

CITATION: *Inquest into the death of Clifford Brown* [2006] NTMC 059

TITLE OF COURT: Coroner's Court

JURISDICTION: Alice Springs

FILE NO(s): A0087/2004

DELIVERED ON: 29 June 2006

DELIVERED AT: Alice Springs

HEARING DATE(s): 2, 3 May 2006

FINDING OF: Mr Greg Cavanagh SM

CATCHWORDS:

Motor vehicle accident causing death, emergency medical treatment, criminal / coronial investigation, report to the Commissioner of Police & DPP

REPRESENTATION:

Counsel:

Assisting: Ms Helen Roberts

NT Dept of Health:
And Commissioner of Police: Mr Kelvin Currie

Mrs Ann Paulus Mr John Stirk

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

No. A0087/2004

In the matter of an Inquest into the death of

**CLIFFORD BROWN
ON 18 DECEMBER 2004
AT BARROW CREEK**

FINDINGS

(Delivered 29 June 2006)

Mr Greg Cavanagh SM:

1. Clifford Brown, also known as Cliffy Brown and Cliffy Jabiard, died on 18 December 2004 as a result of injuries sustained in a motor vehicle accident which occurred at the intersection of the Barrow Creek Roadhouse and the Stuart Highway at Barrow Creek in the Northern Territory. The death was investigated on behalf of the Coroner by Northern Territory Police, as it was a death which was “unexpected, unnatural or violent or resulting directly or indirectly from an accident or injury” and therefore a reportable death within the meaning of the *Coroners Act*.
2. Section 34(1) of the *Coroners Act* provides that a Coroner investigating a death shall find a number of matters:

“(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; and
 - (v) any relevant circumstances concerning the death; or..”

I held this Inquest as a matter of discretion pursuant to s. 15 of the *Coroners Act* in order that I could better discover the “relevant circumstances concerning the death”.

3. The family of the deceased were advised, through the deceased’s sister Ms Patsy Nambiard, that this Inquest would be held. Ms Nambiard contacted the Coroners Office by telephone and advised that she would not be attending the Inquest, but requested that a copy of the findings be sent to her at an address that she gave. Mr John Stirk appeared as Counsel representing Ms Ann Paulus, a nurse who attended to the deceased prior to his death. Mr Kelvin Currie appeared for the Northern Territory Department of Health and the Commissioner of Police.
4. I have tendered before me two briefs of evidence prepared by the Northern Territory Police (exhibits 1 and 2); a number of medical files (exhibit 3) and a statement of Superintendent Michael White (exhibit 5). In addition, I heard from ten witnesses in oral evidence. Those witnesses were Detective Senior Constable Jonathon Beer, Brevet Sergeant Clay Evans, Iris Rice, Vincent Janama, Registered Nurse Carmel Morsi, Dr Terence Sinton, Stanley Paulus, Registered Nurse Leslie Gay, Registered Nurse Sabina Knight, Registered Nurse Richard Parry and Ann Paulus.

FORMAL FINDINGS

5. Section. 34(1) Coroners Act
 1. The deceased was Clifford Brown also known as Clifford Jabiard.
 2. The date and place of death was between 5:30pm and 6:30pm on 18 December 2004 at Neutral Junction, Northern Territory.
 3. The cause of death was multiple injuries occasioned in a motor vehicle accident.
 4. The particulars required to register the death are:-

- (i) The deceased was male.
- (ii) The deceased was born in 1946.
- (iii) The deceased was an Australian resident of Aboriginal origin.
- (iv) The death was reported to the Coroner.
- (v) A post mortem examination was carried out by Terence Sinton.
- (vi) The deceased's parents were Johnny Atjieterra and Nancy Unulunga.
- (vii) The deceased was a pensioner.

CIRCUMSTANCES SURROUDNIGN THE DEATH OF THE DECEASED

6. On the afternoon of 18 December 2004, the deceased was in the vicinity of the Barrow Creek Roadhouse. He approached Raymond Rankine, who was about to drive a gold Ford Falcon Sedan with two female passengers (Iris Rice and Samantha Ryder). The deceased asked for a lift to a nearby camp which he referred to as Patsy's Camp. The camp was not far away. It was located by following a dirt track, heading west from the Stuart Highway, almost directly opposite the entrance to the Barrow Creek Roadhouse. The group in the car were proposing to drive home to Ali Curung, however, they agreed to give the deceased a lift to his camp on their way. He got into the back seat behind the driver. The group in the car had been drinking beer which they had bought at the Wycliffe Well Roadhouse during the afternoon.
7. At about 4.15pm, the Ford, driven by Raymond Rankine, headed west from the southern entrance of the Barrow Creek Roadhouse, essentially driving straight across the Stuart Highway. A 4WD Toyota Prado, driven by Mr Gooding, was heading in a southerly direction along the Stuart Highway. Mr Gooding saw the Ford Falcon head out into his path and drove into the northbound lane (that is the wrong side of the road) in an attempt to avoid it because he assumed that the Ford was turning left. In fact, the Ford was

going straight across the Stuart Highway and it collided with the Prado in the northbound lane ending up off on the western side of the road. Neither of the vehicles rolled.

8. It appears from the evidence that Mr Rankine, the driver of the Ford Falcon, did not look for, or did not see the Prado on the Stuart Highway. (He was later blood tested, returning a result of 0.148% blood alcohol content). Managers at the Roadhouse contacted the emergency number. The first ambulance on the scene was that from the Tara Clinic located on Neutral Junction Station, approximately 15 minutes drive from the accident scene. The ambulance was driven by Mr Stanley Paulus, the husband of Ann Paulus, the registered nurse who worked at Tara Clinic. Nurse Paulus worked alone at each of Tara and Sterling Clinics. It appears that Nurse Paulus and her husband arrived about 30 minutes after the accident happened, taking into account the time to load the ambulance and to arrive at the scene. Nurse Paulus spoke with all of the patients at the scene, save for Mr Gooding who was apparently well and making arrangements on his mobile phone. As for the exact nature of her dealings with the deceased, I will turn to that later in these findings.
9. Off duty nurse Carmel Morsi stopped at the scene soon afterwards. She happened to be travelling past on her way back to Ali Curung (where she worked) after a day off in Alice Springs. Nurse Morsi asked Nurse Paulus if she needed any help but was told that she did not. Nurse Morsi's first impressions were that there had been a road accident where there were "not any really severely injured people". The people from Ali Curung, namely Raymond Rankine, Iris and Samantha knew Nurse Morsi from the clinic located there, and were responsive to her questions and her touching. She did not carry out any formal medical checks but she touched each of the people, to check for obvious injuries. As a result of these very brief observations, she did not form the view that any of them were seriously

injured, but she did tell them that they needed to go to a clinic to be checked and refused their requests for her to give them a lift to Ali Curung.

10. Nurse Morsi saw the Ti Tree ambulance arrive and decided that she would then leave the scene. The Ti Tree ambulance arrived at a similar time to the Ti Tree police, at about 5:05pm. The two nurses from Ti Tree were Leslie Gay and Richard Parry, who both gave evidence in these proceedings. Nurse Gay remembers asking Nurse Paulus whether she needed any help and being told that Nurse Paulus “didn’t need any help, that everybody was okay”. Throughout these events, the deceased had remained sitting in the back seat of the Ford. Despite stating an intention to go bush, or go back to camp, he had not moved from the car.
11. Nurse Gay went over to the car and spoke to the deceased, who she had never met before. She said ‘are you alright’ and he said ‘yes I’m fine, I’m just sitting here’. Nurse Gay then conducted a primary and secondary survey of Mrs Gooding who was also still sitting in her car, the Toyota Prado. After that, she went back and spoke to Nurse Paulus and asked her if she needed any help. She recalls Nurse Paulus telling her that she was just going to take the patients to the camp where they live because they did not want to go to the clinic or the hospital.
12. After the nurses from Ti Tree had established that Nurse Paulus did not wish them to transport any of the patients, they left the scene. During this time police had breath tested and arrested Raymond Rankine, the driver of the Ford. Brevet Sergeant Clay Evans recalls speaking with Nurse Paulus about Rankine before they took him into custody. He says he checked with her as to “whether Rankine required further treatment and she stated that she had listened to his breathing and that there was no irregularity”. At this stage, Nurse Paulus and her husband then assisted the deceased into the front seat of the Tara Clinic ambulance. Prior to assisting him there, Nurse Paulus said that she emphasised to him that he ought to go to Alice Springs hospital

to be checked out but he was adamant that he wished to return to his camp or the camp at Neutral Junction Station.

13. Vincent Janama works at Neutral Junction Station and knows Nurse Paulus and her husband. He also knows the deceased. He arrived at the scene after the accident. His evidence was to the effect that he had said to the deceased, at the urging of Nurse Paulus, that the deceased ought to go for a check up down at the clinic because he had been in a car accident. He said the deceased did not want to go and that he only wanted to ride in the front seat of the ambulance to get a ride home to Patsy's camp.
14. Nurse Paulus took the two women Iris and Samantha, in the back of the ambulance. They had a number of bags of groceries, blankets and the like that they wanted to take with them. As a result of this, Nurse Paulus could not fit the medical equipment back in the ambulance and she departed the scene without it. The drive back from Barrow Creek to the Tara Clinic was about fifteen minutes and Nurse Paulus drove slower than her normal speed. Her husband was not with her as he had remained with the medical equipment. She was talking to the deceased as they drove along and then at some point he ceased talking and slumped to the window side. At that point, she called his name, he leant towards her and slumped down. After that:

“...because he didn't react in anyway I attempted to find a radial pulse and I tried for his carotid but I couldn't get it but I couldn't be 100% sure that I didn't get it because of the corrugated road.

Did you consider stopping the vehicle at that stage? I did consider stopping the vehicle but I'd asked Samantha at least for verbal assistance she refused. Iris said nothing so I considered my options at least if I got back to Tara I would have someone to assist me but I would have no-one assisting me then and there?”

When she got back to the clinic, she put the deceased in a wheelchair, cannulated him and put oxygen on him, although at that time it was her view that he had died. She was not willing to tell family that he had died because

she was on her own and unsure of their reaction. Instead she contacted the Ti Tree police who arrived some time later.

15. Meanwhile at Ti Tree police station, Raymond Rankine had been seen lying on the floor of his cell and complaining of chest pain or abdominal pain. The Ti Tree police contacted the Ti Tree clinic nurses who asked that he be brought to the clinic. They assessed him and discussed a diagnosis of a lacerated liver and/or broken ribs over the telephone with the District Medical Officer. Arrangements were made for him to go to Alice Springs Hospital; he did in fact have a lacerated liver and remained in hospital in Alice Springs and Adelaide for some time.

ISSUES FOR CONSIDERATION

16. In my view there are three main issues for consideration in these proceedings:
 1. A question of whether had a crime may have been committed by the driver of the vehicle.
 2. The adequacy of the police investigation into this death.
 3. The provision of emergency medical treatment to the deceased by Nurse Paulus.

THE POLICE INVESTIGATION

17. The driver of the car, Mr Raymond Rankine, was charged and pleaded guilty to offences of driving without due care and driving with a blood alcohol limit above 0.8. He was dealt with for those offences at court at Ali Curung, a few months after the accident and the death of the deceased. There was some delay in him being dealt with for these matters because he was seriously injured and spent time in hospital.
18. Having heard the evidence about the mechanism of the accident, it is my view that where police have a driver driving straight across the Stuart Highway without giving way or keeping a proper lookout while intoxicated,

they certainly would be advised to give serious consideration as to whether that driver had committed a crime pursuant to s. 154 of the Criminal Code, namely doing a dangerous act causing death. Ordinarily, in such circumstances, I am bound to refer to the matter to the Director of Public Prosecutions and the Commissioner of Police if I believe “a crime may have been committed in connection with the death”. In this case, my view is that that test would be satisfied. I am aware that upon the reinvestigation of these matters, a decision was made to charge the driver with an offence pursuant to s. 154 of the Criminal Code. I am aware that it has been listed for a Committal hearing and at this stage, on 21 June 2006 in Alice Springs. I therefore give no further consideration to this aspect of the matter, save as to my discussion of the police investigation below.

19. A coronial file with respect to the death of Clifford Brown was submitted to the Coroners office on or about 21 June 2005 about six months after the accident occurred. The covering report was prepared and signed by Brevet Sergeant Stuart Baum. Mr Baum was not available as a witness in these proceedings and he is no longer with the Northern Territory Police. A number of questions relating to the investigation were asked of Brevet Sergeant Evans, who attended the scene, and Detective Senior Constable Beer who reinvestigated the matter on my behalf. When the brief was first submitted, it was reviewed in our office by the Deputy Coroner who determined that there were additional matters that needed to be taken into account. Firstly, nothing on the face of the file indicated that any consideration had been given to charging the driver with a crime rather than traffic offences and secondly, the question of the emergency medical treatment at the scene had not been considered. The brief, which was submitted through the divisional Superintendent at the time, was in the form of “an accident investigation report”. As such, it was very technically detailed, but did not address surrounding criminal or coronial issues to an adequate standard.

20. Brevet Sergeant Evans prepared the “précis” and the charges against Rankine on 18 December 2004. He said in evidence that at the scene, where he arrested Rankine “my view was that it was just a basic drink driving with perhaps a drive without due care charge thrown in there as well”. He was later made aware that a passenger had died. He was asked:

“When you prepared the prosecution brief sent to Ali Curung had you given consideration at that time as to whether there ought be more serious charges laid against the driver taking into account the death or otherwise?---Yes, I did but the file – I had been keeping check on Raymond’s health status, I suppose, whilst he was in Adelaide. I noted on the (inaudible) job that I continued checking until early January in relation to his state of health and then Sergeant Baum continued checking until late February or mid February, sorry. On forwarding the file I assumed that if any further charges were to be laid, they’d be laid in Ali Curung or by Alice Springs prosecutions in consultation with Sergeant Baum. I didn’t really keep track of the file after it left my office.”

21. Brevet Sergeant Evans said that he assumed that as to the number of further charges “we would look at it as a department, I guess, that it would be taken care of and once the defendant was returned from the hospital then it could be dealt with.” However, this approach did not apparently result in any consideration being given to the criminality of the driver by any police officer from the ‘department’ until the coronial investigation brief of the Investigation reached my office.
22. The brief was returned to Alice Springs police by my office and was allocated to Detective Senior Constable Beer for reinvestigation. As part of the reinvestigation, Detective Senior Constable Beer made the decision to further charge the driver to which I have already referred. In addition, he carried out an investigation into the medical treatment at the scene including interviewing Nurse Paulus and obtaining some expert evidence from Sabina Knight, a registered nurse and a senior lecturer in Remote Health Nursing Practice. I pause to note this is not the first matter which I have had cause

to comment adversely on the standard of investigations by police into fatal motor vehicle accidents over the past few years.

23. My comments have included failure by police to properly consider criminality with respect to deaths in motor vehicle accidents, as well as a failure to advert to surrounding coronial issues such as medical treatment at the scene. However, in response to some of my earlier criticisms (see findings into the death of Peter Wiryal NTMC 019) changes have been made, albeit slowly.
24. I am aware that there is a new General Order which has come into place since the investigation into this death pertaining to the investigation of motor vehicle accidents. That General Order “accidents” provides that where appropriate officers with criminal investigation training and experience ought to be assigned to the investigation of fatal motor vehicle accidents where questions of criminality are to be considered.
25. I am informed through the affidavit of Superintendent Michael White (exhibit 5) that serious consideration has been given to the review of this particular investigation and coronial investigations into motor vehicle deaths generally. Superintendent White properly concedes that the first investigation was not adequate, and informs me of the following:
 - (1) Where it is apparent that a serious criminal offence may have been committed, detectives are involved [in the investigation] due to their expertise in obtaining evidence in relation to criminal charges.
 - (2) Continuing efforts have been occurring in the southern division to increase the investigative capabilities of members.
 - (3) Given the developments of education which have occurred within Northern Territory Police since December 2004, including in

Southern Division, he is confident that investigations of future fatal motor vehicle accidents will be of an appropriate standard.

26. Given what has been put to me about the changes to General Orders and the other action that has taken place with respect to improving the investigation of fatal motor vehicle accidents, I do not propose to make any formal recommendations in this regard. However, I do expect to see an improvement in future in the quality and scope of such investigations.

EMERGENCY MEDICAL TREATMENT OF THE DECEASED

27. This issue was investigated by Detective Senior Constable Beer. After reading all of the statements and hearing from all of the witnesses, one aspect is clear; Nurse Paulus did not conduct a full primary and secondary survey on any of the six potential patients at the scene of the accident and therefore did not treat any of the patients either. Her explanation for why she did not do this specifically with respect to the deceased, was that he was adamantly refusing all medical treatment.
28. The evidence is not in dispute that the deceased verbalised a preference to go to camp rather than hospital. It also appears beyond doubt that the deceased himself did not appreciate the severity of his injuries. As set out in Dr Sinton's report, the deceased had a broken neck, a severely ruptured liver, a severely ruptured pelvis, and numerous fractured ribs on both left and right sides of the chest. Dr Sinton postulated that the mechanism of death was a combination of blood loss and a large component of hypoxic damage (decreased oxygen circulating). He died as a result of hypovolemic or cardiogenic shock, which is quite consistent with him having been alive and able to speak for the period prior to his death. However, although consistent with him being alive, Dr Sinton would have expected that the injuries would have been painful. He said that the deceased would have been suffering shortness of breath and also great pain. The emergency

treatment that was required in order to preserve his life was intravenous lines for fluid replacement, oxygen, as well as pain relief if available.

29. There is no objective evidence before me that the deceased was intoxicated. A blood sample was not taken after his death to test for alcohol intoxication. However, he was described by the witnesses as appearing to be drunk, to varying degrees depending on the witness. The significance of intoxication is that it can mask pain and symptoms and/or self perception of pain. It would not be expected to affect the mechanism of death nor objectively determine symptoms such as the pulse rate or blood pressure to any significant. Dr Sinton's evidence was that the deceased's injuries were potentially survivable given appropriate treatment, and were by no means inevitably fatal. He agreed with the proposition that given the appropriate treatment, the deceased had a reasonable chance of survival.

30. Registered Nurse Sabina Knight is a senior lecturer in Remote Health Practice at the Centre for Remote Health and has chaired editorial committees for the current editions of the 'CARPA' and 'CRANA' manuals which are the clinical procedural manuals illustrating what to do in almost all conceivable situations in remote health practice. Ms Knight gave evidence that upon arrival at an emergency scene, after making sure that one is not in danger, the nurse should carry out a 'quick triage' and then a primary survey of each of the potential patients. A primary survey means checking breathing, airway and circulation. The important things to do in this situation are stop the bleeding, clear the airway and put in a cannula if necessary, as well as check the pulse for both its quality and its rate. At an emergency scene, ordinarily a nurse would be expected to do this on all of the patients before moving to the secondary survey of the patients. A secondary survey is a much more thorough head to toe check of the patient, depending again on their level of consciousness. That includes checking for injuries, a "Glasgow Coma Score" and others. Ms Knight confirmed that this is what is expected.

31. Nurse Paulus did not carry out these surveys on any of the patients despite her apprehension that the deceased and or possibly the others may have had full body injuries, head and internal, spinal or bony injuries (transcript p105). Her reason for not carrying out any examination of the deceased was, as I have stated, that she said he was refusing to allow her to examine him. She said that she knew Clifford Brown from her work in the community and he have never previously requested treatment from her. She said that she “never had been able to do anything for Cliffy medically wise, so I just considered it [his refusal] was a continuation in his nature in dealing with me”. When asked whether she considered that his reaction to her could have been as a result of complications of any of his injuries, she answered “yes but again I can’t forcibly allow him to allow me to do what I need to”. Nurse Paulus repeatedly insisted in her evidence that the deceased refused to allow her to treat him or examine him. He continually stated that he wanted to go back to camp and that he did not want to go to hospital.
32. She denied suggestions put to her that she had underestimated the seriousness of his injuries, and that was the reason why she had not insisted further on transporting him to a clinic or a hospital. She maintained that she had advised him that he needed to go to Alice Springs Hospital and that he refused her advice. The difficulty with this evidence is the evidence of a number of the other nurses, all of whom say that they asked Nurse Paulus whether she had checked the patients and they were alright, to which she responded in the affirmative. They also asked her if she needed any help and she said no she didn’t. None of the other three nurses attending remembered Nurse Paulus saying that the patients were being difficult, or were refusing medical treatment, or that she (Nurse Paulus) was very concerned because she wished to examine them and they would not let her. Each of the other three nurses gave evidence separately. Nurse Morsi had no access to the statements of Nurse Gay and Nurse Parry when she made

her statement. I accept their recollection of the general thrust of their conversations with Nurse Paulus.

33. Somewhat puzzlingly, the actions of Nurse Paulus at the scene appear to be more consistent with the proposition that she underestimated the deceased's injuries, than the proposition that she was actively pressing him to accept treatment which he was adamantly declining. Although she said in her evidence that she wished the deceased to go to Alice Springs Hospital, she did not contact either St Johns Ambulance in Alice Springs nor the district medical officer to discuss this option or to discuss her alternatives with respect to transporting the patient. Nor did she raise with the Ti Tree Clinic nurses the possibility of the deceased being persuaded to go to Alice Springs Hospital, or even to the Ti Tree Clinic for some further examination and treatment.
34. Furthermore, everyone else at the scene, who has given evidence before me, has been consistent in their expressions of surprise at the severity of the injuries of the deceased given their contact with him. None of the witnesses conducted a medical examination on the deceased, however some of the them spoke briefly with him and all, including the nurses, thought that while there was a potential for him to have serious injuries, they remember him as being able to communicate with them. It would not be surprising if Nurse Paulus had gained a similar (erroneous) impression that he was not seriously injured.
35. Having said that, these were lay observations only. It is clear that Nurse Paulus ought to have conducted a primary and, if necessary, a secondary survey on the patient. Ms Knight was asked about a situation in which a patient is refusing medical treatment (transcript p121):

“Now, on to another topic. There has been some questions asked and you've probably heard them today about whether or not there's a protocol with regard to management of a scene in terms of more than one nurse arriving at different times. Would you comment on that

with respect to the best practice and the sort of training that remote nurses might receive on that?---Certainly. Any health professional undertaking a trauma training program, the first person on the scene or if there are two people travelling together decide amongst them who will take the lead, so they take the coordination role and then allocate the roles to those who arrive behind them. So that may include coopting volunteers or other health professionals.

Is that a generally understood practice?---Yes.

What is best practice? What would you expect a practitioner to do in the case of a patient declining treatment at a trauma scene? So leaving aside a clinic situation where there might be family to help and time, at a trauma scene what would you expect of a nurse?---In my experience I would treat - and listening to people teaching trauma in emergency courses, that's a different situation between a trauma scene and a clinic. In a trauma scene an uncooperative patient is likely to be interpreted as somebody who is hypoxic, who doesn't have enough oxygen so they're a little confused, a little stropky, not so cooperative and so you need to correct that first.

How do you correct that?---Giving oxygen.

What about if they say they don't want any oxygen?---It's difficult to do but usually in a trauma situation we're less likely to be asking people if they want us to do something, but explaining what we're doing as we're going along in a reassuring, cajoling sort of way. So, I'm just going to put the oxygen on you now, I'm going to put the collar around, please don't move your head, reassuring and explaining what you're doing as you're going. I've not had the experience of not being able to do that so I can't comment.

36. As to what basically she would expect a nurse to do in a situation such as this one (transcript p122):

“What would your expectation of best practice be or commonsense practice or an appropriate practice be in that situation?---An appropriate practice would be to follow what is outlined in both manuals which would be to secure the cervical spine, to apply oxygen, to take the pulse and the blood pressure and check it again and put in a cannula.

What about if you're going to meet some resistance?---You would muster some resources to give you some assistance.

There's the police there isn't there?---There are other people, yes, call on a volunteer.

Would you expect a nurse to take him back to his camp without further ado?---It wouldn't be my practice. I would be concerned about the potential of more serious injuries.

I accept that it wouldn't be your practice. What would be your expectation?---My expectation would be to discuss that with the doctor.

You would have rung a doctor?---Yes.

The DMO?---Yes.”

37. And further she was asked this (transcript p123):

“Can you comment on the removal of emergency equipment from an ambulance to allow room to transport people or their belongings.

CORONER: Sick people. Transport sick people?---I've not encountered that before.

Is that because you wouldn't expect it?---I wouldn't expect that to happen, no.

Because the obvious reason is you may need that emergency equipment if they get sicker?---If the conditions change you need to be able to respond.”

38. It seems to me that Nurse Paulus was attempting to be truthful in her evidence, however with the passing of time and no doubt extensive time spent dwelling on what had happened, she has somewhat reconstructed her reasons for actions. The evidence overall appears to me to suggest that Nurse Paulus underestimated the seriousness of the injuries that had been suffered by both Mr Rankine and the deceased. This underestimation occurred probably in part because they were apparently okay, and also of course because she failed to take basic observations which would have given her a more objective picture of their state at the time. If, indeed, the patients had been expressly and adamantly refusing treatment, as compared with expressing a preference to return to camp, I would have expected Nurse

Paulus to either have conveyed this to the other attending nurses, made a note of it, or contacted the District Medical Officer to discuss the situation that she had before her. Given that she did not do any of these things, and has provided no real explanation for why she did not, it appears much more likely that in fact she was somewhat overwhelmed by the scene and underestimated the seriousness of the injuries of the deceased. This was the reason why she agreed to transport him back to camp rather than insisting on him going to a medical facility, or seeking the assistance of the other nurses in attempting to persuade him or to examine him. I note that Nurse Morsi had no trouble taking his pulse. In that sense he was compliant, although it is clear that he was not generally keen to have medical treatment. The approach that Nurse Paulus took to the whole situation was illustrated by her mistaken decision to allow two of the women, who had been in the accident, to carry with them their belongings, rather than to take with her the emergency medical equipment. She had in effect converted her ambulance into an ordinary transport vehicle. Although the belongings were in no doubt important to the women, they could in no way be as important as a nurse on her own in a remote area having with her emergency medical care and potentially life saving equipment. It is inconsistent with an assertion that she continued to have concerns for the health of the three, that she would agree to transport them in what was essentially an ordinary vehicle, having removed her equipment. The fact that she even discussed this decision with the women suggests that she had difficulties, whether they were communication difficulties or something else, I cannot really say.

39. I do not propose to go any further in this area. The investigating officer has considered the conduct of Nurse Paulus to be so serious that he has referred the matter to the Director of Public Prosecutions for a decision on whether she ought to be charged with an offence pursuant to s. 154 or s. 155 of the Criminal Code. I did not hear full submissions as to whether I ought to be of the view that “a crime may have been committed” by some form of an

omission to treat the deceased. There are a number of matters which bear on a decision as to whether a prosecution would be successful and have indicated my view in general terms that it would not be so. I am aware that the question is currently being considered by the Department of Public Prosecutions, however, in my view, I do not believe that a crime may have been committed in this regard.

40. I am also aware that the conduct of Nurse Paulus is being considered by the Health Professions Licensing Authority in the form of the Nursing Board. I would have referred the matter to that Board in any event. I propose to forward the transcript of these proceedings, along with my findings to that body, which I believe is the appropriate body to consider the professional conduct of Nurse Paulus with respect to the care and treatment of the deceased.
41. One further matter, which was raised by me, was the question of speed restrictions on areas of the Stuart Highway which are adjacent to Roadhouses which sell alcohol. It seems to me a logical possibility that in such areas there will, on occasion, be intoxicated people trying to make their way on foot, if not in vehicles, back to camps, while at the same time other vehicles are travelling quite legally along the Stuart Highway at speeds of up to 140 kilometres per hour or so. I intend to forward a copy of these findings to the Licensing Commission for its consideration when making decisions which may be relevant with respect to the licensing of 24 hour takeaway Roadhouses.
42. As an aside, I was informed by Mr Stirk that the Central Australian Aboriginal Legal Aid Service wished to indicate to me through their principal solicitor, Mr Sheild, that the new funding obligations they have with the Commonwealth do not allow funding for regular appearances on behalf of Aboriginal people at coronial Inquests. That advice certainly appears consistent with informal indications I have received in recent times,

to the effect that the North Australian Aboriginal Justice Agency will only appear in Inquests in which an Aboriginal person has died in custody and not necessarily in other matters. Related to this is the formal notification I have recently received indicating that the Aboriginal Justice Advocacy Committee will no longer be seeking leave to appear as an interested party in coronial inquests.

43. I have often expressed my view that the relevant issues in coronial proceedings ought to be, and are, properly raised and ventilated by my counsel assisting on my behalf. An inquest is not an adversarial proceeding and there should be no need for legal representation for a family (whether Aboriginal or non Aboriginal) as a matter of course. Having said that, however, there are certainly coronial matters which carry with them issues which may be of importance to the family of the deceased and the broader Aboriginal community generally, which are not “deaths in custody”. It could be unfortunate in a particular case if those families are unable to obtain representation.
44. Pursuant to my comments in paragraph 18 hereof, I formally report to the Commissioner of Police and the DPP my belief that a crime has been committed in connection with this death.
45. I have no formal recommendations to make as a result of this Inquest.

Dated this 29th day of June 2006.

GREG CAVANAGH
TERRITORY CORONER