



## A POLICE PURSUIT RELATED INQUEST

### INQUEST INTO THE DEATH OF PIOTR PAWEL REPINSKI

### FINDINGS

The death of Piotr Pawel Repinski<sup>1</sup> occurred on 15th November 2001 at Vipond Road, Springhurst from 1(a) Haemothorax 1(b) Traumatic rupture of the Thoracic Aorta.

#### Summary of circumstances of the collision

At about 10.30 am on 15th November 2001 Mr. Repinski drove a stolen 2001 Holden Commodore Berlina station wagon south along the Hume Highway between Wodonga and Springhurst, those speeds varied between 180 and 200 kilometres per hour. He was being pursued by a New South Wales police officer having been observed earlier speeding in New South Wales. Repinski left the Hume Freeway and entered the gravel road surface of Vipond Road, Springhurst, he continued at a speed of about 150 kilometres per hour which was also dangerous in the circumstances. He lost control at a slight bend in the roadway and struck a tree at high speed.

At the time the collision occurred it appears that he was not being pursued by the police officer as that officer had lost sight of the Commodore.

#### General history of the individual involved and origins of the Station wagon

##### REPINSKI'S HISTORY

Mr. Repinski was aged 23, unemployed and occasionally lived with his parents in the Melbourne suburb of Deer Park. The Police summary in the Brief of Evidence for the Coroner indicated that Repinski had a history of criminal convictions for vehicle theft and stating a false name and theft. Apparently, on 2nd November 2001 Repinski was found guilty of theft of a motor vehicle and drive whilst disqualified. He was sentenced to two months imprisonment (wholly suspended for 12 months) and further disqualified from driving for twelve months from that date. He was also found guilty of a second theft of a motor vehicle, and theft from a shop and received a Twelve Month Community Based Order.

##### THE CIRCUMSTANCES SURROUNDING THE STEALING OF THE COMMODORE STATION WAGON

The vehicle, a 2001 Holden Commodore Berlina Station Wagon, then marked with Victorian Registration Number QUP 961, was taken from the Shell Service Station, Canterbury Road, Surrey Hills in the early evening, 9th November 2001. Apparently, the driver Judge Marilyn Harbison, inadvertently left the keys in the ignition whilst paying for petrol at the Service Station. Harbison reported that as she was paying she noticed "*a young male*" standing next to her car. He was in his early 20s with "*brown hair and a fairly slight build.*" He got into the car and drove off as Harbison approached. Harbison had to jump out of the way of the vehicle. Another motorist observed the incident, gave chase and saw a group of youths get into the car. The police were called and an investigation commenced.

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<sup>1</sup> Coroner's Case File Number 3510/01

When the incident occurred the Commodore was found to be the same vehicle. However it was fitted with Queensland Registration Plates 830 DZN. These plates were taken from Ms. Adele McClue's 1997 Hyundai Excel hatchback on 14th November, sometime between 8.30am and 10am. At the time her car was parked at the rear of a group of shops on the Gold Coast Highway, Mermaid Beach, Queensland. McClue reported the incident to the police.

## **The collision - evidence of the civilian witnesses**

Mr. Lyell Jenvey, Farmer, lives in a farmhouse on the eastern side of Vipond Road, Springhurst, approximately 80 metres south of the intersection of Benton Road. He indicated that Vipond Road becomes Gayfor Road north of this intersection.

Mr. Jenvey explained that at:

*"the intersection Vipond road starts off as a bitumen road for about 15 metres before it turns into a gravel road. There aren't any speed limit signs on Vipond Road so it's a 100 km/h speed limit but you'd be stupid to travel at that speed. The most you'd want to do safely would be about 80 k's and no more. Most of the locals only do about 50 or 60 k's along it."*

On 15th of November, 2001, at about 10.30am, Mr. Jenvey drove his four wheel drive motorbike down to the water pump in the paddock about 400 metres from his house. The water pump is about 200 metres from Vipond Road. At this time he:

*"heard the sound of a siren from an emergency vehicle. The sound was coming from the freeway to the north of my house. The siren was getting louder and closer so I stayed near the water pump to see what the siren was."*

And:

*"All of a sudden I saw a dark coloured Commodore station wagon on Vipond Road coming from the north. The wagon was flying and I say he was doing about 150's as a round estimation. I watched the car send up a great lot of dust as he hit the gravel and he kept the speed up still going very fast."*

*I had a clear view of the car because its all flat open paddock between my water pump and Vipond Road.*

*I watched as the car kept speeding towards Sanderson Road but I wasn't sure if he backed off or anything because I couldn't see his brake lights go on through the dust he kicked up.*

*The dust then stopped when the car hit the Sanderson Road intersection and I saw the car go off the road like a bullet into the trees on the south eastern corner of the intersection. I then heard a loud bang as the car hit a tree."*

That Mr. Jenvey:

*"could still hear sirens in the distance that got gradually louder. About 30 or 40 seconds later I saw a Police car with its lights and sirens travel down Vipond Road in the direction of the Commodore wagon. The Police car stopped at about Sanderson Road and the policeman got out of his car and ran over to the Commodore. He then ran back to his car and returned to the Commodore with a fire extinguisher."*

Mr. Jenvey said that the first thing he thought when he saw the plates "was that the Commodore was stolen and the Police had been chasing it." He noted that the "next door neighbour, Skeet, had got to the accident and he had an air pressure fire extinguisher with him. There was a fire in the engine bay of the Commodore so Skeet squirted the extinguisher into the car and finished the fire off."

Mr. Jenvey commented that he found out that "the Commodore wagon had been chased by the Police all the way from Albury." His view was the "driver had ample opportunity to pull over but he was still trying to outrun the Police even when he drove past my place."

Mr. Jenvey noted that, by the speed he *"was travelling along my road, an extremely dangerous speed, it looked like he had no intentions at all of stopping for the Police. In my opinion he definitely brought the crash on himself and he was a disaster waiting to happen, especially on the dirt road."*

Also at *"the time the accident happened the road was dry and dusty. The weather was quite warm and fine and visibility was good."*

Mr. John Croesman, Farm worker noted that he was working in the yard of the property when his attention was drawn to the sound of sirens. The sirens appeared to be coming from the direction of the freeway. He then observed:

*"a blue vehicle coming down the dirt road (Vipond Rd) at what appeared to a very fast rate of speed, an unusually fast rate of speed for that type of road I thought. A very short time later I heard a bang and when I looked again I saw what the blue vehicle had hit a tree."*

Mr. Croesman raced *"over to the shed, grabbed a five extinguisher jumped on the `gator' (a four wheel drive motorbike) and drove across the paddock toward the crash which was about 6 or 700 metres away."*

When Mr. Croesman arrived at the crash site the *"blue car was on fire, flames were coming out from around the engine area."* He noticed *"a police vehicle and a policeman near the crashed car."* Croesman stated:

*"The policeman had used his extinguisher on the car. I said to him had the fire brigade been called? He said, Yes. I then used my extinguisher on the vehicle and extinguished the fire. As I was I checked the single occupant of the vehicle and observed that he wasn't moving or making any sound. I assumed he was dead. Shortly after this more police vehicles and the CFA arrived. Weather at the time was fine and clear and there was no other traffic on the road at the time."*

Mr. Simon Groves, Press Photographer, Border Mail, observed the pursuit from the service lane at the entrance to the freeway. He estimated the Commodore would have been doing in excess of 140 to 150 kilometres per hour. He took a number of photographs in rapid succession as the vehicles sped by. On review of the developed film back at his office, he thought that the plates on the dark Commodore station wagon in the picture looked to be Queensland plates, although in evidence at the inquest he was uncertain as to whether or not the vehicle was the Commodore Station Wagon. Eventually he considered that it was not the same vehicle.

## **The Pursuit - Police officers directly involved in the pursuit (all NSW)**

There are a number of police officers from New South Wales that played a role in and were in various police pursuit vehicles during the twenty minutes before the pursuit tragically ended in Victoria. They are listed under the following call signs: **`Albury 207'** (initial Police Pursuit Car, NSW only, Senior Constable Cheshire); **`Albury 36'** (Albury to Wodonga, Senior Constables Spencer and Emmett [Emmett driving] ); **`Albury 202'** (Albury to Springhurst off-ramp, Senior Constable Duncombe); **`Albury 201'** and **`205'** (are the same, Sergeant Warner). Other NSW police vehicles were also involved in the overall management (dealt with under the sub-heading to this section - **`Other NSW Police Vehicles'**).

### **NSW to Victoria**

In NSW only

#### **Albury 207 (Cheshire)**

Senior Constable Jason Cheshire, is from the Albury Highway Patrol. Cheshire had 12 years service and 4 years with the Highway Patrol. He noted that:

*"As part of my training to be attached to the Highway Patrol, I have completed several courses including a 2-week High Speed Driving Course. I have also completed courses on instruction in the use of Radar and Lazar Speed Measuring devices. In 1995, I completed the Field Training Officer Driving Development Course. This enables me*

*to instruct other members of the service to drive their technics and skills. The New South Wales Police Service has three levels of driving certificates. I hold a Silver Driving Certification. This enables me to participate in pursuits, urgent duties and emergency driving. I have driven in an emergency situation on numerous occasions during my police service."*

The Senior Constable described the start of his shift:

*"On Thursday the 15th November 2001, I commenced duty at 5 am to conclude duty at 5 p.m. I was tasked as a single unit in Albury 207. By a single unit, I mean I was performing duty by myself. Albury 207 is the call sign of my vehicle, which on this day was a fully marked Highway Patrol Car. This vehicle is equipped with a Silver Eagle mobile radar unit Serial No 203 which is mounted on top of the bar lights on the roof of the vehicle and the display unit is mounted on the centre of the vehicles dashboard. I commenced my patrol, patrolling around the Albury Township itself. "*

That at about 10.15am to 10.20am, Senior Constable Cheshire:

*"was patrolling north along the Hume Highway at Ettamogah. I just passed over the Billy HUGH'S bridge where I saw a blue Commodore wagon travelling south towards me. He was approaching approximately 3 other vehicles in front of him and was approaching them at a rapid speed. I estimated that the three vehicles ahead of the Commodore would only have been doing the speed limit if that, and I estimated the Commodores speed to be in excess of the speed limit, which along there is a 100 kilometre speed limit. I activated the radar, the numerals 126 illuminated in the target display window and this over the period of the check decreased quickly to 123 before it was locked on?.. As he approached and passed me, I noticed there was a male driver who appeared to be by himself. I pulled over to the side of the road with the intention of performing a U-turn to intercept the vehicle. I had to wait for 2 cars to pass me before I could turn around. I made the turn, activated the lights and sirens on the police vehicle and started to accelerate to catch up to the vehicle. As I passed back over Billy HUGH'S bridge, I could see the Commodore had accelerated to a high speed and was overtaking vehicles in an erratic manner causing vehicle travelling in the opposite direction to pull to the side of the road. The Commodore would have been about 500 metres ahead of me at this stage and I would estimate that he would have been doing around 160 kilometres per hour whilst he was overtaking. The Commodore passed the Old Olympic Highway and got caught behind a heavy vehicle, which allowed me to get closer. The Commodore overtook the semi, causing on coming traffic to veer off the road again. When it was safe to do so, I passed the heavy vehicle and caught up to the vehicle as it was entering into the 60-kilometre zone into Lavington."*

The Senior Constable notified "VKG" at Wagga Wagga that he was in pursuit. He had the lights and sirens activated on the police vehicle. Cheshire described the highway at this point as being "single lane but there is a medium strip that divides the north and south bound traffic." At this time:

*"The Commodore had got caught up behind traffic and the centre medium strip. I could see that the registration of the vehicle was Queensland plates, but could not get close enough to ascertain the exact registration. I knew they were Queensland plates as the number and letters were opposite to New South Wales and Victorian registration plates. It started to overtake on the inside of the vehicles, on the left-hand side of the edge line which is still tar. I estimated the vehicles speed to be 140 kilometres per hour whilst weaving in and out of the traffic. As the vehicle passed Barlow Street and Vickers Rd vicinity, the traffic became very heavy and he was still doing 140 kilometres per hour and that's when the pursuit was terminated by the Local Area Commander. I heard this instruction come from Albury 14, who is the outside Supervisor, who was with the Local Area Commander at the time. I terminated the pursuit at this time, turned off my lights and sirens and slowed down to the speed limit. Due to the traffic conditions at the time, I also deemed the pursuit to be an unacceptable risk and I was about to terminate the pursuit myself, but the Local Area Commander issued the instruction at the same time."*

At the point where the pursuit was terminated the highway becomes:

*"dual lane and continues as a 60 kilometre per hour zone. This stretch of road is straight and headed towards Five Ways at Lavington. I could see the Commodore still weaving in and out of the traffic at an excessive speed all the way to Five Ways."*

Senior Constable Cheshire then continued south along the Hume Highway towards Albury township. He commented that "VKG broadcast a 'Keep a Look Out For' for that particular vehicle over the radio." A number of minutes later, he heard:

*"Albury 202, unit with Senior Constable DUNCOMBE, call VKG informing them that he had observed the Commodore in Young Street Albury and I think he immediately came up on the radio stating he was in pursuit of it."*

Senior Constable Cheshire kept travelling south and into Victoria monitoring the situation. He noted that Senior Constable Duncombe advised "the vehicle had turned off the highway at Springhurst, that they were travelling along gravel road and the vehicle had collided with a tree." Cheshire arrived at the scene about 5 minutes after the collision.

Senior Constable Cheshire gave his details to the Sergeant from Wodonga who arrived. He also noted that:

*"Detective Senior Constable IRVING from Albury 160 gave me a preliminary breath test, which indicated no alcohol present. He was carrying out breath tests on instruction from Inspector Dave COTTEE. I also observed IRVING to give preliminary breaths tests to Senior Constable DUNCOMBE and WARNER. A short time later, I left the scene."*

In conclusion, Senior Constable Cheshire said that:

*"At the time of when I first observed the vehicle, weather was fine, visibility was good, the road surface was dry sealed bitumen. Traffic conditions were heavy. The area where I pursued him was initially open highway with a speed limit of 100 kilometres per hour and entered the 60 zone which light industrial / commercial and then enters light industrial / residential area."*

## **Albury 36 (Spencer and Emmett)**

Senior Constable Gordon Spencer, Albury Police indicated that he was the holder of a Silver Certified Police Driver's licence and had held that licence for about three years. On the day of the incident he was rostered to the station car Albury 36 with Constable Emmett. The duties were to patrol Albury and surrounding areas policing traffic and general duties. The vehicle he was driving was a category one Ford Falcon which was a marked Police sedan which is suitable for Police Pursuits.

At about 10.15am Senior Constable Spencer "heard a Police message come over the air of a pursuit that had been engaged in Lavington involving a highway patrol vehicle and an unidentified blue Commodore Station Wagon." Emmett "remarked that the car would possibly head for the border, which meant that it would head our way. I then heard a message come over the air for a car to move to our location and sit off."

Senior Constable Spencer and Constable Emmett were parked and facing east looking at Wodonga Place, which runs north south. And Spencer:

*"heard transmissions from Albury 201 to say that he was pursuing a vehicle down Young Street in our direction. I looked towards my left in the direction of Young street when suddenly I saw the offending car turn left into the Causeway and head in our direction. The car was a blue VT Commodore Station Wagon and when it came round the corner it was really moving in fact it was almost sideways when it came round the corner on our direction. The vehicle accelerated in a southerly directly towards where we were. He went past where we were. I saw that the driver was about thirty with dark short hair. He had a very intense look on his face and I think that he was wearing a blue coloured shirt. When he came past us he was doing at least 70 km/h and accelerating. I activated all my warning devices and made a right hand turn to take up a position behind him. At this time I hadn't even seen Albury 201, the original vehicle in pursuit of the car or any other highway patrol car for that matter."*

Senior Constable Spencer then:

*"turned right on to the Causeway in an effort to get directly behind the car. The car just flew off and got between two and three hundred metres in front of us. We started to gain ground because he got stuck behind some cars so we gained considerable ground on him. I estimate that we were travelling at about 90 kilometres per hour so he*

*had slowed down considerably. I'd reckon we got to about two hundred metres from the rear of the vehicle when he pulled onto the near side of the road near the gravel shoulder and overtaken a number of cars that were blocking his way. He then accelerated heavily to get away. When he did this the tail of his car sort of flicked out slightly and his wheels spun in the dust. I actually stayed on the off side lane to the centre and the vehicles moved out of my way slowly so I lost ground on him again. I guess he got about five hundred metres in front of us after this. I never lost sight of him and I noticed that he then got caught behind some large semi trailers which appeared to box in the vehicle. Once again we gained ground on him. I think we were going about one hundred kilometres and hour at this time after accelerating. The car somehow squeezed between the trucks. He was about two hundred metres away from him. During this time I was calling VKG and telling them of the situation. The trucks moved to the left hand side of the road and I overtook them and observed the vehicle turning right on to the Hume Highway heading towards Melbourne. The car went through on a green arrow however he seemed to slow right down for it, which was unusual. It did let us get a little closer. When the car got onto the freeway he really took off and he went over the small hill which bends to the right and that was really the last I saw of him."*

It appears that at this time the Constables lost the vehicle (although it appears they identified a similar vehicle which was eventually identified as the wrong car with Victorian plates). Spencer noted that when they:

*"got close we were able to see that it wasn't the car we were pursuing. About the time that I saw it wasn't the car I saw that we had been joined by the Albury Highway car that had originally been pursuing the car. I have been shown a photograph that was in the Border Mail that actually depicts this moment. I am able to say positively that the car we are shown with is not the car we were originally pursuing. In fact I later saw that it had a family in it and it had Victorian number plates."*

Then:

*"the Albury Highway car with Senior Constable Duncombe cleared out and took off after the offending vehicle, which we never saw again. We stayed with the pursuit for a short time until we overtaken by other highway patrol units from both New South Wales and Victoria. The fastest speed I got to on the Freeway was about 170 kilometres an hour. It then became obvious to me that our car was not up the capabilities of the highway cars and we were really only hanging off the back of the chase to provide back up if necessary."*

At the 30-kilometre mark the two Constables decided *"it was a futile cause"* and turned around and headed back to resume normal duties. They had gone about *"three or four kilometres when we heard the conclusion of the pursuit as a persons trapped accident"* and turned around again to help at the scene of the collision.

Constable Robert Emmett, Albury Police Station, had been a police officer since September 2000. On the day of the incident he was the observer in Spencer's vehicle. His statement, basically confirms Spencer's version of the events. Once stationary at Wodonga Place and positioned in Hovell Street on the western side of Wodonga Place, Emmett heard the pursuit:

*"recommence in Young Street a short time later. I heard Albury 202, which is a Highway Patrol car, say that he was behind the vehicle in Young Street."*

Constable Emmett observed:

*"a dark blue Holden Commodore station wagon with Queensland plates come around the comer sideways at high speed and travel south along Wodonga Place in our direction. He was travelling at such a speed around the comer I thought he was going to loose.*

*As soon as we saw him I think I flicked the lights on the police vehicle and started to creep across the north bounds lane of Wodonga Place. He has then gone past us at a fast rate of speed and as soon as he did, I activated the sirens on the police vehicle. I observed one male driving the vehicle and did not observe anybody else in the vehicle. He was Caucasian, brown hair and appeared to be late twenties, early thirties. I did not see any Highway Patrol vehicle behind him and there was no concern for us to pull in behind him."*

And:

*"We went in behind him and he was weaving in and out of traffic and travelled across the causeway towards Wodonga. He was at least 100 metres ahead of us as he was in and out of traffic and we were a lot more careful*

*than he was. Senior Constable Spencer then advised VKG Wagga that we were in pursuit of the vehicle across the causeway. I would say that we were only doing the speed limit across the causeway because of the traffic and he wasn't doing much faster but he was in and out of the traffic. At one stage there were two vehicles side by side (causeway is two lanes in either direction separated by a medium strip) and he went onto the dirt on the inside of these vehicles and overtook them. When he did this, he actually fish tailed and I thought he was going to lose it. We weren't prepared to drive like he was so he was pulling ahead from us."*

That as Albury 36 was approaching the freeway to head towards Melbourne the driver of the Commodore:

*"got caught behind 2 trucks, which were side-by-side and travelling south. We thought that the trucks may have boxed him in but he went straight up between the two of them. After he went through the middle we actually lost sight of him for a short period of time until the truck in the right hand lane moved over and that's when we saw him turn onto the freeway with a green arrow and head towards Melbourne. At this point he would have been about 300 metres ahead of us."*

Albury 36 had lost sight of the Commodore and did not see it again. Constable Emmett confirmed Spencer's evidence about the other Commodore. Emmett was shown the press photographer's photograph and he considered *"that the dark blue vehicle is the vehicle I initially thought was the vehicle we were pursuing. This was definitely not this vehicle and this vehicle had Victorian registered plates."*

## NSW to Victoria

### **Albury 202 (Duncombe)**

Senior Constable Angus Duncombe, Albury Highway Patrol had been a police officer for about 7 years. He had completed the vehicle pursuit course and was the holder of a departmental silver classification to drive a motor vehicle. Duncombe estimated that he would drive on average of 1000 - 1200 kilometres per week. He had *"been involved in about 4-6 pursuits and numerous extended intercepts"* and was of the view that he is *"a very experienced Police Driver."* By the time of the inquest Duncombe had a *"Gold"* classification.

On the day of the incident Senior Constable Duncombe was conducting a stationary RBT site in Albury with Acting Sergeant Warner. He overheard the report of the pursuit in Lavington and its termination. Warner and Duncombe decided to try and locate the vehicle. They were in separate vehicles. Duncombe noted that the description of *"the offending vehicle was that it was a dark coloured VT Commodore station wagon with Queensland plates."*

Senior Constable Duncombe waited at the traffic lights at the intersection of North and Young Street, and:

*"A short time later a vehicle matching the description given by Albury 207 was driving west along North Street. He made a left hand turn into Young Street to travel south. The vehicle of interest was in a line of traffic in lane two which was the lane closest to the centre. I took up a position about 15 metres to the rear of the vehicle. I could see the back of the drivers' head and I could not see anyone else in the car."*

Senior Constable Duncombe activated the lights and siren to indicate to the driver *"to pull over."* The driver:

*"indicated left and moved into lane one and increased his speed. He was weaving in and out of the traffic and at this time I called in the pursuit. I have no doubt he was aware of me and was trying to avoid apprehension. I then observed the driver go through a red light at the intersection of Young and Guinea Streets and continue to drive south along Young Street at about 120 kms. At this time I had encountered traffic and I was 150-200 metres behind the car. At this time I think I was asked by the radio operator as to what speed I was doing and I replied 120 km/h. Although the traffic was medium to heavy I don't believe my driving in the circumstances was dangerous."*

Then the:

*"vehicle then went through a red light at the intersection of Young and Dean Street at about 90 km/h in a 60 zone. I can't recall if this caused cars to avoid him."*

And the:

*"next location I gave was that we were driving through roll over corner. I can't really say how quick the guy went through there but it wasn't really quick because you can't go quick there. We then drove west along Hume Street. At the intersection of Hume and David Street the lights were green throughout this entire length of Hume Street. I would say the traffic density was medium the offending vehicle was weaving between lanes one and two to get around vehicles in his way. I estimate he was doing around 90 km/h in a 60 zone. At the intersection of Hume and Townsend Street the car went through a red light he made a left hand turn from Hume Street into Wodonga Place we both had the green arrow to go left at this time. I was 150-200 metres behind the car because I wasn't taking as many risks as him."*

Senior Constable Duncombe noted that the driver *"seemed to pull away from me because I got caught behind other vehicles. It was then I saw a general duties car, Albury 36, with its beacons on in front of me. I informed VKG that the vehicle was about to cross over the border into Victoria."*

That the *"car was easily 200-500 metres in front of me and weaving through the traffic."* The Senior Constable heard *"Albury 36 say that the offending vehicle was caught in behind heavy vehicles. I was also getting caught behind traffic. Albury 36 was still in front of me and I heard them say over the radio that the car had turned right onto the Freeway to Melbourne."*

Senior Constable Duncombe *"made a right hand turn against the red light and onto the Freeway."* He positioned himself in *"lane two where I saw Albury 36 and the offending vehicle in the distance beyond them. I could tell what lane he was in and I was about 200 metres behind Albury 36. I informed my base of the traffic conditions and weather and that my speed was 180 km/h in 110 zone."*

The Senior Constable then overtook Albury 36. He considered that he *"had caught up to the vehicle in lane one"* only to realise that he was following the wrong vehicle. He noted that the vehicle he caught up to whilst having the same description did not have the same plates. Duncombe noted that he saw that the car was now about 2-2 ½ kilometres in front of him because he had slowed down for the other car. He also noted:

*"We were nearly out of the outskirts of town and traffic had lightened to next to nothing so I accelerated to catch up with the car ahead. It took me some time to catch him. I kept D24 Victoria and VKG Wagga aware of my speed and locations via my car radio."*

*On reaching the vehicle of interests I was able to make out the registration plate, it was 330 DZH. I informed VKG Wagga of this and I told them I was going to hang back 150 metres to his car. I was informed then that the plates were false."*

*For the next 20-30 k's I kept and maintained a distance of 150-200 metres behind the car and kept a steady pace of 180-200 kms an hour."*

Then at about:

*"1 kilometre from the Springhurst turn off I informed VKG of my location. We were both travelling in lane two and arrived at the turn off when all of a sudden the car slowed to the left across both lanes and went off the Springhurst off ramp."*

*I don't know how he did it because I overshot the turn and had to brake and do a 'U' turn to take the ramp."*

*The car had pulled away further and I lost sight of him. When I got to the top of the ramp to a 'T' intersection and looked to my right towards Springhurst and couldn't see any vehicle."*

*I looked to the left as I was slowly rolling and I saw a cloud of dust come up so I made a left hand turn towards another 'T' intersection which I now know as Gayfers Road where I made a right hand turn in the direction of this dust. I travelled along Vipond Road informing my base of this."*

*As I came over a rise the road surface changed from bitumen to gravel and I could see off into the distance at about a kilometre dust billowing up behind a vehicle. I slowed down to 100 km/h I just kept driving at that speed or even less because I knew all I had to do was follow the dust trail and in any case visibility was poor in the dust.*

*All of a sudden the dust appeared to settle and I came through it and saw that the vehicle had collided with the tree off to the left hand side."*

Senior Constable Duncombe then observed the crashed vehicle. As the engine was on fire the Senior Constable retrieved the fire extinguisher from the boot of the police car and ran over to the vehicle and put the fire out.

Senior Constable Duncombe noted that while he:

*"was pursuing the car I was aware of the fact that there was other Police cars behind me and following me. I was aware by the radio traffic that Police from Victoria were coming towards me to assist but I had not really entered into these arrangements because I was driving and concentrating on what I was doing. I am a special Constable and I was confident that I was lawfully pursuing the vehicle from NSW into Victoria."*

And:

*"During the entire time of the chase I never pushed my vehicle or the offenders vehicle to do anything to endanger the public. I was happy to sit behind the car until it was intercepted safely. The roads were dry and on the Freeway where most of the high speeds were reached traffic was virtually non-existent."*

There were two separate radios fitted to the NSW Police vehicle (one NSW and the other Victorian). Both were fitted with a handset. Duncombe was broadcasting on both radios during the pursuit and using the handsets while driving at high speed.

On the issue of the safety of the speeds (180-200 km/h) Senior Constable Duncombe gave the following evidence:

*"Coroner: Tell me, what do you think about the speeds varying between 180 and 200 kilometres an hour?*

*Answer: On this particular occasion I thought they were fine.*

*Question: Were they fine for you, did you think in terms of the driver of the other vehicle as to whether they were fine (inaudible)?*

*Answer: All factors included.*

*Question: Did you think about the sort of vehicle that you were pursuing as to whether it was set up to do those sorts of speeds?*

*Answer: Yes.*

*Question: Comfortably and safely?*

*Answer: Yes.*

*Question: Including suspension, all that sort of thing?*

*Answer: Yes*

*Question: What conclusion did you reach?*

*Answer: The same conclusion.*

*Question: Do you know whether or not there's been any evaluation even to the vehicle that you use of hands free communication systems?*

*Answer: No, I'm not aware."*

And:

*"Coroner: In relation to your training as a police officer and I don't want to know the detail - are you given any instruction as to what the limits of a particular vehicle you are driving at the time, were you given any instruction as to what the limits, the safe limits, of that vehicle is in relation to driving, let us say you are on a freeway?*

*Answer: No, no instruction is given.*

*Question: In relation to your training as a police officer, are you given instruction, of physical training, in relation to events that occur at the sort of speeds we are talking about on this day, 180 to 200 kilometres an hour and how to avoid?*

*Answer: Yes.*

*Question: Are you put into the practical circumstances of travelling at those sort of speeds?*

*Answer: Yes.*

*Question: Put through your pace, at 180 to 200 kilometres per hour?*

*Answer: The track that we do our driver training on at Goulburn, it does equip us to be able to reach speeds close to that.*

*Question: But are you put into situations where you have to make rapid decisions and changes in direction, avoidance and the like, at those sorts of speeds?*

*Answer: Yes.*

*Question: When were you last put in that situation prior to this incident?*

*Answer: 1999.*

*Question: Were you evaluated for performance in relation to that?*

*Answer: Yes."*

## **The evidence of NSW and Victoria Police involved in information and supervisory management of the incident**

### **Information and pursuit management - NSW**

Senior Constable Jason Dawson, Albury Police (call sign **Albury 14**) had been a police officer for 12 years and is a weapons and tactical team instructor in the State Protection Support Unit. Dawson indicated that he was often required to:

*"perform the role of a supervisor for the Albury Local Area Command. This role is normally performed by the most senior of the members on shift and entails the supervision of all staff on shift."*

On the day of the incident Senior Constable Dawson was in the role of Outside Supervisor for the Albury Local Area. At about 10.15am he heard Cheshire *"call up that he was in pursuit."* Dawson *"monitored the radio communications and established that he was pursuing a Holden Commodore with Queensland registration in Wagga Road, Lavington, and was travelling south towards Albury."* He then *"got a further location and speed of the vehicle as 140 kilometres per hour."*

Senior Constable Dawson consulted the Local Area Commander, Superintendent Levy and:

*"the decision was made to terminate the pursuit on the grounds that it was a local traffic area with a speed limit of 60 kilometres per hour and the pursuit was travelling towards Albury at high speed. Given the limited amount of information regarding what the vehicle was wanted for it was considered not viable to continue the pursuit."*

Senior Constable Dawson commented that the:

*"New South Wales Police Force Safe Driver Policy covers procedure in relation to pursuits and it was considered in this circumstance that the continuation of the pursuit could not be justified without further information. As the Supervisor for the day and according to the policy I was responsible for the control of the pursuit. I was therefore responsible for its continuance or termination. "*

The Senior Constable also noted that shortly after the termination of the pursuit *"information was received"* from Albury 12, Senior Constable Caldwell, that *"the vehicle had possibly been involved in serious offences in Queensland."* Dawson considered that it was likely that *"the vehicle would continue on the Hume Highway past those police vehicles."* He was then advised that *"Albury 202"* (Duncombe) was *"in pursuit of the same vehicle in Young Street, Albury (Hume Highway). This was approximately 2 minutes after the termination of the initial pursuit."* Dawson noted that *"according to Duncombe, the vehicle had reduced speed."* He therefore *"determined that the pursuit could be re-initiated and allowed it to continue."* Dawson stated that:

*"Shortly after Albury 36 became involved in the pursuit as the primary pursuit vehicle and the pursuit continued onto the Lincoln Causeway into Victoria."*

*At this stage the pursuit had entered Victoria and the New South Wales officers involved in the pursuit were all Victorian Special Constables. Special Constables are not required to seek permission to cross State boundaries and there are no formal protocols entered into before crossing borders."*

Then:

*"Communications between Wagga VKG and Wangaratta VKC were established and information regarding the pursuit was relayed to Wangaratta VKC prior to the New South Wales units entering Victoria."*

*The New South Wales units were now governed by Victorian Law, Statute and procedures regarding pursuits and under the control of the Victorian Primary Pursuit Controller. While I still had direct communication with the pursuing units it was now the responsibility of the Victorian Primary Pursuit Controller to monitor and control the pursuit."*

Senior Constable Dawson had:

*"received information that Wodonga 650 had dispatched three Highway Patrol units from Wodonga and that they were heading south on the Hume Highway in an endeavour to catch up to and take over the pursuit from my units."*

That he also:

*"received information from Albury 202, the primary pursuit unit, that traffic conditions were light, weather was fine and that the speed of the offending vehicle was 180 kilometres per hour in a 110 kilometre per hour zone. DUNCOMBE is an experienced member and I had no concerns regarding the continuation of the pursuit based on the information he had relayed."*

*The pursuit continued south on the Hume Highway and I gave directions to Albury 202 to maintain the pursuit until the Victorian units took over."*

*The pursuit continued south on the Hume Highway towards Springhurst at which time the offending vehicle took left the highway, taking the Springhurst off-ramp."*

Senior Constable Dawson was then advised about the collision.

Senior Constable Dawson commented that he has:

*"read the transcript of the Wagga Wagga Communications Centre radio log regarding the pursuit and I am satisfied that it is a correct account of the communication on the day."*

That he was:

*"satisfied that the pursuit was conducted in accordance with all relevant policy and legislation and that those involved in the pursuit acted in a professional and ethical manner. I have no concerns about the manner in which the pursuit was conducted."*

Significantly, Senior Constable Dawson commented that he wanted to:

*"raise concern with regards to the inability of both VKC Wangaratta and VKG Wagga Wagga to receive transmissions from each other. I believe that had these communications been possible that it would have assisted those pursuing units in expediting a response from the Victorian units. This would have alleviated the difficulty that was experienced by New South Wales units in their attempt to communicate with VKC Wangaratta."*

Inspector Geoffrey Levy was at the Albury Police Station performing operational duties. He had been in the police for 23 years and was relieving the Local Area Commander, as an Acting Superintendent. At 10.15am Levy monitored a call from Albury 207, an Albury Highway Patrol vehicle, driven by Senior Constable Cheshire *"indicating that he was*

*in pursuit of a vehicle."* The pursuit was on Wagga Road, Lavington and travelling south towards Albury. Levy heard the driver of Albury 207 *"provide a location and speed of 140 kilometres per hour in the 60 km/h area."* Levy was familiar with this section of roadway and:

*"deemed that the speed was inappropriate for this area. At the time of hearing this speed I directed the outside supervisor, Senior Constable Dawson, to call via radio to terminate the pursuit. This direction was acknowledged and complied with by Senior Constable Cheshire, the driver of Police vehicle, Albury 307."*

The Inspector then became aware that New South Wales Police were pursuing a vehicle in Victoria. He became aware that Albury Highway Patrol had re-initiated the pursuit with the vehicle that had been pursued earlier. He was advised that Duncombe was the primary response vehicle. Levy noted in his statement that Duncombe *"holds a 'gold' licence response classification under the New South Wales Police Safe Driver Policy and was driving a 'category 1' vehicle under the same policy."* This was incorrect as he held a "Silver" at the time. Levy noted:

*"These classifications are deemed to be the most appropriate classifications for urgent duty and pursuits."*

The Inspector was *"informed that authority to re-initiate the pursuit was implied by the combined assessment of Supervisor Dawson and Duty Officer Scott-Young. I had been informed that the pursued vehicle had reduced speed significantly and was on the freeway, Victoria side of the border. I was not involved in re-initiating the pursuit."*

The Inspector was advised by Dawson that Duncombe was the primary response vehicle and that the next response vehicle, secondary response was Acting Sergeant Warner. Warner was Duncombe's *"immediate supervisor"* and was:

*"driving in the same conditions as Duncombe, although I was informed that he did not have sight of the pursuit. Acting Sergeant Warener holds a 'gold' licence response classification under the New South Wales Police Safe Driver Policy and was driving a 'category 1' vehicle. These combined classifications are deemed to be the most appropriate classifications for urgent duty and pursuits under the Safe Driver Policy."*

According to Inspector Levy the *"pursuit continued with VKG monitoring"* and as *"the matter had entered Victoria, I was of the opinion that the matter was being monitored and oversighted by VKC Victoria."* The Inspector noted that Albury Highway Patrol vehicles are fitted with Victorian Police Radio systems. That Duncombe was advised to continue, until Victorian units took over.

Inspector Brett Scott-Young was an Acting Duty Officer at the Albury Local Area Command. On the day of the incident he was advised that *"a pursuit had been called by Albury HWP car call sign Albury 207 and this pursuit had been terminated in accordance with the New South Wales Police Safe Driver Policy."* Dawson advised him of the details and he *"received information that the vehicle involved in the pursuit was believed to have been involved in serious offences committed in Queensland."* Scott-Young then directed that *"several police cars attend various locations on the verge of Albury to monitor traffic in an effort to locate this vehicle."* He was aware that, Albury 36 was in Wodonga Place near the Murray River Victorian State Border.

Inspector Scott-Young then heard via radio that Albury 202 was in pursuit in Young Street, Albury and that the speed was not excessive. Scott-Young allowed this pursuit to *"continue and contacted the NSW Radio Communications base being Wagga VKG"*, after obtaining some details the Inspector considered it *"to be a new pursuit, the previous pursuit being terminated and the vehicle involved in that pursuit was not involved in the current pursuit."*

As the pursuit had entered Victoria, Inspector Scott-Young:

*"asked that VKG contact VKC and liaise with them. I ascertained from VKG that the Albury Police Cars did not have communications with VKC and that transmissions would have to be directed through VKG to VKC by telephone. I satisfied myself that the police involved in the pursuit were Victorian Special Constables and as such were entitled to continue into Victoria. I believe I made contact at some stage with VKC by telephone and discussed the details of the pursuit and whether Victorian Units would be available to take over the pursuit. At this time the pursuit vehicle was an Albury HWP vehicle Albury 202 and I ascertained the driver was Senior Constable Duncombe who is an experienced HWP officer and that the weather and road conditions were good and that the speed of the offending vehicle was from memory between 160 and 180 kph."*

The Inspector continued to monitor the pursuit via New South Wales Police Radio and was informed *"that several Victorian Highway Patrol Units had been assigned to take over the pursuit and was informed that the Victorian authorities had control of the pursuit."* He was *"satisfied that the pursuit was conducted in accordance with the New South Wales Police Safe Driver Policy. The next information I received was that the offending vehicle had collided with a tree near Springhurst."*

Significantly Inspector Scott-Young commented as to the communications difficulties with VKC and was advised that his officers:

*"could not contact VKC via the radios fitted to the police vehicles for this purpose. I then made enquiries with the Radio Networks Services (Radio Technicians) and ascertained the aerials fitted to the Victorian Police Radios in the Albury Police vehicles were incorrectly adjusted, I believe the term is 'Swarred' meaning that they could not operate at the required frequency or had reduced range. I spoke with a radio technician a day or two following the pursuit when he attended the Albury Police Station to correctly adjust all Victorian Radios fitted to Albury Police vehicles. From my enquiries I was informed that this was the fault of the contractor fitting radios to New South Wales Police vehicles and that the problem had been rectified."*

## **Information and pursuit management - Victoria**

### **Information Management**

Senior Constable James Caldwell, Albury Police Station was checking the emails during the early morning of the 15th of November. He noted an item *"regarding a vehicle that had been involved in an armed hold-up in Queensland during the preceding days, that vehicle was possibly seen in Sydney and may have been travelling in this direction. The vehicle was said to have been a dark coloured late model Commodore station sedan not further described."*

When Senior Constable Caldwell became aware of the pursuit on the radio extension in his office at approximately 10.20am, and with a more detailed description of the vehicle naming the colour, he believed *"it may have been the vehicle" he "had read the item of interest about."* Caldwell, utilising the call sign Albury 12, advised Police via radio of his belief.

Senior Constable John Knight, Wangaratta Police (**Wangaratta 616**) is the Officer in Charge of the Traffic Management Unit at Wodonga. He had been a member of the Police Force for 22 years and worked for about 13 years in Traffic Management. Knight is the holder of all classes of Police Licence other than 'A' class which is the motorcycle licence. He regards himself as:

*"an experienced member and over the years I have been involved in a large number of pursuits and a vast number of extended intercepts. I have been the officer in charge of Wodonga TMU since late 1998, about 3 ½ years."*

On the day of the incident Senior Constable Knight was in his office in Wodonga, when at *"about 1025 hours"* he was notified by the watch housekeeper from Wodonga via the intercom that there was a Police pursuit in progress involving N.S.W. Traffic units and a speeding motorist. The vehicle being pursued *"had left Albury and was being pursued on the Hume Freeway into Victoria by the N.S.W. Traffic Units."*

Senior Constable Knight and colleagues left the office in three cars and headed to the Hume Freeway to *"see if we could assist the New South Wales units."* Knight was on his own in an unmarked Commodore station wagon and the other members were two up in two TMU cars which were both marked cars. Knight had:

*"no idea how far in front of me the cars were so I decided to head south as quickly as I could in the direction of the pursuit and wait until I heard a location so I could see how far away they were. I hoped to catch up to the pursuit via this method."*

That:

*"From conversations that I heard on the air I ascertained that the stolen vehicle was well ahead of me and travelling at about 180 km/h with the New South Wales cars a short distance behind him. I did not see any problems with this because traffic was extremely light and road conditions were perfect. Given the nature of the Hume Freeway I believed that the situation was well in control. Another consideration that I had was that the cars*

*following the offender were highway patrol cars. I am familiar with most of the Albury Highway Patrol officers and I had confidence in their abilities."*

Senior Constable Knight stated that it was his "intention to take over the pursuit" as soon as he was in a position to have some sort of line control of the incident.

The Senior Constable noted that there was:

*"quite a bit of confusion on the air in relation to radio communications. It developed to the point where I was having difficulty hearing Wagga although they could hear me. In turn I could hear the New South Wales officer struggling to get through to Wangaratta D24. It was my intention to take over the pursuit as soon as Victoria Police, ie the two TMU units with and myself could do so. We would then transmit through Wangaratta without reference to Wagga."*

Then Senior Constable Knight "heard the N.S.W. unit say that he was about 1 km north of Springhurst" and he "then reckoned that they were just out of my sight." He estimated that he was about 1 minute off taking over when he heard the unit had left the Freeway. A short time later he heard that the car had collided with a tree.

Senior Constable Knight stated that throughout:

*"the pursuit I had confidence in the way it was being conducted I knew the men involved their capabilities and the high standard of equipment they had. With the problems we were experiencing with communications I believed that it was more prudent to leave the N.S.W. units in charge until I could physically see the units and hand over communications entirely to the Victorian units."*

Senior Constable Mathew Simon, Wodonga Police Station, general duties, had been a member of the Victoria Police Force for over seven years. He is a Special Constable for the State of New South Wales. This allows him to exercise certain powers of arrest in New South Wales. Simon noted that most "other members at Wodonga are Special Constables for New South Wales. Likewise, most Albury members are Special Constables for Victoria."

On 15th November, the Senior Constable commenced duty at 9.00am and was rostered to perform files and inquiries duties. At approximately 10.00am he was assisting Senior Constable Martin in the watch house of the station as the watch house was getting busy.

At approximately 10.20 a.m. Senior Constable Simon received a telephone call from an Albury police member. The officer was:

*"requesting the assistance of one of our units for a vehicle they wanted intercepted. The Albury member further stated that an Albury unit was currently on the Albury side of the Union Bridge, the bridge that crosses the Murray River at the border with New South Wales.*

*I then asked the member what type of vehicle we were looking for and why it was wanted. I was told that the vehicle was a white Commodore or similar that had been involved in a pursuit in Lavington a short time earlier that had been called off. The same vehicle was wanted in relation to a serious matter in Sydney but I was not told what this matter was. I was then told that the vehicle had been last sighted in Young Street, Albury.*

*I then told the caller that I would try to organise for Wodonga units to be waiting on the Victorian side of the bridge."*

Senior Constable Simon then telephoned Wangaratta D24 Communications and relayed all the information to the radio operator, Osredkar. By overhearing Martin's telephone to Albury police he determined that "an Albury unit must have sighted the same vehicle again and that the vehicle was now heading towards Wodonga."

According to Senior Constable Simon, his colleague Martin then changed the UHF radio in the watch house across from channel 2 to channel 21 to monitor the New South Wales channel. Simon stated:

*"The UHF radio in the watch house is normally on channel 2 local and is primarily for local Wodonga communications. All other communications within Region 4, Division 5, are conducted via the SMR system. The Communications Centre (D24) for this system is based at Wangaratta.*

*If the UHF radio is changed to channel 21, the Wodonga watch house keeper is able to monitor New South Wales communications and can talk directly with New Wales units and the Wagga Communications Centre. The Communications Centre at Wangaratta does not have the facility to do this."*

Senior Constable Simon then contacted Sergeant Roberts at Wodonga Traffic Management Unit office and informed him of the situation. He then monitored the radio and:

*"heard and Albury unit come up to Wagga Communications giving their location, which I think at the time was the entrance to the freeway. This meant that the Albury unit had already crossed into Victoria after driving the length of the Lincoln Causeway.*

*The Albury unit may have already come up in pursuit prior to Senior Constable Martin changing the radio channel but from the information that unit was relaying, I became aware that the unit was pursuing a vehicle into Victoria.*

*Senior Constable Martin continued to monitor the New South Wales channel and updated Wangaratta Communications via SMR radio with locations and vehicle speeds.*

*While Senior Constable Martin attended to the radios, I answered telephone calls for him.*

*Approximately 10 minutes into the pursuit I received a telephone call from Wangaratta Communications requesting me to notify Acting Senior Sergeant Woods of the pursuit and for him to take control of the pursuit as the designated Pursuit Controller.*

*I then notified Acting Senior Sergeant Woods of the pursuit and advised him that Wodonga 650, Sergeant Roberts, was involved in the pursuit.*

*I then went back to the watch house and continued to monitor the pursuit. A few minutes later the pursuit finished in Springhurst when I heard someone come up on the radio to say that the vehicle being pursued had crashed."*

Senior Constable Shane Martin, Wodonga Police Station, (**Wodonga 900**) was relaying information from NSW via Wodonga to Wangaratta. He had been a police officer for almost 9 years. His understanding was that Wangaratta cannot get information direct from Wagga Wagga. Wangaratta had a difficulty in contacting Wagga.

Senior Constable Martin stated that:

*"At approximately 10.20 a.m. I received a phone call from Senior Constable COX from the Albury Police stating that there was a recent pursuit with a white VT Holden Commodore with Queensland registration plates in Albury. The pursuit was called off in Young Street. A New South Wales vehicle was performing static patrol in Wodonga Place. He wanted a Victorian vehicle to position itself on the Lincoln Causeway. The Wangaratta Communications Centre was notified. They were currently on the phone to the Wagga Wagga Communications Centre in relation to the same incident.*

*A short time later I received a further phone call from the Albury Police requesting a Victorian vehicle on the Lincoln Causeway. The vehicle they were trying to locate was currently on the Lincoln Causeway in heavy traffic. I then got onto the local UHF Radio, channel 2, in an attempt to contact Wodonga 307 or a Traffic Management Unit vehicle to assist the New South Wales units. The UHF radio in the watch house is normally on channel 2 local and is primarily used for local Wodonga communications. i.e. the watch house to mobile units in Wodonga. However, you can change the UHF radio to channel 21, which allows you to monitor New South Wales communications. All other communications within Region 4, Division 5, are conducted via the SMR radio system.*

*I was able to raise Wodonga 307 and informed them to make their way to the Lincoln Causeway. I also informed them that the New South Wales Police were in pursuit of the vehicle. I believe I gave them a description of the*

vehicle. Senior Constable Simon phoned the Wodonga Traffic Management Unit and spoke to Sergeant Roberts informing them of the situation."

Then Senior Constable Martin:

*"received an update from the Albury police via the phone, stating they were heading south along the freeway. I then went over to Channel 21 on the UHF radio after I got off the phone. This allowed me to monitor the New South Wales radio.*

*I then updated and continued to update the Wangaratta Communications Centre of the location of the pursued vehicle, via the SMR radio in the watch house. I was using the call sign Wodonga 900. I was monitoring Channel 21 to achieve the location of the vehicle as the New South Wales unit was updating his communications centre in Wagga Wagga.*

*At approximately 10.23 a.m. I initially informed the Wangaratta Communications Centre that Albury was in pursuit of the vehicle and that they were heading south on the Hume Highway. The next location I gave was two kilometres past the Barnawartha exit. The next location I gave was ten kilometres north of the Springhurst exit. A short time later it was one kilometre north of the Springhurst exit. Shortly after this I informed them that they had taken the Springhurst exit. The last location I gave out was at approximately 10.35 a.m. and that they were heading to Vipond Road, Springhurst. A short time later the Albury unit stated that the pursued vehicle had been involved in an accident at this location."*

Senior Constable Martin indicated that *"late in the pursuit I tried to contact the New South Wales Communication Centre using Channel 21, to try and get the New South Wales Unit's to relay information via our communications centre. I did not receive a response from them."*

Senior Constable Shane Bannerman, Wangaratta Police Communications had been a police officer for 11 years. In evidence he noted that Wangaratta could not contact Wagga Wagga. There were no communications with NSW and Wangaratta could not hear them. He also noted that training for communications work was *"hands on"* from experienced members with *"no formal training."* At the time of the incident he had been performing D.24 communication duties for twelve months on a rotational system at Wangaratta Police Station

On 15th of November Senior Constable Bannerman commenced duty with McClounan. Harvey and Osredkar commenced duties a little later at 8.00 a.m. Shortly after, McClounan and Bannerman were relieved as radio operators.

Senior Constable Bannerman described how he and his colleague McClounan worked. They plugged their:

*"head sets in on the second console opposite Harvey and Osredkar. I along with McClounan commenced receiving and making notification telephone calls involving phone conversation with police members, the public and other emergency services. I had no involvement with the radio call during the pursuit. Although monitoring to assist the other members.*

*Some time after 10.30 a.m. that same day I received a telephone call from Sergeant Woods from Wodonga. Woods questioned who the pursuit controller was. I informed him the Sergeant from Wodonga was the pursuit controller.*

*At this stage I am unable to clarify the exact conversation with Woods. I would have to listen to the tape recording to expand any further. From memory the call and conversation were brief."*

Senior Constable Mandy McClounan, Wangaratta Police Communications was on *"combined P1/P2 and managing telephone calls during the incident."* She had been in the police force for 11 years. In 1997 she *"took promotion to Wangaratta Communications."* When transferred McClounan *"received 'hands-on' training as a radio operator as there was no training package offered."*

The Senior Constable currently performs radio operator duties and has also been upgraded to Sergeant on occasions. McClounan explained that, on 15th November, she was rostered to perform radio operator duties in company with Bannerman. Harvey and Osredkar commenced duty at 8.00am and relieved Bannerman and herself as radio operators.

At approximately 10.25am, Senior Constable McClounan was advised by Harvey that "a pursuit was possibly headed towards Wodonga from Albury and that he may need assistance on the channel." She plugged her headset into the control panel and attempted to monitor the pursuit.

Senior Constable McClounan stated:

*"At approximately 10.30 a.m. I made a telephone call to the Wodonga Watch House and spoke to Senior Constable Simon. I requested that he locate the Section Sergeant or Senior Sergeant at Wodonga and notify them of the pursuit and also that one of them would become the Pursuit Controller.*

*I made this decision based on the information given to me by Senior Constable Harvey. The situation at this stage was that the pursuit had continued over the causeway and onto the Hume Freeway at Wodonga heading south. An Albury Highway Patrol Unit was still the primary unit. We were attempting to get the Albury unit to switch radios to Wangaratta D-24 to enable us to control the pursuit. The Wodonga T.M.U. Sergeant was en route and was to try and take up position as primary unit. Two other units responding were a Wangaratta T.M.U. unit and the Wangaratta 250, Section Sergeant.*

*As the Wodonga 650 and Wangaratta 250 units were en route to assist in the pursuit and therefore become involved, they would not have been able to act as Pursuit Controller hence the reason I elected to nominate a Supervisor at Wodonga.*

*At approximately 10.35 a.m. I continued to make telephone calls to ascertain the availability of the Air Wing and Dog Squad for assistance. Senior Constable Bannerman informed me that Acting Senior Sergeant Woods from Wodonga had contacted him suggesting that someone from Wangaratta be Pursuit Controller as it was headed south but if that was not possible then he would do it."*

Constable Kylie Osredkar, Wangaratta Police Communications had been in the police force for 11 months. As part of her training she was:

*"required to perform three months duty at the Wangaratta Communications Centre (D24) which is attached to the Wangaratta Police Station. I commenced duty at the Communications Centre on the 13th of October 2001."*

And that:

*"Prior to commencing duties at the Communications Centre I completed a two day intensive training course on all aspects of the operation of the Communications Centre, run by Sergeant Bill JOHNSON.*

*I have been trained to answer the normal and emergency telephones and use the police communications radio. For telephone calls, on receipt of a routine or emergency call to the Communications Centre, I allocate the job to a police unit via the police radio and co-ordinate other police units if required.*

*The police radio that I operate allows me also to communicate with and monitor all units within the Division on the channel that I am operating."*

Constable Osredkar explained that:

*"The Wangaratta Communication Centre operates two channels within the Police Region known as Region 4. Channel P1 covers from Glenrowan all the way through to Wodonga, across to Rutherglen and Walwa. This channel is known as Police Region 4 Division 5.*

*Channel P2 covers from Benalla to Kilmore/Broadford, across to Nagambie and Marysville. This channel is known as Police Region 4 Division 4. "*

And:

*"There are two members on each shift, one for each of the channel. The members are usually of Constable or Senior Constable rank. One shift, usually the day shift, is supervised by the Communications Centre Sergeant. The other shifts are supervised by the uniform Section Sergeant."*

That when:

*"a critical incident occurs, such as a police pursuit, the two channels, P1 and P2, are patched together so that both divisions can monitor the one channel. The operator on that channel then takes over the communications and the other operator then manually writes down all information that comes into the communications centre from units on blue message cards. The operator then date and time stamps these cards.*

*The critical incidents are monitored by Senior Sergeants and above and a member of senior rank will often enter the Communications Centre and co-ordinate the radio for us.*

*Once a critical incident is concluded, the operator then refers to the blue message cards for constructing an Incident Fact Sheet. The Incident Fact Sheet is then handed to the Communications Centre Supervisor, a Sergeant or above. This is a procedure that is followed for all critical incidents."*

That all communications, both by telephone and radio, both to and from the Communications Centre, are all taped by the use of a digital tape recording device within the Communications Centre.

Significantly, Constable Osredkar stated:

*"The Communications Centre radio does not have the facility to communicate with any New South Wales units or Communications Centres, although there has been a speaker installed in the Communications Centre that allows us to monitor limited communications between New South Wales units and the Wagga Wagga Communications Centre. This speaker is only ever used for critical incidents that originate in New South Wales that affect us.*

*A limited number of New South Wales units along the border carry Victoria Police radios in their vehicles that allow them to communicate with us. This is in the event that they may be closer and more able to respond to an urgent job than a Victorian unit.*

*The only other form of communication between us and New South Wales members and units is via the normal telephone system."*

On the 15th November the Constable was performing duties at the Communication Centre alongside Senior Constable Harvey. She worked on the P1 channel while Harvey worked the P2 channel. McClounan and Bannerman were also rostered for this shift and were alternating on the channel with us. At 10.20am Osredkar received a telephone call from the police radio operator at Wagga Wagga. The operator gave her the details of a vehicle that had:

*"just been lost after having been involved in a pursuit through Albury. The description of the vehicle given to me was a VT Holden Commodore, dark blue in colour, nil registration obtained but with Queensland number plates. The operator further stated that the vehicle was last heading towards Five Ways. Five Ways is the main roundabout in the Albury suburb of Lavington."*

Constable Osredkar wrote down the information on a yellow job card and was "about to relay the information to all units in the Wodonga area" when she received a telephone call from Senior Constable Simon. Wodonga Police Station Watch House. Simon advised her that:

*"he had received a call from Albury Police in relation to the same pursuit but added that the vehicle was white and not dark as was first relayed to me. He also stated that the vehicle was wanted in relation to a serious matter but did not elaborate on this point.*

*Senior Constable SIMON then stated that the vehicle had last been sighted in Young Street, Albury, heading towards the Lincoln Causeway and Wodonga and requested a Wodonga unit to sit on the Wodonga side of the causeway."*

Constable Osredkar noted that only Wodonga 650, the T.M.U. Sergeant, was available. Osredkar stated that:

*"At 10.23 a.m. Albury 201 come up on my channel and identified themselves. I tried to call them back but received no response from them. I then had Wodonga 900, the call sign of the watch house keeper at the Wodonga Police Station, come up on air and state that an Albury unit was in pursuit of a blue VT Commodore Statesman with Queensland plates, south on the Hume Freeway."*

At that time Senior Constable Harvey patched his channel with Osredkar's and took over the communications on her channel. She continued to monitor the radio and commenced to compile blue message cards on all information that was passed over the air, including call signs of units involved, where they were, speeds, road conditions and any other details of importance. At 10.29am Constable Osredkar received a call from the Albury Inspector advising her that:

*"the vehicle was being pursued as it had been speeding through Albury and was wanted for unknown serious matters in Queensland. I asked him what the serious matters were and he said that he didn't know and he advised me that the pursued vehicle was now just south of the Yarrowonga exit on the Hume Highway. The Inspector then gave me details of two Albury units, Albury 202 and Albury 36, that were pursuing the vehicle and gave the registration number of this vehicle as Queensland registered 830 DZN."*

And:

*"At 10.33 a.m. Albury 202 came up on our channel and stated that they had just passed the Barnawartha exit on the highway at a speed in excess of 200 kilometres per hour and gave the reason for the pursuit as possibly a stolen vehicle with false registration plates.*

*At 10.35 a.m., Senior Constable McClounan telephoned the Wodonga Police Station in relation to organising a pursuit controller. I am not aware of the result of this call."*

Constable Osredkar noted that at 10.39am Albury 202 came up on channel and stated that the vehicle being pursued had struck a tree and was now on fire in Vipond Road, Springhurst. Emergency Services were then organised to attend the scene.

Constable Osredkar stated that:

*"At no time during the pursuit was I able to hold any conversation with any Albury unit. The only time I was able to hear an Albury unit was when they came up on air on one of the Victorian radios.*

*The Wodonga Police Station has a better facility for monitoring Albury units than we do. During the pursuit we received a lot of information from the watch house keeper at Wodonga via the telephone."*

## **Pursuit Management**

At about 10.30am, Acting Senior Sergeant James Woods, Wodonga Police was advised by Inspector Barber that a pursuit was in progress and that D24 had requested that a Senior Sergeant take the role of Pursuit Controller. He received no other details of the pursuit.

Senior Sergeant Woods then contacted D24 on the telephone and spoke to an operator. He indicated to the operator that if a Pursuit Controller was needed he (Woods) would do it. Woods was advised by the operator that *"he would get back to me and hung up."* Woods obtained a situation report from Senior Constable Simon. Woods' understanding at that time was that:

*"a vehicle, possibly stolen, was being pursued by Albury Highway Patrol on the Hume Freeway South of Wodonga approaching Springhurst and that radio was via NSW police communications at Wagga Wagga. I went with Inspector Barber to his vehicle. I believe that it was about this time that I was informed by D24 that the vehicle had left the freeway and lost control on Vipond Road at Springhurst."*

The Senior Sergeant was of the view that, from a control point of view, Wodonga radio communication was disjointed and confused. He was right.

## **A summary of the difficulties with the Victoria Police communication systems during the incident**

Senior Sergeant Jeffrey Smith of the Victoria Police Major Collision Investigation Unit was of the view that Harvey's statement "*best encapsulates the complicated process that took place at Wangaratta in order to keep track of the pursuit.*" Harvey's summary of the difficulties is:

*"?...During this incident I was unable to maintain direct radio contact with the pursuing Albury units. Initially Albury 201 came up on channel but failed to reply on my request. It was from this point that all communications were conveyed via phone or radio by Wodonga Police Station, being Wodonga 900. The information relayed to me was that at the time the pursuit was heading south on the Hume Freeway from the Lincoln Causeway at Wodonga. I then attempted to co-ordinate any Victorian units to the location of the pursuit. However, as I was not aware of that exact location and had no direct communication, this was difficult and I was unable to determine the circumstances of the pursuit. At this time I was of the belief that the pursuing Albury units although capable of communicating directly with me, were remaining on the N.S.W. channel.*

*As I was attempting to co-ordinate Victorian units I received information that the pursuit may have been reaching speeds of up to 185 kph. At this time I asked Wodonga 900 to convey to the Albury all due care and safety. Albury 202 then came up stating that they were in pursuit of vehicle on the Hume Highway, having just gone past the Barnawartha exit, exceeding 200 kph. I advised them that Victorian units were en-route and I conveyed to them all due care and attention to themselves and members of the public. I then attempted to obtain further information as per Victorian Police guidelines in relation to pursuits as to whether the pursuit should proceed or be called off. I started by asking for the reason of the pursuit but again lost communication with them.*

*I advised Wangaratta 617 that he would most likely be the first Victorian unit to become involved in the pursuit and to assess the situation and I continued to attempt to obtain information via Wodonga 900. I ascertained from Wodonga that the pursuit was one kilometre north of Springhurst and I again attempted to contact the Albury units. Wodonga 900 then advised me that they had just taken the Springhurst exit when Albury 202 came up and advised me that they were now talking car to car as they were getting out of Wagga. I took this to mean that Albury 201 was the initial primary pursuing unit with 202 following and that 201 was conveying information to 202 as they were losing radio contact with Wagga communications.*

*I attempted to keep radio contact with Albury 202 when the unit came up urgent and conveyed the information that vehicle being pursued had had an accident on Vipond Road. I then continued to co-ordinate Victorian units to the scene and other emergency services.*

*Throughout this incident I was unable to maintain communication with the Albury units for any period of time, with most information coming via Wagga Communications on the phone and Wodonga 900. My initial concern was to obtain relevant information in order to assess whether the pursuit should continue or be called off, and to have Victorian units attend and take over for that reason. However I was unable to do this due to not having constant communication with the Albury units and the pursuit ending prior to the arrival of Victorian units."*

In addition, Senior Sergeant Smith stated that after the Springhurst incident "*and another at Longwood*" some week later he had numerous conversations with Superintendent Ken Lay who is the Officer in Charge, Region 4 Division Five. Smith stated that "*as a result of this and other historical matters, Lay conducted a 'Review of Issues Surrounding the Management of Rural Communications and Police Pursuits.'*" That:

*"In his review Superintendent LAY evaluated issues and made recommendations to improve service delivery in the Region. He further recommends changes in the Pursuit Policy to reflect a more New South Wales orientated approach to cross border pursuit. The recommendations in relation to communications are being evaluated and are in the process of being implemented. The recommendations in relation to the pursuit policy are being reviewed by Inspector Stork of Road Safety Task Force who has been tasked with totally reviewing the Force Pursuit Policy."*

That:

*"New South Wales Police had direct communication with their own communication centre and were still under the command structure of the New South Wales Police at the time of the collision. The decision to continue or not with the pursuit was one that at the time the New South Wales Police Service were in a better position to evaluate than the Victorian Police who had not yet taken over conduct of the pursuit. The pursuit controller who had earlier ordered the pursuit abandoned, Senior Constable Dawson (Albury 14) who was the District Supervisor continued to monitor the pursuit and made the assessment that the pursuit was justified. He reiterates that he would have called*

*off the pursuit had he not had confidence in the skills of the pursuing drivers. He was prepared to hand over the pursuit when the Victorian Police took over the conduct of it. "*

## **Review of the management of Police rural communications centres in Victoria**

A review was conducted into the management of rural communication centres by Superintendent Lay of Wangaratta Police. The review is titled "*Review of Issues Surrounding the Management of Rural Communications and Police Pursuits*", dated 20th of June, 2001. In the introduction Lay said (about two pursuit incidents involving three deaths - Rich, French and Repinski):

*"A review of these incidents identified a number of significant problems with police communications at Wangaratta. In addressing these shortcomings in the Police Pursuit Policy were also identified"*

The issue of clear guidelines for cross-boarder pursuits was also raised. On this issue Superintendent Lay commented:

*"The increasing occurrences of "cross-border" intercepts and pursuits has highlighted the need for clear and concise guidelines for members as they enter another state's jurisdiction. The Operating Procedures Manual is currently silent on the issue of cross boarder pursuits. It is considered that the NSW Safe Driving Policy offers a sound basis for developing a Victorian policy."*

The review was critical and identified a number of issues for Regional D24 offices including, staffing, training for rural communications operators, supervision and operating procedures. Other issues considered by Superintendent Lay are redesign of the layout of the D24 Office, trailing of remote radio headsets and the problem of using the radio and a separate telephone (at Wangaratta).

## **Expert accident reconstruction and forensic evidence relevant to the incident**

### **ACCIDENT RE-CONSTRUCTION**

#### **The evidence and opinion of Major Collision Investigation Unit investigators**

Sergeant Peter Bellion, Civil Engineer and Re-construction investigator, Major Collision Investigation Unit. Bellion has extensive experience and technical qualifications in motor vehicle accident investigation. In particular he has been:

*"a member of the Victoria Police since 1986 and from April 1988 to June 1990, I performed exclusive duties with the Traffic Operations Group. Whilst with this Group I was a member of the Road Safety Liaison Committee for the "Charlie District" police area. On this Committee I dealt with traffic and road safety problems. I have been a committee member of the Institution of Engineers, Road Safety Sub Group.*

And has:

*"attended and passed a high speed pursuit driving course, Vehicle Safety Testing Course, Accident Investigation Course, Photogrammetry Course, Computer Aided Drafting and Design Course, Dunlop Olympic Tyre Safety Seminar and The Royal Australasian College of Surgeons Seminar on Road Trauma: The Medical Engineering Link. I was also a participant in the Vic Roads Seminar on Accident Investigation and Prevention that dealt with Road and Environment Safety. I have attended a workshop seminar on Road Safety Audits conducted at Monash University, Clayton. I have studied subjects on Accident Investigation at Monash University, Caulfield Campus, which involved Technical Accident Investigation, Vehicle Dynamics and Accident Reconstruction.*

*I have conducted numerous tests in relation to determining coefficients of friction, skidding vehicles from known speeds, critical speed on curves testing and light globe filament testing. I have also viewed a number of vehicle to vehicle, vehicle to pedestrian and vehicle to bicyclist crash tests. I have studied recent literature on accident reconstruction. I am further conversant with the Engineering Dynamics Vehicle Analysis Package, including the EDCRASH, EDSMAC, EDVTS and EDSVS computer reconstruction programs. I am experienced in the use of these programs and have carried out validation testing of the EDCRASH and EDSMAC programs.*

*I have attended in excess of 500 fatal collisions and numerous serious injury, injury and property damage collisions. I have reconstructed the majority of these collisions. I have given expert evidence in the Magistrates', Coroners' and County Courts in relation to Accident Reconstruction."*

On the 16th of April, 2002 Sergeant Bellion was requested to reconstruct the Springhurst collision. He was provided with a scale plan and survey file of the collision scene, photographs of the collision scene and a briefing note in relation to the incident. He obtained vehicle specification data, skid test data for a dry gravel road and specific measurements from the survey file relevant to speed analysis.

Sergeant Bellion stated that the:

*"Analysis of the material indicates the stolen Berlina wagon was travelling in a southerly direction along Vipond Road in the vicinity of Sanderson Road. Vipond Road prior to Sanderson Road has a straight alignment leading into a left hand curve. The width of the gravel surface of Vipond Road prior to Sanderson Road is about 6 metres. After Sanderson Road, Vipond Road's alignment changes to a right hand curve and the width of the gravel surface decreases to about 3.6 metres. The driver of the Berlina wagon, REPINSKI, about 84 metres prior to impact with a large trunked tree has applied too much steering to the left at the speed the vehicle was travelling at. As a result the Berlina wagon commenced to yaw around to the left leaving tyre yaw marks from all four tyres. Opposite the intersection with Sanderson Road the steering angle of the Commodore was corrected back to the right allowing the vehicle to track in line for a distance of about 20 metres prior to impact. The vehicle then impacted head on into the tree trunk, favoured to the driver's side. The Berlina wagon rotated slightly clockwise around the tree trunk from impact to final rest.*

*The radius of curvature of the outside tyre yaw mark from the initial oversteer left was determined to be about 225.25 metres over the first 30 metres, between 51 and 81 metres prior to impact. Skid test data from a dry gravel road in a current model Commodore resulted in a minimum deceleration of 0.5g and a maximum deceleration of 0.7g. Using the physics principles of circular motion with inputs of radius and deceleration indicated the speed of the Commodore when it first yawed to the left was around 120 to 140 km/h. The average deceleration during the length of an oversteering event is about 0.2g. Applying this deceleration over 84 metres pre-impact would indicate an impact speed with the tree of between 101 and 124 km/h.*

*Maximum crush on the Berlina wagon was determined to be approximately 150 centimetres. This amount of crush and the overall damage appearance of the Berlina was consistent with having hit a barrier at a speed in excess of 100 km/h. The sensor diagnostic module for the airbag system of the Berlina made a decision to deploy both frontal airbags. This would have been as a result of its accelerometer initially recording a large deceleration in a very short period of time."*

Senior Sergeant Smith, Accident Investigator and officer in charge of the Glen Waverley Unit of Major Collision Investigation Unit, was in charge of the investigation of the Springhurst Incident for the Coroner. He noted:

*"The collision occurred on Vipond Rd, Springhurst about 20 metres south of the T intersection of Sanderson Rd. There were open paddocks both sides of the road.*

*Vipond Road runs generally north south. The road surface is gravel and about six metres in width. Likewise Sanderson Road is also gravel and runs east from the Vipond Road intersection."*

Senior Sergeant Smith observed that *"a dark coloured Holden Berlina station wagon bearing Queensland number plates 830 DZN had impacted into the trunk of a gum tree on the western edge of Vipond Road, about 20 metres south of the Sanderson Road intersection. The tree was situated approximately 2.5 metres from the Western edge of Vipond Road. The resulting impact had caused the vehicle to rotate slightly clockwise around the tree."*

Senior Sergeant Smith noted:

*"a set of yaw marks which continued south on Vipond Road across the Sanderson Road intersection on to the grass at the edge of Vipond Road before terminating at the point of impact with the tree. These marks appeared to have been left by the Holden's off side tyres. Another set of parallel yaw marks terminated at the Holden's impact with the tree. The yaw marks were consistent with being left by the Holden's near side tyres.*

*The front of the vehicle had been extensively damaged and the driver of the vehicle was trapped within the driver's side compartment of the vehicle. Both air bags were deployed."*

Senior Sergeant Smith observed a New South Wales Police Service Highway Patrol vehicle, a Holden Commodore sedan, registration number XGH 138 at the scene. This was the primary pursuit vehicle and had been driven by Senior Constable Duncombe of the Albury Highway Patrol at the time of the pursuit. An external examination showed no contact damage to this vehicle. Smith noted and detailed a number of other NSW Police vehicles and examined them for damage. No damage was observed.

Senior Sergeant Smith stated that:

*"A short time later Insp. Alway and myself left the scene of the collision and attended at Wodonga Traffic Management Unit where I spoke to Senior Constable Angus Duncombe who was the driver of the primary New South Wales Police unit at the time of the collision. Also present at this time was Acting Sergeant Dave Warner who was the secondary unit driver. After initial consultation with legal representatives of Duncombe and Warner I was able to take a statement from Duncombe in relation to his input into the pursuit.*

*Duncombe would state to me that he was tasked earlier that day with operating a Random Breath Test Station in company with Acting Sergeant Warner in north Albury. He stated that they had started to set up the station when they heard a pursuit start over the radio. A short time later the pursuit was abandoned at the direction of the local area Commander. The description of travel was in the area of the RBT station that was being set up. Duncombe decided to drive from the RBT station in David Street to the intersection of North and Young Street to see if the offending vehicle came his way.*

*He had only been at the location a very short time when the vehicle of interest approached his location. The vehicle made a left hand turn into Young Street to travel south.*

*Duncombe took up a position 15 metres from the rear of the vehicle. Duncombe then activated his lights and sirens. Almost immediately the driver of the suspect vehicle increased his speed in an effort to avoid apprehension and a pursuit ensued. Duncombe stated that he had no doubt at all that who ever was driving the vehicle was trying to avoid apprehension by him. The pursuit continued through the streets of Albury reaching speeds of around 120 km/h. Duncombe at all times relaying his position and circumstances through to VKG Wagga.*

*During the course of this pursuit Duncombe lost ground to the vehicle due to the fact that he was not taking as many risks as to driver being pursued. Repinski's driving ranged from speeding to going through red lights.*

*At this time Duncombe had become caught behind slower vehicles and was 200 - 500 metres behind the offending vehicle. He then heard another Albury vehicle, Albury 36, a uniform vehicle being driven by Senior Constable Gordon Spencer say that they had the car in sight and it had turned right onto the freeway to Melbourne. With this in mind Duncombe turned on to the freeway where he saw Albury 36 and what he thought was the offending vehicle in the distance.*

*Duncombe was travelling at 180 km/h in a 110 km/h zone. A short time later he caught up to Albury 36 and saw that the car being pursued by them was not the offending vehicle. He then looked forward and saw the offending vehicle about two kilometres in front of him. DUNCOMBE subsequently caught up to the car and took up a position about 150 metres from the rear of the vehicle. He was maintaining a speed of about 180 - 200 km/h.*

*Duncombe was to maintain this speed for the rest of the pursuit until the offending vehicle turned off the freeway at the Springhurst turn off.*

*Duncombe in fact did not initially follow Repinski when he drove off the freeway at the Springhurst exit. Due to the unexpected nature of the manoeuvre Duncombe drove past the exit and was forced to negotiate a 'U' turn and drive back to the exit. During this time he lost sight of the vehicle. Duncombe located the car when he saw a plume of dust travelling down Vipond Road he followed the dust and on coming out of the end of the dust he located the vehicle at rest against a tree with the deceased Repinski trapped behind the steering wheel. A short time later vehicles from New South Wales and Victoria began to arrive at the scene and emergency procedures in relation to crime scenes were enacted."*

Senior Sergeant Smith commented that:

*"In the early stages of the investigation into the death of Repinski it became clear that communications between VKG Albury and VKC Wangaratta were poor. The vehicle that Duncombe was driving was equipped with both New South Wales and Victorian radios.*

*Whilst Duncombe and the New South Wales Police were in constant contact via VKG Wagga the reception between Duncombe and Wangaratta VKC was fleeting and limited to two very short transmissions. Effectively messages were being relayed via VKC Wangaratta to Wodonga and then to the cars in the pursuit."*

However, Senior Sergeant Smith observed that:

*"Sergeant Cameron Roberts, Officer in Charge of Wodonga Traffic Management Unit was conducting a training course at his office and was notified of the pursuit by the Wodonga Watch house keeper. The members immediately left the office with the intention taking over the pursuit when they caught up to it. Roberts was able to communicate with Wagga VKG and as such he was able to monitor the pursuit. As he got to the freeway it became obvious to Roberts that the pursuit was already in front of Roberts and the other Victorian Units and as they could do nothing but endeavour to catch up with the pursuing units in an effort to take over on their arrival. Roberts was satisfied that the pursuit was operating effectively and that he was making ground on the offender when he heard over the radio that Repinski had turned off at the Springhurst exit.*

*He estimated that at this time he was about 1 minute off taking over the pursuit."*

Senior Sergeant Smith examined in more detail the communications issue.<sup>2</sup> He explained that:

*"Kylie Osredkar was a Constable of Police attached to Wangaratta D24. At the time of the pursuit she was aware of the original pursuit in New South Wales that had been abandoned because details of the direction of the car had been relayed to her via Wagga VKG Wagga. She was then contacted by Senior Constable SIMON of Wodonga to say that the car had been sighted in Young Street, Albury and was headed towards Victoria.*

*A short time later (10.23) whilst she was trying to work out what vehicle was available to assist OSREDKAR received a call from Albury 201 (WARNER) and identified himself. She called him back but got no response. Senior Constable HARVEY then took over the running of the pursuit."*

As to the incident, following his investigation, Senior Sergeant Smith provided the following summary:

*"Repinski was pursued by the New South Wales Traffic Units. He travelled through Albury until he entered Victoria via the Hume Freeway. New South Wales units continued to pursue Repinski until he veered off the road at the Springhurst exit. At this point the New South Wales Police member, Senior Constable Duncombe momentarily lost sight of the vehicle. During the time that Duncombe was attempting to re-engage Repinski, the vehicle driven by Repinski collided with a tree at the intersection of Vipond and Sanderson Road, Springhurst. At the time that the collision occurred although Repinski was clearly attempting to avoid apprehension the Police member (Duncombe) had no physical input into the collision. The Victoria Police were not able to formally take over the conduct of the pursuit due to poor communications between themselves and New South Wales Police. This factor was further exacerbated by the fact that they were not able actually engage in the pursuit. From the time that the Victoria Police were informed of the presence of the pursuit from New South Wales to the time that the vehicle collided with the tree Victoria Police personnel were not in a position to have any influence on the outcome of the pursuit."*

## FORENSIC PATHOLOGY AND TOXICOLOGY

### Opinion of the Forensic Pathologist

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<sup>2</sup> See also Smith's notes of Harvey's summary, p.18 of this finding.

As a result of the post mortem examination Dr. Michael Burke, Forensic Pathologist, established the cause of death as 1(a) Haemothorax and 1(b) Traumatic Rupture of the Thoracic Aorta. The toxicology report showed the presence of D9 - Tetrahydrocannabinol within the blood (leg). There was no evidence of alcohol.

## **Conclusion on the incident**

Mr. Repinski drove a stolen 2001 Holden Commodore Berlina station wagon at excessive and dangerous rates of speed through Lavington (a suburb of Albury), the city of Albury and its outskirts and on the Hume Freeway into Victoria. The incident commenced when a New South Wales Police Officer observed the Commodore speeding and commenced a brief pursuit that was terminated (speed of 120 km/h in a 60 zone). A little later, another New South Wales officer observed the vehicle travelling at speed, commenced a pursuit and entered Victoria.

Mr. Repinski drove the stolen 2001 Holden Commodore Berlina station wagon along the Hume Freeway at speeds that were well in excess of the posted speed limit of 110 kilometres per hour and objectively highly dangerous to himself, members of the public and police. In Victoria, along the Hume Highway between Wodonga and Springhurst, those speeds varied between 180 and 200 kp/h. Repinski left the Hume Freeway at the Springhurst off ramp and entered the gravel road surface of Vipond Road, Springhurst. He then continued at a speed of about 150 kilometres per hour which was also dangerous in the circumstances. He lost control at a slight bend in the roadway and struck a tree at high speed.

From the time Mr. Repinski left the highway it appears that, for all practical purposes the pursuit was at an end (although it had not been formally called off). The pursuing police officer only identified Repinski's whereabouts by following a cloud of dust. Because of the dust Repinski would not have been able to see whether police were behind the vehicle he was driving, yet he continued to drive at a fast and dangerous rate of speed for the unmade road conditions.

Had the pursuit been terminated at an earlier stage on the Hume Highway there was some potential for a different outcome. However, it should be noted that this, in the light of Mr Repinski's driving behaviour, ultimately is a matter of speculation.

The pursuit was being undertaken in Victoria by New South Wales Police (Victorian Special Constables) under the effective command and control of Police from that New South Wales and, in the light of difficulties with the communication systems in Victoria. The quality of the Victorian Police communication system being run from Wangaratta meant that the only practical solution was for the NSW Police to manage the pursuit from that State until such time as Victorian Police were in a position to directly and effectively take over the pursuit and its management. The communication system run at Wangaratta was totally inadequate for this purpose.

## COMMENTS AND RECOMMENDATIONS

The findings, comments and recommendations will be sent to the:

- Victorian Attorney General,
- New South Wales Attorney General,
- State Coroner, New South Wales,
- Minister for Police and Emergency Services (Victoria),
- New South Wales Minister for Police,
- Minister for Transport (Victoria),
- Minister for WorkCover (Victoria),
- Minister for WorkCover (New South Wales),
- Minister for the Transport Accident Commission,
- Chief Commissioner of Police (Victoria),
- Chief Commissioner of Police (New South Wales), and
- The Director, Australian Institute of Criminology.

### Introduction

#### The context and concern

From July 2001 until September 2003 there have been a number of deaths associated with police pursuits in Victoria. The total number of deaths was 24 that occurred in 16 incidents. The first incident involved two deaths and occurred on July 2001 at Connaware near Geelong. The last death occurred in September 2003 near Robinvale in North Western Victoria. When this inquest started there were 23 deaths.

These deaths are indicative of a high rate as compared with previous history. It is in the broad context of a serious problem for the Victoria Police and the community that this inquest should be viewed.

Other relevant inquests heard at the time of this hearing include the investigations into two separate incidents occurring in country Victoria and suburban Melbourne involving the deaths of Tristram Rich and Joshua French in the country incident and Simon Lovitt, Shaun Law and Carl Vo in Melbourne.

As the incident involving Mr. Repinski mainly involves New South Wales Police operating in Victoria many of the comments and recommendations still look at safe management from this State's perspective. Ideally, any police officer from another force involved in a pursuit in this State should have the support of similar training and accreditation regimes and comply with protocols and procedures operating in Victoria. Occupational health and safety concerns should also remain at the forefront of all operational decisions and considerations as these issues may still apply in any incident involving police from interstate. Victorian communications structures should be of a quality and system design that give adequate support to enable interstate police officers to safely operate in this State (until such time as Victoria Police can take over management of the operation). Clearly the communications management and operation from Victoria was totally inadequate.

#### Issues raised in this inquest

In addition to the 48 recommendations in the Police Pursuit Review 2002, this inquest (Repinski) has raised a range of issues that may need further emphasis or new consideration. In summary these are:

- Cross boarder communication:
  - (i) radio systems which enable direct contact by radio between VKC Wangaratta and VKG Wagga
  - (ii) Albury/Wodonga area may need special consideration it being the busiest border crossing.
- Recognition of inherent dangers of speeds in the order of 200 kph even on best roads such as Hume Freeway.
- The added difficulties of a solo pursuit driver having to manage two separate sets of radio communications which are not "*hands free*".

- Cross border pursuits:
  - (i) instructions
  - (ii) training in the pursuit operating procedures and instructions in the adjoining State.

The following general issues have been raised:

- Emphasis on safety first approach.
- Consultation with outside agencies/specialists on development of "risk management" in the pursuit situation (Recommendation 8 of Balzan Inquest - see p.90 of Appendix C to Police Pursuit Review 2002).
- Comprehensive training on pursuits as per "Beacon" firearms training.
- Consideration of how Occupational Health and Safety issues fit in with law enforcement requirements in the pursuit situation.
- Periodic re-assessment of police officers to determine suitability to continue to hold police driving authorities.
- Training and accreditation of pursuit controllers.
- Use of technology:
  - (i) Video cameras in police vehicles;
  - (ii) "Black Box" devices;
  - (iii) Dynamic vehicle recorders;
  - (iv) More easily managed radio equipment in police vehicles. (note: added difficulties for solo drivers especially when having to manage two separate sets of radio communications which are not "hands free".)
- Improved communications (equipment and staffing) in rural areas.
- Research on effects of stricter procedures for pursuits eg. Western Australia and Tasmania.

An important issue, the role of occupational health and safety policy, has also raised its head in the context of pursuit management by police. Occupational health and safety policy is a matter not only for the police directly involved as well as police management but also how the policy interacts to effect the safety of the public (and offenders).

These issues are considered throughout these comments and recommendations (if relevant to the case in hand).

## **The prescriptive "Safety First" approach**

### **Pursuits; a dilemma that needs concentrated risk management, training and audit**

#### **The nature of the dilemma - to pursue or not to pursue**

As a result of concerns over a number of recent deaths associated with Police Pursuits the Victoria Police have undertaken an extensive review. The Review with Appendices is 135 pages and is titled, "Police Pursuit Review 2002." The Review was co-authored by Superintendent P. Keogh, Inspector B. Stork, Sergeant G. Moloney, Senior Constables D. Pallot and R. Njegac.

As the Review team acknowledged, recently, Deputy Coroner Iain West conducted an inquest into the death of Antonio Robert Macaro (who died as a result of a pursuit related collision at Thomastown on 7 January, 2001). And that Coroner West was:

*"critical of police and stated that; ?A large number of high speed chases end in an accident, with people injured or killed as a result. In order to minimise the potential risk associated with such incidents, it is recommended that police do not attempt to intercept motorists for traffic breaches, by going after them at speeds in excess of prescribed limits.?"<sup>3</sup>*

Deputy Coroner West's recommendation is one, albeit not unreasonable, way of managing the risk associated with pursuits. However, Police have chosen not to follow Coroner West's recommendation. They have opted for a more prescriptive approach. For that approach to have a chance of working both in the short, medium and longer term there

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<sup>3</sup> West, Iain, Deputy State Coroner. Record of Investigation Into Death, Case No.63/01, 20 May, 2002, pp.2-3.

will need to be a considerable number of changes in areas such as training, retraining, accreditation, audit and the use of monitoring and safety technology.

It should also be noted that, understandably and not unreasonably, some of the families (in the Melbourne case) have called for a ban on the use of the pursuit as a law enforcement tool. However, in spite of this observation, this suggested direction is not the one that these coronial comments and recommendations are following. That is not to say that more work on the issue of managing safety in the area of pursuits by Police Command is not necessary - clearly it is. Mr. Brandt, who appeared for the families of Masters Rich and French, (whose sons died in the other incident in the country), cautiously remarked on the new Victorian Chief Commissioner's Instructions, that:

*"The new Pursuit Policy still has to be fully implemented. It remains to be seen whether that will indeed reduce the number of deaths in these situations."*

### **Introduction - a fresh look at the issue; the necessity for prescriptive controls**

Throughout the development of the *"Police Pursuit Review 2002"* there was extensive consultation with Police Command. Whilst there may be some shortcomings in the Review Report <sup>4</sup>, Victoria Police are to be complimented for this approach as a reading of the report would indicate an ability to be self-critical and to come up with valuable solutions.

In the Executive Summary for the Review the authors make the following pertinent points about the vexing issue of pursuits. In general the authors say that whilst:

*"the primary purpose of this report is to examine the issues associated with pursuits, there is also a need to examine and address other related issues that have the potential to become problematic in the future. The current pursuit policy is relatively suitable for all intents and purposes, but has not evolved with changing community expectations. As policing needs are similar worldwide, there is a general trend to adopt practices from other policing agencies interstate and internationally. This practice has prevented Victoria Police from formulating and developing policy that is based on local issues and needs which address problems specific to our police force. This report attempts to identify these local issues and formulate a draft policy that will address areas that require attention. Demands that are placed on operational police to make critical judgements in pursuits need to be addressed within the policy to reflect and assist the requirements in these situations rather than to complicate the decision making process. Victoria Police will look at ways of reducing the number of pursuits and consider the alternatives to pursuing."*

Significantly, the authors identify a critical issue for risk management:

*"It has been identified that a contributing factor to the impetus of pursuits has been the lack of risk assessment resulting from the embedded attitude of police officers towards this area of policing. This has essentially been derived from the complexity and conflict associated with the need to protect life and property and detect and apprehend offenders, further fuelled by the adrenalin rush which has a marked effect on the decision making process for all those involved. From the need to initiate pursuits, for whatever reason, it is important that police are trained to a level of exacting standards and professionalism that will reduce the risk to the public, the offender and all police involved. This is perhaps best achieved by formulating a policy that is prescriptive in its directives with emphasises for continuous risk assessment."*

Now, as a result of this Review the Chief Commissioner has recently introduced a new set of prescriptive rules. No doubt, if pursuits are to continue as a police management and law enforcement tool then very tight and strictly monitored prescriptive rules should apply. The new Chief Commissioner's Instructions hopefully will operate to significantly reduce the death and injury rate.

For the first time there is a concentration on *"Safety First"* which is underscored in the Chief Commissioner's new Instructions.

Counsel Assisting, Mr. Hillman, in his opening remarks, made the observation:

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<sup>4</sup> Not recommending external review by risk management experts

*"In the course of this inquest some consideration no doubt will be given to the Chief Commissioner's instructions of 30 June 2003 which now govern the safe driving of police vehicles, urgent driving and pursuits. It should be noted that those instructions acknowledge that there are inherent risks associated in all urgent driving and particularly in pursuits. The instructions at paragraph 26 state "Any decision to terminate a pursuit on the grounds of avoiding an unacceptable risk will be supported by Victoria Police. Any action taken to limit the risks for the public including offenders and police will be viewed as a decision that displays sound professional judgment. It is to be hoped that that stated policy may cause police officers involved in pursuits to concentrate on the safety aspects and the need to avoid unacceptable risks in the future."*

And that the:

*"new Chief Commissioner's instructions may have been the result of some recommendations made by coroners in previous inquests. This inquest is I suggest an occasion to consider the manner in which the coroners' recommendations concerning police pursuits have been considered, particularly by Victoria Police. The circumstances are that in the last two years from 1 July 2001 there have been unfortunately 23 deaths from 15 pursuits by police. And it's for that reason I say that this is an occasion to consider the manner in which previous recommendations have been considered by the Victoria Police Force?."*

### **Training, re-training and accreditation**

Critically, if limited pursuits are to continue, and deaths and injuries are to be minimised, there is a need to focus on both tried and true, as well as innovative, risk management techniques. Innovative, focussed and constant training has recently altered a high level of deaths from police shootings in this State. Victoria Police must be complimented on the long term results of the original Beacon Program (now called Operational Safety and Tactics Training - OSTT). The training in this area has been intensive, ongoing and has resulted in significant changes in approach and management. In a small part, the OSTT training has historically focused on the pursuit and, more broadly it teaches police how to safely manage an incident (a "pursuit" is but one of the many "incidents" police are required to manage).

However, the level of specific and ongoing training for work in pursuits and pursuit operational management does not appear to have been given the same much needed focus (as have shootings) in view of the high level of risk of death and injury to police, the general public and offenders when this acknowledged law enforcement management tool is being used. Victoria Police, to its credit, acknowledges this fact. By way of example Assistant Commissioner Ashby gave evidence to the effect that the pursuit issue has been resolved by the Victoria Police Force adopting proscriptive approach along with a higher degree of accountability. According to Ashby this focus is one that gives Victoria Police *"the best opportunity to change culture in respect to our response."* This new policy is in the development stage and Ashby, whilst generally acknowledging shortcomings in the loss of experience as a result of attrition in the mid to late 1990's, said that pursuits is now one of the four important areas identified to be addressed and:

*"?we've got training packages being developed by education department that align with the national training standards of other policing jurisdictions so that we meet minimum standards. They are being developed and that is a - that is an integral strategy to - part of the strategy to go down the path of changing the organisational culture in respect to our response to pursuits."*

Counsel Assisting, Mr. Hillman commented, in the process of examining the statistics, that if *"you start with the first one, on 21 July 2001"* from *"then on, there are 15 separate events. So there's 15 pursuits, involving 23 deaths."* Ashby agreed and acknowledged that this was *"obviously a factor that would be of concern to the Victoria Police."* Further:

*"Question: The recommendations made by the 2002 Pursuit Review team indicate, do they not, that there needs to be a different training regime for not only pursuits, but also of urgent police driving?"*

*Answer: Yes, urgent duty driving, yes.*

*Question: The most serious aspect of urgent duty driving is the pursuit?"*

*Answer: No question.*

*Question: That's the most dangerous?"*

*Answer: Yes.*

*Question: And that's the part of urgent duty driving that requires the best training. Correct?*

*Answer: Most intense.*

*Question: One of the matters relating to training, as I understand your evidence, is this; that there are some attempts presently being made to improve the training packages relating to pursuits. Is that right?*

*Answer: That's right, yes.*

*Question: Is the position that, as at present, however, no new training packages for pursuits, have in fact been implemented?*

*Answer: No, they're being developed.*

*Question: They haven't yet been implemented?*

*Answer: No.*

*Question: You say, do you, that the delay in implementation is, in part, as a result of the need to properly develop the training?*

*Answer: Properly develop it, and find the time to get across the eight and a half thousand members, in as short a time as possible. Which is why we - the OSTT regime would be the best.*

*Question: So the decision's been made to incorporate specific pursuit training in the OSTT program; is that the position?*

*Answer: Yes. And then to expand that to other existing training regimes, throughout Victoria Police, which include the Supervisory Training Course, Constable Skills.*

*Question: The OSTT training would have been regarded, would it not, as having been very successful in relation to changing the attitudes of police officers in relation to firearms and other uses of force?*

*Answer: Yes, I think all - I think it's reasonable to say all use of force has changed considerably, in our operational response."*

And:

*"Question: Do you therefore see the OSTT training program as the best vehicle to pursue the improved pursuit training, when, in fact, it's developed?*

*Answer: To - I think it's the only regime to reach the existing operational police in a coordinated way, and I also think it gives us the opportunity to leverage off the success of OSTT as a vehicle as - for use of force issues, and linking - linking these policies with that regime is a makes sense operation.*

*Question: Do you have any indication for His Worship as to when any improved pursuit training could be incorporated in the OSTT program?*

*Answer: I think it is anticipated to start in the first part of next year - I was just looking for it, a minute ago - for the regime which starts in January. That six-month period?*

*Coroner: You see, Mr Ashby, the problem that faces me, although there's not that much (indistinct), if the death rate continues at the rate it has over the last 24 months or so, it's really of serious concern - well, it's of serious concern as it is, but if it continues?-*

*Answer: I don't disagree with that, but the new policy was promulgated on 30 June 2003; that is now in place, that is now - so it's the - the education processes, of themselves, aren't the only thing - only aspect of applying them; there is the policy, which now has the full force of policy within Victoria Police, and breach of that policy has significantly (indistinct)*

*Mr. Hillman: That's been introduced in the absence of any new or enhanced training regime. Correct?*

*Answer: Yes, it has. It was brought in as the Chief Commissioner's instruction, and it clearly spells out definitions like "terminate", what units are, et cetera."*

The need for specialised training of Pursuit Controllers was also discussed.

In addition, the Assistant Commissioner acknowledged the lack of a State-wide structured training regime for police communications operators in regional areas (the communications issues in this case are discussed later under discrete headings).

There is no doubt that, up to now, there has been an inadequate focus on ongoing and regular training for police in pursuit management (both practical and theoretical). Victoria Police, through the evidence of Assistant Commissioner Ashby, have quite appropriately, acknowledged this fact. Because of the high risk of injury or death to police, innocent members of the public and offenders a high level of training and regular re-training is required. At the very least, a similar level of focus as is given to firearms and related issues needs to be given to pursuits and pursuit management.

As safety in the management of pursuits should be the paramount consideration, regular accreditation of police drivers who are qualified to be involved in pursuits should be the norm. That accreditation should be undertaken by skilled and

independent assessors in accordance with an agreed standard. From a practical point of view the assessors may also be police officers, ideally from another region or station, to the officer being assessed. Assessors (or Accreditation Officers) too should be trained.

Clearly (for Victorian Police) there needs to be a significant and concerted upgrading of training (including regular and concerted re-training), accreditation, equipment and risk management, along with proactive audit processes if the deaths (and injuries) flowing from police operations in pursuits are to be minimised. Some of that training may need to be specialised (i.e.: Regional Police Communications Officers, Pursuit Controllers, Accreditation Officers, Training Officers, etc).

The question and difficulty, in the case of cross boarder involvement of interstate police officers (in this case, New South Wales) is: Will their training and related processes applicable to urgent duty driving equate adequately with any upgraded system operating in Victoria?

Any recommendations and comments made in this inquest that may be relevant to New South Wales police are a matter for the New South Wales Chief Commissioner of Police. It may well be that both Chief Commissioners choose to work together on some of the issues discussed.

### **The need to use modern technology in a proactive way**

Technology provides a potential for monitoring controls in police vehicles that can help to lead to a better understanding of how incidents occur (thereby enhancing audit capacity and look at improving countermeasures) and provide an essential brake on actions that may be peremptory or not carefully considered having regard to the developing circumstances and potential risk. Video cameras in police cars linked to black box technology recording a snapshot of the police vehicle's movements (speed, braking, warning systems, etc) in the minutes prior to an incident is essential. Some aspects of this technology is regularly seen on our television and used by other police forces (video cameras) and black box recording equipment is commonly available to monitor crashes in the aviation and transport industry. Taxis also now use Global Positioning Systems to help identify and manage movements.

The use of monitoring equipment can also improve the accurate collection of data on pursuits. For example consider the following exchange in this matter: The discussion arose out of the questioning of Acting Sergeant Pritchard (Rich/French):

*Question: No, I appreciate that but I am referring to your role as one of the vehicles involved in a pursuit?*

*Answer: Yes, I have been observer and driver in pursuits before and I have been an interested observer, listener, if you like, in other pursuits.*

*Question: Because it would be fair to say that these are, unhappily, not an uncommon even along the Hume Freeway from time to time?*

*Answer: The Hume Freeway - I don't know the stats but I'd suggest that it does tend to attract a few."*

The questions lead to this telling discussion between the Coroner and Counsel for the Chief Commissioner:

*"Coroner: Will I be getting the stats, Mr Maguire.*

*Mr. Maguire: No, Your Worship, because we don't know what they would be. If they are formal pursuits, perhaps, but I am not sure about the ability of us to dig them out quickly, but if they are informal pursuits, matter where they have never been called in as a pursuit, then we just simply couldn't say. And that is a matter that is addressed in the review, as Your Worship will appreciate. I will see what I can do in terms of making an enquiry in relation to it but I really do think it may be beyond our ability to drag out that information.*

*Coroner: That of itself is a frank admission of a problem?*

*?Mr. Maguire: That is the case, Your Worship. There are instances that occur where members have in the past not called in a pursuit, it is simple as that. We know it but we can't - there is a - the fact that you know that it occurs doesn't assist you in terms of the estimating the scope."*

Aspects of the data collection problem can also be seen in the New South Wales Chief Commissioner's submission:

### **"1. Pursuits in New South Wales**

(a) Total pursuits for 2001 - 2414

(b) Total pursuits for 2002 - 2166

(c) Year to date 2003 - 1344

*These statistics are not really very useful in the sense that the data base does not discriminate between pursuits which last for, for example, less than 1 minute, and pursuits which last for a longer period of time.*

*There is no separate data base which records injuries received by any persons as a consequence of any pursuit but there are statistics in relation to recorded fatalities which are heard by the New South Wales State Coroner.*

*The difficulty with these statistics is that whilst a nominated number of Coronial matters flowing from pursuits maybe heard in a particular year that does not necessarily mean, obviously, that the fatality occurred in that calendar year.*

*The Coroner's statistics reveal as follows:*

*2001 - 4 Coronial matters heard relating to police pursuits.*

*2002 - 4 Coronial matters heard relating to police pursuits including a cross boarder pursuit from Queensland.*

*2003 - There are 7 matters relating to pursuits which have yet to be the subject of a Coronial inquiry."*

Accurate data collection on pursuits and outcomes is vital for an understanding of the extent of the problem and to help improve practices. Monitoring equipment in police pursuit vehicles will also assist in this regard.

It is noted that we regularly see in the media the use of the onboard video camera in police vehicles from overseas jurisdictions.

#### **The need to regularly undertake comparative research and use coronial findings**

Police need to ensure that there is a process in place to conduct research on effects of stricter procedures for pursuits (eg. Western Australia and Tasmania). This should be undertaken in the context of regular reviews of practices and procedures in this area (comparative research work would help to ensure that systems are regularly tested and challenged to ensure best practice). Coronial findings need to be used in a timely, positive and proactive way to inform procedures. By way of example, the following comments in **Balzan** (whether from a police occupational health and safety or a public safety perspective) are still apposite:

*"Recent reviews of pursuit procedures have characterised the 'pursuit' as **being potentially the most risky police incident management tool**. Cunningham also refers to United States research which -*

*...stresses the need for police to acknowledge a direct relationship between the potential degree of force used during a pursuit and that used during the discharge of a firearm. To support the NPRU assertion the following point was made -*

*'...the police vehicle is 'the most deadly weapon in the police arsenal' - a view reflected in the demand overseas to attach to high speed pursuit a level of accountability similar to firearms use.'*

*This 'link' is based on the potential for the serious injury [and/or death] of either the direct participants, or of innocent civilians, that may result from either activity. While there are few instances in which police can justify driving tactics that result in the death of a fleeing driver - it must be recognised that this is, in fact, the true potential of every pursuit....' [p.24]*

*In reality 'pursuits' are not generally controllable and thus have clear potential for innocent civilians to become part of the injury/death statistics. The recent introduction of 'Project Beacon' by the Victoria Police following a series of police shootings has seen a change in direction by the force from an apparent culture of 'risk taking' to a culture of 'safety'. This a positive direction heralding a clear message to that small element in our society seeing confrontation and violence as a way of resolving issues. The Police must be commended for examining and developing innovative technology and new management methods to reduce the potential for unsatisfactory outcomes.*

*Pursuits are but another aspect of the same problem. They are bred from a culture of risk taking within our society. **They are by their very nature high risk events - to the public, police and offenders.** The older police culture may be part of the problem in managing 'pursuit' situations. Peer group pressure and stress may also be critical factors with operational police in deciding to pursue or not to pursue. In some circumstances these factors may work against a safe and optimal outcome.*

*However, the innovative management methods currently being used by the force in the context of armed confrontation may be a useful key to assist in reducing the incidents of pursuits [or unsatisfactory outcomes]. It is understood police in Victoria are moving in this direction. Cunningham links firearms review to pursuit driving and the author states -*

*'It is believed that linking this review with Project Beacon has a sound philosophical basis that extends to a conviction that the principles encouraged by Force Command regarding the use of force should be expanded to encompass pursuit and urgent driving duty.' [p.57]*

*At the moment a single solution is not apparent. The problem is multi-faceted/multi-disciplinary, and accordingly we must look for solutions in a number of areas. It is not just a police problem but one for our entire community - for we are all at risk. The risk is small, but finite, however the overall cost to our community is far greater. Again it is just a symptom of the broader problem - irresponsible [and criminal] risk taking behaviour without regard to consequences. Accordingly significant resources need to be committed to assist the police [and other agencies] to develop countermeasures. Countermeasures may vary from effective planning to fully utilise our rapidly developing technology, more effective and targeted enforcement, to education to reduce risk taking behaviour [a total 'harm minimisation approach'].*

*It is likely that any program[s] which effectively reduce the incidents of pursuits will have broader spin offs in other areas of crime prevention and road safety." (Sentences in bold added by the Coroner).*

All of the recommendations in **Balzan** need to be carefully considered in the context of this and other recent deaths during pursuits.

### **Critical Incident Reviews are essential**

Critical Incident reviews should be undertaken into all pursuit related incidents where death or serious injury is involved. Reviews should also be conducted by independent officers to a strict standard (by way of example the Victorian Correctional Services Commissioner's Office has long been monitoring detailed critical incident reviews into the deaths of prisoners. These reviews have contributed to regular changes in practices and procedures within the Correctional system and should be considered as a model by Victoria Police).<sup>5</sup>

A critical incident review was not independently undertaken by New South Wales Police into this incident - however there was a de-brief by Victoria Police. Where there are joint operations involving officers from both forces there should be a process of detailed joint critical incident review (at the very minimum in line with the Victorian Chief Commissioner's new Instructions - see below).

The submission for the New South Wales Chief Commissioner notes that a review was conducted:

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<sup>5</sup> See also additional comments in the matter of Lovitt, Law and Vo.

*"?...by VicPol at Albury Police Station and no documents relating to this were retained by NSW Police."*

It would seem reasonable that any review document should be available to each participating jurisdiction and where appropriate any improvements identified should be actioned.

## Summary

The Review, if all of its recommendations are adopted in a timely and well resourced way, is a positive and proactive step. However, it must be emphasised that concentrated and regular training for operational police officers is but one element (albeit a major one) of a package of measures that is essential if the pursuit related death and injury rate is to be kept at bay. Other elements, as indicated, are well-elucidated and regularly audited procedures combined with modern technology designed to monitor speeds and circumstances in the driving and immediate environs.

The current issue facing the Victoria Police and the community is a most serious one and new measures need to be introduced to improve safety for police, the public and offenders alike. It is to be hoped that the new prescriptive procedures (already introduced) have immediate effect and significantly alter the continuing and troubling death rate. It is noted that the authors of the Review clearly and candidly, in part, recognise some aspects of the problem existing at the time these deaths occurred when they say:

*"If Victoria Police continues to operate under the existing pursuit policy and members continue to adopt practices which are in contradiction with the policy, there is a likelihood that more deaths and injuries will occur as a result of pursuits. This will inevitably draw further criticism from the coroner and the community. To avoid the ramifications of any further death or injury related pursuits, Victoria Police has an obligation to the public to evolve with community expectations. There is a real need to shift the emphasis from apprehending the offender to balancing the risks with the associated outcomes. This is best achieved by educating those involved with a view to changing the approach and mindset of practices that have been ingrained for many years."*

The authors cite the Coroner's comments and recommendations in the Balzan incident and examine how those recommendations have been adopted by Victoria Police. They also note that the Coroner did not then recommend a "no pursuit" policy. However, the Coroner's recommendations and comments made in Balzan should be seen in the context of a lower rate of deaths during police pursuit related incidents at that time. **The Coroner was not then facing a death rate of 24 in 26 months (July 2001 to September 2003).** It should be noted that Mr. Balzan was an innocent third-party, not involved in the pursuit. The community needs to be aware that not only offenders and their passengers are at risk during a pursuit but also police and the general public.

In future, the deaths, injuries and pursuit related incidents will need to be very carefully monitored and the lessons learnt from each incident used in a timely way to improve outcomes. Up to now this does not appear to have been the case, as evidenced by a general failure over a period of years, to implement the Coroner's recommendations as evidenced following the finding in the matter of Balzan. The Review has also commented on Balzan and the failure to implement the Coroner's recommendations.

It should be noted that the recommendations in this inquest are interlinked. By way of example: training, re-training and accreditation are linked together. So too is the ability to accurately monitor what has happened in a pursuit by means of technology which gives the ability for more accurate assessment of what happened in an incident and feed the lessons back into the practices, procedures and training (if required). The occupational health and safety of police officers involved in pursuits is linked to the clarity and effectiveness of the operating practices and procedures, the quality and safety of equipment being used, the effectiveness of communication (as evident in the instant case) and of course, training. All of this has potential to effect and the issue of public safety where a pursuit is involved. Accurate and, if necessary self critical, internal incident reviews also help to underpin dynamic procedures and policies.

The new "Safety First" approach is, at this time, supported provided it is fully implemented with a range of additional but necessary management tools ranging from occupational health and safety, a significantly increased focus on operational training to safety equipment and thorough monitoring. Any new prescriptive approach to the safer management of high risk pursuits, to have a good chance of being effective, must have all of the necessary tools to enable that work to occur. Whilst the Commissioner's new approach is commendable there is still a good deal of work to be undertaken to reach the level of safety management required.

### ***Recommendation 1***

*That there should be a significantly increased focus on training, regular re-training and attendant accreditation for officers to be involved in pursuits. Such training also should include dealing with specialist areas such as Pursuit Controllers, Communications Officers (in regional areas) and those responsible for accreditation.*

*After the training regime has been implemented only accredited officers should be involved in pursuits.*

*The training regimes and accreditation controls relating to police officers from other jurisdictions need to be considered for the safe operation of cross-boarder urgent duty driving and incident management.*

### ***Recommendation 2***

*That Victoria Police and the Department of Justice investigate the installation of linked video and dynamic monitoring system in all operational police vehicles (that may potentially be used for pursuit related duties).*

*The consideration of this recommendation is essential to ensure accurate monitoring of the offender's vehicle and the response of the police pursuit vehicle. It is an essential tool for the audit of public and occupational safety responses and will help to accurately identify areas for improvement in practices and procedures.*

## **The role of occupational health and safety policy in the management of pursuits**

Clearly, occupational health and safety law applies to the police workplace and, in particular, to pursuits. Once a pursuit commences there is a high risk of serious injury or death to police, the public or offenders, accordingly, under current occupational health and safety law the risk management processes operated by the police in this area of their work will come under thorough scrutiny. Officers from interstate working in Victoria are covered by this State's law.

Where these type of incidents occur there will be scrutiny in such areas as: general risk management procedures and practices, particular work practices and rules; training and re-training; accreditation and re-accreditation; monitoring equipment and associated technology; the design and safety of vehicles used by police (protective nature in the event of a collision at speed); audit processes; incident rates and investigation; comparative practice in other jurisdictions; etc. These questions are normally asked in any serious workplace related incident and policing in the area of pursuits is no exception to this rule.

Thus the occupational health and safety issue needs to be at the forefront of the minds of those responsible for developing systems of work relating to managing the risk associated with "police pursuits."

Significantly, there was one recommendation made by the Coroner in the matter of Balzan that has not been taken up by the Review Team - it relates to the use of outside risk management consultants (although at the time this recommendation was not specifically linked to occupational health and safety). The importance of outside and independent review can be seen in the exercise of the coronial inquest process which invariably identifies additional safety and management issues. So too would the use of outside specialists in the area of risk management and occupational health and safety. Independent risk managers specialising in occupational health and safety would, most likely, bring a new way of thinking into the process and help improve the risk management techniques and approaches in a most difficult and vexing area. This should still be done in the light of the large number of fatality related incidents and the serious occupational health and safety and public safety related issues that are faced by Victoria Police in managing this aspect of its work.

### ***Recommendation 3***

*That the Chief Commissioner re-consider an earlier Coronial recommendation in the matter of Balzan that, on a reasonably regular basis, independent specialists in risk management be involved in reviewing police work practices and procedures in the area of police pursuits.*

*This recommendation is aimed partially at an audit checking process and partially ensuring that new ideas in risk management be regularly fed into the system. More particularly it is aimed at constantly improving practice and ensuring that occupational health and safety issues are regularly reviewed. Accordingly, it is essential, in view of the range of potential occupational health and safety issues evident in pursuits, that any such specialists have widespread experience in occupational health and safety issues as well as risk management.*

## **Victorian Chief Commissioner's new Instructions - the Cross-boarder Pursuit**

### **The new Instructions**

As pursuits also involve incursions into other jurisdictions the Victorian Chief Commissioner has developed a new set of rules applicable to these situations. The Instructions are as follows:

#### ***"Cross-Border pursuit***

*31 Any employees likely to be involved in a cross-border pursuit, including as a PCC operator, must make themselves familiar with that State's police vehicle driving policy. Respective training officers are responsible for ensuring this information is made available. The police vehicle driving policy of the State in which the pursuit is in will have precedence.*

#### ***Pursuit initiated in Victoria***

*32 The following procedure applies for a pursuit initiated in Victoria:*

- *Every occupant in the respective police vehicle/s must be a special constable of the State the pursuit is entering. If not, the pursuit must be terminated.*
- *Before crossing the border, the primary of secondary unit must notify the respective State via the PCC.*
- *The Victorian pursuit controller and the entering State must authorize the pursuit crossing and continuing across the border. If prior contact cannot be made before crossing the border, the pursuit must be terminated.*
- *If continuance of the pursuit across the border is approved, that State's police vehicle driving policy must be followed, in addition to the CCI. The original pursuit controller will continue to monitor and coordinate the pursuit until an appropriate interstate pursuit controller takes over.*
- *Only the primary and secondary units can continue a cross-border pursuit unless otherwise directed by the pursuit controller.*
- *When appropriate interstate police vehicles take up the position of primary and/or secondary units, Victorian units must withdraw from the pursuit.*
- *The pursuit must be immediately terminated whenever police radio communications with the PCC of the State the pursuit is in are lost.*
- *All employees involved must continually assess the reasons and risks. When the risks outweigh the result to be achieved, the pursuit must be immediately terminated and the PCC of the State the pursuit is in notified.*
- *A debrief must be conducted regardless of the outcome. Appropriate interstate police must be invited. (See paragraphs 34-38 regarding debriefs.)*

#### ***Pursuit initiated interstate***

*33 The following procedure applies for a pursuit initiated interstate:*

- *Appropriate interstate police will notify Victoria Police of the pursuit via the PCC.*
- *The PCC operator must immediately acknowledge the pursuit and alert a supervisor as required by paragraph 19.*
- *The nominated Victorian pursuit controller must acknowledge the pursuit and authorize the interstate police members crossing the border.*
- *If continuance of the pursuit is authorized, appropriate Victoria Police vehicles must be directed to take on the role of primary and secondary units. In assessing appropriateness also consider access to*

*interstate radio communications and the need for a special constable. If no appropriate police vehicles are available, the pursuit controller must direct that the pursuit be terminated. This direction must be made via the Victorian PCC and acknowledged by the respective interstate police.*

- *As soon as Victoria Police take over the role of primary unit, this CCI applies.*
- *A debrief must be conducted regardless of the outcome. Appropriate interstate police must be invited. (See paragraphs 34-38 regarding debriefs.)"*

#### **Comment**

For the new Instructions to work effectively in the cross-boarder situation ideally training and procedures in the respective States should be very similar.

### **Effective communication systems; the key to safer management of incidents in cross border situations**

Unsatisfactory communication is a recipe for disaster; this fact has been previously identified in other Coronial Inquires and Commissions of Inquiry about incidents involving emergency management and/or fire services.<sup>6</sup> In this inquest some of the important questions relate to cross boarder communication and:

- (i) radio systems which enable direct contact by radio between VKC Wangaratta and VKG Wagga
- (ii) Albury/Wodonga area may need special consideration it being the busiest border crossing.

The investigation into the death of Mr. Repinski has disclosed serious problems with the communication system operating in the Wangaratta area and the interface with the NSW Police communication system. The incident management during the Repinski incident is an example of how poor communication systems can create a difficulty for those working on the ground who are trying to manage a difficult and dangerous ongoing and rapidly developing event.

It is noted that the New South Wales Chief Commissioner's submission on the communications issue is:

#### ***"Wagga Wagga and Wangaratta communications***

*The Shift Coordinator at VKG confirmed that there are no facilities at Wagga to monitor VicPol transmissions from Victorian Police Radios unless the VicPol cars had changed over to the NSW radios but has advised that it is fairly rare to receive any communications from VicPol. If there is a police pursuit then a phone call is received from Wangaratta but there is no dedicated land line. It is accepted that the situation is not ideal but there do not seem to be any statistics available to suggest that the installation of a dedicated land line is necessarily justified."*

However, notwithstanding the New South Wales submission, the issue needs addressing as it has the obvious potential to effect efficient and safe incident operation in the cross-boarder situation in Victoria and New South Wales alike. In this regard it is worth noting the comments of counsel for the families in the inquests of Rich and French:

*"?it is basic that if communications cannot be heard then nothing more can happen. The new Pursuit Policy will not work if officers in pursuits are placed in the same position as officers in this matter and simply do not hear the broadcast. Officers will not know, for instance, a pursuit has been called off and accordingly will continue the pursuit."*

#### **Recommendation 4**

*As efficient, accurate and timely communication is a vital tool for the safe management of any pursuit (and other critical incidents) it is essential that those working in police boarder communications centres such as Wangaratta are able to have timely and efficient communications with their counterparts across the boarder in towns such as Wagga Wagga.*

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<sup>6</sup> Linton Wildfire Inquest.

*It is recommended that the Chief Commissioners of both jurisdictions work on improving the efficiency and timeliness of available communications in the cross boarder centres. In this regard, systems available at Wangarrata should be an important focus.*

## **The safety of communications equipment in vehicles**

One of the general issues was communications equipment in police motor vehicles. By way of example, where an officer operates alone in a police motor vehicle in the pursuit (urgent duty driving) situation, is driving at high speed and is required to use a hand held radio microphone to communicate there is an obvious safety problem (it may well be equated with the problem of drivers using mobile telephones in the hand held mode in a vehicle).

The New South Wales officer in this case was operating as a driver alone and was required to use the hand held microphone for communication during the running of the pursuit (the pursuit was conducted at speeds of up to 200 km/h).

### ***Recommendation 5***

*The Victorian Chief Commissioner consider reviewing the safety issues surrounding the use of hand held radio microphones by solo drivers in police vehicles operating in the urgent duty driving situation.*

## **What speed is safe - the need for more work on the management of this potentially high risk situation**

Many of the experienced New South Wales police witnesses who gave evidence in this case were of the view that 200 km/h in a properly set up police pursuit vehicle on a freeway such as the Hume was "Safe." Within the list of issues to be considered in this Inquest is a question - "*Recognition of inherent dangers of speeds in order of 200 kph even on best roads such as Hume Freeway.*"

In taking the view that 200 km/h in the circumstances was safe, police witnesses did not appear to take sufficient account of the uncontrolled nature of a freeway (and the fact that debris, animals and the like may intrude to rapidly change already fast moving circumstances). Clearly a freeway is not the controlled environment of a race track and police vehicles are not equipped with the protective safety equipment fitted to racing sedans that operate to protect a driver in the event of a crash.

In addition, the general approach of police witnesses, in this and the other case investigated in country Victoria (Rich/French) appeared to be very much based on the focus of the police driver who felt "safe" in all of the circumstances (provided the driver of the pursued vehicle seemed to be handling the vehicle safely [in spite of the speed] there was no real difficulty).

The submission for the New South Wales Chief Commissioner on this issue is as follows:

*"The evidence of several New South Wales officers, and several Victorian officers, was unanimous in the view that a speed of 200 kilometers an hour on the particular freeway involved was not an excessive speed having regard to the quality of the carriageway."*

The fact that experienced police officers who were involved in this case or the Rich/French case had no difficulty in suggesting that such a speed was safe raises the question as to whether their view is correct or not. Critically, if such a speed was to be independently found not to be safe this may have consequences for some aspects of the police training and resultant understanding of risk assessment. It would also have significant consequences for the management of issues relating to occupational health and safety. It goes without saying that the risk increases with speed (this States' road safety strategies are predicated on the expedient increased risk of death and serious injury coupled increasing speed). At speeds of up to 200km/h the risk of death in the event of a collision following loss of control is almost certain.

To find a definitive answer to the question of whether or not (in general terms) the speed of 200 km/h on a freeway such as the Hume is safe in the pursuit situation it may be preferable for independent research work and assessment to be undertaken as part of the Victorian Chief Commissioner's new proactive "*Safety First*" approach.

Obviously there are inherent and very serious risks for police (and others) in operating at very high speeds in the pursuit situation. However, there are a wide variety of parameters to consider such as; occupational health and safety, safety of and protective nature (mechanically and in the event of a crash) of the police vehicle, the condition of the roadway, weather, how the other driver is performing, (including the sometimes difficult to ascertain actual skill level of that driver) and nature of the vehicle being driven, etc.

It is understood from Victorian police that operating at speeds approaching 200 km/h on this particular freeway in the pursuit of offenders is not uncommon.

### ***Recommendation 6***

*That the Victorian Chief Commissioner consider (as part of the new focus of Victoria Police on "safety first" in urgent duty driving) engaging independent expert consultants to review the safety of the upper end of operational speeds undertaken in some pursuits on freeways. Such consultants should be independent of the force and have expertise in road and occupational health and safety issues.*

Graeme Johnstone  
State Coroner  
29th January 2004

Mr. Gerard McGuire for the Victorian Chief Commissioner of Police,  
Mr. Philip Biggins for the New South Wales Commissioner of Police and the Police Service,  
Mr. Robert Taylor for Constable Osredkar, Senior Constables Bannerman, McClounan and Harvey, and  
Mr. Colin Hillman S.C., Assisting the Coroner.