



# MAGISTRATES COURT of TASMANIA

## CORONIAL DIVISION



## Record of Investigation into Death (Without Inquest)

*Coroners Act 1995*

*Coroners Rules 2006*

*Rule 11*

I, Olivia McTaggart, Coroner, having investigated the death of Peter Leigh Hickman

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

- a) The identity of the deceased is Peter Leigh Hickman;
- b) Mr Hickman died in the circumstances described in this finding;
- c) Mr Hickman died as a result of multiple injuries following a motor vehicle crash;
- d) Mr Hickman died on 13 July 2013 at West Tamar Highway, Rosevears in Tasmania; and
- e) Mr Hickman was born in Launceston, Tasmania on 14 September 1976 and was aged 36 years.

In making the above findings and those below, I have had regard to the evidence gained in the comprehensive investigation into the death of Mr Hickman. The evidence comprises an opinion of the pathologist who conducted the autopsy, expert crash investigation evidence, police and witness interviews and affidavits, medical records and reports, police documentation and reports, and forensic evidence.

### **Background**

Mr Hickman was 36-years-old, and resided with his wife, Kelly Hickman, and four children at 16 Ross Street, Beauty Point. He was a disability pensioner and also self-employed.

He suffered from chronic kidney disease which is believed to have developed when he was 25-years-old following prolonged ear infection and back pain. Mr Hickman was medicated for his condition. He was initially prescribed low dosage morphine. However, as his tolerance increased, he would take excessive quantities. Due to his dependence on morphine he was referred to the methadone program. He was participating in the program at the time of his death.

Mr Hickman also had a history of depression and heavy alcohol abuse. His depression was characterised by extreme displays of manic behaviour. He was also prescribed medication for this condition.

His wife did not understand Mr Hickman to be using illicit drugs; however, police intelligence holdings suggest Mr Hickman was a user of amphetamines. As discussed further, I am satisfied that he used amphetamines before the motor vehicle crash that resulted in his death.

### **Circumstances Surrounding the Death**

On the night of 11 July 2013 Mr Hickman did not return home. Mrs Hickman spoke to him on the telephone the next morning at about 6.00am when he indicated that he was waiting for someone. In her affidavit for the investigation, Mrs Hickman stated that his behaviour and speech were not rational and he seemed manic.

At 11.30am on 12 July 2013, police were advised of a gold Ford sedan driving from Beaconsfield towards Exeter in an uncontrolled manner, as if the driver was driving under the influence of alcohol or drugs. Senior Constable Daniel Knights received the report and followed the vehicle, travelling south on the West Tamar Highway from Exeter approaching Brady's Lookout. He observed the vehicle slowly drift to the right into the oncoming traffic lane on three occasions over a distance of one kilometre. He intercepted the vehicle at the car park of Brady's Lookout. Mr Hickman was tested for alcohol with a negative reading. However, given his observed driving and that he was a known drug user, he was arrested and conveyed to Launceston police headquarters. He was then required to submit to a blood test for the presence of drugs. He was therefore taken to the Launceston General Hospital where a sample of his blood was taken for analysis. The results of the blood analysis were not available immediately as the process of analysis and reporting undertaken by the forensic science service may take a number of weeks. However, based upon the evidence of Mr Hickman's manner of driving and existing police information, he was charged with driving under the influence of a drug.

At 2.17pm on 12 July 2013, Mr Hickman was bailed from the Launceston police headquarters and, in accordance with the bail, was required to appear in the Launceston Court of Petty Sessions on 11 September 2013. There were no conditions placed upon his bail preventing him from driving. However, Constable Knights told him that he would not be driving, would not be returned to his vehicle, and that police could drive him home to Beauty Point. Mr Hickman advised him that he had matters to attend to in Launceston and elected to remain in Launceston. Constable Knights stated that Mr Hickman's demeanour had markedly improved in the three hours from the time of his being intercepted by police to the time of his being bailed. He stated that Mr Hickman was initially argumentative, lethargic, confused, and had slightly slurred speech. This progressed to him talking coherently, being more alert and 'normal'. As set out further in this finding, a power exists under the *Traffic Act 1925* ("the Act") for a police officer in certain circumstances to retain a driver's keys or to prevent that person driving by other means. The decision was made by Constable Knights to allow Mr Hickman to retain his car keys, given his improved demeanour and behaviour and the belief that Mr Hickman would not drive immediately.

I note at this point that, at the time when Mr Hickman was bailed, he also was on bail in relation to several pending charges, including driving under the influence of a drug, possession of a controlled drug, and assault, arising out of an incident in the Bridport area on 16 November 2012. On that occasion Mr Hickman was observed by numerous witnesses

driving in an erratic and dangerous manner. Upon stopping his vehicle, he was observed to have slurred speech, uncoordinated movements and blood-shot eyes. He was arrested and charged with, among other matters, driving under the influence of a drug. At the time of his death he was subject to a court bail order, although that bail order did not prevent him from driving. He had appeared in court on these charges on 10 July 2013, only 3 days before his death.

At 2.30pm on 12 July 2013, after Mr Hickman had left the police station, Mrs Hickman spoke to him by phone. He advised that he had been "picked up the police" and was in Launceston as he had some things to do. At about 4.00pm Mr Hickman phoned his wife to tell her he was at Harvey Norman looking at purchasing a new computer, and that he would be home soon.

At about 11.00pm, as Mr Hickman did not arrive home, Mrs Hickman telephoned him. He said he was at the house of an acquaintance ("Danny" in Invermay) and would be leaving for home shortly.

At 5.00am on 13 July 2013 Mrs Hickman tried to contact her husband. The phone was switched off so she left a message. Over the following two hours she phoned him about 20 times but the phone was still off.

At 7.09am on 13 July Mr Hickman was observed driving his vehicle as the sole occupant travelling north on the West Tamar Highway. A motorist following him telephoned police to report concerns regarding his dangerous manner of driving. She stated that he was driving too fast and swerving on the roadway. At 7.23am she phoned to report that the vehicle had crashed.

Police attended the scene of the crash, being 500 metres to the south of the intersection to Craythorne Road, adjacent to the Strathlynn/Ninth Island Vineyard. Investigation of the scene revealed the vehicle was travelling on a straight portion of road when it veered off the left side of the road. It travelled along the verge for around 40 metres, crashed into the end of a metal armco railing, travelled for a further 30 metres along a grassed embankment, crashed through the steel support of a roadside sign, flipped and landed on its roof on the edge of a concrete lined wall to the side of an underpass beneath the highway. The crash investigator calculated that Mr Hickman had been travelling at a minimum speed of 100 km/h when his vehicle crashed.

Mr Hickman suffered major trauma to the head and died instantaneously after impact. The pathologist conducting the autopsy noted that Mr Hickman had suffered injury to the brain stem area which was the cause of his death. I accept that conclusion as to cause of death.

In his trouser pocket, oxycontin tablets in a blister pack were located as well as a small zip lock bag containing a quantity of white crystalline powder.

The blood sample taken from Mr Hickman on 12 July 2013 was analysed at Forensic Science Service Tasmania, and showed the presence of methylamphetamine in the potentially toxic range, in addition to the presence of amphetamine, alprazolam, and

methadone. The post-mortem toxicology results indicated the presence of the same substances at significant levels.

The road at the location of the crash was straight, in good condition, with no obstructions or hazards or involvement of other vehicles. There is no evidence that the crash was deliberate with an intention of Mr Hickman ending his life. There is no evidence available as to the whereabouts of Mr Hickman throughout the night before his act of driving. However, it would appear that he was using illicit drugs. The evidence of the forensic scientist and the pathologist is that the level of substances consumed would have impaired his driving. I accept their evidence. It is also possible that he fell asleep before impact as a result of fatigue and substance use. I am satisfied that Mr Hickman's loss of control of his vehicle was directly attributable to his consumption of the drugs. I am not able to determine the role played by the substances he consumed before his police charge and the substances consumed subsequent to it.

### **Comments and Recommendations**

As part of the investigation I have considered the circumstances surrounding the decision of Constable Knights to return Mr Hickman's car keys to him, and also the legislative power generally.

Section 41A of the *Traffic Act 1925* allows a police officer to forbid a person to drive, retain their vehicle keys and immobilise or remove a person's vehicle. These powers may be exercised if a police officer forms the opinion that a person is incapable, by reason of his physical or mental condition, of having proper control of the motor vehicle. The time for which keys may be retained is not specified, has no limit and is discretionary. The driver whose keys have been seized may request that his capacity to have control over a motor vehicle be reviewed by a senior police officer or medical practitioner.

I observe that if Constable Knights had retained the keys or forbidden Mr Hickman to drive, then, depending upon the time period of the prohibition, Mr Hickman may not have driven his vehicle at the time of his fatal crash, 17 hours after he left the police station. Similarly, if a condition of bail had been placed upon Mr Hickman that he must not drive a vehicle, then it is possible that he would not have driven at the time of his death. However, he may well have ignored such a condition.

The question of bail conditions was likely a matter for the custody sergeant and not Constable Knights. Mr Hickman's criminal record was limited and, in particular, it did not contain any charges for breaching bail. However, police records documented drug taking behaviour by Mr Hickman, and the fact that he was already on bail for the same charge indicated a propensity to reoffend. These circumstances may well have justified a bail condition that he not drive a motor vehicle. I do not suggest, in making this comment, that it was inappropriate to impose unconditional bail in the circumstances.

At the time of dealing with Mr Hickman, Constable Knights made the decision to return his keys on the basis of his change in behaviour and the optimistic belief that Mr Hickman would not drive his vehicle that was still located at Brady's Lookout (almost 20 kilometres from the Launceston police station). The reasoning of Constable Knights is understandable. I also

observe that future drug taking behaviour was not a matter that Constable Knights was permitted to take into account under section 41A of the *Act*.

As part of this investigation, Sergeant Melinda Horan conducted a comprehensive review of the power of police officers to forbid incapable persons to drive under section 41A of the *Act*. In the review, Sergeant Horan commented that breath analysis readings are immediately available in alcohol-related drink driving cases whereas toxicology results for drugs can take many weeks. The lack of availability of drug results, together with uncertainty in safe driving times after consumption of illicit drugs, create difficulties for police officers in forming a belief as to whether a person is incapable of having control of the motor vehicle. She also commented that practical difficulties, such as shift rosters, arose for police officers in being able to return keys to drivers at the end of the period designated by the police officer. I accept that such difficulties arise.

Sergeant Horan suggested several improvements for legislative change and procedural enhancement in respect of section 41A. She commented, for example, that it would be desirable to incorporate a provision allowing a positive oral fluid test, of itself, to be the basis of the required belief in the police officer. She also recommended that Tasmania Police should nominate safe time periods, based upon best practice, for driving after consumption of particular substances in order to assist police officers in their assessment of capacity to drive.

I do not comment further on the detailed conclusions and recommendations made by Sergeant Horan in her review. There is not, in my view, a sufficient connection with Mr Hickman's death to warrant a detailed examination of legislative and procedural change in this area. In this regard, I am not satisfied that either Constable Knights or the custody sergeant should have taken any further steps to prevent Mr Hickman from driving. His act of driving and subsequent demeanour was certainly concerning. However, criticism of those decisions would be inappropriate and made with the knowledge of the unforeseen circumstances of Mr Hickman's death a short time later.

I commend the review by Sergeant Horan. Her work will prove a valuable reference point for police and legislators in any future review of this area.

I also extend my appreciation to First Class Constable Anthony Purcell for his thorough report to me.

The circumstances of Mr Hickman's death do not require me to make any recommendations pursuant to section 28 of the *Coroners Act 1995*.

I convey my sincere condolences to the family and loved ones of Mr Hickman.

**Dated:** 10th November 2016 at Hobart, in the State of Tasmania.

**Olivia McTaggart**  
**Coroner**