

Inquest into the death of John Alan RUSSELL
Inquests into the suspected deaths of Ross Bradley WARREN &
Gilles Jacques MATTAINI

FINDINGS AND RECOMMENDATIONS

The Victims

On Thursday 23 November 1989, the body of **John Alan Russell** was discovered lying on rocks below the very popular Bondi to Tamarama walking path. The area where Mr Russell was found is known as 'Marks Park'. It was also known to be a 'gay beat' frequented by men intending to meet other men for casual sex.

Mr Russell was 31 years of age and homosexual. He resided with his brother Peter at Bondi. He was hard working, engaged in two jobs and had the support of a loving and committed family. He was excited about his plans to build a 'kit home' on his father's farm at Wollombi near Cessnock, funded by a substantial inheritance from his grandfather. He also intended to use some of that money to travel around Australia.

The night before his death he was socialising with a friend at the Bondi Hotel. He was last seen alive at 11pm.

Near Mr Russell's body were a number of coins. On one of Mr Russell's hands were human hairs believed to be from another person. Whilst there is evidence that these crucial hairs were 'bagged' for analysis, they were lost well before the initial inquest and were never forensically examined as part of the investigation.

His death was investigated, however the Officer in Charge of the matter deemed his death 'accidental' and it was not further pursued as a possible homicide. Some police involved in the investigation, however, were suspicious of the circumstances of Mr Russell's demise and believed that he may have been a victim of a violent assault.

An inquest was conducted on 2 July 1990. Unfortunately no transcript of that proceeding is available therefore what was made of the missing hairs remains unknown.

The cause and manner of death was recorded as "*the effects of multiple injuries sustained then and there when he fell from a cliff to the rocks below, but whether he fell accidentally or otherwise, the evidence does not enable me to say.*"

Four months before Mr Russell's death, another young man, **Ross Bradley Warren**, was reported 'missing'. At the time of his disappearance he was 25 years old and was a television presenter with WIN 4 Television in Wollongong. He was homosexual.

His last known contact was with a friend in Oxford Street, Sydney, when they parted company at 2am on 22 July 1989. Mr Warren had made plans to visit friends on that weekend and when he hadn't contacted them, they became concerned.

After initially telephoning police, his friends presented to Paddington Police Station and formally reported him 'missing'.

Mr Warren's friends gave considerable thought as to where he may have gone and began a search of the Marks Park/Tamarama area. On 23 July 1989 they located his car in Kenneth Street Bondi, very near to Marks Park. The next day, the two men returned to the area and located Mr Warren's keys in a rock 'pocket' below the cliff near the water's edge. These keys were given to police. Police subsequently searched the car finding his wallet.

Evidence was given that police initially investigated Mr Warren's disappearance and were greatly assisted by his two friends. Mr Warren's mother and family also assisted with enquiries and an appeal for information concerning his whereabouts was made through the media.

Within a week of his disappearance, without Mr Warren's body being found or his disappearance explained, the senior detective co-ordinating the investigation chose to sideline the investigation by concluding "*Investigating police are of the opinion that the missing person has fallen into the ocean in some manner and it is anticipated that his body will surface and be recovered. I am not able to offer any explanation as to how he would have fallen into the water, only that the area near where the keys were located is a treacherous rock formation which at present time is secreting a lot of water and moisture from recent rains. There is extensive moss and slippery sections from where experience (sic) would not be difficult to envisage slipping onto the rocks, particularly after 2am on the morning of 22 July*".

Mr Warren's suspected death was never reported to the Coroner.

Gilles Jacques Mattaini was 27 years old at the time of his disappearance. He was a French National. He was homosexual.

At the time he went missing he had overstayed his visa and was concerned about his residency. Whilst he was worried about his future in that regard, he was also excited about a friend who was soon to visit from France and had purchased furnishings to decorate his apartment. He lived in a flat in Bondi with another friend who had returned to France in August 1985 for a brief holiday.

His flatmate was contacted in France by another concerned friend. He had been made aware that Mattaini had not presented for work. When the flatmate returned to Sydney in September, both men undertook an extensive search for their friend but it proved fruitless.

Mr Mattaini was known to take long walks along the Marks Park walking track. He would wear earphones on his walks, this item was missing from his home as well as a yellow spray jacket and his keys.

Mr Mattaini would not frequent the Mark's Park area for male companionship. He was said to be shy. He was last seen walking on the track at Bondi on or about 15 September 1985.

One of his friends engaged in the original search, believed the other friend had reported Mr Mattaini 'missing' to the Paddington Police Station. No report of that could be found. No police investigation was undertaken at the time and that person who allegedly report him 'missing' is now deceased.

Mr Mattaini's father was not close to his son and his mother believed it was possible that her son had 'suicided'. There is no evidence before me to support the finding of 'suicide'.

The Area

Detective Sergeant Page describes it this way. *"Marks Park at Tamarama is situated on a headland between Bondi Beach and Tamarama Beach. The Park is predominantly open space with a walkway on its eastern side travelling adjacent to the ocean front. The park is bordered by Marks Lane to the west and the area is residential with a mix of detached dwellings and unit blocks. The park itself is somewhat elevated. However there are several locations where steps have been created for easy access to the coastal walkway"*.

Marks Park was formally called MacKenzies Point.

The area is a popular walking track during the day and at night gay men will 'cruise' the coastal walkway rattling keys or coins as an indication of their availability for personal contact.

Some vegetation and rock formations provide a screen for the men to engage in physical contact, but mostly once a person was 'engaged' the parties would retreat to cars or homes.

It was well known to everyone in the community that this was a gay beat, including the police.

The 'Beat'

Expert evidence was given at inquest into the nature of men who engaged in sex in these areas. Gay men, and men who have sex with men, frequent 'beats' to engage in anonymous free sex. There are 'beats' in all areas including country NSW. 'Beats' can differ from place to place to suit the different needs of men who frequent them.

Marks Park was known as a night time 'beat' and was very busy and popular.

The 'Gay Hate' climate at the time

The inquest was told:

- Gay men are more likely to be victims of violence than other male members of the community.

- Homosexuals in that era were not likely to report crimes of violence against them because of shame and embarrassment. They also believed Police would not respond appropriately to their victimisation.
- In NSW 22% of 'gay hate' homicides between 1989 and 1999 occurred at 'beats'.
- There is a disproportionate level of 'gay hate' homicides perpetrated by teenagers.
- Predominately the offenders are white, Caucasian, single and unemployed.
- The common cause of death was beating.
- The involvement of strangers as offenders in 'gay hate' crime is significantly higher when compared to other male homicides.
- Offenders often admit to a long history of violent attacks against gay men.
- Motives established through 'debriefing' of offenders include prejudice and homophobia, group initiation, proving masculinity, proving they are not gay, entertainment, robbery, 'alpha male syndrome', a belief that gay men are 'soft' targets and less 'legitimate'.

1989/1990 a number of gay men were attacked and some killed in the inner city and eastern suburbs, all victims of 'gay hate' violence. Whilst a number of offenders were arrested, many of the brutal attacks went unsolved. It is fair to say that only a percentage of the brutality would have been reported to the police at that time.

- On 24 January 1990, Richard Norman Johnson was murdered. Eight persons were convicted, five for manslaughter, three of murder.
- A Thai National Mr Kritchikorn Rattanjurathaporn, was murdered at Marks Park on 21 July 1990, three youths were convicted of that homicide.
- A comparable assault on a male at South Bondi on 18 December 1989.
- Another brutal assault on a male at South Bondi on 21 December 1989.
- The murder of William Allen at Alexandria Park 28 December 1988
- The murder of Wayne Rick Tonks at Artarmon 19 May 1990.
- [REDACTED]

All these victims were homosexual men. All assaults and killings were unprovoked and vicious.

Whilst Mr Tonks was murdered outside the 'area' he had been a schoolteacher to many of the gay hate assailants and killers. There is no doubt his murder is linked to all the other incidents.

During the 1980's and 1990's police were aware of a number of gangs of youths that were systematically engaged in the assault and robbery of gay men in Marks Park and other areas. The gangs were given identifying 'tags' by the police, and the gangs

themselves adopted names that were indicative of their foul mission. 'PSK' for Park Side Killers is an example.

These gangs of misfits saw homosexual men as easy targets. The victims' lifestyles often providing a shield for the perpetrators, as they believed that their prey would be reluctant to come forward and report their attacks. The gangs believed they were 'safe'.

While many did not report to police some victims did in the hopes of identifying and stopping their assailants.

The Police Investigations – Past & Present

The disappearance of Ross Bradley Warren was reported to police within 48 hours of his last sighting. The investigation was co-ordinated by Detective Sergeant Bowditch, however within the week the Detective Sergeant had effectively 'closed' any further investigation by concluding Mr Warren dead by misadventure.

When questioned with regard to the detail of his investigation, (the now) Mr Bowditch asserted all was done to determine the circumstances of Mr Warren's demise.

He was insistent that his brief of evidence was submitted to the coroner in 1990. No brief of evidence was ever received by this office. When asked if he kept copies, he stated copies of all documents would have been sent to Missing Persons to be kept in a folder.

There are no photographs of Mr Warren's car, keys or crime scene. He assured the inquest that the Scientific Section (Crime Scene) was called and attended, however he could not nominate any officer, nor was there a record of the 'call out'.

Similarly he stated the Air Wing and the Water Police were called to examine the area. Again records held at those Sections do not show any 'call out' to the Warren disappearance.

On the one document that was located, he nominated three other officers as assisting him in the investigation. Two of those officers deny any involvement in the investigation, one was on annual leave at the time of being nominated.

When asked by Counsel Assisting Mr Lakatos why there were no notebooks, duty books, statements or other documents from the earlier investigations, Bowditch answered *"After that period of time a copy would have gone to Missing Persons, I do recall that in 1991/1992 a task force was set up by Missing Persons or the Police Department to put on the TIM System, all records pertaining to previously missing people. The originals that were taken by myself into Missing Persons and the Task Force, I recall it was headed by a Detective Inspector Mal Cox. Now they put everything on the TIM System. Records were left with them, plus a copy was left at Paddington. Now where those records are sir, I have no idea and that included dental charts, recent photographs of Mr Warren, which were brought down from Queensland by his parents. Bank checks on his credit cards to see if his credit cards*

had been used. All the normal stuff we do in an inquiry. Now where it is I have no idea and I am appalled the department has lost it"

He's right! It is appalling that no documents allegedly struck during the course of the investigation have been found. There were no records of any of the specialist police Bowditch asserts he involved in the matter having been 'activated'.

This state of affairs defies belief.

To this day, no documents have surfaced, nor has their supposed disappearance been explained.

This was a grossly inadequate and shameful investigation. Indeed to characterise it as an 'investigation' is to give it a label it does not deserve.

Bowditch knew that the area was a 'gay beat' even volunteering that he knew "*the goat track in Moore Park was a 'gay beat'*". However he paid little or no regard to the possibility of foul play.

Almost 4 months to the day of Mr Warren's disappearance, the body of John Allan Russell was discovered at the base of a rocky cliff at Marks Park.

Had police paid careful attention to the crime scene and the vital evidence that presented to them, the perpetrator of that brutal act may have been identified or, at the very least, Mr Russell's death would have been seen differently and not simply as a result of 'misadventure'.

A 'better' investigation was undertaken for Mr Russell but it too was far from adequate. Whilst it was known that Marks Park was an area where homosexual men were bashed and robbed, little investigation regarding this type of activity was undertaken into Mr Russell's death.

In fairness to the police involved, Sergeant Ingleby and Constable Scanlon had always considered the possibility that these were more than just disappearances and more than accidents.

Unlike the Warren case, good crime scene photos were taken of Mr Russell's body and surroundings. In a number of the photo's a clump of hair can be seen in his hand. Whilst evidence was given that those vital hairs were secured and bagged for forensic testing, none was undertaken and the exhibit was lost. Disgraceful!

The police officers that should have been responsible for the safe storage of exhibits blamed each other for its disappearance by stating the other should have been responsible for its safe keeping. Not good enough!

Dr Alan Cala, Forensic Pathologist, gave evidence in this current inquest that it appeared (from the photographs) that the hair did not belong to Mr Russell and appeared to have been pulled from another person "*tugged out*".

When asked about the hair Dr Cala stated *"Mr Russell's hair is dark brown and these hairs that I saw.....but they looked, they did not look as if they would have come naturally from Mr Russell's head hair"*.

He continued *"However I can't be absolutely sure and obviously I can't say that they were definitively not from Mr Russell, but they don't appear to be. That's probably all I can say, but it's also unusual, in a case like this, and I've seen many people who've jumped from great heights. The findings of hairs is unusual and would raise questions with me"*.

Unfortunately the significance of this appears to have been lost on the police officers.

Like the missing Warren brief of evidence, this important exhibit has never been found nor has a satisfactory explanation been given as to the reason it was not safeguarded at the time.

The positioning of Mr Russell's body should also have triggered some concerns for the investigating officers.

Dr Cala was asked by Counsel Assisting, Mr Lakatos *"What conclusions if any, did you draw from the examination of the photographs which showed that Mr Russell's head was towards the face of the cliff.....and his legs were towards the sea if I can put it that way?"*

Dr Cala answered *"Yes. That's an unusual position, most people that are found around the Gap or North Head, around the cliffs of Sydney are not in that position. They're head is facing towards the ocean and their feet towards the cliff. So this is an unusual position. What it means to me is that it's likely that this man, perhaps, his body has twisted on the way down, rotated, in some way such that he's landed and stayed in this position, because as I've said he hasn't moved. As soon as he's struck the rocks he hasn't been able to move. That being the case would make me wonder whether he's been deliberately thrown off the cliff perhaps"*.

Toxicology examination of Mr Russell's system indicated a blood alcohol reading of .255. This is a high reading and on its own could suggest Mr Russell could have met his death accidentally, but decompositional changes in Mr Russell's body could also account for an increased alcohol reading.

Dr Cala's evidence supported the probability that Mr Russell was thrown from the cliff.

Mr Lakatos asked the Doctor about the sloppy-joe Mr Russell was wearing: *"Concerning the configuration of the fold in the jumper which lead you to certain conclusion. Can you just tell us what that was?"*

Dr Cala answers *"Yes the sweater that he's wearing is pulled up at the back and at the front and exposes his lower back and the lower front of his chest and abdomen. If somebody even fell accidentally I would expect that the jersey, it looks very loose in fact and would tend to be positioned over the belt line of the jeans, I would expect."*

But it's not it is quite a long way up his body and that again makes me wonder whether it's been actually forcible retracted in some other way by another person".

The very limited earlier police investigation into Mr Russell's death does not take these features into account.

In both Mr Warren's disappearance and Mr Russell's death there were similarities that should have linked them in the early stages of the investigation and suggested to the police the possibility of foul play in both deaths.

Both men were homosexual. The last place either man was prior to death was Marks Park. Mr Russell had coins scattered near his body, Mr Warren's keys were found on the rocks. These items were used by some men to attract attention in that area and may have been used for that purpose by the victims. Marks Park was a known area for brutal attacks on homosexual males. Yet investigating police believed Mr Warren and Mr Russell met their death by 'misadventure'.

The earlier investigations into these men were inadequate and naïve. Not so the current investigation that triggered the inquests into the death of Mr Russell and the suspected deaths of Mr Warren and Mr Mattaini.

Not only was the investigation thorough, it was impeccable. Everything that could be done was done. Extremely sophisticated police techniques and methodology were used. The Detective in charge of the investigation Detective Sergeant Stephen Page was committed and was an abundantly talented investigator.

I began my finding by stating Mr Russell's death had already gone to inquest in July 1990 and his investigation may have remained as it was.

Mrs Warren, Ross Warren's mother had continually written to the police seeking to have the investigation into her son's death brought to a conclusion. She wanted a death certificate to enable her to deal with his property and give the family a little 'closure'. This was never done until her last plea for action.

Her son's death could not be considered by the Coroner as the police had not reported his suspected death. As no brief was available, his death needed to be re-investigated.

During the course of these enquiries, Detective Page noticed similarities between Mr Warren's suspected death and a number of incidents of foul play against gay men. He asked for appropriate resources to allow a full investigation into this and related matters. To his credit and the credit of his Commanders, Operation Taradale was established and an investigation plan was set in place.

I do not intend to reveal any of the methodology used during the course of the operation, suffice to say valuable information was obtained that lead to arrests for other matters and gave this inquest an opportunity of examining a number of persons of interest in relation to these deaths.

As a result of media attention during the course of this inquest, a number of persons volunteered information to police concerning the disappearance of Mr Warren. There was an alleged sighting in South Australia and an alleged phone call to his place of

employment stating he was alive and well. Both accounts were investigated but found to be unreliable.

No additional information was received concerning Mr Russell, however Mr Mattaini's friends contacted police when they believed his disappearance may have been related to their current inquiries. Fifteen years after Mr Mattaini's disappearance, his suspected death was to be investigated by police.

Given new material unearthed by Detective Page, the inquest into the death of Mr Russell was re-opened pursuant to Section 23A of the Coroner's Act of 1980.

The Current Inquest

Evidence was taken from dozens of witnesses, police officers, victims and perpetrators.

The inquest was very much a 'work in motion'. Detective Page's investigation was ongoing during the hearing. Statements were taken from many more witnesses as they became known during the course of the inquest.

The brief of evidence as it stood at the beginning of the inquest comprised 6 lever arched folders of statements and 276 annexures. Detective Page's original statement was some 258 pages. Every page contained valuable and important information crucial to understanding the circumstances of the deaths and disappearance of our victims.

A number of witnesses were in custody, serving sentences for similar matters being considered by the inquest. Some witnesses had been convicted of murder and served sentences of up to 14 years. The killers of Mr Rattanjurathaporn gave evidence.

Many of the witnesses were 'persons of interest' most denying any involvement in violence against homosexual men. The evidence they gave was completely at odds with the police intelligence gathered during the course of the investigation and whilst it was 'possible' that some were involved in the deaths of Mr Russell and Mr Warren, the weight of evidence was not there to support any finding in that regard.

General admissions were made by some 'persons of interest' during conversations with family and friends. Details of Mr Russell's death and the disappearance of Mr Warren were discussed. These brutes that prey on people are known to be cowardly and boastful. Whilst a lay person could get quite excited about hearing one of them boast they had some involvement in the matter, without any independent evidence linking them to the event they could not be prosecuted successfully for any crime.

The wealth of information gathered by Detective Page and his team, however, will provide an excellent source of evidence should other matters come to light. It is always possible that someone will decide to tell police what they know about a perpetrator if they feel the need. Relationships between these thugs do not always remain 'solid'.

The NSW Police and its Gay/Lesbian Clients

Ms Sue Thompson, the former Gay and Lesbian Client Service Policy and Programmes Officer, gave evidence the NSW Police Force had been a leader in Gay/Lesbian Client relations in the 1990's. She established training programmes for police and established a network of Gay Liaison Officer across the State.

She conducted training days to selected schools where issues of homophobia had been identified. This provided a double benefit in that children were being educated to tolerate 'differences' in others but it also provided a valuable source of 'feedback' where police were given some insight into the thinking and actions of school based 'gangs'.

The current Gay/Lesbian Client Consultant, Mr Toolan, told the inquest that some of the projects had stalled since Ms Thompson had been on sick leave, however he tendered a number of documents supporting the current position that the Commissioner of Police is actively considering guidelines for the effective policing of 'beats'.

A Beat Working Group had been established to identify key stakeholders that could be consulted when considering any policies that effect policing 'beats'. The focus of the group was 'Beat Usage Reduction and Safety Improvement'.

The issue of 'beats' is contentious. There are many who support their existence, there are those that cannot understand the need for them given the improving attitudes of the community towards homosexual men.

One witness, a gay man, gave this evidence regarding 'beats': *"My philosophy is very simple. A lot of gay guys don't agree with me but I believe it's all over red rover. You know the days of going and doing beats, searching for partners and that is dangerous, risky business and I'm not saying that people who go there deserve any sort of retaliation but I'm saying we need to take responsibility for our own behaviour and I think the message needs to go out loud.....in the gay community, which I am a part of. I believe that we need to look at these things and say okay these are the problems, right, we need to send the message out that we shouldn't be going down to these parks because its too dangerous. With all good intentions the police officers, many of them, are trying to do their best with limited education on how to deal with the problem."*

His sentiment is simple and sensible and I agree that homosexual men should be discouraged from attending 'beats'. They are exposed to treacherous individuals that prey on victims for 'sport'. Policing 'beats' is also problematic.

'Beats' are however a 'given' in any community. Police must be aware of the problems associated with them and the violent criminal behaviour that they attract.

Policing 'beats' is not simply an exercise in gay client and police relationships, it must have a strong operational focus for the reduction of crime and the safety of individuals using those areas for whatever purpose.

Evidence was given that at the time of these disappearances and the death of Mr Russell, police attitude to gay victims was far from satisfactory. In fact some offences went unreported because it was felt that police would judge the victim and nothing would be achieved.

The families of Mr Warren and Mr Russell were not pleased with the police response to their own cases. Mrs Warren could not get police to deal with her son's disappearance affectively. Mr Russell's family felt somewhat abandoned without feedback as to the progress or otherwise of their own investigation. Neither family would have been given the impression that their loved one was important enough to warrant a proper investigation.

One witness gave an account of approaching the police after his own victimisation only to be told that the police would not be involved in 'domestics'. He said there was a commonly held view in the gay community that *"If there was a homosexual assault or a murder it wouldn't get the same privilege as so called heterosexual assault or murder"*.

There is no doubt that that was the belief in the gay/lesbian community, hence the reason for the NSW Police to set up policies and programmes to bridge any gap between those communities and the operational police.

The same witness who is critical of some operational police acknowledges there are some hard working and decent officers that do make a difference.

Given the disgraceful investigation into Mr Warren's suspected death and the completely 'lack lustre' investigation into Mr Russell's demise, it would not be unreasonable for the gay community to believe that as a group they do not warrant proper police attention. It is hard for the NSW Police Force to be seen as progressive and equitable when some officers fail in their duty to the community they are meant to serve.

Detective Sergeant Page is a member of the same Constabulary and he is a shining example of how investigations should be conducted and the sensitivity and compassion that is often needed when dealing with persons who have been 'marginalised'.

As Counsel for the Commissioner of Police, Mr Saidi said in his closing submission: *"The climate which then existed, which was a climate I think no one in society could really be proud of, and that is the culture of gay hate, a gay hate crime. The Police Service, whatever defects it may have suffered from during that period, was no more than a reflection of it (sic) was exhibiting the broader values and principles of the then society. Much I think to the credit of the Police Service and other government instrumentalities over the years, rather than being a mere reflection of society's values, I think it fairly could be said that they're taking affirmative action to indeed change society's view"*.

There is no doubt that the NSW Police has made significant improvements to the many issues raised during the course of this inquest eg its attitude to gay/lesbian crime, case management and proper and timely investigations.

There is need, however, for recommendations to ensure the work currently being undertaken continues.

As Coroner I can only make recommendations that can be implemented by a person or organisation. I cannot make recommendations to change community attitudes towards homosexuals or for homosexuals to abandon the use of 'beats'.

All I can do is urge communities, through my finding, to regard any victimisation of a gay man or lesbian as completely abhorrent and not to be tolerated.

No one deserves to become a victim. A lack of judgement or discretion should not invite brutality, nor should we as a decent society turn away from anyone needing help and understanding.

Don't think for one moment that this type of crime is only visited on homosexuals.

One man gave evidence of his own brutal attack by a gang of young 'gay bashers' when he was walking home from a night out with friends. He was not gay but very much heterosexual. It was simply a matter of him being in the vicinity of North Bondi, the wrong place at the wrong time.

Young thugs that gang up and visit their hate on any individual deserve to be 'brought to heel' as quickly as possible.

One witness [REDACTED] spoke of his own victimisation as a child by a friend of the family, a paedophile. He said *"Basically what it was with me, I was a victim for years, and then one day I sort of – you know when you turn into a teenager the hormones kick in, you fill out a bit, you grow up and, sorry about the language, but I said 'Fuck this, I am never going to be a victim again.....No one is ever gunna hurt me again'.....I was filthy on the world. Because I was raped and bashed by a man for years, so therefore I thought, okay this bloke here was a man he had sex with another man even though it was another human as a male, so me not having the social skill or the education back then, or the mentality or whatever to differentiate – I couldn't differentiate between paedophilia and homosexuality"* Of gay men he said *"I hated them with a passion."*

[REDACTED] realised that, as he put it *"Sexuality doesn't make someone who they are"*.

I have deliberately not named civilian witnesses in my finding. These courageous individuals who had been victimised came forward to tell their stories at inquest. Unlike many of the 'persons of interest', they were honest and forthright and their accounts were chilling.

Compare the accounts of a victim and the accounts of the 'suspects'.

The Victim: *"They grabbed me and they started to call me names, 'poofter' and all the rest of it and they just started bashing me and they kept saying to me 'Don't look at our faces'. And I was actually face down at the time. The best, to my knowledge I*

remember is trying to protect my face 'cause I had an interview the following week" "them just attacking me, hitting me, kicking me". "Two main people and I remember them. They were the ones doing a lot of talking and everyone else in the group was like standing around watching and I remember the girls, I remember seeing the girls. Watching and laughing and still to this day it runs through my mind that they could sit there and do that".

He believes the assault lasted 15 to 20 minutes. They were pulling his shoes off and his clothes. His earring was ripped out and his signet ring was lost. *"They started to drag me around. I was on the ground and they were literally dragging me. I don't remember much, I blanked a lot of that part of it out. I remember from when it started, the bashing and everything started, I don't remember much. I remember at the end, I remember getting away, I remember running, I remember screaming for help, I remember the comments coming from the units.....They had a stick in their hand and they kept saying that they're - excuse my expression - 'shove it up my arse', and that petrified me even more"*

As he was being dragged, one of his assailants said *'I'm going to throw you over the side'* At the time that was said the victim had been dragged to the top of the cliff face.

The victim escaped to his unit where he waited for police and a friend to arrive.

When he was running for his life and screaming for help a voice from a nearby unit yelled back at him *"I'm not helping no poofter"*.

The Offenders:

These are accounts of some of the 'persons of interest' for gay hate related crime. *"I threw a fag off the cliff at Bondi....I've jumped on blokes head you wouldn't believe were always going out bashing fags"*

"We were walking.....jump up and look in the bushes, just see em going for it. Oh you dirty man. And they would just keep going. I went Ooh, screamed at them. They just have been that involved in it they blocked out all the noise. The waves were heaps big and it was freezing.....I had my new Boks from America on that day too, I had blood all over 'em.....went up and I go Oooo.....come up and grabbed a handful of hair and went, Dirty fuckin' maggot.....He should have gone went off the cliff that night but he didn't.....we went down and put a cigarette butt out on his head".

When asked why he 'bashed fags' one assailant said *"Something to do mate. Mate I made fuckin one, one guy I bashed I got fuckin 1300...he was doing a bank run, bank run, taking money to the bank. Stopped him, smashed him, fuckin jumped on his head, went out to his car, looked at his briefcase....do it for the fucking money mate. I'ts not fun...it's a sport in Redfern....Oh it's a fuckin hobby mate. What are you doin tonight boys? Oh, just going fag bashin"*

Further accounts of assault on gay men *"Them cunts copped a bad hiding, two of em did anyway....we were jumping off the roof of his car onto his head, mate. His head was on the gutter"*

Many of the Marks Park victims that reported to police told of hearing their assailants threatening to throw them off the cliff face. There is no doubt that at the time of Mr Warren's and Mr Mattaini's disappearance and Mr Russell's death that this was a Modus Operandi of some gay hate assailants. This strongly supports the probability that Mr Warren, Mr Mattaini and Mr Russell met their deaths this way.

To make a finding that each of these men were victims of homicide, I must be satisfied to the 'Briginshaw' standard of proof that one or more persons were responsible for their deaths. That standard of proof is slightly higher than the usual 'balance of probabilities'.

I am comfortably satisfied that I can make the finding of 'foul play' in relation to Mr Warren and Mr Russell, but I cannot make a finding that Mr Manttaini met his death at the hands of another person or persons. The persons of interest that may have been responsible for the deaths of Mr Warren and Mr Russell would have been far too young at the time of Mr Mattaini's disappearance in August 1985.

I can however bring in a finding of 'death' for Mr Mattaini, but where and how he died remains unknown although there is a strong possibility that he died in similar circumstances to the other men.

Findings

I find that Ross Bradley Warren died in Sydney on or about 22 July 1989. Whilst the cause and manner of death are unknown, I am satisfied that the deceased was a victim of homicide perpetrated by person or persons unknown.

I find that John Alan Russell died at Marks Park, North Bondi between the 22 or 23 November 1989. The cause of death is multiple injuries sustained when he was thrown from the cliff onto rocks, by a person or persons unknown.

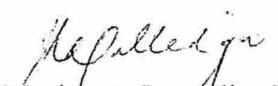
I find that Giles Jacques Mattaini died on or about the 15 September 1985 in Sydney. The cause and manner of his death remain undetermined as the evidence before me does not enable me to say.

Recommendations

That the Minister of Police and Police Commissioner:

- *Ensure that all Missing Person reports are investigated in a timely and proper manner*
- *Ensure that Missing Person cases considered 'suspicious' deaths are to be referred for criminal investigation*
- *Ensure that all Missing Persons be reported to the State Coroner after a reasonable period of time after all routine investigations have been undertaken*
- *Undertake a review of the current case management and monitoring systems to ensure that all investigations are pursued with due diligence*

- *Review procedures in relation to the collection and retention of physical evidence and exhibits relating to unsolved homicides and any deaths reportable to the coroner*
- *Review procedures in relation to tracking exhibits sent to other areas for forensic testing or examination*
- *Consider training Rescue Squad personnel in the use of crime scene cameras and techniques for securing bodies and exhibits in rock crevices or other areas inaccessible to other police*
- *Review procedures in relation to the recording of possible causes of death at early stages of any investigation in order to minimise erroneous or lazy conclusions based on incomplete information*
- *Reinforce the requirements of the Charter for Victims Rights where Victims of Crime are entitled to be given information concerning their investigations in a timely fashion, and that all Victims of Crime are to be dealt with compassionately*
- *Audit outstanding homicides and suspected deaths to ensure investigations are active and ongoing. Where investigations have stalled these matters are to be referred to the State Coroner for his consideration*
- *Reintroduce the Gay Liaison Officers 'in service training' programme*
- *Ensure all Local Area Commanders are aware of 'beats' in their areas and promote the need for crime prevention strategies to minimise risk*
- *Promote the use of 'Standard Operating Procedures for Policing Beats' within each Local Area Command*
- *Develop and implement the 'Beat Usage Reduction and Safety Improvement Project'*


Magistrate Jacqueline M. Milledge
Senior Deputy State Coroner
9 March 2005