout and west along Gregory Terrace.
36. I viewed footage from a CCTV camera located on Gregory Terrace between Bath and Hartley Streets (a short distance from the roundabout). The Commodore went slowly past the camera (at 10:52:18 pm) and about five seconds later 651 also passed by (at 10:52:23 pm). The beacon lights on 651 were still activated but were turned off soon after.
37. I listened to Constable Hutchinson-Goncz's recorded radio communications. He reported the incident at the roundabout and the police response as follows:

“VKM 651 we've had a car nearly ram us in the CBD, we're following it, we're not in pursuit, it is heading east bound on Gregory Terrace, intoxicated driver, silver Commodore.”
38. I viewed footage from a CCTV camera situated at the Todd Street Mall. Both vehicles passed the camera, continuing slowly in an easterly direction. 651 did not have its lights activated but the distance between the two cars

was closing. A third marked police car with call sign 452 was at the intersection of Todd Street and Gregory Terrace. It turned east into Gregory Terrace after 651 passed and followed 651.

39. As the Commodore approached the roundabout at the intersection of Gregory Terrace and Leichhardt Terrace Constable Hutchinson-Goncz radioed in:

“They’ve slowed down now and we’re attempting a TRAP (traffic apprehension).”

40. I viewed CCTV footage of the roundabout from about 10:52 pm and heard evidence from the Constables. The lights on 651 were re-activated and its siren was sounded as a direction to the driver of the Commodore to stop. The Commodore proceeded slowly through the roundabout and exited heading south onto Leichhardt Terrace. Immediately on exiting the roundabout the Commodore accelerated sharply. The Constables described seeing its boot drop under the impact of the acceleration.

41. Both Constables formed the view that the driver of the Commodore was evading police. They decided not to attempt any further apprehension and did not pursue the Commodore. They turned off their beacon lights and siren. At 10:52:38 pm Constable Hutchinson-Goncz made the following radio transmission:

“Yeah VKM, 651, failed to stop, it’s now taking off at speed – ah - through the Stott Terrace roundabout, heading southbound along South Terrace and we are not in pursuit, we have not activated any lights and sirens.”

42. Constable Davies continued south to the roundabout at Stott Terrace and he saw rear lights, which he believed to be the Commodore, going down South Terrace. Constable Davies turned right onto Stott Terrace in the hope that the driver of the Commodore would see that Police were not actively pursuing and would slow down.

43. Constable Hutchinson-Goncz changed to the enquiries channel on the Police radio and provided details of the Commodore to the operator for a “be on the look-out for” (BOLOF).
44. Police vehicle 452 did not follow 651 into Leichhardt Terrace. It stayed in the roundabout to block any possible return of the Commodore to the central business district.

Evidence from the surviving passengers

45. Ms Teamay and Ms Janelle Taylor told me that they saw the police car, they knew it was following, and they told Mr Norman to stop. Ms Janelle Taylor reported that in response Mr Norman said “I am going to step on it” and “I don’t want to get locked up”. Ms Teamay and Ms Janelle Taylor told me that they were frightened by the speed and screamed to Mr Norman to stop. Ms Teamay looked back and saw that the police were not following. She told Mr Norman “that policeman gone, stop that car”. Mr Norman did not listen to his passengers and continued to speed south along South Terrace while his passengers cried and prayed.
46. I viewed CCTV footage from the Quest apartments of the speeding Commodore seconds before the crash. The footage confirms that no police cars were following.
47. As the Commodore approached the intersection of Kempe Street, Mr Norman lost control of the vehicle. It travelled to the wrong side of the road, mounted the curb and crashed into a power pole on the southern side of the Kempe Street intersection (GPS Coordinates South: 23.71834 East: 133.874333).

The 000 call

48. At 10:53:24 pm Police Communications received a “000” call reporting a serious motor vehicle crash at the intersection of South Terrace and Kempe Street.

49. Constables Davies and Hutchinson-Goncz were first on scene at 10:55:49 pm and approached the burning vehicle. They attempted to shield the occupants from the fire and tried to extinguish it. Shortly after St-Johns paramedics and Northern Territory Fire and Emergency Services crews attended. They were confronted with a catastrophic scene. The Commodore was on fire with three occupants trapped inside. Ms Kwementyaye Taylor had been thrown from the vehicle and both her legs had been amputated in the process. Mr Norman and Ms Kwementyaye Taylor were both declared deceased at the scene by paramedics at about 11.00 pm.
50. Ms Teamay and Ms Janelle Taylor were alive but trapped in the burning vehicle. Rescue efforts proved successful and they were transported with serious injuries and burns to Alice Springs Hospital. Remarkably, Bianca had crawled from the wreck and was found walking around the scene with minor injuries.

The crash investigation

51. Following the extraction of the injured passengers a crime scene was established and an investigation was commenced. Major Crash investigators were called to attend and examine the scene.
52. Due to the circumstances surrounding the crash, Watch Commander Peter Malley correctly commenced treating the matter as a death in custody and senior officers were notified. The Constables were breath tested and each returned negative results. The investigation that followed was in accordance with the Police General Order for Deaths in Custody.
53. The crash investigation disclosed that the 1996 Holden VS Commodore with NT registration CA17DX collided with the power pole at an approximate speed of 171 kilometres per hour, on a section of road controlled by a 60 kilometre per hour speed limit. The force of the collision pulled the power pole from the ground. The pole drove through the vehicle in a direction from the front passenger seat to the rear driver's side

passenger seat, and bent around the car. The front passenger side was ripped away. Even though evidence showed that Ms Kwementyaye Taylor was wearing her seat belt, the force of the collision ejected her from the vehicle and caused the amputation of her legs. A fire broke out in the engine.

54. Tyre friction marks located at the scene were described by the crash investigator as consistent with the vehicle entering a state of yaw after exiting a slight left hand bend. Due to excessive speed the vehicle drifted wide, and hit and mounted the gutter on the western edge of South Terrace. The driver lost all control of the vehicle before the collision.
55. The car was in a roadworthy condition having recently been purchased and inspected by the motor vehicle registry. It was, however, unregistered at the time of the collision. I accept the opinion of the crash investigator, Constable F/C Steve Langdon, that there was nothing about the vehicle that contributed to the crash.
56. South Terrace is a two way street located in the Alice Springs township. It is a standard bituminised road. The road is generally straight however has several slight left and right curves. At the location of the crash, South Terrace is 7.3 metres in width and is dual lane separated by a single broken line. At the time of the crash the road surface was sealed and dry, traffic flow was light and the weather was fine. It was night time and adequate lighting was provided by the moon, street and vehicle lighting. I accept the opinion of the crash investigator that no environmental factors contributed to the crash.

The autopsies

57. Dr Terence Sinton performed autopsies on Mr Norman and Ms Kwementyaye Taylor on 12 April 2012.
58. As to Mr Norman, Mr Sinton described his significant injuries as:
 - (i) Lacerations and abrasions to the trunk, arms and legs,

- (ii) Areas of deep haemorrhage on the left side of the head,
 - (ii) Haemorrhage over the surface of the brain (both subdural and subarachnoid),
 - (iii) Internal (ventricular) brain haemorrhage, and
 - (iv) A fractured sternum (breast bone).
59. Mr Norman's blood sample revealed an alcohol concentration of 0.259%, more than five times over the legal limit. Cannabis metabolites were also detected.
60. I accept Dr Sinton's opinion that Mr Norman died as a result of blunt head trauma received in the collision, while concurrently suffering from acute alcohol toxicity.
61. As to Ms Kwementyaye Taylor, Mr Sinton described her significant injuries as:
- (i) Abrasions and lacerations to the scalp, trunk, arms and legs,
 - (ii) Partial traumatic separation of the upper cervical spinal cord from the base of the brain, subarachnoid haemorrhage, and a severely broken neck,
 - (iii) A broken lower jaw,
 - (iv) A ruptured liver,
 - (v) Severe fractures of the both arms,
 - (vi) Severe fractures and traumatic amputation of the right leg and left foot, and
 - (vii) Severe fractures of the sternum and ribs.
62. Ms Kwementyaye Taylor's blood sample revealed an alcohol concentration of 0.183% and no other drugs were detected.
63. I accept Dr Sinton's opinion that Ms Kwementyaye Taylor died as a result of multiple severe injuries received in the collision.

The Police General Order – Emergency Vehicle Driving (EVD) and Pursuit Driving

64. During the course of this inquest I considered whether the police had complied with the applicable General Order, which had been the subject of review and was freshly promulgated on 15 March 2012. I considered whether risk assessments had been appropriately conducted and whether or not there had been a pursuit.
65. As noted above, I heard evidence from both the Constables, saw the available CCTV footage, and listened to their radio transmissions. I was, quite frankly, impressed by Constables Davies and Hutchinson-Concz. They were measured, considered, and insightful when they gave evidence, and in my view those descriptions equally apply to their conduct on the night in question. They described their actions and thought processes clearly, and were able to articulate sound justifications for their decisions. I was satisfied their decisions were made in compliance with their training and the Policy.
66. In particular, I accept their evidence that when they turned on their beacons at the Bath Street roundabout, they did so as safety precaution to alert Mr Norman to their presence. Although Mr Norman did not stop, at that time neither Constable believed he was deliberately attempting to evade them. Rather the Constables were confused by the incident at the roundabout and anticipated Mr Norman might also be confused. When they followed Mr Norman along Gregory Terrace, the Constables were not in pursuit but were positioning themselves to give a clear and unequivocal direction to him to stop.
67. A clear direction to stop was given by their reactivation of beacons and the sounding of the siren as they approached the Leichhardt Terrace roundabout. When Mr Norman proceeded through the roundabout at a slow speed, neither Constable formed the opinion that he was not going to stop. On exiting the

roundabout, Mr Norman accelerated sharply. Immediately, both Constables formed the view he was attempting to evade police and they decided not to pursue him. Their decision was clearly communicated by the deactivation of lights and sirens, an immediate radio transmission, and a right hand turn.

68. The Constables decision not to pursue appears to me to be an example of the risk assessment approach, adopted in the new Policy, working effectively. Both Constables believed it likely that Mr Norman was intoxicated and recognised that the risks of pursuing an intoxicated driver through the township out-weighed any possible law enforcement justifications.
69. On this issue I also heard evidence from Senior Sergeant Peter Malley. Senior Sergeant Malley has over twenty years policing experience. He graphically described his personal experiences as a police officer in times when pursuits were conducted with little or no consideration given to the risks, and the change in approach to pursuits brought about by the new policy, training, and emphasis on risk assessment. He frankly admitted conducting an ill-considered pursuit in Alice Springs which ended in collision and injury. On reflection he realised that he had not applied the appropriate and continuous risk assessment that was required of him. He told me that he was now most reluctant to pursue drivers who appeared to be intoxicated because the risks were just too great. He described a feeling of dissonance when he witnessed an offence in a vehicle but could not immediately respond because the possible risks associated with responding were too great.
70. I heard anecdotal evidence that there was growing public awareness of this change in policing. I heard of instances of young people breaching road rules in front of police and driving away, apparently aware that police would be unlikely to pursue them. One extreme example was described which has been before the Court of Summary Jurisdiction. A young person was spotted driving dangerously with several passengers. Police determined it would be

too risky to engage with the vehicle so instead pulled to the side of the road as required by the Policy. The young person pulled up, let his passengers out, and then drove at the parked police car. The police drove away from the approaching vehicle and the young person pursued them.

71. Mr John McRoberts APM, Commissioner of Police, made a statement to the court. On behalf of the Northern Territory Police Force he offered his condolences to the friends, family and loved ones of those killed in the crash and offered his sympathy to the injured passengers. Concerning policing on roads he said:

“Training, policies and strict governance around road policing have never been more comprehensive and robust. Police do all they can to prevent carnage on our roads. The challenge that lies ahead of us is to find ways to discourage drivers from failing to stop.”(Emphasis added)

72. Based on the evidence heard in this inquest, in my view the new Pursuit Policy and associated training, with its emphasis on continuous risk assessment, has begun a cultural and attitudinal change to pursuits in the police service. When the Policy is correctly applied, in all but the most serious of circumstances, police are more likely to decide not to pursue. This is appropriate given the known risks associated with such pursuits.
73. In the interests of public safety, the police have taken proactive steps to limit their use of pursuit as a tool of law enforcement. However, in response it appears that some members of the public are exploiting this change to their own advantage, at a cost to law enforcement and community safety. I agree with the Commissioner that this creates a new set of challenges, deserving of a considered response.

Were these deaths “in custody”?

74. I have considered the definition of custody in section 12 of the Coroners Act. That definition includes “a person in the process of being taken into or escaping from the custody or control” of a member of the police force.

75. I am satisfied that when the police gave Mr Norman a direction to stop, they were commencing the process of taking him into their custody or control. In my view a custodial result was inevitable given Mr Norman's blood alcohol reading. Mr Norman escaped from "the process of being taken into the custody or control" of the police by speeding away from them. He crashed approximately 46 seconds later.
76. Given the very close temporal connection between, the police direction to stop, the evasive action taken by Mr Norman, and the crash, I find that these were deaths in custody.

Findings

77. Mr Norman was driving. He was unlicensed, drunk, and in breach of a domestic violence order when police attempted to stop him for a traffic apprehension. He accelerated away from the police in a deliberate attempt to evade arrest and reached speeds in excess of 171 kilometres per hour in a 60 kilometre per hour zone. He ignored his passengers when they told him police were not following and begged him to stop. Tragically, but almost inevitably given his alcohol reading and speed, he lost control of the car and it crashed, killing himself and Ms Kwementyaye Taylor. Two other passengers were seriously injured. Mr Norman was entirely responsible for the crash and its tragic consequences.
78. The police Constables Davies and Hutchinson-Goncz behaved appropriately and complied with the relevant police General Order concerning their driving and interactions with Mr Norman. They presented as temperate, considered and insightful officers who courageously, and without thought for their own safety, bravely assisted those in the crash. I commend each of them to the Commissioner of Police.

Formal Findings

79. Pursuant to section 34 of the Act, I find, as a result of evidence adduced at the public inquest, as follows:

- (i) The identity of the deceased driver was Clifford Norman, born 18 February 1985. Mr Norman resided at Karnte Community, in the Northern Territory of Australia.
- (ii) The time and place of death was 11.00 pm on 7 April 2012 at the intersection of South Terrace and Kempe Street, Alice Springs.
- (iii) The cause of death was blunt head trauma sustained in a single motor vehicle collision.
- (iv) Particulars required to register the death:
 1. The deceased was Clifford Norman.
 2. Mr Norman was of Aboriginal descent.
 3. The cause of death was reported to the coroner.
 4. The cause of death was confirmed by post mortem examination carried out by Dr Sinton on 12 April 2012.
 5. Mr Norman's parents are Ms Lillian Burke and Mr Peter Norman.

80. Further, pursuant to section 34 of the Act, I find, as a result of evidence adduced at the public inquest, as follows:

- (v) The identity of the deceased passenger was Jennifer Taylor, born 23 April 1969. Ms Kwementyaye Taylor resided at Mutijulu Community, in the Northern Territory of Australia.

- (vi) The time and place of death was 11.00 pm on 7 April 2012 at the intersection of South Terrace and Kempe Street, Alice Springs.
- (vii) The cause of death was severe multiple injuries sustained in a single motor vehicle collision.
- (viii) Particulars required to register the death:
 - 1. The deceased was Jennifer Taylor.
 - 2. The deceased was of Aboriginal descent.
 - 3. The cause of death was reported to the coroner.
 - 4. The cause of death was confirmed by post mortem examination carried out by Dr Sinton on 12 April 2012.
 - 5. The deceased's parents are Ms Pulay Taylor and Mr Tony Taylor Tjimawa.

Recommendations

- 81. As these were deaths in custody I must make recommendations with respect to the prevention of future deaths in similar circumstances.
Recommendations designed to discourage people from evading police or failing to stop fall in this category.
- 82. Accordingly, I recommend that timely consideration be given to:
 - (i) Providing police with new tools of investigation which would assist them to follow up offenders (and offending vehicles) in a safer and more considered fashion "after the event". Some of the possible investigation tools, suggested by Counsel Assisting and supported by Counsel for the Police, included:

- automatic number plate recognition cameras and the introduction of in-car data capability,
 - the use of emergent video technology in police cars such as “Go-Pro”, and
 - the exploration of technologies which permit the remote disabling of vehicles.
- (ii) Introducing expanded vehicle seizure and impounding laws, as has been done in Victoria, for vehicles that:
- fail to stop or which are used to evade police, or
 - have attached registration plates belonging to another vehicle.
- (iii) Introducing tougher penalties for offenders who:
- speed or drive recklessly or dangerously when evading police (see for example, section 51B *Crimes Act* NSW and section 319AA *Crimes Act* 1958 Vic), or
 - fail to stop.

Dated this 22nd day of March 2013.



GREG CAVANAGH
TERRITORY CORONER