

SOUTH



AUSTRALIA

FINDING OF INQUEST

An Inquest taken on behalf of our Sovereign Lady the Queen at Adelaide in the State of South Australia, on the 11th, 12th, 13th and 27th days of August 2004, before Wayne Cromwell Chivell, a Coroner for the said State, concerning the death of David Cunliffe.

I, the said Coroner, find that David Cunliffe aged 35 years, late of 37 Magdalena Crescent, Paralowie, South Australia died at Jungfer Road, Lobethal, South Australia on the 27th day of February 2002 as a result of cerebral lacerations associated with comminuted fractures of cranial vault and base of skull.

1. Introduction

- 1.1. At about 9pm on Wednesday, 27 February 2002 a Holden Commodore sedan VYT619 was being driven in a westerly direction along Jungfer Road at Lobethal by Elizabeth Seeley. The other occupants of the vehicle were Ms Seeley's brother, Paul Seeley, in the front passenger's seat, and her boyfriend, David Cunliffe, in the rear seat.
- 1.2. Ms Seeley drove over a sharp crest in the road and then lost control of the vehicle. The vehicle yawed in a clockwise direction and crossed onto the incorrect side of the road and into a paddock before rolling over several times and colliding with a stobie pole.
- 1.3. Mr Cunliffe was ejected from the vehicle and sustained fatal injuries. Ms Seeley and her brother were both injured in the accident, although not seriously.

2. Cause of death

2.1. A post-mortem examination of the body of the deceased was performed by Dr J D Gilbert, Forensic Pathologist, on 28 February 2002.

2.2. Dr Gilbert found that Mr Cunliffe had suffered extensive comminuted fractures of the cranial vault and the base of the skull associated with extensive lacerations of the cerebral hemispheres, cerebellum and brainstem. He concluded that these were the cause of Mr Cunliffe's death. He commented:

'1. Death was due to severe cerebral lacerations associated with extensive comminuted fractures of the cranial vault and base of skull. Death would have been instantaneous.

Other injuries identified included fractures of the mandible, right 2nd rib and right humerus.

2. Analysis of a specimen of blood obtained at autopsy reportedly showed a blood alcohol concentration of nil and no common drugs were identified.

3. No natural disease that could have caused or contributed to the death was identified at autopsy.

4. There were no injuries or other markings on the body indicative of seat belt use.'

(Exhibit C3a, p5)

2.3. I accept Dr Gilbert's conclusions, and find that the cause of Mr Cunliffe's death was as he described.

2.4. Sergeant Brian Mills, one of the South Australia Police ('SAPOL') investigators, told me that he inspected the seat belts in the vehicle at the accident scene. The driver's seatbelt was broken, and the passenger's seat belt was still extended, indicating that they were being worn at the time of the accident. All the seat belts in the rear of the car were retracted and undamaged, suggesting that they were not being worn at the time of the accident (T143).

2.5. That evidence, combined with the lack of seat belt injuries on Mr Cunliffe's body, leads me to conclude that Mr Cunliffe was not wearing a seat belt at the time the accident occurred.

2.6. Sergeant Mills said that the damage to the vehicle indicated that both the left side doors and the boot lid appeared to have burst open as the vehicle rolled over. Mr

Cunliffe's body was found approximately four metres (calculated from the scale plan, Exhibit C6a) west of the stobie pole against which the vehicle impacted.

- 2.7. This suggests that Mr Cunliffe was thrown from the vehicle during the rollover and sustained fatal head injuries in the process. If he had been wearing a seat belt, he would probably have remained within the vehicle and may not have died. It is noteworthy that the other two occupants of the vehicle, who were wearing seat belts, sustained relatively minor injuries because they were not thrown from the vehicle.

3. Circumstances of the accident

- 3.1. Sergeant Brian Mills of the Traffic Operations and Investigations Section of SAPOL conducted a thorough examination of the accident scene and, using his extensive experience and scientific knowledge, offered the following opinions about the causation of the accident:

'The Holden Commodore had been travelling west on a straight bitumen road that had two steep hills, one immediately after the other. The posted speed limit changed down from 100 km/hr to 80 km/hr at the crest of the second hill. The suspension of a vehicle driven at the speed limit of 100 km/hr would have become unloaded, meaning the vehicle mass was not exerting a force to compress the suspension components. The vehicle may have momentarily left the road surface altogether. The feedback through the steering wheel to the driver in these circumstances would provide a sensation of either steering loss, or the steering becoming significantly lighter.

It is likely that the speed of the Holden Commodore, at the time it negotiated the crest, was sufficient to unload the suspension and the subsequent suspension recompression caused the rear of the Holden Commodore to move to its left. This movement would have put the Holden Commodore in the position indicated by the start of the tyre marks and would explain the rapid development of a yaw and the movement of the vehicle towards the northern side of the road.

When the vehicle reached the northern side of the road it moved onto the grass shoulder, through the strand wire fence and into a paddock, where it eventually rolled over and finally collided with a stobie pole. The vehicle came to rest on its roof adjacent to the stobie pole, in the paddock.'

(Exhibit C8, p11)

- 3.2. Sergeant Mills attempted to calculate the speed of the vehicle prior to the impact from the available evidence. The calculations were complicated by the fact that the vehicle rolled over and thereby lost kinetic energy each time it impacted the ground. The vehicle also hit the stobie pole and thereby lost whatever kinetic energy it had left.

- 3.3. Taking those complicating factors into account, Sergeant Mills calculated that the speed of the vehicle at the commencement of the tyre marks on the road (ie. at about the point when control was lost) was between 75 and 92 kilometres per hour (Exhibit C8, p15).
- 3.4. Having regard to his experience, Sergeant Mills estimated that the vehicle hit the stobie pole at between 20 and 40 kilometres per hour, having regard to the extent of the damage. A layman might think that the speed of the vehicle prior to the tyre marks could simply be calculated by adding those speeds to the speeds already calculated (ie. between 75+20 and 92+40). This would suggest speeds of between 95 and 132 kilometres per hour.
- 3.5. However, Sergeant Mills told me that the increase is not so significant. It is calculated by taking the square root of the sum of the squares of the two speeds (ie. between $\sqrt{75^2 + 20^2}$ and $\sqrt{92^2 + 40^2}$) suggesting speeds of between 77.62 and 100.31 kilometres per hour.
- 3.6. Perhaps rather generously, Sergeant Mills calculated the speed of the vehicle before control was lost at 75 and 92 kilometres per hour. On the evidence before me it was slightly higher at 77 to 100 kilometres per hour.

4. The accident scene

- 4.1. Senior Constable Gary Hancock, a very experienced investigator from the Major Crash Investigation Section of SAPOL, described Jungfer Road as extending generally east/west. There is a solid centre line painted on the surface, and the road slopes down from the centre on both sides forming a 'crown'. The road is of standard width, with the lanes being 3.16 and 3.10 metres wide respectively.
- 4.2. Jungfer Road is a very small secondary road near Lobethal. It does not connect towns, and would mainly be used by local traffic. In my opinion, one would not simply 'come across' Jungfer Road while driving in the hills, except by accident. It is much more likely that non-local traffic would need to specifically seek it out with prior knowledge of its location.
- 4.3. A series of photographs verified by Senior Constable Hancock demonstrates that as one proceeds west on Jungfer Road, a steep uphill slope is encountered. A large

'Reduce Speed' sign has been placed about half-way up the slope. About three-quarters of the way up, a yellow 'Crest' sign is posted (Exhibit C6b, photograph 6).

- 4.4. As one approaches the crest travelling west, large pine trees on the northern side, and other large trees further down on the southern side, together with an embankment on either side, add to the impression of the narrowness of the road at the crest of the hill (Exhibit C6b, photographs 7 and 8). This is the case even though the road is of standard width at 3.16 metres for the east-bound lane and 3.10 metres for the west-bound lane (Exhibit C6, p4).
- 4.5. The speed limit on Jungfer Road for west-bound traffic is 100 kilometres per hour until, right at the crest of the hill, there is a sign changing it to 80 kilometres per hour (Exhibit C6, photograph 8). The sign is not clearly visible until the crest of the hill is arrived at, and a driver unfamiliar with the area could be forgiven for missing the sign having regard to the other visual stimuli in the area, including the trees and embankment at the crest and the steepness of the drop on the other side.
- 4.6. Having crested the hill, there is an even steeper slope on the western side of the ridge. It was on the downward slope on this side that Ms Seeley lost control of the vehicle and it rolled over (Exhibit C6b, photographs 9, 10, 11 and 12).
- 4.7. I have visited the scene, and my impression was that the speed limit of 100 kilometres per hour dropping to 80 kilometres per hour at the crest is too high. I was unwilling to drive over the crest at faster than 60 kilometres per hour, and even at that speed the steepness of the slope caused considerable apprehension, similar to that experienced on a 'roller coaster'. Senior Constable Hancock, with all his driving experience, expressed a similar opinion. He also experienced some 'lift' at 60 kilometres per hour (T124).
- 4.8. In my opinion 100 kilometres per hour is too fast for that area, and it would be particularly dangerous to drive over the crest at that speed. I will discuss this issue in more detail later.

5. Eye-witness accounts

- 5.1. Mr Cunliffe, Ms Seeley and members of her family had gone for a drive in the Adelaide Hills on the night in question. When they left her parents' home in Salisbury Heights, Ms Seeley was driving, Mr Cunliffe was in the front seat and Ms

Seeley's father James Seeley, her mother Raffaella Seeley, her daughter Brittany (then aged 3 years), and her brother Paul Seeley were in the rear seat.

- 5.2. When they arrived in the area of Jungfer Road Ms Seeley drove over the crest east to west and then back again. She then stopped the car, Mr and Mrs Seeley and Brittany got out, Paul Seeley went to the front passenger seat and Mr Cunliffe went to the rear passenger seat. It is not clear where he was sitting at the time of the accident.
- 5.3. Ms Seeley then performed a U-turn, drove back over the crest, performed another U-turn and then drove back in a westerly direction towards the point where her parents and daughter were standing on the road. It was on this last leg of the journey that the accident happened.
- 5.4. None of the people who witnessed these events agreed to provide a statement to police.
- 5.5. Mr Barry Jenkins, who lives nearby, heard the accident. He told me that Jungfer Road is 'renowned' for the presence of the sharp crest and steep slope. He said that vehicles tended to drive so fast in the area that an 'S' bend was installed west of the accident scene before the road meets Ridge Road (T112).
- 5.6. Mr Jenkins conveyed Mr and Mrs Seeley and Brittany home to Salisbury Heights after the accident and before the police investigators arrived. His evidence was as follows:

'Q. What did the male person say to you?

A. He said that it was his daughter's car, that she was engaged to another guy that was building a house down in Victor Harbor and that and just generally talking. They had just bought a new car and had come up to the hills because they had heard about the dippers up at Lobethal.

Q. What did he say about the dippers?

A. Basically they came up because they heard about them. I gather that they were going to go for a drive over the dippers and that used to be a common thing that people do that. They even changed the road because of it apparently. He said that when they got there the child was uneasy, she was a bit car sick so his wife wasn't too keen about going over the dippers. Him, his wife and the child got out to watch and that's why they weren't in the vehicle.' (T111)

- 5.7. Ms Christine Docherty lived opposite the Seeleys. She is Mr Cunliffe's sister. She said that at about 11:10pm on 27 February 2002, Mr Seeley came to her house. In her statement she said:

'James was insistent of coming inside because he had something to tell me. I let him in the house and we went into the dining room.

He said, Dave's dead and Paul and Liz are in Hospital.

I said, How, why?

He said, We all went to Lobethal to drive up the dippers. We had driven over them and Brittany had become very upset. So we got out of the car because they wanted to do it one more time. I could hear the car coming, it sounded like a rocket and then it lost control.'

(Exhibit C5a, p2)

- 5.8. When he gave evidence, Mr Seeley denied that he said those things to Mr Jenkins or Ms Docherty. He said that Ms Seeley stopped the car at Raffaella Seeley's request because she was feeling sick, and because she wanted a cigarette. He got out to be with his wife. Brittany woke up when the car stopped and was 'aggro' or irritable so they took her as well (T13). He denied that they got out of the car because Brittany was upset about Ms Seeley's driving, or that any of them were apprehensive (T29).
- 5.9. I must say that I have considerable doubt about the veracity of this story. This was a strange location for the two grandparents and the child to get out of the car and remain by the roadside at about 9pm at night.
- 5.10. Mr Seeley said that either Ms Seeley or Mr Cunliffe said they would turn around, and drive back over the crest and then back again. He said that he/she did not say why (T18). He denied that they mentioned going back over the 'dippers'. He said that Mr Cunliffe and Ms Seeley had mentioned on a previous occasion that they liked driving over the dippers (T19).
- 5.11. Mr Seeley said that just as his daughter drove back over the hill, her car crossed with another car which had passed their position. He said that the other driver did not dip his headlights from high beam, and Ms Seeley appeared to lose control just after the two cars passed each other (T23).
- 5.12. Mr Seeley said that he 'may have' mentioned to Mr Jenkins and Ms Docherty about this other car, although he was not sure (T28). I think it is highly unlikely that he did, because this is a very significant matter which at least one of them would have noted.

- 5.13. Paul Seeley gave a similar account. He said that it was Mr Cunliffe who referred to a place just out of Lobethal which was hilly and which would give you a 'feeling' as you drove over it (T38).
- 5.14. Paul Seeley said that Ms Seeley drove over the crest at a 'comfortable' speed, that the car did not become airborne, but that the sensation was such that it made his 'heart jump up' (T43). He repeated that his parents got out of the car because Mrs Seeley was feeling unwell. He said that he swapped seats with Mr Cunliffe because he had cramp in his legs from sitting in the back (T45).
- 5.15. Paul Seeley admitted that Ms Seeley turned around and went back over the crest to get the 'feeling' again, to go over it 'once more' (T49). However, he denied that Ms Seeley was driving quickly when they came over the crest again. He repeated the allegation about the 'other car'.
- 5.16. Mrs Raffaella Seeley also gave a similar account to that of her husband. She said that she had heard reference to the 'dippers' before, and that Ms Seeley had said that she and Mr Cunliffe had gone there 'sometimes' (T62).
- 5.17. Mrs Seeley denied that Ms Seeley drove fast over the crest, or that it was the reason why she asked her to stop (T68). She said she had been feeling sick before that, and it was simply a coincidence that she asked her to stop there (T69). As I have already remarked, I have some doubt about this story.
- 5.18. Mrs Seeley said that she also saw the 'other car' go past their position, that the two cars passed each other at the top of the hill, and it was not far past the crest when Ms Seeley appeared to lose control (T75).
- 5.19. Ms Elizabeth Seeley also gave evidence about these events. She gave rather evasive and confusing evidence about her knowledge of the 'dippers'. She eventually admitted that she had been there with Mr Cunliffe several times before, and that she had driven over them 'once or twice' (T85). She said that Mr Cunliffe enjoyed the 'sensation' of going over the crest, but she did not (T84). At one point she mentioned that he found it 'thrilling', although she was clearly reluctant to use that word (T87).

5.20. Ms Seeley also confirmed the account about her mother feeling unwell. She said they performed a U-turn because ‘Dave wanted to’ (T96). She insisted that it was his idea, and that she did not enjoy the sensation. She described what happened as follows:

- Her parents wanted some fresh air so ‘I just told them that I was going to go up the road, do a U-turn and come straight back’ (T91);
- She did not let her daughter out of the car because she was upset, nor were her parents scared by her driving (T97);
- Dave suggested that they should ‘go up the road, do a U-turn and come back’. She concluded that it was for the purpose of getting the ‘sensation’ of going over the dippers (T98);
- As she drove over the crest, she saw ‘bright shining lights in my face’. She said she ‘moved over a little bit’ and then lost control, after which she ‘blanked out’ (T99);
- She said the last time she looked at the speedometer ‘I was doing the speed limit’ (T100) (which was 100 kilometres per hour);
- She did not reduce the speed of the car before going over the crest (T101), although she was only travelling at 80 kilometres per hour when she lost control (T102).

6. Conclusions

6.1. Sergeant Mills told me that in his opinion, even if there was another vehicle on the road as the Seeleys have described, it was not relevant to the accident. He said that in his opinion, the tyre scuff marks were not the result of steering input from the driver of the vehicle. The presence of tyre mark number 1 (as indicated on Exhibit C6a) made by the rear right tyre, starting as it does at about the same point as the mark made by the rear left tyre, suggests that the clockwise yaw was the result of a sudden reloading of the suspension on to the road surface. The road had a camber to the left, causing the balance of the vehicle to become unsettled and commence a yaw to the left (T142).

6.2. Sergeant Mills said that, in any event, the fact that the yaw commenced only 25 metres from the crest of the hill to the commencement of the tyre marks was inconsistent with the argument that the yaw was caused by the driver steering the car

so as to evade the oncoming vehicle because, at those speeds, an evasive movement to the left, and a correction to the right, could not have occurred over such a short distance (T141). At 80 kilometres per hour, the vehicle was travelling at 22 metres per second. Allowing a 1.5 second reaction time to evade, and another 1.5 seconds to correct, the vehicle would have covered 66 metres. In my estimation that is the minimum distance required.

- 6.3. On the basis of the evidence as a whole, I am in no doubt that Ms Seeley drove to Jungfer Road specifically to drive over the ‘dippers’. She and Mr Cunliffe had both been there before, and had specifically referred to it in previous conversations with family members. Jungfer Road is a rather obscure country road, and there would have been little point in going there other than to enjoy the ‘sensation’ or thrill of driving over the crest at sufficient speed to create lift.
- 6.4. Having arrived there, Mr and Mrs Seeley and Brittany alighted from the vehicle and stood on the side of the road at night in the dark while Ms Seeley, Paul Seeley and Mr Cunliffe drove back for ‘one more go’. Whether they got out because Mrs Seeley was sick, or because Brittany was scared, or because they wanted to watch the action is beside the point. The plain fact is that Ms Seeley drove over the crest at sufficient speed to give them a ‘sensation’ or thrill.
- 6.5. I have considerable suspicions about the veracity of the story about the ‘other car’. It is surprising that Mr Seeley did not mention it to Mr Jenkins or Ms Docherty later that evening. It is also surprising that Ms Seeley was not aware of the vehicle approaching the crest from the other side by the glow of its headlights on the trees, as Mr Jenkins suggested (T131).
- 6.6. On Sergeant Mills’ evidence, which I accept, the ‘other car’ theory is a red herring in any event. He said that the yaw and eventual rollover were due to the sudden reloading of the suspension on a cambered road after it was unloaded after cresting the ridge, rather than from steering input from the driver.
- 6.7. On that evidence, the accident was entirely due to the speed at which Ms Seeley was driving the car when it crested the hill, which I find was between 77 and 100 kilometres per hour. On her evidence, I conclude that the vehicle was travelling at 100 kilometres per hour going up the hill, and slowed to something less than that after

the crest. This would not have been a substantial drop, however, since the vehicle travelled only another 25 metres before the yaw commenced.

- 6.8. Given that the speed limit was 100 kilometres per hour before the crest, changing to 80 kilometres per hour at the crest, Ms Seeley's driving could not be classed as reckless. She was engaged (as was Mr Cunliffe) in foolish behaviour in driving the car for thrills, and was unable to recover from a quick loss of control. Both she and Mr Cunliffe's family will now have to live with the consequences.

7. Recommendations

- 7.1. Section 25(2) of the Coroners Act 1975 empowers me to make recommendations if to do so might 'prevent, or reduce the likelihood of, a recurrence of an event similar to the event that was the subject of the inquest'.
- 7.2. I direct these recommendations at the Department of Transport and the relevant Local Government authority for the area.
- 7.3. Having heard the evidence in this inquest, and having visited the scene, it is my opinion that the speed limits and advisory signs for west-bound traffic on Jungfer Road are in need of revision.
- 7.4. I recognise that joy riders and thrill seekers may not comply with speed limits, but in my opinion the applicable speed limits should not sanction speeds that are inherently unsafe.
- 7.5. At present, the speed limit is 100 kilometres per hour right up to the crest of the hill in question. Admittedly, there are 'Reduce Speed' and 'Crest' signs, but the limit does not change to 80 kilometres per hour until the crest is reached.
- 7.6. Even at 80 kilometres per hour, cresting the hill is likely to unload and reload the suspension, and alarm the driver, to the extent that a dangerous situation is created.
- 7.7. In my opinion, the speed limit along Jungfer Road approaching the hill should be 80 kilometres per hour, not 100 kilometres per hour. At a point where the 'Crest' sign is now located, the speed limit should reduce to 60 kilometres per hour. In my opinion it is unsafe to crest that hill at more than 60 kilometres per hour.

- 7.8. Mr Jenkins pointed out that on the western side of the crest, 60 kilometres per hour is too slow and vehicles would over-run it, particularly as you need some momentum to get up the other side. He suggested that the limit could increase to 80 kilometres per hour again once the crest has been passed, and I agree.
- 7.9. I know that both Federal and State Governments have conducted numerous and extensive road safety campaigns against irresponsible driving, and continue to do so, so I do not conclude that anything is lacking in that regard. One can only hope that the message will eventually get through, particularly to younger drivers, and that this case will serve as another reminder of that.
- 7.10. I therefore recommend, pursuant to Section 25(2) of the Coroners Act 1975, that the relevant authority review the applicable speed limits on Jungfer Road in this particular area so that:
- The speed limit for vehicles approaching the hill in question here is 80 kilometres per hour;
 - The speed limit approaching the crest of the hill is 60 kilometres per hour;
 - The speed limit once the crest has been passed is 80 kilometres per hour.

Key Words: Motor Vehicle Accident; Country Road

In witness whereof the said Coroner has hereunto set and subscribed his hand and

Seal the 27th day of August, 2004.

Coroner