



Coroner's Court of Western Australia

RECORD OF INVESTIGATION INTO DEATH

Ref 8/20

*I, Evelyn Felicia VICKER, Coroner, having investigated the disappearance of **Bryon Harold WELLINGTON** with an inquest held at the **Coroner's Court, Court 2, Broome Court House, Hamersley Street, Broome, on 28 January 2020, find the death of **Bryon Harold WELLINGTON** has been established beyond all reasonable doubt, and the identity of the deceased person was **Bryon Harold WELLINGTON** and that death occurred on or about **16 November 1994 between Hope Valley Station turn off on Gibb River Road and Kalumburu, in the following circumstances:*****

**Counsel Appearing:**

Senior Constable Craig Robertson assisting the Coroner.

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## INTRODUCTION

Late on the afternoon of 15 November 1994 Thomas Henry Burn Terry (Mr Terry) spoke with Bryon Harold Wellington (Mr Wellington) where he was camped alongside a broken down vehicle on Gibb River Road. When Mr Wellington's friends returned to the broken down vehicle during the morning of 16 November 1994 there was no trace of Mr Wellington, although his camp still contained all his belongings. After searching for Mr Wellington the vehicle was repaired and the group were on their way back to Kalumburu when they were stopped by police and a search for Mr Wellington commenced. Despite an extensive search over the next few days no trace of Mr Wellington has ever been found.

The inquest into the disappearance of Mr Wellington was held in Broome. The evidence comprised the documentary papers in the brief of evidence, Exhibit 1 Tabs 1 to 38, and the Public Notice of Inquest dated 30 December 2019, as Exhibit 2. Oral evidence was heard from Senior Constable John Turner, by way of videolink from Perth and Clement Maraltadj (Mr Maraltadj), by telephone from Kalumburu. It had been anticipated evidence would be heard in person from Rodney Ah Choo (Mr Ah Choo) but he unfortunately did not attend court from One Arm Point, or make contact with the court to arrange an alternative method for the provision of his evidence, despite advising Senior Constable Roberson he would attend.<sup>1</sup>

### **Long Term Missing Persons Project (LTMP)**

In 2017 it was confirmed there were a number of files relating to the long term disappearance of people who had been in Western Australia at the time of their reported disappearance. Some of the disappearances occurred at a time when there was no or limited jurisdiction for a coroner to examine the circumstances of a suspected death.

Section 23(1) of the *Coroners Act 1996 WA* (the Act) allows the State Coroner to direct an investigation into a suspected death in certain circumstances without a body, for the purposes of allowing a coroner, under section 23(2), to establish

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<sup>1</sup> t. 28.1.20, p.22

beyond all reasonable doubt that death has occurred. The investigation must be by way of inquest and will attempt to clarify how the death occurred and the cause of the death. This effectively brings the suspected death into the ambit of s 25 of the Act and allows registration of the death under the *Births, Deaths and Marriages Registration Act 1998*.

The reported number of LTMP made it unrealistic for the Office of the State Coroner (OSC) to absorb those matters into the already long outstanding inquest list in a timely manner. A plan was proposed for a project to clear the backlog of LTMP files once it had been determined the matters fitted the circumstances set out in s 23(1) of the Act. That is, the State Coroner or delegate had reasonable cause to suspect the person has died and the death was a reportable death (s3 of the Act).

In 2018 approval was given for a coroner to work exclusively on the LTMP cases, on a part-time basis for twelve months, as a separate listing from the OSC general inquest list. This followed a pilot project of four inquests conducted in 2018.

In 2019 a coroner was appointed for that project with the support of an in-house Coronial Investigation Squad (CIS) police officer as Counsel Assisting (CA).

Work on the files indicated a number of disappearances related to specific areas of Western Australia, such as the Kimberley around Kununurra or Broome, and Albany. For these matters it was decided that, while there is always a preference for inquests to be held in the communities to which they relate, especially for Indigenous communities where there is an emphasis on oral history, resources would not be effectively utilised for all matters to be heard in the place of disappearance. Instead matters where the disappearance occurred in places other than the Perth metropolitan area were considered from the perspective of the best availability for relevant witnesses.

In the case of Mr Wellington there appeared to be relevant witnesses in the Kimberley. His next of kin were reputedly in Victoria, although not traceable. It was hoped the hearing of the inquest in the Kimberley would be more conducive to witnesses being able to attend Court and give evidence. Unfortunately, although

contact was made with a number of potential witnesses, only Mr Maraltadj provided evidence by way of telephone link from Kalumburu.

The anticipated outcome of the LTMP project was that by June 2020 the majority of outstanding LTMP matters would be resolved and that future missing person files would be dealt with in the normal course of the OSC usual business.

## **THE DECEASED**

Mr Wellington was born on 3 May 1948 in Euroa, Victoria.<sup>2</sup> At the time of his disappearance his mother, Gwendolen Wellington (Mrs Wellington) was still alive and assisted the search effort with the provision of two photographs of her son for use in the missing person posters.<sup>3</sup> Mrs Wellington reported she had not heard from her son and was not known to have heard from him during any of the later contacts before she died.

Medical information with respect to Mr Wellington indicated that between 1990 and 1994 he had four teeth extracted from his right upper jaw<sup>4</sup> and had a serious accident when he fell from a horse on 20 January 1970 in Benella, New South Wales. X-rays at that time revealed a fracture of his frontal bone involving the frontal sinus and a fracture of the right radius at the wrist. He was recorded as fit for a return to work from those injuries in March 1970, however, the doctor involved indicated Mr Wellington was then prescribed epileptic medication in 1973 as a result of complications of that head injury.<sup>5</sup> This information was provided to police in September 1995 and presumably came from the family of Mr Wellington. It indicated he was trained as a jockey and was involved in horse racing.

Mr Wellington was said to reside, fairly itinerantly, in Kununurra in November 1994. He was described as approximately 5 foot 6 inches in height with brown hair, blue eyes, medium build with fair complexion and Caucasian ethnicity. There was no evidence as to when or how he first came to Western Australia, however, Mr Maraltadj stated he had known Mr Wellington since 1989 when they had both worked on the Truscott airbase project and Mr Wellington worked for one of the

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<sup>2</sup> Exhibit 1, tab 7

<sup>3</sup> Exhibit 1, tab 8

<sup>4</sup> Exhibit 1, tab 24

<sup>5</sup> Exhibit 1, tab 24

construction companies. Mr Maraltadj was resident in Kalumburu where he met Mr Wellington through a mechanic who worked in Kalumburu. Mr Wellington at that time drove a front end loader.

Mr Maraltadj described Mr Wellington as being pretty friendly and that he had met Mr Wellington through his cousin in Wyndham. Although described in the police report as a good bushman, Mr Maraltadj did not believe that was the case. He agreed they all drank socially in those days. He went on to explain the job in Wyndham for the Truscott Airbase was over by 1989 and they had essentially gone their separate ways, although still keeping in contact as associates.<sup>6</sup>

There is little other evidence about Mr Wellington's earlier life other than it appears he moved around the Kimberley working from place to place and was recorded as enjoying a drink.

Mr Ah Choo (called Bingelly) stated he was living in Kununurra in November 1994 when he, along with John Cowen (Mr Cowen), Noelene Davey (Ms Davey), Robyn Hunter (Ms Hunter-Arbeed), and Mr Wellington, whom they called "Sugar", decided to go to Kalumburu.<sup>7</sup> The evidence from Mr Maraltadj was that Mr Wellington was travelling to Kalumburu with the prospect of there being a project about to start at Kalumburu on which he was hoping to have work.<sup>8</sup>

Mr Ah Choo stated their group were intending to travel to Kalumburu in two vehicles. They were both Fords, one was red and one brown. The group left Kununurra in convey with alcohol, beers and moselle, as well as food. They left on 11 November 1994<sup>9</sup> and according to Mr Ah Choo travelled as far as the Pentacost River when one of the Fords broke down.

The group obtained spare parts from Kununurra then both vehicles continued on towards Kalumburu. They had only travelled another 8 kilometres when the vehicle again broke down and it was decided a new radiator was required. It was decided the group would continue on to Kalumburu in the vehicle Mr Cowen was

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<sup>6</sup> t. 28.1.20, p.16-17

<sup>7</sup> Exhibit 1, tab 19

<sup>8</sup> t 28.1.20, p.20-21

<sup>9</sup> Exhibit 1, tab 8

driving and their possessions would be left in the broken down vehicle. Mr Wellington wished to stay with that vehicle until the group returned with the radiator. Mr Wellington was satisfied he had plenty of food and water and it was clear he also had plenty of moselle.

The precise sequence of events between Mr Wellington being left with the broken down vehicle, approximately 8 kilometres from the Home Valley Station turn off, vary between the statements of Mr Ah Choo, Mr Maraltadj and Mr Cowen. I have taken the detail from Mr Cowen's statement because it seems the fullest account with relatively accurate chronology.<sup>10</sup> Mr Maraltadj was not present during the trip from Kununurra with Mr Wellington.<sup>11</sup>

All statements indicate five people left Kununurra on 11 November 1994 in two vehicles. In his statement Mr Cowen indicated that on the day before they were due to travel, his wife Noelene Davey, advised him they were going to give Mr Wellington (Sugar) a lift back to Kalumburu.

When they left Kununurra on Friday 11 November 1994 Mr Cowen was driving an XB Falcon Sedan with Robyn Hunter-Arbee, while the other car, which was a Ford Falcon belonging to his wife, contained Ms Davey, Mr Wellington and Mr Ah Choo. The two vehicles left Kununurra and travelled towards Kalumburu on the Gibb River Road. Just before they reached the Pentacost River the XB Falcon broke down and Mr Cowen moved to the Ford Falcon with Ms Hunter and his wife. They left Mr Wellington and Mr Ah Choo with the XB Falcon. At that time Mr Wellington and Mr Ah Choo were drinking moselle.

Those in the Ford Falcon returned to Kununurra to obtain some items to mend the broken down car and on their return to the XB Falcon discovered that Mr Ah Choo and Mr Wellington had started a scrub fire around the vehicle. Mr Wellington and Mr Ah Choo were both considered by Mr Cowen to be drunk. Mr Cowen described Mr Wellington as a high functioning alcoholic and in control of himself.

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<sup>10</sup> Exhibit 1, tab 19

<sup>11</sup> Exhibit 1, tab 18

Mr Cowen fixed the XB Falcon and they continued to travel towards Kalumburu in the same configuration they had used previously. This time they reached approximately 8 kilometres beyond the Home Valley Station turn off when Mr Cowen's car again suffered problems with the fan belt going "through the radiator".<sup>12</sup>

Initially the group decided they would all travel onto Kalumburu in one car which meant they had to put all their possessions in the broken down car to enable them to travel onward. Having done that Mr Wellington did not wish to leave all the property in the broken down car and decided he would stay with the broken down car. Mr Cowen's intention was to get to Kalumburu and then return to Mr Wellington waiting with the XB Falcon. There was some discussion that Mr Wellington could always get a lift back into Kununurra if necessary and the group were comfortable with this as there had been a reasonable number of vehicles travelling through.

Mr Cowen stated that when they left Mr Wellington, which appears to have been on 11 November 1994, he had plenty of food due to the shopping, plus two litres of water and approximately 8 litres of moselle. He was still intoxicated.

The four others travelled onto Kalumburu, but again broke down and were eventually rescued by people from Kalumburu. Mr Cowen did some work on his 4WD to enable him to return to Mr Wellington near Home Valley Station turn off.

The F100 then broke down approximately 200 kilometres from Kalumburu and the people from Kalumburu again had to come and rescue the party and return them to Kalumburu. Mr Cowen then spent Sunday 13 November 1994 trying to get back to Mr Wellington and finally left Kalumburu late on Sunday night in an old Nissan 4WD. On this occasion those going to collect Mr Wellington were Mr Cowen, Mr Ah Choo and Mr Maraltadj.

Their journey back to Mr Wellington was very slow and just past Ellenbrae, once on Gibb River Road just after the Kalumburu turn off they stopped for the night.

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<sup>12</sup> Exhibit 1, tab 19

They then continued on towards the Home Valley Station turn off where they had left Mr Wellington with the XB Falcon. There appears to be some confusion with dates, the 11<sup>th</sup> November was a Friday which means the Sunday was the 13<sup>th</sup>, however, it is clear they did not get back to the abandoned vehicle until early Wednesday 16<sup>th</sup> November 1994. This is consistent with Mr Ah Choo's recollection they had been away 3-4 days.<sup>13</sup>

When the three men arrived at the place Mr Wellington had been waiting with the XB Falcon, which Mr Ah Choo believed to be about 4.00 am, but Mr Cowen gives as 8.00 am, they could not find Mr Wellington. They located the car with all their property still in it. Mr Wellington's swag was still on the ground and Mr Cowen believed it looked as though Mr Wellington had slept in his swag and it was quite neat looking as though he was about to roll it up when he left. All Mr Wellington's personal possessions were there including his tobacco.

As a result of believing Mr Wellington was intending to return to the car the group went into Wyndham leaving a note to Mr Wellington they would be returning and pick him up on the way through. On their return from Wyndham they still could not see Mr Wellington and decided to pack all the property into their vehicle. While they were deciding what to do Dean Thomas (Mr Thomas) from the Durack River Station passed through and informed them he would report the disappearance to the police. They fixed the broken down car and when no one appeared started back to Kalumburu.<sup>14</sup>

## **DISAPPEARANCE**

Following Mr Wellington being left with the abandoned XB Falcon on the Gibb River Road, fairly close to the Home Valley Station turn off, he was seen by various station managers/owners using the Gibb River Road on their trips into Kununurra for supplies.<sup>15</sup> Bruce Coghill (Mr Coghill) from Home Valley Station and his wife had seen Mr Wellington with the car a number of times and had provided him with water. He had also been seen by Mr Thomas from the Drysdale River Station. The file refers to both Dean James and Dean Thomas, it is not clear as to whether it is

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<sup>13</sup> Exhibit 1, tab 19

<sup>14</sup> Exhibit 1, tab 19

<sup>15</sup> Exhibit 1, tab 9

the same person. In addition to the managers of Home Valley Station, and Drysdale River Station, Mr Terry, the owner and manager of Ellenbrae Station had stopped and spoken to Mr Wellington at approximately 8.00 pm on evening of 15 November 1994.

Mr Terry provided a statement in November 1995 in which he said he had come across a red Ford Sedan parked on the side of the road and had been waved down by a man he did not know. That person asked him to ring Kalumburu and tell the people there it was "Sugar". Mr Terry commented the man was intoxicated, but not completely drunk. He asked Mr Wellington if he wanted a lift, but Mr Wellington declined a lift and said he was alright and that people were coming back to assist him with the broken down car. Mr Terry stated he then continued onto Ellenbrae and attempted to ring Kalumburu, however, was unsuccessful and the telephone kept ringing out. He had never seen Mr Wellington before and had not seen him since.<sup>16</sup>

Information provided by Mr James to the police at the time, unfortunately there is no statement from Mr James, indicated Mr James was the caretaker of Durack River Station. He had spoken to Mr Wellington several times while he was at the side of the road with the broken down car and offered to tow the vehicle back to Home Valley Station, but Mr Wellington had declined.<sup>17</sup> Later information from Mr James , to the police in May 1998 when he was asked to provide additional information, indicated that on the morning of 16 November 1994 he had returned to the motor vehicle and there spoken to Mr Cowen, Mr Maraltadj and Mr Ah Choo. They had located tracks leading from the car which appeared to walk up the road and then approximately 100 metres into the bush before they disappeared. This was recorded on the Wyndham Police Station Log.<sup>18</sup> It is not mentioned by the three men from Kalumburu, although Mr Cowan did recall Mr James (or Mr Thomas) stopping and later assisting in the search.

Further information from Mr Coghill, also recorded in May 1998, indicated that other than he and his wife seeing Mr Wellington with the broken down car, tourists

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<sup>16</sup> Exhibit 1, tab 20

<sup>17</sup> Exhibit 1, tab 9

<sup>18</sup> Exhibit 1, tab 25

had stopped on 15 November 1994 at approximately 4.00 pm and offered Mr Wellington water which he took. Mr Coghill said the following morning when he passed the car at approximately 9 to 10.00 am on 16 November 1994 there was no one there.

This would indicate Mr Wellington had been with the broken down vehicle on the afternoon of the 15 November 1994 at 4.00 pm and was still there at 8.00 pm when he waved down Mr Terry and asked Mr Terry to contact Kalumburu. Mr Terry noted Mr Wellington was intoxicated.

When Mr Cowen, Mr Maraltadj and Mr Ah Choo arrived sometime in the morning, 16 November 1994, between 8.00 am and 9.00 am before they went into Wyndham, Mr Wellington had disappeared, however, all his clothes and belongings were at the car.

Mr Coghill visited the area while the three were in Wyndham and as a result of finding the car abandoned he contacted the police. This was apparently repeated by Mr James after the three men returned from Wyndham and confirmed they had returned for Mr Wellington, but he could not be found.

## **INVESTIGATION**

Following Mr Coghill's report to the Wyndham police on the morning of 16 November 1994 that Mr Wellington had disappeared from where he had been camped for the last few days beside a damaged motor vehicle, Senior Constable George Mills left the Wyndham Police Station at approximately 2.00 pm on Wednesday 16 November 1994 and drove to where the vehicle had been described as abandoned by Mr Coghill.

On Senior Constable Mills arrival at the relevant scene he could find no trace of the abandoned Falcon, but was advised that Mr Cowen had returned from Kalumburu with spare parts, repaired the vehicle and then left with the vehicle to return to Kalumburu, without Mr Wellington. Senior Constable Mills drove along the Gibb River Road towards Kalumburu and close to the Ellenbrae turnoff located Mr Cowen, Mr Ah Choo and Mr Maraltadj. They advised him they had arrived at the scene of the damaged car earlier that morning and that Mr Wellington was not

present. They remained there a short time and had then left for Wyndham expecting him to have obtained a lift. Once they had been to Wyndham to purchase supplies, without finding Mr Wellington, they returned to the damaged vehicle, repaired it and then carried onto Kalumburu, which was their intended destination when seen by Senior Constable Mills.

The three confirmed they had seen no sign of Mr Wellington and that he had left all of his clothes, swag and cigarettes at the scene. Senior Constable Mills commented that none of them thought this was strange, although certainly Mr Maraltadj when giving evidence commented that he believed that it was odd, even if Mr Wellington had been picked up and taken for a lift.<sup>19</sup> Mr Ah Choo also stated the leaving of all of Mr Wellington's personal belongings beside the vehicle did not support him obtaining a lift.<sup>20</sup>

Senior Constable Mills asked the three to return to the scene with him which they did. Senior Constable Mills searched the area for tracks with the three and noted in his report they had been unable to find any tracks. This was confirmed by Mr Maraltadj in evidence and Mr Ah Choo in his statement.<sup>21</sup>

Senior Constable Mills made arrangements for a proper search to commence the next day and they stayed overnight at Home Valley Station pending the gathering of SES volunteers and other police to assist in the search.

During the night Senior Constable Mills drove around the area in his police vehicle with the siren activated as well as the blue lights and spot lights in an endeavour to attract Mr Wellington should he be disorientated and wandering in the bush. The environment was fairly open scrub land and noise and lights could be seen for some distance. There was some concern, due to Mr Wellington's last sighting by Mr Terry and the location of an empty brake fluid canister at the scene where the vehicle had been parked, that Mr Wellington may be suffering severe intoxication or it's after effects which had caused him to be disorientated and possibly hallucinating.<sup>22</sup>

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<sup>19</sup> t. 28.1.20, p.19

<sup>20</sup> Exhibit 1, tab 19

<sup>21</sup> t. 28.1.20, p.16, 18 and 20; Exhibit 1, tab 9

<sup>22</sup> Exhibit 1, tab 9

The search commenced at approximately 5.00 am on Thursday 17 November 1994 with a ground search on foot and from vehicles.

When the ground search proved unproductive Senior Constable Mills arranged for a helicopter to attend the scene and the search continued by vehicle, and foot and via the helicopter. The area searched was 7 kilometres radius from the scene and at the conclusion the helicopter pilot advised Senior Constable Mills that if a person was alive in the area and able to be seen he would have been located due to the sparsity of the scrub.

While a number of those involved in the search believed Mr Wellington had hitched a lift, in evidence this was said to be due to the lack of foot prints in the area.<sup>23</sup> Senior Constable Mills was sceptical as to this conclusion because he did not believe Mr Wellington would have left behind his swag and tobacco. He believed the lack of tracks was due to them not being easily located in the type of environment.

Mr Maraltadj agreed with this in evidence although he believed he was a fairly reasonable tracker.<sup>24</sup> In addition to the sparsity of the scrub in the area Senior Constable Mills pointed out the effects of a recent bush fire which had made the vegetation even sparser and so provided excellent visibility, especially from the air. It is unclear whether that was the fire referred to by Mr Cowen as having been caused by Mr Wellington and Mr Ah Choo when they were previously left with the damaged vehicle and become intoxicated.<sup>25</sup>

The helicopter pilot was satisfied he had covered as much area from the air as it was likely Mr Wellington had covered if he had become disorientated and wandered away. He flew back to Home Valley Station still spotting for Mr Wellington. Once he arrived at Home Valley Station he returned to Kununurra and Senior Constable Mills made arrangements for searchers to remain overnight at Home Valley Station.<sup>26</sup>

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<sup>23</sup> t. 28.1.20, p.19, 20

<sup>24</sup> t. 28.1.20, p.19

<sup>25</sup> Exhibit 1, tab 19

<sup>26</sup> Exhibit 1, tab 9

Senior Constable Mills felt he was left with two considerations as to the disappearance of Mr Wellington. One was that he had hitched a lift, in which case further searching was pointless, and the second was that he had been adversely affected by alcohol, and possibly brake fluid consumption. Mr Cowen advised Mr Wellington had drunk brake fluid and methylated spirits previously, and Senior Constable Mills believed that if Mr Wellington had disappeared into the scrub he would have been located if he had wanted to be, so may be hallucinating and hiding. The police decided it was practical to send most of the ground searchers back to their respective towns.

A factor considered very significant by Mr Maraltadj was that there were no scavenger birds in the area which would have been expected had Mr Wellington been deceased or even collapsed with heat exhaustion.<sup>27</sup>

Senior Constable Mills was then informed that Frank Chulung (Mr Chulung), a field officer with the Aboriginal Legal Service, and friend of Mr Wellington, wished to attend the scene to assist with the search. Senior Constable Mills remained at the scene until Mr Chulung arrived. On discussing the full circumstances of Mr Wellington's disappearance Mr Chulung was concerned that Mr Wellington was by now deceased. He suggested Mr Wellington may have gone to Muliakar, an abandoned community some 30 kilometres away and Mr Chulung remained at the scene searching the area while Senior Constable Mills drove to Muliakar without result and then returned to Wyndham.<sup>28</sup>

With knowledge that Mr Wellington had disappeared overnight between 15 and 16 November 1994 police aide, Bin Omar (Mr Omar) attended the search area in an attempt to locate scavenger birds on Saturday 19 November 1994. It was expected that if Mr Wellington was collapsed or deceased in the area scavenger birds would be located.<sup>29</sup> The fact no scavenger birds were noted is an oddity in this matter and may suggest Mr Wellington had received a lift out of the area, unlikely due to the presence of his swag and tobacco, or that his body was somehow

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<sup>27</sup> t. 28.1.20, p.20 and 21

<sup>28</sup> Exhibit 1, tab 9

<sup>29</sup> t. 28.1.20, p.19 and 20

hidden from scavengers. This is equally as unlikely a scenario in the conditions around the damaged vehicle. While dingos may have interfered with a body it would be unlikely they could carry away Mr Wellington to the extent scavenger birds would not descend on the area.<sup>30</sup>

The other alternative is something untoward happened to Mr Wellington and his body was concealed. While there was some suspicion held by the police in the following months, there was no evidence to support that scenario, although I note that in the Wyndham Station Log faxed to Missing Persons Unit on 1 May 1998 there does appear to be reference to tracks located at the scene and leading into the bush as stated by Mr James.<sup>31</sup>

Statements had not been taken from people involved in November 1994 and a statement was never obtained from Mr James of Durack River Station as to where he had noted tracks walking up the road from the abandoned vehicle and into the bush. However, Mr Cowen confirmed Mr James (although he had not known his name) had seen them at the scene when waiting for Mr Wellington and that Mr James had suggested Mr Wellington may have walked into the bush.<sup>32</sup>

In their statements to the police in 1995 Mr Cowen, Mr Ah Choo and Mr Maraltadj<sup>33</sup> all stated there were no tracks. Certainly Senior Constable Mills' report<sup>34</sup> indicated he did not locate any tracks, although the Incident Report referred to above states, *"1611942015 phone call received from SC Mills at Home Valley by Sergeant Harper. Text : We have followed Wellingtons associates, Cowen, Ah Choo, and Maraltadj to the location they left Wellington with the broken down vehicle and they found tracks which led 100 metres into bush land. The location is 8 kilometres from the Home Valley turn off. We will require help to search the area first thing in the morning"*. It was as a result of that contact that Sergeant Harper contacted the SES plus various police personnel to leave Wyndham to assist in the search on 17 November 1994.<sup>35</sup>

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<sup>30</sup> t. 28.1.20, .22

<sup>31</sup> Exhibit 1, tab 25 Incident Report 10409130012702, 1 May 1998

<sup>32</sup> Exhibit 1, tab 19

<sup>33</sup> Exhibit 1, tab 18

<sup>34</sup> Exhibit 1, tab 9

<sup>35</sup> Exhibit 1, tab 25

Due to the lack of statements Missing Persons Bureau (MPB) requested assistance from the local police in 1995 to obtain statements from various people mentioned in the Incident Reports as having contact with Mr Wellington while waiting with the damaged motor vehicle.

It was confirmed the police from Wyndham and Kununurra believed Mr Wellington had consumed alcohol or brake fluid (or both), become delirious and wandered away from the vehicle. It was considered the search radius of 7 kilometres in open country would have located him had he been easily accessible. It was also clear it would have been extremely out of character for him to have left his swag and tobacco at the scene had he received a lift, especially in view of the fact he had consistently refused assistance from those stopping and offering to provide him with a lift. (Mr James, Mr Terry, Mr Coghill, tourists). Statements were requested from Mr Cowen, Mr Maraltadj, Mr Ah Choo, Mr James and Mr Terry, with only Mr James not providing a statement as he was unavailable.<sup>36</sup>

Those statements did not become available until sometime in late 1995 when police concluded *“this is country in which aboriginals who intimately know the country and how to survive in it have been known to perish within 48 to 60 hours of becoming stranded. It is therefore reasonable to assume that as some 12 months has past since Wellington was last seen alive that he perished in the vicinity of where the vehicle broke down”*.<sup>37</sup>

Following that report there were alleged sightings of Mr Wellington, but none could be confirmed by the police as being legitimate. In addition, enquiries with respect to his bank account indicated that Mr Wellington had been a very regular attendee at the bank to remove welfare payments from his account which had not been accessed since before his disappearance in November 1994.<sup>38</sup> It was also noted Mr Wellington was well known amongst the Aboriginal communities in Kununurra, Derby, Halls Creek and Wyndham, and the local population knew he was missing and would have reported his presence had he been located.

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<sup>36</sup> Exhibit 1, tab 13

<sup>37</sup> Exhibit 1, tab 15

<sup>38</sup> Exhibit 1, tab 9

Senior Constable Mills was of the view by January 1995 that Mr Wellington was deceased. He thought it likely to be as a result of his intoxication and his body would not be located. Information received by the police in June 1995 indicated Mr Wellington had been living with Steve Waddell in Kununurra and he provided contact details for Mr Wellington's family. He said Mr Wellington was single had two brothers, Max and Don Wellington and a sister, Claire.<sup>39</sup> Despite follow up enquiries into 1996 there was no evidence to dispute the fact of Mr Wellington's death, and in 1998 his mother and family had still heard no word of Mr Wellington.

All later checks by the police with government agencies, family and friends failed to locate any suggestion Mr Wellington was still alive.

### **HAS DEATH BEEN ESTABLISHED?**

Despite the inconsistencies apparent in the papers over the years with respect to this matter I am satisfied beyond all reasonable doubt Mr Wellington is deceased and was deceased in the timeframe around his disappearance from the vicinity of the broken down Ford Falcon on the side of the Gibb River Road near the Home Valley Station turn off.

Mr Wellington was reasonably well known by the local communities in the Kimberley and no reason has been given for him to disappear voluntarily. I am satisfied that if Mr Wellington had been alive following the 16 to the 18 November 1994 he would have come to the notice of the authorities in the area. Failing that he was known to both Mr Maraltadj and Mr Chuglung, was expecting work in Kalumburu, and had no reason I can detect not to contact them.<sup>40</sup>

Mr Wellington had remained with the broken down vehicle since 11 November 1994, despite frequent offers of lifts into Kununurra which supports the proposition he had no desire or need to leave the vehicle while waiting for the return of Mr Cowen to repair the vehicle. The fact he declined Mr Terry's offer of assistance on the evening of 15 November 1994, but requested a message be passed to Kalumburu would indicate he had every intention of remaining in the vicinity of the vehicle until people from Kalumburu, who knew him by the name of Sugar,

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<sup>39</sup> Exhibit 1, tab 12

<sup>40</sup> t. 28.1.20, p.21

returned to assist him with the vehicle. He had no need of additional food and water having been provided both by Mr Coghill and Mr James, and offered by the tourists and Mr Terry. The fact that in the space of 12 hours Mr Wellington completely disappeared from the scene, while leaving behind his swag and tobacco satisfies me he did not intentionally leave the scene and remain alive.

I note Mr Cowen indicated Mr Wellington and Mr Ah Choo had consumed all the alcohol they left originally on 11 November 1994, but it is clear Mr Wellington had been provisioned with additional alcohol when the group returned to the vehicle the first time and left with Mr Ah Choo after the first carton of moselle had been consumed. Mr Coghill also supplied him with alcohol and water as well as food.

Mr Terry believed Mr Wellington to be under the influence of something on the evening of 15 November 1994 which would support the fact he still had access to substances with which to become intoxicated. Mr Terry stated he had not moved close enough to Mr Wellington for him to be able to smell what it was Mr Wellington may have consumed on his breath.<sup>41</sup>

The search of the immediate area around the vehicle on 16 November 1994 revealed an empty brake fluid container when there was no indication any need for brake fluid for the vehicle had been detected. This supports the suggestion Mr Wellington may have consumed brake fluid as he had been known to apparently consume questionable liquids before. This may imply he may not have been functioning rationally in the time after he was seen by Mr Terry. This may have supported him wandering up the road and into the bush, which seemed to be supported by the original observations of Mr James.

There is no information on the file to indicate why the apparent location of tracks initially, was later discounted, although all later references to the search state no tracks were located. This was despite Mr Maraltadj advising the inquest he was a reasonable tracker and would have expected to see tracks. The fact the area had recently been burnt out would suggest tracks may have been easier to follow than on a normal pebble/gravel surface.

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<sup>41</sup> Exhibit 1, tab 20

The evidence against Mr Wellington wandering into the bush, either in a disorientated or intoxicated fashion, collapsing and then dying is supported by the lack of any sign of scavenger birds. These would be expected to have been present by the following weekend whether Mr Wellington's body had been interfered with by dingos or not. The noted lack of scavenger birds both on the 16 November 1994 and up until the 19 November 1994 may suggest deliberate removal or concealment of a body.<sup>42</sup>

These are issues I am unable to address further in 2020.

However, I am satisfied beyond all reasonable doubt as to Mr Wellington's death at that time due to the location at the scene of all of his personal items including his swag and tobacco; the fact he had not been seen by anybody who knew him in the area including Mr Chulung from ALS, a friend; his failure to access his bank accounts and failure to contact any family or other friends.

### **MANNER AND CAUSE**

Although I am satisfied beyond all reasonable doubt as to Mr Wellington's death due to the above facts, I am unable on the same evidence to speculate as to how death occurred so long after the event, with some of the discrepancies not being clarified on the papers, nor by the oral testament of persons present at the time. Statements were taken sometime after the event which may account for minor discrepancies and the other, not so minor discrepancies (tracks), appear never to have been clarified on the papers, although there may well have been evidence at the time which negated the information.

I am unable to determine whether Mr Wellington met his demise as a result of a medical event naturally or due to his intoxication, accidentally due to the environment, both of which would explain his remaining personal effects at the scene, but would not account for the lack of remains on the search or evidence of scavenger/predators. Or whether he met his demise in some other manner and his body became concealed, although there is absolutely no evidence that occurred,

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<sup>42</sup> t. 28.1.20, p.20

other than there being no explanation for his disappearance without trace in an environment which, however much it might precipitate death, would also have left some evidence in that environment in such a short timeframe after his disappearance.

In all the circumstances I make an Open Finding as to the manner of death for Mr Wellington.

## **CONCLUSION**

The conditions in the Kimberley in more remote times were certainly susceptible to people disappearing without trace over a period of time. However, the disconcerting feature of Mr Wellington's disappearance is the fact it was detected within a space of less than 12 hours and reported to the police by Mr Coghill due to his concern Mr Wellington had vanished. Admittedly, it was more than 12 hours once the police arrived at the scene, however, it was still less than 24 hours, and despite the rugged and remote environment, the fact there was a thorough search using a helicopter pilot experienced with the terrain would suggest that by that stage Mr Wellington's remains were already undetectable.

Local knowledge through the communities at that time supported the fact Mr Wellington had not survived, but I am unfortunately unable to provide his remaining relatives with any further information, other than there was a thorough search within a very short time of his disappearance, and he would have been located if he had still been alive in that location.

E F Vicker

**Coroner**

13 May 2020