

**SPECIAL COMMISSION OF INQUIRY INTO LGBTIQ HATE CRIMES**  
**SUBMISSIONS ON BEHALF OF THE SHEIL FAMILY**

**Introduction**

1. These submissions are filed on behalf of Christopher, Robert, Hugh and Margaret Sheil who are Peter John Sheil's siblings. They will be referred to collectively as the Sheil family.
2. The Sheil family acknowledges and expresses their gratitude to the Inquiry, and Counsel and Solicitors Assisting the Inquiry, for their dedicated work in this investigation of the circumstances of Peter's death.

**Submissions**

Manner and cause of death (including submissions as to the evidence)

3. Counsel Assisting's submissions dated 4 April 2023 (CAS) conclude at paragraph 84 with a submission as to the finding this Inquiry should make as to the manner and cause of Peter's death. Subject to the following submissions as to the time of death, the Sheil family accepts that a finding in those terms would be open and appropriate based on the available evidence.
4. They do, however, submit that it would also be open, and preferable, to find that the time of death was after 8.30pm and in the evening of 27 April 1983. This narrower finding is consistent with both the timing of Peter's last-known movements on 27 April<sup>1</sup> and his failure to return home that evening prior to his 9pm curfew. The broader finding (i.e., "*between 8.00pm on 27 April 1983 and 10.00am on 29 April 1983*") is not to be preferred. While it accords with Dr Iles' opinion that "*there is no post-mortem data that allows for time of death estimation beyond when Mr Sheil was last known to be contacted on April 27, and when his body was found on the 29<sup>th</sup> of April*",<sup>2</sup> that view is based on, and by reference to, the non-existence of post-mortem data alone. This Inquiry is not so confined. The broader finding would itself leave unanswered questions as to Peter's movements for which there is no evidence in respect of an extended period of time of up to 36 hours encompassing two evenings and an entire day over which no contact with either his residence or any member of the family would be unlikely. This is undesirable. In the Sheil family's submission, the preponderance of available evidence supports the narrower finding as to the time of death.
5. While such a finding (in either terms), if made, would go some way in providing a degree of certainty that has previously been missing, it cannot dispel the impact of the irrecoverable loss

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<sup>1</sup> See CAS paragraphs 53-54.

<sup>2</sup> Exhibit 20, tab 22 (SCOI.45162 at page 6).

of Peter's death of which the family spoke in their statement.<sup>3</sup> Common human experience teaches that a lack of knowledge or factual information contributes to a sense of uncertainty; and the previous and existing deficiencies that have been revealed by this Inquiry (and to which CAS refers) are no different.

6. It is clear that the original police investigation was limited, to the point of inadequacy.<sup>4</sup> While a circumscribed investigation may perhaps have reflected the stoic preference expressed by Peter's father,<sup>5</sup> the actual reasons for the adoption of such an approach cannot now be explored as Constable Strange is deceased.<sup>6</sup> It is sufficient for present purposes to observe, *first*, that another family member, Christopher, expressed a contrary view at the time<sup>7</sup> and statements were not otherwise obtained from the family;<sup>8</sup> and, *secondly* and in any event, that the course of independent objective inquiry in cases such as this may not be curtailed by subjective wishes.

7. Further, the subsequent record-keeping by police was inexplicably deficient resulting in the loss of significant contemporaneous evidence, most notably forensic or scene photographs and other exhibits.<sup>9</sup>

8. In this regard, the Sheil family generally agrees with the points made in CAS paragraphs 16-24.<sup>10</sup> The following additional points may be made:

(a) *First*, the statement of Mr Donald Ross is not signed by him, despite bearing Constable Strange's signature.<sup>11</sup> This is unexplained. The absence of Mr Ross' signature, of itself, does not detract from the contents of his statement. The fact, however, that it was prepared over one month later<sup>12</sup> casts further doubt on the nature and extent of any inquiries that Constable Strange said were made.<sup>13</sup>

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<sup>3</sup> Exhibit 21 (SCOI.45181).

<sup>4</sup> See CAS paragraphs 16-22.

<sup>5</sup> See CAS paragraph 70.

<sup>6</sup> See CAS paragraph 59.

<sup>7</sup> See CAS paragraph 70.

<sup>8</sup> See CAS paragraph 19.

<sup>9</sup> See CAS paragraphs 23-24.

<sup>10</sup> The Sheil family suggests that the first sentence of CAS paragraph 19 would be more accurate if it stated that the "inquiry" was conducted "*on the day after Mr Sheil's body was found*". While the article cited supports the submission in its current form, the Sheil family notes that both Peter (Barry) Sheil's statement and Constable Strange's statement put the date as the day after, i.e., 30 April 1983: see Exhibit 20, tab 6 (SCOI.11037.00010) and tab 10 (SCOI.11037.00011 at paragraph 7).

<sup>11</sup> Exhibit 20, tab 3 (SCOI.11037.00008).

<sup>12</sup> See CAS paragraph 22.

<sup>13</sup> See also CAS paragraphs 17-19.

- (b) *Secondly*, there is a lengthy delay between Constable Strange's initial report to the Coroner on 2 May 1983<sup>14</sup> and the finalisation of his statement on 23 August 1983.<sup>15</sup> This introduces internal inconsistencies or anomalies, such as: the change in description of what Peter was wearing from "*turquoise swimming costume*" to "*underpants*"; a shift in his opinion as to the distance between the landing of the body and where it was found from 3 metres to 6 metres; a difference in the height of the outcrop from 15 metres to 20 metres.
- (c) *Thirdly*, and relatedly, other inconsistencies emerge. As is apparent from CAS,<sup>16</sup> Constable Strange's report to the coroner makes reference to Peter "*going shopping in the Randwick and Bondi Junction areas*"<sup>17</sup> but no source for this is identified and it does not reflect what Ms Patricia Campbell said in her statement, namely, that she saw Peter "*board a bus to go to Randwick to enquire about his pension cheque, and also to attend the Prince of Wales Hospital to see his doctor*".<sup>18</sup> There is no evidence to show that the potential line of inquiry of Peter's treating doctor from Ms Campbell's statement was pursued, which may have given further insight as to Peter's state of mind on the day.<sup>19</sup> Next, there is an unexplained discrepancy between Mr Ross' description of the body "*lying on his back*"<sup>20</sup> and Constable Strange's statement that the body was in a "*prone position*"<sup>21</sup>. Leaving aside any potential resolution that contemporaneous photographs could have given, Constable Strange's initial version would seem implausible given Mr Ross' description of the state of Peter's clothing which could not have been given if the body was face-down; see also Dr Iles' opinion to similar effect.<sup>22</sup>
- (d) *Fourthly*, the report of Dr Iles suggests that it was likely that Mr Sheil was found in his final position and that death would have been 'rapid' following impact, casting doubt on the police conjecture about the spot on the cliff from where he fell, which is where the magazine was supposed to have been found, and the supposed subsequent movement.

9. In these circumstances, the loss of evidence, particularly photographs, has significant consequences. It prevents the resolution of anomalies, such as those above, by examination of the

<sup>14</sup> Exhibit 20, tab 1 (SCOI.11037.00003).

<sup>15</sup> Exhibit 20, tab 10 (SCOI.11037.00011).

<sup>16</sup> CAS paragraphs 52-53.

<sup>17</sup> Exhibit 20, tab 1 (SCOI.11037.00003).

<sup>18</sup> Exhibit 20, tab 8 (SCOI.11037.00009).

<sup>19</sup> As to which, see CAS paragraphs 51 and 53.

<sup>20</sup> Exhibit 20, tab 7 (SCOI.11037.00008).

<sup>21</sup> Exhibit 20, tab 10 (SCOI.11037.00011 at paragraph 2 but *cf.* paragraph 9 which refers to a "*more comfortable position between rocks*").

<sup>22</sup> Exhibit 20, tab 22 (SCOI.45162 at page 9).

contemporaneous images unmediated by later written accounts. Moreover, and as submitted in CAS,<sup>23</sup> it acts as an impediment to the use of current techniques to yield insights or more precise answers. The absence of photographs of the scene, including of the “*pattern of blood staining*”, was called out by Dr Iles as something that would have been helpful.<sup>24</sup> Apart from any analysis as to the manner of death by reference to location and position of the body, it may reasonably be inferred that any depiction of blood staining could also bear upon an assessment of a more precise time of death (e.g., having regard to their pattern and other factors such as exposure to air and moisture).

**10.** It is, therefore, most regrettable that the paucity of material in Peter’s case was not brought to light and made transparent in the review under Strike Force Parrabell. This failure is not consistent with the suggestion in the Parrabell report as to the basis of the review by reference to what constituted “*holdings*”, including what was said to be their retention, retrieval and reading.<sup>25</sup> The Sheil family agrees with the criticisms in CAS paragraphs 29.

**11.** Accordingly, and for these additional reasons, the Sheil family agrees with the criticisms of the police’s conclusion set out at CAS paragraphs 64-67. Two further points may be made. As to:

- (a) the “*magazine*”,<sup>26</sup> the passive voice used in Constable Strange’s statement<sup>27</sup> obscures both who is said to have found the magazine and where and when (noting that the magazine is not mentioned in the available evidence before this statement is signed some four months later) thus casting further considerable doubt on this theory;
- (b) Peter’s clothing,<sup>28</sup> the open state of the front of his shirt is consistent with it having been opened for comfort during a 20-minute walk on a night with high humidity.<sup>29</sup>

#### Recommendation

**12.** The Sheil family welcomes the recommendation<sup>30</sup> as to the correction of the Register of Births, Deaths and Marriages.

**Dated:** 18 April 2023

**H P T Bevan**  
**L Thomas**  
 Counsel for the Sheil family

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<sup>23</sup> CAS paragraph 24.

<sup>24</sup> Exhibit 20, tab 22 (SCOI.45162 at page 9, answers to questions 5 and 6).

<sup>25</sup> Exhibit 1, tab 2 (SCOI.02632 at pages 66-67).

<sup>26</sup> See CAS paragraphs 11, 24, 58 and 65.

<sup>27</sup> Exhibit 20, tab10 (SCOI.11037 at paragraph 4; *cf.* the active voice in, relevantly, paragraphs 5 and 8).

<sup>28</sup> CAS paragraphs 67 and 82.

<sup>29</sup> Exhibit 20, tab 19 (SCOI.7483 at pages 5-6, 11 and 13); *cf.* Dr Iles’ report at Exhibit 20, tab 22 (SCOI.45162 at page 9).

<sup>30</sup> See CAS paragraph 85.