

IN THE CORONERS COURT
OF VICTORIA
AT MELBOURNE

Court Reference: COR 2005 3694

FINDING INTO DEATH WITH INQUEST

Form 37 Rule 60(1)

Section 67 of the Coroners Act 2008

Inquest into the Death of: Brian William Bottomley

Delivered On: 31 December 2013

Delivered At: Level 11, 222 Exhibition Street
Melbourne 3000

Hearing Dates: 1, 2, 4 & 5 February 2010

Findings of: JANE HENDTLASS, CORONER

Representation: Mr S Waites appeared on behalf of the family
Mr P Moran appeared on behalf of Victoria Police
Ms Trumble appeared on behalf of Dianne O'Geork

Counsel Assisting the Coroner Mr J. Goetz appeared to assist the Coroner

I, JANE HENDTLASS, Coroner having investigated the death of BRIAN WILLIAM BOTTOMLEY

AND having held an inquest in relation to this death on 1, 2, 4 & 5 February 2010
at MELBOURNE

find that the identity of the deceased was BRIAN WILLIAM BOTTOMLEY

born on 13 June 1971

and the death occurred on 2 February 2005

at Unit 4, 149 St Albans Road, St Albans

from:

1 (a) Gunshot wound

in the following circumstances:

1. Brian William Bottomley was 32 years old when he died. He lived with his mother, Lesley Stevens, at Unit 2, 1 Beaumont Court in Sydenham. Mr Bottomley's son lived with one of his sisters and Mr Bottomley had supervised access.
2. Mr Bottomley's medical history included polysubstance abuse, hepatitis C, anxiety, peptic ulcer, asthma and attempted suicide.
3. Further, on 8 December 2004, Dr Ian Joblin assessed Mr Bottomley. Dr Joblin noted:

"At the time of my interview with Mr Bottomley he presented with quite obvious and concerning psychological problems. In trying to determine the origin of those problems it became apparent that as a young boy he was subjected to all manner of deprivation and abuse."
4. Mr Bottomley's methadone prescriber was Dr Afshan Mian on Sydney Road in Coburg. She prescribed 80mg/day methadone and diazepam.
5. Mr Bottomley's general practitioner was Dr Asthana at the Plaza Medical Centre in Keilor Downs. He prescribed Zantac and Ventolin.
6. Mr Bottomley had a 20 year criminal history including drug and dishonesty offences. He had served four Youth Training Centre sentences and 15 prison sentences.

7. On 10 November 2004, Mr Bottomley was remanded in custody on new charges of attempted theft and interfering with a vehicle as well as breaching his parole. He was placed in protective custody because he gave evidence against another prisoner in 1998.
8. On 22 November 2004, the Magistrates Court further remanded Mr Bottomley in custody to 21 January 2005 for a pre-sentence report. In making this referral, the magistrate noted:

“Defendant appears to have become institutionalised. History of significant drug abuse. Subjected to significant violence as a child.”
9. On 1 December 2004, the Parole Board deferred their decision about Mr Bottomley’s release until his outstanding criminal matters had been dealt with.
10. On 21 January 2005, Mr Bottomley appeared before the Magistrates Court on new offences including theft of a motor car, theft, drive while disqualified and go equipped to steal.
11. Community Corrections assessed Mr Bottomley as high risk with greater than 50% chance of re-offending. However, Mr Bottomley was released from prison on a nine months Intensive Corrections Order. In the context of the reporting requirements of this order, the Parole Board warned him in relation to his breach of parole.
12. On 21 January 2005, Mr Bottomley went home to live with his mother. He had an appointment arranged with Dr Mian and had arranged to obtain daily methadone doses from the Devonshire Road Pharmacy in Sunshine.
13. Accordingly, on 21 January 2005, Mr Bottomley consulted Dr Mian. She confirmed his methadone prescription and prescribed diazepam. On 31 January 2005, he also consulted Dr Asthana with a cough. Dr Asthana prescribed diazepam and antibiotics.
14. On 25 January 2005, Mr Bottomley was inducted at Sunshine Community Correction Services for supervision of his Intensive Corrections Order. However, he failed to keep subsequent appointments for unpaid work on 27 and 28 January 2005.
15. At 5:05pm on 31 January 2005, Mr Bottomley attended Sunshine Community Corrections to keep his 11:00am appointment with his parole officer. After this he went home.
16. Ms Stevens was unable to contact Mr Bottomley after he left home at about 6:45pm on 31 January 2005.

17. Mr Bottomley went to stay with Rebecca Briffa at Unit 4, 149 St Albans Road in St Albans. Mr Bottomley and Ms Briffa were friends who used amphetamines together.
18. Ms Briffa and her boyfriend, Aiden Crutchley, rented the property at Unit 4, 149 St Albans Road in St Albans. However, Mr Crutchley was in custody until 3 February 2005.
19. On 1 February 2005, Mr Bottomley's friend, Bayram Birsoz, also stayed overnight at Unit 4, 149 St Albans Road in St Albans. A mutual friend, Gordon Skadric, had introduced Mr Birsoz to Mr Bottomley about a year earlier. Ms Briffa did not know Mr Birsoz before that day.
20. Mr Skadric told the Court he had known Mr Bottomley since about 2002. They used amphetamines and cannabis together.
21. Mr Skadric also knew Ms Briffa. She told the Court that Mr Skadric supplied her, Mr Crutchley and Mr Bottomley with amphetamines. Mr Skadric denied ever selling drugs to Mr Bottomley.
22. Amphetamines were their preferred drug but they also used heroin and obtained prescription drugs by doctor shopping for Valium and Xanax. Further, Ms Briffa said she gave Mr Birsoz one Valium on that night but, to her knowledge, he did not use drugs.
23. Other than one prior encounter, Ms Briffa did not know Wayne Joannou until after Mr Bottomley had come to stay at her house on 31 January 2005.
24. Mr Joannou had a history of heroin use, violence and firearms offences.
25. He was an associate of Mr Bottomley's from their coinciding prison sentences 1998 when Mr Joannou injured Mr Bottomley with a billiard ball in a sock
26. On 28 April 1998, Mr Bottomley and Mr Joannou were also involved in standover tactics involving other prisoners. A prison officer investigating the allegation stated she had absolutely no doubt that Joannou assaulted another prisoner and that Bottomley orchestrated the assault.
27. However, Mr Bottomley's prison records do not indicate that Mr Joannou was an associate or a threat to him in prison.

28. Mr Joannou also had a reputation in the Western Suburbs as a standover person; Ms Briffa told the Court these included:

“Just that he’s crazy, that he pushed someone off a balcony once.”

29. Mr Joannou and Mr Bottomley were known to be friends. Mr Joannou’s step-mother, Ngaire Amundsen¹, told the Court that Mr Bottomley had been to her house for meals on a regular basis.

30. Ms Briffa also said that Mr Joannou was Mr Bottomley’s friend and Mr Joannou was at her house with Mr Bottomley often after Mr Bottomley arrived on 31 January 2005. I note that in the following 24 hour period, they also used amphetamines together at the house Mr Joannou shared with his girl-friend, Kristy-Lee Hearn.

31. Mr Joannou had been living with Ms Hearn at Unit 19, 555 Keilor Melton Highway in Sydenham since about October 2004.

32. Ms Hearn worked as a carer for the Department of Human Services at 22 Salmond Street in Deer Park.

33. Vicki Hearn is Ms Hearn’s mother. Wayne Joannou was driving a red Toyota Celica (registration number CRO-832) registered in Vicki Hearn’s name. She had sold it to Ms Hearn. Ms Hearn allowed Mr Joannou to drive it after she bought another car, a black Holden Cruze SMS-480.

34. At 3:10pm on 7 February 2005, Ms Stevens reported to the Keilor Downs Police Station that Mr Bottomley had been missing since 31 January 2005.

35. At about 6:20pm on 7 February 2005, Ms Briffa also reported to the Keilor Downs Police Station that Mr Bottomley had been murdered by Wayne Joannou on 2 February 2005. The Homicide Squad was notified.

36. Mr Bottomley’s body has never been found.

¹ Mr Joannou’s step-mother is Ngaire Amundsen also known as Ngaire Keighron, Ngaire Radovich or “Carla”.

37. At 9:04pm on 7 February 2005, Ms Hearn drove Mr Joannou to the Keilor Downs Police Station to report on bail. He left the police station when the police officer on reception asked him to wait.
38. On 18 February 2005, Mr Joannou died from gunshot wounds discharged by the Special Operations Group of Victoria Police when they attempted to arrest Mr Joannou in relation to Mr Bottomley's death.
39. Accordingly, Mr Bottomley's death is closely related to Mr Joannou's death.
40. I have relied on evidence from both coronial investigations and inquests to form opinions about the reliability of witnesses and the most likely sequence of events surrounding Mr Bottomley's death.
41. This finding focuses on the evidence available to me about what happened up to 7 February 2005 when police became involved in investigating Mr Bottomley's death. The coronial finding relating to Mr Joannou's death focusses on the evidence about what happened after the police became involved on 7 February 2005.
42. Accordingly, both findings should be read together to understand the separate circumstances in which they died.
43. This finding will review the sources of evidence surrounding Mr Bottomley's death and disposal of his body. It will then summarise the sequence of events as reported by the associates of Mr Bottomley and Mr Joannou in the context of my assessments of these sources of information in an attempt to determine the circumstances in which Mr Bottomley died.
44. I will then comment about the factors that influenced Mr Bottomley's death and my capacity to make findings about how he died and where his body still lies.

Interpretation of the evidence provided by the associates of Mr Bottomley and Mr Joannou

45. The Court has been provided with several different sources of information about the circumstances in which Mr Bottomley died. These include:
 - Written statements collected by police during their investigation of the deaths of Mr Bottomley and Mr Joannou;

- Oral evidence given at Inquest from Mr Joannou and Mr Bottomley's families and associates;
- Written and oral evidence from Victoria Police witnesses;
- Victoria Police records relating to Mr Bottomley, Mr Joannou and some of their associates; and
- Telephone records from phones known to be used by the associates of Mr Bottomley and Mr Joannou for 1-4 February 2005 and 15-18 February 2005.²

This information was printed for the Court on 2 June 2011 and is Call Charge Record (C.C.R) Filtered. Therefore, it is not necessarily or probably a complete record of all the phone calls in those periods from the nominated callers.

Mr Joannou used at least two phones during these period: 0432033765 registered to Daniel Simonovski ("phone 1") and 0403145400 registered to Mark Hand ("phone 2").

However, telephone records for the evening of 2 February 2005 show calls on phone 1 from Elphinstone and Mount Alexander in north Victoria between 8:41pm and 9:49pm. They also show an calls to Anastasia Joannou on phone 2 from Deer Park-Central and St Albans in the western suburbs of Melbourne at 11:04pm. It is unlikely that the calls from both these phones at this time can be attributed to Mr Joannou.

I am unable to say when Mr Joannou stopped using his phone 2. Therefore, in circumstances where Mr Joannou did not take his phone 2 with him to northern Victoria on the evening of 2 February 2005, I have excluded this number from analyses of his phone calls after 1 February 2005.

However, I note that the phone records show that the person with Mr Joannou's phone 2 rang Ms Hearn on 17 February 2005 including:

- At 2:31am on 17 February 2005: 4 seconds
- At 2:35am on 17 February 2005: 43 seconds

² A SIM card found after Mr Joannou's death seems unrelated to Mr Joannou or Mr Bottomley.

Police have attributed these phone calls to Mr Joannou.

I also note that Mr Joannou's associates rang Mr Joannou's phone 2 on a number of occasions including:

- At 4:04pm on 2 February 2007, Mr Joannou's phone 2 rang Luke Joannou: 1 minute and 17 seconds
- At 11:04pm on 2 February 2007, Mr Joannou's phone 2 rang Anastasia Joannou: 3 minutes and 7 seconds
- At 10:26pm on 3 February 2005, Luke Joannou rang Mr Joannou's phone 2: 27 seconds
- At 3:17pm on 3 February 2007, Mr Joannou's phone 2 rang Luke Joannou: 32 seconds
- At 7:13pm on 15 February 2005, Luke Joannou rang Mr Joannou's phone 2: 49 seconds
- At 2:45pm on 16 February 2007, Mr Joannou's phone 2 rang Luke Joannou: 50 seconds
- At 2:47pm on 16 February 2007, Mr Joannou's phone 2 rang Luke Joannou: 14 seconds
- At 9:34pm on 16 February 2005, Luke Joannou rang Mr Joannou's phone 2: 1 minute and 8 seconds.

Therefore, the person who had Mr Joannou's phone 2 after the afternoon of 2 February 2005 was a close associate of Mr Joannou and was not Luke Joannou.

Further, I note that:

- At 12:43am on 15 February 2005, Anastasia Joannou³ rang Kristy-Lee Hearn from her own phone: 3 minutes 31 seconds.

Ms Hearn also told the Court that Mr Joannou's phone was a pre-paid phone that never had any money on it. Therefore, he could receive but not send messages. To send messages, Mr Joannou usually used her phone. However, there is no clear

³ Anastasia Joannou is Mr Joannou's sister and lived with Luke Joannou

evidence that Mr Joannou used Ms Hearn's phone in the period 1-5 February or 15-18 February 2005.

As well, Mr Bottomley and Mr Joannous' friends and associates frequently used phones registered in names different from their own. The evidence also shows that they sometimes used each other's phones and/or had more than one phone. Unless otherwise stated, I have relied on the identification of subscribers nominated on the C.C.R. records provided to me by Victoria Police.

The location of most calls is designated by the telecommunication mobile phone repeater/s which the call is using and is only a very general indicator of the area from which the call is being made.

For all these reasons, I have been conservative in my interpretation of information arising from the telephone records provided to me.

46. The reliability of the evidence I have heard has been compromised by time, by the nature of the events that have occurred and by the nature of Mr Bottomley and Mr Joannous' families and associates. I have attempted to assess the weight I should place on this evidence by comparing it with independent information including telephone records.

47. Lesley Stevens

- Ms Stevens is Mr Bottomley's mother. Except in protecting the reputation of Mr Bottomley, she had no reason to mislead the Court on any issue relating to his death.
- In particular, Mr Stevens told the Court that, on or about 21 January 2005, Mr Skadric told her that he had purchased the silver Mitsubishi Magna sedan DIB-107 from Wayne Joannou. Mr Skadric told Ms Stevens he paid Mr Joannou \$400 for the car. He also said he bought the car for Mr Bottomley.

However, vehicle registration records indicate that registration of the silver Mitsubishi Magna sedan DIB-107 expired on 4 January 2005. The registered owner was James Michael Smith.

Mr Smith told police that he did not transfer registration when he sold the silver Magna sedan DIB-107 to David Blyth in October 2004 for \$400.

Mr Blyth was an associate of Mr Joannou and Mr Bottomley as well as Ms Hearn's flat mate. Mr Blyth told police that he sold the silver Magna sedan DIB-107 to Mr Joannou in November 2004 for \$200. He refused to make a statement.

Further, Ms Hearn told the Court that she believed Mr Joannou either gave or sold a silver Mitsubishi Magna sedan DIB-107 to Mr Bottomley.

I have taken the evidence of Ms Stevens and Ms Hearn on this point into account in interpreting the reliability of Mr Skadric's evidence.

48. Kristie-Lee Hearn

- Kristie-Lee Hearn was Mr Joannou's girlfriend and closely involved in the events that occurred on 2 February 2005.
- Ms Hearn had no prior offences or record with police except as an associate of Wayne Joannou.
- Ms Hearn had been living with Mr Joannou for about six months in an abusive and unstable relationship. She told the Court that she knew Mr Bottomley and Mark Tragear. Mr Tragear is an associate of Mr Joannou from their coincident prison sentences.
- Ms Hearn did not share Mr Joannou's lifestyle or background. Ms Hearn worked in aged care for the Department of Human Services. She had no criminal record and was not addicted to drugs.

However, her flat mate's partner was an associate of Mr Joannou and was involved in drug use.

- Further, Ms Hearn said that their relationship cooled after Mr Joannou's Naltrexone implant:

"He was sick for a while so he didn't really have much to do with me. He couldn't get out of bed, I know that for a while he was really sick. I didn't see him that often after that."

- Although Ms Hearn was becoming highly sceptical by the time the events subject to this investigation occurred, she still believed him when he told her most unlikely information.

For example, Ms Hearn told the Court that, despite police speaking to her in the car park at Keilor Downs Police Station on 7 February 2005, she was not aware that Mr Joannou was a suspect for Mr Bottomley's murder until she saw it on the news on 9 February 2005. She told the Court:

"there was a warrant to search the house, I didn't know that then. Even by looking at the form I didn't even - it sounds stupid - I didn't even know what homicide meant"

- Accordingly, I have formed the view that Ms Hearn is embarrassed by her relationship with Mr Joannou and her naivety in tolerating his behaviour and that accepting what he told her was true. Therefore, she seems to have minimised before me her knowledge of his drug-taking and violent behaviour.

49. Haydn Johnstone

- Haydn Johnstone was a real estate agent in Queensland. He was in the process of returning to Melbourne to re-establish his business here. I note that Mr Johnstone was living in Queensland when he gave evidence by video link in 2011.
- Mr Johnstone was a close personal friend of Mr Joannou's step-mother, Ngaire Amundsen.
- Mr Johnstone told the Court that Mr Joannou was a drug addict:

"Well, he was doing the drugs. He had a needle hanging out of his arm on every occasion I saw him - almost every occasion. He was an addict of - he was an addict."

Mr Johnstone met Mr Joannou on 6 February 2005 and on 17 and 18 February 2005. Although Mr Joannou was using intravenous drugs, there is no evidence to corroborate Mr Johnstone's observation that Mr Joannou had "a needle hanging out of his arm" on any of these occasions.

- When asked why he assumed that Mr Joannou was lying to him, Mr Johnstone told the Court:

"Oh, mate, I'm a licensed real estate agent. I've been in real estate since I was 17. I grew up in St Kilda in real estate. I ran the biggest real estate company in

Australia and I ran tenants. I understand people, their performance and I can tell someone when they're telling me a pale faced fib, you know. Being deceptive. It's blatantly obvious to me."

- Mr Johnstone told the Court that the woman who was in the car with Mr Joannou when he left his brother's house on 18 February 2005 was the same woman he had met on 6 February 2005.

It is accepted that the woman in the car on 18 February 2005 was Dianne O'Goerk and he did not see her before he left Luke Joannou's house. The woman in the car on 6 February 2005 was Ms Briffa.

- Further, Mr Johnstone told the Court that, on the morning of 6 February 2005, Mr Joannou did not seem drug-affected or otherwise paranoid: He said, for example:

"He was in pretty good condition. He wasn't drug affected like the other times I met him."

However, my understanding of Mr Johnstone's evidence is that Ms Amundsen responded to Mr Joannou's knock on the door on 6 February 2005 and Mr Johnstone did not meet Mr Joannou at this time. Therefore, he could not have personally formed that opinion about Mr Joannou's demeanour.

- For all these reasons, I have formed the view that Mr Johnstone is an unreliable witness and inclined to assumptions and exaggeration or repeating the observations of other people as his own.

50. Gordon Skadric

- Mr Skadric was Mr Bottomley's friend. He said he saw Mr Bottomley three or four times a month. In the Joannou inquest. Mr Skadric told the Court:

"I only met him (Mr Bottomley) a few times, didn't have much of a friendship."

Mr Skadric told the Court he had known Mr Bottomley since about 2002. They used amphetamines and cannabis together. However, Mr Skadric denied ever supplying drugs to Mr Bottomley.

On the other hand, Mr Skadric told the Court that he last saw Mr Bottomley when Mr Bottomley went to Mr Skadric's house to get some speed.

Further, other witnesses told the Court that Mr Skadric dealt in 'speed' and supplied Mr Bottomley with the drug. Ms Briffa told the Court that Mr Skadric supplied her, Mr Crutchley and Mr Bottomley with amphetamines.

Accordingly Mr Skadric gave inconsistent evidence about his relationship with Mr Bottomley and his involvement in supply of amphetamines to Mr Bottomley and his associates. I find that he supplied amphetamines to Mr Bottomley, Mr Crutchley and Ms Briffa. I am unable to say whether or to what degree he supplied amphetamines to Mr Joannou.

- Mr Skadric said he met Mr Joannou through Mr Bottomley. Mr Bottomley and Mr Joannou stopped one night to help Mr Skadric when his car broke down. He says he only had one other conversation with Mr Joannou. He said Mr Joannou was:

"Somebody that I met a couple of days before (2 February 2005)."

However, Ms Stevens told the Court and I accept that, on or about 21 January 2005, Mr Skadric told her that he had purchased a silver Mitsubishi Magna sedan DIB-107 from Wayne Joannou. Mr Skadric told Ms Stevens he paid Mr Joannou \$400 for the car. He also said he bought the car for Mr Bottomley.

I do not accept that this explanation is consistent with not knowing Mr Bottomley well or with other evidence associated with Mr Bottomley's ownership of the silver Mitsubishi Magna sedan DIB-107.

- Further, available phone records show that:
 - At 6:56am, 9:00am, 9:23am, 9:31am and 1:40pm on 1 February 2005, Mr Joannou used phone 1 to attempt to contact Mr Skadric.
 - At 1:40pm on 1 February 2005, Mr Joannou contacted Mr Skadric on phone 1 and spoke for 1 minute and 9 seconds.
 - At 10:31am, on 2 February 2005, Mr Joannou used phone 1 to attempt to contact Mr Skadric.

Mr Skadric was with Mr Joannou on or about 3 February 2005 when he contacted Mr Birsoz and threatened him.

Therefore, I do not accept that Mr Skadric was a truthful witness about his relationship with Mr Joannou.

- Mr Skadric denied knowing Mark Tragear. However:
 - At 12:21am on 1 February 2005, Mr Skadric rang Mark Tragear's phone. The call lasted three seconds. This is consistent with leaving a message.
 - At 7:08pm, 7:11pm, 7:12pm, 7:13pm, 7:18pm, on 1 February 2005, Mr Tragear attempted to contact Mr Skadric. He was unsuccessful.
 - At 7:19pm on 1 February 2005, Mr Tragear contacted Mr Skadric. They spoke for 1 minute and 26 seconds.
 - At 8:41pm and 8:43pm on 1 February 2005, Mr Skadric attempted to contact Mr Tragear. He was unsuccessful.
 - Further, at 10:17pm, on 4 February 2005 Mr Skadric rang and spoke to Mr Tragear for 7 seconds.
 - At 10:31pm on 4 February 2005, Mr Skadric rang and spoke to Mr Tragear for 5 seconds.

Therefore, I do not accept that Mr Skadric did not know Mr Tragear.

- I also note that, in the phone records provided to me, Mr Skadric failed to answer a number of phone calls from a Telstra payphone. These calls were immediately followed by a check on his SMS caller. On some occasions, Mr Skadric then called and spoke to a person not known to be involved in this investigation or unidentified.

Therefore, I have formed the view that Mr Skadric carefully screened the calls to his mobile phone before answering them and, in that way, masked telephone evidence about his contact with associates.

- Further, in Court, Mr Skadric explained the phone calls put to him by saying that his phone was not working. This inconsistent with his phone records.
- Accordingly, I have formed the view that Mr Skadric was an unreliable, evasive and untruthful witness in the evidence he has provided to Victoria Police and to me.

51. Mark Tragear

- Mark Tragear knew Mr Joannou from their time in prison.
- Mr Tragear told the Court that his relationship with Mr Joannou was:

"Just a friendship, nothing special."

- Mr Tragear also told the Court that, in 2004 and 2005, their relationship was:

"Well, as close as it can be when someone's not really there. It's pretty difficult to be close to someone when they're - you know, their mind's not there."

- Further, in the Bottomley and Joannou Inquests, Mr Tragear said he spoke to Mr Joannou once or twice after the implant procedure was performed on 20 January 2005:

"I only saw Wayne, I don't know if it was once or twice - that was about it, after he got the implant and the two times I saw him, yeah, it was not - not someone that I'd ever spend any time with. He was - he was intimidating, he was - you know, he was off his - absolutely off his head. There's not - not much other way to put it."

- However, available phone records show that:
 - At 12:23am on 1 February 2005, Mr Joannou accepted a call on phone 1 from Mr Tragear. They spoke for 10 seconds;
 - At 8:40pm on 1 February 2005, Mr Joannou accepted a call on phone 1 from Mr Tragear. They spoke for 50 seconds;
 - At 8:45pm on 1 February 2005, Mr Joannou accepted a call on phone 1 from Mr Tragear. They spoke for 12 seconds;
 - At 8:45pm on 1 February 2005, Mr Joannou accepted a call on phone 1 from Mr Tragear. They spoke for 8 seconds;
 - At 11:51am on 2 February 2005, Mr Joannou contacted Mr Tragear. They spoke for 3 seconds;
 - At 12:36pm, 12:39pm, 1:05pm, on 2 February 2005, Mr Joannou made unanswered calls to Mr Tragear;
 - At 1:06pm on 2 February 2005, Mr Joannou accepted a call on phone 1 from Mr Tragear. They spoke for 1 minute and 23 seconds;

- At 2:03pm, 2:04pm, 2:32pm, 2:33pm on 2 February 2005, Mr Joannou made further unanswered calls to Mr Tragear;
- At 2:47pm on 2 February 2005, Mr Joannou contacted Mr Tragear. They spoke for 1 minute and 13 seconds;
- At 3:27pm on 2 February 2005, Mr Joannou contacted Mr Tragear. They spoke for 17 seconds;
- At 3:50pm on 2 February 2005, Mr Joannou made further unanswered calls to Mark Tragear;
- At 3:51pm on 2 February 2005, Mr Joannou contacted Mr Tragear. They spoke for 21 seconds; and
- At 3:59pm on 2 February 2005, Mr Joannou contacted Mr Tragear. They spoke for 15 seconds.

Therefore, I do not accept that Mr Tragear was a truthful witness about his relationship with Mr Joannou or about his involvement in events on 2 February 2005.

- Mark Tragear also said that he did not know Mr Skadric, However:
 - At 7:08pm, 7:11pm, 7:12pm, 7:13pm, 7:18pm, 7:19pm on 1 February 2005, Mr Tragear attempted to contact Mr Skadric. He was unsuccessful.
 - At 7:19pm on 1 February 2005, Mr Tragear contacted Mr Skadric. They spoke for 1 minute and 26 seconds.
 - At 8:41pm and 8:43pm on 1 February 2005, Mr Skadric attempted to contact Mr Tragear. He was unsuccessful.
 - At 10:17pm, on 4 February 2005 Mr Skadric rang and spoke to Mr Tragear for 7 seconds.
 - At 10:31pm on 4 February 2005, Mr Skadric rang and spoke to Mr Tragear for 5 seconds.

Therefore, I do not accept that Mr Tragear was a truthful witness about his relationship to Mr Skadric.

- Mr Tragear also said that he did not know Mr Bottomley, Ms Briffa, Mr Crutchley or Mr Birsoz. I have no evidence to contradict this statement.
- Mark Tragear told the court he thinks he was in Echuca when Mr Bottomley died because he goes to the Southern 80 Water Ski Race.⁴

On 11, 12 and 13 February 2005, the annual Southern 80 Water Ski Race was held at the Victoria Park Boat Ramp in Echuca.

However, Mr Tragear said:

"I think I was in Echuca, I think. I'm not even - I'm not too sure on that either....."

"Throughout the period I was spending a bit of time in Echuca, most - nearly every weekend I'd go home."

Mr Tragear also said:

"I go away for eight weeks, so probably then...."

"Yeah, I came back for around a week throughout that period, for a couple of days here and there, just to manage the tills, the businesses then I'd go straight back home again...."

"that's not to say I would have went back and checked the tills and checked my staff and checked my salons but I'd only do a day trip if I did."

However, on 1 February 2005, Mr Tragear was making phone calls on the phone number 0400661612 registered to Jindella Pty Ltd from Melbourne sites including mobile phone repeaters at Moorabbin, Newport and West Sunshine.

⁴ I asked Mr Tragear to provide me with witnesses to confirm his involvement in the Southern 80 Water Ski Race from 2 to 18 February 2005. No information has been forthcoming about this issue.

Further, on 2 February 2005, Mr Tragear was making phone calls on the phone number 0400661612 registered to Jindella Pty Ltd from Melbourne sites including mobile phone repeaters from Ardeer North-1 at 1:06pm, Williamstown at 1:37pm and Armadale at 2:12pm.

Similarly, on 3 February 2005, Mr Tragear was making phone calls on the phone number 0400661612 registered to Jindella Pty Ltd from Melbourne sites including mobile phone repeaters in West Sunshine at 11:09am and 10:42pm, Newport at 11:02pm, Port Melbourne at 11:15pm.

On 4 February 2005, Mr Tragear was also making phone calls on the phone number 0400661612 registered to Jindella Pty Ltd from Melbourne sites including mobile phone repeaters from Newport at 1:39am, 4:32am, 7:19am, 11:33am and 12:12pm.

Mr Tragear made no phone calls on the phone number 0400661612 registered to Jindella Pty Ltd from outside Melbourne on 1, 2, 3 and 4 February 2005.

Therefore, Mr Tragear was in Melbourne and not in Echuca on 1, 2, 3 and 4 February 2005.

Accordingly, I have formed the view that Mr Tragear was trying to distance himself from his association with Mr Joannou when he gave evidence before me.

I am unable to form similar views for 5, 6 & 7 February 2005 because there are no phone records available to me.

- Further, Mr Tragear denied that he remembered speaking to Ms Hearn because Mr Joannou was a very jealous person and would not like the contact. He explained any phone calls from Ms Hearn to his phone:

“Yeah, well, I don't recall anything specific. They may have - yeah, they could have rung me. Wayne would often ring me on Kristy's phone.”

However, Mr Tragear contacted Ms Hearn three times on 2 February 2005:

- At 4:53pm, Mr Tragear contacted Kristy Lee Hearn. They spoke for 18 seconds.

- At 4:57pm, Mr Tragear re-contacted Kristy Lee Hearn. They spoke for 2 minutes and 20 seconds.
- At 5:00pm, Mr Tragear contacted Kristy Lee Hearn again. They spoke for 2 minutes and 56 seconds.

Therefore, I infer that Mr Tragear believed that it was very important that he speak to Ms Hearn on 2 February 2005.

52. Ngaire Amundsen

- Ms Amundsen was Mr Joannou's step-mother. She also knew Mr Bottomley through this association.
- Ms Amundsen's criminal record included intentionally cause injury, assault and theft.
- Ms Amundsen told the Court that her memory was badly affected by Mr Joannou's death and other family issues. She told the Court:

"Caused by a number of beatings, having been raped as a child, Wayne's death, my husband's death, a lot of trauma all happened - my husband Moss was killed at around the same period, within six months of Wayne being killed - oh, well, a few months of Wayne being killed anyway."

- Further, she told the Court that from Christmas 2004, Mr Bottomley and Mr Joannou were close friends:

"They sat at my dinner table and ate nightly. They'd be at my breakfast table every morning, bringing me orange juice. They used to go to do the shopping, bring fresh oranges so I could make orange juice, bacon and eggs, fresh bread from the bakery every morning so I could cook them bacon and eggs and give them breakfast and squeeze them fresh orange juice every morning, that's what they did."

This evidence is inconsistent with Mr Bottomley being released from prison on 21 January 2005 and staying at home most nights after that until 31 January 2005 when he went to Ms Briffa's house.

- When spoken to by police after Mr Joannou's death she alluded to Mr Joannou's violent attributes:

"I'm not saying any more. What's he done? Don't tell me he's murdered someone...."

"You don't know what he's like. He's made with guns. He's shot at me with a shotgun before and I'm his step mother...."

"I'm not getting involved. I've already said too much."

- Further, in Court, Ms Amundsen alleged that Ms Briffa had told her that she wanted Mr Bottomley and Mr Joannou to help her to kill her boyfriend, Aiden Crutchley. Despite several opportunities to provide this information to police during their investigations of the deaths of Mr Bottomley and Mr Joannou, this was the first time police had heard the allegation. Therefore, I do not accept that it is true that Ms Briffa said this in any serious way.
- As well, at 11:44am on 13 July 2005, Mr Sheather conducted a formal record of interview with Ms Amundsen. Ms Amundsen told Mr Sheather:
 - On 6 February 2005, Mr Joannou came to her house and spoke to her and left his red Celica at her house.
 - He said Mr Bottomley was dead before he got there and put him in the car.
 - The car was full of mud and water.
 - Mr Joannou said he had been submerged in the boot in a lake or river.
 - Police seized the red Celica and told her they wanted to arrest Mr Joannou for the murder of Mr Bottomley.
 - She did not contact police because she feared Mr Joannou might commit suicide.

- Mr Joannou and Wayne Shrokowski came and picked her up and they went to her house at 8 Chaffey Square in Corio. He stayed there for 2-3 days.
- He had a silver shotgun with him.
- She told police that she had seen him and was trying to talk to him.
- She then went and got him from Corio.
- Mr Joannou was off drugs and she asked him to help Luke who was in detox.
- She left him at Luke's house.

These responses to Mr Sheather indicate that, even as late as 13 July 2005, Ms Amundsen was not telling police all the truth about her involvement in and her understanding of the events surrounding Mr Bottomley's death.

- For all these reasons, I do not accept that Ms Amundsen was a reliable witness before me or that she was always truthful, frank and open in the evidence she provided to me or the police who were investigating Mr Joannou's and Mr Bottomley's deaths for me.

53. Rebecca Briffa

- Ms Briffa was a close friend of Mr Bottomley.
- Ms Briffa was present when Mr Bottomley died. However, she admitted she had used Valium and Xanax on the night before that Mr Bottomley died. She also used amphetamines with Mr Bottomley and Mr Joannou on 31 January 2005.
- Ms Briffa told the Court that she did not have a clear memory of the events that occurred on 2 February 2005:

"I can't remember this part clearly, do you know what I mean? I can only remember bits and pieces of it. Like you have to understand I just saw someone get shot. The night before that I was like pilled off my head, you know what I mean? So the pills were still in me. So like I can sort of just remember bits and pieces of it, you know what I mean and plus I was spinning because I - I've never seen something like that in my life."

Ms Briffa also told the Court that her use of Xanax escalated after the events of 2 February 2005:

“Like after that happens I was using pills constantly. Like I think I went through my whole three bottles of Xanax....

I used heaps of Xanax plus Aiden got Xanax so I was using his Xanax.”

On my observations, Ms Briffa was also under the influence of drugs when she gave evidence.

Therefore, I do not accept that Ms Briffa was a reliable witness before me.

- Ms Briffa had two phones: a land line in the name of MR Briffa and a mobile phone registered to ‘Lisa Harris’.

As well, Mr Birsoz gave Ms Briffa his phone on the night of 2 February 2005.

On 3 February 2005, Ms Briffa gave Mr Birsoz’ phone to Mr Skadric to return to Mr Birsoz. Mr Skadric and Mr Joannou used Mr Birsoz’ phone to contact Hussan Mustafa who was in the company of Mr Birsoz.

Further, Ms Briffa’s boyfriend, Adrian Crutchley, came home on 3 February 2005. I do not know whether or to what degree Ms Briffa used Mr Crutchley’s phone.

Therefore, other than the land line registered to Ms Briffa, I am unable to be certain about phone calls made to or from Ms Briffa.

54. Bayram Birsoz

- Bayram Birsoz was a friend of Mr Bottomley. Mr Birsoz met Mr Bottomley because Mr Birsoz was also a friend of Mr Skadric.

Mr Birsoz’ continuing association with Mr Skadric until the Joannou Inquest⁵ has influenced me in assessing his credibility as a witness.

- Mr Birsoz also told the Court that he met Ms Briffa on 1 February 2005. I have no reason to doubt this statement. However:

⁵ Mr Birsoz drove Mr Skadric to Court to give evidence in the Joannou Inquest.

- Mr Birsoz did not know that Ms Briffa used drugs on 1 and 2 February 2005.
- Ms Briffa admitted using drugs on 1 February 2005. Further, police found Ms Briffa under the influence of drugs when Mr Birsoz was driving Mr Bottomley's car on 1 February 2005.
- Further, Mr Birsoz was very affected by his involvement in Mr Bottomley's death. Even early in the police investigation, this seems to have impaired his recall of events on and around 2 February 2005.

Therefore, I do not accept that Mr Birsoz evidence was a reliable witness before me in assessing the behaviour of his associates.

- Mr Birsoz told the court that he only met Mr Joannou once before the day Mr Bottomley died.

However, at 5:19am and 6:06am on 1 February 2005, Mr Joannou used his phone 2 to attempt to contact Mr Birsoz.

Further, at 11:09am on 2 February 2005, Mr Joannou used his phone 1 to attempt to contact Mr Birsoz.

Mr Joannou was unsuccessful in his attempts to speak to Mr Birsoz before Mr Bottomley died but it seems from these phone calls that Mr Joannou knew Mr Birsoz.

- On 30 May 2011, after hearing the evidence of Mr Birsoz and Ms Briffa, I told the Court:

"I have also said it's difficult to rely on the evidence of Ms Briffa and Mr Birsoz who were the two witnesses in the house at the time that Mr Bottomley died, because of the circumstances and the way they have been affected by the incident. However relying on the evidence of Mr Birsoz, I've decided it's more likely than not that Mr Bottomley was shot dead by Mr Joannou."

I have not changed my mind about the reliability of the evidence of Mr Birsoz and Ms Briffa.

- Luke Joannou is Wayne Joannou's step-brother. He gave evidence by video link.
- Luke Joannou's criminal record included weapons offences, theft of motor car, pervert the cause of justice, assault with weapon, harass witness and threaten serious injury.
- Luke Joannou lived with his sister and two cousins at 837 Ballarat Road in Deer Park. He admitted it was used for drug use and trafficking.

Luke Joannou had undergone one day Rapid Detoxification on or about 7 February 2005. However, he was still smoking heroin during the period to 18 February 2005.

Luke Joannou also told this Court that, when he did the record of interview on 13 July 2005:

"I was pilled off me head and I was using extra - like a lot of heroin at that time."

- Luke Joannou denied that Mr Joannou told him that he shot Mr Bottomley. However, in his record of interview on 13 July 2005, Luke Joannou said that Mr Joannou had told him he acted in self-defence. This implies that Mr Joannou told Luke Joannou he had, at least, injured Mr Bottomley.
- Therefore, I do not accept that Luke Joannou was a reliable or truthful witness before me or in the police record of interview on 13 June 2005.

56. Mark Joannou

- Mark Joannou is Mr Joannou's brother.
- Mark Joannou's criminal history included traffick narcotic drug, burglary, theft and theft of motor car.
- Mark Joannou told the Court he experienced selective memory about his involvement relating to Mr Joannou's behaviour after Mr Bottomley died. He explained:

"I've tried to remember what I can, you know like but yeah, it's hard. Reading the statement I can't remember really any of it, you know like. The reason I remember the start is cos it's before the event, you know."

- Accordingly, I do not accept that Mark Joannou is always a reliable witness.

Sequence of events leading to Mr Bottomley's death

57. Mr Bottomley had lived for about three years with Ms Stevens at Unit 2/1 Beaumont Court in Sydenham. He had returned home almost every night except when he was in jail. She also told the Court and I accept:

"If he didn't he would always ring me and let me know where he was."

58. At 6:45pm on 31 January 2005, Mr Bottomley left Ms Stevens' house in his silver Mitsubishi Magna sedan DIB-107.

59. As he was leaving home, Mr Bottomley told his mother he was going to stay with Ms Briffa at Unit 4, 149 St Albans Road in St Albans. He took a bag of clothes and a toilet bag with him. Therefore, Mr Bottomley intended to stay at Ms Briffa's house overnight.

60. Ms Stevens has not seen Mr Bottomley since that time. However, there was no reason for Ms Stevens to become concerned about Mr Bottomley's whereabouts when he did not come home on the night of the 31 January 2005.

61. Ms Stevens said she had met Mr Bottomley's friends including Mr Joannou, Ms Briffa, Mr Crutchley and Gordon Skadric⁶. She knew and trusted Ms Briffa but she did not know his other friends well.

62. Ms Stevens knew Mr Joannou and did not like him. She told Mr Skadric:

"He scares me and I don't want him here... he scares me but when he's not on that speed he's a lovely boy."

63. Although Ms Stevens believed the information provided to her by Mr Bottomley's friends, I do not necessarily accept as fact the information she relayed to me about what these people had told her.

64. For example, Ms Hearn told the Court that the silver Mitsubishi Magna sedan DIB-107 had been parked at her place a short time before 2 February 2005. Mr Joannou told her that he

⁶ Ms Stevens was unable to confirm Gordon's family name but she identified him in Court.

had sold or given it to Mr Bottomley. He wanted to change the registration into Mr Bottomley's name but he could not get the papers from the previous owner, David Blyth.

65. In this context, I note that Mr Joannou spoke to Mr Blyth using phone 1 at 10:38am on 1 February 2005. I have no evidence of the content of this conversation. However, it is consistent with Mr Joannou persisting in his attempts to obtain transfer of registration for the silver Mitsubishi Magna sedan DIB-107 from Mr Blyth. Further, it is not entirely consistent with Mr Skadric buying the silver Mitsubishi Magna sedan DIB-107 from Mr Joannou on or about 21 January 2005.
66. Further, Mr Bottomley told his friend, Bayram Birsoz, he had bought the car for \$200.
67. Therefore, I am unable to say whether or not Mr Skadric paid Mr Joannou the \$400 and/or whether or not Mr Bottomley paid Mr Joannou or Mr Skadric \$200 for the silver Mitsubishi Magna sedan DIB-107.
68. However, it is clear that Mr Bottomley believed the silver Mitsubishi Magna sedan DIB-107 belonged to him. It is also clear that the silver Mitsubishi Magna sedan DIB-107 was unregistered.
69. Ms Briffa told the Court that she and Mr Bottomley went to visit Mr Joannou and Ms Hearn on or about 31 January 2005. They all injected amphetamines together during this visit.
70. Ms Briffa also told the Court that on that visit on or about 31 January 2005, Mr Joannou and Mr Bottomley were trying to fix a broken chrome plated shotgun:

“Him and Brian were both trying to fix this shotgun and it was like - I think it was a shotgun. I don't even know but it was like a long gun.”
71. Further, Mr Joannou's brother, Mark Joannou, told the Court that he believes the chrome plated shotgun belonged to Mr Bottomley. He said he had seen it before on the one occasion he met Mr Bottomley outside the flat Mr Joannou shared with Ms Hearn. Mr Bottomley was trying to sell it for \$2500. At that time, the shotgun was in a purple or maroon protective cover.
72. Therefore, it seems that Mr Bottomley had possession of the chrome plated shotgun, at least until 31 January 2005.

1st February 2005

73. On 1 February 2005, Mr Joannou made or received 20 calls on phone 1. These calls included:

- At 12:23am, Mr Joannou accepted a call from Mark Tragear. They spoke for 9 seconds.
- At 5:19am, Mr Joannou unsuccessfully attempted to contact Bayram Birsoz.
- At 10:38am, Mr Joannou contacted and spoke to David Blythe: the call went for 59 seconds.
- At 10:46am, Kristy-Lee Hearn contacted and spoke to Mr Joannou: 2 minutes 22 seconds.
- At 1:41pm, Mr Joannou rang and spoke to Mr Skadric: 1 minute and 9 seconds.
- At 7:08pm, Mr Joannou accepted a call from Kristy-Lee Hearn at work: 2 minutes 49 seconds.
- At 8:30pm, Mr Joannou accepted a call from Kristy-Lee Hearn: 54 seconds.
- At 8:40pm, Mr Joannou accepted a call from Mr Tragear: 50 seconds.
- At 8:45 pm, Mr Joannou accepted another call from Mr Tragear: 12 seconds
- At 8:48 pm, Mr Joannou accepted a third call from Mr Tragear: 7 seconds

Mr Joannou did not make or receive any calls on phone 1 after 8:40pm.

However, at 10:06pm on 1 February 2005, Ms Hearn sent an SMS message to Mr Joannou.

74. On 1 February 2005, there were 77 phone calls made or received on phone 2. Assuming Mr Joannou was still using this phone, these calls included:

- At 1:26am, an unidentified person on 0411823185 rang Mr Joannou: 1 minute and 13 seconds.
- At 1:34am, Mr Joannou contacted the unidentified person on 0411823185: 5 minutes 47 seconds.

75. On 1 February 2005, Mr Bottomley made or received four calls. These calls included:

- At 6:28am, Mr Bottomley unsuccessfully rang Mr Birsoz.

- At 6:34am, Mr Bottomley unsuccessfully rang Mr Birsoz.
 - At 2:29pm, Mr Bottomley rang and spoke to Mr Birsoz: 6 seconds.
 - At 2:45pm, Mr Bottomley unsuccessfully rang Mr Birsoz.
76. On 1 February 2005, Kristy-Lee Hearn made or received 6 phone calls. These phone calls included:
- At 4:42pm, the real estate agent Raine & Horne contacted Ms Hearn: 1 minute 24 seconds.
77. At 12:23am, Mr Skadric contacted Mark Tragear: 3 seconds.
78. On 1 February 2005, Ms Amundsen made or received 10 phone calls from Mr Johnstone:
- At 7:44pm, Mr Johnstone rang Ms Amundsen.
 - At 8:01pm, Ms Amundsen rang Mr Johnstone.
 - At 8:25pm, Ms Amundsen rang Mr Johnstone.
 - At 8:44pm, Ms Amundsen rang Mr Johnstone.
 - At 8:51pm, Ms Amundsen rang Mr Johnstone.
 - At 9:10pm, Mr Johnstone rang Ms Amundsen.
 - At 9:18pm, Mr Johnstone rang Ms Amundsen.
 - At 10:11pm, Mr Johnstone rang Ms Amundsen.
 - At 10:19pm, Ms Amundsen rang Mr Johnstone.
 - At 11:12pm, Ms Amundsen rang Mr Johnstone.
79. Ms Briffa told the Court that she and Mr Bottomley went doctor shopping for Valium and Xanax on 1 February 2005. They shared and consumed 50 tablets of Valium. She was also routinely prescribed 4 x 2mg Xanax so she kept to the prescribed dose for that drug.
80. Therefore, I find that Ms Briffa and Mr Bottomley were affected by Valium on the night of 1 February 2005.

81. Mr Birsoz was an associate of Mr Bottomley, Mr Joannou and Mr Skadric. He told the Court that he had no money and nowhere to live. He knew Mr Bottomley was staying with Ms Briffa and wondered if he could help him.
82. At 1:50am on 1 February 2005, Mr Birsoz attempted to contact Mr Bottomley. He was unsuccessful. At 6:28am, 6:34am and 2:45pm Mr Bottomley tried to contact Mr Birsoz. He was also unsuccessful.
83. At 2:29pm, Mr Bottomley contacted Mr Birsoz again. The call was only six seconds long so I presume it went to answer phone. At 2:45pm, Mr Bottomley again failed to contact Mr Birsoz.
84. These difficulties are consistent with Mr Birsoz's evidence that he had trouble contacting Mr Bottomley to ask for assistance.
85. At 1:05pm, 5:07pm and 6:04pm, Hussan Mustafa attempted to contact Mr Birsoz. He was also unsuccessful. Mr Mustafa was a friend of Mr Birsoz. He did not know Mr Birsoz's other associates.
86. At 6:50pm on 1 February 2005, Leading Senior Constable Duncan Eland and Senior Constable Daniel Hayes from Sunshine Police Station were conducting static surveillance of the McDonalds restaurant in St Albans as part of a Victoria Police operation to prevent thefts of and from cars in and around the subdivision of Brimbank ("Operation Mobile").
87. At 7:05pm on 1 February 2005, Mr Eland and Mr Hayes noticed Mr Bottomley driving an unregistered silver Mitsubishi Magna sedan DIB-107 on St Albans Road with Ms Briffa as passenger. They followed the car but lost it. There is no suggestion there was a third person in the car.
88. Sergeant Mark Checuti was responsible for managing Operation Mobile. Mr Checuti told the Court that Mr Bottomley was not identified as a target for Operation Mobile:

"He was not on our list of offenders that were circulated in relation to recent car offenders, current releases et cetera from gaol. Mr Bottomley come up in our inquiry as a result of common knowledge and experience in relation to his activity within our area, more drug related, and as a result of a fairly diligent patrol, he was detected by us, and that's how he become involved in our inquiry."

89. Accordingly, Mr Eland, Mr Hayes and another police member, Senior Constable Craig Kelso knew Mr Bottomley's background and associates. They drove directly to Ms Briffa's address and found the silver Mitsubishi Magna sedan DIB-107 parked in the rear car park.
90. Mr Hayes and Mr Kelso went to the front door of Unit 4, 149 St Albans Road in St Albans. They asked Mr Bottomley if they could have a look at his car out the back.
91. Mr Eland waited in the car park. While he waited, Mr Eland spoke to another person who said he was also at the back of the units intending to visit Mr Bottomley. I have not been provided with any evidence as to the identity of this person.
92. Sergeant Mark Chetcuti and Detective Senior Constable Paul Ziebell arrived at the back car park of Unit 4, 149 St Albans Road in St Albans as Mr Bottomley with Ms Briffa came out with Mr Hayes and Mr Kelso.
93. Sometime after 7:50pm on 1 February 2005, Mr Ziebell noticed Ms Briffa re-enter the unit through the garage and noticed the garage was empty. She returned a short time later.
94. Mr Bottomley was unable to produce a licence because he was disqualified from driving. He said he lived at that address and that he had bought the car a couple of days ago from Wayne Joannou. He was unaware that the registration had expired on 4 January 2005.
95. Mr Bottomley appeared annoyed that Mr Joannou had sold him an unregistered car and asked what he could do about it. He told Mr Eland:
- "I'm not copping a lagging from him this time."*
96. Mr Eland formed the impression that he was saying:
- "I'm not going to gaol because of him this time".*
97. Mr Eland also told Mr Bottomley that he (Mr Bottomley) would have to take the registration issue up with Mr Joannou.
98. Later in the evening of 1 February 2005, Bayram Birsoz arrived to stay with Mr Bottomley and Ms Briffa. Mr Birsoz says he knew the house was near the Ginifer railway station because his friend, Gordon Skadric, used to live there. However, he did not know Ms Briffa until that time.

99. Mr Birsoz told the Court that he, Mr Bottomley and Ms Briffa all went for another drive in Mr Bottomley's silver Mitsubishi Magna sedan DIB-107. It was already dark when they left the house.
100. When Mr Bottomley was driving them back to Ms Briffa's house, Mr Birsoz told the Court that Mr Bottomley was driving all over the place. Ms Briffa told Mr Birsoz that this was caused by Mr Bottomley taking some pills.
101. Mr Bottomley's silver Mitsubishi Magna sedan DIB-107 was involved in a collision in Ballarat Road Sunshine. After the collision, Mr Birsoz persuaded Mr Bottomley to let him drive.
102. At 10:56pm on 1 February 2005, Constable Raymond Sparks and Senior Constable Tanya Giannes intercepted Mr Bottomley's silver Mitsubishi Magna sedan DIB-107 in Van Ness Avenue in Maribyrnong because the car was unregistered.
103. A person identifying himself as Aguz Aziz was driving Mr Bottomley's silver Mitsubishi Magna sedan DIB-107. Mr Bottomley and Ms Briffa were asleep in the back seat. They appeared to be drug affected.
104. The driver of the car subsequently confirmed that he was Bayram Birsoz and he lived at 55 Ferris Avenue in Deer Park. Mr Birsoz admitted he had stated a false name and address and was driving while unlicensed.
105. Police also questioned Mr Bottomley in relation to driving while disqualified and driving an unregistered vehicle. Their records indicate they intended to charge Mr Bottomley with these offences.
106. Mr Sparks and Ms Giannes told Mr Bottomley he could not drive the car because it was smashed and had the wrong plates on it. However, after the police left, Mr Bottomley, Mr Birsoz and Ms Briffa returned to the car and Mr Bottomley drove it back to Unit 4, 149 St Albans Road in St Albans.
107. Mr Bottomley, Mr Birsoz and Ms Briffa walked away until the police had left. However, after the police left, Mr Bottomley, Mr Birsoz and Ms Briffa returned to the car and Mr Bottomley drove it back to Unit 4, 149 St Albans Road in St Albans. He parked it in the driveway rather than the garage

108. Ms Briffa says that she took her prescribed Xanax and slept in her bedroom.
109. Mr Birsoz says that he slept on one of two couches in the lounge room. Mr Bottomley went to bed on the other couch. However, Mr Birsoz heard Ms Briffa call Mr Bottomley into her room.
110. Ms Briffa told the Court that she was 'pilled' and does not remember who slept where on the night of 1 February 2005.
111. Mr Birsoz denied using drugs on the night of 1 February 2005 or at any other relevant time. He says he does not know where Mr Bottomley slept overnight.
112. Parallel to Mr Bottomley's day, Ms Hearn told the Court that, at 9pm on 1 February 2005, she got home from work. At about 10.30pm Mr Joannou came home.
113. Ms Hearn did not tell police that, at 10:06pm, she sent an SMS message to Mr Joannou:
- "Look wayne obviously da time has come 2 say goodbye, ur no longer interested in me, so I should stop hopin things will get better and u should b up front with me."*
114. I infer from this SMS message that Mr Hearn was not happy about Mr Joannou's behaviour. I am unable to say whether their conversations at 7:08pm and 8:30pm contributed to her SMS message.

2nd February 2005

115. Mr Joannou did not have his phone 2 with him after noon on 2 February 2005. It is unclear when he lost possession of this phone. Therefore, I have excluded calls to and from that number from this analysis.
116. Telephone records confirm that Mr Joannou made or received eight phone calls on phone 1 between 12:00am and 12:00pm on 2 February 2005. These phone calls included:
- Three phone calls from Kristy Lee Hearn:
 - At 10:27am, Mr Joannou accepted a call from Kristy-Lee Hearn: 35 seconds. This was the first time Mr Joannou used phone 1 on 2 February 2005.
 - At 10:35am, Mr Joannou accepted a call from Kristy-Lee Hearn. 40 seconds.
 - At 11:24am, Mr Joannou attempted to call Kristy-Lee Hearn.

- At 11:55am, Mr Joannou accepted a call from Kristy-Lee Hearn: 2 minutes 41 seconds
- At 10:31am, Mr Joannou unsuccessfully attempted to call Mr Skadric.
- At 11:09am, Mr Joannou unsuccessfully attempted to call Mr Birsoz.
- At 11:51am, Mr Joannou rang and spoke to Mr Tragear: 3 seconds.
- Ms Amundsen spoke to Mr Johnstone ten times on 2 February 2005:
 - At 7:17am, Ms Amundsen rang Mr Johnstone.
 - At 7:21am, Ms Amundsen rang Mr Johnstone.
 - At 2:57pm, Ms Amundsen rang Mr Johnstone.
 - At 4:26pm, Ms Amundsen rang Mr Johnstone.
 - At 6:29pm, Ms Amundsen rang Mr Johnstone.
 - At 6:38pm, Ms Amundsen rang Mr Johnstone.
 - At 6:40pm, Ms Amundsen rang Mr Johnstone.
 - At 7:57pm, Ms Amundsen rang Mr Johnstone.
 - At 9:40pm, Ms Amundsen rang Mr Johnstone.
 - At 11:59pm, Mr Johnstone rang Ms Amundsen.

117. Ms Hearn told the Court that, at between 11:00am and 12:00pm on 2 February 2005, Mr Joannou rang her at work and she rang him back.
118. Telephone phone records confirm that Ms Hearn rang and spoke to Mr Joannou at 10:27am, 10:35am and 11:55am on 2 February 2005. There is no record that Mr Joannou rang and spoke to Ms Hearn before 10:27am on 2 February 2005 so I believe Ms Hearn initiated this conversation.
119. Further, Mr Joannou told Ms Hearn that he was signing on at Keilor Downs Police Station and then he intended to speak to the landlord about rental payments.
120. Ms Hearn presumed that Mr Joannou was on his way to work at the factory in Altona owned by the father of his friend, Mark Tragear. Mr Joannou had told her that he had started work there on the previous day.

121. No records of bailees were available from Keilor Downs Police Station. Further, although there is no evidence to indicate whether or not Mr Joannou went to the real estate agent on 2 February 2005, I note that the real estate agent had contacted Ms Hearn the previous day.
122. In retrospect, Ms Hearn did not believe Mr Joannou's report about what he was doing at 11:55am on 2 February 2005. Mr Tragear also confirmed that Mr Joannou did not work for his father in Altona.
123. Therefore, I infer that either Mr Joannou signed on at Keilor Downs Police Station at about 11:55am on 2 February 2005 or he was not telling Ms Hearn the truth.

Brian Bottomley's murder

124. Telephone records confirm that Mr Joannou made or received only one phone call between 12:00pm and 12:30pm on 2 February 2005.
 - At 12:04pm, Mr Joannou unsuccessfully attempted to call Mr Bottomley.
125. At about 12:00pm on 2 February 2005, Ms Briffa says Mr Bottomley was on a couch in the lounge room at Unit 4, 149 St Albans Road in St Albans. Mr Birsoz was on the other couch asleep. Ms Briffa was talking to Mr Bottomley in the lounge room.
126. Ms Briffa did not hear Mr Bottomley's phone ring before there was a knock at the door. Ms Briffa confirmed that she saw Mr Joannou through the security screen. She had known Mr Joannou for a short time because he was a friend of Mr Bottomley. Therefore, she opened the security door. From that position, Ms Briffa could not see Mr Bottomley.
127. Ms Briffa told the Court that Mr Joannou walked quickly past her into the house. Ms Briffa heard Mr Joannou shout either:

"Ah you lagged me, you're a dog." or

"Ah you lagged me, you lagged me, you lagged me."

128. Ms Briffa says she then heard a bang and saw Mr Bottomley slumped on the couch.
129. Mr Birsoz told the Court that he was still asleep on the sofa in the lounge room and the shot woke him up.

130. Mr Birsoz and Ms Briffa both say they saw Mr Joannou standing over Mr Bottomley with a black handgun with a brown handle. This gun was not the chrome plated shotgun that Ms Briffa had seen at Mr Joannou's house. It seems more likely that the gun was a semi-automatic type handgun.

131. Mr Birsoz and Ms Briffa also say that Mr Bottomley was holding his neck and his eyes were not focussed. He said:

"Ambulance, ambulance".

132. When they tried to call an ambulance, Mr Joannou threatened Mr Birsoz and Ms Briffa with the gun. He told them:

"Put the fucking phones down."

133. Ms Briffa also told police that Mr Joannou said:

"He's dead."

134. Mr Bottomley died soon after.

135. This evidence of Mr Birsoz and Ms Briffa is consistent with Mr Joannou entering Ms Briffa's house soon after 12:04pm and shooting Mr Bottomley.

136. Mr Bottomley had died by 12:30pm on 2 February 2005.

137. In circumstances where Mr Bottomley was unarmed and had no warning to allow him to avoid the situation, I have formed the opinion that Mr Joannou murdered Mr Bottomley.

Dismembering of Brian Bottomley's body

138. Telephone records confirm that Mr Joannou made or received nine phone calls on phone 1 between 12:30pm and 3:20pm on 2 February 2005. These phone calls included:

- Three phone calls from Kristy Lee Hearn:
 - At 1:02pm Mr Joannou accepted a call from Kristy-Lee Hearn: 2 minutes 3 seconds.
 - At 2:05pm, Mr Joannou rang and spoke to Kristy-Lee Hearn: 3 minutes 17 seconds.

- At 2:10pm, Mr Joannou rang and spoke to Kristy-Lee Hearn: 1 minutes 36 seconds.
 - Three phone calls to and from Mark Tragear:
 - At 12:36pm, Mr Joannou rang and spoke to Mr Tragear: 3 seconds.
 - At 1:06pm Mr Joannou accepted a call from Mr Tragear: 1 minutes 23 seconds.
 - At 2:47pm, Mr Joannou rang and spoke to Mr Tragear: 1 minutes 12 seconds.
 - At 3:38pm, Mr Joannou rang and spoke to Mr Tragear: 17 seconds.
139. Ms Briffa told the Court she believed that Mr Joannou panicked when he realised that he had killed Mr Bottomley:
- “I don't think he was meaning to do it. I think he was coming in to like be tough or something, you know what I mean, because after he did it he panicked.”*
140. Mr Birsoz says that, after Mr Bottomley had died, Mr Joannou prepared and injected himself with a white powder preparation. During this procedure, Mr Joannou confirmed to Mr Birsoz that he killed Mr Bottomley because Mr Bottomley had ‘lagged’ Mr Joannou to the police.
141. Neither Ms Briffa nor Mr Birsoz report Mr Joannou making phone calls immediately after Mr Bottomley died.
142. However, telephone records show that, at 12:36pm, Mr Joannou rang and spoke to Mr Tragear for three seconds. This short time is consistent with him leaving a message.
143. At 1:02pm, Mr Joannou accepted a call from Kristy-Lee Hearn. They spoke for 2 minutes and 3 seconds. Ms Hearn did not report this phone call to police. Ms Hearn denies knowing anything about Mr Bottomley’s murder until she was at the Keilor Downs Police Station on 7 February 2005.
144. At 1:06pm Mr Joannou accepted a call from Mr Tragear. They spoke for 1 minutes 23 seconds. Mr Tragear denies knowing anything about Mr Bottomley’s murder until he saw it on the news on or about 9 February 2005.

145. After talking to Ms Hearn and Mr Tragear, Mr Joannou directed Ms Briffa and Mr Birsoz to go to his car, which was the red Toyota Celica CRO-832 parked behind Mr Bottomley's silver Mitsubishi Magna sedan DIB-107 in the rear driveway of Unit 4, 149 St Albans Road.
146. Mr Joannou told Ms Briffa and Mr Birsoz they were going for a little drive. He asked for the house keys and locked the doors as they left.
147. Ms Briffa sat in the back and Mr Birsoz sat in the front passenger seat of the red Toyota Celica CRO-832. Mr Joannou leaned across Mr Birsoz and put the gun he had used to shoot Mr Bottomley behind the glove box in front of his seat.
148. Mr Joannou drove Ms Briffa and Mr Birsoz to Bunnings in Sunshine. Mr Joannou and Ms Briffa went into the shop and bought an angle grinder and a large plastic tub. Bunnings records indicate that the angle grinder, and 60 litre storage container were paid for at 1:36pm on 2 February 2005.
149. Mr Birsoz stayed in the car. He explained to the Court that he did not leave the car when he had this opportunity to seek assistance because he was too afraid and traumatised and too concerned about Ms Briffa.
150. Mr Joannou then drove his car to Alfreida Street shopping strip. He and Ms Briffa bought red, white and blue chequered bags from a Chinese supermarket. Again, Mr Birsoz stayed in the car.
151. Mr Joannou, Ms Briffa and Mr Birsoz returned to Unit 4, 149 St Albans Road and Mr Joannou parked his red Toyota Celica CRO-832 in the rear driveway.
152. Mr Joannou tried to move Mr Bottomley's body on the couch mattress from the lounge room to the bathroom by himself. When he could not manage this, he told Mr Briffa and Mr Birsoz to help him. They all moved the mattress on to the floor.
153. As Mr Bottomley was being moved to the floor, a bullet casing fell on to the floor. Mr Joannou put it in his pocket.
154. Mr Joannou then tried to drag the mattress with Mr Bottomley to the bathroom by himself. He failed again and sought more help from Ms Briffa and Mr Birsoz. They helped him push the mattress to the bathroom door.

155. The mattress would not fit through the bathroom door so Mr Joannou pulled Mr Bottomley's body off the mattress and into the bathroom.
156. Mr Joannou tried to pull Mr Bottomley's upper body into the bath. He could not get Mr Bottomley's legs in so he told Ms Briffa and Mr Birsoz to help him again. They all put Mr Bottomley into the bath.
157. Mr Birsoz pulled the mattress out of the bathroom door and Mr Joannou shut the door. He told Ms Briffa and Mr Birsoz not to go anywhere while he was in the bathroom and took off his jacket, hat and shoes. He also asked Ms Briffa to turn up the sound on the CD player.
158. For about 10 to 15 minutes, Mr Joannou attempted to dismember Mr Bottomley using the angle grinder. He failed.
159. Mr Joannou left the bathroom and dressed himself, partly in his own clothes, partly in Mr Bottomley's clothes and partly in Mr Crutchley's clothes.
160. Mr Joannou then locked the door of Unit 4, 149 St Albans Road and drove Ms Briffa and Mr Birsoz in his red Toyota Celica CRO-832 back to Bunnings.
161. Ms Briffa and Mr Joannou entered the store and Ms Briffa purchased the cheapest circular saw she was shown. Bunnings records indicate that this circular saw was paid for at 2:02pm on 2 February 2005. Further, CCTV footage shows Mr Joannou and Ms Briffa leaving the store.
162. Mr Joannou, Ms Briffa and Mr Birsoz returned to Unit 4, 149 St Albans Road in Mr Joannou's red Toyota Celica CRO-832 with the circular saw and parked in the rear car park.
163. At about 2:00pm, Ms Hearn says that she rang Mr Joannou on her way home from work. He told Ms Hearn he would try to be home by 5pm. Ms Hearn rang him back to say she did not have a key to the flat and he told her he could not come home then so she drove to a friend's house.
164. These phone calls are consistent with phone records indicating that, at 2:02pm, Mr Joannou did not accept a call from Ms Hearn. However, Mr Joannou rang Ms Hearn at 2:05pm and spoke for 3 minutes 17 seconds. Then at 2:10pm, Mr Joannou responded to a further call from Ms Hearn. They spoke for 1 minute and 36 seconds.

165. Accordingly, it seems that Mr Joannou made these phone calls to Ms Hearn while or soon after he was driving back to Unit 4, 149 St Albans Road from Bunnings with Ms Briffa and Mr Birsoz.
166. Ms Briffa told the Court that she and Mr Joannou dismembered Mr Bottomley in the bathroom at Unit 4, 149 St Albans Road using the circular saw. Mr Joannou placed the body parts in the plastic bags held open by Ms Briffa. He then put the plastic bags in the shopping bags.
167. At 2:47pm on 2 February 2005, Mr Joannou contacted Mr Tragear again. They spoke for 1 minute and 13 seconds.
168. Independently of these events, at 2:50pm on 2 February 2005, Mr Eland and Mr Hayes returned in an unmarked police car to conduct surveillance on Unit 4, 149 St Albans Road in St Albans in relation to Mr Bottomley's driving while disqualified. They drove past Unit 4, 149 St Albans Road. They saw two men standing on the front veranda.
169. Mr Eland and Mr Hayes could not identify the two men they saw at Unit 4, 149 St Albans Road but they knew Mr Bottomley and Ms Briffa were involved with drugs and they wondered whether they were they drug users or drug dealers. Their suspicions about the two men were sufficiently aroused to activate static surveillance of the property. The weather was very wet so this limited their capacity to perform their task.
170. These two men on the front verandah of Unit 4, 149 St Albans Road at 2:50pm on 2 February 2005 have not been identified. However, it seems likely they were the neighbours who were asking for Mr Bottomley's car to be moved from outside their garage.
171. Mr Eland and Mr Hayes also saw three cars parked in the rear car park at 149 St Albans Road. One of these cars was Mr Bottomley's silver Mitsubishi Magna DIB-107. One was a red Laser hatch registration CNM-142. One was the red Toyota Celica CRO-832.
172. At 3:15pm, Mr Eland and Mr Hayes saw the red Laser hatch registration CNM-142 leave the rear car park at 149 St Albans Road. They followed it while it picked up a child from the St Albans East Primary School and returned to the rear car park of 4/149 St Albans Road in St Albans.

173. While Mr Eland and Mr Hayes were away following the red Laser hatch registration CNM-142, Mr Joannou carried two of the red, white and blue bags out to the garage.
174. Mr Joannou also told Mr Birsoz to back his red Toyota Celica CRO-832 into the garage. Mr Birsoz was shaking too much to perform this task so Mr Joannou drove his car into the garage. He put the two bags and his clothes in the back of his car.
175. When they returned a short time after 3:15pm, Mr Eland and Mr Hayes noted that the red Toyota Celica CRO-832 was moved from the rear car park and backed up into the open garage door of Unit 4, 149 St Albans Road.
176. They also noted that the red Toyota Celica CRO-832 was parked at an angle, the back hatch was fully open and someone was either loading something into or taking something out of the boot. The rear brake lights were on and another person appeared to be sitting in the drivers' seat.
177. Accordingly, I find that Mr Birsoz and Mr Joannou moved the red Toyota Celica CRO-832 into the garage soon after 3:15pm on 2 February 2005.
178. Mr Eland contacted Mr Ziebell with the information about his observations of the red Toyota Celica CRO-832. Mr Ziebell confirmed that the car was registered to Vicki Hearn and Mr Eland said he would follow the vehicle.
179. Mr Joannou sent Ms Briffa and Mr Birsoz inside to carry out two more bags each. They put them directly into the hatch area of Mr Joannou's car. Mr Joannou brought out a heavy sheet parcel and put it in the car. He and Ms Briffa then carried out the plastic bin. They then shut the boot.
180. Mr Joannou sent Mr Briffa to get his clothes. While she was away, Mr Birsoz saw and heard Mr Joannou ring someone on his own mobile phone. He heard Mr Joannou say he needed help and ask if he could come down and see the person he had called.
181. Mr Birsoz told the Court that Mr Joannou did not mention that he had killed someone in this telephone conversation. However, Mr Joannou did indicate he was in a bit of trouble and:

"it was definitely that person that he was going to try and get rid of the body with....

Whoever that person that was on the phone, he was trying to get him to help him...

he seemed like he trusted this person..

As far as I can remember I'm pretty sure that would be the bloke that would have helped him get rid of the body."

182. I am unable to identify this phone call that according to Mr Birsoz's memory, must have occurred sometime between 3:15 and 3:20pm on 2 February 2007.
183. However, if Mr Birsoz is mistaken about the sequence of events surrounding the phone call, it is not inconsistent with Mr Joannou's phone call to Mr Tragear at 2:47pm that lasted 1 minutes 12 seconds.
184. After Mr Joannou, Mr Birsoz and Ms Briffa had placed the bags and box containing Mr Bottomley's body in the boot of the red Toyota Celica CRO-832, Mr Joannou changed his clothes and put the soiled ones into the box for the circular saw. He placed this box on the back seat of the car.
185. Mr Birsoz told the Court there was nothing else in the car that would assist Mr Joannou to dispose of Mr Bottomley's body. In particular, there was no shovel or wire or weights.
186. At about 3:20pm, Mr Joannou left Unit 4, 149 St Albans Road in the red Toyota Celica CRO-832 after telling Ms Briffa and Mr Birsoz he was going to get rid of Mr Bottomley's body somewhere in the bush.
187. Mr Joannou also threatened to kill Mr Birsoz and Ms Briffa if they told anyone what had happened or went to the police. He also told them to stay at the house and not to go anywhere.
188. After Mr Joannou left, Ms Briffa noticed a tyre and a mag wheel in the garage that had not been there before. Mr Joannou seems to have taken these items out of his car to make room for Mr Bottomley's body.
189. Ms Briffa and Mr Birsoz stayed at Unit 4, 149 St Albans Road and Ms Briffa cleaned the bathroom and placed the stained mattress upside down on the bed. They both said they were afraid for their lives and helped Mr Joannou so he would not kill them.

190. Subsequent forensic evidence of the scene confirmed that blood and body fluids found in the red Toyota Celica CRO-832 and in Ms Briffa's house and on the mattress were consistent with Mr Bottomley's DNA. Mr Bottomley's back pack was also found at the scene.

The pursuit

191. Telephone records confirm that Mr Joannou made or received five phone calls on phone 1 between 3:20pm and 4:00pm on 2 February 2005. These phone calls included:

- Two phone calls to Kristy Lee Hearn:
 - At 3:32pm, Mr Joannou rang and spoke on phone 1 to Kristy Lee Hearn: 41seconds
 - At 3:51pm, Mr Joannou rang and spoke on phone 1 to Kristy Lee Hearn: 58 seconds.
- Three phone calls to Mark Tragear:
 - At 3:27pm, Mr Joannou rang and spoke on phone 1 to Mr Tragear: 17 seconds
 - At 3:51pm, Mr Joannou rang and spoke on phone 1 to Mr Tragear: 20 seconds.
 - At 3:59pm, Mr Joannou rang and spoke on phone 1 to Mr Tragear: 15 seconds.

192. At 3:20pm, Mr Eland and Mr Hayes saw the red Toyota Celica CRO-832 leave the driveway at the back of 149 St Albans Road. There was one person in the car. They followed in their unmarked police car on to the Western Ring Road and then the Westgate Freeway.

193. Consistent with the telephone records, Ms Hearn told the Court that at about 3:30pm, Mr Joannou rang her and told her to report that the red Toyota Celica CRO-832 had been stolen from the front of the factory in Altona. Ms Hearn did not believe him and did not make the report.

194. After 15 minutes, Mr Joannou rang Ms Hearn again and told her he was being held hostage. He said he had been captured by Asians in Altona and was in the boot of a car.

195. Ms Hearn told the Court that Mr Joannou rang her four or five more times with varying stories about being in the boot of a car and held hostage. He wanted Ms Hearn to report the car stolen. When she refused, Mr Joannou said she would never see him again and hung up.
196. The phone records indicate that the last of these calls to Ms Hearn occurred at 3:51pm on 2 February 2005.
197. At 3:55pm, the red Toyota Celica CRO-832 exited the Westgate Freeway at Millers Road in Altona North. Mr Eland asked Mr Ziebell for assistance following the red Toyota Celica CRO-832 because of its movements, the traffic and the weather.
198. At the intersection of Millers Road and Cyclamen Avenue, Mr Eland and Mr Hayes activated a formal pursuit of the red Toyota Celica CRO-832. It was raining heavily and the red Toyota Celica CRO-832 was weaving through traffic to avoid them.
199. As the red Toyota Celica CRO-832 commenced a left turn into Newcastle Street, Mr Eland recognised the driver as Wayne Joannou. He called the pursuit off because he had identified the driver and the risks of continuing did not justify continuing to chase him.
200. A police divisional van also attempted to intercept Mr Joannou's red Toyota Celica CRO-832 and commenced a second pursuit as it travelled north along Melbourne Road before they lost it turning right into Junction Street from Schutt Street.
201. At 3:55pm, Mr Chetcuti, Mr Kelso and Mr Ziebell headed towards Altona North to assist in the chase. However, they were unable to find Mr Joannou's red Toyota Celica CRO-832 and, at about 4:15pm, the search was called off.

After the pursuit

202. Telephone records confirm that Mr Joannou made or received six phone calls on phone 1 between 4:15pm and 7:00pm on 2 February 2005. These phone calls included:
 - Three phone calls from Kristy-Lee Hearn:
 - At 4:33pm Mr Joannou accepted a call on phone 1 from Kristy Lee-Hearn: 20 seconds.
 - At 4:44pm Mr Joannou accepted a call on phone 1 from Kristy Lee-Hearn: 1 minute 9 seconds.

- At 5:14pm, Mr Joannou accepted a call on phone 1 from Kristy Lee-Hearn: 1 minute 53 seconds he was in Melton Central-1.
- Two phone calls from Duncan Eland:
 - At 6:58pm, Duncan Eland attempted to call Mr Joannou on phone 1. He was unsuccessful but Mr Joannou contacted SMS caller details.
 - At 6:59pm, Duncan Eland attempted to call Mr Joannou on phone 1. He was unsuccessful.
 - At 7:13pm, Duncan Eland attempted to call Mr Joannou on phone 1. He was unsuccessful but Mr Joannou contacted SMS caller details.
- Mr Tragear also contacted Ms Hearn three times:
 - At 4:53pm on 2 February 2005, Mr Tragear contacted Kristy Lee Hearn: 18 seconds.
 - At 4:57pm on 2 February 2005, Mr Tragear re-contacted Kristy Lee Hearn: 2 minutes and 20 seconds.
 - At 5:00pm on 2 February 2005, Mr Tragear contacted Kristy Lee Hearn again: 2 minutes and 56 seconds.
- At 4:41pm, Mr Tragear also contacted Mark Joannou: 2 minutes and 15 seconds.
- Records of phone calls to or from a 'Paul Taylor' between 4:15pm and 7:00on on 2 February 2005 included:
 - At 4:53pm, Mark Tragear contacted 'Paul Taylor': 6 seconds.
 - At 4:55pm, Mark Tragear contacted 'Paul Taylor': 11 seconds.
 - At 4:57pm, Mark Tragear contacted 'Paul Taylor': 22 seconds.
 - At 5:25pm, 'Paul Taylor' contacted Mark Tragear: 6 seconds.
 - At 5:32pm, 'Paul Taylor' contacted Hussan Mustafa: 1 minute and 30 seconds.

203. I note that 'Paul Taylor' knows both Mark Tragear and Hussan Mustafa. I also note that the phone calls between Mark Tragear and Paul Taylor occurred at the time that Mr Joannou remained in Melbourne after the police pursuit was called off. However, I am unable to say

whether or to what degree 'Paul Taylor' was involved in the events surrounding Mr Bottomley's murder.

204. Ms Hearn also said she spoke to Mr Tragear. This is consistent with his phone calls to her at 4:53pm, 4:57pm and 5:00pm.
205. Mr Tragear told Ms Hearn that he saw Mr Joannou an hour ago and he did not think he was a hostage. Mr Tragear also told Ms Hearn that he had told Mr Joannou to go home and get some sleep because he looked tired. Ms Hearn interpreted this comment to indicate Mr Joannou was affected by drugs. Mr Tragear did not mention the previous phone calls. No location is recorded for transmission of these calls from Mr Tragear.
206. Mr Joannou made no outgoing calls on phone 1 in this time period.
207. At 4:20pm, Mr Ziebell arranged for a Melton police member to go to 14 Campaspe Crescent in Melton South where the red Toyota Celica CRO-832 was registered. Police spoke to Ms Hearn's mother who said the car was being used by Ms Hearn's boyfriend, "Wayne". From this information, Mr Ziebell assumed that this was Wayne Joannou.
208. At between 5:00pm and 6:00pm, Ms Hearn's mother rang Ms Hearn to ask for her address. She would not say why she wanted it. Ms Hearn went to her mother's work place.
209. Ms Hearn's mother told Ms Hearn that the police had been to her work place and told her that Mr Joannou had been in a pursuit in the red Toyota Celica CRO-832. Ms Hearn went straight to the Melton Police Station and told them about Mr Joannou's alleged kidnap and stolen car.
210. At about 6:55pm, Mr Birsoz confirmed that someone knocked on the door persistently saying they were the police and asking for Mr Bottomley. He and Ms Briffa were scared and did not open the door. They do not know who it was trying to speak to Mr Bottomley.
211. Consistent with Mr Birsoz's evidence, at 6:55pm on 2 February 2005, Mr Eland and Mr Ziebell returned to Unit 4, 149 St Albans Road in St Albans and knocked on the door. Mr Ziebell saw someone inside but no one answered the door.
212. The garage door was ajar and there was a Mag wheel propped against the wall of the garage. Mr Eland noted that this wheel had not been in the garage on the day before.

213. Mr Eland and Mr Ziebell also saw Mr Bottomley's silver Mitsubishi Magna sedan DIB-107 was still parked in the rear car park with extensive damage to the front.
214. At 6:58pm and 6:59pm, Mr Eland attempted to call Mr Joannou on phone 1. Mr Joannou did not answer his calls.

Disposal of the body

215. Telephone records confirm that Mr Joannou made or received 16 phone calls on phone 1 between 7:00pm and 12:00pm on 2 February 2005. These phone calls included:
- Two phone calls to or from Kristy Lee Hearn:
 - At 8:42pm, Mr Joannou rang and spoke to Kristy Lee Hearn: 4 minutes 39 seconds. He was in Elphinstone² and then MtAlexander². Elphinstone is off the west side of the M79 Calder Freeway.
 - At 9:46pm, Mr Joannou rang and spoke to Kristy Lee Hearn: 3 minutes. He was in White Hills and Eaglehawk. White Hills is on the Midland Highway north of Bendigo. Eaglehawk is on the Loddon Valley highway north west of Bendigo.
 - A phone call to Bayram Birsoz:
 - At 8:41pm, Mr Joannou rang and spoke to Bayram Birsoz: 1 minute 11 seconds. He was in Ardeer North-1 in the western suburbs of Melbourne.
 - A phone call from his brother Mark Joannou:
 - At 9:33pm, Mr Joannou accepted a phone call from Mark Joannou: 14 seconds.
 - Further, Mr Birsoz made or received seven phone calls between 7:00pm and 12:00pm on 2 February 2005. Depending on when Mr Birsoz gave Ms Briffa his phone, some of these calls were probably made or received by Ms Briffa. They included:
 - At 8:02pm, Mr Birsoz accepted a call from Hussan Mustafa: 48 seconds.

- At 8:18pm, Mr Birsoz accepted a call from Hussan Mustafa: 21seconds.
 - At 8:41pm, Mr Birsoz accepted a call from Wayne Joannou on phone 1: 1 minute and 11 seconds. He was in Ardeer North-1.
 - At 9:32pm, Mr Birsoz accepted a call from an unidentified person using the public phone identified as 'Post Office' at 499 Napier Street in White Hills: 1 minute and 21 seconds.
 - At 10:53pm, Mr Birsoz accepted a call from Hassan Mustafa: 5 minutes and 33 seconds. This was probably Mr Birsoz calling Ms Briffa.
 - At 11:35pm, Hussan Mustafa attempted to ring Mr Birsoz. This was probably Mr Birsoz calling Ms Briffa.
 - At 11:37pm, Hussan Mustafa rang Mr Birsoz: 1 minute and 41 seconds. This was probably Mr Birsoz calling Ms Briffa.
- Kristy Lee Hearn made or received 11 phone calls on between 7:00pm and 12:00pm on 2 February 2005. These calls included:
 - At 8:14pm, Kristy Lee Hearn called Mr Joannou: 11 seconds.
 - At 8:43pm, Kristy Lee Hearn accepted a call from Mr Joannou: 4 minute and 39 seconds.
 - At 9:37pm, Kristy Lee Hearn did not accept a call from an unidentified person using the public phone identified as 'Post Office' at 499 Napier Street in White Hills.
 - At 9:37pm, Kristy Lee Hearn accepted a call from Mark Joannou. They spoke for 1 minute and 18 seconds.
 - At 9:41pm, Kristy Lee Hearn accepted a call from Mark Joannou. They spoke for 5 minutes and 21 seconds.
 - At 9:42pm, Kristy Lee Hearn did not accept a call from Mr Joannou. He was in White Hills.
 - At 9:46pm, Kristy Lee Hearn accepted a call from Mr Joannou. They spoke for 9 seconds.

- At 9:47pm, Kristy Lee Hearn accepted a call from Mr Joannou. They spoke for 7 seconds. He was in Whitehills-1 and Eaglehawk.

216. At 8:18pm on 2 February 2005, Hassan Mustafa rang Mr Birsoz. They arranged to meet at Ginifer Station. Ms Briffa and Mr Birsoz left the flat and met Mr Mustafa.
217. Mr Mustafa says Mr Birsoz told him what had happened in Turkish while they were driving around.
218. In particular, Mr Mustafa told police that Mr Birsoz said he was at Ms Briffa's house when he was woken up with a bang. He saw Mr Bottomly lying on the ground holding his neck. Mr Bottomly said "*Ambulance, ambulance*" but Mr Joannou would not let them contact ambulance.
219. Mr Mustafa also said that Mr Birsoz told him that Mr Joannou took him and Ms Briffa at gun point to Bunnings to buy a saw. They then went back to Ms Briffa's house and Mr Birsoz was made to help cut up the body and carry it out to Mr Joannou's car.
220. Ms Briffa says Mr Birsoz spoke to Mr Joannou when they were driving around with Mr Mustafa who had picked them up from Ginifer Railway Station. The phone records suggest that this phone call occurred at 8:41pm or 9:32pm.
221. Mr Mustafa then took Ms Briffa back to Unit 4, 149 St Albans Road because she had nowhere else to go. Mr Birsoz told the Court that Ms Briffa remained extremely emotional:

"I remember she wouldn't stop crying. She was real upset and she, I believe that she wasn't in the right state of mind to make decisions herself."
222. Mr Birsoz says he gave Ms Briffa his phone so they could keep in contact.
223. At 10:53pm, Hassan Mustafa called Mr Birsoz's phone. The conversation lasted spoke for 5 minutes and 33 seconds. I have formed the view that this was probably Mr Birsoz calling Ms Briffa. Therefore, it was probably the first time Ms Briffa used Mr Birsoz's phone.
224. Accordingly, Ms Briffa was likely to have answered all calls to Mr Birsoz's phone after about 10:53pm on 2 February 2005.

225. After this, Mr Mustafa also dropped Mr Birsoz off at the house of his friend, 'Belinda', but he spent some time with him over the weekend.
226. While Mr Birsoz and Ms Briffa were meeting and driving around with Mr Mustafa, telephone records show that Mr Joannou left Melbourne after 7:50pm to drive towards Bendigo.
227. Further, at 7:35pm on 2 February 2005, Mr Eland and Mr Ziebell spoke to Ms Hearn at Melton Police Station.
228. Ms Hearn reported that Mr Joannou told her he had been abducted and asked her to report his red Toyota Celica CRO-832 as a stolen vehicle.
229. At 8.42pm and 8.44pm, Mr Joannou's calls to Ms Hearn were intercepted by Mr Eland. Mr Joannou was in Elphinstone and Mount Alexander, south of Bendigo.
230. At 9.42pm on 2 February 2005, Mr Joannou was in White Hills and Eaglehawk north of Bendigo.
231. Further, at 9:32pm, Mr Birsoz phone accepted a call from an unidentified person using the public phone identified as 'Post Office' at 499 Napier Street in White Hills. They spoke for 1 minute and 21 seconds.
232. Then, at 9:37pm, Ms Hearn accepted a call from Mark Joannou. This conversation lasted 5 minutes and 33 seconds.
233. Therefore, at 9:37pm, Kristy Lee Hearn did not accept a call from an unidentified person using the public phone identified as 'Post Office' at 499 Napier Street in White Hills.
234. At 9:42pm and 9:44pm, Ms Hearn did not accept phone calls from phone 1. At 9:49pm, a call from Mr Joannou lasted 7 seconds. This is consistent with him leaving a message on Ms Hearn's phone. Mr Joannou was in Whitehills and Eaglehawk when he made these calls.
235. Mr Joannou did not make or accept calls on phone 1 after 9:49pm on 2 February 2005.
236. In circumstances where Mr Joannou was known to be in the area and to know both Mr Birsoz and Ms Hearn, I infer that either he or an associate made these phone calls.

237. Therefore, it seems more likely than not that, at 9:32pm and 9:37pm respectively, Mr Joannou called Mr Birsoz phone and Ms Hearn using the public phone identified as 'Post Office' at 499 Napier Street in White Hills on 2 February 2005.

3rd February 2005

238. Telephone records confirm that on 3 February 2005, Mr Joannou made or received 55 calls including 12 calls on phone 1 and 43 calls on phone 2.

239. Mr Joannou did not have his phone 2 with him after noon on 2 February 2005. It is unclear when he lost possession of this phone. Therefore I have excluded calls to and from that number from this analysis.

240. The phone calls made or received on phone 1 on 3 February 2005 included:

- Two phone calls to Kristy Lee Hearn:
 - At 1:27pm, Mr Joannou rang and spoke to Kristy Lee Hearn: 3 minutes 27 seconds. He was in Big Hill OMNI and Mt Alexander2.
 - At 1:37pm, Mr Joannou rang and spoke to Kristy Lee Hearn: 4 minutes 8 seconds. He was in Big Hill OMNI and Mt Alexander2.
- Three phone calls to Ms Briffa on Bayram Birsoz's phone:
 - At 1:22pm, Mr Joannou rang and spoke to Ms Briffa on Mr Birsoz's phone: 2 minutes 13 seconds. He was in Braybrook West and Bendigo 2.
 - At 1:42pm, Mr Joannou rang and spoke to Ms Briffa on Mr Birsoz's phone: 1 minute 44 seconds. He was in MtAlexander2 and Sydenham
 - At 3:18pm, Mr Joannou rang and spoke to Ms Briffa on Mr Birsoz's phone: 2 minutes. He was in Brimbank and Keilor Downs
- One phone call from Ms Briffa's land line in the name of MR Briffa:
 - At 10:43pm, Mr Joannou accepted a phone call from Ms Briffa's land line: 59 seconds.
- At 10:45pm, Ms Briffa's land line also contacted Mr Birsoz's phone. They spoke for 18 minutes and 20 seconds.
- Five phone calls to and from Luke Joannou:

- At 6:54pm, Mr Joannou rang and spoke to Luke Joannou: 49 seconds.
- At 6:56pm, Mr Joannou accepted a phone call from Luke Joannou: 1 minute 7 seconds.
- At 7:24pm, Mr Joannou accepted a phone call from Luke Joannou: 38 seconds.
- At 7:33pm, Mr Joannou accepted a phone call from Luke Joannou: 48 seconds.
- One phone call from Mark Joannou:
 - At 9:14pm, Mr Joannou accepted a phone call on from Mark Joannou: 1 minute 20 seconds.
- At 12:21pm on 3 February 2005, Kristy Lee Hearn accepted a call from Mr Joannou at a Telstra payphone 035426400. She spoke for 3 minutes and 59 seconds. Police have identified this phone box as at Elmore, north of Bendigo.
- At 12:26pm, Mark Joannou accepted a call from a Telstra payphone 035426400. He spoke for 2 minutes and 12 seconds. This Telstra Payphone was used by Mr Joannou to call Ms Hearn at 12:21pm on 3 February 2005.
- Further, at 9:24am, Mark Joannou rang and spoke to Kristy Lee Hearn: 3 minutes 19 seconds.
- At 11:59pm, Mr Hussan rang Mr Birsoz's phone. They spoke for 1 minute and 33 seconds. This was probably Mr Birsoz speaking to Ms Briffa.
- Ms Amundsen also spoke to Mr Johnstone five times:
 - At 1:11am, Ms Amundsen rang Mr Johnstone. She was in St Albans South
 - At 9:42am, Mr Johnstone rang Ms Amundsen.
 - At 10:42am, Ms Amundsen rang Mr Johnstone. She was in Brunswick West.
 - At 3:53pm, Ms Amundsen rang Mr Johnstone. She was in Brunswick West.
 - At 4:43pm, Ms Amundsen rang Mr Johnstone. She was in Brunswick West.

241. Mr Johnstone stated that, early on the morning of 3 February 2005, he arrived in Melbourne and went to stay at Ms Amundsen's house at Flat 3, 70 Carroll Street, Deer Park.

242. This is consistent with his phone calls at 1:11am, 9:42am and 10:42am on 3 February 2005.
243. On the morning of 3 February 2005, Ms Briffa told the Court she attended the Sunshine Court to support Mr Crutchley in his bail application. Mr Crutchley was granted bail and they returned to Unit 4, 149 St Albans Road in St Albans.
244. Ms Briffa says that she told Mr Crutchley all that had occurred. Mr Crutchley did not contact police. Therefore, after this time, Ms Briffa had access to Mr Crutchley's phone as well as Mr Birsoz's phone.
245. Further, at 11:59am, Mr Mustafa rang Mr Birsoz's phone. They spoke for 1 minute and 33 seconds. I assume this was Mr Birsoz speaking to Ms Briffa. Therefore, she still had his phone.
246. At about 6:30pm, Ms Briffa also rang her father, George Briffa, who was holidaying in Queensland and told him what had happened. This phone call is not obvious in the phone records of Mr Birsoz's phone, Mr Crutchley's phone or Ms Briffa's landline.
247. George Briffa drove back to Melbourne the next day. Mr Briffa did not contact police.
248. At 12:21pm, Mr Joannou rang Ms Hearn from a public phone box in Elmore, north of Bendigo. He also told Ms Hearn:
- "You don't know what I've been through. I had to dig my own grave last night, Kristy."*
249. Mr Joannou also told Ms Hearn he was still hostage. However, Ms Hearn told him the police had told her that was not true.
250. At 12:26pm, Mr Joannou again used the public telephone in Railway Parade in Elmore to call his brother, Mark Joannou. Mark Joannou does not remember this phone call.
251. At 1:22pm, Mr Joannou resumed using his phone in attempts to contact Ms Hearn and Mr Birsoz/Ms Briffa. His phone calls indicate he was returning to Melbourne.
252. Further, at 1:42pm, Mr Joannou rang Mr Birsoz's phone and spoke for 1 minute 44 seconds. Mr Joannou's phone was still using the Mount Alexander mobile phone repeater. He could not have got a phone from Ms Briffa or Mr Skadic. Therefore, I presume Mr Joannou was talking to Ms Briffa.

253. By 3:18pm when he rang Ms Briffa on Mr Birsoz's phone again, Mr Joannou was in the northern suburbs of Melbourne, in Brimbank and Keilor Downs.
254. After he returned to Melbourne, phone records indicate that he spoke to Ms Briffa on Mr Birsoz's phone, Luke Joannou and Mark Joannou using phone 1.
255. Ms Amundsen confirmed that Mr Joannou arrived at her house at Unit 3/70 Carroll Street in Deer Park in the red Toyota Celica CRO-832 on 3 February 2005. The car was wet and muddy inside and out.
256. Further, Ms Amundsen says there were at least two other people in the car. She says one of these people was Ms Briffa. She identified her because of her red hair.
257. Ms Amundsen also told the Court that Mr Joannou went into the house with her. The others stayed outside. After cleaning up, Mr Joannou and the other people left in Ms Amundsen's silver Mercedes Benz vehicle NXN-576. Mr Joannou's red Toyota Celica CRO-832 remained in the driveway at Ms Amundsen's house.
258. In an attempt to ascertain the time that Mr Joannou arrived Unit 3/70 Carroll Street in Deer Park, I have again relied on phone records to note that:
- At 4:34pm, Ms Amundsen was still in Brunswick West;
 - At 5:12pm, Ms Amundsen was close to home in Braybrook.
259. Therefore, in order for Ms Amundsen to be home, Mr Joannou must have arrived at Unit 3/70 Carroll Street in Deer Park after 5:12pm on 3 February 2005.
260. In his statement, Mr Johnstone says that he took Ms Amundsen out to dinner on the night of 3 February 2005. They got to Tolarnos in St Kilda at about 6:30pm.
261. Therefore, Mr Joannou must have left Ms Amundsen's house between by about 6:00pm on 3 February 2005. Further, Mr Johnstone must have been at Ms Amundsen's house at this time. I find it difficult to understand how he was not aware of the Mr Joannou's arrival in the circumstances described by Ms Amundsen.
262. It was not impossible for Mr Joannou to pick up Ms Briffa after he returned to Melbourne and before he went to his mother's house.

263. However, even if Ms Briffa was in Mr Joannou's car when he visited Ms Amundsen at Unit 3/70 Carroll Street in Deer Park between about 5:15pm and 6:00pm on 3 February 2005, I do not believe it is likely that Ms Briffa went with Mr Joannou to dispose of Mr Bottomley's body because Ms Briffa was with Mr Birsoz and Mr Mustafa after Mr Joannou had left Melbourne to drive north on 2 February 2005.
264. At 10:43pm, Mr Joannou accepted a phone call from Ms Briffa's land line. They spoke for 59 seconds.
265. Then at 10:45pm, Ms Briffa used her home phone to contact Mr Birsoz's phone. They spoke for 18 minutes and 20 seconds.
266. This interaction of phones can be explained by Mr Skadric's evidence that he met Ms Briffa and Mr Critchley when he and Mr Joannou were driving on the street near Albion Station. Ms Briffa gave Mr Birsoz's phone to Mr Skadric and asked him to give it to Mr Birsoz. He was not sure when this occurred. However, it must have been before 10:45pm on 3 February 2005.
267. Accordingly, it seems that Ms Briffa was using Mr Birsoz's phone to talk to Mr Skadric at 10:45pm on 3 February 2005.
268. Consistent with this transfer of Mr Birsoz's phone from Ms Briffa to Mr Skadric, Mr Mustafa says that he received a phone call on Mr Birsoz's phone on 3 February 2005. Mr Skadric asked to speak to Mr Birsoz. In Court, Mr Skadric denied knowing Mr Mustafa.
269. Further, Mr Birsoz explained that he had previously contacted Mr Skadric using Mr Mustafa's phone so he believed that is how Mr Skadric obtained Mr Mustafa's phone number and knew of their association.
270. However, Mr Skadric told the Court Mr Joannou told him to try and get Mr Birsoz on the phone. He was pretty sure it was Mr Birsoz's phone they were using to ring Mr Mustafa.
271. Mr Skadric also told the Court that Mr Joannou was with him when they had a conversation about the phone. He told Mr Birsoz:

"How you going mate, what's happening, hey bro, Wayne wants to talk to ya."

272. Mr Skadric says he then handed Mr Birsoz's phone to Mr Joannou. He says that he did not hear any of the conversation between Mr Joannou and Mr Birsoz.

273. Mr Birsoz accepted the call from Mr Skadric but, when he answered, Mr Joannou spoke to him. Mr Birsoz told the Court:

"Gordon did actually, Gordon rang me and Wayne took the phone off Gordon".

274. Mr Joannou told Mr Birsoz that he had his phone and arranged to meet him. However, Mr Birsoz did not keep the appointment.

275. Mr Mustafa saw Mr Birsoz take the phone call from Mr Skadric. He said Mr Birsoz seemed very scared after this phone call.

276. Mr Birsoz, Mr Skadric and Mr Mustafa are consistent in their evidence that this particularly disturbing phone conversation occurred between Mr Joannou and Mr Birsoz. Mr Birsoz and Mr Mustafa are also consistent in the way they described the circumstances of the disturbing phone call.

277. Therefore, I have no doubt that Mr Joannou spoke to Mr Birsoz in the presence of Mr Mustafa and Mr Skadric in a manner that visibly disturbed Mr Birsoz.

278. However, although Mr Mustafa was unsuccessful in trying to call Mr Birsoz's phone at 4:23pm, there is no record of a phone call from Mr Birsoz's phone to Mr Mustafa on 3 February 2005.

279. After this Mr Joannou's particularly disturbing call to Mr Birsoz, Mr Mustafa gave Mr Birsoz some money and took him to a motel in Fawkner. Mr Birsoz stayed there two nights and then went to stay with his sister.

4th February 2005

280. Mr Joannou did not have his phone 2 with him after noon on 2 February 2005. It is unclear when he lost possession of this phone. Therefore I have excluded calls to and from that number from this analysis.

281. Telephone records confirm that on 4 February 2005, Mr Joannou made or received seven calls on phone 1. These phone calls included:

- Two phone calls from Kristy-Lee Hearn:
 - At 10:25pm, Kristy-Lee Hearn rang and spoke to Mr Joannou: 4 minutes 27 seconds.
 - At 10:49pm, Kristy-Lee Hearn rang and spoke to Mr Joannou: 4 minutes 27 seconds.
- One phone call from Ngaire Amundsen:
 - At 11:32pm, Mr Joannou accepted a phone call from Ngaire Amundsen: 55 seconds.
- One phone call from Luke Joannou:
 - At 10:04am, Mr Joannou accepted a phone call from Luke Joannou; 24 seconds
- Mr Skadric made a number of phone calls on 4 February 2005 including:
 - At 1:12 pm, Mr Skadric rang Aiden Crutchley: 2 minutes and 9 seconds.
 - At 2:32pm, Mr Skadric rang Mark Joannou: 18 seconds.
 - At 8:45pm, Mr Skadric called Ms Briffa: 3 seconds.
 - At 8:52pm, Mr Skadric attempted to call Mr Bottomley.
 - At 10:21pm, Mr Skadric called Ms Hearn: 13 seconds.
 - At 10:31pm, Mr Skadric called Mark Tragear: 7 seconds.
- At 11:35am, Mark Joannou rang Kristy-Lee Hearn: 28 seconds.
- At 4:14pm, Ms Amundsen rang Mr Johnstone.

282. On 4 February 2005, Mr Johnstone stated that he drove Ms Amundsen to work and picked her up after 4pm. This is consistent with Mr Joannou using Ms Amundsen's silver Mercedes Benz vehicle NXN-576 after 3 February 2005 and with Ms Asmundsen's phone call to Mr Johnstone at 4:14pm.

283. Further, on 4 February 2005, Mr Bottomley's silver Mitsubishi Magna sedan DIB-107 disappeared from behind Ms Briffa's house in St Albans. Ms Briffa contacted Mr Joannou and asked him where Mr Bottomley's car was. He said he had taken care of it.

284. Police found later found Mr Bottomley's silver Mitsubishi Magna sedan DIB-107 at Wayne Fletcher's house at Unit 2, 11 El Golea Mews in Keilor Downs. Mr Fletcher is known to Mr Skadric.
285. Ms Hearn remembers going to Mark Joannou's house at about 11:00am on 4 February 2005, and talking to Mark Joannou and his girlfriend. While she was there, Mr Joannou rang and then arrived at the house with Mr Skadric.
286. There is no phone record showing that either Mr Skadric or Mr Joannou rang Mark Joannou on the morning of 4 February 2005. However:
- At 11:35am, Mark Joannou rang Kristy-Lee Hearn. They spoke for 28 seconds; and
 - At 2:32pm, Mr Skadric rang Mark Joannou. They spoke for 18 seconds.
287. From these phone calls, I infer that Ms Hearn was mistaken about the times that events occurred on 4 February 2005. Further, it seems that Ms Hearn arrived at Mark Joannou's house sometime after 11:35am. Mr Skadric and Mr Joannou arrived at Mark Joannou's house soon after 2:32pm on 4 February 2005.
288. Ms Hearn saw Mr Joannou briefly and then he went out into the backyard with Mark Joannou and Gordon Skadric to talk. Ms Hearn remained inside.
289. Mr Skadric confirmed he was in the garden with Mr Joannou and Mark Joannou. However, he denied that he was involved in the conversation between Mr Joannou and Mark Joannou. He told the Court:
- "They're porky pies because I sat on my own, while they were out, you know, like in another part of the yard or whatever, I sat on my own."*
290. Then, at 6:22pm on 4 February 2005, Constable Darren Hulls was directed to attend outside 555 Melton Highway where a man had blood on his face and was refusing ambulance transport. He recognised the patient as Mr Joannou.
291. Mr Joannou was dishevelled and disoriented. He had a cut over his eyebrow, a hole in his pants with a graze on one leg. He said the leg injury had occurred when he had been shot at when running away. Mr Joannou said he had lost his phone and the flat keys and did not know where he had left his car. Mr Hulls described his demeanour as quite unusual.

292. Mr Joannou said he was going to Ms Hearn's house at Unit 19, 555 Melton Highway. However, he said he had left the keys to the house in his car and he had no idea where his car was.
293. Mr Joannou also said he had lost his phone. Telephone records show no calls to or from Mr Joannou's phone 1 between 4:57pm and 9:21pm.
294. Mr Joannou had been back in Melbourne for over 24 hours when this incident occurred. Further, he had been recently seen by Ms Hearn, Mark Joannou and Mr Skadric without particular comment on his appearance.
295. Therefore, I am unable to explain how Mr Joannou got from Mark Joannou's house to outside Ms Hearn's house on 4 February 2005. I am also unable to explain his demeanour at 6:22pm on 4 February 2005 other than that it was a deliberate attempt to verify his story that he had been kidnapped and threatened.
296. At about 7:20pm, Mr Hulls took Mr Joannou to 837 Ballarat Road in Deer Park which is where Luke Joannou lived.
297. At 10:19pm, Ms Hearn sent an SMS message to Mr Joannou:
- "If ur still alive and u have u phone, I wanna let ya know I will always love u and have a nice life. Its obvious u neva loved me or u would've let me know ur ok."*
298. Ms Hearn told the Court that Mr Joannou rang her back.
299. However, phone records show that, at 10:21pm Mr Skadric rang and spoke to Ms Hearn. Then, at 10:25pm, Ms Hearn rang and spoke to Mr Joannou. Mr Joannou rang back. He had found his phone and he was probably with Mr Skadric.
300. Mr Joannou told Ms Hearn he had been to Keilor Downs Police Station and told them what had happened. Ms Hearn believed him. Other than speaking to Mr Hulls, there is no evidence that Mr Joannou spoke to police at Keilor Downs Police Station on 4 February 2005.
301. Mr Joannou and Ms Hearn spent the night at her flat. He arrived in his step-mother's silver Mercedes Benz car NXN-576. He would not tell Ms Hearn where the red Celica was.

302. Ms Hearn also says that Mr Joannou was very muddy and his clothes smelled of dirt. He showed Ms Hearn a mark on his leg and told her that was where he had been shot. It looked more like a cigarette burn.
303. Mr Joannou and Ms Hearn stayed together at Ms Hearn's flat until 7 February 2005. However, she was working on all those days.
304. Ms Hearn told the Court:

"He was really distant and paranoid and not telling me things but saying "I wish I could..."

It's like he thought something was going to happen to him. He was scared, I think. Like he was nervous. When we went in the car he would be like looking to see if someone was following him. In the house at night he - it was like he couldn't really sleep and he kept looking out because my bedroom was the front - the front window and he kept looking out the front window. He said to me that he wished he could tell me something that - and he couldn't and he said that he wished that he could tell me and then erase my memory."

305. Further, Ms Briffa has no memory of what happened on 4 February 2005. However, that day, she lost her bag with her mobile phone and her money. She does not know whether it was stolen.

5th February 2005

306. There are no phone records available for 5 February 2005.
307. On 5 February 2005, Ms Amundsen used Mr Johnstone's purple Mercedes Benz PXU 529 to go to work. This is consistent with Mr Joannou using Ms Amundsen's silver Mercedes Benz vehicle NXN-576 after 3 February 2005.
308. Ms Briffa told the Court that, on the morning of 5 February 2005, Mr Joannou returned to Unit 4, 149 St Albans Road in his red Toyota Celica CRO-832 and told her to get in.
309. Ms Briffa noticed that Mr Joannou's red Toyota Celica CRO-832 was still wet and muddy:

"It was just muddy. Like heaps of mud.... Everywhere. All over. The whole car was muddy.....Everywhere, the whole car.... Just like - you know when you get mud on your feet and you go like in the car, yeah, it was like that.... Like everywhere, you know what I mean. You know like I remember especially his side was very muddy, do you know what I mean but I don't remember too much - like if there was like mud - I can't remember too much if there was mud on the other side. I don't think there was cos it was mostly like on the car on the outside and like - you know when you open the door and you've got like your carpets in the front and the door, you know, that bit of the door."

310. Although photographs show the passenger door Mr Joannou's red Toyota Celica CRO-832 had mud all over it and the passenger seat had mud over it, Ms Briffa noticed that her seat was not wet like the rest of the car. She said that the mud was more concentrated on the driver's side:

"No, not in - not in the passenger. Mostly in the front, like his side.... It was like mud there, you know.... Mostly on his side.... His side was the muddiest, you know what I mean but I can't remember like all the mud, you know what I mean like. How can I explain it like? It was muddy but his side was the muddiest."

311. Mr Joannou drove Ms Briffa to a car park near Caroline Springs and questioned her about whether she had told anyone what had happened. Ms Briffa told Mr Joannou she had not told anyone else.
312. Mr Joannou then asked Ms Briffa to put a gun in the glove box of his red Toyota Celica CRO-832. Ms Briffa complied without touching the gun. She was afraid he was setting her up to accept responsibility for using the weapon.
313. Ms Briffa remembers that the gun was black with a brown handle 'like a policeman's gun'.
314. Mr Joannou then drove Ms Briffa to Ms Amundsen's house at Unit 3/ 70 Carroll Street in Deer Park in his red Toyota Celica CRO-832.
315. Mr Joannou's brother, Mark Joannou, came out to the car and gave Mr Joannou money. After this, Mr Joannou drove Ms Briffa home to Unit 4, 149 St Albans Road in St Albans.

316. While Ms Briffa and Mr Joannou were away, Mr Crutchley rang Mr Briffa to say that Mr Joannou had taken Ms Briffa away in his car.
317. Mr Briffa rang Ms Briffa's mobile phone. A man answered and told Mr Briffa that Ms Briffa was in Sunshine.
318. Mr Crutchley and Mr Briffa drove around St Albans and Sunshine looking for Ms Briffa and Mr Joannou until Mr Briffa told Mr Crutchley that he was going to police if she was not back by 6pm.
319. However, Mr Briffa found Ms Briffa in Alfrieda Street and took her home. He made no report to police.
320. At about 3:00pm on 5 February 2005, Mr Joannou also drove his red Toyota Celica CRO-832 to Mr Skadric's house at 11 Mantra Avenue in St Albans.
321. Mr Joannou drove Mr Skadric and his son to drop the child at his mother's house in Ardeer. Mr Skadric told the Court that the front passenger seat was wet so they sat on a box flattened on the front seat.
322. By about 5-6pm, Mr Joannou was home with Ms Hearn. Mr Joannou and Ms Hearn went to dinner at his father's house. Socrates Joannou told the Court that everything seemed normal. They were home by 9:30pm.

6th February 2005

323. There are no phone records available for 6 February 2005.
324. On the night of 5-6 February 2005, Haydn Johnstone was staying with Ngaire Amundsen at Unit 3/70 Carroll Street in Deer Park.
325. On the morning of 6 February 2005, Mr Johnstone stated that Ms Amundsen answered a knock on the door.
326. Ms Amundsen came back after about 10 minutes and told Mr Johnstone that it was Mr Joannou and that some people had tried to kill him. She also told Mr Johnstone that Mr Joannou had been locked in the boot of a car for about two days and that the car had rolled over so that he had basically been buried alive.

327. To the extent that Ms Amundsen inferred that Mr Joannou told her about his alleged abduction on 6 February 2005, it is inconsistent with Mr Joannou having returned to Ms Amundsen's house on the afternoon of 3 February 2005.
328. Further, it is inconsistent with Mr Joannou using Ms Amundsen's car on 4 and 5 February 2005 so that Mr Johnston drove Ms Amundsen to and from work or she took his car.
329. Therefore, there was plenty of opportunity for Mr Johnstone to have received information about Ms Amundsen's relationship with Mr Joannou before he met Mr Joannou on 6 February 2005.
330. Further, Mr Johnstone told the Court that, on the morning of 6 February 2005, Mr Joannou did not seem drug-affected or otherwise paranoid: He said, for example:

"He was in pretty good condition. He wasn't drug affected like the other times I met him."

331. However, my understanding of Mr Johnstone's evidence is that Ms Amundsen responded to Mr Joannou's knock on the door and Mr Johnstone did not meet Mr Joannou at this time. Therefore, he could not have formed that opinion about Mr Joannou's demeanour.
332. At 11am, Mr Joannou returned with Ms Briffa to Ms Amundsen's house in his red Toyota Celica CRO-832. Later, Mr Johnstone told police that the car was covered in mud inside and out. He saw Ms Briffa start to clean the front passenger seat of the car.
333. All of Mr Johnstone's evidence about his first knowledge of Mr Joannou is consistent with Mr Johnstone arriving at Ms Amundsen's house on the night of Thursday 3 February 2005.
334. Mr Johnstone also told the Court that, by 11am on 6 February 2005 when Mr Joannou returned to Ms Amundsen's house with Ms Briffa, Mr Joannou had changed substantially. Now he was:

"Oh, very stressed and - well, yes. Dangerously affected and he'd been up to no good. But looking or reading between the lines he'd been up to no good. He'd been in trouble or strife, if you know what I mean."

335. Mr Joannou's brother, Luke Joannou, also arrived at Ms Amundsen's house. Mr Joannou told Mr Johnstone and Luke Joannou the same story as Ms Amundsen had told Mr Johnstone.

336. Mr Johnstone did not believe Mr Joannou's version of events over the last few days. He told the Court:

"Oh, mate, I'm a licensed real estate agent. I've been in real estate since I was 17. I grew up in St Kilda in real estate. I ran the biggest real estate company in Australia and I ran tenants. I understand people, their performance and I can tell someone when they're telling me a pale faced fib, you know. Being deceptive. It's blatantly obvious to me."

337. However, Mr Johnstone told Mr Joannou he should report the incident to police. Ms Amundsen told Mr Johnstone that Mr Joannou was afraid that police would not let him out and he did not want to go back to jail.

338. Mr Joannou then left Ms Amundsen's house with Ms Briffa in Mr Johnstone's purple Mercedes Benz PXU 529. He returned alone after about 30 minutes.

339. When he returned, Mr Joannou asked Mr Johnstone if he could borrow his car again. He then left again in Mr Johnstone's purple Mercedes Benz PXU 529 and came back about one hour later with Ms Hearn.

340. Shortly after this, Mr Joannou and Ms Hearn left Ms Amundsen's house again in Mr Johnstone's purple Mercedes Benz PXU 529. He returned the car about an hour later but Mr Johnstone did not see him at that time or at all until 17 February 2005.

341. Mr Johnstone drove back to Queensland on the night of the 6/7 February 2005.

7th February 2005

342. At about 11:30am on 7 February 2005, Ms Stevens went to Unit 4, 149 St Albans Road in St Albans because she was unable to contact Mr Bottomley.

343. Ms Stevens spoke to Ms Briffa out the front of the house. She heard someone else inside because she heard some one cough.

344. Ms Briffa told Ms Stevens that Mr Bottomley "*Took off*" on Tuesday (1 February 2005) and that he was drug-affected when he left. Ms Briffa said she had not seen him since.
345. Ms Stevens said she was going to report him as a Missing Person and she went to the Keilor Downs Police Station. At the police station, Ms Stevens was asked for a photograph of Mr Bottomley. She seems to have returned with the photograph and made a formal report at 3:10pm.
346. Then Ms Briffa rang Mr Joannou from a public phone box and told him that Ms Stevens was looking for Mr Bottomley. She stated that Mr Joannou got angry and started screaming at her on the phone.
347. At 6:20pm, Mr Briffa took Ms Briffa to the Keilor Downs Police Station to report Mr Bottomley's death.
348. Ms Briffa reported that:
- Mr Joannou entered her home at Unit 4, 1149 St Albans Road in St Albans on 1 February 2005 and shot Mr Bottomley in the neck with a pistol.
 - Mr Bottomley's body was dragged into the bathroom and then out the back door and placed in a red Celica.
 - Mr Joannou forced her and Bayram Birsoz to go to Bunnings Hardware store to purchase tools. The body of Mr Bottomley was then dismembered.
349. In her subsequent statement, Ms Briffa said:
- At about midday on 2 February 2005 she was at her home address with Brian Bottomley and Mr Birsoz when Mr Joannou entered the premises.
 - Mr Joannou told her and Mr Birsoz that Mr Bottomley had told police that the car was unregistered and shot Mr Bottomley dead with a hand gun.
 - Mr Joannou stopped Ms Briffa and Mr Birsoz calling an ambulance.
 - Mr Joannou drove Ms Briffa and Mr Birsoz to Bunnings to buy an angle grinder and a plastic tub.
 - They then went to Alfreida Street shopping strip to buy garbage bags and carry bags.
 - Ms Briffa returned to Bunnings alone and bought a circular saw.

- Mr Joannou then dismembered Bottomley's body in the bathroom of the premises with a power saw and took the body away in bags.
- During the immediate time after the murder, Mr Joannou threatened both Mr Birsoz and Ms Briffa and forced them to assist with dismembering the body and removal from the premises into Mr Joannou's vehicle.
- Whilst Bottomley was being dismembered Mr Birsoz and Ms Briffa were locked in the premises by Joannou.

350. At 7:08pm, the Homicide Squad was notified and went to the premises and Keilor Downs Police Station. They arrived at Keilor Downs at about 9:02pm and commenced their investigation of the death of Brian Bottomley.

351. This analysis of Mr Bottomley's death and disposal of his body has been informed by the information subsequently collected by the Homicide Squad on and after 7 February 2005.

COMMENTS

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

1. Brian William Bottomley was 32 years old when he disappeared. He lived with his mother, Lesley Stevens, at Unit 2, 1 Beaumont Court in Sydenham.
2. Mr Bottomley's medical history included polysubstance abuse, hepatitis C, anxiety, peptic ulcer, asthma and attempted suicide.
3. Mr Bottomley also had a 20 year criminal history including drug and dishonesty offences. He had served four Youth Training Centre sentences and 15 prison sentences.
4. Despite considerable reason for despair over many years, Mr Bottomley was blessed with a committed and loving mother and five sisters. His son lived with one of his sisters and Mr Bottomley had supervised access. His family arranged to be legally represented before me and they were all in Court. Mr Bottomley's father came too. I thank them for their assistance in this investigation of Brian Bottomley's death.
5. On 21 January 2005, Mr Bottomley appeared before the Magistrates Court on new offences including theft of a motor car, theft, drive while disqualified and go equipped to steal.

6. Community Corrections assessed Mr Bottomley as high risk with greater than 50% chance of re-offending. However, Mr Bottomley was released from prison on parole and a nine months Intensive Corrections Order for the new offences.
7. At about 6:45pm on 31 January 2005, Mr Bottomley left home to stay overnight with Rebecca Briffa at Unit 4, 149 St Albans Road in St Albans. Ms Briffa was a friend of Mr Bottomley through their mutual use of amphetamines.
8. Ms Stevens has not seen or heard from Mr Bottomley since that time.
9. However, the Court has heard evidence that, soon after 12:04pm on 2 February 2005, Wayne Joannou entered Unit 4, 149 St Albans Road in St Albans and discharged a black handgun with a brown handle into Mr Bottomley's neck.
10. Mr Bottomley died at the scene.
11. Mr Joannou took Mr Bottomley's body somewhere north of Bendigo. His body has never been found.
12. Mr Joannou was a close associate of Mr Bottomley arising from their time in prison together and their use of amphetamines and heroin.
13. On 18 February 2005, Mr Joannou died from gunshot wounds discharged by the Special Operations Group of Victoria Police when they attempted to arrest Mr Joannou in relation to Mr Bottomley's death.
14. Accordingly, Mr Bottomley's death is closely related to Mr Joannou's death.
15. The coronial investigations of the deaths of Brian Bottomley and Wayne Joannou relied on evidence collected in both homicide investigations and provided at both inquests.
16. Mr Bottomley's death and disposal of his body have been the main issues considered in this investigation of Mr Bottomley's death.
17. The coronial investigation of Mr Bottomley's death has been complicated by the unreliability of the evidence provided by some of his and Mr Joannou's associates.
18. In particular, I have found it difficult to accept all the uncorroborated evidence of Ms Briffa and Mr Birsoz who were the two witnesses in the house at the time that Mr Bottomley died.

Their memories and perceptions were both seriously affected by the incident and consequences of Mr Bottomley's death. Ms Briffa was also under the influence of drugs and medication at all relevant times.

19. However, relying on the similar and consistent evidence of Bayram Birsoz and Ms Briffa which was supported by evidence of Mr Joannou's subsequent admissions to Mark Joannou, Luke Joannou, and Leonie Clarke, I find that Mr Joannou shot Mr Bottomley dead soon after 12:04pm on 2 February 2005 in the lounge room at Unit 4, 149 St Albans Road in St Albans.
20. Similarly, police investigators believe that Mr Joannou was the sole suspect in relation to Mr Bottomley's death. In the Joannou Inquest, Acting Superintendent Bernie Rankin told the Court:

"Joannou was the only suspect I was aware of as being regarded as responsible for the disappearance of Bottomley..."

(No other person) as the person who was actually responsible for the death of Bottomley."

21. For the same reasons, the detail of Mr Bottomley's death has also been difficult to establish but, on the basis of the evidence before me, I also find that:
- At 12:04pm on 2 February 2005, Mr Joannou tried to contact Mr Bottomley on his mobile phone. Mr Bottomley did not answer the phone.
 - Shortly after 12:04pm on 2 February 2005, Mr Joannou entered Unit 4, 149 St Albans Road in St Albans.
 - Mr Bottomley, Ms Briffa and Mr Birsoz were in the lounge room of Unit 4, 149 St Albans Road in St Albans when Mr Joannou arrived.
 - Mr Joannou discharged one shot with a black handgun with a brown handle.
 - The shot hit Mr Bottomley in the neck.
 - Mr Bottomley died from gunshot injuries in the lounge room at Unit 4, 149 St Albans Road in St Albans before 12:30pm on 2 February 2004.

22. In circumstances where Mr Bottomley was unarmed,⁷ had no warning to allow him to avoid the situation, Mr Joannou's subsequent behaviour indicated he was conscious of the effect of his actions and prevented medical intervention, I have formed the view that Mr Joannou murdered Mr Bottomley.

Why did Wayne Joannou kill Brian Bottomley?

23. I have tried to understand why Mr Joannou killed Mr Bottomley.

24. As background, I note that:

- Mr Joannou and Mr Bottomley lived close to each other in Sydenham;
- Mr Bottomley's mother, Mr Joannou's step-mother and most of their associates believed that Mr Joannou and Mr Bottomley were friends;
- Mr Bottomley was eight years older than Mr Joannou and had a much longer criminal history;
- Mr Joannou and Mr Bottomley both had long histories of illicit drug use, particularly amphetamine and heroin abuse.
- They were both in Port Phillip Prison in 1998 when Mr Joannou injured Mr Bottomley with a billiard ball in a sock;
- On 28 April 1998, Mr Bottomley and Mr Joannou were involved in standover tactics involving other prisoners.
- There is no overlapping period when Mr Joannou and Mr Bottomley were in prison together after 1998;
- Mr Joannou and Mr Bottomley had several mutual associates including Mr Birsoz, Gordon Skadric and other witnesses who assisted police in their investigation of Mr Bottomley's murder;
- Mr Joannou had recently accepted a 4th Naltrexone implant.
- Mr Bottomley was Mr Joannou's carer during his recovery from the Naltrexone implant after his nominated primary carer, Kristy-Lee Hearn, returned to work.

⁷ I do not exclude the possibility that he had the chrome plated shotgun in the house but there is no evidence that it was in the lounge room on 2 February 2005.

- Kristy-Lee Hearn said that he was using more amphetamines than usual and his behaviour had become more erratic after this procedure. Ms Hearn's observation of Mr Joannou's behaviour before 2 February 2005 was supported by Mark Tragear and Ms Stevens.
- Mr Joannou was on bail for new offences including possessing a firearm, possessing metaphetamine, reckless conduct endangering serious injury, threat to kill and pervert the course of justice. He was almost certainly going back to gaol if he was found guilty.
- On the night of 1 February 2005, Mr Bottomley appeared annoyed that Mr Joannou had sold him an unregistered car. He told Leading Senior Constable Duncan Eland:

"I'm not copping a lagging from him this time."

Mr Eland formed the impression that he was saying:

"I'm not going to gaol because of him this time."

- Further, at 10:06pm on 1 February 2005, Ms Hearn had sent an SMS message to Mr Joannou:

"Look wayne obviously da time has come 2 say goodbye, ur no longer interested in me, so I should stop hopin things will get better and u should b up front with me."

25. Both Ms Briffa and Mr Birsoz say that Mr Joannou told Mr Bottomley he was killing him because he had informed to police. In particular, before he discharged his weapon, Mr Joannou shouted:

"Ah you lagged me, you're a dog." or

"Ah you lagged me, you lagged me, you lagged me."

26. One possible reason for this accusation is that Mr Joannou was acting out a vendetta arising from their time or that of their associates in prison. In assessing this possibility, I note that:

- Mr Joannou and Mr Bottomley had a close association in prison in 1998;
- Mr Joannou and Mr Bottomley had not served a sentence together since 1998;

- Mr Tragear knew Mr Joannou from prison and had spoken to Mr Joannou at 8:40pm on 1 February 2005;
- Mr Bottomley was in protective custody during his last prison sentence because he had informed on another prisoner; and
- Mr Joannou was on bail for charges that included pervert the course of justice.

27. This option would mean that Mr Joannou was acting in consultation with other people when he killed Mr Bottomley soon after 12:04pm on 2 February 2005.

28. In the alternative, it is possible that Mr Joannou found out that Mr Bottomley had told police he had bought his unregistered silver Mitsubishi Magna sedan DIB-107 from Mr Joannou. In assessing this possibility, I note that:

- Mr Tragear told the Court that, in prison, Mr Joannou was capable of extremely violent behaviour. However, he also said he would be surprised that Mr Joannou killed Mr Bottomley because he told police his car was unregistered:

“Obviously I would be surprised but it's something that you wouldn't be able to rule out. It would have to be considered.”

- At 10:38am on 1 February 2005, Mr Joannou contacted and spoke to David Blythe;
- Mr Briffa told the Court that Mr Joannou told them his motive for killing Mr Joannou was Mr Bottomley's disclosure to police that the car he had bought from Mr Joannou was unregistered. However, Ms Briffa's recall of events is unreliable and Mr Birsoz did not mention this motive;
- On 1 February 2005, Mr Bottomley told police he was angry about Mr Joannou selling him a car that was unregistered;
- Mr Joannou told Ms Hearn that he was at the Keilor Downs Police Station signing in on bail in one of their three phone conversations at 10:27am, 10:35am and 11:55am on 2 February 2005. In retrospect, Ms Hearn does not believe him;
- Police at the Keilor Downs Police Station deny any conversation with Mr Joannou about the unregistered silver Mitsubishi Magna sedan DIB-1078 and Mr Sheather

told the Court that the last contact between Mr Joannou and police was a week or so before 1 February 2005.

- This option would mean that Mr Joannou acted spontaneously and individually when he killed Mr Bottomley.

29. A third possibility arises from Mr Bottomley's conversation with Mr Eland on 1 February 2005. Mr Eland interpreted from this conversation that Mr Bottomley believed he had accepted liability for offences committed by Mr Joannou and served extra prison time as a consequence. Whether or not Mr Eland knew more about this possibility was not further explored in the Inquest.
30. However, given his pending Court appearances and his abhorrence of returning to prison, Mr Joannou is likely to have been upset if he found out that Mr Bottomley had mentioned this prior matter to police.
31. In the context of the reliability of evidence before me, I am unable to determine the reason that Mr Joannou killed Mr Bottomley or whether there is another reason that Mr Joannou killed Mr Bottomley.
32. Further, Mr Joannou was using amphetamines and some cocaine and was erratic, unpredictable, paranoid and depressed. Therefore, there may be no rational reason for his killing Mr Bottomley soon after 12:04pm on 2 February 2005.

Dismembering of Mr Bottomley's body

33. I now turn to the way in which Mr Joannou dismembered Mr Bottomley's body to enable its disposal.
34. At 1:02pm, Mr Joannou accepted a call on phone 1 from Kristy-Lee Hearn. They spoke for 2 minutes and 3 seconds. Ms Hearn did not report this phone call to police.
35. Mr Joannou also rang Ms Hearn at 2:05pm and spoke for 3 minutes 17 seconds. Then at 2:10pm, Mr Joannou responded to a further call from Ms Hearn. They spoke for 1 minute and 36 seconds. Ms Hearn did not report these phone calls to police.

36. Even if I accept that Mr Joannou did not tell Ms Hearn that he had killed Mr Bottomley during these phone calls, I find it difficult to believe that a woman who works for the Department of Human Services, was aware of Mr Joannou's erratic behaviour and had spoken to him only 67 minutes earlier was not also aware that Mr Joannou's demeanour had changed and did not report these changes to police when later asked about her knowledge of the circumstances of Mr Bottomley's death.
37. However, Ms Hearn denies knowing anything about Mr Bottomley's murder until she was at the Keilor Downs Police Station on 7 February 2005. Further, Ms Hearn has consistently told the Court that Mr Joannou's mood was related to his drug use, particularly after the Naltrexone implant. Therefore, she could explain any change in his demeanour as related to his drug use.
38. At 1:06pm Mr Joannou accepted a call from Mr Tragear. They spoke for 1 minutes 23 seconds.
39. Mr Tragear agreed that he was Mr Joannou's support person. Mr Tragear paid for Mr Joannou's recent Naltrexone implant. Mr Joannou had told Ms Hearn that Mr Tragear would help her if she needed it. Mr Tragear had last contacted Mr Joannou at 8:40pm the previous night.
40. Mr Tragear denies knowing anything about Mr Bottomley's murder until a mutual associate from prison rang him and he saw a news report on or about 9 February 2005.
41. However, I also find it difficult to accept that Mr Joannou contacted Mr Tragear immediately after he killed Mr Bottomley for any reason other than to ask for his help or advice in the predicament he now found himself.
42. There is independent evidence that Mr Joannou and Ms Briffa went to Bunnings twice on 2 February 2005. At 1:36pm, they bought an angle grinder and .60 litre storage container. At 2:02pm, they bought a circular saw.
43. Further, independent scientific evidence in the form of DNA evidence on a mattress and in the bathroom supports the reports of Ms Briffa and Mr Birsoz that Mr Joannou needed their help to move Mr Bottomley's body into the bathroom of Unit 4, 149 St Albans Road in St Albans.

44. Mr Birsoz and Ms Briffa agree that Mr Joannou dismembered Mr Bottomley's body in the bathroom at Unit 4, 149 St Albans Road in St Albans, first with the axle grinder and then with the saw. With assistance from Ms Briffa, he then placed Mr Bottomley's body parts in the red white and blue chequered plastic bags and the storage container.
45. At 2:47pm on 2 February 2005, Mr Joannou contacted Mr Tragear again. They spoke for 1 minute and 13 seconds. As before, I find it difficult to accept that there was any reason for Mr Joannou to contact and speak to Mr Tragear other than to ask for help or advice about what to do next.
46. Accordingly, it seems likely that Mr Tragear was the recipient of Mr Joannou's phone call that Mr Birsoz overheard and described to the Court:

"it was definitely that person that he was going to try and get rid of the body with....

Whoever that person that was on the phone, he was trying to get him to help him...

he seemed like he trusted this person..

As far as I can remember I'm pretty sure that would be the bloke that would have helped him get rid of the body."

47. Circumstantially, at 2:50pm on 2 February 2005, Mr Eland and Mr Hayes commenced further surveillance on Unit 4, 149 St Albans Road in St Albans in an unmarked police car. They suspected Mr Bottomley of committing more driving offences.
48. At about 3:15pm, they saw that Mr Joannou's red Toyota Celica CRO-832 had been backed into the garage and that someone was moving objects in or out of the boot. Another person was in the driver's seat.
49. At 3:20pm, Mr Eland and Mr Hayes saw Mr Joannou's red Toyota Celica CRO-832 leave Unit 4, 149 St Albans Road. It was raining heavily and their capacity to see what was happening was hampered.
50. Ms Briffa and Mr Birsoz say that Mr Joannou told them he was going to get rid of Mr Bottomley's body somewhere in the bush. Mr Joannou also threatened to kill Mr Birsoz and Ms Briffa if they told anyone what had happened or went to the police. He also told them to stay at the house and not to go anywhere.

51. Mr Eland and Mr Hayes followed the red Toyota Celica CRO-832 through the Western suburbs. It soon became apparent to them that the driver was attempting to evade them so they commenced a pursuit. Mr Eland identified the driver as Wayne Joannou and Mr Joannou was the only occupant. They called the pursuit off because of the wet conditions.
52. Other police attempted to intercept Mr Joannou's red Toyota Celica CRO-832 but they also lost him in the rain and traffic. At about 4:15pm, the search was called off.
53. While Mr Joannou was avoiding police, he also contacted Ms Hearn and Mr Tragear using his phone 1.
54. In particular, at 3:27pm, Mr Joannou contacted Mr Tragear. They spoke for 17 seconds. Mr Tragear does not remember this call.
55. Further, on four occasions between 3:30pm and 3:59pm, Mr Joannou contacted Ms Hearn. He told Ms Hearn he had been kidnapped and was held captive in the boot of a car. He asked her to go to police to report his kidnapping. However, Ms Hearn did not believe him and did not report to police.

Disposal of Mr Bottomley's body

56. At 8.42pm and 8.44pm on 2 February 2005, Mr Joannou's calls to Ms Hearn were intercepted by Mr Eland. Mr Joannou was in Elphinstone and Mount Alexander, south of Bendigo.
57. There are no phone records to indicate where Mr Joannou was before this time. However, this journey takes about 1 hour 15 minute. Therefore, it is unlikely that he left Melbourne before 7:00pm.
58. This means that Mr Joannou's movements are unaccounted for between about 4:15pm and 7:00pm on 2 February 2005.
59. During this period, at 4:41pm Mr Tragear contacted Mark Joannou. They spoke for 2 minutes and 15 seconds.
60. Then, at 4:53pm, 4:57pm and 5:00pm, Mr Tragear also contacted Ms Hearn. They spoke for 18 seconds, 2 minutes and 20 seconds and 2 minutes and 56 seconds respectively.

61. In the context of the events of 2 February 2005 and the contents of Mr Joannou's car, both these phone calls are consistent with Mr Tragear's assertion that he would only contact Mr Joannou's relatives or Ms Hearn if it was really important.
62. Ms Hearn says that Mr Tragear told her that he had seen Mr Joannou and that he had told Mr Joannou to go home and get some sleep because he looked tired. Ms Hearn interpreted this comment to indicate Mr Joannou was affected by drugs.
63. Therefore, the timing of the calls from Mr Tragear to Mark Joannou and Ms Hearn, Mr Tragear's expressed reticence to contact Mr Joannou's associates, particularly Ms Hearn, and the content of Ms Hearn's conversation with Mr Tragear support the possibility that Mr Joannou met with or spoke to Mr Tragear when he was still in Melbourne between 4:15pm and 7:00pm on 2 February 2005.
64. If Mr Joannou did meet with Mr Tragear, I must assume he was continuing to seek help with the disposal of Mr Bottomley's body. However, I repeat that Mr Tragear denies any knowledge of Mr Bottomley's death until he was contacted by an associate and he saw it on the news on 9 February 2005.
65. At 9:32pm on 2 February 2005, Ms Briffa used Mr Birsoz's phone to accept a call from an unidentified person using the public phone identified as 'Post Office' at 499 Napier Street in White Hills. They spoke for 1 minute and 21 seconds.
66. Then, at 9:37pm on 2 February 2005, Kristy-Lee Hearn did not accept a call from the unidentified person using the public phone identified as 'Post Office' at 499 Napier Street in White Hills.
67. In the absence of any further information about the unidentified person using the public phone identified as 'Post Office' at 499 Napier Street in White Hills, I have formed the view that the circumstances in which these two phone calls were made is consistent with Mr Joannou or an associate making these two calls, one to Ms Briffa on Mr Birsoz's phone and one to Ms Hearn.
68. At 9:42pm and 9:46pm on 2 February 2005, Ms Hearn did not accept a call from Mr Joannou on phone 1. He was still in White Hills and Eaglehawk north of Bendigo. At

9:47pm and 9:49pm, Ms Hearn accepted his calls. They spoke for 9 seconds and 7 seconds respectively.

69. Therefore, I find that, at between about 9:32pm and 9:49pm on 2 February 2005, Mr Joannou was probably still in the area served by the White Hills mobile phone repeater.

70. After 9:49pm, Mr Joannou did not make or accept calls on phone 1 or 2 February 2005.

71. At 12:21pm on 3 February 2005, Mr Joannou resumed phone contact with Ms Hearn from a public phone box in Elmore. Mr Joannou told Ms Hearn:

"You don't know what I've been through. I had to dig my own grave last night, Kristy."

72. At 12:26pm on 3 February 2005, Mr Joannou again used the public telephone in Railway Parade in Elmore to call his brother Mark Joannou. Mark Joannou does not remember this phone call.

73. Elmore is 30 minutes driving time north of White Hills on the Midland Highway.

74. At 1:42pm on 3 February 2005, Mr Joannou was in Mount Alexander. Mount Alexander is 48 minutes south of White Hills. Therefore, the travel time is consistent with a route from Elmore to Mount Alexander through White Hills rather than a direct route from Elmore to Mount Alexander.

75. By 3:18pm on 3 February 2005, Mr Joannou spoke to Ms Briffa on Mr Birsoz's phone. He was in the northern suburbs of Melbourne, in Brimbank and Keilor Downs.

76. In the course of the subsequent on-going investigation of Mr Bottomley's death police ran a publicity campaign seeking witnesses who may have seen Mr Joannou and/or his red Toyota Celica CRO-832 on 2/3 February 2005. Mr Sheather told the Court that the response to this publicity indicated that:

"it is likely or possible that a second or additional person was involved but we cannot 100 per cent identify that vehicle or the occupants of those - of that vehicle or those potential sightings."

77. The evidence before me is also consistent with Mr Joannou receiving assistance from a person he met at White Hills to dispose of Mr Bottomley's body:

- He was unable to manage putting it in the car alone;
- He had no tools when he left Melbourne in his red Toyota Celica CRO-832;
- He made phone calls to Mr Birsoz's phone and to Ms Hearn using the public phone identified as 'Post Office' at 499 Napier Street in White Hills;
- White Hills is about 30 minutes south of Elmore;
- At 12:21pm on 3 February 2005, he rang Ms Hearn and from Elmore;
- At 12:26pm on 3 February 2005, 12:26pm, Mr Joannou rang his brother Mark Joannou from Elmore;
- Phone records are consistent with him travelling south on 3 February 2005 from Elmore to Mount Alexander through White Hills;
- Ms Amundsen confirmed that Mr Joannou arrived at her house in the red Toyota Celica CRO-832 on 3 February 2005. The car was wet and muddy inside and out including in the passenger seat.

78. Mr Skadric gave graphic evidence of sitting on a cardboard box in the passenger seat of Mr Joannou's red Toyota Celica CRO-832 on 5 February 2005 because the seat was so wet.
79. Accordingly, I find that Mr Joannou was assisted by at least one other person when he disposed on Mr Bottomley's body on the night of 2/3 February 2005.
80. I am also convinced that Homicide Squad attempts to identify Mr Joannou's co-offenders and find Mr Bottomley's body were hampered by the failure of Ms Briffa, Mr Birsoz, Mr Mustafa, Mr Briffa, Ms Amundsen, Luke Joannou and others who knew or suspected what had happened on 2 February 2005 to report Mr Bottomley's death until 7 February 2005.
81. Further, Mark Joannou told Ms Hearn that Mr Joannou had told him that Mr Bottomley's body was in a lake near her grandmother's house. Ms Hearn had two grandmothers, one near Lake Tyers and one in Echuca.
82. Echuca is 1 hour and 5 minutes from White Hills on the Midland and Northern Highways. Further, Echuca is only 35 minutes from Elmore on the same road.

83. Phone calls Mr Joannou made from the area north of Bendigo on 2 and 3 February 2005 are not inconsistent with his disposing of Mr Bottomley's body close to Echuca. On the other hand, they are inconsistent with Lake Tyers.
84. Therefore, on the basis of the evidence before me, I have formed the view that Mr Bottomley's body is likely to remain in a lake or river with muddy access and egress north of Bendigo on the Midlands Highway, possibly near Echuca.
85. The people who assisted Mr Joannou with disposal of Mr Bottomley's body also know where it is. **Recommendation 1**

RECOMMENDATIONS

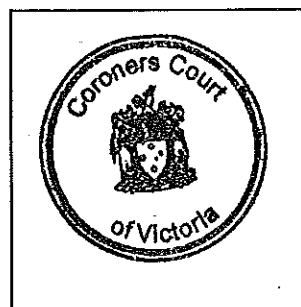
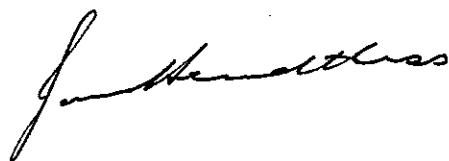
Pursuant to section 72(2) of the **Coroners Act 2008**, I make the following recommendation(s) connected with the death:

1. That the Chief Commissioner of Police direct the Homicide Squad to review their investigation of the death of Brian Bottomley with a view to identifying who assisted Mr Joannou in disposal of Mr Bottomley's body and ascertaining its whereabouts.

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

- Chief Commissioner of Police

Signature:



DR JANE HENDTLASS
CORONER
Date: 31 December 2013