

CORONERS REGULATIONS 1996

Form 1

State Coroners Office
57-83 Kavanagh Street
Southbank 3006
Telephone: (03) 9684 4380
(All Hours)
Toll Free: 1300 309 519
(Only Country Victoria)
Fax: (03) 9682 1206

4th June, 2008

Case No: 1111/07

RECORD OF INVESTIGATION INTO SUSPECTED DEATH

I, **PETER WHITE**, Coroner,

having investigated the death of KATH BERGAMIN with Inquest held at Wangaratta on the 31st July to 17th August, 2007, and at Coronial Services Centre, Southbank on the 19th March to 20th March, 2008 and 4th June, 2008

find that the identity of the deceased was KATH BERGAMIN and that death occurred at an unknown place and that the medical cause of death is also,

1a. UNKNOWN

in the following circumstances:

Background.

Kath Bergamin, (also known as Cathlyn Francis Bergamin), was born in Melbourne on the 11th of December 1964 and adopted by Kenneth and Cathlyn Margaret Russell when she was approximately six weeks old. She was one of seven children born to Janet Felici, five of whom were adopted out. Mr and Mrs Russell had previously adopted another child Roger Charles Russell, who was two years old when Kath was adopted.

Kath Bergamin was told she was adopted when she was about twenty-three and made contact with her birth family soon after. I note here that she continued to maintain this new relationship with her birth family until the time of her disappearance.

Kath Bergamin initially lived in Blackburn North with her adoptive family. They then moved to a small town called Navarre, located between Stawell and St Arnaud, where Mr and Mrs Russell operated the local Post Office/General Store for a period of some 16 years. Thereafter, the family moved to Moyhu, also a small country town, situated some 27 km southeast of Wangaratta, where they again operated the local Post Office.

During this time, Kath attended secondary school in Wangaratta and completed year 11. She then took up employment in Edgars Newsagency in Wangaratta. At the age of 16, Kath met John Bergamin at a local dance and they began a relationship. She became pregnant to John Bergamin when she was 17 and they married on the 5th of March 1983 at Moyhu. Thereafter, they lived in a cottage on John Bergamin's family tobacco farm at RMB 9616,

Upper King River Road, Cheshunt, which is approximately 60 kilometres south of Wangaratta. Following the death of John Bergamin's father, John and Kath Bergamin took over the management of the property.

On the 18th of April 1983, Kath gave birth to a son, Stephen John Bergamin, and later to two more children, a daughter Renee Danielle Bergamin, born on the 22nd of June 1987 and a son, Dylan Nigel Bergamin, born on the 8th of June 1990. Kath Bergamin spent her time working on the farm and raising her children.

Observations concerning the Bergamin marriage.

From an early stage in the marriage, Kath expressed unhappiness about the state of her relationship with her husband. She had a number of confidants to whom she spoke about this matter and who were in a position to make their own observations and these included Sandie Riley and Caroline Grady (formerly Caroline Nicholls). These Observations, together with the relevant medical evidence and John, Steven and Renee Bergamin's views on the matter, are set out below.

Sandie Riley.

In late 1996 or early 1997, Sandie Riley moved with her parents to a property in Cheshunt owned by Joe and Maria Primerano. It is relevant that the Primerano and Bergamin properties were situated within close proximity to each other.

Some time afterwards, Sandie met the Primerano's son, Pat, and started going out with him a short time later. Thereafter, she met Kath when both attended a wedding in early 1998. From this time, Sandie and Kath became friends and would see each other on a regular basis usually once or twice a week and, in addition, they maintained regular telephone contact.

She also came to know John Bergamin, who was then and remains now a close friend to Pat, and got the impression that he worked hard on the farm but did not want much to do with Kath and the kids. Sandie further testified about a meeting she had with Kath in 1999 when both couples attended a winery tour and how, on that occasion, after a few drinks Kath told her of how unhappy she was with her marriage, and further,

"That John wouldn't give her (Kath) what she really needed in that he was not loving towards her. She told me that she had tried to leave once before but couldn't go through with it because of the children. I started to notice things about (their) relationship. John never thanked her for doing anything for him like working on the farm or cooking his dinner or whatever. He just expected it. I remember once being totally disgusted one day when John said to her in front of everyone, 'give us a root.' Kath told me he said that quite often and wondered why she would not. I could tell when Kath was upset and I tried to talk to her about things but I could tell that she did not want to burden me and tried to pretend that everything was OK. I was shocked to find out that Kath was on anti-depressants, she didn't talk about that with me until recently. I know that she suffered from arthritis, all over her body. It started to get really bad over the past year or so. "

See Ex 4 at P 2, statement dated 23/8/02.

Caroline Grady.

Caroline Grady, now an intelligence analyst with the Australian Taxation Department, had known Kath Bergamin since 1979 when they were both pupils in Moyhu. She described their relationship from that time as being one of best friends. Caroline moved to Adelaide in 1991 with her family but managed to maintain the relationship, with visits to Adelaide by Kath and with Caroline visiting and staying over at the Bergamin farm once or twice a year, when she returned to Wangaratta for family visits. Caroline described John Bergamin as "the typical Italian male" and as being very chauvinistic in his ways.

"I don't believe John is a bright man, and he can be very impulsive. I have seen him behave very aggressively on many occasions and I often saw him lose his temper with Kath over small things. I was there one evening when he came into the house for dinner. I heard him shout profanities at her because he didn't want what she had cooked for dinner. She fed his dinner to the dogs, and then cooked him another meal."

Caroline further testified that John Bergamin tried to control Kath's access to friends, work and study and that he did not want her to work in Wangaratta, or to study.

"It took a lot of courage for Kath to enrol in a TAFE course (in Wodonga) a few years ago and then to start work at a special school in Wangaratta."

Caroline's further testimony was that she considered John and Kath's family to be "quite dysfunctional" compared to her own and others she knew. John did not spend much time with his family, as he was either working, deer hunting or visiting with his male friends. She rarely saw him display any affection towards Kath or their children and further that,

"It was always a noisy household, with everyone yelling at everyone else to get their own way. All three children have grown up to be selfish, demanding and competitive."

See Ex 5 at P 2 and 3, statement dated 4/3/2003 adopted at Transcript P 139.

John Bergamin

According to John Bergamin however his marriage to Kath was "very happy." His further view was that Kath's troubles began when she learnt from her mother that she was adopted and that she did not seem to be the same person and that she began to drink heavily thereafter.

See Ex 79 at P 2, statement dated 22/8/2003 and Ex 88 at P5 of the transcript of a recorded interview conducted with John Bergamin at Wangaratta on the 1/11/02.

Stephen Bergamin and Renee Bergamin.

Stephen and Renee, the two eldest of the Bergamin children, supported this view of their parent's marriage. According to Stephen,

"My family has always been stable and solid. A normal family as far as I was concerned. My father and mother never fought physically or verbally. My father and mother never disagreed about anything and everything got established by working together."

See Ex 100 at P1, which is Stephen's statement dated 22/8 /2003.

See also Renee's evidence at Transcript P 1261.

"Mum was living with us at the farm until about April 2002. The situation at home was good. Mum got everything she wanted and everyone was happy. There were a very small number of arguments between the family."

I note here that both John and Stephen Bergamin successfully applied for order(s) that they be excused from giving evidence before me on the grounds that each should not be compelled to answer questions which may tend to incriminate himself. Accordingly their statements referred to above, have not been the subject of further examination by counsel during this inquest.

Evidence concerning Kath Bergamin's mental health in the period prior to February 2002.

Kath Bergamin further expressed concerns to her Doctors about her husband's alleged controlling and manipulative personality and, according to the evidence of her Doctors, generally it may be seen that her deteriorating level of self worth was reflected in the several admissions she had to the psychiatric ward (the Kerford Unit) of the Wangaratta Base Hospital.

The first such admission took place on the 7th of November 1995 when she was admitted as an involuntary patient, where she was diagnosed with a delirious reaction to a combination of alcohol, marijuana and Paraxetine. It was reported that she presented with homicidal ideation towards her husband and she was treated and discharged after two days with a recommendation that she consult a social worker concerning marriage guidance counselling.

On the 12th of February 1996 Kath Bergamin was again admitted to the Kerford Unit but, on this occasion, as a voluntary patient. She complained of insomnia, a lack of energy and concentration and concerns about her children.

She was diagnosed with a Bipolar disorder and treated with antidepressants and referred to a local Psychiatrist in Wangaratta, Dr Douglas.

(I note here that Dr Mark Johnson, a psychiatrist who later treated her at the Albert Road Clinic following a suicide attempt in February 2002, throws considerable doubt on the accuracy of the earlier Bipolar disorder diagnosis.

See Transcript at P 831).

On the 29th of March 1996 she was again admitted to the Kerford Unit. She remained there for a period of one month and was also treated with antidepressant medication.

The events of February 11th and their aftermath.

On the afternoon of the 11th of February 2002, Kath Bergamin used a .22 rifle that she had taken from her husband's secure gun cabinet and attempted to commit suicide by placing the barrel of the rifle in her mouth and shooting herself. The bullet penetrated her soft palate and struck her rear lower skull where it fragmented without damage to her brain or other vital structures. Her top most vertebra was damaged and the penetration also caused relatively minor damage to her soft palate. Her physical injuries were such that she was able to be treated at the Alfred Hospital, with medication only.

On the 22nd of February, Kath was transferred to the Albert Road Clinic in South Melbourne and treated for depression. Her referring Doctor at the Alfred wrote that her suicide attempt appeared to be in the context of a one-month history of severe depression, including depressed mood, markedly impaired sleep (two to three hours per night) and ideas of worthlessness and hopelessness. Kath also informed that she had been drinking much more heavily, up to six to eight standard drinks per day, in the two months before her suicide attempt.

Her treating Psychiatrist at the Albert Road Clinic, Dr Mark Johnson, saw her on 23 occasions between the 22nd of February and the 29th of July 2002. During these sessions, she detailed her relationship with her husband and described their personal circumstances as comfortable. She stated that he was a hard worker but had always spent little of his spare time with his children preferring to go hunting or fishing with his friends. Her husband was said to have refused marriage counselling after she was first admitted to the Kerford Unit in the mid 90's.

Kath Bergamin also disclosed to Dr Johnson that it was in these circumstances that she had earlier entered an intimate relationship which had continued over an undisclosed period with a male friend of her husband's, and we know from additional evidence given during the inquest that this relationship continued irregularly for some years, up until the time of Kath Bergamin's disappearance.

Mrs Bergamin was provided with the anti-depressant medication; Citalopram 20mg per day from the 19th of February and the evidence suggests that she continued to take this medication following her discharge home. Her medication on discharge was Citalopram 20mg per day; Nitrazepam sleeping tablets, two or three as required at night; Vioxx an anti-inflammatory medication prescribed for her arthritis and Panadeine, as required, for her head pain.

Dr Johnson further commented that her husband did not appear sympathetic to her condition and that he did not make contact with him to inquire about Kath, until after she was discharged. According to his notes, "John had told Kath that she (Kath) had caused him a great deal of trouble and that it was he who had saved her life after her suicide attempt."

Kath Bergamin was discharged from the Albert Rd Clinic on March 17th and was first reviewed in Dr Johnson's consulting rooms on March 27th. At this time, she was staying with her mother in Wangaratta. She had no suicidal thoughts and was

surprised and encouraged by the number of calls of support she had received from friends. She mentioned that her daughter, Renee, was approachable but that her younger son, Dylan, was somewhat distant. She also reported that she felt that it was 90% likely that she would separate. She was advised to continue to take her anti-depressants but to wean herself off her sleeping tablets.

She was next seen on April the 19th, having returned to the family farm in Cheshunt earlier that month. She continued to take her anti-depressants but had weaned herself off her sleeping tablets. She did not feel depressed and there were no suicidal thoughts. She was taking up to six panedetine forte tablets per week for headache and was consuming up to four or five standard alcoholic drinks per week. She further reported that she was completing a disability studies course and planned to complete a level 2 first aid certificate and also that she planned to get a job and would then move out from the farm.

Dr Johnson next saw her on the 24th of May when she reported that she continued to take her anti-depressant medication and felt very well from an emotional point of view, with no suicidal ideation. She further reported that she had decided to resume her Diploma Course in Welfare and Youth work at the Wodonga TAFE and was applying for a part time job as a disability carer.

According to Dr Johnson, Kath Bergamin was a "consistent and credible historian", with a number of people he had spoken to corroborating her accounts. His assessment was that she suffered from a recurrent depression and,

"episodic hazardous drinking in relation to long standing marital difficulties."

He further commented that Mrs. Bergamin had informed him that on several occasions,

"over the years her husband had told her that she would never make it alive off the farm if she tried to leave him. That he had pointed a firearm directly at her on at least three occasions and that he had left bullets out for her as a reminder of his threats."

See Dr Johnson's evidence commencing at Transcript P 803.

It is also relevant that Kath Bergamin suffered badly from rheumatoid arthritis and that she relied on various anti-inflammatory medications.

Following her return from Melbourne, she continued to see Dr Rowena Mann of the Phillipson Street clinic who took care of her everyday medical problems and prescribed regular medication for her arthritis.

See Dr Mann's evidence commencing at Transcript P 658.

Helen Ballard.

Helen Ballard, a reporter and newsreader on Prime TV Albury, testified that she purchased a holiday home a few hundred metres from the Bergamin farm in 1998 and lived there for a

year in 1999/2000. Whilst living there she became good friends with Kath and became acquainted with the rest of her family.

"We had many dinners at their house. Our kids used to play together and sometimes Kath, myself and our kids would go to Church on Sunday."

A few weeks after Kath Bergamin's suicide attempt, Helen Ballard and her family spent the weekend at their holiday house and she went to visit Kath. She stayed for several hours and, during their conversation, Kath told her that she felt that the only way to make her life better was to leave her husband and move to Wangaratta.

According to Helen Ballard, she encouraged Kath to move and pointed out that she would get half the farm. Kath responded by saying that this could not happen and began crying.

"I asked her why and she was very nervous about telling me and kept looking out of the kitchen window to ensure that John wasn't in earshot. I whispered, 'has he bashed you up?' and she shook her head. In the end, she motioned that we walk back to my place. On the way, she said 'Yes, I know that I'll get half the farm if I leave John but he's told me I'd be leaving the farm in a box before that happened.' She said this seriously and was crying at the time."

I gave her the key to our holiday house (and) I gave her a hug and never saw her again."

See Transcript from P 650.

The events of the evening of May 29th and May 30th.

Phillip and Margaret Brauman.

On the evening of the 29th of May 2002, Kath left the property at Cheshunt after what was on John's version, an argument between them. (See John Bergamin's statement to Police dated 22/8/2002 Ex 47 at P5. See also the account given by Kath Bergamin to her solicitor from Transcript P699). After leaving she eventually made her way to the home of near neighbours, Mr and Mrs Primerano and their son Frank, where in a distressed condition she persuaded Frank Primerano to drive her to Wangaratta. In uncertain circumstances, it was then decided that Kath would get out at Whitfield and go to the home of Mr and Mrs Phillip Baumann.

Phillip and his wife, Margaret Brauman, were old friends of the Bergamin's and at one stage had lived in a house on the Bergamin property. Both gave extensive evidence about the nature of the relationship between Kath and John, which was consistent with the observations made by others referred to above. See Transcript at Pages 297 to 300.

In regard to the 29th, Phillip Brauman further testified that Kath arrived at his front door at about 9 pm in an emotional state and claimed that John was chasing her and that the police should be called. Mrs Brauman initially rang the police at Whitfield but the officer, Senior Constable Harvey, was not there. About 15 minutes after Kath's arrival, there was another

knock at the door. John Bergamin, who was at the front of the house with his son Dylan, then called out and after the door was opened he asked to speak to Kath. John was also seen to be in an agitated state but left after being told that Kath did not want to talk to him.

Soon afterwards, Senior Constable Harvey arrived and later John Bergamin called seeking unsuccessfully to speak to Kath. During one of the calls Kath asked, through Margaret Brauman, that her car be brought down. Thereafter, John arrived driving Kath's Holden Statesman and in the company of another neighbour and close friend, Pat Primerano, to be driven home in his car.

I note that after John's departure Phillip Baumann discovered that the car key had been broken off in the Holden Statesman's ignition. It is also relevant that Kath complained that a sum of \$200 she claimed to have left in the car was now missing.

Later Phillip Brauman drove Kath to Wangaratta where she stayed at a local motel. Soon after his arrival home at approximately 12.45 am, John Bergamin returned to the Baumann home and wanted to know where Kath was and whom she had called. He was very agitated and was invited in for a coffee and stayed for approximately 30 minutes. During this visit, Mr Baumann testified that he remembered John saying something about if he wanted to,

"get rid of Kath earlier, he had plenty of possibilities."

See transcript from P 324.

On the following day and after seeking the advice of Senior Constable Harvey, Kath Bergamin attended at the Wangaratta Court and applied for an Interim Intervention Order, which was granted. A copy of this order was served on John Bergamin and police seized his firearms on that day, the seizure of which provoked an angry response. On the same day, Kath rented and, on the following day, moved to a two-bedroom rental property at 21 Braithwaite Street, Wangaratta.

Mandy Duke

Mandy Duke who was a friend to Kath Bergamin of some 20 years standing, tried to help Kath over this period and was present when Kath rented the Braithwaite Street property and bought various white goods, and again with Kath when she went to Wangaratta Court on the 30th to apply for the interim order.

Mandy testified that, after a coffee and lunch following the court attendance, she answered a call from John on Kathy's mobile in which John was,

"very aggressive and yelled verbal abuse."

She also testified that Renee Bergamin left a message that said,

"(her mum), was fucked in the head and that she was going to kill her because of what she's done to her dad and the kids. Cathy was very upset by this and began to cry."

Kath rang Mandy that night and said that, notwithstanding her instructions, the real estate agent had told where she was living. Mandy then went to pick her up and, according to Mandy, they found themselves being followed around several streets by a green Toyota Camry which was registered to Kath and which had been lent to Steven Bergamin. There were four occupants in the Toyota Camry but Mandy Duke was unable to say who they were. Thereafter, Mandy suggested to Kath that she meet the children at the police station and Kath then rang Steven Bergamin and said that she wanted to meet him (Steven), Renee and Dylan and arranged to do so at the Wangaratta police station. At this meeting, through which Mandy Duke remained at Kath's side, Kath explained to her children that the intervention order only applied to their father and not to themselves.

The meeting lasted for approximately 1 hour and Mandy observed that Steven Bergamin was very angry about what Kath was doing and wanted to admit her to a psychiatric unit and wanted to know about her solicitor.

Later, Kath and Mandy returned to Mandy's home and about half an hour later Steven arrived and gave Kath \$300 and some of her clothes. He informed her that if she required further money that she was to contact him and that he would get it for her.

See Transcript from P 197.

The Interim intervention Order was heard at the Wangaratta Magistrates Court on the 3rd of June 2002 and arrangements were entered into for that order to be cancelled and instead a written undertaking was entered into which included requirements that John provide for her financially in the amount of \$866 per month. According to Kath, as told by her solicitor Elizabeth Stagg, she accepted this compromise to allow John to recover his firearms. See Transcript at P 701 and Ex 76.

June, July and early August.

After Kath moved away from the farm, she continued with her attempts to re-invent herself. She took a job at Mirrawa Industries, an organization that was engaged in looking after youth and disabled persons, and she continued her studies at the Wodonga TAFE.

After initial difficulty, she managed to maintain contact with her children, Renee and Dylan in particular, who both spent a lot of time at Braithwaite Street and later at the house in Brien Crescent, into which Kath and flatmate, Sandie Riley moved, in early August.

Various family members, friends and acquaintances have given evidence about her life during this period and the most significant aspects of that evidence are set out below.

Sandie Riley.

After Kath moved out (Sandie Riley testified), John Bergamin kept asking her if she was going to leave Pat Primerano's home to move in with Kath and she told him she would do so after she had paid off her bills. John Bergamin then offered her money so that she could do so immediately and she finally accepted \$1000 from him and moved to Braithwaite Street in early June. It is not known whether Kath was privy to this arrangement.

John Bergamin managed to get Kath's silent home phone number and, according to Sandie, he rang at least 20 times per day on the home phone or on Kath's mobile. Sandie further testified that he would also get the kids to ring and that the kids would then pressure Kath to speak to John Bergamin. According to Sandie, the calls were for trivial matters and, after the intervention order was granted, he used the children as an excuse to contact Kath as the order only permitted John to speak to her on the subject of their children.

Sandie further testified that on one night she and Kath had been in the street looking for their cat when she, Sandie, saw a figure jump over the fence from their backyard to next door's backyard. After telling Kath what she had seen, Kath ran off down the street. Thereafter, Kath ran back towards her in the direction of the house and told her to get into the house and that she had shone the torch in this person's face, that it was John, and that he had run off.

Kath then called the police and rang the farm and spoke to her son, Stephen, to be told that John was not at home.

Sandie also testified that initially John kept coming around and that Kath would let him into the house because he had the children with him. According to Sandie, Kath would never argue with him in front of the children and he would make her kiss him, which conduct troubled Sandie, as she felt that John had never previously shown such affection towards Kath before her departure.

Sandie Riley further detailed how Kath's things, but not her own, would go missing from around the house and her underwear from the clothes' line, and that these items would then re-appear several days later, sometimes under Kath's bed. See also the comments made by Kath to Hayley Costa about earlier such conduct, as set out at Transcript P 380.

Sandie also told the inquest about Kath's social habits during this period. According to Sandie, who felt that John's behaviour was having its affect on Kath, they would go out to the pub to try to relax. Their visits at first were confined to weekends and included the town's three bars, which are all situated along Wangaratta's main street, within close proximity to each other. According to Sandie, if anyone spoke to Kath, John would be right behind, just staring. See Transcript from P 69 and Ex 4.

Sandie further testified as to how John Bergamin helped them move to the Brien Crescent address in early August and how John had taken this opportunity to take her address book/organizer and how he had later returned it with the Melbourne addresses of her birth family having been removed. See Sandie Riley's evidence in response to questions by Mr Dunn QC at Transcript P97 and from Mr Rose SC at Transcript P 122.

Brunella Gallo

Brunella Gallo testified that she met the Bergamins in approximately 1998 and came to know John through his friendship with her husband. Both men shared a common interest in hunting and fishing. Through this connection, she developed a friendship with Kath. She became aware of problems in the marriage and later was shocked to hear of the attempted suicide.

At a point in time before she left Cheshunt in approximately mid May, Kath told Bruenella that she intended to move to Wangaratta. John did not know of this and Bruenella wished Kath good luck, as she believed that John would react badly to her departure. Following the move, she became aware that Kath had taken a unit in Braithwaite Street, which was approximately 15 minutes walk from her home. Later she learnt that Kath and Sandie had moved to a house in Brien Crescent, which was only 5 minutes walk away.

Brunella Gallo further testified that, from this time, John visited her home on a nightly basis during which he would seek her advice about Kath. John kept asking the same question and Brunella kept giving him the same answer, which was that she believed that the relationship was over and that he should leave Kath alone.

Brunella's further evidence was that she became annoyed at the frequency of his visits and that she felt her home was being used as the next port of call after visits undertaken by John, to spy on Kath. See Transcript from P 460.

Christina Strang

During 2002, Christina Strang resided with her then partner, Eugene, her son and his son, at an address in Wodonga where both Christina and Eugene were students at the Wodonga TAFE. Christina first met Kath when Eugene brought her to their home for a coffee.

Christina testified that the second time she met Kath was on July 1st, at Braithwaite Street.

On this occasion, Eugene was dropping his daughter off in Bendigo after an access visit but when he did not return home, as and when expected, Christina became concerned. After contacting Eugene's ex-wife, Christina heard that he was in the Wangaratta area and she then suspected that he may be with Kath Bergamin. As a result she then found a number from a TAFE phone book for Kath, which she called, and got through to a male who identified himself as John Bergamin.

John Bergamin informed Christina that Kath had moved out but he refused to give her Kath's phone numbers. In response, Christina asked if he would show her where Kath lived and John agreed to do so. It was then arranged that she would drive to Wangaratta to meet John outside the National Australia Bank. After they met, John travelled in her vehicle to 21 Braithwaite Street. According to Christina, it was about 10 pm when they arrived and John told her to park under the shadows of tree, away from street lighting. He told her to do this, as he wanted

"to case the house before I got there. I found this very odd, as I just wanted to speak to Eugene. He got out of the car and looked around the house and then came back. After he came back, he told me to knock on the door and get Kath to come out of the house and

smash her head against the bonnet of the car. He said that she needed some treatment to knock a bit of sense into her. "

See Transcript from Page 163.

Thereafter, Christina knocked on the door and was let in by Kath. She then spoke to Eugene in a separate room and it would seem that voices were raised and that she was later asked to leave the house, which she did.

According to Christina, John contacted her again approximately one week later, and made certain further accusations against Eugene and Kath, which Christina felt to be mischievous and did not believe.

Robin Seymour

Robin Seymour met Kath Bergamin at the Albion Hotel in Wangaratta about two months prior to her disappearance. They joined in a pool game and soon after he was confronted by a person identified as John Bergamin, who yelled out something like, *"That's my wife."* Mr Seymour didn't answer and later he walked Kath home to her address in Braithwaite Street and took a taxi home later that morning.

The relationship developed and he saw her on several further occasions, and she told him of the breakdown of the marriage and that she had sought an intervention order, because, *"he was stalking her."* She also told him about the suicide attempt and about the rehab and *"that it was because of her husband that she did it."*

On the 29th, after spending the afternoon together, they went to the Bulls Head and, according to Robin Seymour, were confronted again by John Bergamin at sometime after 11 pm.

Kath asked John Bergamin to leave, which he did, and shortly thereafter Kath's youngest son, Dylan, approached them at which point Kath took Dylan outside while Robin Seymour remained in the Hotel. Kath then returned and they left the Hotel via a back entrance and Kath walked to the nearby Jag Bar,

"because she felt safe there because she said the police socialized there a lot."

Thereafter, Robin Seymour terminated the relationship explaining that he could not see her because of the family. He maintained this stance despite several attempts by Kath to contact him over the next few weeks. Thereafter, she saw him again at his workplace where he further testified that she stated,

"that she needed my phone number because all her numbers had been wiped off her phone. She stated that the phone was stolen or taken and then she said she ended up finding the phone. I didn't quite get the story."

He then agreed to go for a drive with her and following this they returned to the Braithwaite Street address at around midnight. On arrival, they saw a male figure in the bushes near the house which Kath believed was John Bergamin.

"We stayed in the car with the headlights on. After about a minute this male figure moved down the street."

Robin Seymour immediately noticed this person to be of similar build to John Bergamin and in a later statement,

"I later thought this male was John because of the way he dressed and the way he walked. The male I saw walking was wearing a jacket with the collar turned up and every time I had seen John, he wore his jacket with the collar turned up. The male I saw was also walking like John, with his hands in his pockets. The fact that Kath was adamant that this male was John also made me think that it was John."

Robin Seymour further testified as to the circumstances in which John Bergamin, in the company of Pat Primerano, came to his place of employment in early July to warn him against seeing Kath and how on the same occasion Pat Primerano and John Bergamin purchased Nitto Duct Tape, which was of the type exhibited at Ex 56.

See Transcript from Page 1083.

John Houghton.

In July 2002, John Houghton was the QBE Insurance area manager for Wangaratta and still remains in that position. John Houghton testified that he met the Bergamins in about 1992 when he was canvassing for clients amongst the tobacco growers in the Cheshunt area of the King Valley. The Bergamins became clients and John Houghton dealt mainly with John's mother, or his wife Kath,

as John, *"was usually in the paddock or off shooting somewhere."*

John Houghton further testified as to an incident in which John Bergamin's yelling and banging on the window of his unit in Wangaratta, awoke him at 4.30 am on a Sunday morning in early July, 2002. This continued for about half an hour until Mr Houghton heard a window smash in his lounge room following which he got up to inspect the damage.

At this point, he observed John Bergamin climbing into his house through the broken window and he placed his foot on his head and pushed him back out. After discussion, he allowed him entry and John Bergamin then told him that he had been driving around looking for Kath and that he had been hiding from police as he was drunk. After this, John Bergamin fell asleep on the couch, but had left before John Houghton arose at 9 am.

John Houghton further testified as to the changed nature of his own relationship with Kath Bergamin, following her move to Wangaratta from late May and told the inquest that they began dating and would attend,

"the local pub(s), dances, that sort of thing. It was 10 or a dozen times that we caught up down the pub with kissing and cuddling and yes, we used to play around."

Mr Rose SC, *"Certainly people would have seen you kissing and cuddling and all of that wouldn't they?"*

"Yes, that was on the dance floor of the hotel. There was a lot of times it was set up because John's mates were standing around the dance floor watching us, so we'd just play up to them to upset them. It worked."

John Houghton's further evidence was that he was aware that John Bergamin knew of the relationship because he came to his home and confronted him about the situation. According to Mr Houghton, the confrontation at his home occurred on a Saturday towards the end of July or in early August. On Mr Houghton's version of events, he and Kath had danced at the Albion until around 5 am that morning, during which time John had rung him, "numerous times." His further evidence was that this had occurred while John Bergamin's friends, Pat Primerano and Pat Ciccone were also present in the bar and that other of John Bergamin's friends were also present and that they were all getting calls from John Bergamin, to see where Kath was and that in fact John was just outside and would come in from time to time to watch them.

According to John Houghton, he told John Bergamin at the meeting at his home that he was not sleeping with Kath, which he maintained in evidence was true and they were just good friends and that was it.

John Houghton's further testimony, relevant to the period under review, was that soon after Kath left Cheshunt she called and said that someone had stolen her phone and that she wanted to make a claim about it.

John Houghton then went around to Kath's unit, called her number, and found that John Bergamin answered the phone. In the discussion that followed, John Bergamin allegedly agreed that he had taken the phone but insisted it was he who had paid for it. John Houghton told him that Kath was intending to report the theft to police and subsequently the phone was returned.

Pat Primerano

I note here that Pat Primerano submitted through Counsel, Mr Howard Mason, that he should be excused from testifying before this inquest because his evidence may tend to incriminate himself. That application was unsuccessful. Thereafter, Mr Mason remained in court to represent Mr Primerano while he gave evidence.

It is also relevant that in 2002 Mr Primerano declined to give a signed statement to investigators, but did make an oral statement, which was set out in a police information report and admitted into evidence as Ex A in Mr Primerano's application.

Pat Primerano was the long time boyfriend of Sandie Riley and remained so until a point approximately two months after Kath's Bergamin's disappearance, at which time Sandie

Riley terminated the relationship. He was also a neighbour and close friend of John Bergamin and, on his evidence, remains so now.

Pat Primerano testified that he did not remember if he warned off other men from seeing Kath. He also did not remember if he warned off John Houghton but that he could have. Pat Primerano also did not remember if John Bergamin had spoken to him about this and requested that he do so. Pat Primerano further testified that he thought he had heard that Kath was seeing other men. He further testified that,

"he couldn't mention any names," and when challenged on this response by myself he stated, "All right well I can't recall."

See Transcript at Page 1174.

His further evidence was that he stayed over at Braithwaite Street and Brien Crescent regularly but did not remember if he had been given a house key and, further, that he was not aware that Kath had friends coming to stay over or that she was having an affair with any particular person.

Pat Primerano further stated that he had not seen Kath with any other man at hotels in Wangaratta and that he could not recall if he had bought any Nitto tape with John Bergamin from a salesman or from a person called Robin Seymour at the Repco shop.

Similarly, Pat Primerano testified that he had no recollection of the events of May 29th 2002 and of the circumstances surrounding Kath Bergamin's departure from Cheshunt.

Senior Constable Mick Harvey.

On the 5th of June, Steven Bergamin visited the Whitfield Police Station to speak with Senior Constable Mick Harvey. He requested S/Constable Harvey to write a letter supporting an application he was making to defer his studies at Monash University, which S/Constable Harvey agreed to do.

S/Constable Harvey testified that they also spoke about Kath Bergamin's health and the suicide attempt and that Stephen immediately became aggressive and said that she was crazy and that she wanted to leave his father but they could not afford for her to leave. He further spoke about his plans to develop his father's farm into a winery and that the business could not afford for her to leave, and that there was no way his father would want her to leave.

S/Constable Harvey further testified that he received a call from John Bergamin on the 17th of August requesting that they meet to discuss Kath Bergamin. By this time S/ Constable Harvey was in possession of a second Intervention Order, which he had to serve, and he informed John Bergamin of this matter and agreed to go out to the farm later that day. He was however unable to reach John Bergamin as arranged, this despite phone calls and attending the farm on both the 17th at 7.15 pm and on the following day at 1.35 pm.

Maria Brauman

Maria Brauman also testified about Kath Bergamin's improved outlook following her departure from Cheshunt. Mrs Brauman further stated that she recalled an occasion following Kath's departure when she spoke to John Bergamin, after he had dropped in and when they spoke in her drive way. In this conversation, she alleged that John had told her that he had bought Renee a mobile phone so she,

"could call him and tell him what Kath was up to."

According to her further testimony, she advised him to let her go and allow her (Kath) to get on with her life. To this, John Bergamin shrugged his shoulders and gave a gesture, which suggested to Mrs Brauman that he was (threatening) to cut her throat. See Transcript at P204.

Renee Bergamin.

Renee Bergamin testified that her mother left the farm to move to Wangaratta because she wanted to get a job in Wangaratta and because she did not like the Cheshunt home because of what she had done there and, as I understood her evidence, because she was worried about the impression that people may have of her. According to Renee, her father was fine with her mother leaving, was still supportive and provided money to her.

Renee Bergamin further testified as to Sandie Riley moving in with her mother and that they had moved to Brien Crescent after her mother had put on parties for her teenage friends at Braithwaite Street.

"A lot of my friends every Friday and Saturday night would come over" and "Yes sometimes," (the police were called.)

While they remained at Braithwaite Street, Renee and Dylan would regularly sleep over and this practice continued at Brien Crescent. Her further testimony was that she quite often borrowed items belonging to her mother including her underwear and that this often occurred without discussion taking place between them.

She was unable to remember if her father stayed over at Braithwaite Street but remembered that he had not stayed at Brien Crescent. This version of events, however, was noted to contradict an earlier statement made by Renee Bergamin. See Transcript at Page 1256.

Renee Bergamin gave further evidence concerning her mother's involvement with other men, one a younger man with blond hair called Justin, who she described as being built like a footballer, and another, a man she described as an aboriginal of approximately 175cm in height, who was a regular visitor.

According to Renee Bergamin, she only met Justin on one occasion and this was when she came home and found her mother in bed with him. Her final version of this event was that they each told the other to leave and that Justin pushed her against the wall next to the heater and that she hit him and pushed him off, and threw him on the floor and ran outside and took off, and that she had done several years of martial arts. See Transcript P 1312. I note here that earlier inconsistent versions of this incident are to be found at Transcript P 1260 and

Transcript P 1268. See also Sandie Riley's evidence in response to Mr Dunn QC's questioning regarding these Renee Bergamin allegations, at Transcript P 71 and 72.

The events of the 12th to the 17th of August.

Various witnesses testified as to their involvement in the events leading up to the disappearance of Kath Bergamin on Sunday the 18th of August and the most relevant aspects of that evidence are set out below.

Elizabeth Stagg.

On the 12th of August, Kath Bergamin's solicitor, Elizabeth Stagg, was at Wangaratta Court when she saw Kath sitting on the steps to the clerks office 'wailing' with her husband, accompanied by a tall slim dark haired man, standing over her. Kath Bergamin kept repeating, *"He is turning the children against me."*

I note here that the description of the young man provided by Mrs Stagg is consistent with the appearance of Kath's son, Steven, as he appeared during the course of this inquest.

At Mrs Stagg's suggestion, both men left.

Kath Bergamin had been at court seeking an extension to a second Interim Intervention Order, which she had taken out on the 16th of July. The order was extended on the 12th August to allow for a contested hearing that was then set down for the 4th of October.

Kath Bergamin reported an alleged breach of the interim order on the evening of the 13th of August to Wangaratta police, however, no further action was taken by police at that time. This matter was also reported to Mrs Stagg who was told that he came to the house at 10.30 pm.

On the 15th of August, Kath Bergamin consulted with Mrs Stagg and on that day a letter was mailed to John Bergamin's Solicitors, Mahoneys of 400 Collins Street, Melbourne, advising that Elizabeth Stagg was representing Kath Bergamin and that she was seeking a property settlement as well as spousal maintenance.

See Mahoneys file Ex 98, which I note includes a letter dated the 3rd of April, 2003, addressed to Detective Sergeant Blundell who was initially in charge of the missing person's investigation, which letter states that all communications with Mr Bergamin were made by telephone.

The letter from M/s Stagg referred to above is imprinted with a date stamp which suggests that Mahoneys received it on Saturday the 17th of August. It is unclear whether his solicitor communicated the contents of this letter to John Bergamin by phone, as was his habit. It is also unclear whether such communication took place on either the 17th or 18th, although John Bergamin's telephone records suggest that it did not.

It is clear however that Senior Constable Mick Harvey informed John Bergamin of the existence of the new interim order taken out by Kath, on the day before her disappearance on August 18th. Given his earlier experience with the first interim order, this information must have alerted him to the possibility that on this occasion there would also be further "interference" concerning his guns, which was a matter about which he had previously indicated very strong views. See also the transcript of the record of interview taken with John Bergamin on the 1st of November, 2002 at Brief P 794, where John Bergamin answers questions about his guns and the impact of the second intervention order.

Maria and Phil Brauman

On Friday the 16th of August, John Bergamin was in Wangaratta when he spoke with Phil and Maria Brauman at Tony's Aroma Coffee Shop. John complained about Kath always coming to him when she needed money and, following this conversation and in an apparent effort to distract him, the Brauman's then invited John together with his children to come for dinner the following Sunday the 18th, at 7 pm. It was finally arranged that John Bergamin would attend without the children and following this acceptance, both Maria and Phil Brauman testified that John Bergamin intimated that he wished to talk privately with Phil.

Phil Brauman then had a private conversation with John Bergamin during which John spoke about Kath being into drugs and further stated that because she was on drugs, it would be easy to give her an ...overdose. (Mr Brauman was not sure that the word "overdose" was used but given the context of this conversation, his understanding of the conversation was that John Bergamin was referring to something harmful being administered against Kath's wishes).

Phil Brauman's further testimony was that John Bergamin also said that he could get someone organized from overseas to do the job and that no one would know. He also testified that John Bergamin suggested that as Kath had tried to commit suicide before, no one would question it.

See Transcript at P 363.

Sandie Riley

At or around midnight on the 16th of August, Kath Bergamin and Sandie Riley went to the "JAG" bar in Wangaratta. John Bergamin and his friend, Frank Primerano, were present and John and Kath argued about Kath's claim that John had not kept his earlier promise to pick up Renee. According to Sandie Riley, Renee was still at home waiting for her father to pick her up while John's version was that he was to pick her up on Saturday.

Thereafter, Sandie Riley and Kath Bergamin immediately left the bar. They walked to a nearby ATM where Kath drew out \$200, and they then went on to the Albion Hotel.

Soon after John Bergamin again appeared and followed Kath within the Albion, while she played pool. Sandie Riley further alleged that she asked John to leave Kath alone, to which he responded by saying,

"it was his pub to-night."

Thereafter, he bought drinks for Kath and Sandie and when this was made known to Kath, she poured them on the floor, which led to her being asked to apologise to a bar tender which she then did. Kath then left the hotel, having been asked to do so, and returned home where Sandie found her getting into bed, upon her own return a short time later.

See Sandie Riley's statement Ex 4, at P 9.

The following day, August 17th, Kath Bergamin spent at home and, according to Sandie, spent most of it in bed. After going to a movie with family members during the afternoon, Sandie worked at La Porchetta's until around 11.30 pm when she returned home and found Kath alone, with Renee having returned to Cheshunt.

Kath and Sandie set off for the Grand Central Hotel soon after, where they remained for about 10 to 15 minutes only. Thereafter, they walked across to the Albion and, after a short time, headed back to the Grand Central where Kath ran into a mutual friend, Hayley Costa. Sandie Riley and her boyfriend Pat Primerano, left the Hotel at approximately 1.30 am.

Hayley Costa

Hayley Costa first met Kath in 1997 when her then boyfriend, Daniel Seyferr worked for the Bergamin's and she spent time at their Cheshunt property. During this period, she had become aware of Kath's view that she was caught up in an unhappy marriage and that, *"John was very possessive and that he would follow Kath into town and hide her underwear and silly things like that."*

According to Hayley Costa, John Bergamin had been involved in an earlier incident which, at the time, had caused her considerable alarm. That evidence was not relevant to this inquest and I direct myself to ignore it.

Hayley Costa testified that she and Kath began to see more of each other after Kath left Cheshunt in May 2002, and as to Kath's complaints concerning John Bergamin's behaviour towards her and his constantly calling her during this period.

"She came around to my house once and her mobile was continually ringing. She answered the phone once and it was John and the kids, so she didn't answer any of the calls after that."

Hayley Costa further testified that she last saw Kath Bergamin on Saturday the 17th of August 2002, when they met at the Grand Central Hotel. She and Kath remained at the hotel until 5 am on the Sunday with Hayley's boyfriend, Adam Booth. All three then left the hotel and stayed at Adam Booths house, with Kath sleeping in the spare room. At approximately 9 am the following morning, Kath took a taxi home.

The 18th of August and Kath Bergamin's disappearance.

At 3 pm, Sandie Riley drove Kath to a baseball game in Murdoch Road Wangaratta, where Kath watched Robin Seymour play while Sandie visited her mother. Robyn Seymour's interest in Kath had, by this time, waned and he made this clear to her. Later Sandie returned to pick her up and they both then went to the Safeway Supermarket at 3.56 pm.

See Ex 120.

Shaun Dibbin

Police investigations reveal that at 6.33 pm on the 18th of August, Shaun Dibbin, a unit manager for Merriwa Industries, phoned Kath on her mobile telephone, 0409552985. The purpose of this call was to request that Kath agree to work an extra shift on the 19th of August, which shift was due to commence at 6.30 pm and go on for two and a half hours. Kath agreed to this proposal and according to Mr Dibbin, appeared to be very keen to accept.

See Brief at P 321.

Mandy Duke

We also know that Mandy Duke called Kath on her mobile at 7.16 pm and that this conversation lasted for 9 minutes and 35 seconds. According to Mandy Duke, Kath said that she was home relaxing by herself, watching a video and she could hear a video in the background.

"Kathy turned it down and we continued talking I didn't hear any other people talking in the background. Kathy sounded pretty happy because she had just moved into a new place in Brien Crescent Kathy spoke about the bed and lamp that John damaged when (he helped in the move) Kathy told me that she couldn't come over on the Monday because she had to work ...and told me that she hadn't seen the kids and I know she would have mentioned it to me if they were in the house."

See Transcript P 205.

This was the last known telephone contact that Kath Bergamin had and appears to have taken place just before she was observed at her front door by a neighbour, Mrs Scutt. I return to this matter below.

Telephone calls to and from Interested Parties.

Police investigations have disclosed that at the time of Kath Bergamin's disappearance, that mobile service 0427 298 271 was used by John Bergamin, that mobile service 0428 298 271 was used by Steven Bergamin and that the farm home line 03 5729 8271, was used by both men. We also know that Kath's mobile number was 0409 552 985.

At 4.38 pm John Bergamin's mobile phone 0427 298 271, received a call from a public box situated outside 53 Phillipson Street, Wangaratta and that this particular telephone box was

situated approximately 300 metres from Kath Bergamin's new address in Brien Crescent. This call repeated off Wangaratta Tower. At 4.49 pm John Bergamin's mobile 0427 298 271 contacted Kath Bergamin's mobile 0409 552 985 with a call duration of 30 seconds. The farm home line 03 5729 8271 then attempted to contact John Bergamin's mobile 0427 298 271 with a call duration of two seconds. At 4.49 pm and 53 seconds the farm again calls John Bergamin's mobile 0427 298 271 with a call duration of two seconds. John Bergamin's mobile 0427 298 271 then again called Kath Bergamin's mobile 0409 552 985 with a call duration of eight seconds. At 4.50 pm John Bergamin's mobile 0427 298 271 called the farm 03 5729 8271 with a call duration of 42 seconds. This call repeated off the Wangaratta Tower suggesting John Bergamin was still in the Wangaratta area.

At 5.48 pm Hayley Costa contacted Kath Bergamin on her mobile 0409 552 985 and they spoke for eight minutes and 48 seconds. Kath Bergamin mentioned to Hayley Costa that she was at home watching a video and they made arrangements to meet on the coming Tuesday, being the 20th of August 2002.

At 5.29 pm John Bergamin's mobile 0427 298 271 contacted Tony Gallo's home address land line, which was approximately 300 metres from Kath Bergamin's home. John Bergamin and Tony Gallo spoke for one minute and 11 seconds. At 5.32 pm John Bergamin's mobile 0427 298 271 contacted Kath Bergamin's mobile 0409 552 985. At 5.45 pm John Bergamin's mobile again contacted Tony Gallo on the home number. Tony Gallo and John Bergamin spoke for five minutes 57 seconds on this occasion. John Bergamin's mobile telephone 0427 298 271 again contacted Tony Gallo at 5.59 pm - this call was for four seconds. All of these calls made by John Bergamin's mobile 0427 298 271, were repeating from the Wangaratta Tower.

At 6.33 pm Shaun Dibbin, a Unit Manager for Merriwa Industries telephoned Kath Bergamin to work an extra shift on the following day, the shift due to commence at 6.30 am. Kath Bergamin agreed to do this shift and appeared to be very keen. At 7.16 pm Mandy Duke, a close friend of Kath Bergamin's, telephoned her on her mobile phone 0409 552 985. They spoke for nine minutes and 35 seconds. During this conversation Kath Bergamin mentioned that she was home alone, watching a video called "Coyote Ugly". Kath Bergamin sounded happy and made plans to meet with Mandy Duke for the next Tuesday. Kath Bergamin mentioned that she could not visit Mandy Duke on the Monday because she had to work. This was the last known contact Kath Bergamin had.

At 7.27 pm Kath Bergamin's mobile 0409 552 985 contacted John Bergamin's mobile 0427 298 271, but this call diverted to his message bank. At 8.44 pm John Bergamin's mobile phone 0427 298 271 received a call from a public telephone, which is located outside 5 Phillipson Street, Wangaratta. This particular public telephone is approximately 200 metres from John Bergamin's mother's residence, and approximately 400 metres from Kath Bergamin's home. This call was diverted to John Bergamin's voice mail. There is no further telephone activity on Kath's, John or Steven Bergamin's mobile telephones for the rest of the evening. It is during this time that Kath Bergamin disappeared.

John Bergamin stated that he returned to the Wangaratta area and dropped Renee Bergamin off at Phillipson Street, Wangaratta, between 2.30 pm and 3.00 pm on Sunday, the 18th of August 2002. John Bergamin further stated that he picked up Renee Bergamin from the

bike shop in Phillipson Street, Wangaratta. He further stated that he drove to Tony Gallo's home address with Renee and Dylan Bergamin where they had coffee, leaving Tony Gallo's between 4.30 pm and 5.00 pm. He then dropped Dylan Bergamin to his mother's home. John Bergamin further stated that he then drove Renee Bergamin home to the farm, arriving at 6.00 pm, where he remained for the rest of the evening.

These movements detailed by John Bergamin are in contrast to the various telephone conversations that were had on his mobile telephone that afternoon, namely:

- At 5.29 pm John Bergamin's mobile telephone 0427 298 271 contacted Tony Gallo's home phone. This call lasted for one minute and 11 seconds and repeated off the Wangaratta Tower;
- At 5.32 pm John Bergamin's mobile telephone 0427 298 271 contacted Kath Bergamin's mobile telephone 0409 552 985. The call lasted for 30 seconds and repeated off the Wangaratta Tower;
- At 5.45 pm John Bergamin's mobile 0427 298 271 contacted Tony Gallo's home phone. The call lasted for five minutes and 57 seconds and repeated off the Wangaratta Tower;
- At 5.59 pm John Bergamin's mobile telephone 0427 298 271 contacted Tony Gallo's home phone. The call lasted for four seconds and repeated off the Wangaratta tower.

These calls indicated that John Bergamin's mobile phone was in the Wangaratta area at 6.00 pm in contrast to his statement where he stated he arrived home around 6.00 pm in Cheshunt approximately 50 kilometres away.

Steven Bergamin stated that he drove from his girlfriend's (Nicole Paton) home at Lurg, arriving at the farm at approximately 5.00 pm. He further stated that he immediately left the farm with Renee Bergamin and drove to Wangaratta to pick up Dylan Bergamin from their mother's home, arriving at 6.00 pm. He further stated that he arrived at the farm with Renee and Dylan Bergamin at 7.00 pm, where John Bergamin was preparing dinner. Steven Bergamin further stated that he remained at the farm for the entire evening, going to bed at 8.00 pm.

These movements detailed by Steven Bergamin are in direct contrast to the various telephone conversations he had on that afternoon, namely:

- At 5.25 pm Jonathon Green, an associate of Steven Bergamin, contacted the farm 03 5729 8271. The call lasted for 56 seconds;
- At 5.26 pm the farm 03 5729 8271 contacted Jonathon Green's landline. The call lasted for 49 minutes and 24 seconds;
- At 6.36 pm Nicole Paton, Steven Bergamin's girlfriend at the time, contacted the farm 03 5729 8271. The call lasted two minutes and 13 seconds;

- At 6.54 pm Garth Beavis contacted the farm 03 5729 8271. The call lasted for 49 seconds;
- At 7.32 pm Garth Beavis again contacted the farm 03 5729 8271. The call lasted for one minute and 13 seconds;
- At 7.48 pm the farm 03 5729 8271 contacted Nicole Paton at Swinburne University. The call lasted one minute and 11 seconds.

Jonathan Green.

Mr Green stated that he recalled speaking to Steven Bergamin on the 18th of August 2002, although he could not remember the time. He stated that usually he spoke to Steven Bergamin after 7 pm due to STD rates and the abovementioned records suggest that Steven Bergamin was home at Cheshunt from at least 5.26 pm.

Garth Beavis

Mr Beavis stated that he contacted the farm 03 5729 8271 to inquire about employment, between 6.30 pm and 7.00 pm on Sunday the 18th of August 2002. He knows that it was that time because he had just come back from Albury and rang the farm soon after.

Mr Beavis stated that he spoke to Steven Bergamin, as he wanted to confirm that he was beginning work on the farm the next day. He further stated that Steven Bergamin told him to call John Bergamin at about eight o'clock the following morning. He presumed that John Bergamin was not there because otherwise he would have been put through.

Nicole Paton.

Nicole Paton confirms that Steven Bergamin spent the evening of Saturday the 17th of August 2002 at her family home. She states that they got up the next morning at 9.30 am and that she spent the day with Steven Bergamin. At about 3.30 pm her mother drove her and her sister to the Benalla Railway Station where she boarded a train and returned to Melbourne. Steven Bergamin left at the same time in his vehicle and she saw him stop in the drive and speak to her father and his friend. She presumed he was returning home. She states that, while she was on the train at about 6.20 pm, Steven Bergamin called her on her mobile telephone.

Ms Paton further states that she arrived home at approximately 6.30 pm and called Steven Bergamin from her room.

Ms Paton stated she did not recall who called after this but she did recall that there was a phone call between herself and Steven Bergamin at about 8.00 pm. She did not recall who he was with at the time but assumed he was at home. She did not specify whether she spoke to Steven Bergamin on his mobile telephone or the farm landline.

Dylan Bergamin.

Dylan Bergamin stated that his father dropped him off in Phillipson Street and he then walked to his mother's home. Neighbours of Kath Bergamin stated that Dylan Bergamin played with them in their backyard for approximately half an hour. The fact that he played in a neighbourhood back yard is corroborated by both Jack and John Langren. He returned to his mother's house at around 6 pm when it began to get dark. Dylan Bergamin further stated that he watched the entire video of "Coyote Ugly," 97 minutes running time, and was picked up by Steven and Renee Bergamin about 5 to 10 minutes after the film finished, arriving at the farm after 7.00 pm.

Renee Bergamin.

Renee Bergamin made a statement to police on the 22nd of August 2002 and adopted that statement as her evidence during the inquest. In adopting that statement, she stated that she dropped in at her mothers home to pick up a jacket to wear to the Winton races, which she planned to attend that day. She then went to the races with her father and Dylan and left at the start of the last race.

Renee Bergamin also stated that at 4.00 pm on the 18th her father dropped her off again, near her mother's home, and while walking across the playground towards Brien Crescent, that she saw a tall man wearing black clothes and sunglasses with dark skin and dark curly hair and that this was the same man she, Steven Bergamin and Sandie Riley, had seen in a similar position near her mothers home during the previous week. (See corroborating account in respect of this earlier observation, by Sandie Riley at Ex 4 P 3, where Sandie suggests that this earlier sighting in fact occurred on the previous day, Saturday August 17th).

She then dropped off the jacket and walked straight back to her father's car, by which time the man she had earlier seen had disappeared.

Her further testimony was that she and her father then drove to Cheshunt and that she returned as planned with her brother, Steven Bergamin, to pick up Dylan Bergamin from their mother's home, arriving there at 6.00 pm and immediately returning to the farm. According to Renee, she and Steven only stayed for 5 minutes when they picked up Dylan, because her father was at home cooking tea and because her mother told her to leave as she had a friend coming over.

See Transcript P 1258 and 1259.

In further answering questions on her original statement put by Counsel assisting, Mr Rose SC, Renee Bergamin testified that she left Winton before the last race which was at 5.15 pm and that she then went to her mothers home to drop off clothes, together with her younger brother, Dylan. Her further evidence was that her mother told her to leave and that she dropped in on her grandmother to pick up a hair straightener and that her father was driving her in his own utility at this time.

She also stated when she later returned with Steven to pick up Dylan, that she just stayed for a couple of minutes, that Dylan was watching a video 'Coyote Ugly' and that no other people were there.

Her further testimony was that she could not remember if she had been to the Gallo's home that evening and she didn't necessarily believe that her memory of these events was better when she made her statement in August 2002, than it was now.

When further questioned about her brothers telephone call to Jonathon Green at 5.26 pm over 49 minutes, she stated that she couldn't remember when she dropped Dylan off or picked him up, but that she did remember it was still light because her mother was sitting outside

In further examination by Mr Dunn QC, for John and Steven Bergamin, Renee Bergamin testified that she frequently used her fathers, mothers or brothers mobile phone, because she regularly found herself without phone credit.

She also stated that when cars enter or leave the driveway of the farm, it is obvious to people inside the house and that the dog would bark loudly on such occasions.

Her further evidence was that her belief was her father and brother were not involved in her mother's disappearance on the 18th of August, as alleged by police.

Margaret Russell

Margaret Russell stated that Renee Bergamin called in to her home at approximately 5.15 pm to collect a hair straightener while she believed that John Bergamin waited outside in his car, which he had parked on her nature strip.

Sandie Riley

Sandie Riley and Kath Bergamin returned home at some time after 4 pm having bought, among other things, Kath some phone credit at Safeway. Pat Primerano and his cousin, Pat Ciccone, had already arrived at Brien Crescent. Renee also arrived and in conversation with Sandie established that Sandie would be working that night. Renee left at about 4.20pm and Sandie remembered this because she had checked her watch in connection with her own work plans. Sandie later saw Renee walk across the school grounds, as Renee herself has testified. Ten minutes later, Pat Primerano and Pat Ciccone both left and Sandie herself then left for work at 5.10 pm leaving Kath at home alone with the TV on.

Sandie Riley finished work at 11 pm and arrived home at 11.15 pm, with Pat Primerano following in his own car. She entered through the back door, which was unlocked. Sandie further explained that they did not have a front door key and that they would leave the back door open if they were not together. From this evidence, I infer that they had only the one back door key between them and note that while we do not know who else was privy to this arrangement, it is highly likely that Pat Primerano was so aware.

See her statement dated 28/8/2002 at Ex 4 at Brief P 108 and her later testimony at Transcript P 1339, in which her memory of this particular matter appeared uncertain.

On her arrival home Sandie found that Kath was not at home. The back door key was on top of the fridge where Sandie had left it. Lights were on in the house and the sports shoes that Kath had been wearing when Sandie had last seen her, were at the foot of her bed.

Sandie then went to her own room and found Kath's handbag hidden under her doona. Sandie testified that Kath often left her handbag there when her children were in the house, as a means of preventing items from being taken. Sandie had made her bed just before leaving for work at 5.10 pm and the bag was not hidden under the doona at that point and I find that it follows from all of the above, that Kath hid it there after 5.10 pm in anticipation of the arrival, or following the arrival of one or more of her two youngest children.

In addition, Sandie found a half eaten bowl of vegetable soup in the kitchen sink and an empty cup of tea on the mantle piece above the heater.

Sandie also noticed a toothbrush on the top of the shower recess, which made her think that Kath was intending to take a shower, because it was Kath's habit to take her toothbrush into the shower with her. Sandie and Pat Primerano then went to bed with Sandie thinking that Kath had simply gone out. She awoke at 10 am the next morning to discover that Kath had not come home.

Pat Ciccone

Pat Ciccone was a long time friend of John Bergamin and for a three-year period following Kath Burgamin's disappearance, was Hayley Costa's boyfriend. On the 18th of August 2002, Pat Ciccone had been at the Winton races where he had seen John, Renee and Dylan Bergamin. Later, at approximately 3.45 pm, he testified that he and his cousin, Pat Primerano, and Tony Allegro left the races to beat the traffic. They dropped Tony off at his home address and then went to Brien Crescent to see Sandie. Pat Ciccone spoke with Kath during this visit and noticed that she was wearing a three quarter pair of track pants with white stripes and a matching red top and Nike runners. According to Pat Ciccone, Renee Bergamin arrived and was showing off clothes she had bought at the races and Kath asked her to leave and went down to the back lawn and began reading a book. Renee left after about 30 minutes, having refused the offer of a lift from Pat Primerano, and the two Pat's and Sandie left soon after, with Sandie driving Kath's Holden Statesman, to her job at La Porchetta's.

Pat Ciccone's further evidence was that he dropped Pat Primerano back at Brien Crescent at 10.30 pm and did not notice anything out of the ordinary. Pat Primerano was then observed to get into his car, which had been left parked in Kath's garage, and leave to drive back to town, without having gone inside, while Pat Ciccone also left the scene.

Pat Primerano

As to the events of the 18th of August, Pat Primerano's evidence corroborated that given by his cousin Pat Ciccone and mirrored that which was set out in Ex A of his application.

The events of the 19th and the 20th of August.

Sandie Riley

At approximately 3 pm, on the 19th of August, Sandie Riley returned to Brien Crescent to find that Kath Bergamin had still not returned home and that everything at the house remained in the same position as it was the night before.

Sandie further observed that a red coloured Nike anklet sports sock was in the hallway, which she identified as being one of the same pair of socks that Kath had been wearing when Sandie left the house for work the previous evening. Sandie also noticed that the electric blanket on Kath's bed was switched on, which she noted was consistent with Kath's practise of turning her electric blanket on before going to bed.

Sandie then attempted to locate Kath. Sandie checked Kath's mobile which was located in a drawer and noticed that there had been a number of missed calls.

Sandie also observed that apart from leaving her toothbrush in the shower, as referred to above, Kath had also left a clean towel near the shower and this finding further persuaded her that on the previous evening, Kath had in fact been preparing for a shower and bed when she had been distracted from that endeavour. Sandie also inspected Kath's wardrobe and observed that no clothes were missing apart from what she had been wearing when last seen on Sunday evening.

By this stage, Sandie was becoming very concerned about the whereabouts of her friend. She then checked with her neighbours as well as with Kath's friends, Mandy Duke and Hayley Costa, with nil result. Sandie then rang her boyfriend and spoke with his mother Katerina, who informed her that there had been a major fire at John Bergamin's home and that a car and shed had been burnt.

Pat Primerano then rang Sandie back and said that the Camry had gone up in flames. She asked Pat if they had checked the car and Pat told her not to be so stupid.

Later Hayley Costa came around and the police were called.

The next morning John Bergamin rang her on her mobile and started telling Sandie about the fire.

Sandie cut him off stating that she had bad news and that Kath was missing.

According to Sandie,

"John didn't seem too phased and kept talking about the Camry I thought if anything, John would be hounding me as to whom Kath had been with and stuff like that, like he would usually

I found it odd that John rang me on my phone and not Kath's phone. If he didn't know that Kath was missing why would he call on my phone?"

See Ex 4, P 111 and 112.

(I note here that John Bergamin is alleged to have also told Tony Gallo that he learnt of Kath's disappearance, in a conversation he had had with Sandie Riley on the 20th of August. See Transcript at Page 1128.)

Thereafter, Sandie Riley drove to the police station and reported the fact that Kath was missing to a police officer, Eugene Marshall. Later in the day, Sandie and her mother walked around town looking for Kath and, while having some lunch, Renee Bergamin called. In discussion at this time, Renee told Sandie that on the Sunday evening she had walked over to Tony Gallo's where her father had been waiting and that her father (and not Steven Bergamin) had driven both she and Dylan home.

(See also the telephone record evidence referred to above, which establishes that John Bergamin's mobile telephone was used in Wangaratta as late as 6 pm).

Sandie Riley spent the rest of the day at home on the phone. She has not seen or heard of Kath Bergamin since August the 18th, 2002 and believes that she has met with foul play.

John Bergamin.

The fire at the Bergamin property referred to above, occurred sometime after 6 am on Monday the 19th and destroyed Toyota Camry NJP 756, which was registered to Kath Bergamin, but which had been given to Steven Bergamin for use as his 'university car.' John Bergamin stated in his statement dated 22nd of August 2002, that he had begun cutting up lengths of steel with his oxyacetylene torch while directing his employee, Selwyn Wassen, to watch out for sparks and to prevent or put out any consequent spot fires. After completing this work, which was carried out near the shed, both Selwyn Wassen and John Bergamin drove some 500 metres to the bottom paddock situated on the King Valley Road, where they began to prune some vines.

According to John Bergamin, this work continued and later he noticed some smoke, which, he thought, might be coming from his place. He then drove to the foot of the hill where he heard Steven Bergamin yelling out and then drove up to the shed where he found the fire ablaze.

See Ex 79 John Bergamin's statement dated 22nd of August 2002.

In his statement under caution, John Bergamin stated that he believed the fire might have been ignited because of sparks from the cutting coming into contact with hay that had been left in the shed by Renee, who had stabled her horse there for a period. John Bergamin also confirmed that Steven was standing in front of the house looking down towards the vineyard, when he heard him call out.

He further offered that Steven's car had been parked,

"not right in, just like normal."

John Bergamin was unable to account for how Selwyn Wassan came from the bottom paddock up to the scene of the fire.

See Ex 88 the Transcript of his record of interview dated 1st of November, 2002.

Steven Bergamin

Steven Bergamin stated that shortly after 10 am on the Monday morning he went outside and smelt smoke and thought he heard some sort of explosion. ..He went to the front of the house and found the shed on fire and that his car was on fire inside the shed. He raised the alarm and the CFA were then called.

See Ex 100, Steven Bergamin statement dated 22nd of August 2002.

Selwyn Wassan.

Selwyn Wassan, a then employee on the Bergamin farm, gave a different account.

According to Mr Wassan, after the steal cutting, which process he had carefully observed, both he and John Bergamin were doing some pruning in the bottom paddock when they heard Steven Bergamin yelling out. John Bergamin then drove the 4 wheel motor bike up to where, Mr Wassan believed, he was going to speak to Steven, near the house and sheds.

Mr Wassan had noticed John Bergamin walking around near the farmhouse during this 10-15 minute absence. After his return, Mr Wassan and John Bergamin discussed the smoke which Mr Wassan had first observed when Mr Bergamin was about half way back to the paddock and they then both jumped on the bike and drove around on the main road, to the main gate of the property where Mr Wassan, for the first time, saw clearly that the shed was on fire. According to Mr Wassan, the smoke was black and rising pretty fast and, I note here, that the existence of black smoke is consistent with a fire supported by an accelerant.

Mr Wassan's first action was to run around to the back of the shed and to drag the oxyacetylene gear away. At this stage, there were both smoke and flames coming from this area of the shed. He then walked to the front of the shed and saw that most of the flames were centred on the back driver's side of the Camry. He noticed that, unusually, the car had been reversed into the shed, and further that,

"the car appeared to be more on fire than the shed."

Thereafter, he followed a direction from John Bergamin and went again to the rear of the shed, which was well on fire, and dragged out a block splitter, which John Bergamin had said, was the only thing that was not insured.

In further answering a series of questions from Counsel assisting the Coroner, Mr Rose SC, Mr Wesson testified about the care taken during his observation of the scene and how they both stood in the area for a further 5-10 minutes before driving down to the bottom paddock. Mr Wassan's further testimony was that it was about 30 minutes after the oxy work near the

shed had been completed that he and John Bergamin heard Steven yelling out, that John Bergamin then drove the 500 odd metres back to the farm house and shed area and that it was a further 10-15 minutes before Mr Bergamin returned.

I note here that Mr Wassan's evidence suggests that there was a total delay of between 40 and 55 minutes between the cessation of the oxy work and the outbreak of the fire. I also note that his evidence is not consistent with the possibility that Steven Bergamin was calling out to his father with the intention of informing him about the commencement of the fire.

In further examination by Mr Dunn QC, Mr Wassan confirmed that John Bergamin had not asked him to "tell the police lies or anything like that," and that the only available water at the time was at the house. His further evidence was that it was a cold and frosty morning and still cool at the time the fire broke out.

Mr Wassan also testified that he had been working at the property for several months before the fire and that he left about one week later.

His further testimony was that during this period he had not seen a horse housed in this shed. He also agreed with Mr Dunn QC that the shed was located on top of a petrol storage tank and that the children were yelling at their father to come out of the shed, this apparently before he was sent to drag out the splitter.

Mr Wassan further stated that he did not hear any car doors opening or closing while he was watching TV with a friend in his hut on the night before the fire.

See Transcript from Page 402.

John Haughton

At around 11am on Monday August 19th, John Haughton heard about the fire and went out to inspect the damage at around 2.30 pm. When he arrived he found the shed destroyed which, based on his twenty-eight years of experience in the insurance industry, he considered to be highly unusual. He, like Mr Wassan, also thought it strange that the Camry had been reversed into the shed, rather than parked nose in.

See Transcript at Page 599.

According to Mr Haughton, John Bergamin told him at the scene that after returning to the bottom paddock he had seen smoke in the vicinity and had jumped on his motorbike and raced to the house to discover his shed on fire. I note here that this version is consistent with the account of the matter given by Mr Wassan, referred to above, and therefore inconsistent with the version offered by John Bergamin.

John Haughton was not happy about what he had seen and decided to call in two assessors, one for the contents of the shed and one for the car. Further evidence also establishes that the claims made by John Bergamin in respect of damage arising from the fire, have all been disallowed.

See QBE Insurance file at Ex 93 and enclosed report from Peter Hiscock and Partners Ltd, dated 14/10 2002, at Page 7.

While at the property, John Haughton spoke with Steven Bergamin who told him that he had to have another car by Thursday to go to University and that he was going to see Mr Jay Ginerva, a salesman at Wangaratta motors, to look at some cars. Later that day at around 5.30 pm, Mr Haughton saw John Bergamin's red Toyota in front of Wangaratta Motors and went over and found Steven, Renee and Dylan in the showroom talking with Jay Ginerva and another employee.

Later Mr Haughton saw Steven in his father's utility and pulled over on his motor bike and asked Steven if he had seen his mother. Steven said that he had not seen her in a while and that Renee had said she was going on holiday. Later, according to Mr Haughton, Dylan and Renee appeared with a pizza and he leaned forward and, whilst looking directly at her, asked if her mother had gone on holiday.

"She looked puzzled and looked at Steven. Steven had his head turned away from me but I could see that he was nodding in the affirmative to Renee. She just looked away and looked down at the floor... I got the impression Steven was trying to change the subject, .."

See Transcript at Page 601.

Jay Ginerva.

Jay Ginerva testified about Steven, Renee and Dylan Bergamin coming into his office at around 4.30 pm on Monday August 19th, to purchase a vehicle in the "\$25,000 to \$30,000 range." Steven chose a Camry Grandeur 1999 model and when asked, Steven said that he didn't have to speak to his father and that he would be buying it out of his own account. Mr Ginerva was troubled by the fact that John Bergamin had not been involved in the transaction and felt that the sale may not go through.

On the following day, the 20th of August, Steven returned with a bank cheque for the agreed price, which was \$26,500. The paper work was completed with the car sold to Bergamin's Wines and Spirits Proprietary Ltd.

See Ex 43.

Mr Ginerva's further evidence was that estimated value of the Camry destroyed in the fire was between \$8,000 and \$10,000.

Senior Constable Mick Harvey

Senior Constable Harvey testified that he heard from Wangaratta police on the morning of August 20th that a missing person's report had been made in respect of Kath Bergamin and that he went out to the Bergamin farm at about 11 am and served the intervention order on

John Bergamin. John Bergamin received the order without a fuss, which Senior Constable Harvey considered unusual. S/C Harvey further testified that he thought at that time that he wouldn't need to take John Bergamin's guns, as he believed he still had them all.

After speaking to John Bergamin, who reported that his now missing wife had hit him at the Jag bar on Friday night, Senior Constable Harvey spoke with Renee.

Renee stated that on the Sunday night her mother had mentioned looking for her passport, *"because she needed to getaway"*. Renee further reported that she had wanted to stay at her mother's but that she had told her to *"fuck off,"* because she had a friend coming around.

I note here that this is the only report of the allegation that Kath Bergamin used these particular words to her daughter and that Renee did not repeat it in any of her statements to police or in her evidence.

I also note that according to Renee, Kath was aware that she was only dropping in and would be leaving shortly and that in any event it had been planned that Dylan would also visit for a period. Others were also present and it follows that there was no reason, which could be connected with the impending arrival of a male visitor, which might have led Kath to want her daughter out of the house.

Senior Constable Harvey then spoke with Steven Bergamin who stated that he last saw his mother at 4.30 pm on the previous Sunday.

According to Senior Constable Harvey,

"Steven was extremely agitated like a cat on a hot tin roof. He could not keep still, would not answer my questions, and kept changing the subject. He asked me on three occasions if I wanted a cup of coffee. Each time he asked me it was as if he hadn't listened to my first or second reply."

And later,

"I had no doubt that the Bergamins were hiding something. Their reaction to me was not like it normally is. On previous occasions they were over the top and particularly critical of Kath and the intervention orders. On this occasion everything was accepted without question and I found this unnatural given my previous involvements with them."

See Transcript at Page 510.

Margaret Ann Scutt

Margaret Ann Scutt came forward on the 19th of August 2007 in response to an advertisement by Crimestoppers. In later testimony, she stated that she could recall the day that Kath Bergamin went missing as a result of media publicity given to the matter at that

time. She was able to recall that on that Sunday evening she had left her home at between 6.30pm and 6.40 pm, to walk her dog, returning home sometime before 6.30 pm. It was a clear night without rain and night had fallen. Street lights were on and the area was moderately well lit. Mrs Scutt wore her glasses. Whilst wearing her glasses she had full normal vision.

During this walk she stated that she walked along the Eastern side of Donald Street, next to the Wangaratta West Primary School fence. As she got close to Brien Crescent she heard loud music and later noticed a car parked on the eastern side of Donald Street facing towards her in a southerly direction, almost directly opposite the front door of what we know was Kath Bergamin's and Sandie Riley's residence (at the corner of Brien Street and Donald Crescent).

The music was coming from the car and with some apprehension, Mrs Scutt continued to walk towards the car. As she did so, she noticed the front side passenger door was opened towards the fence of the Primary School. As she got closer she saw two persons moving within the car and noticed a 'P' plate on the right hand side of the rear windscreen of the vehicle.

The car was illuminated from a street light and she was able to describe it as a vehicle looking like the (reconstructed) drawing which is *Ex 143. The music was loud and she assumed that the two figures she had seen moving in the car were young. Feeling somewhat confronted, she then walked across Donald Street with her dog in what was the direction of Kath Bergamin's home, where she saw a 'bloke on the doorstep talking loudly to the person behind the door' from a distance of 4 to 5 metres, who was 'smaller in stature' and who was standing within the house behind a flywire screen.

*See Ex 134 at Page 5.

She believed the male had come from the open passenger side door of the vehicle parked opposite and, not wanting to intrude, she turned back to the eastern side of Donald Street and continued walking in a northerly direction, again parallel to the Primary School fence and this time past the stationary car.

Walking on, Mrs Scutt crossed the road about 100 metres further up, to return to her house. At the time, the car was still in the same position. She then returned to her house arriving at between 7.25 and 7.30 pm.

Mrs Scutt has explained why she didn't come forward earlier and I accept her explanation and thank her for her assistance.

Investigation.

On the 22nd of August 2002 the Homicide Squad-Missing Persons Unit assumed control of the investigation into the disappearance of Kath Bergamin.

On this date, an arson chemist, Karen Ireland, examined the fire scene at the Bergamin farm. Her initial view was that it was highly unlikely that sparks from the oxyacetylene work that was undertaken by John Bergamin and Selwyn Wassan, started the fire. See Ex 58 at P 3 and 4. At the conclusion of her evidence, however, M/s Ireland felt unable to say that the fire was deliberately lit or to exclude the possibility that the fire had been accidentally started because of sparks from the work referred to above.

On the 22nd of August 2002, a crime scene investigation was undertaken at Kath Bergamin's Brien Crescent address and personal items belonging to her were taken. On the 28th of August a further crime scene examination was conducted and a section of "Nitto" brand silver coloured duct tape was located on the ground in the rear yard near the garage. This tape was photographed at a later point in time and was found by Senior Constable Drummond in the position at which he is shown pointing in Photograph 167. See also the configuration at which the tape was found at Photograph 142.

I note that this tape was fashioned in a manner, which suggests that it may have been used to bind human limbs. No weight attaches to this evidence.

I also note the evidence of Peter Ross, a forensic officer at the Victorian Forensic Services Department, to the effect that he is now satisfied that it is more probable than not that red fibres taken from the sock, see photograph No. 97, which has been identified as having been worn by Kath Bergamin on the night of her disappearance, were the same as red fibres found attached to the duct tape, photographed at 142.

See Transcript at P 1327.

A further small square section of "Nitto" brand silver coloured tape was found attached to a cushion in the lounge room.

See Photographs 115 and 116.

Forensic examination of these pieces of tape have established them to be the same colour, brand and type.

Since the 22nd of August 2002, investigators from the Homicide Squad Missing Persons Unit have conducted extensive and exhaustive enquiries. Members of the unit have undertaken the following courses of action:

- The interview of all known friends, relatives and associates of Kath Bergamin
- Conducted electronic and physical surveillance of John and Steven Bergamin
- Conducted a search of John Bergamin's farm and vehicle under Section 465 of the Crimes Act
- Conducted extensive searches of various parts of the King Valley and Cheshunt area
- Obtained DNA samples from John and Steven Bergamin
- Extensive media coverage has been utilised during the investigation
- Conducted national checks with government and semi-government agencies, including:
 - o Centrelink

- o Banking and financial institutions
- o Births, Deaths and Marriage Departments in all states and territories
- o Electoral offices
- o All major telecommunications services
- o Numerous utility companies in all states and territories,

The investigations to which I have referred, have not unearthed any movement or activity which is consistent with the possibility that Kath Bergamin remains alive.

Adjournment application made by Counsel Assisting on March 19th, 2008.

Following the presentation of the evidence of Mrs Scutt, referred to above, Counsel Assisting the coroner, Mr Rose SC, made a further application for an adjournment so that Homicide Squad officers might pursue another line of inquiry. An outline of the nature of that matter was provided to the court. That application was granted, without objection, and I now simply record here that Mr Rose SC informed me last week that that inquiry has not led to the belief that the objectives of this inquest can be further progressed at this time.

Findings.

Having considered all of the evidence and the inferences that can properly be drawn therefrom as well as Counsels submissions, and having directed myself in regard to the standard of proof, I make the following findings:

- 1) Neil Colston was not a credible witness and I attach no weight to his evidence.
- 2) Pat Primerano was also not a credible witness and I attach no weight to his evidence.
- 3) I further find that both Renee and Dylan Bergamin's recollection of their involvement in the events described above is unreliable and that little or no weight can properly attach to their evidence.
- 4) During the later years of their marriage, John and Kath Bergamin lived within a deeply troubled relationship in which John Bergamin regularly resorted to acts intended to cause fright to his wife, which acts were undertaken by him with the primary intention of causing her to remain resident at their home in Cheshunt.
- 5) This conduct caused or contributed to the onset in Kath Bergamin of a depressive illness which culminated in her unsuccessful attempt to take her own life at Cheshunt on the 11th of February 2002.
- 6) After this incident and her subsequent admission to the Albert Road Clinic for a period of three weeks from the 22nd of February, and with the support she received from concerned friends and family members after her return to Wangaratta and then Cheshunt, Kath Bergamin felt sufficiently empowered to begin to make plans to leave her husband.

- 7) She finally achieved this objective in extremely difficult circumstances on the night of the 29th of May, 2002.
- 8) Following her departure and her setting up of a household in Wangaratta, John Bergamin began a campaign intended to put further pressure upon her. This campaign increased in intensity as he became aware that she was becoming romantically involved with other men.
- 9) This conduct included following and spying upon her as well as her occasional male companions. It also included seeking to warn those male companions to stay away from her as well as causing others of his male friends to act in a similar fashion. It also involved John Bergamin, on one occasion, going to considerable trouble to assist one Christina Strang to locate her then defacto husband who was at the time a visitor to Kath Bergamin's home and seeking to engage her to perpetrate an act of violence. It also included his repeatedly using their younger children in a manner which provided him with a pre-text to make unnecessary contact with Kath Bergamin, which contact would otherwise have been in breach of intervention orders she had successfully sought from Wangaratta Court.
- 10) Despite the pressure so created and notwithstanding the detrimental effect of her arthritic condition and her increased alcohol consumption, I am entirely satisfied that Kath Bergamin retained a positive attitude towards her life and to her children, as well as to her employment and ongoing education and further that she had no wish either to leave Wangaratta, or intention to end her own life.
- 11) It was in these circumstances then that Kath Bergamin disappeared from her home then at Brien Crescent Wangaratta, on the night of the 18th of August 2002.
- 12) I have considered the evidence concerning the use of John Bergamin's telephone within Wangaratta on the afternoon and evening of the 18th of August. I have also considered the phone record evidence of the timing of phone calls made to and from Cheshunt and the statements given by John and Steven Bergamin concerning their movements on the 18th, which I note are inconsistent with those records.
- 13) I further direct myself that the only available inference to draw from facts proven from the evidence of Mrs Scutt, coupled with the inconsistencies to which I have referred, is that shortly after 7.26 pm on the night of her disappearance, an unknown male was seen speaking to Kath Bergamin through the front screen door of her home. I further conclude that that evidence falls well short of establishing the identity of the male seen speaking to Kath Bergamin or the ownership and identity of the car parked at the time on the eastern side of Donald Street. I further direct myself that the evidence as to what occurred at the Bergamin farm the following morning, as suspicious as those events are, is not relevant to what, if any, facts which may be properly inferred from Mrs Scutt's evidence.
- 14) I further find that on the following morning at Cheshunt at sometime after 10.00am, Steven Bergamin called from the area in front of his home to his father, who was

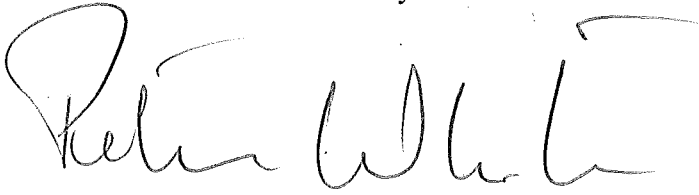
working some 500 metres distance away in a lower paddock with then farm employee, Mr Selwyn Wason and, as a result, John Bergamin went to the area in front of his home and conversed with Steven Bergamin.

- 15) Having reviewed the evidence and having directed myself to attach no weight as to this matter, to the evidence of Scientific Officer Karen Ireland, I am satisfied that the only available inference to draw from all facts proven is that the outbreak of a fire which then occurred in the shed at or within the rear of the Toyota Camry, occurred because this fire was deliberately lit and aided by the use of an accelerant. I am also similarly satisfied that John Bergamin was a party to the starting of that fire and that he left the scene to return to the lower paddock intending to distance himself from that action.
- 16) I am further satisfied that the only available inference to draw from all proven facts is that, prior to the commencement of the fire, Steven Bergamin was aware that a person or persons including his father, intended to destroy this vehicle and that he condoned that act.
- 17) There is insufficient evidence before this inquest to establish, to a reasonable satisfaction, the motive for the deliberate demolition of the Toyota Camry in question.
- 18) I have considered the physical evidence found at the Brien Crescent residence and the scientific evidence of Mr Peter Ross referred to above. As a result of that consideration, I conclude that on the 18th of August 2002 at an unknown point sometime between 7.26 pm and the later return of Sandie Riley and Pat Primerano at approximately 11.15pm, Kath Bergamin was taken from or otherwise forced to leave that premises. Thereafter, at an unknown time and at an unknown place, she was unlawfully killed following which a person or persons who were seeking by their acts to avoid detection, secretly deposited her remains in a still unknown location.
- 19) There is insufficient evidence before this inquest to establish which person or persons were responsible for the unlawful killing of Kath Bergamin.

This then concludes my findings.


Finally, I would like to thank the witnesses who have testified in this inquest. I would also like to thank Police Investigators and others so involved, as well as counsel and instructing solicitors, for their assistance. I would also like to acknowledge the decision of the State of Victoria to make a substantial reward available for information leading to arrest and conviction in this case, and I would encourage the State to continue with its efforts to bring to justice, those responsible for the death of Kath Bergamin.

Dated at Melbourne this 4th day of June 2008.

A handwritten signature in cursive script, appearing to read 'Peter White'.

Peter White,
Coroner.

Distribution:

A long, thin, slightly curved horizontal line.

John Bergamin
Steven Bergamin
Renee Bergamin
Dylan Bergamin
Pat Primerano
Neil Colston
Cathlyn Russell
Roger Russell
Sandie Riley
The Attorney General
The Director of Public Prosecutions