



MAGISTRATES COURT of TASMANIA  
CORONIAL DIVISION



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## Record of Investigation into Death (Without Inquest)

*Coroners Act 1995*  
*Coroners Rules 2006*  
*Rule 11*

I, Olivia McTaggart, Coroner, having investigated the death of Benjamin Luke Paton

**Find, pursuant to Section 28(1) of the Coroners Act 1995, that**

- a) The identity of the deceased is Benjamin Luke Paton;
- b) Mr Paton died as a result of injuries sustained in a single motor vehicle crash;
- c) The cause of death was compressive asphyxia; and
- d) Mr Paton died on 29 September 2018 at Turners Marsh, Tasmania.

In making the above findings I have had regard to the evidence gained in the comprehensive investigation into Mr Paton's death. The evidence comprises the police report of death; an opinion of the pathologist who conducted the autopsy; toxicological evidence; expert crash investigation evidence; vehicle inspection evidence; police and witness affidavits; medical records and reports; and forensic evidence.

I make the following further findings.

Benjamin Luke Paton was born in Launceston on 6 January 1998 and was aged 20 years at his death. He was single, had no children, worked as a diesel mechanic and lived with his parents in Underwood. He was in good health. Mr Paton had a full driver's licence and had five prior speeding convictions.

At 12.55am on Thursday 27 September 2018, Mr Paton was driving his Toyota Landcruiser and travelling north on Pipers River Road, Turners Marsh. He veered off into the gravel on the left side of the road and lost control of the vehicle. The vehicle travelled onto the wrong side of the road before rolling and coming to rest on its roof. Mr Paton was partially ejected from the vehicle and was trapped under its roof, causing asphyxiation. Tragically, he died at the scene.

Mr Paton had been at work during the previous day, 26 September, and returned home at about 5.30pm to assist his brother with servicing a vehicle and trailer. Mr Paton commenced to consume alcohol with his brother during this time.

After a short time with his brother, he left home in his parents' Navara utility and went to pick up his best friend, Andrew Murray, in Ravenswood. He stopped at several locations, including to pick up his brother's girlfriend, Kirsten Jones, at a Mowbray hotel, before returning home at 9.45pm. He continued to consume alcohol whilst at some of the various locations and also whilst driving.

Mr Paton and Mr Murray then left Mr Paton's home intending to transport Mr Murray to his grandparents' residence. On route they drove past an unattended bonfire and stopped to sit beside it, consuming more alcohol while they did so. They then returned to Mr Paton's residence and obtained more alcohol, before returning to the bonfire again, this time in the Landcruiser. Mr Paton consumed two further cans of alcohol sitting by the bonfire. At 12.30am they commenced to travel back to Mr Paton's residence.

Mr Paton was using his mobile phone at 12.35am, whilst driving, to send messages to his ex-girlfriend just before the crash. Earlier in the evening, Mr Paton had spoken to Mr Murray at length over his regret at ending his relationship with her and stated that he wanted to contact her. He did so, put the mobile phone on the dashboard and very shortly after this action, the vehicle veered into the gravel on the left side of the road before rolling.

Emergency services attended quickly, but Mr Paton was already deceased.

The Landcruiser owned and driven by Mr Paton was registered but was in an unroadworthy condition. The Transport Inspector noted numerous defects. Significantly, it was fitted with a 6-cylinder diesel engine with a non-approved, aftermarket 'Schwitzer' turbocharger. It was also fitted with off-road mud terrain tyres and modified suspension. These two aspects would have increased the height of the vehicle and, with harsh driver input, would have resulted in an unstable centre mass making it prone to rollover. The tyres would also have caused an erroneously lower displayed speedometer reading. It appears that Mr Paton was aware of this fault, as he was detected speeding by police in July 2018. Further, the vehicle was not fitted with any airbags.

Mr Paton was not wearing his seat belt at the time of the crash. He had a conversation earlier in the night with Ms Jones, telling her that he did not wear his seat belt as he had heard that they were not safe to wear. Mr Murray had his seat belt on and survived the crash.

Mr Paton had a blood alcohol content of 0.110 g/100ml, consistent with the large quantity of alcohol he had consumed consistently throughout the evening. I am satisfied that the quantity of alcohol consumed would have impaired his driving and reactive capabilities.

Based upon scene observations, the crash investigator calculated that Mr Paton was travelling at a speed of 104-116km/h on a roadway subject to 100km/h speed limit.

### **Comments and Recommendations**

Warnings by coroners and road safety bodies about the potentially fatal consequences of risk-taking behaviour continue to be ignored.

Mr Paton was driving above the speed limit, with over twice the amount of alcohol in his system permitted by law. He was using a mobile phone whilst driving, was in an unroadworthy vehicle and was not wearing his seat belt. The vehicle did not have airbags. Any one of these factors could have caused his death. All of them, in combination, meant that it was a near certainty. It was fortunate that no one else was killed.

I extend my appreciation to investigating officer Senior Constable Rybka for his investigation and report.

The circumstances of Mr Paton's death are not such as to require me to make any recommendations pursuant to Section 28 of the *Coroners Act 1995*.

I convey my sincere condolences to the family and loved ones of Benjamin Luke Paton.

**Dated:** 28 November 2019 at Hobart Coroners Court in the State of Tasmania.

**Olivia McTaggart**  
**Coroner**