



VICTORIAN INSTITUTE OF FORENSIC MEDICINE

SUPPLEMENTARY REPORT ON CASE NO. A00180/22 PAUL RATH

16 August 2023

Subsequent to providing a report in relation to the death of Mr Paul Rath, I have been requested by Ms Caitlin Healey-Nash, principal solicitor assisting the Special Commission of Enquiry into LGBTIQ hate crimes to provide an additional statement. In order to do so, I have been provided with the following:

- Expert report of Jae Gerhard, Principal Scientist, Independent Forensic Services

Q1. On the assumption that all the areas of staining are blood, could you please elaborate on the view expressed in your initial report that the staining, if due to blood, “is the most concerning element” of the materials you reviewed, and that it was out of keeping with the scene, circumstances and autopsy findings. In particular;

- Please include in your response any relevant reference to particular areas of staining that are of concern and reasons why.*
- Please also indicate whether such concerns will remain if some, but not all of the staining was blood, and if so, which stains are of most concern and why.*

Based on the autopsy report authored by Dr Peter Russell, the only identifiable source of blood loss is from Mr Rath’s nose (i.e., there is a description of “old blood” issuing from both nostrils). Blood was identified in the right ear, but this was determined by the

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autopsy pathologist to be “passive” in nature. I interpret this to mean that the blood observed in the ear having pooled there from elsewhere rather than being due to an ear or base of skull injury. On the described autopsy findings, this must have come from Mr Rath’s nose, during movement of his body after death (e.g. during transport to the mortuary), given the position in which Mr Rath’s body was found.

It is my view that if the staining observed is blood, the extent of staining on the deceased’s clothes cannot be accounted for by the dripping and/or smearing of blood originating from Mr Rath’s nose following primary impact in a fall of around 50 metres.

Scene photographs of Mr Rath on rocks demonstrate a small number of rounded areas of staining on both coat sleeves and on his left trouser leg. If this staining is blood, I believe it highly unlikely that these rounded but separate areas of staining could be accounted for by blood having originated from Mr Rath’s nose *following* Mr Rath’s primary impact i.e., during after falling from a height of 50 metres. The autopsy findings (the limitations of autopsy documentation notwithstanding) suggest Mr Rath’s death occurred rapidly after impact, and his capacity for voluntary movements of his arms and legs severely limited by spinal injuries. On this basis I do not think they could have occurred as a result of passive dripping when Mr Rath was in his final resting place as depicted in scene photographs. The circumstances as described in conjunction with the autopsy findings do not accommodate passive dripping on blood onto the sleeves and left trouser leg. This therefore accommodates a scenario where this staining, if blood, may be the result of an injury to Mr Rath’s nose *prior* to his descent from the top of the cliff.

If the more diffuse staining on the trouser legs is blood, it cannot be accounted for by the dripping and/or smearing of blood originating from Mr Rath’s nose given its location, extent, Mr Rath’s documented injuries and autopsy findings indicating death being rapid in onset.

Q2. On the assumption that none of the areas of staining are blood, is this staining of concern and if so, why?

If none of the staining present is blood, and is instead mud/dirt, this can be accounted for by primary impact, and tumbling secondary impacts with a muddy/dirty surface. An area of grassy embankment is depicted in the scene photographs, which could be the source of dirt/mud on Mr Rath's clothing.

Q3. *Any other matters arising from the circumstances of Mr Rath's death which you wish to express your opinion.*

I have articulated my concerns and difficulties surrounding the paucity of investigative information around Mr Rath's death including the lack of detail in his autopsy report. My concerns around the thoroughness and accuracy of the original autopsy report have been noted in my original report, and these remain a limitation of the opinions I have given above. These matters notwithstanding, the following elements are of concern:

- a. Lack of documentation of apparent injuries to the fingers of both Mr Rath's hands as observable in scene photographs.
- b. The pattern of staining on Mr Rath's clothes. If this is blood, in my view it cannot be accounted for from blood loss from Mr Rath's nose following his primary impact, with the staining occurring during tumbling following primary impact.
- c. The manner of Mr Rath's fall death as being ascribed as accident with apparent minimal investigation, given he was located in an area in which he appears to have been very familiar, and that he was not intoxicated by alcohol.

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.

I hereby acknowledge that this statement is true and correct and I make it in the belief that a person making a false statement in the circumstances is liable to penalties of perjury.

A handwritten signature in cursive script, appearing to read 'Linda Iles', with a horizontal line underneath the name.

Assoc Prof Linda Iles

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