



*Western*

*Australia*

## **RECORD OF INVESTIGATION INTO DEATH**

Ref No: 37/14

*I, Barry Paul King, Coroner, having investigated the suspected death of **James Patrick Taylor** with an inquest held at **Derby Court House, Loch Street, Derby, on 8, 9 and 10 October 2014**, find that the death has been established beyond all reasonable doubt and that the identity of the deceased person was **James Patrick Taylor** and that death occurred on **an unknown date at an unknown place** from **an unknown cause** in the following circumstances:*

### **Counsel Appearing :**

Ms C Fitzgerald assisting the Coroner  
Mr P Gazia and Mr A Walters appearing on behalf of the deceased's family  
Mr G Barns appearing on behalf of L A Bridgart (also known as J R O'Neill)

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## **INTRODUCTION**

1. James Patrick Taylor (the deceased) lived with his family in Derby. On 29 August 1974 when he was 12 years old he went from his home to a nearby shop on a quick errand and did not return.
2. Following deceased's disappearance, police conducted an investigation into his whereabouts. Despite reported sightings of the deceased in the West Kimberley, he was never seen again. The police investigation effectively ended in 1979.<sup>1</sup>
3. The deceased's family heard nothing further about what might have happened to the deceased until October 2006 when they saw a television documentary entitled 'The Fishermen: Journey into the mind of a killer.'<sup>2</sup> The documentary related to one Leigh Anthony Bridgart, who had taken on the name James Ryan O'Neill (Mr O'Neill). Mr O'Neill had been convicted of the abduction and murder of a nine year old boy in Tasmania in 1975 and had been the subject of investigations into other abductions of boys around that time. The documentary alleged that Mr O'Neill had been living in Derby in 1974 at the time the deceased disappeared.<sup>3</sup>
4. Meanwhile, in August 2006 the WA Police Special Crime Squad began an audit of all cases of unsolved homicides and long-term missing persons who disappeared in suspicious circumstances. The purpose of the audit was to identify all matters within the squad's area of responsibility: historical homicides. Information in the police file relating to the deceased's disappearance raised the possibility of foul play, so the file was transferred to the Special Crime Squad for a review.<sup>4</sup>

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<sup>1</sup> Exhibi 1, Tab 10

<sup>2</sup> ts 97 per Henderson-Yates, L M; the title is taken from Exhibit 1, Tab 14

<sup>3</sup> Exhibit 1, Tab 14

<sup>4</sup> Exhibit 1, Tab 15

5. That review was completed by December 2006. The detective senior constable who carried it out identified three persons of interest (including Mr O'Neill), recommended that a new investigation be conducted, and recommended that 28 investigative opportunities be pursued. However, the detective conceded that the proposed new investigation had a low to medium priority, predominantly because the persons of interest posed a low risk to the community as one was dead, one (Mr O'Neill) was incarcerated and the other was over 60 and had not committed any reported offences since 1988.<sup>5</sup>
6. In early 2011 a journalist, Phillipa Prior, became interested in the deceased's case after she met the deceased's eldest sister, Lynette Henderson-Yates, on a drive to the Curtin Detention Centre to visit detainees. Ms Prior began to research the case with the help of a colleague. Ms Prior interviewed witnesses including the deceased's family members.
7. In November 2011 Ms Prior and her colleague wrote an article about the deceased's family's desire to learn what had happened to the deceased. According to Ms Henderson-Yates, after the article was published in the *West Australian Newspaper*, police officers in the Special Crimes Squad contacted the deceased's family and kept the family members up to date with the ongoing investigation.<sup>6</sup>
8. In June 2013 a detective senior sergeant of the Special Crimes Squad completed a report into the disappearance and suspected death of the deceased.<sup>7</sup> The report was provided to the Office of the State Coroner.
9. Under section 23(1) of the Act, where a person is missing and the State Coroner has reasonable cause to suspect that the person has died and the death was a

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<sup>5</sup> Exhibit 1, Tab 15

<sup>6</sup> ts 100 per Henderson-Yates, L M

<sup>7</sup> Exhibit 1, before Tab 1

reportable death, the State Coroner may direct that the suspected death of the person be investigated. Where the State Coroner has given such a direction, a coroner must hold an inquest into the circumstances of the suspected death of the person and, if the coroner finds that the death of the person has been established beyond all reasonable doubt, into how the death occurred and the cause of death.

10. On 9 October 2013, Acting State Coroner Evelyn Vicker made a direction under s 23(1) of the *Coroners Act 1996* (the Act) that the suspected death of the deceased be investigated by way of an inquest.
11. On 8, 9 and 10 October 2014, I held an inquest at the Derby Court House.
12. The documentary evidence adduced at the inquest comprised the Special Crime Squad report, including more than 50 attachments.<sup>8</sup> Oral evidence was provided by:
  - a. Detective Senior Constable Mark Cunningham, a member of the Special Crime Squad who had been involved in the investigation;
  - b. Janine Widgery, a journalist who had conducted investigations for 'The Fishermen';
  - c. the deceased's mother, Evelyn Handerson, his sisters Heather Taylor, Lynette Henderson-Yates and Sharon Henderson, and his brother David Taylor;
  - d. Lionel Parremore, a resident of Tasmania who had been abducted by Mr O'Neill in 1975;
  - e. Mr O'Neill's ex-wife, who had lived with him in Derby in 1974 and in Tasmania in 1975;

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<sup>8</sup> Exhibit 1

- f. Michael Griffin, who had seen the deceased get into a four-wheel drive vehicle in Derby with a Caucasian man at a time around the deceased's disappearance; and
  - g. Mr O'Neill.
13. Following the hearing of the inquest, counsel provided written submissions, for which I am grateful.
  14. I have concluded that the death of the deceased has been proved beyond all reasonable doubt, but I have found that the cause of his death is unascertained and that the manner of his death is open.
  15. In particular, I am unable to determine to the required level of satisfaction whether Mr O'Neill abducted or killed the deceased.

### **THE DECEASED**

16. The deceased was, on all accounts, a healthy happy-go-lucky 12 year old growing up in a large family in Derby, a small Kimberley town. He loved music and his clothes, about which he was quite particular. He attended school and had friends and an extended family of cousins and other relatives.<sup>9</sup> His family identified strongly as Aboriginal though many of the members, including the deceased, had light complexions.<sup>10</sup>
17. The deceased's family lived in a house on Knowsley Street in Derby. At the house were the deceased's mother, father and siblings Gordon, David, Heather, Vicki and Peter. At the time the deceased went missing, his sister Lynette was home from Perth for school holidays. His other older sister, Sharon, was living with her aunt and uncle in Darwin.<sup>11</sup> The

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<sup>9</sup> ts 148 per Henderson, S G

<sup>10</sup> ts 29 per Cunningham, m; ts 103 per Henderson-Yates, L M

<sup>11</sup> ts 144 per Henderson, S G

children also had a half-brother, Graham, from their father but I understand that he was not living with them.<sup>12</sup>

18. As with all the children in his family, the deceased was independent, spirited and determined.<sup>13</sup> Though the deceased was the second eldest son, his older brother Gordon had poor health from rheumatic heart disease and could not do anything requiring strong physical exertion, so the deceased had become more and more responsible for the welfare of his younger siblings.<sup>14</sup>
19. For fun, the deceased and his siblings would play with other children and would often go fishing.<sup>15</sup> He and his brother David would go into the bush close to town to try to trap kangaroos and birds.<sup>16</sup>

### **FAMILY ISSUES**

20. The evidence of the deceased's relationship with his family is somewhat equivocal.
21. On one hand, there seems little doubt that the family members were extremely close-knit and inter-reliant.
22. In addition, it is clear that the deceased's mother was loving but strict with the children, providing a structured and supportive home environment. She was the parent who was seen by the children to be the disciplinarian. She required the children to be home by sundown everyday unless permission was granted to stay somewhere else over-night, such as at a relative's house.<sup>17</sup>

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<sup>12</sup> ts 80 per Taylor, W H

<sup>13</sup> ts 92 per Henderson-Yates, L M

<sup>14</sup> ts 81 per Taylor, W H

<sup>15</sup> ts 109 per Henderson-Yates, L M

<sup>16</sup> ts 171-172 per Taylor, D J

<sup>17</sup> ts 90 per Henderson-Yates, L M

23. On the other hand, it is apparent on the evidence that the deceased's father was an alcoholic who could be violent, especially towards the deceased's mother.
24. Documentary evidence from 1974 suggests that the deceased and his father had continual rows, potentially giving the deceased the impetus to run away from home.<sup>18</sup>
25. More recent evidence from the family members relates to an incident a few days before the deceased went missing in which the deceased's father punished the deceased and two younger siblings severely with a belt. Notes taken by Ms Prior during an interview with the deceased's mother and sisters refer to that incident, and also suggest that the deceased's father regularly beat his children with a strap and that the deceased 'got it the worst'.<sup>19</sup>
26. That the deceased's father would punish the children by hitting them with a belt was supported to some degree by the deceased's mother in testimony.<sup>20</sup>
27. In their oral evidence at the inquest, the other family members played down suggestions that their father was violent towards the deceased or the other children. When asked about Ms Prior's notes, they explained that their father was violent towards their mother but not towards them<sup>21</sup>, that the incident with the belt was a one-off event<sup>22</sup> and that such violence as did occur happened after the deceased's disappearance.<sup>23</sup>
28. In the end, the nature of the inconsistencies between the documentary evidence and the family members' testimony was not profound. As discussed below, I find it inconceivable on the basis of the available evidence that the deceased would have run away from

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<sup>18</sup> Exhibit 1, Tab 5

<sup>19</sup> Exhibit 1, Tab 52

<sup>20</sup> ts 67-68

<sup>21</sup> ts 139 per Taylor W H

<sup>22</sup> ts 83 per Taylor, W H ; ts 91 per Henderson-Yates, L M

<sup>23</sup> ts 173 per Taylor, D J

home without ever contacting his family again irrespective of whether his father had been violent towards him.

### **THE DECEASED'S DISAPPEARANCE**

29. It is not uncommon for witnesses of a recent event to have different recollections and to provide different accounts of what occurred. It is expected, therefore, that the recollections of the relevant witnesses as to what took place in relation to the disappearance of the deceased in 1974 vary markedly in relation to details.
30. It is relatively clear that the deceased was home on the late afternoon of Thursday 29 August 1974. There is no evidence to suggest that the family dynamic at the time was other than happy.
31. Before sunset the deceased went from home to Lwoy's Deli, a shop situated on Loch Street less than 500 metres way from the family home. He was wearing his school uniform and was probably barefoot.<sup>24</sup> He went to the shop to buy lollies and soft drinks for his siblings and himself, using money provided by an adult, possibly his father's friend, Terry.<sup>25</sup>
32. It was common for the deceased and his siblings to go to the local shops on their own, but one of the golden rules in the family was that they had to return without delay, particularly after sunset.<sup>26</sup>
33. The deceased did not return home. His mother rationalised at the time that he must have met a cousin or friend and ended up staying overnight at the friend's house or going to a station, but even those possibilities would have been unusual in the absence of prior permission.<sup>27</sup> The family did not have a car, so

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<sup>24</sup> ts 87 per Henderson-Yates, L M

<sup>25</sup> Exhibit 1, Tab 52

<sup>26</sup> ts 87 per Henderson-Yates, L M

<sup>27</sup> ts 87 per Henderson-Yates, L M; Exhibit 1, Tab 17



searching for the deceased that night was not feasible given the distances from the family home to the homes of their relatives.

34. The next day and over the weekend the deceased's family went to relatives' homes to look for him. His mother went to Lwoy's Deli and confirmed that the deceased had been served there on the Thursday afternoon.<sup>28</sup>
35. The deceased's mother also spoke to a woman who lived near Lwoy's Deli, Wynne Davidson, who told her that she had seen the deceased walk past her house on 29 August 1974 carrying a small cardboard box. She said that a man driving a four-wheel drive vehicle with an open tray-back carrying a 44 gallon drum pulled up beside the deceased, who got into the vehicle.<sup>29</sup>
36. Special Crimes Squad detectives interviewed Ms Davidson in 2012 at a nursing home in Rockingham. She told them that she was sitting on her front veranda on Loch Street when she observed a dusty four-wheel drive vehicle that she had seen before stop and two scruffy men got out. She said that they spoke to the deceased and either pushed him or persuaded him to get in the vehicle. She was not able to remember further details.<sup>30</sup>
37. Michael Griffin, currently a project manager with the Main Roads Department in Western Australia, had worked in Derby in 1974. In 2011 he saw an article about the deceased on television. He contacted police and provided a statement in which he recounted how, at about 5.30 or 6.30 pm on a day in 1974, the deceased had approached him outside a deli at the top end of Derby, some distance from the Lowy's Deli situated nearer to the deceased's home.<sup>31</sup>

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<sup>28</sup> Exhibit 1, Tab 54

<sup>29</sup> ts 97 per Henderson-Yates, L M; Exhibit, Tab 7

<sup>30</sup> Exhibit 3

<sup>31</sup> Exhibit 1, Tab 16

38. Mr Griffin stated that he knew the deceased, who in any event identified himself. He said that the deceased asked him to go to look at a man who was taking him somewhere in a dark coloured utility with a canvas canopy.<sup>32</sup> The deceased said that the man had insisted that someone else come with them.<sup>33</sup>
39. Mr Griffin said that he walked to where the utility was parked and could see a 25-35 year old solidly built Caucasian man in the driver's seat. The man told the deceased to get in the vehicle and asked Mr Griffin if he was coming. The deceased got in, but Mr Griffin declined and went back to his car and drove away.<sup>34</sup>
40. Mr Griffin told the inquest that he was unable to say precisely on what day or month these events occurred but that he believed that it was after his birthday in July, so logically was probably around August.<sup>35</sup>

### **LATER SIGHTINGS OF THE DECEASED**

41. On Thursday 5 September 1974 the deceased's father reported to police at the Derby police station that the deceased was missing. According to a 'Missing Person Report' form dated 16 September 1974, the deceased's father said that he did not report the deceased missing previously because he thought that he had gone to Myroodah Station with another person, but that proved to be incorrect.<sup>36</sup>
42. The report records that during the last week of school holidays a girl named Denise Latham saw the deceased with another boy in Broome on 6 September 1974. When interviewed shortly after that date, Ms Latham told police that she could not be sure that it was the deceased.<sup>37</sup> In December 2011 she told police that she

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<sup>32</sup> Exhibit 1, Tab 16

<sup>33</sup> ts 190 per Griffin, M G

<sup>34</sup> Exhibit 1, Tab 16

<sup>35</sup> ts 185 per Griffin, M G

<sup>36</sup> Exhibit 1, Tab 2

<sup>37</sup> Exhibit 1, Tab 11

did remember the time when the deceased went missing but that she could not remember seeing the deceased after he disappeared. She did recall rumours that the deceased had put his bicycle into a car in front of the Elders store, a shop closer to the deceased's home than Lwoy's Deli, and had got into the car.<sup>38</sup>

43. On 18 September 1974 the deceased's father approached police with the information that the deceased had approached a relative of his, Dennis Latham (not to be confused with *Denise* Latham), in Broome to ask for money. Police interviewed Mr Latham on or about 20 September 1974, and he confirmed that he had seen the deceased on 15 September 1974 but not since.<sup>39</sup>
44. Evidence from the deceased's family members at the inquest established that Mr Latham was related to the deceased through his father and that Mr Latham would have known the deceased to recognise him at the time. However, during the police investigation in 1974 no evidence was found to validate what Mr Latham had said. Mr Latham died in 1992.<sup>40</sup>
45. The deceased's father attended the Derby police station on 9 October 1974 with information that one Jack Spratt had heard that the deceased had been at One Arm Point and had then gone to Carnarvon with Dennis Latham. On 10 October 1974 Mr Spratt told police that he had only heard in a hotel that the deceased had gone to Carnarvon.<sup>41</sup> Again, that rumour could not be validated.
46. Another extant rumour was that the deceased was seen in Beagle Bay just before Christmas 1974, but later information appeared to discount the truth of the rumour.<sup>42</sup>

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<sup>38</sup> Exhibit 1, Tab 12

<sup>39</sup> Exhibit 1, Tab 11

<sup>40</sup> Exhibit 1, Tab 18

<sup>41</sup> Exhibit 1, Tab 11

<sup>42</sup> Exhibit 1, Tab 13

47. Police in Derby in 1974 soon reached the view that the deceased had run away from home because of arguments with his father.<sup>43</sup>
48. Within a year of the deceased's disappearance the police investigation had all but ceased. Further investigations were not undertaken until it had come to light that Mr O'Neill had been living in Derby at the relevant time.

### **LEIGH ANTHONY BRIDGART/JAMES RYAN O'NEILL**

49. Mr O'Neill was born Leigh Anthony Bridgart in Melbourne in 1947. The evidence of his youth is sketchy, but it seems that he went to school until he was 15 years old and left home when he was 18. He worked for a time at his father's real estate office and had a sideline in buying and selling guns. He enjoyed hunting and fishing and was fascinated with guns.<sup>44</sup>
50. In the late 60's it seems that Mr O'Neill earned a living buying opals in Coober Pedy and selling them in Melbourne.
51. In July 1969 Mr O'Neill was accidentally shot in the head by a friend with a handgun. As a result he went into hospital for five weeks and underwent at least two operations, following which he contracted meningitis and was hospitalised for another four weeks. The gunshot injury caused damage to the right frontal lobe of his brain, loss of smell, loss of hearing in his left ear and impaired vision in his right eye.
52. In early 1971 Mr O'Neill was charged under his name Leigh Anthony Bridgart with 13 counts of abduction and indecent assault in relation to four boys aged 10 to 12 in Ferntree Gully in Victoria. In at least three of the four sets of charges, the facts alleged were that

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<sup>43</sup> Exhibit 1, Tab 6

<sup>44</sup> Exhibit 1, Tab 51

Mr O'Neill had lured the victims into his car by asking for directions to a local railway station.

53. It was alleged that Mr O'Neill drove the victims to a remote site and indecently or sexually assaulted them before they escaped or he returned them to the abduction sites. He also allegedly took the fourth victim to a remote site where he sexually assaulted him, but the available information is more limited.<sup>45</sup>
54. At the inquest Mr O'Neill said that he had signed a confession in relation to the charges in Victoria only after being subjected to violence by police. In February 1971 he signed a statement to that effect.<sup>46</sup>
55. On 2 March 1971 Mr O'Neill skipped bail and fled Victoria to Western Australia before he could be tried.<sup>47</sup> Until this time he was still known as Leigh Anthony Bridgart.
56. In answer to questions by Ms Fitzgerald during the inquest, Mr O'Neill denied that he left Victoria to avoid being dealt with by the courts for the charges. He said that he was under a great deal of stress at the time and 'wasn't able to take it' despite having a good case and a confident barrister.<sup>48</sup>
57. In Western Australia Mr O'Neill went to the Kimberley region where he took on the name 'James Ryan O'Neill' and worked on pastoral stations. He passed himself off as an accountant, a Vietnam War veteran and an ASIO operative. He told people that he had sustained the gunshot wound to his head in Vietnam; alternatively that his mother's boyfriend was a gangster and had shot him.<sup>49</sup>
58. The timing of when and where Mr O'Neill worked in the Kimberley is somewhat murky, but it is relatively clear

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<sup>45</sup> Exhibit 1, Tab 32

<sup>46</sup> ts 223 per O'Neill, J R; Exhibit 1 Tab 51

<sup>47</sup> ts 252 per O'Neill, J R

<sup>48</sup> ts 252 -253 per O'Neill, J R

<sup>49</sup> Exhibit 1, Tab 14

that by 1973 he was working at Fossil Downs station near Fitzroy Crossing when he met his wife to be, a young Tasmanian woman who was working in a bar in Fitzroy Crossing. They married in October 1973 and moved to Kalyeeda Station southeast of Derby. They worked as caretakers there for about three months before Mr O'Neill got a job as the manager of a Department of Agriculture station near Fitzroy Crossing.<sup>50</sup>

59. Mr O'Neill's wife thought that their married relationship was strange given that Mr O'Neill had little interest in sex.<sup>51</sup>
60. In about June 1974 Mr O'Neill was sacked as the manager of the departmental station, so he and his wife moved into Derby. By this time she was three months pregnant.
61. According to Mr O'Neill, while in Derby he continued to do research work for the Department of Agriculture for some time. The work involved trips in departmental vehicles to remote areas, sometimes as far as 200 kilometres from Derby and sometimes for days at a time.<sup>52</sup> Some of the vehicles available to him were four-wheel drives with trays and canopies. The vehicle he used mostly was a large truck.<sup>53</sup>
62. After working for the department Mr O'Neill did some work for a builder and also worked part-time at the Derby wharf.<sup>54</sup>
63. While in Derby, Mr O'Neill formed a relationship with a 12 year old boy, Michael, and spent a great deal of time with him, apparently fishing and hunting. Mr O'Neill's wife thought it strange that Mr O'Neill was

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<sup>50</sup> Exhibit 1, Tab 20

<sup>51</sup> Exhibit 1, Tab 20

<sup>52</sup> ts 221-222 per O'Neill, J R

<sup>53</sup> ts 234 per O'Neill, J R

<sup>54</sup> ts 221-222 per O'Neill, J R

spending so much time with Michael, but she never saw anything sexual between them.<sup>55</sup>

64. In 2013 Michael provided a statement to police in which he said that a man whose name he could not remember (but who was clearly Mr O'Neill) was like a father to him and nothing untoward ever happened between them.<sup>56</sup> Michael was not called to give evidence.
65. None of the deceased's family knew of Mr O'Neill or his wife while they lived in Derby.
66. Near the end of 1974 Mr O'Neill and his wife moved to Tasmania, at least partly because she was pregnant and wanted to go home.<sup>57</sup>

### **JAMES RYAN O'NEILL IN TASMANIA**

67. When they first arrived in Tasmania, Mr O'Neill and his wife lived with her mother in Warrane for three weeks.<sup>58</sup>
68. In mid-December 1974 Mr O'Neill starting working as the bar manager of the Lufra Hotel in Eaglehawk Neck. His wife went into hospital from 15 to 20 January 1975 because of high blood pressure. She was re-admitted on 23 January 1975 and was discharged with her newborn baby son on 4 February 1975.<sup>59</sup>
69. On 4 February 1975 Mr O'Neill picked up his wife and son at the hospital and took them back to Eaglehawk Neck. They stayed at the Lufra Hotel for four days, then moved back to Warrane and then to Mangalore where he started a job at a chicken farm on Good Friday, 28 March 1975.<sup>60</sup>

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<sup>55</sup> ts 207-208 per Witness C

<sup>56</sup> Exhibit 1, Tab 31

<sup>57</sup> Exhibit 1, Tab 20

<sup>58</sup> Exhibit 1, Tab 51

<sup>59</sup> Exhibit 1, Tab 51

<sup>60</sup> Exhibit 1, Tab 51

70. On the same day that Mr O'Neill picked up his wife and new son from hospital, a nine year old boy disappeared from Eaglehawk Neck after going to a shop to buy a carton of cigarettes for his father.
71. It was later revealed that Mr O'Neill had abducted the boy by offering him a lift in his car. He drove the boy to bush country near Koonya where he killed him by striking him repeatedly to the head with rock.<sup>61</sup>
72. Mr O'Neill was charged and was convicted of the murder of the boy following a trial held in November 1975. He was sentenced to life imprisonment. The report of the decision of the Tasmanian Court of Criminal Appeal relating to Mr O'Neill's appeal against conviction provides the following insights into Mr O'Neill:
  - a. Three psychiatrists and one psychologist called by the defence at the trial all assumed that Mr O'Neill had homosexual paedophilic tendencies and that immediately before he killed the boy he was subjected to some kind of immediate stress brought on by panic or resistance by the boy.<sup>62</sup>
  - b. Complicity in the boy's death was not conceded at trial though an adverse finding in this regard by the jury must have been regarded as virtually inevitable.<sup>63</sup>
  - c. Two psychiatrists called by the prosecution considered that Mr O'Neill had a longstanding personality disorder.<sup>64</sup>
  - d. It was common ground that Mr O'Neill was a liar. The defence case was that he was a pathological liar.<sup>65</sup>

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<sup>61</sup> ts 227 per O'Neill, J R

<sup>62</sup> *O'Neill v The Queen* [1976] Tas SR 66 at 78 per Green CJ

<sup>63</sup> *O'Neill v The Queen* [1976] Tas SR 66 at 79 per Neasy J

<sup>64</sup> *O'Neill v The Queen* [1976] Tas SR 66 at 99-101 per Nettleford J

<sup>65</sup> *O'Neill v The Queen* [1976] Tas SR 66 at 102 per Nettleford J



73. Following Mr O'Neill's abduction and murder of the nine year old boy on 4 February 1975, a second nine year old boy went missing on 26 April 1975 after going to a local shop in Warrane to purchase a carton of milk for his mother. The boy's body was found in the Grasstree Hill area.<sup>66</sup>
74. Tasmanian Police prepared a brief of evidence in relation to the death of the second boy. The evidence, if it were accepted, made clear that Mr O'Neill was responsible for the death.<sup>67</sup> The most damning single piece of evidence was a signed record of interview purportedly obtained from Mr O'Neill on 1 May 1975 in which he said that he hit the boy repeatedly in the head with a rock to shut him up.<sup>68</sup> At the inquest, Mr O'Neill said that he had signed the record of interview because he was placed under duress by police officers.<sup>69</sup>
75. Mr O'Neill was charged with the murder of the second boy. He was remanded in custody but was not tried for the offence because of a prosecution policy in Tasmania at the time whereby persons who had been charged with multiple murders would only be tried on one of the charges.<sup>70</sup>
76. Ms Fitzgerald submitted that, given the available evidence, it was highly likely that Mr O'Neill killed the second boy.
77. Mr Barns, who represented Mr O'Neill at the inquest, submitted that it would be dangerous to find that Mr O'Neill killed the second boy because, firstly, confessions in the signed record of interview obtained by police were highly likely to have been extracted under physical and mental duress and, secondly, none of the other evidence has been forensically tested.

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<sup>66</sup> Exhibit 1, Tab 41

<sup>67</sup> Exhibit 1, Tab 41

<sup>68</sup> Exhibit 1, Tab 49

<sup>69</sup> ts 225 per O'Neill, J R

<sup>70</sup> ts 22 per Cunningham, M

78. In my view, even without the record of interview, there is a considerable amount of evidence to support the conclusion that Mr O'Neill had killed the second boy.<sup>71</sup> In addition to the documentary evidence, when asked at the inquest whether he killed the second boy, Mr O'Neill said that it was possible, but that he had no direct memory of doing so.<sup>72</sup> I understand that Mr O'Neill had previously admitted the possibility that he may have been responsible.
79. Moreover, the likelihood that Mr O'Neill killed the second boy was accepted by Spicer J of the Full Court of the Supreme Court of Tasmania in proceedings related to Mr O'Neill's application for an interim injunction to stop the Australian Broadcasting Corporation from broadcasting 'The Fishermen' nationally on 28 April 2005. Justice Spicer said that it was open on the evidence to conclude that there was a high likelihood that the ABC would be able to prove Mr O'Neill's guilt of the second murder.<sup>73</sup>
80. I note in passing that I have no jurisdiction under the Western Australian *Coroners Act 1996* to investigate the second Tasmanian boy's death or to make findings as to the cause or manner of his death. In my view, I can have regard to the evidence surrounding his death in order to investigate the death of the deceased.
81. However, as I have come to the conclusion that, even if I were to find that Mr O'Neill killed the second boy, I am unable to find whether Mr O'Neill abducted or killed the deceased, it is not necessary for me to conclude whether or not he killed the second boy in Tasmania in 1975.
82. As well as the evidence of the abductions and murders of the two boys, there is cogent evidence to indicate that Mr O'Neill abducted two other boys in Tasmania and attempted to abduct at least one more.

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<sup>71</sup> For example: statement of Witness C of 1 May 1975 - Exhibit 1, Tab 20; Tabs 41, 47 and 48

<sup>72</sup> ts 251 per O'Neill, J R

<sup>73</sup> *Australian Broadcasting Corporation v O'Neill* [2006] 46 at [4] per Gleeson CJ and Crennan J

83. On 18 April 1975, 12 days before the killing of the second boy, Mr O'Neill abducted 10 year old Lionel Parremore. Mr Parremore provided oral evidence at the inquest, as noted earlier.
84. In a statement provided to police on 30 April 1975, Mr Parremore stated that he was walking near the old church in Sorrell when Mr O'Neill drove up beside him in his car and stopped. Mr O'Neill told Mr Parremore that he was a policeman and needed directions to the police station in order to drop off some important papers. He told Mr Parremore to get in to show him how to get there. Mr Parremore eventually complied.<sup>74</sup>
85. When Mr O'Neill turned away from the direction indicated by Mr Parremore to be the location of the police station, Mr Parremore attempted to get out of the car. Mr O'Neill grabbed him by the arm and pulled him toward the middle of the seat. Mr Parremore put his foot on the brake and pressed it hard enough to stop the car. Mr O'Neill then let him get out.<sup>75</sup>
86. On 3 May 1975 Mr Parremore identified Mr O'Neill in an identification parade as the man who abducted him.<sup>76</sup> He told the inquest how frightened he was to go up to Mr O'Neill in the line-up and touch him on the hand.<sup>77</sup>
87. Mr Barns submitted that Mr Parremore's evidence was not reliable given the passage of time and his current emotion regarding the events. Mr Barns pointed out that Mr O'Neill unequivocally denied knowing anything about Mr Parremore or the other boys he allegedly abducted.<sup>78</sup>
88. I have no hesitation in accepting Mr Parremore as a credible witness and I found his evidence reliable. While his memory would necessarily be affected by the

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<sup>74</sup> Exhibit 1, Tab 39

<sup>75</sup> Exhibit 1, Tab 39

<sup>76</sup> Exhibit 1, Tab 44

<sup>77</sup> ts 124 per Parremore, L G

<sup>78</sup> ts 223 per O'Neill

passage of time, I have no reason to doubt the veracity of the contents of documents signed by him more contemporaneously with the relevant events, and statements of police officers, including a detective inspector, support his testimony as to the identification parade.<sup>79</sup>

89. Prior to Mr Parremore's abduction by Mr O'Neill, on 31 March 1975, a 14 year old boy was walking from Granton to New Norfolk when Mr O'Neill drove up beside him and offered him a lift. The boy got in. Mr O'Neill did not stop at New Norfolk so the boy asked to be let out, but they kept going.<sup>80</sup>
90. Mr O'Neill asked the boy if he would like to earn ten dollars and demanded that he sit closer. Mr O'Neill touched the boy's leg and genitals, so the boy moved away. The boy repeatedly said he was worried and started crying. Mr O'Neill said that they would turn back, but did not.<sup>81</sup>
91. Mr O'Neill drove them to a National Park turnoff and turned onto a dirt road. The boy said that he had to go to the toilet, so Mr O'Neill stopped the car. The boy jumped out and slammed the door on Mr O'Neill's leg when he tried to follow. The boy ran back up the road and then over a fence and down a hill in order to escape.<sup>82</sup>
92. The boy got back to New Norfolk by walking and hitch-hiking. At 7.00 pm that evening he made a statement about his ordeal to a detective sergeant at the New Norfolk CIB office.<sup>83</sup> According to a statement by a detective inspector of police, on 5 May 1975 the boy picked Mr O'Neill out of an identification parade as the man who abducted and indecently assaulted him.<sup>84</sup>

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<sup>79</sup> Exhibit 1, Tab 39, 44 and 46

<sup>80</sup> Exhibit 1, Tab 38

<sup>81</sup> Exhibit 1, Tab 38

<sup>82</sup> Exhibit 1, Tab 38

<sup>83</sup> Exhibit 1, Tab 38

<sup>84</sup> Exhibit 1, Tab 45

93. On 23 April 1975 a twelve year old boy and his two brothers went to a shop in Bridgewater to cash in milk bottles for the deposit. A man pulled up beside them and asked them where the Bridgewater Saleyards were. He drove off and returned a short time later. He offered five dollars to any one of the boys to go with him to show him where the saleyards were.<sup>85</sup>
94. None of the boys got into his car, but they obtained the car's registration number. The twelve year old boy identified a man other than Mr O'Neill in an identification parade on 5 May 1975, but said that he was 'not real certain' because when he saw him in Bridgewater 'it was dark and the man was sitting in a motor car'. The registration number of the car was that of Mr O'Neill's car.<sup>86</sup>
95. I accept that the evidence of the statements of the boys in Tasmania as to their abduction and attempted abduction by Mr O'Neill is true. I am unable to see how each of those boys would have independently fabricated the statements and then identified Mr O'Neill, a stranger to them beforehand who was later revealed to be a disturbed homosexual paedophile. I note the similar circumstances of each of the instances, including the use of the car and the abducting of the boys to remote locations.
96. Mr O'Neill's denials were unconvincing in the face of his history of lies and his claims to have been unwell psychiatrically with periods of memory blackouts around the relevant time.<sup>87</sup>
97. In addition to the evidence of the abduction and attempted abduction of boys in Tasmania by Mr O'Neill only months after the deceased was last seen in Derby, Mr O'Neill's ex-wife provided evidence that her younger brother had told her years after 1974 that Mr O'Neill

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<sup>85</sup> Exhibit 1, Tab 40

<sup>86</sup> Exhibit 1, Tab 40

<sup>87</sup> ts 251 per O'Neill, J R

had ‘interfered with him whilst he was staying in Derby.’ He was 14 years old at the time.

98. Mr O’Neill’s ex-wife told the inquest that her brother had not told her anything else about Mr O’Neill interfering with him and that he was upset and blamed her for it.<sup>88</sup>
99. In oral evidence Mr O’Neill remembered his wife’s brother coming to stay with them briefly in Derby but denied the allegations of sexually interfering with him as errant nonsense.<sup>89</sup>
100. While I discount Mr O’Neill’s denials for reasons expressed above, his ex-wife’s evidence about what her brother told her is untestable hearsay so is inherently less reliable than first hand evidence. That said, the nature of the allegation and the circumstances in which it was made leave me with little doubt that it could be based in truth. I can accord the allegation no greater weight than that.

### **HAS THE DEATH OF THE DECEASED BEEN ESTABLISHED?**

101. I am satisfied that the death of the deceased has been established beyond all reasonable doubt. The evidence upon which I base that conclusion is:
  - a. the testimony of the deceased’s family members to the effect that a scenario involving the deceased intentionally leaving the family and not getting in touch at some stage is inconceivable given the closeness of the family members and the deceased’s responsibility for his younger siblings;

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<sup>88</sup> ts 210 per Witness C

<sup>89</sup> ts 222 per O’Neill, J R

- b. the evidence of the early police investigation into the deceased's disappearance in which no confirmed sign of the deceased was found; and
- c. the evidence of the Special Crime Squad investigation and report, including further inquiries into government agencies such as Centrelink, the Australian Tax Office and Medicare.

### **WAS THE DECEASED ABDUCTED?**

102. Home life was all the deceased knew. His eldest sister, Lynette Henderson-Yates put it this way:

‘ ... (running away from home was) not something that any of us had in our psyche. ... It was a very close knit community. We had never heard of anyone running away. And I could not see anyone in our family doing that because we were so close together. ...’

103. Ms Henderson-Yates' evidence must be qualified to some extent because her sister Sharon had left Derby at 16 years of age without telling their mother. She had gone to live in Darwin with their aunt and uncle, but Ms Henderson testified that she did not run away from violence. She said that she was doing a trainee nurse's assistance course and living in nurses' quarters. She thought she was 'all grown up' and wanted to go to the city. She told her cousin what she was doing and asked her not to tell her mother and father that she was going until the plane had left.<sup>90</sup>

104. The evidence of the members of the deceased's family paints a picture of a small-statured 12 year old boy going from his home to the nearby shop near dusk with a small amount of money to buy snacks for

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<sup>90</sup> ts 144 per Henderson, S G

himself and his siblings, dressed in school clothing and bare feet. He was served at the shop.

105. In my view, a scenario in which the deceased deliberately did not return home from the shop and did not ever contact his family again is too unlikely on the evidence to have been a real possibility.
106. Given the evidence obtained from Mrs Davidson, the most likely alternative is that the deceased was abducted, and the most likely circumstances were those described by Mrs Davidson to Mrs Handerson in the 1970's; that is, the deceased entered a vehicle outside the Lwoy's Deli near her home and was driven off. It is also possible that he was driven from the Lwoy's Deli to the shop near the top end of Derby where he spoke to Mr Griffin before getting back into the vehicle.
107. However, the evidence of the sightings of the deceased after he went missing, particularly the evidence of an interview by police of Dennis Latham, is inconsistent with a conclusion that the deceased was abducted. While the sightings were not confirmed, neither were they definitively refuted.
108. I am forced to conclude that, though abduction may be the most likely explanation for the deceased's disappearance, a lack of cogent evidence means that an alternative explanation remains reasonably possible.

### **DID JAMES RYAN O'NEILL ABDUCT AND KILL THE DECEASED?**

109. In the present circumstances, I must apply the well-known principle from *Briginshaw v Briginshaw* [1938] HCA 34; (1938) 60 CLR 336, roughly to the effect that the more serious the issue, the higher the level of satisfaction required by the fact-finder: *Anderson v Blashki* [1993] 2 VR 89. As both of the issues of



whether Mr O'Neill firstly abducted the deceased and secondly whether he killed the deceased are extremely serious, the level of satisfaction required would approach 'beyond a reasonable doubt' in relation to each issue.

110. There is no direct evidence that Mr O'Neill abducted the deceased. There is, however, circumstantial evidence to indicate that he could have done so and, perhaps, was likely to have done so.
111. It is clear to me that Mr O'Neill had the propensity to have abducted the deceased. Mr Barns pointed out the unlikelihood that every allegation made against Mr O'Neill was true, but in my view the nature of the evidence of Mr O'Neill's propensity to abduct boys as described above is so overwhelming that I need not rely on all the 'allegations' to arrive at that conclusion.
112. It is also clear that Mr O'Neill had the propensity to kill boys he abducted. It was proved beyond a reasonable doubt that he did so some six months after the deceased went missing, and the evidence that he did so again two months later is compelling.
113. As to opportunity, Mr O'Neill was living in the Derby area at the time of the deceased's disappearance. He had access to a vehicle similar to one in which the deceased was seen to have entered before he disappeared. The technique of luring boys into his car in order to abduct them was one employed by Mr O'Neill in each known occasion in Tasmania and was alleged to have been used by him in Victoria in 1971.
114. It is tempting to conclude that Mr O'Neill must have been responsible for the deceased's disappearance. After all, as I have found, he had the propensity and the opportunity to abduct the deceased, the use of a vehicle was the same method that he had employed with other victims, and there was no other known person in his position.

115. However, abducting children with the use of a vehicle is hardly an unusual method, as we are only too aware nowadays, so the fact that Mr O'Neill may have used that method elsewhere does not necessarily implicate him in the deceased's disappearance.
116. More importantly, as noted above, the evidence of sightings of the deceased after he went missing cast doubt on the conclusion that he was abducted by anyone, including Mr O'Neill.
117. In addition, an insurmountable hurdle in concluding to the required standard that Mr O'Neill was responsible for the deceased's disappearance is the need to be satisfied that the deceased could not have been abducted by anyone else, known or otherwise.
118. While Derby was a small town where it might be expected that child abduction was virtually unknown, there was evidence of a high transient population in the Derby area at the relevant time, many of whom were Caucasian.<sup>91</sup>
119. We are also more aware nowadays of the prevalence of abduction and sexual abuse of children than we were in the 1970s.<sup>92</sup>
120. In the absence of further evidence, I am unable to conclude that someone other than Mr O'Neill did not abduct the deceased.
121. By way of example, after the inquest had been held, the Coroners Court received an email through the Attorney General's Department feedback system from a man who stated that about 1975 in Wyndham, when he was six years old he was approached while walking home from school by a man matching Mr O'Neill's description in a white Holden HQ model panel van. The man told him that his father had asked him to

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<sup>91</sup> ts 41 per Cunningham M; ts 78 per Handerson, E M

<sup>92</sup> ts 32 per Cunningham, M

take him home, but he did not get in the vehicle and the man drove away.

122. Wyndham is a considerable distance from Derby. There is no evidence before me to suggest that Mr O'Neill was ever in Wyndham or that he drove a white panel van. Nor is there evidence that he abducted boys as young as six. The email reinforces the possibility that, if the deceased were abducted, the abductor may have been someone other than Mr O'Neill.
123. In the circumstances, if I cannot be satisfied that Mr O'Neill abducted the deceased, I cannot be satisfied that he killed him.
124. Furthermore, even if I could conclude that Mr O'Neill abducted the deceased from outside the Lwoy's shop on 29 August 1974, it would not be possible for me to find that he killed him. There are other possibilities that could explain the death; for example, the deceased could have escaped from Mr O'Neill in a remote location and not have survived the harsh environment.
125. For those reasons, on the basis of the evidence available to me, I am unable to conclude to the required level of satisfaction whether Mr O'Neill either abducted or killed the deceased.

### **CONCLUSION AS TO HOW DEATH OCCURRED AND THE CAUSE OF THE DEATH**

126. Regrettably, it is not possible on the evidence to find either how death occurred or the cause of death, though it is possible that these issues may be determined in future if further evidence comes to light.

127. In formal terms, I make an open finding as to how death occurred and I find that the cause of death is unascertained.

B P King  
Coroner  
15 December 2014