



Western

Australia

RECORD OF INVESTIGATION INTO DEATH

Ref No:42/12

*I, Evelyn Felicia Vicker, Deputy State Coroner, having investigated the death of Mr **HARRIS**, with an Inquest held at Kalgoorlie Coroners Court, Brookman Street, Kalgoorlie, on 14-16 November 2012 find the identity of the deceased person was Mr **HARRIS** and that death occurred on 2 February 2010 at Wilga Road near Sunrise Dam, Laverton, as a result of Ischaemic Heart Disease in association with Coronary Artery Atherosclerosis in the following circumstances -*

Counsel Appearing :

Jeremy Johnston assisting the Deputy State Coroner
John McKenna (John McKenna & Associates instructed by the Police Union) appearing for police officers Daurat, Hutchinson & Edwards
Rabia Siddique appeared on behalf of the Commissioner of Police
Linda Black appeared on behalf of APLO Riley

Table of Contents

Introduction.....	2
Identification Issues.....	2
Background.....	4
Medical Issues.....	5
Known Events Surrounding Death.....	8
Location of Mr Harris.....	34
Difficulties with the Evidence.....	40
Post Mortem Examination.....	43
Conclusion as to the Death of the Deceased.....	46
Some Comment on Police Actions.....	49
Recommendations.....	52

INTRODUCTION

The deceased, (Mr Harris) advised his son, Derek Junior Harris (Derek) he intended to go bush for the day on the 2 February 2010. Thereafter no one was able to locate Mr Harris and there was concern when he had not returned to Laverton by evening.

At 6:50am on 3 February 2010 the body of Mr Harris was located on Wilga Road, about 60 kilometres south of Laverton. The circumstances of his death at that time were not immediately apparent and there was a period of intense speculation about the events preceding his death which became entrenched in time and are now almost impossible to properly sequence.

IDENTIFICATION ISSUES

Inquiries with the Registrar General for Births, Deaths and Marriages indicate the birth of Mr Harris was not registered, nor was his marriage to his wife of many years, Doreen. As a result it has been somewhat difficult to reliably identify all the diverse names and dates of birth with the person, well known in the Laverton area, as Mr Harris.

MEDICAL ISSUES

By February of 2010 Mr Harris was known to be blind in his right eye. Recent medical notes record that as being due to a cataract, however, there is an entry recorded in his medical notes for March 1992 which make it clear he originally injured his right eye quite severely as the result of a broken bottle.

The cataract was in the left eye and I am satisfied Mr Harris was able to use his left eye to some extent as shown by his actions when driving on the 2 February 2010. I accept his eyesight was not good, however, believe he had educated himself to manage well enough during daylight hours.

His medical records indicate he was admitted to Laverton Hospital on 18 October 2009 suffering from chest spasms. The staff dealt with a consultant in Royal Perth Hospital (RPH) via the telephone and as a result Mr Harris was transferred to Kalgoorlie Regional Hospital via the Royal Flying Doctor Service ¹. On the 20 October 2009 Mr Harris suffered severe chest pain while in hospital and a Medical Emergency Team (MET) was called for resuscitation. An ECG was performed which proved normal and his tropanin levels were negative for heart attack. Thereafter Mr Harris denied ongoing chest pain and his general observations returned to normal. By 22 October 2009 Mr Harris was considered fit for discharge into the care of a general practitioner and his scripts were faxed to Bega. He was to be reviewed by Laverton Hospital. It was as a result of his presentation to Laverton Hospital on 18 October 2009 an emergency Chest Pain Assessment pathway was instigated. He appears to have been reviewed at Laverton Hospital on 28 November 2009.

The next entry in the Laverton Hospital notes occurred on the 30 December 2009 when Mr Harris was admitted to the hospital under his GP, Dr Winlo. The diagnosis was a (?)chest

¹ Exhibit 1, Vol 1, Tab 18

infection and he was treated with antibiotics. Mr Harris remained on the ward under observation until he was discharged on 4 January 2010 in the afternoon. He was no longer producing a lot of offensive sputum and his coughing had decreased considerably. On examination his lungs were clear, and he was discharged with two days remaining of antibiotics, with advice as to their correct administration. In the general information for this admission his date of birth is given 1 July 1935.

Dr Winlo considered the main problem with Mr Harris as being almost exclusively bronchitis or upper respiratory tract infections.² Dr Winlo indicated that condition was brought about almost exclusively by the extent of Mr Harris' smoking. He had provided Mr Harris with a Symbicort inhaler which was an anti asthmatic device which sometimes assisted with obstructed airways disease or bronchial like problems. The date Dr Winlo has as Mr Harris' date of birth is 1 July 1935 and he believes that would be the Medicare recorded date of birth. He was aware Mr Harris was blind in one eye, the right eye, and also that he had a cataract in the left, however, Dr Winlo did not believe this affected Mr Harris' ability to ambulate or mobilise adequately.

It was his view Mr Harris was relatively consistent in obtaining medical advice when he considered it necessary however, was reluctant to complete treatment if he understood the condition and felt he was improving. It is not possible to force

² Exhibit 1, Vol 4, Tab 8

compliance with medical advice. Otherwise he considered Mr Harris to be relatively healthy taking into consideration his age and smoking. He stated he did not observe Mr Harris to be particularly susceptible to cardiac complaint in that ECGs performed tended to be normal and his blood pressure relatively good.

There is no indication Mr Harris was seen by a medical practitioner between 4 January and 2 February 2010. At that stage he would appear to be using a Symbicort inhaler, with panadol as needed, if experiencing pain. He is recorded as being blind in one eye and prone to the recurrence of pneumonia.

KNOWN EVENTS SURROUNDING DEATH

In the week immediately preceding the 2 February 2010 Mr Harris' family in Laverton had mostly travelled to Warburton to stay with Derek for a family funeral. Mr Harris remained at 15 Mikado Way, which appears to have been at his choice. The house next door to Mr Harris was occupied by one of the Laverton police officers, Constable Terry Hutchinson (Hutchinson). Hutchinson saw Mr Harris from time to time in the surrounds of his home and was aware of the fact Mr Harris frequently slept over the road, in a vacant block, with his dogs.

It was clear from the evidence the community in and around Laverton assisted Mr Harris, when he requested it, with errands whilst his family was away. His lunch was delivered

daily between 12 and 1 and left on the meter box³ and friends and relatives would drop by to ensure he had everything he needed. His son, Derek, advised the inquest he would send a purchase order through for his father to be able to purchase food and smokes from time to time. Derek also spoke to him on the telephone fairly regularly and Derek advised the court his father had sounded quite well when he spoke to him early in the week.⁴

On Monday 1 February 2010 Regina O'Donohue (O'Donohue) advised the court the deceased had spoken to herself and her partner Eric Thomas (Thomas). He asked if O'Donohue could go and obtain some fuel for the vehicle, and food, so he could go out bush. O'Donohue indicated the deceased drove the vehicle, a small hatchback, to their home and O'Donohue took the vehicle to the BP in Laverton to fuel it and obtain purchases for Mr Harris. While she was running that errand she left Mr Harris speaking with Thomas. The evidence is not entirely clear, however, O'Donohue indicated Mr Harris had spoken of going bush the following day and they had advised him he should not go alone and Thomas offered to go with him. Thomas' evidence was that when Mr Harris wished to go bush he would usually take someone with him and they would go in a four wheel drive. O'Donohue's evidence was they were expecting Mr Harris to call round the following day so Thomas could go bush with him.⁵

³ Transcript 14.11.12, page 88

⁴ Transcript 15.11.12, page 175

⁵ Transcript 14.11.12, page 112

Evidence from Derek indicated he had spoken to his father quite extensively on the Monday, and again on the morning of Tuesday 2 February 2010. Mr Harris had told Derek it was his wish to go out prospecting and go to the country of his dreaming. Both Derek, Thomas and Nigel Barnes (Barnes) understood by this Mr Harris was referring to the area in and around Wilga. Barnes had been out to the Wilga area with Mr Harris in the past, and advised the court it was a day trip, and they would always be back by dark because Mr Harris' eyesight was not good once there was little light. Derek's evidence was the family had also been out to Wilga with Mr Harris. It was an area he loved and held many memories.

Derek indicated they spoke about Mr Harris not going alone, however, I gained the impression Derek did not feel he had dissuaded his father from visiting the area alone. Certainly whatever Thomas' expectation was about travelling with Mr Harris the following day, there is no indication Mr Harris went to Thomas or asked Thomas to accompany him. Derek indicated his father was reminiscing about various areas and he spoke with him about visiting some which were closer to Laverton. His father had visited those and Derek believed he still wished to go to Wilga.

It seems the only people, other than Mr Harris, who actually knew where the Wilga area was which Mr Harris frequented, were Derek and Barnes. Thomas indicated he knew where Wilga was, but hadn't been there with Mr Harris, while Barnes had. O'Donohue's evidence was she did not know where Wilga

was, but she thought Thomas did. It was her understanding Wilga was somewhere between Sunrise Dam and Burtville.⁶

The location of Wilga, and the area between Sunrise Dam and Burtville, is an issue because the police, on the evening of 2 February 2010 certainly understood they would be looking for Mr Harris in the area between Sunrise Dam and Burtville. Reference to the plans provided for the purposes of the inquest indicate the area between Burtville and Sunrise Dam is quite large and Wilga is slightly to the east of a direct line between those areas and is closer to Sunrise Dam Mine than Burtville.⁷ None of the police at Laverton Police Station appeared to be confident of the location of Wilga, or even the name.

Hutchinson recalled seeing Mr Harris in the garden of 15 Mikado Way, watering, some time between 10 and 10.30am on 2 February 2010. He was on nightshift that day and observed Mr Harris watering as a matter of routine as he went about his own business that morning.

It is clear Mr Harris' lunch was left on the meter box at the usual time because it was still there later in the afternoon when Renee Powell (Powell) went to check on Mr Harris.

Although knowing his father wished to visit Wilga, Derek appears to have been concerned Mr Harris would undertake such a venture alone. He rang to attempt to determine when his father had returned. Derek advised the court he rang a

⁶ Transcript 15.11.212, page 215

⁷ Exhibit 2, AB

number of times understanding his father was not there. On one occasion when he rang Powell answered the phone and advised Derek Mr Harris was not at the house, nor had he been at the house since his lunch was delivered because it was still on the meter box, untouched, when she attended. It is not clear when exactly this was however it appears to have caused Derek some concern his father had not yet returned.

The area of Wilga is approximately 60 kilometres south of Laverton. Derek believed it would normally take approximately an hour to travel to Wilga, however, he understood it may take his father a longer period of time due to the smallness of the car and his father's tendency to drive slowly. I think this was partly due to Mr Harris observing his surrounding looking for likely places to prospect or camp. It seems to be common ground Mr Harris was no longer capable of hunting for food.

Taking those matters into account it would seem likely Mr Harris left 15 Mikado Way in the little hatchback sometime around 10.30am on the 2 February 2010 and travelled out to the Wilga area.

The hatchback was observed by registered nurse Rosemary Selkrig.⁸ In February 2010 RN Selkrig was the site nurse and injury management co-ordinator at Sunrise Dam Mine.

⁸ Exhibit 1, Vol 4, Tab 9

On the 2 February 2010 she had travelled from the mine site at approximately 12.30pm in a marked ambulance. She was travelling on what she calls the Binda Road at approximately 12.35pm when she noticed a small light coloured car, similar to a Ford Laser hatch, travelling towards her. She saw this vehicle about 3 kilometres from Sunrise Dam Mine and she noticed it because it was relatively infrequently one saw a private car in the vicinity of the mine site. She observed the car to be travelling quite slowly and wandering across the road. RN Selkrig noticed the car was on the incorrect side of the road when she first saw it which caused her to slow down, however, once the driver of the vehicle registered there was another vehicle on the road, he pulled onto the correct side of the road and continued driving on the correct side of the road until they had passed one another.

RN Selkrig estimated the vehicle was travelling at approximately 50 kms per hour and although she could not describe the driver she was quite satisfied that once she had been observed, the other driver drove perfectly appropriately while remaining in her sight. This would seem to support the proposition Mr Harris was looking around the bush while he drove but was able to see well enough to observe the ambulance approaching and drive appropriately. The fact the vehicle was a marked ambulance satisfies me that at that time Mr Harris was not feeling unwell, and his wandering driving was as the result of him observing his surroundings. RN Selkrig stated she had slowed down in case the driver wanted to stop her but it was clear he did not.

RN Selkrig can recall the time this occurred because she alerted the Sunrise Emergency Response co-ordinator of the fact of another car in the vicinity, to allow workers to be aware of its presence.

When RN Selkrig heard of the incident the following day she was able to say the location of the car reported as bogged was approximately 2 kms away from where she had seen a vehicle fitting that description on the road. It was heading towards the Wilga Road, and to reach the Wilga Road all the driver had to do was keep driving the car in the direction in which it was going, and turn left.

Following Derek speaking to Powell he seemed to become quite concerned at his father's lack of appearance in Laverton. It is clear there were a number of phone calls between Laverton and Warburton and possibly also a cousin, Laurence Harris, at Sunrise Dam Mine Site during the course of 2 February 2010.

It seems to have been the fact of Mr Harris going out bush alone in the small hatchback which caused anxiety, however, I am left unpersuaded by the evidence anyone, other than Derek, was truly concerned. At the time at which O'Donohue and Thomas consider they were told the police would be coming to speak with them about Mr Harris, I can find no indication the police had actually been advised there was a concern as to Mr Harris' lack of appearance.

The evidence appears to indicate that on understanding Mr Harris could not be contacted by Derek, the community in Laverton were trying to verify whether he had gone bush alone due to a expectation he would take someone with him. It would seem people in Laverton may have been wondering if Mr Harris was in the vicinity without necessarily being convinced he had gone bush and were looking for him. O'Donohue advised the court she returned from work at approximately 3pm on 2 February 2010, although she agreed she was able to visit different places in the course of her work and would not be restricted to one place.

It is Mrs Frances Palmer's (Palmer) evidence⁹ O'Donohue and Thomas were trying to locate Mr Harris as early as 11 am on 2 February 2010. Initially it seemed this may have been an error in days, however, in evidence Palmer was quite emphatic it was on the day Mr Harris went missing she first understood O'Donohue and Thomas were looking for him. O'Donohue and Thomas agreed they had been contacted either by Derek or Laurence trying to locate Mr Harris. It was at this time Thomas understood Mr Harris, if he was indeed missing, may have gone bush without him.¹⁰

I will comment on the difficulties with the evidence and chronology later.

The next event for which there is independent reliable evidence is the fact of a phone call from Derek to the Laverton

⁹ Exhibit 4

¹⁰ Transcript 16.11.212, page 352

Police Station. Even this evidence is not entirely satisfactory from the timing perspective, however, I am satisfied that at some time between 3 and 4.30pm on the 2 February 2010¹¹ both Derek and First Class Constable Edwards (Edwards), who received the call, are clear there was a telephone call. Derek raised a concern he was unable to contact his father and asked the police to keep “*an eye out for him*”, and, in Edwards’ view, ask him to contact his son if the police saw him.

Edwards did not attach any great anxiety to this telephone call. She considered it to be similar to many phone calls received at Laverton Police Station of a semi-social nature where people contacted the police when trying to find a member of the community with a request they ask them to contact the caller.

Edwards stated it had been a busy day. She believed there had been court that day which she had attended, and she was now at the end of her shift, clearing paperwork, when the call came in. Her shift ended at 4pm. She recalled the call as essentially being a request for the police to go passed 15 Mikado Way and see if Mr Harris was there. She explained she couldn’t do it personally, but she would give the information to the next shift and ensure they received the message.¹² Edwards did not believe Mr Harris would be inside the house as he usually preferred to be outside and would be obvious from the road. She understood Derek was calling from

¹¹ Exhibit 1, Vol 1, Tab 10

¹² Transcript 15.11.12 page 226

Warburton, but she did not believe Derek asked the police to be involved in anything more extensive at that time.

Edwards described her perception of the phone call in the following way:

“Working in Laverton, the community there is, it was almost a matter of course that we would regularly be asked to check somebody was around town and so, for example, somebody would call from Warburton working in Blackstone because those places are between 8 and, say, 14 hours away, so they would call the police station and as more of a, like community policing response, we would say, you know for example, ‘Can you see if John’s in the village’ we would say ‘Well yes. While we are on patrol see if we see John we’ll say you’re looking for them’. That was a commonplace thing to happen in Laverton and that’s exactly how I received that call and perceived it to be.

I basically clarified who Junior was talking about as Mr Harris. I said his full name on the phone and then I said ‘If that’s Mr Harris who lives at 15 Mikado Way?’ To which he replied ‘Yes’ because obviously I had already had dealings with Mr Harris so I knew where he lived. And I took the name of the caller, phone number where he was calling from and wrote it down on a piece of paper.”¹³

This is also consistent with Derek’s interview¹⁴ with the police in April 2010 *“just like if they go past Mikado Way if they’d see him, or if they see him in town”*.

In view of the fact Derek was attempting to locate his father to confirm he had gone out bush that would seem to be an entirely reasonable interpretation of the phone call. It is logical if Mr Harris had travelled to Wilga, taking

¹³ Transcript 15.11.12 page 227

¹⁴ Transcript 16.11.12, page 343-44

approximately an hour to an hour and a half, stayed at Wilga for a period of hours, and then returned to Laverton he would not necessarily have arrived back at Laverton by the time of the phone call.

The chronology of events would seem to indicate Derek's anxiety at that time was whether his father had travelled to Wilga alone, and if he had, attempt to establish when he returned so he understood he was safe. As a result of the reported discussions in the Laverton community it would seem to have been apparent to persons located in Laverton, looking for Mr Harris, he was no longer in Laverton and had gone out bush by himself.

I would anticipate that until it was a little later in the day there would be no greater concern about his visit to the bush than the fact he had done so alone, when he was elderly, and there was a concern he return before dark due to the difficulties that would entail with his eyesight and an inappropriate vehicle. This would be consistent with Palmer's evidence her offer of free fuel on the Tuesday was not taken up until the following morning, while credit for a 'phone card was accepted on the Tuesday at about 3pm.¹⁵ O'Donohue denied 'phone credit was given on the Tuesday but does agree they were not overly concerned about his absence until the next morning.¹⁶

¹⁵ Transcript 16.11.12, pages 343-44

¹⁶ Transcript 15.11.12, page 220-221

I accept Derek was very concerned about his father's health. He had been unwell fairly consistently over the last few months and travelling into the bush alone was not something Derek considered to be advisable. Other than the usual level of concern with an elderly person being alone in the bush I do not believe there was overriding concern communicated to the police at this time.

The evidence of Mr Laurance Dyer¹⁷ (Dyer) is he was at the Sunrise Dam Mine Site on the 2 February 2010 intending to check the bores. He was a fly-in-fly-out worker and was leaving the next day. He had wanted to check his worksites that afternoon but observed the weather after lunch to be threatening. The Sunrise Dam Mine Site is approximately 10 kilometres from the Wilga well site. Dyer described the Tuesday afternoon as extremely hot and that in the afternoon there was a huge thunderstorm with rain and lightening which went on for approximately an hour. He considered the volume of water deposited would make it extremely difficult to drive along his predetermined route. He thought it occurred some time between 2 and 2.30 in the afternoon and was over and done with within an hour.¹⁸ He thought that was the extent of the rain in that area that night and did not recall any further rain in the vicinity overnight.

We know from the statement of RN Selkrig, Mr Harris was close to the location in which his car was later found, after 12.35pm.

¹⁷ Exhibit 1, Vol 4, Tab 7

¹⁸ Transcript 15.11.12 page 122

It is also clear from the position of the car later found Mr Harris bogged the vehicle some 2 kilometres from where he had been seen at 12.35pm. It is likely Mr Harris was somewhere in the vicinity of his bogged vehicle at the time of the thunderstorm and heavy downpour roughly two hours later.

Back in Laverton the community, excluding the police, were becoming understandably concerned about Mr Harris the later it became. There is no evidence at all, from anyone, this was communicated to the police before it was dark.

The call from Derek, whilst querying the location of his father, did not raise any great concern in Edwards, and consequently was not communicated to the next shift, other than by way of a request Mr Harris, if located, was advised his son was looking for him. Edwards is clear she passed the note to the oncoming shift, but did not note the phone call in the occurrence book or on the police system. Her reasons for that were her perception it was a routine social/welfare call.

The evidence of O'Donohue and Thomas certainly indicates they were receiving phone calls and making phone calls attempting to locate Mr Harris' whereabouts until after ascertaining from Derek he had spoken of Wilga, as he had with them the day before. It became apparent to the community that is where Mr Harris was likely to be. There certainly was discussion between Thomas and Barnes, who

had been to Wilga with Mr Harris, as to his knowledge of the area and his ability to take people there. They agreed they did not contact the police with their concerns, stating they understood the police would come to them. I am not sure how this arose in view of the fact the only communication they could refer to had been with Derek and Derek does not state that in the earlier phone call he asked the police to speak with O'Donohue or Thomas. Only he had been unable to contact his father and could the police please drive by to see if he was at home.¹⁹

The evidence is that once the shift change was underway and Senior Constable Clifford Daurat (Daurat) and Constable Terrence Hutchinson (Hutchinson) and Senior Aboriginal Police Liaison Officer Riley (APLO Riley) were in the station and had commenced their shift, Daurat and Hutchinson left on a routine patrol, keeping in mind they were to stop if they saw Mr Harris and advise him his son was attempting to contact him as a result of the note passed to Daurat by Edwards at handover.

The police officers for the night shift understood, as a result of court that morning, there was a custodial detainee in the cells and it would be necessary the police remain on duty for the entire shift. It was also necessary there was always one officer in the police station to ensure the safety of the custodial detainee. This meant the officers were aware their shift would last from 4pm until 6am on 3 February 2010.

¹⁹ Transcript 15.11.12, page 186

Hutchinson's memory of the beginning of his shift was he arrived before 4pm and had a conversation with Edwards wherein she advised him Derek was looking for his father. Hutchinson does not recall Daurat having commenced duty at that stage. Once Daurat arrived and had talked with Edwards they went out on their routine patrol. Hutchinson does not recall them specifically going to 15 Mikado Way to look for Mr Harris, however, believed they drove down Mikado Way as part of the routine patrol, but did not see him. They did not check for him specifically. He believed the fact he had seen Mr Harris earlier satisfied the enquiry as to whether Mr Harris was in Laverton.

Daurat's evidence was he received a piece of paper from Edwards

"There was a phone number and there obviously was the attend address. But I can't remember the absolute specifics. The piece of paper had very brief details and the information that I received from Laura was that a person in Warburton had - or was not able to contact his dad at home, and whether we could, in the course of the day, perhaps attend the house and see if he was there."²⁰

Daurat indicated he believed the purpose of that was to pass on a message to say a family member was trying to contact him. Daurat agreed once the shift was underway and all the sergeants had gone off-shift, as the Senior Constable, he was effectively the most senior officer on duty for that shift, although he knew Sergeant Hornsby lived close by and was always contactable if necessary.

²⁰ Transcript 16.11.12, page 408

Daurat indicated on patrol they did go past 15 Mikado Way as it was part of their regular patrol. He did not see any signs of human activity in the vicinity of 15 Mikado Way and that was unusual. Normally there was always someone there outside the house. He observed the house to appear as though the residents were not there. He did not recall seeing any cars. Having observed there appeared to be no-one home he continued the patrol while noting to tell Mr Harris his son was looking for him, if he saw him either on that patrol or any later patrols.

Having not observed Mr Harris on that patrol or anything out of the routine they returned to the police station. Daurat does not recall any further discussion about Mr Harris at that time.

It is common ground there were two more phone calls from Derek, in Warburton, to Laverton police station during the course of the evening. The telephone records²¹ show these as occurring at 19.20.56 (7:21pm) and 21.17.14 (9:17pm). The first telephone call lasted 2 minutes, and the second call 4 minutes and 30 seconds. For reasons I will cover later it is impossible to say these were the times of the calls, however, there is no dispute from APLO Riley he was the recipient of both calls. There is a dispute about the precise content of the calls and whether or not that information was effectively communicated, if received.

²¹ Exhibit 1, Vol 1, Tab 10

It was by this time either dark, or approaching dark, and Derek had still not been able to contact his father and his communications with people in Laverton and Sunrise Dam Mine did not allay his concerns his father had visited the Wilga area and come to harm of some form or another. I am satisfied Derek was by this time very concerned and I am satisfied he did communicate that with APLO Riley. As a result of the passage of time I am not clear as to what exactly was said, nor do I believe Derek or APLO Riley are entirely clear as to what was said when, due to the rumour, innuendo and supposition that occurred around the time of Mr Harris' death and thereafter.

While Ms Siddique in her submissions on behalf of the Commissioner for Police states Derek had advised APLO Riley his father had chest pains the previous night, I am not satisfied that is the case on consideration of the whole of the evidence. In the course of his evidence Derek had not spoken about advising APLO Riley of chest pains. He had mentioned concerns about Mr Harris' health and I accept this is correct. Until Ms Black, on behalf of APLO Riley, put to Derek the mention of chest pains to APLO Riley, Derek had not mentioned chest pains,²² nor did he mention chest pain to the police in April of 2010²³ for the evening of 1 February 2010, only for December 2009.

The whole difficulty with the evidence of specific conversations is I am satisfied there was much more discussion on the

²² Transcript 15.11.12, page 201

²³ Exhibit 1, Vol 4, Tab 1

telephone during the course of 2 February 2010 than was ever directly communicated to police, including APLO Riley. Due to events following the events of 2 February 2010 there has been a tendency for the numerous conversations and happenings to become muddled and out of sequence. I do not doubt each witness was as credible and as reliable as they could manage during the course of the inquest. Derek was extremely honest when he says he has a problem with his memory as the result of an earlier injury, however, I believe almost all witnesses had some difficulty with sequencing the order of specific conversations. Many of the related conversations clearly occurred after 2 February 2010.

As a result, taking the independent evidence as best I can, while I am satisfied there were two telephone calls during the evening of 2 February 2010, and I am satisfied Derek was increasingly agitated and extremely concerned about his father's failure to return to Laverton before dark, I am not clear when precisely different information was effectively communicated, either to APLO Riley, or from APLO Riley to Daurat and Hutchinson.

It is common ground Hutchinson and Daurat were not present in the office at the time APLO Riley received the final and more agitated telephone call from Derek. APLO Riley was quite clear he received both calls and he was concerned for Mr Harris' welfare at the conclusion of those calls, as communicated by Derek. That is, Mr Harris was elderly, was potentially in ill health having been in hospital recently, and it

was extremely unlike him to remain out overnight when he was alone. I am satisfied the common consensus was something must have happened to prevent Mr Harris from returning home, however, it is not clear there was a certainty that unknown difficulty related necessarily to his state of health.

It is common ground the nightshift officers from Laverton Police Station did not visit O'Donohue and Thomas to make enquiries with respect to information concerning Mr Harris. Derek believes he may have asked police to do that in some of the "*later*" phone calls ²⁴. I am unclear as to when O'Donohue and Thomas received that instruction but it was clearly not before 6pm. In any event, their evidence was they looked for Mr Harris around the Laverton area and were convinced, well before dark, he had travelled to Wilga and that Barnes would be able to take people there should the need arise. In evidence Barnes was very unclear as to when different events to do with obtaining fuel and searching for Mr Harris on 2 February occurred. ²⁵

After completing further work in the police station, which seems to have been relatively quiet during the course of the evening other than the need for someone to remain attentive to custodial commitments, Daurant and Hutchinson went out on patrol again. I think they were aware of, at least, Derek's first phone call to APLO Riley at this stage and consequently specifically visited 15 Mikado Way in the course of their next

²⁴ Exhibit 1, Vol, Tab 1, page 12

²⁵ Transcript 14.11.12, page143

patrol. The evidence is they pulled into the driveway went up to the house and called out but were satisfied no-one was home. Their experience was Mr Harris would be outside the house, either in the surrounds of 15 Mikado Way or across the road. Consequently they did not feel the need to go into the house once they had called out as to his whereabouts.

From their home O'Donohue and Thomas could see the comings and goings at 15 Mikado Way. They, on observing the police vehicle pull into the driveway of 15 Mikado Way, believed it may have been a four wheel drive from the mine site, bringing Mr Harris home. The fact they believed this goes some way towards my reasoning they believed something had happened to Mr Harris to prevent his return home, not necessarily related to his health. O'Donohue and Thomas jumped in their vehicle and drove across the open space between the homes to arrive at 15 Mikado Way as the police were leaving. The two vehicles pulled alongside one another facing in opposite directions and there was then a conversation between Daurat and Hutchinson and O'Donohue and Thomas. Over time I believe the exact content of this conversation has been contaminated by later events.

I am satisfied O'Donohue and Thomas communicated the fact Mr Harris would be unlikely to remain out bush after dark unless some event, such as bogging the car, had occurred. I accept their concern was he was elderly and had been in hospital at the beginning of the year. When asked in

evidence²⁶ Thomas said he believed it was pneumonia, he did not say he believed Mr Harris to have a cardiac condition, nor had Mr Harris' GP²⁷ considered that to be a problem when later interviewed by the police.

I accept they believed the vehicle he was in was inappropriate, however, it is common ground between all four participants in that conversation there was discussion about Mr Harris' capability in the bush and his ability to survive a night in the bush despite his age and health. Daurat asked about food and water and O'Donohue affirmed she had first hand knowledge of the fact Mr Harris had those items with him due to her purchases for him the previous day. They knew his dogs were with him because the dogs were not at the house and they knew he had a vehicle in which to shelter should weather conditions become a concern. Thomas indicated he believed there was thunder and lightening out Wilga way that night, but I am not convinced the level of concern, considering this was the first time these two people had spoken to the police, was such as to make the two police officers concerned for Mr Harris' health, as opposed to his location.

All parties are agreed there was a conversation about O'Donohue and Thomas searching for Mr Harris that evening but being unable to do so because they had no fuel. Although they had asked the police officers for \$50 to get fuel O'Donohue agreed later²⁸ she doesn't know whether she asked

²⁶ Transcript 15.11.12, page 281

²⁷ Exhibit 1, Vol 4, Tab 8, pages 6-9

²⁸ Transcript 14.11.12, page 98

the police directly for help. She indicated she would be able to get fuel if she had \$50 but stated in evidence

“Yes I don’t know if I asked them directly, but yes.”

Daurat and Hutchinson do not recall being directly asked for fuel but do agree there was conversation about searching for Mr Harris once O’Donohue and Thomas had obtained fuel. I am mindful at this point of Palmer’s evidence that she had already offered O’Donohue and Thomas free fuel before it was dark on 2 February 2010. Palmer was quite adamant this was the case, and in view of the fact she did provide them with free fuel the following morning I see no reason to doubt her evidence she had made the offer the evening before in the event Mr Harris did not come home and they wished to search for him.

While I am of the view there was confusion about conversations I am also satisfied Palmer, as a businesswoman, would have had a fairly clear idea of her offer, and its acceptance, in the appropriate timeframe.

In accepting the essence of Palmer’s evidence an offer for free fuel had been made before dark on 2 February 2010, I am of the view it supports the police officers’ view that whilst there was concern at Mr Harris’ failure to return home that night, and a wish to go and find him, it was not communicated as a request for them to implement search procedures that night.

The two police officers say they had the impression there would be concern if Mr Harris was not heard from by the following day and at that time the concern would be more than something untoward happening to his method of transport. O'Donohue confirms it was her view expressed to the police, and from Thomas, Mr Harris was experienced in the bush and would know how to take care of himself, he had food and water, and he would be quite capable of looking after himself.²⁹

I am satisfied on their return to the police station, after this encounter with O'Donohue and Thomas, APLO Riley communicated to the two police officers Derek was extremely distressed. Derek agreed in evidence he was doing most of the talking during the final phone call and he was by now very agitated. I am satisfied APLO Riley informed Daurat and Hutchinson Derek was agitated about his father, but the two police officers, having just spoken to O'Donohue and Thomas were not as concerned as Derek appeared to be. Hutchinson had seen Mr Harris that morning, apparently fit and well, and they were reassured by those who had the most recent physical contact with Mr Harris, while Derek was removed in location from the situation. From their perspective they had spoken to O'Donohue and Thomas and did not believe Mr Harris was in danger overnight.

I am of the view they were certainly cognisant of the fact Derek was agitated, however, were not as concerned as APLO Riley,

²⁹ Transcript 15.11.12, page 221

who I accept felt the officers were more dismissive of the situation than he, having experienced Derek on the telephone. He did not note the telephone calls in the occurrence book. I accept APLO Riley was concerned enough to go and check for himself during his break there was no one at Mikado Way. It seems he was not seen by O'Donohue and Thomas.

Daurant then placed a job on CAD, which apparently goes through to Kalgoorlie Police as an 'open job' outlining the fact the family of Mr Harris were "very concerned" and the matter needed to be followed up in the morning, if Mr Harris did not appear. I do not believe Daurant's use of the term "very concerned" was anything other than his wish to communicate to the morning shift it was something which needed to be addressed. There is a clear expectation in using those words there would be a follow-up the following morning. He did not make any notation in the occurrence book.

I accept that at all times Derek and Mr Harris' wife were extremely concerned due to the fact they understood just how difficult night time was for Mr Harris with his eyesight. They did not believe he should have been travelling alone in any event as a result of his more recent health issues.

I have no idea how the "24 hours before a search" issue arose. Derek seems to believe it was a police officer who told him, however, all deny that being a proposition they would put in these circumstances. In reality it must have been Edwards or APLO Riley if it occurred on 2 February 2010 because those

are the only two police officers with whom he spoke. If it occurred on 3 February 2010 it may have been said as a way of stalling until more information was available about the identity of the located body.

I accept it was a common perception in the community a search will not be implemented until the expiration of 24 hours, however, details should always be recorded to determine the relevant circumstances, which a police station as remote as Laverton would be well aware of.

At the conclusion of the 2 February 2010 I do not believe, rightly or wrongly, the concern was the ill health of Mr Harris on behalf of any but his son. The concern was he had not come home when expected. I suspect the police were confident Mr Harris, of all people, would be able to survive a night in the bush due to his experience. He loved the bush, he knew how to take care of himself in the bush, and he had food and water.

I do not accept as reliable APLO Riley's evidence Daurat came back to the station on the evening of 2 February 2010 in a bad mood due to his discussion with O'Donohue and Thomas on that shift. I am confident that would have been the situation on the 3 February 2010 for reasons not directly related to this inquiry, but which have coloured, as well as contaminated, the recall of conversations at different times. I have no doubt on return from patrol on the 3 February 2010 Daurat was extremely angry and that was directed at O'Donohue. As

O'Donohue said in evidence³⁰ referring to the events of 3 February 2010 *"I think he was calm until I started then he got angry with me and I got angry with him then."* Neither Daurat or O'Donohue recounted any argument with respect to the conversation outside 15 Mikado Way on the evening of 2 February 2010. Rather O'Donohue was hoping the police would offer assistance by way of fuel or money and the police were suggesting ways to obtain credit which O'Donohue did not see as helpful.

In addition, while Thomas did not believe he had mentioned Burtville to the police, O'Donohue believed they had stated Wilga was between Burtville and Sunrise Dam Mine. Daurat said in evidence his understanding of the area in which Mr Harris was believed to be was between Burtville and Sunrise Dam. He accepted Thomas said Wilga, which Thomas stated he said, but Daurat had never heard of Wilga and did not understand it to be a place. He did not understand that night there was reference to a specific area. After hearing the evidence of O'Donohue and Thomas he was accepting of the fact there was a specific area mentioned called Wilga but he had not realised that at the time.³¹ He did communicate to O'Donohue and Thomas police were unable to leave the police station unattended due to the fact there was a person in custody.

³⁰ Transcript 14.11.12, page 112

³¹ Transcript 16.11.12, page 441

LOCATION OF MR HARRIS

The next morning Dyer, when completing the inspection of the bores he had intended to undertake on the afternoon of the 2 February, located the body of Mr Harris on the Wilga Road, main track connecting the bores, at approximately 6.50am. He recalled there was a lot of water around that morning as a result of the heavy rain the previous afternoon, but the surface was clean. He saw no other tyre tracks on that road in the morning. This would imply the rain the previous afternoon had washed away both Mr Harris' ingoing vehicle tracks and that of the ambulance of RN Selkrig.

Dyer's description of Mr Harris' dogs sitting guarding Mr Harris' body was very poignant. Dyer said initially he was concerned the dogs would prevent him from assessing Mr Harris' situation, however, they did allow him to approach Mr Harris. Dyer described the position of Mr Harris as being face down with a rifle apparently underneath the body. He had pulled up right next to him and could see a lot of blood coming out of his mouth and knew he was not asleep.

"I went round and grabbed him by the wrists to take a pulse, practically his whole arm and shoulder sort of came with it. There was no moving of the joints or anything like that so everything seemed quite stiffish. Yes".³²

At that stage there was concern Mr Harris had either killed himself or there had been a homicide because of the amount of blood. Dyer contacted the mine site and waited with the

³² Transcript 15.11.12, page 125

body of Mr Harris until assistance came. He provided Mr Harris' dogs with water and sat and patted them until help arrived.

Dyer advised that from the direction in which he had travelled there were no car tracks or footprints. As far as he was concerned he had just come across a body in the middle of nowhere, and there was just water and soil with no prints. He was unable to specify whether there were tracks the other side of the body, however, there were none in the vicinity of the body other than those of the dogs. Dyer was satisfied Mr Harris' dogs had not left the area since Mr Harris had collapsed.

Following discovery of the body of Mr Harris police from Kalgoorlie mobilised the officer-in-charge of Laverton, Sergeant Hornsby, who made preparations to attend the scene. He did not check the CAD jobs that morning prior to leaving and was unaware, initially, there was a possibility the scene he was going to investigate contained the answer to the absence from Laverton of Mr Harris the previous day.

Later, in the morning of 3 February 2010 O'Donohue attended the police station. Derek also rang the police. I am satisfied neither O'Donohue nor Derek were advised of the fact of a body out in the vicinity of the Sunrise Dam Mine Site, however, Edwards, who answered at least one of the queries was concerned the body, she now knew had been located, may be that of Mr Harris. Until there was some confirmation of the

situation near the mine site she was unable to pass on any information. I accept it was a difficult situation for Edwards and many have caused her to appear unhelpful. Proceeding with taking a full missing person report may have been more appropriate.

Due to a perception the police were not interested in Mr Harris' absence it was decided others would take the initiative in looking for him. Consequently O'Donohue and Thomas travelled out to the Wilga area with Barnes intending to look for Mr Harris.

They obtained free petrol from Palmer at the Laverton BP and continued on their way, not appreciating the situation out at Wilga.

I suspect it was while police were travelling to the area Derek demanded to speak to Sergeant Hornsby and was informed he was not there. In fact Sergeant Hornsby was travelling to the incident, or there at the time the inquiry was made, and would not have been available to come to the telephone. I understand this caused Derek much angst in view of the fact he was by now certain there was something very amiss with his father.

O'Donohue, Thomas and Barnes travelled to Wilga via a different route from that of the police. As a consequence they approached the location of Mr Harris' vehicle from the opposite direction of the police, who had located the vehicle by

means of an aerial search, following the discovery of his body. The four wheel drive with O'Donohue, Barnes and Thomas arrived in the vicinity of the hatch back just behind the police, who then prevented them from accessing the vehicle.

Police obtained Thomas' assistance in identifying Mr Harris, and asked them to return the way they had come rather than continuing through the scene and possibly contaminating it.

During their travel to the hatch back vehicle once spotted, and then away from the vehicle following the police, the occupants of the four wheel drive had noted tracks in the road which they are certain were those of Mr Harris, and would indicate he was unwell at the time of leaving those tracks. They also located a fire at the place where the track to the hatch back vehicle intercepted with the Wilga Road. Due to their belief in the timing and extent of the rain overnight O'Donohue, Thomas and Barnes were quite adamant the tracks had been made that morning. I am satisfied for reasons I will cover they were not. That comment is made without any disrespect for the ability of Thomas and Barnes to track effectively and efficiently. I am of the view that they were working with different information than that available by the time of the inquest.

The evidence from the Bureau of Meteorology is that it had been very hot during the day on 2 February 2010 and that it was cooler, although not cold, overnight. The evidence

indicates there was about 2mm of rain in the Laverton area.³³ Dyer is quite adamant there was heavy rain some time between 2 and 4 on the afternoon of 2 February at Sunrise Dam Mine Site and little rain thereafter.

The evidence we have from around the locality of the car is Mr Harris had bogged the vehicle in soft sand, and had attempted to extract the vehicle by means of vegetation under the tyres. There was clear evidence he had spent some time attempting to remove the car from the sand. There was an esky located outside the car which still contained food and water. Mr Harris had taken water with him when he left that area. Barnes agreed there was no evidence Mr Harris had slept in any area away from the car, and there was no evidence around the car Mr Harris had lit a fire and made himself a cup of tea. Those are all things Thomas and Barnes would have expected Mr Harris to do if he had remained in the vicinity of the car for any time.

Although O'Donohue³⁴ was adamant the area around the fire at the intersection of the track and the Wilga Road gave an indication Mr Harris had slept there, Barnes did not agree. He indicated that area clearly had not been an area where Mr Harris had rested.³⁵ The tracks they observed then led from the area of the fire, up the Wilga Road, towards the direction in which Mr Harris was located. From those tracks Barnes was satisfied Mr Harris was unwell and dragging his

³³ Exhibit,1, Vol 1, Tab 12

³⁴ Transcript 14.11.12, page 109

³⁵ Transcript 15.11.12, page 156, 169

left leg, that he recovered from time to time but then, closer to his body, they became quite pronounced in difficulty. The area where the body was actually located was rockier and there were no tracks there.

The evidence of Dyer, and my acceptance of the tracking ability of Barnes and Thomas lead me to the conclusion Mr Harris had moved away from his vehicle as soon as he realised he was not going to be able to extract it from its bogging. He possibly had overexerted himself, and was now experiencing some sort of un-wellness. He realised he had more potential of attracting passing traffic by moving to the Wilga Road less than one kilometre away from the bogged vehicle. I believe he took water from the esky and moved to the intersection hoping to attract passing vehicles, possibly lighting the fire at that time due to the rain. I am satisfied he did not sleep in the vicinity of the fire but decided he would walk up the road towards the Sunrise Dam Mine Site, where he knew he had family, because he was becoming concerned at his state of health and the passage of time . If there had not been a concern he was feeling unwell I am satisfied Mr Harris would have remained in the vicinity of his vehicle because he would have known that with food, water and a vehicle in which to shelter he was safest there until someone came to look for him, or a passing vehicle observed his predicament.

I satisfied on the independent and post mortem evidence Mr Harris did those things on the late afternoon of 2 February 2010.

Forensic officers from Kalgoorlie were tasked to attend the scene of the location of Mr Harris' body, and once the situation was examined it was understood the rifle was not loaded. Mr Harris had separate ammunition on his person, and there was water in the bottle located with him. Once that examination had occurred, and it was understood the blood was bodily fluids from Mr Harris, the detailed forensic examination was effectively curtailed. There appears to have been a cursory examination of the vehicle once it was located but no attempt, once it was decided that a homicide had not been involved, to actually piece together the events leading to Mr Harris' collapse. I find it somewhat remarkable that having forensic officers at the location did not ensure the relevant scenes were as thoroughly examined as they would have been had there been a known incident. A thorough examination on 3 February 2010 as to the likely movements of Mr Harris may well have prevented some of the later speculation as to the time of his death.

DIFFICULTIES WITH THE EVIDENCE

The first difficulty with the evidence is the reliability of the telephone records³⁶ with respect to time. The evidence of Derek is that Warburton is on WA time. This is correct. However, I am aware of the fact Telstra records for some of

³⁶ Exhibit 1, Vol 1, Tab 10

those more remote regions sometimes record on a different time zone. Derek was unable to provide us with the times of his phone calls, but I am satisfied from the records as to the fact of three calls on 2 February 2010 from Warburton to Laverton Police Station. The first call to the police station is recorded in the telephone records as occurring at 16.11.48. This is just after the commencement of the 4 o'clock shift on 2 February 2010. All police officers commencing at 4 o'clock, although arriving at different times, are adamant the phone call had already occurred by the time they started shift at 4 o'clock. Edwards is sure the call was before the end of her shift at 4 o'clock. No one recorded the time or content of the calls at Laverton Police Station.

The difficulty with accepting the Telsta records are an hour out of time is the fact neither South Australia nor Northern Territory are an hour different from WA time. Northern Territory was an hour and a half ahead of WA, while South Australia would have been two and a half hours ahead of WA. Neither of those timings account for the difference of an hour. It is for this reason I find it difficult to merely accept the calls were an hour earlier in WA time than is recorded in the telephone records. The best I can do is acknowledge there was one phone call from Mr Harris some time between 3 and 4.30pm and another two that evening between 6.20pm and 10 o'clock. So, while the phone calls relationship to one another can be estimated, it is difficult to be precise about the times, and impossible, I would suggest to be precise about the content on any one occasion.

It was clear during the evidence of all witnesses, sequencing of conversations was now impossible. For example, I am quite satisfied the attitude of Daurat referred to by APLO Riley on the evening of 2 February 2010 as being extremely angry as the result of an argument with O'Donohue is not accurate, and that occurred on the 3 February 2010. I do not mean this by way of criticism of any parties it is just that with the elapse of time and the strength of emotion during those few days I believe the chronology of events has become almost irretrievably corrupted.

Further, the fact the police investigation of the scene was not completed thoroughly once it was clear Mr Harris' rifle was not loaded, tends to have allowed some rumour and innuendo to become entrenched in fact over time. The fact of the tension in Laverton following the earlier death of Mr Ward,³⁷ tends to have caused the events surrounding the death of Mr Harris to be exacerbated and misinterpreted. I am satisfied both the credibility and reliability of some of the conversations is in question due to different perspectives of the same events.

There is no evidence the discussion between O'Donohue, Thomas, Daurat and Hutchinson on the night of the 2 February 2010 was heated, or argumentative, or anything other than an exchange of information as to the expectation Mr Harris would be able to take care of himself in the bush in the event there had been a problem with his transport.

³⁷ Ward Inquest finding 09/09

It is a great shame some of the evidence later collected was not available closer to the time of Mr Harris' death to allow a clearer timeframe for the sequence of events. The clarified evidence of Dyer as to the state of Mr Harris when he found him, the additional information with respect of the weather in the area, and the sighting of what I am sure was Mr Harris' vehicle in the vicinity at approximately 12.30pm on 2 February 2010 all help clarify the circumstance surrounding his death.

CONCLUSION AS TO THE DEATH OF THE DECEASED

I am satisfied Mr Harris was a well respected Aboriginal elder who had been born and raised in the bush and was entirely comfortable being alone in the bush.

In the time leading up to 2 February 2010 his immediate family had left him to stay in Warburton with his son, Derek, to attend a funeral. Mr Harris stayed behind and was contemplating visiting areas which meant a lot to him whilst he was still able to do so. He had been unwell at the end of 2009 and the beginning of 2010 and was generally accompanied in his trips to the bush by other people. It is entirely possible he actually wanted to visit these places one last time, by himself.

Mr Harris had in mind this trip the day before when he asked O'Donohue to fuel his car and provide him with food for the trip. He had advised them of his intention as an experienced

bushman would, however, I do not believe he had any

intention of taking company with him in the event he did decide to go.

On the morning of 2 February 2010 he told his son he intended to go to Wilga and his son attempted to dissuade him.

Mr Harris was observed by Hutchinson some time between 10 and 10.30am to be watering his garden and thereafter was not seen in the vicinity of Laverton.

I am satisfied that by the time his lunch was delivered between 12 noon and 1pm Mr Harris had left Laverton and was on the Binda Road where he was observed by RN Selkrig as he travelled towards his intended destination. The report of him wandering the road was entirely consistent with him watching out for where he wanted to go, but also having enough visibility to know where he wanted to go. The fact he pulled over and drove perfectly appropriately once he realised there was another vehicle in the vicinity satisfies me he was perfectly competent and capable at that time. I am of the view he would have stopped RN Selkrig if he was in trouble by reason of the fact she was in a marked ambulance and he was clearly able to see that much at that time.

I am satisfied shortly after he was observed by RN Selkrig he turned off the road and onto the Wilga Road. He travelled down that road until he came to the track where he intended to stop for his prospecting or contemplation.

As he was driving he bogged the hatchback.

Mr Harris attempted to remove himself from his predicament but due to the heat he abandoned that endeavour once he realised how taxing it was becoming. I do not believe Mr Harris intended to put himself in danger which is why I am satisfied, once he realised he was in danger of becoming unwell, he abandoned the vehicle.

There is no evidence he camped anywhere in the vicinity of the vehicle or the fire and I am satisfied that during the rain storm reported by Dyer Mr Harris was sheltering in his vehicle. Once the rain storm had passed, and he realised he could no longer exert the energy to extract his car, he travelled to the intersection where he lit a fire, possibly in the hope passing vehicles would be more likely to see him on the Wilga Road. He took with him his rifle and ammunition, separately, for safety and water for himself and the dogs. He left everything else at the vehicle which would indicate he was intending to travel light in the hope he would be picked up once he reached the road.

I am satisfied that on reaching the road and understanding there did not seem to be any further traffic on that road, he decided to travel towards the mine site in the hope he would be observed. I am satisfied that whilst it was still light Mr Harris attempted to walk up the Wilga Road towards the

mine site, but due to his ill health he suffered a heart attack, collapsed and died.

His dogs remained with him until he was located by Dyer on the morning of 3 February 2010 at 6.50am.

While Dr White was of the view the exertion in extracting the car from its grounding, in high temperatures, may well have exacerbated Mr Harris' cardiac condition, she was also of the view the extent of the stenosis of his coronary arteries was such that it was equally possible Mr Harris could have passed away while sitting in an armchair. ⁴¹

I am satisfied Mr Harris was attempting to seek help and was not intending to die in the place of his dreaming. Although, I am sure Mr Harris would have preferred to die whilst doing something he loved.

I find death arose by way of Natural Causes.

SOME COMMENT ON POLICE ACTIONS

It goes without saying that on the evidence I have covered with respect to my finding of the time of death of Mr Harris I am quite satisfied the actions of the police did not cause or contribute to the death of Mr Harris in any way.

⁴¹ Transcript 14..11.12, page 80

I accept Derek rang the police trying to locate his father some time between 3 and 4.30 on the afternoon of 2 February 2010, however, I am also satisfied at that stage it was merely an inquiry, and he did not expect anything other than to be advised by his father when he returned. Indeed, at that time it would have been unrealistic to expect Mr Harris to have returned in view of the timeframe surrounding his departure, expected travel time, and some time at the location of his choice.

I am concerned the delay in appropriate examination of the circumstances surrounding Mr Harris' death set police against police in a way that was not necessary or helpful after the death of Mr Ward. It provided traction to an alleged 'human rights violation' which, although it at least precipitated a thorough, though belated police enquiry, was a complete misrepresentation of the facts.

This was not helped by the apparent slackness of simple recording procedures in the Laverton Police Station on the afternoon/evening of 2 February 2010.

I accept it as trite to say it would be helpful if matters were appropriately recorded, however, it really does seem the front counter and telephone call notations were a concern. I accept these procedures have now been amended and would hope there is a more effective manner of recording both the time, source and content of telephone calls which require action.

Daurat accepts he made a mis-assessment when dealing with the series of contacts with respect to concern for Mr Harris during the course of the evening of 2 February 2010. I accept this was because he did not feel undue concern had been communicated to him by O'Donohue or Thomas, and so underestimated the concerns expressed to APLO Riley by Derek.

I accept O'Donohue and Thomas were concerned something had prevented Mr Harris from returning home, but do not believe they thought he was in any form of danger. In view of the fact all parties agree Palmer provided free fuel unquestioningly in the morning of 3 February 2010 I feel her evidence she made the offer the previous afternoon has some weight. This provides me some comfort in my view O'Donohue and Thomas did not communicate as much concern to the police on the evening of the 2nd February as they felt they had expressed, in retrospect, once aware of the death of Mr Harris.

The mis-assessment Daurat may have made was his failure to associate Mr Harris' age and recent hospital stays with a real concern, no matter how good a bushman he was, he may not be in a position to utilize his bushman skills.

It would, of course, have been preferable Daurat notify his OIC, who was trained in search and rescue, of the fact Mr Harris' son was becoming very agitated at his father's lack of return to Laverton during daylight hours. I am also satisfied, that as things were on the evening of 2 February, it

is unlikely any further action would have been taken. However, I suspect a comprehensive enquiry would have been made with Derek which would have clarified the situation in preparation for intervention in the morning. As I say, I am satisfied Mr Harris was then deceased and nothing the police could have done would have altered that fact.

I am also of the view all police officers serving in remote locations such as Laverton, Tom Price and Newman should have some basic training in search and rescue operations in remote areas. Assessing the basis for family concern is crucial.

I appreciate Senior Sergeant Hornsby is very experienced and had, only in January 2010, updated the Laverton Police Manual with respect to appropriate procedures. The fact there was a need to update them satisfies me there was a need to communicate and educate with respect to the updated procedures

Recommendations:

1. Any telephone call requiring police action be logged in the occurrence book. Recording information with contact details on a piece of paper alone is not effective communication.

2. The occurrence book needs to be used to effectively note details relevant to handover and be positioned where it is accessible to provide continuity of information through shift changes.
3. Once there is a concern a person has not been sighted by a time an appropriately informed person believes is critical the police officer/staff member to whom the concern is expressed record relevant information by asking appropriate questions to ensure the circumstances of the failure to appear are appreciated. That information will always be relevant to identification issues.
4. Where a police officer is aware of a incident which may relate to a missing person the police officer take an appropriate missing person report, regardless of the incident. The information can always be used to exclude an identity if it does not relate to the incident in question, and also serves to ensure an appropriate assessment of the circumstances of the missing person.

EF VICKER
DEPUTY STATE CORONER

31 January 2013