



*Western*

*Australia*

## RECORD OF INVESTIGATION INTO DEATH

*Ref No: 23/11*

*I, Alastair Neil Hope, State Coroner, having investigated the deaths of **Ashton Michael SUNFLY, Mitchell NANALA, Lewis John KALIONS, Jason MILNER and Liam TCHOOGA**, with an Inquest held at Balgo on 2 August 2011 and Kununurra Court House on 3-4 August 2011 and Perth Coroner's Court on 8-10 August 2011 find that the identities of the deceased persons were –*

***Ashton Michael SUNFLY**, and that his death occurred on 17 June 2008 at Balgo Community via Halls Creek as a result of Ligature Compression of the Neck (Hanging)*

***Mitchell NANALA**, and that death occurred on 27 February 2009 at Balgo Community via Halls Creek as a result of Ligature Compression Injury to the Neck (Hanging)*

***Lewis John KALIONS**, and that death occurred on 27 June 2009 at Balgo Community via Halls Creek as a result of Ligature Compression Injury to the Neck (Hanging)*

***Jason MILNER** and that death occurred on 23 April 2009 at Balgo Community via Halls Creek as a result of Ligature Compression of the Neck (Hanging)*

***Liam TCHOOGA** and that death occurred between 29 June 2010 and 24 July 2010 in an area known as "Kangaroo Valley" approximately 1 km from the town centre of Halls Creeks of Unascertainable causes in the following circumstances -*



**Counsel Appearing :**

**Mr Dominc Mulligan** assisting the State Coroner

**Mr Tim Russell** ( State Solicitors Office) on behalf of State Government

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## INTRODUCTION

These five deaths were inquested in the one inquest pursuant to section 40 of the *Coroners Act 1996*.

The inquest was held to explore the circumstances of the deaths of four young Aboriginal male persons who died by way of suicide in Balgo Aboriginal Community in a period of approximately 12 months and the death of another young Aboriginal male person whose death occurred shortly afterwards and resulted from self-destructive behaviour, solvent sniffing.

Since the *Coroners Act 1996* was proclaimed in every year the largest single cause of non-natural deaths in Western Australia has been suicide. In every year the deaths clearly identified as having resulted from suicide have exceeded the number of deaths which have resulted from motor vehicle collisions, work and domestic accidents and all other causes of non-natural death. In each year the number of deaths by suicide has exceeded 200 and in one year at least has exceeded 300 (1 July 2007 – 30 June 2008).

The average rate of suicide within Western Australia equates to approximately one suicide per ten thousand of population; suicide rates of Aboriginal persons in the Kimberley are far higher. The current rate is approximately



6.25 times higher than the rate for the state population as a whole.

Balgo has a population of less than 500 persons and at times the population is said to be as low as 100 persons. Four suicides in a twelve month period in a population of this size are vastly in excess of the rate to be expected of the state population as whole. While the total numbers for Balgo are relatively small, it is obvious that the suicide rate in Balgo in the relevant period, which was between 16 June 2008 and 27 June 2009, was more than 100 times the suicide rate of the general population.

This concentration of suicides in one small community over a 12 month period clearly constituted a cluster.

In the above context it was appropriate that a public inquest be held in order to explore the circumstances surrounding this exceptionally high suicide rate with a view to determining whether common features could be identified and recommendations made with a view to preventing repetition of the events.

Pursuant to section 25(1) of the *Coroners Act 1996* I am required to find how these deaths occurred and pursuant to section 25(2) of the Act I may comment on matters connected with the deaths.



In the context of deaths by way of suicide it is always important to determine why the deceased person has taken his or her own life. That is relevant both in respect of determining whether the death in question was in fact a suicide, rather than a hidden homicide or an accidental death, and in order to understand the circumstances of the death.

It is often difficult to determine with any precision why a deceased person has suicided. In the absence of suicide notes (there were none in the present cases) it is necessary to explore surrounding circumstances in order to infer intent and also to have an appreciation of the circumstances of the death.

Even when there are suicide notes, these very rarely provide a complete explanation for the decision to suicide.

It is sometimes said that suicide stems from the interaction of personal vulnerability factors and situational factors.

The above observation reflects the fact that a person who has employment, lives in comfortable surroundings and has reason to look forward to the future is much better placed to survive adverse life events than a person who is unemployed, living in poverty and for whom there is no real hope of betterment. Both vulnerability factors and



situational factors are sometimes described as “risk factors” for suicide.

A striking feature of the present case is the fact that the immediate situational factors were relatively minor in all but perhaps one case.

In respect of two of the suicide deaths there was no identified obvious precipitating stressful event at all. In the two other cases the young men concerned appeared to have experienced relationship difficulties discussed elsewhere in these reasons.

The fact that two out of the four young men who suicided experienced relationship difficulties certainly does not explain a more than 100 times higher suicide rate in Balgo than elsewhere. It is obvious that within the general community of Western Australia many persons experience relationship difficulties. A question in this case is why the resilience of the young men concerned was so low.

It was submitted on behalf of the State Government that matters relevant to the deaths in a general sense ought not to be the subject of the comments unless they relate to the specific deaths. While this submission is unclear, it appears to involve the contention that the focus of any comments should only be on situational factors closely linked to the deaths rather than on the personal



vulnerability factors which made these young people at risk of suicide.

If that is the effect of the submission, I do not accept the submission as valid. As indicated above it is the personal vulnerability factors of the deceased persons which appear to have played the greatest part in the decision making process which lead to death in at least three of the suicide cases.

While in these cases, as in all deaths by suicide, it is not possible to state with overwhelming confidence precisely why each deceased person took his own life, that is no reason to ignore aspects of the background of the deceased persons which left them vulnerable and at risk of self-harm.

### ***Ashton Michael SUNFLY*** **FINDINGS**

Ashton Michael Sunfly (the deceased) was a 13 year old Aboriginal male child who was born on 18 July 1994 and died on 17 June 2008.

On the morning of 17 June 2008 the deceased had breakfast after which he attended the Luurnpa Catholic School.



The deceased had been a regular truant from the school and in 2005 he had been referred to the Department of Child Protection worker at the community, Jane Thomas.

It is clear from the school records that at times the deceased made some good progress and he could be a helpful and friendly member of class but that he was a regular non-attende.

The Western Australian Literacy and Numeracy Assessment for 2004 student report for year 5 for the deceased revealed that his level of achievement in respect of reading, writing, spelling and numeracy was so low as to be either at the bottom of the chart headed "Your Child's Level of Achievement" or off the bottom of the chart.

It appears that on many occasions when the deceased did attend school he was either late or he left without permission. It was very clear that it was this truancy, rather than lack of ability which had caused the deceased's dismal achievement level.

When he did attend school the deceased was described as often appearing to be relatively happy and in good spirits. His school records, however, make very sad reading.



At about 6pm a group of youths arranged to have a small disco at the basketball courts and the deceased, with another family member, went there and met friends. At the disco the deceased was described as remaining in the shadows, smoking cigarettes and declining to dance. This was normal for him as he was said not to enjoy dancing in public.

At about 9pm the deceased's family member realised that he had left the basketball courts but at that stage had no concern as to his welfare.

The deceased walked to his family's house situated in "Bottom Camp", part of Balgo Aboriginal Community. There he spoke with his father who at the time did not have concerns regarding his behaviour.

The deceased then walked to the rear verandah area while family members were in the house watching television.

Shortly afterwards the deceased's father found him hanging from an extension power cord tied to a metal roof rafter.

Police officers were called to the scene and located the deceased still suspended from the extension cord. Although some cardiopulmonary resuscitation efforts were made by



police officers, it appears clear that he had already died and he was pronounced life extinct by Dr De Zoette shortly afterwards.

At the inquest the mother of the deceased advised that after his supper the deceased had been involved in a minor dispute with his sister about cigarettes, which was the only known potentially precipitating incident for the death.

A striking feature of the case is the lack of any significant situational factors which could have played a part in the deceased's decision to act as he did.

It seems obvious that in this case personal vulnerability factors played the major role in the deceased's decision making. In this context I am convinced that the deceased's truancy and his resulting very low education achievements were important factors contributing to his vulnerability.

A post mortem examination was performed on the deceased on 14 June 2008 by Dr G A Cadden, Forensic Pathologist. Dr Cadden determined that the cause of death was consistent with ligature compression of the neck (hanging). In a letter to the Broome Coroner dated 25 June 2008 Dr Cadden made the observation that there did not appear to be any other findings arising from the post



mortem inspection that would cause concern as to whether any other factors could have been relevant to the cause of death although he did note that the marking caused by the ligature was not circumferential.

I find that the death arose by way of Suicide.

### ***Mitchell NANALA*** **FINDINGS**

Mitchell Nanala (the deceased) was a 22 year old Aboriginal male who was born on 1 January 1987 and died on 27 February 2009.

The deceased lived in the Balgo Aboriginal Community for most of his life. He was well known to other community members and to local police.

The deceased had been relatively healthy and had been social in his habits, he had actively played Australian rules football with the local team.

The deceased had been known to consume alcohol heavily but usually not while he was staying in Balgo. The deceased was also known to use cannabis on occasions, but also not in Balgo.



The records of Luurnpa Catholic School indicate that the deceased was enrolled at the school for only 10 days in Term 4, 2001 and for Terms 1 and 2 of 2003. File notes indicate that he left Balgo to travel to Port Hedland at that time. The school did not hold any academic reports in relation to the deceased and so information relating to his education was scanty. His father, Flecki Stevens, stated that at some stage he attended school at Kunawarritji but did not know what grades or year he had completed.

According to information provided by police the deceased was unemployed at the time of his death although according to his father he did have a job carting rubbish and food for animals to Kirrakarra.

It is likely that, like the other persons the subject of the inquest, the education level achieved by the deceased was extremely low.

In February 2009 the deceased was in a relationship with a young lady called Ursula Timms. It appears that she was also in a relationship with another young man in the Balgo Community named Rex Cotchilli.

According to family members the deceased had previously threatened self-harm on finding out that Ms Timms was in a relationship with Mr Cotchilli.



On 17 February 2009 the deceased was charged by police with wounding Ms Timms (Aggravated Unlawful Wounding, Section 301(1)(a) of the Criminal Code) and he was released on bail subject to a condition which prevented him from approaching her.

In the early hours of 27 February 2009 it appears that the deceased and Mr Cotchilli were involved in a dispute over Ms Timms. Witnesses claim that they threw rocks at each other before Mr Cotchilli chased the deceased, threatening him with a stick.

The deceased ran to family members at the “bottom camp” area of Balgo. Family members described him as being visibly upset at the time.

The deceased then obtained a bag of clothing belonging to Ms Timms which he set on fire.

Later the deceased was seen to walk into the dark by himself. The deceased’s family members became worried about his welfare and contacted police, following which a search for him was conducted.

At about 2am on 27 February 2009 Senior Sergeant Warburton of the Balgo Police located the deceased at the rear of House 61 in an unused, dilapidated building. He



was hanging by the neck from an electrical extension cord tied to a wooden beam at a point approximately 2.5 metres off the ground.

Efforts were made at cardiopulmonary resuscitation without success and medical staff pronounced him deceased at approximately 2:20am.

The deceased's body was inspected at the scene and no obvious signs of assault or injury were discovered.

A post mortem examination was conducted on the deceased on 6 March 2009 by Dr J White, Forensic Pathologist, who formed the opinion that the cause of death was ligature compression injury to the neck (hanging).

I find that the death arose by way of Suicide.

***Lloyd (Jason) Samuel MILNER***  
**FINDINGS**

Lloyd (aka Jason) Samuel Milner, was a 21 year old Aboriginal male who was born on 7 March 1988 and died at Balgo Aboriginal Community on 23 April 2009.



The deceased had lived in the Balgo Aboriginal Community for all of his life. His natural parents had significant alcohol issues and had been unable to care for him from the time when he was about 10 years of age. At that stage he was looked after by David Bumblebee and Angela Lee who according to Aboriginal culture were his uncle and aunt.

They treated him as their own son and looked after him with their own four children.

The deceased was a good football player and loved playing football very much.

The deceased commenced at Luurnpa Catholic School in Year 2 in 1995. It appears that he attended that school from 1995 to 2003.

In 2002 it appears that the deceased's school attendances were irregular and in each of the first three terms he was absent for a considerable number of days. When he did attend school the deceased appeared to progress reasonably well, particularly in workshop and mechanical work, though he was often late to school. In 2002 he was convicted of serious offences of aggravated sexual penetration and aggravated indecent assault



These offences were said to be out of character.

In 2003 it appears that the deceased did attend school for at least part of the year.

On 23 September 2003 the deceased's older brother, Mervyn Milner, suicided by hanging and according to the family this effected him badly as he was very close to his brother.

On 15 June 2005 the deceased presented to a medical practitioner for treatment in respect of a head injury. It is believed by police that he had been struck to the head with a metal bar.

The deceased's medical records reveal a dramatic decline in his mental health after that date. He was treated by visiting mental health professionals and Balgo Clinic staff. His records also reveal that he was treated for mental health issues at Graylands Hospital in Perth and while in goal.

The deceased was last seen alive at about 12:30am on 23 April 2009 by another community member. At that stage he was standing at the side of the road outside a building known as the old youth centre. The other person asked the deceased for a cigarette, but received no response from him.



At about 11:45am the deceased was discovered hanging from a tree at the Luumpa Catholic School and police officers were called to attend.

Police checked for signs of life and found the deceased's body cold to touch. It appeared clear that the deceased had been dead for some time and no cardiopulmonary resuscitation was attempted.

A post mortem examination was conducted on the deceased on 1 May 2009 by forensic pathologist, Dr G A Cadden. At the conclusion of this examination Dr Cadden formed the opinion that the cause of death was consistent with ligature compression of the neck (hanging).

In this case there were no known situation factors which precipitated the death. It is clear that there were a number of personal factors which resulted in the deceased being vulnerable including his low educational achievements, mental health problems and the circumstances surrounding his criminal offending.

I find that the death arose by way of Suicide.



*Lewis John KALIONS*  
**FINDINGS**

Lewis John Kalions (the deceased) who was also known as Alwyn Kalion was a 19 year old Aboriginal male who was born on 10 May 1990 and died on 27 June 2009.

The deceased, who was known as “Bluey”, lived most of his life in Balgo Aboriginal Community.

He had been identified as a person who sniffed petrol and police and others had tried to help him by involving him in community activities. From time to time he had acted as a young church leader and was also a youth leader.

He did have a troubled past and in 2004 when he was only 13 or 14 it was believed that he had tried to kill himself. From that time his misuse of volatile substances increased.

The deceased was unemployed at the time of his death although he did work part time as a youth worker. He had attended at Luurnpa Catholic School in Year 1 in 1996 and left the school in May 2005.

The early school records for the deceased indicate that initially he was a “bright and happy boy” and was good at coming to school. It is clear from the records of the school



that his attendances fell away in his second year at school and by 1998 he was regularly truanting. The Western Australian Literacy and Numeracy Assessment conducted in 2002 in respect of the deceased who was then in year 7 revealed that his results for reading, spelling and numeracy were at the very lowest level recorded on the achievement chart. The deceased's writing level for some reason was not recorded.

By the time he reached the year 9 group in 2004 the level of truancy by the deceased was extremely high and his report for June revealed that he had only attended school on 24 out of 92 days.

On 17 June 2009 the deceased appears to have assaulted a 13 year old girl named Felicia Cotchilli with whom he was believed to have been having some form of relationship. The assault was stopped by an onlooker and the deceased, who appeared to be very emotional, threatened to kill himself.

Balgo Police conducted inquiries into the matter but it appears that Ms Cotchilli was unwilling to talk about the incident and declined to provide a statement. The deceased was informally interviewed and denied any involvement with Ms Cotchilli.



The deceased was, however, at least at the time concerned about police investigating the circumstances of his relationship with Ms Cotchilli and he told seminarian Liam Ryan, "If I go back to prison I will kill myself".

During the early evening of Saturday 27 June 2009 the deceased was in company with Ms Cotchilli and other young female persons. An argument began in relation to Ms Cotchilli speaking to another male from a different Aboriginal community. The deceased is believed to have become jealous and he walked away from the group.

At about 8:20pm that evening a community resident who was driving past the Warlayirti Art Centre observed the deceased who was hanging from fabric tied around the beam of the roof of the Art Centre under a light.

The community resident sought assistance and a number of community residents attempted to remove the deceased from the beam unsuccessfully. Another community member ran to a nearby house and returned with a knife which was used to cut the fabric from which the deceased was hanging and the deceased was placed on the ground.



Police arrived at the scene shortly after and attempted cardiopulmonary resuscitation without success. Nursing staff attended and determined that the deceased had passed away.

A post mortem examination was conducted on the deceased on 7 July 2009 by forensic pathologist, Dr J White, who determined that the cause of death was ligature compression injury to the neck (hanging).

It appears that in this case there were personal vulnerability factors and situational factors which together provide some explanation for the decision to suicide.

A situational factor identified was the problematic relationship between the deceased and Ms Cotchilli, which itself is difficult to understand outside the context of the personal vulnerability factors.

The personal vulnerability factors identified include the deceased's low levels of school achievement which resulted from his regular truanting. It was this truanting which first provides a clear indicator that his life was off track. The life problems which he then experienced were exacerbated by his abuse of volatile substances.

I find that the death arose by way of Suicide.



***Liam TCHOOGA***  
**FINDINGS**

Liam Tchooga (the deceased) was an 18 year old Aboriginal male who was born on 26 May 1992 and died on an unknown date between 29 June 2010 and 24 July 2010.

The natural mother of the deceased was unable to look after him as a result of having a drinking problem and not long after his birth he was placed in the care of family relatives, Angie and Jimmy Tchooga, who raised him as part of their family, which included eight other children.

The deceased had very little contact with his biological father.

At the age of 10 the deceased accidentally shot a friend while playing with a loaded firearm. The friend died. It appears clear that as the deceased grew older he became more and more concerned about this incident and was fearful of possible retribution from the boy's family.

At the time of his death Liam Tchooga was unemployed. He had commenced schooling at Luurnpa Catholic School in pre-primary in 1997 and had attended reasonably regularly from then until 2002, from 2003 his attendances had become irregular though he continued to attend the school until 2004.



In 2009 he was placed as a residential student at the Catholic Agricultural College in Bindoon. Unfortunately he was suspended for behavioural reasons and returned to Balgo in June 2009.

The Western Australian Literacy and Numeracy Assessment for 2000 relating to the deceased, who was then in year 3, reveals that his results for writing, spelling and numeracy were at the very bottom of the level of the chart recording achievement.

The deceased's report for 2004 reveals that at that time he was in grade 6/7 and his level of attendance was at 40%. At that stage it was recorded that he enjoyed reading and that he could read quite well but his infrequent attendance had stopped him from progressing. In respect of writing the records reveal that it was difficult for him to write, "But with help he could put sentences to picture he has drawn about what he would like to write (sic)".

As the deceased grew up he became involved in criminal activity and became an abuser of drugs and alcohol. He became a chronic petrol sniffer.

Police custody records show that the deceased was in police custody eleven times over a four year period. These custody events related to offences of drink driving, burglary and stealing offences. All of the burglary and stealing



offences related to the deceased breaking and entering properties and vehicles in order to steal petrol to sniff. Other custody episodes reveal that the deceased had been detained for his own welfare after he had been found under the influence of petrol sniffing.

On 2 December 2009 the deceased was conveyed as an involuntary patient to Bentley Mental Health facility in Perth by the Royal Flying Doctor Service. The deceased was then a patient at that facility for nine days. The inpatient notes for the deceased reveal that on 9 December 2009 he was observed by staff to go to the toilet on several occasions. Staff documented that they could smell a strong odour of fly spray coming from the deceased. A check of the toilet facilities revealed a crushed tin of fly spray and a crushed tin of deodorant. It was clear that the deceased had been sniffing the contents of the cans.

The deceased was released from the facility on the basis that he had no mental illness. His diagnosis at the time was substance dependence (volatile solvents).

Considerable efforts were made to address the deceased's sniffing problem by Dr Nicolette De Zoete from Balgo Clinic, nurses at the clinic and Balgo Police. Unfortunately in Western Australia there was no mechanism which would enable persons like the deceased to be compulsorily treated for substance abuse issues. In



addition there were no suitable facilities which could adequately address solvent abuse issues in the Kimberley.

After a great deal of effort on the part of concerned police, Dr Zoete and nurses the deceased was accepted by Mr Barry Abbott to attend his rehabilitation facility at Ilpurla in the Northern Territory, located about 258 kilometres south of Alice Springs.

The deceased and two other young men from Balgo were taken to Ilpurla by Phil Moke, of WA Mental Health, on 31 January 2010.

The deceased remained at Ilpurla for approximately five months during which time he did not abuse volatile solvents and his health markedly improved.

The deceased left Ilpurla to attend a funeral, after which he did not return to Ilpurla.

The deceased returned to Balgo and within two weeks of his being back in the community he was found to be sniffing petrol again.

In the period prior to his death the deceased was taken to Halls Creek.



On 12 June 2010 the deceased was seen sniffing petrol in a bush area near the Red Hill Community in Halls Creek. Police attended and the deceased was detained as a drunk detainee and conveyed back to Halls Creek Police Station. The deceased was released from police custody at 4:35pm on the same day in a relatively sober condition.

On 19 June 2010 the deceased was taken by his brother to Ringersoak Community, approximately 170 km from Halls Creek. The deceased stayed with his brother and family in Ringersoak Community for approximately one week.

On Saturday 26 June 2010 the deceased travelled to Halls Creek with the Ringersoak football team to play football. On his arrival at Halls Creek the deceased was upset and angry when he was told that he would not be allowed to play. The deceased was seen leaving the football oval and failed to return to Ringersoak Community that evening on the football bus.

The deceased stayed with a witness and her family at Red Hill Community until 29 June 2010 and on the afternoon of that day walked away in the direction of Mardiwah Loop.



The deceased was later seen by his aunt in a “high” state in a bush area not far from the location where his body was subsequently discovered.

Over the next few weeks family members made efforts to locate the deceased without success and when he had not been seen for about two weeks he was reported as a missing person to Balgo Police.

On 24 July 2010 a member of the public advised police that a human body had been located in a rock hole approximately 1km from the town centre of Halls Creek in an area known as “Kangaroo Valley”.

Police attended the location and the deceased was discovered lying face down in water in a rock pool. At that stage the deceased was in an advanced stage of decomposition.

A cordial bottle containing a brown yellow liquid was located next to the body of the deceased and this was later found to have contained petrol.

A post mortem examination was conducted on the body of the deceased on 29 July 2010 and following the receipt of results of further investigations, on 7 September



2010 forensic pathologist, Dr C T Cooke, formed the view that the cause of death was unascertainable.

In a brief explanation of his findings Dr Cooke noted that there were no evident injuries and there was no evident natural disease, although his examination was limited by the degree of decomposition change.

There did appear to be some aspirated foreign material in the lungs raising the possibility of drowning with inhalation of muddy water.

Although as a result of the decomposed state of the deceased the precise cause of his death cannot now be determined, in the context of other evidence it appears clear that his death resulted either directly or indirectly from his solvent abuse.

The circumstances surrounding the deceased's final self-destructive action of petrol sniffing is not known. The deceased had been a chronic petrol sniffer for a long period prior to his death. His school records reveal that his life had been off track since at least 2000 where his results already revealed underachievement and truancy.

I find that the death arose by way of Accident.



## VOLATILE SUBSTANCE USE – PETROL SNIFFING

It is clear that during the period of the deaths the subject of the inquest petrol sniffing was a major problem in Balgo. The evidence reveals that most, if not all, of the five young men in question sniffed petrol at one time or another. While petrol sniffing undoubtedly had some degree of negative impact on the lives of all of the deceased persons, it was clearly a major factor in the circumstances of the death of Liam Tchooga.

In his case his death resulted directly or indirectly from petrol sniffing and his life was already significantly damaged by solvent abuse.

It is to the great credit of Sergeant Brad Warburton, who was Officer in Charge at the Balgo Police Post through much of the relevant period, and others in the community, including Doctor Nicholette De Zoete and Nurse Brendan Roche, that significant efforts were made to address his petrol sniffing.

Sergeant Warburton was so concerned about young persons in Balgo sniffing petrol that he commenced a register of incidents of volatile substance use in December 2008 so as to record and monitor the extent of the problem.



The deceased Liam Tchooga regularly appeared on the register recorded as sniffing unleaded petrol. From 13 December 2009 until 6 January 2010 his name appears to be the only name that regularly appeared in the list.

Unfortunately Sergeant Warburton and other concerned residents of Balgo were unable to take the type of positive action which they considered was necessary to address the deceased's problem.

The Central Australian Youth Link Up Service (CAYLUS) became involved in the deceased's case when police and staff of Wirrimanu Aboriginal Corporation contacted the service asking for advice. At that stage the behaviour of the deceased was increasingly erratic and he was thought to be influencing others to sniff. It was suggested that he should go to the Ilpurla Aboriginal Corporation near Alice Springs where he could be looked after by Barry Abbott and his family.

Mr Abbott is a committed person who provides respite for people suffering from problems with solvent abuse by providing a safe, drug free place to stay, some counselling support and an opportunity to work in the cattle business that the family run. Of particular benefit was the fact that although Ilpurla was some distance from Balgo, it was at least in "country" and run by Aboriginal people.



CALYUS offered to pay the care costs associated with the deceased attending Ilpurla but he did not agree to attend voluntarily. At that stage the behaviour of the deceased escalated and he became involved in committing a series of crimes. Eventually under mounting pressure, particularly from police, the deceased agreed to attend Ilpurla and Mr Monk from the WA Mental Health Service brought the deceased and two other young men from Balgo to Ilpurla in January 2010.

Unfortunately there was no legislative ability to require the deceased to stay in Ilpurla and some family members were resistant to his remaining at that community, situated as it was a considerable distance from his home.

The submission on behalf of CAYLUS contained the following –

It was apparent from our first involvement in Liams case that the dozen or so services in WA that were involved with him were severely hampered because they didn't have powers to mandate Liam to attend treatment. This meant that Liam kept sniffing for a number of months before he agreed to attend Ilpurla, he was self-harming, encouraging others to sniff and committing crimes during this time. It also meant that his placement at Ilpurla was tentative relying on his compliance and consent from his family. When he exited Ilpurla staff there didn't consider that he was ready to leave.

The NT Volatile Substance Abuse Prevention Act 2005 is a successful model of such legislation and we recommend the WA government should urgently consider adopting a similar model. This Act allows for people to be mandated to treatment, with formal assessment and referral support from state based Alcohol and Other Drug agencies. It also gives police clear powers to



remove volatile substances from sniffers and to take sniffers to a safe place and it allows remote communities to make enforceable rules around the management of volatile substances.

Sniffing is ongoing in WA and we continue to offer support and advice to police, young workers and others who are trying to deal with it as well as support the placement of WA clients at Ilpurla. We have written to the WA government on a number of occasions making the case for such laws.

It is worth noting that many people who are referred under the NT Act cease sniffing after the initial attention they get as a part of their referral. For many of these young people a swift response and initial assessment and “talking to” from an AOD professional is enough to scare them and get them on the right track again. Thus this systematic early intervention reduces the future burden on the health and criminal justice systems.

In my view the above submission is of considerable merit.

Evidence at the inquest indicated that after the deceased left Balgo and subsequently died the incidents of petrol sniffing stopped and these were already reducing prior to his death.

An important reason for the reduction in the amount of volatile substance abuse was the lack of availability of suitable fuel for sniffing. Opal fuel only was available in Balgo, which while aromatic, produces much less vapour than unleaded petrol.

According to Sergeant Warburton a particular benefit of Opal fuel is the fact that if mixed with unleaded fuel, the Opal fuel will combat the aromatic affect of the unleaded



fuel and reduce its attractiveness to those inclined to sniff petrol.

While Opal fuel was the only fuel available for purchase in Balgo from 2008, a significant development after that time was the fact that the Rabbit Flat Roadhouse, situated across the border in the Northern Territory and one of the main sources of unleaded fuel in Balgo, closed down.

CALYUS, Balgo Police, Wirrimanu Aboriginal Corporation and the Federal Government had all made representations to the owner of the Rabbit Flat Roadhouse, asking that he not make unleaded fuel available, without success. It was during that time that the deceased developed a petrol sniffing habit and his behaviour escalated.

Eventually, for reasons which were not explored at the inquest, the Rabbit Flat Roadhouse closed down thereby significantly reducing access to unleaded fuel.

While the current considerable reduction in volatile substance abuse in Balgo is a considerable achievement which reflects well on all concerned, particularly the community members and Balgo Police, it would be foolish to become complacent about the issue.



Advice provided to the inquest by the three magistrates attached to the Kalgoorlie Magistrates Court gave an important insight into the issue of solvent abuse in Kalgoorlie, Leonora, Laverton and the Ngaanyatjarra Lands within their magisterial regions.

An attached spreadsheet provided data in respect of charges laid pursuant to provisions of the Ngaanyatjarra (Aboriginal Corporation) By-Laws which prohibit possession of deleterious substances and sale or supply of deleterious substances. While these charges can only be laid when possession, sale or supply occurs within the Ngaayajjarra Lands, the relevant area does include Warburton and Warakurna.

The spreadsheet reveals extensive volatile substance use among indigenous people within these regions, who in many respects experience problems similar to those experienced in Balgo.

In Kalgoorlie, Laverton and Leonora solvent abuse is directly linked to a range of offences and while direct statistical data is difficult to retrieve, the extent of the problem is apparent to the magistrates dealing with relevant offences on a regular basis.



Particularly significant in the present context is the observation made by the magistrates that solvent use in the towns or communities tends to be cyclical. There are periods of little or no use, then the presence of a particular user or group of users or increased availability of solvents will result in a spike of use and an associated spike in criminal offending. While individuals can be removed from a town or community as a result of bail conditions and this can provide respite, the criminal process does not provide a long term solution.

It is possible that Balgo is at present experiencing a similar cyclical downturn in solvent use and the problem may become serious again in changed circumstances.

An observation of the magistrates was that the absence in Western Australia of any specifically designed programs for intervention or diversion to which to refer solvent abusers hampers their ability to address these issues. While the By-Laws relating to solvent abusers within the Ngaanytjarra Lands are of assistance, courts do not have an ability to require abusers who have committed offences to attend an appropriate intervention or diversionary program. While Juvenile Justice officers in the region are proactive in trying to attend remote communities and engage solvent abusers, they are hampered by a lack of resources and the absence of specifically directed programs.



In my view the case of the deceased highlights the unfortunate fact that there are currently no avenues available to the authorities to compulsorily require a solvent abuser to undergo suitable treatment, even when that solvent abuser is committing offences.

The deceased was facing a number of criminal charges and it was only as a result of pressure relating to those that he eventually, reluctantly, agreed to go to Ilpurla. The regime at Ilpurla appears to have been of great advantage to the deceased while he was there and it was unfortunate that he could not be compelled to remain until his treatment was completed.

In this context it is noted that Tristan Ray of CAYLUS gave evidence that after some initial teething problems the *Volatile Substance Abuse Prevention Act 2005* (NT) has been an effective tool in the Northern Territory for ensuring that chronic solvent users who are at risk of severe harm undergo suitable treatment at appropriate facilities.



## **RECOMMENDATION No. 1**

**I RECOMMEND THAT THE STATE GOVERNMENT CONSIDER IMPLEMENTING LEGISLATION SIMILAR TO THE VOLATILE SUBSTANCE PREVENTION ACT 2005 (NT) WHICH WOULD ENABLE THE MAKING OF TREATMENT ORDERS SPECIFYING TREATMENT PROGRAMS AND THE FACILITY OR PLACE WHERE THE TREATMENT PROGRAMS ARE TO BE PROVIDED FOR VOLATILE SUBSTANCE ABUSERS AT RISK OF SEVERE HARM.**

The case of the deceased also highlighted the fact that there are no suitable residential rehabilitation centres in Western Australia which are available throughout the year for young Aboriginal people who sniff volatile substances or who suffer from other forms of drug addiction. In particular there is no culturally appropriate centre which can provide the service in “country”.

Clearly without facilities a legislative provision such as suggested in Recommendation 1 would have less practical benefit. At this stage the number of people sniffing petrol in Western Australia is not great, but it is clearly significant. One option would be that use could be made of the capacity in the Northern Territory to allow for mandated clients to be afforded treatment. While the manager of the Ilpurla Rehabilitation Outstation has indicated that he is prepared



for his service to provide support if funding was made available to support placements, such a solution could only be of short term benefit.

Kenneth Thomas, Director Remote Service delivery for the Department of Indigenous Affairs, advised the court that the department is alert to this issue.

One organisation which has been particularly active in maximising diversions from the justice system and addressing problems such as petrol sniffing and alcohol abuse is the Kimberley Aboriginal Law and Cultural Centre (KALACC) located in Fitzroy Crossing. KALACC has been involved in a successful diversionary program for indigenous youth known as the Yiriman Project.

Yiriman has the objectives of immersing young people in a cultural framework and building community relationships and capacity. The Yiriman program involves indigenous elders working with youth, it is culturally based and community owned. Its prime means of engaging with youth is through intensive “cultural camps” in the bush.

KALACC is in the process of presenting a case to government for funding in order to extend the Yiriman program to address this issue directly.



While the Department of Indigenous Affairs has been supportive of KALACC in this regard, according to Mr Thomas, KALACC still faces problems associated with compliance with strict Treasury Department guidelines which require a tendering procurement process involving presentation of a business case and a competitive tender process in order to obtain funding.

While there clearly needs to be close supervision of any government funding, it also needs to be recognised that there are a limited number of organisations which are able to engage with indigenous elders in Aboriginal communities in order to provide such culturally based, community owned programs.



## **RECOMMENDATION No. 2**

**I RECOMMEND THAT THE STATE GOVERNMENT CONSIDER FUNDING, OR AT LEAST WORKING WITH ABORIGINAL ORGANISATIONS SUCH AS KALACC, TO PROVIDE CULTURALLY BASED SOLUTIONS THAT ADDRESS THE ISSUES OF SUBSTANCE ABUSE AND YOUTH JUSTICE DIVERSIONARY SCHEMES.**

**I FURTHER RECOMMEND THAT CONSIDERATION BE GIVEN TO RELAXING THE TENDERING PROCUREMENT PROCESS IN APPROPRIATE CASES IN RECOGNITION OF THE FACT THAT THE ORGANISATIONS WHICH ARE CAPABLE OF PROVIDING SUCH SERVICES ARE VERY LIMITED IN NUMBER.**

## **TRUANCY AND LOW EDUCATION LEVELS**

It was a striking feature of the background of each of the five young men the subject of the inquest that the level of education achieved was extremely low. It was also obvious from the files relating to four of them that truancy was a major factor in the low level of education achieved.

The extent of the truancy by these four deceased persons was very important in this context for at least the following reasons –



- ✚ increasing truancy was an early indicator that their lives were taking a negative turn;
- ✚ poor results clearly impacted adversely on self worth and confidence and increased personal vulnerability;
- ✚ low education levels dramatically reduced any prospect of worthwhile long term employment, again increasing personal vulnerability; and
- ✚ non-attendance at school contributed to an environment where life skills necessary for most gainful employment would not be achieved.

It would appear that the very low attendance rates of the deceased persons, particularly the four in respect of whom the Catholic Education Office of Western Australia had available files, was not exceptional in Balgo. The Catholic Education Office of Western Australia (CEOWA) advised the court that for the Luurnpa Catholic School the non-attendance rate for years 2007 to 2010 was 49.4%, 49.3%, 32.6% and 43%. While there may be reasons for non-attendance apart from truancy, in the cases of the deceased persons, whose educational histories were examined, truancy was clearly the major contributor for non-attendance.

In a letter dated 25 May 2011 the Minister for Education, Dr Elizabeth Constable MLA, advised that significant funding has been applied to the Luurnpa



Catholic School, 76% of which comes from the Commonwealth Government and 20% from the State Government. The extent of funding for the school described by the Minister for Education appears to be substantial and the problems with truancy do not appear to relate to under resourcing.

Mary Retel, who was nominated by the CEOWA to give evidence in relation to this issue, advised that the Luurnpa School was one of the two worst schools in Western Australia for attendance and had been targeted for special attention.

No school in the metropolitan area has similar low attendance rates of pupils.

Ms Retel advised that the CEOWA had reviewed the situation and judged its own performance “harshly”.

She described a recent concerted program aimed at improving attendance rates as well as imparting life skills so as to equip children for a future which could take them out of the poverty and despair which is so obviously a factor in suicide.



Balgo is not serviced by the Department of Education. In 1984, at the request of the community, the Luurnpa Catholic School, run by Brothers of the De La Salle Order, replaced the government school in providing education to the community. The Department of Education Services is the WA government department responsible for the regulation of non-government schools in the state and works closely with the CEOWA.

The situation in respect of education in Balgo, however, is not as bleak as the non-attendance rate of students alone would suggest. Importantly evidence at the inquest revealed that this year it is expected that 12 students who have come from Balgo are expected to graduate from Year 12 at La Salle College in Perth. An arrangement has been entered into providing for enrolment of students from Luurnpa at La Salle College and the program appears to have been extremely successful.

This will be the first year in the history of Balgo that a student coming from the community will have completed Year 12 schooling. This achievement will offer new hope to young people in the community and will provide an example of the opportunities which education can provide.



Unfortunately there are still many students who are not attending school and, like the deceased persons, are being left behind the greater community.

Anecdotal evidence from a number of witnesses at the inquest, including Mr Mandijarra (the acting Chairman of the Wirrimanu Corporation) and Sergeant Warburton and Sergeant James Reid of Balgo Police, was to the effect that a system in place which required 80% of school children to attend school prior to the community shop opening had been successful in considerably improving attendance rates. This proposal importantly had the support of the community and proved successful (although the statistics provided by the school still indicate low attendance levels).

This example demonstrates how a simple practical step can change school attendance rates.

Actions of this type, however, on their own do not appear to be sufficient to ensure reasonable levels of school attendance.

Evidence at the inquest was to the effect that the Department of Child Protection does not factor in school attendance in determining whether or how the Child Protection Income Management Program is to be



implemented. While I accept the evidence of Ms Retel that coercive measures are not likely to be effective as a general approach in this context, I do consider that there is merit in factoring in school attendance in determining whether the Child Protection Income Management Program should be applied in a particular case.

### **RECOMMENDATION No. 3**

**I RECOMMEND THAT THE DEPARTMENT OF CHILD PROTECTION CONSIDER INCLUDING AS A FACTOR IN DETERMINING WHETHER THE CHILD PROTECTION INCOME MANAGEMENT PROGRAM SHOULD BE IMPLEMENTED FOR PARENTS OR GUARDIANS OF CHILDREN OF SCHOOL AGE THE QUESTION WHETHER THOSE CHILDREN ARE ATTENDING SCHOOL AS PART OF THE OVERALL ASSESSMENT OF THE CHILD CARE BEING PROVIDED.**

While accepting that coercion should be a measure of last resort, the fact that repeated non-attendance at school will result in children concerned having very limited future prospects should give rise to consideration being given in some cases to using coercive powers already provided for by Parliament in the *Parental Support and Responsibility Act 2008* and the *School Education Act 1999*.



The evidence at the inquest revealed that these powers do not appear to have been used in Balgo in spite of the extremely high school non-attendance levels.

Balgo Aboriginal Community is far from homogeneous.

The Katjunka region in which it is located is the traditional country of the Walmadgeri, Djarn, Ggadja and Ngadi Peoples. The Balgo area has always comprised a mix of language groups including that of the Walmadjeri traditional owners as well as of people from the neighbouring Ngarti and Kuktja regions as well as Pintupi desert people from the deeper south<sup>1</sup>.

In this context it is not surprising that some positive enforcement measures have been successful with some families in the community but have had little or no success with other families. It is clear that the School Education Act requires all school aged children to regularly attend school or otherwise participate in educational programs<sup>2</sup>. In Balgo and, it appears, other Aboriginal communities this is not happening. The result is that many Aboriginal persons, like the deceased, are forever disadvantaged.

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<sup>1</sup> See Record of Investigation into the deaths of Owen James Gimme and Mervyn Milner delivered on 12 August 2004

<sup>2</sup> See s.23 School Education Act 1999



While it is accepted that fining parents or guardians might achieve little in some cases, the relevant available legislative framework is not so limited as to require this response and the possibility exists for courts to make responsible parenting orders requiring, for example, the parent to attend parenting guidance counselling or a parenting support group or any other relevant personal development course or group<sup>3</sup>.

#### **RECOMMENDATION No. 4**

**I RECOMMEND THAT IN CASES OF REPEATED NON-ATTENDANCE AT SCHOOL BY CHILDREN OF COMPULSORY SCHOOL AGE RESORT SHOULD BE HAD TO THE POWERS CONTAINED IN THE SCHOOL EDUCATION ACT 1999 AND THE PARENTAL SUPPORT AND RESPONSIBILITY ACT 2008.**

In respect to Balgo this will involve the Catholic Education Office of Western Australia, the Department of Education and the Department of Child Protection working together in order to increase compliance with the *School Education Act 1999* and, where appropriate, ensuring that responsible parenting agreements are entered into and responsible parenting orders are made pursuant to the *Parental Support and Responsibility Act 2008*.



<sup>3</sup> See s.14 Parental Support and Responsibility Act 2008

## MENTAL HEALTH ISSUES

It is clear that two of the young deceased men had significant mental health issues. Lloyd Milner and Liam Tchooga had considerable interaction with the Kimberley Mental Health and Drug Service.

It has long been recognised that mental health issues are a risk factor for suicide and self-destructive behaviour and in these cases the mental health issues were of significance.

In Mr Tchooga's case, although no diagnosis of a mental illness was ever made, there was considerable speculation as to whether he may have suffered from post traumatic distress disorder and it is obvious that as a result of his petrol sniffing he suffered from significant mental problems.

Mr Tchooga's behaviour on many occasions caused concern that he was at risk of self-harm and was engaging in potentially self destructive behaviour.

He was admitted under the *Mental Health Act 1996* as an involuntary patient on two occasions, once to Broome Hospital (on 30 August 2009) and once to Bentley Adolescent Inpatient Unit (from 3 December 2009 to 11 December 2009).



Lloyd Milner had an extensive history of mental health problems and he was initially diagnosed as suffering from drug induced psychosis. By August 2008 he appeared psychotic and was responding to auditory hallucinations.

It is significant to note that his mental health records reveal that on 30 August 2008 he was admitted as an involuntary patient under the Mental Health Act to Graylands Hospital by way of Derby Hospital with the assistance of the Royal Flying Doctor Service. He was discharged back to the Balgo Community on 20 September 2008.

The Graylands Hospital Discharge Summary reveals that communication was restricted to him repeatedly asking to go home. He appeared to be distracted by hallucinations and had difficulties following questions.

Mr Milner continued to suffer from mental health problems and was being regularly reviewed by Registered Mental Health Nurse, Mr Moke, who saw him on six weekly outreach trips from Derby.

Unfortunately towards the end of 2008 the Kimberley Mental Health and Drug Service Management Group decided to reconfigure servicing of the Balgo area which



involved ceasing Mr Moke's outreach trips and switching responsibility to the Kununurra Clinic. The Kununurra team was scheduled to visit Balgo on 31 April 2009 and the deceased died on 23 April 2009.

It is clear that the Kimberley Mental Health and Drug Service faces very considerable practical difficulties in attempting to provide a comprehensive mental health service to Aboriginal communities throughout the Kimberley, including the Balgo Aboriginal Community.

The failure to provide a contact for Mr Milner in the last period of his life resulted, in part, from a response to an ongoing increase in suicides in that Kutjungka Region and a view that the region would be better served from Kununurra. It was in that context that the gap in service appears to have occurred.

Significant improvements have been effected since the death<sup>4</sup>.

These changes include provision of Medical Specialist Outreach Assistance Program funding for adult psychiatric care, funding for adult psychiatrist quarterly visits (from July 2009) and funding which has allowed two Child and Adolescent Mental Health Service psychiatrist visits to the



<sup>4</sup>see statement of Dr Murray Chapman, Clinical Director of the Kimberley Mental Health and Drug Service

Kutjungka region. In addition some funding has been made available from the mandatory reporting of child sexual abuse funding to offer for the first time Community Mental Health professional visits to the Kutjungka region.

Mr Chapman advised the court that there are advanced plans for the roll out of state funding for the Aboriginal Mental Health Service in the Kimberley. Recently there has been an agreement between the relevant organisations for funding of two mental health workers (one professional and one trainee) who will be funded from the program and based in Balgo.

Of great assistance in the provision of psychiatric care for mental health patients throughout the Kimberley is the fact that government is in the process of building an Acute Psychiatric Unit at the Broome Hospital. This unit is intended to be an authorised facility providing 14 beds comprising 11 low dependency beds and 2 high dependency beds as well as one which can be used as either as low or high dependency.

It is intended that patients will be accepted into this unit from the Kimberley and Pilbara regions.

Unfortunately it appears that the facility is not designed with the intention of being used to provide care for children or adolescents and Bentley Adolescent Inpatient



Unit and Princess Margaret Hospital in Perth will remain the state-wide preferred facilities for such admissions. While it appears that in exceptional cases arrangements could be made for children or adolescents to be placed in the Broome facility, as a result of concern as to risk of patients, access to that facility for adolescents and children is likely to be limited.

It is unfortunate that there are not better facilities available for Aboriginal children or adolescents living in the Kimberley who suffer from mental health problems. In cases where these patients must be transferred to the Bentley Unit or Princess Margaret Hospital, that involves lengthy and distressing air flights, particularly for patients who have to be restrained during travel, and considerable allocation of resources on the part of both the Royal Flying Doctor Service and WA Police. For many of these patients like Mr Milner, who when he was transferred to Graylands Hospital repeatedly asked to go home, the whole experience is likely to be counter productive of successful mental health treatment.

While it may be difficult and expensive to provide a secure location for young acutely ill mental health patients in the Kimberley this is an important issue which should be addressed.



**RECOMMENDATION No. 5**

**I RECOMMEND THAT THE HEALTH DEPARTMENT GIVE CONSIDERATION TO REVIEWING FACILITIES AVAILABLE FOR ADOLESCENTS AND CHILDREN SUFFERING FROM MENTAL HEALTH PROBLEMS IN THE KIMBERLEY WITH A VIEW TO PROVISION OF FACILITIES FOR SECURE ADMISSION SO THAT THESE PERSONS CAN BE TREATED AS INVOLUNTARY PATIENTS IN THE KIMBERLEY.**

A N HOPE  
STATE CORONER  
21 October 2011

