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**JURISDICTION** : CORONER'S COURT OF WESTERN AUSTRALIA  
**ACT** : CORONERS ACT 1996  
**CORONER** : SARAH HELEN LINTON, DEPUTY STATE CORONER  
**HEARD** : 12 JANUARY 2024  
**DELIVERED** : 22 JANUARY 2024  
**FILE NO/S** : CORC 1865 of 2021  
**DECEASED** : FRANK (aka SPENCER), TRISTAN

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*Catchwords:*

Nil

*Legislation:*

Nil

**Counsel Appearing:**

Mr Jon Tiller assisted the Coroner.  
Mr Michael Olds (State Solicitor's Office) appeared for the WA Police Force.

**Case(s) referred to in decision(s):**

Nil

*Coroners Act 1996*  
(Section 26(1))

**RECORD OF INVESTIGATION INTO DEATH**

*I, Sarah Helen Linton, Coroner, having investigated the disappearance of **Tristan FRANK (aka SPENCER)** with an inquest held at the **Perth Coroner’s Court, Court 85, CLC Building, 501 Hay Street, Perth** on 12 January 2024, find that the death of **Tristan FRANK** has been established beyond all reasonable doubt and that the identity of the deceased person was **Tristan FRANK (aka SPENCER)** and that death occurred on or about **3 December 2020** at an **unknown location** as a result of an **unascertained cause** in the following circumstances:*

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## INTRODUCTION

1. Tristan Frank was born on 24 April 2006 in the Northern Territory. He grew up with his parents Lizzy Spencer and Christopher Frank, along with his older brother Gavin Frank and his younger brother Chris Frank in the Northern Territory.
2. Tristan shared his time between different communities, staying with different family members at various times. Tristan spent a lot of time in Nyirripi, Yuendumu and Mount Allen communities in the Northern Territory. Tristan also sometimes went with family to Western Australia.
3. Tristan was enrolled in school at Nyirripi School in the Nyirripi Community but had only attended sporadically since 2011. Tristan's family believed he had an undiagnosed learning disability, which made schooling difficult for him. He had started to get into a bit of trouble from time to time and he was known to use drugs and drink alcohol from a young age.
4. Tristan was last seen by family members in the Balgo Community in Western Australia in early December 2020. Tristan was 14 years old at that time. He had travelled to the community with his grandmother, grandfather and cousin by car from the Northern Territory. His grandparents left Balgo on 2 December 2020 to attend a funeral in another town but Tristan decided to stay behind. When Tristan's grandparents returned to Balgo on the night of 5 December 2020, they couldn't find him. They were told that no one had seen Tristan since the morning of 3 December 2020. After looking for Tristan without success, Tristan's grandparents reported him missing to police on the afternoon of 6 December 2020.
5. The WA Police commenced an investigation into his disappearance. The investigation initially was treated as a missing person investigation. It was later transferred to the Homicide Squad on 23 March 2021. A thorough investigation was then undertaken in both Western Australia and the Northern Territory to try to find Tristan, or find out what happened to him. To date, Tristan has not been found and the police have been unable to determine what happened to him.
6. On the basis of the information provided by the WA Police in relation to Tristan's disappearance, the State Coroner determined that pursuant to s 23 of the *Coroners Act 1996* (WA), there was reasonable cause to suspect that Tristan had died and his death was a reportable death. The State Coroner therefore made a direction that his suspected death be investigated and that a coroner hold an inquest into the circumstances of the suspected death in due course.<sup>1</sup>
7. I held an inquest at the Perth Coroner's Court on 12 January 2024. The inquest consisted of the tendering of documentary evidence compiled during the extensive police investigation conducted into Tristan's disappearance, as well as hearing evidence from police officers who were involved in either the initial search for Tristan or the later investigation into his disappearance.

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<sup>1</sup> Section 23 *Coroners Act* Direction of State Coroner dated 25 August 2021.

## **BACKGROUND**

8. On Monday, 30 November 2020, Tristan travelled from Nyirripi to Yuendumu (both in the Northern Territory) with his grandparents, Caroline Gibson and Peter Tex, and others. They remained in Yuendumu overnight. Tristan left the community at about 2.00 pm on Tuesday, 1 December 2020, with his grandparents and two other people, Adam Gallagher and Sadie Padoon. The group travelled by car to Balgo, Western Australia.
9. On the journey to Balgo, they stopped as they had a flat tyre. Tristan took a 'selfie' photograph while they were stopped. This showed the clothes Tristan was likely wearing when he went missing, as he didn't have a change of clothes with him.<sup>2</sup>
10. The group arrived in Balgo after dark on 1 December 2020. After dropping Mr Gallagher and Ms Padoon off to their respective houses, Tristan and his grandparents went to Andrea Lee's house (House #139). Tristan's grandparents camped out the front of the house overnight. Tristan's brother, Gavin Frank, had arrived in Balgo from Nyirripi a few days before. He met up with Tristan and Tristan reportedly went with Gavin to stay at Leo Junior Lee's house (House #143).<sup>3</sup>
11. The following morning, being Wednesday, 2 December 2020, Tristan's grandparents woke up and went to the local store to purchase diesel for their car. They collected Tristan on the way and took Tristan with his cousin, Vernon Gibson, to the store. They had breakfast together and then dropped Tristan and Vernon back to Angela's house before Tristan's grandparents left Balgo to drive to Noonkanbah Community for a funeral. Tristan had originally intended to go with them to the funeral, but he decided instead to stay in Balgo with his cousin Vernon and other family. As Tristan's grandparents drove away, they saw Tristan and Vernon walking up the road towards Leo Lee's house. Tristan's grandparents didn't arrange for anyone in particular to supervise Tristan before they left as it was very normal for extended family to look after each other's children without any notice and they felt confident Tristan would be looked after.<sup>4</sup>
12. Tristan was wearing a grey t-shirt with a pattern on it, shorts, enclosed shoes and a grey cap when he was last seen by his grandparents. He also might have had a black hoodie. He didn't have any other clothes with him, so it is assumed he was still wearing those clothes over the following days, and some witnesses confirmed seeing him in similar clothing in Balgo.<sup>5</sup>
13. Tristan spent the afternoon/evening of Wednesday, 2 December 2020 at Leo Lee's house in Balgo with his brother Gavin. Gavin recalled they sat outside Leo Lee's house with Vernon Gibson and Bartemaus Gill, telling stories and smoking cannabis. Gavin recalled Tristan seemed happy and had no problems. They stayed up most of the night and went to bed in the early hours of the morning, as the sun was starting to

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

<sup>3</sup> Exhibit 1, Tab 2.

<sup>4</sup> Exhibit 1, Tab 2 and Tab 3.1.

<sup>5</sup> Exhibit 1, Tab 2.

rise. Gavin believes Tristan went to sleep in the kitchen while Gavin went to sleep in a bedroom. Gavin slept in late and Tristan had left the house when he woke up, so did not see Tristan again.<sup>6</sup>

14. Leo Lee was spoken to by police and he agreed he saw Tristan at his house in Balgo on either 2 or 3 December 2020, but Tristan didn't stay the night with him. Instead, he believed Tristan stayed the night at George Lee's house (House #108), which was nearby.<sup>7</sup> However, most other people thought Tristan did spend the night at Leo Lee's house. Either way, it seems clear on the evidence that Tristan made his way to George Lee's house early the next morning.
15. Kion Patrick had been at Leo Lee's house the previous night and he recalled moving to George Lee's house with some other boys to sleep. The next morning, being Thursday, 3 December 2020, Mr Patrick was still at George Lee's house and he went and sat outside with Joharie Angie and Bart Gill. Tristan then joined them. They sat outside together drinking tea and having a smoke. Mr Gill then walked away before Mr Patrick also left as he had to go to work at the local school. At the time Mr Patrick left, Tristan and Joharie Angie were still together.<sup>8</sup>
16. Mr Angie had met Tristan for the first time the night before at Leo Lee's house. He remembered being outside George Lee's house the next morning with Tristan and Kion Patrick. He told police that Tristan didn't talk much but seemed "alright, normal, good"<sup>9</sup> at the time he was with him. After Mr Patrick left to go to work, Mr Angie walked to Dwayne Mosquito's house and got a lift back to the Mulan community, where he usually lived. Mr Angie confirmed that Tristan did not go with him to Mulan.<sup>10</sup>
17. Magda Kingsley (also known as Magda Lee) is a great aunt of Tristan. She saw Tristan one morning and believed it could either have been the Wednesday or Thursday morning. He was wearing the same clothes as in the photo taken on the way to Balgo. Ms Kingsley was at Leo Lee's house with Leo Lee. Ms Kingsley recalled that Tristan came to the house with Preston Lee, who is Tristan's uncle. Ms Kingsley recalled that Tristan and Preston Lee stayed at the house for a short time before leaving out the side door and walking down an alley way towards Andrea and George Lee's house (House #139).<sup>11</sup>
18. Katrina Darkie (who is also known as Katrina Lee) lives at House 143 with her brother Leo Lee. Ms Darkie, who considers Tristan her nephew, also recalled Tristan coming to her house, but not on a day when Magda Lee was there. Ms Darkie recalls Tristan came over on the morning of Thursday, 3 December 2020. She recalled he arrived at about 7.00 am and was happy and smiling. She offered to make him breakfast but Tristan just wanted a smoke. Ms Darkie stated Tristan was only at the house for a short time. When he left, she saw he walked down the alleyway towards

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<sup>6</sup> Exhibit 1, Tab 2 and Tab 5.

<sup>7</sup> Exhibit 1, Tab 2.

<sup>8</sup> Exhibit 1, Tab 2.

<sup>9</sup> Exhibit 1, Tab 19 [18].

<sup>10</sup> Exhibit 1, Tab 2 and Tab 19.

<sup>11</sup> Exhibit 1, Tab 2 and Tab 16.

George Lee's house. Ms Darkie left not long after to go to the Luurnpa Catholic School as she started work at the school at 8.00 am. A Christmas show was being held at the school that day, which helped her to recall the date.<sup>12</sup>

19. On the morning of Tristan's visit, Ms Darkie recalled Leo Lee and Joshua Bangu were at the house but not Magda Lee or Preston Lee. Preston Lee did come over to the house at some stage, but Ms Darkie was confident Tristan did not arrive or leave with Preston, nor were they in her house at the same time. Ms Darkie is also sure Magda Lee was not at Ms Darkie's house the morning of the school Christmas party.<sup>13</sup>
20. However, I note that when Ms Darkie was first spoken to by police, she had mentioned that Tristan had followed Preston Lee away from the house.<sup>14</sup>
21. Leo Lee also thought Tristan had come to his house that Thursday morning and seemed to be happy. Leo recalled Tristan arriving and leaving on his own.<sup>15</sup>
22. Preston Lee was spoken to by police and he told them he was aware Tristan was his nephew and that Tristan had come to Balgo from the Northern Territory. Preston Lee had not met Tristan before this visit and he only recalled seeing Tristan once during the visit. At the time he saw Tristan, it was dark and Tristan was walking with his brother Gavin towards Leo Lee and Katrina's house. Preston was flown to Broome Hospital the following day as an involuntary mental health patient after he displayed delusional behaviour and was found to have had a relapse of his psychotic psychiatric illness.<sup>16</sup>
23. After leaving Leo and Katrina's house on the morning of Thursday, 3 December 2020, Tristan has not been seen again.<sup>17</sup>
24. Tristan's grandparents tried to call and speak to Tristan on the afternoon of Friday, 4 December 2020. They spoke to Magda Lee Kingsley (aka Magda Lee) who said she had seen him around but thought Tristan had gone with another young man to Mulan. They tried calling Tristan's brother Gavin in order to speak to Tristan, but had no success.<sup>18</sup>

### **DISCOVERY THAT TRISTAN WAS MISSING**

25. The next day, Tristan's grandparents found out the funeral was cancelled. They rang and spoke to Katrina Lee and Leo Lee, who both said they thought Tristan had gone to Mulan.<sup>19</sup> It is apparently very common for people to go between Balgo and Mulan,

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<sup>12</sup> Exhibit 1, Tab 2 and Tab 8.

<sup>13</sup> Exhibit 1, Tab 2 and Tab 8.

<sup>14</sup> Exhibit 1, Tab 22 [17].

<sup>15</sup> Exhibit 1, Tab 2.

<sup>16</sup> Exhibit 1, Tab 2 and Tab 17.

<sup>17</sup> Exhibit 1, Tab 2.

<sup>18</sup> Exhibit 1, Tab 3.1.

<sup>19</sup> Exhibit 1, Tab 3.1.

as the communities are not far apart, so many people seem to have made the assumption that Tristan has gone to Mulan when he wasn't seen around the community.

26. Tristan's grandparents returned to Balgo that night, being Saturday, 5 December 2020. They started asking people where Tristan was, and were told he had spent the night at Leo Lee's house but they believed he had then gone to Mulan. This is possibly because Mr Angie, who Tristan had been seen with on the Thursday morning, had gone to Mulan that morning.<sup>20</sup>
27. The next day, being Sunday, 6 December 2020, Tristan's grandparents drove to Mulan Community. They spoke to people in Mulan, and established that Tristan wasn't there. In particular, Mr Angie confirmed he had seen Tristan in Balgo but Tristan did not go with him to Mulan.<sup>21</sup>
28. Tristan's grandparents drove back to Balgo and informed people that Tristan was missing. They called everyone they could think of in all the different communities, but no one had seen Tristan. Leo Lee got in his car and drove to Mulan with Kion Patrick to look for Tristan. He confirmed Tristan had definitely not gone to Mulan.<sup>22</sup>

### **INITIAL LAND SEARCH AND RESCUE**

29. Magda Kingsley had rung the Officer-in-Charge of the Balgo Multi-Functional Police Facility, Brevet Senior Sergeant Charles Moylan (whom I will refer to hereafter as Sergeant Moylan for simplicity), at 11.30 am on Sunday, 6 December 2020, to advise that Tristan was missing. Ms Kingsley told him that Tristan's family wanted to speak to him. Sergeant Moylan went to House #139 and spoke to Magda, who introduced Sergeant Moylan to Tristan's grandparents and explained they had returned from a funeral late Saturday night and discovered that Tristan was missing. Tristan's grandfather described Tristan as fit and healthy but explained Tristan did not have the skills to survive off the land for any period of time. He thought Tristan might be able to find water but he couldn't hunt for food.<sup>23</sup>
30. Sergeant Moylan also spoke to Tristan's brother, Gavin, who said the last time he had seen Tristan was on the Thursday when they were both at George Lee's house telling stories around daybreak. They had both then gone to bed and Gavin hadn't seen Tristan again. Sergeant Moylan spoke to a few other community members, all of whom confirmed that Tristan had last been seen on the Thursday morning.
31. It was established that Tristan was semi-independent, so it was considered possible he had travelled elsewhere without informing his family or community members. However, given his young age, the fact that enquiries by his family hadn't found anyone who had seen him and the information provided established that he did not have traditional skills that would help him survive in remote country, Sergeant

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<sup>20</sup> Exhibit 1, Tab 2 and Tab 3.1.

<sup>21</sup> Exhibit 1, Tab 2 and Tab 3.1.

<sup>22</sup> Exhibit 1, Tab 2 and Tab 3.1 and Tab 3.2.

<sup>23</sup> Exhibit 1, Tab 2 and Tab 22.

Moylan held a significant level of concern for Tristan's safety and immediately considered Tristan was a 'person at risk'.

32. Sergeant Moylan felt satisfied on the information he had obtained that it was appropriate to commence missing person protocols. Sergeant Moylan is trained and qualified as a Land Search Controller by WA Police. He completed a Search Urgency Assessment, which was communicated to the WA Police Emergency Operations Unit, and Land Search and Rescue (LandSAR) efforts were immediately commenced. Initially, they were coordinated by Sergeant Moylan, with the assistance of the few local police officers and a large number of community members, including Tristan's grandparents and other family members.<sup>24</sup> The searching on 6 December 2020 concluded at nightfall.<sup>25</sup>
33. When the search recommenced the next morning, Sergeant Moylan spoke to Magda Kingsley, who explained that it was a belief amongst some in the community that one or two 'Featherfoot' men had come to Dwayne Mosquito's house and taken hold of Tristan. I am told that a Featherfoot is a traditional lore man who has powers that ordinary men do not have; powers that can influence another person's life and cause their death. Their name is a reference to the shoes that they wear (made in part from feathers) that allow the wearer to pass across the ground unseen and unheard. As a Featherfoot is invisible, if they took Tristan then they would have also made Tristan invisible. Community members told police that two Featherfoot men had taken Tristan out past the Mulan community. Accordingly, some men from Balgo were going to go out to Mulan to look for Tristan.<sup>26</sup>
34. Tristan's grandparents also later advised that in the weeks before they had left for the trip to Balgo, Tristan had been saying he could see his spiritual grandfather and said he wanted to go with him. Tristan had said he wanted to go and see this grandfather out at a block of land near Balgo, located a few kilometres east of the townsite. Tristan's family searched this area for Tristan, but did not find him.<sup>27</sup>
35. Police officers held a community meeting at 11 am on Monday, 7 December 2020, at the basketball courts. The meeting was chaired by the Balgo Community Deputy Chairperson and assisted by Magda Kingsley. It was explained that the help of community members with the ability to follow signs and with knowledge of the environment would be greatly appreciated by the police in the search. The Balgo Corporation assisted with funding for community members to assist with the searching. Community members' need to incorporate cultural practices as part of the search was also recognised and respected. During the meeting community members suggested police ensure they went to Mulan Community and searched there, as well as searching the cliffs near Balgo.<sup>28</sup>

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<sup>24</sup> Exhibit 1, Tab 2.

<sup>25</sup> Exhibit 1, Tab 2 and Tab 22.

<sup>26</sup> Exhibit 1, Tab 22.

<sup>27</sup> Exhibit 1, Tab 3.1 and 3.2.

<sup>28</sup> Exhibit 1, Tab 22.



36. A number of clothing items were later seized from caves in the area surrounding Balgo. The items were not consistent with the clothing Tristan was known to have been wearing and DNA testing returned results that did not match Tristan's DNA.<sup>29</sup>
37. Some information was received at 12.40 pm on the Monday that tracks had been located on Yagga Road that appeared to be a Chinese shoe print (possibly consistent with shoes Tristan had been seen wearing), as well as water bottles and signs of digging for water. Further enquiries established the shoe prints had likely been there for some time and the reports of digging and water bottles were unfounded.<sup>30</sup>
38. The search concluded again at nightfall on the Monday night for the safety of the searchers. Sergeant Moylan spoke to Tristan's grandparents to explain where police had been searching that day and they shared information about the efforts of community members to look for Tristan. Community members had followed some tracks, but all the tracks disappeared. Tristan's grandfather also expressed his belief that the spirits were keeping Tristan invisible, as he could feel Tristan's spirit but couldn't see him physically.<sup>31</sup>
39. The search by local police continued on Tuesday, 8 December 2020, including a door to door search of every house in the Balgo community and all buildings. All residential and commercial buildings in the Balgo Community were eventually searched and cleared.<sup>32</sup>
40. Police in vehicles searched the roads and tracks within a 3 km radius of the townsite. Community members searched areas of cultural significance in the vicinity of the Balgo townsite and as far out as the Kearny ranges (12 km from Balgo).<sup>33</sup>
41. Due to the remote and isolated location, significant challenges were presented for those facilitating the search efforts further afield. For example, physical and human resources that would be readily available in a metropolitan location were not readily available in Balgo. In addition, the weather conditions, rough terrain and animal life presented risks to the search team that had to be balanced against completing a comprehensive search.<sup>34</sup>
42. Sergeant Moylan spoke to officers at the WA Police Emergency Operations Unit that afternoon and it was agreed that the search needed to be escalated, which would require extra resources. Coordination of search efforts had already been handed over to the Emergency Operations Unit, who specialise in this field.<sup>35</sup>
43. That night an Australian Maritime Safety Authority (AMSA) Challenger aircraft that had infrared heat mapping capabilities was deployed to search an area in a 6 km radius from the Balgo Community and as far as the Kearney Ranges to the east,

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<sup>29</sup> Exhibit 1, Tab 2 and Tab 22.

<sup>30</sup> Exhibit 1, Tab 22.

<sup>31</sup> Exhibit 1, Tab 22.

<sup>32</sup> Exhibit 1, Tab 2 and Tab 22.

<sup>33</sup> Exhibit 1, Tab 29.

<sup>34</sup> Exhibit 1, Tab 2.

<sup>35</sup> Exhibit 1, Tab 2 and Tab 22.

which had been identified by members of the community as a significant area. Nothing of interest was located.<sup>36</sup>

44. On 9 December 2020, Emergency Operations Unit staff headed to Balgo to continue the search. They brought with them a WA Police Airwing drone pilot, four police officers from Halls Creek and two Halls Creek State Emergency Services officers to assist with the LandSAR. The search was further aided by a WA Police Airwing plane with ‘spotters’.<sup>37</sup>
45. A survivalist expert, Dr Paul Luckin, was consulted on 9 December 2020 to try to estimate Tristan’s estimated timeframe for survival if he had left the townsite on foot. Tristan had not been to Balgo since 2017, when he was 10 years old, so he was not familiar with the area.<sup>38</sup> He was not known to have learned any traditional skills that would help him survive in the remote landscape around the Balgo townsite on his own for any length of time. Weather conditions in the general area around Balgo at the time between 3 and 6 December 2020 were hot and dry, with maximum temperatures during the day of between 42 and 45°C and between 24 and 27°C at night. There was a very small amount of rain recorded in that period. Based on the information provided, Dr Luckin advised that if Tristan had wandered off from the community on his own into the bush, he would have become lost and dehydrated very quickly and the minimal rainfall would not have been enough to cool him or give him a drink. By 9 December 2020, Dr Luckin considered there was no reasonable prospect of finding Tristan alive, so it was felt to likely be a recovery mission at that stage, although all efforts were still made to find Tristan.<sup>39</sup>
46. On Thursday, 10 December 2020, the additional police and SES staff conducted an extended line search around the entire perimeter of the town on foot and then extended out on vehicles in a 3 km radius from the townsite. Whilst this was being undertaken, the police drone was used to conduct patrols of a large ravine to the east of the town.<sup>40</sup>
47. The search continued until the end of the day on 11 December 2020. It was decided that in the absence of any positive progress at the end of that day, the search would be suspended. Police officers held another community meeting at the basketball courts that morning and thanked community members for their ongoing efforts in the search and explained they would likely be finishing the search that day, although police would still continue to follow up any additional evidence or information. As part of the police discussions that day, consideration was given to any possible criminality in Tristan’s disappearance.<sup>41</sup>
48. The formal police search concluded at the end of the day on 11 December 2020. However, local police and community members continued to informally search for Tristan and Sergeant Moylan continued to investigate Tristan’s disappearance.

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<sup>36</sup> Exhibit 1, Tab 2 and Tab 22 and Tab 29; Exhibit 2, Tab 1.

<sup>37</sup> Exhibit 1, Tab 2.

<sup>38</sup> Exhibit 1, Tab 2.

<sup>39</sup> Exhibit 1, Tab 2.

<sup>40</sup> Exhibit 2, Tab 1.

<sup>41</sup> Exhibit 1, Tab 22.

49. Sergeant Moylan, who is recently retired after serving as a police officer for 38 years, described the search for Tristan as “by far the most challenging”<sup>42</sup> missing person search he was ever involved in as a police officer. He recalled the environment in which they were searching was harsh, hot and dry, which made searching for extended periods difficult, and the remoteness of the community made it difficult to get additional resources in quickly. Nevertheless, he felt that with the resources available they conducted “a very good and thorough search”<sup>43</sup> following formal land search principles. Sergeant Moylan also noted they had great support from the family and local community and utilised the knowledge of local Aboriginal persons to identify how a community member might traverse the land in a “totally separate way to the way white fellows do it,”<sup>44</sup> which complemented the formal search methods. Sergeant Moylan recalled the collaboration between the authorities and the community and family was very positive and the police did their best to acknowledge and be respectful of cultural beliefs that might influence both where, and how, they searched. Unfortunately, working collaboratively and utilising all possible searching methods, they were still unable to find any evidence of where Tristan had gone.
50. Sergeant Jason Gough, who was attached to the WA Police Emergency Operations Unit at the time of Tristan’s disappearance and was involved in the search for Tristan, also acknowledged the practical difficulties associated with this particular search due to the remote location.<sup>45</sup> However, he agreed with Sergeant Moylan that they were still able to conduct an extensive search by using technology such as the Police Airwing drone and AMSA jet and with great cooperation from the local community, to cover as much area as possible.
51. After the formal search concluded, Sergeant Moylan gave evidence that he still had hope that Tristan might somehow have got a ride back to the Northern Territory without anyone’s knowledge, so he put a lot of ongoing effort into communicating with Northern territory staff. However, nothing ever came of those enquiries.<sup>46</sup>

### **THE MISSING PERSON INVESTIGATION**

52. As part of the missing person investigation, police officers interviewed a number of people in Balgo who had spent time with Tristan before he disappeared. Many of the people were related to Tristan in some way, although not all of them had met Tristan before this visit. The witness evidence indicated Tristan was last seen at Leo and Katrina Lee’s house and the weight of the evidence was to the effect that Tristan left their house on his own.<sup>47</sup>

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<sup>42</sup> T 11.

<sup>43</sup> T 21.

<sup>44</sup> T 22.

<sup>45</sup> T 25 – 26.

<sup>46</sup> T 20.

<sup>47</sup> Exhibit 1, Tab 2.

53. Police conducted a comprehensive doorknock throughout the Balgo townsite and also sent a message to all phones within a 200 km radius of Balgo alerting people to Tristan's disappearance and seeking information. Media outlets also disseminated information about the search for Tristan, and police in WA and the NT were also advised to keep a lookout for him.<sup>48</sup>
54. The police investigation established that the day Tristan disappeared was the day the Luurnpa Catholic School end of year Christmas party was held at Balgo. Many people in the town attended the party and videos and photographs were taken of the festivities. Police officers reviewed the videos and photos and there was no evidence from them, or witness accounts, to suggest Tristan attended the school Christmas party.<sup>49</sup>
55. Hospital checks undertaken in WA and the NT found Tristan had last been seen by a doctor in the Northern Territory in April 2017. It was also noted in the medical notes that Tristan had run away from Nyirripi in 2015. Notes from child protection authorities in the Northern Territory also documented Tristan's tendency to wander unaccompanied from a young age, and an increase in interaction with the police in 2019 and 2020.<sup>50</sup>
56. School attendance records show Tristan had been enrolled at Nyirripi School since 2011 but his attendance had been inconsistent and slowly diminished as he got older. There were medical records indicating he had been referred to a paediatrician for possible ADHD, supporting his family's belief that he had some medical issues that affected his schooling. It was confirmed Tristan had not attended school since the date of his disappearance.<sup>51</sup>
57. At the time Tristan disappeared there were COVID-19 restrictions in place, in particular a Remote Communities Direction under the *Emergency Management Act 2005* (WA) that encompassed Balgo and Mulan. The direction meant that only persons deemed to be residents of the community, or persons providing essential services, were permitted to enter. In addition to that direction, there were border restrictions between WA and the NT. Records maintained by NT police at the border checkpoints were reviewed and did not show any record of Tristan or his family members crossing into WA or back into the NT, although Tristan's grandfather recalled speaking to police at the border checkpoint operating near the turn-off to the Lajamanu community, on the Tanami road. He said the police asked them some questions and then let them drive through without requiring any documentation.<sup>52</sup> The advantage of the COVID-19 restrictions was that it limited the movement of tourists and other strangers to communities like Balgo, which meant that the police were able to eliminate the possibility that someone unknown to the community had been involved in Tristan's disappearance.

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<sup>48</sup> Exhibit 1, Tab 2.

<sup>49</sup> Exhibit 1, Tab 2.

<sup>50</sup> Exhibit 1, Tab 2.

<sup>51</sup> Exhibit 1, Tab 2.

<sup>52</sup> Exhibit 1, Tab 2.

58. The police investigation established there is no public transport in the East Kimberley and checks with private bus services confirmed Tristan had not been a passenger. There were no missing or stolen vehicles reported from Balgo around the relevant time.<sup>53</sup>
59. Family members advised that Tristan did not have a mobile phone of his own, using family members' phones when needed. He did not have any personal bank accounts. Tristan's only social media was a Facebook account, but it hadn't been used since January 2020.<sup>54</sup>
60. In April 2021, Tristan's profile was included in the National Missing Persons poster and posted in police stations across the country.<sup>55</sup>
61. Various reports came in over time that Tristan had been seen at different communities. Each report was investigated and found to be without foundation.<sup>56</sup>

### **HOMICIDE INVESTIGATION**

62. Homicide Squad detectives commenced Operation Capua in March 2021 to review Tristan's disappearance and consider any evidence of potential criminality. This included consideration of WA Police Intelligence databases and witness statements, as well as consultation with Tristan's family.<sup>57</sup>
63. After Tristan first went missing, many of his family members, including his mother, came to Balgo to help with the search. They stayed in the community for some time in the hope that Tristan might be found, before eventually returning home in about February 2021.
64. In April 2021 WA Homicide Squad detectives flew to the Northern Territory, where they visited family members in Yuendumu, Nyirripi and Mount Allen. With the assistance of Yuendumu police, a Family Liaison Officer was established, and that officer has maintained contact with Tristan's family.
65. After speaking to family and community members, the Homicide Squad detectives confirmed that Tristan's family do not believe he was subject to any kind of criminal interference and they also do not believe he simply walked away from the townsite to explore. Rather, from speaking to Tristan's family members, it became apparent that the family have strong cultural beliefs and they believe that one or more Featherfoot were responsible for Tristan's disappearance. This understanding was in part connected to Tristan telling his family in the weeks before his disappearance that he could see his spiritual grandfather. Tristan's family believe you can see his spirit grandfather in the 'selfie' photograph that Tristan took of himself

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<sup>53</sup> Exhibit 1, Tab 2.

<sup>54</sup> Exhibit 1, Tab 22.

<sup>55</sup> Exhibit 1, Tab 2.

<sup>56</sup> Exhibit 1, Tab 22.

<sup>57</sup> Exhibit 1, Tab 26.

on the way to Balgo.<sup>58</sup> Tristan's family indicated to police that, based on their belief about what happened to Tristan at Balgo, they do not believe Tristan is still alive.<sup>59</sup>

66. A secondary deployment of WA Police Homicide Squad officers travelled to Halls Creek and Balgo Community to explore investigative opportunities, including re-interviewing witnesses.
67. The Homicide Squad investigation considered a review of the LandSAR search, which identified further search areas that were recommended to be explored. The further search was undertaken between 28 June 2021 and 2 July 2021, with oversight from Emergency Operations Unit. The secondary search was conducted to enhance the quality of the search and expand the search area to a six kilometre radius surrounding the Balgo townsite. No sign of Tristan or any items of interest were located.<sup>60</sup>
68. Ultimately, the Homicide Squad investigation detected no criminality and no possible suspects in Tristan's disappearance.<sup>61</sup>
69. A report was prepared by officers from the WA Police Homicide Squad and provided to the State Coroner in mid-2022. It was confirmed that at that stage Tristan had been missing for approximately 18 months and, despite best efforts by community members and the WA Police, he had not been located. It was noted if he had wandered off from Balgo he was likely to have become dehydrated and disoriented very quickly and there were many natural hazards in the area that might have affected his ability to make his way back to the townsite. There was no evidence of any criminality or suspicious circumstances identified in relation to Tristan's disappearance. It was confirmed in evidence at the inquest by Detective Sergeant Matthew Long that this position had not changed.<sup>62</sup>

### **IS TRISTAN DECEASED?**

70. Tristan disappeared in December 2020, more than three years ago. He was only a young boy and although he moved around often, he was always in the company of extended family. None of Tristan's family have seen him, or had any contact with him, since 3 December 2020.
71. Despite a thorough land search of Balgo Community, the surrounding area and nearby communities at the time he disappeared, as well as follow up searches, no sign of Tristan has been found in the area where he was last known to be staying. Extensive enquiries with the communities where he would have been likely to go if he got a lift with someone, have also not resulted in any confirmed sighting of Tristan. Tristan had no reason to voluntarily choose to disappear. The fact that none of his family have heard from him in over three years strongly supports the

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<sup>58</sup> Exhibit 1, Tab 2 and Tab 3 and Tab 4 and Tab 7.

<sup>59</sup> Exhibit 1, Tab 2.

<sup>60</sup> Exhibit 1, Tab 2 and Tab 22 and Tab 26 and Tab 29; Exhibit 2, Tab 1.

<sup>61</sup> Exhibit 1, Tab 26.

<sup>62</sup> T 46; Exhibit 1, Tab 2.

conclusion something happened to Tristan in early December 2020 that led to his death.

72. Tristan's family have been kept informed of the coronial investigation and they participated in the inquest by video link from the Northern Territory. Immediately following the inquest hearing, Counsel Assisting, Mr Tiller, contacted Tristan's family and spoke to some of his family members, including: Tristan's mother and father, Tristan's maternal uncle Geoffrey Gibson and Tristan's maternal grandfather, Ted Gibson.
73. Based upon Mr Tiller's conversations with Tristan's family, I understand that they still firmly believe that Tristan did not simply walk away from the community. Rather, Tristan's family continue to hold the strong cultural belief that Tristan was taken away from George Lee's home by a Featherfoot, sometime after Tristan visited Katrina Darkie on the last morning he was seen alive. They believe the Featherfoot took Tristan to a little outstation east of Balgo. This explains why no tracks were found of Tristan leaving the Balgo Community and why Tristan has not been seen again. Family members have searched the area where they believe Tristan was taken, with the assistance of traditional witch doctors, but have not found any sign of Tristan to date. Tristan's great uncle, Mr Geoffrey Gibson, suggested that police might want to consider resuming a search around an area known as Blue Hill near Balgo, as it is believed Tristan's spirit may have been taken there. He also suggested police should consider consulting with local elders at Balgo who are able to see spirits, as they may be able to assist in the ongoing search for Tristan.
74. I mention these matters for the benefit of the WA Police, who made it clear at the inquest that Tristan's case remains ongoing, despite this inquest, and they will consider any additional evidence that might assist police in finding Tristan's remains. Brevet Senior Sergeant Moylan made it clear to community members in 2021 that the police requirements to reopen a full scale land search were high, given the resources involved, but it may be that the current officers stationed in Balgo can discuss this information provided by the family with local community members to see if it could help direct any further enquiries that have not already been explored.
75. In the meantime, I can indicate that I am satisfied beyond reasonable doubt that Tristan died around the time of his disappearance on 3 December 2020.
76. As to how Tristan died, one possibility open on the evidence is that Tristan walked out of the community townsite for some reason and became dehydrated and disoriented in the harsh and unfamiliar environment and died from the effects of exposure. However, I also acknowledge and respect his family's beliefs that there may have been a spiritual element to his disappearance, noting that if this is the reason, his family also believe that has led to Tristan's death and only his spirit remains out on the land now.
77. As a result, I propose to leave Tristan's cause of death as unascertained and his manner of death as open.

**CONCLUSION**

78. Tristan was a young Aboriginal boy who usually lived with extended family in either Nyirripi Community, Yuendumu Community or Yuelamu (or Mount Allen) Community, all of which are situated close together on the borders of traditionally owned Warlpiri land and Anmatyerr land in the Southern Tanami Ward of the Central Desert Region in the Northern Territory. Tristan moved freely between the different communities, travelling between them with the help of different family members and friends. He also sometimes went across with family members into Western Australia to visit other Aboriginal Communities in the far north of the state.
79. In early December 2020, Tristan went with his grandparents to Balgo Community in Western Australia. He stayed in Balgo with his older brother and other family members while his grandparents travelled to another community for a funeral. When his grandparents returned to the community on 5 December 2020, Tristan had disappeared. Enquiries established he had last been seen on the morning of 3 December 2020. Despite intensive searching by his family, community members and the WA Police, Tristan has not been seen again.
80. I am satisfied Tristan died on or about the last day he was seen, but on the limited evidence available, I am unable to make any determination as to how Tristan died. The WA Police Force will continue to investigate his disappearance so that more answers might be provided to Tristan's family one day about what happened to him. In the meantime, I extend my deepest condolences to Tristan's family and friends for their loss and regret that I cannot provide any more answers at this time.

S H Linton  
Deputy State Coroner  
22 January 2024