



IN THE CORONERS COURT
OF VICTORIA
AT MELBOURNE

Court Reference: COR 2017 5257

FINDING INTO DEATH WITHOUT INQUEST

Form 37 Rule 60(1)

Section 67 of the Coroners Act 2008

Deceased:	CHRISTIAAN ANTHONY DUBOIS
Findings of:	CORONER DARREN J BRACKEN
Delivered on:	14 December 2020
Delivered at:	Coroners Court of Victoria Kavanagh Street, Southbank
Hearing date:	2 and 3 June 2020
Appearances:	Mr A. Waters appeared for the family
Counsel assisting the Coroner:	Mr L. Spence, Coroners Court of Victoria
Catchwords:	Heroin, Self-administration, Administration by another, Mixed Drug Toxicity, Section 57 Certificate, Credibility of Witnesses. Section 77 Application.

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HIS HONOUR:

BACKGROUND

1. On 15 October 2017, Christiaan Anthony Dubois was 46 years old when he was found dead in the car park surrounding the Hampton Park Shopping Centre, Hampton Park. Immediately prior to his death, and since May 2017, Mr Dubois lived in Hampton Park with his mother and stepfather.
2. I conducted an investigation into Mr Dubois' death without inquest and on 13 July 2018 published written findings. On 17 October 2018, Mr Dubois' sisters, Ms Flint and Ms Cranston made an application pursuant to section 77 of the *Coroners Act 2008* for an order that some of the findings be set aside, and that the inquest be re-opened. Ms Flint and Ms Cranston also sought that I conduct an inquest into Mr Dubois' death. Many of the findings I originally made were uncontroversial, including those set out at paragraph 1 above and in paragraphs 15 and 16 below.
3. On 20 October 2018, I granted the section 77 application and on 31 January 2020 commenced an inquest into Mr Dubois' death. That inquest was held over three days, 31 January 2020, 2 and 3 June 2020, during which five witnesses, including one whom I shall refer to as AB and who was with Mr Dubois very shortly before he died, gave *viva voce* evidence and 18 exhibits were tendered.¹
4. At the conclusion of evidence, Mr Waters who appeared for Mr Dubois' mother and sisters and Mr Spence, who appeared and assisted me, made written submissions.
5. In his submissions Mr Waters made clear that the identity of the deceased and cause of death, "...mixed drug toxicity (heroin, alcohol, diazepam)" was "...not challenged.". Mr Waters focused submissions on the circumstances surrounding Mr Dubois' death in particular:
 - a) Whether Mr Dubois injected himself with heroin or AB had injected him, or whether AB helped Mr Dubois to inject himself.

¹ One of whom is not referred to in this Finding by name, but rather by the initials 'AB'. On 2 June 2020, I made an order pursuant to section 17 *Open Courts Act 2013* preventing publication of this witness's name.

- b) AB's account of events in his record of interview; when interviewed by police being untested by cross examination, including whether Mr Dubois willingly used heroin with AB on the day of his death shortly before he died.
 - c) Whether Mr Dubois' death was an unintended consequence of him having injected himself with heroin shortly before his death.
6. The issues raised by Mr Waters in his submissions were canvassed in evidence given by Ms Cranston, Professor Woodford, Mr Tarley and AB.

THE PURPOSE OF THE CORONIAL INVESTIGATION

7. Mr Dubois' death constituted a '*reportable death*' under the *Coroners Act 2008* (Vic) ('the Act'), his death occurred in Victoria, was unexpected and was not from natural causes.
8. The Act requires a Coroner to investigate reportable deaths such as Mr Dubois' and, if possible, to find:
- a) The identity of the deceased;
 - b) The cause of the death; and
 - c) The circumstances in which the death occurred.²
9. For coronial purposes, "*circumstances in which the death occurred*"³ refers to the context and background of the death including the surrounding circumstances. Rather than being a consideration of all the circumstances which might form part of a narrative, culminating in the death, required findings in relation to circumstances are limited to those circumstances which are sufficiently proximate to be considered relevant to the death.
10. The Coroner's role is to establish fact, rather than to attribute or apportion blame for the death.⁴ It is not the coroner's role to determine criminal or civil liability⁵ nor to determine disciplinary matters.
11. One of the broader purposes of coronial investigations is to reduce the number of preventable deaths in the community and Coroners may:

² See *Coroners Act 2008* (Vic) preamble; s 67.

³ *Coroners Act 2008* (Vic) s 67(1)(c).

⁴ *Keown v Khan* [1999] 1 VR 16.

⁵ *Coroners Act 2008* (Vic) s 69(1).

- a) Report to the Attorney-General on a death;⁶
 - b) Comment on any matter connected with the death including matters of public health or safety and the administration of justice;⁷ and
 - c) Make recommendations to any minister or public statutory authority on any matter connected with the death, including public health or safety or the administration of justice.⁸
12. Coronial findings must be underpinned by proof of relevant facts on the balance of probabilities applying the principles of such proof set out by the Chief Justice in *Briginshaw v Briginshaw*.⁹ The strength of evidence necessary to so prove facts varies according to the nature of the facts and the circumstances in which they are sought to be proved.¹⁰ Proof of facts underpinning a finding that would, or may, have an extremely deleterious effect on a party's character, reputation or employment prospects demands a weight of evidence commensurate with the gravity of the finding, and effect.¹¹
13. Facts should not be considered to have been proved on the balance of probabilities by inexact proofs, indefinite testimony, or indirect inferences,¹² rather such proof should be the result of clear, cogent or strict proof in the context of a presumption of innocence.¹³ Such a description should be interpreted in the context of the coronial jurisdiction being inquisitorial and having nothing to do with guilt or innocence.

MATTERS IN RELATION TO WHICH A FINDING MUST, IF POSSIBLE, BE MADE

Identity of the Deceased - section 67(1)(a) of the Coroners Act 2008

14. On 16 October 2017, Mr Dubois was identified at the Victorian Institute of Medicine by his cousin, Ms Amanda Dean.

⁶ *Coroners Act 2008* (Vic) s 72(1).

⁷ *Coroners Act 2008* (Vic) s 67(3).

⁸ *Coroners Act 2008* (Vic) s 72(2).

⁹ (1938) 60 CLR 336, pp. 362-363. See *Domaszewicz v State Coroner* (2004) 11 VR 237, *Re State Coroner; ex parte; Minister for Health* (2009) 261 ALR 152 [21]; *Anderson v Blashki* [1993] 2 VR 9, 95.

¹⁰ *Qantas Airways Limited v Gama* (2008) 167 FCR 537 at [139] per Branson J but bear in mind His Honour was referring to the correct approach to the standard of proof in a civil proceeding in a federal court with reference to section 140 of the *Evidence Act 1995* (Cth); *Neat Holdings Pty Ltd v Karajan Holdings Pty Ltd* (1992) 67 ALJR 170 at pl 70-171 per Mason CJ, Brennan, Deane and Gaudron JJ.

¹¹ *Anderson v Blashki* [1993] 2 VR 89, following *Briginshaw v Briginshaw* (1938) 60 CLR 336, referring to *Barten v Williams* (1978) 20 ACTR 10; *Cuming Smith & Co Ltd v Western Farmers Co-operative Ltd* [1979] VR 129; *Mahon v Air New Zealand Ltd* [1984] AC 808 and *Annetts v McCann* (1990) 170 CLR 596.

¹² *Briginshaw v Briginshaw* (1938) 60 CLR 336, at pp. 362-3 per Dixon J.

¹³ *Briginshaw v Briginshaw* (1938) 60 CLR 336, at pp. 362-3 per Dixon J.; *Cuming Smith & CO Ltd v Western Farmers Co-operative Ltd* [1979] VR 129, at p. 147; *Neat Holdings Pty Ltd v Karajan Holdings Pty Ltd* (1992) 67 ALJR 170 at pl 70-171 per Mason CJ, Brennan, Deane and Gaudron JJ.

Mr Dubois' identity is not disputed and requires no further investigation.

Cause of death - Section 67(1)(b) of the Act

15. On 17 October 2017, Dr Melissa Baker, Forensic Pathologist practicing at the Victorian Institute of Forensic Medicine, performed an autopsy upon Mr Dubois' body. Dr Baker also reviewed the Police Report of Death (**Form 83**) in which she opined that the cause of Mr Dubois' death was "*Mixed drug toxicity (heroin, alcohol, diazepam)*".¹⁴ I accept Dr Baker's opinion.
16. Toxicological analysis of Mr Dubois' post-mortem blood samples detected the presence of ethanol, 6-monoacetylmorphine, morphine, codeine, diazepam, nordiazepam, paracetamol, and delta-9-tetrahydrocannabinol; some of which are consistent with prescribed medications, and others which are not. Dr Baker refers to such analysis revealing evidence of recent heroin and cannabis use. Dr Baker explains that some of the identified drugs have central nervous system depressant effects and when combined with the effect of an ethanol (alcohol) level of "*... 0.27g/100ml ... five times the legal limit for driving in Victoria ... may cause considerable depression of the central nervous system...*".¹⁵
17. Dr Baker also noted two needle puncture marks in Mr Dubois' right cubital fossa,¹⁶ and noted that she found no further needle puncture marks or evidence of chronic intravenous access.¹⁷ Dr Baker opined that she did not identify any significant injuries which may have caused or contributed to Mr Dubois' death.¹⁸

THE INVESTIGATION AND INQUEST

Circumstances surrounding Mr Dubois' death - Section 67 (1) (c) of the Act

18. On Sunday, 15 October 2017, at approximately 2.00pm, Mr Dubois allegedly had someone he knew drive him to the Hampton Park Tavern at 71 Hallam Road, Hampton Park.¹⁹

¹⁴ Medical Examination Report of Dr Melissa Baker dated 16 January 2018; Coronial Brief p. 177.

¹⁵ Ibid.

¹⁶ Crook of the elbow.

¹⁷ I note that the puncture marks, were at first instance, difficult to determine as they were obscured by tattoos; Coronial Brief, p 167

¹⁸ Medical Examination Report of Dr Melissa Baker dated 16 January 2018, Coronial Brief, p.166.

¹⁹ Mr Dubois was known to frequent this establishment; statement of Mr Keith Barrot dated 15 March 2018; Coronial Brief pp.8.

Hotel CCTV recorded Mr Dubois entering the Tavern alone at 2.53pm.²⁰ That CCTV footage also shows:

- a) Mr Dubois leaving the Tavern at 5.31pm, apparently with a male person later identified as AB; and
 - b) Mr Dubois and AB getting into Mr AB's white utility motor car, then parked in the car park outside the Tavern and driving off.
19. Other CCTV footage shows AB subsequently parking his car in the Hampton Park Shopping Centre car park immediately adjacent to Stuart Avenue and in the vicinity of 131 Somerville Road, Hampton Park shortly after 5.31pm. Shortly after parking, AB alights from the vehicle, apparently retrieves something from the tray of the utility and gets back into the driver's seat. Mr Dubois and AB remain in the vehicle for approximately 11 minutes, after which, AB again alights from the vehicle, goes around to the near side (passenger) door of the ute, opens it, leans into the car and returns to the driver's door. As AB walks around the back of the utility he can be seen looking at something he is holding. He again goes around to the passenger door and is seen 'taking' an apparently unconscious Mr Dubois from the vehicle and laying him on the ground immediately outside the passenger door. AB closes the passenger door, gets back into the driver's seat of the utility, reverses out of the car park and drives away.
20. At approximately 6.15pm, Mr Dubois was found by two members of the public lying on the ground where AB left him. Ambulance and emergency services were called, ambulance paramedics examined Mr Dubois and declared him deceased.²¹
21. Detectives from the Dandenong Crime Investigation Unit went to the car park.²²
22. I note the reference in Ms Cranston's letter to the court dated 29 March 2018 to police obtaining and viewing CCTV footage of AB and Mr Dubois, in and around AB's utility in the car park adjacent to Stuart Avenue during the late afternoon and evening of 15 October 2018.

²⁰ Exhibit 16, CCTV Footage: Hampton Park Tavern.

²¹ Statement of First Constable Fergus Stewart dated 16 December 2017; Coronial Brief, p 58.

²² Statement of Sergeant Luke Shore dated 22 January 2019; Coronial Brief, p 80.

23. How and when police obtained and viewed the footage is canvassed by First Constable Stewart in his statement in the Coronial Brief.²³ The time it took Acting Sergeant Spinks to identify AB from the CCTV footage is explained in her statement in the Coronial Brief. Acting Sergeant Spinks also recounts AB's arrest and interview.²⁴
24. On 5 January 2018, police executed a search warrant on AB's home, arrested him and took him to the Narre Warren Police Station where he was interviewed about the events of 15 October 2017.
25. During the interview AB told police that:
- a) He had not met Mr Dubois prior to 15 October 2017;²⁵
 - b) On 15 October 2017, he was at the Hampton Park Tavern when Mr Dubois approached him and asked whether he, Mr Dubois knew him, AB from prison;²⁶
 - c) Mr Dubois appeared very drunk;²⁷
 - d) Mr Dubois asked him, AB whether he, AB could get any "ice". AB told Mr Dubois that he could not, but that he could get heroin;²⁸
 - e) Mr Dubois and AB pooled cash; Mr Dubois contributed \$70 and AB went and purchased half a gram of heroin for \$150;²⁹
 - f) AB and Mr Dubois left the Hampton Park Tavern in Mr AB's utility, drove to the Salvation Army car park, prepared the heroin and using syringes that AB had in his car, to each inject themselves with half the heroin;³⁰
 - g) Mr Dubois injected himself in his right arm;³¹
 - h) He refused Mr Dubois' request to drive him home; Mr Dubois could not intelligibly tell him where he lived;³²

²³ Statement of First Constable Fergus Stewart dated 16 December 2017; Coronial Brief, pp 78-79.

²⁴ Statement of Acting Sergeant Spinks dated 1 April 2018; Coronial Brief, pp 89-91.

²⁵ Coronial Brief, p 195.

²⁶ Coronial Brief, p 192.

²⁷ Coronial Brief, pp 192 and 196.

²⁸ Coronial Brief, pp 199, 201-202 and 237-238.

²⁹ Coronial Brief, pp 200.

³⁰ Coronial Brief, pp 207-208 and 217.

³¹ Coronial Brief, pp 209-210. I note that AB recalled that Mr Dubois injected himself in the arm closest to him, AB. I further note that AB recalled commenting upon the large size of Mr Dubois' veins.

³² Coronial Brief, p 202.

- i) Approximately 10 minutes after injecting the heroin,³³ AB wanted to leave. Mr Dubois was rambling and looking like he was settling into the passenger seat of the car for a while;³⁴
- j) AB did not want Mr Dubois to fall asleep in his car and so got out of the driver's door, went around to the passenger's side of the car, opened the passenger door and helped Mr Dubois out of the car;³⁵
- k) Mr Dubois stumbled to the ground, and that he, AB put him on the ground as comfortably as he could;³⁶
- l) Mr Dubois was breathing when he placed him on the ground.³⁷ Mr Dubois did not appear to lose consciousness or fall asleep at any stage, “[he] was alive when I left him...mumbling things”;³⁸
- m) He told Mr Dubois that he was going and asked him if he was alright;³⁹
- n) He was “pretty sure” that Mr Dubois mumbled something in response, he got back in the car and drove off;⁴⁰ and
- o) He wasn't aware that he had run over Mr Dubois' foot when he drove off.⁴¹

26. After the interview police released AB.⁴²

Evidence Given at the Inquest

Evidence of Ms Cranston

27. Ms Cranston's written statement to the coronial investigator dated 3 April 2018 was tendered and became Exhibit 3. Her other correspondence to the court⁴³ became Exhibits 4 and 5.

³³ Coronial Brief, p 211.

³⁴ Coronial Brief, p 212.

³⁵ Coronial Brief, p 213-214. I note the statement of First Constable Fergus Stewart in this regard, which reads “I checked the deceased's wallet, which had been removed from the pocket of his jeans by the ambulance officers”; statement of First Constable Fergus Stewart dated 16 December 2017, Coronial brief, p 77.

³⁶ Coronial Brief, p 213.

³⁷ Coronial Brief, p 213.

³⁸ Coronial Brief, pp 213, 215, 234 and 235.

³⁹ Coronial Brief, pp 213-214.

⁴⁰ Coronial Brief, pp 234-235.

⁴¹ Coronial Brief, pp 219-229 and 235-236.

⁴² Statement of Acting Sergeant Nicole Spinks dated 1 April 2018, Coronial Brief, p 91.

28. Ms Cranston gave evidence of knowing that her brother drank alcohol and smoked cannabis daily, and that over the years had had sought help in relation to the amount of alcohol he drank and cannabis that he smoked.⁴⁴ Ms Cranston gave evidence that Mr Dubois did not use amphetamines, ecstasy or heroin,⁴⁵ and would not accept the proposition that he may have used any of those drugs and not told his family about such use:

“Because Chris was open with me. We’d talk about everything and anything. If he’s - I knew his hate towards heroin users, especially. He was prescribed medication. Had I been home at the time to actually discuss this medication, it was for alcohol-related withdrawal as well as heroin he’d still be here today. But he refused to take that medication because it was referred to for junkies.”⁴⁶

29. Ms Cranston gave evidence that she was surprised by toxicological analysis of Mr Dubois’ hair,⁴⁷ indicating that during the five months immediately prior to his death he had consumed heroin and amphetamines.⁴⁸ Ms Cranston conceded that it was possible, but that she would be surprised if Mr Dubois had consumed heroin or amphetamines.⁴⁹

30. Ms Cranston gave evidence about:

- a) A hole she found in the shirt that Mr Dubois wore on the day that he died;⁵⁰
- b) Telephone messages that had been deleted from his telephone;
- c) A debt that Mr Tarley owed Mr Dubois;
- d) A telephone conversation she had with Mr Tarley sometime after Mr Dubois’ death;
- e) Telling police that she was concerned that Mr Tarley, owing Mr Dubois money, may have been connected with Mr Dubois’ death; and of
- f) Mr Dubois being right-handed.

⁴³ Statement made by Ms Cranston dated 29 March 2018. Second the statement provided to the Court dated 16 August 2018 is headed as having been made by Ms Cranston and Ms Flint (Mr Dubois’ sisters).

⁴⁴ T. 24-26.

⁴⁵ T. 26-17.

⁴⁶ T. 27-28.

⁴⁷ Exhibit 11

⁴⁸ T. 29-30.

⁴⁹ T. 32.

⁵⁰ This issue was not taken up by Mr Waters orally or in submissions.

Evidence of Professor Noel Woodford

31. Professor Woodford is, and in 2017 was, the Director of the Victorian Institute of Forensic Medicine. Professor Woodford gave evidence in relation to the autopsy performed on Mr Dubois' body by Dr Baker and her resultant report ("**the Report**").⁵¹ Professor Woodford also addressed the toxicology report associated with the Report ("**the Toxicology Report**")⁵² and a report setting out the results of tests for various drugs having been conducted on Mr Dubois' hair ("**the Amended VIFM Toxicology Report**").⁵³
32. Professor Woodford gave evidence of the Report referring to needle puncture marks on Mr Dubois' right cubital fossa and of 'parchement abrasions', superficial lacerations, and a number of small bruises being noted on his body.⁵⁴
33. Professor Woodford also gave evidence of the Report referring to haemorrhage without associated inflammation in the dermis and subcutaneous fat of Mr Dubois' right cubital fossa, explaining that the lack of associated inflammation suggested that the puncture wounds were recent to Mr Dubois' death. Professor Woodford gave evidence of:
 - a) Toxicological analysis of samples taken from Mr Dubois showing:
 - (i) A combination of heroin, diazepam and alcohol at .27 grams/100ml;
 - (ii) Recent use of heroin 6-monoacetylmorphine and codeine, paracetamol and delta-9-tetrahydrocannabinol;
 - b) No evidence of injuries that may have caused or contributed to death;⁵⁵
 - c) Evidence of recent puncture wounds (two) to the right cubital fossa;⁵⁶
 - d) No evidence of chronic venous access;⁵⁷
 - e) Having seen cases where right-handed people inject themselves in the right arm and in the left arm, and of left-handed people injecting themselves in the left and right arms;⁵⁸

⁵¹ Exhibit 8, Report of Dr Melissa Baker dated 16 January 2018.

⁵² Exhibit 10, Report authorised by Associate Professor Dr Dimitri Gerostamoulos Head Forensic Science Victorian Institute of Forensic Medicine and Chief Toxicologist.

⁵³ Exhibit 11, Amended Victorian Institute of Forensic Medicine Toxicology Report.

⁵⁴ T. 87.

⁵⁵ T.93

⁵⁶ T.87-89

⁵⁷ T.95

⁵⁸ T.96-97

- f) There being nothing in the pathology that evidences someone else injecting Mr Dubois;⁵⁹
- g) Excluding the heroin in Mr Dubois' system, the other drugs may have stopped his breathing;⁶⁰
- h) The toxicological analysis of Mr Dubois' hair was 'very suggestive' of him:
 - (i) having used heroin 'and all these substances';⁶¹
 - (ii) having used heroin because 6-monoacetylmorphine could not have been found in his hair as a result of environmental contamination;
 - (iii) having used heroin over five months prior to his death;⁶² and
 - (iv) having consumed heroin because it is not possible for environmental exposure to result in 6-monoacetylmorphine being found his hair.⁶³

34. Professor Woodford was cross-examined on his evidence that the hair tests 'strongly suggested' that Mr Dubois consumed heroin over the five months prior to his death and maintained his opinion.⁶⁴ I accept Professor Woodford's evidence.

Evidence of Mr Craig Tarley

35. Mr Tarley read and agreed that the contents of his written statement dated 13 November 2017 were correct.⁶⁵ In that statement, Mr Tarley referred to having known Mr Dubois for some 25 years and despite his statement referring to "... *Dubes mucked around with drugs. He smoked dope a bit, smoked a bit of ice or dropped an ecstasy pill,*"⁶⁶ Mr Tarley gave evidence that whilst he had never seen Mr Dubois take heroin, Mr Dubois "... *would've hinted at it ... like commented on what it does to you or something like that...*".⁶⁷ Mr Tarley gave similar evidence about what Mr Dubois said to him about having taken ice.⁶⁸

⁵⁹ T87-89

⁶⁰ T. 102.

⁶¹ T. 106.

⁶² T. 106.

⁶³ T. 107-107.

⁶⁴ T.104-114

⁶⁵ Statement of Craig Tarley dated 13 November 2017; Exhibit 12.

⁶⁶ T. 149-150.

⁶⁷ T. 150-151.

⁶⁸ T. 151.

Mr Tarley explained the reference in his statement that he thought Mr Dubois used drugs in his, Mr Tarley's bathroom because of the time Mr Dubois spent in the bathroom. Mr Tarley said that he found no drug paraphernalia in the bathroom after Mr Dubois' visits.⁶⁹ Mr Tarley was not able to add to the reference in his statement about him having been with Mr Dubois when Mr Dubois told him that he wanted to purchase a three pack of needles from a pharmacy other than to say that it was about 20 years ago.⁷⁰

36. When cross examined Mr Tarley agreed with Mr Waters that he had never seen Mr Dubois inject any substance into his body and had never told him, Mr Tarley explicitly that he, Mr Dubois had taken heroin or ice whether by injection or smoking. Mr Tarley agreed that he had never seen any needles or caps at Mr Dubois' house. Mr Tarley was understandably vague given how long ago it was, about his and Mr Dubois' trip to a pharmacy some 20 years ago when Mr Tarley told him that he wanted to buy a three pack of needles.⁷¹
37. In answer to Mr Tarley's suggestion that Mr Dubois lent him some \$5,000, Mr Tarley gave evidence that he had indeed borrowed money from Mr Dubois, albeit that he said the amount would have been less than \$1,000. Mr Tarley said that he and Mr Dubois lent each other money, "... *it might have been five, 600 bucks something like that and um I was, you know just paying him off*".⁷²
38. Mr Tarley said that he was unable to remember when Mr Dubois had lent him this money, but that approximately two weeks before Mr Dubois' death he, Mr Tarley gave Mr Dubois \$100 or \$150.⁷³ Mr Tarley gave further evidence that he may have still owed Mr Dubois about \$300 when Mr Dubois died.⁷⁴
39. Mr Waters asked Mr Tarley about the telephone he was using at the time of Mr Dubois' death. Mr Waters canvassed calls referred to in telephone records, including Mr Tarley speaking to Mr Dubois' sister, Ms Cranston shortly after Mr Dubois' death.⁷⁵
40. In response to Mr Waters questions Mr Tarley denied:
 - a) Having ever met AB;

⁶⁹ T. 151.

⁷⁰ T. 149.

⁷¹ T. 155.

⁷² T. 160.

⁷³ T. 161.

⁷⁴ T. 162.

⁷⁵ Statement of Craig Tarley dated 13 November 2017; Coronial Brief p 40; T162-170.

- b) Having known that Mr Dubois was going to the Hampton Park Tavern on the day he died;
- c) Having arranged for Mr Dubois to go to the Hampton Tavern on that day;
- d) Having told Mr Dubois to go to the Hampton Tavern on that day; and
- e) Organising any other person to meet Mr Dubois at the Hampton Tavern on the day he died.⁷⁶

Evidence of AB

41. I granted AB a certificate under section 57 of the *Coroners Act* (2008).
42. When AB gave evidence he agreed that the record of that interview, at pages 188 – 247 of the Inquest Brief⁷⁷ was, to the best of his knowledge, a true and correct record of the interview conducted by police and to which I refer in paragraph 25 above. AB was charged with trafficking heroin in relation to the drug he said that he bought and that he and Mr Dubois used on 15 October 2017.⁷⁸
43. AB gave evidence that he had not met Mr Dubois before meeting him at the Hampton Tavern (“**the Tavern**”) on 15 October 2017.⁷⁹ AB gave evidence that they were both at the Tavern playing the poker machines and either he, or Mr Dubois had “...*not a bad win...*”⁸⁰ and they started talking.⁸¹ It is unclear how much this ‘win’ was, AB suggested “...*\$80 or something around about that...and that’s where it started from.*”⁸² AB said that he and Mr Dubois began talking and the conversation involved Mr Dubois asking AB if he had been in gaol.⁸³ In cross examination AB agreed that indeed such a discussion during which Mr Dubois asked AB if he recognised him from gaol may be seen as odd because Mr Dubois had not been to gaol. AB said that he had never known that Mr Dubois had not been to prison; he was adamant that Mr Dubois had asked him this.⁸⁴

⁷⁶ T. 172-173.

⁷⁷ Exhibit 14, AB’s Record of Interview.

⁷⁸ T. 207.

⁷⁹ T. 179.

⁸⁰ T. 178.

⁸¹ AB said that the ‘win’ was not one that was required to be collected from the ‘winnings counter’, but rather came as coins directly from the machine. T.180. AB also said that the machine gave Mr Dubois ‘credits on the machine’.

⁸² T.209-210. Records from the Tavern were unable to clarify which of AB or Mr Dubois had this ‘not bad win’ nor how much it was. Processes in the Tavern facilitate payment to gamblers of up to \$1,000 in cash from the ‘pay-out counter’ at the Tavern.

⁸³ T. 179.

⁸⁴ T. 208-209.

44. AB gave evidence that he was not drinking that day and that he only went to the Hampton Tavern to play the poker machines, and that he thought that Mr Dubois had been drinking before he, AB arrived at the Tavern. AB said that Mr Dubois continued drinking while they spoke and further gave evidence that when he first saw Mr Dubois on that day, that he was “plastered...drunk...staggering...”⁸⁵
45. AB gave evidence that after they had been speaking for some time, Mr Dubois asked him if he could get him ‘ice’. AB told him that he could not get ‘ice’ but could get heroin if he wanted it. The precise terms of this conversation are uncertain.⁸⁶ AB gave evidence that he and Mr Dubois agreed that AB would share some heroin, paying half each. They decided to use the heroin in AB’s car.⁸⁷ AB gave evidence that he and Mr Dubois changed coins for notes at the ‘payout counter’ so that they could pay for the heroin with notes, rather than coins.⁸⁸
46. AB explained that Mr Dubois gave him \$70 and he, AB bought heroin for them paying \$150. AB was unable to be sure about whether Mr Dubois gave him the money before he purchased the drugs or afterward; AB thought that it was before and thought that he would have made sure to get the money from Mr Dubois before he bought the heroin.⁸⁹ Later in his evidence, AB said that he recalled getting the money from Mr Dubois before he bought the heroin, and that Mr Dubois stood nearby when he made the purchase.⁹⁰ Nothing should be necessarily drawn from AB’s uncertainty; he had no reason at the time to specifically remember events and these events occurred more than two years before he gave evidence. I will further address AB’s evidence later in this Finding.

The Video Footage

47. Closed circuit video footage from the Tavern and from the car park was played in court and AB agreed that the footage depicts him and Mr Dubois at the Tavern, then leaving the Tavern together, getting into AB’s car and driving off. Footage from the car park shows AB parking his car and the events that soon after followed.⁹¹

⁸⁵ T. 196. I note similar references in AB’s record of interview.

⁸⁶ T. 182. Exhibit, 14 AB’s Record of Interview pp.199-200.

⁸⁷ T. 192.

⁸⁸ T. 190.

⁸⁹ T.190-191

⁹⁰ T. 190-191. I note similar references in AB’s record of interview.

⁹¹ Exhibit 17, CCTV Footage: Salvation Army Hampton Park Shopping Centre car park.

48. I note that when interviewed by police, AB suggests that he got money from Mr Dubois before he purchased the heroin,⁹² but subsequently tells police that he paid for the drugs and Mr Dubois gave him \$70 which he, AB described as "...his half".⁹³
49. AB agreed with Mr Waters that the Tavern video footage showed him waiting for Mr Dubois in the Tavern near the exit to the carpark. Mr Waters put to AB that he was, then and there, waiting while Mr Dubois collected money from the 'payout counter' at the Tavern. AB said that he could not remember if Mr Dubois was collecting money or doing something else.⁹⁴ When asked by Mr Waters whether Mr Dubois had given him the money for his share of the heroin before he is seen on the video footage waiting for Mr Dubois, AB said that he "*assumes so...we're leaving...*".⁹⁵
50. AB told the court that he bought the drugs shortly before the video footage shows him waiting for Mr Dubois near the exit.⁹⁶ This seems to be inconsistent with AB's earlier evidence that he paid for the drugs, with at least some notes, that Mr Dubois obtained when he changed coins for notes at the cash in counter.⁹⁷
51. Mr Waters asked AB some questions about how much money a poker machine player could collect in cash from the 'pay-out counter'.⁹⁸ AB explained that the payout counter can pay gamblers up to \$1,000 cash. The Tavern does not keep records of cash paid out in such circumstances; Tavern records for 15 October 2017 show no payout to Mr Dubois at all.⁹⁹
52. It is unclear whether when AB was waiting for Mr Dubois, whether Mr Dubois was changing coins for notes or collecting up to \$1,000, or indeed collecting money at all. I note that when Mr Dubois walked away from 'the pay-out counter' toward AB he appears to be handling his wallet.
53. I am satisfied that Mr Dubois was undertaking a transaction of some kind at the 'pay-out counter' while AB was seen on the video footage to be waiting for him. I am simply unable to say what that transaction entailed.

⁹² Exhibit 14, AB's Record of Interview. P. 198.

⁹³ Exhibit 14, p.208.

⁹⁴ T. 212-213.

⁹⁵ T. 213-214.

⁹⁶ T. 214.

⁹⁷ T.213-214.

⁹⁸ T.209-213.

⁹⁹ T.14.

54. Mr Waters puts to AB that he must, by the time he is seen waiting for Mr Dubois have already purchased the heroin because when Mr Dubois joins him near the Tavern exit to the car park, as seen on the video footage, they walk straight outside, get into AB's car, drive away and park near the Salvation Army shop.
55. AB is unclear about the sequence of Mr Dubois going to the 'payout counter', giving him money to buy the heroin and AB buying the heroin.¹⁰⁰ Nothing should be necessarily drawn from AB's uncertainty and what may be seen as a contradiction in his evidence. The events that he was recounting occurred some considerable time prior to him giving evidence.
56. Whether Mr Dubois got the money he gave AB to buy the drugs from poker machine winnings or elsewhere is unclear, as is when Mr Dubois gave AB money for the drugs. I see the desirability of clearly establishing what occurred when and how different accounts of events maybe said to effect AB's credibility. I have referred to the uncertainty of evidence that might being explained by the time delay between AB giving evidence and the events surrounding Mr Dubois' death.
57. Disbelieving AB's evidence on this issue – a step which I am not prepared to take having seen AB give evidence – would not resolve the uncertainty about the order of events. Further, resolving that uncertainty is not necessary for me to make the findings required by section 67 of the Act. This should not be taken to be an assertion that I believed everything that AB said but given the circumstances, I am not prepared to conclude that he was not at least trying to give evidence to the best of his recollection in relation to this issue.
58. After having seen AB's evidence, read the record of interview and seen the video footage of the Tavern and the carpark when, where and with what money AB bought heroin is unclear. Indeed I am not prepared to find that AB bought heroin at the Tavern that he and Mr Dubois shared – AB may have had the heroin they shared before he went to the Tavern, although I note that AB explicitly denies this.¹⁰¹
59. The video footage from the car park shows AB's car from behind, parking near the shop. The tray of AB's utility contains various articles, the camera is some distance from the car and so the view into the cab of the ute is very limited, although Mr Dubois and AB can be just seen in outline.

¹⁰⁰ T212-213.

¹⁰¹ T.216.

60. In his evidence AB agreed that the video footage shows him getting out of the driver's (offside) door shortly after he parks, retrieving something from the ute tray and getting back into the car. AB gave evidence that he did not remember what he retrieved but thought that it may have been water.¹⁰² I am simply unable to say what it was.
61. AB denied having injected heroin into Mr Dubois and said that Mr Dubois injected himself.¹⁰³
62. I note that during the interview police put to AB that in the CCTV footage from the Salvation Army camera, AB can be seen leaning across from the driver's side of the car to the passenger's side of the car.¹⁰⁴ He did not dispute this, however said that he could not recall it.¹⁰⁵ AB said that perhaps he was placing the used syringes in a safe place, his glove box, where he keeps them "*most of the time*".¹⁰⁶
63. AB said that he noticed Mr Dubois' veins were;
- "... pretty visible...where he first folded his sleeves and see I said Mate you're not gonna have any issue there. I think he chuckled or something... Actually I think he might've even um posed too once I mentioned that..."*¹⁰⁷
64. AB said that he thought that Mr Dubois injected into his right arm, although he wasn't paying close attention to what Mr Dubois was doing because;
- "... looked like he knew what he was doing....I'm too worried about getting' myself than you know. There's no way I'd be lookin' over there doin' what I'm doin'. So, yeah. I'd be too focused on what I'm doin' to myself."*¹⁰⁸
65. Mr Spence asked AB about the video footage showing him going from the driver's door around to the passenger door of his car, opening it leaning in and then walking back around to the driver's door. Mr Spence asks AB about what he has in his hands as he walks back to the driver's door. Amongst the things AB suggests is that he may have had a wallet in his hands. Mr Spence takes up the issue about whether this item is a wallet and AB again says that it could have been – that it could have been his because;

¹⁰² T. 197.

¹⁰³ T.198, 230-231.

¹⁰⁴ Exhibit 14, AB's Record of Interview p.229-230.

¹⁰⁵ Exhibit 14, AB's Record of Interview p.229.

¹⁰⁶ Exhibit 14, AB's Record of Interview p.229. I also note that AB told police that he did not recall having alighted his vehicle, walked to the passenger side, opened the passenger door, then closed it before opening it again; pp 230-231.

¹⁰⁷ T. 198, 199

¹⁰⁸ T. 198. 228.

*"...its gone back in my pocket so."*¹⁰⁹

66. Mr Waters takes up this issue with AB:¹¹⁰

Mr Waters *You walked around the back of the ute, went to the passenger side of the car. This is the first time you went to the passenger side. Remember you went to the tray first?*

AB *Yes.*

Mr Waters *And then you don't remember what you got out at that point in time. But you went to the passenger door for the first time. All right. And you're leaning in and you look like you're doing something in relation to Mr Dubois, who's seated in the passenger seat in view. Do you remember that?*

AB *Yes.*

...

Mr Waters *And then you walk back and as we've discussed you had something in your hand*

...

...You volunteered it might have been a wallet.

AB *It could have been a wallet. It could have been anything*

...

Mr Waters *...You stopped what you were doing. You took his wallet and you were looking through it. When the person walked past you walked back to the driver side. You didn't even get back in your seat...*

...

AB *I don't agree with it so – and he knows I don't agree with it.*

67. Mr Waters further questions AB about Mr Dubois' wallet and puts to him that:¹¹¹

¹⁰⁹ T.201.

¹¹⁰ T224-226.

“Mr Waters Could it have been that time when you went to the passenger door and you went and did something there with Mr Dubois and walked away with something in your hand, going through it? Could that have been the time that you took the wallet

AB I don’t – I don’t answer that. I can’t.

Mr Waters I suggest it might’ve been and in fact what you did, was you take the wallet from an unconscious Mr Dubois and take any money out of it that was in it?

AB Well, that’s like I said you’re entitled to your own opinion and I don’t know how many times, no. I can’t recall doing that.”

68. AB is adamant that he didn’t take Mr Dubois’ wallet. He can be clearly seen holding something as he walks back to the driver’s side. AB concedes that it may have been a wallet, albeit that he says that it may have been his own. I have looked at the video footage carefully. When AB goes around to the passenger door he clearly leans into the car where Mr Dubois is seated, and his upper body is in the car for some seconds. The relative locations of the camera and the car prevent the camera recording what he is doing. He certainly has the opportunity to take Mr Dubois’ wallet from him then. It is immediately after this, while he is returning to the driver’s side of the car, that he can be seen going through what he is carrying. His explanation that it may have been his own wallet was not convincing. He says nothing about why he might have his own wallet in his hand at this point.

69. Mr Waters refers to AB’s record of interview¹¹² in which he tells police that he put Mr Dubois’ wallet back in his pocket after he took him out of the car and laid him on the ground beside the car. AB says;¹¹³

“I put him on the ground and like I said, as comfortable as I can. I go, Mate, I’m going, are you going to be right here?” And I shut the door and yeah, just went ah, his wallet fell out of his pocket and I put it back into his pocket?---Well, that clearly didn’t happen there. So, yeah, well I have to recall, I mean at one point his wallet might have fallen out of his pocket in the car, maybe or something. And I put it back in his pocket.

¹¹¹ T. 231

¹¹² T.203.

¹¹³ T.203-204.

...

I don't know. For me to bring that up [in the police interview] it must've happened somewhere along the line. Now whether it happened there, that I said there, you know I mean – it was a few months after that too [between the day of Mr Dubois' death and AB's interview].

Mr Waters Do you recall then – you said Mr Dubois' wallet fell out of his pocket?

AB I'm pretty sure that it'd be 100 percent that it did fall at some time. Now, whether it fell where I said, I can't recall and I can't answer that question.

70. Mr Waters asks further questions about Mr Dubois' wallet and how AB came to have it at some point in time. AB's answers are unconvincing.¹¹⁴
71. It is at least likely that when AB went around the back of the ute to the passenger side of the car, opened the door and had his upper body in the car for some time that he took Mr Dubois' wallet. He has not provided any plausible explanation for what is seen on the video footage. It is also likely that as he walked back to the driver's side of the ute, once again around the back of the car, that he was looking through Mr Dubois' wallet and that he put Mr Dubois' wallet back in his, Mr Dubois' pocket when he took Mr Dubois out of the car. My making such a finding would be a very serious matter and bearing in mind, the principles set out in *Briginshaw* I would need to be well satisfied that AB had so acted. I am not so satisfied, and for the purposes of making the findings legislatively required of me I do not need to make that finding. Making any such finding may be in any case a contravention of section 69(1) of the Act. To be abundantly clear, I make no such finding.
72. Mr Spence canvassed what AB told police in his record of interview about getting Mr Dubois out of the car¹¹⁵ and what the video footage shows.¹¹⁶ I note that in this interview when AB initially described what happened after he and Mr Dubois had injected the heroin he said;

¹¹⁴T.203-204.

¹¹⁵T.202-203

¹¹⁶ Exhibit 17, CCTV Footage-Salvation Army Hampton Park shopping centre car park.

“...I go, listen I’m gunna go mate, so I’ve come around the side of the door , opened the door, helped to and as I helped him out he’s sat down on the ground and I made him as comfortable as I could, you know and he was still breathing, he was still all right and I went, I left.”¹¹⁷

73. Later AB told police that:

“...I wanted him to leave....and he just wouldn’t leave, he just wouldn’t open the door to get out so I jumped out me car and assisted him out of me car.”¹¹⁸

And later still;

“I’ve opened the passenger door ...I’ve said come on man let’s go and he tried to move one of his legs and then I’ve just helped him around...and then pulled him out cause he was pretty light too, and, yeah sort of I can’t recall if he, like, stumbled to the ground or whatever, but put him onto the ground... and like I said, as comfortable as I can and I go, mate I’m going. Are you gunna be right here and I shut the door and, yeah, just went oh, his wallet fell out of his pocket and I put it back into his pocket.”¹¹⁹

And still later;

Did he try and get out of the car himself as well or do you think you – you were the one that got him out of the car?

No, he looked like he was moving his leg, trying to assist to get out but I sort of helped him get out too.

How did you help him like what did you ..

Just got my arms around him and...pulled him out.”¹²⁰

74. Whilst there was distance between the camera at the Salvation Army Shop and AB’s car, the video footage clearly depicts AB removing Mr Dubois from the car during which, I am unable to discern any autonomous movement from Mr Dubois at all.

¹¹⁷ Exhibit 14, AB’s Record of Interview p.192.

¹¹⁸ Exhibit 14, AB’s Record of Interview p.202

¹¹⁹ Exhibit 14, AB’s Record of Interview p.213-214.

¹²⁰ T.214.

AB pulls or drags Mr Dubois, who appears to be unconscious, out of the car and lays him on the ground next to the car. There is no overt sign of AB speaking to Mr Dubois nor of Mr Dubois speaking to AB; I acknowledge that just because there was no overt sign of this does not mean that it did not happen.

75. AB's early descriptions of 'assisting' or 'helping' Mr Dubois out of the car are not a reasonable description of what the video footage shows. 'Helping' or 'assisting' would infer that AB aided Mr Dubois' attempts to get out of the car – I saw no such attempts on the video footage. Further, AB gave evidence that he was talking to Mr Dubois when he was trying to get him out of the car and that Mr Dubois, "...wouldn't leave the car¹²¹ ...resisting to going' out....I mean, he didn't wanna come out"¹²². I saw no such resistance on the video footage.

76. When Mr Spence asked how he knew that Mr Dubois was alive when he dragged him from the car AB said;

"Like I said, he was still making sounds. So I'm not an expert. You know. Now if he passed out and he's making sounds like, you know, I, I thought we were goin' to my place well then... What are you doin' mate... What are you doing mate" but in slurring *"Aren't we going to my place. I thought we were going there."*¹²³

77. In Mr Spence's questions, AB told the court that Mr Dubois was talking and breathing when he 'took' him out of the car and laid him on the ground. Mr Spence asked AB if he agreed that that was not what the video showed? AB responded;

*"I - I can't agree either way. I mean, we're a distance from here. Like I said, youse weren't up close and personal with him, you don't know if he was breathing or what he was doing at the time that I was there, you know. So no one knows except me, what was going on, and obviously, him."*¹²⁴

78. The video footage from the Hampton Park shopping centre car park shows no movement by Mr Dubois at all. Despite Mr AB telling police during his interview that he took Mr Dubois out of the car and sat him on the ground, the footage depicts AB dragging Mr Dubois from the car and laying him on the ground.

¹²¹ T.202.

¹²² T.205.

¹²³ T.204-205.

¹²⁴ T.203.

Mr Waters puts to AB that:

- a) Mr Dubois passed out after having injected himself or been injected with the heroin;
- b) He, AB dragged him out of his car and left him on the roadway; and that
- c) He, AB knew he was leaving Mr Dubois there at the risk of dying.¹²⁵

79. AB denied such assertions saying that he didn't "...hate..." Mr Dubois, he didn't know Mr Dubois, and had no reason to want to hurt him or leave him like that.¹²⁶

Conclusion

80. AB's evidence was convincing in some respects and unconvincing in others. The sequence of events at the Tavern is unclear and it is at least likely that AB had the heroin he and Mr Dubois shared when he arrived at the Tavern; his evidence makes it unlikely that he would have bought the heroin without first obtaining money from Mr Dubois. I note AB's description of Mr Dubois standing nearby when he, AB said that he bought the heroin and his reference then to Mr Dubois wanting to make sure that he, AB didn't just run off with his money.¹²⁷ If this occurred, it must have occurred before AB is seen waiting for Mr Dubois by the Tavern exit. When Mr Dubois went to the Tavern, he had \$100 that an associate had given him for cannabis that Mr Dubois had sold him,¹²⁸ and so it is possible that Mr Dubois did not have to go to the cash-out counter to be able to pay AB for the drugs.

81. I note however that AB referred to not wanting to pay for the drugs with coins, suggesting that Mr Dubois had to go to the cash-out counter before he paid him.¹²⁹ If this was what happened, then AB either had the drugs with him when he arrived at the Tavern, paid for them with his own money and Mr Dubois paid him after they left the Tavern. There is some support for this in the transcript.¹³⁰

82. AB maintained, albeit somewhat uncertainly, that Mr Dubois paid him, after which he bought the drugs and apparently Mr Dubois must have then gone to the cash-out counter and they left the Tavern.

¹²⁵ T.232-234

¹²⁶ T.234.

¹²⁷ T.190-191.

¹²⁸ Statement of Jayantha Ukwatta dated 29 November 208; Coronial Brief.

¹²⁹ T190.

¹³⁰ Ibid.

83. I also note AB's response to Mr Waters suggesting that he, AB had the drugs with him and did not buy the drugs at the hotel as a result of Mr Dubois' request, and that he, AB simply sold the drugs to Mr Dubois. AB was clear and assertive when he denied that suggestion.¹³¹
84. Mr Waters suggested that if AB simply sold the drugs to Mr Dubois and only Mr Dubois used them, the transaction would have incorporated a commercial element rather than two people sharing drugs bought for that purpose. AB said, and I accept that he used the heroin with Mr Dubois that there is no evidence in the material that contradicts it.
85. The question about whether AB bought the drugs at the Tavern or had them with him is more finely balanced. I find that Mr Dubois paid AB for the drugs and that they shared them. When, relative to other events Mr Dubois paid for the drugs is unclear. If AB did not buy the drugs at the hotel, he would be less concerned about having Mr Dubois pay him before they left the hotel. If AB had to buy the drugs at the Tavern, on the basis of his evidence he would almost certainly have obtained Mr Dubois' half of the purchase price before he did so. I find AB's explanation about Mr Dubois being close by when he bought the heroin most unlikely. It is far more likely that AB did not buy the drugs at the Tavern but had them on him and Mr Dubois paid him after they had left the Tavern.
86. The issue of whether Mr Dubois injected himself with heroin or AB did is far more uncertain and, despite AB's evidence, I find myself convinced of neither alternative. I note Professor Woodford's evidence that in his experience intravenous drug users do not always and only inject themselves using their dominant hand into their non-dominant arm.¹³² I note AB's assertion of the same or at least a similar proposition¹³³ – I do not disbelieve AB's description of his experience, albeit that it may not be seen to be objective given the facts.
87. I note references in Mr Barrot's statement that Mr Dubois would inject speed,¹³⁴ albeit into his left arm and in the statement of Craig Tarley, that Mr Dubois said he had tried heroin.¹³⁵ I note Mr Tarley's further evidence about this issue when he was cross examined. I also note the evidence in the Amended VIFM Toxicology Report in relation to tests done on Mr Dubois' hair. It is possible that Mr Dubois kept his intravenous drug use from his family.

¹³¹ T.216.

¹³² T.96-97.

¹³³ T.229-230.

¹³⁴ Statement of Timothy Barrot dated 27 October 2017, Coronial Brief, p14.

¹³⁵ Statement of Craig Tarley dated 13 November 2017, Coronial Brief, p36

There is no evidence before me that Mr Dubois was unwilling to use heroin with AB on 15 October 2017, to the contrary, the content of AB's record of interview, his evidence at the Inquest and the circumstantial evidence, including the CCTV footage support the contention that Mr Dubois wanted to use the heroin.

88. I find that Mr Dubois willingly used heroin with AB on 15 October 2017 albeit that I am unable to say whether he injected himself or whether AB injected him.
89. AB seemed to accept that he did more than just 'assist' Mr Dubois out of the car, but rather pulled him or dragged him out¹³⁶ as much is seen on the video footage. I do not accept AB's evidence that Mr Dubois was then conscious and talking to him, it is far more likely that he was unconscious.

FAMILY CONCERNS AND COMMENTS PURSUANT TO SECTION 67(3) OF THE ACT

Actions of the police

90. Members of Mr Dubois's family have expressed concern about the investigation of Mr Dubois' death. In light of this, I made enquiries with Victoria Police about the investigation timeline. Acting Sergeant Spinks provided a second statement dated 14 June 2018 in response.
91. Acting Sergeant Spinks makes clear in her statement that the ute's number plate could not be read on the CCTV footage. Once police obtained the CCTV footage of AB and Mr Dubois, Acting Sergeant Spinks notified the Homicide Squad, distributed images from the footage of AB (unidentified at that time) and his ute. Thinking that Mr Dubois may have known AB, Acting Sergeant Spinks reviewed Mr Dubois' telephone and telephone records, and went to some of the addresses referred to in it looking for the white ute. Acting Sergeant Spinks made enquiries with the Intelligence Officer at Casey Crime Investigation Unit and with Vic Roads, and submitted a priority request to the police Audio-Visual Unit to try to have the CCTV footage of the ute's number plate enhanced so that it could be read. The Audio-Visual Unit were unable to make the number plate legible. Acting Sergeant Spinks spoke to staff at the Hampton Park Tavern and other local businesses. She interrogated the Victoria Police 'iFace' data base. All such enquiries were unsuccessful in identifying AB or the ute. After consulting Mr Dubois's family, Acting Sergeant Spinks released some of the CCTV footage publicly. This strategy led to AB being identified on 3 January 2018.

¹³⁶ Exhibit 17, CCTV Footage-Salvation Army Hampton Park shopping centre car park; T.202-204.

Shortly thereafter, on 5 January 2018 Acting Sergeant Spinks obtained and executed a search warrant on AB's home.

92. Ideally police would have obtained the relevant CCTV footage on the evening of 15 October 2017 preventing the need for Mr Dubois' body to be returned to the Victorian Institute of Forensic Medicine for further examination. Whether AB would have been identified and interviewed earlier than 5 January 2018 had police obtained and viewed the CCTV footage on or about 15 October 2017 rather than on 20 October 2017 is unclear.
93. I acknowledge the additional distress that the further examination of Mr Dubois' body caused Mr Dubois' family.

FINDING AND CONCLUSION

94. Having investigated the death without holding an inquest I make the following findings pursuant to section 67 (I) of the Act.
 - a) The identity of the deceased is Christiaan Anthony Dubois, born 29 June 1971;
 - b) Mr Dubois' death occurred on 15 October 2017 at the Hampton Park Shopping Centre car park, 55 Hallam Road, Hampton Park, Victoria, 3976, from mixed drug toxicity (heroin, alcohol, diazepam);
 - c) In the circumstances set out in paragraphs 18 to 26 above.
95. I find that Mr Dubois willingly used heroin with AB on 15 October 2017 and that his death was the unintended consequence of the effect of the heroin on him, perhaps combined with the effects of ethanol (alcohol) and the other identified drugs in his system.

96. I direct that a copy of this finding be provided to:

- a) Mr John Dubois, Senior Next of Kin;
- b) Mrs Yvette Dubois, Senior Next of Kin;
- c) Mrs Deborah Flint, Sister;
- d) Mrs Denise Cranston, Sister; and
- e) Acting Sergeant Nicole Spinks, Coroner's Investigator, Victoria Police.

Signature:



DARREN J BRACKEN

CORONER

Date:

14 February 2020

