IN THE CORONERS COURT
OF VICTORIA
AT MELBOURNE

Court Reference: COR 2013 003852

FINDING INTO DEATH WITH INQUEST

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

Inquest into the Death of: Baby Kirat SINGH

Delivered On:	30 September 2015
Delivered At:	Coroners Court of Victoria 65 Kavanagh Street Southbank Victoria 3006
Hearing Dates:	13 February 2015
Findings of:	Coroner Paresa Antoniadis SPANOS
Representation:	Ms D. PRICE of Counsel, instructed by Mr C. WATSON of Doogue O'Brien George, appeared on behalf of Ms RANDHAWA, Baby Kirat's mother.
Police Coronial Support Unit	Leading Senior Constable K. TAYLOR, assisting the Coroner

I, PARESA ANTONIADIS SPANOS, Coroner,
having investigated the death of Baby KIRAT SINGH

and having held an inquest in relation to this death at Melbourne

on 13 February 2015:

find that the identity of the deceased was KIRAT SINGH

born on 6 July 2013

and that the death occurred on 29 August 2013

at Sunshine Hospital, 176 Furlong Road, St Albans, Victoria 3021

from:

I (a) GLOBAL HYPOXIC ISCHAEMIC INJURY OF UNKNOWN CAUSE

in the following circumstances:

BACKGROUND

1. Baby Kirat Singh was the seven weeks and five day-old daughter of Puneet Randhawa and Paramjit Singh. Baby Kirat was Ms Randhawa and Mr Singh's first child.

2. Both of Baby Kirat's parents are originally from India, are tertiary-educated and have reasonable conversational English language skills though their native language is Hindi. Mr Singh is a permanent resident of Australia and met Ms Randhawa through a marriage advertisement he placed which was seen by Ms Randhawa's father in India in October 2011. Mr Singh and Ms Randhawa began a relationship via email and Skype and, despite the initial objections of Mr Singh's parents, agreed to marry.[1]

3. In December 2011, Mr Singh travelled to India for the wedding, which took place on 8 January 2012, and the couple spent a further 10 days together before Mr Singh returned to Australia. Mr Singh sponsored his wife's migration to Australia and following her arrival in August 2012, they lived together in Springvale. Mr Singh worked two jobs and Ms Randhawa was employed periodically.[2]

4. On 8 November 2012, Ms Randhawa attended the Dandenong Hospital Emergency Department with her husband complaining of centrally situated but radiating abdominal pain

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[1] See generally Coronial Brief of Evidence (Ms Randhawa's statement dated 11 July 2013 [PR Statement]) and Mr Singh's statement of 12 July 2013 [Exhibit B].

[2] See generally PR Statement and Exhibit B.

and nausea.[3] Following investigations, doctors confirmed that Ms Randhawa was pregnant. The pregnancy was unplanned and there is conflicting evidence from Ms Randhawa and Mr Singh about how the news of the pregnancy was received.

5. While still at the hospital, the couple apparently discussed whether or not to continue with the pregnancy: both recall that Ms Randhawa wanted to have the baby and that Mr Singh acquiesced.[4] The paternal grandparents were reportedly supportive of the pregnancy but Ms Randhawa's father was 'not happy', according to Mr Singh.[5] Later, Ms Randhawa stated that Mr Singh was 'not ready' to have a child, had initially encouraged her to have a termination and that she was concerned that he may harm her or the child, particularly if it was a girl.[6] Mr Singh disputes these claims.[7]

6. By early 2013, difficulties began to emerge in Ms Randhawa and Mr Singh's relationship. .Mr Singh was working long hours and Ms Randhawa felt unwell due to gallbladder pain which rendered her less able to attend to the domestic chores expected of her.[8] In January, due to her father's ill-health, Ms Randhawa returned to India. While she was away, Mr Singh reported marriage difficulties to the Immigration Department but later informed the department that they had reconciled after his father-in-law's intercession and Ms Randhawa apologised to him.[9] After this, Mr Singh arranged for his mother to come to Australia to assist his wife during her pregnancy. The arrangement appears to have done little to reduce tensions between Ms Randhawa and her husband.[10]

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[3] Coronial Brief of Evidence pages 174-181 (Puneet Randhawa's Southern Health Medical Records).

[4] See PR Statement. Also, Exhibit B in which Mr Singh states that earlier in their relationship his wife had indicated that she wanted to pursue further education/a career before having children (and on this basis he had told the doctor that Ms Randhawa was not ready to have a baby); he also states that Ms Randhawa's father had counselled her to have an abortion. In evidence at inquest, Mr Singh stated that while at the hospital the couple made a mutual decision to have the baby [Transcript pages 21-23].

[5] Exhibit B and Transcript page 23.

[6] See the transcript of Ms Randhawa digitally-recorded interview with police conducted on 30 September 2013, pages 20-22, [Coronial Brief of Evidence pages 460-503, hereinafter, PR Police Interview], the PR Statement and statements she made to police alleging incidents of family violence (for example, the statement dated 16 May 2013).

[7] Mr Singh maintained that he was not aware of the sex of the child until after Baby Kirat's birth [Exhibit B and Transcript page 16]. He denied allegations of family violence, except for those involving contacting Ms Randhawa by mobile telephone, in contravention of a Family Violence Intervention Order, in May 2013. He was subsequently charged with two counts of contravening an intervention order and these were found proven on 18 June 2014.

[8] See generally, Coronial Brief of Evidence page 177 (Southern Health Medical Records); pages 97-99 (Statement of C/ Spalding), pages 276-277 (unsigned Statement of Kuljit Kaur undated).

[9] Transcript page 25-26.

[10] Coronial Brief of Evidence pages 41-42 (Statement of Puneet Randhawa dated 1 May 2013); pages 97-99 (Statement of C/ Spalding); Transcript page 14-15.

7. In late January 2013, Ms Randhawa made a statement to police concerning the first of four reported incidents of family violence.[11] Although no criminal charges were initiated against Mr Singh at that stage,[12] a Family Violence Intervention Order was put in place to protect Ms Randhawa, while permitting the couple to continue living together.[13] Following a further incident reported in April 2013, the terms of the Intervention Order were varied on 1 May 2013[14] to prohibit cohabitation and this resulted in Ms Randhawa living with acquaintances or in crisis accommodation thereafter.

8. On 11 May 2013, reportedly feeling 'very isolated and emotional', Ms Randhawa contacted Mr Singh in order to reconcile.[15] She promised to be a 'good wife'[16] and indicated her intention to withdraw her complaints of family violence[17] and seek revocation of the Intervention Order.[18] The couple reunited on 15 May 2013 but the next morning Ms Randhawa attended the police station to report a further incident of family violence during which she alleges Mr Singh threatened to kill her.[19]

9. Throughout her pregnancy, Ms Randhawa attended regular (monthly or twice monthly) antenatal appointments at Monash Medical Centre in Clayton.[20] Her pregnancy was uncomplicated, from a medical perspective. However, psychosocial stressors – marriage

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[11] Coronial Brief of Evidence (Statement of Puneet Randhawa dated 19 January 2013). Ms Randhawa also reported allegations of family violence to police in statements made on 30 April, 16 and 18 May 2013. Mr Singh denied the January, April and 16 May 2013 allegations. On 14 May 2013, Ms Randhawa made a statement of no complaint in relation to the April allegations.

[12] Police Informant C/ Durbridge recommend that Mr Singh not be prosecuted on the grounds that there was no other witness or physical evidence to corroborate Ms Randhawa's allegation of assault and Mr Singh had denied the allegation.

[13] A Final Intervention Order was made at Dandenong Magistrates' Court on 21 January 2013 for a period of 12 months. See Coronial Brief of Evidence pages 245-246.

[14] An Interim Variation of a Final Intervention Order was made at Dandenong Magistrates' Court on 1 May 2013; the order also named Kirat Singh as an Affected Family Member [Coronial Brief of Evidence pages 247-249]. On 3 June 2013, the Intervention Order was further varied to permit Mr Singh to attend the hospital for Baby Kirat's birth [Coronial Brief of Evidence pages 250-252].

[15] Coronial Brief of Evidence (Statement of Puneet Randhawa dated 16 May 2013). I note that at the time Mr Singh made a statement to police during D/S/C Blackmore's investigation of injuries sustained by Baby Kirat, he produced text messages sent to him by Ms Randhawa between 11 and 23 May 2013, and some he sent in return. D/S/C Blackmore appears to have interpreted Ms Randhawa's messages as corroborating Mr Singh's assertion that she had "been lying" about family violence and observe, in passing, that the messages are, perhaps at best, ambiguous in this regard.

[16] Coronial Brief of Evidence page 340.

[17] Coronial Brief of Evidence page 337.

[18] Coronial Brief of Evidence page 341.

[19] Coronial Brief of Evidence (Statement of Puneet Randhawa dated 16 May 2013).

[20] Coronial Brief of Evidence pages 160–225 (Puneet Randhawa's Southern Health Medical Records).

difficulties, reports of physical and emotional family violence, social isolation, dependence on her husband and fear/threats of abandonment, concern about her husband's attitude towards the birth of their (female) child – featured heavily in medical records, particularly in April, May and June 2013.[21] Ms Randhawa received counselling, reassurance and referral to support services from nursing and social work staff.[22]

10. During the final seven weeks of her pregnancy, Ms Randhawa was living in a women's refuge and her antenatal care was transferred to Sunshine Hospital.[23]

11. At 5am on 6 July 2013, Ms Randhawa was admitted to Sunshine Hospital in labour and at 11.39am, Baby Kirat was born via normal vaginal delivery.[24] Baby Kirat weighed 2930 grams and her Apgar scores[25] at one and five minutes after birth were both nine (out of ten), indicating good health.[26] Mr Singh was not present for the birth. Indeed was unaware that he had become a father until nearly a week later.

12. Following Baby Kirat's birth, Ms Randhawa was transferred to the Maternity Ward where she was accommodated in a dual occupancy room. A cot was provided so that Baby Kirat could remain with her. She reportedly appeared anxious, expressed concern about her ability to care for Baby Kirat and had difficulty breastfeeding. She was provided reassurance and additional support concerning breastfeeding by nursing staff.

13. On 8 July 2013, Ms Randhawa was reviewed by a social worker. Her discharge was postponed beyond the usual two days postpartum, until 11 July 2013, but it is unclear from the available materials whether this decision was made to allow Ms Randhawa to make 'more

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[21] It appears clear that from April 2013, at the latest, Ms Randhawa is aware of the sex of the foetus and tells her social worker that she has not informed her husband. Coronial Brief of Evidence pages 174-181 (Puneet Randhawa's Southern Health Medical Records).

[22] Coronial Brief of Evidence pages 174-181 (Puneet Randhawa's Southern Health Medical Records).

[23] Coronial Brief of Evidence pages 179-181 (Puneet Randhawa's Southern Health Medical Records).

[24] Coronial Brief of Evidence pages 186-188 (Puneet Randhawa's Southern Health Medical Records).

[25] The Apgar score allows clinicians to quickly evaluate a newborn's physical condition. Five factors are each scored on a scale of 0 to 2 (with 2 being the best score) are used to evaluate the baby's condition: Appearance (skin colour), Pulse (heart rate), Grimace response (reflexes), Activity (muscle tone), Respiration (breathing rate and effort). The Apgar test is usually administered at one- and five- minutes after birth. Ten is the highest score possible, but is rarely obtained.

[26] Coronial Brief of Evidence page 187 (Puneet Randhawa's Southern Health Medical Records).

progress' with Baby Kirat before leaving hospital[27] or to facilitate organisation of suitable crisis accommodation,[28] or both.

BABY KIRAT SUFFERS A HYPOXIC INSULT

14. In the afternoon of 9 July 2013, Ms Randhawa continued to appear anxious and required additional reassurance from nursing staff. At approximately 4.50pm, she was reviewed by a social worker and, separately, the details of her post-discharge support plan were discussed at a meeting attended by allied health and community support service representatives.[29]

15. According to Ms Randhawa's account, at about 5pm, she breastfed Baby Kirat for a short period. Baby Kirat did not feed well and seemed sleepy and so, rather than returning the infant to her cot as advised by nurses, her mother kept Baby Kirat by her side in the bed, intending to feed her again after a short break. Some time later, Ms Randhawa fell asleep.

16. At about 7.25pm, Ms Randhawa reported to a midwife attending to a co-patient that Baby Kirat was cold and not moving.[30] Upon investigation by the midwife, Baby Kirat was found to be white/yellow in colour and in cardio-respiratory arrest. [31] Midwives commenced cardiopulmonary resuscitation and a "Code Blue" was called at 7.30pm.[32]

17. Baby Kirat required intensive resuscitation with intubation, ventilation, prolonged external chest compressions and a number of doses of adrenaline to re-establish cardiac output. After 10 minutes of resuscitative efforts, her circulation was restored and she was transferred to the Special Care Nursery.[33] Baby Kirat was found to have profound metabolic acidosis consistent with a considerable period of hypoxia and circulatory arrest and it was evident that she had

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[27] Baby Randhawa's Western Health Medical Records (Report of Dr Andrew Watkins dated 21 August 2013) [hereinafter Kirat Singh's Western Health Medical Records].

[28] Coronial Brief of Evidence, page 81 (Report of Dr Natasha Parekh).

[29] Coronial Brief of Evidence (Statement of Dr Thao Ngoc Lu).

[30] Coronial Brief of Evidence (Statement of Dr Thao Ngoc Lu).

[31] I note that this account, provided by The Sunshine Hospital midwife, Ms Hutchison, provides a different account to co-patient, Ms Tasylor, in terms ofbaby Kirat's position at the point of nursing/medical intervention. Ms Hutchinson's account – finding Baby Kirat "wrapped in a blanket, lying on her back in the middle of her mother's bed" – is reproduced in the Coronial Brief of Evidence (Statement provided by Dr Thao Ngoc Lu). In contrast, Ms Randhawa's co-patient, Ms Taylor, recalled Ms Randhawa emerging from the curtain between their beds holding her baby in her arms [Coronial Brief of Evidence pages 71–77 (Statement of Amber Taylor)]. Ms Randhawa's statement does not clarify the issue [see PR Statement].

[32] Coronial Brief of Evidence (Statement of Dr Thao Ngoc Lu).

[33] Coronial Brief of Evidence (Statement of Dr Thao Ngoc Lu).

suffered a severe neurological insult as a result.[34] She was transferred to the Neonatal Intensive Care Unit [NICU] of the Royal Children's Hospital [RCH] by the Neonatal Emergency Transport Service [NETS] at 11pm.[35]

BABY KIRAT'S CLINICAL COURSE POST-HYPOXIC INSULT

18. On arrival at NICU, Baby Kirat was intubated and ventilated, hypotensive, experiencing clinical and electrical seizures, had impaired glucose homeostasis and was presumed to have sepsis. Medications were administered to address these conditions and therapeutic hypothermia was induced for the first 72 hours of her admission in an attempt to reduce neurological deficits.[36] Immediately after rewarming, Baby Kirat's seizures increased and these were managed with anticonvulsant medications, some of which were discontinued after the treating team decided to actively treat only those clinically detectable seizures that compromised her cardio-respiratory status.

19. On 12 and 18 July 2013 Baby Kirat underwent magnetic resonance imaging [MRI] scans of her brain. The first MRI showed significant changes on diffusion weighted imaging[37] affecting the basal ganglia, semioval centre and perirolandic areas bilaterally. The second MRI confirmed injuries to these areas of the brain and demonstrated progressive injuries to neurons surrounding those injured in the initial hypoxic insult.[38] The MRI results were characteristic of 'an acute, severe hypoxic-ischaemic insult, such as that which occurred on day 3'.[39] Neontatologist, Dr Rod Hunt, opined that Baby Kirat had suffered a significant injury to her brain of a type associated with poor outcomes, including death, and that even when infants survive such injuries they often have physical and intellectual disabilities requiring life long medical care.[40]

20. Ms Randhawa spent much of her time at the RCH, visiting Baby Kirat. Staff held concerns for Ms Randhawa's emotional wellbeing – arranging for Crisis Assessment and Treatment Team involvement on more than one occasion – given her 'distraught' presentation,

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[34] Kirat Singh's Western Health Medical Records (Report of Dr Andrew Watkins dated 21 August 2013).

[35] Coronial Brief of Evidence (Statement of Dr Thao Ngoc Lu and Report of Dr Natasha Parekh).

[36] Kirat Singh's Royal Children's Hospital Records.

[37] A MRI imaging technique used to detect injuries in the period shortly after a hypoxic insult that may resolve 7-14 days after it.

[38] Kirat Singh's Royal Children's Hospital Records.

[39] Kirat Singh's Royal Children's Hospital Records.

[40] Coronial Brief of Evidence page 85 (Statement of Dr Natasha Parekh).

expressions of self-recrimination and suicidality, and tendency to become non-responsive.[41] Mr Singh was advised of his daughter's birth, and of her grave condition, by police and visited Baby Kirat for the first time on 13 July 2013. Both parents were involved in medical decision-making.[42]

21. On 18 July 2013, Baby Kirat was commenced on feeds by naso-gastric tube. She was extubated on 21 July 2013, after which her weak suck and absent gag responses were noted and suctioning of pooling secretions commenced. On 26 July 2013, Baby Kirat was transferred back to Sunshine Hospital for ongoing care.

22. At Sunshine Hospital, Baby Kirat continued to be regularly reviewed by medical staff. When reviewed on 5 August 2013, Consultant Neonatologist Dr Thao Ngoc Lu observed Baby Kirat to have cerebral irritation, increased jitteriness, poor central and peripheral muscle tone, possible cortical blindness, and absent gag and suck reflexes indicative of deteriorating neurological status. Dr Lu discussed his concerns about Baby Kirat's prognosis with Ms Randhawa and requested that Baby Kirat be reviewed by the RCH's Dr Jenny Hyson, a palliative care specialist.[43]

23. On examination, Dr Hyson found clinical evidence of profound brain injury and noted that Baby Kirat was very fragile and at risk of death from seizures or respiratory infection. Following her recommendation, and a multidisciplinary team meeting at Sunshine Hospital attended by Baby Kirat's parents, advice was sought from the Clinical Ethics Response Group and an independent neonatologist's opinion was commissioned to inform Baby Kirat's ongoing management.[44]

24. On 19 August 2013, Consultant Neonatologist and Clinical Director of Paediatrics at the Mercy Hospital for Women, Dr Andrew Watkins, reviewed Baby Kirat and met with her parents. Dr Watkins noted that Baby Kirat had suffered an extensive brain injury characteristic of a severe acute episode of total hypoxia-ischaemia and consistent with her known history. As a result, she was likely to develop severe quadriplegic cerebral palsy with marked gross motor delay, probable mental retardation and cortical blindness, would require tube feeding and so be at risk of aspiration pneumonia. Baby Kirat was extremely irritable

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[41] Baby Randhawa's Royal Children's Hospital Records [hereinafter Kirat Singh's Royal Children's Hospital Records].

[42] Kirat Singh's Royal Children's Hospital Records.

[43] Coronial Brief of Evidence unpaginated (Statement of Dr Thao Ngoc Lu).

[44] Coronial Brief of Evidence unpaginated (Statement of Dr Thao Ngoc Lu).

and her distress was only partially controlled by medications. In light of her condition and prognosis, Dr Watkins recommended the cessation of active medical management (including naso-gastric feeds) and the adoption of a palliative approach to Baby Kirat's care.[45]

25. On 27 August 2013, a multidisciplinary team meeting occurred at which Dr Watkins' conclusions[46] about Baby Kirat's prognosis and his recommendations for palliative care were discussed with Ms Randhawa. Ms Randhawa re-iterated her desire to ensure Baby Kirat was comfortable and acknowledged that the proposed withdrawal of naso-gastric feeding would lead to her death. Ultimately, a palliative approach to care was agreed and commenced.[47]

26. On 29 August 2013 at approximately 10.45pm, Baby Kirat had neither breath or heart sounds nor pulse and was confirmed to be deceased.[48]

POLICE INVESTIGATION

27. On 11 July 2013, following a notification from Dr Anne Smith, Medical Director of the RCH's Victorian Forensic Paediatric Medical Service, Ms Tuai of Preston Child Protection Intake telephoned Detective Senior Constable Jason Blackmore of Brimbank Sexual Offences and Child Investigation Team [SOCIT] to report the 'injuries sustained' by Baby Kirat.[49] A 'joint investigation' by SOCIT and Child Protection commenced.[50]

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[45] Kirat Singh's Western Health Medical Records (Report of Dr Andrew Watkins dated 21 August 2013). I note in passing Dr Watkins' observations of Mr Singh and Ms Randhawa during his meeting with them on 21 August 2013 which was facilitated by a Hindi-speaking nurse: Ms Randhawa was "quiet and sad" and her first question was to ask whether there was "any hope" for Baby Kirat despite the fact that her prognosis had been extensively discussed by the treating team; the "bulk of the talking" was done by Mr Singh and "very little, if any, interaction" occurred between the parents; "I have concerns that it may be wise to also have some discussions with [the mother] separate from her husband if she is to be able to express her views fully"; after Mr Singh had left, Ms Randhawa "lingered" to talk to Dr Lu [and Dr Watkins] and spoke "passionately" about her distress at Kirat's irritability … and apparent pain and her inability to spend more time with her to ease this due to access restrictions"; Mr Singh's primary concern was Baby Kirat's quality of life and Ms Randhawa's was that her daughter not feel pain; for both personal and cultural reasons both parents preferred a model of decision-making whereby critical decisions were made by the medical team after discussion with them. Dr Watkins concluded, "I am confident that both parents, in their own way, are struggling to make the right decision for Kirat, without any more than the usual array of secondary fears and motivations".

[46] Baby Kirat had also been assessed by another expert, RCH Consultant Paediatric Neurologist Dr Jeremy Freedman whose clinical and prognostic conclusions aligned with those of Dr Watkins. Dr Freedman's report was also discussed at the meeting on 27 August 2013.

[47] Coronial Brief of Evidence unpaginated (Statement of Dr Thao Ngoc Lu).

[48] Coronial Brief of Evidence unpaginated (Statement of Dr Thao Ngoc Lu).

[49] Coronial Brief of Evidence pages 122-136 (Statement of D/S/C Jason Blackmore).

[50] Coronial Brief of Evidence pages 122-136 (Statement of D/S/C Jason Blackmore). The Department of Human Services Child Protection later obtained an Interim Accommodation Order in relation to Baby Kirat [Child Protection Unit correspondence with the Coroners Court dated 30 August 2013].

28. Throughout his investigation, D/S/C Blackmore maintained contact with representatives of Child Protection, the Homicide Squad and Baby Kirat's treatment teams at RCH and Sunshine Hospital. RCH clinicians were a primary source of information, particularly during the formative stages of the police investigation.

29. It is evident that RCH clinicians had concerns about "inconsistencies" in Ms Randhawa's account of the afternoon of 9 July 2013 (namely, whether she had been given medication with sedating effects that afternoon as she claimed or whether her fatigue was due to sleep-deprivation)[51] and the manner in which Baby Kirat sustained her injury. In relation to the latter I note the information D/S/C Blackmore received from Drs Smith and Hunt on 11 July 2013, namely: that Baby Kirat had 'a mark on her neck' consistent with the type of injury seen when an infant's throat is 'pressed against the bed rail',[52] that the force required to inflict the injury sustained by Baby Kirat is 'substantial'[53] and that it is 'unusual' for an infant to 'get pushed to the side of the bed' when co-sleeping with an adult.[54] RCH clinicians' identification of the psychosocial stressors faced by Ms Randhawa and evaluations of her demeanour also informed D/S/C Blackmore early in his investigation.[55]

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[51] Dr Hunt wrote to D/S/C Blackmore about a "clear inconsistency in [Ms Randhawa's] reporting of events" namely that she had reported taking a "sedative to help her sleep prior" to falling asleep with Baby Kirat in her bed. Dr Hunt made inquiries of Dr Lu at Sunshine Hospital who reported that she had not been given a "tranquilizer" at this time [Coronial Brief of Evidence page 88 (Letter of Associate Professor Rod Hunt, undated). D/S/C Blackmore reports receiving a "drug chart" confirming that no "sleeping tablet" was administered to Ms Randhawa on the afternoon of 9 July 2013 but that "retrospective [nursing] notes" [10/7/13] indicate that between 4.10pm and 4.45pm Mr Randhawa had been given "medication" that she had reported to staff was "making her drowsy" [see Coronial Brief of Evidence page 129 (Statement of D/S/C Jason Blackmore)]. I note too that Dr Parekh, who prepared a report for the RCH on behalf of the Victorian Forensic Paediatric Medical Service, referred to Ms Randhawa giving her an account, a more detailed account and a "slightly different version of [the] events" of 9 July 2013, the differences between these accounts relate to the times at which certain things occurred and give rise to some confusion as to whether or not Baby Kirat was placed in her bedside cot at any point after 4pm. Dr Parekh observed that at the time these accounts were obtained, Ms Randhawa was "extremely distressed and possibly in shock … [there were] reported concerns about her mental health with an assessment pending". [Coronial Brief of Evidence pages 78-87 (Statement of Dr Natasha Parekh)].

[52] Coronial Brief of Evidence pages 122-136 (Statement of D/S/C Jason Blackmore), quotations attributed to Dr Smith. Dr Parekh noted that Ms Randhawa reported initially seeing some marks on Baby Kirat's neck, however, observed that none of the medical notes available to her (comprehensive admission notes and progress notes) referred to such marks and that there was no evidence of bruising or other injury on Baby Kirat's throat when she examined her on 10 July 2013. Dr Parekh speculated that Ms Randhawa may have observed transient erythema (redness) caused by pressure on her neck and that these had subsequently faded [Coronial Brief of Evidence pages 78-87 (Statement of Dr Natasha Parekh)].

[53] Coronial Brief of Evidence pages 122-136 (Statement of D/S/C Jason Blackmore), quotations attributed to Dr Hunt. This assertion should be compared to the expert evidence provided by Forensic Pathologist Dr Yeliena Baber at inquest [Transcript page 3].

[54] Coronial Brief of Evidence pages 122-136 (Statement of D/S/C Jason Blackmore), quotations attributed to Dr Hunt.

[55] Although many of the stressors faced by Ms Randhawa and canvassed in paragraphs 5-9 above were communicated to D/S/C Blackmore by RCH staff, the sequence in which they were communicated and manner in which they were characterised (by either the detective or the reporting party – it is not clear) is noteworthy: there is an intervention order

30. On 11 July 2013, the Detective obtained a written statement from Ms Randhawa at the RCH. He observed that she was 'visibly upset, softly spoken, expressed concern for Baby Kirat and stated that she was still in fear of her husband'.[56]

31. D/S/C Blackmore attended the Sunshine Hospital room occupied by Ms Randhawa, arranged for the bed she had used (Bed 6) to be examined and obtained a statement from the patient who had shared the room. He facilitated production of a statement by Mr Singh, obtained his and Ms Randhawa's telephone records and information about allegations of family violence from the investigating police members.

32. After being notified that Baby Kirat's condition had deteriorated on 7 August 2013, the Detective initiated a State Police Watch List Alert [Alert] in relation to both of Baby Kirat's parents. On 30 September 2013, upon being notified that Ms Randhawa had been "stopped" at Melbourne Airport pursuant to that Alert, he authorised her arrest 'in relation to the death of her daughter' and interviewed her later that morning at Footscray Police Station.[57]

33. D/S/C Blackmore prepared a criminal brief of evidence against Ms Randhawa in relation to the offence of infanticide. The brief was 'not authorised due to insufficient evidence'.[58]

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between the parents; due to a "number of domestic violence incidents" Ms Randhawa was living in a women's refuge; Baby Kirat's injuries were "due to her being asphyxiated"; the parents were "married by way of an arrangement"; mother is "at risk of self harm", "absolutely distraught", "fixated on blaming herself" and "exceptionally isolated"; Mr Singh was "not happy with a baby girl", Ms Randhawa was "trying to save her marriage"; Mr Singh told Ms Randhawa "he would kill her and the baby"; she's "on a spousal visa"; Ms Randhawa is "inappropriate", focussing on "irrelevant things" and is "prone to hysteria" – see Coronial Brief of Evidence (Statement of D/S/C Jason Blackmore).

[56] Coronial Brief of Evidence pages 128 (Statement of D/S/C Jason Blackmore).

[57] Coronial Brief of Evidence pages 133 (Statement of D/S/C Jason Blackmore). Ms Randhawa was arrested by an Australian Federal Police member at 12.37am on 30 September 2013 and was cautioned and searched. She was transferred to the custody of Victoria Police at 1.19am and was re-cautioned [when asked whether she understood the caution and her right to silence, Ms Randhawa stated 'I don't understand when you talk quickly'. The caution was repeated but Ms Randhawa did not indicate she understood it (or her communication rights)]. At 1.35am Ms Randhawa arrived at Footscray Police Station and a digitally recorded interview was commenced at 2.01am and suspended at 2.07am because Ms Randhawa had requested an interpreter and to contact a lawyer [she spoke to a lawyer at 2.27am]. At 2.20am D/S/C Blackmore was advised that Ms Randhawa's emotional state had deteriorated since her arrest and so he arranged for her fitness to be interviewed to be assessed by a Forensic Medical Officer. At 3.14am, Dr Anna Beswick assessed Ms Randhawa for 30 minutes and determined that she would be fit for interview under the following conditions (communicated to D/S/C Blackmore): she be allowed to sleep until 8am; an independent third person [ITP] be present throughout; she be "handled sensitively" and receive "regular breaks". At 6.22am Ms Randhawa conferred with the Hindi interpreter and at 6.24am the ITP is introduced. At 7.15am she attempted to call her father in India and when she could not, indicated that rather than trying again she "just wanted to get the interview done". At 7.28am, the digitally recorded interview between Ms Randhawa and D/S/C Blackmore commenced and was suspended again at 7.33am to allow Ms Randhawa to attempt to contact her father and the Indian Consulate. She was unable to reach her father and a recorded message at the Consulate indicated it was closed until 9am. She was informed that if she wanted to speak to a consular official the interview would be suspended until 9am. Ms Randhawa reportedly wished to proceed with the interview. The recorded interview was recommenced at 7.50am and concluded at 9.32am. Ms Randhawa was never offered a break and the vast majority of Ms Randhawa's responses were made through the interpreter.

[58] Coronial Brief of Evidence pages 135 (Statement of D/S/C Jason Blackmore).

CORONIAL INVESTIGATION – SOURCES OF EVIDENCE

34. This finding is based on the totality of the material the product of the coronial investigation of Baby Kirat's death. That is the brief of evidence compiled by D/S/C Jason Blackmore of Brimbank SOCIT, the statements, reports and testimony of those witnesses who testified at inquest and any documents tendered through them, and the final submissions of Counsel. All of this material, together with the inquest transcript, will remain on the coronial file.[59] In writing this finding, I do not purport to summarise all the material and evidence, but will refer to it only in such detail as is warranted by its forensic significance and in the interests of narrative clarity.

PURPOSE OF A CORONIAL INVESTIGATION

35. The purpose of a coronial investigation of a *reportable death* is to ascertain, if possible, the identity of the deceased person, the cause of death and the circumstances in which death occurred.[60] The *cause* of death refers to the *medical* cause of death, incorporating where possible the *mode* or *mechanism* of death. For coronial purposes, the *circumstances* in which death occurred refers to the context or background and surrounding circumstances, but is confined to those circumstances sufficiently proximate and causally relevant to the death, and not merely all circumstances which might form part of a narrative culminating in death.[61]

36. The broader purpose of any coronial investigations is to contribute to the reduction of the number of preventable deaths through the findings of the investigation and the making of recommendations by coroners, generally referred to as the *prevention* role.[62] Coroners are also empowered to report to the Attorney-General in relation to a death; to comment on any matter connected with the death they have investigated, including matters of public health or safety and the administration of justice; and to make recommendations to any Minister or public statutory authority on any matter connected with the death, including public health or safety or

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[59] From the commencement of the *Coroners Act 2008* (the Act), that is 1 November 2009, access to documents held by the Coroners Court of Victoria is governed by section 115 of the Act.

[60] Section 67(1) of the *Coroners Act 2008*. All references which follow are to the provisions of this Act, unless otherwise stipulated.

[61] This is the effect of the authorities – see for example *Harmsworth v The State Coroner* [1989] VR 989; *Clancy v West* (Unreported 17/08/1994, Supreme Court of Victoria, Harper J.)

[62] The 'prevention' role is now explicitly articulated in the Preamble and purposes of the Act, cf: the *Coroners Act 1985* where this role was generally accepted as 'implicit'.

the administration of justice.[63] These are effectively the vehicles by which the prevention role may be advanced.[64]

37. It is important to stress that coroners are not empowered to determine the civil or criminal liability arising from the investigation of a reportable death, and are specifically prohibited from including in a finding or comment any statement that a person is, or maybe, guilty of an offence.[65] However, a coroner may include a statement relating to a notification to the Director of Public Prosecutions if the coroner believes an indictable offence may have been committed in connection with the death.[66]

FINDINGS AS TO UNCONTENTIOUS MATTERS

38. In relation to Baby Kirat's death, most of the matters I am required to ascertain, if possible, were uncontentious from the outset. Her identity and the date and place of death were not at issue. I find, as a matter of formality, that Kirat Singh, born on 6 July 2013, died at Sunshine Hospital in St Albans on 29 August 2013, aged seven weeks and five days.

39. Nor was the medical cause of Baby Kirat's death ultimately contentious. On 2 September 2013, Forensic Pathologist Dr Yeliena Baber, from the Victorian Institute of Forensic Medicine [VIFM], performed a post-mortem examination of Baby Kirat's body. She reviewed the circumstances of the death as reported by the police to the coroner, the medical deposition from Sunshine Hospital, medical records from the RCH and information contained in a letter from D/S/C Blackmore concerning his investigation, in addition to post-mortem CT scans of the whole body and the results of ancillary analyses when preparing a written report of her findings.[67]

40. Dr Baber observed at autopsy that there were no injuries and no signs of significant congenital or natural disease. Neuropathology showed severe global metabolic injury in keeping with the

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[63] See sections 72(1), 67(3) and 72(2) regarding reports, comments and recommendations respectively.

[64] See also sections 73(1) and 72(5) which requires publication of coronial findings, comments and recommendations and responses respectively; section 72(3) and (4) which oblige the recipient of a coronial recommendation to respond within three months, specifying a statement of action which has or will be taken in relation to the recommendation.

[65] Section 69(1).

[66] Sections 69 (2) and 49(1).

[67] Exhibit A.

history of ischaemic insult on day three of life.[68] Histology revealed patchy bronchopneumonia which is a common finding among ventilated individuals, and, the "starry sky" appearance of the thymus reflected physiological stress. Toxicology results were consistent with recent medical intervention (phenobarbitone, diazepam and morphine were detected) and other ancillary investigations (microbiology, karyotype and radiology) were non-contributory.[69]

41. Dr Baber concluded that on the basis of the information available to her, Baby Kirat's death was due to global hypoxic ischaemic injury as a result of prolonged downtime. She noted that the initial cause of cardio-respiratory arrest cannot be explained by autopsy and ancillary investigations. No natural or congenital diseased was identified that may have caused the arrest.[70]

42. Dr Baber commented that the clinical scenarios of positional asphyxia and neck compression could not be proven or refuted by autopsy. She noted that positive autopsy findings of such scenarios could have included petechial haemorrhages above the level of neck compression, neck bruising and possibly, damage to the laryngeal skeleton. Dr Baber opined that the absence of these features from the post-mortem examination of Baby Kirat did not exclude the possibility that neck compression occurred, particularly taking into account the time between such an event and her death.[71]

FOCUS OF THE CORONIAL INVESTIGATION AND INQUEST

43. In common with many other coronial investigations, the primary focus of the coronial investigation and inquest into Baby Kirat's death was on the circumstances in which she died. In particular, whether the cause of, or manner in which, Baby Kirat sustained the hypoxic insult that lead to her death could be clarified.

Bed 6

44. D/S/C Jon Ebinger attended the Maternity Ward of Sunshine Hospital to examine Bed 6, which had been identified as that occupied by Ms Randhawa during her admission. Bed 6 was

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[68] A Neuropathology Report was prepared by Dr Linda Iles of VIFM and dated 12 November 2013 at Dr Baber's request.

[69] Exhibit A.

[70] Exhibit A.

[71] Exhibit A.

positioned closest to the door and beyond it was the bed used by co-patient, Ms Taylor (Bed 7). The distance between Beds 6 and 7 was 1.65 metres [m], and, 85 centimetres [cm] from Bed 6, there was a curtain that could be drawn for privacy. There was sufficient space to position a cot only at the foot or on the left-hand side of Bed 6, between Beds 6 and 7.[72]

45. Bed 6 was a Medicraft model FE5000 hospital bed manufactured in 2004 or 2005. It is, in essence, a powder-coated metal-framed single bed with an adjustable backrest and metal rails on either side that may be raised or lowered manually.[73]

46. The mattress was 85cm wide and its edges were described as 'soft' such that the 'weight of a baby could possibly cause [the edges] to sink'.[74] There was a gap of approximately 2cm between the edge of the mattress on either side and the metal frame in which it sat.

47. The side rails are attached to the outside of the metal bed frame and when lowered, sit below the height of the mattress. When raised, the side rails consisted of vertical bars 1.5cm in diameter positioned 18.3cm apart and perpendicular to the rail running across the top.[75] There is a gap between the vertical bars and the mattress of approximately 4cm on each side. The side rails on Bed 6 were 'wobbly and could be easily moved inwards and outwards while in the raised position'.[76]

48. D/S/C Ebinger observed that Bed 7 appeared to be a newer model and its side rails were differently designed (horizontal rather than vertical bars) and could not be wobbled or pushed outwards.[77]

Ms Taylor's Account

49. Ms Amber Taylor had undergone a caesarean delivery of her second child under general anaesthetic and returned to the ward at about 3pm on 9 July 2013. Ms Taylor stated that the medications administered to her made her drowsy and unsure of the timing of events she witnessed.[78] Ms Taylor did not interact with Ms Randhawa between 3pm and 7.30pm but overheard conversations between her and midwives. She recalled Ms Randhawa being

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[72] Coronial Brief of Evidence pages 108-110 (Statement of Jon Ebinger).

[73] Coronial Brief of Evidence pages 108-110 (Statement of Jon Ebinger).

[74] Coronial Brief of Evidence pages 108-110 (Statement of Jon Ebinger).

[75] Coronial Brief of Evidence pages 108-110 (Statement of Jon Ebinger).

[76] Coronial Brief of Evidence pages 108-110 (Statement of Jon Ebinger).

[77] Coronial Brief of Evidence pages 108-110 (Statement of Jon Ebinger).

[78] Exhibit C.

warned not to allow blankets near her baby's face, and that a midwife had checked on her at about 5.45pm.[79]

50. At about 7.30pm Ms Taylor's intravenous fluid machine [IV] was beeping constantly and so she pressed her call button to summon a nurse to assist her. While waiting for the nurse to arrive, she heard Baby Kirat crying, as though she was hungry; Ms Taylor did not consider the cry to be characteristic of an infant experiencing pain.[80] After 'what seemed like 10 minutes' the baby was quiet.[81] Not long after, Ms Taylor heard a sound that she did not associate with one made by a baby. She described it as being like the sound heard when someone inhales water with air while drinking,[82] similar to 'choking', 'gargling' or 'gasping'.[83] Indeed, she could not be sure whether the baby or the mother had made the sound because the privacy curtain was drawn. She considered the possibility that the sound may have related to Ms Randhawa endeavouring to "cup feed" the baby, a breastfeeding technique she had overheard a midwife discussing with her around 5.45pm.[84]

51. As a midwife assisted with her IV, Ms Taylor recalled that Ms Randhawa emerged from the curtain holding her baby in her arms and handed Baby Kirat to the midwife saying words to the effect, "She's not breathing; she's cold".[85] Ms Taylor described Ms Randhawa as being 'very calm'.[86] Baby Kirat was taken into another room and Ms Randhawa remained behind the privacy curtain.

52. It is worth noting at this juncture, that the attending midwife, Ms Hutchinson, reported that she found Baby Kirat 'wrapped in a blanket, lying on her back in the middle of her mother's bed'[87]

53. While staff were resuscitating Baby Kirat, Ms Taylor tried to provide Ms Randhawa with reassurance. She recalled that Ms Randhawa came out from behind the privacy curtain and

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[79] Exhibit C and Transcript page 33.

[80] Transcript page 38.

[81] Exhibit C and Transcript page 38.

[82] Transcript pages 40-41.

[83] Exhibit C.

[84] Exhibit C.

[85] Exhibit C and Transcript pages 41-42.

[86] Exhibit C.

[87] Coronial brief of Evidence unpaginated (Statement of Dr Thao Ngoc Lu). This description is inconsistent with Ms Taylor's recollection of events and, unfortunately, Ms Randhawa's account(s) are silent on this point.

'had tears rolling down her face; she was still calm'.[88] Ms Randhawa told Ms Taylor that she had been asleep and when she woke up Baby Kirat's 'head was stuck' under the side rail.[89] Ms Randhawa reportedly said, "She has to be okay, because she's all I've got".[90]

Ms Randhawa's Account

54. Ms Randhawa stated that she ordinarily placed Baby Kirat in the bedside cot to sleep but that she would 'cry a lot' when in the cot unless she was distracted with toys. Ms Randhawa breastfed Baby Kirat every two hours and this interrupted her sleep, leaving her drowsy.[91]
55. On 9 July 2013, Ms Randhawa fed Baby Kirat around 3.30pm and, after the baby had slept, attempted to feed her again around 5pm. The baby did not feed for more than a couple of minutes and appeared drowsy, and so Ms Randhawa kept Baby Kirat in her bed, intending to feed her again. Shortly thereafter, Ms Randhawa fell asleep.[92]
56. Ms Randhawa recalled that she was clothed in a nightgown and that there were two sheets and one blanket on Bed 6. Baby Kirat was wearing a nappy, singlet and jumpsuit and had been swaddled in two blankets in the manner demonstrated by midwives. The side rail on the right-hand side of the bed was raised and the one on the left was lowered. Ms Randhawa placed Baby Kirat on her back on the right-hand side of the bed where the side rail would prevent her from falling out of the bed. Ms Randhawa lay on the bed, 'straight', next to Baby Kirat and covered the baby with her blanket (not her sheets).[93]
57. When Ms Randhawa woke, Baby Kirat was 'on the edge of the bed', facing away from her. There was a 'little bit of space between the mattress and the rail and that's where she was'.[94] Baby Kirat's throat was against the vertical bars of the side rail and there were little red marks at the base of her throat. Ms Randhawa pulled Baby Kirat back from the edge of the bed and saw that her mouth was open and she was not breathing. She reported being scared and that she called for a midwife.[95]

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[88] Exhibit C and Transcript page 48.

[89] Exhibit C.

[90] Exhibit C.

[91] PR Statement.

[92] PR Statement.

[93] PR Statement.

[94] PR Statement.

[95] PR Statement.

58. In addition to the above account, which is drawn from the statement Ms Randhawa provided to police on 11 July 2013, she participated in a digitally recorded interview with police, conducted while she was under caution, on 30 September 2013. This later account does little to clarify what is known about the circumstances leading to Baby Kirat's hypoxic insult.[96]

59. Further, after an application made by Counsel appearing on her behalf pursuant to section 57 of the *Coroners Act* 2008, and having considered those submissions and the legislation, I did not compel Ms Randhawa to give evidence at the inquest.[97]

Expert Medical Evidence

60. At inquest, Dr Baber elaborated on her autopsy findings. She explained that a global hypoxic ischaemic injury occurred when the brain is deprived of oxygenated blood for enough time to cause damage at the cellular level; this type of injury prevents the brain from functioning properly.[98] The extent of Baby Kirat's brain injury was such that it was the result of 'prolonged downtime'.[99] Dr Baber was unable to determine how long Baby Kirat was oxygen deprived. However, she observed that brain injury of the kind Baby Kirat sustained could occur as a result of between five and 20 minutes' downtime, that resuscitation was unlikely to have been successful after downtime of more than 30 minutes, and that medical records indicated that 10 minutes' resuscitative efforts were required to restore her circulation.[100]

61. Dr Baber confirmed that her medical investigations did not enable her to determine the antecedent cause of Baby Kirat's hypoxic brain injury.[101] During her evidence, a number of "co-sleeping" scenarios capable of producing asphyxia were canvassed including obstruction of airways by compression against the bed frame/rail or an adult's body/limbs, positional asphyxia and suffocation. Dr Baber noted that infants as young as Baby Kirat are unable to roll of their own accord but agreed that an adult sharing a bed with an infant may

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[96] Ms Randhawa made a partial "No Comment" interview. While I draw no inferences from her responses, I note that Ms Randhawa answered "No comment" in a range of circumstances – if she did not understand the question (despite the presence of an interpreter) or if she did not "remember exactly" – though not uniformly.

[97] Section 57 of the *Coroners Act* relates to the privilege in respect of self-incrimination in other proceedings. My reasons appear in the Transcript, pages 53-54.

[98] Transcript page 2.

[99] Exhibit A and Transcript page 4.

[100] Transcript pages 4-5.

[101] Transcript pages 2-3 and Exhibit A.

inadvertently cause the baby to roll.[102] She stated that very little compression would be necessary – and merely covering the face with fabric for a few moments could be sufficient – to cause hypoxic brain injury in a three-day old infant.[103] Dr Baber observed that positive autopsy findings of asphyxia in infants are rare[104] and that Baby Kirat's autopsy did not allow her to confirm or refute any particular scenario or, indeed, whether the cause was accidental and non-accidental.

62. Dr Baber concluded that Baby Kirat's death was due to global hypoxic ischaemic injury of unknown cause.

CONCLUSIONS

63. The standard of proof for coronial findings of fact is the civil standard of proof, on the balance of probabilities, with the *Briginshaw* gloss or explication.[105] The effect of the authorities is that Coroners should not make adverse findings against or comments about individuals, unless the evidence provides a comfortable level of satisfaction that they caused or contributed to death.
64. Having applied the applicable standard to the available evidence, I find that:

    a. At birth, Baby Kirat was a healthy female infant and there is no evidence that she suffered any congenital condition or natural disease that was likely to impair her capacity to thrive.

    b. At three days of age, on 9 July 2013, sometime between 5.45pm and 7.30pm but more likely after 7pm, while co-sleeping in a hospital bed with her mother, Baby Kirat sustained a global hypoxic ischaemic brain injury.

    c. I am satisfied that Ms Randhawa had been advised by nursing staff at Sunshine Hospital that co-sleeping with an infant was potentially hazardous for the child.

    d. Ms Randhawa's account of finding Baby Kirat lifeless between the edge of Bed 6's mattress and the right-hand side rail of the bed is the only direct evidence on point.

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[102] Transcript page 8.

[103] Transcript page 3.

[104] Transcript page 6.

[105] *Briginshaw v Briginshaw (1938) 60 C.L.R. 336 esp at 362-363.* "The seriousness of an allegation made, the inherent unlikelihood of an occurrence of a given description, or the gravity of the consequences flowing from a particular finding, are considerations which must affect the answer to the question whether the issues had been proved to the reasonable satisfaction of the tribunal. In such matters "reasonable satisfaction" should not be produced by inexact proofs, indefinite testimony, or indirect inferences..."

It is an account that gives rise to a range of accidental and non-accidental scenarios that could have resulted in Baby Kirat's global ischaemic brain injury.

e. Unfortunately, but not surprisingly given Baby Kirat's age, none of these clinical scenarios could be proven or refuted by the autopsy findings and ancillary investigations conducted by a forensic pathologist.

f. Baby Kirat's death was as a result of a global hypxic ischaemic injury. The available evidence does not enable me to determine with the requisite degree of certainty the nature of the antecedent cause of this global hypoxic ischaemic injury, and specifically, whether it was the result of accidental or non-accidental trauma.

g. Baby Kirat's global hypoxic ischemic injury was of a type and extent that is associated with poor outcomes including death, and even in the event of survival, associated with poor prognosis and quality of life.

h. The clinical management and care provided to Baby Kirat at Sunshine Hospital and the Royal Children's Hospital was reasonable and appropriate, including in particular, the consultations and decision-making processes around the decision to adopt a palliative approach to treatment.

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

Ms Randhawa, c/o Doogue O'Brien George

Mr Singh

Sunshine Hospital

The Royal Children's Hospital

Department of Human Service – Child Protection

D/S C Jason Blackmore of Brimbank SOCIT

Signature:

PARESA ANTONIADIS SPANOS
Coroner
Date: 30 September 2015