



IN THE CORONERS COURT  
OF VICTORIA  
AT MELBOURNE

Court Reference: COR 2015 5078

**FINDING INTO DEATH WITHOUT INQUEST**

*Form 38 Rule 60(2)*

*Section 67 of the Coroners Act 2008*

Findings of:	Caitlin English, Coroner
Deceased:	Amber-Rose Beard
Date of birth:	17 February 1999
Date of death:	6 October 2015
Cause of death:	I(a) Injuries sustained in a motor vehicle collision (passenger)
Place of death:	Hereford Road, Mount Evelyn, Victoria

## INTRODUCTION

1. Amber-Rose Beard was 16 years old at the time of her death.
2. On 6 October 2015, she was a passenger in a motor vehicle which struck a concrete pole. She died from her injuries at the scene.

## THE PURPOSE OF A CORONIAL INVESTIGATION

3. Ms Beard's death was reported to the Coroner as it appeared to have resulted, directly or indirectly, from an accident or injury and so fell within the definition of a reportable death in the *Coroners Act 2008*.
4. The role of a coroner is to independently investigate reportable deaths to establish, if possible, identity, medical cause of death and surrounding circumstances. Surrounding circumstances are limited to events which are sufficiently proximate and causally related to the death. The purpose of a coronial investigation is to establish the facts, not to cast blame or determine criminal or civil liability.
5. The Coroner's Investigator prepared a coronial brief in this matter. The brief includes statements from witnesses, including family, the forensic pathologist who examined Ms Beard and investigating officers.
6. I have based this finding on the evidence contained in the coronial brief. In the coronial jurisdiction facts must be established on the balance of probabilities.<sup>1</sup>

## IDENTITY

7. On 8 October 2015, Lisa Beard and Warren Williams visually identified their daughter Amber-Rose Beard, born 17 February 1999.
8. Identity is not in dispute and requires no further investigation.

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<sup>1</sup> This is subject to the principles enunciated in *Briginshaw v Briginshaw* (1938) 60 CLR 336. The effect of this and similar authorities is that coroners should not make adverse findings against, or comments about, individuals unless the evidence provides a comfortable level of satisfaction as to those matters taking into account the consequences of such findings or comments.

## CIRCUMSTANCES IN WHICH THE DEATH OCCURRED

9. On the afternoon of 6 October 2015, Ms Beard was with a group of people at Lilydale Lake which included Emily Toulson. Ms Toulson had been drinking.<sup>2</sup>
10. At around 6.00pm, Ms Toulson decided to go to her home in Mount Evelyn. Eight passengers went with her in her car, including Ms Beard. Ms Beard was sitting on the knee of another passenger who was seated in the front passenger seat. Ms Beard was not wearing a seatbelt.<sup>3</sup>
11. At around 6.15pm, Ms Toulson was driving south along Hereford Road. As she entered a left-hand curve while approaching the intersection with Adams Lane, she was driving at approximately 100kph.<sup>4</sup>
12. At the point of the curve, the speed limit was 60kph and there was an advisory speed sign of 50kph.<sup>5</sup>
13. Detective Leading Senior Constable Michael Hardiman of Victoria Police has estimated the ‘critical curve speed’ of this curve as 97kph. According to D/L/S/C Hardiman, ‘*a vehicle travelling in excess of the critical curve speed whilst negotiating a curve is at significant risk of entering a yaw*’.<sup>6</sup>
14. While moving around the curve, the rear of the Holden slid into the northbound lane of Hereford Road.<sup>7</sup>
15. Craig Atkin was driving a silver Daewoo Nubira north along the road at this time. Mr Atkin swerved in an attempt to avoid a collision, but the Holden struck the rear driver’s side door of the Daewoo despite Mr Atkin’s efforts.<sup>8</sup>
16. The Holden returned to the southbound lane for a time but turned to the side again and moved across the northbound lane and onto the nature strip, where it collided with a concrete power pole while travelling at approximately 70kph.<sup>9</sup>

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<sup>2</sup> *DPP v Toulson* [2017] VCC.

<sup>3</sup> *Ibid.*

<sup>4</sup> Report on Collision of D/L/S/C Michael Hardiman dated 6 January 2016, Coronial Brief; *DPP v Toulson* [2017] VCC.

<sup>5</sup> *DPP v Toulson* [2017] VCC.

<sup>6</sup> Report on Collision of D/L/S/C Michael Hardiman dated 6 January 2016, Coronial Brief.

<sup>7</sup> *Ibid.*

<sup>8</sup> Statement of Craig Atkin dated 6 October 2015, Coronial Brief.

<sup>9</sup> Report on Collision of D/L/S/C Michael Hardiman dated 6 January 2016, Coronial Brief.

17. The Holden struck the pole with its passenger door first, and Ms Beard suffered severe head and chest injuries. She died on the scene.<sup>10</sup>
18. Blood samples taken from Ms Toulson at 8.00pm found a Blood Alcohol Concentration (BAC) of 0.111%.<sup>11</sup>

## CAUSE OF DEATH

19. On 9 October 2015, Dr Matthew Lynch, a Forensic Pathologist practising at the Victorian Institute of Forensic Medicine, conducted an inspection of Ms Beard's body and provided a written report, dated 13 October 2015. In that report, Dr Lynch concluded that a reasonable cause of death was '*I(a) Injuries sustained in a motor vehicle collision (passenger)*'.
20. Toxicological analysis identified the presence of ethanol (alcohol) at a BAC of 0.15% as well as delta-9-tetrahydrocannabinol, indicating that Ms Beard had consumed cannabis.
21. I accept Dr Lynch's opinion as to cause of death.

## COMMENTS PURSUANT TO SECTION 67(3) OF THE ACT

22. Ms Toulson was charged with one offence of culpable driving and five charges of negligently causing serious injury. She pled guilty and on 5 December 2017 she was sentenced in the County Court.<sup>12</sup>
23. On 13 October 2015, the Coroners Court received correspondence expressing community concerns about frequent unsafe driving on Hereford Road in Mount Evelyn.
24. Due to these concerns, I directed that the Coroner's Investigator, Detective Leading Senior Constable Matthew Hunt, provide the Court with information on the frequency of collisions occurring on Hereford Road.<sup>13</sup>
25. According to D/L/S/C Hunt, between 1 January 2015 and 12 January 2018, the following collisions on Hereford Road were reported to Police:
  - One fatal collision (the collision in which Ms Beard died);
  - Four collisions with injuries sustained;

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<sup>10</sup> *DPP v Toulson* [2017] VCC.

<sup>11</sup> Statement of Dr Angela Sungaila dated 2 December 2015, Coronial Brief.

<sup>12</sup> *DPP v Toulson* [2017] VCC.

<sup>13</sup> Correspondence from D/L/S/C Matthew Hunt dated 12 January 2018.

- Eight collisions with no injuries and Police action taken;
  - Two collisions involving Police vehicles; and
  - One collision with no injuries and no further action taken.<sup>14</sup>
26. The Black Spot Program, administered by the Commonwealth Department of Infrastructure, Regional Development and Cities (DIRDC), funds projects to reduce the risk of crashes at dangerous locations. Funding is mainly available for sites or road lengths with a proven history of crashes.<sup>15</sup>
27. The DIRDC states that *‘for lengths of road, there should be an average of 0.2 casualty crashes per kilometre per annum over the length in question over five years’* to be eligible for funding.<sup>16</sup>
28. The information provided by D/L/S/C Hunt indicates that five casualty crashes occurred over approximately three years. Depending on the length of Hereford Road, this implies that, if a full five year period were considered, Hereford Road or a part of Hereford Road might meet the criteria for Black Spot funding.

## FINDINGS AND CONCLUSION

29. Having investigated the death, without holding an inquest, I find pursuant to section 67(1) of the *Coroners Act 2008* that Amber-Rose Beard, born 17 February 1999, died on 6 October 2015 at Mount Evelyn, Victoria, from I(a) Injuries sustained in a motor vehicle collision (passenger) in the circumstances described above.

## RECOMMENDATION

Pursuant to section 72(2) of the *Coroners Act 2008*, I make the following recommendation connected with the death:

1. That **VicRoads** conduct a Road Safety Audit of Hereford Road to establish whether it is eligible for nomination as a Black Spot.

I direct that this finding be published on the Internet.

I express my sincere condolences to Ms Beard’s family for their tragic loss.

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<sup>14</sup> Ibid.

<sup>15</sup> ‘Black Spot site eligibility’, Commonwealth Department of Infrastructure, Regional Development and Cities website.

<sup>16</sup> Ibid.

I direct that a copy of this finding be provided to the following:

Ms Lisa Beard & Mr Warren Williams, Senior next of kin.

Commission for Children and Young People.

Mr Don Maffia, Slater & Gordon Lawyers.

Ms Sarah Nicholson, Slater & Gordon Lawyers.

Transport Accident Commission.

Office of the Chief Psychiatrist.

Eastern Health.

Detective Leading Senior Constable Matthew Hunt, Victoria Police, Coroner's Investigator.

Signature:



**CAITLIN ENGLISH**

**CORONER**

Date: 28 November 2018

