



Coroner's Court of Western Australia

RECORD OF INVESTIGATION INTO DEATH

Ref: 73/19

*I, Evelyn Felicia VICKER, Coroner, having investigated the disappearance of **Gordon COLLEY** with an inquest held at the **Coroner's Court, Court 83, Central Law Courts, 501 Hay Street, Perth, on 26 November 2019** find the death of **Gordon COLLEY** has been established beyond all reasonable doubt, and the identity of the deceased person was **Gordon COLLEY** and that death occurred following the **7 December 1997** in an area around **Mundiwindi Station out of Newman** in the following circumstances:*

Counsel Appearing:

Senior Constable Craig Robertson assisting the Coroner.

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INTRODUCTION

On 7 December 1997 Gordon Colley (Mr Colley) was seen to walk away from his home at Mundiwindi Station, south east of Newman, by his partner, Isobel O'Brien (Ms O'Brien). Despite an extensive land search over the following days and enquiries with surrounding communities, Mr Colley was never seen or traces of him located again. There was some speculation an abandoned motor vehicle discovered in July 2010, some twelve and half years later, may be related to his disappearance.

The inquest into this matter was held in Perth as the only available witnesses who wished to participate in the inquest process were more readily accessible to the Perth area. Mr Colley's partner at the time, Ms O'Brien, is still alive, but was unable to participate in the proceedings, while Mr Colley's sister, Nancy Colley (Ms Colley), was interested in the inquest process, but did not wish to be involved in the giving of evidence.

The documentary evidence comprised the brief of evidence, Exhibit 1, attachments 1 to 26 and the Public Notice of Inquest dated 27 November 2019 due to an error in the original advertising, as Exhibit 2. The original public notice of inquest had been dated 18 October 2019, but had not been published in the West Australian. I decided to continue the inquest on the date set down, 26 November 2019, to not inconvenience the witnesses. The matter was then re-advertised by Public Notice, dated 27 November 2019 as Exhibit 2, listing a mention for this matter on 7 December 2019. That would have enabled persons to be heard on 7 December 2019 should they so wish. No additional information was received.

Oral evidence was heard from retired police officer, Neville Hillier (Mr Hillier), who had been involved in co-ordinating the original search for Mr Colley and, now retired, SES co-ordinator for the same search, Gil Murray (Mr Murray). The inquest also heard oral evidence from Detective First Class Constable Toni Green, now of the Child Abuse Unit, who had been with the Homicide Squad when she compiled a report from the available Missing Person Unit (MDU) papers and additional enquiries she had conducted.

Long Term Missing Persons Project (LTMP)

In 2017 it was established there were a considerable 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 limited or no 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 s 23(2), to establish beyond all reasonable doubt that death has occurred. The investigation must be done 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 had died and the death was a reportable death (s 3 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 outside the Perth metropolitan area were considered from the perspective of the best availability for relevant witnesses. Where there were no witnesses available in the relevant area of disappearance the matter would be heard in Perth for the purposes of hearing the relevant evidence.

In the case of Mr Colley there were no witnesses who wished to be involved in the process in the area of disappearance by the time of the inquest, although family members contacted were not adverse to the holding of an inquest for the purposes of finalising the circumstances surrounding the disappearance of Mr Colley.

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

THE DECEASED

Mr Colley was born on 23 November 1959 in the Jigalong Community, Western Australia, of the Marto people, although Puntukurnu Aboriginal Medical Service, Jigalong, also has a registered date of birth for him of 25 May 1959.¹ He had a fairly extensive family within the Jigalong and Nullagine communities although this Court has only been able to make contact with his sister, Ms Colley, who is still alive and lives in the Irrungadji Community in Nullagine.

Mr Colley is described in the missing person papers as 176 cm tall, slightly built with black and grey hair, brown eyes, dark skin and would have been 38 years of age at the time of his disappearance.² Mr Colley was known to have mental health issues and it is believed that it maybe for this reason his family had distanced themselves from him. He lived at the Mundiwindi Station with Ms O'Brien who

¹ Exhibit 1, tab 21

² Exhibit 1, tab 3

was caretaker for the station. Mr Colley lived by himself in a smaller house separate from the main living quarters.

Mr Colley had changed his name from Walley Colley to Gordon Colley in November 1990.³ There is no record of any registration in either name in Western Australia. Later enquiries confirmed no death registration for Mr Colley through Australia.

Mr Colley was known to police with a record spanning from 1981 until 1990 with offences mainly related to intoxication.⁴ However, there is no record of any contact between police and Mr Colley post December 1997.

Mr Colley was well known within the aboriginal communities in the area and was known to walk long distances from Mundiwindi Station to both Jigalong and Newman. He was described as a competent bushman who was well able to take care of himself if necessary.

Ms O'Brien reported to police Mr Colley had strong cultural beliefs and had been through full tribal law. He had known mental health issues and there is speculation this may have been a reason for Mr Colley's belief he had been "sung", or "caught" or had the "bone pointed at him" by a feather foot.⁵ Ms O'Brien was concerned Mr Colley had recently suffered an apparent psychotic episode for which he had been medicated, however, he had not taken his medication with him at the time she reported him missing.

Mr Colley was known to the Newman Medical Centre where his doctor, Dr Green, prescribed anti-psychotic medication. Further enquiries with Dr Toby McClay at the Jigalong clinic revealed that Mr Colley had attended approximately six weeks before his disappearance with a major thought disturbance where he was not eating/sleeping, was pacing, withdrawn and distressed. Mr Colley's relatives had taken him to the clinic and Dr McClay administered Haloperidol to Mr Colley assisted by Mr Colley's relatives.⁶ It was reported the administration of Haloperidol and his subsequent use of the medication improved his behaviour. However, the

³ Exhibit 1, tabs 11 and 12

⁴ Exhibit 1, tab 14

⁵ Exhibit 1, tab 2

⁶ Exhibit 1, tab 23

report from Ms O'Brien that Mr Colley had wandered from the homestead without his medication caused Dr McClay to consider it likely Mr Colley would be in a full psychotic state, suffering hallucinations within three days of stopping his medication. This would only be exacerbated by dehydration and exposure.⁷

Evidence from Mr Murray at the inquest⁸ was that Mr Colley was convinced he had been "sung" by the feather feet although there was apparently no explanation for that other than a possibility it may relate to his mental illness.⁹ Ms O'Brien had informed both Mr Hillier and Mr Murray that Mr Colley believed he had been sung when in Newman and since that time had become ill. It is not clear whether this was the commencement of Mr Colley's mental health issues or they had preceded that date. However, it was clear Mr Colley believed he had been "caught" and his psychological state would make him vulnerable to accepting death.¹⁰

DISAPPEARANCE

There are no statements available on file, however, the original Missing Person Report compiled by Acting Senior Sergeant Hillier stated that on the 7 December 1997 Newman Police were advised by Ms O'Brien that Mr Colley had disappeared from their home at Mundiwindi Station during the day. She had last seen Mr Colley at approximately 12.30 pm when he went for a "sleep".

Ms O'Brien had later searched for him and could not find him throughout the homestead.¹¹

Ms O'Brien reported Mr Colley as suffering from depression, not taking his medication and she was concerned about his welfare. She was advised it would not be possible to commence a search that evening due to the time, however, a search would commence the next day had she not contacted the police to say he had returned to the homestead. The Newman Police alerted the Newman SES they would be required for a land search the following morning.

⁷ Exhibit 1, tab 6

⁸ t. 26.11.19, p28

⁹ t. 26.11.19, p.10

¹⁰ t. 26.11.19, pp. 27-30

¹¹ Exhibit 1, tab 6

INVESTIGATION

At 7.15 am on the morning of 8 December 1997 Ms O'Brien advised Newman Police that Mr Colley had not returned and as a result the Newman SES co-ordinator, Mr Murray organised the SES in the area for a search and the surrounding stations of Sylvannia and Ethel Creek were advised of the need for a search. The owner of Sylvannia Station, Ben Newland (Mr Newland) volunteered the use of his light plane and the owner of Ethel Creek Station volunteered to participate in the search with an aboriginal tracker, Muddi, who was experienced in land searches.¹² Newman SES had to be authorised by Meekatharra SES and Meekatharra advised they would be available for back up if required.

Police arrived at Mundiwindi Station at 11.00 am on 8 December 1997 and First Class Constable Harrison, APLO Djiagween and Mr Muddi commenced a search of the homestead and buildings while awaiting arrival of the SES.

Mr Colley was not found on the homestead or the surrounding buildings.

While searching the homestead and surrounds the trackers found what they believed to be tracks belonging to Mr Colley walking in a straight northerly direction from the homestead towards Jigalong, approximately 200 kilometres away by road. Mr Colley was known not to follow roads, but rather cross country on old tracks. He was perfectly competent to walk the distance between Newman and Jigalong and had done so before.

On the arrival of the SES searchers vehicle patrols were conducted in the general direction of the tracks along the fence lines and known wells, while a smaller group travelled with the trackers following what were believed to be Mr Colley's tracks. This group consisted of two police, twelve SES volunteers, station workers and Mr Colley's three sons. Mr Newland began flights along possible routes, but did not locate Mr Colley. Later information from the trackers indicated there were tracks around a tree believed to belong to Mr Colley which would appear to indicate he was actively avoiding detection during aerial searches.¹³

¹² Exhibit 1, tab 6

¹³ t. 26.11.19, p17, 22

The original tracks thought to be left by Mr Colley were lost within the first few hours of the search, but were then again located within 5 kilometres of the homestead as if he had turned in a large circle. The search was suspended at 7.30 pm to recommence the following day.

On 9 December 1997 Senior Constable Jacobs and First Class Constable Harrison attended again at the homestead along with the SES volunteers from Newman and Meekatharra. Fifteen SES personnel were involved with 7 x 4WD on the ground and the use of a fixed wing plane by Mr Newland. In addition there were a large number of aboriginal family members assisting with the search.

Family members were asked for further information concerning Mr Colley's health and mental state at the time he disappeared. It was at this time Ms O'Brien was quite forthcoming about the fact Mr Colley believed he had been "caught" in Newman and since that time he had been ill and believed the feather feet were after him. It was confirmed his lack of anti-psychotic medication in the three days since he had been seen would cause him to have severe hallucinations and could explain him hiding from the aeroplane or it could just be he was reluctant to be detected due to his belief he had been "caught" or "sung".¹⁴

Mr Murray described the physical aspects of a grid search conducted on that day with searchers being mere metres apart covering all the land through the grid pattern. No further tracks were sighted by the trackers. Mr Newland explained the search by the fixed wing aircraft was difficult due to the thickness of the scrub and spinifex. These conditions also were restrictive to the searchers. A decision was made that evening that following searches would be concentrated around areas where Mr Colley's tracks had last been seen.

On 10 December 1997 the search concentrated around the last known tracks with the SES personnel and six station people. The grid search on this date included Peter Hall from Balloo Downs, also another well-known tracker. A helicopter was approved for the search.¹⁵

¹⁴ t. 26.11.19, p 27 and 33

¹⁵ Exhibit 1, tab 6

The police coordinator, Mr Hillier, noted on 10 December 1997 that the weather conditions around the Jigalong area were very hot and dry and with very little water. Despite over 20 people from the Jigalong Community being involved in the search no further information was forthcoming. Although search efforts continued in a scaled down fashion it was noted the conditions would not be conducive for a person's survival for any longer than three to five days as a good bushman, or possibly up to ten days for someone with the skills of Mr Colley if he was acting in a rational frame of mind.¹⁶

The grid searches conducted covered an area of approximately 16 square kilometres without result, similarly for the helicopter. At approximately 5.15 pm the trackers, Mr Hall and Mr Muddi, discovered new tracks they believed belonged to Mr Colley which had been made in the preceding hours in the Guildford and Jump up wells areas approximately 40 kilometres from the homestead. A radius search was conducted however light became an issue and the search had to be suspended. A decision was made to concentrate on the wells on resumption of the search on 11 December 1997. The Meekatharra SES had to be returned to Meekatharra and personnel from Newman SES were rotated.

The search was continued on the following day in an area north west of the homestead. Tracks were located at Guildford Well which terminated at the main track between Sylvanne and Mundiwindie and implied the person making the tracks had been picked up by a vehicle, possibly a land cruiser.¹⁷

Gradually information was received from the communities at Jigalong and Parnjina which stated they had not seen Mr Colley. In Newman enquiries with aboriginal groups from Jigalong sighted in the area were undertaken, but without further information provided to the searchers.

Mr Murray believed there was a possibility Mr Colley had been assisted out of the area by people from the communities to avoid the search and allow him to avoid searchers in accordance with his belief he had been sung and was to die. This was confirmed by Mr Hillier as a real possibility as a result of his experience in the

¹⁶ Exhibit 1, tab 7

¹⁷ Exhibit 1, tabs 9, 10; t.16.11.19, p.16

Jigalong area.¹⁸ Mr Murray stated the trackers may only assist if challenged, if they believed it was not in the interest of the community for an individual to be located.¹⁹ This concern had been noted by the police on 9 December 1997 when Mr Colley's brother, who had originally assisted in the search, failed to attend for additional search efforts.²⁰

Despite extensive ongoing enquiries with community members nothing further was heard of Mr Colley and relatively little concern was raised. Mr Murray knew Ms O'Brien and he confirmed it was Ms O'Brien's belief Mr Colley had gone into the bush to die. Had Mr Colley reappeared Ms O'Brien would have been informed by other people he was still alive. Ms O'Brien is still alive with a partner, but not in a position to assist with the court process.²¹

Later enquiries in July 1998 failed to reveal the whereabouts of Mr Colley despite rumours he was located at various communities. On investigation the rumours proved to be erroneous.

Enquiries in August 1999 with Centrelink indicated Mr Colley's last known contact with Centrelink was on 27 November 1997, but that no forms had been lodged. Enquiries of the family asking they provide DNA to assist with any unidentified remains were unsuccessful in 2000, and a missing person report (MPR) compiled in 2004 implied Mr Colley was recorded as not being in possession of a motor vehicle at the time of his disappearance.²² This is consistent with the information from Ms O'Brien and the searchers around the Mundiwindi Station in 1997.²³

Location of Motor Vehicle

On Thursday 29 July 2010 the Jigalong rangers reported to Sergeant Brian Dann at Jigalong Police Station that, whilst on a routine patrol, they had come across a vehicle which belonged to Mr Colley, at the junction of Ilgari Creek and the Rabbit Proof Fence Management Road (at coordinates 24°22.182S 120°07.711E). The

¹⁸ t. 26.11.19, p.17; Exhibit 1, Tab 9, p.33, 35

¹⁹ t. 26.11.19, p.37

²⁰ Exhibit 1, tab 7

²¹ t. 26.11.19, pp, 25, 28, 30, 31, 32

²² Exhibit 1, tab 2

²³ t. 26.11.19, p.16

rangers reported it was a white Subaru Wagon with no registration labels or plates, however, they recognised the vehicle as one which had been used by Mr Colley to attend Jigalong before his disappearance.

The vehicle was photographed and some clothes and other items in the vehicle and in the surrounds were also photographed.²⁴ The rangers reportedly left at 1.00 pm before returning to the site to get the GPS coordinates before continuing with their patrol further south at 1.15 pm. There is no information to indicate that location was part of a routine patrol or how long the vehicle may have been at that location.²⁵

The location of Mr Colley's motor vehicle did instigate enquiries and a comparison was sought between Mr Colley's medical history and the unidentified human remains database. It was originally suspected skeletal remains found near Newman may be those of Mr Colley, but enquiries with Dr Spargo at Jigalong Health Centre indicated there was nothing in Mr Colley's history which would support some of the markers on those remains.

To date none of the skeletal remains located in any of the areas relating to Mr Colley have been tied to Mr Colley. However, enquiries are ongoing.²⁶ Mr Colley's sister more recently provided a DNA sample to a National Database to allow identification of Mr Colley's remains should they ever be located.²⁷ Mr Colley's information was placed on the CRIMTRAK database on 10 March 2016.

While I accept the car located in July 2010 instigated additional information be sought by police in respect of Mr Colley's disappearance, I am yet to be satisfied the discovery of the vehicle directly relates to Mr Colley. It is quite clear that at the time of his disappearance he was seen to walk from the area and the trackers were satisfied his tracks were those located walking away from the homestead towards Jigalong, and later circling back towards the homestead.²⁸

²⁴ Exhibit 1, tab 16

²⁵ T.26.11.19, p.15-16, pp 29, 35

²⁶ Personal communication November 2019 between Missing Persons and Dr Buck and the OSC

²⁷ Exhibit 1, tab 13

²⁸ T.26.11.19, pp. 29, 33

I speculate the vehicle was abandoned at the location in which it was found some time after the disappearance and death of Mr Colley. While it might have been a vehicle he used whilst he was alive I am not of the belief it was abandoned at its found location until some time after the death of Mr Colley.

HAS DEATH BEEN ESTABLISHED?

Despite the lack of any concrete information with respect to Mr Colley's disappearance I am satisfied beyond a reasonable doubt Mr Colley died some time in the days and weeks following his disappearance in December 1997. While I appreciate someone with his bush skills may have survived for a time, I am not of the belief that he is still alive in 2019, and in fact was deceased before the end of 1998. While it is perfectly conceivable someone from the communities collected Mr Colley and took him out of the area of the search, it was Mr Colley's belief he had been "sung" and that he was to die. Add to this his need for medication and his lack thereof, and I am satisfied that he did disappear and shortly thereafter died.

Had Mr Colley been alive for any time following his disappearance it is very unlikely he would have not come to the attention of medical personnel due to his severe agitation when unwell. His family did not appear to be as concerned as Ms O'Brien with respect to his disappearance, and it is inconceivable Ms O'Brien would not have heard something through the communities had Mr Colley survived for any length of time.

I am satisfied beyond all reasonable doubt Mr Colley is now deceased and was deceased in relative proximity to the time of his disappearance.

MANNER AND CAUSE

I am unable to determine how Mr Colley died or the manner of his death.

The evidence on file would support the proposition Mr Colley believed he had been "caught" and that he was a man of strong cultural beliefs and law. It would have been his belief he was intended to die as punishment for some transgression and

his will to live would have been displaced. Add to that his need for medication, and I am satisfied he was successful in disappearing into the bush and at some point succumbing to death, probably through hallucination, dehydration and exposure.

I make an Open Finding as to the manner of Mr Colley's death.

CONCLUSION

While I understand there may be some concern at my not paying more attention to the location of a vehicle used by Mr Colley later in July 2010, I do not believe it relates to Mr Colley's disappearance directly. It may be someone used the vehicle and came to understand it was associated with someone who had died which then caused it to be abandoned. That is speculation.

I believe the most likely explanation for Mr Colley's death was his loss of the will to live as a result of his cultural beliefs, and that his aim was to disappear into the bush and die. This would have exacerbated any mental health issues he had at that time which were not managed.

I appreciate Ms O'Brien believes he is deceased and that Ms Colley was content for the inquest process to proceed with the expectation Mr Colley would be declared deceased beyond all reasonable doubt, and that his death could then be registered with Births, Deaths and Marriages. While I appreciate Mr Colley had an extensive family, with at least three sons mentioned in the papers, it does not appear any of his family had any real expectation he survived for long following his disappearance.

I am satisfied that by February 1998 Mr Colley would have died either directly or indirectly as a consequence of his beliefs.

E F Vicker
Coroner
4 March 2020