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**JURISDICTION** : CORONER'S COURT OF WESTERN AUSTRALIA  
**ACT** : CORONERS ACT 1996  
**CORONER** : BRENDYN DEAN NELSON, CORONER  
**HEARD** : 29 JANUARY 2026  
**DELIVERED** : 18 FEBRUARY 2026  
**FILE NO/S** : CORC 2712 of 2024  
**DECEASED** : BURNS, BAILEY BRYAN

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*Catchwords:*

Nil

*Legislation:*

*Coroners Act 1996 (WA)*

**Counsel Appearing:**

Ms E Lynch assisted the Coroner

Ms K Dias and Ms E Tapsell (State Solicitor's Office) appeared on behalf of the Western Australia Police Force

**Case(s) referred to in decision(s):**

Inquest into the Death of Child JP [2021] WACOR 42

Inquest into the death of Jordan Alexander Thorsager [2021] WACOR 20

Inquest into the Death of Warren Keith Matthews [2022] WACOR 42

**SUPPRESSION ORDER**

**On the basis it would be contrary to the public interest, there be no reporting or publication of the details of, or discussion surrounding, operational aspects of WA Police urgent duty/emergency driving policies and procedures, including any cap on the speed at which police officers are authorised to drive.**

**Order made by BD Nelson, Coroner (28/01/2026)**

Coroners Act 1996  
(Section 26(1))

## RECORD OF INVESTIGATION INTO DEATH

*I, Brendyn Dean Nelson, Coroner, having investigated the death of **Bailey Bryan BURNS** with an inquest held at Perth Coroners Court, Central Law Courts, Court 85, 501 Hay Street, PERTH, on 29 January 2026, find that the identity of the deceased person was **Bailey Bryan BURNS** and that death occurred on 7 September 2024 at **Canning Highway near the intersection with Braydon Road, Attadale, from multiple injuries in the following circumstances:***

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## Introduction

- 1 In the early morning of 7 September 2024, Bailey Bryan Burns (**Bailey**)<sup>1</sup> was driving a Holden Statesman sedan (**Statesman**) eastbound on Canning Highway in Bicton at high speed, when he was observed by on-duty police officers who were travelling westbound.
- 2 The police officers turned their vehicle, activated the emergency lights and sirens, and drove eastbound in order to intercept Bailey's vehicle.
- 3 At about 4.40am, after negotiating a slight right hand bend on Canning Highway near the intersection with Preston Point Road, Bailey's vehicle entered a yaw, slid into the central median strip and struck a tree.
- 4 Bailey was ejected from the vehicle, and suffered fatal injuries. He was 23 years old.
- 5 Pursuant to s 19(1) of the *Coroners Act 1996* (WA) (the **Act**), a coroner has jurisdiction to investigate a death if it appears to the coroner that the death is or may be a reportable death.
- 6 A 'reportable death' is defined to include a Western Australian death<sup>2</sup> that appears to have been caused or contributed to by any action of a member of the Police Force.<sup>3</sup>
- 7 Pursuant to s 22(1)(b) of the Act, a coroner who has jurisdiction to investigate a death must hold an inquest if the death appears to be a Western Australian death and it appears that the death was caused, or contributed to, by any action of a member of the Police Force.
- 8 It is pursuant to these provisions that this Court ordinarily investigates, by holding an inquest, deaths following intercept driving by officers of the Western Australia Police Force (**WAPF**), as occurred in this case.

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<sup>1</sup> At the inquest, Bailey's family indicated their preference that he be referred to by his first name: ts 2. I adopted that approach at the hearing, and do so again in these findings.

<sup>2</sup> Defined to include a death that occurred in Western Australia (s 3, par (a) of defn).

<sup>3</sup> The Act, s 3 (par (g) of the defn of 'reportable death').

### **Issues raised at the inquest**

- 9 The coronial inquest occurred on 29 January 2026.
- 10 In addition to the facts relevant to the determination of the cause and manner of Bailey's death, the inquest also focused on whether the intercept driving by the police officers adhered to applicable WAPF policies (including by consideration of the course and outcomes of the investigation of that issue by the WAPF's Internal Affairs Unit (IAU)).
- 11 Relatedly, the inquest heard evidence concerning the activation of the body worn cameras worn by the police officers involved. This gave rise to evidence about the installation of 'dashcam' technology in police vehicles like the one driven by the officers who sought to intercept Bailey.

### **Materials received at the inquest**

- 12 Prior to the inquest, Bailey's sister provided information about him and his life including, in particular, the shared love he had for all his family, and the esteem with which he was held by friends and colleagues.
- 13 I am grateful to Bailey's sister for providing this background information, which I refer to further below. I also reiterate my gratitude to Bailey's sister and father for attending the inquest, including for and on behalf of other members of Bailey's family.
- 14 At the inquest I received the documentary evidence contained in the coronial brief, and the following witnesses gave evidence:
  - (a) Detective Sergeant Tom Grieve, of the WAPF's Major Crash Investigation Section, who investigated the crash and prepared a written report to the State Coroner;
  - (b) Sergeant Matthew Kukura, who was on duty and driving the marked police vehicle, callsign VF107, that sought to intercept Bailey's vehicle before it crashed;
  - (c) Constable Clark Caleb Santiago Calagui, who was on duty with Sergeant Kukura, and was the passenger in the police vehicle; and
  - (d) A/Senior Sergeant Dixie McKinley, who conducted the IAU investigation, and prepared the investigation report that forms part of the coronial brief.

### **Materials received after the inquest**

- 15 Following the inquest, as a result of the evidence concerning the installation of ‘dashcam’ technology, I caused counsel assisting to send a draft recommendation to WAPF for any comment.
- 16 WAPF did not seek to provide any response to the draft recommendation,<sup>4</sup> which I understood to mean that WAPF had no objection.
- 17 At my request, WAPF also provided further information regarding the current status and progress of any projects being implemented by WAPF concerning the installation of ‘dashcam’ technology.
- 18 WAPF provided further information by email dated 16 February 2026. The additional detail is considered further below, at par [136]ff.

### **Factual findings**

- 19 In this part, I make factual findings about the circumstances leading up to and including Bailey’s death, including any findings necessary to make comment on the matters identified at pars [10] and [11] above.

### **Personal background**

- 20 Bailey lived in Palmyra and worked as a rigger.<sup>5</sup> At the time of his death, Bailey was thriving in his career and had progressed rapidly.
- 21 Bailey was described by his family as having an infectious personality, and the ability to light up a room with his presence. He was loving, kind and protective, and gave much of himself to those who knew him.
- 22 He was a much-loved son and brother, and enjoyed a particularly close relationship with his young nephew and niece.
- 23 Bailey had a passion for wellness – both physical and mental.
- 24 He trained at his gym regularly and both competed in and instructed others in the sport of Muay Thai.
- 25 Bailey was also working with a friend on a business focused on mental health counselling for teenagers, hoping to draw on his own life experiences to positively impact others.

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<sup>4</sup> Email from Ms E Tapsell to Counsel Assisting dated 5 February 2026.

<sup>5</sup> Exhibit 1, tab 1.

### **Bailey obtains the Statesman**

- 26 During the course of his investigation, Detective Sergeant Grieve obtained information from the son of the registered owner of the Statesman.<sup>6</sup>
- 27 The son of the registered owner had known Bailey for a number of years, and was due to leave the city for work so he left the Statesman with Bailey to use while he was away.<sup>7</sup>
- 28 No evidence has been presented about when Bailey started driving on 7 September 2024 (if not earlier), and investigators were unable to determine where he might have been intending to drive to that morning.<sup>8</sup>

### **Bailey's driving prior to observation by police**

- 29 The evidence earliest in time available to the Court concerning Bailey's driving on 7 September 2024 is CCTV footage obtained from Palmyra Police Station, located at 349 Canning Highway, Palmyra.
- 30 The Station is approximately two kilometres from Bailey's home address.
- 31 The CCTV footage depicts the Statesman driving eastbound on Canning Highway at 4.39 am.<sup>9</sup>
- 32 As part of his investigation, Detective Sergeant Grieve relied upon work undertaken by Senior Constable Aitken, a qualified crash reconstruction officer.<sup>10</sup> Senior Constable Aitken's initial collision assessment report was included in the coronial brief, which demonstrates that he used (amongst others) a FIT board (being a known, fixed reference object) and pole placements on Canning Highway to best calculate the speed of the Statesman as depicted in the CCTV footage.<sup>11</sup>
- 33 By Senior Constable Aitken's calculations, the Statesman was estimated to be travelling between 41 km/hr and 47 km/hr when it passed the Palmyra Police Station.<sup>12</sup>

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<sup>6</sup> Exhibit 1, tab 2, p 9.

<sup>7</sup> Exhibit 1, tab 2, p 9.

<sup>8</sup> Ts 11.

<sup>9</sup> Exhibit 1, tab 2, p 4.

<sup>10</sup> Ts 10.

<sup>11</sup> Exhibit 1, tab 8, p 2; ts 9.

<sup>12</sup> Exhibit 1, tab 2, p 4.

- 34 At the inquest, Detective Sergeant Grieve explained that the range should be understood as the lowest and highest estimated speeds, respectively,<sup>13</sup> and that if the measures were being used in a prosecution context, the lowest value would be adopted.<sup>14</sup>
- 35 I find, on the basis of that evidence, that at 4.39 am on 7 September 2024, Bailey drove the Statesman past the Palmyra Police Station at about 41 km/hr.
- 36 The CCTV footage depicting the Statesman next in time was obtained from the Shell Coles Express service station at 394 Canning Highway, Bicton. The Shell Coles Express is within the north eastern corner of the intersection of Canning Highway and Waddell Road.
- 37 Using the same methodology as described above, Detective Sergeant Grieve calculated the speed of the Statesman as it passed the service station as being between 119 km/hr and 139 km/hr.<sup>15</sup>
- 38 The posted speed limit of Canning Highway is 60 km/hr.<sup>16</sup>
- 39 I find that by the time Bailey had reached the Shell Coles Express in Bicton, he had increased the speed of the Statesman to at least 119 km/hr, at least 50 km/hr in excess of the posted speed limit.
- 40 The Palmyra Police Station and the Shell Coles Express service station are approximately 600 metres apart.
- 41 There is no evidence as to why Bailey accelerated from about 41 km/hr to well in excess of 100 km/hr while travelling between those two sites.
- 42 At the inquest, Detective Sergeant Grieve agreed with my observation that, given their respective positions (as detailed below), Bailey would not likely have seen the police vehicle travelling in the opposite direction along Canning Highway until he was passing the Shell Coles Express.<sup>17</sup>
- 43 I find that Bailey would not have seen the police vehicle until he was passing the Shell Coles Express.

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<sup>13</sup> Ts 11.

<sup>14</sup> Ts 11.

<sup>15</sup> Exhibit 1, tab 8, p 4.

<sup>16</sup> Exhibit 1, tab 8, p 3.

<sup>17</sup> Ts 15.

44 As a consequence, while it is plausible that Bailey accelerated further as a consequence of seeing the police vehicle as he passed the Shell Coles Express, the presence of the police car is not a credible explanation for Bailey initially increasing his speed to in excess of the posted speed limit.

### **Police observe the Statesman**

45 As Bailey passed the Shell Coles Express in the Statesman, Sergeant Kukura and Constable Calagui were travelling west on Canning Highway in a Toyota Camry, callsign VF107, from a task in Applecross to another task in Hamilton Hill.<sup>18</sup>

46 Sergeant Kukura was driving, and Constable Calagui was in the passenger seat.<sup>19</sup>

47 Sergeant Kukura and Constable Calagui observed the Statesman travelling significantly faster than the posted speed limit of 60 km/hr.<sup>20</sup>

48 At that time, Sergeant Kukura and Constable Calagui were passing the intersection of Canning Highway with Stock Road,<sup>21</sup> being the first intersection to the east of the intersection between Canning Highway and Waddell Road.

49 Based on that evidence, I estimate that the Statesman was approximately 150 metres away from Sergeant Kukura and Constable Calagui when they first observed the speeding vehicle.

50 Data retrieved from the WAPF Automated Resource Locator (**ARL**) indicated that at this time, the police vehicle was travelling at approximately 60 km/hr in a westbound direction.<sup>22</sup>

51 Sergeant Kukura did not identify any other vehicles in the vicinity at the time.<sup>23</sup> This recollection is confirmed by the CCTV footage, which shows no other vehicles in the vicinity as Sergeant Kukura performed a U-turn using a break in the median strip at the intersection with Waddell Road before heading east.<sup>24</sup>

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<sup>18</sup> Exhibit 1, tab 11, pars [1], [4]-[7]; tab 12, pars [5], [7].

<sup>19</sup> Exhibit 1, tab 11, par [5]; tab 12, par [6].

<sup>20</sup> Exhibit 1, tab 11, par [9]; tab 12, par [12]; ts 19.

<sup>21</sup> Exhibit 1, tab 11, par [12].

<sup>22</sup> Exhibit 1, tab 14, p 9.

<sup>23</sup> Exhibit 1, tab 11, par [14].

<sup>24</sup> Exhibit 1, tab 8, p 2; tab 11, par [15]; tab 12, par [16].

**Police commence intercept driving**

- 52 In his witness statement, Sergeant Kukura stated that after conducting the U-turn, he immediately activated the emergency lights and sirens.<sup>25</sup>
- 53 At the inquest, both Sergeant Kukura and Constable Calagui stated that he activated the lights and sirens during the execution of the U-turn.<sup>26</sup>
- 54 I have reviewed the CCTV footage, and it is difficult to discern when the lights and sirens are activated.
- 55 For the purpose of these findings, it is only necessary to find, and I do find, that the police lights and sirens were activated by the time the police vehicle had completed the U-turn and began travelling eastbound behind the Statesman.
- 56 I find that Sergeant Kukura activated the lights and sirens because his intention was to attempt to intercept the Statesman and speak to the driver.<sup>27</sup> That intention was the result of Sergeant Kukura's concern about his speed, and to provide an opportunity to instruct Constable Calagui about the performance of a random breath test, which was a task the probationary constable was required to undertake as part of his training.<sup>28</sup>
- 57 At the time, Sergeant Kukura had a Class C1 – Car Priority One driving qualification, known as a 'P1', which allowed him to perform emergency/response driving within a specified speed limit, and to perform vehicle intercepts within that same limit.<sup>29</sup>
- 58 In his witness statement, Sergeant Kukura stated that as he passed back through the intersection of Canning Highway and Stock Road (now travelling eastbound), he observed the Statesman's brake lights illuminate, causing him to believe that it was going to pull over.<sup>30</sup>
- 59 In his witness statement, Constable Calagui expressed the same belief, observing that the brake lights illuminated for a 'few seconds'.<sup>31</sup>

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<sup>25</sup> Exhibit 1, tab 11, par [17]; tab 12, par [17].

<sup>26</sup> Ts 19, 23; ts 35.

<sup>27</sup> Exhibit 1, tab 11, par [18].

<sup>28</sup> Ts 20.

<sup>29</sup> Exhibit 1, tab 11, par [19]-[20].

<sup>30</sup> Exhibit 1, tab 11, par [27].

<sup>31</sup> Exhibit 1, tab 12, par [20].

- 60 At the inquest, Sergeant Kukura described the period during which the brake lights were illuminated as ‘fleeting’,<sup>32</sup> and Constable Calagui recollected that they were illuminated for less than a second.<sup>33</sup>
- 61 Where there is a discrepancy between the officers’ witness statements and oral evidence on this matter, I would prefer the witness statements as the more contemporaneous account.
- 62 On that basis, I find that Bailey applied the brakes in the Statesman for a short period of time, likely a few seconds. However, in the absence of any further evidence, I am unable to make any finding as to whether Bailey applied the brakes lightly or heavily in that instance.
- 63 In any event, I accept and find that Sergeant Kukura genuinely believed, at that time, that the illumination of the brake lights was an indication that the Statesman may have been preparing to stop.
- 64 As Sergeant Kukura accelerated towards the Statesman, he observed its brake lights turn off and the vehicle accelerate heavily away.<sup>34</sup> Constable Calagui observed the same.<sup>35</sup>
- 65 I accept that evidence, given the estimated speed of the Statesman when depicted in CCTV footage taken a short time later.
- 66 According to Sergeant Kukura, he was at such a distance from the darkly coloured Statesman that he could not identify a make or model at that time, or obtain a vehicle registration.<sup>36</sup> Neither could Constable Calagui, nor could he identify if the car had any occupants.<sup>37</sup>
- 67 I accept that evidence, having reviewed the CCTV footage and given the time of day at which the incident occurred.
- 68 Data from the ARL suggests that the speed reached by Sergeant Kukura during this period of time was within the speed cap imposed upon him.<sup>38</sup>
- 69 At the inquest, A/Senior Sergeant Dixie McKinley observed that the data from ARL is reliable, but not perfect.<sup>39</sup>

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<sup>32</sup> Ts 23.

<sup>33</sup> Ts 35.

<sup>34</sup> Exhibit 1, tab 11, par [28].

<sup>35</sup> Exhibit 1, tab 12, par [21].

<sup>36</sup> Exhibit 1, tab 11, par [29].

<sup>37</sup> Exhibit 1, tab 12, par [22]-[23].

<sup>38</sup> Exhibit 1, tab 14, p 9.

- 70 Even applying a margin of error of a few kilometres per hour to the value ascertained by the ARL, I find that the maximum speed reached by Sergeant Kukura was well within the applicable speed cap.
- 71 In his witness statement, Sergeant Kukura said that as he passed through the intersection of Canning Highway and Prinsep Road in Attadale (approximately 450 metres east of the Shell Coles Express), the Statesman was no longer within his sight.<sup>40</sup>
- 72 This is consistent with his oral evidence at the inquest that the Statesman was ought of sight by the time the police vehicle reached the intersection with Prinsep Street.<sup>41</sup>
- 73 In his witness statement, Constable Calagui said he lost sight of the vehicle ‘as there was a small hill in the road and a left bend’.<sup>42</sup>
- 74 At the inquest, Constable Calagui said that he lost sight of the Statesman at a dip in Canning Highway,<sup>43</sup> but not being very familiar with the area, was unable to say where that was, exactly.<sup>44</sup>
- 75 In respect of Constable Calagui’s oral evidence, on my review of publicly available imagery dated April 2025 there is no obvious dip in Canning Highway between its intersections with Stock Road and Prinsep Road, travelling eastbound. There is an obvious dip as the gradient of Canning Highway starts to decrease closer to the intersection with Preston Point Road, further east of the intersection with Prinsep Road.
- 76 In respect of Constable Calagui’s witness statement, there is, on my review of publicly available imagery dated April 2025, also no obvious left bend, or hill, in that portion of Canning Highway between the intersections of Stock Road and Prinsep Road, travelling eastbound.
- 77 I accept that the gradient of the road does increase marginally after the intersection with Stock Highway, and it might be that portion of the road to which Constable Calagui was referring when he gave his witness statement in 2024.

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<sup>39</sup> Ts 46.

<sup>40</sup> Exhibit 1, tab 11, par [33].

<sup>41</sup> Ts 24.

<sup>42</sup> Exhibit 1, tab 12, par [25].

<sup>43</sup> Ts 36, 38.

<sup>44</sup> Ts 36, 40.

- 78 The other alternative is that Constable Calagui's reference to a 'left bend' is the very marginal left bend in Canning Highway immediately prior to the far more pronounced sweeping right bend and drop in gradient upon passing the intersection with Preston Point Road.
- 79 To the extent there is a conflict in the evidence about when the police officers lost sight of the Statesman, I prefer the evidence of Sergeant Kukura, on the bases:
- (a) it is contained in his witness statement given in September 2024, which is a more contemporaneous account than Constable Calagui's potentially conflicting oral evidence;
  - (b) Sergeant Kukura's witness statement is consistent with the independent recollection he articulated at the inquest;
  - (c) Sergeant Kukura appeared, from my review of the evidence, both written and oral, to have a greater familiarity with the local area and would therefore be more capable of giving reliable evidence by reference to street names, intersections and road features;
  - (d) without intending any criticism, it was clear from his oral evidence that Constable Calagui did not, as of the date of the inquest, have a strong independent recollection of specific details of the incident, particularly around timing;<sup>45</sup> and
  - (e) it is consistent with the CCTV footage referred to below, which demonstrates that there was a substantial physical distance between the Statesman and the police vehicle shortly prior to the crash, from which it can be inferred that was some distance between the Statesman and the police vehicle as it passed the intersection with Prinsep Road (given the intersections of Canning Highway with Prinsep Road and Preston Point Road, respectively, are only approximately 350 metres apart).
- 80 I find, applying the above, that Sergeant Kukura had lost sight of the vehicle by the time he was passing the intersection of Canning Highway and Prinsep Road.

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<sup>45</sup> See, for example, the evidence at ts 40-41 regarding the estimation of time between the illumination of the brake lights and coming across the crash site being 'four to five minutes', which does not accord with the objective evidence.

- 81 At about the time they were passing Prinsep Road, Sergeant Kukura told Constable Calagui to prepare to make an urgent radio call if they were able to confirm that the Statesman was failing to stop for police.<sup>46</sup>
- 82 I am satisfied that at this time, Sergeant Kukura had not formed a final view that the driver of the Statesman was failing to stop for police,<sup>47</sup> including because he no longer had the vehicle in sight and was unable to determine if the vehicle had potentially pulled off on to a side street.
- 83 Constable Calagui told Sergeant Kukura that he had not been involved in a similar incident before and was unsure exactly what to say.<sup>48</sup>
- 84 Sergeant Kukura took the radio from Constable Calagui<sup>49</sup> just as they approached the intersection with Preston Point Road.<sup>50</sup>
- 85 At about 90 to 100 metres from the crash location, the Statesman was captured by CCTV at a residential address located on Canning Highway.
- 86 In the footage, the Statesman is seen heading east along Canning Highway at 4:39:44. The police vehicle, with emergency lights activated, is seen heading east on Canning Highway at 4:39:53,<sup>51</sup> nine seconds behind.
- 87 According to Detective Sergeant Grieve's calculations, the Statesman was estimated to be travelling at approximately 150 km.<sup>52</sup> The police vehicle was estimated to be travelling at approximately 105 km/hr.<sup>53</sup>
- 88 I accept this evidence and find accordingly, including where the latter speed is consistent with Sergeant Kukura's evidence that he had, in fact, intentionally reduced his speed because of the downhill gradient, the fact that the right turn starting near Preston Point Road is 'blind', and his awareness that cyclists frequently used the road on weekend mornings.<sup>54</sup>

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<sup>46</sup> Exhibit 1, tab 11, par [35].

<sup>47</sup> Ts 25-27.

<sup>48</sup> Exhibit 1, tab 12, par [26].

<sup>49</sup> Exhibit 1, tab 12, par [30].

<sup>50</sup> Exhibit 1, tab 11, par [39].

<sup>51</sup> Exhibit 1, tab 8, p 2.

<sup>52</sup> Exhibit 1, tab 8, p 2.

<sup>53</sup> Exhibit 1, tab 8, p 2.

<sup>54</sup> Exhibit 1, tab 11, par [38].

## The crash

- 89 CCTV footage obtained from another nearby residential address on Canning Highway captures the Statesman passing the address at 4.39 am, before partially capturing the Statesman impacting something on the median strip toward the intersection of Canning Highway with Braydon Road, causing a large cloud of dust.<sup>55</sup>
- 90 The footage then depicts the police vehicle approaching the scene of the crash, with emergency lights still activated.<sup>56</sup>
- 91 Although people from nearby houses heard the crash, investigators did not identify any eyewitnesses to the crash itself.<sup>57</sup>
- 92 Sergeant Kukura estimates he was about 300 to 400 metres away when he observed the large cloud of dust in the air over the median strip.<sup>58</sup> This is consistent with the available evidence. He observed the wreckage of the Statesman in the middle of the east bound lanes of Canning Highway, a few dozen metres away from the dust cloud.<sup>59</sup>
- 93 Sergeant Kukura observed that the Statesman had split in two, with the rear of the vehicle in the east bound lanes of Canning Highway, and the front on the median strip adjacent to the west bound lanes, a few metres east of Bailey's body.<sup>60</sup>
- 94 Sergeant Kukura alerted the Police Operations Centre of the incident at 4.40 am via VKI.<sup>61</sup>
- 95 An ambulance was ordered at 4.44 am.<sup>62</sup> It was advised that there had been a single car accident in which the vehicle had hit a tree at speed, splitting it into two pieces, with the driver ejected, landing prone at the top of the verge embankment with injuries incompatible with life.<sup>63</sup>
- 96 On 7 September 2024 at 5.00 am, Bailey was certified as life extinct.<sup>64</sup>

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<sup>55</sup> Exhibit 1, tab 8, p 5.

<sup>56</sup> Exhibit 1, tab 8, p 5.

<sup>57</sup> Ts 7.

<sup>58</sup> Exhibit 1, tab 11, par [41].

<sup>59</sup> Exhibit 1, tab 11, par [43].

<sup>60</sup> Exhibit 1, tab 11, par [53].

<sup>61</sup> Exhibit 1, tab 11, par [57]; tab 12, par [34]; tab 14, p 8.

<sup>62</sup> Exhibit 1, tab 7.

<sup>63</sup> Exhibit 1, tab 7.1, p 2.

<sup>64</sup> Exhibit 1, tab 3.

## Subsequent investigations

### *Crash inspection, including tyre marks*

- 97 Senior Constable Aitken attended the scene on the morning of the crash,<sup>65</sup> at about 7.00 am.<sup>66</sup>
- 98 He observed that the driver's seatbelt was snapped in what appeared to be an extended position.<sup>67</sup>
- 99 Senior Constable Aitken was unable to say decisively, but considered it likely that Bailey had been wearing a seatbelt.<sup>68</sup>
- 100 He noted that the speedometer of the Statesman was stuck at about 170 km/hr.<sup>69</sup>
- 101 By analysing the tyre marks,<sup>70</sup> Senior Constable Aitken concluded that the Statesman, after negotiating the slight right hand bend heading east after the intersection of Canning Highway at Preston Point Road, entered a clockwise yaw, sliding into the central median strip and striking the tree with its passenger side – splitting into two pieces which slid into their respective final resting positions.<sup>71</sup>
- 102 Senior Constable Aitken's opinion was that the Statesman entered the yaw due to excessive speed on wet roads while negotiating the slight right hand bend.<sup>72</sup> Having reviewed the evidence, I agree with the opinion and find accordingly.

### *Vehicle inspection*

- 103 On 15 October 2024, two vehicle inspectors (and qualified automotive mechanics) with the WAPF Major Crash Investigation Squad examined the Statesman and produced a report.<sup>73</sup>
- 104 The inspectors found that:
- (a) all damage to the vehicle appeared to be crash-related; and

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<sup>65</sup> Exhibit 1, tab 8, p 1.

<sup>66</sup> Exhibit 1, tab 8.1, p 1.

<sup>67</sup> Exhibit 1, tab 8, p 2; tab 8.1, p 2.

<sup>68</sup> Exhibit 1, tab 8, p 3.

<sup>69</sup> Exhibit 1, tab 8, p 2, tab 8.1, p 2.

<sup>70</sup> Depicted in illustrated diagram at exhibit 1, tab 8.1, p 4.

<sup>71</sup> Exhibit 1, tab 8, p 3.

<sup>72</sup> Exhibit 1, tab 8, p 3.

<sup>73</sup> Exhibit 1, tab 9, pars [3]-[6].

(b) a partly worn brake pedal rubber friction pad that was identified during the inspection as a pre-crash defect would not have adversely effected Bailey's ability to control the vehicle.<sup>74</sup>

105 I find, on the basis of results of the vehicle inspection, that the Statesman was not suffering from any defect at the time of the crash that would have impeded Bailey's ability to drive the vehicle.

106 The investigators noted that there were friction marks evident to the driver's seat belt webbing, which was indicative that the driver's side seat belt was being worn at the time of the crash.<sup>75</sup>

107 In light of the evidence of Senior Constable Aitken about the positioning of the seatbelt and the vehicle investigators about the friction marks, I find that Bailey was wearing a seatbelt at the time of the crash.

### ***Main Roads***

108 Main Roads WA prepared a report dated 11 September 2024 in relation to the crash site, including to determine if any road environment features may have contributed to the crash or the severity of the crash.<sup>76</sup>

109 The authors of the report did not identify any road environment issues directly related to crash causation or possibly related to the same.<sup>77</sup> Having reviewed the report, I agree with and adopt that view.

110 The authors of the report did identify trees within the clear zone with trunk diameters greater than that recommended in the Austroads Guide to Road Design,<sup>78</sup> and recommended that non-frangible items be removed from the clear zone, or suitable protection be provided for errant vehicles.<sup>79</sup>

111 Main Roads' Asset Management team considered the recommendation, and disagreed. In their response to the recommendation, it was noted:

(a) that while the presence of trees in the median strip could be hazardous, the likelihood of a road crash occurring with severe consequences when driving at the posted speed limit is low; and

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<sup>74</sup> Exhibit 1, tab 9.1, p 2.

<sup>75</sup> Exhibit 1, tab 9.1, p 6.

<sup>76</sup> Exhibit 1, tab 13, p 3.

<sup>77</sup> Exhibit 1, tab 13, p 7.

<sup>78</sup> Exhibit 1, tab 13, p 7.

<sup>79</sup> Exhibit 1, tab 13, p 7.

(b) study of the reported crashes between 2020 and 2024 demonstrates that the only run-off road crash in this section of Canning Highway was the crash involving Bailey.<sup>80</sup>

112 In response, Main Roads Metropolitan Region noted that it would monitor the safety performance on this road.<sup>81</sup>

113 I do not cavil with the response by Main Roads' Asset Management team, and am satisfied it represents a measured assessment of risk.

### *IAU*

114 Both Sergeant Kukura and Constable Calagui were tested for alcohol and drugs after the crash. There was no adverse outcome from that testing.<sup>82</sup>

115 I find that neither Sergeant Kukura nor Constable Calagui were affected by alcohol or drugs at the time of the intercept driving.

116 Both officers were also interviewed by IAU, for the purposes of a managerial investigation including as to their compliance with WAPF emergency driving policy.<sup>83</sup>

117 The investigation concluded that:

(a) Sergeant Kukura was performing functions of his duties at the relevant time, and therefore statutory exemptions applied in respect of his need to otherwise adhere to certain road rules;<sup>84</sup>

(b) Sergeant Kukura performed an appropriate risk assessment and showed due consideration to other potential road users;<sup>85</sup>

(c) Sergeant Kukura was conducting a 'Vehicle Interception' at the relevant time for the purposes of relevant policy (rather than 'Evade Police Intercept Driving'), and as such, he was not required to advise the Police Operations Command Centre;<sup>86</sup> and

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<sup>80</sup> Exhibit 1, tab 13.4.

<sup>81</sup> Exhibit 1, tab 13.4.

<sup>82</sup> Exhibit 1, tab 14, p 9; ts 46.

<sup>83</sup> Exhibit, 1, tab 14, p 13.

<sup>84</sup> Exhibit 1, tab 14, p 16.

<sup>85</sup> Exhibit 1, tab 14, p 17; ts 48.

<sup>86</sup> Exhibit 1, tab 14, p 17; ts 49-50.

(d) Sergeant Kukura ought to have activated his body worn camera when conducting the Vehicle Interception, but that non-compliance is to be viewed in the context of an incident lasting one to two minutes in its entirety, and his needing to take the police radio from Constable Calagui given the latter's inexperience.<sup>87</sup>

118 Investigators concluded that Sergeant Kukura's driving was reasonably necessary to perform a function of his duty in the circumstances, and no breach of policy was identified.<sup>88</sup>

119 No adverse finding was made against Constable Calagui.<sup>89</sup>

### **Cause and manner of death**

120 At the recommendation of the forensic pathologist, and in the absence of objection from family, an external post mortem examination (including a CT scan), only, was conducted on 13 September 2024.

121 The forensic pathologist identified that Bailey had sustained multiple non-survivable injuries involving his head, neck, torso, limbs and pelvis.<sup>90</sup>

122 There was no apparent natural disease on the CT scan.<sup>91</sup>

123 Subsequent toxicological analysis identified alcohol in the blood at 0.202% and in urine at 0.262%.<sup>92</sup>

124 The forensic pathologist advised that her opinion remained unchanged from the initial examination, and that the cause of Bailey's death was multiple injuries.<sup>93</sup>

125 I agree with and adopt that conclusion as my finding of Bailey's cause of death, for the purposes of s 25(1)(c) of the Act.

126 I find, based on the above evidence, that while driving the Statesman along Canning Highway, and due to the combined effects of excessive speed and alcohol, Bailey lost control of the vehicle while navigating the bend in the road near the intersection with Preston Point Road.

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<sup>87</sup> Exhibit 1, tab 14, p 18; ts 51.

<sup>88</sup> Exhibit 1, tab 14, p 19.

<sup>89</sup> Exhibit 1, tab 14, p 20.

<sup>90</sup> Exhibit 1, tab 5.2.

<sup>91</sup> Exhibit 1, tab 5.1, p 1.

<sup>92</sup> Exhibit 1, tab 6.

<sup>93</sup> Exhibit 1, tab 5.

- 127 I find that the Statesman has entered into a yaw and collided with a tree, and despite his wearing a seatbelt, Bailey was ejected from the vehicle and sustained unsurvivable injuries.
- 128 For the purposes of s 25(1)(b) of the Act, I find that the manner of Bailey's death was accident.

**Comments on manner of police's intercept driving**

- 129 Having examined the documentary evidence, and having heard the oral evidence of the investigators from Major Crash and the IAU and the police officers involved, I am satisfied that the intercept driving by Sergeant Kukura was consistent with WAPF policies.
- 130 There was clear justification for Sergeant Kukura to commence intercept driving given the speed at which Bailey was travelling when the Statesman was first observed, and I am satisfied that Sergeant Kukura performed a risk assessment before doing so and there is no obvious reason as to why intercept driving was inappropriate.
- 131 I find that throughout his intercept driving, Sergeant Kukura adhered to policy and performed ongoing, dynamic risk assessments.
- 132 Further, his decrease in speed during the course of the intercept driving demonstrates that he was making sound and rational decisions, rather than being affected by any 'red mist' phenomenon that has been historically recognised as an intrinsic risk in police emergency driving.<sup>94</sup>
- 133 As a consequence, I am satisfied that no action by Sergeant Kukura nor Constable Calagui caused or contributed to Bailey's death.
- 134 As observed by A/Senior Sergeant McKinley,<sup>95</sup> there is no clear indication that Bailey was even aware that a police vehicle was trying to intercept him immediately prior to the crash, and he was already travelling at high speed before he was observed by police officers.
- 135 It may be hypothesised, given his blood alcohol content, that – if he was aware of the police vehicle – he was driving at excessive speed to avoid being breathalysed. However, that is speculative, and it is clear from the CCTV footage that at the time of his crash, the police officers and their vehicle would not have been visible.

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<sup>94</sup> See, for example, the evidence referred to in the findings in *Inquest into the death of Jordan Alexander Thorsager* [2021] WACOR 20, [116].

<sup>95</sup> Ts 53.

**Recommendation**

- 136 As identified above, one of the issues at the inquest was the body worn cameras being worn by the two police officers, and the fact that Sergeant Kukura’s body worn camera was not activated until after he had alighted from the vehicle and been reminded to activate the camera.
- 137 I share the view expressed by A/Senior Sergeant McKinley that this oversight can be explained where Sergeant Kukura was performing the intercept driving and also mindful that he may need to initiate radio contact given Constable Calagui’s inexperience at that time.
- 138 Police officers were asked about whether there would be utility in body worn cameras being programmed so that recording would commence automatically upon the activation of emergency lights and sirens.
- 139 Although there was support for that proposal, I accept the submission by counsel for the WAPF that such a project would be resource intensive.<sup>96</sup> Relatedly, I consider that adopting that proposal could have the potential to divert resources from another initiative that should be prioritised to enhance real-time monitoring and post-incident review of police intercept driving – namely the installation of ‘dash cam’ technology.
- 140 On three previous occasions,<sup>97</sup> coroners of this Court have made recommendations that WAPF prioritise seeking funding to implement the installation of ‘dash cam’ technology in all police vehicles that undertake emergency driving.
- 141 The evidence at the inquest was that the installation of dash cam technology has been prioritised in vehicles that, as at today, are classified as ‘Class 1’ vehicles.
- 142 Those vehicles are operated by specialist teams within WAPF,<sup>98</sup> and are not the kind of vehicle driven by Sergeant Kukura in this incident. Due to a change in terminology, such vehicles are now classified as ‘Class 2’ vehicles,<sup>99</sup> but they remain vehicles that are deemed suitable for use by police in certain types of emergency driving.

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<sup>96</sup> Ts 58.

<sup>97</sup> *Inquest into the death of Jordan Alexander Thorsager* [2021] WACOR 20; *Inquest into the Death of Child JP* [2021] WACOR 42; *Inquest into the Death of Warren Keith Matthews* [2022] WACOR 42.

<sup>98</sup> Ts 52, 58.

<sup>99</sup> Ts 49.

- 143 All witnesses at the inquest agreed that there would be utility in dash cam technology being installed in all police vehicles capable of being used for emergency driving, like the vehicle being driven by Sergeant Kukura in this case.
- 144 Perhaps the most poignant moment in the inquest was Bailey’s sister vocalising the family’s support for such a proposal, not just because it would have assisted in understanding the circumstances of Bailey’s death but because the ability to rely on dash cam footage to review intercept driving would reduce the burden on police officers like Sergeant Kukura and Constable Calagui who are otherwise required to give evidence according to their best recollection.<sup>100</sup>
- 145 As I remarked at the inquest, Bailey’s sister’s empathy towards the officers was to her tremendous credit, but more fundamentally, her logic is sound. I would expect that any significant cost of such a project would be offset over time by a reduction in the hours of effort that will otherwise need to be applied in investigations of incidents of this type by Major Crash and IAU, amongst others, that could be simplified.
- 146 After the inquest, I caused counsel assisting to send a draft recommendation to WAPF for comment, including an invitation to provide any information about the progress of proposals implemented following the inquests in 2021 and 2022 referred to above.
- 147 As identified above, the solicitors for the WAPF subsequently advised that the agency did not seek to respond to the draft recommendation.
- 148 In relation to the current status of any projects being implemented by WAPF regarding ‘dashcam’ technology, WAPF advised:
- (a) between 2022 and 2024, several research projects were undertaken including the trial of body worn camera alternatives, multi-vendor dashcam solutions and in-house dashcam solutions;
  - (b) in 2022, the Department of Treasury and Finance provided funding to WAPF with respect to dashcam solutions, which was used by WAPF for a ‘proof of concept’ project;
  - (c) the ‘proof of concept’ was undertaken, and recommended a hybrid vendor approach;

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<sup>100</sup> Ts 56-57.

- (d) in November 2024, a policy was introduced by WAPF which requires the activation of a dashcam, if fitted;
- (e) the Rapid Apprehension Squad are currently trialling third-party cameras as an interim solution; and
- (f) WAPF do not currently have funding to implement a dashcam rollout to all pursuit vehicles.

149 It would appear that although some work has been undertaken since the recommendations arising from the inquests referred to in par [140] above, the work is far from complete.

150 A clear imperative remains, both for the safety of the community and for the efficient investigation and resolution of future emergency driving matters, for WAPF to obtain funding for the installation of ‘dash cam’ technology in all police vehicles that undertake emergency driving.

151 As a consequence, I recommend as follows:

**The Western Australia Police Force give priority to securing funding to enable the installation of ‘dash cam’ technology in all police vehicles that may be used for emergency driving.**

### Conclusion

152 Bailey’s accidental death is a tragic loss for his family. I echo the compassionate remarks made by counsel for the WAPF to Bailey’s family present at the inquest at the conclusion of the evidence, and express my condolences to his family.

BD Nelson  
**Coroner**  
16 February 2026