



Special Commission of Inquiry into LGBTIQ hate crimes  
**Statement of Francesca Lilly**  
 24 March 2023

This statement made by me accurately sets out the evidence that I would be prepared, if necessary to give to the Special Commission of Inquiry into LGBTIQ hate crimes (“the Inquiry”) as a witness. This statement has been prepared from my own knowledge and also from perusing the records of the Inquiry. The statement is true to the best of my knowledge and belief.

1. My name is Francesca Lilly. My address is known to the Special Commission of Inquiry.
2. I am employed as a Solicitor by the Special Commission of Inquiry into LGBTIQ hate crimes.
3. In the course of my duties, I have reviewed and conducted inquiries in relation to the death of Gerald Cuthbert, who died on 18 October 1981 at Paddington, NSW. The information contained in this statement is true based on my own knowledge, and from documents in the possession of the Inquiry relevant to Mr Cuthbert.

Request for coronial file

4. On 11 May 2022, the Inquiry issued a written request to the Registrar of the Coroners Court of NSW at Lidcombe to obtain the coronial file in relation to the death of Mr Cuthbert.
5. On 26 May 2022, Lidcombe Coroners Court provided Mr Cuthbert’s coronial file to the Inquiry.

Summons for police files and documents

6. On 18 May 2022, a summons to the NSW Police Force (**NSWPF**) was issued for, *inter alia*, the investigative file in relation to the death of Mr Cuthbert (summons NSWPF1). A folder of material in relation to Mr Cuthbert was produced on 8 June 2022.
7. On 25 August 2022, a summons the NSWPF was issued for all NSWPF records in relation to, *inter alia*, Strike Force Parrabell (summons NSWPF12). This material was produced in tranches between 9 September 2022 and 18 November 2022.
8. On 6 December 2022, summons NSWPF40 was issued to NSWPF seeking files in relation to the deaths of Peter Parkes and Constantinos Giannaris be provided to the Inquiry by 16 December 2022. On 16 December 2022 NSWPF responded in part. A second tranche of material was provided to the Inquiry on 23 December 2022. This material was reviewed by staff of the Inquiry to determine whether these investigations were of relevance to the death of Mr Cuthbert.

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Forensic material

9. On 23 September 2022 the Inquiry issued a letter of request to NSWPF in relation to the identification and locating of forensic exhibits and fingerprint records. The deadline for response was 30 September 2022.
10. On 26 September 2022, NSWPF informed the Inquiry that no digital records had been found and advised that it would consult with entities external to the Unsolved Homicide Team in relation to obtaining physical records. An extension to 7 October 2022 was sought, and granted by the Inquiry on 28 September 2022.
11. On 6 October 2022, NSWPF advised the Inquiry that its searches had failed to locate the requested exhibits. A microfiche FASS file was located but was unreadable.
12. On 1 November 2022, the Inquiry met with the Forensic and Analytical Science Service (**FASS**) to seek advice as to whether further testing could have been conducted on the missing exhibits. FASS confirmed that further testing could have been conducted on the cigarette butts, and the sock and handkerchief with blood and sperm on them.
13. On 25 November 2022, the Inquiry wrote again to NSWPF to request they make further efforts to locate the missing exhibits. On 1 December 2022, NSWPF advised the Inquiry that further searches had been conducted but had again been unsuccessful.
14. On 23 December 2022 the Inquiry wrote to NSWPF to request a statement regarding the searches conducted be provided to the Inquiry by 18 January 2023. On 19 January 2023 NSWPF provided a statement by Detective Sergeant Neil Sheldon to the Inquiry.
15. On 18 January 2023, Detective Sergeant Neil Sheldon provided a statement to the Inquiry detailing the searches undertaken by NSWPF. This statement, and the letters of request from the Inquiry, are included in the tender bundle for this matter.
16. By letter dated 13 February 2023, the Inquiry requested a statement from FASS outlining the testing that could have been conducted had the exhibits in relation to Mr Cuthbert's death been available. On 3 March 2023, Michele Franco of FASS provided an expert certificate outlining same.
17. On 28 February 2023, the Inquiry wrote to NSWPF, noting that Detective Sergeant Sheldon had advised in his statement that the fingerprint file had been located, and requesting that further examinations be undertaken. The Inquiry pointed out that the Unsolved Homicide Team (UHT) Review Case Screening Form in relation to Mr Cuthbert's death, dated 11 October 2005, had noted that a review of the fingerprint file would be undertaken as part of the UHT's review. The Inquiry sought clarification as to whether this foreshadowed review had occurred.
18. On 8 March 2023, NSWPF responded by letter to the Inquiry's request and attached a document entitled "Summary of Fingerprint Evidence" dated 6 March 2023, purporting to have been prepared by Detective Leading Senior Constable Di Donato.
19. On 21 March 2023, the Inquiry sent a further letter to NSWPF, noting conflicting information in the letter and the summary prepared by Detective Leading Senior Constable Di Donato and seeking clarification.
20. On 23 March 2023, NSWPF clarified the position in relation to previous fingerprint analysis and provided records in relation to a 2005 and 2007 review of the fingerprints. NSWPF further

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provided an Expert Certificate dated 21 March 2023, prepared by Kate Reid (Senior Crime Scene Officer – Fingerprint Expert) setting out the results of the fingerprint analysis conducted in 2023 at the request of the Inquiry.

21. The documents referred to at [17]-[19], including the correspondence between the NSWPF and the Inquiry, are included in the tender bundle for this matter.

Summons to Births, Deaths and Marriages and Interagency Cooperation

22. The Inquiry sought inter-agency cooperation to locate Mr Cuthbert's family, however they have to date not able to be traced.

23. On 23 August 2022 a summons to the Registrar of Births, Deaths and Marriages (**BDM**) was issued for, inter alia, death certificates in relation to Mr Cuthbert's brothers, and the following potential witnesses:

- a. [redacted I212];
- b. Simon Richard Cant;
- c. [redacted I213];
- d. [redacted I215];
- e. [redacted I214];
- f. Bevan James Tynan;
- g. Gerard Petre;
- h. Peter Bennett; and
- i. Warwick David Whitford.

24. On 25 August 2022, BDM produced certificates in relation to Mr Cuthbert's brothers advising that no trace was returned following a death search. BDM returned the summons on 25 August 2022, and provided a death certificate for [redacted I214]. BDM also advised there was no trace in relation to death certificate searches for the remaining persons.

25. Interagency cooperation confirmed on 7 October 2022 that one of Mr Cuthbert's brothers was unable to be identified. Mr Cuthbert's other brother was confirmed to be deceased.

26. On 17 March 2023, the Inquiry issued summons BDM17 to BDM, seeking information in relation to Mr Cuthbert's uncle. On 21 March 2023 the Inquiry was advised by BDM that no trace was found in relation to a death certificate for Mr Cuthbert's uncle, however two entries existed in Queensland.

27. On 21 March 2023 an urgent summons, QBDM3, was issued to the Queensland Registry of Births, Deaths and Marriages seeking information regarding Mr Cuthbert's uncle. The Inquiry to date has not received a response to the summons.

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Professional opinions obtained

28. By letter dated 30 September 2022, the Inquiry briefed forensic psychologist Dr Danny Sullivan to provide an expert report regarding the psychology of Mr Cuthbert's killer, and whether Mr Cuthbert's death may be the consequence of an LGBTIQ bias crime. The Inquiry obtained an expert report by Dr Sullivan on 24 October 2022, which is included in the tender bundle.

Victorian Queer Archives

29. On 14 September 2022, Emily Burston of the Inquiry conducted a review of the Victorian Queer Archives in relation to Mr Cuthbert's death. Various articles in relation to Mr Cuthbert's murder, and the associated "gay blade" deaths, were located.

Signature: 

Name: Francesca Lilly

Date: 24 March 2023