



Western

Australia

RECORD OF INVESTIGATION INTO DEATH

13/14

*I, Evelyn Felicia VICKER, Deputy State Coroner, having investigated the death of **Keannita SAMSON** with an inquest, held at the **South Hedland Coroners Court, South Hedland**, on **9-11 April 2014**, find the identity of the deceased child was **Keannita SAMSON** and that death occurred on **7 February 2010** at **Great Northern Highway near Bell Street, Port Hedland**, as a result of **Chest and Head Injuries** in the following circumstances:*

Counsel Appearing :

Ms K Ellson assisted the Deputy State Coroner

Mr M Holgate appeared on behalf of the Commissioner of Police, Detective Sergeant Gibson, Sergeant Strachan and Senior Constable Pilkington

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SUPPRESSION ORDER

No publication of the names of the other children involved in this matter.

During the course of the inquest a suppression order was imposed upon the use of the names of any of the children involved in the circumstances of the death of the deceased child.

INTRODUCTION

On 7 February 2010, at about 7pm, Keannita Samson (the deceased child) was the rear left seat side passenger of a stolen white Ford falcon (the falcon) sedan driven in a south easterly direction on the Great Northern Highway, Port Hedland, when the driver of the falcon lost control of the vehicle and it crashed, partially ejecting the deceased child from the vehicle.

The falcon had been the target of an authorised police pursuit and the deceased child died at the scene from her injuries. She was 13 years and 8 months of age.

Under the provisions of the *Coroners Act 1996* there is no doubt the death of the deceased child was a reportable death.

In addition by the provisions of section 22(1)(b) where it appears the death was caused or contributed to, by any action of a member of the police force, there must be an inquest into the circumstances of the death to enable an independent review of the actions of the police officers involved.

BACKGROUND

The deceased child was born on 26 May 1996 in Port Hedland and lived with her family at Warralong Aboriginal Community, via Port Hedland.

At the time of her death she was a student at the school at the Warralong Community. The other four female children involved with the events surrounding the death of the deceased child were all 13 years of age and girls known to the staff at Warralong school.¹

EVENTS

The deceased child was staying at a home in Becker Court, South Hedland, on the weekend Saturday 6 and Sunday 7 February 2010 with a number of other people.²

In the early hours of 7 February 2010 the deceased child and another 13 year old girl broke into a home in South Hedland and stole various items including the keys to a white Ford falcon registration number NR 8800, while the occupants of the home were asleep.³

¹ Ex 3, Tab 58

² Ex 2, Tab 38

³ Ex 2, Tab 34

When the girls left the home the keys were given to a male by the deceased child and he then drove the car a short distance while the two girls walked to the same place. The male then returned the keys to the deceased child and she drove to Port Hedland, then back to South Hedland and parked the car out of sight at Becker Court.⁴

Later that Sunday morning the deceased child and other 13 year old girls took turns at driving the falcon in and around South Hedland. They all knew the car had been stolen and the deceased child drove the car initially to Coles where three of the girls stole clothing.⁵

The girls returned to Becker Court.

Later one of the other girls drove to the Walkabout Roadhouse and then the deceased child drove to the BP Service Station at the truck stop and put petrol in the falcon.⁶ This was captured on the BP Service Station CCTV footage.⁷

The falcon was then driven away from the BP Service Station by another girl without paying for the fuel. The consul operator rang the South Hedland Police Station at about 4:30pm to advise the police of the fuel theft. Following that phone call the police connected the earlier report of the stolen

⁴ Ex 2, Tab 34, 38

⁵ Ex 2, Tab 36, 38

⁶ Ex 2, Tab 36, Ex 4, Tab 38, Pg 3

⁷ Ex 3, Tab 73

falcon that morning with the vehicle reported as stealing fuel and being driven by two young aboriginal females, but not described as or appearing from the CCTV footage, as children.

The falcon was then driven back to the house in Becker Court where the deceased child was staying. Different girls were coming and going from that address.

Sometime after 5pm five girls, all aged 13 years, left Becker Court in the falcon. Again different girls drove at different times, including the deceased child. They drove to various locations.

At approximately 6:30pm the falcon was seen by Mr Leonard Holliday when he was driving south west to Wedgefield, from Port Hedland, along the Great Northern Highway in the vicinity of the cemetery. Mr Holliday had heard about the fuel theft over the radio scanner and recognised the description of the falcon as it overtook him. He observed four or five occupants in the vehicle with it being driven at approximately 70 km/h in a normal manner. The driver of the vehicle indicated to turn right into Schillaman Street in Wedgefield and once it had turned Mr Holliday lost sight of it.⁸ Mr Holliday rang the South Hedland Police at about 6:35pm and advised police of his observations. He could not recall the registration number but described the vehicle, the direction in which it was travelling

⁸ Ex 1, Tab 11

and his belief, at the time it contained four males. He also provided police with his mobile telephone number.⁹

Senior Constable Craig Gibson (Gibson) was the police officer coordinating tasks on the evening shift at South Hedland Police Station on that Sunday 7 February 2010. There were six police officers on that shift and he tasked the four available police officers to use two vehicles and to conduct patrols in and around the area as a result of Mr Holliday's phone call.

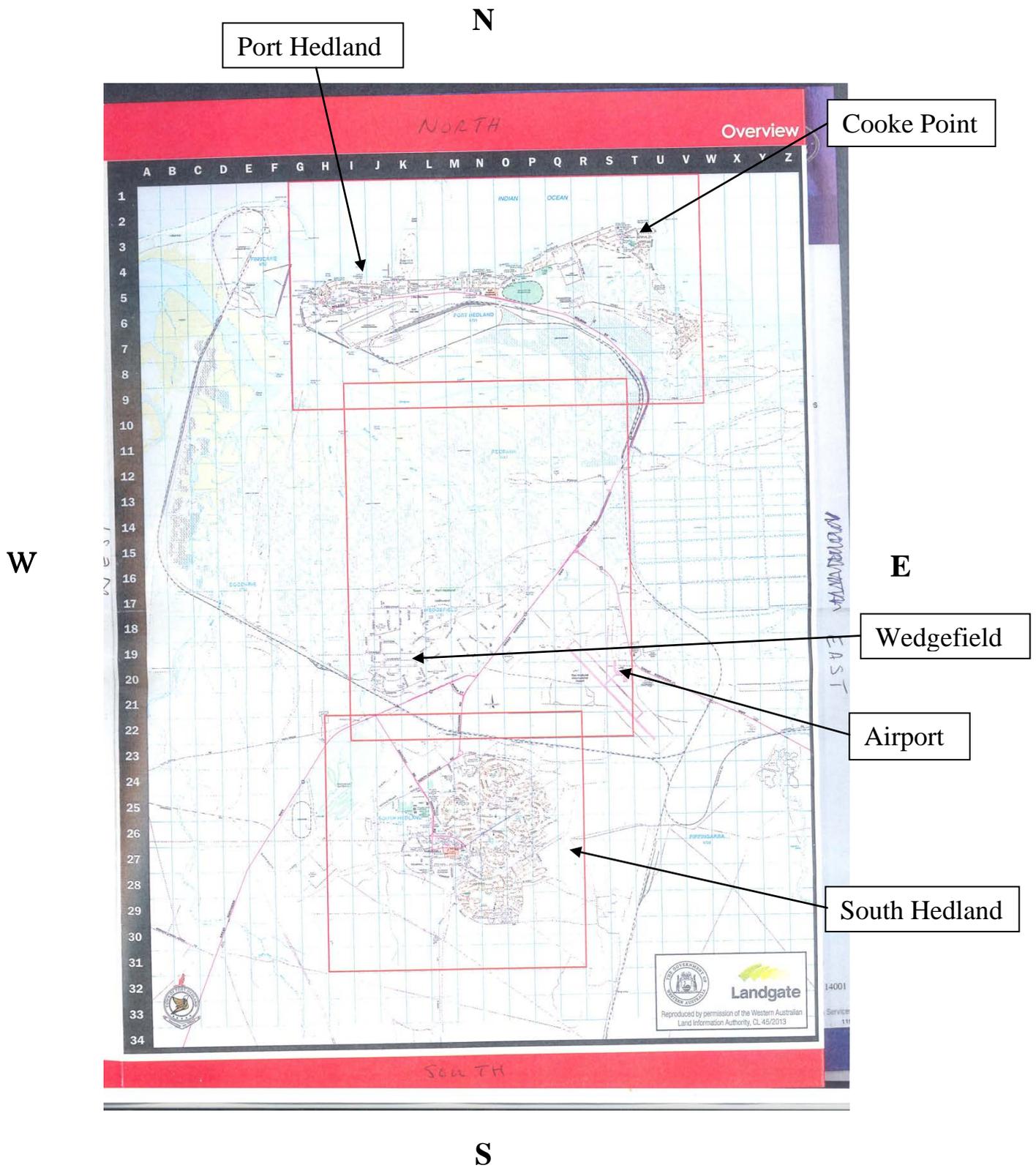
Gibson then rang Mr Holliday on the mobile number he had provided for further information as to his or the falcon's location, but Mr Holliday was unable to provide any further advice to the police other than the fact he believed the people he had seen in the falcon were males in blue mining clothes.¹⁰

After leaving Wedgefield the falcon returned to the Great Northern Highway and was driven north-east onto Wilson Street towards Port Hedland. At about 6:45pm as the vehicle was driven on Wilson Street, over the Redbank Bridge, the girl driving the falcon pulled onto the side of the road at a gravel stop and allowed one of the other 13 year old girls (the driver), who had not yet driven the falcon, or apparently any motor vehicle, to drive.¹¹

⁹ Ex 1, Tab 17

¹⁰ Ex 1, Tab 17

¹¹ Ex 2, Tab 34/38



At this point the deceased child was located in the rear left passenger seat with two girls sitting on her right. The driver

was in the driver's seat with another girl in the front passenger seat, in front of the deceased child.

As the driver pulled back onto Wilson Street so one of the police vehicles tasked to look for the falcon came over the Redbank Bridge and observed the gravel area where the falcon was located before it pulled onto Wilson Street and accelerated north towards Cooke Point Drive.

The police vehicle was PS203, an unmarked pursuit class police sedan, driven by Acting Sergeant Daniel Strachan (Strachan) an authorised Priority 1 (P1) pursuit driver, with Senior Constable Gerard Pilkington (Pilkington) as passenger. Strachan noted the number plate of the falcon and realised it was the stolen motor vehicle for which they were searching. Strachan activated the alert system on PS203 which consisted of a siren, flashing red and blue lights and flashing headlights in an attempt to stop the falcon. Pilkington advised Gibson by radio they could see the falcon as it turned right into Cooke Point Drive.

The driver of the falcon did not stop and drove away by turning right off Wilson Street and onto Cooke Point Drive. The girls in the falcon could both see and hear PS203 due to the lights and sirens.¹² The deceased child in the left rear

¹² Ex 2, Tab 34

passenger seat was not wearing a seat belt.¹³

The driver increased her speed in an attempt to evade the police and was subject to conflicting instructions from the other occupants of the car as to whether she should pull over, go faster or drive in the middle of the road.¹⁴

The driver informed the Children's Court at her later trial she was scared when the police chased her because she did not know how to drive, the police might arrest her and she did not feel safe driving.¹⁵ The driver continued along Cooke Point Drive and turned right at the Athol Street roundabout where she briefly lost control of the falcon and clipped the roundabout kerbing before moving to the incorrect side of the road. She then corrected the car to the left lane and continued along Athol Street driving east.

The officers in PS203 initially thought a tyre on the falcon had 'blown' but the driving of the falcon appeared to return to normal following that incident and the pursuit, which had by now been authorised, continued. Strachan believed it was at that point he noted five heads in the falcon but no other relevant identifying features.¹⁶

As a result of the pursuit being authorised at approximately

¹³ Ex 2, Tab 38

¹⁴ Ex 2, Tab 34, 36, 38

¹⁵ Ex 4, Tab 83, Pg14

¹⁶ † 9.4.14 p45/6

6:56pm, Gibson tasked First Class Constable Erin O'Brien (O'Brien) and Constable Jamie Bone (Bone) to assist PS203 as a Priority 2 backup. The two officers took PS104, a fully marked class 1 police sedan, and drove towards Port Hedland with O'Brien driving.

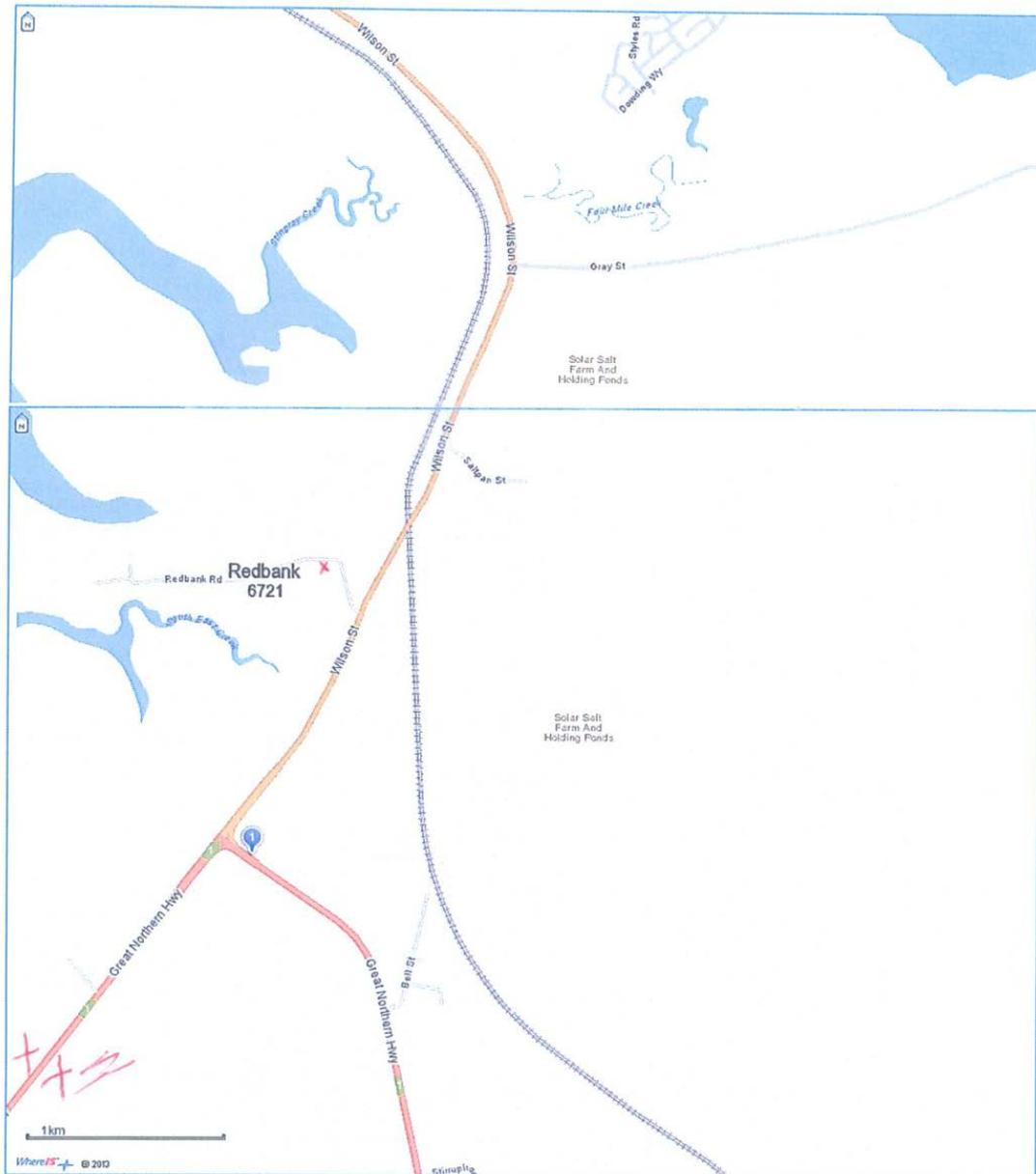


Exhibit 5
Map Marked by Ms Newbery-Starling

The recollection of the occupants of the falcon during the course of the pursuit is somewhat erratic, but there were civilian witnesses in the Cooke Point area who observed both the falcon and PS203. Consistently their evidence supports the proposition PS203 was at all times safely behind the falcon, neither vehicle was travelling at excessive speed albeit on occasion in excess of the posted speed limit, and the falcon appeared to be in poor condition, fully occupied and driven on the correct side of the road.¹⁷

There were also three off duty police officers who observed the two vehicles on Athol Street and noted a safe distance between the two vehicles, which appeared to be maintained later on their view of Wilson Street, as the vehicles drove south west.¹⁸ The off duty police officers did not attempt to assist PS203 because they had consumed alcohol while off duty.

The driver of the falcon drove to the end of Athol Street, turned left into Taylor Street, left into Goode Street, left and right down to McPherson Street and left to return to Athol Street. The falcon was then driven back along Athol Street, turned left into Cooke Point Road again, and then left back onto Wilson Street.¹⁹ It was at the point the falcon turned left onto Wilson Street the police officers in PS203 believe they came closest to

¹⁷ Ex 1, Tab 18, 19

¹⁸ Ex 2, Tab 29, 30, 31

¹⁹ Ex 3, Tab 74

the falcon as both vehicles slowed to take the turn. At all times following the incident on the roundabout, Strachan was not concerned the falcon was being driven unsafely.²⁰ The police vehicle maintained a safe distance behind the falcon depending on the speed the falcon travelled. The lights and sirens advised other road users of the whereabouts of the vehicles.

As a result of the operation of the alert system on PS203 Alexander Brent Anderson,²¹ driving south on Wilson Street, pulled to the side of the road to allow PS203 to pass, and prior to its passing noticed the falcon over take him on the right. Mr Anderson had not noticed the vehicle before and could not see the occupants other than to note they were aboriginal. He noted the vehicle was obviously speeding, he believed at about 120 km/h but there was otherwise nothing of concern about the driving. PS203 was following, also at a constant speed, and Mr Anderson was surprised neither vehicle was travelling any faster if there was indeed a pursuit in progress.

Before Mr Anderson could pull back onto the road he observed PS104 approaching from the direction in which the other vehicles had been travelling, also with lights and sirens activated. The driver of PS104, O'Brien, did a U-turn behind Mr Anderson and accelerated after PS203. Mr Anderson then continued on his way south by driving over Redbank Bridge

²⁰ Ex 1, Tab 13, p39 & t 9.4.14 p47

²¹ Ex 2, Tab 26

from which point he could still see the falcon and two following police vehicles on Wilson Street. He noticed all three vehicles turn left on the Great Northern Highway, in the same order as they had passed him, travelling south.

Louise Newberry-Starling²² also saw the three vehicles travelling south on Wilson Street from her property in Redbank as they turned onto the Great Northern Highway towards the airport (Broome Road). She commented in court²³ there was good separation between all vehicles in the obvious pursuit and all vehicles appeared to be travelling safely and not all that fast.²⁴

Anthony McGrory²⁵ was also out that evening on his motorbike. He was riding from Port Hedland towards South Hedland on Wilson Street, and he also saw PS104 drive north towards the Redbank Bridge, with its lights flashing. Mr McGrory pulled over, still astride his motorbike, and a few minutes later he observed the falcon come over the bridge driving south, with an unmarked and a marked police vehicle following it. Mr McGrory noticed the falcon has its windows down and had an impression there were people in the back, but he did not feel any of the vehicles were travelling at excessive speed for the open road. He also saw all three vehicles turn left towards the airport at about the same speed

²² Ex 2, Tab 27

²³ t 9.4.14 p11

²⁴ t 9.4.14 p11/12

²⁵ Ex 2, Tab 28

and not unsafely. Mr McGrory decided to follow the pursuit.

At the intersection of Wilson Street and the Great Northern Highway was another vehicle which had travelled from the airport and was intending to turn left on the Great Northern Highway, southwesterly towards South Hedland. A passenger in that vehicle, James Wolfe,²⁶ heard the police sirens and on looking right he could see the falcon driving towards the vehicle in which he was a passenger, followed by two police vehicles. The falcon was on the correct side of the road, but it was obvious the intention of the police was for the falcon to stop. Mr Wolfe did not consider the police vehicles were too close to the falcon and he noted very little other traffic on the road.

The three vehicles passed the vehicle in which Mr Wolfe was travelling as they pulled onto the Great Northern Highway towards the airport. Mr Wolfe considered the falcon was being driven erratically, either by a drunk or juvenile,²⁷ but it was not travelling particularly fast and remained correctly in its lane. Mr Wolfe continued to watch the vehicles as the vehicle in which he was travelling pulled left towards South Hedland and he could watch the pursuit continue to his left down the Great Northern Highway towards the airport. Mr Wolfe's unobstructed vision observed the police maintained a safe distance behind the falcon and did not drive in a threatening

²⁶ Ex 2, Tab 32

²⁷ t 9.4.14, p65

or aggressive manner.

Mr Wolfe observed the falcon suddenly veer off to its left in a large cloud of red dust. He assumed it had crashed. He also noted the police vehicles both stopped, but kept their lights flashing.

From the perspective of Strachan, driving PS203, the falcon appeared to accelerate once it turned onto the Great Northern Highway and he needed to accelerate to maintain the distance between the two vehicles. The driver of the falcon then drove into a long right hand bend and as the vehicle completed the bend it appeared to suddenly veer left, slide right, and the whole vehicle moved left and created a violent dust cloud reducing visibility. Strachan stopped PS203 in the middle of the entrance to Bell Street and O'Brien pulled up on the highway behind him. The falcon was on the south verge of Bell Street on its roof.



Exhibit 3, Tab 75
Location Plan, Great Northern Highway, Port Hedland

Evidence by Major Crash Investigators, given at the trial of the driver, satisfied his Honour the trial judge, the driver of the falcon had steered right, overcorrected and lost traction and so

pulled violently to the left in an anticlockwise direction and as a result of steering through braking.²⁸ The driver had accelerated up to 120 km/h towards the bend and then lost control through the bend.

The suggestion made by some of the other girls in the falcon that the deceased child was seated in the middle, at the back of the vehicle, and interfered physically with the driving was specifically rejected by his Honour the trial judge. I am both bound by, and in agreement with, his findings.²⁹ The deceased child did not physically interfere with the driving, was seated at the rear left passenger position, and was not wearing a seat belt.

Mr Anderson and Mr McGrory, both following the police vehicles, stopped at the crash site and observed police officers go to the assistance of the occupants of the falcon. Pilkington called South Hedland for an ambulance, while Bone and Strachan ran to the falcon before O'Brien had properly been able to stop safely. Pilkington and O'Brien then also assisted with the girls who had been in the falcon.

Mr McGrory observed Bone trying to assist the deceased child while the other occupants of the falcon were being attended to by other police officers. The other four girls were sitting upright although one was slightly separated from the other

²⁸ Ex 4, Tab 83, Pg 11

²⁹ Coroners Act 1996 s.53(2)

three, and all appeared relatively unharmed.

The deceased child had been partially ejected from the falcon and Bone could feel a faint pulse on her wrist so he extracted her as gently as he could from the vehicle and placed her on the ground in the recovery position.³⁰ Mr McGrory advised Bone he was a senior first aider and as a result he was provided by the police with first aid equipment from one of the police vehicles before he and Bone commenced resuscitation on the deceased child. They continued until the arrival of the ambulance however the deceased child did not survive and died at the scene.

POST MORTEM EXAMINATION³¹

The deceased child's post mortem examination was conducted by Dr Gerard Cadden of the Pathwest Laboratory, Forensic Pathology, on 11 February 2010.

Dr Cadden found the deceased child had severe chest and head injuries consistent with the history of a serious motor vehicle crash and that the extent of the injuries caused her death.

MOTOR VEHICLE EXAMINATION

Both police vehicles and the vehicle in which the deceased

³⁰ Ex 2, Tab 24, p53

³¹ Ex 3, Tab 60

child was travelling were examined by motor vehicle examiners and all found to have no defects which would have caused or contributed to the crash that occurred.

There was no evidence any of the vehicles came into contact with one another at any stage.

CONCLUSION AS TO THE DEATH OF THE DECEASED CHILD

I am satisfied the deceased child was a 13 year old aboriginal girl who was involved in the theft of the falcon, registration number NR 8800, in the early hours of 7 February 2010.

That vehicle was used intermittently throughout the rest of the day by the deceased child and others in and around Port and South Hedland.

At approximately 7:00pm on the evening of 10 February 2010 the falcon was involved in a nine minute police pursuit which commenced on Wilson Street travelling north, continued through the Cooke Point area, returned to Wilson Street travelling south, and then deviated onto the Great Northern Highway in a south easterly direction towards Broome.

On a sweeping right hand bend just before the entrance to Bell Street, before the Port Hedland Airport, the driver of the falcon lost control of the vehicle which crashed and ended on its roof on the verge of Bell Street.

The deceased child was not wearing a seat belt and occupied the left rear passenger seat before she was partially ejected through the open rear left passenger window. The other occupants appear to have been wearing seat belts and managed to escape the over turned vehicle.

Police assisted the deceased child by removing her fully from the over turned motor vehicle and, with the aid of a passerby, commenced resuscitation. Unfortunately they were unsuccessful and the deceased child died at the scene of the crash.

The driver of the falcon at the time it crashed at the entry of Bell Street, off the Great Northern Highway, was convicted of dangerous driving causing the death of the deceased child on 7 December 2012 in the Children's Court of W.A.

Accordingly, I find death arose by way of Unlawful Homicide.

The driver of the falcon and the other girls involved in the theft of the falcon and the pursuit were punished by relatives of the deceased child by slapping.

THE ACTIONS OF THE POLICE WITH RESPECT TO THE PURSUIT IN WHICH THE DECEASED CHILD DIED

Increasingly the issue of police pursuits has attracted the

attention of coroners, academics and other entities, concerned with the cost to the community, in human terms, of this particular form of law enforcement. In the current case a child lost her life, four others were traumatised,³² and four police officers and at least one passerby, who assisted in the attempted resuscitation of the deceased child, were very significantly affected.³³

It has been my experience police officers are always deeply distressed when young people lose their lives as a result of risk taking behaviours, regardless of reasons for those behaviours. There can be little more risk taking behaviour than a 13 year old child, who has never driven a motor vehicle before, driving a motor vehicle on the open road in any circumstances. It directly raises the tension between the safety of allowing a child to continue to drive or attempting to try and stop a child driving, before disaster strikes. In this particular case that issue did not arise because police at no time before the crash understood the pursued motor vehicle contained only 13 year old children. It does, however, magnify the issue of risk assessment and the importance of known versus unknown risk factors.

The intention of the requirement for a coroner to examine police actions, where there has been a death arising out of police law enforcement operations, is to ensure external and

³² Ex 3, Tab 58

³³ t 9.4.14, p57, t 10.4.14, p77/83/108

independent assessment of the circumstances of the death on behalf of the community as a whole. It is accepted the risk assessments made, in hindsight, and in the confines of a safe environment with all the relevant information to hand, will of necessity be different from those confronting front line police making split second decisions about competing options and community interests. However, those analyses can assist in the formulation of policies and procedures which guide police at times of high and stressful decision making, into safer and, maybe, restricted responses to inherently dangerous situations.

There is no doubt this has occurred in Western Australia and it is evident West Australian Police (WAPol) has been continuously modifying its Emergency Driving policies and guidelines over recent years in line with both the community interest in safety, and improvements in technology which assist with law enforcement techniques.

There has been a requirement for many years police motor vehicle pursuits are overseen by a police officer, removed from the scene, to assess information as it is relayed, to enable that officer to take a more objective, overall view of the circumstances of a pursuit, and, if possible, to assist those involved in the pursuit with making continuous assessments with respect to the actual driving risk at the time.³⁴ There are

³⁴ (Police Operations Centre, POC)
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requirements for specific types of vehicles to be used and different conditions apply to the level of driving skill required and authorised in any set of circumstances. Police have also used technology to assist in reviewing the actual facts of a pursuit, as opposed to the perceived facts, and used that information to prescribe certain limits or provide caps on permissible speeds and activities during pursuits of different designations (for example Automatic Vehicle Location, AVL).

By way of example: a Priority 1 authorisation requires a relevantly qualified driver in an appropriately designated motor vehicle, and allows that driver to then exceed any posted speed limit, up to a cap of 140 km/h, at which time the pursuit must be aborted regardless of any other factors, unless specifically authorised by the senior police officer overseeing, cognizant of all the relevant facts. Regardless of any authorisation any police driver retains the ability to abort a pursuit at any time on their individual risk assessment. I emphasise I am summerising detailed procedures refined over the years.

The above does not cover the field but merely indicates WAPol is active in initiating changes it believes will minimise the inherent risk of police pursuits to their officers, target offenders and innocent bystanders.

It was also apparent in the current case the general community in Port Hedland and its surrounds was very

supportive of its local police and the way they conducted themselves in the subject pursuit. Witnesses were anxious to point out they did not view the behaviour by the police to be dangerous or aggressive, or any of the speeds excessive for the road conditions. There is no criticism of any police officer in the current case.

From the police perspective all the actions they took were reasonable and within the policies and guidelines in place at the time for the purposes of law enforcement. Indeed in the circumstances which existed for the police at the time, everything they did conformed with more recent Emergency Driving Policy and Guidelines.³⁵ The Hedland police vehicles did not have AVL data to assist in better analysis of the pursuit or recordings of radio transmissions, but the evidence of the police officers was consistent with that of independent evidence.

THE PURSUIT ON 7 FEBRUARY 2010 FROM THE POLICE PERSPECTIVE

Saturday 6 February 2010 was Senior Constable Craig Gibson's (Gibson) first day at South Hedland Police Station. On Sunday 7 February 2010 Gibson commenced his duties at 3pm and his duties on that evening shift were to man the police radio, allocate tasking jobs to available police vehicles, receive telephone calls, take reports and update police

³⁵ Ex 4, Tab 80

intelligence holdings. In that position, should a police pursuit arise, the Emergency Driving Policy required he also take the position of POC.

There were six police officers on duty at South Hedland on that afternoon shift and they comprised Gibson, Strachan, Pilkington, First Class Constable Matthew Lake (Lake), O'Brien and Bone. Strachan and Pilkington were designated traffic patrol, O'Brien and Bone were designated general duties and Lake was the designated office back up officer.

At approximately 4:30pm Gibson received a telephone call from the consul operator at BP Port Hedland truck stop on Great Northern Highway, Port Hedland, there had been a motor vehicle which had driven away from the service station without paying for fuel.

As a result of realising the motor vehicle involved in the fuel theft had been reported as stolen that morning, Gibson tasked Strachan and Pilkington to patrol the area in PS203, an unmarked class one police sedan, in an attempt to locate the stolen motor vehicle. The issue was not the *"fuel drive off"*, but the stolen vehicle.

Gibson tasked O'Brien and Bone to take police vehicle PS101, a marked van, to attend at the BP truck stop and take a report and enquire about CCTV footage from the consul operator.

They were then to patrol the area for the stolen motor vehicle.

O'Brien and Bone attended at the truck stop but were unable to view the CCTV footage at that time. They were informed they would be provided with the recording at a later stage. They were advised by the consul operator she had observed two, aboriginal females in their twenties, with the vehicle.³⁶

Neither PS203 or PS101 located the stolen motor vehicle at that time and O'Brien and Bone returned to the police station at approximately 6pm while Strachan and Pilkington remained on the road.

At about 6:30pm Gibson received a call from Mr Holliday indicating he had observed what he believed to be the stolen motor vehicle in Wedgefield, and that he believed there were four males in the vehicle. Mr Holliday provided the police with his telephone number but was a little vague with the registration of the stolen motor vehicle. As a result Gibson tasked PS203 and PS101 to patrol the Wedgefield area in an endeavor to locate the stolen motor vehicle.

Gibson called Mr Holliday back to find out whether he could still see the stolen motor vehicle and for any further information. Mr Holliday advised Gibson he was no longer

³⁶ Review of the CCTV footage confirms the female readily observable in the truck stop with the stolen motor vehicle looks to be in her 20's and not a child.

following the vehicle but he believed the occupants were wearing mining clothes.

All the police vehicles and Gibson were using the same radio channel and therefore interactions between Gibson and PS203 and PS101 were audible to all parties on that channel. South Hedland Police Station at that time had no ability to record the radio exchanges between South Hedland Police Station and vehicles on the road, consequently there are no tapes or transcriptions of the interactions between police to assist with later analysis of the information as it was received, other than a running sheet commenced by Lake and the police officers' memories.

Shortly before 6:50pm it is apparent from evidence led at the trial of the driver of the falcon,³⁷ she commenced driving the falcon in a graveled truck stop area alongside Wilson Road in the vicinity of Redbank Bridge. It was at the point the driver pulled away from the gravel shoulder onto the road she was sighted by Strachan in PS203. It was as the driver pulled out in front of PS203 and accelerated away so Strachan recognised the registration number and as a result activated the lights and sirens to stop the stolen motor vehicle.

Pilkington's evidence was he first realised the vehicle in front was the stolen motor vehicle and refusing to stop sometime

³⁷ Ex 4, Tab 83, Pg 3
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before Cooke Point Road as the falcon turned right from Wilson Street.

The driver of the falcon did not stop and accelerated away.

None of the police were aware of the fact the driver was a 13 year old child, or the other occupants were 13 year old children. They did not know the deceased child was on the rear left passenger seat behind the front seat passenger and was not wearing a seat belt, or had the rear passenger window wound down.

Gibson was in the crib room at South Hedland Police Station with Bone and O'Brien when Pilkington, in PS203, called in on the radio they had sighted the falcon which had failed to stop.³⁸

Gibson and Lake ran from the crib room to the radio in the communications room and Lake commenced a running sheet of the progress of the falcon, as called by Pilkington, by annotating a map with speeds and locations.³⁹ There is no recording of the radio transmissions to verify the annotations and Pilkington's recall appears to place the speeds a little higher than those recorded, but still moderate with reference to the posted speed limits for the area.

³⁸ Ex 1, Tab 17

³⁹ Ex 3, Tab 73

Gibson recorded his authorisation of Strachan in PS203 to commence a Priority 1 pursuit at 6:56pm⁴⁰ when the police vehicle was on Cooke Point Road. Gibson had already tasked O'Brien and Bone to provide back up in PS104, a fully marked police sedan, and at 6:57pm he upgraded their status to Priority 2. This required PS104's driver (O'Brien) to drive with the alert system on and not exceed any posted speed limit by more than 20 km/h, and follow all traffic intersection controls.

All police personnel involved were on the same radio channel and could hear the information relayed by Pilkington to Gibson. Strachan's recall was that Pilkington was accurate in the information he relayed. The only information any police officer had was that when last observed in the Wedgefield area the falcon was occupied by four, apparently adult, males.

None of the police vehicles involved in the pursuit on 7 February 2010 were fitted with automatic vehicle location (AVL) devices, so again there was no opportunity to download information of speed to verify the accuracy of the communications. This information is not desirable for purposes of criticism but merely as an independent verification of the accuracy of events taking place very quickly with many factors to consider.

Although Strachan could not specifically recall being

⁴⁰ Ex 1, Tab 17

authorised to commence a Priority 1 pursuit he is quite clear he would not have pursued the falcon had he not been authorised.⁴¹ Pilkington, who's role was to "call" the pursuit⁴² and Gibson,⁴³ who's role was to authorise, oversee and track the pursuit, are quite clear Strachan, PS203 and the road conditions called were all competent to pursue the falcon, while being aware of the safety, risk factors and risk assessments necessary to be considered by the Emergency Driving Policy in operation at that time.

The fact of the apparent difficulty of the driver of the falcon on the roundabout as the driver turned right, into Athol Street, was recorded and for the first time Pilkington confirmed there appeared to be five heads in the falcon. Thereafter there is no evidence which would indicate concern with the safety of the pursuit around the Cooke Point area and its return to Wilson Street contrary to the Emergency Driving Policy and Guidelines. That is confirmed by the evidence of independent civilian witnesses.

As a result of the calling into POC of relevant information, O'Brien, in PS104, was reminded of their Priority 2 status. There was nothing in any of the evidence to indicate the pursuit breached any policy or procedure and all police officers acted in accordance with their duties and obligations.

⁴¹ Ex 1, Tab 13, Pg 26

⁴² Ex 1, Tab 15

⁴³ Ex 1, Tab 16

Once the falcon turned left back onto Wilson Street, the speed of the pursuit increased, as did the posted speed limits in that area due to the road conditions. As PS203 approached the Redbank Bridge from the north there was some discussion between the police vehicles as to the merits of PS104, approaching from the south, blocking the road in an attempt to end the pursuit in an open area of road. This was discarded as O'Brien believed there was no time to do it safely, and they were too close to the approach of the falcon.⁴⁴

As PS104 approached Redbank Bridge, so did the falcon and PS203, from the opposite direction. O'Brien went over the bridge and performed a U-turn before following PS203. Civilian witnesses confirm all vehicles involved in the pursuit once on Wilson Street maintained safe distances, the correct side of the road, and did not travel at excessive speeds for the road conditions. From a police perspective it was, up until the time of the crash, a "*text book*" pursuit.

And then, with no warning, disaster struck. The driver of the falcon lost control of the vehicle in the vicinity of the Bell Street entrance, and the deceased child was partially ejected from the crashing vehicle onto the road.

The four police officers and a passerby suddenly understood

⁴⁴ t 10.4.14, pg. 96, t 11.4.14, pg. 136
Inquest into the death of Keannita SAMSON (F/No: 11004/2010)

they were dealing with a car full of nothing but children and were then involved in a fight for the deceased child's life, which was lost.

This is the dilemma facing, not just the police, but the community as a whole. In practice the cost is probably higher for the police than any others in the community, barring the families of those lost.

Is a stolen motor vehicle, without any other known risk factors, worth a life?

A COMMUNITY ISSUE

WAPol has taken very seriously the issue of the inherent dangers of motor vehicle pursuits. Following almost every fatality in the course of a pursuit, be it of offenders, passengers, innocent bystanders or police, the information available is examined and the Emergency Driving policies and procedures relevant at the time updated in an attempt to clarify risk assessment by POC and trained police drivers and passengers. In reality the risk assessments made while driving probably have not changed much from the perspective of the drivers of police vehicles, despite the changes in the written procedures.

The police intent is law enforcement and community protection. A driver's failure to stop triggers a concern as to the reasons for a failure to stop. This may indicate an elevated danger to the community over the original offence for which the police wished to stop the offending vehicle. The longer a pursuit continues the more concern there is as to the reason for the evasion, and concurrently indicates a high motivation in the target driver to evade police and increase risk taking behaviour. The unknown risk factors will always be unknowable, and it is the known risk factors which need to justify the initiation, and then continuation of a pursuit. The driver of the falcon appeared to demonstrate high motivation to evade the police, she says because she was scared, and that must increase the risk taking behaviour.

In the current case the deceased child also had an interest in evading police due to her involvement in the original theft of the falcon, quite aside from the driver's involvement in driving the stolen motor vehicle and failing to stop. The very fact of a continued failure to stop indicated high motivation to evade police and so elevated the risks of a pursuit.

I am conscious it is easy to say these things in hindsight, but the purpose of an inquest is to look at the information in hindsight and use it in an attempt to improve future outcomes, and the question here is quite simple. Is the fact of a stolen motor vehicle, with no other knowledge, and in fact in

the current case, misinformation about the ages and genders of the offenders, enough to initiate a pursuit? And once initiated, should it be continued indefinitely when the only issue appears to be speed in excess of the posted speed limit, possibly the result of the pursuit itself?

The current WAPol, Emergency Driving Policy and Guidelines,⁴⁵ not in operation in 2010 is extensive in its identification of relevant risk assessments for police to consider when decision making with respect to pursuit risk assessment, usually in a very constricted time frame. Of relevance to the issues raised above are the requirements to consider amongst other things the “*seriousness of the offence for which the occupants of the target vehicle are sought, including the protection of evidence*” and the “*identification of the availability of resources to implement an early and effective alternate resolution strategy*”.

Statistics published in a relatively recent Australian Institute of Criminology Publication⁴⁶ revealed that between 1 January 2000 and 31 December 2011 there were 185 fatal pursuit related vehicle crashes resulting in 218 deaths in Australia. This averaged at 15 crashes and 18 deaths per year, of which 50% were of alleged offender drivers, 12% were of alleged offender passengers, and 38% were innocent persons, including bystanders and police. Of the reasons for the

⁴⁵ Ex 4, Tab 87, Pg 41

⁴⁶ Trends and Issues in Crime and Criminal Justice No.452 June 2013

initiation of a pursuit, stolen motor vehicles were the second most common reason for a pursuit to be authorised.

For the year 2010 there were recorded 320 motor vehicle pursuits in WA with a rate of 6.3 fatal crashes per thousand pursuits. This was an almost 55% reduction on fatalities in WA on the previous year, for a larger number of pursuits (228 in 2009). The figures for 2011 were also an improvement over 2010; while some states recorded no pursuit related fatalities with a higher incident of pursuits.⁴⁷

As a result of the concern of the human cost of police pursuits, Queensland introduced a restricted policy for the initiation of police motor vehicle pursuits in December 2011⁴⁸ and another, very recent NSW coronial finding,⁴⁹ heard in April and August 2013 and delivered in April 2014, has recommended a complete overhaul of the NSW Emergency Driving Policy equivalent.

I do not intend to make a similar recommendation in this case at this time for a number of reasons:-

- a. In the current case, in 2010 in South Hedland, there was no ability to record radio transmissions and no AVL on involved police motor vehicles to verify the accuracy of the perception of people physically involved in the chase. The issue is not

⁴⁷ South Australia had no pursuit related fatal crashes in 2011 for 616 pursuits (refer footnote 46)

⁴⁸ In 2011 Queensland had 286 pursuits with 7 deaths per thousand pursuits while in 2010 they had 309 pursuits with 3.2 deaths per thousand. (refer footnote 46)

⁴⁹ State Coroner's Court of NSW F/No 2011/00 389491

credibility, but reliability⁵⁰;

- b. The current Emergency Driving Policy includes the seriousness of the initiating offence and has been updated since 2010;
- c. WA has a very poor record for motor vehicle fatalities generally. Over Easter 2014 five people were killed in five days and none of those fatalities related to pursuits. The police are the people the community rely on to attend fatal crashes and assist all victims. It is a daily occurrence. One has to assume there is a concern with bad driving which police consider needs to be addressed by on the spot law enforcement;
- d. The evidence, which I have only been able to obtain from media reports, is that WAPol is presently active in considering other law enforcement options where feasible. As an example the WAPol helicopter has been successfully deployed to track offending motor vehicles and allows the apprehension of alleged offenders by other means where there is enough time to consider that as a helpful alternative;
- e. There is now a central command centre which has the ability to assume the role of POC on a near statewide capacity and all police vehicles are now fitted with AVL, although there is some dispute over the accuracy. Pursuits authorised and tracked by the command centre certainly have the ability to record all radio transactions and will allow for meaningful analysis of data to do with police pursuits in WA. The figures provided to the Australian Institute of Criminology are deficient for WA prior to 2009 and those I have been given for 2012-13 are not

⁵⁰ t 9.4.14, p52

meaningful;

- f. I am satisfied that where WAPol have reason to believe children may in danger they track, but do not chase, offending vehicles. They are able to save lives by adopting measures appropriate to the circumstances which was again demonstrated over the Easter 2014 weekend.⁵¹

However, the need for explicit training of police officers taking on responsibilities of the role of POC or its equivalent, to consider known risk factors when authorising a pursuit remains an issue for consideration, without the benefit of relevant data since the implementation of current Emergency Driving Policy and the operation of the current Police Command Centre.

In the current case the only known risk factor was that a stolen motor vehicle was on the roads as the reason for the initiation of a pursuit. It's registration number was known and it had remained in the area for at least 12hrs making it likely it would be located again.

And, that when called upon the driver of that stolen motor vehicle failed to pull over and stop for a period of nine minutes, which made it highly likely whoever was driving was motivated to evade the police, and would not reasonably stop as far as the continuation of the pursuit was concerned.

⁵¹ The West Australian 22.4.2014 Headline - Police save toddler from car inferno after father flees

The issue for senior police and POC is: were those two facts, relevant to initiation and continuation of the police pursuit, enough to warrant a loss of life and nine seriously, directly psychology affected, people?

I do not have the data to answer that question at this moment in time but suspect WAPol, as a result of their improved facilities, will very shortly have some ability to properly assess the competing tensions and consider reasonable alternatives to motor vehicle pursuits, in many circumstances facing the WA community.

E F VICKER
Deputy State Coroner
27 June 2014