



CORONERS COURT OF QUEENSLAND

Ruling in relation to Release of Exhibit F2 to the Media

CITATION: **Inquest into the death of Steven Lee Nixon-McKellar**

TITLE OF COURT: Coroners Court

JURISDICTION: BRISBANE

FILE NO(s): 2021/4607

DELIVERED ON: 10 March 2026

DELIVERED AT: Brisbane

PIC DATE: 30 May 2023

INQUEST DATE: Inquest 11-15 September 2023 (Toowoomba)

FINDINGS DATE: 13 February 2026

RULING OF: Stephanie Gallagher, A/State Coroner

REPRESENTATION:

Counsel Assisting: Julie Pietzner-Hagan

Dr Raelene Nixon: Dana Levitt, Levitt Robinson Solicitors

QPS Officers Smart, Colman, and Giuliano: Calvin Gnech and Anna Waite, Gnech and Associates

Commissioner of Police: Michael Nicolson, instructed by Mark O'Brien, QPS
Legal Unit

ATSILS: Angela Taylor (Public Interest Grounds)

QPUE: Calvin Gnech and Anna Waite, Gnech and
Associates (Public Interest Grounds)

1. Steven Nixon-McKellar was a young First Nations man who died at Toowoomba on 7 October 2021 after he was engaged in a prolonged struggle with Queensland Police Service officers who were attempting to arrest him following a call for service about a vehicle acting suspiciously.
2. At autopsy, the Forensic Pathologist concluded the cause of Steven's death was not determined but said "the death represents a cardiac death during restraint".
3. On 30 May 2023, a pre-inquest hearing was held. The inquest was held at Toowoomba from 11-15 September 2023.
4. The State Coroner delivered his Findings on 13 February 2026 (the Findings). At [307] to [317] the State Coroner sets out consideration of a request made by media for publication of Exhibit F2, the body worn footage of QPS Officer which was played in the Court at Inquest which shows the application of the LVNR.
5. Steven's family indicated that they supported the release of the Exhibit to media. The State Coroner also received submissions for the parties on point.
6. Ultimately, the State Coroner deferred his decision. In the Findings he invited further submissions by the parties in relation to the question of whether Ex F2 should be released to the media¹. Such submissions were to be provided by the parties to the Court by 9 March 2026.
7. The only party to provide submissions to the Court in response to the State Coroners invitation was the Commissioner of Police. Relevantly, the submissions say, in part:

Relevant Legislation

The power of a coroner to grant access to "investigation documents", such as Exhibit F2, is provided for in Part 3, division 4 of the *Coroner's Act 2003* ("the Act").

Relevant to the current application, section 54(3)(b) of the Act provides that a coroner may consent only if the coroner considers the access is in the public interest and, to the extent practicable, has consulted with and had regard to the views of a family member of the deceased person.

Section 56 of the Act provides that a coroner may refuse to allow a person access to an investigation document if the coroner considers that disclosure of the information in the document (Exhibit F2) would not be in the public interest when weighed against all relevant

¹ See [318] of the Findings

interests

In the present case, the family of Steven have previously consented to the release of Exhibit F2. The issue for your Honour to consider is whether, having regard to all relevant interests and circumstances, granting the media access to the exhibit would not be in the public interest.

Should Exhibit F2 be disclosed?

Consequent to your Honour's findings as to Steven's cause of death, and the family's submissions that two of the involved police officers should be "*held to account for*" manslaughter, the Commissioner has reconsidered his position in respect to release of Exhibit F2 to the media.

In *Bissett v. Deputy State Coroner* (2011) 83 NSWLR 144; NSWSC 1182 ("*Bissett*"), Justice Hulme considered whether non-publication orders should be made, in accordance with NSW legislation, in respect of, among other evidence, a video recording of a "walk-through" (under compulsion) of a police officer who was involved in a fatal shooting. In respect to the "public interest" and "open justice" where the exhibit was sought by the media, Justice Hulme observed at 150-151:

"The expression public interest has a number of connotations. On the one hand, there is the public interest, that is benefit, in court proceedings being conducted in the open so that decisions can be seen to be rational, the result of evidence and reasoning and the results a demonstration of justice. A further advantage is that those involved in the proceedings know that their conduct is liable to public scrutiny. On the other hand, there is public interest in the sense the public being interested or curious about a person, evidence or topic who or which a subject being dealt with in proceedings. Of course, commonly the public interest in both senses will be served in the one report.

Rarely in applications of the nature that with which I am concerned is the attention given to the difference yet I venture to suggest that public interest of the first type I have mentioned is by far the most important. Public interest of the second type is not uncommonly the product of the media itself which chooses what court proceedings and what aspect of any court proceedings will be brought to the public's attention and in fact by ignoring the vast bulk of court proceedings – I venture to suggest well over 99% - contributes to the result that the public hear little of what transpires in courts. Claims by the media that public interest demands that non-publication orders should not be made and should be considered in light of the fact that the media itself elects not to publish nearly everything that occurs and the selection of what is published is commonly not the most important.

The remarks just made are not intended to be a criticism of the media that, as businesses, have their own interests to serve. The remarks are made simply

to put in context the claim that the public interest requires that there be publication. ...”

In the Inquest findings, your Honour stated the following at [315]-[317]:

“[315] As noted above the evidence of Dr Day was that the cause of Steven’s passing is considered multifactorial and the precise mechanism for his death not determined. There is no certainty that the physical altercation with the police officers and the use of the LVNR specifically caused his passing. Dr Day (with whom Dr Collins and Dr Rashford agreed) believed that Steven’s passing was the result of a combination of all the events, and all the natural diseases, together with methylamphetamine toxicity.”

Notwithstanding the expert evidence, the submissions of the family have continued to attribute a direct causal link between Steven’s passing and the use of force by the QPS officers. The family have pressed that the officers should be prosecuted for manslaughter.”

I accept that the circumstances and context in which the exhibit would be received if released have changed because of the evidence and propositions received at the inquest, as well as the submissions following my ruling of 13 September 2023. I also accept that the principles of open justice may now be engaged in a different way because the context in which the information would be received has changed.”

The relevant portion of Exhibit F2 for which access is sought is body worn camera footage which depicts the final moments of Steven’s life. The footage records a distressing struggle where the involved officers are attempting to lawfully detain Steven using reasonable, and lawful, use of force.

The Commissioner submits that a relevant consideration of whether the public interest favours not granting access to the media to Exhibit F2 is also “the context in which the information would [now] be received”.

Steven’s family have made serious allegations of criminal conduct, that is manslaughter, against two of the involved officers.¹ The Commissioner submits that those allegations cannot be substantiated having regard to the evidence, and are not supported by your Honour’s findings, as summarised in the extract above from the findings.

As suggested by Justice Hulme in *Bissett*, while not being critical of the media, if given access to the exhibit it will be a determination by the media as to what is published in the “public interest” and, it should be also considered, what “context” will be given to the footage when published to the wider public; most prominent is the serious allegations of criminal conduct, that namely manslaughter, made by Steven’s family against those officers.

When considering his submissions in respect of granting the media access to Exhibit F2, the Commissioner has, among other things, been mindful of his statutory duty, as the employer of the involved officers, to consider their ongoing wellbeing. It should not be contentious that the release of the footage will necessarily further impact upon those officers' health and wellbeing, and that of their families.

The Commissioner submits that, notwithstanding your Honour's findings in respect of the cause of Steven's death and the actions of the involved officers, the release of that portion of Exhibit F2 to the media, in the context of Steven's family's unsubstantiated allegations, is more likely than not to mislead the public into forming unfair inferences and opinions in respect of those officers' actions and of the officers themselves, whose names are a matter of public record.

The Commissioner accepts that in accordance with section 54(3)(b) of the Act the views of Steven's family are matters that your Honour must consider. As stated, the portion of the footage contained in Exhibit F2 to which the media seeks access is distressing and depicts the final moments of Steven's life. While Steven's family may not oppose the release of the footage, the Commissioner submits that your Honour should nevertheless consider the content of the footage and objectively consider the impact the release of the footage may have on Steven's family and friends.

In *Bissett*, Justice Hulme stated that the "public interest" as it related to "court proceedings being conducted in the open" was "by far the most important" when compared with the "public interest in the sense the public being interested or curious about a person, evidence or topic who or which a subject being dealt with in proceedings". The "by far ... most important" aspect of "public interest" and "open justice" has been achieved by the Inquest. The Inquest was an entirely open proceeding. Exhibit F2 was played in open court and was extensively reported upon by the media.²

Having regard to the above considerations, the Commissioner submits that the public interest and open justice is not further served, or benefited, by granting the media access to the relevant footage in Exhibit F2 when weighed against the potential injury to the public interest when regard is had to the context in which the footage will likely be received by the wider public.

Ruling

8. I accept the submissions of the Commissioner for Police and, for the reasons articulated within them, I find that the access sought to Ex F2 by the media is not in the public interest and therefore, I do not consent to such access.

9. I order that:

1. there be no publication of Exhibit F2; and
2. Exhibit F2 not be released to the media.



Stephanie Gallagher

A/State Coroner

10 March 2026