



Special Commission of Inquiry into LGBTIQ hate crimes

13 February 2023

Michele Franco
Forensic and Analytical Science Service
3 Weeroona Rd
LIDCOMBE NSW 2141

By email: [REDACTED]; [REDACTED]

Dear Ms Franco,

Special Commission of Inquiry into LGBTIQ hate crimes – Gerald Cuthbert

I refer to the conference held on 1 November 2022 between the Special Commission of Inquiry into LGBTIQ hate crimes (“the Inquiry”) and the Forensic Analytical Science Service (“FASS”) to discuss the possibility of further forensic testing being done in relation to the death of Gerald Cuthbert (born 27 July 1954, died 18 October 1981).

In relation to Mr Cuthbert matter, FASS advised the Inquiry that:

- The original exhibits received by the Forensic and Analytical Science Service (FASS) included a handkerchief, sock, cigarette butt, an anal swab, an oral swab, and swabs of the drainpipe and balcony at the scene;
- Those exhibits were no longer held by FASS, and that it was likely that they were all returned to the NSW Police Force (“NSWPF”) following the initial testing; and
- If those exhibits could be retrieved, further testing would likely be worthwhile in respect of the handkerchief, sock and cigarette butts due to advancements in technology since those items were originally tested.

The NSWPF have now advised that they are unable to locate these exhibits.

It would be of assistance to the Inquiry if the appropriate staff member of FASS could prepare a formal statement setting out, in detail, the opportunities for forensic testing which might have been available if the exhibits were able to be located, and the kind of information that may have been able to be obtained from such testing to assist any investigation into Mr Cuthbert’s death.

It is anticipated that such a statement would be formally admitted into evidence before the Inquiry and assist shape any findings and/or recommendations the Commissioner may make in relation to Mr Cuthbert’s death.

This case is fixed for a public hearing in the week of 13 March 2023. Accordingly, the Inquiry would be grateful if a statement addressing the above matters could be provided by **24 February 2023**. In the event that you

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anticipate any difficulty with this timeframe, please advise me in writing as soon as possible noting the reasons why further time is required and when it is anticipated that the statement will be completed.

Thank you for your ongoing assistance to the Inquiry.

Please do not hesitate to contact Emily Burston on [REDACTED] or [REDACTED] if you have any queries in relation to this matter.

Yours faithfully,



Emily Burston
Senior Solicitor
Solicitor Assisting the Inquiry