



Special Commission of Inquiry into LGBTIQ hate crimes

25 August 2023

Katherine Garaty
 Director, Crime Disruption and Special Inquiries Law
 Office of the General Counsel, NSW Police Force
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By email: [REDACTED]

Dear Ms Garaty,

Special Commission of Inquiry into LGBTIQ hate crimes: Clarification of NSWPF submissions

I refer to the above Inquiry. I also refer to my letter of 22 August 2023, requesting clarification of a matter raised at paragraph 199(c) of the written submissions of the NSW Police Force (“NSWPF”) dated 28 June 2023 in relation to Public Hearing 2; and to your letter of 23 August 2023 in reply.

In that letter, you stated that:

- The period of time of Strike Force (SF) Macnamir’s operation from February 2013 to 30 November 2017 includes a period (from 13 April 2015 onwards) during which “the work of SF Macnamir fell under the auspices of the State Coroner” and was “subject to directions given to investigating officers by the lawyers assisting the State Coroner”; and
- It is “conceivable” that, depending on the evidence given to the Inquiry by Detective Sergeant Penelope Brown and Detective Sergeant Rowena Clancy about the conduct of SF Macnamir Johnson between April 2015 and November 2017, it may be necessary to undergo “further examination of the instructions and directions provided to DS Brown and DS Clancy” by the legal advisors assisting the State Coroner.

Clarification of the nature of police involvement in the third Johnson inquest

It is understood that strike forces are established by the NSWPF for the purpose of investigating particular matters including deaths or suspected criminal activity; and that SF Macnamir was established in February 2013 to re-investigate the death of Scott Johnson.

On 13 April 2015, State Coroner Barnes ordered that a fresh inquest be held into the death of Scott Johnson. That order was made pursuant to s. 83 of the *Coroners Act 2009* (NSW), on application by the Johnson family and supported by counsel engaged to assist his Honour.

Following that order, consistent with the usual course and the statutory framework which provides for assistance to be given to the State Coroner for the purpose of coronial proceedings, the NSWPF made

Special Commission of Inquiry into LGBTIQ hate crimes

available officers from the Unsolved Homicide Squad to carry out coronial investigations to assist the State Coroner.

This did not equate to SF Macnamir “*falling under the auspices of the Coroner*” from 13 April 2015 onwards. Rather, the police officers were allocated to assist the State Coroner in the ordinary course of a coronial investigation. It is not unusual that the NSWPF would make available police officers who are already familiar with the investigation, as occurred in that case. Nor is it unusual that there may be police or criminal investigations taking place concurrently with coronial investigations. It is the latter that are under the direction of the State Coroner, not the former.

In addition, from the outset of the coronial investigation for the third Johnson inquest, the (former) Commissioner of Police was granted leave pursuant to s. 57 of the *Coroners Act* to be represented as a party with sufficient interest in the inquest, and was represented by solicitors and counsel. In the course of being represented as a sufficient interest party, it is understood that the Commissioner of Police received input from police officers as to factual or other matters for the purpose of providing instructions to his representatives. This was separate to the role of the police officers responsible for assisting the State Coroner in the coronial investigation. To the extent that any of the police officers assisting the State Coroner also provided input for the purpose of the Commissioner of Police’s role as a sufficient interest party, they did so in the latter capacity, and not as an officer assisting the State Coroner.

In light of the above, the reference at [502] of Counsel Assisting’s submissions to the “unchanging and inflexible view” held by SF Macnamir should be read as the view of those responsible for the approach taken in SF Macnamir from the time of its establishment in 2013 up to the time of the determination by the State Coroner on 13 April 2015 that a third inquest be held, and thereafter to the extent that SF Macnamir officers were involved in providing input into instructions on behalf of the Commissioner of Police as a sufficient interest party in the inquest.

Please do not hesitate to contact me on 0498 484 133 if you have any queries.

Yours faithfully,



Enzo Camporeale

Director, Legal

Solicitor Assisting the Inquiry