



Special Commission of Inquiry into LGBTIQ hate crimes

SUPPLEMENTARY SUBMISSIONS OF COUNSEL ASSISTING

25 September 2023

IN THE MATTER OF WALTER JOHN BEDSER

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 23 May 2023 (the **primary submissions**), and the oral submissions of Counsel Assisting at the public hearing held into death of Walter John Bedser held on 24 May 2023.

Statement of Bruce Macdonald

2. Bruce Macdonald was Mr Bedser's solicitor at the time of his death and provided information to the original police investigation.¹
3. On 9 June 2023, Mr Macdonald made telephone contact with the Inquiry, in response to an email from the Inquiry of 9 May 2023. On 5 July 2023, Mr Macdonald provided a statement to the Inquiry.²
4. The evidence of Mr Macdonald is that the officers who interviewed him on 19 December 1980 indicated that their intention was to use the information he had provided them (about the recorded conversation between Mr Bedser and NP59) to make a further approach to the Greek family of a boy who had become "sick" of speaking with police (presumably referring to NP58 and his family).³ No record has been produced to the Inquiry by the NSWPF of any further contact with NP58, NP59 or NP60 in fact being made by police subsequent to the receipt of that tape.
5. Given the possible significance of that tape, which records what appears to be a heated argument between Mr Bedser and NP59 only a few months before his death, in part about matters which led to abortive legal proceedings by Mr Bedser against the family of NP58, it is surprising that there was no record of further contact with the family regarding those matters. The evidence of Mr Macdonald

¹ Exhibit 28, Tab 131, Report of interview with Bruce Macdonald, 19 December 1980 (SCOI.82123).

² Exhibit 28, Tab 176, Statement of Emily Burston, 21 August 2023, [4] (SCOI.85340)

³ Exhibit 28, Tab 172, Statement of Bruce Macdonald, 5 July 2023, [5] (SCOI.85168)

Special Commission of Inquiry into LGBTIQ hate crimes

indicates that such contact was in fact intended, and that police were alive to its significance with respect to the family of NP58. If some further steps were taken with respect to this line of inquiry, either they were not recorded or the records have been lost.

6. Neither the tape, nor NP58 and his family, were referred to at the inquest in 1983. It may be that the original investigation satisfied itself that the tape, and the relationship between Mr Bedser and NP58's family, was not relevant to his death. However, if so, no record has been produced to the Inquiry by the NSWPF which sheds any light on how that was done.
7. An unexplained absence of material makes it difficult to determine whether the record-keeping of the original investigation, or that of subsequent records management, is at fault. In either case, however, it is submitted (consistent with the primary submissions at [36]-[43]) that Mr Macdonald's evidence highlights a significant failure by the NSW Police Force (**NSWPF**) to make and/or retain records of the course of the original investigation, which reduces the present capacity for Mr Bedser's death to be thoroughly reinvestigated.

Statement of Amani Youssef

8. Ms Amani Youssef was interviewed by police twice, on 2 December and 13 December 1980. Reports of both those interviews exist, but no statement by Ms Youssef has been produced: see the primary submissions at [42].
9. On 11 July 2023, the Inquiry made telephone contact with Ms Youssef, and on 16 August 2023, Ms Youssef provided a statement to the Inquiry.⁴
10. In her statement, Ms Youssef says that as far as she is aware, she did not provide a written statement at the time of the original investigation.⁵ That would appear to contradict the notation "STATEMENT OBTAINED" in the police record of interview with her on the date of Mr Bedser's death, 2 December 1980.⁶ The reference in the second report of interview, on 13 December 1980, to comments made by Ms Youssef "in her statement", is also difficult to understand, unless that was intended to refer to the oral answers given when she was first spoken to on 2 December 1980.⁷
11. Ms Youssef also does not recall police following up with her beyond the two interviews referred to on 2 and 13 December 1980.⁸

⁴ Exhibit 28, Tab 176, Statement of Emily Burston, 21 August 2023, [6] (SCOI.85172).

⁵ Exhibit 28, Tab 174, Statement of Amani Ezzat Youssef, 10 August 2023, [4] (SCOI.85169).

⁶ Exhibit 28, Tab 40, Report of interview with Amani Youssef, 2 December 1980 (SCOI.45111).

⁷ Exhibit 28, Tab 91, Report of interview with Amani Youssef re identikit photo, 13 December 1980 (SCOI.45138).

⁸ Exhibit 28, Tab 174, Statement of Amani Ezzat Youssef, 10 August 2023, [5] (SCOI.85169).

Special Commission of Inquiry into LGBTIQ hate crimes

12. Ms Youssef was the sole eyewitness who reported seeing a struggle in the antique shop between Mr Bedser and another man. She provided a description of the offender and advised that she considered she would be able to identify the offender if necessary.⁹ Given that the original investigation took written statements from numerous other eyewitnesses to the offender fleeing the antique store, it is inexplicable that no statement apparently was taken from Ms Youssef.
13. It is submitted that Ms Youssef's evidence highlights the difficulties caused by the manner in which records of the original investigation were made and/or maintained, as discussed in the primary submissions at [36]-[43]. It is not possible to know, in this instance as in many others, whether particular steps were simply never taken, or whether such steps were taken but they were not recorded, or whether records were made but have been lost. Whichever of those explanations apply, the practical consequence is that the Inquiry and any future review or investigation is hampered by being unable to ascertain precisely what steps were or were not taken by the original investigation and to give consideration to the results of such steps as were taken.

Statement of Raymond Hadley

14. On 26 May 2023, Raymond Hadley contacted the Inquiry by email, following discussion of his original 1980 statement at the public hearing on 24 May 2023. On 13 July 2023, Mr Hadley provided a statement to the Inquiry.¹⁰ It is submitted that the contents of that statement do not affect the position set out in the primary submissions as to Mr Bedser's manner and cause of death.

Late production of additional documents

15. On 25 June 2023, the NSWPF advised the Inquiry that it had identified additional documents relating to Mr Bedser's death, in further response to a summons issued by the Inquiry more than a year earlier on 18 May 2022 (NSWPF1). The documents amounted to a further 68 pages, primarily comprising

⁹ Exhibit 28, Tab 40, Report of interview with Amani Youssef, 2 December 1980 (SCOI.45111); Exhibit 28, Tab 91, Report of interview with Amani Youssef re identikit photo, 13 December 1980 (SCOI.45138).

¹⁰ Exhibit 28, Tab 176, Statement of Emily Burston, 21 August 2023, [5] (SCOI.85172); Exhibit 28, Tab 173, Statement of Raymond Morris Hadley, 13 July 2023 (SCOI.85170).

Special Commission of Inquiry into LGBTIQ hate crimes

records relating to reviews undertaken of this matter by the Unsolved Homicide Team (**UHT**) in 2007-2008 and the Senior Detectives Course in 2011.

16. The material does not alter the conclusions reached in the primary submissions.

Identity of officer in charge of original investigation

17. The various records produced to the Inquiry are less than clear as to who was the OIC of the original investigation. The NSWPF has submitted that it was Detective Sergeant Hamilton who was the OIC.¹¹ He is described as such in a number of places, including the Senior Detective Course exercise in 2011.¹² On the other hand, in the course of the actual UHT review undertaken in 2008, and an earlier Senior Detective Course exercise in 2005, Detective Sergeants John McGregor and Graeme Trebley seem to have been regarded as having been OICs.¹³
18. In the Statement of Detective Inspector Nigel Warren dated 17 May 2023, produced to the Inquiry by the NSWPF, Detective Sergeant Hamilton (to whom DI Warren had spoken to for the purpose of producing that statement) was referred to as a “Crime Scene Officer” and “one of the detectives who gave evidence at the inquest into Mr Bedser’s death”.¹⁴
19. On 24 August 2023, the Inquiry wrote to former police officers Graeme Trebley, John McGregor and Ivan Hamilton, to enquire whether they wished to make any submissions in response to the written submissions of Counsel Assisting and the NSWPF in this matter.¹⁵
20. On 28 August 2023, the Inquiry was contacted by Mr Trebley. Mr Trebley advised that neither he nor Mr McGregor was ever the OIC in relation to Mr Bedser’s death, and that the OIC had been Detective

¹¹ Submissions of the NSWPF, 7 June 2023, [18] (SCOI.83644).

¹² Exhibit 28, Tab 161, Senior Detectives Course Review of an Unsolved Homicide Case Screening Form, 6 (SCOI.02914).

¹³ Exhibit 28, Tab 159, Senior Detectives Course Review of an Unsolved Homicide Case Screening Form, 7 (SCOI.02915); Exhibit 28, Tab 160, Case Screening Form, 18 September 2008, 4 (SCOI.02913); see also Exhibit 28, Tab 8, Transcript of coronial inquest, 11 July 1983 (SCOI.00008.00139).

¹⁴ Exhibit 28, Tab 170, Statement of Detective Sergeant Inspector Nigel Warren, 17 May 2023, [10], [21] (NPL.9000.0001.0023).

¹⁵ Exhibit 28, Tab 177, Statement of Emily Burston, 7 September 2023, [4] (SCOI.85172).

Special Commission of Inquiry into LGBTIQ hate crimes

Sergeant Hamilton. He otherwise did not consider he was able to further assist the Inquiry, and did not seek to make any submissions.¹⁶

21. Notwithstanding some various seemingly inconsistent indications in the documents, given the evidence of Mr Trebley, it would appear that Detective Sergeant Hamilton was indeed the OIC of the original investigation into Mr Bedser's death, as submitted by the NSWPF.
22. Whether because of some ambiguity or confusion in the records or otherwise, it does not seem that Mr Hamilton was ever contacted about Mr Bedser's death, between the time of the original investigation in 1980-81 and this Inquiry, notwithstanding the various student exercises and/or reviews by the UHT in 2005, 2008 and 2011. Although it does not appear that Mr Hamilton was ultimately able to provide significant assistance when contacted by Detective Inspector Warren in 2023, the failure to follow him up at any time before now may have led to missed opportunities to acquire more comprehensive information about the course of the original investigation, at a time when the memories of relevant officers could be expected to have been more fresh and/or more complete.

Peter Gray SC
Senior Counsel Assisting

Christine Melis
Counsel Assisting

¹⁶ Exhibit 28, Tab 177, Statement of Emily Burston, 7 September 2023, [5] (SCOI.85172).