



OFFICE OF THE STATE CORONER

FINDINGS OF INQUEST

CITATION: **Inquest into the death of Jennifer Ann Boon**

TITLE OF COURT: Coroner's Court

JURISDICTION: Caloundra

FILE NO(s): COR 2009/1335

DELIVERED ON: 10 October 2012

DELIVERED AT: Caloundra

HEARING DATE(s): 16 March & 20 June 2012

FINDINGS OF: S Tonkin, Coroner

CATCHWORDS: CORONERS: Inquest – multi passenger vehicle, death of alighting passenger

REPRESENTATION:

Counsel Assisting

Mr Chris Minnery, Office of the State Coroner

Family of Ms Boon

Mr P Boyce i/b Butler McDermott Lawyers

Ms Blessington

Ms D Hanslow-Hastie i/b DME Law

Introduction

Jennifer was the mother of three children, Crystal Ann, Jamay Elizabeth Ivy and Bradley Keith Boon, and was married to Trevor Boon, their father. She was 45 when she died on 12th July 2009. The family applied for an inquest to be held¹, to enable the coroner to consider making comments² under s. 46 on ways to prevent deaths from happening in similar circumstances in the future.

Circumstances surrounding Jennifer's death

Jennifer had been at a 40th birthday celebration with her husband and other guests, at the Glasshouse Sports Club at Glasshouse Mountains. The organisers had chartered a Hino 35 seat Coaster Bus from Glasshouse Country Coaches to drop guests at their homes after the party. It was driven by Ms Louise Blessington, an experienced driver and employee of the bus company. Most of the 28 passengers were affected by alcohol. Mr Boon had decided to continue partying at another venue but Jennifer wanted to be dropped home at their address at 467 Peachester Road Beerwah. Access to the houses on this road is by service road parallel with the main road, and there is a series of entries from the main road into the service road, one just before 467, and another, level with 487 Peachester Rd (referred to in these findings as "487"). The driver was relying on the passengers to direct her where to turn into the access road to drop Jennifer close to her home, and she overshot the correct turn, and entered the service road closer to 487. She let Jennifer out outside 487, so she had to walk back to 467, two houses back. The service road was a dead end so Ms Blessington had to either turn the bus around or reverse back to the access road, to exit the access point where she had entered, to re-enter the main road. While reversing the bus, not having seen Jennifer who must have been standing behind the bus, she drove over her, causing fatal injuries. She and the passengers had noticed a bump, but she thought it was the bus wheels going over some bricks edging the driveway of 487. The passengers joked that she had hit a letter box. The bus continued on its way, the driver and passengers unawares that Jennifer had been fatally injured. Jennifer's body was found in the driveway of 487, by her husband, when he returned home much later that morning. Her mobile phone was lying close to her body, and he noticed the illuminated screen. He was of course devastated.

Ms Blessington, who was interviewed early that morning by investigating police, was initially charged by investigating police with driving without due care and attention, however the prosecution was withdrawn, prior to the hearing date 23rd April 2010.

Matters for consideration at the inquest

Most of the facts surrounding Jennifer Boon's death are uncontroversial.

¹ Coroners Act 2003 Qld s 30

² Coroners Act 2003 Qld s 46

The inquest investigated the manner of driving of Ms Blessington, and how Jennifer was run over by the bus.

Evidence was given by the investigating officer Senior Constable David Lonergan about the comprehensive investigation carried out by police, the results of which, including an investigation of the mechanical condition of the bus, interviews with passengers and the driver, survey of the accident site, were before the court in the form of the Sunshine Coast Forensic Crash Unit Coronial Report dated 20th February 2010³.

The bus was found to be in fine mechanical condition and the weather was fine and dry.

S/C Lonergan interviewed Ms Blessington, the driver, at 5.50am on 12th July 2009 in a recorded interview.

Her relevant evidence in that interview was that after Jennifer alighted from the bus

Q. She has hopped out at that point, and from there you did not see her after that?

A. No, as I said, she had walked, she started walking, there's a bit of a gully there, and she walked onto the gully there, and I was given directions off the next person, where the next drop was. They were just telling me as I was going along where the next drop off was, and it looked like she gone through, walked through the bushes there, but obviously, not.

Q. Okay, um, on, when you said when you reversed back, you could not see through the mirrors?

A. Bus was all fogged up.

Q. Is there any reason, um, on the side of the bus they have mirrors on the rights (sic) and left side

A. Yes.

Q. Could you see out of the left mirror at all

A. It was very, you could see that it was just like blur. You couldn't u/t.. or anything like that.

Curiously, at the inquest, she volunteered that the additional fact missing from the interview was that before commencing to reverse, being unable to see behind the bus, she alighted from the bus herself, and went to the back of the bus, where she had a clear view along the passenger side as well as behind the bus. She had a view in the dark of less than 5 metres up the road.

³ Exhibit A2

Jennifer was nowhere to be seen. She was out of the bus for about one minute, she said to Mr Boyce, who was appearing for Mr Boon. She said that a few weeks after her interview with police, she contacted police again to tell them she had got off the bus, but that a second (or addendum) statement was not done. This was never put to S/C Lonergan.

She also said at the inquest, that she had used a cloth to wipe the rear vision side mirrors before starting to drive. She added at the end of her evidence, in reply to Mr Minnery, assisting the coroner, that she wiped the driver side mirror while sitting in the seat, and then “hopped out and wiped the other one” (i.e. the left mirror) before going to the back of the bus. She hadn’t mentioned this earlier, as she hadn’t thought to, was her explanation.

Additionally, in the interview with S/C Lonergan, she told him she had reversed, felt the bump, driven forward, and then continued reversing, before leaving the street by driving forward. At the inquest, she said she reversed, felt the bump then went forward before reversing again. She accepted that her memory would have been better closer to the time of the accident.

It was submitted by Mr Minnery and Mr Boyce, that it was not plausible she would have omitted to mention the matters relating to her ability to see behind the bus, when interviewed by S/C Lonergan the morning of the accident, and that she was inventing these details at the inquest, to embellish her original account. This, it was submitted, should affect her creditworthiness as to the entirety of her account.

This is a reasonable submission. It would be reasonable to expect that a witness giving a truthful contemporaneous account dealing specifically with visibility issues as a driver reversing a vehicle where they are alleged to have collided with a pedestrian, to have volunteered such material details about their own actions particularly where those material details would tend to exonerate them from liability. I am not satisfied her recollection at the inquest of the events of the evening/early morning was reliable, and I reject her evidence at the inquest to the extent it is inconsistent with the accounts of other witnesses.

The most helpful and indeed reliable evidence of the manner in which Ms Blessington drove the bus was given by Vicki Lyn Dunford, a partygoer, who was a passenger on the bus. She had only had one alcoholic drink all evening, before dinner, and was quite sober, indeed probably the most sober of all the passengers. She sat in the front row on the passenger side, near the door, on the aisle, so was in an excellent position to observe the driver and any passengers leaving the bus. She recalled Mr Boon alighting with his wife, and farewelling her before returning to the bus. She had no allegiance to the Boons, as she had not met them before the party. Her evidence was that the driver never left the bus, nor did she see her wipe the mirrors. She was convinced that had she seen her wipe the mirrors, she would recall that. She was aware of the first bump when the bus reversed, then moving forward, and then reversing again and possibly a second bump after which the bus went forward before heading off. There was no suggestion the driver reversed at

speed, indeed she thought the speed was 5 kilometres per hour or so. She recalled in answer to her husband's comment after the first bump that that's what the outside mirrors are for, the driver saying "if I could see out of them, I would". She recalled sensing that the bump was on the left rear of the bus. She was not critical of Ms Blessington's manner of driving.

Wendy Louise Carey, another passenger, gave evidence also, however had had considerably more to drink, and her recollection, despite her best efforts, was not very clear. The most valuable evidence she could give was to confirm that the driver reversed very slowly. She was convinced the driver did not alight from the bus and that if she had done, Ms Carey would recall that. She had been seated not far behind the driver, on the aisle.

There was no allegation from any of the passengers that the driver was driving other than carefully and slowly in difficult conditions, where the bus windows were fogged up, and there was no street lighting. It was common ground that she had opened the driver side door and was leaning out while reversing, to see as best she could down the driver side of the bus, given the darkness and poor visibility.

The reversing lights and beepers on the back of the bus were found to be in working order and functioning on the night.

Ms Blessington said she thought Jennifer had walked into the bushes where she had alighted, and in my assessment, was entitled to expect that she would have walked down the street on the footpath towards her home, away from the back of the bus.

Jennifer was, according to the accounts of witnesses and the post mortem toxicology report, affected by alcohol, but was able to walk without staggering. She had a blood alcohol reading between .102 and .117mg of alcohol per 100 ml of blood, sufficient to impair her judgement.

When she was found, her mobile phone and a can of Jim Beam premixed drink were found close to her body. Phone records accessed at my request after the conclusion of the evidence reveal the following:

at 11:40:27pm (shortly before midnight) on 12 July 2009, the operator of Ms Boon's mobile phone (0439 993 550) called her voicemail service, with the call being connected for five seconds. No information is available about how or why the call was terminated.⁴

The timing of this call to her voicemail is a little before the time she was most likely dropped off, as the driver had given evidence (which in relation to this detail I accept) that she arrived at the club at 11.45pm, consistent with the booking, and left with her passengers at midnight, dropping other people off before Jennifer, making the drop off time at Peachester Rd some time after midnight. Police estimate is around 12.30am.

⁴ Submission, Counsel assisting the coroner para 39.

The fact her phone was located near her body when she was found, permits the inference to be drawn that Jennifer may have checked her phone when she got off the bus, before intending to walk away and the presence and location of the can of alcohol suggests she had been continuing to drink the alcohol after alighting. There is a real likelihood in my assessment, that these things may have distracted her in her slightly alcohol-affected condition, and made her less careful than she might otherwise have been, of an obvious reversing bus.

It is difficult to understand why Ms Blessington would have embellished her original evidence by adding the details about wiping the mirrors and getting out of the bus to check behind it, as the charge against her was discontinued, and additionally, there was no fresh allegation of unsafe driving. As I have already noted, the consistent accounts of the passengers were that they found no fault with her driving, in difficult conditions, and that most of them thought the bumps were the bus hitting a letter box, or going into the gutter, both perfectly plausible theories. It is true witness Jonathan Lee recalled thinking or saying when the bump occurred, "*I hope that's not Jenny*". He however took no action on this thought.

On the basis of the evidence I have received, I am not satisfied there was fault in Ms Blessington's manner of driving such that I would be led to reasonably suspect she had committed an offence, and nor that I would refer the information obtained during the inquest to the chief executive of Queensland Transport⁵ under the Act.

Findings

I make the findings required by s 45 Coroners Act 2003, as follows:

Identity of the deceased – The deceased person was Jennifer Ann Boon born on 27th March 1964.

How she died – Jennifer died of the multiple significant injuries, largely significant crush injuries to the head, caused in a motor vehicle collision.

Place of death – Jennifer died on or near a service road, located adjacent to Peachester Road, Beerwah, in the vicinity of 487 Peachester Rd, Beerwah.

Date of death – She died on 12th July 2009.

Cause of death – The cause of Jennifer's death was a non-intentional collision between the bus driven by Ms Louise Blessington and Jennifer as a pedestrian. The evidence does not conclusively establish whether this collision was as a cause of momentary inattention or distraction on the part of Jennifer, or for some other reason. Her death was not as a result of careless or negligent conduct on the part of Ms Blessington.

⁵ Coroners Act 2003 Qld s 48(2)(b)

Coroner's Comments

When an inquest is held a coroner may consider whether or not it is appropriate to make comments connected to the death of the deceased person relating to:

- (a) public health and safety;
- (b) the administration of justice; or
- (c) ways to prevent deaths from occurring in similar circumstances in the future⁶.

Before the inquest I notified that I would consider the following issue:

Whether any changes to vehicles, driving practices or the physical environment are both practicable and likely to prevent deaths from happening in similar circumstances in the future.

I received evidence about this issue by the following means:

- Recommendations made by the investigating officer Senior Constable D L Lonergan of Sunshine Coast Forensic Crash Unit in his Coronial Report (Exhibit A1) at p24;
- A letter dated 18 March 2011 from Dept of Transport and Main Roads addressed to the Coroner commenting on the police recommendations (Exhibit A5);
- A letter dated 31 May 2012 from Butler McDermott Lawyers for Mr Boon, addressed to the Coroner (Exhibit A7);
- A letter dated 19 June 2012 from Dept of Transport and Main Roads (Exhibit A8) addressed to Counsel assisting the Coroner and addressing the recommendations proposed by Butler McDermott Lawyers;
- Oral evidence given to the inquest by Mr Raymond Gordon Hee, a manager of the company employing Ms Blessington, who had been in the transport industry for 15 years, including as a driver of passenger buses. He had had some input into changes introduced in the company after the accident, including the introduction of a requirement that drivers not allow passengers to alight from buses before any necessary reversing manoeuvre has been completed. Whilst he spoke from his own experience in the industry, his evidence was not in any legal sense, expert evidence.

It is noteworthy that in substantially more than 190 million annual bus passenger movements during the period 2004 to 2011, Jennifer's death was the only passenger/pedestrian fatality arising from a bus arriving at or leaving

⁶ Coroners Act 2003 Qld s 46(1)

a bus stop. There are approximately 2600 Accredited Operators supplying bus services in Queensland and over 400 annual audits are carried out to ensure such operators are compliant with their statutory obligations.⁷

Jennifer's untimely death is devastating to her family and friends, but the statistics do show that the safety measures currently in place are largely remarkably effective. It is not necessary that in the present circumstances, I attempt to catalogue all the existing safety measures that Accredited Operators are required to comply with to achieve this safety record.

I shall deal with the measures that were advocated in their final submissions by Mr Minnery and Mr Boyce.

1. that the Department of Transport and Main Roads, through its Operator Accreditation process conducted pursuant to the *Transport Operations (Passenger Transport) Act 1994*, ensure and enforce that all drivers of passenger vehicles complete any and all necessary reversing to allow a driver to continue with the journey prior to allowing any passengers to alight at a particular stop, and further that no driver of a passenger vehicle reverse that vehicle without first ensuring unrestricted or adequate visibility to the rear of the vehicle, through the use of a person assisting, getting out of the bus and performing a visual inspection, a camera or other appropriate means.⁸
2. that all companies operating in Queensland give serious consideration to the installation of reversing cameras on all passenger vehicles capable of being fitted with such equipment. That the Department of Transport and Main Roads communicate this recommendation to all Accredited Operators (as a recommendation, rather than a requirement) through the use of the Operator Accreditation system or other means more suited to such communication.⁹
3. that the Department of Transport and Main Roads give consideration to the need for an appropriate public education campaign, designed to educate the public on the dangers of larger passenger vehicles, and the need to act in a safe and prudent manner when in close proximity to such vehicles, and to give consideration to any visibility issues that might be presented to both the driver in seeing any passengers, and the passengers in seeing around the vehicle. It is recommended that such an education campaign is to be designed and implemented at the discretion of the Department, after due and appropriate consideration to any available data on such safety issues.¹⁰

⁷ Exhibit A8

⁸ Para 53 Submission, Counsel assisting the Coroner

⁹ Para 58 Submission, Counsel assisting the Coroner

¹⁰ Para 74 Submission, Counsel assisting the Coroner

4. Installation of external cameras to eradicate blind spots and to enable the driver to observe all around the vehicle (including retro fitting to existing vehicles).¹¹
5. Installation of pedestrian protection radar systems with automatic braking to stop a vehicle that is being driven towards a pedestrian.

In the circumstances prevailing in the Peachester Rd service road on the night of 12th July 2009, had the bus had a reversing camera, as long as Jennifer was within range of the camera, and sufficient illumination was provided by a light on the back of the bus (as there was no other light source), the reversing driver would have had a significantly increased chance of having observed her presence behind the bus.

It would not have been practicable for Ms Blessington to have enlisted a passenger to alight in order to direct the bus and to ensure there was nobody behind the bus, as the passengers in this instance were being transported for their own safety. It would not have been reasonable to place an onus on her to commission the most sober passenger to do the task. It would not be economically feasible for example, to require all buses to carry an additional employee, in case this task had to be performed on any given journey.

Side cameras on the bus would not have improved visibility along the sides of the bus unless there was substantial lighting emanating from the sides of the bus to illuminate objects to be detected by the cameras. I accept the DTMR response¹² to the proposal by Mr Boyce that buses should have additional lighting (he used the term “adequate”) to illuminate along the sides of the bus, that shadowing that may be created by such a light source has the potential to alter or impair a driver’s depth perception potentially creating a deceptive understanding of the location or proximity of persons or other hazards.

This bus was equipped with flashing lights and an audible beeper that were operating while the bus was reversing. In the dark and at that hour of night, in the quiet dark street, there would have been a strong signal that the bus was reversing and a warning to a pedestrian to remove themselves from the danger presented by the reversing bus.

I am satisfied that had the driver performed and completed the reversing manoeuvre before letting the passenger alight from the bus, this simple action would have saved Jennifer’s life. I note Mr Hee’s evidence that the company has implemented this measure as a requirement of all its drivers.

In relation to the question of installation of either or both of the two types of radar detection devices to alert drivers to the proximity of pedestrians or obstacles, incorporating alarms and/or automatic braking systems, I accept the response of DTMR that they have their limitations. I accept that currently it appears they are able to detect only objects above a height of 80cm from

¹¹ Submission Butler McDermott Law 4 e i

¹² Exhibit A8

the ground, which means that a person or object on the ground would not be detected. I also accept that there is a risk of a high incidence of drivers losing faith in the system due to false alarms, reducing their effectiveness especially if fitted to the sides of vehicles. I also accept that the devices incorporating braking systems are not able to be retro-fitted. Whilst these two types of devices seem to be in the process of being introduced routinely to many new vehicles, no evidence was presented about any evaluation of their effectiveness, sufficient to persuade me that I should strongly recommend their implementation.

Having regard to the above considerations I make the following comments:

I recommend:

1. *that the Department of Transport and Main Roads, through its Operator Accreditation process conducted pursuant to the Transport Operations (Passenger Transport) Act 1994, ensure and enforce that all drivers of passenger vehicles complete any and all necessary reversing to allow a driver to continue with the journey prior to allowing any passengers to alight at a particular stop, and further that no driver of a passenger vehicle reverse that vehicle without first ensuring unrestricted or adequate visibility to the rear of the vehicle, through the use of a person assisting, getting out of the bus and performing a visual inspection, a camera or other appropriate means.*
2. *that all companies operating in Queensland give serious consideration to the installation of reversing cameras on all passenger vehicles capable of being fitted with such equipment. That the Department of Transport and Main Roads communicate this recommendation to all Accredited Operators (as a recommendation, rather than a requirement) through the use of the Operator Accreditation system or other means more suited to such communication.*
3. *that the Department of Transport and Main Roads give consideration to the need for an appropriate public education campaign, designed to educate the public on the dangers of larger passenger vehicles, and the need to act in a safe and prudent manner (including being conscious of the risk of being distracted by use of a mobile phone) when in close proximity to such vehicles, and to give consideration to any visibility issues that might be presented to both the driver in seeing any passengers, and the passengers in seeing around the vehicle. It is recommended that such an education campaign is to be designed and implemented at the discretion of the Department, after due and appropriate consideration to any available data on such safety issues.*

The Coroners Court offers its sincere condolences to the husband and children of Jennifer Boon on the devastating loss of their wife and mother respectively.

Coroner Tonkin
Caloundra
10 October 2012