



*Western*

*Australia*

## RECORD OF INVESTIGATION INTO DEATH

Ref No: 01/13

*I, Barry Paul King, Coroner, having investigated the suspected death of **Jake Preston BEARUP** with an Inquest held at Perth Coroners Court on 15 January 2013, find that the death has been established beyond all reasonable doubt, that the identity of the deceased person was **Jake Preston BEARUP**, and that death occurred between 10 January 2010 and 13 January 2010 at sea off Exmouth from unknown causes in the following circumstances -*

Counsel Appearing :

Sergeant Lyle Housiaux assisting the State Coroner

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## **INTRODUCTION AND SUMMARY**

1. Jake Preston Bearup (the deceased) went missing from Exmouth, Western Australia on or about 10 January 2010.
2. On 9 August 2010 the deceased's mother, Sandra Bearup, requested through her solicitors that the State Coroner hold an inquest.
3. In the context of the information available to him following further correspondence, the State Coroner considered that there was reasonable cause to suspect that the deceased had died and that his death was a reportable death.
4. By letter dated 10 June 2011 to the Commissioner of Police the State Coroner directed under s23(1) of the Coroners Act 1996 that the suspected death of the deceased be investigated so that an inquest could be held in order to determine whether the death could be established beyond reasonable doubt.
5. The subsequent investigation was carried out by then First Class Constable Samantha Kenny of the Missing Persons Unit of the Major Crime Squad of the Western Australian Police. Constable Kenny's investigation was completed in June 2012.
6. On 15 January 2013 an inquest was held. Acting Sergeant Kenny was the only witness to testify. Her investigation report together with its numerous attachments was accepted into evidence.<sup>1</sup>

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<sup>1</sup> Exhibit 1 Volumes 1 and 2.

7. On the basis of the evidence provided at the inquest, I find that the death of the deceased has been established beyond reasonable doubt.
8. As to the issue of how the death occurred, I make an open finding.
9. As to the cause of death, I am unable to make a conclusive finding.

### **SUNDAY 10 JANUARY 2010**

33. The deceased had a day off work on 10 January 2010.
34. Over the weekend, the deceased and Ms McEvoy had spoken on the phone and had exchanged text messages. The content of the messages was not unusual, and the deceased appeared to Ms McEvoy to be his normal self.
35. Between 11 am and midday, the deceased stopped by the home of an acquaintance, Jonathon Rigby, with his laptop to have a beer or two and to see if he could exchange movies with Mr Rigby's

laptop. He had spoken to Mr Rigby on the previous day about the possibility of Mr Rigby getting a job at Kailis, and on this day he brought his phone so that he could give Mr Rigby the number for the manager at Kailis, David Dowding.

36. While he was at Mr Rigby's place, the deceased received a phone call from his brother, Jason. The deceased spoke on the phone for about 45 minutes. It seemed to Mr Rigby that the deceased was annoyed by the phone call.
37. At about 2.15 pm the deceased went to a bottle shop where he purchased beer to give to Mr Rigby to replace beer that he had drunk on recent visits. When he dropped the beer off at Mr Rigby's house 10 minutes later, he stated that he would speak to Mr Rigby on Monday. He said that he could not stay. He wanted to get home and have a few more drinks and 'get hammered'.
38. In surveillance video at a Caltex Starmart service station at about 2.20 pm that afternoon, the deceased appears smiling and relaxed when buying take-away food.
39. At around 4.30 pm to 5 pm the deceased was shopping for groceries in relaxed manner at the IGA store in Exmouth.
40. At around 5.40 pm the deceased went into the bottleshop at the Graces Tavern in Exmouth and bought a 750 ml bottle of vodka. He mentioned to the person working at the bottleshop that he had received bad news in relation to his girlfriend and in relation to

his brother and that he was going home to get ‘really drunk’, but the deceased seemed to be ‘pretty happy’.<sup>3</sup> In surveillance video of the bottleshop, the deceased appears relaxed.

41. At about 6 pm, the deceased was seen driving his company vehicle towards his home.
42. The deceased’s neighbour did not see the deceased that evening, but he heard loud music coming from the deceased’s house until about 9 pm when it stopped.
43. The deceased was not seen again.

### **MONDAY 11 JANUARY 2010**

44. At about 6.15 am, one of the Kailis staff who had expected the deceased to give him a ride into work rang Mr Dowding to inform him that the deceased had failed to pick up him and other staff.
45. When Mr Dowding arrived at work an hour and a half later, he saw the company vehicle normally used by the deceased parked in its usual position near a gate to the company’s yard next to the marina.
46. Mr Dowding noticed that one of the company’s tender dinghies was not attached to its usual position on the company pontoon. Mr Dowding instructed employees to search the marina and the company trawlers to try to locate the deceased and the dinghy.

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<sup>3</sup> Statement of Richard Patrick Gregor: Exhibit 1 Volume 1 Tab 6 paragraphs 10 to 13.

47. The dinghy was normally used by Kailis staff to go to trawlers located on the southern side of the marina. It was not intended or equipped to be used in open water.
48. Shortly after 8 am Mr Dowding phoned the Exmouth police to notify them that the deceased and the dinghy were missing.
49. The Water Police Coordination Centre used a computer program called SARMAP to predict the likely movement of objects through water from the marina area based on winds and sea currents. This program indicated a search area to the north of the marina towards Bundegi Reef and the North West Cape.
50. By lunchtime the police had commenced coordinating a large-scale sea and air search for the deceased. This included two local aircraft, an Australian Federal Police vessel, a Department of Transport vessel, a Volunteer Marine Rescue vessel and State Emergency Services personnel. Visibility conditions for the aircraft were good, but there were strong winds from the south and south west.
51. At about 1.30 pm, police officers examined the deceased's house. They noticed a half-empty bottle of vodka and a mostly empty bottle of orange juice on the kitchen bench top.
52. At about 2.30 pm, members of the Volunteer Marine Rescue found the missing dinghy upside down east of Bundegi Reef to the north of Exmouth. They towed it to the shore at Bundegi Beach.

53. The outboard motor attached to the dinghy had rope and plastic wrap wound tightly around the propeller. The motor had seized and the controls were locked in the forward position. The motor was in the normal operating position with the propeller down. In the dinghy was a drinking glass similar to glasses found at the deceased's residence.
54. At about 4 pm, a fuel container from the dinghy was found on the shoreline a few kilometres south of the Bundegi boat ramp.
55. A medical survival expert with the Rescue Coordination Centre (RCC) of the Australian Maritime Safety Authority advised police that, without a flotation device, the deceased's timeframe for survival was midday on 13 January 2010.
56. The aircraft searches on 11 January 2010 finished at 7.25 pm.

## **TUESDAY 12 JANUARY 2010**

57. The search for the deceased continued, with nine vessels conducting a coordinated pattern search designated with the help of a self locating datum marking buoy which indicated drift patterns in the local currents.
58. The windy conditions remained with southerly winds swinging round to northerly winds in the afternoon.
59. The RCC tasked search aircraft. In total, eight aircraft, including helicopters and a dedicated search and rescue aircraft, flew three sorties on 12 January 2010.

60. In the evening, police divers arrived and searched the waters of the marina and the groin wall outside the marina.
61. Despite the comprehensive nature of the search, no further sign of the deceased was found, but aircraft searchers reported sighting fishing vessels, sharks, turtles and sea snakes in the search area.<sup>4</sup>

### **WEDNESDAY 13 JANUARY 2010**

62. The search operations were scaled down to three vessels which conducted a parallel track line search from the marina north to Vlamingh Head and back.
63. Further shore based searches were undertaken and, in the afternoon, the search was suspended.

### **FURTHER INQUIRIES**

64. Further investigation by police established that, following his disappearance the deceased did not access his bank accounts or attend any medical facilities.
65. The deceased made no further contact with his family or his girlfriend.

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<sup>4</sup> Australian Maritime Safety Authority Report: Exhibit 1 Volume 1.



## **CONCLUSION AS TO WHETHER THE DEATH HAS BEEN ESTABLISHED**

66. In my view, there is no reasonable doubt given the circumstances described above that the deceased died between 9 pm on 10 January 2010 and midday on 13 January 2010 in the Indian Ocean off Exmouth.
67. It is likely that the deceased died by the evening of 12 January 2010 since, if he had been alive before then, it is likely that he would have been found during the comprehensive search that day.<sup>5</sup>

## **CONCLUSION AS TO HOW THE DEATH OCCURRED**

68. In my view it is clear that, in the evening of 10 January 2010 or the early morning of 11 January 2010, the deceased drove to the marina and used the dinghy.
69. It is more likely that the deceased used the dinghy in the evening of 10 January 2010 rather than in the following morning since he was supposed to pick up other employees for work early in the morning as he usually did, and using the dinghy in the morning of 11 January 2010 would have made it more difficult for him to pick them up.

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<sup>5</sup> Memorandum of Sergeant Wear: Exhibit 1 Volume 1 Tab 16.

70. From then on, it is not possible to find with any degree of confidence precisely what happened. There are a number of scenarios which appear possible.
71. For example, it is possible that, while the deceased was using the dinghy, the propeller of the outboard motor had become fouled with rope and plastic wrap. It may be that the deceased had been attempting to clear the propeller when he fell into the ocean and drowned or was killed by a shark.
72. Alternatively, the fouling of the propeller may have caused the motor to seize while the deceased was not otherwise in trouble. Seizing of the motor may have then left the dinghy susceptible to drifting and eventually swamping in the open ocean. The deceased may then have been thrown into the ocean and have died while attempting to get back to shore.
73. Alternatively, the deceased may have fallen from the dinghy while it was operating normally, possibly after standing up quickly and having a black out. The motor may then have continued to run until it became fouled; it is possible that the deceased was run over by the dinghy after falling from it.
74. I cannot be satisfied that any of those scenarios, or any other scenario, did in fact occur.

75. It is not clear why the deceased was using the dinghy when there was no apparent practical purpose for him to use it, but it may be that he was taking it for a joyride.<sup>6</sup>
76. It is possible that alcohol intoxication played a part in the death in some way, including the deceased's reasons for using the dinghy, but the extent to which it may have been relevant is not possible to know.
77. There is evidence faintly suggesting the possibility that the deceased may have been predisposed to take his own life, including evidence of an incident of irrational behaviour while heavily intoxicated when he was 17 years old.
78. However, there is evidence which supports the conclusion that the deceased had much to live for and was future orientated. The evidence of the acquaintances that saw him on 10 January 2010, of the video footage from that day, and of the deceased's communication with Ms McEvoy is all inconsistent with the deceased having an intention to take his life.
79. There is no evidence to indicate whether or not another person or a marine animal caused or contributed to the death.
80. In these circumstances, I cannot be satisfied as to the details of what occurred. I make an open finding as to the manner of death.

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<sup>6</sup>In a personal communication with Counsel Assisting, Mr Dowding provided hearsay information that in a previous job, the deceased was known to have used dinghies for joyrides when intoxicated: File note 11 January 2013.

## **CONCLUSION AS TO THE CAUSE OF DEATH**

81. While it appears likely that the deceased died from immersion, I am unable to rule out other possibilities.
82. I therefore make no finding as to the cause of death.

**B P KING  
CORONER**

18 January 2013