



# OFFICE OF THE STATE CORONER

## FINDINGS OF INQUEST

**CITATION:** **Inquest into the suspected death of Jay Anthony Brogden**

**TITLE OF COURT:** Coroners Court

**JURISDICTION:** Cairns

**FILE NO(s):** 2011/1571

**DELIVERED ON:** 27 February 2015

**DELIVERED AT:** Cairns

**HEARING DATE(s):** 10 to 12 February 2015; 17 February 2015

**FINDINGS OF:** Jane Bentley, Coroner

**CATCHWORDS:** Coroners: inquest, missing person, police investigation

### REPRESENTATION:

**Counsel Assisting:** Ms Stephanie Williams

**Queensland Police Service:** Mr Scott McLeod and Mr Ian Fraser

**Mr Brogden's Family:** Mr David Purcell

**Qld Police Union:** Ms Melanie Morris, Gilshenan & Luton Solicitors  
N. Williams  
B. Hallett  
J. Kent  
S. O'Connell  
J. Bentley

## **Introduction**

Section 45 of the *Coroners Act 2003* provides that when an inquest is held the coroner's written findings must be given to the family of the person in relation to whom the inquest has been held, each of the persons or organisations granted leave to appear at the inquest and to officials with responsibility over any areas the subject of recommendations. These are my findings in relation to the suspected death of Jay Anthony Brogden. They will be distributed in accordance with the requirements of the Act and posted on the web site of the Office of the State Coroner.

These findings and comments:

1. confirm the identity of the missing person, whether he is deceased and, if so, the time, place and medical cause of his death, as far as can be ascertained; and,
2. consider whether the actions or omissions of any third party contributed to his death.

## **Summary**

Mr Brogden was last seen shortly after 7.30pm on 21 April 2007 at cabin 248, Reefo's Resort, Shute Harbour Road, Cannonvale. He left that address on foot. Mr Brogden has not been seen again.

## **Mr Brogden's Background**

Jay Anthony Brogden was born Jay Anthony Merritt in Canberra on 1 March 1986 to Gina Louise Merritt and Daniel John Smith. Mr Smith and Ms Merritt separated before Mr Brogden was born and Mr Smith has had no contact with them since. Ms Merritt formed a relationship with Richard Brogden when she was pregnant with Mr Brogden and Mr Brogden took his stepfather's last name.

When Mr Brogden was three years old the family moved to Karana Downs in Queensland. In 1998 Mr Brogden, his mother and four siblings moved to Wollongong and a year later they moved to Melbourne. In 2000 they moved to Sydney. Shortly after that Mr Brogden went to Canberra where he lived with Richard Brogden for some months and then moved in with his grandmother.

When Mr Brogden was about 16 years old he moved to Townsville where he lived with Richard Brogden. When he was about 18 years old he went to Airlie Beach where he lived in an apartment. He had several casual jobs. Mr Brogden always kept in touch with his mother and his aunt, Caroline Merritt, by telephone and when Caroline Merritt moved to Airlie Beach they formed a close relationship.

In about October 2005 Mr Brogden commenced a relationship with Patricia Heath. He moved in with her family who lived at Mango Tree Estate in Proserpine in early 2006. They had a daughter, Kira Jean Heath, who was born on 6 November 2006. They separated in January 2007.

## **Last Known Movements of Mr Brogden**

In February 2007 Mr Brogden, Patricia and Kira visited Gina Merritt in Sydney. Mr Brogden and Patricia had an argument and Patricia and Kira left without him and went back to Proserpine. Mr Brogden was very upset after they left. He was on the telephone a lot and after some of the calls would be shaking and so upset that he would vomit. He told his mother that someone was going to kill him. He mentioned a person by the name of "Shoey" and said that he was a person that Patricia had had a relationship with. He said that "Shoey" had found out that Patricia had been in Sydney with Mr Brogden and he wasn't happy about it. His mother told him that it would probably settle down but he said, "Mum, you don't understand, these people mean business. People go missing from up there and are never found."

Mr Brogden stayed in Sydney until after his 21<sup>st</sup> birthday which was on 1 March 2007. Some time after that he told his mother that he was going to return to Airlie Beach to finish off a spray painting job and then he would return to Sydney to take up a fishing job that he had been offered.

After he left Sydney Mr Brogden stayed in contact with his mother via telephone. He rang one day quite upset and said that Patricia had come into his work and was crying and hysterical.

A couple of days before he went missing Mr Brogden phoned his mother and told her he was ready to come home and asked her to buy him a plane ticket. At that time Ms Merritt did not have the funds available to buy Mr Brogden a plane ticket but said that if he paid for the ticket she would reimburse him later.

On the afternoon of 21 April 2007 Mr Brogden attended a barbeque at the residence of Carolyn Merritt, who was living at Unit 1, 6 St Martins Lane, Cannonvale. Patricia Heath attended with Kira. Patricia and Mr Brogden argued about Kira. Caroline took Kira from Patricia and then she saw Mr Brogden punching Patricia in the face. She fell to the floor and he stood over the top of her and continued to punch her. Caroline tried to pull him off and he stopped and then walked away. Caroline asked Patricia if she wanted to call the police. She had hit her head and was bleeding.

Mr Brogden returned and wanted to see Patricia but Caroline told him to leave and he did.

Ms Merritt walked Patricia and Kira to the bus stop where Patricia met her father, Geoff Casey, who was a bus driver. Ms Merritt told police that when Mr Heath arrived he looked at Patricia and said, "I'll kill him."

Shortly after that Geoff Heath rang his wife, Colleen Heath, and told her he was bringing Patricia home and she was going to get a shock when she saw Patricia's face. Patricia's father took her home. She had a black eye, a cut lip and one side of her face was swollen. She told her mother that Mr Brogden had attacked her and punched her several times in the face.

Gavin Parnell was a friend of Mr Brogden's. He told police that Mr Brogden arrived at his residence at cabin 248, Reefo's Resort, at about 7.30pm on 21 April 2007.

Mr Brogden said he had just had a fight with Patricia at his Aunty's place. He said that they were having a barbeque and he snapped and gave her a few good slaps and then walked off. He appeared to be upset. He stayed there for about 15 to 30 minutes and then walked away.

Patricia Heath told police that she was going out with Mr Shoemsmith (also known as "Shoey") for about a week in February 2007. It was not a serious relationship. She said that Mr Shoemsmith and Mr Brogden did not like each other but she doesn't believe that Mr Shoemsmith would do anything to Mr Brogden because he hit her.

Caroline Merritt told police that a couple of days after 21 April Drew Hutchinson, Mr Brogden's employer at the time, attended at Caroline's unit and asked where Mr Brogden was. She said she hadn't seen him and he was probably at Mr Parnell's house. Mr Hutchinson returned a short time later and said that Mr Parnell said that he hadn't seen Mr Brogden for a couple of days. He had given Mr Hutchinson a bag of Mr Brogden's belongings to give to Caroline.

Mr Parnell also attended Caroline's house a couple of days after 21 April 2007 and asked her where Mr Brogden was. She said she hadn't seen him. Mr Parnell told her that he had been fishing with Mr Brogden and when they got back to shore Mr Brogden said he was going to Caroline's.

Ms Merritt is of the belief that Casey Heath and Mr Brogden did not get on. Casey attended her unit once to pick up his girlfriend, Emma, and Mr Brogden went to the bedroom so he would not have to see Casey. At that time Mr Shoemsmith and Braddon Butler were with Casey and waited outside the unit for him.

Ms Merritt told police that after Mr Brogden and Patricia broke up she called the Heath residence for Mr Brogden and when Geoff Heath realised that she was going to put Mr Brogden on the line to speak to Patricia he yelled at her and said, "I'll have you, you bitch. Don't ever call here again."

Casey Heath told police that he knew that Mr Brogden had been violent towards Patricia a few times before the night he disappeared and he told him to stop. About a week and a half later he was in town visiting a mate who lived in the same block of units as Mr Brogden. When he left the units Mr Brogden was out the front waiting for him with a stick and they had a physical altercation. About two weeks before he went missing Casey saw Mr Brogden at the same units. Casey was there having some drinks in one of the courtyards with some friends and Mr Brogden arrived and had a couple of drinks and then left.

Casey told police that he heard about Mr Brogden punching Patricia the day after it happened. She still had a swollen lip and eye. He wasn't too worried about it because she said that she had reported it to the police and Casey knew he was on a suspended sentence and would go to jail.

In July 2007 Braddon Butler told police that he bought a boat from Mr Brogden about 6 or 7 months before (December 2006 or January 2007). He said that he left the boat at Casey's house for a few months after he bought it. He said the last time he saw Mr Brogden was about a week before he went missing. It was at the Pioneer Bay Apartments when Braddon was visiting Kristy-Lee Cook. He was in the carpark and he saw Mr Brogden in the driver's seat of a really old Hilux utility. Gavin Parnell was nearby. Mr Brogden and Braddon spoke for a few minutes about work.

Braddon told police that in January 2007 he became aware that Mr Brogden thought Braddon was angry at him and believed that he had doxxed Braddon in to the police for drugs. They sorted it all out soon after Christmas 2006 when Mr Brogden came to see him and he told him that he wasn't angry with him.

Mr Shoemsmith told police that he first met Mr Brogden in February 2007. One night Mr Brogden asked Mr Shoemsmith to drive him out to Patricia Heath's house. He did so and waited outside for him and then Patricia came out and told him that Mr Brogden was not supposed to be there and asked Mr Shoemsmith to take him away. She said that Mr Shoemsmith was in trouble with her parents for bringing him there. He left with Mr Brogden but only a few minutes later Casey Heath called him and told him that Mr Brogden had assaulted Patricia and asked Mr Shoemsmith to give Mr Brogden a flogging and leave him on the side of the road. Mr Shoemsmith drove Mr Brogden back to the house where Casey told him to stay away from Patricia.

A short time after that Mr Shoemsmith started going out with Patricia. One night after they had broken up Patricia told him that Mr Brogden had assaulted her whilst she was at a friend's place at Pioneer Bay Apartments. Mr Shoemsmith went to those units to confront Mr Brogden about it. He was in the carpark and Mr Brogden came down with a big stick and they got into a physical altercation. Mr Shoemsmith hit him a couple of times and told him to stay away from Patricia.

About two or three days before Mr Brogden went missing Mr Shoemsmith was with a mate at Shute Harbour and saw Mr Brogden fishing on the docks there. He was with his friend, a big guy with tattoos.

Geoffrey Heath told police that Mr Brogden met Patricia through his son Robyn. Robyn and Mr Brogden were both working at Mitre 10. He got along pretty well with Mr Brogden. He never saw Mr Brogden hit Patricia or anyone else. They did have occasional verbal arguments.

Mr Brogden kept a boat at the Heath house. Mr Heath said that Mr Brogden told him that he had sold the boat to Braddon Butler for about \$600.

Geoffrey Heath told police that on 21 April 2007 he was working as a bus driver. Patricia called him at about 6.30pm and asked if he could pick her up during his bus run. She sounded upset. He picked Patricia and Kira up from the Jones Road bus stop on the side of Shute Harbour Road at Cannonvale. Caroline Merritt was there as well.

Mr Heath was shocked when he saw Patricia. He finished his route as there were passengers on the bus and then went to the depot and finished up for the night. He then drove Patricia home in his car. Colleen was at home and wanted to take Patricia to the doctor but she didn't want to go. Patricia told him that the police had already been called. He stayed home that night with his daughter, Charlie, Patricia and Colleen. He cannot recall whether he went to work the next day.

Matthew Barnes was a friend of Mr Brogden. He told police that about a week before Mr Brogden disappeared he told Mr Barnes that he wanted to disappear and asked him if he knew anyone who could help him get false identification etc. Mr Barnes told him that he didn't want to be involved. Mr Barnes told police that prior to Mr Brogden disappearing he told him that he had slit his wrists and tried to hang himself.

Mr Hutchinson told police that he knew Mr Brogden from the time he came to Airlie Beach. In January 2007 he hired Mr Brogden to do some work on a 1985 Toyota Hilux. Mr Brogden worked on the car for a couple of months and during that time Mr Hutchinson let him use it. Mr Brogden was fairly lazy and would spend time drinking beer and smoking dope rather than working on the car.

In the two weeks prior to his disappearance Mr Brogden told Mr Hutchinson that he was having a lot of trouble with Patricia. He said that she was making it difficult for him to see Kira. He was very upset and cried in front of Mr Hutchinson three times in the week before he went missing.

Mr Brogden also told him that he was afraid that "Shoey" and Casey Heath would come to his unit and bash him as Shoey was seeing Patricia and she was telling him bad things about Mr Brogden.

The day before Mr Brogden went missing Mr Hutchinson, Gavin Parnell and Mr Brogden went crabbing up the Gregory River. That night there was a barbeque at Caroline's. Mr Hutchinson didn't stay for the barbeque but heard that Patricia and Mr Brogden had argued there and Mr Brogden had hit her. At about 9pm that night Mr Hutchinson went to see Mr Parnell at Reefo's Resort and he saw Mr Brogden walking around there and he was really upset, crying and shaking.

Mr Parnell told police that Mr Brogden was upset at the time of his disappearance. At times he was very depressed about the fact that he was not seeing Kira. Mr Brogden told Mr Parnell that Geoff Heath and Casey Heath were out to get him. Mr Parnell was present when Casey Heath and Mr Brogden had a physical fight in about February 2007.

Mr Parnell told police that at one time Mr Brogden was worried as he thought that Braddon Butler might be angry at him because he thought that Mr Brogden had doxed him in to the police for selling drugs. Mr Parnell and Mr Brogden went to Mr Butler's house to discuss it and Mr Butler laughed off the suggestion and they all smoked some cannabis together.

Mr Parnell said that Mr Brogden told him that he had stolen two rifles from a prawn farm where he had worked. He said that he had wrapped them in garbage bags and hidden them behind a tree in the gutter drainage off the road on the Bruce Highway on the way to the farm. Mr Brogden showed him two magazines that were fully loaded with bullets.

Police identified the Hamilton Prawn Farm as the company for which Mr Brogden had worked. They did a weapons audit and spoke to employees and it was established that no weapons were missing from the farm.

Mr Shoesmith participated in a recorded interview with police on 23 October 2007. He told police that he started a relationship with Patricia when Kira was about two months old, at the start of 2007. The relationship lasted about two months.

He said that Mr Brogden had physically assaulted Patricia when he took her and the baby around to visit him so he went around there and gave him a flogging.

Mr Shoesmith said that he was going out to the Heath property one day and Mr Brogden asked him for a lift. He took him out there and soon after heard a big commotion. He took Mr Brogden and left. When he was down the road Casey phoned him and said that Mr Brogden had assaulted Patricia again so he took him back to the property. Casey was waiting out the front and told Mr Brogden to stay away from Patricia. Mr Shoesmith said that happened before he started going out with Patricia.

Mr Shoesmith said that he broke up with Patricia about one to two weeks before Mr Brogden disappeared.

About two to four weeks before Mr Brogden went missing they had a fight because Mr Brogden had given Patricia a black eye. Mr Shoemsmith said that it was because of the friction that Mr Brogden was causing in the relationship that he broke it off. He thought they were seeing each other behind his back.

Mr Shoemsmith said that he can't recall what he was doing on 21 April 2007 but he had nothing to do with Mr Brogden's disappearance. He said that lots of guys, including Braddon Butler, wanted him gone but he doesn't think they would actually do anything about it.

Mr Shoemsmith said that some people think that Geoff Heath killed Mr Brogden but he doesn't think he would be able to do it. He said that Casey talks about doing stuff but is "a mother's boy" when it comes to the crunch.

Mr Shoemsmith thought that Mr Brogden was extremely unstable and had "gone off the deep end."

Jessica Homewood gave a statement to police in 2013 and said that she last saw Mr Brogden about a week before he went missing and he was at Mr Butler's place and he was buying some cannabis from Mr Butler. She said that about a month before that she was at a party at Braddon's place with her boyfriend Dallas Drew and Mr Brogden was there and Mr Butler and Mr Brogden argued and Mr Butler took out a sawn off shotgun and pointed it at Mr Brogden and Dallas. She also told police that she heard from Noel Bickle that Mr Butler shot Mr Brogden when they were out on a boat and dumped his body on the reef.

Police located Noel Bickle who said that he did tell Homewood that but it was just something that he had heard and he had no direct information.

Kristy-Lee Cook gave a statement to police in April 2013. She said that Mr Butler was her partner in 2005. They had a son, Taj, born on 5 May 2006. She met Mr Brogden at the beginning of 2006 and used to hang out with Patricia Heath. Mr Butler was friends with Casey Heath. Mr Butler sold "pot" to Mr Brogden on a regular basis.

Ms Cook said that about a month before Mr Brogden went missing he broke up with Patricia and was angry that Mr Shoemsmith was trying to get with her. He and Mr Brogden had a physical fight in the car park of the Pioneer Bay Apartments over Patricia.

In 2011 Amy Wilson told Ms Cook that her partner, Matthew Blackie, went to Mr Butler's place on the day that Mr Brogden went missing and Mr Shoemsmith and Braddon had taken Mr Brogden fishing that day and killed him on the boat and disposed of his body overboard.

In March 2010 Mr X gave a statement to police. He said that about two months after Mr Brogden went missing he, Jessica Cornford and an unidentified male called Mick, were driving to Bowen with Mr Butler. About halfway to Bowen, Mr Butler said that he wanted to show Mr X a fishing spot. They turned right off the highway and drove down a dirt track for about 15 to 20 minutes. They stopped at a dump site on the side of the road and then drove for another five minutes or so. Mr Butler pointed over to the right side of the road and said, "That's where Jay is." They continued on until they got to a creek and had a look around and then drove back to the main road.

Jessica Cornford told police that the events relayed by Mr X in relation to the comment, "That's where Jay is", never occurred. She said that Mr X was taking a lot of drugs at the time and had mental health issues.

On 19 April 2012 Detective Sergeant Hallett collected Mr X from Mackay and drove him to farmland in an area north of Proserpine. They travelled through a bush track to Dingo Creek. Clark indicated a spot as the most likely place that Braddon had indicated to him as being the location, "where Jay is". Mr X was unsure of the accuracy of his recollection. Police took photographs of the location. DS Hallett decided that, as Mr X was unable to pinpoint any specific location, the area was too large to be able to conduct any ground search. Police concluded, after speaking to Mr X again and speaking to Ms Cornford, that the evidence of Mr X was not reliable.

Kylie Houston is a Probation and Parole Officer and in 2007 she was working out of the Mackay office. In August 2005 she began supervising Mr Brogden for an offence of Assault Occasioning Bodily Harm for which he was placed on probation. She saw him every couple of weeks from that time until his disappearance. Between 12 February 2007 and 19 March 2007 Ms Houston received a phone call from Mr Brogden. He said that he was in New South Wales and he had been told by police to leave the area until "matters blew over". He said that his partner's family didn't like him and he was being threatened by them. He said that this was the reason he initially went to New South Wales but then he had stayed there for other reasons. Mr Brogden last reported to Ms Houston on 5 April 2007.

## **Police Investigation**

On 2 May 2007 Gina Merritt contacted police and reported that Mr Brogden was missing and he had not been seen since 21 April 2007.

Proof of life checks revealed that no transactions on bank accounts or with government agencies were conducted by Mr Brogden after 21 April 2007. He was not recorded as travelling anywhere in Australia or visiting a doctor.

After Mr Brogden disappeared rumours circulated through Proserpine that Mr Brogden had been killed by Casey Heath, Mr Shoemsmith and Braddon Butler.

Police records reveal that Mr Brogden phoned police at 5.40pm on 21 April 2007 and requested attendance at 1/6 St Martin's Lane, Cannonvale. A second call to police was made by Patricia Heath. Police attended and saw that Patricia had a black eye and was bleeding from the nose. Police made an application for a domestic violence order. They were unable to locate Mr Brogden to serve him with the application.

On 23 April 2007 Patricia Heath attended the police station and made a complaint of assault in relation to the events of 21 April 2007. She said that Mr Brogden slapped her and later grabbed her by the throat and strangled her. She fell to the floor and he held her down by the throat and punched her to her right eye, the bridge of her nose and the left side of her face. Caroline made him leave and Patricia called the police.

Patricia Heath told police that on 23 April 2007 she received a text message from an unknown caller which said, "I love you, bye."

She said that she presumed that the text message was from Mr Brogden as he had previously sent her messages from public phone boxes and her phone would say that the text was sent from a Telstra pay phone.

Police have checked the records relating to Ms Heath's phone and there is no record of her receiving any such text message on 23 April 2007.

Patricia Heath also told police that Mr Brogden told her he was going to Brisbane with his new girlfriend, Phoebe McBride. Police located Ms McBride and established that she had travelled to Brisbane prior to Mr Brogden's disappearance. He was not with her and had not been with her.

Senior Sergeant (now Inspector) Stephen O'Connell commenced the investigation into the disappearance of Mr Brogden. He made some initial investigations. On 18 May 2007 he noted that, due to the family's belief that Mr Brogden may have been harmed by the Heath family, it was appropriate to transfer the file to the Whitsunday CIB.

He handed over responsibility for inquiries and investigation to the CIB (Nic Williams and Alain De Villiers) on 18 May 2007.

John Bentley, one of the initial investigating officers, stated that of concern was the ongoing feud between Mr Brogden and Casey Heath, the anecdotal reports that Casey had "taken care of" Mr Brogden, the fact that Casey Heath and his family had access to firearms which were stored at their property at Mango Estate and that it was out of character for Mr Brogden to disappear. He recorded that Caroline Merritt had told him that Mr Brogden had fallen out with Shoey and had been possibly been threatened by him.

Sergeant Nicholas Williams submitted a report to the State Coroner regarding the disappearance of Mr Brogden in July 2008. By that time numerous statements had been obtained and most of the persons who were considered to have any relevant information had been contacted and spoken to by police.

That report was sent to the Missing Persons Unit. It was not received by the Office of the State Coroner until late May 2011.

In May 2013 Det Sgt Jon Kent reviewed the file and interviewed Mr Butler and Mr Shoesmith. Both again denied any involvement in the disappearance of Mr Brogden. DS Kent completed a further report to the Coroner. That report was submitted in July 2014.

Checks were conducted again in April 2014 of Patricia Heath's phone but at that time no call records were obtained.

The following chronology indicates the extent of police inquiries and investigations from May 2007 until the date of the pre inquest conference on 2 December 2014.

2/05/2007	OLIVER review of MP file. Sends tasks to Reporting officer querying whether consideration given to interviewing P.HEATH and C.HEATH, amongst other things
5/05/2007	QPS COWELL spoke to Colleen HEATH. BROGDEN used drugs...located syringes when they left...BROGDEN would be violent when pushed. There had been previous fights with Casey HEATH but nothing serious. Not heard from BROGDEN since domestic incident

8/05/2007	<p>Information received by QPS from Gina MERRITT and Caroline MERRITT about enquiries they have made. All enquiries have produced negative results. Photograph provided to QPS.</p> <p>Photograph circulated at local bars.</p> <p>D'VILLIERS &amp; WILLIAMS briefed 0900 hours. P. HEATH spoken to by QPS. Adamant received text message from public phone. Did not keep it.</p> <p>QPS speak to Casey HEATH, who advises he has not heard from BROGDEN. He is aware of the DV incident, but did not make threats to him and has not seen BROGDEN since before the DV incident. HEATH believes BROGDEN is hiding out somewhere, identifies HUTCHINSON as possibly knowing where BROGDEN is.</p> <p>Enquiries made by Bowen CIB with commercial fisherman to see if BROGDEN is employed in the area at present.</p> <p>Patricia HEATH, Gina MERRITT &amp; Caroline MERRITT do not know of any mobile numbers owned by BROGDEN presently. Gina supplied an old number (0431 030 150) but stated the phone was thrown away. HEATH had not seen BROGDEN with a phone for 18+ months.</p> <p>Gina MERRITT advises that BROGDEN went to Brisbane 4 months prior for 6 weeks before returning.</p>
9/05/2007	<p>C.Merritt contacted QPS with information about BROGDEN'S friends/addresses and where he might be.</p> <p>QPS enquiries with local businesses about BROGDEN.</p> <p>QPS SWEENY enquires with PARNELL - BROGDEN stayed with him at Reefos until 1 week prior. BROGDEN stated he a fight with his girlfriend; he'd had enough of the area and was hitch hiking to Newcastle. Has not seen since.</p> <p>HUTCHINSON located. Last saw BROGDEN on the same day of DV incident. Used to see him every second day to go fishing. Thought BROGDEN may be on a commercial fishing boat as he has when previously upset.</p> <p>QPS enquire with prospective work places circled by BROGDEN in the phone book. Negative results.</p>
10/05/2007	<p>QPS received fax from Centrelink - BROGDEN no payments since 2003.</p> <p>QPS speak to SHOESMITH'S father. SHOESMITH not resident at address. Message left.</p>

	<p>Reverse CCR requested on Patricia HEATH's phone.</p> <p>Unable to locate SHOESMITH. Photo and news article appears in local paper.</p> <p>Call received from Kylie ADAMSEN - her daughter knows that BROGDEN is in Newcastle.</p> <p>QPS OLIVER receives fax from Centrelink - no record of BROGDEN, has not received payments since 2003.</p>
11/05/2007	<p>Follow up with ADAMSEN, daughter states she went fishing with BROGDEN 2 weeks prior, he said he was sick of the place and was going to hitch hike to Newcastle. Daughter's name is Khyala.</p> <p>Caroline MERRITT locates name/number in BROGDEN's property. Negative results on follow up.</p> <p>Caroline MERRITT tells QPS of call from 'Tash.' Info gleaned from Tash proves to be false.</p> <p>Bank account details received. Trans history to be obtained.</p> <p>BROGDEN's family arrives at station. Briefing given by O'CONNELL</p>
14/05/2007	<p>SC WARREN enquires with Mackay Reefish. Identity of 'Rev Kev' found. Info given to Calen police for further investigation.</p>
15/05/2007	<p>QPS send fax to CBA requesting transaction activity on bank account since last seen.</p> <p>Further enquiries to locate 'Rev Kev.' Negative result.</p> <p>Reporting Officer speaks with SHOESMITH's father. Unable to locate. Inquiries exhausted.</p> <p>Mother of 'Rev Kev' advises that he is due back from fishing trip today. BROGDEN may be with him. Boat trailer found at ramp. Note left.</p> <p>QPS GAZO requests transaction activity from CBA since BROGDEN's disappearance.</p>
16/05/2007	<p>QPS reattend boat ramp. 'Kev's' vehicle still at location</p> <p>CBA advises cheque dishonoured as account is overdrawn</p>
17/05/2007	<p>Kev's vehicle has been moved. Contact made - BROGDEN went on fishing trip 6 months prior. Kev has not seen BROGDEN since this trip.</p> <p>Further media info circulated with local papers &amp; Channel 7.</p>

	<p>No bank activity found. Account is overdrawn and unusable.</p> <p>Info given to CIB - SHOESMITH found to be evading police as he is wanted for another charge.</p> <p>Multiple lines of inquiry followed up by QPS - negative results.</p> <p>PARNELL advises QPS that due to death threats from HEATH family, BROGDEN had obtained a gun, hidden in bushes. Location canvassed by QPS, negative result.</p> <p>Request to trace alternate bank details from March 2007 onwards. Confirmed this account belongs to Caroline MERRITT. Line of enquiry ceased.</p> <p>Search of Prawn Farm where it was alleged that BROGDEN stole a firearm. No firearms missing.</p> <p>QPS O'CONNELL commencing leave. Believes BROGDEN is hiding from police due to DV incident. BROGDEN's family have been appraised regularly. Gina MERRITT located firearm magazine containing 2 rounds - lodged at station. The family believes there were threats from HEATH's family. O'CONNELL recommends file be reviewed by CIB.</p>
19/05/2007	Brendan DART contacted by QPS - he last saw BROGDEN on 11.04.07. Heard info that Geoff HEATH & SHOESMITH may have harmed BROGDEN.
20/05/2007	Request sent to WILLIAMS from OLIVER for location of phone box SMS to P.HEATH'S mobile.
22/05/2007	<p>Checks conducted with transport companies to determine if BROGDEN had left the area. Negative results.</p> <p>Bank account check with NAB - no hits.</p>
29/05/2007	Gina MERRITT reports that an incident took place with herself and Patricia HEATH at Proserpine pub. Two females verbally abused HEATH. Attempts made to obtain statement from HEATH, unsuccessful.
6/06/2007	<p>QPS WILLIAMS makes inquiries to locate MCBRIDE - unsuccessful. Has not contacted family since approx the same time that BROGDEN disappeared. Further intel requested.</p> <p>QPS COOK requests Casey HEATH's statement be referred to CIB for attention.</p>
15/06/2007	Statement of Casey HEATH

23/06/2007	Attempts to locate PARNELL are unsuccessful.
27/06/2007	Statement of PARNELL
6/07/2007	<p>QPS WILLIAMS makes inquiries to find Pheobe MCBRIDE - unsuccessful.</p> <p>Statements obtained from Patricia HEATH, Casey HEATH, Gavin PARNELL, Braddon BUTLER.</p> <p>PARNELL identified as last person to see BROGDEN. All deny knowledge of BROGDEN's whereabouts.</p> <p>Attempts made to obtain statement from Hayley BLEWITT - unsuccessful.</p> <p>Further inquiries made to locate SHOESMITH - unsuccessful.</p> <p>Results of Telstra reverse SMS check are negative. No record of SMS allegedly sent to Patricia HEATH.</p> <p>Statement of BUTLER</p>
7/07/2007	QPS contacted mother and Aunt of BROGDEN re: coverage at Broncos game.
11/07/2007	<p>OLIVER contacted HALLETT re: running out further enquiries on BROGDEN. Centrelink request for BROGDEN and McBRIDE sent by QPS. HIC request for BROGDEN Copy of Fax sent to HIC (OLIVER)</p> <p>Document and photograph email to all states MPUs</p> <p>QPS OLIVER Centrelink request for Brogden @ Merritt</p> <p>Copy of Fax sent to Centelink re MCBRIDE (OLIVER)</p> <p>Copy of fax to ANZ re MCBRIDE banking details (OLIVER)</p> <p>Copy of email to D/Supt &amp; OIC MPU for Courier Mail &amp; Broncos media (OLIVER)</p> <p>Copy of slide to be used at Broncos home game on 7/7/2007</p>
13/07/2007	QPS OLIVER enquires with Vic, NSW, SA Police. Negative results
16/07/2007	QPS OLIVER faxes all financial institutions for accounts held by BROGDEN.
17/07/2007	QPS OLIVER receives results from banks - all negative.

22/08/2007	Anonymous Crime Stoppers report concerning alleged comments made by Casey HEATH. Nil evidence to support.
5/09/2007	QPS GILLIES conducts checks of mobile 0406 316 569, listed as belonging to BROGDEN. Now registered to another subscriber.
11/09/2007	Gina MERRITT contacts QPS advising she received a reverse call on 05.09.07. Checks were made on mobile.
7/10/2007	QPS RYAN requests reporting officer update occurrence.
17/10/2007	QPS BUNDESEN forwards Vodafone CCR results to requesting officer.
23/10/2007	QPS KENT interviews & obtains statement from SHOESMITH
29/10/2007	QPS GERRY runs subscriber check on mobile referred to on 11/9/07. Did not belong to anyone of interest.
3/11/2007	QPS Gerry sends CCR results for Vodafone mobile to I/O.
9/01/2008	Photographs taken of magazine, 2 x .22 calibre rounds. Unable to conduct fingerprint examination.
1/07/2008	QPS HALLETT notes that a coronial report is to be finalised by 11/07/2008.
23/07/2008	QPS BENTLEY completes statement, sends to QPS WILLIAMS.
27/08/2008	CCRs conducted with Optus & Telstra for mobile 0431 030 150 for period 19/04-31/05/07 return with nil result.
20/10/2008	Kate MERRITT call to QPS OLIVER. MERRITT critical of handling of matter. NOK opinion JB met with foul play. OLIVER advised MERRITT she was reviewing the matter and would complete correspondence before putting it to State Coroner.
24/10/2008	QPS OLIVER call to Gina MERRITT for permission to speak to Kate MERRITT. Left message for Gina.
27/10/2008	QPS OLIVER call to Gina MERRITT for permission to speak to Kate and enquire what concerns were. MERRITT advised concerned no statement taken from her. Does not believe JB self-harmed; believes Shoey responsible. OLIVER advised email sent to NSWMPU requesting statement some time ago - OLIVER did not know why they had not responded. MERRITT confirmed WILLIAMS sent her email requesting information but computer had crashed which was why it had not been sent. OLIVER to chase up

	NSWPol. OLIVER advised next step was for matter to be referred to State Coroner.
31/03/2009	The Health Commission notes a request for BROGDEN's Medicare records was made in 2008 - not from MPU. Copy of result requested.
27/10/2009	HOMEWOOD attended Maryborough Station. Advised while on holidays in Cannonvale 5/10/09 - 9/10/09 when sister Jessica HOMEWOOD told her BUTLER responsible for JB going missing. - BUTLER took JB out on fishing trip for a couple of days and only BUTLER came back. Jessica HOMEWOOD did not say where got information. Information HOMEWOOD advised JB went missing due to drug debt owed to BUTLER.
18/02/2010	Kate MERRITT calls QPS to enquire if file has been sent to State Coroner. Advised by QPS GILLESPIE that investigation is still underway re coronial file. MERRITT requests to be notified when matter is referred to Coroner.
12/03/2010	ANZ reports no account matches for BRODEN.
8/04/2010	Gina MERRITT rang QPS for update on file - was the file going to go before the State Coroner. QPS OLLENBURN advised investigation still underway regarding the coronial file. Address details provided by MERRITT.
2/08/2011	Anonymous tip logged on Missing Persons website re rumour that BROGDEN was made 'fishing bait.' Nil info to substantiate.
28/11/2011	DI SMITH QPS CSPU advised QPS POWELL file forwarded to northern coroner in May 2011.
9/03/2012	Katrina MERRITT contacts QPS requesting update on Coronial File. Advised by QPS GAZO that file has been sent to NT Coroner in May 2011, no outcome available. MERRITT requests contact for OIC of MPU.  Kate MERRITT advised by QPS GAZO that file sent to NT coroner.
13/03/2012	QPS POWELL advised Kate MERRITT file sent to Northern Coroner in May 2011. MERRITT concerned that matter not treated as murder investigation. Request to DI SMITH QPS CSPU for update on coronial investigation.
3/09/2012	Ergon request 15354 Bruce Hwy Gregory River (QPS CROSS)
19/04/2012	Forensic officer attended Dingo Creek. Photos taken

1/05/2012	Email from NC Priestley to QPS; counsel assisting seeking opinion on action plan
4/05/2012	Email Counsel assisting & QPS Petersen with suggestions to action plan.
3/09/2012	Ergon request 15354 Bruce Hwy Gregory River (QPS CROSS)
27/02/2013	Email NC Bentley requesting QPS Bamford provide update on where matter is at from police perspective
4/03/2013	Directions from NC Bentley to QPS and counsel assisting. QPS to take statements from NOK; counsel assisting and QPS Bamford to review file and identify further actions/investigations to be undertaken; counsel assisting contact NOK with update and advice statements to be taken.
20/03/2013	Meeting: NC Bentley; QPS Bamford; counsel assisting to discuss matter and action to be taken
21/03/2013	Email NC Bentley to QPS Bamford and counsel assisting. 1. QPS to obtain statements from immediate family members; CORNFORD, HOMEWOOD; 2. QPS to conduct enquiries whether JB using alias and living interstate; 3. CCRs and RCCS on P.HEATH phone to be retrieved from QPS records and provided to Coroner ASAP; 4. statements to be provided within 28 days; 5. When received review and consider if addendum statements required and whether certain persons should be called at inquest
14/05/2013	Email counsel assisting to QPS GOOIKER requesting material in directions of 4 and 21 March by COB 17.5.2013
21/05/2013	Email counsel assisting to QPS Gooiker requesting response to email of 14.5.2013
21/05/2013	Email from QPS Bamford to counsel assisting. Delay in response to directions due to Whitsunday CIB vacant position. KENT advised NOK & HOMEWOOD statements obtained. CORNFORD unable to be located. Alias inquiries negative. CCR/RCCR records of P.HEATH negative.
30/05/2013	NC Bentley directions: 1. Matter referred to QPS for full investigation; 2. QPS to brief Coroner in 6 months as to status of investigation; 3. Bring up in 6 months

12/11/2013	Update from QPS GOOIKER to NC Bentley. IO (KENT) looking at interviewing two persons of interest in prison and some other possible witnesses. QPS seek 3 month extension. If not complete in 3 month, detailed supp fm 1 to be requested from QPS. Approved by NC Bentley.
18/02/2014	Email counsel assisting to QPS GOOIKER advising coroner considering inquest. Coroner's direction that IO provide final report by 4pm 4.3.14. No further extensions on the report
22/04/2014	Report from QPS KENT outlining further avenues of investigation to be undertaken and requesting 3 month extension to complete following: 1. exhaust enquiries re: CCR received from P.HEATH; 2. locate and take statement from BICKLE; 3. Inquiries re: time when JB'S boat transferred to BUTLER; 4. establish last time JB visited dr; 5. further bank account interrogation of JB account; 6. weapons licence check on JB; 7. addendum statement from PARNELL; 8. f/up re BLACKIE mental health and possibility of speaking to Police.
2/06/2014	NC Bentley approved extension for 2 months for further enquiries. Report due no later than 23.6.14. Counsel assisting advised QPS Gooiker of same and request to advise IO.
18/06/2014	MP Report by KENT sent to D.Insp Crime and Support Services Mackay District.
23/06/2014	KENT MP report received by District Office Mackay. Medicare checks outstanding.
24/06/2014	Email counsel assisting to QPS Gooiker requesting the final QPS report.
25/06/2014	MP Report by KENT sent to DI Crime and Support Services Mackay District. Police investigation complete with exception of medicare enquiry.
26/06/2014	MP REPORT by KENT forwarded to QPS GOOIKER by Superintendent District Office Mackay.
15/09/2014	Draft findings sent to NOK
19/09/2014	NC received application for inquest from NOK

16/10/2014	NC advised NOK & QPS inquest to be held
24/10/2013	NC provided brief of evidence to NOK
24/10/2014	NC provided brief of evidence to QPS
28/11/2014	NC provided NOK & QPS with draft hearing plan
2/12/2014	Pre-inquest conference

## **The inquest**

A pre-inquest Directions Hearing was held on 2 December 2014. At that time Counsel Assisting advised the parties that the issues to be explored at the inquest were:

1. The circumstances surrounding the disappearance of Jay Anthony Brogden;
2. The response of the Queensland Police Service to the disappearance of Jay Anthony Brogden.
3. The procedures in respect of provision of reports to Coroners by QPS regarding missing persons.

The inquest commenced on 10 February 2015 at Proserpine Magistrates Court. Twenty-six witnesses were called to give evidence. One of the witnesses advised the Court that he was in fear of reprisal if he was to give evidence and I ordered that his name or any details tending to identify him not be published. That witness is referred to as "Mr X" in these findings. It was intended that Noel Bickle be called to give evidence but, as at the final day of the hearing, police had been unable to locate him.

## ***The evidence***

### **Gina Merritt**

Mrs Merritt gave evidence that she believed that Mr Brogden had a mobile phone which was operating at the time of his death. She gave that phone number to police when she reported him missing.

Mrs Merritt said that she didn't understand why the police concluded that Mr Brogden committed suicide when there were other possibilities as to what happened to him.

### **Caroline Merritt**

Ms Merritt gave evidence that Mr Brogden had told her he was in fear of his life on a number of occasions before he went missing. He told her that before he went to Newcastle and said it was the reason he was leaving town. He was scared of Geoff Heath. He said that Geoff hated him. Geoff Heath had told Ms Merritt that Mr Brogden was not to go to his house and he was not allowed to call there.

Ms Merritt said she didn't know what had caused the animosity between Mr Brogden and Mr Heath. She said that Mr Brogden and Casey Heath did not like each other

and it could have been because of that or because of the relationship breakdown between Mr Brogden and Patricia.

Mr Brogden told Ms Merritt that he and Casey had a physical altercation at the Heath property at Christmas 2007.

Ms Merritt said that when she was threatened by Mr Heath during the phone call she went to the police station to make a complaint but was told by a female officer that nothing could be done about it. She asked that it be recorded in case something happened to her and the officer said that would make a record of it.

Ms Merritt said that Mr Brogden's boat was at her unit block and he was working on it there with a view to selling it. She can't recall when it disappeared from there but it was there before he went missing. When Mr Brogden was living at the Heath property he kept the boat there and when he left there he moved it to Ms Merritt's unit block.

Ms Merritt said that Mr Brogden wanted to sell the boat but he never told her that he had sold it. She believes he would have told her if that had been the case. He had it up for sale at an earlier time for a price which was over \$2000. He was offered less but refused to take it, deciding to fix it up and then sell it for more.

Ms Merritt said that she was concerned when she saw the boat at Mr Butler's house after Mr Brogden had disappeared. She told the police that Mr Brogden would not have sold his boat to Mr Butler as he hated him. An officer, she thinks it was Nick Williams, told her that they had proof that Mr Brogden had sold the boat to Mr Butler and it was a legitimate sale.

Ms Merritt said that in the weeks before Mr Brogden disappeared (but after his return from NSW) he dropped his mobile phone in the ocean and it no longer worked. After that he sometimes used her home phone to make calls. She doesn't know whether he used public phone boxes.

Ms Merritt said that in the period before Mr Brogden disappeared he was upset about not seeing his daughter, Kira. He would talk about her a lot and come to Ms Merritt's place and ask to see the photos of her that Ms Merritt had on her phone. Sometimes he would come to see the photos twice on one day.

Ms Merritt said that when she first went to the police station and advised of her concerns that Mr Brogden had not been seen the police officer to whom she spoke rolled his eyes and said, "Of course he's gone missing – why wouldn't he?"

She kept going to the police and telling them that she was concerned.

She spoke to Alain De Villiers and Nick Williams in relation to the investigation into Mr Brogden's disappearance. As she lived near the police station she would often visit there rather than phoning.

Ms Merritt said that she kept asking the police if they wanted to take a statement from her. Appointments were made but then they failed to show up on a number of occasions. They sent her some questions by email and she answered those.

Ms Merritt asked the police if they wanted to look through Mr Brogden's belongings that she had received from Drew Hutchinson or look at his mail. They told her that she should do it and let them know if she noticed anything relevant.

Ms Merritt went through Mr Brogden's belongings and noticed that his tackle box was still there. Mr Brogden loved the tackle box and would have taken it with him had he gone anywhere.

## **Nicholas Williams**

Detective Sergeant Williams gave evidence that he was appointed as the investigating officer in relation to Mr Brogden's disappearance on 27 June 2007. He was first briefed about the matter on 8 May 2007 and it was officially transferred to the Whitsunday CIB on 18 May 2007.

At that time the uniform officers had exhausted all the usual checks and obtained all the information that they could and it was decided the matter required investigation by detectives.

DS Williams said that he was aware, from an early stage, of the numerous rumours concerning Casey Heath and Mr Shoemsmith and threats made to Mr Brogden. He took those allegations seriously and made inquiries to find out whether they could be substantiated.

DS Williams took a statement from Casey Heath and put the rumours to him. Mr Heath denied them.

DS Williams said that he did not ask Casey where he was on 21 April 2007 as he did not know when Mr Brogden disappeared – it could have been on a number of days - so there was no point in establishing whether Casey had an alibi for that date or the days following.

In relation to Patricia Heath, DS Williams said that he believed that she was an honest witness. Ms Heath said that Mr Brogden told her he was going out with Phoebe McBride and he believed her. When he found Phoebe McBride that turned out not to be the case.

DS Williams said that he obtained the call charge records for Patricia's phone so that he could ascertain from which phone box Mr Brogden sent her a message on 23 April 2007. The call charge records showed that she had received no such message. He cannot explain why that call didn't show up on the records.

DS Williams said that he was always available to speak to Mr Brogden's family and he provided them with his direct phone number and email address. He said that he didn't take a statement from Gina Merritt. He sent a list of questions to her and her solicitor by email from which he was going to compile a statement but he didn't receive a response from either of them.

DS Williams said that he believes that police had an appropriate amount of contact with Mr Brogden's family during the investigation. None of the family members ever told him they were dissatisfied with the level of contact and, as far as he knew, they always called him when they had any information to impart.

DS Williams said that, had he formed the opinion that Mr Brogden had been murdered he would have sent the file to Homicide Unit. As he did not form that opinion he sent it to Missing Persons Unit. By early 2008 he had concluded that Mr Brogden was probably deceased and so he compiled a report for the Coroner which he sent to Missing Persons Unit. He believed that it would be sent to the Coroner in

a timely manner. He didn't expect that it would take three years for the report to reach the Office of the State Coroner.

DS Williams stood by his opinion that Mr Brogden had gone off into the bush around Reefo's resort and either had some kind of accident or committed suicide.

He said that the evidence was that Mr Brogden had run off into the bush on the night of 21 April 2007 but was unable to point to any evidence to that effect when questioned.

DS Williams said that he didn't view any CCTV from Reefo's Resort and is unaware as to whether there would have been any available in 2007. He doesn't know if there were any cameras in the area.

DS Williams was unaware that Drew Hutchinson was the last person to see Mr Brogden until he took a statement from him on 8 July 2008.

### **John Bentley**

Officer Bentley attended Ms Merritt's residence on 21 April 2007 and spoke to Patricia Heath and was involved in initial investigations.

### **Alain De Villiers**

Mr De Villiers said that the disappearance of Mr Brogden was a high priority matter for the CIB and every line of inquiry was run out.

Mr De Villiers said that it is his opinion that Mr Brogden committed suicide on or about 21 April 2007.

### **Bradley Hallett**

Detective Sergeant Hallett said that he obtained the statement from Mr X and attempted to take him to the place where he said Mr Butler made the comment, "That's where Jay is".

There was a delay in obtaining the statement and trying to locate the site because of the huge area involved, the constant flooding of that area and the difficulty in locating Mr X and then gaining his cooperation. The area to which Mr X took DS Hallett is known as "Billy's Creek".

DS Hallett said that Mr X was very erratic, paranoid, afraid of being involved and seemed to be scared of Mr Butler. It was difficult to establish his trust. The information he gave in relation to the site was very general. DS Hallett was not able to identify the person, "Mick" who was said by Mr X to be in the car with him at the time.

DS Hallett said that he wrote a report to the Coroner in July 2008 and he expected that it would be sent to the Office of the State Coroner almost immediately.

### **Jon Kent**

Detective Sergeant Kent said that he had decided, at the conclusion of his investigations, that it was most probable that Mr Brogden had committed suicide. He based this opinion on the fact of the assault on Patricia, that Mr Brogden had been

becoming more depressed before his disappearance and that his drug use had increased in that period.

DS Kent said that when he again obtained the call charge records for Patricia's mobile phone in 2014 there was no record of a text message on 23 April 2007 but at that time, he believed that the records had been deleted. There were also no other calls on the records. However, DS Kent said that when the records had originally been obtained there were other calls and he believed that they were accurate records but there was no record of the text message.

DS Kent interviewed Mr Shoemsmith in October 2007 and in 2014. He took statements from Casey Heath and Geoffrey Heath and they both denied any involvement in Mr Brogden's disappearance.

DS Kent was recalled on the last day of the inquest. He gave evidence that police had been unable to locate Mr Bickle but when DS Kent last spoke to him on the telephone he said that he had no information about Mr Brogden's disappearance other than that he had heard rumours.

### **Stephen O'Connell**

Inspector O'Connell stated that he was in the uniform branch in 2007 and was involved in the initial inquiries into Mr Brogden's disappearance. When he was briefed in the matter he was told that the assault on Patricia would breach Mr Brogden's suspended sentence. After a couple of weeks, when all checks were indicating that Mr Brogden could not be found, it was decided to hand the investigation over to the CIB.

The police were very active in trying to locate Mr Brogden for two reasons – he was wanted by police in relation to the assault of Patricia and the concerns raised by his family that he had disappeared.

Inspector O'Connell said that he recalls speaking to Gina Merritt and Caroline Merritt when they came into the station around the end of April 2007. He had a lot of contact with Caroline Merritt during the two week period in which he was involved in the investigation.

### **Kylie Houston**

Ms Houston could not provide any information other than that included in her statement.

### **Drew Hutchinson**

Mr Hutchinson said that shortly before his disappearance Mr Brogden was upset and frustrated about his relationship with Patricia.

Mr Hutchinson last saw Mr Brogden outside Mr Parnell's residence at Reefo's Resort on the night of 21 April 2007. Mr Brogden had been crying. He was very upset. He walked off towards Proserpine.

Mr Brogden had told him that he had to stay away from Casey Heath and that Mr Shoemsmith didn't like him. Mr Hutchinson thought that Mr Brogden was scared of Mr Shoemsmith.

When Mr Brogden went missing Mr Hutchinson was worried that he might have harmed himself. He was not a stable person and did not have a strong personality. Mr Brogden said that he'd upset people including Patricia's family and it was worrying him.

From January 2007 Mr Hutchinson was seeing Mr Brogden every second day or so and he was becoming more stressed and unhappy. He was drinking more and using more drugs as he grew more unhappy.

Mr Hutchinson said that police first spoke to him about Mr Brogden during a phone call on 9 May 2007. Later, a police officer phoned and asked about Mr Brogden driving his Hilux utility. He provided a statement on 8 July 2008. On that date he spoke to SC Williams for about three hours. Prior to that he had been in contact with Caroline Merritt and had been passing on to her any information or rumours that he heard.

Mr Hutchinson recalled that Mr Brogden had changed his mobile phone number sometime before he disappeared. Mr Hutchinson said that he thought he had phoned Mr Brogden on a mobile to arrange the fishing trip they went on the day Mr Brogden disappeared.

## **Patricia Heath**

Ms Heath said that her relationship ended with Mr Brogden shortly after Christmas 2006 after an argument. She said that he tried to strangle her a couple of days before Christmas. She told her parents about that. They were arguing a lot around Christmas and there was lots of tension in the house. Her father had enough of the arguments and told Mr Brogden he had to leave.

Her brothers, Robyn and Casey Heath were living at the property at that time. They were living in a converted shed on the property.

The day Mr Brogden left the house they had an argument and he snapped her phone and put his fist through a glass cabinet. Her mother came into the bedroom where they were arguing and said she couldn't put up with it any longer. Her father told Mr Brogden to leave. Mr Brogden left the property with Robyn who gave him a lift as he was leaving for work.

Ms Heath said that after she broke up with Mr Brogden she went to visit Gina Merritt with Mr Brogden. She didn't tell her parents that he was going as they would have been unhappy about it. She had to leave early and come home because Mr Brogden hit her. When she got home she told her parents that Mr Brogden had been there and he'd hit her and that's why she left early.

By 21 April 2007 Ms Heath thought that Mr Brogden had started to use speed. She had seen him use it a couple of times. On that day he was agitated and looked like he had been using drugs.

That day Robyn told her that Mr Brogden had called the house and said that he was going away fishing. Ms Heath thought that she would go and see Mr Brogden so he could say goodbye to Kira.

Ms Heath said that her father was more upset than angry when he saw her face on 21 April 2007. He wanted to take her to the police but she told him she had already spoken to them. He didn't say he was going to kill Mr Brogden.

When Ms Heath and her father arrived home, her mother and little sister, Charlie, were there. Casey and Robyn saw her face later – they were shocked. She thinks that Robyn saw her when he came home that night and Casey saw her the next day.

Ms Heath doesn't recall Caroline Merritt calling at her house and putting Mr Brogden on the phone.

On 23 April 2007 when Ms Heath went to the police station she was unaware that Mr Brogden was missing. She thought he would be with his aunt Caroline. She is sure that she received a text message from a public phone box – she thought that Mr Brogden had sent it and she thought that he might have seen her at the police station.

Ms Heath thinks that Casey Heath told Mr Shoesmith about Mr Brogden assaulting her but she doesn't know when that happened.

Ms Heath said that she doesn't know what happened to Mr Brogden. She asked Casey if he'd had anything to do with Mr Brogden's disappearance and he said he didn't. Her family all talked about what could have happened to Mr Brogden but nobody knew what happened.

Ms Heath said her father has never been violent towards her.

## **Colleen Heath**

Mrs Heath said that in April 2007 Robyn, Patricia and Charlie were living at home and Casey and his girlfriend Emma were staying there on and off. Casey left in July 2007 and went to live in New Zealand. He returned to Australia in 2014 and moved back in.

Mrs Heath said that Mr Brogden and Patricia broke up because he was violent towards Patricia and they were arguing all the time. Mr Brogden was erratic and taking drugs. Patricia said that he was shoving her and behaving in a threatening manner.

Mrs Heath said that she didn't realise how violent Mr Brogden had been. Patricia didn't tell her that Mr Brogden had tried to strangle her until after he'd moved out. Mrs Heath said that on the day Mr Brogden moved out, he and Patricia were arguing and he had broken her phone and other stuff in the bedroom. Geoffrey Heath asked him to leave.

Mrs Heath said that when Patricia came home early from New South Wales she said that Mr Brogden had pushed her to the ground and hit her. Mrs Heath agreed that she had not given that information to police in her statement.

Mrs Heath said that Geoffrey told Caroline not to phone their house as Patricia didn't want to talk to her at that time.

When Geoffrey brought Patricia home on 21 April 2007 he was shocked and angry and upset. Mrs Heath insisted that Patricia go to the police on 23 April 2007.

Mrs Heath said that Mr Brogden had a boat at their house and it was moved after he left.

## **Geoffrey Heath**

Mr Heath said that Patricia told him that Mr Brogden had pushed her around but he cannot recall when she told him that. She told him when she came home from New South Wales that Mr Brogden had pushed her to the ground and that's why she came home early.

Mr Brogden had a boat at the property and when he left Mr Heath moved it up to the front of the property so he could collect it. It disappeared from his property and then Mr Heath saw it at Caroline's unit block. He saw it there before 21 April 2007.

Before Mr Brogden moved out he said he was thinking of selling the boat to Mr Butler.

Mr Heath said he can't recall telling Caroline not to call his house.

Mr Heath said that he would not have told Mr Brogden to leave the house – he does recall telling Patricia and Mr Brogden to stop arguing or they would have to leave.

## **Casey Heath**

Mr Heath said that the last time he saw Mr Brogden was when they had the fight at the front of the units.

Mr Brogden was using a lot amphetamines before he disappeared.

Mr Heath knew that Mr Brogden was violent towards Patricia. He saw bruises on her from time to time. He told Mr Brogden to leave her alone. That happened either at the units or at his place. It was after that they had the fight at the units. He said that Mr Brogden came out with a stick and ambushed him in the car park.

Mr Heath cannot recall what he was doing on 21 or 22 April 2007. He was probably working. He probably stayed at this parent's house on the night of 21 April 2007.

Mr Heath recalls seeing Mr Brogden's boat in Mr Butler's yard. It was there for about six months before Mr Brogden disappeared. He doesn't know why it was there and he didn't ask Butler about it.

At the time of Mr Brogden's disappearance Mr Shoesmith was living at his sister's house at the back of Reefo's Resort.

Mr Heath knows of Billy's Creek – there are two spots known as that – one at the back of the Heath property and another saltwater fishing spot off the road on the way to Bowen. He has been to the latter at least once with Mr Butler.

## **Gavin Parnell**

Mr Parnell said that he was good friends with Mr Brogden before he disappeared. Mr Brogden used to talk a lot about his break up with Patricia – he was really "cut up" about it. He said they were always arguing about the baby. Mr Parnell could see that it was hurting him. Mr Brogden's moods were up and down.

A couple of times Mr Brogden had issues with the Heath family. He had a punch up with Casey. He said they told him he would get a flogging as he had "gone too far" in relation to Patricia.

Mr Parnell doesn't believe that Mr Brogden was scared of Casey or Geoff or anyone else.

On the night he went missing Mr Brogden told Mr Parnell that he had slapped Patricia at a barbeque at his aunty's place. He arrived at Mr Parnell's door and was upset and distraught. He had been crying.

They smoked some cannabis together and then Mr Brogden said he was going for a walk. By that time he was much calmer. He walked out through the front gate towards Proserpine. He was walking away from the bushland behind Reefo's. At that time Mr Parnell was not concerned that Mr Brogden was considering self harm.

Mr Parnell was aware that Mr Brogden sometimes went walking in the bush to find snakes but he didn't go at night time. He did not know Mr Brogden to go out bush for days or nights.

Mr Parnell said a person would have to be an imbecile to get lost in the bush behind Reefo's.

Mr Parnell said that some time before April 2007 Mr Brogden was a bit concerned as he had heard that Mr Butler was upset with him. Mr Parnell and Mr Brogden went to see Mr Butler and he laughed it off. After that, they saw Mr Butler about weekly and bought drugs from him. Mr Brogden was still going there to get drugs up to the time of his disappearance. Mr Brogden never owed Mr Butler a lot of money for drugs.

## **Mr X**

Mr X was adamant that the information he had provided to police in regard to the trip to Bowen and Mr Butler pointing out a location and stating, "That's where Jay is" was true and correct.

He said that Jessica Cornford was sitting beside him in the back seat. He said that nobody in the car made any comment when Mr Butler said that. He did not speak to Mr Butler about it at any time later but he and Jessica Cornford had many conversations about it and she confirmed that she had heard Mr Butler say those words.

## **Jessica Cornford**

Ms Cornford said that she does not recall the trip to Bowen with Mr Butler and Mr X. She does not recall Mr Butler saying, "That's where Jay is" or words to that effect. If she heard him say those words she would have gone straight to the police and told them of it.

Ms Cornford said that she does not recall any conversations with Mr X in relation to Mr Butler saying that. She said that she was smoking a lot of marijuana at that time and she was drinking a lot of alcohol but she would recall if she'd had numerous such conversations with Mr X.

## **Kristy-Lee Cook**

Ms Cook was one of the people who had the most contact with Mr Brogden in the months before he disappeared – she saw him almost every day and she lived in the same unit block as Caroline Merritt where Mr Brogden spent most of his time. Ms Cook said that Mr Brogden confided in her.

Ms Cook said that Mr Brogden was a happy person until he broke up with Patricia. After the break up Mr Shoemith started going out with Patricia and Mr Brogden was upset about that. Mr Brogden told Ms Cook that he didn't want anyone else to be a father to his daughter.

Mr Brogden told Ms Cook that Geoffrey Heath didn't like him because he had been violent to Patricia and he was not allowed to go to the Heath property. He said that the Heaths didn't want that kind of thing going on in their house. Mr Brogden said he didn't want to cause any friction with the Heath family as he wanted to "be in their good books" so he could continue to see his daughter.

Ms Cook was present when Mr Brogden and Mr Shoemith had a physical altercation in the unit car park. It was about one to two months before Mr Brogden disappeared. She broke up the fight. It was in relation to Mr Shoemith going out with Patricia. She said that Mr Brogden was "wild and upset" but she calmed him down.

Ms Cook said that in early 2007 Mr Butler was using a lot of drugs. He was violent and unpredictable. She thought that Mr Brogden owed Mr Butler money for drugs and she was told by Mr Blackie that Mr Butler took Mr Brogden's boat to settle that debt.

Mr Brogden never told Ms Cook that he was receiving threats from anyone. Ms Cook believes that Mr Brogden was a bit wary of Mr Butler but not scared of him. Mr Brogden was visiting Mr Butler up until the time he disappeared. Mr Brogden never told her that he was receiving threats from anyone.

### **Matthew Barnes**

Mr Barnes knew Mr Brogden for about ten months. Mr Brogden seemed fine for the first few months and then he started getting depressed. At first he said he was worried about becoming a father as he didn't know whether he was ready for the responsibility. Later he was depressed because he had been arguing with Patricia Heath.

Mr Barnes thought that Mr Brogden was using heavy drugs around the time of his death – he thought he was on speed. He last saw Mr Brogden about two weeks before he disappeared.

Mr Brogden told Mr Barnes that he had previously attempted suicide on two occasions – once by cutting his wrists and once by hanging himself. He showed Mr Barnes a small scar on his left arm. Mr Barnes wasn't sure whether he was telling the truth about the suicide attempts.

### **Jessica Homewood**

Ms Homewood stated that she believed that Mr Brogden was selling drugs for Mr Butler. They seemed to be close. She could never tell whether Mr Butler was telling the truth or not.

### **Matthew Blackie**

Mr Blackie said that he didn't know Mr Brogden was missing until Mr Shoemith visited him and told him that the police thought that Mr Shoemith was involved in the disappearance. He didn't recall who Mr Brogden was until about September 2007.

Mr Blackie saw Mr Brogden's boat at the unit car park and in 2008 saw it at Mr Butler's house. He asked Mr Butler about it and he said that he had bought it from Mr Brogden or that Mr Brogden owed him money.

Mr Blackie said that he heard a rumour that Mr Butler had killed Mr Brogden but Mr Butler never said that to him and he didn't tell anyone that Mr Butler had done so. He denied telling Amy Wilson that.

### **Amy Wilson**

Ms Wilson said that she thinks she first found out that Mr Brogden was missing at the end of 2007. The police visited her about 18 months before she gave her statement. They were looking for Mr Blackie. He was in hospital. She told them she had heard rumours but had no knowledge of Mr Brogden's disappearance.

Ms Wilson saw Mr Brogden at Mr Butler's house on occasion. Mr Brogden and Mr Butler would drink and smoke cannabis together. She thought that they were friends.

Ms Wilson denies telling Ms Cook that Mr Brogden was taken out on a fishing boat but she has heard that rumour.

### **Nadine Nowicki**

Ms Nowicki said that, one night, at her house, Mr Shoesmith said that he and others killed Mr Brogden – they beat him up, took him out in a dinghy, tied bricks to his feet and threw him overboard and watched him drown.

Ms Nowicki said that when Mr Shoesmith said this he was drunk and off his face on drugs. She said that Kelly Russell was in the room when Mr Shoesmith made that statement.

Ms Nowicki said that the next morning she spoke to Mr Shoesmith and asked him why they had killed Mr Brogden and he said it was because Mr Brogden owed them money for drugs and he wouldn't give them the money. Mr Shoesmith didn't say who he was with at the time.

Ms Nowicki was not sure whether to believe Mr Shoesmith or not. She went to the police at Proserpine a couple of days later to report the conversation but was told by a uniformed officer that it was only hearsay.

### **Kelly Russell**

Ms Russell recalls visiting Ms Nowicki in the company of Ms Butterworth and Mr Shoesmith. She recalls being there in the afternoon and then leaving and going to a local pub but doesn't recall returning there that night.

Ms Russell doesn't recall Mr Shoesmith saying that he was involved in Mr Brogden's death. She has never heard anyone say that.

Ms Russell said that she knew Ms Nowicki for about 6 months and never had any reason to doubt that she was a truthful person.

## **Braddon Butler**

Mr Butler said that he knew Mr Brogden but they were not close friends. Mr Brogden came to his house, usually with Casey Heath.

Mr Butler said that he bought the boat from Mr Brogden for \$600. He picked it up from Pioneer Apartments (he acknowledged that in his statement to police he said that he had picked it up from the Heath property). It had a 30 horsepower Mariner motor with a long leg when he bought it. He had the boat for a while before Mr Brogden went missing. He eventually fixed it up so that he could put it in the water and kept it for years.

Mr Butler said that he did not sell drugs to Mr Brogden. They used to smoke cannabis together and everyone bought drugs from everyone.

Mr Butler said that he last saw Mr Brogden about a week before he disappeared and there was never any bad blood between them.

Mr Butler said that he had gone fishing with Casey Heath at Billy's Creek (on the way to Bowen) but had never gone there with Mr Brogden.

Around the time of Mr Brogden's disappearance, he had an inflatable boat that he kept in his boot. Casey Heath had a dinghy. The Heath family had a centre console boat that they took fishing including out to the reef.

Mr Butler last saw Casey Heath about two months prior to the inquest when Mr Heath visited him at his residence in Mackay. Mr Heath rang up one day and said that he was coming to visit. He drove down and stayed about two hours and then drove home. At that time they spoke about the inquest.

Mr Butler last spoke to Mr Heath on the phone just after Mr Heath gave his evidence at the inquest. They discussed the evidence that Mr Heath had given in relation to Mr Brogden's boat.

## **Mark Shoesmith**

Mr Shoesmith said he met Mr Brogden through Casey Heath. When Mr Shoesmith started dating Patricia he found out that Mr Brogden was the father of her baby.

He only dated Patricia for about one month.

Patricia told him that Mr Brogden was pushing her around and her father told him to leave. Casey told him that Mr Brogden had been violent towards Patricia.

One day, after he stopped going out with her but before Mr Brogden disappeared, Patricia asked Mr Shoesmith for a lift to Caroline's place. He took her and the baby there and when he picked her up a couple of hours later she had a black eye and a split lip. He was upset about this as he still cared for her.

He told Casey, Geoff and Colleen Heath. Geoff and Colleen were very upset about it. They yelled at him for taking Patricia there but he didn't know that she was not supposed to be seeing Mr Brogden. Casey wanted to go and do something about it.

A couple of days later Mr Shoesmith saw Mr Brogden in the car park at the units. Mr Brogden came out with a stick and they had a fight. He warned Mr Brogden to stay away from Patricia.

Mr Shoesmith said that another time he took Mr Brogden out to the Heath property to see Patricia. About five minutes after they arrived, Mr Brogden came out to the shed and said he had to go. On the way back to town, Casey called Mr Shoesmith and said that Mr Brogden had assaulted Patricia while they were there and asked Mr Shoesmith to bash him and leave him on the side of the road. He took Mr Brogden back to the property instead and Casey spoke to him out the front and warned him to stay away from Patricia.

After Mr Brogden disappeared Mr Shoesmith heard that there were rumours that he had been involved and that the police were looking for him so he went to the police station and participated in an interview with police.

He saw Mr Brogden at Mr Butler's house and they appeared to be friends.

Mr Shoesmith said that Mr Butler told him that he was involved in Mr Brogden's disappearance and that Mr Brogden was out at Billy's Creek. As he left Mr Butler's house that day, Ms Cook took him aside and said that she thought Mr Butler had been involved. Immediately after giving this evidence Mr Shoesmith retracted it, saying instead that he thinks he heard it from Ms Cook rather than Mr Butler.

## ***Submissions***

Ms Williams submitted that, in relation to the second issue i.e. the adequacy of the police investigation, the chronology of the investigation revealed that the police investigation was adequate up until the time that the matter was transferred to the Missing Persons Unit.

Uniformed police at Whitsundays station transferred the investigation to the Whitsundays CIB twenty-seven days after Mr Brogden was first reported missing.

Investigating police submitted a report to the Coroner, which was sent to the MPU, in July 2008. They considered that it would be forwarded to the Coroner almost immediately and requested that the Coroner consider an inquest. However the matter was not sent to the Coroner until 26 April 2011 and between July 2008 and April 2011 very little new information was obtained and very little further investigation carried out.

Investigating police suspected, at least by April 2008, that Mr Brogden was deceased. That suspicion invoked an obligation to report the matter to the Coroner. No such report was made by investigating police or the MPU.

Ms Williams submitted that the QPS Operating Procedures Manual should be amended to ensure that suspected deaths and reports of missing persons are reported to the Coroner in a timely manner. She submitted that I should consider making the following recommendations:

1. The Queensland Police Service amend the OPM relating to missing persons to clearly set out, as OPM 8.5.24 does, that once a police officer reasonably

suspects that a missing person is deceased a Form 1: 'Police report of death to a coroner', outlining clearly the reasonable suspicion the missing person is deceased, including failure to locate the missing person, is provided to the Coroner.

Upon notification to the coroner, the investigating officer is to complete a QP608: 'Report to State Coroner, missing person – suspected reportable death' and forward the complete file to the Officer in Charge, Missing Persons Unit, through the applicable chain of command, with a copy to the Inspector of the Coronial Support Unit. The report should include the results of the police investigation into the cause and circumstances of the missing person's disappearance. All documents should be attached to the QPRIME missing person occurrence.

2. The Queensland Police Service amend the OPM relating to missing persons to require a QP608: 'Report to State Coroner, missing person – suspected reportable death' to be provided to the State Coroner within 12 months of the date that the person was reported as missing.
3. The Queensland Police Service conduct an annual audit of compliance with the OPMS relating to the reporting of missing persons to the coroner for three years from the date of amendment to the OPMS with results to be supplied to the State Coroner.

Mr Fraser submitted that the initial investigation was adequate, competent and timely but accepted that there was inordinate delay after the report was sent to the MPU and that the delay in the provision of the report to the Coroner was unacceptable and inconsistent with the expected operations of the MPU.

Mr Fraser advised that the QPS supports recommendation 1, above, that recommendation 2 should relate to an interim report rather than a final report and that instead of the audit recommended by 3, the QPS proposes a review of existing procedures by the Office of the State Coroner and QPS which would include a compliance audit.

Ms Morris adopted the submissions of Counsel Assisting relating to the adequacy of the investigation carried out by uniformed police and CIB officers and submitted that the evidence revealed that all relevant issues and concerns were followed up by those officers.

Mr Purcell agreed with the recommendations suggested by Counsel Assisting.

In relation to the findings required by s 45 *Coroners Act 2003* Mr Purcell submitted that I would find that the cause of Mr Brogden's death was unable to be determined but that it is likely that he was killed by a person or persons unknown but that it was one or more of the persons identified by police as persons of interest in the investigation.

Mr Purcell submitted that the police investigation was inadequate. Had the matter been reported to the Coroner some years earlier an inquest may have produced further information which could have been followed up.

Mr Purcell said that police concluded that Mr Brogden had committed suicide and that view was formed prematurely and affected the rest of the investigation. Police failed to adequately investigate whether Mr Brogden had received threats, and they

failed to interview witnesses who might have given relevant information including Ms Nowicki, Mr X and Mr Hutchinson.

Mr Purcell submitted that the matter should have been referred to the Homicide unit of the QPS.

Mr Purcell submitted that the inadequacy of the police investigation was demonstrated by the delay in speaking to witnesses, the lack of inquiries as to whether there was CCTV at Reefo's Resort and the failure to question Mr Hutchinson and Mr Parnell as to the direction in which Mr Brogden walked when he left Reefo's Resort.

## **Comments, Recommendations and Findings**

### ***The scope of the Coroner's inquiry and findings***

An inquest is not a trial between opposing parties but an inquiry into a death. The scope of an inquest goes beyond merely establishing the medical cause of death.

The focus is on discovering what happened; not on ascribing guilt, attributing blame or apportioning liability. The purpose is to inform the family and the public of how the death occurred and, in appropriate cases, with a view to reducing the likelihood of similar deaths.

As a result, a coroner can make preventive recommendations concerning public health or safety, the administration of justice or ways to prevent deaths from happening in similar circumstances in future.

A coroner must not include in the findings or any comments or recommendations, statements that a person is or may be guilty of an offence or is or may be civilly liable.

Proceedings in a coroner's court are not bound by the rules of evidence. That does not mean that any and every piece of information however unreliable will be admitted into evidence and acted upon. However, it does give a coroner greater scope to receive information that may not be admissible in other proceedings and to have regard to its origin or source when determining what weight should be given to the information.

A coroner should apply the civil standard of proof, namely the balance of probabilities. However the more significant the issue to be determined, the more serious an allegation or the more inherently unlikely an occurrence, then the clearer and more persuasive the evidence needs to be for a coroner to be sufficiently satisfied it has been proven.

If, from information obtained at an inquest or during the investigation, a coroner reasonably suspects a person has committed an offence, the coroner must give the information to the Director of Public Prosecutions in the case of an indictable offence and, in the case of any other offence, the relevant department. A coroner may also refer a matter to the Criminal Misconduct Commission or a relevant disciplinary body.

## ***Comments and recommendations***

### **Comments**

#### ***Mr Brogden's Disappearance***

I find that Mr Brogden is deceased. I am unable to determine the cause of his death.

At an early stage of the investigation police identified that there were four possibilities –Mr Brogden had disappeared intentionally and was living elsewhere under a false identity, Mr Brogden had committed suicide, Mr Brogden had met with an accidental death or Mr Brogden had been the victim of foul play.

As time went on and Mr Brogden did not contact family members or come to the attention of any government departments it became evident that the first possibility was highly unlikely.

There is no evidence to support the conclusion of accident and it became more unlikely as time progressed and Mr Brogden's body was not located.

Police concluded that it was most probable that Mr Brogden had committed suicide. This conclusion seemed to be based, at least in part, on the belief that Mr Brogden had breached a suspended sentence and did not want to be sent to prison and that he was last seen heading towards the bush behind Reefo's resort.

The only two places Mr Brogden frequented were the residences of his aunt and Mr Parnell. It is most likely that he was heading back to his aunt's house when he left Mr Parnell's residence. He was not heading towards the bushland.

There is evidence that Mr Brogden was becoming more upset about the breakdown of his relationship with Patricia at the time of his disappearance. He was described as distraught by both Mr Hutchinson and Mr Parnell, the last people to see him, on the night of 21 April 2007. However, by the time he left Mr Parnell's place he seemed to have calmed down.

Mr Brogden was not on a suspended sentence at the time he assaulted Patricia Heath. He was on a probation order. Whilst it was possible, given his criminal history, that he would have faced a custodial sentence had he been charged with and convicted of the assault, there is no reason to believe that the possibility of a custodial sentence was on his mind at the time he disappeared.

If Mr Brogden committed suicide he must have done so at a remote location as his body has never been found. He had no means of transport on the night of 21 April 2007 so he would have had to walk a distance into a bush area and then taken his own life.

The third possibility is that a person or persons were involved in Mr Brogden's disappearance.

In May 2007 police considered the second possibility likely enough that they transferred the file to the CIB. Police recorded that there were allegations of threats, that there was a history between Mr Brogden and the Heath family and that he had disappeared the night that he assaulted Patricia Heath.

There is evidence that Mr Brogden was receiving threats in the months before his death. He told his mother and his probation officer, in early 2007, when he was visiting his mother in New South Wales after the break-up with Patricia, that he was receiving threats. He did not tell them who was threatening him.

Police were unable to corroborate these threats. Mr Brogden's phone was destroyed before his disappearance. Mrs Merritt gave police his old phone number in May 2007. Call charge records for that phone were obtained in August 2008 and then only for the days surrounding Mr Brogden's disappearance. Those checks revealed that the phone was not connected at that time. During the inquest, and at my direction, call charge records were requested for that phone number for early 2007. The carrier advised that the phone was not subscribed to by Mr Brogden and, in any event, there was no data available.

The most likely source of threats, presuming that they actually occurred, was either Casey Heath or Mr Shoemith or both of them.

Casey Heath and Mr Brogden had a fight on Christmas Day at the Heath property and it was shortly after this that he was told to leave there. In June 2007 Casey Heath told police that in about January 2007 he told Mr Brogden to, "stop messing with me and my sister otherwise he would get himself hurt", and that he, "knew that Mr Brogden had been violent towards Trish a few times before this and I told him to stop."

In October 2007 Mr Shoemith told police that he started going out with Patricia at the start of 2007 and he went out with her for two to two and a half months. He said that Mr Brogden had assaulted Patricia before he started going out with her and on that occasion Casey had asked Mr Shoemith to give him "a flogging" and then Casey warned Mr Brogden to stay away from her.

It was shortly after this that Mr Brogden and Casey had a physical fight in the car park of his aunt's unit.

At the inquest, Mr Shoemith said that Mr Brogden assaulted Patricia again one day when Mr Shoemith gave her a lift to town so that Mr Brogden could see the baby. She sustained a black eye and a split lip. He took Patricia home and told Casey, Geoffrey and Colleen Heath what had happened. They were very angry. They yelled at Mr Shoemith for taking Patricia to see Mr Brogden. Casey said that he wanted to go and find Mr Brogden and "do something about it".

After that incident Mr Shoemith had a fight with Mr Brogden in the car park at the units.

Mr Shoemith said that he had warned Mr Brogden to stay away from Patricia. He said that he had threatened Mr Brogden and he may have done so by text message or by phone call.

Since Mr Brogden's disappearance became known in the community, rumours were rife.

There were four main rumours circulating – that Mr Butler and others assaulted Mr Brogden and took him out in a boat and threw him overboard, that Mr Shoemith was involved in the disappearance, that the Heath family was involved in his disappearance and that Mr Brogden's body is in the vicinity of a location known as "Billy's Creek."

It became evident during the inquest that there were two locations known as Billy's Creek – a saltwater creek which is located off the highway on the way from Proserpine to Bowen and which is a popular spot for fishermen and a freshwater creek which runs through the Heath property.

In relation to the rumour concerning Mr Butler, there is no evidence that Mr Butler had a motive to harm Mr Brogden. Ms Cook and Mr Parnell, the two persons who spent most time with Mr Brogden in 2007, both said that he got along well with Mr Butler before he disappeared. He visited Mr Butler regularly – they were friends and he bought cannabis from Mr Butler. Mr Butler said that he had no reason to dislike Mr Brogden.

Neither Mr Shoesmith nor Mr Butler had a boat which they could have put in the water on 21 April 2007 so that rumour is unlikely to have any basis in fact.

There was evidence that both Mr Butler and Mr Shoesmith told persons that they had been involved in the disappearance of Mr Brogden. Mr Butler was said to have indicated that Mr Brogden was in the vicinity of the saltwater Billy's Creek. That statement, although allegedly heard by Mr X, was not corroborated by Ms Cornford who, according to Mr X, also heard it. Even if Mr Butler made the statement it does not necessarily follow that he was involved in the disappearance. He may have been, as many others were at that time, relating something that he had heard.

Mr Shoesmith said at the inquest that Mr Butler told him that Mr Brogden was at Billy's Creek but then Mr Shoesmith retracted that evidence and said he had heard it from someone else.

There is evidence, therefore, that Mr Butler said on at least two occasions that Mr Brogden was at Billy's Creek. This may have been something he heard rather than had any personal involvement in. Mr Butler said that the only Billy's Creek he knew of was the one at the back of the Heath property.

Ms Nowicki was sure that Mr Shoesmith told her that he and others had killed Mr Brogden and taken him out to the reef in a dinghy and the next morning he said it was because Mr Brogden owed money for drugs. This statement could not be corroborated by any other person present at the time and, again, there is no evidence that Mr Shoesmith had access to a boat which he could have taken out to the reef at that time. There is also no evidence that Mr Brogden owed any person a significant amount of money at the time of his disappearance.

Police were asked at the inquest as to why Casey Heath was not questioned, in 2007, of his whereabouts on the night of 21 April 2007. No good reason was given for that omission. It seems likely, given the evidence of the Heath family at the inquest that Casey Heath came home to the property some time on the night of 21 April 2007.

Geoffrey, Colleen and Patricia Heath have consistently stated that, after Patricia was brought home by Geoffrey, they all stayed at home on the night of 21 April 2007.

It is of concern that there are inconsistencies in the evidence of Geoffrey, Colleen and Patricia Heath in relation to Mr Brogden and his relationship with Patricia.

On 23 April 2007, Patricia Heath gave a statement to police, in which she complained of Mr Brogden assaulting her on 21 April 2007. She said that she and Mr Brogden

split up about five months beforehand after he tried to strangle her during an argument.

Patricia Heath gave a second statement, in relation to Mr Brogden's disappearance, on 29 May 2007. On that date she told police that, after she left the police station on 23 April 2007, she had received a text message sent from a public phone box and she believed it was Mr Brogden.

There was no record of such a text message being received by Ms Heath when her call charge records were obtained by police. Investigators could not suggest any reason why such a record, if the text message had been received, might be omitted from such records.

Patricia Heath said that she was going out with Mr Shoesmith for about a week at the end of February 2007.

The evidence from her mother, her father and Mr Shoesmith was to the effect that her relationship with Mr Shoesmith was for longer than one week.

Colleen Heath told police, on 14 April 2008, that Mr Brogden got along well with all of the Heath family when he lived there. She said there weren't a lot of arguments between Mr Brogden and Patricia but there had been a couple.

Mrs Heath said that she had never been told by anyone, including Patricia, that Mr Brogden had hit her or anything like that and it never became an issue whilst Mr Brogden was living there. She said that after the baby was born they argued about moving out and they broke up in New Year 2007 and Mr Brogden moved out.

Mrs Heath said that on 21 April 2007 when Geoff brought Patricia home Patricia said that Mr Brogden had never hit her before – he had grabbed her a couple of times but this was the first time he had hit her.

Mrs Heath said that Patricia told her about the text message that she had received on 23 April 2007.

On 14 April 2008 Geoffrey Heath told police that Mr Brogden and Trish had verbal arguments at his house but before Mr Brogden went missing he never knew that Mr Brogden had hit Trish.

It is clear, from the evidence heard at the inquest, that both Mr and Mrs Heath were well aware of physical violence occurring between Mr Brogden and Patricia before Mr Brogden left their house and before he disappeared.

Patricia, Mrs Heath and Mr Heath said in evidence that Patricia told them when she came back from New South Wales that she had left early because Mr Brogden had pushed her to the ground and held her down.

Mrs Heath said that the day Mr Brogden left he broke Patricia's phone and other stuff in her room.

Mr Shoesmith said that he took Patricia home with a black eye and a split lip after she was assaulted by Mr Brogden and Geoffrey, Colleen and Casey were there and they were all angry and upset. That happened before 21 April 2007.

Mr and Mrs Heath were aware of an argument occurring between Casey and Mr Brogden on Christmas day of 2007 but they did not advise police of that.

Mr Heath said that he couldn't recall telling Caroline Merritt that she was not to call the house but Mrs Heath said that she did recall him saying that. I accept the evidence of Caroline Merritt in regard to that phone call and find that Mr Heath did tell her not to call the house again and did so in a threatening manner.

Mr Heath denied stating that he would kill Mr Brogden when he went to pick Patricia up on 21 April 2007. In that regard, I prefer the evidence of Caroline Merritt.

Mr Heath said that he wouldn't have told Mr Brogden to leave their house. However, it is clear from the evidence of Patricia and Mrs Heath that he did do so and it occurred after a violent argument between Patricia and Mr Brogden of which both Mr and Mrs Heath were aware.

I cannot determine the reason why Mr and Mrs Heath did not tell police the truth when they gave their statements. They clearly did not wish to disclose that they knew that Mr Brogden had been violent towards Patricia in the months before he disappeared. They played down the tension that existed between them, Casey Heath and Mr Brogden both before and after he left their house.

As stated above, I am unable to conclusively determine the cause of Mr Brogden's death. I remain unconvinced that Mr Brogden committed suicide or met with accident particularly given that he had no means of transport and his body has not been found.

In my view, the most likely possibility is that Mr Brogden was the victim of foul play at the hands of a person or persons unknown shortly after he left Reefo's Resort on the evening of 21 April 2007.

### ***The Police Investigation and Subsequent Reports to the Coroner***

I agree with the submission of Counsel Assisting that the police investigation was adequate and appropriate up until July 2008 when the matter was handed over to the MPU.

At an early stage in the investigation police followed up each and every line of inquiry. Although some statements were not taken until later in the investigation identified persons of interest were contacted by police and relevant information obtained from them in a timely manner.

Uniformed police, after carrying out initial investigations, properly realised that the matter required specialist investigation and transferred the investigation to the CIB on 18 May 2007.

CIB officers carried out their investigations and completed a report to the Coroner just outside the specified time frame of twelve months. They considered that the report would be sent to the Coroner in a short time period and their request for an inquest duly considered.

However, the investigation stalled when it reached MPU. Little was progressed for nearly three years. In April 2011 the report, compiled by investigators in July 2008, was sent to the State Coroner.

Although investigators must have suspected, in July 2008 at the latest, that Mr Brogden was deceased, his suspected death was not reported to the Coroner as is required by the provisions of the *Coroners Act 2003*.

Currently, the QPS Operating Procedures Manual does not provide any time frame in which the MPU must provide a report to the Office of the State Coroner and there exists some ambiguities in the procedures relating to the reporting of missing persons.

Section 7 of the *Coroners Act 2003* effectively provides that a police officer who becomes aware of a death that appears to be a reportable death must **immediately** report the death to a coroner. Section 8 relevantly provides that a death is reportable if it happened in suspicious circumstances, the death was violent or unnatural or a cause of death certificate will not be issued. The suspected death of a missing person could be a reportable death under any of these categories.

Section 8.5.24 of Chapter 8 of the OPM provides that the State Coroner requires notification by report as soon as a missing person is reasonably suspected of being deceased and provides the following examples:

*A person falls off a fishing trawler. Despite extensive searches, the person has not been located.*

*An angler is washed off rocks by strong waves into the ocean. This was observed by several other witnesses.*

*Searches fail to locate the person.*

*A person goes missing in suspicious circumstances, which leads officers to believe that the person is deceased, as opposed to a person going missing by their choice. Further supporting evidence might include the missing person has had no contact with family and close friends, has left a prized motor car and personal belongings behind, and has not accessed bank accounts, Centrelink, Medicare etc. for an extended period of time.*

The section requires the investigating officer to forward a Form 1 "Police report of death to coroner" outlining the relevant information, to the coroner, and upon notification to the coroner, complete a QP 0608 "Report to State Coroner, missing person – suspected reportable death" and forward the complete file to the Officer in Charge, Missing Persons Unit, through the applicable chain of command.

Pursuant to Chapter 12, the investigating officer is required to consider the obligation to report a suspected death to the Coroner. Chapter 12 also requires the investigating officer, at the conclusion of twelve months, if the missing person has not been located, complete a QP 0608 report and forward it to the OIC of MPU.

The OIC, MPU, upon receipt of the report, is to review the file, initiate any further inquiries, where appropriate request the State Coroner to direct a coroner to investigate the suspected death and forward the report, together with recommendations, to the State Coroner.

The OPM does not provide a time frame in which the MPU must send a report to the State Coroner. Although there exists an obligation to report a suspected death immediately, it seems that this OPM is not being complied with and that investigating officers are instead, sending a report to MPU within twelve months of the

disappearance. This report may then not be forwarded to the State Coroner for some years.

The suspected death of Mr Brogden was not reported to the State Coroner by investigating police or the MPU, either upon suspicion of his death or upon the expiration of twelve months from his disappearance.

If the OPM was amended to mandate a period in which investigating police must report to the Coroner (rather than the MPU) unacceptable delays which may result in loss of evidence and concern to families could be avoided.

In the case of Mr Brogden's disappearance, there was no evidence adduced at the inquest which would indicate that the file was reviewed by MPU after periods of three and six months or that the matter was referred to the Homicide Investigation Unit (although it was clearly a suspicious disappearance) or that the OIC of Homicide was advised of the matter after the period of twelve months for advice to the State Coroner (as required by s 12.4.4).

Section 12.4.4 provides that where the coroner determines the missing person is deceased and that suspicious circumstances exist, the Coronial Support Unit is to forward the investigation to Homicide, State Crime Command and notify the victim's family of assistance available to them under the *Victims of Crime Assistance Act*.

## **Recommendations**

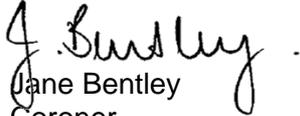
I make the following recommendations:

1. The Queensland Police Service amend Chapters 8 and 12 of the OPM to provide that a missing person must be reported to the State Coroner by way of QP 0608 report as soon as the investigating officer suspects that the missing person is deceased but, in any case, within twelve months of the date of the person's disappearance.
2. The Queensland Police Service conduct an annual audit of compliance with the chapters of the OPM relating to the reporting of missing persons to the coroner for three years from the date of amendment to the OPM with results to be provided to the State Coroner.
3. The Queensland Police Service conduct an audit of all files held by MPU to ensure that all disappearances occurring twelve months ago or more have been reported to the State Coroner.
4. The Officer in Charge of the Missing Persons Unit and/or the Coronial Support Unit refer the disappearance of Mr Brogden to Homicide, State Crime Command, as a death determined as being suspicious, as required by section 12.3.1(v) OPM.

## Findings required by s45

<b>Identity of the deceased –</b>	Jay Anthony Brogden
<b>How he died –</b>	Undetermined
<b>Place of death –</b>	In the area of the Whitsundays
<b>Date of death–</b>	On or about 21 April 2007
<b>Cause of death –</b>	Undetermined but of a suspicious nature

I close the inquest.



Jane Bentley  
Coroner  
CAIRNS

27 February 2015