



Special Commission of Inquiry into LGBTIQ hate crimes

SUBMISSIONS OF COUNSEL ASSISTING

6 February 2023

IN THE MATTER OF BRIAN WAYNE SCHMIDT WALKER

Introduction

1. These submissions are filed on behalf of Counsel Assisting the Special Commission of Inquiry into LGBTIQ hate crimes (**Inquiry**).

Summary of matter

Date and location of death

2. Mr Brian Walker died in the early hours of 23 July 1992, at the residence of Mr John Hokin in Burnett Street, Merrylands. He was 30 years of age (DOB: 17 April 1962).

Circumstances of death

3. Mr Walker had a friend called Kevin Leatham, who also lived in Burnett Street, Merrylands, and he visited Mr Leatham there on occasion.¹ At the time of his death, Mr Walker lived in Lockwood Street, Merrylands.²
4. According to Mr Hokin, he had met Mr Walker only days before Mr Walker's death. He told police at interview that he had only known Mr Walker for "one evening ... 2 days ago, just from afternoon after work till late evening".³
5. Mr Hokin told police in his interview that on 22 July 1992, at about 9pm, Mr Hokin was asleep in his house in Burnett Street when he was woken by Mr Walker. Mr Walker said he wanted to discuss some problems their mutual friend, Kevin Leatham, was having.⁴

¹ Statement of Paul Mumbler dated 23 July 1992, at [5], [8] (SCOI.11162.00040).

² Statement of Detective Sergeant Gary Fluke dated 15 October 1992, at [7] (SCOI.11163.00052); ERSIP Transcript of John Hokin dated 23 July 1992, at [A17] (SCOI.11163.00032).

³ ERSIP Transcript of John Hokin (n 2) at [A16].

⁴ Ibid at [A15].

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6. Mr Hokin said that they went to the backyard where they started drinking heavily. Mr Hokin claimed that at some point Mr Walker was “talking in a manner about sexual behaviour that I didn’t prefer and he touched me a few times on the leg and on the shoulder and I tried to ignore that as ... passively as I could because he had quite a bit to drink.”⁵ Later in the interview he said to police, “Did I mention that he kept touching my leg?”⁶ Mr Hokin stated that he asked Mr Walker to leave “again and again” who “had quite a bit to drink ... and was staggering quietly”, but Mr Walker “wasn’t happy about that.”⁷
7. Mr Hokin stated that Mr Walker picked up a shovel and swung it at him. He said that in the course of the ensuing struggle he “dropped down underneath and I put both my arms around his chest and I hung on and hung on and hung on.” The wrestle “went on and on and on for quite a long time because I ... had become very worn out and I was trying to talk to him as to what’s going on”.⁸ He said they were wrestling for “at least an hour”.⁹
8. During the struggle, according to Mr Hokin, Mr Walker also attacked him with a broken beer bottle. Craig and Julianne Donnelly were Mr Hokin’s neighbours. Mrs Donnelly says that at about 11.30pm she heard a bottle smash next door and some guy yelling out “get off me you fucking cunt. Clear off. Get out of here.” It sounded like someone was sitting on him. She then heard Mr Hokin say “didn’t I give you wine and cigars and you cut me to pieces”.¹⁰
9. The reason Mr Hokin gave during his police interview for holding onto Mr Walker for as long as he did was because he was frightened of Mr Walker. He said, “I was too scared to get up and run because I was overcome about the strength of this person and I just felt that the moment I let go I would ... be in trouble.”¹¹ Mr Hokin subsequently called out to Craig Donnelly for help. Mrs Donnelly states in her statement that “about 1.15am [she] heard John screaming out “Craig Help””.¹² However, Mr Hokin told police that calling out seemed to make Mr Walker “more aggressive”. He said that at that point Mr Walker used a square pole that held up an awning to get leverage. Mr Hokin started to worry because he was released from the “command position.”¹³

⁵ Ibid.

⁶ Ibid at [A22].

⁷ Ibid at [A15].

⁸ Ibid.

⁹ Ibid at [A21].

¹⁰ Statement of Julianne Donnelly dated 24 July 1992, at [6] (SCOI.11162.00082).

¹¹ ERISP Transcript of John Hokin (n 2) at [A15].

¹² Statement of Julianne Donnelly (n 10) at [8].

¹³ ERISP Transcript of John Hokin (n 2) at [A15].

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10. Mr Hokin said that he held Mr Walker's head to his stomach and was "holding [his] body weight on [Mr Walker]" until Mr Walker stopping moving.¹⁴ Eventually, Mr Hokin stated that he "made a quick move to [Mr Walker's] hand" but felt no pulse and "both his legs just [fell]". Mr Hokin stated that he got up and ran away from Mr Walker and made no attempts to revive him.¹⁵ Mr Hokin immediately ran and stopped a taxi and asked to be taken to Merrylands Police Station. This is confirmed by taxi driver, Ahmad Elsamad.¹⁶
11. Mr Hokin walked into the police station and said "I've had a fight with my mate. I think I've killed him." Constable Aaron Nash states that the front of Mr Hokin's shirt was open and he could see scratch marks on his body.¹⁷ His face was flushed, was breathing heavily and had grass clippings and dirt in his hair. He lifted up his jacket and another officer, Senior Constable Pledge, saw a number of cuts and lacerations to his stomach and torso. Mr Hokin said, "he's cut me up to buggery".¹⁸
12. Mr Hokin participated in an electronically recorded interview (**ERSIP**) where he asserted that he acted in self-defence to Mr Walker's actions of attacking him with a shovel and a piece of glass. The interview commenced at about 6.30am on 23 July 1992.¹⁹
13. Mr Hokin stated that during the altercation Mr Walker was cutting him with a "slicing" action "about the stomach and the back, lower left back" with a broken bottle.²⁰
14. Mr Hokin stated he was heterosexual and frightened by gay men. When asked if he had sex with Mr Walker, Mr Hokin answered "No way. That's what frightened me, because that frightens me when he started touching me, that's when I started getting worried and that's when I started watching him, just keeping an eye on him, looking this way and looking that way. They ... petrify me, those people, frighten me."²¹ The post-mortem noted that there was no evidence of injury to Mr Walker's penis or scrotum and no evidence of injury to the anal verge.²²
15. When Mr Walker was found, his "bib-and-brace" overalls were pulled down, and his jumper, shirt and singlet were pulled over his left arm and head exposing his chest.²³ Mr Hokin described how he believed Mr Walker's clothing became partially removed during the struggle.²⁴

¹⁴ Ibid at [A39].

¹⁵ Ibid at [A49]-[A50].

¹⁶ Statement of Ahmad Elsamad dated 1 August 1992, at [6]-[7] (SCOI.11163.00038).

¹⁷ Statement of Constable Aaron Nash dated 15 October 1992, at [4] (SCOI.11163.00051).

¹⁸ Statement of Constable Terence Pledge dated 24 July 1992, at [3]-[4] (SCOI.11163.00033).

¹⁹ ERISP Transcript of John Hokin (n 2) at [Q/A8].

²⁰ Ibid at [A44].

²¹ Ibid at [A58].

²² Post-Mortem Report of Dr Peter Ellis dated 8 September 1992, p. 5 (SCOI.11163.00048).

²³ Statement of Detective Senior Constable Mark Sweeney dated 30 September 1992, at [4] (SCOI.11163.00041).

²⁴ ERISP Transcript of John Hokin (n 2) at [A56].

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16. Mr Hokin described Mr Walker as having had quite a bit to drink. He was drinking wine from a large cup and he would have had five of those.²⁵ The certificate of analysis records Mr Walker's blood alcohol content as 0.216g per 100ml.²⁶ Mr Hokin said he had four or five cups of wine but was not affected.²⁷ A blood sample was taken from Mr Hokin at Westmead Hospital on 23 July 1992.²⁸ The sample was submitted to the Division of Analytical Laboratories, however it was clotted and therefore unsuitable for analysis.²⁹
17. Mr Hokin said that if Mr Walker had made some sort of a sign to say "look, I've had it" or "I'm going home", Mr Hokin would have said "well, get up carefully" but that never happened. Mr Walker kept fighting.³⁰
18. When asked what his intention was when holding Mr Walker, Mr Hokin said "to hold him down and call for help because I am petrified of what's going to happen to me because I'm on a bond. I must be of good behaviour ... that's why I yelled ... out to Craig as loud as I could."³¹
19. Mr Hokin also told police "If he hadn't have swung a shovel at me I'd be home asleep ... All I can say is that I've had those kind of people approach me many times in my life. I don't know why because I'm a ladies' man. I'm an entertainer. You can't be one of those and be an entertainer because the boss'll have you out."³²
20. Shortly after Mr Hokin arrived at Merrylands Police Station, early on 23 July 1992, Senior Constable Pledge and Constable Nash attended his home in Merrylands and found Mr Walker's body. Mr Walker was lying on his back and his legs were around a pole supporting the roof of the verandah.³³ There was a broken beer bottle about two metres from Mr Walker's head and near the bottle was a chair which had been knocked over. On the left-hand side of Mr Walker there was a "spade" on the ground.³⁴
21. Mr Hokin's account of events during his ERSIP was generally corroborated by other evidence, including the presence of a shovel at the scene, accounts given by Mr Hokin's next-door neighbours, the injuries to Mr Hokin and the report of both police and the forensic pathologist who noted on a

²⁵ Ibid at [A28].

²⁶ DAL Certificate dated 28 August 1992, at [3] (SCOI.11163.00049).

²⁷ ERSIP Transcript of John Hokin (n 2), at [A23].

²⁸ Statement of Detective Sergeant Hans Rupp dated 5 August 1992, at [14] (SCOI.11163.00029).

²⁹ DNA Certificate dated 14 January 1993, at [2] (SCOI.11163.00042).

³⁰ ERSIP Transcript of John Hokin (n 2) at [A39].

³¹ Ibid at [A65].

³² Ibid at [A67].

³³ Statement of Constable Terence Pledge (n 18) at [6]; Statement of Constable Aaron Nash (n 17) at [5].

³⁴ Statement of Constable Aaron Nash (n 17) at [6].

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scene examination that the “lower part of the body is astride an upright roof support.”³⁵ Mr Hokin also had numerous injuries to his torso.³⁶

22. Mr Hokin was subsequently charged with manslaughter at 7:03am on the same morning, 23 July 1992, following his participation in the ERSIP.³⁷
23. The evidence establishes that Mr Hokin suffered from serious psychotic mental illness. When experiencing a psychotic episode, he would become violent, paranoid and would have fixed delusions about “homosexuals”.³⁸ However, there is no evidence to suggest he was experiencing a psychotic episode at the time of Mr Walker’s death. He went to the police of his own free will.

Findings of post-mortem examination

24. The forensic pathologist who conducted the autopsy concluded that Mr Walker died as a result of an injury to the upper cervical (torn spinal ligament). The significant condition contributing to the death was “traumatic (crush) asphyxia and head injury.”³⁹

Persons of interest

25. Mr Hokin was a 1st class metal machinist who had been on an invalid pension for the past eight to nine months. He was divorced and living alone at the Burnett Street, Merrylands address. He was then aged 48. He had no real community ties. He had been unable to pay the electricity bill and it had been cut off as had the water. He cooked in the backyard. The bank had told him to sell the house.⁴⁰
26. At the time of Mr Walker’s death, Mr Hokin was subject to a four year good behaviour bond in relation to an offence of malicious wounding in 1991, and also to another bond for the offence of entering dwelling at night with intent to commit a felony, in 1990.⁴¹ In December 1991, following the charge of malicious wounding, he was admitted as an involuntary patient and assessed at the Cumberland Hospital by Dr R Joura.⁴²

³⁵ Post-Mortem Report of Dr Peter Ellis (n 22) p. 6.

³⁶ Photographs of Injuries to John Hokin taken on 23 July 1992 (SCOI.82116); Statement of Constable Terence Pledge (n 18) at [6].

³⁷ Charge Sheet for John Hokin dated 23 July 1992 (SCOI.11163.00062).

³⁸ Report of Dr Jennifer Anne Thompson, Consultant Psychiatrist dated 21 September 1992, p. 1 (SCOI.11163.00058).

³⁹ Post-Mortem Report of Dr Peter Ellis (n 22) p. 1.

⁴⁰ Report of Dr Jennifer Anne Thompson, Consultant Psychiatrist (n 38) p. 2.

⁴¹ *Ibid* p. 3; Criminal History of John Hokin dated 25 May 1992 (SCOI.11162.00031).

⁴² Report of Dr R Joura dated 7 February 1992, p. 1 (SCOI.11163.00056).

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27. At Mr Hokin's committal hearing for the charge of manslaughter of Mr Walker, the pre-sentence reports in relation to each of those previous two matters were tendered.
28. The report dated 25 May 1992 (**May report**) by Community Corrections Officer, David McLear, in relation to the malicious wounding offence, discloses that Mr Hokin suffered manic-depressive illness and attended Merrylands Area Health Centre regularly.⁴³ He had first been admitted to Cumberland Hospital as long ago as 1967 when he was diagnosed as a schizophrenic.⁴⁴
29. The facts of the malicious wounding offence, on the version of Mr Hokin, are outlined in the May report. Mr Hokin says he was out for his usual Sunday morning walk. He saw the victim and thought he may be a devious person.⁴⁵ He previously told Dr Joura of the Cumberland Hospital that he was suspicious of the victim "because of his duds – the way he wore his pants below his waist as deviates do."⁴⁶ Mr Hokin walked behind the victim and quickened his pace. The victim walked faster and looked over his shoulder at him nervously. He caught up to the victim at the gate of the park. The victim allowed the gate to swing which hit Mr Hokin in the face. He questioned the victim repeatedly without adequate response. Mr Hokin claims the victim pushed him in the face. He said he punched the victim on the jaw, scuffled with him then kicked him. He said he then stood back shocked at what he had done. He returned home and had some beer to settle down.⁴⁷
30. Mr Hokin said that after his arrest he was placed in the exercise area at the Merrylands Police Station. A man approached him and gestured to him which Mr Hokin interpreted to mean the man may have wanted to have a sexual encounter with him. He then attempted to hit this man.⁴⁸
31. Mr Hokin told Dr Joura that he would commit the same offence again and again because "the perverts and deviant should be taught a lesson, the law is an ass and the world would definitely be a better place if everyone went and did the same as I did." Dr Joura concluded that Mr Hokin's actions and beliefs may well have been part of the psychotic condition that was evident on his admission after the malicious wounding charge. His potential for violence was not to be underestimated.⁴⁹
32. As to the offence of enter dwelling with intent to commit a felony, Mr Hokin's explanation was that he broke into his wife's residence in order to draw attention to the Court his perceived lack of access to his child.

⁴³ Community Corrections Pre-sentence Report of David McLear dated 25 May 1992, p. 1 (SCOI.11163.00054).

⁴⁴ Report of Dr R Joura (n 42).

⁴⁵ Community Corrections Pre-sentence Report of David McLear (n 43).

⁴⁶ Report of Dr R Joura (n 42) p. 2.

⁴⁷ Community Corrections Pre-sentence Report of David McLear (n 43) p. 2.

⁴⁸ Ibid.

⁴⁹ Ibid p. 3.

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33. As to a further offence of hinder police (also on his criminal record), his explanation was that his son did not want to return to his mother and he attempted to stop his return.
34. In the May report, David McLear, concluded that it was difficult to assess whether Mr Hokin's prior convictions were a consequence of his mental illness or extremely poor judgement. It seems probable, he said, that without adequate monitoring of this man's mental condition by the health services, similar offences may occur.⁵⁰
35. After Mr Hokin's arrest in connection with the death of Mr Walker, a psychiatric report was obtained from Dr Jennifer Thompson dated 21 September 1992. Dr Thompson opined that Mr Hokin "suffers a serious psychotic mental illness, characterised by hypomanic episodes, severe depressive episodes and paranoid, fixed delusions about homosexuals and perverts. He needs long term close supervision in the Community."⁵¹ She documented a 45 year history of depression. Mr Hokin told Dr Thompson that, subsequent to his arrest for Mr Walker's death, he had initially been placed in a cell with a "real freak" and was then moved to a cell with a homosexual. He said, "why go and put me in a cell with a homosexual ... one of them has only to put hands on me and I'll murder him. God help them if they come near me."⁵²
36. Dr Thompson concluded that "unless closely supervised and reviewed, this man may quickly become psychotic again, and his delusions centre around "perverts" he may again attack people, as happened on other occasions."⁵³
37. The Inquiry has ascertained that Mr Hokin is still alive, aged 78, and lives in an aged care facility.

Exhibits: availability and testing

38. Testing was undertaken by police in 1992 over:
- a. blood samples of Mr Hokin and Mr Walker;
 - b. rectal swab from Mr Walker;
 - c. oral swab from Mr Walker;
 - d. fingernail clippings from Mr Walker;
 - e. one grey coloured shirt from Mr Walker; and

⁵⁰ Community Corrections Pre-sentence Report of David McLear (n 43) p. 2.

⁵¹ Report of Dr Jennifer Anne Thompson, Consultant Psychiatrist (n 38).

⁵² *Ibid* p. 3-4.

⁵³ *Ibid* p. 5.

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- f. various glass pieces found at the scene.

The testing did not reveal anything of forensic value to the case.⁵⁴

Criminal proceedings

39. John Hokin was committed to trial on 1 October 1992 at the Local Court at Parramatta on the charge of manslaughter. Bail was refused. His trial was set before the District Court at Parramatta on 15 February 1993.⁵⁵
40. At that time, the so-called “homosexual advance defence” was still available in New South Wales.⁵⁶
41. However, no trial of Mr Hokin took place. That is because on 12 February 1993, the Director of Public Prosecutions directed that the prosecution be discontinued on the basis that there was no reasonable prospect of conviction. “At the time, it was concluded that the Crown was unable to negative [Mr Hokin]’s claim that he was acting in self-defence, in circumstances where [Mr Hokin]’s version of events was supported by the evidence of the forensic pathologist and another independent witness.”⁵⁷

Indicators of LGBTIQ status or bias

42. On the evidence before the Inquiry, Mr Walker’s sexuality cannot be confirmed.
43. The Inquiry has obtained a statement from Mr Walker’s sister, Janice, in which she states that she knew Mr Walker to have girlfriends.⁵⁸
44. There are however two indicators that he may have been a gay man.
45. First, he had a friend, Kevin Leatham, with whom he was understood to stay regularly. In a statement made on 23 July 1992, Mr Walker’s friend, Paul Mumbler, said that on 22 July 1992 Mr Walker told Mr Mumbler that he was going to stay at Kevin Leatham’s house. As noted earlier, Mr Leatham lived in Burnett Street, Merrylands. Mr Mumbler told police that it was nothing out of the ordinary for Mr Walker to go and stay at Mr Leatham’s house. He had stayed there a few times before. He would

⁵⁴ DNA Certificate (n 29) at [3]; Statement of Detective Senior Constable Mark Sweeney (n 23) at [13], [15].

⁵⁵ Letter from the Director of Public Prosecutions to the Inquiry dated 24 January 2023 (SCOI.82335).

⁵⁶ The so-called “homosexual advance defence” refers to an accused person alleging that they acted either in self-defence or under provocation in response to a homosexual advance made by the deceased person. In *Green v The Queen* (1997) 191 CLR 334, the majority of the High Court of Australia took the view that a reasonable jury would be entitled to consider that an ordinary person in the position of the accused could have formed an intention to kill or to inflict grievous bodily harm by a non-violent homosexual advance on the part of the deceased. In 2014, the Parliament of NSW passed the *Crimes Amendment (Provocation) Act 2014* which provided that a non-violent sexual advance did not constitute extreme provocation for the purpose of being a partial defence to murder: s. 23(3)(a). This signalled the end of the so-called “gay-panic” defence in NSW.

⁵⁷ Letter from the Director of Public Prosecutions to the Inquiry (n 55).

⁵⁸ Statement of Janice Walker dated 3 February 2023 (SCOI.82361).

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go up to his house regularly, through the day or the night.⁵⁹ The nature of the relationship between Mr Walker and Mr Leatham is unknown. No statement from Mr Leatham was taken at the time, and he is now deceased.

46. Secondly, on Mr Hokin's account, Mr Walker made advances towards him, touching his leg and shoulder, and "talking in a manner about sexual behaviour".⁶⁰
47. Professor Stephen Tomsen, criminologist, briefly noted the case of Mr Walker in his report, *Hatred, Murder and Male Honour: Anti-homosexual Homicides in New South Wales, 1980-2000*,⁶¹ using the pseudonym BW. In his opinion, the case was an example of the "male honour scenario", which Professor Tomsen described as follows:

"Masculine heterosexual identity is built around ensuring the sanctity of the body, with rigid limits imposed on the circumstances and social admitted forms of male physical contact. The matter of bodily touching features as a critical aspect of this provocation to violence ... Non-contrived responses to such advances also have a real force that underlies a substantial number of killings" (pp. 77-78).

48. On Mr Hokin's account, the physical fight between him and Mr Walker was preceded by an unwanted sexual advance from Mr Walker to Mr Hokin. However, Mr Hokin also claimed that "if he hadn't have swung a shovel at me I'd be home asleep",⁶² and that the actual catalyst for his fighting with Mr Walker as he did was Mr Walker attacking Mr Hokin with a shovel and then with broken glass.

Features of /concerns with original police investigation

49. Whether Mr Walker made the 'homosexual advance', as alleged by Mr Hokin, was not thoroughly investigated. Police did not obtain any statements from family members or friends, including in particular Kevin Leatham, who may have been able to shed some light on Mr Walker's sexuality.
50. No investigation was made into Mr Hokin's account of how he came to know Mr Walker, and how long they had known each other.

⁵⁹ Statement of Paul Mumbler (n 1) at [8].

⁶⁰ ERISP Transcript of John Hokin (n 2) at [A15].

⁶¹ (Australian Institute of Criminology Research and Public Policy Series No 43, July 2002) 78.

⁶² ERISP Transcript of John Hokin (n 2) at [A67].

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Strike Force Parrabell

Use of the Bias Crimes Indicators Form

51. A Bias Crime Indicators Review Form (**BCIF**) was completed in this case by Strike Force Parrabell. It concluded that there was no evidence of bias crime.⁶³
52. The comments in the completed BCIF included: that Mr Walker was “likely to be a homosexual male”; that Mr Hokin was a heterosexual male; that Mr Walker had been making advances towards Mr Hokin on the night he died; that Mr Hokin was frightened of the advances made; and that there was no evidence suggesting animosity between the pair prior to Mr Walker’s advances upon Mr Hokin.
53. The comments in the BCIF also noted that Mr Hokin’s neighbours did not report in their statements any statement or gesture they observed or perceived to be bias, or express any view that they believed the murder to be motivated by any bias.⁶⁴ However, it needs to be appreciated that the observations of the neighbours were limited. They were not present in Mr Hokin’s backyard at any relevant point. They did not see, and could not have seen, whether Mr Walker made the alleged gestures towards Mr Hokin (touching his leg etc). Their observations of the altercation between the two men are limited to what they heard from inside their own home.
54. The view expressed by the Parrabell officers in the completed BCIF was that “even though the fight started as a result of an unwanted sexual advance from Mr Walker to Mr Hokin, the motive behind this death was self-defence, and this is backed by the coroner’s report⁶⁵ and from the DPP withdrawing charges.”⁶⁶

Results of Strike Force Parrabell

55. Strike Force Parrabell categorised the case as “no evidence of bias crime”. The academic review categorised it as “No Bias”.⁶⁷
56. The matter was categorised as “solved” by Strike Force Parrabell.⁶⁸ That is plainly correct, in the sense that the identity of the perpetrator, Mr Hokin, has been known from the outset.

⁶³ Strike Force Parrabell Bias Crimes Indicators Review Form – Brian Walker (undated), p. 15 (SCOI.82185).

⁶⁴ *Ibid*, p. 9.

⁶⁵ It needs to be made clear that whilst there would likely have been a P79A Report of Death to Coroner filed with the Coroners Court of NSW, there was no coronial inquest as Mr Hokin was charged with manslaughter. The Inquiry did not therefore request the coronial file. The “coroner’s report” referred to by the BCIF is either an error or may be a reference to any P79A filed in this matter. There was no copy of the P79A on the NSWPF file.

⁶⁶ Strike Force Parrabell Bias Crimes Indicators Review Form – Brian Walker (n 63).

⁶⁷ Exhibit 6, Tab 49, Strike Force Parrabell Case Summaries – Brian Walker, p. 27 (SCOI.76961.00014).

⁶⁸ *Ibid*.

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Investigative and other steps undertaken by the Inquiry

57. In order to consider:

- (a) whether the death of Mr Walker should be regarded as one which “remained unsolved” as at April 2022 when the Inquiry was constituted, and thus whether it fell within category A of the Inquiry’s terms of reference; and
- (b) the circumstances of Mr Walker’s death generally including whether a gay hate bias was involved,

the Inquiry has taken various steps including the following.

Summonses issued

- 58. A summons to the NSW Police Force (**NSWPF**) was issued on 18 May 2022 for, *inter alia*, the investigative file in relation to the death of Mr Walker (summons NSWPF1). A folder of material in relation to Mr Walker was produced on 8 June 2022.
- 59. A further summons to the NSW Police Force was issued on 25 August 2022 for all NSWPF records in relation to Strike Force Parrabell, Strike Force Macnamir and Strike Force Neiwand (summons NSWPF12). This material was produced in tranches between 9 September 2022 and 18 November 2022. This material included the BCIF and relevant Investigator’s Notes in relation to the review of Mr Walker’s death by Strike Force Parrabell.
- 60. A summons to the Office of the Director of Public Prosecutions (**ODPP**) was issued on 21 June 2022 for the prosecution file of Mr Hokin in respect of the manslaughter of Mr Walker (summons ODPP1). The prosecution file was produced on 12 July 2022.

Interagency Cooperation

- 61. Through inter-agency cooperation, the Inquiry was able to locate and write to Mr Walker’s sister, Janice Walker, and to Mr Hokin.
- 62. The Inquiry also established that Kevin Leatham died in August 2009.⁶⁹

Steps which could / should have been taken originally or earlier, but which were not and are no longer possible

- 63. Police ought to have taken statements from Mr Walker’s family, and from his friends (in particular Mr Leatham), as noted above at [49] and [50].

⁶⁹ Death Certificate of Kevin Leatham dated 24 August 2009 (SCOI.82360).

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Results of investigative and other steps undertaken by the Inquiry

64. Ms Walker, Mr Walker's sister, made contact with the Inquiry on 26 October 2022, and provided a witness statement to the Inquiry dated 3 February 2023, which included information about Mr Walker's early life and personal history. As noted above at [43], Ms Walker indicated that she knew Mr Walker to have girlfriends. She described him as somewhat of a "wanderer" with no fixed address. She described him as befriending people easily, often doing odd jobs to help out others.⁷⁰
65. Mr Hokin was located and made aware of the work of the Inquiry and its intention to hold this hearing in relation to Mr Walker's death. Mr Hokin was invited to attend the hearing if he wished. Mr Hokin lives in an aged care facility. He has decided not to attend or otherwise participate in the Inquiry.
66. As noted above at [62], the Inquiry has established that Mr Leatham died in August 2009.

Conclusions as to bias

67. According to Mr Hokin's statement to police, the physical fight between Mr Walker and Mr Hokin started when Mr Walker attacked Mr Hokin with a shovel. Even if there had been an earlier unwanted sexual advance from Mr Walker to Mr Hokin (as Mr Hokin asserted), Mr Hokin himself did not claim that he had fought Mr Walker for that reason. Rather, as noted above, Mr Hokin said that "if he hadn't have swung a shovel at me I'd be home asleep". His claim of self-defence related to the physical violence comprised by Mr Walker's attacking him with a shovel, rather than to the asserted touching on the leg and shoulder.
68. This conclusion is further supported by the fact that there is no evidence to suggest that Mr Hokin was suffering a psychotic episode at the time, of the kind which had previously been characterised by paranoid, fixed delusions about "homosexuals" and "perverts".
69. On the balance of probabilities, it is submitted that the death is unlikely to have been an LGBTIQ hate crime.

Submissions as to manner and cause of death

70. It is submitted that the appropriate finding is that Mr Walker died after sustaining a torn spinal ligament as a result of the conduct of John Hokin during an altercation between the two men. Those facts have been plain and uncontentious since 1992.

⁷⁰ Statement of Janice Walker (n 58) at [5]-[9].

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71. The Inquiry has no basis for reaching a different view from that of the ODPP in 1993, namely that self-defence could not be disproved.
72. Accordingly, it is further submitted that the death of Mr Walker was not “unsolved”, and therefore did not fall within category A of the Inquiry’s terms of reference.

Submissions as to recommendations

73. No recommendations are proposed.

Christine Melis
Counsel Assisting