

IN THE CORONERS COURT
OF VICTORIA
AT MELBOURNE

Court Reference: COR 2018 001413

FINDING INTO DEATH WITH INQUEST

Form 37 Rule 63(1)

Section 67 of the Coroners Act 2008

Deceased:	John Lester Costello
Delivered On:	4 August 2022
Delivered At:	Coroners Court of Victoria, 65 Kavanagh Street, Southbank
Hearing Dates:	4 August 2022
Findings of:	Coroner Audrey Jamieson
Representation:	No appearance
Counsel Assisting the Coroner	Coroner's Solicitor, Ann Kho
Keywords	Missing person, Cobram

TABLE OF CONTENTS

INTRODUCTION	Page 3
BACKGROUND CIRCUMSTANCES	Page 4-7
THE CORONIAL INVESTIGATION	Page 7
CONDUCT OF INVESTIGATION	Page 7-8
SOURCES OF EVIDENCE	Page 9
EVENTS PROXIMATE TO DISAPPEARANCE	Page 9-13
REPORT OF DISAPPEARANCE	Page 13
POLICE INVESTIGATION	Page 13-
Initial Centrelink and bank records	Page 13-14
Subsequent investigations	Page 14-15
Jurisdiction	Page 15
Current police investigation in Victoria	Page 15-16
Further investigation	Page 16-17
DNA Investigation	Page 17
LSC Ramsey's opinion	Page 18
DISCUSSION – ASSESSMENT OF EVIDENCE	Page 18-20
THE INQUEST	Page 20-21
COMMENTS	Page 21
CONCLUSION AND FINDINGS	Page 22-23
PUBLICATION OF FINDING	Page 23
DISTRIBUTION OF FINDING	Page 24

I, AUDREY JAMIESON, Coroner,
having investigated the suspected death of JOHN LESTER COSTELLO
and having held an inquest in relation to this death at Southbank on 4 August 2022:
find that the identity of the person suspected to be deceased was JOHN LESTER COSTELLO
born in Blackhall, Queensland, on 13 July 1937, aged 59 years,
and the death occurred on or after 9 January 1997
at an unascertained location, Cobram, Victoria, Australia

from a cause which remains:

1(a) UNASCERTAINED

in the following summary of circumstances:

John Lester Costello lived at a caravan park in Cobram East while working as a fruit picker for a local orchard. Mr Costello was last seen on 9 January 1997 and has not contacted his family since then. There have been no confirmed sightings of him after 9 January 1997. He was reported missing by his daughter-in-law on 2 June 1997.

Despite extensive searches and media releases by police in the ensuing years, his whereabouts remain unknown. Mr Costello is presumed to be dead and there have also been no “proof of life¹” indicators since his disappearance.

¹ Proof of life refers to examples of personal information that is likely to be reasonably necessary to make contact with, or to offer proof of life, of a person reported as missing, depending on the circumstances. Office of the Australian Information Commissioner, Guide to the Privacy (Persons Reported as Missing) Rule, March 2014.

BACKGROUND CIRCUMSTANCES

1. John Lester Costello (“Mr Costello”) was previously married to Carmel Joyce Costello and the couple had two children together, Cameron John and Russell Leo Costello. Mr Costello had two sisters, Dell Faulkner² and Janice Sharman³.
2. According to his sons, Mr Costello had little to no contact with his family after he separated from Carmel, and after she had moved out of the family home with their sons in 1975.⁴ Mr Costello was also known to bet regularly on horses,⁵ however he did not appear to bet heavily.⁶
3. Mr Costello’s exact medical history is unclear. Family and acquaintances described him as having very vulnerable mental health; he could become depressed and paranoid depending on his perception of how people were treating him.⁷ Russell recalled his father was volatile and prone to outbursts.⁸
4. Police records indicate Mr Costello had twice attempted suicide. In 1989, Mr Costello went missing for four days and made a non-fatal attempt at suicide by swimming out into the Maroochy River, Queensland.⁹ He left his unit unlocked with keys inside and an itemised list of his property for his landlords to sell. The details of another previous suicide attempt are not known.¹⁰

² Coronial Brief of Evidence (CB), Statement of Cameron Costello. According, to Cameron, Dell passed away in 2001.

³ CB, Statement of Leading Senior Constable (LSC) Kelly Ramsey. Mrs Janice Sharman was previously known as Janice Mosley.

⁴ CB, Statement of Cameron Costello, page 22; Statement of Russell Costello, page 27; Statement of LSC Kelly Ramsey, page 72.

⁵ CB, Statement of Robert Goldsworthy, page 38; Statement of Gregory Boyer page 52.

⁶ CB, Statement of Lionel Black, page 43.

⁷ CB, Statement of Raymond Fitzpatrick, page 36; Statement of Russell Costello, page 27; Statement of LSC Kelly Ramsey, page 73.

⁸ CB, Statement of Russell Costello, page 26.

⁹ CB, Exhibit 1 – Missing Person Report, page 75.

¹⁰ Ibid.

5. Mr Costello worked as an itinerant fruit picker, following the seasons from farm to farm. He was described as having no fixed place of abode¹¹ and his last recorded residential address was in Maroochydore, Queensland¹².
6. For the five years prior to his disappearance, or thereabouts, Mr Costello worked at an orchard, R. J Cornish & Co Pty Ltd (“Cornish Orchards”) in Cobram.¹³ Cameron stated his father would travel down to Cobram in early January, stay for the fruit season for about four to five months and then return to Bokarina, the Sunshine Coast Region.¹⁴
7. Mr Costello spoke to Cameron on the phone every few months and stayed with him for six to eight weeks between picking seasons. According to Russell, Mr Costello had not seen him for many years, and they last spoke in 1995 or 1996.¹⁵ Mr Costello also had not spoken to Mrs Sharman for at least ten years prior to his disappearance. There is also no evidence he had any contact with his former partner.¹⁶
8. Mr Costello’s colleagues at Cornish Orchards describe him as a gentle, pleasant character, who kept to himself.¹⁷ The exception was a fellow fruit picker Lynette Brunner, who stated Mr Costello was “*always a grumpy man and never had a kind word for anyone*”.¹⁸ The foreman, Raymond Fitzpatrick, added he “*takes things to heart and gets emotionally hurt very easily*” and “*suffers from paranoia if others pick on him*”.
9. In February 1996, Mr Costello travelled to Western Australia with Ms Brunner to work on a fruit and vegetable farm.¹⁹ He then returned to Cobram in June 1996 and started living in the Cobram East Caravan Park (“the caravan park”)²⁰ owned and managed by Gregory Boyer.

¹¹ CB, Statement of Cameron Costello, page 22.

¹² CB, Exhibit 12 – Centrelink Records, Department of Human Services, page 179.

¹³ CB, Statement of Maxell Cornish, page 34; Statement of Raymond Fitzpatrick, page 36.

¹⁴ CB, Statement of Cameron Costello, page 22.

¹⁵ CB, Statement of Russell Costello, page 26.

¹⁶ CB, Exhibit 1 – Missing person report, page 79.

¹⁷ CB, Statement of Maxwell Cornish, page 34; Statement of Raymond Fitzpatrick, page 36; Statement of Greta Bevan, page 46; Statement of Gregory Boyer, page 52.

¹⁸ CB, Statement of Lynette Brunner, page 40.

¹⁹ Ibid.

²⁰ On Murray Valley Highway, Cobram East.

10. Ms Brunker arrived about a month later but did not join Mr Costello staying in the caravan park as Mr Boyer refused to let her keep her dog at the caravan park.²¹ However, Ms Brunker said she had refused to live with Mr Costello because she was content on her own.²²
11. Throughout his time knowing Mr Costello, Mr Boyer described him as a “*pleasant and cooperative*” person that always paid rent on time but also noted that he “*always kept to himself*”.²³
12. Since returning to Cobram, Mr Costello’s relationship with his colleagues became strained. Ms Brunker said Mr Costello became “*a bit snarly*” towards her after she declined to share a caravan with him.²⁴
13. On 26 July 1996, Mr Costello’s colleague, Daryl Buckingham, moved to another caravan after sharing with Mr Costello for just under a month.²⁵ Mr Buckingham said although they got along fine, he found Mr Costello difficult to live with in a confined space.²⁶ Regardless, he continued to drive Mr Costello to work until he left the caravan park in September 1996.
14. In July or August 1996, Mr Costello was involved in an incident at the Central Hotel (“the Hotel Incident”).²⁷ There was broad agreement that Mr Costello had an “argument” with a worker at Cornish Orchards, Lionel Black, however, accounts vary regarding exactly what took place.
15. According to Mr Black and Ms Brunker, there was no physical altercation. Police attended the Hotel Incident but left before speaking to anyone.²⁸ One of the witnesses said Mr Black had slapped Mr Costello and was taken away by the Police.²⁹ Mr Costello considered he had been the victim of an assault.

²¹ CB, Statement of Gregory Boyer, page 53.

²² CB, Statement of Lynette Brunker, page 40.

²³ CB, Statement of Gregory Boyer, page 52.

²⁴ CB, Statement of Lynette Brunker, page 40.

²⁵ CB, Statement of Gregory Boyer, page 52.

²⁶ CB, Statement of Daryl Buckingham, page 50.

²⁷ CB, Statement of Lois Fitzpatrick, page 59.

²⁸ CB, Statement of Lynette Brunker, page 40; Statement of Lionel Black, page 42.

²⁹ CB, Statement of Daryl Buckingham, page 50.

16. After the incident, Mr Costello became sceptical of the police because they did nothing about it,³⁰ and thought his colleagues at the orchard had “*turned against him*” and were “*picking on him*”.³¹

THE CORONIAL INVESTIGATION

17. The purpose of a coronial investigation of a “*reportable death*”³² is to ascertain, if possible, the identity of the deceased person, the cause of death and the circumstances in which death occurred.³³ For coronial purposes, death includes suspected death.³⁴
18. The cause of death refers to the medical cause of death, incorporating where possible the mode or mechanism of death. The circumstances in which death occurred refer to the context or background and surrounding circumstances but is confined to those circumstances sufficiently proximate and causally relevant to the death, and not all those circumstances which might form part of a narrative culminating in death.³⁵
19. The broader purpose of any coronial investigation is to contribute to the reduction of the number of preventable deaths through the findings of the investigation and the making of recommendations by coroners, generally referred to as the prevention role.³⁶ Coroners are empowered to report to the Attorney-General in relation to a death; to comment on any matter connected with the death they have investigated, including matters of public health or safety and the administration of justice; and to make recommendations to any Minister or public statutory authority on any matter connected with the death, including public health or

³⁰ CB, Statement of Raymond Fitzpatrick, page 37.

³¹ CB, Statement of Lois Fitzpatrick, page 59.

³² The term is exhaustively defined in section 4 of the *Coroners Act 2008* (Vic) (“the Act”). Apart from a jurisdictional nexus with the State of Victoria, a reportable death includes deaths that appear to have been unexpected, unnatural or violent or to have resulted, directly or indirectly, from an accident or injury; and, deaths that occur during or following a medical procedure where the death is or may be causally related to the medical procedure and a registered medical practitioner would not, immediately before the procedure, have reasonably expected the death (section 4(2)(a) and (b) of the Act). Unless otherwise stipulated, all references to the legislation that follow are to provisions of the Act.

³³ Section 67(1), of the Act.

³⁴ See section 3 of the Act for the definition of “death”.

³⁵ This is the effect of the authorities – see for example *Harmsworth v The State Coroner* [1989] VR 989; *Clancy v West* (Unreported 17/08/1994, Supreme Court of Victoria, Harper J).

³⁶ The “prevention” role is now explicitly articulated in the Preamble and purposes of the Act, compared with the *Coroners Act 1985* (Vic) where this role was generally accepted as “implicit”.

safety or the administration of justice.³⁷ These are effectively the vehicles by which the coroner's prevention role can be advanced.³⁸

20. It is important to emphasise that coroners are not empowered to determine the civil or criminal liability arising from the investigation of a reportable death and are specifically prohibited from including in a finding or comment any statement that a person is, or may be, guilty of an offence.³⁹

CONDUCT OF INVESTIGATION

21. Coroner Darren Bracken had initial carriage of this investigation and I took over carriage of this matter in November 2021 for the purposes of conducting an Inquest and delivering this Finding.
22. The coronial investigation of a suspected death differs significantly from most other coronial investigations which commence with the discovery of a deceased person's body or remains. The focus in those cases is on identification of the body or remains, a forensic pathologist's examination and advice to the coroner about the medical cause of death and the circumstances in which the death occurred.
23. Absent a body or remains, the coronial investigation focuses on the last sighting of the person suspected to be deceased; any subsequent contact with family or the authorities; and evidence of proof of life since. In such cases, the coronial investigation is essentially an exercise in proof of death through the absence of evidence that a person has been alive or active via searches and a series of checks of records held by various authorities and databases.

³⁷ See sections 72(1), 67(3) and 72(2) of the Act regarding reports, comments and recommendations, respectively.

³⁸ See also sections 73(1) and 72(5), which requires publication of coronial findings, comments and recommendations and responses respectively; sections 72(3) and 72(4), which oblige the recipient of a coronial recommendation to respond within three months, specifying a statement of action which has or will be taken in relation to the recommendation.

³⁹ Section 69(1) of the Act. However, a coroner may include a statement relating to a notification to the Director of Public Prosecutions if they believe an indictable offence may have been committed in connection with the death. See sections 69 (2) and 49(1) of the Act.

SOURCES OF EVIDENCE

24. This Finding is based on the totality of the material produced by the coronial investigation into Mr Costello's disappearance and suspected death. That is, the investigation and brief of evidence compiled by Leading Senior Constable Kelly Ramsey (LSC Ramsey) from the Police Support Coronial Unit (**PSCU**).⁴⁰
25. The brief will remain on the coronial file, together with the Inquest transcript.⁴¹ In writing this Finding, I do not purport to summarise all the material and evidence but will refer to it only in such detail as is warranted by its forensic significance and in the interests of narrative clarity.

EVENTS PROXIMATE TO DISAPPEARANCE

26. On 16 December 1996, a fellow fruit picker, Jeff Constable, told Mr R Fitzpatrick that he could not work with Mr Costello and was transferred to another paddock. According to Mr R Fitzpatrick, Mr Costello was so upset by this, and he decided to cease working at Cornish Orchards.⁴²
27. At around the same time, Mr Costello had a phone conversation with his son Cameron. Cameron told his father that he would not be able to stay with his family over Christmas that year as they had travel plans.⁴³ The conversation had clearly upset Mr Costello⁴⁴ and he reportedly had spent Christmas with Mr R Fitzpatrick.
28. On 9 January 1997, Mr Costello moved out of his caravan which he left spotless.⁴⁵ Prior to moving out, he mentioned to Mr Boyer that he intended to look for work in the "Gulf area"⁴⁶.

⁴⁰ The first version was compiled in 2018 and the second version in 2019. The final version was finalised with subsequent proof of life checks done in 2022 prior to the Inquest.

⁴¹ From the commencement of the Act, that is 1 November 2009, access to documents held by the Coroners Court of Victoria is governed by section 115 of the Act.

⁴² CB, Statement of Raymond Fitzpatrick, page 36.

⁴³ CB, Statement of Cameron Costello, page 23.

⁴⁴ CB, Statement of Raymond Fitzpatrick, page 36; Statement of Cameron Costello, page 23.

⁴⁵ CB, Statement of Gregory Boyer, page 52.

⁴⁶ The Gulf area refers to the region surrounding the Gulf of Carpentaria in north-western Queensland and eastern Northern Territory.

29. Although Mr Costello had left the caravan park, but according to Mr R Fitzpatrick, Mr Costello remained in Cobram throughout January and February 1997. Mr R Fitzpatrick reported that Mr Costello would call around to his house every second week⁴⁷. It was unclear where he was staying as he was elusive about his exact residential location and would decline any offers of a lift home.⁴⁸
30. In early February 1997, two suitcases that belonged Mr Costello (“the suitcases”) were found by the son of the director of Cornish Orchards, Benjamin Cornish on the property, inside the fence on the eastern side of Pullar Road, at about 100 metres from McClusky Road.⁴⁹ The grass underneath the suitcases was dead, suggesting the suitcases had been left there for some time.⁵⁰
31. Mr B Cornish was later instructed by his father, Maxwell Cornish, to return them to where they had been found. Mr B Cornish did not report discovering the suitcases to the police until he learned that Mr Costello was missing in late July 1997.⁵¹
32. At around the same time, Cameron rang Cornish Orchard intending to speak with his father. Cameron was later told that his father had not been there for a few weeks and his whereabouts was unknown.⁵² He suspected his father may have moved onto another orchard at that stage.⁵³
33. Greta Bevan, a colleague at the orchard, told police she saw Mr Costello in February or March of 1997. She said he was going to Western Australia and appeared “*definitely happy*”.⁵⁴
34. The last two people to report seeing Mr Costello were reportedly Mr R Fitzpatrick and his mother, Lois Fitzpatrick.

⁴⁷ CB, Statement of Raymond Fitzpatrick, page 36.

⁴⁸ Ibid.

⁴⁹ CB, Statement of Benjamin Cornish, page 29.

⁵⁰ Ibid.

⁵¹ CB, Statement of Maxwell Cornish, page 35.

⁵² CB, Statement of Cameron Costello, page 23.

⁵³ Ibid.

⁵⁴ CB, Statement of Greta Bevan, page 46.

35. Mrs L Fitzpatrick told police that she last saw Mr Costello in late February at the Totalisator Agency Board (TAB) in Cobram. She believed the date was 21 February 1997, as she stated the date coincided with her doctor's appointment.⁵⁵
36. Mrs L Fitzpatrick also recalled having a conversation in which Mr Costello told her "*I can't walk about Cobram with my head in the air any more* [sic]". She stated Mr Costello appeared upset about Ms Bruncker and Mr Buckingham but did not go into details. Mr Buckingham told police he had not seen Mr Costello since September 1996 and did not mention any enmity between them.⁵⁶
37. Mrs L Fitzpatrick said she had thought Mr Costello was leaving Cobram and then asked Mr Costello in which he replied, "*I was going to, but I had a funny incident at the corner of the highway...they⁵⁷ took my suitcases and left me with what I'm standing in*".⁵⁸ He said he was going to report it, but the police did not listen to him last time⁵⁹, so he did not bother. Mr Costello then said he was going to go to Darwin and work on a station there.⁶⁰ She recalled Mr Costello was wearing a fawn jumper, brown pants and no hat.⁶¹
38. Mr R Fitzpatrick stated that Mr Costello visited his home on 21 February 1997⁶². When offered a lift home, Mr Costello instead requested for a lift to the National Australia Bank (NAB) at Punt Road, Cobram, to do his banking. Mr R Fitzpatrick said he drove Mr Costello there between 3.30pm and 4.30pm.⁶³
39. Mr R Fitzpatrick recalled Mr Costello was fit and healthy when he last saw him. Mr Costello told him that he planned to head to Darwin to see his son and get work picking and "*get away from the trouble here*".⁶⁴ Mr Costello also told him that "*the world was against him*".

⁵⁵ CB, Statement of Lois Fitzpatrick, page 60. Mrs L Fitzpatrick's recalled it was likely 21 February 1997, as she had discussed it with Mr Costello.

⁵⁶ CB, Statement of Daryl Buckingham, page 60.

⁵⁷ It is unclear who Mr Costello was referring to.

⁵⁸ CB, Statement of Lois Fitzpatrick, page 60.

⁵⁹ Presumably regarding the Hotel Incident, see paragraph 10.

⁶⁰ CB, Statement of Lois Fitzpatrick, page 61.

⁶¹ Ibid, page 60.

⁶² Mr R Fitzpatrick recalled it was about the third Friday in February that year which was 21 February 1997.

⁶³ CB, Statement of Raymond Fitzpatrick, page 37.

⁶⁴ Ibid.

He was apparently “very angry” at the other pickers, which Mr R Fitzpatrick stated he was of the impression that Mr Costello wanted to get “*some revenge*” for the Hotel Incident.⁶⁵

40. Witnesses Ray and Dianne Brens⁶⁶ also said they saw Mr Costello on about 21 February 1997 outside the NAB. They recalled he was wearing brown trousers, a cream shirt and an Akubra hat.⁶⁷ There is no sworn statement on the Coronial Brief attesting to this evidence.

REPORT OF DISAPPERANCE

41. On 15 May 1997, Ross Simpson found the suitcases and reported them to Cobram Police Station.⁶⁸ The suitcases were located on Pullar Road near McClusky Road, Cobram, around the area where Mr Cornish returned them.

42. The associated Abandonment of Property form in the Cobram Police Property Book signed by Mr Simpson lists the property in the suitcases as:

- a NAB paying-in book;
- a Panasonic cassette radio player;
- extension cords;
- Cassette tapes; and
- Miscellaneous items including two pairs of shoes, clothing, sunglasses, and 40 cents in change.

43. The investigation into the disappearance of Mr Costello was later sparked by a report by his daughter-in-law, Charmaine Cocker, on 23 May 1997, to Caloundra Police in Queensland⁶⁹, after Ms Cocker and Cameron were advised of the suitcases.

44. Mr Costello’s disappearance was described as uncharacteristic.⁷⁰ Evidently, he was very particular about his belongings, and it was “odd” that he would leave them behind.⁷¹ In Mr

⁶⁵ Ibid.

⁶⁶ They were interviewed by police while travelling in Queensland.

⁶⁷ CB, Exhibit 7 – Handwritten notes by Victoria Police members, page 149.

⁶⁸ CB, Exhibit 8 – Cobram Police Property Book, page 162.

⁶⁹ CB, Exhibit 2 – Missing Person Report, page 77.

⁷⁰ CB, Statement of Robert Goldsworthy, page 38.

⁷¹ CB, Statement of Raymond Fitzpatrick page 37; Statement of Robert Goldsworthy, page 38; Statement of Lynette Brunner, page 40; Statement of Buckingham, page 50; Statement of Gregory Boyer, page 53.

Boyer's statement said of Mr Costello: "*I could not imagine John [Mr Costello] leaving his radio behind*". It was also out of character that he had omitted to ring Cameron in March for his birthday.⁷²

POLICE INVESTIGATION

45. On 24 May 1997, having been alerted to the disappearance of Mr Costello, Queensland Police commenced investigations into his disappearance. Queensland Police also liaised with Victoria Police and Victoria Police subsequently commenced their own investigation in July 1997.
46. Both Queensland and Victoria Police⁷³ continued to enjoin the assistance of various financial and government agencies to acquire information. Witness statements from Mr Costello's friends and associates were also obtained.⁷⁴
47. During the course of Victoria Police's investigation, former owners of the TAB in Cobram, Bob and Glenda Lambourne, directed them to speak with Mrs L Fitzpatrick regarding Mr Costello's whereabouts because they believed Mrs L Fitzpatrick "was good with dates".⁷⁵
48. When contacted by police in August 1997, Mrs L Fitzpatrick refused to make a statement.⁷⁶ She later did so in March 1998.

Initial Centrelink and bank records

49. Bank records from the NAB indicate Mr Costello's last transaction was a withdrawal of \$150.00 from a NAB Automatic Teller Machine (**ATM**) in Cobram on 27 December 1996. This final transaction left \$7.09 in his bank account. There is no indication he made any transactions on 21 February 1997. Handwritten notes on the Victoria Police Missing Person

⁷² CB, Queensland Police Missing Person notes, page 81.

⁷³ Specifically, the Cobram Crime Investigation Unit.

⁷⁴ See paragraph 24, these statements have formed part of the Coronial Brief.

⁷⁵ CB, Exhibit 7 – Handwritten notes by Victoria Police, page 146.

⁷⁶ *Ibid*, page 146.

Brief (“Police Notes”) noted the account balance was usually between \$500.00 and \$1,500.00.⁷⁷

50. Searches within Australia’s major banks did not identify any other operative bank accounts in Mr Costello’s name. The only identified bank account was Mr Costello’s NAB account.
51. On 13 March 1998, Centrelink indicated Mr Costello last had contact with their agency on 21 February 1997⁷⁸ but did not provide any detail about the location or nature of the interaction.⁷⁹ Further inquiries made by Queensland Police confirmed that Mr Costello’s last involvement with Centrelink was in fact, in October 1992.⁸⁰

Subsequent investigations

52. In 2003, Queensland Police contacted Victoria Police with a view to discuss reporting Mr Costello’s disappearance as a suspected death to the Coroners Court of Victoria. It appeared Victoria Police misunderstood their advice that a body or remains must be found for Mr Costello’s suspected death to be a reportable death⁸¹. Mr Costello remained a missing person in the MPS database, as a result.
53. In 2008, Cameron was attempting to close his father’s superannuation and was advised that he needed a death certificate.⁸² Cameron and his brother, Russell, subsequently provided statements to Queensland Police. Both of them indicated that they “believe” their father was already deceased.⁸³
54. In December 2017, after some twenty years after Mr Costello was reported missing, his file came to the attention of the Queensland Police Missing Persons Unit (MPU) as part of their continual review of outstanding matters.⁸⁴ There was no explanation as to why his matter had not been reported to a Queensland Coroner previously. As mentioned earlier, it appeared

⁷⁷ CB, Exhibit 6 – Victoria Police Missing Persons Briefing Paper, page 139.

⁷⁸ CB, AM2 – Statement of DSC Abbey Justin, AM2-2.

⁷⁹ CB, Exhibit 6 – Centrelink Record, page 134.

⁸⁰ CB, Police summary [16].

⁸¹ CB, Police summary [18].

⁸² CB, Statement of Cameron Costello, page 24.

⁸³ Ibid; Statement of Russell Costello, page 28.

⁸⁴ CB, Statement of Detective Senior Sergeant (DSS) Damien Powell, page 18.

that Queensland Police was of the understanding that Victoria Police would report Mr Costello's disappearance and suspected death to a Victorian Coroner following their discussion in 2003.⁸⁵

Jurisdiction

55. Queensland Police was of the view that Victoria Police should handle Mr Costello's matter as all recent evidence of life was in the area of Cobram, Victoria. Queensland Police formed the view that Mr Costello might have died in the area sometime after his last sightings there in February 1997. Victoria Police indicated the investigation should be handled by Queensland Police as Queensland was Mr Costello's "usual" state of residence. He had family in Queensland and was reported missing in Queensland⁸⁶.
56. In January 2018, Mr Costello's disappearance and suspected death was reported to the Coroners Court of Queensland. The State Coroner, His Honour Terry Ryan was to determine whether a Queensland Coroner has the jurisdiction to commence a coronial investigation. His Honour Coroner Ryan agreed with Queensland Police and requested that the investigation be undertaken in Victoria.⁸⁷
57. In March 2018, the then State Coroner of Victoria, Sara Hinchey agreed that Victoria was the appropriate jurisdiction and that Mr Costello's disappearance would be investigated as a suspected death under Section 15 of the *Coroners Act 2008 (Vic)* ("the Act").⁸⁸

Current police investigation in Victoria

58. Coroner Bracken was subsequently allocated with Mr Costello's matter in October 2018. For the purpose of preparing a Coronial Brief, LSC Ramsey was directed to take charge of the investigation into Mr Costello's disappearance and suspected death.

⁸⁵ CB, Statement of DSS Damien Powell, page 18-21.

⁸⁶ CB, Exhibit 2 – Missing Person Report May 1997, page 77-79.

⁸⁷ CB, Letter from State Coroner Terry Ryan to State Coroner Judge Hinchey, dated 22 February 2018, page 17.

⁸⁸ CB, Statement of LSC Kelly Ramsey, page 70.

59. Checks on both Victorian Police Law Enforcement Assistance Program (**LEAP**) and Victoria Police's intelligence and investigation system, "Interpose" and "RedFind"⁸⁹ revealed no record of Mr Costello. The check of Shepparton Criminal Investigation Unit station books and files also yielded no additional results.⁹⁰
60. Senior Sergeant McGrillen at Cobram Police Station advised the contents of the suitcases had been destroyed in 1997, shortly after Mr Costello's family indicated they did not wish to claim the property.⁹¹
61. Requests for latest records relating to Mr Costello to Medicare⁹² (Commonwealth Department of Human Services), Centrelink⁹³ (Commonwealth Department of Social Services) and the NAB⁹⁴ yielded no results.⁹⁵
62. Checks with the Births, Deaths and Marriages in both Victoria⁹⁶ and Queensland, and the State Archives in Queensland yielded no results. These searches would indicate if Mr Costello had made any application to change his name.⁹⁷

Further investigation

63. Having reviewed all the evidence, Coroner Bracken directed Detective Senior Constable Abbey Justin (DSC Justin) from the MPS to gather additional information as to the Hotel Incident, the accuracy of the account provided by the Brens⁹⁸ and the date of Mr Costello's last contact with Centrelink.
64. DSC Justin subsequently made enquiries with all police intelligence holding and found no records of the Hotel Incident on any database. She was also unable to locate the Brens in Australia and believed that they were Canadian nationals.

⁸⁹ The Homicide Incident database.

⁹⁰ CB, Statement of LSC Kelly Ramsey, page 71.

⁹¹ CB, Exhibit 10 – Letter from Cameron Costello dated 27 November 1997, page 169.

⁹² CB, Additional Material 8 – Medicare and/or Pharmaceutical Benefits Scheme check dated 24 May 2022.

⁹³ CB, Additional Material 4 – Centrelink check dated 12 February 2020.

⁹⁴ CB, Additional Material 5 – NAB account search dated 15 December 2021.

⁹⁵ CB, Supplementary Statement of LSC Kelly Ramsey, AM9-2.

⁹⁶ CB, Additional Material 6 – Victorian Office of Births, Deaths and Marriages check dated 24 December 2021.

⁹⁷ Ibid.

⁹⁸ Of their alleged sighting of Mr Costello, See paragraph 40.

65. In relation to Mr Costello's last Centrelink activity, DSC Justin confirmed that Centrelink had not made contact with him on 21 February 1997. It was simply quoted by Centrelink when police investigators advised them of a date where Mr Costello was allegedly last sighted.

DNA Investigation

66. In late November 2000, Queensland Police located some remains in north-west of Brisbane and suspected the remains belonged to Mr Costello. DNA samples of Cameron for comparison later found not to be a match to Mr Costello.

67. The DNA sample obtained from Cameron was later destroyed in 2011 and was previously not entered into the National Database due to incorrect paperwork.⁹⁹ Mr Costello only had false teeth¹⁰⁰; therefore, dental records are not useful.

68. In December 2018, LSC Ramsey received advice from Queensland MPU that there was a profile on the National DNA database for Russell. This information was relayed to Dr Jodie Leditschke from the Victoria Institute of Forensic Medicine (**VIFM**), who advised that a sample from a female member of Mr Costello's family was required for the purpose of searching the Victorian Missing Persons database.

69. In February 2019, LSC Ramsey managed to get in contact with Mr Costello's only surviving sister, Mrs Sharman, who later provided her DNA sample.¹⁰¹ No matches have been recorded to date.¹⁰²

⁹⁹ CB, Statement of LSC Kelly Ramsey, page 70.

¹⁰⁰ CB, Statement of Cameron Costello, page 23.

¹⁰¹ CB, Statement of LSC Kelly Ramsey, page 70.

¹⁰² CB, Additional Material 7 – Email from VFIM regarding subsequent DNA comparison check dated 30 December 2021; Supplementary Statement of LSC Kelly Ramsey, AM9-1.

LSC Ramsey's opinion

70. LSC Ramsey noted that Mr Costello's state of depression was heightened over the Christmas period¹⁰³ and added he had previous suicide attempts, an estranged relationship with his family and no known or stable source of income.
71. LSC Ramsey also noted the proximity of the Murray River to Mr Costello's last known movements might be of significance as a river was the scene of a previous suicide attempt in Queensland. She commented that Mr Costello had likely taken his own life in the Cobram area rather than moving interstate.

DISCUSSION – ASSESSMENT OF EVIDENCE

72. The available evidence does not indicate where Mr Costello was living after he moved out of the caravan park on 9 January 1997. Although it is unclear how long his suitcases were sitting on the side of the road before they were found, the available evidence suggests that they had been there for some time.
73. There is nothing to suggest that the suitcases found by Mr B Cornish in what he recalled was the first week of February 1997 were different to the ones handed to Cobram Police Station by Mr Simpson in May 1997. There is also no evidence to suggest the suitcases did not belong to Mr Costello.
74. Except for the sworn statements of Mr R Fitzpatrick and Mrs L Fitzpatrick, and the unsworn evidence of the Brens, there is no indication Mr Costello was alive after 9 January 1997. There are no financial or other records of his being alive.
75. Mr M Cornish recalled seeing Mr Costello walking towards the Caravan Park in his work clothes sometime before 26 January 1997.¹⁰⁴ Given the circumstances, it is likely this was before Mr Costello moved out of the Caravan Park, but there is no evidence to support Mr Cornish's recollection.

¹⁰³ CB, Statement of LSC Ramsey, page 73.

¹⁰⁴ CB, Statement of Maxell Cornish, page 34.

76. Having scrutinised all the evidence, I note the statements of both Mr R Fitzpatrick and Mrs L Fitzpatrick contain some oddities and inconsistencies.
77. Mr R Fitzpatrick told police he knew of two other people that saw Mr Costello on the afternoon of 21 February 1997 after dropping him at the NAB. He did not provide the names of the “two people”.¹⁰⁵ He also did not indicate whether one of these people was Mrs L Fitzpatrick or the Brens. Mr R Fitzpatrick’s statement only mentioned that Mr Costello had been “*seeing a bit*” of his mother since late December 1996.¹⁰⁶
78. It is unfortunate that Police need not explore this incongruous comment on Mr R Fitzpatrick further. As it stands, it adds nothing to my investigation.
79. When police enquired with the Lambournes, they could not definitively say when they last sighted Mr Costello. They said it was “*probably a few weeks after Christmas 1996*”. It is unclear why they referred the police to Mrs L Fitzpatrick as someone who may be able to provide evidence about Mr Costello’s last sighting. Attempts by DSC Justin to clarify this in 2019 were unsuccessful; Mr Lambourne had since passed away and Mrs Lambourne had been diagnosed with dementia. It may well be that police did not enquire further because Mrs L Fitzpatrick also worked at the Cornish Orchards.
80. I note further the inconsistency of Mrs L Fitzpatrick’s evidence of her last interaction with Mr Costello on 21 February 1997 compared to Mr R Fitzpatrick’s statement. Beyond saying she knew him through Ms Brunner and working with him at Cornish Orchards, she did not mention “*seeing a bit*” of him as her son and the Lambournes’ had indicated.
81. Mrs L Fitzpatrick was somewhat equivocal about the date she last saw Mr Costello but recalled it coincided with her doctor’s appointment that she had attended on 21 February 1997. There is also no reference to either Mr R Fitzpatrick telling his mother that he had seen Mr Costello on that date or indeed of herself telling her son that she had seen him then.

¹⁰⁵ CB, Statement of Raymond Fitzpatrick, page 37.

¹⁰⁶ Ibid, page 36.

Neither did she elaborate as to where Mr Costello was living when she was told by him, “*just down here*”.¹⁰⁷

82. In late 2018, LSC Ramsey reached out to Mrs L Fitzpatrick. Mrs L Fitzpatrick said she believed Mr Costello “*went out with a bang*”. There was again no elaboration on her “comment”.
83. It has been suggested that Mr Costello may have met with foul play, suicided or been a victim of the environment.¹⁰⁸
84. Whatever was alleged, there is insufficient evidence available to me to support any of these theories. No person of interest has been found or has ever been charged in relation to his disappearance and suspected death.

THE INQUEST

85. Pursuant to section 52(1) of the Act, a coroner may hold an inquest into any death they are investigating. In light of the circumstances of Mr Costello’s death, I considered it appropriate to use my discretion to hold a Summary Inquest on 4 August 2022.
86. The only witness called at Inquest was LSC Ramsey who provided an overview of the various efforts made by both Queensland Police and Victoria Police since May 1997 and she also provided general information about the current manner in which missing persons matters are dealt with by Victoria Police.
87. Having conducted comprehensive investigations, replete with significant proof of life checks, LSC Ramsey concluded that Mr Costello is deceased.

¹⁰⁷ CB, Statement of Lois Fitzpatrick, page 62.

¹⁰⁸ CB, Statement of DSS Damien Powell, page 21.

88. In reaching that conclusion, LSC Ramsey outlined the series of proof of life checks she had conducted since the completion of the Brief in 2019 until recently before the Inquest¹⁰⁹. They all yielded no additional results.

COMMENTS

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

89. It has been 25 years since Mr Costello was first reported missing by his daughter-in-law. Unfortunately, very little information has been gleaned after his disappearance and suspected death since it was formally reported to the Coroners Court of Victoria.
90. Although Mr Costello's disappearance had been reported after he went missing, the subsequent investigations have been fragmented and stretched out over a significant period of time. Mr Costello's itinerant lifestyle may have made him a difficult person to "track", however, the circumstances of his disappearance should have generated a more focussed investigation. Neither Queensland Police nor Victoria Police, in the early stages of the investigation appear to have seriously considered where Mr Costello was or whether he may have taken his own life.
91. The conduct and delays in the investigation of Mr Costello's disappearance and suspected death were results of the policing standards, attitudes to missing persons and available technology at the time. I understand that this is not the current approach taken by Victoria Police concerning missing persons. The current Victoria Police Manual of procedures and guidelines for missing persons investigations appear comprehensive. The Manual includes reporting criteria, responsibilities of reporting members and additional requirements for specific cases. It was last updated on 16 February 2015.

¹⁰⁹ The details of which are discussed extensively in paragraphs 59 to 69 of this Finding. The latest check was on 3 August 2022, where LSC Ramsey contacted the National Missing Persons Coordination Centre.

CONCLUSION AND FINDINGS

92. Police investigation and proof of life checks between 1997 and the present have failed to lead to any further information on Mr Costello's whereabouts. I note that Mr Costello's current age would be 85 years were he alive.
93. The standard of proof for coronial findings or facts is the civil standard of proof on the balance of probabilities, with the *Briginshaw* gloss or explication.¹¹⁰
94. It is self-evident that a Finding of a person whose remains have not been found is deceased is a serious matter with significant legal consequences that is not made lightly and requires me to reach a comfortable level of satisfaction as to facts based on the evidence.

Findings

95. Having applied the applicable standard to the available evidence, I make the following Findings pursuant to section 67 of the *Coroners Act 2008 (Vic)*:
 - (a) John Lester Costello, born 13 July 1937, late of Cobram, Victoria, is now deceased.
 - (b) John Lester Costello was last seen by Gregory Boyer on 9 January 1997 and has not been seen or heard from again by any member of his family or anyone who provided a statement for the coronial brief.
 - (c) No credible sightings have been made of John Lester Costello since the morning of 9 January 1997.
 - (d) John Lester Costello has ceased access to his bank accounts since 27 December 1996.
 - (e) John Lester Costello has not accessed public medical care or social services since his disappearance.

¹¹⁰ *Briginshaw v Briginshaw* (1938) 60 C.L.R. 336 esp at 362-363. "The seriousness of an allegation made, the inherent unlikelihood of an occurrence of a given description, or the gravity of the consequences flowing from a particular finding, are considerations which must affect the answer to the question whether the issues had been proved to the reasonable satisfaction of the tribunal. In such matters "reasonable satisfaction" should not be produced by inexact proofs, indefinite testimony, or indirect inferences..."

- (f) Despite John Lester Costello never communicating suicidal intent, he had a history of going missing and possible mental health history.
- (g) The weight of available evidence supports a Finding that John Lester Costello most likely died on 9 January 1997 or after, but that evidence does not enable me to make more specific Findings as to the date or time of death.
- (h) The weight of available evidence supports a Finding that John Lester Costello was in Cobram, Victoria, prior to his disappearance, but that evidence does not enable me to make a more specific Finding as to the place of death.
- (i) The available evidence also does not enable me to make a Finding as to the cause of John Lester Costello's death.
- (j) There is insufficient evidence to support a Finding that John Lester Costello's death was from foul play.
- (k) There is also insufficient evidence to support a Finding that John Lester Costello intentionally ended his own life, but equally, the possibility cannot sensibly be excluded as the evidence indicates he had two known previous suicide attempts.

PUBLICATION OF FINDING

Pursuant to section 73(1) of the Act, unless otherwise ordered by a coroner, the Findings, Comments and Recommendations made following an inquest must be published on the Internet in accordance with the rules, and I make no such order.

DISTRIBUTION OF FINDING

I direct that a copy of this finding is provided:

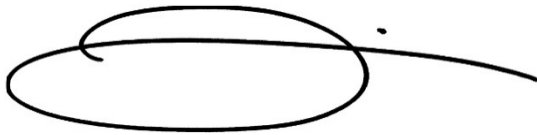
Cameron Costello

Leading Senior Constable Kelly Ramsey, Police Coronial Support Unit

The Registrar of Births, Death and Marriages for Victoria

Victoria Police Missing Persons Squad

Signature:



AUDREY JAMIESON
CORONER



Date: 10 August 2022

NOTE: Under section 83 of the *Coroners Act 2008* ('the Act'), a person with sufficient interest in an investigation may appeal to the Trial Division of the Supreme Court against the findings of a coroner in respect of a death after an inquest. An appeal must be made within 6 months after the day on which the determination is made, unless the Supreme Court grants leave to appeal out of time under section 86 of the Act.
