

Form 40 (version 6)
UCPR 35.1

AFFIDAVIT OF Natalie Marsic dated 26 June 2023

DETAILS

Jurisdiction Special Commission of Inquiry into LGBTIQ hate crimes

FILING DETAILS

Contact name and telephone Katherine Garaty [REDACTED]

Contact email [REDACTED]

[on separate page]

AFFIDAVIT

Name Natalie Marsic
Address 1 Charles Street Parramatta NSW 2150
Occupation Solicitor
Date 26 June 2023

I say on oath:

- 1 I am employed as General Counsel of the New South Wales Police Force (**NSWPF**).
- 2 This affidavit made by me accurately sets out the evidence that I would be prepared, if necessary, to give in court as a witness. The affidavit is true to the best of my knowledge and belief and I make it knowing that, if it is tendered in evidence, I will be liable to prosecution if I have wilfully stated in it anything that I know to be false, or do not believe to be true.
- 3 In making this affidavit, it has been necessary for me to seek information from a number of persons within the NSWPF including members of the NSWPF Corporate Records, Records and Information Management Team (**CRRIM**), members of the Unsolved Homicide Team (**UHT**) and officers who formed part of Strike Force Parrabell. Where I have obtained information from a particular source, I set out the source of that information.
- 4 I make this affidavit in accordance with the orders made on 22 June 2023 (**Orders**) by the Honourable Justice Sackar, Commissioner of the Special Commission of Inquiry into LGBTIQ Hate Crimes (**Inquiry**).
- 5 The Orders require that I address the following matters:
 - a. Whether, in every case that the Inquiry has considered and presented in a documentary tender to date, and in every case the Inquiry is scheduled to proceed to a documentary tender in the coming weeks (as both set out in Annexure A to the Orders):
 - i. All searches of all possible holdings and repositories of documents have been conducted and completed; and
 - ii. All documents, exhibits and material called for by every summons issued to date by the Inquiry in these cases have been produced to the Inquiry.



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- b. That I identify with precision the totality of documents, exhibits and other material considered by officers of Strike Force Parrabell (**SFP**) when reviewing each of the cases listed in Annexure B.

6 My affidavit takes the following structure:

- a. Part A: outlines my role and responsibilities and my qualifications and experience;
- b. Part B: responds to Order 1(a); and
- c. Part C: responds to Order 1(b).

Part A

Qualifications and experience

- 7 I have been a legal practitioner in New South Wales since 1997 and have spent much of my career in the law providing in-house legal advice to government agencies.
- 8 I obtained a Bachelor of Arts and a Bachelor of Laws from the University of New South Wales in 1992 and 1994 respectively, and a Master of Laws from Eberhard-Karls Universität, Tübingen, Germany in 1996. I was admitted as a lawyer in New South Wales in 1997 and am a member of the Law Society of New South Wales. I hold an unrestricted practicing certificate.
- 9 Early in my legal career, I held legal roles with the NSWPF in the Professional Standards Legal team and Police Prosecutions Command. I moved on from the NSWPF in 2008 and held a number of executive legal roles in the New South Wales public sector including as Director, Criminal Law in the Crown Solicitor's Office of New South Wales, Director, Program, Audit and Inquiries at the New South Wales Rural File Service, Director, Boards and Committees at the New South Wales Ministry for Police and Emergency Services and as Executive Officer of the Standing Committee of Attorneys General
- 10 I re-joined the NSWPF in December 2018 when I took on the role of Director, Crime Disruption and Special Inquiries Law (**CDSIL**) within the Office of General Counsel (**OGC**).

My current role

- 11 In June 2020, I commenced acting as General Counsel of the NSWPF and was permanently appointed to the role in May 2021.

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- 12 As at June 2023, the OGC has a staff of 52, the vast majority of whom are legal staff. The OGC team is split into four teams, one of which is CDSIL team which currently has a team of ten. Within OGC, it is CDSIL that has the primary responsibility for liaising with commissions and inquiries, including the Inquiry.

Part B

The NSWPF commitment to supporting the Inquiry

- 13 From the earliest stages of the NSWPF's engagement with the Inquiry, there has been a genuine commitment from the NSWPF, the OGC and me personally to supporting the important work that the Inquiry has been commissioned to undertake. The NSWPF understands the significance of the Inquiry and the final report to the NSW community, in particular the LGBTIQ community, and has sought to assist and cooperate with the Inquiry.
- 14 It was recognised immediately on publication of the Inquiry's Terms of Reference that it would be a significant and high-profile inquiry requiring a substantial involvement from the NSWPF including by the provision of records, exhibits and information. As the Inquiry has progressed, we have increased both the internal resources dedicated by the NSWPF to the Inquiry and have also enhanced our capacity to respond to the Inquiry's requests by expanding our engagement of external counsel and solicitors.
- 15 I accept that there have been instances where notwithstanding a substantial commitment of personnel, resources and time, the NSWPF has not always provided the Inquiry with records that may be relevant to its work in compliance with the timeframes set by the Inquiry.
- 16 Notwithstanding these instances, there has been a sincere commitment from the NSWPF to support the work the Inquiry has been commissioned to undertake, which has been reflected through an appropriately large allocation of resources, funding and dedicated personnel to the Inquiry. Every effort has been made to comply as completely and efficiently as possible with the requests of the Inquiry, including any summonses.
- 17 Reflecting this, the NSWPF has put in place the following arrangements in order to ensure that adequate personnel and other resources are devoted to responding to requests from the Inquiry for records, exhibits and information. The core team working on the Inquiry is as follows:
- a) Three homicide officers within the UHT act as dedicated resources to support the Inquiry by responding to its requests for records, exhibits and other information;



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- b) I have appointed three lawyers within OGC, specifically from CDSIL, as dedicated resources supporting UHT and other units and teams of the NSWPF who may be called on to support the work of the Inquiry. This includes the Director, currently Ms Katherine Garaty, who oversees the CDSIL team;
 - c) I have authorised the engagement of one senior counsel and three junior counsel from the independent bar; and
 - d) I have authorised the engagement of an external law firm which currently has a team of 16 lawyers as well as paralegals and legal technology staff supporting NSWPF's work in relation to the Inquiry.
- 18 The NSWPF has, as at 23 June 2023, spent over \$2.6 million in legal fees toward external counsel and solicitors to support our participation in this Inquiry. The great majority of this expenditure has been directly related to the production of documents and statements to the Inquiry, in response to summonses and requests from the Inquiry.
- 19 The CDSIL team is responsible for many other matters in addition to the Inquiry and it is a reflection of the significance and importance of this Inquiry that the NSWPF has devoted three solicitors from the team to work full-time on the Inquiry. To illustrate why that is so, I note that in 2022, the OGC opened 2072 new files and the CDSIL team opened 737 new files (a majority of which are litigation files). Files, in this context, are individual matter files, including internal instructions and external matters in which OGC appears, including for example, civil litigation matters, coronial inquests and subpoena responses. The OGC currently has 3605 active files for which I have overall responsibility.
- 20 Many other senior officers throughout the NSWPF have also been involved in supporting the work of the Inquiry through preparing statements, making arrangements for documents to be produced, answering calls for information, responding to subpoenas for production of documents, and in other ways.
- 21 While the nature and breadth of my responsibilities as General Counsel do not permit me to be involved in the day to day running of the NSWPF's work with the Inquiry, I have been involved since the early days of the Inquiry in coordinating the NSWPF's response. As part of my engagement with the NSWPF's work on the Inquiry:
- a. On first being contacted by the Inquiry, I worked with my then Director of the CDSIL, Claudia Pendlebury, to engage with the Inquiry regarding its Terms of



Reference and its requirements of the NSWPF and to establish a team from the OGC to support UHT in leading the NSWPF engagement with the Inquiry;

- b. I regularly receive briefings from Ms Garaty, who took over the role of Director, CDSIL in July 2022, in relation to the progress of the Inquiry and the work being undertaken by NSWPF to support the Inquiry;
- c. I have authorised extensive support from external counsel and solicitors to assist the NSWPF teams from UHT and the OGC in their work supporting the Inquiry; and
- d. I meet with the Commissioner of Police every fortnight. The Commissioner was briefed on the Inquiry in its early stages and the Inquiry has been on the agenda at every meeting I have had with the Commissioner since October 2022.

NSWPF Corporate Records, Records and Information Management processes, team structure and approach to identification of historical records

22 Before turning to the specific questions that I have been asked to address in this affidavit, I will outline the role of the NSWPF CRRIM team in assisting in the identification of historical NSWPF records such as those which have been produced to the Inquiry. I believe this will provide helpful context to my responses to the specific questions posed in the Orders.

23 CRRIM is the unit within the NSWPF which manages, catalogues and searches its centralised records. They have highly specialised knowledge in the functioning of the NSWPF information management systems and practices which is not expertise held by persons outside CRRIM. They are the designated team in the NSWPF tasked with maintaining and searching its hard copy records, including historical records.

24 Individual members of the CRRIM team have practical experience from years of managing NSWPF records and performing searches for the NSWPF on a regular basis. From this, they have learned techniques and practices which optimise searches and uncover information through iterative approaches to searching.

25 CRRIM maintains a catalogue through its Records Management System of all centralised hard copy records of the NSWPF. It does not have responsibility for maintaining and cataloguing electronic and digital records which are stored on repositories including the NSWPF e@gle-i system, the Exhibits Forensics Information and Miscellaneous Property System (**EFIMS**), State Crime Command

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- Databases and the Computerised Operational Policing System (**COPS**). Those electronic and digital records are able to be searched electronically and officers seeking to locate electronic and digital records do not require assistance from the CRRIM team.
- 26 CRRIM holds hard copy records at a number of locations. The locations relevant to the work of the Inquiry include CRRIM's premises in Parramatta and the Government Records Repository (**GRR**) which is a 'user pays' facility that holds records from a broad range of other NSW agencies. The CRRIM team is able to search and access the records at the GRR on request by a NSWPF officer without any involvement or approvals from any person outside the NSWPF. CRRIM also maintains a catalogue of NSWPF records held by the NSW State Archives (**State Archives**) but (unlike with the GRR) does not have a direct right of access to records held by State Archives. Where an officer of the NSWPF wishes to access a record held by State Archives, a specific request must be made, staff of State Archives will locate the records and the officer is then able to attend their facility to inspect the records.
- 27 Generally speaking, the records that CRRIM has catalogued and which it currently maintains are records that have been transferred to CRRIM over many years by local police commands and specialist units. CRRIM holds historical NSWPF records (such as investigation files) covering an extended period of time, including the period of time relevant to the work of the Inquiry.
- 28 I am aware that for a range of reasons it is regularly the case that officers of the NSWPF will wish to review hard copy historical records. Based on my own experience and from my discussions with the OGC and UHT teams in preparing this affidavit, I believe it is generally known within the NSWPF that when a need to identify historical records arises, that a request must be made to the CRRIM team. Requests of CRRIM for hard copy records are easy to make and are facilitated through an internal enterprise-wide interface known as 'Blue Portal'.
- 29 Requesting officers complete an application form through the 'Blue Portal' which generates a request that is submitted to the CRRIM team. When completing the application form, the requesting officer inputs key information regarding the required records which is conveyed electronically to the CRRIM team. My understanding from my own experience and my discussions with the OGC and UHT teams in preparing this affidavit is that the CRRIM team then uses its best efforts to locate the relevant records, including by using variations of search terms and conducting further searches by using information that arises in initial searches.



The CRRIM team also applies its knowledge of historical archiving and cataloguing processes to its searches to optimise search results.

30 CRRIM then facilitates the delivery of records identified in search results to the requesting officer.

31 As I discuss later in this affidavit in paragraphs 47 to 49, in the time since the NSWPF provided very large volumes of hard copy records in answer to the initial summonses issued by the Inquiry in June and August 2022, it has been ascertained by the OGC and UHT teams working on the NSWPF's response to the Inquiry that some hard copy records relevant to the work of the Inquiry may be held in locations other than those overseen by the CRRIM. Specifically, it has been discovered that local commands in the areas in which the deaths relevant to the Inquiry's Terms of Reference occurred may continue to hold hard copy records which have not been centralised with the CRRIM and so are not catalogued or able to be searched for and retrieved by the CRRIM team.

32 As I also outline further in paragraphs 50 to 58 below, since the identification of this possibility, steps have been taken by the OGC team to engage directly with Police Area Commands who may hold records of potential relevance to the Inquiry. Further records responsive to early summonses issued by the Inquiry have been identified in this way and produced to the Inquiry.

Initial steps taken by the NSWPF to identify possible holdings and repositories of documents, exhibits and material relevant to the work of Inquiry


33 The Inquiry's Terms of Reference were published in April 2022. In the weeks following the publication of the Terms of Reference, I received a letter dated 4 May 2022 from the Inquiry outlining some of the Inquiry's expectations regarding assistance from the NSWPF. Under my supervision, a team from the OGC established an open line of communication with the staff of the Inquiry to better understand the Inquiry's expectations regarding the production by the NSWPF of records, exhibits and information.

34 In those early weeks, it was identified that the NSWPF's support to the Inquiry would need to be led by appropriately experienced and qualified officers. It was determined that the UHT would take the lead in responding to the Inquiry's requests for records, exhibits and information, supported by a team from the CDSIL team of the OGC. The UHT were selected as the specialist team within the NSWPF who were best placed to assist the Inquiry given their familiarity with the nature of homicide files and historical investigations, and because they would best

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understand and support the Inquiry's concern (as reflected in its Terms of Reference) not to prejudice any ongoing investigations.

- 35 The NSWPF received summons 1 on 18 May 2022 requiring production by 1 June 2022 of all documents relating to NSWPF investigations into the deaths of the 42 persons listed in the Annexure to that summons.
- 36 The OGC team assisted the UHT team, led at that stage by former Detective Chief Inspector (**DCI**) Stewart Leggat to respond to summons 1. The OGC also liaised with the Inquiry regarding an extension of time, a narrowing of the scope of summons 1 and the terms on which the Inquiry would receive the documents.
- 37 An outcome of the early engagement between the OGC team and the Inquiry team was an agreement that where substantial volumes of hard copy material responsive to summonses was identified, it would then be delivered by courier to the Inquiry, with the logistical aspects of the delivery being agreed directly between the Inquiry and the OGC team. I am informed by solicitor Patrick Hodgetts of the OGC that where there was to be large scale hard copy productions (primarily in response to summonses 1 and 3), he would put a Corporate Records person in direct contact with Matthew Fletcher from the Inquiry to coordinate courier arrangements.
- 38 Where electronic material responsive to summonses was identified, Mr Hodgetts would set up a "drop box" on the NSWPF P: drive to which the UHT team would upload responsive records. Mr Hodgetts then downloaded the responsive records on to a USB and hand delivered the USB to the Inquiry for copying following a cover email being sent. It was also agreed between the OGC and the Inquiry that the SFP "case summaries" document was provided by the NSWPF to the Inquiry on a confidential basis, and NSWPF indicated that other material provided by the NSWPF was provided on a confidential basis.
- 39 Given the age of the records responsive to summons 1, it was understood by the UHT (including former DCI Leggat) that all responsive records would be hard copy records and, for the reasons I explain earlier in my affidavit, those hard copy records would need to be accessed with assistance from the CRRIM team.
- 40 Former DCI Leggat met with the CRRIM team to discuss the searches necessary to respond to summons 1 and provided them with a copy of the summons. The CRRIM team then conducted searches over its Records Management System to identify records responsive to summons 1 and recovered 2 pallets of records (comprising 114 boxes and 73 files) from the CRRIM repository, which were produced to the Inquiry in hard copy form.

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- 41 A similar process occurred on receipt of summons 3 on 21 July 2022 which sought documents relating to investigations by the NSWPF in relation to the deaths specified in a Schedule to summons 3 and any other material held or created by the UHT in relation to the deaths of those persons that had not already been produced to the Inquiry. By this time, Detective Inspector (**DI**) Nigel Warren was leading UHT's engagement with the Inquiry and oversaw the UHT's engagement with CRRIM in conducting searches to identify records responsive to summons 3. DI Warren is an experienced detective who was designated a detective in 1995 and had worked for many years in the NSWPF's homicide unit and sex crimes unit prior to joining the UHT. He commenced in the UHT in around June 2021 and was appointed as Inspector and investigation coordinator of the UHT in September 2021.
- 42 CRRIM identified 125 boxes of records responsive to summons 3 and those were provided to the Inquiry by courier on 9 August 2022.
- 43 For both summons 1 and summons 3 because the Inquiry wished to receive the records urgently, the original hard copy records were provided to the Inquiry and copies of the records were not retained by the NSWPF. My understanding from discussions with the OGC and the UHT teams in preparing this affidavit is that given the volume of material involved, a lengthy period would have been required for the hard copy material to be copied or digitised and this would have delayed the work of the Inquiry.
- 44 At the time the searches for records responsive to summons 1 and 3 were being conducted, it was the understanding of the OGC team and the UHT officers involved that the UHT's engagement with the CRRIM team would ensure that all responsive hard copy records were identified. As I explain later in this affidavit at paragraphs 47 to 49, that understanding later changed and, as a consequence, further searches for hard copy records were undertaken.
- 45 Summonses 4 and 5 were received on 1 August 2022. From summons 4 and thereafter, the summonses being issued by the Inquiry typically required production of more recent records and as such the searches undertaken by the UHT team were generally appropriately confined to the electronic and digital repositories such as COPS that I describe at paragraph 46. Production of electronic and digital records by the NSWPF initially occurred by provision of a USB to the Inquiry in the way described above which was copied and returned to the NSWPF. After engagement of an external firm of solicitors late last year by the NSWPF, records were uploaded by NSWPF via a secure online platform.



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46 My understanding from discussions with the UHT team in preparing this affidavit is that for summons 4 and for the summons issued thereafter, the UHT has undertaken comprehensive searches for responsive records in the following ways:

- i. Review of NSWPF computer systems: The NSWPF e@gle-i system, EFIMS, NSWPF secure and shared drives, State Crime Command Databases and COPS are all regularly searched in response to summonses issued by the Inquiry;
- ii. Liaising with the CRRIM team: Where it is the UHT's assessment that a summons may require production of hard copy records, the UHT follows a similar process as occurred for summonses 1 and 3. This has also involved the CRRIM team making requests of State Archives to facilitate the inspection of NSWPF records stored with State Archives;
- iii. Searches of Police Area Commands (PACs): As I explain further below in the context of the 'PAC sweep' relevant PACs have been instructed to search their holdings to identify documents which may be relevant to summons 1 and summons 3 and other summonses where the UHT has assessed that hard copy records may be responsive to the summons after reviewing the terms of each summons;
- iv. Forensic Evidence and Technical Services (FETS) Command: Where a summons requires production of exhibits or associated records, the UHT have liaised with the FETS team in order to locate relevant documents and exhibits;
- v. Metropolitan Exhibit and Property Centre (MEPC): Where a summons requests information about exhibits, the UHT may also liaise with the MEPC team to search for relevant documents and exhibits;
- vi. Contact with current and former NSWPF officers: In addition to assistance from serving NSWPF officers with personal knowledge of matters within the Inquiry's Terms of Reference, where UHT considers it may assist with its response to the Inquiry, contact is also made with former officers of the NSWPF;
- vii. New South Wales Department of Health: Where a summons requires production of records relating to the Forensic and Analytical Science Service (FASS), autopsy or other related processes the Commissioner's staff engage with representatives of the Department of Health in order to locate responsive records. This has been done in

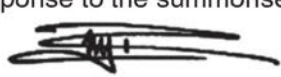
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an effort to assist the Inquiry notwithstanding the fact that these records were not, at the time of receipt of the relevant summonses, within the possession or control of the NSWPF; and

- viii. Coroner's Court: Where a summons seeks production of records that the UHT assesses may be held by the Coroner, the Commissioner engages with the Coroner's Court in order to locate documents which may be relevant to summonses issued by the Inquiry. Again this has been done in an effort to assist the Inquiry, notwithstanding the fact that these records were not, at the time of receipt of the relevant summonses, within the possession or control of the NSWPF.

Steps taken to identify hard copy records held by Police Area Commands

- 47 I understand from discussions with the UHT and my team in preparing this affidavit that in October 2022, the OGC and the UHT teams working on the NSWPF response to the Inquiry became aware that as well as the centralised repositories of hard copy records that had been catalogued (and were searchable) by the CRRIM team that additional hard copy records of potential relevance to the Inquiry's Terms of Reference may be held at PACs.
- 48 Specifically, it became apparent, as a result of a letter sent by the Inquiry dated 12 October 2022 that, based on a review of the material produced to the Inquiry to date in relation to the matter of the death of William Rooney, that only very limited hard copy material was located within CRRIM's repositories and the possibility was therefore identified that further hard copy files may be held at the Wollongong PAC, as that was the command responsible for the relevant geographical area. OGC accordingly made a request to the Wollongong PAC on 21 October 2022 for any locally held historical material which resulted in production of further hard copy files regarding Mr Rooney's death. Similar letters were also received from the Inquiry in respect of the matters of Mr Andrew Currie and Mr Krichakorn Rattanjurathaporn at around the same time. Similar requests were made by the UHT to the PACs relevant to the Currie and Rattanjurathaporn cases which did not identify any further materials. This triggered the general "PAC sweeps" initiative.
- 49 I am informed by Mr Hodgetts of the OGC team and DCI Warren of UHT that at this point, knowing the importance of the Inquiry and that the Commissioner of the Inquiry will need to make findings based on these records, they determined that further steps should be taken to ensure that the NSWPF had provided a complete set of hard copy records to the Inquiry in response to the summonses issued to it.

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The NSWPF determined to undertake these steps at its own initiative in order to ensure that it had fully complied with the summonses that had been issued by the Inquiry.

50 To address the possibility of relevant hard copy records being in the possession of PACs, the OGC arranged for requests to be sent to the Commander or Staff Officer of all PACs with responsibility for the area of the location of each death within the Inquiry's Terms of Reference on the basis that they may hold relevant hard copy records.

51 Specifically, Mr Hodgetts and Detective Sergeant (**DS**) Stephen Davis of the OGC coordinated the issue of requests in respect of 127 cases to 36 PACS seeking that they provide the UHT with any locally held investigative material relevant to the matters listed in the annexures to summonses, as described below. Several of the requests related to multiple deaths that occurred within the area over which that PAC had responsibility.

52 The requests were sent in two stages and commenced in October 2022. The first request to PACs related only to SFP cases and was completed by November 2022. The second request related to deaths of any other individuals listed in the summons issued by the Inquiry to that point that called for 'investigative files' and was completed in January 2023.

53 These requests returned materials in respect of 4 deaths where investigative material has been called for under summonses: William Rooney, James Meek, Carl Stockton and Ronald Milligan. These were responsive to summonses 1 and 3. That material has since been produced to the Inquiry by Corrs on 4 November (William Rooney), and on 17 February 2023.

54 Responses were received from all the PACs to which requests were issued. The PACs which confirmed that no responsive records were held also confirmed that searches had been undertaken in compliance with the requests from Mr Hodgetts and DS Davis.

55 In relation to the requests made to local PACS to search for any locally held hard copy or electronic material held in relation to the cases listed in Annexure A to the Order of 22 June 2023, a "nil result" was returned in respect of all cases listed in Annexure A except for the cases of Rooney, Meek, and Stockton as indicated above.

56 I am advised by Mr Hodgetts that in April 2023, as a result of communications he had with Senior Sergeant (**SS**) Anna Coady of FETS, it became apparent to the

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OGC and UHT teams working on the NSWPF response to the Inquiry that in relation to one of the deaths within the Inquiry's Terms of Reference (that of Stephen Seymour) when the investigative files were centralised and catalogued they may not have been archived only under that name. We became aware that it may be appropriate to re-visit early summonses where CRRIM had performed searches, and it was determined that the UHT would engage with CRRIM to arrange this.

- 57 As a result, the UHT on 18 April 2023 requested that CRRIM conduct further searches for information responsive to summonses 1 and 3 including to allow for variations in the ways in which files were originally archived and potential misspelling of names. The NSWPF did this at its own initiative, to ensure that it had discharged its obligations under those summonses as far as reasonably possible. These searches were completed by CRRIM on 14 June 2023 and resulted in material being located that had not been produced in response to summonses 1 and 3 previously. This resulted in some of the recent productions of evidence to the Inquiry. I understand from Mr Hodgetts that production of the responsive records from CRRIM's further searches was completed between 20 and 26 June 2023.
- 58 I understand from information provided to me by DCI Warren that other recent productions to the Inquiry have arisen because on 1 June 2023 a member of the UHT identified boxes which contained hard copy files in a storage room at the UHT premises. The UHT team had previously understood that the storage room held hard copy files that related to the UHT review files provided to the Inquiry in July and August 2022. On further inspection by the UHT team however, the files were identified as containing materials of relevance to the Inquiry which had not previously been reviewed and produced. A review was undertaken on an urgent basis and production has since been made to the Inquiry of all records located in that room and responsive to summonses issued by the Inquiry. I understand from Mr Hodgetts that production of the responsive records from files held in the UHT storage room was completed on Sunday, 25 June 2023. I am informed by DI Warren that he is satisfied that there are no other hard copy files held by the UHT that have not previously been produced in response to summonses issued by the Inquiry or which are otherwise relevant to the cases listed in Annexure A to the Orders.



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My response to Order 1(a)(i)

- 59 Order 1(a)(i) requires that I confirm whether all searches of all possible holdings and repositories of documents have been conducted and completed for the cases identified in Annexure A to the Orders. I understand this to refer to searches conducted by the NSWPF in answer to summonses issued by the Inquiry seeking production of records, exhibits and other information in relation to the cases identified in Annexure A to the Orders.
- 60 As I have outlined throughout this affidavit, the NSWPF has devoted very extensive resources, personnel and time to conducting extensive searches of the holdings and repositories that could reasonably be expected to hold records responsive to summonses issued by the Inquiry in relation to the cases identified in Annexure A to the Orders. Great efforts have been made to identify where potentially relevant records might be held and to locate and produce those records to the Inquiry.
- 61 Based upon the information that has been provided to me by the sources I have identified in this affidavit, it is my view that all searches in relation to the cases identified in Annexure A to the Orders that could reasonably have been undertaken by the dedicated teams devoted to assisting the Inquiry are now complete save as I have identified at paragraph [64]. To provide further context to my response, I note that since the commencement of the Inquiry, the NSWPF has produced to the Inquiry at least:
- a) 239 archive boxes;
 - b) 2,240 hard copy files; and
 - c) 112,197 digital records.
- 62 Notwithstanding my view that very comprehensive and wide-ranging searches have been undertaken, I cannot exclude the possibility that there may be some documents relating to the cases that have not been identified by those searches. I consider that risk is minimal where records were originally created electronically or where hard copy records have been digitised but that there is a possibility that some potentially relevant hard copy records may not have been identified in the searches that have been conducted (notwithstanding those searches have been very extensive).
- 63 In particular, in circumstances where many of the hard copy records may be decades old and where historical record keeping practices may have been deficient, I acknowledge there is a possibility that other hard copy records relevant to the cases exist. For example, even if PACs were diligent at all relevant times in



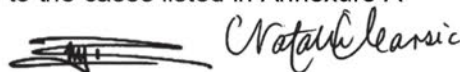
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centralising their records in a timely fashion (which may not always have been the case particularly in the 1970s and 1980s), it is possible that the police officers at those commands who undertook the archiving may have made errors in labelling and packing the records when providing them to the CRRIM. That would have affected the ability of the CRRIM to accurately identify and catalogue records such that the effectiveness of searches undertaken now of the CRRIM Records Management System may not capture those records. However, given the CRRIM holdings are currently in excess of 300,000 archive boxes I believe it would not be practicable to do more than undertake the targeted searches that have been undertaken to date.

- 64 Having considered the matter carefully and based on my discussions with the OGC and the UHT teams who have worked closely with the Inquiry, I formed the view that the CRRIM team should be requested to conduct further broader searches for any additional records in relation to summonses calling for investigation files or otherwise requiring production of hard copy records, in respect only of one death listed in Annexure A of the Orders, Brian Walker. I note that Mr Walker does not appear to have been the subject of summonses 1 and 3. We have engaged the CRRIM team which is conducting further searches in respect of Mr Walker but we have not yet received the completed results of those searches. I am informed by DI Warren that the search has so far identified one archive box which may be responsive to the Inquiry and that archive box is currently being retrieved and will be checked for duplication as current indications are that there is a high chance it has already been produced to the Inquiry. One further relevant document has been identified and will be produced to the Inquiry together with any other documents identified from the archive box I have referred to by no later than 5:00pm tomorrow, 27 June 2023. I am informed by DI Warren that no other documents have been identified and it is not expected that the CRRIM team will identify any further documents.

My response to Order 1(a)(ii)

- 65 Order 1(a)(ii) requires that I confirm whether all documents, exhibits and material called for by every summons issued to date by the Inquiry in relation to the cases listed in Annexure A to the Orders have been produced to the Inquiry.
- 66 I note that summonses continue to be issued by the Inquiry and several have not as at the date of this affidavit fallen due for production. Accordingly, I have confined my response to address the summonses relating to the cases listed in Annexure A

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for which NSWPF has communicated to the Inquiry that complete production has been made.

67 I repeat the response I have given to the question posed by Order 1(a)(i). My view is that, save as I outline in 64, based on the comprehensive and reasonable searches undertaken to date that the NSWPF has produced to the Inquiry all documents, exhibits and material called for by every summons issued to date by the Inquiry in relation to the cases listed in Annexure A to the Orders that it reasonably can in all the circumstances.

Part C | Parrabell

Background to SFP

68 In this section of my affidavit, I seek to deal with paragraph 1(b) of the Orders made by his Honour on 22 June 2023. The Order requires the identification with precision of the totality of documents, exhibits and other materials considered by SFP in relation to cases specified in Annexure B to the Orders.

69 In preparing this section of my affidavit, I have been informed by and rely upon information provided to me by members of SFP and in particular DS Paul Grace, DSC Cameron Bignell and Detective Chief Inspector (**DCI**) Craig Middleton. I note that the work of SFP preceded my latest employment with the NSWPF and I therefore have no direct personal experience of the work undertaken by the strike force.

70 I am informed SFP was a NSWPF strike force which operated from 2015 to 2017. The purpose of SFP was to conduct a structured assessment of a list of 88 alleged anti-LGBTIQ homicides to attempt to determine whether they were, based upon the available evidence, likely to have been motivated by prejudice against LGBTIQ people. The cases reviewed by SFP included those referred to in Annexure B of the Orders.

Command Structure

71 I am informed by DCI Middleton that Superintendent Crandell appointed DCI Craig Middleton as the head investigator of SFP and that reporting to DCI Middleton was DS Paul Grace. In turn, DSC Cameron Bignell reported to DS Paul Grace. Nine officers were involved as investigators in the review of material by SFP and I am informed by DSC Bignell that they were:

 Natalie Cleasie

- a. Senior Constable Rebecca Parish;
- b. Senior Constable Bradley Youssef;
- c. Senior Constable Sarah Fleming;
- d. Senior Constable Jody Gibbons;
- e. Detective Senior Constable Timothy Ryan;
- f. Detective Senior Constable Hugh Brandon;
- g. Detective Senior Constable Kathline Collins;
- h. Detective Senior Constable Andrew Agostino;
- i. Constable Christopher Borg;
- j. Constable Ashley Elizabeth Grimes; and
- k. Two officers assisted in SFP's investigations for a brief period: DSC Renee Cochrane and DSC Chelsea Bennetts.

Procedures

- 72 I am informed by DS Grace and DSC Bignell that the process undertaken by SFP was as follows. In respect of each case reviewed, SFP investigators obtained as much material as possible from all available sources in relation to the cases by conducting searches and making search requests based on victim and offender names and victim dates of birth, from sources including:
- a. State Archives, via CRRIM (referred to above) which contained many boxes of hard copy material in relation to each of the cases.
 - b. The NSWPF e@gle-I system, being a database to which inspectors uploaded material relevant to the operations of the strike force, including evidence, although each of the cases predated this system;
 - c. COPS searches although most cases predated the COPS system;
 - d. MEPC, but material was only located from MEPC in respect of two cases, those of Frank Arkell (case number 82) and O'Hearn (case number 83); and
 - e. The Coroner's Office in order to obtain coroners briefs.
- 73 The amount of material available from each source varied from case to case. In some cases, very little material was able to be obtained by SFP, in others numerous boxes of material with significant numbers of documents inside were located. I am informed by DS Grace and DSC Bignell the repositories for each case

 *Natalie Cleasie*

varied significantly depending on the age of the case, the size of the case and whether it had progressed to prosecution.

- 74 I am informed by DS Grace and DSC Bignell that where a document, exhibit or other piece of material was determined by the reviewing officer to be relevant, the evidence source, together with a description of how the evidence related to the SFP exercise, would then be uploaded to the e@gle-i system by SFP investigators. Each file uploaded to the system would receive a cross-referencing number so that it could be retrieved if needed.

Archived material

- 75 I am informed by DS Grace and DSC Bignell that the vast majority of material considered by SFP in respect of each of the cases was located in the State Archives and sourced by SFP investigators via request forms.
- 76 DS Grace and DSC Bignell inform me that when SFP investigators wished to obtain archived material, a request was made of the CRRIM team, as mentioned above, using the available details of the victim, including their name and date of birth, as well as any other available salient details, including the name of the person of interest or offender. SFP officers would then rely upon the CRRIM team to search for, locate and provide all records that were responsive.
- 77 I have been provided with a full record of the e@gle-i file for SFP by the NSWPF which I believe was previously provided to the Inquiry. It is approximately 22,000 pages long and 1.6 gigabytes in size. I am informed by DS Grace and DSC Bignell that it contains each of the documents the SFP officers recorded in e@gle-i during the course of the reviews they conducted for the purposes of SFP. It is therefore likely to be a fulsome record of the bulk of the documents, exhibits or other material reviewed by SFP that was considered relevant to the SFP exercise by investigators. It is not, of course, a record of every document, exhibit, or other material SFP officers reviewed.

Material considered but determined to be irrelevant

- 78 Where investigators did not find material to be relevant to the assessment of whether or not bias was present in each of the cases, I am informed by DS Grace and DSC Bignell that they would not upload the material to the e@gle-i system. They, and DCI Middleton, inform me that there is no record of the material that was considered by investigators but deemed to be irrelevant.

 *Cratonic Classic*

- 79 I am informed by DS Grace and DSC Bignell and believe that after the review of each set of material this hardcopy material would likely have been returned to its original source, namely the State Archives, Coroner's Office or MEPC.
- 80 I am also informed by Ingrid Stead and Katie Cooper of CRRIM that documents from the archives were taken and incorporated into the SFP brief (and, I believe, uploaded to e@gle-i) and would not be returned, or at least would not be returned in the original box.
- 81 I am informed by Ms Stead and Ms Cooper that CRRIM maintained records of searches requested by SFP.
- 82 As a result of this process, there exists a record of materials accessed through archive requests for the purposes of SFP, but it does not identify precisely which documents were reviewed because it only briefly describes the material, for example, a description may say "INVESTIGATIONS - Newcastle Crime Scene Unit - Case Files - 1980 - Box 8", or "INVESTIGATIONS - Unsolved murders - 1980 - 1987 - Box 4". There is no precise record of the contents of these boxes.

My response to Order 1(b)(ii)

- 83 Order 1(b)(ii) requires that I identify with precision the totality of documents, exhibits and other material considered by officers of SFP when reviewing each of the cases listed in Annexure B to the Orders.
- 84 As I have explained in Part C of this affidavit, it is impossible to, with precision, ascertain every single document, exhibit or other material considered by SFP in relation to the relevant cases, particularly because no record was kept of material that was not considered relevant to the investigation. What was considered relevant by SFP is contained in the 22,000 pages of material located in the e@gle-i system.

 *Natalie Learsie*

SWORN at Sydney
Signature of deponent



Name of witness

Matthew Price

Address of witness

1 Charles Street, Parramatta NSW 2150

Capacity of witness

Solicitor

And as a witness, I certify the following matters concerning the person who made this affidavit (the **deponent**):

- 1 I saw the face of the deponent.
- 2 I have known the deponent for at least 12 months.

Signature of witness



Note: The deponent and witness must sign each page of the affidavit. See UCPR 35.7B.