

At Odds with the Facts

The Kangaroo Justice Follow-up Interviews

Preliminary Edition

Heath Ryan



**At Odds with the Facts:
The Kangaroo Justice Follow-up Interviews
Preliminary edition, 1st printing**

Author

Heath Ryan

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About the author

Heath Ryan

Heath Ryan is a publisher and writer, and holds a BA in Economics and History from the University of Toronto. Born in Canada, Heath lived in Jordan, France and the United Kingdom before moving to Australia.

In addition to being a father, Heath is also an ultra-endurance cyclist. Riding as 'The Dark Knight', he was in twentieth position in the 2017 Indian Pacific Wheel Race from Fremantle to Sydney on the day Mike Hall was killed. Since then, Heath completed three transcontinental races in the 2018 calendar year, achieving what can be called the triple crown of unsupported ultra-endurance cycling.

Heath's current focus is investigative books dealing with social justice, books that celebrate human achievement, and books and articles that observe and comment on behaviour and society.

Other works by Heath Ryan

Kangaroo Justice and the Death of Mike Hall: An Australian Miscarriage of Justice, © 2021, published by Black Knight Books.

The Indefatigables: A Record of Australian Endurance Cycling, © 2021, co-author with Kathryn Moody, published by Black Knight Books.

Coming soon

My Radius of Influence: It Took a Pandemic, © 2021, to be published by Black Knight Books as an ebook and as a free PDF download.

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Foreword

Initially, I started writing this book in order to ask a few difficult questions of a number of the players in the investigation and coronial inquest into the death of British endurance cyclist Mike Hall near Canberra, Australia on 31 March 2017.

Imagine if Mike himself were able to ask questions of the authorities who investigated his death and who oversaw the Inquest. How would they explain their actions to him?

- How, for example, would they explain their actions to Patricia Hall, Mike's mother, who attended the Inquest in Canberra?
- How would they explain their actions to Mike's brother who travelled to Australia with his mother at the time of the Inquest?
- How would they explain their actions to Anna Haslock, Mike's ex-partner?
- How would they explain their actions to Juliana Buhring, who lost her best friend that day?
- How would they explain their actions to the thousands of cyclists and fans Mike had in the UK, Europe and around the world who now know – partly from my book *Kangaroo Justice and the Death of Mike Hall: An Australian Miscarriage of Justice* and from the new research in this work – that the investigation into Mike's death was nothing less than a miscarriage of justice?
- How would they explain their actions to the Australian public who can now have little confidence in the findings of Coroner Boss in the ACT Coroners Court in September 2018?

There are *many* questions surrounding Mike's death and the Inquest that followed that have not been adequately answered. The whole truth has not yet been told.

Since I began writing this follow-up book, *At Odds with the Facts: The Kangaroo Justice Follow-up Interviews* has been expanded to more fully document questions I have sent to, and interactions I have had with, people in the ACT Coroners Court, high-ranking members of the AFP in Canberra, some Federal bureaucrats, and selected members of the current ACT and Federal governments.

While I anticipated some of the people I contacted would not respond, my aim was to give them the opportunity to do the right thing and then hold them to account if they failed to act in the public interest and in the interests of justice.

More recently I realised that this work is not only important for Mike and his legacy; it is also important for me as it allows me to formally ask the questions that need to be asked. In the absence of action from other parties, simply asking the questions is the job of an advocate.

But it is not my job to deliver justice for Mike. That is the job of the Australian judicial system and those who work within that system.

On 15 March 2021, I lodged an application with the ACT Chief Coroner Lorraine Walker, asking her to hold a fresh inquest to review thirteen pieces of new evidence, or evidence that had not been correctly presented to Coroner Boss at the original Inquest.

In June 2021, I expect to hear from ACT Chief Coroner Lorraine Walker whether or not Her Honour has agreed to hold a fresh inquest into the death of Mike Hall.

At that point, my job – which was to ask the questions – will be complete.

Heath Ryan

Melbourne, June 2021.

Preface

Following the release of *Kangaroo Justice and the Death of Mike Hall: An Australian Miscarriage of Justice*, I began writing down some ‘concluding’ questions because, in my opinion, there were still many questions that had not been adequately answered.

Where possible, I have put my questions to the relevant people by email or, where appropriate, by phone. The dates this occurred, and the answers they provided if they chose to respond, have been meticulously documented.

In the first part of this work, I ask questions of six Australian Federal Police (AFP) officers and one New South Wales (NSW) Police officer. Additionally, the responses of two AFP commanders from ACT Policing in Canberra and the AFP Commissioner are also documented.

Part B asks some interesting questions of four people – two of whom I have been unable to contact and two of whom I have been unable to locate. Part C then asks questions of three politicians as well as Canberra’s police anti-corruption body ‘ACLEI’ – with mixed results.

Part D then documents: the flawed evidence presented at the Coronial Inquest by Monash University’s Accident Research Centre; the difficulties involved in attempting to get accurate information from the Federal Department of Infrastructure; and my success in securing scientific proof from Wolf Technical Services in the USA that Mike Hall was visible and that the driver’s vehicle was unroadworthy as its headlights did not meet the standard for registration.

Part E takes a critical look at the role of Counsel Assisting the Coroner, Mr Ken Archer, while Part F focuses on the driver who is by no means blameless and whom I believe deserved to be charged with the indictable offence of culpable driving causing death, which carries a maximum 14-year custodial sentence in the ACT.

Part G asks the Coroner herself, Dr Bernadette Boss, what she knew about this miscarriage of justice and when.

Finally, Part H summarises for the reader what really happened,¹ before I document my efforts to convince the ACT Chief Coroner that holding a fresh inquest is the only way to correct this miscarriage of justice.

Odds with the Facts: The Kangaroo Justice Follow-up Interviews can be downloaded free of charge as an ePDF from both bkbpress.com and from www.thedarkknight.com.au. It can also be bought as a print book using the ISBN 978-0-7346-4138-0, or as an ebook from retail websites using the ISBN 978-0-7346-2238-9.

To obtain a print copy of *Kangaroo Justice and the Death of Mike Hall: An Australian Miscarriage of Justice*, search for the ISBN 978-0-7346-4143-4. For the ebook, the ISBN is 978-0-7346-2236-5.

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¹ A few new facts have come to light following the release of my book *Kangaroo Justice and the Death of Mike Hall: An Australian Miscarriage of Justice*. This information is now included here.

Part A

The Truth, the Whole Truth, and Nothing But the Truth

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Section A.1

NSW Police Senior Constable Slater

While many of you may be slightly worried to have the police arrive on your doorstep, we are always excited to have an opportunity to play with the siren. Last week saw this happen when Senior Constable Craig Slater dropped by. Craig was able to answer all the questions the kids could think of and most importantly help the kids realise that the police aren't that scary at all. We are already looking forward to the next time Craig drives out on patrol. [emphasis added]

*Extract from a NSW public school newsletter,
May 2018.*

New South Wales (NSW) Police Senior Constable Craig Slater is introduced to the reader of *Kangaroo Justice and the Death of Mike Hall: An Australian Miscarriage of Justice* on page 47. An analysis of his statement to and his testimony at the Coronial Inquest can be found on pages 64 through 74 of the same work. Senior Constable Slater is referred to in the work an additional 15 times.

On 23 December 2020, I emailed NSW Police Senior Constable Slater the following two questions.

Question 1

Your statement to the Coronial Inquest into the death of Mr Hall, dated 5 April 2017, added strength to a narrative that the cyclist, Mr Hall, was not visible enough and therefore was unavoidably struck and killed by a passing motorist, Mr Bobb, who had been doing nothing wrong. Your evidence was then repeated during your testimony in the ACT Coroners Court on 26 September 2018.

Why did you state that you observed Mr Hall between the disused service station, near the Williamsdale Road intersection, and the Williamsdale Substation at 5.40 am on 31 March 2017 when according to the GPS evidence Mr Hall was 15 kilometres south of that location at that time?

[The GPS evidence given to AFP Senior Constable Potts on 5 April 2017 by the Indian Pacific Wheel Race organisers contained the GPS coordinates of Mr Hall's correct location at that time.]

Question 2

Why did you state that you observed Mr Hall between the disused service station, near the Williamsdale Road intersection, and the Williamsdale Substation at 5.40 am on 31 March 2017 when according to the statements of seven other witnesses Mr Hall was between 15 and 20 kilometres south of that location around that time?

Update:

I never received a response from NSW Police Senior Constable Craig Slater to these two questions.

I believe NSW Police Senior Constable Slater still has questions to answer in relation to his statement to and his testimony at the Coronial Inquest into the death of Mr Hall.

Section A.2

AFP Constable Wiseman

Australian Federal Police (AFP) Constable Joel Wiseman is introduced to the reader of *Kangaroo Justice and the Death of Mike Hall: An Australian Miscarriage of Justice* on pages 41 to 42. Questions about his diary notes can be found on pages 49 to 50 and on pages 219 to 220 of the same work. Constable Wiseman is referred to in the work an additional 21 times.

On 23 December 2020, I emailed AFP Constable Wiseman the following three questions.

Question 1

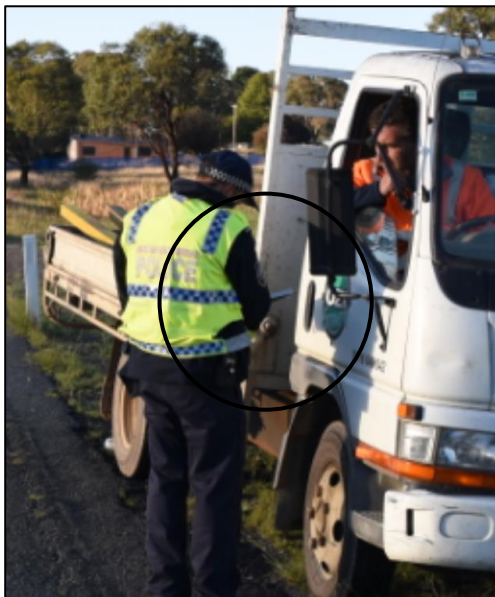
On 31 March 2017, did you conduct a digital record of conversation (DROC) with Mr Osman Mujic?

[Police photographic evidence shows Constable Wiseman engaged in conversation with Mr Mujic at 8.02 am on 31 March 2017.]

Question 2

Is this conversation detailed in the section of your handwritten diary notes that was redacted in the Inquest Brief?

[A Freedom of Information application sent to the Australian Federal Police on 25 December 2019 requesting the release of Constable Wiseman's unredacted diary notes was denied on the basis that their release would not be in the public interest.]



Question 3

You submitted a statement, dated 21 September 2017, documenting your actions on 31 March 2017 in relation to the investigation into the death of Mr Hall. This was included in the Inquest Brief for the Coroner.

Why is your statement, that was tendered in evidence in the ACT Coroners Court, at odds with the photographic evidence?

Update:

On 7 January 2021, I received a response from the AFP's Principal FOI (Freedom of Information) Officer and FOI Chief Counsel informing me that my questions to AFP Constable Wiseman had been forwarded to the AFP's FOI team. I responded on 20 January 2021, reminding them that the AFP's FOI team had already rejected my two FOI applications relating to Constable Wiseman on that basis that the release of Constable Wiseman's unredacted diary notes and any DROCs he conducted that day would not be in the public interest. I do not agree with their assessment.

Then, on 5 March 2021, I received a response from AFP Deputy Chief Police Officer – Response, Commander Michael Chew on behalf of AFP Chief Police Officer, Deputy Commissioner Neil Gaughan.

Commander Chew, in lieu of providing a response from Constable Wiseman, said:

... a decision has been made that no further action will be taken in this matter and the investigation has been closed.

Commander Chew also wrote:

... ACT Policing (the Australian Federal Police in the Australian Capital Territory) has closed the investigation and therefore will not be engaging further with you.

As Constable Wiseman's statement is at odds with the photographic evidence, I believe Constable Wiseman still has questions to answer in relation to his statement to the Coronial Inquest into the death of Mr Hall.

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Section A.3

AFP Leading Senior Constable Cantwell

AFP Leading Senior Constable Phillip Cantwell is introduced to the reader of *Kangaroo Justice and the Death of Mike Hall: An Australian Miscarriage of Justice* on page 42. A summary of his role during the interview with the driver, Mr Shegu Bobb, on 5 April 2017 can be found on pages 167 to 169 of the same work; and what is known about his handwritten diary notes is detailed on page 224. Leading Senior Constable Cantwell is referred to in the work an additional 20 times.

On 23 December 2020, I emailed AFP Leading Senior Constable Cantwell the below questions, numbered 1 to 4. Questions 5 and 6 were added later and were not sent to him.

Question 1

You attended the crash scene on 31 March 2017 with AFP Senior Constable Potts, and yet your handwritten diary notes were not included in the Inquest Brief which was prepared by yourself and by Senior Constable Potts for the Coroner in the Inquest into the death of Mr Hall. You were, in fact, the Collaborator for the Coroner on that Inquest Brief.

Why were your diary notes not included in the Brief?

[A Freedom of Information application sent to the Australian Federal Police on 25 December 2019 requesting the release of AFP

Leading Senior Constable Cantwell's diary notes was denied on the basis that their release would not be in the public interest.]

Question 2

On 31 March 2017, did you attend The Canberra Hospital with AFP Senior Constable Potts to interview Mr Shegu Bobb?

[There were two officers present at The Canberra Hospital on 31 March 2017 when Mr Bobb was interviewed.]

Question 3

Was this interview with Mr Shegu Bobb at The Canberra Hospital on 31 March 2017 recorded?

[A Freedom of Information application sent to the Australian Federal Police on 25 December 2019 requesting the release of any interviews AFP Leading Senior Constable Cantwell recorded on 31 March 2017 was denied on the basis that its release would not be in the public interest.]

Question 4

You submitted a statement, dated 1 September 2017, documenting your actions on 31 March 2017 in relation to the investigation into the death of Mr Hall. This was included in the Inquest Brief for the Coroner.

Why were no actions after 11.00 am on 31 March 2017 mentioned in your statement?

Question 5

AFP Senior Constable Adam Potts and you interviewed Mr Shegu Bobb on 5 April 2017 at his home in Cooma, just five days after he fatally struck Mr Hall. When you asked Mr Bobb about his headlights, he replied:

I've always wanted to change those headlights, but I didn't have the money for it ... because it was that dull, you can't, you can't see anything to, like reach under, say, a metre or two metres because you can't see anything ...

You then clarified that Mr Bobb had just said that he couldn't see much past a metre or two metres with his headlights on low beam, and he agreed. You then asked him:

So is it safe to drive at a hundred kilometres an hour if you can't see very far?

Shockingly, Mr Bobb replied:

I've been doing it every day.

At this point in the interview, why did you not caution Mr Bobb, go away and later test the headlights yourself, and then charge Mr Bobb with culpable driving causing death?

Question 6

After failing to test Mr Bobb's headlights and failing to charge him with the indictable offence of culpable driving causing death, do you believe that justice was done for Mike Hall, his family and friends?

Update:

On 22 January 2021, I received an email response from AFP Leading Senior Constable Phillip Cantwell informing me that he would not be able to respond to my questions without approval from the ACT Policing Chief Police Officer, Deputy Commissioner Neil Gaughan.

That same day I emailed ACT Policing Chief Police Officer and Deputy Commissioner Neil Gaughan because I believe the public have a right to have these questions answered, in the interests of justice.

On 5 March 2021, I received a response from AFP Deputy Chief Police Officer – Response, Commander Michael Chew on behalf of Chief Police Officer, Deputy Commissioner Neil Gaughan. Commander Chew, in lieu of providing a response from Leading Senior Constable Cantwell, said:

... a decision has been made that no further action will be taken in this matter and the investigation has been closed.

Commander Chew also wrote:

... ACT Policing (the Australian Federal Police in the Australian Capital Territory) has closed the investigation and therefore will not be engaging further with you.

I believe Leading Senior Constable Cantwell still has questions to answer in relation to his statement to the Coronial Inquest into the death of Mr Hall.

Section A.4

AFP Sergeant Lewis

AFP Sergeant Matthew Lewis is introduced to the reader of *Kangaroo Justice and the Death of Mike Hall: An Australian Miscarriage of Justice* on page 42. A reference to him that relates to Brett Rossiter can be found on page 46 of the same work. Sergeant Lewis is referred to in the work an additional three times.

On 1 February 2021, I emailed AFP Sergeant Lewis the following four questions.

Question 1

Your handwritten diary notes were included in the Inquest Brief prepared for the Coroner. In your diary notes is written:

Brett Rossiter NSW RMB

followed by a phone number. In March 2017, Mr Rossiter formally left the NSW Police Force and joined the NSW Roads and Maritime Services (RMB).

Did you or one of your colleagues contact Mr Rossiter to obtain vehicle details from the two speed gantries located on the Monaro Highway between Cooma NSW and Canberra in the ACT?

Question 2

Why were your interactions with NSW Roads and Maritime Services and Brett Rossiter not included in your statement dated 7 August 2017?

Question 3

Why was photographic evidence from those NSW speed gantries that would have documented the time Mr Bobb drove under these gantries on the morning he fatally struck Mr Hall *not* included as evidence in the Inquest Brief and presented at the Coronial Inquest?

Question 4

What time did Mr Bobb drive under the first speed gantry, five kilometres north of his home in Cooma NSW, on the morning he fatally struck Mr Hall?

Was it 5.00 am, as Mr Bobb said in his interview on 5 April 2017? Or was it actually 5.30 am, as Mr Bobb said to AFP Senior Constable Potts in The Canberra Hospital on 31 March 2017 immediately after he fatally struck Mr Hall?

Update:

On 5 March 2021, I received a response from AFP Deputy Chief Police Officer – Response, Commander Michael Chew on behalf of AFP Chief Police Officer, Deputy Commissioner Neil Gaughan. Commander Chew, in lieu of providing a response from AFP Sergeant Lewis, said:

... a decision has been made that no further action will be taken in this matter and the investigation has been closed.

Commander Chew also wrote:

... ACT Policing (the Australian Federal Police in the Australian Capital Territory) has closed the investigation and therefore will not be engaging further with you.

I believe Sergeant Lewis still has questions to answer in relation to his statement to the Coronial Inquest into the death of Mr Hall.

Section A.5

AFP Leading Senior Constable Boyce

AFP Leading Senior Constable Catherine Boyce is introduced to the reader of *Kangaroo Justice and the Death of Mike Hall: An Australian Miscarriage of Justice* on page 44. A summary of her role can be found on pages 211 and 306 of the same work.

On 23 December 2020, I emailed AFP Leading Senior Constable Boyce the following two questions.

Question 1

According to your statement dated 8 August 2017, you assisted with the identification of Mr Hall at the Phillip Forensic Medical Centre in Canberra at 3.30 pm on 1 April 2017. At the Coronial Inquest, AFP Senior Constable Potts stated that Mr Hall's bicycle bag had been returned to the family *by you*. This bag and its contents were given to Belgian cyclist Mr Kristof Allegaert after being signed for by Mr Gordon who held a NSW licence.

Did you return this bag to Mr Gordon and Mr Allegaert on 1 April 2017?

[According to Mr Gordon, he signed for and was given this bag by a male officer.]

Question 2

At any time on 1 April 2017, was AFP Senior Constable Potts with you at the Phillip Forensic Medical Centre in Canberra?

[An officer fitting AFP Senior Constable Potts's description gave Mr Gordon this bag and its contents at the Phillip Forensic Medical Centre in Canberra on 1 April 2017.]

Update:

On 5 March 2021, I received a response from AFP Deputy Chief Police Officer – Response, Commander Michael Chew on behalf of AFP Chief Police Officer, Deputy Commissioner Neil Gaughan. AFP Commander Chew, in lieu of providing a response from AFP Leading Senior Constable Boyce, said:

... a decision has been made that no further action will be taken in this matter and the investigation has been closed.

I have no reason to doubt the accuracy or the completeness of Leading Senior Boyce's statement, dated 8 August 2017, to the Coronial Inquest into the death of Mr Hall. However, it is at odds with the testimony given by Senior Constable Potts at the same Coronial Inquest.

Section A.6

AFP Senior Constable Munro

AFP Senior Constable Gregory Munro is introduced to the reader of *Kangaroo Justice and the Death of Mike Hall: An Australian Miscarriage of Justice* on pages 44 to 45. Questions about the Vehicle Mechanical Examination Field Report that he completed and signed off on can be found on pages 171 to 172 of the same work. Senior Constable Munro is referred to in the work an additional seven times.

On 23 December 2020, I emailed AFP Senior Constable Munro the following questions.

Question 1

When you certified Mr Shegu Bobb's Mazda 323 as roadworthy in your Vehicle Mechanical Examination Field Report dated 21 April 2017, had you tested the headlights on low beam?

[Mr Bobb said in his 5 April 2017 record of interview with AFP Senior Constable Potts and AFP Leading Senior Constable Cantwell that the Mazda 323's headlights only illuminated the road one to two metres in front of him as he drove in the dark towards Canberra on 31 March 2017.]

Question 2

When you certified Mr Shegu Bobb's Mazda 323 as roadworthy in your Vehicle Mechanical Examination Field Report dated 21 April 2017, had you tested the brakes?

[Mr Bobb said in his 5 April 2017 record of interview with AFP Senior Constable Potts and AFP Leading Senior Constable Cantwell that the Mazda 323's brakes only worked intermittently and that he had to keep checking them on the morning of 31 March 2017 to see if they were still responding.]

Question 3

When you certified Mr Shegu Bobb's Mazda 323 as roadworthy in your Vehicle Mechanical Examination Field Report dated 21 April 2017, did you know that the headlights could only project 5 lux of light 15 metres when on low beam, and not the 6 lux of light to a distance of 25 metres, which is the standard required for registration by the ACT Road Rules and by Australian Design Rule 46/00?

[On 23 April 2018, AFP Senior Constable Potts mapped the remaining headlight for the ACT Coroners Court. This mapping found that the remaining headlight could only project light 15 metres at 5 lux. An expert extrapolated that mapping to prove the headlight would only project 1.8 lux 25 metres. This mapping evidence was forwarded by Counsel Assisting Ken Archer on 9 August 2018 to Associate Professor Oxley and Dr O'Hern at Monash University's Accident Research Centre.]

Update:

On 5 March 2021, I received a response from AFP Deputy Chief Police Officer – Response, Commander Michael Chew on behalf of AFP Chief Police Officer, Deputy Commissioner Neil Gaughan. AFP Commander Chew, in lieu of providing a response from AFP Senior Constable Munro, said:

... a decision has been made that no further action will be taken in this matter and the investigation has been closed.

Commander Chew also wrote:

... ACT Policing (the Australian Federal Police in the Australian Capital Territory) has closed the investigation and therefore will not be engaging further with you.

I believe Senior Constable Munro still has questions to answer in relation to his Vehicle Mechanical Examination Field Report that was included in the Inquest Brief for the Coronial Inquest into the death of Mr Hall.

Section A.7

AFP Senior Constable Potts

AFP Senior Constable Adam Potts is introduced to the reader of *Kangaroo Justice and the Death of Mike Hall: An Australian Miscarriage of Justice* on pages 42 to 44. An analysis of his Collision Analysis report can be found on pages 103 through 113, a review of his treatment of the physical evidence occurs on pages 209 to 212, and questions about his handwritten diary notes can be found on pages 221 to 224. Senior Constable Potts is referred to in the work an additional 98 times.

On 23 December 2020, I emailed AFP Senior Constable Potts twenty of the following twenty-six questions. He didn't respond. I have since added six new questions to my initial twenty, but saw no point in forwarding them to him.

Question 1

When presenting your evidence in the ACT Coroners Court, you stated, when you arrived at the scene at 7.48 am, that you first spoke with Mr Mujic, that you did not record your conversation with him in a digital record of conversation (DROC), and that you then told him to leave. Yet ten minutes later Mr Mujic was photographed in conversation with AFP Constable Wiseman.

Why did you make a statement that is at odds with the photographic evidence?



Question 2

At any point was Mr Bobb's mobile phone examined by the police?

Question 3

When you interviewed Mr Bobb on 31 March 2017 in The Canberra Hospital, was there another officer present with you? If so, was that officer AFP Senior Constable Cantwell?

[In my 16 June 2020 conversation with Mr Bobb, he told me that two officers came to interview him at The Canberra Hospital on 31 March 2017.]

Question 4

When you interviewed Mr Bobb on 31 March 2017 in The Canberra Hospital, was that interview recorded?

[In my 16 June 2020 conversation with Mr Bobb, he told me that his 31 March 2017 interview in The Canberra Hospital had been recorded.]

Question 5

During that 31 March 2017 interview, did Mr Bobb say that he had left home at 5.30 am that morning, allowing you to conclude that Mr Bobb had been speeding when he drove from his home in Cooma to the crash location?

[Your own handwritten diary notes from 31 March 2017 say that Mr Bobb left his home at 5.30 am that morning.]

Question 6

During that 31 March 2017 interview, did Mr Bobb say that he had been following a car in front of him immediately before he struck Mr Hall?

[Your handwritten diary notes have the words "there was a car in front of" and "my lights were on low beam" in your summary of your conversation with Mr Bobb.]

Question 7

During that 31 March 2017 interview, did Mr Bobb say that he had been talking on his mobile phone with his girlfriend, using data and using his mobile phone in speaker mode, when he fatally struck the cyclist?

Or, did Mr Bobb say that, immediately after striking and killing the cyclist, he first called his girlfriend, with his mobile phone in speaker mode, instead of calling Triple 0 and rendering assistance to the cyclist he'd just struck?

Question 8

During that interview on 31 March 2017, did Mr Bobb tell you that, immediately after fatally striking the cyclist, he was approached by a motorist – previously unknown to police and *not* Mr Harbers – who had been travelling south from the direction of Canberra, and that this motorist saw and heard Mr Bobb talking with his girlfriend while using his mobile phone in speaker mode at 6.19 am *before* Mr Bobb called Triple 0 at 6.20 am?

[I recently spoke to this motorist who told me he was the first person to approach Mr Bobb immediately after Mr Bobb fatally struck Mr Hall, and at that time Mr Bobb was talking on this mobile phone with his girlfriend prior to calling Triple 0.]

Question 9

Did Mr Bobb also tell you that, during the phone call that this motorist overheard, Mr Bobb's girlfriend was crying and urging Mr Bobb to get out of his car and check on the cyclist he had just struck?

[This witness, who was never interviewed by the AFP, told me that Mr Bobb was crying, and his girlfriend was crying and telling him to check on the cyclist he'd just struck.]

Question 10

You told the Inquest that Mr Bobb had been admitted to and was being treated in the acute treatment ward of The Canberra Hospital.

Did it occur to you that the acute treatment ward may have been an unusual place to treat someone who was just suffering from shock?

Question 11

Mr Bobb's blood sample was transported by the Australian Federal Police from The Canberra Hospital to ACT Health for testing. Three questions could have been asked of the ACT Health analyst who tested this blood sample:

A) Does the sample show the presence of alcohol?

- B) Does the sample show the presence of *any* drugs?
- C) Does the sample show the presence of prescribed drugs?

Which of these three questions were asked of the ACT Health analyst?

[Prescribed drugs are limited to three drugs that are routinely tested for in the ACT during roadside stops: meth, cannabis and ecstasy.]

[The only certificates from the blood sample testing that were presented to the Coroners Court answered questions A and C.]

Question 12

In the Inquest Brief you prepared for the Coroner, you included call charge records for Mr Bobb's mobile phone. These records were requested by you on 3 May 2017 – 33 days *after* Mr Bobb killed Mr Hall.

Did you request phone records for Mr Bobb's mobile phone any time *prior* to 3 May 2017?

Question 13

Following your interview on 31 March 2017 with Mr Bobb at The Canberra Hospital, you conducted a formal record of interview with Mr Bobb at his home in Cooma NSW on 5 April 2017, five days after he fatally struck Mr Hall.

Why was this formal record of interview not conducted at an ACT police station?

Question 14

During the interview on 5 April 2017, Mr Bobb stated he could only see one to two metres in front of his car when driving at 100 km/h in the dark with his headlights on low beams.

Why didn't you immediately arrange to have Mr Bobb's vehicle headlights mapped to see if they met the standard for registration?

Question 15

The headlight mapping conducted by you on 23 April 2018 – over a year after he struck Mr Hall – showed that Mr Bobb's headlights did *not* meet the standards in Australian Design Rule 46/00 (Headlights).

Why didn't you immediately charge Mr Bobb with an offense such as negligent driving causing death?

Question 16

During the interview on 5 April 2017, Mr Bobb stated he kept testing his brakes while driving towards Canberra to make sure they were still working.

Why didn't you immediately arrange to have Mr Bobb's vehicle brakes tested to see if they met the standard for registration?

Question 17

During the interview on 5 April 2017, Mr Bobb stated he could only see one to two metres in front of his car when driving at 100 km/h in the dark with his headlights on low beams. Then, on 7 August 2018, almost ten months after you completed your investigation and delivered the Inquest Brief to the Coroner, you interviewed Mr Bobb for a *third* time. The transcript of this interview was forwarded two days later, on 9 August 2018, to Dr Steve O'Hern and Associate Professor Jennie Oxley of Monash University's Accident Research Centre by Counsel Assisting the Coroner, Mr Ken Archer.

After this, these expert witnesses from Monash University's Accident Research Centre *changed* their conclusion for the Coroner from "it would seem that the motorist was travelling at an inappropriate speed given the limitations of his vehicle while using low beams" (15 December 2017) to "it is *possible* that the vehicle provided limited forward visibility when using the low beam setting" (18 September 2018). [emphasis added]

Why did you conduct this interview with Mr Bobb on 7 August 2018?

Did anyone suggest to you that you should conduct a third interview with Mr Bobb?

Question 18

During that 7 August 2018 interview, you used the leading question "Could you see halfway across a soccer field, i.e. 50 metres?" when asking Mr Bobb about his headlights. This question received an affirmative answer from Mr Bobb. However, that affirmative answer directly conflicted with Mr Bobb's comment in his 5 April 2017 interview about his headlights only projecting light two metres in front on his vehicle.

Why did you ask Mr Bobb this leading question?

Question 19

You created a number of reconstruction videos on 11 April 2017 and on 3 June 2017 which were presented at the Inquest to suggest that Mr Hall was neither visible nor conspicuous to motorists on the day he was killed. Mr James S Sobek of Wolf Technical Services reviewed these videos and will testify that they do *not* accurately represent what the human eye would have seen when driving towards Mr Hall in a motor vehicle that morning.

Did your reconstruction videos accurately represent what the human eye would have seen when driving towards Mr Hall in a motor vehicle that morning?

Question 20

Mr Hall's cycling clothes were, at some point in time, disposed of during the AFP's investigation.

What happened to Mr Hall's clothes?

[This question was neither asked nor answered at the Coronial Inquest.]

Question 21

You completed your investigation and submitted the Inquest Brief to Coroner Boss on 17 October 2017. Yet you tested, mapped and reported on the headlights of Mr Bobb's Mazda 323 on 23 April 2018, more than a year after Mr Hall was fatally struck and killed.

Why did you not test, map and report on those headlights *prior* to delivering the Inquest Brief to the Coroner?

Question 22

Why did you map the headlights of Mr Bobb's Mazda 323 on 23 April 2018? Did someone instruct you to do this testing? Were there concerns regarding the conflicting evidence about those headlights in the Inquest Brief?

Did Coroner Boss direct you to perform that additional mapping?

Question 23

On 31 March 2017, Mr Hall's bicycle was photographed by AFP Leading Senior Constable Cantwell showing a reflective strip on the rear bag.

On 1 April 2017, the rear bag from Mr Hall's bicycle was given to Mr Gordon for Mr Allegaert to then return to the family. There was no reflective strip attached to this bag at that time, and you stated in cross-examination at the Inquest that there had never been a reflective strip attached to the rear bicycle bag while it was in your possession. And yet, the bicycle with a reflective strip attached to its rear bag on the morning of 31 March 2017 appears in police photographs taken by Leading Senior Constable Cantwell.



Can you explain the discrepancy in your statement with the AFP's own photographic evidence?

Question 24

You stated at the Inquest that, after the crash on 31 March 2017, you had 'days off' and that Mr Hall's rear bicycle bag was returned to Mr Allegaert by your female colleague, AFP Leading Senior Constable Boyce.

[A male AFP officer of approximately 5' 7" in height signed the bag over to Mr Gordon because he, Mr Gordon, possessed a NSW license as valid Australian ID.]

Why was your testimony in Court about who returned the bag to the family at odds with the facts according to Mr Gordon?

Which male AFP officer returned that bag to Mr Gordon?

Question 25

At the Coronial Inquest, on 24 September 2017 you told Counsel Assisting Mr Ken Archer that Mr Bobb's one remaining headlight could

shine 5 lux of light a distance of 15 metres. Counsel Assisting Ken Archer then asked you the following:

From your research, are you able to say whether or not, assuming it to be in comparable working condition to the other light, what the effect of the addition of the second lighting [sic]? Is it a 'multiple of two' factor?

You responded with:

Not quite. More like three quarters.

Three quarters of *what*?

Did you mean that the second headlight would increase the *area* illuminated by three quarters? [Scientifically possible.]

Did you mean that the second headlight would increase the *intensity* of the projected light by three quarters? [Some increased intensity of light occurs where the light from two headlights overlaps.]

Did you mean that the distance the headlights could project light *forward* would increase by three quarters? [Scientifically *impossible*.]

[A report by James S Sobek of Wolf Technical Services found: "It is our technical opinion that the headlights on Mr. Bobb's Mazda 323 were not in compliance with Australian Design Rule 46/00 Headlamps. It is our opinion that because of the car's non-compliant headlights, the car was not roadworthy."]

Question 26

Your testimony on 24 September 2017 at the Coronial Inquest that two working lights would increase the light coming from Mr Bobb's headlights by three quarters misled the Coroner to find in error that Mr Bobb's headlights met the standard for registration and that Mr Bobb's vehicle was roadworthy.

Now that an independent analysis of the AFP's headlight evidence has found that Mr Bobb's headlights were *not* compliant with Australian Design Rule 46/00 (Headlamps) and that thus the vehicle was unroadworthy, would you now care to rephrase your testimony for clarity's sake?

First update:

On 23 February 2021, I sent the following letter to AFP Senior Constable Adam Potts, copying in the AFP Chief Police Officer and Deputy Commissioner Neil Gaughan, the ACT Coroners Court, the Vice-Chancellor at Monash University, and others:

Dear AFP Senior Constable Adam Potts,

I have been in communication with Chief Coroner Lorraine Walker of the ACT Coroners Court. Her Honour granted me access to the headlight mapping you performed on 23 April 2018, one year and 23 days after cyclist Mike Hall (photo attached) was killed, on the low-beam headlights of Mr Bobb's Mazda 323 (attached).

My colleague Boyd Fraser and I have been in contact with internationally renowned forensic engineer James Sobek (CV attached). Mr Sobek has concluded that your statement to the 2018 Coronial Inquest did not adequately describe your illuminance mapping pattern. Firstly, you did not state the height above the ground at which you used the illuminance meter's sensor. While it is likely given what you put in your statement that it was at ground level, you did not say that nor did you give any height. Secondly, you did not say whether or not you were pointing the sensor directly at the one functioning headlamp (or alternatively, directly toward the seated driver eye position in the Mazda). Most people who do headlight mapping point the sensor toward the headlamp or driver.

We respectfully request you provide details of both the height at which you used the light meter and where you pointed that meter when you conducted your testing. I attach the relevant Australian Design Rule standards for headlamps, which detail how this testing is to be conducted. Mr Sobek is of the opinion that Mr Bobb's headlights did not meet the required standard for registration in NSW or the ACT, and thus his vehicle was unroadworthy.

Once we have received your response, we will be submitting an application to the Chief Coroner asking Her Honour to hold a fresh coronial inquest into the death of Mr Michael Richard Hall in light of this and other new evidence.

Also of concern is your testimony and the testimony of expert witness Dr Steve O'Hern of Monash University's Accident

Research Centre at the Inquest. When asked by Counsel Assisting what effect the addition of the second headlamp would have and whether it was a 'multiplied by two' factor, you replied: "Not quite. More like three quarters." This contributed to the Coroner finding that the headlights of Mr Bobb's vehicle met the Australian standards and that the vehicle was roadworthy when in fact it was not roadworthy.

As Coroner Boss also relied upon Dr O'Hern's testimony when finding Mr Bobb's vehicle roadworthy, it is our belief that the Coroner was misled by Dr O'Hern's testimony that two headlamps projecting light 15 metres would together project light 27 metres – a physical impossibility.

We have been in contact with the ACT Road Transport Authority, with Thomas Belcher at the Department of Infrastructure and with the Adviser to the Minister for Infrastructure, Transport and Regional Development (all copied into this email) to obtain written confirmation for the Court that Australian Design Rule standards specify a single headlamp, not two.

In my efforts to be completely transparent, I have also copied this email to Boyd Fraser, to Kerrie Edwards, the Executive Assistant to the Vice-Chancellor of Monash University, to Professor Judith Charlton, the Director of Monash University's Accident Research Centre, and to Sam Shirley, Advisor to the Minister for Infrastructure, Transport and Regional Development and the Deputy Prime Minister, the Hon Michael McCormack MP.

I await your response.

Final update:

No response was ever received from Senior Constable Potts.

Then, on 5 March 2021 I received a response from AFP Deputy Chief Police Officer – Response, Commander Michael Chew on behalf of Chief Police Officer, Deputy Commissioner Neil Gaughan. In lieu of providing a response from Senior Constable Potts, Commander Chew said to me in his letter:

... a decision has been made that no further action will be taken in this matter and the investigation has been closed.

Commander Chew continued:

... ACT Policing [the Australian Federal Police in the Australian Capital Territory] has closed the investigation and therefore will not be engaging further with you.

Elements of Senior Constable Potts statement to and testimony at the Coronial Inquest into the death of Mr Hall are at odds with the photographic evidence, the physical evidence, and subsequent witness statements. Senior Constable Potts's statement and testimony are also at odds with the scientific forensic evidence provided to me by James S Sobek of Wolf Technical Services on 10 March 2021.

I believe Senior Constable Potts still has many questions to answer in relation to his investigation, his statement, and his testimony at the Coronial Inquest.

Preliminary edition

Section A.8

Chief Police Officer Neil Gaughan

ACT Policing Chief Police Officer and Deputy Commissioner Neil Gaughan did not appear in *Kangaroo Justice and the Death of Mike Hall: An Australian Miscarriage of Justice*.

On 22 January 2021, I received an email response from AFP Leading Senior Constable Phillip Cantwell to my 23 December 2020 email to him. In that email, Leading Senior Constable Cantwell informing me that he would not be able to answer the questions I had put to him without me first obtaining approval from ACT Policing Chief Police Officer and Deputy Commissioner Neil Gaughan.

That same day I emailed ACT Policing Chief Police Officer and Deputy Commissioner Gaughan because I believe the public have a right to have these questions answered, in the interests of justice. I did not receive a response from Commissioner Gaughan.

Later, on 23 February 2021, I sent the correspondence reproduced in Section A.7 above (under 'FIRST UPDATE') to AFP Senior Constable Adam Potts, and I copied into this correspondence: ACT Policing Chief Police Officer Gaughan, the ACT Coroners Court, the Vice-Chancellor at Monash University, and others.

I did not receive a response from Chief Police Officer Gaughan.

Section A.9

Deputy Chief Police Officer Michael Chew

AFP Deputy Chief Police Officer - Response, Commander Michael Chew did not appear in *Kangaroo Justice and the Death of Mike Hall: An Australian Miscarriage of Justice*.

On 5 March 2021, I received the following correspondence on behalf of ACT Policing Chief Police Officer and Deputy Commissioner Neil Gaughan from Deputy Chief Police Officer - Response, Commander Michael Chew:

Dear Mr Ryan,

I refer to the recent correspondence you have sent to the Chief Police Officer regarding the investigation and Coronial inquest [sic] into the death of Michael Richard Hall. As the Deputy Chief Police Officer - Response, I am responsible for the Major Collision Investigation Team who undertook the investigation of Mr Hall's death. As such, the Chief Police Officer has asked me to reply on his behalf.

I am aware that you have been researching the circumstances surrounding Mr Hall's death and have been questioning the investigation undertaken by ACT Policing. This particular investigation has been reviewed a number of times and I am confident the investigation has been conducted in accordance with Australian and international Standards [sic].

As you are aware, the matter has been heard before the ACT Coroner's Court which has made a finding into the cause of Mr Hall's death.

The Coroner stated in her report "I do not have reasonable grounds for believing that Mr Bobb has committed an indictable offence". She also stated she would "refer the matter to the AFP for consideration as to whether a section 6 charge (negligent driving causing death) has been committed".

ACT Policing has carefully considered the Coroner's referral and, based on the physical evidence and witness statements obtained, a decision has been made that no further action will be taken in this matter and the investigation has been closed.

In relation to the notes you have requested of Leading Senior Constable Phillip Cantwell and Constable Joel Wiseman, to seek the release of those documents you are welcome to apply under the Freedom of Information (FOI) Act and appropriate consideration will be given to their release. You can find information on how to submit a request under the FOI Act on the AFP website.

I note that you have also made contact directly with the case officer on a number of occasions. As the investigation has closed it is not appropriate for that officer to respond to you and I request that you cease any further contact.

I appreciate that this is not the outcome you were seeking when contacting the Chief Police Officer, however, ACT Policing has closed the investigation and therefore will not be engaging further with you.

If you disagree with the outcome of the investigation, you may make a complaint to AFP Professional Standards of the Commonwealth Ombudsman. Details of our complaint process and who you can make a complaint to can be found on the AFP website.

Yours sincerely

*Deputy Chief Police Officer - Response
ACT Policing*

First update:

The Australian Federal Police had already refused to release to me, under Freedom of Information legislation, the handwritten diary notes of AFP Leading Senior Constable Phillip Cantwell and AFP Constable Joel Wiseman, claiming that the release of these officers' notes would not be in the public interest, even though their diary notes were material evidence that should have been provided in the first place to Coroner Boss in the Inquest Brief and presented as evidence at the Coronial Inquest.

I had only *twice* attempted to contact the case officer, AFP Senior Constable Adam Potts – both times by email. Senior Constable Potts declined to respond to either email.

In Her Honour's correspondence with me on 17 February 2021, ACT Chief Coroner Lorraine Walker wrote:

As to new information which goes to a question of culpable driving, this information should be provided to the Australian Federal Police for consideration as to whether it provides a proper basis for criminal prosecution.

As a direct consequence of the above 5 March 2021 correspondence to me from Deputy Chief Police Officer Chew where he refused to consider new evidence in this matter or to engage further with me, I wrote to ACT Chief Coroner Lorraine Walker on 15 March 2021 citing paragraph 68(1)(b) from *The Coroners Act 1997* (ACT) and asking Her Honour to consider, at a fresh coronial inquest into the death of Mr Hall, the new evidence I had obtained and compiled.

Full details of that correspondence can be viewed in Section H.2 and Section H.3 of this work.

Final update:

On 1 June 2021, I wrote to Commander Chew and respectfully suggested that, in light of the flawed Vehicle Mechanical Examination Field Report and statement by AFP Senior Constable Munro, it would be in the interests of justice for the Australian Federal Police to write to ACT Chief Coroner Lorraine Walker and support our call for a fresh inquest into the death of Mr Hall.

I included with my correspondence a copy of the forensic analysis by Mr James Sobek of Wolf Technical Services who concluded "based on

the laws of physics” that Mr Bobb’s headlights did not meet the standard for registration, and that Mr Hall was clearly visible that morning from at least 400 metres. I also included, for Commander Chew’s reference, copies of Senior Constable Munro’s Vehicle Mechanical Examination Field Report and statement.

I did not hear back from AFP Deputy Chief Police Officer - Response, Commander Michael Chew.

Preliminary edition

Section A.10

Commissioner Reece Kershaw

In February 2021, AFP Commissioner Reece Kershaw wrote to the Prime Minister stressing the importance of the timely referral, by members of the Australian House of Representatives and of the Australian Senate, of any allegations of criminal conduct to the Australian Federal Police.

On 4 March 2021, I wrote to Attorney-General Michaelia Cash detailing my concerns that AFP Constable Joel Wiseman's statement, that was tendered in evidence in the ACT Coroners Court at the Coronial Inquest into the death of Mr Hall, was at odds with the AFP's own photographic evidence (see Section A.2).

On 22 April 2021, I received a response to my correspondence from Attorney-General Michaelia Cash's Department. In that response, I was informed the matters I had raised "do not fall within the Attorney-General's portfolio responsibilities so your correspondence has been referred to the Australian Federal Police for their information and response as appropriate" (see Section C.4).

Update:

On 7 May 2021, I received the following response:

Based on the information provided, the AFP are unable to take further action in relation to this matter at this time. If you do obtain more information please contact the AFP directly via the 'Report a Crime' link on the AFP website.

Part B

If I Could Interview You Now

Preliminary edition

Preliminary edition

Section B.1

The driver of the 'car in front'

The 'car in front' was first referred to in AFP Senior Constable Pott's handwritten diary notes. I have been unable to locate or contact the driver of this vehicle. As a consequence, the following three questions remain unanswered.

Question 1

We know from the only eyewitness and from Mr Bobb's first interview that there was a car in front of Mr Bobb before he fatally struck Mr Hall.

Who was this driver? Who are you?

Question 2

It would have been difficult not to hear or see what happened behind you on the morning of 31 March 2017. Did you see or hear anything? Did you realise later that *you* had been the driver of the 'car in front'?

Question 3

Did you contact anyone to report who you were or what you knew? If yes, why did you not attend the Coronial Inquest as a witness?

Section B.2

The ACT Health analyst

Particulars of the blood toxicology tests and of the certificates issued are detailed in *Kangaroo Justice and the Death of Mike Hall: An Australian Miscarriage of Justice* on pages 267 through 276.

I have been unable to contact the ACT Health analyst at the ACT Government Analytical Laboratory who conducted the analysis on Mr Bobb's blood sample. However, I have no reason to question the professionalism or accuracy of this analyst's work.

While this analyst is no longer employed by ACT Health, his name appears on the certificates which are a matter of public record. He may be bound by a professional code of conduct preventing him from answering questions outside of a court of law. As a consequence, the following two questions remain unanswered for now.

Question 1

In April 2017, you worked for ACT Health as an analyst at the ACT Government Analytical Laboratory. A blood sample was taken from Mr Bobb at The Canberra Hospital on 31 March 2017. That sample was then placed in a *single* container with a tamper-evident seal.

Analysis for the presence of blood alcohol was performed by you on that blood sample at the request of the Australian Federal Police. A blood alcohol certificate was then issued by you, dated 12 April 2017, showing that the test was negative for the presence of alcohol (ethyl alcohol).

Analysis for the presence of three prescribed drugs was also performed by you on that same blood sample, at the request of the Australian Federal Police. A blood toxicology certificate was then issued by you showing that the test was negative for the presence of the three prescribed drugs methyl-amphetamine, cannabis, and ecstasy, but this certificate was dated 18 April 2017 which was six days *after* the date on which you issued the blood *alcohol* certificate.

Why was there a six-day delay between the issue dates of those two certificates?

Question 2

Did you at any point perform a more *comprehensive* blood toxicology test on that same blood sample to determine whether any *other* drug, other than the three prescribed drugs, was present?

Preliminary edition

Section B.3

Brett Rossiter

Brett Rossiter is introduced to the reader of *Kangaroo Justice and the Death of Mike Hall: An Australian Miscarriage of Justice* on pages 46 to 47. His name, the letters 'NSW RMS', and a phone number were included in the handwritten diary notes of AFP Sergeant Lewis from 31 March 2017.

I have not been able to speak with Brett Rossiter. As a consequence, the following two questions remain unanswered.

Question 1

Did an AFP police officer contact you following Mr Hall's death on 31 March 2017?

Question 2

Did a police officer contact you to obtain information from the NSW Roads and Marine Services (RMS) speed gantries on the Monaro Highway pertaining to the movements of Mr Bobb's vehicle on the morning of 31 March 2017 as he drove toward Canberra from Cooma NSW?

[Data from NSW Roads and Marine Services speed gantries are retained indefinitely, but can only be accessed under Freedom of Information legislation from 'Transport for NSW' by police officers and other government agencies.]

Section B.4

Karina O'Grady

I have been unable to speak with, locate, or even identify who this person is. As a result, the following questions remain unanswered.

Question 1

You were noted and recorded on 5 April 2017 in the record of interview between Mr Bobb, AFP Senior Constable Adam Potts and AFP Leading Senior Constable Phillip Cantwell in Cooma NSW as a family friend of Mr Bobb. You sat with Mr Bobb during this interview, as a family friend, to provide him with support, as was his legal right. This interview was conducted just five days after Mr Bobb fatally struck Mr Hall.

Who are you?

Question 2

Why did Mr Bobb have you, instead of a lawyer, attend this 5 April 2017 formal interview with the Australian Federal Police?

Question 3

Why did Mr Bobb change his version of events during this 5 April 2017 interview as to the time he left his home that morning?

Question 4

Why did Mr Bobb change his version of events during this 5 April 2017 interview as to whether there was a car in front of him that morning?

Question 5

Immediately after the crash, a witness saw and heard Mr Bobb speaking to his girlfriend with his mobile phone in speaker mode. The phone was in Mr Bobb's lap and not in an approved phone cradle.

Why did Mr Bobb say during this 5 April 2017 interview that he had been singing to music immediately prior to fatally striking Mr Hall?

Was Mr Bobb using his phone in an illegal manner when he killed Mr Hall?

Question 6

Did you play a role in Mr Bobb changing his story?

Question 7

Again, who are you?

Preliminary edition

Part C

In the Public Interest

Preliminary edition

Preliminary edition

Section C.1

Shane Rattenbury MLA

Mr Shane Rattenbury MLA was Minister for Justice in the ACT Government from 2016 to October 2020. ACT Policing, the police in the ACT, report to the Minister for Justice. However, as ACT Policing are actually a division of the Australian Federal Police (AFP), they ultimately report to the Federal Minister for Home Affairs. At the time, this person was Mr Peter Dutton.

I contacted Mr Shane Rattenbury on 18 February 2020 with my concerns about the actions of members of ACT Policing in relation to the investigation and Coronial Inquest into the death of Mr Hall. Mr Rattenbury wrote to me the following day. In his email, he explained that the ACT Integrity Commission:

... does not cover police, as the Commonwealth Government (who have responsibility for the AFP) would not allow them to be included in the remit of the ACT Integrity Commission.

He also explained that this was why the Canberra-based ACLEI (the Australian Commission for Law Enforcement Integrity) had been established:

They are an independent agency with responsibility for investigating integrity matters within the AFP. Based on my understanding of these matters, I genuinely believe they are the best place to start in terms of trying to get to the bottom of the questions you are raising. The questions you raise are very serious, and warrant further examination. At their heart, they

raise questions of integrity and corruption, which is exactly the brief that ACLEI is supposed to investigate.

I sent the following questions to Mr Rattenbury on 23 December 2020. This was after the October 2020 ACT election when Mr Rattenbury was no longer the Minister for Justice in the ACT Government. [From November 2020, Mr Rattenbury has been the Attorney-General in the ACT Government.]

Mr Rattenbury's office contacted me on 6 January 2021 to let me know they would respond soon. I did not hear anything further from his office at this time.

Question 1

As Minister for Justice in the ACT prior to the October 2020 election, why was it that the police in the ACT did not officially report to you?

Question 2

The ACT police force in the ACT does not report to the ACT Minister for Justice in the ACT Government; nor does the ACT police force report to the ACT Legislative Assembly.

Do you believe this is a satisfactory situation?

Question 3

Do you believe the *Canberra Act* 1988 (Cth) should be amended to give the ACT its own police force that is accountable to the ACT minister for justice, to the ACT courts, and to the people of the ACT via the ACT legislative assembly?

Update:

I sent an email to ACT Attorney-General Shane Rattenbury's office on 10 May 2021 seeking his assistance, as I had not received a response from the ACT Coroners Court regarding my submission of 15 March 2021 requesting a new inquest. That same day, Mr Rattenbury's office responded saying: "We are following this matter up and will get back to you as soon as we can." I did not hear anything further from his office.

Section C.2

ACLEI

I first contacted this organisation, the Australian Commission for Law Enforcement Integrity (ACLEI), on 19 February 2020 regarding my concerns about the actions of four members of the Australian Federal Police in relation to the investigation and Coronial Inquest into the death of Mr Hall. I emailed further details of my concerns, and included my evidence, on 16 September 2020.

After receiving new information as a result of an FOI application, I updated my concerns with ACLEI on 26 September 2020. On 29 October 2020, Justin Bathurst, ACLEI's Executive Director Operations, wrote to me saying he was not satisfied an AFP member had 'engaged in corrupt conduct', and thus ACLEI was unable to investigate further. Below is a rhetorical question that was *not* sent to ACLEI.

Question 1

The information I provided your organisation on 26 September 2020 contained documentation alleging four Australian Federal Police officers made statements at odds with the facts to a Coronial Inquest.

If serious allegations like this do not warrant investigation for integrity or corruption, why does your organisation have the word 'integrity' in its name?

Section C.3

Attorney-General Christian Porter

The Australian Commission for Law Enforcement Integrity (ACLEI) report to the Australian Attorney-General. On 23 December 2020, I emailed the following four questions to the then Australian Attorney-General Christian Porter.

Question 1

On 21 September 2020, I emailed your office outlining my concerns about the actions of members of the Australian Federal Police in relation to the investigation into the death of Mr Hall. This email included evidence I had earlier sent to the Australian Commission for Law Enforcement Integrity (ACLEI), which reports to you.

What action, if any, did you or your office take after receiving that email?

Question 2

Will you see that these allegations are investigated and that the investigation is open to public scrutiny, in the public interest and in the interests of justice?

Question 3

Would you introduce and/or support legislation to amend the *Canberra Act* 1988 (Cth) to give the ACT its own police force that is accountable to the ACT minister for justice, accountable to the ACT courts, and accountable to the people of the ACT via the ACT Legislative Assembly?

Question 4

Australia's public roads are dangerous. We, as Australians, are injuring and killing our children in driveways and on footpaths, and we are continuing to injure and kill, with few consequences, those who choose to walk, ride bicycles or drive on public roads.

Would you introduce and/or support legislation to establish a Royal Commission into Road Safety in Australia?

First update:

On 11 February 2021, Australian Attorney-General Christian Porter's office responded as follows:

Answers 1 and 2

Your letter refers to correspondence dated 21 September 2020 regarding material you have provided to the Australian Commission for Law Enforcement Integrity (ACLEI). The Integrity Commissioner is an independent statutory office holder. The Attorney-General's Department cannot direct or review the Integrity Commissioner's decisions concerning the way any particular information or allegation may be dealt with. You may wish to contact ACLEI directly at contact@aclei.gov.au regarding this matter.

Answer 3

Your letter also asks whether the Australian Government would support changes to ACT policing arrangements. Information about the arrangements for community policing in the ACT, including information about accountability arrangements for ACT police, is available at www.police.act.gov.au/about-us. Changes to policing arrangements in the ACT are not currently being considered.

Answer 4

I also note your query about the establishment of a Royal Commission into road safety in Australia. Royal Commissions are a form of non-judicial and non-administrative governmental investigation, which are established by the Governor-General, in accordance with the *Royal Commissions Act 1902* (Cth) and on the advice of the Government, to

inquire into matters of public importance. Royal Commissions are only established in exceptional circumstances.

I note that under Australia's constitutional arrangements, responsibility for road safety is primarily a matter for state, territory and local governments. You may wish to contact the relevant body within your state or territory for information about actions being taken to improve the road safety within your jurisdiction.

Thank you again for bringing your concerns to the Attorney-General's attention. I trust this information is of assistance.

Final update:

At the time of publication, Christian Porter was no longer the Attorney-General of Australia.

Preliminary edition

Section C.4

Attorney-General Michaelia Cash

In February 2021, AFP Commissioner Reece Kershaw wrote to the Prime Minister stressing the importance of the timely referral, by members of the Australian House of Representatives and of the Australian Senate, of any allegations of criminal conduct to the Australian Federal Police.

On 4 March 2021, I wrote to Attorney-General Michaelia Cash with evidence of alleged criminal conduct by AFP Constable Joel Wiseman in respect of his statement to the ACT Coroners Court at the Coronial Inquest into the death of Mr Hall (see Section A.2).

On 22 April 2021, I received a response from the Attorney-General's Department to my correspondence. In that response, I was informed the matters I had raised on 4 March 2021 "do not fall within the Attorney-General's portfolio responsibilities so your correspondence has been referred to the Australian Federal Police for their information and response as appropriate" (see Section C.4).

Update:

On 7 May 2021, I received the following response:

Based on the information provided, the AFP are unable to take further action in relation to this matter at this time. If you do obtain more information please contact the AFP directly via the 'Report a Crime' link on the AFP website.

Preliminary edition

Part D

At Odds with the Laws of Physics

Preliminary edition

Preliminary edition

Section D.1

Dr Steve O'Hern

An analysis of Dr Steve O'Hern's expert witness testimony can be found in *Kangaroo Justice and the Death of Mike Hall: An Australian Miscarriage of Justice* on pages 176 through 186. Dr O'Hern is referred to in the work an additional 16 times.

On 23 December 2020, I emailed Dr Steve O'Hern some of the below questions. Since then, I have added a few new questions, which I have not been able to send to him.

Question 1

In late 2017, at the request of the ACT Coroners Court, together with your colleague Associate Professor Jennie Oxley at Monash University's Accident Research Centre (MUARC) you prepared a review of the AFP's evidence pertaining to the roadworthiness of Mr Bobb's car. You did not test the actual car, but you did perform independent testing on the lights and lighting system of Mr Hall's bicycle. Together with your colleague Associate Professor Oxley, you submitted a written report to the ACT Coroners Court on 15 December 2017.

On 9 August 2018 you were requested, in a letter from Counsel Assisting the Coroner Mr Ken Archer on behalf of the ACT Coroners Court, to respond to nine specific questions that sought further advice from you for Coroner Boss in relation to several aspects of your initial report. At this time you were also supplied with: a further transcript record of conversation between Mr Bobb and AFP Senior Constable Adam Potts; and supplementary evidence in the form of headlight mapping done by

AFP Senior Constable Adam Potts on 23 April 2018 showing that the right-side headlight was only capable of illuminating the road to a distance to 15 metres at five lux (a measure of light intensity).

Why did you not compare this supplementary evidence from Senior Constable Potts that mapped Mr Bobb's vehicle headlights to the Australian Design Rule [ADR] standards in *Vehicle Standard (Australian Design Rule 46/00 - Headlamps)* 2006 (Cth) and the *Road Transport (Vehicle Registration) Regulations* 2000 (ACT)?

[According to independent forensic expert Mr James S Sobek, Senior Accident Analyst with Wolf Technical Services in Indiana, USA, Mr Bobb's vehicle headlights did not meet the Australian standard for registration, and thus Mr Bobb's car was unroadworthy when he killed Mr Hall. See Section D.5 below.]

Question 2

You and your colleague, Associate Professor Jennie Oxley, responded on 9 August 2018 to the request from Counsel Assisting the Coroner, Mr Ken Archer, with a supplementary report dated 18 September 2018. This was just six days prior to the commencement of the Coronial Inquest.

In that supplementary report, you stated:

Given the damage sustained to the left headlight, the illumination provided by the headlight was not assessed. As such, it is not possible to provide a definitive assessment regarding the operation or effectiveness of the vehicle headlights. (emphasis added)

Your above statement is not correct. The ADR legislation carefully and clearly specifies the standard for a (singular) headlamp (Appendix A, 6.1.1 and 6.1.2).

Again, in your supplementary report dated 18 September 2018 of which you were the lead author, why did you not compare the headlight mapping performed by AFP Senior Constable Adam Potts on 23 April 2018 and supplied to you on 9 August 2018 to the Australian Design Rule standards in *Vehicle Standard (Australian Design Rule 46/00 - Headlamps)* 2006 (Cth)?

Question 3

In your supplementary report dated 18 September 2018, why did you not conclude, as Mr James S Sobek of Wolf Technical Services accurately did, that Mr Bobb's vehicle headlights did not meet the Australian

standard for registration and thus his vehicle was unroadworthy when he fatally struck Mr Hall?

Question 4

On 24 September 2018, when Counsel Assisting Ken Archer asked you and your colleague Associate Professor Oxley at the Inquest about the visibility of Mr Bobb's vehicle headlights, he commenced his question by saying:

Assuming for the moment that the lights were operating within a normal range...

Why did you not call out Counsel Assisting for this leading question? Why did you not reject his incorrect assumption that "the lights were operating within a normal range"?

Question 5

Regarding AFP Senior Constable Gregory Munro's mechanical report on Mr Bobb's vehicle, in your first report dated 15 December 2017 you and your colleague Associate Professor Oxley expressed the following expert opinion:

While the mechanical report suggests the vehicle was in reasonable conditions, in the interview conducted with the driver on 5th April 2017 there are suggestions that the vehicle did suffer from issues with the headlights that may have contributed to the collision ...

Given that the high beam headlights were still operating and mechanical inspection of the vehicle identified no problems with the vehicle electronics, it may suggest that the headlight required adjustment to correctly align the beams.

As you were unsure as to whether or not there was a misalignment of the headlamps, why didn't you and your colleague request a further examination of the headlamp alignment?

Question 6

When asked by Counsel Assisting Ken Archer in his 9 August 2018 letter to you on behalf of the ACT Coroners Court on what basis you expressed the above opinion, you responded on 18 September 2018, in your second report, as follows:

This was suggested as a possible reason for the disparity between the initial mechanical inspection of the vehicle conducted by Leading Senior Constable Munro which identified that there were no visible deficiencies found with the lights and electrical circuits and the driver's comments reading the effectiveness of the headlights. However, we also note that, without any examination of headlight alignment, this cannot be substantiated.

As AFP Senior Constable Gregory Munro's mechanical report identified "no visible deficiencies" with the electrical circuits, yet you cited in your first report a disparity between the "initial mechanical inspection of the vehicle conducted by Leading Senior Constable Munro" and the testimony of the drive regarding the effectiveness of the vehicle's headlights, why didn't you and your colleague recommend a further examination of the electrical system for the vehicle's headlamps?

[It cannot be assumed that an electrical system that shows "no visible deficiencies" is in fact functioning properly.]

Question 7

At the Inquest, on 24 September 2018, when Counsel Assisting Ken Archer asked:

Now, given that the lights on balance probably were working in accordance with recognised standards, what do you say in relation to the issue of the headlights being a relevant matter to the accident? And I invite either of you to comment or both.

you responded:

I guess the subsequent evidence ... an investigation of the headlights revealed that they were visible for approximately ... or they produced light for approximately fifteen metres, and, um, the constable's estimation would be that ... that would be multiplied by, well, an additional seventy-five percent, um, if you had two headlights operating, um, so that would be approximately 27 metres or so, um, that the headlights would illuminate a road.

This response was factually incorrect, was at odds with the ADRs, was impossible according to the laws of physics, and was seriously flawed. This flawed evidence had the effect of misleading Coroner Boss into finding that the driver's car met the standard for registration and was thus roadworthy, which it clearly was not.

[According to independent forensic expert Mr James S Sobek, Senior Accident Analyst with Wolf Technical Services in Indiana,

USA, Mr Bobb's vehicle headlights did not meet the Australian standard for registration, and thus his car was unroadworthy when he killed Mr Hall. See Section D.5 below.]

Why did you answer this question in this way?

Your answer to this question misled Coroner Boss and resulted in Mr Bobb not being charged with any offence, even though he was knowingly driving an unroadworthy vehicle when he struck and killed Mr Hall. Your answer also tarnished the reputation of your employer, Monash University.

Why did you answer Counsel Assisting's question in this way when giving evidence as an expert witness representing Monash University?

Update:

I did not receive a response from Dr Steve O'Hern. His 'out of office' email response on 23 December 2020 said that he was on annual leave, that he was currently employed by Tampere University in Finland, and that he now maintains only an adjunct role at the Monash University Accident Research Centre.

I believe Dr O'Hern has serious questions to answer in relation to his expert witness testimony at the Coronial Inquest into the death of Mr Hall.

Section D.2

Associate Professor Jennie Oxley

An analysis of Associate Professor Jennie Oxley's expert witness testimony can be found in *Kangaroo Justice and the Death of Mike Hall: An Australian Miscarriage of Justice* on pages 176 through 184. Associate Professor Oxley is referred to in the work an additional 10 times.

I have not been able to send the following eight questions to Associate Professor Oxley.

Question 1

In late 2017, at the request of the ACT Coroners Court, together with your colleague Dr Steve O'Hern at Monash University's Accident Research Centre (MUARC), you prepared a review of the AFP's evidence pertaining to the roadworthiness of Mr Bobb's car. You did not test the actual car, but you did perform independent testing on the lights and lighting system of Mr Hall's bicycle. Together with your colleague Dr Steve O'Hern, you submitted a written report to the ACT Coroners Court on 15 December 2017.

On 9 August 2018 you were requested, in a letter from Counsel Assisting the Coroner Mr Ken Archer on behalf of the ACT Coroners Court, to respond to nine specific questions that sought further advice from you for Coroner Boss in relation to several aspects of your initial report. At this time you were also supplied with: a further transcript record of conversation between Mr Bobb and AFP Senior Constable Adam Potts; and supplementary evidence in the form of headlight mapping performed by AFP Senior Constable Adam Potts on 23 April 2018

showing that the right-side headlight was only capable of illuminating the road to a distance to 15 metres at five lux (a measure of light intensity).

Why did you not compare this supplementary evidence from Senior Constable Potts that mapped Mr Bobb's vehicle's headlights to the Australian Design Rule [ADR] standards in *Vehicle Standard (Australian Design Rule 46/00 - Headlamps)* 2006 (Cth) and the *Road Transport (Vehicle Registration) Regulations* 2000 (ACT)?

[According to independent forensic expert Mr James S Sobek, Senior Accident Analyst with Wolf Technical Services in Indiana, USA, Mr Bobb's vehicle headlights did not meet the Australian standard for registration, and thus Mr Bobb's car was unroadworthy when he killed Mr Hall. See Section D.5 below.]

Question 2

You and your colleague, Dr Steve O'Hern, responded to the request from Counsel Assisting the Coroner Mr Ken Archer on 9 August 2018 in a supplementary report dated 18 September 2018, just six days prior to the commencement of the Coronial Inquest.

In that supplementary report, you stated:

Given the damage sustained to the left headlight, the illumination provided by the headlight was not assessed. As such, it is not possible to provide a definitive assessment regarding the operation or effectiveness of the vehicle headlights. (emphasis added)

Your above statement is not correct. The ADR legislation carefully and clearly specifies the standard for a (singular) headlamp (Appendix A, 6.1.1 and 6.1.2).

Again, why did you not compare the headlight mapping performed by AFP Senior Constable Adam Potts on 23 April 2018 to the Australian Design Rule standards in *Vehicle Standard (Australian Design Rule 46/00 - Headlamps)* 2006 (Cth)?

Question 3

In your supplementary report dated 18 September 2018, why did you not conclude, as Mr James S Sobek of Wolf Technical Services accurately did, that Mr Bobb's vehicle headlights did not meet the Australian standard for registration and thus his vehicle was unroadworthy when he fatally struck Mr Hall?

Question 4

On 24 September 2018, when Counsel Assisting Ken Archer asked you and your colleague Dr O'Hern at the Inquest about the visibility of Mr Bobb's vehicle headlights, he commenced his question by saying:

Assuming for the moment that the lights were operating within a normal range...

Why did you not call out Counsel Assisting for this leading question? Why did you not reject his incorrect assumption that "the lights were operating within a normal range"?

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Regarding AFP Senior Constable Gregory Munro's mechanical report on Mr Bobb's vehicle, in your first report dated 15 December 2017 you and your colleague Dr O'Hern expressed the following expert opinion:

While the mechanical report suggests the vehicle was in reasonable conditions, in the interview conducted with the driver on 5th April 2017 there are suggestions that the vehicle did suffer from issues with the headlights that may have contributed to the collision ...

Given that the high beam headlights were still operating and mechanical inspection of the vehicle identified no problems with the vehicle electronics, it may suggest that the headlight required adjustment to correctly align the beams.

As you were unsure as to whether or not there was a misalignment of the headlamps, why didn't you and your colleague request a further examination of the headlamp alignment?

Question 6

When asked by Counsel Assisting Ken Archer in his 9 August 2018 letter to you on behalf of the ACT Coroners Court on what basis you expressed this opinion, you responded on 18 September 2018, in your second report, as follows:

This was suggested as a possible reason for the disparity between the initial mechanical inspection of the vehicle conducted by Leading Senior Constable Munro which identified that there were no visible deficiencies found with the lights and electrical circuits and the driver's comments reading the effectiveness of the

headlights. However, we also note that, without any examination of headlight alignment, this cannot be substantiated.

As AFP Senior Constable Gregory Munro's mechanical report identified "no visible deficiencies" with the electrical circuits, yet you cited in your first report a disparity between the "initial mechanical inspection of the vehicle conducted by Leading Senior Constable Munro" and the testimony of the drive regarding the effectiveness of the vehicle's headlights, why didn't you and your colleague recommend a further examination of the electrical system for the vehicle's headlamps?

[It cannot be assumed that an electrical system that shows "no visible deficiencies" is in fact functioning properly.]

Question 7

At the Inquest, on 24 September 2018, when Counsel Assisting Ken Archer asked:

Now, given that the lights on balance probably were working in accordance with recognised standards, what do you say in relation to the issue of the headlights being a relevant matter to the accident? And I invite either of you to comment or both.

your colleague Dr O'Hern responded:

I guess the subsequent evidence ... an investigation of the headlights revealed that they were visible for approximately ... or they produced light for approximately fifteen metres, and, um, the constable's estimation would be that ... that would be multiplied by, well, an additional seventy-five percent, um, if you had two headlights operating, um, so that would be approximately 27 metres or so, um, that the headlights would illuminate a road.

This response was factually incorrect, was at odds with the ADRs, was impossible according to the laws of physics, and was seriously flawed. This flawed evidence had the effect of misleading Coroner Boss into finding that the driver's car *met* the standard for registration and was thus roadworthy, which it clearly was not.

[According to independent forensic expert Mr James S Sobek, Senior Accident Analyst with Wolf Technical Services in Indiana, USA, Mr Bobb's vehicle headlights did not meet the Australian standard for registration, and thus his car was unroadworthy when he killed Mr Hall. See Section D.5 below.]

Why did you remain silent? Why did you not speak up, while giving expert witness testimony in the ACT Coroners Court, to contradict your colleague's incorrect testimony?

Your silence contributed to Mr Bobb not being charged with any offence, even though he was knowingly driving an unroadworthy vehicle when he struck and killed Mr Hall. Your silence also tarnished the reputation of your employer, Monash University.

Why did you remain silent when giving evidence as an expert witness representing Monash University?

Question 8

I first contacted you by email on 2 April 2019 at your Monash University Accident Research Centre office in an attempt to obtain copies of these two reports prepared by you and your colleague Dr O'Hern for the ACT Coroners Court. I received no response.

On 11 November 2019, seven months later and after emailing you on two further occasions, I used FOI legislation to successfully obtain copies of these two reports.

Why were you so reluctant for these two reports to be made public?

Update:

I believe Associate Professor Jennie Oxley has questions to answer in relation to the expert witness testimony she participated in at the Coronial Inquest into the death of Mr Hall – especially her silence when her colleague Dr Steve O'Hern testified, contrary to the scientific and existing police evidence, that Mr Bobb's headlights met the standard for registration.

Section D.3

Vice-Chancellor Margaret Gardner AC

Monash University is the largest university by student enrolment in Australia. It is also one of the Go8, or Group of Eight – Australia's eight research-intensive universities. Seven of these eight universities are ranked in the world's top 100, and receive over 70 percent of Australia's research grant funding. Monash University was ranked 75th by the Times Higher Education World University Rankings 2002.

On its Clayton Campus in Melbourne, Monash University houses its Accident Research Centre (MUARC) within its Faculty of Engineering. It is this Accident Research Centre that was approached by the ACT Coroners Court to produce, ultimately, two reports.

These two reports were authored by academics Dr Steve O'Hern and Associate Professor Jennifer Oxley. These two people subsequently gave expert witness testimony at the Inquest.

Initial contact

The Vice-Chancellor of Monash University, Professor Margaret Gardner AC, was contacted by my colleague Mr Boyd Fraser on 15 February 2021 requesting a meeting where the three of us could work together "in a spirit of goodwill and common cause" to determine how best to proceed, given the expert witness testimony of Dr Steve O'Hern at the Coronial Inquest was flawed as the headlights of the car that struck and killed Mr

Hall did not meet the standard for registration in Australia and thus the car was unroadworthy.

Below are the requests Mr Fraser and I *intended* but were unable to put to Vice-Chancellor Margaret Gardner AC.

Request 1

The testimony presented at the Coronial Inquest into the death of Mr Hall on 24 September 2018 in the ACT Coroners Court by Dr Steve O'Hern of Monash University's Accident Research Centre (MUARC) was at odds with the AFP's headlight mapping which proved the headlights of the car that fatally struck Mr Hall did not meet the standard for registration according to the *Road Transport (Vehicle Registration) Act 1999* and Australian Design Rule 46/00, and was thus unroadworthy.

[According to independent forensic expert Mr James S Sobek, Senior Accident Analyst with Wolf Technical Services in Indiana, USA, Mr Bobb's vehicle headlights did not meet the Australian standard for registration, and thus Mr Bobb's car was unroadworthy when he killed Mr Hall. See Section D.5 below.]

Of concern is the fact that Coroner Boss relied upon Dr O'Hern's expert witness testimony stating that the driver's car *was* roadworthy when Her Honour found the driver, Mr Bobb, not guilty of the indictable offence of culpable driving causing death, which attracts a maximum penalty of 14 years' incarceration in the ACT.

As a result of Dr O'Hern's flawed and inaccurate testimony, we request that Monash University write to Chief Coroner Lorraine Walker in the ACT Coroners Court and ask that Dr O'Hern's testimony be withdrawn from the record. This would allow for the findings of the original Inquest to be set aside, and for ACT Chief Coroner Lorraine Walker to hold a fresh into the death of Mr Hall.

Request 2

We request that Monash University write to Mrs Patricia Hall, Mr Hall's mother, offering her an unreserved apology for the additional grief caused by the flawed testimony of Dr O'Hern.

We request that Monash University write to Ms Anna Haslock, Mr Hall's former partner, offering her an unreserved apology for the additional grief caused by the flawed testimony of Dr O'Hern.

We request that Monash University write to the organiser of the Indian Pacific Wheel Race, Mr Jesse Carlsson, offering him and his colleagues an unreserved apology for the additional stress and grief caused by the flawed testimony of Dr O'Hern.

We request that Monash University write an open letter of apology to those in the global cycling community who were caused unnecessary stress, anguish and grief by the flawed testimony of Dr O'Hern.

Finally, I request that Monash University rescind its 21 January 2020 ban on me, Heath Ryan, from visiting any Monash University staff offices, and apologise for threatening to have me arrested for trespass and contempt of court just for asking difficult questions.

Update:

Despite phone and text communications with Vice-Chancellor Margaret Gardner's Executive Assistant confirming Mr Boyd Fraser's emails were successfully received by the Vice-Chancellor's office, no response to our offer of a meeting was forthcoming.

To date, we are not aware of any efforts Monash University has made to address these very serious allegations.

After our repeated attempts to arrange a meeting failed, we submitted our request to ACT Chief Coroner Lorraine Walker for a fresh inquest into the death of Mr Hall (see Section H.2).

Section D.4

Department of Infrastructure and Transport (DOI)

Mr Boyd Fraser and I first reached out to Mr Thomas Belcher of the Federal Department of Infrastructure and Transport (DOI) in early February 2021.

It took us over a month to get a response, and that response – reproduced below – failed to answer the simple questions Mr Fraser posed regarding the Department’s Australian Design Rule standards (ADRs) for vehicle headlights.

The question

Sent on 2 February 2021 to:

Mr Thomas Belcher
Vehicle Satisfy Standards
Department of Infrastructure, Transport, Cities and Regional
Development
Canberra, ACT

Dear Thomas

Further to my telephone call of yesterday, I seek your department’s expert opinion as to certain issues surrounding motor vehicle headlamp illumination.

I refer you to the Coroner's finding and the two reports from the Monash University Accident Research Centre, which are attached to this email. You will read that a truly critical consideration in the course of coronial inquest into the tragic death of endurance cyclist Mr Michael Hall was the operation or status of the headlamps to the motor vehicle that was involved in the collision.

On the basis of what I believe to have been deeply flawed and unscientific statements made to Coroner Boss in regard to the operation of the headlamps to the motor vehicle concerned and as to headlamps in general, it was concluded that the motor vehicle headlamps satisfied the relevant road rule. I contend that this was a deeply regrettable error and that the headlamps in question would meet neither Australian Design Rule 46/00 nor state and territory road rules pertaining to headlamps.

The Court was told by the Australian Federal Police (AFP) that the driver-side headlight projected, on low beam, a distance of only 15 metres and that the light output at that point was five lux. Further advice was submitted that the combination of two headlamps in such a condition would project light to a distance of 27 metres.

I seek your department's expert opinion as to the following points, which I detail as follows:

- 1) whether the stated light projection of 15 metres on low beam and the measured output of 5 lux would meet Australian Design Rule 46/00;
- 2) whether the stated light projection of 15 metres on low beam and measured output of 5 lux would meet state and territory roads rules pertaining to headlamp requirements (in some jurisdictions a minimum low beam light projection of 25 metres is stated whilst in others the term 'effective' is used);
- 3) whether the combination of two headlamps with a light projection of only 15 metres and a measured output of five lux would project light to 27 metres, as told to the Court;
- 4) what the theoretical light projection of two headlamps would be – driver's side and passenger's side – with an individual light projection of only 15 metres and a measured light output of five lux; and
- 5) the relevance of the measured light output of five lux in the context of the minimum and maximum lux values cited in ADR 46/00, which are based on measurement at a distance of 25 metres?

Thomas, I don't profess to be an expert on the subject of headlamp illumination and mapping of light output via the use of a goniometer, however it would appear counter-intuitive to suggest that the combination of two headlamps would increase the maximum light projection but would, rather, increase illumination in the area of overlap.

My interest in the subject matter above stems from the fact that I have been involved in cycling advocacy for many years and I believe that the Coronial Inquest into Mr Hall's death should be reopened, such that justice would be served and such that the ambiguous nature of state and territory road regulations pertaining to headlamp regulation would be revised to better reflect the importance of lighting to road safety.

Kind regards,
Boyd Fraser

The response

Received on 12 March 2021 from:

Mr Paul Cutting
Acting Assistant Secretary, Surface Transport Division
Department of Infrastructure, Transport, Regional Development and
Communications
Canberra, ACT

OFFICIAL

Dear Mr Fraser

Thank you for your email of 2 February 2021 to the Department of Infrastructure, Transport, Regional Development and Communications regarding the headlamp illumination of the motor vehicle involved in the death of Mr Michael Hall. The Department acknowledges the tragic circumstances of Mr Hall's death and I want to extend my sympathy to his family and friends.

The Department administers the *Motor Vehicle Standards Act 1989*, which requires that, with limited exceptions, new road vehicles must have an identification plate before they are supplied to the market for use in Australia. An identification plate may only be placed on a vehicle, including the Mazda 323 involved, if the vehicle is covered by a type approval. In order to obtain a type approval, the person applying for type approval must certify to the Department that vehicles of the type comply with national standards known as the Australian Design Rules (ADRs). The ADRs are mostly performance-based standards which

deliver levels of vehicle safety, emission control and theft protection that are generally expected by the Australian community. The ADRs contain a comprehensive set of vehicle lighting standards developed by an international panel of experts in the field of vehicle lighting systems and adopted by the United Nations. Generally, a person is prohibited from affixing an identification plate and supplying a vehicle to the market unless that vehicle complies with the ADRs and is covered by the type approval.

The Department is not in a position to provide advice on whether the vehicle involved complied with the ADRs at the time of the collision. After a vehicle is supplied to the market in Australia, regulation of the vehicle passes to the in-service vehicle regulators, the state and territory governments, which are responsible for in-service issues such as registration, road-worthiness, vehicle modifications and vehicle use. They generally require that a vehicle must continue to comply with the ADRs as at its date of manufacture or later, with account taken for vehicle wear and tear.

I trust this information is of assistance.

Kind regards,
Paul

[While polite, this response did not answer any of the simple technical questions Mr Fraser was asking of the federal department that overseas vehicle standards in Australia. In fact, in his response Mr Paul Cutting chose to answer a set of completely different questions. In political circles, this is known as 'deflecting'.]

Section D.5

James S Sobek, Wolf Technical Services

James S Sobek is Senior Accident Analyst at Wolf Technical Services in Fishers, Indiana in the USA.

He holds a degree in Physics from Thiel College in Greenville, Pennsylvania, and has completed additional training at UCLA and Purdue University. His professional experience includes twenty years with the US Department of Navy designing guidance systems to control the dynamic flight performance of missiles. Mr Sobek was one of three co-inventors of the precision electro-optical guidance system used on the US Navy's Tomahawk cruise missiles.

Mr Sobek commenced his accident reconstruction work with Wolf Technical Services in 1978. His specific areas of expertise include: optics, human vision and visibility, optical system design, photogrammetry, photographic image enhancement, and mechanical dynamics. His experience in computer programming and missile flight dynamics is directly applicable to the analysis of vehicular motion and accident reconstruction.

Mr Sobek is a member of the Optical Society of America, National Association of Railroad Safety Consultants and Investigators (NARSCI), and the Michigan Association of Traffic Accident Investigators (MATAI). He is a registered Professional Engineer in the State of Indiana. He has appeared in US state, US Federal and Canadian courts over 100 times, representing plaintiffs and defendants in civil matters,

and prosecutors and defendants in criminal matters. In addition, Mr Sobek has participated in mock trials for the American Board of Trial Advocates (ABOTA).

Mr Sobek currently teaches classes and seminars in physics, lighting, optics and visibility to attorneys, forensic engineers, law enforcement officers, and other forensic investigators. A cyclist himself, Mr Sobek returns to New York state where he lived as a young boy to ride his bicycle and enjoy the countryside.

Reproduced in detail below are an overview and the conclusions of a comprehensive *pro bono* scientific report Mr Sobek and his organisation prepared for me. This report was submitted to ACT Chief Coroner Lorraine Walker on 15 March 2021 as part of a request for a new inquest based on this new evidence.

Report overview

“Wolf Technical Services was contacted on February 5, 2021 with regard to a fatal motor vehicle/bicycle collision that occurred on the morning of March 31, 2017 in the Australian Capital Territory (ACT).

“Mr Mike Hall was one of 70 participants in the 2017 Indian Pacific Wheel Race (IPWR, also known as the Indy Pac), a solo single-stage, unsupported road cycling race covering 5,500 kilometres across Australia from the Indian Ocean to the Pacific Ocean. Seventy entrants were participating in the race which had started at 06:00 AWDT (Australian Western Daylight Time) on March 18 from Fremantle, Western Australia. It was to end when the riders reached Sydney, the capital city of the state of New South Wales.

“At about 06:20 AEDT (Australian Eastern Daylight Time) Mr Mike Hall was riding traveling north on Monaro Highway, also known as NSW route B23. He was in second place in the race and was only about 325 km from the race finish at the Sydney Opera House. He was just about to pass through the Williamsdale Road intersection when he was struck from behind by a 2000 Mazda 323 Astina driven by Mr Shegu Bobb. The car had also been traveling north on Monaro Highway. Mr Hall suffered fatal injuries in the collision.

“We were asked to determine, if possible, whether the performance of the headlights on Mr Bobb’s car complied with Australian national standards as to illumination distance. Our analysis has been conducted by Mr James S Sobek, PE, of the Wolf Technical Services staff.

"Our analyses are based on the materials available to us and are provided within a reasonable degree of scientific and technical certainty. Our conclusions are based on the laws of physics, on mathematical computations, on published data, and on Mr Sobek's education, background and experience in physics, mathematics, lighting, human vision, and visibility. Our analytical methods are generally employed in the field of accident reconstruction, and are set forth in numerous texts and treatises."

Report conclusions

"It is our technical opinion that the headlights on Mr Bobb's Mazda 323 were not in compliance with Australian Design Rule 46/00 Headlamps.

"It is our opinion that because of the car's non-compliant headlights, the car was not roadworthy.

"It is our opinion that, independent of the condition of the car's headlights, Mr Hall's bicycle with its headlight and taillight would have been conspicuous from the perspective of motorists traveling north on the highway at the time of this collision from a distance of at least 400 metres.

"It is our opinion that Mr Bobb was not paying a reasonable amount of attention to the driving task."

Signed,

James S Sobek, PE
Senior Accident Analyst
Wolf Technical Services
10 March 2021

Part E

There But for the Grace of God Go I

Preliminary edition

Preliminary edition

Section E.1

Counsel Assisting Ken Archer

Mr Archer, who was Counsel Assisting the Coroner during the Coronial Inquest into the death of Mike Hall, is introduced to the reader of *Kangaroo Justice and the Death of Mike Hall: An Australian Miscarriage of Justice* on pages 30 through 35. Mr Archer is referred to in the work an additional 12 times.

On 23 December 2020, I emailed Mr Archer five of the following questions. He did not respond.

Concerns pertaining to Mr Archer's role in the original Coronial Inquest were sent to ACT Chief Coroner Lorraine Walker on 15 March 2021 as part of a submission requesting a new inquest.

A number of these allegation were also sent to the ACT Law Society as part of a complaint against Mr Archer on 26 March 2021. On 22 April 2021, I was informed by the ACT Law Society's Professional Standards Committee Secretary that my complaint had been forwarded to the ACT Bar Association "for their consideration", as Mr Archer was a member of the ACT Bar Association.

Question 1

On 23 April 2018, AFP Senior Constable Adam Potts performed headlight mapping on Mr Bobb's one remaining headlight. Sometime after this mapping was conducted, you obtained a copy of that mapping.

Did you understand that this headlight mapping proved Mr Bobb's headlights did *not* meet the standard for registration, and hence Mr Bobb's car was unroadworthy?

[According to independent forensic expert Mr James S Sobek, Mr Bobb's vehicle headlights did not meet the Australian standard for registration, and thus Mr Bobb's car was unroadworthy when he killed Mr Hall. See Section D.5.]

Question 2

On 7 August 2018, AFP Senior Constable Adam Potts re-interviewed Mr Bobb. This, Mr Bobb's *third* interview with the Australian Federal Police, took place more than 16 months after Mr Bobb struck and killed Mr Hall, and almost ten months after the Australian Federal Police completed their investigation for the Coroner.

Mr Archer, do you know why Senior Constable Potts conducted this third interview with Mr Bobb at this time?

Question 3

Two days later, on 9 August 2018, you asked Dr Steve O'Hern and Associate Professor Jennie Oxley of Monash University's Accident Research Center (MUARC) to answer a few questions which sought "further clarity" for the ACT Coroners Court MUARC's initial submission of 15 December 2017.

Mr Archer, why did you do this? Why did you seek further clarification from MUARC? Did Coroner Boss ask you to do this? Did the Coroner have issues with MUARC's 15 December 2017 submission that made these nine questions necessary?

Question 4

Together with those questions, you sent Dr Steve O'Hern and Associate Professor Jennie Oxley a copy of AFP Senior Constable Adam Potts's headlight mapping (see Question 1 above) and a copy of the transcript from the 7 August 2018 interview between Senior Constable Potts and Mr Bobb (see Question 2 above).

I can understand why you sent the headlight mapping, but in this *third* interview the driver changed his story from saying his headlights on low beam could only project light two metres to saying they could project light 50 metres.

Why, Mr Archer, just two days after the 7 August 2018 interview did you send a copy of this transcript to MUARC?

Question 5

Specifically, your first question to Dr Steve O'Hern and Associate Professor Jennie Oxley questions their conclusion regarding the responsibility of the driver for the collision that killed Mr Hall. In that question, you note that not only would Dr O'Hern and Associate Professor Oxley's 45-page submission dated 15 December 2017 inform the Coroner in regard to bicycle safety standards, but that it might also help the Coroner decide whether the driver should be charged with an indictable offence.

You then quote Dr O'Hern and Associate Professor Oxley's submission back to them where they concluded "a large burden of responsibility should be placed on the motor vehicle driver" (emphasis added). In response to your question, Dr O'Hern and Associate Professor Oxley *changed* their conclusion to "we are of the opinion that the driver would have a share of the burden of responsibility" (emphasis added). They specifically stated that they reached this new conclusion "on the basis of receiving and reviewing additional transcripts with the driver of the vehicle".

Specifically, in the second question you sent to MUARC, you cite the driver's 5 April 2017 interview where he told the Australian Federal Police that he could only see a few metres in front of his vehicle.

You then say:

The examination of the other light suggested it was in working order.

and:

Recent testing of that light has confirmed that finding.

Both of the above statements are incorrect.

[According to independent forensic expert Mr James S Sobek, Mr Bobb's vehicle headlights did not meet the Australian standard for registration, and thus Mr Bobb's car was unroadworthy when he killed Mr Hall. See Section D.5.]

You then continue:

Assuming for the moment that the lights were operating within a normal range (the driver will be called at the hearing and

asked questions about this) would your opinion remain as stated (4.3.2.1 at page 23) that the driver “was travelling at an inappropriate speed given the limitations of his vehicle while using low beams and that while traveling 100 km/h would not have had sufficient time to react to any unexpected situation”?

In response to this question, Dr O’Hern and Associate Professor Oxley changed their conclusion about the driver overdriving his headlight from “the driver was travelling at an inappropriate speed” (emphasis added) to “it is possible that the vehicle provided limited forward visibility when using the low beam setting and the driver may have been travelling at an inappropriate speed (emphasis added).

Mr Archer, would you accept that your first and second questions to the two MUARC road safety experts, together with the copy of the transcript from the 7 August 2018 interview between Senior Constable Potts and Mr Bobb, served to undermine MUARC’s original submission to the Coroner?

Again, Mr Archer, why did you send the 7 August 2018 interview between Senior Constable Potts and Mr Bobb to MUARC?

Question 6

Specifically, in your third question to MUARC, you sought clarification of Dr O’Hern and Associate Professor Oxley’s opinion in their original submission to the Coroner that the vehicle’s headlights might have required adjustment.

Dr O’Hern and Associate Professor Oxley responded by saying that, without being able to examine the vehicle, they could not substantiate their opinion as stated in their original submission.

Without providing the two MUARC road safety experts with the opportunity to examine the vehicle, Mr Archer, would you accept that this question served to undermine MUARC’s original submission?

Question 7

Specifically, in your fifth question to MUARC, you asked:

What significance do you attach to the fact that other drivers also reported finding it difficult to see Mr Hall on his bike as they drove past?

This is incorrect. Five drivers reported that Mr Hall was easy to see, one said he was distracted by a deer that did not exist, and one incorrectly said that the cyclist was not even wearing a helmet. In short, every driver paying proper attention to the road stated that they could clearly see the cyclist.

Mr Archer, why did you ask this question?

Question 8

In your fifth question to MUARC, you continued:

Does this suggest that there may have been some common factors apart from speed, lights and lack of attention that prevented the cyclist being easily and readily visualized?

In response to this question, Dr O'Hern and Associate Professor Oxley said:

To maximise their safety at night, cyclists should be conspicuous. That is, beyond being simply visible (detectable as an ambiguous object), they should attract the attention of drivers and be readily perceivable as cyclists.

Yet, in their original submission to the Coroner, Dr O'Hern and Associate Professor Oxley found the bicycle's lighting to be compliant with Australian Road Rules (page 20).

[And, according to independent forensic expert Mr James S Sobek, Mr Hall's bicycle with its headlight and taillight would have been conspicuous at the time of this collision from a distance of at least 400 metres. See Section D.5.]

Mr Archer, why did you use an inaccurate and leading question (that is, "apart from speed, lights and lack of attention") to blame the cyclist, who was conspicuous to passing motorists to 400 metres, for his own death?

Question 9

Specifically, in your sixth question to MUARC, you said:

[Mr Mujic] recalls letting cars [plural] pass before he made that turn. It could reasonably be assumed from his description of events, that one of the cars [plural] he gave way to, was the car involved in the collision. [emphasis added]

As there was no car behind Mr Bobb when he struck the cyclist, we can conclude that there was a car in front of Mr Bobb. This is consistent with Mr Mujic's first statement to police, with Senior Constable Potts's diary notes from the day, and with Mr Bobb having his headlights on low beam as he approached the Williamsdale intersection.

You continued:

I understand that it was in anticipation of there being traffic in that area that the driver set his lights at low beam.

Mr Bobb told police on 5 April 2017 that there were no cars around at all, but that he put his lights on low beam, even though they could only project light two metres in front of him, just in case there were other vehicles waiting at the intersection. This makes no sense.

Mr Archer, why did you put these two contradictory statements together in your question to MUARC?

Question 10

On 24 September 2018, the first day of the Coronial Inquest, when taking testimony in the morning from AFP Senior Constable Potts, you asked the officer:

From your research, are you able to say whether or not, assuming it to be in comparable working condition to the other light, what the effect of the addition of the second lighting [sic]?

You then suggested:

Is it a 'multiple of two' factor?

AFP Senior Constable Potts responded with:

Not quite. More like three quarters.

This is not correct. Two headlights together do not cast light further than on headlight alone.

Why did you suggest to Senior Constable Potts that a second headlight would increase light output by 'a multiple of two' factor?

Question 11

Later in the Inquest, Coroner Boss cited this officer's testimony when Her Honour said that it had been established that the driver's car was roadworthy. But that is not correct.

[According to independent forensic expert Mr James S Sobek, Mr Bobb's vehicle headlights did not meet the Australian standard for registration, and thus Mr Bobb's car was unroadworthy when he killed Mr Hall. See Section D.5.]

Thus, Senior Constable Potts's testimony may have misled the Coroner.

Given that this testimony by Senior Constable Potts may have misled the Coroner, would you now accept that the findings of the original Coronial Inquest into the death of Mr Hall should be set aside and a fresh inquest held?

Question 12

On 24 September 2018, the first day of the Coronial Inquest, when taking testimony in the afternoon from Monash University expert witness Dr Steve O'Hern, you asked the following:

Now, given that the lights on balance probably were working in accordance with recognised standards, what do you say in relation to the issue of the headlights being a relevant matter to the accident?

There had been no evidence presented in the Inquest Brief or at the Coronial Inquest prior to this statement to prove whether or not Mr Bobb's headlights were operating at the standard required for registration.

Why did you include in your question for Dr O'Hern the words 'given that the lights on balance probably were working in accordance with recognised standards'?

Question 13

In answer to your above question, Dr O'Hern replied:

... an investigation of the headlights revealed ... they produced light for approximately fifteen metres, and the constable's estimation would be that ... that would be multiplied by, well, an additional seventy-five percent if you had two headlights operating, so that would be approximately 27 metres or so that the headlights would illuminate a road.

This is incorrect.

[According to independent forensic expert Mr James S Sobek, Mr Bobb's vehicle headlights did not meet the Australian standard for

registration, and thus Mr Bobb's car was unroadworthy when he killed Mr Hall. See Section D.5.]

Given the fact that the headlights did not meet the standard for registration, would you now agree that Dr Steve O'Hern's testimony may have misled Coroner Boss to find that Mr Bobb's vehicle was roadworthy when in fact it was not?

Question 14

Given that the testimony by Dr Steve O'Hern may have misled Coroner Boss, would you now accept that the findings of the original Coronial Inquest into the death of Mr Hall should be set aside and a fresh inquest held?

Question 15

AFP Leading Senior Constable Gregory Munro, in his statement dated 21 April 2017, certified Mr Bobb's Mazda 323 as roadworthy and found the vehicle's lighting system to be "operating appropriately". But scientific evidence proves that Mr Bobb's headlights did not meet the standard for registration and thus his vehicle was unroadworthy when he killed Mr Hall.

[According to independent forensic expert Mr James S Sobek, Mr Bobb's vehicle headlights did not meet the Australian standard for registration, and thus Mr Bobb's car was unroadworthy when he killed Mr Hall. See Section D.5.]

Mr Archer, do you now accept that Leading Senior Constable Munro's evidence should be retested?

Question 16

If Mr Sobek's expert opinion that the headlights did not meet the standard for registration is to be accepted, would you agree that Leading Senior Constable Munro's evidence may have misled Coroner Boss to find that Mr Bobb's vehicle was roadworthy when it was not?

Question 17

If the evidence from Leading Senior Constable Munro is accepted to have misled Coroner Boss, would you accept that the findings of the Coronial Inquest into the death of Mr Hall should be set aside and a fresh inquest held?

Question 18

NSW Police Constable Craig Slater gave evidence in his statement dated 5 April 2017 and in his testimony at the Coronial Inquest that he saw Mr Hall riding his bicycle at 5.40 am approximately one kilometre from where Mr Hall would be fatally struck 40 minutes later. Yet Constable Slater's testimony is at odds with the GPS evidence and with the testimony of seven other witnesses, and is physically impossible. Thus, NSW Police Constable Craig Slater's assertion that Mr Hall was inadequately visible that morning must now be discounted.

[According to independent forensic expert Mr James S Sobek, Mr Hall's bicycle with its headlight and taillight would have been conspicuous at the time of this collision from a distance of at least 400 metres. See Section D.5.]

Mr Archer, do you now accept that NSW Police Constable Craig Slater's evidence should be retested?

Question 19

If Constable Slater's testimony is accepted to have been impossible and not correct, would you agree that Constable Slater's evidence may have misled Coroner Boss to find that Mr Hall was not sufficiently visible when in fact he would have been visible to at least 400 metres?

Question 20

If the testimony of Constable Slater is accepted to have misled the Coroner, would you accept that the findings of the Coronial Inquest into the death of Mr Hall should be set aside and a fresh inquest held?

Question 21

Blood toxicology results for Mr Bobb were not included in the Inquest Brief even though they were in the possession of the Australian Federal Police six months prior to the Brief being delivered to the Coroner.

Why were the blood toxicology results for Mr Bobb not included in the Inquest Brief?

Question 22

Blood toxicology results for Mr Bobb were only admitted into evidence by you on the final day of the Coronial Inquest and just 18 minutes

before the Inquest concluded. This meant that other parties to the Inquest did not have prior opportunity to review this evidence.

Why were the blood toxicology results for Mr Bobb not presented until just a few minutes before the Inquest concluded?

Question 23

AFP Constable Joel Wiseman's statement says that he conducted DROCs (digital records of conversation) with two witnesses, Mr Harbers and with Mr Cahill, but did not conduct one with the only eyewitness, Mr Mujic. Constable Wiseman then stated he went to the south end of the crash scene and directed traffic until the Collision Investigation and Reconstruction Team (CIRT) arrived. However, the Australian Federal Police's photographic evidence shows Constable Wiseman engaged in conversation with Mr Mujic at 8.02 am. This interaction with Mr Mujic does not appear in Constable Wiseman's statement.

Mr Archer, do you now accept that AFP Constable Wiseman's evidence should be retested?

Question 24

The Australian Federal Police's CIRT team's reconstruction videos were presented at the Coronial Inquest as evidence that Mr Hall was not sufficiently visible to motorists that morning. This is not correct, as Mr Hall was visible to motorist from at least 400 metres that morning.

[According to independent forensic expert Mr James S Sobek, Mr Hall's bicycle with its headlight and taillight would have been conspicuous at the time of this collision from a distance of at least 400 metres. See Section D.5.]

Mr Archer, given that the CIRT team's reconstruction videos gave the incorrect impression that Mr Hall was not sufficiently visible to motorists that morning when in fact he would have been visible from at least 400 metres, would you now agree that these reconstruction videos may have misled the Coroner?

Question 25

Mr Archer, if it is accepted that the CIRT team's reconstruction videos may have misled the Coroner, would you now accept that the findings of the original Coronial Inquest into the death of Mr Hall should be set aside and a fresh inquest held?

Section E.2

ACT Bar Association

A number of allegations regarding Mr Archer's actions at the Coronial Inquest into the death of Mike Hall were documented in a complaint I lodged on 26 March 2021 with the ACT Law Society.

On 22 April 2021, I was informed by the ACT Law Society's Professional Standards Committee Secretary, Linda Mackay, that my complaint had been forwarded to Ms Joanne Dean-Ritchie, CEO of the ACT Bar Association "for their consideration", as Mr Archer was a member of the ACT Bar Association.

I followed up with the ACT Bar Association's CEO, Ms Dean-Ritchie, on 6 May 2021. She responded on 10 May 2021 informing me that the ACT Bar Association's next council meeting was scheduled for 27 May 2021, at which time they would review my complaint, form an investigative committee, and then be in touch.

I followed up with Ms Dean-Ritchie by email on 31 May 2021. She replied the next day, 1 June 2021, as follows:

Dear Mr Ryan,

Council is currently forming a Review Committee. Once the committee has reviewed the volume of material you have provided, it will make a recommendation to Council as to whether Mr Archer has a complaint to answer.

Once the Committee has reviewed the material, they will be in contact with you.

Preliminary edition

Part F

A Poor Boy Like You Could Use a Break

Preliminary edition

Preliminary edition

Section F.1

Mr Bobb

I spoke with Mr Shegu Bobb on 16 June 2020. I did not send the following questions to him after that conversation, as I did not expect I would gain any new insights.

Question 1

When questioned by the Australian Federal Police in The Canberra Hospital following the fatal crash on 31 March 2017, you stated that you left home at 5.30 am that morning to drive from Cooma to Canberra. During your interview with the AFP five days later, on 5 April 2017, you changed the time you stated you left home from 5.30 am to 5.00 am, which meant you had to have been driving to the crash scene that morning at an average speed of 60 km/h in a 100 km/h zone.

Why did you make a statement on 5 April 2017 that was impossible?

[In our 16 June 2020 conversation Mr Bobb maintained he left home at 5.00 am, sticking to his 5 April 2017 statement.]

Question 2

When questioned by the Australian Federal Police in The Canberra Hospital following the fatal crash on 31 March 2017, you stated that there was 'a car in front' of you prior to you fatally striking the cyclist.

In your interview with the AFP on 5 April 2017, why did you change your story from 'there was a car in front of me' to 'there was no one on the road in front of me but I dimmed my headlights anyway'?

[In our 16 June 2020 conversation Mr Bobb persisted with his assertion there was no car in front of him, sticking to his 5 April 2017 statement.]

Question 3

In your interview with the Australian Federal Police on 5 April 2017, you said you were listening to loud music. Were you in fact listening to music? Or were you speaking on your phone with your girlfriend?

[Immediately after Mr Bobb struck Mr Hall, the first witness to approach Mr Bobb – who was not interviewed by police – said that Mr Bobb’s phone was on speaker mode and not in a phone cradle, and that he was in conversation with his girlfriend.]

Question 4

In your interview with the Australian Federal Police on 5 April 2017, you said there were no vehicles on the road ahead of you. And yet you dimmed your headlights anyway.

Were you in fact following another vehicle as you approached the Williamsdale Road intersection?

[In AFP Senior Constable Adam Potts’s handwritten diary notes from the day was written “there was a car in front of” and “my lights were on low beam”.]

Question 5

In your interview with the Australian Federal Police on 5 April 2017, you said there was a truck parked on the side of the road prior to where you fatally struck Mr Hall. You also said that you were distracted by this truck. But the Coroner dismissed this evidence as not possible due to the distraction times not matching with the physical distances.

What prompted you claim a parked truck distracted you?

Question 6

In your interview with the Australian Federal Police on 5 April 2017, you said that no one driving south towards Cooma stopped to assist you after you struck the cyclist. This is not correct. The very first witness to stop and approach your car was in fact driving south towards Cooma.

What prompted you to make this incorrect claim?

Question 7

In your interview with the Australian Federal Police on 5 April 2017, you stated that, immediately before you struck the cyclist, you could only see 'one or two metres' in front of your car when your headlights were on low beam.

Why were you driving a car with headlights that did not meet the standard for registration?

Why were you knowingly driving a car that was unroadworthy?

Question 8

In your interview with the Australian Federal Police on 5 April 2017, you stated that you 'tested' your brakes regularly so that you could be sure they were 'still working'.

Why were you driving a car with brakes that you believed needed to be constantly tested, and that therefore wasn't roadworthy?

Question 9

Immediately after you struck the cyclist, the first witness to approach you [not found anywhere in the police evidence] said that your phone was on speaker mode and not in a legal phone cradle, and that you were in conversation with your girlfriend. According to this witness, your girlfriend was crying and telling you to get out of your car and check on the cyclist you had just struck. You did not do this.

Were you speaking with your girlfriend when you fatally struck Mr Hall?

If not, was the first call you made immediately after you struck Mr Hall to your girlfriend and not to Triple 0?

Question 10

This conversation with your girlfriend did not appear in the phone call charge records obtained by police.

Was this call with your girlfriend a data call?

Question 11

Were you driving and holding your mobile phone in your hand during this call?

Question 12

Did you have your mobile phone in your hand when you struck and killed Mr Hall?

Question 13

After striking the cyclist, you remained in your car until an ambulance arrived, assessed you and took you to hospital.

Why did you not get out of your car to render assistance to the stricken cyclist after you hit him?

[A reasonable person, if not injured, would have immediately got out of their car to render assistance to the person they had just struck.]

Question 14

When I spoke to you on 16 June 2020, you told me that two officers interviewed you at The Canberra Hospital on 31 March 2017, and that they recorded that interview. No recording of you from that day was produced as evidence by the Australian Federal Police at the Coronial Inquest.

In that interview, did you tell police that you left your home at 5.30 am that morning?

In that interview, did you tell police that you were in the middle of a call on your mobile phone with your girlfriend when you fatally struck Mr Hall? Or did you tell police that you called your girlfriend first, prior to calling Triple 0?

In that interview, did you tell police that you had been undertaking [passing on the left of] the car in front of you when you fatally struck the cyclist?

Question 15

In your interview with the Australian Federal Police on 5 April 2017, you stated that you did not have a lawyer, even though you faced the risk of being charged with negligent driving or culpable driving – both of which potentially carried a prison sentence.

Why did you not seek legal advice prior to this formal interview which took place five days after you fatally struck Mr Hall?

Question 16

During this interview, you had a family friend named Karina O'Grady attend the interview with you, as is your legal right.

Why did you have this family friend attend this formal interview with you instead of a lawyer?

Question 17

A blood sample was taken from you at The Canberra Hospital on the morning of 31 March 2017. That sample was subjected to tests for alcohol and drugs. The results of those tests were not included in the Inquest Brief prepared by the Australian Federal Police for the Coroner.

Eighteen months later, and just 18 minutes before the conclusion of the Inquest, the results of your blood test were presented to the Coroner. The results indicated you were negative for alcohol and for three *prescribed* drugs (cannabis, methamphetamine and ecstasy), but no evidence was presented that you were negative for *all* drugs, including prescription drugs and other illicit drugs.

Would a full drug test on that blood sample have revealed that you had any prescription or illicit drugs in your system when you fatally struck Mr Hall?

Question 18

You were never called to give evidence at the Coronial Inquest in September 2018, and you were not charged with any offence.

Why?

Preliminary edition

Part G

Justice Must be Seen to be Done

Preliminary edition

Preliminary edition

Section G.1

Coroner Boss

By the time this book was written, Dr Bernadette Boss had already been appointed to a new acting position with the Australian Defence Force. Dr Boss's office informed me she was unable to provide comment on cases from her previous role as a coroner.

If I *were* able to pose questions to Dr Boss, these are the questions I would ask.

Question 1

On 24 September 2018, in the morning of the first day of the Coronial Inquest, Your Honour stated that Your Honour would not be stopping the Inquest and that Your Honour would not be recommending the Australian Federal Police charge Mr Bobb with the indictable offence of culpable driving.

This book summarises scientific evidence that proves Mr Bobb's vehicle was unroadworthy when he fatally struck Mr Hall on 31 March 2017. On 15 March 2021, this scientific evidence was presented to ACT Chief Coroner Lorraine Walker as part of a submission requesting a fresh inquest into Mr Hall's death.

Would you accept that, as a result of this new evidence, your 28 February 2019 findings from the September 2018 Coronial Inquest now need to be set aside?

Would you agree that a fresh inquest into the death of Mr Hall needs to now be held?

Question 2

Examining the evidence in the original Inquest Brief, it can be seen that the inputs used by AFP Senior Constable Adam Potts to calculate Mr Bobb's speed when he fatally struck Mr Hall on 31 March 2017 were incorrect. Using the correct inputs, it can be calculated that Mr Bobb was driving at between 105.5 km/h and 113.8 km/h in a 100 km/h zone when he fatally struck Mr Hall.

If this evidence had been included in the Inquest Brief or presented at the Coronial Inquest, would Your Honour have recommended the Australian Federal Police charge Mr Bobb with an offence?

Question 3

At the request of the ACT Coroners Court (and possibly at Your Honour's request) Monash University's Accident Research Centre (MUARC) examined Mr Hall's bicycle lights and the police evidence pertaining to the roadworthiness of Mr Bobb's car.

Why did this occur? Was Your Honour not satisfied with the evidence in the Inquest Brief prepared by the Australian Federal Police?

Did Your Honour have concerns regarding the AFP's evidence in the Inquest Brief pertaining to Mr Hall's bicycle lights?

Did Your Honour have concerns regarding the AFP's evidence in the Inquest Brief pertaining to the roadworthiness of Mr Bobb's car?

Question 4

On 23 April 2018, over a year after Mr Hall was killed by Mr Bobb and six months after the Inquest Brief was delivered to the ACT Coroners Court by AFP Senior Constable Adam Potts, Senior Constable Potts conducted headlight mapping on the remaining headlight of Mr Bobb's vehicle. This mapping showed that Mr Bobb's Mazda 323 could only illuminate the road in front of his vehicle, when on low beam, to a distance of 15 metres and at 5 lux.

According to independent forensic expert Mr James S Sobek, Senior Accident Analyst with Wolf Technical Services in Indiana, USA, this mapping proves that Mr Bobb's vehicle headlights did *not* meet the Australian standard for registration, and thus Mr Bobb's car was unroadworthy when he killed Mr Hall. (See Section D.5.)

How did this headlight mapping evidence come to exist? Did Your Honour request further testing of Mr Bobb's vehicle headlights by Senior Constable Potts in April 2018?

Did Your Honour question why no headlight mapping had been performed on that headlight during the six months between 31 March 2017, when the crash occurred, and 17 October 2017, when the Inquest Brief was submitted to Your Honour?

Question 5

Had Your Honour been presented with scientific evidence – similar to that from Mr James S Sobek of Wolf Technical Services – conclusively proving that Mr Bobb's vehicle headlights did *not* meet the Australian standard for registration and thus that Mr Bobb's car was unroadworthy when he killed Mr Hall, would you have stopped the Inquest and instruct the Australian Federal Police to charge Mr Bobb with the indictable offence of culpable driving?

Is it a concern to Your Honour that the AFP were in possession of evidence *proving* Mr Bobb's vehicle was unroadworthy, and yet the manner in which this evidence was presented may have misled Your Honour to conclude that Mr Bobb's car was roadworthy and that Mr Bobb had not committed an indictable offense?

Question 6

On 7 August 2018, AFP Senior Constable Adam Potts interviewed Mr Bobb. During this interview, Mr Bobb said that his headlights could project light halfway across a soccer field, or 50 metres. This directly contradicted Mr Bobb's earlier statement of 5 April 2017, and directly followed a leading question from Senior Constable Potts.

Do you know who asked Senior Constable Potts to conduct this interview over 16 months after the crash?

Did it seem strange to you that a third interview with Mr Bobb should be conducted so close to the start of the Coronial Inquest and so many months after the Inquest Brief was presented to Your Honour by Senior Constable Potts?

Did it concern Your Honour that conflicting evidence should suddenly be brought to the Court almost ten months after the Inquest Brief was presented to Your Honour, and just six weeks before the commencement of the Inquest?

Question 7

On 9 August 2018, Counsel Assisting Ken Archer wrote to MUARC requesting a second report and asking nine questions “to further inform” the ACT Coroners Court. Together with this request, Counsel Assisting sent Senior Constable Potts’s headlight mapping and a transcript of the 7 August 2018 interview between Senior Constable Potts and Mr Bobb. Effectively, eight of the nine questions asked by Counsel Assisting Ken Archer served to undermine the first MUARC report.

Did Your Honour request Counsel Assisting do this?

Question 8

On 24 September 2018, in the morning session of the first day of the Inquest, Counsel Assisting Ken Archer asked AFP Senior Constable Potts the following:

From your research, are you able to say whether or not, assuming it to be in comparable working condition to the other light, what the effect of the addition of the second lighting [sic]? Is it a ‘multiple of two’ factor?

Senior Constable Potts responded with:

Not quite. More like three quarters.

Did this testimony mislead Your Honour to find that the headlights met the standard for registration?

[I ask this because on Day 3 of the Inquest, 26 September 2018, Your Honour cited the evidence of ‘the police officer [Potts]’ when concluding that Mr Bobb’s headlights met the standard for registration: “And there was the experts, and I believe the police officer as well, said that the other light would have added the extra amount, and there was no evidence that they (the headlights) didn’t meet the standard required for registration.”]

Question 9

On 24 September 2018, in the afternoon session of the first day of the Inquest, Dr Steve O’Hern said as part of his expert witness testimony:

... and the constable’s estimation would be that ... that would be multiplied by, well, an additional seventy-five percent if you had two headlights operating ...

But the science proves that Mr Bobb's headlights *didn't* meet the standard for registration.

[According to independent forensic expert Mr James S Sobek, Senior Accident Analyst with Wolf Technical Services in Indiana, USA, Mr Bobb's vehicle headlights did not meet the Australian standard for registration, and thus Mr Bobb's car was unroadworthy when he killed Mr Hall. See Section D.5.]

And yet, on 31 March 2017, Mr Bobb *knowingly* drove this vehicle in the dark and, while doing so, killed Mr Hall.

Did it strike you as odd that an expert witness from MUARC would simply reference someone else's testimony when giving his own expert witness testimony that Mr Bobb's headlights met the standard for registration – testimony that Your Honour later relied upon when finding that a charge of culpable driving was not appropriate for Mr Bobb?

Question 10

MUARC expert witness Dr Steve O'Hern's testimony at the Coronial Inquest stated that two similar headlights, individually capable of projecting light to a distance of 15 metres, would together be capable of projecting light to a distance of 27 metres. This is not correct, not physically possible, and is a scientific impossibility. Dr O'Hern's statement contradicted the laws of physics. The irrefutable scientific fact is that Mr Bobb's headlights failed to meet the Australian standard for vehicle headlight registration.

[According to independent forensic expert Mr James S Sobek, Mr Bobb's vehicle headlights did not meet the Australian standard for registration, and thus Mr Bobb's car was unroadworthy when he killed Mr Hall. See Section D.5.]

If evidence that Mr Bobb's headlights did not meet the standard for registration had been presented at the Inquest, would Your Honour have stopped the Inquest and referred the matter to the Australian Federal Police for Mr Bobb to be charged with the indictable offence of culpable driving?

Question 11

NSW Police Senior Constable Craig Slater's testimony during the Coronial Inquest contradicted the location of Mike Hall that morning as testified to by seven other witnesses. NSW Police Senior Constable

Slater's testimony also contradicted the GPS evidence that was provided by the Indian Pacific Wheel Race organisers to the Australian Federal Police and was included in the Inquest Brief, putting NSW Police Senior Constable Slater's testimony at odds with the GPS evidence *and* at odds with the testimony of the other seven witnesses who drove past Mr Hall that morning.

If it had been pointed out to Your Honour that NSW Police Senior Constable Slater's testimony was at odds with the GPS evidence *and* the testimony of the other seven witnesses, would Your Honour have accepted the Australian Federal Police's proposition that Mr Hall was not conspicuous enough on the morning of 31 March 2017?

If NSW Police Senior Constable Slater's evidence had been shown to be at odds with the GSP evidence, would Your Honour have stopped the Inquest and referred the matter to the Australian Federal Police for Mr Bobb to be charged with the indictable offence of culpable driving?

Question 12

Mr Bobb lived in Australia from the age of eight, attended primary school and high school in Australia, lived with his English-speaking girlfriend, and worked full time in Canberra.

At the commencement of his record of interview with the Australian Federal Police in Cooma NSW on 5 April 2017, Mr Bobb stated that he did not require a translator as his English was perfectly adequate.

Why did you accept the argument that Mr Bobb was not fluent enough in English for the Court to take a 'literal approach' to what he said in his statement?

Question 13

Mr Duflou, the medical examiner, also holds a Diploma in Aviation Medicine from 1996 that included a unit in pilot fatigue.

Does Your Honour believe Mr Duflou was qualified to give expert witness testimony during the Inquest into the death of Mr Hall in relation to fatigue in elite ultra-endurance athletes?

Question 14

In Your Honour's findings dated 28 February 2019, Your Honour found that the quality of Mr Bobb's evidence was 'likely to be very poor given

that he is of, has been assessed to be of a very suggestible nature'. Your Honour also found that Mr Bobb was highly suggestible:

... propositions are put to him and ... in his endeavour to please the questioner, he's often saying things that ... have been effectively suggested to him by leading questions.

Given that the Australian Federal Police, in their interviews with Mr Bobb, were the only ones in a position to put propositions and leading questions to Mr Bobb during those interviews, why did Your Honour accept without question Mr Bobb's evidence as collected by the Australian Federal Police and as presented by Council Assisting the Coroner, Mr Ken Archer?

Question 15

Your Honour provided Mr Bobb with a certificate exempting him from prosecution should he incriminate himself when giving evidence, as required under the *Coroners Act* 1997 (ACT).

After doing this, as there then would have been no risk of Mr Bobb being prosecuted if he *had* incriminated himself in any way, why did Your Honour not then compel Mr Bobb to testify at the Coronial Inquest?

Question 16

Blood toxicology results for Mr Bobb were not included in the Inquest Brief and were only admitted into evidence on the final day of the Inquest and just 18 minutes before the Inquest concluded. This evidence had been in the possession of the Australian Federal Police for six months prior to the Inquest Brief being delivered to Your Honour, yet it was omitted from that Brief.

When did Your Honour become aware that the blood toxicology results for Mr Bobb had been omitted from the Inquest Brief?

What actions did Your Honour take, if any, when Your Honour became aware that these blood toxicology results were not included in the Inquest Brief?

Question 17

On 24 September 2018, in the morning of the first day of the Coronial Inquest, Your Honour stated that Your Honour would not be stopping the Inquest and that Your Honour would not be recommending the

Australian Federal Police charge Mr Bobb with the indictable offence of culpable driving.

On 26 September 2018, after lunch on the final day of the Inquest, certificates were presented to the Court stating Mr Bobb had no alcohol and no *prescribed* drugs in his system when he fatally struck Mr Hall.

[Prescribed drugs in the ACT include only three drugs: meth or crystal meth; cannabis; and ecstasy.]

At what point did Your Honour become aware of the contents of those certificates, and that those certificates would be submitted as evidence during the Inquest?

Why was this evidence not made available to the bar table earlier in the Inquest so that it could be scrutinised, in the public interest?

Question 18

The blood alcohol certificate was dated 12 April 2017, while the blood toxicology certificate for the three *prescribed* drugs was dated 18 April 2017.

Before releasing Your Honour's findings, dated 28 February 2019, did Your Honour realise that there was a six-day gap between the date on the blood alcohol certificate and the date on the blood toxicology certificate?

Did Your Honour wonder why the dates on those two certificates differed?

Question 19

Mr Bobb killed another human being while driving his car on a public road on the morning of 31 March 2017. He was immediately transported to The Canberra Hospital, and a single blood sample was taken and sent to ACT Health for analysis.

Did Your Honour wonder whether a *full* blood toxicology test had, in fact, been requested and performed on this one blood sample?

Question 20

Did Your Honour wonder, at any stage, why a certificate for a *full* blood toxicology test was not *also* presented as evidence at the Coronial Inquest?

Question 21

In Your Honour's findings, Your Honour reprimanded the Australian Federal Police for losing evidence:

It is unfortunate that the investigation into his [Mr Hall's] death has been to some degree compromised by the loss of significant evidence in the form of his clothing and bicycle accoutrements.

Four of the six witnesses who drove north past Mr Hall (i.e. from behind him) on the Monaro Highway that morning said that Mr Hall was clearly visible. If Mr Hall was clearly visible to four witnesses, then logically Mr Hall would have been clearly visible to every driver on the Monaro Highway that morning who was paying attention to what was in front of them.

Why did Your Honour accept the evidence as collected by the Australian Federal Police and as presented by Council Assisting the Coroner, Mr Ken Archer, concluding that Mr Hall had not been conspicuous enough on the morning of 31 March 2107 to be seen by motorists?

Question 22

In Your Honour's findings, Your Honour wrote:

There is no evidence that Mr Bobb was driving furiously, recklessly, or with alcohol or prescribed drugs in his system.

Prescribed drugs in the ACT include only three drugs: meth or crystal meth (i.e. methylamphetamine); cannabis (i.e. delta-9-tetrahydrocannabinol); and ecstasy (i.e. 3,4-methylenedioxymethamphetamine).

Your Honour would know that the *Road Transport (Alcohol and Drugs) Act 1997*, s 15A, item 3, states:

If a police officer has reasonable cause to suspect that the tested person has a drug other than a prescribed drug ... in the person's body ... the police officer may ask the analyst to work out ... whether 1 or more drugs other than a prescribed drug or alcohol are present in the sample.

If there was evidence that Mr Bobb had a drug other than a prescribed drug in his system on the day he fatally struck Mr Hall, and if that evidence had been presented at the Coronial Inquest, would Your Honour have stopped the Inquest and referred the matter to the Australian Federal Police for Mr Bobb to be charged with the indictable offence of culpable driving?

Question 23

In Your Honour's findings, Your Honour wrote at 36:

The driver's side headlight was tested by police and was found to be operating to the standard required for registration.

No such evidence was presented by the Australian Federal Police at the Inquest. Flawed and misleading testimony was presented that *two* headlights could *add up* to meet the standard required for registration, but no evidence was presented that the driver's side headlight was found to be operating to the standard required for registration. Thus, this finding is flawed.

As a consequence, Your Honour's findings should be set aside and a new inquest held into the death of Mike Hall.

Preliminary edition

Part H

In the Interests of Justice

Preliminary edition

Preliminary edition

Section H.1

Some answers

31 March 2017

On 31 March 2017, Mr Shegu Bobb left home at 5.30 am driving a car whose headlights, and probably brakes, did not meet the standard for registration. Near Williamsdale, Mr Bobb dangerously undertook a car in front of him while his headlights were on low beam. This resulted in Mr Bobb fatally striking, from behind, cyclist Mr Mike Hall who was extremely visible and fully compliant with the ACT road rules.

By the next day, a decision had been taken not to charge Mr Bobb with any offence.

A full record of interview with Mr Bobb and a first digital record of conversation with crash eyewitness Mr Osman Mujic on 31 March 2017 were not included in the Inquest Brief or presented as evidence at the Coronial Inquest.

The investigation

The next day, 1 April 2017, Mr Hall's rear bicycle bag, without its reflector attached to it, was returned to the family by the Australian Federal Police.

On 5 April 2017, Mr Bobb changed his story to instead state that he left home at 5.00 am, and that there had been no car in front of him when he dimmed his headlights moments before fatally striking Mr Hall. During this interview Mr Bobb also said that his brakes worked intermittently

and that his headlights, when on low beam, could only project light one to two metres in front of him.

That same day, NSW Police Senior Constable Craig Slater submitted a statement claiming he had seen Mr Hall that morning immediately prior to his death, and that Mr Hall was not sufficiently visible. This statement was at odds with the GPS evidence and with the testimony of seven other witnesses, as it erroneously placed Mr Hall over 15 kilometres north of where Mr Hall actually was at the time.

Phone records obtained by the AFP but not fully presented at the Inquest show that Mr Bobb's first call that morning was to Triple 0. Yet a witness, previously unknown to police and the first passer-by to interact with Mr Bobb that morning, saw and heard Mr Bobb having a mobile phone conversation with his girlfriend with his phone in speaker mode *before* he called Triple 0. Details of any data calls on Mr Bobb's phone were not presented at the Inquest, hence it is unknown where Mr Bobb was on his phone when he fatally struck Mr Hall or whether his first call was to his girlfriend before he called Triple 0.

Five months later, the Australian Federal Police conducted a second formal conversation with Mr Mujic, the only eyewitness to the crash. In that second interview Mr Mujic's initial evidence stating 'there were two to three cars coming' changed to 'there was only one or two cars, I can't be sure'.

Around this time, the Australian Federal Police conducted a formal conversation with just *one* of the seven motorists who drove past Mr Hall that morning. This motorist almost hit Mr Hall because this motorist was distracted as he had been looking for a deer [that didn't exist], saying:

I was ... coming up to him [Mr Hall], like right up to him and then I went 'oh crap - cyclist'.

This motorist also incorrectly said about Mr Hall: "I don't think he had any hi-vis on."

The Inquest Brief

The Australian Federal Police miscalculated the speed of Mr Bobb's car. A correct calculation would have shown that Mr Bobb was travelling at between 105 and 113 kilometres per hour in a 100 km/h zone when he fatally struck Mr Hall. Mr Bobb had just recently obtained his P-plates (a provisional licence for drivers with just over one year's driving experience.)

No blood toxicology results for Mr Bobb were included in the Inquest Brief, even though blood toxicology results were included for the cyclist.

Prior to the Coronial Inquest

Prior to 15 December 2017, Coroner Bernadette Boss asked Dr Steve O'Hern and Associate Professor Jennie Oxley of Monash University's Accident Research Centre (MUARC) to retest the lights of Mr Hall's bicycle and to review the Australian Federal Police's evidence relating to Mr Bobb's car and driving behaviour. In contrast to the Australian Federal Police's evidence, the MUARC report showed that Mr Hall's bicycle lights met the standard required by the ACT road rules.

Prior to 23 April 2018, the Australian Federal Police were requested – possibly by the Coroner – to retest and map the remaining headlight of Mr Bobb's car. This headlight mapping showed that Mr Bobb's remaining headlight, when on low beam, could only project light 15 metres forward at 5 lux. This meant that the car did not meet the standard for registration in the ACT.

Eighteen months later, on 7 August 2018, the Australian Federal Police conducted a third interview with Mr Bobb where a leading question allowed Mr Bobb to claim that his car's headlights could project halfway across a soccer field, that is, 50 metres.

Two days later, on 9 August 2018, Counsel Assisting Ken Archer supplied Monash University's Accident Research Centre (MUARC) with the 23 April 2018 headlight mapping along with a transcript of the 7 August 2018 interview, and asked the two authors of the initial MUARC report to answer nine specific additional questions: about Mr Hall, about his bicycle's lights and his visibility; about driver distraction; and about the Australian Federal Police's evidence relating to Mr Bobb's vehicle.

At the Coronial Inquest

Incorrectly and inaccurately, at the Inquest Mr Hall was made to look as if he hadn't done enough to keep himself safe – e. g. by wearing the wrong clothing and by having a rear light that was not 'conspicuous' enough – by Counsel Assisting Ken Archer who presented the case for the Australian Federal Police.

At the request of Counsel Assisting Ken Archer, all photographs from the crash scene were put under a suppression order by the Coroner. This

order included photographs that depicted Australian Federal Police performing duties at times and in locations that were at odds with the statements they had made to the Inquest.

Counsel Assisting Ken Archer produced an expert witness who had a diploma in Aviation Medicine from 25 years earlier which included a unit on pilot fatigue. This witness gave his personal opinion that world-class ultra-endurance athlete Mr Hall *might* have been fatigued prior to his death.

When asked by Counsel Assisting Ken Archer to comment on the vehicle's headlights, expert witness Dr Steve O'Hern from Monash University's Accident Research Centre – who held three degrees from Monash University including a PhD – gave his expert opinion that Mr Bobb's headlights met the legal standard for registration in the ACT, even though this testimony was at odds with the laws of physics and therefore impossible.

Counsel Assisting Ken Archer claimed that Mr Bobb's English was not good enough for Mr Bobb to give evidence, even though he had willingly participated in three police interviews without a translator and had stated that his English was perfectly adequate. This claim by Counsel Assisting was accepted by the Coroner, and Mr Bobb was exempted from giving evidence.

Eighteen minutes before the conclusion of the Coronial Inquest, Counsel Assisting submitted to the Coroner two certificates showing negative blood results for alcohol and for three prescribed drugs dated six days apart, but for tests performed on the same blood sample.

No certificate from a comprehensive drug toxicology blood test was ever produced.

The Coronial Inquest's findings

The AFP were not held accountable for losing evidence.

The driver, Mr Bobb, was not held accountable for killing Mr Hall, and no charges were brought against him even though he was knowingly driving an unroadworthy car when he killed Mr Hall.

Cyclists were told in the Coroner's findings that they needed to ride with flashing rear lights at night to keep themselves safe. They were also told that the Coroner's findings would improve safety for cyclists.

Section H.2

Call for a fresh inquest

New evidence of culpable driving

The *Coroners Act* in the ACT allows a person to request a fresh inquest on the basis of new evidence. Therefore, I wrote to ACT Chief Coroner Lorraine Walker on 15 March 2021 and included in my submission to Her Honour thirteen pieces of new evidence. This new evidence is summarised below. Documentation that would be admissible in court was included with that submission.

1. New evidence regarding Mr Bobb's headlights

When interviewed by AFP Senior Constable Potts and AFP Leading Senior Constable Cantwell on 5 April 2017, Mr Bobb stated he was fully aware that his headlights on low beam could only illuminate the road in front of him to a distance of about two metres but that he regularly drove his car in this condition, in the dark, between Canberra and Cooma NSW. Testing by Senior Constable Potts on 23 April 2018 showed Mr Bobb's remaining right headlight could only illuminate the road when on low beam to 15 metres.

A fresh inquest would be able to review new evidence from Mr James Sobek of Wolf Technical Services and establish that Mr Bobb's car headlights did not meet the standard for registration in Australia. Thus, Mr Bobb's vehicle was unroadworthy when he fatally struck Mr Hall.

A fresh inquest would be able to recommend Mr Bobb be charged with the indictable offence of culpable driving causing death.

2. New evidence from Monash University's expert witnesses

On 18 April 2018, AFP Senior Constable Adam Potts conducted headlight testing (mapping) on the remaining right headlight of Mr Bobb's Mazda 323.

On 9 August 2018, Counsel Assisting Ken Archer sent Dr Steve O'Hern and Associate Professor Jennie Oxley of Monash University's Accident Research Centre copies of Senior Constable Potts's 23 April 2018 statement and his headlight mapping, together with nine questions, as Mr Archer was seeking further advice for the ACT Coroners Court in relation to several aspects of Dr O'Hern and Associate Professor Oxley's initial report of 15 December 2017.

On the afternoon of 24 September 2018, expert witness Dr O'Hern testified that Mr Bobb's vehicle headlights would have illuminated the road ahead of Mr Bobb to a distance of 27 metres – that is, 75 percent further – because “that's what the constable said”.

Expert witness Associate Professor Jennie Oxley remained silent.

New scientific evidence obtained from Mr Sobek of Wolf Technical Services confirms that Mr Bobb's car headlights could not have illuminated the road beyond 15 metres in front of him at the required standard, and thus Mr Bobb's vehicle did not meet the standard for registration. Additionally, Mr Sobek confirmed that the specifications in Australian Design Rule 46/00 (Headlamps) are for a *single* headlamp.

A fresh inquest would allow the flawed testimony given by Dr O'Hern and Associate Professor Oxley, that Mr Bobb's car met the standard for registration, to be rejected and the findings of the original Coronial Inquest to be quashed.

3. New evidence regarding Mr Hall's visibility

NSW Constable Craig Slater's statement and testimony were at odds with not only the statements and testimony of seven other witnesses; his statement and testimony were also at odds with the GPS evidence the AFP had received from the event organisers.

As this officer's evidence was relied upon by the Coroner in the original Inquest, and as this officer's evidence helped the Coroner in the original Inquest find that the cyclist, Mr Hall, was not adequately visible to motorists, NSW Constable Slater's statement and testimony contributed to a miscarriage of justice. Only a fresh inquest can correct this injustice.

Also, a fresh inquest could seek to establish why NSW Constable Slater's statement and testimony were at odds with the GPS evidence.

4. New evidence from a new witness who first spoke to Mr Bobb

A new witness has come forward. This new witness was the first person to approach and speak to Mr Bobb while Mr Bobb was still in his car immediately after he struck the cyclist. This witness saw and heard Mr Bobb speaking with his girlfriend using his mobile phone on speaker mode and not in a commercial mobile phone cradle. This was prior to Mr Bobb contacting emergency services. This witness did not appear at the Inquest.

A fresh inquest could establish that the first call made by Mr Bobb was not to Triple 0. It could also establish that Mr Bobb's mobile phone was not in a commercial hands-free phone cradle.

Furthermore, fresh inquest could establish whether Mr Bobb was distracted by his mobile phone when he fatally struck Mr Bobb, possibly leading to Mr Bobb being charged with the indictable offence of culpable driving causing death.

5. New evidence regarding Mr Bobb's mobile phone

The police provided the original Inquest with call charge records for Mr Bobb's mobile phone that they requested on 3 May 2017, over a month after the crash that killed Mr Hall. At the Inquest, Counsel Assisting provided a one-page PDF with a few columns of truncated data that the Court was told corrected for an 'ambiguity' in the call charge record evidence. This PDF was referred to by Counsel Assisting as 'further call charge records'.

Since the Inquest, I received under Freedom of Information legislation a more extensive yet still heavily redacted version of this 'further call charge records' evidence that was in the possession of the AFP. This more extensive mobile phone data was not presented as evidence for the Court at the Inquest.

A fresh inquest could examine the full extent of the 'further call charge records' evidence in the possession of the AFP and could determine: when this evidence was first requested from the service provider; and whether Mr Bobb was on a data call and distracted by his phone when he fatally struck Mr Hall. This could lead to Mr Bobb being charged with the indictable offence of culpable driving causing death.

6. New evidence regarding the reflector on Mr Hall's bicycle bag

At the original Inquest, all police photographic evidence from the scene was suppressed by the Coroner. Since then, the Coroner varied the suppression order so that photographic evidence from the scene could be made a matter of public record.

In one photograph, Mr Hall's rear bicycle bag can be clearly seen to have a reflector attached to it. However, AFP Senior Constable Potts stated in his testimony at the Inquest that nothing was attached to Mr Hall's rear bicycle bag. As this bicycle bag was returned to the family the following day, the Inquest could not conclusively find Mr Hall was fully compliant with the ACT road rules.

At a fresh inquest, this new photographic evidence would prove Mr Hall was fully compliant with the ACT road rules when he was killed. This would then discount the argument that Mr Hall was not sufficiently conspicuous that morning to be seen by motorists.

As a consequence, this proves that Mr Bobb should have seen Mr Hall and consequently should be charged with an offence.

7. New evidence regarding the return of Mr Hall's rear bicycle bag

In his testimony at the Inquest, AFP Senior Constable Potts stated he had 'days off' following the crash and that a female colleague, AFP Leading Senior Constable Catherine Boyce, had returned Mr Hall's rear bicycle bag to the family on 1 April 2017. This was not mentioned by Leading Senior Constable Boyce in her statement to the Inquest.

The Inquest was not told that Mr Anthony Gordon, a resident of NSW, signed for and accepted Mr Hall's bicycle bag on 1 April 2017 from a *male* AFP officer.

A fresh inquest would be able to determine what actions Leading Senior Constable Boyce took on 1 April 2017 with regards to Mr Hall's bicycle bag. It would also be able to hear evidence from Mr Gordon, whose experience is at odds with Senior Constable Potts's testimony at the Inquest.

8. New evidence regarding Mr Bobb's blood toxicology certificates

Certificates detailing the blood toxicology results for the driver, Mr Bobb, were not included in the Inquest Brief for the Coroner, even though certificates detailing the blood toxicology results for the cyclist were included.

After lunch on the final day of the Inquest, Counsel Assisting presented two certificates detailing the blood toxicology results for Mr Bobb. While the blood *alcohol* certificate from ACT Health was negative and dated 12 April 2017, the blood *drug* certificate was negative for just three *prescribed* drugs and dated 18 April 2017, even though both tests were carried out on the same blood sample. No certificate from a *full* blood drug toxicology test was presented.

A fresh inquest would be able to ask:

- a. Why were blood results for Mr Bobb not included in the original Inquest Brief?
- b. Why were blood results for Mr Bobb not presented at the Inquest until 18 minutes before the end of that three-day Inquest?
- c. At any point was a *full* drug toxicology test requested from ACT Health? If yes, why was the certificate not presented at the original Inquest?
- d. Why was there a six-day gap between the date of the blood *alcohol* certificate and the date of the blood *drug* certificate for the three prescribed drugs?

9. New evidence regarding AFP Constable Wiseman's actions

AFP Constable Joel Wiseman and his partner were the first AFP officers to arrive at the scene. Constable Wiseman's handwritten diary notes for 31 March 2017 show he interacted with three witnesses – Scott Harbers, Liam Cahill and Osman Mujic – but these notes were heavily redacted.

In his statement, Constable Wiseman said that he conducted DROCs (digital records of conversation) with Mr Harbers and Mr Cahill, but that he asked Mr Mujic around 7.30 am if he was happy to wait to be interviewed. Constable Wiseman then went to the south end of the crash scene and directed traffic without conducting a DROC with Mr Mujic, the only eyewitness to the crash. Photographic evidence, initially under a suppression order by now a matter of public record, shows Constable Wiseman conducting a conversation with Mr Mujic at 8.02 am. This interaction appears nowhere in Constable Wiseman's statement.

A fresh inquest would be able to examine Constable Wiseman's *unredacted* diary notes, determine why his statement excluded his interactions with Mr Mujic at 8.02, and hear the evidence contained in Mr Mujic's DROC. It may contain evidence that the driver, Mr Bobb, was dangerously undertaking a car in front of him when he killed the cyclist,

and that Mr Bobb should be charged with the indictable offence of culpable driving causing death.

10. New evidence regarding AFP Senior Constable Potts's actions

AFP Senior Constable Adam Potts and his partner arrived at the crash scene at 7.48 am. His diary notes for 31 March 2017 show he interacted with Mr Mujic immediately upon arrival at the crash scene at 7.48 am. After taking notes but not recording Mr Mujic, Senior Constable Potts's statement says that he then told Mr Mujic to leave the scene. Photographic evidence, initially under a suppression order by now a matter of public record, shows Senior Constable Potts at the southern end of the crash scene at 8.02 when Constable Wiseman is at the northern end of the crash scene conducting a conversation with Mr Mujic.

A fresh inquest would be able to examine why Senior Constable Potts's statement is at odds with the photographic evidence, and to hear the evidence contained in Mr Mujic's DROC.

11. New evidence regarding AFP Senior Constable Potts's reconstruction video

The Australian Federal Police made a number of reconstruction videos on 11 April 2017 and on 3 June 2017. These were presented at the Inquest purportedly demonstrating that Mr Hall was neither visible nor conspicuous to motorists that morning. Photographic evidence of Mr Hall taken the evening *before* his death was also admitted into evidence.

The AFP's reconstruction video lacked Mr Hall's reflective devices, his reflective clothing, the pooling of light on the road from his front light, and the normal movement of a bicycle being ridden. Also, in the reconstruction videos the rear light of the bicycle was not powered from the dynamo hub; rather, it was powered sometimes by an officer turning the cranks a few times, and sometimes by a battery.

It is also of concern that the camera used to record the reconstruction video *may* have restricted the amount of light that could enter it, causing the video to not be a valid representation of what the human eye of a driver would have seen when approaching Mr Hall that morning.

A fresh inquest would be able to establish whether or not the reconstruction videos were an accurate reconstruction of what the eye of a driver would have seen when approaching Mr Hall that morning.

Ultimately, a fresh inquest would be able to establish whether the reconstruction videos misled Coroner Boss at the Inquest, causing to Her Honour to find in error that Mr Hall was neither visible nor conspicuous to drivers that morning.

New evidence of negligent driving

12. New evidence regarding the speed Mr Bobb's car

AFP Senior Constable Adam Potts used the incorrect inputs when calculating the speed of Mr Bobb's vehicle when it struck Mr Hall. This gave an incorrect result of 100.6 km/h rather than a result of between 105.5 km/h and 113.8 km/h. Consequently, the correct speed of the driver was not presented at the Inquest.

A fresh inquest would be able to establish the correct speed of Mr Bobb's vehicle when he fatally struck Mr Hall.

13. New evidence regarding the NSW RMS speed gantry data

AFP Sergeant Matthew Lewis had written Brett Rossiter's contact details at the NSW Roads and Maritime Services in his handwritten diary notes for 31 March 2017.

NSW Roads and Maritime Services collect vehicle data on the Monaro Highway between Cooma NSW and Canberra. This data, which would prove the time at which Mr Bobb left Cooma NSW that morning and thus could help determine whether Mr Bobb had been speeding when he drove from Cooma towards Canberra, was not presented at the original Inquest.

A fresh inquest could determine whether Mr Bobb was exceeding the speed limit as he drove towards Canberra that morning, and could lead to a charge of negligent driving being brought against Mr Bobb.

First update:

I followed up by email with the ACT Coroners Court on 18 March 2021, as I wanted to be sure my five emails of 15 March 2021, with their attached evidence, had been successfully received by the Court. When I did not hear back, I called and spoke with someone who confirmed verbally that my submission had been successfully received.

Second update:

I followed up with a third email 04 May 2021, as seven weeks had passed and I had still not received any response from the Court to my submission. When this too was unanswered for a week, on 10 May 2021 I contacted ACT Attorney-General Shane Rattenbury seeking his assistance, as I felt it would be reasonable and courteous if the Court could acknowledge my submission and possibly provide a timeframe within which I might expect an initial response.

That same day, Mr Rattenbury's office responded, saying: "We are following this matter up and will get back to you as soon as we can." At the time of publication, I had not heard anything further from his office.

Third update:

On 28 May 2021, I received an email from Anna Jamieson-Williams, Legal Manager and Counsel Assisting in the ACT Coroners Court. In that email I was told:

By way of update, your request is under consideration. A response will be provided in due course, however, I anticipate that it will be at least two weeks before a response can be provided to you.

Fourth update:

Once I hear from the Court, I will update this 'Fourth update' section and re-release this work in its first – not preliminary – edition.

Section H.3

A last option

Appeal to the ACT Supreme Court

The ACT Supreme Court is *not* the highest court in Australia, but it is the highest court in the Australian Capital Territory.²

The ACT *Corners Act* (1997) states that, if the ACT Chief Coroner were to decide not to allow a fresh coronial inquest to examine new evidence, a person could appeal to the ACT Supreme Court.

Quash the findings

One advantage of such an appeal is the word ‘quash’. An appeal to the ACT Supreme Court could see the Coroner’s finding from the original Inquest quashed, that is, set aside. The costs of attempting to do this would likely be in the hundreds of thousands of dollars.

The ACT *Corners Act* (1997) also states that the ACT Supreme Court can order a new inquest be held into a death if the Court:

...is satisfied that, because of fraud, rejection of evidence, irregularity of proceedings, insufficiency of inquiry, discovery of new facts or evidence or otherwise, it is necessary or desirable in the public interest or the interests of justice that the inquest or inquiry be quashed.

² The highest court in Australia is the High Court, and it is a Federal Court.

The new facts and evidence are outlined in Section H.2, as are allegations of insufficiency of inquiry by Counsel Assisting.

The following points regarding irregularity of proceedings could provide food for thought for an Australia lawyer or barrister dedicated to justice and the public interest:

1. Coroner Boss stated on the first day of the Inquest that the Inquest would not be halted because there was no evidence that Mr Bobb was guilty of an indictable offence. If there had been, she would have been required to halt the Inquest and bring charges of an indictable offence against Mr Bobb. This was three days before the blood toxicology certificates for Mr Bobb's blood sample were printed off by Counsel Assisting over lunch and handed up to the Coroner, and just 18 minutes before the conclusion of the Inquest itself.
2. All the police crash scene photos were initially put under a suppression order by the Coroner, even though some contained evidence that certain officers' statements were at odds with the contents of those photos.
3. Evidence presented by AFP Senior Constable Potts on the time Mr Bobb left his home at 5.00 am to drive the 78 kilometres to the crash scene was accepted by Coroner Boss even though this was physically impossible. On 31 March 2017, Mr Bobb told Senior Constable Potts that he left home at 5.30 am (and thus would have had to have been speeding), but on 5 April 2017 Mr Bobb told Senior Constable Potts that he left his home at 5.00 am and drove the 78 kilometres at an average speed of 100 km/h. For it to have been possible that he left home at 5.00 am, Mr Bobb would have had to have been driving at an average of 60 km/h in a 100 km/h zone for the entire 78 kilometres.
4. NSW Police Senior Constable Slater's evidence in regard to timing was not questioned by Counsel Assisting or by the Coroner. It would have been clear to anyone taking in the details of Senior Constable Slater's testimony that Senior Constable Slater could not possibly have seen Mr Hall just one kilometre away from where Mr Hall was to die 40 minutes later, as Mr Hall was riding at an average speed of 25 km/h. Also, seven other witnesses put Mr Hall at between 15 and 20 kilometres further south at the time Senior Constable Slater put him one kilometre away from where he was fatally struck. Thus, Senior Constable Slater's testimony was physically impossible.

5. When diary notes and interview transcripts of Mr Bobb's interviews with the AFP were presented by Counsel Assisting Ken Archer and by the relevant Australian Federal Police officers during the Inquest, even though Mr Bobb stated in those interviews that he did not require a translator and was sufficiently fluent in English, Coroner Boss ruled that Mr Bobb's level of English was not sufficient for him to be asked to give evidence at the Inquest.
6. When diary notes and interview transcripts of Mr Bobb's interactions with the Australian Federal Police were presented by Counsel Assisting Mr Archer and by the relevant Australian Federal Police officers during the original Inquest, Coroner Boss ruled that she alone would determine what Mr Bobb meant by his words, even though she never had any interactions with him, never heard him speak, and never spoke to him.
7. The testimony of Dr Steven O'Hern, the expert witness from Monash University's Accident Research Centre, in regard to how far two headlights could project if one individual headlight could project 15 metres to 5 lux was not questioned by Counsel Assisting or by the Coroner even though it was flawed and scientifically impossible. The Court then relied upon Dr O'Hern's testimony when ruling that Mr Bobb's vehicle met the legal standard for registration in both the ACT and NSW, and that Mr Bobb was thus not guilty of the indictable offence of culpable driving causing death even though the headlight mapping by AFP Senior Constable Potts proved Mr Bobb's car headlights did not meet the standard for registration and thus the vehicle was unroadworthy.
8. When the lawyer for the event organisers sought to question police evidence relating to the headlights of Mr Bobb's car, Coroner Boss told that lawyer she could not question the police evidence at a Coronial Inquest in the ACT.
9. Mr Bobb was appointed a lawyer during the final day of the Inquest, at the recommendation of Counsel Assisting Mr Archer who was presenting the case for the AFP. The chosen lawyer was also a colleague of Mr Archer. I am told this was highly unusual.
10. The Coroner did not compel Mr Bobb to give evidence at the Inquest, even after he had been granted a certificate exempting him from prosecution if any of his evidence were to incriminate him. At a Coronial Inquest where the stated aim is to get to the truth surrounding the death of someone, this would have been

the ideal time to compel Mr Bobb to give evidence, in the public interest and in the interests of justice.

11. In her findings, Coroner Boss found that Mr Bobb was asked leading questions by the AFP during two of his interviews with police. She also found that Mr Bobb gave answers to the police that matched what he thought they wanted to hear, and not what he knew the truth to be. And yet, Coroner Boss did not compel Mr Bobb to give evidence so that the true facts could be established.
12. In her findings, Coroner Boss found that the AFP lost critical evidence in the form of Mr Hall's clothing. This evidence would have proven conclusively whether or not Mr Hall was fully compliant with the ACT road rules and visible to other road users that morning. And yet, during the Inquest, Coroner Boss did not determine or establish what had happened to that clothing or who was responsible for the loss or destruction of it.
13. In her findings, Coroner Boss recommended all Australian jurisdictions mandate flashing rear red lights for cyclists when riding in the dark. This standard, however, has been rejected by German authorities because it can negatively affect the eyes of other cyclists, and because it can contribute to object fixation in some drivers. No expert witness gave testimony in relation to flashing rear bicycle lights, and Coroner Boss was not an expert in this area.
14. In her findings, Coroner Boss stated that the driver's side headlight was tested by police and found to be operating to the standard required for registration. No such evidence was presented by the Australian Federal Police at the Inquest. This finding is flawed, and thus the findings should be set aside and a new inquest held.

Preliminary edition

Preliminary edition