



Special Commission of Inquiry into LGBTIQ hate crimes

SUPPLEMENTARY SUBMISSIONS OF COUNSEL ASSISTING

25 July 2023

IN THE MATTER OF RICHARD SLATER

Introduction

1. These supplementary submissions are filed on behalf of Counsel Assisting the Special Commission of Inquiry into LGBTIQ hate crimes (**Inquiry**). They supplement the written submissions prepared by Counsel Assisting dated 18 May 2023 (the **primary submissions**), and the oral submissions of Counsel Assisting at the public hearing held into death of Richard Slater on 19 May 2023.

Late production of additional documents by NSWPF

2. On 25 June 2023, the New South Wales Police Force (**NSWPF**) advised the Inquiry that it had identified additional documents relating to Mr Slater's death, which were responsive to the summons issued by the Inquiry for all investigative material relating to the death of Richard Slater more than a year earlier, on 18 May 2022 (NSWPF1). The documents comprised a further 57 pages arising from contact made with the NSWPF by Mr Slater's granddaughter Yvonne in 2017. Following that contact, Detective Sergeant Peter Costello made some enquiries concerning Mr Slater's death, as a result of which he concluded that the investigation would "remain inactive" for reasons including confirmation of Jeffrey Miller's death and because "apparently no physical/forensic evidence (had been) retained."¹
3. The material does not alter the conclusions expressed in the primary submissions. However, the timely receipt of that material may have helped facilitate the Inquiry's contact with Mr Slater's granddaughter by providing details of her previous interactions with the NSWPF regarding the matter and her ongoing interest in it.

Additional searches undertaken by the Department of Communities and Justice

4. As set out in the primary submissions at [59], the Inquiry had previously summonsed the Department of Communities and Justice (**DCJ**) to locate and produce records (including those of the former Clerk

¹ Exhibit 24, Tab 73, NSWPF Investigator's Note – Advice to NOK, 12 December 2017 (SCOI.84831).

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of the Peace) relating to the decision to “no bill” the prosecution of Jeffrey Miller for the murder of Mr Slater (DCJ1). At the time of the primary submissions, those searches had been unsuccessful.

5. On 26 June 2023, the Inquiry requested by email that DCJ undertake further searches for a record of the Attorney General’s decision to “no bill” the matter pursuant to summons DCJ1, noting that the criminal records provided to the Inquiry in relation to Mr Miller appeared to identify a specific date and reference number for a relevant report; specifically, the date 29 March 1983, the reference number 83/1393, and the additional note “(jl 12.7.83)”. On 27 June 2023, however, DCJ advised by email that even with the benefit of that further information it remained unable to identify any relevant record in its holdings.²

Additional expert opinion obtained

6. Subsequent to the public hearing the Inquiry sought and received an opinion from Professor Anthony Costello, Emeritus Professor of Urology (Honorary), Royal Melbourne Hospital. Professor Costello was briefed with a range of relevant material and his opinion was sought in connection with Mr Slater’s apparent prostate condition. Professor Costello provided his opinion by report dated 23 June 2023.³
7. Based on the description attributed to Mr Slater’s grandson, Professor Costello is of the opinion that Mr Slater more likely than not had “untreated benign prostatic hyperplasia or hypertrophy” (these terms being used interchangeably). He considers that Mr Slater “more likely than not had symptoms of frequency and hesitancy; and that “Delay in initiation of urination in these circumstances can take up to several minutes or even longer.”
8. Professor Costello further observes that “Urinary frequency, the constant urge to urinate is due to poor bladder emptying and the initiation of a urinary reflex for bladder emptying occurring more often than it should with urine remaining in the bladder after micturition”; and that “Most men attending public events and urinals will have experienced a lengthy wait for a gentleman ahead of them to empty their bladder. This is due to prostatic obstruction with hesitancy and a poor flow.”
9. Professor Costello does not consider the reference in the autopsy report to the prostate gland appearing “normal” to be significant, as the only way the condition (that Mr Slater is likely to have had) could have been reported from a pathology point of view would be to dissect the prostate and look at the histology, which was not done here.

² Exhibit 24, Tab 76, Statement of Emily Burston, 20 July 2023, [6] (SCOI.84830).

³ Exhibit 24, Tab 75, Expert report of Professor Anthony Costello, urologist, 23 June 2023 (SCOI.84786).

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10. His opinion would appear to lend weight to the likelihood that Mr Slater attended the urinal due to a need to urinate and that he remained standing at the urinal for an extended period of time due to a prostate condition.
11. Beyond noting this, it is submitted that the opinion does not give rise to a need to alter the views put forward in the written submission.

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