



OFFICE OF THE STATE CORONER

FINDINGS OF INQUEST

CITATION: **Inquest into the death of a child at Mackay**

TITLE OF COURT: Coroner's Court

JURISDICTION: Mackay

FILE NO(s): COR 83/07

DELIVERED ON: 5 March 2010

DELIVERED AT: Mackay

HEARING DATE(s): 3, 4, 24 and 25 June, 7 August, 5 October, 9 December 2009

FINDINGS OF: Mr Athol Kennedy, Coroner

CATCHWORDS: Coroners: inquest, suicide, 15 year old Aboriginal girl, no history of mental illness.

REPRESENTATION:

Counsel Assisting:	Ms Bronwyn Hartigan
Department of Communities	Ms Proud, Crown Law
Department of Child Safety	Ms Hamilton

INTRODUCTION

This is the inquest into the death of a child at Mackay who was born on 10 November 1992 and who died on 29 November 2007. She was just 15 years old.

JURISDICTION

As the child died in 2007 the relevant legislation is the *Coroners Act 2003* (“the Act”).

The Act requires a coroner to investigate certain reportable deaths and sets out how coroners are to go about this task, including the holding of inquests and how they are to be carried out.

A Coroner’s Court is not bound by the rules of evidence but may inform itself in any way it considers appropriate.

Section 39 of the Act relates to incriminating evidence and on occasion I advised certain witnesses that anything they said was not admissible against them in any other proceeding. I considered this to be most important in this inquest because a number of the witnesses were young indigenous people who had reason to be unhappy with police and courts. I believe that this advice was taken by the witnesses and as a result I believe that most witnesses gave full and frank evidence which may not have been so forth-coming without the advice.

Overall I was impressed by almost all the witnesses who, I believe, tried their best to recall the relevant events.

Section 45(2) states that a coroner must find:
who the deceased was
how, when and where the person died and
what caused their death

The child’s death was a reportable death because she died “a violent or otherwise unnatural death”. (see section 8(3)(b)).

Coroners are not to make findings that a person is guilty of an offence or civilly liable but may make comments on ways to prevent deaths from happening in similar circumstances.

A written copy of my findings will be given to all parties represented at the inquest.

CHILD DEATH CASE REVIEW

As a result of the child’s death the then Department of Child Safety conducted a “Child Death Case Review”, the purpose of which is “to review departmental

involvement with a child where the child has died and was known to the department within the 3 years prior to her death”.

The Review was completed on 30 April 2008.

To quote from the Executive Summary on Page 1

“The department’s involvement with the subject child and her 5 siblings was significant and involved at least five Child Safety Service Centres. Much of the intervention related to sibling 1’s substance abuse and the parents’ inability to manage his errant behavior and their own substance abuse issues.”

“The step father was transient and even though the subject child’s mother and step father were separated at times, the subject child’s whereabouts were often unknown to the department as she resided between the maternal grandmother, the mother, and her step father who was the primary carer for her siblings. The review found that the step father’s transience and uncertainty relating to the subject child’s whereabouts impacted on the department’s service delivery and inevitably resulted in failure to engage the subject child with support services in the Intervention with Parental Agreement case.”

“From 7 March 2005 to 29 November 2007 three Child Safety Service Centres had direct involvement with the subject child. A protracted case transfer process between Child Safety Service Centres also contributed to the lack of progress in the Intervention with Parental Agreement case.”

And on Page 2

“The review found that contextual factors existing at the Child Safety Centres and factors relating to the step father’s transience resulted in a case transfer that failed to engage with the subject child.”

At para 6.36 on page 32 it states

“It noted that all the subject children had been interviewed except for the subject child and that the 2 older children were engaging in risk-taking behaviours and were therefore children in need of protection. It’s noted that there was a parent willing and able to care for the younger children but unable to care for the older children due to their “complex and challenging behaviours”.”

The “parent” was the step father.

At para 6.39 on page 33 it records that on 13 October 2006

“The step father asked the child support officers to talk to the subject child (aged 14) because she was engaging in paint sniffing as well.”

The purpose of referring to the Child Death Case Review is not to try and apportion blame to the Department of Child Safety but rather to demonstrate that such a review was conducted and that in reality the Department, for a variety of reasons, “failed to engage with the subject child.”

The deceased appears to have led a very transient life-style. Her whereabouts was often unknown, at least to the Department, and as a result of her transience and other factors it could not be said that she lived a “normal” life or life-style.

PRE-INQUEST CONFERENCE

A pre-inquest conference was held on 23 February 2009. It was presided over by Coroner Risson and Ms Bronwyn Hartigan of counsel appeared on that day as counsel assisting the Coroner.

At that conference Ms Proud from the Crown Solicitor’s Office appeared instructed by the Department of Communities and Ms Hamilton appeared on behalf of the Department of Child Safety.

The deceased’s mother appeared on this and all other occasions. (she sat at the bar table but did not, normally, cross examine witnesses herself although on occasion she asked Ms Hartigan to do so on her behalf.)

Ms Hartigan submitted that there were three possible factors which needed to be investigated as follows:

- an argument between the deceased and a male person who were both drinking in a park near her residence on the night she died;
- an alleged rape of the deceased; and
- possible conflict between the deceased and another girl over a boy.

The third issue was not proceeded with.

It was decided that neither the Department of Communities nor the Department of Child Safety need appear further.

The first day of evidence was set for 3 June 2009 by which time I had taken over conduct of the Inquest.

Most of the oral evidence was heard on 3 and 4 June 2009 but the inquest was adjourned to several other days, mostly for short appearances.

THE EVIDENCE

The Queensland Police Service investigated the death and provided a file to the Coroner on 14 August 2008.

Much of the file consists of statements by police and other persons, most of whom gave oral evidence during the inquest and accordingly I will not refer to these statements further at this time. It is however appropriate to thank Detective Senior Constable Hambelton for the excellent job he did to provide such a neat and easily accessible brief. This care and consideration made my job much easier.

The first witness was Detective Senior Constable Nicholas Hambelton who is attached to the Mackay Child Protection and Investigation Unit (CPIU).

He authored the police file and collected most of the evidence included in that file. He was not the original detective assigned to the task – that was former Detective Senior Constable Gregory Wass (who also gave evidence).

Detective Hambelton said that he knew the deceased to be an abuser of both alcohol and various “sniffing” substances such as paint.

He said that although rumours were abounding that the deceased’s cousin, James had raped her, no complaint was forth-coming from the deceased in the 5 months between the alleged rape and her death.

He explained that in all the circumstances there was virtually no possibility that the cousin would ever or could ever be successfully prosecuted for the alleged rape.

Matthew, another cousin of the deceased was the next witness. He gave his original evidence in a transcript. He, along with some other young people, had been with the deceased on the night of 28/29 November 2007, ie. the night she died.

They had been in a park near Napier Street, Mackay, which was near the deceased’s grandmother’s house and the place of her death. Most if not all were drinking together and I note that at the time the deceased had just turned 15 and Matthew was only 14.

Those present at the park towards the end of the night included Matthew, the deceased, James, Ayesha and Cody.

He said that James was “rapping” and called the deceased a bitch. As a result she attempted to hit James who tripped her and she fell to the ground and later she fell on the table around which they had all been sitting.

After this the deceased got up and walked back to Napier Street. James went after her and called for her to come back but she just kept walking so James turned around and went back to the group.

Matthew said the deceased was happy at first *“until she got a bit of grog in her.”*

Matthew opined that the deceased committed suicide

“Because of all the stuff that happened to her, like all the bad stuff kept building up and she couldn’t hack it.”

He said that the deceased had mentioned suicide in Sept. 2007 – she had said *“something about not being in the world again and she said she’s gunna hang herself.”*

When he gave oral evidence Matthew said that the deceased was not drunk – *“she only had a couple of nips and that was all”*.

It is noted that the deceased’s blood alcohol concentration was .107% which, although twice the legal limit for driving, is not overly high and accords more-or-less with not drinking to great excess.

Matthew said that *“we used to sniff paint but that was like 2005 and we stopped doing it.”*

I say here that I preferred Matthew’s transcript evidence, give on 15 June 2008, to his oral evidence. I don’t think he was deliberately untruthful but it seems that the time which had passed and perhaps the formality of the Court may have “dimmed” his memory somewhat.

The next witness was William. He provided a statement to Detective Hambelton on 7 July 2008 in which he stated that he was the deceased’s cousin and he had been present at the park with the deceased, Matthew, James, Ayesha and Cody on the night she died.

He said that *“the deceased was getting pretty drunk”*. He attempted to double her on his bike back to her residence at Napier Street and when they got there she went inside. That was the last time he saw her. He said that he returned to the park and stayed perhaps another ½ hour and then left and went home.

William said he was told by a friend that James had raped the deceased but he had no other knowledge of the allegation.

During oral evidence William said that he did not remember much about the night – *“we was all a bit intoxicated”*.

In his written statement, as set out above, William said that he last saw the deceased at Napier Street so it makes sense that he was not present later in the night when James' rapping upset the deceased.

Ayesha, the next witness, was also present in the park. Detective Hambelton provided the inquest with a transcript of a conversation on 14 June 2008.

Ayesha and the deceased were friends. They were both just 15 when the deceased died.

She said in the transcript that she, the deceased and a girl called Monica were drinking Woodstock Bourbon.

After a time Monica left and did not return so the group went to the park. By this time there was herself, the deceased, William, James, Matthew and Cody.

She recalled James swearing at the deceased – *"I think he called her a bitch"* and *"she got a bit upset"* and she recalled the deceased's attempts to hit James and *"then she got up and I think she was crying and she walked home"* but in fact Ayesha did not know where she went, she speculated that she went home at that time.

She said that James followed her but he came back soon after and said he could not find her.

Ayesha said the deceased came back later, asked if there was any more alcohol and when she was told there was none she went away and came back with a bottle of Jack Daniels.

Ayesha said she and the deceased drank the whole bottle and when it was finished the deceased said *"I'm going home now – I'll see you tomorrow"* and she left, leaving only Ayesha, James and William.

Ayesha said that the three of them then rode bikes around for a while and ultimately she and James sat up until sun-up when William came back from a ride.

She said Monica came the next morning and told her about the deceased and in fact she was at Napier Street when the police arrived, shortly after the deceased's body was found by her grand-mother.

Ayesha said that she and the deceased were *"really drunk"*. She said when asked about the deceased's mood:

“Nothing was wrong with her – I didn’t notice anything like she was upset or anything but that night she did tell me she was in love with Jordan – that’s my cousin and Kerri-Lee kissed him in front of her – Kerri knew that she was in love with Jordan and that she liked him real heaps and then Kerry went and kissed him in front of the deceased and she was a bit upset about that. She was talking about that for awhile that night too.”

During her oral evidence Ayesha agreed that she and the deceased had drunk a lot and that they were both really drunk.

She recalled James calling the deceased a bitch and the ensuing “fight” between the two. She did not know of the alleged rape of the deceased by James.

Ayesha said that she didn’t “*have a clue*” as to why the deceased may have killed herself

“She seemed alright when she left me.”

As stated above, Ayesha recalled that the deceased left and returned with a bottle of Jack Daniels. No-one else remembers that the deceased left, returned and left again, this time from the old bus stop in Wallace Court.

Ayesha had no real explanation of why the deceased would kill herself, but she said that if she had thought the deceased was upset when she left then she, Ayesha, would have gone with her – but it did not appear to be necessary.

The next witness was Kathleen who was interviewed by Detective Hambelton and a transcript was provided.

Kathleen recalled a conversation with the deceased and two friends at Mackay TAFE. She said that the deceased said that James had raped her the night before “*when they were running from the coppers*” in James Street, Mackay.

Kathleen claimed that the deceased changed after the alleged rape.

“You can just tell that she wasn’t happy anymore – as happy.”

During her oral evidence Kathleen recalled the conversation at the TAFE. She said she told the deceased “*you should do something about it*” but the deceased didn’t want to because “*she was just scared of what’s going to happen with the family and everything*”.

Kathleen was of the opinion that the alleged rape could have been the reason the deceased killed herself.

Kathleen had consumed alcohol with the deceased at other times and she said that she *“was a pretty happy drinker when I was around her”*.

Former Queensland Detective Senior Constable Gregory Wass gave evidence that he was the detective assigned to the death of the deceased, even though that was his last day in the Queensland Police Service.

He said he completed the Form 1 and interviewed a couple of people and in his opinion while the deceased had drunk alcohol and there had been the *“fight”* with James, he said:

“I don’t think it stemmed directly to the incident that night. I think there was obviously underlying problems.”

He was unable to elaborate further on what those underlying problems may have been.

The next witness was Lawrence. He was not at the park that night but he said that he had told William that the deceased had told him that James had raped her.

He said that as a result he and James *“had a bit of a fight”*.

Andrew gave evidence that the deceased had told him and Kathleen and Rachel that James had raped her the night before at a house in James Street. The conversation took place at Mackay TAFE.

Andrew and his sister had been interviewed by Detective Hambelton and both knew of the alleged rape – Andrew had been told by the deceased and his sister had been told by Kathleen.

Cody was interviewed by Detective Senior Constable WASS on 29 November 2007, ie. the day the deceased died.

He also gave oral evidence. Cody had been with the deceased and the others at the park. He said that while he was not drinking the others were. He said he left the park at about 03:00 and the only person to leave before him was the deceased.

He said:

“She had a big fight with James and then she took off.”

He thought that she had left between 01:00 and 02:00. He said the fight related to James rapping and during the song he called the deceased a bitch ... *“just mucking around and she took it to heart”* and he then described the physical pushing and so on.

Cody said that before the fight the deceased *“was pretty happy but then when James called her a bitch then she like went off a bit angry”* and he said *“when she’s drunk she takes little comments to heart”*.

He said that the deceased seemed *“good, happy”* most or all of the time, ie. on the previous days but *“she always used to get depressed when she drinks sometimes”* and *“she gets real down on herself”* and *“she says all this stuff about suicide and stuff like that”*.

He said she had mentioned suicide before and had in fact cut her wrists before but the cuts weren’t deep – she *“self mutilated.”*

Cody also said that the deceased had told him that *“once when she was drunk she put a rope around her neck – she was going to hang herself.”*

He thought both the wrist cutting and the rope incident had happened on separate occasions some months earlier.

In his oral evidence Cody’s story was a bit different, eg. he said he was drinking whereas he told Detective Wass he was not.

I don’t know why the story changed – perhaps he was more guarded about his own illegal activities ie. drinking on 29 November 2007 than he was in court or perhaps he was just tired?

In any case his recollection of the more important details remained consistent.

He recalled the rapping which led to the fight and then the deceased leaving the park and he did not see her again.

Cody said that the deceased had mentioned self-harm and suicide on a number of occasions but to him *“it sounded like she was mucking around”*.

He did not know of any things going on in her life which would cause her to say those things. He said he knew of the alleged rape of the deceased by James and in fact the deceased herself had told him. He said *“she was drinking and she just told us and then she just broke into tears.”*

She had also told him that one of James’s mates was present at the time but she did not say that this mate had raped her as well, nor who he was.

Cody thought that a number of factors may have contributed to the deceased’s death including the fight with James, the rape and the fact that she tended to get upset when drunk.

James was the deceased's cousin. He was not interviewed by police earlier and he gave evidence via the telephone. He was with the deceased and the others in the park. He was rapping and called the deceased a bitch. He explained this by saying:

"I was singing a song and had a few too many drinks and I had a bit of a foul mouth."

He said the deceased took offence but no-one else did although some of the others *"had a bit of a dirty look on their face"*.

He described the fight with the deceased and how she had walked off. He said he ran after her and said he was sorry but *"she never came back"*.

James was frank about his sexual relationship with the deceased. He said sex was consensual and it had occurred about 4 or 5 times before the police came and took him and the deceased away ie. from James Street on 15 June 2007 and about 10 times altogether.

James explained his feelings when he heard of the deceased's death:

"a thousand things were running through my head straight away".

The fact that he had called her a bitch was *"definitely a big one"* and he acknowledged that the physical fight would have also upset her.

Furthermore, he also acknowledged that having sex with the deceased *"was bad"* because of their relationship as first cousins.

Former Senior Constable James Hinds provided a statement and gave oral evidence.

He said that he attended a noise complaint at Dolphin Street Mackay at about 11.40pm on 15 June 2007. He was in the company of Constable Fiona McGrath. During the attendance he heard the deceased sobbing and found her hiding under a Ford utility. Constable McGrath looked after the deceased and he ie. Senior Constable Hinds went looking for other juveniles who had run off when the police came.

He found James hiding under a house with his jeans not up properly and a condom on his penis. James was intoxicated and was arrested for trespass. He thought that a complaint of sexual assault may have been forth-coming so he remained at the scene to establish a crime scene if necessary but no complaint was made by the deceased and after doing certain things he left the area.

The next witness was the deceased's maternal grand-mother. She had provided a statement and she also gave oral evidence.

She resides at Napier Street. She found the deceased's body hanging in the lemon tree.

When she found the deceased she thought she was merely asleep. She said:

"she was in between the tree and the fence and was leaning on her elbow against the fence and her legs were out straight. I thought she was just sitting there and had fallen asleep."

She went over and spoke to Katherine but there was no response.

"I touched her arm trying to wake her up. She didn't move and didn't talk and her arm was stiff. I looked close and there was some rope wrapped around the branch of the lemon tree and the rope went around her neck and she was leaning at an angle so the rope was tight."

She then realized that the deceased was dead and she went and got the rest of the family to come out.

She said in her statement:

"The deceased was a happy girl. I saw her last night about 7pm and she was happy and joking. She has never said anything to me about wanting to hurt herself or anything like that. She isn't taking any medication because she's a healthy and happy girl. I never thought she could do something like this and it's come as a complete shock."

I noticed with sorrow that there was a very marked difference between the statement made on 29 November 2007 and the evidence she gave to the Court on 4 June 2009. The deceased's death and other things appear to have taken a significant toll on her.

The deceased's aunt was the next witness. She is the mother of James

She had been interviewed by Detective Hambelton on 21 December 2007 and she also provided oral evidence.

In the transcript of the interview, she denied ever telling the deceased's mother, that James had admitted telling her that he had raped the deceased but she did say that she had asked James who the other boy was and James told her it was Andrew. Andrew said in evidence that the deceased had told him and Kathleen and Rachel that James had raped her.

James had also denied ever having spoken to his mother about the rumoured rape.

The evidence from the deceased's aunt on this matter is not satisfactory – but overall this is of no great significance to the inquest.

Rachel had been interviewed by Detective Hambleton on 7 March 2008 and she also gave oral evidence.

She said that she was with Kathleen and Andrew at the TAFE when the deceased told them that James had raped her. Rachel said that she believed Katherine because "*she wouldn't have made it up*". Rachel thought this was in the middle of 2007. She related it to a party or something similar. It seems that this may have been on 15 June 2007, the night that Constables Hinds and McGrath were called to James Street.

She also thought that this was the first time the deceased had told anyone but that after this time the deceased did tell other people.

Constable Fiona McGrath was with Senior Constable Hinds when they attended Sophia and James Streets Mackay at about 23:40 on Friday 15 June 2007. She said they found the deceased crying under a motor vehicle and Senior Constable Hinds found James under the same house.

In evidence she said that on the night, at Sophia Street, the deceased:

"appeared to be upset; a little bit distressed; a bit erratic; crying and a little bit unreasonable."

After they had gone to the Mackay Police Station, the deceased was "*quite hostile and unco-operative*".

The deceased did not tell Constable McGrath or any other police officer that James had raped her or even that they had had sex although James was found with a condom on his penis.

Police officers Hinds and McGrath both believed that something had happened that night between the deceased and James but nothing was said to police and no complaint was ever made by the deceased.

ANALYST'S CERTIFICATE

During the inquest we heard evidence from 2 analysts from the Queensland Health Forensic and Scientific Services at Coopers Plains in Brisbane.

Gareth Entwistle provided 3 certificates. The first, dated 21 April 2009 certified that blood had not been analyzed and that no drugs were detected in liver samples.

This was found to be unsatisfactory given the evidence that the deceased had been drinking alcohol. As a result we requested a further analysis which was dated 2 July 2009, and which certified that at the time of her death the deceased had a blood alcohol reading of 107mg/100ml, ie. 0.107%.

The third certificate, dated 17 September 2009, certified the same as the second in relation to blood alcohol concentration, ie. 0.107% but also certified that Toluene and Xylenes were detected in her blood and Toluene was detected in her liver.

Mr. Entwistle gave evidence that toluenes and xylenes are solvents and may be found in spray can paint and toluene is also present in petrol. The laboratory was able to detect these chemicals but unable to quantify them.

A fourth certificate was from Timothy James George Gardam. This certificate became necessary because we had to link a blood sample with a liver sample using DNA to confirm that both samples came from the deceased.

This analysis allowed the third certificate to be done, ie. after blood and liver samples were both identified.

CONCLUSION

The picture painted of the deceased is very sad.

The Child Death Case Review picture was of a transient lifestyle which could not have permitted regular school attendance and therefore the opportunities that education provides. Such a lifestyle also meant that her life was unstable – she seemed to move very regularly.

The witnesses who were personally involved with the deceased were all of the same mould – teenagers with potential – but seemingly no-one to bring that potential out.

On the night she died the deceased was “allowed” to be out late at night with 4 other children. They were in a park only metres from the homes of at least some of them, including the deceased. They were 14, 15, 15, 15 and 16 years old – and they were drinking alcohol, mostly to excess.

They were unsupervised and apparently no-one cared where they were, who they were with or what they were doing.

The deceased died a tragic, lonely death in the yard of her family house, a home in which her mother and grandmother slept, oblivious to what was going on in the park, oblivious to what was going on in the deceased's mind and oblivious to her actions in killing herself.

Part of my job as coroner is to make recommendations to prevent similar deaths. Well I recommend that parents and those responsible for children supervise their children and ensure that they have boundaries set for them and ensure, as far as possible, that children go to bed, stay there, sleep, get up in the morning and go to school and go about "age-appropriate" activities.

If parents and those others responsible for children do not do this then they fail their children.

It seems to me that people commit suicide for an infinite variety of reasons – and that it is probably true that most suicides are the end result of a combination of many factors.

I can find no single "reason" why the deceased died – but ultimately she died because she was a "lost child".

Nobody knows the thoughts she had that night – nobody can now understand what she was going through – nobody can now ever know just what it was that caused a lonely 15 year old girl to take her own life.

At the end of the day we have considered some of the factors involved – but I can make no definitive decision as to WHY.

FINDINGS

Identity of deceased	a child
Place of death	Napier Street, Mackay
Date of death	29 November 2007
Cause of death	Ligature compression of the neck (hanging)

The Inquest is now concluded.

Mr Athol Kennedy
Coroner
Mackay
5 March 2010