

The Special Commission of Inquiry  
into LGBTIQ Hate Crimes

## TENDER BUNDLE HEARING OF 24 MAY 2023

### Concerning the death of Walter Bedser

*Submissions on behalf of the Commissioner of Police*

#### Introductory

1. These submissions are prepared on behalf of the Commissioner of Police in response to the submissions made by Counsel Assisting on 24 May 2023 in relation to the death of Walter Bedser.
2. These submissions are provided in advance of the Commissioner's submissions in respect of the Parrabell hearings. While they necessarily touch upon some of the general matters to which those hearings relate, they do not represent a comprehensive statement of the Commissioner's position on the general Parrabell issues. In due course, these submissions should be read with those made on behalf of the Commissioner of Police in connection with the Parrabell hearings and the other "tender bundle" cases.

#### Walter Bedser

##### *Circumstances of death*

3. Mr Walter Bedser, sometimes referred to as "Johnny", died at 2:15pm on 2 December 1980, after he was stabbed at his antiques store in Parramatta.<sup>1</sup>
4. At approximately 2pm, Mr Bedser staggered into a fruit shop located in the same arcade as the antiques store covered in blood and an ambulance was called.<sup>2</sup> He was severely hypovolaemic and unconscious on the arrival of paramedics. Mr Bedser was conveyed to Parramatta Hospital but attempted resuscitation failed and he was pronounced life extinct at 2:15pm.<sup>3</sup>

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<sup>1</sup> P79A Report of Death to the Coroner, 2 December 1980, SCOI.00008.00002.

<sup>2</sup> Statement of Philip Stephens, 2 December 1980, SCOI.10058.00099.

<sup>3</sup> Synopsis of clinical notes, 2 December 1980, SCOI.00008.00012.

5. On post-mortem, Dr Naaman Malouf identified the following “signs of violence... present on the body”:<sup>4</sup>
  - a) 12cm irregular laceration on the left forearm, consistent with laceration by glass;
  - b) 8cm regular laceration on the left arm, consistent with laceration by a knife;
  - c) 3cm x 2cm stab wound to the chest;
  - d) 7cm stab wound to the chest which lacerated the liver and the diaphragm; and
  - e) small abrasions on the left shoulder.
6. Dr Malouf considered the direct cause of Mr Bedser’s death to be blood loss caused by a lacerated liver and left lung.
7. Despite extensive investigations and the taking of a large number of witness statements by police, neither the perpetrator of Mr Bedser’s injuries nor the motive for the attack could be identified. However, the Commissioner of Police agrees with the submissions of Counsel Assisting (CA, [6]) that there appear to have been three main case theories, namely:
  - a) some kind of revenge attack by a family member of a teenager with whom Mr Bedser may have had, or sought to have, sexual relations;
  - b) an attack by a member or associate of the **Family of NP58**, as a result of acrimony flowing from previous financial dealings; or
  - c) an attack for an entirely different reason, such as a robbery, or a dispute over jewellery or other property.
8. An inquest into Mr Bedser’s death was conducted by Coroner Glass in July 1983. Coroner Glass found that Mr Bedser had:<sup>5</sup>

*Died of the effects of blood loss due to a lacerated liver and a lacerated left lung inflicted earlier that day at the premises of 4 Darcy Street, Parramatta, by a person unknown.*

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<sup>4</sup> Autopsy Report of Dr Naaman Malouf, 3 December 1980, SCOI.00007.00017.

<sup>5</sup> Findings of Coronial Inquest, 11 July 1983, SCOI.00008.00003.

### ***Criticisms of the original police investigation***

9. Counsel Assisting is heavily critical of a number of aspects of the original police investigation in the Bedser matter. Each criticism is dealt with in turn below.

#### *Absence of tracking of knife and other exhibits*

10. It is accepted that it cannot now be determined what happened to the knife seized from the antiques shop and considered to be the murder weapon, together with a blood sample from Mr Bedser, blood swabs from the scene and Mr Beder's clothing.<sup>6</sup> The Commissioner of Police agrees this is entirely unacceptable. While it must be borne in mind that Mr Bedser died over forty years ago, noting the matter remains unsolved it is reasonable to expect that steps would have been taken to record the location of, or what ultimately transpired in relation to those exhibits, particularly the knife, notwithstanding the passage of time.
11. Contrary to the submission of Counsel Assisting, the statement of Detective Sergeant Neil Sheldon does not state that the exhibits were all lost (CA, [31], [34]-[35], [67]). Rather, it is possible that at least some of the exhibits were destroyed – for example, following the testing of the blood samples and swabs which identified the relevant blood groups of blood found on those exhibits,<sup>7</sup> noting that the potential for future DNA testing could not have been sensibly contemplated at that time.
12. Further, in two statements provided to the Inquiry dated 2 May 2023 and 22 May 2023, Assistant Commissioner Conroy has set out in detail the developments to NSWPF's exhibits management practice since the 1970s and 1980s, including in respect of the handling, recording and storage of exhibits. It is submitted that Assistant Commissioner Conroy's statements, particularly in relation to the development and operation of the Exhibits Forensic Information and Miscellaneous Property System (**EFIMS**), which allows for the detailed recording and tracking of exhibits electronically, demonstrate that, to the extent the exhibits were lost as opposed to consumed during testing, it is highly unlikely that a similar issue would occur today.

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<sup>6</sup> Statement of Detective Sergeant Neil Sheldon, 3 January 2023, SCOI.82591.

<sup>7</sup> Forensic Report of Paul Arthur Connellan, 22 December 1980, SCOI.10284.00013.

*Fingerprint testing of knife*

13. In respect of the taking of fingerprints from the knife and the results of any such testing, it is accepted that it is not possible to now conclusively confirm the position in the absence of a documentary record of such testing.<sup>8</sup> However, it is submitted that on the evidence available to the Inquiry, it appears that an attempt was made to take fingerprints from the knife but that no fingerprints were found, noting:
- a) the evidence of the officer in charge (**OIC**) Detective Sergeant Hamilton at the inquest into Mr Bedser's death that the knife was examined for fingerprints but there was "nothing at all";<sup>9</sup>
  - b) the observations of Coroner Glass that the matter had been subjected to a "very thorough investigation by the police department" (it would be surprising if the Coroner made such observations if he was not satisfied that an attempt had been made to take fingerprints from the murder weapon);<sup>10</sup> and
  - c) Detective Sergeant Hamilton's view today that his answer in his evidence at the inquest "nothing at all" likely meant the knife was examined for fingerprints but no fingerprints could be located.<sup>11</sup>

*OIC statement*

14. Next, Counsel Assisting asserts that "no comprehensive or detailed statement by the OIC, summarising and outlining the entirety of the investigation, seems ever to have been produced" (CA, [36]).
15. Contrary to this submission, it is clear from the transcript of the inquest into Mr Bedser's death that Detective Sergeant Hamilton did prepare such a statement, which was read in court to Coroner Glass:<sup>12</sup>

*SERGEANT PYE: Sergeant, in relation to this matter you have prepared a statement, is that correct? A. Yes.*

*Q. Would you read that statement? A. Yes.*

<sup>8</sup> Statement of Detective Inspector Nigel Warren, 17 May 2023 at [24], NPL.9000.0001.0023.

<sup>9</sup> Transcript of Coronial Inquest, 11 July 1983 at p. 5, SCOI.00008.00139.

<sup>10</sup> Transcript of Coronial Inquest, 11 July 1983 at pp. 5 and 10, SCOI.00008.00139.

<sup>11</sup> Statement of Detective Inspector Nigel Warren, 17 May 2023 at [23], NPL.9000.0001.0023.

<sup>12</sup> Transcript of Coronial Inquest, 11 July 1983 at p. 3, SCOI.00008.00139.

*STATEMENT OF DETECTIVE SERGEANT HAMILTON READ ALOUD TO COURT.*

*Sergeant Pye: Q. Sergeant, do you inform the court that in relation to this particular matter you have carried on extensive enquiries since the 2<sup>nd</sup> December 1980?*

*A. Yes.*

16. The “criticisms” made in the context of the 2011 Senior Detectives Course in relation to the absence of an OIC statement (CA, [51](e)) must be viewed in the context that, unlike the Inquiry, the Senior Detectives do not appear to have had access to the transcript from the inquest and were therefore unaware that such a statement had been prepared.<sup>13</sup>
17. That the records now retained by the Coroner’s Court and NSWPF do not contain a copy of this statement is unfortunate, but not entirely surprising given the passage of approximately 40 years since the inquest. The fact a statement is not now able to be located does not mean that one was not made. Such a finding (and the associated negative implication as to the adequacy of the initial investigation) cannot be made.
18. For completeness, the Commissioner of Police also notes that Counsel Assisting’s submissions on one occasion seem to assert Detective Sergeant John McGregor was the OIC in the Bedser matter, in the context of recording that “the coronial file includes only a one-page document provided by the OIC setting out the basic facts of Mr Bedser’s death” (CA, [41] and fn 25). This is incorrect: Detective Sergeant Hamilton was the OIC (as referenced at various other paragraphs of Counsel Assisting’s submissions, (CA, [29], [184]).

*Use of homophobic language and investigation into one of Mr Bedser’s associates*

19. Counsel Assisting is critical of the homophobic language used in some of the investigative materials, and the fact that investigating officers made inquiries into an associate of Mr Bedser on the day of the murder who was described by investigators as a “dead set poofter” (CA, [44]-[47]).
20. The language used in some of the investigative materials is inappropriate and offensive. However, there is no evidence that the investigation of Mr Bedser’s murder was anything other than extensive and thorough: that is, whatever individual officers’ views were as to

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<sup>13</sup> Senior Detectives Course review material, 4 August 2011 at p. 21, SCOI.2914.

homosexuality at this time, there is no evidence to suggest that this affected the adequacy of the police investigation in any way.

21. Further, that inquiries were made in relation to Mr Bedser's associate on the day of the murder is unsurprising when the broader context is considered:
  - a) the associate and Mr Bedser had been spoken to by Police in 1977 for loitering in a park that was "a well known place for homosexuals to meet";<sup>14</sup> and
  - b) in 1980, sexual relations between two men was a criminal offence.
22. That is, it was not inappropriate for police attempting to identify the offender and motive for a murder to consider the possible involvement of a previous associate of the deceased who had had prior contact with police.

*Photographic negatives*

23. At [68]-[71], Counsel Assisting identifies that a set of undeveloped photographic negatives was produced by NSWPF in response to a summons issued by the Inquiry for material relevant to the Bedser matter. The Inquiry took steps to develop these negatives and discovered that they included, *inter alia*, photographs of boys, some in sexually suggestive positions, and others at what appear to be family events.
24. Counsel Assisting then submit that:
  - a) it is not known whether police had developed the negatives in the course of their investigations;
  - b) if that step was taken, no record of it appears in the material produced to the inquiry; and
  - c) if so, "[t]hat would indicate another inadequacy in the original investigation".
25. There is simply no evidence before the Inquiry first, as to the precise origin of the negatives, and in particular whether they had been in the possession of Mr Bedser, and secondly, whether the negatives had been developed by investigators. In those circumstances, the speculative finding urged by Counsel Assisting at [71] as to the

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<sup>14</sup> Strike Force Parrabell Bias Crime Indicators Review Form, 28 February 2017 at p. 5, SCOI.49560.

possible presence of “another inadequacy in the original investigation” is not open on the evidence.

*General criticisms as to missing documents*

26. Finally, Counsel Assisting makes a number of general criticisms of NSWPF, such as that there is material missing from that produced to the Inquiry (CA, [38]), including a statement from Ms Amani Youssef (CA, [42]), and that some witnesses were likely not spoken to but it is not possible to say with certainty because the Inquiry has not been provided with all the police records (CA, [43]).
27. NSWPF has provided the Inquiry with extensive records in relation to the Bedser matter in response to a number of summonses. No material identified as responsive to those summonses has been withheld.
28. It is not disputed that the material now available approximately 43 years after Mr Bedser’s death is incomplete in some respects. However, there is no evidential basis on which it can be submitted that either this is in some way reflective of the quality of the investigation conducted, or alternatively, that an inference should be drawn that certain steps were never taken by investigators. To the contrary, the evidence before the Inquiry emphasises the extensive, comprehensive nature of that investigation. For example:
  - a) more than 20 witnesses were interviewed (and their responses recorded) and it appears three briefs of evidence were prepared: a police brief of evidence, a coronial brief of evidence and crime scene brief of evidence;<sup>15</sup> and
  - b) the matter proceeded to inquest before Coroner Glass in 1983 (and Coroner Glass therefore presumably had before him the details of all of the investigative steps taken, including those taken between 1981-1983 – cf CA, [40]). Far from identifying any inadequacies in the investigation, the Coroner emphasised on two occasions that it had been a “very thorough investigation by the police department”.<sup>16</sup> Coroner’s Glass’s observations constitute an independent assessment of the investigation, made by reference to the evidence actually available at the time. Those observations provide a powerful indication that the investigation met the standards expected of comparable investigations in the early 1980s. They should

<sup>15</sup> Senior Detectives Course review material, 4 August 2011 at p. 21, SCOI.2914.

<sup>16</sup> Transcript of Coronial Inquest, 11 July 1983 at pp. 5 and 10, SCOI.00008.00139.

be preferred to speculative assessments based on the absence of particular records some 40 years later.

***Strike Force Parrabell***

29. Following its consideration of the Bedser matter, SF Parrabell concluded that there was “insufficient information” to determine whether Mr Bedser’s death had been motivated by anti-LGBTIQ bias.<sup>17</sup> Such a conclusion is entirely appropriate given the identity of the perpetrator remains unknown, and the presence of multiple possible motives. As noted below, this conclusion is also consistent with the finding now urged by Counsel Assisting.
30. Counsel Assisting submits that it is “remarkable” that the case summary in relation to the Bedser matter records that “Mr Bedser’s sexual orientation could not be confirmed” (CA, [56]). However, this appears to represent a conflation by Counsel Assisting between the identification of Mr Bedser’s “sexual orientation” and whether or not he was a member of the LGBTIQ community. That is, rather than any finding that it could not be confirmed whether Mr Bedser identified as a member of the LGBTIQ community, such a reference accurately indicated that while there was evidence that Mr Bedser was gay, there was also evidence that he was bisexual. For example, as referenced by Counsel Assisting, one witness alleged Mr Bedser had been having sex with a 16-year-old girl and another claimed he had found a ladies’ slip in Mr Bedser’s back room and that Mr Bedser had said it belonged to a woman he was interested in (CA, [15]). Records also indicated that Mr Bedser’s “bi-sexual behaviour has been confirmed by his mother.”<sup>18</sup> The statement that Mr Bedser’s precise sexual orientation could not be confirmed was an accurate reflection of the evidence, and that evidence was summarised in both the case summary and the BCIF.
31. Counsel Assisting also submits that in respect of the first indicator on the BCIF, “Differences”, the fact that the answer “no” was entered in respect of all four options is “illogical if not meaningless” (CA, [53]).
32. That the answer “no” was given for all four options is clearly an error. In any event, it is submitted such an error had no bearing on the ultimate classification by SF Parrabell of “insufficient information”, given:

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<sup>17</sup> Strike Force Parrabell Bias Crimes Indicators Review Form, 28 February 2017, SCOI.10064.00002.

<sup>18</sup> Investigation Synopsis (80/172), 4 December 1980, SCOI.75587.



- a) the identity of the perpetrator remained unknown, making it difficult, if not impossible, to assess factors such as differences between the victim and the person of interest's sexual orientation; and
- b) the overall conclusion of SF Parrabell resulted from a consensus determination by senior officers involved in the review on all of the information available, rather than any kind of mathematical process involving the BCIF indicators.

### ***Anti-LGBTIQ bias***

- 33. Counsel Assisting ultimately submits that "on the available evidence, it is simply not possible to ascertain who killed Mr Bedser and why, with the consequence that the question of whether a "gay hate bias" was a factor in the death cannot be answered" (CA, [195]).
- 34. The Commissioner of Police agrees with the submission of Counsel Assisting in this regard.
- 35. The Commissioner of Police reserves her position regarding the issue of the treatment of possible "anti-paedophile animus" by both SF Parrabell and the academic reviewers, which will be addressed in her submissions in relation to SF Parrabell. As noted by Counsel Assisting (CA, [195]), the Bedser matter is not a matter in which this issue falls to be considered.

### ***Manner and cause of death***

- 36. The Commissioner of Police agrees with the ultimate submission of Counsel Assisting that the coronial finding in relation to Mr Bedser's death remains appropriate, that is, that he died as a result of knife wounds inflicted on 2 December 1980 at his antiques shop in Darcy Street, Parramatta, by an unidentified person (CA, [196]).
- 37. In doing so, the Commissioner of Police notes the extensive summary of the differing witness accounts set out by Counsel Assisting (CA, [91]-[127]), and agrees that it is not possible on the available evidence to identify either the perpetrator or the motive for the attack.

### **Overall conclusion**

- 56. The conclusions of Counsel Assisting regarding the possible presence of anti-LGBTIQ bias align with those of SF Parrabell in the Bedser matter.

57. Further submissions will be made as to the general issues pertaining to the activities of SF Parrabell in due course.

Per  .  .  .

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7 June 2023