



Special Commission of Inquiry into LGBTIQ hate crimes

16 February 2023

Dr Linda Iles
Head of Forensic Pathology
Victorian Institute of Forensic Medicine
65 Kavanagh St
Southbank VIC 3006

By email: [REDACTED]

Dear Dr Iles,

Special Commission of Inquiry into LGBTIQ hate crimes: expert report in relation to the death of Carl Gregory Stockton

As you are aware, I assist the Honourable Justice John Sackar in the Special Commission of Inquiry into LGBTIQ hate crimes ("the Inquiry").

The Inquiry

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

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

Request for expert opinion

Carl Stockton had been drinking at Bar Cleveland on Melbourne Cup Day, 5 November 1996. He was later found collapsed and incoherent with injuries to his face near the intersection of Cleveland and Bourke Streets in Surry Hills. The following day he was taken to hospital, where he died five days later on 11 November 1996. The autopsy revealed massive head injuries. Before he died, he told police he was not assaulted or robbed.

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By this letter, you are briefed to prepare a written report in relation to Mr Stockton's death to assist the Inquiry. It is requested that you provide your report by no later than **27 February 2023**. In the event that you require further time to prepare your report, please advise Ms Burston as soon as possible.

However, in the interests of time it would be appreciated if, following your review of the material with which you are briefed, you could consider question 1 (p. 5) below and provide Ms Burston with your preliminary views in advance of provision of your final report.

Background

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

1. Mr Stockton was born on 13 October 1944 to his parents Esmond and Merle Lucy Stockton. He lived alone in Surry Hills. He had worked as a train driver for approximately 8 months prior to his death, and prior to that had worked in the Taxation Department adjudicating complaints from MPs on behalf of their constituents. He was not open about his sexuality. He told a friend, Peter Moore, that he was gay.
2. Witnesses give differing accounts in relation to Mr Stockton's consumption of alcohol.
3. Mr Stockton's father initially stated to police that he did not think Mr Stockton was much of a drinker, but subsequently told the inquest that the extent of his drinking was unknown to the family until after he died.
4. Relevantly, neurologist, Dr Raymond Garrick, reported on 22 October 1996 that Mr Stockton had suffered a head injury "2 weeks ago". Mr Stockton was unable to recall the exact events of his injury. His last recollection was attending the Shakespeare pub at about 11pm on 5-6 October 1996 on the way home from work. He was at least mildly intoxicated but not ataxic before losing awareness. He was not robbed and he could not distinguish whether he fell or was assaulted. His injury resulted in a fracture of the right clavicle, injury to the right occipital and temporal scalp and the right olecranon.
5. Dr Garrick's report notes prominent alcohol intake and significant depression for which Mr Stockton was taking Anafranil for the 10 months prior to the report.
6. On 5 November 1996, Melbourne Cup Day, Nathan Starcic was drinking at the Bar Cleveland Hotel. Shortly after 2:00pm he was walking through the back bar of the hotel to the toilet when he saw Mr Stockton sitting at a table by himself. He noticed that Mr Stockton's arm was in a sling but did not see any other injuries. He formed the view that Mr Stockton was intoxicated as his speech was slurred and his eyes were bloodshot. Mr Stockton was not observed by Mr Starcic again left the hotel at about 6:30pm.
7. Mr Starcic returned to the Bar Cleveland Hotel at about 10:00pm with friends Gavin James and Andrew Phillips. At around 11:00pm, Mr Stockton still appeared drunk.
8. A number of bar staff were working at the Bar Cleveland Hotel that evening, including Brent Tozer, the manager, and Magda Kos, a bar attendant. Ms Kos noticed that Mr Stockton was drinking schooners of Resches and stubbies of Coopers beer. She recalls him leaving around 11:30pm and being slightly intoxicated.
9. Bridgette Paroissien and her boyfriend, Robert Diliberto, lived at 731 Bourke Street, Redfern. Their house backed on to the laneway behind the Bar Cleveland Hotel. At about 12:50am or 1:00am on 6 November 1996, Ms Paroissien came through her back gate and saw Mr Stockton sitting in her backyard. She asked him why he was in her yard, but he didn't answer her. She went inside to put

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down her personal items and then went back outside to speak to him. Mr Stockton didn't seem to know what he was saying. Ms Paroissien tried to help him up, but he said, "nah, can't move".

10. Ms Paroissien then went and woke up Mr Diliberto. Both Ms Paroissien and Mr Diliberto tried to speak to Mr Stockton but he didn't answer them. They helped him through the back gate and into the laneway before lowering him to the ground. Ms Paroissien saw Mr Stockton get up and take a few steps before falling into some garbage bins. Ms Paroissien and Mr Diliberto then went back inside.³⁵
11. At around 1:15am on 6 November 1996, Ms Kos, was cleaning up in the back bar when she was approached by a man who said, "There's an old guy that's collapsed outside, I think you should call someone". She then spoke to Mr Tozer, who was in the front bar.
12. Mr Tozer walked out onto Cleveland Street and saw Mr Stockton laying on his back on the inside lane of Cleveland Street, at the corner of Bourke Street. He was laying across the lane. At the same time, a passer by also approached Mr Stockton. Together, Mr Tozer and the passer by lifted Mr Stockton under the arms and helped him walk to the steps of the hotel. Mr Tozer asked Mr Stockton where he lived, to which Mr Stockton replied, "I don't know". The passer-by was around 25 years old, Caucasian and had dark hair in a ponytail. Mr Phillips recalls seeing a group of people standing in a circle outside the pub shortly before Mr Stockton was brought it to the pub, and recalls that Mr James assisted Mr Tozer bring him in.
13. Mr Tozer brought Mr Stockton into the hotel and sat him on a chair. He gave Mr Starcic and Mr James a wet cloth and some ice for Mr Stockton's injuries and then went to contact Mission Beat. Mr Stockton had a black right eye and small cut underneath his eye. Mr Stockton tried to speak but was incoherent. Mr Starcic heard him say repeatedly, "I've had enough. I want someone to take me around the back and kill me". Mr James heard Mr Stockton say "I want to die" two or three times.
14. At around 1:15am, Eric-Emmanuel Hooson and Marc Kay, welfare officers with Sydney City Mission, received a message to attend the hotel in relation to Mr Stockton. They arrived around 1:30am and assessed Mr Stockton. They noticed Mr Stockton's right arm was in a sling and he had a black eye.
15. Mr Stockton was taken to Campbell House (a proclaimed place).
16. Mark Lambrick was the welfare officer at the proclaimed place. He completed the admission form. Lambrick performed regular checks on Mr Stockton along with welfare officer Meffan Kaiwai. After each check it was noted that Mr Stockton was breathing normally and laying in the same position as before.
17. The following morning (6 November 1996) Mr Stockton vomited several times. At around 10am he was noted to be standing by his bed and when asked if he was okay he replied "I just want to get into bed." At around 11.30am he again vomited. He was very disoriented and in a lost state. There were concerns about his wellbeing and he was taken to Sydney Hospital at about 11am. He was transferred to St Vincent's Hospital later that day.
18. Mr Stockton died in St Vincent's Hospital on 11 November 1996.
19. Police spoke with Mr Stockton at the hospital and he did not say that he was assaulted. He was asked how he suffered his injuries; how he obtained his black eye; and whether he was he assaulted. Mr Stockton replied 'no' to all three questions. The questioning officer, DSC Moss, noted that Mr Stockton was vague when spoken to and did not appear to fully understand questions asked of him at that time.

Post-mortem examination

20. A post-mortem was conducted by Dr Christopher Lawrence on 12 November 1996 (report dated 14 February 1997). The cause of death was craniocerebral injuries. The autopsy revealed massive head

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injuries with three apparent areas of impact on the right temporal posterior parietal and left temporal regions. There was also bruising on the legs, chest and arms. Some of the injuries appeared older, including the old rib fractures and the injury to the right clavicle. The pattern of injuries was described as “odd” as the three impact sites would be inconsistent with a single fall. In the pathologist’s opinion, the sequence of events needed to be further clarified but the pattern of injuries could represent an assault. Alternatively, the severity of the injuries could have been caused by being struck by a motor vehicle. The antemortem blood revealed a blood alcohol of 0.014 g/100ml and diazepam.

21. The main injury was to the rear of the head. At inquest, Dr Lawrence indicated his view that it was unlikely Mr Stockton was struck by a motor vehicle given the pattern of multiple injuries. In particular, he observed that, in his experience, persons struck in the head by passing motor vehicles were usually killed instantly. However, he was unable to say with certainty whether the injuries were caused by a straight-out assault, multiple falls or an assault followed by a fall.
22. Dr Lawrence observed that some of the injuries were unusual in the context of an assault, notably the substantial injury to the back of Mr Stockton’s head. However, that injury was also inconsistent with a regular fall, although perhaps not with a fall onto an irregular surface while intoxicated or otherwise disoriented. Dr Lawrence was reluctant to dismiss Mr Stockton’s death as accidental, given that any falling injuries may have been sustained after he had been assaulted.

Neurosurgeon’s opinion

23. Dr John Matheson, consultant neurosurgeon, was of the opinion that Mr Stockton’s injuries pointed to an assault with repeated head injury and are inconsistent with the impact of a motor vehicle collision. Dr Matheson concluded,

“...it seems fairly clear that extensive fracturing of the skull involving all sides and the base could only have occurred from multiple repeated blows and is therefore inconsistent with impaction from a motor vehicle accident. One would expect that with impaction from a motor vehicle accident there would be more confined fractures and for the fractures to be associated with depression. One would also have expected a lack of a lucid interval. Mr Stockton’s injuries therefore point clearly to an assault with repeated head injuries and are inconsistent with impaction from a motor vehicle accident.”
24. Dr Tony Moynham, a doctor for the NSW Police Force, gave a contradictory view, opining that Mr Stockton’s injuries could have been caused by a motor vehicle.
25. Mr Stockton’s brother-in-law, A/Prof Brian Doust (Director of Radiology at St Vincent’s Hospital), also expressed the view in his statement that, to the extent he was aware of the injuries suffered by Mr Stockton, it was unlikely that his injuries would be so confined to his head if he was struck by a motor vehicle. However, Mr Doust did not express that opinion as a medical expert, noting that he did not have access to the file and was not an expert in forensic medicine.

Cause and manner of death

26. Deputy State Coroner John Abernethy found at inquest on 1 December 1998 as follows:

“I find that Carl Gregory Stockton died on the 11th day of November 1996 at Darlinghurst of craniocerebral injuries suffered on or about the 5th day of November 1996 at Redfern. As to how such injuries were sustained, the evidence adduced does not enable me to say.”

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Material with which you are briefed

For the purpose of preparing your report, you are briefed with the materials in the **enclosed** index. The material contained in the index has been extracted from the NSW Police Force investigation file and the court file from the Coroners Court of NSW.

Please note that the briefing materials contain sensitive images. The relevant tabs of your briefing material containing the sensitive images have been marked with an asterisk on the index.

If there is any additional material that you consider would be of use to you in forming your opinion, please contact Ms Burston and this material will be provided to you (if available).

Matters to be addressed in your report

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

1. Following your review of your briefing material, please identify:
 - a. any additional areas of medical investigation or expert opinion you consider would assist his Honour on the issues of Mr Stockton's injuries and cause of death; and
 - b. if relevant, appropriate experts from whom his Honour may wish to seek further expert opinion.
2. Your view as to the adequacy of the post-mortem investigations conducted with respect to Mr Stockton.
3. Your opinion as to the manner and cause of Mr Stockton's death and the reasons for that opinion.

Without limiting the matters which you may consider relevant to this question, please outline your views regarding:

 - a. How Mr Stockton may have suffered his head injuries;
 - b. The likely sequence of the injuries suffered by Mr Stockton;
 - c. The likelihood that Mr Stockton's death was caused, or contributed to, by a fall;
 - d. The likelihood that Mr Stockton was struck by a motor vehicle; and
 - e. The likelihood of Mr Stockton being the victim of an assault.
4. Any recommendations for further investigation with respect to determining the manner and cause of Mr Stockton's death.
5. Any other comment, within your expertise, which you consider to be relevant to the manner and cause of Mr Stockton's death.

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

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

Expert Witness Code of Conduct

I **enclose** a copy of the Expert Code of Conduct with which expert witnesses in Supreme Court proceedings in NSW are typically required to comply. While the present inquiry is not a Court proceeding, I would be

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grateful if you would read the Code of Conduct and agree to be bound by it. I suggest the following form of words be included in the body of your report in due course:

“I, Dr Linda Iles, acknowledge that I have read the Expert Witness Code of Conduct in Schedule 7 to the Uniform Civil Procedure Rules 2005 (NSW) and agree to be bound by it.”

Thank you for your consideration and assistance.

Please do not hesitate to contact Emily Burston, Senior Solicitor on [REDACTED] or Kate Lockery, Principal Solicitor on [REDACTED] if you have any queries in relation to this matter.

Yours faithfully,



Emily Burston
Senior Solicitor
for Crown Solicitor

Encl. (2)



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Index to Brief to Dr Iles – Carl Stockton

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Tab	Document	Date	Relativity reference
Formal documents			
1.	Autopsy Report of Dr Christopher Lawrence	14 February 1997	SCOI.00045.00055
2.	Neuropathology Report of Dr J Raisanen	15 January 1997	SCOI.00045.00056
3.	Toxicology Report of Vincent Zurzolo	29 January 1997	SCOI.00045.00057
4.	Transcript of Coronial Inquest	1 December 1998	SCOI.00045.00001
5.	Coronial Findings	1 December 1998	SCOI.00045.00003
Photographs			
6.	Crime Scene and Autopsy Photographs* <i>[Sensitive material]</i>	Undated	SCOI.00045.00060
NSW Police documents			
OIC			
7.	Statement of OIC Detective Senior Constable Neil Andrew Walker	23 April 1998	SCOI.00045.00064
Attendance at prior incident			
8.	Statement of Senior Constable Darren John Gregor	26 November 1996	SCOI.00045.00107
Investigation of incident leading to death			
9.	Statement of Senior Constable Warren Anthony Stocks	4 March 1997	SCOI.00045.00087
10.	Statement of Plain Clothes Senior Constable Anthony Moss	26 March 1997	SCOI.00045.00084

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Witness evidence			
Nearby residents			
11.	Statement of Robert William Diliberto	11 November 1996	SCOI.00045.00095
12.	Statement of Brigette Diana Paroissien	18 November 1996	SCOI.00045.00096
Bar staff and customers			
13.	Report of enquiries made by police at Bar Cleveland on 6-7 November 1996	6-7 November 1996	SCOI.10264.00011
14.	Statement of Magda Kos	8 November 1996	SCOI.00045.00070
15.	Statement of Brent Matthew Tozer	9 November 1996	SCOI.00045.00069
16.	Statement of Gavin William James	11 November 1996	SCOI.00045.00072
17.	Statement of Andrew Phillips	12 November 1996	SCOI.00045.00073
18.	Statement of Nathan Adrian Starcic	12 November 1996	SCOI.00045.00071
Missionbeat staff			
19.	Statement of Eric-Emmanuel Hooson	5 November 1996	SCOI.00045.00074
20.	Statement of Meffan October Kaiwai	9 November 1996	SCOI.00045.00077
21.	Statement of Alan John Clynych	9 November 1996	SCOI.00045.00078
22.	Statement of Mark Desmond Lambrick	11 November 1996	SCOI.00045.00076
Treating medical staff			
23.	Statement of Dr Steven Dubenec	12 November 1996	SCOI.00045.00079
24.	Statement of Dr L. H. Raj Wijetunga	13 November 1995	SCOI.00045.00081
25.	Statement of Dr Clive Woolfe	18 November 1996	SCOI.00045.00082
26.	Statement of Dr Astika Kappagoda	21 November 1996	SCOI.00045.00083
Family			
27.	A/Prof Brian David Doust	11 November 1996	SCOI.00045.00080
Expert reports			

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28.	Letter from Dr Raymond Garrick to Dr Heather McIntyre re neurological assessment of the deceased	22 October 1996	SCOI.00045.00113
29.	Medical Report of Dr Heather McIntyre (GP)	13 November 1996	SCOI.00045.00114
30.	Letter from Dr JM Matheson to Detective Senior Constable Walker	3 March 1997	SCOI.00045.00115
31.	Statement of Dr Anthony Frederick Moynham (Director, Clinical Forensic Medicine Unit)	21 April 1997	SCOI.00045.00116