



FINDING OF INQUEST

An Inquest taken on behalf of our Sovereign Lady the Queen at Ceduna in the State of South Australia, on the 24th, 25th and 26th days of November 2008 and the 18th day of December 2008, by the Coroner's Court of the said State, constituted of Mark Frederick Johns, State Coroner, into the death of Kunmanara Gibson.

The said Court finds that Kunmanara Gibson aged 29 years, late of Yalata Aboriginal Community, Yalata, South Australia died at Yalata, South Australia on the 8th day of July 2005 as a result of hydrocarbon inhalation / asphyxia. The said Court finds that the circumstances of his death were as follows:

1. Introduction

1.1. 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 this Inquest. Instead of the first name, the word 'Kunmanara' is used. In Pitjantjatjara this means 'no name'. I will therefore refer to the deceased as Kunmanara Gibson.

2. Cause of death

2.1. Kunmanara Gibson was aged 29 years when he died on 8 July 2005. He was found lying on a bed in a house in the Yalata Community on the morning of 8 July 2005. There was a strong smell of petrol in the house and there was a metal tin containing petrol firmly placed around Kunmanara Gibson's nose and mouth. Professor Roger Byard conducted an autopsy on 12 July 2005. Professor Byard's report was admitted as Exhibit C3a in these proceedings. The cause of death was hydrocarbon inhalation / asphyxia and I so find. Professor Byard elaborated in his report that volatile

components of petrol were detected within Kunmanara Gibson's lung tissue. The mechanism of death included both cardiac arrhythmia due to the cardio toxic effect of the hydrocarbons present in the petrol but also asphyxia from obstruction of the airway from the petrol tin having fitted tightly around Kunmanara Gibson's nose and mouth. There were marks on Kunmanara Gibson's face caused by the placement of the petrol tin tightly against his face. Professor Byard noted that there was nothing about Kunmanara Gibson's body to implicate any other person in his death.

3. Background

- 3.1. Kunmanara Gibson was 10 years old when his father died. Maureen Smart, an Aboriginal woman from the Yalata Community, assumed responsibility for Kunmanara Gibson's care at that time. His father's parents came from the Oak Valley Community and his grandmother was still alive and living at Oak Valley, although she was extremely unwell. When Kunmanara Gibson was 13 or 14 years of age his paternal grandmother, Edie Milpuddie, was very sick having been exposed to radiation following the atomic bomb tests at Maralinga in the 1950s. According to Mrs Smart she was one of the last living people at that time to have survived the bomb testing.
- 3.2. Kunmanara Gibson's mother had abandoned him at the time of his father's death and would not come back to see him in Yalata¹. Mrs Smart would take Kunmanara Gibson to Port Augusta to visit his mother but she would be inebriated and would reject him².
- 3.3. When he was in his early 20s, Kunmanara Gibson started sniffing petrol. Mrs Smart believed he was doing that because of his feelings of abandonment by his mother and the death of his father, grandmother and other close relatives³.
- 3.4. In short, Kunmanara Gibson's life was characterised by a sense of abandonment and grief. Despite this, in his early years whilst in Mrs Smart's care, he had shown some promise as a schoolboy and had participated in a program at Woodville High School for children from the Lands. Unfortunately, the negative factors in his life overwhelmed his capacity to continue with his schooling, he became a chronic petrol

¹ Transcript, page 98

² Transcript, page 99

³ Transcript, page 96

sniffer, and the last decade of his life was a period marked by ill health caused by petrol sniffing and neglect.

4. The Yalata Community

- 4.1. The Yalata Community is situated some 200 kilometres west of Ceduna. It is a remote community in a desert environment. The population is generally around 200 people, although it fluctuates considerably from time to time with the influx of visitors for funerals and other community events.
- 4.2. The Yalata Community has a school and a health clinic, which is staffed by nurses and is visited weekly by a doctor from Ceduna. The community has an office, which is managed by a community development manager, who has the general oversight of the community. There is also a community store and recently a swimming pool was built for the use of members of the community, particularly children.
- 4.3. Over the years the community has had its problems. According to a letter dated 2 November 2005 from Mr Fabian Peel, Chairman of the Tullawon Health Service⁴, Yalata had a petrol sniffing problem in the 1980s which was resolved after a considerable amount of effort by the community involving many family members who resolved the matter as a community issue. However, in late 1999 the Yalata Community organisation ‘fell down’ for some 12 months. As a result, no services were provided apart from the health service and the school. By 2001 petrol sniffing had become endemic once more with a floating group of approximately 5 to 30 people indulging in that destructive habit.
- 4.4. It appears from the evidence in this case that since Kunmanara Gibson’s death from petrol inhalation and asphyxiation in 2005 there have been no further such tragic deaths. Indeed, the evidence showed that over the period since 2005, much has been done in the community to deter would be petrol sniffers by engaging them in programs and activities to reduce the boredom and hopelessness which otherwise can lead to petrol sniffing. The unanimous view of all of the witnesses who addressed this subject was that the Yalata Community is – for the time being at least – free of the scourge of petrol sniffing. This Inquest examined the circumstances that have

⁴ Exhibit C13

enabled this to happen and considered the factors which are necessary to maintain a healthy, petrol sniffing free, community in Yalata for the future.

5. SAPOL initiatives since 2005

- 5.1. The evidence showed that in order to achieve a petrol sniffing free environment, it is necessary to have two things. Firstly, it is necessary to have an active police presence to deter persons from bringing petrol onto the community for sniffers, in other words to prevent the supply of petrol for that purpose. Secondly, it is necessary to have a variety of programs and activities that will constructively engage younger members of the community in activities that will prevent them from becoming bored and disengaged with the risk that they will lapse into petrol sniffing and substance abuse.
- 5.2. Sergeant Christopher Kummerow gave evidence at the Inquest. He was stationed at the Yalata Police Station as the General Duties Member for 12 months from approximately December 2006. He said that his primary role was the maintenance of community safety. He said that his day-to-day problems would range from domestic violence situations to assaults and importation of alcohol (the Yalata Community is a dry zone)⁵. Sergeant Kummerow said that when he first arrived in the community petrol sniffing was quite overt. People would sniff petrol openly in the community without trying to conceal what they were doing.
- 5.3. In fact, people would even sniff petrol in the presence of police officers without appearing to be inhibited by their presence. Sergeant Kummerow said that the Aboriginal Lands Trust Yalata Reserve Regulations made it an offence to have alcohol or any other regulated substance, including petrol.
- 5.4. Sergeant Kummerow said that from his arrival at the community he attempted to target the problem of petrol sniffing as strategically as possible. He consulted with the members of the community with the help of the two Community Constables who were stationed at Yalata, namely Community Constables Day and Queama. Together with those gentlemen, Sergeant Kummerow consulted with community elders and other people in the community including health workers, teachers and the community development manager. They identified the number and identity of the persons who were engaging in petrol sniffing. At that time there were approximately 30 such

⁵ Transcript, page 8

people. From there, Sergeant Kummerow broadly categorised that group of people as those who were actively transporting and distributing petrol in the community and those who were merely using the substance. Sergeant Kummerow developed a database of intelligence and adopted an approach of actively policing the people engaged in transportation and distribution of petrol. The distributors of petrol tended to engage in what Sergeant Kummerow described as 'side offences', particularly break-ins and theft. Those offences were pursued quite actively and convictions obtained, as a result of which sentences of imprisonment were imposed. As a result, the group of people involved in the distribution of petrol was gradually removed from the community as terms of imprisonment were imposed.

- 5.5. Sergeant Kummerow said that a different approach was adopted in relation to the users of petrol and in particular the juveniles. He said that they were rarely arrested or reported but that the officers would use their discretion to caution them. The petrol would be seized and the officers would find a responsible adult with whom the child could be placed. This work was carried out in consultation with Families SA as a number of the juveniles were under the care and protection of that Department. The police would, accordingly, notify Families SA and then notify the nurses at the Tullawon Health Clinic (the clinic I have previously referred to at the Yalata Community) who would conduct follow-up health checks⁶.
- 5.6. Sergeant Kummerow said that the police would liaise strongly with service stations in the immediate area including Nundroo at Penong and the Nullarbor Roadhouse. Through this means they would gain intelligence about people purchasing large quantities of petrol in jerry cans and then attempt to intercept those people before they arrived within the community.
- 5.7. Sergeant Kummerow also gave evidence about community policing initiatives to address boredom in the community, which he said – and I agree – is responsible for a lot of the petrol sniffing. He arranged for Blue Light Discos for the youth who he said loved music and loved the discos. They tried to do at least one of these per month and during school holidays and other special celebrations. He said that the whole community became involved on these occasions and that some of the elders would take the young people out during the day and hunt for traditional food. This would then be cooked in the traditional way and the disco would follow.

⁶ Transcript, page 14

- 5.8. Sergeant Kummerow spoke of strategies agreed between himself and the Principal of the Yalata School where children were failing to attend school because, although there was a small school bus that would pick them up in the morning, some of them would run away and hide in the scrub. To address this, Sergeant Kummerow and Community Constable Queama would follow the bus in the police vehicle and try to encourage the children who ran away to come with them. He said that the younger children would often be happy to have a ride in the police car because of the novelty.
- 5.9. Older adolescents caught petrol sniffing might have bail conditions imposed requiring that they attend school each day or assist Sergeant Kummerow with the arrangements for the Blue Light Discos, for example cooking barbecues.
- 5.10. Sergeant Kummerow explained that as the policing of petrol sniffing behaviour intensified, the remaining sniffers would behave in a more covert manner. They would use abandoned houses and as these were located with the assistance of the Community Constables, the sniffers would be pushed further and further out into the scrubland. Eventually it became too inconvenient for would-be sniffers to find a place where they could indulge in the habit without being detected. Sergeant Kummerow said that eventually, perhaps by around June 2007, the situation was reached where he was reasonably confident that there were no petrol sniffers in the community⁷. Sergeant Kummerow acknowledged the support he received from SAPOL management in his efforts. For example, the then Assistant Commissioner Gary Burns provided support for budgetary allocations for extra staff to assist him and for the Blue Light Discos. Sergeant Kummerow also acknowledged that without Community Constables Day and Queama he would have been unable to carry out his daily duties and certainly would have been unable to achieve as much as he did in eliminating petrol sniffing.
- 5.11. Sergeant Kummerow acknowledged that hurdles still exist for the community. He pointed out that sentencing options for the Courts are limited in as much as there are no probation officers to supervise some of the more innovative bonds and conditions which might be imposed in the metropolitan settings, for example sports programs or drug and alcohol rehabilitation programs. For this reason these options are not available. Sergeant Kummerow acknowledged that there was a need for further support of that nature.

⁷ Transcript, page 19

- 5.12. After Sergeant Kummerow completed his posting at Yalata, his place was taken by Sergeant Matthew Steinbeck. Sergeant Steinbeck gave evidence at the Inquest. Effectively, he continued the good work of Sergeant Kummerow by continuing the community policing activities. He noted that peer group pressure often plays a part in the decision of a young person to sniff petrol⁸. He said that his goal was to continue with the community policing activity focus and create more activity and to continue with intelligence gathering with a view to stopping the supply of petrol to the community⁹.
- 5.13. Sergeant Steinbeck said that OPAL petrol is not available in the Yalata region. He said that discussions had been held by various government and non-government agencies in relation to the introduction of OPAL fuel, however, this had not led to a positive result.
- 5.14. Sergeant Steinbeck emphasised a harm minimisation approach in relation to petrol sniffing and spoke very positively of the role of Community Constables Day and Queama in liaising with the families of children who might be tempted.
- 5.15. Sergeant Steinbeck acknowledged that there was an ever-present danger that petrol sniffing might recur in the community if some of the persons involved in distribution returned from prison, or if some of the programs for the young people ceased because of a lack of funds. He said in that situation there was a danger that petrol sniffing would occur again¹⁰. Sergeant Steinbeck referred to the 'no school, no pool' policy which was implemented with the advent of the construction of the swimming pool at Yalata. This initiative was also useful in securing school attendance and preventing truancy¹¹.
- 5.16. Sergeant Steinbeck acknowledged that problems continue to exist. For example, contractors in the lands who have vehicles which run on petrol have had their vehicles damaged by offenders stealing petrol on so many occasions that they no longer bother to lock their petrol caps. It has been anecdotally reported that some of the contractors actually leave the petrol caps off their vehicles in an effort to protect their property¹². Sergeant Steinbeck spoke about the difficulties of policing the access roads into the

⁸ Transcript, page 32

⁹ Transcript, page 32

¹⁰ Transcript, page 37

¹¹ Transcript, page 40

¹² Transcript, page 42

community with a view to intercepting vehicles and searching them to ensure that no petrol or other illicit substances are being imported into the community. This is resource intensive and sometimes, or so it is believed, diversionary tactics are employed by offenders to divert the police from these endeavours¹³.

- 5.17. Unfortunately the Yalata Police Station was burnt down in 2007. As a result, there are no safe cells on the community and any persons arrested at Yalata must be taken to Ceduna or released on bail immediately. This leads to considerable difficulties when policing such matters as domestic violence offences.
- 5.18. Community Constables Day and Queama also gave evidence about their efforts to support the community. In particular, Community Constable Queama gave evidence about petrol sniffer camps and the benefits that these can have. He referred to camps where elders can take young people who have been involved in petrol sniffing into the remote regions surrounding Yalata to show them traditional activities such as hunting, making artefacts, fishing and other traditional endeavours. He said that sometimes the families of the sniffers would then come out and visit for a weekend to be with their children.
- 5.19. Community Constable Queama referred to the part that sports such as football could play in combating the temptation to resort to petrol sniffing. It is clear that the work of the community constables in this community is absolutely crucial. I commend Community Constables Day and Queama for their efforts to serve their communities. I would also commend the efforts of Sergeants Kummerow and Steinbeck who have clearly contributed to the Yalata Community in a very positive way during their postings.

6. The present situation

- 6.1. I visited the community on the first day of the Inquest and had the opportunity to observe some of the facilities and talk to a number of people.
- 6.2. The school was in session during my visit and I had an opportunity to speak with the Principal and several teachers. The classrooms were bright and inviting and it is clear that the teaching staff is very dedicated. They are to be commended for their efforts. The swimming pool is an impressive facility. It is properly enclosed for safety

¹³ Transcript, page 43

purposes in a purpose-built structure which surrounds the pool and prevents access by children and youths without authorisation. This is clearly necessary for safety reasons. Unfortunately, when I visited – in late November 2008 – the pool was not in use. It was explained to me that the community was awaiting the arrival of a pool supervisor whose task it would be to monitor the proper operation of the swimming pool together with the safety of the people using the pool. I found this very unfortunate because on the day I visited it would have been an ideal swimming day, at least for children. This was borne out by the fact that many of the school children followed the group to the swimming pool for our inspection. This demonstrated the difficulty of attracting staff to the community. While I understand that a facility such as a swimming pool may not require a staff member for a full year (clearly the pool would not be suitable for use during the winter months) and thus it would be inefficient to have a person employed to look after the pool when it was not in use, there are logistical difficulties in dealing with this kind of staffing issue in such a remote location as Yalata Community. That said, it is a pity that the swimming pool, which represents a significant capital investment, and which offers opportunities for the health of the children as well as securing better school attendance, has not been used to the optimum extent possible.

- 6.3. I was shown around the Tullawon Health Clinic by the nurse in charge. He confirmed that he has been employed since June 2008 and has seen no evidence of sniffing in that time.
- 6.4. The community development manager told me that it is his view that things have steadily improved within the community over the last few years. He stressed the importance of a police presence in controlling domestic violence and securing general community safety. While it is clear that SAPOL is making a tremendous effort to ensure that the Yalata Community is properly served by a strong police presence, it is absolutely essential that this commitment be maintained and, if at all possible, strengthened.
- 6.5. I visited the community store. The store manager concurred in the view that over the past three years there has been an improvement in the conditions of the community. He volunteered that it is his policy that he will not allow children to attend the store during school hours unless an adult accompanies them. The store has a provision for takeaway food to be supplied. The store has a policy of avoiding the preparation of

deep fried takeaway food, favouring healthier cooking methods. It was obvious that the community store contains a good selection of fresh fruit and vegetables, the store manager explaining that fruit can be obtained from Adelaide and be on the store shelves within 24 hours.

- 6.6. My general impression of the community was positive. It was pleasing to note the interaction between members of the police force and the members of the community. It was obvious that a warm and positive relationship exists. This reflects well on both the community members and the dedicated members of SAPOL who are involved with the community.

7. The future

- 7.1. While at present the scourge of petrol sniffing seems to have been controlled, it is far too soon to say it has been eradicated from the Yalata Community. The community is fragile and requires a minimum level of support which it seems to enjoy at the moment. However, it is a very small community and the withdrawal of even one aspect of its present support could lead to a downward spiral. The issue may not always be one simply of funding, but of the recruitment of staff in such a remote location. Experience has shown that petrol sniffing has been controlled in the past, but has returned when community support has slipped. Against that background I make the following recommendations.

8. Recommendations

- 8.1. I recommend that the State Government:
- 1) Acknowledges the efforts made by SAPOL to date to control petrol sniffing in Yalata, and to engage in positive community policing activities;
 - 2) Gives consideration to the construction of a police station with safe cells at Yalata;
 - 3) Gives consideration to the implementation of a drug diversion program for petrol sniffers along the lines of the programs that are available to Drug Diversion Courts in other parts of the State;

- 4) Gives consideration to the establishment of a drug and alcohol rehabilitation centre at Yalata;
- 5) Gives consideration to the construction of a remand facility at Yalata;
- 6) Maintains support for existing community programs and gives consideration to the institution of further community programs, such as camps for youths to learn traditional practices from elders.

Key Words: Petrol Sniffing; Aboriginal Deaths

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

Seal the 18th day of December, 2008.

State Coroner