



New South Wales

## Special Commission of Inquiry into LGBTIQ hate crimes

### Statement of Stewart John Leggat

15 September 2023

This statement made by me accurately sets out the evidence that I would be prepared, if necessary, to give to the Special Commission of Inquiry into LGBTIQ hate crimes (**Inquiry**) as a witness. The statement is true to the best of my knowledge and belief.

- 1 My name is Stewart John Leggat.
- 2 I am 61 years old.
- 3 I have prepared this statement for the purpose of responding to Summons No. WIT090 issued to me by the Honourable Justice John Sackar (**Commissioner**) on 21 August 2023 (**Summons**). At the time I was served with the Summons, I was provided with correspondence from the solicitor assisting the Commissioner dated 21 August 2023 (**Letter**).
- 4 The Letter drew my attention to the fact that the submissions of Counsel Assisting the Inquiry dated 7 June 2023 (**Counsel Assisting's Submissions**) concerned aspects of my involvement in the matters being examined by the Inquiry. In that respect, I was referred to paragraphs [74], [335]-[337], [343], [642], [657], [766]-[767], [772]-[782] of Counsel Assisting's Submissions.
- 5 I have prepared this statement by reference to the Letter.
- 6 I am aware from the Letter that the provision of this statement will not obviate the need for me to appear before the Inquiry to be examined as required by the Summons. It is my intention that this statement provide a response to the matters brought to my attention by the Letter.

#### Policing Experience

- 7 I have several relevant internal and external qualifications relating to investigation including:



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- (a) Designation as a Detective – 3 November 1993.
- (b) Associate Diploma of Applied Policing Charles Sturt University - 16 May 1996
- (c) Bachelor of Policing (Investigations) Charles Sturt University – 21 May 1999
- (d) Homicide Investigators Program – 4 March 2005
- (e) Senior Investigators Course - 29 March 2007
- (f) Drug Crime Course – 25 February 2008
- (g) Terrorism Investigators Course – 7 June 2013

8 I joined the New South Wales Police Force (**NSWPF**) in 1985. I was initially attached to Manly Police Station. I worked in General Duties, Foot Patrol and in Anti-Theft until the 1990s.

9 I attained the rank of Senior Constable on 24 April 1994

10 In 1990 I transferred to North Sydney Police Station, where I became a Detective. I remained a Detective at North Sydney Police Station until 1995.

11 In 1995 I joined the Commercial Crime Agency (Fraud Squad) and remained there for six years. I was also seconded to the New South Wales Crime Commission.

12 In 2001 I transferred to Chatswood Police Station as a Detective.

13 In 2003 I was promoted to Detective Sergeant and attached to North Sydney Police Station. I was also seconded to the Metropolitan Robbery Unit. I remained at North Sydney Police Station as a Detective Sergeant until 2009.

14 In 2009 I applied for, and was accepted into, the Homicide Squad as a Detective Sergeant, on the on-call team. I remained in that team until 2013.

15 In 2013 I was promoted to the rank of Inspector as a tactical duty officer at Sydney City Police Station.

16 On and from 13 March 2017 I transferred back to the Homicide Squad, working as a Detective Inspector in the Unsolved Homicide Team (**UHT**).

17 In 2020 I attained the rank of Detective Chief Inspector.

18 On 21 July 2022 I retired from the NSWPF.

#### **Response to Counsel Assisting's Submissions**

19 I have read Counsel Assisting's Submissions.

20 I provide my response to relevant paragraphs brought to my attention by the Letter.



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Paragraphs [74], [335]-[337] and [343]

- 21 On 13 March 2017 I joined the UHT. I was a co-ordinator in the UHT.
- 22 As part of my duties in the UHT:
- (a) I oversaw three teams each managed by a Detective Sergeant (team leader), with each team (comprised of 4-5 Detective Senior Constables) investigating approximately 3 to 4 active cases at any given time in addition to coronial matters (being anything that the Coroner deemed to be worthy of an investigation and referred to the UHT by the Coroner).
  - (b) I was required to oversight the investigations, discuss, and implement strategies, ensure adequate staffing, and monitor the progress of the investigations. The team leaders and officers in charge of investigations reported to me and I in turn provided weekly update briefings to the Commander, both in written and oral form. The Team Leader and Officer in Charge verified work product prepared by the team; such as police statements, reports and other documents drafted by members of the teams I oversaw. This was completed through a system called e@glei, where my details were added in addition to other team leaders and co-ordinators of other Strike Forces.
- 23 The conduct of an "active case" as referred to in [22(a)] above was very time consuming. It required:
- (a) the review of all primary and secondary documents evidencing the investigation and produced as a result of the original investigation.
  - (b) making of decisions as to investigative tasks that we can and ought to undertake in order to move the investigation forward.
  - (c) carrying those investigative tasks.
  - (d) reviewing the material produced as a result of the investigative tasks and following up on any leads.
  - (e) preparing reports on the conduct of the investigation both during and at the completion of the investigation and either:
    - (i) close the investigation.
    - (ii) move the investigation forward to prosecution.
- 24 At or around the time that I joined the UHT, I became aware that Detective Sergeant Penelope Brown was undertaking an investigation into the death of Mr Scott



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Johnson, independent of the other teams within the UHT, as part of Strike Force Macnamir (**SF Macnamir**).

25 I was not involved with SF Macnamir at all. I suspect that e@glei would have listed me as being involved SF Macnamir as I was a co-ordinator in the UHT. I embrace Mr Willing's evidence referred to in [337] of Counsel Assisting's Submissions. I do not recall verifying any products on e@glei in relation to SF Macnamir. Should SF Macnamir have required my assistance, I would have been available, but this did not occur.

26 The terms of reference for Strike Force Neiwand (**SF Neiwand**)<sup>1</sup> was established to re-investigate the suspicious disappearance and death of Mr Giles Mattaini from Bondi on or around 1 September 1985; the suspicious disappearance and death of Mr Ross Bradley Warren from Bondi on 22 July 1989; and the suspected murder of Mr John Alan Russell at Bondi on 23 November 1989.

27 At the time I joined the UHT, I was not told why SF Neiwand had been established.

28 When I join the UHT, I was assigned to SF Neiwand as a co-ordinator.

29 Detective Sergeant Morgan (**DS Morgan**) and Detective Senior Constable Michael Chebl (**DSC Chebl**) had been working on SF Neiwand for some time prior to my arrival in the UHT.

30 At the time of my arrival in the UHT and throughout the conduct of SF Neiwand I formed the following views of DS Morgan and DSC Chebl:

- (a) DS Morgan was an experienced investigator with about 15 years in the Homicide Squad.
- (b) DSC Chebl was an experienced investigator, engaged and enthusiastic about what he was doing.

31 I trusted the judgment of both DS Morgan and DSC Chebl.

Paragraph [642]

32 I consider the description of the manner in which SF Neiwand was conducted is accurate.

33 This methodology is common practice and led to 12 successful outcomes in the time I was attached to the UHT. SF Neiwand's re-investigation of the cases it sought to

<sup>1</sup> Exhibit 6, Tab 017, SCOI.74884



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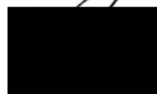
solve were, in many ways, subject to the quality of the conduct of the original investigations.

Paragraph [647]

- 34 At the time that I had joined SF Neiwand investigations into the unsolved cases of Mr Mattaini, Mr Warren and Mr Russell were well underway.
- 35 As part of my role, I acted as a sounding board and discussed strategies for various investigative tasks to be undertaken with members of SF Neiwand. As a starting point for historical matters, as I say above, all original investigations are reviewed to understand what evidence and leads are present before continuing further investigations.
- 36 I was not aware of the 116 POIs in the spread sheet prepared by DS Brown when I joined the UHT. I first became aware of this when reading Counsel Assisting's Submissions.
- 37 I recall very soon after I joined the UHT, in March 2017, I was told by the team, principally DSC Chebl, that any further targeting of the POIs subject of Operation Taradale would have a very low likelihood of success.
- 38 In addition, the main POIs had participated in giving evidence at the Taradale Inquest. This rendered any further targeting of those groups difficult (including because the nature of the evidence given in open court and the notice to them of police interest in their activities and possible involvement in these matters). The team continued to review the Taradale Inquest material, but the focus of SF Neiwand was on the background and the last movements of Mr Mattaini, Mr Warren and Mr Russell.
- 39 I accept that I could have asked those conducting SF Neiwand to change that decision. I did not do so. I accepted that advice and agreed with the decision.
- 40 In making the decision to undertake such a wide scale operation, the decision to deploy such resources must be made while weighing up the probative value of the evidence that might have been collected by such an operation. The decision not to pursue the targeting of the Taradale POIs had been made prior to my involvement with SF Neiwand. At the time I joined the UHT, I did not regard the targeting of the Taradale POIs to be an effective deployment of the resources of the UHT.

Paragraph [657]

- 41 At the time I joined the UHT, and shortly thereafter where I made the note referred to in Counsel Assisting's Submissions, SF Neiwand had been well established.



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- 42 A review of the original investigation by former Detective Sergeant Kenneth Bowditch was first undertaken. Steps ordinarily taken by investigators, such as canvassing the area, had not been conducted during the original investigation. That omission limited the investigatory leads available to SF Neiwand.
- 43 Inquiries were undertaken with Mr Warren's associates, concluding that there was no specific link between his disappearance and a homicide. Forensic testing of a number of items (DNA and fingerprints), including Mr Warren's licence, was undertaken. The only result was a weak DNA profile on Mr Warren's licence developed, but that profile remains unattributed to any person (and not linked to any person in police database records).
- 44 SF Neiwand focussed on the possibility that Mr Warren's death was caused by someone with whom he had been in a relationship. In NSW, legislative reform concerning the criminality of homosexual acts had only occurred in 1984 and that community attitudes (including suspicion of the NSW Police Force by members of the LGBTIQ community) had not yet entirely changed. Many members of the community were reluctant to assist police with their enquiries.
- 45 Mr Warren's cause of death could not be determined based on the investigations conducted and there remained three possibilities: homicide, suicide, and death by misadventure.
- 46 It was in this context that I made the comment referred to in [657] of Counsel Assisting's Submissions.

Paragraph [766] and [767]

- 47 On 18 October 2017, during a meeting with the SF Neiwand team, I suggested that the State Coroner's Office should be informed of SF Neiwand's findings and to enquire whether a further Inquest should be held.<sup>2</sup>
- 48 In the past I have approached the State Coroner's Office to get their views on matters and intended on doing the same on this occasion.
- 49 At that time, NSW State Coroner Barnes' retirement was imminent. I believed that this contact should be postponed until after his successor was appointed. This was because any further Inquest would have been conducted at the direction of the incoming NSW State Coroner. I was, in my view, appropriate that the incoming NSW

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<sup>2</sup> Exhibit 6, Tab 304 NPL.0115.0002.7430



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State Coroner review the matter when appointed. I had intended that the contact be followed up once a new NSW State Coroner had been appointed.

- 50 I should have followed up to ensure contact with the NSW State Coroner was made after the new NSW State Coroner had been appointed.

Paragraphs [772] to [782]

- 51 Following conclusion of SF Neiwand's work, a post operation assessment (**POA**) was written by DSC Chebl. Before I reviewed the POA, I understood that DS Morgan had reviewed it.
- 52 I reviewed and edited the material summarised by DSC Chebl and DS Morgan – it was an iterative process. I read the information entered into the POA and completed the 'Key Findings' section.
- 53 The experience and expertise of all members of the SF Neiwand was relied upon throughout the conduct of SF Neiwand.
- 54 In [776] some reference is made to a distinction between reinvestigation and review. To undertake a reinvestigation, it is necessary for the investigative team to comprehensively 're-review' all existing material, potential suspects, go through every statement, review transcripts, review all available forensic material, determine the availability of exhibits, records of interview, intelligence reports, running sheets and/or previous computer shells. The OIC creates a detailed summary akin to a statement they would provide for a Coronial Inquest. This occurs regardless of whether a review has occurred on a prior occasion. This enables investigators to determine lines of inquiry that are valid and those that can be progressed. As such, any investigation necessarily involves a review.
- 55 Moreover, the process of reviewing earlier investigations is a method of investigation that can yield dividends. Shortly prior to my retirement, a team I supervised in the UHT reviewed materials relevant to the 1987 biased related murder of Mr Raymond Keam at a beat in Alison Park at Randwick. Those investigations ultimately resulted in the conviction of Stanly Early (aka Sutton). The Crown case was built from a comprehensive review of the original 1987 investigation by my team. We were able to build upon a solid foundation from the original 1987 murder investigation.
- 56 As to [778], it is correct to suggest that from my arrival at UHT the "*Strike Force Neiwand investigators focused on victimology, associates and the last known movements of the three males*". The POA was completed based on the information reviewed from previous investigations into the three matters and the SF Neiwand



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investigations. My key findings were based on a review of the investigation summaries, and consultation with the Neiwand Team primarily Detective Chebl and DS Morgan.

- 57 As to [779], the findings outlined in the POA are a product of the investigator's summary, the completed review of previous investigations, and new investigative steps that had been taken. The findings concerning Mr Mattaini's matter aligned with those of the coroner. The findings concerning Mr Warren's and Mr Russell's matters considered homicide, and alternative possibilities to homicide.
- 58 I do not agree with Mr Willing's comment identified in Counsel Assisting's Submissions. The conclusion was not hopeless. A consideration of the sufficiency of the investigation must have regard to the material that was available to SF Neiwand. In that respect, the matter was not reported to police until 2002 – some 17-18 years after the event. There was no crime scene, no corpse, no other forensic evidence, no contemporaneous inquiries had been made due to the delay in reporting no known witnesses and difficulty in establishing lines of inquiry. No forensic search of Mr Mattaini's residence was conducted at the time and the matter was not investigated in 1985 even as a missing person. There was never a person of interest nominated for Mr Mattaini's matter. The suspect pool nominated in the Taradale Operation were aged between 11- 13 at the time of Mr Mattaini's disappearance and the Coroner expressly acknowledged they were far too young to have committed the crime. Police did approach Mr Musy [Mr Mattaini's partner] and attempted to obtain DNA from a living relative. That did not yield any workable lead.
- 59 I do not disagree with the comments at [780] and [781] of Counsel Assisting's Submissions.
- 60 As to [782], I reject the suggestion that there was any attempt on my part at secrecy in the conduct of SF Neiwand. It was my intention to ensure that the findings were referred to the NSW State Coroner which did not occur. That the reference was not made is deeply regrettable. However, it was only the product of oversight (and was uninfluenced by the background of Messrs Mattani, Russell and Warren.
- 61 There was no intention on my part to avoid the conclusions of the Coroner in the Taradale Inquest nor to attack Mr Page. As I state in [47], it had been my intention to refer the findings of SF Neiwand to the NSW State Coroner and to seek that consideration be given to holding a further Inquest.
- 62 To build a solid foundation for an investigation the team must review all previous investigations and complete a detailed chronology. Most of our success in unsolved

  
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homicide investigations relied upon the content and quality of the original investigations. In my experience, the vast majority of successful reinvestigations have a suspect clearly linked to the offence, have been initially investigated as a homicide, and the UHT has completed that investigation.

63 At no time was I aware of officers in the UHT who appeared to be motivated in the discharge of their duties by considerations of personal bias or preference. Had I been aware of such motivation, I would have counselled such officers and or commence a conduct management plan.

Signature:



Name:

Stewart Leggat

Date:

15 September 2023