



QUEENSLAND  
COURTS

## CORONERS COURT OF QUEENSLAND

### FINDINGS OF INQUEST

**CITATION:** Inquest into the disappearance of Sean Sargent

**TITLE OF COURT:** Coroners Court

**JURISDICTION:** Brisbane

**FILE NO:** 2013/137

**DELIVERED ON:** 25 October 2017

**DELIVERED AT:** Brisbane

**HEARING DATES:** 13 December 2016; 21 February 2017; 8 – 12 May 2017; 20 – 22 September 2017

**FINDINGS OF:** John Hutton

**CATCHWORDS:** Coroners: inquest, missing person, Army Officer, civilian police and military police investigations

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Senior Sergeant Shayne Maxwell:  
by (Initial lead police investigator) Adrian Braithwaite (instructed  
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Queensland Police Service: Mark O'Brien (Queensland  
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## INTRODUCTION

1. Sean Sargent turned 24 years of age two days before he went missing in the early hours of 20 March 1999. At the time of his disappearance, Sean was an Army Officer, holding the rank of Lieutenant and he was posted to the Enoggera Army Barracks in Brisbane.
2. Several theories have been posited for Sean's disappearance. I considered them all, including:
  - a. That Sean was a homosexual, leading a double life, and left because it was too difficult being gay in the Army;
  - b. That Sean intentionally disappeared to follow a covert lifestyle in another organisation such as the French Foreign Legion, Special Air Service, or Australian Security and Intelligence Office;
  - c. That Sean died through suicide;
  - d. That Sean died as a result of foul play; and
  - e. That Sean died by accident.
3. Two pre-inquest conferences were held on 13 December 2016 and 21 February 2017. The following inquest issues were settled:
  - a. The findings required by ss 43 (2) and (4) of the *Coroners Act 1958*, namely:
    - (i). The cause and circumstances of the disappearance of Sean Sargent;
    - (ii). Whether he is alive or dead;
    - (iii). If he is alive or likely to be alive - his whereabouts at the time of the inquest;
    - (iv). If he is dead or likely to be dead - the identity of the deceased person, how, when and where he died, what caused his death; and
    - (v). The persons, if any, to be committed for trial; and
4. The adequacy of the civilian police and military police investigations into the disappearance of Sean Sargent was also listed as an issue for the inquest without objection. However, I note that s 43(5) of the *Coroners Act 1958* prevents a coroner from expressing in his findings any opinion on any matter outside the scope of the inquest (presumably as set out in ss 43(2) and (4)) except in a rider which, in the opinion of the coroner, is designed to prevent the recurrence of similar occurrences. Therefore,

whilst I made my opinion about the adequacy of the civilian police investigation known throughout the proceedings, I will refrain from formerly addressing this issue as part of my findings. It is now a matter for the Queensland Police Service to make their own assessment about this and to determine whether they will take any further action.

5. As part of the coronial investigation, a large volume of material and a number of additional statements were gathered and distributed to the parties. I also heard oral evidence from the following 20 witnesses between 8 – 12 May 2017 and 20 – 22 September 2017:
  - a. Retired Sergeant James Andrew Hayes (the overseeing civilian police investigator from the Queensland Police Missing Person Bureau);
  - b. Detective Sergeant Shayne Robert Maxwell (the initial lead Queensland Police Investigator from the Indooroopilly Criminal Investigation Branch);
  - c. Detective Senior Sergeant Malcolm James Gundry (the lead police investigator in 2017, to explain the additional investigation completed by a police task force since the last inquest hearing and conclusions reached).
  - d. Senior Constable Michael Wayne Turner (Dive supervisor within the Queensland Police Service Diving Unit, who coordinated further searches in 2017 of the Brisbane River, three lakes at the University of Queensland, and the dam out the back of Enoggera Barracks);
  - e. Retired Army Sergeant Darren John Cripps (the sole Army military police investigator from 22 March until early May 1999);
  - f. Retired Army Warrant Officer Class 2 Allan James Williams (an Army military police investigator who took over from Sergeant Darren Cripps in early May 1999 and had joint conduct of the military police investigation until mid to late August 1999);
  - g. Retired Army Sergeant Thomas William Bere (an Army reserve military police investigator who had joint conduct of the investigation with the then Staff Sergeant Williams until mid to late August 1999 and then sole conduct of the military police investigation until around September 2001);
  - h. Nancy Joy Anderson (Sean Sargent's older sister);
  - i. Anthony Thomas Sargent (Sean Sargent's older adopted brother);
  - j. Sydney Thomas Sargent (Sean Sargent's father);

- k. Rachel Louise Kayrooz (Sean's girlfriend up until a few weeks before he went missing);
- l. Benjamin Nankivell (one of Sean's best Army friends since ADFA);
- m. Andrew Paul Juniper (one of Sean's best Army friends since his posting to Enoggera Army Barracks);
- n. Katrina Elizabeth Gubanyi (nee Bamberry) (a witness who came forward to the civilian police on 6 September 1999 alleging that Sean's friend Benjamin Snelling had said that there was "more than meets the eye" and that he went back to the Army Barracks with Sean at the end of the night that he went missing);
- o. Benjamin Edward Snelling (Sean's school friend since grade 8. He held the party on the night of Sean's disappearance and was one of the last people to see him. It was alleged that he said that he had gone back to the Army Barracks with Sean at the end of the night he went missing);
- p. Alicia Jean King (girlfriend of Benjamin Snelling at the time of Sean Sean's disappearance);
- q. Sean James Mann (a witness who came forward to the military police on 25 June 1999 alleging that he had met Sean Sargent at the Sportsman Hotel after he went missing on the evening of 31 March 1999 and that Sean had said that it was "difficult being gay in the Army");
- r. Kevin William Jones (a former Byron Shire Council Ranger who came forward to the civilian police on 19 April 1999 alleging that he had spoken to a man matching Sean's description, camping illegally at Suffolk Park, New South Wales, on 15 April 1999);
- s. Francis Leslie Duggan (A truck driver who came forward to the civilian police on 14 June 1999 alleging that he had met a person matching Sean's description travelling with another male, near Gilgandra, New South Wales, between late April and June 1999); and
- t. Michael Lindsay Smith, (Manager of the fraud department at Defence Bank, regarding an attempt by someone to make a purchase with Sean's Visa bank card a few weeks after Sean went missing on 15 April 1999 and other transactions of interest).

## **FINDINGS REQUIRED BY SS. 43(2) and (4)**

6. Pursuant to sections 43(2) and (4) of the *Coroners Act 1958* (Qld), I find as follows:
- a. ***The cause and circumstances of his disappearance*** - As set out in the circumstances outlined below.
  - b. ***Whether he is alive or dead*** - Sean Sargent is dead.
  - c. ***Identity of the deceased*** – The deceased person is Sean Sargent.
  - d. ***How he died*** – Sean most likely died in a single vehicle accident in the Brisbane river.
  - e. ***Place of death*** – Sean Sargent died in Brisbane in the state of Queensland.
  - f. ***Date of death*** – Sean Sargent died on 20 March 1999.
  - g. ***Cause of death*** – The medical cause of Sean Sargent’s death is unknown.

## **EVIDENCE, DISCUSSION AND GENERAL CIRCUMSTANCES OF DEATH**

### **Move to Australia**

- 7. Sean Sergeant turned 24 years of age two days before he went missing in the early hours of Saturday 20 March 1999.
- 8. By way of background, Sean was born in Gisbourne, New Zealand on 18 March 1975. He moved from New Zealand to Australia with his parents, older sister and older adopted brother when he was four years old. He also has a half-sister whom he was not close with and she is believed to be living in the United Kingdom.
- 9. Sean and his family moved frequently within Australia due to his father’s employment in the mining industry but they eventually settled in Mackay, North Queensland.

### **The death of Sean’s mother when he was 16**

- 10. Sean’s mother was described by his sister as a “highly functioning alcoholic”. She was a good mother to her children and Sean was very

close to her. His mother died of a heart attack when he was 16 years of age and in year 12. Sean performed CPR on her at home when she collapsed, but without success. His mother's death greatly affected him.

### **Sean's high achievement in his studies**

11. Despite the tragic death of his mother whilst he was in grade 12, Sean was very determined to keep working diligently with his studies. He completed his secondary schooling at Pioneer State High School in Mackay, achieving an overall position of 2 and 'runner up dux' of the school.

### **Sean's close relationship with his family**

12. Sean has been described by his sister, Nancy Anderson, as "fiercely loyal to his family". He was particularly close to his sister and her four children. He was also close with his brother, father and step mother.
13. Up until his disappearance, Sean would routinely call his sister on a weekly basis, even when he was busy. He phoned his father regularly, but less frequently. He would visit his family in Mackay, and stay with his sister every Christmas, to spend time with them.

### **Sean's career in the military**

14. According to Sean's sister, he had wanted to become a doctor when he finished school but he did not wish to be a financial burden on his father.
15. In January 1993, after finishing school, Sean joined the Royal Australian Air Force (RAAF). He was fully funded by the RAAF to complete a Bachelor of Electrical Engineering at the Australian Defence Force Academy (ADFA).
16. Two years into his studies at ADFA, Sean transferred to the Army. His military records indicate that the reason for his transfer was because he perceived that the Army would offer him greater promotional opportunities than the RAAF and he wanted more of a direct leadership role within a field environment.
17. As part of my coronial investigation, I obtained a full copy of Sean's military records. Sean's military record was largely unblemished.
18. Upon completion of his third year at ADFA at the end of 1996, Sean's overall performance was assessed as 'good'. He was considered to be intelligent and hard working, but at times had trouble getting his point across, sometimes adopting an aggressive tone. He was reported as having displayed a high level of confidence and ability, which he projected a little too assertively at times. Sean was accepted by his peers and able to interact on a social level. He had the ability to analyse problems and

implement workable solutions, although at times he could be a little set in his ways. Sean showed determination and dedication and it was assessed that he would make a strong junior officer.

19. Sean was subsequently promoted to the junior commissioned officer Army rank of 'Lieutenant' and he completed his final year of ADFA at the end of 1997.
20. In 1998, Sean completed his Officer training at Duntroon. He was assessed as having a good understanding of communication systems, displaying good organisational skills, and he coped well when put under pressure. Sean was assessed as having a relaxed and confident approach and he was very comfortable when speaking in front of his peers.
21. After completion of his Officer training in 1998, Sean received his first (non-training) posting to '1st Joint Support Unit' (1JSU) at Enoggera Army Barracks in Brisbane. He was appointed as a 'Troop Commander' and he was responsible for 30 – 50 troops. In his role as a 'Communications Information Systems Network Officer', he was also responsible for frequency management, cipher distribution, and cipher maintenance.
22. In July 1998, Sean made enquiries with his career manager as to whether he could be posted to the United States to further his education in the field of satellite communications. He was advised by his career manager that he was due for promotion at the end of 1999. In the meantime, he was considered to be too junior in rank for an overseas posting.
23. In September 1998, Sean received his first performance report as a Troop Commander at 1JSU. His overall performance was assessed as "very good". It was noted that Sean was a keen young officer who displayed an enthusiastic approach to service life. His positive attitude had helped him to assimilate quickly into the unit and to gain the respect of his colleagues. It was noted that Sean appeared eager to learn and that he responded well to advice. He was assessed as generally well organised. He was able to relate well with subordinates and peers. It was considered by his superior that Sean was "off to a good start in his career and had the clear potential for a strong career in the services".

### **Alleged altercation in Townsville (October 1998)**

24. Sean's military career arguably took a temporary backwards step the next month in October 1998. Whilst he was away in Townsville on an Army Exercise, he allegedly assaulted a bouncer at a local nightclub. This led to criminal charges being laid against him on 10 October 1998 and the incident was recorded on his military file.
25. The matter was subsequently withdrawn on 11 March 1999 after Sean took out a loan on 26 February 1999 and paid the bouncer \$4,000 in compensation.

26. According to Sean's sister, Sean had told her that he was involved in the altercation because he stepped in to defend a mate. There was also allegedly a scam going on in Townsville at the time where bouncers were filing assault complaints and then withdrawing them in exchange for money.
27. It would appear that the incident in Townsville caused Sean a moderate level of stress. He was placed on additional duties at Enoggera Barracks, and he was put on notice that any further incidents would lead to disciplinary action being taken against him.

### **The three months prior to Sean's disappearance**

28. Just prior to Christmas in 1998, Sean's older brother visited him in Brisbane. Sean was living with two females at the time and he was in a relationship with one of the females who had a young child. At that time, Sean informed his brother that one of the reasons he had joined the Army was for the university degree, so that his father did not have to pay for it. However, he was not in any way negative towards the Army.
29. Over Christmas of 1998, Sean visited his sister and family in Mackay. His sister stated that at the time Sean did not say a bad thing about the Army but he did say that he wished he had been a doctor so that he could help people.
30. In early 1999, Sean moved from the Commanders Mess at Enoggera Barracks into a private residence with a fellow junior officer at Ferny Hills. (The officer cannot be named now for national security reasons). Sean was not charged any rent by the junior officer, possibly because this would have affected the officer's Defence subsidised payments. The benefit to the junior officer was that Sean would look after his cat when he was away with his defacto (female) partner, who resided in Toowoomba. The benefit to Sean was that he got away from the substandard accommodation on base.
31. Interestingly, Sean continued to maintain a room at the Commanders Mess on base, whilst he was residing off base. This is possibly because Sean would not have been able to be declared as a tenant at the private residence without his colleague's rental subsidy being affected. It would also have been cheaper for Sean to continue to pay for a room on base, so that he could dine at the Officers Mess on base at discounted rates.
32. Also in January 1999, Sean was re-acquainted with an old school friend of his, Benjamin Snelling. According to Benjamin Snelling, they ran into each other one afternoon at Spring Hill after Benjamin had finished work. They later caught up for drinks on two separate occasions, prior to the party at Benjamin's house from which Sean went missing.
33. On 18 and 20 January 1999, Sean sent two emails to his girlfriend, Rachel

Kayrooz. She considered his email on 20 January 1999 to be out of the ordinary at the time. The emails were as follows:

- a. *"Hi, just thought I'd test your address. Reply if you are intact [sic] the right person and not Rachel Krakarov from the far reaches of Siberia"; and*
- b. *"Hi, how are you? I am just writing you a quick letter so as to prove that I am gracious enough to return your correspondence. I am having a very dull but still busy day, yet at the same time I am getting absolutely nothing done as I can't find any of the people I need to talk too. This sucks so bad I think I may top myself and end the entire miserable existence. At least there is always the ever inspiring idea one day I may grow old catch some terrible mind destroying disease and die in a pool of my own vomit only to have all the money I spent my entire life trying to save be given to my ungrateful and no doubt homosexual, criminal inlaws. I'm hungry. Sorry I just meant to think this but somehow it got written on the screen*

*I'll speak to you soon*

*Sean"*

34. In the second email, Sean appears to be joking about committing suicide. In my view, this was not a serious contemplation of suicide. It was an indication of Sean's quirky (and perhaps even dark at times) sense of humour. One of Sean's close friends, Ben Nankerville, has likened Sean's sense of humour to that of Monty Python.
35. In February 1999, Sean commenced a 'Masters of Business Information Technology' course at the University of Southern Queensland, which was partly subsidised by Defence.
36. On 26 February 1999, Sean took out a loan for \$4,000 and drew a cheque for the same sum to pay compensation to the bouncer whom he had allegedly assaulted in Townsville. The result was that the complaint against Sean was discontinued and the criminal charges against him were withdrawn. I note that \$4,000 was a significant portion of Sean's income at the time. In my view, this indicates that Sean valued his future military career. A continuation of the charge may have affected his short-term promotion prospects.
37. I also note that Sean paid \$408 for a Qantas flight on 6 February 1999. The amount indicates that the flight is likely to have been domestic. It is unknown where the flight was to, or if Sean ever went on the flight. It is, however, a reasonable assumption that the flight booking was to Townsville in relation to court, or settlement with the bouncer.
38. In late February 1999, Sean broke up with his girlfriend, Rachel Kayrooz. The Missing Persons Bureau Running Log indicates that Rachel advised

police that they broke up on Valentines Day. However, Rachel stated in oral evidence that they broke up around late February. Rachel stated that Sean was kneeling next to the bed upset and crying. He said that he could not be in a relationship with her anymore because there was something he needed to do but he didn't want to. He did not discuss what it was that he needed to do. Rachel explained in oral evidence how Sean was a real gentleman. In my view, the circumstances of Sean's break up with his girlfriend a month prior to his disappearance is not an indication that Sean was making preparations to disappear or that he was suicidal. It is clear that Sean became very close with Rachel in a very short period of time (around five weeks) and he would not have wanted to hurt her. Sean was about to get much busier with his university studies, Army Exercises, and a possible deployment to East Timor (although it is unclear whether he was on notice to deploy at the time of his disappearance).

39. On or around 12 March 1999 (a week prior to his disappearance), Sean had a conversation with Andrew Juniper at the Commanders Mess over dinner. Andrew stated that Sean said to him that he:
- a. was *"not exactly happy with his managerial role in the Army"*;
  - b. *"he preferred to get his hands dirty"*;
  - c. he *"could not understand why anyone would commit suicide as there were more things to do in life - even to go fruit picking"*; and
  - d. *"suicide was a cowards way out" and it was "easy just to change your name and disappear, even go overseas"*.

Sean's comments about suicide were in the context of conversation about another Army member who had committed suicide. Andrew Juniper's interpretation of these statements should be accepted. He considered that these were statements of support by Sean and that he believed them to be a genuine reflection of Sean's view that suicide was not a reasonable solution to personal problems.

40. Also on or around 12 March 1999 (a week prior to his disappearance), Sean met up with Benjamin Snelling for drinks at the Down Under Bar in the city. According to Benjamin, Sean told him that he was not happy with his duties in the Army or with the delegation process in the Army. This would appear to be consistent with the issues raised by Sean with his friend Andrew Juniper around the same time. However, neither Andrew nor Benjamin were of the opinion that Sean was seriously unhappy in the Army. It would appear that this was no more than an expression of low-level workplace frustration, no more than you would usually expect during a social gathering with a friend.
41. Sometime in the week prior to his disappearance, Sean contacted his ex-girlfriend, Rachel Kayrooz, and Andrew Juniper and arranged to catch up with them separately over the weekend that he disappeared, but never

did. This indicates, in my view, that Sean had future plans.

42. On 16 March 1999 (three days before his disappearance), Sean's phone records indicate that he phoned an '02' phone number for a duration of 110 seconds. The phone number was traced to a 'Wesley Divall', who was operating a floor sanding business in Plumpton, New South Wales, at the time. The significance of this phone call was that it was the only phone call made from Sean's mobile phone in the two weeks prior to his disappearance. Wesley Divall denied that he knew Sean and that they had a phone conversation. In my view, there is no reasonable connection between Sean's disappearance and this phone call. However, it is unlikely that Sean would have called an incorrect phone number or left a phone message, given the length of the phone call and the cost of mobile phone calls in 1999. Police checks indicate that the phone call would have been made at or near Enoggera. One possible explanation is that Sean lent his mobile phone to someone on base, who needed to make an interstate phone call.
43. On 18 March 1999, the day before Sean's disappearance, he drew a cheque for \$1,665 from his Defence Force Credit Union bank account payable to the University of Southern Queensland in relation to his continuing studies he had also paid for university books on 25 and 27 February 1999 for \$80.90 and \$69.90). Sean was in overdraft of \$1,963.30 at the time of his disappearance. This is almost entirely attributable to the cost of his university studies. This indicates that Sean was continuing to take his future study and career progression seriously, and that he had future plans.
44. Incidentally, on 18 March 1999, it appears that Sean also ordered a new Visa Card from the Defence Force Credit Union at a cost of \$5.00. Again, a person without future plans does not usually go to the effort of ordering in a new bank card on the eve of their disappearance.

### **The night before Sean's disappearance (19 March 1999)**

45. On the night prior to Sean's disappearance on Friday 19 March 1999, a receipt from the Regatta Hotel shows that he purchased a bottle of (an unknown quantity) Vodka and a 1L bottle of Coke at the Regatta Hotel at 8:04pm.
46. It would appear that he then drove to his school friend, Benjamin Snelling's house, at 52 Orchard Terrace, St Lucia, where a party was being held. Given the short distance, Sean would have arrived at Benjamin's house by around 8:20pm.
47. It does not appear that Sean was overly familiar with the area. It was the first time he had been to Benjamin's house. Before he left, he had borrowed his housemate's 'Brisways' Street Directory, because the St Lucia section in his directory was missing.

48. Around 15 to 20 people were in attendance at Benjamin's party, but it does not appear that Sean knew anyone there except Benjamin.
49. Sean was observed by Benjamin as being "somewhat excited" and the "life of the party". Another housemate, Anna Van Geuns, also stated that Sean was "quite talkative and telling lots of stories". He was "quite animated" whilst he was talking, and seemed to be in good spirits. He didn't seem to be heavily drunk.
50. Ann Van Guens was also at Benjamin's party. She stated that she remembered that at one point in the night, when Sean was telling lots of stories, he used the word 'AWOL' (ie. absence without leave). She cannot remember the context in which he used the word, as in she does not know if he was talking about something that had happened, or was going to happen. She believes Sean was joking about himself going AWOL.
51. At about 11:00pm, Sean and three others: Benjamin Snelling; Alicia King (Benjamin's girlfriend at the time); and Adam O'Donnell (a close friend of Benjamin's), drove to a second party at 260 Hawken Drive, St Lucia. Adam O'Donnell drove in his pink Kombi van as he was not drinking that night.
52. The second party was at a share house where a friend of Benjamin Snelling's, Carsten Neilson, lived.
53. On the way to the second party, Benjamin stated that Sean attempted to kiss and cuddle his girlfriend, Alicia King. Adam pulled over the car and Benjamin sat in between Alicia and Sean. Benjamin provided an odd explanation in oral evidence as to why this incident didn't annoy or upset him at the time. He stated that he just thought that Sean might have been displaying affection towards him by being affectionate to his girlfriend. Benjamin stated that the only reason he intervened was because Alicia was complaining. Alicia stated that due to the passage of time and her alcohol consumption at the party, she does not recall going to the second party, nor the incident in the car. She stated that Benjamin was not the jealous type, nor was he aggressive.
54. They arrived at the second party at St Lucia at about 11:15pm but they only stayed there for around 15 minutes because Sean got into an altercation.
55. There were around 100 people at the party. It would appear that the cause of the altercation was that Sean had picked up one of two heavy statue lions (weighing around 15 – 20kg) from the front porch of the residence and placed it on top of a front fence post. When Sean was asked to return the statue by a resident, Cameron Forster, he allegedly head-butted Cameron. He was subsequently wrestled to the ground by up to four male persons. The altercation was broken up by Adam O'Donnell and another resident of the house, Richard Harvey.

56. Cameron Forster was an Army reserve member and it would appear that a number of Army reserve personnel from the Queensland University Regiment (QUR) were also in attendance at the second party. The military police followed up with QUR members at a parade the night after Sean's disappearance, however, no statements were taken and if notes were taken, they cannot be located. It does not appear that anyone knew Sean at the second party.
57. Sean, Adam O'Donnell, Benjamin Snelling and Alicia King drove back to Benjamin's house and arrived at around 11:45pm.
58. Benjamin Snelling stated to police that when they returned to his house, they all sat on the balcony and had a drink of water. Sean appeared "very introverted" and commented that he "couldn't understand how the incident happened". Benjamin stated that he and his girlfriend, Alicia, went inside to listen to some music. Sean and Adam O'Donnell remained talking on the balcony and then later left. However, Benjamin did not actually see them leave.
59. Adam O'Donnell died through suicide in November 2002 and police did not obtain a statement from him. However, during a phone conversation with the police on 10 April 1999, he informed them that the night of 19 March 1999 was the first time he had met Sean. He stated that at about midnight, he left Benjamin Snelling's house to drive home. He was about to start his car when Sean walked past. He was aware that Sean was "depressed". He said to Sean: "These things happen (ie. the fight). Forget about it". He also told Sean that he should not drive due to his intoxication. Sean then replied that he would have a "sleep in his vehicle".
60. Adam O'Donnell advised police that he didn't see Sean return to his car, nor did he see him drive off. In fact, he did not see Sean's car at all that night. Adam then drove home.
61. It would appear that over the course of the night, Sean consumed at least half a bottle of a 750mL to 1L bottle of Vodka. This appears so from Benjamin's oral evidence that he found a half empty bottle of Finlandia Vodka in his kitchen the next morning. He stated that he remembered this because university students didn't usually drink Finlandia Vodka, and he finished the rest of it off. The QUR Army Reserve members spoken to by the military police stated that Sean had "virtually consumed" the whole bottle of Vodka. It would also appear likely that there was marijuana use at Benjamin's house that evening, however, no evidence that Sean participated.
62. I note that at the time of Adam O'Donnell's death, he was in a relationship with a transsexual girlfriend. Further enquiries were made in relation to Adam O'Donnell's sexuality due to the rumour that Sean was living a double life as a homosexual, and the fact that he and Adam were last seen leaving the party together. However, according to Adam O'Donnell's transsexual girlfriend, Adam did not begin to explore his sexuality until

sometime after Sean's disappearance.

63. Sean's colleague and housemate was home all day on Saturday 20 and Sunday 21 March 1999 but Sean did not return home. His housemate did not consider this unusual because Sean would often be gone for the entire weekend. He was, however, concerned when Sean did not return on Sunday evening because he would usually be home by then, so as to prepare for the next day.

### **Discovery that Sean was missing on 22 March 1999**

64. On Monday 22 March 1999, Sean did not report to duty at 1 Joint Support Unit at Enoggera Army Barracks. This was out of character for him as he always reported to duty on time and did not take many sick days.
65. The military police conducted initial enquiries, and when they failed to locate Sean, they reported him missing to the civilian police at about 4:00pm on 22 March 1999.
66. An Army warrant was subsequently issued for Sean's arrest on the basis that he was allegedly 'Absent Without Leave' from his place of duty. This was as per the usual military processes.
67. Sean's family was never advised by the Army that there was a warrant out for Sean's arrest.

### **Allegation that Benjamin Snelling went back to barracks with Sean on the night of his disappearance**

68. Sergeant Hayes and another Detective from the Missing Persons Bureau attended the residence of the second party (260 Hawken Drive, St Lucia) on 6 September 1999 and spoke with a resident, Trinity Gilmore. Trinity advised police that that her housemate, Kate Bamberry, had spoken to Benjamin Snelling on the phone three or four weeks ago (ie. between 9 – 16 August 1999) and Benjamin had inferred that Sean had been located.
69. This appears to have prompted police to make contact with Kate Bamberry. Kate Bamberry was not home, so they left a message for her to call them on 6 September 1999. Kate Bamberry returned their phone call on 7 September 1999. According to Sergeant Hayes' handwritten notes, Kate advised him that she had a telephone conversation with Benjamin and they were discussing the possibility of Kate moving in to his house. Kate said to Benjamin that she was very sorry about Sean being reported missing. Kate alleged that Benjamin replied:
  - a. *"Oh yeah, but I am over that now. There's a lot of issues that people don't know about. Look, after the party we went back to the Army Barracks and I was with Sean".*

70. Kate Bamberry (now Gubanyi) provided two statements to the police and oral evidence at the inquest. Whilst she could not recall Benjamin ever asking her to move in, she accepted that he might have. She stated that she would not have moved in with him because she already had a residence. She was not in a relationship of any kind with Benjamin. She stated in oral evidence that they had only met twice - once at the party at her house on 19 March 1999 and another time at a party one to six months later (ie. between 19 April and 19 September 1999).
71. Kate stated that at the party one to six months after 19 March 1999, Benjamin said to her:
  - a. *"There is more that meets the eye"*, or
  - b. *"There is more to the story"*, when referring to Sean's disappearance.
72. Kate explained that at that stage she was studying journalism at the University of Queensland. She was particularly interested in the story of Sean's disappearance because she and another girl, Denise Noblet, had produced (or were about to produce) a five-minute 'video report' about his disappearance.
73. Kate stated that at the party where the conversation took place, Benjamin did not have a girlfriend with him. She thought that what he said might have been true or that he was just a 'bit flirty' and just trying to impress her to get attention. She agreed that she must have exchanged phone numbers with Benjamin, however, she was not romantically interested in him, just in the story.
74. Kate Gubayani presented as a credible and reliable witness and there was no reason for her to lie.
75. However, Benjamin Snelling has consistently denied to the police that he ever said to Kate Bamberry that he went back to barracks with Sean. He has also always denied that he ever went back to barracks.
76. In oral evidence at the inquest, Benjamin was initially confused about who Kate Bamberry was. However, when the potential link between Benjamin's friend, Carsten Nielsen, and Kate Bamberry was explained to him, he conceded that he might have said to Kate that he went back to barracks with Sean. However, he denied ever going back to barracks. When asked why he would have made the story up if he did not actually go back to barracks with Sean, Benjamin's explanation was that he would have done so to get the pressure off him. He was sick of everyone asking him what had happened to Sean. This was yet another odd response from Benjamin. He must have known that telling a journalist student that he went back to barracks with Sean and that there was more to the story, would create intrigue and bring attention to him, not take the pressure off him. Benjamin denied that he made up the story to impress a girl.

77. Benjamin Snelling's girlfriend, Alicia King, has a limited memory of the evening of 19 March 1999 due to her alcohol consumption. She could not rule out the possibility that Benjamin left his house between midnight and the next morning, because her usual habit was to pass out and go to sleep. She did state, however, that Benjamin must have been in bed with her when she would have woken up (around mid morning) because it would have been unusual if he wasn't and she would have remembered that.
78. There is no evidence that Benjamin Snelling went back to barracks with Sean after he left Benjamin's house in the early hours of 20 March 1999. Benjamin, however, was not a credible witness and he seemed to treat the inquest process as a game. He was evasive with his answers and his claim that he was genuinely concerned for his friend after his disappearance did not line up with his actions leading up to the inquest and his attitude in court. For example, he initially refused to sign his last statement after spending hours with the police, claiming that he was sick of signing his signature. At the end of his oral evidence in court, he asked whether he could keep the coronial documents he had been taken to during his evidence as a 'souvenir'. When he was told no, he asked if he could keep the plastic water cup.
79. Further, Benjamin's responses to why he would have made up the story that he went back to barracks made no logical sense. However, whilst Benjamin presented as a very odd character, he has no criminal history and he does not appear to be the violent or jealous type. It is unlikely, in my opinion, that he was involved in any foul play on the night of 19 March or early morning of 20 March 1999. Benjamin was merely an attention seeker. His actions caused the police unnecessary work and Sean's family unnecessary distress.

### **Unsubstantiated rumours that Sean was homosexual and leading a 'double life'**

80. Central to the theory by initial civilian police and military police investigators that Sean was still alive, was their belief that Sean was homosexual, leading a 'double life', and that he had fled because it was too difficult to remain in the Army as a homosexual.
81. The basis for this belief appears to have been:
  - a. A rumour within the Army that Sean and one of his best Army friends, Andrew Juniper, were in a homosexual relationship;
  - b. An alleged conversation that a homosexual, Sean Mann, had with a man matching Sean Sargent's description at the Sportsman's Hotel in Spring Hill about the difficulties of being gay in the Army, two weeks after Sean's disappearance;
  - c. Some friends and family stating that Sean would occasionally go out

to gay bars / nightclubs;

- d. That Sean had won a 'gay porn' magazine at a novelty bingo night that he attended with his girlfriend, and took the magazine back to Barracks and left it in the store room near his accommodation; and
  - e. Some friends and family indicating that although they had never known Sean to be homosexual and that he had plenty of girlfriends, they could not rule it out.
82. However, there is no evidence that Sean was homosexual or living a double life because:
- a. The rumour within the Army was started by one person and that was the initial police military investigating officer, Sergeant Darren Cripps. Darren Cripps could not name his source and he conceded that he had no evidence to support the rumour, yet he still reported his belief to the Missing Person Bureau that Andrew Juniper and Sean were gay on 28 April 1999;
  - b. Sean and Andrew Juniper were clearly not in a homosexual relationship. Darren Cripps conceded in oral evidence that he had no evidence to support the rumour. Andrew Juniper strongly denies that he is, or was ever, a homosexual and he denies being in a homosexual relationship with Sean. Darren Cripps should have known this because military police records indicate that he spoke with Andrew at his residence on 24 March 1999 and there was 'nothing to report'. Andrew is married to a female. He and Sean were simply good friends of similar ages who both resided in the Commanders Mess and frequently socialised together. Andrew was a credible and reliable witness;
  - c. Sean Mann was not a credible or reliable witness. Therefore, his alleged sighting of Sean and their conversation, cannot be relied upon (this will be discussed further below);
  - d. Although Sean may have sometimes gone to gay bars / nightclubs, this did not mean that he was homosexual. There was ample evidence that he frequented a number of heterosexual pubs and nightclubs. The only evidence of him attending a gay club was with one of his ex-girlfriends, and this was for a weekly comedy bingo night, at her insistence;
  - e. Taking a 'gay porn' magazine back to Barracks and leaving it in the Storeroom at the Commander's Mess in 1999, is a reflection of Sean's quirky sense of humour, not his sexuality. Friends have explained that this is exactly the sort of thing Sean would have done to stir up some of the more senior officers who would not have been comfortable with homosexuality in the Army in 1999. If Sean really was leading a double life and hiding his sexuality, he would have

hidden the magazine in his room, not for all to see in a public Storeroom; and

- f. Sean had numerous girlfriends and it was clear that he was attracted to women. All of his ex-girlfriend's interviewed during the course of the investigation were of the view that he was very much heterosexual. Sean had a number of images stored on his personal computer of a heterosexual pornographic nature. There were no images or internet searches of a homosexual nature.

### **Unsubstantiated rumours that Sean was on steroids**

83. The initial military police investigator, Sergeant Allan Williams, advised the civilian police Missing Persons Bureau on 12 April 1999 that he suspected that Sean was *"using steroids and working out in a gym because he was gaining muscle mass very quickly"*.
84. In oral evidence, Darren Cripps could not name his source. He conceded that there was no evidence at all that Sean was using steroids and that it was just gossip and hearsay.
85. A number of friends and family were asked to comment on whether Sean ever took steroids and it is clear that he did not.

### **Sighting by Sean Mann at the Sportsman Hotel, Spring Hill, on evening of 31 March 1999**

86. After a story about Sean's disappearance was aired on the TV show 'Australia's Most Wanted' in April 1999, as well as other media reporting, a few witnesses came forward with alleged sightings of Sean.
87. On 16 April 1999, the civilian police received a call from 'Australia's Most Wanted', stating that a person by the name of Sean Mann, residing at Graceville in Brisbane, had contacted the show advising that he had a long conversation with Sean Sargent at the Sportsman Hotel on 31 March 1999 (two weeks after Sean's disappearance).
88. On 25 June 1999, the civilian police were contacted by Sergeant Bere from the military police, who stated that he had interviewed Sean Mann and that he had definitely identified Sean Sargent as the person he had drinks with on 31 March 1999 at the Sportsman Hotel. Sergeant Bere kept notes of their conversation, indicating that Sean Mann had been drinking with Sean Sargent for approximately 2.5 hours. Sean Mann also provided a description of what Sean Sargent was wearing.
89. On 1 July 1999, police were contacted by a Sergeant Williams from the military police revealing further information from Sean Mann. Sean Mann informed them that Sean Sargent was involved with another male who had a connection to the Newtown area of Sydney. He also stated that

Sean Sargent frequented the 'Options nightclub' and the 'Sportsman Hotel' in Spring Hill.

90. On 6 September 1999, Sergeant Hayes interviewed Sean Mann at a café in Graceville. Sean Mann stated that he was homosexual and he confirmed that he had drinks with a man matching Sean Sargent's description at the Sportsman Hotel at Spring Hill on the evening of 31 March 1999 for around two and half hours.
91. Sean Mann recalled that the man's first name was Sean because they both had the same first name. Sean Mann stated that the male person said to him that he was in the Army and he was gay and that it was difficult being gay in the Army. He stated that the man said to him that he was a binge drinker and that it ran in the family. He noticed that the man was "very toey" and "not mentally stable" and he tried to calm him down. He stated that the man remained at the Sportsman Hotel, drinking alone, when he left that evening.
92. In my view, Sean Mann was not a credible or reliable witness because:
  - a. Sean was never shown a photo board or similar by the police at the time. He was relying on photos and footage in a TV show;
  - b. Sean would consume around 20 – 30 rum and cokes in an evening at the Sportsman's Hotel. This brings into question the accuracy of his recollection of events;
  - c. Sean had a history of heavy drug use (further details about this are subject to a non-publication order);
  - d. Sean had a criminal history in relation to a fraud matter (further details about this are subject to a non-publication order);
  - e. Sean professed in oral evidence to have a particular skill in identifying features and he explained that was how he was able to recognise Sean Sargent. However, he could not indicate any particular features that he recognized about Sean Sargent, including the possibility of scarring from previous burns as a child;
  - f. Sean seemed to have an agenda in terms of his perception that the Army was unwilling to acknowledge that they had homosexuals in their organisation in 1999. Sean Mann was an openly gay man and his father was a Colonel in the Army. In oral evidence, he seemed to constantly turn the conversation back to him and his upbringing during oral evidence, which indicated that he may well have been an attention seeker; and
  - g. In any event, Sean Mann conceded that it was possible that he in fact met the man he thought was Sean one to two weeks prior to his disappearance. There was nothing significant about 31 March 1999

that made him certain his sighting was on that date.

### **Sighting by Kevin Jones at Suffolk Park, NSW, on 15 April 1999**

93. On Sunday 18 April 1999, a newspaper article regarding Sean's disappearance was published in the Sunday Mail. A Byron Shire Ranger, Kevin Jones, recognised the photo of Sean Sargent and contacted the civilian police Missing Persons Bureau on Monday 19 April 1999.
94. Kevin Jones stated that he attended to an illegal camper matching Sean's photograph on Thursday 5 April 1999 out the back of the Crosby Caravan Park at Suffolk Park (now known as the 'Byron Holiday Park'), at Byron Bay.
95. Kevin Jones provided two statements to police in 2016 and 2017. He also provided oral evidence at the inquest via video link. It is important to note that prior to Kevin's employment with the Byron Shire Council, he was a general duties police officer with the New South Wales police force for 31 years, reaching the rank of Senior Sergeant, and a member of the Army Reserve (the then Citizen Military Force) for 20 years, reaching the rank of Warrant Officer Class 2. In his prior capacity as a police officer, he had conducted a number of investigations. In his capacity as an Army Reserve member, he had significant experience training soldiers in the use of firearms and in field activities.
96. Kevin Jones provided the following information:
  - a. The campsite was immaculate and hidden in dense vegetation about 50m from the outside of the caravan park fence. However, there was a fireplace set up, suggesting that the man was not trying to conceal his location at night;
  - b. In his oral evidence on 12 May 2017, Kevin stated that he could not recall whether it was a properly constructed tent or whether it was "that blue...stuff stretched out to look like a tent". However, in his addendum statement dated 8 June 2017, Kevin stated that the shelter was made of blue plastic, open on both sides and about six foot off the ground. Kevin has always stated that there was a mosquito net;
  - c. There were scratch drains dug in around the campsite to drain any water away from the shelter if it rained;
  - d. In his oral evidence on 12 May 2017, Kevin stated that he was about five to six feet away from the mosquito net when he had a five-minute conversation with the man. The man was lying down, with his feet towards Kevin and his head furthest away. He stated that he could not recall how the man was laying on the bed but he could see his face, even though the shelter also casted a shadow over him.

However, in his addendum statement dated 8 June 2017, Kevin stated that the male was propped up lying underneath the shelter. He thought that the man may have been sitting against a tree or a shrub but he could not remember;

- e. Kevin introduced himself and told the man that he was camping illegally. In his statement dated 30 December 2016, Kevin stated that he gave the man 24 hours to vacate, or he would receive a fine. However, in his addendum statement dated 8 June 2017, Kevin stated that he gave the man three days to vacate;
  - f. During their short conversation, the man said something about being in trouble in Queensland and indicated that he had been camping there for about two months. However, as the New South Wales Easter school holidays were from 2 – 18 April 1999, Kevin stated that the area would have been regularly patrolled, so the man could not have been at the site any more than seven to ten days without being discovered;
  - g. The man stood out to Kevin for a number of reasons. Initially, he remembers thinking that he had some military experience due to the way that the campsite had been set up and his physical appearance. He was different to most illegal campers that he dealt with in that he was clean-shaven, looked after himself and he was respectful;
  - h. Kevin cannot recall what camping equipment he had but he can recall that the man had a fairly new looking black coloured mountain bike that he had up against a tree. Kevin did not see a vehicle in the vicinity but he considered that the man would have required a vehicle due to the amount of camping equipment he had. Vehicles could only be driven up to the gates around 50m away; and
  - i. On 19 April 1999, Kevin accompanied Detective Senior Sergeant Ron Brown from the Byron Bay Criminal Investigation Branch to the campsite but the man had left. The campsite was immaculately cleaned up. It was, however, obvious that there had been a campsite there due to flattened vegetation.
97. I note that Sean was not known by his friends or family to ride bicycles and he does not appear to have owned one at the time of his disappearance. Sean's sister was also of the opinion that he was unlikely to have gone camping because although they did a lot of camping growing up in regional Australia, Sean showed little interest in camping later in life. However, this is in potential contrast with the statement of one of Sean's ADFA friends, Andrew George. Andrew stated that whilst at ADFA, he was aware that Sean went hunting, rock climbing and camping around the Canberra and Brisbane areas, but he was not sure how often.
98. I also note that in the week prior to Sean's disappearance, Sean's ex-girlfriend, Rachel Kayrooz, mentioned in a telephone conversation with him that she had been camping to Byron Bay with friends, and Sean

mentioned that it was nice there. This indicates that Sean may have been familiar with the Byron Bay area.

99. There was also a failed transaction on Sean's Defence Force Credit Union bank card on 15 April 1999, where the user had entered the incorrect pin. The incorrect PIN had been entered twice before on Sean's bank card prior to his disappearance, so it was not necessarily unusual for Sean to forget his PIN. However, the location of this transaction, and the person who attempted to use Sean's bank card, is unknown.
100. In my view, although Kevin Jones was a credible witness, his identification evidence cannot be relied upon because:
  - a. He was never shown a photo board or similar by police at the time. He was relying on a single photo in a newspaper article;
  - b. He was a reasonable distance away from the man when he spoke with him;
  - c. they were talking through a mosquito net, which would have obstructed his view;
  - d. the shelter had cast a shadow over the man's face;
  - e. the man's face was furthest away, and the man appears to have either been fully lying down or significantly reclined;
  - f. there was nothing necessarily unique about the campsite that put beyond doubt that it was an army person, or Sean Sargent; and
  - g. there were inconsistencies in key pieces of information provided by Kevin.

## **Sighting by Francis Duggan, near Gilgandra, New South Wales, between late April and 11 June 1999**

101. On 14 June 1999, a truck driver, Francis Les Duggan (known as 'Les'), contacted police and advised them that towards the end of April 1999, he was driving between Warren and Gilgandra in New South Wales, when he met two male persons at a roadside stop. He had seen a TV show about Sean Sargent's disappearance and he believed one of the male persons he had met on the road side was Sean.
102. There are far too many inconsistencies in Les' statements and oral evidence to place any reliance on his identification evidence. Examples include:
  - a. In Les' phone conversation with the Missing Persons Bureau on 14 June 1999, he is recorded as saying that he was "not sure of the type of vehicle". Whereas, in Sergeant Bere's notes relating to a phone conversation he had with Les on 25 June 1999, Les is recorded as saying it was a "blue Falcon sedan". Whereas, in Les' statement dated 8 June 2017, Les stated that it was either a "green or blue Falcon station wagon, EF model, and manufactured between 1995 and 1998. He stated that he knew this because he was familiar with Ford Falcons, having done a lot of work on them. I note that the vehicle that Sean owned at the time of his disappearance was a 1992, blue Ford Falcon, X/EB model;
  - b. In Les' phone conversation with the Missing Persons Bureau on 14 June 1999, he is recorded as saying that the vehicle "definitely had Qld plates". In Sergeant Bere's notes relating to a phone conversation he had with Les on 25 June 1999, Les is again recorded as saying that they were "Qld regn plates". Whereas, in Les' statement dated 8 June 2017, Les stated that he didn't see the registration plate as the tailgate was down. He confirmed this in his oral evidence during the inquest;
  - c. In Les' phone conversation with the Missing Persons Bureau on 14 June 1999, he is recorded as saying that the sighting was "towards the end of April 1999". According to information Sergeant Bere provided to the Missing Persons Bureau on 25 June 1999 after his telephone conversation with Les, the sighting was the "end of April" but the "exact date was unknown". According to Sergeant Bere's notes, Les had stated that the logbook of the vehicle he was driving on the night in question was not available at that time but he was going to confirm the date with Staff Sergeant Williams early the following week. Whereas, according to Les' statement dated 8 June 2017 and his oral evidence, he did not keep a logbook. He also provided evidence which would indicate that his sighting was on 11 June 1999. (This was deducted from his statement that he saw a media report about Sean Sargent's disappearance and recognised them as the men he had seen two days earlier. He then reported his

sighting the next day. His first report was on 14 June 1999); and

- d. For the first time, Les provided additional evidence in his statement dated 8 June 2017, that one of the men introduced himself as 'Sean' and that Sean said he worked in "satellite communications or technology". This information was provided after Les had been viewing media reports on the internet about Sean's disappearance, which would have contained this information.

103. Given the clear unreliability of Les' evidence, I will not elaborate any further on Les Duggan's recollection of his conversation with the men on the side of the road.

### **Attempted use of Sean's bank card on 15 April 2017**

104. On 15 April 1999, over three weeks after Sean's disappearance, there was a failed attempt by an unknown person in an unknown location to purchase something with Sean's Defence Force Credit Union Visa savings card. The incorrect PIN was entered and Sean's account was charged \$2.00.

105. I note that prior to this, an incorrect PIN had been entered using Sean's Visa savings card twice before. Once on 4 March 1998, after which Sean appears to have ordered a replacement card. And again on 3 March 1999, a couple of weeks prior to Sean's disappearance.

106. On 18 March 1999, the day before Sean's disappearance, he ordered a replacement Visa card. However, Sean did not receive his replacement card prior to his disappearance. It is unknown why Sean ordered a new Visa card. It could have been because he forgot his PIN (because in 1999, there was no ability to reset the PIN using the same card) or it could have been because his card was lost or stolen.

107. It is unknown whether Sean had his Defence Force Credit Union Visa card with him on the night of his disappearance because he did not make any transactions with it. His purchase of the Vodka and Coke was on his NAB card (as confirmed by NAB to the Missing Persons Bureau on 6 April 1999).

108. If Sean's card had been lost or stolen a couple of weeks prior to his disappearance, that may explain the attempted use of his Visa card on 15 April 1999. It is also of course possible, that he misplaced his card on the night of his disappearance. He was drinking and moving between parties. He was also involved in a scuffle, at which time he may have lost his wallet or card.

109. I note that the Defence Force Credit Union Visa card in 1999 looked very similar to a credit card and Sean's signature would have been on the back of the card. A person who found or stole Sean's card may have attempted to make a purchase with the card, thinking that it was a credit card, and

that they could fraudulently sign for it. However, they would have instead been asked to enter a PIN by the shop attendant. So as not to draw unnecessary attention, they may have attempted the PIN. Upon realising that it was a debit card and not a credit card and that a PIN was required, they may not have bothered attempting to use the card again.

## **The military police investigation**

110. A military police investigation was conducted into Sean's disappearance because he was alleged to have been 'absent without leave' (AWOL) and the Army was also concerned about his welfare. It was unusual for officers to go AWOL and it was out of character for Sean not to report to work.
111. There is no evidence that that military police had 'stonewalled' the civilian police, as suggested by Detective Senior Sergeant Maxwell. It is clear that the military police and civilian police (in particular the Missing Persons Bureau) were working closely together, and sharing information, in order to locate Sean.
112. A dot point brief was faxed by the military police to the Missing Persons Bureau on 5 April 1999. According to the brief, Sergeant Darren Cripps, as the initial sole military police investigator, took the following action on the first day Sean did not report to work (22 March 1999). He:
  - a. Contacted the Ferny Grove police, but there was nothing to report;
  - b. Contacted all public hospitals, but there was nothing to report;
  - c. Tried to phone Sean's mobile phone number but to no avail;
  - d. Attempted to gain access to Sean's mobile phone records from his mobile carrier, but were informed that only civilian police could obtain such records;
  - e. Received information from Sean's housemate that Sean attended a party on the Friday night with a friend named Benjamin Snelling;
  - f. Attended the Ferny Grove Police Station and filed a Missing Person's report;
  - g. Confirmed with the civilian police that no unidentified persons had been injured or found;
  - h. Contacted all hospitals again, but there was nothing to report;
  - i. Contacted all 'Snellings' in the phone book;
  - j. Contacted the Mackay police, but there was nothing to report;
  - k. Contacted all Mackay hospitals; and



114. It was not formally listed as a task conducted, but Darren Cripps also stated in oral evidence that he had conducted surveillance on Andrew Juniper's residence, in case Sean Sargent went there.
115. On 24 March 1999, Sean's Commanding Officer wrote a letter to Sean's father advising him that they were doing everything they could to locate Sean and to ensure that he was safe and well. The Commanding Officer requested Sean's father to notify the Army of his son's location if he became aware of his whereabouts and to encourage him to return to his unit.
116. On 25 March, as per usual processes, Sergeant Cripps began preparing a warrant for Lieutenant Sargent's arrest under the *Defence Force Discipline Act 1982*. It is unclear when the warrant was issued but it would have been issued soon after.
117. In early April 1999, Staff Sergeant Allan Williams (who was later promoted to Warrant Officer Class 2) and Sergeant Thomas Bere, took over from Sergeant Cripps and conducted the military police investigation jointly.
118. A further three briefs were prepared for the military chain of command by the military police and they are our only record of what occurred. I obtained a few pages of handwritten notes but all military police officers claim that they kept further notes and documentation in an investigation file, with a specific folio (section) relating to Sean Sargent. Defence has been unable to find these additional records.
119. According to an unsigned and undated dot point brief Staff Sergeant Williams and Sergeant Bere took the following action in May 1999:
- a. Liaised with Sergeant Hayes from the Missing Persons Bureau;
  - b. Arranged for the Australian Federal Police to conduct a search at the Brisbane Airport for Sean's vehicle at the long and short term car parks of the International and Domestic Airline areas;
  - c. Visited hotels and clubs in the Brisbane and Gold Coast areas, including nightclubs Sean was known to frequent such as 'City Rowers'. Tom Bere advised in oral evidence that this also included the Sunshine Coast, and he would go to the clubs at nighttime, after notifying the relevant civilian police superintendents that he was in the area. He would go out sometimes until 2:00 or 3:00am in the morning flashing Sean's photo around and looking for him;
  - d. Spoke with friends of Sean's, Lieutenant M. Macpherson from the School of Army Aviation and Lieutenant B. Witham from 7 Sig Regt. It was noted that both officers were genuinely concerned that Sean could not be located;

- e. Attended the residence of Sarah Forbes at Clayfield and recovered property belonging to Sean, for dispatch to his family in Mackay;
- f. Attended Sean's residence;
- g. Advised Queensland Transport of Sean's disappearance and arranged for a 'block of registration' to be placed on his vehicle;
- h. Obtained a list of the names of graduates from Sean's officer training course and sent it to Detective Senior Sergeant Maxwell at the Indooroopilly police station (this list has not been mentioned anywhere in the civilian police reporting, nor was it provided to me); and
- i. Arranged for two military police members to search the Condamine adventurous training area (Mt Superbus and surrounding areas) where Sean had been looking at for a future training exercise.

120. Tom Bere also stated in oral evidence that he and Staff Sergeant Williams conducted a search on foot in May 1999 of the scrub, bush land and surrounds in the St Lucia area. They did a full sweep of car parks, roads and river banks. Tom stated that they spent about two hours doing this. I note that no records have been located in relation to this search.

121. A dot point brief dated 1 June 1999 was provided to Sean's chain of command in relation to the military police search of Mt Superbus and surrounding areas. The brief indicates that the search was conducted by Corporal Murphy and Corporal G.A. Johnson on 28 May 1999. They followed a track highlighted on a map that had been previously prepared by Sean. They spoke with the relevant Queensland Parks and Wildlife Ranger, Jim Abbot. Jim stated that the track they were searching was within the area that a Ranger by the name of Peter Lindsay was responsible for and that the track was used quite regularly. Jim stated that if a vehicle had been in that location for any period of time, their Standard Operating Procedure was to inform the authorities.

122. The brief noted that the military police search covered 520km of country road, including steep narrow roads, which climb the rim of the Great Dividing Range, and along narrow ridgelines. The opinion of the military police searchers was that if Sean had attempted the route intoxicated, it would have been highly unlikely that he would have reached his destination. With that in mind, the patrol searched both sides of the road on the return trip, but to no avail.

123. According to a dot point brief signed by Sergeant Bere and dated 4 June 1999, Staff Sergeant Williams and Sergeant Bere took the following action in June of 1999:

- a. Spoke with Detective Sergeant R. Graydon at the civilian police Auto

Theft Squad and arranged for a check of all wrecking yards in the Brisbane Metro area for Sean's vehicle and part numbers;

- b. Obtained Sean's ADF medical and dental records and determined that he was not on any prescription medication;
- c. Arranged for Staff Sergeant Williams to attend the QUR on the evening of 8 June 1999. Staff Sergeant Williams is noted to have interviewed several members of that unit who were at the second party, which Sean attended on the night he disappeared. (However, a list of names were never located in the ADF files and no statements were taken). Tom Bere stated that he was present when the QUR members were interviewed. He recalls that there were six or seven members and only a couple of members knew about the night;
- d. Contacted Wesley Divall of Pymble, New South Wales, on 11 June 1999 regarding the last phone call made from Sean's private mobile phone to Wesley's phone number (contact was made after the civilian police had already contacted Wesley). Wesley could not explain why his phone number was on Sean's mobile phone. He was of no relation to Sean; and
- e. Contacted a 'relevant female' who apparently knew another female who had allegedly been assaulted by Sean at the second party on the night of his disappearance.

124. Tom Bere also stated in oral evidence that they attended a sonar search of the St Lucia area of the river on 3 June 1999. He arranged this directly with the water police under the guise of a 'training exercise'. Tom stated that the divers found about half a dozen number plates from stolen cars and a couple of vehicles, but nothing relevant to Sean's vehicle. I note that there does not appear to be a record anywhere of this search.

125. On 4 June 2001, The Director Officer Career Management - Army, Lieutenant Colonel N.W. Welch, wrote to Sean's father advising him that the Army had conducted an exhaustive investigation but had been unable to reveal the reason for his son's disappearance. Lieutenant Colonel Welch wrote:

- a. *"Let me assure you that his disappearance was in no way related to his employment in the Army. As a result, there is little more the Army can do...His disappearance is now a Queensland police matter..."*

126. Unfortunately, the Army appears to have indiscriminately packed Sean's personal possessions into boxes and forwarded them to his father. Sean's possessions do not appear to have been logged or put into bags as potential evidence. Sean's personal diary and personal computer were amongst items forwarded that were never checked by military police (or civilian police) investigators.

127. On 23 July 2001, the then Chief of Army, General Peter Cosgrove, terminated Sean's appointment with the Army with effect from 30 September 2001.
128. This information does not appear to have reached Sergeant Bere because on 21 September 2001, Sergeant Bere advised the Missing Persons Bureau that the Army was re-opening the investigation and he requested a copy of his notes that he supplied to the Bureau. Tom Bere advised in oral evidence that he would have decided to re-open the investigation to assist the Sargent family. He stated that he did a lot of stuff that he shouldn't have but he did what he needed to do to try and locate Sean.
129. Alln Williams is of the opinion that Sean is still alive today, and most likely living in the Newtown area. He bases his opinion predominately on Sean Mann's evidence.
130. Tom Bere is of the opinion that Sean is deceased but he is unsure of the circumstances. He has, however, ruled out suicide because he did not find any indication of a suicide note. The basis for his opinion is predominately on the principle that ADF officers do not go AWOL, they go missing. If they remain missing, they are most likely dead.

### **Initial police investigation by the Missing Persons Bureau (between 1999 and 2006)**

131. A civilian police investigation was conducted in relation to Sean's disappearance. They of course had primary responsibility to investigate missing persons cases.
132. Sergeant Jim Hayes from the Missing Persons Unit in Brisbane was the 'Case Officer' or 'Overseeing Officer'. Sergeant Hayes and his team at the Missing Persons Unit made a number of initial enquiries up until his retirement in early 2006. Their enquiries were recorded in a detailed 80 page handwritten 'Running Log': Their investigative action included:
  - a. Enquiries on 12 April 1999 with Sean's mobile phone carrier, Vodafone, to determine whether there was any activity since his disappearance. (There was nil activity of relevance);
  - b. A review of Sean's mobile phone records between 10 and 23 March 1999 only. (There were eight phone calls to his voice mail. On 16 March 1999, there was a phone call of interest from Sean's phone to a '02' number in New South Wales);
  - c. Phone enquiries with the Defence Force Credit Union and National Australia Bank to determine whether there had been any activity in relation to Sean's known bank accounts since his disappearance. (Nil activity of interest was reported);

- d. A search to determine whether Sean had any other bank accounts with any other financial institutions. (No other bank accounts were identified);
- e. Enquiries with the Action Liquor Barn at the Regatta Hotel to determine whether there was any CCTV footage of Sean's purchase on the evening of 19 March 1999. (Nil footage was available but they obtained a copy of Sean's receipt for the purchase of a bottle of Vodka and 1L Coke);
- f. Co-ordination of a water police patrol of the river and banks from St Lucia to the city at low tide on 13 April 1999, and ongoing patrols over the next month.
- g. Co-ordination (through Plain Clothes Senior Constable T. Garvey of the Indooroopilly Criminal Investigation Branch) of a side scan sonar search by water police divers and the Queensland Transport Maritime Division of the Brisbane river on 15 June 1999. The search area was from Indooroopilly to the Regatta Hotel. (A stolen Barina was found around 10m from the University of Queensland Rowing Club Platoon);
- h. A request through police media to Channel 7 and Channel 9 helicopters on 14 April 1999, to be on the lookout for Sean's vehicle, when flying over bush land. (There were nil reports);
- i. Vehicle registration enquiries and flagging of Sean's vehicle as a 'vehicle of interest' in April 1999;
- j. Contact with Queensland Parks and Wildlife in May 1999, to flag Sean's vehicle. (There were nil reports);
- k. A request to the police Auto Theft Squad to search wrecking yards in the Brisbane Metro area for Sean's vehicle and/or part numbers in July 1999. (There were nil results);
- l. Indices checks Australia wide in relation to the engine number of Sean's vehicle on 19 August 1999. (There were nil results);
- m. A criminal history check for Sean. (Information regarding an alleged assault on a bouncer in October 1998 was obtained);
- n. Enquiries with Australian Immigration. (There were nil relevant movements);
- o. A police examination of Sean's personal computer some time after 18 April 2001. (The examination report identified some anomalies);
- p. DNA samples from Sean's father and sister for the police missing

person's database in 2004; and

- q. A reverse CCRS on Sean's father's phone in relation to 'phantom phone calls' received by him on 11 and 13 August 2005. (The phone calls were traced to Great Britain and Canada but they could not be tracked).
133. Jim Hayes stated in oral evidence that he also attended Sean's residence soon after his disappearance to look for any signs that he had packed his bags etc. There was nothing to indicate that Sean had planned his disappearance. No clothes or underwear were packed. However, Sergeant Hayes did not search Sean's bathroom for missing toiletries.
  134. Sergeant Hayes and his team also tracked down and took detailed notes in relation to versions of events by key witnesses. The only formal statement in relation to the civilian police (and military police) investigation was taken by Sergeant Hayes from Benjamin Snelling.
  135. The police did not take custody of Sean's personal computer. It was later delivered to Sean's father by the Army, with Sean's other personal belongings. On 18 April 2001, Sean's father arranged for a family friend, Brad Nielsen, to examine Sean's computer. Brad Nielsen examined the computer on 20 April 2001 and produced a signed but undated report.
  136. Sean's computer was then examined by a police forensic examiner, Steve Ilett. Steve Ilett produced an undated and unsigned police forensic examination report.
  137. The examination reports indicated that:
    - a. Sean's computer may have had two hard drives, and if so, one of the hard drives had been removed;
    - b. Sean did a lot of internet research until about 11:00pm between 10 - 15 March 1999. However, the internet pages accessed could not be identified;
    - c. the last email that was sent from Sean's email account was at 9:24pm on 14 March 1999;
    - d. Sean's computer was not turned on at all a few days before his disappearance, between 16 - 20 March 1999;
    - e. Two days after Sean's disappearance, on 21 March 1999, a file called: 'Ass1 Case Study' was accessed, modified and sent to Sean's email account at 1:58am. This appeared to be a file in relation to Sean's university thesis; and
    - f. A scandisk program was executed on Sean's computer at 5:43pm

on 10 May 1999 and many files were modified at around 5:00pm that day.

### **Police investigation by Detective Senior Sergeant Shayne Maxwell (between 28 April 1999 and August 2015)**

138. On 28 April 1999, Detective Senior Sergeant Shayne Maxwell initiated contact with the Missing Persons Bureau because the matter involved a person who had gone missing in the Indooroopilly area of his responsibility. He attended the Bureau on the same day and was briefed on the matter. He took with him a copy of the Missing Persons Bureau 'Running Log'. The Missing Persons Bureau noted on that day and on a number of further occasions that Detective Senior Sergeant Maxwell would be commencing and making further enquiries.
139. It was clear that Detective Senior Sergeant Maxwell was the 'Lead Investigator' from 28 April 1999 onwards. Regardless of title, there was a very clear expectation that he would conduct the majority of the further enquiries to be made.
140. During cross-examination at the inquest, Detective Senior Sergeant Maxwell repeatedly sought to downplay his responsibilities. He stated that his role was merely to *assist* the Missing Persons Bureau by:
- a. Conducting enquiries within the Brisbane region only;
  - b. Making enquiries with possible witnesses and determining whether he should take statements; and
  - c. Reporting back to the Missing Person's Bureau if he found anything of interest.
141. However, Detective Senior Sergeant Maxwell would have been aware that the Queensland Police Service had extensive and detailed policies and procedures contained within the 'Operational Procedures Manual', which provide direction and guidance to police officers when dealing with a broad range of functions. Yet, he did not make enquiries to determine whether there was any information in the Operations Procedures Manual in relation to missing person investigations.
142. Chapter 12 of the Queensland Operational Procedures Manual in place at the time clearly delineated the functions of each of the Missing Person's Bureau and the designated investigating officer's roles and responsibilities when conducting a missing person investigation. Section 12.4.1 provided that the Missing Persons Bureau's functions were to "overview and assist with the investigation". Section 12.5.4 provided that the detailed officer was "to assume responsibility for the case management", conduct an investigation aimed at locating the missing person, and provide reports to the Missing Persons Bureau at intervals of three and six months, for review.

143. In any event, over the first 12 years of the investigation, Detective Senior Sergeant Maxwell appears to have done little to advance the investigation. The only action that he took, that I can find a record of, was that he:
- a. made unsuccessful attempts to contact four witnesses; and
  - b. attended a river search on 17 June 1999, that had been arranged by the Missing Person's Bureau.
144. Detective Senior Sergeant Maxwell went to great lengths in his statement dated 11 December 2016 to outline how busy he was with other investigations from July 1999 until 20 March 2000. On 20 March 2000, he was identified by his doctor as having suffered from PTSD since July 1999. He went on immediate sick leave and was not back to full duties until November 2000. He then claims that he was not given the Sargent file back to investigate upon his return. He recalls receiving a couple of enquiries from the Missing Persons Bureau in 2001 and 2006 about the file but each time he explained that he was not the investigating officer.
145. Then in August 2011, Detective Senior Sergeant Maxwell was directed by his chain of command to finalise a report for the Coroner.
146. He then took the next 20 months to make a few simple enquiries (such as requesting Sean's birth certificate, requesting information from Customs in relation to international travel, and requesting Sean's ADF file). He stated that he had made several attempts to request the ADF file from the Army.
147. It would appear that Detective Senior Sergeant Maxwell later requested assistance from a Coroner (through the police coronial support unit) in obtaining Sean's ADF file. The request was dated December 2012. I do not know what happened to this request but I note that when a response from a Coroner was not forthcoming, Detective Senior Sergeant Maxwell did not make any attempts to follow up with the Coroner's office or the coronial police support unit.
148. In August 2015, Detective Senior Sergeant Maxwell submitted a coronial report, through his chain of command (some four years after he was directed to do so).
149. Detective Senior Sergeant Maxwell concluded in his coronial report that Sean had purposely disappeared and that he was still alive. His basis for this conclusion was that:
- a. Sean was having second thoughts about his managerial role in the Army, and had been expressing frustration about working within the confines of the Army environment;
  - b. There appeared to be rumours within the Army that Sean was

homosexual, due to his close friendship with another Army member, Andrew Juniper;

- c. Sean may have been concerned about another police investigation against him in relation to a potential assault that he was involved in during the altercation that occurred at the St Lucia party on the night of his disappearance, 19 March 1999;
  - d. Sean would have had the previous assault complaint against him on his mind, which had only been withdrawn after he took out a personal loan and paid the complainant \$4,000 on 26 February 1999;
  - e. Sean may have had financial difficulties due to his two loans, totaling \$13,069;
  - f. The anniversary of Sean's mother's death was two weeks before his disappearance and he was known to become depressed around this time every year. His mother died from alcoholism and he had concerns about his excessive drinking and inability to quit;
  - g. Sean did not like his step-mother, who raised him after his mother's death;
  - h. Sean had prior overseas travel experience, having travelled for work experience whilst in the Army in 1996 and 1997 to England, Ireland, Scotland and Sweden;
  - i. A week before Sean's disappearance, he advised his best friend, Andrew Juniper, on 12 March 1999, whilst out at dinner that he "could not understand why anyone would commit suicide as there were more things to life" and that "suicide is an easy way out, it is just as easy to change your name and disappear overseas";
  - j. Sean had the intellectual ability and computer knowledge to change his name and commence a new life overseas; and
  - k. Sean wanted to remain missing because of the warrant for his arrest issued by the military police for 'absence without leave'.
150. Detective Senior Sergeant D.P. Powell, from the Missing Persons Unit, submitted Detective Senior Sergeant Maxwell's report and the police file to me, with a cover letter dated 18 August 2015.
151. Detective Sergeant Powell advised me that numerous requests had been made by the Missing Persons Unit from 2006 onwards to Detective Senior Sergeant Maxwell to complete his report, but to no avail. He also raised concerns about the lack of investigative work conducted by Detective Senior Sergeant Maxwell.
152. After cross examination during the inquest, Detective Senior Sergeant

Maxwell presented to the court the next morning with a prepared statement, which he read, as follows:

*Your Honour, as a result of my involvement in this matter, I have identified a number of shortcomings in the Sargent investigation. I can see in hindsight that these are things that both I and Missing Persons [ie. the Missing Persons Bureau] could have done better. I can honestly say that if my health had not been affected and I was my usual demanding self, I would have put more input into how the investigation was going. For that, I apologise to the court and to the Sargent family.*

*As the detective attached to a suburban criminal investigation branch, there are matters that arise which influence day to day operations. These include major incidents, murders, suspicious deaths, robberies, shootings, which result in arrests, and then a preparation of briefs of evidence to the court. Very often these factors are competing, and we'll do our best to prioritise our work.*

*Unfortunately, in 1999, we didn't have access to today's technology to help us sort these matters out. Like everyone, a detective's health can impact on their work, and I regret this occurred with me in the Sargent investigation, but I wish to stress that the Missing Persons Bureau and I, at all times, did what we believed to be our best to locate Sean.*

*Thankfully, missing persons investigations have come a long way since 1999, particularly with the introduction of QPRIME in 2006. All investigations are now centrally recorded and can be tracked. The need for lengthy hard copy reports of inquiries have been done away with. It is now a matter [indistinct] completed in other regions and the lead investigator can supervise those inquiries in real time. All missing persons are overseen by both district level and regional level at regular [indistinct]. Also, the Coroner's unit meets with the Missing Persons Bureau every six months to oversee these investigations. And furthermore, the Coroners unit has live access to the QPRIME system, which can assist in the direction of the investigation such as in this case.*

153. I note the impact that this has had on Sean's family. They explained in their submissions, that over the years, they were led to believe that many steps were being undertaken by the Queensland Police Service to locate Sean. They were quite distressed to learn throughout the course of the inquest that this was furthest from the truth and that there had been a number of missed opportunities to find out what happened to their son/brother.

## **Further police investigation, led by Detective Senior Sergeant Mal Gundry, (between 22 May – 20 September 2017)**

154. On 22 May 2017, the Queensland Police Service formulated an investigative team comprising of six Detectives from the Brisbane City and Indooroopilly Criminal Investigation Branches, Homicide Investigation Unit, and one Intelligence Officer. An Investigation Centre commenced at the Indooroopilly Police Station and Detective Senior Sergeant Malcolm Gundry was appointed as the lead detective in charge of the investigation. The investigation was later known as 'Operation Papa Jupiter'.
155. The Queensland Police Service requested me to adjourn the part-heard inquest for around three months so that they could conduct their investigation. It was my understanding that the police service were embarrassed at the inadequate investigation conducted by Senior Sergeant Maxwell and wanted the opportunity to remedy it. I agreed to the adjournment.
156. The investigation team received a briefing from Detective Senior Sergeant Shayne Maxwell on 25 May 2017 and he provided them with a large amount of documentation linked to this matter.
157. The investigation was conducted utilising the IMAC Police computer system. IMAC is a system utilised in homicides and serious investigations conducted in Queensland. The benefit of IMAC is that information input can be cross referenced, creation of job logs detailed to staff, and finalised tasks can be recorded. An additional benefit is that an automatic running log is created. All information was collated and inputted via IMAC.
158. The initial goal of the investigation team was to back capture all previous information and review all witness statements. As the investigation progressed, witness statements were prioritised and a number of lines of inquiry were generated.
159. Detective Senior Sergeant Gundry regularly consulted with me and Counsel Assisting, and obtained Coronial direction when required, throughout their investigation.
160. The police investigation team:
  - a. Travelled around the country and took around 35 additional witness statements.
  - b. Conducted relevant proof of life checks, including with:
    - i. The Birth, Marriages and Death Registrar;
    - ii. Medicare;

- iii. Centrelink;
- iv. The Department of Immigration;
- v. all financial institutions;
- vi. national enquiries regarding Sean's motor vehicle;
- vii. interstate police; and
- viii. The National Coroners Information System.

(These inquiries provided nil additional information).

- c. Conducted enquiries in relation to Sean's traffic history. (There was no record of any infringements).
- d. Conducted enquiries in relation to whether Sean had any weapons licenses or registrations. (There was no record).
- e. Arranged and coordinated further Brisbane river searches.
- f. Arranged for a historical review of Brisbane river sidescan data by the Brisbane Port Authority.
- g. Obtained historical photographs of the area depicting The Esplanade in St Lucia, where it is believed that Sean may have accidentally driven into the river.
- h. Conducted online searches regarding the French Foreign Legion, and made requests for information with ASIO, and the French Consulate.
- i. Attempted to obtain a DNA profile for Sean.
- j. Arranged for a re-examination of Sean's personal computer hard drive by the Electronic Evidence Examination Unit.
- k. Made enquiries with the police air services regarding a possible aerial search of the Mount Superbus area.

161. An outline of the outcome of relevant enquiries is provided below.

### **Review of hydrographic searches of the Brisbane River**

162. The Port of Brisbane Pty Ltd conducts regular surveys of its port limits, downstream to Breakfast Creek, as a regulatory requirement to ensure safety of navigation.

163. At the request of the water police, the Port of Brisbane Pty Ltd reviewed

its records of 28 surveys conducted of the St Lucia / Toowong / Milton and South Brisbane Reaches of the Brisbane River since 1998.

164. A statement was obtained from Giles Stimson, the Manager of Hydrographic Surveys for the Hydrographic Solutions team at the Port of Brisbane Pty Ltd, dated 13 September 2017.
165. Giles Stimson explained that of the 28 surveys, 11 surveys were single beam surveys and 17 surveys were high-resolution multi-beam surveys.
166. The single beam surveys were conducted using older technology, utilising a single transducer aboard the vessel which projected an acoustic single beam to the seabed and back. The line intervals varied but were generally in the order of about 10m. This meant that significant sections of the seabed were left uncharted and objects, such as vehicles, could have been missed.
167. The latest state of the art high-resolution multi-beam system was introduced by the Port of Brisbane Pty Ltd in 2004 to replace single beam technology. It utilises 512 beams across a 120 degree beam width. This provides 100% seabed coverage and is validated further by overlapping the beams on adjacent lines to provide 100% overlap. This ensures that the entire seabed is covered and ensures all seabed objects are detected.
168. The Port of Brisbane Pty Ltd have looked at the results of the relevant single beam surveys between 10 March 1999 to 24 March 2006, within the area, and could not detect any anomalies in the data that would suggest a vehicle or other object.
169. The multi-beam data covered the period between 28 January 2004 to 20 October 2016. The multi-beam data confirmed that only one vehicle was detected, on three separate surveys, in the same place each time. The dates of these surveys were 19 September 2005, 5 May 2011, and 28 May 2014.
170. In addition to the requested survey area, the Port of Brisbane Pty Ltd extended the validation search from the William Jolly Bridge down as far as QUT. With the exception of the known vehicle that was positioned downstream of Riverside Drive Boat Ramp and was dived on by the Water Police, there were no other targets detected.
171. It should also be noted that since 1999, there were two significant floods. The first flood in 2011 moved an estimated 3.2million cubic metres of riverbed material downstream, which was deposited in the Port of Brisbane's port limits (Breakfast Creek to the Port of Fisherman Islands). The second flood was in 2013, which was not as severe and extreme as the 2011 flood. However, significant flows were still experienced within the Brisbane River right down to the mouth of the river at Fisherman Islands.
172. During the 2011 flood, the Port of Brisbane Pty Ltd's hydrographic team

detected 159 objects, which included boats, pontoons, trees, containers, and water tanks amongst others. These objects were detected within the Port's limits and all objects were removed by the Port's clam-shell grab dredger working from its floating pontoon. No motor vehicles were found. Further, no evidence of a vehicle was detected as part of the 2013 flood event.

173. Giles Stimson was of the opinion that:

- a. If Sean Sargent's vehicle was within the Brisbane River and moving, the chance of detecting it by single beam would have been very low;
- b. If the vehicle was moving, the chance of detecting it by multi-beam would also have been very low as you would have to have been in the reach surveying it as it went past;
- c. If the vehicle was stationary, on the river bed during the specific survey, the chance of detection by single beam would have been approximately 1:20, if it was in the reach at the time of the survey;
- d. If the vehicle was stationary on the river bed, the chance of detection by multi-beam would have been high and close to 100%;
- e. The chance that the vehicle would have moved down the river during the 2011 and/or 2013 floods would have been extremely high;
- f. The chance that the vehicle would have missed detection during the 2011 and 2013 clean up, if it was moving, would be extremely high. The reason for this that Port of Brisbane Pty Ltd had 25km of river reaches to survey after the flood, from Hamilton Reach downstream to the Outer Bar Reach at the entrance to the Port. They conducted six multi-beam surveys during the floods and detected new objects each survey. They only targeted removal of riverbed objects once the flow of the river had subsided such that the object had dropped and remained in position on the seabed. They had to work around floating debris transiting down the river, as well as dealing with strong currents and, if the object was moving, the chance of being in that exact position when it passed would be very low;
- g. The chance that the vehicle would have missed detection if it was deposited within the Port Limits after the flood events would be low; and
- h. There is a chance that the vehicle could have progressed out into Moreton Bay, post the 2011 and 2013 floods. Port of Brisbane Pty Ltd would only have a chance of detecting it if it happened to be located in the river channels or Bay channels that the Port regularly surveys and covers as its duty as a commercial port.

## **Review of the police searches of the Brisbane River conducted in 1999**

174. A statement was obtained from Senior Constable Michael Turner, a dive supervisor of dive operations with the Queensland Police Service Diving Unit, dated 13 September 2017. Senior Constable Turner also provided oral evidence at the inquest.
175. Senior Constable Turner researched the historical searches conducted on the Brisbane River in relation to the disappearance of Sean Sargent.
176. He found that on 17 June 1999, Queensland Transport Maritime Hydrographic Sonar conducted a survey with the Brisbane Water Police and detectives along the Brisbane River. The search was between Milton and the Saint Lucia reaches of the river. During this search, one vehicle was located off the pontoon of the UQ Rowing Club. Police Divers dived on this vehicle and it was identified as a stolen Barina. The vehicle was not recovered and it was left in the river as it was not considered a navigation hazard.
177. Senior Constable Turner found that there were no detailed records of these searches. He was also unable to determine what model sonar device Queensland Transport Maritime used at the time, or its capabilities, making it difficult to assess the searches conducted at the time.
178. Senior Constable Turner was of the opinion that if Sean Sargent's vehicle entered the water within the targeted search area completed by police and Queensland Transport Maritime in 1999, it would have been sitting quite proud off the bottom and provided a strong acoustical return, indicating a material such as metal, using a side scan sonar device. However, he agreed that it was possible that the vehicle could still have been missed with the old technology, and given the time that had passed between Sean's disappearance and the search.
179. It was noted that the stolen Barina that was left in the river back in 1999 could not be found during police sidescan sonar searches in 2017.
180. Senior Constable Turner also noted that water police conducted a dive of a deep hole near the old St Lucia boat ramp on 8 February 2007 but that nothing of interest was found.

## **Further searches of the Brisbane River conducted in 2017**

181. Senior Constable Turner and his dive team conducted the following additional searches of the Brisbane River in 2017:
  - a. On 25 July 2017, police conducted a dive on an unknown vehicle that was first located by Port of Brisbane Pty Ltd Hydrographic in 2004. The vehicle was positioned in the Milton Reach of the Brisbane River on the West End side (42m downstream of the pontoon next to the Riverside Drive boat ramp). The vehicle was around 9.3m

deep and there was nil visibility. All the windows were down and smashed out, and there was extensive damage to the rear and front of the vehicle. There were no keys in the ignition. The diver felt for bones inside the vehicle and there were none. No plates were located. There was a build up of muddy silt halfway up the tyre axles. It was concluded that it was not a vehicle that matches Sean's Ford Falcon. It was most likely a sports car with an open sunroof. Due to severe corrosion, the vehicle would most likely fall apart if removed.

- b. On 22 August 2017, a sonar scan was conducted between the Esplanade, St Lucia, and 59 Orlando Road, using a Klein 3000 single beam sidescan sonar system. No vehicle was found.
- c. On 30 August 2017, a sonar side scan using the Klein 3000 was conducted between Hill End Terrace, West End and 11 The Esplanade, St Lucia. A vehicle was found off the boat ramp at the Somerville House water sports facility on the Brisbane Corso, Yeronga. A dive was conducted on the vehicle on 5 September 2017. The vehicle could not be identified so it was retrieved the next day. There were no plates and the vehicle was corroded, but identified as 2005 model Land Rover Discovery.
- d. On 31 August 2017, a sonar scan using the Klein 3000 was conducted between 11 The Esplanade, St Lucia, and 1A Wharf St, Chelmer. A vehicle was located off the boat ramp at Meiers Road, Indooroopilly. A dive was conducted on the vehicle on 5 September 2017 and it was identified as a stolen blue Honda Civic.

182. In total, three additional vehicles were discovered within the search area of the Brisbane River in 2017 but none of them were Sean Sargent's vehicle.

183. Senior Constable Turner was of the opinion that it would be extremely difficult to get a strong acoustical return from a vehicle on their sonar device that has been in the water since 1999. Based on his experience from diving in the Brisbane River and on vehicles submerged in salt water, it would not take long (approximately five to ten years) for severe deterioration and corrosion to take effect. Adding to this the strong currents causing constant movement of mud and silt and major flooding events that have taken place since 1999, he believes the vehicle would be almost completely covered, making it extremely difficult to locate.

### **Searches of the three lakes at University of Queensland**

184. On 14 June 2017, the police diving team searched the two smaller lakes at the University of Queensland. The two lakes had a rocky and muddy silt bottom with nil visibility and a maximum depth of 2m. There was nothing of interest located during the search.

185. On 15 June 2017, the police diving team conducted a wade search of the

third and largest lake at the University. The lake had a rocky and muddy silt bottom with a maximum depth of 1.8m. There was nothing of interest located at the lake.

### **Searches of the dam at the rear of the Enoggera Army Barracks**

186. On 3 August 2017, the police dive team conducted a sidescan sonar search, with a Lowrance HDS 3D sonar, of the dam located at the rear of Enoggera Army Barracks. The dam had a clean, smooth silty bottom and no vehicle was located during the survey.

### **Enquiries regarding an aerial search of the Mt Superbus area**

187. On 14 August 2017, enquiries were made with the police air services about the possibility of conducting an aerial search over Mt Superbus. It was determined that the area was too dense to be effective for sighting a vehicle body.

188. As a result, police made enquiries with Steven Finlayson, the Ranger in charge of the South West Region, Queensland Parks and Wildlife Service. Steven Finlayson has occupied this position for the last 11 years. He stated that the area in question is extremely remote and is limited to vehicle access. He has walked the area of Mt Superbus a number of times and motor vehicles are unable to access this area due to rugged terrain and a lack of roads. In addition, it would be very difficult to hide any vehicle in this area. Over the time period in question, there has been no information forthcoming as to motor vehicle sightings.

### **Sean's traffic history**

189. One of Sean's friends from ADFA, Andrew George, stated that he had previously been in a car whilst Sean was driving and on one occasion, Sean drove erratically. This occurred at Pennant Hills, Sydney, whilst he and Sean were driving to visit Andrew's parents. At the time, Sean was driving a brown Ford Falcon and lost control as they approached a t-intersection, which according to Andrew was caused by too much speed. The car went off the road and damaged some lawn but they continued to drive off. Neither Andrew, nor any other friends or family of Sean could ever recall an occasion where Sean would drink drive.

190. The police obtained Sean's traffic history and there were no records of speeding or drink driving.

### **Sean's firearms**

191. One of Sean's ADFA friends, Andrew George, stated that whilst at ADFA, Sean had a shot-gun with a pistol grip (which he believed to be a SPAZ12 shot-gun) and a .222 rifle with a scope, which he kept in a suit carrier within his room. Sean kept ammunition for both firearms in an empty

protein powder tin. Andrew advised that Sean would have been in a lot of trouble had these weapons been found. He would possibly have been excluded from ADFA.

192. Sean's father confirmed that Sean was familiar and proficient with firearms, growing up in New Zealand and whilst living in Australia. Sean's father stated that he used to take Sean duck shooting when he was a young boy, and they used to go shooting on various properties. Sean's father stated that he was aware that Sean still had a pump action shotgun with a pistol grip and that Sean had gone duck shooting whilst at ADFA. However, he believed Sean had handed this in during the firearms amnesty in 1996.
193. On 27 August 2017, the QPS Weapons Licensing Section advised that Sean Sargent has never held a license, registered firearm or weapons licensing interaction in Australia.

### **Sean's financial records**

194. At the time of Sean's disappearance, Sean owed the Defence Force Credit Union:
- a. \$1,968 due to an overdraft on his savings account; and
  - b. \$12,917.94 due to a personal loan in relation to his vehicle and compensation paid to the bouncer.
195. Sean had a balance of \$912.08 in a National Australia Bank account, which was closed on 18 December 2013 due to inaction. The funds were transferred to NAB's Unclaimed Monies Department.
196. Sean owned a 1992 Ford Falcon valued at approximately \$7,000 to 8,000. He also owned a small second-hand boat, of unknown value, but with an assumed worth of approximately \$2,000.

### **A DNA profile could not be established for Sean**

197. On 16 June 2017, the police obtained a Phillips brand electric shaver owned by Sean Sargent from a rear garden shed at his father's home. The shaver was forwarded to the DNA Unit in Brisbane for examination.
198. On 6 September 2017, Sergeant Ken Gee from the DNA Management Unit in Brisbane advised that there no identifiable DNA profile was able to be obtained from the swabs taken from Sean's electric shaver.

### **Enquiries in relation to Sean's half sister in the UK**

199. On 25 August 2017, police forwarded a request to Interpol to make enquiries in England to locate Sean Sargent's half sister, Dianna Martin.

She is believed to be residing in Corfe Mullen, in the county of Bournemouth. However, this request has not been finalised.

### **Enquiries relating to the French foreign legion**

200. Prior to his disappearance, Sean Sargent mentioned to Sarah Forbes and Kylie Higgins that he was interested in joining the French Foreign Legion. In addition, Ben Nankivell stated that Sean had made mention of the French Foreign Legion to other Australian Army officers.
201. Police online enquiries revealed that the initial training course for the French Foreign Legion is extremely rigorous and that they accept recruits with chequered pasts, including infractions with law enforcement agencies. Once a recruit has passed the initial testing / course, they are issued with a French Passport and new identity. The soldier must then provide five years service in postings generally to Africa or the French colonies.
202. The police investigation unit sent a request via ASIO in an attempt to elicit information as to whether Sean joined the French Foreign Legion. ASIO advised that because the inquiry was not linked to a terror related issue, they were unable to progress the request. A subsequent request was sent to the French Consulate in Sydney and directly to the French Foreign Legion without success.
203. Detective Senior Sergeant Gundry believes that if Sean had joined the French Foreign Legion under an assumed identity and had fulfilled his five-year contract, he would have continued contact with his family, particularly with his sister, with whom he had a very close relationship with.

## **Electronic examination of Sean's computer**

204. On 11 August 2017, investigating police received a report from the Electronic Evidence Examination Unit in relation to the re-examination of Sean's personal computer hard drive. Investigators were able to review all the files on this hard drive via 'remote access'. Investigators found a number of heterosexual images of a pornographic nature. There were no images of a homosexual nature. Nothing else untoward was found.

## **Detective Senior Sergeant Gundry's conclusions**

205. Detective Senior Sergeant Gundry is not of the opinion that Sean died through suicide because:

- a. Sean was progressing well in the Army and enquiries with his Army colleagues revealed that he more than likely would have been promoted to Captain in the near future;
- b. Sean had enrolled in tertiary studies and had recently paid for books connected to his upcoming studies (the purchases were made at the South Queensland University Bookshop on 25 February and 27 February)';
- c. Sean had spent Christmas of 1998 with his sister and she stated that he appeared normal during that period. He did, however, mention to her about the alleged assault on the bouncer at Townsville in October 1998;
- d. The charges against Sean relating to the alleged assault on the bouncer had been withdrawn and the matter was finalised;
- e. Anna Van Geuns stated that she spoke to Sean whilst at 52 Orchard Terrace, St Lucia on the night of his disappearance he appeared upbeat and happy. She did recall though that he mentioned something to her about going 'AWOL' (absent without leave from the Army); and
- f. Despite the traumatic circumstances of his mother's death when he was in year 12, Sean continued with his schooling and was eventually awarded runner-up dux. He believes that for a young man to endure the tragedy of his mother's passing, and yet to be able to still gain such a high academic achievement and move into a successful military career reveals a resilient character, and not one that would likely take his own life.

206. Detective Senior Sergeant Gundry is not of the opinion that Sean purposely disappeared to join the French Foreign Legion. This is because if Sean had joined the French Foreign Legion under an assumed identity and had fulfilled his five year contract, he would have continued contact with his family, particularly with his sister, with whom he had a very close

relationship with.

207. Similar logic would no doubt apply to the theories that Sean went off to join the Australian Army's Special Air Services Regiment and the Australian Security and Intelligence Organisation.
208. Detective Senior Sergeant Gundry found no evidence that Sean was the victim of foul play. He assessed that all witnesses they interviewed were credible and if Sean had died as a result of human intervention, information would have surfaced after 18 years.
209. Detective Senior Sergeant Gundry is of the opinion that Sean drove from 52 Orchard Terrace, St Lucia late on the night of 19 March 1999 or in the early hours of 20 March 1999, affected by alcohol. As Sean had earlier been in an altercation with Cameron Forster at 260 Hawken Drive, St Lucia, he believes that Sean attempted to return to that address to 'continue the fight' or to reach a settlement with Cameron so that no further action would be taken.
210. I note that the suggested course of travel from Orchard Drive to Hawken Drive would have taken Sean down past the St Lucia Golf Club to the river. Where the road turns into "The Esplanade", there is a dip and a sharp rise as the road turns to the left. The turn to the left is blind due to the nature of the rise and there is an extremely steep embankment down to the river. The trees between the road and the river are not all that significant now, and would have been even less significant in 1999. There does not appear to have been any barriers between the road and the steep river embankment in that section of road in 1999.
211. Detective Senior Sergeant Gundry is of the opinion that Sean, affected by alcohol, and unaware of his surroundings, drove his vehicle into the Brisbane River in the vicinity where The Esplanade connects with Upland Road, St Lucia.
212. I note that at the point of potential entry, the river bends. The St Lucia side bank is also marked as the deepest in that section. The bend and depths of the potential entry point indicate that the water would have been moving at a greater speed than any other section. Further, on 19 March 1999, the tide had peaked at around 11:00pm. It was therefore an outgoing tide at the time of potential entry. On an outgoing tide, the water flow velocity can be significant in various sections of the Brisbane River.

## **If Sean were still alive, would he face any repercussions from the military?**

213. I note that the Department of Defence has advised that at the time of Sean's disappearance, he would have owed a financial liability of around \$30,000 to \$35,000 for his 'Return of Service Obligation' (ROSO). This is due to their financial coverage of Sean's undergraduate degree and other academic studies.
214. If Sean wished to discharge from the Army at the time of his disappearance, he would have had to submit an application. His release from the Army would have been at the discretion of Defence and would have only been granted if he was able to show compassionate or exceptional circumstances.
215. Now that Sean has been 'involuntarily discharged' from the Army on 1 October 2001 due to his extended absence without leave, Defence has advised that Sean would not be pursued for his ROSO debt, should he still be alive.
216. The Army warrant for Sean's arrest has also now essentially 'lapsed' due to his involuntary discharge, and the expiration of time. This means that the military no longer has any disciplinary jurisdiction over Sean. Defence has confirmed that no further action would be taken against Sean in relation to his alleged absence without leave, in the event that he is still alive.

## **Sean's military superannuation**

217. My enquiries with Military Super have revealed that Sean has a relatively large sum of money in his Military Superannuation fund. This money cannot be claimed unless Sean personally claims it, or unless he is declared deceased within 21 days of his absence from duty on 22 March 1999, in which case his next of kin would be entitled to a substantial sum.

## **Conclusions as to Sean's fate**

218. I accept Detective Senior Sergeant Gundry's opinion as to the most likely and plausible cause of Sean's disappearance and death.
219. Given the time that passed between Sean's disappearance and the searches of the river and riverbanks, as well as the limited side scan technology available at the time, it is likely that Sean's vehicle was missed. Unfortunately, because of the 2011 and 2013 floods, and the effects of salt water on vehicles, even with modern day technology, Sean's vehicle and body may never be found.
220. I offer my condolences to the family and friends of Sean Sargent.

221. I close the inquest.

John Hutton  
Coroner  
Brisbane

25 October 2017