

SPECIAL COMMISSION OF INQUIRY INTO LGBTIQ HATE CRIMES

SUBMISSIONS ON BEHALF OF JOHN LEHMANN

1. John Lehmann is an officer who spent his entire working life serving the people of NSW in his capacity as a police officer. For the majority of his 34 years of service in the NSWPF, he was a Detective. Mr Lehmann deserves the respect which comes from faithful and diligent service of the public. He does not deserve to have his reputation tarnished by unsupported assertions regarding improper motives during his time as a DCI in the Unsolved Homicide Team (UHT).¹
2. Importantly, CA has not submitted that Mr Lehmann has either lied or engaged in misconduct.²
3. John Lehmann has now had an opportunity to give evidence. He gave cogent and consistent evidence. Importantly, the 2013 Australian Story interview has been explained. Lehmann said on Australian Story:

"The case is with the Unsolved Homicide Team, having been referred to by the Coroner.

I won't comment on what stage the investigation is at.

Certainly we haven't closed the books on this case, it's an open case.

And to that end, we've also applied for a monetary reward ... "

4. There has been criticism aimed at Lehmann for his choice of words. Such criticism is not warranted.
5. The Johnson case was still with the UHT in 2013.

¹ CS [627].

² CA Supplementary Submissions [81].

5. The Johnson case was still with the UHT in 2013. The case had been given a ranking of 14/60 in terms of the Review Prioritisation form which was being used in the UHT.
6. No one has said 14/60 was not a fair and accurate reflection of the status of the evidence and investigation file at that time.
7. It is entirely appropriate that Mr Lehmann did not comment on the stage of the investigation when being interviewed for Australian Story. To do so would have involved a statement such as: "the NSWPF are currently stumped and have no fresh or active leads on the Johnson murder." Such statements would only ever give comfort to POIs who may have been involved and disclosed that NSWPF had no leads at the time.
8. Furthermore, the investigation was ongoing. Where there are no active leads in unsolved homicide cases one of the only arrows in the quiver is to offer a monetary reward. Offering a monetary reward motivates people to come out of the woodwork if they have knowledge relating to an unsolved case.
9. As it transpired in the Johnson case, once the reward was set at \$2,000,000 Mr White now ex-wife found herself quite motivated to assist the NSWPF with information she had.
10. The next line of "... we haven't closed the books on the case, it's an open case" is true and correct and is not deserving of criticism.
11. The case had not been closed. Unsolved cases were not and are not closed until the person who committed the crime is convicted or located. Until then the unsolved cases remain open.
12. As Mr Lehmann said at T6073:

"Q. Designed to give an impression other than what was actually happening?"

A. No, no. My words - the words that I used were based on my belief or my assertion that we never closed the books on unsolved homicide cases, no matter how old they are or how little evidence we have available."

And at T6074:

"Q. And that is the sort of problem that I'm indicating to you as well - that it's really, in substance, contrary to the reality, isn't it, for you to say the case is open? That's not really what was happening, was it?"

A. Certainly I wasn't thinking about the impression that words would have left on people viewing that program. intention was to basically explain that unsolved, difficult, challenging cases, like this one, are never closed. It's in that sense, it remained an open case."

13. At CAS [328] a position is taken regarding the Australian Story interview that "the impression that the UHT were actively working on the Johnson case, that was "not right". That appears in the evidence of Mr Willing also. When looked at through the prism of commonsense it is clear the UHT were doing what they could with the very limited material they had. They were not closing the case but rather were seeking a monetary reward to try and open new lines of enquiry. Mr Lehmann did not state for example that the full resources of the NSWPF were being deployed on the case.

14. Alicia Taylor who spent time in unsolved homicide gave the following evidence at T5934:

"Q. You spent some time in Unsolved Homicide?"

A. I did.

Q. And it was sometimes the case that if there were no active leads or no leads that looked promising, sometimes a monetary reward would be applied for so that new leads could be gathered or obtained so that further inquiries could be undertaken?

A. That's correct.

Q. And in that sense, the case would not have been a closed case, would it?

A. It still remains unsolved.

Q. It remains unsolved, but in terms of it being open or closed, if you're applying for a monetary reward, trying to find other people that might be able to assist with the investigation, would it follow that it's still an open case?

A. It would follow."

- 15 .The Johnson case was still open. Mr Lehmann did not misspeak nor did he seek to mislead. If people gained some sort of impression then that simply shows that the English language is at times not precise. Could Mr Lehmann have been more precise? Arguably he could have. Does he deserve to be criticised for saying something which was still correct? Absolutely not.
16. It must be remembered that the UHT had applied for a monetary reward to be offered in the Johnson case. That was an active step they were taking to try and obtain new leads and new lines of enquiry.
17. Monetary rewards are often used when there are no other steps which can be taken in the investigation. Monetary rewards are utilised to generate new leads or new information.
- 18.In relation to Australian Story, there should be no criticism for Mr Lehmann and the words he used.

The issues paper

19. CAS appears to criticise Mr Lehmann at CAS [345] for his “strong views” as expressed in the Issues paper of 25 September 2013. The term “strong views” is not correct. DCI Lehmann had looked through the matters and the evidence and formed a view that 8 of the 30 were possible or probable gay-hate murders. It is not as though he denied the existence of the phenomenon of gay-hate related murders. It is not that he said none of the 30 cases were gay hate related. He did his job in an objective and reasonable fashion. It is now the case that this Inquiry has made significantly similar findings in relation to the 8 cases identified of the 30 were possible or probable gay-hate related³. The similarity is striking and it does away with any case theory that Mr Lehmann was either biased or otherwise dismissive of the phenomenon.

20. Furthermore, the identification by the SMH of a potential 30 gay hate related murders was in fact an exaggeration. It was not based in fact and was undertaken to sensationalise the issue. The fact that this Inquiry has largely made similar findings to Mr Lehmann on the 30 cases demonstrates this.

21. There should therefore be no criticism of Mr Lehmann regarding the issues paper.

Record Keeping

22. It has been evident throughout this Inquiry that the record keeping by the NSWPF in the pre-digital age was not satisfactory. The UHT was often in a position where records could not be found. It was an issue identified by Mr Lehmann which he brought to the attention of his Commander.

23. Mr Lehmann also set about writing to each Local Area Command (now known as Police Area Commands) to request that they undertake physical searches of their respective stations to see if old files, exhibits or other potential evidence

³ Willing Submissions [97-98].

could be located. Such a task demonstrates that Mr Lehmann was a pro-active and diligent Detective within the UHT and NSWPF generally.

Pamela Young/Lateline

24. Lateline and the issues arising regarding Ms Young, the Media Unit, Ms Alberici and Mr Willing do not relate to Mr Lehmann and no submissions are made regarding same.

Other matters

25. Ultimately the pressure brought to bear by Steve Johnson meant that his brother's unsolved case was given priority over other unsolved cases. Mr Lehmann was an officer within the NSWPF and when directed by a more senior officer to give a case priority it was his obligation to follow that direction.

26. DCI Leggatt gave evidence that priority would be given to the cases with a higher solvability rating. He said (at T5941):

"Q. And is that something different from "priority"??

A. No, not at all. Priority - the priority would be the most solvable case to be presented and to be reinvestigated."

27. It is clear that there were many other cases with a higher solvability rating than the Johnson case. It is a matter for the Inquiry whether political pressure is appropriate to have cases given priority despite their solvability being significantly less than other unsolved cases.

28. Importantly both Mr Lehmann and Ms Young gave evidence that at times officer from the UHT would be redirected to perform critical incident duties or to participate on other strike forces. Such depletion of resources had an impact on the UHT and the manner in which it could complete investigations. Again this is not said critically it is simply adverted to to demonstrate that there were a multitude of factors which at times hampered the ability of the UHT to obtain finality in some investigations.

The first case solved by the UHT.

29. The Inquiry heard from Mr Lehmann that the first case solved by the UHT related to a gay man who was bashed to death in Woolloomooloo⁴.

30. The Flores case was solved as a result of biological remnants being found under the deceased's fingernails. In 1991 that material was not able to be DNA tested. By 2007 however when the UHT was undertaking reviews a match was able to occur with the DNA of the murderer, Paul Armstrong.⁵

31. The Flores case is a classic example of the types of cases UHT tried to find. A case where there was product which could be subject to new forms of testing due to technological advancements. It also demonstrates that the UHT did solve cases involving homosexual men and demonstrates there was no bias held by UHT relating to such cases.

32. Finally, Mr Lehmann gave his view on whether the UHT team was working against the theory of gay hate bias and against the findings of Coroner Millidge. In Mr Lehmann's words such a suggestion was "scurrilous", "totally wrong" and offensive.⁶ From his oral evidence that was clearly the case and the evidence below bears out the truth.

33. At T6109 he gave the following evidence:-

"Q. Did anyone senior to you suggest to you what the goal of Strike Force Neiwand should be?

A. No, not at all

Q. What did you understand the objective was to be?

A. To investigate as thoroughly as possible those deaths, those homicides and hopefully identify persons responsible and bring them ultimately to justice. That was the clear direction, the clear and sole purpose.

⁴ T6112

⁵ T6112-6113

⁶ T6109

THE COMMISSIONER: So in other words, to support the findings of Coroner Milledge and bring those who she thought were guilty or likely guilty to justice?

A. I would agree with that."

34. At no time was it put to Mr Lehmann that the above evidence was untrue. Mr Lehmann served with distinction. Was dedicated to his office in the NSWPF. His service to the NSW public for over 30 years should not be the subject of adverse findings.

Darien Nagle

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23 October 2023