



FINDING OF INQUEST

An Inquest taken on behalf of our Sovereign Lady the Queen at Adelaide in the State of South Australia, on the 27th day of September 2005 and the 8th day of November 2005, by the Coroner's Court of the said State, constituted of Mark Frederick Johns, State Coroner, into the disappearance within the said State of Daniel Nicholas Sheppard.

The said Court finds that Daniel Nicholas Sheppard aged 19 years, of 9 Lord Hobart Way, West Lakes, South Australia disappeared from the Port Adelaide Railway Station on the 1st day of January 1995. The said Court finds that the circumstances of his disappearance were as follows:

1. Introduction

- 1.1. Mr Daniel Nicholas Sheppard, formerly of Lord Hobart Way, West Lakes, was reported missing by his mother, Patricia Sheppard, on the evening of 4 January 1995. Mr Sheppard had not returned home after celebrating New Year's Eve 1994 with friends. Mr Sheppard was last seen by people who knew him personally at about 4:35am on New Year's Day 1995.
- 1.2. Mr Sheppard and his twin brother were born in Carlton, Victoria on 4 July 1975 and in 1978 the Sheppard family moved to South Australia. Mr Sheppard attended a number of schools in the Port Adelaide area. At the time of his disappearance Mr Sheppard resided at West Lakes with his mother and his twin brother.
- 1.3. Detective Senior Constable Robert Stapleton gave evidence at this Inquest. Detective Stapleton is a member of the Major Crime Investigation Section of the South Australia Police. He has been a police officer for more than 30 years and is currently

the assigned investigating officer for the disappearance of Mr Sheppard. Detective Stapleton has been the investigator in charge of this file since 1997. I will base my findings upon the evidence of Detective Stapleton except where otherwise appears.

- 1.4. Mr Sheppard's disappearance was notified at 9pm on 4 January 1995.
- 1.5. On 5 January 1995 Mr Sheppard's mother produced to the police a colour photograph of Mr Sheppard which depicted him wearing the same clothing that he was wearing on the night of his disappearance.
- 1.6. That photograph was later incorporated into reward posters and used for media releases. The reward notices were subsequently displayed in police stations around the State.
- 1.7. The South Australian Government approved the offer of a reward by the Commissioner of Police in 1997. A copy of the reward notice was tendered and admitted as Exhibit C1e. The notice stated that a reward of up to \$100,000 would be paid by the South Australian Government at the discretion of the Commissioner of Police for information leading to the apprehension and conviction of the person or persons responsible for the disappearance and or death of Daniel Nicholas Sheppard. The notice went on to seek the urgent assistance and cooperation of the public and provided a contact telephone number for Crime Stoppers.
- 1.8. Extensive searches were undertaken by police divers in the Port Adelaide area. A plan was tendered and admitted as Exhibit C1f showing the areas checked by police divers in the Port River. I have carefully examined the plan and I note that the searches were conducted over a considerable area. Further searching of the river was conducted using police boats equipped with sonar systems and the areas they searched were also depicted on this plan.
- 1.9. Copies of extracts from Mr Sheppard's ANZ bank account were tendered and admitted as Exhibit C1g. They record transactions from the period 16 December 1994 until 17 February 1995. Apart from internal bank service charges that appear on the statements as having occurred after 1 January 1995, the only substantive transaction which appears after that date is the withdrawal of an amount of \$100 which was recorded as having occurred on 3 January 1995. Detective Stapleton gave evidence that inquiries made by police proved that the transaction in question actually

occurred on 30 December 1994 but was not posted to Mr Sheppard's account until 3 January 1995. The reason for the late posting of the transaction was that the withdrawal was made at a non-ANZ automatic teller machine.

- 1.10. Mr Sheppard was living at home with his mother and his twin brother, Michael. He had been living at home for at least twelve months prior to his disappearance. Mr Sheppard had a good relationship with his mother and brother and was happy at home. His father had died some time around 1990.
- 1.11. Mr Sheppard had attended primary school in the Port Adelaide area and then attended Le Fevre High School.
- 1.12. He was working at the time of his disappearance for a company called Ollier Powder Coating which carries on business at Wingfield. Mr Sheppard had been working for that company for two years as a general labourer.
- 1.13. Mr Sheppard was close to his twin brother and Detective Stapleton gave evidence that if he had been having any problems he would have been likely to have confided in his brother.
- 1.14. From time to time Mr Sheppard would stay away from home overnight but it was his invariable practice when doing so that he would contact his mother and inform her of his whereabouts and what he was doing.
- 1.15. Mr Sheppard was approximately 5' 5" tall, of slim build with fair hair, and on the day of his disappearance he was wearing blue jeans, a maroon denim shirt and black shoes.
- 1.16. On the afternoon of New Year's Eve 1994 Mr Sheppard and his brother and some other friends spent some time at the home of Benjamin Silvani, a friend of Mr Sheppard (see Exhibit C6). Mr Sheppard was at this time in the company of his brother Michael, and Mr Sheppard's other friends, Gavin Edwards, Simon Depauw, Benjamin Silvani, Anthony Silvani, Jason Leurs and Desiree Leyton.
- 1.17. With his brother and these friends, Mr Sheppard caught a train to Adelaide and then walked to Victoria Square to catch a tram to Glenelg where they arrived in the early evening of New Year's Eve. At Glenelg they attended at a nightclub called 'Lennies'. They remained at Lennies nightclub for sometime. At about 1:00am on the morning

of 1 January 1995 Mr Sheppard left the nightclub in the company of Benjamin Silvani and Desiree Leyton.

- 1.18. Mr Sheppard and his friends then caught a tram back to the city and walked to Hindley Street. They then attended a nightclub called 'Rave' for a short time and on leaving that nightclub they went to another nightclub called the 'Empire'.
- 1.19. Benjamin Silvani and Desiree Leyton left the Empire at about 3am in the morning, leaving Mr Sheppard there. Mr Sheppard had met a woman called Pamela Tanner at the nightclub. He talked to her for about half an hour (see Exhibit C10).
- 1.20. According to Ms Tanner, she last saw Mr Sheppard at around 4am in the Empire nightclub. After leaving the Empire nightclub Mr Sheppard went to the Adelaide Railway Station and caught the 4:13am train to Port Adelaide. At the Adelaide Railway Station Mr Sheppard met some other people he knew. They were Eliza Noack, Ami McNeill and Nicole Slabskyj. Those three people caught the same train as Mr Sheppard but they alighted from the train at the Alberton Station. Mr Sheppard had also met another acquaintance, Mr Nicholas Wright, at the Adelaide Railway Station. Mr Wright caught the same train as Mr Sheppard and the other people I have mentioned.
- 1.21. I have noted that Eliza Noack, Ami McNeill and Nicole Slabskyj alighted from the train at Alberton. Mr Sheppard of course remained on the train to continue to Port Adelaide. Mr Wright also stayed on the train with a group of people with whom he was keeping company.
- 1.22. The train was scheduled to arrive at the Port Adelaide Railway Station at 4:35am at which time Mr Sheppard alighted from the train. He was observed at that time by Mr Wright with whom he exchanged farewells (see Exhibit C14). That was the last time that morning that anyone known to Mr Sheppard reported seeing him. He has not been seen since by his mother or his brother.
- 1.23. A re-enactment of Mr Sheppard's departure from the train at the Port Adelaide Railway Station was conducted on Saturday, 21 January 1995. The re-enactment was recorded by television media and was televised. Other media were also present and gave publicity to the re-enactment. The re-enactment consisted of someone dressed in

similar clothing and seated in a similar position on the train, alighting from the train at the Port Adelaide Station.

- 1.24. Shortly after the notification of his disappearance, a significant amount of media attention was given to Mr Sheppard and the mystery of his whereabouts.
- 1.25. Searches were conducted in the Port Adelaide area by the STAR Division of South Australia Police on 8 January 1995. They searched the entire area between the Port Adelaide Railway Station and Mr Sheppard's home address, including the area on the western side of the Old Port Road.
- 1.26. As already noted, police divers conducted extensive searches in the area of the Port River from the West Lakes overflow as far north as number two dock (or Fisherman's Wharf). Underwater searches took place on 9 January 1995, 2 March 1995, 22 January 1996, 13 May 1996, 6 August 1996, 12 August 1996 and 6 January 1997. Nothing was located in any of these searches. As previously noted, further searches were conducted by the sonar devices on police boats.
- 1.27. Apart from the STAR Division land search which took place on 8 January 1995, other land searches were also conducted. An extensive land search took place on 19 July 1996 with dogs trained in detecting cadavers, on vacant land to the west of Port Road as far as the Port River and between Bower Road and the railway. Vacant land north of the railway line between the Port River and a street called The Minneries was searched. An old vacant house on the western side of The Minneries was searched and particularly the basement. Vacant land west of the Port River in the vicinity of the Jervois Bridge was searched with the dogs. They searched in the area around the Hart Street pumping station, which is just to the west of the Port River.
- 1.28. On 20 October 1997 a toilet block which is situated on the north side of the railway line between the Port Adelaide Railway Station and the Port Adelaide River was also checked.
- 1.29. Finally, on 29 April 1998, the State Emergency Service was planning to conduct a training exercise for their personnel. The opportunity was taken as part of that training exercise to provide personnel with details of Mr Sheppard's disappearance, and the State Emergency Service volunteers conducted a search of the vicinity on that day.

- 1.30. The various land searches involved what is commonly referred to as 'door knocks'.
- 1.31. None of the searches was successful in finding Mr Sheppard.
- 1.32. Over the years following the last sightings of Mr Sheppard, an extensive amount of media coverage was provided in the printed press as well as television and radio. The matter of Mr Sheppard was featured on the television program 'Australia's Most Wanted' more than once. There were 'Crime Stoppers' segments on television and radio also.
- 1.33. As a result of the media appeals the police received 49 responses. Of those 49 responses there was sufficient information in 30 of them to be followed up. Each of those 30 leads was followed through but no information that would assist in finding Mr Sheppard was obtained.
- 1.34. The media attention was Australia wide, and as noted, the reward notices were displayed in all South Australia Police stations.
- 1.35. In the days following Mr Sheppard's disappearance there were two particular sightings reported to police. The first was from a Mr Michael O'Loughlin who claimed to have seen a person fitting Mr Sheppard's description walking in an easterly direction along Grand Junction Road at about 6am or 7am on 1 January 1995.
- 1.36. Mr O'Loughlin was shown a colour photograph of Mr Sheppard and he expressed the opinion that the photograph was a likeness of the person whom he saw. However, the location at which Mr O'Loughlin reported having sighted Mr Sheppard was some distance from the Port Adelaide Railway Station in the opposite direction to that which Mr Sheppard would likely have taken to return home.
- 1.37. The second person who reported a possible sighting was Yvonne Bugg. Ms Bugg was driving east along Bower Road and she stopped at the intersection of Old Port Road and Bower Road at approximately 5am on 1 January 1995. While waiting for the traffic lights controlling that intersection to change she saw a person lying on the north-eastern corner of the intersection by the fence of the nearby rugby club. She heard the person moaning. She took no notice of the matter because of the fact that it was the morning after New Year's Eve and she assumed this person was intoxicated.

When she returned along the same route approximately half an hour later this person had gone.

- 1.38. Ms Bugg reported that the person sighted by her was wearing dark trousers and a light shirt. As already noted, Mr Sheppard's shirt was of a dark colour, (ie, maroon).
- 1.39. On the night of 28 June 1997 a person called Andrew Kieta went to the Norwood Hotel with his girlfriend Marnie McCarter. While at the hotel, Mr Kieta thought he saw Mr Sheppard. He approached the person and spoke to him. He asked, using Mr Sheppard's nickname 'Cheesey' how he was going, and what he had been up to. However, the person did not reply. Mr Kieta went to a telephone in the lobby of the hotel and called the police. A uniform patrol attended and as a result the hotel doors were closed, the lights turned up and at the request of the police Mr Kieta stood on a small platform and looked at the people in the dance club room of the hotel but was unable to see the person whom he believed to be Mr Sheppard.
- 1.40. A statement was taken from Marnie McCarter and she confirmed the story as described by Mr Kieta. However, she did not herself know Mr Sheppard. She did not really add anything to Mr Kieta's version of events. However, she did state that she had lived with Mr Kieta for three years and found him to be unreliable and stated she could not believe anything he said. She accused him of telling lies to her constantly "about everything".
- 1.41. I find that the person approached by Mr Kieta in the Norwood Hotel was not Mr Sheppard. I make that finding having regard to the fact that no other person to whom Mr Sheppard was known has seen him since 1 January 1995. I believe that Mr Kieta was mistaken.
- 1.42. Police also made inquiries with a number of Mr Sheppard's work colleagues. As already noted, Mr Sheppard was employed by Ollier Powder Coating. Statements were taken by the investigating officers from the owner of that business, a Mr Duncan Ollier, and also from James Hargreaves, Rosslyn Hargreaves, Linda Hargreaves, Juris Bergfelds, Michael Thomas and Martin Price.
- 1.43. The evidence showed that Ollier Powder Coating closed down for the Christmas Break on 23 December 1994 and were due to recommence business on 9 January 1995.

1.44. Detective Stapleton gave evidence that Mr Thomas was a particularly close work colleague of Mr Sheppard. Mr Thomas gave a statement which was tendered and admitted as Exhibit C28. In that statement, Mr Thomas said that some of Mr Sheppard's 'younger mates' were people Mr Thomas preferred not to associate with because of some of the things that they used to do. He stated that he remembered one night when some of them came to work in a stolen car and he told them to 'piss off' and then called the police to inform them of the direction the men were taking. He did not say if Mr Sheppard was involved in that incident. He stated:

'He definitely used to hang around with a lot of people who if you had kids you wouldn't want them near. I warned Daniel about hanging around with these sorts of people ...'

(Exhibit C28, p2)

Mr Thomas also stated that Mr Sheppard was involved with drug use and would smoke cannabis on a daily basis.

1.45. Nicholas Wright, who was the last acquaintance of Mr Sheppard to see him alive immediately before he alighted from the train at Port Adelaide, stated that when he spoke to Mr Sheppard on the train the latter was affected by alcohol but also, in Mr Wright's opinion, affected by drugs. Mr Sheppard told Mr Wright that he was 'tripping' which Mr Wright took to mean that he was hallucinating from taking LSD. He was aware that Mr Sheppard had taken LSD previously.

1.46. Detective Stapleton stated in evidence his belief that Mr Sheppard 'was a person who liked to drink alcohol and he occasionally took drugs, possibly more regularly smoked marijuana and less frequently consumed some LSD' (T57).

1.47. Detective Stapleton gave evidence that inquiries were conducted with the Health Insurance Commission within the period of six weeks prior to the commencement of the Inquest. The Health Insurance Commission check revealed that there had been no activity in the name of Mr Sheppard through the Medicare system administered by the Health Insurance Commission since 1 January 1995.

1.48. Detective Stapleton also gave evidence of checks that had been made with Centrelink in the six weeks prior to the Inquest. Those checks revealed no activity in relation to Mr Sheppard's name since 1 January 1995. Inquiries have been conducted with other State and Territory police to check their databases for any report of Mr Sheppard. Mr Sheppard did have a criminal history prior to 1 January 1995, being recorded twice on

the South Australia Police database, the first time in 1991 and the second time in 1994. His fingerprints were taken in 1991. Mr Sheppard's fingerprints have been entered into the national fingerprint database. Detective Stapleton gave evidence that if his prints had been detected at any crime scene in Australia that fact would have been reported to South Australia Police.

2. Theories as to Mr Sheppard's fate

- 2.1. A number of rumours were brought to the attention of the police in relation to Mr Sheppard's fate. These ranged from being attacked by 'skinheads' on the train, being attacked by Aboriginal people at the railway station, tied up and dumped in the Port River, being murdered by people with links to the occult and being bashed because he owed debts for drugs in substantial amounts of money.
- 2.2. Each of these theories was investigated, including a further theory that Mr Sheppard was the victim of a homosexual group.
- 2.3. Detective Stapleton gave evidence that police had ruled out the 'skinhead' theory.
- 2.4. The theory regarding an assault by Aboriginal people led to police interviewing a man known as Desmond Turner. Information provided by Mr Turner was not conclusive but was followed up with no result.
- 2.5. The theory regarding persons involved with the occult was also pursued but without result.
- 2.6. Inquiries were conducted at the Mars Bar in the city for the purpose of determining whether Mr Sheppard had links with the homosexual community without result.
- 2.7. The rumour that Mr Sheppard was indebted for a substantial amount of money for drugs was also pursued. Detective Stapleton gave evidence that it was his opinion that if Mr Sheppard had been indebted to the extent posited in the theory he would have been likely to have confided that fact to one or more of his close friends and certainly to his brother.
- 2.8. The investigating officers took a statement from a David Mark Garwood which was tendered and admitted as Exhibit C38. Mr Garwood stated that he had been friendly with a person by the name of Anthony Rafanelli. He told police about visiting Mr

Rafanelli's house at Russell Street, Ethelton in or about 1999. Mr Garwood gave evidence that he had used cannabis, cocaine and amphetamines with Mr Rafanelli which were supplied to him by Mr Rafanelli. On one occasion at about that time, he and Mr Rafanelli had a conversation about death and grief. They had consumed drugs, cocaine and alcohol. During this conversation Mr Rafanelli told Mr Garwood about the death of his parents. After further conversation Mr Rafanelli and Mr Garwood attended the cemetery where Mr Rafanelli believed his parents were buried. They were at the cemetery for a short time but left after Mr Rafanelli started behaving in a disrespectful manner within the cemetery. On returning to Mr Rafanelli's house they consumed more drugs. Mr Garwood used cocaine intravenously while Mr Rafanelli inhaled cocaine. Mr Rafanelli consumed a considerable amount of cocaine. They went outside so that Mr Garwood could inject some cocaine in the sunlight. During a conversation that ensued Mr Rafanelli pointed out an area of concrete in his backyard of about two or three square metres which appeared to be newer than the surrounding concrete.

- 2.9. Mr Rafanelli then referred to 'that guy that went missing from the train station on New Year's Eve'. Mr Garwood took this to be a reference to Mr Sheppard. Mr Rafanelli then allegedly stated that the person who 'went missing' had owed Mr Rafanelli \$70 which he had not paid and that Mr Rafanelli had brought the person to his home and stated 'we went a little too far'. Mr Garwood asked what he meant and Mr Rafanelli gestured in the direction of the new cement area. Mr Garwood inferred, although Mr Rafanelli did not actually say so in as many words, that he had killed Mr Sheppard. Mr Garwood believed that Mr Sheppard's body had been secreted in the newly cemented area although Mr Rafanelli did not say that directly (see generally Exhibit C38). Detective Stapleton said that this story was not sufficiently cogent to warrant further inquiries. I am not surprised. Given the amount of drugs consumed by Mr Garwood and the circumstances of the conversation, I do not see that police could have taken the matter further.

3. Findings as to Mr Sheppard's whereabouts

- 3.1. Detective Stapleton was asked whether there were any other inquiries that police could have conducted and he stated his belief that there were no further inquiries. I agree that the investigation has been exhaustive and that further inquiries would be unlikely to yield any further information as to Mr Sheppard's whereabouts.

- 3.2. I believe that, had he been able, Mr Sheppard would have contacted his mother or brother or other close friends during the period of over ten years that has elapsed since he was last seen on 1 January 1995.
- 3.3. I find that Mr Sheppard was last seen by persons who knew him in the early hours of 1 January 1995 and has not been seen by people known to him since. I find that Mr Sheppard disappeared from the vicinity of Port Adelaide Railway Station some time after 4:35am on 1 January 1995. The evidence at Inquest was not sufficient to enable me to find whether any of the rumours and theories advanced during the course of the Inquest that might explain his disappearance could be substantiated.

4. Presumption of death

- 4.1. The Coroner's Court has jurisdiction 'to ascertain the cause or circumstances of ... the disappearance from, or within, the State of any person' (see Coroners Act 2003, Section 21(1)(b)(iii)). In a case of disappearance, there is naturally no evidence to establish that the person is alive or dead.
- 4.2. According to the common law, if there is no acceptable affirmative evidence that a person was alive at some time during a continuous period of seven years or more then, if it can be proved that there are persons who would be likely to have heard of the person over that period if he or she were alive, that those persons have not heard of the person and that all due inquiries have been made appropriate to the circumstances, there arises a legal presumption that the person is dead. The classic statement of the law for Australian purposes was made by Dixon J (as he then was) in *Axon v Axon* (1937) 39 CLR 395 at 405:

'If, at the time when the issue whether a man is alive or dead must be judicially determined, at least seven years have elapsed since he was last seen or heard of by those who in the circumstances of the case would according to the common course of affairs be likely to have received communications from him or to have learned of his whereabouts, were he living, then, in the absence of evidence to the contrary, it should be found that he is dead.'

- 4.3. I find that there is no acceptable affirmative evidence that Mr Sheppard has been alive since he was seen by Mr Wright at or about 4.35am on 1 January 1995; that at least his mother and brother would have been likely to have heard from him during the period from that date to this if he were alive; that neither his mother nor his brother have heard from him during that period; and that all due inquiries have been made as

to his whereabouts. As a consequence, I am entitled to assume that Mr Sheppard's disappearance is attributable to the presumed fact that he is dead. The legal presumption does not assist me to attribute a date or time to Mr Sheppard's death. Dixon J pointed out that 'the presumption authorises no finding that he died at or before a given date' (*Axon v Axon* (1937) 39 CLR 395 at 405).

- 4.4. I therefore find that Mr Sheppard disappeared on or soon after 1 January 1995 and, relying on the presumption, that he is dead.

Key Words: Disappearance; Missing Person; Police (investigation); Presumption of Death

In witness whereof the said Coroner has hereunto set and subscribed his hand and

Seal the 8th day of November, 2005.

State Coroner