



INQUEST INTO THE DEATHS OF
KUNMANARA WARD, KUNMANARA KEN,
KUNMANARA RYAN AND KUNMANARA COOPER

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Inquest conducted by Mr Wayne Chivell, State Coroner, South Australia

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 23rd, 24th, 25th, 26th, 27th, 29th and 30th days of November 2004 and the 14th day of March 2005, before Wayne Cromwell Chivell, a Coroner for the said State, concerning the deaths of Kunmanara Ward, Kunmanara Ken, Kunmanara Ryan and Kunmanara Cooper.

I, the said Coroner, find that:

- Kunmanara Ward aged 19 years, late of Fregon Community died at Indulkana Community, South Australia on the 22nd day of May 2003 as a result of neck compression due to hanging.*
- Kunmanara Ken aged 35 years, late of Amata Community died near Amata, South Australia on or about the 19th day of December 2003 as a result of exposure in the context of organic brain damage and epilepsy.*
- Kunmanara Ryan aged 25 years, late of Mimili Community died near Mimili, South Australia on the 2nd day of March 2004 as a result of neck compression due to hanging.*
- Kunmanara Cooper aged 27 years, late of Mimili Community died at Mimili Community, South Australia on the 24th day of March 2004 as a result of neck compression due to hanging.*

**INQUEST INTO THE DEATHS OF
KUNMANARA WARD, KUNMANARA KEN,
KUNMANARA RYAN AND KUNMANARA COOPER**

FINDING OF THE STATE CORONER

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EXECUTIVE SUMMARY

1. This inquest concerns the deaths of four people, Kunmanara Ward who died on 22 May 2003, Kunmanara Ken who died on or about 19 December 2003, Kunmanara Ryan who died on 2 March 2004 and Kunmanara Cooper who died on 24 March 2004.
2. Kunmanara Ward, aged 19 years, died on 22 May 2003, by hanging himself from the 'monkey bars' at the playground at Indulkana. He had been sniffing petrol, and had been angry and upset that day.
3. There is no evidence that any other person played a part in Kunmanara Ward's death.
4. Kunmanara Ken, aged 35 years, died on or about 19 December 2003 as a result of exposure. He had walked away from his sister at Amata earlier that day, and was not seen again. The maximum temperature on 19 December 2003 was 42°C.
5. Kunmanara Ken had severe organic brain damage as a result of sniffing petrol since he was a boy. He had been exhibiting signs of neurological damage since his early 20's and by the time he died it was estimated that he had a mental age of about 3 years. He had no life or survival skills, he was unable to look after himself, and he would forget to eat and drink. He was so intellectually disabled that people would put red cordial in a tin and he would go around the community sniffing it thinking it was petrol.
6. South Australia Police ('SAPOL') were advised of Kunmanara Ken's disappearance during the evening of 19 December 2003. Initial searches were conducted, but it was not until Sunday 21 December 2003 that the matter was reported to senior personnel, and a full air and ground search was arranged. This commenced on 22 December 2003. The Community Constable and community members had continued to search unassisted in the meantime.
7. It was not until 23 December 2003 that Kunmanara Ken's body was found by relatives in an area known as Telstra Hill, near Amata, within sight of the lights of the town. This lack of police response for more than two days is a matter of grave concern.

8. Senior officers of SAPOL have acknowledged that the response was inadequate, and steps have been taken to ensure that this will not be repeated. It is to be hoped that these steps have been effective.
9. There is no evidence that any other person played a part in Kunmanara Ken's death.
10. Kunmanara Ryan, aged 25 years, died on 2 March 2004 by hanging himself from a tree near Mimili. He had a history of mental illness in the form of depression, and had recently been assessed by a consultant psychiatrist. He had received a good standard of psychiatric care. There is no evidence that Kunmanara Ryan had been sniffing petrol at any relevant time immediately before he died. His psychiatrist, Dr Cord-Udy, had expressed concern regarding his ongoing drug abuse.
11. There is no evidence that any other person played a part in Kunmanara Ryan's death.
12. Kunmanara Cooper, aged 27 years, died on 24 March 2004 by hanging himself from a tree near Mimili. He had been sniffing petrol prior to his death.
13. Kunmanara Cooper had recently been imprisoned at Port Augusta, then transferred to James Nash House, a secure psychiatric facility. Upon release, he travelled to Whyalla where his mother lived. He was arrested again, but was not imprisoned further. He was released on a bond, a condition of which was that he live in Pipalyatjara. He was assisted by the Department for Correctional Services to travel. He was probably on his way to Pipalyatjara, and stopped off in Mimili on the way, perhaps waiting for a lift.
14. Kunmanara Cooper's family were preparing to travel to Indulkana to pick him up when they heard of his death.
15. The standard of psychiatric care provided to Kunmanara Cooper in James Nash House was very good, although limited by a lack of qualified Anangu interpreters, and difficulty liaising with Anangu community members. These are intractable difficulties, and I accept that the Department of Health are doing their best to find solutions.
16. Many of the issues associated with Kunmanara Cooper's case could not have arisen if there had been a correctional facility available on or near the Anangu Pitjantjatjara Lands. It is impossible to know whether his death could have been prevented if such

a facility had existed in March 2004, but it is reasonable to suggest that it may have been.

17. There is no evidence that any other person played a part in Kunmanara Cooper's death.
18. There has been a marked increase in suicidal and self-harming behaviour on the Anangu Pitjantjatjara Lands since March 2004.
19. Petrol sniffing is one of several factors contributing to this phenomenon. Other factors include substance abuse (petrol, alcohol, cannabis and other drugs), interpersonal violence (including domestic and sexual violence), family conflict, mental illness, motor vehicle accidents and many others.
20. I referred to a variety of socio-economic factors including poverty, hunger, illness, low education levels, unemployment, boredom, and feelings of hopelessness in findings I wrote following inquests conducted in 2002 into the deaths of three people on the Anangu Pitjantjatjara Lands resulting from petrol sniffing. I commented:

'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.'

Those conditions still exist.
21. I heard extensive evidence in the 2002 inquests about the Government responses to petrol sniffing as an issue. I heard about the Anangu Pitjantjatjara Lands Inter-Governmental Inter-Agency Collaboration Committee ('APLIICC'), Tiers 2 and 3, framework agreements, the Central Australian Cross Border Reference Group on Volatile Substance Use, the Petrol Sniffing Task Force and the COAG trial.
22. On 30 September 2002, the South Australian Cabinet transferred responsibility for APLIICC to the Department for Aboriginal Affairs and Reconciliation ('DAARE'). In retrospect, this was a mistake. DAARE did not have sufficient resources, power and authority to drive major change in key government agencies. Political instability in the Anangu Pitjantjatjara Executive, the body with which the Government had decided to deal in relation to service delivery, also hindered effective action.
23. In February 2004, it became apparent that the 2003/2004 budget allocation of \$12m, to be spent over four years, remained largely unspent.

24. Coincidentally, on 16 February 2004, notice was issued of an inquest into the deaths of Kunmanara Ward and Kunmanara Ken.
25. There were four deaths by hanging on the Anangu Pitjantjatjara Lands in March 2004, including those of Kunmanara Ryan and Kunmanara Cooper.
26. Although some action had been taken prior to this time, particularly by SAPOL, these events appear to have galvanised the South Australian Government into more urgent action. Action by SAPOL, Mental Health Services, and in the area of domestic violence was taken forthwith. Responsibility was transferred to the Department of the Premier and Cabinet, a more powerful and influential department, which reports through its Chief Executive Officer to the Premier. I have no doubt that this has resulted in much more concerted action. The Aboriginal Lands Task Force ('ALTF') was established which took over the role of APLIICC. A Coordinator of Government Services was appointed (although he and his successor have both since resigned). The budget allocation was increased by a further \$12.96m, over four years. A Strategic Plan was developed, and 27 substantial projects were initiated.
27. I have been told about the formation of Tjunjunjku Kuranyukutu Palyantjaku, a widely representative peak body, to deal with ALTF on the planning and overseeing of services, and responding to issues raised by the ALTF.
28. It is very unfortunate that the optimism expressed by South Australian Government representatives during the 2002 inquests did not translate into the 'prompt, forthright, properly planned, properly funded action' which was called for, until March 2004. I received similarly optimistic evidence this time, and it is to be hoped that better results will be achieved. The early signs are good. The impetus achieved thus far must be maintained in the medium and long-term. If these efforts 'run out of steam' again, further deaths and misery can be expected.
29. It is a great pity that, even after the 2002 inquests during which the failure of similar programs was considered, youth worker programs were set up on such an adhoc and unplanned basis, without regard to previous experience, and with insufficient training and supervision of the workers. It is to be hoped that the review of these programs will result in a more coordinated and professional youth worker program being established. It is also to be hoped that the review will enable the Department of Families and Communities to avoid the mistakes of the past being repeated again.

30. Neuropsychological testing of chronic petrol sniffers has been conducted to a limited extent on the Anangu Pitjantjatjara Lands so far, and has shown very disturbing results. Further testing should be carried out so that all people with suspected brain damage can be identified and appropriate programs can be devised for them.
31. The allocation of funding for the establishment of outstations/homelands for the rehabilitation of petrol sniffers is to be applauded. However, the long-term success of such projects will require commitment from Anangu, but also commitment, encouragement and support from other workers, just as Mr Stojanovski's role was instrumental in the success of the Mount Theo program in the Northern Territory.
32. While the development of 'Opal Unleaded' fuel is a welcome development, it should not be seen as a panacea for petrol sniffing. Action will be required to prevent the development of a black market in 'sniffable' petrol, and to develop adequate security measures to prevent theft of the new Avgas, which will be rendered 'sniffable' once it becomes unleaded.
33. The Department for Correctional Services has developed a new 'service model' for services to the Anangu Pitjantjatjara Lands which involves a significant increase in staffing levels. If successful, this will increase the range of sentencing options available to Courts sitting in the Anangu Pitjantjatjara Lands. A review of the performance of the new model will be undertaken in early 2005. Changes must be made if the new model does not meet expectations.
34. In light of the South Australian Government's decision that a joint secure care/correctional facility will not be developed, it is not possible for me to form definite conclusions or recommendations about where a correctional facility should be established. Obviously, much will depend upon the availability of funding, political will and interstate cooperation. If, in the final analysis, it is decided to adopt the Cross Border Justice Project approach, then something is to be gained by Anangu offenders being imprisoned in Alice Springs rather than in Port Augusta or in Adelaide. Ideally, in my opinion, such offenders should be dealt with on the Anangu Pitjantjatjara Lands where they can be dealt with in a culturally appropriate way, retain ties with their communities, and are not given the opportunity to be led astray in Alice Springs. However, if that is not feasible, then so be it.

35. I note that funding has been allocated for the construction of a secure care facility on the Anangu Pitjantjatjara Lands to provide the opportunity for sobering up, detoxification and rehabilitation of substance abusers. This is not to be a correctional facility. The facility is still in the design stage, and there are still many outstanding issues. The location of the facility, its staffing, resourcing, whether it will cater for children and/or adults, men and/or women, detainees and/or voluntary patients, all remain to be resolved. I can only encourage the ALTF to persist in its efforts to achieve a useful outcome.
36. The establishment of night patrols is still in the very early stages, and should be assisted by the increased police presence on the Anangu Pitjantjatjara Lands.
37. It would seem that the role of the CYFS ('Child Youth and Family Services') in child protection on the Anangu Pitjantjatjara Lands is being carefully monitored, and should be greatly enhanced by the appointment of the Coordinator of Government Services once the position is established, and accommodation and other issues are dealt with. CYFS has the potential to play a very valuable role in the prevention of self-harming behaviour on the Anangu Pitjantjatjara Lands, both in addressing the underlying socio-economic circumstances in which such behaviour occurs, and in the provision of preventative and diversionary strategies when it occurs.
38. I would urge the Department of Health and the Department of Families and Communities to ensure that the Coordinator of Government Services should reside on the Anangu Pitjantjatjara Lands, for all the reasons discussed in the 2002 findings.
39. To date, the development of crime prevention strategies has been limited by the lack of police resources available. Once the further resources which have been allocated are in place on the Anangu Pitjantjatjara Lands, the development of these strategies will be much easier. The success of the Blue Light Discos already conducted is very encouraging and is to be commended.
40. The provision of disability services on the Anangu Pitjantjatjara Lands remains problematic. I accept the assurances made that the Disability Services Office are keen to improve the level of service provided. Initial attempts to provide services with Anangu employees through community councils were ill-considered and failed. Further lengthy consultation and negotiation processes have taken place since then,

and Anglicare Central Australia is about to start a major program of service delivery in 2005. Problems of service overlap between providers are still to be sorted out.

41. This represents another example of Government agencies embarking on poorly-planned enterprises without learning from the failures of the past. In particular, it cannot be expected that Anangu can deliver relatively sophisticated services to severely disabled people without proper training, supervision and support, at least until they acquire the necessary skills and experience to maintain the level of service required.
42. This is another area where I was given optimistic evidence about what was about to happen, despite little having been achieved since the 2002 findings. One can only hope that this optimism is justified, in view of the fact that there are other Anangu with a similar level of disability to that of Kunmanara Ken, and who remain just as much at risk.
43. The steps taken to improve incentives to assist in recruiting both public sector employees and police officers to remote areas including the Anangu Pitjantjatjara Lands represents a considerable improvement. Further, the approach taken by SAPOL in relation to the difficulties in securing appropriate accommodation is also to be commended. It seems that an aggressive approach towards obtaining appropriate housing facilities for workers on the Anangu Pitjantjatjara Lands will be the one likely to produce success, as will an approach which fosters the belief that service in remote areas will be valuable to an officer's career.
44. The SAPOL response to the 2002 findings has been prompt and comprehensive, perhaps more so than any other agency. Action had been taken prior to the deaths in March 2004, and further action has been taken since. The substantial increases in police officer numbers on the Anangu Pitjantjatjara Lands, substantial increases of reports and apprehension rates, the commitment to placing resident officers on the Anangu Pitjantjatjara Lands and the community development work are all to be commended. These actions should go a long way towards providing Anangu with the degree of safety and protection to which they are entitled as citizens of Australia.
45. Clearly, there is room for improvement in the standard of mental health services on the Anangu Pitjantjatjara Lands, even though improvements have already been made.

It is not possible for me to conclude, on the basis of the evidence before me, that the absence of psychiatric services on the Anangu Pitjantjatjara Lands had a direct causal relationship with any of the deaths before me. In particular:

- Kunmanara Ryan received periodic consultant psychiatric treatment from Dr Cord-Udy during 2003, and on the last occasion he gave no indication that he was suicidal or otherwise intent upon harming himself. On that basis, it cannot be argued that Kunmanara Ryan received a level of treatment which was less than that which might be expected in the metropolitan area of Adelaide (assuming that is the criterion), and it has not been established that a lack of psychiatric services played a part in Kunmanara Ryan's death.
 - Similarly, although there were difficulties during Kunmanara Cooper's imprisonment both in Port Augusta and at James Nash House in Adelaide, he was not exhibiting psychotic or self-harming behaviour when he was discharged from James Nash House. Again, it cannot be concluded that an absence of psychiatric services on the Anangu Pitjantjatjara Lands contributed or was causally relevant to his death.
 - There is no evidence that Kunmanara Ward exhibited symptoms of mental illness at any stage, and it has not been established that an absence of adequate psychiatric services on the Anangu Pitjantjatjara Lands was causally relevant to his death.
 - It is clear that Kunmanara Ken's difficulties were the result of organic brain damage, and not the result of a mental illness. Accordingly, it has not been established that inadequacy of mental health services on the Anangu Pitjantjatjara Lands was causally relevant to his death either.
46. On the basis of these findings, I am not in a position to make recommendations pursuant to Section 25(2) of the Coroners Act in relation to the provision of mental health services on the Anangu Pitjantjatjara Lands. However, I draw to the attention of the Director of Mental Health Services, Dr Jonathan Phillips, the comments of Drs Cord-Udy and Torzillo outlined in these findings, in case they may be of assistance in formulating future policy in the area.

FINDING OF INQUEST - CIRCUMSTANCES OF DEATH

1. Introduction

- 1.1. In these findings, I will refer to the Pitjantjatjara, Yankunytjatjara and Ngaanyatjarra 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. In Pitjantjatjara, this means 'no name'.
- 1.3. The inquest focussed on the circumstances in which these deaths occurred, and in particular, the phenomena of petrol sniffing and other self-harming behaviour, and the socio-economic circumstances in which they take place.

2. The death of Kunmanara Ward

2.1. Events of 22 May 2003

On 22 May 2003, Kunmanara Ward's brother Jeffrey Kenny drove to Mulga Bore on the Anangu Pitjantjatjara Lands to collect their grandmother Mrs Maggie Ward, and bring her back to Indulkana. He said that he was not aware that his brother was in Indulkana when he left. When Mr Kenny returned, Kunmanara Ward was very angry because he had not been taken for a ride to Fregon, and also because he had been teased all day by a group of petrol sniffers at Indulkana. Mr Kenny said that he told Kunmanara Ward to come back a little later and he would cook a meal for him. He said that he did not hear any threats made by his brother to harm himself (Exhibit CW7a).

- 2.2. Mrs Ward said that she did not think that Kunmanara Ward was upset or angry, but she was aware that he had been involved in some 'jealous arguments' that day. She said:

'I offered to give him a tin of meat but he didn't want it. He said he was a big boy, and he kissed me goodbye.'

(Exhibit CW16, p2)

2.3. In fact, Kunmanara Ward had a can of corned beef in his back pocket at the time his body was found (Exhibit CW10a, p3).

2.4. Contrary to his grandmother's evidence, George Kenny, Kunmanara Ward's brother/cousin, said that Kunmanara Ward was very angry on the day he died. He said:

'He was really angry. He went inside and he was still angry, talking rough with his grandmother ... He had a petrol can with him and it was fresh because I could smell it when he was talking with me.

He went off but came back again. He was still really wild. I tried to get him to stay and have some supper or tea with us, with his grandmother but he wouldn't.

He sat outside our house for a while then he walked off. That was the last time I saw him. I've never seen him look like that before. He was always happy bloke.'

(Exhibit CW7a, p1)

2.5. Mitchell King's statement, which is unsworn, but which is Exhibit CW5a records:

'On the day he hung himself, I saw him. I was walking home from the store when I saw him with some other boys. Daniel George was one. They was all sniffin. All the sniffers was there. He (Kunmanara) was holding a piece of wire, a real long one. He was sort of angry and in language he said he was going to hang himself. I said, 'you be good boy. You OK. You come with me, come home and have a feed'.'

(Exhibit CW5a, p1)

2.6. Daniel George confirmed that he took the wire from Kunmanara Ward and threw it into the bush. He said that he did not see Kunmanara Ward hang himself (Exhibit CW6a).

2.7. At some time before 7:30pm, Clifford Ryan and his younger brother Christopher, were told by Mitchell King that 'there was someone trying to hang himself' (Exhibit CW4a, p1). The two men drove to the playground and found Kunmanara Ward hanging from the monkey bars at the playground. They ran to the monkey bars and undid the cord around his neck and lay him on the ground. Clifford Ryan went to alert the nurses.

2.8. At about 7:30pm Clifford Ryan approached Registered Nurse Helen Robinson who was at home in Indulkana. He told RN Robinson that someone had hung himself and to 'come quick'. RN Robinson followed Clifford Ryan to the playground which is at the rear of the Indulkana Arts Complex in roughly the centre of the village.

- 2.9. By the time RN Robinson got to the playground, Kunmanara Ward was already lying on the sand on his back. She examined him and noted that his pupils were fixed and dilated, he had no carotid pulse or heart beat. She formed the opinion that he was dead. Some cardio-pulmonary resuscitation (CPR) was performed but there was no response. RN Roger Holloway arrived soon afterwards and confirmed RN Robinson's opinion that Kunmanara Ward was deceased (see Exhibits CW8a and CW9a).
- 2.10. Senior Sergeant Darryl Anderson from Marla Police was already in Indulkana that evening when he was approached by Community Constable Andrew Watson. They attended at the clinic where Kunmanara Ward had been taken, and took statements from the nurses and other witnesses. They attended at the scene and Senior Sergeant Anderson seized a short length of electrical cord. He was later provided with a longer length of electrical cord which matched the shorter length, and which he was informed had been removed from the monkey bar while the witnesses were waiting for the ambulance.
- 2.11. Cause of death
A post-mortem examination of the body of the deceased was performed by Dr J D Gilbert, Forensic Pathologist, on 26 May 2003 at the Forensic Science Centre in Adelaide. Dr Gilbert concluded that the cause of Kunmanara Ward's death was neck compression due to hanging.
- 2.12. Accompanying the body were the two lengths of 7 strand copper wire as collected by Senior Sergeant Anderson at Indulkana. This had an overall diameter of 6mm, and corresponded with the 7-8mm wide dark brown ligature mark around the upper neck of the deceased, sweeping up to an inverted V behind the left ear, noted at post-mortem (see Exhibit CW2a, p1).
- 2.13. Dr Gilbert commented:
1. Death was due to neck compression due to hanging.
 2. Analysis of a specimen of blood obtained at autopsy reportedly showed a blood alcohol concentration of nil and no common drugs were found. Components of petrol were found in the headspace above the blood and lung tissue samples consistent with petrol inhalation by the deceased.
 3. There were no injuries or other markings on the body to indicate the involvement of another person in the death.

4. No natural disease that could have caused or contributed to the death was identified at autopsy.'

(Exhibit CW2a, p5)

- 2.14. A toxicological analysis of the blood sample taken at post-mortem was performed by Mr P D Felgate, the Manager, Toxicology, at State Forensic Science. His findings were:

1. The volatile organic components of petrol were detected in the headspace above the blood and the lung.
2. Alcohol was not detected in the blood.
3. None of the drugs amphetamines, benzodiazepines, methadone, opiates, cannabinoids and tricyclic antidepressants were detected in the blood.'

(Exhibit CW3a, p1)

- 2.15. On the basis of this report, it is possible to conclude that Kunmanara Ward had been sniffing petrol, and was probably still intoxicated by that petrol, at the time of his death.

- 2.16. I accept Dr Gilbert's evidence about the cause of death and find that Kunmanara Ward died as a result of neck compression due to hanging.

- 2.17. Background

Kunmanara Ward's medical record discloses that he was born on 26 June 1983 in Alice Springs. His mother Kaylene Ward, who has since died, came from Indulkana. The statement of Mrs Maggie Ward (Exhibit CW16), his grandmother, records that he lived at Indulkana with his parents as a little boy until the family moved to Port Augusta where his mother abused alcohol. His father left and began living at Papunya in the Northern Territory. He returned to Indulkana where Mrs Ward cared for him as he grew up.

- 2.18. Mrs Ward said that as a boy Kunmanara Ward did not sniff petrol, he went to high school in Alice Springs, and returned to Indulkana on holidays. She said:

'He was not a trouble maker and he had good brains because he was taught well by his grandfather and grandmother. Unfortunately he missed out on ceremonies and was not a watti in Anangu society. The grandmother Maggie never saw him sniffing when he was in her presence and he was not a trouble maker at any time ... He was also very interested in football and played football for AP Crows or Southern AP during the football season. He was not an argumentative child or adolescent. He was not involved in fighting and was not in trouble in the community ...'

(Exhibit CW16, p1)

- 2.19. Mrs Ward said that Kunmanara Ward travelled regularly between Indulkana, Mulga Bore and No 15 Bore and also Black Hill No 1 Homeland, visiting and staying with relations, usually in the company of two brothers/cousins Ashley Ward and Nelson Ward.
- 2.20. As to petrol sniffing, Clifford Ryan said that he had known Kunmanara Ward for seven years and that he had been sniffing for all of that time (Exhibit CW4a). Community Constable Andrew Watson said that he had known Kunmanara Ward for a long time and that he had been sniffing since he was about 13 years old (Exhibit CW11a).
- 2.21. Mr Alex Henry, a Pastor at Indulkana for the previous two years, said that Kunmanara Ward was a good footballer, and although he was a petrol sniffer he could stop sniffing if he wanted to play football. Pastor Henry said that he did not appear to have suffered physically from petrol sniffing. For example, he saw him running after a truck to catch up with it a couple of days before he died (T306).
- 2.22. Pastor Henry added that during the period of about a year when Kunmanara Ward went away from Indulkana to stay at Yalata and Oak Valley, he did not sniff petrol (T304).
- 2.23. Kunmanara Ward was reported on 4 May 2003 by police for petrol sniffing (Exhibit CW10c).
- 2.24. Health records
The medical record held by the Nganampa Health Council clinic at Indulkana contains several references to the fact that Kunmanara Ward was a petrol sniffer. Apart from that, there is little of any significance to indicate that he was suffering any particular illness or disability, either as a result of petrol sniffing or otherwise. There is nothing apparent on the face of the record to indicate that there was any medical factor at work which may have influenced his behaviour on the day he died.
- 2.25. Investigation
Detective Senior Constable Frank Abbott, from Coober Pedy CIB, investigated Kunmanara Ward's death on my behalf. Detective Abbott was called in because Marla Police received an anonymous phone call on 28 May 2003 to the effect that

Kunmanara Ward's death was not suicide but murder committed by the person who had cut the body down.

2.26. At the completion of his investigation, Detective Abbott concluded:

'While there are some discrepancies between the statements (as may be expected), they essentially corroborate each other. I have no reason to suspect that any of the witnesses have colluded with each other to fabricate a story. It is apparent that the deceased, a chronic petrol inhaler, had on the day of his death, been sniffing petrol and had been arguing with other sniffers throughout the day. All the witnesses described the deceased as being angry and upset. It is likely that the deceased was intoxicated by petrol fumes. It may be the case that the deceased had been seen carrying electrical wire around with him for a number of days, before his death. In any case, just prior to his death he was seen with electrical wire similar to that used and he had been heard to say that he was going to hang himself.

Regarding the anonymous allegation received by Marla Police. It is clear from the statement of Clifford Ryan that he was the person that cut the deceased down. Ryan's movements have been established and they preclude him from having any involvement in the hanging. I concur with S/S Darryl Anderson that the deceased committed suicide by hanging.'

(Exhibit CW12a, p6)

I agree with those conclusions.

Issues arising at Inquest

2.27. Supervision of bond

On 7 May 2002, Kunmanara Ward appeared before Mr Hiskey SM on a charge of larceny. He pleaded guilty and was discharged upon entering into a bond, a condition of which was to be of good behaviour, to be under the supervision of a probation officer/community corrections officer for a period of six months, and to report within two working days at the office of Correctional Services at Marla. He reported on 8 May 2002, and was directed to telephone his Case Manager weekly. At least one telephone conversation took place, but contact was lost after that. The Case Manager visited Fregon and Indulkana several times but was unable to re-establish contact with him.

2.28. In any event, there was a gap of over twelve months between the entering of the bond on 7 May 2002 and Kunmanara Ward's death on 22 May 2003.

- 2.29. A report by Ms Rose Ransom, Acting Senior Project Officer in the Community Corrections Division of the Department for Correctional Services, to Mr Lange Powell, Director of Community Corrections, following Kunmanara Ward's death, (Exhibit C8, Annexure 8) observed:

'The case management practice in relation to Kunmanara Ward appears to have been consistent with DCS supervisory methods common in the Anangu Pitjantjatjara Lands environment. Difficulty in locating clients is not uncommon, and the Case Manager made reasonable efforts to contact him at his known places of residence.'

(Exhibit C8)

- 2.30. Mr Charles, counsel for the family, was critical of the case worker. He argued that Kunmanara Ward was at Mulga Bore throughout the relevant period, and it is surprising that the case worker failed to find him there. In view of the logistical difficulties involved, and the fact that Kunmanara Ward moved around the Anangu Pitjantjatjara Lands so frequently, I think this criticism is unjustified.
- 2.31. The report by Ms Ransom was also critical of gaps in the casenotes and the delay in reporting the breach of bond. I do not consider that either of these issues were causally relevant to Kunmanara Ward's death, so I make no further comment. I assume that they have been addressed by the Department for Correctional Services.

2.32. Conclusions

Kunmanara Ward, aged 19 years, died on 22 May 2003, by hanging himself from the 'monkey bars' at the playground at Indulkana. He had been sniffing petrol, and had been angry and upset that day.

- 2.33. There is no evidence that any other person played a part in Kunmanara Ward's death.

3. The death of Kunmanara Ken

3.1. Events of 19 December 2003 and following

Kunmanara Ken was a 35 year-old man who lived with his family in and around Amata on the Anangu Pitjantjatjara Lands. He had been sniffing petrol since he was a boy. He had developed organic brain damage as a result, and by 19 December 2003 he was severely disabled. He required supervision for 24 hours a day, and it was estimated that he had the intellectual age of a 3 year old. He was unable to care for himself – he needed to be reminded to eat and drink.

- 3.2. On 19 December 2003, Kunmanara Ken was being looked after by his sister Sylvia Ken at Amata. RN Vivienne Hammond, who is now the Clinical Services Manager for the Nganampa Health Council Incorporated, knew him well, having worked in the Amata Clinic for more than 5 years. She also knew Sylvia Ken, and said that Sylvia had previously suffered a stroke, which had left her with physical disabilities (T287). These disabilities would have made it difficult for her to keep up with her brother.
- 3.3. The Ken family joint statement (Exhibit C20a) said:

'We did not want the deceased to go away into institutionalised care because we always worried about him when he was absent. We believed that the best place for him was with the family where we were happy to care for him as best we could. Sisters, parents, aunties, cousins, etc all shared in the deceased's care from time to time.

He was able to get out of the sun and sit down in the shade, and he often left the place of his carers to visit other family members and came back and knew his way around Amata. After fits he often went for a walk for fresh air and always in the past he came back. He knew Amata and the surrounds and knew the lights would be on and knew that if lights were on how to get home.

On the day the deceased went missing the 19 December 2003 the mother and father Brenton and Iluwanti were at Officer Creek where they were holidaying and attending a Christian event. Other family members were absent with Frank Young and Ray Ken in Alice Springs and others travelling back from meetings. At that time the deceased was being looked after by his sister Sylvia in Amata. He had been all right on that day although later he had had a fit late in the morning and then after the fit he wandered into the scrub to the south of Amata. She could not keep up with him when he wandered. After a fit it was common for the deceased to go for a walk to get more oxygen into his lungs.'

(Exhibit CK20a, p2)

- 3.4. Sylvia Ken's description of her brother's disappearance is as follows:

'At about 12:00pm Friday the 19th December 2003 I was looking after Kunmanara Ken as I always do, he had a fit, he used to have them all the time but hasn't for a while. After he had the fit he got cranky and started to walk off towards the dump, he was walking fast and it was hard to keep up.

He walked past one big gum tree and then another one, the one with the rope in it. When he got to this second tree I started yelling at him to come back, I couldn't keep up and had to stop, I continued yelling at him to come back but he wouldn't listen. I walked back into town then. (Kunmanara) used to walk off after a fit all the time for fresh air.

When he walked off he was wearing a black and red horizontally striped shirt with blue jeans. I have not seen him since he walked off.'

(Exhibit CK4a, p1)

- 3.5. Community Constable Grant Burton stated that Sylvia Ken came to his house during the evening of 19 December 2003 to tell him that her brother had been missing since lunchtime that day. Community Constable Burton then advised Sergeant Dawn Lunn and Constable Stacey Connor of the north-west patrol, who had just returned to the police compound from Pipalyatjara (Exhibit CK19, p1).
- 3.6. Sergeant Lunn stated that she received this information from Community Constable Burton at about 10:10pm (Exhibit CK10a, p1).
- 3.7. Community Constable Burton said that Sylvia Ken told him that her brother had last been seen in the vicinity of the rubbish dump. That direction is south-west of Amata. He proceeded to that area and looked for tracks but could not find any as it was dark and it had been raining.
- 3.8. That evening, Community Constable Burton alerted a number of people from the Amata community to help search for Kunmanara Ken. He said:
- 'On that Friday night I organised a lot of people from the community to help search for (Kunmanara). The Pan family, Lloyd Ingamarla the Chairperson from the Council was driving around with his family looking. Also Vera Raymond and her family were searching. There were a lot of people searching, I can't remember now exactly who they were. I had Jonathon Tunkin in the police car with me.
- We searched all that area that Sylvia showed me. We did a line search. The line started out a long line search but Anangu (people) because they get scared of the dark all come together, so when the search got to the rubbish dump the line was shorter. Nothing was found that night and it was raining, we then stopped searching.'
- (Exhibit CK19, p2)
- 3.9. Sergeant Lunn also searched around Amata, stopping vehicles as she came across them to inquire after Kunmanara Ken. She said that she travelled north-east of the town as far as the beginning of the track leading to the Telstra installation on the hill, known locally as 'Telstra Hill', and then south-west to the main road. She also later searched in the area of the rubbish dump and the oval (Exhibit CK10a, p2).
- 3.10. Sergeant Lunn located Sylvia Ken who told her about her brother's disabilities and the fact that he had suffered a fit prior to his disappearance. She said:
- 'Sylvia said that this was what he normally did after a fit. He would apparently sleep and then come home but had never been away after dusk. This is why they were so worried.'
- (Exhibit CK10a, p3)

3.11. Sergeant Lunn also received information that it was possible that Kunmanara Ken had been picked up by a relative and been taken to Watinuma, or that he may have gone to 'business' at Ernabella.

3.12. Ms Alison Pan, another sister of Kunmanara Ken, spoke to Sergeant Lunn. Sergeant Lunn recorded:

'Alison Pan expressed concern about the heat (Kunmanara) would have endured during the day. It had been extremely hot and humid and everyone was of the opinion that (Kunmanara) had no drinking water with him. Alison Pan also said she was worried about rain coming during the night.'

(Exhibit CK10a, p4)

It was 42°C on 19 December, 38°C on 20 December and about 30°C on 21 December 2003 (Exhibit CK16a, p5).

3.13. In the meantime, Constable Connor filed a missing person report concerning the disappearance of Kunmanara Ken. A photocopy of the report, which records that it was filed at 2200 hours (10pm) on 19 December 2003, is Exhibit CK8c.

3.14. Sergeant Lunn returned to the Amata police compound at between 11:30pm and 11:50pm. At that time, Constables Elliott and Gollan were in Ernabella. Sergeant Lunn advised Constable Elliott that if Kunmanara Ken had not been located by the next day, he and Constable Gollan should travel to Amata and continue the search when she and Constable Connor returned to Marla.

3.15. On Saturday 20 December 2003, Community Constable Burton advised Sergeant Lunn that Kunmanara Ken had not returned or been located overnight. He agreed to conduct a grid search of the area while awaiting the arrival of the next patrol. Sergeant Lunn and Constable Connor then returned to Marla. She said:

'I returned to Marla on Saturday 20 December 2003 because our roster directs us to do so.'

(Exhibit CK10b, p2)

3.16. In the event, Constables Elliott and Gollan did not proceed to Amata. Sergeant Lunn became aware that they were returning to Marla with a prisoner after she had returned (Exhibit CK10a, p4).

- 3.17. Sergeant Lunn then advised Constables Smith and Fisher, who were the outgoing north-west patrol, that they should proceed direct to Amata. Constable Fisher's statement records that they did not receive these instructions until 5pm on Saturday 20 December 2003. They departed Marla for Amata at 6pm and arrived at 1am the next morning (Exhibit CK13a).
- 3.18. For that reason, Community Constable Burton received no assistance from other police patrols until Sunday 21 December 2003. He and members of the Amata community had continued searching for Kunmanara Ken in the meantime. His statement records:
- 'Then on the next morning, Saturday (20/12/2003) we got a lot of people from the Community for a line search of the area where Sylvia had last seen (Kunmanara). The line went between the main Amata to Fregon Road and the road that goes to the Amata Community to the Amata Dump. The line searched in a southwest direction towards the Amata Dump. We kept searching until dark and searched down to the area of the Old Airstrip. I also that day checked up on the road to the cemetery right up to the hills on the east of the Community. When I was in the hills I could see everyone walking through the bushes searching. I found no tracks.'
- (Exhibit CK19, p3)
- 3.19. On 21 December 2003 Constables Smith and Fisher commenced duty at 9:30am. After speaking with Community Constable Burton they ascertained what searches had been conducted to date. At 10:30am they recommended to Senior Sergeant Anderson at Marla that police aircraft be summoned to assist in the search. Senior Sergeant Anderson then advised Superintendent Bristow, the Officer in Charge of the Northern Division at Port Augusta. Superintendent Bristow instructed that any outstanding inquiries about whether Kunmanara Ken had been taken to other communities should be concluded quickly, because the situation was desperate if he could not be located. When advised at about noon that he still had not been located, Superintendent Bristow instructed that the police aircraft and officers from the Special Tasks and Rescue (STAR) Group should be requested. Senior Sergeant Anderson left for Amata at about 1pm that day, arriving at about 5pm.
- 3.20. In the meantime, Constables Smith and Fisher had spoken with Kunmanara Ken's family. They were unable to speak to Sylvia Ken, who was still out searching. They went to the clinic and RN Hammond gave them details of his health issues. Following this, the two officers and Community Constable Burton travelled to all of

the homelands in the vicinity of Amata including Happy Valley and Homelands numbers 25 and 16, but could not locate him. They ascertained from Constables Elliott and Gollan that they had been to Ernabella and Fregon and had not located him. They had also checked Watinuma without success.

- 3.21. Constables Smith and Fisher checked the Kajikuta Homeland, the area in the vicinity of Telstra Hill, Rocket Bore in the Northern Territory, Mulga Park, still in the Northern Territory, and then returned to Amata at 5:20pm. Late that afternoon, they spoke to Sylvia Ken and took the statement from her which is now Exhibit CK4a. After searching in the vicinity of the rubbish dump, further inquiries were made. Constable Fisher's statement records:

'At 8:00pm Smith and I assisted Gollan and Elliott in attending every house within the Amata community speaking with every person encountered along the way. All abandoned, derelict houses were thoroughly searched as were sheds and abandoned vehicles. Nothing was located, this was completed at 9:45pm that day.'

(Exhibit CK13a, p5)

- 3.22. At 9:15pm on 21 December 2003 the police aircraft arrived carrying Senior Constables Wood and Foster from STAR Group and State Emergency Services Team Leader Ian Bonython. Senior Constable Wood, who had the appropriate training, assumed the role of Field Search Controller. He said:

'I conducted a Search Urgency Assessment from the information I had received at that time. The result of the assessment fell within the emergency response category. An emergency response requires that a field search controller and other resources are sent to conduct an immediate search.'

(Exhibit CK16a, pp1-2)

- 3.23. It is very much to be regretted that this assessment had not been carried out as soon as Sergeant Lunn and Constable Connor received the information they did on the evening of 19 December 2003. Having regard to the heat of the day and Kunmanara Ken's infirmities, the urgency of the situation should have been obvious to them. Because his disappearance was not treated as an emergency at that time, the appropriate level of resources was not brought to bear on this search for another two entire days until early on 22 December 2003.

3.24. Senior Constable Wood quickly ascertained that:

- Kunmanara Ken had been missing for 59 hours;
- The probable search area was within 10 kilometres to the north and south and about 4 kilometres to the east and west to the high point of the mountain ranges;
- The most likely location was within 2 kilometres and certainly within 10 kilometres of where he was last seen;
- There was limited information as to the reason for his disappearance;
- He had gone missing on one prior occasion. He was located in the area to the east known as Katjikuta;
- He was cared for by the reporting person, Sylvia Ken;
- He had a diminished brain capacity;
- Although he had a diminished brain capacity, he did know when to eat and drink;
- Water was available in the region due to recent rain falls;
- He knew the area;
- His medication was not health related;
- He had previous medical conditions, namely epilepsy and pneumonia;
- Local community trackers tried and were unable to locate his tracks due to the heavy rain fall on Saturday 20th;
- He was physically impaired however, was able to walk faster than the reporting person;
- He had no equipment with him;
- The temperature on Friday 19th was about 42 degrees Celsius, Saturday 20th was about 38 degrees Celsius and Sunday 21st was about 30 degrees Celsius. The minimum temperatures were about 25 degrees Celsius;
- The likelihood that he had left the area by vehicle was slim. The Community Constable advised that community members would not pick him up due to his behaviour;
- The area west of Amata Community to the mountain ranges is secret men's and secret women's land. This area basically forms a semi circle from the North

through to the South. Searching these areas required liaising with community elders and utilising the assistance of the community;

- Information from the reporting person and family members was second hand as these members had left the community for a religious ceremony;
- He was known to stir up dingoes and wild dogs.

(Exhibit CK16a, pp4-5)

- 3.25. On the evidence of RN Hammond and Dr Gell which I will discuss shortly, it would appear that Senior Constable Wood may have underestimated Kunmanara Ken's disabilities. For example, they said that he did not know when to eat and drink, that his medication was health related, and that although he could walk faster than his sister, Sylvia Ken suffered from hemiplegia and could not walk quickly at all.
- 3.26. In any event, Senior Constable Wood divided the search area up into designated areas for the aircraft and ground searches. Searches of all of these areas was completed by 1pm. It was decided that the aircraft could no longer be usefully employed, and so it departed at 1:30pm on Monday, 22 December 2003, taking Foster, Elliott, Gollan, Wood and Bonython back to Adelaide.
- 3.27. In the meantime, Senior Sergeant Anderson continued to supervise searches on Tuesday 23 December 2003 in areas to the west and north-west of the Amata community until they left to return to Marla at 11:30am.
- 3.28. Discovery of remains
Kunmanara Ken's grandfather Mr Ray Ken, and brother Mr Frank Young had been in Alice Springs when they heard, on 20 December 2003, that Kunmanara Ken was missing. They returned to Amata and joined the search. At about 4pm on 23 December 2003, the two men were with Messrs Dicky Marshall and Warren Tunkin driving near the old Amata road when Mr Ken saw Kunmanara Ken's tracks. They followed his tracks on foot until they found the body (Exhibit CK5a and CK6a).
- 3.29. The men drove to the 'sorry camp' and informed Kunmanara Ken's relatives at about 6pm. Then they drove into Amata and attended at the clinic where they saw RN Daniel Horwood. RN Horwood's statement records:

'Upon leaving the Amata community clinic and returning to my home at approximately 1930 hours this evening I noticed a large group of people located in the spare allotment

located between two end streets of the Amata community. As I approached I noted that many people were armed with spears, sticks and clubs and that a number were also screaming, yelling and crying.

As I neared my home a man I know as Dicky Marshall hailed me. He told me that the body of (Kunmanara) had been found in an area known as Telstra Hill. (I am unaware of who actually discovered the deceased). I informed Dicky Marshall that I would contact the Marla Police immediately and that people should stay well away from that location. I immediately returned to my home and telephoned the Marla Police. Upon calling I was transferred to the Port Augusta police and notified an officer (whose name I cannot recall) of the situation. I then telephoned Vivian Hammond and notified her of what I had been told.

At approximately 1945 hours I was contacted by a police officer I know as Jane Pink. I informed her that the general mood of the crowd appeared extremely angry and that I was concerned someone would be injured if fighting started. She informed me that police were on their way from Ernabella. At this time I also informed Dr Martin Kelly of the Nganampa Health Council by telephone.

Whilst awaiting a return call from Vivien Hammond a man I know as Frank Young approached me at my home. Mr Young asked me to go and cover the body for cultural reasons. I stated to Mr Young that it was probably not a good idea to disturb the body however he, (Frank Young) was quite insistent that I do so for cultural reasons. I conveyed his request to Dr Martin Kelly who stated that this seemed like a reasonable request.'

(Exhibit CK7, pp1-2)

- 3.30. RNs Hammond and Horwood were escorted by Mr Marshall to the location of the body. RN Hammond took a series of photographs of the deceased. As requested, they placed a white sheet over the body and RN Hammond remained there until the police arrived.
- 3.31. When Sergeant Jaunay and Senior Constables G Pink and J Pink arrived at Amata, they were taken to the scene, which was described as approximately 400 metres north of the Amata Community. Senior Constable J Pink's statement records that the streetlights of Amata were clearly visible from that location (Exhibit CK8a, p5). RN Hammond formally identified Kunmanara Ken to the police officers present.
- 3.32. Kunmanara Ken's body was in an advanced stage of decomposition, and had also been damaged no doubt by the pack of wild dogs which was noted in the vicinity.

- 3.33. Detective Senior Constable Joanne Barnes, from the Port Augusta CIB, attended the scene on the afternoon of 24 December 2003. After considering the available evidence, Detective Barnes concluded:

'The MOST likely cause of death is that Kunmanara Ken has died sometime in the afternoon of Friday the 19th of December 2003 from either respiratory or cardiac failure in possible combination with an epileptic fit or perished from an extreme heat and has then been interfered with by local or wild dogs.

The deceased would return to the township if he could see it. To assist him the oval lights in the town were turned on and visible for some distance. The deceased would have seen these lights and if he was capable returned to the township. I believe he was already deceased by Friday night.

Although the deceased is in a state of decomposition which makes it difficult to determine the nature of his injuries other than what is expected from animal interference, I found no signs of violence with the deceased, the scene and the facts pertaining to his medical condition and state of physical and mental health lead me to the opinion that he has died of natural causes.'

(Exhibit CK15a, pp7-8)

- 3.34. Cause of death

A post-mortem examination of the body of the deceased was performed by Dr Alan Cala, who was then the Chief Forensic Pathologist at the Adelaide Forensic Science Centre.

- 3.35. Dr Cala noted a number of signs of dog predation, particularly to the hands, anterior chest wall and on the neck and abdomen. He noted that all of this damage had occurred after death (Exhibit CK3a, p4).

- 3.36. Because Kunmanara Ken's body was markedly decomposed, it was not possible to conduct a detailed analysis of many of his internal organs. In particular, it was not possible to establish the precise nature or focus of his epilepsy as postulated by Dr Gell. Similarly, the heart was markedly decomposed as were many of the other organs.

- 3.37. Dr Cala concluded that the cause of Kunmanara Ken's death was:

'Combined effects of exposure and consequences of petrol sniffing.'

(Exhibit CK3a)

I interpret Dr Cala's conclusions as indicating that consequences of petrol sniffing, namely his physical and mental disabilities, provided the context in which the exposure occurred, rather than being medically related to the cause of death.

3.38. Dr Cala does not mention epilepsy, as suggested by Detective Barnes and Senior Constable Pink. RN Hammond noted in her statement that Kunmanara Ken's back was arched when she saw the body, which suggested that he may have been suffering from an epileptic seizure at the time he died. Further, Detective Barnes also noted a small depression in the sand in the vicinity of the body which suggested that Kunmanara Ken had been kicking his legs at around the time he died. Both of these pieces of evidence lead me to conclude, on the balance of probabilities, that Kunmanara Ken suffered an epileptic fit either shortly before or immediately before he died, indicating that epilepsy was, if not a direct cause of death, then certainly an antecedent cause.

3.39. Accordingly, I find that the cause of Kunmanara Ken's death was exposure in the context of organic brain damage and epilepsy.

3.40. Background

Kunmanara Ken was born on 1 April 1968 at Amata. In their joint family statement, the Ken family said:

'When he was a little boy he was a really good boy. He did some schooling at Ernabella and when he was out at the homelands at Wili Wili. He also assisted with work around the homelands and with land management work clearing rock holes. He started sniffing petrol as a teenager and became a chronic sniffer. He subsequently suffered brain damage as a result of his sniffing and has been under full care for many years. Other members of the family have also been petrol sniffers and he grew up in the family with a petrol sniffing problems. He grew up with some of the children who were also sniffers. Most of those children who were also sniffers have now died.

The Women's Council have been a very good help over the last ten to fifteen years. They really helped with care for the deceased. He was part of the disability program and the Women's Council had provided good respite care. They had also helped with some painting activities and the mother and father had been happy with the Women's Council up until this time. The disability services from Women's Council had been very good.

While we were living at Wataru they had assisted in erecting a large fence around the house we lived in at Wataru. This was used to contain the deceased so that he would not wander away and be at risk. When the family moved to Rocket Bore, where we now live, we wanted to have the same fence facility around one of the houses to contain the deceased's wandering. We met with Disability Services in 2003 and asked for a fence, it was agreed to but has not been built and now it is too late.'

(Exhibit CK20a, pp1-2)

3.41. Health records

The files held by the Nganampa Health Council provide a record of Kunmanara Ken's medical history since his birth.

- 3.42. Following a series of relatively routine attendances at the clinic throughout his early childhood, there is no reference to petrol sniffing until 16 January 1981 where the notes record:

'Chest infection, history of prolonged petrol sniffing'
(Exhibit CK1d)

Again on 29 February 1984 it is recorded:

'Slight shaking 'from petrol sniffing'. No treatment.'
(Exhibit CK1d)

- 3.43. On 2 December 1986 Kunmanara Ken presented with his parents at the Ernabella clinic with moderate agitation after petrol sniffing that morning. He re-presented the next day and the notes record:

'Represented to clinic this am with parents who are concerned about him pending DCW (Department of Community Welfare) action and consequently are endeavouring to self-withdrawal (Kunmanara).

I informed parents that (Kunmanara) withdrawal could probably not be managed non-medically at Ernabella and he would need to go to Alice Springs or Adelaide (DCW). However the clinic would help them try.'

(Exhibit CK1d)

- 3.44. Kunmanara Ken was given haloperidol (an antipsychotic), Vitamin C and multi-vitamins to assist with withdrawal from petrol sniffing.

- 3.45. The first indication of neurological problems in the clinical record is at 29 January 1990 when the notes reveal:

'Had fit this am – apparently for half hour!'
(Exhibit CK1d)

At midnight that night he was returned to the clinic as he had suffered a further fit. The notes recall:

'Brought to clinic. Further fit. Now agitated ++.

Appears to be hallucinating (auditory and visual), shouting. Doesn't recognise his acquaintances ...'

(Exhibit CK1d)

He was also showing signs of respiratory illness. The diagnosis was:

'Acute psychosis – secondary to petrol sniffing +/- pneumonia.'

(Exhibit CK1d)

He was given procaine and haloperidol, both intramuscularly.

3.46. From that time onwards, the progress notes are littered with attendances at both Amata and Pipalyatjara clinics in an agitated or psychotic state. For example, on 21 October 1991 the notes record:

'4pm – brought to clinic by police handcuffed – fitting.'

(Exhibit CK1d)

3.47. On 12 December 1996 Kunmanara Ken was seen by Dr Kerrie Gell, who is now the Senior Medical Officer for the Nganampa Health Council. Dr Gell recorded:

'Horrible situation.

- (Kunmanara) Ken now aged 29 years
- Principal history probably at Amata

Notes record: fitting with witnessed generalised seizures

- Abnormal behaviour
- Premorbid state prior to petrol sniffing not recorded
- Will sniff occasionally now if has opportunity
- Now behaviour pattern is:
 - Episodes of uncontrollable anger which seem unpredictable, with threatening behaviour and sometimes injuries to family or others;
 - Frightening children/sometimes according to mother triggered by children teasing him;
 - These occurrences seem almost daily;
 - Generalised seizures – frequency unclear, less than one per week or month but surprisingly one happened today while we were at Watami;
 - Typical, brief (less than 2 minutes) followed by very disturbed wandering postictal behaviour with threats;
 - Sometimes nocturnal wandering which may be prompted by seizures – not sure.

This young man requires 24 hour per day supervision by parents.

Assessment: Unable to examine him today – maybe possible with Brenton (father) there.

I would think that he may have complex partial epilepsy (anger + behavioural manifestations) with generalisation † generalised seizure (frontal or temporal lobe focus).

Other possibilities include hyper thalamic lesions (rage reactions) with intercurrent generalised seizures or personality disorder/intellectual disability with epilepsy.

This is going to be hard to sort out. Any investigations or even respite for family will be difficult in this aggressive, large man.'

(Exhibit CK1d)

- 3.48. Dr Gell added carbamazepine to his medication, and undertook consultations with neurologists and others concerning Kunmanara Ken's treatment.
- 3.49. On 20 July 1999, Dr Gell noted a meeting with Ms Angela Lynch, a Disability Support Worker with the NPY Women's Council. The note reads:

'Meeting with Angela Lynch

She has recently spoken at length with Iluwanti (mother).

Despite everyone's concerns about (Kunmanara), Iluwanti is asking for little help.

Angela thinks:

- 1) Placement for (Kunmanara) is impossible
- 2) Respite for Iluwanti or Brenton should be offered but who could do this is unclear – Women's Council could pay for respite
- 3) Iluwanti can have any small things that she thinks can help with her job
- 4) Better compliance with oral medication would be helpful
- 5) (Dr Gell) to discuss more effective sedation with mental health team
- 6) Angela thinks that Iluwanti's behavioural management of (Kunmanara) might be as good as possible † ie. further training for her is not warranted.'

(Exhibit CK1d)

- 3.50. RN Hammond described Kunmanara Ken's condition at around the time he disappeared:

'(Kunmanara) has been a petrol sniffing for about 20 years if not more and as a result of this he has suffered a lot of damage to his brain.

(Kunmanara) developed Epilepsy prior to my arrival in Amata. I'm not sure exactly how long he had had it. This would be on his medical records. I'm aware of two fits that (Kunmanara) has had. His family would generally care for him so there may well be others which are not reported.

(Kunmanara) has the intelligence of about a 3 year old and has no life skills. He doesn't have the sense of how to care for himself. He would not know how to survive in the bush and has no training in it. He would often forget to eat or drink and would have to be reminded and assisted by family or member of the community.'

(Exhibit CK1c, p2)

3.51. In oral evidence, RN Hammond expanded upon her description of Kunmanara Ken's condition:

'Kunmanara Ken was a severely disabled man, who lived part-time in Amata. He moved between Pitjantjatjara Amata, Watarru, Wantinuma and another homeland with his family, more or less on a yearly basis. We would probably see him about four months of each year, and he was a man who was extremely intellectually and physically disabled. He was aggressive and at times quite violent as a result of his history with petrol sniffing, and acute illness where he was intubated in the mid-'90s. He spent his life travelling around with his family, his parents Iluwanti and Brenton were really the only people who could control him. They looked after him 24 hours a day, seven days a week and it was an incredible burden I think physically and mentally on them. He still had a desire to sniff petrol and just an indication of the level of his disability, it was not uncommon for people in the community to give him a can of red cordial to sniff and he was not usually able to differentiate between the red cordial and the petrol. He was at times quite irritable and didn't sleep, there were periods when Brenton and Iluwanti would be up all night trying to contain him and control him. He was at times quite violent and aggressive towards other family members and people were concerned about the safety of the children. Most of the community members were frightened of him, there were times when he'd go into the shop and demand Coca Cola, if he didn't get it, he would throw things around and be extremely difficult and Brenton would have to go in and pull him out. Quite often the shopkeepers would give him free Coca Cola to get him out of the shop. At times he would get acutely unwell and these were particularly difficult times, because (Kunmanara) didn't like to go into the clinic, and the family were extremely embarrassed about his behaviour. So between the family and the clinic, we would try to manage him usually in the camp. If (Kunmanara) was being particularly difficult, Iluwanti and Brenton would shift their camp away from the family home so that he didn't disturb them, and they would stay awake at night looking after him, and the nursing staff would go across to the camp and administer what ever medication was necessary. Iluwanti and Brenton tried to manage his regular medication to control his epilepsy and his behaviour, but he was not particularly easy to give medications to. Sometimes Brenton had to - it would take Brenton half an hour sometimes, just to get his daily medications into him, just by coercing him and sort of jollying him along.' (T272-T273)

3.52. Contact with police

Kunmanara Ken also came into contact with the police on regular occasions, principally as a result of petrol sniffing and resultant aggressive and unruly behaviour. For example, in 1994 he was charged with disorderly behaviour, assault police, resist arrest and throw missile to cause injury or damage to property. These charges were withdrawn in May 1999 because warrants could not be executed. Similarly, in 1990 he was charged with breaking into a building with intent to commit a felony and this was also dismissed for the same reason. On 1 August 1992 he was charged with disorderly behaviour, and on various other occasions he was charged with sniffing petrol.

3.53. I infer from the fact that Kunmanara Ken is not recorded in the files of the Department for Correctional Services (see the statement of Mr Powell, Exhibit C8, p18), he did not have the benefit of any form of supervision or other form of assistance from the Community Corrections Division of that Department.

3.54. Medication

RN Hammond told me that at the time of his disappearance, Kunmanara Ken was receiving the following medication:

- haloperidol (an antipsychotic);
- clonazepam (a sedative);
- carbamazepine (an anticonvulsant)
- diazepam (an antidepressant).

He received this medication in the form of a dosette in which a fortnight's medication was set out and administered by his family. The last dosette was due to expire on 16 December 2003, although his medication was by no means completely regular. It is therefore not possible to know when he last received his medication.

Issues arising at Inquest

3.55. Quality of search procedures

Superintendent Bristow acknowledged that police procedures had broken down in this instance. To his great credit, Superintendent Bristow apologised to the family for these shortcomings in a private meeting held during the inquest. It is unnecessary to do more than quote from his affidavit as follows:

'I said that the police should have taken charge from the start on Friday night and what happened on Monday should have happened on Saturday. I further stated that if the police had taken charge they could have arranged for more vehicles to assist in the search and that I was very sorry that this had not happened and angry that police had left the community on Saturday morning. I further stated that the Police Woman Sergeant who left Amata on Saturday morning had finished at Marla and gone back to Adelaide and that Senior Sergeant Anderson had also gone from Marla. I said that we were trying to do things in a different way and that it was important that we listen and if we did that we would get things right. I said that Senior Sergeant Goreham was the new Sergeant and that he was listening and he understood the people and if in future police were not listening then I should be told about this. I further stated that at Amata because we did not listen and did not talk to the family we got it wrong, that I was very sorry for the Ken family and was angry that the police had not talked to and listened to the family. I said that I can not change things but that I can try to make sure that it never happens again.'

(Exhibit C11b, p4)

- 3.56. Superintendent Bristow has also taken corrective action to try and prevent a recurrence of such an event. He stated:

'Since this event all personnel at Marla have been trained in respect of Search and Rescue. The training included an overview of the SAPOL Search and Rescue Management Plan, outlined roles and responsibilities of police personnel, including Forward Commander duties, Resources that are available, including Field Search Coordinators, Ambulance, State Emergency Services and that any resources required need only to be requested and all efforts will be made to obtain them. A component of the course includes information on time frames for survival with the emphasis that this will vary according to current weather condition, age and medical or physical condition of the missing person, and that a quick response was important in all cases. A further component of the training related to map reading including how to both provide and read a map grid reference.

There have been a number of incidents of reported missing persons since the incident of December 200 in the APY Lands and all have resulted in the successful location of the missing person. One occasion involved the report of a person who had not been seen for 4 days, and was last seen walking away from a community. Police immediately attended the location, and after extensive inquiries the missing person was located in the Northern Territory safe at another community.'

(Exhibit C11, p12)

- 3.57. In contrast to his comments about the efforts of the other police officers involved, Superintendent Bristow commended the work of Community Constable Burton. He said, when asked if he had any criticism of Community Constable Burton's role:

'On the contrary to criticising Grant Burton in relation to this, he needs to be commended for what he did, and I don't think I can state that too simply to say thank God that Grant Burton did do what he did, because he was the only one that actually did do something and he did a very good job and way beyond what we would normally expect of a community constable. Grant has had previous experience with searches which stood him in good stead on this occasion, but he did far more than could reasonably be expected of him.' (T427)

- 3.58. Disability services

Kunmanara Ken's death also raises a number of questions about the level of disability services available to him and his carers. This issue will be discussed in the general section of these findings (see paragraphs 10.92-10.110).

- 3.59. As I will discuss in due course, Kunmanara Ken's family were receiving no respite at the time he disappeared. He was in the care of his sister, who was also disabled. If he had been involved in a respite program similar to the one which operated in June-

August 2003, then he may have been receiving a higher level of supervision, and may not have been able to wander off and become lost.

3.60. Conclusions

Kunmanara Ken, aged 35 years, died on or about 19 December 2003 as a result of exposure. He had walked away from his sister at Amata earlier that day, and was not seen again. The maximum temperature on 19 December 2003 was 42°C.

- 3.61. Kunmanara Ken had severe organic brain damage as a result of sniffing petrol since he was a boy. He had been exhibiting signs of neurological damage since his early 20's and by the time he died it was estimated that he had a mental age of about 3 years. He had no life or survival skills, he was unable to look after himself, and he would forget to eat and drink. He was so intellectually disabled that people would put red cordial in a tin and he would go around the community sniffing it thinking it was petrol.
- 3.62. South Australia Police ('SAPOL') were advised of Kunmanara Ken's disappearance during the evening of 19 December 2003. Initial searches were conducted, but it was not until Sunday 21 December 2003 that the matter was reported to senior personnel, and a full air and ground search was arranged. This commenced on 22 December 2003. The Community Constable and community members had continued to search unassisted in the meantime.
- 3.63. It was not until 23 December 2003 that Kunmanara Ken's body was found by relatives in an area known as Telstra Hill, near Amata, within sight of the lights of the town. This lack of police response for more than two days is a matter of grave concern.
- 3.64. Senior officers of SAPOL have acknowledged that the response was inadequate, and steps have been taken to ensure that this will not be repeated. It is to be hoped that these steps have been effective.
- 3.65. Kunmanara Ken's family were receiving no respite at the time he disappeared. He was in the care of his sister, who was also disabled. If he had been involved in a respite program similar to the one which operated in June-August 2003, then he may have been receiving a higher level of supervision, and may not have been able to wander off and become lost.
- 3.66. There is no evidence that any other person played a part in Kunmanara Ken's death.

4. The death of Kunmanara Ryan

4.1. Events of 2 March 2004

At around 6:30-7:30pm on Tuesday 2 March 2004 Paul Campbell and Brenton Binnell, who are two young Anangu men from Mimili Community, received information that someone was hanging in a tree near the town. They drove to the house of Noel Lally, a Registered Nurse who lived nearby. Mr Campbell said that he could see someone hanging from the tree from RN Lally's house (Exhibit CR4a).

4.2. The three men drove to the tree, on the northern side of Mimili, and recognised that it was Kunmanara Ryan, hanging by a black seatbelt from a branch above his head.

4.3. They cut Kunmanara Ryan down and RN Lally examined the body and concluded that he had been dead for some time. Rigor mortis had already started to set in, so no attempts were made to resuscitate him (Exhibit CR1a, p2).

4.4. Cause of death

A post-mortem examination of the body of the deceased was performed by Professor R W Byard, Specialist Forensic Pathologist, on 4 March 2004. Professor Byard concluded that the cause of Kunmanara Ryan's death was neck compression due to hanging. He commented:

'Death was due to neck compression from hanging with a parchmented ligature mark around the neck corresponding to a length of seat belt webbing. There was no other evidence of injury. The presence of moderate coronary artery atherosclerosis at such an early age warrants family investigation. Given the circumstances of death and the autopsy findings, however, this was regarded as incidental to the cause of death. The results of blood alcohol and toxicological screening (including volatiles) were not available at the time of this report.

No sticks, stones, bones or other foreign objects were found within the body to suggest the intervention of another person.'

(Exhibit CR2a, p1)

4.5. A toxicological examination of Kunmanara Ryan's blood sample taken at post-mortem was performed by Mr Chris Kostakis, Forensic Scientist. His findings were:

1. The blood contained:

- (1) 0.011% alcohol (see note)
- (2) approximately 0.8mg citalopram per L. (above therapeutic levels)
- (3) approximately 31µg tetrahydrocannabinol (THC) per L.

(4) 11-nor-9-carboxy-THC

2. None of the drugs amphetamines, benzodiazepines, opiates or other common basic drugs were detected in the blood.

3. No volatile hydrocarbons were detected in the headspace above the blood.

Note: There was evidence of putrefaction and some or all of the alcohol may have been produced after death.'

(Exhibit CR3a, p1)

4.6. It is particularly noteworthy that there is no evidence that Kunmanara Ryan had been sniffing petrol, or was intoxicated by petrol, at the time of his death.

4.7. I accept Professor Byard's evidence about the cause of death, and find that Kunmanara Ryan died as a result of neck compression due to hanging.

4.8. Background

The family's statement taken by Mr Charles, their counsel with the assistance of Mr Tregenza interpreting (Exhibit CR13), discloses that Kunmanara Ryan was born in Alice Springs and raised initially at Santa Teresa in the Northern Territory and then at Amata on the Anangu Pitjantjatjara Lands. He was the eldest of two children. His mother and father separated. Kunmanara Ryan went with his father, Ricky Eddie, to Ernabella and later to Mimili after Mr Eddie married Maureen Kulyuru. There were further children from this marriage. The statement reads:

'The children of the family went to school at Mimili. The deceased could read and write in English and he played football. He was a healthy person ... The deceased was a happy child. He finished his school at Mimili, he did not go to Wiltja in Adelaide. Clifford (brother) and the deceased went through law together at about the age of 22, Clifford was 20 ... When he became a man the deceased lived in Mimili. He got married to Susan Tjami. The deceased and Susan Tjami lived with the in-laws, they were married the right way. They were together for almost eight years, certainly for a long time.

Sometimes he smoked a lot of marijuana, in company with other people and on his own. He would drink when he went to Alice Springs but not otherwise. He did not sniff petrol much, he sniffed a little bit at school, wandering around with other young fellas, petrol made him talk funny and so did marijuana make him talk funny.

The effects of those substances made him become different. Marijuana and petrol went into his system and changed him and when he was hit on the head that made him worse. After he was hit on the head he was always sitting down sad way, when people tried to talk to him he would not talk back. When people tried to get him to go out and do things with them he would not come along. He would not go he just stayed home. He did not

get cranky when he was ill, he just sat quiet sitting. He stopped playing football and all kinds of activities. He had been working on CDEP rubbish collecting etc before he got sick. But afterwards he did not go to work. Neither did he go to ceremonies when he was sick, just sitting and watching TV all day.

He was alright when he was taking his medication (for about a year before he died). Twice he was taken to Ward 1 in Alice Springs Hospital, his wife went with him. His wife was looking after him then.'

(Exhibit CR13, pp1-2)

- 4.9. The statement of Sergeant Gregory Shaw of Coober Pedy Police, supports the family's statement about Kunmanara Ryan's background. The records disclose that he had only minor brushes with the law, in that on 13 February 2002 he was reported for sniffing petrol, on 20 December 2002 he was reported for possession of cannabis, and on 3 April 2003 he was reported for disorderly behaviour (see Exhibit CR10b and Exhibit CR9c).
- 4.10. The family's statement suggests that Kunmanara Ryan's psychiatric problems began after he was 'hit on the head'.
- 4.11. Health records
The files held by the Nganampa Health Council Incorporated (Exhibit CR12) commence in 1990, and record a relatively unremarkable health history. On 5 February 1998 (incorrectly noted as 1997), an injury to the head is recorded which subsequently became infected and was difficult to treat. It is recorded that Kunmanara Ryan had suffered a seizure on the way to the hospital during this incident (see note for 11 February 1998 at 1530 hours).
- 4.12. On 24 October 1998 another head injury was recorded after a fight following a drinking session at Mintabie the previous evening.
- 4.13. Dr Kerrie Gell, Senior Medical Officer for the Nganampa Health Council, said that in March 2002 Kunmanara Ryan underwent a CT scan of his head for an unrelated problem. This showed no intracranial problems (Exhibit C14, p1).
- 4.14. On 20 January 2003 Kunmanara Ryan suffered a head injury as a result of being hit on the head with an iron bar during a brawl. He did not lose consciousness, and on the nurse's examination, there were no neurological problems. There was a 13mm

laceration behind the forehead hairline which was 3-4mm deep with minimal blood loss. Kunmanara Ryan refused sutures, so the wound was bandaged. Dr Gell stated:

'This injury is recorded in our notes and was managed by a nurse following standard treatment guidelines. Clinical features of the presentation were consistent with a minor head injury, which was highly unlikely to have been important in development of his depressive illness.'

(Exhibit C14, p1)

- 4.15. There was no further entry in the clinical record until 15 February 2003 when Kunmanara Ryan presented 'cranky'. He had been vomiting and seemed drowsy, but there were no other specific symptoms. Later that day he was described as still 'a little vague', and slow to answer questions and seemingly having difficulty understanding commands. He was described as 'subdued'.
- 4.16. On 16 February 2003 he was again 'cranky' and explained that this was because he had no cannabis left.
- 4.17. This seems to be the first occasion when Kunmanara Ryan presented with symptoms of depression. On 17 February 2003 he was described as 'withdrawn, sullen'. His family expressed concern to Mental Health Nurse Murray Harper.
- 4.18. On 12 March 2003, MHN Harper's impression was that Kunmanara Ryan was 'quite depressed' in the context of 'heavy THC abuse'. He exhibited no psychotic symptoms that day, except perhaps some excessive suspiciousness. He was displaying poor appetite and sleep, inability to concentrate and generally feeling 'very sad'. He denied suicidal ideation at that time, although admitted fleeting ideation recently.
- 4.19. Following MHN Harper's consultation, Kunmanara Ryan re-presented at the clinic with severe abdominal pain and eventually admitted swallowing a 20mm marble at around 11:30am that morning. He was unable to explain this behaviour. He was quite distressed and clutching his abdomen. There were difficulties with the Royal Flying Doctor Service's aircraft, and so Kunmanara Ryan remained in the Mimili clinic overnight. He was evacuated to Alice Springs the next day by road.
- 4.20. Upon admission to the Alice Springs Hospital Psychiatry Unit, the diagnosis was 'suicidality, situational crisis, marijuana withdrawal' (see discharge summary). He remained an inpatient until he was discharged on 20 March 2003.

4.21. Psychiatric treatment

In view of these events, Kunmanara Ryan was referred to Dr Nigel Cord-Udy, a Consultant Psychiatrist who visits Indulkana and Mimili on a three-monthly basis.

4.22. Dr Cord-Udy saw Kunmanara Ryan for the first time on 2 April 2003 and formed a diagnosis that he had a 'probable major depressive disorder, possibly with melancholia although it is very hard to pinpoint why this illness has developed at this time in this particular man on the information that I had available' (see report dated 7 April 2003 - Exhibit CR12).

4.23. Dr Cord-Udy suggested a detailed organic review including neurological examination with a CT scan should be performed.

4.24. This CT scan was not conducted. Dr Gell commented:

'He had an adequate organic workup for his mental illness on two occasions. No correctable abnormalities were found. In addition, Kunmanara Ryan had had a CT scan of his head performed at Alice Springs Hospital (ASH) in the context of another problem in March 2002. This scan showed no intracranial problems. For this reason, he was not offered a second CT scan when he was admitted to ASH after his parasuicide attempt in March 2003. Our Mimili clinic staff made a serious attempt to re-scan him during 2003, because of Dr Cord-Udy's recommendations. Kunmanara Ryan failed to present for the appointments, for which we had organised transport to Alice Springs and support by our patient liaison staff. I elected in December 2003 not to continue to book this investigation.'

(Exhibit C14, p1)

4.25. Dr Cord-Udy said that there was some suicide risk at the time he first saw Kunmanara Ryan, however:

'... On balance, it would be reasonable to manage him in the community in the first instance, with regular follow-up and any signs of deterioration or doubts about his progress, it would be reasonable to refer him back to Alice Springs Hospital for readmission.'

(Exhibit CR12, letter dated 7 April 2003)

4.26. On 27 May 2003, Dr Cord-Udy thought that Kunmanara Ryan's condition had improved to the extent that he was 'in remission' from his major depressive disorder. However, he said that there was a risk of relapse (Exhibit CR11a, p9). He recommended weekly clinic reviews for the next six weeks.

- 4.27. On 16 September 2003, Dr Cord-Udy saw Kunmanara Ryan briefly, in a motor vehicle which was parked outside the clinic. He refused to get out of the car so it was difficult to assess his mental state. However, MHN Paul Hills had seen him earlier that day, and thought that his condition had improved further.
- 4.28. On 19 November 2003, Dr Cord-Udy recorded a history of relapse seven weeks earlier. The relapse occurred over a one week period following the use of marijuana. Kunmanara Ryan had assaulted his wife, was irritable and withdrawn, and mild paranoid ideation was described (Exhibit CR11a, p11). Dr Cord-Udy's diagnosis was a 'probable relapse of major depressive disorder associated with cannabis abuse'. His plan was to continue with his Risperidone treatment for a further two months.
- 4.29. On 24 February 2004 Dr Cord-Udy and MHN Hills visited Kunmanara Ryan at home. After interview, Dr Cord-Udy diagnosed 'major depression in remission'. He commented:

'I have considerable concerns about his ongoing abuse of various substances and the persisting amotivation and anergia which appear in part to be a secondary complication of the previous illnesses but also probably relate to ongoing substance abuse and maybe questionable compliance with medication. Nevertheless, at this stage, I have recommended that the current medication be continued ...'

(Exhibit CR12, letter dated 26 February 2004)

That was the last occasion in which Dr Cord-Udy saw Kunmanara Ryan before his death on 2 March 2004.

- 4.30. As to the reasons why Kunmanara Ryan may have taken his own life, Dr Cord-Udy said:

'I think just before his death his wife had gone off to Fregon and so left him on his own. So that was a loss of a, at that time a major support. There was a history of increase in substance abuse. I suspect he probably ceased his medication. His illness had a pattern of relapsing very rapidly and quite severely. And it was a recurring illness. There was a background of lack of social supports and difficulties with him engaging with those. There was a history of increasing, probably increasing substance abuse. I'm sure he didn't tell me the real amount he was using. The personal issues accumulating to do with infertility and that's a major source of shame issues, initiation avoidance, social isolation, there was cultural isolation, he was unemployed. He said, we checked up on that last visit, he said he had been doing some of the CDEP work earlier in the year, we actually had time to talk to the CDEP officer on that last visit and in fact he hadn't been working. There were marital tensions. There was another factor, his brother had actually cut down the suicide victim in Indulkana about nine months before and in the distress that he felt, had gone to live Warren for several weeks I understand, so that was a, you know sort of a major family trauma. His brother was very distressed by that, he

had quite similar intrusive memories and I suspect you know, would have spoken at length about that incident and may well have spoken at length with Warren. There's issues about his lack of insight and his poor compliance with treatment as well. So all of those factors I suspect accumulated against him at that time.'

(Exhibit CR11a, p16)

Issues arising at Inquest

4.31. Standard of psychiatric treatment

Although Dr Cord-Udy recognised the possibility that Kunmanara Ryan might harm himself, the evidence before me suggests that there was no imminent threat of self-harm which should have alerted anyone that he had formed an intention to take his own life.

4.32. The last time Dr Cord-Udy saw Kunmanara Ryan was on 24 February 2004 when he concluded that he was still in remission from his major depressive disorder, although he was concerned about his increasing substance abuse.

4.33. In my opinion, there should be no criticism of any of Kunmanara Ryan's therapists since, on the evidence before me, there were no grounds upon which his suicide might have been predicted.

4.34. As to the standard of treatment Kunmanara Ryan received in the general sense, I agree with the summary of MHN Hills, who told me that, in his opinion, Kunmanara Ryan's treatment was 'optimal' in the circumstances (T361). He saw a Consultant Psychiatrist on regular occasions during the last period of his illness, which is a standard of treatment that is not available to all patients, even in the metropolitan area. As Dr Gell observed:

'I think that Kunmanara Ryan's illness was managed reasonably well. His care included:

- Regular review by an experienced psychiatrist, Dr Cord-Udy and a mental health nurse, Mr Paul Hills. This treating psychiatric team was diligent in communicating their findings and suggestions to our staff.
- Good contact and support from Nganampa Health Council nurses, Murray Harper RN (qualified psychiatric nurse) and Noel Lally RN, both of whom took a real interest in Kunmanara Ryan's personal welfare.'

(Exhibit C14, p1)

4.35. RN Lally described some difficulty experienced in March 2003 when it was necessary to transport Kunmanara Ryan to Alice Springs after he had swallowed the marble.

Because it was not considered that Kunmanara Ryan was so psychotic that he required detention, he needed to be transferred as a voluntary patient. In those circumstances he could not expect the police to be involved in the transportation. Since he was a voluntary patient, he could not be sedated sufficiently to be transferred by RFDS aircraft. Accordingly, it was necessary for RN Lally to drive him there in the Mimili ambulance, thereby depriving the community of its only Registered Nurse, and its only ambulance.

4.36. I will discuss this issue again in the general section of these findings in relation to the sufficiency of mental health services on the Anangu Pitjantjatjara Lands.

4.37. Conclusions

Kunmanara Ryan, aged 25 years, died on 2 March 2004 by hanging himself from a tree near Mimili. He had a history of mental illness in the form of depression, and had recently been assessed by a consultant psychiatrist. He had received a good standard of psychiatric care. There is no evidence that Kunmanara Ryan had been sniffing petrol at any relevant time immediately before he died. His psychiatrist, Dr Cord-Udy, had expressed concern regarding his ongoing drug abuse.

4.38. There is no evidence that any other person played a part in Kunmanara Ryan's death.

5. The death of Kunmanara Cooper

5.1. Events of 23 March 2004 and following

Lucy French said she was surprised to see her nephew Kunmanara Cooper in Mimili during the evening of Tuesday, 23 March 2004. He told her that he had only recently arrived. She commented:

'(Kunmanara) did not smell of petrol or seem to be high. (He) does sniff petrol though whenever he can get it.'

(Exhibit CC1a, p1)

5.2. Reuben Walsh saw Kunmanara Cooper at Mimili at about 9:30pm on 23 March 2004. He also saw him the next morning at the shop buying a packet of cigarettes. This was at about 9:45am (Exhibit CC4a, p1). He said:

'About twenty (20) minutes later and not any much more than half hour I was driving down to the fifth house there to get some tools.'

I looked over to a tree near the burnt house and first noticed a pair of legs and then realised it was someone hanging in the tree. He had a pair of white trousers and blue polo type T-shirt. He had a rag on his head and what looked like a swag strap around his neck over his head. He wasn't moving just swinging in the wind. I turned around and drove to the clinic and spoke to Noel (Lally) and called him out.

He locked everything up and raced straight up in the work Toyota. Noel ran over and grabbed the body and lifted him up and I climbed the tree.

The strap was tied around one of the branches in a big knot it was hard to undo but ended up getting it out after a while. We got him down laid him on the ground and started to resuscitate him. Noel kept checking his pulse and just kept trying.'

(Exhibit CC4a, p2)

- 5.3. RN Noel Lally immediately drove to the tree and saw a person hanging from one of the branches. He said:

'The person had a white sheet covering his head and a black strap tied around his neck, over the top of the sheet. His feet were on the ground and his knees were bent slightly. There was about a metres length in the strap from the tree branch.

I went up and felt for a radial pulse in his right wrist. I felt nothing. However, I could tell he hadn't been hanging long as he had good muscle tone and felt warm.

I lifted his body up to get him down and Reuben climbed the tree and untied the strap. As I lifted him some air expired from his lungs out his mouth. We lay him down at the base of the tree and I loosened the knot from around his neck and removed the sheet. I felt for a carotid pulse but couldn't get anything. I then felt for a radial pulse for a couple minutes. I could feel a light, thready and intermittent pulse. I was unsure if it was my own pulse in my fingertips or his.'

(Exhibit CC5a, pp1-2)

- 5.4. RN Lally performed cardio-pulmonary resuscitation for several minutes until Mr Gavin Enevers arrived. He assisted with CPR. As they thought they could feel a pulse from time to time, they continued with their efforts until they could no longer feel a pulse.
- 5.5. RN Lally went back to the clinic and then returned to the scene with a stethoscope, a torch and a pulse oximeter. He found that the pupils in Kunmanara Cooper's eyes were fixed and dilated, there was no carotid or radial pulse and no heart sounds or chest movement. He concluded that Kunmanara Cooper was deceased and made no further attempts to resuscitate him (Exhibit CC5a, p2).

5.6. Cause of death

A post-mortem examination of the body of the deceased was performed by Dr J D Gilbert, Forensic Pathologist, on 25 March 2004. Dr Gilbert concluded that the cause of Kunmanara Cooper's death was neck compression due to hanging. He commented:

- '1. Death has been attributed to neck compression due to hanging. A broad ill-defined and symmetrical ligature mark was noted over the anterior aspect of the neck. There were no internal injuries to the neck other than a fracture of the base of the left superior horn of the thyroid cartilage. The ill-defined nature of the ligature mark was consistent with use of a relatively broad and soft ligature such as a sheet.
2. There were no injuries or other markings on the body to indicate the involvement of another person in the death. Some fresh bloodstains were noted around the perineum but this was not associated with any discernible injury to the genitalia or anus. It was thought most likely that the bleeding resulted from the post mortem activities of ants.
3. The toxicology findings were not to hand at the time of this report.
4. No natural disease that could have caused or contributed to the death was identified at autopsy.'

(Exhibit CC2a, p5)

5.7. A toxicological analysis of a sample of Kunmanara Cooper's blood taken at post-mortem was performed by Mr P D Felgate, the Manager, Toxicology, at State Forensic Science. This analysis established:

- '1. The volatile hydrocarbon components of petrol were detected in the headspace above the blood and the lung.
2. Not detected in the blood:
 - (1) alcohol, amphetamines, benzodiazepines, cannabinoids (THC and 11-nor-9-carboxy-THC), opiates, common basic drugs.'

(Exhibit CC3a, p2)

5.8. On the basis of this report, it is possible to conclude that Kunmanara Cooper had been sniffing petrol, and was probably still intoxicated by that petrol, at the time of his death.

- 5.9. It is not possible now to establish when Kunmanara Cooper may have inhaled petrol. Senior Constable Nigel Hearnden of Marla Police who investigated this matter on my behalf, stated:

'At about 3:15pm (SA) I returned to the Mimili community and spoke to numerous residents. I could not locate any person who could give any information as to the movements of the deceased other than those statements taken. I could not find any person who could either confirm or deny the fact that the deceased had abused any substance from the time he arrived at the community until his death. No letters or notes could be found to explain the reasons for an apparent suicide.

The area where this occurred was searched and we could not find any notes or any other personal property of the deceased. It is unknown where the deceased located the sheet or the swag type strap.'

(Exhibit CC6a, p5)

5.10. Background

The family of the deceased has provided a statement taken by Mr Charles, their counsel, assisted by Mr Tregenza, interpreter. He had lived at Irrunytju (Wingellina) in Western Australia with his grandmother Kuntjil after his mother Daphne Prayta left. His sister Priscilla said that there were five in the family and they were all young when their mother left to travel south. She said that Kunmanara Cooper was a twin to Desmond Cooper and she was younger than the twins. They were all children of Tommy Cooper and their mother.

- 5.11. The statement reads:

'The deceased spent time in Geraldton Western Australia at a children's home. That is where he learnt English. Desmond and the deceased were twins. The deceased learnt to read and write when he grew up with white fellas in the institutional environment in Geraldton. When he came back home from there he was retaught his own language Pitjantjatjara.

We, the family knew that he had a sick heart. He had a big operation on the heart in Adelaide. Marni Goodwin, Tommy Cooper's second wife took him to Adelaide for that big operation. He had the operation after he went through the law. He used to go to ceremonies and Kuntjil used to go on ceremonial journeys herself to provide for her grandsons. That is part of her responsibility for her grandsons.

He stopped sniffing a lot when he got older. When he got older he smoked cannabis and drank alcohol. He had started sniffing when he was at school as a pre-adolescent boy. The grandmother Kuntjil always tried to stop him from sniffing petrol but it was hard for her to do so. He would throw stones at the house and be disruptive, it was hard for her to stop him from sniffing. He would not listen.

Daphne Prayta, the deceased's mother came back to Irrunytju for his funeral.

Last year 2003,. the deceased spent some time in gaol in Western Australia at the Boulder prison. He spent time then at Pipalyatjara and Kalka with Kuntjuria, Kuntjil's sister. He didn't appear to have been badly effected by sniffing.

Police in Western Australia were tough on sniffing, it does not happen much in Western Australia anymore; more on the Anangu Pitjantjatjara Lands in South Australia when the laws are not so tough.

The deceased did not lose the ability to walk or become unsteady on his feet, he used to play football in Irrunytju. He was a single person, he did not marry. He never talked about suicide nor did he threaten to harm himself.

When he stopped sniffing he did not say why he had done so.

He said that he liked smoking cannabis and he liked getting "stoned." He was not cranky when he was smoking, others go cranky when they don't have any cannabis. Anangu cannot understand what happened and why he died. We cannot understand it. He had never spoken about killing himself.

The family say that a day or two before he died he had rung the family from Coober Pedy by a phone call to Irrunytju Community. He said that he was going to Marla and Indulkana and he wanted us to pick him up and take him back to Irrunytju.'

(Exhibit CC7a, pp1-2)

5.12. Kunmanara Cooper's father, Tommy Cooper, said:

'The deceased grew up both at Wingellina and Pipalyatjara as a youth he would sometimes sniff petrol and he spent some time in and out of prison. Most of his time in detention was as a result of his sniffing. After he became wati in Anangu society he only sniffed now and then but took up smoking marijuana with the other young fellas. He never spoke to us about self harm and was a relatively happy young man who just liked to cruise around with other young men.

He attended school off and on in the Wingellina area. He could read and write a little and understood English quite well. He developed his understanding of English from his experience in and out of detention. Before his heart operation he was good at football and used to play football for Wingellina. His heart operation was successful and he was happy he had the operation to make him better.'

(Exhibit CC8a)

5.13. Events leading to imprisonment

Kunmanara Cooper was charged with common assault arising out of an incident on 2 January 2004 at Pipalyatjara. He was arrested for that offence on 3 February 2004 at Mimili, and was transported to Port Augusta where he was admitted to Port Augusta Prison on 4 February 2004. It did not take long for concerns to be raised about his mental health.

- 5.14. On 17 February 2004, it is recorded that Kunmanara Cooper threatened to harm himself. He was seen by a doctor on 18 February 2004. He recommended that he remain in a management cell (where he could be appropriately observed).
- 5.15. On 20 February 2004 Kunmanara Cooper's behaviour had escalated. He was screaming uncontrollably, sobbing and head-butting the door. When staff entered his cell to restrain him he attempted to kick one of the Correctional Officers. He was taken to the infirmary and restrained on a bed. He was given an injection and the doctor was called. Dr Muhammad Ahmad saw him at about 10:40am, and he detained him pursuant to Section 12(1) of the Mental Health Act 1993. Dr Ahmad wrote on the order:

'Intentional self-harm
History of petrol sniffing since school age
Low cognition.'
(Exhibit CC12)

5.16. Admission to James Nash House

Kunmanara Cooper was transferred to James Nash House, the South Australian Forensic Mental Health Services institution, where he was seen by Psychiatric Registrar Dr Hanna. Dr Hanna noted that he was very sedated, and he was unable to elicit a history from him. He commented that it was very hard to assess whether he had a thought disorder, but clearly he had impaired judgment as evidenced by the head-banging.

- 5.17. On the next day, Kunmanara Cooper was seen by Dr Ken O'Brien, the Director of Forensic Mental Health Services and a very experienced Forensic Psychiatrist. Dr O'Brien confirmed the detention order pursuant to Section 12(4) of the Mental Health Act 1993. He commented:

'Communication problems with patient. Awaiting visit of Aboriginal Liaison Officer. Staff report more settled today but uncertainty re possible pathology and future behaviour remains.'
(Exhibit CC12)

- 5.18. Kunmanara Cooper's behaviour settled over the ensuing days, to the extent that on 24 February 2004 Dr Hanna noted:

'Acute disturbance has resolved; no depressive features; planning to return to Whyalla to be with his mother; to go to court tomorrow and if granted bail for discharge.'

(Exhibit CC12)

- 5.19. Kunmanara Cooper did not go to court until 1 March 2004 by which time his behaviour had improved considerably. Comments such as 'pleasant and cooperative', 'settled into the ward well', 'involved in activities', 'compliant with all direction', that he was no longer detained and was a voluntary patient, are in the records.

- 5.20. Discharge from James Nash House

Kunmanara Cooper attended the Holden Hill Magistrates Court on 1 March 2004, when he was placed on a bond with supervision. He attended at the North East Community Corrections Centre and advised that he proposed to go to Whyalla and live with his mother. On 2 March 2004 he caught a bus from Adelaide, but he alighted at Port Pirie instead of Whyalla. He spent the night in the bus shelter, and completed his journey to Whyalla the next day.

- 5.21. Kunmanara Cooper's stay in Whyalla was not successful. On 10 March 2004 he appeared in the Whyalla Magistrates Court charged with disorderly behaviour and assaulting a police officer in the execution of his duty. He was discharged upon entering into a bond to be of good behaviour and to be under the supervision of a probation officer/community corrections officer for a period of six months. The bond further provided:

'6. Shall reside where directed by the supervising officer, initially at Pipalyatjara

7. To return by the first available bus to Marla and then to Pipalyatjara.'

- 5.22. The following is taken from a report to Ms Ann Bloor, Acting Director of Community Corrections:

'While a Community Corrections Officer, accompanied by an Aboriginal translator, visited Kunmanara Cooper's place of residence at 9pm to take him to Port Augusta to catch the bus, they were informed that Kunmanara Cooper had been drinking and did not want to travel to Marla. Kunmanara Cooper refused to come out of the house to talk with Community Corrections Officers who then left and informed the police and Manager, Case Management, Mr David Thompson of the situation. Later that evening police arrested Kunmanara Cooper.'

(Exhibit C8, Annexure 7)

- 5.23. On 11 March 2004 Kunmanara Cooper appeared in the Port Augusta Magistrates Court charged with failing to comply with a bail agreement and carrying an offensive weapon. He was remanded in custody until 17 March 2004. On 18 March 2004 he was convicted of both charges, and released upon entering into a further good behaviour bond with the same conditions.
- 5.24. On this occasion, Kunmanara Cooper was assisted by Community Corrections staff to catch a bus from Port Augusta to Marla. He was instructed to contact the Marla Community Corrections Officer on arrival. There is no bus to Pipalyatjara, which is another 500 kilometres further on, over very rough roads.
- 5.25. Little more is known of Kunmanara Cooper's movements until he was seen in Mimili on 23 March 2004, as I have already described.
- 5.26. In a family statement taken at Irrunytju (Wingellina) in Western Australia, I am informed that a day or two before he died, Kunmanara Cooper had telephoned from Coober Pedy advising that he was going to Marla and Indulkana, and that he wanted them to come and pick him up and take him back to Irrunytju. Irrunytju is proximate to Pipalyatjara in South Australia, and Ngaanyatjarra people often travel between the two communities. Tragically, his family were still in the process of organising money and transport to Indulkana when they received the news that he had died.

Issues arising at Inquest

5.27. Standard of psychiatric care provided

The psychiatric care offered to Kunmanara Cooper was assessed by Professor Robert J Barrett of the University of Adelaide, Department of Psychiatry at the request of Mr Charles, counsel for the family of the deceased. His report is Exhibit CC11. He concluded:

'In my opinion the standard of assessment, treatment and care provided by individual practitioners, including the two psychiatrists, the two psychiatric registrars, and the several mental health nurses was very good, given the limitations within which they were working. Assessments were frequent and documentation was good. Putting these assessments together, it is possible for me to build up a picture of Kunmanara Cooper's case.'

(Exhibit CC11, p7)

5.28. Professor Barrett identified the limitations as being the lack of available interpreter services, and a lack of liaison with community support services.

5.29. As to interpreters, Mr Illingworth, counsel for the South Australian Government, told me:

'James Nash House has access to interpreter services and there is no financial barrier to their use. The availability of suitable interpreters, however, is difficult and this can prevent access. Interpreters who have the required APY language skills are hard to find.'

(Submissions, p2)

5.30. As to community liaison, Mr Illingworth submitted:

'The Rural and Remote Service is currently undertaking a review of Aboriginal people admitted to their service. They are aware that they provide a less than satisfactory service for this group, however the needs of Aboriginal people are diverse and the solutions complex. The Country Division has recently increased funding to the Rural and Remote Service and they will use this to enhance their tele-psychiatry service. This will provide increased access for remote locations to their service and provide closer links between health services in locations like the AP Lands and metropolitan-based services. Rather than James Nash House employing specific liaison people it would make more sense and be a better use of resources to use this service when it is required.

The Country Division is now working closely with the Rural and Remote Service to ensure the needs of Aboriginal people are better responded to. The recently released Strategic Directions for Country Health identified advancing Aboriginal health as a key objective. Included in this objective was the strategic direction 'develop and implement a Country Aboriginal Mental Health strategy.'

(Submissions, p2)

5.31. As to the nature of Kunmanara Cooper's condition, Professor Barrett observed that a wide range of diagnostic options and contributing factors were considered by different mental health professionals at different times, but these were not pulled together into a coherent formulation. His conclusion was as follows:

Provisional formulation: In sum, I suspect that Kunmanara Cooper presented with violent assaultive behaviour, probably triggered by emotional stressors stemming from his relationship with his mother, his 'wife' and his broader community, and exacerbated by intoxication with, at the very least, petrol and alcohol. In the context of prison and separation from members of this community, his behaviour subsequently became self-destructive, and this may have been further worsened by withdrawal from drugs and alcohol. All this has occurred against the background of a person who is cognitively impaired as a result of foetal alcohol syndrome, and probably by the additional neurotoxic effects of petrol. The role of neurosyphilis cannot be excluded. As a consequence of these Neuro cognitive factors, poor impulse control and impaired

judgment have long characterized his behaviour. It would be important to remain vigilant to the possibility of an ongoing atypical psychotic process.'

(Exhibit CC11, p9)

- 5.32. Professor Barrett said that, ideally, an appropriate risk assessment would have extended beyond the walls of James Nash House to include an assessment of the risk Kunmanara Cooper presented to himself or others after he was discharged, to 'evaluate what circumstances might heighten this risk, and what steps might be taken to seek to reduce this risk after discharge'. He commented:

'As a consequence of the narrowly intramural approach to Kunmanara Cooper's risk assessment, the discharge plan did not include any strategies to address or minimize such risk in the community.'

(Exhibit CC11a, p10)

- 5.33. Professor Barrett said that neuropsychological testing should have been conducted which 'would have been critical to understanding the prominent organic contribution (in) Kunmanara Cooper's case'.

- 5.34. Professor Barrett further concluded that 'As a consequence of the lack of background information which led to a lack of clinical formulation, there was a lack of discharge planning'. For example, he pointed out that there was no record of anyone contacting Kunmanara Cooper's mother to assess her capacity to care for him which:

'... raises questions of whether this plan was thought through carefully enough. What concerned me was that there was evidence in the notes that when Kunmanara Cooper did contact his mother by telephone, it appeared to upset him.'

(Exhibit CC11a, p10)

- 5.35. Post release - the role of Community Corrections

The authors of the report to Ms Bloor formed the following conclusions about the degree of assistance provided to Kunmanara Cooper:

'Summary

Duty of care obligations were observed by NCR (Northern Country Region) staff in the case management of Kunmanara Cooper. There was a coordinated approach to the travel arrangements between Community Correctional Centres. Aboriginal Community agencies were utilised.

It is clear that the context for Kunmanara Cooper's death encompasses a number of overlapping factors. These appear to include a lack of planning and regard for his mental health, lack of reliable or positive supports, alcohol use and petrol sniffing, cultural issues, and the isolated and scattered services (including transport services) that are

associated with rural areas. There was little information about Kunmanara Cooper particularly in relation to the nature and extent of his psychiatric condition or his relationship with the Pipalyatjara community. In addition, the apparent lack of not having anywhere to go upon his release from prison, (cited in prison case notes and the Bail Enquiry Report) may have been overwhelming for him.

Staff at the NCR work at the interface of two cultures. Many complex historical, cultural, social, economic and political issues impact on the case management of clients. The problems associated with substance abuse in Aboriginal Communities are well documented in the literature, and as yet are unresolved, as are the social and economic origins and maintenance of Aboriginal offending. The impact on case management services is significant.

This case illustrates the inadequacy of the existing structures, services and processes particularly in relation to clients with concurrent alcohol and other drug and mental health problems.'

(Exhibit C8, Annexure 7)

- 5.36. Mr Lange Powell, the Director of Community Corrections for the Department for Correctional Services, said that he was concerned that when Kunmanara Cooper was discharged from James Nash House on 1 March 2004, there was insufficient liaison between James Nash House and North East Community Corrections Centre in order to ascertain Kunmanara Cooper's mental health status (T56). However, subsequent discussions with Dr Ken O'Brien, the Director of James Nash House, established that they had no ongoing concerns about Kunmanara Cooper's mental health (T57). Mr Powell added that, in his opinion, the North East Adelaide, Whyalla and Port Augusta Community Corrections staff did all they could to assist Kunmanara Cooper when he was in their areas. From what is before me, and having regard to their limited resources, I agree that the Community Corrections Officers appear to have assisted Kunmanara Cooper as best they could in the circumstances.
- 5.37. It is doubtful that anything further might have been done for Kunmanara Cooper, even if Community Corrections staff had contacted James Nash House staff following his discharge. The very positive notes of Kunmanara Cooper's condition which are in the James Nash House clinical record are consistent with Dr O'Brien's opinion that they had no real concerns about Kunmanara Cooper's mental health at that time. By the time of his discharge, it seems that James Nash House staff had concluded that the earlier problems which led to his detention were situational in nature, brought about by the stress of imprisonment rather than evidence of any substantive mental illness.

- 5.38. Mr Powell said that, in any event, the Department for Correctional Services had taken steps to ensure that health information transfer from one system to another is improved (T58). He said:

'Following the incident with Mr Cooper the North East Community Correctional Centre took steps to alert all its duty officers that if particularly Aboriginal people were being released from James Nash House, but basically anybody being released from James Nash House coming through the Holden Hill Court and ending up in the North East Community Correctional Centre, a duty officer is now required to make contact with James Nash House regardless of the circumstances and regardless of whatever assessments James Nash House itself may have made, to ascertain any mental health concerns about the offender now being released. At a more systemic level we are investigating ways of improving the transfer of information from the forensic mental health system into corrections.' (T58-T59)

- 5.39. Mr Charles, counsel for the Cooper family, submitted that it was unsatisfactory that Kunmanara Cooper was put on a bus to Marla, with no means of travelling to Pipalyatjara. He submitted that Kunmanara Cooper should have been flown back to Irrunytju (Wingellina) by the Department for Correctional Services, as is the practice in Western Australia (submissions, p5). Since the bond required that he live at Pipalyatjara, then he would be taken there, if anywhere, but that is a small point. Mr Charles said:

'It is submitted that a specific recommendation should be made to require the safe return of Anangu prisoners to their communities after they have finished their sentences in Pt Augusta or been placed on bonds requiring them to live in particular communities, which communities are not readily accessible to public transport and where they have been sentenced by courts remote from their home. Wingellina (Irrunytju) and Pipalyatjara are situated some 500km west of Marla Bore.'

(Submissions, p5)

- 5.40. Mr Illingworth, counsel for the South Australian Government, described the issue of flying Kunmanara Cooper back to Irrunytju as 'out of the question'. He said that there were financial, legal and safety issues involved, since he would have no longer been in custody.
- 5.41. This is a difficult issue. It is true that when a person is no longer in custody, he cannot be forced to return home to any place, whether on the Anangu Pitjantjatjara Lands or not. On the other hand, Kunmanara Cooper was taken from Pipalyatjara, in custody, more than 1500 kilometres away and then released with an obligation to live at Pipalyatjara. In those circumstances, in my opinion the Department for

Correctional Services was under an obligation to facilitate his return from whence he came. Whether this should have been by air, or escorted in a department vehicle are matters for debate. In my opinion, the duty is more extensive than to supply a bus ticket to Marla.

5.42. Mr Charles also pointed out that had a secure correctional facility been available on or near the Anangu Pitjantjatjara Lands so that Kunmanara Cooper need not have been imprisoned in Port Augusta, then at James Nash House, then encountered all the difficulties in getting home to Irrunytju, his death may have been avoided. This is a somewhat speculative submission, but nonetheless an appropriate one. I will discuss the issue of a secure facility on the Anangu Pitjantjatjara Lands in the general section of these findings.

5.43. Conclusions

Kunmanara Cooper, aged 27 years, died on 24 March 2004 by hanging himself from a tree near Mimili. He had been sniffing petrol prior to his death.

Kunmanara Cooper had recently been imprisoned at Port Augusta, then transferred to James Nash House, a secure psychiatric facility. Upon release, he travelled to Whyalla where his mother lived. He was arrested again, but was not imprisoned further. He was released on a bond, a condition of which was that he live in Pipalyatjara. He was assisted by the Department for Correctional Services to travel. He was probably on his way to Pipalyatjara, and stopped off in Mimili on the way, perhaps waiting for a lift.

5.44. Kunmanara Cooper's family were preparing to travel to Indulkana to pick him up when they heard of his death.

5.45. The standard of psychiatric care provided to Kunmanara Cooper in James Nash House was very good, although limited by a lack of qualified Anangu interpreters, and difficulty liaising with Anangu community members. These are intractable difficulties, and I accept that the Department of Health are doing their best to find solutions.

5.46. There were criticisms of the lack of discharge planning which accompanied Kunmanara Cooper's discharge from James Nash House on 1 March 2004. However,

since the evidence is that he was not suffering from a mental illness at that time, it is not possible to conclude that this was causatively relevant to his subsequent death.

- 5.47. Many of the issues associated with Kunmanara Cooper's case could not have arisen if there had been a correctional facility available on or near the Anangu Pitjantjatjara Lands. It is impossible to know whether his death could have been prevented if such a facility had existed in March 2004, but it is reasonable to suggest that it may have been.
- 5.48. There is no evidence that any other person played a part in Kunmanara Cooper's death.

6. Background - The extent of the problem

- 6.1. In these findings I will refer extensively to findings delivered on 6 September 2002 following inquests into the deaths of three other people who died on the Anangu Pitjantjatjara Lands in 1999 and 2001 ('the 2002 findings'). Each of those cases was strikingly similar to the others, and involved petrol sniffing. In contrast, these four deaths do not deal with petrol sniffing as the primary cause of death. However, in three of the four cases the deceased had been petrol sniffers in the past. In two of the cases involving hanging, there is evidence that the deceased had been sniffing and was probably still intoxicated at the time of death. In the third case, the deceased had been a long-term chronic sniffer who had suffered severe brain damage as a result, and there is no doubt that these disabilities contributed to his death. There is no evidence that he had been sniffing petrol on the day he died or that he was intoxicated at the time he became lost. Indeed there is evidence that he was so intellectually disabled that people would put red cordial in a tin and he would go around the community sniffing it thinking it was petrol.
- 6.2. In 2002, I described the phenomenon of petrol sniffing and discussed the extent of the problem at that time (see 2002 findings, paragraphs 6.7 to 6.15). I also heard evidence from experts working in the area (Dr Torzillo, Ms Shaw, Ms Balmer, Dr White, Mr Tregenza, Ms Lloyd, as well as Anangu parents and relatives of petrol sniffers). All of these people discussed the phenomenon of petrol sniffing, and their suggestions as to why the epidemic continued unabated (see Section 6 generally).

6.3. On the basis of that evidence, I formed the following conclusions:

'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.'

6.4. I made the following recommendation:

'13.2.1 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.'

6.5. Dr Paul Torzillo gave evidence again in these inquests. Dr Torzillo is the Medical Director of the Nganampa Health Council Incorporated. He is a man with vast experience and expertise in these issues. In his submission (Exhibit C12, Section 3), he again referred to the 'ageing cohort' of individuals with polysubstance abuse, 'and an increasing number of individuals in their late 20s and 30s with often a decade of substance abuse and consequent significant brain damage' (see also paragraph 6.12 of the 2002 findings).

6.6. The Nganampa Health Council commissioned a further survey of petrol sniffing on the Anangu Pitjantjatjara Lands in October 2004. The survey was performed by Ms Elizabeth Tregenza of Kutjara Consultants.

6.7. A summary of survey data from successive surveys of this type is reproduced below:

Summary of survey data of petrol sniffing in Anangu Pitjantjatjara communities 1984-2004												
	1984	1987 (b)	1993 (c)	1994 (c)	1995 (c)	1996 (c)	1997 (c)	1998 (c)	1999 (c)	2000 (d)	2002 (e)	2004
Pipalyatjara, Kalka & Watarru	n/a	10	23	11	6	2	3	2	4	4	5	11
Nyapari	n/a									3	3	0
Amata	56	26	36	34	18	24	23	29	37	51	28	63
Pukatja	26	31	13	9	11	10	17	13	13	45	42	57
Kaltjiti (Fregon)	30	16	50	35	11	26	37	26	17	28	19	49
Mimili	n/a	15	17	12	0	0	2	3	1	1	2	4
Iwantja	n/a	46	39	36	39	29	24	29	39	35	17	38
TOTAL	150- 170(a)	144	178	137	85	91	105	102	111	166	116	222
% of Population	10%	7.5%	8.4%	6.4%	3.8%	3.6%	4.1%	3.5%	4.2%	6.2%	4.5%	8.4%

Figure 3 after van der Sterren, 2002

- (a) Minimum estimate based on data from other bodies (Roper and Shaw 1996) in van der Sterren 2002
- (b) Figures from NHC Health Report 1986/87 based on NHC figures for June 1987 (except for Amata). Figures for Amata come from an assessment conducted by the Health/Welfare Assessment Team (established by SA Minister for Health and Community Welfare) in December 1986 (NHC 1987)
- (c) Figures based on research conducted by Stewart Roper (1993-1999)
- (d) Figures based on survey conducted by Nick Halfpenny (2000)
- (e) Figures based on survey conducted by Anke van der Sterren (2002)

(Exhibit C12)

6.8. There have been significant difficulties in the methodology of some of these surveys (see the evidence of Dr Torzillo at T536).

6.9. For example, having regard to the oral evidence I received during the 2002 inquests, it was counter-intuitive that the total number of sniffers on the Anangu Pitjantjatjara Lands reduced from 166 in 2000 to 116 in 2002. The evidence in 2002, anecdotal as it was, put the figure at in excess of 200. If that figure is accurate, then the October 2004 figure of 222 indicates that the number has certainly not diminished, and, if anything, has increased marginally. The submission of Mr Goetz, counsel for the NPY Women's Council Inc, was that the number of sniffers had almost doubled since 2002 (T790). I am not satisfied that the increase has been to that extent. I conclude

that it is more likely that the figure has increased from around 200 in 2002 to 222 in 2004.

6.10. Suicidal behaviour

Although there is no longitudinal data available, it is clear that there was a very significant increase in suicidal and self-harming behaviour on the Anangu Pitjantjatjara Lands commencing around February-March 2004. In addition to the deaths of Kunmanara Ryan on 2 March 2004 and Kunmanara Cooper on 24 March 2004, there were two other deaths by hanging in that month which have not been the subject of an inquest at this time, and a large number of unsuccessful attempts. To illustrate, I quote from the statement of Deputy Commissioner White:

'On 12 March 2004 the Commissioner of Police briefed Government on three deaths by suicide and eight attempts that had occurred on the AP Lands within the preceding twelve days.'

(Exhibit C15)

Superintendent Bristow told me in evidence that since March 2004 there had been a total of 67 events of suicide or attempted suicide (T415).

6.11. Dr Torzillo said:

'Suicide and para-suicide behaviour are major problems for indigenous groups in most developed countries. In various publications, Canada, the USA and Australia claim to have the highest rates of suicide in any of these populations. There are no quality studies of comparison but the rates of suicide are high in all these populations.

In Australia it appears that this phenomenon of increasing suicide rates only emerged as a significant problem in the 1980s. The age at risk for suicide appears to be falling over this time and hanging is clearly the predominant mode of suicide in indigenous populations. Successful suicides are often preceded by some interpersonal conflict and the case analysis that has been done fails to show clear precipitant or causal factors that are only present in individuals who suicided and not present in the non-suicide population.

I don't believe that there are any quality studies that clearly indicate what are effective evidence based interventions and the field is generally characterised by ideological rhetoric, simplistic approaches and uncritical reporting of the literature.'

(Exhibit C12)

6.12. Dr Torzillo pointed out that the problem is multi-faceted. He said that a significant proportion of the young adult population on the Anangu Pitjantjatjara Lands is:

'... characterised by a complex epidemic of:

- Poly-substance abuse including petrol sniffing, alcohol, marijuana and potentially other drugs
- Significant interpersonal violence
- Domestic violence
- Motor vehicle accidents
- Crime
- Suicide and para-suicide behaviour'

(Exhibit C12)

6.13. Dr Torzillo pointed to high death rates and rates of serious illness among middle-aged Anangu which has led to a 'dramatic loss of both community and family leadership and power structures over the last 20 years', 'an accelerating drift of young people to regional towns and cities where they exist as marginal non-participants in a highly fringe setting' and 'a consistent failure by government to provide adequate and sustained policing' as being proximal factors in these phenomena (ibid).

6.14. Dr Torzillo said that the groups most at risk of suicide and self-harming behaviour include older individuals with long histories of sustained drug use who are often involved in violence, domestic violence and self-harm, individuals with a clear psychiatric illness (often underlying depression), and young adolescents who experience high levels of conflicts with families or in relationships and who may be at particular risk in circumstances of acute intoxication with a range of drugs (ibid).

6.15. Psychiatric illness

There is no information available as to the extent of psychiatric illness on the Anangu Pitjantjatjara Lands. I will discuss the availability of treatment for psychiatric illness later in these findings, however in order to place the issue in perspective, I am sure that the factors outlined by Dr Torzillo suggest that psychiatric illness is much more common than has been ascertained so far.

6.16. For example, RN Noel Lally described the extent to which present psychiatric services were dealing with mental illness on the Anangu Pitjantjatjara Lands as 'only scratching the surface' (T335).

7. Socio-economic factors

7.1. In the 2002 findings, I described the socio-economic factors which provided the context in which the phenomenon of petrol sniffing occurs. I think it is appropriate to view the complex of sociopathic behaviour described by Dr Torzillo in the present inquests in the same context. In the 2002 inquests, I reached the following conclusions:

'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.'

7.2. I made the following recommendations:

'13.2.2 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.

13.2.3 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.

13.2.4 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.

13.2.5 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.

13.2.6 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.

13.2.7 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.'

7.3. As I will discuss shortly, there have been considerable efforts since 2002, and in particular since March 2004, to address the issues I described in 2002. However, there is little evidence that these efforts have resulted in significant changes in the socio-economic circumstances in which people live on the Anangu Pitjantjatjara Lands.

8. Anangu attitudes to petrol sniffing

8.1. In Section 8 of the 2002 findings, I described the attitude of Anangu to petrol sniffing and its sequelae. I concluded:

'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.'

8.2. I found the same attitudes to petrol sniffing when conducting these inquests in November and December 2004.

9. Government responses

9.1. In the 2002 inquests, I heard extensive evidence about the response of Governments both State and Federal, to the issue of petrol sniffing up to that time.

9.2. I heard about the establishment of the Anangu Pitjantjatjara Lands Inter-Governmental Inter-Agency Collaboration Committee ('APLIICC', also known as

‘Tier 1’) which was a group of Commonwealth and State Government Chief Executives and Senior Executives who were ‘joined in their concern to improve health and wellbeing outcomes for Anangu’ (2002 Findings, Paragraph 9.7).

- 9.3. I also heard about a structure below the Tier 1 structure known as ‘Tier 2’ consisting of managers from State and Commonwealth Agencies whose responsibility it was for implementing the decisions of Tier 1.
- 9.4. Below Tier 2 was the ‘Anangu Pitjantjatjara Project Team’ whose responsibilities were to execute decisions made at a higher level.
- 9.5. Below that level was the ‘Anangu Elected Members’ consisting of members of Anangu Pitjantjatjara Executive, 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.
- 9.6. As I stated in paragraph 9.15 of the 2002 findings, in addition to APLIICC there was also the Petrol Sniffing Task Force (PSTF) established by the then Minister for Aboriginal Affairs which was described as being ‘closely linked’ to Tier 1.
- 9.7. I also heard evidence about steps taken by Commonwealth agencies, particularly the Department of Health and Ageing, to which responsibility had been transferred from ATSIC in 1995 in relation to Aboriginal and Torres Strait Islander health. The Assistant Secretary of the Department, Ms Norrington, described negotiated contract arrangements with service providers by which programs on the Anangu Pitjantjatjara Lands were funded. She described these as ‘framework agreements’. Ms Norrington described the level of funding at approximately \$20m per year (2002 Findings, Paragraph 9.22).
- 9.8. Ms Norrington also outlined the establishment of the Central Australian Cross Border Reference Group on Volatile Substance Use (‘CBRG’) with representatives from service providers including Nganampa Health Council and NPY Women’s Council and other agencies (2002 Findings, paragraph 9.25).

9.9. On the basis of the extensive evidence I heard on these and other topics, I formed the following conclusions:

'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.'*

9.10. Developments in 2002/2003

Mr Peter Buckskin, the Chief Executive of the Department for Aboriginal Affairs and Reconciliation (DAARE) told me that in late 2002 the Council of Australian Governments established the Anangu Pitjantjatjara Lands as a 'shared responsibility' trial site, known as the 'COAG trial'. Mr Buckskin said:

'The objectives and goals of the COAG trial were similar to those of Tier 1, aiming for better coordination and targeting of Government resources that assist in the building of community capacity with Anangu communities to realise mutually agreed outcomes.'

(Exhibit C6a, p5)

9.11. On 30 September 2002, Cabinet decided to transfer responsibility for APLIICC from the Department of Human Services to DAARE, and the Chairmanship of APLIICC

was transferred from Mr Jim Birch, the Chief Executive Officer of the Department of Health, to Mr Buckskin. Mr Buckskin said:

'In November 2002 DAARE was given the responsibility to Chair APLIICC. A reformed Terms of Reference outlining APLIICC's objectives and governance arrangements was agreed to by the participating Departments and endorsed by the Minister for Aboriginal Affairs and Reconciliation, The Hon Terry Roberts. Two officers transferred to DAARE from DHS to support the work of Tier 1. This also included the establishment of six Working Groups which collectively became known as Tier 2.

The six Working Groups included:

1. Health and Wellbeing
2. Economic and Resource Development
3. Community Cohesion and Safety
4. Petrol Sniffing Task Force
5. Education and Training
6. Arts and Culture

Two additional Working Groups were proposed to cover income and support and infrastructure. These groups never met.'

(Exhibit C6a, p4)

9.12. However, he pointed out:

'(I) had no authority over funding or programs delivered by any member agency. The task of cross agency and multi-jurisdictional coordination and collaboration was made more difficult without this authority.'

(Exhibit C6a, p4)

He observed:

'Despite a lack of resources allocated to DAARE to support the work of the Tier 1 Committee and the Tier 2 Working Groups, and the political instability on the AP Lands, a considerable amount of work was actioned by the Tier 1 Committee and Tier 2 Working Groups. This set the context for improved budget delivery and administration. Budget reporting issues were further addressed when in May 2004 the 2004/05 budget provided for an additional amount of \$12.7m to be administered through the Department of the Premier and Cabinet. This gave the new Aboriginal Lands Task Force more authority to deal with mainstream agencies.

However, building community trust through the complex governance history of APLIICC, and the need to consult widely across State and Commonwealth Government agencies often meant our achievements were limited. Cross-cultural understandings are difficult to achieve particularly when up to twenty non-Indigenous officers representing various Government agencies are meeting with only two Anangu representatives. Important achievements against a complex political backdrop amongst APY, State and

Federal agencies, include the signing of the 'Statement of Intent' in 2003 which identified priorities for our work together, and the 2003/04 and 2004/05 budget outcomes.'

(Exhibit C6a, pp7-8)

9.13. On the evidence of Mr Buckskin and others, I think it is fair to conclude, in general terms, that although the establishment of APLIICC and the CBRG met with a generally favourable response, neither body achieved substantial gains. Indeed, they became bogged down in further consultative efforts and bureaucratic negotiation. Clearly, the political instability associated with the Anangu Pitjantjatjara Executive contributed to this lack of success.

9.14. Mr Buckskin conceded as much in his statement:

'The work of DAARE faced many challenges that impeded its ability to achieve greater outcomes against the agreed goals and objectives articulated in both the Tier 1 Terms of Reference, and the 'Statement of Intent' signed by the Government and the APY Executive in 2003. In addition to the initial APLIICC governance issues, the particular challenges for DAARE included; the lack of agency responsiveness; inadequate authority to demand appropriate monitoring and reporting; the lack of control over APY Budget decisions made in the 2003/2004 Budget outcomes; the lack of financial and human resources to adequately support the work of the APLIICC; and the difficulty in attracting suitable and skilled persons to be employed and resident on the APY Lands.'

(Exhibit C6a, pp16-17)

9.15. APLIICC, and as I will presently discuss, the Aboriginal Lands Task Force ('ALTF'), have focussed upon the Anangu Pitjantjatjara Executive as being the principal agency representing the views of Anangu for the purposes of services delivery. This approach was criticised during the 2002 inquests on the basis that South Australian Government agencies tended to concentrate on the Anangu Pitjantjatjara Executive as if it was somehow the 'Parliament of Anangu Pitjantjatjara Lands'. Mr Tregenza pointed out that Anangu Pitjantjatjara is but one of a number of organisations (including the Nganampa Health Council and the NPY Women's Council) who are responsible for service delivery on the lands. The original purpose of Anangu Pitjantjatjara was to act as the land-holding and land-managing body established by the Pitjantjatjara Land Rights Act 1981 (2002 Findings, paragraph 9.33).

- 9.16. The status of the Anangu Pitjantjatjara Executive became a contentious political issue.

Mr Buckskin said:

'The failure of the APY Executive to hold an annual election in December 2003 caused the State and Commonwealth Governments to question the legal status of the APY Executive Council. Due to the election issue, communication between State Government (including DAARE) and APY Executive became increasingly difficult, and there were lengthy delays in obtaining permits to the Lands. This often resulted in communication being conducted through legal representatives. The Commonwealth also decided not to deal directly with the APY Executive until they conducted new elections.'

(Exhibit C6a, p6)

- 9.17. It is clearly for Government to decide with whom it wishes to deal in relation to service delivery. There is no doubt that service delivery was substantially interrupted by the political uncertainty during 2003. These issues were discussed in the report of the Social Justice Commissioner of the Human Rights and Equal Opportunity Commission entitled 'Responding to Petrol Sniffing on the Anangu Pitjantjatjara Lands: A Case Study'. The Commissioner pointed out that a report commissioned by the South Australian Government from Dr Mick Dodson demonstrated what he described as 'serious governance issues' associated with the Anangu Pitjantjatjara Executive.

- 9.18. By mid 2003, Mr Buckskin was becoming concerned about these arrangements. He said:

'By mid 2003 I came to the conclusion that the Framework for Reform established by the State Government, in particular the Petrol Sniffing Task Force, was not working as effectively as it could and that further reform was needed. For example, both the Petrol Sniffing Task Force and Tier 1 had a primary objective to action the Coroner's Recommendations. Tier 1 in particular was charged with establishing productive cooperative partnerships for the purposes of facilitating a sustainable quality of life for all who live in the APY Lands. To avoid duplication of effort and resources there was a genuine and pressing need to integrate and consolidate the concerted efforts of both frameworks into one. Tier 1 became the preferred framework to coordinate the State Government's response, and the Petrol Sniffing Task Force's work was referred to Tier 2 that comprised a number of relevant Working Groups.

In September 2003 I wrote to SMC seeking the amendments to Tier 1. SMC noted that the COAG Trial Site leadership team and some State Chief Executives shared my views, and were concerned about the effectiveness of the current arrangements, particularly regarding decision-making.'

(Exhibit C6a, paragraphs 20 and 21)

9.19. In late 2003 a workshop was held in Alice Springs called the 'COAG Shared Responsibility Workshop', which formed an allocation committee with nominees from Anangu Pitjantjatjara Executive, community councils, homeland groups, Nganampa Health Council and NPY Women's Council to assist project development for the 2003/2004 budget allocation.

9.20. Concern was beginning to mount that little or no action was being taken to address the issues identified in the 2002 findings. Ms Joslene Mazel, the Executive Director, Indigenous Affairs and Special Projects Division, Cabinet Office of the Department of the Premier and Cabinet in the South Australian Government stated:

'In about February 2004 Cabinet Office was asked by the Chief Executive of the Department of the Premier and Cabinet to look into how the money for the petrol sniffing problem was being spent. \$12 million had been provided over 4 years from the 2003-04 Budget for this purpose. We were asked to investigate the expenditure of this money and, in particular, what it was being spent on. In doing so, we found that a large amount of the money was yet to be spent and we informed the Chief Executive of the Department of the Premier and Cabinet of this situation.'

(Exhibit C10, paragraph 5)

9.21. Coincidentally, on 16 February 2004 Counsel Assisting me, Ms Kate Hodder, wrote to all of the persons and agencies who had signified an interest in the 2002 inquests and findings, advising that I proposed to conduct inquests into the deaths of Kunmanara Ward and Kunmanara Ken at Umuwa in the Anangu Pitjantjatjara Lands commencing on Tuesday 4 May 2004.

9.22. The deaths on the Anangu Pitjantjatjara Lands of Kunmanara Ryan and Kunmanara Cooper and two others in March 2004 then supervened, and prompted much more urgent action from the South Australian Government. The inquests which were listed on 4 May 2004 were postponed because of these deaths, and the necessity to further investigate them, to allow the families of the deceased people time to grieve their losses, to allow time to minimise the risk of copycat behaviour which might be prompted by inquests too soon after these deaths, and for other reasons. The inquests, now including inquests into the deaths of Kunmanara Ryan and Kunmanara Cooper commenced in Umuwa on 23 November 2004.

9.23. Ms Mazel's statement details the Government's initial response as follows:

- immediately deploying three more police officers;

- establishing an across government Task Force to identify programs for immediate delivery and to develop a comprehensive and coordinated strategic plan for improving conditions for people living on the Lands;
- Requesting that the Director of Mental Health visit the Lands and prepare a report on the situation, and responding to his report by immediately providing funding to Nganampa Health for two new male health coordinator positions to work on the Lands. A Male Health Program Coordinator has been recruited and starts on 6th December. The second position for an 'Anangu Male Health Coordinator' has not received a lot of response to date and Nganampa will pursue recruitment for that position when the program coordinator is in place;
- Providing additional funding immediately to the NPY Women's Council for their work in the area of domestic violence.'

(Exhibit C10, paragraph 8)

- 9.24. In my opinion, the most significant step taken by the South Australian Government at that time was to bring the management of these issues into the Department of the Premier and Cabinet, giving responsibility for managing the Task Force to Ms Mazel, who reports directly to Mr Warren McCann, the Chief Executive, who reports directly to the Premier. This arrangement places responsibility for the urgent action required in a key agency at the centre of Government administration, which has power and influence to ensure that effective action is taken.
- 9.25. In the process, APLIICC (Tier 1) was suspended, and a new entity, the Anangu Pitjantjatjara Yankunytjatjara Task Force, which was later changed to the ALTF, was created.
- 9.26. The ALTF has membership from a wide range of important Government agencies including DAARE, Education, Treasury, Families and Communities, Health, Premier and Cabinet, Administrative and Information Services, Further Education, Employment, Science and Technology, Primary Industries, Environment and Heritage, Arts SA, as well as Commonwealth Departments including Health and Ageing, and Immigration, Multicultural and Indigenous Affairs.
- 9.27. A decision was also made to appoint a Coordinator of Government Services on the Anangu Pitjantjatjara Lands. Mr Jim Litster was appointed in mid March 2004 but he withdrew, and ceased working on 8 April 2004. On 6 April 2004 the Honourable Bob Collins was appointed to replace Mr Litster but he was prevented from continuing in the position after a serious motor vehicle accident on 24 August 2004. Two Special Advisors, Dr Lowitja O'Donohue and Mr Tim Costello were appointed on 25 August

2004. Dr O'Donohue attends the Task Force meetings but Mr Costello does not as he is based in Melbourne. As I understand it, neither of these people is in a position to provide the 'hands-on' coordination function that Mr Collins was performing prior to his resignation.

9.28. The Task Force has progressively established 'sub-groups'. They include Justice, Health and Wellbeing, Infrastructure, Employment Training and Education, Legislative Review, Substance Abuse Facility, Swimming Pool and Agency Housing.

9.29. The sub-groups have members from the Task Force, as well as relevant Commonwealth agencies and representatives from such service delivery agencies as Nganampa Health Council and NPY Women's Council.

9.30. A two-year strategic plan was developed and approved by Cabinet on 12 July 2004. The six objectives in the plan include:

- '1. Increase safety in all communities on the Lands;
2. Increase health and welfare services on the Lands;
3. Improve coordination of government services on the Lands;
4. Improve employment education and training outcomes;
5. Improve infrastructure related to essential services in the Lands;
6. Develop effective governance model for the APY Lands.'

(Exhibit C10, paragraph 19)

9.31. The initial budget allocation of \$12m over four years commencing in the 2003/04 financial year remained largely unspent, apart from \$1.65m dollars provided to the Anangu Pitjantjatjara Executive. In May 2004, the Government announced a further \$12.96m to be spent over the four years commencing 2004/05. These sums were in addition to funds already committed by agencies in relation to activities not being managed by the Task Force. The Task Force was required to plan the use of this money in a 'strategic and coordinated way' (Exhibit C10, Paragraph 17).

9.32. Since March 2004, the Task Force has approved a total of 27 substantial projects, some of which I will discuss later in these findings. It is sufficient at this point to say that this activity is far in excess of what had occurred in the 18 months or so between the delivery of the 2002 findings and March 2004.

9.33. Ms Mazel reported that following amendments to the Pitjantjatjara Lands Right Act in August 2004, an election was held for positions on the Anangu Pitjantjatjara Executive on 4 October 2004. She said that since the election, the Executive has engaged positively with the Government, a consultation protocol has been developed, and money has been set aside for training of the new Executive. The Task Force has also endorsed a 'Capacity Building Program' for Anangu Pitjantjatjara Lands communities. She commented:

'The education, training and employment sub-group recognises that strong long-term support will be required to assist in the implementation of community capacity programs. Hence the program includes two mentor positions for two years to continue working with the groups and individuals in their workplaces.'

(Exhibit C10, paragraph 84)

9.34. Most of the witnesses who gave evidence seemed to generally regard the response of the South Australian Government since March 2004 as belated but welcome.

9.35. Dr Torzillo said that although the political response was welcome, there was a tendency for Adelaide bureaucrats, even Aboriginal bureaucrats, not to understand the complexity of the issues which continue to trouble Anangu. He said there continued to be a tendency not to utilise the technical expertise of non-indigenous people who have worked on the Anangu Pitjantjatjara Lands for a long time, and who have developed knowledge and experience which would be invaluable (T511).

9.36. Ms Vicki Gillick, the Coordinator of the Ngaanyatjarra Pitjantjatjara Yankunytjatjara Women's Council Incorporated, also regarded the more recent activity of the South Australian Government as welcome, although she remained critical of the strategy of dealing with the Anangu Pitjantjatjara Executive, which she described as the 'land holding body', rather than a generally representative organisation.

9.37. In that regard, Ms Gillick said:

'NPYWC is of the opinion that the SA Government's decision made at some time in 2003 and continuing into 2004, to deal primarily with AP, the landholding body, and with individual Community Councils, most of which have no experience or expertise in human services delivery, has seriously compromised effective provision of services to Anangu on the AP Lands and has not improved the capacity of Anangu on the Lands to manage or control service delivery.

I am also generally concerned that staff members of government agencies appear at times either to be lacking in ideas for program content, or to hold the view that Community

Councils and some individual community members have a capacity to carry out work that is in reality beyond what they can do. Examples of this attitude include the AP(Y) Youth workers program to date and the proposal to employ 'family support workers' as discussed above. NPYWC Executive members have been very critical of the youth program and the family support model.

...

NPYWC Executive members have consistently expressed to me in very strong terms the view that nothing has been achieved by the SA Government in recent years; that NPYWC has been 'cut off' in SA; that SA departmental staff have wasted considerable time and money in trying to deal with Community Councils and a landholding body that have little if any experience in dealing with human services. A view regularly put to me by members is that nothing of any consequence has happened since the 2002 Coronial Inquest. I note the Coroner's 2002 comments to the effect that Anangu should not be expected to find all the answers to problems without external advice and expertise.

I believe the organisation would have been very pleased to see and cooperate in the implementation of the 'prompt, forthright, properly planned, properly funded action' as proposed by the Coroner in the Executive summary of his 2002 findings; it is our view that this has not yet occurred.'

(Exhibit C13, pp13-14)

- 9.38. In a statement dated 5 March 2005 (Exhibit C17), Ms Mazel advised that a meeting was held in February 2005 in Alice Springs. A wide selection of interested parties were present, including members of the Anangu Pitjantjatjara Executive, the Aboriginal Lands Task Force, NPY Women's Council, Nganampa Health Council, PY Media and AP Services, as well as representatives of the South Australian and Commonwealth Governments.
- 9.39. It was agreed that a new body, called Tjunjunjku Kuranyukutu Palyantjaku ('TKP') ('Together, Towards the Future') should be formed.
- 9.40. Ms Mazel explained:
5. It is proposed that TKP be the peak body responsible for the planning and overseeing of services and responding to issues raised by the South Australian Aboriginal Lands Taskforce, the South Australian and Australian Heads of Government, and the newly proposed Anangu Taskforce made up of representatives of APY communities and organisations. This Taskforce will provide an opportunity for the non government Anangu organisations on the Lands to discuss their concerns in a coordinated way and through their representatives raise those concerns at the TKP.
 6. Mr Bernard Singer, Chair of the APY Executive, welcomed the formation of TKP and has said in a press release, 'We believe that the TKP will provide a more effective and cooperative way for everyone involved to do business and make sure that our children and families have the best opportunities'.

7. The members of the meeting have now taken the proposal to their various organisations for consideration and ratification. The next meeting is to be held on the First of April 2005 at which time it is hoped that the TKP can be formalised and immediately thereafter play an important role in ensuring that services across the Lands are planned and delivered in a coordinated fashion.
8. The creation of TKP is a unique initiative that has been instigated by APY and includes all of the major stakeholders in cooperating to ensure the best service provision to the APY Lands Communities.'

(Exhibit C17, p2)

9.41. I accept that this is clear evidence that the South Australian Government is now addressing the concerns expressed by Dr Torzillo and Ms Gillick above. The formation of such a widely representative peak body to deal with the ALTF on such important issues will hopefully result in better communication and information-gathering which should have a positive effect on policy formulation.

9.42. Conclusions

I heard extensive evidence in the 2002 inquests about the Government responses to petrol sniffing as an issue. I heard about the Anangu Pitjantjatjara Lands Inter-Governmental Inter-Agency Collaboration Committee, Tiers 2 and 3, framework agreements, the Central Australian Cross Border Reference Group on Volatile Substance Use, the Petrol Sniffing Task Force and the COAG trial.

9.43. On 30 September 2002, the South Australian Cabinet transferred responsibility for APLIICC to the Department for Aboriginal Affairs and Reconciliation ('DAARE'). In retrospect, this was a mistake. DAARE did not have sufficient resources, power and authority to drive major change in key government agencies. Political instability in the Anangu Pitjantjatjara Executive, the body with which the Government had decided to deal in relation to service delivery, also hindered effective action.

9.44. In February 2004, it became apparent that the 2003/2004 budget allocation of \$12m, to be spent over four years, remained largely unspent.

9.45. Coincidentally, on 16 February 2004, notice was issued of an inquest into the deaths of Kunmanara Ward and Kunmanara Ken.

9.46. There were four deaths by hanging on the Anangu Pitjantjatjara Lands in March 2004, including those of Kunmanara Ryan and Kunmanara Cooper.

- 9.47. Although some action had been taken prior to this time, particularly by SAPOL, these events appear to have galvanised the South Australian Government into more urgent action. Action by SAPOL, Mental Health Services, and in the area of domestic violence was taken forthwith. Responsibility was transferred to the Department of the Premier and Cabinet, a more powerful and influential department, which reports through its Chief Executive Officer to the Premier. I have no doubt that this has resulted in much more concerted action. A Task Force was established which took over the role of APLIICC. A Coordinator of Government Services was appointed (although he and his successor have both since resigned). The budget allocation was increased by a further \$12.96m, over four years. A Strategic Plan was developed, and 27 substantial projects were initiated.
- 9.48. I have been told about the formation of Tjunjunjku Kuranyukutu Palyantjaku, a widely representative peak body, to deal with ALTF on the planning and overseeing of services, and responding to issues raised by the ALTF.
- 9.49. It is very unfortunate that the optimism expressed by South Australian Government representatives during the 2002 inquests did not translate into the ‘prompt, forthright, properly planned, properly funded action’ which was called for, until March 2004. I received similarly optimistic evidence this time, and it is to be hoped that better results will be achieved. The early signs are good. The impetus achieved thus far must be maintained in the medium and long-term. If these efforts ‘run out of steam’ again, further deaths and misery can be expected.

10. Intervention strategies

- 10.1. In the 2002 findings, I analysed a number of intervention strategies which had either been successful elsewhere, or which had been suggested by people who are experienced in the field. I formed the following conclusions:

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.'*

10.2. I will discuss each of those issues in turn, in light of the experience gained since those findings were delivered.

10.3. Intervention strategies - Youth workers

In the 2002 findings, I recommended as follows:

'13.2.8.1 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.'

10.4. The statement of Ms Mazel establishes that funding had been provided to employ youth workers at Mimili, Ernabella, Amata, Indulkana, Fregon, Kalka and Pipalyatjara. Ms Mazel pointed out that all of these positions had been filled, with the exception of Ernabella, and some of the positions were being shared between several people working part-time (Exhibit C10, paragraphs 23-25).

10.5. Training and development of these workers has been contracted to Relationships Australia, and consists of an accredited 12 month course described as a Certificate III in Youth Work.

10.6. A position known as an Anangu Youth Coordinator was established to coordinate the provision of youth services. The original appointment in February 2003 was vacated in May 2003 because of 'opposition to the appointment from community members' (statement of Brian Dixon, Exhibit C9, p13). A further appointment was made in October 2003 but was not renewed when it expired in September 2004. Funding was provided by the Department for Families and Communities from 1 July 2004.

10.7. It was generally agreed by the witnesses who gave evidence that this program has been unsuccessful. For example, Mr Peter Kay, the Senior Project Officer for APY Youth Programs, said:

'The role of the coordinator was to assist communities to recruit youth workers and to provide them with assistance in putting programs together. While I have a bit more work to do on that aspect, it is quite clear that that did not happen.' (T704)

10.8. The proposal for the youth workers scheme was before me in the 2002 inquests. After examining the proposal, I commented:

'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.'

10.9. Ms Gillick said that this program failed for the same reasons as the previous program at Fregon failed, namely a lack of coordination and training and a lack of support from their employer. She said:

'... these workers, from our observation, have received very little training and supervision. They are employed individually by Community Councils and these appear to have little understanding or knowledge of the program. The coordinator of the program, located at Umuwa, has in our view been largely ineffectual in any level of coordination.'

(Exhibit C13, p9)

10.10. It is obviously galling for the NPY Women's Council that they have been conducting a program called the 'NPYWC Young People's Program' since 1998, with funding

from the Commonwealth as part of their National Illicit Drug Strategy. Ms Gillick referred to the South Australian Government brochure 'Keeping Them Safe – Past Achievements and Future Initiatives 2004-2005. She said:

'This program has provided little or no support to youths at risk or engaging in petrol sniffing. The program has not resulted in even a semblance of a functional youth program, let alone addressed issues of substance abuse. The NPYWC Young People's Program is constantly contacted by families and community services on the Land to work with and assist persons engaged in petrol sniffing.'

(Exhibit C13, p10)

10.11. I was told that the youth program is to be the subject of an extensive review, particularly since the loss of the coordinator. The reviewer is Mr Kay. He had previously been an officer in the Department of Health and has a strong background in the field of services to young people and substance abuse.

10.12. Mr Kay told me that his review will include an examination of not only the role and function of the youth workers, but the effectiveness of their training, and in particular whether the Community Councils have the capacity to supervise, support and train their employees. Indeed, he told me that the question of who should employ these people will be a fundamental aspect of his review. He proposes to spend three out of the four weeks of each of the next three months on the Anangu Pitjantjatjara Lands conducting the review and assessing the future conduct of these programs (T686).

10.13. Conclusion

It is a great pity that, even after the 2002 inquests during which the failure of similar programs was considered, youth worker programs were set up on such an adhoc and unplanned basis, without regard to previous experience, and with insufficient training and supervision of the workers. It is to be hoped that the review of these programs will result in a more coordinated and professional youth worker program being established. It is also to be hoped that the review will enable the Department of Families and Communities to avoid the mistakes of the past being repeated again.

10.14. Intervention strategies - Neuropsychological testing

I was told during the 2002 inquests that before any form of rehabilitation of a person damaged by petrol sniffing can occur, a formal process of neuropsychological

assessment is required in order to determine whether the person is likely to respond to rehabilitation or not. Dr Jack White said:

'This would ideally require brain scans, neuropsychological assessment and neurological assessment.'

(2002 Findings, Paragraph 10.15)

10.15. I was told that in May 2003, Dr White carried out a neuropsychological testing program involving 12 people with a history of petrol sniffing at Pukatja (Ernabella). Also participating in the program were staff from the Disability Services Office and Brain Injury Options Coordination ('BIOC'). Each of the people assessed was found to have suffered significant brain injury and borderline mental retardation (see Exhibit C9, p14).

10.16. Mr Claude Bruno from the Disability Services Office (which is now part of the Department for Families and Communities) told me that on the basis of that testing, a program for Ernabella was added to the list of priorities established in a series of meetings in 2002 and 2003 which I will discuss later in these findings.

10.17. Conclusion

Neuropsychological testing of chronic petrol sniffers has been conducted to a limited extent on the Anangu Pitjantjatjara Lands so far, and has shown very disturbing results. Further testing should be carried out so that all people with suspected brain damage can be identified and appropriate programs can be devised for them.

10.18. Intervention strategies - Outstations/Homelands

During the 2002 inquests, I heard a number of conflicting views about the feasibility of establishing outstation/homeland projects in the Anangu Pitjantjatjara Lands. I heard evidence from Mr Andrew Stojanovski who was a prime mover in the establishment of an outstation at Mount Theo, near Yuendumu in the Northern Territory. In paragraph 10.36 of the 2002 findings, I wrote:

'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)*

I recommended as follows:

'13.2.8.3 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.'

10.19. A particular feature of Mount Theo was that it was situated in a remote location, 52 kilometres from the main road, the Tanami Road, and more than 100 kilometres from Yuendumu.

10.20. The Mount Theo outstation has been remarkably successful, but I am sure that this is due in no small part to those people, especially Mr Stojanovski, who have been instrumental in setting it up. Such projects require more than money – they require people who are committed to the task of operating them successfully.

10.21. I was told that the South Australian Government has provided funding of \$85,000 in 2004/05 for large communities, and \$20,000 for smaller communities and homelands, which money could conceivably be used for the establishment of an outstation as part of an anti-petrol sniffing program (see the statement of Mr Dixon, Exhibit C9, p15).

10.22. It is proposed to establish such a facility near Pukatja (Ernabella) on a homeland. In her statement, Ms Mazel said:

'Solely Anangu will manage the homeland as this is believed to be a key factor in the success of the Mount Theo program.'

(Exhibit C10, p10)

10.23. That is not the understanding I gained from the evidence I heard from Mr Stojanovski in the 2002 inquests. Mr Stojanovski made it clear that he had the support of the local indigenous community, but he also had active participation from the local school and youth workers and the police, and that he was an extremely 'hands-on' participant in the scheme and he personally encouraged, cajoled and otherwise persuaded petrol sniffers to go to Mount Theo when this was necessary. In the passage quoted above, I specifically referred to 'a sense of relationship and obligation between both the white and Aboriginal workers associated with the program'.

10.24. I am somewhat alarmed at Ms Mazel's suggestion that it was necessary that the management of such a program should be 'solely Anangu'. Such an attitude displays, in my opinion, an ongoing lack of information about the history of such programs and the reasons for their lack of long-term success.

10.25. However, I am heartened by the fact that Mr Stojanovski has agreed to act as a consultant for the process, and to act as a mentor to those people who will be involved in operating such a facility on the Anangu Pitjantjatjara Lands.

10.26. I also note that Mr Kay will be overseeing the 'roll-out' of the funds mentioned above, with the assistance of Mr Stojanovski, so that he will be able to provide close management of the project.

10.27. Conclusion

The allocation of funding for the establishment of outstations/homelands for the rehabilitation of petrol sniffers is to be applauded. However, the long-term success of such projects will require commitment from Anangu, but also commitment, encouragement and support from other workers, just as Mr Stojanovski's role was instrumental in the success of the Mount Theo program in the Northern Territory.

10.28. Intervention strategies – AVGAS

In the 2002 inquests, I recommended:

'13.2.8.4 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.'

10.29. Mr Dixon, Executive Director, Aboriginal Services, Department of Health, told me that the 'Comgas' scheme, by which the Commonwealth Government subsidises the use of Avgas in indigenous communities, has been reviewed and its retention has been supported. He said the Commonwealth Government had decided to continue to subsidise the use of Avgas as part of the scheme (Exhibit C9, p16).

10.30. A decision has been taken that, as an environmental measure, Avgas will become unleaded. The constituents of fuel which perform the same function as lead does, will be aromatic, and will render Avgas 'sniffable'. It will therefore be necessary to provide much better security for the storage of Avgas at airstrips on indigenous communities to prevent petrol sniffers gaining access to it.

10.31. One optimistic development has been the announcement by BP Australia that they have developed a fuel called 'Opal Unleaded' which will, in due course, replace Avgas in the scheme (see the 'Fact Sheet' developed by BP, and the 'Questions and Answers' document prepared by the Office of Aboriginal and Torres Strait Islander Health, Exhibit C16). The new fuel contains no lead and low levels of aromatic hydrocarbons, which will mean that sniffers will not achieve a 'high' by inhaling it. I note that the new fuel was officially launched on 18 February 2005.

10.32. Dr Torzillo said that it remains to be seen whether the development of Opal Unleaded will constitute an effective weapon in the fight against petrol sniffing. There may be a resurgence of the black market when sniffable petrol is no longer available on communities. The police response will be of even greater importance if this occurs.

10.33. Conclusions

While the development of 'Opal Unleaded' fuel is a welcome development, it should not be seen as a panacea for petrol sniffing. Action will be required to prevent the development of a black market in 'sniffable' petrol, and to develop adequate security measures to prevent theft of the new Avgas, which will be rendered 'sniffable' once it becomes unleaded.

10.34. Intervention strategies - Legal sanctions

In the 2002 findings, I observed that work pursuant to Community Service Orders made in courts was virtually non-existent on the Anangu Pitjantjatjara Lands, and that there was no point to a Magistrate or a Judge ordering supervision or treatment or other rehabilitation measures because the Department for Correctional Services had no capacity to ensure that such conditions were complied with. I recommended:

'13.2.8.5 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.'

10.35. Mr Lange Powell, Director, Community Corrections, of the Department for Correctional Services, stated:

'The current range of sentencing options available to the Courts sitting on the AP Lands is essentially the same as in other South Australian Courts.'

(Exhibit C8, p4)

It is undisputed that Courts have the same legal powers to impose such conditions when sentencing an offender, whether they are sitting in the Anangu Pitjantjatjara Lands or anywhere else in South Australia. In my opinion, the point is that many sentencing measures are not an option because they can not be complied with or enforced by the Department.

10.36. The Department for Correctional Services has re-evaluated its staffing levels in the far northern region of the State. This re-evaluation was given added impetus by the remarks of Magistrate G F Hiskey in sentencing Casper Yakiti in the Magistrates Court sitting at Ernabella (Pukatja) on 24 June 2003.

10.37. Mr Hiskey had received a minute from Mr Gary Oxford, the Regional Manager, Northern Country Region, of the Department for Correctional Services. Mr Oxford pointed out that:

'The effects of chronic inhalation are extremely rapid and affect cognition to the extent that ultimately the abusers lose the ability to form logical thought process, act rationally and eventually control over most bodily functions including continence, locomotion and digestion is lost. Death usually occurs through respiratory (or) cardiac failure at this point ...

For the above reasons, inhalant abusers are not able to comply with the terms and conditions of a supervised order. Primarily inhalant abuse is a health issue and the implementation of sanctions rather than treatment will not resolve this problem.

The Department for Correctional Services has no resource to which this type of client could be referred. Despite numerous discussions at various government levels there are no resources or residential facilities available to assist these clients until near point of death when they may be hospitalised.

...

The Court is respectfully advised that the Department for Correctional Services is not able to offer appropriate supervision and intervention services for such offenders who the Court may wish to place on community service orders or bonds.'

10.38. These comments were perhaps expressed more broadly than the occasion warranted. Mr Oxford seems to have placed all petrol sniffers in the one category, rather than discriminating between those requiring primary, secondary and tertiary intervention. If Mr Oxford was referring only to those sniffers who are so seriously and permanently disabled that they require tertiary intervention, then his comments make sense (Mr Powell acknowledged this at T74). Interpreted more broadly, Mr Oxford's comments represent a degree of fatalism which is not warranted in the circumstances.

10.39. Mr Oxford's comments provoked a stern response from Magistrate Hiskey. He said:

'Neither the Court nor the Department for Correctional Services can deal at large with the socio-economic factors referred to (in the 2002 findings). That does not absolve either the Court or the Department from doing what they can. The advice given to the Court by the Department is not acceptable.'

(Sentencing Remarks, p3)

10.40. The Department for Correctional Services has now implemented a new 'service model' which has been functioning since January 2004. It comprises:

- A 'case management team' consisting of one officer based in Marla and two in Coober Pedy. These officers deal with bail, probation, parole and home detention supervision, and the preparation of reports for Courts and the Parole Board;
- A 'community service work camp team' consisting of two officers based in Port Augusta. This team spends blocks of up to 15 days at a time on most of the communities in the Anangu Pitjantjatjara Lands three times annually. This team has enabled offenders to 'work off' a total of 1658 hours in the seven months to 5 September 2004 (average 237 hours per month) compared with 678 hours in the thirteen months to 31 January 2004 (average 52 hours per month). I agree with Mr Powell's comment:

'That sends a number of signals to both offenders and the communities that there are going to be serious attempts made at supervising these orders and this is no longer a soft option that people can afford to ignore.' (T49)

- The increase in availability of officers from Department for Correctional Services has also meant that Department for Correctional Services staff are available on each of the Court circuits to the Anangu Pitjantjatjara Lands, which have been increased by the Chief Magistrate from six to eight per year;
- Mr Powell said that an evaluation of the new model and its implementation will be undertaken in early 2005, after 12 months' operation.

10.41. Mr Powell also mentioned further community based sentencing proposals:

- An intensive supervision order (ISO) which would allow some offenders to be diverted from short terms of imprisonment into a management regime incorporating more frequent face to face, telephone or video conferencing contact

with a community correctional officer, curfews, community service work, program participation and alcohol and other drug testing;

- Front end home detention (FEHD) which would allow for an entire sentence of imprisonment to be served by way of home or community detention rather than the current system whereby home detention is only available as part of the final portion of a prison sentence.

10.42. These proposals are not exclusive to the Anangu Pitjantjatjara Lands, and are currently being further assessed by the Department at the request of the Justice Committee of Cabinet.

10.43. Conclusion

The Department for Correctional Services has developed a new 'service model' for services to the Anangu Pitjantjatjara Lands which involves a significant increase in staffing levels. If successful, this will increase the range of sentencing options available to Courts sitting in the Anangu Pitjantjatjara Lands. A review of the performance of the new model will be undertaken in early 2005. Changes must be made if the new model does not meet expectations.

10.44. Intervention strategies - Correctional/Secure care facility

In the 2002 findings, I recommended:

'13.2.8.10 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.'

10.45. Mr Powell told me that Department for Correctional Services had been planning a low-security correctional facility on or adjacent to the Anangu Pitjantjatjara Lands since 1999, well before the 2002 inquests (T39).

10.46. He said that the following key issues which called for the establishment of such a facility had been identified:

- A lack of culturally-appropriate custodial sentencing options available to the courts for Aboriginal offenders in traditional communities. The Department recognises that traditional Aboriginal people have different needs to those living in urban or regional centres with respect to incarceration, rehabilitation, health and spiritual wellbeing;

- Some models of community-based management of offenders on the Lands rely to a significant degree on the capacity of community councils and families to assist with supervision. These models are sustainable only if the Department can guarantee these local resources regular and consistent support, including the temporary removal of chronic offenders from their offending environment where necessary;
- There is a lack of suitable placements for remanded traditional Aboriginal offenders, as well as for those already subject to custodial sentences.'

(Exhibit C8, p6)

10.47. Mr Powell told me that a number of sites had been examined but none was found to be suitable. A property came on the market in 2001 but there was no capital or recurrent funding to purchase the land or develop the facility at that time. The property was later sold.

10.48. Although Mr Powell said that the Department was happy that such a facility could run 'in parallel with a health facility and other programs aimed at assisting petrol sniffers/solvent abusers', he had reservations about whether it could fulfil a combined function of correctional facility and rehabilitation facility for severely affected people, requiring tertiary interventions (Exhibit C8, p9).

10.49. That was also the view of Ms Mazel, the Chair of the ALTF. Ms Mazel made it clear that she also considers the two functions could not operate in a combined facility. She said:

'I guess there has been probably a fairly traditional view that mixing a health service with a correctional facility probably isn't the best way of managing either facility. Because we predominantly see substance misuse as a health issue, not a criminal issue, there's just been that distinction made. So it has never been felt that it was appropriate to combine the two.' (T195)

10.50. If, as seems likely, the South Australian Government accepts the point of view described by Ms Mazel, then it will be necessary for both a correctional facility and a detoxification/rehabilitation/secure care facility to be constructed to fulfil the needs which have been clearly established.

10.51. Correctional facility

I was told that in March 2004, the Department for Correctional Services was seeking funds from Treasury as part of the State Infrastructure Plan, to develop a business case for a correctional facility on or near the Anangu Pitjantjatjara Lands. These funds will be independent of the funds already allocated for the work of the ALTF

which I have already discussed. I have no information to date as to whether this approach will be successful.

- 10.52. On another front, there is the Cross Border Justice Project. This was initiated in 2003 by the Chief Executives of Justice Portfolios in South Australia, Western Australia and the Northern Territory. Its function is to identify avenues of possible inter-jurisdictional cooperation in these areas. Mr Powell is a member of Team 5 of the project, which is convened by the Northern Territory Department of Justice. It has particular responsibility to investigate opportunities for cooperation in relation to, among other things, development of a low-security correctional centre for less serious chronic offenders in the target region (the Ngaanyatjarra Pitjantjatjara Yankunytjatjara speaking peoples of Central Australia), and the possible use of the Alice Springs correctional centre for offenders from the Anangu Pitjantjatjara Lands in South Australia and the Ngaanyatjarra lands in Western Australia rather than using facilities in Port Augusta or Kalgoorlie (Exhibit C8, p2).
- 10.53. A report was prepared in May 2004 which proposed the development of a business case for establishing a fifty-bed community justice facility. This was approved by the Chief Executives of Justice in Western Australia, South Australia and the Northern Territory, and was due to be presented to the Northern Territory Cabinet in November 2004.
- 10.54. Mr Powell was careful to point out that any such facility would not be able to cater for those offenders who were so badly affected by petrol sniffing as to require tertiary intervention.
- 10.55. Secure care facility
As I have already mentioned, Ms Mazel made it clear that it is proposed that a secure care facility should be established to provide a facility for sobering up, detoxification, and rehabilitation of substance abusers. This is not to be a correctional facility. Capital funding has been provided by the Commonwealth in the sum of \$2.2m, and the South Australian Government has committed itself to \$1m in recurrent funding to establish the facility. The ALTF has established a sub-group to develop plans for the facility, and both NPY Women's Council and Nganampa Health Council are represented on the sub-group (T199).

- 10.56. Ms Mazel said that the sub-group was still involved with designing the model for the facility, which is proving extremely complex. She said issues such as whether the facility would be 'approved by the Minister' pursuant to Section 7(3)(b) of the Public Intoxication Act, or whether it would be declared a 'sobering up centre' pursuant to Section 7(3)(d) of the Public Intoxication Act (see the evidence of Mr Kay at T693), are yet to be resolved.
- 10.57. Another issue is whether the facility would cater for children and youths, whether there would be the ability to detain people there or whether attendance would be voluntary, and whether the facility would be able to cater for males and females in the one location, having regard to the cultural difficulties involved.
- 10.58. The size of the facility, where it is to be located and how it is to be staffed, were further issues still being grappled with by the sub-group.
- 10.59. Ms Mazel told me that, at best, the establishment of the facility was still 12 to 18 months away (T199).
- 10.60. Dr Torzillo expressed reservations about whether the establishment of such a facility on the Anangu Pitjantjatjara Lands was feasible. He said that the difficulties which will be encountered in staffing the facility and the resources required to keep it operating will be prohibitive. He argued that any such facility should be established off the Anangu Pitjantjatjara Lands, either in Alice Springs or Coober Pedy (T511).
- 10.61. Ms Gillick also expressed reservations. She said that the facility, and the criteria for its use, will need to be carefully designed. If the place is to be purely voluntary, there is a danger that it will be treated as simply a 'drop-in centre' to obtain a decent meal and possibly a night's accommodation, without any real intervention or rehabilitation taking place (T563).
- 10.62. Deputy Commissioner White said that such a facility should be sufficiently proximate to the communities so that it would be useful to police if they are to be apprehending offenders pursuant to the Public Intoxication Act. Mr Kay, who has considerable experience with substance abuse, said that it takes only two to three hours to 'sober up' after petrol sniffing, whereas it takes 72 hours or so to detoxify (T690). If a person is detained on the Anangu Pitjantjatjara Lands pursuant to the Public Intoxication Act at present, police are required to take the person to Marla or Coober

Pedy. By the time it takes to get there, the person would have already sobered up. For that reason, without a reasonably proximate facility, use of the Public Intoxication Act on the Anangu Pitjantjatjara Lands is pointless.

10.63. Obviously, much further work will need to be done to establish an appropriate design model for the facility, and to resolve the outstanding issues about its location, and staffing. It would not be appropriate for me to make detailed recommendations on these issues on the basis of the evidence before me. It is sufficient to record that the issue is obviously receiving close attention by the ALTF, and that the prospects of establishing such a facility are good, although it is regrettable that it will take such a long time.

10.64. Conclusions

In light of the South Australian Government's decision that a joint secure care/correctional facility will not be developed, it is not possible for me to form definite conclusions or recommendations about where a correctional facility should be established. Obviously, much will depend upon the availability of funding, political will and interstate cooperation. If, in the final analysis, it is decided to adopt the Cross Border Justice Project approach, then something is to be gained by Anangu offenders being imprisoned in Alice Springs rather than in Port Augusta or in Adelaide. Ideally, in my opinion, such offenders should be dealt with on the Anangu Pitjantjatjara Lands where they can be dealt with in a culturally appropriate way, retain ties with their communities, and are not given the opportunity to be led astray in Alice Springs. However, if that is not feasible, then so be it.

10.65. I note that funding has been allocated for the construction of a secure care facility on the Anangu Pitjantjatjara Lands to provide the opportunity for sobering up, detoxification and rehabilitation of substance abusers. This is not to be a correctional facility. The facility is still in the design stage, and there are still many outstanding issues. The location of the facility, its staffing, resourcing, whether it will cater for children and/or adults, men and/or women, detainees and/or voluntary patients, all remain to be resolved. I can only encourage the ALTF to persist in its efforts to achieve a useful outcome.

10.66. Intervention strategies - Night patrols

In 2002 I heard evidence from Ms Anne Mosey who described her experience with night patrols in Aboriginal communities in the Northern Territory and North-West Western Australia (2002 findings, paragraph 10.60 to 10.64).

10.67. This concept had not found favour in the Anangu Pitjantjatjara Lands prior to then. I recommended:

'13.2.8.7 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.'

10.68. I was told that the concept has been explored, and funding has been allocated through the ALTF to establish night patrols at Mimili, Pukatja (Ernabella) and Indulkana. Ms Mazel said that a total of \$160,000 in recurrent funding had been allocated to the proposal. The plan is to establish night patrols at these communities and carry out training and capacity building in the area, and then hand responsibilities over to the community councils to continue operating the patrols (Exhibit C10, p12).

10.69. Deputy Commissioner White told me that reaction to the proposal has been 'patchy' and that police had found it difficult to achieve cooperation from community councils. He said that South Australia Police were happy to act as the lead agency in developing the proposal, and said that this was one of the tasks which the Inspector who is about to commence duties at Marla will undertake (Exhibit C15, pp11-14).

10.70. Conclusions

The establishment of night patrols is still in the very early stages, and should be assisted by the increased police presence on the Anangu Pitjantjatjara Lands.

10.71. Intervention strategies - Children at risk

In the 2002 inquests, the child-protection role of the Department for Family and Youth Services, now vested in the Children, Youth and Family Services Unit (CYFS) of the Department for Families and Communities, was examined briefly. On the basis of this limited examination, I recommended:

'13.2.8.8 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.'

10.72. In these findings, I do not propose to examine in detail the extent to which this recommendation has been implemented, since each of the deaths being considered is that of an adult person and the role of CYFS in these deaths is somewhat remote from the circumstances surrounding the deaths.

10.73. Mr Dixon told me in his statement that for the 2003/04 financial year CYFS spent \$655,000 on the Anangu Pitjantjatjara Lands.

10.74. Ms Roxanne Ramsey, the Executive Director, Country Services, in the Department of Health told me that a new position has been created, namely that of a Coordinator of Services for the Anangu Pitjantjatjara Lands. The position was still being established. The position is to be funded jointly between the Department of Health and the Department for Families and Communities. Ms Ramsay said:

'The funding was released in October of this year and its intent is really to be a visible presence, and quite an important position on the Lands in terms of those two State Government departments to make sure that the services are being delivered, implemented, are responsive to whatever is required.' (T647)

In the meantime, Mr Chris Larkin, presently the Manager of the Aboriginal Housing Authority, will perform that role until a permanent appointment is made.

10.75. This appointment is apparently an implementation of recommendation 13.2.8.6 in the 2002 inquests, which was as follows:

'13.2.6 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.'

To that extent, the establishment of such a position is to be welcomed.

10.76. It is a concern that although it was intended that the Coordinator would reside on the Anangu Pitjantjatjara Lands, Ms Ramsey indicated that it is 'negotiable' (T649). She

said that it was intended that housing would be provided, although decisions about whether the incumbent would reside on the Anangu Pitjantjatjara Lands, and where, are yet to be decided (T650).

10.77. Ms Ramsey told me about the Child and Family Support Program, in which six positions had been created to provide hygiene training, nutrition and baby care, and the Environmental Health Program, in which four positions had been created to assist communities with the provision of clean water, rubbish removal, dog programs, and food stores.

10.78. The Child and Family Support Program was the subject of criticism by Ms Gillick from NPY Women's Council on the basis that these workers will be employed by individual community councils. She said:

'... we believe (the community councils) lack the capacity to oversee and supervise such work. The workers would participate in a TAFE certificate course while on the job. There is no funding for a Coordinator's position and to our knowledge no money for vehicles, office space or administrative support. Many women to be assisted by the program have additional problems such as domestic violence and substance misuse in their families and we do not believe that the employment of a group of largely unskilled workers without proper supervision will be able to effect any change.'

(Exhibit C13, p6)

10.79. Ms Gillick pointed out that the NPY Women's Council was doing similar work using a different methodology with Commonwealth funding (T550). This is a significant concern if different agencies are attempting to provide the same service but using a different approach. Duplication of effort is likely to lead to inefficiency, confusion and will limit the degree to which both programs can be successful.

10.80. Conclusions

It would seem that the role of the CYFS in child protection on the Anangu Pitjantjatjara Lands is being carefully monitored, and should be greatly enhanced by the appointment of the Coordinator of Government Services once the position is established, and accommodation and other issues are dealt with. CYFS has the potential to play a very valuable role in the prevention of self-harming behaviour on the Anangu Pitjantjatjara Lands, both in addressing the underlying socio-economic circumstances in which such behaviour occurs, and in the provision of preventative and diversionary strategies when it occurs.

10.81. I would urge the Department of Health and the Department of Families and Communities to ensure that the Coordinator of Government Services should reside on the Anangu Pitjantjatjara Lands, for all the reasons discussed in the 2002 findings.

10.82. Intervention strategies - Crime prevention

In the 2002 inquests, I pointed out that there appeared to be no crime prevention strategy for the Anangu Pitjantjatjara Lands.

10.83. Superintendent Wayne Bristow, the Officer in Charge of the Far-North Local Service Area for SAPOL, which includes the Anangu Pitjantjatjara Lands, told me that he has attempted to introduce a number of crime prevention or community safety programs into the Anangu Pitjantjatjara Lands since his assumption of the position in January 2002. He said:

'This has not been successful due to the inability of the individual police officers to have sufficient time to dedicate to the vital task of liaison and consultation. They are totally committed while on the Lands to reacting to reports of disturbances and offending, to the extent that they do not have time to conduct the outstanding inquiries they have, let alone undertake their community programs.'

(Exhibit C11, p4)

10.84. Superintendent Bristow also said that an attempt to develop a policing sub-committee with the Anangu Pitjantjatjara Executive had also not been successful until recently. He said that the previous chairperson was strongly opposed to police being involved on the Anangu Pitjantjatjara Lands. It is to be hoped that this attitude has changed since the new Anangu Pitjantjatjara Executive was elected.

10.85. Superintendent Bristow told me that he has also worked towards the establishment of Community Safety Committees. The first one was about to start at Indulkana. This concept involves attendance at meetings by police officers, members of the community council, school teachers, health workers and others in the community to address issues of community safety. As more police officers are stationed on the Anangu Pitjantjatjara Lands, as I will presently discuss, there will be more time available for participation in such activities. The placement of an Inspector at Umuwa will also help to facilitate this proposal (T391).

10.86. Superintendent Bristow said that police had conducted thirteen Blue Light Discos on the Anangu Pitjantjatjara Lands in the previous 12 months which were extremely well

attended and highly successful. In my opinion, this work is to be commended and illustrates the value of having police officers stationed on the Anangu Pitjantjatjara Lands and living with the people.

10.87. Conclusions

To date, the development of crime prevention strategies has been limited by the lack of police resources available. Once the further resources which have been allocated are in place on the Anangu Pitjantjatjara Lands, the development of these strategies will be much easier. The success of the Blue Light Discos already conducted is very encouraging and is to be commended.

10.88. Intervention strategies - Disability services

In the 2002 findings, I made the following recommendation:

'13.2.8.9 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.'

10.89. I heard evidence from Mr Claude Bruno, who is the Manager, Disability Services with the Disability Services Office, part of the Department for Families and Communities. It was that Department which commissioned the Tregenza report, discussed in the 2002 findings, in the first place. Mr Bruno told me that his office was keen to implement the recommendations in the report, and to adopt a joint approach with Mental Health Services and Ageing Disability Services and also a cross-border approach with both the Northern Territory and West Australian Governments (T725).

10.90. Mr Bruno said that meetings to discuss the provision of disability services in the Anangu Pitjantjatjara Lands were held in Alice Springs, the first in November 2002. The Nganampa Health Council, the NPY Women's Council and the Anangu Pitjantjatjara Executive were represented. A report was prepared which contained a number of recommendations. These were attached to Ms Gillick's statement (Exhibit C13, Attachment VMG10). The report was entitled 'No More Questions Please, Can You Just Do It?'

10.91. Mr Bruno told me that it was initially decided to focus on the Amata community where there were a number of patients with urgent needs. After neuropsychological

testing was carried out at Ernabella (Pukatja) by Dr Jack White in May 2003, it was decided to add a program for Ernabella to the list of priorities. The three priority areas were then to provide disability and respite services where there was an urgent and established need, namely at Ernabella and Amata, and thirdly to establish a physiotherapy service to be based with Nganampa Health Council (T726-T728).

- 10.92. A Chief Project Officer, Ms Sharon Evans, was appointed. Ms Evans had considerable experience in providing disability services for the brain injured, having previously been a senior employee of Brain Injury Options Coordination, an agency of the South Australian Department of Health. Ms Evans began spending four out of every eight weeks on the Anangu Pitjantjatjara Lands, commencing in October 2003.
- 10.93. A number of Anangu employees were recruited to provide these services, the proposal being that they would be employed by the local community councils. Mr Bruno acknowledged that this approach was ultimately unsuccessful, and that they had 'rushed a bit and dived in' (T730).
- 10.94. It was then decided to approach an agency with established expertise in the area who could work alongside the community and who could provide community development, so that eventually Anangu would be in a position to provide the services required. Anglicare Central Australia was engaged to provide these services. It is proposed that Anglicare provide disability and respite services both on and off the Anangu Pitjantjatjara Lands. Mr Bruno told me that this program was due to commence in early 2005, and that accommodation and recruitment were both proving difficult issues (T734).
- 10.95. Mr Bruno also told me about a number of other programs which have been funded, including a 'positive behaviours unit' (T742).
- 10.96. A Memorandum of Understanding has been developed between South Australia, West Australia and the Northern Territory for the provision of disability services to indigenous people. The three Governments have each contributed \$20,000 to the appointment of a Project Officer to advise on best practice for the provision of these services. Unfortunately, the Project Officer has since departed, and a replacement is being sought. It has also been decided that all recurrent disability funding for NPY Women's Council will be channelled through the West Australian Department. This

will reduce the extent of their reporting obligations concerning the use of these funds. Previously, they were required to submit reports to all three Governments (T741).

10.97. In the 2002 findings, I recommended:

'13.2.5 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.'

This initiative goes some way towards addressing the concerns expressed in that recommendation.

10.98. Mr Bruno described how funding to the NPY Women's Council had been substantially increased from about \$60,000 recurrent to about \$232,000 recurrent, to enable them to engage in case management as well as provide 'brokerage' funding to respond to referrals for respite as they occur (T744).

10.99. Mr Bruno said:

'The NPY Lands is obviously one of the areas of great need, and we have actually made quite a significant effort. I believe over the next 12 months we'll see Disability Services established and take a strong foothold in Amata and Ernabella. The lessons that we learn over the next 12 months in Ernabella and Amata can then start to be applied to other communities as we start to roll these programs out into other communities. We have been very deliberate and we have been very targeted and very deliberate in working with just two communities to begin with. We felt that if we tried to work across the Lands we might spread ourselves too thin and run the risk of not doing anything at all well. What we learn from the Amata and Ernabella communities ... can be applied to other communities. We will, over time, start to work with other communities.' (T745)

He added that he saw the NPY Women's Council as providing an options coordination service on the Anangu Pitjantjatjara Lands in the longer term (T758).

10.100. I also received a statement of Mrs Robyn Linsdell, Manager of the Cross-Border Carer Respite Centre and Service, operated by the NPY Women's Council. She said that after the meetings held in Alice Springs in late 2002, to which I have already referred, it was agreed, among other things, that:

'The Disability Services Office of DHS ensure that brokerage funds through Brain Injury Options Coordination be made available to purchase personal care worker staff from NPY over this period (Christmas/January holidays); ...'

(Exhibit C2a, p3)

- 10.101. On the basis of that, Mrs Linsdell said that NPY Women's Council operated a successful 'outreach activity-based respite program' for people with disabilities at Amata over the December 2002 - January 2003 period, and Kunmanara Ken was one of the four registered participants in the program.
- 10.102. Further meetings took place in April 2003. Complex negotiations then took place, which were made even more complex by the fact that the Department for Human Services commenced a review of NPY Women's Council and declined to provide new funding until the review was complete.
- 10.103. NPY Women's Council ran a further outreach activity-based respite program from 30 June 2003 to 8 August 2003 at Amata, and again Kunmanara Ken was a participant. It was observed that Kunmanara Ken and his family were noticeably happier during the program (Exhibit C2a, p6).
- 10.104. Unfortunately, despite further negotiations, a similar program could not be organised for December 2003-January 2004. This was the period during which Kunmanara Ken died. The reasons for this are unclear, but there seems to have been some uncertainty about whether NPY Women's Council or the Amata Community Council were to be funded for this purpose. Mrs Linsdell said:

'37. In summary my observation of the involvement of DSO is as follows:-

- a. Following the refusal of DSO to fund NPYWC to do ongoing short term episodes of activity based respite at Amata and other AP communities as a result of their policy decision to develop and deliver disability programs through community councils it would appear that very little progress has been made. During the 2003 / 2004 Christmas period no program was in place to support vulnerable care situations as identified by NPYWC in the original documentation to BIOC in November 2002.
- b. As at November 2004 I am unaware of any programs for people with disabilities having been implemented at Amata except those operated by NPYWC. Amata families continue to seek support from NPYWC in the absence of any action by DHS. NPYWC has had to respond to care situations that can only be described as being in crisis.
- c. NPYWC has on two occasions developed and implemented a model of respite/ support for Anangu with disabilities and their families and sought funding from DHS to continue and expand the work. On both occasions DHS have refused to fund NPYWC to do this.
- d. From 11/6/03 when DHS first advised NPYWC that community disability services would be developed by DHS in conjunction with the Amata

Community Council to the date of this statement I am unaware of the delivery of any service to Anangu with disabilities and their families at Amata by DHS. ' (Exhibit C2a, p8)

10.105. Conclusions

The provision of disability services on the Anangu Pitjantjatjara Lands remains problematic. I accept the assurances made that the Disability Services Office are keen to improve the level of service provided. Initial attempts to provide services with Anangu employees through community councils were ill-considered and failed. Further lengthy consultation and negotiation processes have taken place since then, and Anglicare Central Australia is about to start a major program of service delivery in 2005. Problems of service overlap between providers are still to be sorted out.

10.106. This represents another example of Government agencies embarking on poorly-planned enterprises without learning from the failures of the past. In particular, it cannot be expected that Anangu can deliver relatively sophisticated services to severely disabled people without proper training, supervision and support, at least until they acquire the necessary skills and experience to maintain the level of service required.

10.107. This is another area where I was given optimistic evidence about what was about to happen, despite little having been achieved since the 2002 findings. One can only hope that this optimism is justified, in view of the fact that there are other Anangu with a similar level of disability to that of Kunmanara Ken, and who remain just as much at risk.

10.108. Intervention strategies - Need for a multi-faceted approach

In the 2002 findings, I made the following recommendation:

'13.2.8.14 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.'

10.109. Clearly, the South Australian effort to address the problem of petrol sniffing in the Anangu Pitjantjatjara Lands is being coordinated by the ALTF, chaired by Ms Mazel. To this extent, an overall coordination of services is possible. It is clear that the South Australian Government has taken urgent action since it became apparent in March 2004 that these problems had not been adequately addressed since the

2002 inquests. For this reason, the Task Force developed a two-year strategic plan by June 2004, which I have set out in paragraph 9.32.

10.110. To this extent the Government's approach has been coordinated, and it will be the ongoing role of the Executive Group to review the strategic plan when necessary and ensure that further initiatives are consistent with the plan and not part of a 'piece-meal' approach.

10.111. In my opinion, the approach of the South Australian Government since March 2004 has been consistent with the above recommendation.

10.112. Intervention strategies - Recruitment

In the 2002 findings, I heard evidence that Government agencies were experiencing difficulties in recruitment of both Anangu and non-Anangu workers in sufficient numbers to address the issues being discussed herein.

10.113. I recommended as follows:

'13.2.8.11 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.'

10.114. It is clear from the evidence that I have heard in this inquest that extensive efforts have been made to recruit Anangu workers in a variety of areas, including disability services, family support programs, youth workers, etc. What has been apparent, however, is that a number of these initiatives have failed because of inadequate training, inadequate supervision, and cultural difficulties.

10.115. From the evidence I have heard, it seems that the ALTF members are aware of these difficulties, and are in the process of addressing them.

10.116. As for non-Anangu workers, the difficulties I outlined in the 2002 findings remain apparent. Accommodation, transport and the lack of long-term funding for programs remain intractable issues.

10.117. Ms Mazel said that the Commissioner for Public Employment was considering a Determination which will provide Chief Executives with a much wider range of

options so that they can attract and retain public sector employees to work in remote and very remote locations. These options will include:

- the ability to offer special condition contracts to provide additional remuneration up to 50% greater than those normally available to employees in non-remote areas;
- converting on-going positions to contract positions in order to offer special conditions;
- where an employee was an on-going public sector employee prior to accepting a position in a remote area, that person will have the right to an on-going position (without special conditions) at the same classification level as the remote area position at the expiry of the contract;
- additional relocation provisions, such as the pre-payment of the relocation costs;
- public sector employees who are partners of people taking up employment in remote areas will be eligible for leave without pay for the period of the partner's employment. Partners will be assisted to find employment in the remote area, including through retraining and/or further study or establishing a business within the remote or very remote location;
- employees in very remote locations such as the APY Lands being able to accumulate credit towards study leave on full pay;
- employing agencies providing employees with home internet access, including the necessary hardware and software;
- assistance with maintaining or up-grading vehicles;
- assistance with special family care responsibilities;
- access to satellite television;
- access to specialised schooling;
- assistance maintaining more than one residence;
- assistance with schooling for children (eg boarding schools or uniforms, etc).'

(Exhibit C10, pp16-17)

10.118. Similar steps have been taken by SAPOL. Deputy Commissioner White said:

'In the 2002 Coronial Inquest the State Coroner raised the issue that SAPOL needed to develop a strategy to attract employees to remote stations. The matter of hard to fill rural and remote postings was addressed in the development of the recently completed Enterprise Bargaining Four Agreement. As a consequence two new level of incentives for hard to fill rural and remote postings will be offered. Level 1 option will apply at the discretion of the Commissioner of Police and will not be attached to any specific location. Level 1 options include rent-free depot housing or an additional 20% rent subsidy, reimbursement of disconnection and reconnection of utility services, reimbursement of storage expenses and a \$2000 negotiable component. Level 2 incentives will automatically apply to any posting in the AP and Yalata Lands. It will include rent-free housing, reimbursement of disconnection and reconnection of utility

services, reimbursement of storage expenses, water and electricity usage paid by SAPOL (up to \$4000), payment of freight and foodstuffs, \$3000 remote allowance (paid at the completion of each year of service) and up to \$5000 negotiable component of package. Further, both Level 1 and 2 incentives will provide a guaranteed return to the metropolitan LSA of member's choice at completion of tenure. In addition a country relief pool payment of \$100 per week will be paid for metropolitan based Operations Service relief members when undertaking country relief duties that require them to live away from home at country locations. It is anticipated that these new incentives and allowances which became operative from 4 November 2004 will attract suitable officers to work in remote areas such as the AP Lands and Marla.'

(Exhibit C15, pp10-11)

Superintendent Bristow gave similar evidence. He said:

'There must be a permanent police presence in the AP Lands. This must include police residing on the lands, and to attract suitable personnel requires incentives. With a permanent police presence will come stability through continuity of service, an understanding of the culture, and Community Constables will gain in confidence and stature through the knowledge that support is close at hand.'

(Exhibit C11, paragraph 36)

10.119. The approach taken by Deputy Commissioner White and Superintendent Bristow is in stark contrast to the evidence given to me by Assistant Commissioner Brown in the 2002 inquests. At that time, I was told that there was no proposal to offer additional financial incentives to encourage police officers to work in the Anangu Pitjantjatjara Lands, and that it was not clear that financial incentives would achieve anything (2002 findings, paragraphs 11.37-11.38). I find Deputy Commissioner White's approach much more sensible and more likely to be successful.

10.120. Conclusions

The steps taken to improve incentives to assist in recruiting both public sector employees and police officers to remote areas including the Anangu Pitjantjatjara Lands represents a considerable improvement. Further, the approach taken by SAPOL in relation to the difficulties in securing appropriate accommodation is also to be commended. It seems that an aggressive approach towards obtaining appropriate housing facilities for workers on the Anangu Pitjantjatjara Lands will be the one likely to produce success, as will an approach which fosters the belief that service in remote areas will be valuable to an officer's career.

11. Policing on the Anangu Pitjantjatjara Lands

11.1. During the 2002 inquests, the role of police on the Anangu Pitjantjatjara Lands was examined in detail. I formed the following conclusions:

'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.'

11.2. The following specific recommendations were made in relation to policing issues:

'13.2.8.12 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 Murputja, should be reconsidered in order to provide an appropriate degree of training, support, and supervision of Community Constables;

13.2.8.13 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.'

Recommendation 13.2.8.11 also applied to SAPOL. It was:

'13.2.8.11 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 Murputja, should be reconsidered in order to provide an appropriate degree of training, support, and supervision of Community Constables.'

- 11.3. Deputy Commissioner White, who was appointed to his position in August 2002, told me that after the 2002 findings were delivered in September of that year, the staffing strength at Marla was increased to its full capacity, 11 sworn officers. The positions were all filled by May 2003.
- 11.4. Following Operation Safe Lands, which was described in the 2002 findings, Operation Safe Lands II was conducted from 7 March to 30 June 2003. Both operations were targeted at petrol sniffing, violence, alcohol, illegal drug use and public order.
- 11.5. In July 2003 the Marla Support Plan was developed. Four police officers were deployed to the Anangu Pitjantjatjara Lands at all times, two flown in from Adelaide, and two Marla-based officers. This commenced on 21 August 2003 at a cost of \$250,000 for an initial 35 weeks, and a further \$110,000 to June 2004.
- 11.6. In October 2003, the strategy document 'Delivery of Police Services – Anangu Pitjantjatjara Lands' was developed. This recommended that six sworn police officers be permanently stationed in the Anangu Pitjantjatjara Lands, in addition to the Community Constables.

- 11.7. On 12 March 2004 the Commissioner of Police briefed the South Australian Government about three of the hanging deaths that occurred during that month, and numerous other attempts.
- 11.8. I have already described the South Australian Government's response to these events in March 2004. From SAPOL's point of view, Deputy Commissioner White was made a member representing the Justice portfolio on the ALTF (they were not represented on APLIICC). Funding of \$196,000 was granted to increase the number of sworn officers on the Anangu Pitjantjatjara Lands from four to seven including an Inspector, together with two extra vehicles and other equipment.
- 11.9. It now is proposed that there will be eight police officers resident on the Anangu Pitjantjatjara Lands by July 2005. The Senior Sergeant, Community Constable Training and Development Sergeant, two Senior Constables and four Constables will live at Umuwa and either Murputja or Amata. Deputy Commissioner White said:

'The Inspector of Police is based at Umuwa and is charged with the responsibility of ensuring that there is an emphasis on high visibility uniform policing accommodating both pro-active and reactive functions, to meet emerging operation needs and most particularly the implementation of crime reduction strategies and liaising and working with other agencies.'

(Exhibit C15, p6)

- 11.10. Capital funding of \$500,000 has also been provided for the upgrading of cell facilities at Ernabella, Amata and Pipalyatjara, and \$250,000 for upgrading and maintenance of police stations.
- 11.11. Deputy Commissioner White commented:

'The increased police presence and quickened response has already decreased the observable levels of petrol sniffing and offences against the person and property. Police are very active within the communities, making numerous apprehensions for serious criminal offences and are strengthening liaison and partnerships with the communities and other government agencies. Operations are continually undertaken against those involved in bringing alcohol, petrol and illegal drugs onto the Lands using intelligence provided by Community Constables, community members and having a presence during the hours of darkness on routes used. As part of the policing operations SAPOL shares intelligence with the Western Australia and Northern Territory Police.'

(Exhibit C15, p7)

- 11.12. Deputy Commissioner White said that since March 2004, 64 known attempts or threats to commit suicide have been recorded. A database is being maintained, and Standard Operating Procedures have been developed to deal with such situations.
- 11.13. As to the Community Constables, Superintendent Bristow told me that only five of the twelve available positions are filled at the moment. He said that recruitment was difficult because many applicants failed SAPOL's integrity requirements for appointment (T402).
- 11.14. Superintendent Bristow said that in his opinion the Community Constable system was working, but there are limitations on what they can achieve. He acknowledged that Community Constables need more training.
- 11.15. In my view, the main problem with recruiting Community Constables in the past has been the lack of support they have received from SAPOL in performing a very difficult job. There is often tension between their family and cultural responsibilities on the one hand and their duties as a police officer on the other. The stationing of resident police officers on the Anangu Pitjantjatjara Lands should encourage Anangu to seek employment as Community Constables once they see that they will be supported and supervised in their work.
- 11.16. SAPOL has also been conducting a number of programs in the Anangu Pitjantjatjara Lands as part of a crime prevention strategy. Blue Light Discos, school visits, film nights, road safety education, domestic violence programs, radio programs, bicycle safety programs, petrol sniffing prevention programs, and Community Safety/Crime Prevention Committees have all been undertaken to combat crime and drug abuse on the Anangu Pitjantjatjara Lands. All these initiatives are to be commended, and they will be more successful once SAPOL establish permanent resident police officers on the Anangu Pitjantjatjara Lands.
- 11.17. As I have already mentioned, Superintendent Bristow, the Officer in Charge of the Far North Local Service Area, told me that police officers did not have time at the moment to devote sufficient resources at these initiatives, but this will improve with resident police officers (T381).

- 11.18. Obtaining suitable sites for housing has been a problem, and may not be achieved by June 2005, the target date. However, the officers will rotate through the Anangu Pitjantjatjara Lands until housing can be obtained.
- 11.19. I have already mentioned that SAPOL has developed, as part of a recent Enterprise Bargaining Agreement, a range of incentives which will be available to assist recruitment to the Anangu Pitjantjatjara Lands positions. This gives cause for optimism that the problems with recruitment which have been experienced in the past can be avoided.
- 11.20. In general terms, Deputy Commissioner White told me that the South Australian, West Australian and Northern Territory Governments had established the NPY Lands Cross-Border Justice Project in June 2003. A number of teams were set up, with an Executive and Team Leaders. They met in April 2004, and a number of proposals were made for legislative change in areas such as powers of arrest and cross-vesting of Court jurisdictions.
- 11.21. Deputy Commissioner White summarised the SAPOL position as follows:
- 'Finally, SAPOL strongly believes that much progress has been achieved since the finding of the Coronial Inquest delivered in September 2002.
- The permanent provision of fully sworn police officers on the Lands has enabled police to provide a better response capability and also to allow for more time for community liaison and crime prevention initiatives.
- The response from women in the Lands has been very positive to the additional police and in particular the NPY Women's Council are very supportive of the police presence.
- Petrol sniffers are not as visible in communities but are still active. Sniffers avoid patrols and now tend to sniff outside of communities.
- Family violence remains an issue but with the increased police presence allows for a more effective and timely response to reports. The ongoing operation aimed at reducing Family Violence and assaults on women, in partnership with NPY Women's Council, is having an impact and providing women with the confidence to report matters to the police.
- Behavioural offences fluctuate dependent upon the availability of liquor and other illicit substances. Intelligence received relative to the movement of liquor or illicit substances is now immediately acted on to intercept and prevent its entry onto the Lands.
- Whilst SAPOL has always sought to work in partnership with the communities, government and private sector agencies, it is especially committed to working with and undertaking a leadership role through the Aboriginal Lands Task Force to improving the delivery of services to the AP Lands.

To this end and to assist with the implementation of the SAPOL Delivery of Police Services strategy as from January 2005, for a period of 12 months, the Inspector of Police position presently rotated on a weekly basis on the AP Lands will be replaced with a permanent Inspector of Police residing at Marla and who will be dedicated to working on the AP Lands. This dedicated position will provided consistent and permanent leadership to enhancing service delivery and driving the necessary SAPOL changes, including the oversight of the management of Night Patrols.

Issues including the tyranny of distance and remoteness, high costs associated with the delivery of services and the culture barriers will continue to provide challenges for SAPOL, however I strongly believe that SAPOL's commitment to implementing the Delivery of Police Services strategy will along with the commitment from other government agencies and communities bring about improved quality of life and services for communities on the AP Lands.'

(Exhibit C15, pp16-18)

11.22. Conclusions

The SAPOL response to the 2002 findings has been prompt and comprehensive, perhaps more so than any other agency. Action had been taken prior to the deaths in March 2004, and further action has been taken since. The substantial increases in police officer numbers on the Anangu Pitjantjatjara Lands, substantial increases of reports and apprehension rates, the commitment to placing resident officers on the Anangu Pitjantjatjara Lands and the community development work are all to be commended. These actions should go a long way towards providing Anangu with the degree of safety and protection to which they are entitled as citizens of Australia.

12. Psychiatric issues

12.1. Mental health issues

Mental health issues are particularly relevant to the inquests before me. They did not arise directly in the 2002 inquests. Both Kunmanara Ryan and Kunmanara Cooper had shown signs of mental illness prior to their deaths. It is therefore necessary to examine what mental health services were provided to them prior to their deaths, and whether any inadequacy in that regard was causally relevant to their deaths.

12.2. Dr Nigel Cord-Udy, the Consultant Psychiatrist who examined Kunmanara Ryan during 2003, made the following general observations about the incidence of mental illness on the Anangu Pitjantjatjara Lands:

'There appears to be a heavy burden of mental ill health and disability within this population, with a very high level of chronic physical disease and major problems with

serious substance abuse. Factors contributing to the high level of mental health problems include the following:

- (1) Biological factors, particularly brain damage from serious substance abuse, especially petrol sniffing as well as head trauma (mainly from assaults) and the psychiatric complications of chronic medical conditions. There are background issues of potential 'in utero' damage from nutritional deficits and substance abuse as well.
- (2) Psychological factors, particularly chronic grief through severe and recurrent losses, effects of trauma and abuse, problems with parenting issues, the legacy of child removal policies and significant developmental issues, particularly in the formation of identity, self esteem and self worth for adolescents and young adults.
- (3) Social factors, relate to historical issues of loss and dispossession and more contemporary issues of cultural stress for young Aboriginal people in integrating traditional culture and values with demands of a rapidly changing dominant society with a background of major language barriers, geographical isolation, chronic unemployment and financial dependency.'

(Exhibit CR11b, p1)

12.3. Dr Cord-Udy provided an extensive description of the extent of local services available to treat mental illness. To summarise:

- Nganampa Health Council has done an excellent job in endeavouring to cope with overwhelming mental health issues with limited resources;
- Visiting psychiatric services have expanded considerably in the past twelve months;
- These have supplemented previous visiting psychiatric services from Alice Springs and more regular visits by visiting Mental Health Worker Mr Paul Hills;
- There is a need for high quality interpreting services;
- The recent appointment of resident Psychiatric Nurses will be of considerable value;
- The services of a Neuropsychologist and Neurologist to assess the level of cognitive deterioration in those with brain damage are required;
- A fast-tracked training program and supported employment of Aboriginal Mental Health Workers is required;
- A longer-term and innovative program for the selection, support and training of Aboriginal Medical Officers and ultimately Psychiatrists is required;

- Video-conferencing facilities, if culturally appropriate, should be established in each clinic to allow tele-psychiatry and tele-medicine between the Anangu Pitjantjatjara Lands, Adelaide and Alice Springs;
- The role of Adelaide-based mental health services and the provision of mental health services to Anangu needs to be further considered since there are major disincentives for patients to come to an Adelaide-based facility

(Exhibit CR11b, pp3-5)

12.4. Ms Roxanne Ramsey told me that the Director of Mental Health Services, Dr Jonathan Phillips, visited the Anangu Pitjantjatjara Lands following the four deaths in March 2004. Following Dr Phillips' visit, funding to Nganampa Health Council for two new Men's Health Coordinator positions was provided (T661).

12.5. In addition, further funding was provided directly to Northern Territory Health to enhance the mental health services provided from Alice Springs at a cost of \$100,000. Ms Ramsey also referred to the 'Healthy Ways' program to improve nutrition, and the Patient Assistance Transport Scheme to subsidise transport costs in order to obtain medical treatment at a cost of \$498,000. This funding was provided to the Nganampa Health Council (T662).

12.6. Dr Torzillo identified a number of issues which remain problematic:

- The detention of patients with a mental illness pursuant to South Australian legislation requires that the patient be transferred to a South Australian approved treatment centre (see Mental Health Act 1993, Section 12). In practice, such patients should be taken to the nearest mental health facility, which for the Anangu Pitjantjatjara Lands residents is in Alice Springs. Dr Torzillo commented:

'The lack of a cross border scheduling (detention) arrangement actually makes cross border transport illegal and continues to be a major impediment to the safe management of these patients. There appears to be recent action by the Department of Human Services in South Australia to correct this problem.'

(Exhibit C12, paragraph 6.2.1)

- South Australian law requires that detention may only be ordered by a Medical Practitioner, which is often impractical on the Anangu Pitjantjatjara Lands. Dr Torzillo commented:

'In our view the only way this could be overcome is that following discussion with a responsible Medical Officer for Nganampa Health Council, the Psychiatrist on-call for the Rural and Remote Psychiatry service (in Adelaide) is actually able to write a schedule (detention order) for the patient so as to initiate their transfer.'

(Exhibit C12)

12.7. I have mentioned these issues because they are relevant not only to the deaths of Kunmanara Ryan and Kunmanara Cooper, but possibly also to the other examples of self-harming behaviour which have been displayed on the Anangu Pitjantjatjara Lands in the last 18 months or so.

12.8. Conclusions

Clearly, there is room for improvement in the standard of mental health services on the Anangu Pitjantjatjara Lands, even though improvements have already been made. It is not possible for me to conclude, on the basis of the evidence before me, that the absence of psychiatric services on the Anangu Pitjantjatjara Lands had a direct causal relationship with any of the deaths before me. In particular:

- Kunmanara Ryan received periodic consultant psychiatric treatment from Dr Cord-Udy during 2003, and on the last occasion he gave no indication that he was suicidal or otherwise intent upon harming himself. On that basis, it cannot be argued that Kunmanara Ryan received a level of treatment which was less than that which might be expected in the metropolitan area of Adelaide (assuming that is the criterion), and it has not been established that a lack of psychiatric services played a part in Kunmanara Ryan's death.
- Similarly, although there were difficulties during Kunmanara Cooper's imprisonment both in Port Augusta and at James Nash House in Adelaide, he was not exhibiting psychotic or self-harming behaviour when he was discharged from James Nash House. Again, it cannot be concluded that an absence of psychiatric services on the Anangu Pitjantjatjara Lands contributed or was causally relevant to his death.
- There is no evidence that Kunmanara Ward exhibited symptoms of mental illness at any stage, and it has not been established that an absence of adequate

psychiatric services on the Anangu Pitjantjatjara Lands was causally relevant to his death.

- It is clear that Kunmanara Ken's difficulties were the result of organic brain damage, and not the result of a mental illness. Accordingly, it has not been established that inadequacy of mental health services on the Anangu Pitjantjatjara Lands was causally relevant to his death either.

12.9. On the basis of these findings, I am not in a position to make recommendations pursuant to Section 25(2) of the Coroners Act in relation to the provision of mental health services on the Anangu Pitjantjatjara Lands. However, I draw to the attention of the Director of Mental Health Services, Dr Jonathan Phillips, the comments of Drs Cord-Udy and Torzillo outlined in these findings, in case they may be of assistance in formulating future policy in the area.

13. Recommendations

13.1. In the 2002 findings, I made a number of recommendations which I thought may prevent, or reduce the likelihood of, a recurrence of an event similar to the deaths being considered (see Section 25(2) of the Coroners Act, 1975). Tragically, with the exception of Kunmanara Ryan, the deaths now being considered are so connected with petrol sniffing that they must be considered 'similar' to the deaths being considered in the 2002 inquests. Indeed, since the 2002 findings, the problem of petrol sniffing has become worse, not better.

13.2. To that extent, either the recommendations I made in 2002 were inappropriate, or they have not been effectively implemented. With the exception of the secure care/correctional facility recommendation, it has not been suggested in this inquest that the 2002 recommendations were inappropriate. It has therefore been necessary to consider the extent to which they have been implemented.

13.3. Detailed planning has been done, and substantial funding has been committed. However, with the exception of SAPOL and the Department for Correctional Services, most of the necessary remedial action is yet to be implemented.

13.4. In those circumstances, it is appropriate that I should repeat the general recommendations I made in the 2002 findings. Making due allowance for the fact

that Anangu Pitjantjatjara Lands Inter-Governmental Inter-Agency Collaboration Committee has been replaced by the Aboriginal Lands Task Force, I now recommend:

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 Aboriginal Lands Task Force, 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;

As to specific issues, I make the following further recommendations:

8. The Commissioner of Police should consider whether all SAPOL personnel in rural and remote areas should receive the type of training described by Superintendent Bristow at paragraph 3.56 hereof, in order to ensure that search and rescue operations in such areas are timely and adequate;
9. The South Australian Government should consider how the paucity of Anangu interpreters might be addressed, and how liaison with Anangu community members on behalf of a person detained in a corrective or psychiatric institution might be improved;
10. The Premier, in consultation with the Minister for Correctional Services, the Aboriginal Lands Task Force and the Central Australian Cross Border Reference Group, should consider as a matter of urgency how the development of a culturally appropriate correctional facility, on or near the Anangu Pitjantjatjara Lands, or as part of a tri-state development at some other reasonably proximate location, might be accelerated;
11. The Aboriginal Lands Task Force should persist in its efforts to address the outstanding issues so that an appropriate secure care (as distinct from correctional) facility might be developed at the earliest possible opportunity;
12. The Department for Families and Communities should consider, in the light of Mr Kay's review, how it might establish a properly structured, funded and coordinated youth worker program for the Anangu Pitjantjatjara Lands;

13. The Disability Services Office and the Department of Families and Communities extend the level of neuropsychological testing of chronic petrol sniffers throughout the Anangu Pitjantjatjara Lands so that the full extent of disability, flowing both from petrol sniffing and otherwise, might be ascertained and the appropriate level of disability services can be provided;
14. Action already taken in relation to outstations/homelands should be further supported so that more such projects can be established on the Anangu Pitjantjatjara Lands for the benefit of all Anangu;
15. The Commonwealth Government should continue to support the availability of 'Opal Unleaded' fuel on the Anangu Pitjantjatjara Lands, and consider what security measures will need to be taken when the constituents of 'Avgas' become sniffable;
16. The Department for Correctional Services should consider, in light of the review of its new service model, what further steps need to be taken to provide an adequate level of service in the Anangu Pitjantjatjara Lands;
17. The efforts already made towards to the development of night patrols on the Anangu Pitjantjatjara Lands should be further encouraged and developed;
18. The Department of Families and Communities should consider how the role of the Children, Youth and Family Services Unit in relation to children at risk on the Anangu Pitjantjatjara Lands might be enhanced so that underlying socio-economic circumstances might be addressed, and appropriate preventative and diversionary strategies might be developed;
19. The Department of Health and the Department of Families and Communities should ensure that the new Coordinator of Services should reside on the Anangu Pitjantjatjara Lands;
20. Once it is fully established on the Anangu Pitjantjatjara Lands, SAPOL should further develop crime prevention strategies;
21. The Disability Services Office should closely monitor the adequacy of the disability services program to be delivered to Anangu in 2005, and to ensure that any shortfall in service delivery is urgently addressed;
22. SAPOL should persist with the efforts it has made so far to provide appropriate levels of personnel and accommodation on the Anangu Pitjantjatjara Lands as

was outlined by Superintendent Bristow and Deputy Commissioner White, and to further develop strategies for providing a safe and secure community for Anangu to live in.

23. 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;
24. 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; Suicide and Self-Harming Behaviour

In witness whereof the said Coroner has hereunto set and subscribed his hand and

Seal the 14th day of March, 2005.

Coroner