

IN THE CORONERS COURT  
OF VICTORIA  
AT MELBOURNE

Court Reference: COR 2006 4974

**FINDING INTO DEATH WITH INQUEST (STAGE ONE)<sup>1</sup><sup>2</sup>**

*Form 37 Rule 60(1)*

*Section 67 of the Coroners Act 2008*

**Inquest into the Death of: SARAH LOUISE BOOTH**

Delivered On:	14 July 2014
Delivered At:	Coroners Court of Victoria Level 11, 222 Exhibition Street Melbourne 3000
Hearing Dates:	5, 6 and 7 June 2012
Findings of:	JOHN OLLE, CORONER
Representation:	Mr Ron Gipp instructed by Victorian Government Solicitors for the Chief Commissioner of Police Mr Ben Ihle instructed by Lander & Rogers for Police Officers Wolfe, Tandi and Pregnall
Counsel Assisting the Coroner	Mr Paul Lawrie instructed by Coroners Court In-House Solicitors Service for the Stage One of the Inquest

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<sup>1</sup> The Stage One inquest findings deal with the facts and circumstances surrounding Sarah Booth's death and the statutory requirements under section 67 of the Coroners Act 2008. Stage Two deals with the prevention focus of my investigation into Sarah Booth's death and is published separately.

<sup>2</sup> This finding has been edited since 14 July 2014, however no changes (other than grammatical) have been made.

I, JOHN OLLE, Coroner having investigated the death of SARAH LOUISE BOOTH

AND having held an inquest in relation to this death on 5, 6, 7 June 2012

at CORONERS COURT MELBOURNE

find that the identity of the deceased was SARAH LOUISE BOOTH

born on 17 July 1989

and the death occurred on 31 December 2006

at a location outside 35 O'Gradys Road, Carrum Downs 3201

**from:**

1 (a) MULTIPLE INJURIES

**in the following circumstances comprising of my findings:**

1. Sarah Louise Booth, born 17 July 1989, was 17 years of age at the time of her death. She was the daughter of Ms Donna Dinsdale.
2. At approximately 2.19 a.m., Sunday, 31 December 2006 Sarah lost her life in a motor vehicle collision outside 35 O'Gradys Road, Carrum Downs following a police pursuit. She was the passenger of a vehicle being driven by Mr Nathan Unwin.
3. Mr Unwin was found guilty in the County Court on 13 October 2009 of culpable driving causing Sarah's death and was sentenced by Judge Ross to 9 years imprisonment with a minimum non parole period of 6 years. He noted that there was evidence of methamphetamine and amphetamines in Mr Unwin's blood following the accident.

#### **Medical Examination**

4. A post mortem examination was conducted by Dr Michael Burke, Senior Forensic Pathologist, at the Victorian Institute of Forensic Medicine, who found the cause of Sarah's death to be '*multiple injuries*'.
5. **This paragraph has been redacted for publication.**
6. A toxicological analysis also revealed the presence of cannabis in Sarah's blood.

## **Purposes of the Coronial Investigation**

7. The primary purpose of the coronial investigation of a reportable death<sup>3</sup> is to ascertain, if possible, the identity of the deceased person, the cause of death (interpreted as the medical cause of death) and the circumstances in which the death occurred.<sup>4</sup> An investigation is conducted pursuant to the *Coroners Act 2008* (the Act) and the outcome of this part of my investigation is included in this finding.
8. Coroners are also empowered to report to the Attorney-General on a death they have investigated; the power to comment on any matter connected with the death, including matters relating to public health and safety or the administration of justice; and the power to make recommendations to any Minister, public statutory or entity on any matter connected with the death, including recommendations relating to public health and safety or the administration of justice.<sup>5</sup> This is referred to as the prevention role of the coroner and the outcome of this part of my investigation is included in the Stage Two finding (Police Pursuits – Comments and Recommendations).
9. I note that Sarah was the passenger in a vehicle being pursued by police and, as such, her death is *not* to be regarded as a death in custody for the purposes of the Act.

## **THE EVIDENCE**

10. This finding is based on all the investigation material comprising of the Coronial Brief of Evidence, all material obtained after the provision of the brief, the statements and evidence of those witnesses who appeared at the inquest and any documents tendered through them, other documents tendered through all Counsel (including Counsel Assisting) as well as oral submissions made by counsel.
11. The following witnesses gave evidence at the inquest:
  - Mr Kevin Patricio

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<sup>3</sup> Section 4 of the Act requires certain deaths to be reported to the coroner for investigation. Apart from a jurisdiction nexus with the State of Victoria, the definition of a reportable death includes all deaths that appear 'to have been unexpected, unnatural or violent or to have resulted, directly or indirectly, from accident or injury. Clearly, Sarah's death falls within this definition.

<sup>4</sup> Section 67 of the Act.

<sup>5</sup> Sections 72(1), 72(2) and 67(3) of the Act regarding reports, recommendations and comments respectively.

- Acting Senior Sergeant (A/S/S) Ian Pregnell<sup>6</sup>
  - Leading Senior Constable (L/S/C) Gregory Wolfe<sup>7</sup>
  - Acting Sergeant (A/S) Pritpal Thandi<sup>8</sup>
  - Senior Sergeant Bradford Peters (S/S) , Coroner’s investigator
12. I also heard oral submissions from Counsel Assisting, Counsel for the Chief Commissioner of Police (CCP) and Counsel for A/S/S Ian Pregnell, L/S/C Gregory Wolfe and A/S Pritpal Thandi.
13. At the commencement of the inquest, it was evident that most of the facts about Sarah’s death are known including her identity, the medical cause of her death and aspects of the circumstances, including the place and time of her death.
14. The primary focus of the inquest into Sarah’s death related to the circumstances surrounding her death and, in particular, whether the applicable Victoria Police policies and procedures were complied with in relation to the conduct of the police pursuit.

#### **Circumstances of Sarah’s death**

15. Sarah’s mother, Ms Dinsdale, believes that Mr Unwin picked Sarah up sometime in the evening of 30 December 2006 following an SMS exchange between the two. Sarah indicated to her mother that she wouldn’t be gone for long.
16. Mr Unwin said that he had known Sarah for about 1 year and described them as being ‘mates’.

#### **First sighting of Nathan Unwin’s vehicle**

17. Mr Kevin Patricio, who gave evidence at the inquest, said he was issued with a penalty notice by A/S Thandi at approximately 1.52 a.m., 31 December 2006 and shortly after said in a statement prepared for the inquest brief:

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<sup>6</sup> He was an Acting Sergeant at the time of the incident. I will refer to him as his current rank for the purpose of this finding.

<sup>7</sup> He was a Senior Constable at the time of the incident. I will refer to him as his current rank for the purpose of this finding.

<sup>8</sup> He was a Constable at the time of the incident. I will refer to him as his current rank for the purpose of this finding.

*“I saw a blue coloured VL Commodore approach me from the opposite direction along Brunell Road. It was the only other car around and I could hear it coming from a mile away.*

*The driver must have seen my car then saw the Police car because it cut across in front of me and turned into a side street that ran off Brunel Road, towards the main road.... I could hear the Commodore accelerate heavily and it took off quite fast. The police behind me obviously saw the guy in the Commodore do this and they overtook my car and took off after the VL. They put the red and blue lights on and the siren and started to chase after the VL.....I watched both the VL and the Police car go around a couple of roundabouts in the distance. The VL had a fair lead on the Police car. After a little while I saw both the VL and the Police car go through a red light at some intersection up ahead of me.... The VL didn't appear to slow down at all but I saw the brake lights come on the Police car shortly before it entered the intersection.”*

18. At inquest, Mr Patricio's recollection of the events was understandably less clear. He thought the police activated the emergency blue and red lights in Stephenson Road but when challenged was less certain. As to when the police activated their siren, he couldn't say with accuracy but does recall hearing it. He accepted that the intersection where he thought both vehicles travelled through a red light was probably the intersection of Lathams Road with Frankston-Dandenong Road. Mr Patricio turned right at that intersection and made no further observations.
19. L/S/C Wolfe and A/S Thandi comprised the Frankston Traffic Management Unit (with call sign Frankston 616) and were on duty at the time of the collision. They were in the area in relation to reports of cars doing 'burnouts'. L/S/C Wolfe was the driver and held a Gold class licence which allowed him to travel (in a commensurate Gold class vehicle) at unlimited speeds.<sup>9</sup> A/S Thandi was the observer<sup>10</sup> and held a Silver Class licence which he obtained a month before.

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<sup>9</sup> In accordance with the *Victoria Police Manual* Victoria Police personnel are required to hold an Approved Driving Authority in order to drive police vehicles. This is an internal licensing system which has a colour coded system. The Victoria police fleet also have classification that are colour coded. The licence codes and vehicle codes are linked together. The highest is a Gold Class licence which enables the driver to drive a Gold Class vehicle at unrestricted speeds. A Silver class licence allows a driver to drive at a maximum of 150kmph.

<sup>10</sup> The observers role in a pursuit is to:

- *Immediately notify PCC on an open channel and remain on that channel unless directed otherwise*

20. At about 2.15 a.m., following the penalty notice being issued to Mr Patricio, they observed Mr Unwin's vehicle (1988 Holden Commodore sedan) travelling east along Brunel Road, Seaford towards them, before abruptly turning left into Stephenson Road. They thought the vehicle may have been involved in the 'burnouts' which had been reported and decided to follow the vehicle after it appeared to be accelerating away from their police vehicle.

### ***The Police Pursuit***

21. Frankston 616 turned right into Stephenson Road and took up a position approximately 100 metres behind Mr Unwin's vehicle, which they then observed turn right into Rutherford Road at a fast rate of speed. The police officers formed the view that Mr Unwin was aware of police presence and was trying to avoid interception.
22. L/S/C Wolfe said the purpose of the interception was to perform a routine check which would include a licence check, drug and alcohol testing, vehicle inspection and car registration.
23. Frankton 616 also turned right into Rutherford Road at which time Mr Unwin's vehicle continued to pull away. L/S/C Wolfe activated the lights and sirens and instructed A/S Thandi to inform the Police Communication Centre (PCC) that a pursuit had commenced. The transmission to PCC was made at 2.16.13 a.m. The reason given for the pursuit was '*failed to stop and had taken off from us*'.
24. The GPS records the pursuit as being activated around Tova Drive as it intersects with Lathams Road.
25. L/S/C Wolfe described the commencement of the pursuit as:

*"I turned the police vehicle right into Rutherford Road also and took up a position to the rear of the blue Commodore approximately 200 metres back from this vehicle. The blue Commodore appeared to have accelerated more and drawn away from us to a greater degree than before. It was at this time that I became certain that the driver of this vehicle was aware of the presence of the police and was attempting to avoid interception.*

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- *Maintain constant police radio communications, relaying reasons for the pursuit, speed direction, environmental conditions, vehicle description and any other relevant information. ....*
  - *Assist the police driver by providing feedback on the environment, traffic conditions etc.*
  - *Continually assess the risks and reasons, including perceptions of the competence of the primary unit driver. If at any time the risks outweigh the result to be achieved, direct the driver to terminate the pursuit.*
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*I then activated the emergency warning lights and the siren on the police vehicle and requested Constable Thandi to notify the Police Communication Centre that we were in pursuit of the vehicle. Constable Thandi was in the process of reaching for the radio microphone as I was telling him to notify the Police Communication Centre and this led me to believe that it was also clear to him that the driver of the blue Commodore was avoiding interception as well.”*

26. A/S Thandi formed the view that Mr Unwin’s vehicle must be ‘*doing something wrong, maybe it was a stolen car*’.
27. Mr Unwin’s vehicle continued east at high speed along Rutherford Road, which changes its name to Lathams Road at approximately 200 metres east of Stephenson Road.
28. A/S Thandi indicated that the speed of the police vehicle as it travelled along Lathams Road was 160 kmph, as he indicated to the PCC. He was only able to report the speed to PCC once throughout the pursuit, despite repeated requests.
29. At 2.16:51a.m., A/S/S Ian Pregnell, who comprised Frankston 251, announced that he was the Pursuit Controller<sup>11</sup>.
30. The evidence suggests that Mr Unwin’s vehicle continued east along Lathams Road and he drove through the intersection of Lathams Road and Frankston-Dandenong Road (Lathams Road becomes Hall Road after the intersection) on the last stage of the amber light. His brake lights were noted to have activated.
31. The police vehicle went through the same intersection on a red light but only once they slowed and checked it was safe (at ~40-50 kmph).

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<sup>11</sup> The Pursuit Controller’s role is to :

- *Take charge until relieved, directed otherwise, or the pursuit is resolved. ...*
- *Request the reasons for the pursuit and whether it is imperative or elective.*
- *Request Police Airwing assistance.*
- *Develop a resolution strategy.’*
- *Coordinate and direct all police vehicles involved...*
- *Continually monitor and assess the risks and reasons. If at any time the risks outweigh the result to be achieved, direct that pursuit be terminated.*
- *Ensure all police comply with this Instruction.*
- *Is accountable for the operational tactics and deployment of police resources in the pursuit.*

32. After the intersection the police vehicle was approximately 400 metres behind Mr Unwin's vehicle, so it sped up to around 170 kmph to catch up.
33. Mr Unwin's vehicle was observed to break hard and turn right into Currawong Drive and travel south for about 500 metres and right again into Lyrebird Drive where after, approximately 300 metres, the vehicle turned right and travelled west in O'Grady's Road.
34. No instructions were given for the pursuit to be abandoned and so the police vehicle continued to pursue Mr Unwin's vehicle into Lyrebird Drive.
35. Mr Unwin's vehicle then appears to have travelled a further 620 metres where it encountered a traffic island and chicane intended to slow traffic in both directions. Mr Unwin's vehicle however struck the left kerb of the chicane and lost control rotating in a clockwise direction as it skidded approximately 80 metres before striking a tree on the nature strip outside 35 O'Grady's Road.
36. The police vehicle was fitted with a Mobile Data Terminal (MDT) which was GPS enabled allowing GPS locations data to be recorded at specified intervals. When police are in pursuit (or urgent driving), information is recorded at 3 second intervals. The data includes the vehicles' locations as latitude and longitude, heading, speed and the time it is recorded. This information was made available to me as part of my investigation.
37. As a result of the accident, Sarah received fatal injuries and could not be assisted. Mr Unwin was injured and airlifted to the Alfred Hospital.
38. Sergeants Bellion, an expert in collision reconstruction, calculated Mr Unwin's speed at the time of the accident as a minimum of 138 kmph (in 50 kmph marked zone).
39. Mr Unwin's vehicle was found to be un-roadworthy due to both the rear tyres lacking serviceable tread depth, missing wheel nuts on both rear wheels and rust in the front and rear screen cavities. No mechanical faults were however found that would have caused or contributed to the collision.

### **Police Pursuits in Victoria**

40. At the time of Sarah's death, the relevant Victoria Police policy governing pursuits was contained in the Victoria Police Manual (VPM) Instruction 102-3 titled '*Urgent duty driving and pursuits*' (the policy has been substantially amended since Sarah's death). This Policy also governed urgent duty driving, another function of police. (A pursuit is always



considered to be urgent duty driving). The Policy established two types of pursuits being an *elective pursuit* and an *imperative pursuit*.

41. According to the Policy an **elective pursuit** – *is the pursuit of a vehicle that has failed to stop after being signalled to stop for a lawful purpose. The reason for the pursuit is to intercept an offending driver.*

42. According to the Policy an **imperative pursuit** – *is the pursuit of a vehicle:*  
*That is creating a danger to the public by its presence on the road; or*  
*Where there are reasonable grounds to believe that immediate apprehension of the driver or occupant/s is essential to prevent danger to prevent danger to any persons.*  
*The reason for the pursuit is to minimise or remove a danger.*

43. The Policy provided that a pursuit exists when a driver:

- *Fails to stop after being signalled to stop by a police member; and/or*
- *Is taking deliberate action to avoid being stopped*  
*and*
- *the police begin to follow the driver.*

44. The Policy made the following overarching statement with respect to police pursuits:

*There are inherent risks associated with urgent duty driving. These risks increase significantly when high speeds are involved, and in areas of high vehicular or pedestrian traffic.*

*Given the risks involved the circumstances under which police are justified in driving in an urgent duty manner are prescribed in policy. Victoria Police will support any employee who acts in good faith an in the course of their duty, however you are reminded that legislation and policy and procedures will not protect you from the consequences of negligence or disregard for safety.*

*A police member's duty to protect life and property will always have primacy over the need to arrest offenders, especially when the offence involved is relatively minor, or where there are safer options other than immediate arrest.*

The Risk Assessment Policy says:

*Before you consider urgent duty driving assess the risks and continue to assess the risks during your driving. In all situations the priority is safety first. This includes not only our own safety but also the safety of other occupants in the police vehicle*

*and other road users, including the occupant/s of a pursued vehicle. Regardless of the reasons for urgent duty driving, no incident is urgent enough to risk your life or that of others. You must constantly assess risks. If the risks outweigh the result to be achieved, moderate your driving even if it means terminating a pursuit.*

45. The Risk Assessment Guidelines are set out as follows:

*Anything can influence an urgent duty driving risk assessment; however, consider the following before and at all times during the driving. Any action should escalate or de-escalate depending on the risks.*

- *What is the outcome you are trying to achieve?*
- *What is likely to happen if you don't stop a pursued driver, or if you arrive at an incident slower than anticipated?*
- *How safe do you feel driving in the manner you are?*
- *What class of police vehicle are you driving?*
- *What types of warning devices are fitted your police vehicle?*
- *What are the road, weather and traffic conditions like and how familiar are you with driving in those conditions or locations?*
- *Do you know the identity of the person you are pursuing?*
- *How competent or experienced a driver do you believe the person you are pursuing to be?*
- *If responding to incident, what type of incident is it and what other police are responding?*

46. The Policy provides that a pursuit must be terminated:

*Whenever the risks outweigh the result to be achieved*

*On direction of the pursuit controller, Divisional Patrol or Response Manager, Regional Response Officer, or the driver or other occupant of the primary unit*

*Whenever any police vehicle or employee fails to comply with or does not meet any of the restrictions of this Instruction*

- *if the police vehicle or employee is directed to withdraw from the pursuit and is replaced if necessary, the pursuit may continue*

*Whenever police radio communications are not effective or are lost and this leads to an increase in the risks. Effective communications includes the giving of regular situation reports*

*Whenever blue/red flashing lights and/or alarm fail to operate*

*Where there is a reasonable belief that information from the primary or secondary unit is incorrect or inaccurate*

*When the identity of the driver of the pursued vehicle is established to the point where there is a likelihood that later apprehension will be possible and there is no immediate threat to public or police safety.*

### ***Police observations during the pursuit***

47. A/S Thandi observations of the pursuit included the following:

- In relation to his perception of the manner of police driving: *We were driving above the speed limit but Senior Constable WOLFE was in control the entire time, he slowed for the corners, he accelerated correctly, I felt safe and the police vehicle was in control the entire time.*
- He formed the view that Mr Unwin was doing 160 kmph through the intersection of the Dandenong Valley Highway and Lathams Road, as he perceived that Mr Unwin was travelling at the same speed as the police vehicle.
- In relation to his failure to give speeds to PCC in the residential area following the right hand turn into Currawong Drive, he said he was unable to do so because they were changing direction constantly and he thought it was more important to give direction rather than speed.
- The risk assessment factors he considered were: *based on the traffic, the time of the day and speed was a factor in it but the manner of driving was my - was - did factor into my assessment and also just - just the roads. Manner of driving of the offending vehicle and also our driving too...I didn't see anything untoward doing by the offending driver.* In addition, he considered the target driver's car.
- A/S Thandi said he would have stopped the pursuit if they had obtained Mr Unwin's numbers plates as to continue the pursuit would have been to *risky*. (in fact, Mr Unwin had no number plates).

48. L/S/C Wolfe was a highly experienced police officer who had held a Gold class since 1998 and attended advanced driver training course as well as the advanced traffic studies course, vehicle safety testing school and the stationary and moving mode radar course.

49. L/S/C Wolfe said he had been involved in 21 pursuits where: 9 were abandoned (7 called off by the pursuit controller), 3 pulled over, 5 were intercepted after a collision (minor), 2 abandoned because the police lost sight of the vehicle, 1 the police used stop sticks and 1 pulled over decamping on foot but was arrested later.

50. L/S/C Wolfe observations of the pursuit included the following:

- The risk assessment factors he considered were: the time of day, amount of vehicles on the road, road condition (dry, straight, industrial area, no potholes) and the manner the target vehicle was driving. He was also very familiar with the area.
- With respect to his ability to look at the Speedometer, (both digital and analogue instruments were available), he said he only had one chance to do it and expressed how difficult it was to do during a pursuit: *'it's something you really have to sort of force yourself to do, because you get intent on what's going on out the front of the car and concentrating on the environment and trying to make everything safe, and it's something you nearly have to force yourself to remember to look down to get that speed.*
- L/S/C Wolfe estimated his speed at around 120kmph (minimum) and was surprised at the speed the GPS indicated he was travelling along Lathams Road (170 kmph).
- L/S/C Wolfe estimated Mr Unwin's speed to be 160kmph prior to turning into Currawong Drive.

51. What I found most informative was his honest view of the application of the risk assessment criteria in practice. At the inquest, in this exchange with me L/S/C Wolfe observed:

*Can I say Your Honour, you don't actually go through this mental checklist when this happens, it all sort of happens like that, you go to pull someone over, he goes, you go.*

*.....---There's not a delay where you go, "OK now hang on a minute, is this imperative or elective? OK, oh OK this is imperative, now what are the conditions for that? Um, oh yeah if I tick that box that box that box and that box, um, yes yes*

*yes yes, oh OK now I'll go." It doesn't happen, it just - he went, I went.*

*Yes?---Um, and then, I'm making it as safe as I can, but to actually sort of know all those points and then mentally check them off - - -*

*It's impossible - - - ?---It doesn't happen in all honesty.*

*Is it because it's impossible, how could you possibly do that in a split second you're talking about?---Yes.*

52. In contrast to A/S Thandi, L/S/C Wolfe thought that Mr Unwin went through the intersection of the Dandenong Valley Highway and Lathams Road at 80 – 100 kmph (rather than 160 kmph), otherwise he said Mr Unwin would have been airborne.
53. With respect to L/S/C Wolfe risk assessment in the residential zone once they had turned right into Currawong Drive he said:

*... I had a look at the speed of the vehicle, so it had slowed compared to what it had been doing on Hall Road, so it was back around a hundred kilometres an hour. Yes, it's a more residential area but there was still no other vehicles on the road, still didn't pass anybody going the other way, he didn't have to overtake anybody. So there was basically nobody else out in our vicinity so - and there was nothing that like I said that happened along there that I thought wow he's nearly come to grief there.*

54. L/S/C Wolfe made a number of observations, in hindsight, which I am grateful for:

- *now seeing that I was actually doing 160 along Lathams Road and ....that was the case and he's got across Frankston-Dandenong Road, I'm coming up, I've got a red light, in hindsight and now if it happened tomorrow or this weekend when I'm working, I'm probably going to pull over and say, "I'm abandoning the pursuit, the vehicle's continued along Hall Road, it's obviously not going to stop for me, so that's it".*
- He would make much more of an effort to listen to radio and make sure the requests for speed from PCC were responded to; and
- As to the conduct of future pursuits he said, *Yeah, it was difficult in the circumstances. Everything's - like I say, everything's going at a hundred miles an hour in the car, well literally at some stages. Yeah, I mean with the result you're*

*always tempted to say, "Yes you know I should've just pulled over back there and stopped", but to identify particular things on what I would have done differently, um, I certainly do things differently in the future ...I'm probably more liable to terminate a pursuit.*

55. A/S/S Pregnell, who was the pursuit controller heard that Frankston 616 was in pursuit 2.16 a.m. Approximately 26 seconds later, he advised PCC that he was the pursuit controller. He was advised that that pursuit was '*elective as the vehicle was failing to stop*' and that Police Air Wing was requested and the K9 unit came up on the radio as heading that way.
56. It was his evidence that he heard A/S Thandi call the speed of 150 kmph rather than 160 kmph.
57. A/S/S Pregnell indicated that he continually assessed the risks in relation to the pursuit and was aware of S/C Wolfe's driving ability, the conditions that night and the features of the roads travelled. He further indicated that he was aware that Currawong Drive was a residential area with a speed limit of 50 kmph.
58. His risk assessment included the following factors: road was dry, weather is fine, little to no traffic (it was the lead up to New Years Eve), he knew the pursuit driver's abilities, he had local knowledge of the area, the speeds of both drivers was very important as well as time of the day.
59. When asked whether he considered terminating the pursuit when he wasn't getting a result from the requests for speed update, he said that he knew that A/S Thandi was junior at the time and the requests can create an overload in the persons thinking.
60. A/S/S Pregnell did however say that as accurate as possible calls of speed are necessary as part of the risk assessment, as well as the differential speed from the subject vehicle.
61. A/S/S Pregnell agreed there was a practical limit on how much information can be transmitted to a Pursuit Controller, in real time, during a pursuit.
62. A/S Pregnell describes the experience of pursuit driving as involving a big adrenalin rush and a highly stressful situation.
63. A/S/S Pregnell understood that the 265 (Senior Sergeant) and the 150 (Inspector) could also terminate a pursuit.

64. In hindsight, A/S/S Pregnell said, given the importance of communication, his current practice is to be more assertive on the radio to obtain the details he requires. In addition, that if he wasn't getting the information he needed he would call the pursuit off.
65. At the inquest, in this exchange with me, A/S/S Pregnell observed:

*Can I take it, you know, again in hindsight, we've got all this wonderful information. We know that he had speed on him, he'd taken speed, we know that the car was unroadworthy, we know all these factors. If you had have had that information at the outset, "We're doing 160 k behind an unroadworthy car driven by a fellow full of speed", what would you have said?---Well, yeah, if - hindsight is a lovely thing, it would be - -If you had that information though?---Yeah. You'd stop?---If I had that, it'd be terminated, Your Honour, yeah.*

### **Conclusions with respect to police pursuit**

66. I note that the overarching statements contained in the guiding policy (paragraph 44), acknowledge the obvious dangers involved in the conduct of a pursuit and the need to put the protection of life above the need to arrest, especially where the offence is minor. In addition, it requires that the risk assessment process must be applied to, firstly decide if a pursuit is appropriate, and if commenced, reapplied as circumstances change (including simply the passage of time). Again, this statement of principle places risks at the highest level with **safety first** at the heart of decision making regarding police pursuits.
67. However, to support these principles in practice (paragraph 45), the Policy does not explain how a member is to apply the various risk assessment criteria (posed as a series of questions), what order (if any) and what weight should be given to an individual criteria (positive, negative or neutral).
68. With respect to the application of the risk assessment in practice, S/C Wolfe (a very experienced police officers) said in evidence that as soon as Mr Unwin pulled away they followed, without him rigorously going through all the risk assessment steps, which he said was a very difficult exercise.
69. In evidence, the police members nominated risk factors, such as time of day, weather and road condition, their own driving ability, their own familiarity with the road as if they were positive factors, when they were at best neutral without giving consideration to some of the major factors which may increase the risk.

70. The unknowns in this scenario are likely to be:
- The age of the driver/driving experience of the driver;
  - Whether the driver is suffering the intoxicating effects of alcohol or drugs;
  - The emotional state of the driver (including whether the driver has mental health issues);
  - The mechanical state of the subject vehicle (that is, in respect of roadworthiness – braking, steering, suspension and tyres);
  - Unseen conflicting vehicular or pedestrian traffic and
  - The nature of the unlawful conduct that is suspected to have occurred.
71. The evidence suggests that no member involved in the pursuit specifically turned their mind to: *"What's likely to happen if you don't stop a pursued driver or if you arrive at an incident slower than anticipated?"* I would suggest that this is a critical threshold issue to address before commencing a pursuit.
72. In making these comments, I am not critical of the police members personally who are only as effective as the training, tools and guidance they are provided with.
73. There is no doubt that the task loading when engaged in a pursuit is overwhelming. This is evidenced by the delays of Frankston 616 to respond to certain questions over the police radio (e.g. speed). This revealed that the members were highly focussed on the task at hand to the detriment of other factors (such as the need to communicate).
74. In addition, the significant misjudgement of his own speed (S/C Wolfe) and the difficulty he experienced in trying to look at the Speedometer (more than once) was further evidence of this.
75. The variation between S/C Wolfe and A/S Thandi estimate of the speed of Mr Unwin's vehicle as it travelled through the intersection of Dandenong Valley Highway and Lathams Road at 80 – 100 kmph and 160 kmph, respectively again demonstrates the difficulties experienced by police officers participating in a police pursuit – even where they are sitting in the same vehicle engaged in the same activity.
76. There is no forensic evidence for me to draw on to reconcile this difference in speed, and in those circumstances, I don't propose to do so.



77. It appears that estimations of speeds by police were difficult (if not impossible) and these estimates were critical to accurate risk assessments being undertaken.
78. Significantly, S/C Wolfe said he would have called off the pursuit if he had known his true speed and said he would be likely not to pursue if similar circumstances arose in future.

***Was Nathan Unwin aware that the police were trying to intercept him?***

79. I note that at approximately 5.26am on 31 December 2006, Mr Unwin was interviewed at the Alfred Hospital where he denied that he was attempting to flee from the police and also denied being aware that the police were present behind him.
80. In a later interview on 20 September 2007, he said he had no memory of driving at the time of the incident. Despite him maintaining this position at the County Court trial, he was convicted of culpable driving.
81. Shortly before the commencement of the inquest, and at my request, the Coroner's Investigator contacted Mr Unwin with respect to him participating in the investigation. Mr Unwin was in custody at the time this contact was made and maintained that he had no recollection of the event.
82. Counsel Assisting submitted that the weight of circumstantial evidence tends to the conclusion that Mr Unwin was aware of the police presence including his abrupt turn left into Stephenson Road at which point the police were 50 metres behind him; his high speed and persistent high speed travel down Lathams Road, the effect of the red and blue emergency light on a clear night, with a flat road and open terrain and that both police officers formed the view based on his driving that he was trying to evade interception (and maintained that position).
83. On the evidence available to me, I find that Mr Unwin was aware that the police were trying to intercept his vehicle on 31 December 2006, prior to the accident which caused the death of Sarah Booth.
84. Having considered all the evidence and in particular the matters discussed above, I do not propose to be critical of the manner in which the police members who participated in the pursuit carried out their functions.

**FINDINGS**

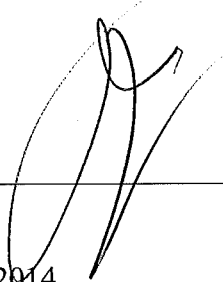
85. Having considered all the evidence, I find that Sarah Louise Booth born on 17 July 1989 died on 31 December 2006 of 'Multiple Injuries', in the circumstances described above.

Pursuant to section 73(1) of the **Coroners Act 2008**, I order that a **redacted** version of this finding be published on the internet.

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

- Ms Donna Dinsdale
- Victorian Government Solicitors on behalf of the Chief Commissioner of Police
- Lander & Rogers for Police Officers Wolfe, Tandi and Pregnall

Signature:



**JOHN OLLE**  
CORONER  
Date: 14 July 2014

