



Special Commission of Inquiry into LGBTIQ hate crimes
Statement of Francesca Lilly
5 February 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 (“the Inquiry”) as a witness. This statement has been prepared from my own knowledge and also from perusing the records of the Inquiry. The statement is true to the best of my knowledge and belief.

1. My name is Francesca Lilly. My address is known to the Special Commission of Inquiry.
2. I am employed as a Solicitor by the Special Commission of Inquiry into LGBTIQ hate crimes.
3. In the course of my duties, I have reviewed and conducted inquiries in relation to the death of Russell Payne, who died between 30 January and 2 February 1989 at Inverell, NSW. The information contained in this statement is true based on my own knowledge, and from documents in the possession of the Inquiry relevant to Mr Payne.

Request for coronial file

4. On 15 June 2022, the Inquiry issued a written request to the Registrar of the Coroners Court of NSW at Lidcombe to obtain the coronial file in relation to the death of Mr Payne. Lidcombe Coroners Court answered the request on 1 August 2022, and advised that files regarding Mr Payne’s death were held at Inverell Local Court.
5. On 12 August 2022, a request was issued to Inverell Local Court. Inverell Local Court provided Mr Payne’s coronial file to the Inquiry on 19 August 2022.

Summons for police files and documents

6. On 18 May 2022, a summons to the NSW Police Force (**NSWPF**) was issued for, *inter alia*, the investigative file in relation to the death of Mr Payne (summons NSWPF1). An electronic folder of material in relation to Mr Payne was produced on 12 August 2022.
7. On 25 August 2022, a summons the NSWPF was issued for all NSWPF records in relation to, *inter alia*, Strike Force Parrabell (summons NSWPF12). This material was produced in tranches between 9 September 2022 and 18 November 2022.

Summons to Births, Deaths and Marriages

8. On 30 September 2022, the Inquiry issued summons BDM4 to the NSW Registry of Births, Deaths and Marriages for the death certificate of Mr Payne.

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9. From this summons, the Inquiry learned that Mr Payne's name at birth was Russel Phillip Adnum.

Request to Hunter New England Local Health District

10. On 7 October 2022, the Inquiry issued summons HNELHD01 to Hunter New England Local Health District, seeking all records in relation to Russell Phillip Payne, also known as Russel Phillip Adnum. This summons was returnable by 10:00am on 21 October 2022.

11. On 13 October 2022 summons HNELHD01 was complied with, and the Clinical Information Department at John Hunter Hospital advised that no patient matching the description provided could be identified. The summons and response are included in the tender bundle.

12. On 17 October 2022 I contacted Hunter New England Local Health District via email to confirm that searches had been done for all variations of Mr Payne's name.

13. On 18 October 2022 the Medico Legal Clinical Information Department advised that searches had been conducted for the names Russell Phillip Payne, Russell Phillip Adnum, Richard Phillip Payne, Phillip Payne and Phillip Adnum with the dates of birth and death that came near to those obtained from Mr Payne's death certificate.

Professional opinions obtained

14. By letter dated 31 October 2022, the Inquiry briefed forensic pathologist Dr Linda Iles to provide an independent review of the autopsy report prepared by Dr Davison. The Inquiry obtained an expert report by Dr Iles on 11 November 2022, which is included in the tender bundle.

Request to Department of Forensic Medicine

15. On 3 November 2022 I contacted the Department of Forensic Medicine ("DOFM") via email, to enquire whether DOFM was in possession of the histological slides in relation to this matter, and noting the autopsy date, location and practitioner.

16. On 7 November 2022 DOFM advised that Mr Payne was unable to be identified in DOFM's records, and they did not hold the forensic slides. DOFM advised that Newcastle Forensic Medicine may be able to assist, as they managed country cases, and otherwise recommended that I contact Inverell District Hospital.

17. On 8 November 2022 I spoke to a representative of Newcastle Forensic Medicine via telephone, who advised that no records were held for Russell Payne, or variations on that name.

18. I subsequently attempted to contact Inverell District Hospital via telephone, but was unable to make contact with their records department. I subsequently confirmed that the Inverell District Hospital is part of Hunter New England Local Health District. As that Local Health District had advised no records were held for Mr Payne, no further attempts were made to contact Inverell District Hospital.

Information from Michael Burge

19. On 4 August 2022, journalist Michael Burge contacted the Inquiry by way of email to James Herrington, formerly Special Counsel at the Inquiry. Mr Burge advised that he had been

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researching the death of Mr Payne as part of his journalistic work, and had collated various pieces of information, which he offered to provide to the Inquiry. Mr Burge also advised that he had that week met with Mr Payne's family.

20. On 5 August 2022, Mr Herrington accepted Mr Burge's offer to provide the material he had obtained. On 10 August 2022 Mr Burge provided via email three documents:
 - a. Two pages of notes detailing Mr Burge's contact with Mr Payne's family and landlord, a local neighbour, and a Catholic Church care facility;
 - b. A funeral order; and
 - c. A copy of the Commonwealth of Australia Gazette dated 28 April 2000, with a notice by the Australian Securities Commission of intention to deregister defunct companies.
21. Mr Burge also provided a single PDF file bundle of documents in relation to Mr Payne's death and subsequent police and coronial investigations, containing:
 - a. Statement of John Malcolm Wills, dated 2 February 1989;
 - b. Medical Report Upon the Examination of the Dead Body, dated 3 February 1989;
 - c. Statement of Dr Alan Davison, dated 6 February 1989;
 - d. Statement of Detective Sergeant Patrick Bernard Moss, dated 3 March 1989; and
 - e. Notice Dispensing with Inquest dated 18 May 1989.
22. A further document in this email included a scanned copy of an article entitled 'Murder Inquiry Continues', believed to be from *The Inverell Times*.
23. Mr Burge stated in the notes he provided that he met with Mr Payne's family on 2 August 2022, specifically Mr Payne's sister, Julie Kilgour, her former husband Ray Kilgour, and their daughter Lou. Also present was Terry Forster, who was Ms Kilgour's first husband and current partner.
24. Mr Burge advised that he had received consent from the family members with whom he spoke to provide their contact details to the Inquiry.
25. According to Mr Burge's notes, Mr Payne's family advised that they were estranged from Mr Payne at the time of his death, and reportedly described him as "a strange kettle of fish" who "kept to himself".
26. Julie and Ray Kilgour believed Mr Payne resided at an address on Warialda Street, and not at Henderson Street. They advised Mr Burge that they collected Mr Payne's personal effects from Warialda Street following his death, and that this residence looked un-lived in. They also noted that several of Mr Payne's possessions were missing.
27. Mr Burge's notes state that Mr Forster advised Mr Burge that he visited Inverell every fortnight or so in 1988-1989, and often saw Mr Payne. Mr Forster reportedly advised Mr Burge that Mr Payne "came out as gay" to him approximately one year prior to his death. Mr Burge notes that none of the family had a negative reaction to this information, and expressed support and understanding of that possibility.

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28. On 31 January 2023, the Inquiry obtained a statement from Mr Burge, which is included in the tender bundle relating to Mr Payne's death.

Information from Terry Forster

29. On 30 January 2023 I spoke via telephone with Mr Forster, who confirmed that he was married to Julie Kilgour for some years in the 1970s. He advised me that he continued to visit Mr Payne after his separation from Ms Kilgour, and would visit him in Inverell when he visited for fortnightly shopping trips in 1988-89.

30. Mr Forster advised that on one occasion Mr Payne said to him words to the effect of: "Did you know I was gay?" Mr Forster replied that he didn't. Mr Forster told Mr Payne that he was accepting of his sexuality, and their friendship continued as it had done previously.

31. Mr Forster confirmed that he did not know of any partner of Mr Payne's, nor did they every discuss Mr Payne's sexual preferences, such as masochism.

Signature: 

Name: Francesca Lilly

Date: 5 February 2023