INQUEST TOUCHING UPON THE DEATH OF DANNY COFRE

VERDICT, FINDINGS AND REASONS

On 20th October 2012, a Rover Rally from Moody Brook to Long Island took place. The Rally was for vehicles, 4 x 4 cars and motorbikes. The aim of the Rally was for it to overland, using routes from days before the road to the settlement had been made.

Danny Cofre, a young man of 20 years of age from Eliza Crescent in Stanley was a participant in that event. He arrived at the start of the Rally at about 9am, his vehicle having been towed there by another vehicle. The Rally set off at about 9am and for the next 5 hours made its way slowly overland to Long Island.

The Rally began to arrive at Long Island beach at around 14:00 that afternoon. On arrival at Long Islands the Rally participants moved onto the beach.

Some parked up, others began to drive along and up and down the beach. Danny was one of those who began to drive up and down the beach. At one point whilst he was doing this lost control of his vehicle. The vehicle began to topple and began to roll over. Danny was seriously injured.

A number of people went to Danny's aid and provided first aid. At about 14:15 help was sought from the emergency services in Stanley. A helicopter was dispatched to the scene.

The helicopter arrived at Long Island and administered further medical intervention. This continued during the flight to Stanley.

Danny arrived at the hospital at approximately 15:14 where hospital staff continued to try to resuscitate Danny. They were unsuccessful.

Danny subsequently died from the injuries that he had sustained in the incident. The time of death was certified as being 15:30.

It has been the duty of this Inquest, which was originally opened and adjourned by me on 23rd October 2012, to formally confirm Danny's personal details and to enquire into the circumstances of Danny's death in order to seek to answer the questions as to when, where and how he died.

Inquests are usually the only forum where events that led to a death and that the facts relating to it are ascertained and exposed to public scrutiny. It allows for the bereaved to participate and for those whose conduct may have been called into question to also take part. That has happened in this Inquest. The duty of the Coroner is, as Lord Bingham (then Master of the Rolls) said in the case of Jamieson,

"to ensure that the relevant facts are fully, fairly and fearlessly investigated". However, I repeat what I have said earlier; it is a fact finding exercise.

It is also my duty to complete what is called the Inquisition in which the answers to the questions asked are recorded. In expressing what is known as my verdict I am of course mindful of the terms of Rule 39 of the Falkland Islands Coroner's Riles in which it states:

"No verdict shall be framed in such a way as to appear to determine any question of –

(a) Criminal liability on the part of the named person; or

(b) Civil liability"

Having said that, it is important to make clear to all that the outcome of this Inquest does not affect the rights in any way of any person to take such actions as they may consider in any other legal proceedings.

I have heard evidence from a number of people and have admitted documentary evidence, largely in form of witness statements, to try to ensure that as much information as possible has been given to this Inquest, and that as thorough an investigation as possible has taken place.

In addition I have admitted into evidence a number of documents and documentary exhibits, including witness statements, in accordance with Rule 33 of the Falkland Islands Coroner's Rules, no objection having been raised by any of the interested persons.

I have also had regard to a number of exhibits including a disturbing video which showed what was happening on the beach just before the incident and the incident itself.

It is also right to say that, with the help of the police and the assistance of MR Gardner Fiddes I visited Long Island and the Long Island beach recently myself to try to better understand its position and layout.

I have also received a letter by email, yesterday morning from Mr Cofre, addressing me as to a number of points of fact. I have read that email.

Rule 36 of the Falkland Islands Coroner's Rules states very clearly that "No person shall be allowed to address the Coroner or the jury as to facts". I am grateful to Mr Cofre for the time he has taken but the law requires that I alone must judge the facts from evidence I have heard when it comes to considering my verdict. I can assure him that the issues he has raised were very much in my mind when I considered all the issues surrounding Danny's death.

I have come to the conclusion that I should deliver what is known as a Narrative Verdict in this case because the circumstances of Danny's death cannot be adequately or properly reflected in a short form verdict, which would not, in my judgment, do justice to the events that led to Danny losing his life.

In considering how this might most appropriately be expressed, and during my deliberations of all I have read and heard in this inquest, I have come to a number of conclusions as to the evidence and the facts in this case.

I have reviewed all the evidence that has been presented to this Inquest and my findings and my formal verdict are based upon that evidence.

In doing so I have not sought to decide every point in issue, but have concentrated on those which I consider to be relevant and pertinent to the questions I must answer and the verdict to which I have come.

In coming to the conclusions that I have in respect of the evidence, I am, of court mindful that the events that led to Danny's death took place over 6 months ago and the affect this may have had on memories and recollections of that day, although it is right to say many of the witnesses did provide statements and reports of the incident very shortly after it had occurred. I also have very much in mind the emotional affect that this incident has had some, if not many, of the witnesses.

The findings that I make are on the balance of probabilities (that is that I am satisfied that they are more likely than not).

I make the following findings of facts:

The Background

(i) On 20th October 2012 a Rover Rally took place from Moody Brook to Long Island.

(ii) The rally had been organised and arranged by members of the Darts Club Committee in order to provide funds for the team.

(iii) It had been advertised as a Rover Rally in the Penguin News. There had been other adverts on radio and television.

(iv) Money was to be paid to the organisers for taking part and for every bogging that might take place. This was an organised event.

(v) A number of children were on the Rally whether travelling in 4 x 4 vehicles, or riding motorbikes.

(vi) Drinking on these types of events was generally accepted and considered acceptable as being part of the whole experience and a cultural right.

(vii) A number of participants in the Rally, including drivers of the vehicles, drank alcohol as the day progressed.

(viii) The organisers and each of them:

- Carried out no form of assessment of the risks involved in holding such an event;
- Gave no thought or consideration to any issues of safety in respect of the Rally or the participants;
- Produced no rules, regulations, instructions or advice for participants;
- Made no enquiries as to the suitability or condition of any of the vehicles prior to allowing them to take part;
- Gave no evidence or instructions to drivers or participants as to the issue of drinking alcohol;
- After taking the money from the participants considered that they had no responsibility for anything to do with the event and acted accordingly.

Danny's Vehicle

(ix) Danny took part in a Suzuki Jeep with registration plate F602D, the precise age of the vehicle is unknown but it was first registered in the Falkland Islands on 6th December 1999.

(x) Danny arrived at the start of the Rally having been towed there by another. He had been the driver of the Suzuki vehicle during the towing.

(xi) The vehicle Danny was driving was in a very poor condition. In particular, when it set off from Moody Brook:

- It had no working handbrake.
- It had part of the exhaust missing.
- It has missing wheel nuts.
- It had undergone a number of alterations such as an attempt to construct and attach a truck cab roof and the placing of a door from another vehicle behind the cab.
- The alterations that had been made were unfinished unsuitable and dangerous.
- It was rusty in places.
- Although the brakes were working to some extent they were not as the manufacturer had intended.

(xii) The vehicle also had oversized wheels and had been "lifted" in some way. It is likely that this would have had an effect on the vehicles centre of gravity.

Danny's Experience

(xiii) Danny had not passed a test of competency to drive and did not have any form of driving licence, his provisional licence having expired in January 2010.

(xiv) It is likely that this was Danny's first Landrover Rally.

(xv) It is likely that Danny had very little or no experience driving the vehicle and little or no opportunity to become accustomed to its handling and features.

(xvi) It is likely that Danny's lack of experience was widely known.

The Rally and the incident

(xvii) The aim of the Rally was to drive over testing terrain using off road driving techniques and skills.

(xviii) Although the event was called a Rally it was not intended to be, and not regarded by the participants as any form of race.

(xix) During the Rally the brakes on the vehicle were badly damaged and became ineffective.

(xx) Danny informed a number of people about this but was not advised to stop. He continued onwards. He was not advised to do otherwise by anyone. He therefore travelled with limited or no footbrakes and no handbrake.

(xxi) Danny had been drinking beer on the journey. No one had advised him not to do so.

(xxii) The Rally did encompass travelling onto and long the beach at Long Island.

(xxiii) A number of vehicles were on the beach. Some had parked up. Others were being driven up and down the beach.

(xxiv) Danny arrived at the beach and at some point became involved in driving up and down the beach. He became involved in a race with another person. The scene was chaotic and not controlled in any way. No one made efforts to try and stop, restrict or control what was happening.

(xxv) Whilst attempting to execute a turn Danny lost control of the vehicle and it began to topple. It then rolled at least twice. Danny was thrown out of the vehicle. The added roof construction did not remain intact and the roof itself came off.

(xxvi) Danny was not wearing a seatbelt. No efforts had been made r instructions given to ensure that those on the Rally were wearing seatbelts. Had Danny been wearing a seatbelt it is possible that he would have remained in the vehicle. The roll bar structure remained intact.

The aftermath of the incident

(xxvii) Danny was unconscious from the moment of impact or shortly afterwards.

(xxviii) From those who immediately attended to Danny on the beach, through the efforts of helicopter personnel, and to those who received him into the care of the hospital, no one gave up on try to resuscitate Danny until it was properly establish that Danny had died.

(xxix) The injuries sustained by Danny were non-survivable.

(xxx) Danny died at 15:30 on 20th October 2012 at the King Edward VII Memorial Hospital in Stanley.

(xxxi) A post mortem confirmed that Danny died as a result of a head injury arising from a road traffic accident.

(xxxii) Later blood and urine tests showed that Danny had an alcohol reading that was approximately 1 ½ times the legal limit for driving on the road. This is likely to have reduced his inhibitions and to have impaired and affected his ability to drive.

(xxxiii) The cumulative effect of the lack of any instructions, supervision or control at the event and a lack of experience, the poor state of the vehicle, the manner of driving, the fact that Danny was not wearing a seatbelt and the affect of alcohol on Danny's driving ability ultimately cost Danny his life.

Taking into account my findings as above the Narrative Verdict which I shall record is therefore as follows:

Particulars required by the Registration Ordinance

Danny Cofre was born on 23rd September 1992 in Stanley in the Falkland Islands.
He was a Stevadore and lived at 37 Eliza Crescent, Stanley.

Injury or disease causing death

1a Head Injury
1b Road Traffic Accident

Time, date, place and circumstances at or in which injury was sustained

Danny Cofre died at approximately 15:30 on 20th October 2012 at the King Edward VII Memorial Hospital in Stanley, Falkland Islands.

Danny Cofre had been taking part in a Rover Rally which had been organised by the Committee of Darts Club. The Rally was to take place between Moody Brook near Stanley and Long Island on East Falkland.

Issues as to safety, guidelines or instructions to be followed, the partaking of alcohol, the experience of the participants, the conditions and suitability of the vehicles involved were not considered or addressed before the Rally or at any time during it.

At approximately 14:00 Danny Cofre arrived at the beach area of Long Island and travelled onto and along the beach. A number of other vehicles were on the beach. A number of vehicles and motorcycles began to drive up and down the beach in an erratic and chaotic manner. Danny was driving one of these vehicles and became involved in racing.

At one point Danny tried to turn his vehicle but it began to topple over and then rolled at least twice. Danny was thrown out of the vehicle. The roof of the vehicle did not remain attached.

Danny had not been wearing a seatbelt. The vehicle was in a very poor condition and had a number of significant defects. At the time of the incident it had ineffective brakes, no handbrake, missing wheel nuts, and a number of incomplete and unsuitable modifications.

Danny had been drinking alcohol.

No definitive cause of the crash could be ascertained.

However, it is likely that the following individually and cumulatively caused or contributed to the crash:

- The impairment of driving ability and judgment by Danny due to alcohol consumption;
- The poor mechanical condition of the vehicle, particularly the lack of adequate brakes;
- The speed being travelled;
- The lack of experience of Danny as a driver;
- The nature of the surface being driven along.

It is likely that the following caused or contributed to Danny's death:

- The fact that Danny was not wearing a seatbelt;
- The poor condition of the vehicle and in particular the state of fixing and suitability of the truck cab roof which had been added to the vehicle.

Danny was airlifted to hospital but died at the hospital not having regained consciousness.

Conclusion of the Coroner as to death

Died as a result of head injuries sustained in a motor vehicle incident.

I will send the Coroner's Inquisition to the Registrar General in the next few days which will allow for Danny's death to be formally registered and a Death Certificate to be issued.

Rule 3 9 of the Coroner's Rules of the Falkland Islands, states that *"if the coroner believes that action should be taken to prevent the recurrence of fatalities similar to that in respect of which the inquest is being held he may announce at the inquest that he is reporting the matter in writing to the person in authority who may have power to take such action and he may report the matter accordingly."*

During this Inquest I have heard evidence which has given me cause to believe that there is such action that should be taken.

In coming to the view I acknowledge that life involves risks and that greater risks than norm are inevitable if boundaries of human experience are to be pushed. There is no doubt that off road driving can be considerable fun and is both a recreational pursuit and frequently by necessity a fact of life in Falklands. Driving on any surface at any time has risks.

However, risks must be assessed and managed if the chances of tragedies such as this are to be avoided in future.

I have been concerned about a general attitude displayed by many in the evidence I have received at this Inquest whether it be about the lack of thought or consideration about safety, or the dangers of alcohol and driving, or the state of vehicle that used in the Islands, or the lack of even minimum standards to be complied with on organised events as to proper behaviour, for the good of all.

I hope at the very least that this Inquest will alert all, and in particular, the young people of the Falkland Islands, that although they may feel invincible and immortal, the use of drink when driving and the failure to wear a seatbelt are unnecessary risks that can lead to very tragic circumstances.

I am deeply conscious that the Falklands area unique place in many ways and that many Islanders have very real and strong feelings about retaining their culture and identity.

It may be that people want to recreate or cling on to the past. It may be that people genuinely believe that there is something noble in fighting for the right to have unregulated roads, to drink beer at each camp gate or to be able to drive vehicles of any condition.

However, the fact that things have always been done that way in the past is no reason in itself for doing things that way in the future.
On 20th October 2012, things were, on the evidence, done as they had always been done in the past and a young man lost his life.
Danny was 20 years of age when he died, a young man at the start of his adult life. Lessons should be learned.

Whatever view is held, I hope that people can stop and think and be open to change or at least to listen to the arguments for change, to balance the desire for the retention of a lifestyle and culture with the need to accept changes if they are positive changes and might prevent a similar tragedy as this occurring in the future.

I hope people can see that a suggestion as to debate or review is not an attack on what has been perceived as being good about the Falklands but a genuine attempt to make things better. Change does not necessarily mean stopping an activity.

If there is a car accident on a certain area of road it would not be proportionate to ban driving but it might be right to repair or properly surface the road, or erect barriers, or put up a sign.

We know that children might drown in a pool. This would not justify not holding a swimming gal for instance or allowing children to take part but it would be right to have a lifeguard on duty.

There is nothing wrong in assessing whether lessons can be learned from a tragedy and there is action that should be taken that might improve things and lessen the chance of such tragedy happening again.

As a result I intend to write to His Excellency the Governor, as the person under s.56 of the Constitution charged with executing Executive Authority in the hope that he may consider my comments and direct them accordingly.

I intend to raise the matters I have heard in this Inquest and ask him to consider, amongst other things whether some form of regulation and supervision should be introduced for events of this nature, to include whether there should be proper risk assessments, whether an approval or licensing system should be created, whether there should be compulsory event insurance, and whether there is a need for legislation which brings in appropriate health and safety legislation.

Whilst this incident took place on private land, and bearing in mind the evidence that was heard as to the state of some vehicles on our roads and the present lack of any real continuing need for testing, I will also ask him to consider whether some form of regular vehicle testing, albeit not to the stringent extent of other jurisdictions, should be introduced.

It may be that those who question the old ways will attract resentment and hostility. If I am one of those people that is something with which I will gladly live if it saves a life and prevents the distress and trauma I see regularly in the role I do.

I emphasise that whilst I consider that it is both my right and duty to report these matters I have no power to dictate as to what, if any, action is actually taken and what changes may result.

This inquest in now closed.