



OFFICE OF THE STATE CORONER

FINDINGS OF INQUEST

CITATION: **Inquest into the death of Paul Michael LOW**

TITLE OF COURT: Coroner's Court

JURISDICTION: Brisbane

FILE NO(s): COR 2012/3465

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FINDINGS OF: Mr Terry Ryan, State Coroner

CATCHWORDS: **CORONERS:** police pursuits, attempted intercepts.

REPRESENTATION:

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Introduction

Paul Low was a passenger in his own car when the driver lost control and it slid into a tree in the early hours of 25 September 2012 at Murrumba Downs. While Mr Low died instantly from the injuries he sustained in the collision, the driver fled the scene.

Minutes earlier Mr Low's vehicle had passed a police car travelling in the opposite direction. The police say that it immediately sped away from them. The police set off in the same direction and were close enough to see the spinning headlights on Mr Low's vehicle as it lost control just before the collision.

These findings:-

- establish the circumstances in which the fatal injuries were sustained;
- confirm the identity of the deceased person, the time, place and medical cause of his death; and
- consider whether the police officers involved acted in accordance with the Queensland Police Service (QPS) policies and procedures then in force.

An inquest is not a criminal or civil trial. Accordingly, these findings do not seek to lay blame or suggest anyone has been guilty of a criminal offence or is civilly liable for the death (beyond noting where that has already been determined by another court). As the deaths followed immediately a series of events involving police and the incident was investigated by other police officers, the findings also examine the quality of that investigation.

The investigation

The QPS Ethical Standards Command (ESC) conducted the coronial investigation and Detective Senior Sergeant Anthony Buxton prepared a detailed report. Crime and Misconduct Commission officers attended the Petrie police station during the initial stages of the investigation and were briefed as the investigation continued.

On the evening of the incident the Regional Duty Officer, Inspector Paul Reynolds, separated the two officers involved and obtained initial versions from them. He also conducted roadside breath tests on both officers.

ESC investigators conducted disciplinary interviews with the two officers involved. CCTV footage was seized from local businesses and investigators conducted a number of recorded 'drive-throughs' over the officers' course of travel during their attempted intercept. QPS forensic and scenes of crime officers attended the scene and a large number of photographs were taken and later tendered at the inquest. Scientific officers took DNA samples from within the crashed vehicle.

Interviews were conducted and/or witness statements taken from the family of the deceased, various friends and acquaintances and witnesses to the attempted intercept. The driver of Mr Low's vehicle at the time of the collision was interviewed on a number of occasions and was subjected to a forensic medical examination. A number of photographs were taken of his apparent injuries. A blood sample was obtained during the medical examination though it was 26 hours after the collision by the time the sample was collected.

Investigators seized audio recordings of the police radio transmissions made during the incident.

A police mechanic inspected the police vehicle and Mr Low's vehicle.

I am satisfied that all relevant sources of information have been accessed and the results effectively collated. I commend those responsible for their efforts.

The inquest

A pre-inquest conference was held in Brisbane on 9 May 2014. Mr Johns was appointed counsel assisting and leave to appear was granted to Mr Low's parents, the Commissioner of the Queensland Police Service, the officers involved in the incident, and the driver of the crashed vehicle, Mr Ollenburg.

I conducted a view of the scene on 3 June 2014 and the inquest was held in Brisbane on 4 June 2014. Six witnesses gave evidence and 188 exhibits were tendered. I am satisfied that all information relevant to and necessary for my findings was made available at the inquest.

The evidence

A large amount of information was contained in the exhibits and oral evidence. These reasons record only the evidence I believe is necessary to understand the findings I have made.

Social history

Paul Michael Low was born on 9 January 1993 in Brisbane and is survived by his parents, Colin and Margaret. He was an only child and just 19 years of age when he died.

Paul was living with his parents at Narangba. He had completed year 12. He was looking for work after finishing a traineeship in construction with the Moreton Shire Council.

Paul's father Colin had purchased a white Holden Calais for him. This was a "high performance" vehicle for the purpose of driver licensing requirements. Colin Low was maintaining this vehicle for Paul and told investigators he had recently changed one of the tyres. At the time of his death Paul's driver licence was restricted due to previous disqualifications. He was not permitted to drive between 11:00pm and 5:00am.

Paul's parents told ESC investigators that he had recently been coming and going from their home at unusual hours. They did not approve of the group of people he was mixing with. Colin Low had expressed concerns to his son about these associates. Tragically, Paul ignored those concerns and the consequences were fatal.

It is clear that Paul was greatly loved and is very much missed by his parents, extended family and friends. I offer them my sincere condolences.

The offender

One of Paul Low's friends was Peter Ollenburg. He was six years older than Paul, and an unemployed father of two children. Mr Ollenburg had a criminal history that included property offences, dangerous operation of a vehicle (for which he was on parole at the time of this incident) and evading police.

Peter Ollenburg fled the scene of the collision. When initially spoken to by police several hours later he denied being in the vehicle when it crashed. He maintained his position in a lengthy interview later in the morning even when shown a seemingly incriminating text message apparently sent from his phone to another friend stating in part:

"....Paul crashed his car. I had to run. Can you come out now?"

Mr Ollenburg later changed this initial version of events to one where he had been in a position to see Mr Low's vehicle being pursued by police and, on becoming aware it had crashed had just "*freaked out*".

Mr Ollenburg was charged with a number of offences arising out of the incident based on the police case that he had in fact been the driver at the time of the collision. On 31 October 2013, Mr Ollenburg was sentenced in the District Court at Brisbane having pleaded guilty to the charge of dangerous operation of a motor vehicle causing death with circumstances of aggravation.

He was sentenced to a period of eight years imprisonment with a parole eligibility date of 30 April 2016. In sentencing Mr Ollenburg, Judge Dick was mindful of his "*....appalling traffic history, and criminal history...*" and that "*...you were on parole for two counts of dangerous driving, involving police chases at the time. You were disqualified.*"

Background

On the evening of 24 September 2012 Paul Low was driving a group of friends around areas of north Brisbane including Nundah, Kippa Ring, Deception Bay and Murrumba Downs. It has been suggested by police this was in connection with drug activity, but in particular it seems that Mr Low was intent on recovering a gold chain which had been lent to an acquaintance for use as security to cover unpaid rent.

They drove around late into the night. When his mother rang to remind him not to be driving after 11:00pm, Mr Low assured her that a friend would drive

his vehicle after this time. This is in fact what happened. Mr Ollenburg is likely to have taken over the driving from around this time.

Shortly after midnight they picked up a friend whose car had broken down and dropped him at his residence at Deception Bay. After leaving this house at about 12:45am it is unclear exactly where Mr Low and Mr Ollenburg travelled but shortly after 1:30am they had made their way to Dohles Rocks Road at Murrumba Downs. This is where police first spotted the Holden Calais belonging to Mr Low.

Constables Jacob Lee and Scott Clemson-Edmonds were conducting patrols in a marked police vehicle on Dohles Rocks Road in the early hours of 25 September 2012 having commenced their shifts at 10:00pm the previous day. Shortly after 1:30am, with Clemson-Edmonds driving, they drew to a halt in order to perform a U-turn, across traffic, and into the driveway of a 7-Eleven service station. At this moment the white Calais travelled past them in the opposite direction. Driven by Ollenburg it had just exited onto Dohles Rocks Road from the Bruce Highway and was now travelling west on this 60km/h section of road.

The attempted intercept

The police vehicle was required to give way to the Calais. Constables Lee and Clemson-Edmonds both say that when they first saw the Calais it was not speeding. According to them it was only when the Calais had already passed the police car that it accelerated quickly and was drawn to their attention. Constable Clemson-Edmonds told investigators that after the Calais passed his position:

“I observed the vehicle just absolutely gun it. I said to my, to Jacob that the vehicle had gunned it um and then asked him if he had um observed a, a rego. Ah he said no...”

Both officers consistently gave this version of events to both Inspector Reynolds at the scene and the ESC investigators. This was after they had been separated post-incident. In the ESC investigation report some significance was placed on the apparent discrepancy between this account and the initial police radio broadcast by Constable Lee during the incident:

“A white vehicle has just screamed past us Dohles Rocks Road Murrumba Downs. (pause) Oh it’s hit a tree it’s on fire VKR”

While this broadcast might be plainly read as indicating the Calais would have drawn the officers’ attention prior to passing them, it should be considered in context. Although it might be hoped that an officer would remain calm and provide an accurate account of events it is unsurprising that the dynamics of the situation could lead to some exaggeration or excitable language.

The account that the vehicle ‘screamed past us’, as opposed to a more detailed and accurate account indicating it had only accelerated after passing the police vehicle is understandable, if not desirable, in the circumstances. It

is important not to attach too much weight to the precise wording used in the heat of the moment. In this case I do not consider that it weakens the account given by Constable Lee after the incident.

Ultimately it matters little to the officers' decision making whether the Calais was speeding when it passed them or accelerated quickly after passing them. In both cases, as I will detail later in these findings, they were entitled to make an attempt to intercept and it makes no difference under QPS policy in terms of their entitlement or otherwise to pursue the vehicle.

After seeing the Calais accelerate quickly both police officers say they considered it appropriate to attempt to intercept that vehicle. Constable Clemson-Edmonds performed a U-turn and accelerated in the same direction as the Calais for this purpose.

At the inquest Peter Ollenburg said he recalled seeing police and his subsequent driving was clearly influenced by a desire to evade them. Records from the mobile phone Mr Low was using at the time show that he was in contact with a number of friends through the early hours of 25 September 2012. One of those friends, Adam Gibson, told police he was speaking to Mr Low at around 1:30am when Mr Low stated:

Low: *"We're in a chase, I've got to go."*
Gibson: *"You're not lying to me?"*
Low: *"I've got to go. I've got to go"*

Mr Low hung up at that point and when Mr Gibson tried to call him back there was no answer.

Once the police vehicle had performed a U-turn the officers' estimated that the Calais was close to 200m further ahead and travelling west on Dohles Rocks Road. At that point the road is clearly marked as being a 60km/h zone.

The officers say that their initial intention was to get close enough to sight the registration of the vehicle. In his account to ESC investigators, Constable Clemson-Edmonds estimated that he reached a maximum speed of 120km/h in what he believed was a 70km/h zone. Constable Lee estimated the police vehicle reached a maximum speed of 120 to 130km/h in what he incorrectly believed was a 70 or 80km/h zone.

Constable Lee told ESC investigators that during the course of the attempted intercept he told Constable Clemson-Edmonds to slow down and not to "*go stupid*" though this was denied by Constable Clemson-Edmonds. At the inquest he recalled that Constable Lee had said "*don't go too hard*" prior to the attempted intercept but was not sure what he meant by this.

In both cases the officers say that the Calais continued to distance itself from them as the attempted intercept continued such that it was around 400m to 500m from them when Mr Ollenburg ultimately lost control. That point was

around 2.3km west of the point where the attempted intercept commenced. The entire chain of events lasted some 50 seconds.

Constable Lee's evidence was that he realised in the vicinity of Ogg Road that they would not be able to intercept the Calais and asked Constable Clemson-Edmonds to slow down. At this point he could barely make out the tail lights on the Calais. In his view the officers were engaged in an attempted intercept but not a pursuit. He said that at the time he thought the driver was responsible for activating the lights and sirens on the police vehicle during an attempted intercept, but acknowledged that it is the responsibility of the senior officer. In any event, he thought that the police vehicle was too far behind the Calais for the lights and siren to be effective.

Constable Clemson-Edmonds' evidence was that he did not think about turning on the police vehicle's lights because he was not close enough to the Calais. He considered that he was driving within his and the vehicle's limits at speeds he estimated reached up to 130 km/h between Castle Hill Drive and Ogg Road. Constable Clemson-Edmonds recognised the approaching 'dog leg' where the road narrowed and he slowed down so as to negotiate the road conditions.

Constable Clemson-Edmonds did not consider that he was engaged in a pursuit because he had not given a direction to stop. However, he did acknowledge that he was engaged in Urgent Duty Driving. The definition of urgent duty driving within the Operational Procedures Manual provides that it:

means driving to perform a duty which requires prompt action and may include:

- (i) the use of flashing warning lights and/or siren to obtain priority travel over other motorists; and*
- (ii) driving a Service vehicle in a manner that, if not justified, would ordinarily constitute an offence.*

At the inquest Constable Clemson-Edmonds suggested that the inclusion of the word "may" within the definition implied that officers have discretion whether or not to activate the lights and siren. However, the OPM also provides:

Drivers of police vehicles are to use the flashing warning lights and siren fitted to the particular vehicle when engaged in urgent duty driving, unless exceptional circumstances exist.

Constable Clemson-Edmonds stated that he was confident that the occupants of the Calais knew that a police vehicle was following them and the short distance involved in the attempted intercept did not warrant activation of the lights or siren.

While that may be the case, the activation of lights and sirens also brings the presence of the police vehicle to the attention of other road users and pedestrians, minimising the risk that they might unknowingly come into

contact with the involved vehicles. This attempted interception was in a built up area with a 60 km/h speed limit. The vehicles involved went through at least two intersections at speeds in excess of 130km/h. In those circumstances the pursuit posed a potential risk to other road users.

Lynette Young, a shift worker, was walking her dogs along Dohles Rocks Road in the early hours of 25 September 2012 when she saw a white car go past her at speed. She told investigators, and confirmed when she gave evidence at the inquest, that in her estimate the white car was travelling at around 170km/h. She described the police car as being close behind but believed that it slowed as it passed her because she could see the white car increasing its distance on the police car.

A short time later Ms Young heard, though did not see, a collision and saw the police car come to a stop. She corroborated the versions of the police officers that at no time during the incident did they activate the police vehicle's emergency lights or siren. A number of other civilian witnesses heard portions of the attempted intercept and/or collision though no others saw the relevant events.

CCTV footage was seized from a Matilda Service Station on the corner of Dohles Rocks Road and Ogg Rd at Murrumba Downs. This service station is located approximately 700 metres prior to (or east of) the collision site and approximately 1.6 km to the west of the point at which the attempted intercept commenced. That CCTV footage depicts a 130 metre stretch of Dohles Rocks Road and clearly depicts the white Calais and the following police vehicle at 1:36:48am and 1:36:54am respectively.

This footage was analysed by Senior Constable Noble, an experienced Forensic Crash Unit officer. Using several methods, which were set out in detail in his tendered report, Senior Constable Noble used the footage to estimate the speed of the Calais within a range of 154-206km/h. At the inquest he confirmed the accuracy of a comment in his report that, for various reasons, the speed of the Calais was likely to have been towards the lower end of this range. Using the same principles Senior Constable Noble estimated the speed of the police vehicle to be between 135-190km/h. This methodology also allowed him to estimate the distance between the vehicles as being between 216 and 304 metres at the time they passed the Matilda service station.

The methodology upon which these calculations are based was explored in depth at the inquest. Senior Constable Noble conceded that the speed of the police vehicle was likely to have been at the lower end of this range if it is accepted that it was travelling on the shorter, inner lanes of the curved roadway at the point used for calculation.

Senior Constable Noble was also able to use tyre marks left by the Calais as it lost control shortly before collision to estimate its speed at that point. Using well-recognised scientific formulas, and after explaining the methodology used to determine the inputs to those formulas, Senior Constable Noble estimated

the speed of the Calais at the point it began to leave tyre marks (211 metres to the west of where the Calais came to rest) to be between 144-155km/h. There was no damage or debris on the roadway, which would have contributed to the loss of control of the Calais.

The crash and aftermath

Constables Clemson-Edmonds and Lee told the inquest that the first they knew of the impending collision was the headlights of the Calais suddenly becoming visible and appearing to spin. As they drew closer they saw a cloud of dust and what they thought was smoke coming from the Calais. The Calais had crashed into trees on the northern verge of the road. Constable Clemson-Edmonds drove past the vehicle, performed a U-turn and ran to the crashed vehicle with a fire extinguisher.

Constable Lee then activated the emergency lights on the police vehicle to warn other traffic and called police communications for an ambulance and fire crews to attend. This is the first time the emergency lights had been used during the course of events. When he reached the Calais, Constable Clemson-Edmonds found Mr Low trapped in the front passenger seat but could see no one in the driver's seat or anywhere else nearby.

Queensland Ambulance Service records show that it was contacted at 1:39am with the first crew arriving on scene at 1:48am. It was immediately clear that the injuries suffered by Mr Low were “*incompatible with life*” (as recorded in the QAS report) and life extinct was declared at 1:50am.

The autopsy

A post-mortem examination was conducted on the body of Mr Low at the Queensland Health Forensic and Scientific Services facility in Brisbane on the morning of 28 September 2012 by an experienced forensic pathologist, Dr Beng Ong.

Dr Ong had access to a post-mortem CT scan of the body along with toxicology and histology analysis. Toxicology testing revealed elevated levels of methylamphetamine along with the constituent and metabolite of cannabis. Dr Ong noted that the injuries to Mr Low's head were “devastating” and issued an autopsy certificate stating the cause of death as:

- 1(a) Head injuries; *due to or as a consequence of*
- (b) Motor vehicle accident (passenger)

The investigation findings

The forensic crash investigation was conducted by Senior Constables Frazer and Noble. The cause of the accident was, in their view, attributable to the speed at which the Calais was being driven and the possibility that Mr Ollenburg was intoxicated at the time.

The roadside breath tests and urine analysis conducted on both police officers established that neither was affected by drugs or alcohol at the relevant time.

Mechanical inspections established that both vehicles were in sound mechanical order and nothing was found which might be said to have contributed to the incident.

A review of police computer records showed that Constable Clemson-Edmonds had issued Paul Low with a traffic infringement notice on 5 September 2012 for failing to display his 'P' plates. Constable Clemson-Edmonds says that he only made the connection between this incident and the Calais involved in the collision after it had already crashed. This is unsurprising and I accept that Constable Clemson-Edmonds did not recognise the Calais as a vehicle he had previously dealt with at the time he was attempting to intercept it on 25 September 2012.

The inquest heard that both police officers were up to date with their training in QPS pursuit and urgent duty driving policy.

Findings required by s45

I am required to find, as far as is possible, who the deceased person was, how he died, when and where he died and what caused his death. As a result of considering all of the material contained in the exhibits and the evidence given by the witnesses, the material parts of which I have summarised above, I am able to make the following findings.

Identity of the deceased - The deceased person was Paul Michael Low.

How he died - He died as a result of injuries sustained when the driver of the vehicle in which he was a passenger lost control of it causing it to leave the road and strike a tree. The crash was caused by the dangerous driving of the vehicle which minutes earlier had accelerated to high speed immediately after passing a police vehicle travelling in the opposite direction.

Place of death - He died at Murrumba Downs in Queensland.

Date of death - Mr Low died on 25 September 2012.

Cause of death - Mr Low died from head injuries.

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.

The direct and proximate cause of the death of Paul Low was the dangerous driving of Peter Ollenburg. It is likely that the attempted interception of the Calais driven by Mr Ollenburg by police influenced, in part, his driving at high speed in the lead up to the collision.

I acknowledge that Mr Ollenburg had formed an intention to try to evade police before he drew himself to their attention by speeding from them. His traffic history suggests that he is likely to have driven at high speed for some distance regardless of the actions of the police. He was driving while his licence was disqualified as a consequence of previous offences of dangerous driving and evading police. There was also a quantity of methylamphetamine found in the vehicle. He had also been involved in three previous police pursuits, which had been abandoned. He faced the prospect of imprisonment if caught.

Mr Ollenburg's evidence at the inquest was that as soon as he saw the police car make a U-turn it activated its lights and he sped away, reaching 200km per hour. However, no other witness saw the police lights activated before the Calais had collided with the tree and I find that the lights were not activated until that time.

Even if the attempted intercept materially affected the manner of Mr Ollenburg's driving it does not automatically follow that the police officers involved did anything wrong or were in any way responsible for the death of Mr Low.

What needs to be considered is whether the actions of the officers involved in the incident were lawful and reasonable. That requires an assessment of whether the officers complied with the relevant QPS policies.

QPS pursuit policy

On 1 January 2008, after an extensive trial period, the QPS implemented a new pursuit policy. The policy has subsequently been refined and was reviewed again during 2013 to identify whether improvements might assist officers in conducting enforcement and investigating offences. I acknowledge that the reforms to date demonstrate an ongoing commitment by the QPS to ensure that public safety is prioritised over the pursuit of offenders.

The parts of the policy that were in force in September 2012 and are relevant to this matter are considered below.

When can a pursuit be commenced and continued?

The principles underpinning the policy are outlined in the Operational Procedures Manual (OPM). Those of particular relevance to this case are:

- (i) Pursuit driving is inherently dangerous. In most cases the risk of the pursuit will outweigh the benefits.*
- (ii) Pursuits should only be commenced or continued where the benefit to the community of apprehending the offender outweighs the risks.*

(iii) *If in doubt about commencing or continuing a pursuit, don't.*

The policy assures officers that suspects who fail to stop when directed will still be the subject of law enforcement action, but less dangerous means than high speed pursuits will be utilised. It says:-

The revised pursuit policy seeks to shift the manner of apprehension of people who fail to be intercepted from pursuits into other strategies. The Service will continue to apprehend offenders who fail to be intercepted but pursuits will not be the principal means of effecting apprehension.

Officers have to conduct a risk assessment before starting a pursuit. The risk assessment must consider a range of factors, including the seriousness of the offences the person fleeing may have committed and the strength of the evidence indicating they have committed those offences. In this balancing exercise, issues of safety are paramount.

The policy defines “*pursuit*” as the continued attempt to intercept a vehicle that has failed to comply with a direction to stop where it is believed on reasonable grounds the driver of the other vehicle is attempting to evade police.

“*Intercept*” means the period from deciding to direct the driver of a vehicle to stop until either the driver stops or fails to stop. It includes the period when the police vehicle closes on the subject vehicle in order to give the driver a direction to stop.

The policy prohibits the commencement of a pursuit for a “non-pursuit matter”. These include licence and vehicle checks, random breath tests and traffic offences, including exceeding the speed limit.

When an intercept becomes a pursuit

When an officer is attempting to intercept a vehicle, if the vehicle fails to stop as soon as reasonably practicable after a direction to stop has been given, and the officer reasonably believes the driver of the vehicle is attempting to evade police, a pursuit is said to commence if the officer continues to attempt the intercept.

The reference to “reasonably believes” means the question is not determined by the subjective views of the pursuing officer, rather, as with most aspects of law enforcement, officers must align their conduct with what a reasonable officer would do or believe in the circumstances.

An attempted intercept must be abandoned if a pursuit is not justified. Where a pursuit that had initially been justified becomes one where either the officer, the occupants of the pursued vehicle or members of the public are exposed to unjustifiable risk, it must be abandoned. In such cases the officer must turn off the flashing lights and siren, pull over and stop the police vehicle at the first

available safe position and provide details to the local police communications centre.

Of significance to this case is the requirement within the definition of “*pursuit*” that the officer give a direction to stop as part of the cumulative series of events which must occur before a pursuit is said to occur. This is contained in section 14.30 of the OPM.

A plain reading of the definition seems to require that such a direction be given before an intercept transitions to a pursuit, even if all other elements are satisfied.

Was a pursuit permitted?

When initially interviewed, neither of the officers involved asserted a pursuit could have been permitted under the QPS policy. It was common ground among the parties at the inquest that this was a ‘non-pursuit matter’.

Was there a pursuit in this case?

The only basis on which it can be said that there was no pursuit in this case is that there was no direction to stop given to the driver of the Calais.

The police officers say they believed the driver of the Calais was aware of the police vehicle and drove off in response to its presence.

The officers both acknowledged that they were attempting to intercept and in my view, continued to do so after forming the belief that the Calais was not going to stop. However, a pursuit, as defined, did not occur. This is plainly an absurd outcome and points to an inadequacy in the drafting of the definition of “pursuit” in the OPM.

Recommendations

During the inquest counsel for the Police Commissioner noted that a review of the pursuit policy within the QPS was nearing completion. He helpfully arranged for a redacted copy of the December 2013 Pursuit Policy Review to be provided and this was tendered after the close of evidence.

Implementation of the Review’s recommendations will now be a matter for the incoming government. However, I endorse the Review’s conclusion that there is no basis to either widen or diminish the current QPS pursuit policy’s provisions.

Research by the Australian Institute of Criminology published in 2013 indicates that 82 of the 218 deaths resulting from police pursuits in Australia in the years 2000-2011 involved innocent persons, including police officers, other road users and pedestrians, and passengers in the pursued vehicle¹.

1. Lyneham M and Hewitt-Rau A, *Motor vehicle pursuit-related fatalities in Australia, 2000-11* Australian Institute of Criminology, 3 June 2013

The current Queensland pursuit policy has been successful in minimising the loss of life in these circumstances.

The author of the Review consulted me in late 2013. Consequent to that consultation the review includes a recommendation focussed in particular on the definitions of 'attempted intercept' and 'pursuit' under the policy; calling in general terms for their clarification.

I consider that the facts of this inquest require me to make an additional specific recommendation regarding the requirement for a direction to stop to be given to another vehicle before a subsequent series of events can be classified as a "pursuit".

Recommendation 1

I recommend that the QPS pursuit policy be amended to ensure that a pursuit is considered to have commenced in circumstances where the QPS engage in extended following of a vehicle without the lights and siren being activated. This could be achieved by including a second limb, based on the definition in the Victoria Police Manual, so that a pursuit is taken to have commenced when police continue to follow a vehicle that is taking deliberate action to avoid being stopped.

Section 48

Sections 48(3) and 48(4) of the *Coroners Act 2003* provide for the giving of information about a person's conduct by a coroner to the CCC (for official or police misconduct) or to a disciplinary body for the person's profession or trade (if the coroner reasonably believes it might cause that body to inquire into, or take steps in relation to, the conduct).

The inquest heard that disciplinary proceedings were on foot in relation to actions of the two police officers before Mr Low's death; in particular with respect to the failure to use lights and siren in the attempted intercept; the speed of the police vehicle, and the failure to maintain adequate contact with police communications.

In these circumstances it is unnecessary for me to exercise my discretion with respect to section 48(3). The evidence triggers no other part of section 48.

I close the inquest.

Terry Ryan
State Coroner
Brisbane
26 February 2015