

The Special Commission of Inquiry
into LGBTIQ Hate Crimes

TENDER BUNDLE HEARING OF 16 JUNE 2023

Concerning the death of Scott Miller

Supplementary submissions on behalf of the Commissioner of Police

1. These submissions are prepared on behalf of the Commissioner of Police in response to Counsel Assisting's supplementary submissions dated 18 October 2023 in relation to the death of Scott Miller. The Commissioner of Police addresses two matters raised therein.
2. First, Counsel Assisting assert at CA, [22] that it is "remarkable and troubling that the NSWPF is unable to locate any records of its own, of the results of the DNA testing reported by FASS as recently as 9 November 2012".
3. The evidence tendered by the Inquiry does not disclose one way or another whether the FASS report referred to by Counsel Assisting was in fact provided to the NSWPF. However, the Commissioner of Police accepts that there is similarly no evidence of the UHT Review Team following up the report.
4. Second, Counsel Assisting submit at CA, [23] that although some testing of Mr Miller's clothing did eventually occur, it would appear that this step was only taken after Mrs Miller's call prompted steps to be taken.
5. As to that submission, and the criticism at CA [24], it should be noted that the evidence before the Inquiry is that the UHT did not have an investigative function between its inception in 2004 and 2008.¹ Some 329 cases had been reviewed in that period.² A substantial number of cases fell within the UHT's purview from the outset.
6. It is regrettable that there was a delay in the conduct of the further testing following the 2004 recommendation. That delay, however, must be viewed in light of the absence of a re-investigation capability within the UHT until 2008, the enormity of the task facing the relevant officers in the early stages of the UHT, and the no doubt very substantial competing demands

¹ Statement of Detective Superintendent Daniel Doherty dated 18 April 2023 at [79] (NPL.9000.0006.0001); Statement of Detective Chief Inspector David Laidlaw dated 13 June 2023 at [23] (NPL.9000.0019.0001).


² Transcript of the Inquiry, 6 July 2023, T5129.7-10 (TRA.00074.00001).

on the resources including those officers' time. As identified in submissions filed on behalf of the Commissioner of Police in connection with the Investigative Practices Hearing, the Inquiry has not sought evidence from the officers involved in the initial reviews and, accordingly, has no real insight into the very significant challenges that unquestionably confronted them and the systems they sought to implement to address those challenges (cf CA, [24]).

per.



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