



**CORONERS COURT
OF NEW SOUTH WALES**

Inquest:	Inquest into the death of Caillie Scott-Lewis
Hearing dates:	26 June 2018
Date of findings:	26 June 2018
Place of findings:	NSW State Coroner's Court, Orange
Findings of:	Deputy State Coroner, Magistrate Teresa O'Sullivan
Catchwords:	CORONIAL LAW – Cause and manner of death; Car accident; Police pursuit
File number:	2016/291951
Representation:	Mr James Herrington, Crown Solicitor's Office, counsel assisting Ms Alaana Wooldridge of the Office of General Counsel, for the NSW Police Force

Findings:	<p>Identity of deceased: The deceased person was Caillie Scott-Lewis.</p> <p>Date of death: She died on 27 September 2016.</p> <p>Place of death: She died at 145 Ophir Road, Orange, NSW.</p> <p>Cause of death: The death was caused by head injuries.</p> <p>Manner of death: Ms Scott-Lewis died when a car in which she was a passenger ran off the road and collided with fence posts and a tree. The driver of the car was attempting to evade a NSW Police car, but not in the course of a police pursuit.</p>
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The Coroners Act 2009 (NSW) in s81 (1) requires that when an inquest is held, the coroner must record in writing his or her findings as to various aspects of the death.

These are the findings of an inquest into the death of Caillie Scott-Lewis.

Introduction

1. This was an inquest into the death of Caillie Scott-Lewis. Ms Scott-Lewis was aged 23 at the time of her death shortly after 11.04 p.m. on 27 September 2016. She died when a car in which she was a passenger ran off Ophir Road in Orange and collided with fences and a tree on properties adjacent to the road.

The Inquest

2. An inquest is conducted pursuant to provisions of the *Coroners Act 2009*. Section 81 the Act requires a Coroner to make a written record of the fact that a person has died and also record:
 - i. the person's identity;
 - ii. the date and place of the person's death; and
 - iii. the manner and cause of death.
3. In addition, s. 27(1) and s. 23(b) of the Act, in the version applicable at the time this matter came to be considered by the Court, made the holding of this inquest mandatory. This is because Ms Scott-Lewis appears to have died either "as a result of" or "in the course of" a police operation, since the car in which she was a passenger came to the attention of a NSW Police car in the minutes before the accident. The police car commenced to turn to follow after it for a short distance, while the driver of Ms Scott-Lewis' vehicle appears to have driven away to evade it, running off the road some time later.
4. It is the appropriateness of the actions of those police actions which must be scrutinised as part of this inquest. In mandating that Coroners conduct (and not dispense with) inquests in circumstances where a death appears to have had some relation to police actions, Parliament has attached considerable importance to a review by Coroners of those actions. That said, the holding of such an inquest itself does not imply that any wrongdoing has occurred on the part of any police officer, or that any view has been formed that the actions of police officers have ultimately contributed to the death of a person.

Caillie Scott-Lewis

5. As I have stated, Ms Scott-Lewis was only 23 years old when she died. The death of a person so young, with their life ahead of them is a great tragedy and loss for their family and the community. Her family's grief can

only have been horrific, and I express my condolences to them. I understand that Ms Scott-Lewis had three young children and that, after having apparently experienced some difficulties in life, she had expressed to others just shortly before her death that she was getting her life together and looking forward to spending time with her young ones.

History of the proceedings

6. Ms Scott-Lewis' death occurred almost two years ago. The time taken to hold an inquest has been a consequence of criminal proceedings that were instituted against Matthew Borghero, who was charged on 28 September 2016 on the basis that he was alleged to be the driver of the vehicle carrying Ms Scott-Lewis. Mr Borghero pleaded guilty to those offences on 5 September 2017. Now that those matters have been finalised, this inquest has been able to be resumed under s.79 of the Act.
7. Mr Borghero was notified of his sufficient interest in these proceedings but did not seek leave to appear or be represented in the proceedings.

The evidence

8. At some time between 10:00pm and 11:00pm on 27 September 2016, Matthew Borghero drove a silver Ford Fortura (registration no. CI 90 NO) with his friends Quinton Nydegger and Duane Blandford as passengers to pick up Ms Scott-Lewis, a friend of Mr Borghero's, from an address at Lone Pine Avenue, in Orange.¹ Mr Borghero was unlicensed and on bail in relation to drug offences with which he had been charged some five days before.² Accounts of events before this vary between the witnesses who have provided statements, but those events and discrepancies need not be explored for the purposes of this inquest.
9. Mr Borghero then stopped at a house in Spring Street, where he went inside for two or three minutes.³ He returned to the car and proceeded to drive from Spring Street onto Algona Crescent.⁴ He then turned right and proceeded south along Calang Street toward Bletchington Street.⁵
10. On Calang Street, the Ford Futura driven by Mr Borghero passed Orange 35, a fully-marked police sedan which was being driven by Constable Elizabeth Johns.⁶ Constable Johns was accompanied by Senior Constable Annette Tindall. At the time, the two officers were conducting a general

¹ Interview with Quinton Nydegger, Tab 19, p. 3 and p. 9.

² Court Attendance Notice and Bail Conditions at Tabs 37A and B.

³ Interview with Quinton Nydegger, Tab 19, p. 14.

⁴ Interview with Quinton Nydegger, Tab 19, pp. 14-15.

⁵ Interview with Quinton Nydegger, Tab 19, p. 15.

⁶ Interview with Constable Elizabeth Johns, Tab 9, p. 9 and pp. 16-17.

patrol of the area,⁷ and were heading north along Calang Street (that is, in the opposite direction to the Ford).

11. SC Tindall recognised the number plates of the Ford Futura as belonging to a vehicle known to be used by Duane Blandford.⁸ SC Tindall understood Mr Blandford was on bail at the time and that, if he were in the car, he would be in breach of his bail curfew conditions.⁹ The officers then decided that they would turn their vehicle around and stop the Ford Futura in order to perform a random breath test and check the occupants of the vehicle.¹⁰
12. It appears that Constable Johns activated her vehicle's turning signals to indicate that she was about to perform a U-turn. This was observed by the occupants of the Ford Futura, prompting Mr Borghero to begin to speed away from Orange 35.¹¹
13. Constable Johns performed a U-turn and saw the lights of the Ford Futura turn left toward Dalton Street.¹² Constable Johns proceeded to turn from Calang Street onto Bletchington Street, then onto Carramar Avenue and then onto Dalton Street.¹³ Constable Johns stated that she lost sight of the Ford Futura by this stage, as the Futura had gone over the crest of a hill on Dalton Street.¹⁴ SC Tindall notified VKG (police radio) of the situation.¹⁵
14. The Futura turned left from Dalton Street onto Ophir Road. At this time, Constable Johns had reached the crest of the hill on Dalton Street.¹⁶ From this viewpoint, Constable Johns and SC Tindall could see the Futura turn left from Dalton Street onto Ophir Road.¹⁷ SC Tindall radioed VKG to state that:

- i. The Futura had taken-off before they had a chance to stop it;
- ii. They were not in pursuit,¹⁸ and

⁷ Interview with Senior Constable Annette Tindall, Tab 8, p. 6; Interview with Constable Elizabeth Johns, Tab 9, p. 10.

⁸ Interview with Senior Constable Annette Tindall, Tab 8, p. 4 and p. 7; Interview with Constable Elizabeth Johns, Tab 9, pp. 10-11.

⁹ Interview with Senior Constable Annette Tindall, Tab 8, p. 7; Interview with Constable Elizabeth Johns, Tab 9, pp. 11-12.

¹⁰ Interview with Senior Constable Annette Tindall, Tab 8, p. 4; Interview with Constable Elizabeth Johns, Tab 9, p. 11.

¹¹ Interview with Quinton Nydegger, Tab 19, p. 3 and p. 16.

¹² Interview with Senior Constable Annette Tindall, Tab 8, p. 4 and p. 11; Interview with Constable Elizabeth Johns, Tab 9, p. 15.

¹³ Interview with Constable Elizabeth Johns, Tab 9, p. 12.

¹⁴ Interview with Constable Elizabeth Johns, Tab 9, pp. 12-13.

¹⁵ Interview with Senior Constable Annette Tindall, Tab 8, p. 8 and p. 11; Interview with Constable Elizabeth Johns, Tab 9, p. 12.

¹⁶ Interview with Constable Elizabeth Johns, Tab 9, pp. 12-13.

¹⁷ Interview with Senior Constable Annette Tindall, Tab 8, p. 5 and p. 11; Interview with Constable Elizabeth Johns, Tab 9, pp. 13-14.

¹⁸ Interview with Senior Constable Annette Tindall, Tab 8, p. 5; Interview with Constable Elizabeth Johns, Tab 9, pp. 13-14 and p. 19; VKG audio and transcript, Tab 26.

- iii. Other police vehicles in the area should keep a look-out as they believed Duane Blandford was in the car, and that he was in breach of the curfew conditions of his bail.¹⁹
15. The Ford Futura proceeded through a roundabout at the intersection of Ophir Road and the Northern Distributor. It appears that Mr Borghero may have turned off the car's lights around this time.²⁰ It appears that shortly after driving through the intersection and after a right-hand bend, Mr Borghero began to lose control of the vehicle, and it left the road.²¹ In the vicinity of 133 Ophir Road, the vehicle collided with fences and trees, ultimately stopping in the front yard of 145 Ophir Road.

Events following the collision

16. After the collision, Mr Borghero and Mr Blandford fled the scene.²² It appears that neither Mr Borghero nor Mr Blandford checked on the welfare of the other occupants of the vehicle.²³ Ms Scott-Lewis suffered head injuries and died during the collision. She remained in the car.
17. Isha Deep, a resident in a granny flat at the back of 145 Ophir Road, recalled hearing the sound of a speeding car, followed by a "loud crashing sound" and "what sounded like wood snapping and metal smashing together".²⁴ She immediately phoned 000 to request assistance.²⁵ According to her phone records, she made this call at 11:04pm.²⁶
18. Having heard the collision, Joel Taylor, a resident in the main property of 145 Ophir Road, opened the door to his house and was approached by Mr Nydegger, who asked Mr Taylor to call an ambulance as there had been an accident and there was a deceased person.²⁷ Mr Taylor's fiancée, phoned 000.²⁸
19. It appears that Orange 35 initially drove past the crash site, not seeing what had happened, and continued to drive along Ophir Road, possibly as far north as Banjo Patterson Way.²⁹ When they could not locate the Ford Futura, SC Tindall and Constable Johns decided to drive back toward Orange in order to perform a bail compliance check at the property where Mr Blandford was supposed to reside during his curfew.

¹⁹ Interview with Constable Elizabeth Johns, Tab 9, pp. 13-14.

²⁰ Interview with Duane Blandford, Tab 20, Qs 52, 72, 141.

²¹ Interview with Quinton Nydegger, Tab 19, p. 3 and pp. 22-23.

²² Interview with Duane Blandford, Tab 18, p. 6; Interview with Quinton Nydegger, Tab 19, p. 3.

²³ Interview with Matthew Borghero, Tab 18, p. 23; Interview with Duane Blandford, Tab 20, p. 9.

²⁴ Statement of Isha Deep, Tab 22 at [5].

²⁵ Statement of Isha Deep, Tab 22 at [6].

²⁶ Statement of Isha Deep, Tab 22 at [6].

²⁷ Interview with Quinton Nydegger, Tab 19, p. 3; Statement of Joel Taylor, Tab 23 at [5]-[8].

²⁸ Statement of Joel Taylor, Tab 23 at [9].

²⁹ Interview with Senior Constable Annette Tindall, Tab 8, p. 5; Interview with Constable Elizabeth Johns, Tab 9, p. 14; Interview with Matthew Borghero, Tab 18, p. 24; Interview with Quinton Nydegger, Tab 19, p. 27.

20. After turning around, SC Tindall and Constable Johns received a VKG broadcast that there had been an accident on Ophir Road.³⁰ SC Tindall and Constable Johns arrived at the crash site a couple of minutes later.³¹ They were the first officers on scene.³²
21. On arriving at the accident site, Senior Constable Tindall got out of the police vehicle and ran straight to the Ford Fortura.³³ She found Ms Scott-Lewis' body in the vehicle. Both Constable Johns and Senior Constable Tindall spoke with Quinton Nydegger, who remained at the scene. Mr Nydegger informed Constable Johns that he had been a passenger in the car, and that Duane Blandford, another passenger, had fled the scene together with the driver, whom he identified to the officers as Matthew Borghero.
22. Senior Constable Tindall appears to have been very concerned to establish the identity of the person in the car, and thought it may have been Ms Scott-Lewis. Coincidentally, Senior Constable Tindall had been providing support to Ms Scott-Lewis in the weeks prior with a court matter that Ms Scott-Lewis was involved in.
23. Ms Scott-Lewis was declared deceased at Orange Hospital at 6:58 a.m. on 28 September 2016.³⁴ Her identity was confirmed by subsequent fingerprint analysis.³⁵
24. On 28 September 2016, investigating police conducted recorded interviews with Mr Nydegger and Mr Blandford (who made contact with police that morning and presented himself to Orange Police Station).³⁶ Both men identified Matthew Borghero as the driver of the car. Neither stated that the police car was in pursuit of their vehicle. They describe the manner of Mr Borghero's driving as, among other things, "erratic".
25. At around 9 a.m., police attended premises in Algona Crescent, Orange, and arrested Mr Borghero.³⁷ An officer noted Mr Borghero had scratches to his face and knuckles.³⁸ He appeared visibly upset and stated to one of the officers "I can't believe I hurt my friend."³⁹ Mr Borghero was taken to Orange Police Station and later Orange Base Hospital for treatment of injuries he sustained in the accident. At 11:25 a.m., Mr Borghero was

³⁰ Interview with Senior Constable Annette Tindall, Tab 8, p. 5; Interview with Constable Elizabeth Johns, Tab 9, pp. 14-15.

³¹ Interview with Constable Elizabeth Johns, Tab 9, p. 15.

³² Interview with Senior Constable Annette Tindall, Tab 8, p. 8; Interview with Constable Elizabeth Johns, Tab 9, p. 17.

³³ Interview with Senior Constable Annette Tindall, Tab 8, p. 8.

³⁴ Life Extinct Form, Tab 2.

³⁵ Statement of Detective Senior Constable Mark Mieth, Tab 5.

³⁶ Statement of Detective Senior Constable Robert Jackson, Tab 10, at [7].

³⁷ Statement of Detective Senior Constable Andrew Maclean, Tab 15, p. 3.

³⁸ Statement of Detective Senior Constable Ben Zwiers, Tab 17, p. 2.

³⁹ Statement of Detective Senior Constable Ben Zwiers, Tab 17, at [14].

subjected to a blood test for drugs and alcohol at Orange Hospital. He was returned to the station and charged with criminal offences in relation to the accident. He was interviewed by police around 2 p.m. In his interview, Mr Borghero denied being the driver of the car and stated Duane Blandford was driving.⁴⁰ Further, he made various statements suggesting that the police vehicle was pursuing the vehicle in which he was traveling. Those statements warrant careful scrutiny given the purpose of this inquest.

26. Amphetamine and methylamphetamine were found upon toxicological analysis of the sample of Mr Borghero's blood that was taken after his arrest at 11.25 a.m.⁴¹
27. In parallel to the criminal investigation police were undertaking into the cause of the accident, a Critical Incident Investigation, led by Detective Inspector Jason Pietruszka of the Orana Local Area Command, was commenced. A Critical Incident Investigation is a review conducted by police officers from a different Local Area Command of deaths or serious injuries that occur in the context of police operations. As part of this investigation, both Constable Johns and Senior Constable Tindall were required to undergo alcohol testing (no alcohol was detected). They were also required to participate in recorded interviews about the circumstances of Ms Scott-Lewis' death. Those interviews are contained in the brief of evidence.
28. An autopsy was performed by Dr Brian Beer, Senior Staff Specialist in Forensic Pathology, at Newcastle on 4 October 2016. Dr Beer ascertained the cause of Ms Scott-Lewis' death to have been head injuries.⁴²
29. As I have noted, Mr Borghero pleaded guilty in the NSW District Court at Orange on 5 September 2017 to the offences of dangerous driving occasioning death (s. 52A(1)(c) *Crimes Act 1900*) and fail to stop and assist after vehicle impact causing death (s. 52AB(1)). The facts tendered as part of his plea are contained in the brief of evidence.⁴³ In his plea, Mr Borghero admitted being the driver of the car.

Issues at inquest

30. The particular issue that was considered at the inquest, beyond consideration of the statutory findings that were required to be made, were:

- Whether Constable Johns and SC Tindall on 27 September 2016:

⁴⁰ Interview with Matthew Borghero, Tab 18, Q 182.

⁴¹ Toxicology results, Tab 34.

⁴² Autopsy report, Tab 6.

⁴³ Statement of facts, Tab 35.

- i. engaged in a pursuit of the vehicle in which Ms Scott-Lewis was a passenger;
 - ii. acted in compliance with the requirements of the NSW Police Fore Safe Driving Policy.
31. A brief of evidence was tendered at the hearing (Exhibit 1), which comprised various witness statements, other documentary evidence and the audio of police radio broadcasts made on the night of 27 September 2016. The Court also heard oral evidence from Inspector Pietruszka. In addition, a view of the route driven by Orange 35 and the vehicle carrying Ms Scott-Lewis was conducted, to allow the Court to consider the physical aspects of the roads involved.

Cause of the accident

32. On the basis of Mr Borghero's plea of guilty to the offence of dangerous driving in relation to the crash, it can be found to the requisite standard that he was the driver of the Ford Futura at the time of the collision. Additional support, should any be required for this conclusion, is found in the accounts of Mr Nydegger and Mr Blandford, who both nominated Mr Borghero as the driver of the car. Mr Borghero was the owner of the vehicle, although it was not registered in his name.⁴⁴ Further, he was homeless at the time, and living out of the vehicle.⁴⁵ He had been seen driving the vehicle by police on the day of the accident. Those officers made efforts to locate him that afternoon, without success.⁴⁶
33. Mr Borghero had been charged with criminal offences on 22 September 2016, five days before the collision, and was on bail at the time of the accident.⁴⁷ He was unlicensed. It appears clear that Mr Borghero understood that, if he were to be found by police driving a car, unlicensed, he would be in breach of his bail conditions,⁴⁸ and that he feared being imprisoned if he were found.⁴⁹ This prompted Mr Borghero to seek to evade the police car he encountered.
34. It is clear from the available evidence that Mr Borghero's decision to drive at a high speed and erratically in order to evade police detection caused the collision which resulted in Ms Scott-Lewis' death. While the exact speeds that the Ford Futura was travelling are not known, witnesses have made the following statements:

⁴⁴ Interview with Matthew Borghero, Tab 18, p. 14.

⁴⁵ Interview with Matthew Borghero, Tab 18, p. 12 and p. 14.

⁴⁶ Statement of Detective Senior Constable Andrew Maclean, Tab 15, [6]

⁴⁷ Interview with Matthew Borghero, Tab 18, p. 25. See also bail conditions at Tab 37A

⁴⁸ Interview with Matthew Borghero, Tab 18, p. 25.

⁴⁹ Interview with Matthew Borghero, Tab 18, p. 25; Interview with Quinton Nydegger, Tab 19, p. 3, p. 16.

- i. Mr Nydegger estimates the car was travelling at between 100km/h and 120km/h on Dalton Street, between 60km/h and 80km/h as it went through the roundabout, and he states that Mr Borghero "was going too fast the whole way along";⁵⁰
 - ii. SC Tindall states the vehicle was travelling "extremely fast"⁵¹ and she "wasn't comfortable chasing after the vehicle once I saw [REDACTED]";⁵²
35. Adding to the dangerousness of his driving, Mr Borghero turned off the headlights of the Ford Futura on an unlit road in order to reduce his visibility to police.⁵³
 36. Both Mr Nydegger and Ms Scott-Lewis repeatedly asked Mr Borghero to stop so that they could exit the vehicle.⁵⁴
 37. In relation to the cause of the collision, Mr Nydegger makes the following statement in his interview.⁵⁵

"Q416 In your opinion, is there anything that could have prevented the crash occurring tonight?

A Yes. Matt not taking off, driving, taking off, basically, just staying, not panicking. Basically I think he's just panicked and it's gone from one thing to another. Yes. Tragic."

38. Similarly, Mr Blandford makes the following statement in his interview:⁵⁶

"Q72 Do you know what caused the accident?

A ...Matt speeding and no lights on."

Whether a police pursuit took place

39. In his recorded interview, Mr Borghero maintained that the police officers were closely following behind the Fort Futura, in pursuit:⁵⁷

"A The car was being chased.

Q39 I'm sorry?

A The car was being chased.

⁵⁰ Interview with Quinton Nydegger, Tab 19, p. 19 and p. 21.

⁵¹ Interview with Senior Constable Annette Tindall, Tab 8, p. 8.

⁵² Interview with Senior Constable Annette Tindall, Tab 8, p. 12.

⁵³ Interview with Constable Elizabeth Johns, Tab 9, p. 18; Interview with Duane Blandford, Tab 20, pp. 5-6; Statement of Isha Deep Tab 22 at [13].

⁵⁴ Interview with Quinton Nydegger, Tab 19, p. 3, p. 16 and p. 20; Interview with Duane Blandford, Tab 20, p. 5.

⁵⁵ Interview with Quinton Nydegger, Tab 19, p. 31.

⁵⁶ Interview with Duane Blandford, Tab 20, p. 6.

⁵⁷ Interview with Matthew Borghero, Tab 18, pp. 4-5. Later in this interview, Matthew Borghero states the police car was "Directly behind us ... the whole time": Tab 18, p. 10.

Q40 The car was being chased. So tell me what happened.

A Um, yeah. The car was chased.

Q41 By who?

A Police

Q42 Tell me about that.

A It was chased. It was chased. There were police headlights and - - -

Q43 I'm sorry, I can't hear you.

A Police headlights in the car.

Q44 Police headlights in the car?

A They were like, they were right behind the car. They were trying - - -

Q45 I'm sorry, I can't, I need to be able to hear you correctly. It's quite... so.

A They were right behind the car the whole time."

40. The evidence I have considered in this matter does not support the statements made by Mr Borghero. It must be noted that Mr Borghero denied being the driver of the vehicle in his interview with police, but later accepted in his guilty plea that he was driving the car. Given this, the credibility of his account, generally, must be questioned. The presence of what Dr Perl determined was a "significant level" of methylamphetamine in a sample of his blood taken at 11:25 a.m. also raises the possibility that he may have still been under the effect of the drug at the time of the interview, at around 2:08 p.m. In any event, he provides very little detail to bear out his claims and his recollection of events appears vague. Given these matters, and considering the other evidence in this inquest, his version of events that night cannot be accepted.

41. In contrast, Mr Nydegger gives the following account (with emphasis added):⁵⁸

"Q196 So you're heading towards Dalton Street.

A Yes.

Q197 And as you turned the corner you saw the indicator come on the police vehicle.

⁵⁸ Interview with Quinton Nydegger, Tab 19, p. 16.

A Yes.

Q198 And they indicated to turn around.

A Yes. But they didn't seem to chase us or follow us through here.

Q199 Right.

A And we never saw them after that, basically, as we drove up Dalton Street. We couldn't see them behind us."

42. The account given by Mr Nydegger in his interview is to be preferred. He provides a detailed description of events, including of the route taken by the Ford Futura that is consistent with the accounts given by the officers. He appears certain that the Ford Futura quickly lost sight of Orange 35, at a point when the vehicle entered Dalton Road. As the only person to remain at the scene of the accident, I infer that he is a credible witness.
43. Mr Blandford's account is that he was asleep in the vehicle until shortly before the collision and is not generally of assistance, save to say that he did not notice any police sirens or the presence of a police car when he woke at a time shortly before the crash.⁵⁹
44. The evidence of SC Tindall and Constable Johns is that they decided not to pursue the Ford Futura. In her interview, SC Tindall gives the following account of her decision not to initiate a pursuit:⁶⁰

■ [REDACTED]

■ [REDACTED]

45. Later in her interview, SC Tindall states that she "wasn't comfortable chasing after the vehicle once I saw [REDACTED]".⁶¹
46. A fact upon which it appears all witnesses (including Mr Borghero) agree, is that the sirens and flashing lights of Orange 35 were not activated at any

⁵⁹ Interview with Duane Blandford, Tab 20, p. 5-6.

⁶⁰ Interview with Senior Constable Annette Tindall, Tab 8, p. 8.

⁶¹ Interview with Senior Constable Annette Tindall, Tab 8, p. 12.

stage between the time Orange 35 passed the Ford Futura on Calang Street and the time the Ford Futura crashed on Ophir Road.⁶²

47. The VKG audio contained within the brief hearing confirms that Orange 35 made a radio broadcast stating that the Ford Futura had sped away from the officers and that they were not in pursuit. After that broadcast is heard, there follows a further four-and-a-half minutes of broadcasts by Orange 35 and other units about looking for the Futura before a broadcast is made by the operator reporting that the accident had occurred. That is a significant period of time and the discussion heard on the audio during it is inconsistent with an idea that the police officers in Orange 35 were simultaneously engaging in a high-speed pursuit of the Futura.
48. After a broadcast is made of the accident at Ophir Road, it is a further two minutes before Orange 35 arrives at the accident scene.⁶³ This is also consistent with Orange 35 having lost contact with, and being some distance from the Ford Futura after it had sped away.

Whether the NSW Police Safe Driving Policy was adhered to

49. The officers' actions in not engaging in a pursuit were consistent with what is required under the NSW Police Safe Driving Policy. In particular, the reasons given by Senior Constable Tindall in her interview (at p. 12) for not engaging in a pursuit correspond with the matters to be considered at 7.2.2 of the policy, relevant parts of which were tendered as an exhibit in the proceedings.⁶⁴ There can be no criticisms of the actions taken by S/C Tindall and Constable Johns.
50. I find that the officers initially turned to follow after the Ford Futura on Calang St, losing sight of it by the time the Futura sped away on the uphill portion of Dalton St. During the view, it was evident that this portion of Dalton St features a significant incline leading to a crest, such that a vehicle traveling up the hill cannot see anything of the road beyond it. The officers regained sight of the taillights of the Futura once they reached the crest the hill on Dalton St, when the Futura had already turned left from Dalton St onto Ophir Rd, by which time it was a distance of some 500-600 metres away and traveling at significant speed. The officers did not engage in a pursuit at this point or otherwise attempt to catch up with the vehicle.
51. The officers' attendance at the collision must have been distressing, in particular given Senior Constable Tindall's recent involvement in assisting

⁶² Interview with Senior Constable Annette Tindall, Tab 8, p. 11; Interview with Constable Elizabeth Johns, Tab 9, p. 15; Interview with Matthew Borghero, Tab 19, p. 6 and p. 9; Interview with Quinton Nydegger, Tab 19, pp. 16-17 and p. 19.

⁶³ CAD documents, Tab 39.

⁶⁴ Exhibit 3.

Ms Scott-Lewis. Her clear concern for Ms Scott-Lewis at this time should be noted.

52. I would like to thank the officer in charge, Detective Inspector Pietruszka, for his thorough investigation. I would also like to thank my Counsel Assisting, Mr James Herrington from the Crown Solicitor's Office for his excellent assistance before and during the inquest.
53. Finally, I offer my sincere condolences to Ms Scott-Lewis's family for the tragic loss of Caillie.

Findings required by s. 81(1)

54. As a result of considering all of the documentary evidence and the oral evidence heard at the inquest, I am able to confirm that the death occurred and make the following findings in relation to it.

The identity of the deceased

55. The deceased person was Caillie Scott-Lewis.

Date of death

56. She died on 27 September 2016.

Place of death

57. She died at 145 Ophir Road, Orange, NSW.

Cause of death

58. The death was caused by head injuries.

Manner of death

59. Ms Scott-Lewis died when a car in which she was a passenger ran off the road and collided with fence posts and a tree. The driver of the car was attempting to evade a NSW Police car, but not in the course of a police pursuit.
60. I close this inquest.

Teresa O'Sullivan
Deputy State Coroner

Date: 26 June 2018