



MAGISTRATES COURT of TASMANIA
CORONIAL DIVISION



Record of Investigation into Death (Without Inquest)

*Coroners Act 1995
Coroners Rules 2006
Rule 11*

(These findings have been de-identified in relation to the name of the deceased, family, friends and others by direction of the Coroner pursuant to s. 57(1)(c) of the Coroners Act 1995.)

I, Simon Cooper, Coroner, having investigated the death of CK

Find, pursuant to Section 28(1) of the Coroners Act 1995, that:

- (a) The identity of the deceased is CK;
- (b) CK died in the circumstances set out in this finding;
- (c) CK died as a result of blunt trauma of the head when run over by a four-wheel drive vehicle;
- (d) CK died near Trial Harbour in Tasmania;
- (e) CK was born in Hobart and was a child at the time of his death.

Background:

CK was one of three sons of Mr and Mrs K and just three years of age when he died.

Circumstances surrounding the death:

CK died near Trial Harbour when he was run over by a four-wheel drive driven by AD.

The trail where CK died is a challenging and rough four-wheel drive track. It has a rocky surface with many potholes, puddles and deep ruts. On the track are several washed out bridges which are unusable and creek crossings, as well as mud and boulder sections that need to be negotiated. The track is nearly 22km long and runs

north from Trial Harbour on Tasmania's West Coast, essentially parallel to the coast, to Granville Harbour.

CK was a passenger, along with his older brother and father, in a four-wheel drive driven by MG. The family were part of a group of people who were travelling in four-wheel drive vehicles in company along the track to Trial Harbour.

After travelling a short distance the vehicle driven by AD developed a problem with its rear left tyre. The whole group stopped and spent some time attempting to fix the damaged tyre. Ultimately, it was decided it was necessary to change the wheel for the spare. After the wheel was changed the convoy of four vehicles continued to head north along the track. The group arrived at a short, steep incline which was described by witnesses as "very rough". The incline was 4.3km from the Trial Harbour Road. First up the incline was a vehicle in which CK's family and MG were travelling. MG successfully negotiated the incline. MG, Mr K and both boys got out of the vehicle to watch the other vehicles climb the incline.

Next to follow was JD in his vehicle. The passengers in his vehicle were his two sisters. They too alighted from the vehicle at the top of the incline.

Third in line was the vehicle driven by AD. He had three passengers. No one alighted from this vehicle at the top of the incline.

The final vehicle up the incline was TC in his vehicle. TC's passengers were his wife and two others. No one alighted from this vehicle at the top of the incline.

What happened next is extremely difficult to be precise about. Every adult present was subsequently spoken to by police. A number of versions of events emerged. The versions as between the witnesses differed as to the sequence of events and the whereabouts of various people at the scene at the time, or before, CK was run over. I am satisfied that each account given by each witness was given honestly and that the different version of events are attributable to different perceptions and memories made faulty by the trauma of the events witnessed.

In my view it is unnecessary to attempt to reconcile the detail of the differing accounts. What is clear is that those members of the group out of their vehicles (which included CK's family) began to head back to their respective vehicles. As this happened, AD suggested to the group that they continue the trip and he started to move his vehicle forward. At that moment Mr K, along with CK and his brother, were a matter of metres away from the front right corner of AD's vehicle. AD subsequently told investigating police that he recalled seeing Mr K and his other son but, did not see CK. As he accelerated slowly forward CK was at the right front corner of his vehicle and AD ran over him. Mr K later told investigating police that he did not know why CK got as close as he did to AD's vehicle, but that he saw that CK was at the

front right corner of that vehicle. He recalled CK stumbling and his head hitting the bull bar in the area of the vehicle's fog lights and/or indicator. He then saw CK fall as the front right wheel of AD's vehicle continued to roll over him. I find that the front right wheel of the vehicle rolled over CK's head killing him instantly.

Mr K yelled out to CK and AD stopped the vehicle immediately. CK was dragged out and away from under the vehicle. Investigating officers later determined that the vehicle had only moved a very short distance, no more than approximately 2.5m before it stopped.

TC had with him a satellite telephone which he used to contact emergency services at 10.43am. No attempt at first aid was made because it was apparent that CK was dead. Police and paramedics arrived. It was clear that nothing could be done for CK.

CK's body was transported to the Royal Hobart Hospital, where after formal identification an autopsy was carried out by forensic pathologist, Dr Donald Ritchey. Dr Ritchey expressed the opinion, which I accept, that the cause of CK's death was blunt trauma of the head. CK was found to have suffered severe crush injuries of his head consistent with near instantaneous death.

Toxicological analysis of samples taken at autopsy was subsequently carried out at the laboratory of Forensic Science Service Tasmania. Nothing of any significance was ascertained as a result of that analysis.

AD was required by police to submit to a blood analysis pursuant to the *Road Safety (Alcohol and Drugs) Act 1970*. No alcohol or drugs were found to be present in the blood sample that AD gave to police.

The circumstances surrounding CK's death were extensively investigated. Police attended the scene the same day the tragedy occurred. Members of the group showed the area where the collision occurred to police. Patches of blood were identified as being present where the collision had occurred. There was no indication that anything about the track or its surrounds materially contributed to CK's death. Nothing was present which would have served to obstruct AD's view as he was driving. The site of the collision was identified as being to the right hand side of the track. It was noted to be open and clear although the surface of the ground was uneven and covered in rocks and loose pebbles. The gradient was slight. I am satisfied that nothing about the condition of the track contributed to CK's death.

The weather conditions were noted to be clear and sunny. I am satisfied that weather conditions played no role in CK's death.

The vehicle driven by AD was examined at the scene. There was no evidence of any significant impact or any scuffing on vehicle's front right wheel or undercarriage. The vehicle was equipped for off-road use but apart from being dirty (which was to be

expected given the circumstances in which it was being driven) it was unremarkable. Visibility through the windscreen was unobstructed. The vehicle was seized by police pursuant to the *Coroners Act 1995*, impounded and subsequently examined by a Transport Inspector. That inspection revealed nothing of any significance. The Inspector concluded, and I accept his conclusion, that the vehicle was mechanically sound and roadworthy at the time of the collision, and had no fault that either caused or contributed to the happening of the collision.

Senior Constable Sven Mason, a police crash investigator, carried out some tests with a mannequin designed to represent CK which was placed in various spots near the right hand corner of the vehicle. He found that when the mannequin was 600mm out from the bull bar and 1400mm directly out from the 'A' pillar, the mannequin was unable to be seen. In my view this confirms AD's account provided to investigators that although he was concentrating carefully on what he was doing he did not see CK.

AD told investigators when interviewed that he thought Mr K and his sons were about 10m or so from the front right hand corner of his car, but could not recall seeing CK. He thought he recalled Mr K yelling out to CK as his vehicle moved forward, but could not be certain. As he moved forward he felt resistance, which I find must have been the moment that he ran over CK. Certainly no rocks or tussocks in the area where the tragedy occurred could account for the resistance.

It is clear to me that AD was an experienced and cautious driver particularly in an off-road situation. I am satisfied that he did not and could not have seen CK when he began to move slowly forward. I am satisfied that as soon as he had become aware that there was a problem, as a result of Mr K yelling out, he stopped his vehicle immediately. Neither speed, mismanagement of the vehicle, a defective vehicle, or drugs or alcohol, played any role in this tragic accident.

I am satisfied that CK died when he was run over by a vehicle driven by AD near Trial Harbour, Tasmania.

The injuries sustained by CK were so severe that his death was virtually instantaneous.

I note that the matter was extensively investigated by police and advice was sought from the Office of the Director of Public Prosecutions as to whether or not any charges should be laid by police arising out of the circumstances surrounding CK's death. No charges were in fact laid.

Comments and Recommendations:

I comment that the circumstances surrounding CK's death highlight the dangers associated with having small children in the vicinity of machinery. That having been said, I am satisfied that CK's death was a tragic accident.

I wish to convey my sincere condolences to CK's family on their terrible loss.

DATED: 2 November 2015 at Hobart in the State of Tasmania.

Simon Cooper

CORONER