

CITATION: *Inquest into the death of Ray Campbell* [2004] NTMC 053

TITLE OF COURT: Coroner's Court

JURISDICTION: Darwin

FILE NO(s): D0166/2002

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FINDING OF: Mr G Cavanagh

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REPRESENTATION:

Counsel:

Assisting: Mr J. Tippett QC

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

No. D0166/2002

In the matter of an Inquest into the death of

**RAY CAMPBELL
ON 17 SEPTEMBER 2002
AT LOT 970, LEONINO ROAD
ADELAIDE RIVER**

FINDINGS

(Delivered 18 June 2004)

Mr GREG CAVANAGH:

1. Ray Allan Campbell was born on 16 September 1964 at the Womens Hospital, Crown Street, Sydney. On 17 September 2002 his body was found by Michael Antony McNally at approximately 6.30pm lying on the floor of a shed on McNally's property at Lot 970 Leonino Road, Darwin River. He had suffered a bullet wound to the abdomen. A hose running water lay nearby and a Styre pistol was lying on the concrete floor of the shed approximately 1.5 metres away from the deceased's body. The muzzle of the pistol was pointing in Campbell's direction. The pistol was known by associates of the deceased to have been carried by him in a black "bum bag" in the day and hours immediately preceding his death.
2. The discovery of Ray Campbell's body by Michael McNally came at the end of a day which Mr McNally had spent at a friend, Frank's, place at Reed Beds road. He had been working at marking out footings and concreting. On his return to his property at lot 970 Leonino Road, Mr McNally observed a camouflaged Toyota ute parked near a donga, near a house on his block which shortly beforehand he had rented to a Ms Riitta Askil. He drove past that vehicle along the track down the side of the block which led to a locked

gate. After unlocking the gate he drove through to a workshop that contained equipment and materials he used in his trade as a self employed handyman and which was his place of residence. He stopped his vehicle and walked to his shed. The lights to the shed were off. He could hear that the fans in the shed were on. In the dim light he could make out water flowing over the floor of the building. He knew that when he had left the premises prior to 9.30am that morning he had switched off all the fans in the workshop. He could hear water running and he could see water flowing out of the shed door. The shed was open and he walked inside. The first thing to which his attention was drawn was a hose on the floor which was running. He picked up the hose and twisted the nozzle to shut off the water. The next thing he noticed was a black pistol on the floor at the back of the shed. Almost immediately thereafter he saw the body of the deceased, Ray Campbell. Campbell was lying on his side with his back against the left wheel of a small Suzuki four-wheel drive vehicle parked in the workshop. Mr McNally's first thought was that the deceased must be asleep. Mr McNally recognised the deceased, whom he had met six weeks earlier at his block during a "clearance sale".

3. Mr McNally was disturbed by his finding and felt uneasy about trying to rouse the deceased by himself. He decided to drive back to Riitta Askil's place to ask for her assistance. When he arrived he told Ms Askil that he wanted her with him when he woke up the deceased. Together they returned to the workshop. Mr McNally walked up to the body. Ms Askil, who had entered the workshop with him, said "get the gun". Mr McNally replied, "no". He thought as he did not have a licence to possess or use firearms that he should not touch it. Mr McNally nudged the deceased's body with his foot. He found that it was stiff. Ms Askil said, "he's dead". At that time Mr McNally did not notice any injury on the body. He went to a telephone situated in the workshop and dialled "000". He and Ms Askil then checked the other rooms of the workshop looking for "the girl". The girl to which

Mr McNally referred in his statement was Ms Kerrie-Anne Kimber. He was not familiar with Ms Kimber but on the occasions when he had previously met the deceased he had always been in the company of this person. The search of the workshop did not turn up anything further. Mr McNally and Ms Askil also searched the camouflaged Toyota and the donga near which the vehicle was parked. They found nothing. They waited for the police.

4. Sergeant Andrew Heath, a uniform police officer stationed at the Palmerston Police Station, arrived at Lot 970 Leonino road at 7.30pm. He recognised the deceased as Ray Campbell. He observed that there appeared to be a single bullet wound to the stomach of the deceased. When he first saw the deceased he noticed that Campbell had a black “bum bag” around his waist and that the zip of that bag was open. He also observed that a black pistol lay approximately 1.5 metres away from the body of the deceased with the muzzle of the pistol pointing in Campbell’s direction.

THE INJURY AND CAUSE OF DEATH

5. Forensic Pathologist, Dr Terry Sinton, attended the crime scene. He conducted an examination of the deceased’s body in situ. Later, at 1530 hours on 18 September 2002, he performed an autopsy upon the body of the deceased at the Royal Darwin Hospital. During autopsy he observed a gunshot entry wound to the anterior wall of the abdomen. The wound track ran anteroposteriorly at approximately 5 degrees to the right of the midline sagittal (in an anteroposterior direction, generally in the median plane) axis but otherwise approximately horizontally.
6. The cause of death was found to be gunshot wound to the abdomen. The mechanism of death involved the projectile or bullet passing through the abdominal cavity severely rupturing the liver, duodenum (upper bowel) and the inferior vena cava (the large vein which collects blood from the lower body back to the heart). As a result of those injuries a large volume (2 litres) of blood had haemorrhaged into the abdominal cavity.

7. A Toxicology Report was obtained which showed 0.56mg/L methylamphetamine and 0.03mg/L amphetamine in the deceased's blood at the time of death. No alcohol or other common drugs were detected.

THE DECEASED

8. The day before his death Ray Campbell had celebrated his birthday. In his 38 years Ray had acquired an extensive criminal record and had become well known to police. The Department of Health and Community Services and Northern Territory Parole Service Files were admitted into evidence at the Inquiry. A file note made on 23 September 1999 by the Manager of Palmerston Regional Services (North) sets out that "Campbell is presently serving his longest period of imprisonment since his first contact with the criminal justice system in 1982. All the indications are that the sentence has had a profound effect upon him, due mostly to his health and long separation from his family". (File C01046 Folio 409). On 20 September 1996 Ray was sentenced in the Northern Territory Supreme Court at Darwin to five years imprisonment with a non parole period fixed at three years. The "Parole Report" to be considered by the Parole Board at its September 1999 meeting provides a comprehensive profile of the deceased's life. (NT Parole Service File C01046 Folio 404 to 408). The deceased was released on parole on 5 October 1999 to be supervised until 12 January 2003.
9. The deceased's criminal history began in April 1982 when he appeared before the Court of Summary Jurisdiction at Darwin for exceeding the speed limit. He was fined \$70. At further seven appearances followed in the period 1982 to 1988 for relatively minor offences involving motor vehicles and such things as giving a false name and address to police and resisting police. In 1988 he was imprisoned for the first time. That experience led him to become involved with a group of friends who habitually used heroin. He continued to use illicit drugs from that time until his death and his anti social behaviour, which included committing crime, was almost entirely

related to drug abuse. There were brief periods when the deceased's drug intake was significantly reduced, if not eliminated altogether.

Unfortunately, those periods were few. Ray's offending gradually became more serious in nature. He progressed to unlawful entry into buildings causing criminal damage, counselling and procuring assaults with intent to steal, escaping lawful custody and then in 1995 armed robbery in Queensland for which he received a sentence of seven years imprisonment.

10. The records indicate that during the last long period of imprisonment that Ray underwent, he came to a cross roads in his life that included a sincere desire to change his attitude to the way he had been living and the way he intended to conduct himself in the future. Unfortunately that epiphany was short-lived.
11. The Case Management Records show that Ray was suffering from Hepatitis C which he had contracted as a result of engaging in intravenous drug use. An old girlfriend, Alicia Louise Henderson, told police that she had lived with Ray for a period of 21 months commencing in December 1999. She said the relationship ended in September 2001. In her statement to police declared on 12 February 2004, she states, "later in our relationship I suspected that there might have been something wrong in the way that he (Ray) acted towards me but I later put this down to bipolar which I was told he was suffering from. This was diagnosed in the latter part of our relationship". The material produced to this Inquiry does not set out a medical diagnosis of bipolar disorder. The evidence is that such a diagnosis was apparently made in Queensland and it would appear that when the deceased failed to take his medication his behaviour became unpredictable, sometimes violent and exceedingly paranoid. While some of Ray's behaviour in the days leading up to his death may have been associated with him suffering from a form of mental illness such as bipolar disorder it is clear from the many other known facts in the case that the characteristics of such a disorder did not contribute to the manner in which death came about

nor the mechanism or cause of death. No medication was found amongst the deceased's possessions and the deceased had not been subject to medical attention on account of his behaviour since his return to the Northern Territory.

12. Ray Campbell was the eldest in his family. Two sisters, Michelle Joy Campbell and Marcia Helen Campbell, survive him. Both sisters had displayed a particular and ongoing concern for Ray's well-being during his life time and have attended and participated in this Inquiry from its commencement. Ray's brother, John Campbell, now 32 years of age is an earthmoving operator and works in remote areas in the Northern Territory. His employment prevented him from being present during the course of the Inquiry.
13. Ray Campbell's parents separated when he was only 2 years old. His mother, Helen Campbell, retained custody of the children. She relocated to Darwin from Sydney, New South Wales, to live. She remarried in Darwin. Ray's relationship with his stepfather, Dennis John Campbell, was particularly good. Ray was educated at Berrimah Primary School to Year 7 before enrolling at Nightcliff High School where he remained until he had finished Year 10. He left school to commence an apprenticeship as a driller in the mining industry. He did not complete his apprenticeship as he found he did not enjoy the work.
14. Ray told various Correctional Services Officers that his family life was enjoyable and stable. There were no serious conflicts in the home. He described his parents as "battlers". They supported him in any endeavour he wished to undertake and he regarded them as honest hardworking people. In his youth Ray played a lot of sport and would earn a little pocket money racing motor cycles. When, as he did, unfortunately fall foul of the law, his family continued to support him which support included visits to Berrimah Prison where Ray underwent various sentences and when he was in gaol in

Queensland. Ray described his relationship with his family to his Parole Officer, Mr Dean Wilson, as “affectionate and close”.

15. When the deceased did engage in employment, which was irregular and often short-lived, he did so as a plant operator/labourer. When he was in prison he particularly enjoyed spending his recreational periods in the gym. The photographs of Ray Campbell taken on the day of his death show a man who appears to be well muscled and fit.

CIRCUMSTANCES LEADING UP THE DEATH

16. In his internal memorandum Sergeant Vincent Kelly described in detail the events that occupied the deceased’s life in the immediate period prior to his death. On 22 August 2002 Ray Campbell had the parole he had been granted on 5 October 1999 revoked for a failure to comply with the terms and conditions of the parole order. In particular, he had failed to comply with directions given to him by his parole officer. As a result of that breach police were notified and a warrant was issued for the deceased’s arrest.
17. On 9 September 2002 police attended at Helen Campbell’s residence situated at 2 Pheasant Drive, Humpty Doo, acting on information that Ray was residing with his mother. The police also had information that he was possibly armed. Ray was found not to be present and not to be residing at that property. On the same day Ray contacted police by telephone and advised them that he would surrender the following day, 10 September 2002. The promised surrender did not eventuate.
18. Mr Bernard Bickers, who provided both a statement to police and gave evidence to the Inquiry, advised police that the deceased had been at his residence on 13 September 2002 and on that occasion had produced a “black gun” which he had given to Bickers to handle after removing the magazine and cartridge from the chamber of the weapon. Bickers said that Campbell told him that “people were out to get him”. After showing Bickers the pistol

Campbell reloaded it and returned it to a black “bum bag” that Bickers said he wore on his waist. I will return to the evidence of Mr Bickers later in these findings.

19. Leading up to his death the deceased had been residing in a relationship with Ms Kerrie-Anne Kimber for “a few months” at the place where he had been living at Lot 5315 McCorrie Road, Corroboree. Ms Kimber was known to police as a user of illicit drugs. She was called to give evidence in this Inquiry, however, I took the view that Ms Kimber’s evidence was entirely disingenuous and, where it was open to her to do so, misleading. She was not forthcoming to police when she was questioned during the course of the investigation and it was self evident to anyone who heard and saw her evidence that she was not prepared to assist the Inquest in any way. In the days before Campbell’s death she and the deceased had travelled to Adelaide River to stay in the bush. The reason she gave to police for engaging in that activity was “because you guys were trying to shoot him (Ray Campbell)”. The evidence demonstrated that that allegation was entirely without substance. Ms Kimber was offered protection by police if she would assist them in the course of their investigation into the death of Ray Campbell. Rather than providing information that might shed some light upon the immediate circumstances prior to death she chose to make wild and entirely baseless allegations against police. Unfortunately, in the presence of the deceased’s family, she chose to maintain that attitude and disposition.

MONDAY 16 SEPTEMBER 2002

20. Between 9.00pm and 10.00pm the deceased and Kimber visited McNally’s residence at Lot 970 Leonino Road, Darwin River. They were driving the camouflaged Toyota Hilux Ute registration NT 629 514. The deceased asked McNally if he could fix his vehicle in the workshop. McNally obliged and in the course of that activity the deceased told McNally that he was wanted for breach of parole and that the Hells Angels were pursuing him.

He said that he had heard that McNally owned a mine somewhere near Pine Creek and he asked McNally if he would give the deceased permission to go and stay there. Michael McNally described the deceased as “jumpy and on edge” throughout the time that he was at his residence.

21. The couple left McNally’s block and travelled to Adelaide River where they camped at an undisclosed location south of the town.

TUESDAY 17 SEPTEMBER 2002

22. On the morning of 17 September 2002 Kerrie-Anne Kimber and the deceased apparently had an argument during which the stock of a rifle the deceased had in his possession, was broken. Kimber left the place where they had been camped for the night and walked to the Stuart Highway. She was distressed after the altercation and was subsequently picked up by Adelaide River Police at about 10.05am. She was returned to the Adelaide River Police Station where she proved to be uncooperative with police but told them that Campbell was armed with a Glock pistol and a rifle. She indicated to police in the course of making allegations against them that Campbell was determined not to return to Darwin Prison.
23. In the meantime the deceased had driven back to Lot 2382 Leonino Road, the residence of Mr Bernard Bickers. He told Bickers about the argument he had had with Kimber. Not long afterwards Bickers received a telephone call from Kimber asking that someone come to Adelaide River to pick her up. The deceased asked Bickers to go as the deceased was experiencing problems with his own motor vehicle. Bickers, in turn, was unable to take his vehicle because of its condition and, consequently, he made the request of Russell Sprecak that Mr Sprecak drive him to Adelaide River to pick up Ms Kimber.
24. Kimber refused to remain at the Adelaide River Police Station or to receive any further assistance from police. Shortly thereafter she was picked up in a

vehicle occupied by Bickers and Sprecak. That trio was intercepted by Darwin Police in the course of their journey between Adelaide River and Darwin River. The interception was prompted by a desire by police to establish the whereabouts of the deceased. Having intercepted the vehicle police conveyed Kimber to the Peter McAuley Police Centre for questioning. Kimber proved to be extremely uncooperative with police and no useful information was obtained from her as to the deceased's whereabouts or his circumstances.

25. At about 2.00pm on the afternoon of 17 September 2002 Ms Riitta Aksila arrived home from work. She was a single mother and had only moved in to the property at Lot 970 Leonino Road in the week or so before the deceased's death. At about 3.00pm that afternoon she was at home with her son, Joseph. She was in the process of making herself coffee while Joseph watched the television when she heard what she believed to be a single gun shot. She asked Joseph if he had heard a shot. Apparently engrossed in the television program he was watching, Joseph replied he had not.
26. At about 4.00pm that afternoon Mr Bickers decided he would inform Campbell that Ms Kimber had been picked up by police and taken back to Darwin for questioning. In the course of his search for the deceased he drove to McNally's block. He drove his vehicle down the access road to the locked gate leading to the workshop where he stopped and beeped his horn a couple of times. He observed the deceased's vehicle parked at the "donga". When the deceased did not come out of the donga or appear from the workshop Mr Bickers turned around and left the block.

THE EVIDENCE

27. Over the three days in which evidence was called before this Inquiry little new material was brought forward that could be described as reliable and which had a particular bearing on the manner of the deceased's death. Witnesses such as Kerrie-Anne Kimber and Mark Dobson, a prisoner who

had given information to police concerning the deceased's death, demonstrated by their demeanour and content of their evidence to be capricious and erratic liars. The information Mr Dobson provided to police was shown to be patently false and the evidence of Ms Kimber needs no further elucidation save that she was uncooperative when asked to further assist the Inquiry out of consideration for the family who dearly sought an explanation for the death.

28. Senior Sergeant Vincent Kelly was the Officer in Charge of the investigation into the death of Ray Campbell as from 17 September 2002. His internal memorandum to the Office of the Coroner dated 26 December 2002 provided a detailed description of the steps taken during the course of the investigation. Generally speaking, the police investigation was sound. However, although Senior Sergeant Kelly spoke to family members, no statements were taken from those persons and it became clear in the course of the proceedings that statements from family members could well be of assistance to the Inquiry. Consequently, Detective Acting Sergeant Wayne Brayshaw arranged to take statements from Michelle Joy Campbell and Marcia Helen Campbell. Those two statements provided a reliable background to the events leading up to 17 September 2002. In particular, the statements deal with Ray Campbell's attitude to police regarding his arrest for breach of parole. The evidence of each of Mr Campbell's sisters is that he had never held an intention to "shoot it out" with police rather than go back to gaol. The material in each statement has been of assistance to this Inquiry and corroborative of the fact that Ray Campbell's focus in the last few days of his life appeared to be related to a fear of other people and not a fear directly related to police. The evidence, however, does not establish whether the fear expressed by Ray Campbell to other people concerning the fact that "people were out to get him" had an undeniable foundation in fact. Whatever the cause for Mr Campbell's belief that others

were intent on doing him harm, it appeared to be a belief actually held by him.

29. Senior Sergeant Vincent Kelly concluded that the deceased's death arose from the accidental discharge of the Styre pistol by the deceased's own hand or contact with a hard surface. At the time Senior Sergeant Kelly arrived at his preliminary conclusion he did not have the benefit of an examination of the evidence by forensic experts who were called in the course of this Inquiry. Dr Malcolm Dodd in his evidence, all but eliminates the scenario of the weapon discharging due to contact with a hard surface. Further, Dr Dodd's evidence raised some serious doubts about the incident being capable of being explained as solely attributable to accident. Investigating police do not appear to have considered referring the material they had gathered during the investigation to an expert of the calibre and experience of Dr Malcolm Dodd. In hindsight it might be seen that such a referral could well have been a beneficial step in the course of the investigation. In arriving at that conclusion I have in mind that the conclusions arrived at by senior police investigators failed to take into account important considerations that an expert of Dr Dodd's standing could well have raised at the time. However, as the evidence stands it is clear that if such a step had been taken at the time it would not have illuminated the circumstances of the death to any greater extent than this Inquiry has been able to do so as a result of the Coroner's Office pursuit of additional lines of inquiry.
30. The conclusion of Senior Sergeant Vincent Kelly that the death was accidental cannot, on the evidence, be dismissed. However, the additional evidence available to this Inquiry does challenge its fundamental premise and, consequently, Sergeant Kelly's opinion should be reassessed.
31. The Inquiry heard from Detective Acting Senior Sergeant Wayne Brayshaw. Detective Brayshaw did not become an investigating officer into the death of Ray Campbell but rather accepted the role of police officer assisting the

Office of the Coroner and the Inquiry. He gave evidence that he knew the main parties to the events of 17 September 2002 through his dealings with them as a police officer. In particular, he was aware of the circumstances of Ray Campbell and Kerrie-Anne Kimber. In the days leading up to the deceased's death he had been the police officer charged with the duty of arresting Campbell for breach of parole. His assistance to the Inquiry was attentive and thorough and he is to be commended for the help he has afforded both the Coroner's Office and the deceased's family leading up to and during the course of proceedings. During the course of evidence Detective Brayshaw was recalled by Counsel Assisting to provide evidence of the whereabouts of the "bum bag" in which Ray Campbell was said to have kept the Styre pistol in the period leading up to his death. It was the evidence of Detective Brayshaw, having made enquiries of the Forensic Services Section of the Northern Territory Police that the "bum bag", a critical piece of evidence to this Inquiry or any criminal proceedings should they have taken place or which may take place, had been destroyed. At the time of the destruction of the black "bum bag" it was clear that at the very least a Coronial Inquiry would be held into the death and the "bum bag" would constitute a necessary component of the evidence to be placed before that Inquiry. No proper explanation for how the destruction of such important material came about was provided to Detective Brayshaw. He regarded the situation as unsatisfactory. I propose to raise the matter of the destroyed evidence with the Commissioner of Police as one of particular concern in anticipation that the matter will be investigated and that any problems which may have been associated with protocol or procedure which led to the destruction of such an important piece of evidence are identified and rectified.

32. Senior Constable Gino Robb provided an extensive statement to the Inquiry which set out the many steps he took during the investigation into the deceased's death. Amongst other things he arranged for photographs of the

crime scene to be taken, he took a video taped “walk through” of the crime scene, he compiled a sketch of the crime scene and searched the contents of the vehicles at the scene. Of particular relevance to the manner of death was his evidence regarding the Styre pistol. He gave evidence that he had conducted tests upon the weapon which showed it to be “prone to discharge” as it did not have a “half cock” hammer safety position. He identified photographs taken at the scene that appeared to show minor damage to the concrete floor of the workshop area very near where the pistol had been found which he said indicated that the pistol had been dropped to the ground. In support of that opinion he pointed out what appeared to be powdered concrete on the hammer of the pistol. However, having regard to the evidence of the forensic pathologists to which I will shortly refer it would appear that those pieces of evidence did not have a relationship to an accidental discharge of the firearm by its being dropped onto the concrete and then discharging but rather are consistent with the pistol being dropped to the concrete floor after the fatal shot had been discharged.

33. Senior Constable David Picker gave evidence in his capacity as a ballistics expert. He told the Inquiry that the projectile or bullet found in the body of Ray Campbell had come from the Styre pistol found at the scene.
34. Mr Michael Antony McNally gave evidence by video conference at 2.00pm on the second day of the Inquiry. I have already referred to his evidence earlier in these findings, however, it is important that it be dealt with in greater detail. He confirmed concerns relayed by the deceased to him about being pursued by other people and fears for his own safety. Mr McNally described the property at 970 Leonino Road, Darwin River. He noted that access to the workshop from Leonino Road was impeded by two gates which he said were locked which, in turn, accounted for the fact that the camouflaged Toyota owned and driven by the deceased had parked near the “donga” on the property rather than driving through to the workshop. Mr McNally told the Inquiry that he had seen the deceased at his premises on

Monday 16 September 2002 about 9.00 or 10.00pm and that he had helped the deceased fix his motor car. Mr McNally was dismissive of Mr Campbell's problems that the deceased described to him. He "just wanted to get rid of them" meaning the deceased and Kerrie-Ann Kimber. Mr McNally arrived home after working at a friend's place to find water flowing from a hose in the workshop and then almost immediately the body of the deceased in the position shown in the police photographs, his back resting against the front wheel of a Suzuki four-wheel drive vehicle and lying in a semi foetal position. Apart from Mr McNally's observations at the scene and his assistance to the Inquiry regarding the movement of people on his property while he had been present he was unable to shed any light on why the deceased was present at his workshop on 17 September 2002 and the circumstances immediately surrounding Mr Campbell's death. Mr McNally was a helpful and reliable witness. Other than picking up the hose and twisting the nozzle and turn off the flow of water, Mr McNally did not disturb the crime scene, in particular, he did not touch the pistol.

35. Ms Riitta Aksila told the Inquiry that she had moved in to a house situated on Mr McNally's block approximately two weeks prior to Mr Campbell's death. She told the Inquiry that on 17 September at about 3.00-3.30pm she heard a single gun shot. She confirmed what she told police in her statement that she was familiar with guns from when she lived in New South Wales and was able to distinguish between the sound of a small calibre firearm and one of large calibre. She told police that the gunshot she heard was "probably about a .22 or something similar". She did not investigate as she thought it might have been "Mick shooting a snake or something like that". She asked her son, Joseph, whether he heard the shot but he was watching television at the time and did not hear it. Approximately an hour after hearing the gunshot Ms Aksila saw a "little light truck" drive into the property and "up to Mick's place". She "saw it come back very soon after and drive out". She was putting out the washing at the time of making those

observations and she told police, “I don’t think that the driver of this vehicle would have had time to stop and get out before he drove back past me”. She waved to the driver. It appears from the evidence given by another witness, Bernard Bickers, that the vehicle seen by Ms Aksila was that driven by Bernard Bickers who told police he had gone to McNally’s place to find the deceased.

36. Mr Bernard Bickers gave evidence of his association with Mr Campbell. It was an association that came about as a result of his having known Kerrie-Anne Kimber for at least 15 or 20 years. He, too, gave evidence of Mr Campbell’s concern about his own safety. In particular, Mr Campbell told him that people were out to get him. Mr Bickers thought after questions had been directed at him by the Coroner that Mr Campbell had mentioned “feather foot” which he concluded meant Aboriginal trackers. Mr McNally recalls the same term being used by Mr Campbell and concluded that Mr Campbell was referring to Aboriginal warlocks or gadija men. Mr Bickers’ evidence indicated that he knew more about the people to whom Mr Campbell was referring and in relation to whom Ray held fears for his own safety than Mr Bickers was prepared to divulge in evidence. The term “feather foot” is uncommon. He vaguely remembered Mr Campbell using a term like that or something similar to it. Mr McNally described Mr Campbell talking about the “H.A.’s”. Mr Bickers said that on a visit to his home at Lot 2383 Leonino Road, Darwin River, Mr Campbell had shown him the Styre handgun and told Bickers “he wouldn’t let them get him and that he would have a shoot out with them”. The deceased did not refer to police in the course of conversations that he held with Mr Bickers about concern for his own safety.
37. Mr Bickers travelled to Adelaide River with a Russell Sprececk to pick up Kerrie-Anne Kimber and return her to Darwin River. On the return trip, having retrieved Kimber from Adelaide River, police intercepted Mr Bickers’ vehicle and required Kimber to accompany them to the Peter

McAuley Centre for questioning regarding the whereabouts of the deceased. Upon his return to Darwin River, Mr Bickers thought the appropriate thing to do was to tell the deceased what happened on the return trip from Adelaide River. His search for the deceased took him past “Mic Mac’s and then down the road past Riitta Aksila’s house to a point at the front of the donga”. He said he beeped the horn a couple of times but the deceased did not come out of the donga. He observed the door was open. He said he waited there about 30 seconds and on his return trip noticed “a woman pulling out some weeds in her garden” who “waved at me”. Riitta Aksila does not remember the sound of a car horn on that day. No doubt Mr Bickers stopped his vehicle in the vicinity of the donga because the deceased’s vehicle was there and the donga’s door was open as well as the fact that the gate into the area of the property on which the workshop was situated was locked. Riitta Aksila’s evidence does not exclude the possibility of the presence of another person at the workshop at the moment of discharge of the firearm that caused Mr Campbell’s death. Equally, her evidence does not support a conclusion that there was another person or persons present when the pistol was fired. She did not hear the movement of any vehicles or people at the time of or shortly after she heard what she believed to be the discharge of a firearm.

THE FORENSIC PATHOLOGISTS

38. Dr Malcolm Dodd was of the opinion that the manner of death involved the deceased being upright, the muzzle of the pistol being hard up against the skin and muscle of the abdomen, the pistol at time of discharge was held perpendicular to the abdominal wall and horizontal to the ground. He considers the presence of another person at the time of discharge to be supported by the observations identified by Dr Terence Sinton at autopsy. He considered that the scenario of an accidental discharge would “go heavily against the observations identified at autopsy”. However, while he was of the view that the evidence together with the lack of expected gunshot

residue on the hands of the deceased if the gunshot had been discharged by him better fitted a manner of death including the scenario of a struggle between two people, he could not exclude accident. He described the evidence in this case as making a firm and exclusory postulation as to the manner in which death came about as extremely difficult.

39. Dr Dodd's report of 18 March 2004 does include a possible scenario of suicide. That scenario can be excluded on all the other evidence including that of Mr Bickers who said the deceased was looking forward to the return of his girlfriend Kimber from Adelaide River and the crime scene which showed that at the time or shortly before death the deceased was engaged in cleaning up the workshop area. The deceased had not expressed any suicidal ideation to any person and rather than being concerned about taking his own life or having thoughts in that regard his stated fear was that others may be out to get him.
40. Dr Dodd rejected a deliberate homicide due to the position of the bullet wound on the body, the fact that the muzzle of the pistol was hard up against the abdomen of the deceased when the weapon was discharged and that there was no coup de grace. He said that such a bullet wound could well have meant the deceased was alive for several minutes prior to death. In the alternative, he said it is not unusual to find a person shot in the abdominal area to die of shock almost immediately after receiving the wound. There does not appear to be any evidence that the deceased moved about the workshop for any length of time after receiving the wound and prior to his death.
41. Dr Terry Sinton carried out the autopsy on the body of Ray Campbell. He made observations of "recent injury" on the deceased's body that he said were consistent with injuries the deceased may have received in a struggle immediately before his death. Dr Sinton told the Inquiry the deceased was a healthy man but that his liver was distinctly unhealthy due to the effect of

hepatitis C. Dr Sinton was not qualified to give an opinion regarding the manner of death save for the matters that he makes reference to in his report. The cause of death was a gunshot wound to the abdomen. The mechanism of death was bleeding into the abdomen.

FORMAL FINDINGS

42. Section 34 of the Coroners Act reads:

“(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;

(v) any relevant circumstances concerning the death.

(2) A Coroner may comment on a matter, including public's health or safety of the administration of justice, connected with the death ... being investigated.

(3) A Coroner shall not, in an investigation, include in a finding or comment, a statement that person is or may be guilty of an offence.

(4) *A Coroner shall ensure that the particulars referred to in subsection (1)(a)(iv) are provided to the Registrar, within the meaning of the Births, Death and Marriages Registration Act.*

43. Section 35 Coroners' Report states, inter alia, "(3) A Coroner shall report to the Commissioner of Police and the 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 investigated by the Coroner."
44. The Public Inquest commenced at the Darwin Magistrates Court on Monday 22 March 2004 and concluded on Thursday 25 March 2004. Counsel Assisting the Coroner was Mr Jon Tippett QC. The family of the deceased appeared but were unrepresented.
45. The deceased was formally identified at the Darwin Mortuary as Ray Allan Campbell by his mother, Helen Campbell.
46. The Autopsy Report (received into evidence) sets out that the cause of death was a gunshot wound to the abdomen. The autopsy was carried out by Dr Terry Sinton at the Royal Darwin Hospital.
47. The place of death was at Darwin and, more particularly, Lot 970 Leonino Road, Darwin River. The identity of the deceased person was Ray Allan Campbell, a male Caucasian Australian born 16 September 1964 at Sydney, New South Wales.
48. The time and place of death was at Darwin in the Northern Territory after 2.00pm and before 6.30pm on 17 September 2002.
49. The deceased died from gunshot wound to the abdomen.
50. The particulars required to register the death are:
 - (i) the deceased was a male;

- (ii) the death was reported to the Coroner;
- (iii) the cause of death was confirmed by post mortem;
- (iv) the gunshot wound to the abdomen caused the death;
- (v) the pathologist viewed the body after death;
- (vi) the pathologist was Dr Terrence John Sinton of the Royal Darwin Hospital;
- (vii) the mother of the deceased was Helen Anne Gibson and the father of the deceased was Dennis John Campbell;
- (viii) the usual address of the deceased was Lot 5315 McGorrie Road, Corroboree in the Northern Territory;
- (ix) the deceased was not employed at the time of death.

PARTICULAR MATTERS FOR COMMENT

51. A total of eight civilian witnesses provided statements in relation to the investigation into the death of the deceased. Seven police officers also provided detailed statements as to the steps taken during the investigation. A forensic and ballistics examination was thoroughly carried out. A fingerprint examination of the pistol did not reveal any fingerprints. The ballistics examination confirmed that the bullet that killed the deceased came from the Styre pistol found at the scene. Police also found at the scene that a number of chairs had been placed on a table which, together with the fact that a hose was found running at the time the body was discovered by McNally, led them to conclude that the deceased had been in the process of cleaning the workshop at the time of his death possibly in order to ingratiate himself with McNally so that he would obtain permission to occupy the vacant demountable on the block. The ballistic tests indicate that the pistol was capable of self discharging. Forensic testing showed that no damage was done to the black “bum bag” so as to suggest that the weapon had accidentally discharged while positioned in that piece of apparel. The investigation is conclusive of the fact that the pistol must have been removed from its position in the “bum bag” before the fatal shot was

fired. Sergeant Vincent Kelly, having reviewed the evidence, offered the opinion that the pistol had accidentally discharged either by the deceased's own hand or due to contact with a hard surface while he was cleaning up the shed. The police investigation also disclosed that the deceased appeared to be involved in the illicit manufacture of amphetamines. Equipment located after his death in his vehicle at Leonino Road strongly suggests that the deceased had been manufacturing amphetamines or was about to establish a clandestine amphetamine factory.

52. Due to the findings of the Forensic Pathologist, Dr Sinton, regarding the trajectory of the projectile and the fact that the circumstances surrounding the death distinctly eliminated suicide as an explanation for the death a further opinion was sought from Dr Malcolm Dodd, Consultant Forensic Pathologist at The Victorian Institute of Forensic Medicine.
53. Dr Dodd provided a report to the Office of the Coroner dated 18 March 2004. Initially, Dr Dodd favoured the conclusion that the death was due to homicide. However, in the final draft of his report he concluded that "as to whether this is an accident, suicide or act of homicide I cannot be entirely confident but I would favour the first two options rather than homicide". As can be seen from my examination of Dr Dodd's evidence once he was in possession of further material he was prepared to opine that the death was due to homicide although he could not exclude accident.
54. The crime scene examination did not, in the view of investigating officers, support a conclusion that more than one person was present at the time Mr Campbell was shot. Similarly, the investigation does not exclude the presence of other persons at the critical time. The evidence was that neighbours did not hear the movement of any vehicles at about the time the deceased was shot, nor did they observe any persons leaving the area. However, investigators were not able to rule out the movement of vehicles or persons in the area at about the time of Ray Campbell's death

CLOSING REMARKS

55. The purpose of a Coronial Inquiry is to make every endeavour to obtain evidence which will allow the Inquiry to arrive at a positive finding in relation to the manner of death. Unfortunately, in this Inquiry, I find that the evidence is insufficient to determine the manner of death and that an open finding is the only reasonable recourse having regard to the state of the evidence before the Inquiry. However, the evidence does permit me to find that the death was not the result of any intentional act by the deceased. I leave open the question of whether there may have been third party intervention immediately prior to or at the time of death.
56. It is often said that an open finding is not satisfactory to anyone for the reason that both relatives and family of the deceased, as well as the statutory duties accompanying Coronial Office, seek, wherever possible, to solve the puzzle of a death to achieve finality and to have a satisfactory degree of understanding as to how the investigated death came about. However, in this case the evidence is, in part, of uncertain character or unreliable and in some instances insufficient, such that it is not merely appropriate but it is my duty to return an open finding.

Dated this 18th day of June 2004

GREG CAVANAGH
TERRITORY CORONER