CORONERS COURT OF QUEENSLAND

FINDINGS OF INQUEST

CITATION:	**Inquest into the death of Wayne Thomas Kerle**
TITLE OF COURT:	Coroners Court
JURISDICTION:	Brisbane
FILE NO:	2022/6456
DELIVERED ON:	26 June 2026
DELIVERED AT:	Brisbane
HEARING DATES:	Pre-Inquest Conference 6 July 2023 Inquest 19 – 21 August 2024 Written submissions following inquest 20 February 2025 – 27 May 2025
FINDINGS OF:	Deputy State Coroner S Gallagher
CATCHWORDS:	Coroners: inquest, death in custody, restraint, positional asphyxia

REPRESENTATION:

Counsel Assisting:	J Pietzner-Hagan
Queensland Commissioner of Police:	M Nicolson, instructed by QPS Legal

Detective Sergeant Downey:	S Hollands
Queensland Ambulance Service:	JR Jones
Advanced Care Paramedic Attard:	JE FitzGerald, instructed by Thomson Geer
Queensland Police Service Officers Senior Constable Faulkner, Constable Hanna, Constable Lou, Special Constable Forster:	C McGee, Gilshenan & Luton Legal Practice

Contents

Introduction 1
Coronial investigation 1
Autopsy results 1
Inquest 2
Issues for inquest 3
Witnesses called 4
Evidence and findings on issues 5
Issue one 16
The findings required by section 45(2) of the Coroners Act 2003 16
Issue two 20
The circumstances surrounding the death including the appropriateness of the decision of the arresting officer to arrest Wayne rather than issue him with a Notice to Appear (NTA); the decision of the arresting officer to apply handcuffs to Wayne; the manual handling of Wayne by QPS Officers, including the placement of Wayne in the Police Van for transport to the Brisbane City Watchhouse; the monitoring by attending QPS Officers of Wayne's health status, during search, arrest and transport to the Watchhouse; the attempted resuscitation of Wayne by QPS Officers 20
Issue three 37
Whether the Ambulance Officers involved provided appropriate care and/or assessment of Wayne 37
Issue four 40
Whether the training and equipment provided to Ambulance Officers to respond to like incidents is appropriate 40
Issue five 41
Whether the QPS Officers involved complied with the QPS policies and procedures then in force 41
Issue six 42
Whether the training and equipment provided to QPS Officers to respond to such incidents is appropriate 42
Issue seven 45
Whether any preventative recommendations might be made that could reduce the likelihood of deaths occurring in similar circumstances or otherwise contribute to public health and safety or the administration of justice 45
Comments and recommendations 52
Findings required by s. 45(2) of the *Coroners Act 2003* (Qld) 58
Identity of the deceased 58
How they died 58
Place of death 58
Date of death 58
Cause of death 59

Introduction

[1] Wayne Thomas Kerle was 68 years old when he died at the Brisbane City Watchhouse on 27 December 2022. Wayne is remembered by his family and friends as a son, brother, and friend. As submitted by Counsel Assisting, I acknowledge the dignified way in which Wayne's family participated in the coronial process and I offer my condolences to them.

Coronial investigation

[2] Wayne's death is a reportable death pursuant to section 8(3)(g) of the *Coroners Act 2003* (Qld) (the Act) as a '*death in custody*.'[1] As such, it is a death that has a mandated inquest, see section 27(1)(a)(i) of the Act.

[3] An investigation into the circumstances of the death was conducted by Detective Acting Senior Sergeant (Det A/Snr Sgt) Theresa Downey of the Queensland Police Service (QPS) Internal Investigations Group (IIG), Ethical Standards Command (ESC). Det A/Snr Sgt Downey provided a comprehensive report[2] and gave evidence at the Inquest.

Autopsy results

[4] On 30 December 2022, Forensic Pathologist, Dr Jack Garland, conducted an external and full internal examination of the body. Postmortem computed tomography (PMCT) scans were obtained. Consultant Radiologist Dr Michelle Craigie interpreted the PMCT scans.[3] Dr Garland observed the body of the deceased had a body mass index of 32.1 kg/m2, was 178cm in length, and weighed 101.8kg (considered clinically obese).[4]

[5] The external examination revealed multiple superficial injuries (bruises) of the limbs and torso, with features attributable to resuscitation intervention. Dr Garland opined that several minor injuries were potentially attributable to the arrest process and included grab type bruising of the upper arms, patterned wrist injury attributable to the application of handcuffs, and multiple injuries to the anterior knees and feet that were in keeping with an episode of dragging along the ground. Dr Garland opined that there were no major injuries to account for death secondary to trauma.

[6] The internal examination showed a markedly enlarged heart, that weighed 742 grams, with coronary artery bypass grafts, significant calcified stenosis of all the major coronary arteries and a scar of the posterior left ventricle (attributable to an old infarction). Dr Garland opined that:

---

[1] Section 10 of the *Coroners Act 2003* (Qld).
[2] Exhibit B2.
[3] Exhibit A3 at page 13.
[4] Exhibit A3 at pages 3 and 19.

> *The expected normal heart weight in a man weighing 102kg is 299g to 521g, and in a man with a height of 1.78m is 233g to 463g, lower and upper 95% confidence intervals, respectively.*[5]

[7] Dr Garland observed anterior rib fractures consistent with the administration of CPR. PMCT scans did not identify any fractures other than those related to the CPR. Pulmonary emphysema was also evident.

[8] Histological analysis of the coronary arteries and associated bypass grafts confirmed the presence of atherosclerosis, with no evidence of an acute event such as thrombosis. The heart showed old scarring (attributable to a historic myocardial infarction) but no evidence of an acute infarction (heart attack). The lungs showed emphysematous changes, features of CPR and no evidence of pneumonia. Histological analysis of three sampled bruises of the upper limbs confirmed bruising, with no evidence of organisation/reparative change, in keeping with a finding of acute bruising.

[9] Toxicological analysis of a post-mortem sample of femoral vein blood confirmed the presence of non-toxic levels of: Diazepam, a benzodiazepine medication (<0.02 mg/L) and its metabolite Nordiazepam (<0.02 mg/L); Amitriptyline, an anti-depressant medication (<0.01 mg/L) and its metabolite Nortriptyline (<0.01 mg/L); Citalopram, an anti-depressant medication (0.03 mg/L) and its metabolite Desmethylcitalopram (0.01 mg/L); and Lamotrigine, a mood stabiliser medication (0.4 mg/L). ∆9Tetrahydrocannabinol (THC) was also detected (0.006 mg/L). No other substances, including alcohol were detected on routine toxicological analysis. [6]

[10] Dr Garland opined that the cause of death was 1(a). Unascertained.

Inquest

[11] On 6 July 2023, a Pre-Inquest Conference (PIC) was convened. The Inquest was held in Brisbane from 19 to 21 August 2024. Following the inquest, written submissions were received from those parties granted leave to appear. The last of those submissions were received on 27 May 2025.

[12] In accordance with section 45(5) of the *Coroners Act 2003* (Qld) (the Act), a coroner must not include in findings, statements that a person is or may be guilty of an offence or may be civilly liable for something. The focus of the coronial jurisdiction is on determining what happened, not on ascribing guilt, attributing blame to any person or party, or apportioning liability.

---

[5] Exhibit A3 at pages 8 and 17.
[6] Exhibit A4. Exhibit A3 at page 17. Alcohol detection limit of 10mg/100mL.

[13] The relevant standard of proof is “on the balance of probabilities”, with reference to the *Briginshaw*[7] standard. The more significant the issue for determination, the clearer and more persuasive the evidence must be for a coroner to be sufficiently satisfied, on the balance of probabilities, that an issue has been proven.

[14] In adjudicating the significance of the evidence before the court, the impact of hindsight bias and affected bias must also be considered:

> *Hindsight bias is the tendency after the event to assume that events are more predictable or foreseeable than they really were. What is clear in hindsight is rarely as clear before the fact…It is an obvious point, but one that nonetheless bears repeating, particularly when coroners are considering assigning blame or making adverse comments that may damage a person’s reputation…*
>
> *…*
>
> *Coroners should attempt first to understand the circumstances as they appeared at the relevant time to the people who were there.*
>
> *…*
>
> *Hindsight, of course, is a very useful tool for learning lessons from an unfortunate event. It is not useful for understanding how the involved people comprehended the situation as it developed. This distinction needs to be understood and rigorously applied.*[8]

[15] I am satisfied that there is sufficient evidence to make the findings required by section 45 of the Act.

Issues for inquest

[16] The issues for inquest were:

1. The findings required by s. 45(2) of the *Coroners Act 2003*; namely the identity of the deceased, when, where and how he died and what caused his death.

2. The circumstances surrounding the death, including the appropriateness of:

    a. the decision of the arresting officer to arrest Wayne rather than issue him with a Notice to Appear (NTA);

[7] *Briginshaw v Briginshaw* (1938) 60 CLR 336.
[8] The Australasian Coroners Manual. Hugh Dillon and Marie Hadley, Federation Press, 2015, 10.

b. the decision of the arresting officer to apply handcuffs to Wayne;

c. the manual handling of Wayne by QPS Officers, including the placement of Wayne in the Police Van for transport to the Brisbane City Watchhouse;

d. the monitoring by attending QPS Officers of Wayne's health status, during search, arrest and transport to the Watchhouse; and

e. the attempted resuscitation of Wayne by QPS Officers.

3. Whether the Queensland Ambulance Service (QAS) Officers involved provided appropriate care and/or assessment of Wayne.

4. Whether the training and equipment provided to QAS Officers to respond to like incidents is appropriate.

5. Whether the QPS Officers involved complied with the QPS policies and procedures then in force.

6. Whether the training and equipment provided to QPS Officers to respond to such incidents is appropriate.

7. Whether any preventative recommendations might be made that could reduce the likelihood of deaths occurring in similar circumstances or otherwise contribute to public health and safety or the administration of justice.

Witnesses called

[17] During the Inquest, oral evidence was taken from the following witnesses:

a. Detective Acting Senior Sergeant Downey, QPS, IIG, ESC;

b. Advanced Care Paramedic (ACP) Tyrone Attard, Queensland Ambulance Service (QAS);

c. ACP Madeline Shield, QAS;

d. Senior Constable (Snr Const) James Faulkner, QPS;

e. Constable (Const) James Hanna, QPS;

f. Const Bo Liu, QPS;

g. Snr Const Fabienne Forster, QPS;

h. Sergeant (Sgt) Belinda Patrick, QPS;

i. Mr Emmett Dunne;

j. Dr Jack Garland, Forensic Pathologist; and

k. Dr Stephen Rashford, QAS Medical Director.

Evidence and findings on issues

[18] On 27 December 2022 at 6:24pm, Snr Const Faulkner, Const Liu, and Const Hanna attended a unit complex at 47 Warry Street, in Fortitude Valley, following reports of a disturbance at unit 90 (on the top floor of the unit block). The unit block did not have a lift. Upon arrival, the QPS Officers could not locate the person of interest and eventually walked downstairs to leave the unit block.

[19] At 6:29pm, the QPS Officers walked past unit 85 and smelt cannabis. Snr Const Faulkner called out to the occupants of the unit through the front screen door: '*Hello it's police, you guys' smoking cannabis?*' The occupants replied: '*No.*' Snr Const Faulkner said: '*No? Got a strong smell of something.'* Const Hanna said: '*Oh yeah just tuck it under the table that's the way.*'

[20] Snr Const Faulkner entered unit 85, introduced himself using his name, rank, and station, and informed the occupants that he was conducting an emergent search for the presence of dangerous drugs. Const Hanna and Const Liu also entered the unit. Wayne, and two other men (Mr Andre Mouland Rahni and Mr Neil Craig Chilcote) were inside. Wayne was seated at the table and said: '*I'm on medicinal…hospital, hospital please, ambulance quick!*' Snr Const Faulkner asked Wayne if he was having an asthma attack to which Wayne replied: '*Yes*.' Snr Const Faulkner asked: '*What unit is this?*' Wayne replied: '*85.*' Wayne continued to talk over the QPS Officers: '*Don't talk, don't talk, ambulance quick!'* Snr Const Faulkner left the unit and contacted police communications to request an ambulance.[9]

[21] Const Liu and Const Hanna remained inside unit 85. Const Liu told Wayne: '*We are getting an ambulance for you.*' Another male briefly entered the unit and was told by Const Hanna to leave. Mr Rahni moved property onto a bed and Mr Chilcote was directed to sit down. Wayne remained seated and started pushing items off the table. Wayne said: '*Can't breathe, help me, don't talk.*' The QPS Officers told Wayne that there was an ambulance coming. Wayne said: '*Hush, help me please, doctor, help me…. I need quiet please and I'll be quiet, thank you. Go next door.*' Wayne continued to push property off the table as he spoke.

[22] Snr Const Faulkner re-entered the unit. Const Hanna told Wayne an ambulance was coming. Wayne responded: '*Well if you weren't here,*

[9] Exhibit B2 at page 3.

I'd be better, so you can fuck off … call me an ambulance. If you make me ill, I hate your guts.' Wayne continued to push property around on the table. Snr Const Faulkner and Const Hanna handcuffed Wayne with his hands behind his back. Snr Const Faulkner read Wayne, Mr Rahni, and Mr Chilcote their rights and cautions in accordance with the *Police Powers and Responsibilities Act 2000* (Qld) (the PPRA). Wayne continued to speak over Snr Const Faulkner as he issued the rights and cautions. Wayne said: '*My mum, don't want to talk to you, you're a pisshead. You're a fuckin pisshead, who's your boss, I want to speak to your boss!*'

[23] Wayne told the QPS Officers that the handcuffs were hurting him. Const Hanna clarified: '*The handcuffs, they're uncomfortable?*' Wayne said: '*Well you can try 'em up your arse.*' Const Hanna said: '*They wouldn't fit.*' Wayne responded: '*They would mate, you're all arse. From top to bottom, you're an arse.*' Wayne asked if the handcuffs could be removed if he "Shut up?" Snr Const Faulkner told Wayne that the handcuffs would not be removed as he was grabbing at property. Wayne talked over the QPS Officers and said: '*I want to talk to my mum, Merry Christmas, Merry Christmas!*'

[24] Wayne stated numerous times: '*You're welcome, thank you, ok' … 'I've got medicinal, it's all medicinal*.' The QPS Officers stated that they were executing an emergent search. Snr Const Faulkner asked Wayne about a script for his cannabis. A red tin containing cannabis was found by Const Hanna who said: '*Here we go that would be the tin, full of cannabis.*' Wayne said: '*Yes, medicinal.*' Const Hanna handed the tin to Snr Const Faulkner who said: '*Oh look that is not medicinal cannabis.*' Wayne said: '*Medicinal, alright whatever you reckon, I've been detained I'm sitting here quietly.*'

[25] At 6:34pm, Snr Const Faulkner asked Wayne if he still wanted the ambulance. Wayne said: '*Yes. It's not asthma. It's COPD*.' Wayne told Snr Const Faulkner that "COPD" was Chronic Obstructive Pulmonary Disease. Wayne continued to talk and yell, over the top of, and at, the QPS Officers who asked Wayne what other conditions he had other than COPD to which Wayne responded: '*Just depression, anxiety, stress, and I'm allergic to police with guns… I have an infection, I don't have COVID because I was tested last Tuesday at the hospital, I was admitted last Monday the 12th. Just tell 'em I was admitted on Monday the 12th of December overnight.*'[10]

[26] At 6:42pm, Queensland Ambulance Service (QAS) Advanced Care Paramedics (ACPs) Tyrone Attard and Madeline Shield arrived. ACP Attard was the lead clinician. The QPS Officers continued their search of the unit while Wayne was assessed by the ACPs. Wayne's year of birth was recorded incorrectly by the ACPs as 1974. Wayne's correct year of birth is 1954.[11]

---

[10] Exhibit B2 at pages 4 to 5.
[11] Exhibit C5 at [43]. Exhibit D3.

[27] Once they had been searched, Mr Rahni and Mr Chilcote were directed to leave the unit by the QPS Officers. At 6:45pm Wayne told ACP Attard that he had 89% saturations. ACP Attard told Wayne the monitor said 92. Wayne said he had been having very severe COPD attacks for the last month and that he had been '*very non-compliant*' with his medications.[12]

[28] Snr Const Faulkner directed Const Hanna and Const Liu to search areas of the unit and told them that Wayne had talked about a script for cannabis. Snr Const Faulkner said that he was not interested in the cannabis oil.[13] Snr Const Faulkner asked Wayne if he had any more "pot". Wayne became agitated and told Snr Const Faulkner that he was a '*piss head*', a '*tall piss head*.' Soon after, Wayne became highly agitated, while the QPS Officers were standing near him. Wayne remained seated. He shook and yelled: '*Get that gun out my face*' and '*Get that gun away!*'[14] At no point did any QPS officer remove their service issued firearm from their holster or present their firearm.

[29] At 6:49pm, Snr Const Faulkner directed Wayne to state his full and correct name, in relation to an offence of possession of dangerous drugs.[15] Wayne would not give his name and spoke about a '*gorilla on the balcony.*' Const Hanna read Wayne's name from paperwork on the table. Wayne yelled at Snr Const Faulkner:

> *You're in the road! You're a danger to my health and safety piss arse… you're the worst cop I've ever met from Fortitude Valley by far! You're the worst cop I've ever met from Fortitude Valley Constable Faulkner, whatever your name is, you are the worst cop, and you're the second worst, the pair of you should sit on each other's heads and fuckin go through the roof!*

[30] At 6:51pm, Snr Const Faulkner said to Wayne: '*Before I charge you with possessing dangerous drugs, you mentioned you might have a script for that, where is that?*' Wayne said it was "probably" in the box with his "meds". ACP Shield and Attard searched a red shopping basket containing medication. No script was found. Snr Const Faulkner asked the ACPs if they had had much experience dealing with medicinal cannabis. ACP Attard said: '*No.*' Snr Const Faulkner said he had seen it a few times and it was a brighter green. Snr Const Faulkner described his observations of the differences between medicinal cannabis and the cannabis that they had found during the search of the unit.[16]

[31] At 6:52pm, ACP Attard asked Wayne what his concerns were. Wayne responded: '*Had two or three episodes a day… at the moment, these*

[12] Exhibit B2.51.
[13] Exhibit B2.51.
[14] Exhibit B2.51 at 18:48:30.
[15] Exhibit B2.31 – Police occurrence QP2202217459: During the search, police located utensils, namely, a grinder with dried plant material and an electric scale. Police also located in the red tin, two individual clip seal bags containing cannabis and a small black box containing cannabis.
[16] Exhibit B2.51.

people are a threat to my health and safety.' Wayne suggested that ACP Attard check his admissions records and said the best night that he (Wayne) had had, was at hospital.[17]

[32] At 6:54pm, ACP Attard told Wayne: '*From my point of view all your numbers look really good. Your oxygen's really good… Look at the end of the day you are always going to have episodes of shortness of breath with your COPD.*'[18]

[33] At 6:55pm, Snr Const Faulkner sought the opinion of the ACPs following their assessment of Wayne. The following verbal exchange occurred:

a. Snr Const Faulkner: '*What's the plan doctors?*'

b. ACP Attard: '*Look as far as I'm concerned…*'

c. Wayne: '*My health's in danger.*'

d. ACP Attard: '*Just a sec, let me talk. Apart from them being here and getting you upset I think you're…given your medical history… you're clinically pretty well at the moment. So as far as I'm concerned you could probably follow up with your GP and you don't need to go to hospital.*'

[34] SC Faulkner asked the ACPs: '*Not going to hospital?*' ACP Attard responded: '*I don't think he needs to.*' Wayne coughed several times and said: '*Thank you.*'[19] No functional assessment of Wayne was performed by the QAS ACPs. Wayne remained seated during the assessment by the ACPs, with his hands cuffed behind him.

[35] At 6:56pm, Snr Const Faulkner concluded the emergent search and informed Wayne that he was under arrest for possession of dangerous drugs and would be taken to the Fortitude Valley Police Station. Wayne asked what they were taking him in, '*A spaceship or what?*' Snr Const Faulkner acknowledged Wayne and said: '*That's a good point.*' Wayne continued to call Snr Const Faulkner a '*grub.*' Const Hanna requested a van to transport Wayne to the Fortitude Valley Police Station. The QPS Officers asked Wayne for his keys so that they could lock his unit before leaving.

[36] At 6:58pm, ACP Attard told Wayne that he should go and see his General Practitioner (GP) when he "got out" tomorrow to get some more antibiotics. Snr Const Faulkner approached ACP Attard and the following verbal exchange occurred:

[17] Exhibit B2.51 at 18:53:15.
[18] Exhibit B2.51.
[19] Exhibit B2.51 at 18:56:15.

a. Snr Const Faulkner: '*He's not staying in extended custody. We are just going to take him down there and release him.*'

b. ACP Attard: *'Yeah sweet, he's good*.'

c. Snr Const Faulkner: '*The amount of yelling he was doing, he can't be that short of breath.*'

d. ACP Attard: '*He didn't shut up for the first five minutes I was here.*'

[37] Snr Const Faulkner thanked the ACPs for coming. ACP Attard and ACP Shield left the unit. Const Hanna tried to help Wayne put on shorts. Wayne asked the QPS Officers to remove the handcuffs so he could put on his own shorts but they refused and Const Hanna again tried to assist Wayne who said: '*Wait, wait, wait, two minutes I need to catch my breath.*' Wayne became increasingly agitated when Snr Const Faulkner attempted to open the fridge. Const Hanna again offered to help Wayne who yelled at police:

> *You're a piss head mate, you're a disgrace! … You worry about my pants, but you don't care if I die, you're a piss ant. You're a fucking big piss ant. You're a slut, you're a slag, you're a dog.*

[38] Wayne stood up and said: '*Pull me pants up now.*' Const Hanna responded: '*No. You're not going to speak to me like that and ask me to pull your pants up.*' Snr Const Faulkner asked Wayne where his keys were so they could lock the unit. Wayne said: '*Don't worry about it. Give me a minute, give me a minute.*' Snr Const Faulkner responded: '*No, you're going to sit there and hurl abuse at us like that. Maybe not hey.*' Wayne stood up and sat on the edge of the table. Snr Const Faulkner and Const Hanna stood on either side of Wayne and started to walk him out of the unit. Wayne said: '*Help me. Call the ambulance back.*' Const Hanna responded: '*We already called the ambulance, and they cleared you.*'[20]

<u>Wayne's first fall to the ground</u>

[39] At 7:02pm, Wayne was escorted from the unit by Snr Const Faulkner and Const Hanna. Outside the unit, Wayne dropped to the ground, sitting on his bottom. The following verbal exchange occurred:

a. Wayne said: '*I can't breathe*.'

b. Snr Const Faulkner responded: '*Yes you can*.'

[20] Exhibit B2.51 at 19:02:10.

c. Const Hanna placed some of Wayne's clothing inside the unit and said: '*So you can't breathe, but you can answer my questions, curious.*'

d. Wayne said: '*You're gonna kill me.*'

e. Const Hanna locked the front door of the unit and said: '*No we're not, we're gonna take you to Fortitude Valley Station, charge you with an offence and then we are gonna release you.*'

[40] Const Liu told Wayne to stand up. Snr Const Faulkner said: '*Use your legs, stand up.*' At 7:03pm, Snr Const Faulkner and Const Hanna assisted Wayne to his feet by holding his arms. Wayne was walked a short distance to the stairs. Const Liu followed behind with a bag of property.

Wayne's second fall to the ground

[41] At 7:03pm, Const Hanna said to Wayne: '*Do your legs not work or something?*' Wayne shook his head from side to side[21] as he dropped to the ground, sitting on his bottom, taking deep breaths. The following verbal exchange occurred:

a. Wayne said: '*Please. Cuffs. Please*.'[22]

b. Const Hanna responded: '*After the abuse you just hurled at us there is no way I'm taking the cuffs off*.'

c. Snr Const Faulkner said: '*You've already been cleared by the ambulance. You're not going to be released from here.*'

d. Wayne responded: '*OK.*'

e. Snr Const Faulkner said: '*You're coming with us to the Valley Station. You're not staying overnight. I'm not objecting to your bail. Alright. There is no need for all of this… you'll be out of custody in an hour…*'[23]

Wayne is walked down the stairs

[42] While seated Wayne said: '*Please, not ready.*' At 7:04pm, Wayne was directed to stand up. Snr Const Faulkner and Const Hanna lifted Wayne to his feet. Const Hanna said: '*Alright, up you get, one, two, three, come on big fella, let's go, left foot, right foot, come on.*' Const Hanna was on the left of Wayne, his right arm was wrapped around Wayne's upper left arm and shoulder. Snr Const Faulkner was behind Wayne holding

[21] Exhibit F1.6
[22] Exhibit F1.4.
[23] Exhibit F1.6.

the handcuffs, lifted above Wayne's waist height. The stairs were not wide enough for the three men to fit side by side. As Wayne was walked down the stairs he said between breaths: '*Lord have mercy, Lord have mercy, Lord have mercy on us.*'[24]

[43] The two QPS Officers continued to hold Wayne up as he was walked down three flights of stairs. Wayne asked: '*Have a rest?*'[25] Const Liu yelled: '*Keep walking, if you want your hand cuffs off, you have to walk!*'[26] Wayne yelled: '*Please!*'[27]

[44] The group reached the bottom of the stairs. Const Hanna said: '*That a boy, let's go.*' Snr Const Faulkner told Wayne: '*Get up, get up, come on mate.*' At 7:05pm, Const Hannah said: '*Come on mate you're an adult, come on you're acting like a child, let's go!*'[28] Const Hanna remained on Wayne's left with his right arm linked through Wayne's left arm; Snr Const Faulkner was holding Wayne's right arm. Wayne was tilted forward at the hips, knees bent, as he tried to walk. His pants were falling exposing his underwear. Wayne's arms remained handcuffed to the rear and Snr Const Faulkner was holding Wayne's right forearm with his left hand. Wayne's hands were raised above waist height. Wayne started yelling: '*Help! help! help!*' Snr Const Faulkner said: '*Just walk.*'[29] Const Liu said: '*Just keep walking.*'[30] Wayne started to sway from side to side as he was walked forward, and he yelled: '*Help!*'

[45] The group were met by Snr Const Fabienne Forster on the ground floor. Const Liu told Snr Const Forster: '*He's just trying to make the job difficult he's been cleared by QAS.*'[31]

<u>Wayne's third fall to the ground</u>

[46] Wayne fell to his knees and yelled/screamed: '*Aghh!*' Const Hanna was on Wayne's left and Snr Const Faulkner was on Wayne's right. Both QPS Officers continued to hold Wayne's arms and walked forward. As a result, Wayne was shuffled forward on his knees. Const Hanna told Wayne to '*Stand up.*' Wayne responded: '*I can't!*' Wayne yelled: '*Help! Help! Help!*' Snr Const Forster told Wayne: '*Get up or they'll drag you, get up!*'[32]

[47] Wayne fell to ground, onto his stomach. Const Hanna let go of Wayne's left arm and turned his head to look towards Snr Const Forster and Const Liu who were following behind.

---

[24] Exhibit F1.4.
[25] Exhibit F1.6 at 19:04:30.
[26] Exhibit F1.6.
[27] Exhibit F1.6 at 19:04:30.
[28] Exhibit F1.6.
[29] Exhibit F1.6.
[30] Exhibit F1.6 at 19:05:10.
[31] Exhibit F1.6 at 19:05:17.
[32] Exhibit F1.6 at 19:05:31. Exhibit F1.2.

Wayne is dragged

[48] Snr Const Faulkner grabbed the hinge of the handcuffs. Without giving any verbal direction to Wayne, Snr Const Faulkner dragged Wayne along the ground for not less than one metre.[33] Wayne's arms were cuffed behind his back. In doing so, Snr Const Faulkner caused Wayne's arms to be extended above shoulder height. Wayne's arms were straight and appeared "locked out." Wayne's head was hanging forward[34] and his legs and feet were scraped by the ground. Forensic Pathologist, Dr Garland observed minor injuries during the autopsy: '*…of the anterior knees and feet in keeping with the known episode of dragging along the ground.*'[35] The following verbal exchange occurred:

a. Const Liu told Wayne: '*You are just hurting yourself!*'[36]

b. Snr Const Faulkner stopped dragging Wayne, leant over him, and said: '*You wanna stand up?*'

c. Wayne said: '*Yeah.*'[37]

d. Snr Const Faulkner told Wayne: '*Stand up then!*'

e. Const Liu told Wayne: '*You are hurting yourself!*'

f. Snr Const Faulkner told Wayne: '*Grow up!*'[38]

[49] Const Hanna opened the secure door to the common area of the unit block. Snr Const Faulkner, Const Liu and Snr Const Forster stood around Wayne who was laying on his side breathing heavily saying: '*Help*' between breaths. Snr Const Forster said: '*Left my dinner to do this, get up.*'[39] Snr Const Forster left the common area to move the van closer. As she walked toward the QPS Hyundai iLoad van, Snr Const Forster said: '*Fucking freak show.*'[40]

[50] At 7:06pm, Snr Const Faulkner and Const Hanna assisted Wayne to a seated position (from a side prone position). The two officers then lifted Wayne to his feet. Wayne again yelled: '*Help! Help! Help!*' as he was walked through the secure gate of the unit complex out onto the street. Wayne could be heard yelling "help" from where Snr Const Forster was standing, about two to three car spaces away from the secure gate.[41]

---

[33] Possibly two to three metres.
[34] While it is difficult to establish the precise distance that Wayne was dragged, it appears from the material in the coronial brief and the BWC footage that it was no less than one metre. See, Exhibit F1.6 at 19:05:35.
[35] Exhibit A3 at pages 16 and 19. Exhibit F1.4 at 19:05:33.
[36] Exhibit F1.6 at 19:05:36.
[37] Exhibit F1.6 at 19:05:38.
[38] Exhibit B2.54 at 19:05:30. Exhibit C1 at [57]-[60].
[39] Exhibit F1.6 at 19:05:45.
[40] Exhibit B2.54 at 19:05:55.
[41] Exhibit B2.54 at 19:06:15.

Wayne's fourth fall to the ground

[51] Just before reaching the sidewalk, Wayne fell to his knees and was again shuffled forward on his knees by Const Hanna and Snr Const Faulkner.[42] Wayne said: '*Help me, help…*' At this time, the ambulance (with ACP Shield and Attard) was still parked on the street with the passenger door open.

[52] Wayne fell forward onto his stomach again and yelled: '*Help me! Help!*' Snr Const Faulkner said: '*He's gonna have to go to the Watchhouse he can't go like this in the bloody cell, you're your own worst enemy mate.*' Const Liu told Wayne: '*We are going to the Watchhouse instead of the Valley Station.*'

[53] Const Hanna[43] asked Snr Const Faulkner: '*Do you want to grab those ambo's, get a medical clearance, cause otherwise, watchy's not gonna take him.*' The QPS body worn camera (BWC) footage showed that Snr Const Faulkner did not verbally respond and appeared to shake his head side to side (indicating no).[44] Wayne remained on the ground, on his side and said: '*Help*' between breaths.[45]

[54] The QPS Hyundai iLoad van,[46] driven by Snr Const Forster, parked where the ambulance had been, while the ambulance moved to the other side of the street.[47] Const Liu opened the back door of the QPS Hyundai iLoad van and the secure door of the internal pod. Snr Const Forster moved to the rear of the van and stood near Const Liu.

Wayne is placed in the QPS Hyundai iLoad van

[55] Wayne was lifted to his feet by Const Hanna who was on Wayne's left and Snr Const Faulkner on Wayne's right. In the QPS BWC footage, it appeared that Wayne's weight was supported by the two QPS Officers holding his arms up behind him while he was slumped forward. Wayne said: *'Help, help.*' His voice was low and croaky.[48] By the time they reached the back of the QPS Hyundai iLoad van, Wayne was on his knees. He was supported by Snr Const Faulkner and Const Hanna. His head and chest rested on the back step of the van and Wayne said in a low voice: *'Help, help.*'

[56] Snr Const Faulkner lifted Wayne by his arms (that were cuffed to the rear and extended straight up behind his body) and Const Hanna lifted Wayne's legs. The two QPS Officers slid Wayne into the secure pod between the two fixed bench seats and rotated him onto his right side with his hands still cuffed behind his back.

[42] Exhibit F1.6.
[43] Exhibit F1.4 at 19:06:33.
[44] Exhibit F1.6.
[45] Exhibit B2 at page 6. Exhibit F1.6.
[46] Exhibit E1.
[47] Exhibit F1.6 at 19:06:45.
[48] Exhibit F1.6 at 19:07:00.

[57] At 7:07pm, Wayne said in a low voice: '*Help…help.*' Snr Const Faulkner used his right leg and foot to push Wayne further into the secure pod. Wayne's legs were folded in by Const Hanna (Wayne's knees were flexed and raised towards his abdomen),[49] and the door of the secure pod was shut. Const Hanna said: '*He's got plenty of room to breathe in there, he is on his side as well, so he's got plenty of room to breathe.*'[50]

[58] Snr Const Faulkner tried to unlock a padlock to secure the pod door. Snr Const Forster said: '*I don't think he can kick to be honest. He's taking up the whole room. I'll be quick. I'll keep an eye on him. If I hear anything I'll stop and whack the lights on.*' Wayne said: '*Help*' and made a groaning/yelling sound that was almost inaudible but discernible through the closed pod door.

[59] The rear doors of the QPS Hyundai iLoad van were closed. Const Hanna crossed the road and spoke with the ACPs who were still parked on Warry Street. He asked for something to give to the Watchhouse officers to say that Wayne was cleared by the QAS for custody, however, nothing was provided. ACP Shield told Const Hanna if the Watchhouse wanted Wayne reviewed they could call QAS back.[51]

[60] At 7:08pm, Snr Const Forster and Const Hanna commenced the transport from Warry Street, Fortitude Valley to the Brisbane City Watchhouse. Snr Const Forster said, in respect of Const Hanna: '*He's worried, let's get this sucker back'…[inaudible]* '*Nah…it's just a transport.*' The seatbelt warning light and alarm were flashing. Snr Const Forster put her seatbelt on, and the alarm stopped. The red light on the dash extinguished.[52]

[61] Const Liu and Snr Const Faulkner travelled in another vehicle. Const Liu said to Snr Const Faulkner: '*It's literally because of us he acts like that.*' Snr Const Faulkner responded: '*Yeah, what a fucking knuckle…*'[53]

[62] There were no cameras in the back of the QPS Hyundai iLoad van to monitor Wayne in the secure pod during transport. At 7:10pm, Const Hanna said: '*I can hear him carrying on, so he can breathe at least.*'

[63] Wayne was not visually observed by QPS Officers until they arrived at the Brisbane City Watchhouse.

<u>Brisbane City Watchhouse</u>

[64] At 7:13pm, the QPS Hyundai iLoad van arrived at the external door of the Brisbane City Watchhouse.[54] At 7:14pm, Snr Const Forster parked

---

[49] Exhibit A3 at page 16.
[50] Exhibit F1.3 at 19:07:38.
[51] Exhibit C2 at [56]-[57].
[52] Exhibit B2.54.
[53] Exhibit F1.3.
[54] Exhibit F1.2.

the van inside the Watchhouse and said: '*I will get him nice and close, because he's being such a dick.*'[55]

[65] The back door of the QPS Hyundai iLoad van was opened and while waiting for the secure door of the pod to be opened, Snr Const Faulkner said to Watchhouse staff: '*He's cuffed to the rear, he's just been dropping his weight, he hasn't been pushing back or fighting, he's just being a pain.*' A Watchhouse officer smiled and said: '*Maliciously non-compliant.*'[56]

[66] At 7:16pm, the door of the secure pod was opened. Wayne was lying on his right side. He did not respond to verbal commands from officers to get out of the pod. Snr Const Faulkner pulled Wayne's legs out. Watchhouse Officer Salcolme held Wayne's left arm and Const Hanna held Wayne's right arm. Wayne was dragged out onto his knees.[57] His body weight dropped, his head flopped forward, his skin appeared pale and cyanosed, and he was held in an upright position by QPS Officers, before being lowered to the ground under control. Const Smith removed the handcuffs.

[67] At 7:18pm, Snr Const Forster said: '*He was vocal right up until we got here, we could hear him.*'[58] Another officer said: '*He's gone a bit blue.*'[59] Urgent assistance was sought from the QAS.

[68] Upon review of the matter, Dr Stephen Rashford, Medical Director for the QAS, formed the opinion that Wayne was in cardiac arrest.[60] Wayne's face was cyanosed, he was not responding. An officer stated that Wayne's eyes were not moving. An ambulance was requested. The handcuffs were removed, and officers attempted a sternum rub.

[69] Counsel Assisting submitted and I accept that prior to this point, Wayne's clinical decline had not been identified by QPS Officers in such a way that would cause them to seek the urgent medical assistance he required. A distinction should be drawn between the actions of QPS Officers pre and post this point, where the need to transition to the provision of care was identified.

<u>Attempted resuscitation</u>

[70] At 7:18pm, CPR was commenced (approximately 2 minutes and 32 seconds after the door of the police van was opened). An Automated External Defibrillator (AED) was attached to Wayne by Const Smith. The AED indicated a shock was recommended, then, indicated shock cancelled, no shock advised. CPR was recommenced and effective

[55] Exhibit B2.54.
[56] Exhibit B2.54 at 19:15:44.
[57] Exhibit F1.2.
[58] Exhibit F1.5.
[59] Exhibit F1.5.
[60] Exhibit G1 at page 7.

CPR was maintained. Const Hanna stated: '*QAS cleared him 15 minutes ago.*'[61]

[71] ACP Attard and Shield were dispatched (Code 1) and arrived at the Watchhouse at 7:23pm.[62] ACP Shield was now the lead clinician. Wayne did not have handcuffs on when the ACPs arrived. He was laying supine as QPS Officers performed CPR. ACP Marcus Bothe, Critical Care Paramedic (CCP) Russell Wylie and CCP Matthew Modulon also attended. A mechanical CPR device was deployed and Wayne was intubated. Following intubation '*…the end tidal CO2 was persistently high despite the cardiac rhythm remaining in asystole and … the capnogram showed a bronchospasm 'shark fin waveform.*' At one point following adrenaline administration, Wayne's cardiac rhythm changed to a '*wide complex tachycardia at a rate of <120/min.*' CCPs Wylie and Modulon discussed the rhythm which quickly returned to asystole.[63] The CCPs agreed Wayne's prognosis was very poor. Resuscitative efforts were continued for 31 minutes before a decision was made to cease treatment. Dr Rashford noted in his report that an '*asystolic cardiac rhythm has an extremely poor survival prognosis – less than 4% but in these circumstances, likely closer to 0%.*'[64]

[72] Wayne was declared deceased at 7:49pm.[65]

Issue one

The findings required by section 45(2) of the *Coroners Act 2003*

[73] To prevent repetition, I will deal only with the medical cause of death under this heading.

[74] On 30 December 2022, Dr Garland conducted an external and full internal examination of the body. Counsel Assisting submitted and I accept the opinion of Dr Garland regarding the cause of death and contributory factors.

[75] Dr Garland opined that the cause of death was '*unascertained.*' At the Inquest, Dr Garland further opined:

> *So "unascertained" or "not determined" or "undetermined cause of death" are issued when the cause of death is not able to be determined. That happens in two broad scenarios. The first scenario is where there is no possible cause of death that can be determined, and in the second scenario, which is what applies here, is where there is more than one competing cause of death, or where a competing cause of death can't be reasonably excluded.*[66]

---

[61] Exhibit B2.52. Exhibit C1 at [13]-[77].
[62] Exhibit C2 at [59].
[63] Exhibit C6 at [10]-[13].
[64] Exhibit G1 at [23].
[65] Exhibit D2. Exhibit B2 at pages 7-8. Exhibit G1.
[66] 21 August 2024, T 1-4, LL 40-47. T 1-6, LL 32-36.

[76] Dr Garland considered Wayne's death to be a complex one, occurring in police custody, where there were several significant key issues [emphasis added]:[67]

> *The deceased was noted to have a significantly enlarged heart, as well as significant coronary artery narrowing of all major coronary arteries, including further narrowing of the regions that had been subject to previous coronary artery bypass surgery. Microscopy also showed old ischaemic changes of the heart. Importantly, there was no evidence of an acute natural cause of death such as pulmonary thromboembolism or acute coronary artery event including thrombosis.*
>
> *The significant chronic ischaemic changes of the heart and the coronary arteries nonetheless act as a persistent risk of sudden cardiac death (such as through fatal arrythmia), potentially at any time, particularly where there is increased cardiovascular demand such as from physical or psychological stress.*
>
> *The deceased's death did not occur in isolation, and there was an acute medical deterioration in the nine minutes between being conscious and loaded into the Police van and subsequently being removed from the Police van in an unconscious state requiring resuscitation and shortly thereafter being declared dead without ever regaining consciousness.*[68]

[77] Wayne had a body mass index of 32.1 kg/m2, he was 178cm tall, and weighed 101.8kg. He was considered "clinically obese."[69] His heart weighed 742g and was considered '*markedly enlarged.*' Dr Garland opined that Wayne's medical morbidities: '…*particularly his ischaemic heart disease, were such that he could have died of a natural event at any time*'[70] particularly where he engaged in physical exertion that may be a precipitating factor in him not getting enough oxygen to his heart.

[78] Dr Garland accepted this could include being walked down several stairs, while handcuffed:

> *Both those physical and psychological stressors of the physical exertion and also the stress of the arrest process would be expected to increase his demand in his heart, which would place more strain on already chronically impaired heart and lung system in this person with his pre-*

[67] Exhibit A3 at page 18. 21 August 2024, T 1-5, LL 4-7.
[68] Exhibit A3 at page 18.
[69] Exhibit A3 at pages 3 and 19.
[70] 21 August 2024, T 1-7, LL 7-13.

existing conditions and would have likely contributed to an increased risk of him dying in that setting, yes.[71]

[79] Pulmonary emphysema was demonstrated through CT scans.[72] Dr Garland described the severity of Wayne's cardiac disease:

> *So the deceased had suffered what is called a myocardial infarction previously, which is part of the heart muscle physically dies from a lack of oxygenated blood supply. That left chronic scarring in his heart that I saw at autopsy which, itself, can precipitate an impairment in electrical flow through the heart, causing an arrythmia.*
>
> *In addition to that, he had had coronary artery bypass surgery. So essentially, new blood vessels surgically sown in to bypass areas of narrowing in his arteries of his heart. There was re-narrowing of those same areas, meaning that the bypass which had done its job previously, was now still impaired. That there was narrowing in those old blood vessels and his heart was again at risk of impaired blood flow and, therefore, risk of arrythmia secondary to reduced blood supply, your Honour.*[73]

<u>Potential contribution of an "asphyxial component to death"</u>

[80] Dr Garland considered the context of Wayne's death in police custody and concluded that the BWC footage and available accounts did <u>not</u> show Wayne's death occurred '*within the context of any kind of <u>active restraint</u> with a person or persons placing weight on the deceased's body.*' [emphasis added]

[81] However, Dr Garland opined that due to the placement of Wayne in the secure pod, handcuffed to the rear, and his body composition:

> '*It is possible but unable to be definitively confirmed or refuted that some component of positional and-or airway obstruction asphyxia may have contributed to death.'*
>
> '*…the existing significant medical conditions, most notably his COPD and ischaemic heart disease may have increased the vulnerability to sudden death in the setting of arrest and handcuff restraint.*'
>
> *'…it is considered likely that the deceased's arrest played at least some contributing role to his death, however, the extent and nature of that role is unable to be determined with certainty.*'[74]

---

[71] 21 August 2024, T 1-7, LL 21-27.
[72] Exhibit A3 at page 17.
[73] 21 August 2024, T 1-8, LL 10-20.
[74] Exhibit A3 at page 19.

[82] At the Inquest Dr Garland further opined [emphasis added]:

> '*So asphyxia is a broad category of death in which there's impaired oxygen to the organs. In this scenario, the subcategory that could plausibly be contributing to death in this case is called a "positional asphyxia" whereby someone finds themselves in a position where they are unable to adequately breathe, usually with other contributing factors on top of that as to why they're unable to self-extricate or self-rescue from that scenario.*
>
> *In this case, the deceased's obesity, his hands cuffed behind his back, his position between two benches in the back of the police vehicle, and his underlying medical vulnerabilities in that setting, raise the possibility of an asphyxial contribution to death.*
>
> *And given that there is a nine-minute interval in which I am unable to view footage of the deceased, I'm not aware of where his position could be there, it is a plausible risk in that setting that can't be reasonably excluded in my opinion.*'[75]
>
> '*So there's no evidence from what I have viewed in the body-worn footage of any pressure being placed on the deceased in such a way prior to him being in the vehicle that would be expected to have an asphyxial contribution to death, although, as I have mentioned in my report, the physical and psychological stressors of the arrest process are likely to have exacerbated his underlying ischaemic heart disease and chronic obstructive pulmonary disease.*'[76]

[83] Dr Garland confirmed his opinion that he did not believe "excited delirium" was a contributor to the death and acknowledged the controversial nature of the term.[77] Toxicological analysis revealed non-toxic levels of diazepam, amitriptyline, citalopram, lamotrigine, and a cannabinoid[78] which Dr Garland did not believe contributed to the death.[79] Dr Garland opined that the observed anterior rib fractures were in keeping with the provision of CPR and no further fractures were identified through CT scans.[80]

[84] External injuries *'potentially attributable to the arrest process'* were observed during the autopsy including seven that were:

[75] 21 August 2024, T 1-5, LL 13-24.
[76] 21 August 2024, T 1-5, LL 31-36.
[77] 21 August 2024, T 1-5, LL 38 to T 1-6, LL 2.
[78] Exhibit A3 at page 17.
[79] 21 August 2024, T 1-6, LL 1-7. Exhibit A3 at page 17.
[80] Exhibit A3 at page 17.

> *Consistent with grab-type bruising of the upper arms, such as whilst being carried*'; and five that were: '*consistent with patterned wrist injuries secondary to the known handcuff application.*

[85] There were several injuries '*of the anterior knees and feet in keeping with the known episode of dragging along the ground.*' There were no major injuries that would account for Wayne's death, secondary to any trauma experienced.[81] Dr Garland opined that the episode of dragging was <u>not</u> contributory to any form of asphyxia.[82]

[86] Counsel Assisting submitted and I accept that the combination of Wayne's medical morbidities and the physical and mental stress experienced by Wayne during restraint by police are all contributory and there is no single factor that could be said to be the sole nor most likely contributor to death.

Issue two

The circumstances surrounding the death including the appropriateness of the decision of the arresting officer to arrest Wayne rather than issue him with a Notice to Appear (NTA); the decision of the arresting officer to apply handcuffs to Wayne; the manual handling of Wayne by QPS Officers, including the placement of Wayne in the Police Van for transport to the Brisbane City Watchhouse; the monitoring by attending QPS Officers of Wayne's health status, during search, arrest and transport to the Watchhouse; the attempted resuscitation of Wayne by QPS Officers

Arrest Decision

[87] An Ethical Standards Command ('ESC') investigation was conducted by Detective Acting Senior Sergeant (Det A/Snr Sgt) Theresa Downey, and the use of force by QPS Officers was examined by Sergeant (Sgt) Belinda Patrick of the QPS Operational Skills and Training Section and Mr Emmett Dunne. The ESC investigation was subject to oversight by the Crime and Corruption Commission ('CCC').

[88] Counsel Assisting submitted and I accept the opinion of Det A/Snr Sgt Downey that the QPS Officers were able to issue a notice to appear <u>or</u> to arrest Wayne. Both were lawful options at their discretion.[83] Senior Constable Faulkner was the most senior and primary arresting officer, and his intention in arresting Wayne was to take him back to the police station to process him in relation to possession of dangerous drugs, and that Wayne would not be staying in custody.[84] SC Faulkner's evidence was that this decision was influenced by his belief that Wayne wanted to speak to a support person prior to questioning, that other

---

[81] Exhibit A3 at page 19.
[82] 21 August 2024, T 1-7, LL 42-43.
[83] 19 August 2024, T 1-8, LL 40-43.
[84] 19 August 2024, T 1-9, LL 25-46.

charges had to be considered, and the drugs found during the emergent search had to be weighed.[85]

[89] Det A/Snr Sgt Downey noted that each QPS officer gave a different response regarding the reason for the arrest:

> *Uh, so each officer gave a different response. Uh, Senior Constable Faulkner said that he wanted to weigh the drugs and Mr – Wayne wanted a support person, and he was going to take him back to the station, initially. Uh, Constable Hanna, I believe, said that, um, Mr Kerle – um, not his exact words, but – was not being compliant and wouldn't have listened to, effectively, uh, be issued a notice to appear. And Constable Lou was of the belief that, um, they wanted to weigh the drugs.*[86]

[90] While SC Faulkner originally intended to take Wayne to the Fortitude Valley Police Station, that intention changed due to a Station Instruction (that had expired) in respect of their holding cells that stated violent prisoners were not to be brought back to the cells, and the interpretation of Wayne's behaviour as obstructive. Det A/Snr Sgt Downey accepted that there is a difference between the terms violent and obstructing.[87] SC Faulkner's evidence at the Inquest was that he was not aware the Station Instruction was expired.[88]

[91] Counsel Assisting submitted and I accept that Wayne's behaviour in pushing property from the table and verballing police amounted to no more than obstructive behaviour. At the Inquest, SC Faulkner described Wayne's behaviour as '*agitated*' and he considered Wayne: '*…physically grabbed at property, um, after he'd been advised that he's detained, which was obstructing in a search.*'[89] SC Faulkner and Const Hanna accepted that Wayne did not throw property at any officer, nor did he threaten to do so.[90]

Application of handcuffs

[92] Counsel Assisting submitted and I accept the opinion of Det A/Snr Sgt Downey[91] and Sgt Patrick,[92] that the decision of the QPS Officers to apply handcuffs was compliant with QPS policy and procedure, in response to Wayne pushing property off the table, and the possibility that he may destroy evidence.[93] Such behaviour may be considered obstructive.

---

[85] Exhibit B2 at page 35.
[86] 19 August 2024, T 1-9, LL 15-23.
[87] Exhibit B2.41. 19 August 2024, T 1-10, LL 39 to T 1-11, LL 48.
[88] 19 August 2024, T 1-80, LL 21-22.
[89] 19 August 2024, T 1-79, LL 16-27.
[90] 19 August 2024, T 1-79, LL 42-45. 20 August 2024, T 3-9, LL 46-47.
[91] Exhibit B2 at pages 37-38.
[92] Exhibit C1 at [84]-[85].
[93] 19 August 2024, T 1-12, LL 18-35. Exhibit C1 at [132]. Exhibit C2 at [21].

[93] Section 790(1)(b) of the PPRA states a person must not obstruct a police officer in the performance of their duties. “Obstruct” includes hinder, resist, and attempt to obstruct. Section 615 of the PPRA gives police the power to use reasonably necessary force against a person. OPM 14.19.1 refers to the use of handcuffs and states that officers should consider the current and previous demeanour/behaviour of the person by words of actions and allows for a person to be handcuffed behind their back. As noted in the statement of Sgt Patrick, handcuffing behind the back is actively encouraged in training.

Continuing use of handcuffs

[94] At the Inquest, Dr Rashford was asked about the potential risk for a person such as Wayne, experiencing his medical morbidities, whether handcuffing to the rear may increase the risk to his health. In providing his response, Dr Rashford acknowledged his limitations of expertise in respect of police tactics, however, he noted that ‘*their preference is handcuffing behind.*’[94]

[95] Dr Rashford further opined [emphasis added]:

> *Certainly, we teach our paramedics that as we – as – for people who are acutely suffering an illness, if possible, we ask the police can we move the cuffs to the front to take away that pressure on their … the pain pressure from their breathing as they, you know, try to use their accessory muscles.*
>
> *Ultimately, the police and the paramedics and anyone else who is involved has – have to be save* [sic]*, and that has to take priority over everything else but in – in someone who is suffering acute respiratory illness or significant illness, we will ask for the cuffs to be put to the front and then, ultimately, we will remove the cuffs if it’s safe to do so. That has to be discussed at the time.*
>
> *I – you know, there’s no doubt I have been in situations where the police say we don’t want to move them and I can – and normally I can say this person is not going to get out now, they’re in real trouble, can we move them to the front. The police are very – in my experience, the police are really good with us, with our officers, and they work through these issues.*
>
> *<u>But I don’t think having the cuffs – in the state that he was placed into the pod, that was not advisable.</u>*[95]

[96] I accept Dr Rashford’s opinion.

[94] 21 August 2024, T 1-23, LL 15-20. Consistent with Sgt Patrick’s statement.
[95] 21 August 2024, T 1-23, LL 20-34.

Manual handling of Wayne by QPS Officers

[97] At the Inquest, Det A/Snr Sgt Downey confirmed her opinion regarding the manual handling of Wayne, by QPS Officers, was based on the review conducted by Sergeant Belinda Patrick of the QPS Operational Skills and Training Section. Det A/Snr Sgt Downey conducted a discipline investigation due to concerns raised by Sgt Patrick.[96]

[98] SC Faulkner, SC Forster, Const Hanna, and Const Liu were subject to local managerial guidance. SC Faulkner was subject to a disciplinary charge that was not upheld.[97]

[99] SC Faulkner, SC Forster, Const Hanna, and Const Liu each gave evidence at the Inquest subject to a direction under section 39 of the Act.

[100] I have given consideration to the way in which Wayne's behaviours were interpreted by those present, including ACP Attard:

> [Wayne] *Appeared that he was tripping, um, and, whilst I didn't see the, um, a good portion of the extrication, because we were outside the … residence, and so it was … difficult to sort of ascertain what had occurred, from when we last saw him to when we saw him again outside the, um, apartment block. Um, from what I could see from my vantage point, um, he appeared to be, as I stated in my … statements, he appeared to be resisting, which was consistent with what the officers were sort of telling me and telling him was that he was, um – that nothing – they – there was nothing on their face to indicate that a – um, any sort of change in, um, the seriousness of the matter or – or his condition…*[98]

[101] ACP Shield noted as Wayne was brought out to the Hyundai iLoad van:

> *He was still handcuffed at the rear of his body, had a QPS officer either side of him, holding his arms and the patient appeared to be resisting and dropped to his knees whilst yelling loudly.*[99]

[102] ACP Attard made the following observations of the QPS Officers' behaviours as they left the unit with Wayne:

> *They appeared to be becoming increasingly more frustrated with, um, his apparent, um – um, obstructiveness to them detaining him… the tone of their language and the – how quick, uh, they were having –*

---

[96] 19 August 2024, T 1-12, LL 37 to T 1-13, LL 3.
[97] Exhibit G2.
[98] 19 August 2024, T 1-57, LL 20 – 37.
[99] Exhibit C2 at [53].

they were less – they were less patient than they previously were with requests' [when they were inside the unit].[100]

Wayne's first fall to the ground

[103] Counsel Assisting submitted and I accept that as Wayne was escorted from the unit by SC Faulkner and Const Hanna and first dropped to the ground saying: '*I can't breathe*', the QPS Officers should have paused and reassessed Wayne's condition. Consideration should have been given to recalling the QAS to assess Wayne. Counsel Assisting further submitted and I accept that the reassessment should have included consideration of shifting the handcuffs to the front. This is supported by the evidence of Dr Rashford [emphasis added]:

> *The ideal time would have been when he dropped to his – dropped to his knees or to the ground just as they exited around the corner. So come out of the apartment and they go – he becomes breathless, they go a little bit further and he becomes profoundly breathless and saying things like, "I can't go on". They're not direct quotes but – and – and you can hear an audible wheeze and the like.*
>
> *And I think the human factors are I've just had paramedics clear him, and in such a short period of time, this can't be real. And I get that, but – but that was the point.*
>
> *And I understand how that has occurred, but that's the point we needed – <u>what we needed to do was sit him up against the wall.</u> I've previously talked about <u>not lay people on the ground if they're conscious. And if they've got respiratory difficulty, it's far easier to breathe sitting up.</u> The respiratory mechanics are much better, and that's what we teach our paramedics. We sit people up generally, as – as high as they can – because it just makes things better. And – and then call for help. And the – the analogy is – and I just saw this in a case I was reviewing last night where we called police to a scene. A person had been acting out. They became very compliant. Everyone was happy, we said, police, we don't need you anymore, thank you very much. Five minutes down the track, the person acted out, they called the police back. It can happen that quickly and – and I think that's the – and – and if paramedics – anyone gave the police grief for calling us back so quickly in this occasion, I would not be very happy if it was our staff, because that was the right thing to do at that point. But I understand how it didn't happen.*[101]

[100] 19 August 2024, T 1-52, LL 9-34.
[101] 21 August 2024, T 1-21 LL 37 to T 1-22, LL 18.

[104] Counsel Assisting submitted and I accept that Sgt Patrick opined that it was reasonable for police to consider that Wayne was dropping his weight and offering passive resistance at this time, particularly as he had been cleared by the QAS four minutes earlier and they had only moved a short distance.[102] However, Sgt Patrick opined that it was not appropriate for SC Faulkner to use pain compliance to get Wayne to stand at the top of the stairs.[103] I also accept Counsel Assisting's submission that such pain compliance was used on multiple occasions during the arrest.

[105] Counsel Assisting submitted and I accept that a clearance from the QAS does not reduce nor negate the duty of QPS Officers to monitor persons in their custody in accordance with OPMs. OPM 16.1.1 states:

> *Police officers and Watchhouse officers have a duty of care to those persons in their custody, which is recognised in both criminal and civil law. Each is derived from notions of common humanity.*[104]

[106] I accept Counsel Assisting's submission that the QPS Officers remained "anchored" to the clearance that had been provided by the QAS and did not recognise Wayne's medical decline.[105] I note that this statement is made with the benefit of hindsight and must be balanced against the fact that the QPS Officers had not had the benefit of the Post Arrest Care training now provided, and interpreted Wayne's behaviour as behavioural, rather than medical.

[107] SC Faulkner, as the senior and primary arresting officer stated that he believed Wayne was <u>actively dropping his weight</u> during the arrest and his actions were behavioural, not medical:

> *I interpreted the deceased's behaviour when we were walking him down to the van as a continuation of his, um, obstructive behaviour that was happening during the search. Um, from the very start, the deceased was, um, fairly anti-police, ah, lots of yelling, um, he scrapped at the property, he's kicked at the property at one point*,[106] *and due to the, um, the medical clearance that was given by QAS, um, I had no reason to think that it was a – a medical issue. I thought it was behavioural.*[107]

[108] Counsel Assisting submitted and I accept that in a rank centric organisation such as the QPS, that the behaviours of senior officers in the execution of their policing duties, sets the tone and standard for more junior officers, and the weight of responsibility that rank carries cannot be overlooked in this matter. The evidence available to this court

---

[102] Exhibit C1 at [86]-[87].
[103] Exhibit C1 at [138].
[104] Exhibits B11 and B12.
[105] Exhibit G1 at [60].
[106] A mobile telephone.
[107] 19 August 2024, T 1-77, LL 3-10.

has confirmed that a junior officer would defer to a senior officer for guidance, where policy was unclear or not available.

Wayne's second fall to the ground

[109] I accept the submission of Counsel Assisting that when Wayne dropped to the ground a second time and said: '*Please, cuffs, please*', the QPS Officers should have paused and reassessed Wayne's condition. Consideration should have been given to recalling the QAS. Consideration should have been given to shifting the handcuffs to the front, however, Sgt Patrick's opinion that officers followed their training in leaving them on, is accepted.[108]

[110] Again, it is accepted that the QPS Officers were anchored to the clearance that had been provided by the QAS (as evidenced by the words used by them).[109]

[111] In assisting Wayne to stand, Sgt Patrick opined that SC Faulkner used pain compliance by pulling Wayne's hands up behind his back and trying to propel him forward. This technique is taught to assist officers to encourage persons to stand, however, Sgt Patrick opined that there were more appropriate pain compliance techniques available.[110]

The walk down the stairs

[112] Counsel Assisting submitted and I accept that while the QPS Officers had no option other than to use the stairs, consideration should have been given to the words used by Wayne: '*Have a rest?*' Consideration should have been given to recalling the QAS and shifting the handcuffs to the front, if not removing them entirely.[111] This is supported by the evidence of Dr Rashford at the Inquest. Dr Rashford was asked to comment on the placement of the handcuffs to the rear when Wayne was escorted down the stairs by police. Dr Rashford responded:

> *I think that we had the junction we wouldn't have got to the stairs. So it becomes moot really where the cuffs are. I would have been happy with the cuffs behind his back sitting against the wall. Once – moving him down the stairs, they have – I've read the reports, I've had access to them. I understand their techniques and – and compliance, but there's no doubt when someone's suffering acute respiratory distress, they weren't helpful.*[112]

The bottom of the stairs

[108] Exhibit C1 at [88].
[109] Exhibit C1 at [40].
[110] Exhibit C1 at [90]-[91].
[111] Exhibit C1 at [45]-[47].
[112] 21 August 2024, T 1-23, LL 39-44.

[113] Counsel Assisting submitted and I accept that, when the group reached the bottom of the stairs, consideration should have been given to Wayne's pleas for help and to recalling the QAS. Consideration should have been given to shifting the handcuffs to the front, if not removing them entirely.[113]

Wayne's third fall to the ground

[114] The above position is supported by the fact that Wayne fell to the ground for a third time, soon after reaching the bottom of the stairs. Wayne again yelled: '*Help, help, help!*' and when told to stand up, Wayne responded: '*I can't.*'

[115] Counsel Assisting submitted and I accept that SC Forster's comment: '*Get up or they'll drag you*' was not appropriate and brought herself and the QPS into disrepute, particularly in circumstances where dragging is not an approved nor trained method of moving a handcuffed person.

Wayne is dragged by SC Faulkner

[116] Evidence before this court showed SC Faulkner took hold of Wayne by holding the hinge of the handcuffs and without giving any verbal direction to Wayne, dragged Wayne along the ground for no less than one metre. Only after SC Faulkner stopped dragging Wayne did he say: '*You wanna stand up?*' … '*Stand up then*' … '*Grow up.*'

[117] Counsel Assisting submitted and I accept the evidence of Sgt Patrick that the act of dragging Wayne was not justified, there were more appropriate options available, and communication skills are central to de-escalation techniques.[114]

[118] I accept the submission of Counsel Assisting that Wayne did not strike any QPS officer at any time during the arrest and I reject any allegation that he did so, and the reasoning provided by SC Faulkner that there was a corresponding need to escalate the '*infliction of pain*'.

[119] SC Faulkner described how a hammerlock might be applied to a person lying face down on the ground to elicit pain compliance. Importantly, SC Faulkner accepted the application of a hammerlock in this way would not include the movement of the person across the ground (dragging).[115] Counsel Assisting submitted and I accept that there is a clear distinction between the application of a hammerlock as described by SC Faulkner as a stationary application of pain compliance and the act of dragging that occurred.

[120] I accept the submission of Counsel Assisting that while there does not appear to be a succinct description of the term "pain compliance" in the

[113] Exhibit C1 at [55]-[57].
[114] Exhibit C1 at [134] and 19 August 2024, T 1-77, LL 12-34.
[115] 19 August 2024, T 1-77, LL 36 to T 1-78, LL 11.

materials provided, the *Recruit training program, Learning Guide* refers to pain compliance as:

> '*The use of stimulus pain to control resistive behaviour. The pain stimulus is abrupt and significant.*'
>
> The learning guide notes that pain compliance is:
>
> '*Accompanied by loud verbal commands which, when adhered to, the compliance pressure is relaxed.*' [116]
>
> Examples of pain compliance include wrist locks, peroneal strikes, and shoulder manipulation.

[121] Sgt Patrick opined [emphasis added]:

> *Pain compliance techniques are taught to police to assist in managing a subject person by using a stimulus of pain as a distraction to control resistive behaviour. The pain stimulus is abrupt and significant, and is accompanied by verbal commands, which when adhered to, the pain compliance technique is relaxed. Lifting someone's arms up and away from their body when handcuffed behind their back is not taught as a pain compliance technique due to there being an increased risk of shoulder injuries by applying this type of force to handcuffed arms.*[117]

[122] Counsel Assisting submitted and I accept that the definition of pain compliance does not and should not be taken to include acts calculated to cause abrasions, such as the act of dragging Wayne.

[123] I accept the submission of Counsel Assisting that SC Faulkner's act of dragging Wayne, was not compliant with QPS policies and procedures.[118]

[124] Counsel Assisting submitted and I accept that the absence of a trained method for moving a completely noncompliant prisoner does not excuse nor justify SC Faulkner's actions in dragging Wayne in the manner seen on the BWC footage. It is acknowledged that SC Faulkner accepted at the Inquest that his use of force in dragging Wayne '*looks horrendous*':

> *I've seen that footage. That's – um, that not an optimal – optimal use of force. Um, I still think it was justified as per our policy and it's an adaptation of taught techniques. Um, but it's not something that I'm going to use again. Um, and*

[116] Exhibit B6 at [60].
[117] Exhibit C1 at [91]. Exhibit G1 at [43].
[118] Exhibit B7.

I guess just being cognisance of his - of his change in - in his, um, physical characteristics.[119]

[emphasis added]

[125] SC Faulkner described the dragging as "improvising":

Counsel Assisting: '*So what, in your view, should an officer do – or what did you do – in the absence of taught technique?*'

SC Faulkner: '*We improvised. We u – I used a technique which I thought was very comparable and similar to a taught technique. That is, it's using the pressure on the shoulder to cause pain, the same as a hammer lock.*

And the dragging, um, again, that was done as a form of pain compliance. I assumed that it would cause abrasions to his – his knees and his feet of a minor nature, um, which would prompt him to stand up.'

Counsel Assisting: '*So you said that you used the dragging with the intent to cause pain; is that correct?*'

SC Faulkner: '---*Yes.*'

Counsel Assisting: '*And what effect did that have on Wayne? That you could observe?*'

SC Faulkner: '*It's unclear to me. Uh, you – prior to the dragging, um, he was, uh – we – I think we were dragging him. He wasn't walking at all. After I've used that pain compliance, um, James Hanna and I have stood him up, and then he has moved his feet. So I think it may have been partially effective.*'[120]

[126] I accept the submission of Counsel Assisting that Const Hanna did not drag Wayne, but rather, Wayne was shuffled forward on his knees as described at paragraph 45. Sgt Patrick opined that: '*…police are not taught to escort subject persons in this manner and there could have been more appropriate options.*' This was due to the potential to cause shoulder injury to the person under arrest and the possibility of officers injuring their back.[121] Sgt Patrick also opined that it would have been more appropriate to have moved Wayne into the recovery position and attempted to communicate with him to gain compliance.[122]

[119] 19 August 2024, T 1-90, LL 4-15.
[120] 19 August 2024, T 1-78, LL 26-47.
[121] Exhibit C1 at [93].
[122] Exhibit C1 at [144].

[127] Counsel Assisting submitted and I accept that rather than shuffling Wayne on his knees, QPS Officers should have paused and reassessed Wayne and allowed Wayne time to sit on his bottom (consistent with Dr Rashford's opinion), before assisting him to his feet.

[128] Once Wayne had fallen onto his stomach, I accept the submission of Counsel Assisting that, an alternative and more appropriate action to move Wayne, would have been to have followed the guidance contained in the *Recruit training program, Learning Guide* at page 81 to 82 under the heading '*Moving the handcuffed subject from the prone position to the standing position*'.[123]

[129] Counsel Assisting submitted and I accept that that there is no evidence that Wayne was completely non-compliant. In fact, Wayne was communicating with police seeking help, requesting to rest, and on occasions when he was assisted to his feet, attempted to walk despite his medical emergency.

[130] I accept the submission of Counsel Assisting that instead of dragging Wayne, SC Faulkner should have assisted Wayne to sit up on his bottom, paused, and assessed Wayne's condition. If appropriate, SC Faulkner should have assisted Wayne onto his knees and finally, assisted Wayne to stand. It is acknowledged that the learning guide provides the following note [emphasis added]:

> *NOTE: Do not lift the subject onto their feet as they may cause lower back injury to police and shoulder injury to subject. The subject is able to stand up themselves, or via pain compliance techniques and verbal commands.*

[131] The BWC footage (from 19:06:45h – 19:06:57h) of Const Hanna and SC Faulkner show this type of movement was performed by them to assist Wayne to his feet after he had fallen to the ground for a fourth time.

[132] As noted above, SC Faulkner took hold of Wayne by holding the handcuffs and without giving any verbal direction to Wayne, dragged him along the ground for no less than one metre.[124] Sgt Patrick opined that dragging is not taught to QPS Officers.[125]

[133] I have considered the commentary provided by Dr Rashford in his report:

> *Whilst it may be appropriate to use a level of appropriate force to induce compliance, the pressure exerted to Mr Kerle's shoulders by the forced movement of the shoulders well beyond their normal range of movement would have resulted in the risk of significant injury, had Mr Kerle survived. The forced dragging of Mr Kerle along the ground*

[123] Exhibit B6.
[124] Possibly two to three metres.
[125] Exhibit C1 at [95].

> *in a prone position with his shoulders forced into extreme hyperextension and his body as a counterweight was highly inappropriate - it would have resulted in unnecessary injury risk, it was highly painful and it contributed to further additional physiologic stress to a person suffering respiratory distress.*[126]

[134] I have had regard to the evidence of SC Faulkner which described Wayne and his behaviour to Watchhouse staff as:

> *He's cuffed to the rear, he's just been dropping his weight, he hasn't been pushing back or fighting, he's just being a pain.*

[135] I have had further regard to the evidence of other QPS Officers when considering the act of dragging Wayne and refer to the following evidence given by Const Hanna at the Inquest:

> Counsel Assisting: *'So do you recall seeing Wayne dragged?'*
>
> Const Hanna: '*---ah, yes.*'
>
> Counsel Assisting: '*Yes. And that dragging was done by Senior Constable Faulkner?*'
>
> Const Hanna: '*---Yes.*'
>
> Counsel Assisting: '*Now, you gave the response, you would not have dragged Wayne?*'
>
> Const Hanna: '*---Mmm-hmm.*'
>
> Counsel Assisting: '*Why?*'
> Const Hanna: '*---It's not just something I would do.*'
>
> Counsel Assisting: '*And why would you not do it?*'
>
> Const Hanna: '*---Because I didn't want to cause injury.*'
>
> Counsel Assisting: '*So were you of the view that dragging a person in the way that Wayne was dragged may cause injury?*'
>
> Const Hanna: '*---Um, that's possible.*'
>
> Counsel Assisting: '*Are you taught to drag - - -?*'

---

126 Exhibit G1 at [44].

Const Hanna: '---*No.*' [127]

[136] Const Hanna further stated that as there was no method taught to move a person that was on the ground on their stomach, they would need to adapt and if advice was required, it would be sought from a senior officer – in this case, SC Faulkner.[128]

[137] In circumstances where junior officers are required to seek guidance from senior officers, I refer to the comments of SC Forster as examined during the Inquest:

> Counsel Assisting: '*And so there is a comment made by you at line 162, "Get up or they'll drag you. Get up?"*'
>
> SC Forster: '---*Yes.*'
>
> Counsel Assisting: '*And at line 164, "You are just hurting yourself." You accept you made that comment?*'
>
> SC Forster: '---*Yes.*'
>
> Counsel Assisting: '*Do you consider those to be appropriate comments?*'
>
> SC Forster: '---*No.*'
>
> Counsel Assisting: '*Do you consider those comments are likely to establish rapport with an individual under arrest?*'
>
> SC Forster: '---*No.*'
>
> Counsel Assisting: '*Do you consider that those comments are empathetic?*'
>
> SC Forster: '---*No.*'
>
> Counsel Assisting: '*Thank you. And if we go over the page at line 168, you say again, "You're hurting yourself." At line 175, "I left my dinner to do this. Get up." And at line 177, "I'll get the van a bit closer. I mean, it's not far, but I'll get it closer to here. Fucking freak show." Do you consider those were appropriate comments to - - -?*'
>
> SC Forster: '---*No.*'
>
> Counsel Assisting: '*- - - to make in the situation - - -? - - - that you found yourself?*'

[127] 20 August 2024, T 3-10, LL 9-24.
[128] 20 August 2024, T 3-10, LL 28-48.

SC Forster: *'---Absolute ---No.'*

Counsel Assisting: '*And do you consider that those are appropriate comments that a police officer would make?*

SC Forster: '---*No.*'

DEPUTY STATE CORONER: '*And comments made in presence of juniors with less than six months' service, what do you think they took from that?*'

SC Forster:'---*Nothing that they should. They shouldn't be made. They're not appropriate. I've owned those and I'm embarrassed by them. And I own them wholeheartedly.*'[129]

[138] I accept the submission of Counsel Assisting that the words used by SC Forster were not appropriate in the circumstances and brought herself and the QPS into disrepute. However, as outlined, during the Inquest SC Forster indicated her embarrassment over the comments having been made, apologised, and took responsibility. I note that SC Forster accepted the comments were inappropriate.

Wayne's fourth fall to the ground

[139] Counsel Assisting submitted and I accept that when Wayne dropped to the ground for a fourth time and said: '*Help me, help!*' the QPS Officers should have stopped and reassessed Wayne's condition. The QAS should have been recalled. The handcuffs should have been moved to the front, if not removed entirely.[130]

Wayne is moved into the Hyundai iLoad van

[140] I accept the submission of Counsel Assisting that Wayne should not have been placed in the Hyundai iLoad van for transport as he was suffering a medical emergency. It is evident that no QPS officer in attendance, recognised that medical emergency.[131]

[141] Sgt Patrick opined that due to the way in which Wayne was placed in the secure pod, there was a potential to cause injury to his shoulders. Sgt Patrick described SC Faulkner 'pushing' Wayne into the pod using his foot. It was not a kicking motion. While not a taught method, Sgt Patrick considered it would have the same effect as using arms to push someone into the secure pod.[132] Sgt Patrick opined that the placement of Wayne in the secure pod complied with OPM 14.3.8. She acknowledged the lack of monitoring equipment in the secure pod.[133]

[129] 20 August 2024, T3-26, LL 12-40.
[130] See paragraphs [50]-[53] of these findings.
[131] See paragraphs [59]-[61] of these findings.
[132] Exhibit C1 at [102]-[104].
[133] Exhibit C1 at [105]-[107].

[142] Dr Rashford opined that at this point, Wayne was a dead weight:

> *This was a result of his physical condition, rather than any purposeful obstruction, or even passive resistance. He simply could not actively move due to his pre-cardiac arrest condition.*
>
> *Sergeant Patrick has expressed an opinion regarding the use of the police officer's foot to assist in placing Mr Kerle further into the police vehicle pod. My view is that the very need to do this, in the context of his change in condition, indicated a reassessment should have been performed. Whilst not being an expert in police tactics, I do question the opinion that this was a simple push of the leg, rather than a forceful movement.*

[143] Dr Rashford further noted [emphasis added]:

> *The recovery position normally has an individual placed in the left (or right) lateral position, with one arm extended and the other arm facing away or downwards from their body.*
>
> <u>*It does not include posterior handcuffing of the wrists. Mr Kerle was placed into a very unsafe environment:*</u>
>
> - *he had a severely depressed level of consciousness;*
> - *his breathing was ineffective;*
> - *the positioning of his arms further complicated his work of breathing;*
> - *he had no room to move (if he was able to do so); and*
> - *he was not monitored.*
>
> *The very fact that Mr Kerle required essentially a "dead lift" and then forceful positioning exemplified the danger to his health the placement into the police vehicle pod entailed.*
>
> <u>*The correct course of action was not to place him in the pod, but to reposition Mr Kerle outside of the police vehicle and obtain another medical review.*</u>
>
> *Depending upon his consciousness level, sitting Mr Kerle up to improve respiratory mechanics would even have been a better option. The police pod was a dangerous environment given Mr Kerle's condition, especially given the limited or no option of ongoing monitoring.*[134]

[144] Counsel Assisting submitted and I accept Dr Rashford's opinion that due to Wayne's condition when he was removed from the secure pod at the Watchhouse, and that he had most likely suffered a cardiac arrest in the very early transport period, it is very unlikely that Wayne was vocalising

---

[134] Exhibit G1 at [47].

anything at all, and QPS Officers SC Forster and Const Hanna were mistaken as to what they thought they heard Wayne say during the transport.[135]

[145] At the Inquest, Dr Rashford was asked if, at the point Wayne was placed in the QPS vehicle, whether this might have been another clear point (in addition to descending the stairs), where the QPS Officers might have paused and reassessed Wayne's medical condition. In response, Dr Rashford stated:

> *Yeah. Absolutely. In my view, he should never have been placed in the pod. It reminded me of another case, the Pasquale Georgiou inquest down at Broadbeach where a gentleman was placed in the pod who, for different reasons, has significant clinical illness. And [indistinct] the pod, to me, for someone suffering clinical illness – and it is a very dangerous place to be. You're not monitored. Even if you have video monitoring, you're not monitored if you're suffering – if you're suffering true clinical illness, as he was, at that point, he could – he – as he went in, he really wasn't carrying his weight and that's why he had to be placed – pushed into the – into the – into the – into the pod.*
>
> *Someone suffering respiratory embarrassment, having your hands behind your back does not help your – whilst it's not positional asphyxia, it certainly is painful and it does not help in respiratory mechanics. And not – and he – Wayne was morbidly obese and I doubt he had laid flat in a long period of time.*
>
> *He probably had undiagnosed obstructive sleep apnoea on top of his other respiratory [indistinct] the police weren't to know that, but when he's on his side between the two seats, for want of a better word, the, sort of, benches. I think there was false – I heard someone say that he's on his side, he can breathe.*[136]

[146] During cross examination, Dr Rashford was clear that had Wayne been assessed by QAS prior to being placed in the van, he was '*almost 100 percent*' sure that Wayne would have gone to the hospital.[137]

[147] Dr Rashford was asked whether the QPS Officers may have had a "false sense of security" when saying '*Well, he has been placed on his side, he can breathe?*' Dr Rashford responded: '*Yeah*'.[138] He further clarified that when a person is unconscious, they go on their side, '*…but with 360-degree access and people monitoring them.*' He further stated:

[135] Exhibit G1 at [48].
[136] 21 August 2024, T 1-22, LL 26-42.
[137] 21 August 2024, T 1-26, LL 6-18.
[138] 21 August 2024, T 1-22, LL 44-46.

> *If you are conscious, and you've got respiratory embarrassment, putting you flat where you can hardly move with handcuffs behind your back, is not going to help you at all breathe properly, and – and so I – my view was that there was enough to say we shouldn't put him into the pod, we should get him [indistinct] this point, if we're going to do it again, sit him up beside – and if he was unconscious, then put him on his side but with 360 degree access, and – and although he was – as he went in, he said something [indistinct] look, you know, he was probably still conscious at that point. And then sit him up and allow him to rest and breathe, and just take a breath – all of us take a breath and reassess what's going on.*[139]

[148] Similarly, the issue of the mistruth that because Wayne could talk, he was capable of breathing was considered at the Inquest. Dr Rashford gave evidence that this is incorrect and conceded that it may have been misleading for both QAS and QPS members in attendance. Being able to vocalise does not exclude respiratory capacity embarrassment and is only one factor to consider during assessment. In his report, Dr Rashford opined that with each collapse, Wayne did display increasing distress when speaking.[140] However, Dr Rashford also noted that Wayne was screaming for help following his descent down the stairs and prior to his placement inside the back of the QPS vehicle.[141]

Brisbane City Watchhouse

[149] Counsel Assisting submitted and I accept that the manual handling of Wayne, when he was extricated from the secure pod at the Watchhouse was compliant with QPS policy and procedure.[142]

[150] On the evidence available, the QPS Officers failed to recognise signs of Wayne's medical deterioration. SC Faulkner, Const Hanna, and Const Liu remained anchored to the medical clearance provided by the QAS ACPs during the search and were of the view that Wayne's behaviour during the arrest and escort to the police van was deliberately obstructive (behavioural as opposed to medical).

[151] I accept the submission of Counsel Assisting that Wayne's health status was not monitored during the transport to the Watchhouse due to the officer's interpretation of Wayne's behaviour and the nature of the Hyundai iLoad van that inhibits officers from monitoring persons during transport.

[152] I accept the opinion of Dr Rashford in respect of this issue for Inquest.

[153] Counsel Assisting submitted and I accept that the attempted resuscitation of Wayne by QPS Officers when they recognised the medical emergency

[139] 21 August 2024, T 1-23, LL 4-13.
[140] Exhibit G1 at [41].
[141] 21 August 2024, T 1-27, LL 44 to T 1-28, LL 29.
[142] See paragraphs [63]-[68] of these findings.

at the Brisbane Watchhouse, was adequate; and that the attempted resuscitation of Wayne by QAS officers was adequate.

Issue three

Whether the Ambulance Officers involved provided appropriate care and/or assessment of Wayne

[154] I accept the opinion of Dr Rashford[143] that while there were areas for improvement in the clinical examination of Wayne conducted by ACP Attard as the lead clinician, the examination did not fall below '*what would be an acceptable standard for an equivalent paramedic in the country.*'[144]

[155] I therefore consider that the QAS ACPs involved provided appropriate care and/or assessment of Wayne.

[156] At the Inquest, Dr Rashford described what he considered were the areas for improvement:

> '*The primary one was that if you're undertaking an examination of someone who is complaining of respiratory distress or shortness of breath, then auscultation of the chest...*
>
> *…you look at their demeanour, their breathing, are they using accessory muscles, all that stuff. Feel is not such a big deal on this occasion. And … then listen and… so listening to the chest, you're looking – listening for air entry, the quality of that air entry, and are there wheezes … or other transmitted sounds. So signs of infection, signs of bronchial spasm, and the like.*
> *And so in this case, with the oxygen level being below normal, which is what you see with many people with … chronic obstructive pulmonary disease, so COPD, that – they normally have saturated – oxygen saturations which is the percentage of … oxygen attached to your red blood cells, essentially, available sites in the red blood cells. So normally, I would think most people in this room would be sitting 96, 97, 98, but as you have diseased lungs, you may – normally, when you're well, have oxygen saturations anywhere between 88 percent and probably 92, 93. And you function at that level. But when you function at that level, you don't have the same respiratory capacity as someone who has higher oxygen concentrations and – and non-diseased lungs.*

143 Exhibit G1.
144 21 August 2024, T 1-13, LL 19-22. T 1-29, LL 24 to T 1-30, LL 7.

So the other thing was that Mr Kerle was … tachycardic, so his heartrate was above what we would think the normal. The upper limit of normal in an adult, we normally say is about 100. He was sitting, at times, 120, maybe a little bit higher at times. Now, heartrate, by itself, can be elevated if I'm nervous sitting in that seat over there, my heartrate may have been 120, but you have to put it into context… Wayne was quite animated at … the time, so that in itself is not the one marker that I would say, oh, this means that I have to do something. You try to put the whole examination into context and then make your decision.'[145]

'…*I probably would have liked to have seen auscultation of the chest, so listening to the chest. I would have probably liked to have seen a little bit more about … the history and examining the compliance of medications and … the like, to put into perspective and perhaps a little bit more about aftercare. From what I could hear on the video, I didn't see anything more than saying he was safe … for transport. So … I – in terms of this, I – … this examination, I wouldn't say this was negligent or – in my view, anyway – or below – far below the standard. I think it… would be replicated across this country many times each day. It was a fair standard.*'[146]

[157] Dr Rashford told the Inquest that he did not have concerns about ACP Attard's professionalism, that he was a well-regarded officer with a history of diligence and professionalism and while he missed a couple of points, Dr Rashford had spoken with ACP Attard about that. Dr Rashford was not saying that had ACP Attard listened to Wayne's chest that the decisions would have been any different and he did not have any concerns '…*with the initial decision … to not transport Mr Kerle to hospital. Because I'm not there looking at the context of it. I can understand how they came to that decision.*'[147]

[158] At the Inquest, ACP Attard accepted that he had incorrectly recorded Wayne's age as 48 instead of 68 and had he known at the time, it would have affected his decision making due to an '*increased level of, um, frailty that wouldn't be for a – for a person who is 20 years younger.*'[148] ACP Attard accepted the commentary regarding his performance in assessing Wayne and possible short falls as areas for improvement as articulated in the report of Dr Rashford.[149]

[159] When asked about ACP Attard's incorrect assessment of Wayne's age, Dr Rashford stated:

---

145 21 August 2024, T 1-13, LL 24 to T 1-14, LL 4.
146 21 August 2024, T 1-14, LL 34-40.
147 21 August 2024, T 1-15, LL 1-14.
148 19 August 2024, T 1-53, LL 7-16. Exhibit B2.34.
149 19 August 2024, T 1-54, LL 5 to T 1-56, LL 24.

I think it probably makes little difference, to be quite honest. He … didn't look it. You can tell that he had a significant medical history. You can make an argument, on one way, that if someone is 48 and they have that injury, they're actually even more at risk than someone who is 68. If you – it flows both ways. I think the difference between 48 and 68 probably makes little difference in terms of your initial assessment in this case.[150]

[160] Dr Rashford opined that starting with a history to understand functional reserve was something most paramedics probably do not ask and that was part of the development of the profession. Paramedics are not physicians. Dr Rashford noted that Wayne had stated earlier in the interaction with police that he "couldn't run for the bus" which he did not think the ACPs were present for, and so the first sign of significant functional reserve deficit was when Wayne walked across the room.[151]

He became profoundly short of breath very, very quickly. He had audible wheeze. He had problems phonating. The character of his voice changed. And he looked exhausted just doing a five-metre stretch.

I was quite taken aback watching the video, how propound it was. Because, normally, … you ask people when you see them, … can you walk around your own home, can you … do shopping. You try to … look at their activities of daily living to give you an idea of what people's functional reserve is like, but his – there aren't too many people who are short of breath walking around their home. They are normally on home oxygen and have other – they're quite – their lungs are quite bad. But he … became extremely symptomatic very quickly.[152]

[161] Dr Rashford considered that the **functional assessment** [emphasis added] was a key issue, and had it been conducted, it may have caused ACP Attard to reassess the decision regarding Wayne's suitability for custody:

'*As soon as he exerted himself. He was one of those people that became incredibly short of breath, much more than I expected. When I first watched the video, I was quite taken aback by it.*'[153]

'*I think if … he had walked for five metres like he had done, becoming very breathless, almost certainly he would have gone to hospital.*'[154]

[150] 21 August 2024, T 1-15, LL 19-26.
[151] 21 August 2024, T 1-16, LL 24-43.
[152] 21 August 2024, T 1-16, LL 45 to T 1-17, LL 1-9.
[153] 21 August 2024, T 1-25, LL 36 to T 1-26, LL 4.
[154] 21 August 2024, T 1-26, LL 37-42.

[162] Dr Rashford was asked to describe the physical display of symptoms that might cause concern that Wayne was experiencing a medical episode during the arrest:

> *I think he… has persistent breathlessness, he … was extremely fatigued. I think on the first video – sorry, the first time he drops to the ground just around the corner as he exits the room, he does look to have a slight change in his colour. It's very hard on the BWC to pick that up.*
>
> *I felt that his whole demeanour changed. He became extremely fatigued and even simple movements were really difficult. He had trouble holding – maintain his own weight. He couldn't – and really had to be held up. And – … he started to exhibit those, you know, help me, I'm short of – he says, "I'm short of – I can't breathe" at one point. They're … in the context of the whole thing, you've got someone who is – and a little bit of wheeze. You know, there's a little bit of wheeze at … as they exit the – around the corner of the first – exit the apartment.*[155]

[163] At the Inquest ACP Attard acknowledged that his assessment of Wayne was difficult due to Wayne being handcuffed with his arms rearward and despite reportedly asking for the cuffs to be removed, that was not facilitated by QPS Officers due to alleged concerns of destruction of evidence due to Wayne's behaviours.[156]

Issue four

Whether the training and equipment provided to Ambulance Officers to respond to like incidents is appropriate

[164] Counsel Assisting submitted and I accept that the training and equipment provided to QAS officers to respond to like incidents is appropriate.

[165] At the Inquest, Dr Rashford gave evidence that paramedics are registered health care professionals and that while guidelines are provided, they are not prescriptive. As such, the guidelines provide prompts for paramedics to consider, however, ultimately the decision rests with the clinician on scene as the final decision maker.[157]

[166] At the time of Wayne's death, QAS officers in the field did not have access to previous QAS medical records, however, since that time, this access has been obtained with the intent of providing the clinical decision maker with better information. QAS officers can now access

---

[155] 21 August 2024, T 1-17, LL 11-25.
[156] 19 August 2024, T 1-50, LL 1-22. Exhibit C5 at [22].
[157] 21 August 2024, T 1-30 LL 44 to T 1-31, LL 24.

the viewer or the Digital Ambulance Report Form ('DARF') utilities program to search for information.[158]

[167] Dr Rashford spoke at the Inquest about the checklist developed by the QAS for offenders going into custody, responding to patients in police custody, and the learning around ensuring appropriate safeguarding and aftercare on people who leave the care of the QAS and remain in police custody.[159]

Issue five

Whether the QPS Officers involved complied with the QPS policies and procedures then in force

[168] The order contained in OPM 16.1 reads:

> *Police officers and Watchhouse officers who have custody of persons are to ensure that persons are treated with dignity and that they are provided with the necessaries of life.*[160]

[169] OPM 16.1.1 describes the duty of care:

> *Police officers and Watchhouse officers have a duty of care to those persons in their custody, which is recognised in both criminal and civil law. Each is derived from notions of common humanity.*[161]

[170] I accept the opinion of Sgt Patrick, Det A/Snr Sgt Downey, and Mr Emmett Dunne in respect of the QPS Officers' actions and any non-compliance with QPS policies and procedures.

[171] I consider that while the majority of the actions of the QPS Officers were compliant with QPS policies and procedures, the restraint and manual handling imposed upon Wayne was a contributing factor in Wayne's death, as was the transport of Wayne in the Hyundai iLoad van from Wary Street to the Brisbane Watchhouse. However, the contribution cannot be quantified and must be balanced in circumstances where Wayne had numerous co-morbidities and had been assessed by QAS ACPs and "cleared" to be taken into custody, and where QPS Officers did not then recognise Wayne's medical emergency. This submission must also be read in the context of the training and equipment provided to the QPS Officers, and further:

a. QPS Officers are required to perform a law enforcement and community safety role and may approach their work with views based upon prior experiences in the field (such as the view that

[158] 21 August 2024, T 1-31, LL 26-42.
[159] 21 August 2024, T 1-29, LL 4-22.
[160] Exhibit B11.
[161] Exhibits B11 and B12.

a person under arrest may "play possum" to obstruct the arrest process).

b. While QPS Officers are trained to assess the risk to themselves and others, it is submitted that this case is demonstrative of a situation where QPS Officers may have prioritised the risk to themselves to effect the arrest quickly (not knowing who might come to Wayne's assistance in the unit complex).[162] However, no person came to Wayne's aid, despite his yelling and the police presence. Further, no one, other than Wayne and the QPS Officers can be heard yelling.

c. The QPS Officers relied on the medical clearance provided by the QAS ACPs "clearing" Wayne to be taken into custody, however, with the benefit of hindsight, it is clear that the parameters of that clearance were limited by the confines of the assessment in the unit (and lack of functional assessment) and as such, likely did not extend to cover the physical exertion experienced by Wayne from the time he first left his unit under police escort.

[172] I further consider that the commentary of the QPS Officers involved was, in part, unprofessional and brought both themselves and the QPS into disrepute.

Issue six

Whether the training and equipment provided to QPS Officers to respond to such incidents is appropriate

Post Arrest Care training

[173] I accept that at the time of Wayne's death, the officers involved in the arrest and transport of Wayne were "in date" for their OST and first aid requirements.[163]

[174] Training prior to this incident did not include the Post Arrest Care training (developed by the QPS in conjunction with the QAS), following several coronial recommendations in police related deaths.[164] Notwithstanding, Counsel Assisting submitted and I accept that Wayne's death may be 'distinguished on the facts' from those the subject of prior coronial inquests, in that the most that Wayne's conduct could be said to amount to was pushing property from the table in his home and verballing police. Wayne's toxicological results further distinguish his death from others.

---

[162] SC Faulkner described the unit complex as *'pretty much like a prison'* and '*…we need to leave, um, otherwise we pose a real risk of, um, being obstructed and/or assaulted.*' 19 August 2024, T 1-88, LL 44 to T 1-89, LL 41.
[163] Exhibit B2 at pages 54-55. Exhibit B3.
[164] 19 August 2024, T 1-25, LL 2-16. *Inquest into the death of Pasquale Giorgio. Inquest into the death of Noombah. Inquest into the death of GLT.*

[175] I accept the submission of Counsel Assisting that the training now provided to QPS Officers (Exhibit B7) is appropriate, save for the references to the term "excited delirium" which is medically inaccurate and should be removed from training and policy immediately.

[176] The Post Arrest Care training states that [emphasis added]:

> *Officers are to be aware of the risk of a person collapsing or suffering a fatal incident may be increased by:*
>
> - *Pre-existing medical condition; and/or*
> - *The use of alcohol or other drugs; and or*
> - *The effects of a psychostimulant-induced episode and excited delirium; and or*
> - *Positional asphyxia; and or*
> - *The use of:*
>   - *Mechanical restraints (handcuffs)*
>   - *Physical restraint holds; and*
>   - *Multiple officers restraining the individual.*
>
> *When a patient says that they can't breathe – listen to it. Our bodies use our breathing to decrease the acidity of the blood. When someone says they can't breathe, it usually represents a gross metabolic derangement rather than something obstructing their airflow… It is important to appreciate that while the recovery position is better than the prone position (belly down), the best position for breathing is sitting up with the hands in front.*[165]

[177] The training describes agonal breathing:

> *Agonal breathing, or agonal respiration, is the medical term for the gasping that people do when they're struggling to breathe because of cardiac arrest or another serious medical emergency.*
>
> *The desperate gasping for air is usually a symptom of the heart no longer circulating oxygenated blood, or there's an interruption of lung activity that's reducing oxygen intake. It can often signal that death is imminent.*
>
> *When conducting Tac First Aid and you believe that someone is in cardiac arrest and is in the middle of an agonal breathing episode, start CPR immediately. If QAS has not been called already, request urgent assistance and relay the correct signs and symptoms i.e. the AVPU and breathing state of the casualty.*

[165] Exhibit B7, slide 27. Points of relevance to Wayne's death have been underlined for emphasis.

A person in cardiac arrest may also be revived with the help of an automated external defibrillator (AED).[166]

[178] The training provides guidance on interagency communication and notes that '*if QAS ask for restraint to be modified, it is coming from a place of patient safety.*'[167]

[179] The training clearly states [emphasis added]:

> '<u>*Once control and restraint has been established, officers are to transition from the 'use of force' to the 'provision of care.'*</u>
>
> '*Once officers have composed themselves by breathing and scanning, checking of their partner and equipment, officers need to conduct a* <u>*continuous assessment of the subject person*</u> *using the CARE guide and assessing the persons level of consciousness.*
>
> *If the persons AVPU level is lower than alert or there is any doubt, officers are to seek urgent medical assistance by giving succinct and correct information and commence Tac First Aid.*'[168]

[180] I am aware that the QPS have proposed that *OPM 14.3.7 Post Arrest Care (Inquest of Kerle)* as one of the themes for consideration in the 2024/25 compulsory in-service OST curriculum.[169]

Defibrillator

[181] The Brisbane Watchhouse was equipped with a defibrillator which was used on Wayne.[170]

Hyundai iLoad van

[182] There was no camera or electronic monitoring equipment fitted to the Hyundai iLoad van that would have allowed QPS Officers to appropriately monitor Wayne while he was transported in the secure pod of the Hyundai iLoad van.

[183] The seating configuration in a Hyundai iLoad van has two front seats for the driver and passenger, and a three-seat bench in the rear. From the bench seat, passengers can observe persons in the pod through a

---

[166] Exhibit B7, slide 39.
[167] Exhibit B7, slide 49.
[168] Exhibit B7, slide 51.
[169] Exhibit B2.49.
[170] Exhibit B2 at page 55.

Perspex window that provides a line of sight between the cabin and the pod. However, QPS Officers seated in the rear positions on the bench seat of the vehicle, only have vision of a detainee through the Perspex window by looking over their shoulder.

[184] I accept the submission of Counsel Assisting that this constitutes a public safety issue. Further, if a person under arrest is laying on the floor of the pod, (as Wayne was) they cannot be viewed by QPS Officers seated in the front two seats of the vehicle and the officers, would need to climb into the back seat to observe a person during transport. Their view may be further obstructed by the lack of lighting in the secure pod and the placement of the centre headrest of the back seats. It would not be safe for a QPS officer to sit in the secure pod with a person during transport and observe them. The same issues were identified by the State Coroner in the *Inquest into the death of GLT.*

[185] I note that the further issue of the type of van and limitations on accessing the secure pod area were raised at this Inquest in relation to whether a van that requires QPS Officers to push a person into a secure space (as opposed to a van with multiple doors that would enable officer to "push and pull" a person into a secure space) was fit for purpose.[171]

OPMs

[186] I note that *OPM 14.3.7 Post arrest collapse (medical risk factors)* places a positive onus on QPS Officers to monitor persons taken into custody:

> *Officers are to closely supervise* <u>*(constant face-to-face monitoring)*</u> *persons taken into custody where there is a high risk of excited delirium and positional asphyxia.*

[187] However, due to the deficient nature of the equipment provided to QPS Officers in the performance of their duties, namely, the Hyundai iLoad van, I accept the submission of Counsel Assisting that QPS Officers are hindered from compliance with the OPM when having to utilise the iLoad van.[172]

Issue seven

Whether any preventative recommendations might be made that could reduce the likelihood of deaths occurring in similar circumstances or otherwise contribute to public health and safety or the administration of justice

[188] In the *Inquest into the death of GLT*, the State Coroner made the following recommendations:

[171] 21 August 2024, T 1-38, LL 3-44.
[172] This issue was highlighted by the State Coroner in the *Inquest into the death of GLT* at [105]-[106].

> '*I recommend that QPS review the use of terms such as 'excited delirium' and 'positional asphyxia' within its policies and procedures in consultation with the QAS, to ensure that the terminology used is accurate and reflects best medical practice.*'
>
> '*I recommend that the QPS introduce the mandatory requirements for police officers to provide radio confirmation of the health status of a person under arrest, before they are transported in a secure pod.*'

[189] At the Inquest, Det. A/Snr Sgt Downey told the court that the QPS is currently reviewing the terms "excited delirium" and "positional asphyxia" for future training and that a mandatory requirement for police to provide confirmation of the health status of a person under arrest prior to transport would mean QPS Officers would have to pause and assess the person in their custody. Det. A/Snr Sgt Downey noted in her report that she had conducted inquiries with Inspector Anthony Buxton of the Skills and Frontline Education, Operational Training Section regarding the updates to training, and Inspector Buxton, as outlined in her report.[173]

Fitting of CCTV in QPS transport vehicles

[190] The statement of QPS Director, Fleet Services Group ('FSG'), Organisational Capability Command, Ms Roxanna Williams provided information about the progress of the trial of CCTV in QPS vehicles, noting that it was impractical to recall Hyundai iLoad vans currently in service and CCTV would be installed in new replacement vehicles as they arrived. As production of the Hyundai iLoad is ceasing, the QPS successfully trialled a Toyota HiAce fitted with CCTV and in October 2021 as a replacement. The deployment of new vehicles was impacted by the COVID-19 pandemic. I understand that all Toyota HiAce vans will be fitted with CCTV with audio/visual monitoring accessible by the driver and passenger; and FSG will continue replacing Hyundai iLoad's with the Toyota HiAce until such time as there are no more Hyundai iLoad's remaining in the QPS fleet. [174]

Prisoner observation recommendation form

[191] Det. A/Snr Sgt Downey submitted a report to amend QP0638 from '*Prisoner observation recommendation form*' to '*Medical assessment/treatment/recommendation form.*' At the time of submitting her report, the amendments were pending approval.[175]

---

[173] 19 August 2024, T 1-23, LL 25 to T 1-24, LL 6. Exhibit B2 at pages 56-57.
[174] Exhibit B2 at pages 53-54.
[175] Exhibit B2 at page 57.

"Excited delirium"

[192] At the Inquest, Dr Rashford was asked about the recommendations from GLT. He confirmed that he had been part of reviewing the QPS policies that were currently with QPS for progression.[176] Dr Rashford opined that he did not believe "excited delirium" existed and his opinion bore similarity to that of Dr Garland:

> *…If you believe excited delirium exists, and I don't, and we've gone through this over many inquests – and … the term has now been removed out of the American College of Emergency Physicians for a number of reasons because it was attributed to the death of many people who were in custody, and it's not the cause of death.*
>
> *Excited delirium is a [indistinct] presentation and it was very eloquently described by the last doctor. The – where in the setting of … acutely disturbed behaviour in the setting of, most likely, intoxicant use and – and psychotics/acutely disturbed behaviour often associated … hyperthermia, with erratic body movements and the like, and where they supposedly – allegedly, some may have some sort of acute cardiovascular collapse.*
>
> *It's described as having – people have excited [indistinct] strength, but what that normally means is that they've got [indistinct] acutely disturbed behaviour. They don't actually process pain. So they do movements of their limbs that … we would say, "Oh no, that's going to hurt me" and they do things – and so that whole syndrome gets put together.*
>
> *Certainly, Wayne did not have that. You know, … he exhibited capacity, he knew what was going on, may not have – he may have been going in all different directions, but he knew – I felt he knew what he was saying, and he was not exhibiting any of the signs of when we see people who perhaps … take methamphetamines … and are psychotic and thought disordered … and have no idea what – of their surroundings and environment, what's going on, and they do behaviour that is beyond … normal bounds.*

[193] In respect of any link between "excited delirium" and toxicology:

> *…The diagnosis of excited delirium is not just based on toxicology, it's based on … the actual presentation if you … believe in it. What we think now is that acutely disturbed behaviour is … has a spectrum and we have some people who exhibit mild ABD, for another word, that's how we describe it, to the people at the very far end who are this*

[176] 21 August 2024, T 1-18, LL 31 – 46.

very small group who are incredibly disturbed. And then that group are the classic "excited delirium" group, but they are same stuff that's going on. But in that group, they have severe metabolic dysfunction underlying it all, and I've described previously how it … when they have severely exerted themselves, whether that be before or after restraint, they become profoundly acidotic. They have reduced venous return because of the way they are often held down. They don't have overt positional asphyxia. They – in the positions they are held down, they often can't breathe fast enough to actually … compensate for the acidosis that is building up, and so there's this vicious circle of unable – inability to compensate for … the acidosis and reduced venous return and, ultimately, they always, nearly always, have some form of underlying cardiovascular disease, often prematurely, whether it be cardiomegaly – so very large hearts. So [indistinct] or premature coronary artery disease and – and it sets up an environment where they have a sudden cardiac arrest. And I think people are starting to recognise that. So rather than the term "excited delirium", it's a whole multitude of things that lead up to it. Those aren't [indistinct] here. I'm very comfortable to say that … Wayne exhibited none of those features.[177]

Positional asphyxia

[194] Dr Rashford gave evidence of the training and education being provided to QPS and QAS members in respect of positional asphyxia:

> *We have contributed to online training, but I understand every operational officer now has – I think it was mid this year, I was advised that they would get through it. Anyone on the front line will have completed their online training module… our education departments worked together and, in fact, we've incorporated some of that work into the QAS as well. So in fact, we're … about to do another face-to-face training for all our staff and [indistinct] talking to all the clinical educators one by one.*
>
> *… I talk about the human factors of when police and ambulance turn up on scene and … the advice that we have given the police on how they should interact with paramedics, and how paramedics should interact … with police.*
>
> *… I have seen an immense improvement by our police officers in terms of their … what I call clinical care. Because by the very fact – nature of their job now, they can be first on scene or there with us, and it's immensely different than*

[177] 21 August 2024, T 1-18, LL 8-29.

> *it was two years ago … and they're very professional in the way they deal … with patients. I mean, you know, they came from what I would call a quite low base. Not of their doing, it's just that times have changed – of their understanding of agonal breathing and they're concentrating on a couple of very minor things, but there was an emphasis on tactical medical care, which obviously has to occur in the environment they work…*
>
> *But what we recognise is … the non-traumatic acute deterioration which occurs in many of the vulnerable groups that they deal with. Many of the people who come to their attention have quite significant underlying illness … and so they… actually often need care or assessment, and I think that needs to be the emphasis … for the police to consolidate that.*
>
> *We don't want them to be paramedics, we're not expecting them to – they can't be anywhere near what a paramedic [indistinct] but we – we do expect them to recognise people suffering a deterioration and then call for assistance.*[178]

Vulnerable persons

[195] I have had reference to Wayne's vulnerability in the setting of an arrest, particularly as police are highly likely to encounter further such vulnerable persons in the community. As Dr Rashford accepted, Wayne was a vulnerable person in the context of his interaction with police:

> *Oh yeah, look, he … is in a very – he is a vulnerable person. I'm not saying his behaviour was appropriate when dealing with the police. That's not something I would condone, but he is a vulnerable – by any definition, he is a vulnerable person in a vulnerable cohort, and it's incumbent upon anyone who – in public service who deals with him to [indistinct] occupational violence is primary in all of our stuff, I'm not saying that, but he have – you need to understand that he has significant social and clinical and probably custodial issues going on, and he – we have to recognise that – take that into account when we have our decision-making.*[179]

The "human factors" and "playing possum"

[196] Counsel Assisting submitted and I accept that the "human factors" and the concept of "playing possum" give rise to a public safety issue. I note that the BWC footage captured the following conversation between QPS Officers:

---

[178] 21 August 2024, T 1-19, LL 1-40.
[179] 21 August 2024, T 1-19, LL 44 to T 1-20, LL 4.

Const Hanna: '*As soon as we conduct an emergent search, 'I can't breathe, I can't breathe, I can't breathe'…*'

SC Forster: [Laughing…]

Const Hanna: '*Ok, get QAS.*'

SC Forster: [Laughing…] '*That old chestnut.*'

Const Hanna: '*I can't breathe.*'

SC Forster: '*Of course you can…. you're a fat shit that's why.*'[180]

[197] At the Inquest, Dr Rashford gave evidence of what he considered the role of "human factors" to be in the context of deaths such as Wayne's death:

> *Well, I think human factors – how do we get affected by the scenario we find ourselves in. You know, we've got – I think that the human factors with Wayne were that he was talking ten to the dozen. You know, I think everyone – anyone who has viewed the video can tell that he was quite an obstreperous agitating individual. And I think that if – you know, I think there's no doubt the police also contributed to that a bit by – by engaging him in some of his quite funny – interesting arguments of sorts, and that created a [indistinct] of, you know, how could this guy really be short of breath because he's talking ten to the dozen when he's sitting in that room. And – and then you become anchored to that and – and I think – and the paramedics probably had this – would have had the exact same … issues and, in fact, if I had walked there, I probably would have had … the same human factors going on. So it's how you cut through that is really – is important, and it's really difficult.*[181]

[198] Dr Rashford agreed that experience may be a way to "cut through" the human factors as play in these situations.[182]

> *And so – and experience does play that because you have been bitten before, and have missed things, and you don't want to miss them in the future. So – so I guess, as a senior person in our system, and perhaps contributing to police as well, it's incumbent that we do as much as possible to transfer those learnings onto our more junior practitioners who may or may not have ever been in this environment. And I think that's – that's the real learning and [indistinct]*

[180] Exhibit B2.54 at 19:11:40.
[181] 21 August 2024, T 1-20, LL 6-19.
[182] 21 August 2024, T 1-20, LL 21-43.

when we talk about – if you look at our updated clinical guideline, we think we have great clinical guidelines, up there with anything I've seen around the world, but they can always get better and we try to learn from cases. And, in fact, I can reassure Wayne's family from this case, we have looked at it really carefully and – and already included a section on dealings with people in custody, but who aren't at the Watchhouse, because we only ever talk about Watchhouse interactions and what do we do at that point. And we try to make that even safer.[183]

[199] Dr Rashford was asked about the concept of "playing possum":

> Counsel Assisting: '*But is there anything that you might be able to offer, given your experience in interacting with police officers and ambulance on the road, we've heard some evidence about the concept of people purposely dropping their weight, colloquially, it might be referred to as "playing possum". How might that contribute to a person's assessment of a situation, if at all?*'
>
> Dr Rashford: '*Well, you know – and we see this when we look at restrained patients suddenly becoming quiescent. That are they just acquiescing and saying, "All right, you got me, I'm not going to – I'm not going to fight the restraint any further".*
>
> *Now, the [indistinct] is for the police officers, I have no doubt they have people who play possum. You know, ask for a medical – a clinical assessment because they think they will get them out of going to – to the Watchhouse. They will drop their weight and not make it easier – you see that on the news quite often [indistinct] seeing it in Chicago right now. The – and so the – the reality is that's a really – it's really difficult. So we have to – to educate them on what are some of the clinical signs.*
>
> *So [indistinct] if we have the restrained patient, we say if their breathing goes from – you know, when you do exercise, you breathe quite quickly. To suddenly go to almost not breathing at all, most of these people aren't that fit. That's – you need to reassess. There's some change in someone's condition. You at least have to think about it and all we can ask of our officers, whoever they are, is to see someone's condition change – we talk about the 100 miles an hour to zero, and that's colloquial terminology now, but someone who –who goes from, metaphorically, speeding to suddenly not anywhere near where they were over a short period of time, that can be functional. So it can be the*

[183] 21 August 2024, T 1-20, LL 31-43.

person making their own decision to do that or, often, it is due to some underlying medical clinical condition.

And so all we can do is educate, for instance, police officers that they do serve a vulnerable cohort that often have underlying clinical conditions.

Is this sudden change in behaviour related to that. Now, they may – and what I'm looking for. See, they were taught about agonal breathing. By the time we get to agonal breathing, the heart has stopped. So to be fair to the police, we had to say no, no, no, we need to reverse it back up here. What are some of the clues that you might think, hang on, this person needs to be assessed, and that might be a change in their breathing pattern. Not able to – they're now – their voice changes. You know, normally, people who are really aggressive, they continue on until they do acquiesce. They don't [indistinct] slowly get, you know, the like. And so I think that's where the education has to … we're asking a lot of our officers, but they're being placed in situations where there's a lot to do.'[184]

[200] Dr Rashford further confirmed the complexity for police officers in trying to understand whether a person was "playing possum" or in respiratory distress. In doing so, he acknowledged the very challenging environment in which police officers work and the need to provide them with as much skill as is reasonable, accepting that they were not clinicians.[185]

[201] I have been aided by literature, which I accept, on the mistruth that if a person is talking they are capable of breathing, and the importance that both QPS and QAS officers are aware of this.[186]

Comments and recommendations

[202] Wayne's death was a reportable death under section 8(3)(g) of the *Coroners Act 2003* (Qld) (the Act) as it was a death in custody.[187] The consequence of this is that an inquest is mandatory.[188] The State Coroners Guidelines clearly articulate the seriousness of the duty of the State and Deputy State Coroner in the investigation of deaths in custody:

The investigation of deaths in police or prison custody has long been considered an important function of coroners given the vulnerability of people whose liberty is curtailed

---

184 21 August 2024, T 1-21, LL 1-35.
185 21 August 2024, T 1-25, LL 1-9.
186 *'Handcuffs and Unexpected Deaths – "I can't breathe" as a medical* emergency': The New England Journal of Medicine. December 5, 2024.
187 The definitions of death in custody and custody are contained in sections 10(1) and 10(2) of the *Coroners Act 2003* (Qld).
188 Section 27(1)(a) of the *Coroners Act 2003* (Qld).

> *by the exercise of executive power. The Act recognises and responds to the need for public scrutiny and accountability by requiring all deaths in custody to be investigated by the State Coroner or the Deputy State Coroner and by mandating that an inquest be held into all such deaths. These requirements arose out of the extensive recommendations made in the Royal Commission into Aboriginal Deaths in Custody.*[189]

[203] To this, may be added the following statement contained within the Australasian Coroners Manual:

> *Deaths in custody are, of course, a fundamental human rights issue. The state has a duty of care for those whose liberty it takes. It assumes responsibility for those whom it incarcerates. Many of those in gaol or detention are vulnerable people due to social disadvantage, mental or physical illness, such as drug dependency. Independent judicial scrutiny of deaths in custody is an indispensable safeguard against abuse or neglect of persons in custody.*[190]

[204] The purpose of an inquest is to provide the public and the family of the deceased, with transparency regarding the circumstances of the death, and to answer questions that may have arisen following the death.

[205] To this end, those granted leave to appear at the inquest (including Wayne's family) were afforded the opportunity to make submissions to the court relevant to the issues.[191]

[206] The Queensland Human Rights Commission (QHRC) has intervened in the Inquest. At this point it is desirable to make some observations about the QHRC's involvement. The QHRC intervened in accordance with section 51 of the *Human Rights Act 2019* (Qld) (the HR Act). This provision permits the QHRC to intervene in a proceeding before a court[192] on a limited basis, namely, those in which:

> "(a) a question of law arises that relates to the application of [the HR] Act; or
>
> (b) a question arises in relation to the interpretation of a statutory provision in accordance with [the HR] Act."

[207] The intervention of the QHRC raises an important issue as to the application of the HR Act to the Coroners Court of Queensland (Coroners Court). The issue arises because by its submissions the

---

[189] State Coroners Guidelines, Chapter 3.
[190] Hugh Dillon and Marie Hadley. The Australasian Coroner's Manual, 161 at 7.9. Submissions on behalf of the family dated 16 October 2024, at [309].
[191] Section 36(2) of the *Coroners Act 2003* (Qld) entitles a person who has a sufficient interest in the inquest to make submissions about a matter which the coroner may comment under section 46(1).
[192] Which defined in Schedule 1 to include the Coroners Court of Queensland.

QHRC have invited findings that various human rights of Wayne's were breached.

[208] These submissions obviously invite me to find that the HR Act is relevant to my findings. Specifically, there are two submissions advanced by the QHRC.

[209] The first is that a coroners court when performing its functions of fact finding and preventive comment powers is a public entity "acting in an administrative capacity" in accordance with section 9(4)(b) of the HR Act.[193] The consequence, so the QHRC contends, is that section 58 of the HR Act prevents the coroners court, as a public entity, from making decision that is not compatible with human rights or fails to give proper consideration to a human right relevant to the decision.

[210] The second submission advanced is offered in the alternative. It is argued that even if the coroners court is not acting in an administrative capacity, the coroners court is required, as part of its functions, to investigate potential breaches of human rights that may have caused or contributed to the relevant death, to make findings identifying potential human rights breaches by public entities, and to make preventative comments that flow from them. This requirement is said to arise by reason of the interpretative obligation contained in section 48 of the HR Act.[194]

[211] I do not accept either submission for reasons that I will explain.

[212] Section 5 of the HR Act provides, relevantly:

> "**5 Act binds all persons**
>
> (1) This Act binds all persons, including the State and, to the extent the legislative power of the Parliament permits, the Commonwealth and the other States.
>
> (2) This Act applies to—
>
> (a) a court or tribunal, to the extent the court or tribunal has functions under part 2 and part 3, division 3; and
>
> (b) the Parliament, to the extent the Parliament has functions under part 3, divisions 1, 2 and 3; and
>
> (c) a public entity, to the extent the public entity has functions under part 3, division 4.
>
> …"

---

[193] QHRC supplementary submissions at [7]-[9].

[194] QHRC supplementary submissions at pages 11-16.

[213] Section 5(2) contemplates that the HR Act will apply to a court in three scenarios. First, when the court has "functions under part 2". Second, when court has "functions … under part 3, division 3. Third, when the court "acting in an administrative capacity" (and thus is a public entity under section 9(4)(b) of the HR Act) and has functions under part 3, division 4.

[214] The first submission advanced by the QHRC requires an acceptance that a Coroner is not acting in a judicial capacity when making findings in an inquest. I do not accept this as a proposition. While there is no Queensland authority that has considered the proper characterisation of the coronial process, there is authority from other States which supports the proposition that the Coroner though conducting an administrative inquiry, is carrying out a judicial function when sitting as the Coroners Court. I agree with this characterisation. To the extent that other coroners in Queensland have held otherwise, I respectfully disagree.[195]

[215] The effect of my finding is that section 58 of the HR Act does not apply because in conducting an inquest the Coroners Court is not acting in an administrative capacity and therefore is not a public entity within the meaning of section 9(4)(b).

[216] The application of the HR Act can only arise to the extent that the Coroners Court in conducting an inquest "has functions under Part 2 and Part 3, Division 3" of the HR Act. Necessarily, the HR Act applies to the Coroners Court to the extent that the court has functions under Part 2 and Part 3, Division 3.[196]

[217] The proposition that the Coroners Court in conducting an inquest must investigate potential breaches of human rights that may have caused or contributed to the death under investigation and make findings identifying potential human rights breaches is one mandated by section 48 of the HR Act must be rejected.

[218] Section 48, which appears in Part 3, Division 3, placed an obligation on court when interpreting "statutory provisions" to do so in a way that is compatible with human rights. There is no issue with the interpretation of the Act that requires the Court, in compliance with section 48 of the HR Act, to interpret the provision in a way that is compatible with human rights.[197] There is therefore no function under Part 3, Division 3 which arises.

[219] That leaves for consideration whether, and if so to what extent, the Coroners Court in conducting an inquest "has functions under part 2" within the meaning of section 5(2)(a) of the HR Act. The QHRC's

---

[195] *Inquest into the deaths of Yvette Michelle Wilma Booth, Adele Estelle Sandy and Shakaya George ("RHD Doomadgee Cluster") 2019/4445, 2020/2244, 2020/3951*, delivered on 30 June 2023 at [125].
[196] *Wood v The King* (2022) 12 QR 101 at [74]-[75].
[197] *Attorney-General v Grant (No 2)* (2022) 12 QR 357 at [66].

submission is necessarily inviting the Coroners Court to find breaches of human rights. There are several difficulties with this invitation.

[220] The first is that the invitation does not sit comfortably with the manner in which section 5(2)(a) has been interpreted in Queensland in various first instances decisions of the Supreme Court. These decisions have adopted the "intermediate interpretation".

[221] In substance, by this interpretation the "functions" of courts under section 5(2)(a) are the functions of "applying for enforcing [the] human rights in Pt 2 that relate to [the] proceeding."[198] The engagement of this "depends upon the scope of the right concerned and the facts and circumstances of the individual proceeding."[199]

[222] In the context of an inquest, that statutory function is conferred by sections 45 and 46 of the Act, the relevant parts of which provide as follows:

> "**45 Coroner's findings**
>
> …
>
> (2) A coroner who is investigating a death or suspected death must, if possible, find—
>
> (a) who the deceased person is; and
>
> (b) how the person died; and
>
> (c) when the person died; and
>
> (d) where the person died, and in particular whether the person died in Queensland; and
>
> (e) what caused the person to die.
>
> …
>
> **46 Coroner's comments**
>
> (1) A coroner may, whenever appropriate, comment on anything connected with a death investigated at an inquest that relates to—
>
> (a) public health or safety; or
>
> (b) the administration of justice; or

---

[198] *Attorney-General v Grant (No 2)* (2022) 12 QR 357 at [96].
[199] *Attorney-General v Grant (No 2)* (2022) 12 QR 357 at [97].

(c) ways to prevent deaths from happening in similar circumstances in the future.

…"

[223] The statutory function does not extend to making declarations.[200] The difficulty with the QHRC's submissions is that it is seemingly premised on the HR Act expanding the powers of the Coroners Court. That premise is wrong. The HR Act does not expand the Coroners Court jurisdiction. Nor does it vest jurisdiction upon the Coroners Court to give a remedy.[201] That is precisely what the QHRC invite the court to do make findings about breaches of human rights where breaches of the HR Act are found to have caused or contributed to the death.

[224] There is another difficulty with this invitation. The statutory powers under sections 45 and 46 are subject to an important limitation. By sub-sections 45(5)(b) and 46(3)(b) a coroner must not include in the findings any statement that a person is, "or may be … "civilly liable for something." To find, as the QHRC invites, potential breaches of human rights that may have caused or contributed to Wayne's death and to make findings identifying potential human rights breaches by public entities is an invitation to do something that is expressly prohibited.[202] I decline to do so.

[225] That is not to suggest that if potential shortcomings are identified by a Coroner they may not be subject to comments under section 46. Obviously, matters meeting the relevant criteria in section 46(1) then they may, appropriately, subject of comment. Coroners play an integral role in advancing concepts of "death preventability."

[226] If a matter connected with a death relates to "public health or safety" or the "administration of justice" or "ways to prevent deaths from happening in similar circumstances in the future" then section 46 of the Act is engaged. But to characterise such matters (as the QHRC does) as breaches of human rights and make findings consistent with this is, in my view, not appropriate and not the intended operation of section 5(2)(a), even on the intermediate construction of the provision. To do so, is outside the proper remit of the Coroners Court.

Terminology in training manuals

[227] I accept the submission of Counsel Assisting as to the utility of the recommendation of the State Coroner in the *Inquest into the death of GLT* regarding the use of terms such as "excited delirium" and "positional asphyxia" in QPS training manuals.

---

[200] *Wood v The King* (2022) 12 QR 101 at [81]-[82].
[201] *Wood v The King* (2022) 12 QR 101 at [81]-[82].
[202] The submissions of Queensland Corrective Services have identified the relevant authorities dealing with the concepts of civil liability to which I have had regard, specifically: *Perre v Chivell* (2000) 77 SASR 282, *Bell v Deputy Coroner of South Australia* [2020] SASC 59 and *Heumann v Hutton* [2020] QSC 17.

[228] In submissions made to this court, I have been advised that the QPS propose to remove the term "excited delirium" in policy and training manuals and utilise a descriptive term to distinguish persons who are suffering from one or a number of underlying conditions including a spectrum of mental health substance intoxication or some other underlying medical condition or behavioural disturbance. This undertaking will also focus upon QPS responses to persons in crisis which will be reflected in QPS Operational Procedures Manual (OPM) documentation. I further understand that in respect to "positional asphyxia" in-service training has been introduced in relation to post-arrest care.

Post Arrest Care Training

[229] I recommend the continuation of Post Arrest Care training to QPS Officers regarding the appropriate identification of a prisoner suffering a medical issue or behavioural disturbance.

[230] I also understand that the proposed amendments to QP 0638 '*Prisoner observation recommendation form'* are aimed at providing additional information and recommendations to QPS Officers by QAS officers responding to patients in police custody. I recommend that the proposal be pursued to ensure that the QPS is proactive and responsive to the appropriate management of detained persons.

Fitting of CCTV monitoring facilities in QPS transport vehicles

[231] I support QPS' decision to install CCTV audio/visual monitoring accessible by the driver and passenger in all new QPS vehicles; and the replacement of Hyundai iLoad vehicles with Toyota HiAce vehicles (fitted with CCTV audio and video capacity) until such time as there are no more Hyundai iLoad vehicles remaining in the QPS fleet. I note that in submissions made to this court, that the replacement project will be complete by 31 August 2026.

Findings required by s. 45(2) of the *Coroners Act 2003* (Qld)

[232] I make the following findings:

Identity of the deceased	Wayne Thomas Kerle[203]
How they died	Mr Kerle died at the Brisbane City Watchhouse following arrest and transportation by QPS Officers.
Place of death	Brisbane City Watchhouse, Brisbane City, Qld, Australia.
Date of death	27 December 2022.

[203] Wayne was identified by fingerprints (Exhibit B2 at [1.1]).

Cause of death

While the cause of death is listed as 'unascertained,' I find Mr Kerle suffered a cardiac arrest in the context of several contributory factors (where the relative contribution of each cannot be determined), including physical exertion during his interaction with police, possible positional asphyxia, and restraint. Mr Kerle's significant pre-existing natural diseases, including ischaemic heart disease, severe chronic obstructive pulmonary disease (COPD), high blood pressure, and obesity, also contributed to the cause of death. The combination of these factors, along with the physical and psychological stressors of the arrest process, likely exacerbated his underlying medical conditions, leading to his death.

I close the inquest.

S Gallagher
Deputy State Coroner