

IN THE CORONERS COURT  
OF VICTORIA  
AT BENDIGO

Court Reference: 2010 0130  
2010 0131

**FINDING INTO DEATH WITH INQUEST**

*Form 37 Rule 60(1)*

*Section 67 of the Coroners Act 2008*

**Inquest into the Deaths of: Allan George WHYTE and Maureen Joyce BRADDY**

Delivered On: 18 December 2014

Delivered At: Bendigo Coroners Court

Hearing Dates: 26-28 March 2012 & 18-21 March 2013

Findings of: IAIN WEST, DEPUTY STATE CORONER

Representation: Ms Mandy Fox instructed by John R Buman & Co on behalf of Lynette Ireland and Debra MacDonnell (sisters of Maureen Braddy)

Mr Paul Lawrie instructed by the Victorian Government Solicitors for the Chief Commissioner of Police

Counsel Assisting the Coroner Mr Sebastian Reid instructed by the Coroners Court In House Solicitors Service

I, IAIN TRELOAR WEST, Deputy State Coroner having investigated the death of Allan George WHYTE and Maureen Joyce BRADDY

AND having held an inquest in relation to these deaths on 26-28 March 2012 and 18-21 March 2013

at Bendigo Coroners Court

find that the identities of the deceased were Allan George Whyte and Maureen Joyce Braddy

born on 12 March 1951 and 24 August 1952 respectively

and their deaths occurred on or about 23 November 1968

at an unknown place

from an unknown cause

**in the following circumstances:**

1. On the evening of Saturday 23 November 1968, Allan George Whyte, aged 17 years and Maureen Joyce Braddy, aged 16 years, attended a dance at the YMCA Hall in Mundy Street, Bendigo. Both were expected to return to their respective homes that night but they were not seen again. Their bodies have not been found.

**Purposes of the Coronial Investigation:**

2. The primary purpose of the coronial investigation of a reportable death<sup>1</sup> is to ascertain, if possible, the identity of the deceased person, the cause of death (interpreted as the medical cause of death) and the circumstances in which the death occurred<sup>2</sup>. An investigation is conducted pursuant to the *Coroners Act 2008*.
3. Coroners are also empowered to report to the Attorney-General on a death they have investigated; the power to comment on any matter connected with the death, including matters relating to public health and safety or the administration of justice; and the power to make recommendations to any Minister, public statutory authority or entity on any matter connected with the death, including recommendations relating to public health and safety or the administration of justice<sup>3</sup>. This is generally referred to as the prevention role of the coroner.

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<sup>1</sup> Section 4 of the Act requires certain deaths to be reported to the coroner for investigation.

<sup>2</sup> Section 67 of the Act.

<sup>3</sup> Sections 72(1), 72(2) and 67(3) of the Act regarding reports, recommendations and comments respectively.

**The Evidence:**

4. This finding is based on the entirety of the investigation material comprising the coronial brief of evidence, including material obtained after the provision of the brief, the statements and testimony of those witnesses who gave evidence at the inquest and any documents tendered through them, other than documents tendered through Counsel (including counsel assisting), and written submissions of counsel following the conclusion of the inquest. All this material, together with the inquest transcript, will remain on the coronial file and comprises my investigation into the death of Maureen Braddy and Allan Whyte. I do not purport to summarise all the material/evidence in this finding, but will refer to it only in such detail as is warranted by its forensic significance and where otherwise appropriate.
5. In particular I note that I received, and was assisted by, the written submissions from Counsel Assisting, Counsel for the family of Maureen Braddy and Counsel for the Chief Commissioner of Police.
6. The following witnesses gave evidence at the inquest:
  - Mr Kevin Whyte
  - Ms Jillian Siddall
  - Mrs Judith Paynting
  - Mrs Ngharee Todd
  - Mr Graeme Bullock
  - Ms Cheryl Whyte
  - Mr Robert Braddy
  - Mrs Rhonda Schepers
  - Mr Harm Schepers
  - Mr Raymond Jelbert
  - Ms Jennifer Braddy
  - Mrs Debra MacDonnell
  - Mrs Kylie Addlem

- Mrs Lynette Ireland
- Detective Sergeant Allan Birch
- Ms Celia Kakoschke
- Mrs Suzanna Diss
- Mr Stuart Diss
- Mrs Valerie O'Donoghue
- Mrs Dorothy Murphy
- Ms Lucia Else
- Ms Karen Ray
- Mr Geoffrey Braddy
- Mr Stanley Braddy Snr
- Mr Bradley Penno
- Mr Donald Beesley
- Christine Corry
- Mrs Leslie Braddy
- Mr Mark McClure (retired Detective Sergeant)
- Detective Sergeant Brendon Murphy

7. The coronial brief of evidence was compiled by Detective Sergeant Brendon Murphy of the Bendigo Crime Investigation Unit. In addition, Detective Sergeant Allan Birch of the Homicide Squad investigated matters raised in the evidence of a witness during the conduct of the inquest.

**Standard of Proof:**

8. Coronial findings must be made on the basis of proof of relevant facts on the balance of probabilities.<sup>4</sup>

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<sup>4</sup> In determining whether a matter is proven to that standard, the coroner should give effect to the principles enunciated in *Briginshaw v Briginshaw* [(1938) 60 CLR 336].

### **Maureen Braddy and the Braddy family dynamic:**

9. Maureen was born on 24 August 1952 to Stanley Braddy Snr (Mr Braddy) and Kathleen (Muriel) Braddy (Mrs Braddy: deceased prior to inquest). Maureen lived at the family home located at Vinton Street, California Gully and was the third eldest of 10 children. She attended the California Gully State School and then the Eaglehawk High School before leaving school in 1968 to work full time as an egg packer at the Crystal Egg Company, Bendigo. Her employment commenced on the 9 April 1968.
10. Maureen's family, friends, school associates, neighbours and work associates all consistently described her as a quiet, reserved, shy, reliable, responsible and obedient girl. She was not streetwise or adventuresome and did not have a wide circle of friends or contacts. Maureen was involved in the Jehovah's Witness Church, as were other family members, although there is no evidence to suggest that either Mr or Mrs Braddy were actively involved.
11. The evidence is suggestive of the Braddy family lacking warmth and closeness at the time of Maureen's disappearance, with the children reluctant to share personal information or be involved in each other's lives. There is little doubt they shared a fear of their father as a result of his disciplinarian nature, with evidence of Maureen not getting on with him<sup>5</sup> and not wanting to be around him.
12. There is evidence of Mr Braddy being violent towards his wife and children<sup>6</sup> and despite his statements of it being a 'happy family', the weight of evidence is to the contrary. As Maureen's sister Suzanne (Mrs Suzanne Diss) told the inquest, they were not 'normal kids' because of their father's abuse and that they grew up not talking about things as a way of surviving. She also gave evidence of fearful beatings when their father lost his temper.<sup>7</sup> Her sister Jennifer, gave evidence of him beating her by using a three foot long toasting fork, or a piece of willow removed from the garden tree.<sup>8</sup> Additional evidence was given of his use of a water soaked leather strap.

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<sup>5</sup> Transcript 50

<sup>6</sup> Mrs Lucia Else; Transcript 506

<sup>7</sup> Statement 23 January 2003

<sup>8</sup> Transcript 251

13. Mrs Dorothy Murphy, Maureen's aunt and Muriel Braddy's sister, gave evidence that her sister was upset that Mr Braddy was physically violent with his children.<sup>9</sup>
14. Neighbour, Mrs Ngharee Todd said there was a great deal of family friction and she regularly heard yelling, swearing and crying coming from the Braddy house, with the father yelling at the children<sup>10</sup>.
15. Robert Braddy, Maureen's brother, told the inquest that whilst he continued to reside at the premises following the disappearance, he recalled no discussion between his parents about going to the police, or efforts made to try and find Maureen, or there being any discussion or interaction with Allan Whyte's family.
16. This family picture is contradicted by Mr Braddy in his police statement made in 1999, where he states that "*all the kids loved to talk openly.... we were a pretty good bunch.*" I find it telling that, in the same document, he did not know if Maureen went to high school, nor the date or year she disappeared.
17. Nevertheless, there is some evidence of caring and concern, as for example, Mrs Rhonda Schepers recalling her mother being worried and distressed on the Sunday following Maureen's failure to return. In addition, Mrs Schepers and her husband went looking for Maureen during the afternoon and made telephone enquiries before going to the police.

**Allan Whyte and the Whyte family dynamic:**

18. Allan Whyte (or 'Sammy' as he was also known) was born on 12 March 1951 to Mrs Lillian Whyte and Mr Robert Whyte. He was also known as Allan Bullock. His mother had 14 children, four to Robert Whyte and ten to Robert Bullock. Allan lived at the family home with his mother and a sister, located at Mitchell Street, Bendigo. He had been educated for a short period at the White Hills Junior Technical School but was illiterate at the time of his disappearance. Despite not being able to read or write, Allan always had employment and obtained a job at the Crystal Egg Company on the 4 November 1968.
19. Allan was described by friends and family as being settled in his ways, family orientated, shy and quiet. He was unsophisticated and like Maureen, did not have a wide circle of friends or contacts.

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<sup>9</sup> Transcript 498

<sup>10</sup> Transcript 92

20. Little is known of the Whyte family, however, it was described by Kevin Whyte, Allan's older brother, as being close when the family lived at Mitchell Street. *'The house was pretty crowded but everyone got on very well. There were occasions when we mucked around but was pretty good really.'*<sup>11</sup>
21. Mr Whyte further stated, however, that he did not go looking for Allan, nor was he aware of anyone else doing so. It is the view of Allan's older sister, Cheryl, that the family just accepted that Allan had gone missing and left enquiries up to the police<sup>12</sup>.

#### **Relationship between Maureen and Allan:**

22. Allan and Maureen knew each other through working at the Crystal Egg Company, with Allan having been there less than three weeks prior to their disappearance. There is no evidence to suggest that they knew each other before this time. The nature of their relationship was unclear according to various witness statements, with some describing them as no more than friends, and others describing them as being in a relationship. There is no evidence to suggest they were in a sexual relationship. People close to Maureen, such as immediate neighbours and friends knew little of the existence of Allan and in particular, what part he played in her life. There is certainly no evidence to suggest that they wanted to run away together, nor evidence to suggest that the relationship was in any way difficult, fraught or forbidden.

#### **Events preceding the disappearance:**

23. Mrs Judith Paynting (nee Todd), a neighbour of the Braddys, gave evidence at the inquest. She was of a similar age to Maureen and a very close friend. Judith stated that on Friday 22 November 1968 she observed Maureen with bruising on her right upper arm, between her elbow and shoulder which looked to be the size of a ball. When questioned, Maureen was reluctant to reveal how she had sustained the bruising and informed Judith that she could not tell her about it at that time.
24. Mrs Paynting also recalled an incident when Maureen made a comment with words to the effect of *'What would you think if I had run away?'*<sup>13</sup> This was about a day or so before she actually went missing. Judith believed she was only joking, as Maureen had never

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<sup>11</sup> Statement 22 September 1999

<sup>12</sup> Transcript 131

<sup>13</sup> Statement 4 October 2002

previously mentioned that she was unhappy and she knew that she had a very close relationship with her mother.

25. Mrs Jillian Siddall (nee Yates) also gave evidence at the inquest. Jillian was a school friend of Maureen and stated that on the afternoon of Saturday 23 November 1968, at about 12.30 – 1.00 pm, she observed Maureen to be walking around the Long Gully Oval with her hands behind her back, kicking a drink can on the ground. Jillian walked over to her and asked if she wanted a ride home with her and her father. Whilst talking to her she noted Maureen had been crying. It is unknown why she was upset. Maureen declined the offer and it was at this time that Allan came to the oval. Maureen said to Jillian that as Allan was there she would be alright. Jillian stated that Maureen's whole demeanour seemed to lift when Allan arrived<sup>14</sup>.
26. During the evening, Allan attended the Braddy residence. Mrs Braddy, in her 1999 statement to police said that this was the first time she had met Allan, and Maureen had asked if he could stay for dinner. Mr Braddy was also present, but apparently did not have much interaction with Allan, however, it appears likely that he also first met Allan at this time.
27. Mrs Suzanne Diss (nee Braddy), Maureen's 17 year old sister, had also brought her boyfriend, Stuart Diss, home that evening for the first time and arrived at around 7 – 8 pm.
28. Despite requesting to stay for dinner, Maureen and Allan left to attend the dance being held at the YMCA Hall. Suzanne recalled that Maureen was wearing a red wool dress and was carrying a drawstring clutch bag.
29. Whilst at the dance, neither Maureen nor Allan gave their friends any indication that there was anything untoward, or that they were planning anything such as leaving home. Jillian, who was also in attendance, noted that despite Maureen's upset appearance earlier in the day, she seemed to be fine at the dance with there being no indication that she may have been planning to go away<sup>15</sup>. Similarly, Graeme Bullock, a cousin and close friend of Allan, stated that he had been in regular contact with Allan in the days and weeks prior to his

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<sup>14</sup> Transcript 34-35

<sup>15</sup> Transcript 38



disappearance and Allan had never suggested to him that he was planning on leaving the area<sup>16</sup>.

30. Maureen and Allan left the dance between 8 pm and 9 pm. When leaving they had a brief conversation with Kevin Whyte, Allan's 20 year old brother, who invited them to a party at his flat further along Mundy Street. This was the first time Kevin Whyte had seen, or met Maureen. Allan declined the invitation saying that he was taking Maureen home<sup>17</sup>. Kevin Whyte stated that both Maureen and his brother appeared normal at this time. He was adamant that neither attended his party that evening, which finished at approximately 2am.
31. This was the last positive sighting of Allan and Maureen.
32. It was Allan's intention to escort Maureen home and there is no evidence to suggest that they separated after leaving the dance.

**Missing Persons Reports and historical background to police reinvestigation:**

33. Maureen was formally reported missing on Sunday 24 November 1968 by her sister Rhonda (Mrs Schepers), the eldest of her siblings. She and her husband, Mr Harm Schepers, visited her parent's home that afternoon and after being told that Maureen had not returned from the night before, reported her missing at the Bendigo Police Station.
34. Allan's older sister, Cheryl, (Ms Cheryl Whyte) learnt on the Sunday that he had not returned home the night before, despite having been expected at about midnight. Ms Whyte believes her mother visited the Bendigo Police Station that afternoon to advise police that Allan was missing. There is no record of this visit in the Missing Person's File which may mean it did not occur, or that she had been dissuaded from formally reporting him as missing. On the 28 June 1969 Mrs Lillian Whyte attended Bendigo Police Station to seek direction as to whether Allan was to be regarded as a missing person<sup>18</sup>. Following a number of police enquires, he was then formally reported missing by his mother on 9 October 1969, eleven months after he disappeared.
35. The contention and belief of a substantial number of witnesses at the time of the disappearance was that Allan and Maureen were in a relationship and had deliberately run

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<sup>16</sup> Statement 28 January 2003

<sup>17</sup> Inquest Brief p 6

<sup>18</sup> An internal police memo dated 30 June 1969 notes: 'Mrs Whyte is fully aware that her son left with Brady (sic) and made every effort to conceal the fact from Police at the time of their departure.'

away from home. It is apparent that the police who were involved in this matter initially also formed this opinion, which meant that there was no adequate investigation of their disappearance until the late 1990s.

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37. Apart from identifying deficiencies in the original investigation, this review did not significantly advance an understanding of the circumstances of their disappearance. Whilst it was the senior investigators opinion that Maureen and Allan had most likely died as a result of foul play, he held the view that further investigations would be unlikely to lead to an arrest. It appears this review effectively finished in 2000.

38. Following police command concerns, a further investigation was commenced in 2001 by Detective Sergeant Brendon Murphy with Senior Constable Jamie Ward of the Bendigo Police Station.

39. The original Victoria Police Missing Persons file relating to this matter was obtained. It consisted of numerous police reports and twenty statements obtained from 1999 to 2000 by Detective Sergeant McClure and Detective Senior Constable Bannan of the Bendigo Criminal Investigations Unit.

**Later evidence of the events on or about 23 November 1968:**

40. Ms Karen Ray, a friend of Maureen, gave evidence that at about 4.00 pm on the day of the disappearance she intended to visit her, but as she approached the Braddy house she heard "Stan and his mum, Charl, having a really nasty argument..."<sup>20</sup> so she turned around and went home. Ms Ray was able to identify who was arguing as she saw them through the kitchen door.

41. Mrs Muriel Braddy in her statement to police<sup>21</sup> said that on the evening of the dance, Mrs Charlotte Braddy, the mother of Mr Braddy and grandmother of Maureen, had come to their

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<sup>19</sup> Statement dated 13 September 1999

<sup>20</sup> Transcript 514

<sup>21</sup> Statement dated 13 October 1999

house and had asked Mr and Mrs Braddy to drive her to her daughter's<sup>22</sup> home in Kamarooka. Mrs Braddy stated that she and Mr Braddy drove her there and came home between 11pm and midnight. Maureen was not home at this time. Mr and Mrs Braddy went to bed after midnight.

42. Mr Braddy's initial statement<sup>23</sup> is at odds with this, as he states that he stayed at home that night and went to bed as normal at about 10 pm. However, he later stated that he did drive his wife and mother to his sister's home in Kamarooka. He further stated that later in the evening, he dropped his wife back home, then drove his mother back to her home, and returned to his residence around midnight. Mrs O'Donoghue's evidence at the inquest<sup>24</sup>, however, was that she did not see her brother at all on the day of 23 November 1968. In addition, none of the children recall their grandmother being at their house that night.
43. Mrs Suzanne Diss and Stuart Diss gave clear evidence that Mr Baddy spent a couple of hours talking to Stuart that night, and that they left the Braddy house between 9.30 pm and 10.00 pm.
44. They then went out for the night and when Suzanne returned home at approximately 2am, she noted that Maureen was not home and her bed had not been slept in. She noticed Maureen's handbag on the bedside dresser, which she thought was odd, as she believed her sister took this bag with her whenever she went out. For it to be there, she believed it was an indication that Maureen had returned home after the dance.
45. Suzanne further stated that when she sat down on her bed to take off her shoes she noticed they had flecks of fresh blood on them<sup>25</sup>. She stated that she entered the Braddy residence from *'from the front gate down on the main street and I walked up the front yard and I walked around the side and in the backdoor, which was where Linnie was looking out the window.'*<sup>26</sup> She did not believe that the blood could have come from either her or Stuart, as there was no incident on that night which would have led to such an outcome.
46. Mrs Braddy also recalled Maureen's handbag being present, but she could not state with certainty whether her daughter had taken the bag with her earlier in the evening. Evidence at

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<sup>22</sup> Mrs Valerie O'Donoghue, Maureen's aunt

<sup>23</sup> Statement dated 13 October 1999

<sup>24</sup> Transcript 499

<sup>25</sup> Transcript 403

<sup>26</sup> Transcript 396

the inquest from Mrs Jillian Siddall was that she observed Maureen to have a small light coloured bag over her shoulder at the dance.

47. Mrs Judith Paynting told the inquest that on the night of 23 November she was at home with her mother<sup>27</sup> watching television. At around 9 - 10 pm, she heard a shot, then screaming, then another shot and then a car leave<sup>28</sup>. She said the shot could have been a car backfiring or a gunshot, but as she was familiar with both, it was more like a gunshot. The screaming 'sounded like one woman and a bloke'. The shots were 3 to 5 minutes apart and the car left 15 to 20 minutes after that, with it appearing to leave from the Braddy's premises. She described the screaming to be loud and distressed and her mother told her to stay out of it.<sup>29</sup>
48. Notwithstanding hearing these sounds the police were not contacted at the time and it appears that neither Judith or her mother made any enquiries of the Braddy household of the events that were heard. She does not recall much about what happened the next day, but does recall not seeing Maureen, which was strange as they usually met up at some stage each day. Despite never seeing her close friend again, these matters were not brought to police attention until she made her written statement in 2002.
49. Maureen's sister, Jennifer, stated that she remembered an argument in the house taking place on the evening of the disappearance, at approximately 10.30 pm. She was aged 12 at the time and stated '*I knew there was something happening because mum was upset, dad was arguing and I knew Maureen was in trouble. I was standing - I had got up and I was standing in the passageway, mum's seen me and she told me to go back to bed.*'<sup>30</sup>
50. Despite not having seen Maureen and not identifying her voice, Jennifer believed her parents were yelling at her as the rest of the children were in bed. She also recalled hearing a bang, screaming and another bang. Within a matter of minutes after hearing these noises, she recalled hearing something outside her bedroom window. The bedroom was shared with her sisters, Lynette aged 7 (Mrs Lynette Ireland) and 10 year old Debra (Mrs Debra MacDonnell). She stated she heard a scuffling noise and saw a figure at the bedroom

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<sup>27</sup> Deceased prior to inquest

<sup>28</sup> In her police statement dated 4 October 2002, Judith refers to hearing two very loud bangs in the night time, very much like gun shots, "about a day or two before" Maureen went missing. The change of evidence she attributed to being confused when making her statement, as she wasn't expecting anyone like the police to come and talk to her.

<sup>29</sup> Judith's evidence is not compatible with the times given by Suzanne and Stuart Diss, who left the premises between 9.30 - 10 pm. Nor do other witnesses confirm the evidence of lengthy screaming. In addition, the evidence of Mr Penno was that the sound of gun shots ringing out in the night was a regular feature of growing up in California Gully.

<sup>30</sup> Transcript 243

window but could not determine who it was. She was scared and went to bed, hearing nothing further after this, although she recalled seeing Lynette standing at the window looking out.

51. The evidence of Debra regarding that same evening is; *'I was woken with some muffled noises of, like, screaming, like, if you put your hand over your mouth and you scream, it was just like that. But there was also a couple of, like - on the side of our bedroom under the window there, just like a couple of - not bang bang noises but, like, thuds on the wall.'*<sup>31</sup> She stated that she was petrified and did not dare get out of her bed. She observed her sister Lynette getting out of her bed and looking out of the window. She also recalled *'Dad - later on he came into our bedroom. He switched on the light. He came over to my bed. He put his hand on the side of my face and then he went to Linnie, and as he left the bedroom he switched the light off.'*<sup>32</sup> She pretended to be asleep at this time.
52. Lynette provided similar evidence regarding this incident. Her memory did not emerge in full until the inquest and was in part a memory recovered under hypnosis. She recalled a memory which had tormented her over the years and for which she had sought assistance from a hypnotherapist, Ms Celia Kakoschke<sup>33</sup> in 2008.
53. Lynette stated that on the evening of Maureen's disappearance, she too was woken by a commotion outside the window of her bedroom. Unlike her sisters, Lynette got out of bed and went to the window where she observed the following; *'They came from around the camellia bush towards the window. I saw - I noticed one of them was my father. I looked and I thought to myself, "Oh, what's he up to?" I noticed he was in the company of another man and I noticed that they were holding something. As they got closer I realised what they were holding was a young person. I couldn't really tell you who it was because it was covered in blood, what I believe to be blood now, and I saw Ted Beasley.'*<sup>34</sup>
54. Mr Ted Beasley was a close friend of Mr Braddy and he and his son, Donald Beasley frequented the Braddy residence. She also confirmed that her father came into her bedroom

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<sup>31</sup> Transcript 274

<sup>32</sup> Transcript 274

<sup>33</sup> Transcript 381-392: Ms Kakoschke said she had no formal medical or psychological qualifications and no particular expertise in psychiatry and the practice or knowledge of repressed memories. She said the truth or otherwise of statements made during hypnotherapy is unable to be ascertained and that a person can be convinced of the truth of false memories.

<sup>34</sup> Transcript 306

that night to check on her and her sisters and she too pretended to be asleep. Lynette believed the young person to be the body of Allan. (This evidence had never been raised before and resulted in the inquest being adjourned for the matter to be further investigated. This was undertaken by Detective Sergeant Allan Birch of the Homicide Squad.)

55. Upon the resumption of the inquest, Mr Donald Beasley gave evidence<sup>35</sup> and believes Lynette is confusing her version of the night of Maureen's disappearance with a time when he was injured at the Braddy residence. He stated that on a particular Wednesday night in 1968 when he was 6 years of age, he attended the Braddy residence with his father. The Braddy boys were playing with a cable drum in the early evening, which was approximately 3-4 feet round and 3 feet wide. The boys were rolling the cable drum down the side of the house at the same time as he was running along the grass. He slipped and the cable drum went over the top of him resulting in a cut to his eye and bleeding. He believed that his father and Mr Braddy came to pick him up and took him into the Braddy kitchen where Mrs Braddy placed a towel over his face to stop the bleeding. Lynette however, denied confusing the two events. She could not recall ever having seen Donald Beasley injured at the Braddy residence or hearing anything about the incident. She maintained her version of events and believes that the boy being carried on the night of Maureen's disappearance was Allan<sup>36</sup>.
56. Maureen's brother, Geoffrey, gave evidence regarding an unusual incident he recalled where his mother was watering the camellia bush at the Braddy residence. He stated that for his mother to be watering at night was not unusual, but the way in which she was hosing down the camellia tree on a particular evening was. He could not provide a clear period<sup>37</sup> but believed it was approximately 2-3 weeks either side of his sister's disappearance, or possibly even on the same weekend. He recalled being woken up by the noise of the hose, and put his head out the window to see what was going on. Mrs Braddy told him in a forceful tone to return to bed. Geoffrey Braddy stated that he felt there was something wrong as his mother would not normally talk to him that way. He recalled that the next morning when he went walked past the camellia, the bush and everything else around it was unusually clean. As he

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<sup>35</sup> Mr Beasley contacted police after reading about Lynette Ireland's evidence in the Bendigo Advertiser.

<sup>36</sup> There is no reference to this incident in Lynette's statement dated 19 October 1999. Her statement refers to her memory at the time; "I was little when Maureen disappeared. I would have been about 7-8 years old at the time. I don't have a very good memory of what happened. I don't recall seeing Maureen on the night that she disappeared. I don't recall the next day."

<sup>37</sup> Transcript 531

was passing it he noticed a spot of blood on one of the leaves of the camellia tree, just below his eye height.<sup>38</sup>

57. Mrs Braddy in her statement to police said that she woke at 6 am or 7 am the next morning and was upset that Maureen was not home. She believed that Mr Braddy had gone to work and had *'left it up to me to deal with it.'*<sup>39</sup> This is again at odds with Mr Braddy's recollection, as he states that he and Mrs Braddy had a restless night worrying about their daughter and that he was up before daylight, checking on Maureen's bed a number of times. He further stated that he was making phone calls that morning to inquire as to her whereabouts but he could not recall whom he had rung.
58. At the inquest, Maureen's brother Robert stated that he woke on the Sunday morning and noticed Maureen's bed had not been slept in. He told his parents that she was missing, and in regards to their reaction, he stated *'it sort of came across as if they couldn't have cared. They didn't jump out of bed and go and look or anything like that.'*<sup>40</sup>

#### **Theories surrounding disappearance:**

a) Maureen and Allan are still alive

59. Mrs Braddy's police statement details a conversation she believed she had with Maureen exactly four weeks following her disappearance. She said that she received a phone call from her daughter, saying that she wanted to come home. Mrs Braddy further alleged that there was a male voice heard in the background saying *'What are you doing?'* before the call was suddenly terminated. Mrs Braddy believed the call was made from the Nagambie Lake Motel, but gives no reason for the basis of her belief<sup>41</sup>. She received no further phone calls.
60. In addition to the phone call, Mrs Braddy alleged that Maureen was still alive and that she had seen her in the Nagambie/Stanhope area on several occasions and on some occasions at their home address. She also stated that on one occasion, a woman had brought Maureen back home. These allegations were investigated by police and found to be unsubstantiated.

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<sup>38</sup> Transcript 533

<sup>39</sup> Statement 13 October 1999

<sup>40</sup> Transcript 144

<sup>41</sup> Statement 13 October 1999

The people that Mrs Braddy refers to as having been involved with her daughter in the Nagambie area have also refuted her claims.

61. Mrs Schepers gave evidence that her mother was still looking for Maureen 12 years later and in her view *'mum's state of mind was affected and that then caused her, because she was affected, because she was hoping to see Maureen, that affected her – what she saw in certain places and what she heard even perhaps'*.<sup>42</sup> Some time after these allegations, Mrs Braddy was diagnosed with dementia.

b) Alive following kidnapping from the Stanhope Hotel

62. Mr Braddy initially told people that he believed that foul play had been involved in his daughter's disappearance, but later changed his mind having been convinced of matters alleged by his wife. He asserts that he saw Maureen in Nagambie and that his son (Stanley Braddy Jnr, now deceased) also saw her. Stanley Braddy Jnr's statement contradicts this assertion,<sup>43</sup> as does the evidence of this widow Mrs Leslie Braddy.<sup>44</sup>
63. On 8 June 2012, in a recorded conversation between Mr Braddy, Detective Sergeant Birch, Detective Sergeant Murphy, Mr Braddy asserted that Maureen and Allan were abducted on the night of 23 November 1968, from the Stanhope Hotel. He stated that Allan was the target as someone wanted a son. *"Now when they picked him up at the pub, Maureen was an added attraction, he'd never been with a girl before. But when they grabbed him and said that, 'We want you', she said, 'Leave him alone, he's done nothing.' And she was gonna dob 'em in. They took her too. Someone wanted a son somewhere. I'm afraid it's a bit like your slavery job, somebody got a quid out of it somewhere."* Mr Braddy stated that this information came from two now deceased Bendigo police members and he was told to 'keep his mouth shut' about it or he would disappear.
64. Detective Sergeant Birch told the inquest that this scenario involved the pair being taken by force to an undisclosed location where they were kept against their will for a period of time and with the passage of time they became happy with their circumstances and continued to live the lifestyle and have children. In addition, a state government or the federal

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<sup>42</sup> Transcript 185

<sup>43</sup> Statement 15 October 1999.

<sup>44</sup> Statement 23 May 2012; Transcript 659



government was paying their expenses. Detective Sergeant Birch dismissed it as a “wholly incredible” story.<sup>45</sup>

c) Secreted in the well at Vinton Street

65. Many witnesses detailed their belief as to Maureen and Allan’s bodies being put into a well situated at Vinton Street. This belief is not based upon any direct evidence or knowledge of seeing the bodies placed there.
66. The day after Maureen’s disappearance, Suzanne recalled returning home sick from work and noticed her father near the well located next to their house. She stated; *‘It appeared that he was doing something with the concrete surface over the top of the old well.’*<sup>46</sup> She recalls that he had two rolls of carpet beside him and when she came in the back of the house, *‘he pulled something over the top of the well and I was not able to see down into it.’*<sup>47</sup>
67. Mr Stuart Diss gave evidence about looking down the well about three months after Maureen and Allan disappeared and did not see any carpet, only seeing *‘bits and pieces, rusty bed frames et cetera’*.<sup>48</sup>
68. Several years later, Mr Braddy built a brick extension over the top of this well. This extension forms the current lounge room of the premises of Vinton Street, California Gully. Police have confirmed that there was no building permit obtained for building this extension. Mr Braddy could not recall doing any concrete work in Vinton Street after Maureen’s disappearance.
69. Whilst a number of witnesses are of the belief that the bodies of Maureen and Allan are in the well, subsequent police investigations, however do not support this theory. Police investigations also conclude that the financial and personnel cost to investigate the well at Vinton Street is too much and according to Detective Sergeant Allan Birch, *‘the information is certainly not strong enough or credible enough to warrant that sort of resource level.’*<sup>49</sup>

d) Abandoned mine shaft

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<sup>45</sup> Transcript 360

<sup>46</sup> Statement 2 October 2000

<sup>47</sup> Statement 23 January 2000

<sup>48</sup> Transcript 451

<sup>49</sup> Transcript 365

70. Whilst there was evidence given of multiple disused mine shafts in the Bendigo area and that a shaft could be a point of body disposal, there is no evidence upon which to make such a finding. Braddy family members engaging the services of a psychic to point out sites to explore, proved unhelpful.

**Criminal Investigation of Mr Braddy:**

71. Mr Braddy remains the main suspect in the disappearances of Maureen and Allan. In his evidence at the inquest he stated he believed Maureen was alive and continued to maintain his innocence and lack of knowledge in regard to any direct or indirect involvement by him in their disappearance.

72.

73.

74.

75. Mr Braddy's family describe him as a loud, strict and domineering parent who was prone to violent outburst that included physical abuse. Neighbour, Mrs Ngharee Todd, told police she frequently heard the Braddy children crying and many loud, verbal interchanges between their father and some family members. Mrs Todd further stated that '*Maureen was a girl*

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<sup>50</sup> Transcript 518

*who seemed to me to be a strong willed, capable type of person. From the impression that I got from living next door to the Braddy's, Maureen was one to stand up to her father.*<sup>51</sup>

76. Mr Braddy's actions at the time of his daughter's disappearance were deemed suspicious. Mrs Braddy and Mrs Scheper's statements refer to the fact that he was at work the day after the disappearance. Further, Mr Braddy did not report his daughter as missing, leaving that to other family members and he hardly spoke about her since the day she disappeared. Various witnesses note that any time the subject of Maureen was brought up in subsequent years; Mr Braddy would change the subject, or would refuse to discuss the matter.

77.

#### **Evidence of Mr Braddy:**

78. The evidence of Mr Braddy consists of his statement dated 13 October 1999, his record of interview dated 6 February 2003, a recorded conversation dated 8 June 2011 and a further record of interview dated 8 June 2011, together with his evidence on oath.

79. Mr Braddy chose not to be represented at the inquest. Notable features of his evidence are:

- a) His belief that Maureen is alive<sup>52</sup>
- b) That Maureen and Allan commenced a new life in Nagambie<sup>53</sup>
- c) That he went with his mother to his sister's home on the night Maureen disappeared<sup>54</sup>
- d) He did not recall meeting Stuart Diss on 23 November or having a long conversation with him on the same night<sup>55</sup>

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<sup>51</sup> Statement 27 February 2003

<sup>52</sup> Transcript 546

<sup>53</sup> Transcript 586

<sup>54</sup> Transcript 548

- e) He stated he did not go to work on the Sunday morning after Maureen failed to come home<sup>56</sup>
- f) He conceded he did not report his daughter missing to police and that he did not make any enquires with Maureen's friends as to where she might be<sup>57</sup>
- g) He expressed his belief that Maureen and Allan were abducted from the Stanhope Hotel<sup>58</sup>
- h) He denied ever owning a gun<sup>59</sup>
- i) He asserted his belief that he had an open happy relationship with his children<sup>60</sup>
- j)
- k) He claimed making lots of phone calls on the morning after Maureen's disappearance to 'everybody that knew me', but was no longer able to recall who those people were<sup>62</sup>
- l) He denied putting Maureen and Allan into the well at Vinton Street and denied it was filled with rubbish, carpet and bed frames<sup>63</sup>
- m) He agreed there were differences between the contents of his statement of 13 October 1999 and his police interview of 6 February 2003, but that he did not remember why this was the case<sup>64</sup>

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<sup>55</sup> Transcript 549

<sup>56</sup> Transcript 549-550

<sup>57</sup> Transcript 551

<sup>58</sup> Transcript 551

<sup>59</sup> Transcript 552-554

<sup>60</sup> Transcript 556

<sup>61</sup> Transcript 557

<sup>62</sup> Transcript 560

<sup>63</sup> Transcript 563-564

<sup>64</sup> Transcript 567-568

- n) He could not provide an explanation between the contents of his interview in 2003 during which he claimed to have spoken to Maureen and his assertion in court that he had never spoken to her<sup>65</sup>
- o) He claimed that a police officer Frank Baker (now deceased) called him in the weeks after Maureen and Allan disappearance telling him she was okay and in good hands and that he did not say or do anything upon being told this to get her to come home<sup>66</sup>
- p) He claimed that a member of parliament who he could not name was also involved in Maureen and Allan's abduction and that the government had been paying the bill at the caravan park at which Maureen and Allan were living<sup>67</sup>
- q) He \_\_\_\_\_ denied the matters Mrs Lynette Ireland described as happening outside her bedroom window<sup>68</sup>
- r)
- s) He denied arguing with his mother on the afternoon prior to Maureen's disappearance<sup>70</sup>
- t) He denied that shots were fired on the night of 23 November and that he owned a gun<sup>71</sup>
- u) He denied that he ever expressed concerns about Allan going out with Maureen<sup>72</sup>
- v) He denied that he saw Maureen and Allan after he had dropped off his mother at 90 Panton Street which was close to the Braddy family home<sup>73</sup>

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<sup>65</sup> Transcript 571-572

<sup>66</sup> Transcript 578-582

<sup>67</sup> Transcript 585-586

<sup>68</sup> Transcript 594-596

<sup>69</sup> Transcript 610-611

<sup>70</sup> Transcript 612

<sup>71</sup> Transcript 612

<sup>72</sup> Transcript 612

- w) He denied ever moving the bodies of Maureen and Allan from 12 Vinton Street<sup>74</sup> and
- x) He denied involvement in the disappearance and death of Maureen and Allan.

**Ownership of a firearm:**

- 80. Mr Braddy in his evidence at the inquest denied ever owning, or having access to a gun and had not used one since he was 10 - 12 years of age<sup>75</sup>. This evidence is contradicted by a number of witness including his sons, Robert<sup>76</sup> (thinks it was a shotgun), Geoffrey<sup>77</sup> (double barrel shotgun) and daughters, Lynette<sup>78</sup> (shotgun in wardrobe) and Debra<sup>79</sup> (one long gun). In addition, his sister, Mrs Valerie O'Donoghue, said that her brother always owned a gun and he used to bring a shotgun when he came to visit.
- 81. Detective Sergeant McClure told the inquest that on the 13 October 1999, he took possession of a 12 gauge shotgun from Mr Braddy out of concern for his welfare.<sup>80</sup> Mr Braddy denied that this occurred and stated that Detective Sergeant McClure either got that wrong or was making it up.<sup>81</sup>

**Police response to report of missing persons:**

- 82. As previously indicated, Maureen was reported missing on the 24 November at the Bendigo Police Station by her sister and a Missing Persons Report was created.<sup>82</sup> A separated Missing Persons Report was not created in respect of Allan until 9 October 1969<sup>83</sup>, although there was contact with police concerning his disappearance prior to that date.

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<sup>73</sup> Transcript 614-615

<sup>74</sup> Transcript 615

<sup>75</sup> Transcript 552-3

<sup>76</sup> Transcript 147

<sup>77</sup> Transcript 535

<sup>78</sup> Transcript 309

<sup>79</sup> Transcript 276

<sup>80</sup> Transcript 664

<sup>81</sup> Transcript 555

<sup>82</sup> Exhibit 9

<sup>83</sup> Exhibit 9

83. Whilst there was some police activity following the reporting of Maureen's disappearance, it appears an early assumption was made that the pair had simply run away and alternative hypotheses, such as foul play, were not pursued. In September 1988 the investigation file was lodged at the Missing Persons Bureau pending receipt of further information. There appears to have been no activity in respect of the matter from that time until 1999 when Detective Sergeant McClure received information from Maureen's cousin, Ms Cheryl Reid.
84. During the course of the inquest, Counsel appearing on behalf of the Chief Commissioner of Police appropriately made the concession that the initial police investigation into the circumstances of the disappearance of Maureen and Allan was 'inadequate'<sup>84</sup>. There is no indication of statements being taken in the days after the disappearance from members of either family; from attendees at the YMCA dance or forensic examination of either the Braddy household, or Whyte household. Media assistance to appeal for public help, was not requested. Despite Allan's sister and mother attending the police station on 24 November to advise Allan was missing, it appears no file was opened, nor was his name noted on Maureen's file. It was only after a Missing Person's Report was created on the 9 October 1969, that Allan's name was cross referenced to her file.
85. The passage of time precluded the inquest being informed by the police members involved, beyond the written records, of the reasons for their decisions and conclusions. It is clear from witnesses that there were some police inquiries undertaken, with a number of family members and others being spoken to, however, these are not recorded on the missing persons file.
86. Mr Braddy also does not appear to have agitated for greater police efforts in this matter despite when later interviewed he claims he was dissatisfied with police efforts over the years. Nowhere is it recorded in any of the police visits to the Braddy family home that there was any dissatisfaction expressed by him.
87. The police response needs to be seen in light of the apparent lack of concern in both the Braddy and Whyte families over the disappearance of these teenage children. The assumption amongst each family was that the pair had simply run away and did not want to be contacted, despite signs to the contrary, such as having no money, nor possessions. This context does not excuse the lack of response, but may be an explanation for it.

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<sup>84</sup> Transcript 710

88. Detective Sergeant Murphy stated that there is a clear lack of documented material relating to the actions of police from 1968 to 1999. Assessment of the original Missing Persons File indicates that police appear to have assumed that both Maureen and Allan had intentionally run away together and were intending to stay away, or evade police for a considerable period. Only with the passing of an extended period did it appear that there might have been suspicious circumstances surrounding the disappearance. Police investigations during this time were preliminary in nature and not exhaustive. However, there is evidence of police making periodic visits to the Braddy and Whyte residences, seeking information relating to any developments. The majority of visits resulted in little being exchanged.
89. It was appropriately conceded by Detective Sergeant Murphy that his reinvestigation of this case, was categorized by delay and that the brief prepared by him was missing some statements that should have been included. While I accept the difficulty of the task he faced the delay between completing his investigation and lodging the inquest brief was not adequately explained and was unacceptable.

**Conclusions:**

90. Maureen and Allan disappeared, together, in circumstances that were sudden, unplanned and completely out of character. Each of them had left their belongings behind. Maureen had left her last pay packet at work, whilst both had left clothing and Allan his bankbooks and motorcar, which was his pride and joy. Neither had the requisite resources, skills, ability or contacts, which would enable them to leave Bendigo and relocate to another point.
91. Their behaviour on the evening of 23 November 1968 was consistent with two people who had gone out to a dance and who were intending to return to their respective homes. With the exception of matters raised by Mr and Mrs Braddy, there have been no sightings or evidence that either have been positively seen since the evening of 23 November 1968. Further, with the passage of time in excess of 40 years, there has been no positive evidence to confirm that any person provided support, finances or other assistance to either Maureen or Allan at any time after 23 November 1968.
92. Despite it initially being contended that Maureen and Allan had run away together, there is no credible evidence to support this proposition. Although they were believed to possibly be boyfriend and girlfriend, their relationship remains unclear following an examination of the exact details of their contact. What is relevant and important is that there is nothing to suggest that the relationship between Maureen and Allan was in any way difficult, fraught or



forbidden. There is no evidence that they were prevented from seeing each other, or were experiencing any problems, pressures or restrictions that may lead them to want to run away.

93. On the evening of 23 November 1968, there were matters existing in Maureen's life, which may have made it difficult for her to remain at home, but there is nothing to suggest that Allan had any similar turmoil existing in his life.
94. There is no evidence to suggest anything in their character or behaviour or that they perceived any threat, to support the assumption they simply left to start a new life. Both were totally ill prepared for such a venture. There is nothing to suggest that Maureen wanted to disappear forever and never see any of her family again, particularly her mother, or see her friends again. Similarly with Allan, there is nothing to suggest that he had any enemies, or problems at home, or reason to disappear. His brother told the inquest his mother thought he might have gone away to work on a farm without saying goodbye, something that would have been out of character and not done before. The implausibility of this having occurred is highlighted by the fact that he took no possessions and made no subsequent contact.
95. I am satisfied that Maureen and Allan did not intentionally disappear on the 23 November 1968 in order to start a new life together.
96. I do not accept the alleged sightings made by Mr and Mrs Braddy, nor do I accept the fanciful scenario given by Mr Braddy of abduction from the Stanhope Hotel.
97. Further, there is no credible evidence to suggest that Allan and Maureen are alive. Investigation of the matter has failed to determine precisely how they died. The evidence available does not enable it to be determined where the bodies are located. Detective Sergeant Murphy found, "*There is a complete lack of creditable evidence existing to indicate that either Maureen Braddy or Allan Whyte were alive following the evening of Saturday the 23 November, 1968.*"<sup>85</sup>
98. The sudden, unprepared nature of this disappearance and the circumstances indicates the existence of foul play. There is no evidence to suggest murder/suicide, a suicide pact or accidental death, where there would be a very high expectation of their bodies being discovered.
99. The behaviour of Mr Braddy at the time of the disappearance and the time subsequent is highly suspicious. He maintained that the day following Maureen's disappearance, he was

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<sup>85</sup> Inquest Brief 238

involved in driving around, making inquiries attempting to locate her. His version of his movements contradicts significantly that of his wife and eldest daughter who all believed him to be at work. His movements in the day following Maureen and Allan's disappearance cannot be accounted for.

100. Mr Braddy further alleged that he and Mrs Braddy had attended the home of their eldest daughter, Mrs Rhonda Schepers and discussed with her what had happened. Mrs Braddy's recollection however was that Mrs Schepers and her husband came over to their house and it was Mrs Schepers who reported Maureen's disappearance to the Bendigo Police Station on Sunday 24 November 1968. Both Mr and Mrs Schepers' statements accord with that of Mrs Braddy and they say that Mr Braddy was not present when they attended the premises at Vinton Street. At the inquest, Mr Robert Braddy stated that he remembered his father being home in the morning, but was not home for a few hours in the afternoon and was uncertain as to his whereabouts.
101. Mr Braddy's uncooperative conduct as experienced by police investigators, was also exhibited during his court appearance. His evidence at times was evasive, self serving and selective and with some accounts being "wholly incredible," as stated by Detective Sergeants Birch and Murphy. I found him to be a most unreliable witness who had no interest in assisting either my inquiry, or that of the police.
- 102.
103. It cannot be reasonably inferred from evidence given by any of Maureen's siblings, that she and Allan returned to the Braddy premises after the dance, or that their bodies were at any time secreted there.
104. With regard to the observations of Lynette Ireland seeing Allan covered in blood through her bedroom window, I accept her belief as to the truth of the evidence she gave. Lynette was 8 years of age at the time.
105. This evidence had not been mentioned in two previous statements she had made and was recalled following a hypnotherapy session. Whilst I permitted this evidence to be admitted, it is necessary to consider what weight should be given to it. There are acknowledged dangers associated with recovered memory testimony, with studies showing a witness often subconsciously alters his/her recollection of an event in response to later information or

questioning, and does so in ways that are both irreversible and impossible to detect. An hypnotic session for the purpose of improving recollection can also produce ‘confabulations’, or fantasized material unconsciously invented to fill the gaps.<sup>86</sup>

106. In considering these dangers and having regard to the evidence given by Mr Donald Beesley of the head injury he recalled suffering at the Braddy house, I do not find her evidence sufficiently reliable to justify making a finding that it was Allan she observed.
107. In regard to Ms Judith Paynting hearing screaming and gun shots coming from the Braddy house on the night of 23 November, I find her evidence lacks probative value for a number of reasons. She initially told police this event occurred about a day or two before Maureen disappeared. She did not report the incident to police at the time, even though she had not heard gun shots in the area before. The time she heard this activity is not compatible with the presence of Suzanne and Stuart Diss at the premises and no other witness gave evidence of lengthy periods of screaming. If indeed there were gun shots, Mr Bradley Penno, a resident in the area at the time and friend of Robert Braddy, stated that to hear them was not unusual in the rural setting of California Gully.

**Applicable law:**

108. Before reaching a finding that a person’s act falls within the circumstances relevant to the cause of death, the findings must be made on the basis of proof of relevant facts on the balance of probabilities. Assistance in determining the level of satisfaction required is found in the High Court decision of *Briginshaw v Briginshaw*.<sup>87</sup> The Court stated: “*The seriousness of an allegation made, the inherent unlikelihood of an occurrence of a given description, or the gravity of the consequences flowing from a particular finding, are considerations which must affect the answer to the question whether the issues had been proved to the reasonable satisfaction of the tribunal. In such matters ‘reasonable satisfaction’ should not be produced by inexact proofs, indefinite testimony, or indirect inferences...*”
109. Further assistance is found in the Supreme Court decision of *Cumming Smith v Western Farmers Co-operative*,<sup>88</sup> in which the court held that proof of a criminal act must be ‘clear,

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<sup>86</sup> Exhibit 36 ‘Post Hypnosis Evidence’ and *R v Tillott and Others* (1995) 38 NSWLR 1

<sup>87</sup> (1938) 60 CLR 336

<sup>88</sup> (1979) V.R.129 at 147

*cogent and exact and when considering such proof, weight must be given to the presumption of innocence*'. This decision was followed by Gobbo J. in *Anderson v Blashki*.<sup>89</sup>

#### **Outcome of police investigations into the death of Maureen and Allan:**

110. Detective Sergeant Birch in evidence to the inquest stated that as a result of his enquiries he suspected that Maureen and Allan had been killed unlawfully. He further *'..suspected that Mr Braddy had involvement or was actually responsible for the deaths and that was based upon certain evidence that was available or became identified during the course of an investigation, predominantly because of Mr Braddy's conduct and responses to police during the course of the investigation'*<sup>90</sup>
111. I note that Mr Braddy is the only identifiable suspect in the disappearance and death of Maureen Braddy and Allan Whyte.
112. When asked to indicate what were the factors relevant to forming his suspicion, he stated: *"That Maureen and Allan were at – or Maureen was at the family home; that just prior to her disappearance she is sighted with Allan, independent witnesses at a public venue. A dance hall in Bendigo; later on then they simply vanish from the face of the earth; that there are items left, as I understand it, by Maureen at the home address, which would limit her finances in able to achieve transport or a life past that day without being in her normal work-home life. She was gainfully employed and I don't see any reason why she would suddenly disappear from her home environment. I understand Mr Braddy has not been cooperative to the fullest level as a father would be expected to during the course of the investigation probably with the police and that Mr Braddy gives accounts that are wholly incredible as being appropriate explanations for what occurred. But when pushed to or asked to assist the coroner, the community and the investigators with solving this disappearance, he refuses to do so on the basis that two people are happy that he hasn't seen. He says he knows where they, doesn't communicate with them but apparently have children. That would cause an investigator to – or certainly in the circumstances, and not being sighted since, there are a lot of matters. The fact that he says that they're in existence close to the place that they disappeared, which doesn't make any sense if you are going to disappear, but ..... Also the fact that there is no proof of life of Maureen or Allan*

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<sup>89</sup> (1993) 2 V.R.88

<sup>90</sup> Transcript 362

*subsequent to them being sighted at a dance hall at YMCA in Bendigo that night in November 1968.”<sup>91</sup>*

113. It appears from these responses that the sole basis for holding the suspicion of Mr Braddy’s involvement, was his conduct and responses to police during their investigation. Detective Sergeant Birch told the inquest that he had suspicions that Mr Braddy Snr played some direct or indirect involvement in the disappearance of Maureen and Allan. He was asked by Counsel assisting : *“Is it the case though, that in your professional investigative opinion that there is insufficient evidence to take the matter any further than those strong suspicions? \_ \_ \_ Yes, sir. Can you tell us in your professional investigative opinion what those deficiencies are? \_ \_ \_ There is simply a lack of evidence. We don’t have the bodies, we don’t have any eyewitnesses to any events and we don’t have any strong circumstantial evidence in relation to the disappearance and deaths of Maureen and Allan”<sup>92</sup>.* This view was shared by Detective Sergeant Murphy.

#### **Section 67 Findings:**

114. The weight of evidence satisfies me that Maureen Braddy and Allan Whyte are deceased and that they died on or about the 23 November 1968.
115. It was submitted by Ms Fox of Counsel, that the circumstances in which death occurred most likely involved foul play and I agree with that submission.
116. It was further submitted by her that Mr Braddy was either directly responsible for, or somehow involved in the deaths. Having considered the evidence available to me and the applicable standard of proof, I am unable to make either of these findings.
117. Findings cannot be made as to what was the cause of death or who was responsible. The evidence throughout is characterized by inexact proofs, indefinite testimony and indirect inferences. Detective Sergeant Birch succinctly identified the deficiencies in proceeding beyond his suspicions:
- There are no bodies
  - There are no eyewitnesses to any events
  - There is no strong circumstantial evidence

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<sup>91</sup> Transcript 368

<sup>92</sup> Transcript 370-371

- “There is simply a lack of evidence”

Even though the lesser civil standard of proof is to be applied in this jurisdiction, suspicion and speculation cannot be the basis for making findings of fact, let alone where the circumstances involve the commission of a criminal act.

## COMMENTS

Pursuant to section 67(3) of the **Coroners Act 2008**, I make the following comments connected with the death:

118. I note the following submissions of Mr Lawrie of Counsel and adopt them as appropriate comments.
119. ‘The critical period for this investigation was in the immediate aftermath of the disappearances (particularly, in the days, weeks and months that followed). The members involved in the original investigation were, no doubt, lulled into an acceptance of the prevailing runaway theory and not provided with important information. For example, not a single person came forward with any report of the commotion or suspected gunshots said to have been heard from the Braddy house on Saturday night. Nonetheless, these were challenges that ought to have been overcome. For example, a public appeal for information (at an early stage) may have achieved this.
120. Detective Sergeant McClure noted the uncontroversial fact that a disappearance of this kind would be investigated very differently today. There is nothing to suggest that the shortcomings of the original investigation warrant any recommendation applicable to present day policing. Rather, they serve as a reminder to investigators of the need: to challenge one’s own opinions; to seek out all evidence at the earliest opportunity; and to fully consider all reasonable hypotheses.’

Pursuant to section 73 (1) of the **Coroners Act 2008**, I order that this finding be published in a redacted version on the internet.

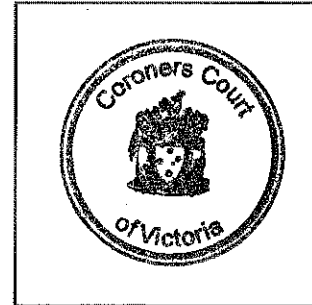
I direct that a copy of this finding be provided to the following:

- Ms Cheryl Whyte, Next of Kin
- Mr Kevin Whyte, Next of Kin
- John R Buman & Co Lawyers on behalf of Ms Lynette Ireland and Ms Debra MacDonnell

- Victorian Government Solicitors on behalf of the Chief Commissioner of Police
- Detective Sergeant Brendon Murphy, Coroner's Investigator
- Detective Sergeant Allan Birch, Coroner's Investigator

Signature:

*Iain West*



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IAIN WEST  
DEPUTY STATE CORONER  
Date: 18 December 2014