



Special Commission of Inquiry into LGBTIQ hate crimes

26 September 2022

Professor Alison Jones
Deputy Vice-Chancellor (Health and Communities) and
Executive Dean, Faculty of Science, Medicine and Health
University of Wollongong NSW 2522

By email: [REDACTED]

Dear Professor Jones

Special Commission of Inquiry into LGBTIQ hate crimes: Expert report on death of Andrew Currie

I assist the Honourable Justice John Sackar in the Special Commission of Inquiry into LGBTIQ hate crimes ("the Inquiry"). Bill de Mars, of counsel, and Caitlin Healey-Nash, solicitor, are assisting the Commissioner in his consideration of the death of Andrew Currie.

Thank you for your willingness to provide an expert report to the Inquiry from the perspective of a clinical toxicologist.

The Inquiry

By way of background, on 13 April 2022 the Governor of NSW, by Letters Patent, issued a commission to his Honour to inquire into and report on historical LGBTIQ hate crimes. Specifically, the Letters Patent require his Honour to inquire into and report to the Governor and Premier on the following matters by 30 June 2023:

- A. The manner and cause of death in all cases that remain unsolved from the 88 deaths or suspected deaths of men potentially motivated by gay hate bias that were considered by Strike Force Parrabell; and
- B. The manner and cause of death in all unsolved suspected hate crime deaths in New South Wales that occurred between 1970 and 2010 where:
 - i. The victim was a member of the lesbian, gay, bisexual, transgender, intersex and queer (LGBTIQ) community; and
 - ii. The death was the subject of a previous investigation by the NSW Police Force.

Request for expert opinion

Mr Currie's death is one of the unsolved deaths which his Honour is inquiring into pursuant to item A of the Letters Patent. On 13 December 1988, Mr Currie's body was located in a toilet block in Nolan Reserve, North Manly, NSW. It appeared that Mr Currie died from a drug overdose. No coronial inquest was held, and Mr Currie's death certificate recorded the cause of his death as "poisoning by a combination of pentobarbitone, codeine, methadone and morphine".¹

I am instructed to request that you prepare a written report in relation to Mr Currie's death to assist the Inquiry. It is requested that you provide your report by no later than **26 October 2022**. In the event that you require further time to prepare your report, please advise Ms Healey-Nash as soon as possible.

Background

To assist you in the preparation of your report, you are provided with the following background information in relation to Mr Currie. This information is provided by way of summary only, and should not be treated as a comprehensive record or a substitute for your own review of the materials.

1. Mr Currie was born on 5 August 1959 in Manly. At the time of his death, he was 29 years old. Mr Currie lived at [REDACTED] Waine Street, Harbord (since renamed "Freshwater"), with his mother Margaret Smith ("the Currie residence").
2. According to NSW Police Force ("NSWPF") records, Mr Currie was a known chronic drug user. Currie had frequently come under police notice for drug use and had been taken to hospital on several occasions for overdosing.² On 14 October 1988, two months prior to his death, Mr Currie was arrested after officers found an unlabelled bottle of Nembudeine on his person. According to attending officers, Mr Currie was "well effected by a drug" and said that he had consumed 3-4 tablets about two hours earlier.³

Circumstances of death

3. At around 8.30pm on 12 December 1988, Mr Currie visited his friend [REDACTED] in Manly Vale. According to [REDACTED] Mr Currie appeared to be under the influence of a drug. His speech was slow and slurred. Mr Currie told [REDACTED] that he had taken 25 Nembudeine tablets that day but had no more in his possession. [REDACTED] then patted Mr Currie's pockets and heard a "rattle", after which Mr Currie told him that he in fact had three tablets on him. [REDACTED] suspected that there were more than three tablets judging by the sound of the "rattle".⁴
4. At around 10.00-11.00pm, Mr Currie left [REDACTED]'s home.⁵ Mr Currie did not return home that night. The logical route between [REDACTED]'s home in Manly Vale and the Currie residence took Mr Currie past the toilet block in Nolan Reserve. According to police, the toilet areas around District Park (which incorporates Nolan Reserve) were a regular meeting place for Mr Currie and [REDACTED] to use drugs.⁶

¹ Death certificate of Andrew Currie (Tab 4).

² Statement of Constable Phillip Dean Greenhalgh dated 13 December 1988, at [5] (Tab 12); Crime Information and Intelligence System report for Andrew Currie (Tab 13).

³ Fact Sheet (Goods in custody and other offences) dated 14 October 1988 (Tab 14).

⁴ Second statement of [REDACTED] dated 13 December 1988, at [1] (Tab 16).

⁵ Ibid.

⁶ Statement of Constable Greenhalgh, at [5] (Tab 12).

5. At 7.15am the next morning, 13 December 1988, [GB] and Ms Smith went looking for Mr Currie. [GB] found Mr Currie's body inside the toilet block in Nolan Reserve. Mr Currie was lying face down on the concrete floor "in a small amount of water on the ground". [GB] turned Mr Currie over onto his back, left the toilet block and reported the death at Manly Police Station.⁷ Police attended shortly afterward. They observed that Mr Currie's face was covered in bile or body fluids, that he had a few grazes to his face and that his teeth appeared to be dislodged.⁸ No drugs or drug paraphernalia were located on or near Mr Currie.⁹

Post-mortem investigations

6. The post-mortem report found "no significant injury on the body" and no needle puncture wounds. There was a mass of dark brown to dark green material in the nostril region, similar to that present in the stomach. This material was thought to have been regurgitated and was also present in the "oro-pharynx", though had not caused gross obstruction to the air passage.¹⁰
7. The toxicology results recorded a combination of the following drugs:¹¹
- In the liver: 43mg/kg Pentobarbitone, 11mg/kg Codeine, 0.36mg/kg Methadone and 0.26mg/kg Morphine. Paracetamol was also detected but not quantified.
 - In the stomach: 42mg Pentobarbitone, 47mg Codeine and 0.1mg Methadone.
 - In the blood: 12mg/L Pentobarbitone, 3.4mg/L Codeine, 0.12mg/L Methadone and 0.07mg/kg Morphine. No alcohol was detected.
 - In the urine: 5.8mg/kg Morphine.
 - In the bile: 17mg/kg Morphine.
 - 91mmol of chloride ion per litre was detected in blood from the left side of the heart and 77mmol from the right side.
8. The pathologist opined that the direct cause of death was "poisoning by a combination of pentobarbitone, codeine, methadone and morphine".¹²

Materials with which you are briefed

For the purpose of preparing your report, you are briefed with the documents in the **enclosed** index.

We have attempted to select the documents most relevant to the questions you are asked to address in your report, set out below. However, we also **enclose** a list of the additional materials in the draft brief of evidence that have not been provided to you. Please contact Ms Healey-Nash if you believe that any of these additional materials would be of assistance in preparing your expert report.

⁷ First statement of [GB] dated 13 December 1988, at [1]-[2] (**Tab 15**).

⁸ Statement of Constable Greenhalgh, at [2] (**Tab 12**). NB, there is no mention made of this in the autopsy report.

⁹ See description of property located in statement of Constable Greenhalgh, at [3] (**Tab 12**).

¹⁰ Autopsy report dated 13 February 1989 (**Tab 3**).

¹¹ Toxicology report dated 2 February 1989 (**Tab 2**).

¹² Autopsy report (**Tab 3**).

Matters to be addressed in your report

I would be grateful if you could address the following matters in your report, having regard to the material with which you are briefed and to the extent that they are matters which fall within your expertise:

1. Was the level of Pentobarbitone, Codeine, Methadone, Morphine and/or Paracetamol detected in Mr Currie's blood and organs likely to have been lethal, either alone or in combination with each other?
2. Which, if any, of the substances found in Mr Currie's toxicology results can be accounted for by the ingestion of Nembudeine prior to his death?
3. Which, if any, of the substances found in Mr Currie's toxicology results suggest separate ingestion of substances? Are you able to provide an opinion on the time period and/or manner of ingestion of these substances?
4. What is the significance, if any, of the chloride ion detected in Mr Currie's blood results?
5. Please provide any other comment, within the area of your expertise, regarding the likely cause of Mr Currie's death.

The above questions are not intended to be exhaustive. Accordingly, if there is any matter arising from the circumstances of Mr Currie's death within your area of expertise on which you wish to express an opinion and which will be of assistance to the Commissioner, please do so.

I also request that you please attach a detailed curriculum vitae to your report.

Expert Code of Conduct

I **enclose** a copy of the Expert Code of Conduct and ask that you read it carefully. In the report you should acknowledge that you have read the Code and agree to be bound by it. I suggest the following form of words be included in the body of your report:

"I, Professor Alison Jones, acknowledge for the purpose of Rule 31.23 of the Uniform Civil Procedure Rules 2005 that I have read the Expert Witness Code of Conduct in Schedule 7 to the said rules and agree to be bound by it."

Fees

You are engaged at a rate of **\$350 per hour** to review the briefing material and prepare your expert report.

It is essential to comply with Australian Taxation Office requirements that any invoice issued be addressed to the business name: NSW Crown Solicitor's Office. Please email your invoice directly to csocreditors@cso.nsw.gov.au (copying in Ms Healey-Nash).

If an amount for GST is to be included in your fee, you will need to cite your ABN and either:

- Indicate that the fee is inclusive of GST; or
- Separately indicate the amount of GST charged.

If your fee is more than \$50.00 and no ABN or compliant invoice is supplied, I am required to withhold 48.5% of the fee on account of GST.

Deed of Confidentiality

I have also **enclosed** a deed of confidentiality with respect to your role as an expert to the Inquiry. I would be grateful if you could read and return the signed deed at your earliest convenience.

Please do not hesitate to contact Ms Healey-Nash on (02) 9372 8497 or caitlin.healey-nash@specialcommission.nsw.gov.au if you have any queries in relation to this matter.

Thank you for your consideration and assistance.

Yours faithfully



Caitlin Healey-Nash
Senior Solicitor
for Crown Solicitor

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INDEX TO EXPERT BRIEF

(as at 26 September 2022)

Tab	Document	Date	Reference No
VOLUME 1			
Formal Documents			
1.	P79A – Report of Death to Coroner	13 December 1988	SCOI.00016.00010
2.	Toxicology report	2 February 1989	SCOI.00016.00012
3.	Autopsy report	13 February 1989	SCOI.00016.00011
4.	Death certificate	5 January and 6 March 1989	N/A
Photographs			
5.	Crime scene photographs [sensitive]	Undated	N/A
Material from Department of Forensic Medicine (extract)			
6.	Histopathology sheet	Undated	N/A
7.	Cause of death record	Undated	N/A
8.	AIDS/Hepatitis B screening	14-16 December 1988	N/A
9.	HIV Antibody Screen	15 December 1988	N/A
10.	Hepatitis B Antigen Screen	16 December 1988	N/A
11.	Interim post-mortem report	17 December 1988	N/A
NSW Police Force statements and other material			
12.	Statement of Constable Phillip Dean Greenhalgh (officer in charge)	13 December 1988	SCOI.00016.00007
13.	Crime Information and Intelligence System report for Andrew Ronald Currie	13 December 1988	SCOI.00016.00021
14.	Fact Sheet (Goods in custody and other offences) – Andrew Ronald Currie	14 October 1988	SCOI.00016.00022
Statements and interviews of witnesses			
15.	Statement of [GB]	13 December 1988	SCOI.00016.00008
16.	Second statement of [GB]	13 December 1988	SCOI.00016.00009

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ADDITIONAL MATERIAL

(as at 26 September 2022)

Tab	Document	Date	Reference No
VOLUME 2			
Formal Documents			
17.	Patient dead on arrival form (Balmain Hospital)	13 December 1988	SCOI.00016.00015
18.	Identification of deceased statement	13 December 1988	SCOI.00016.00016
Material from Department of Forensic Medicine			
19.	P79A Report of Death to Coroner (with handwritten annotations)	13 December 1988	N/A
20.	Post-Mortem Examination Order	17 December 1988	N/A
21.	Notice of Disposal of Autopsy Specimens on Completion of Toxicological Analysis	Undated	N/A
Material from Coroners Court of NSW			
22.	Running sheet entry	13 December 1988	SCOI.00016.00020
23.	Police prosecutors action cover sheet	Undated	SCOI.00016.00013
24.	Summary of death sheet	19 December 1988	SCOI.00016.00001
25.	Directions from Coroners Court to OIC to provide statements	19 December 1988	SCOI.00016.00002
26.	Letter from Margaret Smith to Coroners Court requesting copy of post-mortem report	18 January 1989	SCOI.00016.00003
27.	Letter from Coroners Court to Margaret Smith re request for copy of post-mortem report	18 January 1989	SCOI.00016.00004
28.	Letter from Coroners Court to Margaret Smith providing copy of post-mortem report	22 February 1989	SCOI.00016.00005



New South Wales Consolidated Regulations

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UNIFORM CIVIL PROCEDURE RULES 2005 - SCHEDULE 7

SCHEDULE 7 – Expert witness code of conduct

[\(Rule 31.23\)](#)

1 Application of code

This code of conduct applies to any expert witness engaged or appointed--

- (a) to provide an expert's report for use as evidence in proceedings or proposed proceedings, or
- (b) to give opinion evidence in proceedings or proposed proceedings.

2 General duties to the Court

An expert witness is not an advocate for a party and has a paramount duty, overriding any duty to the party to the proceedings or other person retaining the expert witness, to assist the court impartially on matters relevant to the area of expertise of the witness.

3 Content of report

Every report prepared by an expert witness for use in court must clearly state the opinion or opinions of the expert and must state, specify or provide--

- (a) the name and address of the expert, and
- (b) an acknowledgement that the expert has read this code and agrees to be bound by it, and
- (c) the qualifications of the expert to prepare the report, and
- (d) the assumptions and material facts on which each opinion expressed in the report is based (a letter of instructions may be annexed), and
- (e) the reasons for and any literature or other materials utilised in support of each such opinion, and
- (f) (if applicable) that a particular [question](#), issue or matter falls outside the expert's field of expertise, and
- (g) any examinations, tests or other investigations on which the expert has relied, identifying the person who carried them out and that person's qualifications, and
- (h) the extent to which any opinion which the expert has expressed involves the acceptance of another person's opinion, the identification of that other person and the opinion expressed by that other person, and
- (i) a declaration that the expert has made all the inquiries which the expert believes are desirable and appropriate (save for any matters identified explicitly in the report), and that no matters of

significance which the expert regards as relevant have, to the knowledge of the expert, been withheld from the court, and

(j) any qualification of an opinion expressed in the report without which the report is or may be incomplete or inaccurate, and

(k) whether any opinion expressed in the report is not a concluded opinion because of insufficient research or insufficient data or for any other reason, and

(l) where the report is lengthy or complex, a brief summary of the report at the beginning of the report.

4 Supplementary report following change of opinion

(1) Where an expert witness has provided to a party (or that party's legal representative) a report for use in court, and the expert thereafter changes his or her opinion on a material matter, the expert must forthwith provide to the party (or that party's legal representative) a supplementary report which must state, specify or provide the information referred to in [clause](#) 3(a), (d), (e), (g), (h), (i), (j), (k) and (l), and if applicable, [clause](#) 3(f).

(2) In any subsequent report (whether prepared in accordance with subclause (1) or not), the expert may refer to material contained in the earlier report without repeating it.

5 Duty to comply with the court's directions

If directed to do so by the court, an expert witness must--

(a) confer with any other expert witness, and

(b) provide the court with a joint report specifying (as the case requires) matters agreed and matters not agreed and the reasons for the experts not agreeing, and

(c) abide in a timely way by any direction of the court.

6 Conferences of experts

Each expert witness must--

(a) exercise his or her independent judgment in relation to every conference in which the expert participates pursuant to a direction of the court and in relation to each report thereafter provided, and must not act on any instruction or request to withhold or avoid agreement, and

(b) endeavour to reach agreement with the other expert witness (or witnesses) on any issue in dispute between them, or failing agreement, endeavour to identify and clarify the basis of disagreement on the issues which are in dispute.