

Coroners Act, 1996
[Section 26(1)]

Western



Australia

Inquest into the deaths of -

**Edward John RILEY
Rachael HENRY
Chad ATKINS
Teddy BEHARRAL
Maitland BROWN
Jonathon DICK
Lloyd DAWSON
Benjie DICKENS
Ivan Barry GEPP
Owen Gordon Jonathan HALE
Ernest James LAUREL
Joshua MIDDLETON
William Robert MILLER
Gordon OSCAR
Celeste Antoinette SHAW
Shawn SURPRISE
Davina Kaye EDWARDS
Nathalia Maree COX
Desley SAMPI
Llewellyn SAMPI
Troy James O'SULLIVAN
Zedrick YAMERA**

February 2008





Western

Australia

RECORD OF INVESTIGATION INTO DEATH

Ref No: 37/07

I, Alastair Neil Hope, State Coroner, having investigated the deaths of –

Edward John RILEY, Rachael HENRY, Chad ATKINS, Teddy BEHARRAL, Maitland BROWN, Jonathon DICK, Lloyd DAWSON, Benjie DICKENS, Ivan Barry GEPP, Owen Gordon Jonathan HALE, Ernest James LAUREL, Joshua MIDDLETON, William Robert MILLER, Gordon OSCAR, Celeste Antoinette SHAW, Shawn SURPRISE, Davina Kaye EDWARDS, Nathalia Maree COX, Desley SAMPI, Llewellyn SAMPI, Troy James O’SULLIVAN, Zedrick YAMERA, with an inquest held at Derby on 4-5 October 2007, Fitzroy Crossing on 8-12 October 2007, Kununurra on 15-16 October 2007, Broome on 12-23 November 2007 and Perth on 7, 18 and 21 December 2007 and 16-17 January 2008 find that the identity of the deceased persons were –

- + Edward John RILEY, and that death occurred on 13 or 14 April 2005 at Pandanus Park, near Derby, as a result of ligature compression of the neck (hanging);*
- + Rachael HENRY, and that death occurred on 25 December 2005 at Looma Community, near Derby, as a result of ligature compression of the neck (hanging);*
- + Chad ATKINS, and that death occurred on 12 January 2006 at Billabong Park, McLarty Road, Fitzroy Crossing, as a result of ischaemic heart disease and coronary arteriosclerosis;*
- + Teddy BEHARRAL, and that death occurred on 28 January 2004 at Sanford Road, Fitzroy Crossing, as a result of multiple injuries;*



- ✚ **Maitland BROWN**, and that death occurred on 26 or 27 December 2006 at Kurnangki Community, Fitzroy Crossing, as a result of asphyxiation due to ligature compression of the neck;
- ✚ **Jonathon DICK**, and that death occurred on 18 October 2005 at Yiyili Community via Halls Creek, as a result of gunshot injury to the head;
- ✚ **Lloyd DAWSON**, and that death occurred on 18 October 2005 at Yiyili Community via Halls Creek as a result of gunshot injury to the head;
- ✚ **Benjie DICKENS**, and that death occurred on 26 May 2000 at Sanford Road, Fitzroy Crossing, as a result of neck injury;
- ✚ **Ivan Barry GEPP**, and that death occurred on 13 March 2000 at the Fitzroy River, Fitzroy Crossing, as a result of immersion;
- ✚ **Owen Gordon Jonathon HALE**, and that death occurred on 7 October 2005 at Princess Margaret Hospital, Perth, as a result of cerebral hypoxia following ligature compression of the neck;
- ✚ **Ernest James LAUREL**, and that death occurred on 18 November 2005 at Mindi Rardi Community, Fitzroy Crossing, as a result of ligature compression of the neck (hanging);
- ✚ **Joshua MIDDLETON**, and that death occurred on 14 February 2002 at Junjuwa Community, Fitzroy Crossing, as a result of ligature compression of the neck (hanging);
- ✚ **William Robert MILLER**, and that death occurred on 16 April 2006 at McLarty Road, Fitzroy Crossing, as a result of ligature compression of the neck (hanging);
- ✚ **Gordon OSCAR**, and that death occurred on 10 October 2006 at Junjuwa Community, Fitzroy Crossing, as a result of ligature compression of the neck (hanging);
- ✚ **Celeste Antoinette SHAW**, and that death occurred on 30 November 2006 at Junjuwa Community, Fitzroy Crossing as a result of ligature compression of the neck (hanging);
- ✚ **Shawn SURPRISE**, and that death occurred on 15 April 2000 at the Fitzroy River, Fitzroy Crossing, and the cause of death was unascertainable;
- ✚ **Davina Kaye EDWARDS**, and that death occurred on 4 January 2005 at Lemonwood Way, Kununurra, as a result of ligature compression of the neck (hanging);



- ✚ **Nathalia Maree COX**, and that death occurred on 13 August 2005 at Pindan Avenue, Kununurra, as a result of ligature compression of the neck (hanging);
- ✚ **Desley SAMPI**, and that death occurred on 4 April 2006 at Knowsley Street, Derby, as a result of ligature compression of the neck (hanging)
- ✚ **Llewellyn SAMPI** and that death occurred on 2 or 3 April 2007 at D'Antione Street, Broome, as a result of ligature compression of the neck (hanging);
- ✚ **Troy James O'SULLIVAN**, and that death occurred on 25 January 2006 at Munget Community, north of Broome, as a result of ligature compression of the neck (hanging); and
- ✚ **Zedrick YAMERA**, and that death occurred on 26 October 2006 at Yakanarra Community, Fitzroy Crossing, as a result of ligature compression of the neck (hanging)

in the following circumstances -

Counsel Appearing :

Mr Mulligan assisting the State Coroner

Mr Hammond, with Mr Dobson (Hammond Worthington) for the families of the deceased, the Kimberley Aboriginal Law and Cultural Centre and the Marninwarntikura Fitzroy Women's Resource and Legal Centre

Mr Davies QC, Mr Donaldson SC appearing with Mr Shervington and Mr Slattery (instructed by Minter Ellison) for the Crossing Inn Partnership

Ms Thatcher (State Solicitors Office) for the Department of the Premier and Cabinet, Department of Health, Department of Indigenous Affairs, Department of Education and Training, Commissioner of Police, Department of Housing and Works and Department of Child Protection

Mr Howard instructed by Ms Ling (Australian Government Solicitors) for the Department of Employment and Workplace Relations (Commonwealth)



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ACKNOWLEDGEMENTS

The extended scope of this inquest resulted from representations made by the Kimberley Aboriginal Law and Culture Centre (KALACC) whose representations were supported by Hon Thomas (Tom) Stephens MLA. The drive for the inquest came, importantly, from the Aboriginal people themselves and the ongoing support of KALACC was of fundamental importance in obtaining evidence from many Aboriginal people. In that context I am indebted to Mr Joe Brown, KALACC Chairman, and Mr Wes Morris, KALACC Coordinator, for their ongoing support for the process.

A particularly important contribution was made by Mr Joe Ross who liaised with the representatives of the various communities visited during the inquest and made arrangements for the inquest to visit those communities. Mr Ross also provided invaluable assistance in arranging for witnesses to attend the inquest hearings and as a witness, himself, provided powerful evidence about the plight of Aboriginal people in Fitzroy Crossing.

It is not possible to refer to all of the witnesses here, but almost every witness called gave helpful and constructive evidence.

Special mention should be made of the families of each of the deceased persons who contributed in a positive and helpful way to the inquest. In many cases family members selected a spokesperson to speak on behalf of the family. The courage and honesty of those witnesses merits comment as it was not an easy task to speak in a public forum about personal and normally private matters such as how alcohol and drug abuse had impacted on the life of the deceased persons.

Witnesses, such as Dr Joy Rowland, the Senior Medical Officer at the Fitzroy Crossing Hospital, spoke frankly and from the heart about the issues faced by Aboriginal people. A testament to the regard with which Dr Rowland is held in Fitzroy Crossing was the fact that when she gave her evidence all of the Aboriginal witnesses and family members who could do so made every effort to hear all of her evidence.

Very important contributions to the inquest came from witnesses of the very highest standing in the community. These included Professor Fiona Stanley AC, Director of the Telethon Institute for Child Health and Research, who has been honoured as an Australian “Living National Treasure” by the National Trust and was made Australian of the Year in 2003, and Lieutenant General (Retd) John Sanderson, the Special Advisor on Indigenous Affairs, former Governor of Western Australia, former Chief of Army and former military commander of the United Nations peacekeeping operations in Cambodia.



My task was made easier by the honest and forthright evidence of witnesses who represented the various government organisations at the inquest. These witnesses did not attempt to cover up or conceal the inadequacies of the organisations in question and openly recognised the need for change.

The inquest was greatly assisted by a number of police officers and particularly by Aboriginal Police Liaison Officer, Vivienne Gordon, who went to great trouble to help witnesses and to arrange for their attendances at Fitzroy Crossing as well as giving important evidence herself.

In Fitzroy Crossing there were a number of practical and logistical problems which arose and staff of the Karrayili Adult Education Centre, whose facilities were used, were particularly helpful in overcoming all of those problems and ensuring that hearings proceeded smoothly.

I thank the Manager, Media and Public Liaison, Ms Val Buchanan, whose interactions with the media enabled accurate and comprehensive reporting to take place in circumstances where the feelings of family members and people living in communities which were visited were treated with respect. In that context I thank the various media representatives for accepting the constraints placed upon them. I thank the West Australian newspaper for supplying photographs taken at the various locations visited during the inquest to the Court.

I am indebted to all counsel who appeared to represent parties at the inquest, most of whom embraced the essentially positive purposes of the hearings. In particular Counsel Assisting, Mr Dominic Mulligan, brought to the inquest and inquiry independence of mind and extensive experience and worked tirelessly throughout. I also thank Mr John Hammond, who represented KALACC, the Marninwarntikura Fitzroy Women's Resource and Legal Centre and families of the deceased persons, for his work in identifying and liaising with a number of witnesses who were called to give evidence. Ms Carolyn Thatcher and staff of the State Solicitor for Western Australia also made a major contribution to the inquest by identifying and obtaining comprehensive statements from representatives of a number of government agencies.

I also offer my special thanks to Ms Dawn Wright, Administrator, Office of the State Coroner, who performed a multitude of tasks to ensure the smooth running of the inquest.



EXECUTIVE SUMMARY

These 22 deaths were inquested in one inquest pursuant to section 40 of the *Coroners Act 1996*. The inquest was held to explore the reasons for a large number of deaths of Aboriginal persons in the Kimberley whose deaths appeared to have been caused or contributed to by alcohol abuse or cannabis use and also, if possible, to identify reasons for an alarming increase in suicide rates.

The suicide rates of Aboriginal people in the Kimberley increased dramatically in 2006. In that year there were 21 Aboriginal self-harm deaths in the Kimberley (an increase of over 100%). By contrast in the non-Aboriginal Kimberley population there was no increase and there were only 3 deaths by self-harm for a larger total population.

The Aboriginal suicide rates for the Fitzroy Crossing region were particularly bad with 8 self-harm deaths in 2006 in a population of about 3,500.

During the inquest a number of Aboriginal remote communities were visited, particularly in the Fitzroy Crossing area. Inquest hearings took place in Broome, Derby, Fitzroy Crossing and Kununurra and in each of those locations witnesses spoke about living conditions in nearby communities and some more remote communities.

It was clear that the living conditions for many Aboriginal people in the Kimberley were appallingly bad. The plight of the little children was especially pathetic and for many of these the future appears bleak. Many already suffer from foetal alcohol syndrome and unless major changes



occur most will fail to obtain a basic education, most will never be employed and, from a medical perspective, they are likely to suffer poorer health and die younger than other Western Australians. In this context the very high suicide rates for young Kimberley Aboriginal persons were readily explicable.

Evidence at the inquest revealed that there is no real leadership or coordination in the response to the disaster of Aboriginal living conditions in the Kimberley on the part of either the State or Commonwealth governments.

The evidence also revealed a lack of accountability in the response.

In addition to Commonwealth funding, the State is providing \$1.2 billion each year for services and programs targeted to indigenous people in Western Australia which is allocated to 22 government agencies under 16 Ministers. In spite of this allocation of funding conditions are getting even worse for Aboriginal people in the Kimberley and the gap between the well-being of Aboriginal and non-Aboriginal people is now a “vast gulf”¹.

The system, which has applied \$1.2 billion or thereabouts each year for Aboriginal people and has achieved the results described in these reasons, is clearly seriously flawed. In spite of the lack of results, it appears that no individual or organisation in government has been monitoring the performance of the various government agencies and that no identified individual or organisation has been held responsible for achieving improved outcomes for Aboriginal people.

¹ See : The Report of the Department of Indigenous Affairs, Dr Dawn Casey, April 2007 pp. 12 and 110



The Department of Indigenous Affairs is not, and never has been, capable of providing leadership in addressing the major problems facing Aboriginal people in the Kimberley.

The Department of Child Protection acts in a reactive rather than a proactive way and does not have sufficient staff to provide comprehensive child protection throughout the Kimberley.

The level of education attained by Aboriginal students in the Kimberley generally and the Fitzroy Crossing region in particular is pathetically low. The majority of Aboriginal children in the Kimberley do not attain a standard of education which would provide them with basic skills sufficient to obtain meaningful employment.

Much of the existing public housing in which Aboriginal people in the Kimberley live is in a disgraceful condition and until recently there was no system in place to ensure that the housing would be maintained or even monitored. There is now in place such a system which has identified a need for 1,000 houses to be constructed for remote Aboriginal communities in the state.

Alcohol abuse is both a cause and a result of many other problems for Aboriginal people living in the Kimberley. Of the many problems faced by Kimberley Aboriginal people, the problems associated with alcohol abuse are the most obvious and most pervasive.

Aboriginal people in the Kimberley are experiencing a health crisis.

There are serious challenges being faced by the Kimberley Mental



Health and Drug Service and it is extremely difficult to provide comprehensive mental health and drug and alcohol care in the Kimberley Region. There is no secure mental health facility in the Kimberley and, as a result, severely ill Aboriginal patients must be sent to Perth for treatment in circumstances which are extremely upsetting for the patients and require considerable resources in effecting the transfers.

These reasons attempt to address the above issues as well as the effectiveness of the system of Community Development and Employment Projects (CDEP) program which pays for work done by unemployed people in remote communities and the recent positive action taken to increase the police presence in remote locations through multi-function police facilities.

27 Recommendations are made suggesting a range of actions which could be taken to address these issues.

The reasons also explore the circumstances of the individual tragedies of the 22 deaths.



PART A

INTRODUCTION

These 22 deaths were inquested in the one inquest pursuant to section 40 of the *Coroners Act 1996*. The inquest was held to explore the reasons for multiple deaths of Aboriginal persons occurring in the Kimberley in which drug or alcohol abuse was a factor and, if possible, to identify the reasons for an alarming increase in suicide rates for Aboriginal people.

Originally the focus of this inquest was to examine cases where cannabis had played a part in youth suicide in the Kimberley. The concern in this regard resulted from an examination of a number of cases where toxicology examinations revealed a surprisingly high incidence of cannabis readings in the blood of deceased young persons.

On 16 December 2007 the Chairman and the Co-ordinator of the Kimberley Aboriginal Law and Cultural Centre (KALACC) wrote to the State Coroner in respect of 24 identified deaths in the following terms –

“KALACC considers these series of deaths, either by suicide or other causes, to be absolutely linked with the abuse of alcohol in the Fitzroy Valley. KALACC held a special meeting in Fitzroy Crossing last week and at that meeting person after person recounted the losses which each of their families had suffered.



That recent KALACC meeting follows on from a large community meeting held in February this year and attended by about 180- persons. The reason for that meeting was to discuss the community's enormous concerns regarding youth and regarding suicide.

And, you would be aware that the Marniwarntikura women's Resource centre recently organised a major women's bush meeting involving women from all four language groups in the Fitzroy Valley. At that meeting the women expressed their strong concerns about the abuse of alcohol and the impact that was having in terms of suicides, accidental deaths and domestic violence.

The community has expressed these concerns in a number of significant forums and meetings. What is missing at present from our community is –

- ✚ a definitive, comprehensive report in to why people in Fitzroy Crossing are dying at the rate they are and in the manner that they are;
- ✚ an adequate response from the community itself, including the businesses that operate within it;
- ✚ any form of systemic response from the Government as a whole and from the government agencies whose social, moral and legal obligations in response to this situation should be self-evident but apparently are not.

In the light of the clear community sentiment, expressed in a number of forums, KALACC now seeks a Coronial Inquiry from you to get to the root cause of these many issues. KALACC believes that obvious root causes have led to the series of deaths in Fitzroy Crossing and we believe that a Coronial Inquiry is the best means of identifying these root causes. We also believe that a Coronial Inquiry is needed in order to jolt the systems of government, and some elements within the local community, into an appropriate level of response”.

Following receipt of that letter the coronial files relating to the deaths identified by KALACC were examined after which it was decided that a number of those deaths should be examined at this inquest hearing.



The investigation into a number of those deaths had been completed administratively by coroners pursuant to section 25 of the *Coroners Act 1996*, but none had been the subject of an inquest.

In responding to the letter from KALACC, a number of recent coronial files from the Kimberley were examined and some of the results of that examination were extremely concerning.

The most worrying feature identified from the review of the files was a dramatic increase in the number of suicides of Aboriginal people in 2006 when compared with past years.

In reviewing statistics relating to suicide in the following paragraphs I focus on the number of deaths by self-harm to avoid any issue arising in respect of whether or not the deaths were intentional.

The deaths by self-harm for the Kimberley region for the period 2000-2006 are set out according to aboriginality as follows –



Year	Self-Harm Deaths Aboriginal	Self-Harm Deaths Non-Aboriginal
2000	8	4
2001	8	2
2002	10	2
2003	5	1
2004	7	1
2005	9	3
2006	21	3
Total	68	16

In 2006 there were 21 Aboriginal self-harm deaths in the Kimberley and the above chart reveals that this constituted an increase of over 100% when compared with 2005 (or any other year). By contrast, in the non-Aboriginal Kimberley population there was no increase and there were only three deaths by self-harm in 2006 for a larger total number of residents (according to the Australian Bureau of Statistics only 47.3% of the population of the Kimberley were indigenous Australians).

The number of Aboriginal deaths by self-harm in the Kimberley were, therefore, 7 times higher than the non-Aboriginal deaths by self-harm for that year in spite of the Aboriginal population being slightly smaller than the non-Aboriginal population. Over a seven year period the numbers of Aboriginal deaths by self-harm were 4 $\frac{1}{4}$ times higher than those of non-Aboriginal persons.



Closer examination of the files revealed that there were a number of particular locations where the suicide rates were exceptionally high. One of these areas was the Fitzroy Crossing region where there were 8 self-harm deaths of Aboriginal people in 2006 in a population assessed by a number of witnesses as being about 3,500.

Another striking feature of the examination of the files was the fact that there appeared to be a very high correlation between death by self-harm and alcohol or cannabis abuse. Of the Aboriginal self-inflicted deaths in 2006 there were only two cases in which alcohol or cannabis was not detected by toxicological examination of the blood. In respect of these two cases, one was the death of a seven year old child and the other was the death of a mental health patient. There was one other case where only alcohol was detected and the level was low (0.029%) but in all other cases alcohol or cannabis levels appeared significant.

The following chart provides information in respect of the age, cause of death and toxicological results for the 2006 self-caused Aboriginal deaths for the Kimberley region.



No.	Age	Medical Cause of Death	Toxicological Results
1	28	Ligature compression of the neck (hanging)	Olanzapine Diazepam Cannabis
2	23	Ligature compression of the neck (hanging)	Alcohol 0.249%
3	17	Ligature compression of the neck (hanging)	Cannabis
4	42	Ligature compression of the neck (hanging)	Alcohol 0.239% Cannabis
5	21	Ligature compression of the neck (hanging)	Alcohol 0.219%
6	29	Ligature compression of the neck (hanging)	Alcohol 0.226%
7	17	Ligature compression of the neck (hanging)	Alcohol 0.213% Cannabis
8	41	Ligature compression of the neck (hanging)	Alcohol 0.282%
9	33	Ligature compression of the neck (hanging)	Alcohol 0.236%
10	26	Ligature compression of the neck (hanging)	Alcohol 0.168% Cannabis
11	32	Ligature compression of the neck (hanging)	Alcohol 0.255%
12		Ligature compression of the neck (hanging)	Alcohol 0.170%
13	37	Ligature compression of the neck (hanging)	Alcohol 0.292% Cannabis
14	40	Ligature compression of the neck (hanging)	Alcohol 0.157% Cannabis
15	23	Ligature compression of the neck (hanging)	Trace Olanzapine
16	7	Ligature compression of the neck (hanging)	Atropine
17	19	Ligature compression of the neck (hanging)	Alcohol 0.029%
18	18	Ligature compression of the neck (hanging)	Alcohol 0.228%
19	24	Ligature compression of the neck (hanging)	Alcohol 0.171%
20	24	Ligature compression of the neck (hanging)	Alcohol 0.185% Cannabis
21	32	Penetrating Injury (self inflicted knife wound)	Alcohol 0.250%



A striking feature of the above chart is that it reveals that in 16 of the 21 cases the blood alcohol level of the deceased was in excess of 0.15%, three times the maximum permissible level for driving a motor vehicle in Western Australia and indicative of a significant degree of intoxication. In 11 of these cases the blood alcohol level was in excess of 0.2% which is an extremely high reading.

Further examination of the files revealed that of the 8 self-harm Aboriginal deaths in the Fitzroy Crossing area, in 6 of those cases the blood alcohol level of the deceased was in excess of 0.15%.

The association between alcohol and suicide has been established by a number of population and clinical studies. Studies have also established an increase in the risk of suicide attempt in cases of individuals whose levels of alcohol consumption are consistent with alcohol abuse. Even in the absence of abuse and alcohol dependence, alcohol is a significant risk factor for impulsive, spur-of-the-moment suicide attempts².

Published by the Western Australian Drug Abuse Strategy Office at page 8



THE REASONS FOR HIGH ABORIGINAL SUICIDE RATES IN THE KIMBERLEY

The 100% increase in self-harm deaths by Aboriginal persons in the Kimberley which took place in 2006 and the high rate of self-harm deaths for the Fitzroy Crossing area in particular called for close investigation of the background circumstances which contributed to these statistics. This inquest, which reviewed 22 deaths from 2000 to 2007, did enable a review of these circumstances to take place, particularly as 17 of the deaths inquested were self-harm deaths.

While the plight of Aboriginal people in Western Australia has been the subject of many previous investigations and reports, the coronial perspective places a somewhat different emphasis on investigation to that of any prior investigations. It is also self-evident from the continuing appalling death rates of Aboriginal people in the Kimberley that the problems which are causing these deaths have not been adequately addressed in spite of these investigations and reports.

Section 25(2) of the *Coroners Act 1996* provides that I may make comments on any matter connected with deaths including public health and safety. In the context of the very large numbers of deaths where there has been alcohol or drug involvement and particularly the very large number of deaths



which resulted from self-harm, an important purpose of this inquest has been directed towards identifying the underlying reasons for the very high death rates and consideration of any comments which could be made with a view to reducing the number of avoidable deaths.

In the above context the reasons in respect of these deaths have been written in two parts. This section of the reasons is intended to address the background causes of the very high death rates and to contain comments as to safety and public health issues, while the particular facts relevant to each individual death have been dealt with separately. It should be noted, however, that the inquest did not purport to be an all encompassing analysis of all of the troubles of the Kimberley Aboriginal community.

In the context of the deaths by way of suicide the following has been said³ –

“What are we trying to prevent? The common factor in suicide and other forms of self-harm is distress. As Shneidman (1998) noted, “Suicide is never born out of exaltation or joy...The author of suicide is pain” (pp.245-6). ...people kill themselves when they feel trapped with an intolerable intensity of psychological pain. Suicide is the escape from intolerable pain when all other avenues of flight are perceived to be blocked”.

³ Dear, G. “The Need for an Integrated System to Minimise the Incidence of Suicide and Other Self-Harm in Prisons”, Preventing Suicide and Other Self-Harm in Prisons, Palgrave Macmillan, Hampshire, 2006 at p.236



The accuracy of the above observation appears to be self evident; the question which must be asked is why do so many Aboriginal persons in the Kimberley feel an “...*intolerable intensity of psychological pain*”?

In order to ascertain why so many Aboriginal persons have experienced such great distress, evidence was received from the families of all of the deceased persons and a number of remote communities were visited as part of the inquest process. It should be stated that the visits to the communities were at the invitation of the residents, most of whom enthusiastically welcomed the investigation into their living conditions.

THE LIVING CONDITIONS OF ABORIGINAL PEOPLE IN THE KIMBERLEY

During the inquest a number of Aboriginal communities were visited, particularly in the Fitzroy Crossing area (Yiyili, Ngumpan and Mindi Rardi) as well as particular locations in the main towns such as Derby. The inquest hearings took place in Broome, Derby, Fitzroy Crossing and Kununurra and in each of those locations witnesses spoke about living conditions in nearby communities and some more remote communities.



In addition to the information obtained directly during this inquest, as State Coroner I have visited the Kimberley region for inquests on numerous previous occasions and have had opportunities on those occasions to observe Aboriginal living conditions. Inquests of particular relevance in this context were the inquest into the deaths of Owen James Gimme and Mervyn Milner⁴, in which conditions in the Katjunka region generally and the Balgo community in particular were examined in the context of suicide, petrol sniffing and health related issues and the inquest into the death of baby Olive Sturt who died from neglect⁵, in which conditions in the Kununurra region were examined in the context of alcohol abuse and child neglect.

The following observations are based primarily on the observations made during this inquest, but clearly knowledge derived from past inquest hearings has not been ignored. They are written in the present tense because the conditions continue to exist.

It should be stressed that the following description does not apply to all communities equally and that some communities, such as Yiyili, are well managed and relatively clean while still resource poor.

⁴ Decision delivered 12 August 2004

⁵ Decision delivered 23 March 2007



The conditions in which many Aboriginal people live, particularly in remote communities, varies considerably, but many communities are almost engulfed in rubbish. Litter in these communities is everywhere. Empty beer cans, plastic bags and other rubbish is piled up or blows in the wind.

Houses are small and dirty with little or no furniture and the kitchens often contain little or no food.

People sleep on filthy foam mattresses on floors or outside on metal frames with sagging, filthy mattresses. Stray dogs who have attached themselves to the communities as well as dogs owned by residents scavenge amongst the rubbish, many of these are obviously diseased.

In the wet season temperatures are crushingly high; while the inquest sat at Fitzroy Crossing or visited the communities on every day the maximum temperature was in excess of 40°C.

In these communities there is nothing to do for most of the inhabitants for most of the time.

Alcohol and drugs provide an escape. Most adults living in remote communities are reliant on Community Development and Employment Project Payments (CDEP) and



for many the bulk of those funds are spent on alcohol and drugs.

There is little refinement about the drinking, it is usually of full strength beer or cask chardonnay. In some communities these drinks are mixed together (ie. beer and chardonnay in one container) and are consumed warm.

There is no good historical reason for the existence of many of the communities at their present sites. In some cases Aboriginal people were forced from pastoral properties in the 1960s and temporary accommodation was provided at inhospitable locations, where those people and their descendants have remained every since. While Aboriginal people have a strong cultural and spiritual connection to the land, the present location of many of the communities has nothing to do with that connection.

The plight of the little children is especially pathetic. Many have been born to alcoholic parents and have failed to thrive as a result of being undernourished. For many the future appears bleak. Unless some major changes occur most will fail to obtain a basic education. They live in an environment where they can expect to be the victims of violence and possibly also sexual abuse.



Foetal alcohol syndrome is common, according to some witnesses the incidence for Aboriginal babies may be as high as one in four, at least in some locations, although the full extent of the problem cannot be determined because of the current inability of many health professionals to diagnose the condition⁶.

Babies with foetal alcohol syndrome are born very small, sometimes with very small brains. They often suffer from mental retardation and other birth defects and later experience an inability to control their behaviour⁷.

In commenting on this problem of foetal alcohol syndrome Professor Fiona Stanley AC stated : *“It’s another stolen generation”*⁸.

The Department of Health Publication **“12th Report of the Perinatal and Infant Mortality Committee of Western Australia – Deaths 2002-2004”** has highlighted the fact that in Western Australia Aboriginal people have considerably higher rates of stillbirth and infant death than do the remainder of the population –

⁶ Transcript of Professor Stanley’s evidence of 17/12/2007 at p.5

⁷ Transcript of Professor Stanley’s evidence of 17/12/2007 at p.6

⁸ Transcript of Professor Stanley’s evidence of 17/12/2007 at p.6



“Compared with rates in non-Aboriginal mothers, the stillbirth rate was double, the neonatal mortality rate almost four-fold higher, and the post-neonatal mortality rate five-fold higher in Aboriginal mothers”⁹.

While it would be difficult to obtain meaningful statistics for Kimberley Aboriginal mothers, some of whom may be transported to Perth for difficult childbirth, my expectation would be that these rates would be significantly worse for mothers normally resident in the Kimberley, especially those resident in inhospitable remote communities.

It appears that from birth to death Kimberley Aboriginal people suffer from very poor health compared with other Western Australians.

Dr Joy Rowland, Senior Medical Officer at the Fitzroy Crossing Hospital, summed up the life for the Kimberley Aboriginal people from a medical perspective in the following terms –

“There are lots of prenatal insults which occur in our population with our high-risk pregnancies – babies born under-size, pre-term, and they already have before they start a disadvantage say even in the size of their kidneys, and given our rate of kidney disease to be born with small kidneys is quite a disadvantage. Alcohol and cigarette consumption during pregnancy can have an effect on these. Then there’s injuries during early childhood and infancy related to nutrition, gastroenteritis, respiratory disease and trauma. We see a lot of failure to thrive and children who are suffering from anaemia

⁹ At page 9 of the Report



which affects brain development as well as body development and strengthening of the organs that they try to make in utero. There's further insults during the rest of their childhood. We have a lot of (indistinct) related to streptococcal infections, a lot of skin infections, a lot of throat infections and tonsillitis. We have a high rate of rheumatic fever and consequent rheumatic heart disease and lots of respiratory infections and children admitted with pneumonia. Their dental care is very poor and poor dental care has been associated with increased respiratory problems and infections and poor health overall. Then into early adulthood and we start to see the consequences of their life so far, with early onset of chronic diseases – hypertension, diabetes, renal problems. Infections continue, often associated with their risk-taking behaviour. Sexually transmitted infections are very high and cause a lot of problems to our community, and then they start to have their families and run into family issues, social issues and the trauma of losing people, so mental health starts to become more of a problem. Nutrition is still a problem, with most people choosing what they can buy and eat straightaway rather than nice, fresh food well prepared in good circumstances. Then into adulthood and the chronic diseases and the consequences of that continues, so we have relatively young people with established chronic disease going on into renal failure often before they're 40. Definitely in the forties is a very high peak for chronic disease and they're dying far too early. The roundabout consequence of that is the community is losing their grandmothers, they are losing their aunties and people are losing their children, and instead of having a large cohort of mature adults who have got past the risk-taking behaviour of their youth and getting in to become responsible community leaders and caring for the young you have these holes in people that are missing"¹⁰.

Housing is of a low standard and there is often gross overcrowding (there are sometimes over 20 persons in a three bedroom house).

The non-natural caused Aboriginal death rates are very high, far exceeding those in the non-Aboriginal community in

¹⁰ Transcript of Dr Roy Rowland's evidence of 8/10/2007 at pp.62-63



all categories, and the numbers dying from alcohol and diet related conditions such as diabetes and early cardiac disease are such that communities are often paralysed by grief. Before people recover sufficiently from one death to resume their normal lives they are being confronted by other deaths.

For Aboriginal people in remote communities these deaths are very real; in many cases children within the community have found bodies of relatives who have suicided or otherwise suffered sudden death. This trauma adds to the psychological pain for all concerned.

Phillip Moke, a mental health nurse employed by the Kimberley Mental Health and Drug Service Team, commented on the mental health impact of such extensive grief in the following terms –

“And the fact that there is this grief in the community, what impact does that have on the mental state of the people that you consult? - -
- There’s a huge level of depression amongst the Aboriginal population of the areas we cover, particularly Fitzroy. That can be linked to the grieving – unresolved grief, and there’s also the social and environmental conditions that go with it”¹¹.

This appalling situation may be even worse than first thought as according to Professor Sven Silburn, Chair of the Ministerial Council for Suicide Prevention, recent advances in

¹¹ Transcript of Mr Phillip Moke’s evidence of 10/10/2007 at p.133



scientific knowledge have established that some adult mental health problems and other chronic diseases experienced disproportionately by Aboriginal people (e.g. obesity, diabetes and cardiovascular disease) are critically determined by the long term effects of foetal programming and the social and economic circumstances of early child development. These illnesses, caused by poor nutrition, stress and foetal alcohol, can have inter-generational effects transmitted biologically across at least three generations.

Professor Silburn made the following observation in this context –

“These new understandings of human development suggest that we simply cannot afford the rapidly increasing financial, human and social costs likely occur without a more adequate policy response to break this inter-generation cycle of disadvantage”¹².

In the above context the underlying reasons for the distress and pain suffered by many Aboriginal people in the Kimberley appear manifest and would be obvious to any informed visitor to the region. It is the solutions to the problems which are difficult and complex.

¹² Report Exhibit “44”, at p.6





These photographs¹³ depict an occupied house at the Pandanus Park Aboriginal Community near Derby. This house exemplifies the sub-standard conditions in which many Kimberley Aboriginal people are living.

According to Mr McCumstie, the coordinator for the community, one of its occupants is a three year old girl who

¹³ Exhibit “58”



has suffered from skin sores, scabies, stomach problems, constant diarrhoea, ticks, fleas, heat exhaustion and malnutrition.

He also stated that her carers are alcoholics who are doing their best for her but that she continues to be underweight for her age¹⁴.



The above photograph depicts the interior of one of the houses at Mindi Rardi Community. Again this is typical of many of the bedrooms seen which were extremely dirty with little or no furniture

¹⁴ Transcript dated 4/10/2007 at p.19



THE CURRENT RESPONSE TO KIMBERLEY ABORIGINAL LIVING CONDITIONS : LACK OF LEADERSHIP

(a) Lack of Leadership

It has been reported that the state is providing \$1.2 billion each year for services and programs targeted to indigenous people in Western Australia and that the Commonwealth is providing additional funding¹⁵.

There can be no doubt that the system which has applied \$1.2 billion or thereabouts each year for services and programs targeted to indigenous people in Western Australia and which has achieved the results in respect of living conditions described earlier in these reasons must be seriously flawed. A major deficiency of the present system appears to be a lack of leadership in the response to the problems associated with Aboriginal welfare.

According to the Casey Report¹⁶ there are 22 government agencies under 16 Ministers who receive the \$1.2 billion allocated annually in funding.

In the context of the estimated expenditure on services for indigenous people, I note the observations made by

¹⁵ The Report of the Department of Indigenous Affairs by Dr Dawn Casey dated April 2007; (the Casey Report)

¹⁶ At page 68



Lieutenant General John Sanderson, the Special Adviser on Indigenous Affairs, who stated in a brief forwarded to the Minister for Indigenous Affairs prior to a meeting held on 13 February 2007, that of the \$1.2 billion, \$450 million was spent on police, courts and corrective services and another \$350 million was spent on primary health care services. Most of the funding, therefore, was applied to “keeping the lid on social dysfunction”.

In addition, \$7.7 million was spent on cross government policy coordination, which in itself was non-productive.

According to the brief paper, only 5% of the expenditure on services to Aboriginal people went on housing and it is clear that a relatively small fraction of the \$1.2 billion was directed towards addressing the underlying problems responsible for high crime rates and poor health.

Even in respect of funds directed towards the underlying problems, however, there is a huge gulf between what would normally be expected to have been achieved by investment of such an amount and the outcomes described earlier in these reasons.

Professor Stanley expressed the view in this context that in spite of all the reports into Aboriginal living conditions since



the report of the Royal Commission into Aboriginal Deaths in Custody in 1991 “...yet the living conditions of Aboriginal people I think have worsened since I was up in the Kimberley in 1971”¹⁷. This view, that living conditions have been deteriorating, was held by other witnesses questioned about the issue and appears to be clearly correct.

As Professor Stanley stated in her evidence, “We know what to do to improve outcomes ... the failure is in the implementation”. She also made the important point that “... if ever there was a need for a whole of government coordinated approach, it is with the Aboriginal circumstances”¹⁸.

Sadly, it was clear from the evidence at the inquest that at present there is no such “whole of government coordinated approach” and there is certainly no Department or organisation which has taken a leadership role in that regard.

In simple terms, it appears that Aboriginal welfare, particularly in the Kimberley, constitutes a disaster but no-one is in charge of the disaster response.

It was clear from the evidence at the inquest that the Department of Indigenous Affairs does not take a lead role in coordinating a response to issues faced by Aboriginal people.

¹⁷ Transcript dated 17/12/2007 at p.9

¹⁸ Transcript dated 17/12/2007 at p.26



The Acting Assistant Director, Regional Coordination and Engagement and Priority Location Branch of the Department of Indigenous Affairs, Darren Corr, was questioned about the need for a holistic response to these issues by government and the following exchange took place –

“CORONER : I must say I’m still quite concerned about government response to these issues because your coordinating role seems to be wholly reactive or almost wholly reactive? - - - Yes, I concede - -

I mean, otherwise you would be monitoring, for example, the public housing situation? - - - I think it’s on the record that, you know, our Department has had numerous issues.

Yes? - - - As I think again most people would be aware, we have been under functional review, but certainly, as the premier has indicated in his speech Department on – I think it was 30 August – that he’s acknowledged that the Department has lacked a bit of focus, particularly around its coordination mandate and, to use the premier’s words – I mean, what he’s hoping to come out of all of this is the Department will get more grunt to more effectively fill that coordination mandate and, as you say, perhaps be less reactive to some issues.

Right. What is troubling me in this context is in respect of each of these issues – I’m not being critical of you at all in saying this, but I note that you say that to find out about housing we need to look at the Department of Housing. To find out about alcohol or drugs we need to speak to the Drug and Alcohol Office. It seems that what’s necessary is a holistic response but there is no-one in government who has been even monitoring these things in a holistic way? - - - As I say, I mean, there are broad indicators but certainly our role is that we are not sort of hovering over various government Departments monitoring their performance.

And nobody else is or has been? - - - No, not that I’m aware of”¹⁹.

¹⁹ Transcript dated 13/11/2007 at p.85



It is clear, therefore, that not only is there no holistic response on the part of government to deteriorating Aboriginal conditions, it also appears that no individual or organisation in government is even monitoring the effectiveness of the response that is taking place.

The role and activities of the Department of Indigenous Affairs were recently examined in an excellent report prepared by Dr Dawn Casey titled Report of the Review of the Department of Indigenous Affairs : April 2007. In that report Dr Casey made the following reference to the Department's mission statement -

"The DIA, in its various forms, has existed since 1995 and is the agency responsible for administering the AAPA Act, the AH Act and the AC Act. The DIA's mission is to "close the gap between the social, cultural and economic well-being of Indigenous and non-Indigenous people through strategic whole-of-government management and empowering indigenous people". The DIA seeks to achieve its mission through three core functions: whole-of-government policy and coordination of services; the management, protection and promotion of Aboriginal heritage sites and culture; and the effective and sustainable management of the land estate held by the Aboriginal Lands Trust (ALT) for Indigenous Western Australians and transfer of its ownership to Indigenous people"²⁰.

It appears clear from the Casey Report, however, that the Department has never been capable of taking significant positive action to "close the gap". This inability was conceded at the inquest by Mr Corr, the Department's nominated

²⁰ Report of the Review of the Department of Indigenous Affairs : April 2007 at p.9



spokesman, and appears to have been conceded in the Department's submissions to the Casey Review (the Department's history and the reasons for this situation will be discussed later in this report).

It also appears clear, as noted in the Casey Report, that the discrepancy between the social and economic well-being of indigenous and non-indigenous people can now be described as a "vast gulf", rather than a "gap"²¹.

When Professor Stanley was questioned by Mr Hammond, counsel for the families at the inquest, about the dire living conditions which exist at present for Aboriginal people in the Kimberley she expressed the view that *"...to leave this without intervening is inhumane, immoral and breaches human rights"*²².

I respectfully agree with the above comment by Professor Stanley to the effect that some intervention or at least major change to this system is urgently called for.

The past governmental approach appears to have been to allow individual departments, such as the Department of Housing and Works and the Department of Child Protection, to address

²¹ At pages 12 and 110

²² Transcript dated 17/12/2007 at p.27



issues relating to Aboriginal people of relevance to that department with some degree of high level inter-departmental interaction designed to avoid duplication of resources etc.

It is inevitable, in my view, that this approach cannot provide a substitute for true leadership. There will always be areas of need which do not clearly fall within the domain of any particular department and others that could fall within the core functions of a number of departments. Unless there is a leader who can dictate how these areas of need will be addressed and funded, there will continue to be ongoing negotiations between departments as to which department is to provide the required service and particularly which department's budget is to be used to fund that service. Such negotiations are inevitably time consuming and costly.

In June 2006 the Department of Indigenous Affairs convened a Directors General Group to administer the Bilateral Agreement on Indigenous Affairs.

The Bilateral Agreement on Indigenous Affairs is an agreement between the Commonwealth and Western Australian governments to work together to improve services to indigenous Western Australians.

This agreement, signed by the Prime Minister and the



Premier in 2006, provides a framework for cooperative action that seeks to overcome gaps, overlaps and duplication in government service delivery with the aim of reducing indigenous poverty and disadvantage.

It is noted that since the abolition of the Aboriginal and Torres Strait Islander Commission (ATSIC)²³, which had replaced the Commonwealth Department of Aboriginal Affairs, the Commonwealth has not had a lead organisation responsible for Aboriginal Affairs and has largely relied on mainstream service delivery to provide services to Aboriginal Australians with various agencies coordinating a range of programs²⁴.

In the Premier's speech to Parliament on 30 August 2007 he announced that a Cabinet Standing Committee on Indigenous Affairs would be established replacing the Cabinet Standing Committee on social policy. The Committee is to be chaired by the Minister for Indigenous Affairs and includes the Deputy Premier in his capacity as both the Treasurer and Minister for State Development, the Minister for Police and Emergency Services, the Minister for Planning and Infrastructure and the Minister for Child Protection.

²³ The Commonwealth announced its intention to abolish ATSIC on 15 April 2004 and ATSIC Regional Councils ceased operation on 30 June 2005

²⁴ See "Where From? Where To?" Education and Health Standing Committee, Report No. 6 in the 37th Parliament, 2007 at p.44



The Directors General Group on Indigenous Affairs is to report to this Committee on matters relating to Indigenous Affairs.

At the time of Mr Corr giving evidence, on 13 November 2007, the Cabinet Standing Committee on Indigenous Affairs had met only once.

In my view, however, there is a very obvious need for more than just high level meetings designed to limit duplication. There is a need for some individual or organisation to take a leadership role in addressing these issues so that they can be addressed in a holistic way and this appears to have been emphasised by Dr Casey and Lieutenant General Sanderson in their recent reports although the detail of their recommended solutions differs.

The importance of leadership in this context is evident from the fact that all of the witnesses representing government agencies at the inquest gave evidence to the effect that they were involved in negotiations with representatives of other agencies in respect of services targeted to Aboriginal people. In the context of mental health, for example, the Clinical Director of the Kimberley Mental Health and Drug Service gave evidence that there have been continuous efforts to link up mental health and drug and alcohol services and resources



but that problems have been encountered because of the various sources of funding and lack of communication between the funders and the services²⁵.

It also appears to have been widely recognised that decisions should be taken region by region and not based on some broad rules determined in Perth or Canberra head offices and that is the view which I take.

While I do not necessarily accept the entirety of the proposal for governance described by him, I respectfully endorse the following view expressed by Lieutenant General Sanderson as follows –

“Going from that position to looking at how government would engage with people in the regions and locally I discovered that there was no government in the regions. There is no organisation that could engage with Aboriginal people in a way that would justify their commitment and their engagement. When I talk about justifying, I mean the issue of engagement is people deliver on what you are discussing – you know, you deliver. The participants in a process like this come together, forge an agenda, agree on the components of the agenda and then they both deliver on what they have agreed.

Those sort of structures don't exist in the relationship with indigenous people at the moment. Actually there is no commitment that I can see to develop those sort of structures. What I have been saying is that if you are going to have a partnership and a proper process of reconciliation in which Aboriginal people engage in the solutions to their own problems then you actually have to have that sort of structure”²⁶.

²⁵ Statement, exhibit “47” para 13

²⁶ Transcript dated 22/11/2007 at p.303



While the last thing which is needed is even more expenditure on bureaucracy, particularly when the poor returns on the government investment presently being achieved must result, at least in part, from bureaucratic waste, some region by region direct involvement in the process is needed. What needs to take place is a redistribution of the investment so that less is spent on Perth administration, which includes administrators travelling from Perth to the Kimberley, and more is invested where it is needed, in the regional areas themselves.

RECOMMENDATION NO. 1

I RECOMMEND THAT THE STATE AND COMMONWEALTH GOVERNMENTS IDENTIFY AN INDIVIDUAL OR ORGANISATION TO LEAD THE EFFORTS TO CLOSE THE GAP BETWEEN THE WELL-BEING OF INDIGENOUS AND NON-INDIGENOUS PEOPLE. THAT INDIVIDUAL OR ORGANISATION SHOULD BE GIVEN THE POWER AND RESOURCES TO MAKE DECISIONS, REGION BY REGION, THROUGHOUT THE KIMBERLEY AND TO COORDINATE THE RESPONSE TO THE DISASTER OF ABORIGINAL HEALTH, SUICIDE RATES AND LIVING CONDITIONS.



The above recommendation has intentionally been drafted in general terms. The inquest did not purport to examine alternative governance structures for dealing with these issues, indeed it is recognised that there may be a number of alternative models which would be capable of providing the necessary leadership structure. What the recommendation seeks to address is the surprising lack of leadership which has existed in responding to a problem of considerable proportions.

The recommendation also recognises that problems relating to Kimberley Aboriginal welfare are not only great in themselves, but also raise particular issues which are unlike those routinely addressed by government agencies in dealing with their more mainstream core issues.

In this context it is noted that in a submission provided by the Director General, Department of the Premier and Cabinet, Mr M C Wauchope, dated 25 January 2008 it was stated that the Government has acted to ensure that the Department of Indigenous Affairs is restructured so that Department can provide leadership in developing indigenous policy and economic development. No information has been provided as to precisely what form this action has taken and certainly no action had been taken in this regard at the time when the Department's representative, Mr Corr, gave evidence



on 13 November 2007. The problems associated with a proposal that the Department of Indigenous Affairs should take a leadership role are discussed in detail later in these reasons.

(b) The need for an assessment of sustainability to take place

In my view each remote community needs to be separately assessed in a holistic way with the first consideration being whether or not the community is sustainable at its current location. The views of the community members need to be taken into account as well as the history of the community settlement and the resources available to the community.

At present there are a large number of small remote Aboriginal communities, some of which are located very close to other similar communities. There seems to be little point in providing infrastructure items such as generators for power and separate water systems for a number of very small communities located physically close together. There are also good reasons for considering the possibility of combining a number of communities at locations which would have meaning to those communities and where access to adequate services could be provided.



As stated previously, while Aboriginal people have a strong cultural and spiritual connection with the land, the present location of a number of remote communities has nothing to do with that connection and it may be the case that some of those communities should be located closer to meaningful sites.

Much of the work in respect of understanding the history of these communities has already been done in preparation for determinations relating to native title. Anthropological and historical reports have been prepared and traditional owners identified. The work which has been done in respect of the native title cases should be available to those involved in planning for the future of remote communities so as to ensure that the traditional systems of law and kinship and skin considerations are taken into account.

In this context I agree with the observations of the Education and Health Standing Committee Discussion Paper “Where From? Where To?”, laid on the Table of the Legislative Assembly on 5 April 2007 -

“The future responsibility of the State for remote Aboriginal communities provides an opportunity to make serious inroads into Aboriginal disadvantage. To do so, however, the State needs to engage in a debate about the future of outstations, and other remote communities, that is informed by *‘outstation people themselves’* and has *‘reference to local and regional knowledge’*. It also needs to rely



upon evidence-based initiatives and not simply the dismantling of existing frameworks in the absence of *'more viable economic alternatives'*²⁷.

Before vast amounts of money are invested in housing and infrastructure costs, there should be a plan in place for each region addressing sustainability. The present approach being taken by the Department of Housing and Works, which appears to recognise sustainability based on whether or not there are 50 persons presently living in a community, is overly simplistic.

It is important to state in this context that many of the Aboriginal people who gave evidence at the inquest obviously want to live in remote communities and certainly it would be very counter-productive to close remote communities if the result is to force a further relocation of Aboriginal people, particularly if the result is that they move to the fringes of towns.

When a decision has been made that a community is sustainable, a real commitment needs to be given to that community which is followed through. One of the most disruptive features of the past history for Aboriginal

²⁷ At page 71



communities has been the erratic and inconsistent approach taken by government organisations to their funding and support.

RECOMMENDATION No. 2

I RECOMMEND THAT BEFORE VAST AMOUNTS OF MONEY ARE INVESTED IN HOUSING AND INFRASTRUCTURE COSTS, THERE SHOULD BE A PLAN IN PLACE FOR EACH REGION IN THE KIMBERLEY ADDRESSING SUSTAINABILITY.

THE ISSUE OF SUSTAINABILITY SHOULD TAKE ACCOUNT OF PRACTICAL, HISTORICAL AND CULTURAL FACTORS.

WHEN A DECISION HAS BEEN MADE THAT A COMMUNITY IS SUSTAINABLE, A REAL ONGOING COMMITMENT SHOULD BE MADE TO IMPROVING THE CONDITIONS IN THAT COMMUNITY AND THE PLAN IN RESPECT OF THAT COMMUNITY SHOULD NOT BE ABANDONED WITHOUT VERY GOOD REASON.



***(c) The need to assess available human resources
and to make best use of these resources***

Another important task for any leadership organisation would be to assess the human resources available at each location and to make best use of those resources. As Professor Stanley emphasised in her evidence, it is particularly important to ensure best use is made of the skills of Aboriginal people and whenever possible Aboriginal people should be employed as child protection workers, health workers etc. This involvement of Aboriginal people provides an important example to local Aboriginal people of the benefits of education and the way in which employment can break the poverty cycle. In addition, there is a considerable benefit in employing people who are likely to stay at a remote locality for a significant period of time and Aboriginal people may be more likely to remain in remote areas than non-Aboriginal people, particularly as they are less likely to become overwhelmed by the living conditions which they are likely encounter.



RECOMMENDATION No. 3

POSITIVE ACTION SHOULD BE TAKEN, WHERE PRACTICABLE, TO EMPLOY ABORIGINAL PEOPLE IN GOVERNMENT SECTOR ACTIVITIES IN THE KIMBERLEY REGION. IN SOME CASES THIS MAY REQUIRE UPSKILLING SUITABLE LOCAL ABORIGINAL PEOPLE.

IN ORDER FOR THIS TO BE ACHIEVED IN SOME AREAS OF ACTIVITY IT MAY BE NECESSARY TO ALTER ENTRANCE REQUIREMENTS FOR PARTICULAR POSITIONS SO THAT SUITABLE CANDIDATES WITHOUT EXISTING TERTIARY QUALIFICATIONS CAN BE EMPLOYED AND TRAINED.

In a context where local inhabitants of remote communities often have little or no education and are battling problems with health and alcohol abuse and there is a general lack of mature adults as a result of the very high death rates, it is unrealistic to expect too much input into decision making from those persons until their conditions have been improved, although where good local leadership resources are available it is important to make use of those resources. In respect of hygiene issues, for example, leadership cannot be expected from people who have poor understanding of these issues and so this leadership must come from an external source, while



education is provided to enable participation by local Aboriginal people. It is important that there should be a partnership between Aboriginal people and non-Aboriginal service providers.

RECOMMENDATION No. 4

ABORIGINAL LEADERSHIP SHOULD BE ENCOURAGED WHERE SUITABLE LEADERS CAN BE FOUND AND, WHERE GOOD LOCAL LEADERSHIP RESOURCE ARE NOT AVAILABLE, TRAINING AND EDUCATION SHOULD BE PROVIDED TO ENABLE ABORIGINAL PEOPLE TO BETTER PARTICIPATE IN DECISION MAKING.

Where there are teachers, nurses or police officers etc regularly visiting remote locations the knowledge of those persons should be generally available to decision-makers. Teachers working in remote locations, for example, will often have considerable insight into the living conditions of children attending their classes and will know about housing and infrastructure issues. That resource should be available to those involved in making decisions about housing etc as well as questions relating to sustainability of the community as a whole.



The assessment of resources should include an assessment of the level of skills of local Aboriginal persons with a view to ensuring that as much as possible those persons perform the basic tasks necessary to maintain houses etc to enable the communities to be as self-sufficient as possible. Every opportunity to impart life skills and to train local people should be seized.

I have the greatest respect for many teachers, nurses, police officers and others who work in remote and difficult circumstances in the Kimberley and am of the view that the opinions and insights of these people can provide an important resource to decision-makers in all of the involved Departments including their own.

RECOMMENDATION No. 5

I RECOMMEND THAT THERE SHOULD BE CROSS-DEPARTMENTAL ACCESS TO AVAILABLE HUMAN RESOURCES SO THAT DEPARTMENTS CAN OBTAIN ADVICE AND INFORMATION FROM WORKERS IN THE FIELD EMPLOYED BY OTHER DEPARTMENTS.



ACCOUNTABILITY

An important point made by Professor Stanley in her evidence is that under the present system, where a multiplicity of government agencies and ministers are responsible for the allocation of funding targeted at providing services to indigenous people, no particular individual or organisation appears to be accountable for the shortcomings which are readily apparent.

If it is the case that \$1.2 billion is being allocated by state government for services and programs targeted to indigenous people, some individual or organisation should be responsible for achieving improved outcomes for those indigenous people.

The question should be asked *“Where has the \$1.2 billion gone?”*

According to the Australian Bureau of Statistics data relating to the 2006 census, there were only 58,711 indigenous persons in Western Australia which amounted to 3% of the total population (excluding overseas visitors) of 1,959,088. According to these figures, the State Government alone is spending over \$20,000 per head each year on indigenous people (the Commonwealth Government is also spending a very large amount) and yet living conditions for



these people are deteriorating! It appears obvious from these figures that much of the money is being poorly spent.

The population of indigenous people in the Kimberley Aboriginal Health Planning Region in 2004 was only 16,440²⁸ and so in the context of the vast amounts being invested in the region by State and Commonwealth Governments, the outcomes discussed earlier in these reasons are particularly unsatisfactory.

If housing in a particular community is substandard, there is leaking sewerage, children are underfed and not attending school and the community is beset with problems, there should be an individual or organisation who is responsible who can be called to account for the funds allocated in respect of that community. Even if a number of different individuals are involved, those individuals should be identifiable as being responsible for the housing, health etc of the community.

It is also important that, from a greater community perspective, taxpayers receive value for money and that the money provided for programs targeted to indigenous people is in fact used to address the issues of concern and not wasted

²⁸ According to information provided by Dr Atfield



on bureaucratic expenditure, inter-Departmental coordination etc.

I agree with the observation made by Professor Stanley in this context –

“It has been quite evident that Aboriginal organisations have been audited to death by successive governments in Australia, whereas there has been no audit of the bureaucracies that have failed to deliver ...”²⁹

A similar comment was made by Lieutenant General Sanderson in the same context –

“I would think that a very large proportion of the 1.2 billion goes into process and structure - - -

Yes? - - - rather than going into indigenous communities. That has certainly been our assessment of what is going on there and primarily it goes into this, sort of, diffuse, complex set of relationships. You know, people flying in and flying out from Perth and Canberra.

Yes? - - - With confused objectives and not operating in any particular strategic framework.

Yes? - - - For the regions in which they are operating. It causes this fairly sense of impatience amongst Aboriginal people. In fact, they have been very patient with this when I think about it up to now but certainly I would prefer to see a larger proportion of that 1.2 billion actually going on to the ground. I think we could solve a lot of the problems we are talking about if that was the case”³⁰.

²⁹ Transcript dated 17/12/2007 at p.13

³⁰ Transcript dated 22/11/2007 at p.318



RECOMMENDATION No. 6

I RECOMMEND THAT THE SYSTEM PUT IN PLACE TO ADDRESS ABORIGINAL LIVING CONDITIONS IN THE KIMBERLEY SHOULD INVOLVE A SYSTEM OF ACCOUNTABILITY WHICH WOULD REQUIRE RELEVANT OFFICIALS TO ACCEPT RESPONSIBILITY FOR ACHIEVING TARGETS CONSIDERED ATTAINABLE WITH RESOURCES PROVIDED AND THAT THERE SHOULD BE A SYSTEM OF ACCOUNTING WHICH WOULD IDENTIFY WHERE THE MONEY HAS GONE.

THIS SYSTEM SHOULD ALSO IDENTIFY WHAT PROPORTION OF THE MONEY HAS BEEN USED IN ADMINISTRATIVE COSTS AS AGAINST PROVISION OF SERVICES BY DIRECT SERVICE PROVIDERS.

IN OTHER WORDS, THERE SHOULD BE A CLEAR IDENTIFICATION OF THE PROPORTION OF THE TOTAL FUNDS PAID FOR HEAD OFFICE AND RUNNING COSTS, ACROSS GOVERNMENT POLICY COORDINATION, TRAVEL OF ADMINISTRATORS ETC AS CONTRASTED WITH FUNDS ACTUALLY GOING TO IMPROVE CONDITIONS BY PAYMENT OF MEDICAL PRACTITIONERS, CHILD PROTECTION WORKERS AND CONSTRUCTION AND MAINTENANCE OF PUBLIC HOUSING ETC.



THE DEPARTMENT OF INDIGENOUS AFFAIRS

As indicated previously in these reasons the Department of Indigenous Affairs is not, and never has been, capable of providing leadership in addressing the major problems facing Aboriginal people in the Kimberley.

This fact is well known to the officers of the Department and to Aboriginal people as revealed in the comprehensive Casey Report. The name of the Department, itself, however contributes to confusion as to its roles as the name suggests that the Department would play a lead role in indigenous affairs.

In the Casey Report, following a review of submissions provided by the Department's staff, other government agency representatives and Aboriginal people and organisations, it was concluded that there is extensive confusion regarding the Department's coordination function.

The report makes the following observation –

“Other government agencies had little respect for the DIA's coordination role, believing that they, not the DIA, had the necessary expertise to develop policies and services to indigenous people. These agencies were also critical of the DIA's ability to influence mainstream Departments, particularly as they had limited resources to bring to any “partnership”.³¹”

³¹ At page 15



In the same report the following view is expressed as a result of input from Aboriginal people –

“The great majority of indigenous people consulted through the review have been highly critical of the DIA, reporting that as a Department it did little to facilitate real outcomes for indigenous people. As already outlined in other sections of this report, Aboriginal people are particularly critical of DIA in those areas of most significance to them – the protection and management of heritage sites and the ownership and management of Aboriginal lands. There is also no clear understanding of DIA’s coordination function amongst Aboriginal people”³².

According to Mr Corr, the Department’s representative at the inquest, the Department of Indigenous Affairs was established in late 1994. It brought together the Department of Aboriginal Sites, the Aboriginal Affairs Planning Authority and a specialist land office in the Department of Premier and Cabinet, the Office of Traditional Land Usage.

Although under the Aboriginal Affairs Planning Authority Act the Department is responsible for advising government on the coordination of services to Aboriginal people in Western Australia, the Department does not monitor important issues relating to Aboriginal people and at present its coordination role is limited to areas which are not the primary focus of other Departments.

³² At page 105



In the following exchange Mr Corr effectively summed up the history of the Department of Indigenous Affairs –

“Right. So historically the Department was created by bringing together several diverse offices of quite limited jurisdiction? . . . Correct, and that was a recommendation of a machinery of government report which I think is also referred to as the Daub Report which was back in the early nineties.

Right; and since that time in the intervening 13 years the Department hasn’t been beefed up, as it were, so as to take over a lead role in respect of Aboriginal affairs. Is that correct? . . . There’s certainly been no major expansion of the Department in my time with the Department. The number of regional offices, seven – that’s still the same, but, no, not particularly around, I suppose, the evaluative work in terms of looking at other government Departments, that sort of monitoring and coordination”³³.

Mr Corr was asked at the inquest a number of questions in respect of the Department’s involvement in major issues facing Aboriginal people, for example, he was asked about the Department’s response to the problem of alcohol abuse and the following exchange took place –

“Right. In the past, what has the Department done? . . . In relation to alcohol?

Alcohol abuse? . . . Specifically in terms of a direct policy or program intervention I can’t recall anything other than our regular work through the community patrols which have been an ongoing prevention strategy for a number of years.

Why not? Why hasn’t that Department . . .? . . . -Because that specific function is beyond our portfolio responsibility in terms of a direct response. There is a specific government Department that deals with that response or with that issue”³⁴.

³³ Transcript dated 13/11/2007 at p.97

³⁴ Transcript dated 13/11/2007 at p.82



According to Mr Corr the Department is a “*small Department*”³⁵ and when asked whether the Department could fund the feeding of homeless Aboriginal people, he stated that it could not fund that activity and stated that : “*The regional office budget for the West Kimberley for the year is \$25,000 and that is to cover everything we do*”³⁶.

Of particular concern in respect of the functions of the Department is the fact that according to Mr Corr it does not monitor the situation in respect of housing for Aboriginal people living in the Kimberley.

Mr Corr stated both in his report and in evidence that the Department does not monitor how many public houses are needed to house Aboriginal families in the Kimberley, how many new houses are proposed to be built or renovated and the condition of the housing which has been provided. This failure to monitor the situation in respect of public housing is particularly disappointing in a context where the Department supports the Aboriginal Lands Trust in the management of the land estate it holds in trust for indigenous Western Australians. The Aboriginal Lands Trust holds almost 12% of the state in trust for indigenous people in Western Australia and it is on this land that much of the public housing used by indigenous people now stands.

³⁵ Transcript dated 13/11/2007 at p.88

³⁶ Transcript 13/11/2007 at p.95



It is clear from the information obtained by Dr Casey and the evidence provided to the inquest that there is a current lack of confidence in the Department and lack of clarity as to why the Department chooses to coordinate some activities and not others. It also appears clear that the Department is not resourced to provide expert policy advice on every aspect of government activity as it relates to indigenous people.

The present situation is, therefore, that the Department of Indigenous Affairs does not provide leadership in respect of issues faced by Aboriginal people and does not have the capability to do so. If the Department is to take a lead role, it is clear from the report of Dr Casey that significant changes to the present management of the Department and the resources available to it must take place.

As noted earlier in these reasons, the Director General, Department of the Premier and Cabinet, Mr Wauchope, has stated in a submission dated 25 January 2008 that the Government has acted to restructure the Department of Indigenous Affairs and to give that Department a “...*mandate to provide a leadership role in Indigenous Affairs*”.

According to Mr Wauchope’s submission the Department will be effectively divided into two, one area of the Department will continue to deal with the specific statutory roles of land,



heritage and culture, while the other area of the Department will lead in developing indigenous policy, economic development and determining and measuring that strategic outcomes across government are being met.

It was also stated in the submission that regional offices of the Department will have an increased role in working with indigenous communities to coordinate the provision of government services required by those communities.

If this proposed change is to be effective, it is important that a great deal more is done in respect of the structuring of the Department other than simply dividing it into parts. If more than mere lip service to the recommendations of the Casey Report is to be done, substantial changes must take place.

The Casey Report has clearly identified the fact that at present other government agencies and indigenous people throughout the state have little respect for the Department's ability to perform its coordination and leadership role, the Department has not been structured or funded so that it could take a leadership role and the funding of the Department's regional offices has been extremely limited.



If the Department is to take a leadership role, it is important that a leadership structure be put in place within the Department which would encourage the respect of other government agencies and Aboriginal people. Clearly, it would be important that leadership positions within the Department's new structure would be filled by persons of sufficient standing to warrant that respect.

In addition it would be of fundamental importance for government to give the Department sufficient power for it to take such a leadership role. In that context it may be important for there to be significant statutory and administrative changes which would enable the Department to obtain information in respect of the activities of other government agencies and to give direction to those agencies.

It is clear that unless the Department of Indigenous Affairs is not only separated into two areas, but also considerably strengthened, it will be set up to fail yet again.



RECOMMENDATION No. 7

I RECOMMEND THAT IF THE GOVERNMENT PROPOSES TO GIVE A LEADERSHIP ROLE TO THE DEPARTMENT OF INDIGENOUS AFFAIRS ACTION BE TAKEN TO –

- + PUT IN PLACE IN THE DEPARTMENT A LEADERSHIP STRUCTURE WHICH WILL COMMAND THE RESPECT OF OTHER GOVERNMENT AGENCIES AND ABORIGINAL PEOPLE;**
- + BE GIVEN THE POWER AND ABILITY TO MONITOR THE PERFORMANCE OF OTHER GOVERNMENT AGENCIES AND TO GIVE DIRECTION TO THOSE AGENCIES IN RESPECT OF INDIGENOUS AFFAIRS; AND**
- + BE ADEQUATELY RESOURCED SO AS TO BE ABLE TO TAKE A LEADERSHIP ROLE AND AN INCREASED PRACTICAL ROLE IN WORKING WITH INDIGENOUS COMMUNITIES THROUGH REGIONAL OFFICES.**

Some of the common complaints of Aboriginal people who gave evidence at the inquest related to the fact that they experienced great difficulty in identifying which of the many government agencies involved to contact in respect of any particular problem, particularly when in order to address a single problem a number of agencies would be involved. Aboriginal people stated that they were looking for a “one stop



shop” in obtaining a government response.

It is noted that in remote communities the multi-function police facilities have been a great success and have provided a coordinated government response to problems faced by Aboriginal people in those communities. It would appear that a logical extension of that innovation would be to have multi-function government offices in larger towns, such as Broome, where Aboriginal people could go to get answers to problems which they face.

RECOMMENDATION No. 8

I RECOMMEND THAT CONSIDERATION BE GIVEN TO THE CREATION OF SOME FORM OF MULTI-FUNCTION GOVERNMENT OFFICE FOR CENTRES SUCH AS BROOME, WHERE ABORIGINAL PEOPLE COULD GO TO GET ASSISTANCE IN RESPECT OF THE PROBLEMS WHICH THEY FACE AND THAT THOSE MULTI-FUNCTION OFFICES BE STAFFED BY REPRESENTATIVES OF EACH OF THE MAIN GOVERNMENT ORGANISATIONS PROVIDING SERVICES IN THE REGION.



THE ABORIGINAL PEOPLE THEMSELVES

An important feature of the inquest was the positive contribution of Aboriginal people who were clearly supportive of a change. It should be noted that one of the reasons for the extended nature of the inquest was a request by representatives of the Kimberley Aboriginal Law and Cultural Centre to explore issues relating to abuse of alcohol and the impact that this abuse was having in terms of suicides, accidental deaths and domestic violence.

In the Fitzroy Crossing area Aboriginal individuals and organisations, such as the Marninwarntikura Women's Centre had been very active in campaigning for restrictions on sale of take away full strength alcohol which had ultimately resulted in significant restrictions being imposed on the hotels in Fitzroy Crossing through conditions imposed pursuant to *Liquor Control Act 1988*.

This positive approach on the part of Aboriginal people to addressing these problems was a theme of the evidence of Joe Ross, a resident of Fitzroy Crossing and a representative of the Kimberley Aboriginal Law and Cultural Centre.

In his evidence Mr Ross stated that there is a lack of knowledge in the general community about the strength of the



Aboriginal community in places like Mindi Rardi and Yiyili. He said that Aboriginal people wanted to “...show that we are not rubbish”³⁷. He strongly rejected what he considered to be an ideological view that “... our Aboriginal people cannot contribute to Australian society”³⁸.

Mr Ross spoke about what he described as the “... vacuum of misery and despair” experienced by his niece who had take her own life and who was one of the persons the subject of the inquest. In that context he made the following observation –

“I’m not blaming government or corporates alone. I blame my own community and I blame myself and I blame my brothers for not being there. I think it is time, and this process has been the biggest trigger of discussion in this community, that people get off their bloody backsides and do something and Coroner Hope, as an engendering hope in our community – and we want to do something and we have demonstrated that for years, that we want to do something ...”³⁹

This recognition of the strength of sections of the Aboriginal community and the importance of involving that community in any changes was also highlighted in the evidence of both Lieutenant General Sanderson and Professor Stanley. Lieutenant General Sanderson in his quarterly report to the Premier and the Minister for Indigenous Affairs for the period 1 September 2006 – 30 November 2006

³⁷ Transcript dated 11/11/2007 at p.219

³⁸ Transcript dated 11/11/2007 at p.220

³⁹ Transcript dated 11/11/2007 at p.220



made the following observation in respect of the present activities of government –

“All activities are piecemeal and, while there will undoubtedly be some successes, the returns sought for the several billions of dollars being spent annually out of State, Commonwealth and corporate coffers are likely to remain elusive until there is a more holistic approach, one in which Aboriginal people are included in devising and pursuing sustainable regional strategies”⁴⁰.

The desire of Aboriginal people in the Kimberley for change was evident throughout the inquest. Almost without exception family members of deceased persons spoke of a desire to limit access to full strength alcohol with a view to improving living conditions and addressing the cycle of poverty and depression.

When the inquest visited remote communities, particularly Yiyili Community, young people spoke of their hopes and their ambitions. Young women spoke of their problems, about having nothing to do and wanting to be taught how to sew and cook and be involved in a range of other activities. Young people were critical of community members who spent their money on alcohol and “bludged” from aunties and uncles to survive.

⁴⁰ At page 8



Young men spoke of a need for more training so that they could actively participate in employment and particularly a need for available training in their locality.

These young people were surprisingly positive and embraced the possibility of change. It is interestingly to note that although their views were generally in accord with those of their elders, the young people were reluctant to speak about their thoughts and ambitions in the presence of their elders and were more comfortable speaking separately in groups of males and females.

All of the above evidence demonstrated that there is strength within the Aboriginal community and a real desire for change evident in many sections of that community. Clearly in the present circumstance where living conditions are so poor and many people are unemployed and in poor health, positive Aboriginal persons are often not able to achieve substantial change without assistance, but many are ready and willing to participate in programs which they believe can achieve positive outcomes.

It is important that as effective changes to living conditions are made and government provides practical assistance to the Aboriginal people of the Kimberley, those people play a positive role and increasingly embrace and



support the changes so that they can be successful. For significant improvements to be achieved Aboriginal people will have to assume greater responsibility for their own welfare over time, particularly in areas such as –

- ✚ adequately maintaining public housing provided;
- ✚ encouraging children to go to school;
- ✚ taking advantage of training and employment opportunities; *and*
- ✚ improving hygiene in their own communities.

CHILD PROTECTION

Evidence was given at the inquest in respect of issues relating to child protection by John Hancock, Acting Executive Director, Department for Child Protection.

Mr Hancock advised the inquest that there have recently been considerable changes within Department as well as increased provision of funding. He stated that in January 2007 the Ford Review⁴¹ examined the operations of what was then the Department for Community Development. That review identified that the child protection system in Western Australia needed to change and that a different

⁴¹ Review of the Department for Community Development, Prudence Ford, 2007 (the Ford Review)



approach and a renewed community and government commitment was required.

A key recommendation of the Ford Review was the establishment of a new department which focused “...on *identifying and supporting vulnerable children and young people in the context of their families and the community*”⁴².

Following the Ford Review, the government established a new department and provided significant additional funding for child protection services.

Recommendations of the Ford Review which have been implemented included recommendations relating to the establishment of a Child Safety Directors Group representing relevant departments and established under the chair of the Director General for the Department of Child Protection. The group is intended to provide improved coordination between the departments in dealing with problems faced by children, including Aboriginal children.

In spite of these developments, however, Mr Hancock accepted that the Department is at present very much reactive rather than proactive in most areas of the Kimberley and has

⁴² The Ford Review at p.46; Statement of John Hancock, para 10



inadequate staff to provide comprehensive child protection throughout the Kimberley region.

Mr Hancock explained that the Department experiences considerable difficulties in attracting suitable staff. In the context of Fitzroy Crossing he explained that the position of Community Child Protection Worker had been vacant for a period of over twelve months in spite of the position being advertised on three occasions. He stated that the Department competed with other departments for government employee housing and that the situation was that if positions were vacant for any length of time, houses allocated to the Department would be allocated to other agencies. In respect of the Fitzroy Crossing position, as there had not been an appointment within the specified period, the house was “lost” and reallocated to another department.

This loss of accommodation for the Child Protection Worker made it even more difficult for the Department to obtain a suitable applicant for the position. Mr Hancock did state, however, that at the time of the inquest a suitable applicant had been found, unfortunately that applicant came from within the Department which would necessitate the filling of another position.



RECOMMENDATION No. 9

I RECOMMEND THAT A LEADERSHIP ORGANISATION IN GOVERNMENT ADDRESS THE BENEFITS BEING PROVIDED TO REGIONAL WORKERS EMPLOYED BY GOVERNMENT ORGANISATIONS TO ENSURE THAT –

✚ HOUSING IS NOT REALLOCATED FROM ONE ORGANISATION TO ANOTHER IN CIRCUMSTANCES WHERE SUCH A REALLOCATION COULD HAVE AN EXTREMELY DETRIMENTAL EFFECT ON ATTEMPTS TO FILL VITAL POSITIONS (SUCH AS COMMUNITY CHILD PROTECTION WORKERS).

Mr Hancock stated that the problem of attracting suitable staff was not simply one of funding, the problem related to obtaining suitable specialist workers and attracting them with benefits, providing them with housing and having the resources to train up local people. He stated that Community Child Protection Workers were urgently required for Aboriginal communities such as Balgo, Kalumburu and Warmun as well as Fitzroy Crossing⁴³.

An additional problem for Child Protection Workers is the

⁴³ Transcript dated 21/11/2007 at p.244



fact that many found their work “overwhelming”⁴⁴. In particular, indigenous staff who are committed to helping their own people, found themselves available to clients seven days a week as well as after hours. According to Mr Hancock indigenous workers had told him that they sometimes had fifteen or sixteen people living in their own houses who needed assistance⁴⁵.

Mr Hancock stated that he was aware of Kimberley Aboriginal children as young as six months old having gonorrhea as a result of sexual abuse, of at least one baby being neglected to the point of death and of babies feeding off mothers while they were drunk and otherwise being in need of provision of safer care.

He stated that in Broome and Halls Creek a Child Protection Officer would make a patrol around known areas to take note of young children who were not being cared for, but otherwise in the Kimberley the Department did not act in a proactive way, but rather responded to complaints of neglect drawn to the Department’s attention.

Mr Hancock described an enormous turnover of field workers within the Department with resulting loss of expertise

⁴⁴ Transcript dated 21/11/2007 at p.231

⁴⁵ Transcript dated 21/11/2007 at p.229



and knowledge. He stated that in some cases field workers left the employment of the Department to work for other government agencies which provided better terms of remuneration, leave etc than were available with the Department for Child Protection.

It is clearly important that in this context the Department should have an increased ability to attract workers to these positions.

RECOMMENDATION No. 10

I RECOMMEND THAT A LEADERSHIP ORGANISATION IN GOVERNMENT ENSURE THAT GOVERNMENT AGENCIES PROVIDING VITAL SERVICES IN THE KIMBERLEY ARE NOT DISADVANTAGED IN ATTRACTING STAFF COMPARED WITH OTHER GOVERNMENT AGENCIES AND THAT THEIR TERMS OF EMPLOYMENT ARE APPROPRIATE FOR WORK IN A REMOTE ENVIRONMENT.



According to Mr Hancock Aboriginal people regularly approached Child Protection Workers and expressed concerns to the effect that parents who neglected their children were not adequately brought to account for that neglect. Mr Hancock stated –

“The frustration is that they don’t want the state to come in and take the children. What they are wanting is somehow or other that services are provided and the parents who are supposed to be responsible for these kids are brought to some account”⁴⁶.

This emphasises the fact that the primary responsibility for child protection must rest with parents of the children concerned and that it should be explained to them that they cannot rely wholly on government agencies to look after their children.

A strategy which should be considered in the context of child neglect in the Kimberley is that of compulsory income management. Compulsory income management would ensure that Commonwealth income support and family payments to individuals with children would be used to benefit those children. It would also provide an additional tool for the Department for Child Protection to address issues of neglect in families.

⁴⁶ Transcript dated 21/11/2007 at p.242



Compulsory income management has not yet been implemented as a policy in Western Australia, but the proposal has been discussed by representatives of the Department for Child Protection and the Commonwealth and it would enable the Department to trigger income management for individuals when it is considered appropriate that there should be intervention to address child neglect.

In these circumstances the Department could provide a notice to Centrelink specifying that the individual should be the subject of a financial income management regime.

On receipt of such a notice Centrelink could apply financial income management in respect of welfare payments. All managed income would be placed into the individual's income management account and a Centrelink case manager would work with the individual in order to prioritize the needs of the individual's family. Priority would be afforded to needs such as food, clothing, housing, health, child care, education and training, employment and transport. Items excluded from funding would include alcohol, tobacco, gambling and pornography.

The proposal would allow for flexibility in the methods available to meet people's priority needs and would include use of vouchers, value cards, payment of expenses by periodic



payment and payments into various accounts (including accounts at stores or shops, credit cards and bank accounts).

While causes of neglect of children are complex, compulsory income management would provide an additional method for the Department to provide protection for children at risk.

RECOMMENDATION No. 11

I RECOMMEND THAT THE SYSTEM OF COMPULSORY INCOME MANAGEMENT BE INTRODUCED IN WESTERN AUSTRALIA AND THAT THE DEPARTMENT FOR CHILD PROTECTION HAVE THE ABILITY TO REQUEST COMPULSORY INCOME MANAGEMENT IN CASES OF CHILD NEGLECT.

EDUCATION ISSUES

In almost every case of a self inflicted death the subject of this inquest or reviewed for the purposes of the inquest the deceased had achieved a relatively low level of education and was on either unemployment benefits or the CDEP program. As education and employment would be a pathway out of the cycle of poverty in which most of the deceased persons were



living at the time of their deaths, this issue is of fundamental importance in addressing the circumstances surrounding the deaths.

Sadly the level of education attained by Aboriginal students in the Kimberley generally and the Fitzroy Valley in particular is pathetically low.

Margaret Collins, Acting Executive Director, Teaching and Learning North with the Department of Education and Training (Department of Education), provided a report in which the following observations were made –

- “73 The evidence available at this point would suggest that for Aboriginal students in the Kimberley between thirty to thirty five percent leave school with the literacy and numeracy skills required to successfully engage in further training and employment. The percentage is higher in the major centres of Broome and Kununurra and much lower in almost all of the remote community schools.
- 74 In the Fitzroy Valley schools the situation is described in Table 6. This data indicates that upward of 80% of these students are likely to leave school lacking appropriate literacy and numeracy skills to successfully engage in further training and employment”⁴⁷.

It is clear from this information that the majority of Aboriginal children in the Kimberley do not attain a standard of education which would provide them with basic skills sufficient to obtain meaningful employment.

⁴⁷ At paragraphs 73-75



The main reason for this poor level of education achievement is very high truancy rates and the fact that many children leave school at an early age.

According to statistics provided by Mrs Collins, the Kimberley attendance profile for all students is such that 59% attend school so infrequently as to be considered at risk.

Attendance rates calculated for Aboriginal students in the six schools within the Fitzroy Valley region reveal that there is generally poor attendance for all ages from kindergarten to Year 12 and that many of the failures to attend are not authorised. In respect of the Fitzroy Crossing District High School which receives students from kindergarten to Year 12, the aggregated attendance percentage is 58.54% and in respect of the failures to attend, over 90% are unauthorised. Unauthorised attendances are those in respect of which there has been absence without an acceptable explanation.

The School Education Act 1999 requires students of compulsory age to attend school or participate in an education program on the days the school is open for instruction. This Act places an obligation on parents to ensure that their children attend school.



In addition the Department of Education has two policies which govern the attendance processes in Western Australia's public schools; the Attendance Policy and the School Attendance Panel Policy.

The Attendance Policy specifies a number of procedures intended to ensure that students attend at schools.

Regrettably, in spite of these policies it appears clear that the Kimberley Aboriginal students simply do not attend school on a regular basis and it is obvious that relatively little is done to attempt to enforce their attendance.

A number of significant efforts are made on a school by school basis to attempt to improve school attendance. In the Fitzroy Valley, for example, the school's principal has organised for a bus "pick up" after teachers have identified absent children at the start of the day to encourage more students to get to school.

In addition, breakfasts are often provided on an informal basis to encourage children to attend school. There are also programs put in place intended to make school more attractive to students such as excursions, camps and inter-town sporting events.



As a result of the raising of the school leaving age, 16 and 17 year olds are now required to attend school or TAFE colleges or be engaged in traineeships, apprenticeships or full time employment. In that context a Participation Directorate has been set up within the Department of Education which has participation coordinators within each district who attempt to identify and locate 16 year old students who are not attending school etc. The 2006 participation rates for Year 11 students in remote districts has, as a result, increased significantly.

In addition to the efforts of the Department of Education there are a number of independent organisations which seek to improve school attendance. The Clontarf Foundation, in partnership with the State Government, has established a number of Football Academies in selected schools for the purpose of engaging indigenous boys in schools through the medium of Australian Rules Football. This program has a major focus on the development of life skills, self esteem and work readiness.

The Clontarf Foundation is currently working with the Participation Directorate to prepare a submission to government for the expansion of this program to other schools within the Kimberley and other districts.



RECOMMENDATION No. 12

I RECOMMEND THAT THE EFFORTS OF THE CLONTARF FOUNDATION BE SUPPORTED AND THAT THE STATE GOVERNMENT CONTINUE TO WORK IN PARTNERSHIP WITH THAT FOUNDATION WITH A VIEW TO EXPANDING THE PROGRAM TO MORE SCHOOLS THROUGHOUT THE KIMBERLEY.

In respect of TAFE education, Sofie Earnburgh, who works with Direction Training at Kimberley TAFE, gave evidence that there is now in place an intervention program which involves the participation of police, industry and TAFE lecturers and aims to capture disengaged students between about 15 and 17 years of age.

The purpose of the program is to provide an opportunity for participants to receive some TAFE practical training, pre-employment skills, life skills and then introduce them to an industry area. The training is run in close consultation with industry so as to improve employment prospects.

At this stage, according to Ms Earnburgh, three such programs have been run, these have been in the maritime area, the pearling industry and the hospitality area.



In addition the Kimberley TAFE has increasingly focused on developing a range of work readiness programs using a “readiness passport” approach. This proposal involves preparing people to enter industry and starts with improving life skills. The program addresses issues such as does the person have a birth certificate, does the person have a driver’s license etc and involves recording attendance at the program as well as providing core skills in respect of particular work activities.

This proposal is similar in many respects to a suggestion made by young Aboriginal people at Yiyili Community who also emphasised that it is important for there to be some mechanism for recognition of an Aboriginal person’s ability to attend at work regularly and to have achieved basic skills.

In this context it should be borne in mind that many young Aboriginal people have little or no experience of regular attendance at any form of employment or training. Unlike most Australians who closely monitor watches or clocks so as to ensure that various activities are completed at particular times, young Aboriginal people, particularly those who rarely attend school, have very little experience of working to a clock or regularly attending any form of activity.



This ability to develop the responsibility to attend at a given place at a determined time is a fundamental prerequisite for most employment and is a skill which must be learned by many young Aboriginal people.

In the above context it appears that a number of positive steps are being taken both by the Department of Education and the Kimberley TAFE to address educational problems faced by Aboriginal people. While these programs are positive and constructive they do not appear likely to substantially improve the current truancy rates or the problem of Aboriginal children leaving school at an early age without basic literacy and numerous skills.

A major part of this problem results from the fact that many Aboriginal people in the Kimberley do not see education as being important. In many communities there are no success stories and no student has obtained a high level of education.

In that context Mrs Collins stated that in every school the school tries very hard to build an understanding within the community of the importance of education. Sadly, it appears that it is very difficult to convey that message to parents who themselves have not received an adequate education and may not know anyone who has done so.



Improving the quality of education is one of the matters which needs to be addressed in a holistic way. Children are more likely to attend school if they come from a reasonable home environment than if they do not.

This is an area where adult Aboriginal persons will have to assume greater responsibility over time and actively participate in reducing truancy levels.

In the context of a holistic approach to these problems, Mrs Collins suggested in her evidence that facilities available at schools, including the buildings and other infrastructure, could be made available for a number of different purposes. She pointed out that government has invested a huge amount of money in infrastructure and that for a large period of time schools are not in use and could be available to other agencies so as to meet the needs of the whole community.

She also stated that intervention needs to take place from a time when a child is born and stated that a “zero to eight” strategy would be helpful in attempting to ensure that children are positioned so that they can derive benefit from an education. She stated that this particular strategy has been used in South Australia with considerable success and could involve Departments such as the Health Department,



Department for Communities, Mental Health, Child Protection and the Alcohol and Drug Authority.

In spite of the action which is being taken to address problems associated with truancy, it is clear that in respect of Aboriginal students in the Kimberley truancy is a major problem and until that issue is addressed, the standard of education will remain pathetically low and there will continue to be serious problems associated with attempting to find employment for the students concerned.

Problems associated with truancy cannot be satisfactorily addressed by the Department of Education and Training acting alone. It is important that when officers of that Department identify children at educational risk who are regularly not attending school, problems associated with that child are addressed through a whole of government approach. For there to be a satisfactory outcome Departments such as the Department of Indigenous Affairs, the Department of Housing, the Department of Health, WA Police and the Department of Child Protection may all have to become involved to some extent. It is important in this context that any legal impediments associated with privacy legislation should not exist and that there should be a sharing of information to enable a coordinated approach to take place.



RECOMMENDATION No. 13

I RECOMMEND THAT THERE BE A WHOLE OF GOVERNMENT APPROACH AIMED AT ADDRESSING TRUANCY AND ITS CAUSES, PARTICULARLY IN RESPECT OF ABORIGINAL STUDENTS IN THE KIMBERLEY.

STUDENTS AT EDUCATIONAL RISK AS A RESULT OF TRUANCY SHOULD BE MONITORED AND, WHEN NECESSARY, RESOURCES OF A RANGE OF DEPARTMENTS SHOULD BE APPLIED TO ADDRESSING THE ISSUE.

In the event that positive action is taken to address truancy the result will be that a large number of children who have not achieved basic education levels for their ages will attend school and unless remedial teaching is provided, they will continue to fail to reach those basic education levels.

RECOMMENDATION No. 14

I RECOMMEND THAT IN ASSOCIATION WITH EFFORTS MADE TO ADDRESS TRUANCY, REMEDIAL TEACHING BE PROVIDED TO CHILDREN ATTENDING SCHOOL WHO HAVE NOT ACHIEVED BASIC EDUCATION LEVELS FOR THEIR AGES.



COMMUNITY DEVELOPMENT AND EMPLOYMENT PROJECTS (CDEP) PAYMENTS

The majority of the deceased persons the subject of this inquest were in receipt of CDEP payments and were not otherwise employed.

The CDEP program was introduced in the 1970's as an alternative to unemployment benefits in remote indigenous communities. The CDEP program was formerly administered by the Aboriginal and Torres Strait Islander Commission (ATSIC). Responsibility for the administration of the CDEP program passed to the Department of Employment and Workplace Relations (Commonwealth) on 1 July 2004.

The concept of the CDEP payments was that they were to provide work for unemployed people on remote communities which would better equip those persons for other employment and, in addition, the work done would contribute to the welfare of the remote communities.

Opinions expressed by Aboriginal witnesses as to the usefulness or otherwise of the CDEP system varied considerably. It appears that the usefulness was very dependant on the quality of the supervision of those involved which varied considerably from community to community.



In some communities CDEP workers provided important services for the communities. These services were essentially similar to those provided in non-Aboriginal communities by shires or councils.

Although this issue was not explored in any detail in the inquest it would appear that there are a number of reasons why Aboriginal communities receive little or no municipal services. One important reason appears to relate to the current system of Commonwealth distribution of municipal funds under the *Local Government (Financial Assistance) Act 1995* (Clth)

That Act specifies that the national allocation of the general purpose component of the municipal grant is to be divided amongst the states on a per capita basis and takes no account of the size of the landmass involved. This results in the Northern Territory receiving less in local government financial assistance than Geelong⁴⁸.

The Federal Government provides some indigenous specific funding for municipal services but at a far lesser level than would flow if the mainstream local government funds were allocated equitably on a national basis.

⁴⁸ Department of Transport and Regional Services, Local Government National Report – 2004-05 Report on the Operation of the Local Government (Financial Assistance) Act 1995, Department of Transport and Regional Services, Canberra, 2006, at p.43



An additional factor disadvantaging Aboriginal remote communities is the fact that as they are mostly on Aboriginal Lands Trust Land, they do not come within the areas covered by local shire services.

Some Aboriginal people were highly critical of the CDEP scheme; witness Issac Hale, for example, from the Junjawa Community near Fitzroy Crossing, who was responsible for supervision of CDEP work at the Junjawa and Borawa Communities, expressed the following view –

“What do you say about the CDEP scheme? . . . Well, I reckon it’s the most horrible thing that ever happened to Aboriginal people in this part of the area. The government has really bugged everything up for all the people. It’s more or less called like sit down money.

So it’s not a real job, CDEP? . . . Not really. It’s only about four hours in a day.

When do they start in the morning to earn CDEP? . . . They start work at 8 o’clock and knocked off about 12.00, and that’s when the pub opens. So I reckon it’s not my people to blame, really, for anything whatever happen in Fitzroy Valley – in Fitzroy Crossing, for the alcohol problem.

After CDEP work finish you say that’s when the pub opens? . . . Yep, dead on 12.00. It’s only . . .

And they go straight to the pub? . . . They go straight to the pub whenever they have got money, yeah.

And the people get very drunk? . . . Yep”⁴⁹.

⁴⁹ Transcript dated 8/10/2007 at p.29



This criticism relating to the limited number of hours available to CDEP workers was a common theme with a number of witnesses. Peter McCumstie, Coordinator for the Panadanus Park Aboriginal Community at Derby, was extremely critical of the fact that workers could only perform 32 hours per fortnight of paid work under the system.

In his comments in respect of the deceased Steven Riley, he stated that the deceased had nothing to do with the rest of the day after his CDEP work finished and as a result of boredom, if there was money, alcohol would be bought and consumed by him.

On the other hand, witness John Perry, who lived at the Red Shells Aboriginal Corporation close to Munget Community, expressed the view that the CDEP system provided important services –

“... I’m in a remote community ... CDEP was a lifeline to us. It kept us going and because it’s still out there in the remote communities, it’s still keeping us going. It kept us from starvation, more or less. In the towns where they’ve taken the CDEP away and put them on Centrelink, the government has got more control of the money, but in doing that, they’re – the hopelessness of people in town is just unbelievable. There is nothing to look forward to in town except drink. The only escape you’ve got is drink and drugs and so that’s what they do. There’s nothing else to do. There’s no jobs. There’s no light at the end of the tunnel”⁵⁰.

⁵⁰ Transcript dated 14/11/2007 at p.28



It is obvious from the above evidence that the CDEP system does provide some useful benefits to remote communities if properly managed and could provide a helpful pathway from unemployment to regular employment, particularly if there was more flexibility in the system to enable Aboriginal people to work more than just a few hours each day.

At the inquest Bob Harvey, Group Manager, Indigenous Employment and Business Group of the Department of Employment and Workplace Relations, stated that from 1 July 2006 the Australian Government has introduced a number of reforms to improve employment opportunities and to provide incentives for participants to move to unsubsidised employment. He further stated that from 1 July 2007, the Australian Government has introduced a new employment services model for indigenous Australians in urban and major regional centres. This model focuses on employer demand and placement directly into unsubsidised jobs.

Mr Harvey claimed that there is some flexibility in the present CDEP system and that the Department does not prescribe the weekly number of hours of participation for the CDEP participants. He conceded in evidence, however, that the maximum number of hours permitted is in fact 32 hours per fortnight or 16 hours per week over a four day period in the Fitzroy Crossing area.



While the concept of providing unsubsidised employment for CDEP workers would clearly be beneficial if achievable, whether or not it is realistic in the context of people with very low educational background and no experience of regular full time work is another matter. I have serious concerns about the proposal to wind back the CDEP system unless these other issues are addressed first so that the alternative of “real” employment is realistically achievable.

In this context I agree with the concerns expressed by Mr McCumstie, the Co-ordinator for Pandanus Park Aboriginal Community, who was concerned that by winding back the CDEP system the Federal Government is “*throwing the baby out with the bathwater*” and asked the question in the context of his community “Where are the jobs?”⁵¹.

RECOMMENDATION No. 15

I RECOMMEND THAT THE CDEP SYSTEM NOT BE WITHDRAWN FROM COMMUNITIES UNLESS AND UNTIL THE PROSPECT OF ALTERNATIVE EMPLOYMENT IS ACHIEVABLE FOR PEOPLE IN THOSE COMMUNITIES

⁵¹ Transcript dated 4/10/2007 at p.6



RECOMMENDATION No. 16

I RECOMMEND THAT THE CDEP SYSTEM BE REVIEWED WITH A VIEW TO IMPROVING THE QUALITY OF SUPERVISION OF CDEP PARTICIPANTS SO THAT THE QUALITY AND NATURE OF WORK PERFORMED IS REASONABLY CONSISTENT AND THERE ARE NO LONGER AREAS WHERE CDEP WORK IS DESCRIBED AS “SIT DOWN MONEY”. WORKERS SHOULD CONTINUE TO PERFORM IMPORTANT BASIC TASKS REQUIRED FOR COMMUNITIES, PARTICULARLY THOSE WHICH WOULD NORMALLY BE PERFORMED BY LOCAL SHIRES. THE WORK SHOULD ALSO BE DIRECTED AT HEALTH AND SAFETY ISSUES AND INCLUDE THE REMOVAL OF RUBBISH, CLEANING OF PROPERTIES AND IMPROVING HEALTH OUTCOMES FOR COMMUNITIES.

I FURTHER RECOMMEND THAT THERE SHOULD BE MORE FLEXIBILITY IN THE SYSTEM SO THAT WORKERS CAN INCREASE THE NUMBER OF HOURS WORKED UNTIL THEY ARE ABLE TO WORK FULL TIME AND GAIN UNSUBSIDISED EMPLOYMENT.

I FURTHER RECOMMEND THAT THERE SHOULD BE INTERACTION BETWEEN THE DEPARTMENT OF EMPLOYMENT AND WORKPLACE RELATIONS AND THE EDUCATION DEPARTMENT SO AS TO ENSURE THAT TRAINING CAN TAKE PLACE AS PART OF THE CDEP SYSTEM AND THAT REGULAR ATTENDANCE AT CDEP WORK CAN BE RECOGNISED IN THE FORM OF A CERTIFICATE WHICH COULD BE USED BY PARTICIPANTS IN SEEKING FURTHER EMPLOYMENT.



HOUSING ISSUES

Nearly all of the deceased persons the subject of the inquest lived in overcrowded and substandard public housing. In many cases the housing was on land held by the Aboriginal Lands Trust which holds almost 12% of the State land on trust for indigenous people in Western Australia.

During the course of the inquest a number of nearby houses were visited and a number of houses were inspected at remote communities. In many cases the housing was substandard, in need of urgent maintenance and the interiors of many houses were extremely dirty.

Another particularly noticeable feature of the houses inspected was a general lack of furniture; some houses contained no furniture whatsoever apart from mattresses on the floor used for sleeping, refrigerators which often were obviously not working and television sets.

The quality of the housing in which many Aboriginal people live, often in seriously overcrowded conditions, clearly is relevant to the high levels of distress and dissatisfaction felt by Aboriginal people and is a factor in the very high suicide rates.



Evidence was provided to the inquest by Shane Hamilton as a representative of the Department of Housing and Works. His position is Executive Director of the Aboriginal Housing and Infrastructure Directorate in the Department of Housing and Works.

Mr Hamilton's particular role is to provide overall leadership and management of the Bilateral Housing Agreement between the State and Commonwealth Governments and ongoing management and strategic development in the provision of housing in the remote indigenous communities on land held by the Aboriginal Lands Trust.

In that regard the Department experiences some particular problems as a result of not having ownership of the land. The Aboriginal Lands Trust is a statutory body comprised of indigenous people appointed by the Minister⁵². It supposedly receives administrative support from the Department of Indigenous Affairs and its function is to hold and manage land for the use and benefit of indigenous people, in keeping with the wishes of the indigenous people of the area.

⁵² See section 20 of the Aboriginal Affairs Planning Authority Act 1972



It would appear that the present very poor condition of housing for Aboriginal people in the Kimberley results in part from a lack of coordination of services in respect of housing provision and maintenance.

Mr Hamilton agreed with the proposition that leaving aside new houses that are being delivered, the ones which currently exist in a lot of communities are a disgrace⁵³.

Prior to 1996 the Commonwealth Aboriginal and Torres Strait Islander Commissioner (ATSIC) managed the provision of housing to indigenous communities in Western Australia. This involved deciding where houses would be built, how many houses would be provided and how the houses would be constructed.

Following the winding up of ATSIC the Department of Housing and Works has accepted a greater role in respect of indigenous housing. This increased role also results from the fact that previously the majority of remote communities managed their own housing and Commonwealth/State funding was provided by the Department of Housing by way of an annual grant.

⁵³ Transcript dated 12/11/2007 at p.176



Arrangements have now been made for nine regional service providers to provide services to all houses in the State.

The Department now administers joint funding received under the Commonwealth/State Bilateral Agreement through Indigenous Housing Organisations and a number of communities. Arrangements have recently been put in place for regular property inspections by the relevant Indigenous Housing Organisation of all housing assets. Results of these regular inspections is to be recorded. This is particularly important as it appears that houses for Aboriginal people have never had any real maintenance dollars spent on them as there has been no system of management in place to manage the asset or even treat the housing as an asset that requires regular maintenance and inspection. It also appears that there have been relatively few efforts made in the past to ensure that rent is collected and money is put back into the upkeep of the houses.

Mr Hamilton stated in his evidence and in a statement provided to the Court that data in respect of the houses has not been captured until recently and that within the last fifteen months a new database has been put in place to identify the real need for housing. He stated that this database has already identified a need for a further 1,000 houses to be constructed for the remote indigenous communities in the state.



(a) Sustainability of communities

Mr Hamilton was asked whether the Department was taking action to review the sustainability of a number of remote communities, particularly when those communities have been established as a result of historical events and not through the choice of the inhabitants. He stated that under the Bilateral Agreement the question of sustainability is usually determined by population so if there are fifty or more people living within a community, then that community will come under the funding agreement. If the community is of less than fifty people, then the community will not receive any funding⁵⁴.

Mr Hamilton did, however, state that smaller communities such as Ngumpan are to receive further funding as a result of commitments made before the signing of the Bilateral Agreement.

As stated earlier in these reasons, it is my view that more work needs to be done in order to determine which communities are sustainable in the long term to ensure that money is not wasted in the provision of accommodation in unsustainable communities and is directed towards

⁵⁴ Transcript dated 12/11/2007 at p.166



communities and locations which are likely to have a better future.⁵⁵

(b) The types of houses being constructed

A further issue which was identified during the course of visits to communities relates to the fact that many of the houses which have been built are essentially small, three bedroom homes which are not necessarily appropriate to the lifestyle of the occupants. It was clear that as more accommodation is provided, input needs to be obtained from traditional owners of the land as to what their expectations for housing are and their own thoughts obtained as to solutions to various accommodation problems which they face.

I accept as relevant generally in the Kimberley observations in the Community Development Plan for the Mowanjum Aboriginal Community to the effect that even within communities people have different housing needs. That some people will wish to live in extended families while others will wish to live in nuclear families. Some will wish to cook outside while others want an inside kitchen. Some will prefer individual houses while others would choose “cluster housing”

⁵⁵ See Recommendation No. 2



where houses are built adjoining one another, possibly sharing a communal living area and kitchen.⁵⁶

This recognition of the particular wants and needs of the people involved is of importance, not only because of the benefits to those people, but also to minimise costs. Many of the alternative designs to those which cater for nuclear families are likely to be of reduced cost. Cluster housing with communal living and kitchen facilities is, for example, likely to be a cheaper option than providing three bedroom houses designed for nuclear family living.

RECOMMENDATION No. 17

I RECOMMEND THAT FUTURE PLANNING FOR CONSTRUCTION OF PUBLIC HOUSING FOR ABORIGINAL RESIDENTS OF THE KIMBERLEY SPECIFICALLY ADDRESSES THE PARTICULAR WANTS AND NEEDS OF THE PEOPLE INVOLVED AND INCLUDES CONSIDERATION OF ALTERNATIVES TO INDIVIDUAL HOUSES DESIGNED FOR THE NEEDS OF NUCLEAR FAMILIES, SUCH AS PROVISION OF CLUSTER HOUSING AND OTHER FORMS OF HOUSING WHICH ENABLE DIFFERENT LEVELS OF COMMUNAL LIVING, PARTICULARLY WHEN THESE ALTERNATIVES PROVIDE A LESS EXPENSIVE OPTION.

⁵⁶ Exhibit "71"



Although a number of the housing issues, particularly those bearing on hygiene, have relevance to health, it appears that there is at present no real interaction between the Health Department and the Housing Department in respect of these matters⁵⁷.

(c) The absence of furniture

A further matter of concern is that although the Department provides housing, it does not provide furniture. Many of the houses visited during the course of the inquest lacked appropriate furniture and children were seen sleeping on mattresses on floors where there were many insects and sometimes obviously diseased dogs.

If these obvious health issues are to be addressed, it is clear that there is a need for provision of some furniture for these homes and education provided about the importance of hygiene.

⁵⁷ Mr Hamilton's evidence, transcript dated 20/11/2007 at p.173



RECOMMENDATION No. 18

I RECOMMEND THAT IN ADDITION TO PROVIDING PUBLIC HOUSING, THE HOUSING DEPARTMENT BE FUNDED TO PROVIDE VERY BASIC FURNITURE, PARTICULARLY BEDS WHICH WOULD RAISE MATTRESSES OFF THE FLOORS. PROVISION OF SUCH FURNITURE SHOULD OCCUR AFTER THE OCCUPANTS OF PUBLIC HOUSING HAVE BEEN ADEQUATELY EDUCATED IN RESPECT OF THE NEED TO LOOK AFTER THE PROPERTIES AND ANY FURNITURE PROVIDED.

PROVISION OF SUCH FURNITURE SHOULD ONLY OCCUR IN CIRCUMSTANCES WHERE AN IDENTIFIED PERSON HAS ACCEPTED RESPONSIBILITY FOR THE FURNITURE AND THE FURNITURE SHOULD, LIKE THE HOUSING PROVIDED, BE SUBJECT TO AUDIT.

(d) Damage to public housing

Mr Hamilton was asked about problems associated with damage to houses by tenants and others and he emphasised that it is often difficult to identify who has been responsible for damaged houses and sometimes it may be difficult for a particular tenant to control visitors to a house. He stated that whether this occurs depends very much on whether there



is strong governance within a particular community which is able to ensure that there are adequate housing management practices and principles in place. He stated that in some communities there is effective governance and management of the properties, while in others where there is little effective leadership; properties may be regularly damaged by visitors to the community and, particularly, in communities close to towns where there may be a large influx of people from time to time, is very difficult to control the conduct of visitors to ensure that properties are not damaged.

It is clearly important that in each community a policy is adopted in respect of vandalism which would address the issue of how vandalism would be deterred e.g. using the Community Warden program etc.

CONCLUSIONS IN RELATION TO HOUSING ISSUES

The evidence of Mr Hamilton has revealed that –

- ✚ a very large number of Aboriginal people in the Kimberley live in public housing;
- ✚ much of the existing public housing is a disgrace;
- ✚ until recently there has not been a system in place for ensuring that this housing is maintained or even monitored; and
- ✚ that there is now in place such a system.



In my view, while progress has been made recently and the Bilateral Agreement will provide much needed additional funding and some performance review, in addition there needs to be –

- ✚ an assessment of which communities are sustainable and should be supported taking into account historical and cultural factors prior to any large investments being made in housing; and
- ✚ in respect of each location where public housing is to be provided a review should take place in order to determine the style of housing required with a number of options being available to accommodate the different life styles of Aboriginal people. These reviews should be undertaken on an ongoing and case-by-case basis and should not delay the urgently needed provision of housing.

THE HOME MAKER PROGRAM

The home maker program was set up in the 1970's to assist Aboriginal people moving from reserves into Homeswest housing in towns. The services were mainly provided through home maker learning centres and the program was run by the Department for Community Development but has not been in place for some time.



The Department of Housing and Works funds a version of the homemaker program and, according to Mr Hancock, the Department for Child Protection is working with the Department of Housing and Works to develop and extend this service.

Mr Hancock emphasised, however, that participation in such a service is on a voluntary basis and the people in most need of the service are least likely to avail themselves of the service, possibly because of previous problems with the Department, marginalisation and poor education and literary skills.

If Aboriginal housing in the Kimberley is to be improved and that improvement is to be sustainable, it is particularly important that Aboriginal people are taught how to maintain the homes and keep them in a clean and hygienic state.

In my view it is not satisfactory that participation in programs of this type should be on a wholly voluntary basis. The homes are being provided by the State and Commonwealth governments funded by taxation and the wider community should have a realistic expectation that they be maintained in a suitable manner. In my view at the stage when homes are being constructed there should be close interaction with the Aboriginal people concerned and provision



of homes should be on the basis that the proposed occupants accept some responsibility for maintenance and, where necessary, agree to take part in suitable training programs.

It needs to be recognised, however, that as Mr Hancock stated “...it is *very difficult to coach and mentor people to provide a better home environment when the home is overcrowded, poorly maintained and continually visited by drunken people*”⁵⁸.

While the above observations have been made in the context of Aboriginal people in the Kimberley, the following recommendation would appear to have general application.

⁵⁸ Statement at para 100



RECOMMENDATION No. 19

- (i) I RECOMMEND THAT THERE SHOULD BE A HOME MAKER PROGRAM SUPPORTED BY THE DEPARTMENT OF HOUSING OF WORKS, THE DEPARTMENT OF HEALTH AND THE DEPARTMENT FOR CHILD PROTECTION WHICH WOULD IMPROVE PEOPLE'S LIFE SKILLS SO THAT THEY WOULD BE TAUGHT HOW TO MAINTAIN THE HOMES PROVIDED TO THEM IN A CLEAN AND HYGIENIC STATE; AND**
- (ii) I FURTHER RECOMMEND THAT WHEN IT IS CONSIDERED NECESSARY, SATISFACTORY COMPLETION OF SUCH A PROGRAM SHOULD BE A NECESSARY PERQUISITE TO PROPOSED OCCUPANTS BEING PROVIDED WITH A NEW HOME.**

ALCOHOL ABUSE

Alcohol abuse is both a result and a cause of many other problems for Aboriginal people living in the Kimberley.

This issue was raised with family members representing each of the deceased persons during the course of the inquest almost all of whom agreed that alcohol abuse is a serious



problem for Kimberley Aboriginal people. Indeed, of all the problems faced by Kimberley Aboriginal people, the problems associated with alcohol abuse appear the most obvious and pervasive. Alcohol abuse appears to be a cause and a result of psychological pain being suffered by the Aboriginal people referred to earlier in these reasons.

There can be no doubt that alcohol abuse is widespread and impacts on a range of vulnerable people as well as the abusers.

The evidence at the inquest relating to the problems in the Fitzroy Crossing area in particular was consistent with the statement made by the Chairman and Coordinator of the Kimberley Aboriginal Law and Cultural Centre in the letter to the State Coroner dated 16 December 2007 (referred to earlier in these reasons) to the effect that –

“KALACC considers these series of deaths, either by suicide or other causes, to be absolutely linked with the abuse of alcohol in the Fitzroy Valley”.

This problem was consistent throughout the Kimberley. In Derby, for example, Peter McCumstie, the Coordinator for the Panadanus Park Aboriginal Community and former Shire President of the Derby-West Kimberley Region and Chair of the Kimberley Development Commission, expressed the view that –



“Alcohol in my view is doing to Aboriginal people what white men in the early settlement days failed to do and the scary part about it is you now have this combination of drugs and alcohol and I certainly believe that’s at the root of the suicides”.⁵⁹

Mr Joe Ross, in his evidence, stated that he had been supporting the Women’s Centre and KALACC in Fitzroy Crossing in their efforts to have controls on alcohol sales imposed and said that he had come from a time when although there had been drinking the change had been from “...an intermittent drinking society to a 24/7 bunch of alcoholics”.⁶⁰

The evidence revealed that although a significant number of Aboriginal people do not consume alcohol at all and a large number of others consume alcohol in moderation, a significant number of people are not able to control their alcohol consumption and cause huge problems for entire communities.

Alcohol abuse was identified by all witnesses as a major reason for many Aboriginal people neglecting their children, for extensive domestic violence and for widespread abject

⁵⁹ Transcript dated 8/10/2007 at p.2

⁶⁰ Transcript dated 11/10/2007 at p.210



poverty. It had also been identified as a major contributing factor to child sexual abuse.

I endorse the comment made by Professor Stanley at the inquest in this regard -

“There are two major ways in which alcohol is damaging. The first is of course the obvious one, where it’s damaging, as we’re going to talk about, in terms of its effect on the foetus, its effect on family violence, its effect on child abuse and neglect, but the other one of course is the fact that if money is spent on alcohol, it is not being spent on the things which are resources that are important for children, such as to house, clothe, feed and educate and provide for health. So the family finances are consumed excessively in terms of alcohol”.⁶¹

A further factor commented on by a number of witnesses, was the fact that the noisy activity of alcohol abusers during the night regularly kept awake non-drinkers and drinkers alike (including children) and particularly after CDEP and social security payments have been received, there would often be extensive sleep deprivation experienced by whole communities.

In the context of offences committed by persons influenced by alcohol, Sergeant Heath Powell who spent 2½ years at Fitzroy Crossing from June 2003 until January 2006, described the situation in the following terms –

⁶¹ Transcript dated 17/12/2007 at p.5



“When there is no money in town generally the phone would never ring. As soon as there is money in town it was just – the phones would ring off the hook all night, and it was always alcohol related domestics, fights, things of that nature”.⁶²

Of particular significance in this context is action recently taken by the Marninwarntikura Women’s Resource Centre and KALACC to seek a limit to the availability of takeaway full strength alcohol in Fitzroy Crossing which has resulted in an order made pursuant to section 64 of the Liquor Control Act by the Director of Liquor Licensing, a condition of which is –

“The sale of packaged liquor exceeding a concentration of ethanol in liquor of 2.7 per cent at 20 degrees Celsius is prohibited for a six-month period commencing 1 October 2007”.

It was the evidence of a number of witnesses at the inquest that almost immediately following the imposition of this condition living conditions for Aboriginal people in the Fitzroy Crossing area had noticeably improved. According to these witnesses there was less rubbish in the streets, children were playing happily and attending school and crime rates were reduced.

The effect of this condition on crime rates was raised at the inquest with Police Superintendent and Regional Coordinator for Regional Western Australia, James Migro. According to Superintendent Migro alcohol appeared to be a

⁶² Transcript dated 10/10/2007 at p.107



most significant contributor to offences of assaults, domestic violence and threatening behaviour in general.

He made the following observation in respect of changes which had taken place since the introduction of the restrictions on sales of full strength alcohol–

“This is supported by the fact that since the introduction of the alcohol restrictions in Fitzroy Crossing the number of incidents (complaints) involving offences of disorderly conduct, assaults and domestic disturbances where excessive consumption of alcohol is involved has decreased significantly.

Although in its infancy it is estimated that tasking by police at incidents involving alcohol has been reduced by as much as 50%. There is no statistical data available that would support any suggestions that vehicle crashes have increased in this same period”⁶³.

In addition, the Police Computer Dispatch System, the system used to record any matters which require police attendance and dispatch, revealed a reduction in numbers from 158 to 65 for a similar period before and after the alcohol restrictions were imposed on 1 October 2007.

While police statistics reveal an increase in offences committed in Broome over the period following the introduction of the alcohol restrictions, those increases were much smaller than the reductions identified in Fitzroy

⁶³ Statement Exhibit “45” at paras 13 and 14



Crossing and, according to Superintendent Migro, some increase in Broome offence rates would be anticipated in any event because of an increase in the number of Aboriginal people visiting Broome from outlying areas which could be expected during the period in question irrespective of whether or not there had been alcohol restrictions imposed.

While it was claimed by Mr Bowen, the Managing Partner of the Crossing Inn (the main outlet for takeaway alcohol in Fitzroy Crossing) “...*the condition imposed was ill conceived in the first place and incorrectly implemented*”⁶⁴, objective evidence from police officers and other witnesses who have visited Fitzroy Crossing since the implementation of the restriction supported the proposition that it has been extremely effective.

In her evidence Professor Stanley stated that the group of women who had raised this issue in Fitzroy Crossing had contacted her through the Institute for Child Health Research and were “...*an extremely impressive group of women*”.⁶⁵ She stated that she strongly supported their action and had offered to help with an evaluation of the impact of the restriction. Professor Stanley stated that it would be a “lost opportunity” if

⁶⁴ Transcript dated 22/11/2007 at p.338

⁶⁵ Transcript dated 17/12/2007 at p.18



a thorough evaluation was not conducted on the impact of the restriction.

Professor Stanley made the point that if such a ban was to be implemented on a wider basis, action should also be taken to address the impact of alcohol withdrawal symptoms on alcoholic people with limited access to alcohol.

While there could be alcohol withdrawal problems faced by alcoholic people in locations where access to takeaway full strength alcohol is limited or removed, in my view this issue should not be overstated as –

- ✚ the evidence at the inquest was to the effect that most Aboriginal alcohol abusers in the Kimberley drank heavily after receipt of their CDEP or social welfare payments, but that once the money was gone, they stopped drinking and so were used to periods of abstinence; *and*
- ✚ the restrictions do not prevent all access to alcohol, full strength alcoholic drinks can still be purchased in hotels and low strength alcoholic drinks can still be purchased at takeaway outlets.

While alcohol restrictions, in themselves, cannot be an answer to all of the problems facing Aboriginal people in the



Kimberley, it appears that they may provide an important starting point.

It needs to be recognised that, as a number of the witnesses stated during the course of the inquest, alcohol abuse results from a number of factors including boredom and depression and it is important to provide activities for people which will provide an alternative to the oblivion produced by gross alcohol intoxication.

In assessing what action needs to be taken in this regard, it is important to bear in mind some of the information provided by Mr Eric Dillon, Acting Executive Director of the Drug and Alcohol Office, to the inquest which included the following facts –

- ✚ Deaths due to alcohol during the period 2000/2004 in the Kimberley region generally were more than double those in the metropolitan region of the state (for Aboriginal and non-Aboriginal people);
- ✚ The number of hospitalisations due to alcohol for the period of 2001/2005 for the Kimberley region was 5.5 times higher than for the metropolitan region (for both Aboriginal and non-Aboriginal people); *and*
- ✚ The WA Data from the WA Births Defects Registry (which may be subject to issues of reliability as



identified by Professor Stanley as a result of diagnostic difficulty) indicated that the Kimberley rate for foetal alcohol syndrome was 21.5 times higher than the rate for the remainder of the state per 1,000 persons.

It is clear from the above information that there may be good health reasons to extend the current restriction on the availability of takeaway full strength alcohol to other areas of the Kimberley and that the problems associated with alcohol abuse identified earlier in these reasons are not limited to Aboriginal people.

Consideration should also be given to the use of payment of various welfare payments by way of vouchers (in the context of Aboriginal circumstances, in consultation with Aboriginal people).

As Professor Stanley stated in her evidence⁶⁶ in Europe where there is greater commitment to motherhood and parenting, voucher systems are used across the whole community in respect of a number of relevant services.

Evidence at the inquest has revealed the fact that alcohol abuse is a massive problem for the Aboriginal people of the

⁶⁶ Transcript dated 17/12/2007 at p.18



Kimberley and there is an urgent need to address this issue in a practical and positive way.

RECOMMENDATION No. 20

I RECOMMEND THAT CONSIDERATION BE GIVEN TO POSSIBLE MEANS OF LIMITING THE IMPACT OF ALCOHOL ABUSE ON ABORIGINAL PEOPLE (AND OTHER WESTERN AUSTRALIANS) INCLUDING –

- ✚ LIMITING ACCESS TO FULL-STRENGTH TAKEAWAY ALCOHOL OVER LARGE GEOGRAPHIC AREAS OF THE KIMBERLEY (THE POSSIBLE EXTENSION OF THE RESTRICTIONS CURRENTLY IN PLACE IN THE FITZROY CROSSING AREA); AND**
- ✚ IMPLEMENTATION OF VOUCHER SYSTEMS IN RESPECT OF CERTAIN GOVERNMENT PAYMENTS, PARTICULARLY THOSE INTENDED TO PROVIDE CHILD SUPPORT, WHICH WOULD LIMIT THE AMOUNT OF MONEY AVAILABLE FOR PURCHASE OF ALCOHOL.**



**ALCOHOL CONSUMPTION IN
THE FITZROY CROSSING AREA
LEEDAL PTY LTD AND THE FITZROY CROSSING TRUST**

As noted earlier in these reasons, a particular concern raised by KALACC in their letter of 16 December 2006 was the high number of deaths in the Fitzroy Valley believed to have been linked with the abuse of alcohol. In that context it was a matter of concern that evidence at the inquest revealed that most of the alcohol purchased by deceased persons the subject of this inquest in the Fitzroy Valley was supplied by the Crossing Inn Hotel, a hotel part-owned throughout the relevant period by Aboriginal people through a Trust, The Fitzroy Crossing Trust, the trustee of which is a private company, Leedal Pty Ltd (Leedal), which had originally been incorporated through the instigation of the Aboriginal Development Council, a Commonwealth Government organisation.

In evidence taken at Fitzroy Crossing there were repeated references to the Crossing Inn Hotel, which was effectively the only outlet for takeaway alcohol between Broome in the west and Halls Creek in the east (apart from relatively small sales from the Fitzroy Lodge). In the cases where the source of alcohol was identified, apart from relatively small quantities consumed at the Fitzroy Lodge, all of that alcohol came from the Crossing Inn Hotel.



In her evidence Dr Rowland, the Senior Medical Officer at the Fitzroy Crossing Hotel, described the scene which she had encountered when she had attended at night at the Crossing Inn Hotel to treat patients in the following terms-

“I will give you a verbal picture. You used to – the road has been better lit since, but you used to have to drive down a very dark road quite slowly. There would be people dressed in dark clothing wandering around in drunken staggers some distance from the inn, and as you approached there would be more and more people. There would be little fires lit in the bushes and people surrounding those fires, drunk and drinking, and people wandering around and bodies scattered in various poses all around. As you get, you know, closer and in the lighting of the inn you see a similar picture, with people scattered around on any bit of dirt or fence post or whatever they can perch themselves on, most with cans in their hand. Those that are walking are staggering and there’s many stuporous bodies on the ground. The call-outs – one call-out in particular I recall we were looking for an unconscious person, and you’re looking around at many unconscious people and you’re hoping that someone is going to come up to the ambulance and approach you and tell you where the body is that you’re actually being called for. It’s very hard to tell, but people that are waving, drunk, bottles and rocks, all approach the ambulance and you don’t feel very safe. You will park it somewhere and you will hop out and you will ask the people as they crowd around you with their drunken breaths and their bottles if they know where the sick person is and they will point some distance away where it’s dark. You will ask the ambulance driver to drive and turn the lights on so you can see where you’re going and the nurse and I will run across there and find out if this – “Is this the person you have called us for? Which of these bodies lying around is the unconscious one we need to assess?””.⁶⁷

I have no doubt that Dr Rowland’s description of the Crossing Inn Hotel and its surrounds was accurate. Her evidence in that regard was referred to Acting Sergeant Heath

⁶⁷ Transcript dated 8/10/2007 at p.84



Powell, who was a serving police officer in Fitzroy Crossing from June 2003 until January 2006 in the following exchanges –

“Were you here in the court when Dr Rowland gave evidence as to – she was painting the picture of some nights when the ambulance goes down to the Crossing Inn? - - - Yes, I was here for that.

You would have heard her speak about large groups of people milling around, drinking, fighting, arguing? - - - Yes, that’s – she painted a very good picture. That’s very commonplace, that was, especially on what we call pay week. That’s quite common there Thursday, Friday, Saturday nights, that sort of behaviour.

Sorry, that was on pay week? - - - Yes, generally pay weeks are the worst weeks when they get most of their money.

So people would buy their takeaway, they would buy a slab or a block and wander up there? - - - Yes, go into the bush or the park and sit around and drink, yes.

And share it. It’s not uncommon for all manner of assaults to occur in that area, whether it be a simple common assault through to a sexual assault? - - - Yes, it was very common. I have lost count of how many times I went down there to attend to jobs.

Drunken fights? - - - Always. Drunken fights, yes, just generally – it has always revolved around alcohol. When there’s no money in town generally the phone would never ring. As soon as there was money in town it was just – the phone would ring off the hook all night, and it’s always alcohol related domestics, fights, things of that nature”.⁶⁸

In the context of the deaths the subject of the inquest –

1. Chad Atkins died while drinking at Billabong Park, a location which was then commonly used by patrons of

⁶⁸ Transcript dated 8/10/2007 at pp.90-91



- the Crossing Inn Hotel to consume takeaway alcohol, his blood alcohol level was 0.180%;
2. Teddy Beharral died while walking away from the Crossing Inn Hotel when he was run over by two motor vehicles, the deceased and both drivers had high blood alcohol levels (0.140, 0.141% and 0.228%);
 3. Maitland Brown died by suicide after drinking alcohol which would have come from the Crossing Inn Hotel, his blood alcohol level was 0.185%;
 4. Benjie Dickens was run over while walking away from the Crossing Inn Hotel, his blood alcohol level was 0.318%, the driver of the vehicle which struck him had been drinking at the Crossing Inn Hotel;
 5. Ivan Gepp drowned when trying to travel in his underpowered boat to the Crossing Inn Hotel over the flooded and fast flowing Fitzroy River;
 6. Ernest Laurel died by suicide after having consumed alcohol purchased from the Crossing Inn Hotel, his blood alcohol level was 0.238%;
 7. Joshua Middleton died by suicide after consuming alcohol which would have come from the Crossing Inn Hotel, his blood alcohol level was 0.226%;
 8. William Miller died by suicide after drinking alcohol at the Fitzroy River Lodge as well as takeaway alcohol which would have come from the Crossing Inn Hotel, his blood alcohol level was 0.236%;



9. Gordon Oscar died by suicide after consuming alcohol purchased from the Crossing Inn Hotel, his blood alcohol level was 0.157%;
10. Celeste Shaw died by suicide after consuming alcohol purchased from the Crossing Inn hotel, her blood alcohol level was 0.171%; and
11. Shawn Surprise died after drinking excessive amounts of alcohol purchased from the Crossing Inn Hotel when he attempted to swim across the Fitzroy River which at the time was in full flood.

There can be no doubt that gross alcohol abuse was a major problem in Fitzroy Crossing, that alcohol abuse was a contributing factor in many of the deaths the subject of this inquest and that most of the alcohol consumed by these deceased persons came from the Crossing Inn Hotel.

In the above context it is surprising that one of the original purposes for Leedal's involvement with the hotel, according to its secretary and one of two shareholders, John Nicholas, was –

“To provide Aboriginal people of the Fitzroy Valley with some control over the sale of alcohol”.⁶⁹

It appears that in about 1988 Dr William Arthur from the Aboriginal Economic Research Unit in Perth was

⁶⁹ Statement Exhibit “33” para 42



commissioned by the Aboriginal Development Council to undertake a research project in the Fitzroy Valley, which centred around the potential purchase of a number of properties in Fitzroy Crossing for the benefit of Aboriginal people in the region. The properties involved at that time included the Crossing Inn Hotel, the Fitzroy Crossing Supermarket and other shops and a caravan park.

It appears clear from Dr Arthur's reports, which were referred to in document titled **"A Report On An Independent Review of the Fitzroy Crossing IBA Joint Venture Business"** dated 13 September 2007 prepared by George M Irving⁷⁰, that even at that stage many indigenous people were opposed to the purchase of the hotel because they believed that many of the problems in the area were alcohol derived or related. A number of indigenous men and women were, however, ultimately persuaded that ownership of the hotel would provide a means for addressing alcohol related problems.

Leedal was incorporated on 19 March 1987 and was appointed the trustee of the Fitzroy Crossing Trust by a Deed of Settlement executed on 25 October 1988. The Fitzroy Crossing Trust is a discretionary trust.

⁷⁰ Exhibit "61"



The beneficiaries of the trust were the Junjunwah Aboriginal Corporation, Kunagagki Aboriginal Corporation, Baylu Aboriginal Corporation, Kadjina Aboriginal Corporation, Yayili Aboriginal Corporation and Morawora Resource Agency⁷¹ as well as any Aboriginal body or corporation in the Fitzroy Crossing Shire and any Aboriginal body, corporation or community nominated by the Aboriginal Development Council.

The beneficiary entitlements were amended in 1989 and from that date provided that 40% was to go to the Junjunwah Aboriginal Corporation and the remaining 60% divided in equal shares between the remaining named beneficiaries.

The trust acquired a 50% interest in the Crossing Inn Hotel and the supermarket and caravan park in 1989 using finance provided by the Aboriginal Development Council through a grant of \$600,000 and a loan of \$975,000.

In 2001 the trust acquired a 42.5% interest in the Fitzroy River Lodge. In order to acquire that interest the trust received a \$1million grant from ATSIC and borrowed \$1million from Indigenous Business Australia. In addition the trust sold

⁷¹ The spelling of these names in this section of these reasons is taken from the Fitzroy Crossing Trust deed; the “Junjunwah Aboriginal Community” is the community reflected to elsewhere at the “Junjuwa Community”



7.5% of ownership of the Fitzroy Crossing Inn hotel and entered into agreements with Indigenous Business Australia, Mapigan Pty Ltd and Western Group Holdings Pty Ltd.

Indigenous Business Australia is a statutory authority established by the Aboriginal and Torres Strait Islander Commission Amendment Act 2001 and forms part of the Australian Government's Economic Development Strategy. Mapigan Pty Ltd is a proprietary company, the sole shareholder and director of which is Wayne Anthony Bowen, the Managing Partner of the Crossing Inn Hotel.

In 2006 the trust acquired a further 27.5% interest in Fitzroy River Lodge and the Crossing Inn Hotel. In order to make that acquisition the trust borrowed a further \$750,000 from Indigenous Business Australia and entered into an agreement with Indigenous Business Australia and Mapigan.

In September 2007 the trust was approached by Indigenous Business Australia with an offer to sell their interest in the Crossing Inn partnership. Assuming that this acquisition is completed, the trust will own over 96% of the Crossing Inn Hotel with a call option on the balance which can be exercised in June 2009. At that time the trust could own 100% of the Crossing Inn Hotel.



Of particular significance in this context is that the only two hotels in the Fitzroy Crossing Valley are the Crossing Inn Hotel and the Fitzroy Lodge so ownership of those two hotels creates a monopoly situation in respect of all hotel accommodation and alcohol sales in the valley.

As at June 2007 the trust through its diverse structure now sees profit from –

- ✚ Tarunda Supermarket;
- ✚ Tarunda Caravan Park and rental units;
- ✚ The post office;
- ✚ Tollwest Agency;
- ✚ Commercial rental;
- ✚ Fitzroy River Lodge Partnership – 70%;
- ✚ Crossing Inn Partnership – 96%;
- ✚ The newsagency; and
- ✚ Wholesale distribution to communities⁷²

While there can be no doubt that the activities of the trust have been extremely lucrative (according to Mr Nicholas the trust receives a profit of approximately \$1million each year and the assets would be valued at many millions of dollars) there have been almost no distributions to the six indigenous communities that are said to be the beneficiaries of the trust.

⁷² Statement Exhibit “73” para 125



In a document titled “Cash Flow Analysis – Summary” provided as annexure 8 to the statement of Mr Nicholas, a total of \$27,000 is said to have been paid to the members of beneficiary communities over a 7 year period. The same document indicates that various donations of \$36,000 have been made as well as donations to the FV Youth Trust totalling \$137,000 over the same period. These three amounts are the only cash outgoings which could be described as some form of distribution to indigenous people.

While I note that Mr Irving has raised a number of concerns in respect of some of these figures, even assuming that they are entirely accurate, there can be no doubt that over the 18 year period of the trust’s lucrative operation the beneficiaries have seen virtually no distribution of profits.

It appears that the residents in the beneficiary communities comprise most of the indigenous inhabitants of the Fitzroy Crossing region, many of whom are living in conditions of extreme poverty.

It also appears that in spite of the considerable period of operation of the activities of the trust, no real plans have been put in place as to how the trust will ever distribute benefits to the beneficiary communities.



It is noted that although almost no benefits have been distributed to the beneficiaries of the Trust, according to Leedal's witnesses, other benefits have been provided to Aboriginal people in the Fitzroy Crossing area including –

- ✚ there has been a subsidy provided at the Supermarket for basic foods (although no details were provided as to the extent of this subsidy);
- ✚ the post office was acquired and continues to operate although it is not profitable to keep it open;
- ✚ employment has been provided for Aboriginal people working in the various enterprises; and
- ✚ a can account had been set up which used funds from the sale of empty beer cans for the benefit of the local community.

While these benefits are undoubtedly of significance, in the context of a trust valued at millions of dollars generating a considerable income, they are relatively minor.

While it was accepted by the Leedal representatives who gave evidence that there has been virtually no distribution to the beneficiaries of the trust, it was stated by them that this was because their first priority has been to build up the assets of the trust.



In this context I agree with the observation of Mr Irving in his report –

“If success is measured by corporate growth then the Fitzroy Project, through Leedal, provides an outstanding example of social and economic development. Leedal is now the largest and most successful commercial enterprise in Fitzroy Crossing. Unfortunately, the success is not something that the community of beneficiaries feel they contributed to or can own”⁷³.

At the present time I also agree with Mr Irving’s comment in his report –

“If success is measured in terms of community involvement in and ownership of the outcome of a project, or in terms of improvements to the community’s wellbeing, then the Fitzroy Project must be judged as having failed the community it set out to benefit”⁷⁴.

The question for Leedal is whether the above observation will continue to accurately describe Leedal’s position or whether, and if so when, it will take action to significantly improve the wellbeing of the community it was created to benefit.

At the inquest Mr Nicholas and Patrick Green, a shareholder and the Managing Director of Leedal, gave evidence that their present plan is to continue to accumulate profits for approximately a further 18 month period at which time the remaining interest and the Crossing Inn Hotel and

⁷³ Exhibit “61” at p.6

⁷⁴ Exhibit “61” at p.5



the Fitzroy Lodge will have been acquired without the need for any further debt.

Mr Nicholas referred to a strategic plan document which had been prepared by Kadar Pearson and Partners Pty Ltd which he stated had been commissioned for the future planning of Leedal.⁷⁵ While this document addresses a number of long term issues of relevance to a proprietary company, it does not identify any particular benefits which could be provided to the beneficiaries using the income of the trust.

In the above context it is not surprising that members of the community beneficiaries are extremely concerned that there have been considerable social and economic and health costs which have resulted from the sale of alcohol, particularly from the Crossing Inn Hotel, but that community members have seen little or no benefits⁷⁶.

While the inquest has not been in a position to examine in detail the operation of Leedal or the Fitzroy Crossing Trust, the fact that there has been no real distribution of the substantial profits earned over an 18 year period to beneficiary communities, many of whose members live in abject poverty,

⁷⁵ Statement Annexure 17

⁷⁶ Mr Irving's Report, p.25



is a matter of real concern, particularly when there is not even a plan in place which would involve some distribution of that income in the relatively near future.

It is noted that residents in the beneficiary communities have not escaped the damaging effects of alcohol abuse described earlier in these reasons. Three of the deceased persons the subject of this inquest, Joshua Middleton, Gordon Oscar and Celeste Antoinette Shaw, took their own lives in Junjunwah Community and all three were intoxicated at the time of their deaths with blood alcohol readings in excess of 0.15% as a result of consuming alcohol which appears to have come from the Crossing Inn Hotel. The deaths in question occurred on 7 March 2002 (a 17 year old boy), 10 November 2006 (a 40 year old man) and 30 November 2006 (a 24 year old woman). The blood alcohol readings respectively were 0.226%, 0.157% and 0.171% - all three deceased persons died from hanging.

Although these three persons lived in Junjunwah Community, which had a 40% interest in the assets of the Fitzroy Crossing Trust and, therefore, a substantial interest in the Crossing Inn Hotel, their living conditions were extremely poor. In the case of the 24 year old woman, for example, according to the evidence of Mr Ross, she was “trapped” in an



old asbestos box home built in about 1973 or 1975 which at times had up to 10 people living in it and, in his view, her living conditions contributed to the depression which caused her to take her own life⁷⁷.

A further concerning aspect of the failure to disperse any significant amount of the profits of the Fitzroy Crossing Trust to the beneficiaries is the fact that, assuming at some stage there will be such a distribution of the profits and/or assets, there needs to be in place an efficient system for ensuring that the Aboriginal people living in the various communities have an informed voice in the payments which are made.

There does not appear at this stage to be a mechanism in place for ensuring that, in respect of each of the beneficiary communities and corporations, informed views of the residents are taken into account. There does not, for example, appear to be a system of voting in place in respect of any proposals for distributing the profits of the trust.

A further concern for members of the community is the fact that although the original purpose of Leedal's involvement in the acquisition of the Crossing Inn Hotel was to provide a means for correcting local alcohol related problems, Leedal has

⁷⁷ Transcript dated 11/10/2007 at pp.208-209



not been supportive of the recent ban on the sale of takeaway alcohol other than light beer.

Leedal's witnesses referred to restrictions on alcohol sales which have been self-imposed on the Crossing Inn Hotel over the years as evidence of a responsible approach being taken by its owners in respect to alcohol abuse. These voluntary restrictions have related to reducing hours of opening and a decision to not sell cask wine etc.

Unfortunately it is obvious from the evidence at the inquest that these measures have not been successful and that alcohol related deaths have continued to increase in the Fitzroy Crossing area up until the time of the recent ban.

Leedal's submission to the Director of Liquor Licensing, as contained in a press release provided by Leedal was essentially as follows –

“Leedal implores the DLL and the State Government to stand back and look at the ramifications of a ban which will not address the real causes of social problems in Fitzroy Crossing and all other towns in the North-West and throughout WA.

Comprehensive policy to this widespread problem needs to be addressed rather than a knee-jerk reaction to the issues of one town”.⁷⁸

In evidence, however, Mr Green stated that he and the

⁷⁸ Exhibit “76”



other directors of Leedal would review the results of the six month ban prior to making any determination as to Leedal's approach to consideration of an extension of the ban.

In the context of the history of Leedal, it is important so far as its credibility is concerned, that it does carefully consider the implications of an extension of the ban and does not act in a way which would be seen by the local community as being motivated by self-interest.

As Leedal is an independent private company I do not consider that it would be appropriate to make recommendations directed to how it should conduct its business. In the context that Leedal is proposing in the relatively near future to provide distributions to the beneficiaries of the trust, however, it is appropriate that steps be taken to ensure that the communities involved receive the maximum benefit from those distributions and that they compliment actions being taken by government to address the poverty of the community beneficiaries.



RECOMMENDATION No. 21

I RECOMMEND THAT THE DEPARTMENT OF INDIGENOUS AFFAIRS AND LEEDAL HAVE ONGOING COMMUNICATIONS TO ENSURE THAT COMMUNITY BENEFICIARIES OF THE FITZROY CROSSING TRUST RECEIVE THE MAXIMUM BENEFIT OF ANY DISTRIBUTIONS OF THE PROFITS OR ASSETS OF THE TRUST WHICH ARE MADE TO THEM AND THAT THERE IS A MINIMUM AMOUNT OF DUPLICATION ETC WITH BENEFITS PROVIDED THROUGH GOVERNMENT.

CANNABIS USE

As indicated in the introduction to these reasons, concerns in respect of cannabis use and its apparent implication in suicidal behaviour were issues which this inquest was originally planned to address.

In a considerable number of the deaths the subject of the inquest, toxicology evidence revealed recent cannabis use.

In the four death investigated in Broome, for example, in respect of each the cause of death was hanging and toxicology analysis revealed the presence of cannabis in the blood.



In addition, a number of particular cases highlighted concerns in respect of the relationship between cannabis use and mental illness.

The deaths of Jonathon Dick and Lloyd Dawson which occurred on 18 October 2005 at Yiyili Community exemplified this issue.

Mr Dawson was a 22 year old Aboriginal male and Mr Dick was a 35 year old Aboriginal male. Both men lived at Yiyili Community and according to all witnesses had a previous good relationship.

Evidence at the inquest revealed that Mr Dawson had been smoking cannabis (gunja) for several months prior to 18 October 2005. On 17 May 2005 his father had taken him to see a visiting medical practitioner whose outpatient notes reveal that he was concerned that his son was going “shit crazy” after taking cannabis. His son subsequently attended at the clinic and saw Dr Gallagher. The deceased admitted heavy cannabis use and Dr Gallagher at that stage noted that he was mildly thought disordered and prescribed Olanzapine and Valium.

On 18 October 2005 the deceased again behaved in a bizarre manner. On that occasion he walked up to Mr Dick, who was working on a car, and punched him.



A number of persons present told Mr Dawson to stop and he was restrained. Mr Dawson's brother asked him why he was fighting but he did not answer.

Mr Dawson then walked off, obtained a rifle and shot Mr Dick after which he shot himself. The shots caused the deaths of both of the deceased men.

A subsequent police investigation determined that Mr Dawson had assaulted Mr Dick without any provocation and subsequently shot him for no reason. Mr Dick was, therefore, murdered by Mr Dawson after which Mr Dawson turned the weapon on himself and committed suicide.

The post mortem report in respect of Mr Dawson revealed that he had been consuming cannabis within two hours prior to his death.

This case has starkly illustrated the relationship between cannabis use and mental illness. It is noted that in the Mental Health Council of Australia publication **“Where there is smoke ... Cannabis and Mental Health”** published in 2006 it is stated that strong associations have been consistently found between mental illness and cannabis use although this of itself does not prove a causal link⁷⁹ It is noted in the same article

⁷⁹ See p.323



that the negative effect of cannabis on individuals already experiencing schizophrenia has been known for many years and in clinical settings it would be relatively unusual for people with psychotic illness and acute relapse to not have some exposure to cannabis⁸⁰.

Evidence from a large number of Aboriginal witnesses at the inquest was to the effect that cannabis is readily available in Kimberley towns. The evidence of Michelle Quiller, a 31 year old Aboriginal woman, for example, was to the effect that she believes that there is a problem with cannabis in Fitzroy Crossing and she sees people in her community smoking cannabis every day.

A number of police officers working in the Kimberley who gave evidence at the inquest stated that they understood from anecdotal accounts that cannabis was regularly available throughout the Kimberley, but all stated that they received relatively little information which could be acted upon so that charges could be laid against those responsible for selling the drug.

According to a number of Aboriginal people at the inquest, they were reluctant to “dob in” drug dealers because of fear of

⁸⁰ See p.24



reprisals from the drug dealers or from other persons within their own community. Evidence of Tommy May, the Chairperson of KALACC, was to the effect that he was aware that children under 12 years of age were smoking cannabis.

Superintendent Migro provided statistics in respect of persons processed for drug offences relating to cannabis in the Kimberley District and the Fitzroy Crossing Sub-district, but stated that actual levels of cannabis use in the Kimberley could not be quantified by police because of the lack of information available. He stated that while police received a lot of general information about cannabis, much of the information lacked substance and could not be acted upon.

Evidence of Mr Eric Dillon, Acting Executive Director of the WA Alcohol and Drug Office, was to the effect that the use of cannabis is believed to be higher in the Kimberley than in the rest of the state⁸¹.

Evidence at the inquest, therefore, revealed that cannabis appeared to have been a factor in a number of the suicides which were investigated. Cannabis was considered by most Aboriginal witnesses to be readily available throughout the Kimberley region. The inquest highlighted the fact that

⁸¹ Transcript dated 20/11/2007 at p.208



cannabis is an increasing problems for Aboriginal people in the Kimberley, but that from a police prospective it is difficult to obtain reliable information which can be acted upon in order to apprehend offenders importing and selling the drug.

ABORIGINAL HEALTH

There can be no doubt that Aboriginal people in the Kimberley are experiencing a health crisis. This point was emphasised by Dr K Atfield, Regional Director of WA Country Health Service and former District Manager, Derby Health Service.

Dr Atfield provided the court with a helpful document : **“Kimberley Regional Aboriginal Health Profile”** prepared by the Epidemiology Branch, Analysis and Performance Reporting, Department of Health, dated March 2006.

That document revealed that rates for all leading causes of death were significantly higher for Aboriginal residents in the Kimberley than the State rate except for cancer, which was similar. The all-cause death rate for 25-44 year old Aboriginals was 5 times higher than that of the State population in this age group. The highest death rate for all ages was in the Derby/West Kimberley region and it was



significantly higher than the State Aboriginal and total State population.

Very high death rates were noted in respect of circulatory disease, respiratory disease, injury and poisoning, alcohol related death and death due to diabetes.

The death rate due to diabetes, for example, was similar to the State Aboriginal population rate, but was nearly 6 times that of the State population.

Dr Atfield stated that one of the biggest problems faced by the WA Country Health Service in the Kimberley was maintaining a stable workforce. She said that the overall turnover rate for the Kimberley is 60% and for the Fitzroy Crossing area, the medical turnover is around 300% and the nursing turnover is 350%. This means that with a nursing establishment of 15 positions, the Director of Nursing in Fitzroy Crossing would employ around 50 nurses a year.

This problem exists despite the provision of housing, electricity subsidies, four weeks paid gratuity per year and an extra week paid leave each year. In that context the service relies heavily on agency nurses who come on short term contracts for a Kimberley experience.



This description of the problems existing in the Fitzroy Crossing area was consistent with that given by Dr Joy Rowland, the Senior Medical Officer at the Fitzroy Crossing Hospital.

Dr Rowland described the resources available at the Fitzroy Crossing Hospital in the followings terms –

“Everybody who works at the hospital is very stretched. Everyone is trying to do more than the amount of work one person should be asked to do. Everyone is constantly needing to make compromises to get the job done and do jobs they wouldn’t normally have to do, and everyone in my experience would like more support and other resources to call upon we simply do not have. I’m very proud of our hospital and I’m very proud of the work that we do and I have had some excellent staff through, but it’s very hard”.⁸²

Dr Rowland also stated in her evidence that there was a real need for more nurses inside the hospital and for population health nurses. She stated that the access by people in the community to a community health nurse was very inadequate and there were not enough specialist nurses either in child health or maternity health or chronic disease or counselling.

⁸² Transcript dated 8/10/2007 at p.59



RECOMMENDATION No. 22

I RECOMMEND THAT THE DEPARTMENT OF HEALTH REVIEW THE ALLOCATION OF STAFF TO THE FITZROY CROSSING HOSPITAL IN THE CONTEXT OF THE APPALLING HEALTH OF MUCH OF THE COMMUNITY SERVICED BY THE HOSPITAL COMPARED WITH THE HEALTH OF OTHER WESTERN AUSTRALIANS.

While I accept that there are severe resource problems being faced by health professionals in the Kimberley region and accept that part of that problem relates to difficulties in retaining staff, I also agree with the observations by Dr Atfield to the effect that any effective response in relation to Aboriginal health must address positive health issues as well as providing treatment for the sick.

Dr Atfield made the following statement –

“The response must address the underlying health risk factors of housing, education, poverty, gambling, unemployment, hygiene, nutrition and alcohol and drug abuse and to do that, a cross government, cross agency approach is needed, in partnership with the Aboriginal people from each community”.⁸³

I also agree with the observation made by Dr Atfield that

⁸³ Statement Exhibit “46” p.6



positive change cannot be achieved by health response alone, it must be a combination of actions across society involving a range of different government Departments and other organisations.

In respect of health planning for Aboriginal Kimberley residents, Dr Atfield advised that the overarching planning and consultation body is the Aboriginal Health Planning Forum. Representatives at that forum come from the Aboriginal Community Controlled Health Organisations, the Division of General Practice, WA Country Health, the Department of Health and Ageing, the Department of Health's Office of Aboriginal Health, the Indigenous Coordinating Committees, the Royal Flying Doctor Service, the Department of Transport and Regional Services and the Department of Indigenous Affairs.

She also advised that there are numerous reference groups, working groups and sub-committees which “...*cascade down from the overarching body*”.⁸⁴

It is clear from the evidence of Dr Atfield that the State Government has allocated a substantial amount of money for upgrade of capital works and resources across the State and

⁸⁴ Exhibit “46” Appendix 1 “An Overview of the WA Country Health Service – Kimberley, at p.19



in particular in the Kimberley region. \$606 million has been allocated to facilities within WA Country Health Services as part of a 10 year plan⁸⁵, which had significantly improved the standard and access to health in the country.

Broome Hospital, for example, is at present undergoing a \$42 million capital works program.

For Aboriginal health to improve significantly, however, it is clear that there needs to be a holistic approach particularly addressing the living conditions of Aboriginal people in the region.

An example of a success story in the context of Aboriginal health is the swimming pool study referred to by Professor Stanley during the course of her evidence⁸⁶. This was a six year study relating to two communities, Burringurrah and Jigalong. In each community a swimming pool was put in place and the impact of the pool on the community was evaluated. Professor Stanley described the successful results in the following terms –

⁸⁵ Exhibit “46” Appendix 1 “An Overview of the WA Country Health Service – Kimberley, at p.19

⁸⁶ Transcript dated 17/12/2007 at pp. 31-32



“We had to go in different seasons, of course, because things like infection and skin sores and even people on communities vary with season, and what was exciting about the study was that every single indicator that we measured in the children in the communities, in both communities, improved as a result of the swimming pool being put in place and so if you looked at things like skin sores, respiratory infections, ear disease, school attendance, self-esteem, antibiotic usage, which of course is very important, not just the children themselves, but the fact of resistant organisms coming from excessive antibiotic usage, referrals for E and T surgery, all improved dramatically in these communities”.⁸⁷

Unfortunately it appears from the evidence of Professor Stanley that Health Department staff were not very supportive of the concept of the introduction of swimming pools, but it appears that the Royal Lifesaving Society provided considerable assistance in helping to run the pools and to teach the children how to swim.

This is an example of an intervention which achieved excellent results. Whilst ongoing costs will be significant, the long term health benefits achieved will clearly result in considerable savings although these are extremely difficult to quantify.

⁸⁷ Transcript dated 17/12/2007 at p.30



Another example of successful positive health programs is seen in the encouragement of football with young Aboriginal men. According to Professor Stanley, research revealed that young men involved in football attended school, did not have unsafe sex and reduced smoking and drinking. She stated that encouragement of sport in this way could provide an excellent health intervention and the result was that young men wished to be fit and healthy.

These are examples of the way in which important positive health outcomes can be achieved with investments which are not necessarily directed towards treatment of the ill.

RECOMMENDATION No. 23

I RECOMMEND THAT THE WESTERN AUSTRALIAN GOVERNMENT GIVE ONGOING CONSIDERATION TO POSSIBLE POSITIVE HEALTH PROGRAMS WHICH CAN PROVIDE LONG-TERM HEALTH BENEFITS FOR THE PEOPLE OF THE KIMBERLEY AND IN PARTICULAR I RECOMMEND THAT CONSIDERATION BE GIVEN TO THE CONSTRUCTION AND OPERATION OF A SWIMMING POOL IN FITZROY CROSSING.



MENTAL HEALTH TREATMENT

The inquest heard from Dr Murray Chapman, Clinical Director of the Kimberley Mental Health and Drug Service, who spoke of the significant challenges which the service faces in delivering comprehensive mental health and drug and alcohol care.

He noted that the Kimberley comprises a number of towns separated by large distances, together with many much smaller communities spread over vast areas. Sometimes those communities are connected by vehicles using dirt tracks or by light aircraft.

He stated that during the wet season flooding and cyclone alerts can disrupt operations and service delivery.

The overall remoteness of the region provides issues in respect of the safety of staff providing a mental health service and there are very high costs for service delivery in the region.

In addition, according to Dr Chapman, serious difficulties are experienced in recruitment and retention of suitable staff.

There is no clinical mental health professional permanently based in the Fitzroy Crossing area and the area is



serviced by clinical staff from the Mental Health Service based in Derby, supported by regional staff such as psychiatrists, working out of Broome.

In addition to the Fitzroy Crossing area, there are a number of communities with established and significant mental health and drug and alcohol needs such as Halls Creek, Balgo, Kalamburu etc.

In addition to the general problems of providing a service over such a vast physical area with limited staff based out of the region, a particular problem for the mental health service is the fact that there is no secure mental health facility in the Kimberley.

This issue was highlighted by the circumstances of one of the deaths the subject of the inquest, the death of Davina Kaye Edwards, who died at Kununurra on 4 January 2006.

Ms Edwards had been admitted to the Kununurra District Hospital on 3 January 2006 by North West Mental Health staff, however, as a result of her increased aggression and irrational behaviour it was decided that she could only be managed at the hospital if physically restrained.

Immediate family members voiced their disapproval of



this course of action and volunteered to take responsibility for her and subsequently took her home where she remained that night.

On the next day the deceased was located hanging from a tree situated in the rear yard of the family house. The deceased had previously been diagnosed as suffering from schizophrenia, paranoid type, and on a number of occasions had been an involuntary patient at Graylands Hospital in Perth.

On 4 January 2006, as a result of concerns that staff at Kununurra District Hospital could be at risk, the Acting Senior Medical Officer, Dr Airell Hodgkinson, made the following observation in respect of her future treatment –

“Every effort is to be made to treat Davina in the community. If assessment is required in the hospital, a police presence will be requested. If admission is required, this is to be kept to an absolute minimum and the presence of police for the duration of that admission recommended. It should be recognized that Kununurra District hospital is not a secure psychiatric institution and the nurses are not trained mental health professionals, with only 3 nursing staff on after-hours. Thus if hospital admission is required, serious consideration should be given to directly transferring her to where secure and trained mental health services are available 24/7”.

The particular problem faced by those seeking to treat the deceased was the fact that there are no secure mental health facilities in the Kimberley region and so if she was to be



treated in such a facility, it was necessary for her to be transferred to Perth. It is obvious that there are problems associated with taking an Aboriginal person from a remote location for treatment in Perth including –

- ✚ the patient is removed from family members and support groups;
- ✚ the flight to Perth from Kununurra is a long one and could be very distressing for the patient;
- ✚ the patient is taken to an unfamiliar and potentially distressing environment; *and*
- ✚ there is considerable expense involved in transporting a patient from the Kimberley to Perth.

In the context of the particular case, it would not have been possible for the Royal Flying Doctor Service to deliver the deceased from Kununurra to Perth directly and there would have probably been a need to refuel during the journey. In addition, as the Royal Flying Doctor Service does not have any jets available for its flights, the journey would have involved a considerable number of hours and the pilot would not have been able to return to the Kimberley immediately on delivering the patient. Often there is a need for planes with a patient and a police officer accompanying the patient to stop off in places like Meekatharra⁸⁸.

⁸⁸ Evidence of Dr Chapman transcript dated 20/11/2007 at p.145



In addition, in the case of a potentially aggressive mental health patient, a police officer would have been required to travel with her and it is likely that she would have been medicated and restrained for the purposes of the trip.

In the above context it is understandable why it was that a severely mentally unwell person was not detained as an involuntary patient and was permitted to return to the care of her family.

Sadly, if there had been a secure mental health facility in the Kimberley, it is very likely that the deceased would have been detained at that facility and would not have hanged herself on 4 January 2006.

Dr Atfield and Dr Chapman advised the court that a business case has been submitted to government seeking the construction of a secure mental health facility at the Broome Hospital. Should this proposal be endorsed and acted upon, it would greatly improve the circumstances for treatment of the acutely mentally ill throughout the Kimberley region.



RECOMMENDATION No. 24

I RECOMMEND THAT THE GOVERNMENT TAKE IMMEDIATE ACTION TO CONSTRUCT A SECURE MENTAL HEALTH FACILITY AT THE BROOME REGIONAL HOSPITAL WHERE THERE WOULD BE TRAINED MENTAL HEALTH SERVICES AVAILABLE AT ALL TIMES (24/7) WHICH WOULD ENABLE KIMBERLEY RESIDENTS TO BE TREATED FOR SERIOUS MENTAL HEALTH PROBLEMS WITHOUT LEAVING THE KIMBERLEY.

POLICE INVOLVEMENT

The ratio of police per head of population in the Kimberley is the highest in the State and reflects the environmental conditions which exist in that region of the State.

Superintendent James Migro of Western Australia Police gave evidence that alcohol was the major contributor to crimes committed in the Kimberley region and was particularly involved as a major cause of violent offences in Fitzroy Crossing.

In the context of problems faced by Aboriginal people in



the Kimberley region, a most positive recent action of Western Australia Police has been the construction and use of multi-function police facilities in remote areas of the state. These facilities have been constructed as part of a response to recommendations contained in the Gordon Report⁸⁹ and are staffed by police and remote child protection workers employed by the Department of Child Protection.

The construction of these facilities and deployment of police into remote communities of Western Australia has brought law and order and safety to these regions. The importance of bringing law and order to remote communities is difficult to over-state. Law and order is a necessary prerequisite for any real progress. Without it vulnerable women and children have no protection. In addition, it is extremely difficult to attract nurses, child protection workers and teachers to stay in remote communities if their safety cannot be guaranteed.

Multi-function police facilities have been constructed at Dampier Peninsular, Kalumburu, Bidyadanga, Warmun and Balgo and, in addition a police post has been set up in Oombulgurri which is to be turned into a multi-function police facility in the future⁹⁰.

⁸⁹ The Special Inquiry into the Response of Government Agencies to Complaints of Family Violence and Child Abuse in Aboriginal Communities Chaired by Mrs Sue Gordon AM, dated 31 July 2002

⁹⁰ Transcript dated 16/11/2007 at p.65



Police officers who work at these facilities are encouraged to become part of the local community and are paid a special allowance.

According to Superintendent Migro, the police understanding is that this increased police involvement is one of the main reasons why there have recently been a large number of disclosures of child abuse in the remote communities. He explained that these facilities and the increased police presence is *“getting the trust of people”*⁹¹ and said that gaining this trust does not happen overnight. He stated that in a number of cases the facilities had been in place for two years and it has taken that length of time for police to become trusted by victims of abuse to the extent that they are confident to confide in them.

The views expressed by Superintendent Migro were consistent with those of Sergeant Thompson of the Wyndham Police Station who gave evidence in respect of action taken at Oombulgurri. According to Sergeant Thompson, increased police presence at that location has resulted in improved Aboriginal police relationships with increased trust, reduced incidents of domestic violence and reduced admissions to the nursing post. It has also resulted in identification of a number of persons of interest in respect of sexual abuse of young persons.

⁹¹ Transcript dated 16/11/2007 at p.65



In evidence Superintendent Migro stated that Western Australia Police has plans for construction of more multi-function police facilities and is hoping at this stage to build another three. He stated that Western Australia Police has received Federal Government funding for these facilities and that planning for them is in an advanced stage.

RECOMMENDATION No. 25

I RECOMMEND THAT BOTH COMMONWEALTH AND STATE GOVERNMENTS CONTINUE TO SUPPORT THE PRESENT POLICE POLICY OF PROVIDING AN INCREASED POLICE PRESENCE IN REMOTE LOCATIONS AND, PARTICULARLY, THAT MULTI-FUNCTION POLICE FACILITIES CONTINUE TO BE CONSTRUCTED, ADEQUATELY FUNDED AND STAFFED.

In the context of police concerns in respect of alcohol and drug abuse in the Kimberley region, Superintendent Migro advised that a specialist officer has been appointed as the Alcohol and Drug Coordinator for the Kimberley District. The role of that position is extensive and includes formulating campaigns to educate the community, providing intelligence and advice in the relation to the illegal consumption and sale of alcohol and drugs, providing services and advice in relation



to education on drug issues, alcohol abuse and the detection of offences in and around licensed premises, liaising with the Liquor and Licensing Division of the Gaming Commission, ensuring compliance with legislative requirements, undertaking local analysis and survey, developing district performance indicators and ensuring that certain investigations are brought to a satisfactory conclusion. Despite the extensive nature of the role, it appears that the position is at present allocated to a Senior Constable.

In a context where Western Australia Police allocates considerable resources to investigating and prosecuting offences which have resulted from alcohol and drug abuse, it appears that the allocation of only a Senior Constable position to this important role does not adequately recognise the importance of the role, particularly as the holder of the position will be expected to liaise with and provide instruction to other police throughout the District.

RECOMMENDATION No. 26

I RECOMMEND THAT GREATER RESOURCES BE ALLOCATED TO COORDINATING THE POLICE ALCOHOL AND DRUG RESPONSE FOR THE KIMBERLEY DISTRICT.



A particular problem for “dry” remote communities and possibly also for any areas subject to restrictions on sale of full strength takeaway alcohol is “sly-grogging” or illicit sale of alcohol in breach of existing restrictions.

While it is recognised that offences associated with illicit alcohol sales are not amongst the most serious offences investigated by Western Australia Police, in my view these offences warrant allocation of a high priority in police tasking, particularly in a context where investigation of alcohol related offences constitutes a major resource issue for police and where it has been demonstrated that a reduction in availability of alcohol leads to a substantial decrease in crime rates⁹².

RECOMMENDATION No. 27

I RECOMMEND THAT A HIGH PRIORITY BE ALLOCATED BY WESTERN AUSTRALIA POLICE TO THE DETECTION AND PROSECUTION OF PERSONS INVOLVED IN ILLICIT ALCOHOL SALES

⁹² See under the heading “Alcohol Abuse” in these findings



ABORIGINAL PEOPLE IN THE POLICE SERVICE

During the course of the inquest evidence was received from a number of Aboriginal people employed by Western Australia Police. Some of these were employed as Aboriginal Police Liaison Officers, others were sworn police.

The position of Aboriginal Police Liaison Officer is being phased out and serving Aboriginal Police Liaison Officers are being encouraged to complete the transition to sworn police officers. This transition takes the form of twelve or twenty-eight week training at the Police Academy.

The Aboriginal Police Liaison Officers who gave evidence at the inquest were all impressive witnesses who were committed to their duties and to a constructive interaction between police and Aboriginal people. It is to the credit of Western Australia Police that these persons are employed by the organisation and it is to be hoped that the new policy of not recruiting persons to carry out the duties of Aboriginal Police Liaison Officers will not deter Aboriginal persons wanting to join Western Australia Police from doing so.

In the area of employment Western Australia Police is to be commended for the significant number of high quality Aboriginal staff which it has recruited and retained.



SUBMISSION IN RESPECT OF THE HOLDING OF A ROYAL COMMISSION

In final submissions on behalf of KALACC, Marininwarntikura Fitzroy Women's Resource and Legal Centre and families of the deceased, Mr Hammond submitted that a recommendation in the following terms should be made by me –

“A Royal Commission be called into the Third World living standards of indigenous people in the Kimberley region of Western Australia, and in particular the failure of government agencies to provide adequate services to indigenous persons in the Kimberley”.

In support of that recommendation Mr Hammond placed reliance on the evidence of Lieutenant General Sanderson and particularly his evidence given in Broome as follows –

“Would you agree though that at present we have a subclass of indigenous citizens that are totally marginalised from Western Australian indigenous society? - - -Yes

And the circumstances in which that subclass exists are nothing but appalling? - - - I would agree with that.

And that the government, this government, the state government, needs to act immediately to rectify that situation? - - - Yes...”⁹³

Leaving aside the question of whether it would be appropriate for me, as a Coroner, to make such a recommendation at all, and accepting entirely the observations

⁹³ Transcript dated 22/11/2007 at p.322



of Lieutenant General Sanderson referred to above, the question remains whether a Royal Commission would be the appropriate mechanism for addressing the appalling conditions in which many Western Australian Aboriginal people live.

In this context it should be noted that Royal Commissions are, generally speaking, extremely expensive if effective mechanisms for inquiring into past events. In this case there can be little doubt that both the State and Commonwealth Governments are aware of the living conditions of Western Australian Aboriginal people, at least to some extent.

The problem lies, not in a failure to recognise the situation, but in how to address that problem and to improve on the current situation. I refer to the evidence of Lieutenant General Sanderson who made the following comment when asked whether the State Government need to act immediately to rectify the situation –

“Yes. Let me just say that the state government is acting in many ways to address these situations. You know, if you look at the totality of what is going on, there is a massive injection of people and funds into this but with very little in the way of outcomes. What I am saying is that the way in which the state government and, indeed, the federal government are engaging is actually adding to the complexity of the situation. That is not to say that there is not significant funds being put into these outcomes, into these needs, but it is not achieving the results”.⁹⁴

⁹⁴ Transcript dated 22/11/2007 at pp. 322-323



Lieutenant General Sanderson expanded on these observations throughout the course of his evidence and when asked questions about the money said to be allocated for services and programs targeted to Aboriginal people, the following exchange took place –

“And again it is hard, as you said in your evidence-in-chief, to work out where the money has gone when you visit the communities? . . . Yes. Well, I mean, it is quite clear that a lot of it has not got down to the communities; not in any constructive way”.⁹⁵

I respectfully agree with the above observations made by Lieutenant General Sanderson to the effect that the important issue which needs to be addressed at this stage is to ensure that money allocated to Aboriginal people finds its way to those people and achieves improvement in their standard of living.

In this context I refer to the observation of Professor Stanley in her evidence who, after discussing the various investigations and inquiries which have already been conducted and which have made extensive recommendations which have not been implemented, made the following observation –

⁹⁵ Transcript dated 22/11/2007 at p.324



“I don’t know why anyone would ever suggest a Royal Commission on any indigenous issues. I would never chair a committee for government now, without insisting I chair an implementation committee. I mean, the failure for the implementation of any of the recommendations leaves me speechless actually and very anguished”.⁹⁶

I note in the context of Professor Stanley’s observations that there have already been a number of Royal Commissions which have looked into the problems faced by Aboriginal people in the north of the state, the first of which was called in 1904.

I respectfully endorse the above observations which have emphasised that what is needed now is implementation of recommendations which have already been made through strong leadership and accountability rather than more inquiries and investigations.

CONCLUSIONS

This inquest has been held into 22 deaths of Aboriginal persons in the Kimberley and was held to explore the reasons for multiple deaths of Aboriginal persons in that region in which drug or alcohol abuse was a factor.

The inquest also examined the circumstances in which a number of self-harm deaths had occurred in a context where

⁹⁶ Transcript dated 17/12/2007 at p.20



deaths by self-harm for Aboriginal persons in the Kimberley had reached record proportions in 2006.

The inquest focused on what was found to be the extreme distress and psychological pain being suffered by many Aboriginal people in the Kimberley.

An examination of living conditions of Aboriginal people in the Kimberley, both in communities and in the main towns, revealed a shocking standard of living for many people.

The evidence revealed that from birth to death Kimberley Aboriginal people suffer from very poor health compared to other Western Australians.

Of particular concern is the fact that evidence of many witnesses through the course of the inquest revealed that living conditions are continuing to deteriorate in spite of a considerable investment of funding into services and programs targeted to Aboriginal people in Western Australia both by the State and Commonwealth Governments.

The inquest revealed that at present there is an almost complete lack of leadership in the response by government to the disaster of Aboriginal living conditions. At the time of the inquest no government agency had a lead role in addressing



the major problems facing Aboriginal people in the Kimberley and the Department of Indigenous Affairs was not, and never had been, capable of providing leadership in that context. It was also clear from the evidence that if that Department is to adopt an effective lead role, it will need to be transformed with a new structure and with the powers and resources necessary to monitor and direct the activities of other government organisations.

The inquest identified extremely serious deficiencies in respect of almost all aspects of the current response to the problem; from the education system, which is failing to produce results, largely as a result of massive truancy rates, to housing issues, in respect of which it was learnt that until recently there had been very little monitoring of the standard of public housing for Aboriginal people and almost no maintenance of that housing.

Mrs Sue Gordon AM, in the foreward to the report **“Inquiry into Response by Government Agencies to Complaints of Family Violence and Child Abuse in Aboriginal Communities”** (the Gordon Report) dated 31 July 2002 referred to various Royal Commissions set up during the period 1883-1987, the Royal Commission into Aboriginal Deaths in Custody and the 1993 Western Australian Government’s Aboriginal Plan and made the following observation –



“Since then, various reviews, task forces, committees and the like have been set up to inquire into or develop plans and programs for Aboriginal people in this state. What in essence, this inquiry has found, has been the distinct lack of coordination between government agencies in the consultation, planning and delivery of services to Aboriginal people.

Looking at this appalling history through Aboriginal people’s eyes, it may well be said that this is just another inquiry which prepares a report which will also be left to gather dust on a shelf”.⁹⁷

As stated earlier in these reasons, while there have been some important steps taken in the response to the Gordon Report, the observations made by Mrs Gordon referred to above in respect of the lack of coordination between government agencies still holds true and there is still no leadership evident in the response to the plight of Aboriginal people in the Kimberley.

In concluding, I adopt as appropriate to the living conditions of Aboriginal people in the Kimberley the comment of the then South Australian State Coroner, Mr Wayne Chivell, who having referred to socio-economic factors faced by Aboriginal people in remote regions of South Australia including poverty, hunger, illness, low education levels, unemployment, boredom and feelings of hopelessness, observed -

⁹⁷ At p.xvii



“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”.⁹⁸

This inquest not only highlighted the fact that urgent action is called for to address these living conditions, it revealed that there is strong support for change among a wide range of committed and dedicated people throughout Western Australia and particularly from many Aboriginal people.

⁹⁸ Inquest into the deaths of Kunmanara Ward, Kunmanara Ken, Kunmanara Ryan and Kunmanara Cooper, 14 March 2005, Executive Summary at para 20



LIST OF RECOMMENDATIONS

LACK OF LEADERSHIP

RECOMMENDATION No. 1

I RECOMMEND THAT THE STATE AND COMMONWEALTH GOVERNMENTS IDENTIFY AN INDIVIDUAL OR ORGANISATION TO LEAD THE EFFORTS TO CLOSE THE GAP BETWEEN THE WELL-BEING OF INDIGENOUS AND NON-INDIGENOUS PEOPLE. THAT INDIVIDUAL OR ORGANISATION SHOULD BE GIVEN THE POWER AND RESOURCES TO MAKE DECISIONS, REGION BY REGION, THROUGHOUT THE KIMBERLEY AND TO COORDINATE THE RESPONSE TO THE DISASTER OF ABORIGINAL HEALTH, SUICIDE RATES AND LIVING CONDITIONS.

THE NEED FOR AN ASSESSMENT OF SUSTAINABILITY TO TAKE PLACE

RECOMMENDATION No. 2

I RECOMMEND THAT BEFORE VAST AMOUNTS OF MONEY ARE INVESTED IN HOUSING AND INFRASTRUCTURE COSTS, THERE SHOULD BE A PLAN IN PLACE FOR EACH REGION IN THE KIMBERLEY ADDRESSING SUSTAINABILITY.

THE ISSUE OF SUSTAINABILITY SHOULD TAKE ACCOUNT OF PRACTICAL, HISTORICAL AND CULTURAL FACTORS

WHEN A DECISION HAS BEEN MADE THAT A COMMUNITY IS SUSTAINABLE, A REAL ONGOING COMMITMENT SHOULD BE MADE TO IMPROVING THE CONDITIONS IN THAT COMMUNITY AND THE PLAN IN RESPECT OF THAT COMMUNITY SHOULD NOT BE ABANDONED WITHOUT VERY GOOD REASON.



THE NEED TO ASSESS AVAILABLE HUMAN RESOURCES AND TO MAKE BEST USE OF THESE RESOURCES

RECOMMENDATION No. 3

POSITIVE ACTION SHOULD BE TAKEN, WHERE PRACTICABLE, TO EMPLOY ABORIGINAL PEOPLE IN GOVERNMENT SECTOR ACTIVITIES IN THE KIMBERLEY REGION. IN SOME CASES THIS MAY REQUIRE UPSKILLING SUITABLE LOCAL ABORIGINAL PEOPLE.

IN ORDER FOR THIS TO BE ACHIEVED IN SOME AREAS OF ACTIVITY IT MAY BE NECESSARY TO ALTER ENTRANCE REQUIREMENTS FOR PARTICULAR POSITIONS SO THAT SUITABLE CANDIDATES WITHOUT EXISTING TERTIARY QUALIFICATIONS CAN BE EMPLOYED AND TRAINED.

RECOMMENDATION No. 4

ABORIGINAL LEADERSHIP SHOULD BE ENCOURAGED WHERE SUITABLE LEADERS CAN BE FOUND AND, WHERE GOOD LOCAL LEADERSHIP RESOURCE ARE NOT AVAILABLE, TRAINING AND EDUCATION SHOULD BE PROVIDED TO ENABLE ABORIGINAL PEOPLE TO BETTER PARTICIPATE IN DECISION MAKING.

RECOMMENDATION No. 5

I RECOMMEND THAT THERE SHOULD BE CROSS-DEPARTMENTAL ACCESS TO AVAILABLE HUMAN RESOURCES SO THAT DEPARTMENTS CAN OBTAIN ADVICE AND INFORMATION FROM WORKERS IN THE FIELD EMPLOYED BY OTHER DEPARTMENTS.



ACCOUNTABILITY

RECOMMENDATION No. 6

I RECOMMEND THAT THE SYSTEM PUT IN PLACE TO ADDRESS ABORIGINAL LIVING CONDITIONS IN THE KIMBERLEY SHOULD INVOLVE A SYSTEM OF ACCOUNTABILITY WHICH WOULD REQUIRE RELEVANT OFFICIALS TO ACCEPT RESPONSIBILITY FOR ACHIEVING TARGETS CONSIDERED ATTAINABLE WITH RESOURCES PROVIDED AND THAT THERE SHOULD BE A SYSTEM OF ACCOUNTING WHICH WOULD IDENTIFY WHERE THE MONEY HAS GONE.

THIS SYSTEM SHOULD ALSO IDENTIFY WHAT PROPORTION OF THE MONEY HAS BEEN USED IN ADMINISTRATIVE COSTS AS AGAINST PROVISION OF SERVICES BY DIRECT SERVICE PROVIDERS.

IN OTHER WORDS, THERE SHOULD BE A CLEAR IDENTIFICATION OF THE PROPORTION OF THE TOTAL FUNDS PAID FOR HEAD OFFICE AND RUNNING COSTS, ACROSS GOVERNMENT POLICY COORDINATION, TRAVEL OF ADMINISTRATORS ETC AS CONTRASTED WITH FUNDS ACTUALLY GOING TO IMPROVE CONDITIONS BY PAYMENT OF MEDICAL PRACTITIONERS, CHILD PROTECTION WORKERS AND CONSTRUCTION AND MAINTENANCE OF PUBLIC HOUSING ETC.

THE DEPARTMENT OF INDIGENOUS AFFAIRS

RECOMMENDATION No. 7

I RECOMMEND THAT IF THE GOVERNMENT PROPOSES TO GIVE A LEADERSHIP ROLE TO THE DEPARTMENT OF INDIGENOUS AFFAIRS ACTION BE TAKEN TO –

- ✚ PUT IN PLACE IN THE DEPARTMENT A LEADERSHIP STRUCTURE WHICH WILL COMMAND THE RESPECT OF OTHER GOVERNMENT AGENCIES AND ABORIGINAL PEOPLE;



- ✚ BE GIVEN THE POWER AND ABILITY TO MONITOR THE PERFORMANCE OF OTHER GOVERNMENT AGENCIES AND TO GIVE DIRECTION TO THOSE AGENCIES IN RESPECT OF INDIGENOUS AFFAIRS; AND
- ✚ BE ADEQUATELY RESOURCED SO AS TO BE ABLE TO TAKE A LEADERSHIP ROLE AND AN INCREASED PRACTICAL ROLE IN WORKING WITH INDIGENOUS COMMUNITIES THROUGH REGIONAL OFFICES.

RECOMMENDATION No. 8

I RECOMMEND THAT CONSIDERATION BE GIVEN TO THE CREATION OF SOME FORM OF MULTI-FUNCTION GOVERNMENT OFFICE FOR CENTRES SUCH AS BROOME, WHERE ABORIGINAL PEOPLE COULD GO TO GET ASSISTANCE IN RESPECT OF THE PROBLEMS WHICH THEY FACE AND THAT THOSE MULTI-FUNCTION OFFICES BE STAFFED BY REPRESENTATIVES OF EACH OF THE MAIN GOVERNMENT ORGANISATIONS PROVIDING SERVICES IN THE REGION.

CHILD PROTECTION

RECOMMENDATION No. 9

I RECOMMEND THAT A LEADERSHIP ORGANISATION IN GOVERNMENT ADDRESS THE BENEFITS BEING PROVIDED TO REGIONAL WORKERS EMPLOYED BY GOVERNMENT ORGANISATIONS TO ENSURE THAT –

- ✚ HOUSING IS NOT REALLOCATED FROM ONE ORGANISATION TO ANOTHER IN CIRCUMSTANCES WHERE SUCH A REALLOCATION COULD HAVE AN EXTREMELY DETRIMENTAL EFFECT ON ATTEMPTS TO FILL VITAL POSITIONS (SUCH AS COMMUNITY CHILD PROTECTION WORKERS).



RECOMMENDATION No. 10

I RECOMMEND THAT A LEADERSHIP ORGANISATION IN GOVERNMENT ENSURE THAT GOVERNMENT AGENCIES PROVIDING VITAL SERVICES IN THE KIMBERLEY ARE NOT DISADVANTAGED IN ATTRACTING STAFF COMPARED WITH OTHER GOVERNMENT AGENCIES AND THAT THEIR TERMS OF EMPLOYMENT ARE APPROPRIATE FOR WORK IN A REMOTE ENVIRONMENT.

RECOMMENDATION No. 11

I RECOMMEND THAT THE SYSTEM OF COMPULSORY INCOME MANAGEMENT BE INTRODUCED IN WESTERN AUSTRALIA AND THAT THE DEPARTMENT FOR CHILD PROTECTION HAVE THE ABILITY TO REQUEST COMPULSORY INCOME MANAGEMENT IN CASES OF CHILD NEGLECT.

EDUCATION ISSUES

RECOMMENDATION No. 12

I RECOMMEND THAT THE EFFORTS OF THE CLONTARF FOUNDATION BE SUPPORTED AND THAT THE STATE GOVERNMENT CONTINUE TO WORK IN PARTNERSHIP WITH THAT FOUNDATION WITH A VIEW TO EXPANDING THE PROGRAM TO MORE SCHOOLS THROUGHOUT THE KIMBERLEY.

RECOMMENDATION No. 13

I RECOMMEND THAT THERE BE A WHOLE OF GOVERNMENT APPROACH AIMED AT ADDRESSING TRUANCY AND ITS CAUSES, PARTICULARLY IN RESPECT OF ABORIGINAL STUDENTS IN THE KIMBERLEY.

STUDENTS AT EDUCATIONAL RISK AS A RESULT OF TRUANCY SHOULD BE MONITORED AND, WHEN NECESSARY, RESOURCES OF A RANGE OF DEPARTMENTS SHOULD BE APPLIED TO ADDRESSING THE ISSUE.



RECOMMENDATION No. 14

I RECOMMEND THAT IN ASSOCIATION WITH EFFORTS MADE TO ADDRESS TRUANCY, REMEDIAL TEACHING BE PROVIDED TO CHILDREN ATTENDING SCHOOL WHO HAVE NOT ACHIEVED BASIC EDUCATION LEVELS FOR THEIR AGES.

COMMUNITY DEVELOPMENT AND EMPLOYMENT PROJECTS (CDEP) PAYMENTS

RECOMMENDATION No. 15

I RECOMMEND THAT THE CDEP SYSTEM NOT BE WITHDRAWN FROM COMMUNITIES UNLESS AND UNTIL THE PROSPECT OF ALTERNATIVE EMPLOYMENT IS ACHIEVABLE FOR PEOPLE IN THOSE COMMUNITIES

RECOMMENDATION No. 16

I RECOMMEND THAT THE CDEP SYSTEM BE REVIEWED WITH A VIEW TO IMPROVING THE QUALITY OF SUPERVISION OF CDEP PARTICIPANTS SO THAT THE QUALITY AND NATURE OF WORK PERFORMED IS REASONABLY CONSISTENT AND THERE ARE NO LONGER AREAS WHERE CDEP WORK IS DESCRIBED AS “SIT DOWN MONEY”. WORKERS SHOULD CONTINUE TO PERFORM IMPORTANT BASIC TASKS REQUIRED FOR COMMUNITIES, PARTICULARLY THOSE WHICH WOULD NORMALLY BE PERFORMED BY LOCAL SHIRES. THE WORK SHOULD ALSO BE DIRECTED AT HEALTH AND SAFETY ISSUES AND INCLUDE THE REMOVAL OF RUBBISH, CLEANING OF PROPERTIES AND IMPROVING HEALTH OUTCOMES FOR COMMUNITIES.

I FURTHER RECOMMEND THAT THERE SHOULD BE MORE FLEXIBILITY IN THE SYSTEM SO THAT WORKERS CAN INCREASE THE NUMBER OF HOURS WORKED UNTIL THEY ARE ABLE TO WORK FULL TIME AND GAIN UNSUBSIDISED EMPLOYMENT.



I FURTHER RECOMMEND THAT THERE SHOULD BE INTERACTION BETWEEN THE DEPARTMENT OF EMPLOYMENT AND WORKPLACE RELATIONS AND THE EDUCATION DEPARTMENT SO AS TO ENSURE THAT TRAINING CAN TAKE PLACE AS PART OF THE CDEP SYSTEM AND THAT REGULAR ATTENDANCE AT CDEP WORK CAN BE RECOGNISED IN THE FORM OF A CERTIFICATE WHICH COULD BE USED BY PARTICIPANTS IN SEEKING FURTHER EMPLOYMENT.

THE TYPE OF HOUSES BEING CONSTRUCTED

RECOMMENDATION No. 17

I RECOMMEND THAT FUTURE PLANNING FOR CONSTRUCTION OF PUBLIC HOUSING FOR ABORIGINAL RESIDENTS OF THE KIMBERLEY SPECIFICALLY ADDRESSES THE PARTICULAR WANTS AND NEEDS OF THE PEOPLE INVOLVED AND INCLUDES CONSIDERATION OF ALTERNATIVES TO INDIVIDUAL HOUSES DESIGNED FOR THE NEEDS OF NUCLEAR FAMILIES, SUCH AS PROVISION OF CLUSTER HOUSING AND OTHER FORMS OF HOUSING WHICH ENABLE DIFFERENT LEVELS OF COMMUNAL LIVING, PARTICULARLY WHEN THESE ALTERNATIVES PROVIDE A LESS EXPENSIVE OPTION.

THE ABSENCE OF FURNITURE

RECOMMENDATION No. 18

I RECOMMEND THAT IN ADDITION TO PROVIDING PUBLIC HOUSING, THE HOUSING DEPARTMENT BE FUNDED TO PROVIDE VERY BASIC FURNITURE, PARTICULARLY BEDS WHICH WOULD RAISE MATTRESSES OFF THE FLOORS. PROVISION OF SUCH FURNITURE SHOULD OCCUR AFTER THE OCCUPANTS OF PUBLIC HOUSING HAVE BEEN ADEQUATELY EDUCATED IN RESPECT OF THE NEED TO LOOK AFTER THE PROPERTIES AND ANY FURNITURE PROVIDED.



PROVISION OF SUCH FURNITURE SHOULD ONLY OCCUR IN CIRCUMSTANCES WHERE AN IDENTIFIED PERSON HAS ACCEPTED RESPONSIBILITY FOR THE FURNITURE AND THE FURNITURE SHOULD, LIKE THE HOUSING PROVIDED, BE SUBJECT TO AUDIT.

THE HOME MAKER PROGRAM

RECOMMENDATION No. 19

- (i) I RECOMMEND THAT THERE SHOULD BE A HOME MAKER PROGRAM SUPPORTED BY THE DEPARTMENT OF HOUSING OF WORKS, THE DEPARTMENT OF HEALTH AND THE DEPARTMENT FOR CHILD PROTECTION WHICH WOULD IMPROVE PEOPLE'S LIFE SKILLS SO THAT THEY WOULD BE TAUGHT HOW TO MAINTAIN THE HOMES PROVIDED TO THEM IN A CLEAN AND HYGIENIC STATE; AND
- (ii) I FURTHER RECOMMEND THAT WHEN IT IS CONSIDERED NECESSARY, SATISFACTORY COMPLETION OF SUCH A PROGRAM SHOULD BE A NECESSARY PERQUISITE TO PROPOSED OCCUPANTS BEING PROVIDED WITH A NEW HOME.

ALCOHOL ABUSE

RECOMMENDATION No. 20

I RECOMMEND THAT CONSIDERATION BE GIVEN TO POSSIBLE MEANS OF LIMITING THE IMPACT OF ALCOHOL ABUSE ON ABORIGINAL PEOPLE (AND OTHER WESTERN AUSTRALIANS) INCLUDING –

- ✚ LIMITING ACCESS TO FULL-STRENGTH TAKEAWAY ALCOHOL OVER LARGE GEOGRAPHIC AREAS OF THE KIMBERLEY (THE POSSIBLE EXTENSION OF THE RESTRICTIONS CURRENTLY IN PLACE IN THE FITZROY CROSSING AREA); AND



✚ IMPLEMENTATION OF VOUCHER SYSTEMS IN RESPECT OF CERTAIN GOVERNMENT PAYMENTS, PARTICULARLY THOSE INTENDED TO PROVIDE CHILD SUPPORT, WHICH WOULD LIMIT THE AMOUNT OF MONEY AVAILABLE FOR PURCHASE OF ALCOHOL.

LEEDAL PTY LTD AND THE FITZROY CROSSING TRUST

RECOMMENDATION No. 21

I RECOMMEND THAT THE DEPARTMENT OF INDIGENOUS AFFAIRS AND LEEDAL HAVE ONGOING COMMUNICATIONS TO ENSURE THAT COMMUNITY BENEFICIARIES OF THE FITZROY CROSSING TRUST RECEIVE THE MAXIMUM BENEFIT OF ANY DISTRIBUTIONS OF THE PROFITS OR ASSETS OF THE TRUST WHICH ARE MADE TO THEM AND THAT THERE IS A MINIMUM AMOUNT OF DUPLICATION ETC WITH BENEFITS PROVIDED THROUGH GOVERNMENT.

ABORIGINAL HEALTH

RECOMMENDATION No. 22

I RECOMMEND THAT THE DEPARTMENT OF HEALTH REVIEW THE ALLOCATION OF STAFF TO THE FITZROY CROSSING HOSPITAL IN THE CONTEXT OF THE APPALLING HEALTH OF MUCH OF THE COMMUNITY SERVICED BY THE HOSPITAL COMPARED WITH THE HEALTH OF OTHER WESTERN AUSTRALIANS.

RECOMMENDATION No. 23

I RECOMMEND THAT THE WESTERN AUSTRALIAN GOVERNMENT GIVE ONGOING CONSIDERATION TO POSSIBLE POSITIVE HEALTH PROGRAMS WHICH CAN PROVIDE LONG-TERM HEALTH BENEFITS FOR THE PEOPLE OF



THE KIMBERLEY AND IN PARTICULAR I RECOMMEND THAT CONSIDERATION BE GIVEN TO THE CONSTRUCTION AND OPERATION OF A SWIMMING POOL IN FITZROY CROSSING.

MENTAL HEALTH TREATMENT

RECOMMENDATION No. 24

I RECOMMEND THAT THE GOVERNMENT TAKE IMMEDIATE ACTION TO CONSTRUCT A SECURE MENTAL HEALTH FACILITY AT THE BROOME REGIONAL HOSPITAL WHERE THERE WOULD BE TRAINED MENTAL HEALTH SERVICES AVAILABLE AT ALL TIMES (24/7) WHICH WOULD ENABLE KIMBERLEY RESIDENTS TO BE TREATED FOR SERIOUS MENTAL HEALTH PROBLEMS WITHOUT LEAVING THE KIMBERLEY.

POLICE INVOLVEMENT

RECOMMENDATION No. 25

I RECOMMEND THAT BOTH COMMONWEALTH AND STATE GOVERNMENTS CONTINUE TO SUPPORT THE PRESENT POLICE POLICY OF PROVIDING AN INCREASED POLICE PRESENCE IN REMOTE LOCATIONS AND, PARTICULARLY, THAT MULTI-FUNCTION POLICE FACILITIES CONTINUE TO BE CONSTRUCTED, ADEQUATELY FUNDED AND STAFFED.

RECOMMENDATION No. 26

I RECOMMEND THAT GREATER RESOURCES BE ALLOCATED TO COORDINATING THE POLICE ALCOHOL AND DRUG RESPONSE FOR THE KIMBERLEY DISTRICT.



RECOMMENDATION No. 27

I RECOMMEND THAT A HIGH PRIORITY BE ALLOCATED BY WESTERN AUSTRALIA POLICE TO THE DETECTION AND PROSECUTION OF PERSONS INVOLVED IN ILLICIT ALCOHOL SALES



PART B

FINDINGS IN RESPECT OF THE DEATHS

This section of these reasons deals with the individual circumstances of the 22 deceased persons, the subject of the inquest.

The families of each of the deceased persons contributed in a positive and helpful way to the inquest. In many cases family members selected a spokesperson to speak on behalf of the family and to discuss issues such as how alcohol and drug abuse had impacted on the life of the deceased.

The courage and honesty of these witnesses merits comment as it was not an easy task to speak in a public forum about such personal matters. The inquest benefited greatly from the contribution of all of the family members who gave evidence.



Edward John Riley

Edward John Riley (the deceased) was a 20 year old Aboriginal male who died on the evening of 13-14 April 2005.

Police inquiries revealed that the deceased had been drinking alcohol through the afternoon and evening of Wednesday 13 April 2005 at a friend's house at Pandanus Park Community, Derby.

The deceased was consuming Victoria Bitter full strength beer and chardonnay white wine from 2 litre casks.

At some time after about 10pm the deceased was involved in an argument with his brothers, after which he left the house alone.

At about 8am on Thursday 14 April 2005 the deceased was located hanging by two young girls in a patio area at the back of the community kitchen. The girls were aged 18 years and 11 years respectively.

It appears that the deceased had used a garden hose which he had hung from a horizontal support beam at the top of the patio and then placed a loop at the other end of the hose over his neck, following which he had dropped his weight causing the loop to tighten on his neck.

A subsequent post mortem examination revealed that the medical cause of death was ligature compression of the neck (hanging).

Other family members indicated that the deceased had talked about killing himself on several occasions.



A toxicological analysis revealed that the deceased had a blood alcohol concentration of 0.220% and there was evidence of cannabis also in the blood.

I find that the death arose by way of Suicide.



Rachael Henry

Rachael Henry (the deceased) was a 24 year old Aboriginal woman who died at Looma Community near Derby on 25 December 2005.

According to police who conducted inquiries into the circumstances of her death, the population of Looma Community is between 300-350 people. Alcoholism is a problem among some of the residence in spite of community by-laws and the efforts of wardens to prohibit consumption of alcohol within the community.

On Saturday 24 December 2005 the deceased was involved in an argument with Brenda Green, a friend of hers for many years. Prior to the argument Brenda Green had consumed a carton of chardonnay and a quantity of rum. Subsequently Ms Green and the deceased were drinking together and the deceased offered those present a quantity of cannabis. Ms Green knocked over the bowl containing the cannabis and some of the cannabis spilled out.

The deceased and Ms Green were then involved in a violent argument during which the deceased cut Ms Green's nose with scissors. Subsequently Ms Green took a bread knife and stabbed the deceased with it in the back.

Ms Green was taken to see the remote area nurse practitioner at the Looma Health Clinic at about 3:30am on 25 December 2005. The nurse found that Ms Green had a penetrating laceration to her right nostril which was full thickness and approximately 2.5cm in length.

At about 5:25am on the same day the same nurse received a telephone call advising her that the deceased had hanged herself at the CDEP shed.



The nurse attended at the CDEP shed at about 5:35am where she found the body of the deceased lying on the ground. She had part of an electrical extension cord around her throat. The cord had been loosened by an unidentified person prior to the arrival of the nurse.

The nurse removed the cord which had been attached to a branch of a tree and examined the deceased after which she attempted cardiopulmonary resuscitation without success.

A subsequent post mortem examination determined that the cause of death was ligature compression of the neck. During the examination it was noted that the deceased had a wound to her back which went to a depth of 9.5cm.

Toxicological examination revealed a blood alcohol level of 0.181% as well as evidence of recent cannabis use.

It appears that the deceased took her own life in the early hours of the morning of 25 December 2005 using an electrical cord which she tied around the limb of a tree and around her own neck. Shortly before her death the deceased had been involved in a bizarre violent dispute with her long time friend, Ms Green, as a result of which both women had sustained significant injuries. It appears that the behaviour of the deceased was significantly influenced by the substantial quantities of alcohol and cannabis which she had recently consumed.

I find that the death arose by way of Suicide.



Chad Atkins

Chad Atkins (the deceased) was a 52 year old Aboriginal male who died on 12 January 2006 while drinking with friends at Billabong Park McLarty Road, Fitzroy Crossing.

Billabong Park was a fenced off grassed area maintained by staff of the Crossing Inn Hotel. On the outer fences of Billabong Park were a number of signs which stated, "Drinking allowed in this area".

Billabong Park was not part of the Crossing Inn Hotel and was not a licensed area pursuant to *Liquor Control Act 1988*. It was, however, commonly used by patrons of the Crossing Inn Hotel who consumed takeaway alcohol at that location.

At approximately 6pm the deceased complained of chest pains and collapsed.

Resuscitation efforts were made by a friend of the deceased and staff of the Crossing Inn Hotel, following which the deceased was conveyed by ambulance to Fitzroy Crossing Hospital where resuscitation attempts continued without success.

A post mortem examination revealed that the cause of death was Ischaemic Heart Disease in association with Coronary Arteriosclerosis. Toxicology analysis revealed a blood alcohol level of 0.180%.

I find that the death arose by way of Natural Causes.



Teddy Beharral

Teddy Beharral (the deceased) was a 57 year old Aboriginal male who died on 28 January 2004.

The deceased was normally a resident of Junjuwa Community at Fitzroy Crossing and the police investigation into the circumstances surrounding his death established that he was a known regular alcohol abuser who drank regularly at the Crossing Inn Hotel on Scullthorpe Road, Fitzroy Crossing.

The deceased had been seen in the area of the Crossing Inn Hotel in a drunken state earlier on that day and at about 5pm he was seen by a taxi driver at the drive through area of the Hotel, where he punched at the rear window of the taxi.

The deceased regularly walked along Sanford Road after drinking alcohol purchased from the Crossing Inn Hotel.

The deceased was last seen alive by staff of the Crossing Inn Hotel at about 10pm on 28 January 2004. He was described at that time as being very drunk and not being able to talk properly. Staff at the hotel stated that they had not served alcohol to him that night during their shift because of his intoxicated state.

At about 10:15pm the deceased was walking in a westerly direction along the southern verge of Sanford Road when he was struck by a motor vehicle also travelling in a westerly direction. The driver of the vehicle had been drinking alcohol at the Crossing Inn Hotel and had previously been drinking alcohol at the Junjuwa Community.

Police attended the scene of the collision and found the deceased lying on the southern side of the road with his legs on the grassed verge.

While police officers were at the scene they observed another motor vehicle approaching in a westerly direction.



One of the officers stood in the middle of the road and waved her arms above her head in an attempt to stop the vehicle. This vehicle did not stop and it also ran over the deceased.

When the police officers checked the deceased they could find no signs of life.

A post mortem examination was conducted on 2 February 2004 following which the medical cause of death was given as multiple injuries.

Toxicological analysis showed the deceased's blood alcohol level at the time of death was 0.140% blood alcohol readings in respect of the two drivers who had driven over the deceased revealed readings of 0.141% and 0.228% respectively.

The driver and passenger of the second vehicle which had driven over the deceased had been drinking at the Junjuwa Community near Fitzroy Crossing during the evening and had gone to the Crossing Inn Hotel to purchase more alcohol, but had found it closed on their arrival.

Police officers investigating the circumstances of the death estimated that there were approximately 200 patrons drinking at the Crossing Inn Hotel on the night of the incident.

Police records revealed that since 1997 there have been three fatal and three serious traffic crashes involving pedestrians on Sanford Road. The road is the main route used by local Aboriginal people to walk to and from the Crossing Inn Hotel.

It appears that the deceased who had consumed a substantial quantity of alcohol was a pedestrian walking on Sanford from the Crossing Inn Hotel when he was struck by two motor vehicles both of which were driven by intoxicated drivers.



In the view of the circumstances I find that the death
arose by way of Accident.



Maitland BROWN

Maitland Brown (the deceased) was a 24 year old Aboriginal male who died on either 26 December or 27 December 2006 at House 5, Kurnangki Community Fitzroy Crossing.

On 26 December 2006 the deceased was drinking at Mindi Rardi Community with friends. He was last seen alive by his brother at about 4:30pm when he said, *"I'm just going home"*.

On the morning of 27 December 2006 the deceased was found hanging in the rear yard of House 5, Kurnangki Community. Police attended the scene and found the deceased hanging from a tree with a rope around his neck.

The deceased was taken to Fitzroy Crossing Hospital where he was certified life extinct.

A subsequent post mortem examination revealed that the cause of death was asphyxiation due to ligature compression of the neck. A toxicological analysis revealed a blood alcohol level of 0.185% as well as evidence of recent cannabis use.

I find that the death arose by way of Suicide.



Jonathon Dick and Lloyd Dawson

Jonathon Dick was a 35 year old Aboriginal male and Lloyd Dawson was a 22 year old Aboriginal male, both deceased men died on 18 October 2005 at Yiyili Community, located between Halls Creek and Fitzroy Crossing.

Mr Dawson had been experiencing mental problems associated with his use of cannabis for several months prior to 18 October 2005. On 15 July 2005 his father, Matt Dawson, attended the Yiyili Health Clinic and spoke to Dr Gallagher about his son.

According to the records made by Dr Gallagher, Mr Dawson stated that his son was going “shit crazy” after taking cannabis.

Dr Gallagher subsequently saw Mr Dawson for whom he prescribed olanzapine and valium.

On 18 October 2005 Mr Dawson consumed cannabis which again caused him to behave in a bizarre manner.

Mr Dawson approached Mr Dick, who had been taking parts out of a Holden Commodore vehicle, and began punching him.

Others present stopped Mr Dawson from fighting and he walked off towards a house.

Those present then began to work on the car again, after about ten minutes Mr Dawson returned with a rifle and shot Mr Dick. He subsequently shot himself.

Subsequent post mortem examinations revealed that each of the deceased men died from gunshot injury to the head.



Toxicological examination revealed that the deceased Dawson had a blood alcohol of 0.088% and a carboxytetrahydrocannabinol level which was consistent with cannabis use within two hours prior to death.

In the above circumstances it appears that Mr Dawson shot Mr Dick and then himself while his mind was affected by recent cannabis use.

I find that the death of Jonathon Dick arose by way of Unlawful Homicide.

I find that the death of Lloyd Dawson arose by way of Suicide.



Benjie Dickens

Benjie Dickens (the deceased) was a 35 year old Aboriginal male who died on Sanford Road, Fitzroy Crossing on 26 May 2000.

On the evening of 26 May 2000 at approximately 10:30pm the deceased was walking in an westerly direction along Sanford Road in company with a number of other pedestrians. He was walking away from the Crossing Inn Hotel and was clearly intoxicated at the time. The deceased had stopped on the bitumen surface of the road when he was struck by a vehicle driven by John Charles Crompton who was travelling in a westerly direction along Sanford Road.

Prior to the incident Mr Crompton had been drinking in the bar section of Fitzroy Lodge after which he had driven to the Crossing Inn Hotel where he had continued to drink alcohol. Mr Crompton left the Crossing Inn Hotel at some time between 10:30pm and 11pm and was driving a Toyota Landcruiser four wheel drive vehicle at the time of the collision.

Mr Crompton failed to stop at the scene although he was aware that his vehicle had struck the deceased. He continued to drive into the townsite of Fitzroy Crossing and then to his residence at the Brooking Spring Station which was about 14 kilometres away.

Mr Crompton was subsequently located by police officers on the morning of 27 May 2000. At that time he was in the process of apparently attempting to conceal the crash by washing and repairing the Toyota Landcruiser.

It would appear clear that Mr Crompton was affected by alcohol at the time of the crash, although no legal reading was obtained due to the time which had elapsed before he was located.



A post mortem examination was conducted on the deceased on 1 June 2000 which revealed that the cause of death was neck injury. Toxicological analysis of blood taken from the deceased revealed that at the time of death his reading was 0.318%.

In the above circumstances it appears clear that the deceased was walking away from the Crossing Inn Hotel and was heavily intoxicated, he was struck by a motor vehicle driven by an intoxicated person who had been also drinking at the Crossing Inn Hotel.

I find that the death arose by way of Accident.



Ivan Barry GEPP

Ivan Barry Gepp (the deceased) was a male Aboriginal person who was 56 years of age at the time of his death on 13 March 2000.

On 13 March 2000 the deceased was at his brother's caravan at Mindi Rardi Aboriginal Community, Fitzroy Crossing.

The deceased informed his brother that he was going to travel to the Crossing inn Hotel in his small fibreglass boat. The deceased was strongly advised not to attempt this at this time as the water levels of the Fitzroy River were rising and the river was flowing at great speed.

The deceased, who was clearly intoxicated at the time, ignored his brother's advice and launched his boat into the water. The boat was equipped with a two horse power motor, which was grossly inadequate to travel against the current of the fast flowing Fitzroy River. This was the last time that the deceased was seen alive.

The boat was subsequently located in good condition and on 16 March 2000 the deceased was located approximately 900 metres south of the location where his boat had been found.

At the time the deceased was in an advanced state of decomposition and appeared to have drowned.

At the time of the deceased's disappearance the water levels of the Fitzroy River were at the highest levels for approximately 8 years.



A subsequent post mortem examination revealed that the cause of death was consistent with immersion (drowning). Toxicological analysis revealed the presence of alcohol, but as all exhibits displayed evidence of putrefaction and the blood sample was not adequately preserved reliable blood alcohol results were not obtained.

In the above circumstances I find that the deceased, who was intoxicated at the time, drowned while attempting to travel across the Fitzroy River to the Crossing Inn Hotel in an underpowered boat.

I find that the death arose by way of Accident.



Owen Gordon Jonathon Hale

Owen Gordon Jonathon Hale (the deceased) was an 11 year old Aboriginal boy who died on 7 October 2005 at Buruwa Community, Forrest Road, Fitzroy Crossing.

The deceased lived with his parents and two brothers at Buruwa Community. On the morning of 6 October 2005 the deceased was helping his aunt and uncle move into a house at the community and was playing with his younger brother and other relatives. During this time he appeared happy and cooperative.

At some point during the morning the deceased had a disagreement with his brother over a toy and, after that, was seen to be upset. A short time later he could not be seen. A search located him in front of a neighbouring house lying on the ground, on his right side under a tree. He had a thin green cord around his neck which was tied to the tree. His face and lips were blue and his tongue was swollen.

One of his young relatives used scissors to cut the cord and other family members were summonsed. Cardiopulmonary resuscitation was attempted and the deceased was taken to hospital where he was treated and a heart beat obtained. He was later transferred to Princess Margaret Hospital for Children, Perth, where he passed away on 7 October 2005.

A post mortem examination subsequently revealed that the cause of death was cerebral hypoxia following ligature compression of the neck.

The deceased had never spoken of taking his own life and although his grandparents had recently passed away, he had seemed to cope with the loss.



In the context of the young age of the deceased it is difficult to determine whether he had the intention of taking his own life when he tied the ligature around his neck.

In all of the circumstances I make an Open Finding as to the manner of death.



Ernest James Laurel

Ernest James Laurel (the deceased) was a 29 year old Aboriginal male who died on 18 November 2005 at Mindi Rardi Community, Fitzroy Crossing.

The deceased normally resided with his de facto partner at the Kadjina Aboriginal Community out of Fitzroy Crossing but from October 2005 the deceased and his partner were staying with the deceased's mother at the Mindi Rardi Community ("the Community") within the Fitzroy Crossing town site.

During the preceding months the deceased had made several threats to harm himself by hanging to numerous family members and friends. Often these threats were made when the deceased was intoxicated with alcohol. Family and friends had, on occasions, physically removed objects from the deceased which could have been used as ligatures. These items included a length of garden hose and an electrical cord.

The most recent such threat occurred on the day of his death when he threatened to hang himself using a length of garden hose which was then taken away from him by another Community member.

On the morning of 18 November 2005 the deceased began drinking alcohol and later in the day drove to the Crossing Inn Hotel in Fitzroy Crossing to purchase more alcohol. The deceased made another trip to the same hotel that evening with other members of the Community. When returning to the Community at about 9.30pm the deceased was driving the vehicle and was stopped by police for a random breath test.



As a result of the breath test the deceased was arrested by police and charged with traffic offences. His blood alcohol level was detected to be 0.265% at 10.10pm. The deceased was subsequently released to bail from the police station and driven back to the Community by police officers at 10.23pm.

When the deceased returned to the Community he argued with his partner and other Community members when he again wanted to drive a vehicle and was prevented from doing so. In the course of that argument he pushed in and broke a car window. The deceased was then seen to walk away, still angry and upset.

A short time later another Community member approached a toilet block at the rear of houses, including the deceased's mother's house, and saw the deceased in a suspended position with a garden hose tied around his neck, then secured to a pole above at the entrance to the toilet block.

That person called for help and tried to cut the deceased down but was unable to find a knife at that time. Some Community members came to assist and others went to call for police. The same police officers who had dropped the deceased at the Community a short time earlier were found nearby and returned to the Community, by which time the deceased had been cut down. Police officers could find no signs of life. An ambulance arrived a few minutes later and ambulance officers commenced CPR. However, their efforts were unsuccessful and the deceased passed away.

A post mortem examination concluded the cause of death was Ligature Compression of the Neck (Hanging). Toxicological analysis of the deceased's blood showed alcohol in the amount of 0.238%.

In the circumstances I am satisfied the deceased, while in an intoxicated state, placed the hose around his neck and then around a pole with the intention of ending his life.



I find the death arose by way of Suicide.

Joshua Middleton

Joshua Middleton was a 17 year old Aboriginal male who died at Junjuwa Community in Fitzroy Crossing on 14 February 2002.

The deceased was last seen alive by his aunt, Selina Middleton, at about 9:30pm on Wednesday 13 February 2002.

The deceased was not seen again until about 12:40am on Thursday 14 February 2002 when he was located by his sister suspended from a tree with a piece of garden hose tied around his neck.

The deceased was released from the hose and cardiopulmonary resuscitation commenced.

Police officers subsequently attended followed by nurses who travelled to the scene by ambulance.

The nurses attempted to obtain vital signs from the deceased without success.

A subsequent post mortem examination revealed that the cause of death was consistent with ligature compression of the neck (hanging).

Toxicological analysis showed a high level of alcohol in the blood (0.226%).

It would appear that the deceased died as a result of taking his own life by way of hanging. It is also clear that the deceased was in an intoxicated state when he died.

I find that the death arose by way of Suicide.



William Robert Miller

William Robert Miller (the deceased) was a 33 year old Aboriginal male who died on 16 April 2006 at Lot 245 McLarty Road, Fitzroy Crossing.

On 15 April 2006 the deceased was at the Fitzroy River Lodge with his defacto partner, Maxine Button, and Michelle Rivers.

The deceased and Ms Button had been separated and he asked if they could get back together. She told him that he was drinking too much alcohol and she would not go back to him for a while.

When the hotel closed the deceased and the two women were given a lift into Fitzroy Crossing where the deceased was dropped off. The women were taken to the Kanacki Community. This was the last time that the deceased was seen alive.

On the early morning of 16 April 2006 police were advised that the deceased had hanged himself. Police officers attended at Lot 245 McLarty Road, Fitzroy Crossing at about 6:18am where they found the deceased hanging suspended from a tree branch. A length of garden hose had been tied to the tree branch and then looped around the deceased's neck.

A subsequent post mortem examination revealed that the cause of death was ligature compression of the neck (hanging). Toxicological analysis revealed a very high blood alcohol level of 0.236%.

I find that the death arose by way of Suicide.



Gordon Oscar

Gordon Oscar (the deceased) was a 40 year old Aboriginal male who died on 10 October 2006.

The deceased lived in Junjuwa Community, Fitzroy Crossing with his partner, Michelle Armstrong and three children.

On the afternoon of 10 October 2006 Ms Armstrong took a number of neighbours to the Crossing Inn Hotel where a quantity of full strength beer was purchased.

After the beer had been obtained, Ms Armstrong, a neighbour and the deceased consumed a number of cans of beer at the community, after which the neighbour asked for a lift back to the Crossing Inn Hotel so that more beer could be purchased.

The deceased drove the others to Crossing Inn Hotel where more beer was purchased, following which, according to Ms Armstrong, the deceased began to become aggressive. On the trip back to his home the deceased began to drive at a fast speed and when he arrived he started shouting at Ms Armstrong.

The deceased's partner became scared and took her children to the next door house.

Later the deceased threw a cement rock at Ms Armstrong and threatened to set her car on fire.

The deceased subsequently set Ms Armstrong's vehicle, a Mitsubishi Lancer, on fire, following which a call was made to police to attend.



The fire was extinguished by members of the Fitzroy Crossing Volunteer Fire Brigade and police spoke with witnesses who stated that the deceased had left the scene. After making some brief inquiries the police officers left the scene.

Shortly after the police officers had gone, at about 9:58pm, officers at Fitzroy Crossing Police Station received a call from a person stating that the person who had lit the fire had hung himself.

Police officers returned to House 12, Junjuwa Community, where they observed the deceased lying in the middle of a room on his back. There were no signs of life.

At 10:06pm staff from the Fitzroy Crossing Hospital arrived and determined that the deceased had passed away.

The deceased had been found by a community member hanging from an orange extension cord attached to a ceiling fan in a bedroom at the back of the house.

A subsequent post mortem examination revealed that the deceased had died from ligature compression of the neck (hanging). Toxicological analysis revealed that the deceased had a blood alcohol level of 0.157% and there was evidence of recent significant cannabis use.

In the above circumstances I find that the deceased, while influenced by alcohol and cannabis, became extremely emotional and after setting fire to the motor vehicle owned by his defacto partner, hanged himself from a ceiling fan located in his home at House 12, Junjuwa Community, Fitzroy Crossing.

I find that the death arose by way of Suicide.



Celeste Antoinette Shaw

Celeste Antoinette Shaw (the deceased) was a 24 year old Aboriginal woman who died on 30 November 2006.

On the afternoon of Wednesday 29 November 2006 the deceased was drinking with her cousin, Denise Andrews, at the home of Denise Andrews at Junjuwa Community, Fitzroy Crossing.

Later the two young women took a taxi to the Crossing Inn Hotel where they bought a small bottle of Bundaberg Rum and a carton of Victoria Bitter beer cans.

The two women were dropped off by the taxi at the old bakery building at Junjuwa where they stayed for a period and consumed beer.

The deceased's partner, Paddy Downes, gave the women a lift to his house after which they went to another house at the community.

The deceased and Mr Downes had an argument in which she accused him of having a relationship with another woman.

Later that night the deceased and her cousin had an argument about alcohol following which the deceased went into her cousin's home and obtained some of her beer.

The deceased's cousin struck the deceased with a pick after which the two women were involved in a fight.

Later the deceased took the pick and struck her cousin's car with it. The deceased then went to her home where she smashed the television set and video recorder.



Mr Downs rang 000 and spoke to Broome Police who were advised of the situation. Mr Downes was told that the situation did not constitute an emergency and he should call the local police.

Mr Downes did not have fifty cents required to use a public phone to ring the Fitzroy police and he went to a friend's place where he stayed the night.

On the next morning the deceased was located hanging from a garden hose attached to a tree located about five metres from her house.

Subsequent inquiries revealed that the deceased had previously attempted self-harm.

A post mortem examination which was conducted on 5 December 2006 revealed that the cause of death was ligature compression injury to the neck (hanging). Toxicological analysis revealed that at the time of her death the deceased had a blood alcohol level of 0.171%.

It appears that on the evening of 29 November and the early hours of the morning of 30 November 2006 the deceased was intoxicated with alcohol and behaved in an emotional and aggressive manner.

In the early hours of the morning of 30 November 2006 the deceased took her own life by hanging herself from a tree in the back yard of her family house.

I find that the death arose by way of Suicide.



Shawn Surprise

Shawn Surprise (the deceased) was a 21 year old male who died on 15 April 2000.

On Saturday 15 April 2000 the deceased and his cousin Dominic Surprise were drinking at the Crossing Inn Hotel in Fitzroy Crossing. The deceased had started drinking at about 10am when the hotel opened for business.

At about 4pm the deceased saw a bus for Bayulu Community on the other side of the Fitzroy River. Both the deceased and Dominic Surprise lived at the Bayulu Community.

The deceased suggested to Dominic Surprise that they should swim across the river and travel in the bus back to Bayulu Community.

The deceased jumped into the river and floated downstream. Dominic Surprise attempted to follow him but was separated from his cousin by the force of the river.

Dominic Surprise managed to escape from the river and called for help from the patrons of the hotel.

At the time the Fitzroy River was in full flood and was very swollen from recent rains in the area. The river was flowing extremely fast and there was a considerable amount of floating debris consisting of large tree branches and sticks. The river was also discoloured, making it difficult to see beneath the surface.

Police were notified of the incident at approximately 3:45pm on 15 April 2000 by a patron of the Crossing Inn Hotel. Searches for the deceased were conducted by members of the Fitzroy Crossing State Emergency Service as well as by police officers.



The deceased was not located until 21 May 2000 when his body was located in the river in a severe state of decomposition. A post mortem examination was conducted on the body of the deceased on 12 June 2000, but the cause of death was unascertainable.

It is clear that the deceased died as a result of being immersed in the Fitzroy River, although the precise cause of death cannot now be determined.

In these circumstances I make an Open Finding as to how the death arose.



Davina Kaye Edwards

Davina Kaye Edwards (the deceased) was a 28 year old Aboriginal woman who died on 4 January 2006 at 29 Lemonwood Way, Kununurra.

The deceased had a long history of mental illness and had been diagnosed as suffering from schizophreniform disorder and polysubstance abuse and later of schizophrenia, paranoid type.

Prior to her death the deceased had regular contact with Community Mental Nurse, Anthony Wishart, and Indigenous Mental Health Worker, Margaret Freeman.

The nurses saw the deceased regularly in order to administer medication and to monitor her mental state. As a result of her condition, the deceased was known to be verbally and physically aggressive towards herself and others.

On 3 January 2006 Mr Wishart received a telephone call from the deceased's sister stating that she was unwell. He was advised that the deceased had been taken to the Kununurra District Hospital by family members but had not been seen by a doctor. The deceased's sister advised that the deceased had taken five zyprex tablets (an oral anti-psychotic medication).

As a result of the call nurses Wishart and Freeman attended at the deceased's home at 29 Lemonwood Way where they found the deceased who was having difficulty speaking as a result of her tongue being swollen and protruding. The deceased was very restless and confused and her body movements were uncoordinated.

Nurse Wishart contacted a Broome based consultant psychiatrist, Dr Murray Chapman, and it was agreed that the deceased would be taken to Kununurra District Hospital.



At the hospital the nurses waited for approximately two hours before the deceased was seen by Dr Geert. Dr Geert saw the deceased briefly and administered Benztropine to alleviate her oral problems.

Dr Geert advised the nurses that the staff at the hospital were reluctant to admit the deceased because of her past history and behaviour.

At about 1pm the deceased was taken home to her family and Nurse Wishart again contacted Dr Chapman. Nurse Wishart was concerned that the deceased's condition did not appear to have markedly improved.

Dr Chapman advised Nurse Wishart that the deceased should be admitted to the Kununurra District Hospital for observation and blood tests.

The deceased was subsequently admitted to the ward but on the morning of Wednesday 4 January 2006 Nurse Wishart was advised by Dr Geert that the deceased had threatened to kill a member of the nursing staff with a knife when she had been refused access to a cigarette lighter.

Dr Geert advised Nurse Wishart that police had been contacted and asked to attend at the hospital as a result of the incident and the deceased had been escorted back to her home shortly after midnight.

Later that morning Nurse Wishart received an email and a telephone call from the Acting Senior Medical Officer of the Kununurra District Hospital, Dr Airell Hodgkinson. In the email Dr Hodgkinson advised that every effort should be made to treat the deceased in the community and that if assessment was required in the hospital, a police presence would be requested. If the deceased was to be admitted, the admission was to be kept to an absolute minimum and that it needed to be recognised that the hospital was not a secure psychiatric institution. Dr Hodgkinson also advised that staff threatened



by, or assault by, the deceased would be encouraged to press charges against her and that *"...this last point cannot be emphasised strongly enough"*.

Later that afternoon the deceased appeared to be more settled and the consequences of her earlier actions were explained to her by her sisters. This caused the deceased to become very upset and tearful and she stated, *"I will kill myself if the police come around, court"*.

The deceased was told that there may be no action taken against her.

Later that day the deceased was seen by her sister outside the house drinking a cup of tea and smoking a cigarette. A short time later her sister noted that it was quiet and asked two other persons to check on her welfare. The deceased was seen hanging from a white sheet attached to a tree in the rear yard of the home.

Police officers and ambulance officers attended at the scene and the deceased was cut down from the tree. At the time their attendance, however, they could only confirm that the deceased had passed away.

In the above circumstances I find that at the time of her death the deceased was suffering from a serious mental illness. I find that the death arose by way of Suicide.



Nathalia Maree Cox

Nathalia Maree Cox (the deceased) was a 24 year old Aboriginal woman who died on 13 August 2005 at 2A Pindan Avenue Kununurra.

The deceased had worked at Argyle Diamond Mine in a traineeship program and in March 2005 had commenced employment with the Country Club Hotel in Kununurra as an apprentice chef.

Inquiries of employees of the Country Club indicated that she had a cheerful disposition and was a keen worker. It was believed, however, that she had a number of issues relating to her private life and it was suspected that some of these issues may have related to child sexual abuse.

The deceased was known to smoke cannabis and was a binge drinker. She was the mother of a young child and was known to be upset at the recent breakup of a defacto relationship.

In the period prior to her death family members stated that the deceased had been on a drinking binge for approximately 48 hours.

On the morning of Saturday 13 August 2005 the deceased had been in an argument with another friend during which she had said that if she could not go back to Broome she would kill herself.

After the argument the deceased had appeared to calm down and during the afternoon her cousin and aunt left the house where she was staying to go to the Tuckerbox Supermarket to buy supplies for a birthday party. They returned to the house at about 2:30pm and initially suspected that the deceased may have been asleep.



The deceased's cousin went to wake her and found her in a room of the house hanging from an orange rope which had been tied around a ceiling fan. The rope was cut by the deceased's aunt after which cardiopulmonary resuscitation was attempted without success.

Police were advised of the situation and attended after which inquiries and investigations were commenced.

A subsequent post mortem examination determined that the cause of death was ligature compression of the neck (hanging).

Toxicological analysis of the blood of the deceased revealed that at the time of death she had a blood alcohol concentration of 0.151% and had recently consumed a significant quantity of cannabis.

No suicide note was discovered, however, it appears that the deceased was in an emotional state and significantly affected by alcohol and cannabis.

I find that the death arose by way of Suicide.



Desley Sampi

Desley Sampi (the deceased) was a 17 year old Aboriginal male who died on 4 April 2006 at 32 Knowsley Street, Derby.

On the evening of 3 April 2006 the deceased was drinking alcohol in Derby with her cousin and other relatives. It is reported the deceased became drunk and argued with her cousin. After the argument the deceased walked home with her aunt to 32 Knowsley Street, Derby.

At around midnight on 4 April 2006 the deceased was still upset over the argument and was seen to take a black electrical cord from the kitchen and walk outside. The deceased then left the house stating she was going for a walk to clear her head.

At about 12.30am on 4 April 2006 the deceased was seen by her aunt sitting on the front patio stairs of the house. The deceased appeared to be shaking from the cold.

At about 12.40am the same morning the deceased was found by her cousin sitting on the second step of the patio with the black electrical cord around her neck which was tied to the handrail of the patio.

Police officers and a nurse attended the scene but no signs of life were found.

The deceased was taken to Derby Hospital where life was certified extinct at 1.44am on 4 April 2006.

A post mortem examination established the cause of death to be ligature compression of the neck (hanging).



Toxicological analysis revealed a blood alcohol level of 0.213% and evidence of cannabis use within the preceding 24 hours.

On the information before me I am satisfied the deceased hanged herself with the intention of taking her own life

I find that the death arose by way of Suicide.



Llewellyn Robert Sampi

Llewellyn Robert Sampi (the deceased) was a 24 year old Aboriginal male who died on 2 or 3 April 2007 at 35 D'Antoine Street Broome.

The deceased normally resided at Ngamakoon Community on the Dampier Peninsula with his grandfather, Paul Sampi, but for a period of about one week had been staying with his uncle, John Edgar, at 35 D'Antoine Street, Broome.

During the afternoon and evening of 2 April 2007 the deceased was drinking at 35 D'Antoine Street with his brother Steven Dan and other family members.

The others who were drinking went to bed by about 1am, leaving the deceased outside the house.

The deceased's brother was concerned as to his welfare and checked on him on two occasions. On both occasions the deceased appeared to be in a good mood.

In the early morning of 3 April 2007 the deceased was located hanging from a green nylon cord tied to a tree in the front yard of the house.

Police were called for and attended, but on checking the deceased discovered that there were no signs of life. St John Ambulance officers arrived within minutes of police attending and confirmed that the deceased was dead.

A subsequent post mortem examination revealed that the cause of death was asphyxiation due to ligature compression of the neck (hanging). Toxicological analysis revealed that the deceased had a blood alcohol level of 0.212% as well as evidence of recent significant cannabis use.



Methylamphetamine and amphetamine was also detected in the blood.

It appears that at the time of his death the deceased was intoxicated with alcohol and cannabis.

I find that the death arose by way of Suicide.



Troy James O'Sullivan

Troy James O'Sullivan (the deceased) was a 17 year old Aboriginal male who died on 24 January 2006 at Munget Community, a community located approximately 130 kilometres north of Broome on the Dampier Peninsular.

Munget Community is a small community comprising of only three families.

On Sunday 22 January 2006 the deceased was taken to the nearby Neem Community by his brother, Leonard O'Meara.

The deceased and a friend spent the Sunday playing computer games, writing songs and practising music.

On Monday 23 January 2006 the deceased and his friend went motorbike riding after which they decided to ride back to Munget Community to obtain DVDs to watch that afternoon.

On arriving at Munget Community the deceased smoked a cone of marijuana. The deceased and his friend had a conversation during which the deceased stated that he planned to give up smoking marijuana within the next month. A short time later they returned to the Neem Community.

That evening the deceased woke his friend to advise him of a dream which he had in which he saw his mother who had died on 2 January 2004.

On the morning of 24 January 2006 the parents of the deceased's friend had an argument over personal issues.

Later that day an aunt of the deceased visited Neem Community and gave the deceased a lift back to the Munget Community.



The deceased arrived back at the Munget Community at about 4:40pm after which he went to visit his brother, Leonard O'Meara, and his family. At that stage his behaviour appeared normal.

After about 2pm the deceased checked his bank balance by telephone and became upset when he discovered that it was lower than he expected. It appeared that the deceased had given his key card to his cousin who had been accessing his account without permission.

The balance of the deceased's account was only about \$13, when it should have been approximately \$350.

Later that afternoon the deceased left Mr O'Meara's house and walked approximately 380 metres back to his own home. This is the last time the deceased was seen alive.

At approximately 3pm Mr O'Meara attended at the deceased's house to collect him for work and called out for him but did not receive a response. Mr O'Meara conducted a search for the deceased without success.

At approximately 4:30pm two contactors who worked for the Centre for Appropriate Technology attended at House 3 in the community for the purpose of checking the energy metre on a pole alongside the house.

As they approached the house they noticed a single set of footprints approaching it.

The contractors discovered the deceased who was hanging from a thin rope attached to the support beam of the verandah of the house.

One of the contractors contacted Mr O'Meara who checked the deceased by loosening the noose and placing him on the ground.



It was clear at that stage that the deceased had passed away as rigor mortis had already commenced.

No suicide note was located, but Mr O'Meara discovered a fresh bucket bong (smoking implement) with a strong odour of cannabis. On police arrival a search was conducted of the deceased's residence during which five smoking implements were seized.

An internal post mortem examination was not conducted following an objection to such an examination by family members of the deceased.

Toxicological analysis revealed evidence of significant cannabis use by the deceased prior to his death.

It appears that at the time of his death the deceased was distressed as a result of his bank account having been accessed by another person without his permission in a context where he was suffering emotional strain relating to his mother's death and that at the time of his death he was affected by cannabis which he had smoked.

I find that the death arose by way of Suicide.



Zedrick Owen Yamera

Zedrick Owen Yamera (the deceased) was a 23 year old Aboriginal male who died on 26 October 2006 at Yakanarra Community, Fitzroy Crossing.

The deceased had a long history of mental illness and had first been referred to the North West Mental Health Service on 6 December 2005 by the Principal of the Yakanarra Community School who was concerned for his mental health. She was particularly concerned as to who in that community might take her role of carer for him once she had relocated.

On 8 December 2005 the deceased was diagnosed with First Episode Psychosis by Dr Murray Chapman. At that stage he had disordered thoughts and inappropriate laughing. He was also assessed as being of elevated risk of self-harm.

On 9 December 2005 the deceased was transferred to Graylands Hospital in Perth by the Royal Flying Doctor Service. He remained at Graylands Hospital until 6 January 2006, when he was discharged back to the Kimberley on anti-psychotic medication with a diagnosis of psychosis.

On 8 March 2006 Kimberley Mental Nurse, Mr Moke, recorded an incident in which the deceased became aggressive and attacked people indiscriminately with sticks.

On 17 August 2006 the deceased was admitted to the Fitzroy Crossing Hospital and at that stage it was recorded that his mental health had deteriorated over the previous six to eight weeks, that he was perplexed and disorganised. The hospital notes of the same day indicate that the deceased had threatened to hang himself on several occasions on the previous day and grabbed electrical cords which he had wrapped around his neck. He was commenced on Risperidone Consta 25mg IMI, a depot anti-psychotic medication, together with oral mediation.



The deceased was discharged from hospital on 20 August 2006 in the care of his biological mother (who had apparently abandoned him at birth).

On 4 October 2006 the deceased was brought into Fitzroy Crossing Hospital by a Community Health Nurse. At that stage he was talking to himself and laughing inappropriately. The Yakanarra Administrator reported that the deceased had attempted to hang himself on the previous weekend and it was noted that he had taken cannabis some 7-10 days previously. Consideration was given to transferring the deceased to Graylands Hospital in Perth, but his family advised that they would prefer for him to stay in Fitzroy Crossing.

On 10 October 2006 the deceased was reviewed by way of video conferencing by Dr Brian Boettcher, a locum consultant psychiatrist. At that stage he stated that he felt much better and denied psychotic symptoms.

At that stage the deceased's mother indicated that she was happy for him to return to Yakanarra and he agreed to remain on Risperidone Consta, the dose of which was increased to 37.5mg every two weeks.

On 25 October 2006 medical practitioner, Cleone Armstrong, travelled from the Fitzroy Crossing Hospital to conduct a women's clinic at the Yakanarra Community. She was accompanied by Community Health Nurse, Beth Leniham. On that day the clinic finished at about 4pm after which Dr Armstrong was approached by a community member who expressed concern about the deceased. According to this community member, the deceased was withdrawn and going off on his own.

Dr Armstrong spoke to the deceased who stated that he was feeling "fine".

Dr Armstrong offered to take the deceased to the Fitzroy Crossing Hospital in the hospital car but he declined the offer.



Dr Armstrong advised the deceased that he should increase his anti-psychotic medication for the next two days and that she would contact the mental health team.

On 26 October 2006, Sarah Hill, a Community Mental Health professional directly involved in the deceased's care, received a telephone call from Nurse Leniham to the effect that there were concerns about the deceased's mental state and that his family were worried about him. She was concerned that he might be a risk to himself, that he appeared perplexed and that he was responding to unseen stimuli. She advised that his family had gone away to a funeral and that there was no one there to look after him.

Ms Hill advised Ms Leniham that the deceased could be contained in hospital if there was a concern about risk to himself and that he could be made an involuntary patient pursuant to the *Mental Health Act 1996* if he refused to come voluntarily.

On 27 October 2006 records reveal that Ms Hill was contacted by telephone by Ms Leniham who told her that although the deceased was unwell, she did not consider that he was of high enough risk to require hospital admission.

On the afternoon of 26 October 2006, however, youths playing in an open bush area behind House 67 Yakanarra Community saw the deceased on the back verandah. The deceased appeared to be standing, but on closer inspection was found to be hanging by a rope from his neck.

The youths went to get help and subsequently the rope was removed from the neck of the deceased and cardiopulmonary resuscitation was commenced without success. A subsequent post mortem examination revealed that the cause of death was ligature compression of the neck (hanging). Toxicological examination of blood from the deceased revealed no alcohol and Risperidone in therapeutic quantities.



I find that the death arose by way of Suicide.

STATE CORONER
25 February 2008

