

IN THE CORONERS COURT )  
AT CANBERRA IN THE )  
AUSTRALIAN CAPITAL TERRITORY ) CD 77/2010

**INQUEST INTO THE DEATH OF  
BRODY LEE OPPELAAR**

**CD78/2010**

**INQUEST INTO THE DEATH OF  
JUSTIN KARL WILLIAMS**

**CD79/2010**

**INQUEST INTO THE DEATH OF  
SCOTT RAYMOND OPPELAAR**

**CD80/2010**

**INQUEST INTO THE DEATH OF  
SAMANTHA LEANNE FORD**

**Reasons for Findings of Coroner Dingwall**  
**Published on the 20<sup>th</sup> day of January 2014**

1. At about 10.16pm on Saturday, 20 March 2010, a collision occurred between two motor vehicles on Canberra Avenue, Fyshwick, just north-west of the Monaro Highway overpass. Tragically, as result of the collision, four people died. Three died at the scene. Mercifully they seem to have died instantaneously. The three were Brody Lee Oppelaar, aged just two days short of 3 months; his mother, Samantha Leanne Ford, aged 29 years; and his father, Scott Raymond Oppelaar, aged 33. All three were travelling in the same motor vehicle. The driver of the other vehicle, Justin Karl Williams, died later at The Canberra Hospital, having been transported there by ambulance. A passenger travelling in the vehicle being driven by Mr Williams, Skye Marree Webb, survived the collision, although suffering severe injuries.
2. The collision between the two vehicles occurring following a pursuit of the vehicle driven by Justin Karl Williams by members of the New South Wales Police Force. The pursuit had commenced in Queanbeyan, NSW and had crossed into the Australian Capital Territory. As a result the events leading up to and surrounding these four tragic deaths were the subject of a very thorough and intense investigation carried out on my behalf by members of the Australian Federal Police, particularly Detective Sergeant Jason Kennedy. Members of the New South Wales Police Force also carried out an

investigation on behalf of the Commissioner of the New South Wales Police Force. Both groups of investigators cooperated fully and there was a free exchange of information and results of the two investigations.

## **THE LEGISLATIVE SCHEME**

3. The inquest into the four deaths was commenced by virtue of sub-paragraph 13(1)(h) of the Coroners Act 1987 (“the Act”). This provision requires a coroner to hold an inquest where a person “dies, after an accident where the cause of death appears to be directly attributable to the accident”.
4. Sub-section 52(1) of the Act, requires the coroner holding an inquest to find, if possible-
  - “(a) the identity of the deceased; and
  - (b) when and where the death happened; and
  - (c) the manner and cause of death; ...”
5. Sub-section 52(3) of the Act provides that “At the conclusion of an inquest..., the Coroner must record his or her findings in writing”. Section 52(4) provides for the discretion of a Coroner to comment “on any matter connected with the death...including public health or safety or the administration of justice”.
6. Section 55 of the Act sets out the procedure that a Coroner must follow if he or she is to make an adverse comment in relation to a person. I interpret “person”, in the context of the section, to mean a living person. I do not propose to make such comments in relation to this matter.
7. A coroner may make recommendations to the Attorney-General on any matter connected with an inquest, pursuant to section 57(3) of the Act. The relevant parts are as follows:
  - “57 **Report after inquest or inquiry**
  - ...
  - (3) A coroner may make recommendations to the Attorney-General on any matter connected with an inquest or inquiry, including matters relating to public health or safety or the administration of justice.”

I do propose making some recommendations.

## **THE SCENE OF THE COLLISION**

8. At the time of the collision, Canberra Avenue was an arterial divided road with two lanes in each direction, running predominantly north-west (Canberra City bound) and south-east (Queanbeyan bound). The opposing lanes are separated by a six metre wide raised grass median strip; which also has a number of large poplar trees planted in a row (west of the Monaro Highway overpass up to Nyrang Street).
9. Canberra Avenue in the area of the collision scene had a posted speed limit of 80km/h. The road surface was made of bitumen, which was dry and in good repair. Further, it had street lighting on both sides of the road.
10. Vehicles travelling northbound on the Monaro Highway wishing to enter the southbound lanes of Canberra Avenue could do so using an off-ramp. This off-ramp was a single lane that ran north-bound off the Monaro Highway and ended at Canberra Avenue in a T-style junction. The junction was controlled by traffic lights which appeared to be in good working order. Prior to the junction with Canberra Avenue, the single lane off-ramp divided into three lanes. There were two lanes for vehicles to turn left onto the north-west bound lanes of Canberra Avenue, and one lane for vehicles to turn right onto the south-east bound lanes of Canberra Avenue.
11. About eighty metres east of the intersection of Canberra Avenue and the Monaro Highway off-ramp was the intersection of Canberra Avenue and Ipswich Street. This intersection was a cross-type intersection, which also provided ramp access to the south-bound carriageway of the Monaro Highway. This intersection was also controlled by traffic lights which appeared to be in good working order.

## **THE SCENE UPON ARRIVAL OF DETECTIVE SERGEANT KENNEDY**

12. Upon arriving at the scene, Detective Sergeant Kennedy observed that a blue-green Mazda 323 Astina sedan, bearing ACT registration Y[redacted], had separated into two pieces. The Mazda 323 had separated at the 'A' pillars; with the firewall, steering shaft, foot pedals and gearbox still attached to the front section of the vehicle. This front section was located on the roadway approximately 17 metres north-west from the point of impact.
13. The rear cabin section of the Mazda 323 was located about 22 metres north-west of the front section. The rear of the vehicle had collided with a large poplar tree located on the grassed median strip, which divides the south-east and north-west bound carriageways of Canberra Avenue. The impact damage to this section of the vehicle was extreme to the extent that the driver's seat had been forced sideways and in front of the passenger

side front seat. The steering column and steering wheel were still attached to the dashboard support rail, but were external to the cabin area. The rear seating area also sustained severe crush damage. The driver's side 'B' pillar was compressed up into the roof area, along with the rear door. The driver's side front door was located on the roadway between the front and rear sections of the vehicle. The passenger side front door was only attached by the bottom hinge and in an open position. The rear side passenger door was still in position although deformed. The front and rear driver's side wheels had not sustained any impact damage in the collision, indicating that the main impact area was contained within the middle driver's side of the car.

14. The male driver, Scott Raymond Oppelaar, was located external to the vehicle. He was situated in the area where the driver's side seat would have been originally positioned. He appeared to be in a sitting position with his legs apart and his upper torso slumped to the right. The seat belt buckle was still engaged and was holding him in this position.
15. The female passenger, Samantha Leanne Ford, was lying across the front seating area of the cabin. Her legs were external to the vehicle on the driver's side. The driver's side seat frame had penetrated her left leg above the knee. Her torso was twisted to the right, and her head and arms were external to the vehicle where the front passenger's side door was originally attached.
16. In the rear passenger's side seat was a rearward facing child capsule restraint. The capsule appeared to have been originally situated in the driver's side rear seat. The seat belt which restrained the capsule was still connected. The tether strap appeared to not have been anchored, as the retaining clip was hanging free at the front of the capsule and the anchor point was covered by a wooden box containing a stereo subwoofer. The capsule had been forced up and to the left. The four point safety capsule belt was still engaged.
17. On the grass, next to the driver's side rear wheel, Detective Sergeant Kennedy saw a male infant, Brody Lee Oppelaar, – the child of Scott Oppelaar and Samantha Ford. Brody was wearing a black jumpsuit and a white singlet. There was blood in the mouth area and his eyes were shut.
18. Initial information suggested that Brody had been located after having been ejected from the vehicle. However, further inquiries revealed that immediately after the collision, NSW Police assisted by an off-duty nurse, Annabel Clayton, had removed Brody from the vehicle's baby capsule and placed him down on the driver's side of the Mazda 323 to administer first-aid. However, he was found to have suffered massive head trauma and was already deceased. Ms Clayton then remained with Brody until

Ambulance Paramedics arrived. I commend Ms Clayton for her prompt action in trying to save Brody and her bravery when confronted with what was a horrific scene.

19. About 17 metres north-west of the rear section of the Mazda 323 there was a silver Mazda 626 sedan, bearing ACT registration Y[redacted]. The vehicle had suffered front-end collision damage. The roof had been detached from the 'A' and 'B' pillars and folded in a backwards position. The windscreen was folded flat against the bonnet area. Both front doors had been removed by the ACT Fire Brigade members. The extent of the frontal impact was to the degree it had deformed the front foot well area and sill panels on both sides. The steering wheel was also deformed in a forward position and covered in blood. The dash and glove box had broken away from the original mounting position.
20. Located in lane 1 (left lane) of the north-west bound carriageway of Canberra Avenue, there were tyre and scrape marks. These marks were perpendicular to the off-ramp from the Monaro Highway, in the right hand turn lane on Canberra Avenue, and nine metres from the white painted stop line. The marks were consistent with a tyre sliding sideways and metal scraping on the road surface. From these marks and the collision damage sustained to both vehicles, Detective Sergeant Kennedy formed the opinion that the Mazda 626 was travelling north-west on Canberra Avenue and collided front-on with the driver's side of the Mazda 323 (in a t-bone fashion), as the Mazda 323 was turning right from the Monaro Highway off-ramp onto the south-east carriageway of Canberra Avenue. These marks also indicated the point of impact. Of note there were no pre-impact tyre marks from either vehicle.
21. There were tyre and scrape marks extending from the point of impact to the position of rest for both vehicles. The front section of the Mazda 323 was located about 17 metres from the point of impact, and the rear section about 39 metres from the point of impact. The Mazda 626 was located about 54 metres from the point of impact.
22. These tyre and scrape marks showed that after both vehicles had impacted, the front section of the Mazda 323 separated from the main body after a distance of about three metres from the point of impact, rotating in a clockwise direction. Once the front section of the Mazda 323 separated, the rear cabin section and the Mazda 626 travelled as one for a distance of about 10 metres before disengaging. The rear cabin section then continued onto the grass median strip before striking a traffic light pole and impacting rear-first against a tree. The Mazda 626 remained on the roadway before coming to rest.

23. Parked on the left kerb of the north-west carriage way, opposite the rear section of the Mazda 323, was a marked NSW Police Ford Falcon sedan, bearing NSW registration B[redacted].

## **POST MORTEM EXAMINATION RESULTS**

24. On Tuesday 23 March 2010, at my direction, Dr Lavinia Hallam conducted separate post-mortem examinations of Justin Williams, Samantha Ford, Scott Oppelaar and Brody Oppelaar.

25. Dr Hallam reported that:

- Brody Oppelaar's died as a result of massive head injury;
- Justin Williams died as a result of a transected thoracic aorta;
- Scott Oppelaar died as a result of multiple injuries including fracture dislocation of the atlantooccipital region of the cervical spine and aortic transection; and
- Samantha Ford died as a result of multiple injuries.

As I have noted above, Brody, Scott and Samantha died instantaneously.

26. The ACT Ambulance Patient Care Report and The Canberra Hospital Medical Records relating to Justin Williams revealed that:

- he was not wearing a seat belt when the vehicle he was driving collided with the Mazda 323, which resulted in him sustaining severe abdominal and chest injuries;
- he was haemodynamically unstable and had an unknown cause of blood loss;
- whilst ACT Ambulance Officers were attempting to treat him at the collision scene, he was extremely combative, abusive and resisted attempts at assessment and extrication. As a result, ACT Ambulance Officers administered him Midazolam to decrease his agitation, treat him and transport him to the Canberra Hospital, arriving at 11.10pm;
- On arrival at The Canberra Hospital, his Glasgow Coma Scale (GCS) had reduced to a score of '5', after recording a score of '14' at 10.35pm;
- hospital staff assessed that his blood loss could have either been from an intra-abdominal bleed, a left haemothorax, or an aortic injury;
- as a result of this assessment, he was administered seven units of blood, before he was transferred to Operation Theatre 7 for emergency surgery;

- en-route to theatre, he went into cardiac arrest;
- surgeons administered adrenaline and actioned cardiac compressions, before opening his left haemothorax, where massive blood loss was noted;
- his condition could not be controlled and he passed away.

## **TOXICOLOGY RESULTS**

27. A toxicological analysis of blood and other bodily fluid samples taken from the driver of each vehicle was conducted with the following results –

- Ethyl alcohol at a concentration of 0.154 grams of ethyl alcohol per 100 millilitres of blood was found in Justin Williams' samples; and
- in the samples taken from Scott Oppelaar, amphetamine was detected at a concentration of 0.43 milligrams per litre; methamphetamine was detected at 5.2 milligrams per litre; and cannabinoids were detected, but tetrahydrocannabinol (THC) was not detected.

28. Dr Morris Odell of the Victorian Institute of Forensic Medicine, a highly recognised expert in the field, was asked to provide an opinion as to the extent that the driving capacity of the two drivers would have been affected by the presence of alcohol and drugs. Dr Odell considered that:

- Justin Williams' ability to have proper control of a motor vehicle would have been seriously degraded to the point of non-existence at a blood alcohol concentration of 0.154% - his risk of being involved in a collision would have been increased by between 10 and 100 times compared to a non-intoxicated state; and
- Scott Oppelaar's driving skills would have been extremely adversely affected by the effects of methylamphetamine at levels in the vicinity of those which were reported in the post-mortem blood sample.

29. Despite Dr Odell's opinion as to the effects of illicit drugs on Scott Oppelaar's driving capacity, I can find no basis for finding that his intoxication contributed to the collision. His vehicle was moving slowly and would have easily completed his intended turn onto Canberra Avenue if the vehicle driven by Justin Williams had been travelling at the speed limit or even a bit above it and he had obeyed the traffic control light facing his vehicle. Instead, he was travelling at an extremely excessive speed and failed to obey a red traffic control light governing the movement of his vehicle. This gave Mr Oppelaar no chance of avoiding the collision.

## **THE VEHICLES INVOLVED IN THE COLLISION**

30. The vehicle that had been driven by Scott Oppelaar, Mazda 323 (Y[redacted]), was not owned by him. It had been lent to him by a friend for him to use for as long as he needed. Thus, he was lawfully driving the vehicle at the time of the collision.
31. The vehicle that had been driven by Justin Williams, Mazda 626 (Y[redacted]), was owned by Mr Stephen Page-Murray. Subsequent inquiries with Stephen Page-Murray revealed that:
- On 18 February 2010, the vehicle was stolen from Watson Street, Turner ACT;
  - after 14 days his insurer (NRMA Insurance) paid him the car's value, as the vehicle had not been recovered;
  - on 3 March 2010, he was contacted by Police and advised that his vehicle had been recovered in Hamilton Row, Yarralumla ACT;
  - when he attended Hamilton Row, he identified that there were a number of items inside the vehicle that did not belong to him;
  - he attempted to start the vehicle but was unable to do so, and subsequently left the location to inform the NRMA of the vehicle's recovery location; and
  - when he later returned to Hamilton Row to retrieve personal property, he found that the vehicle had been re-stolen.
32. Enquiries by police, including examining video footage of persons travelling in the stolen vehicle at the Richardson IGA on 20 February, 2010 and the Caltex Service Station at Canberra Airport on 2 March 2010, failed to establish who had stolen the vehicle or any persons who had been involved in its theft and subsequent illegal use. However, I have no doubt that Justin Williams well knew on 20 March 2010 when he was driving the vehicle that it had been stolen and that by driving it he was committing a serious criminal offence.

## **INVESTIGATION OF THE COLLISION AND POLICE PURSUIT**

33. Following the collision a very thorough investigation was carried out. The investigation looked into the background of all those involved in the incident, including Constable Michael Hannaford, the NSW police officer who had been driving the pursuing NSW police vehicle, and his passenger, Constable Edward Jausnik, also of the NSW police. Numerous eye witnesses were interviewed. These included those who saw the NSW

police vehicle and the vehicle driven by Justin Williams stationary at the intersection of Kendall Avenue and Canberra Avenue, Queanbeyan, as well as a number who were positioned either as pedestrians or motorists along Canberra Avenue between its intersection with Kendall Avenue to a point north of the scene of the collision.

Recordings of conversations between the two NSW police officers and the NSW Police Radio Centre and between the two police officers and the ACT Policing Operations Centre were obtained and transcribed. The two police officers were interviewed and both participated in a "Drive Through" with investigating AFP and NSW police. Data and electronic footage from the combined red/light/speed camera located at the intersection of Canberra Avenue, Hindmarsh Drive and Newcastle Street was obtained and viewed. Accident reconstruction experts examined the scene of the collision and provided their opinions as well as photographs and plans. An expert examined the mobile and portable radios located inside the NSW police vehicle. An experienced collision investigator provided time distance and speed calculations related to the vehicle driven by Justin Williams and Constable Hannaford. Over 150 statements were obtained from a variety of witnesses.

34. The investigation was very thorough and was impressive for its depth and breadth.

## **INQUEST HEARING**

35. A public hearing for the purposes of the inquest was conducted over 12 days between 7 March 2011 and 23 March 2011. The inquest was then adjourned generally to enable me to deliver findings.
36. However, the public hearing was resumed in February 2012 following an indication from lawyers representing Constable Jausnik that, subsequent to being interviewed by investigators, he had indicated to his lawyers and psychologist that his recollection of some of the conversations between him and Constable Hannaford during the pursuit, and at the collision scene, differed from what he had told the investigators. I was given the transcript of an audio recording made by the psychologist and two written narratives by Constable Jausnik which he had given to the psychologist.
37. At the resumed hearing, Constable Jausnik did not appear but was represented by his lawyer. I was told those who were treating Constable Jausnik considered that he was not fit to give evidence due to his mental and emotional state. Indeed, this had been the

case when the inquest hearing was conducted in March 2011 and, for that reason, I had excused him from being required to give evidence.

38. In view of the fact that Constable Jausnik was unable to give evidence and thus have his recollection tested in cross-examination, I concluded that I could not give weight to his statements to his psychologist and that, in any event, even if his more recent recollections were more reliable than his earlier ones, they would not affect my ultimate view on the appropriateness and necessity of the pursuit or its causative role in respect to the collision. Accordingly, the inquest was again adjourned for the making of findings.

## **FACTUAL FINDINGS**

39. About 10.16pm on Saturday, 20 March 2010, a silver Mazda 626 turbo (Y[redacted]) was travelling in a north-west direction along Canberra Avenue when it collided with the driver's side of a Mazda 323 Astina (Y[redacted]) that was turning right from the Monaro Highway off-ramp onto Canberra Avenue, Narrabundah ACT. The impact split the Mazda 323 into two at the 'A' pillars, and instantly killed all its occupants; namely the driver Scott Raymond Oppelaar, his de facto wife, Samantha Leanne Ford, and their baby son Brody Oppelaar.
40. The driver of the Mazda 626, Justin Karl Williams, and his front seat passenger, Skye Maree Webbe, were extricated from the vehicle and conveyed to The Canberra Hospital, where Justin Williams was pronounced life extinct whilst undergoing emergency surgery. Skye Webbe was the only survivor of the collision.
41. By coincidence Justin Williams was friends with Scott Oppelaar and Samantha Ford.
42. Immediately preceding, and at the time of the collision, Constables Michael Hannaford and Edward Jausnik of the NSW Police Force were in pursuit of the Mazda 626 being driven by Justin Williams. At the time of the pursuit, the two Constables did not know who was in the Mazda 626, or why the driver was failing to stop for them. After the collision it was learnt that the Mazda 626 was stolen; the driver, Justin Williams, was unlicensed, he had a blood alcohol concentration of 0.154 grams of alcohol per 100ml blood, he was in breach of his ACT Supreme Court bail conditions for a previous stolen vehicle offence that prohibited him from being seated in the driver's seat of a motor vehicle, and he was a member of "Fuck the Australian Federal Police" Facebook group where he wrote of his dislike for Police and the Police being unable to catch him when he was driving.

43. Constables Hannaford and Jausnik first observed the Mazda 626, at about 10.12pm, travelling at speed along Uriarra Road and Kendall Avenue North in Queanbeyan, NSW. The constables followed the Mazda 626 along Kendall Avenue North with the intention of stopping it and speaking with the driver regarding the manner of driving.
44. Constable Hannaford was the driver and Constable Jausnik was the passenger of the marked NSW Police vehicle. It had been designated the communications call sign "Queanbeyan 37" and bore NSW registration number B[redacted]. When Queanbeyan 37 came up behind the Mazda 626 at the intersection of Kendall Avenue North and Canberra Avenue, Constable Hannaford briefly activated the Police vehicle's warning lights to indicate to the driver of the Mazda 626 to pull-over at the intersection. Instead of pulling-over, the driver of the Mazda 626 revved the engine and entered into the intersection against a red light, where it proceeded to turn right onto Canberra Avenue and immediately entered into the Australian Capital Territory.
45. Queanbeyan 37 activated its emergency lights and sirens and pursued the Mazda 626 through the intersection and in a north-westerly direction along Canberra Avenue into the ACT. About 10.13.30pm, Constable Jausnik informed NSW Police Radio (VKG) they were in a pursuit heading towards Canberra and were going across to an AFP radio channel.
46. Within a minute of the pursuit commencing (about 10.14.30pm), Queanbeyan 37 returned to VKG requesting the AFP radio channel. At this, Queanbeyan 35, another NSW Police vehicle advised Queanbeyan 37 on air that the AFP Channel was to be found at Zone 3, Channel 73. In response, Queanbeyan 37 asked on air for the new radio channel, and an unidentified patrol replied "...along 45" (meaning ACT Policing Channel 71 on the newly issued Simoco mobile radios).
47. Despite this on-air information, Constable Jausnik continued to have difficulty manipulating the Police vehicle's new Simoco mobile radio in order to obtain a channel to communicate with ACT Policing Operations. Constable Hannaford was under the assumption Constable Jausnik had made contact with AFP Radio, after he heard Constable Jausnik again announce on the mouth piece that they were in pursuit.
48. Constable Hannaford said, and I accept, that up to the intersection of Hindmarsh Drive he maintained a two second gap behind the Mazda 626 and that the 626's manner of driving was reasonably well controlled as it changed lanes.
49. As Queanbeyan 37 approached the intersection of Canberra Avenue and Hindmarsh Drive, Fyshwick the traffic lights were green but turned to amber as the Mazda 626 reached them. Constable Hannaford said, and I accept, that when he saw other vehicles

stopped on the side roads to the intersection he proceeded to follow the Mazda 626 through the red light, at a speed of 150 – 160 km/h.

50. A review of the data and electronic images obtained from the red light / speed camera at the intersection of Canberra Avenue and Hindmarsh Drive showed that at 10.15.57pm, the Mazda 626 passed through the intersection against a red light. It had been red for 1.92 seconds. Its speed was recorded to be 157km/h. The speed limit on this section of Canberra Avenue was 80km/h.
51. Queanbeyan 37 pursued the Mazda 626 through the intersection. At the time that it entered the intersection the traffic lights had been red for 3.37 seconds. Its speed was recorded to be 150km/h. Thus, when Queanbeyan 37, entered the intersection it was 60.4 metres behind the Mazda at that particular time.
52. Constable Hannaford said that after going through the intersection of Canberra Avenue and Hindmarsh Drive, the Mazda 626 increased its gap. Witnesses located between Hindmarsh Drive and Ipswich Street vary in their estimations of the vehicles' speeds and the distance between them, however all, except one, reported that the Police vehicle was travelling slower than the Mazda 626.
53. Constable Hannaford said, and I accept, that as the Mazda 626 approached the junction of Canberra Avenue and Ipswich Street he saw the traffic lights were red and the Mazda 626 was not braking. At this, he immediately removed his foot from the accelerator and covered the brake pedal with the intention of terminating the pursuit. Constable Jausnik said, and I accept, that when he felt the Police vehicle begin to decelerate he looked up and saw they were about 200 metres east of the traffic lights at Ipswich Street; i.e. on the Queanbeyan side of the Monaro Highway.
54. Constable Hannaford did not inform Constable Jausnik or the NSW Police Radio Centre of his intention to terminate, nor did he switch off the Police vehicle's emergency lights and siren. After the collision, he informed the NSW Police Duty Officer, Inspector Marnie Nicholson, that he terminated the pursuit as soon as he knew the Mazda was going through the red light at the junction of Canberra Avenue and Ipswich Street. This resulted in the public being informed, through the media, that the pursuit had been terminated prior to the collision. Although Constable Hannaford stated he had made the decision to terminate the pursuit, it is evident when measured against the NSW Police and Australian Federal Police policy definitions of "pursuit termination" that Constable Hannaford was still in pursuit of the Mazda 626 when it collided with the Mazda 323.

55. Witnesses confirmed that the Mazda 626 sped through the red traffic lights at Ipswich Street and the Monaro Highway off-ramp before striking the driver's side of the Mazda 323, which had entered the intersection from the off-ramp. No one heard or saw the Mazda 626 make any attempt to stop. This was corroborated by the absence of any tyre marks on the roadway prior to the point of impact.
56. Constable Hannaford said he was about five to six seconds behind the Mazda 626 when he saw a cloud of smoke and sparks, leading him to believe the Mazda 626 had been involved in a collision.
57. In the radio transmission Constable Jausnik made to ACT Policing Operations immediately before the collision a background voice exclaiming "Oh" is heard. This was probably Constable Hannaford reacting to a perceived hazard ahead. This would indicate that Queanbeyan 37 was at a location within 200 metres of Ipswich Street when that particular transmission was made, because it is at about this point on Canberra Avenue that the traffic lights at that intersection become clear and obvious to a vehicle travelling towards them from the direction of the intersection of Hindmarsh Drive and Canberra Avenue. About four seconds after the transmission, Queanbeyan 37 reported to ACT Policing Operations there had been a two vehicle collision.
58. Queanbeyan 37 arrived immediately at the collision scene to locate the occupants of the Mazda 323 already deceased and the occupants of the Mazda 626 trapped.
59. Constable Hannaford said, and I accept, that, if the Mazda 626 had not crashed, his intention at that time was to terminate the pursuit by performing a u-turn at Ipswich Street and returning to Queanbeyan.

#### **INVESTIGATION OF POLICE CONDUCT IN RELATION TO THE PURSUIT**

60. Two investigations of police conduct in relation to the pursuit that occurred prior to the collision were carried out. One by an officer of the Australian Federal Police Professional Standards Unit for submission to me and one carried out, independent of me and the Australian Federal Police, by members of the New South Wales Police for the purposes of a Critical Incident investigation.
61. The Australian Federal Police Professional Standards Unit report was prepared by Federal Agent Nicholas Forbes. His conclusions were as follows –

"Constable HANNAFORD and Constable JAUSNIK initiated this pursuit in good faith and in a manner that was appropriate and professional in the circumstances. The conduct of the pursuit and its compliance with the appropriate guidelines was complicated by a set of unique circumstances. The actions of Constable HANNAFORD and Constable JAUSNIK need to be considered against:

- The pursuit was initiated within sight of the ACT border;
- No training had been provided by either the AFP or NSW Police in the conduct of cross jurisdictional pursuits. There is an onus on the NSW Police Local Area Commander to provide training in relation to cross border pursuits; and
- The in car police radio operating procedure was recently revised and unfamiliar to either Constable HANNAFORD or Constable JAUSNIK.

“The PRS and NSW Police CIIT investigation focused on the actions of police leading up to the collision on Canberra Avenue. With respect to the AFP National Guideline: ACT Policing: Urgent Duty Driving and Pursuits Constable HANNAFORD and Constable JAUSNIK complied as follows:

- Both Constable HANNAFORD and Constable JAUSNIK hold NSW Police silver licences (equivalent to AFP Class 2C Licence) suitable for urgent duty driving;
- The vehicle classification was Category 1 making it the most suitable for urgent duty driving;
- Constable HANNAFORD is an experienced driver and a NSW Police Field Training Officer (Driver Development);
- The circumstances of the incident were sufficiently serious to make their conduct reasonable;
- Warning devices were used for the duration of the pursuit in accordance with Rule 305 of the Australian Road Rules;
- The police vehicle was in close proximity to the pursued vehicle;
- The volume of road and pedestrian traffic was light and the road conditions were good;
- The weather was clear and dry;
- Constable JAUSNIK as the passenger assisted with radio communication as required;
- Constable HANNAFORD stated that he was terminating the pursuit when the purpose of his urgent duty driving was outweighed by the risks associated with the pursuit;
- Communication issues and the short duration of the pursuit negated the practicality of using tyre deflation devices;
- A safe distance was maintained by the police vehicle;
- Neither Constable HANNAFORD or Constable JAUSNIK were able to identify the offending driver during the pursuit.

“With respect to the AFP National Guideline: ACT Policing: Urgent Duty Driving and Pursuits Section 26 addresses Cross Border Pursuits. Section 26 (f) states:

‘The provisions of this section will similarly apply when NSW vehicles cross into the Australian Capital Territory for the purposes of pursuit’.

“Constable HANNAFORD and Constable JAUSNIK did **not** comply as follows:

- Constable HANNAFORD and Constable JAUSNIK did not obtain permission from ACT Policing Operations (ACTPOPS) prior to entering the ACT;
- Constable HANNAFORD and Constable JAUSNIK did not as a result terminate the pursuit prior to entering the ACT.

“There are provisions within the guideline however that mitigates this non-compliance. Section 7 (e) states:

'An AFP employee or special member may, after having regard to a National Guideline, depart from the provisions of the guideline, but must be able to demonstrate that the departure was reasonable and justified in the given circumstances'.

"The departure from the guidelines can be justified as reasonable in the circumstances as follows:

- The pursuit was initiated almost directly at the NSW / ACT border and was maintained for an incident that was sufficiently serious;
- Constable JAUSNIK made all reasonable attempts to contact ACTPOPS and notify them of the pursuit;
- Attempts to contact ACTPOPS were hampered (unforeseen) by a revised and complex radio operating procedure within the NSW Police vehicle.

"The other mitigating factor is the lack of training in relation to cross border pursuits and the relevant AFP National Guidelines. A review of NSW Police driver training conducted at the School of Traffic and Mobile Policing (STAMP) also revealed a complete absence of training in relation to cross border pursuits.

"In relation to whether the pursuit had been terminated at the time of the collision the AFP National Guideline: ACT Policing: Urgent Duty Driving and Pursuits states:

'Terminate - means to immediately cease the activity and, in the case of a pursuit, cease the pursuit and stop following the offending vehicle and return to the legal speed limit, stopping the police vehicle completely and turning off all warning devices as soon as possible and safe to do so. This applies to all police vehicles whether directly or indirectly involved in the incident'.

"Although Constable HANNAFORD stated he had made the decision to terminate the pursuit, it is evident when measured against the National Guideline definition of pursuit termination, that the pursuit was not terminated at the time of the collision.

"No evidence of any criminal offences by either Constable HANNAFORD or Constable JAUSNIK was disclosed during the investigation. The pursuit was justified in the circumstances and was conducted in an appropriate manner.

"A review of the actions of other AFP members and AFP special members' involvement in the pursuit was also conducted. Again given that the pursuit only lasted approximately 3 minutes and the lack of radio communication there was nil involvement of other police members during the initiation and conduct of the pursuit. Contact and liaison with ACTPOPS was only established by Queanbeyan 37 immediately prior to the collision. There is no evidence that other AFP and NSW Police members breached any relevant guidelines or legislation during the pursuit.

"It was evident during directed interviews with both Constable HANNAFORD and Constable JAUSNIK that neither member was aware of their obligations during cross border pursuits.

62. In his report, Federal Agent FORBES recommended that:
- a training package be prepared and delivered to NSW Police who are special members of the AFP dealing with cross border pursuits and compliance with the AFP National Guideline: ACT Policing Urgent Duty Driving and Pursuits;
  - a training package be prepared and delivered to ACT based AFP members who are special members of NSW Police dealing with cross border pursuits and compliance with the NSW Police Safe Driving Policy.
63. A Critical Incident investigation was conducted by the New South Wales Police Force in accordance with its requirements for such an investigation, given the involvement of two of its officers. The investigation was carried out by Inspector Gary Megay and Detective Senior Constable Stephen Heffernan, both members of the NSW Police Force. A copy of their report was tendered.
64. The report concluded that:
1. The Pursuit was justified;
  2. The Provisions of the Australian Road Rules Part 19 Rule 305 exempting police vehicles was complied with;
  3. The NSW Police Vehicle was not physically involved in the collision in any way;
  4. That neither Constable HANNAFORD nor Constable JAUSNIK had been provided information or training in the AFP Urgent Duty and Pursuit National Guidelines. The Guidelines did **not** form part of the package of information provided on their induction as Special Members of the AFP;
  5. That the training for police regarding the operation of the new car handsets and the identification of the new AFP Radio Channel positions consisted of an e-mail;
  6. That AFP Members are **not** generally provided information or training in the NSW Police Safe Driving Policy on being sworn in or before hand;
  7. The exact time of the collision is problematical as the first report is to AFP Radio by Queanbeyan 37 and the Supervisor at AFP Radio acknowledges that their clock was 12 minutes 'out' and unlike VKG recordings, there does not appear to be a timing channel recorded on the AFP Radio Communications recording.
  8. The Silver Certification Course properly focuses on driving competencies. Training with respect to the NSW Police Safe Driving Policy is a combination of class room teaching and observation of compliance during driving scenarios. There is little focus on the provisions specific to Cross Border Pursuits or indeed the interaction between crew members during a pursuit;
  9. There was unintentional non compliance with the NSW Police Safe Driving Policy and the AFP Urgent Duty and Pursuit National Guidelines in that:
    - Express permission had not been sought or granted from either jurisdiction for the pursuit to cross from NSW into the ACT – explained and excused by the pursuit being initiated within 20 meters of that

border and providing insufficient time for any such formal approval process and the fact that VKG and ACT Policing Operations were advised the pursuit was in progress;

- Neither VKG Warilla or ACT Policing Operations were kept constantly advised of the location, speed, direction, traffic conditions, driver behaviour and other pertinent information as the pursuit progressed - explained by attempts of the two Constables to change from the VKG Channel to the AFP Channel as required, but not having had adequate training in doing so to obtain uninterrupted communication within the three minute duration of the pursuit.

65. In their report, Inspector Megay and Detective Senior Constable Heffernan recommended that:

"A. A Local Management Issue (LMI) be raised against Constable HANNAFORD regarding non-compliance with the Safe Driving Policy with regard to non-notification of information to police radio whilst the pursuit progressed and not getting permission to continue the pursuit across the border. That the LMI be dealt with by training in the Cross Border Provisions of the NSW Police Safe Driving Policy, the AFP Urgent Duty & Pursuit National Guidelines and the correct procedures for operating the new police radio handset.

B. An LMI be raised against Constable JAUSNIK regarding non-compliance with the Safe Driving Policy with regard to non-notification of information to police radio whilst the pursuit progressed and not getting permission to continue the pursuit across the border. That the LMI be dealt with by training in the Cross Border Provisions of the NSW Police Safe Driving Policy, the AFP Urgent Duty & Pursuit National Guidelines and the correct procedures for operating the new police radio handset.

C. That all NSW Police members who are Special Members of the AFP receive training in the AFP Urgent Duty & Pursuit National Guidelines. This has been implemented with respect to Police within the Monaro LAC, but needs to be undertaken with respect to those Police in Goulburn LAC (that also borders the ACT) and any other LACs with police who are Special Members of the AFP.

D. That all AFP Members who are currently Special Constables of the NSW Police receive training in the NSW Police Safe Driving Policy. This has been commenced through interactions between the EDO of Monaro LAC and the AFP, but all affected AFP members need to be identified including those stationed outside the ACT.

E. All operational police officers undertake, on an annual basis, the e-learning package for the Safe Driving Policy and the completion of the package be recorded on the officer's Individual Profile.

F. The NSW Police Safe Driving Policy be reviewed with respect to Cross Border Pursuits to permit pursuits to cross borders without prior approval where exigent circumstances exist (the justification for which rests on the pursuing police) and the jurisdiction into which the pursuit proceeds is notified at the first available opportunity.

G. That formally documented OH&S Risk Assessments are completed, in consultation with users, whenever essential equipment (such as but not limited to the police radio) is replaced/upgraded and training using the principles of adult education is considered as a Control Strategy. Such an assessment for new digital radios fitted in Southern Region has been implemented and the Commander Southern Region has issued a directive for appropriate training to be undertaken.

H. That ALL Category 1 police vehicles in NSW be fitted with In-Car-Video technology.

I. That the School of Traffic and Mobile Policing consider the use of In-Car-Video technology to assess whole of crew communications during pursuit scenario assessment within the Silver Certification training course.

J. That the NSW Commissioner of Police consider the development and implementation of a National Police Urgent Duty & Pursuit Guideline with the assistance of a suitable National Conference such as the Police Commissioner Conference. This would ensure consistency with the Australian Road Rules Part 19 Rule 305 and result in police needing to be trained in only a single guideline/policy and remove the existing need to identify and then train police who have authority in more than a single jurisdiction.”

66. Having considered all the evidence presented at the hearing, I agree with the conclusions reached by Federal Agent Nicholas Forbes in his Professional Standards Investigation Report and by Inspector Megay and Detective Senior Constable Heffernan in their Critical Investigation Report. I consider their recommendations to be appropriate and necessary and I support them.

## **CONCLUSION**

67. It is clear that the four tragic deaths which are the subject of these inquests were caused by the actions of Justin Karl Williams in driving a motor vehicle at an incredibly excessive speed through a road junction, at a time when there were a number of other motor vehicles moving into and around the junction, and in disobedience of a red traffic control light and while significantly intoxicated by alcohol. Although it is clear that the reason he was driving in such a manner was to evade apprehension by officers of the NSW Police Force who were pursuing his vehicle, I am satisfied that no criticism can be made of those officers. They were carrying out their duty to investigate and apprehend offenders and cannot be criticised for carrying out that duty where a person, who had committed an offence in their presence, decided to further disobey the law by refusing to stop when required to do so by them.
68. Whilst the pursuit had not been terminated at the time of the collision, Constable Hannaford had decided just prior to the collision to terminate it but, by that time, Mr Williams’s vehicle was travelling at such a high speed and was so situated close to the junction of Canberra Avenue and Ipswich Street that termination of the pursuit at that stage would not have altered the ultimate result.
69. I am not satisfied that the pursuit should have been terminated at any time earlier than when Constable Hannaford decided to terminate it. The reality was that a short time

elapsed between commencement of the pursuit and the tragic culmination of Mr Williams's actions. Due to the speeds reached by Mr Williams' vehicle, the two NSW Police officers had very little time available to them, particularly after Mr Williams had passed through the junction of Canberra Avenue and Hindmarsh Drive, to assess the situation that was developing and make appropriate decisions before Constable Hannaford made the decision to terminate the pursuit. In any event, in light of the speeds achieved by Mr Williams, his clear intention to avoid apprehension and the bravado he had previously expressed concerning Police pursuing him, it is unlikely that he would have moderated his dangerous driving before entering the junction of Canberra Avenue and Ipswich Street.

70. It is extremely sad and tragic that four deaths, particularly that of a baby who had not yet experienced much of life, resulted from the unlawful, reckless and selfish behaviour of a person who placed his desire to evade the Police, and his ego, ahead of the lives of other road users and his passenger and, indeed, his own life. He ultimately paid the highest price possible for his conduct and attitude to the Police and, tragically, added to the price the lives of three innocent people.

## **FORMAL FINDINGS**

71. I make the following findings required by s.52(1) of the Act.

### **CD77/2010 - BRODY LEE OPPELAAR**

I find that –

- the deceased was Brody Lee Oppelaar born on [redacted] 2009;
- he died at 10.16pm on 20 March 2010 on Canberra Avenue, Narrabundah in the Australian Capital Territory, at a point just north-west of the junction of Canberra Avenue and the Monaro Highway off-ramp; and
- he died as a result of a massive head injury sustained when the motor vehicle in which he was travelling as a rear passenger in a baby capsule was collided into by another motor vehicle being driven by Justin Karl Williams.

### **CD78/2010 - JUSTIN KARL WILLIAMS**

I find that –

- the deceased was Justin Karl Williams born on [redacted] 1987;
- he died at 12.21am on 21 March 2010 at The Canberra Hospital, Garran in the Australian Capital Territory; and
- he died as a result of a transected thoracic aorta sustained when the motor vehicle he was driving collided into another motor vehicle on 20 March 2010.

### **CD79/2010 - SCOTT RAYMOND OPPELAAR**

I find that –

- the deceased was Scott Raymond Oppelaar born on [redacted] 1976;
- he died at 10.16pm on 20 March 2010 on Canberra Avenue, Narrabundah in the Australian Capital Territory, at a point just north-west of the junction of Canberra Avenue and the Monaro Highway off-ramp; and
- he died as a result of a multiple injuries, including a fracture dislocation of the atlantooccipital region of the cervical spine and aortic transection sustained when the motor vehicle being driven by him was collided into by another motor vehicle being driven by Justin Karl Williams.

### **CD80/2010 - SAMANTHA LEANNE FORD**

I find that –

- the deceased was Samantha Leanne Ford born on [redacted] 1980;
- she died at 10.16pm on 20 March 2010 on Canberra Avenue, Narrabundah in the Australian Capital Territory, at a point just north-west of the junction of Canberra Avenue and the Monaro Highway off-ramp; and
- she died as a result of a multiple injuries sustained when the motor vehicle in which she was travelling as a front seat passenger was collided into by another motor vehicle being driven by Justin Karl Williams.

### **RECOMMENDATIONS**

72. As I have indicated above, I agree with the appropriateness of, and support, the recommendations made in both the AFP Professional Standards Investigation report and the NSW Police Critical Investigation Report.
73. I confine my formal recommendations, which are adoptions of the recommendations made by Federal Agent Forbes and Detective Sergeant Kennedy, to matters relating to members and special members of the Australian Federal Police involved in providing

policing services to the Australian Capital Territory and to the issue of car theft generally.

74. I recommend that –

1. a training package be prepared and delivered to NSW Police who are special members of the AFP dealing with cross border pursuits and compliance with the AFP National Guideline: ACT Policing Urgent Duty Driving and Pursuits;
2. a training package be prepared and delivered to ACT based AFP members who are special members of NSW Police dealing with cross border pursuits and compliance with the NSW Police Safe Driving Policy; and
3. that consideration be given to making it mandatory that all makes and models of motor vehicle in Australia which are considered to be likely targets of theft have an immobiliser or similar device installed.

75. In light of the very professional approach of the Australian Federal Police to the investigation of the collision and the actions of the two officers of the NSW Police, I am confident that the first two recommendations will have been implemented by now. I simply make them to formalise them.

76. As to the third recommendation, I recognise that a great many hurdles and difficult issues need to be faced to achieve the mandatory installation of immobilisers but, in order to reduce a great many more deaths resulting from the use of stolen motor vehicles, particularly during police pursuits, it is important that consideration and discussion of the issue commence in appropriate quarters, if it has not already commenced.

## **CONDOLENCES AND GRATITUDE**

77. I offer my condolences and sympathy to all members of the families and the friends of the four deceased. The results of an incident that lasted for some three minutes on 20 March 2010 have adversely impacted on a very large number of people and, without doubt, they will always be a source of sadness and grieving for them.

78. I also offer my sympathy to, and recognise the efforts of, all those who came to the aid of the five people involved in the collision. The scene that confronted them was horrendous yet they all showed great professionalism and deep concern for fellow human beings by doing all that was possible to save lives.

79. I record my gratitude for the assistance given to me by Counsel Assisting, Ms Sian Jowitt, and by the counsel appearing by leave, Mr Ray Hood, Mr Brian Murray and Mr Richard Thomas.

80. I also record my gratitude for the very painstaking and professional work done by all the Police officers involved in the investigation of the collision. In particular, I recognise and commend the very thorough and professional work of Detective Sergeant Jason Kennedy who was the officer overseeing the investigation on my behalf.

P.G. Dingwall  
Coroner