



NSW POLICE FORCE

P190B

## STATEMENT OF POLICE

<b>In the matter of:</b>	Special Commission of Inquiry into LGBTIQ Hate Crimes
<b>Place:</b>	Police Rescue & Bomb Disposal Unit
<b>Date:</b>	19 May 2023

<b>Name:</b>	Marcus BACKWAY	Tel. No:	[REDACTED]
<b>Rank:</b>	Sergeant		
<b>Station/Unit:</b>	Police Rescue & Bomb Disposal Unit		

### STATES:

1. This statement made by me accurately sets out the evidence that I would be prepared, if necessary, to give in court as a witness. The statement 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.
2. I am 51 years of age.
3. I make this statement in respect of the Request for Statement issued by the Special Commission of Inquiry into LGBTIQ Hate Crimes (**Inquiry**) on 13 April 2023, specifically requesting information concerning the New South Wales Police Force (**NSWPF**) response to the recommendations of Deputy State Coroner Milledge, made in the context of the inquest into the deaths of Ross Warren, John Russell and Gilles Mattaini in 2003-2005 (**Taradale Inquest**) (**Request for Statement**). A copy of the Request for Statement is attached to this statement as **Annexure 1**.
4. The Request for Statement sought a statement addressing the following topics in connection with the recommendations of the Taradale Inquest:

Witness:

[REDACTED]

James Cross  
Constable  
Police Rescue & Bomb Disposal  
Unit  
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Signature:

[REDACTED]

Marcus Backway  
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- a. *“Whether and by what means (annexing any relevant document) the NSWPF accepted each of the recommendations, including in particular the following recommendation:*

*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*

- b. *Whether, by what means, and to what extent, the NSWPF has implemented each of the recommendations (annexing any relevant document);*
- c. *Whether the NSWPF’s current practices are consistent with the recommendations;*
- d. *The results of any reviews undertaken by the NSWPF as a result of the recommendations (annexing documents as appropriate); and*
- e. *Any other action undertaken by the NSWPF as a result of the recommendations.”*

5. In this statement, I specifically address those topics in relation to the seventh recommendation made in the Taradale Inquest, that the Minister of Police and Police Commissioner:

*“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” (Recommendation 7).*

6. I note the Request for Statement requests information covering an 18-year period between 2005 to the present day. I was not a member of the Rescue Squad in March 2005 when the Taradale Inquest recommendations were made; however, I did join the Rescue Squad in October 2005. I therefore address the matters in this statement by reference to documents held by the NSWPF and my own experience.

7. At the time of signing this statement, I have been shown a zipfile of electronic documents marked with electronic document IDs in the format ‘NPL.XXXX.XXXX.XXXX’. Where I refer to a document in this statement, I refer to it by its document ID.

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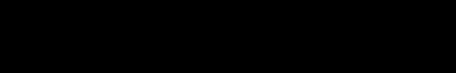
**ROLE AND POLICING EXPERIENCE, QUALIFICATIONS & TRAINING**

8. I am a Sergeant in the Police Rescue and Bomb Disposal Unit (**RBDU**) within NSWPF. The RBDU is part of the Counter Terrorism & Special Tactics Command.
9. I have been a member of the NSWPF since May 2001, when I attested from the NSW Police Academy. I was initially a General Duties police officer stationed at Miranda, until I was employed as a full-time member of the RBDU in October 2005. I was promoted to Sergeant on 19 December 2021.
10. Attached to my statement at **NPL.0100.0001.0567** is a previous version of my curriculum vitae. I have National Accreditation in vertical rescue, road crash rescue, confined space rescue, and industrial and domestic rescue, amongst other accreditations and qualifications. I hold all of the national competency units set out in paragraph 51 below, which form part of the Police Rescue Operators Course (**Police Rescue Course**).
11. My role in the RBDU has involved attending rescue jobs (both general land and vertical rescue), improvised explosive device (**IED**) render safe matters and otherwise providing operational support relevant to rescue and bomb disposal to general duties police.
12. Body recoveries also fall under RBDU's operational support role. A recovery could, by way of example, involve the extraction of a body from a fatal motor vehicle accident, the recovery of a body from bushland or from heights or depths. This includes from the base of cliffs. These matters are explored further below.
13. I was previously a trainer on the NSWPF Police Rescue Course for 18 years. This is a course that involves training officers in all disciplines required for rescue, and is explained in more detail at paragraphs 51 to 52 below. I am currently the course facilitator for the Police Rescue Course. Since December 2021, I have also been the training coordinator for all training relevant to rescue and recovery operations for NSWPF.
14. I note that Recommendation 7 specifically references the training of personnel in the securing of bodies and exhibits in rock crevices. In this regard, I note that in respect of vertical rescue or recovery, such as at the bottom of the cliff, there is a specific national competency, being

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PUASAR032. Obtaining this competency is a requirement for any person operating in vertical rescue or recovery operations. NSWPF is a registered training organisation for this competency and I am an instructor for this certificate IV unit. A copy of this competency is attached to my statement at **NPL.0100.0001.0573**.


**OVERVIEW OF RBDU INVOLVEMENT AT A CRIME SCENE**

15. Two of the key functions of the RBDU are rescue efforts and attendance at crime scenes.
16. The response of the RBDU to a request for rescue assistance is coordinated by the unit's Rescue Coordinator, who responsible for deploying rescue assets to various incidents around the state. In respect of rescue operations, it is usual for a telephone request to be made to the Rescue Coordinator, who will then allocate particular units as appropriate to respond.
17. Police Rescue (a reference to the 'Police Rescue Team' or 'Police Rescue' is a reference to the subset of the RBDU attending a particular rescue or crime scene and is not any specialist sub-set of the RBDU) are normally requested at a crime scene for operational support by general duties police or members of the Forensic Evidence and Technical Services command (**FETS**) if specialist equipment and/or specialist trained operators are required. A request for operation support is made directly to the RBDU; either by phone or police radio.
18. The key circumstances in which RBDU may be requested to attend a crime scene include for bomb or IED disposal purposes, recovery of a body and other operational support.
19. A detailed consideration of the practices involved in bomb disposal by Police Rescue is outside the scope of this statement.
20. There are generally two categories of body recovery: general land body recovery, and vertical body recovery.
21. A general land body recovery encompasses any recovery that does not utilise vertical recovery techniques. An example would be the recovery of a body from a motor vehicle crash which might require specialised equipment such as airbags or power tools to allow extraction of the body from a particular location.

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22. A vertical body recovery is a recovery operation that involves ropes and other devices to difficult-to-access areas; usually either at the bottom or on the side of a cliff face.
23. Other operational support requested by general duties police officers or FETS upon Police Rescue attendance at a crime scene might include:
- a. photographing a crime scene if the crime scene is in a dangerous location that is difficult-to-access by general duties police and FETS. This might require the use of specialist equipment and/or vertical access techniques to access particularly difficulty areas; and/or
  - b. taking notes, measurements and otherwise collecting evidence in difficult-to-access locations with the support of and at the direction of FETS.

**Current procedures in relation to difficult-to-access crime scenes**

24. To contextualise my answers below to the specific questions posed by the Inquiry in the Letter of Request, I will use the example of recovery of a body located the bottom of a cliff to explain the current RBDU procedures in relation to difficult-to-access areas. As each crime scene is different and has different physical characteristics, different techniques and equipment may be required for a particular crime scene.
25. Upon attending a crime scene, members of the RBDU report to the lead investigator, who coordinates the crime scene.
26. Before being requested to recover the body, the members of RBDU, in consultation with and at the direction of the lead investigator, may be asked to:
- a. perform a search of the difficult-to-access area;
  - b. photograph the body and any exhibits; and/or
  - c. collect evidence.
27. Access to the area must first therefore be achieved. In difficult-to-access areas such as the bottom of a cliff, access the area is obtained using what we refer to as “vertical techniques”. Vertical techniques requires the use of ropes and other rock climbing-type systems in order to

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access the base of a cliff (or other difficult-to-access area). It may require members of Police Rescue to set anchors and abseil to the base wearing a roping harness, gloves and helmet.

28. Attached to my statement at **NPL.0100.0001.0359** is the Vertical Rescue and Recovery Operations Standard Operating Procedure (**SOP1**). Amongst other things, the SOP1 sets out:

- a. [REDACTED]
- b. [REDACTED]

29. I observe that SOP1 does not specifically address the forensic procedures to be adopted at the crime scene once access is obtained. This is because when RBDU is requested to provide operational support, such as the recovery of a body or evidence, RBDU in effect become a tool at the disposal of the lead investigator or FETS and are guided as to the nature of the evidence to be collected and the method of its collection at a crime scene by those persons. However, all police officers, including RBDU members, undertake extensive training at the Police Academy in the collection of evidence and appropriate forensic procedures. This is set out in more detail below at paragraph 51.

30. In the case of a body located at the base of a cliff, once the area is searched and the body and exhibits have been appropriately photographed and secured in accordance with the instructions of FETS or the lead investigator, RBDU members will place the body into a body bag. The body is then placed in a device called a stokes litter (or stokes basket) which is a metal or plastic basket with a raised edge, designed to be used where there are obstacles to movement or other hazards, such as at the base of a cliff. The basket is shaped to accommodate a body and is generally used in search and rescue operations. The body is strapped into the basket, and extraction via helicopter or ropes will be undertaken.

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31. If it is established, either by members of the RBDU, by the lead investigator or a member of FETS that there is a likelihood of damage occurring to particular pieces of evidence or a body, the process of photography and extraction described above is expedited and prioritised so as to ensure the preservation of that evidence. This might be, for example, if there is risk of a rock fall or tidal flow compromising the evidence.

### RECOMMENDATION 7

32. In this section of my statement, I address Recommendation 7 of the Taradale Recommendations, which is set out in paragraph 5 **Error! Reference source not found.** above.

33. In preparing this statement, I have been shown a document dated on or around 16 September 2005, which I understand to be a submission to the Ministry for Police (which I understand to be a reference to the Office of the Minister of Police as it then was), prepared by Ms Caroline Braden, concerning the recommendations made in the Taradale Inquest (**Ministry Submission Paper**).

34. I am advised that Ms Braden was a Project Officer within the Professional Standards Command who worked in the Policy and Projects, Corporate Advice Policy team. In 2005, her role as Project Officer was administrative in nature and included the collation of information in response to correspondence and / or recommendations from the NSW Ombudsman, the Police Integrity Commission or the NSW State Coroner. A copy of the Ministry Submission Paper is at **NPL.0100.0009.0066**.

***Whether, by what means and to what extent NSWPF accepted and implemented the recommendation***

35. I observe that the Ministry Submission Paper at page 4 sets out the following response in respect of Recommendation 7:

*The level of training of all forensic investigators and the level of understanding generally within NSW Police overcomes the need for this specific training.*

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36. I was not a member of the Rescue Squad when the recommendations were released, or at the time of the preparation of the Ministry Submission Paper.
37. However, it is my understanding that by the time Recommendation 7 was made, members of the RBDU already received training in the use of photography and techniques for securing bodies. This is because by this time, such training formed part of the forensic training of all police officers at the NSWPF Academy in crime scene preservation and the collection of evidence. While I cannot be certain when these specific aspects of the forensic training were first introduced, they formed part of my studies in the Diploma of Policing Practice at the NSWPF Academy in 2001.
38. I now set out the nature of such training. I consider first the position as at 2005, and how this training has developed over time to keep up with relevant advancements in technology.


***Use of crime scene cameras/photography***

39. I do not recall receiving training at the Police Academy regarding the use and operation of specific crime scene cameras in 2001, but photography of crime scenes was certainly an aspect of our forensic training. In my experience, from 2005, police crime scene cameras have been digital SLR cameras. This usually meant they did not require any additional specialist training to operate: all that was required was to push the button halfway down to auto focus, then all the way to take the picture.
40. In the context of photography in difficult-to-access areas, in my experience, in the mid-late 2000s, when directed by the lead investigator or a member of FETS to take photographs of a particular crime scene, a member of RBDU would actively engage with those directing them, such as by showing the digital images to the instructor to confirm they were satisfied with them. If a particular direction or area was required, that would be communicated to the RBDU member and further photographs could then be obtained.
41. Over time, new camera technology including the use of smart phones and body worn cameras has been introduced which requires less 'technique' in terms of operation, and delivers better quality crime scene images. RBDU are not issued with body worn cameras, given we do not

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generally operate in front line or hostile environments. However, there are instances where RBDU members have been directed to wear body worn cameras at a crime scene.

42. Some RBDU member can also operate remote-piloted aircraft (a drone), which has photography capabilities. Operation of a drone requires a specific certification from the Civil Aviation Safety Authority (**CASA**). It is open to members of the RBDU, crime scene investigators and members of the NSW Police Aviation Command to undertake this course and NSWPF facilitates this through an external provider for interested members.
43. In addition, the NSWPF Aviation Support Unit Rotary aircraft (helicopter) can be engaged to take aerial photographs, including using long range lenses.
44. The process of taking photographic evidence at difficult-to-access crime scenes has also become more efficient with the advances in technology. In particular, videos and images can now be live-streamed from the base of a cliff and other remote locations back to the lead investigator or FETS, and communication about other images to be obtained can occur in real time.
45. For members of NSWPF that have graduated from the Police Academy, additional training to keep pace with these advances in technology are offered via online training modules through the Police Education Training Environment. In addition, our skills are enhanced by on-the-job learning and training from those with more experience in a particular area, or in new technology.

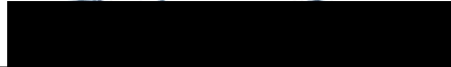
***Securing bodies and/or exhibits***

46. The forensic procedures to be adopted when securing a body or evidence at a crime scene is a fundamental part of all police officers' training at the Police Academy, including members of the RBDU.
47. I understand that the procedure for the collection and management of exhibits by NSWPF, both historically and over time, have been addressed in some detail in statements of Assistant Commissioner Conroy and Superintendent Best provided to the Inquiry. These general principles, including processes for ensuring the crime scene is secure, maintaining a crime scene log for evidence and ensuring continuity of the chain of evidence, are implemented in the context

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of body and exhibit recovery by members of the RBDU. As noted above at paragraph 40, the collection and recovery of evidence by RBDU members is also subject to the direction and oversight of the lead investigator and/or FETS.


48. While RBDU members therefore undergo the same *forensics* training as all police officers, they also undertake specialised training that enables them to *physically* access a difficult-to-access site safely, and to transport a body or exhibits from that site.
49. Such training takes place via the Police Rescue Course. The Police Rescue Course is only available to police officers who have applied for and successfully undertaken the NSW Police Rescue Selection Course, which tests the suitability of the candidate to become an officer in the RBDU.
50. NSWPF has provided some form of rescue training since the founding of the first Cliff Rescue Squad in 1942. I understand that there was a renewed focus on and further expansion of rescue training following the Granville train disaster in 1977. A history of the RBDU is attached to my statement at **NPL.0100.0001.0584**. Since I joined the RBDU in 2005, the Police Rescue Course has been structured and updated so as to comply with the competency requirements set out by the Australian Skills and Qualifications Authority (**ASQA**).
51. The Police Rescue Course is a six-week training course that covers the following units of national competency:

- a. PUASAR022 Participate in a Rescue operation;
- b. PUASAR023 Participate in a First Response Urban Search & Rescue;
- c. PUASAR024 Undertake Road Crash Rescue;
- d. PUASAR026 Undertake Industrial & Domestic Rescue;
- e. PUASAR032 Undertake Vertical Rescue;
- f. PUA FIR207B Operate Breathing Apparatus Open Circuit;
- g. PUASAR025A Undertake Confined Space Rescue; and

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h. PUASAR03 Undertake Vertical Rescue.

52. As noted above at paragraph 13 I am the course facilitator for the Police Rescue Course. Attached to my statement at **NPL.0100.0001.0570** is the course outline for the 2023 delivery of the Police Rescue Course. The content of the course is reviewed annually to ensure it is kept up-to-date with advancements in technology and safety and also to ensure compliance with ASQA requirements; the Police Rescue Course must be updated upon any change to a unit of competency. ASQA also performs audits of the Police Rescue Course to ensure that the training material meets the requirements of the national competency.

***Whether NSWPF's current practices are consistent with the recommendation***

53. I consider that the current NSWPF practices regarding Police rescue practices **are** consistent with Recommendation 7.

54. This is because, as outlined above, RBDU personnel, like all police, receive forensic training at the Police Academy in the use of photography and techniques for securing bodies. Additional specialised training in the mechanics that enable RBDU personnel to safely access and recover bodies and exhibits from difficult-to-access areas is also provided in the Police Rescue Course.

***Results of any reviews undertaken by NSWPF and any other action undertaken by NSWPF as a result of the recommendation***

55. I am not aware of any reviews or other action undertaken by NSWPF in direct response to Recommendation 7.

56. However, as set out above at paragraphs 455 and 522, the training of all police officers in the use of photography and techniques for recovering bodies, and the specialist training for members of the RBDU, continues to evolve to reflect the advancement in technology in these areas.

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