



# OFFICE OF THE STATE CORONER

## FINDINGS OF INQUEST

CITATION: **Inquest into the death of Paul James MOORE**

TITLE OF COURT: Coroner's Court

JURISDICTION: Roma

FILE NO(s): COR 2709/06(6)

DELIVERED ON: 22 April 2009

DELIVERED AT: Roma

HEARING DATE(s): 16 and 21 April 2009

FINDINGS OF: Mr Michael Barnes, State Coroner

CATCHWORDS: CORONERS: Police pursuits,

REPRESENTATION:

Counsel Assisting:	Mr Justin Harper
Sergeant Caletti and Acting Sergeant Cassel:	Mr Adrian Braithwaite (Gilshenan & Luton Lawyers)
Queensland Police Service Commissioner:	Mr Greg Obst (QPS Solicitors Office)

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The *Coroners Act 2003* provides in s45 that when an inquest is held into a death in custody, the coroner's written findings must be given to the family of the person who died, each of the persons or organizations granted leave to appear at the inquest and to various specified officials with responsibility for the justice system including the Attorney-General and the Minister for Police and Corrective Services. These are my findings in relation to the death of Paul James Moore. They will be distributed in accordance with the requirements of the Act and posted on the website of the Office of the State Coroner.

## **Introduction**

Late on the afternoon of 22 September 2006, Paul Moore drove away from the Injune Hotel having spent the preceding few hours drinking in the public bar. Minutes later he was detected by a local police officer speeding along the Carnarvon Highway. Ignoring the officer's direction to stop, he turned abruptly onto an unpaved road and soon sped out of sight. Two kilometres further on Mr Moore's vehicle impacted a tree, causing the vehicle to split in two and killing him almost instantly. He was 35 years old.

These findings

- confirm the identity of the deceased man, the time, place and medical cause of his death;
- examine the events leading up to the crash and seek to explain how it occurred; and
- consider whether the police officers involved acted in accordance with the Queensland Police Service (QPS) policies and procedures then in force.

As this is an inquest and not a criminal or civil trial, these findings will not seek to lay blame or suggest anyone has been guilty of a criminal offence or is civilly liable for the death.

In a later bracket of evidence consideration shall be given to whether any changes to current policies or practices would reduce the likelihood of deaths occurring in similar circumstances in the future.

As the death followed an attempted interception by police and the incident was investigated by other police officers, the findings also critique the quality of that investigation.

## **The investigation**

The investigation was overseen by the QPS Ethical Standards Command and a detailed report was prepared by Inspector Brendan Smith.

The early stages of the investigation were co-ordinated by the District Officer, Inspector Graham Coleman, who attended the scene. He conducted breath tests on both officers involved, Senior Constable Cassel and Sergeant Caletti at 6:15pm and conducted initial taped interviews to obtain their version of events. He arranged for other officers to secure the scene overnight and until the arrival of ESC officers the following day.

Scenes of crime and traffic investigation officers attended the scene. A comprehensive set of photographs was taken. Sergeant Darryl Morrison of the Ipswich District Accident Investigation Squad surveyed the scene using a Total Station Theodolite from which a detailed forensic map was prepared. He later provided a report addressing the likely cause of the accident along with a speed analysis.

Mr Moore's vehicle underwent a mechanical inspection by a QPS vehicle inspection officer and the calibration history of the radar unit in the vehicle driven by Senior Constable Cassel was obtained.

On arrival, ESC investigators took up with Inspector Coleman and attended the scene on the morning of 23 September 2006. Interviews were then conducted with the two officers involved, along with witnesses relevant to events at the Injune Hotel in the lead up to the accident.

Mr Moore's body was transported to Toowoomba and identified by his mother Shirley Moore on the afternoon of 24 September 2006. An autopsy examination was conducted on 27 September 2006 and blood and urine samples obtained for toxicology testing.

I am satisfied this matter has been thoroughly investigated by Inspector Smith and that all appropriate sources of information were accessed and the data analysed. Although I do not necessarily agree with all his conclusions, I commend the inspector on his efforts.

## **The inquest**

A pre-hearing conference was held in Brisbane on 4 February 2009. Mr Harper was appointed Counsel Assisting. Leave to appear was granted to the Commissioner of the Police Service and the two police officers involved. A list of witnesses was settled and the issues to be examined during the inquest were agreed upon.

The inquest commenced in Brisbane on 16 April 2009. The inquest resumed at Roma on 21 April 2009 at which time a view of the scene was conducted. Six witnesses gave evidence and 51 exhibits were tendered.

## **The evidence**

I turn now to the evidence. Of course I can not even summarise all of the information contained in the exhibits and transcript but I consider it appropriate to record in these reasons the evidence I believe is necessary to understand the findings I have made.

## ***Social history***

Paul James Moore was born on 2 June 1971, the oldest of six children to Paul and Shirley Moore.

He grew up and attended school in Ocean Grove, Victoria. He was not academically inclined but early on developed a talent and passion for all things mechanical. He qualified as an excavator operator in the footsteps of his father and continued to work in the industry all his life.

Paul went on to live and work in Cobden, a small town in Victoria where he owned a house. He was married briefly; a union which produced a daughter although, unfortunately, ended in such a way that he was soon estranged from her. He had something of an itinerant and adventurous nature and, after visiting his sister in Roma, became enamoured with the area. In 2002 he took up a brief period of work as a bulldozer driver with Grant and Sandra Godfrey who run a business from Comet Downs, their property located about 30 kms south-west of Injune. He would return more or less annually to work for them, but on a casual basis.

It is clear from the material before me that Paul was a hard worker and was well liked by his employers. I am grateful for the further information about Paul provided to me by Mrs Moore. She has an admirably realistic view of her son's many admirable qualities and his faults. Mr Moore clearly had a problem with alcohol. Although happy, rather than aggressive, when drunk he had a habit of driving and, if caught, failing to comply with police directions. This is borne out in an unenviable traffic history.

Paul is fondly remembered by his family for his oft exhibited qualities of gregariousness, loyalty and humour. It is clear that he was much loved and admired.

I offer his family my sincere condolences for their sad loss.

## ***Background to the pursuit***

Mr Moore had worked at Comet Downs at irregular intervals for the five years preceding his death. He returned to this employment in early August 2006 and was due to finish that stint on 23 September.

On 22 September the station owner, Mr Godfrey, had requested that Mr Moore assist him move a bulldozer to another part of the property at about

12:30pm. Shortly after 9.00am he left the property, indicating to Mrs Godfrey that he was heading to Injune to buy some new clothes.

Katherine Sherman, the licensee's daughter, was rostered to work behind the bar at the Injune Hotel from midday to 5pm. At about midday, Ms Sherman took over from her mother who had opened the bar at 11.00am. Ms Sherman had experience working in other country hotels. She was not required to be formally trained in the responsible service of alcohol (RSA). However, it seems she was cognisant of her responsibilities in this regard. This suggestion is supported by the nature of her dealings with Mr Moore as the afternoon progressed.

Ms Sherman gave evidence that Mr Moore was in the public bar when she commenced her shift. Ms Sherman had not seen Mr Moore previously. She recalls he was seated at the bar and appeared to be there with two other men who were also unknown to her. Mr Moore was drinking schooners of VB and was possibly in a 'shout' with the other two men; although Ms Sherman recalls that of the three, Mr Moore was drinking more slowly.

At around 1.00pm, Mr Moore rang Mr Godfrey to ask what time he was required. The bulldozer still needed to be moved at this stage and Mr Moore advised that, despite having had a 'couple' of beers, he would come back to attend to it.

The two men talking to Mr Moore left around this time and over the course of the next hour or so Ms Sherman recalls having a brief discussion with Mr Moore in which he related his connection to the area via Comet Downs. Other than this discussion, the only contact between the two for the next two hours was confined to Ms Sherman listening in on conversations and the brief interaction associated with his ordering of drinks.

Ms Sherman gave evidence that initially Mr Moore was well spoken and sober. However, as the afternoon continued it became apparent that Mr Moore was getting drunk. The bar attendant noticed his apparent over-familiarity with other customers he didn't know, followed by a relatively sudden disengagement from those around him. This resulted in him making loud and disconnected comments.

Sandra Godfrey dropped into the Injune Hotel at around 3:30pm. She spoke to Mr Moore and it was obvious to her that he was drunk; slurring his words and staggering as he walked to the toilet. She later saw him asleep in a corner of the bar.

At around 4.00pm, Mr Moore was sufficiently intoxicated that when he ordered a further drink, Ms Sherman offered him only water. Mr Moore accepted a glass of water and was initially persistent in again requesting a beer. This time he was refused in a more forthright manner. He apparently accepted the decision and moved away from the bar with the glass of water.

Understandably, Ms Sherman can not be certain how many drinks he had consumed but estimates she served Mr Moore five to seven 15 ounce schooners of VB. It is not known how many he may have had before she started work.

During the remainder of her shift, Ms Sherman recalls Mr Moore sitting in the lounge area of the hotel.

A friend of Ms Godfrey, Kaylee Johnson arrived at the hotel at around 4:30pm. She saw Mr Moore approach Mrs Godfrey. She recalls Mr Moore being very drunk and says that shortly after she arrived, he walked out of the hotel to sit in his vehicle which was parked in the hotel grounds under a tree. He appeared to doze off.

By this time Ms Godfrey had moved to another part of the hotel and saw no more of Mr Moore. She says that Mr Moore had stayed in town on previous occasions when drinking and she, naturally enough, presumed he would do the same that evening if she thought about it at all.

Ms Sherman recalls that when she finished her shift at 5.00pm, Mr Moore was still in the hotel. Shortly after 5.00pm, Ms Johnson was surprised to observe Mr Moore drive away from the hotel. Mr Moore's white Daihatsu Sedan travelled in a southerly direction out of town, along the Carnarvon Highway and quickly reached high speed.

### ***Mr Moore comes to the attention of police***

Senior Constable Adam Cassel, the acting officer in charge of Injune Station, had begun his shift at 4.00pm that day.

At 5:15pm he was conducting a mobile radar patrol, travelling north on the Carnarvon Highway, several kilometres south of Injune in a marked police four wheel drive. He observed Mr Moore's vehicle coming in the opposite direction and saw the radar indicating it was travelling at 151km per hr.

Senior Constable Cassel activated his coloured rotating bar lights, slowed the police vehicle and with his right arm pointed to the side of the road as the on coming Daihatsu approached. It passed him without noticeably slowing, although the officer was in no doubt the driver had seen his direction and was aware he was required to stop. Senior Constable Cassel immediately performed a u-turn and followed the Daihatsu.

Sergeant Greg Caletti, the usual officer in charge of the Injune station, had spent the day acting as officer in charge of the Roma District Traffic Branch. He had left Roma at about 4.00pm and was driving home to Injune in a marked police traffic branch sedan. Nearing Injune he noticed the flashing lights of Senior Constable Cassel's vehicle ahead of him. It was performing a u-turn. Almost immediately, his attention was drawn to Mr Moore's vehicle

speeding towards him. It ran wide around a left hand bend, forcing him to take minor evasive action by moving to the left of the road. At inquest he estimated that by the time Mr Moore passed him, Senior Constable Cassel had completed his u-turn and was around 100m behind the Daihatsu.

It was immediately apparent to Sergeant Caletti he was observing an attempted interception. He spoke to Senior Constable Cassel over the police radio who confirmed what was happening. Sergeant Caletti activated his lights with a view to assisting. He pulled over to the left, waited for a vehicle behind him to pass, performed a u-turn and then followed in the direction of Senior Constable Cassel and Mr Moore.

When interviewed the day after the crash, Sergeant Caletti says when he began travelling south, he could see the police vehicle turning right down Blue Lagoon Road and he followed. That intersection was about three to four hundred metres south of where Sergeant Caletti turned around. When he gave evidence, the officer said when he turned to travel south, the police vehicle was out of sight and he learnt that it had turned off the highway in a radio call from Senior Constable Cassel. I can not resolve this inconsistency but nothing turns on it in my view. He was on either version, several hundred metres behind the four wheel drive by this time.

After about 100 metres of bitumen, Blue Lagoon Road narrows to a single lane of poor quality gravel. It is rutted and narrow. It runs in a westerly direction from the Carnarvon Highway and is a no through road.

At the time of the crash, Sergeant Caletti had been based in Injune for about six years and as his parents in law lived in Blue Lagoon Road he knew it well. He therefore suggested to Senior Constable Cassel that he take the lead. At the inquest he says this decision was also motivated by the undesirability of driving the 4wd at high speed.

As a result, soon after the police vehicles came onto Blue Lagoon Road, Senior Constable Cassel moved to the left and let Sergeant Caletti take the lead.

Sergeant Caletti gave evidence that initially he was travelling at around 90km per hr, before slowing to around 80km per hr because of the glare of the western sun and the poor condition of the road. Having recently driven it, I share his view that 80 km per hr is probably the upper limit for safe driving.

Sergeant Caletti says they knew the road was a dead end and they expected to come across the Daihatsu without having to pursue it at close quarters.

Sergeant Caletti stated at inquest that shortly after this time as he came around a right hand bend in the road, he noticed that the dust he had associated with Mr Moore's vehicle no longer appeared to be 'trailing' dust,



rather, it was concentrated in one area. This is consistent with what we now know to be the crash site.

### ***The crash and aftermath***

Approximately 1.8km along Blue Lagoon Road there is a signposted dip in the road. It is quite steep and deep and could not be driven through safely at more than 80 km per hr in my view. Approximately 90 metres past this dip, tyre marks were found which reveal the Daihatsu commenced to yaw whereby the rear tyres tracked left and outside the front tyres. This resulted in the vehicle travelling around its centre of mass while slipping sideways. In addition to being a consequence of speed, Sergeant Morrison acknowledged at inquest that this may have been caused by a phenomenon whereby the effective weight, and therefore grip, of the vehicle was reduced as it exited the dip.

Mr Moore was unable to control the direction of travel of the vehicle. It continued to slide towards the right hand gutter and, on impact with the edge, flipped sideways and collided with a tree. The impact caused the vehicle to split in two. It appears that Mr Moore was not wearing a seatbelt and he was flung from the wreckage, landing on the road.

Sergeant Caletti was first on the scene and drove slowly past the wreckage and the body of Mr Moore. Recognising the need to preserve the scene he then motioned for Senior Constable Cassel to pull up before the accident scene. Senior Constable Cassel attended to Mr Moore. It was immediately apparent he was unable to be assisted. Senior Constable Cassel contacted Roma station to advise of the incident. The officers then awaited Inspector Coleman's arrival an hour later.

After forensic examination, Mr Moore's body was taken to Roma Hospital and then, late in the evening, transported to Toowoomba Base Hospital mortuary.

### ***The investigation findings***

Sergeant Morrison's analysis of the yaw marks left by the Daihatsu allowed him to estimate the speed of that vehicle at between 115km/h and 120km/h at the commencement of those tyre marks.

A QPS mechanical inspection of the Daihatsu revealed some deficiencies with the vehicle; in particular the rear brake pads being worn to replacement level. It was otherwise found that the vehicle was in satisfactory mechanical condition and no defects were found which could be said to have contributed to the accident.

The breath tests conducted on the two police officers involved showed readings of 0.00%.

Investigation revealed that there was no practice of recording radio communications in the Roma police district at the time of this accident. The

lead up to the accident appears to have been heard by an officer at Roma; however, there was otherwise no interaction with a person who may have become 'pursuit controller' as no pursuit was ever called. Facilities now allow for radio communications in the Roma police district to be recorded.

### ***The autopsy***

On 27 September 2006, an autopsy was conducted on the body of Paul Moore at Toowoomba by Dr Roger Guard, an experienced pathologist.

An external examination revealed:

*'...multiple abrasions to the face....a massive scalp lesion with scalp flap down to skull present at the front of the head to the right-hand side measuring approximately 10cm x 5cm. There is a massive contusion over the right shoulder with an obvious fracture dislocation of the right humerus. There is another mark across the neck in the region of the thyroid cartilage. There are multiple abrasions to the front of the chest and an obvious stove-in chest (flail segment of thorax). This would have produced a bilateral pneumothoraces. There are abrasions to the right side of the abdomen over the liver area.'*

Internal examination revealed amongst other injuries, massive multiple fractures to left and right ribs; multiple petechial haemorrhages within the white and grey matter of the brain (suggesting very extensive and severe neuronal shearing stresses); damage to the liver capsule. The ribs on the right side had *'punctured the visceral pleura and damaged the lung and possibly the superior vena cava anteriorly. This has resulted in a massive right sided hemothorax of approximately 1500ml.'*

Dr Guard issued an autopsy certificate listing the conditions leading directly to death as:

- 1(a) *Cerebral trauma (subarachnoid haemorrhages and neuronal shearing stresses)*
- 1(b) *plus shock from multiple rib fractures and massive right hemothorax*
- 1(c) *and anoxia from flail segment thorax*

Toxicology results showed a blood alcohol content of 190mg/100mL or 0.19% and a urine alcohol content of 271mg/100ml, or 0.27%. No drugs were detected.

### **Findings required by s45**

I am required to find, as far as is possible, who the deceased was, when and where he died, what caused the death and how he came by his death. I have already dealt with this last issue, the manner and circumstances of the death. As a result of considering all of the material contained in the exhibits and the

evidence given by the witnesses I am able to make the following findings in relation to the other aspects of the death.

- Identity of the deceased** – The deceased person was Paul James Moore
- Place of death** – He died at Blue Lagoon Road, near Injune in Queensland
- Date of death** – Mr Moore died on 22 September 2006
- Cause of death** – He died from cerebral trauma, shock and anoxia resulting from a single vehicle traffic accident following a police pursuit.

## **Concerns, comments and recommendations**

Section 46, in so far as it is relevant to this matter, provides that a coroner may comment on anything connected with a death that relates to public health or safety, the administration of justice or ways to prevent deaths from happening in similar circumstances in the future.

As counsel assisting mentioned at the opening of this inquest, Mr Moore's death is one of seven that followed a police pursuit in the period June 2005 to December 2006. Five inquests have already been held and a final inquest will be held next month. In relation to each, the conduct of the officers involved has been and will be judged against the QPS policies in force at the relevant time. However, as those policies have changed significantly during that period, I shall refrain from making any recommendations for further change until the evidence from all seven inquests has been considered and the impact of the changes evaluated.

### ***QPS pursuit policy***

The QPS Operational Procedures Manual (OPM), as it existed at the relevant time, provided the following definitions:

#### ***Pursuit***

*Means an attempt by an officer driving a police vehicle to intercept another vehicle where that officer believes on reasonable grounds that the other driver is avoiding interception. An intercept is when an officer is endeavouring to stop another vehicle – a pursuit begins when the officer believes on reasonable grounds that the driver of the other vehicle is intentionally avoiding being intercepted.*

#### ***Abandon***

*Means all police drivers engaged in a pursuit, must immediately acknowledge the direction to abandon the pursuit, turn off flashing warning lights and sirens, pull over and stop the police vehicle in the*

*first available safe position and conduct a safety check of the vehicle before resuming normal patrol or other relevant (pre-pursuit) duties.*

**Disengage**

*Means allowing the pursued vehicle to draw away but continuing to follow the pursued vehicle to further reduce risks from a pursuit. The pursuit controller may direct the pursuing unit(s) to allow the pursued vehicle to draw away. Re-engagement may be considered when appropriate, but only with the prior authorisation of the pursuit controller.*

**Known circumstances**

*Means what is known (not what is suspected or uncertain) in terms of all the circumstances, including the initial offence, that amounts to justifying the risks involved in the urgent duty or pursuit driving.”*

The policy has two layers of controls. It requires the officers undertaking the pursuit to apply a set of risk assessment criteria to determine whether a pursuit should be commenced and continued, and their actions are to be over viewed by another officer who is kept informed of developments via the police radio. That second officer has authority to direct the pursuers to terminate the pursuit. In this case the second layer of control did not become relevant.

The policy provides:-

*“When an officer initiates a pursuit in an area where radio contact can be maintained, that officer is to ensure that the radio operator is advised as soon as possible”*

of a number of features of the circumstances set out in the policy.

**The obligations of the pursuing officers**

In the part headed “*Justification for initiating or continuing a pursuit*” the policy stipulates that “*(t)he risks involved must be balanced against the necessity for the pursuit. Pursuits may be conducted only when;*

- (i) the known circumstances are sufficient to justify a pursuit;*
- (ii) identifying or apprehending the occupant(s) of the pursued vehicle at a later time is unlikely.*

The policy goes on to direct that “*a risk assessment must be conducted in relation to every pursuit.*” It then lists 12 factors which must form part of the assessment.

The standard risk management approach is continued by the direction that “*(t)he reasons for and risks involved must be assessed before initiating the pursuit and be continually reassessed during the pursuit. The mandatory operating principle is ‘the safety of police, the public and the offenders or*

*suspects is paramount.’ The pursuit must be abandoned if the risk outweighs the necessity for and known circumstances of the pursuit.”*

The policy provides at section 14.23.7:

*“A pursuit must be abandoned immediately if it creates an unacceptable risk to the safety of any person.”*

As can be seen, the policies required the pursuing officers to balance the utility of a pursuit against the risks it generates. The utility is gauged by considering the consequences of failing to intercept the pursued. In this balancing exercise issues of safety are to be paramount.

### **Was there a pursuit?**

Senior Constable Cassel attempted to intercept the vehicle by illuminating his bar lights and using a hand signal to direct Mr Moore to stop. He did not. The officer then set after him in an attempt to intercept him.

By failing to stop when directed to do so, and by suddenly turning off the highway about five to six hundred metres further on, I consider Mr Moore was manifesting an intention to avoid being intercepted and a reasonable officer would recognise this to be the case. There is no suggestion that either officer did not come to the same conclusion.

It was submitted by his counsel that Senior Constable Cassel had immediately lost sight of Mr Moore as he turned down Blue Lagoon Road and no pursuit was ever commenced. This is not consistent with the evidence of Sergeant Caletti who says when the vehicles passed him, they were only about 100 metres apart. Unfortunately, Senior Constable Cassel was unable to give evidence as a result of a medical condition and the differences in his version and that of the other officer could not be explored.

In any event, there is no dispute that when Mr Moore failed to stop, Senior Constable Cassel went after him with the intent of effecting an interception.

I find that when Senior Constable Cassel executed a u-turn and followed Mr Moore after he had failed to stop, a pursuit had commenced.

### **Was the pursuit justified?**

Mr Moore was obviously exceeding the speed limit. Senior Constable Cassel was entitled to intercept him. Nothing about Mr Moore, his car, his manner of driving, the road or traffic conditions, or any other aspect of the circumstances that was apparent to the officers made the risk of pursuing outweigh the necessity for it when the vehicles were on the highway.

I find in initiating the pursuit Senior Constable Cassel was acting in accordance with the policy.

The situation changed when Mr Moore turned onto the poorly formed side road. At this point Sergeant Calletti became the primary pursuit vehicle. Perhaps while not consciously averting to the pursuit policy, he undertook a risk assessment and adjusted his speed for the conditions by significantly slowing.

When he gave evidence, Sergeant Caletti said the purpose of continuing to travel along Blue Lagoon Road remained one of attempting to intercept Mr Moore. The lights on the police vehicles were still illuminated. I don't believe it can be cogently argued the pursuit was abandoned having regard to the definition of that term in the policy. Rather, the officers disengaged, and in accordance with the policy, continued the pursuit in a safe manner.

I consider they were entitled to do this and that they were acting in accordance with the policy.

### **Failure to notify the radio operator**

As set out earlier, as soon as possible after initiating a pursuit the officers involved were obliged to broadcast this fact to the local radio room. They did not do this. There was nothing stopping them from doing so. Accordingly, they failed to comply with the policy.

However, the breach was minor. The officers were driving safely and there is no likelihood they would have been directed to act any differently had they radioed the Roma Station. The pursuit was of short duration and the failure certainly did not in any way contribute to the fatal crash.

I assume Sergeant Calletti will have regard to these findings. I consider no further action is required in relation to this aspect of the matter.

This inquest is closed.

Michael Barnes  
State Coroner  
Roma  
22 April 2009