

IN THE CORONERS COURT
OF VICTORIA
AT MELBOURNE

Court Reference: COR 2004 1710 & 1711

FINDINGS INTO DEATHS WITH INQUEST

Form 37 Rule 60(1)

Section 67 of the Coroners Act 2008

Inquest into the Deaths of: TERENCE HODSON AND CHRISTINE HODSON

Delivered On: 31 July 2015

Delivered At: Melbourne

Hearing Dates: 19 and 23 May 2014. 16, 17, 22, 23, 24, 25, 28, 29 and 30
July 2014. 5 November 2014

Findings of: JUDGE IAN GRAY, STATE CORONER

Representation: Mr Alex Lewenberg, Lewenberg and Lewenberg on behalf
of Mrs Nicola Komiazyk and Ms Mandy Hodson
Mr Avi Furstenberg, Lewenberg and Lewenberg on behalf
of Mr Andrew Hodson
Ms Rachel Doyle, SC and Mr Ben Ihle instructed by the
Victorian Government Solicitors Officer for the Chief
Commissioner of Police
Mr Geoffrey Steward instructed by Tony Hargreaves
Partners on behalf of Mr Paul Dale

Counsel Assisting the Coroner Mr Chris Winneke instructed by the Coroners Court In-
House solicitors

I, Judge Ian Gray, State Coroner having investigated the deaths of

TERENCE BERNARD HODSON and CHRISTINE ELIZABETH HODSON

AND having held an inquest in relation to these deaths on 19 and 23 May 2014 and 16, 17, 22, 23, 24, 25, 28, 29 and 30 July 2014 and 5 November 2015.

at Melbourne

find that the identity of the first-named deceased was Terence Bernard Hodson

born on 25 May 1947

and the death occurred on or about 15 or 16 May 2004

at 2/87 Harp Road, Kew

from:

1 (a) Gunshot wounds to the head

AND

find that the identity of the second-named deceased was Christine Elizabeth Hodson

born on 23 February 1949

and the death occurred on or about 15 or 16 May 2004

at 2/87 Harp Road, Kew

from:

1 (a) Gunshot wounds to the head

in the following circumstances:

1. Mr Terence Bernard Hodson, aged 56 years and his wife, Mrs Christine Elizabeth Hodson, aged 55 years resided at 2/87 Harp Road, Kew at the time of their deaths. They had been married since 1967 and their three children were Mandy, Andrew and Nicola. They were also survived by three grandchildren, Sarah, James and Dillon.
2. Mr and Mrs Hodson were born in England and emigrated to Australia in 1974. Mr Hodson was a carpenter by trade and Mrs Hodson trained as a secretary. They were described as a devoted couple who were most happy in the company of their family.

3. Mr Hodson was involved in criminal activity throughout his life and this appears to have been the family's primary source of income. He became a registered police informer on 6 September 2001. At the time of his death, Detective Senior Constable David Miechel¹ was his controller and Detective Sergeant Paul Dale² was his informer controller. They were both members of the Victorian Police Major Drug Investigation Division (MDID).
4. Mr Hodson was facing burglary and drug related offences that were likely to attract a jail penalty. These offences were committed on 27 September 2003 (grand final night). He was scheduled for a plea of guilty on 19 August 2004.
5. Mr Hodson was the prosecution witness against Mr Dale and Mr Miechel, who were both charged as his co-accused in relation to these offences. They were awaiting a committal hearing scheduled for 4 October 2004.³
6. On Sunday, 16 May 2004, Mr and Mrs Hodson were discovered shot dead, in execution style killings, by their daughter Mandy.
7. The charges against Mr Dale were withdrawn after the deaths.
8. Mr Miechel was sentenced on 18 August 2006 to 15 years imprisonment for the charges, having been caught at the scene of the burglary with Mr Hodson.⁴
9. Mr Dale was charged with the murder of Mr Hodson on 13 February 2009 but the charges were withdrawn prior to his committal hearing as a result of the death of Carl Williams, who was killed in Barwon Prison on 19 April 2010.⁵
10. On 20 March 2009, Mr Rodney Collins was charged with the murders of both Mr and Mrs Hodson, but similarly the charges were withdrawn prior to his committal hearing as a result of the death of Mr Williams.⁶
11. Police have found no evidence linking either Mr Dale or Mr Collins with the murder of Mr Williams.

¹ Referred to in my finding as Mr Miechel.

² Referred to in my finding as Mr Dale.

³ All three were charged on 5 December 2003. Mr Hodson was bailed on 10 December 2003, Mr Dale was bailed on 15 December 2003 and Mr Miechel was bailed on 22 December 2003.

⁴ Mr Miechel appealed the decision. The Court of Appeal dismissed the appeal on 9 September 2010.

⁵ Reference: S CR 2010 195, *Queen v M Johnson* [2011] VSC 633

⁶ Coronial Finding published - COR 2010 1468

Medical Examinations

12. A post-mortem examination was conducted on the body of Mrs Hodson by Dr David Ranson, forensic pathologist of the Victorian Institute of Forensic Medicine, who determined the cause of death to be 'Gunshot wounds to the head'. He noted that the only significant injuries to the body of Mrs Hodson were to the head, which comprised of two gunshot entry wounds on the right side of the head.
13. A toxicological examination revealed the use of alcohol and cocaine.
14. A post-mortem examination was also conducted on the body of Mr Hodson by Dr David Ranson, who determined the cause of death to be 'Gunshot wounds to the head'. He noted two projectile injuries to the head, with the lower projectile hole taking on a round configuration with the head flexed forward at the neck.
15. A toxicological examination revealed the use of alcohol, cocaine and sertraline (an anti-depressant drug).

Purposes of the Coronial Investigation

16. The primary purpose of the coronial investigation of a reportable death⁷ is to ascertain, if possible, the identity of the deceased person, the cause of death (interpreted as the medical cause of death) and the circumstances in which the death occurred.⁸ An investigation is conducted pursuant to the *Coroners Act 2008* (the Act). The practice is to refer to the medical cause of death incorporating, where appropriate, the mode or mechanism of death, and to limit investigation to circumstances sufficiently proximate and causally relevant to the death.
17. Coroners are also empowered to report to the Attorney-General on a death they have investigated; the power to comment on any matter connected with the death, including matters relating to public health and safety or the administration of justice; and the power to make recommendations to any Minister, public statutory or entity on any matter *connected with the death*, including recommendations relating to public health and safety or the administration of justice.⁹ This is generally referred to as the prevention role of the coroner.

⁷ Section 4 of the Act requires certain deaths to be reported to the coroner for investigation.

⁸ Section 67 of the Act.

⁹ Sections 72(1), 72(2) and 67(3) of the Act regarding reports, recommendations and comments respectively.

The coronial jurisdiction in the context of deaths caused by homicide

18. The deaths of Mr and Mrs Hodson were clearly as a result of homicide and as such their cases remain open criminal investigations. In these circumstances, I have been careful not to compromise any future criminal prosecution in the course of my investigation.
19. It is important to recognise that the purpose of a coronial investigation (including an inquest) is not to investigate possible criminal conduct and/or compile a brief of evidence in preparation for a future criminal trial.
20. Further, I am prevented from making any statement in a finding or comment that a person may be guilty of an offence.¹⁰
21. However, I note that the Victorian Court of Appeal has said:
*'If, in the course of the investigation of a death it appears that a person may have caused the death, then the Coroner must undertake such investigations as may lead to the identification of that person. Otherwise the required investigation into the cause of the death and the circumstances in which it occurred will be incomplete; and the obligation to find, if possible, that cause and those circumstances will not have been discharged.'*¹¹
22. Consistent with this judgment, one of the purposes of the inquest¹² was to investigate any evidence that may have lead to the identification of the person (or persons) who may have caused the deaths, bearing in mind that I would be required to make findings of fact and not express any judgment or evaluation of the legal effect of those findings.¹³

Standard of proof

23. I accept the submissions of Counsel Assisting that coronial findings must be made on the basis of proof of relevant facts on the balance of probabilities and that in determining whether a matter is proven to that standard, I should give effect to the principles enunciated in *Briginshaw v Briginshaw*¹⁴. These principles state that in deciding whether a matter is proven on the balance of probabilities, in considering the weight of the evidence, I should bear in mind:

¹⁰ Section 69(1) of the Act

¹¹ *Priest v West* [(2012) VSCA 327]

¹² I determined that an inquest should be conducted as part of my discretionary power following submissions from interested parties.

¹³ *Perre v Chivell* (2000) 77 SASR 282

¹⁴ (1938) 60 CLR 336

- the nature and consequence of the facts to be proved;
- the seriousness of an allegations made;
- the inherent unlikelihood of the occurrence alleged;
- the gravity of the consequences flowing from an adverse finding; and
- if the allegation involves conduct of a criminal nature, weight must be given to the presumption of innocence, and the court should not be satisfied by inexact proofs, indefinite testimony or indirect inferences.

THE EVIDENCE

24. This finding is based on the entirety of the investigation material comprising of the coronial brief of evidence¹⁵ compiled by Detective Sergeant Jason Lebusque and Detective Senior Sergeant Boris Buick including material obtained after the provision of the brief (including material described in paragraphs 25 and 26), the statements and testimony of those witnesses who gave evidence at the inquest (listed in paragraph 32) and any documents tendered through them, other documents tendered through counsel (including counsel assisting) and written (and oral) submissions of Counsel following the conclusion of the inquest. All this material, together with the inquest transcript, will remain on the coronial file and comprise my investigation into deaths of Mr and Mrs Hodson. I do not purport to summarise all the material/evidence in this finding, but will refer to it only in such detail as is warranted by its forensic significance and where otherwise appropriate.

25. The evidence included transcripts from:

a. The [REDACTED] examination of:

- [REDACTED] dated 6 July [REDACTED], 26 November [REDACTED] and 11 June [REDACTED] (redacted);
- [REDACTED] dated 30 June [REDACTED], 24 and 25 November [REDACTED];
- [REDACTED] dated 19 July [REDACTED] and 17 August [REDACTED];
- [REDACTED] dated 20 July [REDACTED], 21 August [REDACTED] and 22 April [REDACTED];
- [REDACTED] dated 24 and 31 January [REDACTED]; and

b. The Australian Crime Commission (ACC) examination of:

- Paul Dale dated 7 March 2007 (redacted versions); and

¹⁵ Which included more than 130 witness statements.

- Paul Dale dated 26 November 2008 (redacted versions)¹⁶; and
- c. [REDACTED] examination of:¹⁷
- [REDACTED] dated 20 September [REDACTED];
 - [REDACTED] dated 24 October [REDACTED];
 - [REDACTED] dated 17 and 24 May [REDACTED];
 - [REDACTED] dated 21 August [REDACTED];
 - [REDACTED] dated 15, 22 and 27 March [REDACTED];
 - [REDACTED] dated 1 November [REDACTED]; and
 - [REDACTED] dated 7 August [REDACTED].
26. Finally, the evidence included the transcript of the Supreme Court trial of Mr Dale which alleged the giving of false evidence before the ACC [transcripts noted in paragraphs 25(b)].¹⁸

SECTION 67 FINDINGS

27. Prior to the commencement of the inquest, it was apparent that most of the facts about the deaths of Mr and Mrs Hodson are known and were not in dispute. These include their identity, the medical cause of their deaths and most of the circumstances surrounding their deaths, including mode of death and place of death.
28. A number of discrete matters were sought to be resolved by the conduct of an inquest.

Issues explored at inquest

29. Interested parties were given an opportunity to make submissions on the scope of the inquest.
30. Following consideration of those submissions, I determined that the inquest should focus on the following matters:

¹⁶ Only obtained following a variation of ACC examiner non-publication directions.

¹⁷ This material was only obtained as a result of an amendment to the [REDACTED] which permitted the sharing of information with the Coroners Court.

¹⁸ Specifically my attention was drawn to the following excerpts from the transcript: Solomon: Day 6, p 331 – Day 7, p 393 355, Williams: Day 7, pp 395 – 437, [Day 2, pp 114 – 124 (voir dire)], Witness B: Day 8, pp 451 – 529, [Day 2, pp 79 – 114 (Voir Dire)], Albert: Day 8, pp 530 – 538, Buick: Day 9, p 548 – Day 10, p 575, Davey: Day 13, p 724 – Day 14, p 782, Bannan: Day 15, pp 856 – 862 which were provided following application to the Supreme Court.

- the identification of the persons or persons who were causally involved in the killing of Mr and Mrs Hodson; and
- the adequacy of protection offered to Mr Hodson in the period immediately before the deaths.

The witnesses

31. Interested parties were given an opportunity to make submissions on who should be included on the witness list.
32. Ultimately, the following witnesses gave evidence at the inquest:
 - Witness A
 - Witness B
 - Roberta Williams
 - Adam Shand
 - Andrew Murray Gregor
 - Andrew Hodson
 - Cameron Davey
 - Sol Solomon
 - Witness M
33. [REDACTED] (referred to as Witness F in my finding) was, at the request of the CCP, excused from giving evidence on the basis of the potential risk to the safety of this witness.
34. Mr George Williams was also excused from giving evidence on the basis of ill health after the provision and consideration of medical reports.

Section 57 Applications – exclusion of certain witnesses

35. Mr Dale and Mr Collins were on the witness list but sought to be excused from giving evidence at the inquest under section 57 of the Act on the basis of self incrimination. They both indicated in the witness box that they were not willing to give evidence with the benefit of a certificate under section 57(5). After considering submissions (both oral and written), I

- determined that the interests of justice did not *require* me to compel each to give evidence, even though I noted that it would be desirable (and of assistance) to hear from them.¹⁹
36. No inference is to be drawn against these individuals because they have exercised their privilege against self-incrimination.
37. In the absence of their oral evidence and cross examination I may still have regard to their written statements (only Mr Dale provided a statement) but those statements may be regarded as carrying less weight than statements adopted on oath. Further, where they are in conflict with sworn evidence from other witnesses, or with other evidence, I may choose to prefer that other evidence.
38. In addition, where an adverse finding is open on other evidence, including the sworn evidence of other witnesses who have attended the inquest, the absence of sworn oral evidence from them will not prevent me from making an adverse finding.

BACKGROUND CIRCUMSTANCES

Mr and Mrs Hodson as police informers

39. Mr Hodson and his children, Andrew and Mandy were arrested in 2001 for drug related matters. Mr Miechel was the informant in relation to the charges against the children who had been caught by an undercover police officer, apparently *going behind* their father's back. According to [REDACTED]
[REDACTED]
[REDACTED]
[REDACTED], and it was on this basis, that he became a registered police informer on 6 September 2001. [REDACTED]
[REDACTED]
[REDACTED].
40. Mrs Hodson was also registered as a police informer.
41. Mr Hodson was described as a '*prolific supplier of information to police concerning high level illicit drug trafficking. Much of the information provided by Hodson resulted in significant arrests and the seizure of illicit drugs and cash.*'²¹

¹⁹ Published decision made on 22 July 2014.

²⁰ Transcript [REDACTED]

²¹ Coronial Brief (CB) at p. 75

42. As to the level of his own criminal activity, Mr Hodson described himself as amongst 4 or 5 people who controlled the ecstasy market in Melbourne and had done so for 10-15 years.²²
43. In 2002, Mr Dale joined the MDID and assumed supervision of Mr Miechel as well as the role of informer controller of Mr Hodson. Mr Dale reported to Detective Senior Sergeant James O'Brien.
44. In *'July 2002 handling issues particularly between Miechel and Hodson were identified, the relationship appeared overly friendly which was evident by constant telephone communication. ...Miechel was warned concerning the formation of any inappropriate relationship and the need for professionalism.'*²³
45. In December 2002, Mr Hodson's registered number was changed from 4390 to 4456 as his identity as an informer was becoming too well known. Mr Dale said that he was instrumental in that change.
46. In early 2003, the evidence suggests that Mr Miechel commenced an intimate relationship with Mandy Hodson.
47. Following the deaths of Mr and Mrs Hodson, Mr Dale said: *'I had no issues of concerns relating to the handling of Hodson by Miechel. As far as I observed and from my own dealings with Hodson the handling of Hodson by Miechel and myself was conducted in accordance with the Informers Management Policy.'*²⁴

The Dublin Street burglary

48. In June 2003, the MDID were investigating a commercial drug manufacturing operation, whose main target was Mr Azzam Ahmed. As part of that operation, a house located at 23 Dublin Street, Oakleigh was under police surveillance as a place where ecstasy tablets were being manufactured and distributed.
49. Ms Abbey Haynes lived at the address and was the 'baby sitter' for the activities taking place at that location. She kept two dogs at the house, a Rottweiler and a Rottweiler Cross Bullmastiff.
50. Around 18 August 2003, the investigation was assigned to Mr Dale's crew, which comprised Mr Miechel and 5 other investigators.

²² [REDACTED]

²³ CB at p. 77.

²⁴ CB at Appendix H (3)

51. As of 19 September 2003, telephone intercepts were already in place at the premises and a camera was installed at an address across the street. The tapes at that address were changed on a daily basis.
52. A telephone intercept on 26 September 2003 indicated that over the weekend of 27-28 September 2003 (grand final weekend) a large amount of drugs and cash would be held on the premises, and was due to be transferred to Sydney. The Victorian police operation would finish after that time, as the NSW police proposed to make arrests in their jurisdiction.
53. Victoria Police investigators say that in the lead up to that weekend, Mr Dale and Mr Miechel assumed primary control of the telephone and visual surveillance of the operation.
54. A burglary was committed at the property on the evening of Saturday, 27 September 2003. Mr Hodson and Mr Miechel were caught near the scene. Mr Miechel was running from the scene. He sustained injuries from a police dog and was taken to hospital by ambulance.
55. The targets of the operation were charged in relation to the drug activities following the burglary, including Mr Ahmed and Ms Haynes.
56. Police say that 32,819 ecstasy tablets and \$6,500 cash were located in bags, found over the fence at the adjoining property. Other drugs and cash were also located in the property.
57. Mr Ahmed maintains that \$700,000 (having secreted it in the house and last seen it at 4.00am on the morning of the burglary) and approximately 135,000 ecstasy tablets were missing from the property.
58. Mr Ahmed, who met up with Mr Antonio Mokbel within hours of his release from custody on bail, initially told police that Mr Mobkel was involved in the Dublin Street drug operation, but later retracted that statement.

Allegations following the Dublin Street burglary

59. After the burglary, Mr Hodson was released without charge and, following a series of interviews with the Ethical Standards Division (ESD), he alleged by statement dated 25 October 2003 that Mr Dale and Mr Miechel both planned the Dublin Street burglary, and Mr Miechel carried it out with him. He appeared motivated by the possibility of a reduction in sentence.
60. Mr Hodson said they had first spoken about the burglary around 8 September 2003 at Romeo's Restaurant in Toorak Village. He said they anticipated that the job was valued at \$200,000 and they expected at least 5000 ecstasy tablets and other drugs on the premises.

Mr Hodson said it later became apparent that they had to do the job on the weekend of the grand final, as the operation was being effectively closed at the end of the weekend (Sunday night – Monday morning). Mr Hodson said there were earlier attempts to carry out the burglary: in the early hours of Thursday, 25 August 2003 (he said Mr Dale had no alibi for the receipt of the call from police which he would inevitably receive in relation to the burglary and needed to be back home within 30 minutes to answer that call); on the evening of 25 August 2003 (he said the occupants didn't leave) and early Saturday morning (he said Mr Miechel slept in and Mr Dale didn't show).²⁵

61. Witness F, [REDACTED], who was acting for [REDACTED] in relation to the Dublin Street drug operation also provided advice to Mr Hodson before he was charged. (She was acting for [REDACTED] at the time). According to Witness F, Mr Hodson told her that Mr Dale was involved in the burglary. Mr Hodson told ESD she was fishing for information about whether he was going to give evidence against Mr Dale and that she and Mr Dale were in an intimate relationship. Mr Hodson asked Witness F to arrange a meeting with Mr Dale, which never eventuated. ESD were pushing for this to occur.
62. Mr Hodson advised police that a phone call was received at about 5.00pm, 4 October 2003. Mrs Hodson answered the phone, and the caller said to Mr Hodson: *'We look after our own, um, no reason to go on board with anybody.'*²⁶ He said it was not Mr Dale's voice.
63. Sometime in mid-October 2003, Mandy Hodson said that Mr Miechel gave her a card to give to her father which had a quote from the movie Scarface. (He suggested to her that her father would know the meaning): *'I never fucked anybody over in my life didn't have it coming to them. You got that? All I have in this world is my balls and my word and I don't break them for no one.'*²⁷
64. Mr Hodson, Mr Dale and Mr Miechel were charged with the burglary (and drug related charges) on 5 December 2003.
65. On 8 January 2004, Mr Hodson made a further statement implicating Mr Dale and Mr Miechel in the burglary.

²⁵ Mr Hodson said that Mr Dale couldn't be present on the night of the burglary as *'he'd got people'*. In addition, Mr Hodson alleged that he once gave Mr Dale \$1000 (as he was always complaining that he was short of cash and felt sorry for him), that Mr Dale borrowed one of his guns to go shooting with (in 2003) and that he had occasionally given him a few ecstasy tablets

²⁶ CB at Appendix K p. 4

²⁷ Exhibit 317 of Exhibit 64 of the Coronial Brief.

66. On 19 March 2004, all three appeared at a Committal Mention and a Committal Hearing was listed for 4 October 2004.

67. Both Mr Dale and Mr Miechel denied that they were involved in the Dublin Street burglary.

Mr and Mrs Hodson's habits

68. Mr and Mrs Hodson had a number of habits which were well known.

69. Mandy said:

'...once it got dark dad would close the front garage door. The security door which led from the garage to the house would normally be locked from the inside so that it couldn't be opened from within the garage. The wooden door which led from the garage to the house was normally open during the day and then closed of an evening but not locked. If dad was still awake of an evening then the black wooden gate between the courtyard and the pathway near the TV room would either be open or if it was closed it would be unlocked. This allowed the dogs free range between the courtyard and the back path which led to the garage. The[n] when my parents would go to bed dad would lock the black gate with two sliding bolts. Once my parent's went to bed the German Shepherds would no longer be able to get into the courtyard as the gate was locked but they could wander between the back path and the garage. Once my parents went to bed they would leave the security door on the back of the house which led to the courtyard open, so that Ty, their poodle could go outside during the night if he needed to. The black gate secured the house so that there was no need to also lock that back security door.'²⁸

70. Andrew said in relation to the black gate: *'There was a solid timber gate which separated that covered area from the back garden and brick paved path. My parents used to lock this gate when they went to bed. It locked with two barrel bolts which were on the inside of the covered area. I am unable to say if the gate was normally open or unlocked when they were awake.'*²⁹

71. As to their usual habits at night, Mandy said:

'It was my parent's usual habit to stay up late at night. They would normally not get up until mid morning and then they would stay up until midnight. Of a Friday or Saturday night my parent's often stayed up until well after midnight, sometimes until 3am and sometimes they

²⁸ My emphasis. CB at Appendix B, photos 28 and 122

²⁹ CB at p. 284

would stay up all night. They would spend the evening out in the tv room, having a drink together and watching tv. They would also use some cocaine of an evening.'

72. In addition, amongst those wanting to engage in criminal activities with Mr Hodson, it was well known that Mr Hodson was 'open' for business (drug dealing), if the garage door was open.

Security following the Dublin Street burglary

73. Mr and Mrs Hodson's rental home located at 87 Harp Road, Kew consisted of two single level units. A driveway on the eastern side of the property lead to Unit 2 at the rear of the property.
74. There was a double garage at the front of Unit 2, and there was a sensor light above the garage door which activated a 500 watt flood light when cars approached.
75. The garage had a passage that lead to the backyard and a door that lead to the entry hall of the unit. There was an external front door with an accompanying security door fitted with a deadlock. This door also lead to the entry hall of the unit. All windows were lockable and had security grills fitted on each.
76. A colour security camera was installed on the south-east corner of the premises, and provided a view of the driveway, front of the garage, front door area and the west of the premises. A timelapse recorder and colour monitor was in the garage area. The monitor could be viewed from the hallway prior to approaching the front door.
77. There was a black and white VHS Time Lapse Recorder in the TV room with an existing black and white monitor which was fed through a camera mounted on the front garage. The camera provided a view of the driveway in front of Unit 2, looking south towards Harp Road and could show events in real time.
78. Mr Hodson '*had previously installed passive infared motion sensors around the premises. These were located in the following positions: (i) On the east boundary fence, facing west, covering the driveway, at a point approximately six metres south of the garage door. (ii) Above the garage door of the premises, under the eaves, covering the front driveway and parking area. (iii) On the northeast corner of the rear of the premises, providing coverage of the rear BBQ area. All three sensors, upon detecting motion, independently activated its*

own audible buzzer mounted on a switch box, which is located in the kitchen area of the premises.³⁰

79. Family members said that Mr Hodson always had a gun with him, whilst in the house. He referred to it as *the Roscoe*. Mandy said:

'During the day my dad didn't always keep it with him, he would put it on top of the fridge in the kitchen or leave it in the bedroom. Of an evening it was my parent's usual practice to go out to the TV room and watch tv. Dad would take the gun with him to the tv room and put it on the side table next to where he sat on the couch. Then when he went to bed he would put it in his sock drawer next to his bed in his bedroom.'

80. Mr and Mrs Hodson had three dogs. There were two German Shepherds, one older (Molly – 4 years old) and one younger (Rosie – eight and half month) as well as a small poodle dog (Ty – nine year old) who was inside with them all the time. The German Shepherds were required to be tied up when people visited and were also known to make a *racket* on these occasions.

81. Their daughter Nikki said in relation to the dogs:

'Molly was very protective of Dad and would follow him everywhere. If people came to the house she would run at them and bark until Dad said to her, 'No No Molly it's alright.' She would attack anyone she would.

Rosie is more friendly towards people. She would bark if Molly barked but she was not as fussed as what Molly was. Molly was the dominant dog.

*Ty would have a bit of a bark but she was really no threat.*³¹

³⁰ CB at p. 317

³¹ CB at p. 281

The ESD Security Assessment

82. On 16 and 19 January 2004, a full security review was conducted in order to assess and, if required, upgrade the security as it then was at the Harp Road address. Detective Senior Sergeant Andrew Murray Gregor³², ESD (at the time), requested the review. He also gave evidence at the inquest and made a statement relevant to this matter dated 11 August 2004. He was responsible for investigating the circumstances surrounding the burglary and the alleged involvement of Mr Dale and Mr Miechel.
83. The Report³³ noted the following:
- that the *'possibility of a threat against HODSON at the home address is very high as it is well known by others that he spends a large amount of time at his residence.'*
 - *There is unrestricted access from the east from Harp Road via the vacant house at number 89 Harp Road.*
 - *The north side (rear) fence is shared with 2 Woodlands Avenue, and provides restricted access.*
 - *A separate office/lounge [TV room] has been built to the rear of the house. This is used by the occupants on most nights to watch television.*
84. The assessment concluded that the existing physical security *'provided sufficient protection from burglary and mischievous attacks'* but *'the existing camera setup did not provide sufficient footage for recording events that occur at the entry to the premises.'*
85. The Report also noted that a 24-hour Time Lapse Recorder was installed by the ESD Technical Unit on 20 January 2004 to provide recording capabilities.
86. The Report made the following recommendations, which were subsequently implemented:
- Install a second camera to provide coverage of the driveway and front door area of the premises;
 - Install a second Time Lapse Recorder to provide 24-hour coverage from the second camera, with a suitable 2 camera input monitor;

³² Referred to in this finding as Mr Gregor

³³ Exhibit 17

- Install a PIR (passive infrared) detector to activate Real-Time recording on the time lapse recorders; and
 - Repairs made to the existing 'Airphone' to make it operational to provide video intercom facilities to the front door (to be paid for by Mr Hodson).
87. As a result of two unusual visits to the Harp Road address, Mr Gregor informed Mr Hodson: *'that it was extremely dangerous for him to have any contact with past associates and that he must avoid contact with these types of people at all costs.'*³⁴
88. On 15 March 2004, Mr Hodson reported a smashed bottle being located near the front door and that the sensor, which was located on the eastern boundary side fence, was moved. This matter was fully investigated by police.
89. The last contact with Mr Gregor was on 14 May 2004, when he spoke to Mrs Hodson. She said that all was quiet and Mr Hodson had been keeping at home. She did however report a call from the MDID on the Wednesday or Thursday evening (10.45pm) which was unanswered as they were out the back watching television and didn't reach the phone in time.
90. Victoria Police tried to encourage Mr Hodson to enter witness protection on a number of occasions, which he declined.
91. Mr Gregor said *'On numerous occasions I met with or spoke to Terry Hodson, I stressed the need to ensure vigilance regarding his own personal security. From my dealings with Hodson I was of the view that he regarded his personal security seriously and he was of the belief that he was at considerable risk of being murdered. The only threat Hodson expressed fear of was concerning Miechel or Dale. Hodson stated to me that he expected 'something to happen'. The offer of entering witness protection was made to Hodson on numerous occasions, which he declined. ...Hodson stated he believed he was as safe at his house as anywhere else.'*³⁵
92. According to their daughter Nikki, Mr and Mrs Hodson appeared fatalistic about what was to come:

³⁴ On 6 January 2004, Mr Hodson reported an unusual visit from Frank Samson who he hadn't seen for a number of years. In addition, Mr Hodson reported that Jason Rodder was outside his unit on New Years Eve.

³⁵ CB at p. 170

Dad has always said that he was a 'Dead Man Walking' because of the statements he's made.

Dad sat us all down at Christmas time and said that he had done things during his life that he wasn't proud of. He said I've made my bed and now I've got to lie in it. Dad was certain he was going to be killed it was just a matter of where and when.

*Both Mum and Dad accepted that they couldn't change what was probably to come. Dad said if it wasn't the crims it would be the police that would come and get him and Mum.*³⁶

Vulnerability of the Hodson's TV room

93. According to their daughter, Mandy, the TV room was her parent's space *'of a night time, where they retired to watch tv and sit together'*³⁷ and they never took friends or clients who were buying drugs there.
94. As to the vulnerability of the TV room Mr Gregor said: *'I informed Terry and Christine Hodson that I believed they were most vulnerable if they used the rear sitting/television room, which was located on the north-western corner of the premises and that [they] should keep out of it especially when dark. ..Hodson agreed with me that they would be more vulnerable when using that particular room.'*
95. As early as 23 December 2003, Mr Hodson said: *'I'm just closing off the pergola area out there so they can't jump out and shoot me while I'm watching the tellie, which is definitely going to be on now.'*³⁸

Circumstances of the Deaths

96. Mr and Mrs Hodson were discovered deceased in the TV room located in the rear of their home at approximately 6.15pm, on Sunday 17 May 2004 by their daughter Mandy. Their son Andrew was already at the house taking out some large rubbish bins, as he knew that his father was suffering from a bad back. The children had been unable to raise their parents during the day. Andrew had the last known contact with Mr and Mrs Hodson (aside from the killer or killers), which occurred by telephone at 9.47pm the night before their discovery.

³⁶ CB at p. 282

³⁷ CB at p. 277

³⁸ CB at Appendix P

97. The children found the garage door closed. Mandy said: *'I unlocked the roller door because I have a remote in my car and we saw Rosey and Molly, mum and dad's two German Shepherds in the garage....So as usual I went to go through the security door and I found it to be unlocked and the main door was locked. This was unusual because mum and dad always lock the security door and then leave the main door shut, but unlocked. I have a key for the security door and keep that in my handbag. Because I didn't have my key, Andrew told me to go around and try the back door while he took out the recycle bin. I went through the shed and up the path and I could hear the tv on. I came to the gate that leads to the courtyard and found it to be unlocked, which was strange because if they let the dogs out they always bolt it shut.*

I walked through and into the court yard and through the open door I could see dad lying on the floor and I thought he was asleep. There are two wooden doors to this room with a security door. ...The wooden door was open but the security door was closed, but unlocked.'

98. At 6.24pm information was communicated to police to attend at the address in relation to Mandy's discovery. The first police officers arrived at approximately 6.30pm.

99. Homicide police attended and the scene was examined by the Crime Scene Unit of the Forensic Services Department. Both Dr Ranson (Forensic Pathologist) and the former State Coroner, also attended the scene.

100. The bodies of Mr and Mrs Hodson were located in the TV room. The bodies lay face down with their feet towards the front of a two seat sofa. Found on the floor around the bodies were cigarette butts, the first was situated in the vicinity of Mr Hodson's right hand and the other situated near Mrs Hodson's right shoulder.

101. There was no sign of forced entry to the TV room, which had been purpose built by Mr Hodson with Andrew's help.

102. The house was extremely tidy and there were no signs of a struggle or other disturbance anywhere in the house. There were also no signs of forced entry. In the kitchen was an alert system that lit up when sensors were activated in the lounge and driveway but the audible aspect of the alert system was switched to mute.

103. The police observed that the *'rear garden of the unit was accessed via a doorway in the garage. The garden consisted of a fernery and garden bed. A gate that was partially open accessed the garden bed. A paling and trestle fence formed a portion of the rear boundary of the property. In the soil and mulch at the base of the fence there were some scuff marks*

*that possibly could have been formed by the heel of a shoe. A pot plant in the garden near the marks in the soil had been partially knocked over.*³⁹

104. In addition, the *'rear garden of the property adjoining the rear of the 2/87 Harp Road, East Kew was examined. The property was at 3/2 Woodlands Avenue, East Kew. There were fresh scuff marks on the horizontal support beams of the paling fence. The fence of the property at 89 Harp Road had a vine running along the top. The vine appeared to have been pushed down. The property at 89 Harp Road was an empty derelict house with an overgrown garden.'*⁴⁰
105. Three fired cartridges were located (later found to be .22 calibre Winchester brand Super X), including one resting on the rear shoulder of Mr Hodson. Later at examination, it was found that the four fired cartridges (one discovered by members of the family in the days after the deaths) had all been fired in the same firearm.
106. DNA analysis performed on various swabs collected at the crime scene, were found to be consistent with the profiles of Mr and Mrs Hodson.
107. The scene clearly suggested that Mr and Mrs Hodson both received two bullet wounds to the back part of their heads which were fired at close range whilst they were each positioned on their knees.
108. After discovering her parents, Mandy said she located the *Roscoe* in a drawer in the main bedroom, and Andrew concealed it from police (down his pants) on the night of 16 May 2014. Andrew's partner said that: *'I think he took the gun for protection.'*⁴¹ Andrew later handed the gun to police (with the shell said to be located in the TV room after the police examined the scene).
109. In addition, Mandy told police that she took some other items from the crime scene including a small container of cocaine [located on the coffee table next to where her mother would sit (left side of the couch facing the TV)], a silver butter tray with a small pile of white powder (which she knew would be cocaine), a line of cocaine and a 22 carat gold plated straw [all located on the coffee table next to where her dad would sit (right side of the couch facing the TV)].

³⁹ My emphasis

⁴⁰ My emphasis

⁴¹ CB at p. 289, Statement of Linette Boron

110. Mandy also said that on 17 May 2004, she returned to the house and obtained \$50-60,000 which had been hidden by her dad in a concealed cavity in the garage (there were at least two in the house) and some drugs (an ounce of cocaine and half an ounce of speed) in a cavity in wall of the toilet.
111. With respect to Molly (the dog), she was taken to the vet for examination. The examination noted that she: *'was trembling, panting and appeared very agitated. Bilaterally dilated, minimally responsive pupils were found on ocular examination. Examination of the integument showed bruising posterior and dorsal to the left orbit consistent with blunt trauma....It was considered that 'Molly' may have been suffering the expected response after a major stress event or physical trauma. Intoxication was considered as the main differential.'*⁴²
112. Rosie (the dog) on the other hand, was reported to have shown no sign of concussion or poisoning.
113. The two surveillance system time lapse recorders that were operating (including one located in the TV room) were empty and the video taped footage relating to the security camera recordings for Saturday 15 May 2004 and Sunday 16 May 2004 were missing, presumed taken by the assailant(s).
114. I note that the murder weapon has never been located.

WHO COMMITTED THE MURDERS?

115. It is the practice of the coronial jurisdiction to exhaust all criminal avenues before the coronial investigation commences. This ideally involves the completion of a criminal prosecution and the expiration of the appeal period, where applicable.
116. In this case the coronial brief was not filed with the Coroners Court until July 2012, some 8 years after the death. The investigation at that point was extensive and involved a number of coercive bodies, outside Victoria Police. The police theory as to who was responsible for the deaths was well established prior to the resumption of the coronial investigation, as evidenced by the attempted prosecution of Mr Dale and Mr Collins in 2009-10.

⁴² CB at p.342

117. The prosecution case rested largely on statements provided by Mr Williams (who was serving a lengthy sentence of imprisonment) which implicated Mr Dale and Mr Collins, as well as himself.
118. It is the position of the CCP, that I should make findings that the *'persons who contributed to (and therefore in the relevant sense, cause) the deaths of Terrence and Christine Hodson included Paul Dale, Carl Williams and Rodney Collins.'*⁴³ The motives apparently being the removal of Mr Hodson as a crown witness against for Mr Dale (with respect to the Dublin Street burglary) and financial gain for Mr Collins. The motivation for Mr Williams is less clear, as at least on his own word, he did not stand to benefit from the killing of Mr Hodson.
119. Immediately after the deaths of Mr and Mrs Hodson, both Mr Dale and Mr Miechel were interviewed by Victoria Police in relation to the deaths.
120. Police say that subsequent investigations revealed that Mr Dale could not have been physically present at the time of the deaths. Mr Dale has consistently denied any involvement in the deaths.
121. Mr Miechel made a no comment interview and gave an account of movement, some of which were able to be verified. It appears that Victoria Police do not consider him to be a suspect in the murders and no specific information suggesting his involvement was put to me as part of my investigation.
122. Mr Collins is currently serving a sentence for the murders of Ramon and Dorothy Abbey. He did not agree to an interview with police and therefore has not been formally interviewed regarding the murders.

Motives to murder and other suspects

123. There appear to be at least three motives for the murder of Mr Hodson, whereas Mrs Hodson appears to have been killed for the sake of expediency. The motives include:-
- Firstly, that Mr Hodson had agreed to be a witness for the prosecution against Mr Dale and Mr Miechel (although, as noted above, the latter does not appear to be considered a suspect in the murders).
 - Secondly, that by Mr Hodson's involvement in the Dublin Street burglary *'he had interfered in a high level illegal drug trading enterprise involving many hundreds of*

⁴³ Outline of final submission on behalf of CCP at para. 4

thousands of dollars, if not millions of dollars'.⁴⁴ I do note however that the operation would have been wound up on the Sunday or Monday of the weekend of the burglary in any event following arrests which were likely to have taken place in NSW.

- Thirdly, *'it had become known amongst significant players in Melbourne's illicit drug trade that Mr Hodson'* was a police informer and had been *'providing evidence to police against his fellow drug traders,*⁴⁵ probably while engaging in the drug trade himself.⁴⁶

124. Sergeant Sol Solomon who investigated the murders, said in his statement dated 20 April 2009 that during the course of the investigation *'150 persons of interest were investigated and interviewed as potential suspects. With the exception of Paul Dale, Rodney Collins and Carl Williams no evidentiary link was made between any of these persons and the Hodson murders.'*⁴⁷ He said at inquest that the majority of those people were investigated prior to the establishment of the Petra Taskforce in 2007.

125. Sergeant Solomon did nevertheless agree with the following proposition:

*'So you might have someone who had the means and the motive who couldn't account for his time but you simply couldn't take that investigation any further?'*⁴⁸

126. During the inquest, I was handed a spreadsheet containing approximately 220 names of individuals I was advised had been investigated by police in relation to the murders.

127. I note that Mr Dale said (by submission) that the *'number of people who might want Hodson dead is incalculable'* given that he was a police informer. He went on to identify particular individuals of interest. I note that all those named persons appear on the spreadsheet.⁴⁹

128. As to the type of person who could carry out such execution style killings, Sergeant Solomon said: *'Well I'd have to take into account the manner in which the murders were performed. That is the execution of two people in their own home, in a fortified home, with very little evidence of their presence. It would take someone with extreme proficiency in the art of killing people, to actually commit that and I would not rate any of those people we*

⁴⁴ Written Submissions of Counsel Assisting, pages 13 -14

⁴⁵ Opening of Counsel Assisting, pages 13 -14 (16 July 2014)

⁴⁶

⁴⁷ CB at p. 613

⁴⁸ Transcript at p. 868

⁴⁹ Other than the 'Carlton Crew' and 'Sugar Ray'. Refer to above. Andrew Hodson was investigated as a possible suspect but, at inquest, Mr Davey said that there was *'no evidence that had been gathered to suggest that he was responsible for the murders'* (Transcript at p. 677)

*looked at with the skills and the intestinal fortitude to carry out such an execution, other than one person and we charged him.'*⁵⁰

129. With respect to the risks of a police informer in the drug trade I noted the following exchange with Witness A:

'People in the underworld who are involved in drug trafficking would be pretty annoyed about the fact that a person who was portraying himself as drug trafficker was, in fact, providing information to police about that activity?

Yes.

Would that provide the motive for people in the underworld perhaps to want to kill Hodson. Would it provide a motive?

*Not - this is going to sound funny. Not in the drug trade.'*⁵¹

130. This maybe so, but as I state (see paragraph 158) I have serious reservations about Witness A's credit and reliability.

Any prior knowledge of the killings

131. Ms Haynes suggested that she was given information that Mr Hodson was going to be killed:

*'About two weeks or so before the murder of the Hodson's I was over at Adam's [Mr Ahmed] house one night. On that night we were talking and the subject of the burglary came up and we were talking about Hodson, Dale and Miechel, as we did. Adam [Mr Ahmed] then told me that something was gong to happen to Terence Hodson. Adam never mentioned Christine's name at all. I can't recall the exact words he used but I was left in no doubt that there was an intention to kill Terence Hodson. Adam never mentioned any names to me about who was involved in the plan. A day or two before the murders I was talking on the phone to Adam....he told me to be out on Saturday night. He told me to make sure that I was seen by people.....That Saturday night I went out to a nightclub. ...Less than an hour after I got home Adam called me. ...Adam said – You know what we talked about a little while ago, it's happened or it's done.'*⁵²

⁵⁰ Sergeant Solomon at transcript p. 906

⁵¹ Witness B at transcript p. 326.

⁵² CB at p. 142

132. Mr Ahmed denies these conversations with Ms Haynes:

*'I suspected that Terry Hodson would be killed because I knew that he was with Miechel at the time they were arrested for the burglary on the Dublin street house. It was obvious to me that Terry must have been working with the police because he was arrested with Miechel. I never knew Terry before that burglary. ...I had no knowledge that Terry was going to be murdered. No one gave me any specific information that he was going to be killed, it was just something I suspected. I never told anyone that Terry was going to be killed on a particular night, I couldn't because I didn't know about it.'*⁵³

133.

[REDACTED]
[REDACTED], [REDACTED]
[REDACTED]
[REDACTED]
[REDACTED],⁵⁴

134. These matters could not be taken any further by investigators. If anything, what Mr Ahmed said (paragraph 132) suggests that a number of people may have been motivated against Mr Hodson, although the CCP case is that all known alternatives were investigated and discounted. At the same time, I note the evidence of Sgt. Solomon (paragraph 125 above), conceding the possibility of the involvement of others.

The CCP position

135. The CCP submits that on the available evidence I should be satisfied of each of the following matters, *'which when taken together, establish that Dale, Williams and Collins caused the deaths of the Hodsons:*

- A. *Dale had a corrupt relationship with Williams;*
- B. *Dale was involved in the dissemination of the confidential police information reports which identified Hodson as a police informer;*
- C. *Dale was, at the relevant times, in possession of and used a 'safe phone' registered in the name 'Darren Johnson', used for purposes including maintaining the corrupt relationship with Williams;*

⁵³ CB at p. 146

⁵⁴ [REDACTED]. This is a reference to drug use.

- D. *Dale met with Williams at Hillside on 6 May 2004, at a time and in circumstances in which there can have been no legitimate, police-related meeting;*
- E. *In the period immediately following the Hillside meeting, Williams approached Collins to carry out the execution of Terrence Hodson; and*
- F. *Collins carried out the execution of Terrence and Christine Hodson.*⁵⁵
136. The submission suggests that I must be satisfied of **each** matter in order for me to be satisfied of the allegations against Mr Dale, Mr Williams and Mr Collins. It is not clear whether the CCP intended to mean or imply that the failure of one matter was fatal to the overall submission.
137. Counsel Assisting submitted that I should approach *'the task of weighing evidence using the Chamberlain circumstantial analysis (albeit the Williams' assertions are in effect direct evidence, but are hearsay in nature).'* He said a coroner *'should decide whether he accepts the evidence of a particular fact, not by considering the evidence directly relating that fact in isolation, but in light of the whole evidence'*⁵⁶. I accept this submission.
138. Counsel Assisting did however caution that whilst a civil standard of proof suffices in the coronial jurisdiction, if the allegation involves conduct of a criminal nature (as in this case), the *Briginshaw* principles apply and weight must be given to the presumption of innocence, and the court should not be satisfied by inexact proofs, indefinite testimony or indirect inferences. In cases such as this, the application of *Briginshaw*, and the cautions that it necessarily introduces into the weighting of evidence, become particularly important.
139. Regardless of the analysis undertaken, in my view there are fundamental aspects of the prosecution theory that require a thorough examination.

Did Mr Dale have a motive?

140. On one view a necessary precursor to the matters put by the CCP (A – F) is, that I should consider whether the available evidence supports the proposition that Mr Dale had a reason

⁵⁵ Outline of final submission on behalf of CCP at para. 9

⁵⁶ Counsel Assisting noted: *'the evidence in question must be evaluated as a whole and that the object of the exercise in a case such as the present, where direct proof of the disposition contended for is not available, is to ascertain "whether the evidence paints a picture to be derived from an accumulation of detail. The overall effect of the detailed picture can sometimes be best appreciated by standing back and viewing it from a distance, making an informed, considered, qualitative appreciation of the whole. The overall effect of the detail is not necessarily the same as the sum total of the individual details." Thus, it seems plain enough that, when a court is asked to infer a fact from various items of indirect evidence, it must consider the combined or cumulative effect of the evidence.'* *Nolan v Nolan & Ors* [2004] VSCA 109 (10 June 2004)

or motive to kill Mr Hodson. This of necessity involves consideration of the available evidence as to whether Mr Dale was involved in the Dublin Street burglary (conspiracy and drug related charges).

141. Counsel Assisting noted:

'...evidence concerning the proposition that Dale had a reason or motive to kill Hodson. To that end, the coroner should consider:

- (a) evidence touching upon Dale's belief that it was necessary to have Hodson killed to avoid a conviction;*
- (ii) whether Dale was in fact guilty of the Dublin Street burglary;*
- (iii) the strength of the Dublin Street burglary case against Dale, with and without the evidence of Hodson;⁵⁷*
- (iv) Dale's view of the strength of the Dublin Street burglary case against him, including the fact that Hodson would be a witness relatively easily discredited'.⁵⁸*

I have considered these issues.

142. Mr Dale denied involvement in the Dublin Street burglary and expressed the following opinion:

'[Mr Hodson is] the type of man who will turn on anyone when...it suits him. If there's something in it for him he'll turn. And he's gone and made an induced statement to..ESD because he found himself in a bind. And so the statement he's made to them is just an absolute load of rubbish I had no concerns over Terrence HODSON's statement or his evidence that he was prepared to give against me.'⁵⁹

143. As previously noted, a Coroner is not permitted under the Act to include in a finding or comment any statement that a person is, or may be guilty of an offence such as those Mr Dale was accused of (noting that the charges were withdrawn), for which his co-accused was sentenced to 15 years imprisonment.

⁵⁷ See for example Appendix A to the statement of Detective Senior Constable Vaughan, Summary of the prosecution case against Paul Dale concerning the Dublin Street burglary. Note also the evidence of Mr Gregor at T611 and T612.

⁵⁸ Submissions of Counsel Assisting at paragraph 47(a).

⁵⁹ CB at Appendix DI

144. I would however be permitted to make factual findings upon which inferences could be drawn to suggest the involvement of an individual in an offence, without offending the section.
145. I note in that context that Mr Miechel provided no evidence to support Mr Hodson's allegations.
146. Mandy Hodson said her father told her that Mr Dale was his co -accused in the burglary, a few days later after the burglary.
147. Witness F said by statement: *'I believe Terry informed me that Dale was involved in the burglary.... He wanted to meet Paul because he said he regarded Paul as a 'friend' and he wanted to make sure Paul was alright....At one of the meetings with Terry he asked me to pass on a message to Paul that everything would be alright.'*⁶⁰ Further, Witness F's file note dated 1 October 2003 of a meeting with Mr Hodson and his son notes: *'Paul Dale is off and involved as is the entire Disq hierarchy'*. (Disq appears to be a reference to the Drug Squad).⁶¹
148. I had access to the Summary of Evidence against Mr Dale in relation to the charges arising from the Dublin Street burglary (*Office of Public Prosecution v Paul Dale*)⁶². Aside from Mr Hodson's evidence, the prosecution case appears to rely heavily on the intimate knowledge Mr Hodson had in relation to the MDID Dublin Street operation. Given Mr Miechel's involvement in the burglary suggested by the finding of guilt following a contested trial, Mr Miechel (alone) could have been the source of this information. Other evidence which forms part of the prosecution case appears to rely on inferences regarding departures from ordinary MDID processes⁶³ (some of which were claimed to demonstrate Mr Dale's desire for the target address to remain unmonitored during the burglary) as well

⁶⁰ Statement dated 7 January 2009 in CB at Appendix AT

⁶¹ Appendix AJ

⁶² See footnote 54. In addition, I had access to Exhibit 64 of the Coronial Brief included Operation Nutation (the original brief of evidence).

⁶³ *'strange and not normal practice'* at page 11; *'formed the opinion DALE and MIECHEL were being selective in briefing them with the facts about what was happening with their operation'* at page 12; *'felt DALE and MIECHEL did not want anybody conducting surveillance on the address'* – reference to 17 September 2003; *'stated DALE taking the pager was strange because she held the pager and monitored the phone lines the majority of the time....believed she should have been the one updated of any developments as she was responsible for using any new information to update the lapsed warrants'* at page 24; *'DALE failed to update..., the informant...or NSW Police of the intended travel date and this development.'* page 27.

- as a telephone call from Mr Dale to Mr Hodson which was claimed to have not been diarised.⁶⁴
149. On the whole, the summary of the evidence against Mr Dale in respect of Dublin Street presents a prima facie plausible case, assuming an acceptance of the truthfulness of the Hodson statements implicating Mr Dale.
 150. However, consideration should be given to the strength of the evidence against Mr Dale, including that of Mr Hodson, and whether it was of real concern to Mr Dale.
 151. It seems highly improbable that an individual would arrange for the murder of a prosecution witness, if he was innocent of those offences. It should also be recognised that having a *motive*, does not necessarily mean it will be acted upon.
 152. The statements of Mr Hodson were sworn but remain untested, and it is clear that he changed his version of some of the events on a number of occasions. He was a 'career criminal' and had engaged in offences involving dishonesty⁶⁵. He was also offered the prospect of a more lenient sentence. All these matters taken together do not necessarily mean what he said was untrue, but they render the evidence less reliable.⁶⁶
 153. Finally, there was no prosecution against Mr Dale without Mr Hodson's testimony and the charges against Mr Dale were withdrawn on the death of Mr Hodson.

EVIDENCE OF WITNESSES AT INQUEST

Witness A

154. Witness A gave evidence at the inquest and made a statement dated 8 March 2006. He was serving a sentence of imprisonment for three murders at the time he gave evidence.
155. Witness A made numerous allegations including that he was present when Mr Dale engaged Mr Williams to kill Mr Hodson at a meeting in Albert Park. Witness A said:

⁶⁴ Call made at approximately 12.30pm on 17 September (at page 12 of Appendix A of witness statement, Vaughan)

⁶⁵ Pages 1268-70 of Exhibit 64, Coronial Brief.

⁶⁶ Counsel Assisting said: "*In all of these things when these people aren't able to be tested Your Honour, it's difficult to come to a firm view about whether or not they can be reliable but in any case where you got a fellow criminal seeking to get some sort of benefit Your Honour has really got to take it with a grain of salt with respect. That's not to say it's not true but it does make it difficult to assess because there are powerful reasons why a person might want to say something to benefit themselves and indeed to put someone else in if they get the idea that the police are pursuing a particular line of enquiry*" Transcript at page 1093

*I remember Paul Dale saying to Carl Williams words to the effect of, "Can you take care of this dog for me and I'll have the money dropped off at your mother's." He said this as he was handing him the two notes.'*⁶⁷

156. Witness A was in custody at the time the contract for the killing of Mr Hodson was said to be made (sometime in 2004), according to police. On Witness A's account, the conversation occurred three weeks before the Dublin Street burglary, when Mr Dale would have had no cause to want Mr Hodson dead.

157. I note that Mr Davey said of Witness A:

*'That particular witness I do not believe to be a witness of truth. He certainly wasn't included on the witness list for the prosecution against Dale and Collins for the murders of the Hodsons.'*⁶⁸

158. I do not accept Witness A as a credible or reliable witness.

Witness B

159. Witness B gave evidence at the inquest and made statements dated 19 July 2006 and 1 May 2009. Witness B also gave evidence in the Supreme Court in the Commonwealth prosecution of Mr Dale in relation to him giving evidence to the ACC and the committal hearing in relation to murder charge.

160. At the time of giving evidence at the inquest, he was serving a sentence of imprisonment for murder and had a substantial criminal history.

161. The substance of his evidence is that Mr Dale had a corrupt relationship with Mr Williams.

162. He also said in his 2009 statement that Mr Williams told him whilst they were together in prison that *'Dale was behind' the murders*⁶⁹. He added for the first time at the inquest that Carl Williams was involved, having left this out of his previous two statements. His evidence of the conversation with Mr Williams in prison was:

'Listen, just tell me straight out. Were you involved?' And he goes, "I did it for Paul, ah - I ordered the hit for, um, Paul Dale." I said, "Fair enough." I know when Carl is telling me

⁶⁷ Transcript p. 222-223

⁶⁸ Transcript p. at 735.

⁶⁹ Transcript at p. 370

*a lie. He wasn't telling me a lie, he was telling me the truth. He had no point to lie. He had ordered the hit at Mr Dale's request.*⁷⁰

163. Witness B's evidence⁷¹ supports the CCP case theory and he was a plausible witness on some matters. However, I have reservations about his credibility and reliability.

Witness M

164. Witness M gave evidence at the inquest and made a statement dated 24 January 2011.
165. Witness M also had prior convictions for dishonesty offences. He made his statement prior to pleading guilty to significant fraud offences and it appears that reference was made at his plea as to the assistance he was providing to police in relation to the Hodson murders.
166. Witness M said that in meetings that took place in May and June of 2005, at which Mr Mokbel and Mr Collins were present, they suggested that an unnamed police officer (at least initially) owed them for some killings (which he presumed to be Mr and Mrs Hodsons) and therefore they could get information on why Witness M was a person of interest for fraud related matters.
167. Witness M said:

'I asked Mokbel the question as a matter of interest and not in a way to doubt that he could do what he said. Collins who was present throughout the entire conversation said words to the effect 'he's got no choice, I got rid of his brain tumours and he owes'. Mokbel said words to the effect 'yeah that's right otherwise he might have to pay back the medical costs...'⁷² ...

I asked Mokbel why he was sure and confident he could get more information for me. Mokbel said words to the effect I can give you 50,000 reasons why. I then asked Mokbel if that meant the information he would get me was going to cost me \$50,000. Mokbel said words to the effect 'no mate it's the amount I put in for Dales medical costs if you know what I mean....he said Skinny put in the rest'. I asked MOKBEL who Skinny was and he said Carl.'⁷³

⁷⁰ Transcript at p. 317

⁷¹ Supreme Court, Transcript page 509. Witness B admitted on oath at the Supreme Court trial to making a false statement on at least one occasion

⁷² P 9 of Witness M statement.

⁷³ P. 14 of Witness M statement.

168. I note the following exchange at inquest:

'Did you find that a little bit surprising? That someone like that would tell you, a person who he'd met once, that he had been involved in carrying out a hit on two people? Did that seem surprising to you?—

*It -it - it didn't seem surprising to me because what was clear to me is that when Tony Mokbel came even to the first meeting, he had, um, he already knew who I was. He knew who I was associated with. Um, he'd certainly, ah, formed his own impression of me, which is what I believed. Um, particularly in relation to - particularly in relation to a lot of questions that he asked me and the answers that I gave him - -*⁷⁴

169. Witness M also suggested that Mr Dale was present at one of those meetings (making reference to a distinguishing cap) but as Counsel Assisting noted, *'Witness M suggested that this person was wearing a cap, Apco or Atco, at a time prior to Dale purchasing a garage in Wangaratta which was apparently an Apco Service Station.'*⁷⁵

170. Similar to 'Witness B', Witness M's evidence had a degree of plausibility about it. However, he too had a criminal history including dishonesty convictions, and in addition, his account is inconsistent with the CCP case theory, in so far as it involves Mr Mokbel. I also have serious reservations about this witness' reliability and, if the meetings did in fact occur, the veracity of the information provided to him.

Roberta Williams and Adam Shand

171. Both Ms Roberta Williams and Mr Adam Shand, journalist gave evidence at the inquest.

172. Ms Williams said that Mr Williams did not discuss the details of his criminal activities so she could add nothing to Mr William's alleged involvement in deaths or his allegations against Mr Dale.

173. She also denied the substance of the article written in the Australian authored by Adam Shand (24 August 2013) which essentially said that Ms Williams was aware that Mr Williams had lied about the allegations against Mr Dale.

174. Mr Shand gave evidence on oath that the conversation occurred. No recording of the conversation was made.

⁷⁴ Transcript at p. 827

⁷⁵ Transcript at p. 1131

175. It is my view that there was miscommunication between Ms Williams and Mr Shand. The conflict in their evidence remains irreconcilable and it is not necessary from a coronial perspective to resolve it.

Allegations of a corrupt association with Carl Williams before the Dublin Street burglary

176. There appear to have been three official contacts (by way of meeting) between Mr Williams and Mr Dale which were recorded as Information Reports (IRs). They occurred on 13 March 2003⁷⁶, 20 March 2003⁷⁷ and 13 August 2003. The last contact refers to a chance meeting which occurred in Albert Park. Mr Dale was celebrating a commendation he received for his police work and was in the company of his family. Also in the area was Mr Williams, Witness A, George Williams and Jacque El Hage. A conversation took place between Mr Dale and Mr Williams.
177. A number of witnesses gave evidence (at the inquest or by statement) that Mr Dale had a corrupt relationship with Mr Williams. They include Witness A, Witness B, Witness G (currently incarcerated for homicide) and George Williams. Mr Dale denies these assertions. The general tenor of the evidence was that Mr Williams bought information from Mr Dale. None of these witnesses appear to have been present when money was said to have actually changed hands in the presence of Mr Dale.
178. In a covert recording of a conversation between Mr Dale and Witness F on 6 December 2008 the following was recorded:
- PD: *'All they are trying to show is that I had a relationship with Carl that's what they're trying to say. Carl's clear and made a very in-depth statement, against me..*
- WF: *'Accurate or not? Or you haven't got the statement so you don't know?*
- PD: *'Very accurate.'* ...
- PD: *'Very accurate to the point of every single time we met he seems to have documented it, as in he's got...'*
- PD: *'Look no there was some things that came out that clearly only him and me knew*
- WF: *'Why would he have kept ah, a record of them?'*

⁷⁶ Telephone conversation with Carl Williams on 12 March 2003 to arrange a meeting. Meeting at Airport West shopping Centre with Carl Williams on 13 March 2003.

⁷⁷ Meeting with Carl Williams at the East Keilor Leisure Centre.

PD: *'No he hasn't, he hasn't it's just what he's gleaned from memory. It was things like, you know, remember things like locations where we might have met and, ...like in Noodle Box over in some street ...you know things like that...*

PD: *'...fuckin' know that unless someone else with him has told...met at a pool and went for a swim and talked in the pool....*

179. I note that whilst Mr Dale was suspended from Victoria Police following being charged with the Dublin Street burglary on 5 December 2003, it appears that he was never successfully dismissed by the CCP for matters relating to his integrity.⁷⁸
180. In addition, as Counsel Assisting noted in relation to the ACC criminal trial, *'Mr Dale has, in the past, been required to give evidence on oath about the extent of his relationship with Williams, and in that evidence he denied that he was involved in an improper or corrupt relationship with Williams. Mr Dale was subsequently accused of being untruthful in giving that evidence and he was in fact tried and was acquitted of giving perjured evidence about that relationship.'*⁷⁹
181. I further note that Mr Gregor appeared on the '4 Corners' program after the inquest⁸⁰ and said that he advised Victoria Police following the Dublin Street burglary and prior to the deaths, that Mr Hodson⁸¹ alleged a corrupt association between Mr Dale and Mr Williams. He said there should have been a taskforce assigned to investigate this matter at the time.

Distribution of MDID file

182. The evidence reveals that the working copy of the folder containing Mr Hodson's IRs which was kept by Mr Dale and Mr Miechel, went missing from the MDID and were unable to be accounted for.
183. The policy for the management of informers and information was described as follows:
- 'The management of informers in 2001 at the unit was in line with Crime Department Informer Management Policy and later Major Drug Investigation Division Standard Operating Procedure 32. Members complied with policy following registration by notifying the Unit Manager (Controller) prior to any planned meeting of the intention to meet and*

⁷⁸ Robb & Dale v Chief Commissioner of Police [2005] VSC 310 (11 August 2005). These include matters involving Witness G. After his dismissal was invalidated by the Supreme Court Mr Dale was resigned.

⁷⁹ Counsel Assisting written submission at page 36.

⁸⁰ 4 Corners, 2 February 2015

⁸¹ *'If they don't come themselves I think Paul will get Carl Williams crew.'*

*who would be at the meeting. This would usually be recorded in an official diary entry or information/intelligence report. The meeting would then take place with two police members present, where this was not possible then it was recommended the police member should covertly record the meeting which was to be held in a public place. Following the meeting then the information forthcoming if any would be generated on an information or intelligence report. Any informer contact whether in person or not was to be the subject on an information or intelligence report to the controller generally the Unit Manager.*⁸²

184. The evidence is that once a print request was made for an IR, it would automatically generate three copies marked 'original', duplicate and triplicate. The original was stored in the Informer Management file, the duplicate was kept in a folder (in a lockable safe/cabinet) and the triplicate was shredded.
185. Thirty one pages of the working copy of the Hodson Informer Management File were located in the hands of Mr Mark Smith in Queensland on 18 September 2004. They had been faxed from Mr Mokbel who had received them on or before 28 February 2004. All appeared to have originated from the Informer Management File maintained by Mr Miechel and Mr Dale.
186. The duplicate copy of IR 44 (authored by Mr Miechel and dated 3 June 2002) was in the possession of journalist, Mr Jeremy Kelly. The contents were featured in a newspaper article shortly before Mr and Mrs Hodson were murdered (14 May 2004). It has been established that it was provided to persons outside of Victoria Police legitimately (to a legal firm under subpoena)
187. In 2005, the OPI investigated distribution of the working copy of the Informer Management file⁸³. The Report concluded:
 - *The information currently suggests but does not establish that the blue folder and its connects were stolen by a police officer from the MDID office on 27 or 28 September 2003;*
 - *That Mr Dale was an obvious suspect for the theft of the blue file if, 'as Hodson later alleged, Dale was involved in the East Oakleigh break-in. Dale had opportunity to*

⁸² CB at p. 76.

⁸³ *Report on the leak of a Sensitive Victoria Police Information Report* (February 2005), CB at FF.

steal the blue file and, if he was involved in the break-in, he had a motive to do so. However, the evidence does not permit a finding that he did so and

- There is *'currently no evidence that any other person did so or any sufficient basis for suspecting any other person'*.

188. The relevant information folder went missing after the Dublin Street burglary in September 2003.
189. The CCP relies on the proposition that Mr Dale was involved in the dissemination of the confidential police information reports which identified Mr Hodson as a police informant and that this is a link in a chain of causality connecting Mr Dale to the murders.
190. I agree with the proposition that if Mr Dale was involved in the Dublin Street burglary, he had a motive to steal the file, and disseminate it. However, it has not been proven that he was in fact involved in the burglary. I put some weight on the conclusion reached by the OPI investigator in 2005 *'the evidence does not permit a finding that he(Dale) did (steal the file)...'*. At the same time it is also important to note the finding that *'there is currently no evidence that any other person did so or any sufficient basis for suspecting any other person'* (see paragraph 187).
191. The CCP asserted in its submissions, that since the publishing of the OPI report in February 2005, *'further evidence'* had come to light *'Dale did in fact disseminate the informer file'*⁸⁴.
192. That further evidence related to an intercepted call which was said to have made reference to a person known as "Pauline" and the dissemination of the document by reference to a conversation between Witness F and Mr Mokbel about that file.
193. Following the conclusion of the inquest, the Court received further information in relation to the 'Pauline call' which suggested that there was no evidence to support its existence.⁸⁵ It had previously been alleged that Witness F made a phone call to Mr Mokbel which was intercepted by the Australian Federal Police. In that phone call, Witness F is said to have told Mr Mokbel that she had been in touch with their mutual friend 'Pauline', who had some documents for Mr Mokbel to see.⁸⁶ The CCP submission relied on the existence of that phone call (which was not known to the OPI investigators) as a fact that would support the

⁸⁴ CCP submissions paragraph 24

⁸⁵ Statement of Detective Boris Buick dated 21 February 2015

⁸⁶

argument that Mr Dale disseminated the stolen IR reports. After the inquest in an Addendum Submission made on behalf of the CCP, reliance on the 'Pauline call' was specifically withdrawn.

194. The effect of this is that there is no new evidence on this issue beyond that covered in the OPI 2005 report. In summary then, I am not in a position to disagree with the conclusions reached by the OPI.
195. Assuming Mr Dale's (unproven) involvement in the Dublin Street burglary, he had a motive to steal and disseminate the file, but the evidence is not sufficiently cogent to positively find that he did so. Again it is a plausible proposition, but one that falls short of providing "comfortable satisfaction" that he did.
196. The CCP submission is that Mr Dale's role in '*broadcasting Hodson's informer status to the criminal underworld*'⁸⁷ was calculated to imperil Hodson's safety⁸⁸ and that it therefore contributed to the death of the Hodsons.⁸⁹ To accept this, I have to be satisfied to the required standard that Mr Dale did in fact steal and/or disseminate the file. However, the evidence does not persuade me to take a different view from that of the OPI.
197. In her final oral submissions on the point, Ms Doyle argued that even if I was not satisfied to the requisite standard of the truthfulness of Mr William's statements about what was discussed at Hillside:

*"then with all the other evidence Your Honour could be satisfied that Dale was involved in a calculated, malicious attempt to place Hodson at great risk and that in the end if Your Honour accepts the alternative thesis that it was someone else out there with a motive, well then that motive may well have been supplied by Dale's act in disseminating the informer files."*⁹⁰

198. She later said, in relation to the issue of Mr Dale's involvement with the informer file:

'MS DOYLE: Which counsel the courts to move away from a simplistic "but for" analysis and take a more general common sense approach, and even one that takes into account the

⁸⁷ CCP submissions paragraph 30

⁸⁸ Transcript at page 1198

⁸⁹ CCP submission paragraph 30

⁹⁰ Transcript at page 1207

policy and our questions of judgment. That that kind of act, if Your Honour is satisfied on other grounds that have occurred, that that kind of act would be well known to a police officer to be capable of, and indeed in this case it was calculated to, cause the risk to harm. And then as Your Honour says, whoever then picked it up, acted because of it, was motivated by it or was galvanised by it, that they are an essential link in the chain; but we would say so is Mr Dale's first act in releasing the documents.

HIS HONOUR: Capable of, I understand; but you would say even that action has created a situation in which they can be made use of by a person or persons?

MS DOYLE: Yes, for their own purposes.

HIS HONOUR: For their own purpose, so there might be any number of intervening persons using them, talking about them, dealing with them?

MS DOYLE: There may be.

HIS HONOUR: With an ultimate end being the murder of Mr and Mrs Hodson?

MS DOYLE: Yes.

HIS HONOUR: And I think you've said this: the logic of the argument is that however many intervening steps there may have been between release or leakage and murder - - -

MS DOYLE: They are nevertheless links in a chain.

HIS HONOUR: - - - I can draw the conclusion you invite me to draw about causation on that basis?

MS DOYLE: That's right.

HIS HONOUR: Yes.

MS DOYLE: The submission is that they're nevertheless links in a chain.⁹¹

199. In reply to this, Mr Winneke said:-

⁹¹ Transcript at pages 1228 & 1229

*'If that's the submission, my submission, Your Honour, would be it wouldn't be open and it would be speculation. Obviously if there was evidence that it went to persons who then passed on information and/or themselves engaged the killer, quite clearly that would be evidence which connected it,... But ultimately Your Honour would need to be satisfied on the appropriate (indistinct) that it was Dale who was responsible for the dissemination for the informer file as opposed to IR44, and that was causally relevant in the actions of anyone or of the persons who were involved in killing the Hodsons for you to make a causal finding. Now, if my learned friend's suggesting that you do that without there being any evidentiary connection, in my submission that would not be right... It appeared to be well known by those represent criminals and that Hodson was an informant. Unless there was evidence, as I suggest Your Honour, that some causal link, in my submission it would be speculative to make the finding suggested by my learned friend if indeed she is suggesting that you could make it simply because it's gone out into the earth.'*⁹²

200. I agree with Counsel Assisting. The evidence leaves open the distinct possibility, indeed the probability, that a number of persons were aware, through the dissemination of the file, that Terence Hodson was a police informer. (It is distinctly likely also that persons with interest in this matter would have known of that fact regardless of the dissemination of file).
201. The evidence does not cogently support the proposition that there is a causal link between the theft/dissemination of the files and the murder of the Hodsons, simply because the file found its way out into the world.
202. I cannot speculate as to how many people, and exactly who, had access to the information derived from the file about Mr Hodson's informer status, or what any such person might have done with that information.
203. If I was satisfied that Mr Dale stole and disseminated the file and that he did so intending to place Mr Hodson at direct risk, the CCP hypothesis would support the argument that in doing so he contributed to the death in a causal way. However, I cannot be confidently satisfied about this. The "contribution" argument is attenuated; it is indirect. It does not cogently make the connection, and demonstrate a causal relationship between the theft/dissemination and the murders. Ultimately, the evidence does not support a conclusion that the person stealing/disseminating the file intended to bring about the death of Mr

⁹² Transcript at pages 1238 & 1239

Hodson or to put him at substantial personal risk. I do not accept this aspect of the CCP submission.

Evidence of Carl Williams

204. The police maintain that it wasn't until Mr Williams made allegations against Mr Dale (and Mr Collins) that he was investigated as a primary suspect for the deaths of Mr and Mrs Hodson. It was around this time that the Petra Taskforce (23 April 2007) was established to investigate if the assertions of Mr Williams could be validated and to investigate the murders more broadly.

205. It is clear that the evidence relied upon by the police in this case involves individuals who would not ordinarily be regarded as witnesses of truth by police (for example, Witnesses A, B, M and G as well as George Williams). This clearly put Victoria Police in a difficult position:

'It's an unfortunate choice to be made, isn't it, as to who you're going to be placing more reliance upon, which serial murderer you're going to rely upon more, Witness A or Carl Williams; would you agree with that?---

*I think that's - I think the issue here is that murders of this nature, by their nature, involve people who may be involved in the underworld. The police don't get to choose who their witnesses are. We don't get to choose the perfect world. The witnesses are who the witnesses are and for that reason we attempted to verify everything that Williams said.'*⁹³

206. I refer to paragraphs 158, 163 and 170 in respect of the reliability and credibility of Witnesses A, B and M.

207. Mr Williams made three signed statements which are included in the Coronial Brief. Each were taken by Mr Cameron Davey, who gave evidence at the inquest. At the time of making these statements, Mr Williams was serving a sentence of life imprisonment with a non parole period of 38 years for the murders of Jason and Lewis Moran, Mark Malia and Michael Marshall as well as conspiracy to murder Mario Condello.

⁹³ Mr Davey, transcript pages 740-741

208. It is fair to say that Mr Williams was a notorious underworld figure who was not known for his truthfulness, even amongst his associates. [REDACTED]

[REDACTED] 94

209. [REDACTED]
[REDACTED]

210. [REDACTED]
[REDACTED] 95 [REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]

211. Witness G (who was incarcerated for murder) and also an associate of Mr Williams, said on 24 February 2011 (but later refused to sign any statements):

*'Well, all I know is Carl made it up. ..Carl made that statement up. Carl wasn't a middle person. That first statement Carl put in was correct. The second statement, Carl said about Rod and that, he just manipulated it all.....I'm not saying Dale, OK. I'm not saying Dale...or Rod...I don't know, but I know a hundred per cent Carl tells me everything. Carl wasn't in on it. He was laughing about it. He couldn't believe that they got charged'*⁹⁶

212. It is also clear that Mr Williams was offered significant inducements by Victoria Police to make the statements including, his daughters' school fees, his father's tax debt (\$750,000) and eligibility for a one million dollar award. Understandably, Mr Dale relies on the inducements as undermining Mr Williams' credibility.

213. Each statement made by Mr Williams was also predicated on the basis that any evidence of criminal involvement on his part contained in the statements, could not be used against him.⁹⁷

94 [REDACTED]

95 [REDACTED]

⁹⁶ CB at Appendix FD, p. 24 & 25

⁹⁷ Counsel Assisting said: "So it would have been relatively plain to Williams that the police were very keen to get information in relation to Dale or against Dale. Your Honour would need to consider whether Williams in making the statement might have suffered a detriment by implicating Dale and Collins. Now, the detriment might be, well, he's providing information against himself.... I think as was apparent from the statement itself, that the evidence could not be used against Williams. So if Your Honour takes the view that Williams is merely making a statement implicating someone else and there's no detriment to him but a real benefit to him, that would have a significant impact on the reliability of the evidence."

214. There is however evidence to suggest that Mr Williams discussed his decision to make the allegations with his lawyer, as well as his family. It should have been clear to him that as a police witness this placed him at considerable risk of harm in the prison system.
215. It was also apparent that Mr Williams, having obtained possession of IR 44, was aware on 3 May 2004 that Josh Cohen offered Mr Hodson, \$250,000 to kill him on behalf of Lewis Moran.⁹⁸
216. It is significant that he would be prepared to give evidence against his associate, Mr Collins, who he seemed to have a long standing relationship with and some affection for. Mr Williams went to school with his daughter. I do however note Counsel Assisting's view that on his reading of the evidence, Mr Williams *'would be capable of implicating any person at all, be it he or she friend or foe, if it served his purpose.'*⁹⁹

Statement of 24 April 2007

217. Mr Williams said he formed a corrupt relationship with Mr Dale following his release from prison on 2002 (at Mr Dale's instigation through Witness G), where he would pay Mr Dale for information.
218. He said that Witness F told him to contact Mr Dale. He said he did so from the Water Gardens Shopping Centre in Taylors Lakes and told Mr Dale asked to meet him nearby as he was working on a building site in Hillside. Mr Dale told him the he had to *get* Mr Hodson before the committal hearing and that he had someone on the job but it was taking too long. He asked Mr Williams whether he would help him out if the job fell through and he agreed to do so. The amount for the contract was to be \$150,000.
219. Mr Williams said at that at the time of making this statement he did not know who was responsible for the murders.

Statements of 19 January 2009 (two)

220. Mr William's later statements provided further details and altered his first statement in relation to the murder of Mr and Mrs Hodson. He said a number was given to him by Witness F for him to call Mr Dale and that Mr Dale provided a photo and address of Mr

⁹⁸ Counsel Assisting noted: *"It is significant that he was aware that people including Hodson are involved in a contract on his life. Your Honour obviously heard evidence during the course of this inquest about the fairly fine trigger that Williams had when it came to taking action against people whom he didn't particularly like."* (Transcript page 1100)

⁹⁹ Submission of Counsel Assisting at para. 49

Hodson as well as a mobile phone with a phone number programmed for him to contact him. Once the job was done the money was to be dropped at the home of Mr William's mum. Mr William's thought that Mr Collins may be available and willing to do the job. He said: *'the Hodson job meant nothing to me personally and so I thought I'd ask Rod if he was available.'*

221. He said he couldn't recall if he contacted Mr Collins, *'but Rod and I may have been planning to meet and catch up anyway.'*
222. He said he spoke and met him in the days after, and in particular gave him the envelope on a walk somewhere near the Marriott Hotel and Mr Collin's agreed to do the contract. He said that he didn't know whether Mr Collins would actually carry out the killing and that he didn't really care whether it was done or not.
223. Mr Williams said that sometime after the job he got a call from Mr Dale and he found the money (\$150,000) was dropped off in the agreed manner. He said he later gave the entire amount to Mr Collins at a meeting at the Marriott Hotel.

Verification of Carl Williams' allegations

224. Mr Williams was a person of interest to the police prior to the murders and was therefore under telephone and other surveillance. Consequently, there is evidence available of recorded calls and surveillance which makes certain matters incontrovertible.
225. There appears to be no dispute that the 'Johnson' phone was operated by Mr Dale and this wasn't challenged at the inquest.¹⁰⁰
226. I considered the following evidence:
 - An intercepted call with Witness F, Mr Dale (who seemed drunk) and Mr Williams on 27 February 2004. During that call Mr Dale said he had been trying to get on to Mr Williams for quite some time and would like to catch up with him tonight.¹⁰¹

¹⁰⁰ Mr Davey said: *We were able to identify a phone, in a false name, that Dale was operating at that time. I think from memory the name - the phone was in the name of a person named Johnson. We were able to establish that that phone was being operated by Dale, and obtained statements from a number of police that had been in contact with Dale, using that phone, and also another, um, witness, um, [Witness F] had been in contact with Dale using that phone' at p 708 of the CB.*

¹⁰¹ CB at Appendix BM Carl Williams said: *'organise for one day during the week. Door's open for your anytime.'*

- Evidence suggesting that Mr Collins and Mr Williams were trying to catch up in early May 2004, and this was at Mr Collin's urging. By text on 1 May 2004, Mr Collins asked Mr Williams for money.
- Intercepted calls on 2 May 2004, suggest a *drunk* is calling George Williams requesting that Mr Williams call Witness F.
- An intercepted call on 5 May 2004 where George Williams calls Witness F and arranges to meet at 1.00pm. Surveillance confirms that meeting takes place. Witness F said: *'I can say that during the meeting I had with Carl and George Williams on 5 May 2004 I told Carl that Paul wanted Carl to contact him to arrange to meet with him. I can not recall specifically, but I believe that Paul had asked me to pass a message on to Carl to contact Paul, while we were at the Depot on 2 May 2004.'*
- The following text from Mr Collins to Mr Williams was recorded on 6 May 2004: *GOOD MORNING MY FRIEND. CARL I NEED TO C U TODAY BUDDY. RAIN-HAIL- OR SHINE! NED TO TALK. TO-DAY MATE. TAKE CARE. RC*
- At 2.38pm on 6 May 2004 a call is made from a public phone booth at the Watergardens Shopping Centre to the 'Johnson' phone. A call is made from the same phone to an associate of his straight afterwards.
- Surveillance material places the vehicle driven by Mr Carl Williams and George Williams in the Hillside area. At 3.00pm, surveillance material records Mr Williams and his father discussing seeing a blue vehicle and someone is heard leaving the vehicle.
- At 3.43pm on 6 May 2004 there is a call from Mr Williams to his father telling him he is at the 'Sugar Gum'.
- On 7 May 2004, there is a text from Mr Collins saying he needed to see Mr Williams that morning (at approximately 9.23am). There is evidence that Mr Williams met with Mr Collins. First at the Red Rooster restaurant in Maribyrnong and secondly at a restaurant on the corner of Lonsdale and Exhibition Street in the city. During the latter meeting, Mr Williams and Mr Collins left the restaurant and went for a walk. The meetings were observed by Victoria Police surveillance.
- On 8 May 2004 a telephone intercept between Mr Williams and Mr Collins refers to 'Gigs' which Mr Williams later says is a reference to witnesses. There are a number of these recorded conversations which may be *coded* messages.

The Hillside Meeting

227. Having considered the evidence, I am satisfied on balance that a meeting took place between Mr Williams and Mr Dale on 6 May 2004 at Hillside sometime between 3.00pm and 3.43pm. Mr Dale was a police suspended officer at the time. There is a trail of information which suggests that Mr Dale wanted to meet with Mr Williams, and the meeting is likely to have taken place shortly following the call made from Watergardens Shopping Centre to the 'Johnson' phone. It has been confirmed that Mr Dale was working nearby with Winslow Construction.
228. George Williams gave evidence at the ACC criminal trial against Mr Dale. He said that he saw Mr Dale at 'Hillside', but was not present at the actual meeting where any matters were discussed. George Williams said that his son told him later that day that 'Paul Dale wanted him to get rid of 'him' and he knew that to mean Mr Hodson.
229. Mr Peter Albert gave evidence at the Supreme Court trial and said that Mr Dale worked on the Sydenham site (now known as Hillside), on 6 May 2004 between 7.30am – 4.00pm or 7.30 to 3.30pm. He said that if Mr Dale was performing the task of Telstra electrical trenching (as indicated on his timesheet), he would have worked as part of a team and that an absence of an hour to an hour and a half would definitely have been noticed.¹⁰² And further, under questions from Counsel for Mr Dale in the Supreme Court:
- 'A short absence in the ordinary course of events might go unnoticed?---It may.
A shortish 10, 15, 20 minutes?---It may.'*¹⁰³
230. The evidence suggests that if the Hillside meeting took place, it is likely to have been for less than an hour's duration.¹⁰⁴
231. Sergeant Solomon said:
- 'The lynchpin of that theory [referring to the prosecution theory], obviously though, is what Williams said about the meeting that occurred on 6 May?---The lynchpin I would say - there are probably two lynchpins. Yeah, the meeting at Hillside on 6 May which was corroborated fully.*
- Yes?--- His contact straight after with Rodney Collins...'*¹⁰⁵

¹⁰² Supreme Court transcript at p.535

¹⁰³ Supreme Court transcript at p.537

¹⁰⁵ Transcript at p 882

232. I accept that these are the “two lynch pins” of the CCP/prosecution theory. However, to make the findings suggested by the CCP I would have to do more than conclude that a meeting took place. Other than the statements of Mr Williams, there is no evidence of what matters were discussed and whether they extended to a contract for the killing of Mr Hodson. Mr Dale has admitted to having contact with Mr Williams, having been angry with his treatment by police at the time.
233. By reference to the matters set out in paragraphs 208 to 212 above (particularly the inducements), I do not accept Mr Williams as a witness of truth or any of his accounts as inherently reliable.¹⁰⁶ Where the facts he asserts have been credibly corroborated then they maybe accepted. Where they haven’t been corroborated, in my view, they should not be accepted.

Weight/Corroboration

234. Mr Williams’ account of the conversations at Hillside is not cogently corroborated. The CCP points to events before and after as suggesting the content of the conversation and invites me to infer that Mr Dale and Mr Williams must have discussed the murder of Hodson – that is, that Mr Dale must have asked Mr Williams to organise it. Although this may seem plausible I would need to be “comfortably satisfied” before reaching this conclusion.
235. As I pointed out earlier in these findings, by reference to *Briginshaw*, matters that must be borne in mind include “the seriousness of an allegation made”. There can be no more serious an allegation than that a person has commissioned an execution murder.
236. Ultimately, absent cogent corroboration, I am not prepared to give the weight to the statements of Mr Williams that would support a positive finding.¹⁰⁷ It follows that I am not

¹⁰⁶ Counsel Assisting said: “However ultimately, I think Your Honour would need to bear in mind the sort of person who Williams is and I don’t think Your Honour could comfortably conclude that Williams is the sort of person who would have the scruples when it comes to making a statement that may be of benefit to himself, bearing in mind what Williams was hoping to achieve was the possibility was seeing the light of day after serving time for the murders to which he pleaded guilty. As far as Williams is concerned, there was a bit at stake.” (Transcript page 1132)

¹⁰⁷ I also note the following submissions of Counsel Assisting: “Section 165(1)d) of the Evidence Act 2008 indicates that, “Evidence of a co-accused is regarded as inherently unreliable and in any criminal proceeding a jury would be told and would be specifically warned that that evidence should be looked at very carefully before they, being the factual fact deciders decide to act upon it.” As I indicated, Your Honour, whilst it doesn’t apply to the coronial jurisdiction it would be appropriate for Your Honour to take that provision into considerations and the reasons underlying it and the common law evidentiary rules from which that provision derives, and that’s particularly so if the co-accused derives a benefit from implicating another offender.....Your Honour will also note that there are provisions

satisfied at the requisite standard that at Hillside Mr Dale asked Mr Williams to arrange the murder of Terence Hodson.

237. I refer again to paragraph 135 above dealing with the items which the CCP submits should satisfy me that, when taken together, Mr Dale, Mr Williams and Mr Collins caused the deaths of the Hodsons:-

A. Dale had a corrupt relationship with Williams:

There is a degree of evidence to support the argument that this is true but I can not form a conclusive view about it. At the very least it certainly appears, following the Dublin Street burglary, to have been a highly inappropriate relationship for a suspended police officer to have engaged in.

B. Dale was involved in the dissemination of the confidential police information reports which identified Hodson as a police informer:

I have dealt with this above. As with the conclusion reached by the OPI investigation, it is not proven that Mr Dale stole/disseminated the relevant informer reports.

C. Dale was, at the relevant times, in possession of and used a 'safe phone' registered in the name of 'Darren Johnson', used for purposes including maintaining the corrupt relationship with Williams:

I am satisfied that Mr Dale did possess and use a phone registered in the name 'Darren Johnson' (see paragraph 225).

D. Dale met with Williams at Hillside on 6 May 2004, at a time and in circumstances in which there can have been no legitimate, police-related meeting:

I accept that Mr Dale did meet Mr Williams at Hillside on 6 May 2004 and, at least on the face of it, there can have been no legitimate police related purpose for that meeting.

E. In the period immediately following the Hillside meeting, Williams approached Collins to carry out the execution of Terrence Hodson:

in the Evidence Act which indicate that hearsay statements, which effectively Williams' statements are, cannot be tested and therefore they are regarded as generally unreliable." (Transcript page 1116)

The meeting between Mr Williams and Mr Collins clearly had been in the making for some time, and was at the insistence of Mr Collins, not Mr Williams.

Mr Collins was described by Witness B as a *junkie* and Carl Williams talked of Mr Collin's *love of drugs*. Although I have some reservations about the evidence of Witness B, if this evidence was accepted it would indicate other possible motivations for the two to meet.

I note the sequence of contacts between Mr Williams and Mr Collins. Ultimately I am not satisfied that Mr Williams was taking the initiative to have the meeting; the CCP theory is plausible, and maybe correct, but it is not cogently demonstrated on the evidence.¹⁰⁸

F. Collins carried out the execution of Terrence and Christine Hodson:

I will deal with this below.

Rodney Collins

238. Following Mr Collin's arrest for the murders of Ramon and Dorothy Abbey on 6 June 2008 for which he was later convicted, it is clear that the police made a concerted attempt to elicit evidence from him, in an effort to implicate him in the murders. This was done through telephone intercepts and covert recordings.

239. In 2008, in a recorded conversation with Sergeant Solomon, Mr Collins said he had information about the deaths of Mr and Mrs Hodson including that Mr Dale, and *another copper* (not Carl) approached him. As he was on remand at the time he wanted bail for the other murder charges before he was to provide any further information. He also wanted to '*see Carl and find out more of that [more about the Hodson job]*'.¹⁰⁹

240. Mr Collins said when he was offered protection, in the event he gave the police information: '*Youse cannot fuckin' protect me. Nobody could protect the fuckin' HOSDONS's. How the fuck could you protect me?*'.¹¹⁰

241. I note the following exchange between Sergeant Solomon and Mr Collins:

Solomon: '*Now and you said to me you've been in the house.*'

¹⁰⁸ Counsel Assisting said "*The preponderance of the evidence from the TIs is that Collins was rather more interested in seeing Williams than the other way around*" (Transcript page 1134)

¹⁰⁹ CB at Appendix DB p. 23

¹¹⁰ CB at Appendix DB

Collins: *'I was in the house, yeah.' ...*

Collins: *'I'll tell you when I was in the house, I was in the house probably oh fuckin' 10 years ago, just after he built that little thingo down the back.'*

Collins: *'It was bugged that fuckin' joint he had and that. I knew as soon as I walked in there.'*

'll tell you when I was in the house, I was in the house probably oh fuckin' 10 years ago, just after he built that little thingo down the back.'

242. Further, there was a number of lawfully intercepted conversations between Mr Collins and his partner, while he was in custody suggesting he had information regarding the murders.

On 20 October 2008:

Collins: *I need an indemnity right, over the, over the ah, HODSON murders, ...*

Haggar: *Who are you protecting?....*

Collins: *I know who it was. The copper, you know the copper they're trying to pinch, he worked for Carl, alright....*

Haggar: *Definitely wasn't you?....*

Collins: *Absolutely wasn't me. I swear on the little kids' lives....*

243. As noted by Counsel Assisting, it would be open for me to be satisfied that Mr Williams *'believed that Collins was a person who might carry out an execution'* and *'that Williams felt it was safe to speak to Collins about an execution'*¹¹¹. However, as to whether he sought out Collins as a result of the Hillside meeting, that is a different proposition, which I have not found to be cogently supported by the evidence.

244. There is no forensic evidence directly connecting Mr Collins with the crime scene. There are obtuse utterances made by him with respect to the murders but nothing that could be considered an admission of guilt by him.¹¹²

Conclusions as to identity of the killers

¹¹¹ Submissions of Counsel Assisting at para. 36

¹¹² Other matters raised by Counsel Assisting included: *"There is the evidence, ..., that suggests that Collins had come into - or at least had access to money in the weeks subsequent to the killing. There's evidence that surveillance and disguise equipment was discovered upon searching Collins' premises albeit that was quite some years later."* (Transcript page 1138)

245. There is no doubt that Mr Williams was capable of organising the killings, and no doubt that Mr Collins was capable of carrying them out. However, having considered all the evidence, I am unable to conclude that Mr Dale, Mr Williams or Mr Collins were responsible for the deaths of Mr and Mrs Hodson to the standard of proof required, either separately or in any combination. I have considered the evidence in isolation and the broader picture of evidence as a whole. I have done so in the light of the requirements of *Briginshaw* and *Chamberlain*.
246. Indeed, the CCP recognised that I may ‘*not feel that degree of actual persuasion that would enable a finding that Dale “ordered the execution” of Hodson or “entered into an agreement with Williams to that effect”*’.¹¹³ This was an accurate prediction. The evidence does leave me ‘*short of satisfaction that Mr Dale ordered the execution of Terence Hodson or entered into an agreement with Williams to that effect*’.¹¹⁴
247. In the submission, the CCP then went on to suggest that I might find in the alternative, ‘*that while it can be found that Williams engaged Collins to perform the execution, it is not proven conclusively whether Williams did so acting at the behest of Dale alone, or whether he was asked or encouraged by others as well, or whether Williams was perhaps acting on the orders of others, but to Dale’s benefit*’.¹¹⁵ The submission is, that on any of those three ‘*approaches, Dale and Williams are nevertheless both persons who have contributed to and (and thereby caused) the death of the Hodsons*’.¹¹⁶ I am unconvinced by this submission. The third of those scenarios could not support a finding of contribution, in the absence of other evidence ⁴by Mr Dale’s clear intent and knowledge about the detail of the executions. But in any event, I am not satisfied on the requisite standard that Mr Williams engaged Mr Collins to perform the execution.
248. There is evidence suggesting that there were other people who may have had a reason or motive to have Mr Hodson killed. Other scenarios, yet to be supported by available evidence, may come to light in future.
249. In reaching this conclusion, I have also had regard to the following matters raised by Counsel Assisting, in his final submissions (and referred to where necessary in my finding):

¹¹³ CCP submissions paragraph 49

¹¹⁴ CCP submissions paragraph 49

¹¹⁵ CCP submissions paragraph 50

¹¹⁶ CCP submissions paragraph 50

- *evidence concerning the proposition that persons other than Dale had a reason or motive to kill Hodson;*
- *evidence concerning the proposition that Dale had been involved in a corrupt relationship with Williams, ...;*
- *evidence of Witness B concerning the corrupt relationship between Dale and Williams;*
- *evidence of Witness A, George Williams and Roberta Williams concerning the corrupt relationship between Williams and Dale;*
- *evidence in the taped conversation between Dale and [Witness F];*
- *evidence concerning the proposition that Dale had been involved in the dissemination of the 31 pages of the Hodson informer file;*
- *the evidence that suggested that Williams needed very little reasons to have a person killed and might himself have had a reason or motive to kill Hodson;*
- *the fact that Williams had recently arranged the murder of Lewis Moran whom he knew had been associated with a plot to have Williams murdered;*
- *Williams' knowledge and discussion of IR 44 which suggested that Hodson had been involved with a plan to have Williams killed;*
- *Williams' connection with Mokbel;*
- *Hodson's involvement in the burglary of Dublin Street drug house;*
- *whether Williams together with another person such as Mokbel or other criminal might have had sufficient reasons to have Hodson executed, regardless of Dale;*
- *whether it was convenient for Williams to implicate a former police officer in the killings rather than a criminal associate;*
- *the fact that Hodson was by the time of his murder a known informer;*
- *evidence that suggests that persons other than Williams (and Dale and Collins) were aware about two weeks prior to the murders that Hodson was to be killed;*
- *given that Williams claimed that he did not know when the murder was to take place, the evidence of Haynes that she had been informed by Ahmed (an associate of Mokbel) that the murder was imminent and then, that it had occurred, suggests that Williams had not given a truthful, or at the very least, a complete picture to those who took his statement;*
- *evidence that criminals including Sampson and Rodda had been at or in the vicinity of the Hodsons' unit in the months before the murders;*

- *the likelihood that Hodson was still engaging in drug trafficking at the time of his death;....*
- *the question of how the killers could have got into the house without alerting the Hodsons and/or the guard dogs;*
- *the statements made by [Witness G] to police, including the unsigned statement, [REDACTED];*
- *evidence concerning motives that Williams had to implicate Dale;*
- *evidence concerning inducements offered to Williams prior to the making of the statements;*
- *evidence of Adam Shand and Roberta Williams concerning Roberta's alleged assertion that she was aware that Williams had falsely implicated Dale;*
- *evidence of Witness A concerning the agreement to kill Hodson;*
- *evidence of Witness M concerning the alleged meeting involving Collins, Mokbel and a person suggested to be Dale;*
- *absence of corroboration of Dale's capacity to pay \$150,000, and alleged placement of that money into rubbish bin belonging to William's mother;*
- *statements of [Witness G] to the effect that Williams informed him that the payment by Dale of \$150,000 was false.'*

250. This list (which is non exhaustive) demonstrates the breath of the investigation and the extent of the evidence in this case.

Further matters as to circumstances

251. I am however able to reach a number of conclusions on the balance of probabilities regarding the circumstances of the death.

252. It is my view that a single assailant (or killer) carried out the killings and that the entry was gained from the adjoining property or properties. I do not believe that either Mr or Mrs Hodson invited the killer into the house.

253. Mr Davey said as to possible entry and exist:

' it appeared possible that someone had actually gone up the adjoining property, jumped the fence in to the rear, gone along, and then climbed the railings and dropped down in to the garden bed and then accessed the property in that manner ¹¹⁷...

¹¹⁷ Transcript p. 644. See photos 32-33.

*There was no evidence that on the inside of that back fence to suggest that the offender exited via the method that they'd entered and it would have, it would have - there were no rails on the inside of the fence. There would have been signs of a person leaving that way so it appeared more likely that they had actually exited via the garage.*¹¹⁸

254. I agree that this is the most likely scenario.
255. Mr and Mr Hodson, as habit dictated, were in their favourite room late on Saturday night and likely into the early hours of Sunday morning watching television. Also consistent with habit, they consumed alcohol and cocaine. It appears that they felt secure behind heavy curtains, with *the Roscoe* most likely by Mr Hodson's side and two 'guard dogs' in the yard. There was a CCTV monitor available to view the front and side of the house but none showing the likely point of entry. The sound of the TV could be heard clearly from outside the room, according to Mandy as she approached the following day.
256. Mr Hodson said on 7 January 2004: *'...they wont get me 'cause I won't go out, O don't go out at all...I've got a camera there, I've got two German Shepherds and the place is a fortress. ...But the only reason those two are in the courtyard is 'cause I know you're coming....She sits, she lies...She's always out there, Molly, she's always....And as soon as they come onto the property then she attacks..and what I did over Christmas..I enclosed the courtyard here....the only way they can get me is they got to come down the drive or they go down the side of next door...and pop over the fence there. But she's there with me all the time.'*¹¹⁹
257. The reference to the intruder/gunman going *'down the side of next door and pop over the fence there'* turned out to be prophetic.
258. It appears likely that the black gate (with sliding bolts) which help enclose the covered courtyard, and was used to secure the house, was probably either open or, closed but unlocked, at the time of the attack. Mandy said this door would be closed (and bolted) once the dogs were put in the garage for the night.
259. It is difficult to envisage a scenario where Mr Hodson would open this black gate willingly in the middle of the night. In addition, there is no evidence of disturbance in the TV room, so the element of surprise is clearly evident.

¹¹⁸ Transcript p. 665

¹¹⁹ 7 January 2004 of CB at Appendix Q

260. There is evidence that the dogs were in some way overborne and rendered unable to assist Mr and Mrs Hodson, no doubt by a skilled assassin who had ample time and opportunity to observe the scene from the adjoining property, which was unoccupied at the time.

Adequacy of security

261. More than one offer of witness protection was made to Mr Hodson but these offers were declined. There is evidence that Mr Hodsons' children also encouraged him to enter the program. It is understood that he declined the offer as one member of his family did not want to participate in the program.
262. As the CCP characterised this offer, it is the highest level of protection that can be provided to a witness.
263. Despite declining the offer, Mr Hodson remained a crown witness and had been a valuable police informer (although not active after the Dublin Street burglary).
264. The Victoria Police clearly bore responsibility for his safety and therefore took steps to enhance security measures at the home, as I outlined above.
265. It is also clear however, that Mr Hodson also bore responsibility for his own safety. I note Mr Gregor's comments:

I had serious concerns about the risk to Terry Hodson, ..., Terry Hodson obviously relayed his concerns relating to those risks, he was provided with advice, very clear advice relating to what he needed to do to protect himself if he was not to participate in the Witness Protection Program. It was a choice of Terry's not to enter the Witness Protection Program, very unfortunate in hindsight, and clearly, one of the things I outlined in my statement was very clear advice to Terry not to be in that back room, which was - which would put him at considerable risk if someone came in to the back of the - or the courtyard area of the premises. It appears that he failed to do that. I believe based on the known risks and the evaluation that was conducted at that time that the appropriate measures were put in place to provide the appropriate security measures in protecting Terry Hodson and his wife.¹²⁰

266. The family submitted that *'a camera secreted in a TV appliance in the home, a camera secreted in the trees or in a building adjoining the residence of the deceased would have provided evidential material to either prevent assassination or at least identify who was the*

¹²⁰ Transcript at p. 588

person or persons who entered the house and who may be a suspect.’¹²¹ They further submitted that Victoria Police could have installed various devices without Mr Hodson’s permission. In addition, the family thought that Victoria Police should have been aware that Mr Hodson continued to carry on any illegal activities.¹²²

267. They urged that I find:

- a. *Victoria Police by their failure to provide sufficient and adequate security and protection to their very important witness had contributed to the death of the deceased; and*
- b. *The Police by their neglect to provide the surveillance and security of the witness have contributed to their failure and or inability to secure a conviction of the killer or killer’s of client’s parents.*¹²³

268. As noted by Counsel Assisting, making a finding of contribution requires a coroner to apply common sense to the facts, that is, whether a coroner can find that the act or acts departed from the reasonable standards of conduct applicable to the circumstances of the case.¹²⁴

269. As noted above, the information and conclusions made by those who assessed the Harp Road property at the time, clearly recognised what the highest risks to Mr Hodson were. For example:

- that the possibility of a threat against Mr Hodson at his home was very high, as he spent most of this time at home and this was well known;
- there was unrestricted access from the vacant property to the east and restricted access from the occupied property to the north of the Harp Road address; and
- the TV room was used by Mr and Mrs Hodson, most nights.

270. Mr Gregor appeared to agree that entrance via the vacant property ‘*seemingly offer[ed] a relatively easy way into the property*’.¹²⁵

¹²¹ Submissions on behalf of the Senior Next of Kin at paragraph (xii)

¹²² ‘Such an assertion may only be explained in terms of Gregor’s endeavour not to disclose that he had failed to make proper enquiries concerning the lifestyle and income source of an Informer under his supervision.’ Submissions on behalf of the Senior Next of Kin at paragraph (v).

¹²³ Submissions on behalf of the Senior Next of Kin at paragraph (xxiii)

¹²⁴ *Commissioner of Police v Hallenstein* [1996] 2 VR 1.

¹²⁵ Transcript pages 616-617. Mr Gregor said: *That is possible, yes*

271. I note that the security cameras allowed access via the front of the property to be monitored (two cameras) but there was no such monitoring put in place by Victoria Police for the equally, if not more likely, point of entry for any attacker via the adjoining property (properties).
272. Mr Hodson also recognised his vulnerability in the TV room and appears to have enclosed the courtyard (immediately outside the TV room) cognisant of such an attack.¹²⁶
273. On balance however, whilst it may have been more prudent to provide further improvements to enhance security in the back part of the property (for example, a camera showing the backyard feeding vision to the TV room), Mr Hodson understood that he could not monitor the backyard from the TV room, recognised it was a vulnerable point of entry and was given many warnings by Mr Gregor to stay out of the TV room at night. Clearly those warnings were not heeded.¹²⁷ It appears that he may have placed too much reliance of his dogs to warn him of an attack. It also appears likely that the black gate enclosing the courtyard was unlocked.¹²⁸
274. I have considered the submission made by the family on this issue but I do not agree with it. I agree that it would have been preferable for Victoria Police to have provided enhanced security covering the rear fence area. I am however not satisfied that a finding of contribution in relation to the deaths should be made against Victoria Police on the basis that police failed to provide Mr and Mrs Hodson with adequate protection or security.

FINDINGS

275. This is a coronial investigation, not a criminal one. These findings, although limited, are those required by the legislation. In some cases, coroners cannot reach conclusions about every aspect of a death. In this case, for the reasons given, I am not able to reach a concluded position on the applicable standard of proof as to who caused these two deaths.
276. Having considered all the evidence, I find that Mr Terence Bernard Hodson born on 25 May 1947 and Mrs Christine Elizabeth Hodson born on 23 February 1949, died between 9.47pm

¹²⁶ Paragraph 95.

¹²⁷ There was evidence that Mr Hodson was continuing to engage in the drug trade (reference to Mandy's admissions with respect to drugs secreted in the house) which would have put him at further risk.

¹²⁸ The CCP submission at page 18 noted: *'In reality, the risk posed to the Hodsons was a direct result of their own actions once at home. Where they chose to locate themselves at certain times, whether they locked particular doors and when they left them open to permit access for themselves and their pets, the persons they chose to invite inside their home, the potential manual overriding of surveillance and other security measures (such as closing of the back gate) were all matters which bore directly on their safety while at home, They were also matters in respect of which Victoria Police could do little to alter once Hodson refused to enter the Witness Protection Program.'* I agree.

on 15 May 2004 and the early hours of 16 May 2004, as a result of gunshot wounds to the head inflicted by an unknown person, in the circumstances described above.

Unsolved murders

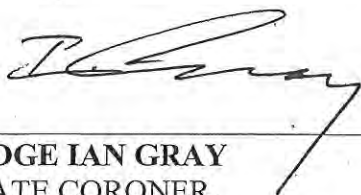
277. Whilst I have concluded my investigation, the murders of Mr and Mrs Hodson remain unsolved. If new facts and circumstances come to light in future, the investigations into the death of Mr and Mrs Hodson could be re-opened at a later date for those matters to be considered.

Pursuant to section 73(1) of the **Coroners Act 2008**, I order that a **redacted version** of this finding be published on the internet.

I direct that a copy of this finding be provided to the following:

- Ms Mandy Hodson
- Mrs Nicola Komiazyk
- Mr Andrew Hodson
- Mr Alex Lewenberg, Lewenberg & Lewenberg
- Mr Avi Furtensberg Lewenberg & Lewenberg
- The Victorian Government Solicitors
- Mr Tony Hargreaves, Tony Hargreaves & Partners
- Chris Traill, Chris Traill
- Detective Boris Buik and Detective Jason Le Busque, Coroner's Investigators

Signature:



JUDGE IAN GRAY
STATE CORONER

Date:

