



CORONERS COURT OF QUEENSLAND

FINDINGS OF INQUEST

CITATION: **Inquest into the death of Jeremiah (“Jayo”) RIVERS**

TITLE OF COURT: Coroners Court of Queensland

JURISDICTION: BRISBANE

FILE NO(s): 2022/959

DELIVERED ON: 17 October 2024

DELIVERED AT: Brisbane

HEARING DATE(s): 27 November 2023 to 1 December 2023

FINDINGS OF: Donald MacKenzie, Coroner

CATCHWORDS: Coroners: Inquest, Missing Person, Deceased disappeared in unclear circumstances from a group of fellow pig-hunters in far south-eastern corner of Queensland, lies to police, evidence of drug trafficking and COVID-19 breaches, potentially suspicious death and criticism of QPS search and rescue operations and investigations.

REPRESENTATION:

| | |
|---|---|
| Counsel Assisting: | Ms Sarah LIO-WILLIE (Counsel) and Ms S. LANE (Counsel) |
| Ms J. RIVERS: | Mr S. LEVITT instructed by Levitt Robinson (Solicitors) |
| Commissioner of Queensland Police Service: | Mr M. NICOLSON (Counsel) instructed by QPS Legal |
| Aboriginal and Torres Strait Islander Legal Service (Qld) LTD: | Ms. A TAYLOR (ATSILS) |
| Queensland Police Service Union of Employees Resources Health and Safety QLD: | Mr S. HOLLANDS (Counsel) instructed by Gilshenan & Luton (Solicitors) |
| Mr Shane THOMAS: | Mr S.E. McDOWELL (Solicitor) (Taylor Rose Solicitors) |
| Mr Travis CLARE: | Mr T. HANNEBERY (Solicitor) (Hannebery Solicitors) |
| Detective Chief Inspector Gary WATTS: | Ms A. WAITE (Solicitor) Gnech & Associates |

Contents

| | |
|---|----|
| Introduction | 4 |
| The Coronial Jurisdiction | 7 |
| The Missing Person Investigation | 9 |
| The inquest | 22 |
| The evidence | 22 |
| Consideration of issues | 30 |
| Lack of Inter-Agency Communication | 43 |
| Conclusion | 44 |
| Referral to the Office of the Director of Public Prosecutions | 44 |
| Comments and recommendations | 45 |
| Findings required by s. 45 | 48 |
| Identity of the deceased | 48 |
| How he died | 48 |
| Place of death | 48 |
| Date of death | 48 |
| Cause of death | 48 |

Introduction

1. Jayo RIVERS was a 27 year old First Nations man whom I now believe to be deceased.
2. There is an old Chinese saying: *“What a man first says to a person in authority can be very revealing.”*
3. At 08:10 hours on Tuesday, 19 October, 2021, Mr Joe Joe Kantilla-Gaden and Mr Matthew Moore spoke with a Queensland Police Service (“QPS”) officer, Acting Senior Constable (A/SC) Blackford at Noccundra. They told him that they had been in Queensland for approximately three weeks, they were trying to get back into New South Wales (“NSW”). They said that the deceased, Jayo, had following an argument, *“walked off into the bush during that previous night and they then were concerned for his welfare.”* This interaction was captured on QPS body worn camera. They did not appear particularly concerned nor was there any sense of urgency about Jayo’s unknown whereabouts.
4. These were lies. It was uncontroversial that they had only been in Queensland for less than 48 hours, that they were in transit to the Northern Territory and that Jayo had left the camp 24 hours earlier (around 08:30 hours Monday 18 October, 2019 - not the previous night).¹ This had a relevant two fold effect: it potentially incriminated them in having knowledge of Jayo’s homicide and put any potential search and rescue of Jayo back at least some 24 hours.
5. Further, Mr Kantilla-Gaden and Mr Moore did not tell A/SC Blackford that they were part of a group of seven pig-hunters, that they had moved their camp after Jayo had “disappeared” and they voluntarily agreed to be immediately escorted 220 kilometres away to the NSW border.² At approximately 14:55 hours, Mr Moore, as directed, once he obtained telephone reception in New South Wales, reported Jayo as a “missing person” to the QPS. A search for Jayo then commenced.
6. Importantly, there was also evidence, which did have its shortcomings, from Mr Matthew Perris, Jayo’s cousin, of a Facebook call made between the two around midnight on Sunday night 17 October 2019. During that call Jayo “really wanted” Mr Perris to drive from the Northern Territory to Queensland to “help” him. His evidence was:
7. *“He told he had an argument and punch up Joe Joe Kantilla, a fellow from Darwin. I think they had an argument over something. I don’t know about what. Jayo told me that Joe Joe got the other fellows to get on his side so they’d all gang up on him.”*
8. The previously unknown “mates” with whom Jayo had planned to travel to the Northern Territory were (apart from Joe Joe Kantilla-Gaden and Matthew Moore): Travis Claire, Kane Toohey, Joel McMaster, and Dylan Thomas. Messrs Clare, Toohey, McMaster and Thomas all lived in Melbourne and were going to drive to Balranald in regional Victoria to collect Jayo and Messrs Kantilla-Gaden and Moore.

¹ See exhibit D3 (photograph of the deceased last seen alive) taken at the first campsite 08:33 hours Monday 18 October, 2021

² See exhibit C18 Body Worn Camera footage A/SC Blackford

These four men saw Mr Moore and Mr Kantilla-Gaden drive past the campsite in the Hilux followed by A/SGT Blackford's marked police vehicle heading in the direction of the NSW border on Tuesday, 19 October, 2019.

9. Although later claiming to have conducted a search for Jayo around Noccundra on all-terrain vehicles, the four left the Noccundra area, travelling east through Thargomindah and Charleville later that Tuesday. At 21:23 hours on Wednesday, 20 October 2019, QPS officers detained their Landcruiser for a roadside breath test at Cunnamulla. All indicated that they were with Mr Kantilla-Gaden and Mr Moore at Noccundra and were aware that a missing persons report had been lodged regarding Jayo by Mr Kantilla-Gaden from NSW. None indicated in recorded conversations that they had been searching for him and they said that they had been at Thargomindah "a couple of days earlier". That could not have been so.
10. They were each further interviewed by QPS. By Friday, 22 October 2019, there were at least seven different versions of Jayo's disappearance provided by the members of this travelling group:
 - i. Version 1 on 19 October, 2021 – (to A/SC Blackford) Jayo was missing on Monday night. He had a disagreement the night before with Mr Kantilla-Gaden and he walked off and he wasn't seen since but believed he was picked up by someone else.
 - ii. Version 2 on 19 October, 2021 – (to Cunnamulla QPS from NSW) Mr Moore reported Jayo missing he said that he had been drinking heavily the night before. He went out chasing a pig along Wippo Creek and did not come back. This occurred on Sunday morning, and still only three (3) people involved.
 - iii. Version 3 – Mr Kantilla-Gaden told police that Jayo went running after a pig from the Warri Gate Road where some of the pig hunting equipment was abandoned by the group of four.
 - iv. Version 4 – 21 October, 2021 at 5am they (the three of them) stopped the truck to let the dogs out, 3 went one way and 2 another way. Jayo ran after the 2 dogs. The 2 dogs returned but Jayo didn't and he hasn't been seen since.
 - v. Version 5 – 21 October, 2021, they were camped with four (4) others on Wippo Creek. They had driven across the border from Tibooburra Saturday night and arrived early Sunday morning (17 October, 2021). Jayo was intoxicated and being a nuisance. He went to cool down in a dam because the creek was too dirty. Two hours later he hadn't returned; and they all searched for 24 hours with nil result.
 - vi. Version 6 – (slight variation) Jayo and Mr Toohey left the camp on foot towards the dams. About 2 hours later, Mr Toohey returned alone.
 - vii. Version 7 – (slight variation) Jayo and Mr Toohey left to put out yabbie pots.
11. In their written submissions, the family of Jayo have helpfully highlighted a number of other incriminating post-offence behaviours: the purchase of seven meals by Mr Moore, the obscuring of a number plate and the failure to raise the alarm regarding Jayo's disappearance on the night of Monday 18 October 2021 at the Noccundra Hotel. Further an incriminating inference can be drawn suggesting ongoing collusion between the members of the pig-hunting expedition from later

QPS telephone intercepts and misleading statements about the location of their campsite to police.

12. On Saturday, 23 October 2023, Mr Kantilla-Gaden was admitted to the Psychiatry Clinic Emergency Department at the Broken Hill Hospital via the Royal Flying Doctor Service from Tibooburra. He was distressed and expressing suicidal ideation as a defence against retribution following his brother going missing in a remote area. He was described as a “difficult historian” and his “travelling companion” (Mr Moore) was noted to be prompting his answers on the background. The medical notes state: *“Got involved in a verbal argument with a relative {Jerimiah} who subsequently left the camp and has been a missing person since.”* Mr Kantilla-Gaden told hospital staff that he was in fear of an aboriginal spirit and was contemplating suicide. The Discharge Summary from the Broken Hill Hospital, dated 26 October 2021 at 18:38 hours does not mention in the *“verbal argument with a relative {Jerimiah}”*. It simply states: *“Joe Joe’s brother walked away from the site and is now missing”*.
13. Ironically, because the abovementioned lies and inconsistencies could be explained away as a means of avoiding prosecution from trafficking dangerous drugs into the Northern Territory (there was some evidence of this from Mr Kantilla-Gaden) or the group illegally breaching COVID-19 restrictions (facing fines of up to \$66, 000.00), in a criminal trial, a jury would be directed that these “lies” would be of limited evidentiary value.³ These Findings are neither restricted by such an evidential rule nor required to meet the beyond reasonable doubt standard of a criminal proceeding. However, the unfortunate result has been that, whilst I am of the view that there is a reasonable suspicion of homicide involved in this missing person investigation, I cannot identify any particular person or persons who were involved. Further, there is a circumstantial argument for Jayo dying from natural causes such as diuresis (kidney failure from heat exposure) after choosing to walk away from the campsite. This was a particular concern as there was evidence that Jayo had imbibed methylamphetamine in the night hours before his disappearance.
14. It would be pure speculation that all the group were involved. Whilst all were dishonest with police by telling untruths and inconsistencies, I cannot ignore the explanation that the lies were to obscure the possible trafficking dangerous drugs and/or COVID -19 breach avoidance not a homicide.
15. Perhaps more importantly, the consistent changing of the narrative of Jayo’s disappearance delayed and redirected QPS search resources to different areas. I have noted the Rivers’ family’s criticisms of the QPS investigation. The window of hindsight is the clearest vision of all. Detective Chief Inspector Watts acknowledged that the QPS search was “not perfect”. However, it was a well-resourced and comprehensive search in difficult terrain and weather conditions. It was the delays, lies and inconsistencies of the six remaining members of this pig-hunting group that was its biggest hurdle to a constructive timely search. Thirty hours had elapsed before Jayo’s disappearance was officially reported and any search was compromised by multiple potential search points plus a full day of potentially lethal hot weather conditions. Dr James Whitehead, now an expert witness in land search and rescue (“LANDSAR”) and in the words of Ms Taylor (ATSILS) *“quite literally wrote the book on search and rescue for Australia”*, opined that he *“could not think of anything that could’ve been done differently”* from a Search and Rescue perspective that might have produced a better

³ See *Zoneff v The Queen* (2000) 200 CLR 234

outcome.

16. This investigation is not closed and any news that might guide me to a resolution of this mystery will be followed through by the appropriate means.

The Coronial Jurisdiction

17. Jayo, a First Nations man was reported to the Coroners Court of Queensland as a missing person who was suspected to have died on or about 18 October 2021. Although Jayo was usually a resident of the Northern Territory, as he went missing in Southwest Queensland and his disappearance was reported to Queensland police, the coronial investigation into his suspected death thus falls within the Queensland jurisdiction.
18. A coroner's powers of investigation are supported by a number of specific powers under the Act. Pursuant to s11 of the *Coroners Act 2003* (the Act), a Coroner may investigate the suspected death of a person if directed to by the State Coroner, and the State Coroner suspects that the person is dead and their death was a reportable death.
19. A coroner investigating a death has a discretionary power to order that an inquest be held if the Coroner is satisfied it is in the public interest to hold the inquest (s28(1)). Subject to exceptions, an inquest must be held by the Coroners Court and in open court (s31(1)). The Coroners Court must publish a notice of the matter to be investigated, the issues to be investigated and of the date, time and place of the inquest (s32). A coroner holding an inquest may hold a pre-inquest conference to decide, inter alia, what issues are to be investigated, who may appear and what witnesses will give evidence (s34). Further, a coroner holding an inquest has a discretionary power to order a person to attend an inquest to give evidence as a witness (s37(4)).
20. I considered that it was in the public interest to hold an inquest into Jayo's suspected death because:
 - a. There is reasonable doubt about the cause or circumstances of Jayo's disappearance;
 - b. There is inconsistent evidence from members of the travelling group so as to justify the use of the judicial forensic process;
 - c. There are suspicious circumstances that have not been resolved; and
 - d. The publicity of an inquest may lead to further developments in the missing persons investigation.
 - e. There was the prospect of making recommendations that might assist authorities in conducting Search and Rescue operations.
21. Section 45(2) of the Act provides:

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.*

22. After considering all of the evidence presented at the inquest, findings must be given in relation to each of these matters to the extent that they are able to be proved. An inquest is not a trial between opposing parties but an inquiry into the death (or suspected death). Lord Lane CJ in *R v South London Coroner; Ex parte Thompson* (1982) 126 S.J. 625 described a coronial inquest in this way:

“...an inquest is a fact finding exercise and not a method of apportioning guilt. The procedure and rules of evidence which are suitable for one are unsuitable for the other. In an inquest it should never be forgotten that there are no parties, there is no indictment, there is no prosecution, there is no defence, there is no trial, simply an attempt to establish facts. It is an inquisitorial process, a process of investigation quite unlike a criminal trial where the prosecutor accuses and the accused defends,”... (and) ... “the function of an inquest is to seek out and record as many of the facts concerning the death as [the] public interest requires.”

23. The focus is on discovering what happened, not on ascribing guilt, attributing blame or apportioning liability. The purpose is to inform the family and the public of how the death occurred with a view to reducing the likelihood of similar deaths. As a result, the Act authorizes a coroner to make preventative recommendations (s46) but prohibits findings being framed in a way that appears to determine questions of civil liability or suggests a person is guilty of any criminal offence (s45(5)).

24. Section 37 of the Act provides that “the Coroner Court is not bound by the rules of evidence but may inform itself in any way it considers appropriate”. This flexibility has been explained as a consequence of being a fact-finding exercise rather than a means of apportioning guilt: an inquiry rather than a trial. However, the rules of evidence and the cornerstone of relevance should not be disregarded and in all cases the evidence relied upon must be logically or rationally probative of the fact to be determined.⁴

25. A coroner should apply the civil standard of proof, namely the balance of probabilities, but the approach referred to as the Briginshaw sliding scale is applicable.⁵ This means that the more significant the issue to be determined, the more serious an allegation or the more inherently unlikely an occurrence, the clearer and more persuasive the evidence needed for the trier of fact to be sufficiently satisfied that it has been proven to the civil standard.⁶ It is also clear that a coroner is obliged to comply with the rules of natural justice and to act judicially.⁷ This means no findings adverse to the interest of any party may be made without that party first being given a right to be heard in opposition to that

⁴ See Evatt, J in *R v War Pensions Entitlement Appeal Tribunal; Ex parte Bott* (1933) 50 CLR 228 at 256; Lockhart J in *Pearce v Button* (1986) 65 ALR 83, at 97; *Lillywhite v Chief Executive Liquor Licensing Division* [2008] QCA 88 at [34]; *Priest v West* [2012] VSCA 327 at [14] (Coroners Court matter) and *Epeabaka v MIMA* (1997) 150 ALR 397 at 400.

⁵ *Anderson v Blashki* [1993] 2 VR 89 at 96 per Gobbo J

⁶ *Briginshaw v Briginshaw* (1938) 60 CLR 336 at 361 per Sir Owen Dixon J

⁷ *Harmsworth v State Coroner* [1989] VR 989 at 994; Freckelton I., “Inquest Law” in *The Inquest Handbook*, Selby H., Federation Press, 1998 at p 13

finding. As the High Court made clear in *Annetts v McCann*⁸ this includes making submissions against Findings damaging to a person's reputation.

26. Further, by s46(1) of the Act a coroner may, whenever appropriate, comment on anything connected with a death investigated at an inquest that relates to:
- a. public health or safety;
 - b. the administration of justice; or
 - c. ways to prevent similar deaths from happening in similar circumstances in the future.

The Missing Person Investigation

27. The following summary of the evidence before the court in respect of the QPS Search and Rescue Mission (SAR), Missing Persons Campaign and the concurrent QPS investigation into Jayo's disappearance was provided by Counsel Assisting in her written submissions. All representatives accepted its accuracy and detail.

Search and Rescue Mission

Terrain and weather conditions

28. Wippo Creek is in a remote area of South-West Queensland and is arid with limited vegetation. At the time of Jayo's disappearance, there had been limited rainfall, and Wippo Creek had various sections where the water had dried into pools. The area immediately surrounding the creek consisted of thick scrub which opened out to vast plains of flat country. There were numerous dry creek lines, spread apart. The only water was near Jayo's last known point; there was no other water within a 15 km radius.⁹
29. The weather reported in the region was 35 – 37°C during the days, and 25°C at nights, with little wind, and no rain.¹⁰ Extreme hot weather was predicted from Friday, 22 October 2021. It was roughly determined that an adult without water would die within approximately 3 days.
30. The nearest town is Noccundra, which is approximately 20km north of Wippo Creek. Noccundra is 142km west of Thargomindah and had a population of 16 in the 2021 Census. Noccundra has a hotel, a store and a petrol station.
31. Communications were limited in the area with no Police radio or mobile signal in Noccundra or at the search area.

Day 1

32. Senior Sergeant James Whitehead (now Dr Whitehead) was the State Search and Rescue Coordinator and Training Officer at the time of the SAR for Jayo. During the SAR, S/Sgt. Whitehead received regular briefings in respect of daily

⁸ (1990) 65 ALJR 167 at 168

⁹ Ex B54 – Statement of Dr Paul Luckin, para 13

¹⁰ Ibid, para 17

search activities and plans and advised in his statement that the SAR “was undertaken as per the National SAR Manual”.¹¹

33. The coordinated search for Jayo commenced on Wednesday, 20 October 2021. The following measures and resources were utilised:¹²

| Time | Search |
|-------------------|--|
| 0700 – 0930 hours | Nocatunga Station manager conducted a search in his Gyrocopter for 2.5 hours in the immediate vicinity of the last known point. Nil sign at all known features, tracks and waterholes |
| | Station Owner Ian Cameron conducted a search of the roadway, bores and access tracks in his fixed wing Cessna 172 |
| 1220 hours | Search Urgency Assessment was completed by SC Darren Coetzer. Assessed as 28 – Evaluate & Investigate |
| | Nocatunga Station manager conducted an expanded search in his Gyrocopter for a further 2 hours in the immediate vicinity of the last known point |
| 1450 hours | SAR Officers attended Wippo Creek and observed the trailer and quad bikes in situ |
| 1510 – 1720 hours | Conducted an area familiarisation. Conducted perimeter search along right shoulder of the camp site and located multiple quad bike tracks and footprints |
| 1800 – 2140 hours | Arrangements made for Joint Rescue Coordination Centre (JRCC) air asset to attend the search area, collate disparate information, liaise with investigators, and plan for 21 October 2021 utilising local resources will be awaiting arrival of SES personnel |

¹¹ Ex B57 – Statement of James Whitehead, para 5

¹² Ex B45 – Statement of A/Superintendent Mowle, paras 22 - 31

Day 2

34. Day 2 of the coordinated search for Jayo commenced on Thursday, 21 October 2021. The following measures and resources were utilised:¹³

| Time | Search |
|-------------------|--|
| 0430 hours | JRCC air asset had completed task. Four hours of flight time in perfect conditions. Covered an expansive search area based on the timelines provided by police. Nil result. |
| 0600 hours | Advice received that the JRCC air asset completed the aerial search |
| 0800 – 1730 hours | All roads, fence lines, water sources and tracks bordering the search area were inspected for footprints. Rapid and expansive ground search commencing from last known point, utilising: <ul style="list-style-type: none">▪ 16 personnel consisting of 13 x station workers; and 3 x QPS▪ 11 x trail bikes▪ 1 x Gyrocopter – this asset covered 250km (linear) at tree top level▪ 1 x Cessna 172 – this asset covered 750km (linear) and 5 hours flight time▪ 1 x Polaris ATV Nil result. |
| 1810 – 2100 hours | Collated disparate information and planned the search activities for 22 October 2021 |

35. The JRCC Challenger jet conducted four hours of flight time in perfect conditions, completed by 4.30am. They covered an expansive search radius of 9 nautical miles (16.2km) based on the timelines and the last known point of Jayo, an area approximately 1,100km² using both optical and electronic search instruments. In addition, they covered an area extending 60 km south from Wippo Creek along the Warri Gate Road plus an area to the west of the search area tracking back to the Noccundra Hotel.¹⁴ The aircraft had forward looking infrared (**Flir**) capability to locate humans based on thermal imaging from 4 – 6,000 feet in height.

36. There are several possible reasons that the JRCC Challenger jet had not located a target:

- a. There were no targets generating thermal energy, i.e. the target missing person was deceased;
- b. The target was outside the search area;
- c. The target was actively avoiding the aircraft. This is difficult to do due to the height at which the aircraft flies, making it hard to hear and see.¹⁵

¹³ Ibid, paras 38 - 45

¹⁴ Ex B45 – Statement of A/Superintendent Mowle, para 38; and page 87

¹⁵ Ex B57 – Statement of James Whitehead, para 8; Inquest Transcript Day 5, P5-68, L15

Day 3

37. Day 3 of the coordinated search for Jayo commenced on Friday, 22 October 2021. The following measures and resources were utilised:¹⁶

| Time | Search |
|-------------------|--|
| 0700 – 1720 hours | Concentrated and methodical ground search from last known point. Foot line search conducted east of last known point, 2km in and return to cover Wippo Creek, campsite and road. Foot line search conducted north side of road in westerly direction. Foot line search north direction from Warri Gate Road 1km. |
| | Plane grid search west of last known point on either side of the road. Approximately 35km including creeks and waterholes. |
| | Polaris with State Emergency Services (SES) volunteers completed search along either side of Warri Gate Road from last known point to Murrawarra Creek |
| | Resources utilised: <ul style="list-style-type: none">▪ 23 personnel consisting of 17 x SES; 3 x station workers, and 3 x QPS▪ 5 x trail bikes▪ 2 x Polaris ATVs▪ 1 x Cessna 172 |
| 1800 – 1900 hours | Collated information and planned search activities for 23 October 2021, including the arrival of the homicide squad. QPS Dive Squad requested, expected to arrive in Noccundra on Sunday, 24 October 2021. |

38. The morning search concluded at 11.50am due to the extreme heat reaching 39°C. It was determined unsafe for the SES volunteers and QPS to continue the search. The search recommenced at 3.30pm.¹⁷

39. By this time there were seven differing versions of events provided by the traveling group.

- **Version 1** on 19 October – Jayo was missing on Monday night. He had a disagreement the night before with Mr Kantilla-Gaden and he walked off and he wasn't seen since but believed he was picked up by someone else. Only three persons involved in this scenario, Jayo and Kantilla-Gaden and Moore.
- **Version 2** on 19 October – when Mr Moore reported Jayo missing he said that he had been drinking heavily the night before. He went out chasing a pig and did not come back. This occurred on Sunday morning, and still only three people involved.
- **Version 3** – Jayo went running after a pig from the Warri Gate Road where the trailer was located.

40. Versions 1, 2 and 3 suggested a search focus south-east of Wippo Creek and Warri Gate Road.

- **Version 4** – at 5am they (the three of them) stopped the truck to let the

¹⁶ Ex B45 – Statement of A/Superintendent Mowle, para 38 and Page 87

¹⁷ Transcript Day 4, T85L10-25

dogs out, 3 went one way and 2 another way. Jayo ran after the 2 dogs. The 2 dogs returned but Jayo didn't and he hasn't been seen since.¹⁸

41. Version 4 suggested the same search focus as Versions 1, 2 and 3.

- **Version 5** on 20 October – they were camped with four others on Wippo Creek. They had driven across the border from Tibooburra Saturday night and arrived early Sunday morning. Jayo was intoxicated and being a nuisance. He went to cool down in a dam because the creek was too dirty. 2 hours later he hadn't returned; and they all searched for 24 hours with nil result.

42. Version 5 suggested a search focus north of and north-west of Wippo Creek and Warri Gate Road.

- **Version 6** – Jayo and Mr Toohey left the camp on foot towards the dams. About 2 hours later, Mr Toohey returned alone.
- **Version 7** – Jayo and Mr Toohey left and to put out yabbie pots.

43. Versions 6 and 7 suggested a search focus in and around water sources.

Day 4

44. Day 4 of the coordinated search for Jayo commenced on Saturday, 23 October 2021. The following measures and resources were utilised:¹⁹

| Time | Search |
|-------------------|---|
| 0700 hours | Search of area resumed with a focus on the areas not previously covered. |
| | Water search of Wippo Creek conducted by 4 x SES side by side – approximately 400m either side of Warri Gate Rod |
| | Foot line search from trailer location east approximately 1km covering land between channels |
| | Bikes conducted line search along Warri Gate Road in south-west direction with return sweeps |
| | Resources utilised: <ul style="list-style-type: none"> ▪ 16 personnel consisting of 14 x SES and 2 x QPS ▪ 2 x trail bikes ▪ 3 x Polaris ATVs |
| | Homicide squad arrived and attended the search area |
| 1600 – 1900 hours | Searched 7km area along the Wilson Creek from south to north. This area included a location indicated by visions being experienced by the elders of Jayo's family. Nil result. Resources utilised: <ul style="list-style-type: none"> ▪ 11 personnel consisting of 8 x SES and 3 x QPS ▪ 2 x trail bikes ▪ 2 x Polaris ATVs |

¹⁸ Moore and Kantilla-Gaden did not have 5 dogs on board. At the time this version was given, police were unaware of the other members of the travelling group from Melbourne.

¹⁹ Ex B45 – Statement of A/Superintendent Mowle, para 58 - 60

| | |
|------------|--|
| 1905 hours | Consulted with State Coordinator regarding search parameters and timeframe for survival without resources and soaring atmospheric conditions |
|------------|--|

45. A water search was completed by SES as a side-by-side line search from Warri Gate Road in a southerly direction to the end of the water source, a distance of approximately 400m. A similar water search was conducted on the northern side of Warri Gate Road in a northerly direction with nil results.²⁰

Day 5

46. Day 5 of the search for Jayo commenced on Sunday, 24 October 2021. The following measures and resources were utilised:²¹

| Time | Search |
|-------------------|---|
| 0600 – 0930 hours | Final search conducted of areas identified, in consultation with State Coordinator. |
| | Foot line search north of Warri Gate Road 800m with return sweeps. Bike line search north of Warri Gate Road 2.5km with return sweeps. |
| | QPS dive squad conducted search of Wippo Creek either side of Warri Gate Road |
| | Resources utilised: <ul style="list-style-type: none"> ▪ 11 personnel consisting of 8 x SES and 3 x QPS ▪ 4 x QPS Dive squad ▪ 2 x trail bikes ▪ 2 x Polaris ATVs |
| 1240 hours | State Coordinator briefed and supported the suspension of search activities |
| 1515 hours | Jayo's family arrived in Thargomindah. Smoking ceremony performed at Thargomindah and welcomed into the country. QPS met with Jayo's family. |
| 1600 – 1730 hours | QPS took Jayo's family to the search area to allow them time to get a feel for the country and explained that initial search activities were suspended. |

47. The search for Jayo was suspended on this day with the support of the State Search Coordinator Senior Sergeant Whitehead. The suspension was based on the fact Jayo was not a resident of the area, he was not familiar with the area, and therefore not likely to be heading towards a fixed point, and the immediate search area was searched with no evidence being found of Jayo. The search was suspended for the purpose of receiving additional information that would identify a different location to search.²²

48. The SAR team and Operation Tango Petalite investigators continued meeting at the Police Forward Command and for briefings in Noccundra during the period of suspension.

²⁰ Ibid, para 59

²¹ Ex B45 – Statement of A/Superintendent Mowle, para 67

²² Transcript Day 4, T54L30-40

Day 6

49. Jayo's family identified they had a spiritual calling towards Wilson River, Noccundra and believed Jayo was in this area. QPS agreed to re-activate a search of this area.
50. Day 6 of the search for Jayo resumed on Friday, 29 October 2021. The search commenced in a new search area at Wilson River.²³ A Gyrocopter was utilised to complete a search of Wilson River and all creeks to the south. The total flight time was 7 hours. The Santos helicopter completed a grid search of the land south of Wilson River, east of Warri Gate Road, approximately 16 square nautical miles (30 km²).²⁴

Day 7

51. Day 7 of the search commenced on Saturday, 30 October 2021 with the following measures and resources utilised:²⁵

| Time | Search |
|-------------------|---|
| 0530 – 1700 hours | High 32 degrees, Low 18 degrees |
| | Walkers conducted line search starting from Warri Gate Road in an easterly direction along the southern side of the Wilson River with return sweeps approximately 2km in. Walkers conducted further line search from the road in an easterly direction approximately 300m south of Wilson River. Nil result |
| | Riders conducted a search around the showground perimeter and Wilson River system on the western side of Warri Gate Road. Riders searched the river systems west of the showgrounds to where it meets with Warri Gate Road. Nil result. |
| | Helicopter search grid western side of Warri Gate Road from Wilson River, 10km south by 5km west. Nil result. |
| | Gyrocopter searched the river system around the Wilson River and creeks west of the showground. Nil result |
| | Resources utilised: <ul style="list-style-type: none">▪ 14 personnel consisting of 9 x SES; and 5 x QPS▪ 2 x Polaris ATVs▪ 3 x trail bikes |

52. Police received information from other campers at the Wilson River that they had heard gunshots on the night Jayo disappeared. Gunshot tests were conducted in the morning which indicated a possible distance that the shots could be heard, as described by the witnesses, to be 2 to 4km. The subsequent ground search was extended out to 4km while the Santos helicopter searched beyond this point and out to 8km.²⁶

²³ GPS 142.585E, 27.826S: High 30 degrees, Low 19 degrees.

²⁴ Ex B45 – Statement of A/Superintendent Mowle, para 95

²⁵ Ibid, para 97

²⁶ Ibid, para 96

Day 8

53. Day 8 of the search commenced on Sunday, 31 October 2021 with the following measures and resources utilised:²⁷

| Time | Search |
|-------------------|--|
| 0530 – 1610 hours | High 29 degrees, Low 17 degrees |
| | Walkers conducted line search west of Warri Gate Road along Wilson River in a Westerly direction approximately 3km either side of the river. Nil result. |
| | Riders searched south of Wilson River along creek area provided by Jayo's family. Nil result. |
| | Walkers conducted line search west of Warri Gate Road along Wilson River in a Westerly direction approximately 3km either side of the river. Nil result. |
| | Consulted State Coordinator for approval to suspend search and rescue and apply for termination |
| | Resources utilised: <ul style="list-style-type: none">▪ 14 personnel consisting of 9 x SES; and 5 x QPS▪ 2 x Polaris ATVs▪ 2 x trail bikes |

54. The 8-day search did not locate Jayo or recover any of the clothing worn by him at the time he left the camp site. The search located no signs of human remains or any disturbed dirt to identify any foul play of a shallow grave potential.

55. The SAR was suspended at the conclusion of Day 8, and a request for termination was made to the State SAR Coordinator and District Officer. While the *search* was suspended the *investigation* into Jayo's suspicious disappearance remained (and remains) ongoing. The SAR was formally terminated on 5 November 2021 with the approval by the QPS Regional Assistant Commissioner.²⁸

56. On 5 April 2022, the QPS Cadaver dogs were deployed to Noccundra and conducted a search utilising their Human Remains Detection (**HRD**) Capabilities. HRD dogs are expected to find everything from traces of adipocere when a body has been moved or tiny remnants of human remains undiscovered by the human eye. HRD dogs are most effective the longer human remains have been in decomposition.

57. The HRD dogs conducted extensive searches of Wippo Creek and surrounding areas on 5, 6 and 7 April 2022. A search was also conducted at Wilson River and the Noccundra campsite. The HRD dogs gave no indication of human remains within the search areas.⁵⁶

Time frame for survival

58. A time frame for survival (**TFFS**) was sourced from the National Search and Rescue Manual which identified without water TFFS was 7 days, with water being 23 days.²⁹ Advice was sought from Dr Paul Luckin, an authority on survival

²⁷ Ibid, para 101

²⁸ Ex G9 – Signed SAR finalisation

²⁹ Ex B57 – Statement of James Whitehead

medicine. In his opinion, based on the premise that Jayo was lost:

- Chance of survival away from water 0%
- Chance of survival under water 0%
- His only chance of survival is at water, 0% otherwise

59. The probability of detection (**POD**) for this search was a cumulative summation of all search assets:

- The challenger jet produced a POD of 80% for a thermal and NVG target. The JRCC Challenger jet undertook a night circle search of an area approximately 1,100km² using both optical and electronic search instruments. This aircraft has the capability to identify a human via thermal imaging from 4 – 6,000 feet in height. The aircraft failed to locate any unaccounted-for humans suggesting that Jayo was already deceased or no longer in the search area;
- The combined Gyrocopter and Cessna, both flown by experienced mustering pilots, would provide a POD of 70% for those areas searched;
- The combined vehicle and foot searching would provide a POD of 60-70% of the area searched. The areas searched were those where the missing person could seek shelter, find water, walk to assistance.

60. The total POD was approximately 65 – 70% throughout the total search area.

61. The search and rescue was terminated on the basis that if Jayo was lost there was no likelihood of him being alive, and little likelihood of his body being found. Predators, including feral pigs, lizards, and eagles would likely have consumed a dead body.

62. Police advise that 'lost person behaviour' suggests that most people tend not to walk in straight lines unless aiming for something and that most missing persons are found within 6km of their last known location.

Missing Person Campaign

63. The missing person campaign was distributed via flyers, newspaper, television, on the internet and through social media. Flyers about Jayo's disappearance were disseminated around Noccundra, Cunnamulla and Thargomindah areas. Signs were printed and placed on fence lines along the road at Noccundra.

64. The following outlets utilised media releases: MyPolice, QPS Facebook, ABC news, SBS, Brisbane Times, National Indigenous Times, Kimberley Echo, 7News, 9News, Courier Mail, The Guardian, Daily Mail, The Australian, NT News, The West Australian.

'Operation Tango Petalite' – Police investigation into the suspicious disappearance

65. Operation Tango Petalite was commenced on 21 October 2021. The Operation commenced in part as a result of Mr Kantilla-Gaden and Mr Moore's initial inconsistent versions when first intercepted by A/SC Blackford. They failed to mention that they were travelling with four other people who were at the Wippo

Creek campsite.

66. On 21 October, arrangements were made for Detectives from the Tibooburra Criminal investigation Branch (**CIB**) to meet Moore and Kantilla-Gaden at Tibooburra Police Station so they could be interviewed. While the interviews were occurring, Clare, Toohey, Thomas, and McMaster arrived at the Tibooburra Station without having been asked to do so. These four men were also interviewed by police on that day. As the matter was a missing persons investigation at that stage, the men were not cautioned prior to being interviewed.
67. The six men were asked by NSW police to stay in Tibooburra as QPS Officers were travelling to Tibooburra to conduct further investigations. Despite this request, Clare and Toohey left Tibooburra during the night.
68. On 22 October QPS Officers arrived in Tibooburra and interviewed Kantilla-Gaden, Moore, Thomas and McMaster. Again, there were no cautions given prior to these interviews. Moore and Kantilla-Gaden were asked why they had not mentioned the rest of the group when they spoke to A/SC Blackford, and they said that they had not wanted to get the others in trouble for breaching the border gate and being in Queensland illegally during the COVID restrictions.³⁰
69. In addition to interviewing the travelling group, police conducted investigations of various property held by the group, undertook forensic examinations and covert enquiries, investigated information from the public and looked for proof of life signs from Jayo.

Firearms

70. During the interview with QPS in Tibooburra, Mr McMaster told police that he was the only person on the trip with a weapons license. He produced two firearms which he said he had brought with him on the trip:
 - a. Vanguard .270 rifle; and
 - b. Browning Arms Co .338
71. The group told investigators that they did not use the firearms on the trip. When police took up with the group in Tibooburra, the rifles were missing the firing bolts and Mr McMaster believed the bolts to have been lost on the drive, rendering the weapons inoperable.
72. On 24 October 2021, Broken Hill Police (NSW) advised that a box containing two firearm bolts and a quantity of ammunition was handed into the police station. The bolts were located on the side of the road at White Cliffs (NSW) on 17 October 2021 by a passer-by. Mr McMaster believed he put the bolts on the road when he changed vehicles.³¹

Review of pig hunting dog GPS collars

73. The travelling group had pig hunting dogs on the trip. The dogs were fitted with GPS tracking collars. The GPS collars were active on 16 October 2021. A review of the GPS revealed that GPS collars were active on 16 October 2021 and

³⁰ Ex A1 – Coronial Report, para 40

³¹ Ibid, para 41

showed the dogs travelled from Ivanhoe at 10.04pm to Wilcannia, and the collars remained active until 7.03am on 17 October 2021.³² This is consistent with the travelling group's evidence of their drive to Queensland.

74. The dog collars were active again from 18 October 2021 at 9.40pm until 12.28am on 19 October 2021.³³ The GPS data revealed the dogs were based at Wippo Creek and covered considerable ground inland, around the creek and out to Warri Gate Road. The location of the distance travelled by the dogs is consistent with the area the group said they were camped in, and that they remained there overnight. The travelling group did not give evidence that they looked around Wippo Creek at midnight for Jayo. Their evidence was silent on what the dogs were doing at this time of night.
75. The maps of the search areas covered by the SAR mission and the HRD dogs is consistent with the ground covered by the pig hunting dogs.

Covert investigations

76. The travelling group were initially considered persons of interest. Telephone intercepts were utilised on each of the lines of Moore, Kantilla-Gaden, Clare, Toohey, Thomas, and McMaster between 1 November and 15 December 2021. There was plenty of discussion between the group about the camping trip and speculation over Jayo's disappearance. There was no evidence to suggest involvement with his disappearance, coercion or hiding of any information into Jayo's disappearance. Due to the insufficient information obtained, it was not justified to continue the covert strategy.
77. A forensic download of the groups' mobile phone text messages also did not reveal anything of evidentiary value to the investigation.

Forensic examinations

78. According to the police report, a thorough forensic examination was conducted on all seized property and yielded negative results on any signs of trauma or foul play.
79. Forensic examinations were also conducted of a stolen Ford Focus that was captured by CCTV doing petrol drive offs at Thargomindah around the time Jayo went missing. Forensic results identified one person who was interviewed by police. The person admitted that he and three others drove from Thargomindah through Cunnamulla and Bollon on their way back to Brisbane. He denied seeing Jayo on his travels. He had no knowledge of Jayo or any of the other six men in the travelling group.

Information received from the public

Facebook messages

80. Belinda Rivers received a Facebook message on or about 22 January 2022 from the user profile name "MagsAllan". This person shared that her uncle believed he saw Jayo in Ravenshoe, about 118km inland from Cairns. This person indicated her uncle, with the Facebook username "Gibson Kerisoma Billy", is a paramedic

³² Ex G2 – Dog Collar Download

³³ Ex G2 – Dog Collar Download

in Ravenshoe and he attended a call for a man sleeping on the highway. Mr Billy described this man as a “young Aboriginal boy around mid-20s or late 20s orange brown beard hair not that chubby.” He continued that he did not get a good look at this male’s face as he kept it covered, and was wearing all black. The male told paramedics that he was homeless, called himself a “drifter” and said he was headed to Atherton. MagsAllan sent her uncle the Missing Persons poster, and he said the man he saw looked like the man in the poster. Mr Billy said he would advise his Officer in Charge. MagsAllan suggested that Belinda ensure Jayo’s Missing Person notice was circulated in North Queensland in case he was in the northern region.

81. Gibson Billy provided a statement to police on 9 March 2022 describing the interaction he had with this young Aboriginal man. He described the man as having a Northern Territory or Western Australian accent. He provided details and photographs of the location to police of where he saw this man. Mr Billy was shown recent photographs of Jayo and he said that it was not the drifter he spoke to, and now considered the two to not be the same person.³⁴

Possible sightings

82. As a result of the missing person media coverage, a number of sightings were reported to crime stoppers. Detectives investigated sightings at Logan, Charleville, Tweed Heads, Cairns, Ravenshoe, and Kununnarra. The reported sightings were deemed as either mistaken, untrue or incapable of being verified.³⁵

Psychic/ medium circle

83. A Facebook profile by the name “jenniferthegriefmedium” was contacted (it is unknown by who) advising that Jayo’s mum wants some information. The profile owner appears to be Jennifer Ankele, a psychic, induced after death communication therapist, and grief and trauma therapist among other things. She wrote the following in reply:

Something about Jayo’s wallet. They may have it or went through it. more than one person did this. one of them has a history of breaking the law. That’s all. Ask the girl she knows more.

84. Jennifer wrote back and said she sits in a circle with other psychics/mediums and the information they obtained from the name “Jayo Rivers” was:

An area of interest is a dirt area with sticks on the ground. There is a road to the left of this dirt area that has a sign with animal crossings and there is a small river or stream to the right. There are pine trees not too far away. This place may have already been investigated but go back.

We feel that 2-3 men are responsible for what has happened. Perhaps there was some drug use. An argument and physical altercation.

Jayo’s tennis shoes are of interest.

Names of streets or roads that may have: B, N and E.

³⁴ Ex B2 – Statement of Gibson Kerisoma Billy

³⁵ Ex A1 – Coronial Report, p19; Ex B39 – Statement of Kane Hildebrand, para 19-20

Jayo's car or someone else's car has more evidence that will help. An older truck is significant.

*Restaurant/bar/with live music – someone may have seen something.
A girl Jayo knows, may know more. A man with scars/bad complexion knows more.*

85. The psychic also provided four drawings, one of the dirt road and creek she described, and three profile sketches. The messages provided by police do not explain who these people are purported to be.
86. Police found that Jayo's wallet was with the rest of his belongings left in the car, all of his licences and bank cards were within the wallet. Jayo was primarily paid in cash when he worked in Balranald. The psychic information did not provide anything of substance for police to further investigate.

WhatsApp ransom

87. Belinda Rivers took a series of photographs on 1 May 2022 of a WhatsApp message exchange that occurred over the course of 2 days. The messages are undated. It commenced with a Facebook message at 7.27pm on a date unknown from the profile "Linda Watterson". The message included a phone number to use WhatsApp to talk. The profile stated that "*Jayo Rayo River is here he was kidnapped on 18 October in 2021 we have been actually trying to reach but he could not remember any of you but he is beginning to remember so he directed us to you.*"
88. This person then engaged with Belinda over WhatsApp, and explained that they were in the bush. When Belinda asked for a photo of Jayo, the "kidnappers" demanded USD\$200,000 and to not involve police so this could be resolved in a "peaceful way". The kidnappers eventually sent Belinda a photo with the message "*Man he is alive and this is the photo of your son I can presented it to you because this is the same way we do present it to our other client and you don't really needs your son. I only give you 1 good week if you don't say anything about your child he will be killed and I will snap him and show you and still pastie on the map*".
89. The photo was a stock "kidnapping" image with Jayo's face photoshopped onto the kidnapped person. When Belinda called the "kidnappers" out on the fake photograph, the writer became argumentative and after a series of back and forth declared, "*final your son will be killed by this time on fortnight. Pray for me his soul to Rest in Peace.*"
90. The Northern Territory police identified that the sender of the messages was from overseas origin. The messages were deemed to be not reliable and the attempts of scammers to target the family for money.³⁶

Proof of Life: Jayo's phone, social media, and bank accounts

91. Jayo did not have a mobile phone. He would mainly use Kantilla-Gaden's phone when he needed to call anyone.
92. A check conducted of Jayo's social media identified he had a Facebook profile but he did not appear active on it, with his last post being on 16 February 2020.

³⁶ Ex A 1 – Coronial Report, p24

93. Bank checks were regularly conducted since Jayo went missing and none of financial services or Medicare claims have been accessed since his disappearance. QPS intelligence exchanges and searches over the last three years have produced no evidence that Jayo is still alive.

The inquest

94. An inquest into the disappearance and suspected death of Jayo was heard in the Coroners Court of Queensland at Brisbane between 27 November and 1 December 2023. The inquest heard from 16 witnesses who gave evidence throughout the proceedings.
95. A brief of evidence, which included the coronial investigation report, over 60 witness statements, audio and video exhibits, photographs and other materials gathered during the coronial investigation were tendered at the commencement of the Inquest.
96. The brief of evidence referenced a spirit name. This line of inquiry was not pursued at inquest on the basis it is lore and not appropriate for this Court to investigate.
97. The inquest was closed with a family statement about Jayo and the impact his disappearance has had on his family and community.
98. Written submissions were provided by Counsel Assisting and the other parties to the inquest. For the most part, these submissions were of great assistance and I thank Counsel Assisting and the other representatives for their efforts in this respect.

The evidence

Jayo's life

99. Jayo was a 27 year old First Nations man. He is the eldest of three children of Joanne Rivers, and is part of a large extended family in Western Australia and the Northern Territory. Jayo's skin name in Aboriginal kinship lore system is Jungari and he hails from the two biggest tribes in the East Kimberley of Western Australia. He is also a part of the traditional owners of Warmun Community in East Kimberley. Jayo is considered a leader and mentor to younger people in his community, and is considered as a future leader for the Gija people in the Kimberley. His family also describe him as an experienced and skilled native tracker and hunter.
100. Jayo is a talented AFL player, and in 2021 he was offered a contract with the Balranald Football Club in New South Wales. Balranald is a rural town around 150km southeast of Mildura. Four men from the Northern Territory moved to Balranald for the AFL season in April 2021; Jayo, his brother Kshaun Rivers, his kinship brother Joe Kantilla-Gaden, and Donny James.
101. Jayo was employed by the AFL club which included paid labouring work for Club members, on a property about 15 km outside of Balranald.³⁷ The AFL club also provided a home for the four men to live in during the season.

³⁷ Ex B4 – Statement of Kane Farnsworth

102. While in Balranald, Jayo and Mr Kantilla-Gaden met Matthew Moore. Mr Moore was family friends with Guy Maclean, a man who had moved to Darwin, and who was Jayo and Joe Joe's Uncle. Mr Maclean called Mr Moore before Jayo and Mr Kantilla-Gaden moved to Balranald to play AFL and asked Mr Moore to look out for Jayo and Mr Kantilla-Gaden and show them Mr Moore's way of life and hunting.
103. There is anecdotal evidence that, when Jayo moved to Balranald, he engaged in the consumption of alcohol and illicit drugs.³⁸ Friends and family advise that Jayo was not a heavy drug user prior to his move to NSW; and were unaware if he had used methylamphetamine and cocaine before. Jayo's mother described him as using cannabis recreationally but he was more of a drinker, and someone who could drink a lot.³⁹
104. Jayo had a criminal history in both Western Australia and the Northern Territory. His Western Australian criminal history commenced in 2013, his final conviction in 2019. The offences included aggravated burglary, disorderly behaviour in public, possession of a prohibited drug, possession of alcohol on community land, and breach of community-based court orders.⁴⁰ His Northern Territory criminal history commenced in 2015. His most recent conviction was in 2021 and consisted of traffic offences and one conviction for engaging in violent conduct.⁴¹

Travelling group

105. After the AFL season finished, Jayo and Mr Kantilla-Gaden made plans to return home to the Northern territory with a group of men from NSW and Victoria. They planned to combine the trip home with a hunting trip.
106. While they were in Balranald, Jayo and Mr Kantilla-Gaden met Travis Clare through Mr Moore. Mr Clare lived in Victoria, and stated he first met Jayo and Mr Kantilla-Gaden about 6 weeks prior to the trip - on two occasions when he was hunting in Balranald. In late September or early October 2021, Jayo and Mr Kantilla-Gaden told Mr Clare they were from Darwin, and they wanted to go home but were stuck in Balranald because of the Covid-19 border restrictions. Mr Clare offered to drive Jayo and Mr Kantilla-Gaden to Darwin because he heard that Darwin was one of the best hunting spots in Australia, and there was little work for him at the time due to Covid-19.⁴² In return, Jayo and Mr Kantilla-Gaden were going to teach Mr Clare and his friends about their Aboriginal customs and traditional hunting methods.⁴³
107. It was arranged that three other friends of Mr Clare's from Victoria: Kane Toohey; Joel McMaster; and Dylan Thomas would come on the trip too. The four men from Victoria were all going to drive to Balranald together to collect Jayo and Kantilla-Gaden and Moore. The plan was for all seven of them to then continue driving to Darwin.

³⁸ Evidence of Joe Joe Kantilla-Gaden; Matthew Moore, Transcript Day 1, T87L15

³⁹ Ex B20 – Statement of Joanne Rivers, para 19

⁴⁰ Ex H6 – Western Australia Criminal History

⁴¹ Ex H6 – Northern Territory Criminal History

⁴² Transcript Day 2, T7L5-15

⁴³ In their ROIs the travelling group seemed to be an agreement of learning traditional hunting methods from Jayo and Mr Kantilla-Gaden in exchange for driving them to Darwin. At Inquest it was more focused on good pig hunting country in Darwin

108. Mr Moore initially was not going to go on the trip but then decided to join them because it was a “once in a lifetime opportunity” to be on country and learn more about his Aboriginal heritage.
109. Mr Moore was the only member of the group who knew all of the other members before this trip. He had been friends with Mr Clare for about 10 years. He used to hunt with Mr Clare’s Uncle and then became friends with Mr Clare.
110. Mr Moore met Kane Toohey, Dylan Thomas, and Joel McMaster through other hunting trips with Mr Clare. Mr Moore told investigators that he had known Mr Toohey for about six or seven years; Mr Thomas for about three years and Mr McMaster for the last two years.⁴⁴
111. Jayo and Mr Kantilla-Gaden did not know the men from Victoria well – they met Mr Toohey one week prior to the trip⁴⁵ and only met Thomas and McMaster on the day they arrived in Balranald to pick them up for the drive to Darwin.
112. On 4 October 2021, Jayo called his Aunt Belinda and told her he was moving back to the Northern Territory for good now that the AFL season was over. He informed his mother that he was getting a ride with friends back to Darwin.⁴⁶ The week before his disappearance, Jayo called his Uncle David and told him that he was driving up with a few mates to go pigging; and they had pig dogs and quad bikes.⁴⁷
113. The travelling group referred to each other by the following nicknames:

| Name | Nickname |
|------------------------|-----------------|
| Jayo Rivers | Jayo |
| Joe Joe Kantilla-Gaden | JJ |
| Matthew Moore | Moorey |
| Travis Clare | Naks / Nackers |
| Dylan Thomas | Dicko |
| Joel McMaster | Blue |
| Kane Toohey | - |

114. In the early morning of Saturday 16 October 2021, the group from Melbourne departed for Balranald. They travelled in the following two vehicles, each towing a trailer carrying camping and hunting gear, including two quadbikes and one small ATV:
- a. Grey Toyota Landcruiser [1JX2FK]; and
 - b. White Toyota Hilux [1LE1WB]
115. They also had three pig hunting dogs in cages on the back of the Hilux tray.

⁴⁴ Ex C4 – Moore ROI on 22 October 2021, Ex C5 – Moore ROI on 7 November 2021

⁴⁵ Transcript Day 2, T55L10-15

⁴⁶ Ex B20 – Statement of Joanne Rivers

⁴⁷ Ex B19 – Statement of David Rivers

116. The full group left Balranald sometime in the afternoon of 16 October 2021. The group are not entirely clear about their travels northwards, but places they visited and timings can be pieced together from evidence gathered by police.
117. On 17 October 2021 at 5.37am,⁴⁸ Mr Thomas and Mr McMaster attended the Wilcannia Hospital. Wilcannia is around 410 km, or 4 and a half hours drive, north of Balranald. Mr Thomas had metal shavings in his eye from work and attended the hospital to have them removed. From Wilcannia, the group would be heading north-west through NSW to the Queensland border.
118. On 17 October 2021 at 10.53am,⁴⁹ the Landcruiser and Hilux were captured on CCTV pulling into the petrol pumps at the White Cliffs Outback Store., around 1 hour north-west of Wilcannia. Jayo got out of the rear driver's side door, he was wearing long pants, a red Brisbane Broncos Indigenous print jersey, but he was not wearing any shoes. He was limping. Each member of the travelling party said that Jayo did not wear shoes during the trip to Queensland, and commented he was "mad" to chase after pigs barefoot. Mr Kantilla-Gaden was travelling in the Hilux and was captured by CCTV walking around talking on his mobile phone. The group used Jerry cans to refuel the Landcruiser.⁵⁰
119. At 12.25am on 18 October 2021, the Hilux and the Landcruiser were captured on CCTV driving past the TJ Roadhouse at Tibooburra, around 330km north-west of White Cliffs.⁵¹ The travelling group took a rest stop at Tibooburra before travelling into Queensland.
120. At the time of the trip there were Covid-19 border restrictions into Queensland. In the south-west corner of Queensland there were physical border gates that were locked to enforce the restrictions. The group were heading to the Wompah Gate, is approximately 80km north-east of Tibooburra by road.
121. The travelling group entered Queensland via the Wompah Gate. The padlock was cut off with a grinder⁵², and the gate opened, in order to enter. The Wompah Gate was checked by a leading hand of the Border Fence Maintenance Board (Qld) at 4.40am on 18 October 2021 and he found the cut padlock on the ground and observed vehicle and trailer tracks heading through the gate. The leading hand emailed A/SC Blackford of the Thargomindah Police Station at around 5:09am to notify him of the border breach.⁵³
122. The travelling group each gave evidence at inquest that they reached Wippo Creek, around 180km north of the border, in the early hours of the morning, nearing daybreak. It was not a planned stop. Mr Clare was the driver leading the convoy and needed a rest, when they saw the creek, they decided to pull in for a rest.
123. In all his versions Mr Kantilla-Gaden stated he and Jayo were consuming alcohol throughout the whole drive, and that they both smoked methylamphetamine. At

⁴⁸ Ex E5 – CCTV Wilcannia Hospital – 17.10.2021 – Timestamp on relevant footage is 5:36am and 6.35am

⁴⁹ AEDT

⁵⁰ Ex E3 – CCTV White Cliffs Outback Store – 17.10.2021

⁵¹ Ex E1 and E6 – CCTV – TJ Roadhouse Tibooburra

⁵² Transcript Day 1, T26; T12L30; Transcript Day 2, T9

⁵³ Ex B5 – Statement of Jamie Hayman, para 6-7

inquest, Mr Kantilla-Gaden said this was the first time he and Jayo had used methylamphetamine.

Jayo's disappearance

124. Jayo was last seen by the group on the morning of 18 October 2021. When the group first pulled into Wippo Creek, Mr Clare let the dogs out for a run and they took off after a pig. Jayo and Clare and Kantilla-Gaden chased after the dogs. They stuck the pig and left it to bleed out.⁵⁴ When they returned, the group set up their swags and cooked breakfast. Mr Toohey set out yabby nets in the creek. The mood amongst the group was described as being in good spirits and “high energy”, they were excited they were getting closer to Darwin.⁵⁵
125. Mr Kantilla-Gaden felt the effects of the methylamphetamine and alcohol. He described Jayo as loud and drunk; and he told him to settle down and have a rest but Jayo told him he was “getting like Mum”. Mr Kantilla-Gaden gave evidence he knew what Jayo meant by this statement, that Mr Kantilla-Gaden was worrying too much. Mr Kantilla-Gaden expressed to Jayo that “if anything happened to him it would come back to him ten times worse.”⁵⁶ Jayo did not seem worried and wanted to continue hunting. Mr Kantilla-Gaden lay down for a nap. He did not see Jayo walk away from the campsite.
126. At 8.33am, Mr Clare took a photo of the group at Wippo Creek.⁵⁷ This is the last known photograph taken of Jayo. He was wearing a black “Rondo” basketball jersey, long pants, and red shoes. Also captured in the photograph was Thomas, Moore and Toohey.⁵⁸ Mr Clare gave evidence at the Inquest that Jayo walked away from the campsite when this photograph was taken. Mr Clare did not see Jayo after that.
127. Mr Toohey left to check on the yabby nets in the creek about 50m away from camp. While he was at the creek Jayo came up to him and asked about the water. The two joked about the fact Jayo was finally wearing a pair of shoes, when he was chasing pigs the last few days barefoot. Jayo told him he was going to check the dam for a swim. Mr Toohey told him there was no point as the dams were bone dry; but Jayo insisted on looking for some water to have a swim.⁵⁹ Jayo walked off and Mr Toohey thought nothing of it. Mr Toohey was the last person to see Jayo alive.
128. The evidence of the members of the travelling group was that they were not initially concerned that Jayo appeared to have wandered off from the Wippo Creek campsite.
129. Mr Moore gave evidence at the inquest that every time the group stopped along their trip Jayo would walk off and they had to drive down the road and pick him up and continue their trip.⁶⁰ For this reason Mr Moore said that Jayo going on a walk on his own did not worry him.

⁵⁴ Transcript Day 1, T19 L5, 25

⁵⁵ Transcript Day 1, T22L15; T91L25; Transcript Day 2, T12L30; T59L10; T94L15

⁵⁶ Transcript Day 1, T19L35

⁵⁷ Ex D3 – Photograph at Wippo Creek

⁵⁸ Transcript Day 2, T14 – 15

⁵⁹ Ibid, T61L20-25

⁶⁰ Transcript Day 1, T87L25

130. Clare, Toohey, McMaster and Thomas were not overly concerned about Jayo's initial disappearance, and referred to past personal experiences of being lost for up to 12 hours on a hunting trip and that seemingly being par for the course when out bush and hunting.⁶¹
131. Mr Kantilla-Gaden gave evidence that he had napped for about 15 minutes and when he woke up Jayo was gone. He asked the other men where Jayo was and was told Jayo went for a walk. Mr Kantilla-Gaden followed Jayo's tracks from the camp to the big dam. Mr Kantilla-Gaden observed Jayo's tracks circled the dry dam. He then followed the tracks to the creek, and walked both sides of the creek calling out to Jayo but he received no response.⁶² Jayo's tracks led to the road but they did not continue over the road, and they did not lead back towards camp.⁶³
132. Mr Kantilla-Gaden did not see any vehicle tracks nearby to suggest Jayo was picked up by a passing car. It should be noted there is very little traffic in this area. It was reported only one vehicle passed the Wippo Creek campsite on 18 October 2021.
133. Mr Kantilla-Gaden returned to the camp and alerted the rest of the travelling group of his concern. It was then that the group utilised the quadbikes and the vehicles to drive along the roads searching for Jayo. The group made the decision to relocate their camp to the other side of Wippo Creek, believing they were more visible to the road. When put to each of them that it would make more sense to remain at the original campsite, they were consistent in their evidence that the second campsite was closer to the road, and if Jayo was lost he would follow the road back to where they were camped.
134. At about 5pm that day, Moore and Thomas drove to the Noccundra Hotel and purchased seven meals. The reason for buying seven meals was because they were hoping Jayo would be back at camp when they returned to Wippo Creek.⁶⁴ Mr Thomas said he asked patrons of the hotel if they saw anyone come in, but the answer was no. The men did not make an attempt to alert the hotel publican that Jayo had walked off and not returned to camp, nor ask about a telephone to use to contact police.
135. They asked if they could get diesel and were advised that the fuel shuts down at 5pm and not available until 8am the following day. The hotel publican found their behaviour suspicious and notified A/SC Blackford of the nearest police station at Thargomindah.⁶⁵ A/SC Blackford arranged to be at the hotel when the fuel pumps opened the following morning.

Missing person notification

136. Jayo was last seen by the group on the morning of 18 October 2021. Mr Kantilla-Gaden said that he did not want to get any of the group in trouble so convinced them not to report him missing because they were all illegally in Queensland during the Covid-19 border restrictions and were potentially subject to a \$66,000 fine.

⁶¹ Transcript Day 2, T17L30. Evidence of Travis Clare and Joel McMaster

⁶² Transcript Day 1, T23L30

⁶³ Ex C3 – ROI Joe Joe Kantilla-Gaden on 14 May 2022

⁶⁴ Transcript Day 2, T138L25

⁶⁵ Ex B26 – Statement of Neil Turner

137. On the morning of 19 October 2021, Moore and Kantilla-Gaden returned to Noccundra to fill up the Hilux. They left the trailer with the quadbikes at the campsite at Wippo Creek. As they approached the Noccundra Hotel they observed a marked police vehicle and kept driving. A/SC Blackford intercepted them, and Mr Moore said they had been in South-West Queensland for 3 weeks and they were trying to return to New South Wales. A/SC Blackford advised them the borders had been closed for some time and remained closed until December. He then offered to drive the men back to the border and unlock the gate for them.
138. It was only then that they asked A/SC Blackford if he had seen Jayo. It almost seemed like an afterthought for Kantilla-Gaden and Moore to tell A/SC Blackford that Jayo had not been seen for a whole day. This interaction was captured on body worn camera and they did not appear concerned nor was there any sense of urgency about Jayo's whereabouts. They said they thought he might have got a lift with someone to town, and they were going to give him a call when they got phone reception. A/SC Blackford escorted them to refuel and then approximately 220 km back to the New South Wales border. He told them to call police once they got reception if they still had not located or heard from Jayo.
139. The remaining four men from the travelling group saw Moore and Kantilla-Gaden drive past the campsite in the Hilux and saw the marked police vehicle following behind them. Moore and Kantilla-Gaden did not tell A/SC Blackford that they had another vehicle travelling with them.
140. About 15 minutes after A/SC Blackford left the Noccundra Hotel on escort, a vehicle was seen speeding past the Hotel with an ATV on the back.⁶⁶ It is assumed this is the Landcruiser with Clare, Toohey, McMaster and Thomas on board.
141. On his return to Noccundra, A/SC Blackford conducted a cursory look for Jayo.
142. Later that day at 2.55pm (19 October 2021), Mr Moore called the Cunnamulla Police Station and reported Jayo Rivers as a missing person. Constable Kerr-Hemingway completed the missing person's occurrence and notified his shift supervisor.
143. At about 3.30pm, A/SC Blackford was informed about the missing person report and commenced a ground search for Jayo. He engaged the assistance of the Noccundra Hotel publican and other locals to conduct the initial search.⁶⁷ A/SC Blackford drove toward Wippo Creek and looked for new tracks on the side of the road. He observed numerous vehicle tracks to the left of the road on the northern side of Wippo Creek and followed them approximately 50m inland and discovered the dual axle trailer with two quadbikes loaded on it.⁶⁸ This information was given to Cunnamulla police, who contacted Mr Moore and he admitted that he had left the trailer there.⁶⁹
144. At around 4:30pm that afternoon Const. Kerr-Hemingway spoke to Sergeant Darin Coetzer, the SAR Officer in the region. Sgt. Coetzer was notified about the missing person report and reviewed the police occurrence report and conducted preliminary enquiries. Based on the known information he completed a search

⁶⁶ Ex A1 – Coronial Report, para 10

⁶⁷ Ex B30 – Statement of Senior Constable Blackford, para 85

⁶⁸ Ibid, para 89

⁶⁹ Ex A1 – Coronial Report, para 17

urgency report. The purpose of the assessment was to establish the urgency in which to conduct or commence the search and rescue operation and assist in the initial planning phase. The completed report indicated that a Measured Response was called for.⁷⁰

145. Sgt Coetzter calculated a search radius using relevant SAR tools and statistical information. At 6:20pm he spoke to Patrol Group Inspector Mowle (now Acting Superintendent), who was the Operation Commander in the SAR. The Officers discussed the Search Urgency Assessment. Insp. Mowle directed that a SAR would commence on the following morning, 20 October 2021, with an initial briefing to be conducted at Thargomindah Police Station.⁷¹
146. When asked why the coordinated search did not commence on the night of 19 October 2021, Sergeant Coetzter gave evidence that an initial search had already been conducted by the local police officer and members of the community, and there were issues around fatigue management for police officers to travel to Wippo Creek, which was about 550 km from where he was based at Bollon Station.⁷²
147. Day 1 of the SAR commenced on 20 October 2021 as outlined in the summary of the SAR above.
148. At 9:23pm on 20 October 2021, Cunnamulla police intercepted the Landcruiser for a Roadside Breath Test and licence check. Clare, Toohey, McMaster and Thomas were in the Landcruiser, and towing a trailer with two quadbikes (ATVs) on board. During the conversation with police it became apparent that the four men were associated with Jayo. The men said they did not have any fresh information about Jayo to give to police.⁷³
149. Clare, Toohey, McMaster and Thomas were reluctant to answer questions, and said they had not wanted to attract attention as they were in Queensland illegally. Police obtained contact details from the four men, who said that they were on their way back to Victoria.⁷⁴
150. The following day, 21 October 2021, as outlined above, Clare, Toohey, McMaster and Thomas arrived at Tibooburra while Kantilla-Gaden and Moore were being interviewed, and all six men were interviewed by NSW police.

⁷⁰ Transcript Day 3, T97L30

⁷¹ Ex B34 – Statement of Sergeant Coetzter, para 20 and Ex B45 – Statement of A/Superintendent Mowle, paras 13 - 14

⁷² Transcript Day 3, T100L15

⁷³ Ex A1 – Coronial Report, para 19

⁷⁴ Ibid, para 20

Consideration of issues

151. There were four issues considered at Inquest:

- a. The findings required by s45(2) of the Coroners Act 2003, namely whether or not Jeremiah Harold Rivers is in fact deceased and, if so, how, when and where he died and what caused his death;
- b. If deceased, the circumstances surrounding Jayo's death;
- c. If deceased, whether the actions of any other person contributed to his death or the disposal of his body; and
- d. The adequacy of the police investigation into his disappearance.

152. I will address the s45 findings in full under a separate heading below.

Issue 2 – the circumstances of Jayo's likely death; and

Issue 3 – whether the actions of any other person contributed to his death or the disposal of his body

153. It is convenient to deal with the discussion of Issues 2 and 3 together.

154. On the evidence before the court, there are a number of possibilities which have arisen which may explain Jayo's disappearance. It has been suggested that he may have intentionally left the group and walked away, or that he got into a passing vehicle and left the area. If he did not leave voluntarily, then consideration must be given to whether third parties were involved in his disappearance.

155. Regardless of how Jayo came to disappear, Counsel Assisting submitted that it is now very unlikely that Jayo's is still alive.⁷⁵ I agree with that conclusion. Given the extensive search conducted in the days following his disappearance, including the use of aircrafts, thermal imaging, ATVs, police divers, foot patrols, and HRD dogs. It is reasonable to assume that, had Jayo been alive and travelling on foot, he would have been located during the search.

156. It is *possible* that Jayo willingly got into a vehicle and left the area. However, I consider that very unlikely, given the lack of vehicle traffic in the area, and the likelihood that a vehicle passing through would have been noticed at the time and tracked down during the missing persons investigation. For similar reasons I do not think there is much chance that a stranger in a vehicle 'kidnapped' Jayo or took him against his will. I also note that Mr Kantilla-Gaden did not find any tyre tracks when he was tracking Jayo's movements.

157. I also agree with Counsel Assisting's conclusion that Jayo was a loved and valued member of his community and would not be intentionally avoiding detection.⁷⁶ In addition, the police investigation found that there was no indication that, since his disappearance, Jayo had accessed any of his social media accounts, his bank account or had been recorded in the Medicare system.

158. Accordingly, I find on the balance of probability, that Jayo is deceased.

⁷⁵ Submissions by Counsel Assisting, para 149

⁷⁶ Ibid

159. Counsel Assisting submitted that there are two possible explanations for Jayo's disappearance and death: misadventure and foul play. There has been no serious suggestion that Jayo might have deliberately taken his own life, and I do not consider this to be a likely possibility in the circumstances.

Foul play

160. A number of scenarios were explored at inquest in which it was suggested that harm was caused to Jayo by members of the travelling group. The live inference is that one or more members of the group was responsible for killing or incapacitating Jayo. If that was the case it follows that one or more members of the group must have subsequently disposed of or concealed his body.
161. Evidence which might suggest or support such a scenario was investigated by police and is discussed below.

Gunshots

162. Witness John Manz was caravanning around Queensland and setup at the campground opposite the Noccundra Hotel at about 1pm on 18 October 2021. While setting up he reported hearing two or three gun shots from the direction of the Wippo Creek campsite at about 1.30pm. Mr Manz told police there were two gun shots approximately 1 or 2 minutes apart, and a third gun shot about 10 minutes later. He believed the shots were about 5 km away and were from a high-powered bolt-action rifle. Alan Rodgers also gave a police statement reflecting the gunshots heard by Mr Manz. This was investigated and ruled out as gun shot from the campsite, as it would not be possible to hear gunshot at a range of 25 km (approximate distance between Noccundra Hotel and Wippo Creek campsite). At inquest, Detective Chief Inspector Watts gave evidence that the gunshot was determined to be the Nocatunga station manager shooting a feral fox.⁷⁷
163. It was also established that Mr McMaster left the firing bolts for the two firearms on the road at White Cliffs in New South Wales, rendering the firearms inoperable at the time they reached Wippo Creek. The bolts were located by a passer-by on 17 October 2021 and handed into Broken Hill Police Station. These bolts matched the two firearms presented by Mr McMaster.
164. ATSILS have submitted that, because the Landcruiser was not searched, "there is no evidence to exclude the possibility that there may have been an operable and/or unregistered weapon in the possession of the travelling party."⁷⁸ A similar submission was made by the family.⁷⁹ I accept that submission. I accept that it is possible that the travelling group did have an operable firearm or firearms in their possession which was not declared by Mr McMaster.
165. However, there is still a complete lack of any witness and/or forensic evidence to the effect that any member of the travelling group used an operable firearm to cause harm to Jayo. The shots heard by Mr Manz have been determined to have been fired by the Nocatunga station manager. No other witness has come forward claiming to have heard shots fired. There was no blood found, no spent cartridges, nor any evidence of the disposal of Jayo's body. So while it remains a *possibility*

⁷⁷ Transcript Day 4, T108L35

⁷⁸ Submissions by ATSILS, para 9A)x

⁷⁹ Submissions on behalf of family, para 28

that Jayo was shot by a member of the travelling group, I find that, in the absence of any additional evidence, that this scenario is very unlikely to have occurred.

166. I also accept the submissions made on behalf of DCI Watts in response to the alleged 'failure' of police to search the Landcruiser – that is, that “the officer who intercepted the vehicle had no power to inspect the vehicle under section 32 of the *Police Powers and Responsibilities Act 2000*” as the officer had no reasonable suspicion that the vehicle contained evidence that someone had committed a serious crime.⁸⁰

Assault

167. Matthew Perris is one of Jayo’s cousins. He told police that Jayo called him from Mr Kantilla-Gaden’s phone at around midnight on 18 October 2021. Jayo sounded drunk, and said that he had an argument and punch up with Mr Kantilla-Gaden and a fellow from Darwin. Jayo said that Mr Kantilla-Gaden got the other fellows to get on his side so they all ganged up on Jayo. Mr Perris stayed on the phone for 10 to 15 minutes trying to calm Jayo down. Jayo asked Mr Perris to go to Queensland to help him get out of the situation he was in. Mr Perris said he had no transport to get to Queensland. This was the last time he spoke with Jayo. He rang Mr Kantilla-Gaden’s phone again on 20 October 2021 but the phone was not answered.⁸¹ The group denied having any sort of argument with Jayo. Mr Kantilla-Gaden said that Jayo was loud, affected by drugs and alcohol, and he told him to calm down. Jayo said he was starting to sound like “mum mob” and he went for a walk to cool off.
168. Mr Perris was called to give evidence at the Inquest. He gave evidence that the call occurred at midnight between 17 and 18 October 2021 and was a call via the Facebook Messenger application. Mr Perris said he could hear shouting in the background of the phone call. When Paragraph 9 of his statement was read to him, that he thought Jayo was by himself because he could not hear anyone in the background, Mr Perris then told the inquest that his statement was correct and there were no voices in the background because “he was trying to get away from them.”⁸²
169. At Inquest, Mr Perris said that he told Jayo’s grandmother Anne Rivers the following day about the phone call, and that Jayo was in trouble. Ms Rivers provided a statement, dated 1 December 2023, that Mr Perris did indeed tell her about this phone call to the effect of Jayo was having problems with “Joe Joe and Matthew Moore.” Mr Perris’ evidence, both in his police statement and to the inquest, was that he did not know the people Jayo was travelling with, only Mr Kantilla-Gaden.
170. Mr Perris accepted he was awoken by Jayo’s call and he was sleepy but denied being mistaken about what Jayo told him. He said Jayo called from his own Facebook profile but he would usually use Mr Kantilla-Gaden’s phone because Jayo did not have his own phone. Mr Perris has no record of the Facebook call because he created a new Facebook account in 2022 when he got a new phone number and he cannot remember the password to access his old account.
171. The call charge records (CCRs) were obtained for both Kantilla-Gaden and Perris’

⁸⁰ Submissions on behalf of DCI Watts, para 18(c).

⁸¹ Ex B16 - Statement of Matthew Perris

⁸² Transcript Day 4 – T60L5

mobile phones. The Facebook Messenger call does not appear as a voice call on CCRS but could be reflected by data usage.

172. A review of Mr Kantilla-Gaden's mobile phone revealed it was in constant use for internet connections, SMS and voice traffic between 13 October 2021 and 01:22 hours AEST on 18 October 2021. At 01:22 hours on 18 October 2021, Mr Kantilla-Gaden's mobile phone was connecting to the Telstra network in Tibooburra, New South Wales.⁸³ From that time, Mr Kantilla-Gaden's mobile phone had no internet connections, SMS or voice traffic until 19 October 2021 at 11:47 hours AEST, when it recommenced use with the Telstra network in Tibooburra, New South Wales. This is consistent with the evidence of the travelling group, and QPS officers that there was no cell tower and subsequently no telephone service in Wippo Creek or Noccundra.
173. A review of Mr Perris' mobile phone revealed it was in constant use between 7 October 2021 and 26 October 2021 at Kalkaringi in the Northern Territory.⁸⁴
174. Counsel Assisting appeared, in submissions, to question the veracity of Mr Perris' evidence on the basis that, according to the telecommunications evidence above, "Jayo was never in Queensland at the time Mr Kantilla-Gaden's phone was last operational".⁸⁵ I do not agree that Mr Perris' evidence should be discounted on that basis.
175. At 12:25am on 18 October 2021, the travelling group drove past the Tibooburra Roadhouse. They had a rest stop, and then entered Qld by the Wompah gate some time before 4:40am, which is when Border Fence maintenance found the cut padlock. We do not know exactly when the phone call occurred, although Mr Perris thinks it was around midnight. We also do not know the range of the Tibooburra mobile tower, and therefore how far from Tibooburra the group might have been when Jayo made the phone call.
176. As for Jayo saying he was in Queensland, ASTILS submits that "it could be reasonable to infer that Jayo believed himself to be in Queensland and not realized he was still in NSW".⁸⁶ I accept this submission. The group was headed to Queensland, and Tibooburra is only about 80km from the Wompah gate by road (closer as the crow flies). It is entirely possible that Jayo thought he was in Queensland when they were in fact still in NSW.
177. This phone call is not evidence that an assault occurred. Mr Kantilla-Gaden gave evidence that Jayo was affected by drugs and alcohol. I have concluded that Jayo telephoned Mr Perris with complaints about the travelling group. Again, there is a lack of any witness and/or forensic evidence of an assault. I note that, in the photograph taken at the Wippo campsite on the morning of Jayo's disappearance, he did not appear to be suffering any injuries from any assault.
178. However Mr Perris appeared to me to be an honest and reliable witness. His account survived a robust cross-examination. Disappointingly, information about this telephone call was not given to investigating police by Jayo's family for many weeks after his disappearance. However, given I have accepted Mr Perris'

⁸³ Ex B62 – Statement of Andrew Girle, P2; F2.1 – Stored Communications – Kantilla-Gaden

⁸⁴ Ex B62.1 – Statement of Andrew Girle, P2; H15 – CCRs – Matthew Perris

⁸⁵ Submissions by Counsel Assisting, para 131.

⁸⁶ Submissions by ATSIILS, para 9C)iv

evidence as honest and reliable, it is clear evidence of a motive by members of this pig-hunting troop to cause Jayo harm.

Suspicious behaviour by travelling group

179. While there is insufficient evidence to firmly conclude that Jayo was shot or assaulted by the group, it cannot be denied that there was significant amount of suspicious behaviour by members of the traveling group after Jayo's disappearance. This behaviour included:
- a. Failing to report Jayo's disappearance at the earliest opportunity;
 - b. Kantilla-Gaden and Moore:
 - i. failing to stop at Noccundra when they saw a marked police vehicle there;
 - ii. only mentioning Jayo's disappearance to A/SC Blackford as an apparent afterthought;
 - iii. lying about the location of their campsite;
 - iv. failing to mention the second vehicle and other members of the group to A/SC Blackford;
 - c. All members of the travelling group giving a number of different (versions to investigators of Jayo's disappearance;
 - d. The Landcruiser apparently leaving Noccundrah at speed; and
 - e. Clare, Toohey, McMaster and Thomas being reluctant to answer questions when the Landcruiser was stopped in Cunnamulla.
180. The group advised police and gave evidence at the inquest that the reason for their suspicious behaviour was that they knew they were in Queensland in breach of Covid-19 border restrictions and did not want to get each other in trouble and/or be given a fine.
181. If this is the reason for their delay in reporting Jayo's disappearance and their inconsistent stories about where they were camped and how and when Jayo left them, then Jayo's six travelling companions wasted valuable hours which could have been spent looking for Jayo more effectively. Unfortunately, this cannot give much comfort to Jayo's family.
182. Ironically, because the abovementioned lies and inconsistencies could be explained away as a means of avoiding prosecution from trafficking dangerous drugs into the Northern Territory (there was some evidence of this from Mr Kantilla-Gaden) or the group illegally breaching COVID-19 restrictions (facing fines of up to \$66, 000.00), in a criminal trial, a jury would be directed that these "lies" would be of limited evidentiary value.⁸⁷
183. These Findings are neither restricted by such an evidential rule nor required to meet the beyond reasonable doubt standard of a criminal proceeding. However, the unfortunate result has been that, whilst I am of the view that there is a reasonable suspicion of homicide involved in this missing person investigation, I cannot identify any particular person or persons who were involved. However unsatisfactory to those who love Jayo that might be, it also cannot be entirely discounted that Jayo died of natural causes.

Drug trafficking

⁸⁷ See *Zoneff v The Queen* (2000) 200 CLR 234

184. Mr Kantilla-Gaden told the police the men from Victoria were transporting three pounds of cannabis to Darwin to sell. Mr Kantilla-Gaden told police that the plan was to take it to his uncles in Darwin, and the money from the cannabis was going to pay for the trip. At inquest, Mr Kantilla-Gaden said that this was not correct, and that he had only found out about the drugs when they got to Wippo Creek, because he heard the “boys’ talking about them.”⁸⁸ In cross-examination by the family, it was put to Mr Kantilla-Gaden that Jayo found out about the drug trafficking at Wippo Creek too, and he was unhappy about it, which then led to a fight between Jayo and the group. Mr Kantilla-Gaden denied that this had occurred.⁸⁹
185. Mr Moore denied seeing or knowing about any drugs being transported. The rest of the travelling group denied any knowledge of drug trafficking.
186. Aside from Moore and Kantilla-Gaden, the travelling group were not questioned by detectives about drug use or drug transportation, or any possible motives for foul play.⁹⁰
187. If the group were trafficking drugs interstate, this would be another possible motive for the suspicious behaviour by the travelling group. However, there is insufficient evidence before this court to determine whether trafficking was, in fact occurring, much less to determine whether drug trafficking may have had anything to do with Jayo’s disappearance and death.

Credibility of members of the travelling group

188. Moore and Kantilla-Gaden gave police five different versions about what occurred before they admitted they were travelling with the four men from Victoria and the time at which Jayo left the camp:
 - a. On 19 October 2021:
 - i. Kantilla-Gaden and Jayo had an argument the night before (Monday 18th), and Jayo walked off. They believed that he may have got a ride with someone, and they were going to call him when they got back in service. Moore said they were trying to get back to NSW but found the gate locked. They were camped south of Noccundra Hotel approximately 100m on left of the Wilson River. They did not mention the other 4 people in their group or the trailer left behind at Wippo Creek;
 - ii. Jayo jumped out of the car to chase after a pig and had not been seen since;
 - iii. They crossed the border Saturday night (16th) arriving at Wippo Creek at sunrise Sunday (17th). Around midday Jayo woke up and wanted to swim in the nearby dam to cool off. He crossed the road east of Warri Gate Rd, to another dam. They went looking for Jayo but could not find him;

⁸⁸ Transcript Day 1, T53L46

⁸⁹ Ibid, T52 - 63

⁹⁰ Mr Clare gave evidence when being cross-examined that he had been asked about drugs at the Kilmore Police Station, but this is not reflected in the transcript of his interview.

- b. On 21 October 2021:
- i. Jayo and Toohey went towards the dams and a short time later Toohey returned alone; and
 - ii. Kantilla-Gaden and Jayo had been drinking all night and smoked methylamphetamine. Kantilla-Gaden went to sleep. Jayo went for a walk. Toohey thinks he was the last one to see Jayo. Toohey was putting out yabbie pots when Jayo came past and said he wanted to go for a swim but he wasn't going to swim there and went to look for clearer water.
189. From the fourth version, given on 21 October 2021 to NSW police, the versions of all six members of the group are largely consistent: at Wippo Creek, Mr Kantilla-Gaden told Jayo to settle down as they were on another man's country. Jayo told him to stop acting like his mother. Mr Kantilla-Gaden went to sleep for about 30 minutes and when he woke up Jayo was gone. He was told Jayo went for a walk to the dam to cool off. Toohey went back to the camp, but Jayo was not with him. Mr Kantilla-Gaden went for a walk to look for Jayo but he couldn't find him. He went back to the campsite and Mr Clare told him to take one of the quadbikes to go looking for him because it would be quicker to bring Jayo back to camp so they could leave for the next site.
190. I note that, by the time this fourth version was given, all six men were in Tibooburra and able to discuss their versions amongst themselves, which makes it unsurprising, in my view, that the versions became more consistent from this point onwards.
191. At inquest, Mr Kantilla-Gaden admitted to telling untrue versions of events the first three times he spoke with police, and that he and Mr Moore had decided to do that to "protect the [Melbourne] boys".⁹¹ He said that after Jayo had been missing for three days, he and Mr Moore decided to tell the truth because by that time, "it was a serious matter".⁹²
192. In their evidence at inquest, each member of the travelling group said they were aware of the Covid-19 border restrictions into Queensland at the time of their trip. Mr Clare said they thought they would try their luck at getting through anyway, and that's why they used back roads.⁹³ Each member of the group recalled the Wompah Gate being locked with a padlock and someone in their group cutting the padlock with a grinder, but either they did not recall who, or did not see who in the group did it.
193. No member of the travelling group had a sense of urgency about Jayo's disappearance on their first interactions with police. The group from Melbourne gave evidence that they were not concerned until 20 October 2021 when Mr Moore advised them he reported Jayo missing and Mr Clare's girlfriend suggested that they should also call police about Jayo being missing.⁹⁴
194. At inquest, the travelling group were consistent to the extent that all gave evidence that Jayo was consuming alcohol throughout the drive to Wippo Creek, they

⁹¹ Transcript Day 1, T30L33

⁹² Ibid, T30L8

⁹³ Transcript Day 2, T9L5

⁹⁴ Ibid, T22L9

looked for him on quadbikes and vehicles, they relocated camp to the other side of Wippo Creek but remained on the same side of the road, they bought enough dinner for seven of them thinking he would return, they were all worried about the fines for breaching the Covid-19 border, and did not think Jayo's disappearance was too serious until 24 to 48 hours since he was last seen.

195. Again, it is not surprising that the group's evidence was largely consistent at inquest, given that they had had ample opportunity to speak amongst themselves up to that point. I note the submissions by ATSILS that "it would have been highly beneficial for [the travelling group] to have been kept separate prior to giving evidence".⁹⁵ While I agree with the sentiment, at inquest the members of the travelling group were not charged with any offence, and most were unrepresented. They attended in accordance with their summonses and cooperated with the court in respect of the scheduling of their evidence. Beyond warning the men not to discuss their evidence between themselves, the court has no power to isolate them or confine them in order to protect the integrity of their evidence. This is not a failing of the court or of QPS witness travel and accommodation policies, but a reality of our justice system which assumes innocence until guilt is proven.
196. Of course, the consistency in the groups later versions could also mean that their story is true rather than the result of collusion. I note that a strong point in the group's favour in this respect is that police obtained each man's mobile phone and found no evidence which was inconsistent with their story. In addition, telecommunications interceptions (TI) warrants were obtained by police in November and December 2021. The Melbourne men were interviewed again while the TIs were active. Despite this, the TIs did not obtain any evidence of any of the group discussing foul play, making any admissions of any offences against Jayo or of any sort of cover up.⁹⁶
197. I do not find that the members of the travelling group, individually or collectively, to be credible witnesses. All members of the group were knowingly breaching COVID-19 restrictions by entering Queensland, they were all engaged in drug-taking during the trip, and may have been engaged in drug trafficking. By their own admission, Mr Kantilla-Gaden and Mr Moore lied to police about the circumstances of Jayo's disappearance until three days had passed and they thought the situation was serious. The men from Victoria have not been caught in outright lies, but have engaged in suspicious behaviour for a group supposedly concerned about a missing member of the group.
198. In respect of whether Jayo's death and disappearance was the result of foul play by members of the group, there are many parts of the evidence which raise suspicions about the group's motives and actions. However, at this stage, there is a complete lack of any forensic or independent witness evidence of any foul play by members of the travelling group. At this stage, foul play cannot be proved, but I consider it a possibility, and note that if further evidence of any offence is obtained, this inquest may be re-opened to consider that evidence.

Misadventure

199. If the evidence of the travelling group is to be believed, Jayo was drinking beer from the time the men were picked up from Balranald. Kantilla-Gaden and Moore

⁹⁵ Submissions by ATSILS, para 12A)iii

⁹⁶ Ex A1 – Coronial Report, paras 72 - 73

also state that Jayo was smoking methylamphetamine. Mr Kantilla-Gaden admitted that he was intoxicated and affected by the drugs; and noted that Jayo was intoxicated by alcohol at the very least. The night before Jayo went missing he was hallucinating and said he saw spirits. Mr Toohey admitted that he smoked methylamphetamine on the drive to Wippo Creek but did not recollect seeing anyone else smoking.⁹⁷

200. By the time the travelling group reached Wippo Creek Jayo had injured his feet having chased pigs barefoot for the first two (2) days and had burrs in them. Despite being told to put shoes on so he would not keep hurting his feet, the only time he wore his shoes was the morning he went missing. All the members of the travelling group told police they found it funny that of all days that was the time he actually put his shoes on.
201. On the morning Jayo went missing, Mr Kantilla-Gaden told him to settle down, and he did not like being told what to do so went off for a walk. Mr Kantilla-Gaden described Jayo's tracks as looking like he was walking in circles.
202. Jayo was on unknown country, given the consumption of alcohol and drugs, lack of sleep, possible hallucinations, and was without food and water. It is possible he became disorientated on his walk and could not find his way back to camp. Further, if he had been imbibing methylamphetamine his physical and mental state would have been inhibited.
203. If Jayo became lost and disoriented, he may have died because of lack of food and water, or exposure. Predators, including feral pigs, lizards, and eagles would likely have consumed a dead body. The inquest heard evidence of the feral pig problem in South-West Queensland. The group sighted pigs on their arrival at Wippo Creek. Mr Toohey gave evidence of pig prints and wallowing in the tree next to the creek where he set the yabby pots.⁹⁸
204. It is possible that Jayo died, having wandered off from camp and become lost. It is also possible that his remains were not found during the search because they had been eaten by animals, especially wild pigs. In high temperatures decomposition of a body is accelerated. I accept that the evidence on which this scenario is based is the evidence given by members of the travelling party. As discussed above, this evidence is inconsistent, members of the party have engaged in suspicious behaviour, and their credibility is in question. If they were involved in Jayo's death, they would have a motive to lie to investigators about his disappearance. Notwithstanding this, I cannot discount that misadventure is a possibility which, in the absence of any unambiguous evidence of foul play, cannot be ruled out.

Issue 4 – the adequacy of the police investigation

205. This issue has been the main point of disagreement between Jayo's family and the remainder of the parties to this inquest in their written submissions.
206. Having detailed the extent of the police SAR efforts and the subsequent police investigation into Jayo's disappearance, Counsel Assisting submitted that I would find that "the SAR mission was extensive and exhaustive, utilising personnel both

⁹⁷ Transcript Day 2, T56L30

⁹⁸ Ibid, T60L30

local and volunteers, quadbikes, ATVs, aircrafts and HRD dogs without success of locating Jayo or any of his belongings.”⁹⁹ Counsel Assisting submitted that “the greatest challenge for the search was the delay in reporting Jayo missing and the dishonesty of all six members of the travelling group as to the facts, time, and location around Jayo’s disappearance.”¹⁰⁰

207. Representatives for the Commissioner of Police, the QPS Union and the various police officers adopted the submissions by Counsel Assisting, and provided further references to the evidence which, in their submission, would support a finding that the police investigation was appropriate, and that no criticism should be made of any officer concerning the search or the investigation into the disappearance of Jayo. Further, each of these parties made submissions to the effect that the investigation remains open, and that any information obtained from the inquest or in the future will be acted upon and investigated.

Criticisms of the investigation

ATSILS submissions

208. In public interest submissions, ATSILS acknowledged the continued efforts of the various officers involved, but submitted that:

“...Your Honour could find the investigation into Jayo’s disappearance has been undertaken in an adequate manner, with the acknowledgement that there were missed opportunities within the police investigation, in that some of the investigative decisions and judgements were not adequate, and that in hindsight there was potential for the investigation to be conducted in a more thorough and holistic manner.”¹⁰¹

209. These missed opportunities and inadequate decisions and judgements are identified as follows:

- a. The failure to search the vehicle driven by the men from Victoria at Cunnamulla was a missed opportunity for the Landcruiser to be searched for evidence of what may have happened to Jayo;
- b. During the SAR, there was a missed opportunity to seek input from local First Nations people with expertise and experience in tracking and reading the local country;
- c. The End-to-End Review of the investigation which was conducted in March 2022 may have benefitted from the inclusion of a First Nations person who could have provided cultural input;

210. I have discussed the ‘failure’ to search the Landcruiser at paragraphs 150 – 152. I cannot see any “First Nations” aspect of this submission. I have already determined that there was no valid basis suspicion, at that stage, upon which to found a legal search. In respect of the latter two submissions by ATSILS, I accept that First Nations expert input may have been beneficial during the search and the review, but that this would be subject to the availability of the relevant First Nations experts to the police. I note the SAR operation accepted input from Jayo’s

⁹⁹ Counsel Assisting’s submissions, para 156

¹⁰⁰ Ibid

¹⁰¹ Submissions on behalf of ATSILS, para 15

family – there is nothing before me which would suggest that the QPS is resistant to First Nations input where it is available.

Family submissions

211. More extensive criticisms of the QPS investigation, and of the actions of individual officers were made by solicitor, Dana Levitt, in her written submissions made on behalf of Jayo’s family.
212. Unfortunately, Ms Levitt’s submissions contain a number of allegations against the QPS which are inflammatory and/or not supported on the evidence. Some allegations would be considered offensive to the officers and to the QPS generally. In particular, I reject the submission that the QPS SAR operation and potential criminal investigation lacked “forensic rigor”. The QPS investigators were the subject of robust submissions in reply by the Commissioner of Police and Mr Hollands, for officers involved in this missing persons investigation. They were described as: “scandalous assertions and accusations”¹⁰² Nonetheless, I am obliged, in fairness to the family, to give such consideration to Ms Levitt’s submissions as I am able to in the circumstances.
213. The major issues raised by Ms Levitt (which I have not already considered and determined in the discussion of Issues 2 and 3 above) were:

Drugs

214. Referring to character evidence given by Belinda Rivers, Elle Langworthy and Benedict Mahon, the family have raised concerns that, in the course of this investigation, Jayo has been ‘wrongly’ characterized as a “drug-user and criminal.”¹⁰³ I do not accept that this is the case. I accept the evidence before the court from family and friends of Jayo’s which suggested that Jayo was known to drink and smoke cannabis and that he was not dependent on drugs or alcohol. I also accept the evidence of these witnesses to the effect that they had not known him to use ‘hard’ drugs such as methylamphetamine. I also note that the evidence of Jayo smoking methylamphetamine on the trip comes from other members of the travelling group.
215. However, it must be remembered that Jayo had been away from the Northern Territory for many months playing football and working in Balranald prior to his death. It is not unknown for people to conceal aspects of their life and character from family and friends.¹⁰⁴ Moreover, Ms Belinda Rivers is reported as providing the following information on 21 October, 2021¹⁰⁵:

“Belinda states that the community is upset that the MP had been hanging around with a group like this that are known to do heavy drugs. She states the MP only ever did yandi and alcohol ...”

216. I do not accept that Jayo was dismissed as a drug-user and criminal by the police investigation. Any drug use by the deceased was a relevant matter for investigation. Rather, the police properly recorded allegations relating to drugs

¹⁰² Submissions on behalf of the QPS Commissioner, para 17

¹⁰³ Ms Levitt’s submissions, para 7

¹⁰⁴ Submissions on behalf of Hildebrand *et al*, para 30

¹⁰⁵ See Exhibit H2 QPS Enquiry Log

and criminal behaviour where they were made, and carried out various investigations into these allegations. At its highest, the evidence before the court suggests that Jayo may have smoked methylamphetamine while on the trip, and that he might have been an unwitting accomplice to drug-trafficking. Further, if Jayo was imbibing methylamphetamine in the hours before he disappeared a natural causes death had to be considered more likely.

Misadventure

217. The family raise issue with the conclusion of the Coronial Report – that is, that Jayo is likely to have died of exposure to the harsh terrain and climate. Ms Levitt refers to this as ‘the environmental theory’.¹⁰⁶ I note that this is, in fact, only one of the ‘theories’ referred to in the conclusion of the Coronial Report which reads as follows:

“Extensive Land/Air/Water searches have not been successful in the location of the missing person, any remains or any evidence which assists in determining what has happened to him. It cannot be excluded that the missing person has been involved in some dispute or altercations with his travelling companions or he has suffered from a misadventure due to excessive drug use and has perished within the remote country. It cannot be categorically proven one way or the other that his disappearance wasn’t the result of third party interference making the matter a reportable death.”¹⁰⁷ Detectives have been unable to identify any evidence to suggest any person known to them in this investigation responsible for any foul play to the missing person.¹⁰⁸”

218. It is illogical to accept Ms Levitt’s submission that “there is a total lack of support for the environmental theory”. The very first piece of evidence given to A/SC Blackford by Mr Kantilla-Gaden was that Jayo had “walked off” and there was independent evidence from Mr Perris of a conflict. The court heard evidence from a number of officers as to the conditions in the Noccundra area, and expert evidence as to conditions and survivability was given by Dr Whitehead. I accept the submission by the representative for Officer Hildebrand *et al* that I would give significant weight to that evidence as a possible explanation for Jayo’s death.¹⁰⁹

Escort to the border

219. The family raise issue with A/SC Blackford’s exercise of discretion to escort Mr Kantilla-Gaden and Mr Moore to the NSW border. The information available to A/SC Blackford at the time is outlined in his statement. This is, effectively, that two men in a car with Victorian numberplates, which was not stolen, told him they were trying to get back to NSW. A/SC Blackford made such checks and searches as he was legally able to do without a warrant or suspicion that a crime had been committed. He gave advice as to how the men should report their friend missing and he escorted them to the border. His primary focus was border enforcement.¹¹⁰ Their possession of a knife as pig-hunters was neither suspicious nor illegal.
220. I accept the submissions by the representative for Officer Hildebrand *et al* that an exercise of discretion by a police officer must be judged at the moment it was made, and not in hindsight. In hindsight, perhaps A/SC Blackford could have been more suspicious of Kantilla-Gaden and Moore. At the time, however, he used his

¹⁰⁶ Ms Levitt’s submissions, paras 8 - 12

¹⁰⁷ I note that a death by misadventure would also be reportable to the Coroner.

¹⁰⁸ Ex A1 – Coronial Report, para 139

¹⁰⁹ Submissions on behalf of Hildebrand *et al*, para 33

¹¹⁰ Ex B30 – Statement of Blackford

discretion to give assistance to two members of the community who had committed no obvious offence.

Cunnamulla Interception

221. The family's concerns in respect of Cunnamulla relate to the interception of the Landcruiser with Clare, Toohey, McMasters and Thomas on board at around 9:20pm on 20 October 2021, for a Roadside Breath Test (RBT). The concerns are that because of a lack of, or delayed, police communication, about Jayo's SAR, Cunnamulla police were not interested in finding Jayo, failed to search the Landcruiser, and failed to be aware that the men in the car were liars or had acted suspiciously in Noccundra.¹¹¹
222. Again, this interception must be looked at in respect of what was known at the time. It was not part of the SAR for Jayo, but a routine RBT. Constable Gupta in his statement noted that, when he checked the names of the vehicle's occupants, he found a link to Mr Kantilla-Gaden - the person who reported Jayo missing. He therefore contacted the officers associated with the SAR to advise them and, as requested, obtained up to date contact details for all occupants of the vehicle.¹¹² Neither officer on the RBT intercept had the power, on the basis of the information before them, to detain the men or, as discussed earlier, to search the vehicle. This is a circumstance which was not due to a failure to communicate or any delay in communication: it was the state of the investigation at the time and the disingenuous behaviour of the four.

Operation Tango Petalite

223. The family raise various and lengthy concerns with respect to the investigation into Jayo's disappearance, including failures to inspect various property and sites, failure to investigate alternative theories, lack of interagency and intra-agency communication, and failure to re-interview members of the travelling group based on their suspicious behaviour and/or the purported drug trafficking.¹¹³ I have discussed some of these issues above.
224. I accept the submissions made on behalf of the QPS Commissioner as follows:

"...[W]hether or not Jayo dies as a result of misadventure, or by foul play, is unable to be determined at this juncture. This is an ongoing police investigation. The difficulty in coming to any determination of what happened to Jayo is based not on a lack of investigative thoroughness but on the state of the evidence as it exists at this time.

It is important to note that police can only act on credible and reliable evidence when considering charging a party with a criminal offence. Speculation does not support the rules of evidence in making findings of fact in the criminal arena.¹¹⁴

Unconscious racism/bias

225. Finally, the family raise a concern, which is understandably common among First Nations persons, that police involved in the investigation into Jayo's

¹¹¹ Ms Levitt's submissions, paras 18 - 22

¹¹² Ex B38 – Statement of Gupta

¹¹³ Ms Levitt's submissions, pp 6 - 14

¹¹⁴ Submissions on behalf of the QPS Commissioner, paras 27 - 28

disappearance were affected by unconscious racism and/or bias.¹¹⁵ I note that the same concern was raised in the submissions made by ATSILS.¹¹⁶ I do not wish to discount these concerns nor to infer that they are not validly held. I accept that most organisations within Australia, including the QPS, have some level of unconscious racism towards First Nations people. I also accept that highlighting the incorrect use of certain terminology, discriminatory behaviours and a lack of cultural input in inquests involving First Nations people can help to address these systemic issues.

226. I also accept the submission by ATSILS that “it is difficult to assess a person’s unconscious bias and it is not something that can be quantified or viewed by an outside source”.¹¹⁷ In respect of the investigation into Jayo’s disappearance, however, I do not accept that the evidence before me shows any significant unconscious racism or bias by the officers involved which would have affected the course of the investigation nor its present conclusions.

Lack of Inter-Agency Communication

227. Ms Levitt did raise the important matter of dis-organised and dis-jointed information sharing apparent in some areas of this missing person investigation. Dr Whitehead accepted the River’s family criticism that a shared database accessed by all members of QPS investigation team should be contemporaneously updated in any missing person investigation. For example, information from Mr Kantilla-Gaden and Mr Moore given on 19 October 2021 did not find its way on to the SAR information logs until 4 November 2021. The SAR Running log and criminal investigation running sheets (“Operation Tango Peddelight”) were not identical and general duties police officers did not have automatic access to them.

228. There was a pertinent exchange between Counsel Assisting and Dr Whitehead at the Inquest:

*Do you think it would be desirable if there was just centralised data in relation to a 5 particular incident or operation such as this, where there’s a missing person, that was accessible simultaneously to all people involved, both in the operation side, in relation to the Operation Tango Peddelight and the SARs operatives?--- Absolutely. There always was a disconnect between missing persons and search and rescue. I tried for years to fix it; I don’t know how to fix it. But unfortunately, the – the 10 service is made of a lot of silos that don’t talk to each other.*¹¹⁸

229. Scotland Yard in the nineteenth century determined that a competent investigation required each member of an investigation team to have unfettered access contemporaneously to all information as it arrives. That way a corporate mind can adjudicate on its relevance and the urgency of action upon it. I have made a recommendation in relation to this criticism of a lack of inter-agency communication.¹¹⁹

¹¹⁵ Ms Levitt’s submissions, paras 56 - 59

¹¹⁶ Submissions by ATSILS, pp 8 – 12

¹¹⁷ Submissions by ATSILS, para 111 viii

¹¹⁸ Inquest Transcript Day 5: p 82 lines l5-11

¹¹⁹ Cook, A Blackstones Senior Investigating Officers Handbook 5th Ed Oxford University Press London 2019

Conclusion

230. Having considered all of the evidence and the submissions of all parties to the inquest, I find, on the balance of probability, that Jayo is deceased.
231. I consider it possible that Jayo's death resulted from foul play, but I note the lack of direct evidence of any actions by a member or members of the travelling group which may have resulted in harm to Jayo. I consider foul play to be a possibility based on the circumstantial evidence of the suspicious behaviour engaged in by members of the travelling group, the lies told by them to police, as well as the fact that they have had ample time to construct their evidence. I accept that they have put forward other reasons for this behaviour, but I did not find them to be credible witnesses and suspect they may know more than they have told police and this court.
232. I also cannot rule out completely that Jayo simply died through misadventure.
233. In respect of the QPS SAR mission, I find that it was extensive, sufficient, and appropriately carried out in accordance with national standards. I note that in a recent and similar inquest held by NSW Deputy State Coroner, Magistrate Grahame, the Coroner made a recommendation to the Commissioner of the NSW Police Force that she "examine the QPS SAR command structure and consider implementing an equivalent command structure within the NSWPF".¹²⁰ (This recommendation was made following evidence given by retired QPS Officer James Whitehead, who was the State Search and Rescue Coordinator in the SAR for Jayo.)
234. In respect of the associated QPS investigation Operation Tango Petalite I find that it was appropriate and make no criticism of any officer concerning the search or the investigation into the disappearance of Jayo.

Referral to the Office of the Director of Public Prosecutions

235. Pursuant to Section 48 of the Coroners Act (Qld), I must give information (which was not coercively obtained pursuant to Section 39(2) of the Act) to the Office of the Director of Public Prosecutions if I reasonably suspect a person has committed an indictable offence.
236. As I stated in the introduction, at 08:10 hours on Tuesday, 19 October 2021, Mr Joe Joe Kantilla-Gaden and Mr Matthew MOORE spoke with a Queensland Police Service ("QPS") officer, A/SGT Blackford at Noccundra. They told him that they had been in Queensland for approximately three weeks, they were trying to get back into New South Wales ("NSW") and that the deceased, Jayo, had following an argument, "*walked off into the bush during that previous night and they then were concerned for his welfare.*" This interaction was captured on body worn camera and they did not appear concerned nor was there any sense of urgency about Jayo's whereabouts. These were lies. It was uncontroversial that they had only been in Queensland for less than 48 hours, that they were in transit to the Northern Territory and that Jayo had left the camp 24 hours earlier (around 08:30 hours Monday 18 October 2019 - not the previous night). By Friday, 22 October,

¹²⁰ Inquest into the death of Dion Moore, 6 August 2024, 2019/6790, p 3

2019, there were at least seven different versions of Jayo's disappearance provided by the members of this travelling group.

237. Importantly, there was also evidence, which did have its shortcomings, from Mr Matthew Perris, Jayo's cousin, of a Facebook call made between the two around midnight on Sunday night 17 October 2019. During that call Jayo "really wanted" Mr Perris to drive from the Northern Territory to Queensland to "help" him. His evidence was:

"He told he had an argument and punch up Joe Joe Kantilla, a fellow from Darwin. I think they had an argument over something. I don't know about what. Jayo told me that Joe Joe got the other fellows to get on his side so they'd all gang up on him."

238. However, despite these lies having a potentially incriminating effect towards homicide, there are reasons for them in the alternative. There was evidence that the men were trafficking drugs into the Northern Territory from Victoria and that they breached COVID-19 restrictions in place at the time such that they were facing fines potentially in the sum of \$66, 000.00.
239. My other concern is that Jayo could have died of natural causes including sun-exposure related trauma or an accidental fall. The search area was immense but wild pigs are well-known to consume animal carcasses in their entirety which would explain the absence of a body.
240. Accordingly, I cannot come to a conclusion that Jayo's death was a homicide in accordance with the reasonable suspicion test. Consistent with the common law, there must be a factual basis to reasonably ground the suspicion: *George v Rockett* (1990) CLR 104. Moreover, I have difficulty identifying any particular person or persons who might have committed that crime beyond speculation.

Comments and recommendations

241. The representative for ATSILS submitted that I should make the following three recommendations in respect of QPS policies and procedures:
- a. that a person's First Nations status be recorded at the time of a missing person report being generated and that it be taken into consideration in the subsequent risk assessment;
 - b. that communication systems between SAR and investigative teams be improved to ensure all relevant information is considered by both sides in decision making; and
 - c. that unconscious bias be addressed and that language and cultural terminology be used when undertaking investigations involving First Nations people.¹²¹
242. Counsel for the QPS Commissioner provided a reply to each of these recommendations, summarized as follows:

¹²¹ Submissions by ATSILS, para 16.

- a. there is no evidence that recording a person’s ethnicity in the SAR system “would be beneficial”;
 - b. no investigation is perfect, but the evidence of QPS Officers in this Inquest highlighted that there were “regular updates and open communications” during this investigation; and
 - c. there is “no evidence of unconscious bias by police officers who conducted the search and rescue and criminal investigations into Jayo’s disappearance”.
243. I agree with Counsel for the QPS Commissioner’s reply, and with his general submission that none of these recommendations arise on the evidence before this inquest – that is, these were not areas in which there was specific or systemic failure in Jayo’s case.
244. However, the family of Jayo did express their frustrations with communication from the Queensland Police Service. The tyranny of distance from the Northern Territory to the South-west of Queensland and the lack of success in finding Jayo are two factors which would have raised tensions. It was very disappointing that the important evidence of Mr Matthew Perris, Jayo’s cousin, of a Facebook call was not acted upon much sooner than in early 2022. This is tangible evidence of communication difficulties between the family and QPS.
245. Ms Taylor was given leave to assist this Court in dealing with “First Nations issues” arising from the QPS investigation. Frustratingly, she seemed to think she was granted a right to cross-examine at large in relation to the wider QPS investigation. Accordingly, I have read, but disregarded, those submissions that do relate to First Nations issues. Nevertheless, Ms Taylor has been of much assistance in raising the following concerns:
- i. The missing persons risk assessment undertaken by the QPS case officer does not include a category for the consideration if the person is First Nations. The inclusion of a person’s First Nations’ status could improve the investigation and allow for better informed decisions. Undertaking such a risk assessment could act as a prompt for a case officer to consider additional matters in their risk assessment, such as cultural beliefs, cultural skills, family connections, potential police avoidance, or a delay in the report being made. By considering all of these additional matters at an early stage, the case officer may be able to consult with appropriate First Nations community members at an early stage, allowing for more culturally safe communication with family and ensuring that the risk assessment appropriately addresses the person’s situation.
 - ii. First Nations persons’ status in QPS records would allow for better data collection and could give a more holistic overview of missing First Nations persons investigations. This would particularly assist in developing public policy around First Nations’ women who represent 20% of missing female persons in Australia and 80% of those women disappeared from a community which was not their own.
 - iii. There was limited input into the QPS investigation by Jayo’s family. Ms Taylor was not alleging deliberate cultural bias but rather unconscious bias, the use of inappropriate language and cultural terminology. She referred to exhibit H 14 – Constable Kerr-Hemmingway’s notebook entry where she wrote at page 22: ‘*MP goes walkabout on occasion and will show up some time later*’. The appointment

of a First Nations QPS liaison officer where the missing person's family are from that culture would assist in minimising unconscious bias, the use of inappropriate language and cultural terminology.

246. In my view, these are useful observations and the following recommendations that can be made following this Inquest.

247. The New South Wales State Coroner O'Sullivan made the following recommendation¹²² in the Inquest into the death of Gordon Copeland (2021/200437). I endorse these observations and direct that these four recommendations be provided to the Commissioner for Police and Commissioner for Police in accordance with Section 46 (2) of the Coroners Act (Qld):

1. That the Queensland Police Service review their training in relation to the history of First Nations Peoples to ensure that it is as comprehensive as possible in relation to the history of colonisation and the ongoing impact of colonisation on First Nations peoples today. Where possible, Aboriginal Liaison officers should be engaged in delivering ongoing training for Police.
2. That the Queensland Police Service consider providing officers with training on trauma-informed communication with families, particularly First Nations families, when they are concerned about a missing person.
3. That the status of a missing person as "First Nations" be recorded in the missing persons risk assessment undertaken by the QPS case officer.
4. That Aboriginal Liaison Officers employed by the Queensland Police Service be engaged to advise and involve the family of a First Nation's missing person in areas such as: cultural beliefs, cultural skills, family connections, potential police avoidance, or a delay in the missing person report being made, allowing for more culturally safe communication with family and ensuring that the risk assessment appropriately addresses the missing person's situation.
5. That the Queensland Police Service facilitate changes to the SAR systems enhancing the contemporaneous updating and access by all investigating QPS officers to all relevant and disclosable incoming information in relation to the missing person search.

248. In analysing the issues before this Inquest, I have drawn conclusions and made general findings and comments based on the evidence before me. The evidence at inquest is sufficient for the court to make firm findings in respect of whether Jayo is deceased but not how he died. This is an unfortunate situation, and certainly a very distressing one for his family.

249. I accept the assurance of the QPS that the investigation remains open, and that any information obtained from the inquest or in the future will be acted upon and investigated. In that respect, I note that, since the inquest was held, QPS officers have carried out the following further investigations:

¹²² I also note recommendations 41 to 43 of the "Part 4: A First Nations Focus on Change" on the Independent Commission of Inquiry into Queensland Police Services Responses to Domestic and Family Violence.

- A QPS and SES search of a 68km² area northwest of Noccundra over 16 days; and
- Enquiries into a reported sighting of a person wearing the same clothes as Jayo was wearing on the day he disappeared.

250. The moving family statement read out at the conclusion of the evidence shows how much of a tragedy this missing person investigation and (as I have found) death has been to Jayo's family. On behalf of the Coroners court of Queensland, I offer my sincere condolences to the family, friends and associates of the deceased.

251. While neither of these investigations has borne fruit, I am confident that the QPS will continue to investigate any and all reasonable leads and lines of enquiry and at my or another Coroner's direction.

Findings required by s. 45

Identity of the deceased – Jeremiah Harold RIVERS

How he died – Jayo Rivers died while on a 4WD pig-hunting expedition to the Northern Territory with six travelling companions. Members of the travelling group say that Jayo wandered off from a campsite at Wippo Creek. Despite an extensive SAR mission and police investigation, Jayo's body has not been found. In these circumstances it is not known how Jayo died.

Place of death – In the area of Wippo Creek 20km south of Noccundra QLD 4492 AUSTRALIA

Date of death– On or about 18 October 2021

Cause of death – Unknown

I close the inquest.

Donald MacKenzie
Coroner
BRISBANE

17 October 2024