



Special Commission of Inquiry into LGBTIQ hate crimes

14 March 2023

Dr Linda Iles
 Victorian Institute of Forensic Medicine
 65 Kavanagh Street
 SOUTHBANK VIC 2006

By email: [REDACTED]

Dear Dr Iles,

Special Commission of Inquiry into LGBTIQ hate crimes: Expert report on death of Peter Sheil

I assist the Honourable Justice John Sackar in the Special Commission of Inquiry into LGBTIQ hate crimes (“the Inquiry”). Meg O’Brien, of counsel, and Caitlin Healey-Nash, solicitor, are assisting his Honour in his consideration of the death of Peter Sheil. Thank you for your willingness to provide an expert report to the Inquiry from the perspective of a forensic pathologist.

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

Mr Sheil was found deceased on 29 April 1983 at the base of a cliff at Thompsons Bay (now known as Gordons Bay), Clovelly, NSW. He was 29 years old. The Coroner dispensed with an inquest into Mr Sheil’s death on or around 1 September 1983, and there are no findings before the Inquiry. Mr Sheil’s death certificate records

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the cause of death as “multiple injuries”¹ Mr Sheil’s death is one of the unsolved deaths which his Honour is inquiring into pursuant to item A of the Letters Patent.

By this letter, you are briefed to prepare a written report in relation to Mr Sheil’s death to assist the inquiry. It is requested that you provide your report by no later than **24 March 2023**. In the event that you require further time to prepare your report, please advise Ms Healey-Nash as soon as possible.

Background

To assist you with the preparation of your report, you are provided with the following background information in relation to Mr Sheil. 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 Sheil was born on 2 February 1953. He had a history of depression and hypermania and was a “well known” patient to both the Prince of Wales and Prince Henry Hospitals. He was thought to have manic depressive illness or possibly schizoaffective psychosis. Mr Sheil occasionally expressed suicidal ideation but denied suicidal intent.²
2. At the time of his death, Mr Sheil was being treated as an outpatient and had been living at “Clovally Flats” since 22 March 1983. His medications comprised a tricyclic antidepressant, modecate and lithium. Patricia Campbell, the supervisor in charge of the Clovally flats, considered that Mr Sheil’s condition had been improving since he began his stay.³ Mr Sheil was said to be in good spirits shortly before his death.⁴
3. At around 8:00pm on 27 April 1983, Mr Sheil telephoned his mother from the Coogee Bay Hotel to inform her that he was about to go home, where he had a 9:00pm curfew.⁵ This was the last contact from Mr Sheil. He appears to have chosen to walk home via the coastal track between Coogee and Clovally.⁶ Based on Google Map estimates, it would have taken Mr Sheil around 20 minutes to reach the location of his death.

Circumstances of death

4. At 10:00am on 29 April 1983, local resident Donald Ross found Mr Sheil’s body at the bottom of a cliff at Thompsons Bay, Clovally. According to Mr Ross:
 - a. Mr Sheil was lying in a prone position, between some rocks about 150m from the Clovally Beach car park.
 - b. Mr Sheil was clothed in a blue short-sleeved shirt, that was open at the front, and corduroy pants with his belt and fly undone. His pants and underpants were around his hips and below the line of his pubic hair.
 - c. Mr Sheil was wearing shoes and socks.⁷
5. Mr Ross called NSW Police, who later attended the scene. According to attending police:

¹ Death certificate (**Tab 4**).

² Letter from Dr C Rikard-Bell dated 2 June 1983 (**Tab 8**).

³ Statement of Patricia Campbell dated 31 May 1983 (**Tab 7**).

⁴ Rick Feneley, ‘Up to 80 men murdered, 30 cases unsolved’, *Sydney Morning Herald* (online), 27 July 2013 (**Tab 10**) (‘30 cases unsolved’).

⁵ Rick Feneley, ‘He wasn’t gay, but could Peter have been a gay hate victim?’, *SBS* (online), 27 September 2016 (**Tab 11**) (‘Could Peter have been a gay hate victim?’).

⁶ ‘30 cases unsolved’ (**Tab 10**).

⁷ Statement of Donald Ross dated 31 April 1983 at [2] (**Tab 6**).

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- a. Around six metres from where Mr Sheil's body was found was loose change and blood stains. There was a trail of blood from that position to Mr Sheil's body.
 - b. Mr Sheil had \$10 in notes on his person.
 - c. There was rock outcrop about 20 metres above Mr Sheil's body, which was mossy and slippery. This outcrop was much lower than others nearby.
 - d. A magazine of a 'pornographic/sexual' nature was found just below this slippery rock outcrop.⁸
6. No photographs or mapping was conducted by NSW Police of Mr Sheil's body or the area in which he was found. Accordingly, his precise location and position of his body cannot be pinpointed. Data from the Bureau of Meteorology indicates that it rained 2-3 days prior to 27 April 1983 and earlier that day. At the time that Mr Sheil is estimated to have fallen (some time at or after 8:30pm), the temperature was 17 degrees Celsius. There was low wind and good visibility, but high cloud cover. Humidity was high and there may have been a very slight shower at around 9:00pm on 27 April 1983.⁹

Post-mortem investigations

7. An autopsy was performed by Dr Colin Goldschmidt at 8:00 am on 3 May 1983. Dr Goldschmidt estimated that date of death to be 3-4 days prior to the autopsy (i.e., between 8:00am on 29 April and 8:00am on 30 April 1983).¹⁰
8. Mr Goldschmidt found a laceration on Mr Sheil's scalp (but no fracture deep to this), various abrasions and fractures, extensive bruising of the parietal pleura, congested lungs, and a haematoma on the liver. The fractures included a fracture to the cervical spine between C1 and C2, the pelvis, and two ribs. Dr Goldschmidt recorded the direct cause of death as "multiple injuries".¹¹
9. There was evidence of a small amount of alcohol in Mr Sheil's blood (0.018g per 100mL), and his urine sample tested positive to cannabinoids. However, in the report to the Coroner it is noted that this result needed to be treated with caution due to the possibility of "cross reactivity with similar compounds".¹²
10. There is no evidence of a report on Mr Sheil's spinal cord.

Manner and cause of death

11. On the limited evidence before the Inquiry, the police investigation consisted of the officer in charge, Constable Strange, making "enquiries in the immediate area" in the week after Mr Sheil was found.¹³ No witnesses were found or leads obtained.
12. Constable Strange made the following conclusion about the death of Mr Sheil:

"From the investigation carried out and the prevailing area in which the Deceased met his demise I have formed the opinion that the Deceased had ventured onto a rock ledge about 20 meters above the shoreline rock base of Thompsons Bay and then lost his footing on the slippery undergrowth, causing him to fall to the rocks below and apparently striking his head. It then appears that he dragged himself a distance of about 6 meters and lay in a more comfortable position between rocks.

⁸ Statement of Constable William Strange dated 30 April 1983 at [2], [4] (**Tab 8**).

⁹ Bureau of Meteorology Data Document CAS-37787-S5G0Y9-11 prepared on 26 September 2022 (NB: Document not provided and available on request).

¹⁰ Autopsy report of Dr Colin Goldschmidt (**Tab 3**).

¹¹ Ibid (**Tab 3**).

¹² Toxicology report dated 25 May 1983 (**Tab 2**).

¹³ Statement of Constable Strange at [8] (**Tab 8**).

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I am also of the opinion that the reason that the Deceased's clothing was in a state of disarray was caused by the fact that he had presumably been masterbating [sic] before his fall".¹⁴

13. Other evidence before the Inquiry may suggest a different conclusion. For example, Mr Sheil left the Coogee Bay Hotel at around 8:00pm on 27 April 1983. Sunset on this date was 5:20pm.¹⁵ As such, Mr Sheil would have been walking along the coastal path at night. He was also returning to his home for a 9:00pm curfew. According to the NSW Police conclusion, Mr Sheil would have stopped, in the dark and a short distance away from his home, to masturbate with a magazine. There is no evidence that the magazine belonged to Mr Sheil. Nor were any sources of light, such as a torch, found nearby.
14. Mr Sheil's brother, Christopher, later criticised the thoroughness of the police investigation. According to a media article in 2013:

"Sheil's mother was a devout Catholic. She could not countenance the possibility of suicide and the policeman who handled the case was helpful, perhaps too helpful. Christopher Sheil, then 27, witnessed the "inquiry" into his brother's death – a discussion between his father and the policeman. 'It took all of about a minute. They got to the part on the form where you fill out cause of death. I can't remember whether it was Dad or the cop who suggested misadventure. I said "We don't know whether he jumped, fell or was pushed". Dad said "Ah we're not gunna go into any of that".'"¹⁶
15. It does not appear that investigating police considered whether gay-hate bias could have been a factor in Mr Sheil's death. There is no evidence to suggest Mr Sheil identified as gay. He was a talented poet, and one of the reasons why he wrote poetry was to impress girls. However, Mr Sheil's brother has indicated that it is possible that Mr Sheil could have been mistaken for being gay because he was gregarious and reckless.¹⁷ There is also evidence before the Inquiry that the coastal path taken by Mr Sheil passed several known gay beats, and that the coastal path itself operated as a beat.
16. Mr Sheil's family have also indicated that they consider death by suicide to be unlikely, because the area where Mr Sheil died was surrounded by much higher cliffs that would be a more likely choice if someone wanted to end their life.

Materials 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 court file from the Coroners Court of NSW, the file from NSW Health Pathology – Forensic Medicine, documents from the Registrar of Births, Deaths and Marriages, and media articles. NSW Police have advised the Inquiry that they are unable to locate any investigative files relating to Mr Sheil's death.

If there is any additional material that you consider would be of use to you in forming your opinion, please contact Ms Healey-Nash 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:

¹⁴ Ibid at [9] (Tab 8).

¹⁵ Sunrise, Sunset and Twilight Times on 27 April 1983 (NB: Document not provided and available on request).

¹⁶ '30 cases unsolved, (Tab 10).

¹⁷ 'Could Peter have been a gay hate victim?' (Tab 11).

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- a. Any additional areas of medical investigation or expert opinion you consider would assist his Honour on the issues of Mr Sheil'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 Sheil, including:
 - a. Your view as to the estimated time of Mr Sheil's death. Without limiting the matters which you may consider relevant to this question, please outline:
 - i. Whether you agree with the estimated time of death expressed in the original autopsy report. Why/why not?
 - ii. What factors relevant to Mr Sheil's death impact upon the precision with which time of death can be estimated?
 - b. If the nature of Mr Sheil's injuries were such that would have enabled him to survive the initial impact and, if so, the estimated period of survivability of those injuries.
3. Your view as to the medical cause of Mr Sheil's death (including, if relevant, any reasons for taking a different view to that formed by Dr Goldschmidt). Without limiting the matters which you may consider relevant to this question, please address:
 - a. The fracture to the cervical spine between C1 and C2;
 - b. Whether any of the lacerations, abrasions, fractures, and other injuries suffered by Mr Sheil would have contributed to his cause of death; and
 - c. Whether it is possible that Mr Sheil survived the initial fall for a period of time and was capable of moving his body to its final position?
4. Your view as to any conclusions that can be drawn from the toxicological analysis.
5. Your view as to whether Mr Sheil's injuries were consistent with misadventure, suicide, or foul play. Without limiting the matters which you may consider relevant to this question, please address:
 - a. The position that Mr Sheil was found in, including his prone position, blood staining and coins located about six metres from Mr Sheil's body;
 - b. The evidence as to the estimated time of Mr Sheil's fall, including the time of sunset and Mr Sheil's 9:00pm curfew;
 - c. The position of Mr Sheil's trousers and shirt when his body was found;
 - d. The evidence of investigating police that a pornographic magazine was found "nearby" to Mr Sheil's body;
 - e. The evidence that Mr Sheil's route home passed a number of known gay beats; and
 - f. Mr Sheil's mental health at the time of his death, taking into consideration the medication regime he was prescribed.
6. In your opinion, what information is missing in the documentation available to the Inquiry, or the quality or adequacy of the information that has been provided to you, that would be useful for you in order to provide your opinion on the manner and/or cause of Mr Sheil's death?

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7. Please provide any other comment, within your expertise, which you consider to be relevant to the manner and cause of Mr Sheil.

The above questions are not intended to be exhaustive. Accordingly, if there is any matter arising from the circumstances of Mr Sheil'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.

Expert Code of Conduct

I **enclose** a copy of the Expert Code of Conduct and ask that you read it carefully. In the report you should acknowledge that you have read the Code and agree to be bound by it. I suggest the following form of words be included in the body of your report:

"I, Dr Linda Iles, acknowledge for the purpose of Rule 31.23 of the Uniform Civil Procedure Rules 2005 that I have read the Expert Witness Code of Conduct in Schedule 7 to the said rules and agree to be bound by it."

Please do not hesitate to contact Ms Healey-Nash on 0466 480 286 or caitlin.healey-nash@specialcommission.nsw.gov.au if you have any queries in relation to this matter.

Yours faithfully,



Caitlin Healey-Nash
Senior Solicitor

For Solicitor Assisting the Inquiry

Encl. 3

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Inquiry into the death of PETER SHEIL

INDEX TO BRIEF FOR DR ILES

(as at 14 March 2023)

Tab	Document	Date	SCOI No
VOLUME 1			
Formal Documents			
1.	P79A Report of death to the Coroner	2 May 1983	SCOI.11037.00003
2.	Toxicology Report	25 May 1983	SCOI.11037.00005
3.	Autopsy Report of Dr Colin Goldschmidt	3 June 1983	SCOI.11037.00004
4.	Death Certificate	11 May and 14 September 1983	SCOI.74053
Statements of Family			
5.	Statement of Peter Barry Sheil (father)	30 April 1983	SCOI.11037.00013
Statement of Witness			
6.	Statement of Donald Ross	31 April 1983	SCOI.11037.00008
7.	Statement of Patricia Campbell	31 May 1983	SCOI.11037.00009
8.	Letter from Dr C Rikard-Bell	2 June 1983	SCOI.11037.00007
Statements of NSW Police Force officers			
9.	Statement of Constable William Strange (officer in charge)	30 April 1983	SCOI.11037.00011
Media Articles			
10.	Rick Feneley, 'Up to 80 men murdered, 30 cases unsolved', <i>Sydney Morning Herald</i> (online)	27 July 2013	SCOI.10445.00019
11.	Rick Feneley, 'He wasn't gay, but could Peter have been a gay hate victim?', <i>SBS</i> (online)	27 September 2016	SCOI.02439

Uniform Civil Procedure Rules 2005

Current version for 1 December 2021 to date (accessed 21 September 2022 at 11:52)

Schedule 7

Schedule 7 Expert witness code of conduct

(Rule 31.23)

1 Application of code

This code of conduct applies to any expert witness engaged or appointed—

- (a) to provide an expert's report for use as evidence in proceedings or proposed proceedings, or
- (b) to give opinion evidence in proceedings or proposed proceedings.

2 General duties to the Court

An expert witness is not an advocate for a party and has a paramount duty, overriding any duty to the party to the proceedings or other person retaining the expert witness, to assist the court impartially on matters relevant to the area of expertise of the witness.

3 Content of report

Every report prepared by an expert witness for use in court must clearly state the opinion or opinions of the expert and must state, specify or provide—

- (a) the name and address of the expert, and
- (b) an acknowledgement that the expert has read this code and agrees to be bound by it, and
- (c) the qualifications of the expert to prepare the report, and
- (d) the assumptions and material facts on which each opinion expressed in the report is based (a letter of instructions may be annexed), and
- (e) the reasons for and any literature or other materials utilised in support of each such opinion, and
- (f) (if applicable) that a particular question, issue or matter falls outside the expert's field of expertise, and
- (g) any examinations, tests or other investigations on which the expert has relied, identifying the person who carried them out and that person's qualifications, and
- (h) the extent to which any opinion which the expert has expressed involves the acceptance of another person's opinion, the identification of that other person and the opinion expressed by that other person, and
- (i) a declaration that the expert has made all the inquiries which the expert believes are desirable and appropriate (save for any matters identified explicitly in the report), and that no matters of significance which the expert regards as relevant have, to the knowledge of the expert, been withheld from the court, and

- (j) any qualification of an opinion expressed in the report without which the report is or may be incomplete or inaccurate, and
- (k) whether any opinion expressed in the report is not a concluded opinion because of insufficient research or insufficient data or for any other reason, and
- (l) where the report is lengthy or complex, a brief summary of the report at the beginning of the report.

4 Supplementary report following change of opinion

- (1) Where an expert witness has provided to a party (or that party's legal representative) a report for use in court, and the expert thereafter changes his or her opinion on a material matter, the expert must forthwith provide to the party (or that party's legal representative) a supplementary report which must state, specify or provide the information referred to in clause 3(a), (d), (e), (g), (h), (i), (j), (k) and (l), and if applicable, clause 3(f).
- (2) In any subsequent report (whether prepared in accordance with subclause (1) or not), the expert may refer to material contained in the earlier report without repeating it.

5 Duty to comply with the court's directions

If directed to do so by the court, an expert witness must—

- (a) confer with any other expert witness, and
- (b) provide the court with a joint report specifying (as the case requires) matters agreed and matters not agreed and the reasons for the experts not agreeing, and
- (c) abide in a timely way by any direction of the court.

6 Conferences of experts

Each expert witness must—

- (a) exercise his or her independent judgment in relation to every conference in which the expert participates pursuant to a direction of the court and in relation to each report thereafter provided, and must not act on any instruction or request to withhold or avoid agreement, and
- (b) endeavour to reach agreement with the other expert witness (or witnesses) on any issue in dispute between them, or failing agreement, endeavour to identify and clarify the basis of disagreement on the issues which are in dispute.