



Special Commission of Inquiry into LGBTIQ hate crimes

SUBMISSIONS OF COUNSEL ASSISTING

As at 27 March 2023

IN THE MATTER OF CARL STOCKTON

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. Carl Gregory Stockton died at St Vincent's Hospital, Sydney, on 11 November 1996, as a result of craniocerebral injuries¹ sustained on 5 or 6 November 1996 in the vicinity of Bar Cleveland, Redfern.

Circumstances of death

3. Mr Stockton was 52 years old at the time of his death, and lived alone in Surry Hills. He worked as a train driver, and had a particular interest in trains and motor vehicles. He owned several cars and was a member of the Rolls Royce Owners' Club of Australia.²
4. On the afternoon and evening of 5 November 1996, Mr Stockton was drinking at the Bar Cleveland. He left the hotel at about 11.30 pm, in a state of intoxication.
5. At about 1.00 am on 6 November 1996, he was found lying on the roadway in Cleveland Street near the intersection with Bourke Street. He had suffered severe head injuries, which on the evidence were likely to have been the result either of a fall, or of being struck by a car, or of an assault.
6. Five days later, on 11 November 1996, Mr Stockton died from those injuries.

¹ Coronial Findings, 1 December 1998 (SCOI.00045.00003).

² Statement of Esmond Henry Stockton dated 13 November 1996, [7]-[8] (SCOI.00045.00098); Statement of Bruce David Doust dated 11 November 1996 at [4] (SCOI.00045.00080).

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Findings of post-mortem examination

7. On the morning of 12 November 1996, a post-mortem examination was performed at Glebe Morgue by Dr Christopher Lawrence.³
8. The autopsy revealed massive head injuries with three apparent areas of impact on the right temporal posterior parietal and left temporal regions. The main injury was to the rear of the head.⁴
9. Bruising to the legs, chest and arms was also observed. It was noted that some of Mr Stockton's injuries appeared older, including historic rib fractures and a fractured right clavicle.⁵
10. The ante-mortem blood sampling, taken at around 12:00pm on 6 November 1996 upon admission to Sydney Hospital, revealed a blood alcohol level of 0.014 g/100ml, and diazepam was also present.⁶
11. In his autopsy report, Dr Lawrence considered that Mr Stockton's injuries, in particular the three impact sites, were inconsistent with a single fall, and described them as "odd". He opined that the pattern of injuries could represent an assault, though the severity of the injuries left open the possibility of Mr Stockton's being struck by a motor vehicle.⁷

Persons of interest

12. While there were no specific persons of interest identified, Eric-Emmanuel Hooson (from Mission Beat) recounted in his written statement that he had heard rumours from a co-worker, Terry Hugo, that "on the street people believe" that "four Caucasian males who frequent the Bar Cleveland" had perpetrated a number of similar assaults in the vicinity of Bourke and Cleveland Streets.⁸
13. Police did not obtain a statement from Mr Hugo in relation to this matter, and (according to the Strike Force Parrabell BCIF form) were unable to identify any historical events in the vicinity of Bourke and Cleveland Street to support Mr Hugo's claim.⁹
14. Similarly, police do not appear to have made enquiries about the "group of three to four people" observed standing outside Bar Cleveland at the time Mr Stockton was found on the roadway: see [91] below.

³ Autopsy Report of Dr Christopher Lawrence dated 14 February 1997, p. 1 (SCOI.00045.00055).

⁴ Transcript of Coronial Inquest, 1 December 1998, p. 11 (SCOI.00045.00001).

⁵ Autopsy Report of Dr Christopher Lawrence (n 3) p. 4.

⁶ Statement of Dr Anthony Frederick Moynham (Director, Clinical Forensic Medicine Unit) dated 21 April 1997, p. 3 (SCOI.00045.00116).

⁷ Autopsy Report of Dr Christopher Lawrence (n 3) p. 9.

⁸ Statement of Eric-Emmanuel Hooson dated 5 November 1996 at [8] (SCOI.00045.00074).

⁹ Strike Force Parrabell Bias Crimes Indicators Review Form – Carl Stockton, pp. 8, 9 (SCOI.75037).

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15. Further, some five months later, on 27 April 1997, information was received by police, from a source identified only as the “general public”, that assaults were being committed on persons who drink at the Cleveland Hotel by a group of “young white males” who were preying on drinkers as they left the hotel. The source believed that the majority of the assaults were not being reported to police.¹⁰
16. The information available to the Inquiry indicates that NSWPF did not investigate the reports made regarding this group of white men, including as to whether there might be correlations with the matters referred to in [12] – [15] above.

Indicators of LGBTIQ status or bias

17. Mr Stockton had confided to various close friends that he was gay, and his sexuality appears to have been more generally known despite the private nature of Mr Stockton’s lifestyle.¹¹ Mr Stockton had come out to his close friend of 24 years, [REDACTED] I208, who stated that she was aware of Mr Stockton’s sexuality virtually from their first meeting, and advised that although he never had a live in partner, she was aware that “years ago” he used to cruise for sexual partners. To [REDACTED] I208’s knowledge, this was no longer Mr Stockton’s practice at the time of his death.¹²
18. There is evidence which suggests that Mr Stockton may have been the victim of one or more assaults, motivated by LGBTIQ hate, in the mid-late 1980s, as outlined in the following paragraphs.
19. Mr Stockton’s friend Peter Moore recalled seeing bruises on one side of Mr Stockton’s face in about 1986. In response to Mr Moore’s enquiries, Mr Stockton replied to the effect of “I am a homosexual, it happens occasionally”.¹³
20. Another of Mr Stockton’s friends, Gavan McLennan, said that he knew that Mr Stockton had been bashed twice before. The first he said was a long time ago when Mr Stockton was due to go on a trip to China. He had been bashed the night before and could not go. The second assault was six or seven years prior to Mr Stockton’s death, putting this incident at around 1989 or 1990. Mr McLennan recalls getting a call from Mr Stockton who said he had been bashed in Sydney and fled to Port Macquarie where he was staying in a motel for about five nights. He told Mr McLennan that the assault happened after he got off a bus and was walking through Moore Park. Mr McLennan recalls that when Mr Stockton came to stay with him shortly afterwards, he had bruising on his face.¹⁴ The completed

¹⁰ Intelligence Information System Information Report Summary, 27 April 1997, p. 1 (SCOI.10270.00007).

¹¹ See e.g. Statement of Peter Moore dated 7 July 1997 at [4]-[5] (SCOI.00045.00106) regarding taunts about Mr Stockton’s perceived sexuality.

¹² Statement of [REDACTED] I208 dated 15 November 1996 at [6] (SCOI.00045.00100).

¹³ Statement of Peter Moore (n 11) at [4].

¹⁴ Statement of Gavan McLennan, 26 November 1996 (SCOI.00045.00101).

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Bias Crimes Indicators Form (**BCIF**) seems to suggest that this incident was the same incident as recounted by Mr Moore, although that is not clear. The years do not match, and Mr Moore had not mentioned that the incident had occurred in Moore Park. It is possible that the incidents are different, and Mr Stockton was assaulted multiple times in his life.

21. Mr Stockton's father, Esmond Stockton, also recalled Mr Stockton being assaulted possibly six or seven years previously, in Mort Street, by two or three people. He suffered a broken finger and was apprehensive of further attack.¹⁵ Mr Stockton's father mentioned that Mr Stockton was also robbed on this occasion, and a camera, electronic gear and antique jewellery were taken.¹⁶
22. Geoffrey Raymond Tyson had known Mr Stockton since 1982 through a shared interest in motor vehicles. To his knowledge Mr Stockton had been assaulted three times: once in the city about ten years earlier (i.e. in approximately 1986), which was as a result of a traffic incident, and twice in Moore Park. Mr Tyson thought these incidents took place within two years of each other.¹⁷ Mr Tyson was not aware of the circumstances in which Mr Stockton injured his collarbone; Mr Stockton did tell him about the injury within some days of it occurring, but did not elaborate.¹⁸ Subsequent to his collarbone injury Mr Stockton mentioned to Mr Tyson that "people around here don't like me" and spoke about moving to another suburb. He did not specify who these people may have been.¹⁹ Mr Tyson, in his statement, also mentioned the robbery referred to by Mr Stockton's father.²⁰
23. [REDACTED]'s recollection was that Mr Stockton had been assaulted on two occasions, in around 1988, in which his face and fingers were injured.²¹ [REDACTED] also recalled that Mr Stockton had been evasive regarding how he had injured his collarbone (in 1996), and after initially telling [REDACTED] that he had tripped on the stairs and fallen, had told [REDACTED] that "he would tell [her] later how it happened".²² This may indicate some level of embarrassment or shame around how the injury was obtained, and may raise the possibility of another assault.

¹⁵ Statement of Esmond Henry Stockton (n 2) at [9].

¹⁶ Ibid at [10].

¹⁷ Statement of Geoffrey Raymond Tyson, 14 November 1996 at [9] (SCOI.00045.00099).

¹⁸ Ibid at [7].

¹⁹ Ibid at [10].

²⁰ Ibid at [10].

²¹ Statement of [REDACTED] (n 12) at [9].

²² Ibid at [8].

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Exhibits: availability and testing

24. An examination of the clothing Mr Stockton wore when at the Bar Cleveland on 5 November 1996 was performed by Senior Constable Stocks on 13 November 1996. This examination identified soil visibly similar to that located in the laneway behind the Bar Cleveland.²³
25. Whether this clothing was retained, or tested, at the time, is unclear from the material so far provided to the Inquiry. The Inquiry has made enquiries with NSWPF to clarify the status of the exhibits obtained in relation to Mr Stockton's death.
26. Wine bottles with fingerprints belonging to Mr Stockton were also recovered from Mr Stockton's property.²⁴
27. A number of pieces of timber that were located in Matterson Lane on 12 November 1996 were examined and ruled out as being connected to Mr Stockton's death.²⁵ Whether these pieces of timber were retained is unclear from the material so far provided to the Inquiry.
28. Mr Stockton's medical records from St Vincent's Hospital and Sydney Hospital were returned to the respective hospitals by the Coroners Court following the conclusion of the inquest in 1998.²⁶

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

29. An inquest was held on 1 December 1998 before Senior Deputy State Coroner John Abernethy.²⁷
30. At the inquest, Dr Lawrence gave evidence that it was, in his professional opinion, unlikely that Mr Stockton's injuries were the consequence of a motor vehicle collision, noting that such injuries to the head from motor collisions typically cause death instantaneously. Dr Lawrence cited the pattern of Mr Stockton's injuries in support of this opinion.²⁸ Dr Lawrence regarded some of Mr Stockton's injuries as "unusual" in the context of an assault, particularly the primary injury to the back of Mr Stockton's head, whereas the injury to the side of Mr Stockton's head was quite typical of an assault. The injury to the back of the skull was also inconsistent with a regular fall, although not, perhaps, a fall onto an irregular surface whilst under the influence of alcohol or otherwise incapacitated or disorientated.²⁹

²³ Statement of Senior Constable Warren Anthony Stocks dated 4 March 1997 at [5] (SCOI.00045.00087).

²⁴ Statement of Detective Senior Constable Neil Andrew Walker (Officer in Charge) dated 23 April 1998 at [104]-[106] (SCOI.00045.00064).

²⁵ *Ibid* at [72].

²⁶ Statement of Senior Constable Warren Anthony Stocks (n 23) at [7].

²⁷ Transcript of Coronial Inquest (n 4).

²⁸ Transcript of Coronial Inquest (n 4) p. 9.

²⁹ Transcript of Coronial Inquest (n 4) pp. 8, 11.

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31. Overall, Dr Lawrence's evidence was that it was not possible to determine whether Mr Stockton's injuries were caused by an assault, a fall or falls, or an assault followed by a fall. However, he expressed reluctance to classify Mr Stockton's death as an accident, and noted that any falling injuries may have been sustained following an assault.³⁰
32. A consultant neurosurgeon, Dr John Matheson, provided an expert opinion to the Coroner. Dr Matheson also regarded Mr Stockton's injuries as inconsistent with the impact of a motor vehicle collision. He expressed the positive view that the injuries were likely to have been the result of an assault. He concluded:
- “In Mr Stockton's case 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.”³¹
33. Mr Stockton's radiologist brother-in-law, Dr Doust, also expressed the opinion that Mr Stockton's injuries could not have been obtained in the course of a motor vehicle collision, noting that the injuries were confined to the head, and that injuries to the rest of the body were absent. As such, Dr Doust opined that Mr Stockton's injuries were obtained by a blow or multiple blows to the head, though he noted he was not an expert in forensic medicine.³²
34. One of Mr Stockton's treating doctors at St Vincent's Hospital, Dr Raj Wijetunga, formed a similar opinion, namely that Mr Stockton's intracerebral haemorrhages and extensive skull fractures were as a result of blunt trauma with severe force to the back of the head.³³
35. By contrast, Dr Anthony Moynham, at that time Director of the NSW Police Clinical Forensic Medicine Unit, provided a statement in which he expressed the opinion that Mr Stockton's injuries could have been the result of a fall or a glancing type of blow from a large object, such as a motor vehicle.³⁴

³⁰ Transcript of Coronial Inquest (n 4), p. 11.

³¹ Letter from Dr JM Matheson to Detective Senior Constable Walker dated 3 March 1997, p. 2 (SCOI.00045.00115).

³² Statement of Detective Senior Constable Neil Andrew Walker (Officer in Charge) (n 24) at [38]; Statement of Dr Bruce David Doust (n 2).

³³ Statement of Detective Senior Constable Neil Andrew Walker (Officer in Charge) (n 24) at [40]; Statement of Dr L H Raj Wijetunga dated 13 November 1996 (SCOI.00045.00081).

³⁴ Statement of Dr Anthony Frederick Moynham (Director, Clinical Forensic Medicine Unit) (n 6) p. 4.

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36. The Coroner found that Mr Stockton died on 11 November 1996 at Darlinghurst of craniocerebral injuries suffered on or about 5 November 1996 at Redfern. The Coroner found, however, that the evidence adduced could not establish how those injuries were obtained.³⁵

Features of /concerns with original police investigation

37. On 6 November 1996, prior to Mr Stockton's death, during his admission to St Vincent's Hospital, Constable Moss and Constable Sparkes attended Mr Stockton's home, which they found to be secure and with no persons present. They spoke with Mr Stockton's neighbour, who confirmed Mr Stockton lived alone at the premises, and stated he had no knowledge of Mr Stockton's injuries or condition.³⁶
38. Robbery was ruled out as a motive due to Mr Stockton's retention of the valuable items on his person, specifically his mobile phone and wallet. Although his keys were missing, there was no evidence of intrusion at his home address or theft of his motor vehicle, which was a Rolls Royce.³⁷
39. Constables Moss and Sparkes then attended the Campbell House Proclaimed Place, where they spoke with a Welfare Officer named "Manny", who provided information regarding Mr Stockton's movements from outside the Bar Cleveland to Campbell House and subsequently to Sydney Hospital.³⁸ The Constables also accessed the records at Campbell House and noted that Mr Stockton had stayed there once before, on 5 October 1996 (as to which, see below at [74]).³⁹
40. Constables Moss and Sparkes attended Mr Stockton at St Vincent's Hospital on 6 November 1996. He was asked how he suffered his injuries; how he obtained his black eye; and whether he was 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.⁴⁰
41. Constables Moss and Sparkes next spoke with staff at the Bar Cleveland, and made a search of the area, but were unable to locate any physical evidence to explain Mr Stockton's injuries.⁴¹

³⁵ Coronial Findings (n 1).

³⁶ Statement of Plain Clothes Senior Constable Anthony Moss dated 26 March 1997 at [4] (SCOI.00045.00084).

³⁷ Strike Force Parrabell, Bias Crimes Indicators Review Form – Carl Stockton, p. 13-14 (SCOI.75037).

³⁸ Statement of Plain Clothes Senior Constable Anthony Moss (n 36) at [5]-[6].

³⁹ Ibid at [7].

⁴⁰ Ibid at [8]-[9] (SCOI.00045.00084); First Statement of Plain Clothes Senior Constable Michael James Sparkes dated 20 March 1997 at [8]-[9] (SCOI.00045.00085).

⁴¹ Statement of Plain Clothes Senior Constable Anthony Moss (n 26) at [10].

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42. On 8 November 1996 Constables Moss and Sparkes attended the Neurological Ward at St Vincent's Hospital, where they took possession of Mr Stockton's personal property held by the Hospital and secured it at Surry Hills Police Station.⁴²
43. From 8 November 1996 to 12 November 1996, Constables Moss and Sparkes proceeded to obtain statements from the bar manager of the Bar Cleveland (Mr Tozer), and the Welfare Officers who had transported Mr Stockton between the Bar Cleveland, Campbell House and Sydney Hospital and provided care at Campbell House.⁴³
44. On 9 November 1996, police conducted a search of the parkland in Moore Park, a known beat. No signs of an assault or a struggle were observed.⁴⁴
45. On 11 November 1996 Constable Sparkes, together with Senior Constable Warren Stocks of the East Sydney Crime Scene Unit, attended the Bar Cleveland, and took photographs of the surrounding area, including Matterson Lane, which runs behind the pub.⁴⁵ Constable Sparkes then provided Mr Stockton's property (including clothing, a sling, coins and a wallet, as taken from St Vincent's Hospital) to East Sydney Crime Scene Unit for examination.⁴⁶
46. The standard canvass form for Bar Cleveland of this day recorded Mr Tozer, Ms Kos and Donna Strachan (another bar employee) as being present, and noted "occupants' attitude worthy of follow up".⁴⁷ It is not clear from the evidence who specifically this comment referred to, nor what was meant by "attitude". Further details in the form would have been of assistance. The evidence available to the Inquiry does not indicate what "follow up", if any, occurred as a consequence of this comment.
47. The original police homicide investigation, known as Strike Force Altea, commenced on 12 November 1996 following Mr Stockton's death, and proceeded until the coronial findings were made on 1 December 1998. The investigation was led by Detective Senior Constable Neil Walker.⁴⁸

⁴² Statement of Plain Clothes Senior Constable Anthony Moss (n 36) at [12].

⁴³ Statement of Detective Senior Constable Neil Andrew Walker (Officer in Charge) (n 24) at [51], [54]-[55], [57]; Statement of Plain Clothes Senior Constable Anthony Moss (n 36) at [10]-[16].

⁴⁴ Statement of Detective Senior Constable Neil Andrew Walker (Officer in Charge) (n 24) at [56] (SCOI.00045.00064).

⁴⁵ Statement of Senior Constable Warren Anthony Stocks (n 23) at [5]; First Statement of Plain Clothes Senior Constable Michael James Sparkes (n 40) at [21].

⁴⁶ First Statement of Plain Clothes Senior Constable Michael James Sparkes (n 40) at [22].

⁴⁷ Standard Canvass Form re Brent Tozer, Magda Kos and Donna Strachan, 11 November 1996 (SCOI.10265.00107).

⁴⁸ Transcript of Coronial Inquest (n 4).

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48. In the course of Strike Force Altea, police actioned a number of investigative steps, including the following:
- a. Examination of the crime scene for evidence of an assault, struggle or motor vehicle accident, including testing timber found at the crime scene as to whether it was used in an assault;⁴⁹
 - b. Canvassing of the Bar Cleveland and surrounding businesses and residences;⁵⁰
 - c. On 13 November 1996, making a press release requesting any witnesses come forward;⁵¹
 - d. On 13 and 19 November 1996, searching Mr Stockton's home address to confirm whether any items had been stolen and obtain personal documents for examination;⁵²
 - e. Speaking with various friends and associates of Mr Stockton as to his background, personality and lifestyle, including prior assaults;⁵³
 - f. On 19 November 1996, obtaining a pre-operative blood sample of Mr Stockton for testing pre-mortem blood alcohol level;⁵⁴
 - g. Obtaining records from Mr Stockton's treating practitioners, including his GP Dr Heather McIntyre and a neurologist he had been referred to following a recent injury, Dr Raymond Garrick;⁵⁵
 - h. Fingerprint testing of Mr Stockton's wallet and its contents, as well as wine and beer bottles from his premises, without relevant result;⁵⁶
 - i. Obtaining information from relevant police officers as to locating Mr Stockton after the previous injury in October 1996 (outlined above);⁵⁷
 - j. Investigating a motor accident in which Mr Stockton and his godson, [197] had been involved late October 1996, which apparently caused him to become agitated and to request a volunteer police friend look up the registration details of the offending vehicle;⁵⁸

⁴⁹ Statement of Detective Senior Constable Neil Andrew Walker (Officer in Charge) (n 24) at [72], [141].

⁵⁰ Ibid at [73], [111], [115].

⁵¹ Ibid at [75].

⁵² Ibid at [76], [100].

⁵³ Ibid at [82], [84], [107], [109], [123].

⁵⁴ Ibid at [101].

⁵⁵ Ibid at [83], [102].

⁵⁶ Ibid at [104]-[106], [114].

⁵⁷ Ibid at [110].

⁵⁸ Ibid at [109], [112].

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- k. Engaging a consultant neurosurgeon, John Matheson, to comment on Mr Stockton's injuries and treatment, as well as obtaining the opinion of Doctor Anthony Moynham of the Clinical Forensic Medical Unit;⁵⁹
- l. Enquiring whether Mr Stockton had completed a will, as he had recently foreshadowed to friends and family. It was found that he had not;⁶⁰
- m. Arranging for details of Mr Stockton's death to be published online on 20 May 1997, and on television on "Australia's Most Wanted" on 30 June 1997, and following up a resulting line of enquiry that suggested Mr Stockton had once intervened in an assault by the previous licensee of Bar Cleveland on an acquaintance. That enquiry did not produce any result of significance.⁶¹

Strike Force Parrabell

Use of the Bias Crimes Indicators Form

49. Of the ten indicators in the Bias Crime Indicators Review Form (**BCIF**), five were answered "No evidence of Bias Crime" and five were answered "Insufficient Information". The overall categorisation, in the "Summary of Findings", was "Insufficient information".⁶²

Results of Strike Force Parrabell

(a) The "General Comment" and "Summary of Findings" boxes

50. The ten "General Comment" sections of the BCIF reiterate, in largely identical terms, that Mr Stockton, though known by some friends to be a homosexual, was not open about his sexuality to many people, and lived a fairly reclusive life at a house owned by his devout Christian family. That Mr Stockton was known to "never make enemies nor be aggressive in any situation" was also made clear.⁶³ It was also emphasised that there was very little evidence of how Mr Stockton had obtained his injuries, nor any motive for an assault.⁶⁴
51. The comments note that how Mr Stockton obtained his injuries was undetermined, and therefore it was not known whether there were suspects involved, nor the sexuality of any such persons.

⁵⁹ Ibid at [117]-[120].

⁶⁰ Ibid at [124].

⁶¹ Ibid at [125]-[133].

⁶² Strike Force Parrabell, Bias Crimes Indicators Review Form – Carl Stockton (SCOI.75037).

⁶³ Ibid, p. 4.

⁶⁴ Ibid, pp. 4, 10, 11, 12, 13, 14, 16.

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52. In the “General Comment” section under both indicator 4 (“Organised Hate Groups (OHG)” and indicator 5 (“Previous existence of Bias Crime Incidents”), it is noted that Eric-Emmanuel Hooson (of Mission Beat) had said that a co-worker (Terry Hugo) had told him that “on the street people believe” that four Caucasian males who frequented the Bar Cleveland were responsible for a number of similar bashings in the area, but that Police had been unable to identify any historical events around the location to support such claims.⁶⁵
53. It is submitted that the absence of documented reports of other bashings in the area would not necessarily indicate that such bashings had not occurred. Evidence before the Inquiry has shown that it was common for victims of LGBTIQ bias crimes not to report to police in the 1980s and 1990s, having regard to the context at that time of mistrust of, and fractious relations with, police amongst the LGBTIQ community.⁶⁶
54. The “Summary of Findings” repeats various components of the earlier sections of the BCIF.

(b) Case Summaries

55. The Strike Force Parrabell Case Summary for Mr Stockton’s case read as follows:

Identity: Carl Stockton was 52 years old at the time of his death.

Personal History: Mr Stockton lived alone in Surry Hills and worked as a train driver. He was not open about his sexuality. His family members were committed Christians. Mr Stockton often drank alone and socialised with very few people. He did not appear to have many friends or acquaintances. He lived alone and owned a Rolls Royce motor vehicle.

Location of Body/Circumstances of Death: Mr Stockton died at St Vincent's Hospital, Darlinghurst 5 days after being transported from Campbell House (a proclaimed place) where he had been placed after a night drinking. Mr Stockton was seen drinking earlier in the evening at The Bar Cleveland before leaving. He was later found sitting on the roadway a short distance away and was taken back to the hotel. Due to his level of intoxication he was conveyed to a proclaimed place. In the morning Mr Stockton began vomiting and became disorientated. He was conveyed to St Vincent's Hospital where it was revealed that he had sustained 3 separate injuries to his head which caused his death. No suspects were identified. It was not known how he came to have received his injuries, with 3 doctors (neurosurgeon, pathologist and police medical officer) all having differing opinions.

Sexual Orientation: Mr Stockton identified as gay.

Coroner/Court Findings: The Coroner returned an open finding stating that Mr Stockton's injuries could have been caused by him being assaulted, falling, being hit by a motor vehicle, or

⁶⁵ Ibid, pp. 8, 9.

⁶⁶ Exhibit 2, Tab 1, Statement of Garry Wotherspoon dated 14 November 2022 at [51] (SCOI.77300); Exhibit 2, Tab 4: Statement of Barry Charles dated 14 November 2022 at [28]-[29] (SCOI.77304).

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any combination of all three. Police excluded a motive of robbery because although Mr Stockton's car keys could not be located, neither his house nor Rolls Royce car had been stolen or broken into.

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

56. The content of this case summary is generally consistent with the comments made in the BCIF.

(c) Academic review

57. The academic review conducted by the Flinders academics categorised the case as “Insufficient Information”.⁶⁷

58. The academic reviewers noted that classification under “Insufficient Information” in any given case “may be due to a lack of detail recorded by police or a lack of information supplied by victims and/or witnesses”.⁶⁸

59. Mr Stockton’s case appears to exemplify the following sentiment expressed by the reviewers:

“Many deaths may well be attributable to a fatal assault (e.g. a ‘gay bashing’) but in the absence of evidence or a confession, the detectives and academics had little option but to classify such cases as Insufficient Information.”⁶⁹

Investigative and other steps undertaken by the Inquiry

Attempts to locate and contact family members

60. The Inquiry located and wrote to Mr Stockton’s family members, including his sister and brother-in-law. To date, no responses have been received. Mr Stockton’s parents are deceased.⁷⁰

Request for coronial file

61. 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 Stockton. The coronial file was produced on 26 May 2022.⁷¹

⁶⁷ Exhibit 6, Tab 49, Strike Force Parrabell Case Summaries – Carl Stockton (undated), p. 37 (SCOI.76961.00014).

⁶⁸ Exhibit 1, Tab 2, Strike Force Parrabell Report, p. 69 (SCOI.02632).

⁶⁹ Exhibit 1, Tab 2, Strike Force Parrabell Report, p. 80 (SCOI.02632).

⁷⁰ Statement of Francesca Lilly dated 27 March 2023 at [16] (SCOI.82818)

⁷¹ Ibid at [4]-[5].

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Summonses issued

62. 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 Stockton (summons NSWPF1). A hardcopy file was produced on 8 June 2022.
63. On 14 March 2023, the Inquiry issued summons SESLHD1 and SVH3 to South Eastern Sydney Local Health District and St Vincent's Hospital, respectively, seeking medical records in relation to Mr Stockton's care and treatment in October and November 1996.⁷² Sydney Hospital advised on 15 March 2023 that Mr Stockton's records had been destroyed.⁷³ On 17 March 2023, St Vincent's Hospital advised that all images, including CT scans and x-rays, had been destroyed, however was able to supply various records in relation to Mr Stockton, including imaging records.⁷⁴

Inter-agency cooperation

64. The Inquiry coordinated with the Registry of Births, Deaths and Marriages and other agencies to confirm the status and location of various witnesses.

Professional opinions obtained

65. Noting the divergences of opinion among the medical professionals who gave evidence at the inquest, the Inquiry briefed forensic pathologist Dr Linda Iles. Dr Iles was requested to provide her expert opinion on, *inter alia*, the adequacy of the post-mortem investigations, and the manner and cause of Mr Stockton's death, including whether it was likely that the death was the result of a fall, or being struck by a motor vehicle, or by an assault.⁷⁵ Dr Iles' report, received on 10 March 2023, is discussed below at [103]-[111].

A suggestion of homophobic taunting

66. At the time of Mr Stockton's death, in 1996, Ms Sue Thompson was serving as the Gay Liaison Coordinator for NSW Police. Many years later, in 2016, journalist Rick Feneley published an exposé titled 'The Gay Hate Decades', which cited Sue Thompson as saying that Surry Hills police had told her, at the time of Mr Stockton's death in 1996, that patrons at the bar had heard a lot of anti-gay taunts made to Mr Stockton.⁷⁶ None of the police reports or witness statements included any reference to

⁷² Summons SESLHD1, 14 March 2023 (SCOI.82821); Summons SVH3, 14 March 2023 (SCOI.82824).

⁷³ Letter from Sydney Hospital to the Inquiry dated 15 March 2023 (SCOI.82815).

⁷⁴ Email correspondence with Dr Linda Iles (with annexure), 20 March 2023 (SCOI.82817).

⁷⁵ Letter of Instruction to Dr Linda Iles dated 16 February 2023 (SCOI.82822).

⁷⁶ Rick Feneley, 'The Gay Hate Decades' *SBS* (online) <<https://www.sbs.com.au/gayhatedecades/>>.

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such anti-gay comments having been directed at Mr Stockton at the Bar Cleveland. Accordingly, the Inquiry made further enquiries (see [112] – [114] below).

Persons of interest as at 2022-23

67. No specific persons of interest have been identified by the Inquiry in the course of its investigations and review.

Other sources of information

68. On 14 September 2022, the Inquiry conducted a review of the Victorian Queer Archives, via NSW State Library, for media articles in relation to Mr Stockton’s death. However, no information relevant to Mr Stockton’s case was found.⁷⁷

Steps which could / should have been taken, but which were not

69. As noted above, there is a note in the standard canvass form relating to Bar Cleveland on 11 November 1996 which records, apparently in relation to Mr Tozer, Ms Kos and Ms Strachan: “occupants attitude worthy of follow up”. The material available to the Inquiry does not indicate what “follow up”, if any, occurred in respect of this comment.

70. No statement was ever taken from Terry Hugo in relation to his suggestion that “four Caucasian males who frequent the Bar Cleveland” were believed to have perpetrated a number of similar assaults in the vicinity of Bourke and Cleveland Streets.⁷⁸

71. On the material available to the Inquiry, it is not apparent that any investigation by NSWPF was conducted into the “group of three to four people” observed by Mr Phillips, or the “young white males” referred to in the contact from a member of the public: see [16] above.

Results of investigative and other steps undertaken by the Inquiry

72. This section of the submission sets out the key matters that arose in the course of the Inquiry’s consideration of the evidence, and the conclusions that may be drawn in the light of that consideration.

Events of 5 and 6 October 1996

73. On 5 October 1996, at around 11:00pm, Mr Stockton attended the Shakespeare Hotel in Surry Hills on his way home from work.⁷⁹ At around 12:16am on 6 October, police were contacted regarding a

⁷⁷ Statement of Francesca Lilly (n 70) at [15].

⁷⁸ Strike Force Parrabell, Bias Crimes Indicators Review Form – Carl Stockton, pp. 7-8 (SCOI.75037).

⁷⁹ Letter from Dr Raymond Garrick to Dr Heather McIntyre re neurological assessment of Mr Stockton dated 22 October 1996 (SCOI.00045.00113).

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possible assault on an intoxicated person, being Mr Stockton, near the Hotel.⁸⁰ Police initially struggled to rouse Mr Stockton from sleep outside the Hotel, and noted he smelled strongly of alcohol but showed no visible injuries.

74. He was escorted to Mission Beat, Campbell House, a Proclaimed Place where intoxicated persons were provided with beds and care.⁸¹ Whilst at Campbell House, Mr Stockton attempted to leave his bed and get into the linen cupboard. In doing so, he fell backwards and struck his head on the ground. This fall rendered Mr Stockton unconscious for two to three minutes.⁸²
75. On 6 October, he was taken by Mission Beat staff to Sydney Hospital Emergency Department, where he said he had no memory since attending the Shakespeare Hotel.⁸³
76. Following discharge on 6 October, Mr Stockton experienced significant shoulder pain, and upon attending St Vincent's Hospital on 8 October, was found to have a fractured clavicle, for which he subsequently wore a sling.⁸⁴
77. On 11 October 1996, Mr Stockton attended his general practitioner, Dr Heather McIntyre, but appears to have demonstrated some reluctance to explain his injuries. He again saw Dr McIntyre on 17 October 1996, and on that occasion Mr Stockton disclosed that he had been drinking heavily on the night of 6 October 1996, and was suffering from amnesia regarding that night, but was experiencing no other neurological symptoms. He had, however, initially vomited, and experienced severe headaches. Mr Stockton requested a referral to a neurologist, which was provided.⁸⁵
78. On 22 October 1996, Mr Stockton was seen by neurologist Dr Raymond Garrick, who considered that though Mr Stockton had experienced a significant concussive injury, there was no cognitive deficit or cranial nerve abnormality. Mr Stockton's coordination was normal, headaches were gradually subsiding and blood pressure was 140/90. Dr Garrick deferred a CT scan, but suggested abstinence from alcohol and time off work until Mr Stockton's headaches subsided.⁸⁶
79. On 24 October and again on 31 October 1996, Mr Stockton attended Dr McIntyre for check-ups. On both occasions, Dr McIntyre noted improvement to Mr Stockton's collarbone injury.⁸⁷

⁸⁰ Computerised Incident Despatch System Archived Message Details, 6 October 1996 (SCOI.10264.00058).

⁸¹ Statement of Senior Constable Darren John Gregor dated 26 November 1996, [3]-[7] (SCOI.00045.00107).

⁸² Running Sheet – Fax Received from Campbell House, 22 November 1996 (SCOI.10264.00059).

⁸³ Letter from Dr Raymond Garrick to Dr Heather McIntyre re neurological assessment of Mr Stockton (n 79).

⁸⁴ Medical Report of Dr Heather McIntyre (GP) dated 13 November 1996, p. 2 (SCOI.00045.00114).

⁸⁵ *Ibid.*

⁸⁶ Letter from Dr Raymond Garrick to Dr Heather McIntyre re neurological assessment of Mr Stockton (n 79).

⁸⁷ Medical Report of Dr Heather McIntyre (GP) (n 84).

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Events of 5 and 6 November 1996

80. On 5 November 1996, Melbourne Cup Day, Mr Stockton was drinking alone at a table at the Bar Cleveland, Redfern, where he was a regular patron. It was typical for Mr Stockton to attend the bar alone and play a card machine in the back bar.⁸⁸ Mr Stockton suffered from anxiety and depression, and said he drank approximately 4-6 drinks a day.⁸⁹
81. At approximately 2:00pm, Mr Stockton was observed by a fellow patron, Nathan Starcic, to be slurring his speech and showing bloodshot eyes, though he was responsive to conversation. Mr Starcic formed the view he was intoxicated. His arm was still in a sling, following his injury on 6 October 1996.⁹⁰
82. Sometime after 5:00pm he spoke to his godson via telephone, and seemed in good spirits. His godson formed the view that Mr Stockton was at a pub at the time they spoke due to the background noise and Mr Stockton's difficulty hearing the conversation. His godson also believed Mr Stockton was with a friend, as he heard him speak to someone, though it is not evident whether this was in fact a companion or a passer-by.⁹¹
83. While evidence as to Mr Stockton's activities throughout the day is sparse, it is possible that Mr Stockton remained at the same table and continued drinking throughout the day and into the night, as he was seen there again by Mr Starcic at approximately 11:00pm and still appeared drunk.⁹²
84. 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.⁹³
85. Mr Stockton is believed to have then purchased "take-away" drinks from the bottle shop, as was his habit.⁹⁴ The pub closed at around midnight.⁹⁵
86. Bridgette Paroissien and her boyfriend, Robert Diliberto, resided in a house which backed on to the laneway, Matterson Lane, behind the Bar Cleveland. At around 12:50-1:00am, early on 6 November 1996, Ms Paroissien returned to her home. She entered via the unlocked back gate and discovered

⁸⁸ Statement of Brent Tozer dated 9 November 1996 at [4] (SCOI.00045.00069); Statement of Magda Kos dated 8 November 1996 at [8] (SCOI.00045.00070).

⁸⁹ Medical Report of Dr Heather McIntyre (GP) (n 84) p. 1.

⁹⁰ Statement of Detective Senior Constable Neil Andrew Walker (Officer in Charge) (n 24) at [3]; Statement of Nathan Starcic dated 12 November 1996 at [6]- [7] (SCOI.00045.00071).

⁹¹ Statement of [REDACTED] dated 12 March 1997 at [7] (SCOI.00045.00105).

⁹² Statement of Detective Senior Constable Neil Andrew Walker (Officer in Charge) (n 24) at [5].

⁹³ Statement of Magda Kos (n 88) at [8].

⁹⁴ Statement of Magda Kos (n 88) at [8].

⁹⁵ Statement of Detective Senior Constable Neil Andrew Walker (Officer in Charge) (n 24) at [6].

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Mr Stockton in her garden.⁹⁶ Ms Paroissien stated that she sat down with him for around half an hour, but Mr Stockton provided no explanation for his presence, and when Ms Paroissien attempted to help him up, he said “Nah, can’t move”.⁹⁷

87. Ms Paroissien then woke up Mr Diliberto, who came to the garden to assist. 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.⁹⁸
88. At around 1:15am on 6 November 1996, Ms Kos was cleaning up in the back bar of the Bar Cleveland 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.
89. Ms Paroissien did not describe Mr Stockton as having facial injuries when in her backyard. If this is accurate, then Mr Stockton sustained his head injuries between about 1:00am and 1:15am on 6 November 1996.
90. Mr Tozer walked out onto Cleveland Street and saw Mr Stockton lying on his back across the inside lane of Cleveland Street, at the corner of Bourke Street. Together, Mr Tozer and Gavin James, a patron of the Bar Cleveland who had been inside helping staff clear up, 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”.
91. Mr Andrew Phillips, a friend of Mr Starcic, recalled seeing a group of three to four people standing in a circle outside the pub at the corner of Cleveland and Bourke Street shortly before Mr Stockton was brought into the pub. Whether these people were the “four Caucasian males”, or “young white males” referred to at [12] – [15] above is unknown, and does not appear to have been the subject of any investigation.
92. 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 a 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. Bar

⁹⁶ Statement of Brigette Paroissien dated 18 November 1996 at [3] (SCOI.00045.00096).

⁹⁷ Ibid at [6]-[7].

⁹⁸ Ibid at [8]-[11]; Statement of Robert Diliberto dated 11 November 1996 (SCOI.00045.00095).

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staff, including Mr Tozer and Ms Kos, and patrons Mr Starcic and Mr James, attempted to calm Mr Stockton.⁹⁹

93. At around 1:30am, Eric-Emmanuel Hooson and Marc Leslie William Kay, welfare officers with Mission Beat, arrived and assessed Mr Stockton. They noticed Mr Stockton's right arm was in a sling and he had a black eye. They assisted Mr Stockton outside to their van. They asked him how he had obtained his black eye, to which Mr Stockton responded "I don't know". He advised that he had been drinking "all day". Mr Stockton was able to remember the date and where he lived. They checked for further injuries to Mr Stockton's ribs, neck and legs. None were found. Mr Stockton did not respond to any of these checks.¹⁰⁰

Campbell House, Sydney Hospital and St Vincent's Hospital: 6 – 11 November 1996

94. Mr Stockton was then taken again to Campbell House, Surry Hills, where he was helped to change into pyjamas and given a bed by staff. Welfare Officer Mark Lambrick made visual checks on Mr Stockton hourly, at 3:00am, 4:00am, 5:00am, 6:00am and 7:00am, during which Mr Stockton's breathing appeared normal and he did not change position. Mr Stockton did not leave his bed, and was not approached by anyone while he slept.¹⁰¹
95. At around 7:15am on 6 November 1996, staff were advised by another resident that Mr Stockton had vomited on his bed and the adjacent bed. There were no abnormalities observed in the vomitus, and when asked if he was okay, Mr Stockton replied "Yes, just very tired".¹⁰²
96. At 10:00am Mr Stockton was observed to be out of bed, and said "I just want to get into bed". He was helped back into bed by staff. At approximately 11:30am it was observed that Mr Stockton had again vomited, this time on a different bed. He was observed to be "very disorientated and in a lost state". When asked if he was okay, Mr Stockton replied "Help me". A short while later, Mr Stockton was conveyed to Sydney Hospital by Mission Beat staff.¹⁰³
97. At about 11:40am on 6 November, Mr Stockton was admitted to the Accident and Emergency Unit at Sydney Hospital, where he was examined and given a bed. In addition to his black eye, and the pre-existing fractured right clavicle, a cerebral CT scan showed Mr Stockton had suffered a comminuted

⁹⁹ Statement of Detective Senior Constable Neil Andrew Walker (Officer in Charge) (n 24) at [9]; Statement of Brent Tozer (n 88) at [10]-[12], [14]; Statement of Nathan Starcic (n 90) at [14]-[15]; Statement of Gavin James dated 11 November 1996 at [5]-[6] (SCOI.00045.00072).

¹⁰⁰ Statement of Eric Emmanuel Hooson (n 8) at [4]-[7]; Statement of Marc Leslie William Kay dated 8 November 1996 at [5]-[15] (SCOI.00045.00075).

¹⁰¹ Statement of Mark Desmond Lambrick dated 11 November 1996 at [10]-[12] (SCOI.00045.00076).

¹⁰² Statement of Meffan October Kaiwai dated 9 November 1996 at [5] (SCOI.00045.00077).

¹⁰³ Ibid at [6]-[8]; Statement of Alan John Clynych dated 9 November 1996 at [7]-[9] (SCOI.00045.00078).

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skull fracture extending from the posterior parietal region to the vertex with some displacement. Further, there were some areas of intra-cerebral haematoma in the right temporal pole, both frontal poles, both posterior parietal regions and near the vertex on the right.¹⁰⁴

98. Sydney Hospital staff performed hourly neurological observations, and treated Mr Stockton with prophylactic dosing of phenytoin and insertion of an in dwelling catheter, before transferring him to St Vincent's Hospital, where he was admitted at around 4:50pm on 6 November.¹⁰⁵
99. Mr Stockton's brother-in-law, Dr Bruce David Doust, was at that time Director of Radiology at St Vincent's Hospital. He advised that he and Mr Stockton did not have a close relationship but that he was aware that Mr Stockton had broken his clavicle around six weeks earlier. Mr Stockton apparently told Dr Doust that he could not recall how he had sustained his injuries, but said that it had occurred whilst he was intoxicated.¹⁰⁶
100. In the Accident and Emergency Unit at St Vincent's Hospital, restraints were used on Mr Stockton's right hand, a practice that is common when patients are confused and there is a potential for them to cause injury to themselves.¹⁰⁷ Dr Doust observed Mr Stockton was confused, and he had been sedated. Dr Doust and Dr Paul Preisz discussed Mr Stockton's CT scan, which showed very significant injury, and Dr Preisz expressed doubts as to Mr Stockton's chances of survival. Dr Doust later opined that Mr Stockton's was "the most severe brain injury he had ever seen and could only describe it as monstrous".¹⁰⁸ Dr Doust, as a radiologist, did not give this opinion as an expert witness.
101. On 7 November 1996, Mr Stockton received treatment under general anaesthesia, in the form of surgical procedures to the skull for the insertion of a right frontal external ventricular drain and right fronto-temporal craniotomy, right frontal and temporal partial lobectomy and insertion of an intracranial pressure monitor.¹⁰⁹
102. On 11 November 1996 at 4:40pm, Mr Stockton died at St Vincent's Hospital.¹¹⁰

Opinion of Dr Iles as to cause of death

103. The report of Dr Iles¹¹¹ is undated, but was received by the Inquiry on 10 March 2023.

¹⁰⁴ Statement of Dr Steven Dubenec dated 12 November 1996 at [6] (SCOI.00045.00079).

¹⁰⁵ Ibid at [6]-[7].

¹⁰⁶ Statement of Dr Bruce David Doust (n 2) at [6].

¹⁰⁷ Ibid at [9].

¹⁰⁸ Ibid at [10]-[12].

¹⁰⁹ Statement of Dr L H Raj Wijetunga (n 33).

¹¹⁰ Statement of Detective Senior Constable Neil Andrew Walker (Officer in Charge) (n 24) at [61].

¹¹¹ Expert report of Dr Linda Iles, provided 10 March 2023 (SCOI.82823).

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104. Dr Iles would describe Mr Stockton's cause of death as "blunt head injuries". She notes that that description is "approximately equivalent" to the cause of death given by Dr Lawrence ("craniocerebral injuries").
105. In Dr Iles' opinion, the pattern of skull fractures observed is "due to very significant blunt force impact to the back of Mr Stockton's head".
106. Dr Iles considers that Mr Stockton's head injuries "clearly cannot be accounted for by a simple fall. A fall from a significant height with impact to the back of the head may be able to produce this pattern of skull fractures but does not appear plausible in the circumstances as described."
107. However, Dr Iles considers that Mr Stockton's pattern of injuries could be accounted for by an assault with multiple forceful impacts to the head. She adds that an "accelerated fall" on to the back of the head "could be accommodated in this scenario".
108. Dr Iles considers that Mr Stockton's lack of post-cranial injuries makes it unlikely that his pattern of skull fractures was caused by an impact from a motor vehicle. She notes that the right rib and clavicular fractures (that Dr Moynham had relied upon in saying that the injuries may have been caused by a motor vehicle collision) were older injuries and "unhelpful in this regard". In Dr Iles' view, it is difficult to envisage a scenario where Mr Stockton could receive such severe craniocerebral trauma without substantive injury anywhere else on his body.
109. In Dr Iles' opinion, while the possibility that Mr Stockton's skull fractures were sustained by his head being run over cannot be excluded, such a scenario is significantly less likely than either an accelerated impact with the ground, or a substantive broad-based blow to the back of the head.
110. Dr Iles considered that: a review of medical records, including Mr Stockton's CT scan on admission to Sydney Hospital (films or report), and facial bone Xray (films or report) may help delineate separate sites of impact and/or enable facial fractures to be excluded or included.
111. However, as Dr Iles anticipated, and as outlined above at [63], such records are no longer available. The Inquiry was advised by Sydney Hospital that they destroyed their patient records after 7 years of inactivity.¹¹² In the case of St Vincent's Hospital, the CT scans and x-rays had also been destroyed. However, St Vincent's Hospital did provide the Inquiry with various records, including imaging reports. These were provided to Dr Iles on 22 March 2023. They did not cause Dr Iles to change her opinion as expressed in her expert report.¹¹³

¹¹² Letter from Sydney Hospital to the Inquiry, 15 March 2023 (SCOI.82815).

¹¹³ Email correspondence with Dr Linda Iles (with annexure), 22 March 2023 (SCOI.82817).

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Suggestion of homophobic taunting

112. The Inquiry made contact with Ms Sue Thompson. She said that her recollection was that at least one police officer or detective had told her of the anti-gay taunts, but she could not recall who that was.
113. Ms Thompson looked back over her old diaries, and for Friday 15 November 1996 she had noted “phone call with “Detective Walker – GAY MURDER”. This was only four days after the date of Mr Stockton’s death, and Detective Walker was the OIC of the case.¹¹⁴
114. On 16 November 2022, John Goobanko of the Inquiry’s Investigations Team made contact with the former OIC, Neil Walker. Detective Walker’s original statement to the Coroner was detailed and contained no reference to any such taunting. On 30 November 2022, Mr Walker advised Mr Goobanko that he “did not receive any information, either direct or anecdotal, that Mr Stockton’s death was as the result of a ‘hate crime’ against him as a result of his sexual orientation”, nor did he have any witness or anecdotal evidence of any homophobic taunts towards Mr Stockton.¹¹⁵ While Mr Walker did not provide a formal statement, this email exchange is annexed to the statement of Mr Goobanko, and is in evidence before the Inquiry.¹¹⁶ This closed off this area of inquiry.

Conclusions as to bias

115. On the available evidence it is not possible to say whether Mr Stockton’s death was the result of an LGBTIQ hate crime.
116. It is uncontroversial that Mr Stockton was gay. There is some evidence that in the past he had “cruised” for sexual partners, but that he had not done so in more recent times prior to his death.
117. There is also evidence of several assaults on Mr Stockton in the mid to late 80s, approximately 8-10 years prior to his death, including in Moore Park, a known beat. Comments made by Mr Stockton to Mr Moore in relation to one of those assaults suggest that he believed that he had been assaulted at that time because he was gay. The circumstances of Mr Stockton’s collarbone injury about a month prior to his death are unclear but on the available evidence it seems likely that he was intoxicated and fell after drinking at the Shakespeare Hotel.
118. At the time of the 1998 inquest, as noted above, each of Dr Lawrence, Dr Matheson and Dr Doust had considered, with greater or lesser emphasis, that Mr Stockton’s injuries in November 1996 were

¹¹⁴ Statement of Francesca Lilly (n 70) at [11]-[13].

¹¹⁵ Statement of John Russell Goobanko dated 31 January 2023 at [4]-[7] (SCOI.82816).

¹¹⁶ *Ibid.*

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consistent with his having been assaulted. The expert opinion of Dr Iles, in 2023, substantially endorses those earlier views.

119. It is submitted that the preponderance of the medical and expert evidence supports a finding that Mr Stockton's head injuries were caused by an assault rather than a fall or being hit by a motor vehicle.
120. However, the identity of the perpetrator/s of such an assault remains unknown. Hearsay suggestions, that four "Caucasian" males who frequented the Bar Cleveland were believed to have perpetrated a number of similar assaults in the vicinity of Bourke and Cleveland Streets, did not lead to any more substantive evidence or intelligence, and the available material does not permit those suggestions now to be pursued further.
121. The investigation by the Inquiry of the separate suggestion of alleged gay taunts towards Mr Stockton on the night he was drinking at the Bar Cleveland has not yielded any information that might assist in investigating Mr Stockton's death. The OIC, Detective Walker, told the Inquiry that he had no knowledge of any witness or anecdotal evidence of any homophobic taunts towards Mr Stockton.
122. It is submitted that the evidence does not provide any adequate basis for a finding that Mr Stockton's death was motivated by LGBTIQ bias.

Submissions as to manner and cause of death

123. It is submitted that an appropriate finding as to manner and cause of death would be that Mr Stockton died on 11 November 1996 at Darlinghurst, as a result of craniocerebral injuries inflicted on 6 November 1996 at Redfern, by a person or persons unknown.

Submissions as to recommendations

124. No recommendations are proposed.

Christine Melis

Counsel Assisting