



## STATE CORONER'S COURT OF NEW SOUTH WALES

<b>Inquest:</b>	Inquest into the disappearance and suspected death of <b>John Vincent CREAN</b>
<b>Hearing dates:</b>	27 April 2015
<b>Date of findings:</b>	12 May 2015
<b>Place of findings:</b>	State Coroners Court, Glebe
<b>Findings of:</b>	Magistrate Harriet Grahame, Coroner
<b>Catchwords:</b>	Coronial Law- Missing Person-Police procedure
<b>File number:</b>	2012/112395
<b>Representation:</b>	Mr Lester Fernandez – Counsel assisting, instructed by Mr Anders Mykkeltvedt (Crown Solicitors Office)  Mr Michael Spartalis- Representing the NSW Police Force, instructed by Ms Dobbie (McCabes Lawyers)
<b>Findings:</b>	I find that John Vincent Crean died on or shortly after January 6 1980. His death is suspicious.
<b>Non-Publication Orders</b>	A Non-Publication order pursuant to section 74 (1)(b) <i>Coroners Act 2009</i> NSW was made in relation to the contents of exhibit 3 – “SCC Primary On Call Officer – SOP’S”

## REASONS FOR DECISION

1. This inquest concerns the disappearance and suspected death of John Vincent Crean.

### Introduction

2. John was born on 26 June 1954 in England. He immigrated with his family to Australia as a teenager and commenced his secondary schooling at Homebush Boys High. He was one of five children born to Dennis and Catherine Crean. John appears to have been close to his parents and siblings and remained in contact with them all up until his sudden disappearance in January 1980.
3. After leaving school John worked with an uncle in the upholstery trade. Later he worked for a while detailing cars and selling spare parts. He had not been employed for some time before his disappearance, although it seems clear he was involved in selling drugs for profit.<sup>1</sup>
4. In his early twenties, John commenced a relationship with Barbara Martin and had two children Michelle and Megan. His marriage to Barbara ended in the late 1970s but they remained in close contact and he continued to see his children regularly. At the time of his disappearance John was living in Auburn with a new partner, Karen Trevithick.
5. John had a limited criminal history with convictions for drug possession, minor dishonesty and driving matters<sup>2</sup>. He had apparently been in custody on only one occasion. At the time of his disappearance he was on bail in relation to “public mischief” and various drug matters.

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<sup>1</sup> Tab 39 A 129, A341, Tab 44 [8]

<sup>2</sup> Tab 2 at [20], Tab 7 at [5]

## **The role of the Coroner**

6. The role of the Coroner in a case such as this is to make findings firstly as to whether the nominated missing person is actually dead. And if that can be established to make further findings as to the date and place of death and in relation to the manner and cause of death.<sup>3</sup>

## **Is John dead?**

7. John was last seen on 6 January 1980. He was with family and friends prior to suddenly leaving his house with someone, likely to have been George Morres. This man may also have been known as “Joe the Wog” and “Wog Joe”.
8. There are many reasons to believe John left without planning or perhaps even under some compulsion. He was only wearing shorts. He did not take his shoes, car keys, wallet or cigarettes. It appears that he did tell not tell anyone where he was going or how long he might be.
9. Various people have given accounts of being at the house that day. Perhaps the last person to see him was his young daughter Michelle, who apparently told relatives she recalled “Joe the Wog” coming to the door and her father leaving with him.<sup>4</sup>
10. John’s sudden disappearance came against a background of trouble. There is evidence to suggest that John was dealing drugs and may have owed a substantial drug debt to George Morres. Estimates vary with Jacqueline Crean believing it could have been as much as \$124 000.<sup>5</sup> John had experienced difficulties before. In the past he had been mysteriously shot in the leg and briefly hospitalised.<sup>6</sup> His brother Joseph told investigators that he had been with John on one occasion when John had made a cash payment to Police Officers from the Auburn Station. He had also seen rifles and white powder at his brother’s house.<sup>7</sup> John’s sister recounted an occasion where John had hidden a large quantity of drugs in her home<sup>8</sup>. Catherine Crean noticed that shortly

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<sup>3</sup> Section 81 *Coroners Act 2009* (NSW)

<sup>4</sup> Tab 41 at A82, A407, Tab 39 A536

<sup>5</sup> Tab 37 A 649

<sup>6</sup> Tab 39 A493 and elsewhere

<sup>7</sup> Tab 41 A142, 310-316, 358

<sup>8</sup> Tab 37 A396-399

before his disappearance John was terrified of someone<sup>9</sup>. Others were also aware of something unusual. Sharon Price described seeing John the day prior to his disappearance and described him as “a bit agitated and freaked out”<sup>10</sup>. She and others were aware that he had a number of problems including his upcoming court case and substantial drug debts.

11. Given this context, it should have been clear from the outset that John’s sudden disappearance needed to be treated as potentially suspicious.
12. It is now clear that since his disappearance John has not accessed banks he had accounts with, used his Medicare card, or accessed Centrelink.<sup>11</sup> He has not been on an electoral roll.<sup>12</sup> He would now be over 60 years of age. The Department of Immigration, Multicultural and Indigenous Affairs have no records of him. Nor does the Registry of Births Deaths and Marriages<sup>13</sup>. There are no records that correspond with John held by any of the State or Territory Missing Person Units. There are no reports of people seeing him or hearing from him in 35 years. In other words, all available records of John appear to end with his disappearance on January 6 1980.
13. Undoubtedly the most compelling evidence available that supports a conclusive finding that John is dead is his sudden and inexplicable lack of contact with his family and friends. All the available evidence establishes that he came from a close and loving family with whom he was well integrated. It was entirely out-of-character that he should suddenly disappear, without explanation. His family were aware of his criminal history and drug issues and remained supportive. While he had outstanding charges, he was on bail and had faced Court before. He appears to have been well liked. He had no significant health issues.<sup>14</sup> While he was in a new relationship he remained in touch with his wife Barbara Martin and on all accounts was a loving and involved parent. In these circumstances it is inconceivable that he would disappear voluntarily and permanently from those he loved, without any explanation.

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<sup>9</sup> Tab 44 at [7]

<sup>10</sup> Tab 34 at A 239-265

<sup>11</sup> Tab 16-Tab22H

<sup>12</sup> Tab 11 p1

<sup>13</sup> Tab 26

<sup>14</sup> Various family members -Tab 37 A 332, Tab 41 A 278, Tab 44[14]

14. Given the seriousness and finality of finding that a person has died, proof of this issue “must be clear, cogent and exact” before a finding can be made<sup>15</sup>. The evidence in John’s case clearly reaches this threshold. It is now 35 years since John was last seen. While his body has never been located, on the balance of probabilities it is comfortably established that he is dead.

**When did John die?**

15. Given that there is no evidence that John had ever gone missing or not contacted family or friends for any length of time before, I am of the view that it is likely that John died on or shortly after his disappearance on 6 January 1980.
16. All the evidence suggests that if he had been able to contact his family or friends he would have done so.

**What was the cause and manner of John’s death? Where did he die?**

17. Without his body or any direct evidence of his death it is impossible to determine exactly what caused John’s death or to determine how he died. We are however able to safely exclude some possibilities.
18. There is no evidence to suggest a self-inflicted death. While some friends and relatives spoke of stress or fear before his disappearance, there is no evidence that John was or had ever been suicidal. There are no indications of planning, no preparations made or communications left. In fact all the evidence is to the contrary. John appears to have left the house in a hurry or perhaps even under compulsion. In my view, suicide can be safely ruled out.
19. Equally there is no evidence that John’s death was accidental. The evidence does not disclose John undertook any hobbies such as bushwalking or ocean swimming which might be considered risky or where a body might conceivably remain undiscovered after death for years. While John was a drug user, there is no evidence of a prior overdose or any especially risky drug use in the days leading up to his disappearance. In any event one would expect a death by accidental overdose would, in normal

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<sup>15</sup> See *Briginshaw v Briginshaw* (1938) 60 CLR 336, Inquest into the Suspected Death of Tegan Lee Lane (State Coroner Abernathy, 15 February 2006)

circumstances, be readily discovered, and here of course John's body has never been found.

20. Similarly one would expect that if John had befallen some other kind of accident his body would have likely been found quite quickly or medical treatment would have been sought. There is no record of that occurring. It is in my view extremely unlikely that John was killed accidentally and his body just never found. In my view, death by misadventure or natural cause can be safely ruled out.
21. There is considerable evidence that John's death is suspicious. Certainly the general consensus amongst those who knew him was that John was murdered.<sup>16</sup>
22. Shortly before his death various people noticed he was agitated or frightened of something or someone<sup>17</sup>. Catherine Crean told police that she was even involved in assisting John to stall for time in relation to a large debt owed to George Morres in the week proceeding her son's disappearance and that she lent her car to John the night before his disappearance.<sup>18</sup> He was with George Morres on both occasions.<sup>19</sup> John's brother described George Morres as "a really, really heavy drug dealer"
23. Jacqueline Crean stated that Debra Crean told her the last person to have seen John alive was a man named "Sugar". Debra recounted that Sugar saw John being yelled at by "Joe the Wog".
24. In the many years following John's disappearance, there have been a number of theories circulating among family and friends in relation to how and when John died. There is an allegation that George Morres himself confessed to killing John to a female inmate at Silverwater, who in turn told Debra Crean.<sup>20</sup> There is a possibility that he was put in a bathtub, wrapped in plastic and shot. Jacqueline Crean has stated that she was also told by a police officer that John was murdered in a bath in Berala.<sup>21</sup> Of course

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<sup>16</sup> Tab 39 A560, Tab A 670,728, Tab A 220 and elsewhere

<sup>17</sup> Tab 34 at A239-265

<sup>18</sup> Tab44 at [10]

<sup>19</sup> Tab 44 at [15]

<sup>21</sup> Tab 37 A 257-269

with the passage of time these stories have become somewhat confused and are at times contradictory or lacking in detail.

25. Unfortunately, because none of these accounts were adequately investigated in a timely manner, their veracity remains largely untested. For this reason I am unable to make any clear findings as to the manner or cause of John's death, beyond finding his death suspicious. It is highly likely that he was a victim of homicide, how or where that occurred I am unable to say.

### **When was John's disappearance first reported?**

26. Given the passage of time and the paucity of police records it is difficult to know exactly when and to whom John's disappearance was first reported. Immediately following John's disappearance, nobody in his family knew what had happened. His family did all the obvious things, asked amongst his friends, called the local hospitals but nobody had heard anything about him.<sup>22</sup> Various family members also give accounts of speaking to police in the early days.<sup>23</sup>
27. At the time of his disappearance John was living with his then partner Karen Trevithick. A friend, Ms Sharon Price described visiting the house in Auburn about half an hour after John left. She says "[Karen] was just watching TV. Um, I just, 'cause it was only, like, about half an hour so she wasn't panicking or anything and I just came in the front door, didn't come in the back lane. Um, "Where's John?" She said "Oh, I don't know." She said, someone called him", she said "Out the back" And I said, "Who?" She said, "I don't know", she said "I didn't go out", she said, "But he hasn't taken anything, he didn't even have a pair of shoes on, he had a pair of stubbies on like he just always wore" ..." He's left his car keys and his wallet and everything here...so he mustn't be going to be long" That's what she said. And we hung and had some pot um, and just waited and waited. And I can't remember if it was that night or the next day that the police and his parents and, like everyone got involved because he didn't come back"<sup>24</sup>

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<sup>22</sup> Tab 45 at [8], tab 39 at A619

<sup>23</sup> Tab 39 A608 and elsewhere

<sup>24</sup> Tab 34 A731

28. It is clear that John's family and friends never forgot him and continued over many years to try to get Police to take their concerns seriously. Their frustration and anger is understandable. His family should not have been made to feel that John's life was not considered valuable by the authorities they approached for help. Their loss was significant and their pain has clearly extended over the decades.

**What was the initial police response to John's disappearance?**

29. There is no doubt that the police response to the report of John's disappearance was wholly inadequate. Both in relation to the steps taken in the investigation and in relation to the records kept.

**What was the police response from 1980-2003**

30. Despite numerous requests from the Crean family and others it appears that very little was done in the crucial period after John's disappearance. The Coronial brief contains an unsigned statement from John's mother Catherine in which she states "the police were not very interested. They just said he will turn up, he probably just left his wife and has gone of [sic] with someone"<sup>25</sup> She went on to state that "for months I attended Auburn Police Station nearly on a daily basis asking if he had been found. They said if he turned up they would tell me".
31. John's daughter Michelle also made a number of inquiries. The first missing person record on police files in relation to John is her report made on April 8 1992. However, aside from a check of the electoral roll in October 1992, there is no record of any other investigations made until 2003.
32. It may be that other inquiries were made and not adequately recorded. Certainly John's friends and family have given various accounts of contact with police that there are no official records for. Whatever the case, it is abundantly clear is that there was no proper investigation planning and no co-ordinated response.

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<sup>25</sup> Tab 44 at [16]



### **What was the police response from 2003 onwards?**

33. After the steps taken in 1992, it appears that no further action was taken by Police in relation to John's disappearance until November 2003 when the case was apparently re-activated. Records show that Inspector Michael Randall of Mt Druitt LAC was allocated the case. However there is no evidence of any actual investigation taking place and the file was transferred to the Hawkesbury LAC, then sent back to Mt Druitt, thence to Auburn LAC, before being allocated to Flemington LAC in 2004. It was not until the end of 2004 that a number of standard checks with banks, Centrelink, and Medicare were finally carried out.
34. The inquest heard from Detective Senior Constable Gavin Lawler who was made officer-in-charge of the re-investigation into John's disappearance on June 6 2011, under the reference Strike Force Winston. It was his view that the investigation had been "very badly managed and investigated"<sup>26</sup> and that as a result he was unable to locate records that should have been available.
35. I accept that since taking control of the investigation that Detective Senior Constable Lawler has now exhausted all obvious avenues of inquiry and spoken to all the remaining witnesses who were willing to assist police in this investigation. It appeared to be his view, after reviewing all the available evidence, that homicide was likely but the only suspect has now been dead for over a decade.

### **What is the result of the inadequate investigation?**

36. It is well established that the period immediately following a suspicious disappearance is significant and provides the best opportunity to gather crucial evidence. It is the most effective time to gather information and intelligence and to focus resources.
37. The indifference that family members encountered from police over many years is both shocking and inexplicable. Perhaps even more importantly, the lack of action means that John's disappearance can now never be properly investigated. That opportunity has been lost with the passage of time.

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<sup>26</sup> Tab 2[6]

38. There was no attempt to locate or interview the person known as “Sugar”, said to be the last person to have seen John alive. The information originally came from Debra Crean who has herself been dead since 1990. Thirty-five years on, “Sugar” has never been further identified.
39. Even more crucial is the evidence surrounding the person George Morres, seen with John by a number of reliable witnesses at the time of his disappearance. There was clearly enough evidence available at the time of John’s disappearance for police to find and at least attempt to interview George Morres. Later there were other accounts of confessions and rumours implicating Mr Morres directly in John’s death. Inexplicably there is no evidence that any attempt was made to follow up these leads. Mr Morres died in prison in 2003 and that opportunity is now lost. In other words, the only person who could be described as a suspect in this case is now dead.
40. Other crucial witnesses have also died, including Karen Trevithick and Debra Crean. Karen Trevithick was John’s partner at the time of his disappearance. She was one of the last people to have seen John alive, she was also involved in the drug world, she knew Mr Morres and may have been able to shed some light on John’s debts and the difficulties he may have been having with Mr Morres or others. Similarly Debra Crean, John’s sister, apparently had information about Mr Morres “bragging to a female inmate at Silverwater about killing John and feeding him to pigs on a farm.”<sup>27</sup> With their deaths none of this information can now be properly gathered or tested.

### **Could this happen again?**

41. Quite properly, it was conceded in the opening remarks made by Counsel appearing for the NSW Police Force at the Inquest that the original investigation was deficient. There was no investigation plan and proper record keeping was non-existent or wholly inadequate. Early witness statements were not taken and crucial witnesses were not followed up in a timely or appropriate manner. It was conceded that the early investigation did not meet contemporary standards in any way, whatsoever.

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<sup>27</sup> Tab 2 [57]

42. However, The Police Force submitted that there were a number of recent changes to police systems and procedures that would guard against an investigation of this sort falling so far below acceptable standards now or in the future.
43. Firstly, technological changes have meant that record keeping systems have changed completely since 1980. The use of the COPS and E@gl.i systems now ensure proper records are kept and can be easily accessed.
44. Secondly, evidence was presented which demonstrated recent and comprehensive changes to police procedures with respect to missing person cases. The new procedures are set out in “Missing Person – Standard Operating Procedures” (Missing Person SOPs) published in 2013<sup>28</sup> and replace earlier guidelines. The new procedures provide a far more detailed approach to missing person cases and set out clear mandatory steps to guide all such investigations. The new operating procedures also set out clear responsibilities and supervisory systems that should ensure a focussed and professional investigation at an early stage.
45. Importantly, the new procedures emphasise the need for a quick response to an initial complaint and a commitment to early risk assessment so that an appropriate level of investigative response can be immediately implemented. There is no minimum time to wait before a report can be accepted.<sup>29</sup> Families should be regularly updated with the progress of the investigation. Crucially, in circumstances such as John’s disappearance, it is mandated that if suspicious circumstances are strongly suspected, the Homicide squad should be contacted immediately.<sup>30</sup>
46. The new procedures also call for missing person matters to be placed before the Coroner if there are no signs of life after 12 months or sooner in certain circumstances. In John’s case, the matter comes before a Coroner 35 years after his disappearance at a time when crucial witnesses have been dead for many years.

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<sup>28</sup> Missing Persons – Standard Operating Procedures – NSW Police Force – exhibit 2

<sup>29</sup> Exhibit 2, page 6

<sup>30</sup> Exhibit 2, page 8

47. Thirdly, it was submitted by the Police Force that other police protocols would also ensure the participation of specialized investigators at an early stage in a matter of this sort, including the early input and guidance from the Homicide Squad.<sup>31</sup>
48. I have considered carefully the policy documents supplied by the Police Force which are directly relevant to this inquest. I accept that recent changes made by the Police Force in relation to the way it investigates missing person cases mean that further recommendations in this area are presently unnecessary. If followed, the current procedures provide a comprehensive investigative approach. I am quite confident that a disappearance such as John's would be dealt with very differently had it occurred today and any investigation could be judged against these clear standards which are now in place. Accordingly I make no recommendations in relation to improvements necessary to the current investigative procedures in relation to missing person cases

### **Findings**

49. I find, on the balance of probabilities, that John Vincent Crean is dead. He died on or shortly after January 6 1980. I am unable to determine the place of his death. His death is suspicious.
50. I accept Detective Senior Constable Lawlor's opinion that with the death of George Morres and others, no obvious areas of inquiry remain open at this time.
51. I offer John's family, particularly his children who have lost so much, my sincere and heartfelt condolences. I thank John's family for participating in this inquest.

Harriet Grahame

Coroner

May 12 2015

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<sup>31</sup> Exhibit 3