



NSW POLICE FORCE

P190B

Version 4.2 (07/05)

STATEMENT OF POLICE

In the matter of: Special Commission of Inquiry into LGBTIQ Hate Crimes -
Exhibit Inquiries – Scott Miller
Forensic Case 97-120 (East Sydney Zone)

Place: Sydney Crime Scene Section – Crime Scene Services Branch

Date: 7 June 2022

Name: Andrew Brady Tel. No: [REDACTED]

Rank: Inspector

Station/Unit: Sydney Crime Scene Section

STATES:

1. This statement made by me accurately sets out the evidence that I would be prepared, if necessary, to give in court as a witness. The statement is true to the best of my knowledge and belief, and I make it knowing that, if it is tendered in evidence, I will be liable to prosecution if I have wilfully stated in it anything that I know to be false, or do not believe to be true.
2. I am 52 years of age.
3. In this statement, where I refer to documents I also include their document ID number for identification purposes, in the form **NPL.XXXX.XXXX.XXXX**.
4. I am an Inspector at the Sydney Crime Scene Section of the New South Wales Police Force (**NSWPF**). I have been an Inspector for four years. Prior to this I was a Senior Sergeant for approximately 21 years.

Qualifications and Experience

5. I have been a member of the NSWPF for approximately 28 years. I have been attached to the Forensic Evidence and Technical Services (**FETS**) Command for 25 years. I am currently

Witness:

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Det (Tech) Senior Sergeant
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attached to the Sydney Crime Scene Section, Sydney Zone of the FETS Command, where my daily duties include the technical examination of scenes of serious crime and incidents.

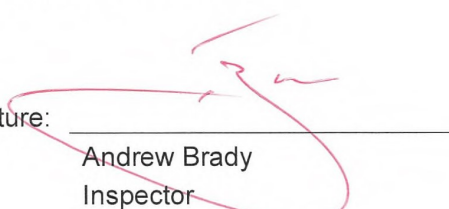
6. I hold a Bachelor of Science (Pure/Applied Mathematics) from the University of Sydney, an Advanced Diploma in Forensic Investigation from the Canberra Institute of Technology, and an Advanced Diploma in Police Management and a Diploma in Policing, both from Charles Sturt University.
7. I have been accredited as an expert in the Methodology of Crime Scene Investigation, issued by the Australasian Forensic Field Science Accreditation Board, since 21 July 2009.
8. I have also attained the following qualifications regarding the investigation of scenes of crime, including but not limited to:
 - a) Fire Examination Course facilitated by the NSWPF, Crime Scene Operations Branch, June 1999;
 - b) Chemical Targeting of Trace Evidence, facilitated by NSWPF Forensic Services Group (now FETS), 2000;
 - c) Detection and Identification of Footwear Impressions, University of Technology, Sydney, 2001;
 - d) National Police Bomb Scene Examination Course, National Counter Terrorism Committee (part of the Department of Home Affairs), 2001, 2003 and 2005;
 - e) Footwear Marks Examination and Interpretation Course, University of Technology, Sydney, 2006;
 - f) Senior Structural Fire Course facilitated by the NSWPF, Forensic Services Group, April 2007;
 - g) Advanced Structural Fire Technical Workshop, facilitated by Dr John DeHaan, Fire – Ex Forensics, NSW Fire Brigades and NSWPF, September 2010; and

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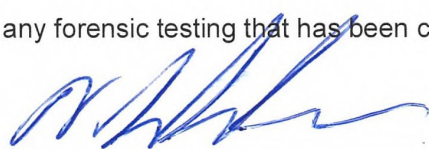
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- h) Crime Scene Reconstruction Course facilitated by NSWPF, Crime Scene Services Branch, 2017.

Request for Statement

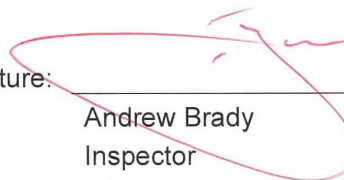
9. By way of letter dated 24 May 2023, the Special Commission of Inquiry into LGBTIQ hate crimes (**Inquiry**) issued a request to the Commissioner of NSW Police (**Commissioner**) in respect of the death of Mr Scott Miller (**Letter of Request**).
10. The Letter of Request requested the Commissioner advise:
- a) whether the review document enclosed with the Letter of Request is the review document associated with the review completed on 21 April 2004;
 - b) whether the case screening form was subsequently signed, certified or subject to a quality assurance panel;
 - c) whether any other case screening form, triage document or review document has been prepared in association with Mr Miller's death; and
 - d) whether Mr Miller's case has been considered by the Unsolved Homicide Review Committee for a final determination as to whether the matter will be reinvestigated.
11. I understand the answers to these aspects of the Letter of Request have already been provided to the Inquiry on the instructions of a member of the Unsolved Homicide Team, and accordingly I do not address them in this statement.
12. The Letter of Request also included a request for a statement from an appropriate officer of the NSWPF addressing the following:
- a) the nature of the debris found in Mr Miller's right hand (**Debris**), including whether it appears to be organic/plant matter, or gravel from the site where Mr Miller was found; and
 - b) any forensic testing that has been conducted on the Debris.

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13. The Letter of Request also requested photographs of the Debris and any relevant records regarding the collection and storage of the Debris.
14. In the event that the Debris can no longer be located, the Inquiry requested a statement setting out the searches which have been undertaken by NSWPF in an effort to locate the Debris.

Reference Material

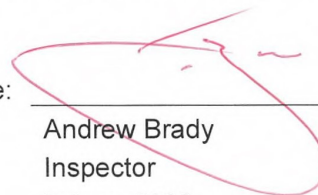
15. I have had no previous involvement in the matter of Scott Miller. I make this statement based upon my training, study, and experience, and the documentary records held by NSWPF. On or around 30 May 2023, I was instructed by Superintendent Roger Best to review the available material and draft a statement in order to respond to the Letter of Request.
16. I was further advised by Inspector Perri Hayes of the DNA management Unit that Joshua Smith, Team Leader – Intelligence, DNA Management Unit had located the Debris and a Sydney Crime Scene Case File Box number 113, State Archives, Case number 97/120 – Suspicious Death of Scott MILLER (**Archive Box**). I understand that Mr Smith had been asked to search for the Debris by members of the Unsolved Homicide Team within the NSWPF.
17. At or around 11 am on 30 May 2023, I spoke with Mr Smith. He noted that the Debris was not booked into NSWPF Exhibits Forensics Information and Miscellaneous Property System (**EFIMS**). I instructed Mr Smith that in order for me to receive the Debris and prepare this statement, the Debris would need to be booked into EFIMS such that its movements could be tracked. I understand that the Debris was subsequently booked into EFIMS on 31 May 2023 by Detective Senior Constable Matthew Heffernan. The corresponding EFIMS record is at **NPL.9000.0017.0069**. The exhibit reference was recorded against COPS event 1058394 (the original event number allocated to the death of Mr Miller).
18. On Wednesday, 31 May 2023, I arranged for one of my staff to travel to the DNA Unit at Tower B, Level 4 of Police Headquarters. My staff collected the Archive Box from Mr Smith and within the Archive Box was a sealed NSWPF evidence bag with exhibit number

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X0000542512, labelled "1 x Specimen jar (sealed) said to contain "Debris R hand". My staff then stored it in the Crime Scene Section exhibit room.

19. I have had access to the following information while reviewing this case:
- a) the Archive Box;
 - b) a sealed NSWPF evidence bag, exhibit number X0000542512, labelled "1 x Specimen jar (sealed) said to contain 'Debris R hand'" contained in the Archive Box;
 - c) Physical Evidence Case Management System (**PECAMS**), job number 97/120;
 - d) Computerised Operational Policing System (**COPS**) Event number 1058394;
 - e) East Sydney Zone Physical Evidence Specimen Item Register book 28, reference number A16401 through to A16450; and
 - f) the statement of Detective Senior Constable Lyle Van Leeuwen dated 14 June 1997.

Records Regarding Collection and Storage of Debris

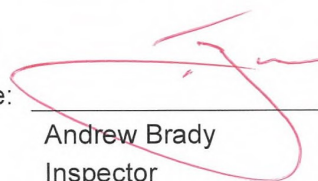
20. Contained in the Archive Box was a number of handwritten looseleaf papers containing crime scene notes. Looseleaf paper was typically used at the time of Mr Miller's death to record crime scene notes. The crime scene notes indicate that on Monday 3 March 1997, Detective Senior Constable Lyle Van Leeuwen and Senior Constable David Neal (both attached to the East Sydney Zone Crime Scene Unit at the time) attended Wharf 5, Hickson Road, Darling Harbour, in relation to the matter of Mr Miller. This document also indicates that Detective Senior Constable Lyle Van Leeuwen photographed and examined the body of Mr Miller, who was located at the base of a 7-metre cliff on the north-eastern side of the wharf complex. Attached to this statement is a copy of the crime scene notes marked **NPL.9000.0017.0018**.
21. Also contained in the Archive Box was a set of handwritten post-mortem notes, which indicates that around 3 pm on Monday, 3 March 1997, Detective Senior Constable Lyle Van

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Leeuwen attended the Institute of Forensic Medicine Glebe, where Dr Jo DuFlou performed a post-mortem examination on Mr Miller. During that examination, Dr Jo DuFlou collected a piece of debris from the right hand of the deceased. That item was placed in a container and labelled, "Debris R hand". At the conclusion of the post-mortem, the last page of the post-mortem notes indicates a number of items, including the Debris, were handed to Detective Senior Constable Lyle Van Leeuwen. Attached to this statement is a copy of post-mortem notes marked **NPL.9000.0017.0023**.

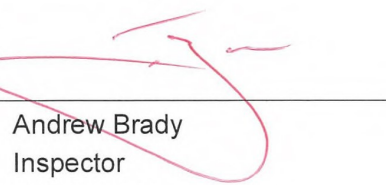
22. A document titled "List of Specimen/Exhibits Submitted" was also located in the Archive box. A copy of this document is at **NPL.9000.0017.0016**. The document contains a number of exhibits with PECAMS reference numbers. PECAMS was an electronic system which was developed by a NSWPF officer and was primarily used as a job record tool (i.e., recording when crime scene officers attended crime scenes). It was not widely used within the NSWPF as an exhibit management tool. However, I understand from reviewing the Archive Box and PECAMS material associated with the death of Mr Miller, the East Sydney Crime Scene Section used PECAMS as an exhibit and case management tool at the time of Mr Miller's death. This includes recording attendance at jobs, crime scene notes, exhibits collected and the movement and testing of those exhibits. For completeness, I have included screenshots of the full PECAMS entries for the death of Mr Miller are at **NPL.9000.0017.0037**.
23. The list of Specimen/Exhibits Submitted document indicates that the following items were entered into PECAMS as exhibits from the post-mortem (there is no timestamp to indicate the date on which the exhibits were entered):
- a) 49/97-0120-1, Anal Smear taken at Scene from deceased Scott Miller by Dr DuFlou;
 - b) 49/97-0120-2, Blue jeans from deceased Scott Miller received from Dr DuFlou at morgue by Van Leeuwen on 3 March 1997;
 - c) 49/97-0120-3, White T-shirt top taken from deceased Scott Miller received from Dr DuFlou at morgue by Van Leeuwen on 3 March 1997;

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- d) 49/97-0120-4, White T-shirt bottom from deceased Scott Miller received from Dr DuFlou at morgue by Van Leeuwen on 3 March 1997;
- e) 49/97-0120-5, Shoes, Scott Miller, received from Dr DuFlou at morgue by Van Leeuwen on 3 March 1997;
- f) 49/97-0120-6, Shoes, Scott Miller, received from Dr DuFlou at morgue by Van Leeuwen on 3 March 1997;
- g) 49/97-0120-7, Socks, Scott Miller, received from Dr DuFlou at morgue by Van Leeuwen on 3 March 1997;
- h) 49/97-0120-8, Belt, Scott Miller, received from Dr DuFlou at morgue by Van Leeuwen on 3 March 1997;
- i) 49/97-0120-9, Blood sample, Scott Miller, received from Dr DuFlou at morgue by Van Leeuwen on 3 March 1997;
- j) 49/97-0120-10, Head hair, Scott Miller, received from Dr DuFlou at morgue by Van Leeuwen on 3 March 1997;
- k) 49/97-0120-11, Pubic hair, Scott Miller, received from Dr DuFlou at morgue by Van Leeuwen on 3 March 1997;
- l) 49/97-0120-12, two slides, oral and anal, Scott Miller, received from Dr DuFlou at morgue by Van Leeuwen on 3 March 1997;
- m) 49/97-0120-13, Oral smear, Scott Miller, received from Dr DuFlou at morgue by Van Leeuwen on 3 March 1997;
- n) 49/97-0120-14, Anal smear, Scott Miller, received from Dr DuFlou at morgue by Van Leeuwen on 3 March 1997;
- o) 49/97-0120-15, Medicare, MasterCard, key card, Unicard found in Scott Miller's jeans when searched on 11 April 1997 by Neal; and

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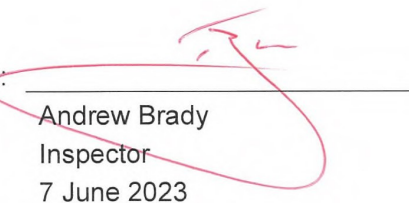
- p) 49/97-0120-16, \$25.00 in cash found in Scott Miller's jeans when searched on 11 April 1997 by Neal.
24. There is no record in PECAMS of the Debris being entered as an exhibit.
25. I expect that following the receipt of these items by the crime scene officer at the morgue, the exhibits would have been taken to the East Sydney Crime Scene and relevant forensic testing would have been completed on the items. The exhibits were returned to the relevant police station, as follows:
- a) A miscellaneous property receipt (receipt number C316466) located in the Archive Box indicates that on 15 April 1997, the wallet and the various cards contained therein were transferred to The Rocks Police Station. There is no reference to the Debris in the receipt. A copy of miscellaneous property book receipt is attached to my statement as **NPL.9000.0017.0015**.
- b) The Surry Hills Police Station Exhibit Book (book 224/C539791) within Archive Box indicates that on 5 May 1999, a number of items related to the death of Mr Miller were transferred from the East Sydney Zone Crime Scene Unit into the NSWPF Exhibit Book, entry 224/C539791, at the Sydney Police Centre, Surry Hills. There is no reference to the Debris. A copy of the Exhibit Book is attached to my statement as **NPL.9000.0017.0022**.
26. From my review of Archive Box and the other records referred to above at paragraph 19, there is no record of the Debris being entered into PECAMS as an exhibit and there is no record of that item being entered into the East Sydney Zone Specimen and Item Register on or around 3 March 1997. There is also no record of the Debris being transferred to a NSWPF exhibit book.
27. However, at page 8 of the statement of Detective Senior Constable Van Leeuwen, prepared for the NSW Coroner dated 14 June 1997, Detective Senior Constable Van Leeuwen states that he did receive what he described as a piece of gravel from Dr DuFlou at the

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post-mortem of Mr Miller. A copy of the statement of Detective Senior Constable Van Leeuwen is attached to my statement as **NPL.9000.0017.0027**.

Nature of the Debris

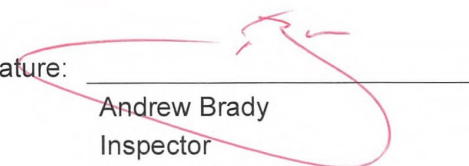
28. On Friday 2 June 2023, I removed exhibit X0000542512 from the Sydney Zone Crime Scene Section exhibit room and conducted a visual examination of the Debris within the office laboratory. A photo of this evidence bag and sealed jar is contained in document **NPL.9000.0017.0001** at **0003**.
29. I observed that the Debris was trapezoidal in shape, about 6mm in length along its base and about 4mm in height. The Debris was brown/orange in colour and had the appearance of rust. I noted a distinct, light-coloured layer, positioned within the external layers. There was red staining, which appeared to be blood, on both sides of the Debris.
30. I unsealed the jar and took additional photos of the Debris inside the jar. I then took the Debris out of the jar, maintaining all contamination procedures (including the use of gloves, sterile drapes, disposal tweezers, and other relevant National Association of Testing Authorities (**NATA**) accredited procedures). I took a number of photographs of the Debris while it was out of the jar.
31. I then moved the Debris onto a macroscope (which allowed me to observe the item under magnification) and took further photos of it.
32. Next, I placed the Debris into the jar, replaced the lid on the jar and sealed it with exhibit barcodes. I then brought a magnet into close contact with the sealed plastic container and the Debris demonstrated magnetic properties (i.e., the Debris moved towards the magnet).
33. I then returned the Debris to the exhibit room at Sydney Zone Crime Scene Section.
34. In my opinion, the Debris does not appear to be organic/plant material and does not appear to be gravel. It has some metallurgical properties but further analysis would be required to definitively conclude the nature of the Debris.

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Forensic Testing

35. As far as I can determine from my review of the relevant documentary records and my observation of the Debris, no forensic testing or metallurgical examination has been completed on this item, other than my investigations described above.

Photographs of the Debris

36. A number of photographs I took of the Debris on 2 June 2023 are included within document **NPL.9000.0017.0001**:

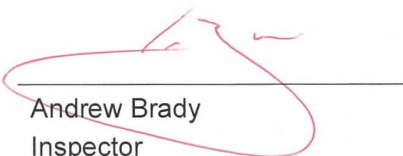
- PHOTOGRAPH 1. A view of the NSWPF exhibit bag, labelled X0000542512, and sealed plastic specimen jar containing the Debris, at **0003**.
- PHOTOGRAPH 2. A view of the sealed plastic specimen jar labelled 'DEBRIS R HAND' after removal from the exhibit bag, marked "NSW Institute of Forensic Medicine, Case No,97-3709", at **0004**.
- PHOTOGRAPH 3. A view of the plastic specimen jar with lid removed, showing the Debris at the bottom of the jar, at **0005**.
- PHOTOGRAPH 4. A view of the Debris with Forensic scale, at **0006**.
- PHOTOGRAPH 5. A macroscopic view of the Debris, at 6.3 times magnification, at **0007**.
- PHOTOGRAPH 6. A macroscopic view of the Debris, front side, at 10 times magnification, depicting areas of bloodstaining, at **0008**.
- PHOTOGRAPH 7. A macroscopic view of the Debris, rear side, at 10 times magnification, depicting areas of bloodstaining, at **0009**.

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