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NTMC 011

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JURISDICTION: Darwin

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FINDING OF: Mr Greg Cavanagh SM

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committed

REPRESENTATION:

Counsel Assisting: Ms Elisabeth Armitage
Northern Territory Police Service: Mr Greg MacDonald
Ms Valerie O'Keefe: Ms Claire Henderson

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

No. D0165/2007

In the matter of an Inquest into the death of

**KIEFFEN OWEN JAYDEN RAGGETT
BETWEEN 2 – 4 OCTOBER 2007
AT ROCKY CREEK, BORROLOOLA**

FINDINGS

8 April 2011

Mr Greg Cavanagh SM:

Introduction

1. Kieffen Owen Jayden Raggett (the “young boy”) was 8 years old when he went missing from his home in Borroloola at lunch time on 2 October 2007. After an extensive search he was tragically located deceased at about 4.30 pm on 4 October 2007. His body was found in a shallow, muddy, waterhole approximately 500 metres from the Borroloola subdivision where he lived. Although it is likely the young boy drowned, I cannot exclude a reasonable possibility that he was deceased before being placed into the water. Accordingly, his cause of death remains undetermined.
2. When the young boy went missing his guardians, Mr Clifford Taylor and Ms Adrienne Raggett, were immediately concerned that something terrible had happened to him. It was not in the young boy’s nature to wander off alone, and they had found his tracks and a set of adult tracks leading into the bush behind the subdivision.

3. Over the next two days extensive ground and aerial searches were conducted by local police, members of the Territory Response Section, family members and the local community.
4. When the body was found in the waterhole, investigating police quickly concluded that the death was an accidental drowning following a fall, and the matter was allocated to a local police member to complete a coronial file. This early decision to classify the death as non-suspicious was a critical point in the investigation. Thereafter, the investigation was given neither the priority, nor the seniority of investigators, that it deserved. Minimum standards of investigation were not adhered to. Critical avenues of inquiry were overlooked and the circumstances surrounding this death were not considered systematically or comprehensively. The poor management of seized items and the crime scene resulted in evidence being compromised or destroyed.
5. A review of the evidence available to police when the decision was made to categorise the death as non-suspicious reveals that there was little that objectively validated the “accidental drowning” theory or that excluded the possibility of foul play. In this regard I note the following:
 - (i) The young boy was not known to wander off alone and was thought to be shy of water;
 - (ii) Adult footprints were seen adjacent to the young boy’s footprints leading into bushland and around the waterhole;
 - (iii) The young boy had been wearing a red singlet when last seen alive but was found bare-chested. A red singlet was found in bushland *en route* from the subdivision to the waterhole;
 - (iv) There were no footprints at the presumed point from which he fell at the top of the embankment;

- (v) The barbed wire fencing at the top of the embankment, considered by police to be a possible cause of a fall, was not adjacent to that part of the waterhole where the body was found;
 - (vi) The toe prints in the side of the embankment, considered by police to have been possibly made during a fall, were not adjacent to where the body was found and were equally consistent with someone climbing out of the waterhole;
 - (vii) The head lacerations, considered by police to have been made during a fall, were equally consistent with the young boy being struck on the back of the head; and
 - (viii) The presence of at least 2 large rocks in the young boy's shorts could not be adequately explained other than by the intervention of some other party.
6. The lack of diligence by members and their supervisors in the initial investigation of this young boy's death occurred despite regular oversight by two of my Deputy Coroners on my behalf.
 7. On 2 September 2010, two years and eleven months after the boy's death, I asked for the Police coronial investigation file as is. It was immediately listed for inquest despite the fact that it was still not finalised. Substantial additional Police resources were belatedly allocated to further investigate his death before the inquest.
 8. I do acknowledge the efforts of the current Officer in Charge, Detective Senior Constable Joedy Kitchen, her supervisor Detective Senior Sergeant Scott Pollock and all members involved in the follow up investigation, but which could not undo past mistakes. I commend Detective Senior Constable Kitchen for the thorough brief she submitted.

9. The Police Service has frankly admitted that there were significant problems and failings associated with their handling of this investigation. At the outset of the inquest Superintendent Kristopher Evans, who is in charge of the Major Crime Division of the Police Service, made a public apology to the family and community of Borroloola and I extract part of it:

“I was tasked by the Deputy Commissioner of Police to do an internal review to see what mistakes have been [made] and what processes could be put in place to ensure that they didn't happen again.

There were several areas where the Northern Territory Police failed to do their job correctly and could have done things much better.

As a disciplined and professional force the Northern Territory Police Force should have done much better. As a Superintendent I've been authorised to make clear to the family of the young boy and to the Borroloola community that the Northern Territory Police apologise for the mistakes that we made. The community is entitled to expect better from their police force and on this occasion they didn't receive what they should have got.

The police force recognises this and I'd like to apologise to the community, but mainly to the family of this young boy and I'd like to say that we're deeply sorry for what occurred.”

10. I am told that the police file remains open and investigations continuing.
11. In this inquest, Ms Elisabeth Armitage appeared as Counsel Assisting, Mr Greg MacDonald appeared for the Police Service and Ms Claire Henderson appeared for Ms Valerie O'Keefe. I received into evidence a 6 volume brief of evidence. I heard evidence from Police witnesses Joedy Kitchen, Bruce Payne, Jamie Peters, Timothy Perry, Amanda Ruzsicska, Timothy Sandry, Ross Martin, Adam Van Oosten, Shaun Gill and Superintendent Kris Evans. I heard evidence from civilian witnesses May Raggett, Adrienne Raggett, Clifford Taylor, Tiny Ahwon, Steven O'Keefe, Gracie Young, Daphne Ahwon, Dalene Anderson, David Allen, Winston Davey, Azman Rory, Stephen Anderson, Stanley Allen, Rodney Dixon and a person whose name

is suppressed. I heard medical evidence from Dr Terence Sinton and Dr Paull Botterill.

12. Pursuant to section 34 of the *Coroners Act* (“the 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;

13. 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.”

14. 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.”

Formal Findings

15. Pursuant to section 34 of the Act, I find, as a result of evidence adduced at the public inquest, as follows:

- (i) The identity of the deceased person was Kieffen Owen Jayden Raggett, born 29 October 1998. The deceased resided at Lot 552/7 Mulholland Street, Borroloola, in the Northern Territory of Australia.
- (ii) The time and place of death was between 12pm Tuesday 2 October and 4.30pm Thursday 4 October 2007 , at Rocky Creek, Borroloola.
- (iii) The cause of death is undetermined. .
- (iv) Particulars required to register the death:
 1. The deceased was Kieffen Owen Jayden Raggett.
 2. The deceased was of Aboriginal descent.
 3. The deceased was a student.
 4. The death was reported to the Coroner.
 5. A post mortem examination carried out by Dr Terence Sinton, gave a cause of death as drowning, but I find the cause of death to be undetermined.
 6. The deceased's mother is Ms Valerie O'Keefe and his father is Mr Owen Raggett.

Relevant circumstances surrounding the death

Background

16. The young boy was born in Katherine Hospital, Katherine, to Valerie O'Keefe and Owen Raggett who were in a de facto relationship. He had one older sister, Owenitta Raggett born 25 March 1997.
17. Before his parents separated in 2001, the young boy lived with his family in Pine Creek, Borrooloola and Tennant Creek. After the separation, he moved with his father and Owenitta to Borrooloola. His mother moved to Elliot and her regular contact with the children ceased.
18. In Borrooloola the young boy lived with his aunt and uncle Adrienne Raggett and Clifford Taylor at their home in Mulholland Street, and spent weekends and holidays with his grandparents May and Ronald Raggett at their home in Anyula Street, or at Mallapunyah Station. His father lived in a caravan nearby with his de facto partner Angela Mawson and continued to have regular contact with his children. The boy visited his relatives' homes within the Borrooloola subdivision on a daily basis but he never travelled any distance from home alone.
19. The young boy was considered to be an obedient, capable, intelligent, and happy child who admired his father. I am told he worked hard in the yards at Mallapunyah Station and his hobbies included horseback and motorbike riding, soccer and playing with shanghais (sling-shots). He was often seen with the family's pet dog, a red heeler. The boy's reported swimming ability varied as between witnesses, but his guardians, Clifford Taylor and Adrienne Raggett, told me he was shy of the water. There was certainly no evidence before me that he ever swam alone or was drawn to water. The boy was not known to consume alcohol or any other drug.
20. The young boy's school file was tendered in the inquest. The boy's teacher and school principal thought he had academic and social potential and were

shocked and saddened by his death. One incident of misconduct that could be categorised as minor sexualised behaviour is documented on 20 February 2007. The boy's teacher described the incident as out of character and dealt with the matter using ordinary school discipline. I do not consider the incident significant to this inquest.

21. The young boy attended the local community clinic. When the matter was first investigated his clinic records were thought lost. However, his file was found on Thursday 2 September 2010 and tendered in the inquest. His medical records indicate a history of common childhood ailments, minor injuries, and a low haemoglobin level possibly due to diet. On Friday 9 March 2007 his weight was recorded at 30 kg. The boy was not known to be suffering from any illness or injury at the time of his disappearance.

A missing person

22. During the October 2007 school holidays the young boy was visiting Mallapunyah Station with family members. On Tuesday 2 October 2007, there was a funeral in Borroloola for a prominent community member, V.J.Mulholland, and the young boy travelled with his grandmother from Mallapunyah Station to Borroloola to attend the funeral.
23. Whilst everyone was getting dressed for the funeral the young boy went on foot between the family houses and said that he was not going to the funeral but was going to stay with his father. The young boy was left at his grandparents' house, in the care of his uncle Clarence Raggett.
24. At about lunch time, Clifford Taylor returned to the subdivision to collect the young boy for lunch. The boy could not be found. Clifford told May Raggett, and May then also returned and made an effort to find him. The family became concerned and began to make general enquiries with passing police, community members and relatives as to his whereabouts. He was

formally reported as a Missing Person at about 4.40 pm to Sergeant Bruce Payne, the Officer-in-Charge of Borroloola Police Station.

Last sightings

25. Investigations revealed the following possible sightings of the young boy during the morning of the funeral. However, as most witnesses were not asked to provide statements until some two or more years after the boy went missing, it was not possible for the sightings to be effectively cross-checked or confirmed. It was also not possible to know whether evidence had been influenced by community speculation and discussion. Times can be considered “guestimates”.

Subdivision house locations



26. Clarence Raggett told police that he last saw the young boy mid-morning playing video games in May's lounge room. Clarence said he went to sleep and woke at about midday and the young boy and the red heeler dog were gone. He assumed they were at Adrienne's house and was not concerned. Clarence remained at the house until May told him the young boy was missing.

27. Owen Raggett told police that he spent the day sleeping off a hangover and did not see his son. Angela Mawson was sleeping with her partner and said she woke and saw the young boy during the morning but was unsure of the time.
28. Reggie Dixon from Robinson River, and five children (Clennon Bob, Steven O’Keefe, Jayvin Simon, Keanu Bob and Trent Davey), were visiting Shirley Simon’s house at in Anyula Street. Reggie was supervising the children who were playing in the back yard with ducks. They recalled that during the morning of the funeral the young boy came over with his red heeler dog and played for a while. They said he walked off when an unidentified Aboriginal boy called out to him by name from the firebreak behind Anyula Street. Reggie later described the “young fella” as an Aboriginal boy, about 6 inches taller than the deceased and a little bit fat. Steven described the unidentified boy as wearing a red shirt and black pants, and being about the same age and size as the young boy. I note however, the accounts of this group have been inconsistent over time. Steven (as the eldest child) gave evidence at the inquest but could no longer really recall the day in question. The unidentified Aboriginal boy remains unidentified.
29. Tiny Ahwon, Gracie Young, Douglas Ahwon and Carol Smith told police that when they were driving to the council grounds for the barbeque wake, they saw the young boy standing near a large mango tree near Rocky Creek Bridge.
30. Lance Barclay told police that in the afternoon, just before people started returning to the subdivision from the funeral, he was watching a video at Bronwyn Mulholland’s house in Anyula Street. The young boy dropped by looking for Dominic Huddleston (a child friend of the young boy who lived at that house). When he was told that Dominic was not at home, the young boy said he was going to Adrienne’s house and was seen walking in that direction.

31. Jo Ashley Junior and Crystal Barclay told police that during the funeral they saw the young boy playing alone out the front of Adrienne's house in Mulholland Street.
32. David Allen and Winston Davey told police that they were sitting on the front veranda of David's house at the corner of Anyula and Mulholland Streets consuming alcohol. They thought they saw the young boy walk past from May's house towards bushland at the end of Anyula Street. There is conflicting evidence about the time of this sighting. It was initially reported to police as 10.30 am but later was reported as after 2.30 pm (apparently based on when the bottle shop opened). The later time became significant because it appeared to be the last recorded sighting. However, before me David Allen's evidence was vague and contradictory and I place no weight on his evidence as to times.
33. From the statements tendered and evidence called at the inquest I find that the young boy was last seen alive during the morning, and possibly up to midday, on 2 October 2007.

The search for the missing young boy

34. May Raggett told me that after the wake she started searching for the young boy. She identified the young boy's footprints at the broken perimeter fence between Adrienne Raggett's house and Tanya Dixon's house next door. The prints travelled into the neighbour's back yard. From the rear stairs of the Dixon house she tracked two sets of footprints: the small set she had identified as the young boy's and a big set that looked like an adult sized print. The prints were close (within arm's reach) to each other. They travelled together to the rear far corner of the yard, out onto the firebreak behind Mulholland Street, and then into bushland. May did not follow the footprints further because she was too upset. She feared someone had led the young boy away and something bad had happened to him.

35. Adrienne Raggett gave evidence that she tracked the same two sets of footprints, beginning at the rear far corner of the Dixon house, through the firebreak and into the bushland. Adrienne had difficulty tracking the prints through the bush but she walked in the general direction the footprints were travelling and sporadically saw that they led to Rocky Creek.
36. Adrienne saw the two sets of footprints on the edge of a waterhole west of a four wheel drive crossing at Rocky Creek. The two sets of footprints entered the water. She did not search any further as she was greatly distressed. She too feared someone had led the young boy away.
37. Azman Rory gave evidence that he entered the firebreak from a vacant lot (Lot 556 / 15 Mulholland Sreet) which neighbours the Dixon house. He searched the bushland for footprints and located the two sets of footprints. He tracked the prints through bushland down to Rocky Creek, into and out of the waterhole Adrienne had tracked them to, and then further westward along the creek to the waterhole where the body was located two days later. He told me he saw small prints near the water's edge below the steep bank and that he saw both large and small prints at the far end of the waterhole (near where a XXXX can was later located).
38. May, Adrienne and Azman all showed me, in evidence, where the prints were located and I walked through the area they tracked and saw the waterhole in which the boy's body was located. The evidence provided by this view was compelling. The bush was non-descript and held nothing of obvious interest to a young boy. The waterhole was shallow, muddy and uninviting. In my opinion, no child would consider swimming there.
39. Local police attending to the initial search, Sergeant Payne and Constable Luke Shilton, were told of the prints but found them difficult to discern from other prints. They walked through the bush in the direction they were told the prints headed but identified nothing of interest. Constable Shilton, together with Aboriginal residents, then searched along Rocky Creek up to

the waterhole where the body was later located. By chance Constable Shilton and Azman Rory met, and Azman told Constable Shilton about the prints he had seen and specifically pointed out a large footprint at the edge of the waterhole in some mud.

40. It took a further two days of ground and aerial searching before the young boy's body was found. Assistance with the search was sought and received from the Territory Response Section and the Alice Springs Regional Investigation Division. Throughout the search there were no other compelling leads as to his whereabouts and Rocky Creek remained the focus of effort.

The young boy's body was found

41. The boy's body was located during a police coordinated line search by Senior Constable Travis Edwards, on Thursday 4 October 2007 at about 4:23 pm in a waterhole in Rocky Creek (Grid Reference 386 238; GPS Coordinates S 16 03 672 E 136 17 794).

The waterhole



42. The waterhole was west of a crossing and about 508 metres from the nearest residential area of the subdivision. It was about 40 metres long, 10 metres wide, and 75 cm at its deepest point. The water was muddy and provided no

visibility. The southern bank (on the far side from the community and the bank closest to the body) was steep with a drop of about 1.5– 2 metres. Along part of the top edge of the waterhole there were some strands of tangled barbed wire sitting about 5 – 10 cm above the ground.

43. The body was located in the deepest section of water about 2 metres from the bottom edge of the steep embankment. The lower part of the body was submerged while the head, left shoulder and arm were floating and visible to searchers. There was a strong smell of decomposition around the waterhole.
44. Two ragged lacerations, to the rear and top of the head, were evident to police. A crime scene was established while the body was recovered. During recovery, Senior Constable Neil Mellon placed a stretcher into the water beneath the young boy's head and felt a large rock below the surface of the water.
45. When the body was moved Constable Jamie Peters saw a large rock about 15 cm in diameter fall from the young boy's shorts. Borroloola resident Stanley Allen Senior, who was watching from the bank, also saw a rock the size of a "bread and butter plate" and a couple of inches thick fall from the boy's shorts. This rock (or rocks) was not seized. As the body was placed into a body bag, Sergeant Tim Perry and Constable Peters saw large rocks in the boy's shorts (not the pockets).
46. The young boy was wearing a pair of dark coloured (navy or black) shorts with white and red piping and his chest was bare.
47. The waterhole was not searched further until it was drained some 10 days later.

An examination of the scene

48. Throughout the search for the young boy and following the recovery of his body, items of potential relevance to his death were located. However, there

were marked failings with the way police handled this aspect of the investigation. These errors might have significantly diminished the forensic value of the discoveries.

- There were delays between finding and seizing items allowing a possibility of interference or contamination by searchers or other persons;
- A crime scene was not maintained at the waterhole overnight, so that contamination of the scene could not be excluded;
- Significant items of clothing were not shown to relevant persons for identification or exclusion;
- Items seized were not forensically tested in a timely manner or at all; and
- Assumptions were made as to the relevance or otherwise of items, without an objective basis for those assumptions.

49. Toe marks in the side of the steep embankment were photographed but no measurements or castings of these or any other footprints were obtained.

Toe prints



Three possibilities spring to mind concerning these prints:

- They may have no relevance to the death and simply be coincidentally located or made by searchers;
 - They may have been made by someone involved in the death of the young boy climbing out of the water; or
 - They may have been made by the young boy falling into the water.
50. Measurements or castings might have assisted in objectively determining the origin and significance of these prints. However, no such examinations were undertaken (on these or any other prints). Without any objective evidence, investigating police jumped to the conclusion that they were marks made by the young boy falling into the waterhole. This was not an assumption that could be substantiated on the available evidence.
51. A XXXX beer can was found near the water's edge of the waterhole. It was seized but not forensically tested until many months later. This XXXX can became significant when DNA extracted on it was found to match the DNA of a person on remand for child sex offences. I note that through no fault of the investigators, the match was not identified until Wednesday 7 January 2009 when the remandee's profile was added to the data base for an unrelated matter. However, that does not excuse the lengthy initial delay in testing.

The XXXX can



52. Weathered pages from a pornographic magazine were located on Wednesday morning 3 October 2007 by Borroloola resident Annette Bradford about 94 metres east of the waterhole. Annette notified police. However, the magazine was left *in situ*, and not seized by police until the following day. In the meantime it was handled by other searchers and pages became detached. It was not further examined and was deemed to be irrelevant. However, further investigation in 2010 revealed that this was a UK magazine not readily available for purchase in Australia. It is not known whether this information might have been significant if known at the time of the initial investigation.
53. During the morning of Thursday 4 October 2007, resident Stephen Anderson located a red, child-sized Shark singlet in a rocky outcrop in bushland between Rocky Creek and Mulholland Street close to the tracks and route followed by Adrienne the day the young boy went missing. Later that day resident Derrick Dank located the same singlet in the same position. The singlet was left *in situ* overnight and seized by Senior Constable Amanda Ruzsicska on Friday 5 October 2007. The singlet was presumed to be irrelevant. How such an assumption could be reached by investigators is a serious concern. The Missing Person Report described the boy as wearing a red shirt when last seen and he was found bare-chested. The singlet was child-sized, and located *en route* between Mulholland Street and Rocky Creek (as tracked by Adrienne and shown to police on the afternoon of 2 October 2007). It was not shown to family members for identification or exclusion.

The red singlet



54. When it was belatedly shown to family members in 2010 the boy's guardians, Clifford Taylor and May Raggett, identified the singlet as the one worn by the young boy on the day he went missing. Furthermore, they said that it was a favourite top that the young boy was most unlikely to discard. The ownership of the singlet, the significance of it being discarded, and the significance of its location were all matters completely overlooked by the initial investigators and are matters which arouse suspicion that an unfortunate event might have occurred at or near the rocky location where the singlet was found. In my opinion this was a potential crime scene that was not identified as such or adequately examined.
55. Later in the afternoon of Thursday 4 October 2007, Derrick Dank located a cap, which he described as an old peak cap with a black or purple brim and an emblem on the front. The cap was on the southern side of Rocky Creek, west of the four-wheel-drive crossing and before the waterhole the body was later located in. He noticed scuff marks in the sandy creek bed below. Derrick thought the scuff marks looked like people wrestling. Although Derrick said he notified police members of the cap, there is no record of this item having been seen or seized by police. Did it belong to the young boy or someone involved in his death? Its potential significance, if any, is lost.
56. The waterhole was drained over about ten days. On Wednesday 10 October 2007 Sergeant Payne re-attended the location and located a red, small-sized

Manchester United soccer shirt with white “Vodafone” lettering on the front and the number “8” on the back. Although the shirt was not shown to family members for identification, Sergeant Payne assumed the shirt belonged to the young boy and returned it to them.

The red soccer shirt



The shirt remained in an exhibit bag in a family home until 2010 when it was re-seized by police. When shown to the guardians for the first time, they were certain that it did not belong to the young boy. However, other family members thought it might be the young boy's. Given the passage of time, the possibility of positive identification is unlikely.

57. There is nothing to suggest that the young boy was wearing two shirts. Given the location of the singlet identified as the young boy's *en route* to the waterhole and a second shirt in the waterhole, there is in my view a distinct possibility that the soccer shirt might be connected to a person involved in the young boy's disappearance and death. If witnesses had been approached at the time, uncertainty as to ownership of the soccer shirt and who (if anyone) was wearing it on the day the boy went missing, might well have been obtained, and might well have proved critical to the outcome of this case. In this inquest I heard evidence from the person whose DNA was located on the XXXX can. He told me that he owned a shirt, similar to the one found by police in the waterhole. He said that he lost the shirt some

months before the boy went missing. Given the delay, his account cannot be reliably tested, verified, or discounted.

58. When the waterhole was completely drained, Sergeant Payne and Constable Peters saw a number of large rocks positioned in the same location as the body had been. These rocks appeared to be sitting on the surface of the creek bed, suggesting recent placement, while other rocks elsewhere in the creek base appeared partially embedded in the muddy bottom, suggesting prolonged positioning. The possibility that these “recently positioned” rocks were used to weigh down the boy’s upper body was apparently never considered by the original investigators as it did not fit with their preferred “accidental drowning” theory.

Rocks found in waterhole at the location of the body



59. Considering the discovery of large rocks in the young boy’s shorts, and the time taken for the body to surface, it is in my view well within possibility that the rocks found under the body were used to weigh down the torso. I heard evidence that as the body decomposed it would bloat. Bloating could cause rocks placed on top of the torso to dislodge. Once dislodged, the upper body would become free to float. But the lower body remained weighed down by the rocks contained within the shorts. This reasoning would explain why the body did not float for two days, and why only the upper half was floating when it was discovered. It is also highly suggestive of foul play.

The autopsy

60. On Friday 5 October 2007 the young boy's body was flown to Darwin for autopsy which was performed by Forensic Pathologist Doctor Terence Sinton on Saturday 6 October 2007. I had the benefit of Dr Sinton's report and he gave evidence in the inquest. The autopsy report and photos were reviewed by Dr Paull Botterill at the request of my Office. Dr Botterill also provided a report and gave evidence.
61. Senior Constable Ross Martin, Constable Adam Van Oosten and Crime Scene Examiner Senior Constable Timothy Sandry all attended the autopsy.
62. At autopsy, the body was markedly decomposed due to prolonged water immersion. There were two ragged triangular shaped lacerations of skin and soft tissue on the upper right parietal lobe. Both doctors agreed that the force which caused these injuries might have caused loss of consciousness, but whether it did or not remains unknown.
63. There were no other injuries detected on the body but Dr Sinton told me that he could not exclude the possibility that there might have been other injuries present at death, such as bruises or abrasions. I was told that the evidence of those kinds of injuries, if they existed, was likely to have been lost or masked by of the effects of decompositional change. The possibility of sexual or other assault is therefore not excluded by the autopsy.
64. Toxicology results indicate the body cavity fluid contained 0.128% alcohol. This could be attributed to decomposition. However, alcohol consumption could not be excluded.
65. Located inside the shorts (not the pockets) and between the legs of the young boy were two rocks weighing in total 1004 grams. The larger rock measured approximately 15 cm x 10 cm x 5 cm.
66. In his report, Dr Sinton concluded:

“given the **history** and autopsy findings it was likely that he fell, hit his head, was rendered unconscious and landed in the waterhole in which he was subsequently found, having drowned shortly after his fall”(emphasis added).

67. Police did not complete an “Initial Notification of Death to the Coroner” form (contrary to their General Orders), in which investigating members advise me of the “circumstances surrounding the death” and “questions for the pathologist”. This form is normally provided to the Forensic Pathology Unit by my office prior to the autopsy to give the forensic pathologist an initial history of the circumstances. There are also no notes of what Police told Dr Sinton about the circumstances surrounding this young boy’s death. Given the passage of time neither Dr Sinton nor the police present at the autopsy could really provide much enlightenment on what he had been told. I find it likely that Dr Sinton was influenced by the police theory that this death was accidental. Equally, Dr Sinton’s conclusion reinforced the police belief. In hindsight the circularity of this reasoning is obvious, but I accept that it might not have been so readily apparent to those directly involved in the investigation. I am told by Dr Sinton that on occasions a “history” is provided in writing. For reasons of both transparency and review, I am of the view that the “history” provided to the forensic pathologist should be retained as part of the forensic pathology record, whether it be in writing or audio- recorded at the autopsy.
68. Dr Botterill considered that the rocks in the young boy’s shorts were significant and not able to be adequately explained by the “accidental drowning” theory. He proposed alternatives which would explain the presence of the rocks and concluded that the only rational explanation for the rocks included the involvement of another person. He told me that one possible scenario that could not be excluded was that the young boy was struck from behind, placed in the waterhole, and deliberately weighed down.

69. Dr Botterill and Dr Sinton were in agreement that death prior to immersion could not be excluded, although Dr Sinton considered drowning more likely. Dr Botterill reported that:

“homicidal events, such as suffocation or strangulation (particularly with a broad ligature) may leave no identifiable marks, particularly if very subtle injuries were masked by marked decomposition evident in this case.”

70. Dr Botterill considered that the red soccer shirt was an item that might be used to cause suffocation or wide-ligature strangulation. That this young boy died by means other than drowning remains a real possibility.

71. Dr Botterill further reported that:

“some pathologists would suggest that the relative uncertainties about the case, particularly the presence of the rocks within the clothing, might warrant stating the cause and manner of death as being undetermined”.

72. Given that neither Dr Botterill nor Dr Sinton precluded the possibility of death prior to immersion I am not persuaded that there is sufficient evidence before me to determine a cause and manner of death.

73. At the autopsy, Senior Constable Sandry obtained samples from the young boy including: left and right fingertip and nail samples; a bone marrow sample; an anal swab; and a mouth swab. The swabs were taken with the intention that they be analysed for possible forensic evidence. Potentially, fingernail swabs might reveal DNA from an assailant and anal swabs might reveal evidence of sexual assault. However, none of the swabs or samples were forensically analysed and this potentially critical evidence has been destroyed. Destruction of this material occurred after police had concluded the death was accidental but well before this inquest was held and the coronial file completed. It was ill-considered and hasty to destroy these samples before the coronial investigation was completed and submitted, and before formal findings about this death were delivered.

Persons of interest

74. Evidence was received from and concerning persons of interest to the police. In respect of this evidence I make the following comments:
75. I am told that some people suspect Clarence Raggett as being involved in the death of the young boy. I found no evidence which could be said to implicate Clarence in the disappearance of the boy. However, it was unfortunate that he failed to comply with his summons and give evidence at the inquest as his refusal to give evidence might engender community suspicion.
76. Rodney Dixon was a person of interest to police because he was staying in the Dixon house next door to the young boy and through which the boy's prints were tracked. Police also thought he was a person with known violent tendencies and psychiatric admissions. The evidence he gave at the inquest was both unsatisfactory and contradictory but he denied any involvement with the boy's disappearance. I am now informed that some of the records which were thought to relate to Mr Dixon of Borroloola are in fact records of another man by the same name. Accordingly, other than proximity, there was no evidence presented in the inquest that indicated to me that Mr Dixon was involved in the boy's disappearance.
77. I heard evidence from a prisoner on remand for child sexual assault matters whose name I have suppressed. He was staying in Miriam Charlie's house across the road from Adrienne's house, but sometimes stayed next door to Adrienne's house. He was known to the young boy and called him cousin. He told me he had given the boy money in the past. He knew the family who lived in the Dixon house and sometimes drank there. He owned a shirt similar to the one found in the waterhole, but claimed his was lost before the boy went missing. His DNA was found on the XXXX can close to the waterhole where the boy was found. In evidence before me he failed to provide a satisfactory explanation as to how the XXXX can came to be at

that location. His identity is known to investigating police and I understand he remains a person of interest in this matter.

78. I am told that since the inquest police have identified a further person of interest who stays from time to time in the Dixon house. I understand that investigations concerning this person are ongoing.

The police response

79. In these findings, I have referred to some of the problems associated with the initial police investigation and subsequent handling of this matter. In an internal review, a copy of which was tendered to me in the inquest, the Police Service identified many additional matters that could and should have been done better.

80. Significant issues identified by the police review include:

- Failures concerning security of the crime scene, seizing of exhibits, the thoroughness of the crime scene examination, and forensic testing;
- Lack of clarity as to reporting requirements and the line of command;
- An irrational focus on substantiating an accidental cause of death as opposed to an objective assessment of the evidence, most notably in relation to the rocks located in the shorts of the young boy which were not adequately explained by the accidental hypothesis;
- Inadequate briefings to senior officers and, concomitantly, inadequate review by senior officers;
- An “abject failure” to document or record critical decisions;
- An “abject failure” by responsible members to comply with the Police General Order concerning the provision of reports to the Coroner. (As

noted earlier but worthy of repetition, that this coronial file took 3 years to complete is totally unacceptable); and

- Generally, an across-the-board failure to comply with Northern Territory Police policies.

81. In response to the review, the Northern Territory Police Service has:

- Promulgated “Child and Infant Death Investigations Guidelines”;
- Amended the Coroners and Inquests General Order to clarify and simplify reporting requirements and responsibilities for the completion of coronial reports; and
- Provided managerial guidance to several members identified in the review.

82. The review further recommends that:

- All Commands report on outstanding coronial files that exceed 6 months during Command Status Reports;
- Monthly meetings between the Commander Crime and Specialist Support and the Deputy Coroner; and
- All members be reminded of their obligations under the *Coroners Act and Regulations*.

83. I support these further recommendations.

Conclusion

84. In this inquest I heard evidence from family members about this young boy, his habits and his character. Although it was distressing to them, they showed me his last known footsteps. I walked through the bush from his home to the waterhole where his body was found.

85. I accept the combined evidence of May and Adrienne Raggett and Azman Rory, that there were two sets of prints, one adult and one child, leading from Adrienne's yard, through the Dixon yard, through bush to Rocky Creek, and thence to the waterhole where the body was found. I am satisfied that this young boy did not wander off into bushland alone but was rather lured, led or forced there. Given evidence of his cautious character, it is most unlikely he would have walked into bush with a stranger unless by trick or force.
86. He was not a young boy who chose to walk about without a shirt. I am satisfied that something untoward happened which caused this young boy to lose, or have removed, his singlet. There is no evidence as to whether this occurred *en route* to the waterhole or whether the singlet was placed there at some other time close to his death.
87. I find the "accidental drowning" theory entirely unconvincing. He had lacerations to the top and back of his head consistent with being struck by a rock. The evidence satisfies me that this young boy was placed in the water and was deliberately weighed down by rocks in his shorts and possibly others on his chest in an attempt to conceal the body. But the evidence does not allow me to conclude whether he was dead before being weighed down in the water or whether he died from drowning. His cause of death remains unknown. I find however, that a person or persons unknown were involved in the disappearance of the young boy, his death, and the disposal of his body.
88. I find that the body had been submerged in the waterhole until decomposition caused it to bloat and float. In all likelihood this young boy died and was in the waterhole before 5 pm on 2 October 2007, when searching of the area commenced.
89. In hindsight it is unfortunate that the waterhole was not searched the first night (or for that matter at any other time during the operations). According

to Constable Peters he searched other waterholes in Rocky Creek and did not search those near the body because of miscommunication. However, there might have been safety concerns associated with searching water which were not fully canvassed in the inquest.

Recommendations

90. I note the actions taken by the Police Service in response to their internal investigation and support the further recommendations of Superintendent Evans.
91. I make one further recommendation. Any documentation or oral “history” provided to the forensic pathologist prior to, at or after an autopsy should be recorded, documented and kept as part of the forensic pathology records.
92. That this death occurred is a tragedy. That the sufferings of the young boy’s family have been compounded by police inaction and delay is a matter of deep regret. I hope and trust that lessons have been learned.
93. I refer these findings to the Commissioner of Police and the Director of Public prosecutions as I have formed the view on all of the evidence received that a crime may have been committed in connection with this death.

Dated this 8th day of April 2011.

GREG CAVANAGH
TERRITORY CORONER