

CITATION: *Inquest into the death of Clifton Wayne Pamkal*
[2009] NTMC 046

TITLE OF COURT: Coroner's Court

JURISDICTION: Katherine

FILE NO(s): 169/08

DELIVERED ON: 19 October 2009

DELIVERED AT: Bulman Community, Northern Territory

HEARING DATE(s): 24 March 2009 at the Darwin
Magistrates Court
15 June 2009 in the community of
Bulman
16- 18 June 2009 at the Katherine Court
House

FINDING OF: Mr Greg Cavanagh SM

CATCHWORDS:

Death in custody, escapee, Police
search, suicide.

REPRESENTATION:

Counsel:

Assisting:	Dr Celia Kemp
Family of the deceased:	Mr Patrick McIntyre
Northern Territory Police:	Mr Anthony Young
Department of Health and Families	Mr Kelvin Currie

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IN THE CORONERS COURT
AT KATHERINE IN THE NORTHERN
TERRITORY OF AUSTRALIA

No. 169/08

In the matter of an Inquest into the death of

**CLIFTON WAYNE PAMKAL
ON 22 AUGUST 2008
AT BUSHLAND NEAR THE BODEIDEI
SAFARI CAMP**

FINDINGS

(Delivered)

Mr Greg Cavanagh SM:

INTRODUCTION

1. This was a tragic inquest about the untimely death of a young man who was full of talent and promise and highly regarded by those who knew him. I will call him 'the young man' throughout these findings to accord with his family's request that I do not use his name.
2. The young man had commenced a relationship with a 15 year old girl in the second half of 2007. The young man was born on 22 January 1986 in Katherine and he was 21 years old when this relationship commenced and 22 years old when he died. I have issued a non-publication order on the 15 year old girl's name because she was a child when these events occurred and I will refer to her as 'the young woman' throughout these findings. This relationship had resulted in stress on multiple fronts for the young man. There were family and community issues about the relationship and there were issues between him and the young girl. The matter came to the attention of police in early 2008 and an investigation was commenced. The young man was charged with sexual offences and subsequently there was a committal hearing in Katherine at which a magistrate found sufficient evidence to commit the young man to face trial in the

Supreme Court in Darwin. The young man was bailed both after his arrest and after the committal with conditions designed to ensure that he avoid the young girl. The impending Supreme Court case and the bail conditions were additional sources of stress for the young man.

3. The day before his death the young man made some threats in the presence of a health worker. The health worker went to police, it was discovered that the young man was living near the young woman and he was arrested on breach of bail in the afternoon. He escaped less than an hour after being placed in police cells. He was found dead the next morning in bushland with a shotgun wound to the head and a shotgun at his feet. After careful consideration of all the evidence I have found that this young man took his own life in the context of great stress.

4. I consider that this is a death in custody under the definition in the *Coroner's Act* as it occurred in the process of the young man escaping from custody (s 12 *Coroner's Act*). An inquest is thus mandatory.

5. This matter was investigated as a death in custody by Detective Sergeant Isobel Cummins. She has conducted a detailed investigation on my behalf, interviewing a very large number of people and collecting police, medical and other records and those form the large brief of evidence before me. I want to particularly thank Detective Sergeant Cummins for her very thorough investigation and her extremely efficient assistance provided throughout the inquest process. I note that I have made an order that the two additional folders of material (the investigation file in relation to the charges against the young man, and a volume containing his complete police records) that were distributed to parties for the purposes of preparation for the inquest were to remain confidential to the barristers and their instructing solicitors, although they could take instructions from their clients as required on material contained within, and not to be released to anyone else. They either to be returned to my office or destroyed at the end of the inquest.

6. The young man's family went to a considerable effort to participate in the inquest process, including travelling to Darwin in March to hear the evidence of the police officers, and attending the inquest in Weemol and Katherine. They also met with my Counsel Assisting in Weemol as part of the preparation for the inquest. I have received detailed written final submissions on their behalf. I am aware that some of the evidence they heard was distressing to them and I thank them very much for their participation in the process. I have carefully considered their submissions, the evidence they gave through their lawyer and the evidence of Maggie Takumba in court. I ask the lawyers for the family to have my findings translated (where necessary) and have them fully explained. I have organised to deliver my findings at Bulman with the aid of an interpreter but I fear there may still be misunderstanding.

7. Senior Constables Voetterl and Horgan were key witnesses and were going to be overseas on the June dates. I considered it important to hear their evidence in person and therefore commenced the inquest for one day in Darwin in March. I then formally opened the inquest in Bulman on Monday 15 June at the request of the family, to give community members a chance to attend a part of the inquest. There are no court facilities at Bulman and thus I could not hold the whole inquest there, and the next three days were held in Katherine. On the Tuesday 16 June I heard evidence from Ronnie Martin, Philip Ashley Jnr, Philip Ashley Snr, Wandrick Redfoot, John Dalywater, Paul Miller, Maggie Takumba and Francois Giner. On Wednesday 17 June I heard from Senior Sergeant Steven Hayworth, Constable (1C) Kellie Loughman, Federal Agent Rob Ball, Mr Barry Watts, Mr James Jeffrey and Senior Constable Gino Rob. On Thursday 18 June I heard from Dr Terry Sinton (by video link), Constable Timothy Kingston, Constable Nathan Chalmers, and Assistant Commissioner Mark McAdie.

8. Pursuant to section 34 of the *Coroners Act*, I am required to make the following findings:

“(1) A coroner investigating –

(a) a death shall, if possible, find –

- (i) the identity of the deceased person;
- (ii) the time and place of death;
- (iii) the cause of death;
- (iv) the particulars needed to register the death under the Births, Deaths and Marriages Registration Act;

9. Section 34(2) of the Act operates to extend my function as follows:

“A Coroner may comment on a matter, including public health or safety or the administration of justice, connected with the death or disaster being investigated.”

10. Additionally, I may make recommendations pursuant to section 35(1), (2) & (3):

“(1) A coroner may report to the Attorney-General on a death or disaster investigated by the coroner.

(2) A coroner may make recommendations to the Attorney-General on a matter, including public health or safety or the administration of justice connected with a death or disaster investigated by the coroner.

(3) A coroner shall report to the Commissioner of Police and Director of Public Prosecutions appointed under the Director of Public Prosecutions Act if the coroner believes that a crime may have been committed in connection with a death or disaster investigated by the coroner.”

11. Furthermore, in relation to deaths in custody Section 26 of the *Coroners Act* provides:

“(1) Where a coroner holds an inquest into the death of a person held in custody or caused or contributed to by injuries sustained while being held in custody, the coroner –

(a) shall investigate and report on the care, supervision and treatment of the person while being held in custody or caused or contributed to by injuries sustained while being held in custody; and

(b) may investigate and report on a matter connected with public health or safety or the administration of justice that is relevant to the death.

(2) A coroner who holds an inquest into the death of a person held in custody or caused or contributed to by injuries sustained while being held in custody shall make such recommendations with respect to the prevention of future deaths in similar circumstances as the coroner considers to be relevant.”

12. There were some issues that I determined at an early stage were not within my jurisdiction. These were:

- the appropriateness of legislation in relation to child sexual offences.
- the appropriateness of the decision to investigate the young man and to charge him with offences.

I did not hear evidence in relation to these issues and I do not make any findings on them.

The background and character of the young man

13. The young man was born at the Katherine Hospital. He grew up in Barunga and Weemol. His mother’s family live in the Katherine region and his father’s family live in Darwin. He went to school at Barunga and Bulman and then completed up to Year 11 at St John’s College in Darwin. He loved catching

Buffalo, and had worked for a number of years for Markus Rathsmann who runs the Gulin Gulin Buffalo Company in Bulman. In the months preceding his death he worked as a tour guide for Francois Giner at the Bodeidei Dreamtime Safari Camp.

14. The young man's family told me that he was a happy boy. He knew people in Bulman, Beswick, Barunga, Mineroo Station, Katherine and Darwin and had 'smiles all the time' for people in all of those places. He was a very talented Australian Rule football player and had played for the Barunga Arnhem Crows, the Nightcliff Football Club, Bulman Central Arnhem and the Katherine Canons. He loved fishing and spending time out at the family outstations. He spoke English, Kriol and Dalabon.

15. His mother says *My son was a good boy. He respected his culture, his family, his community and our ways. He was good at footy and would travel from Weemol to Barunga, Beswick and Darwin to play footy. My son would teach the Young Boys footy and help everyone in our community. He would visit his nana's, help them out with money and make tea for them. He would sit and talk with everyone and he had a great smile. One day my son would lead our community jugaya way. He was a good worker, had his own money so he did not humbug anyone and he would work buffalo catching and with tourists telling cultural and traditional stories. My son had really good bush skill.*

16. He was the sort of young man who made an impression on everyone he met. He was kind and provided support to family and friends. Markus Rathsmann says that he had more enthusiasm than his peers and that he worked hard and showed interest and enthusiasm for his work.

17. His death has greatly affected the community. His mother told me she visits the cemetery every day, he was her only son and she has lost her only son. His family miss hearing his laugh. It is clear that he is still deeply missed by those who knew him.

The History of police at Bulman

18. Bulman is a community of about 150-200 people in the wet season and 200-300 people in the dry season. These numbers include people living in the outstations around the region and those living in the smaller community of Weemol which is 3 km away from Bulman. Bulman is located 312 km north east of Katherine. The young man and the young woman were living at Weemol when the young man died.

19. Bulman received a new police station as part of the Northern Territory National Emergency Response, which is more commonly known as ‘the Intervention’. Part of the Intervention was ‘Operation THEMIS’; the deployment of AFP and interstate police working in remote communities with the Northern Territory Police. Prior to Operation THEMIS there was little or no permanent police presence along the Central Arnhem Highway between Maranboy and Nhulunbuy. Since Operation THEMIS commenced a permanent police presence has been established along the Central Arnhem Highway at the communities of Bulman, Ramingining and Gapuwiyak.

20. In November 2007 a police station was set up at Bulman which consisted of temporary modified shipping containers and the use of an existing council building. The modified shipping container cells did not become fully operational until 23 June 2008. The NT Custody Manual contained detailed provisions that applied to the cells but there were no local standard operating procedures in place for the cells at the time of this death.

21. Bulman police station was staffed by 3 police; a Northern Territory police officer who was the Officer in Charge and given the temporary rank of Brevet Sergeant and two officers who were either interstate or Australian Federal Police [AFP] members.

22. The first rotation consisted of Ryan Watkinson, as Officer in Charge [OIC], and two Senior Constables. In May 2008 Ryan Watkinson was replaced as OIC by Tara Gray. She went to a course from 22 July to 1 August 2008 and was

relieved by Dave Beganey. She returned and was replaced as OIC by Malcolm Marshall on 9 August 2008. Senior Constables Kellie Loughman and Anthony Myers took over from the previous Senior Constables in early February 2008. They stayed until 28 July 2008. They were replaced by Senior Constables Julie Horgan and Mark Voetterl on that date. There was no verbal handover between the Senior Constables; the same plane that dropped the new members off took the old ones back. There was, however, a handover between Officers in Charge when they changed over and I have a copy of one of the documents produced for such a handover. It does not mention the charges in relation to the young man. The Senior Constables were given information about the community by the Officer in Charge.

23. At the time of the young man's death the Officer in Charge was Brevet Sergeant Malcolm Marshall and the two other police officers were both AFP police who had been sworn in as Northern Territory police officers; Senior Constables Horgan and Voetterl. Senior Constable Voetterl had been a member of the NSW Police since 1991 and worked in a variety of jobs, rising to the rank of Detective Sergeant. In March 2008 he joined the International Deployment Group as part of the Australian Federal Police. Senior Constable Horgan had worked for the Queensland Police Service, as an investigator with the Queensland Department of Natural Resources and Water and in February 2008 had joined the International Deployment Group as part of the Australian Federal Police. The two senior constables joined the Northern Territory police force as special constables, underwent three weeks of training at the police college in Darwin and were deployed to Bulman on 28 July 2008.

24. The police in early 2009 were 'first contact police' and their role was to develop good relationships with the community so the community would feel comfortable with a police presence. Senior Constables Loughman and Myers became very involved in community activities and were successful in becoming a valued part of the community, and gaining community support and acceptance for the police station. I was impressed by the efforts made by the first contact

police and consider they achieved the aim of developing good relationships with the community. I note also that during their time in Bulman the Child Abuse Taskforce came out and held community meetings and explanations were given in relation to the ‘white man’s law’ on underage sex.

The Bodeidei Safari Camp

25. The young man had started working at the Bodeidei Camp. The Camp was opened in 1992 and is owned by Mr Francois Giner, a French man who operates a tourist venture called ‘Dreamtime Safari in Central Arnhem Land’. It is seasonal, running from March through to September, and consists of eight tents where French tourists come for access to country, local traditional owners, cultural tours, hunting and safari tours. It is located 12.29 km from Weemol by road and 9.72 km away by the most direct route by foot.

The young man’s relationship situation

26. The young man commenced a relationship with the young woman. There is a variance in the evidence about when it started but the bulk of the evidence suggests that the relationship commenced in around September 2007. The young woman had turned 15 years of age on 31 August 2007.

27. Whether the two should have been in a relationship has become a source of significant dispute between the families, and in the community, and this dispute seems to have extended to whether the relationship was rightly characterised as promised or not. The evidence is that many considered the relationship to be a ‘promised’ one but that some did not. The young man and the young girl seem to both have considered it a promised relationship. The mother of the deceased insists that her son was not “promised” to the young woman and was warned by his family to keep away from her. This is not a matter that I can fully resolve on the evidence before me, nor does it need to be resolved for me to make the required findings in this case.

28. The evidence in the coronial brief of evidence from the young woman and some other young girls interviewed is that the older community members determine who is promised and arrange it and then the two people need to be together or there will be trouble. There is some say by the young girl as to when the relationship becomes sexual. There is evidence that in this case a sexual relationship commenced in around September 2007 and continued into 2008. The two told others that they were in love with each other. However in early 2008 the young woman's family, who had previously approved of the relationship, withdrew their approval, they wanted her to go away to high school and said the relationship could start again once she had finished high school. This caused significant tension between the families.

29. The young man and the young woman were in love but they were also troubled. They both had incidents where they attempted to hurt themselves in 2008, and were taken for mental health intervention. It is important to note that these self-harm incidents started before there was any police involvement in their relationship. The young man and the young woman also both had pressures drawing them away from Weemol, and so each other. His football took him away from Weemol. Her schooling took her away from Weemol.

30. In February 2008 NT Family and Children's Services (FACS) received a notification in relation to the relationship. They referred this to police and the police Child Abuse Taskforce started investigating allegations that the young woman was having a sexual relationship with the young man. It is a crime against the law in the Northern Territory for an adult to have sex with a child under 16.

31. In March 2008 things escalated for the young man and the young woman. The young man talked to Barry Watts, the Clinical Nurse Manager at Bulman, about the relationship and he and Mr Watts both came into the police station and discussed the law and the relationship (in general terms) with the police.

32. In mid-March the young woman was formally interviewed by police and she said she had had sex on two occasions with the young man. At the end of March the young woman told Senior Constable Loughman that she was in a sexual relationship with Clifton and had had sex very recently with him. She said she knew she shouldn't but she loved him. She said if people kept shouting at her (in relation to the young man but also another unrelated matter that was causing her concern) she would kill herself. The young woman was admitted to the psychiatric ward at the Royal Darwin Hospital. A second interview was conducted while she was in Darwin and she said she had had sex on a third occasion with the young man.

33. A search warrant was executed on the young man's premises on 24 March 2008. At this time he told Senior Constable Myers that he had had sex with the young woman and gave some details about what had occurred.

34. At the start of April the young man was formally interviewed by police and in a long interview made partial admissions about having sex with the young woman. The young man's family have asked me to make findings about the conduct of this interview. I do not consider the conduct of this interview has a causal connection to the death, and consider it is too remote from the death for it to be a relevant matter for consideration for this inquest. I therefore decline to make any further comment in relation to it.

35. The young man was charged with one count of maintaining a sexual relationship with a child under 16 and three counts of having sexual intercourse with a child. The onus was against bail but police wanted him to get bail so he could go back to his normal life and consented to bail for him.

36. I find on all the evidence that the young man had a good relationship with police and that the police did much to help him avoid the young woman and to help him in his upcoming court case. At one point police drove him to a remote outstation which he was bailed to be at, and police helped him find employment. He came in to talk to them often, and they were aware that he was very anxious

about the court proceedings, and he was particularly anxious at the prospect of being locked up and going to jail. Police also spent considerable time assisting the young woman.

37. The young woman was interviewed again in May and told police further details about one of the occasions she had previously described. She said she was not currently having sex with the young man.

38. The matter proceeded through the courts. There was a committal hearing in July 2008 in Katherine and the young man was represented by a lawyer from the North Australian Aboriginal Justice Agency (NAAJA). The matter was committed to the Supreme Court and the young man signed the following bail conditions:

1. Not enter Bulman except for purposes associated with his employment.
2. The defendant is not to approach or remain anywhere the young woman is living, residing or visiting or located.
3. The defendant is not to contact directly or indirectly the young woman.

39. The young man's family have asked me to find, and I do so find, that the young man was allowed to be in Bulman for the purposes of work.

40. The evidence is that the court matters were likely to resolve into a plea to one count of sexual intercourse with a child under 16 years and that the police and the prosecutor were not seeking a jail sentence and that the young man was told this.

41. The young woman went away to school, but came home again in June. The young man went to Katherine to play football but came home again in early August. I was told that they both came back together from Katherine.

42. There is evidence that there were some jealousy issues between the young woman and the young man which resulted in arguments between them at this time, including over whether the young man should go away to Katherine or not as the young woman worried about an ex-girlfriend there and about him looking at other girls.

The young man and the young woman's mental health

43. The first half of 2008 was a very stressful time for the young man, and for the young woman, and both of them had interactions with mental health services. Sunrise Health Service runs the Bulman Health Clinic which services Bulman and Weemol. Mr Barry Watts was employed there as the Clinical Nurse Manager. He is a registered psychiatric nurse. Katherine Community Mental Health Service provides a visiting service. Mr James Jeffrey was a Community Mental Health Care Nurse employed with that service.

44. The young man first threatened self harm in January 2008 and both police and the clinic became involved. He said he had a lot of worries but that he didn't intend to hurt himself. In February 2008 the young man's family called the local nurse as he was threatening to hang himself. He told Barry Watts that he was anxious about his girlfriend staying away overnight but had no intent to hurt himself. Barry Watts formed an opinion that the threats were not genuine.

45. There is evidence from community members that the young man took a gun, locked himself in a house and tried to shoot himself in February 2008. A friend broke the door down and went inside and grabbed the gun, it didn't have bullets. This wasn't reported to police or health services at the time, although the young man told Mr Jeffrey about it in March 2008.

46. The young man first talked to police about his relationship in early March 2008 as described above. Later the same day he took an overdose of his mother's medications and told family he had done it soon afterwards. He told the clinic nurse he had done this because he felt depressed and was having relationship

problems, family problems and police problems. He was taken to the Katherine Hospital and spent a few days there. He told Mr Jeffrey, who saw him at Katherine, that he was thinking of staying away from the young woman but was afraid he would lose her and that he was very aware of the consequences of continuing the relationship with someone underage. He was worried that the police from Darwin would arrest him. He was discharged with community mental health follow up. He was seen at intervals after this time. There was no repeat threat of self harm or attempt at suicide.

47. I heard evidence from both Mr Jeffrey and Mr Watts that neither considered that the young man had a mental illness. Mr Watts did not consider that his threats of suicide were serious. Mr Jeffrey gave evidence that when he assessed the young man in March he could not find any evidence of a mental illness and he formed the opinion that he was *agitated and disturbed by the events of the court matters that he was going through*.

48. There is also evidence from those who knew the young man that he was stressed out in the months leading up to his death.

49. The young woman also had a history of threatening self harm. A very close friend from Weemol committed suicide in 2007. In January 2008 she was found lying beside Weemol Springs with an extension cord around her neck after an argument with a family member. There were no marks on her neck or other injuries. She was seen at the clinic by a nurse, and the next day by a doctor. Issues included family issues unconnected to the young man, ongoing arguments with family about the young man and grief about her friend. She received mental health care in Katherine and was placed on an anti-depressant.

50. She saw a psychiatrist on 12 March 2008. At that time she was fighting with her father who wanted her to finish her education before living with the young man.

51. On 24 March 2008 she was transferred for psychiatric treatment in the Royal Darwin Hospital because she was openly talking about killing herself and had a clear plan. Issues documented included feeling unsafe in relation to a matter unconnected to the young man, as well as family conflict over the young man. She spent four days in the Cowdy ward and was discharged to Bulman. Her discharge summary says the community in Bulman had organised for the young man to move to a different community.

Events in the lead up to the young man's death

52. I turn now to the tragic events of 20, 21 and 22 August 2008. On Wednesday 20 August 2008 Mr James Jeffrey visited Weemol community to visit the young man, and another client. Mr Jeffrey had seen the young man previously when he spent time in Katherine Hospital after his overdose. The purpose of the visit was to assess the young man's mental well being and coping devices in relation to the upcoming court matters.

53. The young man told Mr Jeffrey he wanted to see him the next day, to tell him a secret. As a result on Thursday 21 August 2008 Mr Jeffrey went to the young man's house at about 9:40 am. The young man was perplexed and preoccupied with the court case saying 'It's a nightmare. I have had it up to here'. He started to say that he shouldn't have told people. He said 'I hate Barry, Barry set me up' (Barry refers to Mr Barry Watts). He said he should have bashed a previous nurse at the clinic. Mr Jeffrey and the young man moved outside. The young man picked up a kitchen knife and threw it at a tree. He told Mr Jeffrey he had been down to the creek and made a petrol bomb. He said at one point 'I hate Barry. I am going to stab him'. He also said 'maybe you see me, maybe you won't on the next visit'. He mentioned a secret again.

54. In final submissions submitted by lawyers for the family of the deceased, I am asked to not accept the evidence of Mr Jeffrey. However, I do accept his evidence and note that the family's lawyer did not challenge his evidence when he could have done so.

55. Understandably, Mr Jeffrey was very concerned, when he left he went to the clinic and told Barry Watts and the two of them went to talk to the police. Mr Jeffrey gave evidence that he was concerned for the safety of others, and that it was not common for him to go to police in relation to something a client had said, it was something he had done in the order of a dozen times in 30 years. The Officer in Charge, Mal Marshall, was away for a couple of days to give evidence in court in Groote Eyelandt, where he had previously worked. Mr Jeffrey and Mr Watts met with Senior Constables Voetterl and Horgan and described what had happened. Senior Constables Voetterl and Horgan asked about whether there were grounds to have the young man involuntarily admitted and treated and Mr Jeffrey and Mr Watts said that there were not; that is in their opinion the young man did not have a ‘mental illness’ or a ‘mental disturbance’ as defined in the *Mental Health and Related Services Act*.

56. Senior Constables Voetterl and Horgan did not know the young man. Senior Constable Horgan happened to have had dealing with the young woman’s family the day before and that morning, and so she was aware that the young woman was living in Weemol. The officers asked for the bail conditions to be faxed through to confirm what they were. They sought advice from senior police including Senior Sergeant Kevin Paice in Katherine, Superintendent Steven Heyworth in Katherine (who was in charge of nine police stations including the Bulman Station), Rob Ball (who was the case officer from the Child Abuse Task Force in charge of the investigation) and from a civilian Summary Prosecutor. They were concerned about the threat to a witness and the advice they received was that no offence had been committed, but that a breach of bail had been committed. They decided to arrest the young man in relation to a breach of his bail condition 2 on the basis that he was living in Weemol Community where the young woman was also living. I find that this decision was appropriate and I do not criticize it.

57. In the meantime the young man had arranged to go out to the ‘Blue Water outstation with Mr Francois Giner to find buffalo in preparation for a tourist trip

the next day. Mr Giner arrived in Weemol to pick him and Philip Ashley Junior up and they left, but the young man then saw the young woman walking down the street near the Weemol Spring. He said he needed to go and talk to her and asked to be dropped off.

58. Paul Miller says that when the young man got out of Mr Giner's car he walked over to the young woman. He saw them together. He says the young man then went fishing, waiting for the young woman to turn up but she didn't turn up. The young man came back and told Paul he had been waiting too long for the young woman. Paul says the young man then he left to go for a jog to the cemetery and came back. He said something seemed wrong, he was stressed out. The two had lunch and then Paul went to have a rest.

59. The police set off to arrest the young man at about 3:30 pm. The young man was at home at Weemol, he asked to go to Maggie Takumba's house (his grandmother) first to get a shirt, which he did. He was then taken to the police station in the rear of the police van. Senior Constable Voetterl says he told him that he was under arrest, and why. He wasn't sure where Senior Constable Horgan was at that stage. The young man said that he hadn't had any contact with the young woman. Senior Constable Horgan stated that she didn't hear that conversation. Her evidence was that she had gone to the car and moved it while Senior Constable Voetterl went with the young man to his grandmother's house. I find that it is likely that the conversation took place at that time.

60. Senior Constable Voetterl gave evidence that he asked Maggie Takumba if she wanted to come to the station to be with the young man, and she said she wanted to but that she had to baby-sit. Senior Constable Horgan says she didn't hear the conversation but she saw Senior Constable Voetterl speaking to Maggie

61. Maggie Takumba states that she was home and that the young man came to her house and got a shirt, but says that she didn't talk to Senior Constable Voetterl at all. She said that she was going to go with the young man but

something occurred with a little boy inside, and that when she did go outside the police had already left.

62. I consider that Maggie Takumba was attempting to assist me honestly but that she does not have a reliable memory of events during that week, and in particular when she did or didn't speak to police. I will discuss this in more detail later. In addition the evidence is that she was in fact baby-sitting at the time. I therefore prefer Senior Constable Voetterl's evidence on this point.

63. The young man got into the back of a caged police vehicle and was taken to the Bulman police station. He was given a drink of water and a blanket, his shoes, the laces out of his pants and his cap were taken, and he was placed in the cell with the door shut at about 3:47 pm. Senior Constable Voetterl remembers the young man being quiet, and upset, during that time. Senior Constable Horgan told him that she had talked to Rob Ball and he had said the young man was highly unlikely to receive a custodial sentence. She told him he would be taken to Katherine and most likely they would arrange for him to be bailed to one of the other camps near Katherine. A VHS tape was placed in the recording equipment and Senior Constable Voetterl pressed record.

64. The video footage is part of the evidence. It shows that the young man was pacing in the cell, and at one point banged his head against the cell door. He placed toilet paper over the camera, but took it down when asked. The video footage shows that Senior Constable Voetterl visited the cell a number of times to talk to the young man. Senior Constable Voetterl says that the young man was agitated and became increasingly agitated, and he attempted to reassure him. He asked him if he wanted something to eat. It seems likely on all the evidence that the young man became agitated on being locked up in the cells, because he had a fear of being locked up and was concerned he would be locked up for many years. I consider that Senior Constable Voetterl was compassionate and attentive, and did everything he could to try to reassure and calm the young man.

65. Senior Constable Horgan stated that the plan was to transport him to Katherine as soon as possible, the site of the nearest courthouse, and they were hoping to get on the road that afternoon. She said that she was concerned about his mental health and was trying to get him to Katherine so, if necessary, he could go to the hospital or somewhere else. However before he could be taken there he had to be processed through the police system which meant they had to create an entry in IJIS (a computer system) and process him through the watch house. She was trying to do this as quickly as possible. She says they were facing a three and a half hour drive to Katherine and she was concerned about having him in custody that long. They were organising for police to meet them half way to take over transport. Similarly Senior Constable Voetterl stated that he was concerned about the young man and thought it would be best to take him to Katherine were there were considerably more people to assist. The next court sitting would have been on the Friday morning.

66. The young man asked if his grandmother could come at one point and Senior Constables Voetterl and Horgan had discussions about arranging that but there were only two of them and someone would have to go back and collect her and they were both occupied. Senior Constable Horgan was completing computer requirements in relation to processing the young man with difficulty due to the slowness of the computer and her lack of familiarity with the computer systems; she was getting help from Sergeant Mal Marshall over the phone. Senior Constable Voetterl was repeatedly visiting the cell and trying to calm the young man down.

67. At 4:26 pm Senior Constable Voetterl opened the door to give the young man a polystyrene cup of water, and the Senior Constable bent down to pick up a cup on the floor that he had previously given the young man. The young man ran out of the cell door behind Senior Constable Voetterl, out of the open door to the cell compound past Senior Constable Horgan who was on the portable phone, and jumped over a six to seven foot cyclone wire fence surrounding the police station.

68. The story splits at this point, one strand describing what the young man did, so far as I can establish on the evidence, the other describing attempts to look for him.

The movements of the young man between his escape and his death

69. The young man did not have shoes on and did not have a long sleeved top. It was a cold night. There is evidence that he went to at least four houses; one in Bulman and three in Weemol.

70. He went to House 8 in Bulman at about 8:30 pm. Peggy Martin was there, as was her father, Ronnie Martin. The young man asked for a shirt as he was cold. Peggy gave him a long sleeved green shirt. She gave him a cup of tea and some water. He stayed for about five minutes and then said he was leaving to go to Weemol. He told Ronnie that the police had told him he would be locked up for two years. He seemed frightened.

71. Rosetta and Roderick Takumba live at House 12 Weemol and they saw the young man. Rosetta was going to give him food, but he saw the night patrol vehicle and the police and went away. She says this was at about 8:30 pm.

72. At about 9 or 9:30 pm Paul Millar was at home in Weemol and heard the young man calling out from the bush at the back of Garrett Lofty and Jacinta Pamkal's house. He told Paul that he was 'in big shit brother' and asked if he could tell the night patrol to stop driving round because they were frightening him, he was frightened he would be locked up. He was scared he was going to Berrimah prison and said he didn't want to go to gaol. He told Paul that he thought he was going in for a long time. He asked for a smoke and was given one. He said he didn't know what to do. He left after a short time.

73. The young man also went to Philip Ashley Senior's House in Weemol. Philip Ashley Senior, his wife Angela, his daughter Ingrid and his son Philip Ashley Junior were all there. He had scratch marks on his shoulder. He asked for them to turn the light off so the night patrol (also called the warden) couldn't

see him. He was frightened. He said he was going to stay at the Bodeidei camp and asked Philip Ashley Junior to go down to Bodeidei camp with him but Philip Ashley Junior declined saying it was too cold. The young man had a cut on his foot. He seemed worried. He had a drink of water and a smoke, and he left on foot by himself. It seems likely that this visit occurred after midnight.

74. There is no further evidence from any witness about seeing the young man alive. The young man's body was found at 11 am the next morning 670 m from the Bodeidei camp. He was wearing a hunting jacket from the Bodeidei camp. The gun used to kill him was a shotgun that was normally stored in Mr Francois' Giner's sleeping quarters. In addition a sandwich was found with him which was made with home made bread from the camp and wrapped in glad wrap. The young man had told Philip Ashley Junior he was going to the camp. The evidence is overwhelming that he left Weemol and went to the Bodeidei Camp and at the camp he procured a shot gun, a sandwich and a hunting jacket.

75. There is no evidence as to how he got to the camp. I understand his family have concerns that someone must have driven him, however the very comprehensive police investigation has not revealed any information about this. It is possible that he was driven by persons unknown but it is also possible that he walked the 10 km direct route. He was extremely fit and very familiar with the area. The autopsy report shows that he did not receive any serious injuries when jumping the fence that would have prevented him being able to do this. I will deal with the question of what happened at the camp in further detail later.

The actions of the police and of the night patrol after the escape

76. Senior Constable Voetterl got into a police car and drove in the direction the young man had run away but couldn't see him. A few community members told him the young man had run through the bush towards the lake. He asked some community members to keep an eye out for him. He then returned to the police station. Superintendent Heyworth was informed. He asked police to ensure that Barry Watts and the young woman were told, and kept safe, and that the young

man's senior relatives and elders be used to try to locate him and persuade him to give himself up. Superintendent Hayworth sent five additional police to assist; Constable Nathan Chalmers, Constable Jason Dingle and ACPO Rocky Kennedy from Maranboy and Constable Tim Kingston and ACPO Trudy Tilley from Katherine. It took some hours for these police to arrive, when they did Constable Chalmers was the officer in charge. Superintendent Heyworth has 27 years of experience with policing in the Northern Territory, and has spent 10 years working in indigenous communities. His statement, and his evidence, set out carefully the factors he took into consideration and his decision making. He put a priority on community engagement, he carefully assessed risks, and he sent out two aboriginal police officers as part of the response. I was impressed with his careful reasoning, his consideration of the various risks, his concern for family, community members and police and the decisions he made.

77. In the meantime Senior Constable Horgan and Voetterl tried to find Barry Watts. Their evidence was that they spoke to Maggie Takumba and Paul Miller in Weemol, said they were worried about the young man, and asked for help bringing him in. Both Maggie and Paul expressed concerns about the mental health of the young man. Maggie Takumba gave evidence that police did not speak to her on this occasion. She said that on Thursday afternoon the police did not come to talk to her and Paul and that was a 'lie'. She denied telling Senior Constable Horgan that the best hope of her grandson coming back was if the community brought him in, saying 'that Julie's a liar'. I do not accept this opinion of Maggie's.

78. Senior Constable Horgan and Voetterl both gave evidence that they spoke to her and that she said she was worried that the young man had been speaking to himself. The running sheet entries document speaking to Maggie and to Paul Miller at 5:30 pm. Paul Miller remembers being spoken to.

79. In addition Maggie's evidence was not reliable in relation to who she spoke to during this period. Maggie told me that she did not see Mr Jeffrey on

Wednesday afternoon and did not talk to him about how her grandson was going, and that the suggestion that she did was a 'lie'. However when Mr Currie asked her about whether she had seen the mental health people that day she said she had, a man and a lady, and she remembered them asking where the young man was. She didn't know what the man's name was. I find that it was Mr Jeffrey.

80. I consider Maggie was doing her best to assist me, and has a particularly strong way of expressing herself about her memory in relation to what did and didn't occur. However I find that her memory is not accurate about who she spoke to and I prefer the evidence of Senior Constables Voetterl and Horgan on this point.

81. Senior Constables Voetterl and Horgan found the young woman and made arrangements for her to stay at a house in Bulman for the night. Constable Chalmers arrived at 8 pm. He spoke to Barry Watts and ensured he was safe. ACPO Kennedy stayed with the young woman. He tasked Constable Dingle to get a statement from the young woman in relation to the breach of bail. He asked the two local members to update PROMIS, this took a long time because of the slow computer system and they were still working on it at 11:30 pm. At about that time everyone stood down.

82. The night patrol starts work at around 5 pm and that night there were three members. That night it was constituted by John Dalywater, Shaun Nugget and Christopher Mondoo. They were told before the shift started that the young man had run away and to bring him back if they found him. They talked to Constable Chalmers and Constable Kingston and ACPO Tilley at different stages during the evening. They spent over two hours in Bulman and two hours in Weemol, and worked until about 2 am and didn't see the young man at all. They didn't go to Bodeidei, they just did their normal patrol around Bulman and Weemol. They spoke to a couple of families. No one said they had seen the young man.

83. John Dalywater also called Mr Giner that night to tell him about the young man and asked him to try to settle him down if he head that way. Mr Giner said

he would do that. Mr Dalywater said he thought he might go out to Bodeidei Camp but no-one had told him that that had occurred.

84. The night patrol commenced searching again at 6 am the next morning and searched all of the next day, stopping that evening when they were told by police that he had been found.

85. The police started again early the next morning with a door knock at Weemol before 6 am. There is evidence on the brief that this is a practice regularly used to try to locate offenders who are avoiding police; there is a tendency to return home at night and depart before first light. Police spoke to various people and, with permission, entered the house the young man lived in and his grandmother's house. They eventually were told that the young man had been seen, and had said he was going to Bodeidei camp. Some police were tasked with conducting enquiries into the likelihood of a petrol bomb. They were told by community members that it was unlikely.

86. Three police went to Bodeidei Camp. Mr Giner had gone out with Yoan Galeran, his colleague, on a trip to the creek area to find buffalo in anticipation of his tourists. He returned at about 8:30 am when police were at the camp. They spoke Mr Giner who said he hadn't seen the young man. Mr Giner mentioned the Blue Water outstation, 25 km away, as a possible location where the young man might be and police went there.

87. Mr Giner told police he would talk to the family and assist with looking for the young man. He went to Weemol and talked to Maggie Takumba, telling her he would find the young man, give him food and make sure he was ok, tell him to go to the police and find a solicitor for him. He then took two of his young tour guides (Philip Ashley Jnr and Adrian Ashley) and a colleague and went looking for the young man along the creek near his camp. He says the two young guides found the young man, and thought he was asleep. Mr Giner went over to him and found that he was dead, and that his shotgun was there. Mr Giner went back to

his camp and notified police, and then went back to guard the body from wildlife until police arrived.

88. Police arrived and created a crime scene. Senior Constable Gino Rob, an expert in crime scene examination, attended at the site and took the firearm back to Darwin for further testing. The young man's body was removed and taken to Darwin where an autopsy was conducted by Dr Terry Sinton. He found that the young man had died from shot gun wound to the head, and would have died straight away from the injury. He found some shallow lacerations to his chest which he says are consistent with having being sustained from jumping over a fence with barbed wire at the top.

89. Natasha Pamkal, the young man's mother, was in Darwin. She rang to find out what was happening with her son that morning. She was told police would ring her back. She was informed on the Friday night that her son was dead, after he had been formally identified.

90. Constable Kingston spent the day at Bodeidei camp. He saw a double barrel shot gun wired to some lattice work. This turned out to have a broken breach and so was not usable. There was a bulk action rifle hanging up on the lattice work next to his bed. Mr Giner showed him a 44 Magnum pistol under some sheets and towels next to his bed, with a belt under it with a little pouch holding about 10 rounds of ammunition. He took photographs of these, and of the location where the gun that was found with the young man was normally kept – on Mr Giner's bedroom floor, in a bag, covered by a coat. Mr Giner told Constable Kingston that he kept it there for snakes. There were shotgun shells seen in a bowl on a table. Mr Giner gave evidence that they were empty. The young man knew that the gun was kept there. There was a firearm safe on the premises large enough for all the firearms but it had only one in it.

91. Mr Giner's firearms licence was suspended and he was charged and on 8 April 2009 pleaded guilty in the Darwin Court of Summary Jurisdiction to possessing the shotgun and failing to comply with the storage and safety

requirements that apply to it. Submissions on behalf of Mr Giner were informed by information in the coronial brief, Natasha Pamkal came to court and gave character evidence for him, saying that the community didn't blame him and she wanted him to stay in the community and employ other young men, and no conviction was recorded.

ISSUES at this inquest:

The time of death and the immediate cause of death of the young man

92. Gino Rob gave evidence that the evidence at the scene was consistent with death being caused by a self inflicted shotgun wound inflicted using the gun found at the scene. If the young man had been sitting upright and had held the barrel of the gun against his head (to his right temple) with one foot supporting the gun and the other foot near the trigger and pulled the trigger with his toes then the position of the body, the gun, and the splatter are as would be expected. The family were concerned that the shotgun was too long for the young man to have been able to fire it himself. Senior Constable Rob explained that the barrel was 30 inches and too long to allow the young man to rest the barrel against his head and pull the trigger with the hand, but not too long to prevent him pulling the trigger with his feet. The firearm was in good working order, that is it was not liable to accidentally discharge and would only fire if the trigger was pulled, and the safety catch was off.

93. Once again in written final submissions after the Inquest hearing lawyers for the family ask that I find that the deceased did not trigger the gun with his toes. These lawyers did not challenge Constable Rob's opinion in this regard when they had a chance to do so, I accept Constable Rob's evidence and must assume that the family's lawyer did also.

94. The family were also concerned that the body may have been moved from another site where the death actually took place. Senior Constable Rob explained that the splatter of blood and tissue at the site was widespread, on sheets, ground,

leaves and trees, and was as would be expected had the shot occurred there. Some pellets were recovered from the ground and they were compared to pellets recovered by Dr Sinton from the body at autopsy and they were all no 2 shot.

95. The young man had a history of self harm attempts and, in particular, there was an attempt to take his own life with a shotgun six months prior. The young man was facing many stressors stemming from his relationship, and there is evidence from those who saw him that he had a belief that he was going to be locked up for a long period of time in gaol and that he was frightened. I note that the evidence is that police told him that not going to jail for a long period, went out of their way to reassure him, and I do not consider that police were responsible for the false belief that the young man had about a long jail sentence.

96. I find based on the strong forensic evidence, the previous episodes of self harm, the previous threatened suicide with a gun, and the evidence as to the state of mind of the young man when he was last seen, that the young man's troubles overwhelmed him and tragically he took his own life.

97. It is difficult for me to find a precise time of death. The young man was seen alive in Weemol at around midnight and was dead at 11 am when he was found. He had to travel to the Camp, obtain the shotgun and other items and get to the camp site. Dr Sinton was not able to forensically further narrow down the time period. I find that the time of death was between 2 am and 10:30 am on Thursday 21 August 2008.

98. The young man had an alcohol level of 0.023% in his blood when found. The evidence from Dr Sinton was that the alcohol could have been formed after death and I am unable to make a finding as to which of the two it was.

The decision to arrest the young man on Thursday 21 August 2008 and the grounds for that arrest

99. I find that the decision to arrest the young man was reasonable. The police had information that he was living in the very small Weemol Community in a house very close to the house the young woman was living in and this was a clear breach of his bail. The bail was granted at the Katherine Court of Summary Jurisdiction, the young man was represented by a lawyer, and all the evidence is that he understood that he could not be near the young woman. I saw the two houses during the view and they are situated within metres of each other. As it turns out, the young man was in even more egregious breach of his bail than that as he was spending time in company with the young woman, but the police were not aware of that at the time of his arrest.

100. The threats made by the young man were taken very seriously by a senior health worker, by the clinic nurse manager and by police. It was appropriate and sensible for them to be taken very seriously. They were very serious threats that the young man had the apparent ability to carry out. The police, who were new to the station and to the jurisdiction, gave careful consideration as to what to do, consulting widely and appropriately. I consider they behaved diligently and their decision to arrest the young man was a reasonable one.

The conduct of police that day from receiving information about the young boy in the morning, through to the arrest, the time the young man was in custody, the escape and what happened after the escape.

101. The family is particularly concerned about why a family member wasn't with the young man in the cells, and how the young man was able to escape.

102. The evidence is that police asked Maggie Takumba to come with them and she declined. The young man escaped while he was still being 'processed'. There were only two police, and they were fully occupied. The police gave evidence that they considered getting a family member, but there were only two of them and they were trying to get the young man to Katherine as quickly as possible. It may well have been helpful to have someone in the cells but I do not consider that police should have acted differently.

103. Police general orders required them to offer to call a NAAJA lawyer. Senior Constable Voetterl remembers some discussion about a lawyer but can't remember whether he asked the young man if he wanted to speak to a lawyer. Senior Constable Horgan says she talked to the young man about his lawyer for the upcoming court matter and he said he hadn't spoken to them. She said she didn't consider asking him if he wanted a lawyer as her job was processing the arrest. Senior Constable Horgan says that they would have got around to calling a lawyer.

104. I find that he was not asked if he wanted a lawyer called. However he was clearly still being 'processed' when he escaped. I do not consider that had a lawyer been called that it would have made any difference, the nearest lawyer was hours away and it is hard to see how even if he had said yes and a call had been made, that this would have altered the course of events.

105. I have considered whether the young man should have been formally noted to be 'at risk'. The young man was, in effect, treated as an at risk prisoner as Senior Constable Voetterl spent a considerable amount of time with him. There is no indication that the young man gave any indication to police on that day that he had any intention or desire to hurt himself. Police had been told that morning by two mental health workers who knew the young man that he was not mentally unwell and Senior Constable Voetterl says that the behaviour described by Mr Jeffrey was more extreme than what went on in the cell. Senior Constable Horgan gave evidence that the mental health workers had left that morning to return to Katherine so if they had wanted to arrange a mental health assessment it would be several hours, if at all, before someone could get out there. I consider that the police actions in trying to ensure he was taken to Katherine as soon as possible were reasonable, and I do not consider that had he been formally noted as an 'at risk' prisoner that they would, or should, have done anything differently.

106. The young man was able to escape because the cell door and the cell block door were both left open at the same time. Assistant Commissioner McAdie gave a statement to me where he commented on this as follows:

...the [cell block] door would not have represented much of a hurdle to anyone escaping because, had it been closed, it would have been able to be simply opened. For various reasons we do not encourage members to lock themselves in with prisoners. Unless a cell block is fully staffed, cell block doors are kept unlocked; we rely on cell doors to retain prisoners.

In this case, Senior Constable Voetterl facilitated the escape of Mr Pamkal because he had opened the door of the cell so he could pass him a drink. We encourage members, especially when dealing with a prisoner who is deemed high risk, to ensure they maintain a 'human' level of contact with the prisoner. This is to minimize the feeling of isolation a prisoner alone in a cell will feel. It does increase the risk of escape, but this will generally be a managed risk. I have no sense that in this case Senior Constable Voetterl did anything but that which was necessary for good prisoner management, notwithstanding the increased risk of escape attached to the process.

107. I accept this. The evidence was that there was a 'flap' in the door that could have been used to provide a drink without opening the cell door, and that the key was kept in a drawer between the two cells but that at the time neither police officer knew where the key was. However I consider that even had the flap been operational, Senior Constable Voetterl was attempting to alleviate the young man's anxiety and so it was appropriate to open the cell door and try to provide the 'human' level of contact referred to by Assistant Commissioner McAdie. I do not find that knowledge of the whereabouts of the flap key is likely to have altered events.

108. The young man was worried he was going to gaol for a long time. He told Ronnie Martin that the police had told him he was going to be in there for 2

years. However the overwhelming evidence from the police and prosecution point of view is that this is not what was likely to happen, nor what they thought was likely to happen. There is clear evidence that police on the day of his escape sought information about his likely sentence, were told he wasn't likely to go to jail, and told him that. Senior Constable Loughman told me that she would have been very surprised if he received a custodial sentence and she had told him that. I do not consider it likely that police told him that he would go to jail for 2 years. However I do find on all the evidence that he did not believe police when they told him that he wasn't likely to go to jail, instead he believed he was going to be imprisoned for a long time. Paul Miller, a close friend of the young man, told me that the young man had heard stories from other friends that in that sort of situation you serve 14 or 15 years.

The resourcing and set up of the THEMIS station – cross cultural training, handover between outgoing and incoming police, standard operating procedures for cells, access to computer resources (IJIS/PROMIS), access to information in relation to bailees and whether any deficiencies contributed to the death.

109. I do not find on the evidence that there should have been more or different cross cultural training. I was impressed by how culturally sensitive the police that gave evidence before me were, and I consider that the police in Bulman consulted community widely and well. I find that the handover between the Senior Constables was poor, but I note that there was a different handover process between the Officers in Charge and I do not consider that a handover about the young man would have led to a different outcome. Had Senior Constables Voetterl and Horgan known that he didn't want to be locked up, this should not have prevented them doing so in the circumstances of the serious threat and the breach of bail.

110. It is clear that it is difficult to operate the computer system in Bulman. It is slow and there are difficulties accessing police information systems. However Bulman is very remote and I did not have evidence before me to show that there was an easy solution to this.

111. There should be a hard-copy list of bailees present at the police station and the evidence is that there wasn't. The Senior Constables were able to access the bail conditions on the day and I do not consider that the lack of a list at the station made any difference in this case. There should have been a hard copy custody manual at the police station and there wasn't. However again I do not consider that this would have made any difference in this particular case.

112. At the time there were no Standard Operating Procedures [SOPs] for the Bulman cells. I heard evidence that the NT Police Custody Manual requires that each station establish such procedures, however that they cannot be put into place immediately because they require the establishment of local procedures and are developed after a working relationship with the community. The cells were relatively new, at the time none of the THEMIS stations had SOPs. I note that the NT Police Custody Manual sets out detailed requirements which apply across the Territory and applied to these cells. The SOPs are developed to reflect local conditions and realities and apply on top of the detailed provisions of the Custody Manual. I do not consider that the absence of SOPs made any difference in this case.

The conduct of the search and in particular the involvement night patrol and of local community members

113. Police were faced with a difficult situation once the young man escaped. The young man had made serious threats and so there were concerns about the safety of others as well as about his own well-being. They were faced with competing considerations in relation to the safety of the young man, the safety of the community and what could be done with limited police resources in such a remote location. I consider that the situation was very competently and sensitively handled by Constable Chalmers and Sergeant Hayworth. Police involved the local community early and involved night patrol. Extra police were sent out to assist, with a deliberate effort to include Aboriginal Community Police Officers and those with prior experience in that area. I find that the Police

were not “heavy handed” on the night of the escape and I do not consider that there is anything more they could have done to find the young man that evening.

114. The family were upset that there was a search of houses at Weemol the next morning. I consider that the young man had left Weemol long before and so the conduct of this search has no relevance to his death.

The movements of the young man during the time between his escape and his death, including the procurement of a weapon and ammunition

115. It is clear the young man went to Bodeidei camp and obtained the shotgun from the camp. I have carefully considered where the ammunition came from. There is evidence that ammunition was available in Weemol but it seems unlikely that he would bring ammunition, but no gun, from Weemol to Bodeidei. There is evidence there were guns and ammunition unsecured at the Bodeidei camp, and that the shotgun ammunition was kept about 6 metres away from the shot gun and I consider it likely he got the ammunition from the camp.

116. I have carefully considered whether the young man interacted with someone at the camp. All witnesses at the camp say they didn't see the young man. However in an open camp at night he managed to get a jacket, a gun, ammunition, and a made-up sandwich without being seen. I heard evidence, which I accept, that buffalo are dangerous in the area so there would be good reason for someone to give him a loaded gun. The young man was familiar with the camp and the people there and he told others he was heading for the camp. I consider it possible that he did talk to someone and was provided with the above items in order to enable him to camp out for a while but it is also possible he took them without being seen. I return an open finding on this point.

117. I find that the failure of Mr Giner to appropriately secure his firearms and ammunition contributed to the death. However I note that Mr Giner had a close relationship with the young man and his family, and this death was a tragic loss for him. He has been prosecuted in relation to this and he informs me that his firearms are now well secured.

What happened with the body

118. Philip Ashley Senior gave evidence that there were concerns that the body of the young man wasn't taken to the clinic and allowed to be viewed by the family. However he says that later on arrangements were made for family to have access the body to do the proper traditional things. Maggie Takumba also expressed her concern that she did not see the body and it was not taken by aboriginal people in the normal way. The family's submissions ask me to recommend that 'the family of indigenous people who have bad luck be consulted to identify the body in the appropriate cultural way before a body is removed for autopsy'.

119. This matter was treated as a death in custody. This means that the site where the body is found is treated as a homicide scene and a very intensive, fast and high level investigation is done. I consider it vitally important that a death in custody is swiftly and thoroughly investigated, including treating the area as a crime scene and removing the body to enable an autopsy to be conducted. I place very high value on working in with aboriginal cultural customs in relation to the handling of a body after death but in a death in custody matter this is likely to be after the autopsy rather than before.

Informing family in relation to the death

120. Superintendent Heyworth told me that he was informed on Friday that a visual identification of the young man's body was not possible and apart from some generic description of clothing there was nothing to definitively identify him. This is because there was considerable injury to the young man's face. A decision was made to identify him by way of fingerprint comparison. His mother was not informed until the fingerprint comparison confirmed his identity. This is as it should be and I do not accept that police should have told the young man's mother before formal identification had been concluded.

121. In addition I heard evidence from Superintendent Heyworth that he was concerned about unrest in the community, his experience generally is that after a

death there can be issues of blame and the potential for serious social disruption and disorder. He says this necessitated careful management of information, and the scene was isolated and kept quiet until family could be informed. I consider this to be an example of reasonable, careful and compassionate police practice.

Actions of the mental health workers

122. I was surprised to receive submissions on behalf of the family that asked me to criticise the northern Territory Mental Health Service for not taking enough account of the young man's mental health. There was no basis for this submission at all on the evidence. This young man received good mental health care. He had said he wanted to be followed up by the mental health team and a mental health nurse who was familiar with the young man and who had 30 years of experience, and 20 years of experience in the Northern Territory, had seen him the day before and on the morning of his arrest. I am asked by the lawyers representing the family to criticise that nurse for showing no care for the young man on the day.

123. The young man had made a very serious threat against the community nurse and the community doctor. That nurse had had to leave the community for his own safety, because of fear that the young man would carry out the threat. I accept Mr Jeffrey's evidence that the young man was frustrated, agitated, distressed, resentful and felt trapped, and that the threats seemed serious and that there were not indications that the young man was mentally unwell, rather they seemed to be made out of his frustration.

124. The young man did not fit the criteria to be sectioned against his will. I accept the evidence of Mr Jeffrey that he did not appear to have a mental illness or a mental disturbance. I do not consider that taking people's liberty away to treat them against their will should be done lightly, and I accept that he did not fit the criteria. I have no criticism at all of the actions of the treating nurses on the day of the young man's arrest.

CONCLUSIONS

125. This untimely death has caused significant grief to many in the Bulman area. I have carefully scrutinised police actions in relation to this death. I consider that the police acted carefully, compassionately and reasonably in their dealings with the young man and I have no criticism of them in relation to this death.

126. This is the sort of death that I see all too often where a young person becomes overwhelmed with the stressors in their life and chooses to end their own life. Although there are unique circumstances in relation to a possible promised relationship, the intervention, an underage sexual relationship, police charges and an arrest, in the end this is a situation similar to many others where a combination of relationship, family, community and legal stressors result in a young person feeling unable to cope. This is not a death where anyone can, or should be blamed, but instead is a tragedy for everyone who knew this young man.

Formal Findings

127. Pursuant to section 34 of the *Coroner's Act* ("the Act"), I find, as a result of evidence adduced at the public inquest, as follows:

- (1) The identity of the deceased person was Clifton Wayne Pamkal. He was born on 22 January 1986 at the Katherine Hospital. The deceased resided at House 11 Weemol community in the Northern Territory of Australia.
- (2) The time and place of death was in bushland about 670 metres away from Bodeidei Dreamtime Safari Camp between 2 am and 10:30 am on 22 August 2008.
- (3) The cause of death was an intentional self-inflicted gun-shot wound to the head.

(4) Particulars required to register the death:

1. The deceased was Clifton Wayne Pamkal.
2. The deceased was of Aboriginal decent.
3. The death was reported to the Coroner.
4. The cause of death was confirmed by post mortem examination carried out by Dr Terry Sinton.
5. The deceased's mother is Natasha Pamkal. The deceased's father is Robert Lippo.
6. The deceased lived at House 11 Weemol Community.
7. The deceased worked for the Bodeidei Dreamtime Safari Camp and the Gulin Gulin Buffalo Company as a guide, buffalo catcher and handyman.
8. The deceased was not married and did not have any children.

Dated this 19th day of October 2009.

GREG CAVANAGH
TERRITORY CORONER