



STATE CORONER'S COURT OF NEW SOUTH WALES

Inquest:	Inquest into the disappearance and suspected death of JESSICA BETH SMALL
Hearing dates:	12 - 16 August 2013, 19 - 22 May 2014, 2 - 5 June 2014
Date of findings:	6 June 2014
Place of findings:	State Coroner's Court, Bathurst.
Findings of:	Magistrate Sharon Freund, Deputy State Coroner
Findings:	That Jessica Beth Small died on or after the 26 th of October 1997. Her death is suspicious and I am satisfied that she died at the hands of a person or persons unknown.
File number:	2009/472901
Representation:	Mr. I. Bourke, Counsel Assisting with Mr. C. McGorey instructed by Ms. M. Heris solicitor, Crown Solicitor's Office Mr. B. de Mars, Solicitor Legal Aid for the family; Mr. M. Spartalis, barrister instructed by K. Dobbie for NSW Police; Mr. P. Butterfield instructed by G. Nielsen for Mr. McBride a person of interest; Mr. N. Baltinos instructed by Mr. Emery for Mr. Robertson a person of interest.

NOTE: A NON PUBLICATION ORDER WAS MADE IN RESPECT OF THAT WOULD TEND TO IDENTIFY OR LEADS TO THE IDENTIFICATION OF SB;

FINDINGS

Jessica Beth Small was on all accounts a bright, fun loving, outspoken and tenacious 15 year old when she went missing during the early hours of the morning of 26 October 1997. Today she would be 31 years old.

INTRODUCTION:

Jessica was born in Perth on 27 July 1982 and was the youngest child of Ricki and Stephen Small. Her parents separated when she was approximately 2 years old, when her mother moved to the Bathurst area with Jessica and her older siblings Rebecca and Mathew.

In 1997, Ricki Small was living in Fish Parade, Gormans Hill (a suburb of Bathurst). The evidence before this inquest indicates that during that year, Jessica was living in a number of places, including with her Mother, Sister, and a number of friends.

On all accounts, Jessica had a wide circle of friends. In the latter half of 1997, it appears that one of her closest friends was Vanessa Conlan. Vanessa and Jessica had a lot in common. Vanessa lived with her Dad in Fish Parade, Gormans Hill. They were of a similar age and hung around with the same crowd. In her statement of 10 March 1999, Vanessa said:

"[In 1997] I became good friends with Jessica and got to know her better. In 1997 I commenced Year 9 at Bathurst High School and Jessica commenced Year 10 at Kelso High School. I would see Jessica nearly every day. She would come to my house or I would go to her house. We would eat, talk, watch TV and listen to music. She told me that she would fight with her mum a fair bit, [pretty] much about everything. [S]he would ask her mother for money and her mother would say "no". [S]he would only ask for money on a Thursday when her mother had money. If her mother said "no" that would be the start of a huge fight and they would not talk for a couple of days. Jessica would sometimes sneak out at night and her mother would catch her. Sometimes there were parties on and she was not allowed to go. This would annoy her because on some days her mother would not really care what she did. Jessica's mother would go into the shops about 3 times a week. A lot of the time would be to buy groceries but Ricki would more often [than] not end up at The Kings Hotel in George Street, Bathurst where she would spend all the grocery money on alcohol and get drunk. Then there would be no [money] left for groceries. This is what started a lot of the fights between Jessica and Ricki and why Jessica would be at home much. There was never any food in the house to eat"¹

On 27 July 1997, Jessica turned 15 years old. She had been attending Kelso High School in Year 10, however it appears that she dropped out of school in about April or May of that year².

Accordingly, it seems that in the second half of 1997, prior to her disappearance, Jessica's life had very little structure or stability. She was not attending school. She did not have a job. Moreover, she was not living at one particular location and moved regularly between extended family and friends.

¹ Exhibit 1, Volume 4, Tab 221, Statement of Vanessa Conlan dated 10 March 1999 paragraph 6;

² Ibid paragraph 9;

As a direct result of this lack of structure, investigators were required to piece together the events in Jessica's life in the days and weeks leading up to her disappearance in the early hours of 26 October 1997. This was made more difficult by the fact that this work was not carried out until some eight years after she had disappeared, when Strike Force Carica II was formed. The results of that investigation can be summarised as follows:

1. On 14 October 1997, Jessica travelled to Sydney with Vanessa Conlan to do some shopping³;
2. Also around this time, but after the Sydney trip of 14 October 1997, (according to Vanessa⁴) Jessica spent some time in Orange, with a friend Ricky Vincent. In Orange, Jessica spent a few days at a flat occupied by Belinda and Brendan Forsman, before being asked to leave after an incident where Jessica apparently brought some young men back to the flat.
3. By about Wednesday 22 October 1997, (3 days before she disappeared), Jessica was back in Bathurst. It was around that date that Jessica approached Mal Pollard (the owner of Amuse Me) and asked him to mind a bag, apparently of clothes, for her⁵.
4. Vanessa Conlan recalls bumping into Jessica in Bathurst after her return from Orange. Vanessa notes that Jessica had changed her appearance remarkably, in that she had cut her hair fairly short, and had stopped wearing make-up⁶.

³ Transcript 12 August 2013 page 22;

⁴ Transcript 12 August 2013 page 23.35;

⁵ Pollard - Transcript 14 August 2013 page 53;

⁶ Conlan - Transcript 12 August 2013 page 25-26;

5. It is likely that Jessica was staying upon her return from Orange possibly at her sister Rebecca's house in Kelso, and that she also spent some time (probably along with Vanessa Conlan) at Chris Hogan's place at O'Connell.
6. On Friday 24 October 1997, Jessica stayed the night at Chris Hogan's house in O'Connell. It was the evidence of Chris Hogan that on Saturday 25 October, his Father gave Jessica and he a lift into Bathurst, a bit after lunch time⁷. It appears that Jessica went home to her Mother's house that Saturday – perhaps to drop some clothes off⁸.

THE NIGHT JESSICA WENT MISSING

In order to ascertain what occurred on Saturday 25 October 1997 police obtained statements from 30 to 40 witnesses who had seen or were known to spend time with Jessica in 1997. Unfortunately, with the passage of time and as many were under the influence of drugs and/or alcohol, the recollections of what did occur on the night prior to Jessica's disappearance are in many cases hazy at best. I am satisfied on the balance of probabilities that the following events did occur:

1. Jessica and Vanessa left 21 Fish Parade in the late afternoon or early evening and walked into town. When they arrived in the Bathurst CBD they saw Jessica's Mother Ricki at a hotel and Ricki gave Jessica some money. The two girls then walked to

⁷ Hogan - Transcript 15 August 2013 page 7;

⁸ Ibid page 8.49;

the Amuse Me centre. It was dark. They hung around in town for a while, got some food at Mick's take away and also spent some time at Amuse Me;

2. Jessica drank some alcohol that night, two or three drinks, and got a "bit tipsy" but wasn't drunk⁹;
3. There were a large number of young people at Amuse Me that night, and Jessica and Vanessa spent time there playing pool and dancing to music. During the night, the group of friends, including Darren Mason, Chris Hogan and Sarah Thornhill, moved between Amuse Me and Kings Parade Park. A number of them were upset because Luke Hutchins' uncle ("Hotsie") had been found dead earlier the same night¹⁰;
4. Later that evening, Jessica and Vanessa got a lift with a friend Richard Dennis ("Frog"), to Ben Clarke's house (92 Hereford St, Bathurst – a couple kilometres from the CBD). However when they found that Ben Clarke was not home, they were driven back into town;
5. After that, Jessica and Vanessa went to Mick's take-away, but finding none of their friends there, they headed back to Amuse Me, which was by then closed. The two girls ended up near the Acropole Greek restaurant (on William Street) and were discussing whether they should go home to bed. They decided however, to go back to Ben Clarke's place at Hereford Street;

⁹ Conlan - Transcript 12 August 2013 pages 38-39;

¹⁰ Conlan - Transcript 12 August 2013 page 40;

6. The girls began to walk along William Street towards Kings Parade Park, when they noticed a car go past them and then turn around and park on the opposite side of the road.

From what police have been able to ascertain, there were no other witnesses to the girls getting into the car that evening. Accordingly, the events as they unfolded can only be provided by Vanessa. Vanessa provided her first statement to police on 26 October 1997¹¹. Since that time she has provided a number of statements and given oral evidence to this inquiry¹². Her evidence has remained consistent throughout and I found her to be a forthright, compelling and honest witness. Vanessa's evidence can be summarised as follows:

1. The girls had hitchhiked before;
2. She approached the driver of the white four door sedan (which she later identified to be a Holden Commodore), while Jessica sat on a little wall in the park. She did not know the driver, and she spoke to him simply because it was "her turn".
3. The driver asked "How was your video games...and your games of pool" (or something similar) and asked "what they were up to or where they were off to".
4. The two girls then got into the car, Vanessa in the front and Jessica in the back, and told the driver they wanted to go to Hereford Street. While driving along Hereford Street, Vanessa saw the lights from houses at the end of the street and said to the

¹¹ Exhibit 1, Volume 4, Tab 220;

¹² 12 August 2013;

driver something to the effect of – “See where that light is? Can you drop us off there?” to which he replied “Yeah that I can do”.

5. However, the driver then slowed and stopped the car on the side of Hereford Street, when they were still several hundred metres from Ben Clarke’s house, and in an area where there were no houses and no lighting. The driver had taken off his seat belt and brought the car to a stop alongside a wire fence. The driver then turned to Jessica who was seated in the back and said “Right, come here” to which Vanessa responded with “I don’t think so”. The driver then put his hand around Vanessa’s throat and pushed her back into the seat – Jessica then opened her door, resulting in the driver letting go of Vanessa and reaching for Jessica.
6. The two girls then attempted to flee from the car .
7. Vanessa describes having to “rip” her hair from the driver’s grip and started screaming and running in the direction of Ben Clarke’s house. She states:

*"Jess and I then started running off toward the houses in Hereford Street where Ben Clarke (Bunge) our friend lives. We were both screaming out for help at the top of our voices. Jess was running behind me. I knew she was behind me because she screamed out first. We were yelling out "help, help us" and also to Bunge. I heard Jess scream, "Help" but it was a long sound for help. Then I didn't hear anything more and I kept running. I didn't look back as I ran"*¹³

8. Vanessa then ran to the group of houses at the end of Hereford Street, believing, she said, that Jessica was behind her. She ran to one of the houses and banged on the window, waking the occupants .

¹³ Exhibit 1, Volume 4, Tab 220, paragraph 19;

The police were called and attended the home of Vicki Connors, her then boyfriend Nathan Lavelle, and her mother, Fay Connors who lived at 88 Heresford St. They had been woken by Vanessa banging at the front window whom they all described as "shaken, white and scared"¹⁴.

Moreover it was the evidence of Sergeant Peter McFarland that when he and Constable Rooney attended, Vanessa was incoherent, crying and trembling and that "she was terrified". He said in evidence it had been a "fair while since I'd seen someone so upset"¹⁵ and "it took us about five or six minutes to calm her down to a point where she was reasonably coherent"¹⁶.

Sergeant McFarland and Constable Rooney drove Vanessa around various parts of Bathurst in an attempt to look for a white car matching a description she had given to police and Nathan Lavelle, namely that it was "like a Holden Commodore". The search for the actual car was unsuccessful. It was the evidence of both officers that they tested Vanessa's version of events throughout the night, and that there were never any significant changes to that version and that she remained consistent.

Accordingly, bearing in mind the evidence of two police officers who between them at the time of Jessica's disappearance had many years' experience, who both claim to have accepted Vanessa as a witness of truth, it is hard to believe that so little was done

¹⁴ Transcript 13 August 2013;

¹⁵ Transcript 15 August 2013 page 54;

¹⁶ Ibid;

by Bathurst police to investigate or take seriously Jessica's disappearance in the days, weeks and months which followed.

My jurisdiction as a Deputy State Coroner in relation to Jessica's disappearance and suspected death arises as a result of section 21 of the *Coroners Act 2009*. A Coroner's usual function is to seek to answer five questions namely, who died, when they died, where they died, and the manner and cause of their death. Accordingly, the primary issue for this inquest to determine is whether or not Jessica has died and if so, what were the circumstances of her death.

This matter has unfortunately been complicated by the serious inadequacies of the initial investigation into Jessica's disappearance. It became abundantly clear upon receipt of the brief of evidence, that very little was done between the period between 1997 and 2007 by Bathurst police in relation to Jessica's disappearance. Accordingly, I requested that the Police Commissioner or his representative consider making a concession that there were deficiencies in the initial investigation, at the outset of the inquest.

On the first day of the inquest Mr. Spartalis, Counsel for NSW Police made the following concession in relation to the initial investigation carried out into Jessica's disappearance:

"my client does acknowledge that the early investigation, that is the investigation from 1997 to 2007 was deficient in a number of respects, largely because of the structure of the police force as it then was, and probably based on the views of the investigators at the time. There were witnesses that should have been followed up, but were not. The significance of those witnesses we

will never know. They may have been good, they may have been bad, but nevertheless they should have been followed up..."¹⁷

I commend NSW Police for making the concession it did from the outset. In doing so it avoided the need for a detailed examination by me of the minutiae of where the investigation was lacking, and cross examination of all the various witnesses to that effect. It also saved the State of NSW considerable expense and hearing time in that regard. However to simply gloss over the effects and ramifications of such a poor investigation would not be fair to Jessica, her family, Vanessa Conlan, the police who later properly investigated Jessica's disappearance or the community at large. There is many a salient lesson to be learnt from this initial investigation.

It is clear that the initial police investigation was seriously deficient in that:

Firstly, it had formed a view without a proper basis and without any real investigation that Jessica had falsified her disappearance in order to escape her mother and her lifestyle,, and accordingly the claims made by Vanessa Conlan that she had been abducted were simply false;

Secondly, no officer in charge was appointed to coordinate the investigation of the abduction and disappearance of Jessica;

Thirdly, the initial police investigation had failed and /or neglected to carry out a general canvass to find out who was at Amuse Me the night of 25 October 1997 or at the Kings Parade Park, nor did they attempt to then take statements from those people or young

¹⁷ Transcript 12 August 2013 p.8.45 - 9.5;

persons as to what they observed that may have been out of the ordinary. Such a canvass would have undoubtedly uncovered in a timely manner the possibly crucial evidence of :

A. William Ross who was working at Amuse Me on the night that Jessica went missing. No statement was taken from Mr Ross until 2008, despite the fact that Mal Pollard¹⁸ had indicated to police the day after Jessica's disappearance, that Mr Ross had spoken to a man in Amuse Me who had taken a keen interest in Jessica¹⁹. Despite the lengthy delay in providing his evidence Mr Ross ultimately gave evidence to the effect that:

1. he saw Jessica and Vanessa that night at Amuse Me and that Jessica was slightly affected by alcohol; and
2. he spoke with a man in Amuse Me that night, who seemed to recognise him. That the man looked about 34 years of age or maybe older and said he was working at the Oberon Timber Mill. He described the man as Australian, about 5 foot 8 inches tall, medium build with a bit of a beer belly and dark hair. He said the man was wearing jeans, joggers and a long sleeved buttoned shirt, between a cowboy type shirt and a flannelette shirt and that he had a set of keys hanging from his jeans on a little hook-on sort of thing. Mr Ross said that the man was looking at Jessica (who was dancing or making some noise) and said "Who's that?...She looks like she's out for a good time".

Mr Ross had told the man "That's Jess".

B. Darren Mason who was a patron of Amuse Me on the evening of 25 October 1997. Mr Mason also only provided a detailed statement in 2008, despite his

¹⁸ the owner of "Amuse Me";

¹⁹ Exhibit 1, Volume 1, Tab 52;

efforts to tell the initial investigators about this man in 1997, which he said were just "shrugged off"²⁰. Mr Mason ultimately describes seeing a male with "a big build, with dark brown straggly shoulder length hair and wearing a red and black flannelette shirt and jacket"²¹; and

- C. Sarah Thornhill, a friend who had attended Primary School with Jessica and had spent some time with her the night of her disappearance. Ms Thornhill provided her first statement to police on 28 April 2008 wherein she stated that she observed a man at Amuse Me whom she had seen in a white Commodore earlier that evening.

If statements had been taken from the above witnesses in 1997, no doubt their recollection would have been stronger and it is highly likely that additional witnesses may have been uncovered or located that would have corroborated and/ or shed further light on this person seen at or in the vicinity of Amuse Me the night of Jessica's disappearance.

It is clear that at the time of her disappearance Jessica was no angel, she was simply a wayward teenager testing boundaries. This however, did not and does not make her disappearance, which clearly occurred in suspicious circumstances, any less deserving of being given the investigation and the attention it required. At the time of her disappearance many of Jessica's friends were most likely known to Bathurst police and were, despite the disappearance of one of their own, likely hesitant to approach police willingly with information. This situation was in my view compounded by the fact that Vanessa's account was at that time dismissed by at least some police with derision and

²⁰ Transcript 14 August 2013 page 40.2;

²¹ Exhibit 1, Volume 3, Tab 186;

suspicion, further widening the gap between the law enforcement officers and young persons in the Bathurst community at the time.

Fourthly, the initial investigating police failed to take statements from witnesses who actually approached them in the days following Jessica's disappearance with information that they believed may have been possibly related to her abduction and disappearance. In particular:

A. Mr Robert Fitzpatrick, who in 1997 lived at 34 Turondale Rd, Eglinton, whose evidence can be summarised as follows;

- at about 1.00 am that night, he heard screams, and saw a “whitish” coloured car, which he said was either a Holden Commodore or a Holden Camira stop near his house;
- the screams were of a woman, that they were “panic” screams, and he thought he heard something like “help”;
- he saw a hand coming out over the driver’s shoulder (apparently from someone in the back) and that the car stopped about 30 or 40 metres from his house, at which point there seemed to be a scuffle taking place with the driver kneeling and reaching over into the back of the car;
- After this the driver opened the boot of the car and was “fooling around trying to find something”, and that he heard a “little bang”. The driver then went back and knelt on the front seat over to the back seat, after which he drove off normally;

- the driver was described by Mr Fitzpatrick, as not being a big man, and said his impression was that he was between the 30 and 40 age group (he did not see his face);
- Mr Fitzpatrick said he took a mental note of the number plate (which he thought from the colour might have been a Canberra or a Queensland plate), but that he did not write the number down when he returned to his home as he could not find a pen.

Mr Fitzpatrick's evidence was that when he had heard about "Ricki's daughter" going missing, he went to Bathurst police station to report what he had seen. Police took his number and said they would call him, but when he had not been called he went back in to the station and a detective spoke to him. He got the impression that the police did not want to take a statement from him. Mr Fitzpatrick's version of events is corroborated to some degree by two notes in the police records made on 28 October 1997²². No statement was taken from Mr Fitzpatrick until more than ten years after Jessica's disappearance, upon the commencement of Strike Force Carica II.

The somewhat extraordinary evidence of Mr Fitzpatrick - a girl, apparently screaming and struggling in a whitish car, possibly a Commodore, at a location close to where Jessica was abducted, at a time close to when she was reported being abducted - clearly suggests a connection between his observations and Jessica's disappearance. This may well have been the final sighting by any

²² Running Sheet - Exhibit 1, Volume 1, Tab 31A.

witness of Jessica with her abductor. It is beyond belief that Bathurst police chose not to take a full statement from Mr Fitzpatrick in October 1997. If a statement had been taken, then it is far more likely he would have been able to recall helpful information, as to the type of car, and possibly at least some details of the registration plate. A detailed statement at that time is likely to have assisted in solving the mystery of what occurred on that fateful morning.

- B. Mr Colin Cole also gave evidence that he contacted Bathurst police by telephone shortly after Jessica disappeared in 1997 to provide information to the effect that in the early hours of the morning on 26 October 1997, he was driving along the Sydney Road from Bathurst when a “dirty white” car (that he described as a Commodore with a louvre on the back window) came out of a street on his left, at high speed, with its headlights off. He said the car caused him to brake so hard that he stalled his car, and that the other car went onto the wrong side of the road. He said it then continued along the Sydney Road before turning right and heading towards Oberon, at which point the lights were turned on. He did not get the registration numbers and did not see the driver or any other occupant. To be fair, no record exists of this alleged call to Bathurst police and it is possible none was made. Ultimately, no statement was taken from Mr Cole until July 2011²³, and as a result it is difficult to conclude what relevance the car seen by Mr Cole that evening had in relation to Jessica's disappearance. However, it may have been highly relevant. It is unfortunate that no statement was obtained from Mr Cole when the events were fresh, as further details might then have been

²³ Exhibit 1, Volume 4, Tab 244;

forthcoming, and may have assisted in the search for Jessica, and in the investigation of the subject car.

C. Dianne Edmunds gave evidence that on 27 October 1997 she contacted Bathurst Police as she had observed the tail lights of a car going down the "bush track" that leads to a creek opposite her house. At the time she lived at "Stratford Cottage" at O'Connell, on the road between Bathurst and Oberon. In the time she had lived there she had never seen a vehicle using that track. She could not determine what type or make of car it was, but was concerned that it might be "young kids" drinking and partying. Police records indicate that a call was made by Ms Edmunds²⁴, despite this no statement was taken from Ms Edmunds until May 2012. It should be noted that the police attached to Strike Force Carica II after taking over the investigation in late 2007, regarded her evidence as so significant that they arranged for a re-enactment of the car travelling down the "bush track" and eventually engaged excavation equipment to dig up the creek area in the hope of finding some evidence of Jessica. Nothing relevant was found.

D. Ms Kayla Brien was just 11 years old when Jessica disappeared. On 29 October 1997 she and her mother made a report at Bathurst police station about Kayla being approached by a man in Bathurst streets on Saturday 25 October 1997²⁵. She had been staying with her dad at the time, had been very scared and only reported the incident to her mother when she had come to pick her up from her

²⁴ Exhibit 1, Volume 1, Tab 31A;

²⁵ Exhibit 1, Volume 9, Tab 544;

access visit. Her mother made her report the matter to police, realising its significance after hearing about Jessica's disappearance.

Fifthly, in 1998 some items of clothing were found by forestry workers in the Jenolan State Forest, near Oberon. They included a blanket, and various items of women's underwear. These items were given a preliminary examination about 12 months later and were then destroyed. Despite their possible significance to the Jessica Small case, it appears that no serious investigation was conducted to determine whether they may have been linked to Jessica. Indeed, Jessica's family were not even informed about the items until after their destruction. While it is not possible to conclude that the items were connected with Jessica it is surprising that no proper consideration seems to have been given to this possibility.

This has been a lengthy inquest, spanning almost three weeks of hearing and included the oral testimony of over 50 witnesses. At its start four hypotheses were outlined for Jessica's disappearance by Counsel Assisting, Mr. Ian Bourke. These included:

1. Did Jessica take her own life?
2. Did Jessica die of a drug overdose?
3. Did Jessica run away? and finally
4. Was Jessica abducted and murdered?

The brief of evidence gathered by police, spans over 11 volumes of material and contains reports of various theories and rumours that have been advanced over the years to explain Jessica's disappearance.

There is nothing within that material to indicate that Jessica was ever suicidal. It is also highly unlikely that she would have disappeared without a trace if she had in fact taken her own life. Accordingly, I am satisfied on the balance of probabilities that that suicide can be ruled out.

There is evidence that Jessica used drugs, at least marijuana and alcohol, on a fairly regular basis, and that she also tried heroin on possibly at least two occasions prior to her disappearance. Moreover, her sister, Rebecca and Rebecca's then partner Mr. David Whymys were fairly heavily involved in drug use, and possibly supply, in 1997. However, there is no credible evidence from which it can be concluded that Jessica's disappearance is due to a drug overdose for the following reasons:

1. none of the many witnesses who saw her on the night of 25 October 1997 describe her as using any drugs that night, apart from alcohol and perhaps a little cannabis; and
2. a finding that Jessica died from drug overdose (and that someone disposed of her body) would require me to entirely reject the evidence of Vanessa Conlan, whom I have found to be a witness of truth.

Accordingly, I am satisfied that the "drug overdose theory" can similarly be excluded.

Furthermore, I am satisfied that the theory that Jessica "ran away" can also be discarded. Jessica did have a somewhat troubled and unstable life in 1997, and there is

the undated letter from Jessica to her Mother²⁶ in the early part of 1997 where she spoke of going away for a while. However, as the trip to Orange demonstrates, Jessica did return. There have also been theories put forward over the years that Jessica simply ran away because she was not happy in Bathurst. While this suggestion might have had some limited credibility in the days and months following her disappearance, in my view it is implausible for it to carry any weight at all in 2014, seventeen years after her disappearance. The brief of evidence contains a number of alleged “sightings” of Jessica in various parts of NSW and even in other States. Police have diligently sought to follow-up on these sightings however, none of these have been confirmed as reliable. In my view they can be discounted. It is improbable in the extreme, that a 15 year old girl, with no money, no credit cards and few clothes would have the wherewithal to simply vanish without a trace and start a new life. It is also implausible that her family and friends would have heard nothing from her in more than 16 years, particularly bearing in mind the publicity her disappearance has generated. Jessica did not run away.

Accordingly, I am satisfied on the evidence that Jessica’s disappearance is due to her having been abducted against her will in the early hours of Sunday 26 October 1997.

Furthermore, as none of Jessica’s friends or family have heard from or seen her since 1997 and checks by the Police Missing Persons Unit have produced no sign of Jessica

²⁶ Exhibit 8;

in the last 16½ years, the only reasonable conclusion open to me is that Jessica is deceased.

Strike Force Carica II has gathered and examined in the course of its investigation into Jessica's disappearance a large body of evidence concerning a significant number of "persons of interest". However, out of those persons, two men, namely Mr Andrew McBride and Mr Craig Robertson remain persons of interest in relation to Jessica's abduction and presumed murder, and accordingly both were the focus of the final weeks of this inquest.

I do not intend to traverse the evidence in detail in relation to either Mr McBride or Mr Robertson. This was canvassed by Counsel Assisting in submissions on the final day of hearing. It is clear, in summary that both:

1. Were possibly in the Oberon / Bathurst region around the time of Jessica's disappearance and had worked at the Oberon Timber Mill;
2. Fit the general description given by the various witnesses who described an "older man" at Amuse Me on 25 October 1997;
3. Possibly left the Oberon region just after Jessica's disappearance;
4. Possibly had access to a white Holden Commodore;
5. Had a predilection for younger looking women (in the case of Mr Robertson) or teenage girls (in the case of Mr McBride);
6. Had a history of violence towards women; and
7. Can not provide any clear evidence or alibi as to where they were the night Jessica disappeared.

An inquest such as this has the ability to either inculcate or exculpate persons of interest. However, in this case there is no direct evidence linking either Mr McBride or Mr Robertson to Jessica's disappearance. The converse is also true, there is also no evidence to eliminate them as persons of interest.

I note at this point the submission of Mr Butterfield, Counsel for Mr McBride, that bank records indicate a deposit made by his client at the Frenchs Forest Branch of Westpac Bank on Friday 24 October 1997 would tend to indicate that he was not in the Oberon/Bathurst vicinity. I agree that the deposit was made and it was likely made in person as a special clearance was made on that cheque. However, those bank records also indicate that Mr McBride made constant trips between Sydney and Oberon on a regular basis. Accordingly, I cannot be satisfied without direct evidence to the contrary that he did not make another trip that weekend to Oberon or Bathurst. Accordingly, Mr McBride remains a person of interest.

CONCLUSION

Jessica Small went missing in circumstances that indicate that she was abducted. Her abduction being witnessed by her friend Vanessa Conlan. Unfortunately, her disappearance and suspected murder did not receive the attention it deserved until the formation of Strike Force Carica II in late 2007, under the guidance and direction of Detective Sergeant Peter Smith.

The inadequacies of the initial investigation, which I have detailed in these findings, have in my view hampered the ability of those who did ultimately properly investigate

Jessica's disappearance, from being able to come to any conclusion as to who was responsible for Jessica's disappearance and death.

It is quite simply an indictment on those initial investigating detectives in the days and weeks following Jessica's abduction, that their assumptions and prejudices compromised the investigation, caused immeasurable additional distress and hurt to the family of Jessica, and may also have put other future lives at risk. Hopefully lessons will be learnt and other families do not have to go through the same distress as Ricki, Rebecca and Vanessa in the future.

Accordingly, I now turn to the findings I am required to make pursuant to section 81 of the *Coroners Act 2009*.

That Jessica Beth Small died on or after the 26th of October 1997. Her death is suspicious and I am satisfied that she died at the hands of a person or persons unknown. I refer the matter back to the Unsolved Homicide Squad.

Sections 82(1) and (2) of the *Coroners Act 2009* entitles a coroner to make such recommendations as s/he considers necessary in relation to any matter connected with the death.

On the final day of this inquest I heard evidence from the Officer in Charge of the Investigation, Detective Sergeant Peter Smith. His evidence can be summarised as follows:

Firstly, that any future investigations into the disappearance and murder of Jessica Small may be greatly enhanced by witnesses being encouraged to come forward. In his experience, witnesses are encouraged to do so by the availability of reward money. To date no substantial reward has been offered for information leading to the conviction of a person or persons responsible for the death of Jessica Small. A substantial reward, in the sum of about half a million dollars, in his view, would assist in this regard.

Secondly, that there are a large number of long term missing persons cases, which could possibly be homicides, still outstanding in NSW. The NSW Homicide Squad is in the best position to evaluate the state of those investigations and whether or not the circumstances surrounding those missing persons' whose disappearances are suspicious. To that end, there needs to be greater liaison between the Missing Persons Unit and the NSW Homicide Squad in relation to long term missing person cases.

Accordingly, I make the following recommendations pursuant to section 82 of the *Coroners Act 2009*:

To the Minister of Police and Justice of NSW and

To the Attorney General of NSW

1. Consideration be given to the NSW Government offering a substantial monetary reward for information leading to the conviction of any person or persons for the abduction and murder of Jessica Small. The sum should not in my view be less than \$500,000; and

2. That consideration be given to implementing measures to achieve a closer liaison between the Missing Persons Unit and the Homicide Squad in relation to long term missing person cases;

Magistrate Sharon Freund

Deputy State Coroner

6 June 2014