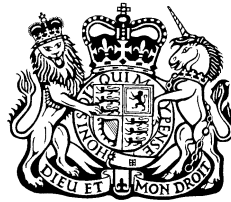


SOUTH



AUSTRALIA

FINDING OF INQUEST

An Inquest taken on behalf of our Sovereign Lady the Queen at Umuwa in the State of South Australia, on the 28th, 29th, 30th and 31st days of May 2002, the 3rd, 4th, 5th and 6th days of June 2002 and the 6th day of September 2002, before Wayne Cromwell Chivell, a Coroner for the said State, concerning the death of Kunmanara Ken.

I, the said Coroner, find that, Kunmanara Ken aged 27 years, late of Amata Community via Marla died at Amata, South Australia on the 3rd day of August 1999 as a result of hydrocarbon inhalation.

Executive Summary

1. This inquest concerns the deaths of three people, Kunmanara Ken who died on 3 August 1999, Kunmanara Hunt who died on 27 January 2001 and Kunmanara Thompson who died on 26 June 2001.
2. All three deceased died as a result of inhalation of petrol fumes. The mechanism of death was strikingly similar in each case, namely that the deceased took a can containing petrol to bed with them, and continued to sniff until they died from respiratory depression with a possible additional component of asphyxia.
3. Each person had marks on his or her face indicating that the head was resting on the tin, which had been shaped to fit the contours of the face and achieve a seal.
4. Each of them was of mature age (27, 25, 29 years) and each had been sniffing petrol for more than ten years, thereby justifying the description 'chronic sniffers'. Each had led lives characterised by illness, hopelessness, violence and alienation from their families and community. Each had parents and family who did their best to stop them sniffing,

and who have endured much suffering and grief as a result of their inability to do so, and the consequent death of a loved family member.

5. Petrol sniffing is endemic on the Anangu Pitjantjatjara Lands. It has caused and continues to cause devastating harm to the community, including approximately 35 deaths in the last 20 years in a population of between 2,000 and 2,500. Serious disability, crime, cultural breakdown and general grief and misery are also consequences.
6. The phenomenon is still not well-understood, and although considerable research has been undertaken, Governments still do not have a clear idea how many people are involved, and the extent to which they have already suffered serious harm.
7. The extent of the problem diminished somewhat in the mid 1990's, and it is apparent that there was a reduction in effort towards tackling the problem. It has been apparent since at least 1998 that the problem was returning, and that the prognosis was bad, but little has been achieved to restore the effort to pre-1995 levels, let alone take it further.
8. Clearly, socio-economic factors play a part in the general aetiology of petrol sniffing. Poverty, hunger, illness, low education levels, almost total unemployment, boredom and general feelings of hopelessness form the environment in which such self-destructive behaviour takes place.
9. That such conditions should exist among a group of people defined by race in the 21st century in a developed nation like Australia is a disgrace and should shame us all.
10. Many attempts over the years to combat petrol sniffing have been unsuccessful. Anangu continue to try and care for sniffers even when they continue to sniff, and even after they are violent and disruptive to their families and the community. Some Anangu are concerned that if they try and stop sniffers they will harm them, or that the sniffers may harm themselves. They look to the broader community to help them deal with a problem which has no precedent in traditional culture.
11. The South Australian Government established the Anangu Pitjantjatjara Lands Inter-Governmental Inter-Agency Collaboration Committee ('APLIICC') to tackle the wider issues and the Petrol Sniffing Task Force ('PSTF') to specifically tackle petrol sniffing. The terms of reference of APLIICC were established in September 2001. It has held several meetings, as have its sub-committees, but the 'big meeting' with Anangu on the Anangu Pitjantjatjara Lands is yet to occur.

12. The Commonwealth Government took over responsibility for aboriginal health from the Aboriginal and Torres Strait Islander Commission ('ATSIC') in 1995. It has conducted a review and established the Central Australian Cross Border Reference Group on Volatile Substances Use. That Group has also met several times but is yet to develop a 'framework for action'.
13. The establishment of these bodies met with a generally favourable response, although there have been criticisms about failure to consult, and delay. Both bodies have taken far too long to act. Their meetings are too far apart, and still seem stuck in the 'information gathering' phase. There is no need for further information gathering, and there is a vast untapped pool of professional expertise to be utilised. What is missing is prompt, forthright, properly planned, properly funded action.
14. Many of the people in the field complained of the remoteness of bureaucracies, and their incessant demands for written reports on performance outcomes and so forth. It would be better if the bureaucracies appointed trusted representatives who could monitor and evaluate projects and programmes for themselves, rather than insisting that dedicated professionals in the field continue to spend valuable time and resources preparing reports in order to ensure continued funding. It would also be preferable, for a variety of reasons, if programmes are funded on a triennial basis, as recommended by the Royal Commission into Aboriginal Deaths in Custody.
15. A variety of intervention strategies to combat petrol sniffing were analysed at this inquest. Clearly a successful strategy must have broad community support.
16. Strategies at three different levels are called for:
 - Primary interventions – to reduce recruitment into substance abuse;
 - Secondary interventions – seeking to achieve abstinence and rehabilitation;
 - Tertiary intervention – providing services to the permanently disabled.

17. Strategies include:

- Youth activities through provision of youth workers;
- Neuropsychological testing;
- Outstations / Homelands;
- Avgas;
- Legal sanctions;
- Night patrols;
- Programmes for 'Children At Risk';
- Disability services;
- Secure care facilities;
- Policing;
- Crime Prevention strategies.

18. The implementation of any one of those strategies by itself is likely to fail, but introduction in combination with a variety of others will give a better chance of success.

19. All these strategies must be accompanied by strategies to address socio-economic issues such as poverty, hunger, health, education and employment.

20. The implementation of these strategies will doubtless involve difficult problems such as recruitment and retention of suitable staff. Creative solutions will need to be found. Anangu cannot be expected to find all of the human and other resources to tackle these problems. They need the assistance and input of non-Anangu professional people to tackle these problems directly, and to give them the power and skills to take up the task in due course.

21. Anangu who gave evidence at the inquest were not consistent in their views about the role they felt police should take, although I detected a general feeling that they wanted more protection and security from the South Australia Police Department ('SAPOL'), particularly during the acute phase of incidents involving petrol sniffers.

22. The evidence of non-Anangu witnesses was unanimous that a much greater, permanent SAPOL presence on the Anangu Pitjantjatjara Lands is called for. This was accepted in principle by SAPOL following a review in 1998, although the recommendations of the review have still not been implemented.

23. The Community Constable Scheme is a worthwhile initiative, and could be improved with further training of community constables. However the scheme has significant limitations because of cultural constraints, and the fact that the Community Constables are members of very small communities. Their strengths lie in diffusing acute situations, and acting as liaison and intelligence officers.
24. Ongoing training, support and supervision of community constables by sworn police officers is needed, and this will require a permanent SAPOL presence on the Anangu Pitjantjatjara Lands. The decision to station two police officers at Umuwa on a rotation basis is supported, but a review to assess the adequacy of this measure is necessary in due course.
25. The presence of SAPOL officers in the Anangu Pitjantjatjara Lands could fulfil a valuable community development role in addition to policing issues.
26. The establishment of SAPOL officers at Marla is significantly under-strength, and more needs to be done to attract officers to the area.
27. Police are considerably inhibited from dealing in a more effective way with offending in the Anangu Pitjantjatjara Lands at present by the lack of appropriate detention facilities, lack of personnel, the distances involved, and the lack of sentencing options available to the courts.
28. Operation Pitulu Wantima conducted in January and February 2000 demonstrated that police can be effective in interdiction and suppression of petrol sniffing, and of crime generally, if they have a more sustained presence on the Anangu Pitjantjatjara Lands.

**INQUEST INTO THE DEATH OF KUNMANARA KEN
FINDING OF THE STATE CORONER**

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1. Introduction

- 1.1. In these findings, I will refer to the Pitjantjatjara, Yankanjatjara and Ngaanyatjara people by the traditional name 'Anangu'. I will refer to the area referred to in the Pitjantjatjara Land Rights Act as the 'Anangu Pitjantjatjara Lands'.
- 1.2. In traditional Aboriginal culture, it is customary to avoid using the first name of the deceased during the period of mourning which, unfortunately, has been prolonged by the necessity to conduct these Inquests. Instead of the first name, the word 'Kunmanara' is used which in Pitjantjatjara means 'no name'. I will therefore refer to the deceased as Kunmanara Ken.
- 1.3. This inquest concerns the death of Kunmanara Ken, and two other people, Kunmanara Hunt and Kunmanara Thompson.
- 1.4. Kunmanara Ken died on 3 August 1999 as a result of petrol sniffing. The other two deceased died in strikingly similar fashion. All three people were 'chronic sniffers', in other words, they had been sniffing petrol for 10 years or more.
- 1.5. Kunmanara Hunt died on 27 January 2001 and Kunmanara Thompson died on 26 June 2001.
- 1.6. All three were discovered in their beds, with evidence indicating that they had been lying face down, with their faces over a can containing petrol.
- 1.7. The circumstances of the three deaths are not in dispute, except that the relatives of Kunmanara Ken consider that there were people present when he died who have not been identified during the inquest.
- 1.8. For my purposes, I am satisfied that there was no foul play involved in any of the deaths, so I do not consider it is necessary to investigate that aspect of the matter further.
- 1.9. The inquest focussed on the circumstances in which these deaths occurred, and in particular, the phenomenon of petrol sniffing and the socio-economic circumstances in which it takes place.

2. **Background**

- 2.1. Kunmanara Ken was born on 29 April 1971. At the time of his death he was 27 years old. He was one of nine children, and he was the second of four sons. Three of those four sons are now deceased.
- 2.2. In the 'statement of the family' submitted by Mr Charles, their Counsel, the following background information is provided. The deceased is referred to as 'K'. The statement reads in part:

'When K's brother started sniffing, the mother used to discipline them but it didn't stop them. The family think that K the deceased learned to sniff from his brothers. K went to school as a little kid and he was a good artist. He could read and write a little bit when he finished school and he was a good school attendee. He didn't start sniffing until after he became a man. He started sniffing because of peer pressure. Others gave him petrol to sniff. Mother and father tried to tell their sons not to sniff petrol but they didn't listen. The sniffers resisted. It became like a habit. The family used to take them out to Rocket Bore and the deceased wouldn't sniff there because there was only diesel available. Paniny (K's mother) used to take sniffers out of Amata to stop them from sniffing also. That was a good way to stop them by keeping them away from where there was petrol. Mick (K's father) used to do the same. He used to go out to Angatja and help with the project there to stop sniffers. All of the girls in the family went to school and did well there.

...

Mick says that unless they stop everyone from sniffing, then they will die. The family said that the deceased was healthy and strong because the family used to feed him all the time. He was a good worker during the day and only at night would he go and sniff petrol. He spoke well and clearly. He did not go weak in the legs. He did not have a tremor in his hands as a result of sniffing petrol. He did not smoke cigarettes, he did not smoke marijuana, and he did not drink alcohol. He would stay around Amata all the time. He was a good worker. He used to help the family members at the house at Amata and on the Homeland at Rocket Bore. He would fix punctures on cars. He would get firewood. He would fix up cars with his father. He was a good mechanic. He was also a good cook. He would cook malu (kangaroo) and perenti (goanna) for the family in the traditional way. Sandra Ken, a teacher at Amata used to take him to Adelaide with Kenneth Ken, his uncle, and he never got into trouble there. Mick said that his was a happy family where the family members looked after each other and looked after the children. If members of his family came back to the house drunk or disturbed they didn't get growled (at) but they were fed and put to bed and looked after. The deceased was a part of that very strong family. He used to look after and play with his nephews and nieces. He never married, he never had children, he was not interested in doing that.

He started sniffing petrol after he became a man. The family thinks it was because his brothers, (including classificatory brothers) who were also sniffers led him into it. Now all the brothers from this family, but Malya are dead.'

(Exhibit C24b, p1-2)

- 2.3. Mr Frank Young, brother-in-law of the deceased, confirmed that although the deceased was a chronic sniffer, and did not get a good education and was unable to read and write, his family continued to look after him and feed him (Exhibit C29).
- 2.4. Mr Young said that he also tried to stop the deceased and his brothers from sniffing petrol. He said that he would take them hunting, but they would always go back to sniffing petrol. He said:
- 'The parents tried to stop them but they would just walk away laughing. The parents told them to throw the tin away. The parents did give them a hiding when they were younger. I tried to stop them from sniffing, but there was no difference.'
- (Exhibit C29, p2)
- 2.5. Health records
- The medical records held by the Nganampa Health Council Incorporated (Exhibit C34) in relation to the deceased disclosed that as early as 1983, when he was 11 years old, the deceased was described as a 'chronic petrol sniffer'. On that occasion, it was noted that he was malnourished.
- 2.6. The progress notes record an entry in 1986 when he 'took a fit'. This was a common occurrence among sniffers, associated with lead toxicity from sniffing leaded petrol. In March 1995 it was noted that the deceased was 'reeking of petrol and had been in a fight' causing a small superficial wound to the right thigh, and a larger wound to the deltoid muscle on the left side. In August 1997 he presented, apparently having been beaten up with an iron bar. On 13 October 1998 he presented with a swollen right upper arm having been 'hit by a nulla nulla' and on 30 December 1998 he presented with a wound to the right foot, alleging that he had been hit with an iron bar.
- 2.7. Apart from that, there are no other indications that Kunmanara Ken required intensive or ongoing medical treatment.

3. **Events of 3 August 1999**

- 3.1. On Monday 2 August 1999 Kunmanara Ken visited the house his sister Sandra shared with her husband, Dickie Marshall, at Amata. Mr Marshall said that Kunmanara Ken ate about half of a T-Bone steak and then left the house (see Exhibit C5a).
- 3.2. On Tuesday 3 August 1999 Mr Mick Wikilyiri, the deceased's father, intended to take his son out to work cleaning rock holes as part of the land management work undertaken by the community. Early that morning, Mr Wikilyiri went looking for his son and found him in a house commonly used by petrol sniffers on the edge of the Amata community. Mr Wikilyiri entered the house and found his son lying in a swag. He was unable to wake him up. He lifted him up off the swag and realised that he was dead.
- 3.3. In his statement, Exhibit C23a, Mr Wikilyiri states:

'He was bleeding from the nose and mouth and there was blood in the can and petrol. He was dressed in shirt and trousers. There were two cans, one with petrol, that one he had on his face and another can on the floor with metho in it near the bed. I moved the petrol can from his face. I left the house because I very upset.'

In a later statement, Mr Wikilyiri denied that he gave that statement to the police officer. He says that he understands that two other sniffers were with his son the night that he died, and he suspects that one of these boys would know who removed the tin from the face of the deceased (see Exhibit C24b, p5). He also believes that another of his sons, who is now deceased, then moved the tin with the blood in it into the middle of the room. Mr Wikilyiri is concerned that the two other boys who were with his son on the night he died were not located by the police during the investigation. However, having regard to the outcome of the post-mortem examination, I am satisfied that there was no need for this to be done. There is no suggestion that any other person was responsible for Kunmanara Ken's death.

- 3.4. Registered Nurse Geraldine Hannan states that at about 11:30am on Tuesday 3 August 1999, she was walking between the Amata store and the Amata Health Clinic. She realised there were four or five people walking in a straight line across the football oval, wailing. She went to the house in question and saw the deceased lying face down on a swag. She observed that he was cold, stiff and had bluing around the ear. There were no signs of breathing or pulse. She saw that his hands were

contracted in a cupped position in front of his face, looking like he had been holding something. She formed the opinion he had died several hours earlier.

- 3.5. Ms Hannan called her colleague, Mr Stewart Roper, who attended at the house and he also examined the body. He recognised the deceased as Kunmanara Ken. He said:

'I saw there was a small metal can lying upright near the entrance door to this room. The can had blood on it and a liquid inside the can. I also noticed a strong smell of petrol inside the room.'

(Exhibit C7a, p2)

- 3.6. Senior Constable Graham Smith, of Coober Pedy Investigations, who attended the scene at about 2:30pm that afternoon, noted a semi-circular mark extending from the right cheek, across the nose to the other cheek, which was consistent with the size of the tin located within the room suggesting that the deceased may have been lying down with his face pushed against the can in order to inhale the fumes. It would appear that some person had removed the can from under the deceased's face after he died (Exhibit C9a, p3).

- 3.7. Dr Kerrie Gell, a Medical Practitioner employed by Nganampa Health Service and based at the Fregon Clinic, attended the scene at about 3:20pm and examined the body. She certified life extinct at that time. She noted no signs of external injuries, although the body was not undressed at that time.

4. Cause of death

4.1 A post-mortem examination of the body of the deceased was performed by Professor R W Byard, Forensic Pathologist, on 5 August 1999.

4.2 Professor Byard found that the cause of death was 'hydrocarbon inhalation' (Exhibit C3a).

4.3 Professor Byard arranged for samples of lung and liver to be submitted for toxicological analysis. A report of Mr D C Vozzo, Senior Forensic Scientist, dated 3 September 1999 (Exhibit C4a), discloses that petrol was found to be present in the headspace above both of these samples.

4.4 Professor Byard commented:

'Petrol was detected in the lung and liver. Bruising of the lower neck and upper chest was caused by recent trauma, but this was not regarded as significant as there was no evidence of manual strangulation or damage to vital structures. No underlying diseases were present which could have caused or contributed to death.'

(Exhibit C3a, p1)

4.5 Summary and Conclusions

I accept the evidence from Professor Byard, and find that the cause of death was as he has described, namely hydrocarbon inhalation.

4.6 I find that there were no suspicious circumstances, or foul play, associated with the death.

5. Similarities between the three cases

- 5.1 In relation to Kunmanara Ken, Professor Byard said that the presence of slippage of the skin around the nose and mouth and bleeding from the nose are both consistent with petrol inhalation. The groove in the right cheek was in keeping with holding a petrol tin to the face. There were no other signs of injury or organic disease to explain the death and petrol derivatives were found in the tissues and in the blood (T718).
- 5.2 Professor Byard said that he concluded that the deceased had died with his face overlying the petrol tin which had left a grooved mark on his face and the petrol fumes had caused corrosion to the skin (T719).
- 5.3 As to the precise mechanism of death, Professor Byard suggested that it could be a combination of both inhalation of petrol and asphyxia having regard to the fact that the tin was firmly over the face, which would block oxygen (T719).
- 5.4 In relation to Kunmanara Hunt, Professor Byard said significant findings were the impressions around the cheek and nose in keeping with the deceased having lain face down on the petrol tin. There was no evidence of trauma, no injuries, no underlying organic disease. She was very thin, weighing only 48kgs, and petrol was found in the blood and in the lung. The blood lead levels were not particularly high indicating that she was presumably using unleaded petrol.
- 5.5 Again, the circumstances, and in particular Dr Gell's obtaining the tin and matching it to the indentation on the face, demonstrated that the petrol tin had been against the face, with the deceased having become unconscious with her head resting forward on the tin. This continual exposure to petrol fumes, together with the deprivation of oxygen because of the seal around the nose and mouth, no doubt both contributed towards death.
- 5.6 Kunmanara Thompson had also been continually exposed to high levels of petrol vapours, and he was deprived of oxygen leading to asphyxia. The fact that the blanket was over his head would also trap petrol vapour. He did not have a blood nose but he did have white fluid coming up the airway indicating that his lungs were congested, and the fluid had come up the airway after death (T723).
- 5.7 Professor Byard described the similarity of the circumstances in these three deaths as 'extraordinary' (T724). He has developed his views in a paper entitled 'Unusual Facial Markings and Lethal Mechanisms in a Series of Gasoline Inhalation Deaths',

which has been submitted to the American Journal of Forensic Medicine and Pathology.

5.8 Professor Byard outlined a variety of ways in which petrol sniffing can lead to death:

'They may die accidentally because they're intoxicated and they, for example, drown. They may die from burns if the petrol catches on fire. Sometimes people heat petrol to get it to vaporise more quickly or sometimes a cigarette may ignite it. They may feel nauseated and vomit from the effects of the petrol and they can inhale that and it can get into the lungs and cause them to die. They can die from disturbance of the heart rhythm because petrol is toxic to the heart. This most often happens when there's been some exercise or a fright, for example. Petrol seems to sensitise the heart to adrenaline, but it can happen just if they're sitting there, after a while I think the heart becomes more sensitive to the effects of petrol. And they can also die from respiratory depression and I think this is what's happened in these cases. One of the effects of petrol is to cause people to become drowsy and to fall asleep and to lapse into a coma and they can't be roused and if that continues, their breathing is suppressed in the parts of the brain that control breathing and they just slow down with their breathing and they finally stop.' (T725-6)

5.9 In these cases, Professor Byard suggested that the 'likely scenario' was:

'That they have just been sniffing, they've drifted off to sleep, they haven't been aware of what's been happening and without feeling any pain or any discomfort, they've just – they've died from respiratory depression.' (T726)

5.10 Professor Byard said that, having regard to these factors, by the time the deceased were found, attempts at resuscitation would have been pointless (T727).

5.11 Professor Byard said that he did not think that it made any difference that these three deceased were chronic sniffers. He said:

'... if anybody in the courtroom took a can that was shaped to the face and put petrol in it and lay down and did what these people did, then they would die. So it wouldn't matter if you hadn't sniffed petrol before or if you'd been sniffing petrol for 20 years.' (T725)

5.12 Summary and conclusions

All three deceased died as a result of inhalation of petrol fumes. The mechanism of death was strikingly similar in each case, namely that the deceased took a can containing petrol to bed with them, and continued to sniff until they died from respiratory depression with a possible additional component of asphyxia.

- 5.13 Each person had marks on his or her face indicating that the head was resting on the tin, which had been shaped to fit the contours of the face and achieve a seal.
- 5.14 Each of them was of mature age (27, 25, 29 years) and each had been sniffing petrol for more than ten years, thereby justifying the description 'chronic sniffers'. Each had led lives characterised by illness, hopelessness, violence and alienation from their families and community. Each had parents and family who did their best to stop them sniffing, and who have endured much suffering and grief as a result of their inability to do so, and the consequent death of a loved family member.

6. **Background – The extent of the problem**

6.1 Peter d'Abbs and Sarah MacLean, in their report 'Petrol Sniffing in Aboriginal Communities: A Review of Interventions' (Cooperative Research Centre for Aboriginal and Tropical Health, 2000) explain the context in which petrol sniffing occurs as follows:

- 'Petrol sniffing is a form of volatile substance misuse (VSM). VSM is practised by a significant minority of young people across Australia and in other countries. It is more prevalent in particular ethnic and socio-economic groups. Petrol sniffing has been reported among indigenous populations of a number of developed nations;
- Although petrol sniffing tends to attract the most media attention, a range of other forms of drug use including other VSM is practised by young Aboriginal people. Interventions targeting a particular substance may have the effect of shifting young people to other forms of drug use;
- A majority of Aboriginal petrol sniffers are males. Most are between 8 and 30 years of age. Sniffing is most prevalent among people in their late teens. Older sniffers are more likely to be chronic users;
- Because of fluctuations in petrol sniffing and variations between communities it is difficult to draw conclusions about the prevalence of petrol sniffing ...;
- Early intervention against petrol sniffing is critical as people are much more likely to stop early in their 'sniffing career' before the practice becomes entrenched;
- A complex range of interrelated causes has been proposed to explain petrol sniffing. These range from dispossession and cultural breakdown to individual psycho-social factors. Boredom is a major contributor and any program must offer a counter-attraction to the experience of petrol sniffing. Poverty as a contributing factor in petrol sniffing warrants more consideration than it has received in the literature;
- Petrol sniffing poses a range of problems to sniffers, their families, communities and to the wider society. Among the problems which have been associated with petrol sniffing are: serious health consequences including death or long-term brain damage, social alienation of sniffers, social disruption, vandalism and violence, increased inter-family conflict and reduced morale on communities, incarceration of sniffers and costs to the health system in terms of acute care and providing for the long-term disabled;
- Families, communities, community organisations and governments (State/Territory and Commonwealth) each have a role in addressing petrol sniffing. Cooperation and consistent action between these agencies is essential. Within jurisdictions a whole-of-government approach is required;
- Interventions against petrol sniffing are all too often spasmodic, consisting of responses when sniffing peaks rather than implementation of long-term preventative strategies.'

6.2 I heard evidence from Mr John Tregenza who has been living on and around the Anangu Pitjantjatjara Lands since 1972. Mr Tregenza is now a self-employed

consultant who has remained involved in community development since that time. Mr Tregenza said that even as early as 1973, applications were being made to the Department for Community Welfare (now part of the Department of Human Services) for assistance to deal with petrol sniffing. He said the purpose was:

'In particular to establish camps out of the community, in Homelands or Outstations where the family could care for their young people and reaffirm their family connections and rehabilitate them in that sense. All this required in those days was basically funding for blankets, food, rifle and a vehicle to get out in back, and over the last 29, 30 years I am still hearing basically that this is the principal request of (the people) when asked how would they address the problems of petrol sniffing. They are still getting the same response nearly 30 years later. I think that's relevant ... to why people ... were getting very weary of discussing the topic because it's been discussed and researched very much and they are still saying the same things.' (T22)

6.3 Mr Tregenza pointed out that all communities in the Anangu Pitjantjatjara Lands have experienced petrol sniffing in various degrees and at various times. He said that the degree of petrol sniffing was 'very often a barometer of the health of the community in a general sense' (T22).

6.4 Mr Tregenza said that in the early days petrol sniffing was purely a male activity but now there are possibly as many girls as boys who indulge in the activity. He described how programs and projects had come and gone on the Anangu Pitjantjatjara Lands, often in response to a crisis. He said:

'Very few of them have been thought through (but rather were) one-offs and only dealing with individual communities. They've had limited success and there's been no coordination of these programs across the Lands. So that a program running in community A is not necessarily running in community B and, as a consequence, there's no coordination and no real positive outcomes.' (T23)

He added:

'I very strongly hear from (the people) and my own observations are that there are many careers have been made out of petrol sniffing, not Aboriginal ones, and there's a definite feeling that reinvestigation, the redescription of the problem and the research has been going on long enough and that everyone knows what there is to know about petrol sniffing is really significant and that there should have been action some time ago.' (T23)

6.5 When describing how trends varied from community to community, Mr Tregenza said that, for example, Mimili had been quiet for several years. Pukatja (Ernabella) on the other hand had deteriorated. He said that he had been at the Courthouse late in 2001

and counted 18 people carrying tins of petrol within sight of the court. Of increasing concern was the number of pre-adolescent children sniffing. He said:

'I saw, just last week, a pre-adolescent girl carrying her sister, sniffing ... so it was a 13 year old nursing a 2 year old, and, well, both had to be sniffing, the 2 year old involuntarily, of course.' (T40)

- 6.6 Dr Paul Torzillo is the Medical Director of the Nganampa Health Council, the Anangu-controlled organisation that is responsible for the provision of primary health care services on the Anangu Pitjantjatjara Lands through six major clinics. Dr Torzillo has been involved in health issues on the Anangu Pitjantjatjara Lands since 1983 when he first came to work with the organisation as a Medical Practitioner (T132).
- 6.7 Dr Torzillo produced a copy of a paper prepared by Mr Nick Halfpenny who conducted a survey of petrol sniffers across the Anangu Pitjantjatjara Lands in November 2000. Mr Halfpenny's report is annexed to Dr Torzillo's statement (Exhibit C26). The report draws upon similar surveys conducted by Mr Stewart Roper, then a Community Health Nurse employed by Nganampa Health Council in the 1990s.
- 6.8 Although this data is subject to considerable qualifications, it is possible to estimate that the number of petrol sniffers recorded on the Anangu Pitjantjatjara Lands has fluctuated from as high as 178 in 1993 to a low of 85 in 1995 and then a gradual increase back up to 166 in 2000.
- 6.9 Dr Torzillo said that he thought that the reduction from 1993 to 1995 was probably explained by the introduction of Avgas across all communities, and this reduction was sustained for the next two or three years until the numbers started rising again. The means of obtaining petrol from sources other than on the Anangu Pitjantjatjara Lands probably became easier, or people became more proficient at doing it (T135-6).
- 6.10 Ms Gillian Shaw is a health educator with extensive experience in relation to petrol sniffing in Central Australia. Ms Shaw said that petrol sniffing declined remarkably in the mid 1990s as a result of the introduction of Avgas. She thought that there was a general relaxation of effort as a result of those good results (T579). However, her report 'Moving On' in 1996 (Exhibit C38b) warned that the petrol sniffing population was an ageing one which had significant implications for the delivery of health care (T580).

- 6.11 Dr Torzillo thought that some of the reduction which occurred in the early 1990s may have been attributable to the number of Homeland/Outstations and other community activities that were operating at the time (T136). I will discuss this issue in more detail later in these findings.
- 6.12 Dr Torzillo pointed to what he described as a 'fairly dramatic cohort effect' which has occurred since the 1980s, wherein the median age of petrol sniffers has increased markedly. Now, in many communities, the petrol sniffers who are over the age of 25 years are in the majority. In other words, a number of those who took up petrol sniffing 10, 15 or even 20 years ago are still sniffing petrol (Exhibit C26, p2).
- 6.13 Dr Torzillo outlined that there is a considerable mortality and morbidity associated with petrol sniffing:

'Individuals who sniff petrol are at a high risk of pneumonia and chronic lung disease; trauma, burns and injury. In addition there have been some deaths in which sudden death has clearly occurred during acute episodes of inhalation. These deaths may be related to cardiac arrhythmias, respiratory arrests because of acute effects on the brainstem or cerebral oedema.

Data collected from Nganampa Health Council and other literature (Roper) suggests that there have been approximately 30 deaths of individuals who are petrol sniffers on the AP Lands between 1983 and 1997. This would mean that there have been approximately 35 deaths between 1983 and the present. It is not clear in how many of these deaths petrol played a significant role.'

(Exhibit C26, p4)

- 6.14 Dr Torzillo said that the data suggests that less than 20% of petrol sniffers are female, but there is now a population of women who have been sniffing for a long period of time. He observed that this causes particular problems if the woman has children, because her sniffing places the children at risk in terms of their nutritional status, and the increased incidence of infectious diseases. Although a pregnancy sometimes causes the woman to stop sniffing petrol, whether temporarily or permanently, others have continued to sniff petrol throughout the pregnancy and that leads to problems in their antenatal care (T151). For example, Kunmanara Hunt's daughter Shantelle had intra-uterine growth retardation due to the high blood/lead levels in her mother's system, and her poor nutrition during the pregnancy. She was born at 1.7kg, and then had four weeks in hospital with breathing and feeding problems (T357-8). She is left with serious deficits as a result of these complications during the pregnancy.

6.15 Dr Torzillo estimated that between 1981 and the present, there have been about 35 deaths of people who are petrol sniffers from the Anangu Pitjantjatjara Lands. He pointed out that there has not been a careful analysis of all of the medical records of individuals who have died to assess what proportion of them had died directly from petrol sniffing (T158).

6.16 Dr Torzillo explained what he thought were some of the factors involved in young Aboriginal people making a decision to sniff petrol. He said:

'I think that one of those will be those issues of alienation and sometimes hopelessness. I think there'll be others. I think that in the initiation of sniffing there are often factors around adolescents and risk taking behaviour as well. I think that once people are established on a substance like this then what they say about suicide or death, I think that's it hard to tease out whether that's a consequence of the substance they're taking or part of the genesis of the problem or both.' (T176)

He added:

'... Maggie Brady has made the point in her book quite clearly and in subsequent publications that in her experience that the issue of risk taking behaviour and excitement and experimentation is maybe underestimated as an important factor in the genesis of petrol sniffing, and that it often is exciting and one of the reasons that youth activities need to be innovative, changing, adaptive and sustained is that they've got to complete with another exciting activity.' (T177)

6.17 Glenys Dalby, the mother of Kunmanara Hunt, said:

'If there is intervention early before they get taken into sniffing, it is possible to stop sniffers, but you need to have active young parents to do that. It's too hard for grandparents in relation to my grandchildren it would be hard for me and my husband to keep a good eye on them now that my daughter is deceased.' (T556)

6.18 Liza Balmer, the Coordinator of the Nutrition Awareness Project for young mothers and children, a program administered by the NPY Women's Council, agreed, saying:

'I think that's a reflection on what I was saying earlier, that people are tired. It's a difficult issue to deal with that requires a lot of energy and a lot of commitment and obviously the earlier you can provide intervention support the more success you will have. When people have been sniffing for 5, 10, 15 years, no little two week respite trip into Alice Springs or a basketball game is going to stop the problem.'

She added:

'I think why people sniff is a mystery and sometimes it is beyond the parents, no matter how much food and love and care they show their children, that they themselves can't change it and it's not a dissimilar behaviour pattern to people who use heroin or use cocaine or use alcohol. Sometimes it's inexplicable even from a loving family.' (T563)

- 6.19 Although most of the literature defines a chronic sniffer as someone who has been sniffing for 10 years or so, Dr Torzillo pointed out that permanent neurological damage may occur significantly earlier than that, and that there may well be cases of 15 year olds, who may have been sniffing for 5 years or so, who have sustained permanent neurological damage (T183).
- 6.20 I heard evidence from Dr Jack White, a Forensic Psychologist who has made a study of a relatively small group of 20 Aboriginal offenders, some of whom were petrol sniffers and some were not. The classification depended on the self-report of the subject. Dr White found that, notwithstanding the relatively small sample and the inability to use language-based neuropsychological tests, the performance of the group of petrol sniffers was extremely poor, compared both to the non-sniffer group and to the general population (T515). He found, for example, that the average mental age in relation to the sniffer group was in the order of six years (T516).
- 6.21 Dr White said that having regard to the limited statistical validity of his conclusions, there is an urgent need for detailed research into these issues (T538).
- 6.22 Dr White referred to other data collected by Professor Paul Maruff and others presented in a paper entitled 'Neurological and Cognitive Abnormalities Associated with Chronic Petrol Sniffing' (exhibit C36b) which demonstrated similar results. In that study, 36 current petrol sniffers were compared with 30 former sniffers (abstinent for at least 6 months) and 34 matched non-sniffers. Former petrol sniffers showed higher rates of neurological abnormalities and cognitive deficits than non-sniffers, and current sniffers showed higher rates of both neurological and cognitive symptoms than both. These results were reported in the respected neuropsychological journal, *Brain* (1998), Volume 121, 1903-1917.
- 6.23 Domestic violence
The statement of Ms Jane Lloyd, the Coordinator of the NPY Women's Council Domestic Violence Service, (Exhibit C41a) outlines her experience of the connection between petrol sniffing and domestic violence.

6.24 Ms Lloyd says that the records indicate that one in four women between the ages of 15 and 44 who live on the Anangu Pitjantjatjara Lands is, or has been, a client of their service (p1). She says that about 80% of violence experienced by their clients is committed by males who are under the influence of marijuana, alcohol or petrol (p2).

6.25 Ms Lloyd states that most of their clients either do not sniff petrol, or do so only occasionally. However there are a few who are chronic sniffers, and they often suffer physical and sexual violence perpetrated by men, some of whom are sniffers and some are not. She said:

'Restraining orders are neither an effective nor appropriate strategy for these women. If the young woman's partner is a petrol sniffer then she will tend to protect him, despite his life-threatening assaults on her. These clients generally come to our attention because they have been the victim of a serious offence where police have become involved, such as an unlawful wounding or an assault occasioning actual bodily harm. Our information about these clients comes mainly from family, other NPYWC programs, clinics and the police.' (p2)

6.26 Ms Lloyd says that Kunmanara Hunt fell into that category. She described another particularly horrific case in which petrol sniffing was a factor:

'In a child sexual assault case that occurred in Amata in 1995, a four-year-old girl was sexually assaulted. She had to be evacuated to Alice Springs hospital for surgery. No offender was identified. The child's mother and her defacto were at the time (and continue to be) chronic petrol sniffers. The child's maternal aunt and uncle were also chronic petrol sniffers. Up to six or more petrol sniffers would stay in the household where this child was living. No charges were laid.

Six months after the child was raped her mother was the victim of a serious assault and rape. Alcohol was the main substance featured in this incident. Her husband was in such an inebriated state that he was unaware that another man was raping his wife. When she complained to the husband that she had been raped his response was to punch her about the body and cause her to fall out of a moving vehicle. She was also evacuated to the Alice Springs hospital and remained in the intensive care unit for a number of days due to respiratory failure as a result of chronic sniffing. She would not make a complaint to the police for fear of her husband being gaoled. She had already experienced the shame of having her petrol addiction publicly aired in a contested Family Court matter several years before.' (p4)

I cannot begin to imagine what the future holds for the mother or daughter, but the prospects must be realistically regarded as dismal.

6.27 Ms Lloyd acknowledged that systemic changes have been made and structures created to try and deal with domestic violence issues. She referred to legislation, police

procedures, court procedures and women's shelters in Alice Springs as significant advances, although much still needs to be done including a permanent police presence, a more expedient court system, and a local women's shelter. However she said:

'... none of this can be truly effective for women who are addicted to petrol and or suffer a disability as a result of that addiction. To assist those women and also the men addicted to petrol, there is an urgent need for a treatment and rehabilitation centre located close to their home communities.' (pg 4)

6.28 Summary and conclusions

Petrol sniffing is endemic on the Anangu Pitjantjatjara Lands. It has caused and continues to cause devastating harm to the community, including approximately 35 deaths in the last 20 years in a population of between 2,000 and 2,500. Serious disability, crime, cultural breakdown and general grief and misery are also consequences.

6.29 The phenomenon is still not well-understood, and although considerable research has been undertaken, Governments still do not have a clear idea how many people are involved, and the extent to which they have already suffered serious harm.

6.30 The extent of the problem diminished somewhat in the mid 1990's, and it is apparent that there was a reduction in effort towards tackling the problem. It has been apparent since at least 1998 that the problem was returning, and that the prognosis was bad, but little has been achieved to restore the effort to pre-1995 levels, let alone take it further.

7. **Socio-economic factors**

7.1 Mr Tregenza pointed out that petrol sniffing must be viewed in the context of the social circumstances in which petrol sniffing occurs. He said:

'The most obvious thing on these Lands is that, in general, the people here live in what's termed internationally as absolute poverty. People here do not have what's known internationally as food security. They cannot guarantee one day to the next that the family is going to eat ... as a consequence, everyone who lives on these Lands is ill. They are unable to be healthy. For the people who live here, it means, in practice, that most families go without food for three to four days a week, and have only enough money to shop on the three days – the days that their money arrives and two days after ... (the other days) they are called mia wiya days, no food days.' (T25)

7.2 Mr Tregenza described programs aimed at gaining control of food distribution from the stores on the Anangu Pitjantjatjara Lands to try and address these problems. He pointed out that, having regard to the poverty of the people, there is no real expectation that these communities can generate resources of their own (T26). It is therefore extremely difficult for the Anangu to address these issues as a community without substantial assistance.

7.3 Mr Tregenza also described the degree of social change which has occurred in 30 years on the Anangu Pitjantjatjara Lands. He said that not one Aboriginal person lived in a house in 1973, whereas now there are 400 houses on the Lands. This has meant that the people have had to adapt to living in larger communities. He said that people are:

'Going through an enormous period of working out what is useful from white Australia and what is not, and what they have to have, and what they don't, to survive. That's an ongoing process, but I think it's important that people understand that people up here, in dealing with problems like, say, violence perpetrated by someone who's high on petrol, have got ... a myriad of other issues that they are dealing with at the same time.' (T26-27)

7.4 Education levels on the Anangu Pitjantjatjara Lands are appallingly low when compared with the rest of Australia. Mr Tregenza pointed out that there had been no employment training on the Anangu Pitjantjatjara Lands for the last 5 years, and that the Department of Technical and Further Education (TAFE) has only returned this year to resume its operations, although it has not been determined what courses they propose to run (T27). He said:

'In my view, this along with basically a failed primary education system means that all of the people leaving school – and particularly the boys – they are, in my view, functionally illiterate as they leave school, which leaves the opportunity for them to gain work in the

community fairly limited. And, as there is no tertiary education in the communities, their opportunities of training are limited.' (T27)

7.5 Mr Tregenza pointed out that there is no post-primary education on the Anangu Pitjantjatjara Lands at the moment. There is no such education except for the Anangu Teacher Education Program (ATEP). He said there was a need for training for trades and apprenticeships and skill training to enable young men to take up employment.

7.6 Mr Tregenza said that in addition to these factors, there is almost total unemployment on the Anangu Pitjantjatjara Lands. The only employment outside the CDEP ('Community Development Employment Projects') is with some government agencies and community agencies. He noted that there has been a serious decline in the number of Aboriginal people employed on the Anangu Pitjantjatjara Lands in the last 10 years. Enterprises such as a bakery, a butchery, cattle projects and the like have all disappeared (T27).

7.7 Mr Frank Young, a senior and respected man in the Anangu Pitjantjatjara Lands, told me that, in his view, there was not enough employment on the Lands. He said that the only work available is from CDEP and that 'there is not enough work for the young people to be proud of' (T312). He also pointed to the lack of education (T312).

7.8 Ms Nura Ward, an Aunt of Kunmanara Thompson and a member of the NPY Women's Council, said:

'Petrol is not from our culture, it's got nothing to do with Aboriginal people's culture or law. It comes from white people, from white people's culture, from white people's law. Kids sniff petrol because families just don't have enough money. They don't have enough of anything. That's why they sniff.' (T327)

7.9 Summary and conclusions

Clearly, socio-economic factors play a part in the general aetiology of petrol sniffing. Poverty, hunger, illness, low education levels, almost total unemployment, boredom and general feelings of hopelessness form the environment in which such self-destructive behaviour takes place.

That such conditions should exist among a group of people defined by race in the 21st century in a developed nation like Australia is a disgrace and should shame us all.

8. Anangu attitudes to petrol sniffing

8.1 Mr Tregenza told me that despite the grief and pain that Anangu feel about their children sniffing petrol, it is customary to remain inclusive. He said:

'People choose to live with their children and they don't have an attitude where they might be sent away, even for what outsiders might perceive (to be) outrageous behaviour ... because the communities here try and accommodate behaviour and alleviate crises by accommodating those people within it and teaching them the error of their ways. The problem with petrol sniffing is that those on petrol are not open ... receptive to this sort of approach; so it hasn't worked ... because they don't take any notice. They are so high on petrol, they can't think straight.' (T30)

8.2 Mr Tregenza said that all communities in the Anangu Pitjantjatjara Lands live disrupted lives as a result of petrol sniffing. He said:

'If the petrol sniffers are running riot, few people get to sleep; the whole place is in uproar. Sometimes there is damage; there's community meetings; there's white fellas growling at you; there's police running around. The whole thing is very stressful, and it goes on night and day and it's extremely disruptive to everyone's life ... families do try and stop people petrol sniffing. I don't know of any family that has ever encouraged anyone to sniff petrol; everyone tries and stops them. But it's very difficult when petrol sniffers may threaten the family with self-harm or other consequences, and it's just not an Aboriginal approach to be violent toward their children; so they still care for them, feed them and clothe them, and live with it basically.' (T30)

8.3 Mr Tregenza said that a common theme among Anangu was that petrol sniffing is an 'outside problem', in that:

'The problem was imported in, so the answer must have to be imported in because we have no answer here for this problem.' (T31)

8.4 Mr Kawaki Thompson, the father of Kunmanara Thompson, made this point. He said:

'There has been petrol sniffing since the 1950s. Who is responsible? The petrol doesn't belong to us. It is not part of Anangu law. It was introduced to the Lands by white people. It is important that Anangu revive their culture and hold on to their culture. The problem with petrol comes from outside, it's like the Maralinga bomb tests, the solution should come from the outside too.'

(Exhibit C24c, p4)

- 8.5 Mr Thompson also spoke of the difficulties parents faced in dealing with petrol sniffers:

'Children and sniffers have become bosses over their parents. They are running the agenda by their behaviour. They are out of control and people have to react to the behaviour of sniffers rather than keeping to the law and keeping to the culture. Sniffers break their mother's arms. There is violence against families. Sniffers threaten their parents that they will commit further acts of self-harm. They swear at their parents. They breach traditional secrets by speaking out of turn. They throw rocks at their parents. They break their parents arms. When I talk about these things I am talking about sniffers generally, I am not talking about the deceased.

We as older people are worried about the children and about the younger generation of parents having to bring up petrol sniffers. We have no sniffers now. We have lost our only son.'

(Exhibit C24c, p5)

- 8.6 Ms Janet Inyika, an executive member of the NPY Women's Council said:

'Yes, they create endless trouble for us and it just goes on and on. What I would really like to do is to help them stop but – and I love them and would like to care for them but the problem is with their sniffing they start to not be able to understand properly. Their brains don't function properly so I can't even intervene because they can't understand what I am on about anyway.' (T308)

- 8.7 Mr Young described a project run a couple of years ago at Amata catching camels. He said that a number of petrol sniffers were taken out to the bush to work on such a project and some of them escaped back into the community. When the person came to pick them up the sniffers refused to come with him saying 'I'll kill myself'. He said that the person was not willing to take the sniffer back out to the camp under those circumstances because he was concerned about the consequences if the sniffer did harm himself (T319).

- 8.8 Dr Torzillo said that when considering community responses to petrol sniffing, it should be seen in the context of a population with:

'... entrenched and endemic poverty with major educational and employment disadvantage and, in that setting, the ability for communities or individual families to tackle this problem is severely limited ... there seems to be a widespread view within government ... that this is a problem which the community should solve, this is their responsibility. This is a community with less resources and ability to control a tough problem than any mainstream community ... and secondly, that's not a demand that's put on any other community in the country. No-one, no politician and no bureaucracy expects that a suburb like – so the people of Cabramatta are not told that they have to solve the heroin problem and it's up to them to do it. No-one makes that demand of

them and they don't make that demand of them because it's a stupid thing to do, it's clearly not possible.' (T155-6)

8.9 Summary and conclusions

Many attempts over the years to combat petrol sniffing have been unsuccessful. Anangu continue to try and care for sniffers even when they continue to sniff, and even after they are violent and disruptive to their families and the community. Some Anangu are concerned that if they try and stop sniffers they will harm them, or that the sniffers may harm themselves. They look to the broader community to help them deal with a problem which has no precedent in traditional culture.

9. Government responses

9.1 Mr Tregenza was very critical of the level of government response to the issue of petrol sniffing over the years. He said:

'I believe that both the federal and state governments have failed the people up here in that they have been aware of this problem up here for, in my own experience, more than 30 years. There has been many, many articles – you could just about fill this room with the number of articles and the PhDs that have been made on petrol sniffing – and still there is very little that occurs, and I don't think it's for want of resources. It's very difficult to tell Aboriginal people in the communities that:

“No-one can help you with petrol sniffing because the government is broke”.' (T32)

9.2 Mr Tregenza was scornful of the suggestion that too much money had been spent on petrol sniffing programs already in the Anangu Pitjantjatjara Lands. He said:

'Anyone who knows anything about these issues realises that you need to have many approaches to deal with petrol sniffing in the communities, and that only coordinated and outside funded – that means in this instance government funded – programs are going to have any impact. And whilst I hear a lot of people in the community ... saying ... “It's no good throwing money at the problems; it never solves anything.” Apart from the emotive word “throwing” if you use “putting”, well there is use in putting money into programs because, without them, they don't run, and up here it's a very costly exercise to run programs.' (T33)

9.3 South Australia

Mr James Birch, who has been Chief Executive Officer of the Department of Human Services since 18 March 2002, has sworn an affidavit which is Exhibit C27. Attached to Exhibit C27 is an annexure entitled ‘The Money Story’, an overview of the Commonwealth and State Government funding for the Anangu Pitjantjatjara Lands. This document was prepared for a meeting to be held at Umuwa on 4 and 5 March 2002 of the following people:

- Members of the Anangu Pitjantjatjara Executive;
- Chief Executives from the government departments providing funding to the Anangu Pitjantjatjara Lands;
- Elected Chairpersons from organisations providing services to Anangu;
- Elected Chairpersons from individual community councils.

Unfortunately, the meeting did not eventuate, due to the ‘extended caretaker Government arrangements following the 2002 State Election’.

9.4 Without going into detail, the document sets out that the total level of Commonwealth and State funding is approximately \$60 million per year for around 3,000 people, of whom 2,500 are Anangu, making a per capita funding rate of about \$20,000 per year.

9.5 The broad structure of funding is as follows:

- Governance and land management \$2.3 million
- Education and training \$12 million
- Culture and heritage \$1.3 million
- Living allowances (CDEP and Centrelink) \$16 million
- Police and courts, domestic violence and FAYS \$2.1 million
- Old people \$1.6 million
- Petrol sniffing \$0.7 million
- Primary healthcare \$9 million
- Housing \$4.9 million
- Infrastructure and essential services (roads, power, water, etc) \$8.9 million

When the CDEP and Centrelink funds (\$16 million) are excluded, the figure drops to around \$15,000 per capita which, having regard to the remoteness of the area and the extent of the problems to be dealt with, does not seem a particularly high figure. I have no information concerning the cost of providing infrastructure to other Australians, let alone Australians with as many problems as Anangu.

9.6 Mr Birch's affidavit states that a committee known as the Anangu Pitjantjatjara Lands Inter-Governmental Inter-Agency Collaboration Committee ('APLIICC') was prompted by concerns that despite this sum of money being invested in services and programs on the Anangu Pitjantjatjara Lands, Anangu continued to live with serious health problems and poverty.

9.7 APLIICC, also known as 'Tier 1', is a group of Commonwealth and State government Chief Executives and Senior Executives based in Adelaide who are 'joined in their concern to improve health and wellbeing outcomes for Anangu' (paragraph 5).

9.8 The terms of reference of APLIICC are as follows:

'To work with and through the Anangu Pitjantjatjara to:

- Improve Anangu community capacity to manage current and emergent issues;
- Ensure that Anangu have access to services necessary to sustain life and wellbeing at a quality comparable with that enjoyed by other Australians;

- Design and deliver services in a manner which respects, promotes and sustains Anangu hopes and aspirations;
- Monitor, evaluate and review the success of programmes and processes in light of the above.

The following key result areas were identified from a Government perspective

- Effective working relationships
- Reliable information and data base
- Genuine consultation on issues
- Collaboratively derived solutions
- Coordinated strategies for action
- Rigorous monitoring, evaluation and review.'

(Exhibit C27, p4-5)

9.9 It is noted that the focus of APLIICC's attention is Anangu Pitjantjatjara, the body established by the South Australia Pitjantjatjara Land Rights Act as the holder of title to the Lands.

9.10 Below the Tier 1 structure is another structure described as 'Tier 2'. This comprises Managers from State and Commonwealth government agencies from Adelaide who are employees of the fund agencies. This group is responsible for implementing the decisions of the Tier 1 group. Their responsibilities are:

- 'Ensuring that members of Tier 1 are properly informed about current service delivery issues;
- Implementing the policy and protocol decisions of Tier 1;
- Advocating for the Committee with service customers on the AP Lands;
- Working collaboratively with other direct service providers to cut out waste and duplication and to make the service dollars to as far as possible;
- Assisting the project team to design and implement a consultation process which offers genuine community members the opportunity to express their views;
- Assisting Tier 1 to design and implement appropriate service improvement strategies.'

(Exhibit C27, p6-7)

9.11 Below Tier 2 is the 'Anangu Pitjantjatjara Project Team' consisting of an Executive Program Manager, two Senior Project Officers and an Administrative Support Officer and whose responsibilities include:

- 'Servicing meetings of the Committee;
- Administering the Committee's Action Plan;
- In collaboration with Tier 2 groups, consulting with Anangu;

- Writing a Services Improvement Plan for the Committee which identifies Anangu service issues and priorities and lays down responsive solutions. In due course the project team may be reconfigured to manage the implementation of the Committee's Service Improvement Plan;
- Setting up and administering the monitoring, evaluation and review mechanisms by which the Committee's progress will be measured.'

(Exhibit C27, p7)

9.12 The fourth and final tier of this structure are the 'Anangu Elected Members'. These are the members of Anangu Pitjantjatjara, the chairpersons of community councils, and elected community members on the Boards of Management of service delivery agencies such as NPY Women's Council and the Nganampa Health Council. Their responsibilities are:

- 'Representing the Communities' views to Tier 1;
- Keeping Tier 1 and the Project Team informed about the appropriate way to do business on the AP Lands and with Anangu;
- Sponsoring and advocating for the work of the Committee and the project team with Anangu;
- Providing comment in response to requests from Tier 1 and the project team for feedback on its work.'

(Exhibit C27, p7-8)

9.13 APLIICC met on 18 June 2002, and discussed a number of issues including:

- A meeting with Anangu Pitjantjatjara in Umuwa in August;
- A review of the NPY Women's Council, to be funded at \$100,000;
- The establishment of a government 'one stop shop' on the Lands to work closely with stake-holders and monitor funding;
- A visit of State Cabinet to the Lands.

9.14 Matters on the Tier 2 agenda include:

- 'A full review of the role and function of the NPY Women's Council;
- The placement of four DHS funded youth workers on the Anangu Pitjantjatjara Lands;
- Development of alternatives to incarceration for young offenders from the Anangu Pitjantjatjara Lands;
- Employment of registered interpreters on the Anangu Pitjantjatjara Lands;
- Residential disability services on the Anangu Pitjantjatjara Lands;

- Development of bridging courses and traineeships for Anangu to be employed by existing service providers.' (paragraph 34)

9.15 In addition to the rather complicated structure outlined above, in November 2001 (that is, prior to the last State Election), the South Australian Minister for Aboriginal Affairs, the Honourable Dorothy Kotz MP, established the Petrol Sniffing Task Force (PSTF) and this is described as being 'closely linked' to Tier 1 (paragraph 36).

9.16 Mr Birch said that the establishment of Tier 1 is a reflection of the 'whole of government approach' endorsed in the Council of Australian Governments ('COAG') reconciliation framework, and in particular:

'In response to the 2002 COAG meeting, discussions are taking place to consider the AP Lands Project as one of the 10 trials of a whole of government approach where governments will combine efforts to target specific communities and assist them in improving their governments and in addressing specific areas of disadvantage.'

(Exhibit C27, p13)

9.17 Mr Albert Barelds, the Executive Manager of the Anangu Pitjantjatjara Lands Project Team, told me that \$800,000 had been set aside for a 'roll-out of a youth work program across Aboriginal communities in South Australia'. In particular \$300,000 had been allocated to the Anangu Pitjantjatjara Lands, \$246,000 of which would be recurrent, and would fund four youth worker positions and one coordinator position initially for twelve months. It had not yet been decided where these youth workers would be located, but that the 'consultation process needs to unfold' (T353).

9.18 Commonwealth

Ms M A Norington is the Assistant Secretary, Health and Community Strategies Branch, Office of Aboriginal and Torres Strait Islander Health, Department of Health and Ageing. She told me that responsibility had been transferred from ATSIC to the Department of Health and Ageing ('DHA') in 1995.

9.19 In her statement, Ms Norington said:

'It is important to note that the Commonwealth Department of Health and Ageing does not provide direct services to the communities in the Anangu Pitjantjatjara Lands. It provides funding, using negotiated contract arrangements with third parties to effect the outcomes that have been agreed with the agencies or organisations being funded.'

(Exhibit C25)

9.20 These agreements have been negotiated with State and Territory governments, ATSIC and the community-controlled health sector, and health planning forums have been

established in all states and territories, and regional plans have been developed. She said:

'In summary, the Framework Agreements commit signatories to four key areas:

- Increased level of resources allocated to reflect the level of need;
- Joint planning;
- Access to both mainstream and Aboriginal and Torres Strait Islander specific health and health related services which reflect their higher level of need; and
- Improved data collection and evaluation.' (p2)

9.21 Ms Norington's statement contains a number of laudable principles:

'The Commonwealth recognises that rehabilitation and treatment may require different approaches depending on the substances involved. However, the Commonwealth also recognises that within communities specific substance use is not handled in isolation. Community development activities and education programs are undertaken in addition to substance misuse programs to address the various issues which impact upon communities.

The Commonwealth approach to Volatile Substance Use ('VSU') sits within an overall framework for substance use and involves:

- Supply initiatives (such as substitution of Avgas for petrol);
- Prevention (such as education or sport and recreation programs);
- Early intervention (such as night patrols, counselling and Outstation programs); and
- Treatment approaches (residential rehabilitation, group work and counselling).

Funding for programs and services to address VSU is a responsibility of both the Commonwealth and State/Territory governments.'

(Exhibit C25, p3)

9.22 Ms Norington outlined that the present level of funding is \$20,317,019 directed to:

- \$18.6 million to support sixty five (65) separate Aboriginal and Torres Strait Islander substance abuse services nationally;
- \$1 million to administer the Comgas Scheme which subsidises the supply of Avgas to communities;
- \$717,019 towards programs in Central Australia including the Amata Youth Worker Pilot Project.

In addition, \$8.041 million is funded towards the COAG Diversion Initiative and the National Illicit Drug Strategy (Exhibit C25, p3).

9.23 Ms Norington told me that a review of Commonwealth Aboriginal and Torres Strait Islander Substance Misuse Programs was commissioned 'very shortly after' DHA

took over responsibility for health from ATSIC in 1995. The review was completed in December 1999 'after an extensive process of consultation, site visits and literature review' (Exhibit C25, p4).

- 9.24 Ms Norington said that the review recommended that the emphasis shift from a treatment-oriented approach to 'health promotion, on early detection, early management ... the focus shifted across to a continuum of care in relation to substance misuse.' (T52)
- 9.25 Pursuant to the recommendations of the review that there be an increased 'regional flavour' to the Commonwealth approach, a body called the Central Australian Cross Border Reference Group on Volatile Substance Use ('CBRG') has been established consisting of representatives from service providers including the Nganampa Health Council and the NPY Women's Council, Aboriginal health forums such as the Aboriginal Health Partnership, Commonwealth agencies, Police departments from the three jurisdictions, and ATSIC.
- 9.26 There was a meeting of the CBRG on 26 March 2002 and this decided that an expanded membership was necessary. A further meeting was proposed for 25 July 2002 'with a view to further developing a framework for action' (Exhibit C25, p5).
- 9.27 Ms Norington also produced a number of publications produced by her Department including a resource kit, publications including 'The Grog Book' and books to assist the clinical care of people who abuse alcohol (Exhibit C25d), a video called 'Beyond Their Limits', a flipchart for use by health care professionals, a monthly magazine called 'Deadly Vibe', and similar publications (Exhibit C25e). Ms Norington said that it was the Department's 'firm intention' to look at producing similar publications for the clinical management of petrol sniffing (T62).
- 9.28 The Commonwealth is also represented on the South Australian Tier 1 Committee, and the South Australian PSTF.
- 9.29 Comments on Government responses
As to the Commonwealth CBRG, Dr Torzillo said that Nganampa Health Council was represented on that group by Mr John Singer, the Director of the Nganampa Health Council, and that he 'remains hopeful about a positive outcome' (T175).

9.30 Dr Torzillo said that when the Commonwealth took over from ATSIC in 1995 the responsibility for Aboriginal Health Services, this was a 'significant step forward' (T199). He said that within ATSIC at the time there was no expertise in health service delivery or health care and there did not seem to be a desire to obtain any such expertise or to seek advice.

'Once the Commonwealth had changed, at least at the central level – I am talking about the Canberra office – at least at the central level, there was a clear commitment to improve, to attempt to get public health and health service delivery expert advice and have that input in the program ... and it provided the potential for Aboriginal health to access a bigger pool of funds.' (T199-200)

9.31 In relation to the establishment of the PSTF, Dr Torzillo commented that any such high level group should be supported. However, he pointed out that it was absolutely essential to have direct communication with service providers at the 'coal face' which would include the Nganampa Health Council and the NPY Women's Council (T173). He pointed out that such consultation should not be simply about being seen to do the right thing, but rather should be an attempt to collect data and information about the size of the problem which is something that the South Australian Government, in his opinion, has not done previously (T173).

9.32 As to APLIICC, Dr Torzillo was critical of the fact that there had been little consultation at the time the body was established. He said:

'I think that there has been a clear indication from our health committee and its director to the relevant bureaucrats that their process and initial consultation was completely inadequate and in fact we had a delegation of people go to Adelaide to make that point.' (T174)

9.33 Mr Tregenza said that in his view in the past there had been a tendency on the part of State government agencies to concentrate on Anangu Pitjantjatjara as if it were somehow the 'parliament of the Anangu Pitjantjatjara Lands'. He said that this demonstrates a lack of knowledge of the history of the organisations on the Lands. Anangu Pitjantjatjara is not the paramount organisation, but is one of a number of organisations, some of which, such as the Pitjantjatjara Council, existed before the passing of the Pitjantjatjara Land Rights Act (T231). To complicate matters, several of these organisations are not confined to South Australia, but operate in Western Australia and the Northern Territory as well. He suggested that this focus on Anangu Pitjantjatjara may have resulted in important bodies such as the Nganampa Health

Council and NPY Women's Council not being consulted about important issues (T232).

- 9.34 Dr Torzillo, emphasising that he was speaking personally rather than for the Nganampa Health Council, said in relation to consultation with service providers:

'So I'd make the point that in the I think it's 7 years that Christine Charles had her position in which there was lots of discussion in Adelaide about health care delivery issues in general, that never once, not once in that time was technical advice sought on any issue to do with health from this organisation. I was never approached nor was any other person with technical, medical or public health expertise asked for an opinion, an expression or information. When the task force was set up, no-one in the organisation was asked to provide information or to provide technical advice. So I make the comment that in my experience there is a lack of knowledge about the technical issues of health up here, about data that's available, about the context that's in and there seems to me an extreme hesitation to seek information about that from people who might know. That's a personal observation. I'd be hopeful with the change in government and new structures there might be a new deal, as it were, for the organisation.' (T210)

- 9.35 Mr Tregenza said that in relation to the SA Government Tier 1/Tier 2 approach, he was dubious that they would be able to achieve a level of consultation required because the structure was designed in Adelaide for the needs of bureaucrats (T247).

- 9.36 Mr Barelds acknowledged that there was a great need for the CBRG, Tier 1 and PSTF to work very closely together to avoid fragmentation of approach (T356). He also pointed out that the problem was exceedingly complex, and finding solutions may involve planning as far into the future as 2008 (T357). He said that both Commonwealth and State governments have acknowledged that there is:

'A need for a different way of working with Anangu; there is a clear understanding that what government has undertaken to date has not led to the lifestyle, the improvements that were anticipated. In order to do so, it was felt that a different way of working with Anangu is needed and therefore a number of initiatives were taken to talk with both the Anangu Pitjantjatjara and elected members of all the community councils, as well as the service providers, to communicate directly with the Anangu to see how a new relationship between government and Anangu could be built to improve their situation.' (T358)

- 9.37 In relation to Dr Torzillo's criticisms that the service providers such as Nganampa Health Council and NPY Women's Council are not consulted by Adelaide and

Canberra bureaucrats, Mr Barelds acknowledged that there was a greater need for such consultation although he pointed out:

'... there's a very strong commitment of that Tier 1 initiative to work directly with the Anangu community rather than to talk through advisors to them. But of course that doesn't mean that we shouldn't take professional advice and I take your point about Dr Torzillo's comments; I agree.' (T371)

9.38 Mr Barelds pointed out that there have been delays in progressing these initiatives because of the intervention of a State Election. He said that there was a 'strong wish' of Tier 1 to develop a different relationship with Anangu, and to conduct the 'big meeting' in order to initiate the process. The problem was that the election intervened, and a number of these initiatives were held up by the inability to conduct the 'big meeting' which was anticipated in February, then in March and then, due to the election, postponed further. So, in the meantime, some initiatives have been started in consultation with the Anangu Pitjantjatjara Executive in advance of the 'big meeting' (T376).

9.39 Mr Charles, Counsel for the families of the deceased, indicated that he, on behalf of his clients, was not critical of the concept of Tier 1, indeed he acknowledged that the involvement of Chief Executive Officers of government departments was a positive step, even though he had some concerns about their consultation process (T360-1).

9.40 Ms Anne Mosey is a consultant with wide experience in community development in Aboriginal communities. She was very critical of the 'pilot project funding' approach adopted by governments. She said:

'... communities were very tired of pilot project funding. I think it is still pretty evident that there is still a tendency for governments to rely on pilot project funding. Again, because it is very difficult for them to access recurrent funding for new positions, so the tendency is on government departments to be able to put it in a pilot project because they are able to provide that kind of funding a lot more readily, but they are not able to access recurrent funding in terms of being able to provide ongoing support for that project, so it falls over. It then takes x number of years to get the funding up again, and, often state bureaucrats are as frustrated by that as community organisations are. They would like to be able to provide recurrent funding, they have a great deal of difficulty with the fact that they are so constrained by budgetary processes and by their ... annual accountability processes.' (T676-7)

9.41 Ms Mosey pointed out the one exception to this was the four year funding of the NPY Women's Council project at Fregon and Amata, which I will discuss shortly.

9.42 Dr Torzillo added that, in his view, the expectation about the funding of programs is very often:

'... completely unrealistic here ... there is a widespread view that if funds are expended the problem should be solved. That is, we gave you people some money but petrol sniffing still exists, therefore you didn't fulfil the requirements of the program. I mean, I'm not aware of any reasonable government anywhere in the world who has that sort of expectation in social policy elsewhere. No-one expects that funds expended on heroin addiction in Australia will cease heroin addiction ... in fact, a consequence of that is that when that doesn't happen there tends to be a response from government that somehow the population has failed to deliver and that sets up a hostile relationship between service between service agencies out here and government, which is not a productive one if we are going to tackle this problem.' (T156-7)

9.43 Ms Norington acknowledged that if there was to be implementation of comprehensive strategies on the Anangu Pitjantjatjara Lands for dealing with petrol sniffing, which strategies might include the provision of youth workers in each community, Outstations, disability services, education and training, etc. then very substantial increases in government funding will be required to achieve the 'continuum of care' from prevention to treatment and rehabilitation that she discussed (T130).

9.44 It is a complex and demanding task to plan and coordinate a number of separate agencies and organisations coming together in a remote area in order to develop a plan of action to deal with these intractable problems.

9.45 Unfortunately, the slowness with which these Government responses have been formulated has not resulted in effective action to date. The Commonwealth took over responsibility from ATSIC in 1995, took four years to perform a review, and since 1999 has still not developed a 'framework for action'.

9.46 The South Australian Government have always held responsibilities in the Anangu Pitjantjatjara Lands, and yet their plans for action are still only formative as well. The 'big meeting' between Tier 1 and all the stakeholders on the Anangu Pitjantjatjara Lands is still yet to take place.

9.47 Ms Kavanagh, the Coordinator of the NPY Women's Council, summed up her very strong feelings about the issue as follows:

'I think listening to Nura Ward speaking yesterday, I think she really sums up the feeling of - of how despondent and hopeless people feel about what sort of future do they have for their young people in the midst of this enormous, enormous petrol sniffing problem. And for me, myself, I have been a school teacher on a community and I've known many,

many young people who have died and I think that in this country it's a shame, ... it's the biggest shame that young people today in this part of the world are dying from petrol sniffing. And the neglect that I think has happened, has been going on for some time and that there is a reluctance for the wider community in Australia to take any responsibility or concern about it. ... well let's be honest, there's been 30 years of neglect from government in this region across the whole board, not just petrol sniffing. But I do believe that if you address the issues of petrol sniffing, you're addressing the wider issues of the problems on the communities. It goes hand in hand. And you know, we have documented time and time and time again - communities have, the women have - that what is needed. We don't need more reports, we don't need more enquiries, we don't need more meetings with the government to say, 'What do you want'. Anangu have written it down time and time again. The recommendations from the AVGAS conference was very, very thorough, it involved 40 communities across a wide area. You couldn't get more clear about what is needed and what people want. And I know that Anangu are sick and tired of yet again having to tell the government what they want, because they know the next time a government person comes here, it won't be the last one, the same person that they talked to the last time, it will be a different person. And so they have no relationship, they have no corporate memory about what has gone on, they have no knowledge of the history of the communities, what the issues are, who people are, they know nothing about their lives, they know nothing about the tragedy and the grief in people's lives, that weekly people are going to funerals here and that it has enormous impact on people's lives because they're always grieving, let alone their health being so poor, people are in a constant state of grief ... They may have the will to this and that's all very well, but in the meantime we know that kids are dying, we know that services aren't getting out here, we know that the incidence of acquired brain injury on communities mean there are many, many more children who are ending up in wheelchairs ... We need millions and millions of dollars in here. Anangu have said they want youth workers in every community, they want housing for youth workers. They want a detox/rehabilitation facility. They want more money for diversionary and sport and rec activities. They have said this consistently for years ...' (T400-402)

9.48 Summary and conclusions

The South Australian Government established APLIICC to tackle the wider issues and PSTF to specifically tackle petrol sniffing. The terms of reference of APLIICC were established in September 2001. It has held several meetings, as have its sub-committees, but the 'big meeting' with Anangu on the Anangu Pitjantjatjara Lands is yet to occur.

9.49 The Commonwealth Government took over responsibility for aboriginal health from ATSIC in 1995. It has conducted a review and established the Central Australian Cross Border Reference Group on Volatile Substances Use. That group has also met several times but is yet to develop a 'framework for action'.

9.50 The establishment of these bodies met with a generally favourable response, although there have been criticisms about failure to consult, and delay. Both bodies have taken

far too long to act. Their meetings are too far apart, and still seem stuck in the 'information gathering' phase. There is no need for further information gathering, and there is a vast untapped pool of professional expertise to be utilised. What is missing is prompt, forthright, properly planned, properly funded action.

- 9.51 Many of the people in the field complained of the remoteness of bureaucracies, and their incessant demands for written reports on performance outcomes and so forth. It would be better if the bureaucracies appointed trusted representatives who could monitor and evaluate projects and programmes for themselves, rather than insisting that dedicated professionals in the field continue to spend valuable time and resources preparing reports in order to ensure continued funding. It would also be preferable, for a variety of reasons, if programmes are funded on a triennial basis, as recommended by the Royal Commission into Aboriginal Deaths in Custody.

10. **Intervention strategies**

10.1 As Ms Kavanagh so eloquently put it, petrol sniffing has been the subject of much research. I have already mentioned the useful report is by Dr Peter d'Abbs and Ms Sarah MacLean entitled 'Petrol Sniffing in Aboriginal Communities: A Review of Interventions' (Cooperative Research Centre for Aboriginal and Tropical Health, 2000).

10.2 The authors summarise the features of successful intervention strategies as follows:

- 'Successful strategies involve the use of a range of concurrent interventions addressing three variables labelled by Zinberg (1979, 1984) as 'drug, set and setting'. By these Zinberg means: the pharmacological-toxicological properties of the substance (drug); the attributes of persons using the substance, such as personality and physical health (set); and aspects of the social and physical environment in which consumption occurs (setting). No intervention strategy is likely to ameliorate petrol sniffing and the problems associated with it unless it addresses each of these factors, and the interrelated effects engendered by them ...;
- The most successful strategies are initiated by the community, enjoy widespread community support and involve strong participation of community members. Interventions proposed by the community need to complement those undertaken by families, and family actions must be consistent with community strategies. Developing and fostering community cohesion and support for interventions is therefore critical in any anti-petrol sniffing campaign ...'

10.3 Dr Torzillo said that strategies should be on three levels:

- A program of 'primary intervention' in order to reduce recruitment into substance abuse, in the form of sport and recreation activities to alleviate boredom and create opportunities for activity and learning. He points out that these programs need to be 'sustained probably forever' (T138). I would add that primary prevention strategies should also include addressing issues referred to in section 6 of these findings, including crime, poverty, unemployment, education, training and health.
- For the group of people who have been sniffing petrol for a significant period, but who may still be able to respond to intervention, strategies for achieving abstinence and rehabilitation are called for. I will refer to this as 'secondary intervention'.
- At the other end of the spectrum, in order to cater for people who have been sniffing petrol for eight or more years, and who may have sustained brain

damage, and who do not have the cognitive facility to help themselves, then disability support services are called for. Dr Torzillo said:

'They're the same group of people who are most likely to be involved in antisocial behaviour. They will be a huge burden not just on the community and on the health service but on their family. They'll often cause difficulties in being cared for. They are older. They've often got families of their own and those families will be neglected. This is a disability, chronic care, sometimes institutional involvement in the criminal justice system type problem, and in mainstream Australia those people would fall into some net of chronic care, through disability services, through mental health services and so on.' (T138)

I will refer to this level as 'tertiary intervention'. Mr Tregenza was in general agreement with Dr Torzillo's analysis (T37).

10.4 The common theme with all three of these categories is that intervention strategies need to be sustained and long-term rather than ad hoc and sporadic.

10.5 Primary intervention – youth workers

Margaret Kavanagh said that NPY Women's Council had first obtained funding specifically for petrol sniffing in 1998 through the National Illicit Drug Strategy (\$800,000 over four years) (T379). They set up a large reference group, and recruited Messrs John Harvey and Bernald Tjalkuri as youth workers at Fregon. Unfortunately they had major problems finding suitable housing for Mr Harvey (T381). There was also a lack of support from the community advisor and from senior people in the community (T382). There was also an Outstation component to the project, but that was unsuccessful because the senior people were unable to apply enough pressure on the young people to go (T382). The work was extremely stressful – Mr Harvey saw someone set himself alight, he was attacked by someone who threatened him with a knife, and he was put in several other dangerous situations (T383).

10.6 The focus of the project extended to Amata, commencing in July 2001. A youth worker was not recruited until Mr Harvey's brother started in Amata in July 2001, but again there were problems with housing (T388). Eventually he moved to Finke where there was a house available, so the allocation was 70% at Amata and 30% at Finke. Funding was due to conclude on 30 June 2002 and the Commonwealth had not, at the time of the inquest, given any indication that it would be continued (T391). The difficulties faced by Mr Harvey in trying to plan his employment future in the light of such short-term, ad hoc planning is obvious. It is not surprising that there have been recruitment difficulties if this is the way projects are funded.

10.7 As I have already mentioned, Ms Gillian Shaw is a health educator with extensive experience in relation to petrol sniffing in Central Australia. She prepared an evaluation report on the Fregon project for the NPY Women's Council (Exhibit C38c). The program at Fregon had two components, a youth activities program and a rehabilitation centre (Homeland) (T583). Ms Shaw found that the youth activities program could not provide accommodation for the youth worker, there was a troublesome relationship with the local community council, which resulted in the youth worker not being supported, and there was a lack of community participation in activities (T583). Ms Shaw said:

'A youth worker put into a community with high levels of chronic sniffers is just not going to be effective in decreasing those levels of sniffing.' (T583)

10.8 This is to be contrasted with the Mt Theo program, where the sniffing had not become so chronic. Ms Shaw said:

'My experience with the Mt Theo project was that when it was just starting it had very, very strong school support. I mean, they let their truancy officer do the work to establish that, whereas what happened in Fregon was essentially those – the organisations there ... some of them were positively obstructive but others were just, as I say in this report, very, very stretched and just not able to take on anything else.'

I will discuss the Mt Theo program shortly.

10.9 Ms Shaw also said that because there was no local police support, there was no backup for youth workers trying to exert pressure onto children to stop sniffing which provides another contrast with Mt Theo (T585).

10.10 Ms Shaw said that youth workers are an integral part of any community development strategy. The youth worker can encourage members of the community to develop programs such as sport and recreation, and not be responsible for running every event themselves as a distraction, and merely providing entertainment for the community (T594).

- 10.11 I agree with the written submission of Mr Mills, Counsel for the South Australian Government, that ‘housing, the support of a community advisor, the support of elder people in the community and the recruiting issues must be in place before the programs start’ (p8). I do not agree that they must be in place before funding is allocated.
- 10.12 I have already mentioned that Mr Barelds told the Inquest that the Tier 1 Group had a proposal, to be developed with Anangu Pitjantjatjara, for four youth workers in the lands with a coordinator for 12 months. (T353)
- 10.13 This is a very positive step, but I would caution that the evidence before me suggests that all the complicating factors must be addressed as Mr Mills has suggested. There will, indeed, be recruitment problems if the housing issue is not resolved, and the short duration of the program might also deter applicants. Appropriate pay scales and a myriad of other issues will need to be addressed to support the project, rather than simply launching it and waiting for it to fail.
- 10.14 Secondary interventions – policing
I will deal with this issue in a separate section (see Section 11) of these findings.
- 10.15 Secondary interventions – neuropsychological testing
Dr White told me that a formal process of neuropsychological assessment was required, in order to determine whether the person was likely to respond to rehabilitation or not. This would ideally require brain scans, neuropsychological assessment and neurological assessment (T518). Such testing would enable the options for any kind of rehabilitation program to be determined.
- 10.16 Dr White said that there are probably three levels that need to be addressed:
- High impairment – requiring a very close-structured environment with assistance with nutrition, hygiene, etc, hopefully to get the patient to a level where they are able to return to the community. Patients with frontal lobe dysfunction, the ones who are impulsive and aggressive, and who may pose a risk to themselves or others, may need management in a specialised brain damage unit (T518). For such patients, detention under the Mental Health Act would be an appropriate option. In Dr White’s experience, this is the mechanism for admission to dementia wards in the metropolitan area (T519);

- Moderate impairment – requiring a fairly structured environment but not necessarily requiring medical supervision, perhaps based in the Aboriginal community and along the lines of Mt Theo but with a focus on rehabilitation and acquisition of skills (T520);
- Low impairment – the final stage whereby the person returns to the community under some sort of supervision in order to try and prevent recidivism (T521).

Dr White agreed that it would be necessary that the subject had not been intoxicated for a minimum of probably days at the time of testing (T523). In order to achieve this, it would be necessary to ensure abstinence, presumably by detention in a secure care facility. I will refer to the question of a secure care facility again later in these findings.

10.17 Secondary interventions – Outstations/Homelands

Over the years there have been many attempts to deal with petrol sniffing and other anti-social behaviour by establishing a camp situated a substantial distance from the main community, and taking young people there to separate them from their peer group. Such locations have usually been called Outstations.

- 10.18 The establishment of such a facility is quite an expensive process, requiring such basic facilities as water, electric power, transport, accommodation and so on, and requires a full-time commitment by the adults who have undertaken the responsibility of supervising the young people involved.
- 10.19 Mr Tregenza pointed to the distinction between a Homeland which has been set up as a place to live permanently, where people can live in their own country, and an Outstation which has been set up specifically to deal with petrol sniffers (T239).

10.20 In relation to Outstations as an intervention strategy, Dr Torzillo said:

'And I think that the evidence is very limited about effective interventions and I think that the effectiveness of different Homelands programs probably varies enormously. But my general impression is that this is an initiative that in lots of ways makes sense particularly for primary prevention activity and would be part of a comprehensive approach to this problem. I don't have the personal view that it's a single solution at all.'
(T190)

10.21 Mr Frank Young said that in community discussions, people have suggested that there should be a place built on the Anangu Pitjantjatjara Lands where sniffers can go as punishment for sniffing. He said that sniffing should be made a crime under the

‘white fellas law’, and the court should send them for the first time for a month and for the second time for two months (T314). Mr Young said that such places had been established in the 1970s, such as at Alpara, where sniffers were taken to learn Anangu traditional ways. He said that the children were punished by their parents at such camps for sniffing petrol. He said they stayed at the camp for three to four weeks (T318).

10.22 Ms Ward said that she was in favour of any Homeland or Outstation being established within the Anangu Pitjantjatjara Lands. She referred to a previous establishment where a program was established elsewhere. She said that:

'The kids became all homesick and the families were all worried ... that the kids might try and run away and try to come home and have a car accident ... and it just made us really worried and we realised that's not what we wanted. We didn't want the kids to be – all the money and funding to be taken off some other place. That's not what we're after at all. We want any intervention, funding, and things happening, we want it on our own land that we fought for that was ours and is our future. That's where we want it to happen.' (T331)

10.23 Ms Janet Inyika who is also a member of NPY Women's Council, said that there needed to be a particular place where sniffers could be taken ‘for a break and we can have a break, but they can get better’ (T309).

10.24 Ms Shaw said that she did not think it was feasible to send sniffers to Outstations against their will. She said there is nothing wrong with community pressure and police assistance to encourage them to go, but there are great difficulties involved if, for example, they try to escape – about fifteen years ago, some young people died when they tried to walk back from their Outstation to Docker River in the Northern Territory. She said:

'And so Outstations are really for respite, I think. They're for kids to be away from petrol for a little while, to come back to more traditional values, to receive some caring ... from members of their community, even if it isn't direct family. But I really think that there has to be another option which is custodial, where the child doesn't – the young person doesn't have a choice, they've gone too far and they're out.' (T586)

10.25 Dr Torzillo pointed out that it is extremely important to be careful about what the word ‘rehabilitation’ means. He said that a distinction needs to be drawn between Homelands activities, for example, which are aimed at youths and which are diversionary in that they provide youth activities in a sustainable fashion. He said that his organisation would support such initiatives. On the other hand, if a Homelands

was being put forward as a rehabilitation centre for people who might have advanced stages of brain damage, then that is a very difficult issue. He said:

'I would think that the idea of providing the sort of medical cover that would be necessary for that group of people at Homelands would be impossible for our organisation.' (T169)

- 10.26 He pointed out that if you are dealing with patients who have evidence of brain damage, then any facility to treat them must have nursing if not medical supervision. There is no place in Alice Springs, at the moment, that can provide such treatment. He said:

'Our experience has been that the further away people are – if people are away from their Lands in a rehabilitation centre, then they tend to stay longer than they might if they were in a clinic on the Lands, but it's limited. In I think it was 1994 ... after a couple of large meetings at Umuwa, about eight or nine individuals were taken by their families to Alice Springs to what was essentially an alcohol rehabilitation centre, not a petrol sniffing rehabilitation centre ... I mean, all of them had returned to the Lands within two months and were sniffing at the time. You could argue that that's a failure of rehabilitation, or you could argue that it was a success because people were not sniffing for two months and, for that period of time, would have been less likely to become injured, less likely to become sick, and probably healthier.' (T171)

- 10.27 Indeed, this was the reasoning behind the recommendation of a Northern Territory Coroner that a dedicated facility in Alice Springs be established for such people, so that proper medical care and supervision could be provided (T169).

- 10.28 On 2 September 1998 at Alice Springs, Northern Territory Coroner, Mr W L Donald, handed down his finding after an Inquest into the death of a sixteen year-old boy called Esky Muller. His sixth recommendation was:

'That the Commonwealth government establish and fund rehabilitation facilities for chronic petrol sniffers in Alice Springs. Those facilities should be such as to be able to act as a repository for information and research, and should also be considered for training workers who can then work in communities where petrol sniffing is prevalent. The residential facility known as CAAPS in Darwin may provide an appropriate model and such facilities should be designed to provide the services referred to for persons resident in the Central Australia regions of South Australia, Western Australia and the Northern Territory.'

10.29 Ms Norington said that this recommendation had not been implemented. She explained:

'I think that there is conflicting evidence in relation to rehabilitation and how that should be done.' (T73)

This seems an entirely unsatisfactory response. The fact that there is 'conflicting evidence' should not prevent further action being taken to try and resolve the conflict or seek alternative solutions.

10.30 I regard it as most unfortunate that there has been no action on this issue since 1998, and suggest that it be given urgent attention.

10.31 Ms Shaw referred to the example of a young man at Warburton who is charismatic and influential among the young people there, and said that every time he comes out of gaol he encourages others to sniff petrol – 'there needs to be an option of getting those people away from the community, and that gives you a chance to break up the networks' (T587).

10.32 Ms Mosey said:

'Outstations are a very valuable respite for sniffers that perhaps are less damaged and less ill. They are not so effective for the long-term chronic sniffers I don't think; ... because you have got safety issues on an Outstation, you have got safety and health issues, duty of care issues. I think it would be very difficult to be able to take sniffers who are either very ill and physically and psychologically damaged, or alternatively sniffers who ... had exhibited violent tendencies or aggressive tendencies, it would be quite difficult and would be potentially quite dangerous to both themselves and any workers and any other young people that are out there to take people like that out to an Outstation ...' (T664)

10.33 Mt Theo

I heard evidence from Mr Andrew Stojanovski who is the Manager of the Mt Theo program based in Yuendumu in the Northern Territory.

10.34 The Mt Theo Outstation was established in 1994 as a community-based initiative after a number of other strategies had been tried and failed. The project evolved from an activities program established in Yuendumu to provide alternatives to petrol sniffing. A group of people from Mt Theo who wanted to return and live at the Outstation received support from the community on the basis that they undertook to take petrol sniffers with them. Mr Stojanovski, who was then the liaison officer at the

Yuendumu School, worked with the local youth worker to run youth activities, and supported the Outstation by coordinating and supporting the program (T454).

10.35 What was particularly significant about these initiatives was that the decision came from the community, rather than having been imposed from the outside.

10.36 Central to the program was that the activities program at Yuendumu provided discos, a pool table, video games, sport, excursions, etc, in combination with Mt Theo, where children were taken to provide respite, time to 'dry-out', and as a further deterrent from sniffing. Mr Stojanovski said that some of the factors which have made the program a success are:

- A high degree of community support;
- People actually like living at the Outstation;
- The prestige associated with the success of the project;
- A sense of relationship and obligation between both the white and Aboriginal workers associated with the program. (T459)

10.37 Mr Stojanovski said that if anybody attended at the Youth Centre and was violent or sniffing petrol, he would shut down the Centre and report the matter to the police, who would then go and talk to the person concerned (T461).

10.38 Getting to Mt Theo involves a trip of 125km west of Yuendumu on the Tanami Road, and then 52km north. Another Outstation which was only 30km from the Tanami Road proved unsuccessful, because the young people could walk to the Tanami Road and then hitchhike back into town. The extra 22kms has made the walk unattractive and no-one has successfully walked away from Mt Theo (T463).

10.39 Mr Stojanovski said that some children go to Mt Theo as a condition of bail, but others are simply bluffed into going there. They are simply told 'you've got to go to Mt Theo' (T465). He said that Mt Theo is an accepted part of the community structure, the people accept that it works and so they have faith in the process. He pointed out that this was not an overnight thing, and that it has taken 'years of work' to establish this degree of community acceptance and support (T467).

10.40 Mr Stojanovski told me that the Commonwealth had commissioned a review of the project, conducted by consultants 'Network Australia', and that he was concerned that the outcome of the review would not be an accurate reflection of how the program

works. He said that the consultants 'didn't spend enough time looking at how our program works and I don't think their perspective was culturally informed enough' (T478).

10.41 Mr Stojanovski said that they'd had periods of up to three months (in 1999) when there was no petrol sniffing in Yuendumu at all. In May 2001 there were 18 people sniffing petrol in Yuendumu, until 9 of them were taken to Mt Theo and petrol sniffing in Yuendumu stopped. Sniffing commenced again later but the maximum number on any night was 5. He said that out of 125 nights during that period, there were only 25 nights when children were sniffing petrol and the maximum was 5 (T480-1). I agree with Mr Stojanovski that these figures demonstrate that the Mt Theo project has been remarkably successful.

10.42 Mr Stojanovski explained his view of the importance of the Outstation:

'In my opinion, if we didn't have an Outstation we would not have solved petrol sniffing in Yuendumu. The reason is that you need a deterrent, you need a consequence. Even if there were lots of different fun things to do in Yuendumu and lots of education and anyone could get a job if they really wanted to, it's a hallucinogenic drug, it's fun ... so because of that, having that Outstation has been really essential in removing the peer group pressure on kids to sniff petrol ... I think if we ran that Outstation and did not have those other things happening in Yuendumu it wouldn't work, but I think that if we didn't have that Outstation we would still have heaps of petrol sniffing.' (T505)

10.43 Mr Stojanovski doubted that the problem can ever be completely eradicated. But he said:

'I think that we can probably look forward to heaps of years where maybe out of 365 days in the year there was only petrol sniffing occurring on 30 or 40 days of the year and then only involve maybe 8 people.' (T506)

10.44 Secondary interventions – Avgas

Ms Gillian Shaw began working with Nganampa Health Council in 1994/5 as part of the ‘Petrol Link-up’ Project, as a result of which Avgas was introduced right across the region (T570) after an extensive period of consultation with all of the communities, and an evaluation of previous intervention strategies. She said that frequently, these programs were perceived as having failed, when in fact, they were temporarily successful but fizzled out for one reason or another (T574).

10.45 Dr Torzillo told me that the substitution of Avgas for conventional petrol has been a significant harm reduction strategy in many indigenous communities, even though the cost of the strategy is high (T148) (see also the evidence of Ms Norington discussed at paragraph 9.22). It is much more effective in communities where it is possible to control the ingress of conventional petrol from outside, for example in island communities. However, although Avgas is available in all communities in the Anangu Pitjantjatjara Lands, petrol sniffing remains a significant problem no doubt because conventional petrol is being brought in from outside the Lands, from places such as Mulga Park, Yulara, Marla, and elsewhere.

10.46 Mr Stojanovski said that Avgas was initially successful in Yuendumu, but after a year or so sniffers returned to previous levels because petrol was still being purchased in Alice Springs (T497).

10.47 Dr Torzillo pointed out that the nationwide introduction of unleaded petrol has also led to harm minimisation, because lead was the major toxin causing neurological damage from petrol sniffing. There is, however, an emerging body of evidence that hydrocarbons such as benzene are neurotoxic and damage the brain and peripheral nervous system (T146). He said that the introduction of unleaded petrol has reduced the amount of fitting among chronic petrol sniffers on the Lands (T147).

10.48 Secondary interventions – legal sanctions

Mr J D McLean is a Community Advisor at the Warburton community in Western Australia, and is Shire President of the Shire of Ngaanyatjarra and a Justice of the Peace. Mr McLean told me that under the local by-laws in his area, petrol sniffing is an offence under the Aboriginal Communities Act punishable by fines of up to \$5,000.00 for each offence, and there is also recourse to ‘conditional release orders’ (T334). He said that under the Young Offenders Act, children may be ordered to perform some activity in the nature of community service, or they can be required to

go to Kampa, a 'community substance abuse facility' for a period of up to one week (T335).

10.49 For other offences where imprisonment is an option, Mr McLean said:

'People were not imprisoned in a sense for their own protection or for their own good. They are imprisoned for the protection of the community, so this habit – this addiction had done the community so much harm over a period of years. And as I say, we peaked at five deaths in one year but we routinely had deaths and the divisions within the community and the problems associated with that and the devastating effect on community morale was leaving the future of that community and other Ngaanyatjarra communities very much in doubt. So I could say that from the time – from that time and from the implementation of the Communities Act and the successful implementation of couple of years later of the use of Avgas, we – our last death was about three years ago and the last death before that was about four years ago.' (T344)

10.50 Senior Sergeant P S Wilson, Officer in Charge of the Marla Police Station, told me that he had not seen any community service work undertaken on the Anangu Pitjantjatjara Lands, and pointed out that there is a massive problem with finding appropriate supervisors and people to implement such orders (T428). He said that the Department for Correctional Services had an establishment of two people at Marla, but those people had recently left.

10.51 Senior Sergeant Wilson said that 20 to 30 bonds are imposed on the Anangu Pitjantjatjara Lands in each court circuit. The circuits occur every two months. The bonds carry a condition to be of good behaviour, but the Magistrate does not make treatment orders or other orders directed at rehabilitation because there are no such facilities available (T430).

10.52 This is particularly significant since the maximum penalty for possessing petrol for the purpose of inhalation is only a \$100 fine, and the usual penalty imposed in the Magistrates Court is that the complaint is dismissed without conviction, or the defendant is convicted without penalty (T415). I am sure that more creative and positive opportunities for rehabilitation would be used if they were available.

10.53 It was pointed out during the Inquest that petrol has not been proclaimed by regulation to be a drug for the purposes of the Public Intoxication Act 1984 (Section 51b). The police therefore have no power to detain a person who is intoxicated as a result of sniffing petrol for his or her own safety. Even if there was such a power, that person could only be detained at the police lock-up, which is quite an inappropriate place to care for such people.

- 10.54 The Public Intoxication Act was enacted in order to empower police to detain a person who is intoxicated by alcohol or other drugs without being charged with an offence. It was envisaged that there should be 'sobering up' facilities established, to which police should convey detainees so that they can receive adequate care. Regrettably few such centres have been established.
- 10.55 There is an urgent need for such powers in the Anangu Pitjantjatjara Lands. In my view, petrol should be declared to be a drug to which the Public Intoxication Act applies, so that the important safeguards in the Act can be made available in the Anangu Pitjantjatjara Lands.
- 10.56 The Act gives the police power to detain an intoxicated person 'who is in a public place' (Section 7(1)(a)). I am aware of some authority which suggests that the Anangu Pitjantjatjara Lands are not a 'public place' as that term is legally understood. The Act may need to be amended so that it extends to the Anangu Pitjantjatjara Lands.
- 10.57 If the Public Intoxication Act is implemented on the Anangu Pitjantjatjara Lands, then a 'drying out' facility will need to be established and, having regard to the distances involved, probably more than one, to which detainees can be taken.
- 10.58 I accept Senior Sergeant Wilson's evidence that the present police cells on the Anangu Pitjantjatjara Lands are entirely unsuitable for detention of people pursuant to the Public Intoxication Act (T433). Assistant Commissioner Brown also referred to the concerns he had in relation to detaining irrational and violent sniffers, and that a custodial facility should have access to medical services and be properly resourced to deal with such people.
- 10.59 Ms Mosey supported the operation of such legislation in Aboriginal communities. She said:
- 'It is more an intervention – it is a crisis intervention and it is aimed at removing that person from causing damage to themselves and from causing damage to the community. It is not an intervention that can make a significant difference on the health of that individual obviously in eighteen hours but it is about removing them harming themselves and removing them from harming the community.' (T695)

10.60 Secondary interventions – night patrols

Ms Anne Mosey wrote a report on petrol sniffing in Central Australia in June 1997 (Exhibit C39). Ms Mosey told me about her experience with night patrols in Aboriginal communities in the Northern Territory and North-West Western Australia. These usually involve members of the community driving around at night and interceding with petrol sniffers by tipping out the can, or contacting a close relative and taking the young person home (T650). If the sniffer becomes dangerous or aggressive, they go and find a family member or call the police for support (T652). Most have police support within a fairly close distance, although some in Western Australia do not (T653). She said that it is putting a great deal of pressure on families in terms of their traditional or family authority to be able to deal with violent incidents without police support (T658).

10.61 Ms Shaw said that night patrols had never been a feature in the Anangu Pitjantjatjara Lands (T576).

10.62 Mr Mills, Counsel for the South Australian Government, pointed out that night patrols had not received any interest in the Anangu Pitjantjatjara Lands. He also submitted that they are not the panacea for chronic sniffers (p7). Mr Goetz, Counsel for the NPY Women's Council, agreed, and added that if I were to recommend that Anangu should adopt such a strategy, the recommendation would be 'simplistic and inappropriate' (paragraph 53). I acknowledge that seeking to impose night patrols on Anangu would be to set the proposal up to fail, since it would not have been 'initiated by the community, enjoy widespread community support and involved strong participation of community members' (d'Abbs and MacLean, supra).

10.63 However, that is not to say that with the appropriate degree of community development and with input from the police, such a proposal will never work on the Anangu Pitjantjatjara Lands.

10.64 What night patrols represent is empowerment of the community, rather than sitting back and leaving it to the police, or Community Constables. It is this very empowerment that is missing at the moment. As Mr Stojanovski said, the success of such strategies breeds confidence and further success.

10.65 Secondary interventions – FAYS

Mr Alan March, the Manager of the Coober Pedy District Centre of the South Australian Department of Family and Youth Services ('FAYS'), told me that his officers are scheduled to conduct two trips to the Anangu Pitjantjatjara Lands per month, one lasting about 5 days and which covers about 1,800 kilometres, and the other lasting about 3 days and covering about 1,100 kilometres.

10.66 The ability of FAYS to maintain even this fairly minimal level of service depends on having sufficient staff available. Mr March told me that he had a staffing establishment of 17, but at the moment he has 7, two of whom are social workers (T264-5).

10.67 It is not surprising that several of the witnesses were critical of the level of services provided by FAYS to Anangu. Mr Charles, Counsel for the families of the deceased, described the level of services to Anangu youth as 'appalling' (submissions, p25).

10.68 Mr March told me that FAYS were involved either directly or indirectly with a total of about 8 Anangu children, all of whom had been petrol sniffers. If the figures I quoted earlier are correct, then this is only a very small percentage of the number of children who are sniffing petrol on the Anangu Pitjantjatjara Lands.

10.69 Mr March said that FAYS was not involved with the others because they had not been formally notified to FAYS through their central intake recording system, operated by an organisation based in Adelaide called Yaitya Tirramankotti. This group receives the notification and forms a judgment as to whether it will be regarded as a formal 'child protection' notification or not (T168).

10.70 Mr March said that the provision of a comprehensive program for one of the children involved expenditure of \$86,690 for three months (T267). This expenditure, which is expected to be extended to other children shortly, is in addition to the funding of community-controlled organisations referred to by Mr Birch which I discussed earlier.

10.71 Mr March agreed that there is power in Section 16 of the Children's Protection Act to remove a child from its family if an officer believes on reasonable grounds that the child is in serious danger. He said that such a power would only be used in extreme circumstances, having regard to the best interests of the child. Of course, issues such as those highlighted by the report by the Human Rights and Equal Opportunity Commission (the 'Stolen Generation' report) must also be taken into account (T304).

- 10.72 I accept this evidence without hesitation. FAYS faces an extremely complex and important task in implementing this legislation, and I am not prepared to criticise their performance on the basis of evidence before me.
- 10.73 It will be a matter for Tier 1 to determine whether FAYS continues to have a very narrow focus on ‘children at risk’ as it does at the moment, having regard to cultural and other considerations, or whether it should take a broader, more active community development role.
- 10.74 Secondary intervention - crime prevention
- One issue which was not canvassed in evidence is the fact that there is no crime prevention strategy for the Anangu Pitjantjatjara Lands. There is an office, part of the Attorney-General’s Department, called ‘The Office of Crime Prevention’, and there is a ‘Crime Prevention Section’ within SAPOL. Senior Sergeant Wilson said that neither body had dealt with issues surrounding petrol sniffing on the Anangu Pitjantjatjara Lands (T444).
- 10.75 Assistant Commissioner Brown told me that, as far as he is aware, there is no crime prevention officer whose responsibility includes the Anangu Pitjantjatjara Lands. He suggested that if a body such as the Anangu Pitjantjatjara requested such a thing, he regarded the establishment of such a position as ‘quite conceivable’ (T780). He said that the development of strategies such as night patrols could emanate from such a position.
- 10.76 Further enquiries I have made since the inquest hearings concluded confirm that there are no current crime prevention strategies in place for the Anangu Pitjantjatjara Lands. The question arises – why not? Anangu have a problem on their hands which in terms of morbidity and mortality is at least as serious as heroin abuse is in Adelaide, and yet until Operation Pitulu Wantima little had been done to analyse the problem or develop strategies to deal with it. I will discuss Operation Pitulu Wantima shortly.
- 10.77 The Attorney-General’s Crime Prevention Unit is represented on both the PSTF and Tier 1.

10.78 Tertiary interventions – secure care

The Department for Correctional Services (SA) put forward a proposal to establish a facility for offenders from traditional Aboriginal communities on or adjacent to the Anangu Pitjantjatjara Lands.

10.79 The proposal reported:

'Feedback from Magistrates indicates dissatisfaction with the absence of sentencing options for traditional Aborigines between "low-tariff" sanctions (eg community service) and imprisonment. This gap means that some chronic offenders, while avoiding prison, are subjected to less intensive management regimes than their behaviour would warrant.'

10.80 However, the proposed facility was to be an open facility, described as 'diversionary', rather than a secure care facility, as has been advocated before me.

10.81 I have been informed that the Department was not successful in obtaining funding for the proposal, partly because of confusion about the role the proposed facility was expected to play.

10.82 Ms Shaw was one of several witnesses who said that there was a need for a secure care facility on the Anangu Pitjantjatjara Lands to provide a respite care option for severely disabled sniffers (T598). Ms Mosey gave similar evidence (T681), as did Mr Tregenza (T37), Mr Harvey (T624) and Assistant Commissioner Brown (T763). I have already mentioned the evidence of Ms Inyika (T309) and Mr Young (T318).

10.83 There has been a variety of justifications put forward for the establishment of a secure care facility on the Anangu Pitjantjatjara Lands and the boundaries between some of them are somewhat blurred. They include:

- The need to detain an offender in custody, either on remand or sentence, for the protection / safety of the community and/or the offender;
- The need to detain a person under the Public Intoxication Act for his or her protection, as I have already discussed;
- The need to detain a person in an 'approved treatment centre' pursuant to section 23 of the Mental Health Act (SA) by a police officer, and pursuant to section 12 of that Act by a medical practitioner, if a mental illness suffered by that person is such as to constitute a danger to himself or others;
- The need to detain a mentally ill person for a longer period by order of the Guardianship Board pursuant to section 13 of the Mental Health Act;

- The need for a facility where offenders would be sent for rehabilitation pursuant to bonds or undertakings imposed by Courts;
- The need to provide long term disability services for permanently disabled petrol sniffers.

10.84 If a secure care facility is to fulfil all these needs, then clearly it will need to be located on the Anangu Pitjantjatjara Lands, and might need to be in two locations, accessible to the Eastern and Western communities. A facility in Alice Springs would not fulfil these objectives.

10.85 The facilities will require access to medical care where required, they will need to be staffed by professional people who are experienced in dealing with drug treatment/rehabilitation and will need to be set up and funded to provide culturally appropriate and effective intervention and rehabilitation strategies .

10.86 Tertiary interventions - disability services

As a result of a review of disability services carried out by Mr Tregenza at the request of the Country and Disability Services Division of the South Australian Department of Human Services, he clearly identified that there are presently 35 adults on the Anangu Pitjantjatjara Lands with acquired brain injury as a result of petrol sniffing. He said that acquired brain injury from petrol sniffing is the single largest cause of disability on the Anangu Pitjantjatjara Lands, accounting for 58% of disabled people (T35). When the survey is confined to adults, acquired brain injury as a result of petrol sniffing accounts for 73% of disabilities (T36).

10.87 Mr Tregenza pointed out that these people are only those who have been identified as being in need of services for their disability as a result of petrol sniffing, and does not account for the total number of people who may have suffered some degree of brain injury or impairment (T36).

10.88 In his report, Mr Tregenza also pointed out that there is a lack of mental health services for people on the Anangu Pitjantjatjara Lands. He said:

'Most of the petrol sniffers suffer also from some form of mental illness. Some of them have psychotic bouts and other things and parents and carers and community members have been asking for a long time for assistance dealing with this ... It's a form of behaviour which has no appropriate response in Pitjantjatjara society. People are asking for help in skills to deal with those situations that arise.' (T41)

10.89 As to provision of residential care, groupwork and counselling for people with identified brain injury as a result of petrol sniffing, Ms Norington acknowledged that there was a continuing need for these services on the Anangu Pitjantjatjara Lands and that DHA, the Department of Family and Community Services ('FACS'), and State government departments would all be involved in providing these services. She was unable to suggest whether anything was at present being done in relation to these issues, however (T106).

10.90 Nura Ward said that there are now a great number of petrol sniffers who are disabled. Some are in wheelchairs and some have 'wawanypa' which might be translated as ataxia or tremors. She said that the NPY Women's Council is about the only organisation that provides food and shelter for such people, when they are unable to look after themselves (T328).

10.91 Dr Torzillo agreed with the recommendation of Mr Tregenza that an 'Options Coordination Agency' should be established to assist people on the Lands (T185).

10.92 Mr Barelds told me that the need for an Options Coordination program is one of the issues to address, although the South Australian Government had not yet made up its mind on the specific recommendations in Mr Tregenza's report (T366).

10.93 Intervention strategies – multi-faceted approach

Ms Shaw emphasised that any intervention strategy needs to be across a broad front. She said:

'And if you're going to make significant inroads into that culture it's going to mean a sustained project – you know, a sustained approach that's got a lot of different arms to it, it's got to have policing, it's got to have legislation to back up that policing, it's got to have education, it's got to have employment issues and it needs welfare services – you know it's a whole approach ... ' (T597)

10.94 Ms Mosey also emphasised the need for a multi-faceted approach. She said:

'I think it's very much shown up by the research and also by my own experience, that the more interventions that are happening at the one time in the community, the more success you have with all of them. So yes, it would be very good to be able to have other strategies happening at the same time. For instance a youth worker programme, plus an Outstation, plus police support for instance, plus maybe Avgas in the community, so that you had a range of strategies happening at the same time, rather than relying – I think there's a tendency to rely on one strategy and say oh well, we'll start a night patrol.' (T660)

- 10.95 Ms Kavanagh also emphasised that ‘it needs all those ingredients to work together’ (T404).
- 10.96 Having heard all the evidence, it is clear to me that a multi-faceted approach is called for. The experience with the Fregon youth worker project clearly demonstrates that one intervention by itself is likely to fail, unless it is supported by a variety of other interventions. The Mt Theo project, and the successful night patrol projects in the Northern Territory and Western Australia also demonstrate the validity of that conclusion.
- 10.97 Intervention strategies - recruitment
- Dr Torzillo pointed out that many of the programs which have been suggested would require staff from both Anangu and non-Anangu sectors of the community.
- 10.98 For Anangu, problems would include a lack of training in issues such as substance abuse, a lack of personal and family resources to be involved long term, and pressures to keep one’s own family together. In addition to that, there may be cultural reasons why a particular Anangu person may not be able to deal with a petrol sniffer.
- 10.99 As for non-Anangu, recruitment has always been extremely difficult, and has become even more difficult than it was 20 years ago (T144). The range of problems including accommodation, transport, finding people with the appropriate attitude to work in this extremely remote area and who can deal with complex cross-cultural issues are particularly challenging (T145). The fact that agencies are unable to offer long-term appointments with no guarantee of continuance because Commonwealth and State governments insist on providing short-term funding for projects, is also unhelpful (T145).
- 10.100 I will shortly discuss the fact that SAPOL have experienced similar difficulties with recruitment, and FAYS and the Department for Correctional Services have experienced similar difficulties. Even with permanent employment, recruitment is difficult.
- 10.101 While acknowledging the difficulties involved, recruitment for such positions is not impossible. Obviously a creative approach, involving a mix of financial incentives, recognition of service for promotional purposes, special measures to address issues such as isolation, cultural deprivation, lack of recreation opportunities, lack of

employment opportunities for family members, education resources for children and the like, will need to be addressed.

10.102 One attitude which, in my opinion, must be abandoned is that the non-Anangu community has nothing to offer Anangu in these areas. Substance abuse is a world-wide problem, and has been studied extensively, as have issues such as community development and recreation not to mention health, education and welfare. I suggest that Anangu need to have the benefit of this knowledge and skill, while at the same being empowered and skilled so that they can become self-sufficient.

10.103 Summary and conclusions

A variety of intervention strategies to combat petrol sniffing were analysed at this inquest. Clearly a successful strategy must have broad community support.

10.104 Strategies at three different levels are called for:

- Primary interventions – to reduce recruitment into substance abuse;
- Secondary interventions – seeking to achieve abstinence and rehabilitation;
- Tertiary intervention – providing services to the permanently disabled.

10.105 Strategies include:

- Youth activities through provision of youth workers;
- Neuropsychological testing;
- Outstations / Homelands;
- Avgas;
- Legal sanctions;
- Night patrols;
- Programmes for ‘Children At Risk’;
- Disability services;
- Secure care facilities;
- Policing;
- Crime Prevention strategies.

10.106 The implementation of any one of those strategies by itself is likely to fail, but introduction in combination with a variety of others will give a better chance of success.

10.107 All these strategies must be accompanied by strategies to address socio-economic issues such as poverty, hunger, health, education and employment.

10.108 The implementation of these strategies will doubtless involve difficult problems such as recruitment and retention of suitable staff. Creative solutions will need to be found. Anangu cannot be expected to find all of the human and other resources to tackle these problems. They need the assistance and input of non-Anangu professional people to tackle these problems direct, and to give them the power and skills to take up the task in due course.

11. Policing on the Anangu Pitjantjatjara Lands

11.1 I would regard policing, as it applies to the phenomenon of petrol sniffing, as a secondary intervention strategy, as defined in paragraph 10.4. However, the topic received such prominence during the inquest that I thought it appropriate to allocate a separate heading to this topic.

11.2 At the present time, there is no permanent sworn SAPOL presence on the Anangu Pitjantjatjara Lands. Historically, the area was policed by mobile patrols from Oodnadatta, and more recently, from Marla. The system changed in 1986, as I will shortly discuss.

11.3 Attitudes to police

As to policing generally, Mr Tregenza said there is an ambivalence amongst Anangu about the role of police. He said:

'There is an expressed need to have intervention and action at a time of crisis, for example, a situation develops into a confrontation or violence or threat of violence which goes beyond the capacity of the community constable. Then the community sort of express a general desire to have some intervention to stop that crisis. The problem with this is that most often also the community expresses a wish not to have the police involved long-term – after the crisis is resolved people seem to have the perception they can then manage the issue from then on. From the police point of view I guess that once they are involved they are involved in a technical and a legal sense so that they would have a problem with it too.' (T224)

11.4 Janet Inyika said:

'I've seen a lot of police and community constables work over the years of course but it's very difficult for a police person to do anything if they're too close to the family. Often that's very difficult. So, yes, very often not enough help happens.'

Ms Inyika said however, that more police were not necessarily the answer. She said:

'I still think that what people really need is to be taken away, sent to a separate facility or area for them to get better there.' (T310)

11.5 Nura Ward said:

'In those old days the calibre of white people that worked with us on the Lands was really fantastic, they were really good people but that's not like it is today. The policemen that used to come up from South Australia into our communities in the old days were really strong and really good. We look back at those days, those days when we were really happy and we realised that we were really respectful and frightened of the police in those days. Back in those days we never, ever broke any white man's laws.'

That's because our Aboriginal law was also really strong ... we'd like to have police and we'd like to have more policemen and when we do see police around we feel really happy but the thing is we can't back it up with strong community councils and strong community advisers. We just don't have that strength to back them up and so it doesn't matter how many police you see around, it just isn't working because they can't and don't help us.' (T324)

- 11.6 Margaret Kavanagh said that the lack of police resources on the Anangu Pitjantjatjara Lands is an absolutely critical issue – there is no permanent police officer between Laverton, 500km west of Warburton in Western Australia, and Marla. Ms Kavanagh said:

'And it has extraordinary impacts and the women have consistently written to politicians, to the police commissioners about the need to have permanent police officers on the Lands, you know, immediately. And, I mean, quite recently we have had a number of meetings with the police commissioners about this ... that women want to see permanent policing on the Lands ... the women are saying they're very frustrated that they're not getting any feedback about where that might be headed to, but ... it's an absolutely high priority for the women.' (T399-400)

- 11.7 It is obviously very difficult to police the Anangu Pitjantjatjara Lands effectively from Marla. Senior Sergeant Wilson told me that in good conditions it can take six to seven hours to travel from Marla to Pipalyatjara or Watarru communities, and in adverse conditions it may not be possible to get through at all (T409).
- 11.8 Mr Stojanovski said that a constant police presence at Yuendumu (a sergeant, two constables and an Aboriginal community police officer) is 'really important' for dealing with sniffing, in that the police will stand behind him during negotiations to take a child to Mt Theo as a deterrent from acting violently (T487). He said that if the court makes attendance at Mt Theo a condition of a bond or a condition of bail, this gives them even further support in convincing the child to come (T490).
- 11.9 Ms Balmer told me of an incident when she was attempting to transfer Kunmanara Hunt to Alice Springs during a critical time in her pregnancy. When Ms Balmer called to collect her for the journey, Kunmanara Hunt attempted to stab her with a pair of scissors (T554). If Ms Balmer had been able to enlist the aid of the police, with the implied threat that she might be arrested for assault if she did not accompany Ms Balmer to Alice Springs, perhaps the situation would have been a lot easier (T554).

11.10 Mr John Harvey, the Coordinator of the Young People's Program with NPY Women's Council, told me that he had received limited support from the police. He said:

'I think it was difficult for police to enforce things that, I guess – that we would have liked enforced. And I think also for the community constables in Fregon, they were compromised as well with their policing, especially given that their own sons were sniffing ... I would say that it's very important, police – formal police support in terms of law and order within the communities and I think without that stability of law and order, the violence and things that happen during the day, it's not just the petrol sniffing, but I guess the violence during the day and what children are growing up with and the trauma that they go through, seeing things on a day to day basis, I think without sort of dealing with those issues, it's very difficult for services to operate.' (T617-8)

11.11 I also note the evidence of Ms Shaw (T585) and Ms Mosey (T680, T710) to the effect that the presence of sworn police officers on the Anangu Pitjantjatjara Lands is essential.

11.12 A series of documentaries screened recently on the ABC ('Kimberley Cops' on 4, 11, 18 and 25 June 2002) clearly demonstrated that the presence of police officers in remote communities fulfils a valuable community development function as well. The documentaries showed sworn police officers immersing themselves (both literally and figuratively) in the life of their communities, running discos, taking children swimming and generally relating to young people in the community in a positive way.

11.13 Police officers are highly-valued members of communities in all areas but particularly in country areas. There is no reason to think that SAPOL officers could not fulfil the same positive role in the Anangu Pitjantjatjara Lands if given the opportunity.

11.14 The 'Community Constable Scheme'

The statement of Senior Sergeant K J Smith, the Community Constable Coordinator in the Human Resource Management Branch of SAPOL (Exhibit C31) records that the Police Aide Scheme (now called the Community Constable Scheme) was established in 1986 in order to 'give the Pitjantjatjara a greater say in the criminal justice system'. Four Anangu men were selected to work at Amata, Ernabella, Fregon and Indulkana, and four non-Aboriginal police officers were selected to spend one year each working with the Community Constables. At the end of that year they withdrew leaving the Community Constables to work alone, with support from Marla.

- 11.15 An additional four Anangu men were selected so that the Community Constables could work in pairs. Communities are consulted about who is appointed a Community Constable. Constables are expected to become involved in community activities, working in schools and attending community meetings, and they act as a contact/liaison person between police and the local community.
- 11.16 In 1989, the scheme was expanded and Community Constables were stationed at Mimili and Pipalyatjara. In 1990 the scheme was expanded further and Community Constables were stationed at Port Augusta and Elizabeth, and since then 37 Community Constable positions have been established across the State. As far as I am aware, only Community Constables on the Anangu Pitjantjatjara Lands operate in communities where there are no sworn police officers stationed to support, train and supervise them.
- 11.17 In 1988, a non-Anangu Senior Constable was stationed at Amata to supervise Community Constables at Amata, Ernabella and later at Pipalyatjara. An officer remained in this position until 1997 when the incumbent left on medical grounds, and since that time SAPOL has been unable to replace him. Instead, in 1999 a Community Constable Development Officer at Senior Constable level was created, that officer being stationed at Marla. In 2001 that position was upgraded to Sergeant, recognising the importance of the position.
- 11.18 Mr Tregenza observed that although he was unable to prove a connection, the departure of the sworn police officer from Amata corresponded with an increase in petrol sniffing in that community (T225).
- 11.19 At the present time, each of the twelve Community Constable positions on the Anangu Pitjantjatjara Lands are filled, for the first time in over two years. SAPOL has experienced considerable difficulty in finding suitable personnel to fill the positions.
- 11.20 Mr Frank Young described the difficulty that Community Constables experience. He said:
- '... sniffers, parents, they don't want Community Constables to touch their kids and they could be in trouble ... that's why they pull back. And also people are looking at some of the Community Constables. There could be Community Constables parents, kids sniffing petrol and the Community Constable don't deal with other kids. They could be on one side and those problems came up and the people growl at them.' (T313)

- 11.21 Mr Young said that the Community Constables should receive much more training and 'proper work for the community police. Proper work like white policeman' (T313). He also said that there should be more sworn policemen on the Lands, based at Umuwa, and also at Murpatja (T313).
- 11.22 Mr Young pointed out that if the community conducted a meeting and told the Community Constable that he was supported and that he should do his work better then that would improve the position. Unless that happened the Community Constable was unable to work. He said that if a sniffer was hurt or died, then the Constable would be in a dangerous position (T321).
- 11.23 Senior Sergeant Wilson acknowledged that there were major cultural problems associated with the operation of Community Constables in Anangu Pitjantjatjara communities (T422). He said that if a Community Constable had difficulty with a family member in his community, then a Community Constable from another community might be called upon, or mainstream police may come in and try to handle the situation (T423).
- 11.24 In relation to the Community Constable Scheme, Mr Tregenza said that dealing with petrol sniffers provides Community Constables with very difficult issues. It usually involves dealing with a relation. The Constable may have to deal with repercussions from the family if someone has to be arrested. Community Constables would be reluctant to be involved if there is any prospect of having to be forceful with a petrol sniffer. He said:

'Community Constables are really effective in diffusing situations rather than sort of physically arresting people ... I haven't seen a Community Constable actually physically manhandle anyone.

There is also a general reluctance to be involved where you could get into trouble from something that happened if the person fitted or died or injured themselves. Community Constables would be perceived to be and possibly feel themselves responsible.' (T223)

11.25 Review of the 'Community Constable Scheme'

Assistant Commissioner Graham Brown told me that the Strategic Development Branch of SAPOL conducted a review of the Community Constable Scheme in 1998. That report is Exhibit C40. A status report on the implementation of the recommendations flowing from that review has also been prepared and that is Exhibit C40a.

11.26 Pursuant to that review, two police officers will be stationed at Umuwa. These positions are in addition to the complement presently allocated to Marla (T744). Assistant Commissioner Brown said:

'We are still in the process of identifying how best we can achieve the recommendation, but we've had negotiations with the AP Council locating premises at Umuwa. To attempt to locate two sworn officers on a permanent basis at Umuwa would – may be difficult, as a result of experience we've had in other areas ... and our thought at this time would be to rotate police from Marla into that location, so there is a presence on the land, but on a rotation basis.' (T744)

11.27 Assistant Commissioner Brown said that the recommendation that officers should also be stationed at Murpatja, in addition to those at Umuwa, will not be implemented at this stage (T744). He said that it had been decided to commence with two officers at Umuwa, and I presume that this decision will be reviewed in due course to assess whether there is a need for increased presence beyond that.

11.28 In relation to the suggestion that there might be sworn police officers in each of the six communities, Assistant Commissioner Brown said:

'My initial response would be that there would be concern because it would be contrary to the principle that we've adopted with the Community Constable Scheme – or originally the Police Aide Scheme – where the original objectives of that scheme was of course to have Community Constables, traditional people, working within their community and having the ability to, through their own culture, provide a police service that was in fact suitable and appropriate to some of their cultural needs and some of their traditional ways. Now if we were to bring mainstream police back in to the Lands, we feel that that would be reversing that process and putting it back some years from where we've developed it to this point.' (T746)

11.29 He added:

'We're going to educate the community as to the role – some of the roles of the Community Constables and include that process – whereby they can in fact issue and take action against petrol sniffers. So we think it is a more positive role, as part of an educational process and a training program obviously included for the Community Constables.' (T747).

11.30 Assistant Commissioner Brown conceded that the review identified that there had been a lack of ongoing training, support and supervision of Community Constables, and that there are current difficulties for Marla patrols in providing a timely response to critical incidents where Community Constables require support (T752). However, he would not accept that the Community Constable Scheme is not working on the Anangu Pitjantjatjara Lands (T754).

11.31 Despite being pressed by Mr Goetz, Counsel for the NPY Women's Council, Assistant Commissioner Brown was unable to state when the two police officers will be stationed in Umuwa (T756). He explained that SAPOL now has permission from the traditional owners to establish a building, and that they are now 'looking at options and what sort of accommodation we should build here' (T756). Then, he said:

'First of all we have to establish funding to build premises, so I will have to make submissions to acquire that funding.'

11.32 This issue seems to be proceeding at a very slow pace. The recommendation to place police officers on the Anangu Pitjantjatjara Lands was made in 1998, and yet there still has not been a concrete proposal brought forward for funding. This seems consistent with the generally tardy government response to issues arising in the Anangu Pitjantjatjara Lands, as I have discussed earlier in these findings.

11.33 Assistant Commissioner Brown referred to the difficulties in attracting officers to serve on the Anangu Pitjantjatjara Lands. He said that once the Training and Development Officer left Amata, they were unable to replace him for eighteen months and it was not until the position was transferred to Marla, and upgraded to Sergeant, that the position could be filled (T748).

11.34 Senior Sergeant Wilson told me that, at full strength, Marla Police Station should have eight operational police officers plus a clerical officer and a Sergeant in charge of development for the Community Constables, but at the moment he has two unfilled positions. He said that they have been trying to recruit people to these positions and they have been unsuccessful so far. He said that for the three years he had been at Marla, he had never been at full strength. He said that the problems include the remoteness of the location, the lack of facilities, the lack of a school, the lack of nightlife and the lack of employment for spouses (T410).

11.35 The tenure of appointment to Marla had also been reduced from two years to twelve months in order to make the position more attractive (T745).

11.36 Assistant Commissioner Brown said that one of the main ways of achieving an increased police presence on the Anangu Pitjantjatjara Lands is by ensuring that the Marla police station has a full complement of officers. It is proposed to use a 'relief pool' of twenty people to supplement the permanent staff at Marla (T749).

11.37 Assistant Commissioner Brown explained that there was no proposal to offer additional financial incentives to encourage police officers to work in the Anangu Pitjantjatjara Lands. He said:

'You can't do it without going through the Enterprise Bargaining Agreement and so it hasn't been tabled in the Enterprise Bargaining Agreement and so I can't give any further explanation than that, that is something that is agreed to between the association and the department.' (T758).

I do not accept that as a reason why the financial aspects of employment in remote areas has not been addressed by SAPOL.

11.38 In any event, Assistant Commissioner Brown argued that it was not clear that financial incentives would achieve anything, and that there needs to be more offered than simply financial incentives – it needs to be demonstrated that the experience of working in the country will be valuable to an officer's career (T758).

11.39 I accept Mr Mills' submission that SAPOL has already taken steps to try and address these issues by rigorous marketing, recruiting and reducing the present tenure of two years to 12 months. This has not borne fruit to date, and more will need to be done now that the decision has been made to increase the establishment further.

11.40 Police approach to petrol sniffing

Senior Sergeant Wilson said that, in his personal view, there is very little that police can do to have an impact on the problem (T436), although he was unable to dispute that the SAPOL presence on the Anangu Pitjantjatjara Lands in January and February 2002 during Operation Pitulu Wantima had a marked effect on the incidence of petrol sniffing (T437). I will discuss Operation Pitulu Wantima later.

11.41 Senior Sergeant Wilson said that one difficulty in controlling trafficking in petrol is that the by-law makes it an offence to be in possession of petrol 'for the purpose of inhalation'. If police intercept a vehicle coming back from outside the Anangu Pitjantjatjara Lands with jerry cans of petrol in the boot, it is difficult to prove that the petrol is for the purpose of inhalation rather than simply for the purpose of fuelling

the vehicle (T440). He said that police have no trouble in charging that offence where a sniffer is simply carrying around a can which is open to the air (T440).

11.42 Senior Sergeant Wilson told me that, in his experience, a lot of people in the Anangu Pitjantjatjara Lands expect police to arrest petrol sniffers and take them away, and they expect the courts to imprison them (T419). However, in accordance with the recommendations of the Royal Commission into Aboriginal Deaths in Custody, arrest is used only as a last resort, and arrest for trivial or minor matters is not used at all if it can be avoided (T415). He said the results would be catastrophic if a Community Constable arrested a person on the Anangu Pitjantjatjara Lands and that person subsequently died. He said there would be death threats to the constable and his family, there would be physical violence, and he would expect that the constable and his family would have to pack up and leave (T415).

11.43 Senior Sergeant Wilson pointed out that the cells that they presently have are not very safe, and so generally if someone is arrested now they are 'held in the back of the cage car until we work out what we're going to do'. He added:

'... we've had occasions where the station's become under siege and where other petrol sniffers or relatives have come to try and release the prisoner. So I – you know, my personal view is I don't want people imprisoned on the Lands in our facilities.' (T433)

11.44 Assistant Commissioner Brown also explained the reluctance of the police to apprehend petrol sniffers on the basis that they are conscious of the risk associated with doing so. They are also conscious of the fact that, having regard to the recommendations of the Royal Commission into Aboriginal Deaths in Custody, arrest should be the last resort (T750).

11.45 Operation Pitulu Wantima

Pitulu Wantima means 'Petrol, Leave It Alone'. The operation ran from the middle of January to 27 February 2002. It arose out of one of the early meetings of Tier 1. The strategy was that petrol sniffers were to be identified, and where safe to do so, the contents of their petrol cans should be emptied and the cans crushed. Secondly, the exercise involved data collection on the frequency of the problem. Senior Sergeant Wilson said that the operation involved the presence of four mainstream police officers on the Anangu Pitjantjatjara Lands every day, together with all available Community Constables. Senior Sergeant Wilson said the time commitment involved 200 person/days, or 1,600 hours, and 305 hours of overtime worked in six weeks. He

said that there were 302 instances of petrol sniffing detected, and 95 individual sniffers identified. He said that on one occasion, a woman was apprehended four times in one hour and on each occasion the petrol was removed and the can crushed and yet she continued to sniff petrol (T416-419).

11.46 Since the Inquest concluded, I have obtained a copy of the report prepared by the SAPOL Drug and Alcohol Policy Section which details the outcomes of Operation Pitulu Wantima. The report states that during the operation 302 sniffing offences were detected, committed by 95 individuals (20 female, 75 male). On several occasions, more than 20 sniffers were sighted but minimal numbers identified as the others ran away before police could speak to them (p1).

11.47 The report states:

'Distances, logistic and staffing constraints precluded concurrent saturation policing in all communities for the duration of the operation. Therefore, this document cannot provide a comprehensive and definitive overview of the petrol sniffing problem in all AP Lands communities. However, it provides significant information on selected communities and snapshots of others. It is considered that this information is sufficient to inform decisions to review service provision in the area.' (Executive Summary, p1)

11.48 The report also states:

'The following broad principles for government policies and programs has been recommended:

- Invest in core infrastructure. Spending on developmental health should be seen as a social investment, not just a benefit to individuals;
- Improve networks between provider agencies;
- Monitor interventions and their outcomes to assist needs assessments and fine tuning interventions;
- Targeted interventions are needed to address disadvantage among disadvantaged populations, not just drug use problems that are both symptomatic and contributory factors of underlying disadvantage.

What is required is a whole of government response to the problem which restructures education, employment, welfare, housing, health and to a degree, law enforcement.

SAPOL have identified a number of key areas for consideration including increasing the police presence on the AP Lands, facilitating diversion to assessment and treatment and all agencies identifying and implementing best practice in managing issues around petrol sniffing in remote communities.

The value of recreation/occupation has also been highlighted, and the community should continue to explore opportunities to divert Anangu away from petrol sniffing by offering alternative activities.' (Executive Summary, p2)

- 11.49 One interesting outcome of the operation was that police noted a behavioural change among sniffers who became ‘progressively more passive and cooperative’ (Chapter 1, p2). In many cases sniffers voluntarily poured out their petrol, discarded their cans and were relatively cooperative in providing personal details. The authors cautiously suggest that there is potential for a program to divert petrol sniffers to assessment and treatment as an alternative to prosecution, if sensitively introduced, could be successful (Chapter 2, p4).
- 11.50 As for policing generally, the report noted that during Operation Pitulu Wantima their presence in the community was well received. The report states:

‘Communities appreciated the increased police presence and communicated that their needs were better addressed. This manifested in an increase in inquiries made to police and resulted in some officers completing very lengthy shifts. In Ernabella in particular, police were inundated with requests for assistance both early in the morning and late at night. This had some impact on the capacity of police to collect data on petrol sniffing, but nevertheless indicated community confidence in approaching police.’ (Chapter 3, p1).

This information suggests that there is considerable under-reporting of crime on the Anangu Pitjantjatjara Lands when police are not so available. The additional police officers deployed resulted in improved reporting of crimes which were resolved usually straight away. Response times improved and Community Constables performed at a higher level with the support they received from the additional patrols. Break-ins continued to occur, but the incidence of these crimes lessened, as did the incidence of violent crimes normally attributed to petrol induced rages.

- 11.51 During the operation, police executed 34 arrest warrants, investigated 42 reported crimes, arrested 21 people for crimes ranging from murder to arson, and reported 13 people for various crimes such as assault, possess liquor and disorderly behaviour (Chapter 3, p3).
- 11.52 The operation found that the demographics described by Dr Torzillo, namely that there was a significant cohort of older sniffers which had developed over the years, was correct. Indeed, of the entire sample (95) the highest prevalence (60%) occurred in the 19 to 29 age group, comprising 47 males (19 of whom were initiated men), and 10 females (Chapter 2, p2). Of the 95 sniffers detected, 9 were under the age of 14. Only four of these children attended school ‘sometimes’. Of the children from 14 to 18 years, only one out of a total of 17 attended school. Of the sniffers over the age of 18 (69), there was a 100% unemployment rate (Chapter 2, p3).

11.53 Anecdotally, one difficulty in policing an area such as the Anangu Pitjantjatjara Lands is described in the report:

'Although no petrol sniffing apprehensions were made at Pipalyatjara, police had occasion to apprehend a person for possessing liquor. Extreme violence erupted resulting in police being stoned as a result of the confiscation and pursued by two car loads of people for many kilometres.' (Chapter 2, p4)

11.54 The report made the following recommendations:

- 'Amendments to the Anangu Pitjantjatjara Land Rights Act 1981 and associated By-laws be drafted to enhance police powers which allow for the search and confiscation of petrol and facilitate diversion to health intervention as appropriate for petrol inhalation.
- Anangu Pitjantjatjara develop and implement a by-law which will provide greater control over whether a community may sell unleaded petrol, the amount of fuel stored in any community, its manner of storage and disbursement.
- Diversionary programs which provide opportunities for skill development or recreation be developed and implemented. Particular attention should be given to those programs which target women and youth.
- Expansion of the drug diversion initiative to the region be deferred pending the outcome of DHS enquiries.
- Revise CDEP training and employment opportunities to facilitate the provision of better community amenity, heighten the value of community service orders and promote improved community function and structure.
- Alternative judicial options be developed for petrol related offences that deal with the underlying health issues in a constructive and humane manner.'

(Recommendations, p1)

11.55 General observations

The issue of the adequacy of policing goes beyond mere rhetoric about empowering local communities. There are real human rights issues involved which are not at present being addressed by SAPOL. The argument was best summed up by Ms Anne Mosey:

'It seems to me that in the Lands there is actually a human rights issue here. Everywhere else in Australia communities are able to feel a certain level of security in the knowledge that they have access to reasonably rapid police services, and the fact that at a minimum it takes two hours for the police from Marla to get to most communities, that is not including the ones that are a lot further away, to me this is really an issue of basic human rights and not being able to be accessed by the community members in the Lands, and I believe they have a right to a range of government services in terms of say health, education and so on and somewhere along the line there seems to have been a decision made that they don't have the right to the protection of the community itself from people

who may be at risk of either harming themselves or harming other people in the community ...' (T680-1)

'It seems to me that to rely on Aboriginal police officers in communities is a great failure of the South Australian government to provide those sort of services to people on the Lands and I think that at the very least there needs to be a well equipped police station with say protective custody facilities in it which would be possibly placed either at Umuwa or one of the other major communities and it may be that there needs to be two or three police stations set up and they need to be provided with adequate staffing levels so that the police themselves feel that they are able to carry out their duties and that they feel safe and that their families feel safe in the environment that they are in.' (T681)

11.56 The calls for permanent police presence on the Anangu Pitjantjatjara Lands were supported by Mr Charles, Counsel for the families of the deceased. He said:

'Whilst the calls for stronger police presence on the land are justified and reasonable, the question must be asked, what effective sanctions can police impose?' (p12)

11.57 It seems to me that Operation Pitulu Wantima demonstrates clearly that the mere fact of a police presence on the Lands, sanctions aside, would have a positive effect. One can only speculate about how much more effective police would be if they lived in or near the communities, had a personal relationship with the young people and their families, and were helping and supporting community development projects as well.

11.58 I do accept, however, that like the other intervention strategies I have already discussed, an increased police presence of itself will not be the panacea. It is one part of the multi-faceted approach which is called for, but I think that it is a very important part.

11.59 Summary and conclusions

Anangu who gave evidence at the inquest were not consistent in their views about the role they felt police should take, although I detected a general feeling that they wanted more protection and security from SAPOL, particularly during the acute phase of incidents involving petrol sniffers.

11.60 The evidence of non-Anangu witnesses was unanimous that a much greater, permanent SAPOL presence on the Anangu Pitjantjatjara Lands is called for. This was accepted in principle by SAPOL following a review in 1998, although the recommendations of the review have still not been implemented.

11.61 The Community Constable Scheme is a worthwhile initiative, and could be improved with further training of Community Constables. However the scheme has significant

limitations because of cultural constraints, and the fact that the Community Constables are members of very small communities. Their strengths lie in diffusing acute situations, and acting as liaison and intelligence officers.

- 11.62 Ongoing training, support and supervision of Community Constables by sworn police officers is needed, and this will require a permanent SAPOL presence on the Anangu Pitjantjatjara Lands. The decision to station two police officers at Umuwa on a rotation basis is supported, but a review to assess the adequacy of this measure is necessary in due course.
- 11.63 The presence of SAPOL officers in the Anangu Pitjantjatjara Lands could fulfil a valuable community development role in addition to policing issues.
- 11.64 The establishment of SAPOL officers at Marla is significantly under-strength, and more needs to be done to attract officers to the area.
- 11.65 Police are considerably inhibited from dealing in a more effective way with offending in the Anangu Pitjantjatjara Lands at present by the lack of appropriate detention facilities, lack of personnel, the distances involved, and the lack of sentencing options available to the courts.
- 11.66 Operation Pitulu Wantima conducted in January and February 2000 demonstrated that police can be effective in interdiction and suppression of petrol sniffing, and of crime generally, if they have a more sustained presence on the Anangu Pitjantjatjara Lands.

12. Royal Commission into Aboriginal Deaths in Custody (RCIADIC)

12.1 A comparison of the issues which have arisen at this inquest with the findings of the RCIADIC published in 1991 reveals that the recommendations of that inquiry have still not been fully implemented. An exhaustive analysis of those recommendations (339 in all) is beyond my capacity in the context of this inquest, but an examination of some specific recommendations is instructive:

- Recommendation 88: That Police Services in their ongoing review of the allocation of resources should closely examine, in collaboration with Aboriginal organizations, whether there is a sufficient emphasis on community policing. In the course of the review, they should, in negotiation with appropriate Aboriginal organizations and people, consider whether:
 - a) There is over-policing or inappropriate policing of Aboriginal people in any city or regional centre or country town;
 - b) The policing provided to more remote communities is adequate and appropriate to meet the needs of those communities and, in particular, to meet the needs of women in those communities; and
 - c) There is sufficient emphasis on crime prevention and liaison work and training directed to such work. (Page 51).
- Recommendation 113: That where non-custodial sentencing orders provide for a community work or development program as a condition of the order the authorities responsible for the program should ensure that the local Aboriginal community participates, if its members so choose, in the planning and implementation of the program. Further, that Aboriginal community organizations be encouraged to become participating agencies in such programs (Page 55).
- Recommendation 195: That, subject to appropriate provision to ensure accountability to government for funds received, payments by government to Aboriginal organizations and communities be made on the basis of triennial rather than annual or quarterly funding (Page 74).
- Recommendation 238: That once programs and strategies for youth have been devised and agreed, after negotiation between government and appropriate Aboriginal organizations and communities, governments should provide

resources for the employment and training of appropriate persons to ensure that the programs and strategies are successfully implemented at a local level. In making appointment of trainers preferences should be given to Aboriginal people with a proven record of being able to relate to, and influence, young people even though such candidates may not have academic qualifications (Page 84).

- Recommendation 265: That as an immediate step towards overcoming the poorly developed level of mental health services for Aboriginal people priority should be given to complementing the training of psychiatrists and other non-Aboriginal mental health professionals with the development of a cadre of Aboriginal health workers with appropriate mental health training, as well as their general health worker training. The integration of the two groups, both in their training and in mental health service delivery, should receive close attention. In addition, resources should be allocated for the training and employment of Aboriginal mental health workers by Aboriginal health services (Page 91).
- Recommendation 286: That the Commonwealth Government, in conjunction with the States and Territories Governments and non-government agencies, act to co-ordinate more effectively the policies, resources and programs in the area of petrol sniffing (Page 94).

12.2 It can be seen that simply by analysing the facts and circumstances of these three deaths, and the circumstances which still exist on the Anangu Pitjantjatjara Lands at the moment, those recommendations of the RCIADIC have not been complied with, either by Commonwealth or State Governments.

12.3 This is a great tragedy which I have no doubt will, if it is not addressed, lead to severe disability and further deaths, not to mention continuing social dislocation, crime, loss of culture and general community degradation and loss.

13. Recommendations

13.1 I am empowered by section 25(2) of the Coroners Act, 1975, to make recommendations following an inquest if, in my opinion, to do so may 'prevent, or reduce the likelihood of, a recurrence of an event similar to the event that was the subject of the inquest'.

13.2 Having considered the evidence in this matter and the detailed and very helpful submission of counsel, I consider that it is appropriate to make the following recommendations:

1. That Commonwealth, State and Territory Governments recognise that petrol sniffing poses an urgent threat to the very substance of the Anangu communities on the Anangu Pitjantjatjara Lands. It threatens not only death and serious and permanent disability, but also the peace, order and security of communities, cultural and family structures, education, health and community development.
2. Socio-economic factors such as poverty, hunger, illness, lack of education, unemployment, boredom, and general feelings of hopelessness must be addressed, as they provide the environment in which substance abuse will be resorted to, and any rehabilitation measures will be ineffective if the person returns to live in such conditions after treatment.
3. The fact that the wider Australian community has a responsibility to assist Anangu to address the problem of petrol sniffing, which has no precedent in traditional culture, is clear. Governments should not approach the task on the basis that the solutions must come from Anangu communities alone.
4. The Commonwealth Government, through the Central Australian Cross Border Reference Group, and the South Australian Government through the Anangu Pitjantjatjara Lands Inter-Governmental Inter-Agency Collaboration Committee, should accelerate their efforts to find solutions to these issues and get beyond the 'information gathering' phase forthwith. They should use the extensive knowledge, published material and professional expertise that is already available.

5. It is particularly important that Inter-Governmental coordination of approach be a high priority in order to avoid the fragmentation of effort and confusion and alienation of service-providers which are features of current service delivery to Anangu communities.
6. Commonwealth and State Governments should establish a presence in the region, if not on the Anangu Pitjantjatjara Lands then at least in Alice Springs, of senior, trusted officials, in order to develop local knowledge, personal relationships with service providers and receivers, and some expertise and experience in cross-cultural issues, rather than relying on infrequent meetings with ever-changing officials in order to communicate with Anangu. Such officials should be invested with sufficient authority to manage and assess programmes on an ongoing basis, so that service providers can have a line of communication with the funding body, and some certainty as to future arrangements.
7. Many of the strategies for combating petrol sniffing which have been tried in the past should not be discarded simply because they failed to achieve permanent improvements. Some of them might be regarded as having been successful for as long as they were extant. For any strategy to be successful will require broad Anangu support. Most strategies will fail unless they are supported by others as part of a multi-faceted approach. Strategies should be aimed at primary, secondary and tertiary levels, as I have outlined in these findings.
8. In particular:
 - 8.1 The proposal before the Tier 1 Committee of APLIICC to appoint four youth workers and a coordinator for the Anangu Pitjantjatjara Lands should be implemented forthwith. Practical issues such as employment conditions, housing conditions and the like must be dealt with. The situation should be monitored to ensure that this number is sufficient to meet the needs of all communities;
 - 8.2 A programme of further research and evaluation of people who have been sniffing petrol, on a neurological and neuropsychological basis, should be instituted so that assessments can be made about the suitability of candidates for rehabilitation, and the level of need for disability services on the Anangu Pitjantjatjara Lands can be evaluated;

- 8.3 The establishment of a culturally appropriate Homelands/Outstation programme should be undertaken to provide a venue for community respite, recreation, skills training, education and the like in the context of abstinence from petrol sniffing. Such establishments should not be considered as rehabilitation facilities for chronic petrol sniffers;
- 8.4 The Commonwealth Government should continue to resource the Avgas initiative through the Comgas scheme, as it represents a successful interdiction strategy without which petrol would be much more widely available;
- 8.5 The range of sentencing options available to courts sitting in the Anangu Pitjantjatjara Lands must be increased. The SA Department for Correctional Services must provide supervisors so that bonds, undertakings and community service obligations can be enforced. The establishment of Outstations/Homelands, and a secure care facility would also provide options to courts;
- 8.6 The Public Intoxication Act should be amended so that it applies on the Anangu Pitjantjatjara Lands. There should be a declaration that petrol or hydrocarbons, or the vapours thereof, are a drug for the purposes of the Act. A secure care facility would provide a 'sobering up' facility to which detainees could be taken pursuant to the Act;
- 8.7 Although night patrols have not received support on the Anangu Pitjantjatjara Lands to date, the possibility of encouraging and supporting Anangu to establish them as part of an overall crime prevention strategy in consultation with SAPOL should be explored;
- 8.8 APLIICC should consider the future role of FAYS in relation to children at risk on the Anangu Pitjantjatjara Lands, and in particular whether their role needs to be expanded into a much more proactive community development role;
- 8.9 The level of services for disabled victims of petrol sniffing should be urgently upgraded. The recommendations of Mr Tregenza's review should receive urgent consideration (it has been in the hands of the SA Government for six months or more) and implemented where practicable;

- 8.10 Planning for the establishment of secure care facilities on the Anangu Pitjantjatjara Lands should commence immediately. These facilities must be reasonably accessible from all communities on the Anangu Pitjantjatjara Lands, and have a multi-functional role to provide facilities for detention, detoxification, treatment and rehabilitation as outlined in these findings;
- 8.11 A much more energetic, concerted and creative approach to recruitment of suitably qualified experienced and appropriate staff will need to be undertaken in order to attract people to employment in the implementation of these strategies;
- 8.12 The implementation of the recommendations of the SAPOL review into the Community Constable Scheme, in particular concerning establishment of a permanent, sworn SAPOL presence on the Anangu Pitjantjatjara Lands, should be undertaken forthwith. The proposal to station two officers at Umuwa is a start, but the abandonment of the proposal to establish another base in the Western area, at Murpatja, should be reconsidered in order to provide an appropriate degree of training, support, and supervision of Community Constables;
- 8.13 Further measures need to be taken by SAPOL to ensure that the staff establishment at Marla is at full strength. Although efforts made to address this issue to date are recognised, the station remains under-strength, and is unable to provide an effective policing service on the Anangu Pitjantjatjara Lands, at present, resulting in under-reporting of crime and a general disenchantment with the level of police service among Anangu;
- 8.14 The interventions described above must be implemented as part of an overall multi-faceted strategy, and not piecemeal, as they are interdependent and stand a high chance of failure if they are introduced separately;

8. 15 The recommendations of the Royal Commission into Aboriginal Deaths in Custody should be re-examined by both Commonwealth and State Governments as a check to assess the degree to which those recommendations have still not been implemented.

Key Words: Petrol Sniffing; Aboriginal Deaths; RCIADIC.

In witness whereof the said Coroner has hereunto set and subscribed his hand and Seal the 6th day of September, 2002.

Coroner

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