2014



# CREWE HOMICIDE INVESTIGATION REVIEW



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- Randolph MURRAY, Director of Churchill Atkin Grant & Lang Limited, England (in 1972)
- Peter PRESCOTT, Principal Scientific Officer, Head of Ballistics Section, Home Office Forensic Science Laboratory, United Kingdom (in 1980)
- Report of examinations conducted on 14 June 2007 of Com 40 Exhibits by Kevan WALSH, ESR Scientist, Auckland, New Zealand
- Sharon FOWLER, Senior Forensic Scientist, National Ballistics Intelligence Service, Greater Manchester Police, United Kingdom (2013)
- Report on the examination of photographs of bullets and bullet comparisons relating to the CREWE homicides, by Kevan WALSH, ESR Scientist, Auckland, New Zealand (2014)
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- 'Corrosion of New, Fired, 0.22-Caliber, Long-Rifle Brass Cartridge Cases Buried in Soil' (1976), by Rory SHANAHAN, M.Sc., Department of Scientific and Industrial Research
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Extracts of 'The New Zealand .22 Rimfire' (2000), by Barry GRACIA and Kevan WALSH

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- Report of Fingerprint Examination (1979), by Detective Sergeant Mervyn DEDMAN, Officer in Charge Fingerprint & Photography Section, Auckland, New Zealand Police
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New Zealand Police Manual for Detectives - Homicide Investigation Court of Appeal Judgments:

- 18 June 1971, First Appeal Court of Appeal Judgment
- 2 February 1972, First Petition Report Sir George McGREGOR
- 26 February 1973, First Referral Court of Appeal Judgment
- 11 July 1973, Second Appeal Court of Appeal Judgment
- 26 August 1974, Second Petition Court of Appeal Judgment
- 29 January 1975, Second Referral Court of Appeal Opinion
- 29 August 1980, Judicial Review High Court Judgment
- 30 July 1982, Judicial Review Court of Appeal Judgment

# **Glossary - Including Terms and Abbreviations**

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Term / Abbreviation	Explanation
CREWE Farm	Property owned by Harvey and Jeannette CREWE post 18 June 1966
THOMAS Farm	Property owned by Allan THOMAS and leased by Arthur and Vivien THOMAS
Harvey	David Harvey CREWE
Jeannette	Jeannette Lenore CREWE (nee DEMLER)
Rochelle	Rochelle Janeane CREWE
RCOI Chairperson	Retired Chief Judge, Supreme Court of New South Wales, Justice Robert TAYLOR
Defence Counsel (First Trial)	Paul TEMM and Brian WEBB
Defence Counsel (Second Trial)	Kevin RYAN and Gerald RYAN
Crown Prosecutor (First & Second Trials)	Crown Solicitor, David MORRIS and Crown Prosecutor, David BARAGWANATH
Presiding Judge (First Trial)	Justice Sir Trevor HENRY
Presiding Judge (Second Trial)	Justice Clifford PERRY
Offender, Culprit, Assailant	Refers to an individual or individuals responsible for the murder of Harvey and Jeannette CREWE and are used interchangeably throughout the review
DSIR	Department of Scientific & Industrial Research
ESR	The Institute of Environmental and Scientific Research
RCOI	Royal Commission of Inquiry
ICI	Imperial Chemical Industries
CAC	Colonial Arms Company
.22	.22 Calibre
'Category 3'	.22 Calibre cartridge case containing solid, hollow, Palma or Palma D projectile with '8' embossed in base
'Category 4'	.22 Calibre cartridge containing a model 18 (solid) or 19 (hollow nose) projectile

# **Glossary - Including Terms and Abbreviations**

Term / Abbreviation	Explanation
Highway 22	State Highway 22
New Zealand Police	Police
Review Team	CREWE Homicide Investigation Review Team

# Key exhibit numbers and description

Exhibit Number	Description
Police Exhibit 234	.22 calibre bullet with '8' embossed in the base, recovered from Jeannette CREWE
Police Exhibit 257	23 fragments of lead recovered from Jeannette CREWE
Police Exhibit 289	.22 calibre bullet with '8' embossed in the base, recovered from Harvey CREWE
Police Exhibit 293	1928/1929 Nash standard six 420 series front axle, located with Harvey CREWE's body
Police Exhibit 317	.22 calibre Browning pump-action rifle, serial number 86942, owned by Arthur THOMAS
Police Exhibit 318	Box bearing batch number 4666, containing an unknown number of .22 brass cartridge cases
Police Exhibit 330	Nash motor vehicle stub axle (cut)
Police Exhibit 331	Nash motor vehicle stub axle (whole)
Police Exhibit 343	.22 calibre brass cartridge with number '8' embossed in the base of the projectile
Police Exhibit 344	Jar containing 14 .22 calibre cartridges (metal type unknown)
Police Exhibit 350	.22 calibre brass cartridge case fired from Arthur THOMAS' rifle (Police Exhibit 317)

On 18 June 1966, David Harvey CREWE (known as Harvey) married Jeannette Lenore DEMLER at St George Church, Ranfurly Road, Epsom, Auckland. Jeannette thereafter was known as Jeannette CREWE.

The couple took up residence at the farmhouse of a 340 acre property on State Highway 22 at Pukekawa.

The property had been bequeathed to Jeannette and her sister, Dianne Heather DEMLER (known as Heather), by her uncle Howard CHENNELLS, who died following an accident in 1950.

Prior to his marriage to Jeannette, Harvey CREWE arranged to purchase a half share of the property from Heather, who was resident in the United States of America. The sale was completed in August 1966.

Jeannette's parents, Lenard and May DEMLER, owned and occupied the adjoining 465 acre farm.

The CREWES worked hard on the property and were viewed as successful farmers, running both sheep and beef stock.

In 1967, the CREWE farmhouse was burgled and jewellery items and other personal property belonging to Jeannette were stolen.

In December 1968, Jeannette gave birth to their daughter, Rochelle.

A week later, on 7 December 1968, whilst the CREWES were absent from the property, a fire occurred in a spare bedroom at the property. There was a suspicion that the fire may have been caused by a cigarette or an electrical fault, however, the CREWES believed that it was the result of arson.

Six months later on 28 May 1969, a hay barn located on the property near the CREWE farmhouse caught fire and was a total loss. Again, the cause was not definitively established (it was ruled as spontaneous combustion) and may have been the result of arson.

On 17 June 1970, the CREWES were murdered in their farmhouse.

On 22 June 1970, the scene and the CREWES' disappearance was discovered.

Eighteen-month-old Rochelle was found unharmed in her cot by Lenard DEMLER. Evidence of violent activity was observed in the lounge of the CREWE farmhouse. Both Harvey and Jeannette were missing. A Police investigation commenced into their disappearance, which was viewed as a potential homicide at an early stage.

Extensive searches over large areas of farmland proved unsuccessful.

On 16 August 1970, Jeannette's body was located in the Waikato River. She had been shot with a single .22 bullet to the head.

On 16 September 1970, the Harvey's body was also located in the Waikato River. He, too, had been shot with a single .22 bullet to the head.

From the outset, the Police investigation focussed on Lenard DEMLER as being the likely culprit.

From mid-October 1970, as a result of evidence located on the THOMAS family farm, Arthur Allan THOMAS emerged as a significant person of interest and suspect. On 11 November 1970, Arthur THOMAS was arrested and charged with the double murder.

In February 1971, following a Supreme Court trial in Auckland, Arthur THOMAS was convicted of the double murder and sentenced to life imprisonment.

Initial appeals that followed were unsuccessful.

As a result of the Court of Appeal considering that the conviction of Arthur THOMAS was unsafe, he was granted a re-trial that was held in April 1973.

Again Arthur THOMAS was convicted of the double murder and his life sentence re-imposed.

Public opinion supported by media and journalistic interest, coupled with lobbying to Government, led to a review of the CREWE murders by an independent Queens Counsel. This review resulted in a report to the Prime Minister which concluded that the case against Arthur THOMAS may not have been established beyond reasonable doubt.

In December 1979, on the recommendation of the Prime Minister, the Governor-General granted Arthur THOMAS a free pardon.

In 1980, the Government appointed a Royal Commission of Inquiry (RCOI) to examine the circumstances that led to the conviction of Arthur THOMAS for the murder of the CREWES.

The findings of the RCOI identified the Officer-in-Charge of the homicide investigation, Detective Inspector Bruce HUTTON, and one of his investigators, Detective Lenrick JOHNSTON, as being guilty of corruption.

The RCOI found that they had fabricated evidence by planting a .22 cartridge case (Police Exhibit 350) that had been fired by a rifle owned by Arthur THOMAS in the CREWE garden, for the purposes of incriminating him.

Further, the RCOI found that during the second trial Detective Inspector HUTTON was responsible for fabricating evidence in that he exchanged Police Exhibit 343, a .22 brass cartridge case found on the THOMAS farm, with another brass cartridge case that matched Police Exhibit 350.

The Review Team record that former Detective Lenrick JOHNSTON died in 1978 and that former Detective Inspector Bruce HUTTON died in 2013. Detective JOHNSTON obviously could not have given evidence at the RCOI to defend himself. Former Detective Inspector HUTTON did give evidence and was disbelieved on a number of issues by the Commissioners.

The RCOI recommended that Arthur THOMAS receive over one million dollars in compensation, which was agreed to by Government and paid.

In August 2010, Rochelle CREWE, approached Police and raised a number of concerns about the 1970 Police investigation. In essence, she asked what further investigative action had been taken following the pardon of Arthur THOMAS, and the reason why Detective Inspector HUTTON and Detective JOHNSTON had not been prosecuted as a result of the findings of the RCOI.

Police Commissioner Howard BROAD acknowledged her concerns. As a result, he appointed a small team of experienced senior investigators and analysts to undertake a review of the 1970 homicide investigation and other relevant matters, in accordance with the following 'Terms of Reference':

- 1. You will gather all available source material relating to the 1970 Crewe Homicide investigation; the 1970 committal hearing of Arthur Allan Thomas; the 1971 High [Supreme] Court Trial; the 1972 Court of Appeal Hearing; the 1973 High [Supreme] Court Trial; the 1980 Royal Commission Hearing.
- 2. Additional material will include (1) documents and correspondence relating to any reexamination of the forensic evidence; and (2) consideration of any new information that has been investigated by Police. You will have the source material copied into an electronic format .... and house the original documents / related material in a secure area.
- 3. You will prepare a Review / Assessment Plan which will be maintained as a record of decisions made and will also provide sufficient detail to demonstrate that all reasonable assessment and analytical opportunities have been identified, considered and evaluated.
- 4. You will identify what, if any, avenues of enquiry can be explored as a result of (1) this assessment, or (2) any new information passed to Police, which are to be prioritised and warrant further enquiries to be undertaken and action.
- 5. You will continue to assess and re-assess risk, particularly in relation to any new information that is presented to Police.
- 6. You will evaluate any new evidence that indicates actual, or potential, criminal liability on the part of any person/s that is disclosed within the source material reviewed; and in regard to any new information that comes to light, your assessment will focus on:

- Crimes Act 1961, Section 167, and associated offences
- Legislative provisions under Part 6, Crimes Act 1961 Crimes affecting the administration of law and justice

This review has now been completed. What follows is the product of almost four years of work, which has included:

- A review of existing evidence and other material from Court and Police files, archives and publications
- Approaching and interviewing witnesses who had already made statements and / or given evidence, as well as additional potential witnesses
- Identifying and pursuing (where possible) any further lines of enquiry
- Obtaining further expert opinion and analysis in relation to forensic and specialist topics

The Review Team has attempted to give all persons who have any interest in the CREWE case an opportunity to have input. Individuals have been contacted directly in certain cases, as well as public notices being given in the media for persons to contact the Review Team with any information. One of the goals was to conduct as thorough an investigation as possible in the hope of ensuring that all reasonable avenues of enquiry were explored. This goal, we consider, has been achieved.

**END** 

The review in full is contained after this section. What follows is a summary of the key findings.

### **Chapter 1 - Context**

1. No key findings arise.

### **Chapter 2 - Foreword**

2. No key findings arise.

# **Chapter 3 - Issues**

### Date and time of death

- 3. The time of Harvey and Jeannette's death was, in all probability, between 7:00pm and 9:30pm on Wednesday 17 June 1970. This confirms the conclusions reached by the 1970 investigation team as to the date, but not necessarily the time of death.
- 4. The proposition that the remnants of the meal on the dining table may have been a late lunch on Wednesday 17 June 1970 or breakfast on Thursday 18 June 1970, as suggested by Robert ADAMS-SMITH QC, is not supported.
- 5. The Royal Commission of Inquiry (RCOI) had no issue with the time of death hypothesis advanced by the 1970 investigation team (Refer <u>Appendix 15</u>, paragraph 402(i)).

### Activities on the evening of Wednesday 17 June 1970

- 6. Three events occurred in the Pukekawa area on the evening of 17 June 1970; namely the Ratepayers' meeting, indoor bowls and table tennis. Pre-planning around one or more of these events may have provided the offender with an opportunity to commit the murders undetected.
- 7. The 1970 investigation team did not corroborate the presence of each person claiming to have been an attendee at these events. This represents an investigative shortfall which has not been able to be remedied by the review, given the passage of time.

### The woman allegedly seen at the CREWE property on Friday 19 June 1970

8. The woman allegedly seen on the CREWE property has not been identified.

- 9. No one has ever come forward to Police acknowledging being the person in question and explaining their reasons for being there.
- 10. There is no credible evidence that Norma EASTMAN, Heather SOUTER or Vivien THOMAS was the woman allegedly seen on that day.
- 11. If the sighting by Bruce RODDICK occurred, it was either not on that day or was of an unknown and unidentified woman.

### The child allegedly seen at the CREWE property on Saturday 20 June 1970

- 12. The alleged sighting of a child on the property that day by Queenie McCONACHIE was supported by her husband, Maurice McCONACHIE, although Maurice's alleged sighting was at a different time of the day.
- 13. To have exposed Rochelle CREWE to public view would have placed the person present at serious risk of being identified as being complicit in the murders.
- 14. It is concluded that if the alleged sighting occurred it was either not on that day and / or the child was someone other than Rochelle.

### Was Rochelle CREWE fed?

- 15. There was a variation in medical opinions about Rochelle's condition when found.
- 16. Dr FOX and Professor ELLIOTT were of the opinion that Rochelle had consumed food / fluid during the time between the murders and the crime scene being discovered. Whereas Drs CAUGHEY and LUDBROOK opined that she had not.
- 17. Professor JENNY, engaged by the Review Team, stated that she was certain that Rochelle had been provided food and / or fluid during this time. This opinion has invariably been based on records of people's observation at the time and the medical reports.
- 18. Notwithstanding the opinion of Professor JENNY, when considering the totality of the evidence, the Review Team are of the opinion that it is improbable that Rochelle CREWE was fed or provided with fluids after being put to bed on the evening of Wednesday 17 June 1970, and prior to being found on Monday 22 June 1970 in a state of neglect.

# Vehicles seen at or near the CREWE property between Friday 19 June and Monday 22 June 1970

19. The follow-up action by the 1970 investigation team concerning the sightings of vehicles seen at or near the CREWE property during these dates, lacked thoroughness and opportunities were missed to definitively link vehicles to individuals, and in turn, individuals to the crime scene.

### Other events at the CREWE property

- 20. Insufficient priority was given by the 1970 investigation team to review the enquiries undertaken by Police into the 1967 burglary of the CREWE farmhouse; the circumstances of the December 1968 fire at the CREWE farmhouse; and the May 1969 fire of the CREWE hay barn.
- 21. The lack of priority represents a failing on the part of the 1970 investigation team, since the presence of a link between these crimes / events and the murders could only be discounted, or confirmed, if the offender for the burglary had been identified, and an accurate determination of the cause of the fires established.
- 22. There is no opportunity to undertake a further evidentially-based assessment of these crimes / events due to a lack of information available either on the investigation file or other Police records.

# **Chapter 4 - Initial Action / Crime Scene**

- 23. The crime scene was poorly managed from the outset, which compromised its overall integrity. Of note, the Officer-in-Charge (O/C) Scene was not appointed for 24 hours after Police had been alerted, which represents an investigative shortfall.
- 24. The level of forensic awareness on the part of Police investigators was an area of deficiency. As a result scene contamination, scene photography, fingerprint examination, exhibit seizure, security and handling, were all adversely affected.
- 25. Initial scene reconstructions did not fully explore all possible scenarios. This resulted in an inadequate search of the CREWE farmhouse and surrounds being carried out.
- 26. Efforts to identify the people to whom outstanding scene fingerprints belonged were poorly documented. The current whereabouts of the 1970 fingerprint lifts is unknown.
- 27. Fingerprint lifts of unidentified prints should have been carefully secured as critical exhibits, because of their potential to link an offender with the crime scene.
- 28. No blood, fingerprints, or other physical evidence was identified at the crime scene directly linked to an offender.
- 29. The volume and quality of crime scene and post-mortem Police photographs are limited. This precludes an opportunity to conduct the desired critique of the photographic records.
- 30. Key decisions concerning what was relevant evidence, including what should be considered or rejected as being potential evidence, were principally made solely by the individual detectives. Such decisions should have been sanctioned by the O/C Investigation.

### **Chapter 5 - Area Canvas / General Enquiries**

- 31. The area canvas involved households in the vicinity of the CREWE farmhouse and followed a questionnaire approach to some degree. There is nothing on the investigation file to indicate that the householders spoken to were required to account for their movements during any specified time period.
- 32. There is nothing on the investigation file to indicate that as new information linking the time of the murders to the evening of Wednesday 17 June 1970 emerged, that previously canvassed properties were revisited and further questions asked.

### **Chapter 6 - Body Recoveries**

### Search

33. The commitment demonstrated by the 1970 Search Team that led to the finding of the bodies of Harvey and Jeannette was exemplary. The efforts of Inspector Patrick GAINES (O/C Search) and the local Police Officer, Constable Gerald WYLLIE, are particularly worthy of mention, as is the contribution provided by members of the Police Search Team and members of the local community.

### **Body recovery**

- 34. During the recovery of Jeannette's body, some clothing worn by her became detached due to the river current. No criticism is intended in this regard, and the investigation is unlikely to have been prejudiced as a result.
- 35. During the recovery of Harvey's body, a cradle was placed beneath him. In doing so, the cradle came into contact with some resistance between the body and a weight beneath it.
- 36. When the resistance gave way, the body rose slightly in the water and allowed for successful recovery. Police divers recovered the weight beneath the body which proved to be a 1928/1929 Nash motor vehicle front axle (Police Exhibit 293).
- 37. Wire and fabric wrapped around the bodies were recovered. This led to the opportunity for forensic analysis of the physical evidence and in turn, enabled a wire recovery phase to be initiated.

### **Pathology**

- 38. Both Harvey and Jeannette died as a result of a single bullet wound to the head from a .22 calibre cartridge.
- 39. Detective Inspector HUTTON's decision to call on Lenard DEMLER to visually identify the bodies of both his daughter and son-in-law after prolonged emersion in water lacked sensitivity and represents an unacceptable practice.

- 40. Given Lenard DEMLER was the prime suspect when the bodies were recovered, this action by Detective Inspector HUTTON may have been calculated to evoke some sort of admission from Lenard DEMLER.
- 41. Forensic pathologist, Dr Paul MORROW (engaged by the Review Team), concluded that six front teeth missing from Jeannette's lower jaw were most probably dislodged as a result of decomposition, negating the contention that the missing teeth being the evidence of assault.
- 42. There is no evidence to indicate that Jeannette was subjected to any sexual assault. When recovered her body was fully clothed with all undergarments in place.

### **Chapter 7 - Exhibits**

- 43. Exhibit management, handling and documentation during the 1970 investigation lacked thoroughness and potentially compromised the integrity of the investigation.
- 44. Some items that should have been seized as exhibits were overlooked. Exhibits were not always recorded in sequential date order, or kept in secure storage, and on occasions, exhibit movements were not accurately recorded.
- 45. The failure to record the presence of a piece of material, possibly an oilskin coat, which features in Police scene photographs alongside a wheelbarrow in the CREWE garden, was negligent.
- 46. Remarkably, the presence of this item was never recorded, nor its disappearance noted or adequately explained. Regrettably, its significance to the case will now never be known.
- 47. The decision to return the rifles to Arthur THOMAS and the EYRE family on 8 September 1970, when neither had been excluded as the murder weapon, was inexplicable.
- 48. The investigative opportunities presented by the Department of Scientific and Industrial Research (DSIR) ballistic findings relating to the THOMAS and 'EYRE' rifles, should have been the subject of a specific investigation phase.
- 49. Although no breach of legal requirements or Police policy have been identified, the Review Team are critical of the decision to destroy 135 Police exhibits at the Whitford Tip on 27 July 1973. Some exhibits were not destroyed, including larger items such as the axle used to weigh down Harvey's body.
- 50. The destruction of key exhibits has precluded the opportunity for any further analysis using contemporary forensic methods.

- The destruction of exhibits was also the subject of adverse findings at the RCOI, however, it is now apparent that the Chairman, Justice TAYLOR, personally uplifted certain ballistic exhibits and took them to Australia for analysis. This occurred while the Commission hearings were conferring.
- 52. The taking of RCOI exhibits to Australia by Justice Robert TAYLOR, in person, for the purpose of them being examined by a New South Wales Police Ballistic Expert is unprecedented. The purpose for which he sought the examination was never disclosed. However, for the Commission Chairman to take exhibits into his personal custody and transport them off shore for the purpose of what appears to have been an informal forensic examination is irregular in the extreme. No explanation was ever provided for this conduct by Justice TAYLOR.

### **Chapter 8 - Firearms Ballistic Examination**

- 53. Criteria were developed and applied for the seizure and collection of .22 firearms for ballistics examination by the DSIR, namely 'A', residents living within five miles of the CREWE farmhouse and 'B', individuals with links to the CREWES.
- 54. Examining firearm registration records and advertisements regarding the sale of .22 firearms in the area supported the collection phase and demonstrates a level of thoroughness on the part of the 1970 investigation team.
- 55. The .22 bullets recovered from the heads of Harvey (Police Exhibits 289 and 257) and Jeannette (Police Exhibit 234) were fired from a firearm with a barrel configuration of six lands and grooves with a right-hand twist. They were consistent with having been fired by the same firearm.
- 56. Collectively, forensic ballistic examinations point to Arthur THOMAS' .22 Browning rifle (Police Exhibit 317) as being the likely murder weapon. Factors influencing this conclusion include:
  - (i) DSIR Government Analyst, Dr Donald NELSON's examination of the Arthur THOMAS .22 Browning rifle with the fatal bullets in 1970, could not exclude it as being the murder weapon.
  - (ii) Home Office Principal Scientific Officer and Ballistics Expert, George PRICE, examination of the Arthur THOMAS .22 Browning rifle and a comparison of test-fired bullets with the fatal bullets in 1972, concluded that the fatal bullet (Police Exhibit 234) recovered from Jeannette "...indicate that it could well have been fired in this rifle." (Refer Appendix 8)
  - (iii) Director of Gunmakers, Churchill Atkin Grant & Lang Limited, Randolph MURRAY, engaged by defence counsel, Kevin RYAN, who examined the Arthur THOMAS rifle and the fatal bullets in 1972, concluded that "the fragment [from Jeannette's head] was large enough to determine that it had characteristics of rifling marks which indicate that it could have been shot from rifle No. 86942 [Arthur THOMAS' rifle]..." (Refer Appendix 8)

- (iv) Home Office Ballistics Expert and Principal Scientific Officer, Peter PRESCOTT's critique in 1980 of the work of his colleague, George PRICE, in preparation for providing expert testimony for the RCOI, concluded that it was 'highly probable' the fatal bullet (Police Exhibit 234), removed from the Jeannette's body was fired by Arthur THOMAS' .22 Browning rifle. (Refer Appendix 8)
- (v) Dr NELSON and George PRICE concluded that the land markings visible on the bullet (Police Exhibit 289) that killed Harvey were consistent in width with the land markings on the bullet (Police Exhibit 234) that killed Jeannette and bullets test-fired in Arthur THOMAS' rifle.
- (vi) In 2012, Sharon FOWLER, Senior Forensic Scientist NaBIS, examined nine bullets known to have been test-fired by Arthur THOMAS' .22 Browning rifle and compared these with photographs of .22 bullets (Police Exhibits 234 and 289), removed from the bodies of Jeannette and Harvey CREWE. Sharon FOWLER reported that without a physical examination of Police Exhibit 234 and 289 (which were destroyed in 1972), it would not be possible for her to reach a conclusion as to whether the Browning rifle (Police Exhibit 317) had fired the fatal shots, although she recorded that the possibility could not be discounted. (Refer Appendix 8)
- (vii) ESR Forensic Scientist, Kevan WALSH's re-examination and critique of the work of previous forensic scientists in 2014, concluded that there was 'strong support' that the Arthur THOMAS rifle fired the bullet (Police Exhibit 234) that killed Jeannette CREWE. (Refer Appendix 8)
- 57. The 'EYRE' rifle is not and could never have been the murder weapon.
- 58. Forensic testing (New Zealand and United Kingdom) confirms that there is no evidence the barrel of the 'EYRE' rifle has been modified or substituted between the 1970 DSIR examination and the present day.
- 59. Forensic examination of RCOI Exhibit 209 confirms that it was fired by the Arthur THOMAS rifle (Police Exhibit 317). Since it should be a bullet test-fired by the 'EYRE' rifle, the exhibit has either been mislabelled by the RCOI or otherwise compromised.
- 60. The circumstances of how RCOI Exhibit 209 was compromised are unknown, and any enquiry to identify how this occurred cannot be advanced.

# **Chapter 9 - Wire Collection and Analysis**

61. The 16 gauge galvanised wire found wrapped around Harvey's body matched 16 gauge galvanised wire located on the THOMAS farm. The following provides the basis for reaching this conclusion:

(i) DSIR scientist, Harry TODD, identified in 1970, that the two galvanised wires (Police Exhibits 288(1) and 288(2)) found wrapped around Harvey's body, and the galvanised wire (Police Exhibit 297) from the bedspread located with Harvey's body originated from different sources. Each of these three wires matched wire located on the THOMAS farm.

Harry TODD identified that Police Exhibit 288(1) from Harvey's waist was in 'excellent agreement' and was in fact 'indistinguishable' from four separate wire samples (Police Exhibits 320(a), 323, 325 and 334(clean)) from the THOMAS farm. In addition to this, Police Exhibit 288(1) was in 'quite good agreement' with a fifth piece of wire (Police Exhibit 328(d)) from the THOMAS farm.

Harry TODD identified that Police Exhibit 288(2) from Harvey's chest was in agreement with a sixth piece of wire (Police Exhibit 324(a)) from the THOMAS farm, which he placed between 'excellent' and 'quite good' agreement.

(ii) In 2013, Emeritus Professor, George FERGUSON, from the University of Auckland, Department of Engineering, reviewed the analysis of the wires completed by Harry TODD and defence witness Ian DEVEREUX (a defence expert).

Professor FERGUSON concluded that Police Exhibit 288(1), from Harvey's waist, had 'the same composition' and in fact came from the same 'heat' as Police Exhibits 320(a), 323, 325, 328(d) and 334(clean) from the THOMAS farm.

Professor FERGUSON also stated that Police Exhibit 288(2), from Harvey's chest, was of 'the same composition' and had come from the same 'heat' as Police Exhibit 324(a) from the THOMAS farm.

- 62. A 'heat' is defined as being "...an individual batch of metal as it is treated in a furnace."
- A piece of wire found on Harvey's body being from the same 'heat' as a sample of wire located at the THOMAS farm is a significant piece of circumstantial evidence.
- 64. Two pieces of wire identified as being from the same 'heat' (but different from each other) as a sample of wire located on the THOMAS farm represents highly significant circumstantial evidence.
- 65. No wire located on, or with, Harvey or Jeannette's bodies matched wire taken from any of the seven other farms tested.
- 66. The wire sample collection phase is not well documented in the 1970 investigation file, and it is unclear whether an individual Police Officer was given overall responsibility for completing this phase.

### **Chapter 10 - The Axle (Police Exhibit 293)**

- 67. The axle (Police Exhibit 293) found in the Waikato River on 16 September 1970 had been attached to Harvey's body to weigh him down.
- 68. The axle, identified as being a 1928 Nash Standard Six 420 series front axle was formerly fitted to a trailer made by Charles SHIRTCLIFFE, and in 1959 was sold to Allan THOMAS, Arthur THOMAS' father.
- 69. The Nash axle was removed from the trailer by Roderick RASMUSSEN in 1965, in the course of upgrading it for Allan THOMAS. The Nash axle was returned to Richard THOMAS and, in turn, to the THOMAS farm in Mercer Ferry Road, Pukekawa.
- 70. The stub axles (Police Exhibits 330 and 331) located in a tip on the THOMAS farm had previously been attached to the axle.
- 71. There is no reliable evidence to indicate that the axle removed from Allan THOMAS' trailer in 1965, and returned to the THOMAS farm, was removed from the farm by a group of men later that year.
- 72. Allegations that the axle used to weight Harvey's body was switched and differed to that produced as Police Exhibit 293 at both Supreme Court trials is not supported by any evidence.
- 73. Allegations that the axle (Police Exhibit 293) and stub axles (Police Exhibits 330 and 331) represent fabricated evidence is not supported by any evidence.

# **Chapter 11 - Police Exhibit 350**

- 74. There are two alternatives as to how Police Exhibit 350 came to be found in the garden border at the CREWE farm on 27 October 1970. These being:
  - (i) Police Exhibit 350 is a legitimate piece of evidence which is forensically linked to the .22 rifle owned by Arthur THOMAS.
  - (ii) Police Exhibit 350 represents fabricated evidence intended to add weight in linking Arthur THOMAS' rifle, and in turn Arthur THOMAS, to the murder scene and the victims.
- 75. The Review Team identify that Police Exhibit 350 may represent fabricated evidence. A principal reason is:
  - Research undertaken by Christopher PRICE M.Sc confirms that Police Exhibit 350 could not have contained a pattern '8' projectile of the type that killed Harvey and Jeannette. Its presence in the CREWE garden is difficult to reconcile when seeking to advance a practical crime scene reconstruction, particularly where in both trials the Crown assertion was that Police Exhibit 350 did contain a fatal bullet.

- 76. The finding of Police Exhibit 350 was significant as it provided a direct link between the THOMAS rifle and the crime scene and simultaneously minimised the significance of the 'EYRE' rifle which had not been eliminated as the potential murder weapon at that time.
- 77. Although the chronology of the finding of Police Exhibit 350 can be fully explained by the 1970 investigation team it is inescapable that this piece of evidence represented a tipping pointing in initiating the prosecution of Arthur THOMAS for the double murders.
- 78. The Review Team accepts that if Police Exhibit 350 was planted in the garden border for the purposes of implicating Arthur THOMAS, that a member of Police is responsible.
- 79. Whilst accepting the possibility that Police Exhibit 350 may represent fabricated evidence, the Review Team believes that the available evidence does not establish with certainty that it is definitely fabricated. There are a number of reasons for this:
  - The statement of the CREWES' neighbour, Julie PRIEST, of hearing three gunshots on the night of the murders. This would explain two fatal shots being fired and a third resulting in Police Exhibit 350 being ejected from the firearm.
  - Police Exhibit 350 may have ended up in the CREWE garden as a result of the
    offender racking the firearm prior to the shot that killed Harvey, thereby
    discharging an empty cartridge case. However, the Review Team places no
    reliance on the photograph of the garden taken on 23 June 1970, which is
    discussed in more detail in Chapter 11.
  - The scene search, security and examination were seriously deficient in a number
    of respects. Four Police Officers and one independent witness, Jack HANDCOCK,
    all gave evidence that the garden where Police Exhibit 350 was found was not
    sieve searched. Given difficulties in finding such a small object, the Review Team
    cannot discount the possibility it was present in the garden but was overlooked.
- 80. The Review Team accordingly cannot determine with the appropriate level of certainty that Police Exhibit 350 is fabricated evidence. However, it is accepted that because of its doubtful provenance it would most likely be ruled inadmissible pursuant to the principles articulated in Section 30 of the Evidence Act 2006.
- Assertions that the cartridge case did not present the physical appearance of having been exposed to the elements for 131 days are unfounded based on:
  - An experiment conducted by scientist, Rory SHANAHAN, of having exposed other cartridge cases to the elements for a similar period of time, he demonstrated that corrosion was so variable on .22 cartridge cases that no meaningful conclusions could be made.

- The phenomena of dried mud observed by Detective Sergeant CHARLES and Detective Sergeant PARKES coming from inside the cartridge case (Police Exhibit 350) found in damp soil was consistent with observations of Rory SHANAHAN's in his experiment.
- 82. Police Exhibit 318, which represents cartridges purportedly produced in batch 4666, manufactured between 9 May 1966 and 12 May 1966 cannot be eliminated as being potentially consistent with Police Exhibit 350.
- 83. Christopher PRICE's research favoured Police Exhibit 350 coming from batch 4916, manufactured on 22 January 1968 or one close to it. He could not eliminate conclusively batches after 4470, manufactured between 7 May 1965 and 18 May 1965, as being the source of Police Exhibit 350.

# **Chapter 12 - Persons of Interest**

- 84. When physical evidence was located that changed the focus of the investigation towards the THOMAS farm, insufficient priority was given to investigating the actions of other individuals who had equal access to Arthur THOMAS' rifle, the axle and wire linked to the THOMAS farm.
- 85. The first suspect interview of Arthur THOMAS, which was sanctioned by Detective Inspector HUTTON, was not afforded the desired level of importance.
- 86. DSIR scientists advised the investigation team on 19 August 1970 that neither Arthur THOMAS' rifle nor the 'EYRE' rifle could be eliminated as having fired the fatal bullet that killed Jeannette.
- 87. This new information should have led to a structured 'investigation phase' being conducted that identified all those who had access to these firearms and would have required research and planning prior to implementation. This did not occur and represents a significant missed opportunity.
- 88. At the time Harvey and Jeannette were murdered, Arthur THOMAS was allegedly at home with his wife, Vivien THOMAS, and cousin, Peter THOMAS. Vivien and Peter THOMAS both corroborate the alibi of Arthur THOMAS. His alibi has never been contradicted by other evidence.
- 89. Claims on the part of individuals that whilst in prison, Arthur THOMAS admitted involvement in the murders of Harvey and Jeannette, are not considered reliable or credible.
- 90. It is clear that Detective Inspector HUTTON suspected Lenard DEMLER of being responsible for the murders at an early stage in the investigation.

- 91. Lenard DEMLER unquestionably represented a significant person of interest. His general persona, the fact that he left Rochelle in her cot on 22 June 1970 when clearly in a state of neglect, and his perceived ill-will towards Jeannette as a result of his latewife May DEMLER's decision to leave her estate to her, provided Police with reasons to be suspicious of him.
- 92. Focusing solely on Lenard DEMLER, however, significantly and negatively impacted the breadth of the investigation and led to a loss of objectivity on the part of the 1970 investigation team, specifically, Detective Inspector HUTTON. Not considering other alternatives objectively, had a detrimental effect on the progress of the investigation.
- 93. At the time Harvey and Jeannette were murdered, Lenard DEMLER was allegedly at his home. As he lived alone, there is no means of corroborating his alibi.
- 94. There is no credible evidence that Lenard DEMLER had any involvement in the murders of Harvey and Jeannette.
- 95. There is no credible evidence that Norma EASTMAN had any association to Pukekawa, prior to, or at the time of, the CREWE murders.
- 96. There is no credible evidence that Heather SOUTER (and Robert SOUTER) were in New Zealand at the time of the murders or had any involvement in the CREWE murders or the stated sighting of a woman at the property on 19 June 1970.
- 97. There is no credible evidence that local farmer, John EYRE, had any involvement in the murders of Harvey and Jeannette.
- 98. There are a number of people who can be identified as having similar access to Arthur THOMAS' rifle, the axle and wire found on the THOMAS farm. Some were interviewed by members of the investigation team in 1970.
- 99. Some have given evidence in one or more of the proceedings that followed the arrest of Arthur THOMAS in November 1970. Others have either not been interviewed thoroughly or not been interviewed at all.
- 100. Arthur THOMAS has declined through his Lawyer, Peter WILLIAMS QC, to participate in any formal discussion with or interview by the Review Team on the basis that it was not believed that he could add anything.
- 101. A number of potentially significant witnesses were not interviewed by the 1970 investigation team. This represents an investigative shortfall.

# **Chapter 13 - New Information and Homicide Theories**

102. All new information that has come to light during the review has been considered. Some new information has assisted in populating intelligence gaps. No new information has assisted Police in identifying the offender responsible for committing the murders.

### **Chapter 14 - Corruption Allegations**

- 103. The 1972 investigation conducted by the Director of Crime, Assistant Commissioner Robert WALTON, into allegations that Police Exhibit 350, a .22 brass cartridge case found in a garden at the CREWE property, was fabricated evidence due to inconsistent discolouration, did not identify any evidence to substantiate the claim.
- 104. Assistant Commissioner WALTON wrote a report as a result of his investigation; however, this has not been located on the 1970 investigation file or in other Police records.
- 105. After Arthur THOMAS was pardoned, there was an opportunity for Police to review the investigation to determine whether the evidence solely implicated Arthur THOMAS as being responsible for the murders, or whether there was another person who warranted further investigative consideration. There is no explanation as to why this course of action was not taken.
- 106. Following the release of the RCOI findings in 1980, there was an opportunity for Police Commissioner WALTON to initiate a formal criminal investigation concerning the conduct of former Detective Inspector HUTTON and the late Detective JOHNSTON. However, this did not occur. Such an investigation should have been initiated then as would be the response today.
- 107. Such a finding today would be reported to the Independent Police Conduct Authority (IPCA) which is empowered to initiate an independent investigation.
- 108. Notwithstanding the RCOI findings, the Review Team are not satisfied that there is sufficient evidence to support a prosecution against any individual for a crime associated with corruption. A re-investigation is, however, not warranted for the reasons articulated in the paragraphs that follow.
- 109. The 1981 legal opinion of Solicitor-General Paul NEAZOR concluded that there was insufficient evidence to implicate any individual for fabricating the provenance of the cartridge case (Police Exhibit 350) found in the CREWE garden. (Refer <u>Appendix 16</u>) On the basis that the evidence against any individual is the same now as it was in 1980, the opinion remains authoritative.
- 110. None of the sworn evidence given by witnesses in the Deposition hearing in 1970, the first Supreme Court trial in 1971, the second Supreme Court trial in 1973 or before the RCOI in 1980, was identified as amounting to an act of perjury.
- 111. No allegations were made against any member of Police in the Deposition hearing or the subsequent Supreme Court trials by Arthur THOMAS' defence counsel that they had fabricated any evidence.
- 112. Explanations given by Police Officers concerning the incineration of the material described as an oilskin coat located by Police in the CREWE garden are not accepted.

- The RCOI contested the evidence but stopped short of finding that any identified individual had committed an act of perjury.
- 113. No evidence sufficient to establish a breach of the criminal law, under Part 6 of the Crimes Act 1961 arising from corruption based allegations has been identified that would allow a criminal prosecution to be undertaken against any individual.

### **Chapter 15 - Investigation Management**

- 114. When senior Police Officers responded to a call for assistance by Constable Gerald WYLLIE, they did not exercise immediate control of the crime scene, albeit some steps to avoid contamination were taken in respect of motor vehicles.
- 115. It is clear that the initial action investigators anticipated a simple and straight forward explanation for Harvey and Jeannette's disappearance and a protracted homicide investigation was not anticipated, which led to an unstructured initial response in terms of 'command and control'.
- 116. The investigative management approach has to be judged against the best practice of the day. This is represented by the National Homicide Pattern approach initiated within New Zealand Police in 1964 with little change in 1970.
- 117. There are examples throughout the investigation where tasks were not properly assigned to investigators, which led to excessive self-initiated activity on the part of investigators.
- 118. The Director of Crime's decision to engage two senior investigators to conduct a peer review of the investigation is endorsed as being both timely and necessary since the investigation had not gathered sufficient evidence to implicate the offender.
- 119. The investigation management approach was less effective when the investigation team relocated from the CHITTY farm cottage to the Otahuhu Police Station.
- 120. After the early loss through illness to the investigation team of the second-in-charge (2/IC), a replacement should have been appointed in support of Detective Inspector HUTTON.
- 121. The investigation progress was recorded by way of Police Conference Notes. These are not complete and some are missing (specifically 2 October 1970) which prevents a fully comprehensive critique of the investigation management. (Refer <u>Appendix 6</u>)

Points one to five of the Terms of Reference set out processes to be followed by the Review Team (included in the Preface). Terms of Reference six requires an evaluation in relation to two main considerations, namely actual or potential criminal liability under the Crimes Act. The Review Team's findings are:

# <u>Crimes Act 1961, Section 167 (the murders of Harvey and Jeannette CREWE), and associated offences</u>

No new evidence has come to light implicating any specific person as being responsible for the double murder.

No new information has come to light that provides a basis for initiating further enquiries that could realistically identify the offender for the double murder.

There is significant physical evidence linking the THOMAS farm in Mercer Ferry Road, Pukekawa with the murders. Notwithstanding, a re-investigation is not warranted for the following reasons:

- (i) Given the passage of time (44 years), a large number of key witnesses are now deceased.
- (ii) The remaining witnesses are mature in years and any assertion they may now make, must be considered less reliable than assertions first made in 1970 and the years following.
- (iii) Significant physical exhibits have been destroyed.
- (iv) The number of people who would potentially fall into the category of 'Persons of Interest' (or even 'Suspects') is no longer likely to be comprehensive, because the significance of an individual in 1970 may not be as clear in 2014.

# <u>Actual or potential breaches of Part 6, Crimes Act 1961 – Crimes affecting the administration of law and justice</u>

There is insufficient evidence to support a prosecution against any individual for a crime associated with corruption, and further investigation is not warranted for the following reasons:

(i) The 1981 legal opinion of Solicitor-General Paul NEAZOR QC concluded that there was insufficient evidence to implicate any individual for fabricating the provenance of the cartridge case (Police Exhibit 350) found in the CREWE garden. Since the evidence in this respect has not changed, the opinion remains reliable.

(ii) Neither the two Supreme Court trial Judges in the prosecution of Arthur THOMAS, or the members of the RCOI, found that testimony given by witnesses in Court, and / or before the RCOI itself, amounted to an act, or acts, of perjury.

**END** 

# **CHAPTER 1**

### **Context**

Prior to considering the content of the review, it may be helpful to gain an appreciation of Police practices in New Zealand in 1970, at a time when Keith HOLYOAKE was the country's Prime Minister and Sir Angus SHARP was the Commissioner of Police.

When David Harvey CREWE (known as Harvey) and Jeannette Lenore CREWE were murdered in their Pukekawa home, three other significant homicide investigations were in progress, one in Southland (Jennifer BEARD) and two in the Bay of Plenty (Olive WALKER and Betty McKAY).

A fourth homicide investigation, this time involving two victims with no immediate indication as to the person responsible, placed significant pressures on Police. This view is supported by the 1970 Police Conference Notes which recorded Assistant Commissioner Robert WALTON commenting on the other unsolved murders and indicating that the CREWE murders must be solved.

This expectation inevitably placed additional pressure on the Officer-in-Charge (O/C) of the Investigation, Detective Inspector Bruce HUTTON.

The hard work and commitment of the 1970 CREWE homicide investigation team is acknowledged by the Review Team. However, there are a number of practices, policies and procedures that were deficient.

There are several examples of shortfalls and inconsistencies in the 1970 CREWE homicide investigation and, on occasions, a failure to follow best practice. Better training would have overcome most of these deficiencies.

Police policy documents and best practice have dramatically improved since 1970.

The New Zealand Police Criminal Investigation Manual, first published in 1964, advanced the National Homicide Pattern as a 'best practice' policy guide to detectives. (Refer <u>Appendix 18</u>)

The manual outlined in 25 pages the best practice to be followed during a homicide investigation. It is difficult to determine how well the National Homicide Pattern was embedded into homicide investigations generally, and in particular the CREWE homicide investigative process.

There is no structured investigation plan on the CREWE homicide investigation file to act as a guide to investigators. Priorities, therefore, can best be gleaned from an analysis of the Conference Notes that record investigative progress. There are significant time gaps and some Conference Notes are missing.

Police investigators of the day, relied heavily on 'gut feeling' and gaining a confession from a suspect was viewed as the primary measure of an investigator's skill.

However, the true measure of their skills would have been better demonstrated by their ability to gather and assess information that could be adduced as evidence in a criminal proceeding.

This is further demonstrated by the fact that there is no evidence of pre-planning for either significant witness or suspect interviews.

Police investigators were required to own a typewriter, and regularly typed their own records of interview, statements and Police jobsheets. As a result, the documents often contained only scant detail of the topic addressed. The typed document may only record a percentage of the information actually provided. The material in the document would also be subject to the individual Police Officer's perception of relevance and reliability.

In 1970, overall Police forensic awareness was limited. It was confined to considerations concerning the presence of physical evidence, fingerprints, blood and, to a lesser extent, handwriting analysis.

Forensic analysis undertaken by scientists from the DSIR was, in the main, limited to physical evidence, such as tool marks, matching cartridge cases to firearms, some ballistic examination and comparison, and establishing alignment between associated physical items.

There was no forensic capability to undertake detailed blood analysis and such endeavours were limited to identifying blood groupings only.

Having arrested an alleged offender for a serious crime, the Court prosecution process in 1970 was extremely rapid, as was demonstrated in this case.

Arthur THOMAS was arrested on 11 November 1970, with the taking of depositions in December 1970, and a double life-sentence imposed on 2 March 1971, following a two week Supreme Court trial.

Disclosure of the Police file to defence counsel was limited to material that the O/C Investigation believed to be relevant. An affidavit from the O/C Investigation stating that they knew of no relevant material evidence that had been withheld was all that was required for Police to meet disclosure obligations.

Since 1970 there have been major changes to the legislative landscape impacting on the criminal prosecutorial process and the protection of the rights of individuals.

Robust Police practices, policies and procedures have developed significantly, reflecting changes in the law. Therefore, it is difficult to imagine that the same short-falls, inadequacies and failures identified in aspects of the 1970 CREWE homicide investigation would or could ever be repeated in the present day.

In 1970, a murder investigation attracted significant media and public interest. The CREWE murders attracted even more interest than normal, and the debate as to whether Arthur THOMAS was guilty of the murders, or the victim of a grave injustice, is a topic that has captured the minds of the New Zealand public in a way never previously seen.

With the passage of time, the general public have been exposed to a mix of facts and inaccuracies about the case through a range of books, articles and multi-media products. Some commentators have made accusations or comments about who they claim is responsible for committing the double murder, most of which have no evidential or otherwise viable basis to support the scenarios advanced.

The Review Team note that some of these accusations have had an extremely damaging effect, both on the people against whom the allegations have been made, and on their families and friends.

With a sense of awareness of these concerns, the Review Team has sought to assess and consider the content of the 1970 CREWE homicide investigation file and associated material, supported by conversations with a selection of witnesses in an open, neutral and transparent manner.

The fact that this double murder occurred some 44 years ago has made the task of reviewing the Police investigation particularly challenging.

The Review Team record that there are gaps in the material reviewed. For example, Police Conference Notes for 2 October 1970 are not part of the investigation file and cannot be found.

Witness statements are, on occasions, brief and lack the desired level of detail. The same applies to a number of Police jobsheets. The Review Team accept that certain tasks and enquires may have been undertaken by investigators but are not recorded. Such action represents a departure from best practice and has affected the Review Team's ability to review investigative actions and critique certain aspects of the investigation.

The Review Team have considered the administrative and managerial aspects of the 1970 Police investigation in some detail. Issues such as the suitability of the identified investigation headquarters for managing what proved to be a protracted investigation; the skill composition and structure of the investigation team; the suitability of the selected Officers-in-Charge of the various investigative phases; evidence of investigation planning; and record keeping of key decisions, are all matters that have impacted on the investigation outcome.

Detective Senior Sergeant Leslie SCHULTZ, Second-in-Charge (2/IC) for a short time, was absent through sickness and not replaced. This inevitably placed additional pressure on Detective Inspector HUTTON, who lost a key senior investigator with whom he could consult, test theories and hypothesise.

The Review Team have contacted a number of individuals (some of whom are former members of Police) by telephone, email and / or letter. Some have been interviewed and statements obtained or disclosures recorded by way of Police jobsheet. Some of those interviewed seek their identity to remain confidential to Police.

Police Officers involved in the 1970 CREWE homicide investigation are referred to throughout the review by the rank they held at the time, unless their rank status has special significance.

The Review Team have sought to add value if matters addressed are within the skill-set of investigators or analysts.

Where appropriate, the Review Team have engaged respected subject matter experts. Examples include ballistics expertise, paediatric knowledge, metallurgy, criminal profiling, forensic pathology and forensic photography.

Since May 2012, David JONES QC has provided guidance to the Review Team concerning the compilation and content of the review document to ensure that the terms of reference are appropriately addressed and that all matters of significance have been considered.

In response to this advice, the Review Team has proceeded in accordance with the following structure:

### 1. General observation

Given the passage of time, the most reliable evidence in the form of physical and forensic evidence should be considered first to establish a base upon which witness statements can then be overlaid.

It is essential that the review be conducted in an objective manner using an evidence-based process. Anything less will reduce credibility.

This approach will avoid the risk of adopting any pre-conceived notions of what happened, as is evident in a number of theory-based commentaries on the CREWE murders.

The review should be structured from the ground up to have substance, credibility and to be able to withstand scrutiny.

Accordingly, the structure of how the review will be conducted and evidence assessed will, where possible, follow these steps:

### a. <u>Chronology / Core facts</u>

Incontrovertible facts are to be stated and wherever possible, used as a basis for a chronology and sequence of events to which other evidence may then be added.

### b. <u>Forensic evidence</u>

To be prioritised where it is reliable.

### c. <u>Physical evidence</u>

Is more likely to be reliable and accurate as opposed to witness statements or testimony given either at the time or in the years since.

### d. <u>Scene</u>

When the physical and forensic evidence has been amalgamated and a solid base established other sources of evidence can then be utilised.

### e. <u>Witnesses and other material</u>

Once there is a scene overlay, witness evidence can be considered on its merits. When a piece of evidence is not absolute in terms of what it proves, this should be identified and options as to what it might suggest provided.

The Review Team does not consider any further criminal investigation into the CREWE murders is warranted. The enquiries carried out have been extensive and exhaustive. In the circumstances, no further substantiated information is considered to be attainable, unless someone who has withheld their evidence comes forward voluntarily.

END

# **CHAPTER 2**

### **Foreword**

### **Background information**

In the mid 1930s a relationship developed between Lenard DEMLER and May CHENNELLS.

In 1936 Lenard DEMLER married May CHENNELLS.

In 1937, Lenard DEMLER purchased a 465 acre farm in Sharpe Road, Pukekawa, which the couple farmed together.

The DEMLER farm was situated adjacent to his brother-in-law, Howard CHENNELLS' 340 acre farm.

Some years later, Lenard DEMLER experienced problems involving unpaid taxes to the Inland Revenue Department (IRD). Acting on advice from his accountant, Lenard DEMLER 'sold' half of the farm to May DEMLER to minimise their future tax obligations.

In 1940, Lenard and May DEMLER had their first daughter, Jeannette Lenore DEMLER.

In 1942, the couple had their second daughter, Dianne Heather DEMLER (known as Heather).

The two girls attended the local Pukekawa Primary School prior to receiving a private school education at St Cuthbert's College in Epsom, Auckland.

In May 1950, Howard CHENNELLS was killed on his farm in a tractor accident.

Howard CHENNELLS was a single man with no dependants. Following his death, his farm was bequeathed to his two nieces, Jeannette and Heather DEMLER.

Over the next 16 years, a resident Farm Manager ran the property on behalf of the DEMLER sisters. Profits derived from the property added to their inheritance which they received at 25 years of age.

After leaving St Cuthbert's, Jeannette attended Ardmore Teachers' Training College in 1957 and in 1958 qualified as a School Teacher.

Periodically, the DEMLER sisters attended dances in the Pukekawa area. Those in attendance were said to have included Arthur Allan THOMAS, the son of a local Pukekawa farmer.

In 1961, Jeannette travelled overseas with friends for a number of months.

Whilst in the United Kingdom, Arthur THOMAS, who had been a fellow pupil with Jeannette at Pukekawa Primary School, wrote to her and sent her a writing compendium.

Jeannette wrote back in a platonic manner and thanked Arthur THOMAS for the gift.

Upon her return to New Zealand in late 1962, Jeannette stayed with her parents in Pukekawa.

In December 1962, Arthur THOMAS visited the DEMLER home and gave Jeannette a Christmas present of a brush, comb, and mirror set. Jeannette somewhat reluctantly accepted the gift. She told Arthur THOMAS that she already had a boyfriend, which was in fact untrue.

In 1963, Jeannette briefly held a relief teaching position at the Maramarua District High School and Papakura Intermediate. She then moved to Wanganui and took up a teaching position there.

The move to Wanganui was prompted due to encouragement from her long-standing friend, Beverley WILLIS, with whom she had travelled to Europe.

Whilst in Wanganui, 23 year old Jeannette met and formed a relationship with Harvey CREWE, a 22 year old stock agent. The courtship progressed to an engagement, followed by their marriage in Auckland on 18 June 1966.

In 1966, Heather DEMLER agreed to sell her fifty percent share in the CHENNELLS farm to Harvey. The agreed sum was \$40,000. Harvey paid \$9,000 with savings and obtained a State Advances mortgage of \$31,000.

It should be noted that on 10 July 1967, New Zealand's currency changed from imperial currency to decimal currency. The file does not clarify whether the figures quoted were in pounds or dollars.

Harvey and Jeannette set up home in what became known as the CREWE farmhouse. The farming enterprise on the property consisted of sheep rearing and beef dry stock. Harvey gained a reputation for being a good farmer and the couple maintained a low-key presence in the district.

Over the four year period of their marriage, leading up to their murder on 17 June 1970, the CREWES suffered a burglary to their house in 1967, a fire to their house in 1968 and a fire to their hay barn in 1969.

On 1 December 1968, Jeannette gave birth to a healthy baby daughter, Rochelle Janeane.

May DEMLER died of a brain tumour in February 1970.

Probate in relation to May DEMLER's estate was issued on 24 March 1970 with Lenard DEMLER and Jeannette acting as trustees and executors.

May DEMLER bequeathed her share of the DEMLER farm to Jeannette together with money, shareholdings and her personal belongings, which included a motor vehicle.

Amended terms of her Will specified that Lenard DEMLER had the right to occupy the whole farm and derive full income from it during his life time.

Under the terms of the Will, almost \$23,000 was to be paid to Lenard DEMLER to satisfy the mortgage debt, with the balance of May's estate bequeathed to Jeannette.

Heather had been cut out of her mother's Will for electing to marry a divorced man, Robert SOUTER, who already had three children of his own. May DEMLER, a strict Presbyterian, did not approve of the union.

On Monday 15 June 1970, Lenard DEMLER visited Tuakau Solicitors Sturrock & Monteith and signed papers associated with May DEMLER's estate. Details of the Will were provided to him.

He learned that the estate death duties were considerably higher than he anticipated, due to a property revaluation. He then visited his accountant in Hamilton to sign taxation papers. While there, his accountant confirmed the advice given to him by the solicitors.

On Tuesday 16 June 1970, Jeannette visited Sturrock & Monteith where she, too, signed papers associated with May DEMLER's estate. Details of Jeannette's inheritance were provided to her at this time.

That evening, Lenard DEMLER said he had dinner with his daughter and son-in-law at their home. Police are satisfied that this activity occurred.

On Wednesday 17 June 1970, by arrangement, a local stock agent, John GRACIE, visited the CREWE farmhouse. He accompanied Harvey to view a bull in the nearby settlement of Glen Murray to see if it was suitable as a prospective purchase for the farm.

The bull did not meet expectations, and as a result, John GRACIE drove Harvey back to his home.

On arrival, Harvey found Thyrle PIRRETT and her three-year-old daughter had called in unannounced to visit Jeannette and Rochelle.

Harvey joined the women for a cup of tea before going out onto the farm.

At lunch time, Harvey returned to the farmhouse. In the early afternoon Harvey, Jeannette and Rochelle travelled in their 1969 Hillman Hunter to a property in Bombay owned by John LOCKHART, where a stock dispersal sale was taking place.

On arrival at the property, Jeannette remained in the vehicle with Rochelle while Harvey attended the sale on his own. This was probably due to the inclement weather. Harvey did not make any purchases.

Sometime after 2:30pm, Harvey, Jeannette and Rochelle left John LOCKHART's property.

It is possible that the CREWES returned to their home via Pukekohe, although this cannot be confirmed with any degree of certainty.

At 5:10pm, the CREWE car was observed by Alexander IRVINE stationary and unoccupied by the side of the road adjacent to the CREWE farm. It is presumed that Harvey was attending to sheep in a nearby paddock.

As a result of events that were to occur later in the evening, it is clear that the CREWES arrived home at some time prior to 5:10pm. There is evidence that Harvey changed his clothes prior to going out on the farm.

#### Crime scene activity

#### The murders

The most probable scene activity within the farmhouse on the evening of Wednesday 17 June 1970, was that Jeannette fed Rochelle prior to preparing her for bed.

Based on observations in the kitchen and dining area, it is accepted that flounder, potatoes and peas were prepared for Harvey and Jeannette's evening meal. There is clear evidence that the meal for two people was consumed at the dining table.

Having finished dinner, it is likely that Harvey retired to his armchair in the lounge and Jeannette to a larger sofa to his left. Both would have been in a position to look at and feel warmth from the open fire.

It is likely Harvey was shot first. He posed a serious physical threat to any assailant and the evidence suggests he was sitting in his chair when shot from behind.

Jeannette appears to have been in the act of knitting a jumper (for Harvey) when her husband was shot in front of her. A single .22 bullet entered the left hand side of his head, above and behind his left ear. The bullet travelled downwards and lodged slightly in front of his right ear causing almost instant death. The shot, in all probability, came from the direction of the kitchen. This could have occurred from the kitchen itself or from outside the dwelling through an open kitchen louvre window.

Having shot Harvey, the offender either gained entry to the house through the back door, or if already in the kitchen, advanced into the lounge and encountered Jeannette. It is likely that Jeannette verbally challenged the offender in some way, possibly by screaming or shouting.

One of Jeannette's slippers was located between Harvey's chair and the back wall of the lounge to the right of the fire-place. This may suggest that Jeannette sought to avoid physical confrontation with the offender or had moved from the couch after Harvey had been shot to the vicinity of his chair.

The evidence suggests that the offender struck her in the face, and possibly under her left arm-pit. This would account for the injury to her right eye, bruising to the bridge of her nose and a bruise to her left arm-pit, which were observed by the pathologist.

It is highly likely that Jeannette's head made contact with the front left corner of the hearth at some point, and that she was incapacitated and lay prone on the carpeted lounge floor.

The offender shot Jeannette with a single .22 bullet on the right hand side of her head in a manner that replicated the injury to Harvey, but from the right hand side.

It is probable that the end of the firearm barrel was touching, or close to touching, her hair / skin, since there was evidence of tissue scorching at the point of entry. The shot would have caused immediate or almost immediate death.

Having killed Harvey and then Jeannette, the offender elected to remove their bodies from the scene via the front door.

This undertaking created a number of practical difficulties to be overcome. The offender demonstrated a degree of initiative in that they used items from within the farmhouse to effect their purpose, i.e. bed coverings from the master bedroom.

The following paragraphs describe the probable series of events that followed, although the Review Team acknowledge that there are a number of equally credible variations.

For practical reasons, namely where Jeannette's body was positioned in the lounge in relation to Harvey's, and her weight and size, it is likely that she was removed from the scene first.

The offender then removed Harvey's body.

Blood and bodily fluids had run down the inside right-hand arm of Harvey's chair to an extent that staining was visible on the right hand side rear of the chair adjacent to the right rear leg. Bodily fluids had dripped from this location on to the carpet beneath.

Harvey's body was most likely removed from his chair by pulling him forward by his ankles. In doing so, his chair could have pushed backwards and to its right as a result of the weight of Harvey's back rubbing on the front of the chair. A clear blood-stained drag mark was observed on the carpet that supports this reconstruction scenario.

Based on the fact that little bodily fluid dripped from the armchair onto the carpet in its new position, it is likely that several hours may have passed between the act of murder and the removal of Harvey's body from his chair (and the scene).

It is probable that the CREWE wheelbarrow was used by the offender to remove Harvey from the property.

This is supported by the fact that rust deposits from the underside of the wheelbarrow were observed on the top step by the front door.

The act of removing Harvey, who weighed between 14 and 16 stone, from the scene would be a significant undertaking for one person and may suggest the presence of a second.

Blood matching that of Harvey was located on the brick work adjacent to the concrete stairs leading from the front door.

Coverings taken from beds at the farmhouse were used to wrap the bodies, which in turn were secured with wire.

It is almost certain that a motor vehicle or a motor vehicle with a trailer was used by the offender to remove the bodies from the crime scene and transport them to the Waikato River, which at the time was in flood. Weights were attached to the bodies and they were deposited into the water and almost certainly sank to the riverbed where they were affected by the river current and travelled down stream.

The reason why the offender elected to remove the bodies from the scene remains unknown.

The rationale must have been intended to reduce, or eliminate, suspicion falling on them had the bodies been left in situ.

The actions of the offender in removing the bodies represented a considerable risk.

The offender needed to be vigilant to ensure that they were not observed moving in and out of the scene, and to avoid their mode of transport being exposed.

At the farmhouse, the offender burnt the hearth rug and one cushion, which was likely to have come from Harvey's armchair.

It is highly likely that the offender utilised the lounge fire that was already well established for this purpose, rather than creating a new fire at a later time or date.

The fireguard was in place when the crime scene was discovered, suggesting that the offender did not seek to set fire to the property, even accidentally.

Precisely what the offender was seeking to destroy and why, is not known but presumably involved blood-stained items.

At the crime scene there was evidence that the offender sought to clean up blood pooling in the lounge. Two saucepans located in the kitchen were found to contain traces of blood.

The blood grouping in one saucepan matched that of Jeannette and the other, Harvey.

This unusual state of affairs, coupled with the physical demands of removing Harvey from the scene, may be a further indicator that more than one offender was involved in some way.

Jeannette's body was recovered from the Waikato River on 16 August 1970.

Copper wire was found around Jeannette's legs above her knees and it is almost certain that a weight was attached.

Harvey's body was recovered one month later, on 16 September 1970.

Galvanised wire was used to bind Harvey's body.

A cloth head covering bound with galvanised wire that had become detached from the body, was recovered nearby and contained quantities of Harvey's hair.

An axle was located immediately under Harvey's body and had become detached during the act of recovery by Police.

At the time of the murders, if the normal routine was followed, Rochelle would have been in her cot dressed in her night time nappy and bedclothes. Her bedroom was situated on the right hand side of the dwelling at the front, when viewed from the road.

On Monday 22 June 1970, when the crime scene was discovered, the kitchen light and the outside back door lights were on. This indicates that activity at the scene occurred during nocturnal hours.

Harvey's three working dogs were kennelled some 70 to 80 yards behind the farmhouse.

Fingerprints were located within the farmhouse and were linked to Jeannette directly, and by inference, to Harvey.

Other fingerprints lifted were not identified as belonging to any known person.

The motive for the murders is unclear, however, there is no evidence of a sexual motive or one of dishonesty.

#### After the murders

On the morning of 18 June 1970, it was intended that a Tuakau transport company would arrive at the CREWE farm to uplift 27 sheep and transport them to the Freezing Works in Otahuhu. Harvey had made an arrangement with John GRACIE to facilitate this.

As it transpired, there was an unforeseen freezing workers' strike on 18 June 1970. Consequently, the intended stock transport vehicle did not arrive at the CREWE farm.

On Thursday 18 June 1970, the rural delivery man, Emmett SHIRLEY, delivered two quarts of milk, one and a half loaves of bread and a newspaper in the normal way, leaving it in the delivery box at the farm gate.

On Friday 19 June 1970, Emmett SHIRLEY delivered the full weekend bread consisting of two and a half loaves, three quarts of milk and the Herald.

On Saturday 20 June 1970, since milk and bread were not delivered that day, Emmett SHIRLEY threw the newspaper from his vehicle while passing the CREWE property, as was his normal practice.

On Monday 22 June 1970, Emmett SHIRLEY intended leaving the normal delivery, however, found the milk and bread from the Thursday and Friday deliveries in the delivery box, plus the Saturday Herald newspaper that remained on the ground.

Following the report of the CREWES' disappearance, Police received information from a number of witnesses.

A farm worker, Bruce RODDICK, reported seeing a person he described as a mature woman in the CREWE garden just after 9:00am on Friday 19 June 1970. This sighting has never been independently confirmed, nor has the woman ever been identified.

A local resident, Queenie McCONACHIE, reported seeing a fair haired child near the gate of the CREWE property at 1:40pm on Saturday 20 June 1970, whilst travelling in a motor vehicle to a local sporting event.

Her husband, Maurice McCONACHIE, reported a similar sighting later the same afternoon when returning home with his wife. Neither of these sightings was independently confirmed or the child identified.

Other people reported seeing what they described as being the CREWES' 1969 Hillman Hunter motor vehicle parked in front of the CREWE farmhouse between Wednesday 17 June and Monday 22 June 1970. The vehicle was located by Police in the garage at the front of the property.

On the morning of Monday 22 June 1970, stock agents were unable to make contact with Harvey and, as a result, visited the address and knocked on the back door. Unable to raise anybody at the farmhouse, they left.

A transport company agent contacted Lenard DEMLER and advised that he was unable to make contact with Harvey by telephone. This prompted Lenard DEMLER to visit the CREWE farm.

On arrival, he gained entry via the back door and quickly realised that something was amiss, noting the presence of blood in the lounge.

Lenard DEMLER observed his granddaughter in her cot. For some unknown reason, he left Rochelle there and drove to his home where he telephoned the transport company to tell them not to send a truck to the CREWE farm because Harvey was not at home.

As it transpired, Lenard DEMLER waited at his home for a return telephone call from the transport company, before driving to his neighbour, Owen PRIEST's house.

On arrival he told Owen PRIEST that "...there is blood all over the place and I cannot find them anywhere" (referring to the CREWES), and asked Owen PRIEST if he would accompany him back to the CREWE farmhouse. He did so, and on arrival Owen PRIEST walked through the farmhouse and made similar observations to those of Lenard DEMLER.

As they were leaving, Lenard DEMLER picked up Rochelle, wrapped her in a blanket and placed her on the front seat of his car. He took Owen PRIEST to his home first, then drove a further seven kilometres to the home of Barbara WILLIS, where he sought assistance for his granddaughter.

Rochelle was described as distressed and very clingy. Her eyes were sunken in their sockets and her lips and mouth were very dry. She was crying, whimpering and was cold and shaking. Her face was drawn and the whites of her eyes were bloodshot. Her cloth nappy was described as wet and heavily soiled.

Barbara WILLIS considered the nappy to be so soiled that it was of no further use. As a result she arranged for it to be incinerated.

#### **Police investigation**

In late October 1970, evidence gathered by Police centred on the farm occupied by Arthur THOMAS.

It is inescapable that the physical evidence links the offender to the THOMAS farm due to three significant pieces of evidence:

- (i) The motor vehicle axle used to weight Harvey's body was the front axle of a 1928/1929 model 420 Nash car. The axle itself was once fitted to a trailer made by Charles SHIRTCLIFFE in 1956, sold to Gordon WHYTE in 1956/1957 and sold again to Allan THOMAS in 1959. The axle was removed from the trailer by Roderick RASMUSSEN in 1965 and was returned to Allan THOMAS' son, Richard THOMAS, together with the corresponding two stub axles.
- (ii) The stub axles that match the axle used to weight Harvey's body were located on a tip at the THOMAS farm.
- (iii) The galvanised wire found around Harvey's chest, waist, and the head covering was 16 gauge. Levels of agreement between these pieces of wire and samples recovered from the THOMAS farm ranged from some to exact agreement.
- (iv) The .22 bullets which killed Harvey and Jeannette were fired through the barrel of a firearm with six lands and grooves and a right hand twist. A ballistics expert determined in 1980 that it is 'highly probable' that Arthur THOMAS' rifle is the murder weapon. Recent analysis by ESR at the request of the Review Team concluded that there is "strong support" for this proposition.

The projectiles had a number '8' embossed in the base. This means that the projectiles are either a pattern '8' solid, pattern '8' hollow point, pattern '8' Palma, or a pattern '8' Palma D.

Pattern '8' bullets were manufactured in New Zealand by the Colonial Arms Company (CAC). This, however, ceased on 8 November 1963.

Evidence gathered culminated with the finding of a .22 cartridge case, Police Exhibit 350, in the CREWE garden border adjacent to the back gate.

Forensic analysis confirmed that the cartridge case had been fired by Arthur THOMAS' Browning rifle.

Since there is no direct evidence to implicate the person responsible for murdering the CREWES, the prosecution case against Arthur THOMAS was based on the presence of circumstantial evidence.

The question of how circumstantial evidence should be treated is the subject of considerable discussion by a range of legal authorities and case law.

The commentary by Dr Robert FISHER QC in his peer-review of the Justice BINNIE report concerning the compensation claim by David BAIN at paragraphs 46 to 49 inclusive, assists:

"While an independent assessment of each item of evidence is part of the inquiry, the ultimate determination of guilt or innocence turns on an assessment of all of those items viewed in combination. The fundamental principle is that the probative value of multiple items of evidence supporting the same factual allegation is greater in combination than the sum of the parts. As each item of evidence implicating the accused is aggregated, the probability of guilt increases exponentially. When a burglary occurs we are ready to accept as pure coincidence that the accused was seen walking away from the burgled address; less ready to accept as a series of coincidences the facts that he was also running, was carrying burglary tools, was wearing a mask, and later sold items resembling those that had been stolen.

The usual analogy is the strands in the rope explanation: each strand of evidence gains strength from the other, so that whilst an individual strand may be insufficient to support the load (in this case proof of innocence) the combination of them may be enough.

In assessing a circumstantial evidence case it is not enough to evaluate each item in isolation and then stop; it is necessary to go on to consider the effect of all relevant items in combination. Strictly speaking the rope analogy underrates the importance of combining the different items of evidence. The effect of combining them is not so much a matter of adding the various strands on the rope as multiplying them; the whole is greater than the sum of its parts.

It follows that in circumstantial evidence cases there are two distinct steps in the deductive process: (i) assessing the probative force of each item of evidence considered individually and (ii) assessing the cumulative effect of combining the probative force of all the items. These principles apply to all situations in which a factual conclusion is required drawn from a multiplicity of evidentiary sources. They are not confined to criminal cases. They apply with equal force to a compensation inquiry of this kind."

Arthur THOMAS and Jeannette had known each other since childhood, which is in common with other residents in the locality, many of whom too, were school peers of the DEMLER girls.

Arthur THOMAS acknowledged that in his younger days he would have liked Jeannette to be his girlfriend.

Arthur THOMAS may have aspired to marry Jeannette based on later witness disclosure.

Jeannette, on the other hand, made it clear to Arthur THOMAS that she did not wish to engage in a relationship with him.

This seems to have been accepted by Arthur THOMAS, who developed a relationship with Vivien CARTER, whom he married in 1964.

There is no evidence of ongoing affection or bitterness towards Jeannette by Arthur THOMAS. Whether or not he maintained a continued interest in Jeannette, is not known.

Arthur THOMAS was not associated with Harvey. The investigation file records that Arthur THOMAS (who was already married to Vivien) first saw Harvey, when in the company of Jeannette, at the Golf Club Ball held at the Onewhero Golf Club some time prior to their marriage in 1966.

On 11 November 1970, Arthur THOMAS was arrested and committed for trial in December 1970.

#### **Prosecution Events Timeline**

#### **Deposition hearing**

On 14 December 1970, a depositions hearing was held at the Otahuhu Magistrates Court, presided over by Judge McLEAN.

The hearing occupied seven days and concluded on 22 December 1970. A prima facie case having been established, Arthur THOMAS was committed to the Auckland Supreme Court for trial.

Evidence was heard from 84 witnesses, one having travelled from Australia. The transcript of evidence occupies 163 pages and 136 exhibits were received.

#### First Supreme Court trial

On 15 February 1971, Arthur THOMAS was tried in the Auckland Supreme Court, presided over by Justice Trevor HENRY. Defence Counsel was Paul TEMM assisted by Brian WEBB. Auckland Crown Solicitor David MORRIS, assisted by David BARAGWANATH, prosecuted.

Evidence was heard from 101 witnesses. The transcript of evidence occupies 303 pages and 126 exhibits were received.

The hearing occupied 11 days and concluded on 2 March 1971, when the Jury found Arthur THOMAS guilty of both counts of murder. He was accordingly sentenced to a term of life imprisonment.

#### **Appeal against conviction**

A group referred to as the 'Arthur Thomas Retrial Committee Inc' was formed which consisted of family, friends and supporters of Arthur and Vivien THOMAS and an appeal process was initiated.

On 4 May 1971, Arthur THOMAS lodged an appeal against conviction. His appeal was dismissed by the Court of Appeal on 18 June 1971.

#### **Petition**

In late 1971, Allan THOMAS and Patrick VESEY of the Arthur THOMAS Retrial Committee Inc. submitted a petition to the Governor-General pursuant to Section 406, Crimes Act 1961, seeking a new trial. The material was considered by Sir George McGREGOR, a retired Supreme Court Judge.

In his report dated 2 February 1972, Sir George McGREGOR was of the view that no further reference to the (Appeal) Court should be granted, as there had, in his opinion, been no miscarriage of justice.

#### **Police investigation**

In 1972, Assistant Commissioner WALTON interviewed members of the 1970 investigation team concerning their actions, and the actions of others, regarding Police Exhibit 350.

This followed an allegation on the part of the THOMAS Retrial Committee that Police Exhibit 350 was of questionable veracity because it was not sufficiently discoloured to have been in the garden border since 17 June 1970.

The enquiry did not result in any evidence of corrupt practice on the part of any member of Police being identified.

#### First Referral

Following a further petition dated 2 June 1972, the matter was put before the Court of Appeal on what has become known as the 'First Referral'.

Evidence and submissions were heard over five days between 5 February and 16 February 1973.

In a judgment delivered on 26 February 1973, the Court of Appeal found after careful consideration of fresh evidence tendered that it could not say with confidence that if the new evidence had been before the Supreme Court at trial no reasonable jury properly directed would or could have come to any verdict other than that of guilty. A new trial was ordered.

#### **Second Supreme Court trial**

On 27 March 1973, Arthur THOMAS was tried for the second time in the Auckland Supreme Court, presided over by Justice PERRY. Defence Counsel was Kevin RYAN assisted by his brother, Gerald RYAN. Auckland Crown Solicitor David MORRIS assisted by Paul DAVISON prosecuted.

Toward the end of Arthur THOMAS' second trial, John RITCHIE, a former Police Officer and Sports Store owner, advised defence counsel, Kevin RYAN, that ICI manufactured .22 cartridge cases could be differentiated by means of head stamp variation in the manufacturing process that altered the space between the individual letters.

On behalf of the defence team, Dr Thomas (Jim) SPROTT actively sought to advance the information provided by John RITCHIE.

Dr SPROTT gave evidence on this topic during the trial. However, the differences that he was able to identify did not influence the outcome of the trial that Arthur Allan THOMAS was again convicted of the CREWE murders and a double life sentence imposed.

Evidence was heard from 121 witnesses. The transcript of evidence occupies 436 pages and 148 exhibits were received.

The hearing occupied 14 days and concluded on 13 April 1973 when the jury once again found Arthur THOMAS guilty of both counts of murder. He was accordingly sentenced to a term of life imprisonment.

#### **Appeal against conviction**

On 3 July 1973, Arthur THOMAS lodged an appeal against his conviction. His appeal was dismissed by the Court of Appeal on 11 July 1973.

#### Police exhibits destroyed

On 27 July 1973, 135 Police exhibits were destroyed in circumstances that resulted in significant criticism of Police, which included a stinging rebuke from the Minister of Justice, Dr Martin FINLAY, who described feeling 'deeply troubled' upon learning of this occurrence.

At the insistence of Assistant Commissioner WALTON, Police sought to recover the exhibits from where they had been disposed of at the Whitford Tip. The task, however, proved to be impossible.

#### Petition pursuant to Section 406, Crimes Act 1961

Due to the lobbying of Author Patrick BOOTH and Scientist Dr SPROTT, concerning the veracity of Police Exhibit 350, the cartridge case found in the CREWE garden, a further petition to the Governor-General was lodged. This resulted in a second referral to the Court of Appeal.

#### **Second Referral**

The Court of Appeal hearing took place in Wellington between 9 December 1974 and 9 January 1975. The principal issue to be determined was whether the petitioner could establish Police Exhibit 350 could not have contained a pattern '8' bullet.

On 29 January 1975, the five judges of the Court of Appeal gave a unanimous judgment. The Court concluded that:

"...we are unable to exclude the reasonable possibility that Exhibit 350 was produced in Australia at some time before October 1963 and therefore, could have been loaded in New Zealand with a pattern '8' bullet."

This had the effect of dealing with the petition.

#### **Petition of Arthur THOMAS**

Arthur THOMAS sought to have the opinion of the Court of Appeal reviewed by the Privy Council.

On 4 July 1978, the Privy Council advised that they had no jurisdiction to entertain such an appeal. Following this outcome, Arthur THOMAS' supporters who protested his innocence repeatedly lobbied the Prime Minister, Robert MULDOON, seeking his intervention.

#### **ADAMS-SMITH QC reports**

Author David YALLOP wrote to Prime Minister Robert MULDOON and provided him with the identity of a woman who he believed was seen in the CREWE garden by Bruce RODDICK.

The Prime Minister commissioned Robert ADAMS-SMITH QC to enquire into and report upon the CREWE murders. Specifically, the identification of a woman allegedly seen on the CREWE property on Friday 19 June 1970.

Robert ADAMS-SMITH QC submitted this report on 16 January 1979 and, based on his recommendation, the Prime Minister ordered further enquiries into the murders. Robert ADAMS-SMITH QC submitted his second report on 17 December 1979, which concluded that Arthur THOMAS may be the subject of a miscarriage of justice. (Refer Appendix 14)

#### **Governor-General - Arthur THOMAS pardoned**

Solicitor-General, Richard SAVAGE, reported to the Prime Minister that the matters identified and the conclusions reached by Robert ADAMS-SMITH did not justify a pardon, which was a matter under consideration.

At best, the Solicitor-General recommended that the matter be referred back to the Court of Appeal.

Notwithstanding this view, Prime Minister MULDOON recommended to the Governor-General that Arthur THOMAS be pardoned.

On 17 December 1979, Arthur THOMAS was granted a 'free pardon' by Governor-General Sir Keith HOLYOAKE, and immediately released from prison.

#### 1980 Royal Commission of Inquiry (RCOI)

The Prime Minister directed that a Royal Commission of Inquiry (RCOI) be convened to enquire into the circumstances of the conviction of Arthur THOMAS for the murder of Harvey and Jeannette CREWE.

The composition of the RCOI resulted in the appointment of retired Chief Judge of the Supreme Court of New South Wales, Justice Robert TAYLOR, as Chairman; assisted by former Government Minister, Peter GORDON; and Archbishop Allen JOHNSTON.

The proceedings were formally opened on 21 May 1980, in Auckland, but the RCOI did not begin hearing evidence until 9 June 1980. The proceedings concluded on 30 October 1980, with the RCOI having been engaged in hearings for 64 days.

Evidence was heard from 132 witnesses and 12 further witnesses gave evidence by way of formal written statements.

The RCOI reported on seven issues referred to in their findings as 'Terms of Reference'. The Commission completed their inquiry and submitted their findings to the Governor-General, Sir David BEATTIE, on 11 November 1980, some two months ahead of the allocated time frame. (Refer <u>Appendix 15</u>)

A significant RCOI finding was that Detective Inspector HUTTON and Detective JOHNSTON had fabricated evidence by planting Police Exhibit 350 in the CREWE garden, thereby corruptly implicating Arthur THOMAS in the murders.

They also found that the .22 cartridge (Police Exhibit 343) with the number '8' embossed, found by Detective Stanley KEITH at the THOMAS farm on 21 October 1970, had been switched on two occasions. The first occasion, they suggested, was probably accidental, but on the second occasion this was deliberate.

As a result of a recommendation by the RCOI, Arthur THOMAS was awarded \$1,087,450.35 by way of compensation.

No criminal investigation into the conduct of former Detective Inspector HUTTON or the late Detective JOHNSTON was initiated by the Police Commissioner as a result of the RCOI finding.

Retired Chief Inspector Bruce HUTTON and Detective Sergeant Murray JEFFRIES, supported by Police Service Organisations, sought a judicial review to have the RCOI findings overturned through the Court, believing the RCOI had made findings beyond their terms of reference.

The Court of Appeal decision is contained within Appendix 19.

In December 1981, at the request of Police Commissioner WALTON, Solicitor-General Paul NEAZOR QC provided a legal opinion concerning the weight of evidence against Bruce HUTTON and the late Detective JOHNSTON.

Paul NEAZOR concluded that there was insufficient evidence to prove any corrupt act on the part of either Bruce HUTTON (or Lenrick JOHNSTON) and on that basis, criminal charges were not warranted or justified.

#### Post 1980

Since the murders, commentators have written a number of books and articles theorising who they believed murdered Harvey and Jeannette.

None of the theories advanced are able to be substantiated by evidence.

In 2010, Rochelle CREWE approached the Police Commissioner and raised her concerns about the 1970 Police homicide investigation into the death of her parents.

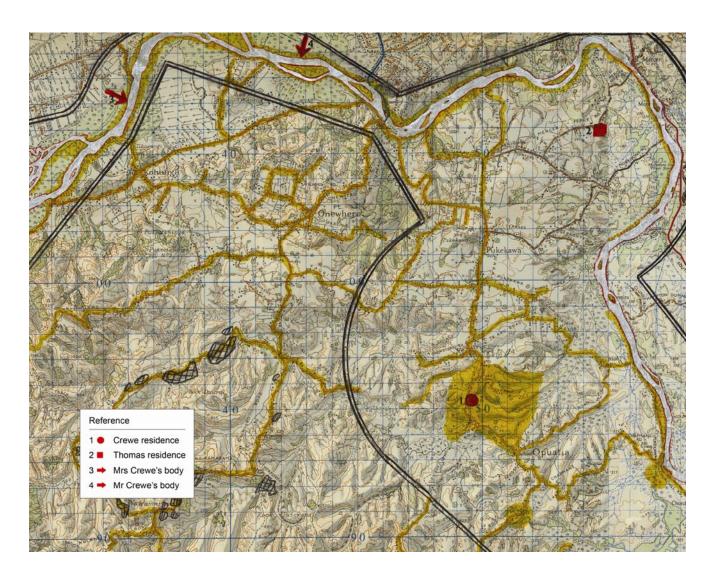
She specifically questioned what action had been taken by Police after Arthur THOMAS had been pardoned and why Bruce HUTTON and Lenrick JOHNSTON had not been prosecuted when the RCOI had found that they had corruptly fabricated evidence.

This led to a Terms of Reference being developed specifying the parameters for this review.

Aerial photograph (from 1970) showing significant properties neighbouring the CREWE farm



Portion of 1970 topographical map used by Inspector P GAINES, Officer-in-Charge Search, showing the CREWE farm and environs, including the Waikato River



**END** 

### **CHAPTER 3**

#### Issues

#### Date and time of death

#### A full analysis of this topic has been undertaken and is addressed in Appendix 1

- 1. The CREWES were last seen alive at about 2:30pm by several people at a stock clearance sale at John LOCKHART's farm at Puketutu Road, Bombay. There was later an alleged sighting by Jeannette's friend, Beverley BATKIN, between 3:30pm and 4:30pm as the CREWES were said to have been driving through Tuakau towards Pukekawa. This sighting cannot be confirmed.
- 2. Alexander IRVINE reported seeing the CREWE car at about 5:10pm, parked on Highway 22, approximately two kilometres south of the CREWE house. It was presumed that Harvey was shifting sheep in a nearby paddock at this time.
- 3. Witnesses disclosed making a number of telephone calls to the CREWE house between 1:00pm on Thursday 18 June 1970 and 1:00pm on Monday 22 June 1970, all of which went unanswered.
- 4. The CREWES did not collect their mail, or deliveries of bread and milk, from their delivery box after Wednesday 17 June 1970. Deliveries made on Thursday 18 June and Friday 19 June (collectively Police Exhibit 48) remained in the box until Monday 22 June 1970.
- 5. The remains of a meal consisting of flounder, potatoes and peas, were present on the dining table. Dirty dishes used in the preparation of this meal were found in the kitchen. It is likely that this meal was the CREWES' dinner on the evening of 17 June 1970, the day they were last seen alive.
- 6. The CREWES usual dinner time was not able to be positively established. However, information provided to Police by friends and family indicate it was likely Harvey and Jeannette sat down for dinner between 6:30pm and 8:30pm on 17 June 1970.
- 7. After dinner it was the usual routine of Harvey and Jeannette to sit in the lounge and have a hot drink before doing the dishes. Items found in the kitchen when the crime scene was discovered indicated that the CREWES had had a cup of tea, possibly after their evening meal.
- 8. An analysis of all available information indicates that it is almost certain the CREWES' time of death was between 7:00pm and 9:30pm on Wednesday 17 June 1970.

- 9. On 20 August 1970, Julieanne PRIEST (known as Julie) told Police that she had heard three shots one evening around the time the CREWES were murdered. Julie PRIEST stated that these shots were not before 8:30pm in the evening.
- 10. Her husband, Owen PRIEST (who did not hear the shots), said that they would have occurred before 11:00pm, when he went to bed.
- 11. Analysis of information contained within the file has now established that the night Julie PRIEST allegedly heard these shots was likely to have been Wednesday 17 June.
- 12. It is possible that one or more of the shots allegedly heard by Julie PRIEST were those which killed the CREWES.

#### **Activities on the evening of 17 June 1970**

- 13. On the evening of Wednesday 17 June 1970, there were three organised events in the Pukekawa area. These were the Pukekawa Ratepayers' Association meeting; indoor bowls at Glen Murray; and table tennis at the Opuatia Hall. Attendees at the events are recorded in Appendix 17.
- 14. These lists may not be exhaustive as the 1970 team do not appear to have cross-checked every name with those attending.
- 15. Documentation on the 1970 investigation file indicates that the meetings were attended by 33, 17 and 9 people respectively.

#### **Pukekawa Ratepayers' Association meeting**

- 16. The Pukekawa Ratepayers' Association held a meeting in the Pukekawa Hall situated on Clark and Denize Road, Pukekawa. The road adjoins Highway 22 and is approximately seven kilometres from the CREWE farm.
- 17. David PAYNE, the Association Secretary, recorded that the meeting commenced at 8:10pm and concluded at 10:40pm.
- 18. A list of those people who attended were supplied to Police by David PAYNE and Ian SPRATT. It should be noted that this list was compiled by memory as no official register of attendees was taken.

#### Indoor Bowls, Glen Murray

- 19. An indoor bowls tournament was played in Glen Murray, but the precise location of this event is not recorded in the investigation file.
- 20. Documents contained within the investigation file indicate that 17 people were identified as having attended.

#### **Table Tennis, Opuatia Hall**

- 21. A table tennis tournament was held at the Opuatia Hall.
- 22. The investigation file records that nine people attended.

### The woman allegedly seen at the CREWE property on Friday 19 June 1970

A full analysis of this topic has been undertaken and is addressed in Appendix 1

#### **Bruce RODDICK's observations**

- 23. Pukekawa resident Bruce RODDICK told Police that he saw a woman and what he thought was the CREWE vehicle in the CREWE front paddock at about 9:00am on Friday 19 June 1970.
- 24. Bruce RODDICK said the woman, whom he described as being European, in her 30's, tall, with short hair and wearing slacks, was standing by the car (which was parked across the house gate).
- 25. Bruce RODDICK described the vehicle as a modern dark green Hillman that he believed to be the CREWES'. He said the woman watched him feed out hay from a trailer being pulled by a tractor in the paddock on the opposite side of Highway 22.
- 26. Ronald CHITTY, who was driving the tractor at the time, said he did not observe a woman at the CREWE property. However, he did not claim to have looked in the direction of the CREWE property at the time.
- 27. Bruce RODDICK's statements and evidence made throughout the subsequent decade (1970-1980) remained reasonably consistent.
- 28. A number of people have attempted to elicit a positive identification from Bruce RODDICK of the woman he saw on the CREWE property. Many have claimed that they have succeeded. However, Bruce RODDICK disagreed, always maintaining that he had never gone any further than to say that any woman was 'similar' in appearance.
- 29. Bruce RODDICK repeatedly claimed that he was 'quite certain' Vivien THOMAS was not the woman he saw that day and said that Norma EASTMAN was 'definitely not' the woman he saw. He has never gone further than stating that Heather SOUTER (based on photographs only) was 'similar' to the woman he saw. Bruce RODDICK also described other women as being 'similar' to the person seen that day.
- 30. As a result of immigration enquiries undertaken in 1970, the investigation team were satisfied that Heather SOUTER was not in New Zealand on 17 June 1970 or 19 June 1970. She did not arrive from the United States until 25 June 1970.
- 31. There is no evidence to indicate that Norma EASTMAN had any direct association with Pukekawa prior to or during June 1970.

- 32. Bruce RODDICK died on 28 July 1991, therefore, any enquiries relating to his sighting can no longer be advanced. This aspect of the case will continue to be open to speculation and no doubt form the basis of further theories pertaining to the murders of the CREWES, and in particular, the question of whether or not Rochelle was fed and / or had her nappy changed between the time of her parents' murder and the crime scene being discovered.
- 33. The alleged sighting of a woman in the CREWE front paddock is one of the most intriguing aspects of the CREWE homicide investigation. However, with the passing of 44 years, the reliability of Bruce RODDICK's observations is difficult to fully analyse.
- 34. Bruce RODDICK's alleged sighting raises the question as to why someone involved in the crime of murder would return to the property in broad day light and risk being seen.
- 35. Undoubtedly, in a rural location like this, the person allegedly on the property that day would have heard the tractor operating in the paddock opposite. Any person on the CREWE property with knowledge of what had occurred would have been alert to vehicles, pedestrians, and the activities of local farmers. Therefore, it is difficult to reconcile why someone would allow themselves to be seen in plain view.
- 36. The Review Team note that Francis RODDICK encouraged his son, Bruce, to come forward to Police and tell them about the woman he had seen in the CREWE garden. As it transpired, Police initiated contact with Bruce RODDICK before he had an opportunity to make an approach to Police himself in response to the pressure being exerted by his father.
- 37. There is nothing on the investigation file to indicate what, if any, enquiries were made to confirm that this sighting definitely occurred on that Friday, rather than another day when Bruce RODDICK had previously worked for Ronald CHITTY.

#### The child allegedly seen at the CREWE property on Saturday 20 June 1970

A full analysis of this topic has been undertaken and is addressed in Appendix 1

#### **Queenie McCONACHIE's observations**

38. Queenie McCONACHIE, a Pukekawa resident, reported that at approximately 1:40pm on Saturday 20 June 1970, she and her husband, Maurice McCONACHIE, travelled along Highway 22 towards Tuakau, to watch a football game. Queenie McCONACHIE stated that she saw a 'fair haired' child standing inside the front gate, leading from the road on to the front portion of the CREWE property. She observed the child holding on to the wire fence just to the right of the delivery box before turning and moving back towards the house.

- 39. Queenie McCONACHIE described the child as wearing blue trousers with a bib front that had straps running over the shoulders. She commented that the child possibly had a jersey on underneath as the child looked well covered up.
- 40. Queenie McCONACHIE did not notice any other person on the property, but did see a vehicle parked across the house gate at the time she saw the child. She initially described this as a light coloured car and said that it appeared to be the vehicle that she had seen Jeannette driving previously. Queenie McCONACHIE indicated that this car was the one Jeannette had driven when she played golf years ago.
- The investigation file indicates that prior to the CREWES owning their green 1969 Hillman Hunter, they had owned a blue 1966 Hillman Super Minx.
- 42. The Saturday 20 June 1970 sighting of a small child by Queenie McCONACHIE is intriguing. If reliable, the offender and / or someone associated with them returned to the address during day time hours and lifted Rochelle out of her cot. The alternative is that a small child other than Rochelle was seen. This alternative is completely improbable.
- 43. Rochelle's clothing would have needed to have been changed to enable her to be observed in day clothes outside the farmhouse. One must also remember that this is a little girl that has been left, probably since the Wednesday night with no contact with her parents and possibly no food or fluids.
- 44. After returning to the house, Rochelle would then have to have been re-dressed in her night attire and put back into her cot.
- 45. When discovered in her cot on 22 June 1970, Rochelle's state of distress, clinginess and general health, tends to be inconsistent with her being seen to "run from the gate to the house" as recorded in a Police jobsheet of what had been disclosed by Queenie McCONACHIE, some two days before. In a written statement made by her she expressed her observations of the child as "tottering up towards the house from the front gate."
- 46. For the reasons outlined above, it is difficult to reconcile this sighting on the basis that there are a number of consequential activities for which there is no evidence. There is no direct evidence that Rochelle was cared for following her parents' murder and being found by her grandfather on Monday 22 June 1970.

#### **Maurice McCONACHIE's observations**

47. Maurice McCONACHIE also told Police that he had seen a child at the CREWE property on Saturday 20 June 1970. However, he stated that the timing of his sighting was later in the afternoon on their return home from football, at about 4:35pm.

48. This clearly conflicts with the time given by Queenie McCONACHIE. Maurice McCONACHIE's sighting was eventually discounted by Police by way of other witness statements. It was concluded that Maurice McCONACHIE was mistaken regarding the day and time on which he said he saw the child.

#### Was Rochelle CREWE fed?

#### A full analysis of this topic has been undertaken and is addressed in Appendix 1

- 49. Rochelle was born in December 1968, and is the only child of Harvey and Jeannette. Her Plunket book records her weight was 30 pounds (13.6 kilograms), when she was seen on 11 June 1970, which was described as above average for her age.
- 50. Lenard DEMLER told Police that when he approached the CREWE farmhouse at 1:00pm on Monday 22 June 1970, he heard Rochelle making noises which he described as 'calling out' and 'chattering'.
- 51. Lenard DEMLER stated that when he entered her bedroom, Rochelle was lying down in the cot and was very dirty, but was not crying or upset. He stated that her cot smelt badly of urine and Rochelle had excreted all through her pyjamas.
- 52. Lenard DEMLER gave evidence in the second Supreme Court trial that Rochelle was usually a very fat child, but on this occasion was quite thin and had sunken eyes.
- 53. When Owen PRIEST accompanied Lenard DEMLER to the CREWE farmhouse he described hearing Rochelle 'crying' and 'whimpering', which stopped as soon as they entered her bedroom. Owen PRIEST stated that he noticed Rochelle's eyes were sunken and commented that she did not appear to be greatly distressed.
- 54. Owen PRIEST, a father of four children, did not think that Rochelle's condition was such that she needed to see a doctor, adding that she did not look hungry.
- Following a search of the surrounding farm buildings by Lenard DEMLER and Owen PRIEST looking for Harvey and Jeannette, they both returned to the farmhouse.
- 56. Lenard DEMLER lifted Rochelle from her cot, wrapped her in a blanket and took her to the home of friends, Anthony and Barbara WILLIS. He dropped Owen PRIEST off at his home on the way.
- 57. On arrival at the WILLIS home, Lenard DEMLER handed Rochelle to Barbara WILLIS, seeking her help for his granddaughter.
- 58. Barbara WILLIS stated that when she first saw her, Rochelle was drawn in the face, her eyes were sunken with dark circles under them, and the whites of her eyes were bloodshot.
- 59. Barbara WILLIS observed a rash on Rochelle's buttocks which had blistered in places.

- 60. Barbara WILLIS, who had three children of her own, observed that the nappies were soiled to such an extent that it was obvious to her that Rochelle's nappies had not been changed for days.
- 61. Barbara WILLIS reported that they were very wet and contained a large amount of dry bowel motion.
- The nappies were so soiled that Barbara WILLIS arranged for them to be burnt since she did not feel they could have been cleaned.
- 63. Barbara WILLIS initially fed Rochelle lightly boiled eggs, ice-cream with peaches, bread and butter and milk. Barbara WILLIS described Rochelle as being 'very hungry' and requesting more milk. Barbara WILLIS stated that Rochelle was later sick and further described her as "...cold and shaking, as if shocked."
- 64. Rochelle was further described by Barbara WILLIS as being weak and would not or could not stand up.
- 65. Barbara WILLIS telephoned Dr John LIGHTBODY who arranged for the District Nurse, Nancy CRAWFORD, to deliver some cream for the rash. Barbara WILLIS stated that apart from the rash she did not consider it necessary for Rochelle to receive medical attention. Barbara WILLIS commented that Rochelle was more in need of motherly care.
- 66. At 4:30pm on Monday 22 June 1970, Nancy CRAWFORD arrived at the WILLIS home with cream for Rochelle's nappy rash.
- 67. By then Rochelle had been washed and dressed in clean clothing. Nancy CRAWFORD examined Rochelle briefly and noted the rash on her buttocks was very badly scalded and had blistering in the front areas.
- 68. Nancy CRAWFORD too, concluded that Rochelle's nappies had not been changed for a few days. She observed no other marks on Rochelle's body.
- 69. Nancy CRAWFORD described Rochelle as having a hollow-eyed appearance, which she concluded was the result of Rochelle's dehydrated state. She observed that Rochelle had the appearance of having lost weight and her body showed signs of not having sufficient fluid for some time. This was evidenced by the tissue on Rochelle's legs being particularly soft.
- 70. Nancy CRAWFORD noted that Rochelle could not walk and fell over when she tried. She noted that Rochelle appeared to be very tense and upset when being examined and clung to Barbara WILLIS.
- 71. Nancy CRAWFORD did not consider that Rochelle was in need of medical treatment, other than the ointment Dr LIGHTBODY had prescribed. She did, however, recommend that Barbara WILLIS give Rochelle fluids with glucose for at least the following 12 hours.

- 72. Rochelle's condition when she was found was subsequently considered by three independent doctors who were asked to make an assessment of her condition in an effort to determine the period of time she had been deprived of food or fluid. The purpose of this assessment was three-fold:
  - (i) To assist in determining the day on which her parents disappeared or had been murdered.
  - (ii) To determine whether Rochelle had been cared for by someone between the time of her parents' disappearance or murder and the crime scene being discovered.
  - (iii) To determine whether Rochelle could have climbed out of, and back into, her cot unaided.
- 73. Dr Thomas FOX, Children's Physician to the Auckland Hospital Board, Dr Samuel LUDBROOK of the Crippled Children's Society, and Dr Ronald CAUGHEY, Consulting Children's Physician, all examined Rochelle between 23 June and 1 July 1970.
- 74. At 1:45pm on Tuesday 23 June 1970, Dr FOX was the first doctor to examine Rochelle and the only one to have examined her on more than one occasion. Dr's LUDBROOK and CAUGHEY had access to the report completed by Dr FOX.
- 75. Dr FOX noted that at the time of his examination Rochelle weighed 27 pounds 5 ounces (12.4 kilograms), some three pounds (1.36 kilograms) lighter than her recorded weight on 11 June 1970. Detective Sergeant CHARLES recorded in a Police jobsheet that this was her weight without nappies.
- 76. Dr FOX observed:
  - "The tone of her [Rochelle's] skin and muscles suggested that she may have recently lost one to two pounds in weight."
- 77. A fourth professional, Dr Robert ELLIOTT, Professor of Paediatrics at the University of Auckland, did not examine Rochelle but provided an opinion based on the report complied by Dr FOX and other information from the file. (Refer <u>Appendix 4</u>)
- 78. Medical experts consulted during the course of the original investigation held conflicting views about Rochelle having consumed food or fluid between Thursday 18 June 1970 and 2:30pm on Monday 22 June 1970.
- 79. Importantly, all doctors consulted in 1970 agreed that it would have been possible for Rochelle to survive that period without any food or fluid.
- 80. Dr FOX and Professor ELLIOTT, however, were of the opinion that Rochelle had consumed food and / or fluid.
- 81. Dr's CAUGHEY and LUDBROOK were of the opinion that she had not.

82. Dr FOX reported on Rochelle's condition to Police on 26 June 1970. He stated in his report:

"The details of the child's intake of food and liquids given by Mrs. Willis and the fact that the child had not been regarded as ill suggested that Rochelle had been without normal care for a maximum of seventy-two hours, the more likely period being forty-eight hours."

#### He also stated:

"The description of the contents of the napkins and the napkin rash were consistent with the child being left unchanged for forty-eight hours and possibly seventy-two hours."

83. On the basis of these findings, Dr FOX concluded that Rochelle had been unattended and without food or drink from either 2:00pm on Friday 19 June 1970, or 2:00pm on Saturday 20 June 1970. He did, however, state:

"The latter date, 20th June, 1970 is the more likely."

- 84. Dr FOX cited the difficulties in trying to assess the likely survival period, in an otherwise well child of Rochelle's age, who had been deprived of both food and fluid. He explained there was an absence of previous experience of similar cases and informative literature on the subject.
- 85. His report concluded by stating:

"A child such as Rochelle, living under the same conditions outlined above might survive six days, but she would be seriously ill at the end of that time."

86. Dr FOX examined Rochelle for a second time at about 11:00am on 26 June 1970. He noted at this time the nappy rash had almost completely healed and Rochelle's weight had increased by 12 ounces (340 grams), to 28 pounds 1 ounce (12.7 kilograms). He commented:

"Her general muscle tone was comparable with that at the first examination and this may well be normal for Rochelle."

- 87. Dr FOX stated that after his second examination he remained of the opinion that:
  - "...Rochelle had been unattended for approximately forty-eight hours with a maximum of seventy-two hours prior to 1430 hours on Monday, 22nd June, 1970."
- 88. Dr FOX examined Rochelle for a third time on 16 July 1970. He reported that apart from a slight cold, Rochelle's condition was good. On this occasion her weight was recorded as 30 pounds 8 ounces (13.8 kilograms).
- 89. Dr FOX gave evidence at the depositions hearing, as well as the first trial and the second trial of Arthur THOMAS.

- 90. Dr LUDBROOK was seen by Police on 30 June 1970, and was shown a copy of Dr FOX's report. A Police jobsheet by Sergeant KEMP recorded that, based on this information Dr LUDBROOK:
  - "...was of the opinion that a child in good physical condition could live at this time of year for five days without food or water."
- 91. Dr LUDBROOK explained that the cooler weather conditions would cause a drop in body temperature which, in turn:
  - "...tends to slow everything down."
- 92. Dr LUDBROOK stated that the only way to be really sure as to how long Rochelle had been without food and fluid, was to have examined her immediately after she had been found in order to determine the degree of dehydration.
- 93. Regarding Rochelle's nappy rash, Dr LUDBROOK stated that the ammonia in urine would cause the skin beneath a nappy to peel after 24 hours. He commented that the nappy rash would not get much worse after the 24 hour period:
  - "...owing to the fact that the baby had not consumed any liquids and so would not urinate very often."
- 94. On 1 July 1970, Dr LUDBROOK examined Rochelle and completed a report of his assessment on 2 July. His report stated:
  - "My opinion is that a well-nourished, healthy child could withstand starvation for at least 10 days in cool weather."
- 95. Dr LUDBROOK stated that there were reports of starvation for much longer periods which did not result in serious damage to the subject's health. He did not, however, cite his sources or the case studies upon which this assertion was based. Dr LUDBROOK noted:
  - "A child resting in its cot will lose only a limited amount of body fluid, and will rapidly respond to administration of water and glucose..."
- 96. Dr LUDBROOK did not give evidence of his examination and assessment of Rochelle's condition at any judicial hearings.
- 97. On 30 June 1970, Dr CAUGHEY was seen by Police and shown a copy of Dr FOX's report and asked for comment as to whether it was possible for Rochelle to have survived for five days without food and fluid. Dr CAUGHEY stated that:
  - "...in his opinion the baby could live for the five days with out any food and water."
- 98. Dr CAUGHEY stated that the only way to be certain regarding this would be to have undertaken a number of tests at the time Rochelle was found.

- 99. It is not recorded in Sergeant KEMP's Police jobsheet whether Dr CAUGHEY indicated the type of tests that should have been carried out.
- 100. Dr CAUGHEY examined Rochelle on 1 July 1970, and produced a report of his assessment on 2 July 1970. Physically, he noted that it appeared that Rochelle had completely recovered from the "...moderately severe dehydration and weight loss..."

  Dr CAUGHEY stated that in his opinion:
  - "...a child who was obviously in such good health and nutrition prior to this disaster was perfectly able to withstand a period of starvation of food and fluids in the absence of ill health or extreme heat for a period of at least 7 days."
- 101. He added that although he could not say Rochelle had not been fed between Wednesday 17 June and Monday 22 June:
  - "I would say without hesitation that she could survive this period without food or fluids."
- 102. Dr CAUGHEY gave evidence at the second trial of Arthur THOMAS. At this time he stated that while it was possible Rochelle had received some fluid over that period, he was of the opinion that:
  - "...her clinical state was consistent with her not having been fed."
- 103. Professor ELLIOTT read the report compiled by Dr FOX, spoke with Detective Inspector HUTTON and viewed the CREWE house, in order to give his opinion. He did not personally examine Rochelle.
- 104. Professor ELLIOTT's report, dated 30 September 1970, stated:
  - "...I am of the opinion that she [Rochelle] was without intake for a period of less than 48 hours before 13.30 hrs on the 22nd June."
- 105. Professor ELLIOTT's report stated:
  - "There is little doubt that Rochelle could have survived with[out] food or fluid intake for approximately five days..."
- 106. The Review Team engaged Carole JENNY, Professor of Paediatrics at Warren Alpert Medical School, Brown University, Rhode Island, United States, for the purpose of assessing the reports of the Doctors consulted in 1970, and to provide her expert opinion concerning the likelihood of Rochelle being fed or cared for during the period between 17 June and 22 June 1970.
- 107. Professor JENNY reported that in her view, it was possible for Rochelle to have survived unattended for the period between her parents' death and the crime scene being discovered. Notwithstanding, based on the material provided to her by the Review Team, she was certain that Rochelle had been provided with food and / or fluids following her parents' murder.

- 108. Of the medical professionals consulted, Professor JENNY is the most qualified to give an opinion due to her experience in assessing neglected and abused children.
- 109. Having said this, unlike the doctors in 1970, Professor JENNY did not have the benefit of examining Rochelle personally and based her opinion on reports by those who saw Rochelle soon after she was discovered on 22 June 1970. (Refer Professor JENNY's full report in Appendix 4)
- 110. Whilst acknowledging the advice of Professor JENNY, when all aspects of the crime are considered in totality, the Review Team are not persuaded that Rochelle was tended to or provided with any sustenance following her parents' death until she was found on Monday 22 June 1970.
- 111. The cool air temperatures during the period she was alone, 17 June to 22 June 1970, would have assisted Rochelle in surviving a prolonged period of deprivation. This factor is raised by both Dr CAUGHEY in his report of 1 July 1970 and by Dr LUDBROOK. (Refer <u>Appendix 4</u>)
- 112. The maximum and minimum temperatures for these days sourced from Meteorological Service of New Zealand Limited (MetService) are as follows:
  - Wednesday 17 June 1970 minimum 48.1 degrees Fahrenheit (8.9 degrees Celsius), maximum 58.7 degrees Fahrenheit (14.8 degrees Celsius).
  - Thursday 18 June 1970 minimum 49.3 degrees Fahrenheit (9.6 degrees Celsius), maximum 59.8 degrees Fahrenheit (15.4 degrees Celsius).
  - Friday 19 June minimum 46.6 degrees Fahrenheit (8.1 degrees Celsius), maximum 59.6 degrees Fahrenheit (15.3 degrees Celsius).
  - Saturday 20 June minimum 43 degrees Fahrenheit (6.1 degrees Celsius), maximum 54.7 degrees Fahrenheit (12.6 degrees Celsius).
  - Sunday 21 June 1970 minimum 33.3 degrees Fahrenheit (.7 degrees Celsius), maximum 56.2 degrees Fahrenheit (13.4 degrees Celsius).
  - Monday 22 June 1970 minimum 33.2 degrees Fahrenheit (.6 degrees Celsius), maximum 58.3 degrees Fahrenheit (14.6 degrees Celsius).
- 113. There is nothing in the investigation file to indicate that any consideration was given to the question of whether Rochelle could have suffered from hypothermia.
- 114. There was nothing found in Rochelle's bedroom or within the farmhouse that suggests she was fed or provided with fluids at any time after she had been put to bed, in all probability by Jeannette, on the evening of Wednesday 17 June 1970.
- The proposition that Rochelle was not fed is further supported by the observations of Barbara WILLIS, and a three pound weight loss reported by Dr FOX. (Refer <u>Appendix 4</u>)

- 116. The Review Team have previously noted that Police statements taken from witnesses were simplistic and recorded only what was necessary. The symptoms expected to be seen by Professor JENNY to indicate Rochelle had not received food and / or fluid may have been present, but were simply not asked about or recorded.
- 117. The sightings by Queenie and Maurice McCONACHIE of a child at the CREWE property on Saturday 20 June 1970 and the opinions of medical professionals as to whether or not Rochelle had received food and / or fluid, while interesting, does not establish the identity of the offender.

# Vehicles seen at or near the CREWE property between Friday 19 June and Monday 22 June 1970

#### A full analysis of this topic has been undertaken and is addressed in Appendix 1

- 118. No people or vehicles were reported to have been seen at or near the CREWE property on the night of Wednesday 17 June 1970.
- 119. There were reported sightings of nine vehicles at, or near, the CREWE property between the time the CREWES were murdered and the crime scene being discovered. Seven of these sightings have not been sufficiently explained or accounted for. At this time it is unlikely these sightings could be resolved. The occupants of two vehicles that were seen near the CREWE property during this time were identified and their presence was unrelated to the murders.
- 120. It is difficult to discount sightings by three separate individuals (Bruce RODDICK, Queenie McCONACHIE and Keith BROWN) indicating that the CREWE vehicle, or one similar / identical to it, was parked across the house gate on Friday 19 June, Saturday 20 June, and Sunday 21 June 1970. If these sightings are correct, someone moved the vehicle on either Sunday 21 June 1970, after Keith BROWN's sighting, or the morning of Monday 22 June 1970, into the CREWE garage. The reason why this may have occurred is unknown. Alternatively, it is possible that the witnesses were mistaken about the day of their sightings.
- 121. These sightings must be balanced against statements of other local people who confirmed driving past the CREWE farm during the relevant period and observed no motor vehicles present at or near the property.

#### Wednesday 17 June 1970

122. A boundary neighbour of the CREWES, Frederick HOSKING, informed Police that he had been at the CREWE property on either Wednesday 17 June or Thursday 18 June 1970, to return a wandering sheep.

- 123. Frederick HOSKING stated that at this time it appeared as though a truck had just called at the CREWE house, as there were tyre marks in the mud. He suggested that the truck may have called to pick up the sheep which were located in the front paddock of the property.
- 124. There is no documentation on the Police investigation file to indicate Frederick HOSKING's report was followed up on.
- 125. The Police jobsheet record is unclear as to the day of the week Frederick HOSKING visited the CREWE farm and also the location in which he saw the tyre marks.
- 126. That evening there was a Ratepayers' meeting at the Pukekawa Hall situated in Clark and Denize Road; indoor bowls at Glen Murray; and table tennis at Opuatia Hall. A number of people associated with these activities, would have passed the CREWE property whilst travelling to and from these events. (Refer <u>Appendix 17</u> for list of attendees)
- 127. A number of the attendees reported to Police passing or having seen vehicles travelling through the Pukekawa area. Due to the vague descriptions given, some of the vehicles and their occupants were never adequately accounted for.

#### Thursday 18 June 1970

- 128. Between 11:00am and 11:30am on the Thursday, Raymond FOX reported to Police that whilst he was driving north along Highway 22 he saw a vehicle coming past the hay barn on his property, driving towards Glen Murray.
- 129. Raymond FOX described the vehicle as a blue Hillman and stated that it was the same type and colour vehicle the CREWES owned.
- 130. Raymond FOX commented that there were two women in the vehicle and although he only got a glimpse of the women, he thought the driver was Jeannette. Raymond FOX, however, was not positive it was Jeannette.
- 131. Raymond FOX described the other woman in the vehicle as being slightly older than Jeannette and that she may have been in her forties.
- 132. The sighting of a woman driving a car similar to the CREWE car and the movement of the car is of interest. The answer may, however, be found in Raymond FOX's statement.
- 133. Raymond FOX told Police that he was aware of another blue Hillman car in the area, which he had seen a number of times. He did not know who owned it, but thought it came from the Glen Murray area.
- 134. There is nothing on the investigation file to indicate that an attempt was made to identify the owner of this vehicle.

#### **Friday 19 June 1970**

- 135. At about 7:30pm, Gordon TONGA stated that he saw a vehicle stopped outside the CREWE road gate with a sole occupant observed inside it. He described the vehicle as a small modern car, possibly dark green, which may have been a late model Hillman, Escort or Viva.
- 136. Gordon TONGA described the person inside as male, however, it is not established why he believed this as he also stated:
  - "...I couldn't really see him clearly because of the dark..."
- 137. At the time, Gordon TONGA was in a taxi on his way to Tuakau, driven by Mervyn LORIGAN. Mervyn LORIGAN stated that he did not remember seeing any vehicle near the CREWE property, but said he would not have been looking.
- 138. This vehicle has never been accounted for.

#### Saturday 20 June 1970

- 139. Shearing Contractor, Tutu HOETA, stated that on the Saturday he passed the CREWE house at approximately 7:00am and saw a two-tone green, 1964 Chrysler Valiant sedan with a chrome strip down the side, parked facing the closed gate. Tutu HOETA did not see any people near the vehicle.
- 140. Tutu HOETA took particular notice of the vehicle as he had always wanted to own a Valiant. Tutu HOETA was confident his sighting was on Saturday 20 June 1970, and his recollection of this date was able to be corroborated.
- 141. This vehicle has never been satisfactorily accounted for.
- 142. The 1970 investigation team concluded that the vehicle sighted by Tutu HOETA had in fact been the two-tone green, 1964 AP5 Chrysler Valiant owned by Anthony INSOLL. This vehicle had been parked outside the property of Claude SHEPHERD on Waikaretu Valley Road, Glen Murray, on Sunday 21 June 1970.
- 143. Detective Bruce PARKES noted in a Police jobsheet that:
  - "Detective Sergenat [sic] SEAMAN who interviewed HOETA states that HOETA is adamant about where he saw the car however I am of the opinion that he was mistaken and he did in fact see the car on the Sunday when it was parked at SHEPHERD's."
- 144. The Review Team note that Tutu HOETA was a local to this area and travelled the road regularly. It is unlikely that he would be so disoriented as to be referring to an address some 22 kilometres from the CREWE property, which was the view adopted by the 1970 investigation team.

- 145. Detective PARKES' Police jobsheet appears to end this enquiry. There is nothing to indicate that any publicity was given to this sighting.
- 146. The information provided by Tutu HOETA warranted further enquiries that were not undertaken.
- 147. The Review Team are of the view that dismissing Tutu HOETA's sighting of the Valiant resulted in the investigation team failing to link a vehicle to a specific person, and possibly that person to the crime scene.
- 148. The conclusion of the investigation team that the green Valiant was that of Anthony INSOLL is not accepted by the Review Team.
- 149. It was later established that Richard THOMAS was the owner of another green Valiant motor vehicle. He was never interviewed by Police concerning this, although it was known that he frequented the district.

#### **Sunday 21 June 1970**

- 150. Stock Agent, Keith BROWN, drove past the CREWE property at about 8:30am on the Sunday and saw the CREWE vehicle parked at the house gate. Keith BROWN was definite about the date as it was the first time he had been up this road since the previous Monday (15 June), when he had collected a farmer at 6:30am to travel to Gisborne.
- 151. Frederick HOSKING told Police that between 10:30am and 11:00am on the Sunday, he was travelling between Otuiti Road and Sharpe Road, Pukekawa, with his three grandchildren. Frederick HOSKING saw an old car parked on the left hand side of the road, almost opposite the CREWE woolshed. It was noted that he described "...some maori [sic] persons..." with long hair around the car changing a tyre.
- 152. This vehicle was identified as belonging to David MARSHALL of Insoll Road, Glen Murray. He confirmed that he had been with his family when they stopped just south of the CREWE front gate to change a tyre.
- 153. At about 12:00pm on the Sunday, Claude SHEPHERD drove past the CREWE house and noticed a green, International panel van parked near the CREWE woolshed entrance, facing towards Glen Murray. Claude SHEPHERD saw a man standing on the grass towards the rear of the van and, although he did not get a good look at him, was of the opinion that he had stopped for the purpose of 'relieving himself'.
- 154. This vehicle was identified as belonging to Rakena TAI of Pukekohe. Rakena TAI acknowledged that he had been travelling to Raglan and had stopped his vehicle just south of the CREWE property so he could make a comfort stop.
- 155. Milton and Margaret HUNTER thought they saw a grey, Mini panel van or Austin van parked in the metalled lay-off about one tenth of a mile (160 metres) south of the CREWE woolshed. They thought this was on Sunday, at about 1:30pm.

- 156. Margaret HUNTER stated that there were two occupants in the vehicle, one being a 'dark male' and the other a 'fair haired woman'. Detective PARKES commented that the more the HUNTERS thought about this incident, the less certain they were that it was on the Sunday that they saw the van.
- 157. This vehicle has never been accounted for.

#### Monday 22 June 1970

- 158. Joseph MOORE and John DAGG visited the CREWE property between 8:45am and 9:00am on the Monday. They stated that the CREWE motor vehicle was in the garage.
- 159. Joseph MOORE noticed, about 200 yards (180 metres) past the CREWE woolshed, a grey Chrysler Valiant. Joseph MOORE said the black haired man in the vehicle was not Harvey.
- 160. This vehicle was identified as that driven by Graeme MARTIN, who had stopped to look at a map and give his dog a run.
- 161. Tutu HOETA stated that around 1:40pm on Monday 22 June 1970, as he passed the CREWE house, he noticed a little red car parked in the same position he had seen the Valiant on the Saturday.
- 162. The Review Team note that on 22 June 1970, Lenard DEMLER is known to have parked his red 1969 Ford Cortina in front of the closed road gate, while searching the CREWE house with Owen PRIEST. It is almost certain that this is the vehicle Tutu HOETA saw, making the original sighting of the Valiant on Saturday 20 June 1970 more reliable.
- 163. When examining the evidence in relation to the CREWE vehicle sightings, the statements of Emmett SHIRLEY, who delivered milk and bread to the address on Thursday and Friday of that week, and a paper on the Saturday, must be considered. Emmett SHIRLEY did not report seeing the CREWE vehicle parked near the house, nor did any of the immediate neighbours of the CREWES.
- 164. Likewise, local resident Mary FOOTE was travelling in a vehicle immediately in front of the McCONACHIES on the Saturday as they returned home from football, recalled looking at the CREWE house and saw no activity, or vehicles parked there.
- Local resident Irwin BROPHY, who travelled past the address on two occasions on Sunday 21 June 1970, did not see a vehicle parked at the address.
- 166. The Review Team is not able to determine whether witnesses' recollections are reliable and / or occurred at the time and date specified, due to the length of time that has now elapsed since 1970. Given the passage of time, it is no longer possible to advance these matters further.

### Other crimes / significant events

#### A full analysis of this topic has been undertaken and is addressed in Appendix 1

167. Harvey and Jeannette married on 18 June 1966 and immediately moved onto their Pukekawa property. Police enquiries disclosed that on each successive year of their marriage there was a significant adverse event in their lives, culminating in their murders on the eve of their fourth wedding anniversary.

#### **Burglary**

- 168. On the evening of Saturday 29 July 1967, Harvey and Jeannette were having dinner with Lenard and May DEMLER who farmed the adjoining property. After returning home at 9:00pm, Jeannette telephoned her mother to tell her of the burglary and the fact that her jewellery had been stolen.
- 169. The stolen property included Jeannette's sapphire and diamond engagement ring, a set of pearls with a diamond and sapphire clasp, a set of cultured pearls, earrings, brooches, a watch and a brush and comb set. Also stolen was Jeannette's handbag containing her driver's licence. Entry to the farmhouse was likely to have been gained through the back door. The farmhouse showed no signs of being searched, and property was only taken from a dressing table drawer in the master bedroom.
- 170. On 30 July 1967, Detective JOHNSTON, who had responsibility for rural investigations, attended the CREWE farmhouse in response to the burglary complaint.
- 171. Detective JOHNSTON took elimination fingerprints from Jeannette for comparison purposes and three exhibits from the house for fingerprint examination, namely: (i) a wooden drawer; (ii) white comb with silver filigree; and (iii) a photograph. There is nothing on the investigation file to indicate that Harvey's fingerprints were taken for elimination purposes.
- 172. The only fingerprints identified on these items matched the comparison fingerprints taken from Jeannette.
- 173. In the master bedroom, from where the jewellery was taken, was a dressing table that contained money and other valuables that were overlooked.
- 174. Jeannette disclosed to Beverley WILLIS that she felt that her property had been targeted and the person who took the jewellery must have known what she had, as only the most valuable items were taken.
- 175. The stolen property has never been located and the offender never identified. The stolen items were replaced by the CREWES following an insurance claim.

#### **House fire**

- 176. On Saturday 7 December 1968, Jeanette was in the Pukekohe Maternity Annex, having given birth to Rochelle in December 1968.
- 177. That evening, Harvey was having a late dinner with Lenard and May DEMLER at their home, after having visited Jeannette and Rochelle.
- 178. Harvey arrived at the DEMLERS' at 8:00pm and left for home between 9:30pm and 10:20pm. Upon reaching home, Harvey discovered the farmhouse on fire. In order to contain the fire, Harvey entered the farmhouse and shut the bedroom door. He then went back to collect Lenard DEMLER, and returned to the farmhouse with him. In the meanwhile, May DEMLER telephoned the fire brigade and neighbouring farmers seeking urgent assistance.
- 179. The fire had a fairly good hold on a spare bedroom at the southern corner of the house. The west side windows of this bedroom had broken, followed by the windows on the south side.
- 180. Harvey used a ladder to get onto the roof and Lenard DEMLER passed up buckets of water from the water tank in an attempt to contain the fire until the Tuakau Volunteer Fire Brigade arrived.
- 181. By the time the flames had been extinguished, twenty percent of the total house was damaged and the fire had caused considerable damage to clothing, linen and other household effects.
- 182. The following day, Edward WILD, Chief Fire Officer of the Tuakau Fire Brigade, attended the scene of the CREWE house fire to try and establish its cause. Edward WILD did not produce a report on his findings.
- 183. In August 1970, Edward WILD told Police that the tile roof had collapsed into the bedroom when the rafters burnt, making the reconstruction difficult. He said that a bedcover, which had been badly burnt, had been removed from the house prior to his arrival.
- 184. Nonetheless, Edward WILD reported that in his opinion the fire probably started on a dresser in the bedroom, burning down the dresser on to the floor and then up the wall. Edward WILD described the dresser in the bedroom as having one leg burnt off and there was a hole burnt in the floor.
- 185. Edward WILD stated that the fire could have started from a cigarette left on the dresser. Harvey, however, denied ever smoking in that room. Edward WILD was not prepared to say the fire was arson.
- 186. In a report by Eric BARON, Loss Adjuster for the State Insurance, dated 21 February 1969, he stated that the fire started above the ceiling, which was made of fibrous plaster and the cause was of an electrical origin.

- 187. Harvey had mentioned to Eric BARON that during the winter rats were able to get up into the roof. In Eric BARON's opinion, rats had chewed through electrical wiring causing a short circuit that resulted in fire.
- 188. Conversely, Edward WILD stated that he was convinced the fire did not start in the ceiling and it was Harvey who put forward this suggestion. Edward WILD alleged that Harvey was obstructive and would not listen to any sound theory put forward.
- 189. Lenard DEMLER first told Police that the cause of the house fire was electrical and that there was no talk of it being anything other than accidental.
- 190. However, Lenard DEMLER later stated on 12 November 1970, that Harvey believed someone had deliberately set fire to the house. Lenard DEMLER described a piece of rimu wood over one of the back windows appeared to have been set alight and thought that the fire had started 'up top', taken as a reference to the roof.
- 191. An electrician, Peter GRAHAM, told Police that he was telephoned by Harvey after the fire in December 1968 and asked to restore power to the house. Peter GRAHAM renewed the mains which had been damaged by fire, and commented that the cable he replaced seemed to be in quite good condition. Peter GRAHAM was of the opinion that there was nothing in the electrical wiring that could have caused the fire. He further stated that rats would not have been able to chew the wire and start a fire.
- 192. Harvey and Jeannette told a number of family, friends and associates that at the time of the house fire some items had been stolen. One of the items was said to be a set of silver cutlery.
- 193. Edward WILD confirmed that a canteen of cutlery was taken by someone after the fire, as smoke marks on the wall clearly showed that the canteen had been on top of the dresser while the fire was burning.
- 194. There is no indication on the file to suggest that this fire was reported to Police. Repairs were made to the damaged home, and items were replaced as a result of an insurance payout received by the CREWES.

### Hay barn fire

- 195. At 9:00pm on Wednesday 28 May 1969, the CREWE hay barn was found to be on fire. Harvey had been in his woolshed from about 8:30pm, and despite having a view of the hay barn, did not see anything.
- 196. A passing motorist, David FLEMING, told Harvey that his barn was on fire. By the time Harvey got to the barn, it was beyond salvage and was a total loss, together with the 800 bales of hay that was stored within it.
- 197. Jeannette telephoned Lenard and May DEMLER informing them of the fire, but stated that there was no point coming to help, as the fire had too great a hold on the barn.

- 198. A report dated 6 June 1969, by an Insurance Assessor for L. M. Bernard & Son, regarding the insurance claim for the hay barn fire, stated that Harvey did not know how the fire had occurred.
- 199. The L. M. Bernard & Son assessor identified the cause as spontaneous combustion. It appears that this was listed as the cause since no other credible explanation could be reached.
- 200. Lenard DEMLER stated that he could not see any reason why the hay should have ignited as it was in good order that year.
- 201. There is no indication on the investigation file to suggest that this fire was reported to Police. With the help of an insurance settlement, a new barn was built as a replacement.
- 202. The Review Team note that there has been speculation that the burglary and fires on the CREWE property were linked to their murders. The investigation file indicates that these matters were considered by the investigation team to a degree; however, the lack of documentation on the topic indicates that it was not afforded an appropriate level of priority.
- 203. The Review Team conclude that due to the passage of time and the lack of documentation relating to these incidents, there is now no realistic opportunity to establish whether or not the fires were deliberately lit.
- 204. The motive for the burglary at the CREWE farmhouse appears to have targeted jewellery and personal items owned by Jeannette. It is, however, difficult to make a full assessment in this regard without knowing precisely what other items of value were in the farmhouse.
- 205. Money and other items of value that were reportedly contained in other drawers, appear to have been overlooked by the burglar. On the one hand, this may be nothing more than an oversight or lack of thoroughness on their behalf, and on the other, there may have been a targeted focus on property owned by Jeannette.
- 206. The Review Team note from the Tuakau Volunteer Fire Brigade records, that the CREWE property experienced two fires within a six month period, between December 1968 and May 1969.
- 207. These records show that house fires and hay barn fires were not uncommon; however, the coincidence of having two serious fires in just under a six month period on the same property does seem somewhat unusual.
- 208. The fires, considered in conjunction with the burglary, and then the homicides, raises the question as to whether these prior events were simply misfortune, or an orchestrated campaign against the CREWES leading ultimately to their deaths.

209. Analysis of the full Tuakau Fire Brigade records which span the period January 1963 to December 1972, indicates that within their coverage area an average of 5.5 house fires occurred per year; and a total of nine hay barn fires occurred during the nine year period.

### Conclusion

### Date and time of death

210. An analysis of all available information indicates that it is almost certain the CREWES time of death was between 7:00pm and 9:30pm on Wednesday 17 June 1970. Had their normal routine been followed that night, activity in the farmhouse would have resulted in the dining table being cleared, the dishes washed, followed by the making of an after dinner cup of tea.

### Activities on the evening of Wednesday 17 June 1970

211. The known activities in the district on the evening of Wednesday 17 June 1970, have not assisted the Review Team in identifying any specific person of interest who can be linked to the crimes.

### The woman allegedly seen at the CREWE property on Friday 19 June 1970

- 212. The identity of the woman allegedly seen by Bruce RODDICK remains unknown. There are a number of factors considered by the Review Team that raise doubts that a woman was at the property on that day.
- 213. There is no evidence to support the notion that the woman was either Norma EASTMAN, Heather SOUTER or Vivien THOMAS.

### The child allegedly seen at the CREWE property on Saturday 20 June 1970

- 214. The identity of the child allegedly seen by Queenie and Maurice McCONACHIE remains unknown.
- 215. The sightings by Queenie and Maurice McCONACHIE of a small child (the inference being that it was Rochelle) in the CREWE front paddock on Saturday 20 June 1970, is difficult to reconcile. There are a number of factors considered by the Review Team that raise doubts that a child was outside the property on that day, and further that the child was Rochelle CREWE.
  - a. For Rochelle to have gone outside, someone would by necessity have had to remove her from her cot, dress her in daytime clothes and allow her outside. Prior to the person leaving the property, Rochelle would have had to have been undressed from her outside clothes and redressed into night attire and returned to her cot.

- b. In allowing Rochelle to be outside on her own, there is the likelihood of her being seen by either neighbours or people passing by the CREWE property on Highway 22. This in turn could lead to persons stopping at the CREWES having seen Rochelle outside, as her presence would mean one of the CREWES (likely Jeannette) was at home.
- c. By Saturday 20 June 1970, Rochelle will no doubt have developed significant nappy rash which almost certainly would have restricted her movements and her desire to engage in physical activity through discomfort.
- d. Queenie McCONACHIE's description of a small child running around does not accord with Rochelle's condition when found on Monday 22 June 1970. At that time she was clingy and unable to stand unaided, a dramatic turnaround over two days.

### Was Rochelle CREWE fed?

- 216. It is acknowledged that there are conflicting expert views as to whether or not Rochelle received sustenance between the time she was put to bed on Wednesday 17 June and the time she was fed at 2:30pm on Monday 22 June 1970, by Barbara WILLIS.
- 217. There is no evidence at the crime scene to indicate that Rochelle had consumed food and / or fluid between the time of her parents' murders and the crime scene being discovered.
- 218. Notwithstanding conflicting views from a range of medical practitioners, the inability of Rochelle to stand up unaided, or even to reach up with her arms, was noted. Witnesses observed a number of features, e.g. 'clinginess', 'sunken eyes', "...dark rims [sic], and the whites of her eyes were very bloodshot" and her skin was 'very dry'. Rochelle had an extremely pungent odour with excrement all through her pyjamas. One witness stated, "...the child smelt dreadfully, a most offensive smell."
- 219. In terms of her demeanour, Rochelle was described as being in a state of bewilderment. Finally, her weight loss was significant and amounted to over three pounds (ten percent of her body weight) when weighed after receiving sustenance.
- 220. Rochelle's physical condition and her behaviour have been considered in conjunction with other features of the double murder. For a range of reasons, the Review Team are not persuaded that Rochelle received any food / fluids following her parents' murder and prior to be found on Monday 22 June 1970.

# Vehicles seen at or near the CREWE property between 17 June and 22 June 1970

221. The Review Team are not satisfied that the users of seven motor vehicles seen between Wednesday 17 June and Monday 22 June 1970, were adequately identified and eliminated on merit, as potential persons of interest. Enquiries simply cannot be advanced further now.

### Other crimes / significant events

- 222. There were three significant adverse events in the CREWES' lives leading up to their murders on 17 June 1970. These were a burglary in 1967, a house fire in 1968 and a hay barn fire in 1969.
- 223. Insufficient priority was given by the 1970 investigation team to identifying the person responsible for the burglary and accurately determining the cause of the fires.
- 224. The Review Team sought the view of a criminal profiler as to the possible significance of the earlier events. (Refer <u>Appendix 13</u>) This report provides more insight into how these earlier events could have been linked to the murders and if so, their significance.

**END** 

# **CHAPTER 4**

### **Initial Action / Crime Scene**

A full analysis of this topic has been undertaken and is addressed in Appendix 1

A selection of crime scene and investigation photographs are contained in Appendix 3

### Introduction

- 225. At 1:00pm on Monday 22 June 1970, Lenard DEMLER drove to the home of his son-inlaw and daughter, Harvey and Jeannette. Lenard DEMLER had been contacted earlier that day by two different people who were trying to get in touch with Harvey.
- 226. Lenard DEMLER entered the house and discovered blood stains throughout the lounge and kitchen. His 18-month-old granddaughter, Rochelle, was found abandoned in her cot, and there was no sign of Harvey or Jeannette.
- 227. Lenard DEMLER left the address, leaving Rochelle in her cot. He returned home to telephone Tuakau Transport to cancel an expected stock collection from the CREWE farm. Inexplicably, Lenard DEMLER waited for his telephone call to be returned. He then again went to the CREWE property, collecting fellow Pukekawa resident Owen PRIEST on the way.
- 228. Lenard DEMLER and Owen PRIEST entered the house and conducted a cursory search of the property, but failed to locate either Harvey or Jeannette.
- 229. Lenard DEMLER took Rochelle to the home of a friend, for her to be cared for. En route, he dropped Owen PRIEST at his home. It was Owen PRIEST who telephoned Police.
- 230. At 2:20pm, Constable Gerald WYLLIE, the sole Constable at Tuakau, received a telephone call from Owen PRIEST raising concerns about the CREWES' welfare. In response, Constable WYLLIE travelled to Pukekawa.
- 231. At about 2:55pm, Constable WYLLIE arrived with Owen PRIEST at the CREWE property. Constable WYLLIE made preliminary cursory observations of the crime scene, specifically the lounge. He noted the presence of blood on the carpet.
- 232. At about 3:15pm, Constable WYLLIE notified his superior of the situation. He was then joined by Senior Sergeant George MELVILLE and Constable Graeme ROUNTHWAITE, both from Pukekohe.

233. From 4:00pm onwards, members of the Otahuhu Criminal Investigation Branch (CIB) began arriving at the property. Detective Inspector HUTTON was O/C of the subsequent homicide investigation. He appointed Detective Sergeant JEFFRIES as the O/C Scene, and Detective Graeme ABBOTT as O/C Exhibits. Detective PARKES, Detective Constable (Alan) Ross MEURANT and Detective Constable Leslie HIGGINS were assigned search roles within the curtilage of the CREWE property.

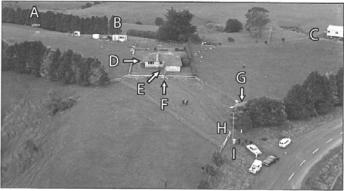
### The scene

- 234. The crime scene was a four bedroom, 1950s brick and tile house. It is situated south of Tuakau, on the eastern side of Highway 22, Pukekawa.
- 235. The north-facing house is on a slightly elevated site, and was enclosed by hurricane wire fences. The house section is set back from the road, separated by a fenced paddock with an overall length of approximately 45 metres.
- 236. The house is clearly visible from the road.
- 237. The house was of an 'L' shape design. The front door gave access to a hallway, from which two bedrooms were accessed. These were the bedroom at the front of the house, occupied by Rochelle, and the master bedroom, in which Harvey and Jeannette slept.
- 238. This hallway led through to the lounge. At the opposite side of the lounge a dining table was positioned.
- 239. When entering the lounge through this door, immediately to the right was a door to a second (rear) hallway. From the rear hallway two further (unused) bedrooms, a bathroom, a toilet and the washhouse could be accessed.
- 240. A passage from the washhouse led to the back door. The back door could also be accessed by passing through the kitchen the sliding door to which was located on the far side of the lounge which also led to the rear passage.
- 241. On the northern side (the front) of the house, a gate led from the front paddock to a concrete path which led to steps and the front door. The concrete path also continued across the front of the house to the left, and down the eastern side of the house to further steps leading up to the back door.
- 242. Directly opposite the back door, the concrete path led to a second gate giving access to farm land. The path continued on to the rear (southern side) of the section and a third gate, which gave access to a small fenced area of lawn containing fruit trees.
- 243. Flower beds were situated on the inside of the fenced house section. These gardens ran along the northern fence-line and down the eastern side, stopping at the gate opposite the back door.

- 244. A further flower bed was positioned on the northern side of the house, under the lounge window which also ran along the eastern side of the house, under a lounge and kitchen window. Another flower bed ran along the right hand side of the concrete path leading from the front house gate to the front door.
- 245. A single garage was situated in the front paddock near the road gate.
- 246. At the rear of the dwelling were a number of outbuildings and in a paddock to the right of the house, a woolshed.

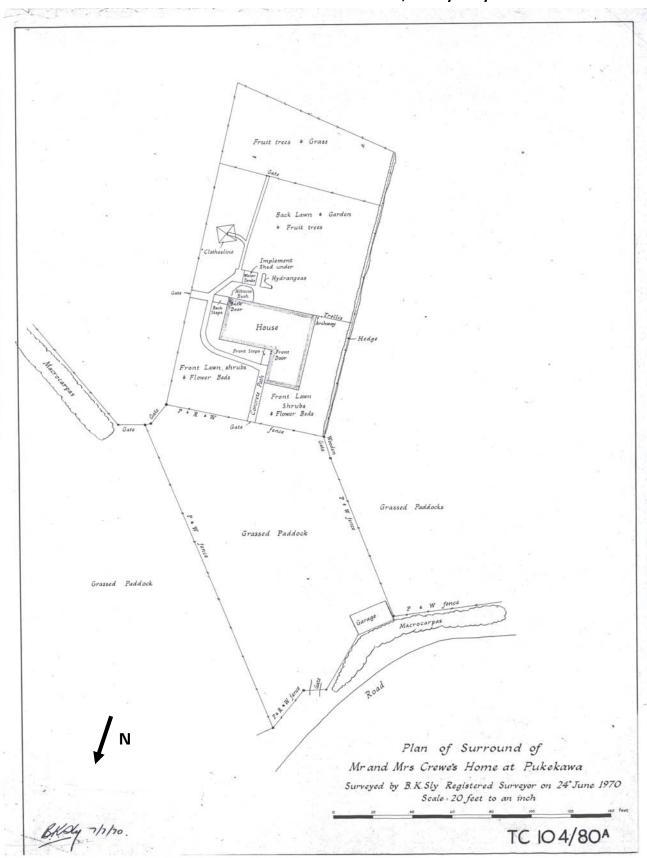
The CREWE farmhouse and environs - Highway 22, Pukekawa



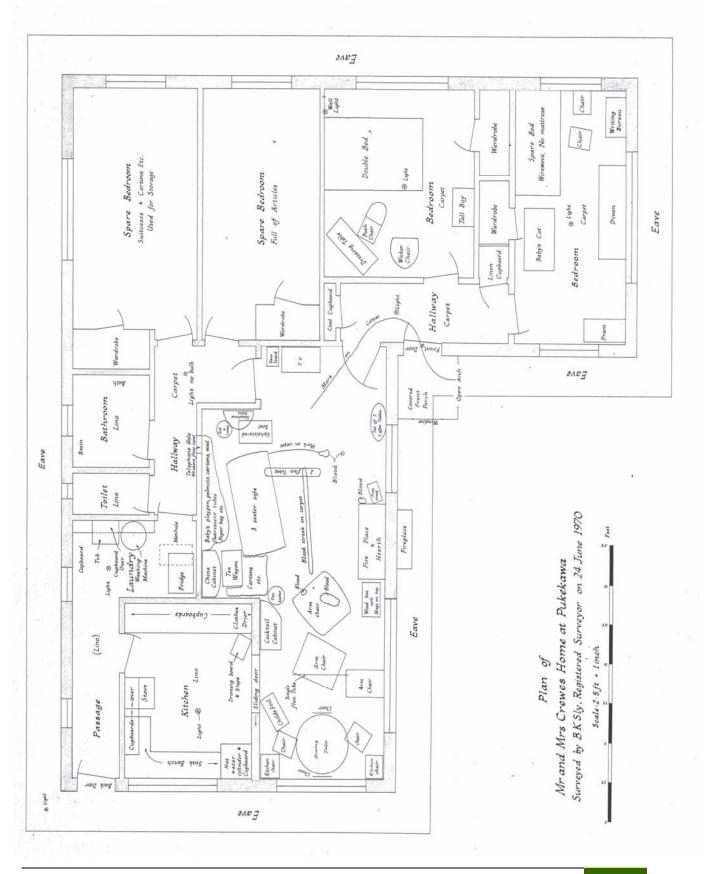


- A Dog Kennels
- B Implement Shed
- C Wool Shed
- D Back Door
- E Front Door
- F House Gate
- G Garage
- H Road Gate
- I Delivery Box

### Plan of surround of Mr and Mrs CREWES' home at Pukekawa, surveyed by Brian SLY



### Plan of Mr and Mrs CREWES' home at Pukekawa, surveyed by Brian SLY



### **Use of experts**

- 247. From Tuesday 23 June 1970, expert assistance at the crime scene was provided by Senior Fingerprint Officer, Detective Sergeant Mervyn DEDMAN, who examined the scene for fingerprints, and by Police Photographer, Constable Barry STEVENS, who photographed the scene and some of the exhibits seized.
- 248. The Review Team note it would have been preferable for all of the exhibits seized by Police to have been photographed in situ, where possible.
- 249. From 23 June 1970, Government Analyst Dr Donald NELSON, employed as a scientist by the DSIR, assisted by his colleague, Rory SHANAHAN, contributed to the scene examination by identifying blood staining which required further forensic examination.
- 250. On 23 June 1970, Pathologist, Dr Francis CAIRNS, examined the scene together with Detective Inspector HUTTON, and offered an opinion as to the likely activity at the crime scene.
- 251. On Wednesday 24 June 1970, registered Surveyor, Brian SLY, employed by the Lands and Survey Department, assisted by his colleague, Brian SHANAHAN, took measurements of the house and prepared:
  - (i) A plan of the front paddock and house section showing the relative position of the house with respect to the road frontage (refer plan above).
  - (ii) A detailed plan of the house showing the position of furniture, along with other significant features (refer plan above).
- 252. On 24 June 1970, Power Board Chief Inspector, Ronald STABLER, employed by the Franklin Electric Power Board, examined an Astra clothes dryer situated in the kitchen.
- 253. On Sunday 28 June 1970, Crown Solicitor, David MORRIS, visited and inspected the crime scene.

### Significant crime scene features

#### **External scene examination**

#### **CREWE farm delivery box**

254. A wooden delivery box, positioned on the road verge and to the left of the wire road gate, marked the entrance to the property. (Refer <u>Appendix 3</u>)

- 255. The delivery box contained three New Zealand Herald newspapers, dated Thursday 18 June, Friday 19 June and Saturday 20 June 1970, the Northern Farm Review dated June 1970 and the South Auckland News Advertiser dated 18 June 1970. These items were retained collectively as Police Exhibit 48.
- 256. Crime scene photographs also show at least three partial loaves of bread and five bottles of milk in the delivery box. These would appear to be the deliveries made on Thursday 18 June and Friday 19 June 1970.
- 257. Emmett SHIRLEY, the rural delivery man, told Police that he had delivered one-and-a-half loaves of bread and two quart bottles of milk on Thursday 18 June, and two-and-a-half loaves of bread and three quart bottles of milk on Friday 19 June 1970.
- 258. On Saturday 20 June 1970, Emmett SHIRLEY did not deliver bread or milk, but delivered the New Zealand Herald by means of throwing it onto the ground near the delivery box.
- 259. On Monday 22 June 1970, when delivering bread and milk to the CREWES, Emmett SHIRLEY noted that Thursday and Friday's deliveries had not been removed from the box. He did not leave Monday's delivery assuming the CREWES had gone away without notifying him. He stated that at this time he threw the bread out of the delivery box into neighbouring paddocks so as to avoid attracting rats.
- 260. There is a discrepancy between what Emmett SHIRLEY stated he did with the items and the photographic records. The description of the contents of the delivery box recorded by Constable WYLLIE, and what can be seen in the photographs, are different.
- 261. On 22 June 1970, while waiting for other Police staff to arrive, Constable WYLLIE checked the delivery box and recorded that it contained two New Zealand Herald newspapers dated Thursday 18 June and Friday 19 June 1970. Constable WYLLIE did not make note of the Northern Farm Review, or the South Auckland News Advertiser publications.
- 262. Precisely how the bread and Saturday newspaper came to be placed in the delivery box remains unknown, given Emmett SHIRLEY's statement that he had removed the bread and had not put the Saturday newspaper into the delivery box. Either he is incorrect about both the bread being thrown away and the newspaper not being left in the delivery box, or someone has placed these items in the delivery box after Emmett SHIRLEY had dealt with them.

#### **CREWE** motor vehicle

- 263. The CREWES' green 1969 Hillman Hunter motor car was found parked in the garage in the front paddock.
- 264. During the examination of the vehicle, Detective PARKES noted that:

"The drivers [sic] seat was not pushed right back, it was forward in an upright back position and gave little room for a man of about 6 foot in height..."

- 265. There is nothing on the 1970 investigation file to indicate that the distance between the pedals and seat had been measured.
- 266. Detective PARKES noted that the boot of this vehicle contained a pushchair, and commented that it would be unlikely a body could be placed into the boot while the pushchair was there.
- 267. The boot of the vehicle was examined for blood stains with a negative result.
- 268. A fingerprint located by Detective Sergeant DEDMAN on the rear vision mirror of the vehicle, was found to be consistent with one of those later located on bottles of alcohol inside the farmhouse. The presumption is that the fingerprint was that of Harvey's left thumb. (Refer <u>Appendix 17</u>)
- 269. Harvey's fingerprints have never been taken by the Police. He had no criminal record, his fingerprints had not been taken as part of the burglary investigation in 1967 (only Jeannette's were) and no usable fingerprints could be taken from his body after it had been recovered on 16 September 1970 due to decomposition.

### Sheep in front paddock

- 270. Nine or ten lambs were found to be in the front paddock between the road and house. Constable WYLLIE reported that the lambs were moved out of this paddock after a discussion with Lenard DEMLER.
- 271. The front paddock was initially used for parking by those arriving at the scene to assist in the search for the missing couple.
- 272. The Review Team note that the scene was not frozen from the outset and vehicle parking and the resultant foot traffic immediately compromised scene integrity.

#### **Blood on CREWE farmhouse brickwork**

- 273. On brickwork on the outside wall of the house, beside the front door step, 'spots' of blood were located. This was later identified as being of the same blood group as Harvey's.
- 274. The Review Team are of the view that the presence of blood on the brickwork may well have occurred when Harvey's body was being removed via the front door.

### Wheelbarrow

275. Pieces of rust scale were located at the base of the steps to the front door. These were consistent with rust present on a wheelbarrow located on the lawn of the house section near the back door.

276. The wheelbarrow contained a fine clay type soil and the 1970 investigation file records that it appeared as if it had been washed. There was a hose near to the position in which the wheelbarrow was located. (Refer <u>Appendix 3</u>)

#### Front door

- 277. A door mat, normally expected to be in place at the base of the front door, was located on top of foliage next to the steps. (Refer <u>Appendix 3</u>)
- 278. There is evidence of a drag mark from within the front door onto the top step. This indicates that the front door mat was in all probability, moved by the offender in the act of removing Harvey and Jeannette's bodies from the scene.

#### **Back door**

- 279. The back door, which swung inwards from left to right with the hinges on the right-hand door frame, is described as having a lever handle and a mortise lock. The key for the door was found to be in the lock on the outside. It is not recorded on the investigation file as to whether or not the door was locked when the crime scene was first discovered by Lenard DEMLER.
- 280. A wire fly-screen was also fitted to the exterior of the back door, again opening from left to right, but outwards with the hinges on the right-hand door frame. Scene photographs show this screen door open and fastened back. (Refer <u>Appendix 3</u>)
- 281. The position of the fly-screen is consistent with a statement made by John DAGG, who visited the address on the morning of Monday 22 June 1970. He stated that when visiting the property, the screen door was open.
- 282. The outside light above the back door was found to be on when the crime scene was discovered.

### **CREWE farm dogs**

- 283. The three CREWE farm dogs were kept in kennels approximately 70 80 yards (64 73 metres) behind the CREWE farmhouse.
- 284. There is no indication on the investigation file that the kennel area was searched by Police.
- 285. Lenard DEMLER told Police that when he and Owen PRIEST searched the property on Monday 22 June 1970, there was no sign of any food in or around the kennels. He also said that the dogs did not have any water.
- 286. Owen PRIEST said that there was water for the dogs. He stated that the water dishes were located outside the kennels and, as it had been raining, it was possible the dishes had been filled by rain water.

287. Both Lenard DEMLER and Owen PRIEST stated that the dogs did not appear to be hungry or starved.

#### Scene search - overview

- 288. On Tuesday 23 June 1970, Detective Sergeant JEFFRIES, O/C Scene, instructed Detective PARKES, Detective Constable HIGGINS and Constable MEURANT, to carry out a pattern search of the section and gardens surrounding the CREWE farmhouse.
- 289. After discussions with Dr CAIRNS regarding the cause of death, Detective Sergeant JEFFRIES, instructed his staff that they were to:
  - "...look for a blunt instrument or knife or something consistent with this article that may have caused the injuries."
- 290. The house section was divided into rows with the use of twine and stakes. Scene photographs depict this, and a Police jobsheet (including a sketch) by Detective PARKES describe this and indicate the areas searched by individual officers.
- 291. The Review Team note that the number of string lines running along the north-western side of the house in scene photographs is inconsistent with what was drawn by Detective PARKES in his Police jobsheet. Detective PARKES' Police jobsheet omits one string line. It is likely this was a mistake on his part.

### Scene search - garden

- 292. A search described as 'a close visual ground inspection' was conducted by Police staff.
- 293. The dense vegetation contained within the garden areas was removed so that a visual search of the ground could be undertaken.
- 294. Inspector PARKES gave evidence at the RCOI in 1980, that the garden beds were first searched by fingering through the vegetation. Some vegetation was pulled out, shaken and put over the surrounding fence into the adjoining paddock.
- 295. Inspector PARKES described the flower beds being generally over-grown and untidy. He said the ground was reasonably dry and the plants generally came out easily.

### Scene search - outbuildings

- 296. On Wednesday 24 June 1970, Detective PARKES and Constable MEURANT searched the outbuildings surrounding the house including under the house, water tanks, fowl house, wood shed, hay barn, and the hay shed. Detective Constable HIGGINS searched the tool shed and the shed under the tank stand.
- 297. The search of the exterior crime scene was concluded on Friday 25 June 1970. Nothing else of interested was documented.

- 298. The Review Team note that at this time, searchers were primarily seeking to advance the initial crime scene reconstruction, namely that a blunt instrument had been used to inflict serious injuries to the CREWES.
- 299. Considering the size of the section, the search undertaken was not appropriately carried out and appears to have been rushed. Had an evidential item, such as a spent cartridge case, been located by the search team during this initial search, this would have been fortuitous rather than the result of a planned, structured and thorough search.
- 300. The fact that a search team had to return to the address on two further occasions, 18 August 1970 and 27 October 1970, after the initial search in June 1970, demonstrates that a narrow focus had been taken to the earlier external searches.
- 301. Scene photographs of the lawn area beside the back door show a piece of material on the ground beside the wheelbarrow. (Refer <u>Appendix 3</u>)
- 302. The Review Team note the presence of this material, which looks out of place positioned on the ground next to the wheelbarrow, was never documented. Its relevance seems to have been overlooked until questions were raised at the RCOI as to what the material was.
- 303. The crime scene reconstruction supports the notion that the wheelbarrow was used to remove the bodies from the house. It is probable, therefore, that the material was also used by, or had some link to, the murderer.
- 304. In 1980, Detective ABBOTT, Inspector PARKES, Senior Sergeant MEURANT and Sergeant HIGGINS gave evidence about this material before the RCOI. This item was never conclusively identified. Descriptions given varied from 'an old oilskin', 'old coat', 'a piece of canvas' and 'a tarpaulin.'
- 305. All those who gave evidence, except for Senior Sergeant MEURANT, suggested that this item was destroyed at the scene after catching fire as a result of coming into contact with a discarded cigarette butt.
- 306. Senior Sergeant MEURANT denied any knowledge of this item.
- None of the Police Officers who gave evidence at the RCOI stated that they witnessed the material burning, and accounts of what remained of this material conflict.
- 308. The failure to document and secure this item as an exhibit was negligent. How this item was destroyed or lost, represents a further significant failing on the part of the attending investigators.
- 309. Photographs taken at the scene on Tuesday 23 June 1970, confirm the presence of the item on that date. In television news footage from Tuesday 23 June 1970, the item can be seen in the same view as Detective Sergeant JEFFRIES, Detective ABBOTT, Constables MEURANT and STEVENS and Rory SHANAHAN.

- 310. The material, however, does not appear in photographs taken after 4:00pm on Wednesday 24 June 1970. (Refer <u>Appendix 3</u>)
- 311. Precisely what this item was, who it belonged to, how it came to be in the scene and what happened to it, have never been satisfactorily explained.
- 312. The Review Team do not accept the suggestion that a cigarette butt could cause this material to spontaneously ignite without an accelerant being present. It is highly unlikely that a fire at the scene would have gone unnoticed. There is the question of the inevitable ash deposits and remnants of material. There is nothing on the investigation file that addresses these matters.
- 313. The only certainty is that this item was initially in the crime scene but was no longer there after 4.00pm on 24 June 1970.

### Internal scene examination

#### Scene search - farmhouse

314. An internal search of the house commenced on Tuesday 23 June 1970, under the supervision of Detective Sergeant JEFFRIES.

#### Kitchen

- 315. The kitchen light was the only interior light found to be on within the house.
- 316. The upper set of the centrally positioned louvre windows in the kitchen was in an open position. The louvre windows below were closed.
- 317. There was an array of items on the kitchen bench including food and dirty dishes used in the preparation of a flounder meal. The remains of this meal were located on the dining table.
- 318. A milk bottle, containing a small quantity of sour milk, dated Monday 15 June 1970 was located next to the sink and two full unopened bottles of milk, dated Wednesday 17 June 1970, were on the opposite kitchen bench.
- 319. Diluted blood stains were located on the linoleum kitchen floor, cupboard doors beneath the sink, kitchen bench, and hot water tap.
- 320. Two saucepans, each containing diluted blood, were located on the kitchen bench, one on either side of the sink.
- 321. Analysis of the diluted blood identified that one saucepan (Police Exhibit 34) contained blood which was consistent with Jeannette's blood type (A-), while the other saucepan (Police Exhibit 120) contained blood consistent with Harvey's blood type (O+).

322. Samples of blood from the floor and hot water tap in the kitchen were analysed. No results were obtained due to sample insufficiency or the sample was 'wet and infected'.

### **Clothes dryer**

- 323. A clothes dryer situated in the kitchen was 'on' when Constable WYLLIE arrived at the home. He reported that there was a great deal of heat coming from the dryer and thought it unsafe to leave it going, so he turned it off at the wall plug. The dryer was found to contain one pair of men's underpants and a pair of socks, presumed to belong to Harvey.
- 324. A subsequent examination of the clothes dryer by a technician confirmed the fan was not operating in the clothes dryer, therefore, it made no noise.
- 325. The Review Team conclude that the clothes dryer was in all probability turned on by either Jeannette or Harvey prior to their murder. It remained on until the crime scene was discovered on Monday 22 June 1970.

#### **Dining area**

- On the dining table were the remains of a meal of flounder, potatoes and peas. There were three plates, one at either side of the circular table on top of place settings, and one plate in the centre of the table. The centre plate and the plate closest to the kitchen held the remainder of one flounder each.
- 327. The way in which the table was set, with two sets of knives and forks, reflected two people had eaten dinner. There was nothing to indicate that more than two people had partaken in the meal.
- 328. Detective Sergeant DEDMAN identified a fingerprint belonging to Jeannette on a drinking glass on the dining table. (Refer Appendix 3)
- 329. The position of this glass indicated that at the time of eating this meal, Jeannette had sat in the chair with her back to the kitchen and Harvey was seated opposite her.
- 330. The CREWES' opened mail was located next to the plates on the dining table and consisted of accounts from various local businesses, as well as a personal letter to Harvey and Jeannette from friends. These items were:
  - (i) Account dated 31 May 1970, addressed to Mr H. CREWE from Land Spray Services Limited, Upper Queen Street, Pukekohe. A receipt dated 15 June 1970 for the sum of \$87.92 was attached to the account.
  - (ii) Statement of account dated 31 May 1970, addressed to Mr D.H. CREWE from Ornstien & Greenwell Ltd., West Street, Pukekohe, for the sum of \$21.54.

- (iii) Account (unknown date) addressed to D. H. & J. L. CREWE from National Mortgage Agency, trading as Alfred Buckland, Tuakau, for the sum of \$2.72.
- (iv) Receipt issued to D. H. CREWE by Ornstien & Greenwell Ltd., West Street, Pukekohe, for the sum of \$16.19 regarding payment of the account ending 30 April 1970.
- (v) Circular relating to livestock artificial insemination.
- (vi) Personal letter dated 12 June 1970, addressed to Harvey and Jeannette from 'Janet and Bill', Wellington.
- 331. In the scene photographs a notebook is visible on the table on top of these documents. The notebook is that of one of the attending Police Officers. This is an example of contamination of the crime scene by a failure to adhere to correct practice.

#### Lounge

- 332. The floor space near the dining table was cluttered. Two armchairs were positioned near the table in close proximity to one another. Their position obstructed easy access between the lounge and kitchen.
- 333. A baby's high chair can also be seen on the floor in this area in scene photographs.
- 334. The positioning of the second armchair (not Harvey's chair) near the dining table is difficult to explain, because it is not believed to be in its normal position. Thyrle PIRRETT and John GRACIE, who visited on the morning of Wednesday 17 June 1970, described the positioning of the two lounge chairs as being against the wall, one on either side of the fire-place.
- 335. It is possible the second armchair was left in the position in which it was found due to the presence of an unidentified visitor some time after the CREWES returned from Bombay on 17 June 1970. There is nothing on the investigation file to indicate that this occurred. It is possible that the chair may have been moved by the assailant during the commission of the crime or by Jeannette.
- 336. A blood stain was detected on the right hand arm rest of the armchair furthest into the lounge from the kitchen. This chair became known as 'Harvey's chair'.
- 337. Blood / bodily fluids had seeped through the seat of the chair and were visible on the material on the side of the chair base above the rear castor. The carpet under the chair was also stained with blood / bodily fluids, consistent with it having seeped through the base of the chair.

- 338. This suggests that Harvey remained in his chair for a considerable period of time, possibly a number of hours after being murdered. This would have allowed sufficient time for seepage to have occurred such that the interior of the chair was penetrated and the fluid dripped from the base of the chair onto the carpet.
- 339. The act of removing Harvey from his chair by pulling him by his feet would have caused the chair to have moved due the weight of Harvey's upper body sliding down against the front of the chair.
- 340. This reconstruction activity is supported by the presence of a line of blood / bodily fluid on the right hand side of the chair's cushioned seat.
- 341. When viewing the chair from the front, the front left castor (refer scene photographs) is positioned within the blood / bodily fluids that had seeped onto the lounge carpet when the chair was in its original position.
- 342. Therefore, at the time Harvey was shot, the back left-hand castor would have been close to the blood / bodily fluids that had previously dripped onto the carpet beneath.
- 343. There is nothing recorded on the investigation file to indicate the relative position of the chair in relation to the seepage on the carpet at the time the crime scene was discovered. Discolouration on the carpet, however, can be detected from the scene photographs that suggest minor seepage continued to occur at this point.
- 344. Scene photographs show a piece of paper on the floor under this chair. There is no reference on the investigation file as to the significance of this piece of paper or what happened to it.
- 345. The blood described on and under this chair was of the same blood type as Harvey.
- 346. Two small pieces of tissue were located on the left hand arm rest cover of this chair. Microscopic examination by Dr CAIRNS determined that these were consistent with human brain tissue.
- On the carpet in the lounge area were several blood stains with two large blood deposits in a central position. These were of the same blood group as Jeannette.
- 348. A long blood-stained line was observed running across the carpet away from the blood-stained armchair. This is consistent with Harvey's body being dragged from the armchair across the lounge, through the front hallway and onto the top step outside the front door.
- A blood stain was noted by scene examiners on the wooden front door threshold. Analysis confirmed that this was blood, but was determined as 'not human'.

- 350. The blood stain is, however, in line with the blood-stained drag mark visible in the lounge. It raises the question about the reliability that the analysis concluded 'not human' blood. It is noted that the sample of the blood stain was not taken until Monday 29 June 1970. Whether or not the time delay or size of the sample affected the results is not known.
- 351. The blood-stained drag mark stopped mid-way across the lounge floor and then continued as a faint line. A sample of this blood stain was analysed and found to be consistent with Harvey's blood. This indicates that Harvey's body was dragged to this point on the floor, then wrapped, before being removed from the house. (Refer Photographs Appendix 3)
- 352. Blood stains on the carpet to the left of the fire-place and on the carpet at the edge of the fire-place hearth, indicated that there had been an attempt to wipe them up. These bloodstains were found to be consistent with Jeannette's blood group.
- 353. An interior and exterior search was conducted to identify a cloth used to wipe these blood stains. No such cloth was located.
- 354. There was blood found on the front right castor of the sofa (when facing the sofa).
- 355. The blood stain in the middle of the carpet to the left of the fire-place was of the same blood type as Jeannette's. Although not clearly visible in scene photographs, there was a drag mark across the carpet from this blood stain. It is probable that the assailant pushed the sofa back to facilitate the removal of the bodies from the house.
- 356. The faint drag mark indicates the sofa was in a different position prior to the murders. In all probability it was closer to the fire than was depicted in the scene photography and site plan drawn by Surveyor, Brian SLY.
- 357. The investigation team advanced the theory that the CREWES had been watching television at the time of their deaths. If the sofa had been pulled around in front of the fire as described, this makes the possibility that they had been watching television just prior to being killed, less likely.
- 358. Brian SLY reported that he was asked by investigators to show certain pieces of furniture on his sketch plan in a position that he had seen them placed rather than the position in which he initially saw them. This is further evidence of scene contamination and a departure from best practice. Such actions obviously affect the ability of investigators to reconstruct scene events with accuracy.
- 359. Jeannette's knitting, from which there were several dropped stitches, was on the sofa. A slightly bent knitting needle was found lying on the floor in front of the sofa.
- 360. An examination of ash in the fire-place indicated that the hearth carpet and cushion were burnt in the fire.

- 361. It is a reasonable presumption that the hearth carpet and a cushion were bloodstained and, therefore, disposed of by the assailant in the lounge fire-place.
- 362. Smaller blood spots were found on the hearth surround, the hearth itself, and a wooden foot-stool beside the hearth.
- 363. Although these are described as 'spots', there is nothing on the file to indicate whether these were consistent with blood spatter or blood drops. No testing of these blood spots was conducted. However, due to their positioning, they are presumed to be Jeannette's blood.
- 364. Scene photographs show the fire-screen had been placed across the front of the fire.
- Taking into account the time it would take to start a fire and generate enough heat to burn the carpet, it is probable that the assailant burned the hearth carpet and the cushion from Harvey's chair on the night of the murders when the fire was hot and already well established.
- Two slippers belonging to Jeannette were located in the lounge. One was situated to the rear and left of Harvey's armchair, between it and the fire-place. The second was found across the other side of the room, near the door to the back hallway under a crumpled blanket or flannelette sheet.
- 367. This sheet had several small blood stains on it consistent with Jeannette's blood.
- 368. The television in the lounge was connected to an extension cord, which ran through the front hall and into the master bedroom where the cord lay on the floor at the foot of the bed. The switch to the power point in the master bedroom, where it is believed the cord may have been plugged into, was in the 'off' position and what was thought to be a minute blood stain was located on this switch. The television switch was on and the extension cord had been disconnected in the hallway, although the extension cord connections were in close proximity with each other.
- 369. No blood was detected when the apparent blood stain from the power point was analysed. There is nothing recorded on the investigation file to indicate whether the stain was analysed further.
- 370. Blood stains on the carpet indicate the bodies were dragged along the floor. The two disconnected electrical cords (which may have been used to connect the television) can be seen in the scene photographs to be generally following a linear position. This is not consistent with a body having been being dragged over them. This may mean that the bodies were lifted over the electrical cords or that the electrical cords have been repositioned after the bodies have been dragged out of the farmhouse via the front door.
- 371. If the bodies were lifted over the cord, this may suggest a second person was involved in moving the bodies.

- 372. Scene photographs show both the extension cord draped over the CREWES' double bed plugged into the power socket in the master bedroom and the cord unplugged, lying on the floor at the foot of the bed.
- 373. The photographs showing an extension cord lying on the floor in the master bedroom was taken on the evening of Monday 22 June 1970.
- 374. The photograph which shows the cord running over the bed and plugged into the power-point was taken on Tuesday 23 June 1970. This would indicate that the television was not plugged into the power socket when the crime scene was discovered. This is an additional reason to conclude that the CREWES were not watching television at the time they were murdered.
- 375. It is likely that the second photograph represents a scene reconstruction, to see if the television may have been plugged in and was switched on at the time of the murders.
- 376. Curtains were drawn across the large window in the lounge, to the right of the fireplace (viewed from inside the house). There were no curtains on the other two lounge windows. The sills of a number of windows were sufficiently low enough to allow someone outside the farmhouse to observe activity within.
- 377. A single set of car keys for the CREWE Hillman Hunter motor vehicle was located in a drawer of the cocktail cabinet situated in the lounge.
- 378. There is nothing on the investigation file to indicate whether there was more than one set of keys for the motor vehicle, or if this was the usual place they were kept.

#### **Master bedroom**

- 379. In the master bedroom the double bed was in a 'made-up' condition, but missing a brown bedspread. The couple's night attire was folded under the pillows. A single eiderdown was on the floor to the left of the bed.
- 380. The blinds in the master bedroom were open.
- 381. When Jeannette's body was recovered on 16 August 1970, she was wrapped inside a green blanket with satin edging and a multi coloured cotton cover. Harvey's mother, Marie CREWE identified the cotton covering as a bedspread that had come from the CREWES' double bed.
- 382. When Harvey's body was recovered on 16 September 1970, fragments of a green blanket were found around his waist and a brown bedspread was located in the river near his body. Hair found inside the bedspread was consistent with Harvey's and indicated that this had been wrapped around his head. Marie CREWE identified the brown bedspread as having come from the master bedroom in the CREWE farmhouse.

- 383. The fact that two bedspreads used to wrap the bodies had been taken from the crime scene indicates that the two green blankets, also used to wrap the bodies, in all probability, came from the CREWE farmhouse.
- 384. A pile of women's clothing was located on the floor in a corner of the master bedroom. It consisted of a skirt, several cardigans, girdle, bra, pair of stockings, and a pair of brown shoes.
- 385. A pair of men's trousers, a sports shirt and jersey, were hanging over the top of the bedroom door.

#### Rochelle's bedroom

- Rochelle's bedding in her cot located in the front bedroom was described as being in a very wet condition and was badly urine-stained. Inside the cot was a pair of pink pyjama pants, consistent with the pink pyjama top Rochelle was wearing when found, and one wet nappy.
- 387. The Review Team note that much has been made of the presence of a wet nappy found in the cot with Rochelle. There were in fact a number of soiled nappies located in the house. John GRACIE told the Review Team that soiled nappies left about the house was one of his enduring memories of the CREWE farmhouse.
- 388. The blinds in Rochelle's bedroom were closed.

### **Spare bedrooms**

- 389. One of the spare bedrooms on the south-east corner of the farmhouse appeared to be used as storage space. It contained various items, such as furniture, tools and old papers. Also found within this room was a full box of 12 gauge shotgun cartridges.
- 390. The second spare bedroom had items scattered over the floor, including a number of cardboard boxes, and an ironing board set up in the centre of the room.

#### Laundry

- 391. Two sets of two soiled nappies were located in the washhouse on top of the refrigerator. One was in a plastic bag and the other had no form of covering.
- On the lid of the washing machine were another soiled nappy, a soiled pair of plastic pants (believed to be a nappy cover) and a soiled pair of baby pants.
- 393. On the floor of the washhouse, near the washing machine and refrigerator, was a bucket containing a solution of NapiSan.
- 394. A Pioneer brand shotgun belonging to Harvey was also located inside a canvas bag, in the washhouse.

- 395. There is nothing on the investigation file to indicate whether the shotgun was loaded or not, or if it was a single or double barrelled weapon.
- 396. Inside the refrigerator in the washhouse were three bottles of milk. The tops of these bottles were dated 15 June and 16 June.

#### Trustees visit to CREWE farmhouse

- 397. On 3 August 1970, Colin HARVEY, Harvey CREWE's uncle and a trustee of Harvey's estate, visited the CREWE property to remove personal effects from the home. He was accompanied by his wife, Solicitor Douglas MONTEITH, Lenard DEMLER and Heather SOUTER, Jeannette's sister.
- 398. On 7 August 1970, Colin HARVEY wrote to Police and advised that while removing articles from the house he found:
  - "...a duchess set which includes an expensive brush and mirror with this card. This article was in a box and never been used. We found it in the junk room where all the old furniture was stored."
- 399. Colin HARVEY believed these items may have been relevant to the investigation because of a card found with these items which was signed "From Arthur."
- 400. The brush, comb and mirror set in question was the one given to Jeannette by Arthur THOMAS in December 1962.

### Further scene examination (1)

- 401. Jeannette's body was discovered on 16 August 1970, and a post-mortem examination conducted. The pathologist identified that she had died as a result of a single .22 gun shot wound to the head. Her body had been wrapped in bedding and bound with wire which was used to hold the wrapping in place.
- 402. On 16 August 1970, as a result of this information, a further search was conducted at the CREWE property. Police searchers concentrated on outbuildings, looking for wire and wire cutting tools.
- 403. On 17 August 1970, during the continuation of the search, Detective Constable GEE located a piece of copper wire near the fenceline in the CREWE front paddock. Analysis of this wire revealed that it bore no relationship to the wire found on the bodies.
- 404. On 17 August 1970, a further interior examination of the house was completed by Detective Sergeant JEFFRIES, Detective Constable GEE and Detective Constable MEURANT. The purpose of this search was to examine the floors and walls for bullet marks, lead or .22 cartridge case/s.
- 405. Ash previously taken from the fire-place was also searched for these items.

- 406. Nothing of interest was found during the interior search of the house or the search of the ash.
- 407. On 18 August and 19 August 1970, Detective Sergeant JEFFRIES returned to the scene with Detective GEE, Detective Constable HIGGINS and Constable MEURANT. They conducted a further search of the exterior and, in particular, conducted a sieve search of the gardens at the front of the house immediately inside the fenced area. They also searched the gardens along the right-hand side of the path leading from the front gate to the front door, and the gardens around the front of the house between the front and back doors.
- 408. Nothing of note was found despite a full day of searching.
- 409. The comments made by Detective Sergeant JEFFRIES at a Police Conference on the evening of 18 August 1970, illustrates this point. He is recorded as saying:

"A search was made of the lawn and the garden was completely dug up, that is all garden, and sieved. There were several parts of the garden where we could scrach [sic] over and look visually that weren't actually sieved and I am satisfied there was not anything there."

- 410. This assertion is both ambiguous and contradictory. Clearly, not all of the garden was sieved because of the qualification provided in the second sentence.
- 411. Detective Inspector HUTTON directed Detective Sergeant JEFFRIES and his team to return the following day (19 August):
  - "...to continue search at Pukekawa to CREWE household with aid of mine [metal] detector from 8.30am."
- 412. Detective Sergeant JEFFRIES gave evidence before the RCOI that he had made enquiries with the Papakura Army Camp to source a metal detector. However, no metal detector was used in the search.
- 413. Detective Sergeant JEFFRIES informed Detective Inspector HUTTON during a Police Conference on 20 August 1970, that the previous day (19 August):
  - "...[they] mowed the paddock in front of the CREWE house and made a search as the strips were mown. The lawn clippings were saved and a search of these clippings was also made. A cartridge case or bullet was not found in this paddock. The only remaining area to be searched properly would be the frontage road and driveway entrance and drain, and this would entail a good day's work by more than four blokes because all grass will have to be cut outside the front gate."
- 414. There is nothing on the file to indicate that the road frontage, driveway, entrance and drain were the subject of a detailed search.

415. Former Detective PARKES has been interviewed by the Review Team. He stated that the search was concentrated on the gardens at the front of the house because Detective Constable GEE had found a piece of copper wire in a paddock immediately in front of the house, between the house and the road. It was believed by the investigation team that this was where activity had taken place and it was believed that the bodies had been removed via the front door.

### Further scene examination (2)

- 416. On 26 October 1970, a Police Conference was held during which the topic of spent cartridge case ejection was raised in the context of the 'JOHNSTON theory'.
- 417. By way of explanation, Detective JOHNSTON hypothesised that the assailant had supported themselves on the small wall to the right of the back door and shot Harvey through the open louvre window. An actual crime scene reconstruction demonstrated the feasibility of the 'JOHNSTON theory'.
- 418. Detective Sergeant JEFFRIES informed Detective Inspector HUTTON that the garden border that was being discussed situated to the right-hand side of the back gate at the CREWE property had not previously been sieve searched.
- 419. Former Detective PARKES volunteered to the Review Team that it was him who had alerted Detective Inspector HUTTON that this particular garden border had not been sieve searched. Whether it was Detective PARKES alone who raised this with Detective Inspector HUTTON or that his input corroborated that of Detective Sergeant JEFFRIES cannot now be confirmed.
- 420. The accounts of Detective Sergeant JEFFRIES and Detective PARKES clarify the true position concerning previous searches at the CREWE property and apart from their explanation, there is no additional material on the investigation file to indicate when Detective Inspector HUTTON became aware that this garden border had not been sieve searched.
- 421. On 27 October 1970, as a result of this Police Conference, Detective Sergeant Michael CHARLES and Detective Sergeant PARKES returned to the CREWE property to conduct a sieve search of the garden border immediately inside the fenced area on the right-hand side of the back gate, along the eastern side of the section.
- 422. It was during this search that Detective Sergeant CHARLES found a .22 cartridge case in the garden later known as Police Exhibit 350.
- 423. Following the pardon of Arthur THOMAS in December 1979, and the announcement of a RCOI, Police gathered together material from the 1970 investigation file. During the course of this activity, scene photographs of both the interior of the CREWE farmhouse and garden area were re-examined.

- 424. In one photograph taken by Constable STEVENS on Tuesday 23 June 1970, showing the area of garden in which Police Exhibit 350 was found, the presence of a small rectangular object was observed. In terms of shape and size, it is possibly consistent with the shape and size of a .22 cartridge case.
- 425. The location of the object in the garden border aligns closely with the position in which Police Exhibit 350 was subsequently found by Detective Sergeant CHARLES, in the company of Detective Sergeant PARKES, on 27 October 1970.
- 426. The Review Team have been unable to advance any forensic testing that could definitively identify the object in the photograph and draw no conclusions about it, other than recording this observation came to the attention of Police 10 years after the murders.

### **Fingerprint examination**

- 427. Detective Sergeant DEDMAN located fingerprint and palm print impressions from 43 items (and surfaces) at the crime scene.
- 428. Ten items fingerprinted contained impressions which were identified as belonging to Jeannette. This was carried out by a comparison of elimination fingerprints taken from her at the time of the 1967 burglary at the CREWE farmhouse.
- 429. Detective Sergeant DEDMAN confirmed that Police did not have a set of Harvey's fingerprints with which to compare fingerprints located at the crime scene. He identified what he believed to be the right fore finger, right middle finger, right ring finger and the left thumb print of Harvey on various items within the house.
- 430. Detective Sergeant DEDMAN was satisfied that a further 10 items held fingerprints believed to belong to Harvey.
- 431. Detective Sergeant DEDMAN further reported that there was insufficient detail, or he had been unable to sufficiently develop the impressions, on eight items fingerprinted.
- 432. No palm prints were available for comparison from either Harvey or Jeannette.
- 433. There were 15 items which were fingerprinted at the crime scene upon which prints were located and remain unidentified. These were described as: palm print window, door frame washhouse, inside door bathroom cabinet, inside back door below handle, inside back door above handle, passage / kitchen door frame, inside door of baby's room, palm print inside door of baby's room, coffee table (small), bathroom cabinet outside, big coffee table, palm print on front mantle piece above fire-place, outside main bedroom door, lounge doorway (possibly child's prints), inside front door.
- 434. Detective Sergeant DEDMAN reported that the elimination fingerprints taken from Jeannette at the time of the burglary in 1967 were of very poor quality, especially on the left hand. Therefore, it was his belief that some of the remaining unidentified fingerprints were portions of her left hand.

- 435. Detective Sergeant DEDMAN did not specify which of the 15 items upon which unidentified prints were located could have belonged to Jeannette.
- 436. Evidence was given by Detective Sergeant DEDMAN that he was satisfied the fingerprint found on the rear vision mirror of the CREWE car belonged to Harvey.
- 437. While not having fingerprints from Harvey with which to compare, Detective Sergeant DEDMAN formed this opinion following an examination of Harvey's right ring finger which displayed a 'whorl pattern'. Detective Sergeant DEDMAN stated that he found similar fingerprints inside the house in positions one would expect to find those belonging to an occupier.
- 438. Principal Police Fingerprint Officer, Mark HUMPHRIES, of the Auckland Fingerprint Section, was engaged by the Review Team to examine the documentation from the Police file relating to fingerprint examination. (Refer <u>Appendix 17</u>)
- 439. Mark HUMPHRIES reported that attributing some unidentified fingerprints to Harvey, whilst a logical conclusion, would not stand up to modern scientific scrutiny.
- 440. Mark HUMPHRIES stated that the conclusions of Detective Sergeant DEDMAN, therefore, do not eliminate the possibility that the prints could belong to an unknown person who had access to the same areas.
- 441. The Review Team record that Arthur THOMAS' fingerprints were taken upon his arrest and were not identified at the crime scene.

### Scene reconstruction

### **Experiment 1**

- 442. On 22 September 1970, Detective Sergeant James TOOTILL and Detective Inspector HUTTON conducted an experiment to see if the sound of a .22 rifle shot at the CREWE farmhouse could be heard from Owen and Julie PRIESTS' house approximately 575 yards (525 metres) north (as the crow flies) on Highway 22. This was because Julie PRIEST reported hearing three gun shots on what would have been the night of Wednesday 17 June 1970.
- 443. Detective Inspector HUTTON took up a position near the PRIESTS' house, while Detective Sergeant TOOTILL fired two shots from a .22 rifle at the CREWE property.
- 444. Detective Inspector HUTTON reported that he did not hear the shots fired by Detective Sergeant TOOTILL.

#### **Experiment 2**

- On the evening of 13 October 1970, Detective Inspector HUTTON, Detective Inspector A. BAKER, Detective Senior Sergeant Patrick O'DONOVAN, Detective JOHNSTON, Dr NELSON, Rory SHANAHAN and a number of other Police Officers and Scientists, went to the CREWE farmhouse.
- 446. Experiments were conducted to assess the viability of a bullet having been fired by a rifle through the kitchen louvre windows and be in a position to hit the head of a person sitting in an armchair in the living room. The proposed reconstruction sought to reinact the manner in which Harvey could have been killed.
- 447. The notion that the shot that killed Harvey may have been fired through the kitchen louvre window was, if correct, extremely relevant in respect of any reconstruction of the crime and would have identified priority areas for searching for such items as discarded cartridge cases.
- 448. The most likely reconstruction of the order in which the murders occurred is that Harvey was shot first, followed by Jeannette. The fundamental reason for this probability is that Harvey was a big, fit, strong individual with a no-nonsense approach when dealing with people. He, unquestionably, represented a significant physical threat to any would-be assailant. Whether or not he was the primary target is unclear; however, it would be logical for him to be incapacitated in the first instance.
- 449. The shot that killed Harvey entered his head from his left-hand side whilst he was sitting in his armchair in the lounge. By necessity, the offender must have been positioned to his left and slightly to the rear of where Harvey was sitting.
- 450. The probable reconstruction is that the offender fired a single shot from the direction of the kitchen. The 'JOHNSTON theory', namely that the shot was fired from outside the house through the louvre window in the kitchen, cannot be discounted. It is consistent with the probable reconstruction, although it is not the only credible scenario.
- 451. This reconstruction occurred on the same day that a box containing an undisclosed number of .22 brass cartridges (Police Exhibit 318) was taken from the THOMAS farmhouse by Detective JOHNSTON. This Police exhibit was advanced by the RCOI as a potential source of Police Exhibit 350.
- 452. Detective Inspector HUTTON placed an armchair in the same position that Harvey was believed to have been sitting in at the time of being shot. The assumed height from the ground of Harvey's head was measured and a trap to capture fired projectiles and an aiming mark was set up. What measurements were used for this purpose is unknown.

- 453. Dr NELSON stood on the waist-high brick wall at the right-hand side by the back door, which was positioned at a right angle to the kitchen window sill. From this position, Dr NELSON fired two test shots and Detective JOHNSTON fired one. Both were able to fire the shot and strike the target with reasonable accuracy.
- 454. The firearm used was a single shot .22 rifle; the make, origin and ownership of which is not recorded in the investigation file. Dr NELSON gave evidence at the second trial, and Detective Inspector HUTTON gave evidence at the RCOI, that this was not Arthur THOMAS' rifle.
- 455. Dr NELSON stated that he found it relatively easy to shoot accurately from this position without the barrel of the rifle touching the glass or making any noise.
- 456. At the second trial, Dr NELSON gave evidence about the ejection of the cartridge cases from the firearm he was using.
- 457. Dr NELSON stated that when he ejected the fired cartridge cases from the rifle he measured the distance they had travelled before hitting the ground. He stated:
  - "Some, or most, travelled as much as 10 feet; one travelled as far as 13' when it only had a distance of 4'6" to fall and then skidded a further 5' along the concrete, but 10' was a good average distance follow.by [sic] an addnl [sic] distance after it struck the floor."
- 458. The relevance of an ejection experiment on this date is unclear since the ejection characteristics of the unidentified .22 rifle used during the experiment may be inconsistent with the actual firearm used by the offender.
- 459. However, it is noted that others present at the reconstruction on 13 October 1970, Detective Inspector HUTTON and Detective Senior Sergeant O'DONOVAN, stated that the distance the cartridge cases travelled when ejected on this occasion had not been measured.
- 460. Dr NELSON retained these test-fired cartridge cases and projectiles. Their current whereabouts are not known.
- 461. While at the scene, Detective Inspector HUTTON also tested the closing and opening of the louvres from outside the house. Detective Inspector HUTTON reportedly found this quite easy to do.
- 462. The Review Team note that all possible shooting scenarios do not appear to have been considered at an early stage and hypothesis tested by way of reconstruction.
- 463. The proposition that the offender shot Harvey through the kitchen louvre window did not form part of the initial scene reconstruction.
- 464. Any viable reconstruction must take into account the manner in which the fatal gunshot wounds were inflicted.

- 465. The nature of Harvey's wound meant that the offender must, by necessity, have been positioned behind him and to his left. When the position of the chair in which he was seated at the time of his death is factored in, the most likely position of the offender was in a line from his chair into the kitchen and possibly beyond.
- The position of Jeannette's slipper between Harvey's chair and the fire supports the 'JOHNSTON theory'. Had the offender been inside the kitchen when Harvey was shot, it is unlikely that Jeannette would have had the opportunity to make her way to the left-hand side of Harvey's chair before being confronted by the offender. The fact that she was able to reach this point may indicate that the offender was still making their way into the farmhouse when Jeannette rose to her feet and approached Harvey face-on.
- 467. The location of her slipper may also be an indicator as to why the second lounge chair was positioned where it was.
- 468. If the chair had been positioned against the wall to the right-hand side of the fireplace, it is possible that Jeannette had seen the offender advancing towards her from the kitchen. She may have pushed the chair towards the offender in order to use the chair as a barrier. Scene photographs show that the carpet beneath this chair is raised, as if the chair has been pushed towards the direction of the kitchen / lounge door.
- 469. A shot fired through the telephone hatch, situated in the wall between the lounge and rear hallway, represents a possibility that required consideration also and an assessment as to feasibility.
- 470. For this to have been a viable reconstruction, Harvey would have had to have been facing the corner of the dining section of the lounge dining area which is highly improbable.
- 471. The offender being positioned elsewhere in the lounge when they fired the fatal shot is unlikely, due to the position of the entry site on the left-hand side rear of Harvey's head.
- 472. There is no suggestion that that were any insecure windows, other than the open kitchen louvre windows, at the time of the initial Police scene examination. The investigation team noted that the front door was difficult to open and, due to the type of lock on the front door, this could not be opened from the outside without a key. Entry to the house by the offender, therefore, was in all probability, via the back door.

### **Experiment 3**

473. On 28 February 1971, during the first trial, a further reconstruction was carried out at the CREWE farmhouse by Arthur THOMAS' defence counsel using Arthur THOMAS' .22 rifle.

- 474. Present were retired Firearms Instructor, Percy BRANT, from the New Zealand Army; a Field Supervisor with the Franklin County Pest Destruction Board, John McKENZIE; Defence Counsel, Paul TEMM and Brian WEBB; Photographer, Richard DRAPER; and an unnamed surveyor.
- 475. The purpose of their visit was to determine the feasibility of a shot being fired through the open louvre window and hitting a target in the position that Harvey was likely to have been sitting in his chair in the lounge of the CREWE farmhouse.
- 476. John McKENZIE commented that a shot from this position was very awkward, but acknowledged that a person competent with a firearm could make the shot. Percy BRANT confirmed that a shot could be fired from this position.

#### General

- 477. It is probable that Jeannette was knitting on the sofa prior to Harvey being shot.
- 478. Upon hearing a gunshot and seeing her husband slump over to his right, it is almost certain that Jeannette would have spontaneously jumped to her feet and moved towards Harvey.
- 479. This action is supported by the fact that one of her slippers was located between Harvey's chair and the fire-place. Jeannette has then been physically assaulted and shot in the right-hand side of her head.
- 480. There is no evidence that Jeannette was subjected to any form of sexual assault.
- 481. The bodies of the couple were removed from the house via the front door. This is confirmed by the presence of blood consistent with Harvey's blood type, being found on brick-work adjacent to the front door.
- 482. In all probability, the wheelbarrow found on the lawn beside the back door was used in some way to facilitate the removal of one or more of the bodies from the scene.
- 483. Similarly, the oil-skin coat or piece of canvas material adjacent to the wheelbarrow may well have had been used in some way by the offender.
- 484. In all probability, the bodies were taken to a motor vehicle or trailer and transported to an unknown location, where they were disposed of into the Waikato River with weights attached.
- 485. Why the offender elected to remove the bodies from the scene is unknown. However, there are a number of logical scenarios.
- 486. There is obvious inherent risk in electing to remove the bodies from the scene and the time necessary to do so. This action raises the question of the offender's forensic awareness and / or that the offender needed to delay the bodies being found (if ever), to provide time-distance between themselves and the crime.

- 487. Regardless, the offender must have believed that the likelihood of them being discovered would be reduced by this action, weighed up against the risk the action itself entailed.
- 488. The New Zealand Police Criminal Profiling Unit, engaged by the Review Team to provide a criminal profile for the offender responsible for the murders, is of the opinion that these acts of murder show a degree of pre-planning which suggests the assailant was forensically aware. (Refer full report in <u>Appendix 13</u>)
- 489. The crime scene indicates several attempts were made to clean up blood from carpets and burn material in the fire-place. This may indicate that, post murder, planning by the assailant had not been so meticulous or well-organised. The amount of blood at the scene may not have been anticipated and the clean-up may have quickly proved too daunting and / or time consuming.
- 490. The discovery of two saucepans in the kitchen, one with the diluted blood of Harvey and the other with the diluted blood of Jeannette, may indicate two people were present during the clean-up, or may be suggestive of an ineffective attempt to clean the scene by one person using two pots.
- 491. Clearly, by weighting the bodies (presuming Jeannette's was too) and disposing of them in the Waikato River, the assailant went to some lengths to prevent the bodies from being found.
- 492. The recovery of Harvey and Jeannette, two and three months later respectively, was an outcome that could not have been realistically foreseen. Nevertheless, the passing of time clearly gave the assailant an opportunity to get their life back to some sort of normality and to some degree, reconcile what they had done.

# **Forensic Opportunities**

### **Fingerprint records**

- 493. A number of fingerprints and palm prints that were located in the interior of the CREWE farmhouse remain unidentified.
- 494. A re-examination of the fingerprint holdings would provide a forensic opportunity and the Review Team have made extensive enquiries in an attempt to locate them.
- 495. Efforts have included a physical search of the Auckland Fingerprint Records; archived areas of the Auckland Central Police Station; and interviews with former colleagues and family members of Detective Sergeant DEDMAN. These efforts have proved unsuccessful.

### **Blood samples**

496. Blood samples were recovered from the crime scene for the purposes of blood grouping analysis, since this was the only forensic opportunity available at that time.

- 497. There is nothing on the 1970 investigation file to suggest that any blood samples recovered from the scene belonged to anyone other than Harvey or Jeannette.
- 498. The blood samples from the crime scene were destroyed by Police on 27 July 1973.

### Police exhibit disposal

499. The .22 cartridge case (Police Exhibit 350) found in the CREWE garden on 27 October 1970, identified as having been fired from Arthur THOMAS' rifle, was destroyed by Police on 27 July 1973 with a number of other exhibits by disposing of them at the Whitford Tip.

#### **CREWE farmhouse**

- 500. The former CREWE farmhouse in Pukekawa has been visited by the Review Team for the purposes of observing significant scene features first-hand.
- 501. The house interior has been significantly re-modelled since the 1970s and limits the opportunity for any further worthwhile scene reconstruction or examination to be considered.
- 502. The Review Team have not identified any additional forensic opportunities that can be initiated in respect of the scene.

### **Further lines of enquiry**

- 503. There is nothing on the investigation file to suggest that the motive of the offender was anything other than murder. Valuable jewellery belonging to Jeannette was left untouched in the master bedroom and there was a shotgun in the washhouse and alcohol in the lounge. Other than bed covers used to wrap the bodies, nothing else of value appears to have been taken from the CREWE farmhouse.
- 504. The 1970 investigation team appeared satisfied that other than a piece of material that became detached from Jeannette's body during the recovery, all bed covers and other material was salvaged.
- 505. There are no recommendations from the Review Team concerning any further scene examination opportunities.

### Conclusion

- 506. In reviewing the 1970 Police crime scene examination, the Review Team are mindful that investigators are far better trained and equipped today in forensic preservation, examination and crime scene management.
- 507. There are, however, certain expectations applicable to all crime scene examinations that remain timeless, such as the need to freeze, preserve and protect the scene from unnecessary contamination.

# **Chapter 4 - Initial Action / Crime Scene**

- 508. A number of short-falls in the management of the 1970 crime scene have been identified. These shortfalls may have adversely affected the opportunity for the investigation team to accurately factor material that was potentially available for consideration into reconstruction scenarios.
- 509. The clearest example of this is the status of an 'old oilskin', 'old coat', 'a piece of canvas' or 'a tarpaulin' (as it has been variously described), located on the lawn by the wheelbarrow. (Refer <u>Appendix 3</u>)
- 510. Further examples of scene contamination include:
  - (i) Allowing motor vehicles to initially park inside the front paddock of the property, which should have been within the scene boundaries.
  - (ii) A Police notebook was placed on the dining table on top of documents. (Refer photographs Appendix 3)
  - (iii) Items moved in the lounge and master bedroom between the taking of crime scene photographs (knitting on the sofa in the lounge; the television extension cord in the master bedroom). (Refer photographs Appendix 3)
  - (iv) Furniture being moved prior to it being plotted into sketch plans.
  - (v) The use of scene items (toy carrot) as a marker.
- The Review Team acknowledge that there was some methodology adopted by Police Officers during their 1970 scene examination of the farmhouse and section.
- 512. The scene with which they were confronted was complex in that there were no witness accounts of what had occurred and activity had to be reconstructed from a consideration of the evidence available to them.
- 513. Therefore, there were a large number of items and factors that required diligent consideration as to their relative significance in accurately reconstructing what activity had occurred at the house.
- 514. It is clear that the initial reconstruction favoured blunt instrument trauma. It seems that little thought was given to the possibility that the use of a firearm may have been involved.
- 515. There was nothing at the scene to indicate that the crime was motivated, even in part, by theft or dishonesty. There was no evidence that the interior of the house had been searched by the assailant, other than to remove bedding items later found with the bodies.
- 516. Initial scene reconstructions did not fully explore all possible scenarios. This led to an inadequate search of the CREWE farmhouse and surrounds being carried out.

# **Chapter 4 - Initial Action / Crime Scene**

- 517. Efforts to identify the people to whom outstanding scene fingerprints belong are poorly documented. The current whereabouts of the 1970 fingerprint lifts is unknown.
- 518. Fingerprint lifts of unidentified prints should have been carefully secured as critical exhibits, because of their potential to link the offender with the crime scene.
- 519. No blood, fingerprints, or other physical evidence was identified at the crime scene which was linked to the offender.
- 520. The volume and quality of crime scene and Police pathology photographs are limited. This has hampered the ability to conduct the desired comprehensive critique of the pictorial records.
- Key decisions concerning what was relevant to the homicide investigation, including what should be considered or rejected as being potential evidence, were made solely by Detectives. Such decisions, after consultation where appropriate, should have been made by the O/C Investigation, Detective Inspector HUTTON.
- 522. The investigation team had the benefit of the expertise of Dr CAIRNS in terms of forensic pathology and Government Analysts, Dr NELSON and Rory SHANAHAN, both of the DSIR.

**END** 

# **CHAPTER 5**

# **Area Canvas / General Enquiries**

### Introduction

- 523. Detective Sergeant TOOTILL was appointed O/C Area Canvas.
- 524. Detective Sergeant CHARLES was appointed O/C General Enquiries.
- 525. The investigation team sought to:
  - (i) establish the movements and activities of the CREWES leading up to the murders
  - (ii) identify any person who may have had recent contact with the CREWES
  - (iii) establish whether any activity was noted at the CREWE property between Wednesday 17 June 1970 and the time the crime scene was discovered on Monday 22 June 1970
  - (iv) identify any historic events that may have been the catalyst for the murders.
- To build this picture, neighbours and residents of Pukekawa were interviewed as well as friends and family of Harvey and Jeannette.
- 527. The investigation team did not identify any discord affecting the lives of the CREWES.
- 528. The investigation file, however, contains comments that the CREWES did not mix well with the other residents of Pukekawa and were somewhat disconnected from their neighbours.
- 529. The Review Team accept that with any investigation there is always residual information arising from discussions within the investigation team, conversations between investigators and witnesses, and simple local knowledge which is not documented.
- 530. It is not possible after this length of time to be fully aware of whether this kind of informal communication led to certain lines of enquiry being disregarded or not actively investigated.
- An analysis of the written material on the investigation file provides examples of missed opportunities and lines of enquiry that were never thoroughly pursued. It is also apparent that not all enquiries completed by the investigation team were documented.

- 532. Directional jobsheets are a tool used by Police to manage enquiries conducted during a criminal investigation.
- 533. The investigation file contains a number of directional jobsheets that were never completed.
- They are used by phase O/C's to give instructions to their staff concerning the enquiries they have been asked to complete. For example, they may include instructions to interview certain people or complete certain tasks. A directional jobsheet may be of a general instructive nature or, alternatively, quite specific as to what topics or questions are to be asked of witnesses.
- 535. The Review Team note that some of the directional jobsheets on the file contain a handwritten note 'HOLD'. These notations are not dated.
- These directional jobsheets do not appear to contain anything of great significance. These enquiries should have been pursued for the sake of completeness, or at least a record made explaining why these enquiries were then considered redundant.
- 537. On the investigation file, there are a number of directional jobsheets containing suspect nominations. There is no documentation on the investigation file to indicate whether or not all of these individuals were identified, located, interviewed and eliminated from the enquiry.

### **Activity**

#### A full analysis of this topic has been undertaken and is addressed in Appendix 1

538. The investigation file indicates that between Saturday 13 June and Wednesday 17 June 1970, the CREWES had contact with a number of people and their lives generally appeared to be that of a normal rural farming couple.

#### Saturday 13 June 1970

- 539. On Saturday 13 June, Jeannette wrote a four-page letter to her friend Beverley WILLIS. Although it appears this letter may have been handed to Police, a copy is not contained on the investigation file and the content of the letter is unknown.
- 540. Detective Constable Edmund BAILEY noted in a Police jobsheet that Beverley WILLIS' husband, Anthony WILLIS said:
  - "The letter did not contain much, only general woman talk and there was no mention of any trouble brewing at all."
- 541. Carolyn CHITTY, the nearest neighbour of the CREWES, told the investigation team that she had last seen Jeannette approximately 10 days earlier (believed to be on or about Saturday 13 June 1970), when she had borrowed some potatoes.

#### **Sunday 14 June 1970**

- Sunday, from his road side truck which was parked opposite the Meremere Power Station. Ruben SMITH estimated that this would have occurred at about 1:00pm or 2:00pm and also stated that Harvey had purchased fish from him several times previously.
- 543. Stock Agent John GRACIE told the investigation team that on either Sunday 14 June or Monday 15 June 1970, Harvey telephoned him at home at about 8:00pm. Harvey told John GRACIE that he had eighteen ewes and nine lambs that were affected by eczema and asked that they be taken to Westfield Freezing Company for slaughter. Harvey also mentioned to John GRACIE that he was looking to buy a bull, but did not want to pay 'big money' for it.

### Monday 15 June 1970

- Pukekawa farmer, David FLEMING, saw Harvey driving his tractor along Highway 22, near Fleming Road. David FLEMING stated that Harvey smiled and waved to him.
- 545. David FLEMING's wife, Jocelyn FLEMING, also saw Harvey on the Monday, driving his tractor near the CREWE house on Highway 22 at about 3:30pm. Jocelyn FLEMING noted that Harvey looked 'particularly cheerful' that day.
- 546. Brian HOSKING, a Pukekawa farmer and member of the Pukekawa Ratepayers' Committee, stated that he spoke to Harvey by telephone on either the Monday or Tuesday.
- 547. Brian HOSKING informed Harvey of the Ratepayers' meeting to be held on Wednesday 17 June 1970, at the Pukekawa Hall. Brian HOSKING commented that Harvey appeared normal and seemed alright on the telephone. Brian HOSKING made no comment as to whether Harvey indicated his intentions to attend this meeting.
- Jeannette telephoned Smith & Caughey's store regarding some curtain material she had purchased on Friday 12 June 1970. She told the salesman, Warren HAMLET, that the material had a flaw in it. Warren HAMLET advised Jeannette to send it back and it would be replaced. Jeannette sent the material back, which was received by Smith & Caughey's on Friday 19 June 1970.
- 549. A receipt found in the CREWE house dated 15 June 1970, acknowledged the payment of \$5.18 from Harvey to J. DOUGHERTY.
- 550. Enquiries undertaken by the investigation team indicated that this related to the purchase of seven gallons of petrol by Jeannette on Wednesday 10 June 1970.

### **Tuesday 16 June 1970**

- In a Police jobsheet dated 24 June 1970, Detective Inspector HUTTON reported that Lenard DEMLER told him that at approximately 7:45am that day, Jeannette and he had spoken on the telephone. During this conversation Jeannette had invited him for dinner that evening.
- 552. At about 9:00am that day, Jeannette telephoned Sturrock & Monteith, Solicitors in Tuakau.
- 553. This telephone call was likely to have been in response to a letter received by Jeannette from the firm dated 11 June 1970. The letter advised that the papers for the Estate Duty Division regarding May DEMLER's Will had been prepared and requested that Jeannette, as a Trustee of her mother's estate, call in to sign them.
- 554. Lenard DEMLER told Police that he later saw Jeannette, with Rochelle, driving north along Highway 22 when he was collecting mail from his delivery box. Jeannette apparently tooted the horn and waved to him as she passed.
- 555. At about 9:45am, Jeannette arrived at the office of Sturrock & Monteith, 12 Liverpool Street, Tuakau. There she met with Solicitor, Douglas MONTEITH. Jeannette signed the Estate Duty accounts and was given a statement of the Estate's Assets and Liabilities before leaving.
- 556. Nancy BINSTEAD stated that Harvey telephoned her home asking for her husband, John (Jack) BINSTEAD, a Stock Agent for National Mortgage Association, Tuakau. Jack BINSTEAD apparently had business dealings with Harvey. Nancy BINSTEAD was not sure of the date of this telephone call, but thought it could have been Tuesday. At the time, Jack BINSTEAD was not at home and Harvey informed her that he would ring Jack BINSTEAD at his office later.
- 557. Nancy BINSTEAD commented that she understood from a colleague of her husband, that Harvey did telephone him there later.
- 558. John ELGA, of Hinton's Camera Shop, 157 King Street, Pukekohe, stated that Jeannette visited the premises on the Tuesday at about 11:00am. John ELGA, who was a friend of the DEMLER family, chatted to Jeannette and noted that she was 'very cheerful' as usual. He mentioned that she had been in a hurry to get home to get Harvey's lunch. John ELGA stated that Jeannette purchased one slide and print which she had asked to be developed.
- 559. Judith McANALLY, employee at NIMU Insurance Company, King Street, Pukekohe, stated that Jeannette visited their office about a week before the Police investigation began. Due to Jeannette's other known movements on Tuesday 16 June, it is likely that this is when her visit occurred.

- stated that Jeannette asked whether the premiums on their Hillman Hunter motor vehicle insurance would reduce, if the sum insured was reduced from \$2,800 to \$2,600. Jeannette apparently took home the quote to discuss with Harvey. NIMU Insurance received no further communication from the CREWES.
- 561. Beverly JAMIESON, of Ryan & Pollock Limited, 187 King Street, Pukekohe, stated that just before 12:00 noon on Tuesday 16 June, Jeannette came into the shop with Rochelle.
- 562. Beverly JAMIESON commented that Jeannette looked and seemed pleasant as usual and the pair spoke briefly. Jeannette left a birthday card on the counter, which Beverly JAMIESON had kept in case she came back for it. Constable Lester PAYN viewed the card and commented that it looked as if it had just been purchased and noted that there was no writing in it to indicate who the card was intended for.
- 563. Lenard DEMLER's birthday was on 6 July and it is likely that the card may have been intended for him.
- During the day, Jeannette visited the Pukekohe Supermarket where she purchased a number of items totalling \$13.14. It appears that a cheque, made out for \$20.00 cash from the CREWES' joint account, was used in payment.
- Jeannette also visited Ornstein & Greenwell's Garage and Service Station, West Street, Pukekohe, at about 11:30am. Jeannette purchased three gallons of petrol.
- 566. The Manager of the Tuakau Branch of National Mortgage Association, Frederick WELCH, told Police that Jeannette visited National Mortgage Association, 187 George Street, Tuakau, at about midday on Tuesday 16 June 1970.
- 567. Jeannette purchased a 50 pound bag of 'causmag' and also paid a fertiliser account. Frederick WELCH was certain that Jeannette did not appear to be any different than usual. Frederick WELCH was not sure when he had last spoken to Harvey but stated that Harvey may have telephoned him earlier that day and ordered the 'causmag' that Jeannette collected. This may correspond with Harvey's attempt to reach Jack BINSTEAD, as detailed above.
- Jeannette also visited the Bank of New Zealand, George Street, Tuakau, where she deposited a cheque for \$220.93 into the account of W & R Fletcher Limited. The accountant who was employed at the bank, Allan CHADWICK, stated that when he saw Jeannette on this occasion she appeared normal. The time of this visit is unknown.
- A Pukekawa resident, Ngairie DUNLOP, stated that as she travelled past the CREWE property at about 3:00pm on Tuesday, she saw Jeannette (with Rochelle) unloading the car which was parked near the house gate.

- 570. Ngairie DUNLOP's husband, Robin DUNLOP, who was in the vehicle with her at the time, does not appear to have seen Jeannette or Rochelle, but confirmed that Ngairie DUNLOP told him about seeing Jeannette.
- 571. Peggy SPRATT, a near neighbour of the CREWES, stated that she saw Harvey at about 3:00pm walking in the paddock by his woolshed. Peggy SPRATT was driving north along Highway 22 at the time and waved to Harvey who waved back.
- 572. Pukekawa farmer, Donald TONGA, told Police that he had seen Harvey on Tuesday, Wednesday or Thursday near the waterfall on the CREWE property. Donald TONGA was driving his tractor on his run-off, opposite the CREWE property at the time.
- 573. Donald TONGA's brother, Jack TONGA, stated that he had seen Harvey on Tuesday at the CREWE woolshed, however, other than a comment on the Police jobsheet stating, "(cannot confirm this date)", there is no further information.
- 574. Jeannette wrote a letter dated 16 June 1970 to her mother-in-law, Marie CREWE, thanking her for sending a cardigan for Rochelle. Jeannette told of taking Rochelle for her 18 month check-up the previous week and mentioned the fact that Rochelle weighed 30 pounds, and of the shearing that had recently been completed on their farm. Jeannette wrote that she was just past half way knitting Harvey's jumper.
- 575. Lenard DEMLER told Police that when he arrived at the CREWE home for dinner at about 6:30pm Jeannette was preparing the food, Harvey was getting changed and that Rochelle was already in bed.
- 576. Lenard DEMLER sat in the lounge with a whisky where he was joined by Harvey, who also had a whisky, while Jeannette had a brandy.
- 577. After eating dinner, which consisted of corned beef, potatoes, carrots and onion sauce, Jeannette cleared the table and made cups of tea, which they had with some cakes.
- 578. They then moved into the lounge area and sat watching television. Harvey and Jeannette did the dishes while Lenard DEMLER continued watching television. The television was switched off at about 9:30pm, when Jeannette made another cup of tea. They sat talking while she knitted.
- 579. Lenard DEMLER stated that the conversation mainly centred on farming. He also stated that Harvey and Jeannette asked Lenard DEMLER what he wanted for his upcoming birthday. Jeannette told Lenard DEMLER that she had gone to the solicitors that day to sign the papers for May DEMLER's death duties. According to Lenard DEMLER there was no further discussion associated with the Will.
- 580. Lenard DEMLER left for home at about 10:00pm. He commented that Harvey and Jeannette appeared to be their normal selves that evening and were in good spirits.

581. A cheque was issued on 16 June 1970, signed by Harvey, from the farm account and was for \$4.00, payable to the IRD.

### Wednesday 17 June 1970

- 582. Meteorological records from the Te Kauwhata field station, the closest to Pukekawa, show that on Wednesday 17 June 1970, there were showers reported with a north-westerly wind of between seven to ten knots. Total rainfall was .51 inches (1.27cm).
- 583. In Patrick BOOTH's book 'Trial by Ambush', he referred to records kept by Brian MURRAY who had recorded .77 inches of rain that day with other rainfall records for days previously. It is noted that he farmed some eight miles from the CREWES.
- On Wednesday morning, between 7:00am and 7:30am, John GRACIE telephoned the CREWES and spoke to Jeannette. John GRACIE told her that he was going to have a look at a bull and asked if Harvey wanted to come and have a look to see if it was what he wanted.
- John GRACIE was told by Jeannette that Harvey was feeding the dogs and she would get him to telephone him back in a few minutes. John GRACIE said that it was in fact Jeannette who telephoned back and informed him that Harvey would be ready at about 9:30am, and that they could have a cup of tea before going to see the bull.
- 586. At 9:45am, John GRACIE arrived at the CREWES, a little later than planned. He went inside the farmhouse and had a cup of tea with Harvey and Jeannette sitting at the dining table. John GRACIE commented that both appeared quite happy. John GRACIE and Harvey talked about stock prices while Jeannette played on the floor with Rochelle.
- 587. Shortly after 10:00am John GRACIE and Harvey left and travelled in John GRACIE's vehicle to Keith KENYON's farm at Matakitaki Road, Glen Murray. During the journey John GRACIE said that Harvey had spoken to him about sheep he wanted collected from the farm and taken to the meat works. John GRACIE agreed to contact Tuakau Transport Limited and arrange for the stock to be collected the following day. John GRACIE said that Harvey also asked about pricing for 450 lambs and 30 calves that he wanted slaughtered during June and July.
- 588. When the pair arrived at the farm, Keith KENYON was not home. John GRACIE spoke with his wife, Marie KENYON, who pointed out where they could find the bull. John GRACIE stated that when Harvey looked at the bull and saw that it had horns. He said that he particularly wanted a polled bull, not a horned bull. The animal therefore being unsuitable for Harvey's needs, John GRACIE returned Harvey to Pukekawa, dropping him at the farm gate between 11:00am and 11:30am.
- 589. On the way back to the CREWE farm, Harvey asked John GRACIE about John LOCKHART's sheep, as he wanted to buy some ewes at John LOCKHART's stock clearing sale to be held later that day.

- 590. Between 10:30am and 11:00am, Thyrle PIRRETT and her three year old daughter, Virginia, arrived at the CREWE home unannounced. Thyrle PIRRETT had taken her daughter to visit, and had a present of some bibs for Rochelle. When Thyrle PIRRETT arrived, Jeannette and Rochelle were in the house and Jeannette was baking biscuits.
- 591. When Harvey returned to the house after having returned from Glen Murray, the three had a cup of tea at the dining table while Rochelle and Virginia PIRRETT played together on the floor in the lounge.
- 592. Thyrle PIRRETT later commented that Jeannette 'seemed a little depressed' and she got the impression that Jeannette was feeling "...under a little tension." Thyrle PIRRETT disclosed that Jeannette appeared a little sharp or abrupt in her manner and speech. She also commented that Jeannette appeared 'more tense' than she had known her to be in the past.
- 593. Thyrle PIRRETT stated that when Harvey came into the house he seemed normal and appeared quite pleased that Thyrle PIRRETT was there. Jeannette mentioned that as a result of her and Harvey having gone to Wanganui for a wedding, the shearing had to be put back, and as a consequence, they had lost some sheep during a cold spell. By the time Thyrle PIRRETT left the house, just after 12:00 noon, Harvey had gone out on to the farm.
- 594. It is apparent that soon after Thyrle PIRRETT left the CREWE farmhouse, Harvey, Jeannette and Rochelle left the farm. Between 12:00 noon and 12:30pm, James CROTTY saw the CREWE vehicle arrive at the vegetable stall on Hamilton Road, Buckland, coming from the direction of Pukekawa. According to James CROTTY, it appeared that Harvey was driving and Jeannette was sitting in the back seat.
- 595. Hendrikis Van Der PUTTEN, who ran the vegetable stall, said that Jeannette visited every week without fail to buy vegetables, although he did not specifically recall this occasion.
- 596. The CREWES then attended John LOCKHART's stock clearance sale at Puketutu Road, Bombay. There were about 100 people at the sale, five of whom provided information to Police regarding the CREWES' attendance between 12:30pm and 3:00pm. It was raining fairly heavily at the time of the sale and Jeannette was noted to have stayed in the car with Rochelle. Harvey stayed for both the sheep and the cattle sale, but did not purchase anything.
- 597. Beverley BATKIN, a friend of Jeannette's, stated that in the early afternoon of 17 June she tried to telephone Jeannette at home, but got no answer.
- 598. Beverley BATKIN also stated that the same day, between 3:30pm and 4:30pm, while inside her home at 1 Buckland Road, Tuakau, she saw the CREWE vehicle drive past. She later added that she had seen Harvey and Jeannette in the car, which had driven along Buckland Road from the direction of Pukekohe, towards Pukekawa.

- 599. Craig FULTON reported that at about 4:45pm he saw the CREWE vehicle parked at the gate one mile past the house. Craig FULTON stated that it was not unusual to see the car there, as Harvey often attended to stock in that area.
- 600. Glen Murray Farmer, Alexander IRVINE, stated that at about 5:10pm he saw the CREWE vehicle parked on the side of the road fairly close to the (Maori) cemetery. Alexander IRVINE did not see Harvey, but assumed that he was shifting sheep.
- 601. Carolyn DUNCAN told Police that sometime during the week of 15 June 1970, possibly Wednesday 17 June or Thursday 18 June, she was standing in George Street, Tuakau, and saw Jeannette, a man and a young child in a green Hunter vehicle drive past.
- 602. Carolyn DUNCAN knew Jeannette by sight and was, therefore, able to identify her. She did not know Harvey by sight and could not say whether he was the man driving the vehicle. Carolyn DUNCAN stated that if this occurred on the Wednesday, it could have been any time of the day. If it was the Thursday, it would have been about 10:00am.
- 603. A cheque was issued on 17 June 1970 for \$1.58 to Farmers Trading Company from the CREWES' joint account. The investigation file does not disclose whether this was presented at a branch or posted.
- 604. On 20 August 1970, four days after the discovery of Jeannette's body, Julie PRIEST, told Police that around the time of the CREWES' disappearance she had gone to bed early one night.
- 605. Whilst lying in bed, Julie PRIEST said that she had heard three shots fired in quick succession from the direction of the CREWE farm.
- 606. Information on the investigation file indicates that it is probable that it was the evening of Wednesday 17 June 1970 that Julie PRIEST heard these shots. The reason for this deduction is that she told Police that she had attended the Poultry Farmers Ball in Auckland City the previous night. Enquiries identified the ball was held on Tuesday 16 June 1970.
- 607. Thyrle PIRRETT confirmed that she had seen the PRIESTS at the ball. A further factor in identifying the night on which these shots were allegedly heard was Julie PRIEST's recollection that this was one of the nights that her mother had stayed with them. Julie PRIEST's mother was present on Wednesday 17 June and is known to have returned home on Thursday 18 June 1970. It can, therefore, be deduced that the evening upon which Julie PRIEST allegedly heard the shots was Wednesday 17 June 1970.

- On 22 September 1970, Detective Sergeant TOOTILL and Detective Inspector HUTTON conducted an experiment to see if the sound of a .22 rifle shot at the CREWE farmhouse could be heard from the PRIESTS' house and concluded that it could not. (As detailed in Chapter 4).
- 609. The PRIESTS gave evidence at the RCOI that they had conducted a similar experiment prior to the hearing. Both Owen and Julie PRIEST indicated that they had clearly heard the shots. The prevailing wind on that day was from the east, which meant that the sound of any gunshot discharged at the CREWE property would not naturally carry towards the PRIESTS, whose property is positioned north of the CREWE farmhouse.

#### Thursday 18 June 1970

- 610. Transport Foreman for Tuakau Transport Limited, Ronald WRIGHT, told Police that he telephoned the CREWE house half a dozen times between 1:00pm and 3:00pm. His reason for ringing was to inform Harvey that there was a strike at the Westfield Freezing Works and that they would not be sending a truck to uplift his sheep. These telephone calls were not answered.
- 611. Lynnette RAMSEY told Police that she telephoned the CREWE house around 3:00pm to invite Jeannette to a Plunket meeting. The telephone call was not answered.

### **Friday 19 June 1970**

- 612. Bruce RODDICK told Police that he had seen a woman and a vehicle in the CREWE front paddock on this day. (Refer Chapter 3)
- 613. On 24 June 1970, David FLEMING made a statement to the investigation team. He related that at about 7:30pm on Friday 19 June 1970, he had been driving his car with his eight-year-old son, Robert, with him when they drove past the CREWE farmhouse.
- 614. Robert FLEMING thought he saw a fire beside the CREWE farm woolshed. Robert FLEMING described this as, "...about twice as big as a hearth fire..." and commented that it looked like a barbeque fire. He stated that he did not see anyone near the fire.
- David FLEMING confirmed his son had told him of this sighting while they were in the car together.
- 616. David FLEMING did not see a fire and was of the opinion that his son was mistaken, suggesting that his son may have instead seen the lights from Te Kauwhata in the distance.
- 617. David FLEMING further stated that he checked the paddock, where the fire was supposed to have been, when he was participating in the search for the CREWES and saw no sign of any fire.
- 618. Detective Constable METCALF also examined the area in which Robert FLEMING allegedly saw the fire and found no remnants of a fire at all.

- 619. The report by eight-year-old Robert FLEMING of seeing a fire beside the CREWE farm woolshed has been widely misreported in the media and by various commentators over the past four decades.
- 620. This disclosure has led to criticism of Police for failure to pass this information on to Arthur THOMAS' defence counsel. Arthur THOMAS was allegedly able to provide an alibi for the time that the 'fire' had been seen. On the evening of 19 June 1970, Arthur and Vivien THOMAS attended Margaret STUCKEY's (nee THOMAS) 21st birthday party which was held at a private address in Pukekohe.
- An article in the Auckland Star was the first media reference alleging that 'sparks' had been seen coming from the CREWE chimney on the evening of Friday 19 June 1970.
- The article, dated 27 June 1978, reported that a Pukekawa boy made a statement to Police that he had seen sparks coming from the chimney of the CREWE farmhouse at about 7:30pm on Friday 19 June 1970, and that this information had been withheld from the judicial hearings.
- 623. Arthur THOMAS' campaigners were said to believe that this was crucial evidence which could pinpoint the time when the offender returned to the crime scene to clean up the farmhouse, dispose of the bodies, and possibly feed Rochelle.
- Assistant Commissioner Bill OVERTON endeavoured to correct this error and stated that Police records revealed a statement by an eight year old boy who thought he had seen a fire near the woolshed, about 100 metres from the CREWE home. Assistant Commissioner OVERTON was clear that Police had no knowledge of any report being made of sparks coming from the CREWE chimney.
- 625. Despite this correction, various media representatives, authors and commentators have continued to provide factual inaccuracies about what Robert FLEMING claimed to have seen.

#### Saturday 20 June 1970

- 626. Pukekawa resident, Queenie McCONACHIE, reported that at approximately 1:40pm on Saturday 20 June 1970, she had seen a small child in the CREWE front paddock whilst driving north with her husband Maurice McCONACHIE. (Refer Chapter 3)
- 627. Maurice McCONACHIE also reported seeing a small child in the CREWE front paddock, the same day, however, this was while driving south later in the afternoon, with his wife, Queenie McCONACHIE. (Refer Chapter 3)
- 628. At about 4:30pm the same day, local resident Mary FOOTE, passed the CREWE property and noted that there were no vehicles parked in front of the house.
- 629. Mary FOOTE and her husband had been at a football match at Onewhero (as had the McCONACHIES) and they had overtaken the McCONACHIES' vehicle just prior to passing the CREWE property.

#### **Sunday 21 June 1970**

630. Stock Agent, Joseph MOORE, employed by N.M.A. Co Ltd., told Police that he telephoned the CREWE farmhouse a number of times between 6:30pm and 9:00pm. These calls went answered.

#### Monday 22 June 1970

- Joseph MOORE told Police that he again tried telephoning the CREWE farmhouse prior to 7:00am to give Harvey his wool valuation. As these calls were unanswered, he telephoned Lenard DEMLER to ascertain if the CREWES were away. Lenard DEMLER told him that as far as he knew they were at home.
- 632. At about 9:30am, Joseph MOORE was driving past the CREWE farmhouse in the company of John DAGG. Joseph MOORE stopped on Highway 22 by the CREWE farm gate and John DAGG went up to the farmhouse and knocked on the rear door. As there was no reply, he returned to the vehicle.
- 633. Ronald WRIGHT told Police that at 1:00pm he tried to contact the CREWES by telephone. After this telephone call went unanswered he telephoned Lenard DEMLER to ask him if he would go up and tell Harvey to get his sheep ready as they were sending a truck out to uplift them.
- 634. After receiving the 1:00pm telephone call from Ronald WRIGHT, Lenard DEMLER drove to the CREWE property in his red Cortina motor vehicle and discovered the crime scene.

#### **Vehicles**

- 635. As part of the Area Canvas and General Enquiry phases, the investigation team appealed for information from the public as to sightings of any vehicles in the area of the CREWE farm.
- 636. There were several reported sightings of vehicles parked on the road in the immediate vicinity of the CREWE farmhouse. Some of these vehicles sightings have never been satisfactorily accounted for. (Refer Chapter 3)
- 637. Between Wednesday 17 June and Monday 22 June 1970, there were several reported sightings of the CREWES' green Hillman Hunter motor vehicle either parked in front of their house or being driven.

### **Telephone records**

638. On 25 June 1970, a list of toll calls made between 16 April and 22 June 1970, from the CREWE farmhouse (telephone number 774), was obtained from the Post Office. A total of nine toll calls were made during this period.

- 639. The two toll calls made in June 1970, were accounted for and did not advance the murder investigation.
- 640. No record can be found on the investigation file to suggest all of the remaining toll calls, made during April and May 1970, were investigated.

#### **Finance**

- 641. The CREWES were in a sound financial state. As previously noted, Jeannette owned half of the farm outright and Harvey borrowed \$31,000 in 1966 when he purchased half of the farm from Heather SOUTER for \$40,000.
- 642. At the time of their deaths, Harvey's BNZ Bank account had a balance of \$26.63 and Jeannette's BNZ Bank accounts had a balance of \$6,079.67. In addition, their joint bank accounts, including a term deposit, were \$5,686.15.
- 643. The fact that Jeannette had been enquiring as to what saving would be derived from changing their motor vehicle sum insured from \$2,800 to \$2,600 suggests that they were careful with money management and took steps to ensure that their outgoings were no greater than necessary.
- 644. It is noted that Jeannette was about to inherit her mother's estate that, despite death duties that were not anticipated, should have put the couple into an even more sound financial state.
- 645. The one financial dispute identified during the course of the Police investigation related to an insurance claim for repairs to their farmhouse following the fire damage that had occurred on 7 December 1968.
- 646. Harold Reeve Construction, which had been engaged to repair the property for the contracted price of \$953, had received a progress payment of \$652 in October 1969, however, a final payment of \$318 had not been made.
- 647. On 23 March 1970, Harold REEVE sent his final account for the sum of \$318 to the CREWES. The amount was owed by State Advances Corporation. The insurance company would not make the payment to Harold Reeve Construction until the CREWES confirmed with the insurance company that they were satisfied with the completed work.
- 648. Harvey had refused to do so, and had told Harold REEVE that the job was not finished, although refused to indicate to him what aspects of the work had not been completed to his satisfaction.
- 649. Following the murders, Harold REEVE told the investigation team that on 23 April 1970, he had contacted the CREWES' solicitors, Sturrock & Monteith, in an attempt to establish what work was still outstanding. The solicitors had apparently not discussed the matter with the CREWES or responded to Harold REEVE.

- 650. Harold REEVE disclosed to Police that he had considerable trouble with Harvey over the whole job and found him "...impossible to deal with."
- 651. There is no indication on the investigation file as to whether or not this account was ever paid.
- 652. The 1970 investigation file shows that an explanation was obtained from Harold REEVE as to his movements on 17 June 1970. He said that he would have been attending a church meeting at the Interdenominational Church at the Wiri Hall between 6:40pm and 9:15pm. There is nothing on the investigation file to suggest that his presence at the meeting was confirmed.

### **New information**

- 653. On 30 April 1980, Karl LOBB made a statement to Police, claiming he had seen Arthur THOMAS' vehicle and trailer parked in the pull off by the CREWE woolshed at about 6:30am on Thursday 18 June 1970.
- 654. Karl LOBB further stated that although he did not see anyone with the vehicle, he did notice two bundles covered by old cow covers lying on the trailer, which he felt could have been bodies. These covers were held down with pieces of pipe.
- 655. On Wednesday 24 June 1970, at the time of the original investigation, Karl LOBB was first spoken to by Police. He made no mention of seeing Arthur THOMAS' vehicle and trailer.
- 656. The Review Team consider that the assertion of Karl LOBB is questionable.
- 657. He did not report his observations when interviewed by the investigation team in 1970.
- 658. In 1980, Karl LOBB claimed that when Constable WYLLIE originally interviewed him and asked him if he had seen anything strange, he thought Constable WYLLIE meant "...any foreign persons".
- 659. Karl LOBB said that he did not think to mention sightings of local people or vehicles. He further claimed that it did not register to him that a local person was involved in the disappearance of the CREWES.
- 660. The Review Team consider the arrest of Arthur THOMAS for the murder of the CREWES, would have prompted Karl LOBB to come forward to Police and disclose what he had seen if his account was correct. Accordingly, his 1980 statement has been discounted.
- 661. On 7 March 2006, Pukekawa Farmer, Ross EYRE, was spoken to by Police and disclosed that he had seen the CREWE motor vehicle on Thursday 18 June 1970 or Friday 19 June 1970.

- As a 16-year-old school boy, Ross EYRE, said that he had been waiting for the school bus, on the corner of Te Ahu Road and Highway 22, Pukekawa, when he saw a woman drive past in the CREWE motor vehicle.
- 663. Ross EYRE said that he waved out to her and the woman "...just looked straight through me." Ross EYRE thought this was unusual as both Harvey and Jeannette always waved.
- Ross EYRE stated that after all this time he could not be sure if it was Jeannette driving or not, but he was positive it was the CREWE vehicle, explaining that "...back then he knew everyone's vehicles."
- On 25 January 2012, when the topic was again raised with Ross EYRE, he disclosed to the Review Team that the incident occurred at about 8:00am on the day in question. He added that the woman driving the vehicle hit a pot hole in the road, which caused the vehicle to veer across the road before she was able to correct it.
- 666. Ross EYRE suggested that the woman did not know the area, as local people knew that there was a pot hole in this point of the road. Ross EYRE said the woman continued driving in the direction of Tuakau.
- Ross EYRE claimed that during the original investigation in 1970, he was interviewed by Police and told them of this sighting, however, no record of this interview can be found on the investigation file. Ross EYRE's best recall is that the Police Officer he had spoken to was Detective Sergeant CHARLES.
- 668. Retired Detective Sergeant CHARLES advised the Review Team that he could not recall going to the EYRE property for any reason, other than to uplift firearms. Detective Sergeant CHARLES could not remember being told by a young boy (Ross EYRE) anything about seeing the CREWE vehicle being driven past their property on a morning following the murders.
- 669. Detective Sergeant CHARLES stated that had he been made aware of this information, he would have taken a statement from Ross EYRE about what he had observed.

#### Conclusion

- 670. Since the outstanding directional jobsheets and suspect nominations have been in existence for four decades, no further action in advancing the matters is warranted.
- 671. An area canvas involving 16 households was conducted in the vicinity of the CREWE farmhouse. It appears that a consistent questionnaire format was followed to some degree.
- There is no evidence that those spoken to at this time were asked to account for their movements during any specified time period, i.e. the evening of 17 June 1970.

- 673. As and when new information linking the time of the murders to the evening of Wednesday 17 June 1970 emerged, previously canvassed properties should have been revisited and the occupants asked further questions. There is no evidence on the investigation file to indicate that this occurred.
- 674. In the circumstances, no further enquiries are able to be made.

**END** 

### **CHAPTER 6**

### **Body Recoveries**

An analysis of this topic has been undertaken and is addressed in Appendix 1

- 675. The recovery of the bodies of Harvey and Jeannette form one aspect of an extremely large, protracted and painstaking search on the part of Police Officers from a range of work groups and on the part of members of the community.
- 676. The contribution to the search overall on the part of Inspector Patrick GAINES and Tuakau based, Constable WYLLIE, cannot be under-estimated in terms of their unrelenting commitment to the task with which they were confronted.
- 677. The search encompassed large tracts of farmland that contained a number of tomos, these being fissures in the ground that were dangerous areas in which to conduct a thorough search. In addition, the Waikato River itself, over many miles, was included in the search area.
- 678. Community response led to the recovery of Jeannette's body and Police search efforts led to the recovery of Harvey's body.

### Jeannette CREWE

- 679. Between 8:30am and 9:00am on Sunday 16 August 1970, Jeannette's body was located in the Waikato River about a quarter to a half mile (800 metres) down stream from a point known as 'Henry Sands Depot', Puni.
- 680. Her body was observed partially submerged on the northern side of the riverbank by two whitebait fishermen, Joseph ADAMS and John GERBOWITZ, who returned to Henry Sands Depot where they telephoned Police.
- 681. Her body had become entangled amongst willow branches about 10-15 feet (3-4.5 metres) out from the riverbank. The men described material wrapped around her legs and body as 'bedspreads' or 'curtain material'.
- 682. At about 10:30am, Constable David HOWARD and Traffic Officer DANDO attended the scene and travelled with Joseph ADAMS and John GERBOWITZ to where the body had been sighted.
- 683. Unable to lift the body into the boat, Constable HOWARD, using a gaff, hooked the skirt and Jeannette was towed out of the willows and about 20 yards down stream to a nearby whitebait stand and jetty. At this point a sheet was used to lift the body onto the back of the boat.

- 684. As this was being done, a piece of Jeannette's cardigan was seen to fall from her body into the river. Later that morning Police returned to the scene and recovered this piece of material.
- 685. Jeannette's body was driven by boat back to Henry Sands Depot. Whilst doing this a piece of material, which had been draped around her legs, fell off into the river and was not recovered.
- 686. No photographs were taken of Jeannette's body in the Waikato River or of her body recovery.
- 687. Photographs, including aerial photographs, were taken of the site where the body was recovered. Further photographs were taken showing the body once it had been returned to land at Henry Sands Depot.
- At about 12:00 noon, Detective Sergeant JEFFRIES, Detective METCALF and Constable ARNOLD arrived at the scene.
- 689. At 1:45pm, they were joined by Pathologist, Dr CAIRNS, and other Police staff. Dr CAIRNS inspected the body and noted that it was fully clothed and wrapped in what he described as a 'bedspread' and 'blanket', which was secured by copper wire above the knees.
- 690. At this time, Dr CAIRNS noted superficial injuries to Jeannette's nose, right eye and two small areas of injury to her right temple. There was also a superficial injury to her throat.
- 691. Detective HIGGINS was appointed O/C Body.

#### Identification

- 692. At 3:00pm, the body was viewed and identified as Jeannette by Lenard DEMLER.
- 693. The Review Team are firmly of the view that Detective Inspector HUTTON's decision to call on Lenard DEMLER to visually identify the body of his daughter (and later, his son-in-law) after prolonged immersion in water, lacks sensitivity and represents an unacceptable practice on his part.
- 694. The purpose of this is seen as a clear tactic on the part of Detective Inspector HUTTON to create an emotional reaction from Lenard DEMLER that would result in a full or partial confession to the murders. Other options were available to identify the bodies, namely fingerprint and dentistry comparisons.
- 695. The Review Team have been unable to identify the most likely point at which the bodies of Harvey and Jeannette were placed into the Waikato River.
- 696. This was also not determined by the investigation team in 1970.

- 697. Certain localities along the riverbank are more suitable than others, in that they provide easy vehicular access. The river, however, was in flood at the time of the murders which would have restricted normal access.
- 698. The task of placing the body into the river would have been a significant undertaking when one considers the weight of the bodies and the additional weight attached to them, which almost certainly occurred in both cases. Whether the bodies were both attached to the one weight cannot be established. There is no evidence which indicates the bodies were attached to each other.

### **Pathology**

- 699. At 4:45pm on Sunday 16 August 1970, Dr CAIRNS commenced a forensic post-mortem examination on Jeannette's body.
- 700. In his report he recorded that Jeannette was clothed in a tartan skirt, a fawn cardigan, a ladies singlet, a black bra, a pair of pantyhose, and a pair of white panties. Her wedding ring was still on her hand.
- 701. It was noted that a green blanket and a multi-coloured cotton cover were wrapped around her body secured by copper wire above the knees.
- 702. Dr CAIRNS reported:

"Most of the hair from the head was missing but there were some strands remaining at the back of the neck. These were removed and handed to Detective Abbott. The face and neck and parts of the body showed adipocere formation. This could be regarded as a chemical changes [sic] in the fat due to long exposure to water. The skin was peeling in many areas, particularly the limbs, but the body was remarkably well preserved.

1¼ inches above the front of the right ear was an entrance bullet wound in the scalp. Adjacent to it was a small area of superficial abrasion which did not extend deeply. The bullet had passed in through the skin, through the skull, through the brain, and through the skull in front of the left ear. It had finished up in the tissues beneath the skin of the cheek about 2 inches in front of the top of the left ear. Fragments of bullet were recovered from the entrance wound, from the brain tissue, and in the tissues beyond the exit wound in the skull, where the main fragment was found. These were handed to Detective Abbott. There were many fractures radiating from the entrance wound, extending round the front of the skull to the left side, and into the base of the skull. The bullet track had gone right through the brain and caused extensive destruction of the brain tissue. There was blackening around the edge of the skin wound and in the entrance wound in the skull. These appearances would suggest a firearm fired at close range. The appearances of the wound and the bullet recovered suggested that the firearm was a 22 rifle.

The direction of the bullet was from right to left downwards and forwards. The appearances are consistent with a weapon fired from behind her right shoulder while seated, or a weapon fired at her head when she was on the ground.

There were injuries to the tissues about the right eye but the bones beneath were not fractured. There were injuries to the skin of the bridge of the nose and the end of the nose with a fracture of the nose beneath. This group of injuries could have been caused by a single blow with a blunt instrument.

There was a large bruise in the left armpit.

Other superficial injuries to the face and throat appeared to have been caused after death.

The internal organs were in good condition and showed no disease. The lungs showed no signs of drowning.

The bullet wound was excised and forwarded to the Government Analyst for information concerning possible powder grains. The stomach contents were forwarded to the Government Analyst for relationship to last known meal. Various samples of tissue were forwarded to Dr. J.M. Stavely [sic] of the Blood Transfusion Service.

I was present when Mr. David Lye, dentist of Pukekohe identified fillings in the teeth, as agreeing with records of work he had done on Mrs. Crewe.

In my opinion death was due to a bullet wound of the head."

- 703. During the post-mortem examination, Jeannette's Dentist, David LYE, examined her teeth and was able to confirm her identity by dental comparison.
- 704. David LYE assembled a dental replication model confirming the dental history identified from the records of Jeannette.
- 705. Positive identification was also made by Detective Thomas LEWIS, whose duties included identifying people by their fingerprints. Detective LEWIS compared Jeannette's fingerprints with the elimination fingerprints taken from her in July 1967, following the reported burglary at the CREWE farmhouse.
- 706. Fifteen bullet fragments were removed from Jeannette's head and identified as having come from a .22 projectile.
- 707. The largest portion of this projectile became Police Exhibit 234, described as "...taken from the head of Jeanette [sic] Lenore CREWE..."
- 708. The remaining fragmented pieces became Police Exhibit 257, described as "...taken from brain matter of deceased..."

- 709. The copper wire (Police Exhibit 237) wrapped around Jeannette's body was:
  - "...twisted into a form of knot above the knees on the right side. Beyond the twist it was bent as if it had been attached to something else."
- 710. On 29 July 1971, Auckland Coroner, Allan COPELAND, issued a notification that the inquest into Jeannette's death would not be resumed as a result of the criminal proceedings in which Arthur THOMAS was charged with her murder.
- 711. Both Police and forensic examinations of Jeannette's body did not indicate that she had been the victim of a sexual assault. Jeannette was fully clothed and later found to be wearing underwear under pantyhose that was intact and gave no indication that it had been interfered with during activity culminating in her death.
- 712. On 17 August 1970 Rory SHANAHAN analysed Jeannette's stomach contents. He reported that the only visibly recognisable food was whole green peas. He then analysed the fats contained in Jeannette's stomach and compared this with the remains of the flounder meals that had been located on the CREWES' dining table. Rory SHANAHAN established that the fats in Jeannette's stomach were the same as the fats found in the remaining fish meal from the house. Furthermore, these fats were distinguishable from other samples of household fats. As a result, Rory SHANAHAN concluded that the fish meal located in the CREWES' home was the last meal Jeannette had consumed. (Refer Appendix 10)

### **Harvey CREWE**

- 713. At 11:25am on Wednesday 16 September 1970, Harvey's body was located in the Waikato River approximately three miles (4.8 kilometres) down stream from the Tuakau Bridge.
- 714. Constable WYLLIE and Constable Hugh MILLER, who were part of the Police search team, observed Harvey's body face down and partially submerged in the river.
- 715. The body appeared to be snagged amongst weed approximately 50 feet (150 metres) out from the northern bank of the river.
- 716. Constable WYLLIE left Constable MILLER with the body and returned to the Tuakau Bridge.
- 717. There he met with Assistant Commissioner George AUSTING, Detective Superintendent Malcolm ROSS, Detective Inspector HUTTON and Inspector GAINES, and informed them of what they had found.
- 718. Arrangements were made to bring a cradle to the scene, along with fine plastic netting, which was placed inside the cradle to hold the body.

- 719. Detective Inspector HUTTON, along with other Police staff and members of the Wellington Dive Team, then returned to where the body had been located, arriving at 4:00pm.
- 720. Documents contained on the investigation file reveal that at least 11 people were present in three separate boats when Harvey's body was recovered.
- 721. It was a concern that the body (if it proved to be that of Harvey), had been in the water for three months, and could disintegrate during the act of removing it from the river.
- 722. Consequently, fine plastic netting was tied inside a cradle and an attempt was made by Police divers to guide the body into this device.
- 723. This proved difficult, so Police diver, Constable SPENCE, felt under the body and discovered a piece of wire was attached to the body's torso. Detective Inspector HUTTON placed his hand in the water under the body and described feeling an iron object. This object disappeared when Constable SPENCE put strain on the wire causing it to snap. The body then rolled free and loaded easily into the cradle.
- Once the body was removed from the water, Constable SPENCE commenced an underwater search beneath where the body had been. A metal car axle (Police Exhibit 293) was located six feet directly below where Harvey's body was when the wire broke.
- 725. An inspection of the body revealed galvanised wire had been wrapped around the torso. The 1.29 metre long, 17 kilogram axle, used to weigh down the body, had been attached with a length of copper wire, which in turn had been joined on to galvanised wire around the body torso.
- 726. The RCOI report commented that although no wire was actually found attached to the axle, the RCOI was satisfied that the axle recovered from the river had in fact been used to weigh down Harvey's body. The Review Team agree with the RCOI finding in this regard.
- 727. Constable FROST also conducted an underwater search and located a bedspread approximately five feet from the surface jammed between the branches of a tree. He retrieved the bedspread and on reaching the surface he noted that there was wire around it. He handed this to Detective Inspector HUTTON. The wire was allocated Police Exhibit 297 and the bedspread, Police Exhibit 294.
- 728. Harvey's body was returned to the riverbank at a point known as 'Henry Sands Depot'.
- 729. Detective Michael COOK was appointed O/C Body.

#### Identification

- 730. Harvey's body was viewed by Lenard DEMLER at the Auckland Mortuary, at the request of Detective Inspector HUTTON.
- 731. Lenard DEMLER was able to identify that the general appearance of the body was consistent with Harvey and that some of the clothing on the body appeared to be Harvey's.
- 732. Due to significant digital degradation, fingerprint recovery proved challenging.
- 733. Identification was conclusively made as a result of comparison with Harvey's dental records.
- 734. The Review Team are critical of Detective Inspector HUTTON in again using Lenard DEMLER in an attempt to identify his son-in-law for the same reasons raised in earlier commentary concerning the mode of the identification of Jeannette.

### **Pathology**

735. A post-mortem examination was conducted by Dr CAIRNS, who reported:

"At about 8 p.m. on Wednesday September 16th, 1970 I examined the body of this man in the Auckland City Mortuary. He had been found in the river caught in a snag. When I saw him he was clothed and had copper wire wrapped about his body.

On his feet both socks were torn. Most of the soft tissues of the feet were lost and the bones were exposed. The tissues of the hands were only partly present and many of the bones were exposed. The ring and little fingers from the right hand showed preservation of the terminal segments, and these were removed the following day, September 17th, and handed to Detective Sergeant M. DEADMAN [sic] for investigation of finger print pattern.

The socks, trousers and underpants were cut from the body and handed to Detective M. COOK who also received other articles of clothing."

- 736. Dr CAIRNS noted that there was a loop of wire around Harvey's waist "...twisted in a knot in front of the body..." It was to this galvanised wire that a piece of copper wire was attached. He also noted another loop of galvanised wire which had:
  - "...a knot at the back with one loop over the right shoulder, one under the left shoulder to join in the front and also connected to the loop around the waist.

There were some fragments of a greenish blanket about the waist. He was wearing a heavy woollen pullover, of a greenish colour, a green check shirt and a singlet. These were cut off the body and handed to Detective M. COOK with the copper wire, and some hair from the head.

He was a man of heavy muscular build of an approximate length of 71½ inches. Most of the hair was missing from the head. The face was swollen and distorted but the teeth were intact. Areas of skin had been rubbed off the chest and the back on the right lower ribs. These areas were related to knots in the wire.

Blood was suffused through tissues over the front of the right chest and the inner side of the right arm. It was difficult to decide if this was bruising or had been a grantational effect after death. There were many areas of adipocere formations.

At the back of the head on the left side there was an entrance gunshot wound. It was in a line three inches above the bottom of the ear and posterior to it. The bullet had passed in through the parietal bone adjacent to the squamous part of the temporal bone and had caused radiating fractures extending into the parietal, temporal, sphenoid, and frontal bones.

The bullet had passed through the dura, through the brain out through the dura, and out of the skull through the squamous part of the right temporal bone just adjacent to the zygomatic arch. It had caused fractures which extended into the sphenoid and frontal bones. Small fragments of bullet were recovered from the brain and one large and several small fragments in the soft tissues adjacent to the skull exit. Either a fragment of bullet, or a fragment of bone had caused an exit wound in the external ear. All the bullet fragments were handed to Detective M. Cook. The line of direction of the bullet was from left to right, forwards and slightly downwards.

The lungs showed no signs of drowning. The heart showed no disease. The brain was in a putrefied state, and the liver too showed advanced changes. There were no fractures of the ribs and no fractures of the spine. The stomach contents were forwarded to the Government Analyst with a segment of skin about the entrance wound.

I was present with David Lye, dentist of Pukekohe consulted his records and x-rays and identified the teeth of the deceased as those of Mr David Harvey CREWE."

- 737. David LYE assembled a dental replication model confirming the dental history identified from the records of Harvey.
- 738. The fragments of bullets taken from Harvey's head were labelled Police Exhibit 289.
- 739. The copper and galvanised wire removed from Harvey's body was labelled Police Exhibit 288.
- 740. On 18 September Rory SHANAHAN analysed Harvey's stomach contents. He reported that the only visibly recognisable food was whole green peas. He then analysed the fats contained in Harvey's stomach and compared this with the remains of the flounder meals that had been located on the CREWES' dining table.

- 741. Rory SHANAHAN established that the fats in Harvey's stomach were the same as the fats found in the remaining fish meal from the house. Furthermore, these fats were distinguishable from other samples of household fats. As a result, Rory SHANAHAN concluded that the fish meal located in the CREWES' home was the last meal Harvey had consumed.
- 742. On 29 July 1971, Auckland Coroner, Allan COPELAND, issued a notification that the inquest into Harvey's death would not be resumed as a result of the criminal proceedings in which Arthur THOMAS was charged with his murder.

### **Forensic opportunities**

- 743. The Review Team engaged Forensic Pathologist, Dr Paul MORROW, to review the pathology reports of Dr CAIRNS in relation to his post-mortem examination of both Harvey and Jeannette. (Refer <u>Appendix 7</u>)
- 744. Dr MORROW was specifically asked to consider how Jeannette lost her six lower jaw front teeth.
- 745. He was also asked whether he could determine how long Harvey may have remained in his armchair after being fatally shot, bearing in mind the bleeding and bodily fluid that had drained through the chair and seeped on to the carpet beneath.
- 746. Concerning Jeannette's missing teeth, Dr MORROW reported that it was his opinion that this was due to post-mortem artefact (loosening during decomposition in the river). He referred to autopsy photographs showing the presence of the upper teeth during certain stages of the autopsy and at the scene when the body was recovered, but later noted that two teeth had dislodged.
- 747. Dr MORROW found no documented evidence from the written material or photographic material he viewed to indicate that there was trauma to Jeannette's mouth that may account for the loss of these teeth.
- 748. Concerning the period of time Harvey may have remained in his chair after being shot, Dr MORROW believed that it was not possible to give an accurate assessment based on an examination of the forensic pathology documentation that he had been invited to consider.
- 749. Dr MORROW reported that there would have been three sources of bleeding, namely the entrance wound, the exit wound from his ear and the mouth and nose, associated with basilar skull fracture which was documented at the autopsy.
- 750. He observed that even after death, blood / bodily fluids could have continued to drain from the wounds until the fluids coagulated.
- 751. Dr MORROW reported that the length of time for survival for such a gun shot wound (one that will prove fatal) is unpredictable.

- 752. Dr MORROW stated that it is possible, indeed probable, that Harvey remained in the chair for some period of time, up to a number of hours.
- 753. It is, therefore, not unreasonable to conclude that he may have remained in the chair during much of the 'clean-up' period or during the time in which Jeannette had been killed and possibly removed from the scene.

### Conclusion

- 754. The commitment and dedication demonstrated by the 1970 search team to find the bodies of Harvey and Jeannette was exemplary. The efforts of Inspector GAINES (O/C Search) and the local Police Officer, Constable WYLLIE, are particularly worthy of mention, as is the contribution provided by members of the Police Search Team and members of the local community.
- 755. The fact that the Waikato River is a large waterway and, at the time was in flood, makes the recovery of both bodies extremely fortuitous. The bodies themselves provided Police with significant evidence as to the mode and cause of death, and additional information concerning their disposal.
- 756. During the recovery of Jeannette's body, some clothing worn by her became detached due to the river current. In making this observation, no criticism is intended as the loss was unavoidable and furthermore, the investigation is unlikely to have been prejudiced as a result.
- 757. During the recovery of Harvey's body, a cradle was placed beneath him. In doing so, the cradle came into contact with some resistance (later believed to be wire) between the body and a weight beneath it. The resistance (wire) gave way causing the body to rise slightly in the water and allowed for successful recovery. Police divers identified the weight beneath the body as the 1928/1929 Nash front axle (Police Exhibit 293).
- 758. Not all potential forensic opportunities were fully explored in terms of the way in which the wire was used to secure material to the bodies. There is a limited number of photographs as a pictorial record of these significant items.
- 759. Dr CAIRNS confirmed that both Harvey and Jeannette died as a result of a single gun shot wound to the head.
- 760. Detective Inspector HUTTON's decision to call on Lenard DEMLER to visually identify the bodies of both his daughter and son-in-law after prolonged exposure to the elements lacks sensitivity and represents an unacceptable practice on his part.
- 761. Greater reliance could have been placed on forensic dentistry as a means of identifying the bodies, or by fingerprints, as used to assist in the identification of Jeannette.

- 762. Forensic Pathologist, Dr MORROW considered that six front teeth missing from Jeannette's lower jaw were most probably the result of decomposition, as opposed to evidence of an assault.
- 763. There is no evidence to indicate that Jeannette was subject to any sexual assault, and she was fully clothed at the time of her recovery.

**END** 

### **CHAPTER 7**

### **Exhibits**

An analysis of key Police Exhibits (Arthur THOMAS' rifle, Police Exhibit 317; Wire; and the Axle, Police Exhibit 293) has been undertaken and is addressed in Appendix 1

<u>A spreadsheet containing details of all of the Police Exhibits from the CREWE homicide investigation is contained in Appendix 5</u>

### **General exhibits**

- 764. The Review Team have examined the process of exhibit identification, seizure and the recording of all exhibits that came into the possession of Police during the course of the 1970 homicide investigation.
- 765. Detective ABBOTT was appointed O/C Exhibits at the commencement of the investigation and remained in this role until 20 August 1970.
- 766. The duties of the O/C Exhibits are to:
  - receive all exhibits
  - ensure all exhibits are labelled by the finder indicating what the exhibit is, where it was found, by whom and when
  - ensuring that exhibits are numbered
  - ensuring that the exhibit is recorded in a master exhibits register
  - ensuring the exhibit is securely stored
  - delivering all appropriate exhibits for forensic examination
  - consulting with the O/C Investigation on the relevance of exhibits and indicating any further enquiries required in relation to any exhibit
  - ensuring that the continuity of evidence is maintained in respect of each exhibit
  - preparing relevant exhibits for production in Court.
- 767. After 20 August 1970, Exhibit Officer duties were substantially handed over to Detective KEITH; however, entries in the Exhibit Register indicate that the responsibility was in fact shared between both Detective ABBOTT and Detective KEITH. (Refer Appendix 5)
- During the first Supreme Court trial in 1971 and at the commencement of the second trial in 1973, Detective ABBOTT was responsible for the production of Police exhibits. It is a normal practice for the appointed Exhibits Officer to maintain this role during Court proceedings.

- 769. From June 1973, Detective KEITH assumed the responsibilities of O/C Exhibits.
- 770. The original investigation Exhibit Register was recorded in a bound 'Police 168 Summons Book', which was modified to contain the following headings: (i) No., (ii) Exhibit, (iii) Date, (iv) By Whom, (v) Where Found, and (vi) Delivered to.
- 771. The Exhibit Register has been retained by Police and forms part of the 1970 CREWE homicide investigation file. (Refer <u>Appendix 5</u>)
- 772. The Review Team note that entries in the book were clearly made by a number of different people, based on the handwriting and range of inks used.
- 773. The Police Exhibit numbers commenced at number 1 and concluded at number 434, although there are examples of exhibits labelled with a suffix, i.e. Exhibit 3(a).
- 774. A brief description of each exhibit was entered along with the date it was found, who it was found by, and where it was located.
- 775. The final column shows the movements of the exhibit. This column does not appear to show all of the movements of individual exhibits.
- 776. A record of each exhibit listed in the Exhibit Register was transferred to individually typed exhibit sheets which form part of the investigation file. It would appear that this was done in order to show the individual movements of respective exhibits.
- 777. Again not all movements were recorded using this method.
- 778. The overall handling and documenting of exhibits during this investigation was deficient and did not meet the expected standard, even in the context of a 1970 investigation.
- 779. Had a more robust exhibit seizure and handling regime been in place, a number of the allegations of malpractice against Police could have been more reliably addressed, with reliance placed on the processes and practices adopted that could withstand scrutiny.
- 780. Inconsistencies in exhibit record-keeping allowed for justifiable criticism concerning possible integrity and continuity issues. There are examples of exhibits not being recorded in the Exhibit Register in a sequential date order, exhibits being retained for extended periods by individual Police Officers (in Police lockers or locked drawers), and the failure to accurately record all exhibit movements.
- 781. During the investigation, the O/C Exhibits role changed at different stages. For a period of time, it appears that no one took ownership of the Exhibit Register, which led to sub-standard register maintenance and record-keeping. This was particularly so after the homicide base moved from Pukekawa to the Otahuhu Police Station.

- 782. A number of items found by Police Officers during the course of this investigation could be described as 'items of interest', however, were never recorded in the Exhibit Register.
- 783. Criticism on this point is limited to the fact that there was, on occasions, a failure to document items that came into the possession of Police. Therefore, what the actual item represented, and where and when it was found is not now known. It is possible that significant, or even critical exhibits, failed to properly form part of the investigation material.
- An example of this is contained in a document on the investigation file which provides a break-down of exhibits found during the investigation and states in part:
  - "There were 35 exhibits found by searchers in the field but none of these appear to have any bearing on the investigation at this stage."
- 785. It is unknown who wrote this document or the date on which it was prepared. If the document is read in its entirety, it appears that it is likely to have been written partway through the 1970 investigation.
- 786. The report is unclear as to the items being referred to; however, what is apparent is that not all of the 35 items appear in the Exhibit Register.
- 787. The ultimate decision-maker in terms of exhibits should have been Detective Inspector HUTTON, having consulted with the O/C Scene, O/C Search and O/C Exhibits, with advice from DSIR Scientists and possibly the Crown Solicitor.
- 788. A number of items which fall into this category were located by Police when searching the Waikato River, yet no list of these items is documented on the investigation file.
- 789. For there to be no record at all on the investigation file concerning the presence of what has been variously described as an 'old oilskin', 'old coat', 'a piece of canvas' or 'a tarpaulin' seen by the wheelbarrow on the lawn of the CREWE garden, represents the clearest example of a failure to properly record items of potential evidential value. (Refer Chapter 4 for further commentary)
- 790. The Exhibit Register indicates that on 11 August 1971, 27 July 1973, 23 August 1973 and 27 April 1979, various exhibits were either returned to their respective owners or destroyed.

### Entries in Exhibit Register for Police Exhibit 317 and Police Exhibit 318

- 791. The RCOI looked closely at the seizure and custody status of two particular exhibits.
- 792. The first was a packet of .22 ammunition (Police Exhibit 318) taken into the possession of Police from the THOMAS farmhouse on 13 October 1970.

- 793. The second was Arthur THOMAS' .22 Browning rifle (Police Exhibit 317), which was taken by Police for the second time on 20 October 1970.
- 794. The RCOI considered the notion that one of the .22 cartridges from Police Exhibit 318 was to become the cartridge case found in the CREWE garden on 27 October 1970, identified as Police Exhibit 350.
- 795. The RCOI explored the further notion that Police Exhibit 350 was 'created' by corrupt Police Officers between 20 October 1970 and 27 October 1970, in that they fired a cartridge case sourced from Police Exhibit 318 through the Arthur THOMAS rifle (Police Exhibit 317).
- 796. A notation in the 'Delivered to' column of the 1970 Exhibit Register for both Police Exhibit 317 and Police Exhibit 318 reads "HELD (JOHNSTON)". The reason why this was done, or even necessary, has never been explained since Detective JOHNSTON died before this matter became an issue.
- 797. Detective JOHNSTON gave evidence at the deposition hearing and the first trial concerning the seizure of Police Exhibit 317, and in the second trial concerning the acquisition by Police of Exhibits 317 and 318, but was never asked to explain the quote "HELD (JOHNSTON)" references.
- 798. The notation is difficult to reconcile.
- 799. A box of .22 cartridges was taken into the possession of Detective JOHNSTON on 13 October 1970 from the THOMAS farmhouse. The box number bore batch number 4666. The number of cartridges in the box was not recorded.
- 800. On 20 October 1970, Detective PARKES (in the company of Detective JOHNSTON) took possession of Arthur THOMAS' .22 Browning rifle for the second time.
- 801. Both items were handed to Detective KEITH on 20 October 1970.
- 802. The reference alongside the entry of Police Exhibit 318, the box of .22 cartridges, has the words "HELD (JOHNSTON)". This would indicate that Detective JOHNSTON retained possession of the exhibit between 13 October 1970 and 20 October 1970.
- 803. Notwithstanding the fact that the words "HELD (JOHNSTON)" are also recorded alongside the entry of Police Exhibit 317, the Arthur THOMAS .22 Browning rifle, was in fact taken possession of by Detective PARKES on 20 October 1970, and in turn, handed it to Detective KEITH that same day.
- 804. Detective KEITH gave evidence before the RCOI on his recall of the receipt of these exhibits. He stated that after receiving the rifle for the second time he put it in a steel locker which remained locked until 29 October 1970, when it was again test-fired by the DSIR.

- 805. Detective KEITH stated that he held the only key to the locker and to the office in which the locker was located and did not give Police Exhibit 317 to anyone else.
- 806. An entry in Detective KEITH's Police notebook indicates that the Exhibit Register was examined by Police Document Examiner, John WEST, on 10 November 1980.
- 807. Detective KEITH's notebook recorded: "Held Johnston same pen as other entries." It is not clear which 'other entries' the comment is referring to. However, to a non-expert eye, the majority of the writing on this page of the Exhibit Register appears to be the same. (Refer Appendix 5)
- 808. The report of Document Examiner, John WEST (now deceased), relating to his examination of the Exhibit Register does not form part of the investigation file and has not been located elsewhere.
- 809. The Review Team note that since Detective Inspector HUTTON firmly believed that Lenard DEMLER was the offender, any suggestion that he would have actively sought to implicate Arthur THOMAS prior to 20 October 1970 is misguided. Furthermore, Detective Inspector HUTTON was energetically trying to gather evidence that implicated Lenard DEMLER.
- 810. The RCOI concluded that Police Exhibit 350 represented fabricated evidence. They identified Detective Inspector HUTTON and Detective JOHNSTON as being the two officers responsible. In practical terms, this means that both must have been involved in firing a .22 cartridge through the Arthur THOMAS rifle on or after 20 October 1970, (despite the assertions as to care and custody of the exhibit by Detective KEITH) and placing the spent cartridge in the back garden of the CREWE property so it could be found by Detective Sergeant CHARLES on 27 October 1970.
- 811. The RCOI placed considerable reliance on the assertions of Owen and Julie PRIEST and the presence of Detective Inspector HUTTON at the CREWE property between these dates.
- On 20 October 1970, the same day that Arthur THOMAS' rifle was seized by Police for a second time, Detectives JOHNSTON and PARKES located two stub axles (Police Exhibit 330 and 331) on the farm tip. These items were found while the Detectives were looking for additional samples of wire.
- 813. Following their departure from the THOMAS farm, they went to the CREWE farm where Detective JOHNSTON and Detective PARKES washed mud from the stub axles using a hose.
- The Review Team note that Detective PARKES was with Detective JOHNSTON at the CREWE property with the THOMAS firearm. There has never been any suggestion of impropriety on the part of Detective PARKES, which is inconsistent with the RCOI's findings relating to Detective JOHNSTON.

The Review Team accept that to 'create' Police Exhibit 350 (if that in fact occurred), there was no need for this to have occurred on the CREWE property. A spent cartridge case from the THOMAS firearm could have been obtained as a result of firing the weapon at any location that allowed such activity to occur unobserved.

#### **Destruction of exhibits**

- 816. In 1973, following his double murder conviction for the second time, Arthur THOMAS lodged an appeal against conviction and sentence that was dismissed.
- 817. The Court of Appeal issued their judgment on 11 July 1973.
- 818. On 12 July 1973, Detective KEITH uplifted all the second trial prosecution exhibits from the custody of Ian MILLER the Auckland Supreme Court Registrar. A copy of the receipt is not on the investigation file.
- 819. Around this date a conversation took place between Crown Solicitor, David MORRIS and Detective Inspector HUTTON, regarding the disposal of exhibits in the case.
- 820. On 23 September 1973, David MORRIS wrote a letter to Detective Inspector HUTTON at his request, in which he outlined details of the conversation that had taken place on 11 July 1973. The letter of 23 September 1973 erroneously refers to the date of the conversation as 9 July 1973. Given the discussion related to the Court of Appeal judgment delivered on 11 July 1973, the date of 9 July cannot be right. David MORRIS commented that:
  - "...there appeared no reason why the Police should not proceed with their normal practise of disposing of all exhibits used in the Thomas case."
- 821. The fact that this letter was written at all is perhaps an indication that, with hindsight, the decision to destroy these exhibits did not fully take into consideration the inevitable continued interest from the THOMAS supporters.
- 822. Following on from his conversation with David MORRIS, Detective Inspector HUTTON instructed Detective KEITH to return exhibits to their respective owners and arrange for the balance of the exhibits to be disposed of.
- 823. Records show that on 27 July 1973, Detective KEITH disposed of 135 Police exhibits at the Whitford Tip. (Refer <u>Appendix 5</u>)
- The destruction of exhibits on 27 July 1973 resulted in criticism of Police and, in particular, the destruction of Police Exhibit 350 (.22 cartridge case located by Detective Sergeant CHARLES) and Police Exhibits 234, 257 and 289 (bullets taken from the bodies of Harvey and Jeannette).
- 825. This action prompted criticism from Minister of Justice, Dr Martin FINLAY who described feeling 'deeply troubled' by Police actions.

- 826. On 6 September 1973, as a result of the criticism, the Director of Crime, Assistant Commissioner WALTON, directed senior Police Officers, which included Chief Superintendent TAYLOR, Detective Inspector HUTTON and Detective Sergeant KEITH, to go to the Whitford Tip to see if the exhibits could be recovered. This proved fruitless and no exhibits were recovered. It would appear that Detective Inspector HUTTON subsequently requested a letter from David MORRIS (see paragraph above) to record their July conversation about disposal of exhibits.
- 827. Assistant Commissioner WALTON's position on this matter is the subject of a oneminute television interview in which he dismissed suggestions that he had been misled by Detective Inspector HUTTON concerning the disposal of the CREWE homicide exhibits.
- 828. The Review Team have not located a copy of the relevant Police General Instructions which were in force at the time these exhibits were destroyed. Current Police policy in relation to exhibit return and disposal will, however, be reflective:

"At the conclusion of the prosecution, the Officer-in-Charge of the case must retrieve the exhibits from the Court as soon as practicable after any Appeal period. Any exhibits that are held must be returned to the owner or appropriately disposed of as soon as practicable."

- 829. Detective Inspector HUTTON has been criticised for approving the destruction of the exhibits so promptly after Arthur THOMAS' appeal against conviction had been dismissed.
- 830. He gave evidence that the reason the exhibits had been retained after the first trial was because of their significance to future Detectives and his desire that they be housed in the Police Museum.
- 831. Following the production of the exhibits that resulted in a conviction of the accused for the second time, this would arguably have made their retention additionally desirable.
- 832. In explaining his actions, Detective Inspector HUTTON said that he was being pressured by Superintendent ROSS to make room in the Police Exhibit Store at the Otahuhu Police Station.
- 833. This explanation lacks credence when amongst the exhibits retained by Police were the Nash motor vehicle axle (Police Exhibit 293) and two stub axles (Police Exhibits 330 and 331) far bulkier items than those disposed of.
- There is nothing on the investigation file to identify the rationale followed in deciding which exhibits were to be destroyed and which were to be retained.
- 835. Detective KEITH explained to the RCOI that he began removing exhibits from his locker, a cabinet in his office and the safe which contained some of the smaller exhibits.

- 836. Detective KEITH then removed exhibits from the Property Room.
- 837. Of the items retained by Police, few had any pivotal evidential value in the case.
- 838. Some exhibits were returned to their respective owners.
- 839. There is no record in the Exhibits Register concerning the whereabouts of 142 exhibits.
- 840. In reconciling the 1970 CREWE homicide investigation 'Exhibits Register', the Review Team confirm that 444 physical exhibits were seized.
- 841. The Exhibits Register indicates that a total of 208 exhibits have been destroyed.
- 842. A total of 111 exhibits were returned on various dates between 1970 and 1979.
- 843. Of the remaining 125 exhibits, 60 are either held by Police or by Archives New Zealand on their behalf, leaving 65 exhibits which remain unaccounted for.

## **Firearms**

- 844. Following the discovery of Jeannette's body on 16 August 1970, and identifying that she had been shot with a .22 firearm, a 'Firearm Collection' phase was commenced. (Refer Chapter 8)
- 845. Detective Sergeant CHARLES and Detective PARKES were tasked with completing the firearm collection phase. The schedule of firearms seized indicates other Police Officers also uplifted firearms during the course of the investigation.
- 846. In total, the 1970 investigation team took possession of 64 firearms.
- 847. Arthur THOMAS' .22 Browning rifle was taken into Police possession on 17 August 1970, the day after Jeannette's body had been found in the Waikato River.
- 848. Together with other firearms seized, the Arthur THOMAS rifle was examined promptly by Government Analyst, Dr NELSON. He could not eliminate this firearm as the murder weapon.
- 849. Notwithstanding, on 8 September 1970, a week before Harvey's body had been recovered from the Waikato River, the Arthur THOMAS rifle was returned to him by the investigation team. This decision represents an investigative failing and should not have occurred.
- 850. Also on this day, a .22 Remington rifle taken from the possession of the EYRE family for testing, was returned to the family. This, too, should not have occurred at this time.

- 851. Arthur THOMAS' rifle was recorded in the Exhibits Register after it was uplifted from THOMAS' house for the second time by Detective PARKES in the company of Detective JOHNSTON on 20 October 1970.
- 852. Apart from Arthur THOMAS' rifle, no other firearms taken possession of by the investigation team were recorded in the Exhibit Register.
- 853. A Firearms Schedule has been prepared by the Review Team from material within the investigation file and from DSIR records, showing details of (i) all firearms uplifted, (ii) where they were test-fired, and (iii) when they were test-fired. (Refer <u>Appendix 8</u>)
- 854. The DSIR test-fired bullets were not exhibited and were not produced as exhibits in any proceeding.
- 855. It would appear that the norm was for each firearm to be test-fired three times; however, there is a record of one firearm being tested six times and another having one mis-fire. Dr NELSON's notes record a notation that is consistent with other firearms tested and rejected as being the possible murder weapon.
- 856. The 1970 test-fired bullets from 60 of the 64 firearms examined have been retained by DSIR. There is no record to confirm whether or not Police received one of the test-fired bullets from each of these firearms for retention by them as exhibits.
- 857. At the request of the Review Team, the DSIR test-fired bullets have been the subject of re-examination by Sharon FOWLER of the National Ballistics Intelligence Service (NaBIS), United Kingdom, in order to establish whether or not those firearms with six lands and grooves with a right-hand twist, could, or could not be eliminated as having fired the fatal bullets. This is discussed further under Chapter '8'.
- 858. All firearms taken possession of should have been included in the main Exhibit Register to reflect best practice. All items seized during any investigation should be documented, labelled and then handed in to a central point (O/C Exhibits). The custody, security and movements of the exhibit after this point become the responsibility of O/C Exhibits.
- 859. The documenting and exhibiting of the test-fired bullets by the DSIR was also deficient. The number of bullets that were test-fired, and who retained possession of them, is not recorded accurately. It would appear that test-fired cartridge cases were retained by the DSIR, however, their exhibit holdings in this regard are incomplete.
- 860. It should be noted that the bullets initially test-fired by DSIR scientists could not have been the source of Police Exhibit 350, as copper cartridge cases were used, not brass. (Refer Chapter 8 for further commentary)

## Wire

- 861. A full summary of the wire exhibits found on the bodies of Harvey and Jeannette and comparisons made with samples taken from farms in the Pukekawa area, are dealt with in Chapter 9 and in Professor FERGUSON's report. (Refer Appendix 12)
- 862. With the discovery that Jeannette's body had copper wire wrapped around her legs, various farms in the Pukekawa area were visited by Police and wire samples obtained for comparison purposes.
- 863. Seeking further wire samples for comparison purposes continued after the discovery of Harvey's body. His head covering, chest and waist had been bound by 16 gauge galvanised steel wire. Additionally, a small piece of copper wire was intertwined with the galvanised wire around his waist.
- 864. The collection phase dealing with wire samples is not well documented on the investigation file. It is unclear as to whether an individual Police Officer was tasked with completing this phase. Correspondence demonstrates that wire samples were obtained by a number of Police Officers, which included Detective Sergeants JEFFRIES, CHARLES, HUGHES and MILNE, and Detectives JOHNSTON, PARKES and KEITH.
- 865. The Police Exhibit Register records that wire samples were forwarded to the DSIR from the FOX, HOSKING, CHITTY, PRIEST, SPRATT, CREWE, DEMLER and THOMAS farms. This is confirmed by DSIR records.
- 866. There is no schedule on the investigation file identifying which farms other wire samples were obtained from. Detective Inspector HUTTON gave evidence that approximately 14 farms in the district were searched for wire, but only 11 had wire of a similar gauge (16 gauge).
- 867. The investigation file indicates that in addition to the farms mentioned above, farms visited in search of similar wire included those occupied by the DUNLOP, EYRE, HAWKER and TONGA families.
- 868. Wire samples were allegedly taken from the EYRE farm. There is no corresponding record of this on the investigation file. There are no DSIR records to indicate that wire from the EYRE farm was forwarded to them for testing.
- 869. A possible explanation is that wire not sent to DSIR was found to be of a different gauge than the wire found on the bodies of Harvey and Jeannette and was, therefore, disregarded at an early stage. Nevertheless, the fact that wire had been taken from any farm and the reason for not proceeding with a forensic examination, should have been recorded on the investigation file.
- 870. Not all of the wire samples recovered from the various farms specified above, were recorded in the Exhibits Register which is a clear departure from recognised best practice.

## **RCOI**

- 871. During the RCOI hearings in 1980, they received a total of 210 exhibits, a number of which were sourced from Police.
- 872. Included in the exhibits received by the RCOI were test-fired bullets from the Arthur THOMAS rifle, the 'EYRE' rifle and photographs taken by ballistics expert, George PRICE, of the United Kingdom.
- 873. During the course of the proceedings, the Chairman, Justice TAYLOR, took unidentified RCOI exhibits to Australia for the purposes of having them examined by the ballistics experts within the New South Wales Police, based in Sydney.
- 874. Approval for an examination sought by Justice TAYLOR was not forthcoming from the New South Wales Police Headquarters and as a result, did not occur.
- 875. The specific details of the examination requested is not known. However, the ballistics expert approached by Justice TAYLOR has been identified and spoken to by the Review Team. He recalled the incident and confirmed the matters described above.
- 876. The Review Team note that a bullet produced by Peter PRESCOTT as RCOI Exhibit 209, purportedly a test-fired bullet from the 'EYRE' rifle, currently held at Archives New Zealand, is in fact a bullet fired through the THOMAS rifle.
- 877. This exhibit was either mislabelled by the RCOI, or compromised at a later date whilst in the custody of Archives New Zealand.
- 878. RCOI Exhibit 209 is addressed in Chapter '8'.
- 879. Following the launch of author, Keith HUNTER's book entitled, 'The Case of the Missing Blood Stain', he took part in a Media 7 panel interview chaired by Russell BROWN with Peter WILLIAMS QC and Dr Anna SANDIFORD participating.
- 880. During the discussions, Peter WILLIAMS QC stated that following the RCOI, the following event occurred:
  - "...I was at my home and a truck pulled up the drive. I went out and I said to the driver, what's this all about? He said, oh we've got all the exhibits and all the transcripts here from the Royal Commission. I said, why are you bringing them to me. He said because Justice Taylor said they were to be brought to you including the exhibits. He doesn't trust anyone else in New Zealand. He didn't trust the prosecution, he didn't trust the police. He entrusted me with those exhibits."
- 881. The Review Team wrote to Peter WILLIAMS QC asking if he could clarify the current whereabouts of exhibits he said had been returned to him. In a written response he advised that items returned to him had been passed onto the late Allan THOMAS.

882. Since a number of the RCOI exhibits remain in the custody of Archives New Zealand, the Review Team consider the claim by Peter WILLIAMS QC in the course of the television panel interview was inaccurate and misleading.

## **Forensic opportunities**

883. The Review Team have advanced matters concerning bullets and cartridge cases and metallurgy considerations concerning the wire found around the bodies of the deceased, to a point that no further forensic opportunities are presented in respect of the remaining exhibits. (Refer Chapters 8 and 9 and Appendices 8 and 12)

## Conclusion

- 884. Exhibit security, management, handling and recording during the 1970 investigation is one area of particular deficiency. The phase lacked thoroughness and precision and as a result adversely affected the investigation. Some items observed by Police should have been seized as exhibits, however, were not. Exhibits were not always recorded in sequential date order, or kept in a secure storage area and exhibit movements were not accurately recorded.
- 885. The failure to record the presence of a piece of material that may possibly be an oilskin coat, that features in Police scene photographs alongside a wheelbarrow in the CREWE garden, was negligent.
- 886. The return of the two rifles on 8 September 1970 to Arthur THOMAS and the EYRE family when neither could be eliminated as being the murder weapon is inexplicable.
- 887. Although no breach of legal requirements or Police policy has been identified, the decision to destroy 135 Police exhibits at the Whitford Tip on 27 July 1973, some 16 days after the Court of Appeal rejected Arthur THOMAS' application, lacked judgment.
- 888. The destruction of key exhibits has prevented the opportunity for any further analysis using contemporary forensic methods.

**END** 

## **CHAPTER 8**

## **Firearm Ballistic Examination**

A full analysis of this topic has been undertaken and is addressed in Appendix 1

## General

- 889. This section of the review addresses the 'Firearm Seizure and Testing Phase' of the 1970 Police investigation and the examination of bullet fragments taken from the bodies of Harvey and Jeannette.
- 890. Police Exhibit 350, a .22 cartridge case found in the garden of the CREWE farmhouse, is addressed at Chapter 11 of the Review document.
- 891. Police Exhibit 343, a bullet containing a pattern '8' projectile found by Detective KEITH on 21 October 1970 on the THOMAS farm, is addressed under Chapter 14 of the Review document.
- 892. On Sunday 16 August 1970, Jeannette's body was recovered from the Waikato River. The post-mortem examination revealed Jeannette died as a result of a single gun shot wound to the head. Fragments of a .22 bullet were extracted from her head and these became Police Exhibits 234 and 257.
- 893. The largest portion of the recovered bullet, Police Exhibit 234, was found to contain a number '8' embossed in the base. This identified it as being a 'pattern 8' bullet manufactured by the Colonial Ammunition Company (CAC) in Auckland and loaded into Long Rifle cartridge cases manufactured by Imperial Chemical Industries (ICI). (Refer <u>Appendix 3</u>)
- 894. Further examination by Government Analyst, Dr NELSON, revealed that the bullet, although badly damaged, had been fired through a rifled firearm barrel which had the characteristics of six lands and grooves with a right hand twist.
- 895. Dr NELSON reported that four clear land marks and most of a fifth were discernable on the damaged fragment of Police Exhibit 234.
- 896. During manufacture, rifling grooves are cut into the inside of the barrel of a firearm. These grooves cause the bullet to spin as it is forced down the barrel before leaving the muzzle. The resultant lands and grooves in the barrel cause marks to be left on the bullet. It was these marks that Dr NELSON was referring to when he stated that the firearm barrel through which the fatal bullet had travelled had the characteristics of six lands and grooves with a right-hand twist.

- 897. On 16 September 1970, Harvey's body was recovered from the Waikato River. The post-mortem examination revealed that he, too, received a single gun shot wound to the head. Fragments of a .22 bullet were extracted from his head and these became Police Exhibit 289.
- 898. Although this bullet was more extensively damaged than that recovered from Jeannette, the 'pattern 8' design could be seen embossed in the base of one of the fragments and one land mark was visible. This land mark was consistent in size to those on Police Exhibit 234. (Refer <u>Appendix 3</u>)
- 899. In Dr NELSON's opinion, both bullets had been fired through the same weapon.
- 900. Following the recovery of Jeannette's body, a 'Firearm Seizure and Testing' phase commenced.
- 901. Detective Sergeant CHARLES and Detective PARKES were assigned this task to complete.
- 902. Two categories were chosen and used as criteria for deciding whether a firearm should be seized and tested.
- 903. 'Category A' identified firearms in the possession of people who were neighbours, relatives or whose name had come up during the course of the enquiry as having some association with the CREWES.
- 904. 'Category B' identified firearms in possession of people who lived within a five mile radius of the CREWE farm.
- 905. Each firearm seized was allocated a 'Tag Number' (later referred to as Police Reference Number), which consisted of the first letter of the Police Officer's surname who seized the firearm. This was followed by a number, being a sequential number relating to the number of firearms seized by that Police Officer. Finally, a second letter to categorise if the person from whom the firearm was taken was in 'category A or B'. For example, Tag Number P1B = Detective PARKES, first firearm seized, 'category B'.
- 906. In total, Police took possession of 66 individual .22 firearms of which 64 were test-fired by DSIR staff.
- 907. A .22 Browning rifle owned by Richard THOMAS was reportedly seized by Police on 14 October 1970. The rifle was not tested. The reason for this is not known.
- 908. A .22 Lithgow rifle owned by Harry DEMLER, a cousin of Lenard DEMLER, was examined by CIB personnel in Tauranga, however, not seized or tested.

- 909. Regarding the Harry DEMLER rifle, there is a facsimile message on the investigation file from the Tauranga CIB (FLAVELL) to Detective Inspector HUTTON. In the document the author stated that the Harry DEMLER rifle was "...covered in grease and dust and does not appear to have been used for some considerable time." There is nothing to indicate that the rifle came into the physical possession of Police.
- 910. The Review Team have obtained possession of the Browning rifle owned by Richard THOMAS for the purposes of it being examined and tested by ESR scientists.
- 911. ESR Case Manager, Physical Evidence, (Scientist) Kevan WALSH, confirmed that the firearm barrel has the same basic characteristics as the one that fired the fatal bullets.
- 912. Notwithstanding, Kevan WALSH could eliminate the Richard THOMAS firearm as being the murder weapon. This was as a result of a comparison of the test-fired bullets with photographs taken of the projectile (Police Exhibit 234) removed from Jeannette's body by ballistics expert, George PRICE, in the United Kingdom in 1972.
- 913. On the 1970 investigation file there is a schedule showing who firearms were seized from, a description of the firearm (including a serial number), which Police Officer seized it, the date it was seized, the number that was assigned to it, who test-fired the firearm, the date that it was test-fired and the date that it was returned to its owner.
- 914. In addition to the 66 firearms seized, Police viewed a further seven .22 firearms but did not seize them. In respect of five of these firearms there is a notation that the firearm was viewed but not taken possession of. No reason was given as to why the firearms were not seized.
- 915. In respect of the remaining two firearms, they were described as 'not usable' and accordingly not seized.
- 916. On 18 August 1970, Dr NELSON test-fired 21 of the seized firearms. He was assisted by Rory SHANAHAN, Technician Steve RUBIE and one other unnamed technician. A number of Police Officers were also present.
- 917. DSIR records indicate that three rounds were fired from each rifle, although it is noted that six rounds were fired from one rifle for a reason that is not explained. The discharged bullets were then compared with the bullet fragments recovered from the deceased, namely Police Exhibits 234 and 289.
- 918. Amongst the rifles test-fired that day were a Browning pump-action rifle, serial number 86942, Police Reference Number C10A belonging to Arthur THOMAS, which later became Police Exhibit 317, and a Remington pump-action rifle, serial number 786596, Police Reference Number C3B seized from the EYRE family but which belonged to Jack BREWSTER. This has become known as the 'EYRE' rifle.
- 919. In 1970, Dr NELSON was unable to exclude either Arthur THOMAS' Browning rifle, or the 'EYRE' Remington rifle as having fired the fatal bullets.

- 920. It is now accepted that in respect of the 'EYRE' rifle, Dr NELSON made an error in that this rifle had barrel characteristics of five lands and grooves with a right-hand twist, which totally eliminated it as being capable of being the murder weapon.
- 921. One test-fired round from Arthur THOMAS' rifle was later produced during the RCOI as an exhibit and became RCOI Exhibit 201. At the request of the Review Team, this round has been examined by NaBIS as part of this review. The movements or whereabouts of the other two test-fired rounds from Arthur THOMAS' rifle are unknown.
- 922. The test-fired bullets from the 'EYRE' rifle could not be located at the time of the RCOI and the Review Team has been unable to locate them.
- 923. On 26 August 1970, Dr NELSON test-fired a further 27 firearms seized by Police. All of these firearms were able to be excluded by Dr NELSON, as having fired the fatal bullets. Some were eliminated on the basis that they did not have six lands and grooves with a right-hand twist. Of those with these characteristics, none were found to be consistent with either of the fatal bullets (Police Exhibits 234 and 289).
- 924. On 6 October 1970, Dr NELSON test-fired a further 15 seized firearms. These firearms were able to be excluded by Dr NELSON, as having fired the fatal bullets for the same reasons as those tested on 26 August 1970.
- 925. A Browning rifle owned by Arthur EGLINTON had six lands and grooves with a right-hand twist. The barrel was manufactured by Fabrique Nationale Herstal S.A., which is consistent with the barrels of both Arthur and Richard THOMAS' Browning rifles. (Refer Appendix 8)
- 926. Information was received by the 1970 investigation team that Arthur EGLINTON was aware of a fight that Harvey had been involved in about four years prior. When spoken to by Police, Arthur EGLINTON was positive he knew nothing about the alleged incident, however, it appears his rifle was taken for testing as a result of this information.
- 927. The Arthur EGLINTON rifle has the same barrel type and sub-characteristics as was observed in the Arthur and Richard THOMAS firearms. However, the unique striae that can be observed on the .22 projectiles (Police Exhibits 234 and 289), are not seen on the Arthur EGLINTON test-fired bullets and, therefore, it can be eliminated as having fired the fatal bullets. (Refer Appendix 8)
- 928. On 14 October 1970, Dr NELSON test-fired one further .22 rifle and was able to exclude this firearm as having fired the fatal bullets.
- 929. On 7 September 1970, Arthur THOMAS was interviewed by Detective Sergeant SEAMAN and Detective PARKES concerning his ownership and possession of the Browning rifle. This interview is addressed in Chapter 12.

- 930. During this interview the officers told Arthur THOMAS that his rifle had been used to kill Jeannette. The following day, 8 September 1970, Arthur THOMAS' rifle was inexplicably returned to Vivien THOMAS by Detective Sergeant CHARLES.
- 931. On the same day as Arthur THOMAS was interviewed, John EYRE's parents, Annesley and Margaret EYRE, were also interviewed by Detective Sergeant SEAMAN and Detective PARKES concerning their possession of the Remington rifle owned by Jack BREWSTER. In a similar manner, the rifle was also returned to the EYRE family on 8 September 1970 by Detective Sergeant CHARLES.
- 932. Following the 7 September 1970 interview there were no enquiries initiated to verify anything Arthur THOMAS had said during his interview, nor any background checks regarding his association with Jeannette. In the Police jobsheet submitted by Detective PARKES concerning the Arthur THOMAS interview, he recorded:

"He was quite open in his manner and both Detective Sergeant SEAMAN and myself are convinced that he is not involved in this inquiry."

- 933. Without having verified or corroborated anything Arthur THOMAS said during the interview, the Review Team question how the investigators were able to reach this conclusion.
- 934. This appears to be a further example of individual Police Officers reaching their own conclusions based on a 'gut' feeling, as opposed to adopting a more analytical approach. This may possibly explain why Arthur THOMAS' rifle, which could not be excluded as the murder weapon, and had been described as such during the interview, was returned to him the following day. This also evidences a complete lack of interest in Arthur THOMAS as a suspect by the investigation team.
- 935. It was not until 20 October 1970, when a connection was made between the axle found with Harvey's body and a trailer owned by the THOMAS family, that any real investigation into Arthur THOMAS began.
- 936. Documents on the file do not indicate that Jack BREWSTER was ever interviewed, nor it seems, were the EYRES' two sons John and Colin (known as Ross), who lived at home at the time.
- 937. Ross EYRE and former Detective Inspector HUTTON both told the Review Team that they recall that John EYRE was interviewed, however, no documentation supporting this has been found on the investigation file.
- 938. Had Police not been so fixated on Lenard DEMLER as being the offender, these enquiries may have been conducted with more urgency and thoroughness.
- 939. On 13 October 1970, Detective JOHNSTON visited the THOMAS farm in seeking to advance enquiries into the Nash motor vehicle axle found under Harvey's body. Detective JOHNSTON spoke with Arthur THOMAS.

- 940. Prior to leaving the address, Detective JOHNSTON took possession of an undisclosed number of .22 brass cartridges in a box bearing batch number 4666 that was later to become Police Exhibit 318.
- 941. A batch number is a number stamped on the inside of a box of cartridges to indicate the date of manufacture of the bullets contained within. (Refer Appendix 11)
- 942. On 20 October 1970, Detectives PARKES and JOHNSTON visited the THOMAS farm whilst making enquiries into the origin of the axle found with Harvey's body.
- 943. During this visit, two stub axles linked to the axle found beneath Harvey's body, were located in the THOMAS farm tip. Arthur THOMAS' Browning rifle (Police Exhibit 317) was taken possession of again for the second time.
- 944. On 21 October 1970, a search warrant was executed at the THOMAS farm. Fourteen .22 cartridges (Police Exhibit 344) were located in a glass jar in the scullery of the THOMAS farmhouse. No description of the cartridge cases is recorded on the investigation file and it is unknown whether they were brass or copper cases, or a mixture of both.
- 945. Detective KEITH located a single .22 brass cartridge (Police Exhibit 343) in a shed at the THOMAS farm. As alluded to earlier the findings around this exhibit is dealt with in Chapter 14.
- 946. Also located in the shed was a .22 LR ICI box. The box contained ammunition in the form of .22 bird shot. The batch number printed inside the box was '2741'. This number indicates that the cartridges were manufactured between 26 June 1957 and 21 August 1957 (by reference to 'The New Zealand .22 Rimfire' by Barry GRACIA and Kevan WALSH, Appendix 11).
- 947. The box would not have originally contained bird shot ammunition but would have contained .22 LR cartridges with a 'pattern 8' embossed in the base of the projectiles.
- 948. The cartridge cases would, however, have differed from Police Exhibit 350 in that the ICI markings on the base of the cartridge case would have had the ICI 'arrow' design logo, rather than the letters 'ICI'.
- 949. On 27 October 1970, following a search of the garden border situated to the right-hand side of the back gate leading to the back door of the CREWE farmhouse, Detective Sergeant CHARLES, in the company of Detective Sergeant PARKES, located a spent .22 brass cartridge case identified as Police Exhibit 350.
- 950. On 29 October 1970, Arthur THOMAS' rifle was again test-fired by Rory SHANAHAN, following the discovery of Police Exhibit 350. Rory SHANAHAN fired 14 rounds of ammunition through Arthur THOMAS' rifle. The purpose of the test-firing was to compare the firing pin impression and ejection marks from the test-fired cartridge cases with the firing pin impression and ejection marks on Police Exhibit 350.

- 951. Rory SHANAHAN confirmed that Arthur THOMAS' rifle had fired Police Exhibit 350. His findings were confirmed by Dr NELSON on 9 November 1970, when he returned from overseas.
- 952. In early 1972, Arthur THOMAS appealed his conviction for the murders of Harvey and Jeannette and won the right to a re-trial. In mid 1972, on request of his defence counsel, the decision was made to send Arthur THOMAS' rifle and relevant cartridge cases and bullets to England for an independent examination and analysis.
- 953. On 26 June 1972, the following items were compiled for packaging and delivering to the Home Office in England:
  - Police Exhibit 317 Browning pump-action firearm serial number 86942
  - Police Exhibit 289 bullet fragments from Harvey
  - Police Exhibit 234 bullet fragments from Jeannette
  - Police Exhibit 257 bullet fragment from Jeannette
  - Police Exhibit 350 brass cartridge case found outside CREWE home
  - Bullet test-fired from rifle 86942 on 18 August 1970 (referred to as bullet 'F' and later referred to as RCOI Exhibit 201)
  - Exhibit C1 13 cartridge cases test-fired by Rory SHANAHAN on 29 October 1970
- 954. On 26 June 1972, prior to the above items being sent to England, a further test-firing of the Browning rifle was carried out. Four rounds were test-fired on this occasion.
- 955. The purpose of this test-firing was to compare the markings on these cartridge cases against those test-fired in 1970, to ensure that all had in fact been fired from the same firearm.
- 956. The Review Team have taken possession of two of these test-fired bullets sourced from Archives New Zealand. These exhibits have been subjected to further forensic testing by NaBIS as part of this review.
- 957. The Review Team has taken possession of the documentation relating to the Home Office examinations conducted in June 1972.
- 958. This included the test-fired bullet referred to as 'F' and later at the RCOI as 'Exhibit 201', the cartridge cases referred to as C1 13, and comparison photographs showing comparisons between the fatal bullets (Police Exhibits 234 and 289) and test-fired bullets from Arthur THOMAS' rifle.
- 959. These exhibits have been subjected to further forensic testing by NaBIS as part of this review.

- 960. On 2 August 1972, George PRICE, the Principal Scientific Officer, Home Office Forensic Science Laboratory, reported on his examination of the items forwarded to him.
- 961. His examination included test-firing Arthur THOMAS' rifle (Police Exhibit 317). George PRICE was unable to establish whether or not the fragments of the bullet (Police Exhibit 289) taken from Harvey's head had come from Arthur THOMAS' rifle, but stated that the groove on this bullet was consistent in width with the grooves reproduced on the bullet 'F' and bullets that he had test-fired from Police Exhibit 317.
- 962. Upon examination of the largest fragment of bullet (Police Exhibit 234) taken from Jeannette's head, George PRICE stated:

"Exhibit 234 comprises eight fragments of lead, one of which is the damaged bottom half of a .22" bullet, displaying rifling of the same type as that of the rifle (exhibit 317). I have microscopically examined this bullet. Although I have been unable to establish conclusively whether or not it was fired in the rifle Exhibit 317 the limited individual bore characteristics it shows indicate that it could well have been fired in this rifle."

- 963. His report confirmed that Police Exhibit 257 (other bullet fragments from Jeannette) held no identifiable bore characteristics.
- 964. On 27 July 1972, Randolph MURRAY, Director of Churchill Atkin Grant & Lang Limited, Gunmakers of England, who was engaged by Arthur THOMAS' defence counsel to examine the material forwarded to the Home Office, inspected the Browning rifle and Police Exhibits 234 and 289.
- 965. Randolph MURRAY reported his findings on 1 August 1972. In respect of Police Exhibit 234 he said:

"...that it had characteristics of rifling marks which indicate that it could have been shot from rifle No.86942, but certainly from a rifle having six grooves and lands corresponding in size and twistto [sic] the type of rifling used in the manufacture of rifles by the Fabrique Nationale Herstal S.A. who were the manufactures of the rifle No.86942. The size of the fragment prevents positive conclusion..."

- 966. During the RCOI hearing in 1980, counsel representing Police, John HENRY QC and Robert FISHER, requested the Commission allow the evidence of George PRICE to be heard concerning his examination of the Police Exhibit 317 and the bullets. George PRICE had since retired and was unfit to travel to New Zealand.
- 967. Peter PRESCOTT had taken over George PRICE's role and he had reviewed his predecessor's work. Peter PRESCOTT reported on his findings on 30 September 1980.
- 968. Peter PRESCOTT stated:

"The evidence available to me shows that there is agreement between rifling marks on the bullet (234) and rifling marks on the bullet (F), and rifling marks on test bullets fired by Mr. Price in the rifle (317). This agreement occurs on one land and two grooves of the bullets: because of the degree of agreement I have formed the opinion that it is highly probable that the rifle (317) fired the bullet (234)".

- 969. Peter PRESCOTT was brought to New Zealand to give evidence before the RCOI.
- 970. The Review Team have spoken with counsel for the New Zealand Police during the RCOI, Sir John HENRY QC. Sir John HENRY confirmed that he had spoken to Peter PRESCOTT prior to him giving evidence at the RCOI and that Peter PRESCOTT had told him that had he viewed Police Exhibit 234, he would be confident that he would be able to say that he saw a match between Police Exhibit 234 and bullets test-fired from the THOMAS firearm.
- Peter PRESCOTT said that he was not prepared to say that he saw a match, because he was working solely from photographs.
- 972. When asked what he understood Peter PRESCOTT's statement "...it is highly probable that rifle (317) fired the bullet (234)", Sir John HENRY stated that this meant 'almost certain'.
- 973. This account by Sir John HENRY confirmed recorded comments made to Detective Superintendent WILKINSON and Dr NELSON during a telephone conversation on 11 October 1980 with Peter PRESCOTT.
- 974. Peter PRESCOTT was asked whether "...if 64 more rifles were gathered would he expect two more which could not be excluded." Peter PRESCOTT is reported to have replied he would be very surprised if the bullet had been fired from any rifle other than Police Exhibit 317.
- 975. On 14 October 1980, Detective Senior Sergeant KEITH uplifted the 'EYRE' rifle from the EYRE family and delivered it to the RCOI on 15 October 1980.
- 976. On 15 October 1980, Rory SHANAHAN fired 12 rounds through the 'EYRE' rifle in the presence of Detective Senior Sergeant KEITH, Detective Superintendent WILKINSON, Dr COOK, Dr MEINHOLD, Defence Counsel Kevin RYAN and Dr SPROTT.
- 977. Three rounds were retained by Police, three rounds by Kevin RYAN, three rounds were handed to the RCOI and three rounds were retained by the DSIR.
- 978. The Review Team are in possession of three spent cartridge cases and three bullets from Police holdings, three cartridge cases and one bullet from Archives New Zealand, (being RCOI holdings) and two spent cartridge cases from the ESR (being DSIR holdings). The whereabouts of the remaining bullets and cartridges cases is unknown. These recovered cartridges have been subjected to further forensic testing by NaBIS as part of the review.

- 979. On 27 October 1980, Peter PRESCOTT, having arrived in New Zealand, was given both Arthur THOMAS' Browning and the 'EYRE' Remington rifle to test-fire. He fired four rounds through Arthur THOMAS' rifle and five rounds through the 'EYRE' rifle.
- 980. The Review Team have taken possession of the four test-fired bullets and cartridge cases from Arthur THOMAS' rifle, and the five test-fired rounds from the 'EYRE' rifle. These cartridges have been subjected to further forensic testing by NaBIS as part of the review.
- 981. Upon examining the test-fired bullets in 1980, Peter PRESCOTT discovered that the 'EYRE' Remington rifle had barrel characteristics of five grooves with a right-hand twist, thus immediately eliminating this firearm as being capable of being the murder weapon.
- 982. It is difficult to reconcile Dr NELSON's error in not eliminating the 'EYRE' firearm at an early stage. Identifying the difference between five and six land impressions on a test-fired bullet should have been a basic task for an experienced scientist.
- 983. There is no record of any peer review of Dr NELSON's work in 1970, although he peer reviewed the work of subordinate scientists.
- 984. Had his findings been the subject of peer review in 1970, there is little doubt that the 'EYRE' rifle would have been eliminated at that time.
- 985. Peter PRESCOTT reported to the RCOI his findings in respect of the 'EYRE' rifle and produced one of the five bullets he had test-fired. This was designated RCOI Exhibit 209.
- 986. During the course of the RCOI hearing, the Commission Chairman, Justice TAYLOR, took the highly unusual step of personally taking ballistic exhibits to the New South Wales (NSW) Police Ballistics Unit for examination.
- 987. The Review Team have found nothing to suggest that Justice TAYLOR had been asked to do so by counsel assisting the RCOI or counsel representing the parties to the hearing. He did, however, notify counsel assisting the Commission (Howard KEYTE or Michael CREW) of his intention to do so but did not provide his reasoning.
- 988. The Review Team have spoken with retired Assistant Commissioner Bruce GIBSON of the New South Wales Police who confirmed that Justice TAYLOR had asked him personally to examine exhibits from the RCOI when he was the Officer-in-Charge of the New South Wales Forensic Unit, however, he does not recall precisely what he was asked to examine.
- 989. Bruce GIBSON maintained that the examination did not in fact proceed on advice from his Police Headquarters.

- 990. The decision by Justice TAYLOR to take exhibits from the RCOI into his personal care for forensic analysis in Australia is clearly unorthodox conduct. His reasons for taking the exhibits and the purpose of the proposed examination does not appear to have been documented.
- 991. The fact that Justice TAYLOR did not make any formal request of the Australian authorities for assistance prior to taking the exhibits to Australia is noteworthy.
- 992. Justice TAYLOR clearly felt that it was important to have this work undertaken, however, did not make a formal request to have the work completed after his initial informal request had been declined by the New South Wales Police Ballistics Section.
- 993. It is unclear precisely what exhibits were taken to Australia. Newspaper reports in the Auckland Star (30 October 1980), Evening Post (31 October 1980) and in the New Zealand Herald (1 November 1980), make reference to two bullets test-fired in 1972 by Home Office ballistics experts, fired through Arthur THOMAS' rifle.

#### **RCOI Exhibit 209**

- 994. In the late 1990s, brothers of Arthur THOMAS, namely Richard, Desmond and Lloyd, made a request of Police to investigate the possibility that local Pukekawa resident, John EYRE, was the person responsible for killing Harvey and Jeannette.
- 995. Their position, notwithstanding Peter PRESCOTT's evidence before the RCOI, was that Dr NELSON could not eliminate the 'EYRE' rifle as being the murder weapon when he originally tested it in 1970.
- 996. On 20 December 2004, unable to persuade Police to re-examine the 'EYRE' rifle, Desmond THOMAS visited Archives New Zealand together with a Forensic Scientist, Dr Nicholas POWELL.
- 997. While there they examined RCOI Exhibit 209, a .22 bullet purportedly test-fired from the 'EYRE' rifle in 1980 by Peter PRESCOTT.
- 998. Following their examination of what purported to be RCOI Exhibit 209, they wrote to Police claiming that RCOI Exhibit 209 did in fact have six lands and grooves which was consistent with Dr NELSON's original findings. They maintained that Peter PRESCOTT was mistaken in his examination and as a result the 'EYRE' rifle could not be eliminated as being the murder weapon.
- 999. On 9 February 2006, at the request of Police, RCOI Exhibit 209 was re-examined by ESR Forensic Scientist, Kevan WALSH.
- 1000. Kevan WALSH confirmed that RCOI Exhibit 209 had in fact been fired through a rifled barrel with characteristics of six lands and grooves with a right-hand twist.

- 1001. On 12 April 2006, and as a direct result of the finding that RCOI Exhibit 209 had six lands and grooves, the 'EYRE' rifle was again uplifted by Police from the EYRE family and test-fired by Kevan WALSH.
- 1002. The subsequent examination of the test-fired bullets confirmed that they in fact contained five lands and grooves.
- 1003. These rounds are in the possession of the Review Team and have been subjected to further forensic testing by NaBIS as part of this review.
- 1004. On 20 April 2006, the O/C New Zealand Police Armoury, Robert NGAMOKI, examined the 'EYRE' rifle to ascertain whether the barrel had been replaced. He reported that the barrel exterior did not show the presence of marks that were attributable to barrel clamps or any other tool that may have been used to change the barrel, nor were there any tool marks found on the receiver.
- 1005. Robert NGAMOKI advised that rifling changes would result if the barrel was re-lined. Re-lining is a remedial process that can be performed when the original barrel becomes worn and inaccurate. It consists of drilling out the old rifling and inserting a tube with new rifling. He reported there was no evidence of this having been done to the 'EYRE' rifle.
- 1006. Robert NGAMOKI took the 'EYRE' rifle to Din COLLINGS of Collings & Bradey, Gunsmiths of Karori. Din COLLINGS had previously re-barrelled and re-lined this model of rifle. Din COLLINGS could find no evidence that the 'EYRE' rifle had been re-barrelled or re-lined.
- 1007. Following this examination, Desmond THOMAS alleged that Police had swapped the barrel of the 'EYRE' rifle sometime between the 1970 examination and the April 2006 examination. He claimed that the barrel code number and serial number shown on the rifle confirmed this.
- 1008. On 14 June 2007, Kevan WALSH again examined RCOI Exhibit 209. On 22 June 2007, he reported that:

"There can be no doubt that RCOI Exhibit 209 could not have been fired in the 'EYRE' rifle because the rifle had 5R rifling."

#### 1009. He further commented:

"From the examination carried out, it cannot be proved that RCOI Exhibit 209 was fired in the Thomas rifle. However, the correspondence of rifling land and groove widths between Exhibit 209 and the bullets test-fired in the THOMAS rifle were very good."

1010. In the same report he concluded there was no evidence to support the contention that the barrel on the 'EYRE' rifle had been changed because of the differences in the barrel code to the serial number of the rifle and reported that the numbers "...reflect other actual recorded rifle data." (Refer Appendix 8)

- 1011. He could find no physical evidence on either the barrel or receiver which would indicate that the barrel had been changed.
- 1012. The Review Team note that Peter PRESCOTT fired five bullets through the 'EYRE' rifle on 27 October 1980. One of these was produced as RCOI Exhibit 209, however, the remaining four bullets were retained and have been the subject of further testing by NaBIS.
- 1013. These remaining four test-fired bullets did not have cannelures around the circumference of the projectile and were not embossed with a number '8' and were possibly manufactured by Eley Brothers, London.
- 1014. RCOI Exhibit 209, allegedly test-fired by Peter PRESCOTT at the same time, inexplicitly differs considerably in appearance as it has a three cannelure bullet with the number '8' embossed on the base of the projectile.
- 1015. It should also be noted that on 27 October 1980, Peter PRESCOTT also test-fired Arthur THOMAS' rifle four times, using bullets similar in appearance to those he test-fired from the 'EYRE' rifle.
- 1016. These projectiles were not embossed with a number '8' in the base. These test-fired bullets were possibly manufactured by Eley Brothers, London.
- 1017. The Review Team have consulted with Archives New Zealand. Their records are not conclusive as to who had access to this exhibit whilst it has been in their custody. Records confirm the identity of only two people that had been afforded access.
- 1018. The only conclusion that can be drawn, given that RCOI Exhibit 209 as produced to the RCOI had only five lands and grooves, is that at some point RCOI Exhibit 209 has been substituted with another bullet or mis-labelled.

#### 1970 Test-fired bullets

- 1019. On 9 October 2012, the Review Team took possession of 60 glass jars from the ESR in Mount Albert, Auckland. These jars contained the test-fired bullets from 60 of the 64 firearms tested by DSIR staff in 1970.
- 1020. On examining the contents of the jars, bullets from Arthur THOMAS' rifle (Police Exhibit 317), the 'EYRE' rifle (Police Reference Number C3B) and rifles seized from James HAWKER (T1A) and David WILLIAMS (P12B) were not amongst the test-fired bullets uplifted.
- 1021. DSIR / ESR records are incomplete in so far as the whereabouts of the missing test-fired bullets are concerned.

#### **NaBIS**

- 1022. In October 2012, having identified and sourced the ballistic related exhibits still in existence, the Review Team sought the assistance of NaBIS in the United Kingdom to re-examine the exhibits. (Refer <u>Appendix 8</u>)
- 1023. As well as the test-fired bullets and cartridge casings, this material included comparison photographs between test-fired bullets from Arthur THOMAS' rifle (Police Exhibit 317) and the fatal bullets (Police Exhibits 234 and 289) and Police again took possession of the 'EYRE' firearm (Police Reference Number C3B) with the purposes of:
  - (i) Establishing whether there is any evidential basis (and if so to what degree), for the proposition that the Browning rifle (Police Exhibit 317, Arthur THOMAS' rifle) is the murder weapon.
  - (ii) Establishing whether there is any evidential basis (and if so to what degree), for the proposition that the Remington rifle (Police Reference Number C3B) is the murder weapon.
  - (iii) Ascertaining if there is any evidence to indicate that the Remington rifle (Police Reference Number C3B) has been re-barrelled.
  - (iv) Establishing whether or not the bullets assigned RCOI Exhibit References 201 and 209 are consistent with, or identical to, those linked to the Browning rifle (Police Exhibit 317) and / or the Remington rifle (Police Reference Number C3B).
  - (v) Establishing whether the 62 rifles test-fired in 1970 by DSIR scientists and eliminated as being the murder weapon were correctly eliminated from the investigation.
- 1024. On 25 April 2013, Sharon FOWLER, Senior Forensic Scientist at NaBIS, reported that without a physical examination of Police Exhibits 234 and 289 (the bullets from Harvey and Jeannette) it would not be possible for her to reach a conclusion as to whether the Browning rifle, Police Exhibit 317 (Arthur THOMAS' firearm) had fired the fatal shots, although she recorded that the possibility cannot be discounted.
- 1025. She further reported that the Remington rifle, (Police Reference C3B) was test-fired and produced bullets with five lands and grooves with a right hand twist. Having examined the firearm she concluded that in her opinion the barrel was the original barrel.
- 1026. She further reported that the .22 bullet (RCOI Exhibit 209) purportedly fired from the 'EYRE' rifle had in fact been fired through Arthur THOMAS' rifle.

1027. She further reported that using the class characteristics features she would be unable to exclude F3B from the original investigation being the Browning rifle owned by Arthur EGLINTON. (Refer <u>Appendix 8</u>)

#### **ESR Scientist Kevan WALSH**

1028. In 2013, the Review Team sought the assistance of ESR Scientist Kevan WALSH to further examine the ballistic items that had been forwarded to NaBIS. His report is attached in its entirety at Appendix '8'.

#### 1029. He concluded that:

"In my opinion, the probability of observing the correspondence noted above, between the bullet exhibit 234 and bullets test fired in Mr Arthur THOMAS' rifle, is high if that rifle fired the bullet. Conversely, the probability of observing the correspondences noted above for a bullet that was fired in another similar calibre rifle is very low.

Therefore in my opinion, the observed correspondence provides strong support for the proposition that the bullet exhibit 234 had been fired in the rifle submitted for examination.

I have chosen the term "strong support" from the following range of conclusions; neutral, slight support, moderate support, strong support, very strong support, extremely strong support and conclusive (see Appendix 4)."

#### General

- 1030. The 'Firearm Seizure and Testing' phase of the 1970 investigation was time consuming and although there has been some criticism that the original investigation did not cast a net wide enough to capture all firearms from the district, this criticism is largely unwarranted.
- 1031. In the Conference Notes of 20 August 1970, Detective Inspector HUTTON outlined the enquiries being undertaken. (Refer <u>Appendix 6</u>)
  - A check of .22 firearms advertised for sale between 1 June and 19 June, advertised in all newspapers circulating in the Pukekawa / Auckland area.
  - Police Arms Officers in the Auckland and Hamilton districts were being checked regarding permits to procure .22 firearms between 1 and 18 June.
  - A list was prepared including people who were in any way associated with either Harvey, Jeannette or Lenard DEMLER during the enquiry. These were grouped under Group A as top priority, followed by Group B. These people were to be seen and interviewed as to whether they owned a .22 firearm, and amongst a number of questions which were to be asked was whether they had ever loaned such a firearm to Lenard DELMER.

- A list covering some 256 names of people involved in the enquiry, however remote, was forwarded in part file form to all Police Arms Offices for a national check as to whether they owned a .22 firearm.
- It was planned to check arms dealers concerning the purchasing of any .22 firearms since 17 June 1970 in case the offender saw fit to dispose of their .22 firearm by this means.
- 1032. The Review Team are satisfied that the criteria developed for the seizure and collection of .22 firearms for ballistics examination by DSIR was appropriate, i.e. (i) residents living within five miles of the CREWE farmhouse, and (ii) those individuals with links to the CREWES.
- 1033. The additional examination of firearms licence records to support the seizure and collection phase demonstrated thoroughness on the part of the 1970 investigation team in this regard.
- 1034. Some people who approached Police volunteering their firearms for examination were deterred from doing so, however, it is known that the majority of these people did not meet the criteria for seizure.

## **Forensic opportunities**

- 1035. The available ballistic exhibits have been re-examined by NaBIS as part of this review, and ESR scientists have undertaken test-fire elimination examinations in respect of a selected rifle.
- 1036. In addition, a reassessment of photographic holdings relating to Police Exhibit 234 (bullet fragment from Jeannette) has been undertaken that has enabled scientists to conclude that there is 'strong support' that the Arthur THOMAS rifle (Police Exhibit 317), fired the bullet (Police Exhibit 234).
- 1037. The Review Team are satisfied that there are no further forensic opportunities available in relation to ballistic-related material relevant to the case.

## Conclusion

- 1038. Fragments of .22 bullets (Police Exhibits 234, 289 and 257) recovered from the heads of Harvey and Jeannette had been fired from a firearm with a barrel configuration of six lands and grooves with a right-hand twist and were believed to have been fired by the same weapon.
- 1039. It is highly probable that Arthur THOMAS' .22 Browning rifle with barrel characteristics of six lands and grooves with a right-hand twist, is the murder weapon. Factors impacting on this view include:

- (i) In 1970, Government Analyst Dr NELSON from the DSIR, identified similarities between the barrel characteristics of the fatal bullets and Arthur THOMAS' .22 Browning rifle. He could not exclude Arthur THOMAS' rifle as the murder weapon.
- (ii) In 1972, United Kingdom based Home Office Principal Scientific Officer and Ballistics Expert, George PRICE, conducted an examination of Arthur THOMAS' .22 Browning rifle and a comparison of bullets test-fired from the rifle with the fatal bullets. George PRICE concluded that in respect of the fatal bullet (Police Exhibit 234) from Jeannette "...the limited individual bore characteristics it shows indicate that it could well have been fired in this rifle."
- (iii) In 1972, Randolph MURRAY, the Director of Churchill Atkin Grant & Lang Limited, Gunmakers of England was engaged by Kevin RYAN, Defence Counsel for Arthur THOMAS, to examine the THOMAS rifle and the fatal bullets.
  - Following his examination he concluded "...the fragment [from Jeannette's head] was large enough to determine that it had characteristics of rifling marks which indicate that it could have been shot from rifle No. 86942 [Arthur THOMAS' rifle]..."
- (iv) In 1980, United Kingdom based Home Office Ballistics Expert and Principal Scientific Officer Peter PRESCOTT critiqued the work of George PRICE for the purpose of being in a position to provide expert testimony in the RCOI in Auckland. Peter PRESCOTT stated that he concluded it was 'highly probable' the fatal bullet, taken from Jeannette's head was fired through Arthur THOMAS' .22 Browning rifle.
- (v) Both Dr NELSON and George PRICE concluded that the land markings visible on the bullet (Police Exhibit 289) that killed Harvey were consistent in width with the land markings on the bullet (Police Exhibit 234) that killed Jeannette and bullets test-fired in Arthur THOMAS' rifle.
- (vi) In 2012, Senior Forensic Scientist Sharon FOWLER (NaBIS), reported that without a physical examination of the fatal bullets it was not possible for her to reach a conclusion as to whether or not the fatal bullets were fired through the same barrel as nine bullets, known to have been test-fired from Arthur THOMAS' .22 Browning rifle, although she could not discount the possibility that they had. (Refer Appendix 8)
- (vii) In 2013, ESR Scientist Kevan WALSH reported that there was 'strong support' for the proposition that Police Exhibit 234 (from Jeannette) had been fired through the Arthur THOMAS rifle.
- 1040. The Review Team note the RCOI report stated (at paragraph 237):

"We conclude that it is not proved that the Thomas rifle fired the fatal bullets. Further, even if the Thomas rifle did fire them, there is no evidence putting the rifle in the hands of Arthur Allan Thomas at the time. We are satisfied that there was opportunity for others to have used the Thomas rifle."

- 1041. The Review Team concur with the conclusion reached by the RCOI that even if the Arthur THOMAS rifle (Police Exhibit 317) did fire the fatal bullets, there is no direct evidence putting the rifle in his hands at the time of the murders.
- 1042. Dr NELSON made an error in not eliminating a .22 rifle seized from the EYRE family (Police Reference C3B), during his examination of 64 firearms seized by Police.
- 1043. The rifle, often referred to as the 'EYRE gun', had barrel characteristics of five lands and grooves with a right-hand twist. It was not capable of firing the fatal bullets, therefore, it must be eliminated from consideration.
- 1044. The findings of Sharon FOWLER confirm that there is no evidence of barrel replacement or modification on the 'EYRE' rifle. Her finding in respect of the 'EYRE' rifle is consistent with previous opinions given by Peter PRESCOTT, Kevan WALSH, Robert NGAMOKI and Din COLLINGS.
- 1045. The Review Team, therefore, are satisfied that the 'EYRE' firearm can be eliminated as the murder weapon.
- 1046. Forensic testing confirmed that RCOI Exhibit 209, a bullet purportedly test-fired from the 'EYRE' rifle and produced by Peter PRESCOTT while giving evidence was fired from Arthur THOMAS' .22 Browning rifle and has either been mislabelled by the RCOI or otherwise compromised, i.e. swapped or substituted while in the custody of Archives New Zealand.
- 1047. Of the 64 firearms tested by Police, 33 had barrel characteristics of six lands and grooves with a right hand twist.
- 1048. In the final analysis of the 33 rifles with the appropriate barrel characteristics, the only one identified as having potentially fired the fatal bullets is Arthur THOMAS' Browning rifle (Police Exhibit 317).
- 1049. Simple criteria were developed for the seizure and collection of .22 firearms for ballistics examination by the DSIR, i.e. residents living within five miles of the CREWE farmhouse, and / or individuals with links to the CREWES.
- 1050. Examining firearm registration records and advertisements regarding the sale of .22 firearms in the area supported the collection phase and demonstrated a level of thoroughness on the part of the investigation team.

**END** 

# **CHAPTER 9**

# **Wire Collection and Analysis**

A full analysis of this topic has been undertaken and is addressed in Appendix 1

## Introduction

- 1051. On 16 August 1970, Jeannette's body was recovered from the Waikato River. Her body was fully clothed and wrapped in a bedspread and blanket, which were fastened by copper wire (Police Exhibit 237) wrapped around her legs above the knees.
- 1052. Later that day, Detective Sergeant JEFFRIES took samples of wire from the tool shed at the CREWE farm for comparison with Police Exhibit 237. These pieces of wire were known as Police Exhibits 240, 264, 265, 266, 267 and 268 (all copper wire), and Police Exhibit 269 (mild steel wire).
- 1053. Two further samples, Police Exhibits 270 and 271 (both copper wire), were taken from the tractor at the CREWE property.
- 1054. On 17 August 1970, during a search of the CREWE farmhouse, a length of copper wire (Police Exhibit 272) was found by Detective GEE in the paddock between the house and road.
- 1055. Also on 17 August 1970, copper wire (Police Exhibit 280) was seized from the DEMLER farm by Detective Sergeant HUGHES.
- 1056. On 16 September 1970, Harvey's body was recovered from the Waikato River. A loop of 16 gauge galvanised wire was tied around his waist which was twisted in a knot at the front of his body. A piece of copper wire was attached to this galvanised wire.
- 1057. Another loop of 16 gauge galvanised wire was wrapped over Harvey's right shoulder and under his left arm, and knotted at the back of his body. This galvanised wire was connected to the loop of galvanised wire around his waist.
- 1058. The three pieces of wire from Harvey's body became known as Police Exhibit 288.
- 1059. At the time Harvey's body was recovered, Police divers located a dark brown bedspread (Police Exhibit 294) held under the water between branches of a tree. This bedspread was tied together with 16 gauge galvanised wire which became known as Police Exhibit 297. The bedspread contained Harvey's hair, indicating that this had been used to cover his head.
- 1060. On 17 September 1970, Detective Sergeant CHARLES collected galvanised wire samples (Police Exhibits 310 and 311) from the DEMLER farm.

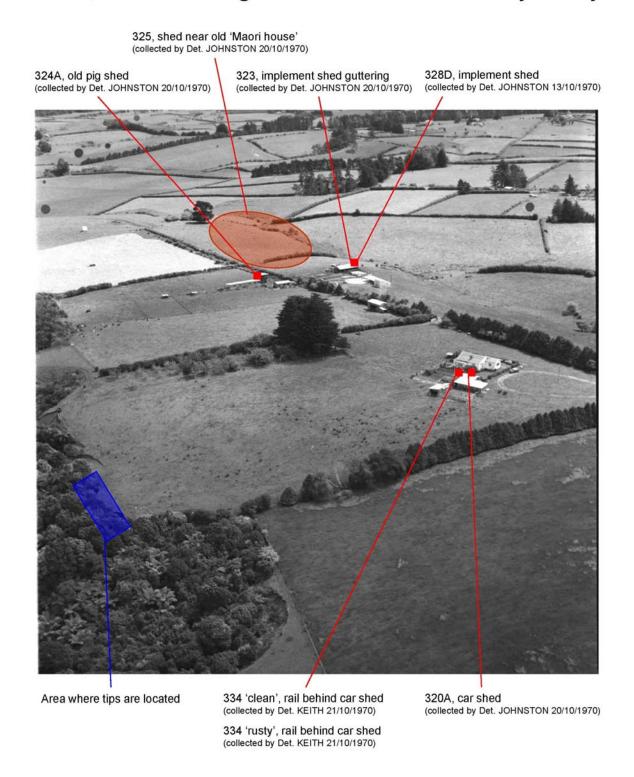
- 1061. On 22 September 1970, Detective PARKES was instructed to seize copper and galvanised wire samples from farms in the vicinity of the CREWE property for comparison tests with wire found on the bodies.
- 1062. Samples were taken from the farms of FOX (Police Exhibit 304), HOSKING (Police Exhibit 305), CHITTY (Police Exhibit 306), PRIEST (Police Exhibit 307) and SPRATT (Police Exhibit 308).
- 1063. A further sample of galvanised wire (Police Exhibit 309) was taken from the tool shed at the CREWE farm on the same day.
- 1064. Detective Inspector HUTTON gave evidence that in total approximately 14 farms were searched for wire. He stated that 11 of these farms had wire of a similar gauge to that found on the bodies.
- 1065. Only 12 farms that were searched for wire are named on the file.
- 1066. Farms searched that did not have wire samples taken included the DUNLOP, EYRE and TONGA farms, and the HAWKER property in Cambridge.
- 1067. Wire samples from the FOX, HOSKING, CHITTY, PRIEST, SPRATT, CREWE and DEMLER farms were delivered to Rory SHANAHAN at the DSIR, Auckland, and then forwarded to Harry TODD, Scientist, Chemistry Division, DSIR Wellington, for analysis.
- 1068. It is unknown why wire of a similar gauge from all 11 farms were not similarly tested, but it is presumed that it was not 16 gauge wire.
- 1069. On 23 September 1970, Harry TODD received these samples and subsequently conducted an analysis.
- 1070. Harry TODD reported that he could not differentiate between the copper wire from Harvey's body and the copper wire from Jeannette's body, indicating that they were from the same source. These copper wires did not match samples of copper wire taken from the CREWE, DEMLER or HOSKING farms.
- 1071. In respect of the galvanised wire, Police Exhibits 288(1) and 288(2), taken from Harvey's body, and Police Exhibit 297 from the bedspread, Harry TODD reported that there was no correlation between these three wires. This indicates that each of these three galvanised wires were of a different composition and came from a different source.
- 1072. Harry TODD stated that these galvanised wires differed significantly from wire samples taken from the FOX, HOSKING, CHITTY, PRIEST, SPRATT, CREWE and DEMLER farms.

- 1073. On 13 October 1970, Detective JOHNSTON, enquiring into the origin of the axle (Police Exhibit 293), visited the THOMAS farm. During his visit he uplifted wire from the property which was later described as being four pieces of wire (galvanised and copper) which were identified as Police Exhibits 328(a), (b), (c) and (d).
- 1074. On 20 October 1970, Detective JOHNSTON accompanied by Detective PARKES, returned to the THOMAS farm. A number of additional wire samples were collected from various places on the farm (Police Exhibits 319 to 327 inclusive).
- 1075. On 21 October 1970, Police returned to the THOMAS farm and under search warrant authority Detective KEITH seized two further samples of wire, which were identified as Police Exhibit 334 'clean' and Police Exhibit 334 'rusty'.
- 1076. On 22 October 1970, Detective KEITH delivered a number of wire samples to the DSIR, Wellington for examination. These were Police Exhibits 320(a), 320(b), 321, 322, 323, 324(a), 324(b), 325, 326, 328(a), 328(b), 328(c), 328(d), 334(clean) and 334(rusty) all seized from the THOMAS farm.
- 1077. Harry TODD found that the copper wire from Harvey and Jeannette's bodies did not match the samples of copper wire taken from the THOMAS farm.

## Body wires match sample wires

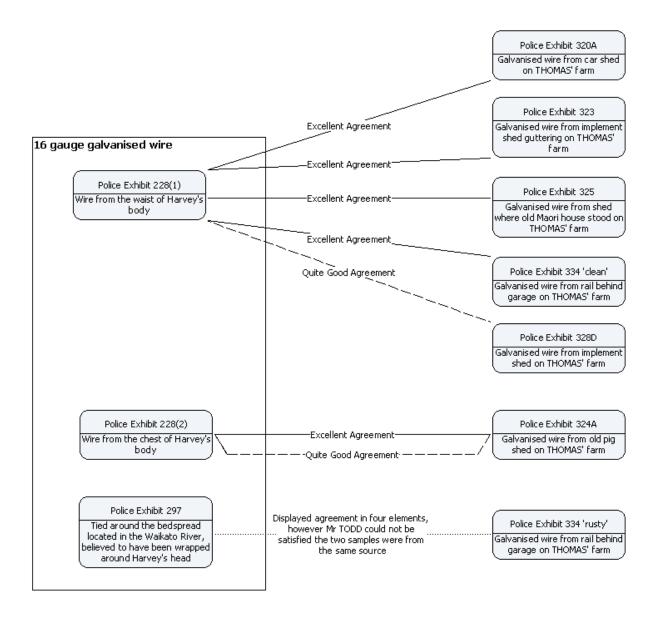
- 1078. Harry TODD conducted an Emission Spectrographic Analysis (also known as Optical Emission Spectroscopy) to ascertain whether the galvanised wires taken from Harvey's body and the bedspread were similar to the samples of galvanised wire taken from the THOMAS farm.
- 1079. As a result of his analysis, Harry TODD concluded that Police Exhibit 288(1) (from Harvey's waist) was in 'excellent agreement' and was indistinguishable from four separate wire samples taken from the THOMAS farm. These were: Police Exhibit 320(a), galvanised wire from a car shed; Police Exhibit 323, galvanised wire from the implement shed guttering; Police Exhibit 325, galvanised wire from a shed where an old 'Maori house' had stood; and Police Exhibit 334(clean), galvanised wire from the rail behind a garage.
- 1080. Harry TODD also concluded that Police Exhibit 288(1) was in 'quite good agreement' with Police Exhibit 328(d), galvanised wire from the implement shed on the THOMAS farm.
- 1081. Furthermore, Harry TODD reported that Police Exhibit 288(2) (from Harvey's chest) was in agreement with Police Exhibit 324(a), a piece of galvanised wire from an old pig shed on the THOMAS farm, to a degree which he placed between 'excellent' and 'quite good'.

# Locations on Arthur THOMAS' farm where wire samples were taken, which are in agreement with wire on Harvey's body



## **CREWE Homicide Investigation Review**

## Harry TODD's Wire Analysis Findings



- 1082. Harry TODD also stated that Police Exhibit 297 (from the bedspread) displayed agreement in four elements with Police Exhibit 334(rusty), galvanised wire from a rail behind a garage on the THOMAS farm. However, Harry TODD stated that he could not be satisfied that Police Exhibits 297 and 334(rusty) had come from the same source.
- 1083. At the first trial in 1971, Harry TODD's evidence was not challenged.
- 1084. In addition to the analysis completed by Harry TODD, Dr NELSON examined the cuts in the wires from the bodies, to ascertain whether the tool used could be identified. He compared these cuts with the tool marks of several pairs of pliers taken from various farms by Police.
- 1085. Dr NELSON reported that corrosion from the immersion of the body wires in water had caused loss of individual characteristic marks on the cuts; thus comparisons were inconclusive.

## Defence testing of wire

- 1086. Five days prior to the commencement of the second trial in 1973, defence counsel, Kevin RYAN, made a formal request for wire samples to be examined by a defence expert.
- 1087. Kevin RYAN requested access to the three wires (Police Exhibits 288, 288(1) and 288(2)) from Harvey's body, the bedspread wire (Police Exhibit 297), five wires (Police Exhibit 320(a), 323, 325, 334(clean) and 328(d)) from the THOMAS farm and samples of galvanised wire which had been taken from the DEMLER farm.
- 1088. On 22 March 1973, defence witnesses Dr SPROTT and Ian DEVEREUX obtained the wire samples. Ian DEVEREUX gave evidence of his examination of the wires at the second trial.
- 1089. Ian DEVEREUX stated that from his analysis, Police Exhibit 288(1) was clearly different to the five samples: Police Exhibits 320(a), 323, 325, 334(clean) and 328(d). He also stated that Police Exhibit 288(2) and Police Exhibit 324(a) were different.
- 1090. Ian DEVEREUX indicated that this was evident when examining the figures he obtained for the copper content of these galvanised wire samples. He stated that these figures left him in no doubt that the galvanised wire samples from the THOMAS farm were different to the galvanised body wires.
- 1091. It appears that Arthur THOMAS' defence team took the matter of wire testing to international experts at the time of the second trial. It was reported, in a letter from Solicitor-General Richard SAVAGE to Deputy Commissioner WALTON, dated 23 December 1976 that Dr SPROTT had been insistent on having the wire exhibits analysed in Australia.

- 1092. Justice Trevor HENRY, who presided over the first trial, stated that Kevin RYAN had told Justice McMULLIN, one of the five Judges who presided over the second referral hearing in 1975, that these Australian tests had confirmed the Crown's evidence.
- 1093. The file does not contain any information regarding analysis of the wire samples in Australia. However, at the time of the RCOI, Robert SMELLIE QC made note of a discussion he had with Rory SHANAHAN. At this time Rory SHANAHAN reported having a vague recollection of Kevin RYAN telling him that the analysis of the wire samples in Australia had confirmed the DSIR findings.
- 1094. On 29 January 2013, Gerald RYAN, who was second counsel with Kevin RYAN during the second trial, told the Review Team that he believed some work was done in Australia regarding the wire. However, he could not recall the exact nature of this, or the results.
- 1095. On 23 May 2013, Ian DEVEREUX told the Review Team that he was unaware of wire samples being sent to Australia for testing and could not see why this would have been necessary.
- 1096. The suggestion that the wire analysis conducted in Australia confirmed Harry TODD's findings is not able to be verified. However, the Review Team note that had the Australian analysis supported Ian DEVEREUX's findings, this would almost certainly have been made public. Furthermore, these findings would almost certainly have been the basis for another appeal against Arthur THOMAS' convictions.
- 1097. Findings of the analysis of wire samples by the defence was reported in media articles in 1973 and 1976. On 10 May 1973, an article appeared in the Rolling Stone magazine, which alleged that wire from the EYRE property had been analysed by Ian DEVEREUX and was found to be in 'exact agreement' with the wires from Harvey and Jeannette's bodies.
- 1098. It is not stated in the article whether the wire analysed was copper or galvanised. The statement that this wire matched that from the bodies of both of the CREWES' indicates this must have been copper wire since Jeannette's body was found with only copper wire attached.
- 1099. In 2013 the Review Team spoke to Ian DEVEREUX and asked him about the alleged 'exact' match between wire from the bodies and wire taken from the EYRE property. Ian DEVEREUX stated "I don't remember that" but said, "...if Jim [Dr SPROTT] said that was the case then I'd accept that that was right."
- 1100. In another newspaper article, featured in the Sunday News dated 4 April 1976, Dr SPROTT was reported to have stated that Harry TODD's analysis of the wires was wrong and that the wire from the bodies did not match that located on the THOMAS farm. The article stated that Dr SPROTT further claimed that he had since analysed a sample of wire which he found to be 'identical' to the wire that was wrapped around the CREWES' bodies.

- 1101. Dr SPROTT reiterated these claims later, during an interview on 25 August 1977 with Assistant Commissioner THOMPSON, Detective Chief Inspector BAKER and Detective Inspector Brion DUNCAN. Dr SPROTT stated that he had received samples of wire identical to the wire used on the bodies and suggested that he knew the source of that wire, which was not from the THOMAS farm. Dr SPROTT was not willing to provide any further information to Police as to the origin of this sample.
- 1102. The Sunday News article reported that the wire which was 'identical' to the body wires taken from a farm in the Pukekawa district was not from the THOMAS farm or the CREWE farm. This sample is believed to have been taken from the EYRE property.
- 1103. An affidavit by John MARTIN dated 10 October 1995, appears to confirm this. John MARTIN stated that he had taken two pieces of copper wire from the EYRES' clothesline and had given these to Richard THOMAS. John MARTIN was aware that these samples were then sent to Dr SPROTT for analysis.
- 1104. Although these allegations were made publicly it does not appear that anything further came from these assertions. Had Dr SPROTT been able to prove that the two wires were 'identical' it is unlikely that he would have kept the origin of this wire to himself and another appeal would likely have been filed based on this information.
- 1105. Evidence relating to these claims was not presented at the RCOI hearings in 1980.

## **Professor FERGUSON's analysis**

1106. In September 2012, Professor FERGUSON was engaged by the Review Team to review and report his findings in relation to the wire exhibits that formed part of the CREWE homicide investigation. (Refer <u>Appendix 12</u>)

Professor FERGUSON was specifically asked to conduct:

- "(a) A review and evaluation of scientific methodology applied by Mr TODD, Scientist DSIR, in the forensic examination of wire samples and the resultant report/s, findings and conclusions.
- (b) A review and evaluation of the evidence presented by Mr TODD in the 1970 Deposition hearing and the 1971 & 1973 High Court Murder Trials of Arthur THOMAS.
- (c) A review and evaluation of the scientific methodology applied by Mr DEVERAUX [sic], in the forensic examination of wire samples and the resultant report/s, findings and conclusions.
- (d) A review and evaluation of the evidence presented by Mr DEVERAUX [sic] in the 1973 High Court Murder Trial of Arthur THOMAS.

- (e) A comprehensive expert report including findings and conclusions that clarify whether the evidence of Mr TODD or Mr DEVERAUX [sic] is preferable and why."
- 1107. Since none of the wire samples from the bodies, nor any wire samples taken from various farms still exist, Professor FERGUSON could not undertake his own analysis of these items.
- 1108. Professor FERGUSON, therefore, reported upon his assessment of the examinations previously completed by Harry TODD and Ian DEVEREUX and their respective findings.
- 1109. Professor FERGUSON reported that both methods of analysis employed, Optical Emission Spectroscopy (OES) by Harry TODD and Atomic Absorption Spectrography (AAS) by Ian DEVEREUX, were suitable for determining elements in steel.
- 1110. Professor FERGUSON stated that while AAS conducted a more accurate analysis, OES could analyse more elements and, in his opinion, was the preferred method.
- 1111. Professor FERGUSON agreed that both Harry TODD and Ian DEVEREUX were entitled to draw the conclusions they did, based on the results of their analysis. He stated:

"The responses by Todd in the [Court] Transcript would indicate he has a sufficient understanding of the metallurgy of steels to appreciate the significance of the elements which make up the composition of steel."

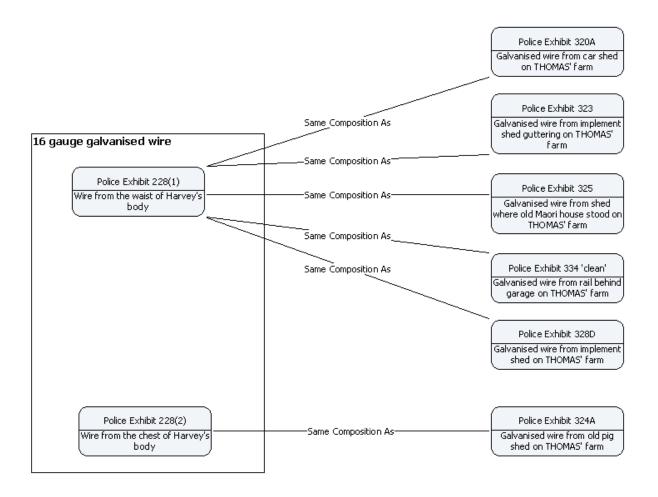
#### Professor FERGUSON also noted:

"Some of the responses by Devereux in the [Court] Transcript would indicate he does not have the same depth of knowledge of the metallurgy of steel as does Todd."

- 1112. Professor FERGUSON questioned the integrity of the data contained in the 'Report of H. J. TODD', referred to in Court (Second Trial Exhibit B17), which compared results of analysis by Harry TODD and Ian DEVEREUX. He noted that this document appeared to have been produced under urgency.
- 1113. Professor FERGUSON noted that Ian DEVEREUX had undertaken tests on 16 gauge galvanised wire unrelated to the CREWE homicides to determine changes in composition along the length of a piece of wire. Professor FERGUSON stated that the composition difference for copper detected in Ian DEVEREUX's analysis was 'significant' and led him to conclude:
  - "...that the composition varies, albeit slightly, along a length of this galvanised steel wire. So that readings in two different locations could be slightly different when determined with a very accurate instrumental method."

## **CREWE Homicide Investigation Review**

Professor FERGUSON's Wire Analysis Findings



- 1114. Professor FERGUSON also referred to international analytical trials conducted by the 'International Organization for Standardization' (ISO), which sought to determine the precision for each element determination when using AAS.
- 1115. Professor FERGUSON stated that when Ian DEVEREUX's results for chromium and copper were examined using the findings of the above trials, there was a 'strong correlation' between the composition of wire from Harvey's body and the wires located on the THOMAS farm.

## Professor FERGUSON stated:

"Thus in the present assessment the findings produced by application of the Reproducibility [bold removed] from the ISO Trial, cannot be ignored. Taking these findings for Devereux's results for chromium, Cr, and copper, Cu, together with his results for nickel, Ni, and Todd's results for C [carbon], Si [silicon], Mn [manganese], Cr [chromium], Cu [copper] and Mo [molybdenum] & V [vanadium], and previous comments on composition comparison in the Report, one would have to conclude with a degree of confidence that, overall, the composition analysis supports the thesis that the respective body wires and farm wires have the same composition."

- 1116. Professor FERGUSON concluded that Police Exhibit 288(1) had 'the same composition', and came from the same heat, as Police Exhibits 320(a), 323, 325, 328(d) and 334(clean) from the THOMAS farm.
- 1117. Similarly, Police Exhibit 288(2) was of 'the same composition', and came from the same heat, as Police Exhibit 324(a) from the THOMAS farm. However, these two wires (Police Exhibits 228(2) and 324(a)) were from a different heat to that of Police Exhibit 288(1).
- 1118. A 'heat' refers to an individual batch of metal as it is treated in a furnace.
- 1119. Professor FERGUSON did not undertake an analysis of the possible agreement between Police Exhibit 297 (from the bedspread) and Police Exhibit 334(rusty) (from the THOMAS farm), as the results of Harry TODD and Ian DEVEREUX's analysis of these wires are not available.

## Significance of wire agreement

1120. Harry TODD raised the point, at the second trial in 1973, as to the significance of his findings with regards to the agreement between wire from Harvey's body and wire located on the THOMAS farm. Harry TODD stated:

"Obviously the wire isnt [sic] made in the sort of lengths it was finally found around the bodies, it will be part of longer lengths, so it really means what is the signific. [sic] of a single piece of this wire turn. [sic] up at any one point I suppose."

- 1121. At the first trial, Harry TODD gave evidence that, assuming there was no wastage, approximately 38 miles (approximately 61.2 kilometres) of 16 gauge steel wire could be made from one melt ('heat').
- 1122. Paul TEMM (Arthur THOMAS' defence counsel at the first trial) suggested that there could be a furnace smelter with a capacity of 300 tons. Harry TODD stated that he had not heard of such a smelting furnace and this seemed to him to be very large, but he did say that this question was not within his field of expertise.
- 1123. During his re-examination by the prosecution, Harry TODD stated that if the 300 ton figure was the size of the entire output from the furnace, this would not all be made into one type (gauge) of wire.
- 1124. That said, it is not possible to establish what portion of the heat from which Police Exhibits 288(1) and 288(2) originated was made into 16 gauge wire.
- 1125. Harry TODD conducted a survey of hardware stores for 16 gauge galvanised wire. The number of stores surveyed, the location of these shops, and the date on which this was undertaken, is unknown.
- 1126. Harry TODD reported to Crown Prosecutor, David MORRIS, that he identified one hardware store which stocked 16 gauge galvanised wire. This shop (unknown name) held 13 coils in stock, each weighing one pound (453.6 grams).
- 1127. Harry TODD indicated that samples from these 13 coils were tested and he found that all 13 coils were of the same composition. He noted that three hardware stores he tried were out of stock.
- 1128. A one pound coil of 16 gauge wire, such as that found by Harry TODD, equates to a coil which is approximately 27 metres in length.
- 1129. As all 13 coils were identified by Harry TODD to be of the same composition, this means that approximately 351 metres of this 16 gauge wire was produced from the same heat. It is highly likely that additional coils of this wire also originated from this heat.
- 1130. Professor FERGUSON explained that a steel maker does not make each heat composition exactly the same; rather they keep within the specification. This allows for some variation in certain elements and maximum or minimum values for others, depending on the specification. Thus, each heat is essentially unique.
- 1131. Pacific Steel Group, which currently produces all fencing wire made in New Zealand, uses 50 (metric) tonne heats. Similarly, in the 1970s New Zealand Steel produced heats ranging between 50 and 55 (metric) tonnes.
- 1132. An estimate from New Zealand Steel is that approximately 2,743 kilometres (1,704 miles) of 16 gauge galvanised wire could potentially be produced from a 50 (metric) tonne heat.

- 1133. This is significantly more that the 38 miles (approximately 61.2 kilometres) suggested by Harry TODD. However, as with Harry TODD, New Zealand Steel agreed that it would be unlikely that an entire heat of steel would be used to make 16 gauge wire.
- 1134. This means that it is possible the wire found on Harvey's body could be 'indistinguishable' from a large quantity of 16 gauge galvanised steel wire.
- 1135. There is no indication in the file as to the measurements of the lengths of galvanised wire which were found wrapped around Harvey's body. Nor are there scales present in photographs of the wire, meaning that an estimation of the lengths of these wires cannot be made.
- 1136. The matter of how much 16 gauge galvanised wire could have been produced in one heat, and therefore be 'indistinguishable' from the wires from Harvey's body, does not appear to have been a significant consideration on the part of either the prosecution or defence at either trial.
- 1137. In his final address to the RCOI, Peter WILLIAMS QC contended that even if the wire samples from Harvey's body and wire samples from the THOMAS farm had come from the same heat, the offender could have taken this wire from the THOMAS farm (which they then used to wrap Harvey's body).
- 1138. Peter WILLIAMS QC also suggested that the offender could have obtained wire from another farm (not the THOMAS farm) which had been produced from the same heat as the wire found on Harvey's body and wire found on the THOMAS farm.
- 1139. The points raised by Peter WILLIAMS QC are accepted as possibilities. However, the significance of Professor FERGUSON's final conclusions would reduce the likelihood of some of these possibilities.
- 1140. Professor FERGUSON determined that wire on Harvey's body was indistinguishable from wire located at the THOMAS farm. This was not only the case for one wire from Harvey's body, but applied to two different wires from Harvey's body which had originated from two distinct heats and possibly three different heats when one considers the level of agreement identified by Harry TODD regarding Police Exhibit 297 (from the bedspread) that was not able to be considered by Professor FERGUSON.
- 1141. It is also important to note that apart from wire found at the THOMAS farm, none of the wire that came from the other farms identified had any correlation with the wire found on Harvey's body.
- 1142. The RCOI concluded, at paragraph 265:
  - "(a) Samples of wire were collected from only nine farms in the area. Such a limited sample cannot be said to be helpful in establishing anything. Even if wire from the bodies were to be accepted by us as similar to wire samples from the Thomas farm, who is to say whether or not there are other farms in the vicinity with wire of similar characteristics?

## **Chapter 9 – Wire Collection and Analysis**

- (b) In the face of conflicting expert evidence and opinion as to which method is best suited to this examination and whether or not the differences in the measurements are significant, we consider that it is not possible fairly to adopt one view or the other.
- (c) In any case it is not possible to draw any inference which would connect Mr Thomas with the wire on the bodies. There is no evidence putting the wire in his hands."
- 1143. The RCOI referred to nine farms. As previously noted, the investigation file contains information of analysis of samples of wire from only eight farms.
- 1144. Whilst the number of farms from which wire samples were taken is small, it is of significance that the wire found around Harvey's body only matched wire located on the THOMAS farm and that these matches were indistinguishable.
- 1145. In response to sub paragraph 'c' of the RCOI report (above), the Review Team accept that there is no evidence putting the wire from Harvey's body in Arthur THOMAS' hands or anyone elses.
- 1146. It is further accepted by the Review Team that this strand of circumstantial evidence applies to anyone who had sufficient access to the THOMAS farm.

### **Forensic opportunities**

1147. Professor FERGUSON's review and analysis represents the extent to which the wire exhibits can be reassessed, due to the fact that the wire samples were among exhibits disposed of on 27 July 1973 at the Whitford Tip.

#### Conclusion

- 1148. In 1970, Harry TODD identified that the two galvanised wires (Police Exhibits 288(1) and 288(2)) found wrapped around Harvey's body, originated from different sources. The two Police exhibits matched wire located on the THOMAS farm. A third piece of galvanised wire (Police Exhibit 297) wrapped around the bedspread that was at some stage around Harvey's head (and found with his body), matched other wire located on the THOMAS farm.
  - (i) Harry TODD stated that the wire from Harvey's waist (Police Exhibit 288(1)) was in 'excellent agreement' and was in fact 'indistinguishable' from four separate wire samples (Police Exhibits 320(a), 323, 325 and 334(clean)) from the THOMAS farm. In addition, Police Exhibit 288(1) was in 'quite good agreement' with a fifth piece of wire (Police Exhibit 328(d)) from the THOMAS farm.

## **Chapter 9 – Wire Collection and Analysis**

- (ii) Harry TODD identified that the wire from Harvey's chest (Police Exhibit 288(2)) was in agreement with a sixth piece of wire (Police Exhibit 324(a)) from the THOMAS farm, which Harry TODD placed between 'excellent' and 'quite good' agreement.
- (iii) Harry TODD also found that the bedspread wire (Police Exhibit 297) displayed some agreement with a seventh piece of wire (Police Exhibit 334 (rusty)) from the THOMAS farm, but he could not be satisfied that the two wires came from the same source.
- (iv) In 2013, Professor George FERGUSON, from the Department of Engineering at Auckland University, concluded that Police Exhibit 288(1) had 'the same composition' and in fact came from the same 'heat' as Police Exhibits 320(a), 323, 325, 328(d) and 334(clean) from the THOMAS farm.
- (v) Professor FERGUSON stated that Police Exhibit 288(2) was of 'the same composition' and had come from the same 'heat' as Police Exhibit 324(a) from the THOMAS farm.
- 1149. A piece of wire found on Harvey's body to be from the same 'heat' as a sample of wire located at the THOMAS farm is a significant piece of circumstantial evidence.
- 1150. Two pieces of wire were identified as being from the same 'heat' (but different from each other) as samples of wire located on the THOMAS farm. This represents highly significant circumstantial evidence. When viewed in concert with other exhibits linked to the THOMAS farm, namely Arthur THOMAS' Browning rifle (Police Exhibit 317), the Nash axle (Police Exhibit 293) and corresponding stub axles (Police Exhibits 330 and 331), this evidence tends to significantly lessen the possibility of coincidence.
- 1151. No wire located on, or with, Harvey or Jeannette's bodies matched wire taken from any of the seven other farms tested.
- 1152. The assertion that Ian DEVEREUX identified wire that was in 'exact agreement', and Dr SPROTT's claims that he had identified a wire sample that was 'identical' to the copper wire from Harvey and Jeannette's bodies, are highly improbable. No evidence has been produced by these people to support their claim.
- 1153. The wire sample collection phase is not well documented in the investigation file, and it is unclear whether an individual Police Officer was tasked with completing this.

**END** 

## **CHAPTER 10**

### The Axle (Police Exhibit 293)

A full analysis of this topic has been undertaken and is addressed in Appendix 1

### Introduction

- 1154. On 16 September 1970, Harvey's body was located in the Waikato River by Constable WYLLIE and Police diver Constable H. MILLER. The circumstances surrounding the recovery of the body have been outlined in Chapter 6 of this report.
- 1155. During the recovery of the body, Detective Inspector HUTTON stated that he placed his hand in the water under the body and described feeling an iron object. This object disappeared when Constable SPENCE put strain on the wire around the body causing it to snap. The body then rolled free and loaded easily into the cradle.
- 1156. Once the body was removed from the water, Constable SPENCE commenced an underwater search beneath where the body had been. Six feet directly below, a metal car axle was located. This axle became Police Exhibit 293.
- 1157. The axle weighed 17 kilograms and was 1.29 metres in length.
- 1158. On 18 September 1970, Clifford BOYD, Technical Officer with New Zealand Industrial Gases Ltd., identified that the axle was made of cast steel and had probably been used on a trailer. He observed that one end of the axle contained a king pin while the other did not. Clifford BOYD stated that the axle contained metallic arc welds and a cut had been made with an oxyacetylene cutting torch on the end of the axle which had the king pin still in place.
- 1159. On 21 September 1970, James GROUT, Industrial Technologist and Chemist, with some 45 years' experience in industrial technology, viewed the axle at the Otahuhu Police Station. James GROUT provided a report to Police on 22 September 1970, regarding his observations.
- 1160. James GROUT reported that the axle assembly showed signs of three types of corrosion, one of which was clearly evident on the spring platform near the remaining king pin and was consistent with corrosion that would be associated with copper wire having been wrapped around the axle at this point.
- 1161. James GROUT noted that the corrosion present appeared to be very gentle, but widespread and was likely to have developed over a lengthy period. He concluded that the axle assembly had been immersed in the river for a relatively lengthy period of time and commented that the period of three months that it was presumed the axle had been in the river would be consistent with the axle's condition.

### **Identifying axle**

- 1162. On 18 September 1970, the local rural investigator, Detective Lenrick JOHNSTON, joined the CREWE homicide investigation team. He was assigned the task of trying to establish the origin of the axle found underneath Harvey's body.
- 1163. That evening, Detective Sergeant JEFFRIES appeared on a regional television news programme with the axle. Detective Sergeant JEFFRIES pointed out various aspects of the axle, such as welding and cutting. He appealed to any member of the public who could assist in the identification of the origin of the axle to contact the Otahuhu Police Station.
- 1164. Photographs of the axle, including a close up of the king pin, were published in the New Zealand Herald on 19 September 1970. The accompanying article appealed for anyone who may have owned such an axle, or who had above average knowledge of old vehicles, to contact the Otahuhu Police Station.
- 1165. Throughout the course of these enquiries, over 270 people throughout the country were either approached by Police or contacted Police regarding the origin of the axle.
- 1166. On 19 September 1970, Detective JOHNSTON approached David KERUSE on the recommendation of members of a Vintage Car Club. At the time, David KERUSE was restoring a 1928 or 1929 Nash Standard Six 420 series vehicle. Police Exhibit 293, the axle found beneath Harvey's body, was compared with the axle on David KERUSE's Nash vehicle. These were found to be identical and this was confirmed by the matching part number 17600 that appeared on both axles.
- 1167. David KERUSE referred Police to Trevor SIMONS, who owned a similar vintage car and was in possession of a parts manual for it. The following day, Trevor SIMONS was approached by Police and an inspection of the manual confirmed the part number for the front axle of that Nash vehicle was indeed 17600.

### Origin of axle

- 1168. On 19 September 1970, Charles SHIRTCLIFFE contacted Police and stated that in about 1956 he had purchased the front assembly of a 1928 Nash vehicle. From this he had built a trailer. This trailer was first registered on 10 December 1956.
- 1169. Charles SHIRTCLIFFE stated that in either 1956 or 1957 he sold the trailer to an unknown man who worked at the Meremere Power Station. He said eighteen months to two years later a farmer visited him at work asking him to sign a change of ownership paper for the trailer. It transpired that the person to whom Charles SHIRTCLIFFE originally sold the trailer had not changed the ownership details and had now on-sold the trailer.

- 1170. This information was forwarded to the investigation team and as a result, on 28 September 1970, Detectives JOHNSTON and PARKES interviewed Charles SHIRTCLIFFE at his home in Te Puke. The axle was shown to him, however, he was unable to confirm that this was the same axle as had been on his trailer.
- 1171. Charles SHIRTCLIFFE provided Police with a photograph of the trailer being towed by a Nash motor vehicle he previously owned.
- 1172. This photograph was published in the New Zealand Herald on 10 October 1970, with a description of the trailer and circumstances around its sale. In the article Detective Inspector HUTTON appealed for the man working at the Meremere Power Station who purchased this trailer to contact Police. Detective Inspector HUTTON stated that Police wanted to identify this trailer as part of the elimination process.
- 1173. On 11 October 1970, Patricia WHYTE contacted Police stating that she and her husband Gordon WHYTE, had previously owned a trailer similar to the one sought. In 1957, Gordon WHYTE was employed as a carpenter at the Meremere Power Station construction site and had purchased the trailer from Charles SHIRTCLIFFE. The couple told Police that having no further use for the trailer they sold it in about March 1959.
- 1174. On 13 October 1970, after seeing the photograph of Charles SHIRTCLIFFE's car and trailer in the paper, Heather COWLEY, Charles SHIRTCLIFFE's step-daughter, contacted Police. Heather COWLEY told Police that she remembered 'Mr THOMAS' of Mercer Ferry Road, Pukekawa, calling to see her step-father about change of ownership papers for the trailer. She could not remember THOMAS' first name, but knew he had a large family and one of his daughters was Margaret THOMAS. Heather COWLEY said she had also seen her step-father's trailer parked at the gate of the THOMAS farm when she had travelled past in the school bus.
- 1175. As a result of these enquiries it was established that after Charles SHIRTCLIFFE built the trailer in 1956, it was sold to Gordon WHYTE in about 1956 / 1957. In March 1959, WHYTE sold the trailer to Allan THOMAS of Mercer Ferry Road, Pukekawa.
- 1176. Subsequent to these initial enquiries, a cheque butt belonging to Allan THOMAS indicated that the trailer was purchased on 20 March 1959, by Allan THOMAS.
- 1177. When the link to a trailer owned by Allan THOMAS was established, members of the THOMAS family were spoken to by Police to ascertain what had become of the trailer and its axle.
- 1178. Arthur THOMAS was the first to be shown the axle (Police Exhibit 293) on 13 October 1970 by Detective JOHNSTON and another Police Officer. Arthur THOMAS commented that he had never seen the axle before and indicated that the only axle on his farm was in the farm's tip and had wheels attached to it. This axle (with attached wheels) was shown to Detective JOHNSTON who determined that it did not relate to the inquiry.

- 1179. Arthur THOMAS was shown the photograph of Charles SHIRTCLIFFE's car and trailer and stated that the trailer looked similar to his father's. Arthur THOMAS acknowledged that he had seen this photograph in the newspaper and thought his father would have contacted Police about it.
- 1180. On 14 October 1970, Detective PARKES and Detective JOHNSTON visited Allan THOMAS' Matakana home. Allan THOMAS was shown the axle but could not say that this had come from his trailer. Allan THOMAS stated that as far as he could recall, the old trailer (built by Charles SHIRTCLIFFE) was left on the Mercer Ferry Road farm when he moved to Matakana in 1966.
- 1181. Allan THOMAS further commented that he thought this was left down by the old cow shed on the property. Allan THOMAS advised that Roderick RASMUSSEN, of Meremere, had built him a new trailer which was the only trailer (apart from a horse trailer) that he now owned.
- 1182. Roderick RASMUSSEN was a mechanic / welder, who (in 1970) worked for Aitkenhead & Sons Ltd., Pokeno Valley, and in 1965 had constructed trailers in his spare time.
- 1183. Allan THOMAS' wife, Ivy THOMAS, informed Police that she had no idea what happened to the trailer and had no recollection of trailer parts lying around the Mercer Ferry Road farm.
- 1184. Allan THOMAS' sons, Richard and Lloyd THOMAS, were also spoken to by Police on 14 October 1970 regarding the whereabouts of this trailer. At this time Richard THOMAS stated that he did not recognise the axle and was unable to say whether or not it was similar to the axle on his father's trailer.
- 1185. Richard THOMAS disclosed that he did not remember any old axles or trailers lying around the Mercer Ferry Road farm. He remembered taking his father's trailer to Meremere for repairs on a couple of occasions.
- 1186. He said that the man who repaired the trailer was the same person who later made the trailer which Allan THOMAS currently owned. This person was Roderick RASMUSSEN.
- 1187. Richard THOMAS stated that he thought this trailer, which had been taken to Meremere for repairs, was later left on the THOMAS farm at Mercer Ferry Road when his father acquired his current trailer.
- 1188. On 15 October 1970, Detective JOHNSTON, in the company of Arthur THOMAS, searched the area around the old cow shed (implement shed) on the Mercer Ferry Road farm where Allan THOMAS suggested he left the trailer. Neither the trailer nor any parts from the trailer were found.
- 1189. Detective JOHNSTON did, however, take possession of two pieces of hardwood, 3x3 and 2x3 (Police Exhibit 359), from a garage on the property. Detective JOHNSTON noted that this wood could have been part of the old trailer.

- 1190. Arthur THOMAS said he did not know the origin of these two pieces of wood, but said that one, namely the piece of 3x3, could have been a cross bar from a power pole.
- 1191. Charles SHIRTCLIFFE was shown these two pieces of wood (Police Exhibit 359) on 24 October 1970. He identified the piece of 3x3 as the draw bar he had fitted to the trailer he built, but stated that the piece of wood had been shortened. Charles SHIRTCLIFFE was able to identify this as:
  - "...the hole at one end has be [sic] elongated in the same way as the draw-bar on the trailer I had. My draw bar was moving on the rear bolt and this caused it to elongate."
- 1192. Charles SHIRTCLIFFE gave this evidence at the deposition hearing in December 1970, the first trial in 1971 and second trial in 1973.
- 1193. Roderick RASMUSSEN had been shown the axle by Detective JOHNSTON on 12 October 1970 as part of his enquiries to identify the origin of the axle. Detective JOHNSTON recorded in a Police jobsheet that at this time Roderick RASMUSSEN was unable to recall the axle, but confirmed that the method used to cut one end of the axle was similar to the way he used to remove stub axles.
- 1194. On the morning of 15 October 1970, Detective JOHNSTON again visited Roderick RASMUSSEN. Detective JOHNSTON informed him that the trailer that once belonged to Charles SHIRTCLIFFE had later been owned by Allan THOMAS. Roderick RASMUSSEN said that after the name 'THOMAS' had been mentioned to him he recalled building a trailer for Allan THOMAS.
- 1195. Allan THOMAS stated that Roderick RASMUSSEN put a new axle, wheels, draw bar and metal frame on his trailer, but that no woodwork was altered at this point.
- 1196. Roderick RASMUSSEN described the work he did on Allan THOMAS' trailer in more detail. While giving evidence he stated that after he received the trailer, it was turned upside down and the wheels were removed.
- 1197. He undid the U bolts instead of gas cutting them so they could be reused and lifted the axle assembly from the trailer. He made a new tubular drop axle from a straight piece of boiler tubing, which he attached back on to the springs using the original U bolts.
- 1198. Roderick RAMUSSEN said he fitted Vanguard hubs and stubs and Zephyr wheels to the trailer. He also replaced the hardwood drawbar with a steel tubular one with a modern steel coupling, however, aside from this did not remove any other timber from the trailer.
- 1199. The cheque Allan THOMAS used to pay Roderick RASMUSSEN for this work was produced at the RCOI (RCOI Exhibit 136). It was dated 19 July 1965 and was for the value of £30-0-0.

- 1200. Roderick RASMUSSEN stated that about one week after he had carried out the alterations, Allan THOMAS' trailer was returned to him to be repaired. Roderick RASMUSSEN stated that the trailer had been overloaded, causing the new axle to bend.
- 1201. He stated that when he made the initial alterations he had left the springs in the original position, which was not far enough apart. Roderick RASMUSSEN stated that the mistake had been mostly his so he repaired the trailer for material costs only.
- 1202. Roderick RASMUSSEN said he straightened out the axle, repositioned the springs closer to the wheels and put in two new steel runners made of boiler tube. He said he would have charged Allan THOMAS about £3 for this job.
- 1203. Allan THOMAS corroborated this version of events and this was consistent with a cheque issued on 30 August 1965 for £3.10.6 from Allan THOMAS' cheque account. A notation on the cheque butt read "R. RASMUSSEN, trailer repair."
- 1204. In a statement dated 24 October 1970, Roderick RASMUSSEN told Police that in the hope that the parts he had removed from the trailer (during the first alteration) would be left with him he:
  - "...had cut the stub from one axle side the other was easily removed by knocking the king-pin out. I would have cut the right hand one off with the gas cutting torch."
- 1205. In the same statement he went on to say:
  - "Mention was made of the old parts unused by me on the new assembly. Instead of leaving them there, [Richard] THOMAS took them home. I would not have bought them as they were of little value in the state they were in. Therefore [Richard] THOMAS took them back with him. He would have left nothing behind from the original assembly."
- 1206. This statement is consistent with what Roderick RASMUSSEN told Detective JOHNSTON on 15 October 1970 when he stated:
  - "...from memory he said that the axle, the stubs, wheels and hubs would have been returned to [Richard] THOMAS and these would have been loaded on to the new trailer."
- 1207. Roderick RASMUSSEN further stated that the axle itself would have been of no use to him for work on other trailers and, if he had kept the axle, he would have subsequently dumped it in the Meremere Tip.
- 1208. Roderick RASMUSSEN maintained this position throughout the deposition hearing, first trial, second trial and RCOI.
- 1209. In a statement to Police dated 22 October 1970, Richard THOMAS confirmed that he had uplifted the reconditioned trailer from Roderick RASMUSSEN. He went on to say:

"I cant [sic] remember if I brought back the bits of the old trailer. If the wheels are back on the farm it is probable that I brought all the old trailer back."

- 1210. Richard THOMAS did not give evidence on this matter until the RCOI in 1980. At this time Richard THOMAS said that he did not remember taking the old trailer parts home with him from Roderick RASMUSSEN, or ever seeing them on the Mercer Ferry Road property. Richard THOMAS stated he felt sure he would remember if he had taken the parts back.
- 1211. In a statement to Police dated 22 October 1970, Allan THOMAS said:
  - "I do not know what happened to the old wheels and axle taken off the trailer by RASSMUSSEN [sic]."
- 1212. Allan THOMAS stated that he had no recollection of these parts being on the farm but said:
  - "If the wheels off the trailer are back on the farm I would think that all the parts came back unless someone wanted any but I can't remember anyone asking for or being given any of it."
- 1213. Allan THOMAS did not give evidence at the deposition hearing or the first trial; however, at the second trial he again stated that he did not know what happened to the axle assembly that had been on his trailer prior to the alterations. He said:
  - "I dont [sic] recall ever seeing that axle stripp. [sic] down or any parts off it back on my pty [sic]."
- 1214. This sentiment also featured in affidavits dated 24 May 1972 and 10 October 1972 signed by Allan THOMAS. In these documents Allan THOMAS stated that after the trailer had been altered by Roderick RASMUSSEN:
  - "...I have never seen the original axle and parts and do not recall seeing them on my farm property..."

#### Stub axles and other trailer parts located

- 1215. On 20 October 1970, Detective PARKES and Detective JOHNSTON visited the THOMAS farm (Mercer Ferry Road) to collect further samples of wire. Whilst at the property, Detective JOHNSTON recorded that a search was made of the rubbish tip.
- 1216. A spade was obtained from Arthur THOMAS and the upper portion of the tip was dug over. Two stub axles (Police Exhibits 330 and 331) were located about one foot apart. Although Detective JOHNSTON stated, "A thorough search of the tip was made by Det. Sgt. PARKES and myself...", he went on to say that "...owing to lack of suitable clothing we were unable to examine the tip as properly as we would have liked to."
- 1217. Detective JOHNSTON and Detective PARKES left the THOMAS property in possession of the stub axles without Arthur THOMAS being made aware that these items had been found, or that they were being removed from the property.

- 1218. At the second trial in 1973, Detective Senior Sergeant PARKES stated that on 20 October 1970, after the stub axles were located on the THOMAS farm tip, he and Detective JOHNSTON went to the CREWE property. There they used the outside tap to wash the excess dirt off the stub axles. This was confirmed by Detective JOHNSTON during his evidence.
- 1219. On 21 October 1970, Rory SHANAHAN inspected the axle (Police Exhibit 293) and two stub axles (Police Exhibits 330 and 331) at the Auckland Central Police Station. Present were Detective Superintendent ROSS, Detective Inspector HUTTON, Detective Sergeant DEDMAN and two photographers (one of whom was Constable STEVENS).
- 1220. Rory SHANAHAN concluded that he was in no doubt both stub axles had previously been attached to the axle. He explained that this opinion was based on the points of fracture, and fine markings over the fracture, in welding visible on both the axle and stub axles. Rory SHANAHAN explained:

"The separation of one wheel assembly [stub axle] appeared to have been effected by using a combination of an oxy-acetylene flame and hammer blows, or a similar action, while the separation of the other wheel assembly appeared to have been effected solely by hammer blows. At each point of separation there were jagged fracture lines."

- 1221. Defence witnesses, Scientist Professor MOWBRAY and Scientist Dr SPROTT, and DSIR Scientist Dr MILLER also examined the axle and stub axles. They agreed with Rory SHANAHAN's findings that the stub axles had, at some point, been welded to the axle.
- 1222. Professor MOWBRAY, however, pointed out that this did not mean the axle and stub axles had necessarily been together since being fitted to the original Nash motorcar. He stated:

"It is perfectly possible that the stub axles and axle came from independent sources and were welded together at a later date."

- 1223. Allan THOMAS acknowledged to the RCOI that he could identify Police Exhibit 331 as one which had been on his trailer. He was able to do this as he had replaced the studs on this stub axle with SAE studs which were slightly larger than standard studs.
- 1224. On 21 October 1970, Detective Sergeants TOOTILL and SEAMAN, Detectives PARKES, BAILEY and KEITH, Detective Constable WOOD and Constable PANOHO visited the THOMAS farm to execute a search warrant. The purpose of the search was to locate and / or identify: reading material, diaries kept by Arthur THOMAS, jewellery, handbag and brush and comb set as described in the burglary file relating to the CREWE house in 1967, correspondence from Jeannette or the DEMLER family, firearms, ammunition, signs of rifle practice with a .22 rifle, empty .22 cartridge cases and Arthur THOMAS' car and trailer for examination.

- 1225. Detective PARKES, Detective Constable WOOD and Constable PANOHO were directed to search the tip on the farm. Constable ARNOLD, a Police photographer, was also present.
- 1226. A Police jobsheet by Detective Sergeant PARKES explained that there were three tips on the THOMAS farm, which were designated 1, 2 and 3.
- 1227. Tip number '1' was the right hand tip facing east and was the tip in which the stub axles had been found the previous day. Tip number '2' was the centre tip and the oldest one. Detective PARKES noted that the rubbish there appeared to have been dumped in two periods, as one lot appeared much older than the other. Tip number '3' was the left hand tip.
- 1228. Detective PARKES directed the searchers to retain any motor vehicle parts found. They started at the bottom of the tip and raked all rubbish down behind the line of the search.
- 1229. Just after 12:00 noon, Detective Constable WOOD located "...a spilt rim which would fit an old type motorcar wheel" in tip number '1'. This was found "...about three-quarters down the face of the tip covered by rubbish and over-burning."
- 1230. At about 2:30pm, Constable PANOHO located "...one solid steel wheel assembly minus the tyre and split rim" in tip number '1'. This was found "...half way up the slope of the tip buried under about 9" of topsoil and other articles."
- 1231. These two items were collectively labelled Police Exhibit 393.
- 1232. A draw bar coupling (Police Exhibit 434) was also located in tip number '1' by Detective PARKES, however, no description was given concerning its exact location in the tip.
- 1233. Charles SHIRTCLIFFE identified the draw bar coupling (Police Exhibit 434) as the same type of coupling that he had attached to the trailer.
- 1234. This was supported by Gordon WHYTE and Allan THOMAS, who said that Police Exhibit 434 was the same type of coupling that had been attached to the trailer when they owned it.
- 1235. Detective KEITH, who was searching outbuildings on the property, located a wheel (Police Exhibit 394) similar to that found in the tip, behind a garage on the farm.
- 1236. Roderick RASMUSSEN recalled one of the wheels on the trailer had washers welded to the stud holes and identified that Police Exhibit 394 was 'definitely' this wheel. He observed that this had been done because at some point the wheel had been loose and had moved around on the studs, causing the stud holes to elongate. He recalled that washers had been welded on to the wheel to reduce the size of the holes and stop the wheel moving about on the studs.

- 1237. He observed that the studs had at some stage been replaced, as they were not the original studs fitted to the hub.
- 1238. At the first trial in 1971, Roderick RASMUSSEN explained that whoever welded the washers on to the wheels did not do the job properly. He presumed that when they had tried to fit the wheel back on it would not fit, which explained why a stud was missing from one hub.
- 1239. Later, at the second trial in 1973, Roderick RASMUSSEN elaborated on this point by explaining that one of the washers may have been welded in position slightly off centre and said that one stud had been removed to make the wheel fit.
- 1240. The notion that the stub axles were previously fitted to the Allan THOMAS trailer was further supported by the fact that Police Exhibit 330 (right hand stub axle) found by Detective JOHNSTON on Arthur THOMAS' tip, only had three studs (rather than four).
- 1241. Evidence was given at the RCOI that Police Exhibit 394 (wheel located by Detective KEITH on the THOMAS farm) did fit this stub axle, but because of the washers welded to it, it would not fit the left hand stub axle (Police Exhibit 331).
- 1242. During the search on 21 October 1970, Detective Sergeant TOOTILL located an 'Auckland Farmers Freezing Company notebook' for the year 1965 / 1966 inside the house on the floor of the scullery, in a box of accounts. Detective Sergeant TOOTILL commented that the only entry of note in this book was "RASMUSSEN, Meremere car trailer phone 707 Mercer."
- 1243. On 22 October 1970, Detective Sergeant TOOTILL returned to the THOMAS farm with Detective BAILEY, Detective Constable WOOD and Constable PANOHO to complete the search of the tip. Detective Sergeant TOOTILL noted that the only items of interest located were two trailer registration plates 'R3-402' and 'R11-052' (Police Exhibit 338). Both plates were found in tip number '2'.

# Other theories put forward

1244. There have been a number of theories proffered as to the provenance of the axle. The various theories put forward are addressed below.

#### Theory one

#### The axle removed from Allan THOMAS' trailer was not returned to the THOMAS farm

1245. During the second trial in 1973, one of the theories put forward by defence counsel was that Roderick RASMUSSEN retained possession of all trailer parts removed from Allan THOMAS' trailer after he completed the alterations in July 1965.

- 1246. Roderick RASMUSSEN remained steadfast during all interviews with Police and throughout all Court proceedings, including the RCOI, that all of the parts that he removed from Allan THOMAS' trailer were loaded on to the trailer and were returned to Richard THOMAS.
- 1247. This assertion was supported by the finding of a number of parts that had been removed from the trailer by Roderick RASMUSSEN at the same time the axle was removed, and which had been returned to the THOMAS farm.
- 1248. Members of the THOMAS family, in contrast, were initially quite uncertain as to what happened to these parts, but became increasingly confident as to their position over time.
- 1249. At the RCOI, for the first time, Allan THOMAS stated that after a discussion with Roderick RASMUSSEN about the trailer it was arranged that Roderick RASMUSSEN:
  - "...wd [sic] make me a complete new axle assembly and that te [sic] old axle assembly wd [sic] be traded in and that got the price down to 30 pounds."
- 1250. Allan THOMAS said he did not remember a discussion about the price if there was not a trade-in. He said the wheels and tyres from his trailer were included in the trade-in and were probably the most valuable part as the tyres were 'virtually new'.
- 1251. When Allan THOMAS was asked why he did not include details of the alleged trade-in agreement with Roderick RASMUSSEN in his affidavit dated 24 May 1972, he stated:
  - "I think it was a little bit later, that I gathered enough strength from studying what had happened, I became sure, that the only reason either I or member [sic] of my family saw any of those parts again, after Mr Rasmussen cut them up was because they never came back on to our property."
- 1252. During his evidence before the RCOI, Allan THOMAS stated that when Richard THOMAS brought the trailer back to the farm after the first alteration by Roderick RASMUSSEN, he (Allan THOMAS) 'tested it' by placing all his weight on the running boards on one side. Allan THOMAS stated that he could not remember anything being in the trailer when he did this and said that had there been an axle and two stub axles in the trailer he would have noticed them. He further commented that if these items had been in the trailer he would have been surprised, as they were not supposed to be returned to him.
- 1253. At the RCOI, Roderick RASMUSSEN stated a number of times that there was no such agreement as had been alleged by Allan THOMAS, nor had there been any discussion between himself and Allan THOMAS concerning what would happen to the parts removed from the trailer. Roderick RASMUSSEN stated that the old stub axles from Allan THOMAS' trailer were not of any great value in their condition, but if they had been left behind (at no cost to Roderick RASMUSSEN) he would have accepted them.

- 1254. This differs from previous statements to Police dated 22 October 1970, by both Allan THOMAS and Richard THOMAS which stated that if the wheels from the trailer were on the THOMAS farm, it was likely that all the trailer parts were returned.
- 1255. Two wheels (Police Exhibits 393 and 394) consistent with coming from the trailer in question were found on the THOMAS farm.
- 1256. It is noted that one of the wheels was consistent with the description given by Roderick RASMUSSEN as that which had been fitted to Allan THOMAS' trailer.
- 1257. As reported earlier, Charles SHIRTCLIFFE identified the piece of 3x3 hardwood located in a garage on the THOMAS farm as being the original draw bar from the trailer he made.
- 1258. Charles SHIRTCLIFFE's description and evidence provides a strong circumstantial link between the 3x3 length of timber that was originally attached to his trailer and that which was found on the THOMAS farm.
- 1259. This, together with the disc wheels located on the THOMAS farm, provides strong support for the contention that all parts Roderick RASMUSSEN removed from the trailer, including the axle, were returned to Richard THOMAS.
- 1260. The RCOI did not agree with this and preferred the evidence of Allan THOMAS over that of Roderick RASMUSSEN.
- 1261. In doing so, the RCOI must have accepted that an agreement had been reached between Allan THOMAS and Roderick RASMUSSEN for him (RASMUSSEN) to retain possession of the parts that he had removed from the trailer as part-payment for the work he was completing.
- 1262. The Review Team consider that it is illogical to think that there was a discussion between Roderick RASMUSSEN and Richard THOMAS concerning the return of the axle and other trailer parts, if the axle and wheels represented part of the original verbal contract that had been negotiated between Allan THOMAS and Roderick RASMUSSEN.
- 1263. The matter of whether or not Richard THOMAS wanted these trailer parts back simply would not have occurred.
- 1264. The RCOI accepted Allan THOMAS' evidence that the wheels located by Police were likely to have been wheels discarded during the life of the trailer on the THOMAS farm.

### Theory two

Police Exhibit 293 was returned to the THOMAS farm by Roderick RASMUSSEN, but was taken by a group of local men

- 1265. During the second trial, the defence also called evidence to suggest that an axle had been removed from the THOMAS farm by a group of men in 1965 and it was inferred that this could have been the same axle that had been removed from Allan THOMAS' trailer.
- 1266. Defence counsel called two witnesses to give evidence on this matter.
- 1267. One of whom, John MARTIN, told the Court that in August 1965, he had been at the THOMAS property with Bruce EYRE and a person recorded on the trial transcript as "...? Eyre." While giving evidence on this matter at the RCOI in 1980, it was established that the reference to "...? Eyre" was in fact Desmond EYRE.
- 1268. John MARTIN's evidence-in-chief consisted of six questions which included this exchange:
  - Q "What were you doing?"
  - A "We picked the axle up lying underneath the hedge there."
  - Q "What sort of an axle?"
  - A "I cldnt [sic] tell you on that."
- 1269. In response to two further questions, John MARTIN disclosed that he was at the THOMAS farm getting ready to tow a broken down old V8 Ford motor vehicle from the property.
- 1270. Bruce EYRE, the second witness called by the defence, confirmed that he was also at the property to pick up his old 1932 Ford V8. He was asked whether or not he had removed anything else from the property. He said:
  - "Yes I took 2 lengths of 3  $\times$  2 and a length of milk. line pipe, a vacuum pipe for milk. tubes."
- 1271. Bruce EYRE was asked whether he had taken anything else. He said, "Not that I can definitely state."
- 1272. During 1977, Bruce EYRE, John MARTIN, Trevor SALMONS, Robert HILLS and David BREWSTER signed affidavits outlining their knowledge of the removal of an axle from the THOMAS farm.
- 1273. Desmond EYRE, who was allegedly present, did not produce an affidavit. In 1979 he was interviewed by Police concerning the affidavits referred to above. Desmond EYRE said that he had been approached by Richard THOMAS and Bruce EYRE concerning this incident, but he could not recall the event.

- 1274. The evidence of John MARTIN and Bruce EYRE strengthened between the second trial in 1973 and when they gave evidence at the RCOI in 1980.
- 1275. John MARTIN gave evidence at the RCOI that he could not say exactly that it was the same axle, but it was similar (to Police Exhibit 293).
- 1276. Likewise, Bruce EYRE gave evidence that he could recall the axle that they removed and that it was similar to Police Exhibit 293.
- 1277. The Review Team conclude that evidence of John MARTIN and Bruce EYRE, and the others who made affidavits about this matter, are unconvincing in establishing that the Nash motor vehicle axle that had originally been removed from the THOMAS trailer by Roderick RASMUSSEN was the same as one allegedly removed from the THOMAS farm at a later date.
- 1278. A variation on this theory was also suggested by Richard THOMAS. He stated that if in fact an axle was returned to the THOMAS farm the axle returned was not the one that had come from Allan THOMAS' trailer. Further, this unrelated axle was the one that was removed from the THOMAS farm by the group of men after it was removed from the trailer by Roderick RASMUSSEN.

### Theory three

### The axle (Police Exhibit 293) was not from Allan THOMAS' trailer

- 1279. The proposition that the axle, Police Exhibit 293, was not from Allan THOMAS' trailer, was put forward during the RCOI and was suggested because of the fact that stainless steel welding present on the axle and stub axles could not be accounted for whilst the trailer was in the possession of its three owners, namely Charles SHIRTCLIFFE, Gordon WHYTE or Allan THOMAS.
- 1280. It was also suggested that because of the unexplained weld, if the axle was in fact from the THOMAS trailer then the axle and stubs had been used by another person (not the THOMASES), after it was removed from the trailer.
- 1281. When shown the axle on 24 October 1970, Charles SHIRTCLIFFE identified that the remnants of the tie rod on the axle displayed similar characteristics to the tie rod he had modified on his axle. He explained that:
  - "The manner in which I cut and drilled the tie rod, and flattening of the end is the same as that shown on the axle which the Police have produced. Also it has the same diameter hole. The tie rod was hack-sawed the same way."
- 1282. Charles SHIRTCLIFFE, however, stated that he did not weld the tie rod to the axle, as was the case with Police Exhibit 293. These comments are similar to those he made to Police on 28 September 1970.

- 1283. Charles SHIRTCLIFFE also stated that he was not responsible for the welding of the stub axles to the axle.
- 1284. Gordon WHYTE stated that the axle was 'very similar' to the one on the trailer he had previously owned.
- 1285. Gordon WHYTE also stated that he did not have the stub axles welded to the axle while the trailer was in his possession.
- 1286. Allan THOMAS said he knew the axle on his trailer was from a car assembly, but did not know its vintage or anything further about it. He had not taken particular notice of the axle or stub axles on his trailer and had never done any work on the running gear himself.
- 1287. Although the axle was unable to be identified by those who had previously owned the trailer, Roderick RAMUSSEN claimed he was able to do so. When first shown the axle on 12 October 1970, Roderick RASMUSSEN did not remember it. It was, however, noted:
  - "...the method of cutting on one end of this axle was similar to the way he [RASMUSSEN] used to remove the stub axles from the axle itself."
- 1288. On 22 October 1970, Roderick RASMUSSEN was shown the two stub axles and the axle itself. He advised that the method of cutting the stub axle from the axle was 'exactly' the way he would have done it.
- 1289. On 24 October 1970, in a statement made to Police, Roderick RASMUSSEN said that Police Exhibit 293 was 'similar' to the one that he removed from Allan THOMAS' trailer. He reiterated that the method of cutting the stub axle from the axle was the same as that which he used to use. In addition he stated, "...I can say this is my work."
- 1290. At the 1970 deposition hearing, Roderick RASMUSSEN stated that he had seen Police Exhibit 293 before and this was the 'actual' axle off Allan THOMAS' trailer.
- 1291. At the first and second trials (1971 and 1973), Roderick RASMUSSEN stated that he was able to recognise the cutting work he had done on the right hand stub axle (Police Exhibit 330).
- 1292. At the second trial, Roderick RASMUSSEN further stated that he would say 'almost definitely' that the cutting on Police Exhibit 293 was that which he had done on Allan THOMAS' trailer.
- 1293. At the RCOI, Roderick RASMUSSEN stated that he was able to say the actual cutting visible on the axle was his own work and could say 'positively' that the axle and stub axles were the ones he had removed from Allan THOMAS' trailer.

- 1294. Roderick RASMUSSEN firmed his view on this matter between the time he was initially spoken to by Police in October 1970 and when he gave evidence at the deposition hearing in December 1970.
- 1295. Detective PARKES noted that the trailer owned by Allan THOMAS in October 1970 was the one made by Charles SHIRTCLIFFE. Detective PARKES reported "...over the years the trailer has been altered until none of the original fittings remain."
- 1296. These alterations were carried out on a number of occasions by different individuals. Allan THOMAS stated that during the period in which he owned the trailer, he had discarded the wheels on the trailer more than once.
- 1297. On 24 October 1970, Detective PARKES visited Allan THOMAS' home at Matakana. Detective PARKES, accompanied by Richard THOMAS, went to a cottage on the farm where Allan THOMAS kept his bills, receipts and cheque butts. Detective PARKES examined the cheque butts and noted those with a reference to a trailer or welding. He took possession of a number of cheque butts.
- 1298. The Review Team note that there is nothing recorded on the investigation file to indicate that the businesses that had been paid for welding work referred to on the cheque butts, were approached and the proprietors interviewed concerning work that they had completed on behalf of the THOMASES.
- 1299. The Review Team also note that there is nothing recorded on the investigation file that provides an explanation for the additional welding observed on the axle and stubs.

#### Theory four

#### Detective JOHNSTON planted the stub axles on the THOMAS farm

- 1300. It has been suggested that Detective JOHNSTON fabricated evidence by planting the stub axles in the THOMAS farm tip prior to their discovery on 20 October 1970.
- 1301. Evidence as to the circumstances of the finding of the stub axles was given at the deposition hearing, both Supreme Court trials and the RCOI.
- 1302. Raymond CLOSEY, a vintage motorcycle enthusiast, gave evidence at the RCOI that about three months prior to the murders, he was part of a group which had searched the THOMAS farm for vintage car parts. Despite searching the tip area (without the use of tools) CLOSEY stated that they did not see an axle that looked like Police Exhibit 293, nor did he see either of the stub axles (Police Exhibits 330 and 331).
- 1303. Having said this, car parts that Raymond CLOSEY and the group he was searching with was specifically looking for was missed by them during their search, but were found months later during the Police search of the tip.

- 1304. The RCOI did not find any impropriety on the part of the 1970 investigation team in relation to the stub axles, but made comment during their report that they found the circumstances in which they were located "...peculiar in the extreme."
- 1305. The Review Team have explored the possibility that Detective JOHNSTON fabricated evidence by planting the stub axles on the THOMAS farm.
- 1306. To have any credibility, the notion pre-supposes that Detective JOHNSTON knew of the connection the axle had with the THOMAS farm.
- 1307. Clearly, the only way in which he could have learned of this connection was from Roderick RASMUSSEN, who is the person who removed the Nash axle and stub axles from the trailer owned by Allan THOMAS and returned them to Richard THOMAS when the job had been completed.
- 1308. It is clear that Roderick RASMUSSEN would have had to have been a party to this deception and remained silent about it for the past 44 years.
- 1309. If Roderick RASMUSSEN had been so involved, following the death of Detective JOHNSTON in 1978, he has had ample opportunity to disclose that he was coerced into assisting Detective JOHNSTON in this deceit. This has not occurred and extends to his significant interaction with the Review Team.
- 1310. Furthermore, there was no need for the stub axles to be physically placed on the THOMAS farm. The same outcome could have been achieved had the stub axles been sourced from any other location and perjured evidence given to fabricate the alleged finding on the THOMAS farm.
- 1311. On 21 October 1970, the day after the stub axles had been located by Detective JOHNSTON in tip '1', during a search of the THOMAS property under search warrant authority, other parts that had been removed from Allan THOMAS' trailer including a wheel and split rim and a draw bar coupling, were also found in close proximity.
- 1312. The Review Team are satisfied that there is no impropriety on the part of members of the investigation team, specifically Detectives JOHNSTON and PARKES, in finding the stub axles on 20 October 1970.

### Theory five

#### Detective Inspector HUTTON planted the axle under Harvey's body

- 1313. In a book written by author, Keith HUNTER, he alleged that Detective Inspector HUTTON fabricated evidence by 'planting' the axle (Police Exhibit 293) in the Waikato River under Harvey's body, while the body was being recovered.
- 1314. There is no evidence to support this allegation.

- 1315. There were 11 people present during the recovery of Harvey's body, including a Police photographer. It is not credible to suggest that Detective Inspector HUTTON was able to conceal the axle (Police Exhibit 293) in a small boat, then place it over the side of the boat among the tangle of weed and tree branches without anyone on the surface seeing him or questioning him about what he was doing and why. In addition to the staff in the boat, it should be noted that Police divers were present in the water.
- 1316. Keith HUNTER also alleged that Detective Inspector HUTTON reached over the side of the boat and cut the wire attached to Harvey's body. This, according to Keith HUNTER, accounted for the wire attached to a bedspread that was found nearby.
- 1317. The investigation team requested DSIR scientists to conduct a comparison of the cuts to the wire with cutting tools for the purposes of gathering additional evidence.
- 1318. The scientists concluded that no useful comparison could be made of the wire ends with cutting tools because the corrosion on the end of the wires was so great. This negates any suggestion that there was evidence of recent cuts to the wire.
- 1319. This entire theory has no evidential foundation and in the Review Team's opinion, is completely unfounded and implausible.

#### Conclusion

- 1320. The 1928 Nash Standard Six 420 series front axle (Police Exhibit 293) located in the Waikato River was attached to Harvey's body to weigh him down.
- 1321. The Nash axle was the same one fitted to a trailer made by Charles SHIRTCLIFFE, and in 1959 was sold to Allan THOMAS.
- 1322. In 1965, the Nash axle was removed from Allan THOMAS' trailer by Roderick RASMUSSEN, in the course of upgrading it for Allan THOMAS. The Nash axle was returned to Richard THOMAS and in turn, to the THOMAS farm in Mercer Ferry Road.
- 1323. The axle found beneath Harvey's body is clearly a crucial piece of evidence as it must be accepted that the last person to be in possession of this axle must be the murderer or an accomplice.
- 1324. Realising the significance of this exhibit, the investigation team spent considerable time endeavouring to identify its origin. It must be said that even without the direct evidence of Roderick RASMUSSEN, a strong circumstantial case could be established that Police Exhibit 293 came from Allan THOMAS' trailer and was unquestionably linked to the THOMAS farm.
- 1325. The stub axles (Police Exhibits 330 and 331) located in the tip on the THOMAS farm were confirmed to have previously been attached to the axle.

- 1326. The investigation team should have more actively sought to establish the origin of the welding of the stub axles (Police Exhibits 330 and 331) to the axle (Police Exhibit 293) which Arthur THOMAS' defence team said indicated that the axle had been used on another trailer after its removal from Allan THOMAS' trailer in 1965.
- 1327. Although it is possible that an axle was removed from the THOMAS farm in Mercer Ferry Road in about 1965 as alleged by some commentators, there is no evidence to indicate that this was the same axle as that used to weight Harvey's body in the river.
- 1328. There is no credible evidence to support the assertion that the axle used to weight Harvey's body was 'switched' and was a different axle to that produced as Police Exhibit 293 at the two Supreme Court trials of Arthur THOMAS.
- 1329. There is no evidence to support the allegation that a member/s of Police fabricated the placing of an axle (Police Exhibit 293) in the Waikato River.
- 1330. There is no evidence to support the allegation that the stub axles (Police Exhibits 330 and 331) were placed on Arthur THOMAS' farm by a member/s of Police to fabricate evidence.
- 1331. There have been a number of theories put forward seeking to diminish the evidential connection between the axle, the murders and the THOMAS farm; however, the link remains.

**END** 

### **CHAPTER 11**

### Police Exhibit 350

#### Introduction

- 1332. On 27 October 1970, Police conducted a third search in the CREWE garden resulting in a .22 brass cartridge case being found in the garden border opposite the kitchen louvre window on the right-hand side of the back garden gate (when looking towards the house). This item became known as Police Exhibit 350. Later forensic examination revealed that this cartridge case had been fired through the rifle owned by Arthur THOMAS.
- 1333. Detective Sergeant CHARLES gave evidence that he and Detective Sergeant PARKES started searching at about 10:30am. They first pulled out weeds that had grown in the garden.
- 1334. Detective Sergeant PARKES loosened the soil to a depth of approximately six inches with the use of a hand-gripped garden fork with two prongs. This allowed for the soil to be initially sieved, then searched by hand, because of the difficulty with the soil being damp.
- 1335. At 11:50am, whilst searching with his hands, Detective Sergeant CHARLES reported that he came across a .22 brass cartridge case which was at a depth of about two to three inches (five to seven centimetres).
- 1336. Detective Sergeant CHARLES gave evidence that he had been searching for around 'two hours' when he located the .22 brass cartridge case.
- 1337. The position in which Detective Sergeant CHARLES found Police Exhibit 350 was marked and subsequent measurements showed that it was 15 feet, 10 inches (4.8 metres) from the exterior wall of the kitchen.
- 1338. The point at which the cartridge case was found was not photographed until 29 October 1970. (Refer <u>Appendix 3</u>)
- 1339. The finding of Police Exhibit 350 in the CREWE garden formed a significant part of the Crown case against Arthur THOMAS.
- 1340. Not only did it provide a direct link between Arthur THOMAS' rifle and the CREWE property, it, inferentially, provided a direct link to the fatal bullets taken from the bodies of Harvey and Jeannette.
- 1341. The prosecution advanced the status of Police Exhibit 350 on the premise that it contained the fatal bullet that killed Harvey.

- 1342. This elevated the status of the Arthur THOMAS rifle, and at the same time, reduced the perceived status of the 'EYRE' rifle, which had been erroneously identified by Dr NELSON as a firearm that could not be eliminated as being the murder weapon.
- 1343. The integrity of Police Exhibit 350 was the subject of challenge during the second Supreme Court trial in 1973.
- 1344. Challenges to the integrity of Police Exhibit 350 were threefold, namely:
  - (i) The circumstances under which it was found, i.e. during a third search of the CREWE garden and a week after the rifle of Arthur THOMAS had been taken into the possession of Police for a second time.
  - (ii) That Police Exhibit 350 could not have contained one of the two fatal bullets.
  - (iii) The cartridge case did not present the physical appearance of having been exposed to the elements for 131 days.
- 1345. During the second trial, former Police Officer, John RITCHIE, contacted Arthur THOMAS' defence team.
- 1346. John RITCHIE advised them that .22 cartridge cases could be distinguished, one from the other, through subtle differences in the 'ICI' lettering impressed into the base of the cartridge case. These differences could then assist in identifying the date upon which they had been manufactured.
- 1347. Defence Counsel, Kevin RYAN, through Dr SPROTT, advanced the proposition that the style of the 'ICI' lettering stamped on the base of a cartridge could also identify the type of bullet that the cartridge case contained.
- 1348. Both fatal bullets contained an embossed '8' in their concave base. This identified them as being 'pattern 8' bullets. 'Pattern 8' bullets were manufactured by the Colonial Ammunition Company (CAC) in Auckland and loaded into Long Rifle (LR) cartridge cases manufactured by Imperial Chemical Industries (ICI).
- 1349. The defence team contended that the 'ICI' stamped on the base of Police Exhibit 350 indicated it was manufactured after 'pattern 8' bullets ceased to be made, therefore, Police Exhibit 350 could not have contained a 'pattern 8' bullet.
- 1350. Dr SPROTT classified Police Exhibit 350 as what he described as a 'category 4' cartridge case, contending that these only contained a 'pattern 18' or 'pattern 19' projectile.
- 1351. The defence challenge to the integrity of Police Exhibit 350 during the second trial did not alter the outcome. Arthur THOMAS was again convicted of the double murder.
- 1352. The options as to how Police Exhibit 350 came to be found in the garden border at the CREWE farm, have been considered at length by the Review Team.

#### 1353. There are two alternatives:

- (i) Police Exhibit 350 is a legitimate piece of evidence which is forensically linked to the .22 rifle owned by Arthur THOMAS.
- (ii) Police Exhibit 350 represents fabricated evidence intended to add weight in linking Arthur THOMAS' rifle, and in turn Arthur THOMAS, to the murder scene and the victims.
- 1354. The Review Team have considered a number of issues in seeking to advance an evidence based reason for favouring one or other of these alternatives.

### **Topic 1 - Were the first two searches by Police of the CREWE farm adequate?**

- 1355. On 23 June 1970, the day after the CREWES were reported missing, Police searched the CREWE farm property for the first time. The scene indicated to Detective Inspector HUTTON and others that there was a strong likelihood that one or both of the CREWES were dead.
- 1356. Acting on the advice of Pathologist, Dr CAIRNS, investigation team members were instructed to look for "...blunt instruments, a knife, or something consistent with this article..."
- 1357. The Review Team have previously expressed the view, in Chapter 4 of this report, that the search undertaken immediately after the discovery of the crime scene was inadequate.
- 1358. Had a .22 cartridge case been found that day, it would have been extremely fortuitous and a credit to the searcher, rather than as a result of insightful prior planning.
- 1359. The use of a firearm was not advanced as a serious consideration during the initial investigation stages. Cartridge cases were not specifically identified as something to be searched for. Had one been found, however, it would have been a significant item of interest requiring assessment and further forensic examination.
- 1360. The investigation team focussed their attention within the CREWE farmhouse and specifically on activity that had occurred in the lounge, dining area and kitchen.
- 1361. Early identification of additional blood staining in and around the front doorway and steps gave investigators a clear indication that the bodies of Harvey and Jeannette had been removed via the front door.
- 1362. As a consequence, the environs proximate to the back door were not afforded the same degree of priority.
- 1363. Jeannette's body was recovered on 16 August 1970 and the cause of her death was confirmed as being due to a single .22 bullet to the head. This prompted a second search of the CREWE property to be undertaken on 16, 17 and 18 August 1970.

- 1364. Following the recovery of her body, Detective Inspector HUTTON was in a position to have hypothesised that she had been shot in the lounge inside the farmhouse.
- 1365. This hypothesis would have allowed him to further infer that Harvey was also dead, having been shot whilst seated in his armchair.
- 1366. This, in turn, should have prompted the investigation team to have considered where Harvey may have been shot from. Had this been done analytically, a shot through the open kitchen louvre window seen in photographs taken on the evening of 22 June 1970, should have been considered a viable option.
- 1367. The investigation file does not contain details of possible vantage points considered by the investigation team from which a fatal bullet may have been fired. It is other commentators who have nominated such options as the shot that killed Harvey having been fired through the telephone hatch between the rear hallway and the lounge.
- 1368. If the proposition of the fatal shot having been fired through the open kitchen louvre window had been considered following the discovery of the crime scene, and again prior to the August 1970 search at the CREWE property, the need to properly search the garden borders adjacent to the back door and back gate are likely to have been identified.
- 1369. The investigation team's hypothesis was that Harvey had been killed first, followed by Jeannette.
- 1370. The act of shooting Harvey with a firearm raises the question as to what was required to be done by the assailant to re-chamber a live cartridge.
- 1371. First, the spent cartridge case would need to have been ejected and the firearm immediately reloaded, to enable the assailant to be in a position to shoot Jeannette.
- 1372. In this regard, the actions required are very much dependent on the type of firearm used. For example, in the case of a semi-automatic firearm, all that is required is to release the trigger, then squeeze it to fire again, the ejection process having occurred automatically.
- 1373. If, in this case, the firearm proved to be a bolt-action or pump-action weapon, the assailant would have had to manually manoeuvre the bolt or slide action for the ejection and reloading process to occur.
- 1374. With these alternatives in mind, it was open to the investigation team to have explored the option of the offender having shot Harvey in his chair from outside the farmhouse, i.e. via the open kitchen louvre window. This thought process would naturally have extended to considerations of where the ejected cartridge case would have come into contact with the ground. This should have identified the garden border in which Police Exhibit 350 was found.

- 1375. This does not appear to have occurred; instead the searchers have again concentrated their attention on the front of the address. The discovery of a piece of copper wire in the paddock between the house and road may have led to their suspicion that the bodies had been removed through the front of the house to a vehicle parked in this vicinity.
- 1376. In Chapter 4 issues arising as a result of the August 1970 search are fully addressed.
- 1377. Whether the garden in which Police Exhibit 350 was found, was or was not sieve searched by Police prior to 27 October 1970, was fully canvassed during the RCOI hearing in 1980.
- 1378. The RCOI afforded more weight to the evidence of Graeme HEWSON that the garden was sieve searched, than that of the evidence given by four Police Officers and a civilian witness, to the contrary.
- 1379. Detective Sergeants JEFFRIES, GEE, Sergeant HIGGINS and Senior Sergeant MEURANT, and the Farm Manager at the CREWE farm, John HANDCOCK, gave evidence that it was not.
- 1380. Ross MEURANT, a former Police Inspector, and one of the four Police Officers involved in the searches, has, in recent years, been publicly critical of aspects of the 1970 investigation. He has, however, maintained that this garden border was not sieve searched prior to the search conducted by Detective Sergeants CHARLES and PARKES during which Police Exhibit 350 was located.
- 1381. In a report to Detective Inspector JAMES dated 5 May 1972, Detective Constable MEURANT recorded details of his search role and stated:
  - "In August I took part in another search of the homestead area. The Search was under the direction of Detective Sergeant JEFFERIES [sic]. At this time some of the gardens around the house were sieved, but the garden adjacent to the fence previously mentioned, was not sieved."
- 1382. This assertion on the part of Detective Constable MEURANT is consistent with evidence he gave at the RCOI.
- 1383. Police Conference Notes for the evening of 18 August 1970, record Detective Sergeant JEFFRIES saying:
  - "A search was made of the lawn and the garden was completely dug up, that is all garden, and sieved. There were several parts of the garden where we could scrach [sic] over and look visually that weren't actually sieved and I am satisfied there was not anything there."
- 1384. This record is, however, inconsistent with the strict wording of Detective Sergeant JEFFRIES' jobsheet dated 21 August 1970, covering the search in which he stated:

"All gardens were cleared and the earth sifted and examined. No trace of any 22 calibre cartridges were found in the section."

- 1385. At the Police Conference on 18 August, Detective Inspector HUTTON directed that Detective Sergeant JEFFRIES and his team return the following day (19 August):
  - "...to continue search at Pukekawa to CREWE household with aid of mine (metal) detector from 8.30am."
- 1386. Detective Sergeant JEFFRIES gave evidence before the RCOI that he had made enquiries with the Papakura Army Camp to source a metal detector. For reasons that are unclear, the end result was that no metal detector was in fact used.
- 1387. Detective Sergeant JEFFRIES informed Detective Inspector HUTTON during the formal Police Conference on 20 August 1970, that on the previous day (19 August):
  - "...[they] mowed the paddock in front of the CREWE house and made a search as the strips were mown. The lawn clippings were saved and a search of these clippings was also made. A cartridge case or bullet was not found in this paddock.

The only remaining area to be searched properly would be the frontage road and driveway entrance and drain, and this would entail a good day's work by more than four blokes because all grass will have to be cut outside the front gate."

- 1388. There is no reference or correspondence on the investigation file that any further search of the CREWE garden was conducted until 27 October 1970.
- 1389. The Review Team note that the challenge of locating a .22 cartridge case on a large section, or inside a 103 square metre house, cannot be understated. Experiments undertaken by DSIR scientists demonstrated the difficulties encountered. (Refer Appendix 10)
- 1390. The Review Team note that in 1972 the investigation file records that Rory SHANAHAN buried approximately 87 .22 cartridge cases in an experiment to see how they would corrode.
- 1391. Although he knew exactly where the cartridge cases had been buried, he was unable to find all of the cartridge cases at the end of the experiment, locating only 42. (Refer Appendix 10)
- 1392. As previously mentioned, in 1980, when Police were preparing material for presentation to the RCOI, photographs of the CREWE farmhouse and section were again examined in detail.
- 1393. One photograph taken on 23 June 1970 by Police Photographer, Constable STEVENS, is of the garden border area on the right-hand side of the back gate (when looking towards the house).

- 1394. This photograph is of the garden border area where Police Exhibit 350 was subsequently found by Detective Sergeant CHARLES. In the photograph a rectangular shaped object can be seen that may be consistent in size to that of a .22 cartridge case.
- 1395. The Review Team have researched possible forensic processes that could be applied to the image for the purposes of seeking to definitively identify what this item represents. No forensic options have been identified in this regard, due to the quality of the photographic image, therefore, no conclusion can be reached. (Refer <u>Appendix 3</u>)
- 1396. The Review Team makes no determination as to what the object represents other than to bring to the attention of the reader that the photographs were contained on the investigation file.

### **Topic 2 - What led to the third search?**

- 1397. On 18 September 1970, following the recovery of Harvey's body, Detective JOHNSTON joined the investigation team.
- 1398. On 11 October 1970, Detective JOHNSTON made a point of examining the CREWE farmhouse scene photographs.
- 1399. He noted that in photographs taken on the evening of 22 June 1970 the kitchen louvre windows were open.
- 1400. Detective JOHNSTON advanced the hypothesis that the murderer may have shot and killed Harvey while he was sitting in his armchair in the lounge by firing through the open kitchen louvre window.
- 1401. Remarkably, this appears to have been the first occasion that this possible crime scene reconstruction had been advanced.
- 1402. The 'JOHNSTON theory', as it became known, was tested at the crime scene on the evening of 13 October 1970.
- 1403. Detective Inspector BAKER and Detective Senior Sergeant O'DONOVAN were amongst those present, having earlier been directed by Assistant Commissioner WALTON to conduct an investigation peer review.
- 1404. The 'JOHNSTON theory' was found to be a valid crime scene reconstruction. It demonstrated that it was possible for an assailant to have killed Harvey whilst he sat in his armchair, by standing on the waist-high right-hand wall positioned at a right angle to the kitchen by the back door and discharging a firearm through the open louvre window.

- 1405. Dr NELSON fired two shots that hit the intended target that was placed in a chair to represent Harvey's head. Detective JOHNSTON fired one shot and also struck the target proximate to his point of aim.
- 1406. On 20 October 1970, Detective JOHNSTON, in the company of Detective PARKES, visited the THOMAS farm, primarily for the purposes of obtaining further wire samples.
- 1407. While at the THOMAS farm, Arthur THOMAS showed them aspects of the farm, which included the farm tip.
- 1408. Detectives JOHNSTON and PARKES conducted a search in the tip (in an area that would later be known as tip number '1') using a spade sourced from the THOMAS farm and, as a result, two stub axles covered in mud were located.
- 1409. Detective JOHNSTON took possession of the two stub axles which he suspected were linked to the Nash motor vehicle axle that he had been making enquiries about. Arthur THOMAS was not present when the stubs were found and neither Detectives JOHNSTON or PARKES informed him that they were removing them from the THOMAS farm.
- 1410. Prior to leaving the THOMAS farm on 20 October 1970, Detective PARKES took possession of Arthur THOMAS' .22 Browning rifle (Police Exhibit 317) by consent and Detective JOHNSTON took possession of a number of pieces of galvanised wire, also by consent.
- 1411. Having left the THOMAS farm with the two stub axles, wire samples and Arthur THOMAS' rifle, Detectives JOHNSTON and PARKES went to the CREWE farm where the outside tap was used to wash the mud off the stub axles.
- 1412. The Review Team note that this activity places Detectives JOHNSTON and PARKES at the CREWE property with Arthur THOMAS' rifle in their possession on 20 October 1970.
- 1413. Due to the significant development of finding stub axles that matched the axle used to weight Harvey's body, and with the prior knowledge that the Arthur THOMAS rifle could not be eliminated as being the murder weapon, this date is identified by the Review Team as being a tipping point in the investigation in terms of Arthur THOMAS' status as a suspect.
- 1414. If Police Exhibit 350 does in fact represent fabricated evidence, logically it must have been 'planted' in the CREWE garden either on or after this date.
- 1415. The following day, members of the investigation team returned to the THOMAS farm under search warrant authority, which was a natural progression following the finding of evidence, namely the stub axles, the previous day.

- 1416. On 25 October 1970, two days before Police Exhibit 350 was found by Detective Sergeant CHARLES, Arthur THOMAS was interviewed by Detective Inspector HUTTON at the Otahuhu Police Station.
- 1417. The same day, Vivien THOMAS was interviewed by Detective JOHNSTON, also at the Otahuhu Police Station.
- 1418. On the evening of 26 October 1970, a Police Conference was held by Detective Inspector HUTTON with members of the investigation team and the 'JOHNSTON theory' was discussed.
- 1419. Those present included Detective Sergeants JEFFRIES, CHARLES and PARKES.
- 1420. There is no record on the investigation file of what was discussed during the conference.
- 1421. Detective Sergeant JEFFRIES gave evidence before the RCOI that those present had discussed the ejection distance a spent .22 cartridge case would travel if the assailant ejected a weapon from outside the kitchen window. The fact that the outside light above the back door was illuminated, which may indicate that the assailant had been searching the area for the spent cartridge case, was also raised.
- 1422. During the Police Conference, Detective Sergeant JEFFRIES informed Detective Inspector HUTTON that the garden border opposite the kitchen window, which ran along the inside of the fence on the right-hand side of the back gate when looking towards the farmhouse, had not been sieve searched.
- 1423. In January 2014, the Review Team spoke with former Inspector PARKES concerning this specific meeting.
- 1424. Inspector PARKES recalled the meeting (on 26 October 1970) and stated that it was he who had informed Detective Inspector HUTTON that the garden border in question had not been sieve searched. He confirmed the garden border under the kitchen window had been searched, but not the one to the right of the back gate.
- As a result of what had been disclosed to Detective Inspector HUTTON by Detective Sergeant JEFFRIES and / or Detective Sergeant PARKES, he directed Detective Sergeants CHARLES and PARKES to return to the CREWE property the following morning to conduct a sieve search of the garden border that had not previously been searched in this manner.
- 1426. The Review Team have considered that the reason Detective Inspector HUTTON did not delegate this task to Detective Sergeant JEFFRIES, who had been appointed as the O/C Scene, was due to a perceived lack of confidence.
- 1427. This view is supported to some degree by the evidence of Detective Sergeant CHARLES, who in relation to the search, gave evidence to the RCOI that he had been told by Detective Inspector HUTTON to "...do a proper job".

1428. The Review Team have a letter dated 13 June 1999, written to Detective KEITH by Detective Sergeant JEFFRIES, in which he expressed his disappointment that Detective Inspector HUTTON had not assigned him with the task of completing the search. He commented:

"After Lenard [sic] Johnstone [sic] suggested that Harvey had been shot from the back steps through the open louvres, I spoke to Bruce [HUTTON] and told him the garden area by the gate leading to the back steps had not been sift [sic] searched. WHY did Bruce get Mike Charles to go back out and search the area when I had been in charge of previous searches???"

- 1429. The personal letter written to Detective KEITH, some 29 years after the murders and 19 years after the RCOI hearing, coupled with the recall of former Inspector PARKES, adds weight to the probability that this garden border had not been sieve searched as confirmed by four Police Officers and former Farm Manager, John HANDCOCK.
- 1430. The Review Team regard the 'JOHNSTON theory' as a credible crime scene reconstruction option.
- 1431. It was demonstrated in the presence of Police Officers, DSIR scientists and others prior to the arrest of Arthur THOMAS.
- 1432. It was further demonstrated by an experienced shooter engaged by defence counsel before the second trial.
- 1433. On both of these occasions the shooters proved that it was within their ability to shoot at and hit a target located in a chair in the lounge that had been appropriately placed to reconstruct the position Harvey had been sitting at the time he was shot.
- 1434. The demonstrations confirmed that in that position, the assailant had line of sight to Harvey sitting in his chair and could have shot him through the open kitchen louvre window, striking him on the left-side rear of his head.
- 1435. The act of shooting Harvey through the open kitchen louvre window would have created less risk for the assailant in the event that they failed to incapacitate him with a single shot. The assailant would have been in a position to have hastily left the property, thereby avoiding the risk of being identified or immediately apprehended.
- 1436. The positioning of a slipper belonging to Jeannette between the chair in which Harvey was sitting and the wall to the right of the fire-place, adds weight to the proposition that Jeannette was not immediately confronted by the gunman who would first have had to gain entry to the farmhouse via the back door.
- 1437. Those critical of the 'JOHNSTON theory' have suggested that the louvre windows would not have been open on a wet and windy night. This view must be balanced against the fact that the kitchen louvre windows were on the protected side of the house.

- 1438. Meteorological records for Pukekawa on 17 June 1970, record that wind speed was no more than 7-10 knots from a north-west direction. The louvre windows were on the east side of the house.
- 1439. Since Jeannette had been cooking flounder, it is not unreasonable to consider that the louvres had been opened to allow the cooking odours and steam to leave the kitchen.

#### Topic 3 - Why was the search of the garden not undertaken earlier?

- 1440. The Review Team note that at the commencement of the investigation, there was a focus around activity that had occurred at the front door of the CREWE farmhouse.
- 1441. There was a clear indication that the bodies had been removed via the front door, and later when garden borders were sieve searched, the area around the front door and at the front of the property, was the focus.
- 1442. The Review Team have identified a number of opportunities for Detective Inspector HUTTON and the investigation team to hypothesise about the actual circumstances that allowed the assailant to murder Harvey whilst seated in his armchair, gain entry to the farmhouse (if not already inside), and murder Jeannette.
- 1443. In assessing the evidence gathered by the investigation team as at 16 August 1970 (the day Jeannette's body was located), and days following, the feasibility of Harvey being shot through the open kitchen louvre window should have been identified and explored.
- 1444. This would have naturally led on to a consideration of the ejection zone of a spent cartridge case that would follow the reloading of a firearm. The likely ejection zone would be an arc from the kitchen window wall-line around 180 degrees since this activity may not have occurred immediately after the first shot was fired. Not knowing the type of .22 firearm used should have resulted in the potential ejection zone area being larger than the ability of any firearm to eject a spent cartridge case.
- 1445. The likely ejection zone should, therefore, have been a key consideration. Success in recovering a spent cartridge case would provide the investigation team with a tangible piece of evidence that could potentially be linked to the murder weapon, and in turn, the murderer.
- 1446. In light of the above observations, the Review Team are of the view that this is a topic that should have been considered at an earlier date when the investigation team first became aware of the mode of killing on 16 August 1970.
- 1447. After the recovery of Harvey's body on 16 September 1970, forensic examination promptly confirmed that he had died as a result of a single shot to the head. The entry wound of the bullet and its trajectory gave the investigation team the opportunity to again consider the possible vantage points from where the shot had been fired.

- 1448. On 13 October 1970, some two weeks before the finding of Police Exhibit 350, a live firing reconstruction took place at the CREWE farmhouse to test the 'JOHNSTON theory'. Although it is not recorded which firearm was used during this reconstruction, it was not Arthur THOMAS' Browning rifle which did not come back into Police hands until 20 October 1970.
- 1449. Again this date provided another opportunity for the investigation team to consider the ejection zones.
- 1450. The Review Team concur with RCOI conclusions that cartridge case ejection zones should have been addressed by the investigation team at an earlier date than 27 October 1970. Why this was not considered is unknown.

### Topic 4 - The position of Police Exhibit 350 when found

- 1451. The position in which Detective Sergeant CHARLES found Police Exhibit 350 was marked and subsequent measurements showed it to be:
  - "...5" into the bed from the grass verge, 6 ft along from the right-hand side of the rear steps when facing the house. The distance between the window and the point where the shell was found was 15' 10". We then measured a distance at an odd angle from the edge of the top step to the point where the shell was found in a direct line at one level and the distance was found to be 15' 11"..." (Refer photographs in Appendix 3)
- 1452. On 29 October 1970, tests were conducted at the Boystown Firing Range to establish the distance a cartridge case would travel once ejected from the Arthur THOMAS rifle.
- 1453. A total of 14 brass cartridges were discharged. The test-firing was undertaken by Dr NELSON who was assisted by Rory SHANAHAN. Also present were Detective Inspector HUTTON and Detective Sergeant CHARLES.
- 1454. Detective Inspector HUTTON gave evidence that the purpose was two-fold; (i) to obtain brass casings and; (ii) "I wish to carry out ejection tests with the THOMAS rifle to see just how far the shells wld [sic] travel on ejection."
- 1455. Detective Inspector HUTTON went on to say that the cartridge cases when ejected travelled to his right and slightly to his rear. The distance travelled depended on the force used to eject the cartridge case, the ejected cartridge cases travelling between 5 feet and 13 feet 6 inches. The cartridge case that travelled 13 feet 6 inches hit the wall some 2 feet 6 inches above the floor.

### Topic 5 - Physical appearance of Police Exhibit 350 when located

1456. Detective Sergeant CHARLES recorded by way of Police jobsheet his finding of Police Exhibit 350.

- 1457. There is no supportive documentation on the investigation file submitted by Detective Sergeant PARKES.
- 1458. Both Detective Sergeants CHARLES and PARKES gave evidence in the 1970 Deposition hearing, Supreme Court trials in 1971 and 1973 and before the RCOI in 1980. Their evidence was not confined to this topic.
- 1459. Neither Detective Sergeants CHARLES or PARKES were questioned during the first trial about the description of the cartridge case (Police Exhibit 350).
- 1460. Detective Sergeant CHARLES described the condition of the cartridge case in the second trial of Arthur THOMAS as:
  - "...old looking, darkish brown, dull on the outside and inside there was a blueygreen form of some decaying process; also inside there was some soil, just crumples and these were a very light colour, I wld [sic] say bone dry as if they had bn [sic] trapped inside the case; this fell out and then the decaying process was apparent inside. The soil outside on the ground was damp because of the weather and was sticky."
- 1461. The description of dried soil coming from the cartridge case, which had been found in damp soil, was the subject of unfavourable comment in the RCOI report at paragraph 48, in which they stated:
  - "Despite the pugginess of the soil, the cartridge case, curiously enough, contained bone dry soil, which fell out as Mr CHARLES handled it."
- 1462. The same nuance, however, was observed and reported on by Rory SHANAHAN, following a structured experiment whereby sample cartridge cases had buried in an attempt to replicate the amount of time Police Exhibit 350 would have been exposed to the elements.
- 1463. Rory SHANAHAN's experiment found discolouration to be extremely variable and that corrosion on the cartridge cases were equally variable.
- 1464. His findings were that there is no reliable measure that can be placed on the corrosion on cartridge cases left in soil, and noted that corrosion and discolouration lessened with handling. (Refer <u>Appendix 10</u> for Rory SHANAHAN's published research paper and photographs)
- 1465. The Review Team note that the RCOI also reported unfavourably on the topic of corrosion and the differing descriptions of discolouration noted on the cartridge case Police Exhibit 350 by a number of Police Officers. (Refer paragraphs 320-324 of the RCOI report, Appendix 15)
- 1466. The Review Team have spoken with both former Detective Inspector CHARLES and former Inspector PARKES.

- 1467. Both Police Officers acknowledge that when Detective Sergeant CHARLES found Police Exhibit 350, they did consider whether or not the cartridge case was bona fide.
- 1468. Bruce PARKES advised the Review Team that when the cartridge case was handled, some discolouration on the surface of the cartridge case was removed.
- 1469. Bruce PARKES advised the Review Team that in light of this fact, and the presence of the dried soil from within the cartridge case, that both he and Detective Sergeant CHARLES were satisfied that the cartridge case had been in the garden for a significant period of time.

#### **Topic 6 - Forensic examination of Police Exhibit 350**

- 1470. After finding the cartridge case, Detective Sergeants CHARLES and PARKES sought to make contact with Detective Inspector HUTTON by way of a radio telephone to inform him of what they had found. They were unsuccessful.
- 1471. Detective Sergeants CHARLES and PARKES continued the search until the task was completed. They again tried to contact Detective Inspector HUTTON by way of radio telephone and on this occasion were successful, although it is unclear what precisely was said. Having left the CREWE property, they located Detective Inspector HUTTON at the home of the PRIESTS.
- 1472. Detective Sergeant CHARLES told Detective Inspector HUTTON what he had found. Both men later reported that Detective Inspector HUTTON had not believed Detective Sergeant CHARLES when first told of the find. Detective Inspector HUTTON was then shown the spent cartridge case.
- 1473. Detective Sergeant CHARLES retained possession of Police Exhibit 350 for the rest of the day and placed it in his locked drawer at Auckland Central Police Station. The following day, 28 October 1970, he delivered it to Rory SHANAHAN at the DSIR laboratory.
- 1474. Forensic examination by Rory SHANAHAN on 28 October 1970, of firing pin and breech-face impressions confirmed that the cartridge case had been fired from the .22 pump-action Browning rifle, serial number 86942 (Police Exhibit 317) owned by Arthur THOMAS.
- 1475. On 9 November 1970, Rory SHANAHAN's findings were confirmed by Dr NELSON who had returned from Australia.
- 1476. In August 1972, the Principal Scientific Officer, Home Office Forensic Science Laboratory, George PRICE, also concurred with this finding after exhibits (including Police Exhibit 350) had been forwarded to him in the United Kingdom for examination, at the request of Arthur THOMAS' defence counsel.
- 1477. Since the 1980 RCOI proceedings, controversy over whether Police Exhibit 350 could have contained a pattern '8' bullet continued.

- 1478. In 2011, Christopher PRICE, an M.Sc student at the University of Auckland, submitted a Thesis entitled 'A Multivariate Approach to Discriminating between Batches of Cartridges Cases Using Design Changes in the Headstamp'. (Refer Appendix 9)
- 1479. Christopher PRICE's research sought:

"...to determine whether subtle changes could be discerned in the ICI headstamps impressed into .22 Long Rifle cartridges produced over time by the Colonial Ammunition Company, in order to define a specific period of manufacture."

1480. Christopher PRICE stated that:

"Although it was not the original intention [of] this project, it was decided that [Police] exhibit 350 would be analysed using the statistical techniques used in this project. This could allow some determination of the time period this cartridge may have been produced which could allow some assessment of the probable type of bullet that was originally loaded into this cartridge."

- 1481. Since Police Exhibit 350 had been disposed of by Police in the Whitford Tip on 27 July 1973, Christopher PRICE could only use a black and white photograph of the head of the cartridge case, purportedly taken by the DSIR soon after it was found.
- 1482. These photographs were converted into digital format by scanning the image and subjecting them to the same data processing steps as the other cartridges used in the project.
- 1483. The same model that had been used to differentiate between cartridges in a blind study was used to classify Police Exhibit 350.
- 1484. When this was undertaken, Police Exhibit 350 was predicted to have come from batch 4916, manufactured on 22 January 1968. (Refer <u>Appendix 11</u>)
- 1485. In his thesis, Christopher PRICE concluded that:

"The low prediction error of the classification model, which was ascertained during cross-validation of the data and in the blind study...suggests that [Police] exhibit 350 was likely to have been produced either in this very batch or in another batch produced around the same time period."

- 1486. Christopher PRICE's research confirmed that the prospect of Police Exhibit 350 coming from a batch produced before batch number 4470 (manufactured between 7 May 1965 and 18 May 1965 as indicated in Appendix 11), was not possible.
- 1487. The findings are significant and support the initial work completed by Dr SPROTT and provides strong scientific support that Police Exhibit 350 could not have contained the number '8' embossed projectile consistent with the fatal bullets.

- 1488. Evidence was given at the RCOI that pattern '8' bullets were loaded into .22 long rifle cartridge cases up until October 1963. Following this date pattern 18 or 19 projectiles bearing two cannelures were used.
- 1489. This means that there was a four year, three month period between when the loading of pattern '8' bullets ceased to when Police Exhibit 350 was likely to have been packaged.
- 1490. The other significance of Christopher PRICE's research, is that it is unlikely that Police Exhibit 350 (from batch number 4916, manufactured on 21 January 1968) could have originated from Police Exhibit 318 (a box of .22 cartridges bearing the batch number 4666, manufactured between 9 May 1966 and 12 May 1966). (Refer Appendix 11)
- 1491. Christopher PRICE did not eliminate batches after 4470, however, favoured the source of Police Exhibit 350 as coming from batch number 4916 or one close to it. Had the RCOI had the benefit of the research results of Christopher PRICE, it would have been open to them to have formed a different conclusion concerning the origin of Police Exhibit 350 (the RCOI suggested that Police Exhibit 350 could have originated from Police Exhibit 318).
- 1492. Adding weight to the research of Christopher PRICE is the fact that in all the material and evidence given on this subject, there is no evidence that anyone has produced another bullet with the same sans-serif font 'ICI' stamp marking as is present on Police Exhibit 350, which has contained a 'pattern 8' projectile.
- 1493. The Review Team conclude that the proposition that the .22 cartridge case known as Police Exhibit 350 contained the projectile that killed either Harvey or Jeannette is highly improbable.

### **Topic 7 - The significance of finding Police Exhibit 350**

- 1494. On 20 October 1970, following the discovery of the stub axles on the THOMAS farm that matched the axle located under Harvey's body, the investigation team had evidence that elevated the status of Arthur THOMAS to that of the murder suspect.
- 1495. This development meant that the long held belief, particularly on the part of Detective Inspector HUTTON, that the offender was Lenard DEMLER, was being challenged by the gathering of new physical evidence.
- 1496. Prior to 20 October 1970, based on the examination by Dr NELSON, neither the 'EYRE' rifle (Police Reference C3B) or Arthur THOMAS' rifle (Police Exhibit 317) was considered more likely than the other to be the murder weapon.
- 1497. The finding of Police Exhibit 350, provided Police with an evidential basis for favouring Arthur THOMAS' rifle as being the murder weapon, in preference to the 'EYRE' rifle, because it linked the THOMAS firearm to the CREWE farmhouse.

1498. Police Exhibit 350 was the final piece of evidence gathered by the investigation team prior to Arthur THOMAS' arrest on 11 November 1970.

### **Topic 8 - Who had access to Police Exhibit 317?**

- 1499. A number of Police Officers are known to have had access at some stage to Police Exhibit 317 between the time it came into the possession of Police on 20 October 1970 and the date Police Exhibit 350 was discovered (27 October 1970). These include Detective Inspector HUTTON and Detectives PARKES, JOHNSTON and KEITH.
- 1500. The rifle was seized by Detectives PARKES and JOHNSTON on 20 October 1970, then allegedly handed to Detective KEITH.
- 1501. Detective KEITH gave evidence during the second trial about the custody of the THOMAS rifle, Police Exhibit 317. He stated:

"The rifle was placed in my locker in my office; I had the keys, the only key to the locker and the only key to the office in my possn [sic]. The rifle remained in the locker until the 29th of October when it was removed and taken to the DSIR for testing. The rifle was not given to any other person dur.[sic] this period."

- 1502. On 29 October 1970, at the DSIR Police Exhibit 317 was test-fired by Rory SHANAHAN using cartridges with brass casings and comparisons made between the test-fired cartridges and Police Exhibit 350.
- 1503. The evidence of Detective KEITH was challenged by the assertions of Arthur THOMAS that he observed his rifle with the box of ammunition attached to the trigger (guard) in the interview room while being spoken to by Detective Inspector HUTTON on 25 October 1970 at the Otahuhu Police Station. Arthur THOMAS also stated that he saw the brush set he had given Jeannette some years before and some wire samples.
- 1504. Detective Inspector HUTTON's Police jobsheet regarding the interview on this date recorded that Arthur THOMAS was interviewed in his office at the Otahuhu Police Station. He did not acknowledge that Police Exhibit 317 was shown to or was in the same room as Arthur THOMAS.
- 1505. If Arthur THOMAS' claims are correct, by necessity this means that Police Exhibit 317 was removed from the CIB locker with or without Detective KEITH's knowledge. There is no record of the exhibit movement having been recorded in the Police Exhibit Register, if this did in fact occur.

### **Topic 9 - Comments attributed to Detective Inspector HUTTON**

1506. In David YALLOP's 1978 book entitled, 'Beyond Reasonable Doubt', he wrote that Arthur THOMAS claimed that during his 25 October 1970 interview, Detective Inspector HUTTON had said:

"One other thing, Arthur. I have one other piece of evidence up my sleeve. I'm not going to tell anyone. I've a good mind to lock you up but, Arthur, I'm going to give you a chance".

- 1507. The inference that can be drawn from this comment is that Detective Inspector HUTTON knew in advance that Police Exhibit 350 would be located some two days before the item was actually recovered by Police.
- 1508. During the 1971 and 1973 trials, Arthur THOMAS did not give evidence of this alleged disclosure by Detective Inspector HUTTON.
- 1509. In the first trial, Defence Counsel, Paul TEMM, asked Detective JOHNSTON if he had heard Detective Inspector HUTTON make such a remark during interviews with Arthur THOMAS. Detective JOHNSTON gave evidence that he did not since he was not present. Paul TEMM strangely did not put the same question to Detective Inspector HUTTON, nor was either Police Officer questioned about this during the second trial.
- 1510. At the RCOI Detective Inspector HUTTON read a statement in which he denied ever making such a remark.

# Topic 10 - If Police Exhibit 350 could not have contained one of the fatal bullets, how did it find its way into the CREWE garden?

- 1511. The RCOI report outlined two reconstruction theories advanced by the Crown as to how the cartridge case could have found its way into the garden.
- 1512. The first was that the cartridge case had been thrown out of the window by the assailant. This was understandably rejected and is considered to be highly improbable.
- 1513. The second put forward by the Crown at the Court of Appeal at the time of the Second Referral, was that Arthur THOMAS may have had a spent cartridge case in the breech of his rifle. When a live cartridge was loaded into the breech in preparation for firing the rifle, the pump-action mechanism ejected the spent cartridge case. The RCOI rejected this proposition as being improbable.
- 1514. If the account of Julie PRIEST is correct, in that she heard three shots fired on the night of Wednesday 17 June 1970, this raises a third possibility. If a third shot was genuinely fired by the assailant for any reason, which could include either an intentional or accidental discharge, this could explain the presence of Police Exhibit 350.
- 1515. It is accepted that for this to be a realistic reconstruction, two spent cartridge cases must have been ejected from the firearm and discarded on the ground in an area proximate to the kitchen window, one of which was retrieved by the assailant or has never been found.

- 1516. It is difficult to explain Police Exhibit 350's presence in the CREWE garden, when it is accepted that it could not have contained one or other of the two bullets that killed Harvey and Jeannette.
- 1517. In exploring the proposition that Police Exhibit 350 represents fabricated evidence and that the fabrication was an act of corruption on the part of a member of Police, a number of constraints apply.
- 1518. The only realistic hypothesis that can be advanced is that the 'creation' of a spent cartridge case fired by the THOMAS rifle can only have occurred after Police took possession of the rifle on 20 October 1970 (for the second time).
- 1519. Since Police Exhibit 350 was found by Detective Sergeant CHARLES on 27 October 1970, there is a seven day period in which this act of deception must have occurred.
- 1520. The following paragraphs provide an overview of the activities recorded on the investigation file undertaken by members of the investigation team, particularly Detective Inspector HUTTON, Detective Sergeant PARKES and Detectives KEITH and JOHNSTON.
- 1521. If one or more of this group were responsible for planting the cartridge case at the CREWE property, this would have to have been achieved in and around their other commitments and activities that are detailed below.

#### 1522. Activities included:

### **Tuesday 20 October 1970**

- a. At 12:15pm, Detectives PARKES and JOHNSTON visited the THOMAS farm and collected nine samples of wire. Detective JOHNSTON also conducted a search of the tip on the THOMAS farm and located two stub axles (Police Exhibits 330 and 331).
- b. Arthur THOMAS' rifle (Police Exhibit 317) was collected (for the second time) by Detectives PARKES and JOHNSTON before they left the property.
- c. After leaving the THOMAS farm, Detectives PARKES and JOHNSTON visited the CREWE property where they used the outside tap to wash mud off the stub axles.
- d. Detective PARKES returned documents to Douglas MONTEITH upon receipt.
- e. Detective KEITH wrote out a number of Police jobsheets highlighting further enquiries that should be undertaken.
- f. Detective Inspector BAKER and Detective Senior Sergeant O'DONOVAN, who had been brought to Auckland to review the homicide investigation, returned home.

### Wednesday 21 October 1970

- a. Between 10:30am and 4:30pm a search warrant was executed at Arthur THOMAS' property. Present were Detective Sergeants TOOTILL and SEAMAN, Detectives PARKES, BAILEY and KEITH, Detective Constable WOOD and Constables PANOHO and ARNOLD.
- b. The Review Team note that among items being sought, .22 cartridge cases were specified.
- c. At 2:30pm Arthur THOMAS' car and trailer, which had been taken to the Auckland Central Police Station by Constable WYLLIE, was searched by Detective JOHNSTON.
- d. Detective JOHNSTON later gave exhibits taken from Arthur THOMAS' car to Dr STAVELEY, Medical Officer-in-Charge of the Forensic Blood Group Unit, Auckland Blood Transfusion Service.
- e. At 8:30pm a fax was sent from Detective JOHNSTON to 'Reg Motors' requesting information about a trailer registered to Arthur THOMAS.
- f. At 9:22pm a fax was returned providing the details Detective JOHNSTON had requested about Arthur THOMAS' trailer.
- g. On this day (unknown time), Rory SHANAHAN inspected the axle (Police Exhibit 293) and two stub axles (Police Exhibits 330 and 331), at the Auckland Central Police Station. Also present were Detective Superintendent ROSS, Detective Inspector HUTTON, Detective Sergeant DEDMAN, and two photographers (one of whom was Constable STEVENS).
- h. Detective Inspector HUTTON, Detective Sergeant TOOTILL and Detective JOHNSTON were present at the Otahuhu Police Station when Detective Inspector HUTTON dissected a number of cartridges that had been located during the search of Arthur THOMAS' farm.

### Thursday 22 October 1970

- a. At 7:20am Detective KEITH delivered to the DSIR (Wellington) a number of wire samples for examination, which had been taken from the THOMAS farm. Detective KEITH left Wellington by train at 7:30pm.
- b. At 10:00am Detective Sergeant TOOTILL returned to the THOMAS farm with Detective BAILEY, Detective Constable WOOD and Constable PANOHO to complete the search of the tip.

- c. At 10:15am, Detective Inspector HUTTON and Detective JOHNSTON visited Arthur THOMAS at his Mercer Ferry Road property. Arthur THOMAS was asked whether he recalled anything further about the trailer that his father, Allan THOMAS, had previously owned.
- d. Detective JOHNSTON obtained a statement from Peter THOMAS at the Tuakau Police Station.
- e. At 12:20pm a fax was sent from Detective Inspector HUTTON to Detective Inspector BAKER (Wellington CIB) regarding the booking of a return train ticket for Detective KEITH. It is unknown whether Detective Inspector HUTTON was at a Police Station at this time and sent the fax himself, or whether this message was relayed via a third party.
- f. At 1:00pm Detective JOHNSTON visited Roderick RASMUSSEN, who stated that he was still positive the old parts from Allan THOMAS' trailer had been returned to Richard THOMAS.
- g. At 3:00pm Detective Inspector HUTTON and Detective JOHNSTON visited Lenard DEMLER at his Highway 22 property. Lenard DEMLER was asked about the association between Jeannette and Arthur THOMAS.
- h. Detective PARKES obtained statements from Richard THOMAS and Desmond THOMAS at their home in Matakana.
- i. Detective PARKES inspected Allan THOMAS' trailer at his Matakana property and the horse float owned by Allan THOMAS that was located on the property of Graham GASKILL in Mangawhai.
- j. Detective PARKES spoke to Ellis PENNEY (of Matakana) about he and Desmond THOMAS borrowing Arthur THOMAS' rifle.

#### Friday 23 October 1970

- a. At 10:30am Detective KEITH arrived in Auckland, having travelled from Wellington by train. He finished work at 1:00pm.
- b. At 11:30am Detective Sergeants CHARLES and TOOTILL executed a search warrant at ANZ Bank, Pukekohe and obtained information relating to Arthur THOMAS' bank accounts.
- c. At 1:10pm Detective Sergeants CHARLES and TOOTILL executed a search warrant at Arthur THOMAS' property and seized documents relating to his finances.
- d. At 2:00pm Detective Sergeant TOOTILL spoke to Brian HOSKING of Otuiti Road, Pukekawa.

- e. At 2:30pm Detective PARKES and Detective B. CROWLEY of Kaikohe spoke to Allan THOMAS at Mangonui (on the side of the road) about the trailer he had purchased from Charles SHIRTCLIFFE. Detective PARKES arranged to speak to Allan THOMAS later that evening.
- f. At 3:00pm Detective Sergeant TOOTILL spoke to Ivan CATHCART at his Mercer Ferry Road home.
- g. Detective Sergeant TOOTILL obtained a statement from Ian SEXTON, Chairman of the Pukekawa Ratepayers' Association (unknown time).
- h. At 3:30pm Detective Sergeant CHARLES executed a search warrant at Burling-Claridge & Birch, Chartered Accountants, Tuakau, who acted for Arthur THOMAS.
- i. At 7:00pm Detective PARKES interviewed Allan THOMAS in the presence of his son, Raymond THOMAS, at Raymond THOMAS' home in Mangamuka. The pair was later spoken to in the presence of Allan THOMAS' wife, Ivy THOMAS, and Raymond THOMAS' wife, Robyn THOMAS. Detective PARKES stated that the interview with Allan THOMAS lasted approximately four hours.

### Saturday 24 October 1970

- a. From 7:30am to 3:30pm Detective KEITH was engaged in correspondence in the office.
- b. At 10:30am Detective Sergeant TOOTILL obtained a statement from Daphne SEXTON of Mercer Ferry Road.
- c. At 1:00pm Detective Sergeant CHARLES completed a statement of affairs with regards to Arthur THOMAS' financial status.
- d. Detective JOHNSTON obtained a statement from Charles SHIRTCLIFFE in Te Puke.
- e. Detective JOHNSTON obtained a statement from Roderick RASMUSSEN at Cooks Beach, Coromandel.
- f. Detective PARKES spoke to Joyce PENNEY in Matakana.
- g. Detective PARKES visited Allan THOMAS' home at Matakana and, accompanied by Richard THOMAS, Detective PARKES went to a cottage where Allan THOMAS kept his bills and receipts. Detective PARKES noted that he went through all the cheque butts taking those with some reference to a trailer or welding.

### Sunday 25 October 1970

- a. Between 10:10am and 1:50pm Detective Inspector HUTTON interviewed Arthur THOMAS at the Otahuhu Police Station and also spoke to Vivien THOMAS.
- b. Between 10:30am and 6:00pm, Detective KEITH visited a number of people in the vicinity of Morrisons Road, Clark and Denize Road and Mercer Ferry Road, Pukekawa. It appears that these enquiries related to Pukekawa residents' movements on the evening of Wednesday 17 June 1970.
- c. At 12:35pm Detective JOHNSTON obtained a statement from Vivien THOMAS. The location where this interview took place is not specified, however, it is probable that it was at the Otahuhu Police Station.
- d. At 5:25pm Detective Sergeant TOOTILL returned to the THOMAS Mercer Ferry Road home with Arthur and Vivien THOMAS to collect documentation regarding the calving of their cows.
- e. Detective Sergeant PARKES made enquiries with a number of residents on Mercer Ferry Road, Hunters Road, Mile Bush Road and Clarke and Denize Road, Pukekawa.

### Monday 26 October 1970

- a. At a Police Conference, Detective Sergeant JEFFRIES advised Detective Inspector HUTTON that the garden in the house section along the fence from the back gate had not been sieve searched. Also known to be present were Detective Sergeants CHARLES and PARKES.
- b. In the company of Detective Inspector HUTTON, Detective JOHNSTON obtained a statement from Peter THOMAS at the Tuakau Police Station.
- c. Detective KEITH was rostered off duty on this day.

### **Tuesday 27 October 1970**

- a. Between 10:00am and 1:00pm Detective Sergeants CHARLES and PARKES undertook a search of the garden border opposite the kitchen louvre window in the CREWE house section and located Police Exhibit 350.
- b. At 10:30am Detective Inspector HUTTON visited Arthur and Vivien THOMAS at their property. Between 11:00am and 11:45am he interviewed Vivien THOMAS and between 11:45am and 12:30pm he interviewed Arthur THOMAS.
- c. At 1:10pm Detective Inspector HUTTON was at Owen and Julie PRIESTS' home when Detective Sergeants PARKES and CHARLES arrived and called him outside to inform him of their find.

- d. Detective Sergeants PARKES and CHARLES visited the National Mortgage Association (Alfred Buckland Ltd.) in Tuakau (unknown time) and made enquiries regarding Arthur THOMAS ordering a cow hoist. Statements were obtained from Frederick WELCH and James STUCKEY.
- 1523. In summary, the only disclosed visit by Police to the CREWE property was by Detectives JOHNSTON and PARKES on 20 October 1970 when they used the hose to wash the stub axles found on the THOMAS farm.
- 1524. The only other possible visit by Police was by Detective Inspector HUTTON and presumably, Detective JOHNSTON. This is based on information provided by Owen and Julie PRIEST concerning two shots allegedly fired at the CREWE property and two men seen near the back door.
- 1525. The RCOI (at paragraph 348-351, <u>Appendix 15</u>) were satisfied that the event to which the PRIESTS referred was after 30 September 1970, when Owen PRIEST was discharged from hospital. The Review Team, however, have been unable to find material in the investigation file or given during the RCOI hearing that fixes the event to between 20 October and 27 October 1970.

### **Topic 11 - Evidence that Police planted Police Exhibit 350 (fabricated evidence)**

- 1526. In finding that Detective Inspector HUTTON and Detective JOHNSTON had planted Police Exhibit 350, the RCOI appear to have relied substantially on the evidence of Owen and Julie PRIEST, neighbours of the CREWES and references in the Exhibit Register relating to Police Exhibit 317 and Police Exhibit 318.
- 1527. Owen and Julie PRIEST both told the RCOI that on a date after 30 September 1970 they heard two shots coming from the direction of the CREWE farm. Looking towards the farm they saw two men standing near the back porch. From the distance they were looking, they could not identify either man.
- 1528. Afterwards, a car drove along Highway 22 and stopped so the occupants could speak to the PRIESTS.
- 1529. They identified Detective Inspector HUTTON as being in the car with another Police Officer (who the RCOI concluded was Detective JOHNSTON).
- 1530. After some greetings, Owen PRIEST stated that he said to Detective Inspector HUTTON "...you just fired 2 shots at the hse [sic]..."
- 1531. Detective Inspector HUTTON apparently asked Owen PRIEST how he knew that, to which he replied, "We heard you". Detective Inspector HUTTON, when asked about this comment at the RCOI, denied that he had said that.

- 1532. The Review Team also note that the RCOI report, paragraph 348, is factually incorrect in asserting that it was Detective JOHNSTON that said, "How do you know?". Owen PRIEST's evidence was that it was Detective Inspector HUTTON who allegedly made this remark. This error in their report was subsequently acknowledged by the RCOI.
- 1533. After some more pleasantries the car drove off.
- 1534. During the RCOI hearing Detective Inspector HUTTON denied firing any shots on the day referred to by the PRIESTS. He stated that it had been 13 October 1970 when test-firing had taken place at the CREWE farmhouse when the JOHNSTON theory was being tested.
- 1535. Both Owen and Julie PRIEST were unable to say when this event occurred, other than it was after 30 September 1970. Both of the PRIESTS were unclear if the event even occurred prior to the arrest of Arthur THOMAS, although Owen PRIEST did say during the RCOI that he felt it was early October 1970.
- 1536. On 13 October 1970, Detective JOHNSTON visited the THOMAS farm where he spoke with Arthur THOMAS and showed him the Nash motor vehicle axle.
- 1537. Detective JOHNSTON took possession (presumably by consent) of a box containing an undisclosed number of .22 cartridges (Police Exhibit 318) and some samples of wire from the farm.
- 1538. Police Exhibit 318 is still in existence and contains fifteen .22 cartridges.
- 1539. The whereabouts of Police Exhibit 318 between 13 October 1970 and 20 October 1970 is unknown. On 20 October 1970, it was handed to Detective KEITH. The Exhibit Register indicates that the exhibit was 'Held' by Detective JOHNSTON.
- 1540. Although there has been some conjecture as to what "HELD (JOHNSTON)" means, the literal interpretation must be that Detective JOHNSTON had retained possession of the exhibit at an unspecified location.
- 1541. This is a departure from accepted best practice and it is unclear why it would be necessary for Detective JOHNSTON to retain possession of the item in a manner that clearly compromised the custodial integrity of the exhibit.
- 1542. As previously stated, research by Christopher PRICE indicates that Police Exhibit 318 could not have been the source of Police Exhibit 350.
- 1543. The Review Team note that the same "HELD (JOHNSTON)" appeared in the Exhibit Register in relation to Police Exhibit 317. Detective KEITH gave evidence at the Depositions Hearing, the Second Trial and RCOI, asserting that the rifle was held by him in his locked Police locker after being handed to him on 20 October 1970.

- 1544. If in fact Police Exhibit 350 represents fabricated evidence, logically the cartridge case must have been placed in the CREWE garden between 20 October 1970 when the THOMAS rifle came into the possession of Police for a second time, and 27 October 1970 when Police Exhibit 350 was found by Detective Sergeant CHARLES.
- 1545. In terms of the chronology of events, the THOMAS rifle was first in the possession of Police on 17 August 1970, the day after Jeannette's body had been recovered from the Waikato River. The rifle was tested by the DSIR on 18 August 1970 and results communicated to Police on 19 August 1970. Of significance is that the test-fired cartridges had copper cases, whereas Police Exhibit 350 was a brass cartridge case. (Refer Appendix 2)
- 1546. The THOMAS rifle was returned to him on 8 September 1970, after he had been interviewed the previous day by Police. At the time the investigating officers did not consider Arthur THOMAS to be a murder suspect.
- 1547. The Review Team accept that the seven days between 20 October 1970 and 27 October 1970 would have provided an opportunity for a corrupt Police Officer to discharge a cartridge from the Arthur THOMAS rifle.
- 1548. It is a matter of speculation as to where such an event may have occurred. The next stage in the deception would involve placing the cartridge case in a position in the CREWE garden for it to later be found.
- 1549. To participate in such an act would not have been without considerable risk. The corrupt Police Officer may have been observed, or may have aroused the concerns of colleagues, particularly after the cartridge case had been found. To have initiated a new search would have required considerable manipulation.
- 1550. "HELD (JOHNSTON)" is therefore difficult to explain. Had Detective JOHNSTON wanted to embark on an act of fabricating evidence, why would he record that he was retaining the item in his possession that was to be used in that fabrication? One would think that he would be wishing to distance himself from that item.

### Topic 12 - Why were the exhibits destroyed?

- 1551. Detective Inspector HUTTON gave evidence during the second Supreme Court trial that Police Exhibit 350 and other exhibits were of "...historical value so far as the Pol. [sic] were concern [sic]..." and they were intended for the Police Museum to serve as examples to junior Detectives as to the merits of having high levels of attention to detail. (Refer Chapter 7)
- 1552. The Review Team note that following the second trial in 1973, the exhibits that had helped convict Arthur THOMAS for the second time would have been of greater historical value and their worth as potential museum items enhanced.

- 1553. Police were not acting in contravention of the law or Police practice in returning, disposing or destroying exhibits appropriately after Arthur THOMAS' appeal periods had been exhausted.
- 1554. That said, the group of 135 exhibits destroyed at the Whitford Tip, 16 days after Arthur THOMAS' final appeal had been rejected, must be considered prompt by any measure.
- 1555. The Review Team note that the reason advanced for the promptness of this action was an apparent requirement to remove exhibits from the Otahuhu Police Station Exhibits Store because of a limitation on space. However, given the nature of the exhibits destroyed compared to those retained, this explanation does not make sense.
- 1556. The Court exhibits for the second trial were held in the custody of the Supreme Court Registrar and remained in his custody at the time until Arthur THOMAS' appeal was rejected on 11 July 1973.
- 1557. The following day, 12 July 1973, Detective Senior Sergeant KEITH took possession of the Court exhibits.
- 1558. Where Detective Senior Sergeant KEITH stored the exhibits prior to their final disposition or destruction is not documented in the investigation file. Detective Senior Sergeant KEITH provided details of how he went about destroying and disposing of exhibits. He started with items held in his locker, the cabinet in his office, followed by items in a Senior Sergeant's safe, then items in the property room.
- 1559. Detective Senior Sergeant KEITH gave evidence on this point before the RCOI and explained that his approach had been to first empty his own locker of exhibits, then the cabinet and safe in his office which contained some of the smaller exhibits. Detective Senior Sergeant KEITH stated that he then proceeded to remove exhibits from the property store at the Police Station.
- 1560. The Review Team note that Detective Senior Sergeant KEITH's explanation demonstrated that there was no logical process followed in identifying which items should be destroyed. This may explain why a jar of .22 cartridges (Police Exhibit 344) was destroyed, whereas a box of .22 cartridges (Police Exhibit 318) was retained, notwithstanding both exhibits were seized from the THOMAS farmhouse in October 1970.
- 1561. The Review Team note that three large exhibits, namely the axle (Police Exhibit 293 and two stub axles (Police Exhibits 330 and 331) were retained, while smaller exhibits were discarded.
- 1562. Many of the 135 exhibits destroyed took up little room in that together they would likely have fitted into a cardboard box. Some larger items, such as Harvey's chair, were destroyed and the wheelbarrow was returned to the CREWE property.

- 1563. Police Commissioner WALTON suggested that if Detective Inspector HUTTON had any concerns about the exhibits after the first trial that he likely would have destroyed them then. He explained that Detective Inspector HUTTON had discussed the disposal of the exhibits with the Crown Solicitor, David MORRIS, who advised him that they could be disposed of in the normal manner.
- 1564. Police Commissioner WALTON commented that he would be most surprised if he was misled, but made the point that he had actively sought to recover the exhibits if at all possible, following concerns raised by the Minister of Justice.
- 1565. In a letter dated 10 September 1973 to Detective Inspector HUTTON, Crown Solicitor, David MORRIS, confirmed in writing his earlier advice to the Detective Inspector that he could see no reason why normal Police procedures in respect of the exhibits should not be followed.
- 1566. The Review Team note that David MORRIS made reference in his letter to a conversation on 9 July 1973, rather than 11 July 1973, which is accepted as a factual error as to date, and should correctly read 11 July, the date the appeal judgment was released.
- 1567. The Review Team note that Police Exhibit 350 was one of the Police exhibits uplifted from the Supreme Court Registrar on 12 July 1973 and was one of the 135 exhibits destroyed on 27 July 1973, at the Whitford Tip.
- 1568. It should be noted that the investigation team had already received a request from Arthur THOMAS supporters to allow wire samples to be released to Dr SPROTT for him to conduct additional forensic tests.
- 1569. By way of memorandum to Police Headquarters, Detective Inspector HUTTON documented that he had directed Detective Senior Sergeant KEITH to dispose of the exhibits and that he had accompanied him to the Whitford Tip for that purpose (27 July 1973).
- 1570. In evidence given by Detective Senior Sergeant KEITH before the RCOI, he disclosed that he had been told to dispose of the exhibits by Detective Inspector HUTTON. He told the Commission that he alone took the exhibits that were to be destroyed to the Whitford Tip and was not accompanied by Detective Inspector HUTTON.

### Conclusion

- 1571. The Review Team identify that Police Exhibit 350 may represent fabricated evidence. However, it is possible that Police Exhibit 350 does represent a legitimate piece of evidence.
- 1572. Research undertaken by Christopher PRICE M.Sc supports the earlier theory of Dr Jim SPROTT that Police Exhibit 350 could not have contained a pattern '8' projectile of the type used to kill Harvey and Jeannette.

- 1573. The presence of Police Exhibit 350 in the CREWE garden is, therefore, difficult to reconcile in identifying a realistic event reconstruction.
- 1574. The finding of Police Exhibit 350 was significant as it provided a direct link between the THOMAS rifle and the crime scene and simultaneously minimised the significance of the 'EYRE' rifle which had not been eliminated as the potential murder weapon at that time.
- 1575. The Review Team accepts that if Police Exhibit 350 was planted in the garden border for the purposes of implicating Arthur THOMAS, that a member of Police is responsible.
- 1576. Thoroughness in clearly documenting what areas of the CREWE garden had been searched to the required standard, would have negated suggestions of evidence fabrication. This shortfall has led to justifiable questions being raised concerning the veracity of the exhibit.
- 1577. The decision to destroy key ballistic exhibits, although not contrary to law or Police practice, was unwise and led to suspicion and justifiable criticism.
- 1578. When the JOHNSTON theory was reconstructed on 13 October 1970 at the CREWE farmhouse, ejection zones should have been considered by Detective Inspector HUTTON and other members of the investigation team at that point.
- 1579. Dependent on what firearm was being considered, the possible ejection zone may well have included the garden border adjacent to the back gate. Clarification should then have been sought to confirm whether or not the border had been the subject of a sieve search.
- 1580. Assertions that the cartridge case did not present the physical appearance of having been exposed to the elements for 131 days are unfounded based on an experiment conducted by scientist, Rory SHANAHAN. Having exposed other cartridge cases to the elements for a similar period of time, he demonstrated that corrosion was so variable on .22 cartridge cases that no meaningful conclusions could be made.
- 1581. Dried mud observed by Detective Sergeant CHARLES (and Detective Sergeant PARKES) coming from inside the cartridge case (Police Exhibit 350) found in damp soil is consistent with the outcomes resulting from Rory SHANAHAN's experiment.

**END** 

# **CHAPTER 12**

# **Persons of Interest**

<u>An analysis of the alibis proffered by Lenard DEMLER, Arthur THOMAS and John EYRE has</u> been undertaken and is addressed in Appendix 1

### Act of murder

- 1582. Harvey and Jeannette were murdered in their Pukekawa farmhouse during the evening of Wednesday 17 June 1970.
- 1583. Having considered a range of factors, it is probable that this occurred between 7:00pm and 9:30pm.
- 1584. In terms of the assailant, there are only two realistic options:
  - (i) The assailant approached the farmhouse by stealth and committed the act of murder without any advanced warning.
  - (ii) The assailant was present within the farmhouse by way of invitation and was able to 'engineer' the opportunity to murder the couple.
- 1585. The scene in the lounge indicated that following the murders, Harvey's body was removed from his chair by dragging him by his feet. Clearly visible is a blood-stained drag mark across the carpet that indicates his body had been pulled on to some other material, possibly the hearth rug, which was later burned in the fireplace.
- 1586. It is noted in the hallway proximate to the front door, that two electrical cords are disconnected. The manner in which they are disconnected, however, is inconsistent with bodies having been dragged over the cords. This suggests that either the electrical cords were placed in this position after the bodies had been removed from the lounge, or the bodies were lifted over them.
- 1587. The bodies were disposed of in the Waikato River and it is almost certain that both bodies were weighted down as demonstrated by an axle located underneath Harvey's body at the time of recovery and the length of time it took for the bodies to be discovered.
- 1588. The presence of two saucepans each with blood stains inside, indicated that the offender attempted to clean up the scene. One saucepan had traces of blood consistent with Harvey's blood grouping and the other consistent with Jeannette's blood grouping.

- 1589. Three reasons that may suggest that there was more than one person involved in the murders are; (i) the physical weight of Harvey; (ii) the presence of two saucepans containing traces of blood; and (iii) the disconnected electrical cords near the front door.
- 1590. For a number of reasons, it is probable that an offender would have a greater opportunity of committing a double murder and disposing of the bodies undetected if the totality of their efforts were completed as a continuous act.
- 1591. The commission of the crime and the events that followed would have occupied several hours. Key indicators, for example: (i) the kitchen and outside light being left on; (ii) token efforts to clean up the scene; and (iii) the positioning of the fireguard in front of the fire, suggest that when the offender finally left the scene with both, or certainly the second body, they did not return. Whether the bodies were wrapped and tied with wire in the farmhouse, or elsewhere, is unknown.
- 1592. The date '17 June 1970' may be significant for a number of reasons. For example, it was the day before the CREWES' fourth wedding anniversary; the day after Jeannette had signed the Trustee papers for her mother's Will, which was to lead to her receiving a significant inheritance and four days before the shortest day of the year. Extended nocturnal hours at that time of the year may have created the preferred conditions in the mind of the offender.
- 1593. The weather on 17 June 1970 was inclement and somewhat cold and, as such, was an unattractive evening for people to be outside in the open. This may have been something considered by the offender as decreasing the probability of being observed.
- 1594. In the Pukekawa area on 17 June 1970, there were three specific events, namely the Ratepayers' Meeting, a table tennis tournament and indoor bowls. These events may have provided the offender with an opportunity to disguise their true intentions through the attendance, or non-attendance, at one of these events. It may also have meant the offender would know there would be less traffic on Highway 22 why these events were happening.

### Offender considerations

- 1595. Common to all criminal investigations is the need to undertake an analysis of the specific features of the crime and to enable certain inferences to be reached that can differentiate between a person of interest and a genuine suspect.
- 1596. Analysis may identify (i) the physical attributes (strength and agility) required by the offender to enable them to commit the crime; (ii) their likely gender; (iii) their opportunity to commit the crime undetected; (iv) their ability to access the physical items necessary to commit the crimes; and perhaps, (v) their motivation.

- 1597. These factors can assist investigators at an early stage as they seek to identify likely offender characteristics and traits.
- 1598. The Review Team have engaged the services of the New Zealand Police Criminal Profiling Unit to provide a criminal profiling report that advances an understanding of the likely offender characteristics. (Refer Appendix 13)
- 1599. Criminal profiling reports do not represent evidence against any given individual. Their value to investigators is developing a composite of the likely offender in order to prioritise suspect lists. Criminal profilers rely on integrating research, investigative experience and the specific context of the crime in question.

### **Key evidential facts specific to the CREWE murders**

- 1600. The person responsible for murdering Harvey and Jeannette must, by necessity, have had access to certain physical items used in the commission of the crimes, and in the act of disposing of the bodies. These are:
  - (i) a .22 firearm, with six lands and grooves with a right-hand twist
  - (ii) two .22 cartridges containing 'pattern 8' bullets
  - (iii) the Nash motor vehicle front axle (Police Exhibit 293) previously removed from a trailer owned by Allan THOMAS, which was likely returned to the THOMAS farm at Mercer Ferry Road in 1965
  - (iv) 16 gauge galvanised wire of the same composition as that found on the THOMAS farm
  - (v) copper wire
  - (vi) a motor vehicle and / or trailer
  - (vii) a physically strong person (almost certainly male)
- 1601. Having murdered the CREWES, the offender used materials from within the farmhouse to wrap the bodies and remove them from the scene.
- 1602. The offender used both copper wire and 16 gauge galvanised wire to secure the material wrapped around the bodies.
- 1603. The offender affixed a weight to the bodies (Harvey was weighted down by an axle; Jeannette by means unknown) with wire, joined to other wires encompassing the bodies.
- 1604. The offender disposed of the bodies in the Waikato River from an unidentified riverside location.

- 1605. The modus operandi (MO) of the offender identifies a number of nuances and idiosyncrasies.
  - Harvey and Jeannette were murdered by way of a single .22 shot to the head.
  - The mode of Harvey's death is consistent with a sniper shot (if accepting the theory of him being shot through the kitchen louvre windows).
  - There is no evidence of gratuitous violence on the part of the offender. Injuries sustained by Jeannette are likely to be attributed to the need to overcome her resistance to the intention to kill her.
  - The mode of Jeannette's death was one of execution or elimination with a single shot to the head fired at point-blank range.
  - There is no evidence of any sexual assault committed on Jeannette (or Harvey).
  - There is no evidence of any intention to harm Rochelle.
  - There is no evidence of other crimes committed at the CREWE farmhouse at the time, i.e. theft, wilful damage.
- 1606. The reason why the CREWES were killed is unknown. Whether Harvey, Jeannette, or both were the primary target is also unclear. The death of the second victim, which, based on the crime scene reconstruction was Jeannette, may have been no more than an act of necessity on the part of the offender, since she would have otherwise been in a position to identify Harvey's killer. If, however, Jeannette was the primary target, Harvey must have represented a significant risk to the safety of any assailant and as such, had to be incapacitated to enable Jeannette to then be murdered.
- 1607. Jeannette has been variously described as a quiet, reserved, inoffensive, polite person who was well educated. There is nothing to indicate that she would have purposely offended anybody. There is every indication that Harvey and Jeannette were a happily married couple who tended to keep to themselves. There are a number of examples of Harvey taking the lead role in the relationship, particularly as it related to the farm, and there are examples where Jeannette has willingly followed his lead.
- 1608. Harvey, on the other hand, has been described as a big, strong, upfront, no nonsense individual who liked his own way and did not tolerate a level of service from others that did not meet his expectations.
- 1609. There are a number of documented examples where he had challenged the quality of services that had been provided to him by others and demanded that matters be addressed to his satisfaction. An example was his dissatisfaction with the tradesmen who at the direction of the insurance company repaired the CREWE farmhouse after it had been fire damaged in December 1968.

1610. Harvey's abruptness, therefore, which may have been viewed by some as arrogance, combined with the fact that he was not a local man, may have offended someone to such an extent that they decided to react in this dramatic way. Having said that, there is no known grievance which could be reasonably seen as of such a nature as to provoke a murderous response.

### **Key murder suspects**

1611. The following paragraphs address the investigation team's approach to those individuals who featured as significant persons of interest or suspects in relation to these crimes.

### **Arthur THOMAS**

- 1612. Arthur THOMAS grew up in Pukekawa on his father's Mercer Ferry Road farm. He attended Pukekawa Primary School and was in the same class as Jeannette from 1947 to 1952.
- 1613. After completing his Form Two year, Arthur THOMAS left school and worked on the family farm before going to work at Roose Shipping Company in Mercer. While employed there he operated the Waikato Ferry.
- 1614. In 1960, Arthur THOMAS began working as a Labourer for the Maramarua Forestry Station. He then worked as a Loader/Driver for Glen Murray Top Dressing Syndicate in Pukekohe.
- 1615. In 1961, Arthur THOMAS began work as a Loader Driver for Barr Brothers Limited, a Top Dressing Company. He was initially based at Ardmore, before moving with the firm to Dargaville.
- 1616. In 1964, Arthur THOMAS met his wife-to-be, Vivian CARTER. The couple were married on 5 November 1964. Arthur THOMAS continued working as a Loader Driver for Barr Brothers before moving to Papakura. He took employment on a number of farms in the Papakura, Clevedon, and Kingseat areas.
- 1617. On 1 June 1966, Arthur THOMAS entered into a contract for the lease of his father's farm at Mercer Ferry Road, Pukekawa, where he and Vivian THOMAS took up residence.
- 1618. Arthur THOMAS was not a serious suspect for committing the double murder until well into October 1970. His Browning .22 rifle, however, could not be eliminated as being the murder weapon as early as 19 August 1970, which should have identified him (and possibly others) as a significant person of interest as of that date.
- 1619. Arthur THOMAS was first interviewed about the CREWES' disappearance on 2 July 1970, by Detective Sergeant HUGHES.

- 1620. Detective Sergeant HUGHES recorded by way of Police jobsheet, that his interview with Arthur THOMAS arose as a result of information received from a close friend of Jeannette's, namely Beverley WILLIS.
- 1621. Beverley WILLIS told the investigation team that Jeannette had been pestered by "...a young man in the Pukekawa District with telephone calls and letters." Enquiries with Lenard DEMLER and Jeannette's sister, Heather SOUTER, confirmed that the likely person being referred to was Arthur THOMAS.
- 1622. As a result of his discussion with Arthur THOMAS on 2 July 1970, Detective Sergeant HUGHES recorded:

"He [Arthur THOMAS] admitted that he had telephoned her on a number of occasions stating his name and asking her to go out with him. She always refused. He also admitted having written her several letters both while she was here in New Zealand and while she was in England. He said that at no time did Jeannette show him any encouragement whatsoever and he soon gave up. Although he was given no encouragement Jeannette would still speak to him when they met in Pukekohe or Tuakau. They had been in the same class together at the Pukekawa Primary School. THOMAS said that he had been to the CREWE home while working for one of the local Agriculture Contractors when sowing manure. He had met Harvey then who appeared to him to be a decent type of bloke. He had had morning and afternoon teas in the home. This would have been as late as 3 or 4 years ago. He said that he had not been to the house since and had not seen either Harvey or Jeannette for approximately 8 or 9 months. He was unable to assist the enquiry further. His wife is Vivian [sic] Susan THOMAS and they have been married for 3 years."

- 1623. The record of Detective Sergeant HUGHES is misleading. Arthur THOMAS worked on the CREWE farm prior to 18 June 1966, when the farm was in the care of Farm Manager, John HANDCOCK. He managed the property on behalf of the DEMLER girls and it could not be accurately described as the 'CREWE home' before Harvey and Jeannette's marriage on 18 June 1966.
- 1624. At the time of being spoken to by Detective Sergeant HUGHES, Arthur THOMAS had been married to Vivien THOMAS for six years, rather than three as recorded in his Police jobsheet.
- 1625. Arthur THOMAS was not asked at that point to account for his movements on the evening of Wednesday 17 June 1970.
- 1626. Although Detective Sergeant HUGHES noted in his Police jobsheet his recall of what Arthur THOMAS told him on 2 July 1970, the significance of what he had recorded took on a new meaning in the prosecution process.

- 1627. The alleged assertions of Arthur THOMAS were relied upon by the prosecution when it was led, through Detective Sergeant HUGHES, that Arthur THOMAS had disclosed that he had morning and afternoon tea with Harvey and Jeannette in their home while he was working on the property.
- 1628. The truth of the matter is that Arthur THOMAS was referring to a period prior to June 1966, when he was employed by Barr Brothers Limited, top dressing specialists. When he worked on the farm it was occupied by farm manager, John HANDCOCK and his wife, who were looking after the farm on behalf of the DEMLER girls.
- 1629. In both trials, the alleged disclosures of Arthur THOMAS to Detective Sergeant HUGHES regarding him going to the CREWE farmhouse for morning and afternoon tea when they were living there was given in evidence.
- 1630. The investigation file contains a Police jobsheet from Detective PARKES concerning a conversation with Arthur THOMAS on 19 August 1970. Arthur THOMAS clarified the time that he had worked on the CREWE farm as being a period when John HANDCOCK was the farm manager and that he was working at the time for Barr Brothers Limited. During that conversation with Detective PARKES, Arthur THOMAS confined his interaction with Harvey to that of having seen him once at a Golf Club Ball.
- 1631. While it is accepted that at the time Detective Sergeant HUGHES recorded what Arthur THOMAS had told him, there was mis-information recorded in terms of fact. This was clarified by Arthur THOMAS in later interviews with Detective PARKES and also with Detective JOHNSTON and is referred to in the 19 October 1970 Conference Notes. This is something that would have been known to both Detective Inspector HUTTON and Crown Solicitor, David MORRIS.
- 1632. In 1980, the RCOI were critical of Police for not following up with Barr Brothers Limited regarding the time period in which Arthur THOMAS was employed by them.
- 1633. In both trials, it was equally open to defence counsel to seek a witness from Barr Brothers Limited to provide this confirmation. This did not occur.
- 1634. In both trials, defence counsel did not cross-examine Detective Sergeant HUGHES concerning this aspect of his conversation with Arthur THOMAS, nor did Arthur THOMAS give evidence on this specific point to clarify the true position. Arthur THOMAS did, however, give evidence that he had not visited the CREWE farmhouse to see Jeannette.
- 1635. At the end of both trials, therefore, the juries may have factored into their consideration that in addition to an association with Jeannette since childhood, Arthur THOMAS had been a visitor at their home whilst engaged in work on the property, when this clearly is incorrect and therefore misleading.

- 1636. Jeannette's body was recovered from the Waikato River on 16 August 1970. As a result of establishing that she had been shot with a .22 firearm, firearms were sought from those living in the immediate area, and from those who had a previous association with the CREWES.
- 1637. On 17 August 1970, Detective Sergeant CHARLES seized Arthur THOMAS' .22 rifle from the THOMAS farm. Detective Sergeant CHARLES recorded in a Police jobsheet that he spoke to Vivien THOMAS when he uplifted the firearm.
- 1638. On 19 August 1970, Dr NELSON confirmed that he could not eliminate Arthur THOMAS' firearm as having fired the fatal bullets.
- 1639. Colin HARVEY, a trustee of Harvey CREWE's estate, wrote to Police advising that while he had been cleaning out Harvey and Jeannette's belongings at the CREWE farmhouse, he had come across a brush, comb and mirror set which contained a card 'From Arthur'.
- 1640. As a result of the information already gathered by the investigation team, this was believed to be a reference to Arthur THOMAS.
- 1641. On 19 August 1970, Detective PARKES spoke with Arthur THOMAS who confirmed that the card was from him and that he had given it to Jeannette together with the brush, comb and mirror set a number of years before when he had wanted to 'court her'.
- 1642. Arthur THOMAS was next interviewed by Detective Sergeant SEAMAN and Detective PARKES on 7 September 1970, some nineteen days after Police had been notified that Arthur THOMAS' rifle could not be eliminated as the murder weapon. This interview was conducted at the Tuakau Police Station.
- 1643. Retired Inspector PARKES confirmed to the Review Team that it was in fact him who initiated the interview with Detective Inspector HUTTON's agreement, and that he invited Detective Sergeant SEAMAN to assist him in interviewing Arthur THOMAS out of respect for his tenacity and interviewing ability. The interview coincided with the burial of Jeannette.
- 1644. Retired Inspector PARKES said that the funeral cortege went past the Police Station while Arthur THOMAS was being interviewed and they all watched it, but this had no impact on Arthur THOMAS' demeanour. He maintained his denial of any knowledge or involvement in the murders and offered to undergo any tests to eliminate himself and offered to let Police search his property.
- 1645. Detective PARKES recorded by way of a Police jobsheet that on the night of Wednesday 20 June (this should read Wednesday 17 June) Arthur THOMAS stated that he was at home with his wife and his cousin, Peter THOMAS, and that he recalled the Tuesday night as he had to tend to a sick cow that was having trouble calving.

- 1646. During the interview, Arthur THOMAS accounted for his movements on the Friday and the Saturday night of that week. He detailed his association with Jeannette and the fact that they had gone to school together. He further disclosed that he had worked at Maramarua while Jeannette was teaching there, and that he had called to see her on one or two occasions.
- 1647. The true extent of the interaction between Jeannette and Arthur THOMAS during the period that she was teaching at Maramarua and the period in which Arthur THOMAS was engaged in forestry work, is not fully known. From the information available, it appears their contact was intermittent with Arthur THOMAS telephoning Jeannette on a few occasions, asking her to go out with him.
- 1648. Arthur THOMAS acknowledged that he had been keen to take her out and had written to her on two or three occasions while Jeannette was overseas and that she had replied to the letters. He also acknowledged that he had given her two presents, which included the brush, comb and mirror set.
- 1649. Sometime after Jeannette returned from overseas in November 1962, Arthur THOMAS said that he went to see her. Jeannette had told him that she was friendly with a boy whom she had known for some years, and she did not wish for Arthur THOMAS to call on her again. Arthur THOMAS recalled that she said this in a 'very nice manner' and that he was not upset by what she had said. He claimed that this was the last occasion he had called at the DEMLER house.
- 1650. Arthur THOMAS confirmed that during the 1960s, while employed by Barr Brothers Limited, he had been on the CREWE property between four and six times but that this had been when John HANDCOCK was the manager. Arthur THOMAS said that he would have eaten meals in the farmhouse when he was working there.
- 1651. Arthur THOMAS stated that he had seen Harvey once at the Golf Club Ball and that he had seen Jeannette on the streets in Pukekohe and Tuakau from time to time. He estimated the last time that he had seen Jeannette was six or seven months prior to September 1970.
- 1652. Arthur THOMAS was asked about his rifle, which he said he kept in a cupboard in his house. He told Detective PARKES that he used the rifle at the end of June 1970 to kill a sick cow.
- 1653. During the interview Arthur THOMAS was told that his rifle had been used to murder Harvey and Jeannette. Detective PARKES recorded that he seemed quite astounded by this.
- 1654. Conclusions reached by Dr NELSON concerning the THOMAS rifle (and the 'EYRE' rifle) was a significant break-through in the investigation.

- 1655. The decision to interview Arthur THOMAS, and who should conduct it, should have been a decision made by Detective Inspector HUTTON in consultation with his second-in-charge and O/C Suspects. As it transpired, the decision appears to have been initiated by Detective PARKES who, to his credit, sought assistance from Detective Sergeant SEAMAN.
- 1656. The fact that Detective Inspector HUTTON did not conduct the interview is a strong indication that Arthur THOMAS was not considered a suspect at this point by the investigation team.
- 1657. Notwithstanding Arthur THOMAS' invitation to undertake tests to eliminate himself from suspicion, or to search his property, the following day, 8 September 1970, inexplicably the rifle was returned to the THOMAS farm and handed to Vivien THOMAS by Detective Sergeant CHARLES.
- 1658. On 13 October 1970, Arthur THOMAS was visited by Detective JOHNSTON and shown the axle that had been recovered with Harvey's body.
- 1659. In his Police jobsheet, Detective JOHNSTON recorded that Arthur THOMAS told him that he had never seen the axle before.
- 1660. Arthur THOMAS told Detective JOHNSTON that he had last seen Jeannette around Christmas 1969, when he saw her outside a stock firm in Tuakau. He said he spoke to her on that occasion and she had been alone. He said that he never considered himself to be a boyfriend of Jeannette's. Arthur THOMAS told Detective JOHNSTON that he had never met Harvey.
- 1661. Detective JOHNSTON asked Arthur THOMAS whether he knew Jeannette had used the brush, comb and mirror set he had given her. The Police jobsheet records his reply as being "...I do not know. It could still be wrapped up for all I know."
- 1662. When the brush, comb and mirror set was located in the wardrobe of a spare bedroom at the CREWE farmhouse by Colin HARVEY and handed to Police on 19 August 1970, it still had the gift wrapping around the box, albeit that it had been opened. The card to Jeannette that ends "from Arthur" was with the gift.
- 1663. The significance of the statement attributed to Arthur THOMAS is that an inference could possibly be drawn that he had some knowledge of the fact that the item was "...still wrapped up." The inference could potentially extend to implying that Arthur THOMAS may have entered the CREWE farmhouse at some point, possibly in the act of burglary, and seen the present he had given to Jeannette in December 1962 in this condition.
- 1664. While at the THOMAS farm, Detective JOHNSTON took possession of a box of .22 ammunition (Police Exhibit 318), and three pieces of wire (Police Exhibit 328), both galvanised and copper.

- 1665. Detective JOHNSTON showed Arthur THOMAS a photograph of a trailer owned by Charles SHIRTCLIFFE that had appeared in newspapers on 10 October 1970. Arthur THOMAS acknowledged that he had seen the photograph and said it looked similar to the one his father had on the farm, and he thought his father would have contacted Police about it.
- 1666. On 15 October 1970, Detective JOHNSTON returned to the THOMAS farm and accompanied by Arthur THOMAS, searched the farm looking for trailer parts.
- 1667. Whilst at the farmhouse, Detective JOHNSTON took a written statement from Arthur THOMAS. He briefly outlined his association with Jeannette from their primary school days through to her death, which included the comment, "I did not know what happened to the presents I bought her. They could be at the house for all I know".
- 1668. Arthur THOMAS said that he had been aware of the fires and burglary at the CREWE farm and stated, "I read about the burglary at CREWE's farm from the local paper, the Franklin Times. I knew about the fires from general conversation in this area."
- 1669. It was claimed by David YALLOP, in his book 'Beyond Reasonable Doubt', that May DEMLER had asked the editor of the Franklin Times not to publish details of the burglary.
- 1670. The Review Team have examined the Franklin Times newspapers between 29 July 1967 for the following two months and no reported account of a burglary at the CREWE farmhouse can be found.
- 1671. Having said this, the fact that the CREWES had suffered a burglary, a house fire and a hay barn fire while living on the Pukekawa property was published in newspaper articles subsequent to their death and prior to this interview of Arthur THOMAS. It is possible that articles post the murders was the source of Arthur THOMAS' knowledge of these events. Alternatively, Arthur THOMAS may have become aware of these incidents as a result of conversation in the district at the time of the murders.
- 1672. On 20 October 1970, Detective JOHNSTON, in the company of Detective PARKES, visited the THOMAS farm, primarily for the purposes of obtaining further wire samples for comparison with wire removed from the bodies of Harvey and Jeannette.
- 1673. Whilst at the THOMAS farm, Arthur THOMAS showed them the farm tip.
- 1674. Detectives JOHNSTON and PARKES conducted a search in the area which was to become known as tip '1' and located two stub axles covered in mud (Police Exhibits 330 and 331).
- 1675. Detective JOHNSTON took possession of these without Arthur THOMAS' knowledge as he suspected they were linked to the Nash motor vehicle axle that had been found with Harvey's body.

- 1676. Prior to leaving the THOMAS farm, Detective PARKES took possession of Arthur THOMAS' .22 Browning rifle (Police Exhibit 317) by consent and Detective JOHNSTON took possession of a number of pieces of galvanised wire, also by consent.
- 1677. The following day, 21 October 1970, members of the investigation team returned to the THOMAS farm under search warrant authority and searched for further trailer parts.
- 1678. On 25 October 1970, Arthur THOMAS was interviewed by Detective Inspector HUTTON at the Otahuhu Police Station. The interview was recorded by way of Police jobsheet and then a typed statement which was signed by Arthur THOMAS.
- 1679. The interview covered Arthur THOMAS' association with Jeannette, as well as his movements on the night of 17 June 1970 and the physical evidence of his Browning rifle, the axle found with Harvey's body and wire found around the bodies that matched wire found on his farm.
- 1680. Arthur THOMAS denied any involvement in the murders and maintained that he was at home with wife, Vivien THOMAS, and cousin, Peter THOMAS, on the night of the murders. He claimed that he was tending to a sick cow, referred to as 'No 4'. During this interview he stated that someone may have come on to his farm and taken the physical evidence that was used in the murders.
- 1681. Arthur THOMAS would have known that Police did not believe they had sufficient evidence to charge him with the murders in September 1970, or he would already have been taken into custody.
- 1682. Arthur THOMAS' denial of any involvement in the murders and of his presence at his home on the night of 17 June 1970, remained consistent with statements made during his interview with Detective Sergeant SEAMAN and Detective PARKES on 7 September 1970.
- 1683. On 27 October 1970, Arthur THOMAS was again interviewed by Detective Inspector HUTTON, this time at the THOMAS farm in Pukekawa.
- 1684. The interview was recorded by way of Police jobsheet and covered the treatment by Arthur THOMAS of his sick cow and specifically the timings of this on the night of 17 June 1970. The details of which were recorded by Vivien THOMAS on a Calving Chart (Police Exhibit 349).
- 1685. It should be noted that at the time of this interview on 27 October 1970, Detective Sergeants CHARLES and PARKES were searching the garden border at the CREWE property when a .22 brass cartridge case (Police Exhibit 350), was located.

- 1686. On 29 October 1970, Detective Inspector HUTTON again visited the THOMAS farm and spoke with Arthur and Vivien THOMAS. On request, Vivien THOMAS agreed to take part in an identification parade. Further, they were asked if they were agreeable to their car being brought to the Police Station as well since Detective Inspector HUTTON wanted to allow a witness to view the THOMAS motor vehicle to see if it was the same as the one sighted at the CREWE farm.
- 1687. Vivien THOMAS agreed to take part in an identification parade and both she and Arthur THOMAS agreed to allow their vehicle to be used for the purpose specified. The identification parade was carried out at the Pukekohe Police Station on 30 October 1970.
- 1688. The identification parade which consisted of nine women was viewed by Bruce RODDICK. The purpose of the identification parade was to see if he could identify the woman he had seen in the garden of the CREWE property on Friday 19 June 1970.
- 1689. Bruce RODDICK confirmed that none of the women in the identification parade was the woman he saw in the CREWE garden.
- 1690. Bruce RODDICK knew two of the women in the identification parade, one of these being Vivien THOMAS. If the woman in the garden was Vivien THOMAS, then it is reasonable to expect him to have recognised her at the time and certainly her presence in the identification parade should have triggered that recall if she was the woman in question.
- 1691. Immediately prior to the arrest of Arthur THOMAS on 11 November 1970, Detective Inspector HUTTON briefly interviewed him, the content of this interview being recorded by way of Police jobsheet.
- 1692. During the interview, Detective Inspector HUTTON informed Arthur THOMAS that a .22 cartridge case had been found near the back door of the CREWE property, which a scientist had confirmed had been fired from his rifle.
- 1693. Arthur THOMAS responded by saying that the murderer must have got hold of his rifle out of his house. He said: "I wouldn't leave it there if I had shot them as I know shells can be identified by the firing pin markings." He further responded by saying: "I have been framed and that's all there is to it."
- 1694. During the interview Arthur THOMAS was asked to account for the physical evidence that connected his farm to the bodies of Harvey and Jeannette. During this interview Arthur THOMAS told Detective Inspector HUTTON that it was obvious to him that he had been framed, later he stated: "Vivian [sic] thinks I have been framed through my writing to Jeanette [sic] when she was overseas. She will stick by me."
- 1695. The evidence relied upon in the prosecution of Arthur THOMAS is well documented and has been scrutinised during two Supreme Court trials, four Court of Appeal hearings and a Royal Commission of Inquiry.

- 1696. The evidence against Arthur THOMAS centred around the following:
  - (i) The .22 rifle (Police Exhibit 317) with barrel characteristics of six lands and six grooves with a right hand twist that cannot be eliminated as being the murder weapon.

Between 1970 and the present day, five scientists namely, Dr NELSON, George PRICE, Peter PRESCOTT, Sharon FOWLER, and Kevan WALSH, have examined the firearm (Police Exhibit 317) and / or test-fired bullets from the firearm to address this aspect.

Additionally, a Gunsmith, Randolph MURRAY, Director of Churchill Atkin Grant & Lang Limited, Gunmakers of England, engaged by Kevin RYAN, Defence Counsel for Arthur THOMAS, examined the firearm and test-fired bullets from the firearm.

None of these experts have been able to eliminate the firearm as having fired the fatal shots, with George PRICE and Peter PRESCOTT going further in saying respectively that it 'could well have been' and is 'highly probable' that the Arthur THOMAS rifle fired the fatal bullets.

There is consistency between the projectile that killed Jeannette and the one that killed Harvey, to the extent that it is accepted that one firearm was used to kill both victims.

- (ii) On 21 October 1970, Police searching the THOMAS farm found a single .22 cartridge which had an '8' embossed in its base.
  - The significance of this is that the finding of this one cartridge places at least one cartridge consistent with those used to kill the CREWES at the THOMAS farm. The Review Team note that between 1948 and 1963, 167 million brass cartridges were manufactured.
- (iii) The axle found underneath Harvey's body in the Waikato River on 16 September 1970, was from a 1929 Nash Standard Six 420 series motor vehicle and has been linked to a trailer owned by Allan THOMAS and purchased by him in 1959.
  - There is strong circumstantial evidence to suggest that although rebuilt, the original parts from that trailer were returned to the THOMAS farm in 1965, and were therefore on the property when Arthur THOMAS took over the farm in 1966.
- (iv) When recovered from the Waikato River, Harvey's body had galvanised 16 gauge wire wrapped around his chest, his waist and around a covering that would have been on his head. One small piece of copper wire was attached to the galvanised wire and is believed to have been attached to the axle. Jeannette's body had copper wire only around her legs, above the knees.

Some of the galvanised wire was identified as being in 'excellent agreement' with wire found on the THOMAS farm on various dates in October 1970.

The Review Team have, through Professor George FERGUSON, been able to advance the level of agreement identified by DSIR Scientist Harry TODD in 1970, to the extent that Professor FERGUSON has determined that the wire on Harvey's body is indistinguishable from wire found on the THOMAS farm.

Professor FERGUSON's findings go further by identifying that one piece of wire on Harvey's body and several pieces of wire from the THOMAS farm were at one point part of the same molten 'heat'. Another piece of wire from Harvey's body which was linked to a piece of wire from the THOMAS farm again, at one point were part of the same molten 'heat'. Of added importance is the fact that the two groups are distinct from each other which is significant new information.

- 1697. Copper wire located on the THOMAS farm was not identical to the copper wire found on either Harvey or Jeannette's body.
- 1698. Arthur THOMAS provided an alibi for the night of 17 June 1970 when the CREWES were murdered. He claimed to be at his house some nine miles north-east of the CREWE property. He informed Police that he was at home with his wife, Vivien THOMAS, and his cousin, Peter THOMAS. Both Vivien and Peter THOMAS gave evidence in both Supreme Court trials that Arthur THOMAS was at home on the night in question.
- 1699. The Review Team are cognisant of the fact that their evidence must have been rejected by both juries.
- 1700. Following the arrest of Arthur THOMAS, Vivien THOMAS has never deviated from her assertion that Arthur THOMAS is innocent of these crimes. Her relationship with Arthur THOMAS ceased shortly after he was convicted for the second time.
- 1701. In public statements she has expressed her view that had Arthur THOMAS been acquitted at the second trial, she felt there was a strong likelihood that their relationship would have survived.
- 1702. Following his second conviction, Vivien THOMAS stated she felt that she could not stand by and watch her own life pass her by. She emigrated to Australia where she again married and this relationship lasted until her husband's death in 2002.
- 1703. In 2010, Vivien HARRISON (married name) was diagnosed with cancer and acknowledged being terminally ill. Her last public statement prior to her death in 2011, was contained in a North & South magazine article written by author Christopher BIRT. She maintained her position that Arthur THOMAS was with her on the night of 17 June 1970 and reaffirmed her unwavering belief in his innocence.

- 1704. Peter THOMAS was interviewed by the 1970 investigation team about his recall of the night of 17 June 1970. He stated that Arthur THOMAS was on the farm and at home, which is consistent with the evidence he gave in Court proceedings and corroborated Vivien THOMAS' account of the evening's activities.
- 1705. The Review Team have spoken with Peter THOMAS. He confirmed having been interviewed by Detective Inspector HUTTON and Detective JOHNSTON on two occasions at the Tuakau Police Station.
- 1706. He mentioned that he was a 'tough 18-year-old' at the time, however, disclosed that he had been reduced to tears through persistent questioning. He also said that they were pressing him to confirm that he had seen the trailer axle on the THOMAS farm. He maintained that he had not.

### Information post second trial

- 1707. Between 9 February 1978 and 19 January 1980, Prisoner 'A', who had been in prison with Arthur THOMAS, spoke to Police on a number of occasions and provided written accounts and statements of an alleged confession Arthur THOMAS made regarding the murders of Harvey and Jeannette. Prisoner 'A' also supplied Police with a number of sketches, which he claimed had been produced by Arthur THOMAS when explaining how he had carried out the murders and disposal of the bodies.
- 1708. Prisoner 'A' gave evidence on these matters at the RCOI; however, he was found not to be a credible witness due to his criminal history and mental health issues. Prisoner 'A's evidence was rejected as being unreliable and was suppressed.
- 1709. Subsequent handwriting analysis by Document Examiner, John WEST, confirmed that writing on the sketches was by Arthur THOMAS, although it is unclear exactly which of the sketches John WEST examined. (Refer <u>Appendix 17</u>)
- 1710. Aspects of Prisoner 'A's claims regarding Arthur THOMAS confessing to the murders were supported by Prisoner 'B', who also spoke to Police and provided written accounts (between 1 April 1978 and 25 June 1978) of what he had heard Arthur THOMAS confess to.
- 1711. Prisoner 'B' was called to give evidence at the RCOI; however, he refused to do so.
- 1712. Prisoner 'B' was spoken to by the Review Team and stated that his written statements made in 1978 should not be relied upon and he did not hear Arthur THOMAS confessing to the murders.
- 1713. The Review Team note that most of the information given by Prisoner 'A' could have been sourced from public records or media commentary. There are, however, aspects to the information that were not commonly known, i.e. activities while at primary school with Jeannette which suggest that it is highly likely Arthur THOMAS did talk to Prisoner 'A' about the murders. Whether this was in the form of a confession, or simply an outline of the case against him, is not known.

- 1714. Prisoner 'A' is deceased.
- 1715. The investigation file reveals that in January 1980 and May 1980, Police received information concerning two prison inmates, Prisoners 'C' and 'D', who claimed that Arthur THOMAS had made confessions to them that he was responsible for the murder of the CREWES.
- 1716. Unlike prisoner 'A' and 'B' there was no corroboration of their claims and both sources of information were deemed to be unreliable.
- 1717. On 30 April 1980, in a statement made to Police, Karl LOBB claimed he had seen Arthur THOMAS' vehicle and trailer parked in the pull-off by the CREWE woolshed at about 6:30am on Thursday 18 June 1970.
- 1718. Karl LOBB further stated that although he did not see anyone with the vehicle he did notice two bundles covered by old cow covers lying on the trailer, which he felt could have been bodies. These covers were held down with pieces of pipe.
- 1719. On Wednesday 24 June 1970, during the original investigation, Karl LOBB had been spoken to by Police. He made no mention of seeing Arthur THOMAS' vehicle or trailer. His explanation for this has previously been addressed in Chapter 5.
- 1720. The Review Team question the reliability of Karl LOBB's assertions and as such place no weight on his 1980 account.
- 1721. Information has also been received from other sources, which indicates that Arthur THOMAS may have been involved in the murders; in other events at the CREWE property, i.e. burglary; or expressed a previous interest in discussing the risks involving committing a serious crime. Since the information from these sources cannot be corroborated, they have little or no evidential value.
- 1722. On 13 August 2013, Arthur THOMAS was approached by the Review Team for the purposes of inviting him to contribute any information that may be of assistance. Arthur THOMAS maintained that he was innocent of the murders and reiterated that he had been 'framed'. Efforts on the part of the Review Team to engage with Arthur THOMAS to enable an open exchange have proved unsuccessful.
- 1723. Arthur THOMAS suggested that Police make contact with Peter WILLIAMS QC, who would need to be present if an open conversation was to take place.
- 1724. The Review Team made contact with Peter WILLIAMS QC who advised that he did not believe that Arthur THOMAS could add anything to the review.

### **Lenard DEMLER**

- 1725. At the time of the murders, widower, Lenard DEMLER, 60 years of age was living on the adjoining farm next to his daughter, Jeannette and son-in-law, Harvey. His late wife, May DEMLER, died four months before the murders, in February 1970.
- 1726. Lenard DEMLER became the prime suspect for the murders at an early stage. Led by Detective Inspector HUTTON, Police staff working on the investigation openly disclosed to members of the public their belief that Lenard DEMLER was responsible for their deaths. (Refer <u>Appendix 6</u>)
- 1727. On Monday 22 June 1970, a statement was taken from Lenard DEMLER by Detective Sergeant JEFFRIES. The statement covered the brief circumstances of when Lenard DEMLER had last seen Harvey and Jeannette, and the circumstances of him discovering the scene and finding his granddaughter, Rochelle, alone in the house.
- 1728. On Wednesday 24 June 1970, a second statement was signed by Lenard DEMLER which contained background knowledge and the circumstances around him finding Rochelle.
- 1729. Although the statement was witnessed by Detective Sergeant SEAMAN, it would appear on reading a Police jobsheet submitted by Detective Sergeant SEAMAN, that the statement had been constructed from an interview Detective Sergeant HUGHES conducted the previous day, 23 June 1970.
- 1730. After Lenard DEMLER had signed this statement, he was further interviewed by Detective Inspector HUTTON. That interview was recorded by way of Police jobsheet and outlined Lenard DEMLER's movements over the period Monday 15 June to Monday 22 June 1970.
- 1731. The salient points relating to his movements and activities arising from the interviews are detailed below:

#### Monday 15 June 1970

He visited his solicitor in Tuakau before travelling to Hamilton to visit his accountant. He had no contact with Harvey or Jeannette this day.

### Tuesday 16 June 1970

He had telephoned Jeannette after finishing breakfast and during this telephone conversation she had invited him for dinner. He said that having dinner with Harvey and Jeannette was a weekly habit.

Later that morning as he uplifted his mail from the front gate he had seen Jeannette drive past with Rochelle. He worked on his farm for the rest of the day.

Around 6:25pm he drove to the CREWES' for dinner. Rochelle was in bed when he arrived. He returned home 'fairly late that evening'.

### Wednesday 17 June 1970

He had intended going to the Counties v Waikato football match in Hamilton but had decided to stay at home due to the poor weather. He wrote to his daughter Heather SOUTER and listened to the football on the radio. He had no contact with Harvey or Jeannette this day and did not leave his farm.

#### Thursday 18 June 1970

He stayed around his house during the morning before doing some odd jobs around the farm. He had no contact with Harvey or Jeannette this day and did not leave his farm.

### Friday 19 June 1970

In the morning and until mid-afternoon he worked around his farm. He finished around 3:30pm, then drove to Tuakau and visited his Solicitor Colin STURROCK. There he signed another Will. (Leaving his daughter Heather SOUTER two-thirds of his estate and Jeannette one-third). He had done this to correct what he and his solicitor saw as an inequitable distribution of his late wife's estate to Jeannette.

Following this he went to the Tuakau supermarket, then Tuakau Hotel where he stayed until 7:30pm. He had a meal at a local fish and chip shop before returning to the hotel where he stayed until 10:10pm. He then went home.

He had no contact with Harvey or Jeannette this day.

### Saturday 20 June 1970

In the morning he stayed on this farm. In the afternoon he attended the local football match Onewhero v Bombay. He then attended the Onewhero Football Clubs jubilee dinner where he remained until around 1:40am before returning home.

He had no contact with Harvey or Jeannette this day.

### Sunday 21 June 1970

He worked on his farm in the morning before going to the football clubrooms at around 1:00pm. He stayed there until around 5:00pm before returning home.

He had no contact with Harvey or Jeannette this day.

1732. The file indicates that suspicion on the part of Police that Lenard DELMER was involved in the murders, followed an interview with James and Edith JUDGE and Janet SUTHERLAND on 24 June 1970.

- 1733. A Police jobsheet records their collective interview, and indicates that all three, who claimed to be friends of the CREWES, had a dislike of Lenard DEMLER and told Police that he habitually had at least one meal a day at the CREWE home.
- 1734. No statement was taken from the three as to their individual knowledge of the interaction of Lenard DEMLER with the CREWES.
- 1735. It is surprising that the disclosures of James and Edith JUDGE and Janet SUTHERLAND were not explored more by the investigation team and statements taken. It is unclear how they knew that Lenard DEMLER was in the "....unbreakable habit of having at least one meal a day at their [the CREWE] home."
- 1736. Detective ROBERTS outlined James and Edith JUDGES' information at a conference held on Wednesday 24 June. The Conference Notes record Detective ROBERTS saying: "My opinion is that DEMLER killed the two of them". (Refer Appendix 6)
- 1737. The comment of Detective ROBERTS serves as a clear example of an investigator arriving at a conclusion without sufficient knowledge upon which to base an informed opinion. His conclusion, therefore, can be nothing more than a 'gut feeling' and such an approach was echoed by other members of the investigation team during the enquiry.
- 1738. The same Conference Notes confirm that Lenard DEMLER was interviewed by Detective Inspector HUTTON that same day and asked:
  - "...whether he himself could have been responsible in any way for what happened in the CREWE household or concerning the removal of body or bodies from the room."
- 1739. Lenard DEMLER's response immediately after discovering the blood-stained crime scene prompted the investigation team to question his possible involvement in the murders.
- 1740. To have left his granddaughter for a further period of time, returning to his home where he rang Tuakau Transport, before returning to the farmhouse with Owen PRIEST about forty minutes after his first visit, was seen as difficult to reconcile.
- 1741. As the investigation progressed, Lenard DEMLER's personality traits were progressively better understood. For example, Lenard DEMLER was viewed by some as being quite rude and he had a nervous laugh which caused him to appear amused inappropriately. Little consideration was given by the investigation team to the fact that he, as a father and grandfather, may have been seriously traumatised as a result of what he had seen in the CREWE farmhouse and was struggling to rationalise what tragedy may have befallen his daughter and son-in-law.

- 1742. Lenard DEMLER picked up his granddaughter on his return with Owen PRIEST and dropped off Owen PRIEST at his home who then telephoned Police for assistance. Lenard DEMLER took his granddaughter to the home of a family friend, Barbara WILLIS, before returning to his own farm where he moved stock while awaiting the arrival of Police.
- 1743. The Review Team have viewed a letter written by Jeannette on 4 June 1970, to Betty TURNER in Kent, England.
- 1744. This letter came into possession of the Review Team in January 2012, therefore, the contents of the letter were not known to the original investigation team.
- 1745. In reference to her father, Jeannette wrote:
  - "He seems to be managing quite well although I think he misses the company and comes up here quite often for his meals."
- 1746. The frequency with which Lenard DEMLER visited the CREWES became an important aspect of the investigation, because there had been no contact between them for six days. Whether this was a usual practice or represented unusual behaviour, was never fully explored.
- 1747. On Thursday 25 June 1970, Detective Sergeant SEAMAN and other Police staff searched Lenard DEMLER's property with his consent. During the search Detective Sergeant SEAMAN located a Stevens single barrel 12 gauge shotgun which he kept in the toilet.
- 1748. Detective Sergeant SEAMAN also noted apparent blood staining on a pair of shoes and a green coat located in Lenard DEMLER's bedroom and took possession of these items, along with two knives, a cardigan and a pair of trousers, as exhibits.
- 1749. Subsequent forensic testing of the shoes and coat revealed no traces of blood.
- 1750. Detective HIGGINS recorded seeing blood on the back of the front seat (almost directly in the middle) in Lenard DEMLER's 1969 Ford Cortina motor vehicle (EF9225).
- 1751. On Friday 26 June 1970, a search warrant was obtained for Lenard DEMLER's property and his Ford Cortina motor vehicle and a 1969 Morris 1100 motor vehicle (EG7225), previously May DEMLER's vehicle. (Refer <u>Appendix 3</u>)
- 1752. The search warrants were executed by Detective Sergeants SINTON and HUGHES and Detectives PAYNE, HIGGINS and DUNCAN.
- 1753. Detective PARKES searched both vehicles with the assistance of Dr NELSON. Dr NELSON confirmed that there was blood on the back of the front bench seat of the Cortina vehicle which was forensically identified as being of the same blood group as that of Jeannette.

- 1754. Concerning the blood found in his car, Lenard DEMLER first told Police that it was from a cut to his finger. At a later date, when told that the blood was consistent with that of Jeannette's, he stated that Jeannette had cut her finger whilst in the car. This had apparently occurred when she was putting Rochelle into the car.
- 1755. On 26 June 1970, Lenard DEMLER was interviewed by Detective Inspector HUTTON, which is recorded by way of Police jobsheet. Lenard DEMLER was questioned over his inaction upon finding Rochelle in a distressed state in her cot. He was specifically asked why he had returned home to ring a transport company, when he could have done so from the CREWE house, the CHITTYS' or the PRIESTS'. Lenard DEMLER could not explain why he had acted in this way.
- 1756. During this interview, Lenard DEMLER stated, "You think I did this don't you?" It was then put to him that he had been the person that had removed Harvey's body from the house. Lenard DEMLER apparently made no response to this accusation.
- 1757. Towards the end of the interview, Lenard DEMLER became distressed and kept repeating, "I can't really help you."
- 1758. On Sunday 28 June 1970, Lenard DEMLER signed an authority allowing his solicitors to make available to the investigation team Wills and documents relating to himself, his late-wife and daughters, Jeannette and Heather SOUTER. He also authorised his solicitors to discuss freely with the investigation team any verbal discussions that had occurred between himself and his solicitors.
- 1759. On Sunday 5 July 1970, Lenard DEMLER made a statement to Detective Sergeant HUGHES which outlined his movements for the period Monday 15 June through to Monday 22 June 1970.
- 1760. Subsequent to this interview, the investigation team found an envelope in his jacket pocket that contained handwritten details of Lenard DEMLER's activities on each day between 17 June and 22 June 1970, which they viewed as curious and added to their suspicions that he was involved in the CREWES' disappearance and likely murders.
- 1761. On Wednesday 8 July 1970, Lenard DEMLER was interviewed first by Detective Senior Sergeant SCHULTZ and then again by Detective Inspector HUTTON. The records of both interviews were recorded on a Police jobsheet.
- 1762. The document submitted by Detective Senior Sergeant SCHULTZ indicates that Lenard DEMLER was also interviewed by Detective Sergeant TOOTILL, although no record of that interview can be found.
- 1763. Detective Inspector HUTTON recorded in a Police jobsheet a reference to him having examined Lenard DEMLER's body on 8 July 1970. On Lenard DEMLER's back, to the left of his neck, Detective Inspector HUTTON found a scratch mark which he described as having 'recent origin'. Detective Inspector HUTTON questioned Lenard DEMLER about this and recorded that Lenard DEMLER:

"...seemed at a loss to answer it but then made the remark that he could remember scratching it on a bush lawer [sic] about a fortnight ago when he was cutting Inkberry."

- 1764. There is no Police photograph of this injury on the investigation file, nor is there a further description of it. No doctor was asked to examine the injury.
- 1765. On Thursday 9 July 1970, Lenard DEMLER's garage and house was searched again. There is no indication on the investigation file under what authority this search took place.
- 1766. Detective Sergeant TOOTILL recorded in a Police jobsheet that during the search of the garage on 9 July 1970, a pair of gumboots (Police Exhibit 226) with possible blood staining was taken possession of, together with a rubber floor mat (Police Exhibit 223) from Lenard DEMLER's Morris vehicle, which appeared to be stained by 'blood or bone' (Police Exhibit 224).
- 1767. Analysis of the possible blood stain on the gumboots identified that there was sheep blood only on the left boot. The DSIR analysis noted that Police Exhibit 224 had a "negative reaction with anti-human serum", indicating that human blood was not present.
- 1768. There is nothing recorded on the investigation file as to the reason why the Ford Cortina and Morris motor vehicles were searched again after they had been previously searched by Detective PARKES assisted by Dr NELSON on Friday 26 June 1970.
- 1769. During the search of Lenard DEMLER's house on Thursday 9 July 1970, carpet samples containing what were described as blood stains, were taken from Lenard DEMLER's lounge. Forensic analysis confirmed that these stains were not blood.
- 1770. On 13 July 1970, Solicitor, Brian SHENKIN, called at the investigation team headquarters on the CHITTY farm in Pukekawa and advised Detective Inspector HUTTON that he and Barrister, Lloyd BROWN, had been called in by Lenard DEMLER to act as his legal advisors.
- 1771. At this time, Lenard DEMLER had been told by Police on at least three occasions that they believed he was involved in the murders of Harvey and Jeannette.
- 1772. On Thursday 23 July 1970, Detective Inspector HUTTON, in the presence of Detective ABBOTT, interviewed Lenard DEMLER. The interview was recorded by way of Police jobsheet.
- 1773. Six days prior to this interview, a friend of Harvey's, Graeme HEWSON, had told Detective ABBOTT about a conversation he had had with Lenard DEMLER concerning the Onewhero Jubilee football match. Lenard DEMLER allegedly told Graeme HEWSON:

"I rang Harvey up on the Saturday morning to see if he was coming with me but I got no reply."

- 1774. There is no document on the investigation file that this comment was ever put to Lenard DEMLER during the Police interview. Nor was a comment which had been made to Detective Craig DUNCAN on 10 July 1970, in the presence of Graeme HEWSON, that Lenard DEMLER was going to take Harvey to the Jubilee football match on Saturday.
- 1775. This alleged disclosure by Lenard DEMLER to Graeme HEWSON conflicts with his assertion on 8 July 1970 that he had not attempted to contact the CREWES, specifically when asked if he had done so in the context of the Jubilee football match.
- 1776. On Sunday 16 August 1970, following the discovery of the fully clothed body of a female in the Waikato River, the investigation team uplifted Lenard DEMLER from his home and took him to an area known as the Devil's Elbow where he was asked to view the body.
- 1777. Through general appearance, clothing and a wedding ring, Lenard DEMLER identified the body as being that of his daughter, Jeannette. Later that day he swore a Deposition of Identification to that effect.
- 1778. The same day, Lenard DEMLER was taken to the Auckland Central Police Station where he was interviewed by Detective Sergeant HUGHES. During the three and a half hour interview Lenard DEMLER strongly denied any involvement in the death of his daughter and disappearance of his son-in-law.
- 1779. Police discovered that Jeannette's body was wrapped in a blanket and copper wire was bound around her legs above the knees. As a result, a search warrant was obtained for the DEMLER property authorising Police to search for, "Copper wire, wire cutters, pliers or other instruments for cutting wire". The search warrant was executed on 17 August 1970.
- 1780. The same day, Lenard DEMLER was again interviewed by Detective Sergeant HUGHES which was recorded by way of Police jobsheet. Lenard DEMLER was questioned about the ownership of a .22 rifle or pistol. Lenard DEMLER said that he had never used or owned one himself and commented that he did not believe Harvey had one either.
- 1781. Although not documented on the investigation file, the Police Exhibit Register shows that Detective Sergeant HUGHES took possession of four pairs of pliers, a pair of tin snips, a pair of scissors and a bundle of copper wire from various sheds on the DEMLER property.

- 1782. On 25 August 1970, Lenard DEMLER was again spoken to by Detective Inspector HUTTON who had gone to Lenard DEMLER's property with Detective PARKES to speak with Heather SOUTER. Jeannette's funeral was discussed and Lenard DEMLER was asked if he had any idea where Harvey's body might have been, to which Lenard DEMLER replied he did not.
- 1783. On Wednesday 16 September 1970, following the discovery of a fully clothed male body in the Waikato River, Police took Lenard DEMLER to the Auckland City Mortuary where he was asked to view the body.
- 1784. Through general appearance and clothing, he was able to identify the body as that of his son-in-law, Harvey.
- 1785. After making a Deposition of Identification statement, he was interviewed initially by Detective Sergeant CHARLES, and then by Detective Inspector HUTTON. Both interviews were recorded by way of Police jobsheet.
- 1786. During this interview, Lenard DEMLER was questioned about the reasons that he had not assisted in any of the land searches for Harvey and Jeannette and why he had not made contact at any stage with the investigation team.
- 1787. This criticism of Lenard DEMLER may be unreasonable. The investigation file records that Lenard DEMLER assisted in the Police Search on 22 June and that on the five days following 22 June 1970, when the crime scene was discovered, Lenard DEMLER was interviewed by Police on each day.
- 1788. The date of 27 June 1970 appears to be the first day where there is no documented interaction between Police and Lenard DEMLER.
- 1789. By 26 June 1970, Lenard DEMLER would have been left in no doubt that Police believed he was responsible for the CREWES' disappearance.
- 1790. On 22 June 1970, prior to Owen PRIEST calling Police, Lenard DEMLER had made an initial search of the immediate environs of the CREWE farmhouse and property looking for his daughter and son-in-law.
- 1791. On 22 June 1970, Lenard DEMLER expressed to Owen PRIEST that he did not wish to find their bodies, clearly articulating a sense of anxiety that they were deceased, and had been the victims of foul play.
- 1792. Lenard DEMLER's reluctance to help with the ground searches led to speculation by both Police and residents of the Pukekawa area that he was involved in the disappearance of Harvey and Jeannette.
- 1793. During the search, Lenard DEMLER maintained an awareness of Police action and was seen riding his horse over farmland where he could monitor searches being undertaken.

- 1794. It would appear that Lenard DEMLER was upset and reacting to the manner in which he had been treated by Police from the outset. On 16 September 1970, he told Detective Inspector HUTTON "...I got my back up and I didn't want any thing more to do with any of you."
- 1795. On Thursday 25 June 1970, Heather SOUTER told Police that her father was "...wild with them" after they accused him of being the murderer. There had apparently been a shouting match between Lenard DEMLER and members of the investigation team.
- 1796. This would undoubtedly have been an emotional time for Lenard DEMLER, having recently lost his wife to cancer, to be followed by his daughter and son-in-law going missing in highly suspicious circumstances.
- 1797. If innocent, to have been persistently accused of murdering both of them could be perceived as antagonistic.
- 1798. It is generally accepted that Lenard DEMLER had an unusual persona in that he sometimes reacted by laughing at inappropriate times and looking away as if disinterested, and appearing to show little or no emotion. A Police view of Lenard DEMLER can be gleaned from a Police jobsheet submitted by Detective Senior Sergeant SCHULTZ in which he described him as being "...a very stubborn individual and could be termed a psycho."
- 1799. Witnesses who knew Lenard DEMLER observed that these behaviour traits were not new and that he had always been somewhat awkward around people. In author, David YALLOP's book, 'Beyond Reasonable Doubt', he observed that Lenard DEMLER had the nickname 'Merry' at school because what ever happened to him, he would always laugh.
- 1800. Following the discovery of Harvey's body on 16 September 1970, Police applied for another search warrant for Lenard DEMLER's property. The search warrant specified "22 firearms and ammunition" as items being searched for. The executed warrant has a notation on it "Premises searched on Friday, the 18th September 1970", however, there is no documentation on the investigation file that records the outcome of the search.
- 1801. The Exhibit Register records further wire samples were taken from the DEMLER property on Thursday 17 September 1970, but there is no other documentation on the investigation file concerning this.
- 1802. On Friday 18 September 1970, Lenard DEMLER was interviewed by Detective Sergeant TOOTILL, recorded by way of Police jobsheet. During this interview Lenard DEMLER was questioned about an envelope found in one of his coat pockets which had writing on it outlining his activities between Monday 15 June and Monday 22 June 1970. Lenard DEMLER acknowledged writing it after he had been interviewed by Police and told Detective Sergeant TOOTILL that he had written it "...so that I could remember what I said."

- 1803. On Thursday 15 October 1970, Lenard DEMLER was interviewed by Detective Inspector BAKER, Detective Senior Sergeant O'DONOVAN and Detective Sergeant TOOTILL. The reason for the interview was to make an 'assessment' of him, presumably as a potential suspect.
- 1804. Lenard DEMLER was asked about the burglary and two fires that had occurred at the CREWE property.
- 1805. On Thursday 22 October 1970, Lenard DEMLER was questioned by Detective Inspector HUTTON and Detective JOHNSTON concerning the past association between Arthur THOMAS and Jeannette.
- 1806. Lenard DEMLER disclosed that Arthur THOMAS had been 'persistent' in his association with Jeannette and had given her at least one gift. Lenard DEMLER also stated that Arthur THOMAS had taken Jeannette out on one occasion, however, he may have been incorrect in his recollection.
- 1807. On Thursday 12 November 1970, a typed statement was taken from Lenard DEMLER outlining background information concerning his daughter, her association with Arthur THOMAS and the burglary and fires that had occurred on the CREWE property.

#### **Firearm**

- 1808. Following the discovery of Jeannette's body and an awareness that her death had resulted from a .22 gunshot wound, the investigation team attempted to establish whether Lenard DEMLER owned, possessed, or had access to a .22 firearm.
- 1809. The investigation team were aware that in an inventory for Howard CHENNELLS estate, which was written after his sudden death in 1950, the word 'gun' was mentioned as an item of property. There is no further qualifying description given.
- 1810. It is probable that the 'gun' came into the possession of Lenard and May DEMLER, on the basis that his sister, May DEMLER, was his immediate next of kin.
- 1811. On 1 September 1970, Detective KEITH recorded in a Police jobsheet, enquiries he conducted at the Auckland Police Arms Office. Records show that on 6 July 1921, a .360 double barrel breech loading rifle, with a serial number given as '859', was registered in the name of John ANDERSON, at Tuakau.
- 1812. On 2 October 1924, the firearm was registered in the name of Newman CHENNELLS, Howard CHENNELLS' father. (On 3 October 1924, the John ANDERSON registration was cancelled at Tuakau Police Station).
- 1813. Although searches of the DEMLER farm had failed to locate this firearm, on 21 March 1973, just days prior to giving evidence in the second trial, Lenard DEMLER handed the firearm to Police reporting that he had found it lying in the corner of a manure shed on his property.

- 1814. The firearm was contained inside a brown leather case.
- 1815. The Review Team are now in possession of this firearm which is a double barrelled side-by-side .360 calibre rifle manufactured by WJ Jefferies, Gunmakers of London. The rifle is designed to use centre-fire ammunition and the firing pins are struck by two external hammers. The firearm has a stamp on the butt 'J.C. Oldbury Auckland', a Gunsmith operating in Queen Street, Auckland, in the early part of the 20th Century. This is the likely source of the firearm when it was originally acquired by someone prior to John ANDERSON in 1921. (Refer Appendix 3)
- 1816. A .360 calibre rifle cannot fire .22 ammunition, unless the barrel has been modified by way of re-sleeving.
- 1817. There has been speculation by various commentators about the origin of this firearm. However, it is probable that this is the firearm referred to in Howard CHENNELLS' estate inventory as 'gun'.
- 1818. The Certificate of Registration, No.251628, dated 2 October 1924, was produced at the second trial. The firearm serial number was recorded as '859' on the certificate and the description of the firearm is identical to Howard CHENNELLS' .360 double-barrel rifle originally purchased by Newman CHENNELLS and handed to Police by Lenard DEMLER.
- 1819. The action and trigger-guard of the firearm have been examined and the presence of serial number '2139' noted. The serial number is consistent with Gunmakers, WJ Jefferies' serial numbering. The number '859' does appear on the barrels and was erroneously recorded as the firearm serial number when it is, in all probability, a barrel number. The misconception that this is a serial number is likely to be due to a lack of familiarity of the location of firearm serial numbers.
- 1820. Previous farm managers of the CHENNELLS farm (later the CREWE farm), were interviewed to establish whether or not Lenard DEMLER had previously had access to a .22 firearm.
- 1821. Frank BENNETT was the first to be appointed as Farm Manager after the death of Howard CHENNELLS, for a two year period between 1950 and 1951.
- 1822. Frank BENNETT described seeing "...a gun in a wooden case." The case was black with two catches. The inside was lined with green felt and contained a cleaning rod as well as a gun.
- 1823. Frank BENNETT described the gun as being two barrelled, shorter than a normal shotgun. The barrels were side by side. The gun fired a shot cartridge out of one barrel and the other barrel fired a normal rifle cartridge.
- 1824. Frank BENNETT was not sure of the calibre of the barrels but described them as being:

- "1. Somewhere between a .22 and .303 this would be the barrel [sic] firing the shell.
- 2. A bore about the same diameter as the outside diameter of a .22 barrell [sic]."
- 1825. Frank BENNETT stated: "I did not think it was much use because I doubted that I could get ammunition for it."
- 1826. This comment would suggest that the firearm Frank BENNETT was describing would not have fired .22 cartridges as this ammunition would have been readily available.
- 1827. Frank BENNETT's wife handed Police a single cartridge which she stated had come from the case in which the gun was kept. This cartridge is described as having had letters 'L.G' and the number '43' stamped on the base. Enquiries made into the origin of the cartridge indicate it was a .30 USA manufactured rimless round used in a USA M2 service rifle and incompatible with the CHENNELLS rifle.
- 1828. James HAWKER was appointed as the Farm Manager in either 1952 and 1953 and worked there for a period of 11 years. He was interviewed on six occasions by the investigation team.
- 1829. During these interviews, James HAWKER recalled seeing a .22 rifle on the property, but described it as being 'unserviceable', in that the stock was missing, the bore was rusty, and the firing mechanism did not work. He was not sure of the firearm's final whereabouts, but believed it was likely to have been thrown out.
- 1830. In a later interview, recorded in a Police jobsheet, James HAWKER stated he was 'pretty sure' that Lenard DEMLER had a .22 rifle. He said that Lenard DEMLER kept this together with a shotgun in a room near the rear porch in his farmhouse.
- 1831. About a week later, James HAWKER was specifically asked by the investigation team about the .22 rifle. On this occasion he stated he was 'fairly certain' Lenard DEMLER had a .22 rifle, however, he did not elaborate further as to the number of times he had seen the firearm, or if he had seen Lenard DEMLER using it.
- 1832. Having read the six records of James HAWKER's interviews with Police, it is difficult to accept that he had a clear recollection of seeing a .22 rifle in the actual possession of Lenard DEMLER at any time.
- 1833. John HANDCOCK was the third Farm Manager of the CHENNELLS farm and worked there between 1962 and 1966, immediately prior to the farm being taken over by Harvey and Jeannette.
- 1834. There is nothing on the investigation file to indicate that John HANDCOCK was asked about seeing any firearms in the possession of Lenard DEMLER.

- 1835. On 9 September 1970, Joseph MacKAY was interviewed as he had previously lived on what was then known as the 'CHITTY farm'. He had previously worked for Lenard DEMLER.
- 1836. Joseph MacKAY recalled seeing Newman CHENNELLS with a gun which he described as having two barrels "...one which fired a rifle shot and the other fired a small shotgun shell."
- 1837. During a later interview Joseph MacKAY said that he had only seen the firearm once and that it was in about 1931, some 39 years previously. Joseph MacKAY went on to say:

"There were two barrels and I am almost certain that the barrels were situated side by side. There was a piece of wood missing under the barrel. I think it was an English gun and it had a walnut stock. He kept the gun in an oblong flat level case which was a tan colour. I am pretty sure one barrel fired a point 22 bullet and the other barrel fired a cartridge, which would measure about 3 inches long and a half inch in diameter. I can't remember on which side which barrel was situated. I have no idea what has happened to the gun as, as I say, I only saw it the once."

1838. On 21 September 1970, Joseph MacKAY was again interviewed and provided a similar description of the firearm. He elaborated on the description of the case:

"It was in an oaky coloured wooden case with green felt lining and this case was in turn inside a brown leather case. The brown was a similar colour to sapelle mahogany. Both cases had hinged lids."

- 1839. Joseph MacKAY recalled seeing Newman CHENNELLS' firearm and said that the gun was for shooting rabbits and he remembered the cartridges were "...very long thin ones. They would be about the size as (of) a .303 shell or slightly bigger."
- 1840. In his statement, Joseph MacKAY disclosed that he worked for Lenard DEMLER between 1958 until about 1962 or 1963. He stated, "While I was working for Lenard [DEMLER] I sometimes saw him shooting possums with a shotgun but did not see him using any other gun."
- 1841. On 24 September 1970, Joseph MacKAY was further interviewed and added to his previous statements by saying:

"Also in the leather case in which the gun case was lept (kept) were some .22 shells. They appeared to be a greeny verdigris colour. Both the cartridges and the shells were lying loose. I do not remember how many there were there and I did not touch them at all."

1842. The description given by Joseph MacKAY does not accord with the gun being the .360 / .360 registered by Newman CHENNELLS in 1924. It must be remembered, however, that he was describing a gun he saw once, 39 years earlier when he was 10 years of age.

- 1843. The other point of interest is that Joseph MacKAY described "A piece of wood missing under the barrel." The wooden forend of the CHENNELLS' gun, now in the possession of the Review Team, has clearly been replaced at some point, which would suggest that the original forend had been lost or broken. This fact supports the description of the gun described by Joseph MacKAY and is in all probability the .360 / .360 registered by Newman CHENNELLS.
- 1844. On 22 September 1970, Martin MacKAY (Joseph MacKAY's father), was interviewed by the investigation team. Martin MacKAY described seeing the gun which he said was, "Twin barrelled, with the barrels side by side with two hammers. One barrel fired a shot cartridge." Martin MacKAY was shown a 'Biro' pen, which he said was about the thickness of the cartridge.
- 1845. Martin MacKAY described the other barrel as firing a .42 cartridge.
- 1846. This calibre, .42, is not associated with a known firearm calibre. It is probable that Martin MacKAY is describing a .410 cartridge.
- 1847. Martin MacKAY stated that he was present when Newman CHENNELLS purchased the gun at a dispersal sale on behalf of a man named 'ANDERSON' who lived in Kauri Road in the 1920s. Martin MACKAY recalled that he purchased a horse and Newman CHENNELLS purchased this firearm.
- 1848. Both Joseph MacKAY and Martin MacKAY said they never saw Lenard DEMLER in possession of the gun they described.
- 1849. Author, Christopher BIRT, has repeatedly submitted to Police that Lenard DEMLER was in possession of a .410 / .22 combination firearm. He pointed to the descriptions given by Joseph MacKAY and Frank BENNETT in support of this contention.
- 1850. In addition, Christopher BIRT maintained that during an interview he conducted with Owen PRIEST in September 1995, Owen PRIEST told him that he had travelled with Lenard DEMLER to the deposition and Court hearings in the same car. During one of these trips Lenard DEMLER had told him that the CHENNELLS rifle was a .410 / .22 and that it was in excellent condition. Owen PRIEST acknowledged that he had never seen this gun and based this information on what Lenard DEMLER had told him.
- 1851. It is not possible to verify comments attributed to Owen PRIEST as he is now deceased.
- 1852. Christopher BIRT also relied upon the evidence given by Lenard DEMLER at the RCOI, when he stated:

"The Chenalle [sic] estate, had an old gun that my first wifes [sic] father brought from England. It is an unusual type of gun, it took a 410 cartridge, and still had a rifle bore in it. I don't [sic] think there was ever any ammunition over here for it, I never saw anyone fire out of it.

From the time when by brother in law Mr Chanelle [sic] died onwards, the gun I have described, was up in an old house in those days, before they built the brick house now. And when the old house was pulled down, I took it down home. When Mr...[and] Mrs Crewe took over occupation of the farm, the brick houe [sic] was there, and the other house had been pulled down a few years before that. There were not any other firearms in the Chanelle [sic] estate."

1853. The comments of James HAWKER, "I did not think it was much use because I doubted that I could get ammunition for it" and Lenard DEMLER, "I don't think there was ever any ammunition over here for it", tend to be consistent with the firearm being a .360 calibre rather than a .410 / .22 combination firearm, since both of these types of ammunition would have been readily available.

#### Axle

- 1854. Following the discovery of an axle under Harvey's body, enquiries were commenced to trace its origins. This included establishing if Lenard DEMLER had ever been in possession of this axle.
- 1855. The same group of people interviewed about their knowledge of a firearm were also interviewed concerning their knowledge of axles in the possession of Lenard DEMLER, on his farm, or on the CREWE farm. Nothing was disclosed that amounted to incriminating evidence.
- 1856. In his statement dated 21 September 1970, Joseph MacKAY mentioned that there was an axle on the farm used for holding down a tarpaulin that covered the hay. He recalled that the kingpin was out of one end and the rope from the tarpaulin was threaded through the eye of the axle. In a further statement made on 24 September 1970, after being shown the axle recovered with Harvey's body, Joseph MacKAY discounted that the axle he had been shown by Police was the same axle.
- 1857. Joseph MacKAY commented that the axle was similar to one on an old home-made trailer that Lenard DEMLER had owned. He said that it was similar because it was of the same shape as the one on the trailer and "...also had one or two bars running from the axle to the frame of the trailer." The axle he was shown had a lug welded on to it, to which the bar was fitted, and was like the one he recalled.
- 1858. On 21 September 1970, the investigation team received information that Selwyn HAWTHORN had been overheard talking to the Licensee of the Kaukapakapa Hotel.
- 1859. During this conversation, Selwyn HAWTHORN claimed that he had farmed next to Lenard DEMLER for about nine years. He claimed to have owned a 1926 or 1929 Nash car.
- 1860. Selwyn HAWTHORN further claimed to have put the axle from this car on a trailer and was heard to say in relation to the axle being publicised by the CREWE investigation team "...that's probably mine."

- 1861. On 25 September 1970, Selwyn HAWTHORN was interviewed by Detective JOHNSTON. He stated that he had previously farmed the property then owned by lan and Peggy SPRATT between 1946 and 1955. While on this property, he had an older trailer, the axle wheels of which were from an old stationary baler manufactured by Boothmac Limited. The trailer had been left on the farm when he sold it.
- 1862. Selwyn HAWTHORN stated that he had never owned a 1929 Nash, rendering the earlier alleged disclosure as being unreliable.

#### Will

- 1863. The 1970 investigation team speculated about why Lenard DEMLER would be motivated to murder his daughter and son-in-law. They concentrated their enquiries around the activity that had occurred during the week of the murders that involved the finalising of the Will of May DEMLER.
- 1864. On 11 June 1970, solicitors, Sturrock & Monteith, wrote to both Lenard DEMLER and Jeannette advising that the papers for the Estate of May DEMLER had been prepared and asked them to call in for the purposes of signing the documents. An additional letter was sent to Lenard DEMLER advising that papers for the IRD had been prepared and requested him to call in with regard to that matter as well.
- 1865. On Monday 15 June 1970, Lenard DEMLER visited Sturrock & Monteith in Tuakau and met with Colin STURROCK.
- 1866. In 1969, May DEMLER changed her Will leaving her personal assets to Jeannette, rather than both of her daughters as had previously been her intention. May DEMLER was unhappy about Heather SOUTER being in a relationship with a divorced man who already had three children and effectively sought to cut her out of her Will. Lenard DEMLER did not support his wife's stance in this regard.
- 1867. While signing the various documents and during their discussions around the Will, it was suggested by Colin STURROCK that Lenard DEMLER should make a new Will leaving two-thirds or three-quarters of his estate to his daughter Heather SOUTER, in order to balance what was being bequeathed to Jeannette through May DEMLER's Will.
- 1868. Precisely what was discussed during this meeting was never documented, however, a Police jobsheet recording an interview with Colin STURROCK indicated that Lenard DEMLER told him that he would pay the death duties owed by May DEMLER's estate.
- 1869. As Lenard DEMLER was leaving the office he asked Colin STURROCK to draw up another Will leaving Heather SOUTER two-thirds of his estate and Jeannette one-third.

- 1870. There is nothing on the investigation file to indicate that the death of Jeannette benefited Lenard DEMLER other than as a trustee of her estate, he was able to conduct her affairs with autonomy. May DEMLER was the second trustee and was deceased.
- 1871. After completing matters with Colin STURROCK, Lenard DEMLER drove to Hamilton and visited his accountant, Thomas HUTCHESSON, to sign taxation documents for the accounts held in partnership between himself and his late wife.
- 1872. While there, Lenard DEMLER queried the ownership of shares which were listed in May DEMLER's estate as being owned by the partnership. Lenard DEMLER appeared to be under the impression that these shares were in his name only.
- 1873. Thomas HUTCHESSON explained to Lenard DEMLER that although these shares had been registered in his name and treated as part of his income, they were in fact partnership assets.
- 1874. Thomas HUTCHESSON stated that, as far as he was concerned, when Lenard DEMLER left his office on this day he was in no doubt that he had no financial worries and that there would be no problems concerning the administration of the farm.
- 1875. There have been suggestions by commentators that Lenard DEMLER's visit to his accountant indicated that he was concerned about something that he had learnt from Colin STURROCK. On reading the account of Thomas HUTCHESSON's interview recorded on a Police jobsheet, it appears that Thomas HUTCHESSON had drawn up the Statement of Accounts for the previous financial year and Lenard DEMLER had been asked to go in and sign them.
- 1876. On 16 June 1970, Jeannette visited Sturrock & Monteith's office and spoke with Douglas MONTEITH. She, too, signed the estate duty accounts of her mother's Will. During the meeting she was handed a Statement of Assets and Liabilities, which had been prepared for her.
- 1877. On 9 March 1970, Jeannette had been sent a copy of her mother's Will by Sturrock & Monteith and was asked to call into their office to sign an affidavit for the executors to apply to the Supreme Court for probate. Jeannette would certainly have been aware of the contents of her mothers Will since 16 March 1970, when probate was granted.
- 1878. On 19 June 1970, Lenard DEMLER again visited Sturrock & Monteith's offices and signed a new Will varying his proposed bequest to his two daughters.
- 1879. It has been suggested by Author Christopher BIRT that the amendment to the Will of May DEMLER, dated 18 July 1969, had in fact been forged. The amendment is handwritten and there seems little doubt that this is in the handwriting of Colin STURROCK. For the amendment to the Will to have been forged, there must have been collusion between Colin STURROCK and Douglas MONTEITH and possibly others.

- 1880. Colin STURROCK's signature, along with Douglas MONTEITH's signature, appears at the bottom of the page. They attest to it having been signed by May DEMLER in their presence. If this was not the case then they must be complicit in the act of forgery. There is no evidence to support this proposition.
- 1881. The only people to gain from this amendment to the Will were Lenard DEMLER and Jeannette. If either were going to involve themselves in such deceit, there was clearly an opportunity to make the Will even more personally advantageous.
- 1882. Christopher BIRT claimed that long time friend of Harvey, Graeme HEWSON, was told by Harvey "...that DEMLER was getting very shitty about losing half his farm through his wife's Will. That would have been in the winter of 1969, even before Maisey [DEMLER] had died."
- 1883. If Lenard DEMLER was responsible for the forgery and the statement of Graeme HEWSON was true, he would have been able to have arranged for the Will to be written in a way that enabled him to regain full title of the farm.
- 1884. At the time of May DEMLER's death, her estate owed Lenard DEMLER \$22,689.05 by way of a mortgage he held over the property.
- 1885. In considering the likelihood of the beneficiaries of the Will being linked to the motive for the murders, Lenard DEMLER had, in all probability, been well aware of the contents of his wife's Will since July 1969, and almost certainly since March 1970.
- 1886. The disposition of her estate assets, therefore, would not have come as a shock to him. Furthermore, Colin STURROCK told Police that the wording of the Will meant that Jeannette would not have management rights to the farm while Lenard DEMLER was alive as he had 'use and occupation' of it.
- 1887. The Review Team have sought records held by solicitors, Sturrock & Monteith, relating to documents and correspondence concerning the Will and disposition of assets owned by May DEMLER. Documents that have survived since 1970 have been reviewed, however, do not provide any information that assists in gaining any additional insight into any possible motive for the murders.

#### **Blood in Ford Cortina, EF9225**

- 1888. On 26 June 1970, Detective Sergeant SINTON obtained search warrants for the DEMLER farm, 1969 Ford Cortina motor vehicle (EF9225) and 1969 Morris 1100 motor vehicle (EG7225).
- 1889. Detective PARKES located and searched both vehicles with the assistance of Dr NELSON. Blood was found on the front passenger seat of the Cortina vehicle and on the inside of the front passenger door. Testing revealed that the blood was the same blood group as Jeannette.
- 1890. Lenard DEMLER gave Police various explanations for this blood being in his car.

- 1891. On Wednesday 8 July 1970, when first questioned about the blood by Detective Senior Sergeant SCHULTZ, Lenard DEMLER said, "The blood got on the seat when I cut my finger." Lenard DEMLER then held up the second finger on his right hand.
- 1892. When Lenard DEMLER was told by Detective Senior Sergeant SCHULTZ that the blood was not his and that it was Jeannette's, Lenard DEMLER replied, "You do not know the difference between my blood and Jeannette's." When Lenard DEMLER was told that Police could prove it was Jeannette's type and not his, he did not answer.
- 1893. Immediately after that interview Lenard DEMLER was questioned by Detective Inspector HUTTON on the same topic. He replied, "By Christ, I don't know how that got there. SCHULTZ asked me about this. I have nothing further to say on that."
- 1894. When interviewed on 9 July 1970 by Detective Sergeant CHARLES, Lenard DEMLER stated, "Its been in there for a while...how long I would not like to say...Jeannette got in the car one day at the woolshed."
- 1895. After 16 September 1970, when Harvey's body was recovered from the Waikato River, Detective Sergeant CHARLES conducted an interview with Lenard DEMLER using a question and answer format. During that interview, Lenard DEMLER provided a number of explanations as to how Jeannette had cut her finger that led to blood being located in his Cortina motor vehicle.
- 1896. In a typed statement made to Police on 12 November 1970, Lenard DEMLER provided a further explanation for the presence of blood matching Jeannette's blood grouping in his Ford Cortina:
  - "I recall earlier this year when my wife was in my hospital Jeannette calling round to my place with Rochelle and when she was putting the baby into my car she knocked her finger causing it to bleed. I didn't notice the blood on the car at the time but later did so but didn't bother to clean up because there wasn't much there on the back of the seat. I remember Jeannette wrapping her handkerchief around her finger to stop the bleeding. We both went into the hospital to see my wife."
- 1897. On 29 September 1970, William STRAND, a Lubrication Manager at Orstien and Greenwell Limited, Pukekohe, told Police that he knew Jeannette through servicing her motor vehicle. He recalled seeing Jeannette on one occasion with her finger bandaged. He fixed this to a period just prior to her going missing in June 1970. He could not say which finger was bandaged.

#### **Norma DEMLER**

1898. Norma DEMLER was the second wife of Lenard DEMLER. She married Lenard DEMLER on 7 April 1972, at the Auckland Registry Office. They were married for 20 years before Lenard DEMLER's death on 4 November 1992.

- 1899. Prior to her marriage to Lenard DEMLER, Norma was married to James EASTMAN. Her maiden name was THOMAS and her brother, Brian THOMAS, married Noelene DEMLER, Lenard DEMLER's sister.
- 1900. Norma EASTMAN has been nominated by a number of commentators and others as the woman they suspect was seen in the CREWE garden on Friday 19 June 1970, by Bruce RODDICK, and as a consequence, the woman who they believe fed Rochelle (if that in fact occurred).
- 1901. At the time of the murders, Norma EASTMAN was a widow and living alone in Howick, Auckland.
- 1902. There is nothing on the investigation file to indicate that Norma EASTMAN featured in any part of the investigation. There is no doubt that if it could have been demonstrated that she was associated with Lenard DEMLER in 1970, this would have led to a completely different approach being taken to the investigation by Detective Inspector HUTTON, with the objective of linking both to the murders.

#### **RODDICK identification**

- 1903. It would appear that May 1972 was the first time that there was any suggestion of Norma EASTMAN being the woman seen in the CREWE garden by Bruce RODDICK.
- 1904. This was first advanced by Henry STUCKEY and his brother-in-law, Richard THOMAS.
- 1905. Richard THOMAS supplied the Review Team with recordings and notes he made which outline the enquiries he undertook to advance his efforts to identify the woman in the CREWE garden. In one of three recordings he stated:

"So the next thing was I went down to Pukekawa once again, speaking to some of my old mates there that live in Pukekawa, Tuakau. I went and saw Margaret and Buster [STUCKEY] and Margaret says to me that there was a woman living in [Lenard] DEMLER's house and of course DEMLER was always the suspect, may have done the murders, so I thought straight away perhaps we should get a photograph of her and get Bruce RODDICK, he lives in the district still at the time, to identify her if it's the same woman that he saw during the murders.

So I rushed round to Vivien's [THOMAS] and I got Arthur's [THOMAS] binoculars and then picked up Bruce RODDICK, told him we were going down a driveway and said there could be a woman that he may be interested in.

...waiting for the woman to come out of DEMLER's house, it took some time, maybe half an hour, maybe more I can't remember now, but after a while a woman did come out of the house and she went to the clothesline. I gave Bruce RODDICK the binoculars and he looked there for a long time at her through the binoculars and then put them down and then he says to me, 'That's her.' His exact words were, 'That's her."

- 1906. Although Richard THOMAS did not date this part of the recording, it is accepted that he was talking about May 1972, as this was the time when Bruce RODDICK stated that this event occurred.
- 1907. Bruce RODDICK was asked to accompany Buster STUCKEY and Richard THOMAS to observe a woman at the DEMLER house in Sharpe Road, Pukekawa, to see if he could recognise her as being the woman he saw in the CREWE garden nearly two years before.
- 1908. Richard THOMAS alleged that Bruce RODDICK observed Norma DEMLER at the property and identified her as being the woman he had seen at the CREWE property on the day in question.
- 1909. This information was reported to Kevin RYAN, Defence Counsel for Arthur THOMAS, and shortly thereafter, given to the media.
- 1910. On 31 May 1972, immediately after the news of his alleged identification was reported in the media, Bruce RODDICK made a statement to an independent solicitor, Mr IMPERATRICE.
- 1911. In his statement, Bruce RODDICK disclosed that he had told Richard THOMAS that the woman he saw at Lenard DEMLER's property was 'similar' to the woman he had seen at the CREWE house and that he then told Kevin RYAN "...that it could possibly be the same woman as I had first seen."
- 1912. The next day, 1 June 1972, Bruce RODDICK was taken by Detective Inspector HUTTON and Detective JOHNSTON to the DEMLER property. Bruce RODDICK remained in the Police vehicle together with Detective JOHNSTON, while Detective Inspector HUTTON went into the house. A short time later Detective Inspector HUTTON came outside with a woman who Bruce RODDICK later learned was Norma DEMLER. She walked up to the car and spoke with Detective JOHNSTON.
- 1913. Following this exchange Bruce RODDICK made a statement to Police that Norma DEMLER was "...certainly not the person I saw on the 19 June 1970."
- 1914. Norma DEMLER told Police that she recalled being asked to walk out on the veranda at the DEMLER farmhouse by Detective Inspector HUTTON, where she believed that someone was observing her. Her recall corroborates this event to some degree, although she made no reference to speaking with Detective JOHNSTON when Bruce RODDICK was with him in the vehicle.
- 1915. In 1979, Bruce RODDICK was interviewed by Robert ADAMS-SMITH QC, the independent Barrister appointed by Prime Minister Robert MULDOON, to investigate allegations made by Author, David YALLOP, that he had identified Heather SOUTER as the 'mystery woman'.

1916. During his interviews with Bruce RODDICK, Robert ADAMS-SMITH QC questioned him concerning the 1972 attempted identification of Norma DEMLER. Robert ADAMS-SMITH QC stated in his final report to the Prime Minister:

"All information which I have received has only justified my making further investigations into the whereabouts, at the relevant time, of two women. Of these I am satisfied that one [a reference to Norma DEMLER], because she had no association with the district at the time, would not have been in any way involved in the crime. My investigations have not disclosed any basis even to suspect her being implicated."

- 1917. In 1980, Bruce RODDICK gave evidence before the RCOI and confirmed that he had made a statement to Lawyer, Mr IMPERATRICE, that he only believed the woman he observed was 'similar' and that he had never been able to positively identify any woman as being the woman he had seen at the CREWE property on 19 June 1970.
- 1918. Bruce RODDICK is now deceased.
- 1919. The Review Team note that had Bruce RODDICK genuinely believed that Norma DEMLER was the woman he had seen at the CREWE property on 19 June 1970, he had ample opportunity to tell someone outside the perceived influence of Police.
- 1920. After making the statement to Mr IMPERATRICE, Bruce RODDICK had contact with Arthur THOMAS' defence team prior to the second trial and before being called by the defence to give evidence.
- 1921. Bruce RODDICK was called by Defence Counsel, Kevin RYAN, during the second trial in 1973. He was not asked about this identification during his evidence.
- 1922. Bruce RODDICK again had opportunity to raise this with defence counsel prior to the second referral to the Court of Appeal.
- 1923. Suggestions, therefore, on the part of commentators and the RODDICK family, that Bruce RODDICK believed that Norma DEMLER was the woman he had seen at the CREWE property on 19 June 1970, are misguided.
- 1924. The timing of May 1972 is very important in respect of Norma DEMLER's involvement, as it is clear that Buster STUCKEY and Richard THOMAS had only just become aware of a woman associated with Lenard DEMLER. Had there been even so much as a hint of this before then, they would undoubtedly have attempted to obtain an identification of her at an earlier date.

#### **Author - Christopher BIRT**

1925. Christopher BIRT first hinted at Norma DEMLER being the woman seen at the property and, in later years, publicly named her.

- 1926. Christopher BIRT had written to Police suggesting that he had evidence that Norma EASTMAN was at Lenard DEMLER's farm, feeding the shearers in the summer of 1969 / 1970. He based this on notes of an interview he had with Norma DEMLER's sister-in-law, Beryl DICK, in which she allegedly told Christopher BIRT that Norma EASTMAN went to feed the shearers prior to the murders.
- 1927. Christopher BIRT also suggested that Colin HARVEY, Trustee of Harvey's estate, told him that Norma EASTMAN became involved in the CREWE Trust affairs not long after the murders. He asserted that it was before Jeannette's body was recovered and prior to her close association with Lenard DEMLER.
- 1928. Christopher BIRT conceded to the Review Team that Colin HARVEY subsequently retracted these statements when Christopher BIRT endeavoured to obtain a formal statement from him.
- 1929. The Review Team have been unable to advance the information supplied by Christopher BIRT concerning Beryl DICK and Colin HARVEY, as they are both now deceased.
- 1930. The Review Team note, however, that on 3 September 1970, the investigation team interviewed Colin HARVEY, who together with Lenard DEMLER, was a Trustee of the CREWES' Estate.
- 1931. In a written statement Colin HARVEY outlined details of his dealings with Lenard DEMLER and Heather SOUTER. He stated that he first visited the CREWE property on 7 July 1970, after receiving a letter from Solicitor, Douglas MONTEITH. Together with Lenard DEMLER, he mustered stock and inspected the property.
- 1932. Colin HARVEY and his wife returned on 3 August 1970 and together with Lenard DEMLER and Heather SOUTER, cleared out the personal belongings from the CREWE farmhouse.
- 1933. Colin HARVEY returned on 25 August 1970 and again inspected the property. He also visited Lenard DEMLER.
- 1934. In the statement made by Colin HARVEY he described in detail what he did on each occasion that he visited the CREWE farmhouse and the assistance that he received from Lenard DEMLER and Heather SOUTER. He described conversations he had had with Lenard DEMLER about running the estate, and discussions around who should have custody of Rochelle. Colin HARVEY did not mention Norma EASTMAN being present during any of his visits.
- 1935. Christopher BIRT also maintained that local farmer, Ross EYRE, told him that he worked on Lenard DEMLER's farm as a boy and, during one of the shears, which he believed was the summer of 1969 / 1970, Norma EASTMAN was present.

- 1936. In his book, 'All the Commissioner's Men' published 2012, Christopher BIRT maintained that the Police were aware of the presence of Norma EASTMAN but suppressed it. He pointed to a Sworn Declaration made by the daughter of Maud KNOX who was a close friend of Marie CREWE, Harvey's mother, that Police had stated they suspected Lenard DEMLER and that he had a 'new lady friend'.
- 1937. Christopher BIRT also quoted Detective Constable MEURANT as saying, "There was considerable discussion about a woman being involved in providing care to Rochelle and deductions that DEMLERS woman friend was implicated."
- 1938. In statements provided to the investigation team by Marie CREWE, Harvey's mother, she outlined her visits to the DEMLER's farmhouse and meetings she had attended to discuss the custody of Rochelle. There is no mention of Norma EASTMAN being present at the farm, or at these meetings.
- 1939. Christopher BIRT also raised matters recorded in a notebook of Detective JOHNSTON which indicated that he was making enquiries into Norma DEMLER. There is a notation which reads, "Confirms out (sic) suspicion re identification."
- 1940. The reference contained in Detective JOHNSTON's notebook is taken out of context. It relates to Detective JOHNSTON making enquiries into reports in a newspaper which reported that Bruce RODDICK had allegedly identified the 'mystery woman'. Faxes in June 1972 between Detective Inspector HUTTON and Assistant Commissioner, Robert WALTON, indicate that Detective JOHNSTON was making enquiries into newspaper articles. The confirmed suspicion regarding identification is clearly a reference that they suspected that the newspaper report related to Norma DEMLER.
- 1941. The Review Team approached Ross EYRE and spoke with him about Christopher BIRT's comments. He took issue with what had been said and stated that it was inaccurate to suggest that he had said that Norma DEMLER was present when he worked on Lenard DEMLER's property.
- 1942. Ross EYRE confirmed that there was a woman who was cooking for the shearers, but that he had no idea of her identity. He further stated that he was sure that he had worked on the property after the CREWE murders and he believed that this was during the summer of 1970 / 1971.
- 1943. To confirm his suspicions, he looked through old financial records that he still possessed and located a bank deposit dated 4 December 1970, which he believed was a payment from Lenard DEMLER for such work.
- 1944. As a result of correspondence received at Police National Headquarters from Christopher BIRT and the THOMAS brothers, Norma DEMLER was interviewed by Police in 2006.
- 1945. During the interview, Norma DEMLER maintained that the first time she had gone to Lenard DEMLER's farm was well after the murders.

- 1946. Norma DEMLER (then EASTMAN) had been asked by either her sister-in-law, Noelene THOMAS, or her mother, if she could go and help Lenard DEMLER by cooking for the shearers at his Pukekawa farm.
- 1947. As a result of assisting Lenard DEMLER with the shearers, a personal relationship developed between them that resulted in their marriage at the Auckland Registry Office on 7 April 1972. They had a quiet wedding and a number of family and friends were unaware that the ceremony had taken place.
- 1948. While travelling to the farm on the first occasion, Norma EASTMAN recalled seeing a sign at the Tuakau Bridge which read, "Arthur Allan Thomas Framed".
- 1949. The Review Team note that the signage, 'Thomas Framed', was posted in public places by his supporters which must have been after his arrest on 11 November 1970, at the earliest. This is significant in terms of the date when Norma EASTMAN first visited Pukekawa.
- 1950. On 20 October 2010, the Review Team spoke with witness 'A' who disclosed details of a conversation that had occurred between Norma DEMLER and herself in 2003 or 2004. Norma DEMLER apparently raised the topic of the CREWE murders and allegedly stated "...I fed the baby but we'll keep it hush hush and not tell anybody."
- 1951. Witness 'A', who claimed to know nothing about the CREWE murders, formed the impression that Norma DEMLER was being sincere and was 'quite serious' when she made this comment.
- 1952. Witness 'A' further disclosed that Norma DEMLER had also made a similar disclosure to Witness 'B'. When Witness 'B' was spoken to by Police they denied any knowledge of any such conversation.
- 1953. Efforts on the part of the Review Team to corroborate Witness 'A's assertion have proved unsuccessful.
- 1954. In 1970 Norma EASTMAN was living in Howick. It required a toll call for either Lenard DEMLER or Norma EASTMAN to telephone each other.
- 1955. Although Norma EASTMAN's toll account is not available, Lenard DEMLER's toll records were obtained for the two month period of May and June 1970. There were no toll calls made to Norma EASTMAN's telephone number during this period from the DEMLER farmhouse.
- 1956. Had there been a suspicion that Norma EASTMAN was somehow linked to Pukekawa and Lenard DEMLER in 1970, there is little doubt that she would have been interviewed and invited to participate in a formal identification parade to see if Bruce RODDICK was able to identify her as the woman he saw in the CREWE garden.

- 1957. The Review Team have spoken with Heather SOUTER. She confirmed that as far as she knew, Norma EASTMAN was definitely not in a personal relationship with Lenard DEMLER during the 1969 / 1970 Christmas period, and certainly not between June to August 1970 when she returned from the USA to New Zealand.
- 1958. The Review Team are satisfied that there is no evidence to indicate that Norma EASTMAN was in any way involved in the CREWE murders and that she had no direct involvement in Pukekawa until well after the CREWE murders and the arrest of Arthur THOMAS.

#### **Heather SOUTER (nee DEMLER)**

- 1959. Heather SOUTER was the more outgoing of the two DEMLER girls. Like Jeannette, she was educated at Pukekawa Primary School followed by attending St Cuthbert's School in Epsom, Auckland.
- 1960. After leaving school in about 1958, Heather SOUTER trained as a teacher and in 1961 taught at Pukekawa Primary School.
- 1961. As a teenager, Heather SOUTER enjoyed an active social life and attended dances in the area. She confirmed that Arthur THOMAS had shown an interest in Jeannette and as a result, she had teased her about it.
- 1962. In 1966 / 1967, Heather SOUTER joined South Pacific Airlines of New Zealand (SPANZ, a forerunner to Air New Zealand) as an Air Hostess, flying domestic routes within New Zealand.
- 1963. In 1966, Heather SOUTER agreed to sell Harvey the half of the CHENNELLS farm that she had inherited from Howard CHENNELLS in 1950. The agreed sum was £45,000 and the sale was sanctioned by Lenard DEMLER and Colin STURROCK, who were the Trustees of Howard CHENNELLS' estate.
- 1964. In 1966, Heather SOUTER formed a relationship with Robert SOUTER, a car salesman from Auckland City, who was divorced and had three children. Lenard and May DEMLER did not approve of the relationship, however, it continued.
- 1965. The relationship between Heather SOUTER and her parents deteriorated to the extent that there was little contact between them. This extended to her relationship with Jeannette, who also strongly disapproved of her relationship with Robert SOUTER.
- 1966. In 1967, Heather SOUTER moved to Canada and was later joined by Robert SOUTER, before they settled in California, USA.
- 1967. Heather SOUTER attempted to become an Air Hostess for South West Airlines in California, however, was unsuccessful.
- 1968. In 1968, Robert and Heather SOUTER married and in 1971 had a daughter together.

- 1969. On 23 June 1970, Heather SOUTER learned from Lenard DEMLER that Harvey and Jeannette were missing from their home and that Rochelle had been found abandoned in her cot.
- 1970. Robert and Heather SOUTER flew from Los Angeles, USA, to New Zealand, arriving in Auckland on 24 June 1970.
- 1971. Robert and Heather SOUTER stayed with Lenard DEMLER on Highway 22, Pukekawa.
- 1972. On 25 June 1970, Robert and Heather SOUTER were spoken to by Detective Sergeant CHARLES. Heather SOUTER was shown through the CREWE farmhouse in an attempt to identify if anything was missing, however, this was of little assistance as she had not been in the house very many times.
- 1973. Heather SOUTER provided Detective Sergeant CHARLES with details of Harvey and Jeannette's physical description, as well as details concerning their personalities and their relationship as a couple. She also provided details of her parents' character types and personalities.
- 1974. Sometime after Jeanette's body had been found, Heather SOUTER sought custody of Rochelle with the intention of taking her back to their home in the USA.
- 1975. On 8 September 1970, Heather SOUTER returned to San Diego, USA, after the burial of Jeannette on 7 September 1970.
- 1976. On 13 September 1971, as a result of a Court Order, Rochelle was cared for by Donald and Beverley TURNER, the brother-in-law and sister of Harvey. The couple were farmers and already had two children of their own.
- 1977. Over a number of years and as a result of suggestions by commentators, Heather SOUTER has been nominated as being the woman in the CREWE garden seen by Bruce RODDICK on 19 June 1970.
- 1978. Police enquiries confirmed that Heather SOUTER had not left the USA in June 1970 prior to the CREWE murders and any suggestions that she or Robert SOUTER were in New Zealand at an earlier date and possibly complicit in the murders, are not supported by any evidence.
- 1979. Suggestions that Heather SOUTER was a hostess for the American Airline Pan Am and therefore could have returned to New Zealand surreptitiously as cabin crew, is wrong. She was never employed by Pan Am.

#### John EYRE

- 1980. John EYRE suffers from hearing and speech difficulties. At the time of the CREWE murders he was aged 28 years and living with his parents and teenage brother, Ross EYRE, on the family farm on Highway 22, Pukekawa, several kilometres north of the CREWE farm.
- 1981. John EYRE is frequently referred to as 'Mickey' in media publications. This is not an accepted nickname by the EYRE family.
- 1982. On 18 August 1970, Detective Sergeant CHARLES collected two .22 firearms from the EYRE farm. One was a BSA pump-action rifle identified by Police Reference Number C2B, and the other, a Remington pump-action rifle, identified by Police Reference Number C3B.
- 1983. Later the same day, both firearms were test-fired by Dr NELSON. Following his examination of the test-fired bullets from the 'EYRE' Rifle (Police Reference Number C3B), he advised Police that he could not exclude this firearm as having fired the fatal shots.
- 1984. During the second trial, Defence Counsel, Kevin RYAN, floated the proposition that John EYRE was responsible for the CREWE murders.
- 1985. The level to which the proposition that John EYRE was the culprit was elevated in 1995, in matters raised with Police by three of the THOMAS brothers, Richard, Desmond and Lloyd.
- 1986. The THOMAS brothers have repeatedly requested that Police investigate the possibility that John EYRE is the true culprit for the murders.
- 1987. The argument presented in support of this contention is that John EYRE was motivated to kill Harvey and Jeannette because Jeannette had teased him at school, and that Harvey had refused to pay him after he had mistakenly mowed the wrong paddock while working for Harvey on the CREWE farm.
- 1988. Records from the Pukekawa School Centennial book indicate that Jeannette commenced at Pukekawa Primary School in 1945 and John EYRE commenced three years later, in 1948. There is no corroborative evidence to suggest that Jeannette teased John EYRE whilst the two were at school.
- 1989. The following is a summary of the evidence the THOMAS brothers submit warrants an investigation of John EYRE by Police:
  - a. The 'EYRE' gun could not be excluded as having fired the fatal bullets by Dr NELSON.

- b. The axle found under Harvey's body had come into the possession of the EYRE family after being discarded outside the EYRES' run-off on Highway 22 in 1965 by John MARTIN, Bruce EYRE and David BREWSTER.
- 1990. The THOMAS bothers provided Police with an affidavit from John MARTIN, who was a friend of both the THOMAS and EYRE families. John MARTIN stated that he had seen an axle in the EYRES' shed that "...was a similar shaped axle to the one that the boys and I picked up from the Thomas farm in 1965". He stated: "The next time I saw an axle similar to this one was at the second trial of Arthur Allan THOMAS."
- 1991. John MARTIN said, "I am unable to dismiss the possibility that the axle in the shed was the same one as was found attached to Harvey CREWE."
- 1992. Matters pertaining to the axle are comprehensively addressed in Chapter 10.
- 1993. John MARTIN is now deceased.
- 1994. John MARTIN allegedly told Richard THOMAS that Annesley EYRE (the father of John EYRE) had reprimanded John EYRE for mowing the wrong paddock on the CREWE farm. The contention from the THOMAS family being that John EYRE was never paid for this work and had confronted Harvey over the non-payment. What this represented in monetary terms is not known.
- 1995. On 25 January 2012, the Review Team approached John EYRE for the purposes of conducting an interview with him. It immediately became clear that due to his severe hearing and speech difficulties, any meaningful interview was impractical. At the beginning of the meeting questions put to John EYRE were answered on his behalf by Ross EYRE, who said he was able to translate what John EYRE was seeking to disclose to some degree.
- 1996. Ross EYRE confirmed that during the summer of 1969 / 1970 he and John EYRE worked at the CREWE farm cutting and raking hay. At the time they worked for their father, Annesley EYRE, who undertook contracting work in the area.
- 1997. Ross EYRE recalled working on the CREWE farm, however, denied that there was an issue around cutting the grass in the wrong paddock. He commented that even if there had been a dispute over payment, this would have been between his father and Harvey, since it was his father who was the contractor.
- 1998. A man named Paul GEE, who was a baling contractor for George MORRISON, had been the person who baled the hay on the CREWE farm that year. When interviewed by the Review Team, he was not aware of any issues concerning the wrong paddock having been mown by mistake.
- 1999. George MORRISON was interviewed by the Review Team. He recalled hearing that John EYRE had mowed the wrong paddock but could not recall who had told him this or when he first learned of it.

- 2000. Bruce RODDICK gave evidence at the second trial that John EYRE had a violent streak in him and disclosed that whilst working for a 'Mr ALLEN' at Glen Murray crutching lambs, John EYRE had grabbed hold of a lamb around the throat and throttled it.
- 2001. Leslie CRUCKSHANK, a Hydatids Control Officer, had also allegedly seen John EYRE kick and strike his dog with a stick.
- 2002. Leslie CRUCKSHANK's whereabouts is unknown, therefore, he has not been interviewed by the Review Team. Leslie CRUCKSHANK did give evidence at the second trial where he stated:
  - "...Mickey Eyre came to the dosing strip but later and his dog start [sic] to play up and he started to kick it bec. [sic] to start. [sic] to play up a bit and he got a stick and start.[sic] belt. [sic] it a/wards [sic] and the dog start.[sic] frothing at the mouth and collapsed so I had to give it a dose of alcr.[sic] sulphar to bring the dog around again".
- 2003. Richard and Desmond THOMAS related to Police that John MARTIN had seen John EYRE give Jack BREWSTER a hiding for snooping under the house. The context of this information is linked to a belief on the part of the THOMAS brothers that John EYRE was in possession of jewellery stolen in an earlier burglary at the CREWE farmhouse which he had hidden under the house.
- 2004. Jack BREWSTER is now deceased, therefore, the truth of this assertion cannot be verified.
- 2005. There are a number of alleged incidents or events that have been advanced by the THOMAS brothers (and others), as evidence against John EYRE that are summarised as follows:
  - a. During the second trial, Defence Counsel Kevin RYAN alleged that immediately prior to the trial, John EYRE assaulted an unnamed person, the identity of whom was never disclosed.
  - b. John MARTIN told Richard THOMAS that he had seen John EYRE out shooting with the BREWSTER gun.
  - c. Frederick BROOKS, who worked in Pukekawa during 1969 / 1970, allegedly saw John EYRE alone on a Pukekawa road in possession of a rifle one night in October at around 10:00pm.
  - d. John EYRE was allegedly seen on the porch of Desmond and Lorna HOOKER's Pukekawa home one evening in 1959, holding a rifle.
  - e. John EYRE had a picture of his mother on a drum and used this as a target for shooting practice.

- 2006. The Review Team note that there is little evidence on the investigation file to indicate that suspicion fell on any member of the EYRE family during the original investigation.
- 2007. The investigation file does not contain any record to indicate that John EYRE was spoken to in 1970, notwithstanding the fact that the 'EYRE' rifle was one of two that could not be excluded as the murder weapon, albeit, erroneously.
- 2008. Ross EYRE told the Review Team that Police did call at the EYRE home to speak with John EYRE during the 1970 investigation, and corroborated his alibi with the family. Ross EYRE believed that his brother was spoken to, not because of the link with the firearm, but as Police were interviewing all bachelors residing in the district.
- 2009. As outlined fully in Chapter 8, the 'EYRE' gun, a Remington pump-action (Police Reference Number C3B), was in fact owned by a Jack BREWSTER, a neighbour of the EYRE family. In 1970, Annesley and Margaret EYRE confirmed that the rifle had been in the family's possession for at least the preceding 12 months, and probably for the last two or three years.
- 2010. Ross EYRE showed the Review Team a firearms certificate dated 31 July 1970. The document was signed by Constable WYLLIE at the Tuakau Police Station and recorded Jack BREWSTER as being the registered owner of the firearm.
- 2011. The Review Team note that on 31 July 1970, Jack BREWSTER must have been in possession of the firearm, as it was necessary for Police to sight the firearm at the time of registration. It is unknown where Jack BREWSTER had collected the firearm from, or where he returned it to after it had been registered. Whether the firearm remained on the BREWSTER property, or at the EYRE property after that date, is not known.
- 2012. In 1980, the rifle was examined by ballistics specialist, Peter PRESCOTT who established that the firearm could not have fired the fatal bullets, since it had barrel characteristics of five lands and grooves and not six.
- 2013. This evidence, that Dr NELSON had made an error in not excluding this firearm as the murder weapon, was heard at the RCOI. The RCOI concluded:
  - "His [Dr NELSON's] error as to the number of lands in the 'Eyre' rifle was a fundamental error of observation."
- 2014. The THOMAS family have raised the possibility that, in conjunction with Police, the EYRES have swapped the barrel of the rifle. They point to discrepancies between the barrel date code and serial number of the rifle to support this proposition.
- 2015. This allegation resulted in the rifle being examined in 2007 by ESR Scientist Kevan WALSH; Police Armourer, Robert NGAMOKI; and Gunsmith, Din COLLINGS, of Wellington.

- 2016. Kevan WALSH formed the opinion that the barrel had not been changed. His report goes into some detail as to why there would be discrepancies in the barrel date code and serial number of the rifle. Far from being suspicious, these discrepancies are in fact consistent with the barrel date codes and serial numbers of other rifles manufactured during this period.
- 2017. Robert NGAMOKI, in conjunction with Din COLLINGS, formed the opinion that there was no evidence to show that the barrel had been altered.
- 2018. In 2012, the Review Team forwarded the 'EYRE' rifle to NaBIS in the United Kingdom. Senior Ballistics Expert, Sharon FOWLER, reported that she could find no evidence that the 'EYRE' rifle had been re-barrelled or modified. Sharon FOWLER also confirmed that the 'EYRE' rifle has five lands and grooves with a right-hand twist.
- 2019. The Review Team can find no evidence to support the proposition that John EYRE is responsible for the murders of Harvey and Jeannette, nor is there any credible evidence available that would warrant him being further investigated by Police.

#### **Observations**

- 2020. The Review Team have considered a range of hypotheses in terms of how the murders were committed, and by whom.
- 2021. As has been raised earlier in the review, there is evidence that points to Arthur THOMAS as a person who may have committed the murders, either alone or with others.
- 2022. Conversely, Arthur THOMAS may be innocent and therefore a victim of an injustice, either by a failure of the justice system or through possible malpractice on the part of Police.
- 2023. The Review Team have considered whether or not the death of the CREWES is one event, and the disposal of the bodies in the Waikato River another.
- 2024. Consideration was also given as to whether the person responsible for killing the CREWES was the same as the person who disposed of their bodies.
- 2025. The Review Team remain conscious of the critical evidence that must be factored into any crime reconstruction, namely evidence concerning:
  - (i) The status of the THOMAS rifle as the potential murder weapon.
  - (ii) The level of alignment between the wire around Harvey's body and wire found at the THOMAS farm.
  - (iii) The Nash motor vehicle axle matching stub axles located on the THOMAS farm, linked to the trailer previously owned by Allan THOMAS.

- 2026. It is inescapable that the murderer must have had access to the items specified in above (unless the bodies were disposed of by a person other than the murderer).
- 2027. In considering the murders overall, two distinct probabilities emerge:
  - (i) The offender will be male. This is based on the physical strength and agility needed to commit the murders.
  - (ii) That the murderer knows and / or is known to the CREWES in some way. This may indicate a local person or one with local knowledge.
- 2028. The logical approach to the task of identifying evidence-based persons of interest, must start with the occupants of the THOMAS farm.
- 2029. Following that, consideration must be given to family and friends who have similar access.
- 2030. The next group are those who have a work-related or business reason to be on the THOMAS farm. Such people include rural delivery people, stock agents, and those in the agricultural supply industry of all types.
- 2031. Clearly, those who had unfettered access to the Arthur THOMAS farm are significant persons of interest, particularly in the absence of a confirmed alibi for the evening of 17 June 1970.
- 2032. The 1970 investigation team did not eliminate any of these additional people by way of a verified alibi and most were not required to account for their movements on the evening of the murders.
- 2033. The Review Team have approached people who meet this criterion but were not interviewed in 1970. Some have declined to consent to a formalised interview.
- 2034. In assessing the forensic evidence that could not eliminate either the THOMAS rifle or the 'EYRE' rifle as being the potential murder weapon, the investigation team should have undertaken an assessment of who, in addition to the owner or known user, had access to the firearm. This would inevitably have identified a number of individuals who should have been identified, located and interviewed.

#### Conclusion

#### **Arthur THOMAS**

2035. There was, on two occasions, sufficient evidence to place matters before a jury to decide whether or not the case against him had been proved beyond reasonable doubt. The result on both occasions was in the affirmative. However, Police Exhibit 350 was a pivotal piece of evidence in both trials.

- 2036. At the precise time the CREWES were murdered in their home, Arthur THOMAS claimed to have been at home with his wife, Vivien THOMAS, and cousin, Peter THOMAS. Vivien and Peter THOMAS both corroborated Arthur THOMAS' alibi, which has never been contradicted by other evidence.
- 2037. It is indisputable that there is a clear link of physical evidence from the THOMAS farm to the murders. However, the number of persons who had potential access to these items is now unknown.
- 2038. Information from within the prison environment that Arthur THOMAS admitted being responsible for the murders of Harvey and Jeannette can be discounted.

#### **Lenard DEMLER**

- 2039. Lenard DEMLER was the main suspect for committing the murders from an early stage in the investigation. There was no clear evidence pointing to his guilt, other than his general persona, and a belief by the 1970 investigation team of a perceived ill-will towards Jeannette resulting from her mother's Will. This was not the case as Lenard DEMLER did not lose autonomy of his farm.
- 2040. Lenard DEMLER did not have the necessary access to the THOMAS farm that the offender would have needed to source the firearm, wire and axle needed to commit the crimes and / or the disposal of the bodies.
- 2041. The 1970 investigation team considered Lenard DEMLER a significant person of interest at an early stage. He was 'family' and the CREWES' next door neighbour, therefore, could come and go on the CREWE property at will, without attracting undue attention.
- 2042. Focussing on Lenard DEMLER negatively impacted the breadth of the investigation and led to a loss of objectivity on the part of Detective Inspector HUTTON and the 1970 investigation team, generally. Not considering other alternatives objectively represents an error of judgment.
- 2043. During this crucial time period, Lenard DEMLER claimed to have been at home alone. For this reason, his alibi cannot be corroborated.

#### **Norma DEMLER**

2044. There is no credible evidence that Norma DEMLER had any direct association to Pukekawa prior to, or at the time of, the CREWE murders in June 1970. Therefore, Norma DEMLER did not have any involvement in the murders.

#### **Heather SOUTER**

2045. There is no credible evidence to indicate that Heather SOUTER (or Robert SOUTER), was complicit in any way in the murder of Harvey and Jeannette.

2046. Enquiries undertaken at the time confirmed that both Heather SOUTER and her husband were in the USA on 17 June 1970 and there is no evidence that suggests that she in any sense 'counselled or procured' a third party to kill the CREWES.

#### John EYRE

- 2047. There is no credible evidence that local farmer John EYRE had any involvement in the murders of Harvey and Jeannette.
- 2048. The late Detective Inspector HUTTON informed the Review Team that John EYRE would have been interviewed by Police in 1970, an event corroborated to some degree by Ross EYRE. There is, however, nothing on the investigation file to confirm that this occurred.
- 2049. The 'EYRE' rifle does not possess the characteristics of six lands and grooves with a right-hand twist and therefore, could not have fired the fatal bullets that killed Harvey and Jeannette.

#### General

- 2050. Lenard DEMLER's unusual behaviour and inconsistencies in some of the statements he made to Police led the 1970 investigation team, and specifically Detective Inspector HUTTON, to believe he was responsible for the murders.
- 2051. This firm view on the part of Detective Inspector HUTTON meant that other equally significant persons of interest were not appropriately considered. It was not until 20 October 1970 that the gathering of evidence changed the direction of the investigation towards the THOMAS farm, and in turn, Arthur THOMAS.
- 2052. In 1970, there was heavy reliance placed on 'gut feeling' on the part of Police Officers engaged in the CREWE homicide investigation.
- 2053. Detective Inspector HUTTON unquestionably influenced others in his early belief that Lenard DEMLER was responsible for committing the murders.
- 2054. How this effected the objective assessment of any information inconsistent with this position can now only be a matter of conjecture.
- 2055. There are examples of a number of potentially significant witnesses (persons of interest) who were not interviewed. Of those that were, only a limited number were invited to make written statements with the balance recorded by way of a Police jobsheet.

#### **END**

## **CHAPTER 13**

#### **New Information & Homicide Theories**

<u>An analysis of some of the new information that has been given to Police has been undertaken and addressed in Appendix 1</u>

#### Introduction

- 2056. New information and homicide theories include:
  - a. The receipt, assessment and management of all new information that has come to the attention of Police following the arrest of Arthur THOMAS on 11 November 1970.
  - b. A range of books and other publications that address the topic of the CREWE murders in a significant way.
- 2057. New information has been included in chapters of the Review document for the purposes of bringing the combined knowledge and appreciation of any given topic up to date.
- 2058. Examples of new information include concerns on the part of members of the Arthur Thomas Retrial Committee Inc., that the condition of the .22 cartridge case (Police Exhibit 350) found in the CREWE garden on 27 October 1970, did not present the level of discolouration that they believed it should have if exposed to the elements for over four months. Their concerns translated to allegations of fabricated evidence planted to implicate Arthur THOMAS. Police initiated an investigation into this claim.
- 2059. Other information includes that provided by John RITCHIE to Defence Counsel, Kevin RYAN, concerning the possibility of being able to differentiate between batches of .22 ammunition based on headstamp variance of the letters 'ICI'. This proposition is linked to the research and evidence of Dr SPROTT and a range of enquiries that followed the murder conviction of Arthur THOMAS for a second time in 1973. Police responded to this new information through further research with the DSIR.
- 2060. The RCOI made a finding in respect of Police management of new information in their 1980 report (refer <u>Appendix 15</u>). The RCOI was satisfied that in the decade between 1970 and 1980, new or additional information presented to Police had been handled appropriately.
- 2061. In the years that followed the outcome of the RCOI, information has been passed to Police from a range of sources. Members of the THOMAS family particularly, have requested Police to investigate others who they believe had a part to play in the CREWE murders.

- 2062. Nothing that has been provided to Police between 1980 and 2014, has assisted in establishing the person responsible for the CREWE murders.
- 2063. On close analysis, a number of pieces of information provided to Police are either factually incorrect or totally unsupported by evidence.
- 2064. A clear example of this is the suggestion that the 'EYRE' rifle could be the murder weapon. This firearm has been examined on a number of occasions by ballistic experts since its original examination in 1970. This includes an examination by a NaBIS ballistics expert initiated by the Review Team. The fact that the 'EYRE' rifle does not possess the characteristics of six lands and grooves with a right-hand twist represents undisputable assurance that it has no involvement in the murders.
- 2065. In October 2010, when Police Commissioner Howard BROAD directed that a Review Team be assembled to undertake a review of the 1970 CREWE homicide investigation, it generated considerable media interest.
- 2066. At an early stage, the Review Team made an appeal to the general public, through the media, for anyone with information they believed should be considered as part of the review to come forward. This appeal has resulted in a number of people contacting Police and providing information concerning the murders or wishing to express their views.
- 2067. Each piece of incoming information has been assessed and prioritised. Sources, some of whom wished to remain confidential, have been contacted by telephone, email or in person. The matters disclosed to Police have been recorded by way of Police jobsheets or statements.
- 2068. Information has varied from assertions that are purely speculative with no discernable evidential foundation, information that was already known to Police, and / or fresh information or that which adds to existing knowledge.
- 2069. Books and publications written by a number of journalists and commentators have been considered during the course of the review and some of the information and assertions presented are referred to at various stages throughout the Review document.
- 2070. A number of people were nominated as either having been involved in the murders or having some knowledge as to who was responsible for the murders. Where appropriate, these people have been approached.
- 2071. To reiterate earlier comments, the review has been hindered to a degree due to the fact that a number of witnesses to events in 1970 have since died and those who remain are elderly, which creates an understandable lack of clarity about events 44 years ago.

#### **Authors**

- 2072. There have been a variety of books written about the murders, all of which have been reviewed. Each author has put forward theories concerning the possible identity of the offender and / or the 'mystery' women sighted on the CREWE property after the murders.
- 2073. These theories have been based on a combination of their own research and material that has been in the public domain through Court hearings and media reporting. In some cases they have had some access to material from the 1970 Police investigation file by way of Official Information Act disclosure.
- 2074. The following represents significant matters raised by a range of commentators that have been considered.

#### Patrick BOOTH, 'The Fate of Arthur Thomas - Trial by Ambush'

- 2075. Patrick BOOTH articulated his view that the death of the CREWES represented a murder / suicide scenario and that Arthur THOMAS was erroneously charged by Police. He was critical of the judicial process, hence the title of the book, 'Trial by Ambush', and in particular the conduct of Crown Solicitor, David MORRIS, and Detective Inspector HUTTON in manipulating the process in a number of ways. He was particularly critical of the Crown Solicitor for making statements in Court that, in his view, could not be justified by the evidence given in the trials.
- 2076. Patrick BOOTH was also critical of Detective Inspector HUTTON and his investigation team for a number of matters arising from the Court process. He was particularly critical of the way in which Detective Inspector HUTTON critiqued the jury list in detail well ahead of the jury list being made available to defence counsel. His criticism extended further and involved Police conduct in relation to the jury during their three week period of sequestration.
- 2077. The Review Team do not support the proposition that one of the CREWES murdered the other and the survivor committed suicide. There is no evidence to support this scenario and given the condition of the bodies when discovered, such a theory is utterly implausible. It would also necessitate a third person being involved who disposed of the bodies.

#### David YALLOP, 'Beyond Reasonable Doubt'

2078. At the time of the publication of his book 'Beyond Reasonable Doubt', David YALLOP alleged in an open letter to the then Prime Minister Robert MULDOON that he had identified the 'mystery' women whom Bruce RODDICK stated he had seen on the CREWE property on Friday 19 June 1970 and provided the Prime Minister with the name of Heather SOUTER, Jeannette's sister.

- 2079. The Review Team are of the view that there is no evidence that supports David YALLOP's assertions. Enquiries established that Heather SOUTER was living in California, USA at the time of the murders. There has never been any evidence presented to show that she returned to New Zealand during the time of the murders.
- 2080. Heather SOUTER has been spoken to by the Review Team and maintained that she was living in California in 1970 and first learnt of the tragedy on 23 June 1970, the day after Rochelle had been found abandoned inside the house. She subsequently travelled to New Zealand to be with her father, Lenard DEMLER.
- 2081. There has been an ill-informed belief that Heather SOUTER was an airline hostess for Pan American Airways (Pan Am) and as a result, could return to New Zealand undetected as a flight crew member.
- 2082. Heather SOUTER was a hostess for SPANZ in New Zealand and attempted to gain a position as flight crew for South West Airline in California, but, was unsuccessful in securing a position. She was not an Air Hostess for Pan Am.
- 2083. The source of David YALLOP's identification of Heather SOUTER as the mystery woman was Bruce RODDICK. David YALLOP alleged that Bruce RODDICK had identified Heather SOUTER as the mystery woman from a series of photographs he had been shown.
- 2084. Bruce RODDICK was subsequently interviewed by Robert ADAMS-SMITH QC as a result of the David YALLOP's assertions and denied that he had ever identified Heather SOUTER, claiming that at best he had said the woman he saw was similar to Heather SOUTER.
- 2085. The Review Team understand that David YALLOP was asked to appear as a witness at the RCOI with his expenses and travel costs from Britain to New Zealand to be met by the RCOI. He declined to do so.

#### Christopher BIRT, 'The Final Chapter' and 'All the Commissioners Men'

- 2086. Christopher BIRT alleged that Lenard DEMLER was the man responsible for the murders of Harvey and Jeannette. He has also named Norma DEMLER as the 'mystery' women who fed the baby.
- 2087. Christopher BIRT relied heavily on the contention that Lenard DEMLER's brother-inlaw, Howard CHENNELLS, had possession of a .410 / .22 firearm. Christopher BIRT contended that Lenard DEMLER took possession of this firearm following his brotherin-law's death in 1950 and that this was the weapon used to murder Harvey and Jeannette. The links he drew on are tenuous and have been fully addressed in the review at Chapter 12.

- 2088. The review has not identified any credible evidence that Lenard DEMLER was in fact in possession of such a firearm. It may well be that the firearm Christopher BIRT referred to was in fact the .360 / .360 WJ Jefferies rifle, which was produced at the second trial. This firearm was handed to Police by Lenard DEMLER on 21 March 1973. Due to the calibre of the weapon, .360 of an inch, and the fact that it was a centre-fire weapon it is unable to discharge a .22 rim-fire cartridge without considerable modification, of which there is none.
- 2089. In respect of his assertion that Norma DEMLER was the 'mystery' woman, Christopher BIRT relied on interviews he conducted with Beryl DICK (sister of Lenard DEMLER), Colin HARVEY, Trustee of Harvey's estate, and local farmer Ross EYRE.
- 2090. As outlined in Chapter 12, the claims of Beryl DICK cannot be verified as she is now deceased. Colin HARVEY's 1970 statements to Police must place serious doubt on the claims of Christopher BIRT that Colin HARVEY maintained that Norma DEMLER (then EASTMAN) attended trustee meetings prior to the bodies of Harvey and Jeannette being discovered. This matter cannot be advanced further as Colin HARVEY is also deceased.
- 2091. Ross EYRE was able to confirm to the Review Team that he in fact worked on Lenard DEMLER's property in the summer of 1970 / 1971, after the murders, so the presence of Norma DEMLER on the property at this time is consistent with her account that she first went to Lenard DEMLER's farm to feed shearers after the murders.
- 2092. Christopher BIRT claimed that the Commissioners appointed to sit on the RCOI in 1980, retired Chief Judge, Supreme Court New South Wales, Justice Robert TAYLOR; former member of the National Party and former Minister of Labour and State Services, John GORDON; and Archbishop Allen JOHNSTON, 'knew' that Police Exhibit 350 had been planted by Police before opening its formal proceedings. Christopher BIRT reported:
  - "...the Royal Commission had gone into its inquiry armed with a crucial piece of evidence, in the form of an alleged 'confession' more aptly perhaps, an admission from the late [Detective] Lenard Johnston as to his part in the planting of exhibit 350."
- 2093. Christopher BIRT alleged that the man who was privy to this 'confession', was Reverend Michael HOUGHTON.
- 2094. Christopher BIRT alleged that Detective JOHNSTON, who had been ill for some six months prior to his death on 11 June 1978, confided to Reverend HOUGHTON "..about his involvement in the cartridge case aspect of the Crewe investigation, particularly focusing on his part in securing the conviction of Arthur Thomas." Christopher BIRT alleged that this information was conveyed to the Prime Minister after Detective JOHNSTON's death.

- 2095. Christopher BIRT reported that Gerald RYAN, who worked as part of Arthur THOMAS' defence team during the second trial, somewhat supported this claim. Gerald RYAN apparently said to Christopher BIRT that his brother, Kevin RYAN, had heard of the alleged admission and believed that Kevin RYAN spoke to Reverend HOUGHTON, or someone close to him, about it. Gerald RYAN was also reported to claim that "...quite a few people in legal and political circles in Auckland knew about it at that time..."
- 2096. Christopher BIRT described that the appointment of Reverend JOHNSTON to the RCOI had always been viewed as an 'oddity', suggesting that the information regarding this alleged confession to a church Minister may explain his involvement.
- 2097. Reverend HOUGHTON is now deceased, thus this version of events cannot be confirmed by him and the validity of this information cannot be assessed.
- 2098. The Review Team have approached Margaret JOHNSTON, the widow of former Detective JOHNSTON, about the allegations made by Christopher BIRT. She was unaware that Christopher BIRT had published a book which contained claims of her husband's alleged death-bed admission, but said that she had previously been told of this rumour by a colleague of her late husband's. The colleague had apparently attended a party hosted by either Kevin or Gerald RYAN and had heard there of the alleged 'planting' of the cartridge case.
- 2099. Margaret JOHNSTON said that she had been 'absolutely horrified' by this suggestion and approached Reverend HOUGHTON to confirm the claim. Margaret JOHNSTON said that the Reverend was just as horrified as she was and told her that there was absolutely no truth to the rumour.
- 2100. Margaret JOHNSTON disclosed that her husband was not a particularly religious man, but when he became very sick, Reverend HOUGHTON did come and talk with him and the family but only ever when she was also present. She contended that nothing of the nature suggested by Christopher BIRT was said at any meeting.

#### Ian WISHART, 'Arthur Thomas the Inside Story'

2101. Ian WISHART alleged in the final chapter of his book that Detective JOHNSTON was the murderer and that he was assisted by an unknown prostitute. He does not provide any evidence to support what can only be described as an outlandish claim.

#### Keith HUNTER, 'The Case of the Missing Blood Stain'

- 2102. Keith HUNTER alleged that Detective Inspector HUTTON planted the axle (Police Exhibit 293), under Harvey's body while his body was being recovered from the Waikato River.
- 2103. He claimed that Detective Inspector HUTTON had obtained this axle from behind a shed on Lenard DEMLER's property, cut off the stubs and hid the axle in the Waikato River to rust until Harvey's body was discovered.

### **Chapter 13 – New Information & Homicide Theories**

- 2104. Following the discovery of Harvey's body Detective Inspector HUTTON recovered the axle and concealed it in black polythene aboard the boat that he was in. While the body was being recovered from the water Detective Inspector HUTTON reached into the water, and using a pair of pliers he had also concealed in the boat, he cut a wire which was wrapped around the body and surreptitiously placed the axle into the river.
- 2105. Not being able to place a firearm in the hands of Lenard DEMLER, Detective Inspector HUTTON colluded with Detective JOHNSTON to plant this evidence on the THOMAS farm. He recovered the stub axles from Lenard DEMLER's property and had Detective JOHNSTON plant these in the tip on the THOMAS farm.
- 2106. The claims made by Keith HUNTER are illogical. When the evidence is reviewed, there is no substance to them whatsoever.

#### Conclusion

2107. All new information that has come to light during the Review has been considered. Some new information has assisted in populating intelligence gaps, but has not assisted Police in definitively identifying the offender responsible for committing the murders.

**END** 

### **CHAPTER 14**

### **Corruption Allegations**

<u>A legal opinion prepared by Solicitor-General Paul NEAZOR QC concerning matters arising</u> within this Chapter is contained in Appendix 16

#### Introduction

- 2108. This Chapter addresses the second aspect of the terms of reference, namely to enquire whether or not there is evidence of a breach of Part 6 of the Crimes Act 1961, which relates to crimes affecting the administration of law and justice. In the context of the Review, this specifically addresses the actions, or omissions, on the part of Detective Inspector HUTTON, Detective JOHNSTON or any other member of Police.
- 2109. As a starting point, any conviction achieved through malpractice on the part of any member of the Police in fabricating evidence, or giving perjured evidence, is flawed and would perpetrate a miscarriage of justice.
- 2110. An allegation of malpractice on the part of a member of the Police, however, does not necessarily mean that this has occurred. There must be credible evidence to support any such allegation.
- 2111. The 1970 CREWE homicide investigation resulted in the arrest of Arthur THOMAS and his subsequent conviction following two Supreme Court trials in 1971 and 1973.
- 2112. The case against Arthur THOMAS was based on circumstantial evidence. This does not infer that circumstantial evidence is inferior, or any the less reliable, than direct evidence. How circumstantial evidence should be treated is addressed by referral to the commentary of Dr Robert FISHER QC in the 'Foreword' of this document.

#### Allegations of corruption or evidence fabrication

- 2113. The first allegation of corruption was raised in 1972.
- 2114. It was alleged that the degree of discolouration on the .22 brass cartridge case (Police Exhibit 350) was inconsistent with it having been exposed to the elements, particularly soil, for a period of 131 days, i.e. between 17 June 1970 and 27 October 1970.
- 2115. As a result of these allegations, the Director of Crime, Assistant Commissioner Robert WALTON conducted an investigation. He interviewed a number of members of the 1970 investigation team; however, he identified no evidence that a member of the team had fabricated evidence by planting the cartridge case in the CREWE garden.

- 2116. It should be noted that subsequent research undertaken by Rory SHANAHAN demonstrated that corrosion was so variable on .22 cartridge cases buried in the ground, that no meaningful conclusions could be made.
- 2117. On 4 July 1977, a Dateline programme was aired on TV1. Dr SPROTT and Patrick BOOTH made a number of allegations against the 1970 investigation team that corrupt practices had been adopted.
- 2118. On 5 July 1977, Deputy Commissioner WALTON directed that Assistant Commissioner K. THOMPSON undertake an investigation into allegations of fabrication of evidence, perjury and misconduct by Police.
- 2119. In this endeavour, Assistant Commissioner THOMPSON was assisted by Detective Inspector BAKER, who had earlier been involved in conducting a peer review of the 1970 investigation.
- 2120. Assistant Commissioner THOMPSON was satisfied at the completion of his investigation that there was no evidence to support the allegations that had been made against any specific member of Police.
- 2121. The RCOI was held in Auckland in 1980. A full copy of the Commission's report is Appendix 15.
- 2122. The RCOI's Terms of Reference 1(a) stated:
  - "Whether there was any impropriety on any person's part in the course of the investigation or subsequently, either in respect of the cartridge case (exhibit 350) or in respect of any other matter."
- 2123. Under Terms of Reference 1(a), the RCOI made findings against Police Officers which amounted to allegations of corruption and neglect of duty.

#### **RCOI Finding - Police Exhibit 350**

- 2124. The RCOI in 1980 found that Detective Inspector HUTTON and Detective JOHNSTON had fabricated evidence in that they had 'planted' Police Exhibit 350 in the CREWE garden.
- 2125. In paragraph 402, the RCOI found that:
  - "(a) The shell case Exhibit 350 was planted in the CREWE garden by Detective Inspector HUTTON and Detective Sergeant JOHNSTON."
- 2126. In the present day, if a judicial enquiry were to make a public finding that a current or former member of Police had fabricated evidence to falsely implicate an accused, the Police Commissioner would undoubtedly direct that a criminal investigation be initiated, in addition to notifying the Independent Police Conduct Authority.

- 2127. In 1980, no such investigation was initiated. Former Detective Inspector HUTTON, former Detective Sergeant JEFFRIES and the late Lenrick JOHNSTON's wife (on behalf of her husband), sought to have the findings of the RCOI over-turned by way of judicial review.
- 2128. Police Commissioner WALTON, requested the Solicitor-General, Paul NEAZOR QC, to provide him with a legal opinion as to whether or not there was sufficient evidence to charge former Detective Inspector HUTTON with a criminal offence linked to the finding of the RCOI that he had fabricated evidence.
- 2129. The Solicitor-General identified three allegations which he then reported on:
  - (i) That the shell case Exhibit 350 was planted in the CREWE garden by Detective Inspector HUTTON and Detective JOHNSTON.
  - (ii) That an exhibit cartridge case (343) was substituted for another by Police Officers to the knowledge of HUTTON.
  - (iii) That at some stage or stages, perjured evidence was given by Police Officers, including HUTTON.
- 2130. On 21 December 1981, the Solicitor-General reported to Commissioner WALTON. In his report he concluded that notwithstanding what was contained in the report of the RCOI, he was of the belief that in respect of each allegation there was insufficient evidence to prosecute former Detective Inspector HUTTON or Detective JOHNSTON (then deceased).
- 2131. The Solicitor-General, in acknowledging that Detective JOHNSTON was deceased, commented that although he was not directly concerned with what was said about him by the RCOI, his conclusions in respect of retired Detective Inspector HUTTON would no doubt reflect his views in respect of Detective JOHNSTON.
- 2132. The legal opinion provided by the Solicitor-General effectively put an end to any consideration of charging Detective Inspector HUTTON.
- 2133. In paragraph 52 of the Solicitor-General's report, he thanked Inspector Neville TRENDLE, Chief Legal Advisor, for his assistance in assembling the material he required to complete his opinion. Although it is unknown what precisely the material was that was being referring to, his decision was clearly based on all the information available at that time.
- 2134. Three people have provided the Review Team with information not available to the Solicitor-General in 1981. The information may have a bearing on the legal position reached by the Solicitor-General regarding the culpability of Detective Inspector HUTTON.
- 2135. The people concerned are Queenie EDMONDS, Christopher PRICE M.Sc and retired Superintendent Robert SILK.

#### **Queenie EDMONDS**

- 2136. On 24 April 2006, Queenie EDMONDS signed an Affidavit at the instigation of author Christopher BIRT concerning her employment as a Barmaid at the Bader Drive Hotel in 1970.
- 2137. According to Christopher BIRT, the purpose of the affidavit was to prove that Lenard DEMLER drank at the Bader Drive Hotel with Police and was accompanied by a woman, who by implication was Norma EASTMAN.
- 2138. Queenie EDMONDS' affidavit, if correct, amounts to evidence of corruption against Police. She stated that while working as a barmaid at the Bader Drive Hotel:
  - She overheard a conversation "...about the planting of the evidence against Arthur Allan THOMAS."
  - "...After a short period, possibly a month or so but perhaps longer I was asked by the proprietor of the hotel to transfer to the house bar, working from 3pm till about 12pm or 11pm."
  - "...At the time the investigation into the murders of Harvey and Jeannette at Pukekawa was being conducted and that it was big news."
  - "...I was advised that the CREWE murder Police investigation squad would be making a base at the hotel and that the house bar and accommodation would be closed to the public until further notice."
  - "...I believe this also applied to the restaurant at the hotel, although I do recall that there may have been bar meals made available to the Police squad during the time they were using the house bar."
  - "...It began with someone saying they would now be able to put THOMAS away. Someone else mentioned that no-one would know that the evidence had been planted. The group there at that time were all laughing about it to Bruce HUTTON, who was there at that time."
- 2139. The accuracy of Queenie EDMONDS' account in her affidavit is questionable for the following reasons:
  - On 10 September 2001, four-and-a-half years prior to swearing her affidavit she purportedly wrote to television presenter, the late Sir Paul HOLMES, stating:
    - "When the news of Harvey and Jeanette Crewe's murder hit the air waves, I had been working as a bar-maid in the public lounge of the Bader Drive Hotel in Mangere for about 9 months. Our proprietor was a Alf Rabbich. I was approached by Rabbich and asked if I would take a job in the House Bar, starting work at 3pm-10pm thereafter.

I was told the investigation team headed by Det. Inspector Bruce HUTTON was going to make the house bar and restaurant their headquarters. During the whole time of the investigation, the house bar, restaurant and accommodation was closed to the public."

- An article in 'The Courier' newspapers Central Edition recorded that the Bader Drive Hotel did not open until 21 October 1970.
- This October date clearly shows that her account to Sir Paul HOLMES of having worked in the hotel for nine months prior to the murder must be wrong. In her affidavit she stated:
  - "...after a short period, possibly a month or so but perhaps longer I was asked by the proprietor of the hotel to transfer to the House Bar, working from 3pm till about 10pm or 11pm."
- If the affidavit is correct the earliest Queenie EDMONDS could have worked in the House Bar was 21 November 1970, 10 days after the arrest of Arthur THOMAS.
- A former Bar Manager of the hotel, Leslie JOHNSON stated that he commenced working at the Bader Drive Hotel two weeks after the hotel opened and remained employed there for 20 years.
- Leslie JOHNSON confirmed that when he commenced working at the hotel the
  accommodation area including the kitchen and house bar were empty and did not
  contain furniture. He remained adamant that the kitchen was not operating at
  that time and that those areas of the hotel did not open until about six months
  after he commenced employment at the hotel.
- Leslie JOHNSON could not recall the name 'Queenie EDMONDS' as being an employee at the hotel.
- Leslie JOHNSON could not recall any Police base being established or operating when he commenced working at the hotel.
- 2140. The original Police investigation headquarters was domiciled in a house on the CHITTY farm in Pukekawa. After a month or so, the investigation headquarters relocated to the Otahuhu Police Station.
- 2141. Police members who worked on the 1970 homicide investigation approached by the Review Team, have advised that there was never a Police base established at the Bader Drive Hotel.
- 2142. There are no receipts on the 1970 investigation file relating to the Bader Drive Hotel, yet there are for hotels in Pukekohe, Tuakau and Otahuhu.
- 2143. In Queenie EDMONDS' affidavit she stated:

"...I remember very clearly Bruce HUTTON being there a lot and that on several nights a week, some Fridays and weekends, his wife used to join him for dinner and drinks in our bar."

"Mrs HUTTON was gorgeous in looks and stature and she and Bruce made a handsome couple."

2144. Detective Inspector HUTTON's first wife, Dorothy HUTTON, told the Review Team that she had never accompanied her husband to the hotel, nor had she ever drunk or eaten there. She acknowledged that she had once stepped inside the hotel to cash a cheque while her husband was overseas on a Police training course.

#### **Forensic evidence**

2145. Evidence surrounding the .22 cartridge case, Police Exhibit 350, and whether or not it could have contained one of the fatal bullets is now strengthened by research undertaken by Christopher PRICE. His research provides strong scientific support that the cartridge case was manufactured in May 1968 and would therefore not have contained a 'pattern 8' bullet. (Refer <u>Appendix 9</u>)

#### **Superintendent Robert SILK (Retired)**

- 2146. On 16 April 2013, retired Superintendent Robert SILK telephoned Radio Station 'News Talk ZB' and commented on the death of former Detective Inspector HUTTON. During this call Robert SILK made comment that Detective Inspector HUTTON had confirmed his suspicion that the cartridge case had been planted and commented that Detective Inspector HUTTON had allegedly said, "I couldn't hang the young bastard out to dry".
- 2147. Following his comments the Review Team spoke to Robert SILK. He stated that when he was transferred to Auckland as a Superintendent, in about 1974, he supervised Chief Inspector HUTTON.
- 2148. Robert SILK claimed that Chief Inspector HUTTON had asked him to read 'his file' on the CREWE homicides which included Chief Inspector HUTTON's notebooks. After reading these Robert SILK maintained that he formed the belief that a Detective Constable had been responsible for planting the evidence.
- 2149. Robert SILK claimed that he shared this belief with Chief Inspector HUTTON and that Chief Inspector HUTTON looked at him and nodded.
- 2150. If this version of events is correct, it would indicate that Chief Inspector HUTTON did have at the very least, a suspicion around the integrity of Police Exhibit 350 and was a party to the resultant deception by remaining silent.
- 2151. Due to his senior position within Police, Robert SILK equally was a party to the deception by not reporting his concerns to his senior officers, or initiating an investigation himself.

- 2152. During further communication with Police by way of letter, Robert SILK alleged that both he and Chief Inspector HUTTON wrote down a name on a piece of paper nominating who they believed had planted the cartridge case. The names both men wrote were apparently the same.
- 2153. The Review Team note that the Police Officer nominated by Robert SILK was not actively working on the enquiry after 20 August 1970.
- 2154. Had the information from Queenie EDMONDS and Robert SILK been reported at the time, their disclosures may have credibility. Numerous studies have shown that memory of an event can become less accurate over time, even to the point of being fiction. This does not necessarily mean that the witnesses are deliberately being untruthful; merely that a memory is malleable, and can be influenced by a number of factors.
- 2155. Much has been written and reported in relation to the CREWE murders and the reliability of witness accounts of events 30 to 40 years afterwards brings into question the level of reliability that can be attributed to them.
- 2156. It would have been exceedingly difficult for Police to charge former Detective Inspector HUTTON following the legal advice received from the Solicitor-General, regarding insufficiency of evidence to prove any wrongdoing on his part.

#### **Police Exhibit 343**

- 2157. In paragraph 402, the RCOI found that:
  - "(b) The shell case of Exhibit 343 was switched on two occasions, the first probably accidentally, but the second deliberately."

#### **History of Police Exhibit 343**

- 2158. On 21 October 1970, while searching a garage on the THOMAS farm pursuant to search warrant authority, Detective KEITH located a single hollow nosed .22 cartridge with ICI stamped on the base. This cartridge had been in a box containing odd nuts and bolts on the wall of the garage.
- 2159. Later that day, the cartridge was dissected and was found to contain a bullet with a number '8' embossed on the base. The cartridge case and bullet were collectively labelled Police Exhibit 343.
- 2160. In 1970, Police Exhibit 343 was examined by Detective Inspector HUTTON, Detective KEITH, and Dr NELSON (DSIR). In 1973, Police Exhibit 343 was examined by Dr SPROTT for the defence and again by Dr NELSON and Rory SHANAHAN, also of the DSIR.
- 2161. Evidence as to the appearance of Police Exhibit 343 was heard at the deposition hearing in 1970, the first trial in 1971, the second trial in 1973 and the RCOI.

- 2162. On 27 July 1973, Police Exhibit 343, along with 135 other exhibits, were disposed of at the Whitford Tip by Detective Senior Sergeant KEITH.
- 2163. The cartridge case of Police Exhibit 343 had not been photographed prior to its destruction, therefore, claims about its appearance could not be verified after this date.
- 2164. The allegation that the cartridge case, purportedly Police Exhibit 343, examined by Drs NELSON and SPROTT at the second trial (in April 1973) were not one and the same, appears to have first been made publicly by Journalist, Patrick BOOTH, in an Auckland Star article on 20 September 1973.
- 2165. This claim was addressed in detail at the RCOI. In documenting their conclusions, the RCOI specified in paragraph 204 (b) of their report, "The shellcase of exhibit 343 was switched on two occasions, the first probably accidentally but the second deliberately."
- 2166. The Review Team have examined the available information pertaining to the alleged switching of Police Exhibit 343.

#### Police Exhibit 343 first observed

- 2167. In Detective KEITH's Police jobsheet, dated 24 October 1970, in which he recorded the finding of Police Exhibit 343, he did not specifically comment about the unfired nature of the .22 cartridge when it was located on 21 October 1970.
- 2168. At the time of finding the .22 cartridge, it was intact with the bullet and cartridge case joined together as one item. It is not anticipated that the fired / unfired status of the cartridge case would be something that Detective KEITH should have noted. It is reasonable to expect that the status of a cartridge in this condition would have been in an unfired state.
- 2169. After locating the .22 cartridge, Detective KEITH handed the exhibit to Detective Sergeant TOOTILL who was supervising the search of the THOMAS property. Detective Sergeant TOOTILL did not specifically comment on the unfired status of the cartridge case.

#### Police Exhibit 343 dissected (and possibly fired)

- 2170. On 21 October 1970, a number of cartridges located on the THOMAS property were dissected to establish whether Arthur THOMAS had in his possession bullets with a number '8' on the base, as had those which were used to murder Harvey and Jeannette.
- 2171. Detective Sergeant TOOTILL and Detective KEITH were present in Detective Inspector HUTTON's office at the Otahuhu Police Station when the bullet from Police Exhibit 343 was separated from the cartridge case. This was undertaken by Detective Inspector HUTTON using a pair of long nosed pliers.

- 2172. A number of .22 cartridges (Police Exhibit 344) which had been located in a small glass jar in the scullery of the THOMAS farmhouse by Detective Sergeant TOOTILL, were also dissected in a similar manner.
- 2173. At the RCOI, Detective Senior Sergeant KEITH stated that approximately three or four of the fourteen cartridges from Police Exhibit 344 were examined in this way.
- 2174. Detective Inspector HUTTON gave evidence at the RCOI that between three and six cartridges from Police Exhibit 344 were dissected. Since they did not contain bullets with a number '8' embossed in the base, he did not dissect the remaining cartridges from Police Exhibit 344.
- 2175. The Review Team conclude, therefore, that the remainder of the .22 cartridges must have been identical or at least very similar in appearance, otherwise the remainder would have been dissected as well.
- 2176. In giving evidence before the RCOI, former Detective Inspector HUTTON made reference to a report he had written dated 24 October 1973, in which he recorded pouring out gun powder from each of the cartridge cases that he had dissected on the evening of 21 October 1970.
- 2177. Since Detective Inspector HUTTON was unsure whether or not this alone would render the cartridge cases safe, he discharged a number of dissected cartridge cases to detonate the primer and residue gun powder. This left a firing pin impression on the base of each cartridge case, however, the identity of the actual firearm he used for the purpose is unknown.
- 2178. Detective Inspector HUTTON, Detective Sergeant TOOTILL and Detective KEITH all agreed that they were present when the cartridges were dissected and some cartridge cases were discharged. They had differing recollections as to whether or not the cartridge case from Police Exhibit 343 was fired in this manner.
- 2179. Detective KEITH gave evidence at the deposition hearing, the first trial, the second trial, the RCOI and stated in a report dated 8 October 1973, that Police Exhibit 343 had been fired.
- 2180. In his report dated 8 October 1973, Detective KEITH stated that he could not recall whether the rifle used for this purpose was fired by himself, Detective Inspector HUTTON or Detective Sergeant TOOTILL.
- 2181. In giving evidence at the RCOI, Detective Senior Sergeant KEITH stated that he thought Detective Sergeant TOOTILL had fired the cartridge case of Police Exhibit 343. He stated that his recollection was that Detective JOHNSTON was present at the time.
- 2182. Neither Detective Inspector HUTTON nor Detective Sergeant TOOTILL gave evidence on this matter until the RCOI.

- 2183. Detective Sergeant TOOTILL gave evidence that he was not involved in firing the cartridge cases, and that it was Detective Inspector HUTTON who had dissected the cartridges. Detective Sergeant TOOTILL stated that he could not be sure that Police Exhibit 343 was one of those dissected, nor did he take note of which cartridge cases were fired and which were not.
- 2184. At the RCOI, former Detective Inspector HUTTON stated that neither Detective Sergeant TOOTILL or Detective KEITH fired the cartridge case of Police Exhibit 343.
- 2185. Former Detective Inspector HUTTON stated that he had undertaken the dissection and firing of the cartridge cases.
- 2186. Former Detective Inspector HUTTON gave evidence at the RCOI that he did not fire the cartridge case from Police Exhibit 343 and further stated that he was sure Detective KEITH was mistaken in his belief that Police Exhibit 343 had been fired.
- 2187. Former Detective Inspector HUTTON said he fired three of the cartridge cases from Police Exhibit 344 and found that there was little, if any, danger with such empty cartridge cases. In his evidence to the RCOI he stated that he felt it was safe to leave the remaining dissected cartridge cases in their original condition.
- 2188. The firearm used to fire the cartridge cases was a single shot .22 firearm which was sourced from Detective KEITH's office. Former Detective Inspector HUTTON and Detective Senior Sergeant KEITH gave evidence at the RCOI that this was not the rifle owned by Arthur THOMAS (Police Exhibit 317).
- 2189. At the RCOI, former Detective Inspector HUTTON gave evidence that he thought the rifle used to fire the cartridge cases was one awaiting to be returned to its owner.
- 2190. If in fact it was one of the rifles seized for testing as part of the CREWE murder investigation, records indicate that this could have been one of sixteen .22 rifles.
- 2191. At the RCOI, Detective Senior Sergeant KEITH stated that the rifle used to fire Police Exhibit 343 left a round fairly shallow firing pin impression compared with the impression left by other rifles and that the firing pin impression was not very prominent.
- 2192. Neither Detective Inspector HUTTON nor Detective Sergeant TOOTILL stated that they recalled Detective JOHNSTON being present when the cartridge cases had been fired.
- 2193. This could not be confirmed since Detective JOHNSTON had died in 1978.
- 2194. In his report dated 8 October 1973, Detective Senior Sergeant KEITH first claimed Detective JOHNSTON had been present. There is no documentation on the file that indicates Detective JOHNSTON was asked about his recall of the firing of cartridge cases on 21 October 1970, at the earlier Court hearings.

2195. Detective Senior Sergeant KEITH stated that after the Police Exhibit 343 cartridge case had been fired, he placed the bullet and cartridge case in a glass phial (separated by a piece of cotton wool) which was labelled with the exhibit number. He then recorded Police Exhibit 343 in the exhibit register and placed the glass phial in the Criminal Investigation Bureau (CIB) exhibit safe at the Otahuhu Police Station.

#### Police Exhibit 343 examined by DSIR

- 2196. On 19 November 1970, Detective KEITH took Police Exhibit 343 to Dr NELSON at the DSIR for examination.
- 2197. At the Court of Appeal hearing for the Second Referral in December 1974 and at the RCOI, Dr NELSON stated that his original notebook entry from this examination on 19 November 1970 read: "19 NOV. DET KEITH brought in a bullet 0.22 (unfired) (his No.343) with "8" on base. Steve took photos." A copy of this entry from Dr NELSON's notebook does not appear to be on the file.
- 2198. It is noted that Dr NELSON's entry of his examination refers to the bullet component of Police Exhibit 343 being unfired. There is no record of the condition, or in fact the existence, of the cartridge case.
- 2199. Although Dr NELSON's description of Police Exhibit 343 on this day does not include reference to the cartridge case, this does not mean that the cartridge case was not present and is not surprising given the purpose of the examination. On 19 November 1970, and in fact until the second trial in 1973, the significant component of Police Exhibit 343 was seen by Police to have been the bullet itself, which had a number '8' embossed on the base.
- 2200. At the deposition hearing, Dr NELSON stated that at the time of his examination Police Exhibit 343 comprised of "...an unfired lead bullet bearing the figure 8 on the concave base and a fired shell case."
- 2201. When Dr NELSON was questioned at the first trial, he stated that he had not made note of the condition (fired or otherwise) of the Police Exhibit 343 cartridge case in his notebook at the time of his examination.
- 2202. At the RCOI, Dr NELSON stated that (at that time) he did not recall exactly what he said, or intended to say, at the deposition hearing. Dr NELSON stated that he may have said, or intended to say, 'an unfired shell case' and failed to correct the typing error in the transcript or, by 'fired', he may have meant the primer had been discharged. Dr NELSON noted that he had made and initialled four corrections in seventeen lines of his evidence at this hearing but commented that when his evidence was being read back to him the atmosphere in the Court was tense indicating that he may have missed this error.
- 2203. Dr NELSON stated that he did not prepare his own brief of evidence for the deposition hearing.

- 2204. This is likely to be accurate since it was the usual practice for a Police Officer involved in the case to prepare briefs of evidence for witnesses giving evidence at a deposition hearing.
- 2205. It is, therefore, quite likely that the document was prepared for Dr NELSON and as the fired or unfired state of the Police Exhibit 343 cartridge case was not considered closely in 1970, it may have been overlooked by Dr NELSON in approving or correcting his evidence at the deposition hearing.
- 2206. As a general observation, Court transcripts relating to the CREWE murders from the 1970s are noted to contain inaccuracies (often as a result of typing errors) and on occasions responses to questions are omitted. Therefore, in fairness to Dr NELSON, the evidence that was recorded as having been given by him at the deposition hearing could not be considered an error-free account for which he may not be responsible.
- 2207. In his report dated 8 October 1973 and at the RCOI, Detective Senior Sergeant KEITH stated that Police Exhibit 343 was examined by Dr NELSON and Rory SHANAHAN.
- 2208. Documentation on the file indicates that Rory SHANAHAN did not examine Police Exhibit 343 on 19 November 1970. At the RCOI, Dr NELSON stated that on 19 November 1970 his assistant, Steve RUBIE, photographed the bullet of Police Exhibit 343 (not the cartridge case) which Dr NELSON's record of his examination supports. It is therefore possible that Detective Senior Sergeant KEITH was mistaken in his recollection that Rory SHANAHAN examined Police Exhibit 343 with Dr NELSON and this person also present was in fact Steve RUBIE.
- 2209. Detective KEITH was present at the laboratory while Dr NELSON's examination took place and received the exhibit back the same afternoon. Detective KEITH then took Police Exhibit 343 back to the Otahuhu Police Station where it was secured in the CIB exhibits safe.

#### Police Exhibit 343 produced at the depositions hearing

- 2210. On 14 December 1970, the day the hearing began, Detective ABBOTT delivered Police Exhibit 343, along with other exhibits, to the Otahuhu Magistrates Court for the depositions hearing.
- 2211. Police Exhibit 343 was produced to the Court by Detective KEITH during his evidence.
- 2212. Detective Senior Sergeant KEITH stated that this item remained in Court custody after the hearing and until an appeal resulting from the first trial (in 1971) had concluded.

#### Police Exhibit 343 produced at the first trial

2213. On 23 February 1971, Police Exhibit 343 was produced to the Court by Detective KEITH during his evidence at the first trial.

2214. On 24 June 1971, after appeals resulting from the first trial were exhausted, Detective KEITH took possession of Police Exhibit 343 (and other exhibits) and returned it to the CIB exhibit safe at the Otahuhu Police Station. Police Exhibit 343 remained there until the commencement of the second trial in 1973.

#### Police Exhibit 343 produced at the second trial

- 2215. On 26 March 1973, Police Exhibit 343 (and other exhibits) was taken to the Auckland Supreme Court by Detective ABBOTT for production at the second trial.
- 2216. On 4 April 1973, Police Exhibit 343 was produced to the Court and was circulated to the jury during the course of Detective Senior Sergeant KEITH's evidence.
- 2217. On 12 July 1973, Police Exhibit 343 (and other exhibits) was returned to Detective Senior Sergeant KEITH.
- 2218. At the request of Detective Inspector HUTTON, Police Exhibit 343 was destroyed together with others on 27 July 1973.

#### Police Exhibit 343 examined during the second trial

#### **Dr SPROTT and Edwin GIFFORD**

- 2219. At the second trial of Arthur THOMAS, defence counsel called Dr SPROTT to give evidence on analysis he had undertaken of ICI cartridge cases and a theory that he had developed which enabled him to differentiate the letter of 'ICI' stamped on the cartridge base and, therefore in turn, the type of bullet loaded in the cartridge case.
- 2220. This evidence was used to challenge the notion that Police Exhibit 350 had contained one of the fatal bullets that killed Harvey and Jeannette.
- 2221. Police Exhibit 343 was a .22 brass ICI cartridge case and contained a 'pattern 8' bullet, as were the fatal bullets. The Crown used this fact to demonstrate that Arthur THOMAS was in possession of ammunition consistent with Police Exhibit 350, and therefore, consistent with the fatal bullets.
- 2222. During the last week of evidence at the second trial, Dr SPROTT examined Police Exhibits 343 and 350. Dr SPROTT stated that he examined Police Exhibit 343 (and Police Exhibit 350) with a binocular microscope which he had taken to the Auckland Supreme Court. He stated that there was not adequate lighting in the courtroom and, as his request for additional lights in the courtroom to be turned on was apparently refused, he had to use a torch to examine the cartridge case under the microscope.
- 2223. Dr SPROTT gave evidence at the RCOI that he had sought leave to remove Police Exhibit 343 from the Court to complete an examination of the cartridge case in adequate lighting, however, this request was denied.

- 2224. Dr SPROTT said he measured the height of the letter 'C' on the base of the cartridge case with calliper dividers and compared this with other cartridge cases he had taken with him to determine which category the cartridge case fell into.
- 2225. Dr SPROTT stated that Police Exhibit 343 was what he termed a 'category 3' cartridge case, whereas Police Exhibit 350 was a 'category 4' cartridge case. The significance of the evidence was intended to demonstrate that Police Exhibit 343 was not an example of a cartridge indistinguishable from Police Exhibit 350 which contained a bullet with the number '8' embossed on the base. Dr SPROTT did not make any notes of his examination (either during or afterwards) of Police Exhibits 343 and 350.
- 2226. Dr SPROTT stated (at the second trial and later) that when he examined the cartridge case of Police Exhibit 343 it did not have a firing pin impression on the base.
- 2227. At the time of Dr SPROTT's examination, his only interest in Police Exhibit 343 was in establishing which category he believed it fell into. Dr SPROTT was not specifically looking to see whether this exhibit had a firing pin impression.
- 2228. The date on which Police Exhibit 343 was examined by Dr SPROTT was not recorded or given in evidence during the second trial. There has been some debate as to the day on which this occurred and whether or not this examination preceded Dr SPROTT's examination of Police Exhibit 350 the date of which is also disputed. The date of his examination of Police Exhibit 343 is also important with regard to events that Dr SPROTT later claimed took place during his examination in which he claimed he inscribed a fish design.
- 2229. The Review Team have been unable to establish precisely which day Dr SPROTT examined Police Exhibits 343 and 350, the specific actions that took place, or who was present at one examination rather than the other.
- 2230. Dr SPROTT variously stated that he examined Police Exhibit 343 on Thursday 12 April 1973, Thursday 14 April 1973 (14 April 1973 was in fact a Saturday) and Friday 13 April 1973. On other occasions Dr SPROTT stated that he did not examine any cartridge cases on Friday 13 April 1973.
- 2231. Dr SPROTT stated that he examined Police Exhibit 350 on Wednesday, 11 April 1973 and Wednesday 13 April 1973 (13 April 1973 was in fact a Friday).
- 2232. Edwin GIFFORD, who worked for Dr SPROTT and was present during Dr SPROTT's examination of either Police Exhibit 343 or Police Exhibit 350, gave evidence at the RCOI that he did not know on which day this occurred. The best estimate Edwin GIFFORD could give was that this occurred one day in the latter part of the last week of the trial.
- 2233. The Supreme Court Registrar, Ian MILLER, who was also present at the time of Dr SPROTT's examination, stated that Dr SPROTT examined Police Exhibit 343 prior to Thursday 12 or Friday 13 April 1973 when he examined Police Exhibit 350.

- 2234. Dr SPROTT maintained that he had examined Police Exhibit 350 first and then examined Police Exhibit 343 on a subsequent day. However, this was disputed by Ian MILLER's recollection of events.
- 2235. Dr SPROTT argued that it would have been pointless for him to have examined Police Exhibit 343 prior to him determining the category which Police Exhibit 350 fell into which was only done upon his examination of the cartridge case. This is a sound argument, and on that basis it is almost certain that Dr SPROTT examined Police Exhibit 350 prior to his examination of Police Exhibit 343.
- 2236. Edwin GIFFORD's role was not to examine the exhibit, but to provide assistance by holding a torch over the cartridge case for Dr SPROTT. He stated that after Dr SPROTT had completed his examination of the cartridge case (although he was not sure whether this was Police Exhibit 343 or Police Exhibit 350), Edwin GIFFORD had looked at the base of the cartridge case through the microscope.
- 2237. Edwin GIFFORD's evidence at the RCOI was that there was a firing pin impression on the base but qualified this by admitting that there was an element of doubt in relation to this.
- 2238. It is difficult to reconcile that Dr SPROTT was asked to examine both Police Exhibit 350 and Police Exhibit 343 on a table in courtroom '1' at the Auckland Supreme Court prior to the commencement of the day's hearing. Clearly he was under time pressure to perform his examination. The lighting and Court environment is far removed from that of a laboratory and there is reference to using a torch to illuminate microscopic examination.

#### **Dr NELSON and Rory SHANAHAN**

- 2239. On Friday 13 April 1973, after Dr SPROTT gave evidence at the second trial, Crown Solicitor David MORRIS obtained an order from the Judge to allow the DSIR to examine Police Exhibits 343 and 350. This was to ascertain whether the measurements given in evidence by Dr SPROTT of the height of the letter 'C' on the base of the respective cartridge cases was correct.
- 2240. On the afternoon of 13 April 1973, Ian MILLER took Police Exhibits 343 and 350 to the Crown Room at the Auckland Supreme Court, where he handed them to Dr NELSON. Also present was Rory SHANAHAN, David MORRIS, David BARAGWANATH, counsel assisting the Crown Solicitor, Detective Inspector HUTTON, Detective Senior Sergeant KEITH, and Court Orderly, Sergeant CAVANER.
- 2241. The examination was initially carried out by Dr NELSON with the use of a magnifying glass and a pair of dividers. Dr NELSON stated that using this technique, he was unable to find any difference between the height of the letter 'C' on Police Exhibits 343 and 350. Dr NELSON also asked Rory SHANAHAN to examine Police Exhibits 350 and 343 using this method.

- 2242. Dr NELSON informed the Crown Solicitor of his finding and asked that the exhibits be taken to the DSIR laboratory for further examination.
- 2243. The Crown made an application to the Judge to allow the exhibits to be taken to the DSIR for accurate measurements to be taken. The application was granted.
- 2244. Between about 12.40pm and 4.50pm that day, Police Exhibits 343 and 350 were taken to the DSIR laboratory by Dr NELSON for comparison using a microscope. Dr NELSON and Rory SHANAHAN were escorted to the DSIR premises by Police Officers who remained present during the examination. Ian MILLER was not present.
- 2245. The identity of the Police Officers in question is unknown. When questioned at the RCOI, Dr NELSON did not remember who these people were, but thought it was likely they could have been Detective ABBOTT and / or Detective Senior Sergeant KEITH. Detective Senior Sergeant KEITH stated that he was not one of those who accompanied Dr NELSON to the DSIR, nor did he know who did. Detective ABBOTT does not appear to have been asked if he was one of those present at the DSIR on this day.
- 2246. At his laboratory, Dr NELSON found no difference in the height of the letter 'C' on the two cartridge cases. Rory SHANAHAN also took measurements, which supported those of Dr NELSON. Dr SPROTT did not dispute the accuracy of Dr NELSON and Rory SHANAHAN's measurements of the letter 'C' on Police Exhibit 343.
- 2247. Both exhibits were returned to the Supreme Court Registrar, Ian MILLER, prior to the Court resuming at 4.50pm.
- 2248. At the RCOI, Dr NELSON stated that Police Exhibit 343 had no firing pin impression when he examined it on 13 April 1973.
- 2249. At the time of Dr NELSON's examination, his only interest in Police Exhibit 343 was in establishing whether, as Dr SPROTT contended, there was a difference in the height of the letter 'C' on this cartridge case compared with that of Police Exhibit 350. Therefore, Dr NELSON was not specifically looking to see whether this exhibit had a firing pin impression.
- 2250. While giving evidence at the second trial (and later), Dr NELSON explained that he would have probably discharged the primer (gun powder) from the cartridge case of Police Exhibit 343 during his first examination of it on 19 November 1970, but said that at that stage (1973) he could not remember how he did this.
- 2251. Dr NELSON said that there were two techniques he used (in 1970) to discharge primer from cartridge cases. One was to stand the cartridge case on a hot plate and the other was to place a pin inside the rim of the case and strike it.
- 2252. Dr NELSON stated that whichever method was used, it would not have altered the appearance of the base of the cartridge case.

- 2253. At the RCOI Rory SHANAHAN stated that he could not say whether Police Exhibit 343 was fired or unfired when he examined it on 13 April 1973.
- 2254. The haste with which Dr NELSON was required to conduct his examination and consider the theory that the defence had just presented to the Court would not have given him and opportunity to formulate a truly considered scientific opinion.

#### Ian MILLER and Detective Senior Sergeant KEITH

- 2255. Ian MILLER told the RCOI how, every morning during the trial, he and Detective Senior Sergeant KEITH would remove exhibits, including Police Exhibit 343, from the safe. They would check that these were the same exhibits that had been placed in the safe the previous evening. He said that although Police Exhibit 343 had no distinct markings on it (other than a label attached to the glass phial it was housed in), both he and Detective Senior Sergeant KEITH had become familiar with its appearance, particularly that of the bullet. He stated it was not necessary to remove the exhibit from the phial to identify it.
- 2256. Detective Senior Sergeant KEITH told the RCOI how he checked the exhibits. He explained that Ian MILLER produced them from his jacket pocket and showed them to him. Detective Senior Sergeant KEITH said that he did not physically touch the items or take them from their containers, but got a brief glimpse of them and, on some occasions, checked the labels.
- 2257. Ian MILLER stated that it was his recollection that the cartridge case of Police Exhibit 343 was unfired. In fact, Ian MILLER agreed that he consistently saw Police Exhibit 343 with no firing pin impression on the base.
- 2258. Detective Senior Sergeant KEITH stated that when he produced Police Exhibit 343 as an exhibit at the second trial on 4 April 1973, he took it out of the glass phial and passed it to the Court Crier so that it could be shown to the jury, pointing out the number '8' on the base of the bullet. Detective Senior Sergeant KEITH stated that at this time Police Exhibit 343 had a firing pin impression on the base of the cartridge case.

#### Police Exhibit 343 marked by Dr SPROTT

- 2259. In October 1976, Dr SPROTT and Patrick BOOTH published 'ABC of Injustice' in which it is claimed that Dr SPROTT had secretly marked the cartridge case from Police Exhibit 343 when he examined it in April 1973 during the second trial. He apparently did so to be certain of its identity, should any future examination be required.
- 2260. This claim was expanded upon at the RCOI. At this time Dr SPROTT stated that when he had examined Police Exhibit 343 in the courtroom during the second trial, he had marked the exhibit with his callipers. He said that he had scratched the symbol of a fish on the base of the cartridge case inside the letter 'C'.

- 2261. Dr SPROTT stated that this mark would have been obvious to anyone looking at the base of the cartridge case through a microscope and, in fact, someone with good eyesight could have seen this with the naked eye.
- 2262. At the RCOI, Dr NELSON and Rory SHANAHAN, who had examined Police Exhibit 343 after the alleged marking by Dr SPROTT, were asked if they had seen the 'fish' when they examined Police Exhibit 343 on 13 April 1973. Both said that they had not seen this and, if it had been there, they would have seen it.
- 2263. The purpose of the examination of Police Exhibit 343 by Dr NELSON and Rory SHANAHAN on 13 April 1973, was to measure the height of the letter 'C'. In doing do, both viewed the base of the cartridge case through a microscope focusing on the letter 'C'.
- 2264. While giving evidence Dr NELSON could not recall the magnification of the microscope he used, but said that the 'C' of the cartridge case practically filled the field. Had there been a fish symbol present on the exhibit at this time it is reasonable to conclude that either Dr NELSON or Rory SHANAHAN would have seen it and queried its origin.
- 2265. At the RCOI, Edwin GIFFORD did not mention seeing the fish symbol when he looked at the base of a cartridge case (unknown if this was Police Exhibit 343 or Police Exhibit 350) after Dr SPROTT had completed his examination.
- 2266. The fact that Dr SPROTT waited more than three years to make this claim (that he had marked Police Exhibit 343) raises some doubt as to the veracity of his claim.
- 2267. On 17 April 1973, (three days after evidence at the second trial concluded), Dr SPROTT wrote to Kevin RYAN and stated that he was astounded that Dr NELSON found Police Exhibit 343 to be virtually identical to Police Exhibit 350. He said he had his own opinion as to how this came about, and requested to examine Police Exhibit 343 again. Dr SPROTT did not state that he had marked Police Exhibit 343, or that he would be able to identify if this was the item he had examined during the second trial.
- 2268. Also, at the RCOI, Gerald RYAN, second Defence Counsel, stated that he saw Dr SPROTT after he had examined Police Exhibit 343 during the second trial. Gerald RYAN stated that Dr SPROTT demanded to examine both Police Exhibits 343 and 350 again because he thought they had been switched. Dr SPROTT did not tell Gerald RYAN that he had marked Police Exhibit 343, or that he would be able to confirm that this was the item he had examined.
- 2269. At the RCOI, Detective ABBOTT and Ian MILLER gave evidence that during Dr SPROTT's examination of Police Exhibit 343 his hands were shaking badly, and it was contended that it would not have been possible for Dr SPROTT to draw a fish symbol on the cartridge case in that state.

- 2270. The claim that Dr SPROTT's hands were shaking was disputed by Dr SPROTT and Edwin GIFFORD. The RCOI did not accept the evidence of Detective ABBOTT and Ian MILLER either, and accepted the evidence that Dr SPROTT had in fact marked Police Exhibit 343 with the design of a fish.
- 2271. The RCOI did not express any criticism of Dr SPROTT in terms of his disclosure that he had on his own admission interfered with a Court exhibit.

#### **Second Referral**

2272. The allegation that the cartridge case of Police Exhibit 343 was switched was not a ground advanced in Arthur THOMAS' appeal after the second trial.

#### Police Exhibit 343 being 'switched'

- 2273. The inconsistencies in evidence given by Crown witnesses as to the fired or unfired condition of the cartridge case (Police Exhibit 343), and Dr NELSON's evidence that he could not differentiate between the height of the letter 'C' on Police Exhibits 343 and 350, led to claims by Arthur THOMAS' supporters that the cartridge case of Police Exhibit 343 had at some time been switched. In fact, it was alleged that this cartridge case had been switched on two occasions.
- 2274. The RCOI report summarised the switching of the Police Exhibit 343 cartridge case in paragraph 189 of their report (refer <u>Appendix 15</u>) as follows:
  - "(a) Exhibit 343 was fired in the Otahuhu Police Station on 21 October 1970; an unfired shellcase was substituted for it at some time between that date and 12 April 1973 [when it was examined by Dr SPROTT], probably as a result of carelessness on the part of the Police.
  - (b) An unfired category 4 shellcase was deliberately substituted by the Police to the knowledge of at least Mr Hutton, for the unfired category 3 cartridge case examined by Dr Sprott, between Dr Sprott's examination on 12 April and Dr Nelson's examination on 13 April 1973.
  - (c) It follows that Dr Nelson's measurements of the shellcase which he examined on 13 April 1973 do not detract from Dr Sprott's theory."
- 2275. The RCOI stated that they were not able to determine when the unfired cartridge case was substituted for Police Exhibit 343. Nevertheless, they made a finding that Detective Inspector HUTTON at least had knowledge of it.

#### Opportunity for 'switching'

2276. In order to address the allegation that Police Exhibit 343 was switched, the custody of this item needs to be established. The table below details the known whereabouts and movements of Police Exhibit 343 from the time it was found on 21 October 1970 to its destruction on 27 July 1973.

### **Custody of and storage of Police Exhibit 343**

Date	Time	Custody of / Storage	Circumstances
21 October 1970	11:30am	Detective KEITH	Police Exhibit 343 was found by Detective KEITH in a garage used by Peter THOMAS on Arthur THOMAS' farm.
21 October 1970	12:00 noon	Detective Sergeant TOOTILL	Detective KEITH handed Police Exhibit 343 to Detective Sergeant TOOTILL.
21 October 1970	Unknown	Detective Inspector HUTTON and Detective KEITH	Detective Inspector HUTTON, Detective Sergeant TOOTILL and Detective KEITH were present in Detective Inspector HUTTON's office at the Otahuhu Police Station when Police Exhibit 343 was dissected by Detective Inspector HUTTON.
21 October 1970	Unknown	CIB Exhibit Safe	Police Exhibit 343 was put in the CIB Exhibit Safe by Detective KEITH.
19 November 1970	Unknown	Detective KEITH	Detective KEITH took Police Exhibit 343 to the DSIR.
19 November 1970	9:45am	Dr NELSON	Dr NELSON examined Police Exhibit 343. Photographs of the bullet were taken by Steve RUBIE.
19 November 1970	2:30pm	Detective KEITH	Detective KEITH transported Police Exhibit 343 back to the Otahuhu Police Station.
19 November 1970	Unknown	CIB Exhibit Safe	Detective KEITH put Police Exhibit 343 in the CIB exhibit safe.
14 December 1970	Unknown	Court Custody	Detective ABBOTT delivered Police Exhibit 343, along with other exhibits, to the Otahuhu Magistrate Court for the deposition hearing.  This item remained in Court custody until
			the appeal resulting from the first trial (in 1971) had concluded.
24 June 1971	Unknown	Detective KEITH	Detective KEITH took possession of Police Exhibit 343 (and other exhibits).
24 June 1971	Unknown	CIB Exhibit Safe	Detective KEITH put Police Exhibit 343 in the CIB exhibit safe at the Otahuhu Police Station.

26 March 1973	Unknown	Court Custody	Police Exhibit 343, and other exhibits, was taken to the Auckland Supreme Court for the second trial.
12 April 1973 (unconfirmed)	Unknown	Dr SPROTT	Ian MILLER handed Dr SPROTT Police Exhibit 343. Dr SPROTT examined this item under microscope in the courtroom during a recess.
13 April 1973	12:40pm	Dr NELSON	Ian MILLER handed Dr NELSON Police Exhibit 343 (along with Police Exhibit 350).
13 April 1973	After 12:40pm	Dr NELSON	Dr NELSON took Police Exhibit 343 (and Police Exhibit 350) to the DSIR laboratory for examination.
			He was accompanied by Rory SHANAHAN and two unknown Police Officers.
13 April 1973	Before 4:50pm	Court Custody	Dr NELSON returned Police Exhibit 343 (and Police Exhibit 350) to Ian MILLER.
13 April 1973	After 4:50pm	Auckland Supreme Court	Ian MILLER, accompanied by Detective Senior Sergeant KEITH, sealed Police Exhibit 343, along with other exhibits, in a manila envelope.
			The flap of the envelope was then sealed and signed by both parties before being locked in the drug strong room.
Prior to Court of Appeal Hearing	Unknown	Ian MILLER	Ian MILLER, in the presence of Kevin RYAN, broke the seal on the envelope containing Police Exhibits 343 and 350 to check on other exhibits in the same envelope.
12 July 1973	11:15am	Detective KEITH	Police Exhibit 343 (along with other exhibits) was returned to Detective KEITH, who transported them to the Otahuhu Police Station.
27 July 1973	Unknown	Detective KEITH	Police Exhibit 343, along with 134 other exhibits, was dumped at the Whitford Tip.

2277. The RCOI concluded that there had been an accidental switch of Police Exhibit 343 between 21 October 1970 and 12 April 1973. During this time, the exhibit is known to have been handled (i.e. taken out of its phial) on one occasion while in the custody of Police. This was 19 November 1970, when Police Exhibit 343 was taken to the DSIR by Detective KEITH and examined by Dr NELSON and photographed by Steve RUBIE.

- 2278. During the second trial, Police Exhibit 343 was handed around for the jury to view. At this time the exhibit was removed from the glass phial.
- 2279. The RCOI concluded that there had been a deliberate switch by Police of Police Exhibit 343 between Dr SPROTT's examination on 12 April 1973 and Dr NELSON's examination on 13 April 1973. Since Dr SPROTT commenced giving evidence at 10:00am, the timeframe can be narrowed down to a period after Dr SPROTT's evidence had been completed and Dr NELSON's examination commencing at 12:40pm. During the earlier period, Police Exhibit 343 was in the custody of the Court, specifically, the Court Registrar, Ian MILLER.
- 2280. From the time Police Exhibit 343 was produced in Court (on 4 April 1973), it was kept in the personal custody of Ian MILLER during Court hours. Ian MILLER said he kept this (and Police Exhibit 350) in his jacket pocket.
- 2281. At the end of each day, Police Exhibit 343, along with other exhibits, was placed in an envelope and locked in a cash box, which was in turn locked in a safe in the strong room at the Auckland Supreme Court. Ian MILLER held the key to the cash box and the safe. A second key to the safe was held by Deputy Registrar, Mr DUNN.
- 2282. In evidence before the RCOI, Detective Inspector HUTTON stated that for a Police officer to have switched the cartridge case of Police Exhibit 343 with one that had a letter 'C' with an identical height to that of Police Exhibit 350, this would have required scientific assistance.
- 2283. If, as alleged, Police Exhibit 343 was switched at this time and the switch was a deliberate one, the purpose would have been to have Dr NELSON examine a cartridge case with the 'C' in the 'ICI' stamp on the base to match that of Police Exhibit 350. It is almost certain that a Police Officer would not have been able to precisely establish that the height of the 'C' on Police Exhibit 350 and that which was used to replace Police Exhibit 343 were indistinguishable.
- 2284. Although the RCOI found that Police Exhibit 343 had been switched by Police, it is noted that when Dr SPROTT examined Police Exhibit 343 he took with him two other cartridge cases, one an example of a 'category 3' case and the other and example of a 'category 4' case. However, Ian MILLER said that he watched Dr SPROTT very closely when he was examining Police Exhibits 343 and 350, and it would have been impossible for Dr SPROTT to have swapped the exhibits without him seeing.

#### **RCOI Finding - Destruction of exhibits**

- 2285. In paragraph 402, the RCOI found that:
  - "(c) The destruction of some of the exhibits in the Whitford Tip was an improper action designed to prevent any further investigation of Exhibit 350. We also find that Detective Inspector HUTTON improperly misled his superiors concerning the chances of recovering the exhibits from the tip."

- 2286. Detective Senior Sergeant KEITH gave evidence that he alone went to the Whitford Tip and disposed of the 135 exhibits on 27 July 1973. Detective Inspector HUTTON gave evidence at the RCOI that he accompanied him for this purpose. It is probable that Detective Inspector HUTTON's recall on this matter is incorrect.
- 2287. It is difficult, therefore, to criticise Detective Inspector HUTTON for prevarication or for misleading his superiors about the chances of recovering the exhibits from the tip if he could only rely on what he had been told by Detective Senior Sergeant KEITH about it.
- 2288. The decision to destroy key exhibits, including Police Exhibits 350 and 343 on 27 July 1973, was in line with Police General Instructions, but lacked judgment. There is no illegality in the actions by Police.
- 2289. This topic has been addressed in Chapter 7.

#### **RCOI Finding - Failure to investigate Barr Brothers Ltd records**

- 2290. In paragraph 402, the RCOI found that:
  - "(d) There was impropriety on the part of Police in failing to investigate properly the records of [Arthur] THOMAS's employment with Barr Brothers Ltd."
- 2291. The impropriety being referred to by the RCOI is the failure of Detective Sergeant HUGHES to initiate enquiries with Barr Brothers Limited concerning the dates of Arthur THOMAS' employment with the company. The evidence given at both trials by Detective Sergeant HUGHES was to the effect that at a time after Harvey and Jeannette were running the farm he (Arthur THOMAS) had carried out work there for Barr Brothers Limited.
- 2292. This topic has been addressed in Chapter 12.

# **RCOI Finding - Behaviour of Detective Inspector HUTTON Auckland Supreme Court**

- 2293. In paragraph 402, the RCOI found that:
  - "(e) Detective Inspector HUTTON's behaviour in the Courtroom at the time of Dr SPROTT's examination of one of the shell cases exhibits was unacceptable."
- 2294. The RCOI was critical of Detective Inspector HUTTON's behaviour in the courtroom at the time Dr SPROTT examined Police Exhibits 350 and 343.
- 2295. Detective Inspector HUTTON allegedly burst into the courtroom and challenged Dr SPROTT concerning his entitlement to examine a Crown exhibit.
- 2296. There is no evidence to indicate that the actions of Detective Inspector HUTTON amount to an act of corruption even taken as alleged at face value.

#### **RCOI Finding - Lack of neutrality Dr NELSON**

- 2297. In paragraph 402, the RCOI found that:
  - "(f) Dr NELSON's refusal to accept his error concerning the shell 1964/2 showed a disturbing lack of neutrality by a scientific witness. His error as to the number of lands in the "Eyre" rifle was a fundamental error of observation."
- 2298. Dr NELSON's apparent intransigence over a cartridge case known as 1964/2, may be linked to his inaccurate recollection, rather than an overt lack of neutrality.
- 2299. Unquestionably, Dr NELSON made a fundamental error during his examination of the 'EYRE' rifle. The firearm could never have fired the fatal bullets and should have been eliminated through the differences in the barrel characteristics (five lands and grooves), in comparison with the fatal bullets (with six land and grooves).
- 2300. Today all forensic work undertaken is peer reviewed and it is unlikely that the errors made by Dr NELSON would be repeated.

#### **RCOI Finding - Material found near wheelbarrow**

- 2301. In paragraph 402, the RCOI found that:
  - "(g) The Police failed to protect properly an important exhibit in their possession, namely material found near the wheelbarrow."
- 2302. The Review Team share the view expressed by the RCOI and do not accept that material of this nature would be completely burnt. A cigarette butt would not cause the material to catch fire unless an appropriate accelerant was present.
- 2303. In summary, criticism of Police on this point is valid and demonstrates negligence. The item (whatever it was) should have been exhibited, examined and retained.

#### Allegations from other sources

- 2304. Since the RCOI, a number of commentators and private individuals have lobbied for an independent review of Police conduct in this case. There have been calls to have former Detective Inspector HUTTON and other Police Officers charged with various crimes that they believe have been committed and fall under Part 6 of the Crimes Act 1961.
- 2305. A number of unsubstantiated claims have been made in various publications which, if proven, certainly amount to acts of corruption on the part of Police Officers.
- 2306. On 20 October 2012, Desmond THOMAS wrote to the Police Commissioner outlining allegations he wished to make against former Detective Inspector HUTTON and Roderick RASMUSSEN.

- 2307. Desmond THOMAS' letter was accompanied by documentation which he claimed substantiated the allegations that he wished to make.
- 2308. The allegations raised by Desmond THOMAS are not fresh and were issues addressed during the RCOI hearings. Desmond THOMAS has not produced any information that was not available at the time of the RCOI and also available to the Solicitor-General prior to him providing a legal opinion concerning the potential culpability of Detective Inspector HUTTON concerning Police Exhibit 350.
- 2309. The following is a brief summary of each of Desmond THOMAS' allegations:

#### **Concerning Detective Inspector HUTTON - Allegation (i)**

- (i) On 25 January 1971, Detective Inspector HUTTON swore a false affidavit by claiming that he knew of no other witnesses who could give evidence material to the case and that he knew of no material evidence whatsoever that had not been given. Specifically:
  - A statement made by Maurice McCONACHIE regarding the sighting of a child on Saturday 20 June 1970, at the CREWE address.
  - The existence of fresh milk in the CREWE house when Police arrived on Monday 22 June 1970.

This is a factually incorrect statement. No fresh milk (past 17 June 1970) was located.

- A claim that Detective Inspector HUTTON knew the identity of the woman who had fed the baby.
- That a statement made by Julie PRIEST of hearing shots at the CREWE house on the evening of 17 June 1970 was withheld from defence counsel.
- That a statement made by Karl LOBB that he had driven past the CREWE house on 19 June 1970 and did not see any lights on was withheld from defence counsel.
- 2310. Although the Police and Crown were not forthcoming with the material they supplied to the Defence in 1970/1971, there was no legal requirement for them to do so. Their obligation was to disclose the name of any other witness not being called by the prosecution who could give 'material evidence'.
- 2311. What constituted 'material evidence' was a subjective test on the part of the O/C Investigation which allowed for a wide interpretation. In this case, Detective Inspector HUTTON may well have been able to advance the argument that none of the witness accounts withheld by Police affected the evidence against Arthur THOMAS, and therefore, it was not 'material evidence'.

- 2312. As mentioned earlier in the review, the affidavit sworn by Detective Inspector HUTTON on 25 January 1971 was an issue addressed by the RCOI. The RCOI did not find any criminality in respect of the affidavit, but found that they were "...unable to reconcile the statements in that passage with some of our findings under this Term of Reference."
- 2313. There is insufficient evidence to support the contention that Detective Inspector HUTTON committed a criminal offence in this regard.

#### **Concerning Detective Inspector HUTTON - Allegation (ii)**

- (ii) Desmond THOMAS also alleged that Detective Inspector HUTTON conspired to defeat the course of justice by causing Vivien THOMAS to be wrongly accused of feeding Rochelle.
- 2314. There is no evidential basis to support this allegation. No evidence was produced in Court to demonstrate that Vivien THOMAS was responsible for feeding Rochelle other than a veiled general proposition that it could not be excluded.
- 2315. During his closing address to the jury at the conclusion of the first trial, Crown Solicitor David MORRIS raised the possibility that Vivien THOMAS fed the baby and that that was something that the jury may wish to consider.
- 2316. Had the trial Judge believed David MORRIS had over-stepped the mark on this point he no doubt would have directed the jury to disregard what had been said on this point in his summing up to the jury.

#### **Concerning Detective Inspector HUTTON - Allegation (iii)**

- (iii) Desmond THOMAS alleged that Detective Inspector HUTTON conspired to bring a false allegation against Arthur THOMAS, knowing the person to be innocent of the crimes with which he was charged.
- 2317. There is no evidence to support this allegation.
- 2318. Arthur THOMAS was committed for trial and convicted on two separate occasions on the evidence that was adduced. Clearly the evidence adduced by the Prosecution in the Supreme Court trials must have been accepted by the trial Judge as being relevant, admissible and having integrity.

#### **Concerning Detective Inspector HUTTON - Allegation (iv)**

(iv) Desmond THOMAS alleged that Detective Inspector HUTTON committed perjury by stating on oath during the formal hearing of the RCOI that he did not have possession of a .22 Browning rifle belonging to Arthur THOMAS between 20 October 1970 and 29 October 1970.

Also that Detective Inspector HUTTON committed perjury by stating at the RCOI that Detective JOHNSTON collected the .22 Browning rifle from Arthur THOMAS on 20 October 1970, of his own volition.

- 2319. There is no evidence in any of the material contained within the file which places the firearm in the possession of Detective Inspector HUTTON between 20 October 1970 and 29 October 1970, other than an assertion by Arthur THOMAS that he was shown the rifle along with other physical items of evidence by Detective Inspector HUTTON during an interview conducted with him on 25 October 1970.
- 2320. In Patrick BOOTH's book, published in 1970, Arthur THOMAS claimed that when he was questioned by Detective Inspector HUTTON, his rifle was in the corner of the room along with other exhibits.
- 2321. Detective Inspector HUTTON's Police jobsheet regarding the interview does not acknowledge that Arthur THOMAS' rifle was shown to, or was in the same room as, Arthur THOMAS.
- 2322. Had the RCOI believed that Detective Inspector HUTTON was being deliberately untruthful for the purpose of deceiving the RCOI his actions would have amounted to an act of perjury, and in light of their other findings against Detective Inspector HUTTON there was nothing to prevent the Commissioner making a finding to reflect their view.

#### Concerning Detective Inspector HUTTON - Allegation (v)

- (v) Desmond THOMAS alleged that Detective Inspector HUTTON conspired to obstruct, prevent, pervert or defeat the course of justice by:
  - Suppressing the statements of Ted BENNETT (Frank BENNETT) in relation to a firearm in the possession of the CHENNELLS family.
  - Suppressing the statement of Joseph MacKAY in relation to a firearm in the possession of the CHENNELLS family.
  - Suppressing the evidence of Ross FLEMING (David FLEMING) who gave a statement to Police that his son saw sparks coming out of the CREWE house chimney on 19 June 1970.
  - Withholding the evidence of the type of ammunition extracted from a cow and dog's head that Arthur THOMAS shot on his farm with his .22 rifle.
  - Conspiring with Lenard DEMLER and Detective JOHNSTON to produce at the second trial in 1973, a rifle which Lenard DEMLER claimed to have been the CHENNELLS rifle.

- 2323. The allegation that Detective Inspector HUTTON defeated the course of justice by suppressing the statements of Frank BENNETT, Joseph MacKAY and David FLEMING, has no evidential basis.
- 2324. The evidence of Frank BENNETT and Joseph MacKAY was not material to this allegation.
- 2325. The claim by Desmond THOMAS that David FLEMING's son saw sparks coming from the CREWE chimney on Friday 19 June 1970, is factually incorrect. (See Chapter 5 Friday 19 June 1970)
- 2326. There is no evidence on the Police file to suggest that Police ever extracted bullets from a cow or dog's head on the THOMAS farm.
- 2327. If bullets were in fact extracted from a cow or dogs head, this was not done by Police. Certainly, there is nothing recorded in the Police file or any material available to the Review Team which establishes any such allegation.
- 2328. The allegation that Detective Inspector HUTTON conspired with Lenard DEMLER and Detective JOHNSTON to produce a firearm prior to the 1973 second trial of Arthur THOMAS and claim it to be the CHENNELL rifle, is factually incorrect as the rifle produced by Lenard DEMLER is in fact the CHENNELL rifle.

#### **Concerning Detective Sergeant CHARLES**

- 2329. Desmond THOMAS alleged that Detective Sergeant CHARLES attempted to pervert or defeat the course of justice by advising a civilian witness, Bruce RODDICK, during the depositions hearing, that his sighting at Court that day of a woman he had seen at the CREWE farm on Friday 19 June 1970, was not relevant.
- 2330. Desmond THOMAS alleged that Detective Sergeant CHARLES failed to disclose to the Magistrate and defence lawyers a statement he had taken from Ross EYRE, who claimed to have seen a woman driving the CREWE car on Highway 22 at 8.00am on the morning after the murders.
- 2331. Desmond THOMAS alleged that Detective Sergeant CHARLES failed to disclose to the Magistrate and defence lawyers that fresh milk had been found at the CREWE house when they arrived on Monday 22 June 1970.
- 2332. Desmond THOMAS also alleged that Detective Sergeant CHARLES failed to disclose to the Magistrate and defence lawyers the experiments carried out by Dr FOX which confirmed that this milk had been taken to the house after the murders and was thus relevant to the crimes.
- 2333. On 29 November 2012, Desmond THOMAS again wrote to Police Commissioner Peter MARSHALL wishing to make a formal complaint against former Detective Sergeant CHARLES. Again his letter contained documentation which Desmond THOMAS claimed provided evidence to substantiate his complaint.

- 2334. The allegation that Detective Sergeant CHARLES attempted to pervert the course of justice is not supported by any evidence.
- 2335. As outlined in an earlier chapter Bruce RODDICK has never claimed that he has identified 'the woman' he saw in the CREWE garden on 19 June 1970.
- 2336. The material allegedly supplied by Ross EYRE to Detective Sergeant CHARLES was never documented on the Police file.
- 2337. There is no factual foundation that fresh milk was found in the CREWE house. The only reference contained on the Police file in respect of this would indicate that sour curdled milk had been found in an open bottle in the kitchen.

#### **Concerning Roderick RASMUSSEN**

- 2338. Desmond THOMAS alleged Roderick RASMUSSEN gave false evidence in all of the Arthur THOMAS Court hearings and the RCOI by stating that he had removed the axle, Police Exhibit 293, from Allan THOMAS' trailer.
- 2339. The claim that Roderick RASMUSSEN gave false evidence is without foundation. His evidence was consistent throughout all the hearings in which he was called as a witness.
- 2340. His evidence in respect of the trailer parts being returned to the THOMAS farm was in fact corroborated in part by the evidence of Allan THOMAS and Richard THOMAS in that they told Police that if the wheels had been returned to the Mercer Ferry Road farm, then it was likely that all the trailer parts would have been. The wheels were in fact found on the Mercer Ferry Road farm.
- 2341. Further corroboration was provided by Charles SHIRTCLIFFE, the man who originally built the trailer, when he positively identified a piece of 3x3 timber located on the THOMAS farm, which he had fitted to the trailer at the time of construction. This too had been removed by Roderick RASMUSSEN when he was completing alterations to the trailer.
- 2342. Furthermore, Allan THOMAS confirmed to the RCOI that he recognised one of the stub axles as having been attached to his trailer before the axle assembly was removed by Roderick RASMUSSEN. The stub axles were of course indisputably matched to the axle (Police Exhibit 293) and were also found on the THOMAS farm.

#### Axle

2343. In terms of corruption allegations, there have been issues raised around the reliability of evidence concerning the Nash axle and the proposition that at the time of the murders it may not have been physically on the THOMAS farm. These issues have been addressed in previous chapters.

2344. This proposition is acknowledged by the Review Team, however, it is irrefutable that the axle found in the Waikato River under Harvey's body was Police Exhibit 293. It is also irrefutable that the stub axles (Police Exhibits 330 and 331) found on the THOMAS farm matched the axle precisely, and further, that the axle is the one that was formerly fitted to the trailer owned by Allan THOMAS.

#### Wire

- 2345. Similarly, there have been challenges to the reliability of Harry TODD's evidence in relation to wire found on Harvey's body and that found at the THOMAS farm. At the second trial defence counsel called evidence from Ian DEVEREUX in an attempt to counter that of Harry TODD.
- 2346. Professor George FERGUSON, engaged by the Review Team, confirmed that the evidence of Harry TODD was correct and wire found on the body of Harvey matches wire from the THOMAS farm precisely. (Refer <u>Appendix 12</u>)

#### **Firearm**

- 2347. Early in the investigation, evidence tending to indicate that the THOMAS rifle was the murder weapon was challenged by the original findings of Dr NELSON who at that stage could not eliminate the 'EYRE' rifle.
- 2348. The barrel characteristics of the 'EYRE' rifle are inconsistent with having fired the fatal bullets.
- 2349. There is no evidence to indicate that the 'EYRE' rifle was in any way tampered with or altered during the period spanning the 1970 homicide investigation and the conclusion of the second Supreme Court trial in 1973. Any suggestion to the contrary must be viewed as redundant.
- 2350. Reliant on expert ballistic evidence, it is highly probable that Police Exhibit 317, the THOMAS rifle, fired the fatal shots that killed Harvey and Jeannette.

#### Conclusion

- 2351. Notwithstanding the RCOI findings with regard to the actions of Detective Inspector HUTTON and Detective JOHNSTON, there is insufficient evidence to support a prosecution against any individual for a crime associated with corruption. Further reinvestigation is not warranted for the following reasons:
  - The 1981 legal opinion of Solicitor-General Paul NEAZOR concluded that there was
    insufficient evidence to implicate any individual for fabricating the provenance of
    the cartridge case (Police Exhibit 350) found in the CREWE garden. (Refer
    Appendix 16). Since the evidence has not changed, the opinion remains reliable as
    to the application of the law.

- Neither the two Supreme Court trial Judges in the prosecution of Arthur THOMAS, or the RCOI, alleged testimony presented in Court by witnesses amounted to acts of perjury.
- Evidence given by Police concerning the incineration of the material described as an old oilskin coat found in the CREWE garden is not accepted. The RCOI did not accept this evidence either, but did not identify this evidence as amounting to perjury.
- 2352. Exhibit handling and documenting practices during the 1970 homicide investigation and subsequent Court hearings was deficient and therefore, have not enabled the Review Team to reach any findings in respect of the integrity of exhibits.
- 2353. The manner in which the forensic examinations were conducted by both Dr SPROTT and Dr NELSON, and the haste with which both scientists were asked to perform their respective examinations, created an opportunity for error thereby leading to potentially unsound scientific evidence being presented to the jury.
- 2354. None of the material supplied by Desmond THOMAS has provided sufficient evidence to warrant further enquiry or action by Police. It should be noted that some of the assertions on the part of Desmond THOMAS are factually incorrect.
- 2355. There is insufficient evidential basis to support these allegations, therefore, the matters can be taken no further.

**END** 

### **CHAPTER 15**

### **Investigation Management**

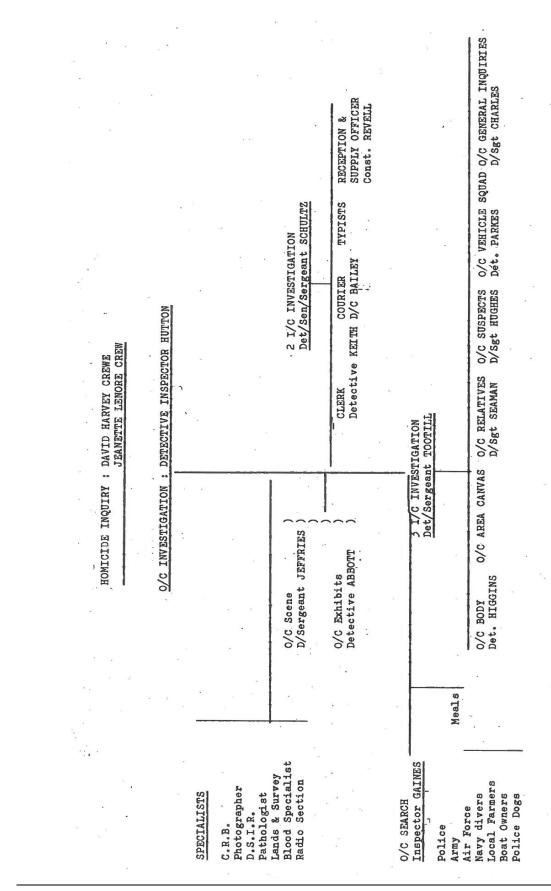
#### Initial action - immediate scene

- 2356. Aspects of the management of the 1970 CREWE homicide investigation have been commented upon throughout the various chapters of the review. Shortfalls and inadequacies in the investigation have been highlighted and the potential impact on the breadth of the investigation noted.
- 2357. Examples of best practice and good investigative techniques demonstrated by the investigation team have also been identified.
- 2358. The weight of the investigation management in relation to the CREWE homicide investigation was largely placed on Detective Inspector HUTTON, who was the first Commissioned Officer to attend the crime scene on Monday 22 June 1970.
- 2359. Detective Inspector HUTTON was an experienced senior investigator who had a reputation for being an assertive, no-nonsense leader.
- 2360. The RCOI acknowledge at paragraph 11 of their report (refer <u>Appendix 15</u>) that for the first seven weeks Detective Inspector HUTTON organised an investigation that was intense, thorough and painstaking.
- 2361. Immediately Detective Inspector HUTTON took steps to reduce the amount of scene contamination that was occurring with the removal of a number of vehicles parked in the front paddock of the CREWES' property. These vehicles belonged to Pukekawa residents who had arrived to assist in the search for the missing couple.
- 2362. As was the practice in 1970, Detective Inspector HUTTON broadly initiated the National Homicide Pattern in structuring the investigation.
- 2363. As other members of Police arrived at the scene, it appears that they were afforded entry into the farmhouse which is contrary to modern day best practice.
- 2364. Police Officers in attendance were appointed in key investigative roles and searches and enquiries into the couple's disappearance were commenced.
- 2365. Police Conference Notes from the evening 23 June 1970 indicate that there was an assumption that the condition of the crime scene was the result of a domestic dispute. At this time it is likely that the general feeling was that there had been a murder / suicide scenario and Police were simply waiting to find the bodies of the deceased nearby on their property.

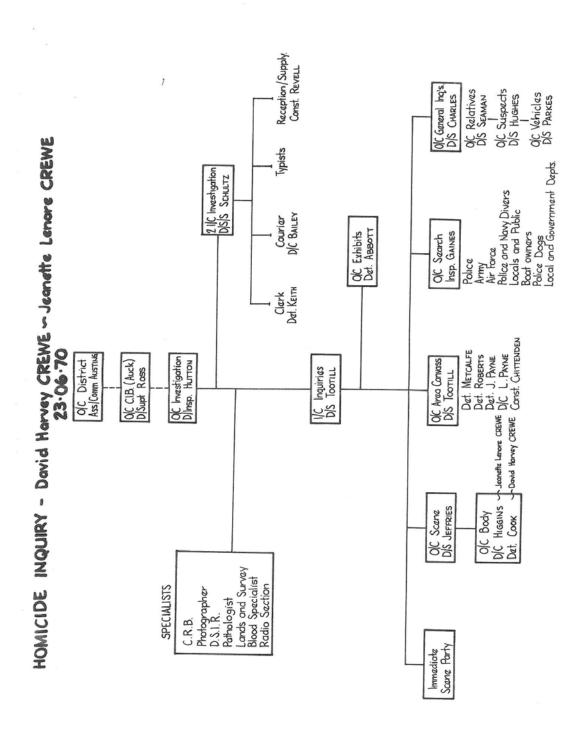
- 2366. This belief inevitably affected the actions of Police Officers in attendance at the crime scene and it is likely that the proper care was not taken to ensure that the crime scene and its contents were left in situ.
- 2367. In the early stages, Detective Senior Sergeant SCHULTZ was appointed the 2I/C and he was in attendance at the scene.
- 2368. Detective Senior Sergeant SCHULTZ only remained on the enquiry for a brief period when he became unwell and unfit for duty. His role of 2I/C was pivotal, however, he was not replaced. His position was broadly covered by Detective Sergeant TOOTILL, who on the Command Chart is identified as the 3I/C. In a number of practical senses the homicide clerk, Detective KEITH, had more responsibilities than would normally be expected in that role.
- 2369. The '1970 CREWE Homicide Command Chart' identifies the following members and their respective role:
  - Detective Inspector HUTTON O/C Investigation
  - Detective Senior Sergeant SCHULTZ 2I/C Investigation
  - Detective Sergeant TOOTILL 3I/C
  - Detective Sergeant JEFFRIES O/C Scene
  - Detective ABBOTT O/C Exhibits
  - Detective HIGGINS O/C Body
  - Detective Sergeant SEAMAN O/C Relatives
  - Detective Sergeant HUGHES O/C Suspects
  - Detective PARKES O/C Vehicle Squad
  - Detective Sergeant CHARLES O/C General Enquiries
  - Inspector GAINES O/C Search
  - Detective KEITH Clerk
  - Detective Constable BAILEY Courier
  - Constable REVELL Reception & Supply Officer
- 2370. The Command Chart prepared for the RCOI includes other named officers:
  - Assistant Commissioner AUSTING O/C District
  - Detective Superintendent ROSS O/C CIB Auckland
  - Detective COOK O/C Body (Harvey)
  - Detective METCALF Area Canvas
  - Detective J. PAYNE Area Canvas

- Detective L. PAYN Area Canvas
- Constable CHITTENDEN Area Canvas
- 2371. Other Police members known to have had a role in the investigation are:
  - Detective Constable MEURANT Crime Scene Searcher
  - Detective Constable GEE Crime Scene Searcher
  - Constable PANAHO Searcher THOMAS farm
  - Detective Constable WOOD Searcher THOMAS farm
- 2372. Inspector GAINES was appointed as the O/C Search and embarked on what was to be a protracted extensive and impressive search phase that culminated in the recovery of Jeannette's body on 16 August 1970 and Harvey on 16 September 1970, both from the Waikato River.

#### 1970 CREWE Homicide Command Chart



### **CREWE Homicide Command Chart prepared for RCOI 1980**



#### Homicide investigation headquarters

- 2373. The homicide investigation headquarters was set-up in an empty cottage on the CHITTY farm close to the CREWE property. The investigation was managed from this location for the first part of the enquiry.
- 2374. The homicide investigation headquarters also became a venue for people to come to for their motor vehicles to be examined and for their elimination fingerprints to be taken.
- 2375. The headquarters later moved to the Otahuhu Police Station, although when this occurred is not clear. The enquiry became somewhat disjointed with some staff working from the Auckland Central Police Station whilst remaining on the enquiry.

#### **Police Conferences**

- 2376. In 1970, when conducting a major crime investigation, the recognised best practice was to hold regular Police Conferences which were attended by the investigation team, often with other senior Police Officers present.
- 2377. The Police Conferences were recorded by Police civilian shorthand/typists who later transcribed the shorthand as a record of the discussion and lines of enquiry that were being actively followed. (Refer Conference Notes, Appendix 6)
- 2378. The Review Team note that in the CREWE homicide investigation, not all of the Police Conference Notes form part of the investigation file. On occasions no notes appear to have been recorded and on one specific occasion (2 October 1970) there is a record of notes having been recorded, however, they do not appear on the investigation file.
- 2379. Efforts made in 1980 prior to the RCOI to locate the Conference Notes for this date proved unsuccessful and are recorded on the investigation file.
- 2380. The Review Team note that there are significant periods of time where there is no record of any Conference having been held. This means that the exchange of information between investigators was either not recorded or of an informal nature.
- 2381. The Conference Notes clearly demonstrate that Detective Inspector HUTTON believed Lenard DEMLER to be responsible for the murders of Harvey and Jeannette.

#### **Key investigation meeting**

2382. The RCOI note in their report that on 10 November 1970, a key investigation meeting was held at the Auckland Central Police Station. Those in attendance included Assistant Commissioner George AUSTING, Detective Inspector HUTTON, and Crown Solicitor, David MORRIS.

- 2383. As a result of this meeting, there was an agreement that Arthur THOMAS should be arrested and charged with the murder of Harvey and Jeannette.
- 2384. On 11 November 1970, Arthur THOMAS was arrested and charged with the double murder and held in custody.

### **Investigation management standards**

- 2385. The Review Team acknowledge the hard work of the 1970 investigation team. Shortfalls that occurred early in the investigation certainly influenced aspects of it as the investigation progressed.
- 2386. The initial action phase failed to adequately secure and preserve the scene area which led to contamination.
- 2387. Scene management and security was less than adequate.
- 2388. Exhibit management and security was less than adequate.
- 2389. Extensive general enquiries were conducted but poorly recorded in documents on the investigation file.
- 2390. The significance of Dr NELSON's findings on 19 August 1970 that he was unable to eliminate the Arthur THOMAS and EYRE rifles as being the murder weapon, did not prompt the level of investigative priority it warranted.
- 2391. Detective Inspector HUTTON's belief in the guilt of Lenard DEMLER at an early stage in the investigation led to the exclusion of other worthy persons of interest being considered.
- 2392. Detective Inspector HUTTON's belief was articulated widely and had a detrimental effect on the preparedness of subordinate investigators to advance a contrary view.
- 2393. It would have been desirable for Detective JOHNSTON, being the local rural investigator, to have been included as part of the investigation team at an earlier stage. He had first-hand knowledge of earlier events specifically the burglary that occurred at the CREWE farmhouse in 1967.
- 2394. Not replacing Detective Senior Sergeant SCHULTZ as the investigation 2I/C was a poor decision and negatively impacted on the enquiry by placing additional pressure on other staff, including Detective Inspector HUTTON.

#### Conclusion

- 2395. In reviewing the 1970 Police investigative management of the CREWE murders, the Review Team are mindful that these events occurred four decades ago. With the passage of time investigators are far better trained and equipped today in forensic preservation, examination and crime scene management.
- 2396. To impose the standards of today on events in 1970 would be wrong, nevertheless, the Review Team has identified clear failings on the part of the 1970 investigation team.

**END**