

IN THE CORONERS COURT
OF VICTORIA
AT MELBOURNE

Court Reference: 1041/10

FINDING INTO DEATH WITH INQUEST

*Form 37 Rule 60(1)
Section 67 of the Coroners Act 2008*

Inquest into the Death of JAMES BERNARD CROSS

Delivered On:	10th November, 2011
Delivered At:	Coroners Court of Victoria Level 11, 222 Exhibition Street Melbourne, Victoria 3000
Hearing Dates:	12th October, 2011
Findings of:	CORONER HEATHER SPOONER
Representation:	Ms Fox on behalf of VicRoads Ms Gleeson on behalf of Mrs Richards Mr Hevey on behalf of the family
Police Coronial Support Unit (PCSU):	Leading Senior Constable King Taylor

I, HEATHER SPOONER, Coroner having investigated the death of JAMES CROSS

AND having held an inquest in relation to this death on 12th October, 2011
at Melbourne

find that the identity of the deceased was JAMES BERNARD CROSS

born on 1st December, 1987

and the death occurred on 17th March, 2010

at Glenferrie Road, Hawthorn, Victoria 3122

from:

- 1a. CHEST AND PELVIC INJURIES
- 1b. ROAD TRAFFIC INCIDENT (CYCLIST)

in the following circumstances:

1. Mr Cross was aged 22 when he died. He was a student of Monash University. Mr Cross was living away from home in a shared house at Elm Street, Hawthorn. He apparently enjoyed good health.
2. A police investigation was conducted into the circumstances surrounding the death. The Coroners Prevention Unit (CPU)¹ also made enquiries on behalf of the Coroner.
3. It was apparent that on the evening of 16 March 2010, Mr Cross stayed with his girlfriend at her family home. The following morning she drove him back to his Hawthorn address. He collected his bicycle and commenced riding to Caulfield, where he intended catching a shuttle bus to the Monash University Clayton campus.
4. The route taken by Mr Cross on his bicycle saw him travel east along Barkers Road to the intersection with Glenferrie Road, where he made a right hand turn. Mr Cross was observed to pass to the left of a large truck driven by Mr Bushell that was also waiting to turn right at the intersection. After completing his right hand turn ahead of the truck, Mr Cross rode south along Glenferrie Road in a designated shared parking and bicycle lane.
5. At about this time, Mrs Ellen Richards, aged 60, parked her motor vehicle in the same-shared parking and bicycle lane on Glenferrie Road. She chose the first empty car space immediately south of the corner of Churchill Street and about 150 metres from the intersection of Barkers and Glenferrie Roads.

¹ The Coroners Prevention Unit is a specialist service for coroners created to strengthen their prevention role and provide them with professional assistance on issues pertaining to public health and safety.

6. After parking her vehicle, Mrs Richards opened her drivers door, which collided with Mr Cross. He was propelled onto the roadway between the wheels of Mr Bushell's large truck and trailer that was passing by at the time. Mr Cross was run over by the trailer.

7. Members of the public rushed to offer assistance. Emergency services were notified and attended, however Mr Cross was found to be unconscious and died soon after.

Inquest

8. The Inquest examined the immediate circumstances surrounding the incident and the interaction of vehicles and cyclists. It also highlighted public health and safety awareness issues around changing driver behaviour and car door hazards due to the risk they pose to cyclists.

9. **Mrs Richards** provided a statement to the police some time after the incident and with the assistance of her lawyer.

10. At the outset, Counsel for Mrs Richards raised an objection to her giving evidence on the grounds of self-incrimination, pursuant to s.57 *Coroners Act 2008*. I determined that there were reasonable grounds for the objection and a certificate was issued. Mrs Richards then proceeded to willingly give evidence.

11. Mrs Richards told the inquest that she was driving a black BMW motor vehicle registration number QNI633. After parking her vehicle she turned off her engine, picked up her handbag from the adjacent passenger seat, looked in the drivers side mirror to check it was safe and opened the door about 12cm. She did not see Mr Cross, who struck her door as it was opened. Mrs Richards stated that Mr Cross lost control of his bike and travelled about one metre across the road between the two carriages of Mr Bushell's truck. The trailer wheels ran over Mr Cross. She immediately went to his aid and telephoned for an ambulance when she saw he was seriously hurt. Later her son came to collect her and she sought medical assistance for shock.

12. Mrs Richards was questioned by Mr Hevey, Counsel for the family of Mr Cross. She told the Inquest that she had reverse parked into the first available car space south of Barkers Road. She was aware of the bike marker on the roadway; that it was a bike lane and that there was the "*potential there will be bikes driving down there.*"²

13. Further questioning however revealed that Mrs Richards may have experienced a lack of awareness of bicycles on the particular day of the incident as indicated by the following extract of her evidence:

"Were you familiar with what the purpose of that diagram was there for? What did you understand to be meant by having a bicycle drawn on the road surface as it is depicted in Photograph No.2?---That's there's a potential there will be bikes driving down there. Did you understand it to indicate that it was, in fact, a bicycle lane?---Yes.

² Transcript page 22

Had you noticed that bicycle lane on the eastern side of Glenferrie Road on that morning prior to parking?---I don't recall.

*Had you noticed it on any previous occasion?---No."*³

14. Mrs Richards also told the inquest that a couple of minutes may have passed between her parking and opening her door. When she looked in the drivers side mirror she noticed some traffic including Mr Bushell's truck behind her. She told the inquest that she was cautious in opening her door because of the presence of this truck.

15. Mrs Richards conceded that she had not seen Mr Cross prior to opening her car door. She was shown a number of photographs produced by the family. She could not recall whether she used her central mirror or looked over her shoulder before opening her car door, which was reasonably heavy. Mrs Richards agreed that had she turned her head there would have been no obstruction to her vision.

16. Although Mrs Richards thought her car door was opened 12cm, she told the inquest "*...it's difficult to say or remember how far it was open but it wasn't open a long way because I hadn't really started to get out of the car at that point...*"⁴

17. Mrs Richards had no comment to make on the statement of another witness to the incident who had observed Mrs Richards open her car door. Ms Freeland-Small was seated at a nearby café and stated:

*"I saw her opening her door to get out of the car. She opened it a fair way, not fully open but enough for her to get out of the car"*⁵

18. Mrs Richards told the inquest that she assumed the handlebar of Mr Cross' bike struck her opened door. The impact with the bike had caused a dent in the door of her car, but she did not think that Mr Cross' bike hit the car panel. She thought he had hit the edge of her door, which pulled it open and Mr Cross kept travelling. Mrs Richards went on to state that Mr Cross did not fall off immediately, but as the door opened he veered off and was propelled toward the passing truck.

19. **Mr Bushell** was the driver of an unladen 16 metre earth moving blue 2004 Mack Tipper Truck registration number SZM156 and a silver 2004 Hercules Tipper Trailer. These were owned by his employer, Mr Darren McCarthy, from Mickleham Soils, a subcontractor for the Glenferrie Oval Development that was underway 500m further south in Linda Crescent Hawthorn. Mr Bushell was an experienced driver who told the Inquest that he was travelling at about 30kph when the incident occurred.

³ Transcript page 22

⁴ Transcript page 26

⁵ Transcript page 20

20. Mr Bushell first saw Mr Cross in Barkers Road. Mr Bushell stated that he was aware of Mr Cross when he came around from the left side of his truck to do a right hand turn from Barkers Road into Glenferrie Road. Mr Cross had waited for oncoming cars to stop and then scooted quickly around the corner. Mr Bushell agreed that this was necessary in order for Mr Cross to get through the intersection safely out of harms way.

21. Mr Bushell also agreed that Glenferrie Road was very busy with trams, tram tracks, cars, pedestrians and pedestrian lights. Mr Bushell was not travelling fast with a top speed of about 30kph as he approached a pedestrian crossing.

22. Mr Bushell was next aware of Mr Cross riding along in the Glenferrie Road bike lane. When he heard a bang he looked behind and saw Mr Cross being run over by his trailer wheels. He immediately stopped and went back to where Mr Cross lay.

23. Later, after paramedics arrived he was called over by a woman (Mrs Richards), who was seated and crying in a nearby black car. She told him, *"I only opened the door this much."*⁶ At the inquest Mr Bushell was unable to recall whether Mrs Richards had actually indicated the distance involved.

24. Mr Bushell told the Inquest that the reason he followed the particular route on that day was because he intended to drive toward Linda Crescent, where he planned making a right hand turn toward the Glenferrie Oval Development. In one of his statements, Mr Bushell told the Inquest that he only became aware of a Traffic Management Plan (TMP) after the incident. Had he proceeded another 350 metres as he intended, then he would have contravened the TMP.

25. At the inquest Mr Bushell indicated that if he had known about the TMP he would have approached from a different direction in order to comply, however, turning right into Linda Crescent was the easier option as he had two lanes to turn into. To enter Linda Crescent by a left turn would have been more difficult for Mr Bushell as it necessitated swinging his truck out wide into the centre of Glenferrie Road to get around.

26. **Mr Garry Brennan** is responsible for Public Affairs, Bicycle Network Victoria (formerly Bicycle Victoria). In the course of my investigation, he provided written responses regarding car door hazards for cyclists in a letter of 6 June 2011:

"What measures have been taken to date in Victoria to address car door hazards for cyclists?"

Bike riders choose their preferred position or line of travel within a road on the basis of their understanding of the risk. Too far to the right and they fear they may be struck by passing motor vehicles. To far left and the hazard is opening car doors from parked cars, or the gutter, surface irregularities and debris that litters the road edges. And sometimes even the choice is compromised by road dimensions and position of traffic.

⁶ Transcript page 40

Where there is a bike lane it may appear that the rider is channelled into an area where he or she is more likely to be struck by a carelessly opened door. However, where there is a bike lane we know that the motor vehicles generally position themselves further into the road, and away from the rider. The result of this is that the rider rides further out from the door zone as other vehicles are further away. Paradoxically, the installation of bike lanes, especially those of sufficient width, can be considered a measure to address the car door hazard.

In most bike lanes there is sufficient width for a rider to be out of the door zone (900mm) and yet still have their wheels inside the lane. Additionally, the application of green paint, or acoustic treatments (Vibraline), results in traffic being further out from the lane.

With the boom in riding in Melbourne there are clearly riders of less experience and with an underdeveloped spatial sense of safe positioning in the bike lane. Many riders are riding too close to parked cars who do not understand the arc and protrusion of an opening door. And even when a rider is properly positioned, an opening door will cause an instinctive swerve and grab for brakes, possible causing a secondary crash.

On the other hand the boom in riding, while increasing numbers may be reducing risks as drivers adapt their behaviour to the changed road environment. So one could argue that bike lanes, by attracting new riders, have also indirectly reduced risk as those new riders act on driver behaviour.

Bicycle organisation such as Bicycle Victoria, and the State's various bodies with an interest in road safety, use electronic and print communications to alert riders to stay aware of the door hazards. We tell riders to always anticipate the possibility of a door opening, and to ride accordingly.

We understand the Amy Gillett Foundation has raised with various State Governments the possibility of having a number of bike related safety issues including in driver training and licence testing procedures, but without success.

What future actions are planned?

Bicycle Victoria is not privy to any specific future plans by the Government or agencies such as VicRoads or TAC regarding dooring incidents.

In Bicycle Victoria's opinion, what further actions (if any) are needed to address car door hazards posing a risk to cyclists? Who would be responsible for taking such action?

Bicycle Victoria has included this issue in a submission to Inner Melbourne Roadsafe among a list of possible campaigns relating to cycle safety behaviour.

We have submitted a concept campaign we call "Leading with the left", based on a European practice of teaching drivers the habit of opening the door with the "other" or "central" hand, and at the same time swivelling to look behind for bikes. Opening with the other hand restricts the initial range of movement, and thus helps prevent the sudden and full opening of the door, which is a reality that many confront on the streets today. This practice is now a central aspect of driver training and education in a number of European countries, and has met with success. With institutional backing, a larger campaign could be trialled, and if promising could be the basis of a community wide campaign.

More generally, the continued expansion of the bike lane system, and in specific instances, the provision of separated bike lanes, is an essential part of the solution. In some locations the numbers of riders and the rate of doorings is sufficiently high to justify flipping the bike lane onto the road adjacent to footpath and placing the car parking where the bike lane formally was. As significantly fewer vehicle passengers alight from the passenger side, the opportunity for crashes is greatly reduced. St Kilda Road, a major source of doorings, is ideally suited and is ready for such treatment."

27. Mr Brennan told the inquest that 'doorings' (the description given to car doors opening onto bicycles) were a significant problem. Riding on streets like Glenferrie Road (and Chapel Street) posed a higher risk to riders due to the amount of traffic, trams and pedestrians. In Mr Brennan's opinion, it was not necessarily the street or design of the road that were to blame as there were inadequacies and deficiencies everywhere.

28. Mr Brennan also told the inquest about the partnership of four inner city councils known as 'Inner Melbourne Roadsafe', which runs a number of road safety campaigns aimed at bike rider safety. Currently they are considering specifically targeting a campaign aimed at 'doorings' through electronic and print media. Bicycle Network Victoria communicates through Twitter, Facebook and email with 40,000 members. They conduct surveys and distribute literature.

29. Mr Brennan told the inquest that drivers were adapting their behaviour as they were confronted with more riders. They were generally more careful and less likely to have a collision. Although the number of riders had increased, the number of crashes had not increased at the same rate. Mr Brennan hoped to highlight a campaign he had heard of overseas. It aimed at 'leading with the left' with drivers educated to open their car door with their interior arm, which would prevent them swinging their door open and also force them to check behind. He also suggested that car mirror stickers with wording 'watch out for bikes' might be helpful.

30. Ms Linda Ivett, VicRoads, gave some evidence about information provided by Mr David Shelton, Executive Director Road Safety and Network Access, in response to my request. The letter from Mr Shelton stated in part:

"There is information on the VicRoads website, which contains a specific message for drivers to check behind them for cyclists before opening car doors and for cyclists to allow at least a metre clearance when riding past parked cars. This message is also addressed in the Bike Ed training course for 9 to 13 year olds.

The Road to Solo Driving (the learner driver handbook) and Driving in Victoria: rules and responsibilities both provide information for cyclists and motorists about car door hazards. The messages include the rule that a person must not cause a hazard to any person or vehicle by opening a door of a vehicle, leaving a door of a vehicle open, or exiting a vehicle (rule 269 Victorian Road Safety Road Rules 2009); a tip for motorists when they park beside the road look out for cyclists before opening their car door; and a tip for cyclists to keep well clear of parked cars in case a door is opened carelessly.

VicRoads is currently developing a communications campaign for all road users to look out for cyclists. The objectives of the campaign are to foster positive and mutual respect between road users, to clarify cycling related road rules and to encourage motorists to see cyclists as legitimate road users and to share the road with cyclists safely. One of the key messages of this campaign will educate motorists to always check for cyclists before opening their car door and also for cyclists to position themselves on the road a metre from parked cars. VicRoads also has an action within the Victorian Cycling Strategy to develop a guide for local communities to conduct bicycle safety campaigns and activities at a local level, this will be developed in early 2012.

VicRoads current practice for shared parking and bicycle lanes reflect the national standards and are considered to allow sufficient space between an open car door and a cyclist, provided the cyclist is as far to the right in the bicycle lane as possible, if the bicycle lane is going up hill and cyclists take appropriate care. A relatively recent innovation that has been supported by VicRoads is to swap the bicycle lane with the parking lane so that cyclists travel to the left of parked cars and away from the potential for a driver to open their door.

Examples of this approach include one way separated bicycle lanes along Swanston Street in Melbourne and Albert Street in East Melbourne. A similar approach has been used to create a two- way bicycle facility along Fitzroy Street in St Kilda. These facilities have increased the numbers of people riding bicycles along these routes and have increased cyclist safety. VicRoads will continue to support such an approach to separate cyclists from motorists and from the potential for an open car door."

31. Ms Ivett told the Inquest that although Mr Cross was the only known Victorian fatality involving a 'dooring', there were 1112 reported crashes between 2000-2010, involving a cyclist colliding with a car door. Of those 1112 crashes, 305 resulted in serious injury (involving hospital admission) and 802, 'other injury'. Although there were other crash types that were more significant than dooring, Ms Ivett told the inquest that about 15% of reported CBD crashes involved 'doorings'.

32. Ms Ivett is part of a group responsible for developing a communications campaign with a strong social media focus for all road users to look out for cyclists. One of the key messages relates to drivers and cyclists sharing the road and avoiding door strikes. Respect and consideration were important messages. The bike education campaign available in Primary Schools remained a very important tool in promoting riding safety. The '*leading with the left*' concept referred to in Mr Brennans evidence could be a beneficial initiative worthy of investigation.

33. Ms Ivett confirmed that any prosecutions for breaches of the road rules was a matter for the police.

34. **Senior Constable Linda Kane** attended the scene and prepared the Coronial Brief. She told the Inquest that she arrived at the scene with other police members at about 9.40am on 17 March 2010. The incident occurred on Glenferrie Road about 30 metres south of Churchill Grove. Ambulance paramedics were present and it was apparent that Mr Cross had died.

35. Senior Constable Kane described Glenferrie Road as being divided into two lanes each way, running north and south. The left lanes on either side were shared bicycle and parking lanes. The right lanes carried tram tracks. The earthmoving truck driven by Mr Bushell was observed about 30 metres further south from where Mr Cross lay. Both Mrs Richards and Mr Bushell were observed to be distressed and crying. Senior Constable Kane played a limited role at the actual scene and measurements were apparently noted by another police member.

36. On 19 March 2010, Senior Constable Kane was alerted to the failure of many trucks to comply with a Traffic Management Plan that was in place on Glenferrie Road about 350 metres further south of the site of this incident. Instead of approaching Linda Crescent from the north to make a left hand turn, trucks were apparently approaching from the south and making a right hand turn.

37. In the weeks following the incident Senior Constable Kane apparently made several attempts to obtain a statement from Mrs Richards, although she did not feel that Mrs Richards was trying to avoid her. On 12 June 2010, she finally received a statement that had been reviewed by Mrs Richards' solicitor.

38. When criticised for the apparent delay in obtaining Mrs Richards' statement, Senior Constable Kane told the Inquest that she also obtained statements from other independent witnesses "*...whose evidence is of great value and the independent witnesses I put more-would be able to put more weight on their evidence in that they are objective, and so their accounts were also of high value and I got them extremely quickly...*". Even with the benefit of hindsight Senior Constable Kane maintained that she '*did try*' to get the statement of Mrs Richards.⁷

39. A potential police charge of '*opening a vehicle door to the danger of another*' was not pursued. Senior Constable Kane told the inquest that she had spoken to her '*bosses*' at her station who informed her that a charge against Mrs Richards would not be authorised.⁸

40. Senior Constable Kane was challenged about the adequacy of her investigation. She maintained that it was clear Mr Cross had struck Mrs Richards car door. When asked whether the distance of the car door opening was important, Senior Constable Kane stated that '*once you open the car door and cause hazard to another the offence is complete.*' Senior Constable Kane maintained that it did not matter how far the door was opened, "*...if I open my door just a little bit and cause danger or if I open it all the way and cause danger. It's just the fact that that door was opened, according to what we do, the offence is complete. So it was-however far that door was opened, it was still an open car door.*"⁹

41. Senior Constable Kane told the inquest that Glenferrie Road Hawthorn, did not have a specific bike lane, but rather a shared bike and parking lane with bike markings that were intended to make motorists aware that bikes would also be using that lane and roadway. As far as Senior Constable Kane was concerned Mr Cross "*... had the legal right to ride in any part of that area that he saw fit.*"¹⁰

42. Senior Constable Kane agreed that Mrs Richards had contacted her and wanted to be able to contact witnesses, however she told the Inquest, "*I know we are bound by a lot of privacy rules in handing out contact details, names, phone numbers, addresses over the phone to people...*"¹¹

43. Another witness who had been summonsed to the inquest was unable to be located and served in sufficient time. Mr Duboudin was the driver of a vehicle travelling down Glenferrie Road, directly behind Mr Bushell's truck. According to his statement he first noticed Mr Cross when he struck the opening car door '*very hard*'. Mr Cross was thrown '*certainly sideways and possibly forwards ...under the truck wheels.*' Mr Duboudin estimated the distance between the car door and truck as about 5 feet.¹²

⁷ Transcript page 107

⁸ Transcript page 89

⁹ Transcript page 103

¹⁰ Transcript page 109

¹¹ Transcript page 112

¹² Inquest brief page 17

Submissions

44. The Police Assistant, Senior Constable Taylor, submitted that if the family had concerns about the manner of the police investigation, then they should be pursued through the appropriate channels.

45. The Counsel for the family, Mr Hever, made several submissions including the following:

- Mr Cross was travelling in the appropriate lane at the appropriate speed and that the cause of the collision was the opening of the car door by Mrs Richards.
- Mrs Richards opened her door more than 12cm.
- the Coroner would have been better informed had a better brief been obtained.
- had Mr Bushell continued on the route he was taking he would have been in breach of the TMP. He maintained that it was an appropriate use of the TMP to ensure that site work was carried out for the safety of road user.
- had the TMP been properly prepared and promulgated then this incident may not have occurred. He submitted that Councils and contractors should be reminded of their obligations regarding a TMP and not treat it as a mere box-ticking exercise.
- Mr Bushell should not be held responsible by Mr Cross' death and similarly Mrs Richards *"should not carry a cross for the rest of her days for a moment of carelessness or inattention."*

46. The parents of Mr Cross accepted an opportunity to speak at the conclusion of the Inquest. Dr Michael Cross was concerned that, no-one had taken or admitted responsibility that they may have erred. That is what made people feel uncomfortable and unheard and not given the opportunity to know what occurred. He considered that the contractors and Council had made errors and that significant structural problems were not being rectified. Dr Nicola Cross told the inquest that she was distressed to discover her personal requests relating to the well-being of Mr Bushell and Mrs Richards (and other witnesses), had apparently not been relayed through Senior Constable Kane. She was concerned about the process and a five-month delay in completing the brief. Dr Cross was not looking to apportion blame but did wish to see some accountability for the system.

Traffic Management Plan (TMP)

47. The truck involved in the fatal collision with Mr Cross was being driven by Mr Bushell, an employee of Mickleham Soils, a subcontractor of the Glenferrie Oval Development in Linda Crescent Hawthorn.

48. During the course of the investigation, it became apparent that a TMP existed some 350 metres south of this incident in Glenferrie Road at the intersection with Linda Crescent. Mr Bushell confirmed in his evidence that he was not aware of its existence and was travelling north down Glenferrie Road, which would have required a right turn into Linda Crescent.

49. A request for information was sought from Boroondara Council and they provided a very detailed written response (the Response).¹³ That document provided considerable general information that was only partly relevant to the particular TMP applicable here.

50. The Response noted in part that this '*TMP was submitted as part of an application for consent for a parking bay occupancy...*'.¹⁴

51. That application was titled a '*Footpath/Road/Parking Bay Application*' for the purpose of '*access required for trucks for Glenferrie Oval reconstruction*'. It was as part of the application that a TMP was required.

52. The Response provided answers to my request about the implications of an extended TMP:

"b. What does Council consider would be the implications of the TMP had extended further to include the major North and South intersections on the approach to the site? Would this have affected site operations, local traffic conditions or had any other consequences?"

The TMP was prepared in this instance to deal with the traffic delays that may be caused on Glenferrie Road and Linda Crescent by a truck turning right into or out of Linda Crescent. The TMP provides for trucks to approach from the south, along Glenferrie Road, and exit north, so that trucks need only turn left into and out of the worksite.

It is difficult for Council to assess the implications of the TMP extending further north and south. For example, an extended TMP might have included the major North and South intersections by requiring trucks to travel south along the relevant part of Glenferrie Road.

The implications for extending TMP areas generally would mean that trucks would drive down other roads, potentially municipal roads, or reach their destinations via circuitous routes (and therefore be on the road network for longer periods of time). Arterial roads such as Glenferrie Road are, in Council's view, suitable for construction traffic."¹⁵

53. I concluded that whilst there was an apparent failure in communication to subcontractors, this particular TMP that was developed as part of a municipal planning requirement associated with footpaths and part-road closures with the main aim being the management of traffic flow in and out of Linda Crescent. As such, the Council may not have been obliged to address many of the issues that were a concern and raised by the family.

¹³ Response, Dr Dale, Chief Executive Officer, Boroondara Council, dated 18 May, 2011

¹⁴ Page 1, Response, Dr Dale, Chief Executive Officer, Boroondara Council, dated 18 May, 2011

¹⁵ Page 7, Response, Dr Dale, Chief Executive Officer, Boroondara Council, dated 18 May, 2011

Post Mortem Examination

54. An external inspection and report was prepared by Dr Linda Iles, Forensic Pathologist with the Victorian Institute of Forensic Medicine. She formulated the cause of death and commented as follows:

"The deceased, James Cross, aged 22 years, was riding a bicycle when he collided with the opened door of a parked car, falling onto the road and subsequently being run over by a 5 tonne trailer. Given that his injuries are extensive and well documented by post-mortem CT scan, a full post-mortem examination has not been performed. Given the nature and extent of this man's injury, death was almost certainly inevitable and rapid in onset.

There is no evidence of alcohol or other common drugs or poisons in post mortem toxicological studies.

I have examined the post mortem CT scan and interpreted it to the best of my abilities. I am not a trained radiologist.

In the absence of a full post mortem examination, medicolegal issues that may arise at a later date may be unable to be addressed."

Findings

The Police Coronial Brief and subsequent investigations and inquest were sufficient for me to make the findings required by s.67 Coroners Act 2008.

In the moments leading up to his death, Mr Cross was riding his bicycle appropriately within a shared bicycle and parking lane on Glenferrie Road Hawthorn.

A motorist, Mrs Richards, parked her vehicle within the same shared lane and looked in her drivers side mirror before opening her car door. She failed to see Mr Cross. Mrs Richards opened her car door wide enough to collide with Mr Cross and knocked him off his bicycle.

A truck driver, Mr Bushell, was driving a very large truck and trailer that ran over Mr Cross after his collision with Mrs Richards' opening door. There was nothing untoward in the manner of Mr Bushell's driving and he was not responsible for the incident occurring.

This incident did not occur within a TMP, however, the route taken by Mr Bushell along Glenferrie Road toward the Glenferrie Oval Development could have unknowingly placed him in contravention of a TMP some 350 metres further ahead near the intersection with Linda Crescent Hawthorn.

It may never be known whether the outcome for Mr Cross could have been different had Mr Bushell approached Linda Crescent from a different direction, particularly given the high risk area where Mr Cross was riding his bicycle and the traffic flow following behind Mr Bushell's truck on this major arterial road.

Although submitted otherwise, I find that there is probably a limit to the responsibility of Councils or contractors for incidents, which occur outside the area of a TMP.

Mr Cross is the only known Victorian fatality from a car dooring and his most unfortunate death was entirely preventable. The repercussions and grief will long be felt not only by his family and friends, but also by those associated with this avoidable incident. It has highlighted a very significant public safety hazard, particularly in high-risk areas where car dooring is responsible for many injuries to cyclists.

COMMENTS

Pursuant to section 67(3) of the Coroners Act 2008, I make the following comments connected with the death :

1. The death of Mr Cross has highlighted the vulnerability of cyclists riding in close proximity to motor vehicles. With cyclist numbers growing across the state, ensuring their safety is of paramount importance if cycling is to be promoted as a legitimate alternative form of transport.

2. As Mr Brennan noted, cyclists have a right to ride in safety and not be fearful of being hit by a car door.¹⁶

3. Motorists need to be more aware of their responsibility to thoroughly check for cyclists before opening a car door. This is particularly so for inner suburban and city drivers, where cyclist numbers are high. However, safety is a shared responsibility; cyclists also need to remain vigilant when riding past cars.

4. Bicycle Network Victoria and VicRoads, have already produced some valuable information and pamphlets around '*Sharing the Road*'. The proposed campaigns that were referred to at the inquest will also hopefully highlight this issue and raise awareness for both drivers and riders of the dangers surrounding opening car doors.

5. The inquest also heard of a recent innovation to swap bicycle lanes with the parking lane so that cyclists can travel to the left of parked cars, away from the potential danger of drivers opening their door. This has occurred in Swanston Street in Melbourne CBD and Albert Street in East Melbourne.

6. VicRoads told the Inquest that they support this innovation. Mr Brennan also supported this approach, noting that significantly fewer passengers alight from the passenger sides of vehicles. Another obvious benefit is removing cyclists from the risk of contact with a passing vehicle.

7. Changing driver behaviour through simple suggestions such as '*leading with the left*' and window stickers, '*watch out for bikes*', may also prove worthwhile in reminding drivers to turn around and look before opening a car door.

8. While changing road user behaviour is challenging, modifications to the road infrastructure is a worthy initiative as part of an overall strategy to overcome the '*dooring*' risk posed to cyclists.

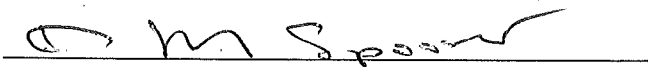
¹⁶ Transcript page 56

RECOMMENDATIONS

Pursuant to section 72(2) of the Coroners Act 2008, I make the following recommendations connected with the death:

1. Bicycle Network Victoria and VicRoads have both shown support for the recent innovation to relocate bicycle lanes to the left of parking lanes in an effort to reduce the 'dooring' risk faced by cyclists. I recommend that VicRoads work closely with local government to promote the reconfiguration of bicycle and parking lanes. This could be achieved in part through the provision of guidance material to assist local governments in the identification of specific sites where such a reconfiguration would be appropriate.
2. I recommend that VicRoads implement a communication campaign to educate motorists of the need to thoroughly check before opening their car door, and to increase awareness among cyclists of the need to remain vigilant when riding past car doors.

Signature:



HEATHER SPOONER
CORONER
10th November, 2011



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

Dr Michael and Dr Nicola Cross;
VicRoads;
Bicycle Network Victoria;
Boroondara Council;
Senior Constable Kane.