



Special Commission of Inquiry into LGBTIQ hate crimes

SUBMISSIONS OF COUNSEL ASSISTING

6 February 2023

IN THE MATTER OF JOHN GORDON HUGHES

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 Hughes died on the evening of Friday 5 May 1989 or the early hours of Saturday 6 May 1989 in the apartment where he lived in the Sydney suburb of Potts Point.

Circumstances of death

3. Mr Hughes was found with his hands and feet bound with electrical cord and a pillow slip covering his head. There were bruises and lacerations to the back of the head, consistent with blows by a blunt object. A leather belt had been tightened around his neck, apparently using kitchen tongs, ultimately leading to death by asphyxiation due to strangulation with a ligature.

Findings of post-mortem examination

4. In a post-mortem report dated 23 June 1989, Dr Liliana Schwartz noted the following injuries upon her examination of the body:
 - a. Ligature mark around the neck and abrasion to the left side of the neck;
 - b. Petechial haemorrhages on the face, nose, eyes and neck;
 - c. Bruises to the neck;

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- d. Multiple bruises to the back of the head, particularly on the left-hand side, including a large bruise measuring 5 cm x 3.5 cm to the back of the head (occipital region);
 - e. Multiple lacerations to the back of the head, some superficial and others to the periosteum (i.e. the external membrane of the skull).
5. Dr Schwartz found the cause of death to be asphyxia due to strangulation with a ligature and noted blunt object injury to the head as another significant condition contributing to death.
 6. Mr Hughes' blood was negative for drugs and alcohol.
 7. Dr Schwartz noted the time of death to have been "3 to 4 days previously". Whether this meant 3 to 4 days prior to the date of an external examination on 9 May 1989 was not clear. If that is what was meant, then Dr Schwartz was placing the time of death as sometime on 5 or 6 May 1989. However, both at the coronial inquest in 1990 and at the trial in 1992, Dr Schwartz gave somewhat different and to some extent inconsistent evidence as to the time of death. At the inquest she agreed that the death must have been before 7.30pm on 5 May. Then at the trial her evidence was that the time of death was between 9 and 36 hours before the time that she took his rectal temperature at 11:00pm on 6 May 1989 – ie a 27 hour period between 11am on 5 May and 2pm on 6 May, describing this as a "rough estimate" because the body had been left in a room with a heater on.¹

Persons of interest

8. Ian Jones is, and was, the primary person of interest in relation to the death of Mr Hughes. The case against Mr Jones is described in detail below. It is submitted below that there is a strong probability that Mr Jones was responsible for Mr Hughes' death.
9. Mark Phillip Locke was initially considered a person of interest in the death of Mr Hughes, but ultimately became a Crown witness in the trial against Mr Jones. He was excluded as a suspect following confirmation by police that he was in Queensland at the time of the murder.²

Indicators of LGBTIQ status or bias

10. Mr Hughes was known by his friends and acquaintances to be a gay man. His sexuality was also known by the person likely to be responsible for his death, Mr Ian Jones.

¹ Autopsy report prepared by Liliana Schwarz dated 23 June 1989 (SCOI.10081.00007); Transcript of Proceedings, *R v Jones* (Supreme Court of New South Wales, Mathews J, 31 August 1992) at pp. 3-14 (SCOI.10400.00055).

² Resume of Inquiries for period ending 15 September 1989 (SCOI.10056.00062); Resume of Inquiries for period ending 1 October 1989 (SCOI.10056.00064).

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11. The evidence suggests that motivations of robbery or revenge may have been involved in the murder of Mr Hughes by Mr Jones. However, as is submitted below at [28]-[35], this does not exclude the possibility that LGBTIQ bias also motivated Mr Jones' selection of Mr Hughes as a victim. There is evidence that Mr Hughes' sexuality was a factor in the commission of the offence, including:
- a. That Mr Jones said to Ms Dowsley that Mr Hughes was a "fucking faggot dog anyway and he deserved to die and he deserved everything that he got";
 - b. That Mr Jones had said that he was fed up with Mr Hughes' apartment because it was "full of... poofers";
 - c. The sexualised elements of the crime scene as identified by Dr Sullivan;
 - d. The graphic manner in which Mr Hughes was killed, suggestive of a desire to inflict pain and humiliation on Mr Hughes beyond what would be necessary to rob him.

Exhibits: availability and testing

12. Exhibits were identified and tested by police during the initial investigation, and the results of that testing were tendered at the trial of Mr Jones. Relevant testing included:
- a. Blood type testing on exhibits from the crime scene, including a bloody knife and t-shirt;
 - b. Development and analysis of fingerprints from the crime scene;
 - c. Development and analysis of fingerprints from a passbook belonging to Mr Hughes and found in the possession of Mr Jones;
 - d. Examination for body fluids of a car previously owned by Mr Jones.
13. None of the testing returned results that were probative of Mr Jones' involvement in the murder.
14. Relevant exhibits were located and tested. It is not suggested that any further review or testing is now necessary.

Findings at inquest, including as to manner and cause of death

15. On 18 July 1990, Deputy State Coroner Derrick Hand terminated the inquest into the death of Mr Hughes pursuant to s 19 of the *Coroners Act 1980* (repealed), on the basis that Mr Jones had been charged with the murder of Mr Hughes.

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Criminal proceedings

16. Mr Jones was charged with the murder of Mr Hughes on 30 April 1990. Mr Jones pleaded not guilty to the charge.
17. A jury was empanelled on 17 August 1992, although subsequently discharged when it emerged that the defence counsel, Mr Greenwood QC, was at risk of becoming (and ultimately did become) a witness in the matter.
18. A second jury was empanelled on 24 August 1992, and the trial ran until 1 September 1992. Mr Jones was represented by Mr Finnane QC.
19. The jury returned a verdict of not guilty, and Mr Jones was discharged.

Features of/ concerns with original police investigation

20. The principal concern with the original police investigation pertains to the unsatisfactory management and documentation of the exhibits obtained from the crime scene, which enabled the defence to raise the possibility that police had taken a St George Building Society passbook from the crime scene and planted it in the lining of Mr Jones' jacket: see below at [94]. Rather than itemising each exhibit collected from the crime scene, police placed all items being seized into one brown paper bag.³
21. This was poor practice in relation to management of exhibits; each and every item ought to have been catalogued and itemised separately. The Inquiry understands this to be standard police practice today. There is no scope to remedy this deficiency in the original investigation.

Strike Force Parrabell

Use of the Bias Crimes Indicators Form

22. The contents of the Bias Crimes Indicator Form (**BCIF**) make it clear that the Strike Force Parrabell (**SFP**) officers considered that, notwithstanding that Mr Jones was found not guilty, it was "highly likely" that Mr Jones was responsible for the murder of Mr Hughes. As will become apparent, these submissions essentially endorse that view.

³ Transcript of Proceedings, *R v Jones* (Supreme Court of New South Wales, Mathews J, 24 August 1992) at pp. 30, 33 (SCOI.10400.00050).

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Results of Strike Force Parrabell

(a) The “General Comment” and “Summary of Findings” boxes

23. The ten Indicators in the BCIF are all answered as either “No Evidence of Bias Crime”, or as “Insufficient Information” to make a determination as to bias. The Summary of Findings settles on “Insufficient Information” to establish a bias crime.
24. Three issues in particular are to be noted with respect to the “General Comment” and “Summary of Findings” boxes.
25. **First**, in relation to indicator 2, “Comments, Written Statements, Gestures”, the SFP officers commented that the only bias-related comment detected was in the record of interview of Mr Jones on 30 April 1990, during which he cited his reason for leaving the flat of Mr Hughes as being that he was “fed up with the place, it was full of drugs and poofers.”⁴ In relation to that indicator, the SFP officers nevertheless checked the box to indicate that there was “No Evidence of Bias Crime”.
26. It appears that the SFP officers overlooked the comments attributed to Mr Jones by Janice Dowsley, namely words to the effect of:
- “Don’t worry, he was a fucking faggot dog anyway and he deserved to die and he deserved everything that he got.”
27. It is submitted that these comments are clearly reflective of anti-LGBTIQ bias on the part of Mr Jones.
28. **Secondly**, in relation to indicator 9, “Lack of Motive”, the SFP officers focused on facts suggesting that Mr Jones was likely motivated by a desire to steal property from Mr Hughes, or by animosity over the dispute over stolen property. In relation to that indicator, they checked the box to indicate that there was “No Evidence of Bias Crime.”⁵
29. The “Summary of Findings” concluded with the following passage:
- “Dealing drugs whilst generally profitable is a high risk occupation and is clearly why Police were of the belief that one of the motives for this murder was robbery. Whilst Police at the time acknowledge that the murder of HUGHES could have been bias related, it is much more likely that robbery was the clear motive for the murder. Although found not guilty, it is highly likely

⁴ Record of interview with Ian Stuart Jones (Detective Constable First Class M C Plotecki, Sydney Police Centre, 30 April 1990) at [A243] (SCOI.10081.00012).

⁵ Strike Force Parrabell Bias Crimes Indicators Review Form (undated) at pp. 15-17 (SCOI.82199).

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that JONES was responsible for the murder of HUGHES and was motivated by money and revenge, rather than any personal bias towards HUGHES.”

30. Implicit in these comments, and possibly in the inclusion of indicator 9 in the BCIF, appears to be an assumption that the presence of another motive (such as robbery or profit) tells against the simultaneous existence of LGBTIQ bias.
31. Such an assumption has been challenged as too narrow, and as discounting the experiences of victims who are targeted because of their actual or assumed LGBTIQ identity.⁶
32. It is submitted that LGBTIQ bias may exist when an offender “discriminatorily selects”⁷ their victim due to their LBGTIQ status, even if animus towards the victim did not motivate the crime. For example, an offender may seek to rob a person, but strategically victimise an LGBTIQ person not due to hatred but because they perceive them to be “easy prey”.⁸
33. Put another way, “[b]igotry may serve as a factor in the selection of the particular victim rather than as the catalyst to the criminal act.”⁹
34. In this case, Mr Jones may well have been motivated by a desire to steal cash and heroin from Mr Hughes, and he may well have selected Mr Hughes on the basis of his knowledge that both money and heroin would be in his apartment. However, the comments that he made to Ms Dowsley also suggest that he was able to justify or excuse his selection of Mr Hughes as a victim on the basis of his belief that he was a “faggot” and so “deserved to die.”
35. It may also be inferred from his statements to Mr Locke, to the effect that there would be no “big inquiry” over “another Junkie dealer”, that he was to some extent strategic in picking Mr Hughes as a victim on the basis that he considered his position in society made it easier to act with impunity. It can be hypothesised that Mr Hughes’ status as a gay person made Mr Jones perceive him as a target that would be less protected by police and the courts.
36. **Thirdly**, in relation to indicator 10, “Level of Violence”, the SFP officers recognised that the murder of Mr Hughes was “particularly brutal”, and that “[w]hoever went into that unit meant to kill HUGHES and inflict an incredible amount of pain in doing so.”¹⁰ They also referred to a media article which

⁶ Exhibit 2, Tab 29, Jeff Gruenwald and Kristin Kelley, ‘Exploring Anti-LGBT Homicide by Mode of Victim Selection’ (2014) 41(9) *Criminal Justice and Behavior* 1130 at pp. 1132, 1146 (SCOI.76824); and literature cited therein.

⁷ Lawrence, F. M., *Punishing hate: Bias crimes under American law* (1999, Harvard University Press), cited in Gruenwald and Kelly (n 6) at p. 1134.

⁸ Gruenwald and Kelly (n 6) at p. 1139.

⁹ Messner, McHugh and Felson, ‘Distinctive characteristics of assaults motivated by bias’ (2004) 42 *Criminology* 585 at p. 608; cited in Gruenwald and Kelly (n 6) at p. 1134.

¹⁰ Strike Force Parrabell Bias Crimes Indicators Review Form (n 5) at p. 18.

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records that the original investigating police were “baffled why such a small time drug dealer should have been killed so brutally.” Nonetheless, in relation to indicator 10, the SFP officers checked the box to indicate that there was “Insufficient Information” to make a determination as to bias motivation.

37. In the “Summary of Findings”, no mention is made of the brutal and graphic manner in which Mr Hughes was murdered, suggesting that limited if any weight was placed on it in forming a view as to whether this was a bias crime. However, it is submitted that the brutality of the death, and the suffering that was inflicted upon Mr Hughes, is indicative that the robbery motivation does not provide a sufficient or complete explanation for the manner and cause of death.

(b) Case Summaries

38. The Strike Force Parrabell case summary (no. 33) for this matter reads as follows:¹¹

Identity: John Hughes was 45 years old at the time of his death.

Personal History: Mr Hughes lived with a roommate in a residential unit at Greenknowe Avenue, Potts Point. At the time of his death Mr Hughes was on bail for serious drug supply matters and was believed to owe money related to drug debts. Police identified a suspect known to Mr Hughes for 10 years and described as his 'bodyguard'. The suspect identified as heterosexual. Up until 2 months prior to his death, Mr Hughes had been living with the suspect. Their relationship ended with the suspect leaving Mr Hughes' residence to live with a woman in Bathurst amid allegations that he had stolen a number of personal items, leaving a strong personal dislike between them. Both Mr Hughes and the suspect made threats against each other. The suspect was aware that Mr Hughes had \$5000 in a bank account and when arrested by police had possession of Mr Hughes Westpac account passbook. The majority of witnesses interviewed were criminal associates, drug clients and personal friends of Mr Hughes.

Location of Body/Circumstances of Death: Mr Hughes was located deceased lying face down across a bed in his residential unit at Greenknowe Street, Potts Point. He had been struck to the head several times with a lamp. His hands and feet had been tied and a pillow case was over his head. He also had an electrical cord around his neck.

Sexual Orientation: Mr Hughes identified as gay.

Coroner/Court Findings: Police charged the suspect with Mr Hughes' murder. Investigating Police believed that the motive for the murder was robbery and/or revenge. The suspect was acquitted of murder at trial for unknown reasons and died in 2002 from a drug overdose.

¹¹ Exhibit 6, Tab 49, Strike Force Parrabell: Case Summaries (undated) at p. 18 (SCOI.76961.00014).

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SF Parrabell concluded there was insufficient information to establish a bias crime

39. The case summary is consistent with the approach and comments in the BCIF.

(c) Academic Review

40. The review by the Flinders academics for this matter concluded there was “insufficient information” to make a determination. In explaining the meaning of “insufficient information” in this context, the academic team stated as follows:

That is, despite an exhaustive exploration of the archived material, it was ultimately impossible for the detectives to make definitive determinations about many of the deaths under review, and based on available information, the academic reviewers concur. Part of the reason this was the case can be attributed to a relative paucity of information.¹²

Investigative and other steps undertaken by the Inquiry

41. In the course of assessing Mr Hughes’ case, the Inquiry has taken various investigative and other steps, including:

- a. Summoning the coronial file;
- b. Summoning the police investigation file;
- c. Requesting the court file for the trial of Mr Jones from the Supreme Court of NSW;
- d. Summoning the prosecution file of the Office of the Director of Public Prosecutions (**ODPP**);
- e. Summoning the NSW Registry of Births, Deaths and Marriages (**BDM**) to obtain information about key witnesses and suspects; and
- f. Seeking the expert opinion of a forensic psychiatrist as to the likely motives for the homicide of Mr Hughes.

42. The Inquiry has reviewed and analysed all of this material, and considered whether any further investigative or other avenues are warranted.

¹² Exhibit 1, Tab 2, Final Report of Strike Force Parrabell (undated) at p. 54 (SCOI.02632).

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Request for coronial file

43. On 11 May 2022, the Inquiry issued a written request to the Registrar of the Coroners Court of NSW to obtain the coronial file in relation to the death of Mr Hughes. The Coroners Court answered the request on 26 May 2022.

Summons for police files and documents

44. 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 Hughes (summons NSWPF1). An electronic folder of material in relation to Mr Hughes was produced on 8 June 2022.
45. A further summons the NSWPF 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 Bias Crimes Indicator Form and relevant Investigator's Notes in relation to the review of Mr Hughes' death by Strike Force Parrabell.

Request to the Supreme Court

46. On 17 June 2022, the Inquiry issued a written request to the NSW Supreme Court to obtain the court file in relation to the trial of Mr Jones. The Supreme Court answered the request on 29 June 2022 and provided one box of material. The material included the trial transcript, although it excluded the closing addresses of counsel and the Judge's summing up.

Summons to the Office of the Director of Public Prosecutions

47. On 21 June 2022, the Inquiry issued a summons to the ODPP (summons ODPP1) to obtain all files in relation to the prosecution of Mr Jones. The ODPP answered summons ODPP1 on 12 July 2022, and provided two boxes of material.

Attempts to locate key witnesses and persons of interest

48. In this case, Police identified and charged a suspect, who was acquitted at trial. While the reasons for the acquittal by the jury are necessarily unknown, it appears that doubts were cast on the credibility of key prosecution witnesses, particularly Mr Locke.
49. Information received from the Unsolved Homicide Team was that Mr Jones, the key person of interest, is deceased, dying as a result of a drug overdose in 2002. Such a statement is also found in the BCIF and Strike Force Parrabell case summary. The Inquiry sought to confirm the death of Mr Jones

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by seeking a death certificate from the BDM as part of summons BDM10; however, on 30 January 2023 that agency advised that no death certificate could be identified. Nevertheless, on the basis of the information provided by the Unsolved Homicide Team, the Inquiry has considered this case on the assumption that Mr Jones is deceased.

50. On 23 August 2022, a summons was issued to BDM to ascertain the status of the following witnesses, with the following results received on 25 August 2022:
- a. Mark Locke – deceased as at 25 April 2021 from a stab wound to the chest;¹³
 - b. Janice Dowsley – no trace of registration of death;
 - c. 151 – no trace of registration of death;
 - d. Kerrie Stanton – no trace of registration of death.

Professional opinion of Dr Danny Sullivan, forensic psychiatrist

51. The Inquiry obtained an expert report by Dr Danny Sullivan, consultant forensic psychiatrist, on 24 October 2022, in relation to, *inter alia*, whether there were any aspects of the death and/or crime scene that may indicate that the homicide occurred in the context of LGBTIQ hate. Dr Sullivan’s opinion is referred to below.

Family members of Mr Hughes

52. The Inquiry has not been able to locate any family of Mr Hughes to date. The initial police investigation established that he was an orphan.¹⁴

Results of investigative and other steps undertaken by the Inquiry

53. This part of the submission sets out key matters arising from the Inquiry’s consideration of the evidence and the conclusions that it is suggested can be drawn from the evidence.

¹³ Death Certificate of Mark Phillip Locke dated 30 January 2023 (SCOI.82349).

¹⁴ Resume of Inquiries for period ending 4 June 1989 (SCOI.10056.00056).

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Mr Hughes' Background

54. Mr Hughes was 45 years old at the time of his death. He was affectionately known to his friends by the nickname "Skinny John,"¹⁵ and described as a "quite passive" and "kind" person who was generous to his friends.¹⁶
55. His sexuality was well known amongst his friends and acquaintances. Relevant evidence includes:
- a. Gavin Scobie was a friend of Mr Hughes for over 15 years. He knew that Mr Hughes was gay and that Mr Hughes and another of Mr Scobie's friends were "lovers" in the past.¹⁷
 - b. Mark Locke described Mr Hughes as an "active homosexual" who was in a sexual relationship with a 17- or 18-year-old male who was a sex worker. He believed Mr Hughes to be "in love" with that person. Mr Locke also referred to Mr Scobie and a Mr Litchfield as being "old lovers" of Mr Hughes.
56. Mr Hughes had convictions for drug related offences, and at the time of his death was on trial for offences relating to the possession and supply of heroin.¹⁸ It was well-known amongst his friends and associates that Mr Hughes dealt in heroin and other drugs.¹⁹
57. Mr Hughes lived in an apartment on Greenknowe Ave, Potts Point. He often had people living or staying with him, including, at various points, Aaron Hill, 151 Gregory West and Ian Jones.

Discovery of Mr Hughes' body

58. Mr Hughes was last seen alive by Detective Senior Constable Neville Scullion of the Kings Cross Police Station, at the Mirras Coffee Lounge in Kings Cross, at about 3:30pm on 5 May 1989.²⁰ Mr Hughes was seated alone.

¹⁵ Statement of Mark Phillip Locke dated 13 September 1989 at [5] (SCOI.10081.00024); Transcript of Proceedings, *R v Jones* (Supreme Court of New South Wales, Mathews J, 27 August 1992) at p. 36 (SCOI.10400.00053); Transcript of Proceedings, *R v Jones* (Supreme Court of New South Wales, Mathews J, 25 August 1992) at p. 44 (SCOI.10400.00051).

¹⁶ Transcript of Proceedings 27 August 1992 (n 15) at p. 38.

¹⁷ Statement of Gavin Scobie dated 17 May 1989 at [4] (SCOI.10081.00043).

¹⁸ Criminal History – Bail Report of John Peter Hughes dated 28 August 2013 (SCOI.10053.00021).

¹⁹ Statement of Mark Phillip Locke (n 15) at [5]; Statement of Gavin Scobie (n 17) at [5]; Statement of Gregory Peter West dated 6 May 1989 at [2] (SCOI.10082.00098); Statement of 151 dated 19 May 1990 at [5] (SCOI.10081.00042).

²⁰ Statement of Detective Senior Constable Neville John Scullion dated 5 June 1990 at [3] (SCOI.10081.00071); Transcript of Proceedings 24 August 1992 (n 3) at [14].

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59. During the course of the evening of 5 May 1989 and the morning of 6 May 1989, various friends of Mr Hughes went to his apartment, and either buzzed at the security door or knocked on his door. They received no answer.²¹
60. At some time after 11:00am on 6 May 1989, Aaron Hill decided to climb into the apartment by the bathroom window. Mr Hill had been staying with Mr Hughes at the time but had forgotten his key and wanted to obtain his belongings. Upon entering the flat, Mr Hill discovered Mr Hughes' body. He reported his discovery to police, albeit using a false name, as he had outstanding warrants for his arrest at that time.²²
61. Police attended the scene and described the following:
- a. The body was laying face down across the bed, with the feet of the body hanging over the side of the bed;
 - b. The hands were bound behind the back with white electrical cord, as were the feet, bound just above the ankles;
 - c. A pink pillow slip covered the head of the deceased;
 - d. White electrical cord and a leather belt were wrapped around the neck;
 - e. A pair of kitchen tongs was protruding from the back of the neck of the body, and appeared to have been used to tighten the bindings around the deceased's neck by having twisted them;
 - f. Pieces of broken pottery were scattered around on the bed, around the head of the deceased;
 - g. A light bulb was next to the deceased's right arm;
 - h. There were blood stains on the pillowslip and the bed, below the head of the deceased;
 - i. Next to the right side of the body were a number of personal papers, scattered around on the bed;
 - j. On top of the papers was a kitchen knife, with a blade approximately 30cm long, with blood on the blade;

²¹ Statement of Aaron Hill dated 6 May 1989 (SCOI.10081.00021); Statement of Gavin Scobie (n 17); Statement of Michelle Nicholas dated 6 May 1989 (SCOI.10082.00052); Statement of Gregory Peter West (n 19).

²² Statement of Aaron Hill (n 21); Statement of Constable Howard John Fox dated 4 June 1990 (SCOI.10081.00064).

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k. A bloodstained t-shirt was behind the coffee table.²³

62. There were no signs of forced entry or of interference with the locks. However, Mr Hughes' wallet and credit card could not be located, nor could any money be found in the flat.
63. Blood-typing analysis was conducted of swabs and exhibits taken from the scene. Relevantly, the blood on the knife and t-shirt found at the scene was consistent with having come from Mr Hughes. Approximately 1 in 1700 people in the population would have the same blood type.²⁴
64. Six cigarette butts taken from Mr Hughes' unit were also tested; however, there was no ABO substance found in the saliva of the cigarette butts, such that no typing analysis could be conducted.
65. Fingerprints and palmprints were developed from various locations in and around Mr Hughes' apartment.²⁵ While some prints were matched to Aaron Hill, this was not considered probative given that he resided in the apartment and had on his account climbed into the apartment by the bathroom window. The fingerprints were later compared to those of Mr Jones, with negative results.

Summary of police investigation

66. The police considered, and excluded, a number of early suspects and leads in relation to the murder.
67. Initially, various information and tipoffs pointed to a man named Mark Locke being involved in the murder of Mr Hughes.²⁶ Mr Locke was a sex worker and drug user in the Kings Cross area, who frequently bought drugs from Mr Hughes and had been reported to have stood over him and robbed him.²⁷ Mr Locke admitted to having drug-related debts to Hughes at the time of his death, for about \$1200.²⁸ However, Mr Locke was excluded as a suspect after it was confirmed that he was in Queensland at the time of the murder.²⁹
68. Police had been investigating Mr Jones as a potential suspect as well, but information provided by Mr Locke led to more police attention being placed on him. Mr Jones was ultimately charged and tried for the murder of Mr Hughes.

²³ Statement of Detective Constable First Class Michael Charles Plotecki dated 2 June 1990 at [5] (SCOI.10081.00011); Statement of Detective Constable Samuel Khoudair dated 1 March 1990 at [4]-[5] (SCOI.10081.00020).

²⁴ Transcript of Proceedings, *R v Jones* (Supreme Court of New South Wales, Mathews J, 28 August 1992) at p. 6 (SCOI.10400.00054).

²⁵ Statement of Detective Senior Constable Warren John English dated 26 April 1991 (SCOI.10076.00027).

²⁶ Resume of Inquiries for period ending 11 June 1989 (SCOI.10056.00057); Resume of Inquiries for period ending 4 September 1989 (SCOI.10056.00060).

²⁷ Statement of Gavin Scobie (n 17) at [15]; Statement of Ian Stuart Jones dated 4 October 1989 at [14] (SCOI.10081.00013).

²⁸ Statement of Mark Phillip Locke (n 15) at [5].

²⁹ Resume of Inquiries for period ending 15 September 1989 (n 2); Resume of Inquiries for period ending 1 October 1989 (n 2).

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The Crown case against Mr Jones

69. Mr Jones, on his own admission, lived with Mr Hughes in the early months of 1989.³⁰ Mr Jones was aware that Mr Hughes was, in Mr Jones' words, an "active homosexual."³¹ It is also likely that Mr Jones had purchased heroin from Mr Hughes, and that he had been present in Mr Hughes' apartment at the time of other heroin sales.³²
70. Mr Jones moved out of Mr Hughes' flat in mid-March, travelling first to Lithgow and then settling in Bathurst.³³ In an interview with police, Mr Jones stated his reason for leaving Mr Hughes' apartment was that he was "fed up with the place, it was full of drugs and poofers."³⁴
71. According to Mr Locke, Mr Hughes believed that Mr Jones had stolen drugs, cash and electrical equipment from him when he moved out.³⁵ Mr Hughes had told Mr Locke that he would "fix" Mr Jones and go to the police. Ronald Stanton, the father of Kerrie-Anne Stanton (partner of Mr Jones), gave evidence of receiving a phone call from a person named "John", looking for Mr Jones and claiming that Mr Jones had stolen from him,³⁶ corroborating that some dispute existed between the men over stolen property.
72. Mr Locke gave evidence that not long after Mr Jones moved out of Mr Hughes' apartment, Mr Jones and Mr Locke ran into each other and had a conversation about Mr Hughes. Mr Locke said that he told Mr Jones that Mr Hughes went to police about Mr Jones "knocking off his stuff". This angered Mr Jones, to the point that he was described as "spitting his words".
73. According to Mr Locke, Mr Jones said during that conversation: "I've made up my mind now, I'll fix him properly... I'll kill the little cunt."³⁷
74. According to Mr Locke, Mr Jones then asked Mr Locke whether he wanted to "rort" Mr Hughes with him. Mr Jones allegedly said, "Look mate you can be in it or out of it, I'm only trying to do you a favour. If anything happened to John, do you honestly think there would be a big inquiry over another Junkie dealer." Mr Locke said that Mr Jones sought information about when Mr Hughes would pick up heroin, so that the heroin could be stolen soon after.³⁸

³⁰ Statement of Ian Stuart Jones (n 27) at [8].

³¹ Ibid at [5].

³² Statement of [REDACTED] (n 19) at [9]; Statement of Mark Phillip Locke (n 15) at [13].

³³ Statement of Ian Stuart Jones (n 27) at [15].

³⁴ Record of interview with Ian Stuart Jones (n 4), p. 20.

³⁵ Statement of Mark Phillip Locke (n 15) at [16].

³⁶ Statement of Ronald Stanton dated 5 May 1990 at [8] (SCOI.10091.00032).

³⁷ Statement of Mark Phillip Locke (n 15) at [18].

³⁸ Ibid at [18]-[18A].

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75. Mr Jones gave a statement to police on 4 October 1989. In that statement, he claimed that since moving to Bathurst he had only returned to Sydney once, in mid-April, for a court appearance at the Kogarah Local Court.³⁹ He also claimed to have never seen Hughes sell drugs, and that to his knowledge Mr Hughes never kept drugs in his flat. Mr Jones admitted to knowing that Hughes had \$5000 “snookered away” for solicitors’ fees with either the National Australia Bank or the St George Building Society.⁴⁰
76. In the course of making enquiries about Mr Jones, police spoke to his then girlfriend, Kerrie-Anne Stanton. She told police that:
- a. On 3 May 1989, she had hired a car and driven to Bathurst to visit Mr Jones. On her way she was breathalysed by police and found to be over the limit.
 - b. On 5 May 1989 (a Friday), Ms Stanton observed that Mr Jones was suffering from heroin withdrawal symptoms. Mr Jones called in sick to work.
 - c. At some time after that, Ms Stanton and Mr Jones had a fight, and as a result he stormed out and drove off in his green mini panel van (registration number OWW-067).⁴¹ The time of his doing so was the subject of varying evidence. According to the unsworn statement of Mr Jones, it was after 2.30pm,⁴² whereas Ms Stanton suggested it was closer to 10.30am.⁴³ Mr Jones’ flatmate, Mr Lance Dodd, recalled the fight being at around midday.⁴⁴
 - d. Despite making enquiries around Bathurst, Ms Stanton did not see Mr Jones again until about 11:00am on 6 May 1989 (Saturday). At this time, he was no longer suffering from withdrawal symptoms and so it appeared he had used heroin recently.⁴⁵
77. Ms Stanton’s version of events was, to some extent, supported by: Budget car rental forms, showing the dates on which she hired a car;⁴⁶ police records of Ms Stanton being charged with a drink driving offence;⁴⁷ and a time sheet from Mr Jones’ employer showing that he was off sick on 5 May 1989.⁴⁸

³⁹ Statement of Ian Stuart Jones (n 27) at [16].

⁴⁰ Ibid at [12].

⁴¹ Statement of Kerrie Anne Stanton dated 29 December 1989 at [9] (SCOI.10081.00028).

⁴² Transcript of Proceedings 31 August 1992 (n 1) at pp. 3-14.

⁴³ Statement of Kerrie Anne Stanton (n 41) at [9].

⁴⁴ Statement of Lance Dodd dated 6 January 1990 at [8] (SCOI.10081.00038).

⁴⁵ Statement of Kerrie Anne Stanton (n 41) at [10].

⁴⁶ Budget car rental form dated 3 May 1989 (SCOI.10081.00015).

⁴⁷ Statement of Senior Constable Darrel James Bellamy dated 17 May 1990 (SCOI.10081.00030); Statement of Constable Brooke Marshall Lynch dated 17 May 1990 (SCOI.10081.00031).

⁴⁸ Mitchell Plant Hire Time Sheet dated 10 May 1989 (SCOI.10081.00014).

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78. Mr Jones' flatmate in Bathurst, Lance Dodd, confirmed that Mr Jones left on 5 May 1989 after a fight with Ms Stanton, that his whereabouts were unknown until the morning of 6 May 1989, and that Ms Stanton had been looking for him.⁴⁹
79. Ronald Flower, Mr Jones' landlord, gave evidence that Mr Jones had failed to attend his wedding held on 6 May 1989 (Saturday). When Mr Flower returned to Bathurst on 8 or 9 May 1989, he asked Mr Jones why he hadn't attended the wedding, and Mr Jones said that he had been in Sydney.⁵⁰
80. Ms Stanton provided police with several items of clothing belonging to Mr Jones that she had kept after they had split up in or shortly after June 1989.⁵¹ These were collected by Detective Constable First Class Michael Plotecki and conveyed to the Physical Evidence Section of the NSW Police Force.
81. On examination of the jacket, it was found that there was a tear to the inner lining of the jacket. Inside the lining was a St George Building Society passbook belonging to Mr Hughes. The last transaction in the passbook was on 21 April 1989 – that is, at least a month after Mr Jones said he had last seen Mr Hughes.⁵²
82. Gavin Scobie gave evidence that Mr Hughes had shown him the passbook on 3 May 1989 at Mr Hughes' apartment, only days before the discovery of Mr Hughes' body. Mr Scobie was a co-accused with Mr Hughes in a trial for offences relating to the possession and supply of heroin. Mr Scobie knew that the money in the account connected to the passbook was going to be used to pay solicitors in that trial.⁵³
83. The passbook was examined for fingerprints. The partial impressions that were obtained were not suitable for identification purposes.
84. Police also examined the panel van (registration number OWW-067) that Ms Stanton had seen Mr Jones drive away in, for the presence of body fluids, with negative results.⁵⁴ However, it is noted that Mr Jones sold that van on 26 May 1989. At the time of that sale, the interior of the van had been scrubbed and there was new carpet in the vehicle.⁵⁵ Mr Jones told police he had sold the car because it had been "wrecked",⁵⁶ but the purchaser said she bought it in "fair condition."⁵⁷

⁴⁹ Statement of Lance Dodd (n 44) at [8]-[10].

⁵⁰ Statement of Ronald Flower dated 14 February 1989 (misdated, likely 1990) at [5] (SCOI.10081.00036); Statement of Ronald Flower dated 31 March 1990 at [6] (SCOI.10081.00037).

⁵¹ Statement of Kerrie Anne Stanton dated 5 May 1990 (SCOI.10081.00029).

⁵² Statement of Detective Constable Samuel Khoudair (n 23) at [13].

⁵³ Statement of Gavin Scobie dated 1 June 1990 at [6] (SCOI.10081.00044).

⁵⁴ Statement of David Royds dated 9 May 1990 (SCOI.10081.00066).

⁵⁵ Statement of Sonia Elizabeth Adams dated 26 May 1990 at [7] (SCOI.10081.00041).

⁵⁶ Statement of Detective Constable First Class Michael Charles Plotecki (n 23) at [10].

⁵⁷ Statement of Sonia Elizabeth Adams (n 56) at [7].

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85. On 30 April 1990, following discovery of the passbook, Mr Jones was re-interviewed. Mr Jones initially denied ever seeing any of Mr Hughes' bankbooks, and on being shown the passbook claimed that he had never seen it before. However, he did accept ownership of the jacket in which it was found and said, "I often put things in that jacket in the lining." When asked how the passbook could have come to be in the jacket, he replied, "By the sound of things I must have picket [sic] it up [at] Hughes' place."⁵⁸ In this interview, Mr Jones also admitted returning to Sydney on two other occasions whilst living in Bathurst, but denied ever returning to Mr Hughes' apartment.⁵⁹
86. Mr Jones was arrested after this interview.
87. Subsequent to Mr Jones being arrested, Mr Locke made a second statement to police dated 28 May 1990. In that statement, Mr Locke said that he saw Mr Jones at the "Taxi Club" in Darlinghurst in about the middle of February 1990. Mr Locke, Mr Jones and two others ("Cheryl" and "Yankee John") left the club to "score" in Kings Cross. On the walk, Mr Jones was alleged to have said to Mr Locke, "You know, not too many people know I killed that cunt."⁶⁰ This second statement of Mr Locke was the subject of some attention at the trial, as outlined below.
88. Janice Dowsley, a sex worker with the working name "Cheryl", gave a similar account of a night out at the Taxi Club and then Kings Cross. Ms Dowsley reported Mr Jones as saying words to the effect that only "Whackie" and Mr Locke knew about "this", followed by him saying words similar to, "Don't worry, he was a fucking faggot dog anyway and he deserved to die and he deserved everything that he got."⁶¹

The defence case at trial

89. In an unsworn statement at his trial,⁶² Mr Jones denied committing the offence. He stated that:
- a. On 5 May 1989, he called his boss to ask for the day off because the weather was bad, and instead went for a drive with Ms Stanton to Orange.
 - b. After they returned home, sometime after 2:30pm, Mr Jones and Ms Stanton got into a fight, and so Mr Jones left and went to the house of Gillian Hibbard and Scott Mason, and also spoke to Margaret Higgins who had been at their house.

⁵⁸ Record of interview with Ian Stuart Jones (n 4) at [A225].

⁵⁹ Ibid at [A130], [A235].

⁶⁰ Statement of Mark Philip Locke dated 28 May 1990 at [10] (SCOI.10081.00025).

⁶¹ Statement of Janice Dowsley dated 8 April 1992 at [7] (SCOI.10301.00015); Transcript of Proceedings 27 August 1992 (n 15) p. 10.

⁶² Transcript of proceedings 31 August 1992 (n 1) at pp. 48-54. The right of an accused person to give unsworn evidence at trial, without being liable to cross-examination, was abolished in 1994: *Crimes Legislation (Unsworn Evidence) Amendment Act 1994*.

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- c. He stayed there overnight, and returned to his house on Saturday 6 May 1989 in the afternoon.
 - d. On Sunday 7 May 1989, he took Ms Stanton to Ms Hibbard's house and introduced them.
 - e. He had only returned to Sydney once since moving to Bathurst, in order to attend court. (It is noted that this contradicts what Mr Jones said in his interview on 30 April 1990, namely that he had returned to Sydney twice in that period.)
90. Mr Jones, by his lawyers, provided alibi notices nominating Margaret Higgins, Gillian Hibbard and Scott Mason as alibi witnesses. All three ultimately gave evidence at trial, called by the Crown.⁶³
- a. Ms Hibbard gave evidence that Mr Jones had stayed at her house on one night in 1989, either the last weekend of April or the first weekend in May, but she couldn't remember which.
 - b. Ms Higgins thought there was no occasion where she saw Jones at the house on a Friday, because she was at college all day on Fridays.
 - c. Mr Mason said it was a possibility that Mr Jones stayed over one Friday, but that he had problems with his memory because he was drinking heavily at the time.
91. Accordingly, the alibi evidence provided some support to Mr Jones' defence but did not exclude the possibility that Mr Hughes travelled from Bathurst to Sydney and back some time on the particular days in question, namely 5 and/or 6 May 1989. Mr Jones' alibi was also inconsistent with the conversation recalled by Mr Flower as to his reason for missing the wedding on 6 May 1989.
92. In addition to alibi evidence, there were two other key planks to the defence case.
93. **First**, in answer to the evidence of the location of the passbook, it was put to the investigating officer, Detective Constable First Class Michael Plotecki, that he collected the passbook from the crime scene, and then planted it in Jones' jacket.⁶⁴ This was strenuously denied by Officer Plotecki, in the exchange with defence counsel extracted below:

⁶³ Transcript of proceedings 31 August 1992 (n 1).

⁶⁴ Ibid at pp. 45-46.

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Q. Well, Mr Plotecki, I would suggest that you took that bank book on the night of the raid, the attendance on the premises and kept it in your possession?

A. No.

Q. You put it in the lining of the jacket?

A. No, that is not the case and you are well aware there are quite a number of good reasons why that couldn't be the case.

Q. Why do you say there are a number of good reasons, what are they?

A. You'd have to credit me with a lot of foresight to do that. As I said from the start, I wasn't initially in charge. Nor, had I anticipated being in charge of this matter. The first I knew of that bank book was when Mr Khoudair gave it to me.

Q. Was it something you had accidentally kept in your possession because of carelessness on the night?

A. No. It simply couldn't be possible. You couldn't seriously suggest I'd have two police from the mounted section whom I had never met before that night and two uniform police officers with me and that I kept it to myself.

Q. Why do you suggest you wouldn't keep it?

A. Why would I keep it in that scenario?

Q. If you, as a ^{*homicide*} police officer, kept it during the conduct of the search, why would a mounted policeman from Redfern question what you were doing?

A. I'm sorry, I can't understand why I would keep it in the first place. I was only at the initial crime scene simply as a worker. I can't understand why I would keep it in the first place. You'd be attributing me with a considerable amount of foresight on the off chance that I'd secure the brief - -

Q. What if you kept it by accident and then you saw an opportunity?

A. No. I'm sorry, it doesn't ring true. I mean, for a start, you'd have to seize the opportunity. I'd just couldn't see how you would do that.

94. In the cross-examination of other police witnesses, the defence highlighted the poor documentation of exhibits seized from Mr Hughes' flat at the time of the initial crime scene examination.⁶⁵ It appears that police simply placed all items being seized into one brown paper bag, and did not make a list of all items that were seized from the premises.⁶⁶ This opened the door for the raising of doubt as to how the passbook came to be in Mr Jones' jacket. (See above at [20]-[21].)
95. **Secondly**, the defence led evidence to the effect that Mr Locke had spoken to Mr Jones' barrister and another lawyer and had attempted to "withdraw" his statement and "set the record straight", casting doubt on Mr Jones' alleged confession on the night that they visited the Taxi Club.
96. Mr Greenwood QC had been Mr Jones' barrister until he had needed to recuse himself as a witness in the case. He gave evidence that Mr Jones had unexpectedly arrived at his chambers on 7 June 1991,

⁶⁵ Transcript of Proceedings 24 August 1992 (n 3) at pp. 31-34.

⁶⁶ Ibid at pp. 30, 33.

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- in company with Mr Locke and another man (Stephen Brazel), asking to speak to him. Mr Jones said that Mr Locke wanted to talk to him about his evidence and the statements he had given to the police.
97. Mr Greenwood QC had asked for the assistance of an independent criminal solicitor, one Mr Gregory Gould, who had been in the chambers of one of Mr Greenwood QC's colleagues on unrelated business. Mr Gould joined Mr Greenwood QC and Mr Locke. An attempt was made to record the conversation, but due to technical issues only the last 10-15 minutes of the conversation were captured.
98. Both lawyers gave evidence to the effect that Mr Locke had told them that his second statement of 28 May 1990, relating to Jones' oral "confession" (see [87] above), had been drafted by police, that it had only been read to him in detail after he signed it, and that he was then cajoled into sticking to that as the version of events. They testified that Mr Locke had further said that Detective Constable First Class Plotecki had stood over him and threatened him that if he did not give evidence consistent with the statement, he would "go down" for the murder himself.⁶⁷
99. Mr Locke and Mr Gould then left Mr Greenwood QC's chambers. Mr Locke agreed to accompany Mr Gould to his office in Bondi Junction for the purpose of making a statement. Mr Gould gave evidence that, while walking from Mr Greenwood QC's chambers to his car, Mr Locke had told him that he had seen the passbook, later found in Mr Jones' jacket, on a table in the room where he was being interviewed by Detective Plotecki.⁶⁸
100. Mr Gould recalled that Mr Locke was anxious about needing to make arrangements for his three-year-old son. Upon arriving at his office in Bondi Junction, Mr Gould briefly went into his office, leaving Mr Locke in the foyer. When Mr Gould returned to the foyer, Mr Locke had gone. Accordingly, no statement was taken from Mr Locke.
101. Mr Locke was cross-examined about this 7 June meeting. He denied saying that Detective Plotecki had threatened him with the words "If Jones doesn't go, you'll go."⁶⁹ This was damaging to Mr Locke's credibility, as Mr Locke was recorded, on the tape recording of the meeting, saying those words.⁷⁰

⁶⁷ Transcript of Proceedings, *R v Jones* (Supreme Court of New South Wales, Mathews J, 1 September 1992) at p. 36 (SCOI.10400.00056).

⁶⁸ *Ibid* at p. 37.

⁶⁹ Transcript of Proceedings, *R v Jones* (Supreme Court of New South Wales, Mathews J, 26 August 1992) at p. 19 (SCOI.10400.00052).

⁷⁰ Transcript of Proceedings 1 September 1992 (n 68) at p. 26.

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Mr Locke was also recorded on the tape as saying that there was no pressure being applied on him by Mr Jones.⁷¹

102. However, Mr Locke's evidence was that prior to the 7 June meeting, Mr Jones and another man had pressured and intimidated him into retracting his statement.⁷² He admitted telling Messrs Greenwood and Gould that he had come to change his statement of his own volition, not as the result of any pressure, but he said that that was a lie, told out of a fear.⁷³ He said he would have told anything to Mr Greenwood QC or Mr Gould so that he could "get out" of the meeting and away from Mr Jones.⁷⁴ Mr Locke said that he exaggerated his concerns about needing to make arrangements for his son, who was in fact the son of his then girlfriend, in order to leave prior to making a statement.⁷⁵

Analysis of the evidence

103. Much of the evidence as to the circumstances of Mr Hughes' death, including the time of death and who was responsible for it, was tested extensively in the course of the 1992 criminal trial of Mr Jones, which resulted in the acquittal of Mr Hughes.
104. Both Mr Jones and the key Crown witness Mr Locke are dead, and it is considered that there would be limited forensic value in calling any other witnesses to give oral evidence before this Inquiry.
105. However, quite apart from such matters as the demeanour of the witnesses at the trial, the effect of the attacks on Mr Locke's credibility, and the damaging evidence as to anti-LGBTIQ statements made by Mr Jones, there was a considerable body of objective evidence against Mr Jones.
106. In particular, the evidence at trial was that a passbook belonging to Mr Hughes was located in the lining of a jacket owned by Mr Jones, which was in the possession of Ms Stanton.⁷⁶ It is submitted that the following are reasonable inferences to be drawn from the presence of the passbook in Mr Jones' jacket lining:
- a. That Mr Jones placed the passbook into the lining of his own jacket, in accordance with his practice;
 - b. That Mr Jones stole the passbook from Mr Hughes' flat at a date after 21 April 1989, being the date of the last transaction, and probably after 1:15am on 4 May 1989, being

⁷¹ Transcript of Proceedings 1 September 1992 (n 68) at p. 36.

⁷² See generally, Transcript of Proceedings 26 August 1992 (n 70) at pp. 59, 70, 72.

⁷³ Ibid at pp. 20-23.

⁷⁴ Ibid at pp. 20, 42, 62, 66-67.

⁷⁵ Ibid at pp. 51, 65.

⁷⁶ Statement of Detective Constable Samuel Khoudair (n 23) at [13]; Transcript of Proceedings 25 August 1992 (n 15) at pp. 19-20; Transcript of Proceedings 28 August 1992 (n 24) at pp. 37-38.

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the time and date when Mr Scobie said he left Mr Hughes' apartment on the occasion he saw the passbook, only days before the death of Mr Hughes.

107. Thereafter the evidence as to Mr Jones' movements following 3 May 1989 becomes critical. Ms Stanton was with Mr Jones in Bathurst from the evening of 3 May 1989, where she arrived at approximately 11pm. She could not account for his whereabouts from the time of a fight sometime on 5 May 1989, until about 11am on 6 May 1989. That window of opportunity (in which Mr Jones could have travelled to Sydney and taken the passbook from Mr Hughes' residence) overlapped with at least part of the various different ranges of time during which, on the rather unsatisfactory evidence of Dr Schwartz, Mr Hughes died in his apartment.
108. Mr Jones' explanation that he "must have" picked up the passbook unwittingly is unconvincing, particularly in light of his assertions that he did not return to Mr Hughes' flat after moving out in mid-March. It is more likely that Mr Jones lied to police when he denied ever seeing or stealing Mr Hughes' passbook and denied returning to Mr Hughes' flat after mid-March.
109. The defence sought to deflect the impact of the evidence about the passbook by putting to Detective Constable First Class Plotecki, in cross-examination, that he had "planted" the passbook on Mr Jones, by seizing it from the crime scene and placing it (some time later) in the lining of the jacket provided to police by Ms Stanton.
110. These were serious allegations, of grave misconduct by DC Plotecki, which were not supported by any admissible evidence. Officer Plotecki's denials, and his evidence as to the absence of any reason for him to keep the passbook himself if it had actually been found at the crime scene, are objectively persuasive.
111. In addition, given Mr Jones said that he himself "often" placed items in the lining of that particular jacket, it is inherently unlikely that police would by coincidence choose to place the passbook in that unusual location. It is submitted that it is highly improbable that the passbook was planted by police in Mr Jones' jacket lining.
112. On the hypothesis that Mr Jones did steal the passbook and hide it in his jacket lining, the evidence of Mr Locke and Ms Dowsley as to the various statements made by Mr Jones is significant.
113. Cross-examination showed Mr Locke to be unreliable in certain key aspects of his evidence,⁷⁷ and enabled an argument to be raised that Mr Locke may have had a motive to lie to implicate Mr Jones.⁷⁸

⁷⁷ See generally, Transcript of Proceedings 26 August 1992 (n 70) at pp. 28-29.

⁷⁸ Ibid at pp. 34-37.

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114. However, Mr Locke's evidence as to Mr Jones' motives – of robbing Mr Hughes for drugs – are consistent with the evidence of Ms Stanton that whereas Mr Jones had been experiencing withdrawal symptoms on 5 May 1989, that was no longer so on 6 May 1989.
115. The defence attack on the credibility and reliability of Ms Dowsley, in relation to the admission she claimed she heard, was less persuasive, being principally based on stereotypes as to the inherent likelihood of a drug user to lie.
116. It is submitted that, notwithstanding his acquittal at trial, there is a strong probability that Mr Jones was responsible for the death of Mr Hughes.

Conclusions as to bias

117. Dr Sullivan, whose report is dated 24 October 2022, was asked to consider two alternative scenarios, the first being that Mr Jones was the perpetrator and the second being that the perpetrator was unknown.
118. On the first scenario (concerning which he was asked to assume that the statements of Mr Locke, Ms Dowsey and Ms Stanton were accurate, and that the passbook was in fact found in the lining of the jacket), he identifies potential motivations as including:
 - a. revenge, based on Mr Jones' anger at allegations that he had stolen from Mr Hughes;
 - b. robbery of cash and drugs;
 - c. hatred of Mr Hughes, at least in part based on his homosexuality.
119. On the second scenario, he identifies similar potential motivations including:
 - a. revenge, based on Mr Hughes' drug transactions or sexual relationships, including the possibility of jealousy or hatred;
 - b. robbery of cash and drugs;
 - c. hatred of Mr Hughes, at least in part based on his homosexuality.
120. As to the possibility of hatred, Dr Sullivan considers that "sexualised elements of the crime scene, including the posing of the body and the method of death, may reflect hate."

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121. Regardless of whether the perpetrator was Mr Hughes or another person, there is evidence that suggests that Mr Hughes' sexuality was a factor in the selection of Mr Hughes as a victim of the offence, even if robbery and/or revenge were also part of a mosaic of motives. This evidence includes:
- a. The sexualised elements of the crime scene. In his report dated 24 October 2022, Dr Sullivan noted that the crime scene depicted "sexualised elements, including binding, strangulation, and hooding." In Dr Sullivan's opinion, "the location and posing of the body on the bed may have suggested conscious or unconscious motivation of the offender to reflect Mr Hughes' sexuality, as they perceived it".
 - b. The graphic manner in which Mr Hughes was killed, suggestive of a desire to inflict pain and humiliation on Mr Hughes beyond what would be necessary to rob him, or even to extract revenge on him over a property dispute.
122. If Mr Jones was the perpetrator, then there is further specific evidence of LGBTIQ bias on his part, namely:
- a. The comments that Mr Jones made to Ms Dowsley, that Mr Hughes was a "fucking faggot dog anyway and he deserved to die and he deserved everything that he got", which imply that Mr Jones excused or justified his selection of a victim on the basis that Mr Hughes was gay.
 - b. Previous comments that Mr Jones had made about being fed up with Mr Hughes' apartment because it was "full of... poofters", indicating a generally derogatory attitude towards gay men.
123. Having regard to all these factors, it is submitted that it is more probable than not that LGBTIQ bias was a factor in the murder of Mr Hughes.

Submissions as to manner and cause of death

124. It is submitted that a finding by the Inquiry in the following terms is open, and should be made:

On 5 or 6 May 1989, at his apartment in Potts Point NSW, John Hughes died as a result of asphyxiation caused by strangulation with a ligature. While it is not possible to arrive at a definitive conclusion, and notwithstanding his acquittal at trial, the available evidence points to the strong probability that the ligature was applied by Ian Jones.

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Submissions as to recommendations

125. There is no submission as to recommendations.

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